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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

SENATE—*Thursday, September 25, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, we open our hearts to Thee confidently and completely. Give us grace and wisdom for what we must do this day. May we be magnanimous and gracious in success. And in failure help us to turn difficulties into dividends and tragedy into triumph that character and goodness may be distilled from every experience. Whatever is true and honest and just and pure and lovely or of good report, help us to think on these things.

Hear our prayer for Thy name's sake. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 25, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority and minority leaders are recognized for not to exceed 5 minutes, to be equally divided and controlled in the usual form.

The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no need for my time and no requests for time. Therefore, I yield it back.

The ACTING PRESIDENT pro tempore. All time has been yielded back by the majority and the minority leaders.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. What is the will of the Senate?

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 11:03 a.m., recessed until 11:33 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

ENERGY IMPLICATIONS OF THE IRANIAN-IRAQI CONFLICT

Mr. JACKSON. Mr. President, the current hostilities between Iran and Iraq manifest the immediacy of the problem which the United States and the other industrialized nations face because of our dependence on Middle East oil. Small border clashes between these two neighbors have escalated into major conflict. There have been cross border shellings and troop engagements, air attacks on airfields and oil refineries, and attacks on naval combatants and innocent merchant shipping.

Moreover, there seems to be a momentum to these hostilities which may get out of control. Although neither side has declared war officially, there appears to be little willingness to cease the fighting.

The border dispute which fuels this conflict has a long history. In 1847 the British and Russians came to an agreement which originally defined the frontier along the Shatt-al-Arab between the Ottomans and the Persians. Even then, the control of the Shatt-al-Arab was central to the agreement. In 1975, Iraq and Iran renegotiated the border agreement to include provisions more favorable to the then powerful Shah of Iran.

The present hostilities are heightened by the simmering hatred the present rulers of both countries feel for each other. Iraq is haunted by the efforts of the Iranian Government to fuel a Shiite overthrow of its current regime. Iran is haunted by the longstanding irredentist claims of Iraq for Iranian territory, and by the radicalism of the million Arabs who populate the oil-rich area of Khuzistan.

The situation is fraught with dangers for this country and for all the industrialized nations. This situation is not of our making, and it is important to point out that it is independent of the Arab-Israeli dispute. The conflict stems from the very volatility of the region, and has the potential to cause far-reaching setback to the West. For instance, the pres-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ent interruption of the 2 to 2½ million barrels of oil which the Iraqis export per day from their port on the Persian Gulf may turn into a longer term cutoff. Similarly, the over 600,000 barrels per day which Iran exported may be lost to the world for an extended period. The conflict could lead to cuts in the flow of oil from the other Persian Gulf producers—there is already concern for Kuwaiti exports. Beyond this, if Iran starts to collapse and fall apart, it will provide a new opportunity for Soviet expansion toward the Persian Gulf. Moscow may decide to invade northern Iran, asserting its right to do so under the 1921 U.S.S.R.-Persian Friendship Treaty. The consequences of this would be far reaching and very dangerous for the West.

Our Government is cautioning restraint on the part of the belligerents. We are urging restraint on the part of the Soviet Union. An effort is underway to get the United Nations into the act as mediator and forum for negotiations between the hostile states to secure a cease fire. Predictably, however, the Soviet Union is trying to obstruct this initiative. If only the United Nations would give to this Iraqi-Iranian conflict even a portion of the attention and energy it consistently gives to lauding the PLO and denouncing Israel. This is a time for Secretary General Kurt Waldheim to once and for all prove his credentials as a peacemaker, and I hope President Carter is telling him this in no uncertain terms.

The prospects which this present conflict poses for us and for our friends and allies should make it abundantly evident that there are some very fundamental things we must do, and we must do them sooner rather than later. Over the past year, I and my colleagues of the Senate Energy and Natural Resources Committee have been studying the problem of the geopolitics of oil. In both open and closed hearings we have examined the magnitude of the effort needed to deal with a highly volatile energy future. Here are some of the things we need to do:

First, the United States should take measures in conjunction with its allies to avoid panic buying and divisive international competition in the world oil market. In 1979, the world witnessed the effects of unrestrained competition resulting from the Iranian revolution. Although world production fell only temporarily, efforts by private companies and consuming nations to build stocks drove spot prices to record levels—over $40 a barrel. We are still feeling the impact of those events. Once the price of oil is driven up, it is very hard for it to fall again.

To avoid a repeat of the 1979 oil price disaster, we and our allies should immediately develop a series of concerted measures designed to promote stability in the world oil market. These measures should begin with a joint assessment of the likely impact of the current conflict on oil production and exports from the Persian Gulf. Other steps to be considered include self-imposed restraints in buying in the spot market, and joint efforts to discourage hoarding.

Second, the United States and its allies should develop a collective strategy for using the current high level of oil inventories around the world to mitigate the effects of any major supply interruption. We are particularly fortunate that world stocks are now at a record high. There are roughly 5.2 billion barrels of crude and product in primary storage, compared to 4.6 billion barrels a year ago. In the United States alone, we have over 1.3 billion barrels of crude oil and product in primary stocks. In contrast, during the Iranian revolution and its aftermath, stocks around the world were unusually low, and much of the pressure on the world market developed because consuming countries attempted to build up stocks in response to the crisis.

The fact that world stocks are high now does not mean that they necessarily will be used wisely. The effective use of worldwide inventories will depend upon whether we and our allies can develop a common strategy for drawing down these stocks at the appropriate time.

The present conflict highlights the importance of filling the strategic petroleum reserve. Apart from its obvious value as the single most cost-effective means of cushioning the economy against losses from supply disruptions, the petroleum reserve can also serve as an essential component of our military strategy for protecting vital security interests in the Persian Gulf. Plans to fill the reserve must, of course, be sensitive to rapidly changing developments in the world oil market. But with that caveat, we must fill the reserve as soon as prudently possible.

Third, the United States, again in concert with its allies, should develop measures to deal with a sustained crisis in the Middle East. At this point it is impossible to say how long the conflict between Iraq and Iran will last or whether it will escalate further. We must be prepared for a variety of contingencies. The oil-sharing agreement under the international energy program provides for collective action by the major industrialized consumers if oil supplies fall by 7 percent or more. But a shortfall of less than 7 percent can have grave consequences, as events in 1979 vividly proved. The United States must take the lead in developing measures to supplement those in the International Energy Agreement, not only for sharing the burden of any supply shortfall but also for mitigating the economic, social, and even political impacts of a supply disruption. Emergency demand and supply management, and efforts to encourage producing nations outside the gulf to develop emergency surge production capacity, and other measures should be considered.

Fourth, the United States should accelerate plans to field an effective, rapid deployment force capable of projecting U.S. military power in the area. We also need to devote the resources necessary to rebuild our Navy—the only component of our Armed Forces which can remain forward deployed on an extended basis. And, in addition to securing facilities rights in the region, we should encourage our regional allies to develop and maintain facilities for their own Armed Forces which are compatible with the support requirements of Western military forces in the event outside assistance is called upon.

Fifth, the United States should give strong support to programs for increasing oil production outside the Middle East which can significantly increase petroleum supplies over the mid-term. These programs will not help alleviate the current crisis, but they may improve our ability to weather future ones. Greater oil production would limit both the demand on Middle Eastern oil and the probability and magnitude of price increases. Enlarging both supplies and sources of foreign crude could also extend the time available for improving and installing the alternate energy technologies that will become increasingly important in the long run. And, a successful oil diversification strategy could go far in reducing the political pressure that certain producers repeatedly attempt to exert on Western consumers.

Mr. President, time is of the essence in implementing the program I have outlined here. The day is far gone. Let us take the necessary actions before the night is at hand.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The Senate resumed the consideration of the bill (H.R. 7584).

COMMITTEE AMENDMENT ON PAGE 24, LINE 5

Mr. HOLLINGS. Mr. President, we have cleared the following request with the other side of the aisle. I wish to proceed to the consideration of the committee amendment on page 24, line 5:

> The sum of $770,080,000 to remain available until expended, of which so much as may become available during the current fiscal year shall be derived from the Pribilof Islands fund.

I ask unanimous consent that we consider this committee amendment.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered. The clerk will state the committee amendment.

The legislative clerk read as follows:

> On page 24, line 5, strike "$728,475,000", and insert in lieu thereof "$770,080,000";

Mr. HELMS. Will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. HELMS. Mr. President, this represents a $41,675,000 increase over the House?

Mr. HOLLINGS. That is correct.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment on page 24, line 5, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 5, LINE 10

Mr. HOLLINGS. Mr. President, now I will refer to the first committee amendment on page 5, line 10.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 5, line 10, strike "$481,110,000", and insert in lieu thereof "$508,083,000";

Mr. HOLLINGS. Mr. President, this apppropriation is not a particular favorite of mine. However, as explained on page 12 of the report, the $508,083,000 recommended provides for our assessed contributions to 47 international organizations in which U.S. participation is authorized by treaty, convention, or by specific acts of Congress. More than 70 percent of this appropriation represents assessments from the United Nations and specialized agencies. Various organizations and the United States share their costs displayed on pages 13 and 14 of the committee report. Our amounts are identical to the amount allowed by the House, except we provide for the 1981 cost of the International Labor Organization.

I might elaborate on that.

For years, handling the ILO fees and dues was on the recommendation both of the administration and of organized labor. Due to the propensity of the ILO to engage in more or less forensic activities endemic to the Communist countries, rather than an international free labor organization, it was overtaken by the labor movements of the Soviet satellite countries to be used as a forum to condemn certain free world activities. In that regard, we withdrew and stopped paying our dues, even though the ILO had commenced during the 1930's. As has been so vividly pointed out by the distinguished Senator from New York, Senator MOYNIHAN, we had to sort of abandon our own child.

Now it seems like we have had some reconciliations and better understandings more particularly with respect to the developments in Poland, in the labor movement there. The administration has recommended, as well as the AFL–CIO and other labor organizations interested in participation, that we resume our activities in this particular organization. That request came after the bill had passed on the House side. That is why it appears for the first time on the Senate side.

Mr. HELMS. Mr. President, I commend my friend, the distinguished junior Senator from South Carolina, for his eloquence in defending something which is not really his cup of tea. I recognize his responsibility to defend the amendment, but I move that the amendment lie on the table.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Will the Senator withhold that?

Mr. STEVENS. I withhold that.

Mr. HELMS. Mr. President, so that Senators may have a chance to speak on this amendment, I am going to withdraw my motion to table. I did not ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Without objection, the motion is withdrawn.

Mr. HELMS. I do not want to preclude any Senator from saying anything he wishes to say about the amendment.

The ACTING PRESIDENT pro tempore. Did the Chair understand that the Senator was not asking for the yeas and nays at this point?

Mr. HELMS. I did not. I want all Senators who wish to address themselves to this matter to be permitted to do so.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I have checked with my colleague on the other side of the aisle. There are some who would like to address this amendment, so, in order to save the time of the Senate, I ask unanimous consent that the amendment on the ILO be set aside at this time so that we can take up the next committee amendment.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Senator from North Carolina and the Chair.

COMMITTEE AMENDMENT ON PAGE 18, LINE 16

Mr. HOLLINGS. Mr. President, I call up the next committee amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 18, line 16, strike "$32,800,000", and insert in lieu thereof "$34,300,000";

Mr. HOLLINGS. Mr. President, the committee is recommending an increase of $1,500,000 above the House allowance for this appropriation. The details of the increase are fully described in the report on page 32 and include 3 positions to restore the Assistant Secretary for Tourism, for $125,000.

That was cut. The Committee on Commerce, under the leadership of the subcommittee chairman (Mr. INOUYE) has been vitally interested in this. It is an investment which will redound to us financially as well as otherwise, as did the investment that we had in our old tourism program. I know that the distinguished Senator from North Carolina knows of the value of this, because his own State has led the way in the Southeast in developing the tourism effort. Rather than cut this particular amendment after the unanimous finding of the Committee on Commerce on the Senate side, we wanted to restore those three positions.

There are also four positions for the Office of Small and Disadvantaged Businesses required by Public Law 95–507, $150,000;

Five positions for integrated planning and management, $450,000;

Four positions to establish a consolidated grants management function, $175,000; and

Ten positions to implement new merit pay and performance appraisal systems required by the Civil Service Reform Act, $600,000.

That is a total, Mr. President, of $1,500,000.

Mr. HELMS. Mr. President, the Senator from South Carolina is correct. North Carolina has taken somewhat of a lead in the business of tourism, but we have done it at our own expense. Mr. President, I guess it is a little petty for a Senator to question the addition of just $1,500,000, but we have to save money wherever we can. Here we have involved the addition of three bureaucrats at the cost of $1,500,000. I think we ought to strike this amendment. I move to lay it on the table.

I ask for the yeas and nays.

Mr. HOLLINGS. Mr. President, may I be heard further?

Mr. HELMS. Oh, certainly. I shall withhold my request.

Mr. HOLLINGS. There are 26 positions, not 3, for the $1.5 million. Just three are in tourism. I could be a little more specific with respect to North Carolina.

As the record will show, the distinguished North Carolinian, Luther Hodges, Sr., when he was Secretary of Commerce, instituted, during his administration some 20 years ago, the tourism effort at the Federal level. Mr. Floyd Gilmore of Southern Pines was the first director in North Carolina. So it was North Carolina leadership that led us, as a Federal Government, into this particular effort which has paid off so well.

The PRESIDING OFFICER (Mr. BUMPERS). The question is on agreeing to the motion to lay the amendment on the table.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay the committee amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Maryland (Mr. SARBANES), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 29, nays 58—as follows:

[Rollcall Vote No. 441 Leg.]

YEAS—29

Armstrong
Bellmon
Biden
Boren
Boschwitz
Byrd, Harry F., Jr.
Cochran
Danforth
Dole
Domenici
Exon
Garn
Hart
Hatch
Hayakawa
Helms
Humphrey
Kassebaum
Lugar
McClure
Melcher
Packwood
Proxmire
Roth
Simpson
Talmadge
Thurmond
Wallop
Zorinsky

NAYS—58

Baucus
Bentsen
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Laxalt
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Mitchell
Morgan
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stone
Tsongas
Warner
Weicker
Williams
Young

NOT VOTING—13

Baker
Bayh
Burdick
Goldwater
Javits
Jepsen
Kennedy
McGovern
Metzenbaum
Moynihan
Sarbanes
Stewart
Tower

So the motion to lay the committee amendment on page 18, line 16 on the table was rejected.

Mr. HOLLINGS. Mr. President, I move now the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The excepted amendment on page 18, line 16, was agreed to.

Mr. HOLLINGS. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 21, LINE 15

The PRESIDING OFFICER. The clerk will report the next committee amendment.

Mr. HOLLINGS. Page 21, line 15, I think it is.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> On page 21, line 15, strike "$39,700,000", and insert in lieu thereof "$60,000,000";

Mr. HOLLINGS. Mr. President, this amendment alludes to the expanded program within the Economic Development Administration and envisions four offices—one at Boston, one at New York, one at San Francisco, and one at Kansas City.

At the present time, without the new authorization, we already have increased EDA some $112 million. The Agency has been requesting for quite some time the opening of these offices in order to properly administer and facilitate employment and jobs, particularly at a time of high unemployment in these areas. The subcommittee approved this one unanimously and so did the full committee.

The add on of $11 million to open these offices is described in the committee report, at page 39.

The amount recommended will provide the full staffing levels requested for the direct management of the expanded level of economic development assistance recommended by the committee and will provide full-year support for four new regional offices. Congress directed in the fiscal year 1980 supplemental that new EDA offices be opened in Boston, New York, San Francisco, and Kansas City and the additional 150 positions in order to man those offices.

So not only have they been needed, and we are behind time, but also, if a reconciliation is achieved with respect to the EDA authorization bill of an additional $1.2 billion—which has been in conference between the House and the Senate since last fall—there will be an even further crunch and perhaps other expansion, but at least the expansion that Congress directed in the 1980 supplemental will be accomplished.

Mr. HELMS. Mr. President, I ask the distinguished Senator from South Carolina whether I heard him correctly—that it would cost approximately $11 million to open these four additional offices.

Mr. HOLLINGS. That is correct. The $11 million is correct.

I might add that the House did not take it into consideration, because they acted before the 1980 supplemental had come over.

Mr. HELMS. Yet, this item is $20.3 million more than the House recommended, so there is a disparity of $9 million.

Mr. HOLLINGS. Twenty million dollars over 1980. Eleven million dollars over the House.

Mr. HELMS. Mr. President, I have some serious questions about it, but I will not contest the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the committee amendment on page 21, line 15, was agreed to.

COMMITTEE AMENDMENT ON PAGE 23, LINE 10

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

> On page 23, line 10, insert the following:
>
> UNITED STATES TRAVEL SERVICE
>
> SALARIES AND EXPENSES
>
> For necessary expenses of the United States Travel Service as provided for by law; including employment of aliens by contract for service abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $5,000 for representation expenses abroad; $8,000,000.

Mr. HOLLINGS. Mr. President, the President did not submit an estimate for the U.S. Travel Service. However, there was $8.5 million budgeted for tourism under the International Trade Administration. The committee recommends using $8 million of this to continue the U.S. Travel Service for 1 more year as authorized by S. 2248 while the legislation establishing a comprehensive travel promotion program is finalized.

Much of the same argument that we made comment on on an earlier amendment relative to the institution of tourism and travel in the Department of Commerce by our Government pertains here to this particular program.

We are into competition. We always assumed that people with relative wealth would travel and they would do it without any kind of Government participation. But now all governments have found it is to their benefit to participate in promoting tourism, specifically Congress. Along with the international trade initiative under the Executive order of the President on last year in November, we find that this is really to our interest.

They have been authorizing it again unanimously through our Commerce and Trade and Travel Subcommittee in the Senate, and that is the reason for the $8.5 million addon.

Mr. HELMS. Mr. President, I ask the Senator from South Carolina if it is not a fact that the U.S. Travel Service is hanging on by its fingernails in terms of priorities, particularly during this time of budgetary difficulty.

Mr. HOLLINGS. What did the Senator say?

Mr. HELMS. I will rephrase the question and make it a little simpler.

Mr. HOLLINGS. I am sorry.

Mr. HELMS. Is it not a fact that the U.S. Travel Service is about to be phased out anyhow?

Mr. HOLLINGS. No. The administration would phase it out. Congress and the Commerce Committee does not want to phase that program out.

Mr. HELMS. I am sorry. I did not hear the Senator.

Mr. HOLLINGS. My answer would be, if the Senator asked, yes on behalf of the administration. They called for a phaseout. If the Senator asked on behalf of Congress, namely, the Senate, the Commerce Committee, and the Appropriations Committee that approves this committee amendment, no. We very definitely are interested in this particular program and its continuance.

Mr. HELMS. Mr. President, for some years I have been up and down the road on this particular agency. At one time a distinguished North Carolinian was head of it. I think, if I remember correctly, he was the first head of the U.S. Travel Service.

Mr. HOLLINGS. That is right.

Mr. HELMS. And there was a great dispute in the House of Representatives, led by the then Chairman Rooney, who pointed out that the U.S. Travel Service was doing practically nothing, that it was equipping its officers with the plushiest sort of furniture and appurtenances down to gold ashtrays and that sort of thing and giving jewelry to people, expensive jewelry. I do not know what is going on in the U.S. Travel Service, but I am not going to contest this amendment because I do not want to take Senators time trotting them over here to vote, and it is not but $8 million. On the other hand, I will say to the Senator from South Carolina, $8 million is a lot of money to a country boy from North Carolina, but I am not going to consume Senators time in voting on this, but I hope that the committee will look carefully at how the U.S. Travel Service is operated and see if there has been a marked improvement since the days when Congressman Rooney raised so many questions at a time, as I said earlier, when a distinguished North Carolinian was head of it.

So with that, Mr. President, and wishing to be recorded in opposition to the amendment, I will not contest it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the committee amendment on page 23, line 10, was agreed to.

Mr. HOLLINGS. With the provision that the Senator from North Carolina be recorded as objecting.

The PRESIDING OFFICER. The RECORD will so show.

Mr. HELMS. I thank the Chair.

Mr. HOLLINGS. I thank the distinguished Senator from North Carolina.

Mr. HOLLINGS. I ask unanimous consent then that the vote whereby we adopted this committee amendment on page 43, line 5 on yesterday afternoon be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Then I ask unanimous consent that the Senator from North Carolina may now present his amendment.

The PRESIDING OFFICER. Does the Senator wish the amendment on lines 1 through 4 be agreed to?

Mr. HOLLINGS. Yes, I would move the adoption of that.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HOLLINGS. Can we ask the clerk to report the amendment of the Senator from North Carolina?

Mr. WEICKER. Mr. President, since we are going in order here I just want to check with the Chair as to whether or not page 24, line 5 and page 43, line 21 are included in the amendments that have been accepted en bloc.

Mr. HOLLINGS. Just a mistake, in response to the distinguished Senator from Connecticut, in the order of the listing here. We have not gotten to it yet.

Mr. HELMS. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) wishes to speak on this committee amendment, and he is on his way to the floor, and in order to accommodate him I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT ON PAGE 43, LINE 5

Mr. HELMS. Mr. President, while we are waiting the arrival of Senator THURMOND, who had a committee meeting, let me state my own opposition to the committee amendment now pending, which would delete language approved by the House of Representatives prohibiting Legal Services activities on behalf of illegal aliens, that is to say, people who are unlawfully in this country.

The House language prohibits the use of Federal funds appropriated to the Legal Services Corporation for activities on behalf of any alien known to be in the United States in violation of the Immigration and Nationality Act or any law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

I think I see clearly the intent of the House, and I agree with it. The intent of the House of Representatives is to stress that these funds, American taxpayers' funds, should not be diverted, especially when barely enough funds are available to provide minimum services for the law-abiding, poor citizens of the United States, and that the proper use of federally-appropriated funds is to provide legal assistance to citizens and resident aliens of the United States who do meet eligibility requirements for assistance.

Therefore, I respectfully suggest that the Senate committee was in error when it acted to delete this properly intended amendment asserted in the House bill. I urge Senators to defeat the committee amendment and thereby leave the language of the House of Representatives intact.

Mr. HOLLINGS. Mr. President, the Subcommittee on State, Justice, Commerce agreed to delete this language, along with the other language on page 43 relative to homosexuality and further relative to civil legal assistance availability.

All of that is legislation on an appropriations bill. And trying to be consistent, logical, and legal, parliamentary in order, looking at all of these add-ons of language, we necessarily had to strike them.

If you go right to the merits of the point with respect to the expression, "any individual who is known to be an alien in the United States in violation," how do you find him in violation of the act unless you legally find him in violation of the Immigration and Nationality Act?

Of all people that the citizenry of the United States is going to owe a legal representative to, it is going to be he who is standing before the bar of justice with no representation. He is human; he is an individual. I am sure if Senator HELMS were Judge Helms at the bar and the marshal ushered in any poor rascal and said, "Here he is," the first question that Judge Helms would ask is: "Where is his lawyer?"

He says, "Well, he can't have one. Legal Services would like to represent him but, under the Helms amendment, they can't have representation."

"Well then how can he speak? He is not even speaking the language. I don't know anything about the case. Mr. U.S. Attorney, I hereby appoint—what is that lawyer's name standing in the back?—he is going to be the lawyer."

I can tell you have and now this expense is going, if not to the legal Services Corporation, right over into the other part of our budget, the judiciary budget, because I just cannot contemplate anyone standing before the bar of justice here in America without representation.

I understand the intent. Heaven above, we have tried to economize as much as we possibly can. We have tried to limit the reach of the Legal Services Corporation's activity so that they will not have sponsored demonstrations and all other particular things and really have law cases.

But I cannot contemplate an individual standing as an alien, not even speaking the language, and it being illegal to have legal representation. The court would not countenance it, the Supreme Court would not allow it, the Constitution and the conscience of this country would not allow it. You are going to be bound to have somebody standing there doing it and the expense is going to go to the judicial branch, as I see it.

So while the intent here is to limit Legal Services Corporation, I do not know of any better entity than the Legal Services Corporation to handle these particular matters.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the point is that these Legal Services attorneys are going out and promoting activities on the part of various alien groups. This type of activity has been going on since the inception of the Legal Services program.

I say again that this is not a Helms amendment. This is a provision approved by the House of Representatives. The pending amendment is a Senate committee amendment to strike a judgment already made by the House of Representatives with which I agree.

Mr. President, if I were Judge Helms instead of Senator HELMS, I would have no problem about handling the cases coming before the court. I would have a problem, as a citizen of the United States, with the way these Legal Services Corporation lawyers conduct themselves in activist roles. And that is the point. That was the purpose of this provision which was included in the bill by the House of Representatives.

I reiterate that the House was wise in its judgment in including this in their bill. I hope with all respect to the Senate committee that the House provision will be upheld by the Senate.

Mr. HOLLINGS. With respect to the activism on the part of the Legal Services Corporation's attorneys, we have no record of that.

If there is a record, I am confident it would have been borne out in the hearings held by the Labor and Human Resources Committee. Earlier this year they considered the bill, handled by Senator NELSON, the Legal Services authorization. And that bill passed. I do not remember this debate at that particular time.

We cannot just find that, without hearings or anything else like that, because all of that kind of activism is rather to the contrary from the hearings that we have had under the direction of the new head and Senators probing to make certain that we do not get beyond ourselves.

It would be nice to have a lawyer for everybody's case in America. But we are now getting too litigious in this land, in my opinion. So I have been the one trying to probe and find. We do not have any evidence whatever in our hearings that they are doing as the Senator from North Carolina indicates, trying to search out and make cases.

They are shortchanged. The Legal Services Corporation budget here is less than that requested and approved by the administration, by the tune of some $21 million. So we did not increase their budget at all, for very good reasons. But in any of the findings we could not make that finding that they were out searching cases for illegal aliens and presenting them. If they were engaged in that kind of conduct, the distinguished Senator is a member of the Judiciary Committee, and I am sure he could get out a new bill on that one much easier from his authorizing committee than we can just trying to handle the amendment of the Legal Services Corporation without legislation on this appropriation.

Mr. HELMS addressed the chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I appreciate the compliment my friend from South Carolina paid me. I am not a member of the Judiciary Committee.

Mr. HOLLINGS. I thought the Senator was.

Mr. HELMS. Many times I wish that I were.

But notwithstanding that, let me make a suggestion to him and for the record. If there is any doubt about the way the Legal Services Corporation lawyers in the field operate, that the Senator from South Carolina or any other Senator or group of Senators invite a distinguished North Carolinian who is a friend of the Senator from South Carolina (Mr. HOLLINGS). His name is J. Melville Broughton, Jr. Mel Broughton served for a while on a board of the Legal Services Corporation.

Mr. President, just for the record, I might say that Mel Broughton's father was Governor of North Carolina during World War II. He later came to the Senate and died shortly thereafter.

Mel Broughton, Jr. is a distinguished attorney in Raleigh, N.C. He is a credible citizen. He was absolutely appalled, I say to the Senator, at what he saw going on in the Legal Services Corporation.

So there are records available of what the Senator from North Carolina has just talked about.

But I am not going to contest it further. I think I made my point. I think the House of Representatives is absolutely correct in the position that it has taken.

I want to check one further point, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, there is a provision in this bill referring to aliens, which is within the jurisdiction of the Judiciary Committee. I believe the House had included this provision which the Senate Appropriations Committee has stricken:

> *Provided further*, that none of the funds appropriated in this title may be used to carry out any activities for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

Mr. President, it seems to me that the House position on that particular matter is a sounder position than was taken by the Senate Appropriations Committee. I do not know of any particular reason why our Government should finance aliens in this country when they are violating the Immigration and Nationality Act. If they are going to come here in violation of the law, it seems to me that they ought to have to provide their own legal services.

I am not going to make any long statement on this, but I think it would be hard to explain to the people of this country why this Government should provide legal services to people who are here in violation of the law. That is all that this provision says.

I would hope that the distinguished manager of the bill could go along with this particular provision. I do not think our Government has an obligation to finance legal services for an alien who is here in violation of the law. In other words, if he is here in violation of the law, it seems to me that he ought to have his own lawyer, or provide his own legal services. I am just wondering why it is necessary for our Government to have to provide legal services for illegal aliens.

Mr. HOLLINGS. Will the distinguished Senator yield?

(Mr. CHILES assumed the chair.)

Mr. THURMOND. I am pleased to yield.

Mr. HOLLINGS. Mr. President, I do have the ranking member of the Judiciary Committee and I do have a former judge. If Judge Thurmond is presiding and an individual appears, and you could see that it was an alien case, necessarily before the court would be the question of determining whether he was legal or illegal. Necessarily, in order to make that determination, the individual is there, the citizen is there, the Constitution and the court, and I am sure the distingushed senior Senator agrees with it, he has to have representation. It is a charge made. So they are going to be appointing, and the judicial branch is going to be getting the expenses, and the courts will be delayed.

I know of no better way than for Legal Services Corporation to handle these kinds of cases. I think it would save time, money, and expense for the preliminary investigations made and handling it with the U.S. attorneys in determining illegality.

The Senator and I know when they land as we have seen them by the thousands, they should be turned back with an affirmative policy.

I do not know what the policy was earlier this past year. But without that policy, once they land from ships and everything else, escaping from Cuba, once here, they are not going to just dump them back. They have to be taken care of. If they have a particular charge of coming here as illegal aliens and are to be deported, that particular charge has to be determined.

I am perfectly cognizant of some of the abuses of the Legal Services Corporation. I was going to comment on the observations of the Senator from North Carolina, concerning Mel Broughton, who served on that particular Legal Services Corporation.

We had a lot of financing of demonstrations and all, so we amended the law. Senator Javits and others agreed with the authorization bill, that they be limited to categories of cases—landlord-tenant, domestic cases, other regular claims. With respect to these alien cases, of course, they have come more to the vision and attention of us all because of the large incidence of aliens coming in from Cuba, Haiti, and other places.

I think the appropriate place is back now to the Judiciary Committee. If there is to be jurisdiction handled somewhere, it is best handled in the Judiciary Committee or, more specifically, when the authorizing bill passes—the Legal Services corporation Act we passed. We made this determination, we had the same debate last year. But we did not see anyone on the floor offering that particular amendment on the Legal Services Corporation Authorization Act. It was up just a few weeks back, here on the floor of the U.S. Senate.

In order to defend that committee, Labor and Human Resources, certainly it is true that the Appropriations Committee should not be blamed for deleting the language. That is in the rules of the Senate. That is in the orderly process of legislation.

So, Mr. President, there it is, if for no other reason. We did not have these witnesses that said they were out soliciting business. That was a few years back. But we did not have that. And the Legal Services Corporation is doing an outstanding job. With no racket about it being improper and defending the Judiciary Committee, we moved and struck it. We think it should be stricken and not put on here without the appropriate authorization language, without the appropriate hearing. Certain it is, just looking at the face of it, without the ultimate merit of someone representing that individual to determine the illegality in the first instance.

So, if the expense is to be eliminated on this particular measure, then it is going to come back to us in the judicial branch somewhere else, with greater delays and greater cost, in my opinion.

Mr. THURMOND. Mr. President, I realize that if there is a case in court, the judge would appoint someone to defend any defendant who is not able to have his own lawyer. But this does not necessarily apply to cases in court, as I understand it. This would just be any legal service that would be rendered. It is questionable in my mind as to whether it is wise for the Government to be providing attorneys for aliens who are here in violation of the law.

I am wondering, Mr. President, has the Parliamentarian ruled that this is legislation on an appropriations bill?

The PRESIDING OFFICER. The language is House language. Therefore, it would not be subject to the point of order.

Mr. THURMOND. It is not subject to a point of order. So it is proper for it to be here.

Mr. HOLLINGS. Unfortunately, Mr. President, the House allowed it. But if there were to be a motion in the original instance, then the point of order would be made.

Mr. THURMOND. Mr. President, I had hoped the Senator would agree to allow the House language to remain in the bill. I believe that would be a wiser course of action. However, it is true that this will be debated in conference.

Mr. HOLLINGS. I think that is the appropriate way to handle it. That is why we did not want to fix it in any particular language between both bodies at this time.

Mr. THURMOND. Mr. President, I see no objection, especially here, since it has been put in by the House. I think it is somewhat of a dangerous precedent to allow a provision like this to not remain in a piece of legislation, where the alien is here in violation of the law, then go further and say he is going to be given legal services, unless he is in court, where the judge would take care of that and he would really not need this.

Mr. HOLLINGS. On two scores, it is a dangerous provision—it was in the bill last year and we struck it. The Senate found it was improper language on an appropriations bill. So they knew, those who were interested in this kind of approach had every bit of knowledge, because we debated it on the floor of the Senate.

Now we have come back, without anything being said on the Legal Services Corporation bill, where they had that chance, or in the Judiciary Committee, where they could get a hearing. They have now inserted it on the House side and we are doing what the Senate found last year and the Subcommittee on Appropriations found was unwise—it is a committee amendment approved by the Senate Appropriations Committee.

With respect to legal services, this Senator knows of no legal services without ultimately involving court proceedings. It could be that, there again, the court proceedings could be avoided with these kinds of legal services.

Mr. THURMOND. At any rate, the bill will be in conference, since it is in the House.

Mr. HOLLINGS. Yes, Mr. President, it would be.

Mr. THURMOND. This does not necessarily mean it would be the final result.

Mr. HOLLINGS. It will be in conference, that is right.

Mr. THURMOND. I think it is a matter of vital importance, it will be in conference and I think can be settled there. However, I think it would be a wiser course of action to include this provision in the Senate bill.

Mr. HOLLINGS. Mr. President, could we avoid a vote on this? Does the Senator from North Carolina want to move to lay the committee amendment on the table?

Mr. HELMS. Mr. President, if the Senators have nothing further to say on this Senate amendment striking the House provision, then I shall move to lay the Senate amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to lay the committee amendment on the table. The yeas and nays have been ordered. The Clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from New Hampshire (Mr. Durkin), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), the Senator from Maryland (Mr. Sarbanes), the Senator from Alabama (Mr. Stewart), and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Iowa (Mr. Jepsen), the Senator from Maryland (Mr. Mathias), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 48, nays 38—as follows:

[Rollcall Vote No. 442 Leg.]

YEAS—48

Armstrong
Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Dole
Durenberger
Exon
Ford
Garn
Glenn
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
McClure
Morgan
Nunn
Packwood
Percy
Pressler
Proxmire
Randolph
Roth
Sasser
Schweiker
Simpson
Stafford
Stennis
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—38

Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Eagleton
Hart
Hatfield
Hollings
Inouye
Jackson
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Nelson
Pell
Pryor
Ribicoff
Riegle
Schmitt
Stevens
Stevenson
Stone
Weicker
Williams

NOT VOTING—14

Bayh
Burdick
Durkin
Goldwater
Javits
Jepsen
Kennedy
Mathias
McGovern
Moynihan
Sarbanes
Stewart
Tower
Tsongas

So the motion to lay on the table the committee amendment on page 43, lines 5 through 16, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 43, LINE 21

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

> On page 43, line 21, strike "$634,000", and insert in lieu thereof "$934,000";

Mr. HOLLINGS. Mr. President, I understand that this is the marine mammal matter, and we have worked it out so that it can be accepted. I move the adoption of the amendment.

The PRESIDING OFFICER. Is there discussion?

The question is on agreeing to the amendment.

The committee amendment on page 43, line 21, was agreed to.

COMMITTEE AMENDMENT ON PAGE 50, LINE 8

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

> On page 50, beginning on line 8, strike all language down through line 14, as follows:
>
> SEC. 607. No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Mr. THURMOND. Mr. President, this is the schoolbusing amendment?

Mr. HOLLINGS. Yes.

Mr. President, if I may be heard just for a second, the congressional determination in the fiscal year 1978 HEW appropriation to forbid HEW administratively requiring busing—the Eagleton-Biden amendment—was subseton-Biden amendment—was subsequently challenged as being unconstitutional in that it violated the equal protection clause of the 14th amendment.

The Department of Justice was successful in upholding the constitutionality of this amendment by arguing that their ability to seek judicial resolution of difficult problems that might arise would insure equal protection. The Court (*Brown* v. *Califano,* D.C.C.A. No. 75-1068, July 17, 1978, pp. 12–13) qualified this decision by saying that:

> Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, or will not, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an as applied basis.

Congress made a judgment when it enacted the Eagleton-Biden amendment, giving Federal judges rather than executive branch officials the authority to resolve these matters. The Collins amendment by precluding judicial relief as well, raises serious constitutional questions.

I yield to the Senator.

Mr. THURMOND. Mr. President, my opposition to the unnecessary, insensitive policy of forced busing of schoolchildren for the purpose of achieving arbitrarily established racial quotas is well known. I have opposed forced busing in the past, and I oppose it now with the same conviction.

Mr. President, today one-third of our country's schoolchildren are being transported out of their neighborhoods and communities, away from a school close to their home, simply to achieve arbitrarily established racial quotas in the schools. The effects of this unwise practice are quite evident if one will simply look at the trends in student achievement tests. Between the period from 1964, when forced busing first began, to 1979, the national average pupil score on these tests has dropped 79 points. The national average score on student achievement tests has dropped from 973 in 1964 to 894 in 1979, despite the fact that more and more money has been spent on our educational system.

Mr. President, the meaning of this language is clear. It does nothing except say to the Justice Department that it cannot use tax funds to promote the forced busing of schoolchildren. This provision was included in the House bill, and I believe it should be included in the Senate bill. I hope that my colleagues in the Senate will join me in supporting this much needed provision.

Mr. President, I do not think it makes sense to haul children right by the nearest school to another school miles and miles away. I think we are subjecting the schoolchildren to a greater hazard than if they went to the nearest school.

Then I say further, with the fuel situation as it is today, the price of gasoline to run the schoolbuses is costing the taxpayers a lot of money to do that, and in this case there is no discrimination. A child would just go to the nearest school. If he wanted to go to some other school, he could provide his own transportation.

I think the House of Representatives was wise in including this provision in that bill, and I hope that the Senate will also include it in this bill.

The PRESIDING OFFICER (Mr. SASSER). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the distinguished Senator from South Carolina is exactly right. This country has a lot of problems. Few of them can be solved easily or quickly. But certainly we can make a start on solving this one.

If there ever was a bipartisan folly, it was the imposition of forced busing upon the little children of this country. It has not worked. It has been a colossal flop. It has deteriorated the quality of education.

Every poll that I have seen on the question of forced busing shows conclusively that the vast majority of all citizens of all races are opposed to it.

The most recent poll I saw, and I think it was a Gallup poll, showed 78 percent of the black parents in this country are opposed to forced busing.

What has happened is this: HEW was originally the Federal bureaucracy pushing forced busing. Congress stopped HEW by legislation from promoting forced busing—and I might add by legislation on an appropriations bill.

So what did the HEW bureaucrats do? They just transferred their activity to selected lawyers in the Justice Department. Now the Justice Department attorneys are doing the work that the bureaucrats in HEW used to do. I think it is time for this Senate to join the House of Representatives and say to the Justice Department: "You will do no more of this. We will stop this folly of forced busing of schoolchildren across cities and counties."

The Federal Government should stop harassing and intimidating the children, whose lives are being placed in jeopardy by making them ride countless miles for no useful purpose.

Mr. President, how much longer will we engage and indulge this insanity? I say that the committee was wrong, and I say this respectfully, when it adopted an amendment to strike the very valid, very wise provision in the House bill.

At the appropriate time I will move to table the committee amendment so that the Senate can join the House of Representatives in saying to the parents and schoolchildren of this country, "We are through with forced busing."

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I rise to speak for the action of the Subcommittee on State, Justice, and Commerce, and to oppose what I know will be the motion to table the committee's amendment.

First of all, let me say to my distinguished colleague from South Carolina, who is the ranking minority member of the Judiciary Committee, that I have not seen anything come forth from his committee which is the proper body to handle this matter which, in effect, would advocate what is being espoused by him here today in the Chamber.

If indeed there is to be a change in policy, and I know the strong feelings that exist in this matter—there certainly is room for disagreement—then it seems to me the policy change should emanate from the Judiciary Committee of which he is the ranking minority member.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. THURMOND. Mr. President, with the Judiciary Committee being constituted as it is today I doubt if any change will be made. Maybe next year with some changes in the Senate we will have enough to bring forth such legislation as this. But that is no excuse for the Senate not acting on it.

We hope the Senate will see fit to go along with the House of Representatives on this measure. That is the reason we are bringing up this question now because we think it is so impractical, we think it is so unwise to haul little children miles and miles away from their homes, go by the nearest school, and go to some school maybe 20 miles away, wasting gasoline, keeping the little children there on the bus going to school and coming from school, and naturally they get restless and nervous and it creates more disorder on the bus, and we just think it is a great mistake.

I think the provision that the House inserted here, section 607, which reads:

> No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

It is a sound provision and a sound stand to take.

I think it is just a question of whether we are going to continue to favor forced busing. The House of Representatives says we should stop it. I happen to agree with the House. I hope the whole Senate here will agree with the House on this particular provision.

I thank the able Senator for yielding.

Mr. WEICKER. In effect, what the distinguished Senator from South Carolina is saying is that the proper committee of the Senate, proper in the sense of dealing with this matter, is not going to deal with it and, therefore, the duty should fall on the Appropriations Committee.

Well, believe me, it is enough for the Appropriation Committee to do just to see to it that the proper moneys are expended in this country for the various endeavors and the various agencies without getting into the business of policy, as is properly handled by his committee.

But I am going to go beyond that. If you want to raise the issue let us talk about the constitutional aspects of it. Let us talk about the policy. Very simply put, it is just a question as to whether or not the Justice Department of the United States is going to have the necessary moneys to enforce the law. It is as simple as that.

Now, it is not an issue of forced busing. It is an issue as to whether or not the appropriate remedies are going to be applied, whatever those consist of, when and if, and only when and if, an illegality has been determined.

If you let this amendment go through what you are saying is even though an illegality has been adjudicated "We are going to restrict the remedies at hand to deal with it." That is what is involved. It is as simple as that.

The Justice Department is the one that appropriately has to bring the action. The Justice Department is the one charged with enforcing whatever it is, whatever determination the court arrives at.

To say that no funds will be used in effect says, "Well, the court can say anything it wants to both in the determination of what is wrong and the remedy to what is wrong. But, believe me, as a de facto judgment of the court it will not go into effect."

This is not an issue or is not a debate on whether busing is a good or bad remedy. That is not at issue.

I am sure there are mountains of evidence that indicate it does not work, and other mountains that say it does. That is not the issue. It is merely the capacity of the Department of Justice to enforce the laws of this Nation, to enforce the judgments of its courts, and on that basis I would hope that my colleagues would support the committee and reject any motion to table.

Mr. THURMOND. Mr. President, I will just make this further observation: If discrimination is alleged the courts could decide it. In other words, if there is no discrimination, why take the children beyond the nearest school? If there is discrimination the courts are open to cases of that kind, of course, and could so decide.

I think it would be a great mistake to waste all this fuel hauling these children. One-third of the children of this country are being transported beyond their nearest school. Just think of the gasoline it takes, and think of the time keeping the little children on those buses, some of them all day here, going such long distances. Why do that? Is this not a play—is this not mainly a play—to a certain group in this country, an amendment of this kind? It seems to me what we need to do is to treat everybody alike, have no discrimination.

In the schools of my State there is no discrimination. They have all been desegregated, and I am sure that is the case in the other Southern States. I am not too sure it is the case in Massachusetts, right next to the distinguished Senator's State of Connecticut.

I am not sure it is the case in Chicago. I am not sure it is the case in Detroit. I am not sure it is the case in California because we read about these cases in the papers every day where they are still having racial troubles in the schools and they are bringing suits and they are arresting people, and there are fights, and so forth.

I am proud to say in the South we have had very little, if any, trouble in this matter, and the fact that, the very fact that, there is no discrimination existing, why should we continue to haul these children long distances against their wishes, against the wishes of their parents, and spend all the taxpayers' money to do this?

I hope, Mr. President, that the Senate this time will see fit to follow the House and end this matter.

Mr. WEICKER. Mr. President, I would only have to remark to my distinguished colleague from South Carolina that the committee put no language into the bill which raised the issue to one "group" or another group in this country. The language was put in obviously plainly to one group or another.

The committee has said that the law ought to be applied equally to everyone. There was no one singled out in the appropriations bill. It was the language put in there by the House which raises the issue. It is language being advocated by the distinguished Senator from South Carolina that raises the issue. Indeed, as far as I am concerned, the action of the committee wipes out any language whatsoever.

Now, as to whether or not there is a total lack of discrimination in the United States, I would hope there is, but I am certain in the State of Connecticut there is discrimination and, indeed, if I am saying to the Justice Department "You have no right to go into the State of Connecticut in those instances where there are allegations of discrimination," it seems to me I am denying a segment of my constituency their constitutional rights. It is just as simple as that.

It is the Senator from South Carolina who makes reference to the South. Indeed, I think the South has done much better in the sense of obeying the laws and the principles of our Constitution than have the northern States. So there is no debate on that issue.

But clearly what is being said here is that the law will be applied equally to all.

You see, the trickiness of the language is interesting, and let me quote it:

> No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student—

Well, the minute you say "indirectly" that would mean technically they could not bring any action at all because it might result in a busing order. So, in effect, their hands are tied on any sort of civil rights prosecution.

I am sorry, but I think that goes a little bit beyond the pale that anybody on this floor would believe in.

I am quite prepared—there is no point in our rehashing an argument which has taken place here for the past several years. I think you have eloquently stated your case, Senator, and maybe I have not so eloquently stated mine, but why not make your motion and let us get to a vote.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to read a short provision here from the Congressional Record when this bill was being considered in the House. Congressman Collins, I believe, offered this amendment, and Mr. Panetta raised this point:

> I would think the gentleman shares my concern where there is a violation of constitutional rights. We do not in any way

prohibit the Department of Justice from moving in those instances.

Mr. Collins of Texas, the author of the amendment, said: "That is right." So there is no effort here to deny anybody his constitutional privileges.

Then, Mr. Panetta said:

> Second, I take it that this amendment would not in any way prohibit a court from ordering busing as a remedy where the court finds discrimination?

And Mr. Collins of Texas, said:

> It would prohibit Justice from involvement. The court has the right to rule in any way it chooses.

So, Mr. President, the courts are still open to the people if it is an alleged discrimination. If there is no discrimination, and no one alleged discrimination, then why continue this practice of hauling these little children hundreds and thousands of miles every day, wasting all of this gasoline, when the parents of this country do not want it? The public opinion polls have been consistent and have showed that the people of America oppose forced busing and oppose it by a large majority.

Mr. President, I move to table the committee amendment. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Exon). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the committee amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), and the Senator from North Dakota (Mr. Burdick) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS—49

Armstrong
Baker
Bentsen
Biden
Boren
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cochran
DeConcini
Dole
Domenici
Exon
Ford
Garn
Hatch
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Melcher
Morgan
Nunn
Pressler
Proxmire
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—42

Baucus
Bellmon
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Chafee
Church
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Inouye
Jackson
Leahy
Levin
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—9

Bayh
Burdick
Goldwater
Javits
Kennedy
Mathias
McGovern
Stewart
Tower

So the motion to lay on the table the committee amendment on page 50, lines 8 through 14, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Mr. Robert Russell of the Senate Banking Committee be granted the privilege of the floor on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT ON PAGE 50, LINES 15 THROUGH 19

Mr. HOLLINGS. Mr. President, I ask that the clerk state the next committee amendment.

The PRESIDING OFFICER. The committee amendment will be stated.

The assistant legislative clerk read as follows:

> On page 50, strike the language beginning on line 15 and continuing through line 19.

Mr. SCHMITT. Mr. President, at an appropriate time, I shall move to lay the committee amendment just reported on the table. The reason, Mr. President, is not that this is a replay of the battle in the Senate a few months ago on whether or not there should be a legislative veto provision attached to the Federal Trade Commission authorization. It is a battle, if you will, that will put Congress specifically on record that, where it has seen fit to provide for a legislative veto over administrative rules or administrative actions, the administration should not expend funds to do what Congress has said "Thou shalt not do."

The opponents of the tabling motion probably will argue that the constitutionality of a legislative veto is in question. It is my opinion, and it is the opinion of a great many legal scholars, that the two-House legislative veto, which is the provision that was added to the Federal Trade Commission authorization, would be held constitutional if tested in the courts.

Mr. President, I think the point is that Congress has passed on many different pieces of legislation signed into law by various Presidents—provisions providing for the legislative veto of various administration actions. Having so provided by duly executed legislative processes, it does not seem to this Senator to be appropriate for the administration to ignore such a veto and proceed as if that law did not exist, whatever their feelings may be about the constitutionality of the legislative veto.

Mr. President, just yesterday, the Senate acted on a resolution of disapproval. It acted because the basic law that provided for such a resolution of disapproval included that opportunity. In the case of that particular resolution, the House voted to veto; the Senate did not. There was no argument over the right of the Senate and the House to exercise such a veto. But it had been agreed to, had the Congress decided to veto the sale of fuel for the Tarapur reactor, the administration's position may well have been, if consistent with other actions on the part of the administration, to ignore that veto because they say two-House vetoes are unconstitutional.

Mr. President, I do not think the administration should be allowed to do that. If Congress has decided to veto a particular administration action, until such action or such veto is shown to be unconstitutional, the veto should hold and no action under that veto or outside of that veto should be undertaken.

Mr. President, I am sure there will be some discussion of the concept of legislative veto. I hope there will not be a great deal, because that is not the issue here. The issue is whether or not the administration could proceed to ignore Congress when it has duly executed the provisions of law that provide for legislative veto. I hope that the Senate will agree with the House, that funds should not be expended by any administration if Congress has vetoed a particular action—funds to implement the action so vetoed.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, this amendment was adopted by the House by a voice vote. The onus is on me, I take it, to strike it, but the amendment by the committee strikes that one adopted by the House by a voice vote to prevent the use of funds appropriated under this bill to administer or enforce any regulation which Congress has disapproved by legislative veto. This language was removed from the bill at the subcommittee markup because, first, its constitutionality is questionable, second, it is legislation on an appropriations bill, and third, it is unnecessary.

As we are all aware both the President and the Attorney General have challenged the legislative veto concept as unconstitutional. To date, there has been no definitive court ruling on this issue. In all likelihood the Supreme Court will eventually rule on it. It is therefore premature to enact a spending limitation in this manner until we have a final determination by the Court.

Further, no agency in this bill has in any way suggested that they would seek to implement, administer or enforce any regulation that has been subject to a legislative veto. The FTC, which has been subject to a two-House legislative veto for the last 6 months, has assured us that they intend to fully comply with that procedure.

They have been complying with that procedure, and they actually, under the Attorney General's decision, had to close the office and not expend any moneys whatsoever, except to disband. So for several days on two occasions already, they have had to go into the disbanding mode, cutting off telephones, employees, and everything else of that kind.

Mr. President, it is therefore unnecessary to place any further restriction on the use of their funds.

This provision is present in the Senate version of H.R. 7831, appropriations for the Department of Transportation, I might note, that they tried to pass.

We think it is an unwise policy. I say so from the standpoint of actually administering the program. We must engage in legislative oversight but with tremendous volume of responsibilities that we have taken on, where each day, it becomes more physically impossible to do the task of legislating intelligently on the one hand and ombudsmanship—namely, handling your constituents' demands and services on the other—to come around and be quasi-semi-executive on the third hand is frustrating the orderly democratic process.

If we pass the laws, they should be administered. If they are to be repealed, they should not be repealed by one House action.

We should not cater to the special interests, since we have now so many special, divided, single interests around the land, and say, "Forget about the law, forget about procedure, all you have to do is politically bamboozle an already bamboozled group in the Senate or House and get yourself a one-House legislative veto."

So instead of the orderly administering of the Federal Communications Commission, the Federal Trade Commission, and the other administrative agencies, the lawyers have found a very convenient method. They come chasing here and put all these provisos on, or otherwise put legislative veto language into various bills.

We abhor that particular procedure and moved in the committee amendment, both in the subcommittee and the full Appropriations Committee, to, consequently, strike that language.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I will yield to my distinguished colleague from Idaho (Mr. McClure), but I would like to point out three things.

One is that the administration through the Department of Justice specifically told the Department of Education to ignore vetoes that had been exercised by the Congress on certain regulations put forth by that Department.

That Department is not part of this bill. But it shows the inclination of the administration to ignore where they can, duly constituted congressional action that would impose legislative vetoes on various regulatory actions by departments. I am sure that they would seek to have those vetoes ignored through the influence they have on the so-called independent agencies.

Also, I think it is important for the Senate to realize that the general form of legislative vetoes is quite diverse. There are many different kinds. But the tendency within the Congress now, over the last 4 years, has been to move toward what is commonly known as a two-House veto. That is where the veto does not take effect unless both Houses have agreed that it should take effect.

This is the case in the FTC legislation, in our action yesterday under the Nuclear Nonproliferation Act, and in the conference report just agreed to that covers the National Highway Transportation Safety Administration.

It appears to be the general sentiment of the Congress that this two-House veto is a proper and constitutional means of exercising control over the making of law by the administration.

Finally, Mr. President, it is my understanding that the transportation appropriations bill, the conference report on that bill, will contain agreement between the House and the Senate conferees to just such a funding restriction as we are discussing here today.

I yield to my distinguished colleague (Mr. McClure).

Mr. McCLURE. Mr. President, I thank my colleague.

I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, section 608 as approved by the House would have prevented the use of any funds for the enforcement of any regulation disapproved by the Congress. This procedure has been commonly called a "legislative veto" and has been included in several measures which have been before the Congress. I support the concept of a legislative veto. This language simply puts some teeth in the effort to make legislative vetoes effective expressions of congressional intent.

Mr. President, the Federal Government in the last 20 years has grown by leaps and bounds. Bureaucracies have sprung up overnight and thousands of new regulations are being issued every month. We are becoming a nation choked with redtape and Government intervention. What amazes me most about this growth in the Federal bureaucracy is the fact that there is apparently no accountability among Government agencies. Congress tries to oversee each of these agencies and their programs, but it is almost an impossible task.

Mr. President, accountability is the issue here. No one in the Federal Trade Commission has to stand for reelection every 2 or 4 years like each of us. We are held accountable for our actions, but very few regulators are held directly responsible for the regulations they issue and enforce. The use of a legislative veto in specific instances can enable the Congress to hold Federal agencies responsible for many of their actions. I support that approach and urge my colleagues to also support it.

Mr. McCLURE. Mr. President, I commend the Senator from New Mexico for the leadership he has given continuously to this struggle with respect to how the Congress of the United States tries to get control over what is done by a bureaucracy that oftentimes does not respond to the intention of the legislative enactments under which they are supposed to be administering programs.

I do not think this is the time or the place, really, to argue the question of whether or not a legislative veto provision would be a one-House or two-House veto, whether it would be an appropriate way for us to respond to that problem.

But it does seem to me it is appropriate for us to say that surely the Congress in passing a legislative veto provision meant what it said.

We are not arguing here as to whether or not a specific legislative veto or a specific bill is right or wrong. But the Congress has already acted to say that we will exercise that authority in this area, and then having exercised that authority, whether we will then allow the executive branch to completely overturn or disregard the action taken both in establishing the means for the veto and, second, in exercising that veto.

What kind of a sham would it be for us to say that we are going to have a legislative veto, go through all the struggle to make that determination on a particular program or in a particular agency, and then go through the process of exercising that veto, but say, "We do not really mean it, you can go ahead and ignore it."

It seems to me it really comes down to the question of whether or not this legislative body means to tell the administrative bodies in the independent agencies that when we exercise a veto, that we have by law provided we could, they are free to ignore it.

Now, it is suggested that we do not have to worry about whether they will ignore it, or not, leave that to a different day.

In the memorandum to officials in the Department of Education, the Secretary of Education stated that based on the opinion of the Attorney General, it is now the official policy of this administration and the Education Department to disregard these vetos.

I do not know how much plainer it can be that the Congress established the policy by which we would exercise some direct oversight over the content of the regulations, to see whether they comply with the laws as we perceive the laws to have been passed, or whether we allow them downtown and across this country to completely flout the will of the Congress with respect to the laws.

That method of oversight of the regulations and exercising our power over that method that we reserve to ourselves in the legislation, then we permit the bureaucracy to simply thumb their nose at the Congress of the United States and say, "We do not care what you said, we are going ahead anyhow."

That is all in the world this language says. It takes it the one step further and says, "We meant it when we exercised the veto. We meant it when we reserved our powers to exercise that veto. We meant it when we promised the people of this country we were going to try to get control over those tens of thousands of regulations being issued every year, regulating the lives and affairs of the people of this country."

Are we going to live up to our responsibility as we said we would? Are we going to take the easy way out by saying that we will just let them disregard the law, that is none of our business, we will just complain a little, we do not really want to control it?

I hope the Senate will uphold the action we have taken in the past. I hope the Senate will vote to table the committee amendment.

Mr. SCHMITT. Mr. President, I say, very briefly, that the issue of constitutionality is not a very strong issue upon which to base a rejection of the House position.

All we are doing is retaining the purse strings during the period of time in which a legislative veto would be operative.

But, article I of the Constitution very specifically gives the Congress the authority to do anything that is necessary and proper to implement the powers given to it by that article.

The legislative veto is clearly such a necessary and proper action.

There is nothing in the Constitution that requires Congress to give away either all or none of its legislative authority. The legislative veto is sort of a middle ground in which Congress gives to an agency, such as the Federal Trade Commission, a great deal of power, but it withholds constitutionally, withholds the final approval of the actions of that body.

Also, it can be argued and has been, and I think very persuasively, that a legislative veto constitutionally just preserves the status quo, that it does not allow a change, and that is a very strong constitutional argument.

Every time the legislative veto has been contested in lower court, the Federal courts have upheld the constitutional power to exercise such a process.

So, very briefly, that is the constitutional case. Again, it is not necessary for this body and at this time to argue that extensively.

The important thing to remember, as the Senator from Idaho has said, is that Congress has decided, on more than 300 measures now, that it will exercise some form of legislative review and potentially legislative veto.

We just went through a whole process in the last few days dealing with a two-House veto on Tarapur, the question of nuclear fuel to India. It would not have surprised me, with that kind of memorandum in hand, for the administration to have said, "Forget that legislative veto," if in fact they had lost yesterday. They did not lose; so we do not have that test.

However, in the case of the Department of Education, it is very clear that they intend to ignore congressional legislative veto.

With respect to the FTC, which comes directly under bill before the Senate today, we have 14 pending rulemaking activities, and I will list, for the purpose of the record, those that are pending currently: The standards and certification rule, children's advertising rules, antacid over-the-counter products, revised care labeling, used motor vehicles, holder in due course amendments, over-the-counter drugs in general, protein supplements, health spas, hearing aids, prescription drugs, food advertising phase 1, mobile homes, and unfair credit practices.

Some of those rules, I suspect, Congress will approve of fully and will not exercise any action whatever to prevent them from being implemented. As to others, however, there is somewhat more controversy.

The issue is that if Congress, on any one of those rules, decides that it shall veto—the two Houses say, "No, thou shalt not institute that rule; you will go back and look at it again; and if you care to reimpose it, you may"—if that is done, I believe it is likely that the administration at least would suggest to their majority on the Federal Trade Commission that they should ignore that veto.

That would be entirely consistent with the memorandum from which the Senator from Idaho quoted. I do not believe Congress would want them to do that. I believe that in spite of the possibility of some constitutional test which has not yet been entered into, to my knowledge, Congress would want that rule to stay in abeyance, since it had vetoed the implementation of said rule.

Mr. President, the issue has been settled by Congress. If we fail to table this amendment, we are giving tacit approval to the agencies to go ahead and violate the law as made by Congress and signed into law by the President.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, as my colleagues know, I long have believed that we need to gain control over agency decisions and regulations which, presumably, are issued to implement decisions made in Congress. As a result of that belief, I introduced, with the cosponsorship of Senator Boren and others, S. 1945, which seeks to give us that control through an agencywide or generic two-House legislative veto provision. That bill has been reported to the Senate by the Governmental Affairs Committee and it is my hope to have it considered by the Senate—either as an independent piece of legislation or as a part of the regulatory reform proposal—this year.

While waiting for action on that bill, I have worked with various colleagues to get legislative veto provisions attached to specific agency authorizations. Earlier this year, for example, a version of S. 1945 was attached to the FTC authorization bill in the Senate and essentially accepted in Conference. So I approach this amendment from the perspective of one who is strongly committed to action which will formally give Congress the right to disapprove agency rules and regulations.

I have taken that stand, Mr. President, because I believe that Congress is in the best position to make sure that the efforts made to implement the laws we pass are consistent with our intent. In addition, since the regulations are in essence law, I have held that they ought to be subject to consideration by a body which is elected by the people to make law and is accountable to the people for the laws they make. I have contended that agencies, isolated as they are from the political process, are simply unable to evaluate the implications of their rules with the contexting of broader issues of public policy.

This amendment, in my view, is simply a way of saying that when we exercise our responsibility through a legislative veto, of whatever variety approved by Congress, we intend to see our decisions accepted and respected.

Frankly, I find it appalling to learn that the administration has directed agencies to ignore lawful and authorized actions represented in congressional resolutions of disapproval. I find the administration's reliance on unwarranted and untested theories of constitutional law to justify their directives to be unacceptable and untenable.

I believe we need to have this issue resolved once and for all. I hope we will do that within the context of a comprehensive regulatory reform bill. But until that time—which I hope is coming soon—I will support an approach which seeks to protect and preserve the institutional right of Congress and the people we represent to have regulations which are consistent with congressional intent and consistent with overall public policy. I will support these efforts whether I personally agree with the regulations we have vetoed or not. The issue involves more than specific decisions; it involves a process of making decisions. I support the process represented by legislative veto provisions. I believe it is a better and more rational and more responsive process than the one we struggle under now. And, because it is a better process, it will result in better decisions and a more coherent approach to public policy.

In closing, let me say that I think we ought to consider attaching similar language to other authorization and appropriation bills until such time as we finally resolve the basic issue of our institutional right to use the legislative veto as one way of engaging in meaningful oversight.

Mr. President, I support the motion to table, which has been made by the Senator from Mexico, and I compliment him and the Senator from Idaho for their leadership in this matter.

The issue before us is nothing less than the authority of Congress. The issue before us is not whether or not we like a particular regulation. We are not all going to agree on that, whatever the regulation might be. The issue before us is not whether or not we like legislative veto. Some in this body do, and some do not. The issue before us is not which type of legislative veto we might like. There are some in this body who like two-House vetoes. Others in this body like one-House vetoes or variations thereof.

I happen to be a supporter of legislative veto, as many in this body are, because I believe it will restore accountability to the regulatory process, which has gone too far in many instances and which frequently has trampled over or exceeded congressional intent.

Also, I believe it will keep us out of premature determination of the jurisdictions of agencies to adopt rules.

However, whether or not we are for legislative veto is not the issue.

The issue here is this: Once Congress has acted to adopt a form of legislative veto and has vetoed a regulation, by whatever form that may take, then the question is whether the executive should act upon the decision of Congress, whether or not, in fact, the executive branch of this Government is executing laws, or whether it is ignoring the laws and the decisions made by the legislative branch of this Government.

So I hope that this motion will be agreed to. I believe that the principle involved here is critical. It cuts across the lines of those who agree or disagree on legislative veto or the type thereof. It has to do with the integrity of the legislative process, and it has to do very directly with whether or not this Congress is going to assert the authority which all legislative bodies should assert—that once it adopts a law or a joint resolution, that law or joint resolution be executed and not ignored by the executive branch of this Government.

Mr. HOLLINGS. Mr. President, what is not to be ignored is the Constitution and the enactments of Congress in due form.

There is great sanctimony about ignoring the legislative veto. That can apply very loosely. It can apply in two different instances. It can apply, in the first instance, with respect to the matter of provision in the law itself, in the original enactment, which says that no moneys can be expended under this act for this particular function if disapproved by both Houses. Then, if the President signs it, the President has had what might be called participation, and it is in compliance with the presentation of the U.S. Constitution.

On the contrary, as this particular provision comes, it says that no funds shall be expended, and if it has been disapproved by either body or both bodies it avoids the regularly instituted procedure under the Constitution.

Every bill receives three readings in the House and three readings in the Senate and is signed, vetoed, or otherwise becomes law, and then that is the legal way to amend the law.

This is a good way to appeal to the congressional vanity the congressional macho, the congressional authority, to say, "We vetoed, and you must not ignore it." The administration has been saying, "We say we are not ignoring your veto. We are adhering to your law, and we say that you cannot constitutionally come now and say, without the participation of the executive branch, without that participation of oversight, we veto, because that is not a legal amendment of the original act."

They know it and I know it, and every lawyer knows that. That is why they cannot show me that decision of the court where they use, in all these pontifical moments, the proper and constitutionally duly constituted means. We hear that babble of duly constituted, properly constituted. There is no just thing really as a proper legislative veto. There is no such thing as a constitutional legislative veto.

There is a constitutional restriction, if it is signed in the original act, and that is how the law is passed and the President signs it, and then it is adhered to.

But to run around with the sanctimony of passing a law, let us say in 1975, but we do not like agency X over here, and the way they are administering it, so we pass a proviso on the appropriations bill, that if one House or two Houses resolve not to spend money for that function then if they do spend money, if they do administer, if they do execute, then they are ignoring the legislative veto. There is no such thing as a legislative veto.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. That is where they seem to miss the point, There are certain restrictions that they can put in the original act, but Congress cannot come by and undo an act by an amendment on a particular provision of this kind without the joinder of the President, and the President has ignored them ever since in the executive branch, and that is what he is saying. He is writing the letters. That is what the Attorney General is saying to the Department of Education.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. HOLLINGS. I yield.

Mr. McCLURE. I am a little confused by the argument because if I understand the Senator correctly he is saying that what we seek in this action in this bill is to impose a new veto that was not provided for in the original law. If that is his point I respectfully say that the Senator is dead wrong because what this says is, as the Senator from South Carolina said, if it is in the act that provides the authority for the agency that there shall be a veto the administration will follow it. That is precisely the case here because that legislative veto provision is in the authorizing act, Congress passed it, the President looked at the provisions of law and he signed the law with the legislative veto provision in it.

So the Senator says that Congress in exercising the veto which it had reserved to itself in a law which the President had signed——

Mr. HOLLINGS. That is all right.

Mr. McCLURE. All this says is once that has been done and the legislative has the authority to exercise the veto, and then does veto, the administrative agencies must follow the results of that action and cannot expend moneys in contravention of that action.

Mr. HOLLINGS. Section 608 says that none of the funds appropriated or otherwise made available by this act shall be available to implement, administer, or enforce any regulation.

What agency does the Senator have in mind? Does he have in mind all agencies under this appropriations bill?

Mr. McCLURE. No. Only those where there was a provision in the authorizing act for a legislative veto procedure which has then been exercised by the legislative branch.

Mr. SCHMITT. Mr. President, if the Senator will yield, I will add that the Senator from South Carolina himself was on the side of the legislative veto for the Federal Trade Commission and any regulation subject to that veto would be an example of what we are considering here.

I am not saying there are going to be any vetoes or that the Federal Trade Commission will try to implement a regulation so vetoed. But the problem is we are facing an administration that has specifically said to their agencies and anyone they have any influence over, "Ignore the legislative veto," and that is saying ignore the law.

Mr. McCLURE. May I say to the Senator from South Carolina that this language that we seek to retain in the bill does not grant to the legislative branch any authority to exercise a veto. That authority to exercise a veto over regulations must be pursuant to a statute that has been passed and is the law of the land, and this is simply to make certain that once that authority has been granted in statute and has been exercised by the legislative branch the administrative branch and agencies do not violate it.

Mr. WEICKER. Mr. President, if the Senator will yield, let me ask the Senator from New Mexico if he is aware then that instructions have gone forth from the executive branch of Government specifically ordering members of the executive branch to break the law?

Mr. SCHMITT. In the memo that the Senator from Idaho quoted from yes, that is what is happening.

Mr. McCLURE. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield.

Mr. McCLURE. Mr. President, I am aware of such a memo that has been issued by the Secretary of the Department of Education. I cannot say that that is administration-wide, but I know that it has been done in the Department of Education.

Mr. WEICKER. The Senator is saying we have a legislative veto provision that is a law today.

Mr. McCLURE. Yes.

Mr. WEICKER. That there is an advocate of breaking that law on the part of the Department of Education.

Mr. McCLURE. It is the Attorney General.

Mr. SCHMITT. If I may clarify, the Senator remembers when the Department of Education bill was considered by Congress. It did include a legislative veto provision for rules and regulations issued by the Department. The Department of Justice has provided, and we will try to search that memorandum out, an opinion to the administration that they can go ahead and ignore the legislative veto. That opinion is what the Secretary of the Department of Education has used in order to issue a memorandum which basically says that they will ignore, and it is in the administration's position to ignore legislative vetoes. That is what we are basing our concern on right now, and I say that there are four rules that have been vetoed presently that come under that particular provision of law dealing with the Department of Education.

Mr. WEICKER. Mr. President, if I might just finish, I would have no objection, and I am wondering if we might not put this aside for a minute, if the language were so amended to make it clear that such action was taking place after the disapproval became the law of the land. There is an area here between when we pass the legislation and when indeed it goes its way to the courts and becomes law. That is what is worrying me.

I am not so sure the language as the way it is written here is airtight enough.

I think the Senator has a perfectly good point. There is no reason why we should not be listening also. Other people have good ideas, not only the subcommittee.

But I wish to have it restricted, at least, to that point where indeed it is the law.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. SCHMITT. The provision that would remain in the bill, if my tabling motion is agreed to, reads again as follows:

> None of the funds appropriated or otherwise made available by this act shall be available to be implemented or administered or enforced by any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

In the case of the Federal Trade Commission that applicable law is a 3-year authorizing bill that was signed into law this year by the President.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. SCHMITT. And it has not yet been tested in the courts, and I know of no plans to do so.

Mr. McCLURE. Mr. President, if the Senator will yield, I think the key phrase there is in the latter phrase.

Mr. WEICKER. I agree.

Mr. McCLURE. In accordance with the applicable law of the United States. I understand that to mean that there has to be a statute on the books that authorizes the legislative veto. That is the law that Congress has passed and the President has signed into law and it has not been successfully challenged by anyone and it stands there as a statute of the United States.

The legislative veto would have to be exercised in accordance with that statutory authority.

Mr. WEICKER. I suppose I would feel easier if it read a resolution of disapproval duly adopted in accordance with that which is the law of the United States, which would indicate that it has been determined, that it is a final matter.

The word "applicable" is what bothers me because what is applicable and when? That is the issue.

Mr. McCLURE. Mr. President, will the Senator yield on that question?

Mr. WEICKER. I yield.

Mr. McCLURE. This is not my language. I have no pride of authorship in it. I understand what the Senator is saying, but the phrase that he uses can raise some questions, also, and I say to the Senator there is an organization known as the posse comitatus who abrogates unto itself the authority to determine what the Constitution and the laws of the United States mean and say the citizens of the United States have the authority to enforce the law in whatever way they think the law is. So to say "in accordance with whatever the law is" is perhaps no more precise than to say "the applicable law."

I think the question the Senator from Connecticut raises, however, is certainly understood at least by the Senator from Idaho to mean a law which is on the books, which is in full force and effect, which has not been challenged and determined to be invalid by a court of competent jurisdiction able to do so.

Mr. HOLLINGS. Mr. President, let me ask unanimous consent at this point to insert in the RECORD a letter from the U.S. Department of Justice, the letter being dated August 18, with a memorandum accompanying it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., August 18, 1980.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on State, Justice, Commerce and the Judiciary Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to express the views of the Department of Justice regarding the constitutionality and wisdom of several amendments adopted by the House of Representatives in its recent consideration of H.R. 7584, the fiscal year 1981 appropriations bill for the Departments of State, Justice, Commerce, related agencies, and the Judiciary. We hope that your Committee and the Senate will refrain from adopting any of them, and that you will strongly urge their elimination in conference.

First, the House agreed to an amendment by Representative Levitas which provides:

"None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States."

Section 608 of H.R. 7584 at p. 45.[1]

We are opposed to this amendment on constitutional grounds. The basis for our position is set forth in detail in the attached copy of a memorandum to the Attorney General on the subject.

The second amendment to H.R. 7584 that we believe raises constitutional doubts, offered by Representative McDonald, provides:

"*Provided further*, that no part of this appropriation shall be used by the Legal Services Corporation to provide legal assistance in promoting, defending or protecting homosexuality."

Title V of H.R. 7584 at p. 39, lines 21–23.

The amendment is ambiguous.[2] However, if it is construed to deny legal assistance to homosexuals in circumstances where it would be provided to others, then it must be subjected to the constitutionally required due process scrutiny. The amendment must have a rational relation to a legitimate governmental purpose. The Supreme Court recently reiterated and applied this test in its decision upholding the Hyde Amendment, which restricts federal funding for abortions. *Harris* v. *McRae*, 48 U.S.L.W. 1941, 4948–9 (June 24, 1980). The legislative history in the House does not identify such a rational basis. In addition, the House amendment's broad phrasing could conceivably implicate First Amendment rights in at least some of its applications, whereupon a much more stringent standard of review would apply. *See generally United States* v. *O'Brien*, 391 U.S. 367, 376–7 (1963).

Third, the House agreed to an amendment offered by Representative Collins which provides:

"No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

Section 607 of H.R. 7584 at p. 45.

This Department has opposed this amendment since it was first introduced in substantially identical form in 1978. Copies of our letters expressing our views, which we reaffirm, are attached.[3]

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[1] Mr. Levitas offered an identical amendment to the fiscal year 1981 appropriations bill for Agriculture, rural development, and related agencies (H.R. 7591). The Amendment was adopted, 126 Cong. Rec. H6753 (daily ed. July 30, 1980). Our views stated herein regarding the Levitas amendment to H.R 7584 apply equally to its presence in H.R. 7591 or other appropriations bills.

[2] It is not clear from the language of the amendment or the brief House floor debate what presently permissible activities by the Legal Service Corporation the new provision is designed to preclude. For example, what would be its effect on a client's request for assistance with an alleged violation of a local ordinance or other non-federal prohibition against discrimination based on sexual orientation? Would it restrict involvement in a child custody case where the sexual preference of one of the parents was among the issues presented?

[3] Our earlier views rest in part on the District Court opinion in *Brown* v. *Califano*, which has subsequently been affirmed on appeal, *Brown* v. *Califano*, No. 78-1834 (D.C. Cir. January 31, 1980).

The fourth amendment to H.R. 7584 that we wish to bring to your attention, offered by Representative Harris, provides:

"No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year."

Sec. 606 of H.R. 7584 at p. 45.

The Department believes that this amendment may create serious problems without any real savings to the government.

Although the amendment appears to be fairly direct, there are several ambiguous items that must be addressed. Because the amendment is expressed in agency-wide terms, we must assume that each Department or other executive agency could distribute the 20 percent limitation to its various appropriations as it saw fit. To the extent this provides agencies with flexibility it is desirable, but the provision then may allow agencies to manipulate their spending patterns so that optional year-end buying could continue unchecked, thus thwarting the intent of the House. Another problem that may not be immediately apparent relates to supplemental funding. The 20 percent limit may involve very different amounts before and after the enactment of a supplemental appropriation or a rescission. Substantial practical problems could develop on the authority to spend supplemental appropriations if these appropriations are enacted late in the year and their spending is inhibited by the 20 percent limitation.

Although the Department of Justice may be in a better situation than many agencies to control its month to month spending, we would like to note that there are many cyclical patterns that are not easily changed. Formula grants are expected to be made shortly after the enactment of the necessary appropriations, other grant programs may have their obligation rates determined by when peer groups can be assembled to recommend awards, while other are related to academic years and the fiscal year of state and local governments. There should also be concern about how small agencies with new programs could start them if they were not permitted to spend any more toward the end of a fiscal year than they spent during the early months. This, it seems, could be a major barrier to the establishment of new programs.

We should also note that prudent management of funds often dictates that certain budgeted costs be deferred until managers are sure that accounting records have been fully analyzed and the likelihood of expenditure for unbudgeted emergencies has decreased. In law enforcement programs, for example, it oftentimes is not possible to anticipate the amount of overtime and travel that may be necessary to respond to a crisis. Therefore, it would be imprudent to obligate funds for deferrable items if such funds might be needed to respond to emergencies.

The Department of Justice, like many other government agencies, often obligates more for procurement in the last quarter of the year than it does during other quarters. We do not necessarily view this as a problem. Instead, it may often represent a fundamental relationship between the appropriation and procurement process. Until an appropriation act is signed, very little can be done to enter into procurement negotiations. Once funds are available, procurement actions (e.g., purchase of a major data processing system) take considerable time. Advertisements to bid must be made, potential contractors must be given adequate time to submit applications, and contract award and appeal procedures must be allowed to proceed on an orderly schedule. Reducing the time available for major procurement actions may limit competition and result in less prudent awards.

We would also like to comment on the so-called "alien rider" to the portion of H.R. 7584 dealing with the Legal Services Corporation. This provision, which was already in the bill as reported out of committee, would bar the use of appropriated funds "to carry out any activities for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens. . . ." Title V of H.R. 7584, pp. 39–40. The Department opposes the inclusion of such a rider applicable to the Legal Services Corporation.

The question of whether or not an alien is in the United States legally may be complex. Legally binding determinations of status can only be made by immigration officers in the course of appropriate proceedings conducted under the Immigration and Nationality Act. Therefore, it may be difficult for legal services employees, acting in good faith, to determine whether an alien is one "known to be an alien in the United States in violation of the Immigration and Nationality Act." Although the Legal Services Corporation issued an interpretation of the meaning of this provision on December 5, 1979, we continue to believe that the potential for confusion exists. Moreover, some aliens who are out of status, and are therefore not here legally, may be eligible to adjust status to that of a lawful permanent resident. In some cases, applications for adjustment or status are adjudicated during deportation proceedings or in the course of a motion to reopen after deportation proceedings have been concluded.

The Immigration and Naturalization Service has found that its proceedings are expedited by the presence of counsel. The participation of legal services attorneys and the representation of indigent aliens at deportation and exclusion hearings aids in assuring the fairness of the proceedings and assists in the efficient functioning of the administrative process. In fact, I&NS regulations now require that an indigent alien who is placed in deportation or exclusion proceedings be given notice of the availability of free legal services if a local program has indicated its willingness to serve. 44 Fed Reg. 4653 (January 23, 1979). In addition to assuring that persons with a legal right to remain in this country have access to our system of justice to present their claims, counseling by a lawyer also may serve to convince those without rights of the futility of protest. We therefore believe that denial of representation by Legal Services' attorneys would hamper our attempts fairly to implement our responsibilities under the Immigration and Nationality Act.

The House also agreed to an amendment by Representative Fish increasing the funding level for the Immigration and Naturalization Service (I&NS) by $22,373,000 over the amount recommended by the House Appropriations Committee, bringing the total to $370,073,000. Title II of H.R. 7584 at p. 13, line 8. Mr. Fish indicated that his amendment would add funds to the I&NS appropriations for an additional 311 Border Patrol positions and 91 inspectors. 126 Cong. Rec. H 5948 (daily ed. July 1, 1980).

The Department appeals for a reduction of $7,795,000 from the amount the House provided the I&NS on the basis that data provided to the sponsor of the amendment was not correct. In order to provide the I&NS with 91 additional inspectors and 311 additional positions for the Border Patrol, the proper increase in funding should have been $14,578,000 instead of the $22,373,000 provided under the amendment. The I&NS documentation identifying how resources will be applied has already been furnished to both the Senate and House Appropriations Committees.

As you are aware, the recommendation of the House Appropriations Committee was for 10,716 positions and $347,700,000 the same as requested by the President. Although we do not support the increase in positions provided by the Fish amendment, we accept the view that increased inspection and Border Patrol positions may help us solve some of the ongoing difficulties of controlling immigration. On the $7,795,000 that has been provided in excess of the amounts necessary to vigorously urge that these funds not be appropriated. The $14,578,000 associated with the 402 additional positions is sufficient to pay salaries, benefits, travel, vehicle procurement and all other necessary 1981 expenses.

Please contact us if you have any questions regarding the Department's views on the provisions of H.R. 7584 discussed above.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ALAN A. PARKER,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., August 13, 1980.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Appropriations limitation for rules vetoed by Congress.

This responds to your request for our views on the constitutionality of Congressman Levitas' amendment to H.R. 7584, the fiscal year 1981 appropriations bill for the Departments of State, Justice, Commerce, related agencies, and the Judiciary.[1] The purpose of the amendment, which was adopted by the House of Representatives by a voice vote on July 23, 1980, is to prevent the use of funds appropriated under the bill to administer or enforce any regulation which Congress has disapproved by legislative veto. 126 Cong. Rec. H 6374–75 (daily ed. July 23, 1980). For reasons stated below, we believe that the amendment is unconstitutional to the extent that it would be invoked by the exercise of power purportedly granted by any legislative veto device, at least where that exercise occurs subsequent to the enactment of the appropriations bill.[2]

The amendment provides:

"Sec. 608. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States."

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[1] The related agencies are: Arms Control and Disarmament Agency; Board for International Broadcasting; Commission on Civil Rights; Commission on Security and Cooperation in Europe; Department of the Treasury Chrysler Corp. Loan Guarantee Program; Equal Employment Opportunity Commission; Japan-United States Friendship Commission; Legal Services Corporation; Marine Mammal Commission; Office of the United States Trade Representative; Securities and Exchange Commission; Select Commission on Immigration and Refugee Policy; Small Business Administration; United States Metric Board.

[2] Mr. Levitas offered an identical amendment to the fiscal year 1981 appropriations bill for Agriculture, rural development, and related agencies (H.R. 7591). The amendment was adopted, 126 Cong. Rec. H 6733 (daily ed. July 30, 1980). Our views stated herein regarding the Levitas amendment to H.R. 7584 apply equally to its presence in H.R. 7591 or other appropriations bills.

This amendment is apparently intended to permit Congress to accomplish two distinct legislative acts with one set of votes. A vote under the legislative veto provision of some substantive statute, disapproving a rule promulgated by a covered agency, would not only have the purported effect of disapproving the rule, but would also effectively amend the terms of H.R. 7584 by imposing an unconditional limitation on a previously permissible expenditure of funds.[3] For example, if Congress, pursuant to § 7(b) of the Civil Rights of Institutionalized Persons Act (P.L. 96–247), voted to disapprove the Attorney General's standards for prisoner's administrative remedies,[4] the vote would also effect a limitation on title II of H.R. 7584, which designates the functions of this Department for which funds are available.

Congress can undoubtedly amend a previously enacted appropriation act to impose additional limitations on the use of appropriated funds. The question raised by this proposal is whether Congress can do so without presenting the amending legislation to the President for his approval or disapproval. This Department has consistently taken the position that the Presentation Clauses of the Constitution mandate the President's participation in the lawmaking process—no matter what form that process takes.[5] You recently reiterated this position in a formal opinion to the Secretary of Education:

"I believe it is manifest, from the wording of Clause 3 and the history of its inclusion in the Constitution as a separate clause apart from the clause dealing with "bills," that its purpose is to protect against *all* congressional attempts to evade the President's veto power. The function of the Congress in our constitutional system is to enact laws, and all final congressional action of public effect, whether or not it is formally referred to as a bill, resolution, order, or vote, must follow the procedures prescribed in Art. I, § 7, including presentation to the President for his approval or veto."

Since the power to appropriate money, and to place binding limitations on the use of that money, is a quintessential legislative act, the conclusion is evident that the Presentation Clauses require amendments of funding statutes, whether achieved through a legislative disapproval mechanism or otherwise, to be presented to the President in order to have the force of law.[6]

It is well established that Congress cannot use its power to appropriate money to circumvent general constitutional limitations on congressional power. This point was well made in 1933, when Attorney General Mitchell observed, in an opinion to the President, that

"Congress holds the purse strings, and it may grant or withhold appropriations as it chooses, and when making an appropriation may direct the purposes to which the appropriation shall be devoted and impose conditions in respect to its use, provided always that the conditions do not require operation of the Government in a way forbidden by the Constitution. Congress may not, by conditions attached to appropriations, provide for a discharge of the functions of Government in a manner not authorized by the Constitution. If such a practice were permissible, Congress could subvert the Constitution. It might make appropriations on condition that the executive department abrogate its functions.[7]

The Supreme Court has since adopted the essence of Attorney General Mitchell's position. In *United States* v. *Lovett*, 328 U.S. 303 (1946), Congress had attached a condition to an appropriations bill forbidding the payment of any funds in that bill to three named individuals. Counsel for Congress argued that the provision was a "mere appropriation measure, and that, since Congress under the Constitution has complete control over appropriations, a challenge to the measure's constitutionality does not present a justifiable question in the courts, but is merely a political issue over which Congress has final say." (328 U.S. at 313).

The Court, in rejecting the argument made by Congress' counsel, agreed with the Solicitor General's argument against the constitutionality of the appropriation rider and established the principle that the spending power may not be used indirectly to achieve an unconstitutional end. The Court reaffirmed this basic tenet in *Buckley* v. *Valeo*, 424 U.S. 1 (1975) (per curiam), by asserting that Congress cannot use a grant of power "in such a manner as to offend . . . constitutional restrictions stemming from the separation of powers." *Id.* at 132. The Presentation Clauses constitute an explicit limitation on the power of Congress stemming from the separation of powers, one which this amendment would unconstitutionally contravene.

The Executive's duty faithfully to execute the law embraces a duty to enforce the fundamental law set forth in the Constitution as well as a duty to enforce the law founded in the Acts of Congress, and cases arise in which the duty to the one precludes the duty to the other. We believe that the present case is such a case, because the Levitas amendment intrudes upon the constitutional prerogatives of the Executive. To regard this provision as legally binding would impair the Executive's constitutional role and would constitute an abdication of the responsibility of the Executive Branch, as an equal and coordinate branch of Government with the Legislative Branch, to preserve the integrity of its functions against constitutional encroachment. We therefore conclude that if enacted, the Levitas amendment will not have any legal effect, except insofar as it is meant to deny funds for the implementation of regulations that have been subjected to a legislative veto before the bill's enactment.[8] Agencies covered by H.R. 7854 will accordingly be authorized to implement regulations that have purportedly been vetoed by Congressional action that does not meet the Constitution's requisites for legislation.

John M. Harmon,
Assistant Attorney General,
Office of Legal Counsel.

U.S. Department of Justice,
Washington, D.C., July 17, 1979.

Hon. Warren G. Magnuson,
Chairman, Senate Committee on Appropriations, Russell Senate Office Building, Washington, D.C.

Dear Mr. Chairman: As you are probably aware, on Thursday, July 12, during its consideration of H.R. 4392, making appropriations for the Department of Justice and other agencies, the House of Representatives adopted the following provision offered by Rep. Collins of Texas:

"No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

In light of the Senate Appropriations Committee's scheduled consideration on July 17 of the bill appropriating funds for these Departments, I want to share with you the Justice Department's views on the Collins amendment.

The amendment is identical in substance to a provision offered by Rep. Collins during the 95th Congress to H.R. 12005, the Justice Department authorization bill for fiscal year 1979. It was adopted by the House and deleted in Conference Committee. Attached is a letter sent in 1978 to Rep. Rodino, Chairman of the House Judiciary Committee, stating this Department's reasons for opposing the Collins amendment on both constitutional and policy grounds.

Sincerely,

Alan A. Parker,
Acting Assistant Attorney General.

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[3] Alternatively, by its terms the amendment could be interpreted as covering only rules which have already been the subject of a legislative veto at the time of the bills enactment. Under this interpretation, there would be no constitutional problem. It is undoubtedly permissible for Congress to send an appropriations bill to the President in which functions that are denied funding are designated in any identifiable manner. It is our practice to interpret statutes in ways that avoid constitutional infirmities, whenever possible. *See, e.g., Kent* v. *Dulles*, 357 U.S. 116 (1958). For two reasons, however, such an interpretation seems unavailable here. First, since we are aware of no rules promulgated by the agencies covered by H.R. 7584 that have been vetoed by Congress, an interpretation of the amendment that confined it to retroactive effect would have no meaningful purpose. Second, Mr. Levitas' statements in support of the amendment appear clearly to contemplate that it will apply to future legislative vetoes. 126 Cong. Rec. H 6374–5 (daily ed. July 23, 1980). If however, before final enactment of H.R. 7584 a regulation of a covered agency should be subjected to a legislative veto, it might be possible to interpret this provision narrowly, to avoid the constitutional issue. This would depend, of course, on subsequent legislative history.

[4] The Act provides: "The Attorney General shall . . . promulgate minimum standards. . . . The Attorney General shall submit such proposed standards for publication in the Federal Register . . . . Such standards shall take effect thirty legislative days after publication unless, within such period, either House of Congress adopts a resolution of disapproval of such standards." 42 U.S.C. § 1997(e)(b)(1).

[5] Article I, § 7, cl. 2 of the Constitution provides: "[E]very Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President. . . " Article I, § 7, cl. 3 supplements this by prescribing: "[E]very Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary . . . shall be presented to the President. . . ."

[6] Mr. Levitas, in support of his amendment, argued that *Kendall* v. *United States*, 37 U.S. 524 (1838), forbids the Executive Branch to refuse to execute statutory commands from Congress. In *Kendall*, the Court ordered the Executive to pay a certain sum to a contractor with the Post Office, where a statute directed that the payment be made but the Postmaster General refused to pay it. We do not doubt the soundness of that case; it is, however, inapplicable to Congressional action that does not meet the Constitution's prerequisites for legislation.

[7] 37 Op. A.G. 56, 61 (1933). Accordingly, the Attorney General concluded that Congress could not constitutionally condition an appropriation for refunds of erroneously collected taxes on a requirement that a joint Congressional committee decide the amount of each refund to be granted.

[8] See footnote 3 *supra*.

WASHINGTON, D.C.,
September 12, 1978.

Hon. PETER RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to our attention that Representative Collins of Texas has proposed an amendment to H.R. 12005, the Department of Justice Appropriation Authorization for Fiscal Year 1979. The proposed amendment provides, "No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped." This would prohibit the Department of Justice from seeking certain appropriate remedial plans in federal court suits for relief from allegedly unconstitutional school segregation. The Department of Justice opposes this proposal on both constitutional and policy grounds.

As you know, the Department of Justice has been and is the only portion of the Executive Branch which can go to federal court and, after having secured a judicial determination that a school district and its officials discriminate against black or other minority students, seek to require implementation of a plan which will practically and effectively remedy the proven constitutional violation. In this manner, the Department seeks to insure the protection of important federal rights, an authority explicitly granted us by Congress, most notably in Title IV of the 1964 Civil Rights Act of 1964, 42 U.S.C. 2000c, and in the Equal Educational Opportunities Act, 20 U.S.C. 1706. The proposed amendment would interfere with our exercise of these responsibilities specifically conferred upon us by the Congress.

First, it is important to correct an error in Representative Collins' "Dear Colleague" letter of July 27, 1978. That letter states: "Although HEW has been relieved of its responsibilities for bringing busing suits to court, the power to enforce busing has now been transferred to the Department of Justice." However, HEW has never had the responsibility for school desegregation litigation in federal court. Moreover, the Department of Justice's sole enforcement authority with respect to school desegregation is to sue in federal court under one of the several congressional enactments forbidding unlawful racial discrimination in the schools. Thus we have no authority to require busing or any other means of correcting unconstitutional segregation; rather our responsibility has been and is to present the relevant facts and on occasion to suggest remedies to the appropriate federal court and to leave to the judiciary the determination as to whether the facts show a constitutional violation and if so what remedy is appropriate.

Second, the congressional determination in the FY 1978 HEW appropriation to forbid HEW from administratively requiring the kind of transportation here at issue (the Eagleton-Biden Amendment) was recently challenged as unconstitutional on the ground that its effect was to require HEW to give federal funds to entities which were discriminating against blacks or others in contravention of the Equal Protection Clause of the Fourteenth Amendment. In response to that challenge, we successfully argued that the Justice Department's ability to seek judicial resolution of the difficult problems raised by intentional unconstitutional racial segregation of students saved the constitutionality of the Eagleton-Biden Amendment to the FY 1978 HEW appropriation. However, the United States District Court Judge, in initially accepting our argument, stated:

"Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, *or will not*, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an *as applied* basis."

Brown v. *Califano*, D.C. D.C., C.A. No. 75-1068, July 17, 1978, pp. 12–13. A copy of Judge Sirica's opinion is attached for your information.

Even without this explicit expression of concern, it seems clear that some mechanism must exist by which the federal government can ensure that federal funds not flow to *de jure* segregated schools, *i.e.*, schools being operated unconstitutionally. Congress earlier made a judgment in enacting the Eagleton-Biden Amendment that it wanted these matters resolved by federal judges rather than by executive branch officials. The Collins Amendment, by precluding judicial relief as well, would raise extremely serious constitutional problems.

Third, fourteen years after passage of the Civil Rights Act of 1964 and twenty-four years after the decision in *Brown* v. *Board of Education*, there are still unlawfully segregated schools in this country. Even now, some school systems persist in using busing to promote racial segregation. An example of such practices is *United States* v. *De Soto Parish School Board*, No. 76-3471, June 2, 1978, in which the United States Court of Appeals for the Fifth Circuit found that the pre-*Brown* dual system in a Louisiana parish had never been brought into compliance with the Constitution. The court remanded the case to the district court for development of a remedy. The adoption of the Collins Amendment would—assuming its constitutionally were to be upheld—seriously interfere with our ability to seek appropriate remedies in worthy cases such as these.

The Department of Justice solicits your support in defeating the amendment to the Authorization bill.

Sincerely,

PATRICIA M. WARD,
Assistant Attorney General.

Mr. HOLLINGS. Mr. President, this was known as the Levitas amendment, Congressman LEVITAS, of Atlanta.

Mr. President, I yield to the distinguished minority leader.

UNANIMOUS-CONSENT AGREEMENT—SECOND CONCURRENT BUDGET RESOLUTION AND TAX LEGISLATION

Mr. BAKER. Mr. President, I thank the Senator from South Carolina and the Senator from Connecticut for permitting me to interrupt briefly to apprise the majority leader of two motions that I intend to make in the course of the afternoon today.

It is my intention—and I might say parenthetically I have discussed this with the majority leader previously, and he is aware of the general circumstances—it is my intention later this afternoon to propose a motion to proceed to the consideration of the second concurrent budget resolution, which is on the calendar. It is also my intention later in the day shortly after that vote occurs, the debate, if any, and the disposition of that measure, it is my intention to proceed to the consideration or to propose that we proceed to the immediate consideration of the tax bill as reported by the Finance Committee, and which is presently on the calendar.

Both of those items have been discussed rather prominently in this Chamber, and I will not burden the Senate any further except to say that it is my intention to make both of those motions on today during the course of this afternoon, and I wish to invite the attention of the majority leader to that circumstance.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. He has been characteristically frank and fair in making his statement and in discussing the matter with me prior to his stating the situation publicly.

I ask unanimous consent that the distinguished minority leader be recognized at 3:30 p.m. today to make the motion to proceed to the consideration of the second concurrent budget resolution, which is a nondebatable motion.

I ask unanimous consent that there be 5 minutes to the side for debate on that motion to proceed, 5 minutes under the control of Mr. BAKER and 5 minutes under my control, and I will probably yield my time, part of it, to Mr. HOLLINGS.

I ask unanimous consent that immediately upon the disposition of that motion, which I would move to table, that the distinguished minority leader then be recognized to move to take up the tax cut legislation. I ask unanimous consent that there be 10 minutes equally divided on that motion because it will be my intention to move to table that motion also.

The PRESIDING OFFICER (Mr. MATSUNAGA). Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, reserving the right to object——

Mr. HOLLINGS. Mr. President, reserving the right to object, I would like to have a little more time.

Mr. ROBERT C. BYRD. Mr. President, I change my request to make it 10 minutes to the side on the motion to proceed to take up the second concurrent budget resolution, and that it be in order at this time to get the yeas and nays on the motion to proceed.

Mr. BAKER. On both, with one show of seconds.

Mr. ROBERT C. BYRD. Yes, with one show of seconds.

The PRESIDING OFFICER. We have the unanimous-consent request which has not been agreed to yet.

Mr. WEICKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Connecticut reserves the right to object.

Mr. WEICKER. Mr. President, reserving the right to object—and I do not mean to interfere with the best laid plans of mice and men, and minority or majority leaders——

Mr. BAKER. Do we get to choose which one?

Mr. HOLLINGS. Is there a difference?

Mr. WEICKER. The difficulty I have right now, to compound the confusion in the waning hours of this session, when the debate has been hot, and we have engaged in same actions here with respect to this bill in which I expressed myself to the distinguished chairman of the committee, which stands as no credit I think to the Senate and calls into question whether or not this bill should be passed and whether or not it should be discussed at far greater length to avoid becoming the law of the land, I am a little bit concerned, in other words, as to interrupting this procedure, as to whether or not we should not continue to discuss the matter before us rather than to get off into what I know is an equally important issue. That is my concern at this time.

What is the intention after all this takes place?

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and the purpose of the reservation is to provide an opportunity to address the point made by the distinguished Senator from Connecticut—I fully understand his concern about the interruption of the normal consideration of this measure.

I might say, by the way, it is my full intention to dispose of these two matters promptly, evidence the fact that we have proposed a very short time limitation for debate and to resume consideration of the measure at hand so that it can be completed today. I am told it can be completed today, and I urge that we should complete it today.

But for a variety of reasons it seems important not only procedurally but from the standpoint of accommodation of try to move to these two measures sometime during the course of the middle of the afternoon.

I hope very much that the Senator from Connecticut will indulge us that request even though it is an inconvenience to him, and I will promise him, in turn, that I will do my very best to see that there are no other interruptions and that we proceed to finish the consideration of this measure which he is handling with such skill.

Mr. WEICKER. Reserving the right to object, what is the present arrangement?

Mr. BAKER. At 3:30 that I be recognized to make a motion to proceed to the consideration of the second concurrent budget resolution. There would be 20 minutes of debate equally divided. There would be a motion to table my motion to proceed by the distinguished majority leader.

Following that, that I be recognized again to make a motion to proceed to the consideration of the tax cut bill reported from the Finance Committee, which is also on the calendar, and that there be 10 minutes of debate equally divided on that measure.

Following that, the majority leader would make a motion to table my motion to proceed; there would be a vote on that; the two matters would be disposed of, and we would resume once again the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, I think on the pending amendment we are about ready to reach some resolution, and I wonder if we could reach that resolution with, say, a vote at 3:15 p.m. on my motion to table?

Mr. BAKER. Mr. President, I anticipate no further interruption at this time if the unanimous-consent request is agreed to.

The PRESIDING OFFICER. Is there objection to the request?

Mr. SCHMITT. I would just ask is there anyone who wants to prolong the debate on this particular motion to table? Can we go to a vote on that?

Mr. HOLLINGS. I have just one statement to clarify and I will be ready to vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. Is there objection to the second unanimous-consent request?

Mr. BAKER. Mr. President, was it part of the request to ask that it be in order for the yeas and nays with one show of seconds?

The PRESIDING OFFICER. Is this on both motions to proceed?

Mr. BAKER. On both motions.

Mr. ROBERT C. BYRD. Mr. President, I ask that it be in order for the yeas and nays to be ordered on all four motions with one show of seconds, two motions to proceed and two motions to table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered on all four motions.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, if we are going to try to get that rollcall, I want to cooperate with the Senators from Idaho and New Mexico.

But I do not think there is any guess about the Department of Education directive that has been included in the memorandum I have just included in the RECORD.

I am trying to make this clear to Senator McCLURE, as well as Senator SCHMITT.

The memorandum states:

> This amendment is apparently intended to permit Congress to accomplish two distinct legislative acts with one set of votes. A vote under the legislative veto provision of some substantive statute, disapproving a rule promulgated by a covered agency, would not only have the purported effect of disapproving the rule, but would also effectively amend the terms of H.R. 7584 by imposing an unconditional limitation on a previously permissible expenditure of funds.

Now, that is the opinion. The Senator is shaking his head, but this is why I have to shake my head:

> For example, if Congress, pursuant to § 7(b) of the Civil Rights of Institutionalized Persons Act (P.L. 96–247), voted to disapprove the Attorney General's standards for prisoner's administrative remedies, the vote would also effect a limitation on title II of H.R. 7584, which designates the functions of this Department for which funds are available.
>
> Congress can undoubtedly amend a previously enacted appropriation act to impose additional limitations on the use of appropriated funds. The question raised by this proposal is whether Congress can do so without presenting the amending legislation to the President for his approval or disapproval. This Department has consistently taken the position that the Presentation Clauses of the Constitution mandate the President's participation in the lawmaking process—no matter what form that process takes.

And he recently reiterated the formal opinion of the Secretary of Education not to disregard the Congress in an insulting or calloused fashion, but rather constitutionally, because they do not believe that constitutes what has been characterized as a constitutional or proper legislative veto.

Mr. McCLURE. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. McCLURE. Let me say to the Senator that I understand the administration's position. They do not like the legislative veto. They do not want to be bound by it. They do not recognize it. They want to be able to cite laws that provide for it, but then ignore it when they do it.

So I think what the Senator has read is, from the administration's standpoint, a perfectly understandable statement of the way they wish it were.

Mr. HOLLINGS. Well, if the Senator makes the motion, we will get the yeas and nays and be within the time schedule.

Mr. SCHMITT. Mr. President, I think there is a disagreement between the administration and the Congress on the effect of the legislative veto, both direct and indirect. In this case, I opt to side with the Congress.

Therefore, I move to table the committee amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table offered by the Senator from New Mexico (Mr. SCHMITT). The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 85, nays 7, as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—85

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Jensen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—7

Biden
Bradley
Cranston
Culver
Hollings
Stevenson
Williams

NOT VOTING—8

Bayh
Goldwater
Hatfield
Javits
Kennedy
Mathias
Stewart
Tower

So the motion to lay on the table the committee amendment on page 50, lines 15 through 19, was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1981–83

Mr. BAKER. Mr. President, under the order previously entered, there are 20 minutes debate equally divided and controlled by the majority and minority leaders. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I shall make that motion shortly with regard to the budget resolution and I designate the distinguished Senator from Oklahoma to manage the time on our side.

Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1003, Senate Concurrent Resolution 119, the second concurrent resolution on the budget for fiscal year 1981.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, I yield the time on this side, amounting to 10 minutes, to the control of the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. BELLMON. Mr. President, I am convinced that failure to take up the budget resolution may be one of the most serious threats to the fiscal welfare of our Nation that we have witnessed since the Budget Act was adopted. In addition, failure to take up the resolution in time, anyway, is a serious threat to the survival of the budget process.

Mr. President, in my opinion, the budget process is one of the most important things that Congress has done in recent years to help us get a handle on this Nation's fiscal program. I am very sorry to see us take any action that erodes that process.

There is probably another equally serious problem. That is that, by withholding debate on the budget resolution until after the election, we are denying the American voters important information they need when they make their decisions on November 4. The fact is that, at the present time, a lot of voters are under the impression that Congress has balanced the budget for fiscal year 1981 and that, as a result, inflationary pressures will begin to drop because the Federal Government will not be borrowing money and spending money that it does not have.

Mr. President, there simply is no reason why we should not take up the second concurrent budget resolution for 1981 at this time.

Mr. President, the Senate Budget Committee completed its markup on the second concurrent budget resolution for fiscal year 1981 on August 21, more than 1 month ago. The report on the committee's resolution was filed on August 27, about a month ago. This report was distributed throughout the Senate on September 4 and each Senator has had ample opportunity to review the committee's budget recommendations very carefully.

In addition, Mr. President, as every Member knows, we have not been in session on some Fridays, so there has been no lack of time.

I would like for the RECORD to, hopefully, call the attention of the country to what this calls for, to give just the bare facts on what is in it.

The second concurrent resolution for fiscal year 1981 sets a ceiling on budget authority of $699.6 billion, a ceiling on outlays of $633.0 billion and recommends that revenues be no lower than $615.2 billion. In other words, this budget resolution proposes a deficit of $17.9 billion, compared to the $200 million surplus in the first budget resolution.

This shows how far we have lost the balance we had in the earlier resolution. This shows almost an $18 billion deficit.

When we take into account the likelihood of a tax cut and the likelihood that the reconciliation may not produce all the savings anticipated, it is easy to conclude the deficit will lead to the figure of $50 billion.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. BELLMON. I yield to the Senator from New Mexico (Mr. DOMENICI) 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, I am deeply concerned that recent and pending Senate action on major spending legislation is predicated on election year convenience rather than on economic conviction.

If this legislation, mostly appropriation bills, continues to go forward at spending levels well in excess of any available budgetary benchmark, whether it be the first concurrent budget resolution for fiscal year 1981 or the recently reported and pending second concurrent budget resolution, the Senate will have missed a rare opportunity to achieve meaningful reductions in Federal spending, not only for 1981, but for several years to come.

Mr. President, I am particularly dismayed by this trend toward a very high spending track because I believe it is unnecessary. Indeed, I believe the Senate leadership may be underestimating the resolve and courage of the Senate membership. The general mood of the Senate until quite recently—as we have voted in appropriation bills that, with later requirements, will exceed the limitations of the first resolution—has been one of restraint.

Last week, for example, the Senate voted 45 to 43 to reject the conference report on higher education because it violated the budgetary assumptions of the first resolution and in the pending reconciliation bill.

Then, again, the Senate overwhelmingly approved the Bellmon amendment to cut the HUD appropriation bill's budget authority by 2 percent across-the-board.

And, right now the Senate conferees on reconciliation are working to save up to as much as $6.2 billion from fiscal year 1981 spending during a conference on reconciliation with the House.

At several key moments during the past year, however, the Congress as a whole has missed opportunities for exercising more fiscal discipline. During the entire appropriations process last year we allowed budget busting spending bills to pass, forcing a large supplemental in the spring which destroyed our budget plans and has led to the $60 billion plus deficit we now suffer.

During consideration of the first resolution this past year, the Congress missed a chance to reject additional spending and stick with the earlier 1980 budget levels. Instead, we accepted a third resolution on the budget, under the guise of calling it a "revised" second concurrent budget resolution.

And, Congress has missed an opportunity for fiscal restraint by failing to finish the appropriations process in time to meet the mandate for September consideration of the second concurrent budget resolution for 1981. Still languishing, a hostage of political considerations, is the second concurrent budget resolution that would give us a chance to debate fiscal policy in full view of the American public before the November elections.

These missed opportunities come despite, as I said earlier, the willingness of many in this body to make the hard decisions and make the hard votes that are crucial to fiscal discipline. While the House of Representatives has continued business as usual in the spending of the taxpayers' moneys, the Senate has shown more responsibility.

I believe, further, Mr. President, that this Senate would be looking more closely at many of the appropriation bills that have passed in recent days—all of which except one will bust the budget when later requirements are factored in—if we had a clear benchmark against which to measure them.

In short, the Senate has shown the will to reduce spending—if it had leadership. Instead, in the absence of a full scale debate on the spending assumptions of the second concurrent budget resolution, we are drifting toward a progressive deterioration in fiscal discipline. This deterioration comes at a critical moment for the budget process and may haunt us for years to come.

The Senate leadership apparently believes that the Senate will not show restraint if the second concurrent budget resolution for fiscal year 1981 is brought up. The Senate leadership apparently believes that the Senate's recent track record is one of fiscal laxness, rather than one of fiscal restraint. I believe otherwise and I think that the Senate as a whole, if given the chance, could not only bring the aggregate appropriations levels within the allocations of the reported second resolution ceilings, but could reduce the spending in these bills to the levels consistent with the first resolution for fiscal year 1981. Many of us on the Senate Budget Committee advocated this approach during the markup of the second resolution, and I believe that our position could prevail—if only the Senate were given a chance to demonstrate once again its fiscal responsibility.

Mr. President, I cannot emphasize too strongly the rare opportunity which is within our grasp. Just 2 months ago economists, an ordinarily gloomy lot, had convinced most of us that the economic end was near. We were thought to be in the second deepest recession since the Great Depression. The experience of recession and the prospect that it might grow worse lead to what was, in my opinion, an unwarranted loosening of fiscal restraint and a sharp increase in the recommended ceiling on Federal spending.

Now, in recent weeks, all indications are that the economy is recovering. Indeed, this recent episode may not only be one of the mildest recessions in the postwar period, but the shortest in duration since 1920. These improved economic prospects and the corresponding deterioration in the inflation outlook, do not merely suggest, but, in my view, mandate that the Congress return to the budget policies of the spring, that would reduce spending, balance the budget, and provide a margin for tax reduction, while keeping the budget deficit significantly below the $17.9 billion in the Budget Committee's recently reported recommendations on the second concurrent resolution for fiscal year 1981.

Instead, Mr. President, the Congress is on its way to a $60 billion deficit. The eight appropriation bills reported or already passed exceed the second concurrent resolution ceiling by almost $8.0 billion. I repeat, Mr. President, $8.0 billion, taking into account later spending requirements. If the remaining four bills reflect the same lack of restraint, fiscal year 1981 spending, under current projections, would exceed $645 billion and the deficit would approach $30 billion.

Moreover, if we fail to achieve all of the reconciliation savings, we could raise the deficit by another $5.0 billion, to $35 billion. This is all before any consideration of a tax cut. If the $18.3 billion fiscal year 1981 revenue loss in the Senate Finance Committee's reported tax cut bill is added, the fiscal year 1981 deficit could well approach $55 billion. And, I might add that this is based on current spending estimates.

Those numbers are not a rhetorical "scare tactics." They are living examples of where we are headed, and, I emphasize, under current spending projections. We have already seen fiscal year 1980 spending balloon by $48.3 billion and fiscal year 1981—in just 3 months—by $11 billion not due to economic circumstances, but due solely to higher spending in existing Federal programs. If this pattern persists in fiscal year 1981, we may well see a $60 or $70 billion deficit.

Mr. President, I find the prospect of a fiscal year 1981 deficit of these proportions deplorable and I think that the American people share this view. The time for us to begin to change the course of fiscal matters is now, in the current appropriation bills and not next year, when we come to another budget resolution. A $12 billion or more addition to fiscal year 1981 spending above what already is an unacceptably high spending ceiling recommended in the reported second concurrent resolution, will raise spending in fiscal year 1982 and beyond by an equal amount if not now curtailed.

We have gone from a balanced budget to a possible $50 to $60 billion deficit in just 3 months. That is an erosion in the deficit of more than $500 million a day. Fiscal year 1981 spending is already $60 billion higher than we contemplated last November when we adopted the second concurrent resolution for fiscal year 1980. We are adding upward pressure to future spending that cannot easily be turned back. I urge my colleagues to consider another course, one to lower spending and lower deficits. If we do not act now, this opportunity will be squandered—and the country will suffer because of our lack of courage.

Not only do the economic conditions confronting the Nation demand that the Senate exercise restraint, but the political will of the American people demands restraint and relief from the present onerous tax burden demand. The only effective way to guarantee the American people this restraint is to have a clear debate occur on fiscal matters now, before the election day passes. To fail to do so would confirm their growing cynicism about the ability and the will of their elected officials.

Once again, in the interests of reducing the potential deficit for 1981, in the interests of continuing the Senate's good track record in trying to fight inflation through fiscal restraint, and in the interests of meeting our responsibilities to debate the issues of spending and taxing in full view of the American people, I ask the leadership of the Senate to bring up the second concurrent resolution as soon as possible. It is a privileged motion, with a statutory time limitation of 15 hours, and merely awaits the leadership's call. It would be to our credit, and to the future well-being of the taxpayers of this Nation, if we did our duty and began consideration of the resolution.

I ask unanimous consent that an article on dangers posed to the entire budget process from the latest issue of "National Journal" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROMISE UNFULFILLED

The congressional budget process is in serious jeopardy. A year that began with high hopes for a balanced budget and bold proclamations of congressional self-discipline is turning into a shambles.

The lawmakers, of course, are not solely responsible for the growing deficit projections, but their failure to meet the requirements of the 1974 Congressional Budget Act is a painful reminder that Congress is still a long way from dealing with the budget in a comprehensive and rational manner. And Democratic leaders, who are so jittery that their ranks will be depleted in the November elections that they have postponed budgetary actions that were intended to be mandatory, are pointing their fingers at everyone from liberal interest groups to Republican troublemakers. In fact, they have no one to blame but themselves.

Some of the most avid supporters of the budget process openly fear that the current problems could spell the end of the process as a serious policy instrument. While they continue to win some skirmishes—the Senate's recent defeat of a conference report on the higher education bill is a notable example—the over-all purposes of the law are being flouted.

House and Senate Budget Committee members are aware of the danger of forcing the budget process to do more than Members of Congress are prepared to accept. And there had been some concern that this year's effort to reconcile spending to Congress's own budget targets as a way to reduce the federal deficit by roughly $10 billicn would step on a lot of sensitive toes. That effort, however, apparently will prove more successful than skeptics had predicted

The pending political problems seem to go beyond the device of reconciliation to the broader question of the function Congress wants for the Budget Act. "It was easy for the budget process to have clout so long as we were moving to a balanced budget," said a congressional budget expert. "With the expected deficit in the second budget resolution, there is a high degree of frustration and a feeling that our period of grace may be over."

The high point in the Budget Act's history was reached early this year, when House and Senate Democratic leaders met for two weeks with White House officials to make substantial cuts in the budget proposed by President Carter in January and to prepare the broad outlines of a revised plan. These meetings were an impressive example of majority party leaders setting a framework for government spending.

But events went rapidly downhill. First, the leadership group members inexplicably failed to reveal the details of their plan so that they could bring pressure on other Democrats to support a consensus program. Then Senate Budget Committee chairman Edmund S. Muskie, D-Maine, who was soon to move to the State Department, was unable to withstand the pressure for more defense spending. And, in the House, Speaker Thomas P. O'Neill Jr., D-Mass., announced his opposition to the first conference committee agreement on the tentative congressional budget for 1981.

Congress eventually adopted its spending and revenue targets and turned its attention to enacting the required legislation. The Budget Act requires all spending and tax bills to be enacted one week after Labor Day and a revised budget ceiling to be approved by Sept. 15. These deadlines have been violated in the past, but never as flagrantly as this year. As of Sept. 15, the House had passed 11 of 13 appropriations bills and the Senate, only one. The Senate Finance Committee went through the spectacle of approving a $39 billion tax cut for fiscal 1981 at the very time that the Budget Committee voted not to permit a tax cut. And, despite the wishes of the two Budget Committee chairmen, Sen. Ernest F. Hollings, D-S.C., and Rep. Robert N. Giaimo, D-Conn., it seemed likely that neither the Senate nor the House would approve a final budget before the election recess scheduled to begin in early October.

Pessimism obviously is rampant among Budget Committee leaders. Hollings told a National Press Club audience on Sept. 9 that there are "offensive plans and programs to do away with this blooming thing called a budget process." Only the press, he warned, has the power to ensure that the process will survive.

Rep. Barber B. Conable Jr. of New York, the second-ranking Budget Committee Republican, told a business audience the next day that Congress, its fiscal discipline eroding, might scuttle the budget process. And Pete V. Domenici, R-N.M., who is scheduled to succeed the retiring Henry Bellmon of Oklahoma next year as the ranking GOP member of the Senate Budget Committee, said in an interview: "I'm not at all confident that this budget process will continue. The process is barely keeping its head above water, but I'm not willing to abandon it."

Domenici said one of his top priorities next year will be reform of the Budget Act. In addition to the relationship of the budget process to other legislation, he wants to consider statutory limits on expenditures that would be pegged to the gross national product. He expressed hope that proponents of the budget process may benefit by rocking the boat "so that the institution can get a new breath of vitality."

Last year, Muskie and Giaimo were unwilling to consider Budget Act changes. But Muskie is gone and Giaimo is retiring, and an overhaul may be in the cards. O'Neill and Senate Majority Leader Robert C. Byrd, D-W. Va., would be key players, but their commitment is questionable.

In six weeks, the voters will decide whether House and Senate Members suffer the political consequences of voting for a balanced budget early in the year and then burying their heads in the sand. A status quo verdict ultimately may prove to be a bad omen for congressional reassertion of its appropriate budget role. Despite its promise, the 96th Congress has not been willing to confront the meaning of an effective budget process.

Mr. DOMENICI. Mr. President, I commend our distinguished leader (Mr. BAKER) and the ranking Republican Member for bringing this to the Senate this afternoon.

It is this Senator's opinion that the American people deserve to be told what our fiscal policy is in 1981 before the election.

If we can bring this resolution up now, while the pressure for restraint is still on, we have a chance, literally, to save the taxpayers of this country billions of dollars. We will be in a stronger position to take a clear-eyed look at a tax cut.

The Senate has been showing in the last few days a will to restrain. I believe the leadership is failing to take advantage of that because if we give this Senate an opportunity now, before the election, I am absolutely certain that we would approve a second concurrent resolution that would be very close to balance for 1981.

I am equally positive, even with the strong statements by budget leaders on the other side, and I believe they are made with sincerity, that the chance of ending up with a second resolution after this election that is anywhere as restrained as it would be now, anywhere close to balance after the election, is a myth. It will not happen.

It could happen now. There is no excuse. This is a privileged resolution. We cannot take more than 15 hours of the Senate's time.

The Senator from New Mexico has seen 5 years of budgeting, and every time we wait we end up approving more money.

Any time we put off a resolution, we end up with higher numbers, not lower numbers.

The opposition will argue that we do not know the exact facts, and they will be in, and good, and we will save money if we do not act now.

I believe that is absolutely another myth. If we cannot do it now, what we will do in November or February will be worse for the American taxpayers. The deficit will be higher and the day of reckoning, when we come in close to balance and provide a tax cut, will be deferred yet again, or the hoax will be perpetrated on the American people that we do not know enough to bring it about.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PERCY addressed the Chair.

Mr. BELLMON. I will yield 2 minutes to the Senator from Illinois, and then to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

AN UNEARNED AND TOO EARLY RECESS

Mr. PERCY. Mr. President, I wish to address my comments principally to the distinguished majority leader Senator ROBERT BYRD because of his meritorious and outstanding work on the Budget Reform Act of 1974.

Mr. President, on Tuesday the Senate agreed to Senate Concurrent Resolution 126, stating the intention of the Senate to recess for the elections no later than October 2. I voted against this resolution, as did my other Republican colleagues, because of the long list of unfinished and critical legislation before us.

First, we have not passed the final and binding fiscal year 1981 budget resolution. The Budget Act says that Congress cannot adjourn sine die until such time as the final resolution is passed. By leading the fight last spring to move the date for completion of the budget from September 15 to August 28, the distinguished majority leader recognized the importance then of getting the resolution through before adjournment.

It is true that the Budget Act itself came out of the Governmental Affairs Committee. It was a monumental piece of work of Senators Sam Ervin and Ed Muskie. As ranking Republican on that committee, I was proud to sponsor and work to report out a great bill that was then sent to the Rules Committee.

I had an opportunity then to see the craftsmanship and hard work of our distinguished majority leader. He went after this monumental piece of landmark legislation with a vengeance to make it an integral part of the operations of the Senate. His support helped us pass this legislation overwhelmingly.

As we know so well, the really sacrosanct parts of this act are the deadlines, which we carefully worked out: May 15 for completion of the first concurrent resolution, September 15 for finishing for the second concurrent resolution.

Unfortunately, this year we have not met the date for finishing the budget.

We have also missed another important date mandated in the Budget Act, namely the date for finishing all spending and tax bills. Under the Budget Act, we are supposed to finish consideration of them a week after Labor Day. The Senate had barely passed its first appropriation bill by that date this year.

The deadlines of the Budget Act have slipped in previous years, too, but now the leadership seems unconcerned that the whole process is slipping. The discipline of the Budget Act, as conceived by Senators Ervin and Muskie and myself, and which moved us in the direction of a balanced budget earlier this year, seems lost.

I sat in several sessions in recent days on another important aspect of the budget process, reconciliation. We are working mightily to see that we observe the directions of the Budget Committee and the Senate in bringing the budget into line.

Although all work on the final reconciliation bill is, under the Budget Act, to be finished by September 25—today—we are still working out the final agreement on the reconciliation bill for the first budget resolution of last spring. This is the first year that we have moved so far under the reconciliation process and the taxpayers will be saved billions of dollars if this bill can be enacted. It is too crucial to let slip away from us after all the work that has gone into it.

Second, I feel we should remain in session to take up the Tax Reduction Act that the Finance Committee has reported.

With revenues estimated to rise by $83 billion in fiscal 1981 alone, we need a targeted tax cut to offset some of this crushing burden. In this sense, a tax cut is really a misnomer. What the Finance Committee proposes is to cut the increase in the level of taxation that will fall on the American people next year. Taxes would still rise, even if the Finance Committee bill should pass. This bill is one of few actions Congress could take that would help get this country on the road to higher productivity and lower inflation. We should stay and pass it.

Third, there are the appropriations bills. As of this afternoon, not 1 of these 13 bills had been signed by the President. A year ago yesterday the President signed the first of the fiscal year 1980 appropriations bills and several others were signed within a few days. Passing these money bills is one of Congress most important functions and yet the leadership is prepared to recess for 6 weeks with this vital work undone.

Fourth, both the House and the Senate have before them regulatory reform bills that have been reported from committee. We are within a hair of being able to bring an excellent bill to the Senate floor. This legislation is the product of at least 4 years of painstaking hearings, markup and negotiation. Furthermore, it offers the best opportunity we have had in decades to bring order into the vast Federal regulatory establishment. Regulatory reform, as embodied in S. 262 will be a major step toward cooling the fires of inflation. It will not have an immediate effect, but inflation is the Nation's No. 1 problem and we should begin now to implement policies to slow it down.

In short, the measures I have discussed are far too important to wait until another Congress. It is true we are scheduled to have a postelection session. But it is my experience that little is ever accomplished in such "lameduck" sessions. Certainly the important work of tax reduction and regulatory reform could be accorded low priorities. We will be lucky in such a session if we can put through the essential appropriations bills.

The time to act on inflation is now. The Senate should remain here to do the necessary work that will help the economy. We cannot lose the momentum that is now behind these measures.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BELLMON. I yield 2 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator has 1 minute and 40 seconds.

Mr. ARMSTRONG. How much time, Mr. President?

The PRESIDING OFFICER. One minute and 40 seconds.

The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Oklahoma for yielding. I express my gratitude to the distinguished Republican leader for bringing this issue to a head.

Chiefly, the question is a procedural one: When are we going to take up the budget resolution?

But in a deeper and more significant level, it is the integrity of the budget process and the honor of the Senate. If we slink away, go home without taking up the resolution, what kind of Senate are we? What kind of a body of legislators are we?

I believe that the public thinks they have a right to know where we stand on the most important unresolved issue facing this country, the rate of inflation, the rate of taxes, unemployment, and the economic future of this country.

That is what is at stake in this, not just some procedural question.

A vote in favor of the Baker motion is a vote for responsible legislative procedure and for letting the country know where we want to go as a body and as individual Senators prior to the election, as the voters have a right to know.

Mr. President, in addition, a vote against the Baker motion almost makes certain a lameduck session. Surely, under the circumstances, a post election, lameduck session, would be a travesty.

Some Senators, some Representatives, will be retired from the service of the country after the election. It is the intention of voters when they are voted out of office that they go home, not come back to Washington and continue to legislate.

I trust that the Senate will approve the motion of the Senator from Tennessee.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Carolina.

Mr. ROBERT C. BYRD. Mr. President, I have the time.

I yield to the distinguished Senator from South Carolina 7 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, right to the point, let us really sober up and listen.

This language about the integrity of the U.S. Senate and everything else is just pure balderdash, and my colleagues on the Republican side know that.

We passed the second concurrent resolution in 1975 on December 11. We passed the second concurrent resolution just last year on November 16. But this year, with the Presidential election, it is said that if we do not take up this resolution now in order to fuzz and obscure Ronnie's tax program, all of a sudden the integrity of the Senate is at stake and we are slinking away.

I say to the Senator that we put the facts of the reported resolution out in a green booklet, we appeared before the National Press Club, and we have published everywhere the $18 billion deficit.

We could have a balanced budget if we had appropriated only some $11 billion more for defense, rather than $29 billion more. That is all we have ever appropriated the last several years around here. But we thought they needed more.

You can still get a balanced budget if you want to cut that defense budget from a $29 billion add-on back down to $11 billion. Then you would not have that $18 billion deficit.

As for this thing of providing for a tax cut, you cannot say, "Let's have a tax cut now and a balanced budget now." We have at least come down from $63 billion, where the present deficit is in 1980, to $18 billion. That is $45 billion less pressure.

Last evening, on a particular occasion—really, on your side, not our side of the aisle—the chairman of the Federal Reserve came over and congratulated us in the Senate for holding the line on a tax cut and on the matter of a stimulus program.

Similarly, Dr. Arthur Burns came over and said, "For Heaven's sake, hold the line. Do not pass that inflationary tax cut. The worst thing we ever got started with was a tax cut, when you figure what you got going on over there."

There has not been any slinking away. We affirmatively approved this approach.

The Senator from Colorado talked during the first markup about obsolescence—60-day-old information. We have it right here in the RECORD.

Where will we be on November 12? We will have 60-day newer information; and every day, up, up, and away, the figures look better. With respect to employment, that is up. With respect to the length of the workweek, that is up. With respect to industrial production, that is up. With respect to sales of autos, that is up. With respect to non-auto retail sales, that is up. With respect to housing starts, that is up.

What about Senator BELLMON'S figures, which are more accurate? He moved in the committee, and was voted down, for an 8-percent unemployment figure for fiscal year 1981. We used 8½. Every day we waste, we save billions of dollars. We are making money around here.

I have never seen such a crazy crowd in my life, and they know it. They are talking about slinking away.

You cannot get reconciliation before we leave. You cannot get the House to pass the second concurrent budget resolution out of their committee before next week. Over on the House side, the Republicans habitually—and I say this advisedly—have blocked the budget process. They will come in and vote for what they want but vote en masse against the budget resolution every time there is one.

So they hold you on that side, Senator PACKWOOD, and kick you over on this side. If this were a boxing match, they would get you for holding and kicking.

I do not want to take all the time of the majority leader, but we are fighting inflation. There is no way in the world to pass intelligently the $40-billion tax cut proposal that was voted out by the Finance Committee. There are going to be other amendments, going to 60 and 70. We can pass a tax bill after the first of the year in a judicious fashion, dated back to January.

Business knows it. We have been congratulated by business and the economists for holding the line and not passing the tax cut, not passing the stimulus program, and the only way to hold that line is not to bring up this matter.

You can have your political exercise and talk about slinking away. We know who is slinking and whose integrity is in question here.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, this has been a difficult year for meeting deadlines imposed by the Budget Act for consideration of budget resolutions and appropriation bills.

Election-year pressures and partisan wrangling have interfered with the normally smoother flow of this important legislation.

The conference report on the first budget resolution was not finally adopted in the Senate until June 12. The conference on that resolution was particularly difficult, and the House was barely able to achieve a majority to pass the budget.

The reconciliation legislation required by the first budget resolution was not passed in the House until September 3, it having taken weeks to get the bill out of the Rules Committee. Conferees are still meeting, attempting to hammer out the differences between the two bodies on this criticallv important legislation which will reduce the fiscal year 1981 deficit by about $10 billion.

The delay in the first budget resolution set back the entire appropriations schedule. Only four major appropriation bills have passed the Senate. Only one conference report has been approved by the Senate.

The Budget Act clearly contemplated that action on appropriation bills would be completed before a second concurrent budget resolution was adopted. Section 309 of the Congressional Budget and Impoundment Control Act of 1974 directs that action on appropriation bills be completed by "not later than the seventh day after Labor Day of each year * * *." The act directs that the second budget resolution be adopted by September 15.

This is not to imply that the second budget resolution is designed to rubber stamp appropriation bills. Rather that appropriation bills are expected to follow the targets established within the first budget resolution. In addition, the second resolution can employ the reconciliation procedure in order to bring spending bills into compliance with the second resolution.

For the past couple of weeks the Senate has been working to complete as many appropriation bills as possible before the election recess.

It is appropriation bills, not the budget resolution, which fund the activities of the Federal Government. Clearly, these bills must be our priority.

Moreover, there is an obvious futility in our taking up a second concurrent resolution which has not even been marked up in the House. The House—because of united Republican opposition to any budget ever scheduled—cannot pass the resolution.

The Senate Budget Committee reported its second resolution on August 27—a resolution which makes no provision for a pre-election tax cut.

But Senate action on that resolution, in light of the priority of passing appropriations bills first, and the shifting signals on the economy, was both futile and ill-advised.

The second budget resolution, as reported by the Senate Budget Committee, contemplated unemployment reaching 8.5 percent. It appears that unemployment will not rise to this level. Thus, delaying consideration of the budget will yield a more accurate view of the spending needs and the revenue loss created by the recession. Delay of the budget resolution may have saved money since economic indicators today seem to show that spending levels can be lower than those contained in the resolution reported by the Senate Budget Committee. When we return in November, these signals should be clearer, and thus the budget will be more accurate.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 9 seconds.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Washington wish me to yield to him?

Mr. MAGNUSON. Yes.

I merely want to say that we have these appropriation bills and we are keeping within the budget figures—all of them. They are under the budget figures, way under.

So when the distinguished Senator from New Mexico talks about adding to deficits, I do not know how we are going to add to deficits. What counts is what is appropriated, and we are going to be under the budget figures, even the supposed figures of the second budget resolution.

Will the Senator from New Mexico listen to me a moment?

Mr. DOMENICI. I am pleased to do so, Mr. Chairman.

Mr. MAGNUSON. When the Senator from New Mexico talks about adding to deficits, I do not know how we can, because we have reported all our appropriation bills but three, and they are all under the budget. They are under the contemplation of the second budget resolution; they are under the allocations; they are under the first budget resolution. How can you add to deficits by waiting? Why start that story around?

Mr. DOMENICI. Is the chairman asking me a question?

Mr. MAGNUSON. Yes.

Mr. DOMENICI. There is no question that the first time through, the appropriations process is meaningless in terms of what we end up spending. First of all, we do not know everything in the appropriations for which we are going to ask. Second, we have never got by without one, two, or even three supplementals, and what we have is nothing to measure it against now. It is binding.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. I do not yield further.

Mr. MAGNUSON. I just want to say——

Mr. ROBERT C. BYRD. I know.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. MAGNUSON. The Appropriations Committee has done its job.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished minority leader and his party ever take over the control of the Senate—which, heaven forbid, I hope they will not [laughter]—I would expect them, as the majority, to control the program and the schedule of the Senate. That would then be the responsibility of the party on that side of the aisle. That is the responsibility of our party. This is the majority party. It has the responsibility of programing and determining the schedule of the Senate, in order that that schedule might go forward in an orderly way.

Mr. President, I put it on that basis. If we yield this prerogative of the majority, then we might as well not be the majority party. If we yield this prerogative of the majority leader, who represents the majority party, then we might as well not have a majority leader.

So I say to my colleagues on this side that we must not yield this prerogative. We have the responsibility of leading. The prerogative of moving to proceed belongs to this party, and I urge my colleagues to vote for the motion to table, which I now make.

The PRESIDING OFFICER. All time having expired under the previous order of the Senate, the question is on agreeing to the motion of the Senator from West Virginia to lay on the table the motion to proceed to the consideration of Senate Concurrent Resolution 119, the second congressional budget resolution.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any Senators now wishing to vote?

The result was announced—yeas 55, nays 36, as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—55

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stone
Talmadge
Tsongas
Williams
Zorinsky

NAYS—36

Armstrong
Baker
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Wallop
Warner
Weicker
Young

NOT VOTING—9

Bayh
Goldwater
Hatfield
Javits
Kennedy
Mathias
Melcher
Stewart
Tower

So the motion to lay on the table was agreed to.

TAX REDUCTION ACT OF 1980

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, before I begin, let me address the majority leader for just a moment. I have been advised by the distinguished Senator from Kansas (Mr. DOLE), who is the senior Republican on the Finance Committee, that he has one document on its way to the Chamber and it has been momentarily delayed. I wonder if I might ask the indulgence of the majority leader to have a very brief quorum call while we do that.

Mr. DOLE. We do not need it.

Mr. BAKER. I withdraw the request.

Mr. President, I move that the Senate proceed to the consideration of Calendar Order 1029, H.R. 5829, an act for the relief of the Foundry United Methodist Church.

Mr. President, I yield the time on this side to the control of the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized for 5 minutes.

Mr. DOLE. Mr. President, could I be notified when I have used 3 minutes, because I want to yield the last 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. DOLE. Mr. President, I am pleased that at last the Senate will have an opportunity to express its will on the tax reduction package that the Senate Finance Committee has fashioned under the distinguished leadership of Chairman RUSSELL LONG.

Whatever procedural form this vote shall take, its objective is clear. This vote will determine whether we will enact a tax cut this year or not. No one in good conscience can question the urgent need for some form of tax reduction this year.

Prior to drafting this bill, the Finance Committee received testimony from a number of this country's foremost experts on the economy. Care was taken to assure that the testimony would be received from expert economists who were respected by both Republicans and Democrats. We wanted to be sure that we would hear the opinions based upon recognized expertise and not limited by political prejudices.

THE EXPERTS AGREE

This country needs a tax cut and it needs one this year: Over 8 million men and women are out of work. The producer price index is zooming upward at a 20-percent rate. Real growth in GNP is falling at an astonishing rate and taxes may increase by $86 billion in 1981.

In a word this Nation is in economic trouble. If we permit the Federal Government to take so many additional billions in the current economic atmosphere, bad may well turn to worse. This was the clear consensus of the economic experts and other witnesses who have testified before the Finance Committee and the Joint Economic Committee this year.

Responding to this crisis the Senate Finance Committee ordered reported a tax cut bill that was nearly unanimously supported and that responds to the economic needs of our Nation in a responsible way. That bill has been praised throughout the country. It will increase incentives for savings, investment and productivity and serve to offset the enormous scheduled tax increase next year.

CYNICAL OPPOSITION

Some in this town have attempted to thwart this process at every step. First they said there is not enough time. In 4 incredible days of markup the Finance Committee, Democrats and Republicans, proved them wrong. When the national good is at stake, we can act quickly.

Then, expressing their cynical attitude toward the Senate, Congress and, I believe, the political process, they said we should not act because we are incapable of passing a bill which is not laden down with special interest provisions. Those of us, Democrats and Republicans on the Finance Committee, responded to this criticism by agreeing to oppose all special interest amendments to this tax cut bill.

The Finance Committee members represent a fifth of the total Members of the Senate. I am convinced that a majority of the Senate, as a whole, would agree that the need for a tax cut outweighs the importance of limited interest legislation, however meritorious, and will forbear from offering nongermane amendments.

I have confidence that the Senate can act responsibly to enact the Finance Committee tax cut measure without "Christmas tree ornaments."

INFLATIONARY EXPECTATIONS

It has also been argued that, if the Senate passes this bill, we could set off "inflationary expectations." Mr. President, as I said before, the Producer Price Index is increasing at the rate of about 20 percent, the CPI is going up at the rate of about 13 percent. Do you know anyone in America who does not already have "inflationary expectations"? If there is such a person in this country, I suggest he is living to close to a Government expense account.

FINANCE COMMITTEE BILL

The intent of the Finance Committee bill is to abate the record $86 billion tax increase scheduled for 1981 in a manner that will encourage productivity without producing an artificial inflation stimulus to the economy.

INDIVIDUAL RATE CUTS

The most important feature of the Finance Committee's bill for individuals is an across-the-board reduction in income tax rates. While this reduction will not offset completely the scheduled increase in social security plus the taxes added by inflation, the Finance Committee bill will provide some relief for every taxpayer by a reduction in the tax rate of every tax bracket.

DEPRECIATION REFORM

The central provision of the tax reduction for business is accelerated capital cost recovery to encourage investment in new plant and equipment. The Finance Committee's provision represents a vast improvement over current law in both liberalization of the depreciation deduction and simplification of the tax laws.

OTHER INDIVIDUAL TAX REDUCTIONS

The Finance Committee bill also reduces the effective tax rate on capital gains, reduces the "marriage penalty" tax on two-wage earner families, and provides additional tax incentives to encourage savings for retirement.

AMERICANS WORKING ABROAD

The bill includes much needed tax relief provisions for Americans working abroad. It has become painfully obvious that changes in the tax laws in 1976 and 1978 have seriously jeopardized the ability of American companies to employ Americans to help them compete overseas. This bill would go a long way toward restoring American business to a competitive position.

RESEARCH AND DEVELOPMENT CREDIT

The research and development credit which the Finance Committee has included in its tax cut bill is also timely and of great importance. Superior technology has been the key to America's industrial and social achievements. This superior technology is the direct product of research and development activities. Since the mid-1960's, however, there has been a disturbing decline in industrial research and development. This trend must be reversed.

CORPORATE RATE CUTS AND SMALL BUSINESS INCENTIVES

The Finance Committee also has included in its tax cut package a 2-percent reduction in the maximum corporate tax rate and a widening of the corporate tax brackets. This widening of the corporate tax brackets will particularly benefit small business.

INDIVIDUAL RETIREMENT ACCOUNTS

It is significant that the Finance Committee bill has increased the maximum deductible amount for contributions to individual retirement accounts and has allowed employees who participate in qualified retirement plans to set aside additional deductible amounts to provide for their retirement. The necessity for long-term savings to provide the investment capital necessary to improve this Nation's industrial capacity should be readily apparent.

I believe this tax cut contains a well-balanced program which is of a sufficient magnitude and is accurately targeted to serve as a foundation for a restructuring of our economy. I urge all my colleagues—Democrat and Republican—to vote to proceed to the tax bill.

THE DEMOCRAT RESOLUTION

Mr. President, I know there will be a great temptation to have a straight party line vote, therefore, I ask unanimous consent to have printed in the Record a copy of Senate Resolution 481, which is cosponsored by 48 of my Democratic colleagues saying, "We need a tax cut. We need a tax cut now. We ought to report something out of the Finance Committee by September 3."

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 481

Whereas the best interests of the Nation should be placed first to assure that any tax cut is meaningful and beneficial to all Americans instead of rushing into an ill-considered and inadequate program for the purpose of trying to seize some partisan political advantages; and

Whereas inflation is still the major concern for all Americans; and

Whereas it is essential that our Nation achieve vigorous, sustained economic growth and curtail inflationary pressures in the decade of the 1980's; and

Whereas a tax cut is a necessary part of such a coherent economic policy; and

Whereas our Nation needs an equitable, consistent, coordinated, and comprehensive economic policy for the 1980's; and

Whereas such an economic policy must be designed to reduce unemployment, create jobs for everyone willing to work, and to hold down inflation; and

Whereas the details of a tax cut must be subject to the normal congressional processes which include careful committee consideration through hearings and markup; and

Whereas a midyear review of the economy will provide additional data on unemployment, inflation, and the Federal budget, which data is critical to an informed judgment on fiscal policy, and on the nature, size, and timing of a tax reduction; and

Whereas section 9 of H. Con. Res. 307, the First Concurrent Budget Resolution for Fiscal Year 1981, provided that "no bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100,000,000 shall be enrolled until after the Congress has completed action" on the Second Concurrent Budget Resolution; and

Whereas a tax reduction is necessary to induce an orderly recovery from the current recession so as to promote economic growth without inflation: Now, therefore, be it

Resolved, That the Senate Finance Committee shall report to the Senate no later than September 3, 1980, a responsible, targeted anti-inflationary tax cut to take effect in 1981, and designed to increase employment, give relief to individuals, encourage thrift, improve America's productivity and stimulate competitiveness in foreign markets; and be it further

Resolved, That the Democratic Task Force on the Economy recommend to the Senate a comprehensive economic policy at the earliest possible date.

Mr. DOLE. Mr. President, the Senate Finance Committee met that deadline. I want to applaud my Democratic colleagues—12 stood strong in the Finance Committee and voted for a tax cut this year.

I know that we are testing the leadership. But I would just remind my colleagues that there are about 8 million American men and women out of work; the Producer Price Index has been running at about 20 percent; interest rates are on the rise up to about 13 percent; taxes are going up to $86 billion in fiscal year 1981.

While I understand the prerogatives of the leadership, I understand the misery in America. I understand the need for a tax cut—a tax cut enacted this year to be effective in January of 1981.

I close by suggesting that I believe in all good conscience that, with all the problems in the Mideast, we ought to stay in session, in any event, because there might be an emergency there that we will have to be called back for. We might as well stay here until that emergency passes. In that time, we could work on a tax cut.

BIPARTISAN BILL

I again remind the distinguished majority leader that the bill reported out by the Finance Committee was by a vote of 19 to 1. Twelve Democrats and seven Republicans said that this is a good bipartisan bill; it is not inflationary. It addresses the needs of the taxpayers of America—it did in August. It met the September 3 deadline in the Democratic resolution. It is now ready for discussion. It can be called up and passed yet this afternoon, as far as this Senator is concerned.

I urge my colleagues to put principle above politics and vote to proceed to the Senate Finance Committee tax cut which millions of Americans are waiting for and millions of Americans need.

If this motion is unsuccessful, I still intend to offer the Finance Committee bill as an amendment to any appropriate bill that comes to the floor before the election.

I yield the remainder of my time to my colleague from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, today is a sad day for America—a sad day for America because the Senate does not have the courage to do its work. We have today a clear chance to give the American people tax relief. And let me make it perfectly clear. Any Member of this Senate who votes against allowing the Senate to consider this tax cut is voting for a tax increase on the American people.

Total Federal taxes will go up an estimated $86 billion next year. There will be a tax increase of roughly $600 on the typical American working family.

Do not say to me we cannot do it; that we do not have the time. The Senate Finance Committee disproved that. We have reported out nearly unanimously a bill providing tax relief to the American people and provided tax relief for business. It is important, as practically every member of the Finance Committee said, that we take action now to get this economy moving.

I heard the distinguished Senator from South Carolina say that the economy is moving up. The only reason it is moving up is that it is so low it has nowhere else to go. I know of no American or no Delawarean that is satisfied with the economy, with unemployment at the high rate of almost 8 percent and with inflation increasing at double-digit levels.

What ever happened to open Government? I thought this Congress was dedicated to the idea that every Member of the Senate and every Member of the House would let the American people know prior to the election where they stand on spending, where they stand on deficits, and where they stand on tax cuts.

Mr. President, as a member of the Joint Economic Committee, I heard every economist come before us, as did our chairman, and say that we need tax relief today.

It is responsible. It can be done, as the Senate Finance Committee has pointed out, and it can be prevented from becoming a Christmas tree. Let me warn you that if we do not act, this will become known as a "do-nothing" Congress.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from West Virginia is recognized for 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, earlier this year, the Republicans sought to get the Senate to vote for the Reagan-Kemp-Roth, make-the-rich-richer tax cut.

On that occasion, the Democrats adopted a resolution requiring the Finance Committee to report out, no later than September 3, a proposal for a reasonable and equitable tax cut. And that resolution has now been placed in the record by Mr. DOLE.

The resolution, signed by 48 Democrats, did not require the passage of that proposal when reported. It only required the reporting of a proposal by the Finance Committee no later than September 3. The Finance Committee met that mandate and submitted its proposal and the committee did a good job. The proposal it submitted was based on hearings; based on testimony by witnesses; and was carefully marked up in committee in an orderly way.

It was not like the Reagan-Kemp-Roth tax amendment that was called up and attempted to be attached to the debt limit extension bill. We hear talk about putting principles above politics. That was the most blatant politics that one could play, attempting to attach that tax cut, on which there had been no committee hearings or markup, to a debt limit extension resolution without which the Government could not operate.

Mr. President, the Finance Committee fulfilled its mandate. It brought out legislation, good legislation. I might differ with the legislation in some respects. I might not wish to see as large a tax cut. But the bill itself is productivity oriented, and it would offset the increase in social security taxes scheduled to take effect on January 1.

I have no quarrel with that bill, per se. But what I wish to say at this point is this: The House will not take that tax cut and pass it before the election. The House does not have time to do that. The Senate does not have time to legislate reasonably and wisely on a complicated tax cut bill before the recess, which is scheduled for October 2. In this pre-election climate, even if the Senate stayed in session until November 4, it would not be the kind of atmosphere and climate in which to legislate a tax cut. So, this is pure political gimmickry. The Republicans want this tax cut brought up now. The American people would see through this. And regardless of how good a tax cut the Senate might pass, the American people in this atmosphere would look at it as being suspect and they would feel that it was politically inspired.

So, any action on a tax cut bill should come at a time when we do not have an election immediately confronting us.

This tax bill may yet be brought up after the election. I shall move to table the motion to proceed today, but this does not mean that this is not a good bill, nor does it mean that the Senate will not act on the bill this year. It simply means that we are not going to act on the bill before Thursday of next week—before the scheduled recess. That is what it means. The motion I shall make is not a motion to table the tax cut bill. The motion I shall make is to table the motion to proceed to take up the bill, which as been made by the distinguished minority leader.

Here, again, I say to my fellow Democrats, who is going to lead this Senate? Is it going to be the minority party? Or is it going to be the majority party? The Democrats are in the majority. I say that it is our responsibility to schedule and to program in order that we might proceed with Senate business in an orderly fashion. Take away this prerogative and we may as well admit that the majority party does not have the right or the power to lead.

Mr. President, I ask unanimous consent that both sides may have an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I am very much for a tax cut. I think the Finance Committee did an excellent job. They brought out a bill that calls for $18 billion in cuts in the fiscal year and $39 billion in the calendar year. But let me make the point that the bill is not effective until January 1, 1981. We have plenty of time yet to pass that bill. We will be back here on November 12 and I think this Congress should pass the bill. I think in no way is it inflationary. I think the Senator from Rhode Island in his comments stating that it is a bill that would not be inflationary because we have an additional $6 billion in additional taxes is absolutely correct. I strongly support this bill. I know a number of members of the Finance Committee who feel that this is the bill that we should pass and should pass it this year.

Mr. BAKER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. BAKER. Mr. President, in my view there is simply no need to adjourn the Congress of the United States until we do the people's work, and the people's work includes the appropriation bills, the budget resolution, and tax relief.

I believe and I urge that the Senate should get on with the business at hand. There is simply no reason to put this over for a bobtailed session of the Congress, the first, if my information is correct, since 1948, in a Presidential year.

There is simply no reason to postpone that evil day when we face up on a rollcall vote to whether we relieve the tax burden on the people of the United States, whether we have a balanced budget or a $60 billion surprise.

There is no reason to wait until it is too late.

Mr. LONG. Will the Senator yield?

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BAKER. Let me say to the distinguished chairman I promised 1 minute to the Senator from Kansas. Let me give that to him now and I am sure he will yield to the chairman.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished minority leader may have 2 additional minutes so he can yield to the chairman and I would like 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I yield 2 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. LONG. Mr. President, in my honest opinion, if we do not vote on this tax bill before the election it is not going to ever get as far as the President's desk. That is my judgment. Frankly, in my judgment, I will vote with that in mind. If we do not get this bill as far as a vote in the Senate before we go home for that recess, it is not going to ever get as far as the President's desk, in my judgment. I personally will vote with that in mind.

Mr. BAKER. I thank the distinguished chairman of the Finance Committee who mirrors and reflects my views. I appreciate his statement. I yield now the remaining time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, clearly, if we do not want to pass the tax cut bill this year, then we vote with the majority leader. If we want to pass the tax cut bill, then vote with the majority of the Americans. They have a stake in this, too. They are not so concerned about the leadership of the Senate. They are concerned about paying their bills. They are concerned about inflation. They are concerned about taxes. What does President Carter offer in his tax bill? A lousy $80 is what he offers the American people.

I just suggest that the time for action has come. We have marched up and down this hill. What about the American people? They do not understand all the fine, sophisticated prerogatives in the Senate. They are concerned about inflation. They are concerned about taxes, $86 billion in new taxes next year.

Some do not want to do anything to help the American people. It might be viewed as political if we did it before the election. Nevertheless I will bet my bottom dollar that nothing will happen after the election. Governor Reagan will be elected on November 4, and it may change things around here after November 4. But some should not attack the Reagan program until we look at the Carter program—which offers a $80 tax cut for the average American. Try to sell that to the American people and the American voter. If enough people look at what Carter offers and what Reagan offers, the Republicans will be in the majority next year and then we will move to proceed whenever we please.

But that is not the point. What is at stake is the good of the American people.

To accomplish this good we ought to move to proceed as Senator BAKER, the distinguished minority leader, has indicated. I do not have a quarrel with any of my Democratic friends. Why not bring the bill up this afternoon with a 1-hour time agreement and pass it.

It would not take long, Mr. Majority Leader. It is something you would like if you studied it. It is not the Reagan bill that you seek to attack. It is the Finance Committee bill. It is the Republican-Democratic bipartisan approach. It is not inflationary. Now is the time for action.

Mr. ROBERT C. BYRD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, my handkerchief is wringing wet with all of these crocodile tears that I hear from the other side of the aisle about the American people. The truth of the matter is that my friends in the minority simply want to get rid of that Reagan Kemp-Roth 10–5–3 albatross that is around their necks. They want to get Mr. Reagan out of the hole that he has dug for himself. Under his proposal, any family of four earning $15,000 a year would get exactly $151 in tax cuts. But the same family of four earning $100,000 a year would get $2,190 as a tax cut. That is the tax proposal that our friends in the minority want to wash their hands of. They do not want that around their necks any longer. Instead, they want the tax bill that has been reported by the Finance Committee because it is an eminently more equitable bill. I do not blame them for wanting the Finance Committee bill.

Now, may I say to my friend from Louisiana, the distinguished chairman of the Finance Committee, the way to get the bill on the President's desk is not to take it up in this preelection atmosphere. The best chance of getting this bill on the President's desk is after the Senate returns, following the election. Then we can legislate—not in a partisan way, not in an electrically charged climate, but in an atmosphere in which we can give our best thought and do our best work. And, as it has been said on the other side of the aisle, do the people's work—but do it well.

Mr. President, my final plea is, we have the responsibility of leadership. We will not be voting to table the bill; we will simply be voting to table the motion to proceed. We shall leave it to the majority party, working with the minority party, after we return from the election campaign, to make the decision as to taking up the tax cut bill, based on the circumstances at that time.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Mr. Paul A. Volcker, Chairman of the Board of Governors of the Federal Reserve System addressed to me under date of September 25, 1980, and also a letter dated September 23, 1980, from Lane Kirkland, president of the American Federation of Labor & Congress of Industrial Organizations.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Federal Reserve System,
Washington, D.C., September 25, 1980.

Hon. Robert C. Byrd,
Majority Leader,
U.S. Senate, Washington, D.C.

Dear Senator Byrd: I have your letter asking whether, in effect, my views on the wisdom of tax reductions at this time have changed.

The direct answer is no.

As I indicated in testimony two weeks ago, I felt the steps taken last March to reduce the Federal budget deficit were interpreted by the public and the markets as a meaningful effort by the Congress to achieve a more vigorous budgetary discipline. Those efforts were constructive in allaying fears on an accelerating inflation, and were one factor in the sharp downward movement in interest rates in the spring. I can only commend the efforts of the Budget Committee and others in Congress in resisting undue expenditure increases in the difficult period since that time. Unfortunately, in my judgment, discussions of large immediate tax reductions over recent weeks have tended to undermine that sense of commitment, and action by the Congress to actually enact large tax reductions now, in a pre-election atmosphere, could only reinforce the uneasiness about large deficits and inflation.

I recognize the force of the arguments for tax reduction, especially directed toward investment and revitalization. But I have emphasized that tax reduction—and the potential benefits therefrom—must be achieved in the context of a total budgetary position consistent in a reasonable time frame with a return to balanced budgets. That assurance seems to me absent now, when, among other things, we cannot by the nature of the calendar have a clear view of the spending priorities of an Administration or a Congress until after November.

The implications of a large tax reduction in terms of increasing an already large budget deficit simply cannot be ignored. As I indicated several weeks ago, "one of the questions . . . is whether the pressures of government financing—or the inflationary outlook generally—may dampen the recovery of significant sectors of the economy, such as housing or automobiles. It would be ironic, indeed, if over-exuberant planning for tax reduction—designed for stimulus—had adverse effects in terms of inflationary expectations and financial markets, interfering with the natural recuperative powers of the economy."

As you well know, interest rates have moved significantly above the lows of several months ago. This movement, despite sizable money growth, is symptomatic of the sensitivity of markets to the outlook for inflation and government deficits.

In the circumstances, I would continue to urge the Congress to defer consideration of tax reduction until the turn of the year, when the matter can be considered in the light of new budgetary plans and a fresh appraisal of the underlying economic situation.

Sincerely,

Paul A. Volcker.

American Federation of
Labor and Congress of
Industrial Organizations,
Washington, D.C., September 23, 1980.

Dear Senator: The AFL–CIO urges that you oppose—and that you urge your colleagues to oppose—any consideration of a tax cut package before adjournment.

The nation is beset with inflation and high levels of unemployment. Any tax cut program brought forth in the twilight hours of a legislative session, in the heat of a Presidential election and in response to campaign oratory would not be in the best interest of the country or taxpayers.

The AFL–CIO suggests that the Senate not expend its energies to bring a $40 billion tax cut bill to the floor where its final shape, after prolonged acrimony, would not necessarily fit the needs of the country. It is our view that the time remaining in this Congress would be well spent on formulating economic stimulus and on direct job-creating programs. Such programs include local public works, highway aid, mass transit and energy assistance.

Rather than putting the emphasis on across-the-board cuts benefitting primarily corporations and the wealthy, a tax program must be developed keyed to and as a part of an overall industrialization policy. A program of that nature cannot be fashioned on the eve of a national election.

We believe the Congress should determine needs, impact and alternatives rather than through costly sweeping tax cuts in the closing hours before adjournment.

We urge that you discourage any precipitous last minute action that could fuel inflation and instead consider the programs and measures that can directly help to put the nation back to work without recourse to "trickledown" economics.

Sincerely,

Lane Kirkland,
President.

Mr. CHAFEE. Mr. President, it is important for our country that the Senate act now on tax cut legislation. The needs of our economy can no longer be neglected.

It has been said by some that too little time remains in this session to draft a tax bill. Mr. President, a bill has been written. The Senate Finance Committee has been working toward this goal for nearly 2 years.

It has been said by others that a restrained and responsible tax cut bill could not be produced in the politicized atmosphere of a Presidential election campaign. Mr. President, the Finance Committee has reported a tax bill to the Senate, and it is a good bill. It contains the essential elements needed to put our economy on a healthy, long-term growth path.

The Tax Reduction Act of 1980, H.R. 5829, is not a quick-fix attempt to fire up the economic indicators just before election day. It is a carefully-laid plan to arrest the decade of decline in many crucial sectors of American industry, to improve the quality of jobs and job opportunities for American workers, and to boost the competitive position of the United States in the world's markets.

The Finance Committee has consciously and intentionally eliminated any superfluous tax provisions from this bill and, furthermore, has committed itself to resist such amendments on the Senate floor.

The interests of all Americans would be served if the Senate would move this afternoon to the consideration of H.R. 5829. American taxpayers, both individuals and businesses, face an astronomic $86 billion increase in their tax bill next year. What we are proposing is to reduce that increase by less than half—$39 billion. The "tax drag" on our economy must be cut if we want to benefit from the strength of our free enterprise system.

It is important that action begin today, Mr. President, because if it does not, I am afraid we will not see final passage of a tax cut package for 6 to 9 months. Even if such a delayed tax bill were made retroactive effective January 1, 1981, American taxpayers would be unable to make accurate financial plans or project the real costs of making much needed new investments next year.

For these compelling reasons, I will cast my vote in favor of taking up the

Tax Reduction Act and urge all my colleagues to do the same.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR EDWARD M. KENNEDY OPPOSING PRE-ELECTION TAX CUT

I regret very much that the proponents of an immediate tax cut have chosen to take the extraordinary step of pressing it on the Senate at this time and in this fashion for partisan political purposes. I hope the Senate will act to defeat this unwise motion now before us.

There is no more important question facing the Senate and the nation than the state of our economy. Each of us must work together to fashion a comprehensive approach to restore prosperity and end the simultaneous seige of soaring inflation and unemployment from which we are now suffering.

Yet the Senate is now being asked—at the eleventh hour before an election recess—to swallow a massive tax cut proposal in circumstances that make it a thinly veiled device to give aid and comfort to the electoral prospects of the Republican candidate in the 1980 presidential election.

I have extremely serious reservations about many of the substantive provisions in the proposed legislation. But I have even more serious reservations about attempting to pass any such legislation in a manner that will inevitably lead the American people to regard our actions as election year gimmicks instead of responsible economics. If we pursue that course, we shall only engender greater cynicism and disillusionment among the people about the ability of Congress to deal effectively with complex economic issues.

There is no groundswell of popular support for any election year tax cut, let alone the fantastic $40 billion tax cut blandished in this proposal. In fact, the prevailing view of the nation seems to be that the people are far more deeply concerned about stopping inflation than about obtaining immediate tax reductions.

There is no such thing as a free lunch in the economy or in life. It makes no sense to win the battle for a tax cut, if it means the nation will lose the war against inflation. Most Americans would gladly forego a quick-fix tax cut at this time, in return for the assurance that Congress is legislating a wise fiscal policy truly capable of bringing inflation under real and lasting control.

But there will be no such assurance if we rush headlong to embrace the proposed legislation. The idea for this tax reduction was hatched several months ago, when the economy was plunging into a recession that threatened to be long and deep. Now, the recession appears to be subsiding. Indeed, an increasing number of experts are now predicting that the recession has bottomed out, and that the nation has entered a new period of economic expansion.

But renewed expansion inevitably goes hand in hand with renewed inflation—at a time when inflation is already running at unacceptable double-digit levels.

We simply do not know enough about the condition of the economy to act responsibly at this time on major tax reduction legislation. Nor is there any urgency for quick action. The provisions of the proposed bill will not go into effect until January 1, 1981. There is ample time for both the Senate and the House of Representatives to enact any needed tax cut legislation after the November 4 election, in our post-election session. At that time, two more months will have passed. More accurate information will be available about the condition of the economy, about the intensity of inflation, and about the depth of the recession. And with this knowledge, we will be able to key our actions more wisely to our actual economic needs.

In addition to my serious concern about attempting to act at all on such important legislation in the current election atmosphere, there are substantial objections to almost every one of the specific provisions of the bill:

Perhaps most serious, the proposal makes no attempt whatever to employ tax incentives to encourage price and wage restraint. Tax cuts of this magnitude raise a clear and present danger of worsening inflation, especially in a period when the economy is bouncing back from recession and entering a period of rapid new expansion. I believe the time has come for Congress to explore the possibility of linking future tax reductions to pledges of price restraint by business and wage restraint by labor. Clearly, our traditional anti-inflation policies have too often proved too little and too late. Other nations have used their tax system in the fight against inflation. The Carter Administration's proposal for real wage insurance was a useful first step in the right direction for the United States. A range of other so-called "TIP"—or "Tax-based Income Policies"—have been proposed in recent years. Such proposals represent one of the few genuinely auspicious new approaches in the fight against inflation. A major failure of the proposed legislation is that it totally ignores these promising approaches.

The proposal ignores another effective possible weapon against inflation, by failing to relate the individual income tax reductions to the increasing burden of the payroll tax. Since the payroll tax is a cost of doing business, it translates directly into higher prices and therefore into the Consumer Price Index and other measures of inflation. Reductions in the payroll tax will therefore lead to reductions in inflation. In principle, I favor the use of general Treasury revenues to relieve part of the burden of the payroll tax. But I also share the concern of those who feel that such payroll tax reductions would be premature at this time of increasing doubt about the viability of the Social Security system.

It is possible to achieve the desirable anti-inflation benefit indirectly—without jeopardizing the integrity of Social Security—by granting income tax credits based on the amount of payroll taxes paid. Well-designed proposals to achieve this result and its anti-inflation impact have been introduced by Congressman Gephardt in the House and by Senator Eagleton and Senator Bradley in the Senate. Yet the tax cut proposal fails to take advantage of this important inflation-fighting technique.

The distribution of the proposed tax relief is grossly unfair to the lowest income groups, and far too generous to the highest groups. According to the report of the Senate Finance Committee, the goal of the $22 billion provided in tax relief for individuals is to protect them from the ravages of "bracket-creep" inflation and from the increase in the payroll tax scheduled for January 1, 1981. But somehow, the wealthiest taxpayers manage to achieve greater protection than the poorest taxpayers. Taxpayers earning $5,000 a year or less will experience a total tax increase of $462 million next year because of Social Security changes and inflation. But the proposed tax cut will give them tax relief worth only $270 million; in other words, they will be protected against only 58 percent—or slightly more than half—of the tax increase they will suffer. But for the wealthy it is a different story. For those earning $200,000 a year, their tax bills will go up by a total of $155 million. Yet they will receive the fantastic sum of over $1.4 billion in tax relief, or nearly ten times the protection they need and twenty times the protection afforded the lowest income group. That isn't fair. And unless we set it right, this legislation will be a shameful mockery of equal justice in our tax laws. Mr. President, I shall submit a table showing the tax relief provided by the bill by income class for the RECORD.

The investment incentives of the proposed legislation are also controversial. The 2–4–7–10–15–20 proposal is the offspring of the notorious 10–5–3 measure, and it still suffers from many of the defects of its parent. In my view, the Carter Administration's alternative proposal for accelerated depreciation offers a more effective method of achieving the critical goal of increased investment and productivity in the years ahead. But the circumstances of this debate offer us no opportunity to explore the complex issues involved in revamping our archaic depreciation rules to achieve the important long-range economic goals we share.

In addition, the proposal ignores one of the most effective investment incentives for many firms—the refundable investment credit. That device is especially beneficial to small businesses, new businesses, rapidly growing businesses, and businesses severely hurt by the recession. In many cases, such firms have little or no tax liability, and are therefore unable to use the tax credits available for new investment. The investment credit is a federal subsidy that should be available as an investment incentive to all firms on an equal basis, regardless of their tax liability. A refundable investment credit would achieve this goal. If we are serious about supply side economics, we cannot afford to miss this opportunity to enhance investment and productivity for firms and industries that are among the most important to our economic future and to the goals we share for renewing our national prosperity.

Finally, the proposed legislation contains additional tax relief that has no justification in economics or in equity—the $1.8 billion in new relief provided for capital gains. Such relief is nothing more than a wanton windfall for the wealthy—a tribute to the power of the richest taxpayers in our society and the well-paid lobbyists who seek to bend Congress to their will.

The crude injustice of this proposal is plain from the unequal distribution of its benefits. For a taxpayer earning $10,000 a year, the average tax reduction from this provision will be fourteen dollars. For those earning $30,000 dollars a year, the tax break will be a modest $93. You have to be earning over $200,000 a year to really reap the full extravagance of this proposal—then, your tax break will be an incredible $21,000.

There is no substantial economic evidence that the lucrative capital gains tax cut enacted in 1978 has brought any broad-based economic benefits to the nation. It would only compound the serious mistake we made in 1978 by enacting more such relief in 1980. At a time when the entire federal budget is under painful fiscal pressure for so many in our society, it is a travesty of economic justice to pour nearly two billion more dollars into the pockets of the rich. Wealthy investors already have extremely juicy incentives in the tax laws to encourage their investments. There is no cause for Congress to act in a way that will take the rich and make them even richer.

For all of these reasons, I urge the Senate to defeat the motion now before us. There will be time enough in the future to enact appropriate tax legislation to meet our economic needs. If we plunge ahead today, our actions will be widely read as abandoning economic principles in favor of partisan electioneering. We owe a more responsible course of action to ourselves, to our constituents, and to our country.

The table follows:

TABLE—TAX RELIEF BY INCOME CLASS—SENATE FINANCE COMMITTEE PROPOSAL

[In millions of dollars]

Income class	Social security tax increase (1)	Inflation tax increase (2)	Total tax increase (3)	SFC tax decrease (4)	Net tax increase (+) or decrease (−) (3)−(4) (5)	Percentage protection against tax increase (4)/(3) × (100) (6)
Under $5.000	286	176	462	270	+192	58.4
$5,000-$10.000	636	1,252	1,888	1,987	−99	105.2
$10,000-$15,000	852	1,196	2,048	2,243	−195	109.5
$15,000-$20,000	1,009	1,327	2,336	2,520	−184	107.9
$20,000-$30,000	1,946	2,615	4,561	4,859	−298	106.5
$30,000-$50,000	1,664	2,504	4,168	4,449	−281	106.7
$50 000-$100.000	446	1,435	1,881	2,059	−178	109.5
$100,000-$200,000	77	403	480	665	−185	138.5
Over $200,000	20	135	155	1,468	−1,313	947.1
Total	6,936	11,043	17,979	20,520	−2,541	114.1

Mr. ROBERT C. BYRD. I make the motion to table the able minority leader's motion, Mr. President.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired. The Senator from Tennessee has 29 seconds left.

Mr. BAKER. Mr. President, I thank the Chair. I have no need for the 29 seconds. I yield it back.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays having been previously ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The PRESIDING OFFICER (Mr. EXON). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 54, nays 38, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—54

Baucus
Bellmon
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Leahy
Levin
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stone
Talmadge
Tsongas
Weicker
Williams

NAYS—38

Armstrong
Baker
Boren
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Nelson
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Wallop
Warner
Young
Zorinsky

NOT VOTING—8

Bayh
Goldwater
Hatfield
Javits
Kennedy
Mathias
Stewart
Tower

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ. Mr. President, on the last vote, on a motion to proceed to consider the tax cut bill, I voted against tabling it, but I should like to state, in explanation of my vote, that I will not vote for a tax cut as long as we do not discipline in some way our spending practices.

I do not believe we have to cut spending particularly. I believe we have to moderate the rate of increase in spending. This year, we are spending 15.5 percent over last year, while the working people of this country have approximately a 7.5 percent to 8 percent increase in salaries. While I favor the idea of a tax cut, I do not believe it can be done consistently until we moderate the rate of spending.

I say this in explanation of my last vote.

● Mr. PELL. Mr. President, I have voted today against the proposal that the Senate proceed to immediate consideration of the Federal tax reduction bill recently approved by the Senate Finance Committee.

I have done so for several reasons. First and foremost, although a tax cut may be good politics in the final weeks before national Presidential and congressional elections, it is not good economics.

Recent economic trends indicate that the Nation has begun a recovery from the recession. At this point the recession does not appear to be as severe or long lasting as had been anticipated. On the other hand, inflation continues to be our No. 1 enemy and there is serious concern that inflationary pressures are increasing. In these circumstances, approving tax reductions that would further fuel the fires of inflation seems unwise.

In addition, it is clear that there is insufficient time remaining before the election recess of the Congress to complete congressional action on a tax reduction bill. Hasty, partial action on tax reduction legislation in the highly political preelection atmosphere would accomplish nothing for the American people or for our economy.

Tax adjustments may well prove to be desirable in the coming year, to increase incentives for investment and capital formation with the goal of improving the competitiveness and productivity of the American economy, and to offset scheduled increases in social security withholding taxes, as well as unintended income tax increases caused by inflation. I would agree with these reductions, and there will be ample time for well-considered action on those necessary tax reductions after our national elections and when the direction of the economy is clearer.

But right now, inflation is our No. 1 enemy and I do not believe we should proceed hastily to enact tax cuts that might fuel more inflation, and more increases in the cost of living. I believe most Americans will willingly forgo a tax cut for a few months now if everything they gained from a tax cut would be wiped out in another surge of inflation.

For these reasons I have voted against immediate action on tax reduction legislation.●

EDUCATION AMENDMENTS OF 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on higher education.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any amendments in disagreement to that?

The PRESIDING OFFICER. No.

The Senate will please come to order. The Senator will suspend until the Senate returns to order.

The Chair asks that Senators take their seats or retire to the cloakroom for necessary conversations. The Senate is not in order.

My apologies to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair for attempting to preserve order.

I ask unanimous consent that there be a 10-minute limitation on the conference report on higher education, the time be equally divided between Mr. STAFFORD and Mr. PELL.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I understand that there is a desire for the yeas and nays, so I make that request at this time. I ask unanimous consent that it be in order that I ask for the yeas and nays on the adoption of the conference report at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of further conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 17, 1980.)

Mr. PELL. Mr. President, this is the second time that a higher education conference report has come before this body. As Senators know, the Senate rejected the original conference report by a vote of 45 to 43 on September 4, 1980. Many of you had concerns about the cost implications of this legislation, particularly with respect to the impact the legislation would have in fiscal year 1981. As the Senate conferees, we were charged with the responsibility of achieving additional cost savings in conference. Although our House counterparts had no desire to return to conference, having passed the original conference report by a margin of 373 to 16, we did return to conference on September 16 and, after much debate, came up with a new conference agreement which makes significant short-term and long-term savings.

Last week the House passed this conference report by a voice vote. This new report addresses the concerns raised in the Senate. It increases the interest rate on the guaranteed student loan program to 9 percent. The original conference agreement already had raised the rate from the current 7 percent to 8 percent. This new increased interest rate results in $450 million in long-term savings to the Federal Government.

The new report also increases the interest rate on parent loans from the first conference agreed-upon rate of 8 percent to 9 percent, and requires that all parents who take out these loans begin repaying them within 60 days. This requirement makes parent loans strictly a program to meet a family's cash flow problem, and should counter the erroneous charge that this is free money that parents can reinvest.

The new report reduces the grace period on direct loans from 9 months to 6 months, and reduces the room and board allowance in student assistance programs for commuting dependent students from $1,150 to $1,100. These changes result in approximately $150 million in long-term savings. The report further reduces authorization levels by approximately $1.4 billion from those contained in the original conference report.

Finally, the new report requires the Secretary of Education to utilize the alternative funding mechanism for the national direct student loan program. By utilizing this mechanism, all direct student loan collections for fiscal year 1981 would revert to the Federal Treasury, resulting in a savings of $378 million in fiscal year 1981.

Mr. President, this conference report meets the concerns that were raised on the Senate floor on September 4. Most important, it meets the requirements of reconciliation. The total authorization levels are $1.4 billion below the original conference report. And the new report achieves substantial long-term savings. I urge my colleagues to support it.

I should like to point out two additional factors concerning this conference report. First, the administration totally supports it, and believes it is consistent with its overall domestic policy. I have a letter from Secretary of Education Shirley Hufstedler indicating this. Second, failure to adopt this report would leave us with existing law, which would cost approximately $443 million more in fiscal year 1981 than the conference report. Thus, without the adoption of this conference report, we would be left with a more costly program that would hinder our efforts to achieve fiscal and budgetary responsibility.

Mr. President, this conference report maintains the fiscal guidelines that the Senate has adopted, while at the same time providing much needed benefits that will give our most precious resource, our young, the chance to secure a college education. It does not renege on the promise of the Middle Income Student Assistance Act, which we passed 2 years ago, while at the same time keeping budgetary and fiscal realities constantly in mind. It is an excellent conference report, and I urge this body to adopt it.

Mr. President, I should like to describe in more detail the provisions of the conference agreement.

Part A of title I establishes a new Commission on National Development in Postsecondary Education. This Commission was authorized at the suggestion of Senator JAVITS, of New York. The function of the Commission shall be to review national, State, and institutional policies to examine the effectiveness of Federal financial assistance to students and institutions in conjunction with State and institutional aid policies; to consider the research capacity of institutions and the relationship between institutions and the public and private sector in promoting research; and to examine the resources of institutions and the effect of demographic changes which will impact on their ability to meet social and economic needs. At the initiative of Senator CHILES, of Florida, the Commission will also conduct a study of the special needs of nontraditional and adult students in postsecondary education.

Part B of title I is renamed "Education Outreach Programs." It combines the authorization for comprehensive State planning from section 1203, the authority for education information centers from title IV, the current title I (community service and continuing education), and some essential elements of titles VI (financial assistance for the improvement of undergraduate instruction) and title X (establishment and expansion of community colleges).

The planning information services and continuing education (including rural community education) activities are all focused on outreach to adults who have not been adequately served by postsecondary education.

Ninety percent of the funds are allocated to the States on an equal per State basis and on the basis of their adult population. The bill establishes a general allocation of the funds among the types of State activities authorized while leaving substantial flexibility for each State to set its own priorities. Each State is guaranteed a minimum of $187,500.

Ten percent of the funds are reserved for the Secretary to support projects and activities to expand access to education particularly for underserved adults.

The following authorization levels are established:

Fiscal year 1981, $20 million.
Fiscal year 1982, $30 million.
Fiscal year 1983, $40 million.
Fiscal year 1984, $50 million.
Fiscal year 1985, $60 million.

Title II, college and research library assistance and library training and research, has been reorganized, by eliminating the supplemental grant, which has never been funded, and by transfering the special purpose grant program from part A into a more comprehensive part B. Assistance under part A will come in the form of resource development grants up to a maximum of $10,000, increased from the current $5,000, to institutions of higher education, combinations of institutions, branch campuses or public and private nonprofit library institutions serving higher education.

The maintenance of effort provisions have been strengthened, permitting only very unusual circumstances to qualify institutions for waivers.

The funding for an expanded part B, library training research and development, would be divided between three functions on a one-third, one-third, one-third basis, reflecting the addition of special purpose grants to part B from part A.

No major changes have been made in the substance of part C, strengthening research library resources, except the addition of a provision prohibiting recipients of part C grants from receiving grants under either parts A or B.

The conference substitute authorizes the following amounts:

Part A—$10 million, fiscal year 1981; $30 million, fiscal year 1982; $30 million, fiscal year 1983; $30 million, fiscal year 1984; $35 million, fiscal year 1985.

Part B.—$10 million, fiscal year 1981; $30 million, fiscal year 1982; $30 million, fiscal year 1983; $30 million, fiscal year 1984; $35 million, fiscal year 1985.

Part C.—$10 million, fiscal year 1981; $15 million, fiscal year 1982; $15 million, fiscal year 1983; $15 million, fiscal year 1984; $15 million, fiscal year 1985.

An important change in the college library programs in title II is the addition of a new part D, a study of the feasibility and advisability of establishing a national periodicals system. The authorization for this study is $750,000 for fiscal years 1981 and 1982 and such sums for fiscal years 1981 and 1982 and such sums for fiscal years 1983 through 1985, to be funded only if parts A, B, and C are funded at the fiscal year 1979 appropriations level.

The conference substitute creates a title III program which contains three parts. Part A, strengthening institutions, is derived from the provisions of the House bill. Part B, aid to institutions with special needs, contains provisions that were in part A of the Senate amendment. Fifty percent of the appropriation will go to each of these parts. Under both parts, the purposes of the program are clarified to focus on the strengthening institutions which enroll large numbers of disadvantaged students, lack resources and are taking steps to improve their chances for survival.

Under part B of the conference substitute, the institutions that historically have served substantial numbers of black students shall be assured that their sector will receive not less than 50 percent of the amount that the sector received in fiscal year 1979 under the current title III program. Community colleges are guaranteed a floor of 24 percent of the assistance under part A and 30 percent of the assistance under part B.

The conference substitute incorporates the provisions of the House bill pertaining to challenge grants to institutions eligible for assistance under part A or part B. An institution receiving a challenge grant will match Federal funds on a 50-50 basis. The institutional match must be new money and can be raised from alumni giving, foundation grants, and increased State appropriations.

The conference substitute modifies the provisions of the House bill establishing an application review process and a committee on review to provide only for an application review process.

The conference substitute authorizes the following amounts for parts A and B:

One hundred and sixty million dollars, fiscal year 1981.

One hundred and seventy five million dollars, fiscal year 1982.

One hundred and eighty five million dollars, fiscal year 1983.

Two hundred million dollars, fiscal year 1984.

Two hundred and twenty million dollars, fiscal year 1985.

The substitute provides the following authorizations for the challenge grant program:

Twenty five million dollars, fiscal year 1982.

Thirty five million dollars, fiscal year 1983.

Forty five million dollars, fiscal year 1984.

Fifty million dollars, fiscal year 1985.

TITLE IV, STUDENT ASSISTANCE

BASIC GRANTS

The basic grant is renamed the Pell grant and the maximum award is increased. In addition, the limitation in the program that a student's basic grant may not exceed 50 percent of their cost of attendance is modified. The maximum grant amount is increased in steps from the current level of $1,800 to $2,600 in fiscal year 1985 and the percentage of cost limitation is also increased from the current level of 50 percent to 70 percent when the maximum grant reaches $2,600.

In the case of less-than-full funding, students whose eligibility for a basic grant is within $200 of the maximum grant will be paid the full amount of their grant first, then grants will be reduced according to a statutory schedule which gives the most protection to the lowest income students. The minimum basic grant award at less than full funding is increased from $50 to $200.

Students will be eligible for a grant during the period required to complete their first baccalaureate course of study. Current law provides for 4 years of full-time support.

The thresholds in current law requiring funding for the college work study, supplemental educational opportunity grant and national direct student loan programs are retained. However, the Senate conferees point out that these funding levels are merely advisory and serve as guidelines to the Appropriations Committee. The level of the college work study threshold is revised from $500 million to $550 million, and the SEOG threshold increases from $370 million to $480 million in step with increases in the maximum grant and percentage of cost limitation. A new threshold is established for the State student incentive grant program at $76.75 million.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT

The definition of student eligibility is simplified so that the program serves students with "need." The requirement that SEOG awards be matched at the campus with other forms of assistance is eliminated. Students are provided with the same eligibility as basic grants toward completion of their undergraduate studies.

The maximum yearly award is increased from $1,500 to $2,000. The $4,000 cumulative maximum in current law is repealed.

The conference substitute authorizes initial year appropriations of $350 million for fiscal years 1981 through 1985 and authorizes appropriations of such sums as may be necessary for continuing year SEOG awards for fiscal years 1981 through 1985.

The formula for the allocation of SEOG funds among the States is modified to be based on undegraduates rather than persons since the program only serves undergraduates and not graduate students who are included in the term "persons."

The conference substitute determines institutional need for supplemental grant funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions, Pell grants, SSIG assistance and 25 percent of grants and awards made by the institution from its own resources. The substitute further provides a declining institutional hold-harmless related to increased availability of appropriations for the program.

For the purposes of determining each institution's need for SEOG funds, I believe that the conferees intend that SSIG funds be counted in each institution's SEOG application in a manner that reflects total State grants (the Federal SSIG contribution plus total State matching contribution) received for students at that institution. I have been advised that certain States, such as Missouri, maintain separate accounting procedures for distribution of Federal SSIG funds and State SSIG funds. Where this procedure is used, and given the manner in which the SEOG formula determines institutional need, certain institutions could be unfairly penalized. Thus, I think it important to emphasize that for the purpose of determining SEOG need, SSIG funds allotted to a State and the State contribution shall be considered proportionately utilized in each State student grant.

Institutions will be permitted to use up to 10 percent of their SEOG funds to make awards to less-than-half-time students.

With respect to the relationship between the basic educational opportunity grant, the supplemental educational opportunity grant and the State student incentive grant, a Federal policy objective is set of meeting 75 percent of a student's cost of education through a combination of family contribution and grant aid.

In sum, the SEOG program is simplified to make it a flexible source of campus-based grant assistance available to meet the diverse needs of students.

STATE STUDENT INCENTIVE GRANT PROGRAM

The distinction between authorizations for initial year and continuing year awards is removed and authorizations are provided as follows:

Fiscal year 1981—$100 million.
Fiscal year 1982—$100 million.
Fiscal year 1983—$150 million.
Fiscal year 1984—$200 million.
Fiscal year 1985—$250 million.

The maximum award to a student is increased from $1,500 to $2,000. Current law is clarified to permit State grant programs which serve less-than-half-time students or graduate students to qualify. The requirement that eligible State programs serve students in all nonprofit institutions is modified to exempt State statutory restrictions enacted prior to October 1, 1978. The bonus allotment for States with State guarantee agencies is repealed.

TRIO PROGRAMS

The authorization is increased to $400 million in fiscal year 1981 and a such sums authorization is provided for subsequent years. The staff development authority is clarified to provide for greater involvement by professionals in the field. The unfunded service learning center authority is repealed. The Secretary is required to consider the prior experience of applicants in making TRIO awards.

The talent search program is focused as a community-based program serving youth. The services to be provided to clients are enumerated and include tutorial services. Two-thirds of those served must be both low-income (150 percent of poverty) and first generation in college (neither parent completed a baccalaureate degree).

The Upward Bound program is focused on junior and senior high school youth and the services to be provided are enumerated. Two-thirds of those served must be low-income and first generation in college, and one-third can be either low-income or first generation.

The special services for disadvantaged students program is focused on those enrolled in postsecondary education and the services to be provided are enumerated. Two-thirds of those served must be low-income and first generation in college or handicapped, and one-third of those served can be either low-income, first generation, or handicapped.

The Educational Opportunity Centers are focused as a community-based program serving adults. Two-thirds of those served must be low-income and first-generation. The services to be provided are specified and language is included to prevent duplication between talent search and educational opportunity centers.

Statutory authority is provided for the special programs for students whose families are engaged in migrant and seasonal farm work. The authorization for this program is $9.6 million in fiscal year 1981, $12 million in fiscal year 1982, $14 million in fiscal year 1983, $16 million in fiscal year 1984 and $18 million in fiscal year 1985.

ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

Current law is retained unchanged.

VETERANS COST OF INSTRUCTION PROGRAM

The program is modified to provide greater encouragement for institutions to serve handicapped and disabled veterans. Consortia arrangements among institutions serving veterans and coordination among programs serving veterans are also further encouraged.

GUARANTEED STUDENT LOANS

This program is the major vehicle through which middle income families find the necessary resources to send their children to college. And these resources are expanded by the creation of a parent loan program. Under the parent loan program, parents could borrow up to $3,000 per year and $15,000 total for any one student. All parents desiring a parent loan would have to begin repayment within 60 days at 9 percent interest. However, if the annualized rate of 91-day Treasury bills becomes 9 percent or less, the interest rate on future parental loans would be 8 percent.

In all other respects, the parent loan would be identical to the current guaranteed student loan program.

The student loan marketing association (Sallie Mae) is given the authority to make loans directly to students and parents in areas where there is a severe shortage of student loan capital. In addition, State guarantee agencies may act as lenders of last resort using funds borrowed from Sallie Mae.

If a student or parent borrower has loans from more than one lender or under NDSL, GSL or another Federal student loan program the aggregate amount of which exceeds $5,000. Sallie Mae could make a single consolidation loan to the borrower. If the total indebtedness of a student or a parent exceeds $7,500, Sallie Mae could make a new loan to the borrower with graduated or income-sensitive repayment terms of up to 20 years length. Sallie Mae is mandated to disseminate information on its consolidation and extend repayment loan options.

Incentives are also provided for State guarantee agencies to provide lender referral services to borrowers.

Curbing defaults was a major goal of the conference; making loans available to parents, providing for loan consolidation and providing for extended and income-sensitive repayment should effectively prevent defaults. In addition, a system is established for the Secretary to share information on defaulted loans with credit bureaus. Provision is also made for student borrowers to request lenders to report to credit bureaus their positive record of student loan repayment. The Department of Education is instructed to share information on student names and addresses with State guarantee agencies to facilitate the collection of defaulted loans. Lenders under the program are also required to provide thorough and accurate loan information to student borrowers.

Sallie Mae's dependency on Federal capital is reduced by prohibiting the Secretary of the Treasury from requiring that Sallie Mae raise funds through the Federal financing bank and by removing the guarantee of the full faith and credit of the United States in 1984. To complement these changes, Sallie Mae's ability to raise private capital is enhanced by permitting it to deal in debt obligations comparable to those offered by other secondary markets, to raise funds through the sale of nonvoting common stock and by removing the specification in the law of the par value of Sallie Mae's stock.

Finally, Sallie Mae's ability to effectively perform as a secondary market for student loans is enhanced by permitting Sallie Mae to advance to a lender up to 100 percent of the face value of a student loan in warehousing and in broadening the types of securities that Sallie Mae can accept in providing warehousing advances. Under current law, Sallie Mae can deal with lenders with assets of less than $50 million even if the lenders discriminate against borrowers on the basis of their banking relationship with the lender. This $50 million limit is increased to $75 million.

The annual loan limit for independent undergraduate students is increased from $2,500 to $3,000. The aggregate loan maximums for students are modified as follows:

	Curent law	H.R. 5192
Dependent undergraduate	$7, 500	$12, 500
Independent undergraduate	7, 500	15, 000
Graduate student	15, 000	25, 000

The Secretary is given the authority to waive the aggregate maximum for graduate students enrolled in unusually expensive programs of professional studies.

The interest rate for new borrowers is increased from 7 to 9 percent, and the grace period before repayment begins is shortened from 9–12 months to 6 months for new borrowers. If the annualized rate of 91-day Treasury bills is 9 percent or less, the GSL interest rate decreases to 8 percent.

Limitations are placed on the payment of the special allowance for loan funds raised through the issuance of tax-exempt bonds to prevent abuses in this practice.

The allocation of administrative allowances among specified purposes by State guarantee agencies is removed and the definition of allowable administrative expenses is clarified.

The conference agreement calls for, first, prompt action by the Federal Government in determining whether a lending institution has exercised due diligence in the processing of student loans and second, prompt insurance payments to lending institutions pending completion of the due diligence investigation.

The conference committee adopted this amendment to remedy the severe hardship which has been experienced by certain lending institutions under the Federal insured student loan program. It has been brought to our attention that the Federal Government has withheld millions of dollars in insurance payments from some lenders without any finding of wrongdoing or lack of due diligence on the part of the lenders. The conference agreement is intended to remedy this situation by requiring prompt payments to lending institutions upon the filing of insurance claims.

COLLEGE WORK STUDY

Authorization for the program is provided as follows:

Fiscal year 1981—$670 million.
Fiscal year 1982—$720 million.
Fiscal year 1983—$760 million.
Fiscal year 1984—$800 million.
Fiscal year 1985—$830 million.

Students employed under this program are required to be paid the minimum wage. Institutions are permitted to carry forward and carry backward up to 10 percent of their college work study funds. The job location and development program is expanded by permitting institutions to use up to $25,000 for this purpose rather than $15,000 in current law.

Institutions are permitted to use up to 10 percent of their work-study funds for less-than-half-time students and are encouraged to provide employment that complements the educational program of a student. Institutions are also permitted to use part of their administrative allowance to establish community service learning programs.

NATIONAL DIRECT STUDENT LOAN PROGRAM

Authorization for new capital contributions is provided as follows:

Fiscal year 1981—$400 million.
Fiscal year 1982—$400 million.
Fiscal year 1983—$475 million.
Fiscal year 1984—$550 million.
Fiscal year 1985—$625 million.

The aggregate loan limits are modified as follows:

	Curent law	H.R. 5192
First two years as an undergraduate	$2,500	$3,000
Undergraduate total	5,000	6,000
Undergraduate and graduate total	10,000	12,000

The interest rate for new loans is increased from 3 to 4 percent.

For both the national direct student loan program and the guaranteed student loan program four new circumstances under which borrowers can defer repayment of their loans are defined: First, periods of up to 3 years for temporary total disability; second, service in the Commissioned Corps of the Public Health Service; third, service as a full-time volunteer with a nonprofit agency that engages in activities like the Peace Corps or Vista; and fourth, internships required to begin professional practice.

Efforts to curb defaults will be enhanced by a system for the exchange of information on defaulted loans between the Secretary and credit bureaus and by providing for the sharing of names and addresses of defaulters with lenders.

The conference substitute also requires the Secretary to attempt to collect defaulted loans for 4 years after they are assigned and requires institutions to provide thorough and accurate loan information to students.

The grace period prior to the beginning of repayment is reduced from 9 to 6 months.

The definition of handicapped students for purposes of teacher loan cancellation is conformed to the definition used in the Education of the Handicapped Act. The law is clarified with regard to the treatment of loan cancellations as income.

The conference substitute also provides an alternative financing mechanism through borrowing by the Secretary to meet the student loan capital needs of institutions of higher education through a procedure by which existing campus revolving funds revert to the Federal Government.

This financing mechanism will permit more money to be made available for need-based loans on campus, while at the same time controlling the costs of student loan programs. By using this new financing mechanism, it is estimated that $378 million will be saved in fiscal year 1981.

GENERAL PROVISIONS—TITLE IV

INSTITUTIONAL ELIGIBILITY

Institutions are required to provide students and prospective students with information on their academic programs, costs, student financial aid programs, tuition refund policy, special services for the handicapped, accreditation status and standards of satisfactory progress.

NEEDS ANALYSIS

The development of a single system of needs analysis for eligibility for student assistance is mandated. Participation by the higher education community in the development of an annual schedule of expected family contributions is required, and congressional review of the schedule is mandated.

An assessment rate of 14 percent on discretionary income is specified for adjusted gross family incomes less than $25,000.

The criteria to be used in formulating the expected family contribution schedule are specified for all title IV Federal student assistance programs rather than just for the basic grant program. The criteria in current law applicable to the basic grant program are retained with the following exceptions and modifications:

Reasonable child care expenses are included in the student's budget;

All individuals are provided with an asset reserve of not less than $10,000. All equity in the family's principle place of residence is excluded from consideration as an asset. An additional asset reserve of not less than $50,000 is provided to those with farm or business assets.

The assessment rate on the income of independent students with dependents will be the same as the rate for the families of dependent students,

In calculating student cost of attendance separate commuter budgets are provided for students who live with their parents and those who do not,

Simplified data requirements from institutions by eliminating the requirement that "actual" cost of attendance be provided for every student,

Permits the calculation of student budgets on the basis of the costs of study abroad where such study is included in a formal program at the institution,

Requires that a married student will be considered independent and be permitted to use current year income information, and

Expenses for the special services or equipment needed by handicapped students are included in the student's budget.

SINGLE FORM

Requires that student eligibility for Title IV programs be established through a single form without cost to the student or the student's family. Also requires that the processing of such application be decentralized to the maximum extent practicable. The Secretary is also authorized to develop a system of pre-eligibility assistance to provide students with early notice of their potential eligibility for financial aid.

ADMINISTRATIVE ALLOWANCE

Provides institutions with an administrative allowance of $10 per each basic grant recipient and $10 per each holder of a guaranteed student loan. In addition, provides that from the campus-based programs each institution shall receive an administrative allowance equal to 5 percent of the amount of campus-based funds up to $2.75 million, 4 percent of the amount of campus-based funds greater than $2.75 million but less than $5.5 million, and 3 percent of the amount of campus-based funds in excess of $5.5 million. The ceiling on the amount of administrative allowance an institution can receive is removed, and institutions are required to use their administrative allowance solely for the purpose of administering the student financial aid programs.

CRIMINAL AND CIVIL PENALTIES

The criminal penalties for fraud which in current law apply only to the guaranteed student loan program are applied to all of the title IV programs. Institutions may be suspended or terminated from the program or civil penalties levied for substantial misrepresentation of educational programs, financial changes or the employability of graduates.

STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

The program is modified to provide for training services through contracts with the Secretary for those involved in student financial assistance programs.

A National Commission on Student Assistance is established to undertake a 2½-year study of issues such as more effective means to curb defaults, capital availability, the most appropriate mix of gift aid and self help, the status of financial aid for graduate students, the appropriate level of public subsidy of student loans and the impact of student assistance on student career choices and educational prices. In addition, special 1-year studies of the following topics will be made: Insurance premiums charged to students, the method of determining the special allowance, the academic progress standards required for student eligibility for financial assistance and the recapture of interest subsidies paid on behalf of student borrowers by the Federal Government.

The President, the Speaker and the President pro tempore of the Senate each appoint one third of the 12 members. An authorization of $10 million is provided.

TITLE V, TEACHER TRAINING PROGRAMS

The limitation on the salaries for teacher interns in the teacher corps programs is deleted. Cooperation between local educational agencies and institutions of higher education in the teacher center program is encouraged.

More emphasis is placed on updating teachers in the use of technology, telecommunications and testing. The pool of eligible grantees for teacher centers is expanded with the inclusion of educational service agencies.

Direction is given to the Secretary to make at least one grant award for teacher centers in each State.

Grants to schools of education for upgrading their faculty and curriculum to meet current needs are authorized.

The conference substitute establishes an Office of Education Professional Development in the Department of Education to review professional development operations and to coordinate their activities among the various Federal education programs.

The conference substitute authorizes the following amounts for the teacher corps program:

Forty five million dollars, fiscal year 1981.
Fifty million dollars, fiscal year 1982.
Sixty million dollars, fiscal year 1983.
Seventy million dollars, fiscal year 1984.
Eighty million dollars, fiscal year 1985.

The conference substitute provides for the following authorizations for teacher training programs:

Twenty million dollars, fiscal year 1981.
Thirty million dollars, fiscal year 1982.
Forty million dollars, fiscal year 1983.
Fifty million dollars, fiscal year 1984.
Fifty-five million dollars, fiscal year 1985.

The conference substitute authorizes a new program of training for elementary and secondary school teachers to teach handicapped children in areas where there is a shortage of such teachers. This training program, sponsored by Senator RANDOLPH of West Virginia, is in the nature of fellowships to individual teachers who must within 5 years after completion of training teach for at least 2 years in a special education program or repay the stipend awarded to the individual.

The authorization levels for this new program are:

Two million dollars, fiscal year 1981.
Three million dollars, fiscal year 1982.
Five million dollars, fiscal year 1983–85.

Title VI of the current law is replaced by a new title VI, foreign studies and language development. The new title VI incorporates title VI of the National Defense Education Act, language and area studies, some provisions from the International Education Act as well as the recommendations of the President's Commission on Foreign Language and International Studies. Senators STAFFORD and JAVITS provided the leadership for the development of this title.

The conference substitute provides the following authorizations:

Forty-five million dollars, fiscal year 1981.
Fifty million dollars, fiscal year 1982.
Sixty million dollars, fiscal year 1983.
Seventy million dollars, fiscal year 1984.
Eighty million dollars, fiscal year 1985.

The conference substitution authorizes a new part B of title VI, business and international education programs. This new part establishes a dollar-for-dollar matching grant program to postsecondary institutions which have entered into agreements with business enterprises, trade organizations or consortia of such organizations to establish or expand curricula to serve the international needs of the American business community.

There is authorized an annual appropriation of $7,500,000 for fiscal year 1981 through 1985 for the purposes of this new part.

TITLE VII, CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC FACILITIES

The title is simplified but retains the current State allocation formula. New authority to support improvement of research facilities including libraries and for compliance with section 504 is provided. Assistance for facilities in areas experiencing unusual increases in enrollments or requiring the detection or removal of asbestos hazards is also authorized. Part D, assistance in major disaster areas, is repealed. The interest rate for academic facilities loans is increased from 3 to 4 percent.

The conference substitute provides the following authorizations for part A, State grant program for the construction, reconstruction and renovation of academic facilities:

One hundred million dollars for each fiscal year ending prior to October 1, 1985.

The substitute provides an authorization of $80 million per year for part B, institutional grants for construction, reconstruction and renovation of graduate academic facilities.

The substitute authorizes $80 million per year for part C, loans for construction, reconstruction and renovation of academic facilities.

TITLE VIII, COOPERATIVE EDUCATION

The conference substitute authorizes $30 million for fiscal years 1981 through 1985 for the basic program. The maximum grant to a single institution is increased from $175,000 to $325,000, and the maximum grant to each member of a consortia is increased from $120,000 to $250,000. Different approaches to cooperative education are encouraged by permitting programs to include alternate or "parallel" periods of work and study.

An authorization of $5 million for each of the fiscal years 1981 through 1985 is provided for grants and contracts for training and research.

TITLE IX, GRADUATE PROGRAMS

I would like to call attention to improvements that the bill makes in the title IX graduate programs. These changes will prove especially timely since the future of our Nation is tied to a large extent to our economic productivity which is intimately associated with new developments in technology as well as our ability as a nation to function more effectively on a worldwide basis. As a nation, therefore, we need to develop our human capital to the fullest extent, to the highest level possible. This requirement places a renewed significance on graduate education.

The title is updated by striking references to the "extension" of graduate programs. Part A, grants to institutions of higher education, is extended through fiscal year 1985 at its current authorization level of $50 million.

Parts B, C, and D of current law are revised by the conference substitute to provide a program of campus-based grant awards. The maximum award to the student with the most financial need is $4,500 per year for 3 years. The three previous programs (public service, mining and graduate and professional opportunity fellowship programs) are contained within this campus-based program and will receive awards at fiscal year 1979 levels. The clear intent of the conference substitute is to provide one comprehensive program while, at the same time, protecting the constituencies of the current programs who pursued careers in public service, careers in mining or who were underrepresented in fields critical to the Nation's health and well-being. The substitute authorizes $60 million for fiscal year 1981 and for fiscal year 1982 and such sums as may be necessary for fiscal years 1983 through 1986 for this new part B.

The conference substitute also provides a new part C, national graduate fellowships. This part would provide 450 portable competitive fellowships each year in the arts, humanities and social sciences. Selection of these fellowships would be based on merit, with the stipend awarded being related to the recipient's financial need. A National Graduate Fellows Program Fellowship Board will be created to select the areas in which the fellowships are to be awarded and to appoint panels for the selection of recipients.

The conference substitute extends the program of assistance for training in the legal profession as a new part D of title IX with the following authorizations:

Five million dollars, fiscal year 1981.
Five million dollars, fiscal year 1982.
Seven and one-half million dollars, fiscal year 1983.
Seven and one-half million dollars, fiscal year 1984.
Ten million dollars, fiscal year 1985.

The conference substitute continues the authority for the law school clinical experience program as part E in title IX (deleting such authority from title XI).

The following authorizations are provided:

Five million dollars, fiscal year 1981.
Eight million dollars, fiscal year 1982.
Eight million dollars, fiscal year 1983.
Nine million dollars, fiscal year 1984.
Ten million dollars, fiscal year 1985.

TITLE X

The vacated parts of this title are replaced by transferring the authority for the Fund for the Improvement of Postsecondary Education from the General Education Provisions Act. The board of the fund is given a statutory base. The following authorizations are provided:

Twenty million dollars, fiscal year 1981.
Thirty million dollars, fiscal year 1982.
Forty million dollars, fiscal year 1983.
Forty-five million dollars, fiscal year 1984.
Fifty million dollars, fiscal year 1985.

Part C of title X creating the bureau of occupation and adult education and the community college unit is retained in current law.

NEW TITLE XI, THE URBAN GRANT UNIVERSITY PROGRAM

This title is designed to provide assistance to urban educational institutions in developing, in conjunction with local officials, responses to needs and problems of the urban area. It builds on the idea that the urban university and the urban area in which it is located have a natural affiliation and that the institution can provide research and services to help address urban problems.

Under this program, grants will be awarded on a competitive basis to institutions to provide applied research and service projects for their cities. The application must indicate the degree to which the local government is involved with planning and is committed to a financial contribution to the project. The

Federal share is limited to 90 percent of the project cost.

As defined in this title, an urban area is a SMSA with a 500,000 or more population (the State may designate an area in States where there is no such SMSA). An urban university is one which is located in an urban area, draws a substantial portion of its students from said area; has the capacity to provide the services authorized, and offers a sufficient range of graduate or professional programs to sustain its offerings of services. A consortium can qualify for this program as long as one member meets all the qualifications.

The conference report authorizes the appropriation of up to $15 million for fiscal year 1981 under this title. This is not a large amount, but it is enough to get the program under way and to fund some projects, perhaps of a demonstration nature, during the initial program year.

The authorization levels are:

Fiscal year 1981—$15 million.
Fiscal year 1982—$25 million.
Fiscal year 1983—$35 million.
Fiscal year 1984—$45 million.
Fiscal year 1985—$55 million.

TITLE XII, GENERAL PROVISIONS

The provision for State agreements are modified to simplify the mechanism through which States provide assurances to the Federal Government for their participation in programs authorized under the Higher Education Act.

The States are given more flexibility in establishing a structure through which to perform federally required planning under the Higher Education Act, but broad participation continues to be assured.

The conference substitute authorizes the Secretary to make such modifications of any program under the act as she deems necessary in order to adapt such programs to the needs of the territories, and requires the Secretary within 18 months after the time of enactment to conduct an analysis of the unique educational needs of the territories.

The conference substitute also authorizes $2 million for each fiscal year through 1985 to support the cost of postsecondary education programs in Guam for nonresident students from other Pacific Territories.

The conference substitute establishes a National Advisory Committee on Accreditation and Institutional Eligibility to advise the Secretary.

TITLE XIII, MISCELLANEOUS PROVISIONS

The conference substitute amends the contingent extension provision of the General Election Provisions Act to authorize the contingent extension of any forward-funded program for 2 fiscal years.

The conference substitute amends the General Education Provisions Act to authorize the Congress to disapprove Department of Education regulations in whole or in part.

The conference substitute authorizes appropriations to the Secretary of Education for fiscal year 1981 of $2.5 million for the college science teacher program, and $5 million for the minority institution science program.

The conference substitute extends the life of the Commission on the Review of the Federal impact aid program until September 30, 1981.

The conference substitute amends the General Education Provisions Act to provide that no regulation affecting any institution of higher education in the United States shall become effective unless the agency promulgating such regulation publishes in the Federal Register an educational impact assessment statement which shall identify what information specified by the regulation is available from another authority of the United States.

The conference substitute adds, as a priority for research by the National Institute of Education, special problems of the nontraditional student. The authorization for the Institute is extended at the following levels:

$120 million, fiscal year 1981.
$130 million, fiscal year 1982.
$145 million, fiscal year 1983.
$160 million, fiscal year 1984.
$175 million, fiscal year 1985.

The conference substitute establishes an advisory council to evaluate the needs of Native Hawaiians and the effectiveness of existing State and federally assisted educational programs in meeting such needs. A total of $500,000 is authorized for the period of fiscal years 1981 through 1983.

The conference substitute authorizes a 1-year provision amending the impact aid laws to provide special assistance to local school districts facing influxes of Cuban, Haitian, and Indo-Chinese refugee children.

The conference substitute extends the authorization of appropriations for construction at Navajo Community College for 1 year and changes the authorization to an amount based on the actual cost of operation and maintenance of the institution.

The conference substitute makes the College of Micronesia a land grant college.

The conference substitute authorizes an appropriation of $750,000 per year to be matched by funds from private sources for the Robert A. Taft Institute.

The conference substitute authorizes $6 million for fiscal year 1981 for a grant to establish the General Daniel James Memorial Health Education Center to be located in the Tuskegee Institute in Tuskegee, Ala.

The conference substitute authorizes $750,000 for fiscal year 1981 to establish the William Levi Dawson Chair of Public Affairs at Fisk University at Nashville, Tenn.

Mr. President, I request unanimous consent that a summary of the differences between the first report and this report, be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXPLANATION OF CHANGES MADE BY SECOND CONFERENCE REPORT ON H.R. 5192

I. Modification of the NDSL Alternative Financing Mechanism:

The National Defense Student Loan program could be funded either as it exists under current law or through borrowing by the Secretary. The borrowing authority of the Secretary would be modified from the previous conference agreement. If appropriations are made to support borrowing, the Secretary would be required to borrow to support the program. If the Secretary in any years borrows $1 billion, then the NDSL collections available that year for loans on the campuses would revert to the Terasury.

The previous conference agreement required that the Secretary borrow the amount needed for full funding of the program—$3.4 billion—before the NDSL collections would revert to the Treasury. In other words, in FY 1979 for example, there is $760 million available for the NDSL program, which is composed of a capital contribution appropriation of $286 million and $474 million in collections and interest from previously made loans. If the Secretary borrowed $1 billion under this proposal, there would be $1 billion available for loans at the campus level and the $474 million would revert to the Treasury.

The Secretary would have to borrow at least $1 billion in each subsequent year for future NDSL collections to revert to the Treasury. If the Congress chose not to appropriate funds to support borrowing, the program would continue as it currently exists. If the program is funded through borrowing, each campus would be held harmless at its FY 1979 level of available loan funds.

This proposal achieves a savings for purposes of reconciliation of $378 million because of the recapture of the NDSL collections and their reversion to the Treasury.

II. Modification of the Parent Loan Program:

Eliminate all options for parents to begin repayment of a parent loan more than 60 days after taking out the loan. Increase the interest rate from 8 percent in the previous conference agreement to 9 percent. Thus, all parents desiring a parent loan would have to begin repayment within 60 days at 9 percent interest. However, if the annualized rate of the 91 day Treasury note becomes 9 percent or less, the interest rate on future parental loans would be 8 percent.

CBO assumes that there will be very little volume in the parent loan program since they believe that families will have their children borrow the maximum available at 9 percent with the in-school interest subsidy under GSL before the parents borrow. Under this assumption, this change produces a GSL entitlement savings of $1 million in FY 1981 and a savings of $5 million over the life of the bill. Others, including the administration, believe that there will be a substantial loan volume in the parent loan program and that the savings would be considerably higher, on the order of $50 million over the life of the bill. This proposal also counters the objection of those who erroneously interpreted the period of repayment deferment at 11 percent as a period during which parents would have "free money."

III. Increase the interest rate on Guaranteed Student Loans to new borrowers to 9 percent:

Again, if the annualized rate of the 91 day Treasury note becomes 9 percent or less, the future rate would be 8 percent. The original conference report had already increased the Guaranteed Student Loan rate from the existing 7 to 8 percent. The increased rate in this new conference report should result in $450 million in long term savings to the Federal Government.

IV. Reductions in Authorizations and Other Program Changes:

1. Reduce the authorizations for Title I, Part B, Education Outreach Programs to:

$20 million, fiscal year 1981, in lieu of $20 million, fiscal year 1981.

$30 million, fiscal year 1982, in lieu of $40 million, fiscal year 1982.

$40 million, fiscal year 1983, in lieu of $60 million, fiscal year 1983.

$50 million, fiscal year 1984, in lieu of $80 million, fiscal year 1984.

$60 million, fiscal year 1985, in lieu of $100 million, fiscal year 1985.

This achieves a savings of $100 million.

2. Reduce the authorization for the Basic Title III program to:

$160 million, fiscal year 1981, in lieu of $160 million, fiscal year 1981.

$175 million, fiscal year 1982, in lieu of $185 million, fiscal year 1982.

$185 million, fiscal year 1983, in lieu of $210 million, fiscal year 1983.

$200 million, fiscal year 1984, in lieu of $245 million, fiscal year 1984.

$220 million, fiscal year 1985, in lieu of $280 million, fiscal year 1985.

This achieves a savings of $300 million. At the request of the Administration the effective date is delayed until FY 1982. Therefore the FY 1981 authorization is dropped. The authorizations for the Challenge Grant program would remain unchanged.

3. Reduce the authorization for initial year Supplemental Education Opportunity Grants to $350 million per year from $400 million per year. This achieves a saving of $250 million.

4. Reduce the NDSL grace period before repayment begins to 6 months rather than 9 months. This would conform the grace period for NDSL to the new GSL grace period and facilitate loan consolidation. This achieves a saving of $70 million over the life of the bill.

5. Establish the minimum room and board allowance for dependent students commuting from home at $1,100 rather than $1,150 as previously agreed to in the conference. This achieves a saving of $80 million over the life of the bill.

6. Reduce the authorizations for Title V, Part A, Teacher Corps to:

$45 million, fiscal year 1981, in lieu of $45 million, fiscal year 1981.

$50 million, fiscal year 1982, in lieu of $70 million, fiscal year 1982.

$60 million, fiscal year 1983, in lieu of $75 million, fiscal year 1983.

$70 million, fiscal year 1984, in lieu of $80 million, fiscal year 1984.

$80 million, fiscal year 1985, in lieu of $85 million, fiscal year 1985.

This achieves a savings of $50 million.

7. Reduce the authorizations for Title VI, Part A, to:

$45 million, fiscal year 1981, in lieu of $45 million, fiscal year 1981.

$50 million, fiscal year 1982, in lieu of $55 million, fiscal year 1982.

$60 million, fiscal year 1983, in lieu of $70 million, fiscal year 1983.

$70 million, fiscal year 1984, in lieu of $80 million, fiscal year 1984.

$80 million, fiscal year 1985, in lieu of $85 million, fiscal year 1985.

This achieves a savings of $30 million.

8. Reduce the authorization for Title VII, Part A, to:

$100 million, fiscal year 1981, in lieu of $140 million, fiscal year 1981.

$100 million, fiscal year 1982, in lieu of $140 million, fiscal year 1982.

$100 million, fiscal year 1983, in lieu of $145 million, fiscal year 1983.

$100 million, fiscal year 1984, in lieu of $150 million, fiscal year 1984.

$100 million, fiscal year 1985, in lieu of $155 million, fiscal year 1985.

This achieves a savings of $230 million.

9. Reduce the authorizations for Title VII, Part C, to $80 million for each fiscal year rather than $110 million for each year as is contained in the current conference agreement. This achieves a saving of $150 million.

10. Reduce the authorizations for Title X, Fund for the Improvement of Postsecondary Education, to:

$20 million, fiscal year 1981, in lieu of $20 million, fiscal year 1981.

$30 million, fiscal year 1982, in lieu of $30 million, fiscal year 1982.

$40 million, fiscal year 1983, in lieu of $40 million, fiscal year 1983.

$45 million, fiscal year 1984, in lieu of $50 million, fiscal year 1984.

$50 million, fiscal year 1985, in lieu of $50 million, fiscal year 1985.

This achieves a savings of $5 million.

11. Reduce the authorizations for Title XI, Urban Grant University Program to:

$15 million, fiscal year 1981, in lieu of $15 million, fiscal year 1981.

$25 million, fiscal year 1982, in lieu of $25 million, fiscal year 1982.

$35 million, fiscal year 1983, in lieu of $40 million, fiscal year 1983.

$45 million, fiscal year 1984, in lieu of $50 million, fiscal year 1984.

$55 million, fiscal year 1985, in lieu of $65 million, fiscal year 1985.

This achieves a savings of $20 million.

12. Drop Title XIII of the conference report, Women's Worksite Development Demonstration Program, which is duplicative of the authority contained in Title I, Part B, Education Outreach Programs; that is, the Senate would recede on note 17 of the Title I, II and III comparative print, p. 97. This achieves a saving of $38 million.

13. Eliminate entirely the Administrative Simplification Study; that is, the Senate would recede on note 15 of the Miscellaneous Provisions comparative print, p. 27, rather than the House receding with an amendment. This achieves a saving of $1 million.

14. Reduce the authorizations for N.I.E. to:

$120 million, fiscal year 1981, in lieu of $125 million, fiscal year 1981.

$130 million, fiscal year 1982, in lieu of $145 million, fiscal year 1982.

$145 million, fiscal year 1983, in lieu of $165 million, fiscal year 1983.

$160 million, fiscal year 1984, in lieu of $190 million, fiscal year 1984.

$175 million, fiscal year 1985, in lieu of $215 million, fiscal year 1985.

This achieves a savings of $110 million.

Items 1–14 above, achieve savings of $1.4 billion. With the adoption of this package, the total cost of the bill would be $48.389 billion, which would be $12.2 billion less than the House-passed version of H.R. 5192 and $12.1 billion more than the Senate-passed version. The original conference agreement was $11 billion less than the House-passed version and $13.5 billion more than the Senate-passed version.

Mr. STAFFORD. Mr. President, 15 years ago, when we first passed the Higher Education Act, we responded to both the needs of the Nation as a whole and the aspirations of millions of people. We concluded that increased educational capability, adaptability and productivity, as well as national security. At the same time we faced growing public demand for increased educational access and opportunity as a way of improving the futures of individuals and their families.

The Higher Education Act continues to be important for all of these reasons. Today it is a crucial underpinning of this Nation's entire system of colleges and universities. Thousands of post-secondary institutions depend upon this legislation for their very survival, as probably at least one-third of this country's 11 million students depend upon our Federal student assistance programs. We have more than twice as many students as we had in 1965, in good part as a result of Federal policy. Some students participate in more than one program, as our system of programs is flexible enough to permit combinations of grants, loans and work-study consistent with the individual's desire to attend the institution which will best meet his or her aspirations.

I have pulled together the approximate number of participants in each of our programs during the last academic year. They are as follows: Close to 2,000 participants in the guaranteed student loan program; about 860,000 in the national direct student loan program; perhaps 970,000 in the college work-study program; 2,500,000 in the BEOG program and 640,000 in the SEOG program.

Much of the credit for all of this is of course attributable to Senator Pell, whose leadership has been acknowledged by both the House and the Senate in the conference committee's unanimous agreement to change the name of the BEOG grants to Pell grants. Senator Pell's contribution to American education is truly historic, and it has been a privilege and a pleasure to work with him in developing this legislation.

Across the years we have revised the Higher Education Act on several occasions, for example by providing increases in grants and loans in order to keep up with inflation and in order to increase access for the inflation-pinched middle-income groups in our society, as we did in 1978.

The legislation before us represents 2 years of work, the suggestions of dozens of Senators, and a complete rethinking of the appropriateness of existing legislation for the 1980's. The result is an updating of the entire Higher Education Act, including a dozen titles not related to student assistance. Among them are titles which contain provisions for continuing education, developing institutions, libraries, and other academic facilities.

Following the recommendations of the President's Commission on Foreign Language and International Studies, we incorporated, as title VI, a thorough revision of title VI of the National Defense Education Act. This is the kind of rethinking that we have done throughout the legislation that is before us today. The significance of this legislation goes far beyond student assistance.

More than 90 percent of the spending authorized by this act, however, is in title IV, which covers student grants and loans. The student assistance programs are indeed expensive. They are also a good investment, not the least in the sense that college graduates across their lifetimes pay about three times as much in taxes as nongraduates. The loan program also is a good investment in the sense that about $350 million in subsidies generates about $5 billion worth of loans.

Earlier this month the Senate, by two votes, voted not to accept the conference report on this reauthorization because of its financial implications, particularly with regard to the student loan programs.

As the majority in this body wished, we returned to conference with the House in order to reduce costs, and we negotiated a new conference report. The

House conferees agreed to additional cuts, beyond those they had accepted during our first conference. The House had accepted that first conference report by a vote of 373 to 16. The House has also accepted the second conference report, which is before us now.

This conference report achieves at least $600 million in long-term savings, primarily by increasing the GSL interest rate and making changes in loan repayment requirements. It also reduces overall authorizations by $1.4 billion. For fiscal year 1981 it is less expensive than the alternative, which is continuation of existing law, by $443 million.

It is vitally important that we pass this legislation, which updates the Higher Education Act and saves money while affecting millions of people and thousands of institutions.

Mr. President, we have all been greatly concerned about economic problems and their pragmatic solutions, and properly so. We have needed to save money, and we have done that.

There remains one perspective which I wish to recall. What this country means to its people is the freedom to be whatever one is capable of being. All across our country, millions of people are keenly interested in this act of Congress because it allows our people, regardless of background or income, to become anything they want to be. It is in this broadest sense that this act of Congress is government at its very best.

I encourage everyone to support this bill.

As a conferee, I was particularly concerned about the programs available to institutions in small and rural States, and about the access opportunities for students in such States. Critical to this concern is the ability to improve access for adults and nontraditional students whose educational needs have been inadequately served for reasons such as rural isolation. Under title I, continuing postsecondary education program and planning, it was necessary to assure that each State would receive sufficient funding to meet the needs of this population. Under this bill each State will receive a minimum of $187,500 so that at least a basic program can be provided.

It is particularly important in small States that adequate funding be available for the administration and coordination of these programs. I would like to clarify a portion of the report, regarding title I funding, so that the intent is clearly understood by all, including those staff in the Department of Education. On page 151 of the conference report (96–1337) the following language appears:

> Each state shall receive an allotment of funds from available appropriations based 60 percent on relative state adult population and 40 percent on an equal basis, except that no state shall receive less than $187,500 in any fiscal year.

It was also my understanding, and I would like to check this out with the chairman, that in the event an appropriation is not sufficient to provide the minimum of $187,500 for each State, that each State's allocation would be reduced on a pro rata basis and not switched back to the formula, as happened recently. This switch created havoc throughout the program. I wonder if it was this intent and also the understanding of the chairman of the subcommittee?

Mr. PELL. I believe the Senator states very accurately my understanding of what the conference agreed to.

Mr. STAFFORD. I hope that understanding will be reflected. I hope the problem of reduced appropriations never has to be faced but if it is that it will not have to be resolved as it was before—with the passage of emergency legislation.

I thank the chairman for this clarification.

Mr. PELL. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I commend the Senator from Rhode Island (Mr. Pell) and the Senator from Vermont (Mr. Stafford) on the outstanding job they have done in this conference. I am voting in favor of this more fiscally responsible bill.

The conference report costs $800 million less than the first conference report during fiscal year 1981, and $4 billion less over the next 5 years. The Senate conferees have done a responsible job while providing a very generous higher education bill. Therefore, Mr. President, I support this conference report on the higher education reauthorization bill.

Earlier this month, the Senate voted down the first conference report on this bill. The Senate vote was not a vote against Federal higher education programs. Rather, it was a vote in favor of the generous yet fiscally responsible approach taken in the bill passed by the Senate in June.

At the time of the Senate rejection of the conference report, there were those who said that the Senate action killed the chances of enacting a higher education bill this year. Clearly, this is not the case.

But the Senate defeat of the first conference report did enable the Senate conferees to secure compromises from the House that met the Senate's concerns. The major objection we raised to the first conference report was its cost. The second conference report reduces the cost of the bill by $0.8 billion in fiscal year 1981 and by $4 billion over the next 5 years.

Moreover, it meets all but $35 million of the reconciliation outlay requirements of the Labor and Human Resources Committee under the first budget resolution. It is our understanding that the committee will meet the remainder of the reconciliation requirement through other provisions subject to conference on the reconciliation bill.

At the same time, the second conference agreement meets the needs of both students and higher education institutions.

It provides for a 44-percent increase over 5 years in the maximum level of the basic education opportunity grants, now called Pell grants, available to help needy students defray the costs of higher education.

It contemplates a 25-percent increase in the volume of subsidized loans available to needy students.

And it provides a new guaranteed loan program for parents.

Thus, the Senate vote against the first conference report has helped produce better legislation—better for students, better for colleges, and better for taxpayers. I commend Senators Pell and Stafford and other conferees for their strong efforts in upholding the Senate position and bringing this conference report back to the Senate.

Mr. STAFFORD. Mr. President, I yield to the Senator from Oklahoma such time as he needs.

Mr. BELLMON. I thank the Senator from Vermont.

Mr. President, I will vote against this conference report. Before I explain my opposition, however, I should like to commend the Senate conferees. I know that they have labored long and hard to bring this result to the Senate. I know the House and Senate were far apart in their approach to this legislation, and the task of the conferees, therefore, was difficult.

When this bill was last before the Senate, Mr. President, we rejected an earlier conference version. None of us like to oppose student assistance legislation. The vote on the earlier conference report was a difficult one for most of us.

The earlier conference report saved only $20 million in entitlement spending in fiscal year 1981. This conference version will cost $800 million less than the first conference report. Together with other items still in conference (Federal employees disability benefits and railroad retirement) this should enable the Senate Labor and Human Resources Committee to satisfy its reconciliation instruction. This conference report will achieve about one-half the entitlement savings the Senate-passed bill would have achieved over the next 5 years.

The earlier conference report, if fully funded, would have cost $14 billion more than the Senate-passed bill over the next 5 years. Fully funded, the new conference agreement will cost about $10 billion more than the Senate bill through fiscal year 1985.

The point is, Mr. President, the Senate conferees did go back and insist on greater savings after the Senate rejected the earlier conference report—and this new conference report is a significant improvement over the earlier one on budgetary grounds.

I will vote to reject this conference report, Mr. President, because I still think the bill costs more than is necessary, and because this conference report does not address the problem of loan availability for students in States where neither banks nor State agencies are adequately meeting the need for loans.

Moreover, this conference report continues the unwise practice of providing an in-school interest subsidy to every student who borrows under the guaranteed loan program. That is—no matter how wealthy the student's family—the Government will pay interest on behalf of every student while the student is in school, and no student will ever be expected to repay any of that interest cost.

There have been many arguments as to whether the Metzenbaum amendment, adopted by the Senate, is the best way to eliminate unwarranted subsidies for interest cost while students are in school. Most of us would agree, however, that families who are well-off should bear the burden of some or all of these interest costs. I am disappointed that there is no attempt in this conference report to stem the tide of dramatically increasing Federal spending associated with this generous subsidy.

I am also disappointed that the conference version of the bill will make loans available to needy students through the new direct loan program at 4 percent interest. First, I am astounded that anyone thinks a 4 percent interest rate is appropriate today. I know the rate in the old program was 3 percent, but that was authorized in the sixties. More importantly, this 4-percent interest rate will generate so much demand that the direct loan program will never be able to meet the needs for which it was conceived.

This brings up the question of how the Federal Government can insure availability of educational loans for needy students in States where banks and State agencies will not meet that need. Clearly, at a 4-percent interest rate, we cannot afford to expand the national direct student loan (NDSL) program to meet those needs; and if the NDSL cannot be used for that purpose, it might just as well never have been included in the conference report. Meeting the needs of students and who are now denied access to loans was the primary reason a new direct loan program was proposed by Senator KENNEDY and myself when we introduced S. 1600 last year and by the administration when it made its student loan proposals earlier this year.

I shall not go on at any greater length, Mr. President. I expect the Senate will adopt this conference report. But I would like to say a few words of caution in closing. This bill includes dramatically increased authorization for grant assistance, for institutional assistance, for work study, and for other special purposes. I fear that, given the levels of entitlement spending in this conference report, Congress will not be able to afford to fund those increased authorizations.

Generous interest subsidies, once enacted, tend to go on and on. They can not be changed without changing the basic legislation. So when it comes time to tighten our belts, it is the appropriated programs which bear the burden. We saw that happen this year, when every recipient of a basic educational opportunity grant got $50 less than they expected—appropriations could cut that program while it could not hold down the interest subsidies under loan programs because those are entitlements.

As you all know, I am leaving the Senate this year. But you may find yourselves faced next year—or the next—with a choice of amending this bill, or once again cutting back on appropriated programs. I would have preferred to vote for a bill which made the changes now which would put these programs on a sound basis for the 5 years of the authorization. I do not believe this conference report meets that test and so, Mr. President, I oppose it.

Mr. PELL. Mr. President, I thank the chairman and the minority member of the budget committee, Senator HOLLINGS and Senator BELLMON, for their kind words.

I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I wish to express my support for the conference report on H.R. 5192, higher education amendments of 1980. This is the second conference report on H.R. 5192. The previous report was rejected by the Senate by a vote of 45 to 43 on September 4, 1980. Many of us at the time the original conference report was considered had serious concerns about the cost implications of the report, particularly with respect to the impact the legislation would have had in fiscal year 1981. After the rejection of the former conference report, the Senate conferees were charged with the responsibility of achieving additional cost savings in conference. This they have done.

The new conference report on H.R. 5192 addresses the concern which the Senate raised when the former conference report was being debated. Most importantly, it meets the reconciliation requirements of the Budget Act. The total authorization levels are substantially below the original conference report.

I do not propose to address the new conference report in any detail. I will say, however, that it authorizes balanced increases in grant assistance and in student loans to help needy and middle-income students meet the increased costs of college at all types of educational institutions. At the same time, it meets important reform in the loan program aimed at reducing default rates and in other respects eliminates some of the problems and deficiencies in the existing legislation.

I believe that the new conference report strengthens support for higher education across the board and also strengthens the support for such priorities as continuing education, developing institutions, libraries, international studies, and urban universities. I think it will be instrumental and important in developing improved higher education policies and in enabling students who would not otherwise be eligible to attend college.

I am convinced that the new conference report on H.R. 5192 is good, responsible, and desirable legislation. It is overwhelmingly supported by educational authorities across the Nation and has been adopted by the House of Representatives on a voice vote. I hope that the Senate will act promptly on the conference report so that the measure can be cleared for the President's signature.

Mr. PELL. Mr. President, I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I commend the managers of the bill for the majority and the minority. This was a very controversial piece of legislation. Originally, there was an amendment in the bill that I hoped would remain in the bill, but it has not. The objectives of cutting the budgetary expenditures have been achieved.

Mr. President, as an active participant in this legislation from the beginning stages, I should like to make a few remarks about this second conference report. First, let me state that I intend to vote for this report. I believe most of its provisions are needed by students and universities throughout the country.

It provides funds and other assistance for college libraries, to train teachers for handicapped schools, for international and foreign language studies, for construction of facilities, for graduate and postgraduate fellowships, for urban universities, and for a variety of other programs at our colleges and universities. I support those programs, and I believe it is important to approve them. But having said that, I must also state that I still have many problems with the cost of this legislation, especially the student loan sections included in this overall bill.

On September 4, when the Senate voted to reject the first conference report, most of the opposition was due to the tremendous cost of the student aid programs in the report. According to the Congressional Budget Office, the first conference report would have cost the Government $13 billion more in total costs than the bill originally passed by the Senate. Of that amount, $7 billion was attributable to the costs of the student loan programs.

The second conference report now before us includes several modifications. It increases the guaranteed student loan interest rate to 9 percent, compared to 7 percent in current law and 8 percent in the first conference report. It also raises the interest rate on the new parent loan program from 8 percent in the first report to 9 percent, reduces the grace period to start repayment of the national defense student loan program from 9 months to 6 months, and makes several other changes. Significantly, this new report also meets the Senate Budget Committee reconciliation mark, primarily by requiring the Secretary of Education to borrow Treasury bonds to capitalize the NDSL program. This will allow the Federal Treasury to recapture an estimated $378 million in fiscal year 1981 from old NDSL funds that would otherwise go into university revolving fund.

The second conference report does make those modifications. But by the committee's own estimates, those changes would still save $1.4 billion in authorizations in fiscal years 1981–85. It will also save $3 billion in the costs of student loan programs. This means that the report is still almost $1 billion more expensive than the Senate-passed bill and is only $4 billion less expensive than the first conference report which we defeated in the Senate.

I am concerned about the rising cost of these programs. Especially the student assistance programs. But I am equally concerned about the policy involved. Under the budget process, the education function was instructed to cut spending in fiscal year 1981 by $350 million in authority and $450 million in outlays. This year those cuts were made by changing the NDSL program, as I described earlier. But what will happen next year? Where will the cuts come from? Obviously, we will not be able to cut back on the guaranteed student loan program, because for all practical purposes it is an entitlement program. It allows any full-time college student, regardless of income, to take out a guaranteed and subsidized student loan, and the Government will be obligated to pay those uncontrolled costs. If budget cuts are required next year, we will not be able to cut back on those previous GSL obligations, so we will be forced to turn to the funds which are still left under our control—the basic education grants which go to the needy students. In other words, we spend our funds to assist students in the middle- and upper-income brackets, and then we are forced to cut back on grants to the needy. Frankly, Mr. President, I think that turns our educational policy on its head and moves us in the wrong direction.

The amendment I sponsored, passed by the Senate in June by a vote of 56 to 41, addressed these concerns. That amendment would have required students who borrow GSL loans to repay to the Government the in-school interest subsidy once they are out of school and working. In other words, students would have access to guaranteed loans to help them get through school, but the loan would no longer be interest free. Instead, students would pay an effective rate of about 7 percent interest, even when the GSL rate is 9 percent, because the interest would not compound while the student was in school. According to the CBO, that amendment would have saved the Government more than $3 billion in long-term costs, primarily by discouraging students in the upper income brackets from taking out loans unless they were truly needed for college expenses. This is needed to counter the trend toward so-called discretionary borrowing, where students are taking out GSL loans and using them for nonschool purposes.

I believe that amendment would have served the dual objectives of saving $3 billion, while at the same time retargeting the program to those students who truly need educational assistance. And it would have done so, according to CBO, at a cost to the average borrower of $4,000 of only $7 per month over the life of the loan repayment period. As I stated before, I believe this amendment was a sound policy, and I was disappointed that it is not included in this second conference report.

I am supporting this legislation, because I think we need to move ahead with these programs. But as a supporter of education, I am concerned about the cost and direction of these programs. Unless those of us who support higher education work to reform and improve those programs, others who are not so supportive will move to strike these expensive and untargeted programs altogether. I believe those are important issues that we will continue to face in the years ahead.

Mr. WILLIAMS. Mr. President, I have a question for the chairman of the Education Subcommittee, the Senator from Rhode Island, concerning the intent of the conferees with respect to new provisions of the college work study program. As I understand the provisions of the conference report, new discretionary authority is granted, in section 446(b), to the institutions to utilize 10 percent of their college work study funds during the next fiscal year. In other words, if an institution so chooses, it has the authority to use 10 percent of the funds granted to it for work study payments to students during the next academic year.

Any additional moneys left over at an institution, over and above the 10-percent carried over into the next year, would remain available to the Secretary for reallotment to other institutions which demonstrate need for those funds. In order to keep these reallotment funds from reverting to the Treasury, the conference report gives the Secretary of Education the remainder of the current fiscal year plus the next fiscal year to expend those funds.

It is my understanding that certain officials of the Department of Education are now reading that new authority as a mechanism for saving money. It has been reported to me that the Department plans no reallotment of unused college work study moneys next year, relying on this new authority granted to the Secretary to protect the funds. Since the amount of funds available for reallotment this year amounted to $20 million, I am concerned that the intent of the conferees and the Congress be expressed on this provision so that bureaucratic budget cutters do not use this new authority improperly.

I, therefore, ask the Senator from Rhode Island to explain the intent of this new authority.

Mr. PELL. The Senator is correct that the intent of the conferees was not to reduce the amount of funds available for reallotment under the college work study program; rather our intent was to protect those funds from reverting to the Treasury.

Our intent was and is that the Secretary follow the following steps in making allotments to institutions and making reallotment to other institutions of unused college work study funds.

First, the Secretary would make a normal grant allotment to an institution, based on need, but in no case less than the institution received during fiscal year 1979. Then, if the institution were unable to utilize all the funds so granted, it would have the option of carrying over into the next fiscal year 10 percent of its funds.

Any funds then remaining would revert to the Secretary for reallotment to institutions with remaining need. The first half of those funds available for reallotment shall be used to fill need under the cooperative education program, and the second half of those funds would be available for making reallotments under the college work study program.

Any funds remaining after both of those events occur could be carried over by the Secretary into the next fiscal year, and be used for making grant allotments to institutions under the college work study program. I am pleased that my colleague asked for this clarification, because any other reading of this conference report would be in violation of the intent of the conferees and the Congress.

Mr. EAGLETON. Mr. President, the conference committee adopted a formula for determining an institution's need for SEOG funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions, Pell grants, SSIG assistance including that portion of State funds required to match the Federal SSIG funds, and 25 percent of grants and awards made by the institution from its own resources. I am very concerned about the SSIG portion of the formula with respect to what actually constitutes the State match. It has come to my attention that some States do not provide SSIG matching funds from State appropriations, rather institutions within that State must provide the matching funds from their own resources. Utah, for instance, requires private colleges and proprietary schools to use their own funds for the SSIG match. This situation could result in a double count of the institution's aid in the formula. The question I have is how is this matching fund to be counted in the formula? Is it State aid or institutional aid or both?

Mr. PELL. I understand the Senator's concern over this matter. It is the intent of the conference committee that in those States which do not directly appropriate a SSIG match, but instead require that the match be provided by the institution, that contribution by the institution for the State match is to be counted as State aid, not institutional aid. This, as you suggested, would prevent a double count of these funds and would also assure that State aid, for the purposes of this formula, is counted the same for all types of institutions.

Mr. JAVITS. It has also come to my attention that a number of States such as Rhode Island, New Jersey, Massachusetts, and Pennsylvania allow portability of their State grants. In other words, a student receiving a State grant from New Jersey can use that award in any other State. If that student attends a college in Pennsylvania, how should the college count that grant for the purposes of the SEOG formula? Since the grant comes from another State, should the college not count it or should it be counted as State aid regardless of where it came from? Also, how should institutions that have branches in more than one State count their State aid?

Mr. PELL. Regarding the Senator's first point, it is my understanding that an institution is to include as State aid for the purposes of the formula any grant or scholarship a student attending that institution receives from any State. It does not make any difference where that State grant came from. The institution will then total all its State aid and have it "taxed" for the purposes of the formula at the rate used for that particular State in which the institution is located.

Regarding the second point, I believe that if an institution operates in more than one State and submits a combined application for SEOG funding for all its branches, all State aid received by all students attending the branches is to be included as State aid of the principal institution. It is to be then "taxed" at the rate for the State of that principal institution.

Mr. EAGLETON. I have one last question. I wish the Senator would state for me the precise definition of the "tax" rate to be applied to State aid for this formula. I understand that institutions themselves cannot make a distinction between an SSIG-supported grant and a regular State grant. Thus, some sort of "tax" rate must be applied to the total State aid received by an institution so that the SSIG plus State matching amount can be determined.

Mr. JAVITS. The "tax" rate to be applied to the total State aid of an institution for any given State is the amount of the State's Federal SSIG allocation plus State matching funds divided by the total amount of State-source grants and scholarships. To determine the amount of SSIG plus State matching funds of an institution, the total State grants and scholarships received by that institution would be multiplied by the "tax" rate of the State in which the institution resides. I want to emphasize that for the SEOG formula the SSIG portion is to include only Federal SSIG funds and only those State funds used to match the Federal payment. I also want to emphasize that those other issues of portability and institutional matching of SSIG we have attempted to clarify for you must also be taken into consideration.

Mr. PELL. I agree completely with the Senator's clarification of the conferees' intent.

Mr. STAFFORD. Mr. President, I wish to express my appreciation to the staff on both sides of the aisle for their assistance to Senator PELL and me in the handling of this measure.

I pay my respects and appreciation particularly to the chairman, Senator PELL, for his adroit and skillful management of the entire matter.

Mr. PELL. I thank the Senator. Never before have I had a colleague on this subcommittee who has worked with us more closely than has the Senator from Vermont. We have been able to exchange ideas, and it has been a pleasure to work with him.

We could not have had the compromises we accomplished without the excellent work of the staff members, Mrs. Jeán Frohlicher and Mr. Rick Jerue. I pay my tribute to them and to all staff members on both sides of the aisle. As we all know, if we are honest with ourselves, the nitty-gritty work of much of the legislation is drafted by individuals working under our direction.

Mr. RANDOLPH. Mr. President, this is the second conference report on H.R. 5192 to come before the Senate. The original agreement was defeated by a vote of 45 to 43 on September 4. It had been adopted by the House of Representatives by an overwhelming majority vote of 373 to 16. I believe our vote today will also be overwhelming for adoption.

The reasons for defeating the first conference agreement, were basically concerns over cost implications—and particularly the absence of a required "reconciliation" agreement savings for fiscal year 1981. We were short in the amount of $50 million in a year of balancing the budget against a $30 billion-plus deficit at this time—with no particular assurances as to what the final deficit figure will be.

We have heard recently the word "reconciliation." It may be time to stop and consider just what it does mean. Reconciliation is a new procedure—the result of a never-before-used, little-known provision contained in the Budget and Impoundment Control Act.

Early this year, I believed that reconciliation agreements in the budget process were not totally binding on authorizing committees. I believed that savings recommended under budget authority and outlays for a given fiscal year were just that—recommendations. That is not what reconciliation means.

During the Senate-House conference on the Higher Education Act, we recommended certain levels of funding for particular programs. They are nothing more, or less, than recommendations. But they are a firm statement of the amounts we believe are needed to fulfill the objectives of the programs authorized to serve the people they are intended to serve.

The record will indicate that many programs authorized by our committee, and other committees of jurisdiction, are never funded. The record will, more often than not, show that very, very few programs are ever fully funded during the appropriations process. We acknowledge that authorizing committees legally, can only recommend to our colleagues on the Budget and Appropriations Committees certain funding levels. We urge full, or at least adequate, funding levels.

The defeat of the original conference agreement on higher education was the result of questionable arguments and presentations on the overall adverse, according to some Members, effect the higher education bill would have on the Nation's economy had it passed as originally reported.

One of the winning arguments was the fact that the recommended levels of savings recommended in the reconciliation bill, a figure of $350 million, had not been met. CBO estimates were that we had achieved $300 million in savings toward meeting reconciliation.

The first conference report on H.R. 5192 was $11 billion less than the bill originally passed by the House of Representatives, making it truly cost effective over the long-range in terms of savings. Our short-range savings of $300 million in fiscal year 1981 was $50 million below the figure contained in the reconciliation bill.

This conference agreement is $12.2 billion less than the bill first passed by the House—representing additional long-term savings of $1.4 billion over the original conference report.

For reconciliation purposes, this conference agreement saves not $350 million as recommended, but $378 million.

Mr. President, I urge adoption of this conference agreement. If there is no agreement, there will be neither the time, nor the inclination on the part of the House, to name new conferees to debate the bill in conference for a third time.

If this agreement fails, it will mean a simple extension of current law for 1 year—fiscal year 1981—the year where savings are mandated under the reconciliation bill in order to balance the budget. If current law is extended through fiscal year 1981, it will cost nearly $450 million more than the conference agreement before us.

Having achieved long-term savings, and having complied with the reconciliation mandate on short-term savings, I feel conferees were able to retain our commitment to providing balanced assistance to both the public and private higher education sectors. We have, while keeping down costs, kept our promise to working class families, under the Middle Income Student Assistance Act, that assures parents and students access to loans regardless of family income.

Our gratitude goes to our subcommittee chairman, Senator CLAIBORNE PELL, who took the bill back to conference to champion an unpopular cause to understandably reluctant House conferees—reluctant because in terms of dollar savings achieved in the original report. They were not amicably disposed toward further reductions in these vital education assistance programs.

Senate conferees were confident the original report had achieved acceptable savings. Implicit in the 45 to 43 vote was to reduce authorization levels lower. I applaud Senator PELL's persuasion of alternative solutions to our dilemma, and I appreciate the major concessions on the part of House conferees, made in a spirit of conciliation. They met the Senate conferees' responsibility to reduce those costs without altering the structure of the bill and without virtually a moratorium on higher education spending in fiscal year 1981.

I hope that our constituencies in the 50 States will know that as members of the authorizing committees in the Senate and the House, the conferees know there is a need for student aid, they know why the need exists, and where the needs are greatest. Our original conference report represented our collective cost consciousness. I am not convinced that cutting student assistance is either fiscally responsible, or cost-effective in the long run. Students are victims of inflated tuition and related educational expenses, not the cause of them. Poor and near-poor parents of deserving children who want and need access to higher education opportunities, are hard pressed to meet higher costs of education. They do not create them.

When the original conference agreement was in the Senate, opponents stated that the bill cost too much because it did not place an eligibility income cap on students and their families for "needs based" purposes under the guaranteed student loan program. It was not within the scope of the Senate-House conference to reimpose an income cap on GSL loans. We could not have legally reported a bill from a conference containing an income cap on guaranteed loans.

The conference agreement on H.R. 5192, the Higher Education Act Amendments of 1980, is a valid compromise and deserves our support.

Mr. CHAFEE. Mr. President, as one who opposed the original conference report on the Higher Education Act, I would like to voice my strong support for this compromise and urge my colleagues to approve it. I would also like to commend Senator PELL and the other conferees for their diligent work and timely resolution of the differences between the Senate and the House on this bill.

This conference report represents an important affirmation of our commitment both to strong Federal support for higher education, and to fiscal responsibility. I believe this bill is the best example of the fact that we can accomplish both these goals if our resolve is firm enough.

Mr. President, I believe that we have no higher priority than assuring that all Americans have the opportunity for the best possible education. The future progress of any nation depends on a well-educated population. No one can dispute the importance of a solid base of Federal support for higher education. But I believe we can assure needed support for post-secondary education, and still live within the budget which the Congress has set for itself. Even though we may not all agree with every provision of this bill. I believe it is a fair and equitable compromise which balances many diverse views and opinions. It continues the many valuable programs which assist institutions of higher education, and provides financial aid to many students. At the same time, it is consistent with the budget which the Congress has previously approved. I believe it deserves the support of the Senate, and hope my colleagues will vote for its passage.

Mr. MITCHELL. I am pleased to be able to rise in support of this conference report on the Higher Education Act Amendments of 1980.

No one looking at the vital programs of aid to colleges, to minority institutions, and, most importantly, to students themselves, could fail to be pleased that this important legislation will be enacted this year.

The version of the bill before us today demonstrates the validity of the position taken by the Senate: That the unacceptably high spending envisaged in the original conference report could, in fact, be reduced without material harm to the students aided by these programs.

Although the present version of the measure does not confront the structural changes that should be made to target loan interest subsidies to students who need the help, the conferees were able to report a bill whose 5-year costs will be $4 billion less than the original version.

The Senate conferees are to be congratulated for their successful effort in achieving this spending reduction in what was an inordinately expensive piece of legislation. The original conference report would have cost $51 billion over 5 years; it subsidized guaranteed loan interest rates of 8 percent; it permitted parents the option of borrowing $3,000 for 4 years, interest-free; and it made no effort to hold down costs in the burgeoning loan program itself. There is no income limit on the guaranteed loan program—a shortcoming that should be remedied by the next Congress—and at a time when budgets for all programs are austere, it would have been unconscionable to mortgage our educational dollars for the next 5 years to such a commitment, with no effort at restraint.

The change the conferees made to eliminate the option of a 4-year repayment grace period for parental loans is an improvement. It will assure that these subsidized loans are taken out only by those who need the money. And it will dispel the concern that wealthy families might borrow the money interest-free for 4 years, even if they were not in need of it.

The reduction in the grace period for student repayment after graduation to 6 months, rather than 9 months, speeds the return of a portion of the taxpayers' subsidy on these loans, and is a desirable improvement.

The increase in the subsidized interest rate to 9 percent, rather than 8 percent, is a reasonable adjustment, in light of the interest rates businessmen and home buyers are faced with in today's economy. This is the interest rate the Senate approved, and it will mean significant savings in the Federal subsidy over the life of the loans made.

In all, this bill will save almost $800 million in fiscal year 1981, a saving which almost meets the budgetary discipline, and a substantial improvement over the first conference version which came before us.

The bill is not ungenerous in its aid to students: It will permit a 44-percent increase in the maximum educational grant, which goes only to lower-income students, and it will provide for a 25-percent increase in the volume of subsidized loans under the direct student loan program, which is also targeted to lower-income students.

These improvements in the targeted aid programs will help broaden access to higher education by all sectors of our society. They merit the support of all who value the principle of equal opportunity. I am glad that reasonable improvements in the programs have been retained. I am confident they will represent a valuable aid to many thousands of students and their families in the coming years.

I am also glad that those who prophesied that Senate rejection of the first conference report would kill the chances of enacting a higher education bill this year have been proven wrong. The Senate vote did nothing of the kind. Instead, it has given the Senate the opportunity to vote for a much improved measure, which strikes a far more reasonable balance between support for higher education and fiscal responsibility.

● Mr. JAVITS. Mr. President, I support the second conference report on H.R. 5192, the Higher Education Amendments of 1980.

I must say that I regret having to bring a conference report on this bill back to the Senate a second time, but the Senate spoke its will on September 4 and, by a vote of 43 to 45, chose not to adopt the conference report. As an author of the original Higher Education Act of 1965 and of each of its subsequent reauthorizations, as one who worked with my colleagues on the Education Subcommittee on this bill for well over a year, and as a conferee, I believed that the original conference report represented a balanced, judicious, and cost-effective Federal policy toward higher education. I so stated here in this body on September 4 during debate on the first conference report.

Mine, however, on September 4 proved to be a minority view, and the present conference agreement reflects the stated position of the Senate on these programs. It provides for the short-term savings in student loan programs necessary to meet budget reconciliation requirements in fiscal year 1981, and for long-term savings in these programs; $378 million in fiscal year 1981 cost savings are generated by mandating that the Secretary of Education borrow from the Federal Financing Bank at least $1 billion, to be made available for National Direct Student Loans, and by reverting the current NDSL revolving fund to the Treasury.

Long-term savings of more than $450 million are generated by accepting higher interest rates on guaranteed student loans and parental loans and by reducing the grace period for repayment of NDSL, both consistent with the bill, S. 1839, as originally passed by the Senate.

Mr. President, it must be clearly understood, however, that these savings from the original conference agreement come principally from the reduction of capital for loans available to students, and from an increase in interest rates to be paid by students. I am not yet convinced, despite the apparent conviction of this body in its September 4 vote, that this is wise policy at a time when the rise in the cost of higher education exceeds the rate of inflation and at a time when we should reaffirm, rather than reduce, our commitment to the future of our Nation.

We, as conferees, took little pleasure in having to bring this legislation back to conference. Our counterparts on the House side were even less amenable, having received a 373 to 16 vote in favor of the original conference agreement. The House conferees came a long way, in this conference report, from that substantial mandate, and they must be congratulated for their courage and their willingness to conciliate. Once again, I gratefully acknowledge the exceptional work of Chairman PELL, Senators WILLIAMS, SCHWEIKER, STAFFORD, and the other Senate conferees in achieving this conference agreement, and finally must applaud the work of Blair Crownover and Steve Cope, the redoubtable legislative counsel for the Senate and House respectively, without whose diligence and judgment we would not have had a bill, much less a second conference agreement.

Mr. President, I urge the adoption of the conference report.●

● Mr. DOLE. Mr. President, 3 weeks ago, we voted on the first Higher Education Act conference report. At that time this report was defeated by a narrow margin of 2 votes and sent back to conference. The Senator from Kansas is pleased to have been among the 45 Senators who voted in favor of this original conference report, and I will therefore support the second conference report which we have before us for consideration today.

At the time that the original report was sent back to conference, there were certain budgetary concerns that were manifested by many of my colleagues. This new report eliminates the reasons for the previous complaints and sets forth additional savings to the Federal Government. It is the belief of the Senator from Kansas that these additional budget cuts have been carefully evaluated in ways that will not be damaging to the essence of the various student loan programs.

Mr. President, given the commercial interest rates on loans, the 1-percent increase in the guaranteed student loan program from 8 to 9 percent and the 1-percent increase in the parent loan program from 8 to 9 percent seems quite reasonable and still a bargain besides.

There were some other changes in this second conference report that meet with my approval. When we first debated the Higher Education Act amendments on the floor of the Senate this year, I voted in favor of an amendment proposed by the distinguished Senator from Ohio that would have eliminated the in-school interest subsidy on certain student loans. I think that the concerns which Senator METZENBAUM expressed at that time have been mitigated by requiring that parents who take out loans to help them pay their children's tuition begin paying them back within 60 days. A combination of this requirement and raising the interest rate serves to reinforce the intent of this parental loan program: That it be strictly a program to meet a family's cash flow problem when they have to pay their children's tuition. This addresses a previous concern that there was a lot of abuse in this program, because some parents had a tendency to regard these loans as potentially "free" money that they could borrow to reinvest at higher interest rates.

In addition, the new report incorporates further savings by reducing the grace period on direct student loans from 9 to 6 months, and reduces the room and board allowance in student assistance programs for dependent students who commute; this allowance has now been reduced from $1,150 to $1,100.

Mr. President, these is another change in this new conference report that causes me some concern, simply because I am not certain that in the long run the implementation of this system will be as effective as the current structure of the national direct student loan program. I am referring to the alternative funding mechanism that the Secretary of Education is required to utilize under this second conference report. This new change would mean that all direct student loan collections would revert back to the Federal Treasury. By implementing this, we are instituting modifications in a system that will necessitate an increase in the Federal bureaucracy. I have always been in favor of encouraging the participation of the private sector of our society in as many Federal programs as possible, because Government does not necessarily do a better job. Also, it is not really known how much more this kind of a system will eventually cost.

Mr. President, the Senator from Kansas is pleased to support this second conference report on the Higher Education Act Amendments of 1980, because any investment this country can make in providing educational opportunities for all our citizens will ultimately benefit the entire society in which we live.●

● Mr. BIDEN. Mr. President, I support the higher education conference report which will be before the Senate shortly.

There is absolutely no question that many changes made in the bill are desirable and necessary changes. The basic education opportunity grant or Pell grant amounts have been increased to take into account the effects of inflation on college tuitions. The bill retains the commitment that Congress made to students and their parents in 1978 with the enactment of the Middle-Income Student Assistance Act. This bill expanded availability of Federal financial assistance to middle-income students and their families.

I supported the original Senate bill when it passed the Senate on June 24. Unfortunately, the House passed a bill which was far in excess of what we could afford this year. Although my colleagues Senators PELL and STAFFORD attempted to bring the House down to a more realistic level, the first conference agreement was more expensive than we could afford.

I would like to emphasize that my major concern with the first conference report was its cost, not because of specific provisions of the bill.

The second conference report however reduces the cost of the bill by $800 million in fiscal year 1981 and by $4 billion over the next 5 years. I believe that this bill makes the necessary improvements in student assistance programs while at the same time is fiscally responsible.

I strongly support the conference report and I commend Senators PELL, STAFFORD and the other conferees for their efforts in producing this conference report.●

● Mr. CHILES. Mr. President, a couple of weeks ago when the first conference report on the Higher Education Act reauthorization came before the Senate, I said it was hard to oppose any legislation having to do with education. It still is. I would like to express the nature of my concerns about the compromise measure before us, and the problems I see with the way we are going with our student financial aid programs.

My record in the Senate and activities as a member of the Budget and Appropriations Committees demonstrates the strength of my commitment to sound, adequate, need-based student financial aid and to Federal support for education. As the committee considered the second concurrent budget resolution, I offered an amendment to restore $500 million for education, and it was adopted by the committee. The purpose of these amendments was to assure adequate funding for education programs to meet national priorities and the special needs of students who are disadvantaged, handicapped, or otherwise have problems beyond the capabilities of State, local, or private education agencies to meet.

Student financial aid—grants and loans to low- and middle-income students for postsecondary education—is one of those areas of national priority and concern. Since the inception of the basic educational opportunity grants, the guaranteed student loan, the supplemental grants and loans, and college work-study, I have been an active supporter and proponent of these programs. I can remember visiting the banks and private lenders in Florida in the early seventies encouraging them to participate in the loan programs. I have worked hard on provisions to resolve problems of paperwork and default in these programs to make them more attractive to lenders, schools, and borrowers. And I have consistently tried to see that the programs are adequately funded to serve families and students for whom higher education would otherwise be an impossibility.

But we have a problem that has arisen since the passage of the Middle Income Student Assistance Act in 1978. I supported MISA and still do, but cost estimates on the loan programs have been far exceeded, primarily because the income cap on the guaranteed student loan was lifted. Debate on MISA focused on extending the basic educational opportunity grants to middle-income students. Not much attention was given the long-range impact of removing the income limitations on the loans. Lifting the cap, combined with the spiraling market interest rates no one foresaw in 1978, has resulted in the cost of the loan programs going through the roof. The guaranteed student loan program cost $650 million in 1978. It has grown to $1.4 billion this year. That is a 100-percent increase in 2 years. Without substantive changes, we can look toward a 400-percent increase in the program by 1985.

In years of austerity and budget restraint, such as we are currently facing, it does not take an economist to know we cannot afford increases of this magnitude. You do not have to be a member of the Budget Committee to understand that growth like that in an entitlement program will eat away at spending for other worthwhile education programs and skew our Federal support for education away from a range of national priorities to one area, away from a need basis to taxpayer subsidies for convenience loans. For example, between 1975 and 1980, Federal spending for elementary, secondary, and vocational education programs grew by 58 percent. During that same 5-year period, Government support for higher education increased 118 percent.

Although I supported the Senate bill to reauthorize a higher education program, I do not want to suggest that the bill's provisions, or replacing the income ceiling on the guaranteed student loan, or indexing the taxpayer subsidy of the interest rates on the loans, or any other single mechanism is the only way to return a measure of need to the loan program. Determining the mechanisms has been left to the authorizing committees and the education community in consideration of this year's higher education reauthorization.

What I am saying is that philosophically, I cannot support asking the taxpayer to subsidize loans so families who have sufficient income and/or savings to finance postsecondary education can invest in high interest money markets or certificates of deposit and make money on loans at 8 or 9 percent where no interest is being accrued for 3 or 4 years. I cannot ask taxpayers to subsidize higher education for individuals with incomes of $35,000 or $55,000, or $75,000 at the same rate they would someone whose family has $20,000 or $30,000 per year income.

In debate on this legislation, we have heard a lot about the strapped middle-income family who needs Federal assistance for spiraling tuition costs no matter what their income or savings.

I recognize that many middle income families are having a tough time sending one or more children through postsecondary school. The Government ought to make loans available to help them meet the high cost of tuition, room and board. However, with the market interest rates at 16 to 18 percent, and Federal student loan rates at 4 and 7 percent, the taxpayer subsidies ought to be used to make up the difference for low-income families. It is just too much to ask taxpayers to subsidize that 11 to 14 percent difference to encourage those who have other means for education costs to borrow, or get a bigger loan than they need, in order to make a profit on the program.

It seems ironic to me that the middle-income families we are supposedly "helping" by letting these programs get out of bounds are the same families who are writing me to balance the Federal budget and cut Federal spending. They say high taxes and inflation are eating away at their discretionary income, income they once could have saved for the children's education. I just do not think we do middle-income taxpayers any favors when we give with one hand and take away with the other.

The Senate version of the Higher Education Act reauthorizaton was one mechanism to find some balance in our student financial aid programs, reduce "convenience" borrowing, and put the emphasis back on the need of the student and the family. When the bill came back from conference, it not only exceeded budget ceilings adopted by both Houses by $50 million for fiscal year 1981, but exceeded the Senate version by $13 billion over the life of the bill. It went $19 billion over the President's budget request for higher education programs through 1985. Thus, I voted to send the measure back to conference so the conferees could work to come within budget ceilings both the House and Senate endorsed.

I wish I could stand here today and express unqualified support for this revised conference report. I cannot. While it may come within budget ceilings for 1981 through 1985, some of the modifications in the loans programs were minor and cosmetic. For example, the Senate bill would have raised the interest rate on the national direct student loan to 7 percent. This conference report leaves the rate at 4 percent. S. 1839 would have had some interest accrue on the guaranteed student loan. This conference report leaves the GSL interest free while the student is in school and would simply reduce the grace period for repayment by 30 days. It does not address the long-range problems we face of taxpayers subsidizing loans, at rates far below market rates, for students who may have other resources for postsecondary education. It does not focus on the underlying dilemma of the entitlement student financial aid programs growing out of proportion to both budget constraints and our total education spending.

I would like to make clear that I do not equate the reservations I have about this conference report with lack of support for education or student financial aid. I simply wish to register my opinion that true support for Federal education programs and student financial aid means examining the directions we are going with them and putting them on a sound, viable financial basis that will allow them to be continued and grow in a rational way. I hope to see the 97th Congress address these issues.●

● Mr. WILLIAMS. Mr. President, I rise at this time to express my strong support for the conference report on H.R. 5192, the Education Amendments of 1980. This is a vitally needed bill. It reauthorizes the Higher Education Act of 1965, the principal Federal legislation for assistance to colleges, universities, and other postsecondary education and to the students in attendance at these institutions.

Delay in passage of this bill will create great uncertainty, not only because of expiring legislation but also in the effect that such delays may have on appropriations.

I urge my colleagues to support this conference report to allow for a smooth opening of the academic year that is now beginning and to avoid needless confusion and delay in the future.

This bill establishes new directions in Federal policies for higher education in several important ways. Title I of this bill consolidates those programs aimed at the fastest growing component of the student population, those older than the historical college age and the nontraditional learners. This title is also designed to improve the linkage between work and education, especially for women who are interested in returning to school.

Title III revamps programs that provide institutional assistance. This new structure will insure greater accountability while continuing to target funds to institutions with special needs that merit national attention.

Title IV, which authorizes all of the Federal student assistance programs, attempts to strike a balance among the diversity of needs of those in attendance at postsecondary education. It establishes a relationship between the assistance provided at public and private institutions. It provides for growth in grants, loans and work—the three essential components of the Federal student assistance strategy—while recognizing the necessity of budgetary restraint. It also authorizes a new program of loans to parents to allow them to help their children in meeting the rising costs of college.

In addition, this bill reauthorizes and revises a host of important programs for libraries, for teacher training, for international education, for graduate and professional fellowships, and for research and improvement. Most of these programs will expire at the end of this month if this legislation is not enacted. This bill also authorizes new programs of assistance to urban universities to augment their role in neighboring communities.

We are all aware of the fact that the first version of this conference report was defeated on the Senate floor on the grounds that reconciliation targets were not met and that there was no evidence of long-term savings in the student loan programs. I would now like to address these issues.

Our committee has labored diligently to be responsive to the call for budgetary restraint. In the Senate-passed bill, we adopted provisions that would decrease the costs of student loans including a substantial raising of the interest rates in both the guaranteed student loan (GSL) and national direct student loan (NDSL) programs. We also adopted a policy of limiting authorizations levels to a growth rate of no more than 15 percent, so that, in the future, authorization ceilings will more nearly match anticipated appropriations. A new Federal authority was also created to insure that student loan repayments were returned to the Federal Government. All told, the Senate-passed bill more than met the cost savings contemplated in budget reconciliation.

In the original conference, the House conferees insisted that several of the Senate cost saving provisions were unacceptable in that they would cause excessive disruption in existing programs. After several weeks of negotiation and in the spirit of compromise that is essential to conference, the conferees came to an agreement that would raise the interest rates charged to students by a modest amount and would allow for growth in the need-based student loan program in which subsidies are targeted to students from families of modest means.

When the original conference agreement reached this floor, there was considerable confusion regarding the level of cost savings achieved in this bill. Our committee members believed that we had made a good faith effort to address the concerns of the Budget Committee and to achieve the intent, if not the exact figures, or reconciliation. I believe that the confusion about whether the bill was consonant with the spirit of reconciliation was the deciding factor in the defeat of the conference agreement.

This second conference agreement contains modifications which lead to a greater assurance that reconciliation targets will, in fact, be met. In any year when the Secretary of Education borrows at least $1 billion to finance NDSL lending at the campus level, proceeds from the repayments of loans would be recaptured by the Federal Government. The language of the conference agreement further stipulates that the Secretary must borrow when funds are appropriated for this purpose; this provision addresses another of the Budget Committee's concerns with the previous version of this bill.

This conference report also contains new provisions that will achieve long-term savings in the student loan programs. The grace period in the NDSL program is reduced from 9 months to 6 months after the borrower leaves school. The interest rate for borrowers in the GSL and parental loan programs would be initially established at 9 percent rather than the 8-percent rate previously agreed to. And the option for parents to defer repayment in the new parental loan program until after the child leaves school has been eliminated.

This conference report also reduces authorization levels by approximately $1.5 billion below amounts agreed to in the previous conference.

Mr. President, our committee and our counterpart in the House have endeavored mightily and at length to address the many, diverse concerns that have been directed at this bill. I would urge my colleagues to approve this conference report. It is a good and necessary piece of legislation.●

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BELLMON (after having voted in the negative). Mr. President, on this vote I have a live pair with the distinguished Senator from New York (Mr. Javits). If he were present and voting, he would vote "yea." I have already voted "nay." I, therefore, withdraw my vote.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from North Carolina (Mr. Morgan), the Senator from Alabama (Mr. Stewart), and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 83, nays 6, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—83

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Hollings
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—6

Armstrong
Byrd,
Harry F., Jr.
Helms
Laxalt
McClure
Proxmire

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bellmon, against.

NOT VOTING—10

Durkin
Goldwater
Hatfield
Huddleston
Javits
Kennedy
Leahy
Morgan
Stewart
Tower

So the conference report was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the conference report was adopted.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, what we hope to do, subject to the approval of the leadership on both sides, is call up the remaining committee amendments. I do not think there will be but one vote on the remaining amendments, and that would be with respect to the dues paid for international labor organizations, the amendment we carried over with the approval of the Senator from North Carolina and the Senator from New York and others who are here. We will have a vote on that, but it will not be a long debate.

We have some other amendments that we could accept before we recess this evening. The Senator from South Dakota has been very patiently waiting to lay down his amendment relative to the grain embargo. We hope to complete the debate tonight on that amendment. When the leadership sets a time for coming in tomorrow, we can set the time to vote. If we come in, for example, at around 10 o'clock, we can set the vote for 10:10.

So that is our intent or idea at the present time, to give our colleagues some idea of where we are headed.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. HOLLINGS. Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I do not want to interrupt the order which the Senator from South Carolina has just outlined. I have a statement I would like to make in support of the bill. Is it in order to do that at this time? Also, I have two amendments which I believe the Senator can accept.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senator from Oklahoma be recognized to call up those amendments and make that statement.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, this bill illustrates the difficulties Congress faces in restraining spending this year. Despite the strong commitment to fiscal restraint by the subcommittee chairman, who is also the chairman of the Budget Committee, this bill exceeds the subcommittee allocation under the first budget resolution by $1.7 billion in budget authority and $1.8 billion in outlays, when later funding requirements are added in. These later requirements include the October 1980 pay raise and funding for the SBA disaster loan program.

The allocation to the State-Justice Subcommittee made by the Appropriations Committee under the first budget resolution is $9.5 billion in budget authority and $10.3 billlion in outlays. The bill, as reported, is under the budget authority allocation by $0.4 billlion and over its outlay allocation by $0.3 billion. Later funding requirements would add $2.1 billlion in budget authority and $1.5 billion in outlays to the reported bill.

As reported to the full Appropriations Committee by the subcommittee, this bill did not leave any room within the budget allocation for the later funding requirements. A list of cuts was offered by Senators Hollings and Weicker and approved by the full committee to allow room for the pay raise requirement and funding for the SBA disaster loan program at the level assumed in the first budget resolution. I commend Senator Hollings and Senator Weicker, as the Chairman and ranking member of the subcommittee, for initiating the cuts necessary to hold new budget authority under the bill within the amounts available under the budget. Outlays associated with the reported bill and the later funding requirements accommodated by the cuts, unfortunately, still exceed the budget outlay allocation by $0.7 billion. This outlay overage is in large part due to higher than anticipated outlays from prior year budget authority for disaster assistance, originally expected to occur in fiscal year 1980 but now expected to spend in fiscal year 1981.

In addition, on top of the level assumed in the first budget resolution for the SBA disaster loan program, there is now an amended administration budget request for the program of $1.3 billion. This request is needed to provide disaster loans to farmers who suffered losses from droughts and unusually hot weather. Moreover, administration officials testified that this budget request is expected to carry the program only through mid-April of 1981. CBO calculates, using the administration's present estimate, that additional funding requirements for the SBA disaster loan program above the first budget resolution assumption will be $1.7 billion in budget authority and $1.1 billion in outlays. With this and other later funding requirements, this bill is $1.7 billion above its budget authority allocation and a total of $1.8 billion above its outlay allocation.

I am disheartened to see funding for the SBA disaster loan program rise to over $2 billion again in fiscal year 1981. In fiscal year 1978, SBA disaster loan volume increased from a fiscal year 1977 level of $200 million to $2.5 billion. Two major factors accounted for this runaway spending. These were the widespread drought conditions that prevailed during 1976 and 1977 and the availability of SBA disaster assistance for crop production losses in addition to Farmers Home assistance. The eligibility of farmers under both programs was permitted so farmers would not be penalized by Farmers Home Administration lending policies which were less liberal than those at SBA.

Since fiscal year 1978, many of us worked to produce legislation to end this program duplication by making the disaster lending policies of SBA and Farmers Home as consistent as possible. We have sought to reestablish Farmers Home—the agency best able to deal with the needs of farmers—as the primary agricultural disaster lender. Such legislation passed the Senate this year and was signed into law on July 2, 1980. That new law does not apply to disasters commencing on or before the date of its enactment.

Mr. President, the administration has, I believe, been lax in its handling of drought disaster declarations. All of the disaster declarations were made after the effective date of the new law, but all of them so far have been made effective prior to July 2. This causes existing law—with its more generous interest terms—to apply. As a result, SBA costs have now risen to the $1.5 billion mark and will be run up even further by the year's end.

Whether the entire request is indeed necessary is, in large measure, based on judgmental calls regarding the incidence period of drought disasters. An initial GAO investigation of the SBA drought disaster declarations is revealing. SBA relys solely on ASCS survey reports, when available, to determine the starting dates of the droughts and assess disaster damage. No set of criteria is established for determining when a drought has begun. Not only that, but for some counties in a number of States, the drought disaster declaration has been backdated to the fall of 1979. I do not see why it has taken so long for a disaster declaration to be made for 1979 droughts when the declarations also cover droughts which occurred in the spring and summer of this year. It is clear that criteria to guide the determination as to when a drought has occurred should be established.

To correct this problem now is difficult. Assistance for droughts which begin after July 2 of this year will no longer be given by SBA, for the most part, but will be limited to Farmers Home. Still, after working for 2 years to achieve the new law, it is disappointing to see the cost of the SBA program rise to the $2 billion level—for us to witness a similar situation to the fiscal year 1978 occurrence which gave rise to the new legislation.

Mr. President, I would also like to take a moment to note my concern about the potential overlap and duplication between disaster loan programs and USDA's direct disaster payments program. I understand that the Farmers Home Administration has worked out a check intercept system so that, when a farmer who has received a disaster loan subsequently receives a disaster payment, the check is immediately applied to repayment of the loan. SBA, however, relies on an honor system in which farmers are expected to report any direct payments related to the disaster. The real answer is to eliminate double-dipping because of overlap among direct payment, loan, and crop insurance programs. I urge the committees which are responsible for the oversight of these programs to work out legislation needed to rationalize the programs as soon as possible.

Mr. President, I want also to call attention to page 33 of the committee report and to pages 18 and 19 of the bill relating to the Bureau of the Census. The committee has included a provision I recommended requiring the Census Bureau to expedite the collection and reporting of the effects of inkind benefits such as food stamps, medical care, and housing subsidies on family incomes and the numbers of people living in poverty.

Work done by the Congressional Budget Office indicates that the poverty count would be reduced by more than half if inkind benefits were considered. This provision will simply require the Census Bureau to begin including information on inkind benefits in its income survey reports no later than October 1, 1981. I think this is an important provision and I thank the committee and the managers of the bill for including it.

Mr. President, I want to take this opportunity to inform the distinguished managers of this bill that I plan to offer, at the appropriate time, the same provisions on Federal outlays that have now been included in the Transportation and HUD appropriation bills. The vote to include this provision in the Transportation bill was 63 to 17. I hope the managers of this bill will give serious consideration to accepting the amendment when I offer it.

Mr. President, this bill is an example of where we are headed on fiscal year 1981 spending. Only two bills reported by the Appropriations Committee have been within the budget allocations, when later funding requirements are taken into account. The consequence will be a fiscal year 1981 budget in deficit by billions of dollars more. I would prefer to see these appropriation measures held more closely to the spending plan we contemplated in the first budget resolution.

UP AMENDMENT NO. 1654

Mr. BELLMON. Mr. President, I have an amendment at the desk which I now call up and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1654:

On page 53, between lines 18 and 19 add the following new section:

"SEC. 612. No part of the funds provided in this Act may be used to administer any disaster loan program in which participants may receive loans for that portion of those losses which are eligible for compensation through direct Federal payment programs."

Mr. BELLMON. Mr. President, this amendment I feel is needed to eliminate a potential abuse in the Small Business Administration disaster loan program. This situation arises when a farmer is eligible for Federal crop disaster payments in addition to SBA disaster loans.

The problem is that the USDA makes the direct disaster payment and SBA makes the disaster loan and the right hand does not know what the left hand is doing, in many cases.

The Federal crop disaster payment is available to producers of wheat, feed grains, rice or upland cotton who, because of a natural disaster or condition beyond their control are prevented from planting or harvesting a designated percentage of their normal production.

In fiscal year 1979, producers received $368 million under this program. In fiscal year 1980, payments are estimated at $236 million. In the next fiscal year, USDA estimates payments totaling $459 million.

So what we are doing is the USDA is paying farmers directly some $500 million and the SBA comes along and makes loans for those same losses.

These disaster payments are not loans. They are outright grants to producers who comply with price support program requirements.

The Small Business Administration may also make disaster loans to agricultural producers who suffer such losses—at very favorable and subsidized interest rates and conditions.

The Farmers Home Administration which has similar lending authority has implemented a procedure that precludes a farmer from receiving a disaster loan for a loss covered by a direct disaster payment. SBA, however, has failed to implement such a procedure—despite a General Accounting Office recommendation to do so. Because of this failure, a $459 million outlay will be required for loans to individuals already due to receive direct payments for their losses.

SBA must be compelled to implement stronger more effective procedures to insure that such double payments are not made. My amendment will accomplish this need and I urge its adoption.

Mr. HOLLINGS. Mr. President, I would be prepared to take this to conference. I think it is a very helpful provision. In the statement that will accompany the continuing resolution the committee will be directing SBA to do essentially the same thing.

With that in mind, I am prepared on this side to accept it and see what we can do in conference. I believe the Senator from Connecticut (Mr. WEICKER) is agreeable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BELLMON).

The amendment (UP No. 1654) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1655

(Purpose: To establish a system for scheduling and reporting outlays)

Mr. BELLMON. Mr. President, I have another amendment at the desk and I ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), for himself, Mr. DOMENICI, Mr. PERCY, and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 1655.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HOLLINGS. Mr. President, is this the particular amendment relative to outlay schedules?

Mr. BELLMON. That is right.

Mr. HOLLINGS. I have no objection. I just wanted to make sure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following language at the appropriate place in the bill:

OUTLAY SCHEDULES AND REPORTS

Departments and related agencies receiving appropriations in excess of $50 million under this act shall, within 30 days following enactment, submit to the Committees on Appropriations of the two Houses of Congress a schedule of anticipated Outlays for each month of the Fiscal Year beginning October 1, 1980. These departments and related agencies shall also submit to the Appropriations Committees, within 30 days after the end of each calendar quarter, reports showing actual Outlays for the preceding quarter and any necessary changes in the schedule of Outlays originally submited. In the event of a Department or agency determines that its total Outlays during the Fiscal Year will vary by more than 1 percent from the total projected in its original schedule, it shall immediately submit to the Committee on Appropriations of the two Houses a revised schedule. Unless disapproved by both of the Appropriations Committees within 15 days during which both Houses of Congress are in session, the Department or agency may implement the revised Outlay schedule.

Departments and related agencies shall submit copies of the Outlays schedules and reports required herein to the Congressional Budget Office concurrently with their submission to the House and Senate Committees on Appropriations. The Congressional Budget Office shall analyze these schedules and reports and assess their implications for Congressional budget and appropriations policies and submit the results of its analyses on a timely basis to the Committees on Appropriations and Budgets of the two Houses of Congress.

Mr. BELLMON. Mr. President, this amendment addresses a problem that Congress must respond to if we are to fulfill our responsibility to deal with fiscal policy in an effective way. The problem I refer to is the incredible growth in outlays in recent years. I ask unanimous consent that a table on comparison of budget targets be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUDGET TARGETS AND CEILINGS WITH ACTUAL EXPERIENCE FOR FISCAL YEARS 1976–79 AND ESTIMATED ACTUALS FOR FISCAL YEARS 1980–81

[Fiscal years, in billions of dollars]

	1976	1977	1978	1979	1980	1981
First budget resolution targets:						
Budget authority	396.6	455.1	504.35	568.85	604.4	697.2
Outlays	367.8	414.2	461.85	498.8	532.0	613.6
Final budget resolution ceilings:						
Budget authority	408.8	471.1	501.0	559.2	[1] 658.85	
Outlays	375.8	410.1	459.15	494.45	[1] 572.65	

	1976	1977	1978	1979	1980	1981
Actual fiscal year 1976–79, estimate fiscal year 1980–81:						
Budget authority	416.1	466.1	501.5	556.7	657.3	699.6
Outlays	366.4	402.7	450.8	493.7	580.3	633.0
Outlay change (actual versus 1st resolution)	−1.4	−11.5	−11.05	−5.1	+48.3	+19.4

[1] The ceiling figures shown for fiscal year 1980 are from the revised 2d budget resolution, adopted in June 1980. The original 2d resolution, adopted in November 1979, contained ceilings of $638,000,000,000 for budget authority and $547,060,000,000 for outlays.

Mr. BELLMON. As shown by this table, in fiscal years 1976–79, total Federal outlays fell below the targets set by Congress. But in fiscal year 1980, outlays will exceed by about $48 billion the targets originally set by Congress in May 1979.

Fiscal year 1980 outlays are now $32 billion above the outlay ceiling approved by Congress last November. This incredible growth in outlays did not result, for the most part, from deliberate congressional decisions to increase spending. Rather, most of it resulted from upward reestimates of spend-out rates under various Federal programs. The net result is that Federal fiscal policy shifted from the restrictive posture Congress initially approved—under which outlays would have grown by only 8 percent over fiscal year 1979—to a stimulative one under which fiscal year 1980 outlays are growing by 17.5 percent.

Mr. President, as representatives of the people, Congress has the responsibility to oversee the movement of Federal funds into the economy. The Congressional Budget Act of 1974 requires Congress to specify in its budget resolutions the "appropriate level" of new budget authority, outlays, and deficit for a fiscal year. Clearly, it was the intent of the Budget Act that Congress exert greater control over Federal outlays as well as new budget authority.

Mr. President, I wish to remind my colleagues that the budget authority concept represents total new obligations, commitments or programs entered into by the Federal Government. Control of outlays is equally as important as control of budget authority if we are to eventually control Federal spending. Outlays do not merely happen once budget authority is granted—spendout rates in many instances are conscious and crucial policy decisions.

The Congressional Budget Office estimated that as of January 1980, more than $775 billion in budget authority enacted in prior years had not yet resulted in outlays. Based on earlier analyses, it appears that about $490 million of this budget authority had been obligated, while about $285 billion of prior year authority remained unobligated. This means that Federal departments and agencies in the aggregate have tremendous flexibility in the use of resources at their disposal. Their decisions on the timing and rates of obligation and outlays can modify substantially the fiscal policy Congress thinks it has set for a given fiscal year.

Mr. President, the amendment I am offering will be a much needed first step to provide appropriate congressional oversight of Federal outlays. This amendment is identical to the one I offered last Thursday on the Transportation and HUD appropriation bills; the latter adopted by the Senate, and the former approved by a vote of 63 to 17. I have put an explanation of the amendment on each Senator's desk. I would be glad to discuss the amendment in detail, but I wonder if the distinguished managers of the bill will not accept it, in view of the votes last week on identical amendments.

Mr. HOLLINGS. Mr. President, on this particular amendment the outlav schedules and reports to be made, as I understand the intent of the Senator from Oklahoma, is to get some kind of a control on outlays.

As you well know, the Congress controls the budget authority, but it has a very difficult time controlling outlays.

Under the budget process, you will find that in previous years appropriations, there will be an acceleration of the expenditures. This occurred after the first concurrent resolution was enacted on June 12 of this year. Many will remember the dispute we had between the administration and the Congress as to the amount for defense and how it could deny some social programs. Yet, within about 4 weeks, by the third week in July, the administration had to report an acceleration of those expenditures under that function from previous years of appropriations to the tune of some $4.4 billion.

What Senator BELLMON has been trying to do on other bills and on this particular bill is try to control those outlays, so that when we pass a budget resolution, we develop the discipline, and adhere to it. I am for that intent.

Whether that can be carried out in a judicious fashion is another question.

I notice that the Senator, as I understand, has changed the expression from legislative days to regular days, the point there being that I think we adjourn one day from January and in June we start at a second legislative day. So this year, actually, we have only been in about 2 legislative days. We have to watch this procedure and see whether or not it is realistic.

I am willing to give it a try. On that basis, the committee would accept the amendment.

Mr. BELLMON. I appreciate the statement by the distinguished floor manager. I believe there must be some way to get a handle on outlays. Otherwise, we find ourselves almost at the mercy of the executive branch and we are frequently embarassed by what happens downtown. I have no further comment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BELLMON).

The amendment (UP No. 1655) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

Mr. President, I ask unanimous consent that the Senator from Kentucky can offer his amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, may I include in the unanimous-consent request the Senator from Rhode Island and the Senator from Arizona?

Mr. HOLLINGS. Good. They are on the floor. Those are three amendments we are prepared to accept.

Mr. McCLURE. Reserving the right to object, Mr. President, and I will not object, it is the intention of the Senator from Idaho to offer an amendment which could be handled very quickly. After some discussion, it will be my intention to withdraw the amendment. I hope we can work that into the unanimous-consent request.

Mr. HOLLINGS. Did the Senator say it was his intention to withdraw it later, to just make the record?

Mr. McCLURE. Yes. I might say that it deals with the FTC proposed regulation or final regulation dealing with the checklist to be placed on used cars.

Mr. HOLLINGS. Mr. President, I am familiar with that. I would be willing to accept that request.

Mr. THURMOND. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. THURMOND. Mr. President, section 609 concerning refugees was the next matter to be taken up, I understood. Does the Senator plan to bring that up?

Mr. HOLLINGS. Yes. We plan to get back on that schedule as soon as we can get these taken care of which we can agree to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Kentucky is recognized.

UP AMENDMENT NO. 1656

(Purpose: To provide appropriations for the Dispute Resolution Program within the Department of Justice)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for himself and Mr. DANFORTH, proposes an unprinted amendment numbered 1656.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, between lines 19 and 20, insert the following new paragraph:

DISPUTE RESOLUTION PROGRAM

For grants, contracts, salaries and expenses necessary to carry out the Dispute Resolution Act (Public Law 96–190), $2,000,000.

Mr. FORD. Mr. President, the amendment which Senator DANFORTH and I offer today will provide an appropriation of $2 million for an important program which was authorized by enactment of the Dispute Resolution Act in February of this year.

As chairman of the Consumer Subcommittee, I have been deeply concerned by numerous problems that consumers have brought to my attention. Too often these minor consumer disputes go unresolved for want of readily available means, other than formal legal processes, for their adjudication.

The Dispute Resolution Act was enacted to provide well-reasoned response to this national problem. The act establishes a national clearinghouse within the Justice Department consisting of a Resource Center and a limited grant assistance program. The program is to provide technical information and assistance to State and local governments and nonprofit organizations in developing or improving alternative means for the resolution of minor disputes.

Throughout the course of deliberations before enactment of this measure, we saw that frustration was prevalent among citizens whose legitimate grievances go unresolved. This problem has been studied for years and the genesis of the act were the various studies of small claim courts undertaken early in the decade. In particular, the 1973 study of the National Institute for Consumer Justice documented the inadequacies of many existing procedures for resolving disputes arising out of consumer transactions.

Although the law authorizes total appropriations of $11 million for each 4 fiscal years beginning with fiscal year 1981, we are today asking only for $2 million for funds to begin this very important program. The program is mandated to sunset after fiscal year 1984 and failure to fund the program for an entire year would reduce the prospects for the program achieving its full potential. Under the decreasing schedule of Federal funding percentages in the act, Federal funding is 75 percent in 1983 and 60 percent in 1984.

Mr. President, I want to point out that the act is a cost effective means of promoting public order by providing speedy redress of consumer complaints. Alternative forums will relieve some of the existing congestion of court dockets and thereby improve the operations of the judicial system throughout the United States.

This measure has enthusiastic support from business and consumer groups who believe that it will help to relieve problems of both the businessman and consumer. These diverse groups include the U.S. Chamber of Commerce, the Better Business Bureau, Congress Watch, the American Bar Association, the U.S. Office of Consumer Affairs, the American Arbitration Association, the Conference of State Chief Justices, the Conference of Mayors of Cities, the National Association of Counties, Consumers Union and many national business firms.

The Dispute Resolution Act creates a program that is most worthy of funding. I urge support for this amendment to begin funding of this very important program.

Mr. CANNON. Mr. President, I support the amendment offered today by the chairman of the Consumer Subcommittee to provide a $2 million appropriation for the program established by the Dispute Resolution Act.

The proposed program has two aspects: First, it would provide for the establishment of a Dispute Resolution Resource Center within the Department of Justice to serve as a clearinghouse for the exchange of information and to provide technical assistance. The second purpose is to create a financial assistance program to stimulate improved and new resolution mechanisms.

Because of the high cost of litigation in both time and money, the present judicial system does not provide a practical means for resolving disputes involving small amounts of money or other minor consumer disputes. Chief Justice Warren Burger noted in an address in May 1977, that "there are many conflicts that fall into today's classification of minor disputes, which no one is solving, which ought to be resolved if we are to avoid the frustrating, tensions, and hostilities that often flow from unresolved conflicts."

Informal methods of resolving disputes, such as arbitration, mediation, and conciliation, may be more effective and convenient for the resolution of minor disputes and will be encouraged by the program instituted as a result of the enactment and funding of the Dispute Resolution Act. I urge support for this very important amendment.

Mr. FORD. Mr. President, I have discussed this amendment with the distinguished floor managers of the bill, the distinguished Senator from Connecticut (Mr. WEICKER) and the distinguished Senator from South Carolina (Mr. HOLLINGS). There is no objection to the amendment.

Mr. HOLLINGS. Mr. President, the committee has reviewed the Dispute Resolution Act. Quite to the point, we just did not have room enough in our budget. We did find some money in action taken in the full Appropriations Committee that relieved a sufficient amount to take care of this $2 million appropriation to carry out the Dispute Resolution Act. With that in mind, we are glad to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1656) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1657

(Purpose: To provide additional funding for the joint State and local law enforcement grant program)

Mr. DECONCINI. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1657.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 5, strike $38,833,000 and insert in lieu thereof $40,833,000.

Mr. DECONCINI. Mr. President, this amendment would add $2 million to the Department of Justice appropriation for joint State and joint State and local law enforcement agencies.

Joint State and joint State and local law enforcement agencies are cooperative organizations to which officers from existing State and local agencies are assigned on a continuing basis. These officers engage in field investigations; train and assist local agencies in the use of technical equipment, including photographic and electronic eavesdropping and surveillance equipment; and develop and analyze organized crime and narcotics intelligence data.

While the primary responsibility for law enforcement should continue to be with local agencies, there are criminals who operate in wide geographic areas and who commit crimes which cross county, State, and international boundaries. Among these are narcotics offenders and participants in organized crime or criminal syndicates. There is a need, therefore, for agencies which can investigate across State lines and prosecute those whose wide-ranging criminal activities far outstrip the resources of our local and State law enforcement agencies.

The additional $2 million provided by the amendment is needed because most of the projects are now at skeletal capacity. These funds, in combination with the $7.5 million included in the bill, will permit all of them to become fully operational.

It is important to note that the programs supported by this appropriation encompass vast geographic areas and significant segments of population. In fact, the seven regional law enforcement agencies which are in the process of being established include or expect to be associated with all 50 of our States.

In conclusion, these interjurisdictional and interdisciplinary agencies are essential to enable our law enforcement agencies to grapple with the pervasive and pernicious schemes with which organized crime and narcotics trafficking threaten vital segments of the American economy. With adequate funding, regional, State, and local cooperative agencies will be armed with the tools they need to assist our communities' efforts to combat organized criminal and narcotics activity.

Mr. President, I have cleared this amendment with both managers of the bill. I thank them in advance for their consideration of this matter, the Senator from South Carolina and the Senator from Connecticut.

Mr. HOLLINGS. Mr. President, I know we have room for this amendment at this time, and I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1657) was agreed to.

Mr. DECONCINI. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1658

(Purpose: Adds $750,000 to the National Oceanic and Atmospheric Administration for funding the emergency striped bass study authorized in P.L. 96–118)

Mr. CHAFEE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself and Mr. BAKER, proposes an unprinted amendment numbered 1658:

On page 24, line 5: strike "$770,080,000" and insert "$770,830,000".

Mr. CHAFEE. Mr. President, last year Congress authorized $4.7 million for a 3-year striped bass study under the Anadromous Fish Conservation Act Amendments of 1979. That law directed the Secretaries of the Interior under which Fish and Wildlife Service falls and Commerce under which small marine fisheries falls to conduct studies to monitor the status of the striped bass populations, and to determine the factors responsible for the decline in number of striped bass. Congress provided $1 million to begin the program in fiscal year 1980.

Mr. President, there are currently no funds in the Commerce appropriations bill we are considering today that would go toward this study. My amendment is very simple. I would add $750,000 to the Department of Commerce's Marine Fisheries Service to continue work on the striped bass problem.

The striped bass program, which has received broad bipartisan support, grew out of the concern that the ability of the present ongoing research efforts pursuant to the Anadromous Fish Conservation Act were not able to focus an appropriate amount of attention on the problems of badly depleted striped bass population. This magnificent fish, the most important of all Atlantic coastal anadromous species, has over the past few years reached critical low population levels. The reason for this decline is not yet understood and a recent report indicated that the situation was getting worse.

The study is needed because some scientists feared that if these present trends continue, a real disaster could lay ahead for the natural population of the bass along the Atlantic coast. This would be a tragedy for our Nation, as the striped bass has for centuries been a staple of commercial catches in these waters and for the last few decades has been one, if not the most important, sport fish on the Atlantic coast.

During last year's consideration of the fiscal year 1980 Interior appropriations bill, 15 Senators including the distinguished floor managers of this bill wrote the chairman (Mr. ROBERT C. BYRD) and ranking member (Mr. STEVENS) of the Interior Appropriations Subcommittee urging them to fund the study. The U.S. Fish and Wildlife Service received $1 million—the entire permissible appropriation under the authorization—to begin the program. Half of those funds were transferred to the National Marine Fisheries Service, under the Commerce Department so both agencies could begin developing an action plan for the emergency striped bass study.

Just a few days ago I received a copy of that action plan which will serve as the overall strategy to carry out the study. The action plan identifies priorities for the study, biological and economical research that needs to be done, and suggests possible causes of the decline of the species.

Mr. President, if this study is to be completed next year, we need to provide the National Marine Fisheries Service with the $750,000 provided in my amendment. The Interior Department has received its share for fish and wildlife part of the study. The knowledge from this study will not only help us learn why the mighty striped bass is disappearing, it will aid States and Federal Government in developing sound and equitable plans for managing their fisheries and protecting critical habitat. I strongly urge my colleagues to support my amendment and keep this important study moving.

Mr. President, I have discussed this amendment with the two distinguished managers of the bill and they have agreed to accept it. Mr. President, I wish to thank in advance both distinguished Members who are handling this legislation today. I appreciate their interest in this matter. I move adoption of the amendment.

Mr. HOLLINGS. Mr. President, the striped bass study which Congress provided for has been a cooperative effort between the Department of Interior and NOAA. This provides funds for that study, which is so important to all fisheries, particularly due to the extension to the 200-mile limit.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1658) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I think the Senator from Idaho is next.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, do I understand that the managers of the bill have some technical amendments they want to handle at this time?

Mr. HOLLINGS. Yes, but let us go ahead with the amendment of the Senator from Idaho.

UP AMENDMENT NO. 1659

(Purpose: To prohibit the use of funds by the Federal Trade Commission for the used car sticker regulation)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Idaho (Mr. McClure), for himself, Mr. Eagleton, Mr. Pressler, Mr. Tower, Mr. Hatfield, Mr. Exon, and Mr. Dole, proposes an unprinted amendment numbered 1659:
>
> On page 45, line 25, add the following new General Provision:
>
> No funds appropriated under this Act may be expended by the Federal Trade Commission in connection with any trade regulation rule relating to used motor vehicles which would create a warranty under Federal or State law for such vehicle or mandate inspection of any such vehicle by the seller through any means of compliance, or any alternative means of compliance with such rule.

Mr. McCLURE. Mr. President, this amendment which I offer is introduced on my behalf and with the cosponsorship of Senators Eagleton, Dole, Pressler, Tower, Hatfield, and Exon.

Mr. McCLURE. Mr. President, I wish to express my grave concern over the content of the Federal Trade Commission's proposed used car trade regulation rule.

Congress has given the Commission clear direction on the type of rule authorized by law. The Commission has repeatedly been directed to promulgate a disclosure rule, if warranted by the facts, and not to propose a rule requiring directly or indirectly the giving of a warranty by the seller, or requiring an inspection of the vehicle by the seller. It is my conviction that Congress intends for the economic forces of the marketplace, and not the Government, to determine whether or not a warranty of an inspection is a part of the purchase of a used automobile. Thus, the Commission's role should strictly be limited to an information and disclosure rule if such action is supported by the hearing record.

Section 102(b)(2) of the Magnuson-Moss (Public Law 93-637) states:

> (2) Nothing in this title (other than paragraph (3) of this subsection) shall be deemed to authorize the commission to prescribe the duration of written warranties given or to require that a consumer product or any of its components be warranted.

I have underlined the latter part of that because that is the gravamen of the concern today.

Similarly, section 109(b) confirms that a disclosure rule is what Congress intends:

> In prescribing rules under this subsection, the Commission may exercise any authority it may have under this title, or other law, and in addition it may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure.

Report 90–500 of the Senate Committee on Commerce, Science and Transportation further clarifies congressional intent:

> Furthermore, the prohibition against mandatory inspections and warranties for used cars is directly related to the above restriction. A mandatory inspection and checklist requirement would have the effect of creating express warranties under State law. Therefore, a prohibition against mandatory inspections merely insures that the FTC does not accomplish through indirect means that which it is prohibited from doing directly. . . . With the issue of mandatory inspections and warranties resolved, it is hoped that the proceeding will regain the focus intended by Congress in its original legislative directive, namely disclosure.

Finally, in extensive additional views to the House report (96–181) on the Federal Trade Commission Improvements Act of 1979, 20 members of the House Commerce Committee discussed at length the legislation and legislative history of Public Law 93–637, supporting the conclusion that the FTC is limited in its authority to promulgate a pure disclosure rule. The committee members emphasized:

> Congress never intended to give the commission authority under the provisions of Public Law 93–637 or any other provision of law to require that any used motor vehicle or any of its components be warranted. Congress, of course, not only intended to prohibit rules which in form required a warranty, but also requirements which would be construed to have the substance, force, or effect of a warranty.
>
> We trust that the commission will alter its proposed rule before it is promulgated as a final rule and will make a conscientious effort to conform its regulation to the expressed language of the law and the clear congressional intent in this matter.

Mr. President, notwithstanding this clear legislative history and statutory language, the Commission published a notice on August 7, 1980, proposing a revised used car rule. The proposed rule requires a used car dealer to disclose on a window sticker displayed in a used car for sale certain information about the condition of the car.

Specifically, a dealer would be required to check one of three columns for each of 14 automobile systems, indicating for each system either that it is "OK," or "not OK," or that the dealer does not know the condition of the system. The window sticker requirements effectively mandates a warranty by dealers, and requires disclosure of information beyond the intent of Congress.

The legislative history of the Magnuson-Moss act shows that the FTC is authorized to consider a rule disclosing the nature of any warranty voluntarily given, whether the sale is "as is," and related information. A requirement for disclosure of information about the specific condition of various systems of a used car is beyond the authority of the FTC.

Mr. President, the legislative history which I have just outlined is clear and straightforward. To insure that it is also understood by the FTC, I am today offering an amendment with Senators Eagleton, Dole, Pressler, Tower, Hatfield, and Exon to prohibit the FTC from using funds to promulgate a trade regulation rule relating to used motor vehicles which creates a warranty under Federal or State law.

Mr. President, I have had numerous discussions about this proposed amendment and the proposed regulation with the distinguished Senator from Kentucky (Mr. Ford), who might wish to comment at this time. I am happy to yield the floor to him.

Mr. FORD. Mr. President, I thank the Senator from Idaho for recognizing me. As he has stated, we have had several discussions relating to the concerns about this rule by many of our colleagues and those in the business. He stated earlier that he is introducing this amendment; then he will withdraw the amendment, with the proviso that all of us understand that if the rule in final form continues to concern Congress, we do have the ability to impose the legislative veto.

Mr. President, I am one of those who feels that the legislative veto is not the right avenue to pursue. However, now that it is part of the statutory language of the FTC, it may be used, if the final rule is a problem.

After careful analysis of FTC's proposed rule on used cars, published in August of this year—just last month—I joined with Senators Metzenbaum and McClure to express concern about the practical effects of the used car rule. The rule would require a window sticker or "buyer's guide" on used cars to address the problem of oral misrepresentations by used car dealers. The window sticker would explain to consumers that they should ask that all the promises be made in writing and disclose whether or not various systems of the vehicle had been inspected. I believe that the buyer's guide, although in principle a good idea, may be too burdensome on small businessmen. It has other problems with its content in its present form.

I point out that the Federal Trade Commission Act of 1980, as I stated earlier, contains a two-House legislative veto provision. If, in the future, Congress has problems with the final rule, that mechanism can be used.

Mr. McCLURE. Mr. President, I thank the Senator from Kentucky for his statement.

FTC USED CAR RULE

● Mr. DOLE. Mr. President, I support the amendment offered by Senator McClure because I am troubled by both the content of the used car rule and the procedures followed in developing it.

The proposal sounds fine and a consumer giving it a quick glance might agree that it is a good idea, but a closer look reveals problems which may threaten not only the used car industry but the auto consumer himself.

Under this rule, the auto dealer will be required to check one of three boxes—"OK," "not OK," or "we don't know." No matter which he checks, he cannot win.

If he checks "OK," he is held to have guaranteed that system in the car. Yet, the condition of a used car is not so easily assessed, and defects developing during past ownership cannot always be clearly identified. This proposed rule goes far beyond requiring mere disclosure of known defects, which all would agree to. It forces a dealer to search out and be responsible for any unknown defects as well. This sounds great, but it just is not realistic. It is estimated that the cost of inspection and repairs will increase the price of a used car by between $200 and $500. I am sure this is a worst-case scenario, but even smaller increases would price many used cars out of the market, and price many car purchases out of the market. In the end, I am not sure we are doing the consumer a favor.

However, if the used car dealer is more cautious, and probably more honest, he will check "we don't know." Given the complexity of the used automobile, that would probably be the most candid answer in any case. But the consumer would undoubtedly assume that the car is not in good condition, and look elsewhere. The implication would be, "we don't want to tell you."

As important as I believe these considerations are, I am not here today to evaluate and make a final decision on the merits of this proposal. I am even more disturbed at the procedural problems. This is a proposal which will drastically alter the used car industry in our country, without giving the industry and the consumer any opportunity for full comment on its impact. Written comments are being limited to seven narrow questions and, while these seven areas are important, many questions as to the economic impact of this rule on both consumers and auto dealers and whether or not the rule is even needed are omitted. In addition, there will be no opportunity for public hearings on the revised rule.

Mr. President, I believe Congress has a responsibility to see that the American people have a full and fair hearing before our regulatory bodies. We need to know more before we go off half-cocked and jeopardize an entire industry. I urge my colleagues to support this amendment.●

PROPOSED FTC USED CAR RULE IS A LEMON

Mr. HELMS. Mr. President, as my colleagues know, with passage of the Magnuson-Moss Warranty Federal Trade Commission Improvement Act (P.L. 93-637) in 1974, Congress directed the Federal Trade Commission to initiate a rulemaking proceeding dealing with warranty and warranty practices in connection with the sale of used motor vehicles.

Section 109(b) of Public Law 93-637 reads as follows:

> The Commission shall initiate within one year after the date of enactment of this Act a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles; and, to the extent necessary to supplement the protections offered the consumer by this title, shall prescribe rules dealing with such warranties and practices. In prescribing rules under this subsection, the Commission may exercise any authority it may have under this title, or other law, and in addition it may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure.

Now, admittedly, this language is very broad. But by piecing together the legislative history of the Magnuson-Moss Act, along with other statements of congressional intent, we can begin to understand what Congress had in mind when it issued this directive, and why the currently proposed used car rule exceeds FTC authority.

The Magnuson-Moss Act explicitly denies the FTC authority to require warranties. This denial of authority extends to warranties for all consumer products, not just used cars.

Section 102(b)(2) of the Magnuson-Moss Act reads as follows:

> (2) Nothing in this title . . . shall be deemed to authorize the Commission . . . to require that a consumer product or any of its components be warranted.

The legislative history of the Magnuson-Moss Act directive on used cars makes it clear that the FTC has no authority to require warranties as part of any used car rule that it might propose.

The conference report accompanying the Magnuson-Moss Act reads in part as follows:

> The conferees agreed that any such rules could not require that a warranty be given on any used car which is sold.

Now, Mr. President, I am not a lawyer, and I do not intend to stand here on the floor of the U.S. Senate and attempt to render a legal opinion. But I can read. And what I gather from reading the language of the Magnuson-Moss Act and its legislative history—which both seem fairly clear on this point—is that Congress has denied the FTC authority to require warranties in connection with the sale of any consumer product, and Congress has explicitly denied the FTC authority to require a warranty in connection with the sale of a used car.

In spite of explicit language and legislative history to the contrary, the FTC in 1975 proposed a rule mandating inspections and, indirectly at least, warranties in connection with the sale of used cars. The rule would have required any individual or business that sells five or more used vehicles in 1 year, up to 4,500 pounds, excepting motorcycles, to inspect each vehicle prior to sale, and to state on a window sticker which of 60 automotive functions are "OK" or "not OK."

The sticker would have had the legal force of a warranty under State law.

Responding to this blatant disregard for the expressed will of Congress, the Senate passed as part of the Federal Trade Commission Act of 1979 an amendment prohibiting the FTC from requiring a mandatory warranty or inspection in connection with the sale of a used motor vehicle.

Report 96-500 of the Senate Committee on Commerce, Science, and Transportation which accompanies the Senate bill, clarifies congressional intent, as follows:

> A mandatory inspection and checklist requirement would have the effect of creating express warranties under State law. Therefore, a prohibition against mandatory inspections merely insures that the FTC does not accomplish through indirect means that which it is prohibited from doing directly. . . . With the issue of mandatory inspections and warranties resolved, it is hoped that the proceeding will regain the focus intended by Congress in its original legislative directive, namely *disclosure*. (Emphasis added.)

I wish to emphasize the last word in this statement, Mr. President. It is "disclosure." The report of the Senate Committee on Commerce, Science, and Transportation points out that the focus intended by Congress in its original legislative directive is "disclosure."

In extensive additional views to the House report (96-181) on the Federal Trade Commission Improvements Act of 1979, 20 members of the House Commerce Committee discussed at length the legislation and legislative history of Public Law 93-637, supporting the conclusion that the FTC is limited in its authority to promulgating a pure disclosure rule. I quote the committee:

> Congress never intended to give the Commission authority under the provisions of Public Law 93-637 or any other provision of law to require inspections of vehicles or to require that any used motor vehicle or any of its components be warranted.
>
> Congress, of course, not only intended to prohibit rules which in form required a warranty, but also requirements which would be construed to have the substance, force, or effect of a warranty.

> We trust that the Commission will alter its proposed rule before it is promulgated as a final rule and will make a conscientious effort to conform its regulation to the express language of the law and the clear Congressional intent in this matter.

House and Senate conferees on the Federal Trade Commission amendments agreed to remove from the bill the specific prohibition against the FTC's mandating used-car warranties and inspections, saying:

> While the Conferees agree that the substance of the Senate amendment provided a correct statement of the limitations on the Commission's authority in this area, they believe it is unnecessary to restate existing law. Consequently, the Senate provision is deleted.

Mr. President, it is fairly clear to me that Congress authorized the FTC to consider a rule regarding disclosure of any warranty given in connection with the sale of a used car. This means that the FTC can say that if a used car dealer gives a warranty, it must be given in a certain way. The Magnuson-Moss Act specifically provides that if a used car is to be sold without a warranty, the FTC may require the dealer to disclose this fact, and may even specify the form and content of such disclosure.

But the Magnuson-Moss Act does not give the FTC authority to require a warranty in connection with the sale of a used car. In fact, the conference report makes clear that the FTC is absolutely prohibited from requiring a warranty.

In the face of increasing congressional dissatisfaction, the FTC revised its proposed rule. The new rule, published in the Federal Register on August 7, 1980, technically eliminates the requirement for a mandatory warranty or inspection.

Practically speaking, however, the newly proposed rule would still subject used car dealers to excessive Government regulations and unnecessary financial burdens.

The rule would require a dealer to display a window sticker in each used car for sale. The sticker would list 14 automobile systems. A dealer would be required to check off the condition of each of these systems as "OK," "not OK," or "we don't know."

If a used car dealer wants to mark the "OK" blocks, he would be forced to inspect each of the 14 systems.

The FTC says that the dealer can use any inspection system he desires, but this is where the fine print begins, so long as it meets the standards outlined by the Department of Transportation.

The FTC says this is not a warranty, but I disagree. To quote directly from the proposed form:

> If anything we've marked "OK" is not OK, state law says we have to fix it or give you back some money. And, if the problem's bad enough, you can make us take the car back. This is true whether you buy with a warranty or "as is."

If that does not amount to a warranty, I do not know what does.

The "not OK" section of the proposed form also has its drawbacks. In order to protect themselves, some dealers may be inclined to mark the items "not OK." This will create a negative image in the mind of the customer, especially when there might not be anything wrong in the first place.

In order to find out if there is something wrong, the dealer must go through the costly inspection program, thereby increasing the cost to the customer. Even where there are things wrong with the vehicle, the cost estimates for repair are often not known, and the customer, fearing a high repair bill for a car he just purchased, simply walks away from the dealer.

The "we don't know" block is the most damaging to the image of the used car dealer, and is sure to discourage sales. Dealers who attempt to keep down the prices of their used cars by forgoing the inspection program and checking the block will be ambushed by a negative reaction from potential customers.

Customers may assume that the dealer marking this block either does not know enough about cars to inspect one; does not care about his customers; is trying to pull a fast one on the customer by not disclosing known defects; or is not interested in developing an honest reputation.

Mr. President, there are an estimated 70,000 small businessmen operating used car dealerships across this country. For the most part, they are honest citizens, working hard, paying taxes. If the FTC is allowed to impose on these used car dealers the excessive regulations contained in the proposed used car rule, many of them will not be able to survive economically. The consequences of implementation of this rule will be severe, Mr. President.

I have here a copy of a letter that I understand will be signed by some of my colleagues and sent to the Chairman of the Federal Trade Commission. I ask that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, I shall sign this letter, but I would prefer to see the Senate act today to get the FTC out of the used car business.

As far as I am concerned, the Senate ought to vote to terminate the used car proceedings. The FTC has demonstrated bad faith as far as this rule is concerned, and this should not be condoned.

I hope the FTC's response to this letter is satisfactory. If not, I shall introduce a resolution of disapproval and lead the fight to have it vetoed under the legislative veto provisions of the FTC Improvements Act of 1980.

EXHIBIT 1

SEPTEMBER 25, 1980.

Hon. MICHAEL PERTSCHUK,
Chairman, Federal Trade Commission, Washington, D.C.

DEAR CHAIRMAN PERTSCHUK: After careful analysis of the Federal Trade Commission's proposed used car rule published in August, 1980, we are concerned about practical effects of the rule. The rule would require a window sticker or "buyer's guide" on used cars to address the problem of oral misrepresentations by a used car dealer. The window sticker would explain to consumers that they should ask that all promises be put in writing and disclose whether or not various systems of the vehicle had been inspected or not.

We believe that the "buyer's guide," although in principle a good idea, may be too burdensome on the small businessman and has other problems with its content in its present form. Therefore we would urge the Commission to extend the comment period to insure that all interested parties be given ample time for substantive comment.

We also note that Section 102(B)(2) of P.L. 93-637 states that nothing in that act shall be deemed to authorize the Commission to require that a product or any of its components be warranted. Further, the Report of the Committee on Commerce, Science and Transportation on S. 1991, the F.T.C. authorization bill, stated in Section 23, which limited the F.T.C.'s authority to issue a trade regulation rule with respect to the sale of used cars, that the Commission "may not require a mandatory warranty or inspection in connection with the sale of a used motor vehicle."

We would like to point out that the Federal Trade Commission Act of 1980 contained a two-house legislative veto provision. If, in the future, the Congress has problems with the final rule, that mechanism may be used.

Sincerely,

Howard W. Cannon, chairman, Howard M. Metzenbaum, U.S. Senator, Wendell H. Ford, Chairman, Consumer Subcommittee, and James A. McClure, U.S. Senator.

Mr. PRESSLER. Mr. President, I associate myself with the statement of the Senator from Idaho (Mr. MCCLURE). I am a cosponsor of the amendment.

Mr. President, I am pleased to join my colleagues in this discussion of the Federal Trade Commission's (FTC) proposed used car regulations.

During consideration of the Federal Trade Commission amendments earlier this year, the Senate Commerce Committee amended the Magnuson-Moss Warranty Act and specifically stated that any rule relating to the sale of used cars may not require a mandatory warranty. This provision was not included in the conference report of this legislation.

I believe that some standards may in principle be a good idea, but in practice may be too burdensome on the small businessman. I have problems with the proposed regulations in their present form. Therefore, I would urge the Commission to extend the comment period to insure that all interested parties be given ample time for substantive comment.

Under the proposal, a used car dealer would be required to complete a condition statement of "OK," "not OK," or "we don't know," for each vehicle. In essence, a used car dealer is being forced to guarantee a vehicle from any mechanical failure—which is an impossible requirement.

For example, if a used car dealer checks on the window sticker, "we don't know," the consumer will certainly not buy the vehicle. If he checks "not OK," the consumer would naturally assume that there was something wrong with the car. As we know from real life situations, frequently the buyer and seller do not know the true condition of the merchandise. If a dealer checks "OK," he is essentially guaranteeing a used vehicle which because of normal wear and tear is in fact impossible to classify with any precision. These regulations seem to perpetuate the assumption that the used car dealer is dishonest.

I believe these standards are impossible to define. It seems strange that a Government agency is about to require such vague definitions as "OK," "not OK," or "we don't know."

Mr. President, I hope that this discussion on the Senate floor will help cast light on the problems which are created by these proposed regulations. As I have noted, I have joined several of my colleagues in urging the FTC to reconsider these regulations.

It shall be asking used car dealers and consumers in South Dakota for comments on these regulations.

Mr. METZENBAUM. Mr. President, I wish to address myself to this amendment. I do not know whether it has been withdrawn as yet, but I understand it will be.

Clearly the consumers of this Nation need some type of used car rule.

Ten million used cars are sold each year at a cost of $30 billion. And it is no secret that used car purchasers too often have good cause to remember the phrase Caveat Emptor—"Let the Buyer Beware."

Let me give a few examples from the FTC files:

"SOPHIE", LOS ANGELES, CALIF.

This consumer purchased a 2-year-old Vega for $3,000 following a salesman's representations that the car was the best car on the lot, that it was in proper mechanical condition and excellent running order, and that all repairs would be free for 1 year. Following the purchase, defects appeared within 2 days with the car shaking and leaking oil. Within 10 days the car stalled constantly. Within months, the engine failed completely. The dealer's oral promises to repair were not lived up to and, without transportation, this consumer lost her job.

LOREN WARICK, SAN JOSE, CALIF.

This car salesman described a transaction he observed in the course of his work: A college student purchased a 1970 BMW from his dealership for $2,900 in 1975. The student was told that the car had "been through the shop" and he believed it was in good mechanical condition. Within days after the purchase, the car's automatic transmission failed and it had to be towed back to the dealership. The dealer offered to help the student arrange an additional loan to cover the estimated $1,350 repair bill. Warick interceded on the student's behalf, and the dealer made the repair at half the estimated price. Later, Warick learned from the dealership's service manager that the actual cost of the repair was only $350. Warick testified that he has seen "a lot of that sort of thing."

MISS BAKER, RUTLAND, VT.

This consumer testified that she purchased a 5-year-old VW in 1976 from a VW dealer in Rutland. She purchased this particular car because the salesman stated that he had driven it several times, that it was in great condition, that it was the best car on the lot, and that it would be trouble free. She purchased the car "as-is" and correctly understood the meaning of that term but believed she was making the correct decision based on the salesman's representations of the car quality. The car's transmission failed within weeks of the sale, costing $300, and brakes also needed work costing $75. The dealership would make no repairs and, when asked to take the car back, stated that this $1,400 VW was now worth only $600. Miss Baker kept the car and absorbed the repair costs.

Miss Baker testified at a hearing in Boston on December 9, 1976, that she has had numerous other problems with the car since purchase. In fact, she missed her scheduled day to testify and had to reschedule her appearance when the car broke down again on her way to the hearing.

I am certain that everyone here knows similar stories—perhaps even from personal experience.

So I think the need for some type of FTC action is evident.

The Commission is trying to provide consumers with important information about the condition of the car at the time of purchase.

I understand that there is disagreement about the best method for providing this information to consumers.

But I do not believe we should stop this worthwhile effort.

The FTC has spent 3 years working on this rule. It held 30 days of hearings in six cities.

The proposed rule is now open for public comment. I believe this period for public comment on the existing record should be extended. I am confident that during this time the Commission can improve the used-car rule in a way that will balance the concerns of the consumers that buy used cars and the small businessmen that sell them.

Mr. President, I want to acknowledge the cooperative efforts that have been made by the Senator from Idaho, the Senator from Kentucky, myself, my own staff, in attempting to resolve this matter in a manner that did not swing the pendulum entirely one way or the other, but attempted to do it in a constructive and cooperative manner so that, in the final analysis, the issue can be resolved so consumers are protected, while at the same time small business persons are not adversely affected.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from Ohio.

Again, I wish to express my concern about the proposed rule, and the gratification I have of working with the Senator from Ohio and his staff, the Senator from Kentucky and his staff, and other Senators who have expressed an interest in this matter.

There has been widespread interest expressed by most Members.

Mr. MAGNUSON. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Washington.

Mr. MAGNUSON. The Magnuson-Moss Act—I am glad the Senator worked out this arrangement—has been misinterpreted a great deal.

We fully intended that a warranty should be placed on used cars, if they wanted it. If they did not, or they wanted to sell a used car as is, that is fine.

I understand this arrangement creates that situation.

Mr. McCLURE. The Magnuson-Moss Act, as I read it, and as the legislative history makes clear, prohibits the requiring of a warranty, but can provide for the disclosure of any warranty which is given.

It is that line which we want to see followed—a difficult line.

Mr. MAGNUSON. That was the attempt of my act.

Mr. McCLURE. Yes. I thank the Senator from Washington.

Mr. HOLLINGS. Mr. President, I am also concerned about the practical effects of the FTC's used car rule. Many car dealers in South Carolina have spoken to me about this and there is a genuine concern of the effect of this rule on the prices of used cars. Many of these dealers are very small businessmen. Many of their customers can ill afford the cost of the prepared "buyers guide" window stickers, that may be a lot more expensive than the well-intentioned but comfortably isolated staff of the FTC realize. By extending the comment period the Commission can look further into these concerns.

Mr. McCLURE. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

COMMITTEE AMENDMENT ON PAGE 50, LINE 20

Mr. HOLLINGS. Mr. President, I ask that the next committee amendment be presented.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> Page 50, line 20, strike Sec. 609:
>
> SEC. 609. No funds appropriated under this Act may be used for any action by the Attorney General or by the Secretary of State which is not in compliance with the provisions of the Refugee Act of 1980.

Mr. HOLLINGS. Mr. President, my distinguished senior colleague (Mr. THURMOND) wanted to move to table the amendment, and we are willing to submit to a voice vote on it.

It was eliminated in the committee amendment, because it was thought that the authority of the act of 1980 did not really apply to Cubans and Haitians since the President had given, recently, a special status to Cubans and Haitians under the Immigration and Nationality Act.

So we thought it was surplusage and should be stricken. With that in mind, we will hear from the Senator from South Carolina.

Mr. HELMS. He will be here in a moment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I believe the distinguished manager of the bill was going to proceed with the committee amendment concerning section 609 on page 50 of the bill.

Mr. HOLLINGS. That is the pending question.

Mr. THURMOND. Mr. President, on July 23, 1980, when this legislation was considered on the House floor, it was clear that the purpose of the language of the amendment offered by Congressman McDADE of Pennsylvania, was to force the administration to act on the Cuban refugee situation pursuant to the Refugee Act of 1980. What was at stake, and still is, is this Nation's commitment to follow the law.

Mr. President, on Friday of last week, the administration officials responsible for the Government's refugee program appeared before the Senate Judiciary Committee. It was clear from their presentation that the decision by the administration to not follow the terms of the Refugee Act of 1980 has caused more problems than have been solved.

First, no firm decision has been made to separate economic refugees from political refugees. The only efforts that have been made, as I understand it, is to reunify family members and detain other individuals who fall into categories of criminals, mental cases and the like. The Attorney General has the authority to decide which refugees are here because of fear of political persecution and deny others continued presence in this country.

Second, Mr. President, the failure of the Carter administration to follow the terms of the Refugee Act of 1980 has also caused a reduction of Federal reimbursement to State and local authorities which have had to bear the bulk of the responsibility for these refugees. This problem should not have been put on the backs of State and local officials. It should have been recognized as an international problem and brought to the attention of the United Nations High Commissioner for Refugees. The failure of this administration to pursue that course of action now makes it doubly hard to obtain assistance from other nations.

Mr. President, the sole reason we are in this mess is because President Carter announced to the world that we would accept the Cuban refugees from the Peruvian Embassy in Havana "with open arms." I submit that from that point on this administration's refugee policy has been nothing but half-steps and temporary measures to meet the politics of the times. This has resulted in nothing but confusion for the Cuban community, State and local officials and the American people.

Mr. President, the amendment adopted in the House, would simply force the administration to act according to the Refugee Act of 1980. I do not believe the Senate should avoid its responsibility in this matter and permit the administration to avoid acting under the provisions of that law.

The section is very brief. It says:

> No funds appropriated under this Act may be used for any action by the Attorney General or by the Secretary of State which is not in compliance with the provisions of the Refugee Act of 1980.

In other words, all we ask them to do is conform to the law. That is all this section does.

The House put the section in and we think it ought to stay in.

Therefore, I move to table the committee amendment on this point.

I hope the managers of the bill will see fit to accept my position in this matter.

Mr. HOLLINGS. Let us vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The motion to table the committee amendment (page 50, line 20) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 5, LINE 10

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

> On page 5, line 10, strike the numeral and insert $508,083,000.

Mr. HOLLINGS. Mr. President, this is the important amendment that we were trying to discuss earlier. The distinguished Senator from New York is vitally interested in it, as is the Senator from North Carolina.

The committee insists on this amendment. This is our contribution to the International Labor Organization.

As explained on page 12 of the report, the $508 million recommended provides for our assessed contributions to 47 international organizations in which the United States' participation is authorized by treaty, convention, and specific acts of Congress.

More than 70 percent of this appropriation represents assessments from the United Nations and specialized agencies. The various organizations and the U.S. share of their cost is detailed on pages 13 and 14 of our report.

Our amounts are identical to the amounts allowed by the House, except that we did provide for the 1981 cost of the International Labor Organization.

Mr. MOYNIHAN. Mr. President, I support, with the greatest vigor at my command, the wise decision by the Committee to include in the international organization section of this appropriation the funds necessary for the United States to pay its dues to the International Labor Organization for 1981 as well as 1980.

The facts here are very direct. This is an obligation the United States has assumed; we must now fulfill that obligation.

In November of 1977, we withdrew from the International Labor Organization, because we found that the principles of the ILO charter were not being maintained by that organization. We had a right to make this decision. The charter of the ILO was drafted, at Paris in 1918, under the leadership of Americans led by Samuel Gompers. We had a right to make this decision to withdraw and we made it, to the great credit of the United States and of its allies and friends around the world.

Our point was made, it was understood by those to whom we had addressed ourselves, and the ILO commenced to withdraw from the inappropriate political activities with which it had become involved. The ILO met the conditions that we had laid down and in February of this year we returned to the organization. We resumed the obligations which we had first assumed in 1934, when we joined the ILO.

Since February, an event of enormous importance in the world has taken place, an event without equivalence in the history of Communist totalitarianism. A few weeks ago the workers of Poland rose in protest against the totalitarian regime of that country and claimed their right to organize as free men and free women into free trade unions.

On the 17th of August, while the world watched, and led by Lech Walesa, a man who has now made a name for himself in the history of liberty, the workers in Gdansk set forth their demands against the totalitarian government under which they live, and against the Soviet Union, in the shadow of which they also live. Of these several demands, the most specific read:

> Respect for the International Labor Organization conventions which include the right to establish free trade unions.

Here they spoke to the obligations of the Government of Poland under ILO convention No. 87, which was adopted in 1946 at the behest of the American labor movement, in the tradition of the American labor movement, in an organization founded by the American labor movement. And they won; the workers prevailed. The Government of Poland agreed to meet their demands.

Just this morning we read in the papers that yesterday the newly organized federation of Polish workers submitted its draft statutes to the Polish courts and that they have been accepted. The statutes of this new federation include the right of workers to organize free trade unions under the ILO Convention.

The great issue in the months ahead, the years ahead, is whether the Polish Government will abide by that commitment. We saw what happened with respect to the commitments made by Mr. Gierek in 1970, following an earlier workers uprising. They were reneged on. The faith was broken. Mr. Gierek became as bad as his predecessor. Now Mr. Gierek has gone the way of his predecessor and and the question is whether Mr. Kania and his regime will keep their commitments under the ILO, their pledges to the workers of Poland.

This is going to be at the center of the activities of the International Labor Organization this year and throughout this decade. If the workers continue to prevail, if the promises are kept, if the law is upheld, then the nature of the totalitarian regimes of Eastern Europe will have been shaken as they have not been since they were imposed on the peoples of those countries by the Red Army.

Mr. President, can this be the moment in which we break our own commitment to that organization? Can this be the moment in which we refuse to pay our dues, which payment gives us the right to stand in the meeting halls of the ILO in Geneva and to insist on the fulfillment of the treaty obligations of the Government of Poland to the workers of Poland? Surely not.

This is an obligation freely undertaken by us all, by the American business community, by the American labor community, and by the American Government. Let us not forget that the ILO is a tripartite organization. The U.S. Chamber of Commerce is as much a part of the ILO as are the AFL–CIO and the U.S. Government.

If we are going to keep faith with those workers in Poland, we are going to accept the committee's amendment this evening. Not to do so would be treacherous. Not to do so would be ignominious. Not to do so would be to turn our backs on 60 years of involvement with this organization.

The chairman of the committee cannot be too much congratulated for his vigilance and foresight in seeing that our commitment at this critical moment is kept. I plead with the Senate to keep it. In the name of the workers of Poland, let us keep our commitments to the ILO. I ask this of the Senate. I cannot imagine that we will not do it.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from North Carolina for agreeing to hold up this amendment so that the distinguished Senator from New York could be here to present his argument in such a convincing and persuasive fashion. His argument leaves no doubt that we must carry this amendment at this particular time.

I was worried that an appropriate record might not be made earlier today. I thank the distinguished Senator from North Carolina for his indulgence so that we could carry it over and enable the Senator from New York to be heard on this matter.

Mr. HELMS. Mr. President, I move to table the committee amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. STEWART), the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. ZORINSKY) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators who wish to vote or change their vote?

The result was announced—yeas 32, nays 51 as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—32

Armstrong
Bellmon
Boren
Byrd, Harry F., Jr.
Cochran
Cohen
Danforth
Domenici
Exon
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stafford
Talmadge
Thurmond
Wallop
Warner
Weicker
Young

NAYS—51

Baker
Baucus
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cranston
Culver
DeConcini
Dole
Durenberger
Ford
Glenn
Gravel
Hart
Heflin
Heinz
Hollings
Inouye
Jackson
Johnston
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stevens
Stone
Tsongas
Williams

NOT VOTING—17

Bayh
Biden
Chiles
Durkin
Eagleton
Goldwater
Hatfield
Huddleston
Javits
Kennedy
Leahy
Morgan
Stennis
Stevenson
Stewart
Tower
Zorinsky

So the motion to lay on the table was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment on page 5, line 10 was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Will the Senator please suspend until the Senate is in order? The Senate is not in order.

The Senate is not in order. Will Senators who wish to converse please refrain from doing so or leave the Chamber?

The Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from South Dakota yield to me for a brief announcement?

Mr. PRESSLER. I yield.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

There will be no more rollcall votes today. The first rollcall vote on tomorrow is expected to occur at 10 minutes after 10 with respect to the amendment which is now being offered by the distinguished Senator from South Dakota.

Mr. HOLLINGS. Mr. President, could we ask unanimous consent for that time to be set?

ORDER FOR VOTE TO OCCUR AT 10:10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with the approval of Mr. HOLLINGS and Mr. WEICKER, that the vote occur with respect to the amendment by Mr. PRESSLER at 10:10 tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding.

AMENDMENT NO. 1940

(Purpose: To prohibit the use of funds for the purpose of enforcing the agricultural commodity export embargo to the Union of Soviet Socialist Republics)

Mr. PRESSLER. Mr. President, I call up my amendment No. 1940 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 1940.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, insert between lines 5 and 6, the following new section:

SEC. 605. No part of any appropriation contained in this Act shall be used for the enforcement or implementation of any restrictions heretofore imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979.

Mr. PRESSLER. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1660

(Purpose: To prohibit the use of funds for the purpose of enforcing the agricultural commodity export to the Union of Soviet Socialist Republics)

Mr. PRESSLER. Mr. President, I send to the desk an amendment to the pending amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an unprinted amendment numbered 1660.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Mr. President, what amendment is that? I do not know what the amendment is.

The PRESIDING OFFICER. Is there objection?

The clerk will read the amendment.

The assistant legislative clerk read as follows:

In lieu of the language proposed to be inserted by the Senator from South Dakota (Mr. PRESSLER), insert the following:

On page 53, between lines 18 and 19, insert the following new section:

SEC. 612. No part of any appropriations contained in this Act shall be used for the enforcement or implementation of any restrictions heretofore or hereafter imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979.

Mr. PRESSLER. Mr. President, Senators BOSCHWITZ and EAGLETON join me in this amendment. I thank them for their strong support.

I ask unanimous consent that they be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. This amendment was referred to the Committee on Appropriations on July 22, 1980. There has not been further action. I know that the committee gave extensive consideration to the issue of controls on the export of strategic goods to the Soviets, but apparently agricultural commodities were not included under the designation "strategic goods."

I shall not prolong the discussion of this issue. Several distinguished Senators on both sides have addressed it at length several times since the embargo was imposed by unilateral Presidential action in January of this year. Along with many other Members of Congress, I stated my reservations about the embargo at the outset in January of this year, and it is encouraging to note that support for a rescission of the embargo has increased in recent weeks.

Mr. President, I think it is proper to note that many people would support a total embargo against the Soviet Union. Indeed, earlier this year, Senators HATFIELD, GOLDWATER, and I filed a bill, which other Members of this body have cosponsored, which provided for an across-the-board embargo against the Soviet Union.

If we are to pick out one group or two groups for an embargo, we should then have an across-the-board embargo.

Later in my remarks I shall point out that the Soviet grain embargo has not been an effective embargo, in any event.

Twenty-two Senators have cosponsored a bill to rescind the embargo, and, as one of those cosponsors it seems clear to me that the Banking Committee will not give the full Senate an opportunity to consider this bill. Therefore, I have brought this matter to the floor of the Senate at this time.

Mr. President, the administration's position is that a total trade embargo would be a return to the Cold War. So trade does continue with the U.S.S.R.—we do not have a total embargo. The administration's idea of punishing the Soviets is to allow trade in all categories except these: Grains; some other agricultural products; phosphates; and computers and computer-related high technology.

Mr. President, U.S. farmers are patriotic, hard-working, tax-paying citizens. They contribute about $40 billion to U.S. exports and thus help to pay the $90 billion oil import bill the United States pays each year—a bill which will continue to rise.

These farmers would be supportive of the embargo if it did not weigh almost entirely on themselves and if, indeed, it were an effective embargo and if other sectors of the economy were asked to pay the same amount. If the embargo worked to achieve the goal of getting the Soviets out of Afghanistan, and if the embargo were imposing a significant penalty on the Soviet Union, it would have broader support.

But the facts are these:

First, the embargo represents a loss of at least 17 million metric tons of grain sales to the Soviets. The rural elevator price of these lost sales amounts to at least $2 billion. For comparison purposes, lost computer sales are estimated at about $50 million.

Second, the Soviets are still in Afghanistan and show every indication of staying there for a long time. In terms of strategic action, this embargo has failed.

Third, the embargo has cost the Soviets something, but it is impossible to say how much. As everyone knows, Soviet feed grain and meat supplies are not determined solely by the level of U.S. exports. The administration predicted early this year that there would be a 5-percent decline in Soviet meat supplies in 1980. In August and September, they have been saying the Soviet meat supply decline is 1 percent to 2 percent. Yet, the "guesstimation" of how much the Soviets are really being hurt is a matter of subjective judgment. It is very difficult to monitor international trade, including agricultural trade—nobody really knows how much indirect and secondary market purchases the Soviets have made.

Let me summarize some of the reasons I believe the embargo should be discontinued:

First. It has cost U.S. farmers hundreds of millions of dollars.

Second. It is costing other Americans hundreds of millions in additional support programs designed to alleviate partially the impact of the embargo on farmers; in fact the net cost of these embargo-related programs may exceed $1 billion.

Third. The longer the embargo continues, the more difficult it becomes to reestablish this major export market; and the longer it continues, the greater the danger that other potential trade partners will consider the United States to be an unreliable, inconsistent, and unpredictable supplier.

I might emphasize at this point in my remarks that getting the Soviet market back may be a problem. Just to say the embargo is lifted does not mean that we are automatically going to have the Soviet grain trade back. Some of the indirect and other suppliers will have replaced the present supplier.

Fourth. The embargo has been circumvented by Soviet grain purchases from other nations. Here, again, official statistics can be misleading, but there are strong indications that much of the embargoed 17 million tons of grain has been supplied by other countries.

Argentina, Australia, and others, have concluded long-term sales agreements with the Soviets since our embargo started. Several sources report substantial increases have occurred in other nations' exports to the Soviets—notably Argentina and Eastern European countries.

In June, Senator EAGLETON cited reports that the volume of Australian grain sales in the 9-month period ending in March of this year had increased by 11 times over the same period a year earlier.

The American Soybean Association reports that European processors have purchased substantial quantities of U.S. soybeans in order to fill orders in the U.S.S.R. indirectly.

Further, America-based grain companies, which are held by a few families which do not have to publicly report their business activities, are allowed to sell foreign grain to the Soviets. We do not know how much of this foreign-origin grain has been sold by these companies to the Soviets.

Other Communist nations have been purchasing far more than their usual purchases of U.S. grain this year, giving rise to the suspicion that more than 8 million tons are making their way from U.S. fields to the Soviet Union this year. If this indirect or secondary market continues, it could be that the subterfuge will result in major undercutting of the embargo's stated objectives. On this score, I ask:

If the President really wanted to hurt the Soviet economy, why did he not abrogate the contract for the 8 million tons and also embargo all other sales to the Soviets?

Indeed, earlier this year my staff found that we were still selling the Soviets manufactured products that would help raise grain, that would help produce grain, ranging from fertilizer to phosphate to machinery to repair items for combines, and so forth. So we seem to be doing something with the right hand that we are not doing with the left.

Mr. President, there are precedents

for this amendment. During the Kennedy administration, the President imposed an embargo on walnut logs exports. It was a successful amendment on an appropriation bill which killed that embargo, but only after the walnut export market was ruined.

During the Johnson administration, the President imposed an embargo on hide exports, and, again, it was an amendment on an appropriation bill which ended that embargo.

President Nixon imposed an embargo on 41 different agricultural products, most prominently soybeans.

In the end, Mr. President, all of these agricultural embargoes ended up hurting us more than the intended victims. I might say there is precedent for ending these embargoes in the fashion we are attempting today.

The long-term impact of this current embargo, if it continues, could be to destroy other U.S. markets. If others perceive us as unreliable suppliers, we could lose markets elsewhere. Also, it is reasonable to expect that United States forsaking of the Soviet market will induce greater production efforts by other suppliers. If the demand is there, the supply will develop, notwithstanding allied rhetoric about not filling the new demand created by this embargo in other producing nations.

Mr. President, let me conclude by again saying that the basic problem with the grain embargo has been that it was imposed on one segment of our economy, farmers and small business in agricultural areas. Also, it did not apply to some of the items that are used to raise grain in the Soviet Union.

Indeed, we continued our manufactured goods trade with the Soviet Union and we were selling them fertilizer until a group of us protested and the sale of phosphates was terminated.

This particular embargo is further being thwarted by the indirect selling of grain to the Soviets. So our farmers are being asked to give up U.S. export sales while indirect Soviet purchases may be siphoning U.S. grain at lower prices.

We are giving up some of our market to other countries, notably Argentina and Australia.

Mr. President, I did not previously ask unanimous consent that my first-degree amendment now at the desk be modified to indicate the correct page and section number.

Mr. President, I ask unanimous consent that my first-degree amendment now at the desk be modified to indicate the correct page and section.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 1940), as modified, is as follows:

On page 53, between lines 18 and 19, insert the following new section:

Sec. 612. No part of any appropriation contained in this Act shall be used for the enforcement or implementation of any restrictions heretofore imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979.

Mr. PRESSLER. Mr. President, I ask for the yeas and nays on my amendment, as modified, and the amendment in the second degree.

Mr. HOLLINGS. Mr. President, I might say to my colleagues that we had not planned for the vote at 10:30. If the Senator is going to have two rollcalls, that would be 30 minutes.

Mr. PRESSLER. No, just one vote.

Mr. HOLLINGS. The Senator already has that set for 10:10. That has been set by the majority leader.

Mr. PRESSLER. That will be fine.

The PRESIDING OFFICER. The yeas and nays have been ordered on the first-degree amendment only.

Mr. PRESSLER. Mr. President, could we have a brief quorum call for the staff to work this out?

Mr. HOLLINGS. While they are working it out, maybe I can make some comments on this amendment.

Mr. President, I wish I were a little more versed on the grain embargo. Some of our midwestern Senators perhaps know and understand better than I. When I learned that the amendment was going to be presented, I did look into this matter.

Back at the particular time, Mr. President, when we initiated this particular policy, it was as a result of the invasion of Afghanistan. Maybe some have forgotten about that invasion. It has been written that we have political amnesia, that we are always simply moving on to the next crisis.

I guess that now with the Iran and Iraqi war we can forget about Afghanistan and move to Iran and Iraq, and then move the next crisis the next day. The fact is that at the time the President of the United States was limited to his options.

I had heard all the political debates, and at the time they had I do not know how many candidates on both sides of the aisle wanting to be President. I did not hear them offer any really great, new idea for a response to that invasion. Certainly, they did not recommend that we go into Afghanistan.

So the President of the United States took some limited, measured responses by way of a boycott of the Olympics. Did that work? There is a mixed report on that. I happen to think it did.

We could not appear in Moscow on the basis of business as usual. Similarly, with respect to the embargo, we could not be feeding the aggressor.

Yes, we had the 8 million tons that had to be filled out, by prior contracts. So a limited response was taken, and taken at a critical time when the farmers were voting in Iowa, which I think was significant.

The farmers in Iowa responded to the call made so clear on the steps of this Capitol, back in 1961: "Ask not what your country can do for you, but what you can do for your country."

Mr. President, I believe the American people are willing to sacrifice. Certainly, the farmers were. When it was explained to them, they did vote with Carter and supported this embargo. It has not had the crystal-clear success from allies like Argentina and others that we wished, but the majority did cooperate and, right now, we see that, from the Soviets' own statistics, meat production compared with the previous year is down 5 percent in May. It went down 10 percent in the month of June, and 15 percent in the month of July. So, apparently, it is working.

We constantly hear the charge, "Oh, yes, the embargo"—and we politicians run willy-nilly down the road to correct it—"has not hurt the Soviets at all, but it has hurt the American farmer."

Looking at it on balance, it has taken a very measured effect on the Soviets. By every account—our own intelligence, official Soviet statistics, reports by the media—the grain sale suspension has forced the Soviets to pay premium prices for grain imports. It is a source of labor unrest in that country and a political embarrassment to the Kremlin, because it points up the flaws and failures of the Russian food and agriculture system.

Mr. President, this is a matter of national policy and I praise the bipartisan approach we just used to the Tarapur instance. The administration of this country would never have succeeded in keeping our commitment to India going forward with the policy, had we not had a bipartisan approach to it. Similarly, if it is to be taken off, let us try to take it off as a distinct act, not as an amendment on an appropriations bill.

Just a minute ago, Mr. President, with the ILO and other different treaties and organizations, all the amendment makers kept running around and saying, "Oh, I do not believe in all those foreign treaties and so on." They were members of the Foreign Relations Committee. If they do not believe in it, let them go ahead and get the country out of those treaties and agreements in the Foreign Relations Committee. They should not require, as a national policy, our membership and participation, and then not give them the money to carry through.

Similarly, at this point, let us not embarrass the United States in its position and its policy with respect to Afghanistan and its allies, who have kept the faith and tried to work with us.

I ask unanimous consent that a letter from the Secretary of Agriculture, Secretary Bergland, on September 25, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Agriculture,
Washington, D.C., September 25, 1980.
Hon. Ernest F. Hollings,
Chairman, Subcommittee on State, Justice, Commerce Appropriations, U.S. Senate, Washington, D.C.

Dear Chairman Hollings: You will be asked to vote on an amendment to H.R. 7584, the State, Justice, Commerce Appropriations Bill, which is being described as an "amendment to end the Soviet grain embargo."

The Administration opposes this amendment most strongly.

I'm sure you've heard it said many times in recent months that the partial suspension of grain sales the President ordered to rebuke the Soviet Union for invading Afghanistan has not hurt the Soviets but has hurt the American farmer. The charge is based on assumptions that will not hold up when all the facts are on the table. It is true that, for the first few weeks and months of the suspension, there was little visible sign of its impact on the Soviets. But that has changed. Indeed, the change is more dramatic by the week. The Soviets' own statistics show meat production, compared with the previous year, down 5 percent in May, 10 percent in June, and 15 percent in July.

By every account—our own intelligence, official Soviet statistics, and reports by the media—the grain sales suspension has forced the Soviets to pay premium prices for grain imports, is a source of labor unrest in that country, and a political embarrassment to the Kremlin because it points up to flaws and failures of the Russian food and agriculture system. These difficulties seem certain to grow, because Soviet grain harvests this year will fall short of expectations.

To end the grain sales suspension now—just when its impact is being felt the most—would demean us as a people, compromise the integrity of our foreign policy, and in time risk our national security.

Lifting the suspension before the Soviets show any sign of recanting surely would be viewed by the Kremlin as clear evidence of weakness of will.

But, if the suspension is proving to be an effective rebuke of Soviet aggression, what about the second half of the critics' charge—that it has badly hurt the American farmer?

It is true that grain prices slumped after the suspension was invoked last January. But is it true that the suspension is the only—or the major—cause? It is not. Grain prices, for instance, are determined more by weather and by yield than by any other factor. Last year we had the most favorable growing weather in several decades and record harvests for all five major crops. We knew what those record yields would mean to the market. The drop in corn and soybean prices that began around mid-1979 was evident well before the President ordered the grain sale suspension.

What is more, the variety of actions ordered by the President to ease the burden of the suspension on American farmers—ranging from direct government purchases to government assumption of export contracts to greater incentives for farmers to store more grain in their own reserve—resulted in the removal from the marketplace of more grain than was originally scheduled to be sold to the Soviets.

The price of corn at Chicago yesterday was $3.43 a bushel, compared with $2.56 on the day the suspension was imposed; the price of wheat at Kansas City yesterday was $4.57 a bushel, compared with $4.39 on the day the suspension was imposed; the price of soybeans at Chicago yesterday was $7.91 a bushel, compared with $6.15 the day the suspension was imposed.

Finally, let me point this out: The Soviet market for our farm exports has never been that large or that reliable because it is determined in large measure by the success or failure of Soviet crops. The truth is that, even with the curtailment of sales to the Soviets, U.S. farm exports are expected to rise to $40 billion in 1980, 25 percent greater than the all-time record set in fiscal 1979, and the largest year-to-year increase in the history of our nation.

At the same time, our agricultural trade surplus is forecast to rise by 40 percent, to more than $22 billion. This also is the largest year-to-year gain in history. And that's important to all Americans because that surplus helps keep the lid on inflation. We look for this trend to continue into fiscal 1981, with prospects for farm exports as high as $45 billion and an agricultural trade surplus approaching $25 billion.

The House of Representatives has defeated a similar amendment by a resounding margin. It is in the national interest for the Senate to do likewise.

Sincerely,

BOB BERGLAND,
Secretary.

Mr. HOLLINGS. Mr. President, the Secretary points out the misgivings we had. At the very beginning, there was an effect on the price of grain, but now, we see that the price of corn in Chicago yesterday was $3.43 a bushel, compared with $2.56 on the days of the suspension. The price of wheat at Kansas City yesterday was $4.57 a bushel, compared with $4.39 on the day of the suspension. The price of soybeans at Chicago yesterday was $7.91 a bushel compared with $6.15 the day the suspension was imposed.

So we begin to wonder whether the intention is to help the farmer or to change that policy. If it is to change that particular policy, let us do it the appropriate way as the law designates, and not as a rider on this appropriation bill.

To end the grain sale suspension now, just when its impact is being felt, says Secretary Bergland, would demean us as a people, compromise the integrity of our foreign policy, and, in time, risk our national security. I believe that. I think that we need to continue with the embargo just when it is beginning to take effect, and not turn tail and run at this time on misstated facts about the damage being done.

The fact of the matter is that no international embargo in the world in which we live today, is going to work absolutely. It did not work in World War II, and we can name the exceptions. It is not going to work in the Afghanistan war. But these limited options taken on behalf of a country cannot be willy nilly thrown aside with a little amendment on an appropriations bill that has nothing to do with having set the particular policy.

Our agricultural trade surplus, Mr. Bergland writes, is forecast to rise by 40 percent to more than $22 billion. This also is the largest year-to-year gain in history. And that is important to all Americans because that surplus helps keep the lid on inflation. We look for this trend to continue into fiscal 1981, with prospects for farm exports as high as $45 billion and an agricultural trade surplus approaching $25 billion.

Mr. President, the great American success story is the American farmer. I think he wrote a very significant page in January, when we had that Iowa primary, and he showed a willingness to sacrifice. This measure was taken up in a peripheral, oblique fashion, when the attack was made on the House side with a little rider to the appropriations bill, and the House overwhelmingly defeated a similar amendment.

Mr. President, I hope we think very seriously about it; that is why I did not want to agree to a vote here this evening. I hope we start taking up serious foreign policy, with the Afghanistan war still in course, and not start changing now the policy set and supported, generally speaking, by the country and by Members on both sides of the aisle, just at a time when it is beginning to work.

Mr. PROXMIRE. Mr. President, the distinguished Senator from South Dakota, in offering the amendment, indicated that the Banking Committee would not permit a vote on this amendment. I suppose he is technically right, but the fact is that we did have hearings on this proposal. We had the distinguished Senator from Kansas (Mr. DOLE), we had Senator BOSCHWITZ, Senator McGOVERN, Senator EXON, Senator JEPSEN, and Senator ZORINSKY; we had the president of the National Association of Wheat Growers, the president of the agri-industries, the vice president of legislative affairs of the National Corn Growers Association. We had the administrator of the Nebraska Wheat Committee. We had four administration witnesses.

Mr. President, I do not think anybody could argue that the hearings were at all biased. If they were, they were biased on the side of the amendment. Any time any Senator, on the committee or outside the committee, wants us to have a markup on a bill, as chairman of the committee, I schedule that markup. I have done that consistently. I do not believe that a chairman has any right to hold up a bill for a day if Members want action on it. So they were perfectly free to ask the committee to have a markup, but we did not get that request. At any time that any Member wishes us to have a markup on that proposal, we certainly shall have it, and I mean any Member of the Senate, not simply any member of the committee.

Mr. President, I oppose the Pressler amendment. Cutting off funds to implement the partial embargo on grain sales to Russia would make a mockery of the American protest against Russian aggression in Afghanistan. I would remind my colleagues why President Carter acted to restrict sales of agricultural products and high technology to the Russians.

The President was responding to a naked, brutal military invasion af an independent nation by the Communist Colossus. Tens of thousands of Russian troops, tanks and planes poured into Afghanistan during Christmas week. They commenced a bloody slaughter of the innocent Afghani people which continues still today.

Under those circumstances, recognizing that Afghanistan is a remote country to which our own military forces did not have ready access, President Carter had only two choices: To do nothing or to respond with nonmilitary means. He chose to apply economic sanctions to the Russians: Grain shipments over the 8-million metric tons covered by international agreement were suspended; sales of high technology and other strategic items were more strictly curtailed; Russian fishing rights in U.S. waters were terminated; exports of phosphatic fertilizers to Russia were barred.

I supported the President's actions then and I support them now. These limited economic sanctions were the least we could do to demonstrate our support for human freedom against Communist tyranny. To have done less would have been shameful. As the President said on

January 4 when announcing these measures:

> Neither the United States nor any other nation which is committed to world peace and stability can continue to do business as usual with the Soviet Union.

Mr. President, the Pressler amendment would put the United States in the position of resuming "business as usual" with Russia while the Russians are still bombing and murdering in Afghanistan. I cannot see how in good conscience the United States can resume "business as usual" with Russia. I hope my colleague and friend from South Dakota (Mr. PRESSLER) will reconsider and withdraw his amendment.

Not only would his amendment, if adopted, constitute an unjustifiable, unconscionable reversal of the stand President Carter took in January, we would be dropping the sanctions just as every piece of evidence we can gather demonstrates that the sanctions are really starting to hurt the Russians.

Mr. President, I wish to remind the Senate that the trade sanctions imposed in January were intended, as President Carter said at the time, to make the Russians "pay a concrete price for their aggression." No one suggested that trade restrictions would force the Soviet Union to leave Afghanistan, nor cause starvation in Moscow. The purpose was to make them pay a price, and they are paying it.

These facts were before the committee and we challenged the proponents of this amendment to disprove these facts. They have not done so.

I invite my colleagues to consider the following facts, based on the best information from our own intelligence sources as well as published Russian data:

First, the impact on Russian feed grain imports: The United States suspended delivery of 17-million metric tons of grain (13-million tons of corn and 4-million tons of wheat) the Russians had contracted to buy during the 1980 agreement year, which runs from October 1979 through September 1980. No one ever expected that the Russians would be unable to replace part of the 17-million tons denied them by the United States. They were expected to replace as much as one-half from other sources, and they have done so. As of July the Russians were short 6-million tons, and the figure is expected to be higher—a shortfall of 8- or 9-million tons—by the end of the agreement year. The Russians were short 10 percent of their feed grain requirements for the June through January period. They are simply not getting all the grain they want and need.

Second, the switch from the United States to other sources of grain imports has been costly to the Russians. It has cost them money. The Defense Intelligence Agency estimates the Soviet Union is paying $1 billion more to buy grain elsewhere than they would have paid for U.S. grain. They are reported to be paying higher shipping costs as well. And, the Christian Science Monitor reports that:

> According to European grain experts, the Soviets pay in a third way because smaller shipments coming at times that suit their new suppliers have tied Soviet port, rail and storage facilities in knots.

Third, the difficulties the Russians are having in obtaining and transporting feed grains are affecting meat, poultry and milk production in Russia. After an initial spurt in January and February as the Russians slaughtered herds they knew they could not feed, meat production has fallen steadily. By their own statistics (which may understate the drop) meat production, compared with 1979, was down 5 percent in May, 10 percent in June, and 15 percent in July. Those are results. We are getting results.

Fourth, the decline in Soviet meat production has exacerbated an already severe shortage of meat and dairy products in the U.S.S.R. To keep meat consumption from declining below the current meager level, the Russian Government has been forced to import record quantities of meat. That is another price the Russians are paying: They are importing record quantities of meat at premium prices.

Opponents of the embargo say that meat consumption in the Soviet Union has only dropped a couple of percentage points. The critics ignore the fact that the Communist dictatorship had promised the Russian people a 10-percent increase in meat consumption. Now the U.S.S.R. is buying more meat from abroad but still has less available to consume, and what they have is of poorer quality.

Fifth, while the grain embargo is not the sole cause of food shortages in Russia, it has aggravated the situation, contributing to the discontent of the Russian people.

The director of the Defense Intelligence Agency, Lt. Gen. F. Tighe, has testified that the strike at the Togliatti truck plant "was undertaken in direct protest against the variety of food that is available."

So, not only is this hurting the Russians, but we have the explicit finding of the Intelligence Agency of this country, not challenged, it is causing this in the Soviet Union.

Mr. President, local news sources report that even in Moscow lines have formed for butter, milk, and meat. There are reports of shortages all over the country. In Arkhangelesk, diplomats report milk is sold only by prescription. In Novosibirsk, a major Siberian city, meat is never stocked in the supermarket. Reports of worker strikes and slowdowns that have recently occurred are linked to food shortages.

Accounts in U.S. news publications have confirmed evidence of the embargo's success:

U.S. News & World Report:

> The (worker) strikes have drawn unwelcome attention to acute shortages throughout Russia of meat and dairy products. Supplies are dwindling because of a poor harvest, a cutback on U.S. wheat exports to Russia and feed scarcities that led to the premature slaughtering of cattle, poultry, and other animals this year. Further depleting stocks are food shipments to Afghanistan, Vietnam and other countries where Russia is busy establishing a presence.

Newsweek:

> As the reports of worker protest suggest, the problem (of food shortages) this spring has been especially trying. Some have blamed it on government stockpiling to guarantee a bounty of goods for the Moscow Olympics. Others say that the U.S. embargo has cut into stocks of high-quality feed grains . . . for beef and dairy herds.

The Washington Post:

> Never in the past decade has the prospect of widespread shortages of fresh meat and dairy products so darkened the horizon for Soviet consumers this spring, when the American grain embargo looms in the mind of millions.

The Atlantic:

> It appears that the Russians would manage to scrape up additional grain from other sources—but certainly not enough to make up the deficit.

Even with the supplies coming in from other places, Russia's transport system has been severely congested because of delivery schedules and the smaller ships bringing grain in.

As said in Fortune:

> We apparently startled the Russians. We proved we deplored their actions enough to inflict economic wounds on ourselves in order to wound them.

Along with strong evidence that the embargo is causing problems in the Soviet Union already is the even stronger possibility of future disruption due to supply cutoff. A large part of the grain that made up for the embargo was actually U.S. carryover. There is no more carryover. The Soviet Union must worry over dependable supplies for the future. Lifting the embargo now would free them from worry about future supply. If the present diversion of resources and attention from areas of the economy is seen as temporary, its impact is diminished. Even more important, it would show the U.S. is more concerned about military aggression against free peoples.

IMPACT AT HOME

Despite the grain embargo, this year's agricultural exports will break previous records at $39 billion with a record tonnage of 155 million tons. Any drop in grain prices from last summer were not due to the grain embargo, but to high crop yields, and has not been sustained.

The price of corn at Chicago yesterday was $3.43 a bushel, compared with $2.56 on the day the suspension was imposed; the price of wheat at Kansas City yesterday was $4.57 a bushel, compared with $4.39 on the day the suspension was imposed; the price of soybeans at Chicago yesterday was $7.91 a bushel, compared with $6.15 the day the suspension was imposed.

Price-depression because of market glut was prevented by the Administration's swift move to take the excess grain off the market. In fact, more grain was removed from the market through direct Government purchases of wheat and corn than was scheduled for shipment to the Soviet Union. Strong Government incentives to store more grain in reserve helped in this respect. Grain companies' canceled sales contracts with the Soviets were also assumed by the administration.

The fact that we exceeded the previous

record for grain exports by $6 billion last year suggests that farm price-depression resulted from factors other than the Soviet grain embargo. Decline in prices this spring in grain were due to record levels of production, tight credit, transportation problems, and the psychological impact, if at all, of the embargo according to the Department of Agriculture. Overproduction of hogs and soybeans, heavy supplies of pork and poultry that undercut the beef demand, high interest rates, and the silver market collapse that affected other commodity prices caused the farm prices to fall. Some delay in implementation of the administration action to stabilize prices might also have had an effect.

However, as stated previously, prices are now rising and are expected to be up between 8 and 9 percent for 1980. Production is expected to go down due to weather conditions this year and reinstating sales to the U.S.S.R. might deny our steady customers their supply. The Soviet Union has never been a reliable or large buyer in the past. We cannot depend on their purchases to bolster our farm prices.

Mr. President, I ask unanimous consent that certain articles that support my position be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Journal of Commerce, Sept. 15, 1980]

Soviet Meat Production Seen Declining Steadily Since March: Contrary to Claims That Embargo Is Ineffective

Moscow.—A dramatic decline in Soviet meat production since the spring contradicts Kremlin claims that this country has not been hurt by the United States embargo on grain sales.

What's more, Western experts expect that a no-better-than-average grain harvest this Fall will make the embargo an even bigger burden in 1981, provided it survives the presidential election.

Ronald Reagan has said that if he wins, he will rescind the restrictions on grain sales to the Soviet Union that President Carter imposed at the beginning of 1980 to protest the Soviet military intervention in Afghanistan.

Compared with 1979, Soviet meat production has been declining since March, with output for the first seven months of this year only 97 percent of what it was at the same time last year.

The falloff has been particularly steep since May, Soviet statistics show. In May, meat production declined 5 percent compared with May 1979. In June the dropoff was 10 percent, and in July it reached 15 percent.

Figures for August have not yet been released, but Western agronomists watching the situation expect the downward trend to continue, perhaps less sharply, for the rest of the year.

The agronomists say the principal problem plaguing meat production is a shortage of high-quality feed. The bulk of the grain the Soviets buy abroad is used to feed animals raised for meat.

The U.S. Department of Agriculture says that, largely as a result of Mr. Carter's embargo, Soviet imports of foreign-grown grain in the 1979–80 fiscal year fell about five million tons short of what was wanted, despite President Leonid Brezhnev's recent claim in Kazakhstan that the Soviets imports of foreign-grown grain the 1979–80 fiscal year fell about five million tons short of what was wanted, the Soviets were able to "find substitutes for all grain lost because of the embargo."

In addition, if the embargo is extended in 1981, the shortage could be twice as big, Western agronomists agree, because this year's figures include U.S. grain that was purchased by the Soviets before the embargo but not delivered until later.

The embargo limits Soviet grain purchases from the United States to a maximum of eight million metric tons. The Agriculture Department says 18 million tons of U.S. grain actually reached the Soviet Union in fiscal 1979–80.

Until Mr. Carter imposed the freeze, the Soviets were expected to buy about 25 million tons of American grain, mostly corn, to offset the effects of last year's grim harvest of 179 million tons, more than 50 million tons below what had been planned.

The Soviets were expected to import a total of about 37 million tons of grain. The Agriculture Department estimates that they actually bought about 31.5 million tons.

NEXT YEAR'S IMPORTS?

"If the United States holds them to an eight million ton total again next year, they'll be able to buy somewhere between 25 and 30 million tons," one source said. "I think the lower estimate is more likely."

Observers say the shortage will be sorely felt, since this year's grain harvest is not expected to be a very good one. The grain crop in Kazakhstan, which set a record last year, is thought to be about average, one source said.

"If the embargo continues, it's going to hurt them more next year than it did this year," the source said. "They won't have enough to replenish reduced stocks. Also, with the lousy weather in the western areas at harvest, you really have to wonder about the quality of the crop."

Experts say the damage done by the embargo cannot be measured simply in terms of import totals.

"True, the Soviets were able to buy a lot of grain elsewhere to make up for most of what the embargo cost them in terms of U.S. grain," one agronomist said, "but what they got was often inferior to what they would have bought, or not the kind of grain that they really wanted."

The Soviets are thought to have bought considerably less corn than they had hoped to. Corn is an important ingredient in feed for hogs and chickens, and the Soviet Union grows very little of it.

[From the New York Times, Sept. 8, 1980]

Soviet Grain Prospects Worsening; Embargo by U.S. May Cut Deeper

(By Anthony Austin)

Moscow, September 7.—The weather has been bad for farmers over most of the Soviet Union during the last month, and prospects for the 1980 grain harvest have worsened.

This means that the already tight supply situation in feed grains, the controlling factor in the Government's hopes of increasing meat production, will be that much tighter, and the impact of the American embargo on grain sales to the Soviet Union will be that much sharper.

Western agricultural experts here still expect the country's state and collective farms to bring in an average harvest. But their July forecast of a grain yield of 210 million to 215 million metric tons has been trimmed to an estimate of between 200 million and 210 million tons.

Soviet authorities had hoped for a near-record grain harvest of 235 million tons, hoping to bounce back from the crop failure of 1979, when only 179 million tons were brought in. Indifferent winter and spring weather had dashed these hopes, but barring an exceptionally bad summer, the country seemed assured of a good enough harvest to get over the worst of the effects of the 1979 disaster.

The summer has not been a disaster, but it has not been good. There has been a lot of rain recently in European Russia and northern Kazakhstan, and it has been dry in the southern agricultural belt. The Soviet press has exhorted farmers to battle the elements and reduce losses in yield. There have been none of the preliminary harvest figures that usually come out this time of the year.

Western experts have been following the harvest prospects with special attention this year because of the important economic and political implications for meat production and grain imports.

BEEF SHORTAGE IS ACUTE

Despite the Soviet leadership's repeated promises to raise meat production, the increase has barely kept pace with population growth, and, according to official statistics, the average Soviet citizen is getting no more meat now than he did in 1976. The shortage is particularly acute in beef; in many parts of the country, beef is not to be had in the state stores and is available only at much higher prices in the farmers' markets.

More than an improvement in diet is involved in the Government's promises to increase meat supply. The promises go to the heart of the entire economic plan.

The Soviet Union's economic growth rate is lagging, and there are no extra resources in manpower or energy to throw in as a way of increasing production. The only way is to increase productivity with more output per man-hour.

But productivity rates have also been slipping. There is little incentive for the Soviet citizen to work harder if, after he gets paid, there is so little available for him to buy. Improving meat supplies has been a key feature of the Government's program for increasing consumer goods and incentive in the work place.

Because of lower productivity in the livestock industry, meat production has been going down. Last July, the expectation was that in 1980 it may be 5 percent below last year's total. Now with harvest prospects just a bit worse, the meat situation will be that much tighter.

Last January and February, as a result of some distress slaughtering of livestock, meat production went up about 14 percent. Then it started slipping, and it has declined steeply in the last three months. Production was down 5 percent in May, 10 percent in June and 15 percent in July, compared with figures for the same months of 1979. It seems inevitable that instead of going up this year, as planned, per-capital consumption of meat will go down.

A group of American farmers visiting Soviet agricultural areas recently asked a Western farm expert whether the American grain embargo was working.

"Well," he replied, "the Soviet troops are still in Afghanistan, aren't they?"

If President Carter's grain embargo was designed to force a Soviet withdrawal from Afghanistan, it has not worked. But it is questionable whether Washington really thought that denying the Russians 17 million tons of American grain—while still letting them have the 8 million tons the United States is obliged to sell them annually under a five-year agreement ending in 1981—would produce that effect. It is more reasonable to regard the embargo as designed to give the Soviet Union added problems in an already difficult supply situation.

To make up for the loss of American grain, the Soviet Union has had to pay higher prices for often lower quality from other suppliers, principally Argentina. The Russians have had problems with feed-grain formulas for their livestock as a result of the change in grains, and they may have trouble buying as much this year as last.

In the 12 months that ended June 30, Moscow appears to have made up 11 million or 12 million tons of the lost American grain, bringing their total imports to an estimated 31.2 million tons. But this total included a substantial amount of American grain—in addition to the 8 million tons provided annually—in the form of carryovers from previous year's sales.

Now there is no carryover left. If the United States again sells only the 8 million ton minimum in the 12 months starting July 1, the Soviet Union may find it difficult to obtain more than a total of 25 million tons from other markets, according to Western experts here.

[From the Christian Science Monitor, Aug. 28, 1980]

POLISH STRIKES PUT NEW BITE IN GRAIN EMBARGO

(By Jonathan Harsch)

CHICAGO.—The labor unrest in Poland is casting the embargo of US grain shipments to the Soviet Union in a different light for some of its critics.

Many United States farmers and grain traders continue to catalog the woes visited on them by the Jan. 4 agricultural trade restrictions.

But several of the US farm organization spokesmen who in the past have insisted that the embargo has not hurt the Soviets now say that even relatively modest cutbacks in Soviet meat production resulting from the embargo could prove significant.

They argue that because the Soviets will not be able to spare food for pacifying striking Polish workers, the shortages and protests could spread.

US Secretary of Agriculture Bob Bergland spoke of how Poland has added to Soviet problems when he defended the embargo before the Senate Banking Committee last week. He testified that after earlier modest effects, the embargo led to drops in Soviet meat production of 11 percent for June and 15 percent for July compared with 1979 figures.

Mr. Bergland said, "It must be a sobering experience for the Soviet leadership to reflect on how long their citizens will be willing to wait for meat on their tables which their counterparts in Eastern Europe are already enjoying."

"It is noteworthy," he pointed out, "that in Poland—where meat consumption amounts to 72 kilos (28 percent higher than in the USSR)—a wave of strikes and work stoppages over increased meat prices is sweeping the land."

Mr. Bergland added, "It is not inconceivable that the Soviets—who know far better than we do the weaknesses and shortcomings of their system—might decide that living with the suspension is just not worth the price. We hope they would come to that conclusion soon."

US Department of Agriculture Undersecretary Dale Hathaway recently assured soybean processors that "the embargo has been effective in achieving the goal intended—to deliver a rebuke to the Russians, to frustrate their plans, to worsen the discontent of the people there, to embarrass and inconvenience their leadership."

Reflecting the administration's present calm approach to the embargo, Eric Hirschhorn, deputy assistant secretary for export administration in the Department of Commerce, said that "we didn't ask for this [Afghanistan] problem, we only reacted to it, and we hope that they [the Soviets] will do what is necessary to end the embargo."

The embargo's sternest farm-belt critics attack the measure for ruining US farmers this year and wrecking long-term export prospects, but add that Mr. Carter must make the final judgment because "only the President can fully assess the strategic national security picture."

A grain analyst at the Chicago Board of Trade voiced the mixed feelings stirred up by the embargo when he explained that grain dealers here would like the Soviet grain embargo lifted. They feel the embargo has "seriously damaged our image abroad as reliable suppliers." But they also believe that ending the embargo "would be seen around the world as a sign of uncertainty vacillation, and poor leadership," and finally conclude that the embargo must continue in order to "show our dedication to principle even if it costs us money."

No one any longer disputes that the embargo has cost the Soviets money. To make up for the 17 million tons of US grain cut off by Mr. Carter's embargo, the Soviets have replaced rougly half that shortfall with grain from Argentina and other countries. The Soviets have paid higher prices for the replacement grain. They have paid higher shipping costs as well. And, according to European grain experts, the Soviets pay in a third way because smaller shipments coming at times that suit their new suppliers have tied Soviet port, rail, and storage facilities in knots.

There is no such certainty about the embargo's cost to US farmers, shippers, and dealers—or to the government agencies involved in redirecting embargoed grain. But present higher grain prices may cancel most of the embargo-related losses that occurred earlier this year. The higher prices have resulted from unexpectedly high world demand for grain and from reduced US grain production due to this year's drought.

Some US analysts both inside and outside government maintain that the embargo has resulted in a good balance for US farmers: prices driven high enough to give farmers a fair return, but not driven to dangerously high levels by competition between Soviet cattle and American consumers for a smaller-than-expected crop.

At the Board of Trade in Chicago, one spokesman explained that the Carter administration's arguments "are considered here impelling reasons for continuing the embargo." Dealers are reassured by the fact that a preliminary round of talks has taken place in Paris between US and Soviet officials to lay the groundwork for a new agreement to replace the five-year agreement which expires Oct. 1, 1981.

The embargo as a political issue appears to be steadily declining in importance.

Midwest governors, meeting in Chicago this week, did vote overwhelmingly to condemn the grain embargo. The only dissenter in the predominantly Republican group, Kansas Gov. John Carlin, abstained.

But, according to House and Senate aides dealing with the embargo question, most farm-belt congressmen have stopped calling on the President to lift the embargo, easing their earlier pressure on Mr. Carter to resume grain sales.

The aides expect whatever heat remains in the embargo issue to disappear by the time the next presidential term rolls around, no matter who wins the election.

One congressional staffer explains the embargo is a dead letter at home because farmers are getting the prices they want. And a dead letter internationally because "I don't think the Soviets would humble themselves to ask the US to make more grain available, and I'm sure the President wouldn't authorize exports in any case."

[From the Sun, Sept. 13, 1980]

DROP IN SOVIET MEAT SUPPLY TIED TO U.S. GRAIN EMBARGO

MOSCOW.—A dramatic decline in Soviet meat production since the spring contradicts Kremlin officials' claims that this country has not been hurt by the United States embargo on grain sales.

What's more. Western experts expect that a no-better-than-average grain harvest this fall will make the embargo an even bigger burden in 1981, provided it survives the presidential election.

The falloff, in comparison with last year's figures, has been particularly steep since May, Soviet statistics show. In May, meat production declined 5 percent compared with May, 1979. In June the dropoff was 10 percent, and in July it reached 15 percent.

Western agronomists say the principal problem plaguing meat production is a shortage of high-quality feed. The bulk of the grain the Soviets buy abroad is used to feed animals raised for meat.

The U.S. Department of Agriculture says that, largely as a result of the American embargo, Soviet imports of foreign-grown grain in the 1979–80 fiscal year fell about five million tons short of what was wanted, despite President Leonid I. Brezhnev's recent claim in Kazakhstan that the Soviets were able to "find substitutes for all grain lost because of the embargo."

"If the embargo continues, it's going to hurt them more next year than it did this year," the source said. "They won't have enough to replenish reduced stocks. Also, with the lousy weather in the western areas at harvest, you really have to wonder about the quality of the crop."

The Soviets are thought to have bought considerably less corn than they had hoped to. Corn is an important ingredient in feed for hogs and chickens, and the Soviet Union grows very little of it.

As a result, Soviet livestock was fed even less efficient food than usual, the source said. "They had to change ingredients in their feed too fast, and they had a lot of trouble getting consistency in their feed. When they bought from the U.S., they knew what they were getting and what use to put it to, but with what they bought this year, there was a lot of stumbling around in the dark, and the animals suffered."

[From the Livestock Market Digest, Sept. 1, 1980]

POLITICAL STANCE

(By Charles R. Koch)

"What is good for America is good for American agriculture." I like that line. It makes a pretty good text for a national holiday like today's. It has the same ring as John Kennedy's "Ask not what your country can do for you. Ask what you can do for your country."

The ". . . good for America . . . good for American Agriculture" bit appeared in an editorial on this page late in July. The editorial was entitled "Beware of Too Many Promises" and had to do with politicians' concern or lack of concern for agriculture. But it can be applied far more broadly. The appeal of patriotism seems to have slipped so badly that one often wonders if this country can really be governed—and defended.

No matter what policy the current, or any, administration attempts to pursue in regard to energy, defense, inflation fighting, or whatever, some group is certain to shout, "It ain't fair! You're demanding sacrifices from us that no one else has to bear."

It's heard all the time. No one seems ever to inquire whether or not the required action is for the good of the country as a whole. Recent examples have been the Olympic boycott and the Russian grain embargo.

Invited to the White House for a special ceremony honoring their sacrifices and for the receipt of medals struck in their honor, some of the athletes sulked like brattish children. Sacrifice often requires quite as much discipline and courage as the winning of a competitive event. Those who freely offer such sacrifice in the service of their country deserve high honors. Those who in their petulance at being deprived of a moment in the limelight convey a dangerous impression to potential enemies of the nation's irresolution and lack of will. Fortunately it seems to have been but a minority who demonstrated this attitude. Nevertheless that false signal went out.

Similarly with the grain embargo—it has been largely the traders and the politicians, the latter trying to make political capital out of a sticky situation, who have shouted "Unfair!"

A recent poll of California Farmer readers indicated that 56 percent were in favor of the embargo; only 33 percent were opposed. Likewise, a poll conducted in Missouri showed 55 percent in favor of the embargo with 25 percent opposed. In answer to question as to whether the embargo should be extended if the Russians haven't moved out of Afghanistan within a year, 58 percent favored extension and only 23 percent voted for cancellation of the embargo.

These positions were taken despite the fact that 75 percent of the farmers polled felt there have been work stoppages and other demonstrations, apparently against food shortages, in various parts of the U.S.S.R. It would be nice to think that those incidents were triggered by our grain embargo.

The argument is sometimes advanced that if we don't sell to the Soviets someone else will. That's a pretty poor excuse for a nation that likes to call itself the leader of the free world. A leader should be made of sterner stuff. If he demonstrates fortitude there's a good chance his actions will inspire others.

Years back there was a musical called "New Moon." One of its most stirring melodies was a number entitled "Stouthearted Men." Its challenge was:

"Start me with ten who are stouthearted men
And I'll soon give you tne thousand more."

If I pledge not to holler, " 'taint fair" will you and eight others join me?

Mr. DOLE. Mr. President, I am supporting the grain embargo amendment to H.R. 7584 offered by the Senator from South Dakota, Mr. PRESSLER.

Senator PRESSLER's amendment would prohibit the use of appropriated funds to continue the embargo.

The amendment says:

> No part of any appropriation contained in this act shall be used for the enforcement or implementation of any restrictions heretofore imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979.

My concern about the Carter grain embargo is well documented. I was in Iowa campaigning when the embargo was enacted. I issued a statement opposing such an embargo immediately after I heard about it. I opposed such selective agricultural embargoes when they were imposed by the Ford administration. I have for many years opposed agricultural embargoes.

On June 20, 1980, I introduced Senate bill 2855 to rescind the embargo. There were 20 cosponsors of my bill. The bill I introduced stated that any restrictions heretofore imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979 are terminated effective on the date of enactment of this act.

JANUARY 1980

I stated on Saturday, January 5, that President Carter took a poke at the Soviet Union and knocked out the American farmer. I called upon the President then, and I still do, to rescind this ill-advised action.

I said in January, the embargo was one of the worst economic decisions in the history of our country. I thought then, and still do, that the decision was irresponsible.

EMBARGO FALLS APART

There have been many arguments, pro and con, about the effects of the embargo. I personally do not believe the cost of the embargo to the Soviets has equaled the cost of the embargo to the American farmer, the American taxpayer, and the American agribusinessman.

The farmers income has been cut, the taxpayer has had to pick up a tab of around $750 million to $1 billion, and business has been lost all across the business community.

The cost to America has been great. The embargo has been disruptive to the farmers income, to the farmers markets, and to the work we have done for several years to expand exports.

The embargo has fallen apart as the Soviets have replaced much of the grain from other market sources. The embargo did affect the Soviets some as they had to bid higher prices for grain and go looking for extra grain but the embargo also have been very disruptive to American farmers and American markets.

EMBARGO LOSING BITE

An article in the Wall Street Journal on Monday of this week, September 22, 1980, was entitled, "Officials Concede Soviet Grain Embargo Is Losing Bite As Other Suppliers Move In." I believe the title of this article sums up the situation.

The article begins with the statement, "While still causing a political ruckus, the Soivet grain embargo gradually is losing its economic bite * * * the Russians have found enough suppliers in other nations since the embargo's imposition to limit its effect on them."

The article states, "In the U.S., it briefly slashed grain prices and some farmers' incomes, reduced potential agricultural exports by about $800 million and boosted gross Federal farm-aid spending by at least $2.2 billion in fiscal 1980 and 1981."

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at this point.

I also ask unanimous consent that an article from the Journal of Commerce entitled, "U.S.-Soviet Trade Declines By Half", be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 2, 1980]

OFFICIALS CONCEDE SOVIET GRAIN EMBARGO IS LOSING BITE AS OTHER SUPPLIERS MOVE IN

(By Richard L. Hudson)

WASHINGTON.—While still causing a political ruckus, the Soviet grain embargo gradually is losing its economic bite.

With U.S. grain supplies tight and prices high because of the Midwest drought, American farmers and merchants currently aren't losing much, if any, money because of the embargo, private and government analysts say. And the Russians have found enough suppliers in other nations since the embargo's imposition to limit its effect on them.

"The market impact" of the embargo "has about played itself out," says Martin Abel, senior vice president at Schnittker Associates, a Washington trade consultant. Government officials agree partway. The embargo "is having something of a diminishing effect, but it's still an effect," says Thomas Saylor, a senior trade official in the Agriculture Department.

All this doesn't mean the embargo, announced by President Carter Jan. 4 to punish the Russians for invading Afghanistan, never had economic teeth. In its first half-year, the embargo sent the Russians scrambling around the globe to buy grain at premium prices and forced them to ration livestock feed and reduce meat production slightly more than they might have otherwise. In the U.S., it briefly slashed grain prices and some farmers' incomes, reduced potential agricultural exports by about $800 million and boosted gross federal farm-aid spending by at least $2.2 billion in fiscal 1980 and 1981.

LOANS TO FARMERS

Since most of the farm aid consists of loans that will be repaid, the embargo's net cost to the government over two years will be about $600 million, estimates Howard Hjort, the Agriculture Department's chief economist. The biggest net-cost item—$464 million—represents Washington's loss on Soviet sales contracts it bought from grain exporters and resold to them at lower prices.

For both the U.S. and the Soviets, there are some lingering, less measurable effects. With Russia's grain harvest this year likely to be only fair, the embargo may prevent the Soviets from building grain inventories, thus leaving them vulnerable if next year's crop is a bad one. And even if Russia and the U.S. become more cordial, the Soviets, who had planned before the embargo to buy a fifth of total U.S. grain exports in the year ending Sept. 30. "will be very careful in the future not to rely on the U.S." for such substantial supplies, says an official of Cargill Inc., the largest U.S. grain company.

Analysts agree the embargo isn't as important economically as it once was. Despite U.S. efforts to rally other grain-exporting nations behind the embargo, the Russians enjoy increasing success in buying grain elsewhere to compensate for much of the 17 million metric tons of U.S. grain exports suspended by the embargo in the year ending Sept. 30. And the U.S., by picking up customers dropped by Argentina and other new Soviet suppliers and by getting unexpected business from China and drought-plagued Mexico, is posting record agricultural exports. A metric ton is 39.4 bushels of corn, or 36.7 bushels of wheat or soybeans.

As a result, the embargo deprived Russia of only three million to 6.5 million tons of grain (trade and government estimates conflict), out of the 11 million embargoed in the year ended June 30. In that period, the U.S. lost four million to five million tons of potential grain exports.

With numbers like that, the embargo is currently dwarfed economically by the summer drought, which is shrinking the U.S. corn harvest 16% from 1979, leaving less available to export, and has boosted crop and food prices. Even with the embargo, Russia is being allowed to buy eight million tons, under its four-year-old grain pact with the U.S. "As of right now, I don't see that (the embargo makes) that much difference," to prices, says Robert Lekberg, a grain analyst with Shearson Loeb Rhoades Inc.

BOTH NATIONS HURT INITIALLY

Government and private analysts generally agree that the embargo hurt both nations in its first six months. While Russia did buy grain elsewhere, it paid as much as $1 billion extra for it, and still has ports clogged with the smaller, high-cost cargo ships needed for trade with its new suppliers, U.S. officials say.

The embargo's impact was heightened by its concentration in the spring, when it cut Soviet grain imports by an amount equivalent to 7 percent to 15 percent of animal feed grain consumption for the brief period. To compensate, Russia apparently drew on its grain inventories bought other nongrain animal foods abroad and increased its animal-slaughter rate slightly.

In this country, the embargo's greatest visible impact was combined to January and February, when grain prices briefly plummeted; much of that drop was due to an unexpectedly large corn harvest, however. The many farmers who panicked then and sold crops took a bath. To appease farmers and outraged grain merchants, the Carter administration boosted grain price-supports, waived interest on some government farm-loans, bought $975 million of corn and wheat (more grain than was ultimately caught in the embargo) and took over the exporters' Russian grain-supply contracts.

The embargo's impact on the farm economy ranges from a $500 million cut in farm revenue to a slight increase, depending on how one juggles statistics, the Agriculture Department's Mr. Hjort estimates. By contrast the drought added $1 billion to farm incomes, through higher prices that more than offset crop losses, the department estimates.

But if the embargo's financial effect is lessening, its political importance is undiminished. Presidential candidate Ronald Reagan has repeatedly castigated the administration for its act and has urged an immediate lifting of the embargo. Agriculture Secretary Bob Bergland and other administration officials insist the embargo will remain until the Russians "begin to recant" their stance on Afghanistan in order to demonstrate U.S. displeasure over the invasion. Independent candidate John Anderson criticizes the way the embargo was imposed but says he supports it.

[From the Journal of Commerce, Sept. 18, 1980]

U.S.-Soviet Trade Declines by Half

Moscow.—Reflecting the effect of tough U.S. economic sanctions against the Soviet Union, the value of U.S.-Soviet trade was cut in half during the first six months of this year compared with the equivalent period of 1979.

Figures released by the U.S. embassy showed that U.S.-Soviet trade for the first six months of this year had a value of only $857 million compared to $1.7 billion at the same point in 1979, a year when massive U.S. grain exports pushed U.S.-Soviet trade to its highest level ever.

U.S. agricultural exports, the traditional mainstay of U.S.-Soviet trade, had a value of $493 million in the first half of this year, a decline of 54 percent from the value of agricultural exports for the same period of last year which was $1.078 billion.

The largest part of the value of U.S. agricultural exports this year was accounted for by sales of U.S. grain under a five year, 1976–1981 U.S.-Soviet grain purchasing agreement which allows the Soviets to purchase eight million metric tons of grain in each October-to-September buying year.

U.S. sources said that the Soviets have already bought all of the U.S. grain to which they are entitled until Sept. 30 but that more purchases were expected when the final buying year begins Oct. 1.

U.S. non-agricultural exports to the Soviet Union also fell in value although a recent decision by the U.S. State and Commerce Departments may make it possible for the value of U.S. manufactured exports to the Soviet Union to begin to increase.

Non-agricultural exports, the biggest items of which were construction equipment and pressure sensitive tape, had a value of $198 million, a 48 percent decline from the value of such exports in the first half of last year which was $378 million.

The U.S. State and Commerce Departments have recently decided to authorize export licenses for the sale of oil and gas equipment to the Soviet Union but not for the sale of the technology and know how to produce equipment independently.

Until the imposition of U.S. sanctions this year after the Soviet invasion of Afghanistan, the Soviet Union had been a big customer for U.S. oil and gas equipment and the Soviets are thought to be still interested in U.S. equipment which is unattainable at comparable quality elsewhere.

U.S. imports of Soviet goods, principally minerals and metals has a value of $164 million in the first half of this year, a 33 percent decline from the value of imports for the same period of 1979, which was $243 million.

The U.S. surplus in Soviet trade was cut to $579 million during the first half of this year, a decline of 56 percent from $1.21 billion, the U.S. surplus for the same period of last year.

DEMOCRATIC PLATFORM

Mr. DOLE. Mr. President, the Democratic platform clearly states the Democrats do not like embargoes either. The Democratic platform states, "Except in time of war or grave threats to national security, the Federal Government should impose no future embargoes on agricultural products," it is clear that using the guideline stated above the present embargo would not have been imposed. No war or grave threat to our national security was involved in the January embargo decision.

AFGHANISTAN

If President Carter's grain embargo was designed to force a Soviet withdrawal from Afghanistan, it has not worked. I think it is questionable whether President Carter really thought that denying the Russians 17 milion tons of American grain—while letting them have the 8 million tons the United States is obliged to sell them annually under a 5-year agreement ending in 1981—would produce that effect.

I am not sure President Carter played fair with the American farmer. He said the purpose of the embargo was to hurt Russia and force action because of the Afghanistan invasion. It looks like the action was designed to give the Soviet Union added problems in an already difficult supply situation. This was a tough price for American farmers to pay to cause some irritation to the Soviets.

I believe the embargo should be ended and ended now. I support the amendment.

Mr. President, I will take a couple of minutes. I know other Senators have other matters.

I think the case has been made for or against the grain embargo. It is a disaster. I think we can all agree to that, particularly those of us who represent States where they produce wheat.

I suggest, with reference to farm prices being increased, there has been a drought in this country. Maybe Secretary Bergland has not heard about it. We have had a drought to drive up farm prices.

The grain embargo has been a disaster. It has had a severe impact on farm income. It has given other countries new markets to feed the Soviets. It has not had any real impact on meat production in the Soviet Union. There were even stories circulating early on that this was having an impact on what the troops were eating in Afghanistan.

There were so many outlandish statements made by the administration, or administration representatives, that they are hard to catalog.

But the point is this, President Carter made the decision and he made a mistake. President Ford made a decision earlier when he was President and he made a mistake. He paid for it in 1976. The farmers interpreted President Ford's embargo as a lack of understanding of American agriculture.

I suggest that when President Carter imposed the embargo in January, they sort of wrapped the flag around it. One was for it or was somehow not patriotic.

For the first few weeks, at least, during the primary, a majority of Americans, including farmers, did not want to be cataloged as unpatriotic and I guess the slim majority supported the embargo. But since that time, I think it has been clear to most everyone, the embargo has had an adverse impact on the economy of rural America.

When farmers do not make a living, the people up and down Main Street of rural America do not make a living.

Farmers are as patriotic as any group in America. They just do not understand, and there is no reason why they should, why they are always singled out by President Nixon, by President Ford, and now by President Carter for special treatment, for embargoes, whether it is soybeans, or wheat, or corn, or whatever.

I believe, if nothing else, we will serve notice again that many in this Congress do not subscribe to the embargo imposed by President Carter.

This is not a partisan matter. There are about 25 cosponsors of the Dole proposal. I think 12 are Republicans and 13 are Democrats. So I would not want to politicize this matter because it is not a political matter.

I commend the distinguished Senator from South Dakota (Mr. PRESSLER) for raising it in this fashion. When we have something that has a severe impact, as the embargo has, we have to use every measure, even an appropriations bill, to try to limit its impact.

I commend my colleague from South Dakota. I do not have any quarrel with those who have a different view. Certainly, I do not think anybody would stand on the Senate floor and say that in no case would there ever be an embargo.

I hope that next year when the 1981 Farm Act is extended, there will be a provision written into that law, and I intend to offer it in committee if I am reelected, which would say that there will be no embargo in any future years without the consent of Congress, by any President, whether it be President Reagan or President Carter.

If an embargo should be imposed—and in certain cases, there probably should be an embargo imposed—then the American farmer will not bear the entire economic brunt as he has done in this embargo.

In addition, of course, the taxpayers are going to pick up a bill for more than a billion dollars. It has cost the American farmer, by some estimates, a half-billion dollars. We have lost markets to Argentina—the Senator from South Dakota has already pointed this out—and other countries.

It is another indication that President Carter does not understand America.

We voted earlier on a tax cut—we do not want to help the American people until after the election. I believe we probably are stuck with the same harpoon with reference to this grain embargo.

I wish the Senator from South Dakota success. In my view, it should be a very close vote.

We cannot end the embargo before January. It will be ended by President Reagan in January.

Mr. PRESSLER. Mr. President, we have had a slight parliamentary problem in which we were trying to correct our amendment.

I ask unanimous consent that the yeas and nays previously ordered on my amendment in the first degree be transferred to my second-degree amendment in the nature of a substitute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PRESSLER. Mr. President, I shall conclude my remarks by summarizing and by responding to some earlier remarks.

It is important to note that there were some strong arguments for an embargo against the Soviet Union, and there probably still are. But the key point I am making is that if those arguments are good, they should be applied against manufactured goods and against trade across the board, ranging all the way from tourism to manufactured goods to agricultural goods.

We did ask our agricultural sector to bear the brunt of our get-tough policy with the Soviet Union, but we did not extend that embargo across the board.

Many of the remarks by the distinguished Senator from Wisconsin have validity, but they would have greater validity if the embargo were an across-the-board embargo and we were talking about really addressing the grain embargo situation.

I have a list of some of the items on which there are no trade restrictions—at least, this was in February, and some of these have changed somewhat. Farm machinery—tractors, combines, planting machines, and equipment to grow grain—are included on the list of nonembargoed items. If we really are serious about cutting down the Soviet wheat supply, we certainly would not have continued the sale of these manufactured goods.

In answer to the Senator from Wisconsin, I have to say that many of his remarks were directed toward the benefits of an embargo against the Soviet Union, but the fact was overlooked that it applied to only one sector of our economy.

The grain embargo should be rescinded because it has cost U.S. farmers more than $250 million. The longer it continues, the more difficult it becomes to reestablish this export market for U.S. grains in the Soviet Union.

I conclude by saying that there are precedents on appropriations bills for ending embargoes, and I look forward to the votes of my colleagues tomorrow on this matter.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. PRESSLER. I yield to my distinguished colleague.

Mr. McGOVERN. Mr. President, I commend my colleague, Senator PRESSLER, for attempting to dramatize the mistaken character of this embargo. It has not been a helpful effort in terms of the U.S. national interest. It certainly has not been helpful to American farmers.

All across this country, farmers believe—and rightfully so—that the grain embargo has had the effect of depressing the whole agricultural economy. Grain prices have been sluggish; they have been below the levels where they would have been in the absence of this embargo.

In all due respect to those who see the embargo as an effective foreign policy tool, it has not had that impact, based on all the evidence I have seen. The Soviet Union imports only about 8 percent of the livestock feed they utilize to maintain their livestock herds. So that even if the embargo had been totally effective, this embargo would have been one of forcing them to liquidate some of their herds, which would have the practical effect of putting more meat on the tables of Soviet consumers.

In the long run, one would have to agree that perhaps there is some tightening up of feed grain supplies, that within a year or so, it will begin to show up in shortages in the Soviet Union. But even if one concedes that, the people who are hurt are not the political and military leaders. Brezhnev is not going to go hungry. The Soviet military command is not going to go hungry. The first people to feel the impact of any kind of food shortage are the old people, the poor, the children, the nursing mothers, and others who are vulnerable in this situation.

So we really are not punishing the Soviet leadership, even if the embargo were to tighten up on Soviet food supplies. What is clear is that we are punishing ourselves. We are hurting not only our farm producers but also our merchant marine, we are hurting our railways, and we are hurting the U.S. balance of payments position.

No one can predict what we are doing in terms of long-term market prospects in the Soviet Union, a country that very well may turn to other sources not only this year but also in the future because of this embargo.

So I believe my colleague from South Dakota is right in what he is attempting to do. Whether the adoption of this amendment will end the embargo, I do not know; but at least it makes clear that there are a number of us in the Senate who feel very strongly that the embargo has not been in the interest of the United States.

I commend my colleague for offering this initiative here today, and I thank him for yielding.

Mr. PRESSLER. Mr. President, I commend my senior colleague for his fine remarks in this matter.

LIFT THE SOVIET GRAIN EMBARGO

Mr. EAGLETON. Mr. President, I support the amendment offered by the Senator from South Dakota which would have the effect of bringing a timely end to the embargo on grain sales to the Soviet Union. Ever since the President announced this ill-conceived action, we have heard one assurance after another that it was having a major impact on the Soviet food supply, that no one other than Argentina would step in and make up for what we did not ship, and that the U.S. farmer would be spared from any economic hardship as a result.

Those who made these assurances have ignored the reality of this situation, however. They have ignored the fact that the Soviets have been only so slightly hurt by the embargo that they have had no problem in making a commitment to Poland to provide them with extra food. They ignore the fact that the Australians, who had agreed to support the embargo, have increased their sales to the Soviets by 11 times over the same period last year. And finally, they have ignored the fact that prices did fall dramatically early this year when farmers were struggling in the face of inordinately high interest rates to raise the capital they needed to plant this year's crop.

The drought has done what the administration's program to aid the farmers would not have accomplished; it has raised prices to the point that farmers might now recover their production costs. But in Missouri, where the drought has hit hardest, many of our farmers will have little, if any, production with which to take advantage of these higher prices. The only hope for them is that there will be a continued strong world market to keep prices high next year when they can again produce and sell a crop.

Those who insist on using food as a political weapon of our foreign policymakers are condemning our farmers and our foreign customers to a life of uncertainty regarding the reliability of U.S. exports. That is a policy which will do nothing but haunt us in the future.

By putting an end to this embargo now, the farmers of Missouri and the rest of the Farm Belt will be able to see the light at the end of the tunnel. They will again be confident that they are not dependent on both the State Department as well as Mother Nature for their livelihood.

I urge my colleagues to join in supporting this amendment.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond

1 hour, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR DALE BUMPERS

Mr. ROBERT C. BYRD. Mr. President, a U.S. Senator must be talented in many respects. He must possess an incisive mind, capable of grasping difficult and complex material, often with little opportunity for lengthy study. He must be a prodigious worker, to keep up with the harried pace which the office demands. Among the most admirable are those Senators who can stir the press, the public and their colleagues through the power of their oratory on the Senate floor. The distinguished senior Senator from Arkansas sets such an example.

During Dale Bumpers' first term in office, he has built an impressive record of legislative initiatives and accomplishments. He has been an outstanding representative of the people of Arkansas. The list of his achievements is evidence of his commitment to policies and programs which will have lasting benefits for Arkansas and the Nation.

Much of the hostile attitude toward Government in this country has been generated by the Government's intrusion into the daily lives of its people. Particularly in business, this antipathy results from unnecessary, duplicative and overly-complex regulation. Congress passes legislation, leaving the Executive branch officials to design regulations to carry out congressional intent. The question frequently posed is whether or not those officials have set regulations more stringent than Congress intended.

Senator Bumpers proposed a simple and effective way to reduce Government regulation. The Bumpers amendment would force the Government to assume the burden of proving that its own regulations come within the intent of Congress and that agency has not overreached its authority. This measure, which has been adopted by the Senate Judiciary Committee as part of a more comprehensive regulatory reform package, should make those who draft regulations do so in a more careful manner and should serve to restore confidence in Government.

When Dale Bumpers first campaigned for the Senate in 1974, he promised that he would work to reduce wasteful Federal spending. As a member of the Appropriations Committee, Senator Bumpers has demonstrated his commitment to fiscal responsibility and balancing the budget. Restricting Federal spending is a difficult task, but the distinguished Senator from Arkansas has struck a careful and constructive balance between fiscal restraint and necessary spending.

As a member of the Energy and Natural Resources Committee, he has been an ardent advocate of conservation, which he sees as the most effective and least costly way to achieve a short-term solution to our energy problems. For example, his national right turn on red law now saves 12,000 barrels of oil daily. He was an articulate and outspoken supporter of a meaningful windfall profit tax. He has championed the cause of the small independent oil producers, especially those who operate stripper wells, in order to obtain maximum production.

Senator Bumpers has labored hard to make the Department of Energy operate more equitably and effectively. He obtained the cancellation of 20 valuable oil and gas leases issued noncompetitively by the Department of the Interior within the boundaries of Fort Chaffee. As a result of that investigation, he has introduced legislation to reform the Federal onshore oil and gas leasing system. The bill is designed to assure a fair return to the public for the exploitation of its valuable natural resources.

Arkansas' agricultural economy has also had a strong voice in Senator Dale Bumpers. He recently supported an amendment to the Surface Mining Control and Reclamation Act to protect prime farmlands. He was instrumental in establishing priority status for agricultural uses of natural gas, as well as priority allocations of gasoline and diesel fuel in the event of emergency gasoline rationing. He has introduced legislation to preserve the family farm by providing more flexible credit arrangements for farmers.

Senator Bumpers' extensive legislative accomplishments comprise an enviable record. He has been an effective spokesman for the people of Arkansas. His legislative skills are widely respected, and he is recognized as one of the Senate's most articulate spokesmen. I look forward to working again with my distinguished colleague from Arkansas, Senator Dale Bumpers, in the 97th Congress.

LET US PREPARE OURSELVES FOR AN OIL SHORTAGE—AND LOOK AT ALTERNATIVES TO GAS RATIONING

Mr. PERCY. Mr. President, the headlines report that the Iran-Iraq conflict is escalating out of control. A few weeks from now, the headlines may report the onset of the worst oil supply crisis since World War II. Reports from the Department of Energy say that all is well—but, I do not believe it.

Let us look at what happened during the 1970's. We have had two fairly modest interruptions in our oil imports over the past 7 years. For a few months in 1973, the Arab oil embargo left us about 15 percent short of our previous import levels—and the embargo was accompanied by bad gaslines and a quadrupling of crude oil prices within 1 year. In 1979, the Iranian revolution cut our oil imports by about 4 percent over a 6-month period. And what did it do? It caused even more gaslines than the statistically more serious embargo, and it almost tripled crude oil prices within a little more than a year. What is more, those prices do not come down after the shortage is over: Here we are in a temporary oil glut, and what did OPEC do last week at its meeting in Vienna? It raised prices again, and the benchmark price is now $30. We are now paying almost 15 times as much for a barrel of imported crude as we did 7 years ago, and there is still no end in sight to OPEC price increases.

Let us suppose a full-scale war breaks out between Iran and Iraq, cutting off all oil exports from those two nations. Suppose this war is accompanied by production cutbacks by other OPEC nations, or perhaps a cutback in tanker traffic by fearful shippers. One can envision cutbacks in tanker traffic from the free world losing 10 percent, 20 percent or even a larger share of its oil imports. The oil glut we have today would rapidly vanish, probably setting in motion the same events that occurred in 1973 and 1979. All indications are that we would be no better able to prevent a big OPEC price rise than we were on either previous occasion. If history repeats itself, which it easily could, a supply disruption caused by an Iran-Iraq war could lead to worse than ever gaslines for a while, until the price of crude oil doubles, triples, or even quadruples once again. This time, the hard truth of the energy crisis could hit home with a vengeance: $100 a barrel crude oil; gasoline pump prices of $4 or $5 a gallon; home heating bills of well over $1,000 a month.

Is it unrealistic to talk about $100-a-barrel oil and $5-a-gallon gasoline? I do not think so. A little over a year ago DOE said that today's oil prices were impossible. In its second national energy plan, published in May 1979, DOE made low-, medium-, and high-price projections for the rest of this century. Because of last year's Iranian shortfall, the prices we are paying today have already skyrocketed past the DOE's high estimate for 1990—that is 1990, and here we are in 1980. By this time next year, we may have exceeded DOE's highest price projection for the year 2000.

Prices as high as I am talking about could not last forever. Peace and stability might return to the Persian Gulf within a few months, and oil shipments might then rise gradually to prior levels. Even if the flow of Persian Gulf Oil is permanently reduced, the development of synthetics and other alternative fuels would ultimately replace the lost oil and bring crude prices down. But this could take years. In the meantime, our economy could reel badly out of control, and there would be great pressure to use military force to restore the flow of Persian oil.

The gas rationing plan may be of no help at all. The plan is so cumbersome and complicated that DOE admits that, if we needed it tomorrow, we would be lucky to have it ready in time for next summer's driving season. By the time DOE has distributed all those coupons, pump prices could be so high that the number of motorists who could afford to buy gas with or without a coupon would have been substantially reduced. If so, the coupons—and the entire rationing system—would be worthless. Gas rationing is our Maginot Line of emergency planning; it has already consumed most of DOE's efforts on emergency preparedness over the past 3 years, yet we are just as far from being able to use it as we have ever been.

In May, I sent letters to the Office of Management and Budget, the Council of

Economic Advisers, the Department of the Treasury, and the Department of Energy requesting an analysis of alternatives to a coupon rationing program. Two months later, I received a response from Secretary of Energy Duncan indicating that I would receive an answer in a paper that DOE was preparing in conjunction with Treasury. Unfortunately, the Department of Energy's analysis did not arrive before the Senate had to vote on the rationing program proposed by the administration.

On September 19, right before the Iran-Iraq conflict erupted, we finally received a "preliminary staff analysis" of how coupon rationing compares with alternative ways of reducing gasoline consumption in an emergency—such as the Johnston-Percy rebate and tax plan. This paper raises a number of important issues. In my own reading of this 27-page paper, however, I found only one sentence that addressed what I consider to be the heart of the matter:

> If world oil prices rise rapidly at the outset of an interruption, plans that are difficult and time-consuming to implement may be less useful.

A RIGHT TO FREE EXPRESSION IS NOT EQUAL TO A RIGHT TO COMMIT GENOCIDE

Mr. PROXMIRE. Mr. President, our political system places great value on individual dignity and choice. The courts have consistently favored uninhibited, robust and wide-open debate and comment to continue the growth of society and assure self-fulfillment of each member. For the right to free expression to remain vital, the first amendment has been interpreted to protect not only those expressions society deems acceptable, but those it justifiably rejects and despises.

One of the most controversial decisions on this constitutional right is Collin against Smith, decided in 1978. The court held that the National Socialist Party of America, a group believing that blacks are biologically inferior to whites and that Jews are leaders of the international Communist revolution, were entitled to the same freedom of expression accorded others. The difficulty of the decision was evident as the court expressed its aversion to the group's beliefs throughout the opinion. Nevertheless, NSPA was permitted to parade in uniforms reminiscent of the Nazi Party in an area heavily populated by Jews, including many survivors of the holocaust.

Hatred, while an unfortunate and despicable state of mind, is permitted in this country. An individual may not however, transfer that hatred into action without subjecting himself to punishment. The Genocide Convention is merely an international agreement prohibiting actions, either direct or indirect which cause the extermination of a distinct group of people.

The Genocide Convention was drafted under the auspices of the United Nations with assistance from the United States. It was adopted by the U.N. General Assembly in 1948. However, the United States is not officially beholden to the provisions contained therein as the Senate has not given its stamp of approval in 31 years.

Our political system, in emphasizing personal freedom allows free expression, no matter how disagreeable or repulsive, so long as the result of that expression is not the destruction of another human being. This value is recognized and upheld by the Genocide Convention. I urge this body to act swiftly and ratify this important treaty.

STATE OF THE UNION MESSAGE

Mr. McCLURE. Mr. President, in his state of the Union address in January 1980, Jimmy Carter declared that:

> Especially now in a time of great tension, observing the mutual constraints imposed by the terms of these treaties, will be in the best interests of both countries, and will help preserve world peace. I will consult very closely with the Congress on this matter, as we strive to control nuclear weapons.

President Carter was referring to the SALT I and II treaties. He has not lived up to this pledge. Indeed, President Carter is in the process of putting together a new "Apex" classification with a special compartment called "Royal" which could be used by his administration to deny vital information concerning SALT violations to the Congress.

President Carter has not consulted with the Congress on Soviet compliance with the terms of SALT I and SALT II. He is clearly attempting to hide Soviet violations of these treaties and abusing governmental secrecy to do so. Indeed, he refused to disclose how many times his administration has protested Soviet nuclear test ban treaty violations with the Soviets.

The recent disclosure that the Soviet Union violated three arms control treaties—The Threshold Test Ban Treaty of 1974 by conducting a nuclear test of 160 to 650 kilotons, well above the 150-kiloton limit; the 1972 SALT I treaty provisions against testing surface-to-air missiles in the ABM mode in its recent testing of the SA-10 radar in the ABM mode; and the 1979 SALT II treaty in a recent exercise that involved the rapid reloading of a large number of SS-18 heavy ICBM's, each capable of delivering up to 14 one-megaton warheads—is of substantial concern. Of even greater concern is the lack of a Carter administration reaction to this and its attempt to supress information concerning these violations.

It is clear that there is today only unilateral American compliance with the SALT I, SALT II, 1963 Test Ban Treaty, and the 1974 Test Ban Treaty. This cannot be allowed to continue. We are paying an enormous price for this.

Just last week a U.S. Titan II missile, 17 years old, exploded in its silo. We cannot replace the single warhead Titans with a single warhead version of the Minuteman III because of SALT II constraints.

We cannot develop optimum higher yield weapons for our MX and Minuteman III missiles because of the 150-kiloton limit of the 1974 Threshold Test Ban Treaty. We cannot proof test a great number of nuclear weapons at full yield because of this treaty—our B-28, B-43, B-61 bombs, our Mark 12 and Mark 12A missile warheads and our SRAM bomber penetration weapons. These are the principal strategic weapons of the United States.

The recent Soviet nuclear test of September 14 was almost certain a half-to-full yield test of their next generation ICBM warheads. The United States cannot develop a similar weapon system.

Due to SALT II constraints and the effects they have had on our strategic programs, we do not have a submarine launched cruise missile today.

We can no longer accept this situation of unilateral arms control compliance. The Senate Foreign Relations Committee should immediately begin a thorough investigation of these violations. Secretary of State Edmund Muskie must be asked in public how he can call for a national referendum on arms control at the same time he attempts to supress evidence of Soviet arms control violations. President Carter must explain how he can talk about arms control as a great achievement of his administration a few days after the first confirmed Soviet violation of the Threshold Test Ban Treaty.

SECURITIES INVESTOR PROTECTION ACT AMENDMENT—H.R. 7939

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7939, an act to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission, that it be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 7939) to amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.

There being no objection, the Senate proceeded to consider the bill.

Mr. SARBANES. Mr. President, H.R. 7939 would amend the Right to Financial Privacy Act of 1978 to create new privacy protections for bank customers and their records under the Securities Exchange Act of 1934. The bill would modify the Privacy Act's provisions to protect individuals from unwarranted intrusions while recognizing and preserving the SEC's need for prompt access to customers records in cases of suspected violations of the Federal securities laws. It would also increase SIPC coverage for the cash and securities of customers of brokerage firms. We are prepared to accept the House bill.

Mr. President, when Congress first enacted the Right to Financial Privacy Act in 1978, it exempted the SEC from its coverage. Thus, we recognized the problems the new law would create for the Commission's investigative and enforcement activities. Since that exemption will expire in November, the House bill would provide a permanent framework to achieve the purposes of the original Privacy Act in a manner consonant with the SEC's responsibility to detect and prosecute violations of the Federal securities.

Mr. President, H.R. 7939 would specify the circumstances under which the SEC may obtain an ex parte court order delaying the advance notice to the customer which would otherwise be required under the Right to Financial Privacy Act. Once the court approved the Commission's access and after obtaining the records, the SEC would be required to notify the customer that it obtained access to the records. At this point, the customer would be entitled to bring suit against the Commission for appropriate civil penalties and injunctive relief if the Commission's access to the records was not for purposes authorized by the Federal securities laws.

Mr. President, this bill reconciles the privacy interests of bank customers with the special and continuing need of the Commission for adequate access to their account records. It protects against invasions of privacy in a way that preserves the legitimate investigating functions of the SEC.

Mr. President, in early 1980, the Securities Investor Protection Corporation ("SIPC") recommended amendments to the Securities Investor Protection Act of 1970 to increase the dollar amount of protection under the act available to customers of brokerage firms. This recommendation was endorsed subsequently by the Securities Industry Association, the securities industry self-regulatory organizations, and by the Securities and Exchange Commission.

In accordance with SIPC's recommendations, the House bill would increase the present coverage for securities from $100,000 to $500,000. Moreover, consistent with earlier congressional action increasing FSLIC and FDIC coverage for depositors, the bill would increase SIPC coverage for cash from $40,000 to $100,000.

These changes will underscore the importance of SIPC as an important device in investor confidence and investor protection. Moreover, increased coverage can be obtained without increasing SIPC assessments imposed on the securities industry or jeopardizing the integrity or stability of the SIPC fund.

Mr. President, I urge approval of the House bill.

The bill (H.R. 7939) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SARBANES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL SECURITIES LAW AMENDMENTS—H.R. 7554

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7554, an act to amend the Federal securities laws to provide incentives for small business investment, and for other purposes, and that it be considered as having been read twice, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7554) to amend the Federal securities laws to provide incentives for small business investment, and for other purposes;

There being no objection, the Senate proceeded to consider the bill.

Mr. SARBANES. Mr. President, we have some amendments to offer to this bill, but the Senator from Connecticut wishes to offer an amendment and engage in colloquy with the Senator from Maine, after which I understand he will withdraw his amendment and in deference to them we will defer our amendments until they complete their colloquy. We appreciate the fact that they will engage in a colloquy.

Mr. WEICKER. Mr. President, I very much appreciate the courtesies of the distinguished Senator from Maryland.

AMENDMENT NO. 2344

Mr. WEICKER. Mr. President, I now call up my amendment No. 2344 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 2344.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 1 through 2 and insert in lieu thereof the following:

"TITLE I

"SECURITIES EXCHANGE ACT OF 1934 AMENDMENTS

"SEC. 101. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—".

On page 2, following line 14, add the following new title:

"TITLE II

"FAIR COMMERCIAL REPORTING PRACTICES ACT

"SEC. 201. This title may be cited as the 'Fair Commercial Reporting Practices Act of 1980'.

"FINDINGS AND PURPOSES

"SEC. 202. (a) The Congress finds that—

"(1) the free and competitive marketplace is dependent upon fair and accurate commercial reporting;

"(2) inaccurate commercial reports directly impair the efficiency of the free marketplace and unfair commercial reporting practices undermine the confidence of businesses in the continued effective functioning of the free enterprise system;

"(3) an elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of businesses and the representatives of those businesses;

"(4) commercial reporting agencies have assumed a vital role in assembling and evaluating commercial credit and other information on businesses and representatives of those businesses; and

"(5) there is a need to ensure that commercial reporting agencies exercise their responsibilities with fairness, accuracy and a respect for the business' right to privacy.

"(b) The purposes if this Act are to—

"(1) ensure that commercial reporting agencies minimize the extent to which recorded information about a business is a source of error or unfairness in any decision made on the basis of such recorded information;

"(2) create and define obligations with respect to the uses that will be made of recorded information about a business or its representatives; and

"(3) require that commercial reporting agencies adopt reasonable procedures for meeting the needs of commerce for commercial credit, commercial insurance, and other purposes by gathering information in a manner that is fair and equitable to the business with regard to the confidentiality, accuracy, and proper utilization of such information in accordance with the requirements of this Act.

"DEFINITIONS AND EXCLUSIONS

"SEC. 203. (a) For the purpose of this Act, the term—

"(1) 'person' means any individual, company, corporation, trust, association, firm, partnership, cooperative, organization, or other entity;

"(2) 'commercial reporting agency' means any person which for compensation or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating financial information or other information on businesses for the purpose of furnishing commercial reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing commercial reports; and

"(3) 'commercial report' means any written, oral, or other communication of any information by a commercial reporting agency bearing on a business' credit worthiness, credit standing, credit capacity, general reputation, debts, or insurability, including information gathered on individuals who are owners, officers, or employees of the business, which is used or expected to be used in whole or in part for the purpose of serving as a factor in establishing the business' eligibility for—

"(A) credit;

"(B) insurance or otherwise in connection with an insurance transaction involving the business, including the underwriting of insurance on either the business or on an individual if the business is the beneficiary of the policy; or

"(C) other purposes in connection with a commercial transaction involving the business.

Such term does not include—

"(i) any report containing information solely as to transactions or experiences between the business or its owners, officers, or employees and the person making the report;

"(ii) the transfer of information to a guarantor, insurer, or joint creditor participating in the same transaction if the transmitting party advises the business of the name and address of the guarantor, insurer, or joint creditor;

"(iii) any compilation of consumer complaints or information collected or used for the primary purpose of responding to inquiries by consumers concerning the general reputation of a business; or "(iv) stock reports or other financial reports on a business made available by stock brokers or financial analysts.

"(b) Nothing in this Act applies to any consumer reporting agency, consumer report, or user of information which is governed by the Fair Credit Reporting Act.

"PERMISSIBLE PURPOSES OF REPORTS

"SEC. 204. (a) A commercial reporting agency may furnish a commercial report under the following circumstances and no other:

"(1) In response to the order of a court having jurisdiction to issue such an order.

"(2) In accordance with the written instructions of the person to whom it relates.

"(3) To a person which it has reason to believe—

"(A) intends to use the information in connection with a commercial credit transaction involving the person on whom the information is to be furnished and involving the extension of commercial credit to, or review or collection of an account of, the person;

"(B) intends to use the information in connection with the underwriting of commercial insurance involving the person;

"(C) intends to use the information in connection with a determination of the person's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider a business' financial responsibility or status;

"(D) otherwise has a legitimate business need for the information in connection with a business transaction involving the person; or

"(E) as expressly authorized pursuant to any other State or Federal law.

"(b) Notwithstanding the provisions of subsection (a), a commercial reporting agency may furnish identifying information respecting any business, limited to the business' name and address or former addresses, to a governmental agency.

"DISCLOSURE REQUIRED

"SEC. 205. (a) Whenever credit or insurance or other benefit is denied or the charge for such credit, insurance, or other benefit is increased either wholly or partly because of information about a person contained in a commercial report from a commercial reporting agency, the user of the commercial report shall notify the person in writing that the credit, insurance, or other benefit has been denied based on a commercial report, provide the name, street address, and telephone number of the commercial reporting agency supplying the report, and notify the person of its right to request a copy of the report and to correct an erroneous report by contacting the commercial reporting agency.

"(b) Every commercial reporting agency, upon request and proper identification of any person, shall—

"(1) inform the person whether the agency has any information in its files pertaining to the person; and

"(2) if the agency has any information in its files pertaining to the person, it shall—

"(A) clearly and accurately disclose to the person all information in its files on the person at the time of the request;

"(B) permit the person to examine and copy all such information;

"(C) clearly and accurately disclose to the person the sources of all information; and

"(D) clearly and accurately disclose to the person the names of all recipients of any commercial report on the person which the agency has furnished for any purpose within the six-month period preceding the request.

"(c) The requirements of subsection (b) respecting the disclosure of sources of information and the recipients of reports do not apply to information received or reports furnished prior to the effective date of this Act except to the extent that the matter involved is contained in the files of the commercial reporting agency on that date.

"COMPLIANCE PROCEDURES

"SEC. 206. (a) The disclosures required under section 5(b) shall be made to a person—

"(1) in person if the person appears in person and furnishes proper identification; or

"(2) by telephone if the person has made a prior written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the person; or

"(3) by mailing a copy of all information to the person within a reasonable time after receipt of a written request from the person for disclosure of the information.

"(b) Each commercial reporting agency shall provide trained personnel to explain to any person any information furnished pursuant to section 5(b).

"DISPUTES

"SEC. 207. (a) If the completeness, accuracy, or timeliness of any item of information contained in a person's file is disputed by the person, and such dispute is directly conveyed to the commercial reporting agency by the person, the commercial reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the person is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the commercial reporting agency shall promptly delete such information. The presence of contradictory information in the person's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

"(b) If the reinvestigation does not resolve the dispute, the person may file a brief statement setting forth the nature of the dispute. The commercial reporting agency may limit such statements to not more than one hundred words.

"(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the commercial reporting agency shall, in any subsequent commercial report containing the information in question, clearly note that the information is disputed by the person and provide either the person's statement or a clear and accurate codification or summary thereof.

"(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the commercial reporting agency shall, at the request of the person, furnish notification that the item has been deleted or the statement, codification, or summary pursuant to subsection (b) or (c) to any person specifically designated by the person who has within six months prior thereto received a report which contained the deleted or disputed information. The commercial reporting agency shall clearly and conspicuously disclose to the person his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the person's statement regarding the disputed information is received.

"CHARGES FOR CERTAIN DISCLOSURES

"SEC. 208. A commercial reporting agency shall make all disclosures pursuant to section 5(b) and furnish all commerical reports pursuant to section 7(d) without charge to the person if, within thirty days after receipt of a notification sent pursuant to section 5(a), the person makes a request under section 5(b) or 7(d). Otherwise, the commercial reporting agency may impose a reasonable charge on the person for making disclosure to such person pursuant to section 5(b), the charge for which shall be indicated to the person prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to the person designated pursuant to section 7(d), the charge for which shall be indicated to the person prior to furnishing such information and shall not exceed the charge that the commercial reporting agency would impose on each designated recipient for a report, except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified. A commercial reporting agency may charge a reasonable copying fee for furnishing copies of information pursuant to section 5(b).

"PROCEDURES TO ENSURE ACCURACY

"SEC. 209. Each commercial reporting agency shall maintain reasonable procedures to assure the maximum possible accuracy of the information it reports.

"PROHIBITED PRACTICES

"SEC. 210. A commercial reporting agency may not—

"(1) furnish any commercial report containing any adverse item of information which antedates the report by more than ten years, except in the case of any commercial report to be used in connection with a credit transaction, or underwriting of life insurance, involving a principal amount of $500,000 or more;

"(2) obtain information or seek to obtain information from any source by means of any threat, direct or implied, that the failure to furnish information may result in any adverse consequences for the person from whom the information is sought;

"(3) furnish negative information or recommend that credit not be extended or make any other adverse recommendation to a third party in whole or in part on the basis of a business' failure or refusal to cooperate with the inquiry of the commercial reporting agency;

"(4) furnish a commercial report which indicates that a business has been denied credit, if the sole reason for such denial is lack of sufficient information to grant credit, unless the report states that the denial was for that reason; or

"(5) take any action to lower the credit rating of a business on which information is maintained or furnished to third parties, unless that business is notified of such action in writing within thirty days of such action, such notification to be accompanied by a statement of the reasons for such action.

"CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE

"SEC. 211. Any commercial reporting agency or user of information which willfully fails to comply with any requirement imposed by this Act with respect to any person is liable to that person in an amount equal to the sum of—

"(1) any actual damages sustained by the person as a result of the failure;

"(2) such amount of punitive damages as the courts may allow; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"CIVIL LIABILITY FOR NEGLIGENT NONCOMPLIANCE

"SEC. 212. Any commercial reporting agency or user of information which is negligent in failing to comply with any requirement imposed by this Act with respect to any person is liable to that person in an amount equal to the sum of—

"(1) any actual damages sustained by the person as a result of the failure; and

"(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"JURISDICTION OF COURTS; LIMITATION OF ACTIONS

"SEC. 213. An action to enforce any liability created under this Act may be brought in any appropriate United States district court without regard to the amount in controversy, or in any court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information under this Act to be disclosed to any person and the information so misrepresented is material to the establishment of the defendant's liability to that person under this Act, the action may be brought at any time within wo years after discovery by the person of the misrepresentation.

"OBTAINING INFORMATION UNDER FALSE PRETENSES

"SEC. 214. Any person who knowingly and willfully obtains information on a person from a commercial reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES

"SEC. 215. Any officer or employee of a commercial reporting agency who knowingly and willfully provides information concerning a person from the agency's files to a person not authorized to receive that information shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"RELATION TO STATE LAWS

"SEC. 216. This Act does not annul, alter, affect, or exempt any person subject to the provisions of this Act from complying with the laws of any State with respect to the collection, distribution, or use of any information, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

"EFFECTIVE DATE

"SEC. 217. This Act shall take effect upon the expiration of one hundred and eighty days following the date of its enactment.".

Mr. WEICKER. Mr. President, this amendment is identical in its provisions to S. 2359, the Fair Commercial Reporting Practices Act, which I introduced earlier this year. It would give businesses that are the subject of commercial credit reports the same basic rights that are enjoyed by consumers who are the subject of consumer credit reports. The legislation is the outgrowth of two days of hearings before the Small Business Committee at which existing commercial credit reporting practices, the right of small businesses which are the subject of such reports, and the remedies available to businesses injured by erroneous or incomplete reports, were closely examined.

Mr. President, the right to privacy has been recognized as an inalienable right by the courts and buttressed by Congress through legislation. It should not be forfeited once a person goes into business. Unauthorized intrusions into the financial affairs of businesses by either Government or private enterprise are not only morally repugnant but also place businesses—particularly small businesses—at a disadvantage in dealing with competitors, suppliers, and customers.

Yet, in 1977, the Privacy Protection Study Commission concluded that "the impact of commercial credit decisions on individuals is particularly acute when the business seeking credit is a partnership, sole proprietorship, or closely held corporation." Due to the significant impact that commercial reporting practices have on business entities with which individuals are associated, the Commission recommended further investigation and study into this area. In addition, the Commission recommended enactment of legislation to insure the accuracy of information gathered and disseminated by commercial reporting agencies.

The hearings held by the Small Business Committee were the first congressional examination of the impact of commercial credit reporting practices on businesses since the Privacy Commission issued its recommendations. It became clear during the course of these hearings that under present commercial reporting practices an acceptable level of accuracy in commercial credit reports is not assured.

Witnesses at the hearings included Prof. David F. Linowes, former Chairman of the Privacy Protection Study Commission, representatives of two large trade associations, small business owners and representatives of three commercial reporting agencies. The trade association representatives and businesspersons—the ones directly affected by commercial reporting practices—all strongly recommended the need for remedial legislation to correct existing abuses and to insure the reporting of accurate, current credit information.

This recommendation for legislation was supported by the testimony of the witnesses. For example, it was discovered that one commercial reporting agency provided recommendations, over the telephone, to subscribers that a credit transaction should not be entered into with a business—simply because the business had not cooperated with the reporting agency by providing financial information. That is, a credit transaction was recommended against simply because the reporting agency had not been supplied with financial information by a particular business because the business had chosen, as was its right, not to provide information to the agency for indiscriminate dissemination.

Other complaints elicited at the hearings concerning the overall inaccuracies of credit reports; the use of outdated and obsolete information; the delay and unresponsiveness of reporting agencies in resolving complaints; the inability of businesses to discover the sources of erroneous information; and the penalizing of businesses who refuse to cooperate with one commercial reporting agency. This was accomplished through the use of a blank rating system, which bears strong connotations of business failure since this rating is given not only to businesses on which the reporting agency has been unable to obtain sufficient information but also to businesses that are in bankruptcy or receivership, businesses where there is a serious question of moral risk, businesses that have incurred serious losses, businesses in critical financial condition, and businesses where failure appears imminent.

Mr. President, the testimony given at these hearings is described in great detail in chapter XV of the 30th annual report of the Select Committee on Small Business. I ask unanimous consent that this chapter be printed at this point in the RECORD.

There being no objection, the chapter was ordered to be printed in the RECORD, as follows:

CHAPTER XV. REPORTING OF COMMERCIAL CREDIT AND ITS EFFECTS ON SMALL BUSINESS

A. INTRODUCTION

Commercial credit reporting practices perform an important function in our economy. For businesses of all sizes to survive and prosper, they must have access to credit. The decision to extend business credit frequently hinges on reports made by commercial credit reporting services. However, despite the importance of these reports, there are presently no statutory safeguards to insure their accuracy.

In 1977, after devoting 2 years to examining individual privacy rights and recordkeeping practices in many environments, the Privacy Protection Study Commission concluded that, "the impact of commercial credit decisions on individuals is particularly acute when the business seeking credit is a partnership, sole proprietorship, or closely held corporation." Since commercial credit reporting practices have a significant impact on business entities with which individuals are associated, the Commission recommended that further investigation and study in this area should be conducted. Accordingly, the Senate Small Business Committee held 2 days of public hearings on October 31, and November 1, 1979 to review the impact of commercial credit reporting practices on small business.

The hearings were held after a year-long investigation by the minority staff conducted at the direction of Senator Lowell Weicker, Jr., the ranking minority member of the committee. Senator Weicker cochaired the hearings with Senator Carl Levin of Michigan.

These hearings closely examined existing commercial credit reporting practices, the rights of small businesses which are the subject of such reports, and the remedies available to businesses injured by erroneous or incomplete reports. In addition, consideration was given to the Privacy Commission's recommendation that procedures be adopted to assure the accuracy of information collected and reported by commercial credit reporting services.

B. PROTECTIONS PROVIDED UNDER CURRENT LAW

Unlike an individual, the small business person has no statutory protection against erroneous credit reports. The Fair Credit Reporting Act, which provides statutory protections and a judicial remedy for a consumer who has been injured by an inaccurate credit report, is not applicable to commercial reports on small businesses.

The Fair Credit Reporting Act is designed to create a statutory system under which consumers may learn of adverse reports, examine the information contained in the reports, and be afforded the opportunity to correct or supplement false or misleading entries. The Fair Credit Reporting Act also establishes a statutory cause of action for consumers against reporting agencies for negligent noncompliance with the act. Under this act, which is enforced by the Federal Trade Commission, the consumer has the following basic rights:

(*a*) whenever credit is denied because of a negative report, the potential credit grantor must so advise the consumer and identify the agency making the report;

(*b*) anyone causing an investigative report to be made must notify the subject of that report within 3 days of the request;

(*c*) upon receiving notice of an adverse credit decision, the consumer may obtain from the reporting agency disclosure of the nature and substance of the information in his file, the sources (except for those used solely in preparing an investigative report) and the identities of recipients of these reports;

(*d*) if the consumer disputes items on the credit report, he may request a reinvestigation. If the item proves inaccurate or can no longer be verified, it must be deleted. If reinvestigation does not resolve the dispute, the consumer may file a brief statement of the dispute, which must be included in future reports; and

(*e*) the consumer may require that notice of the deletion, or the statement of dispute, be sent to those who received reports containing the disputed item.

The Fair Credit Reporting Act applies only to consumer reports, and has been held not applicable to credit reports on businesses, even if that report contains personal information about the business owners.

Under the Equal Credit Opportunity Act (ECOA), businesses are able to obtain a statement of reasons for credit denied by a member bank of the Federal Reserve System. The ECOA, however, does not regulate either the accuracy of private credit reports or credit transactions solely between businesses.

Thus, a business entity harmed by a false credit report must resort to a common law defamation action to recover damages for injury which it may have suffered. Although under common law, and in Georgia and Idaho only, a disseminator of defamatory material is held strictly liable for distributing information he knew or should have known was false, all other States have carved out public policy exceptions to the common law rule, and afford the commercial credit reporting agency a qualified privilege. This qualified privilege imposes a higher standard of recovery, thereby requiring a business plaintiff to prove malice in order to recover damages, and thus, small businesses may, in fact, have no real judicial recourse even if seriously harmed by an inaccurate credit report.

C. COMMERCIAL CREDIT REPORTING PRACTICES

When a business seeks credit from banks, Government agencies or other businesses, its creditworthiness is evaluated by the prospective credit grantor. For assistance in making this determination, the credit grantor frequently calls upon commercial credit reporting services to collect and evaluate information.

There are two general categories of commercial credit reporting services. The first type is the investigative service which collects information about the credit applicant from past and current creditors as well as from a variety of other sources. The investigation is carried out by field representatives who compile a detailed report about the business, including information about the owners and managers of the business, as well as an analysis of its financial condition and performance. The business is then given a credit rating. Investigative services rely on the management of the business under investigation for their principal source of information. Based on these interviews, the reporting service is led to other suppliers, public records and other creditors. Frequently the business under investigation names other sources of information and authorizes the collection of information from them.

The second type of commercial credit reporting service simply collects information about an applicant from credit grantors with which the applicant has, or once had, a credit relationship. In essence, these firms act as clearinghouses for commercial credit information, compiling information obtained from credit grantors and reporting the information to prospective grantors. These services provide no evaluative information about firms to credit grantors nor do they provide information about the business related background of a company's management.

Commercial credit reporting services, both investigative and clearinghouse services, generally disseminate the information they compile about a credit applicant to their subscribers in the form of a written report. Some of the services also provide information over the telephone. For example, Dun & Bradstreet has a reporting service subsidiary that provides over-the-telephone recommendations as to whether credit should be extended to a subscriber in the apparel industry.

D. PRIVACY COMMISSION STUDY AND RECOMMENDATIONS

The mandate of the 1976 Privacy Protection Study Commission was to examine the impact of credit-reporting practices on individuals. However, because, "the boundary between recordkeeping that affects individuals and that which affects legal entities is not always entirely clear" and since a "decision about whether to grant or deny credit to a sole proprietor inevitably has great import for the individual who owns the firm," the Commission also undertook to study commercial credit-reporting practices to determine what their impact on individuals is and to assess whether legal protections against unfairnes to individuals in the commercial credit relationship are necesary.

The Commission's hearings on commercial credit-reporting practices focused on a legal dispute begun in 1962 involving Michael Goldgar and the Dun & Bradstreet Corp. As the New York Supreme Court Appellate Division noted in a 1973 opinion:

"The record presents the picture of a fund carried on by defendant against one Goldgar who has incurred defendant's ill will. Concededly, defendant was "out to get" Goldgar and the corporate conglomerate he was attempting to build. Unfortunately, for Goldgar * * * dissemination of derogatory information about him and his enterprises brought them crashing down into bankruptcy. Had this come about as a result of straightforward and honest credit reporting that would have been the end of the matter. Unfortunately, for defendant, the record discloses that its coup was accomplished by intrigue, deliberate assault on a business, planted rumor, and reckless disregard of consequence * * *."

The Commission concluded that this case demonstrated the need for procedures to assure that information collected and reported by commercial credit-reporting services is accurate.

The failure of a business to cooperate with the commercial credit-reporting service preparing the report, however, may have an adverse effect on the credit recommendations given by investigative services. As the Privacy Commission observed in its final report, "a reported failure to cooperate, or Dun and Bradstreet's inability to produce a report because of a lack of cooperation, can arouse suspicions about a company's creditworthiness, and have a chilling effect on its ability to obtain credit."

The Commission went on to recommend:

(*a*) further examination of the need for requirements appropriate for commercial credit granting and credit recordkeeping practices;

(*b*) amendment of the Fair Credit Reporting Act to provide that a commercial credit grantor must disclose to the subject of an adverse credit decision the name of the commercial credit reporting service that provided the information;

(*c*) amendment of the Fair Credit Reporting Act to provide that a commercial credit reporting service must:

(*i*) disclose any recorded information pertaining to an individual connected with a business report;

(*ii*) permit the copying of any recorded information, except the identity of sources; and

(*iii*) apprise the individual of the nature and substance of any recorded information by telephone.

(*d*) amendment of the Fair Credit Reporting Act to provide that an individual has a right to correct or amend information pertaining to him that is maintained by a commercial credit reporting service, or is provided an opportunity to file a concise statement of disagreement;

(*e*) amendment of the Fair Credit Reporting Act to provide that commercial credit reporting services must have reasonable procedures to assure the accuracy of information in reports produced by them; and

(*f*) examination of the time limits for reporting certain types of information and the need to protect the identity of sources.

The Senate Small Business Committee hearings were particularly significant in that they marked the very first congressional examination of the impact of commercial credit reporting practices on businesses since the Privacy Commission's study and recommendations.

E. SUMMARY OF HEARINGS

The Senate Small Business Committee held 2 days of public hearings on October 31, and November 1, 1979, during which a total of 13 witnesses testified. Witnesses included David F. Linowes, the former Chairman of the Privacy Protection Study Commission, Congressman Barry M. Goldwater, Jr., a member of the Privacy Commission, Commissioner Patricia P. Bailey of the Federal Trade Commission, representatives of two trade associations, five small businesspersons who testified that they were injured by improper and erroneous commercial credit reporting practices, and representatives of three commercial credit-reporting services (the Dun & Bradstreet Corp., TRW, and the National Association of Credit Management).

A summary of the testimony of the witnesses and the evidence presented to the committee during the course of the hearings is presented below:

1. Prof. David F. Linowes, former Chairman, Privacy Protection Study Commission, Boeschenstein Professor of Political Economy and Public Policy, University of Illinois, Urbana, Ill.

Prof. David F. Linowes served as Chairman of the Privacy Protection Study Commission and testified concerning the Privacy Commission's findings and recommendations. Although the Commission was only directed to examine the impact of credit reporting practices on individuals, it undertook a cursory study of commercial credit reporting practices because "the boundary between recordkeeping that affects individuals and that which affects legal entities is not always clear." The Commission concluded that further examination of commercial credit reporting practices was warranted.

In addition, the Commission made recommendations for enactment of legislation to assure the accuracy of information collected and reported by commercial credit reporting agencies. Linowes noted that:

"Although commercial reporting service are not generally subject to laws governing fairness in recordkeeping, some services go beyond the requirements of the law and conform in some respects to the provisions of the Fair Credit Reporting Act. I might add Dun & Bradstreet is an outstanding example of that. I do understand they have the policy that will give individual protection to business organizations. This is encouraging. However, where such voluntary compliance is in effect, it may be suspended whenever the need or desire arises. This only serves to point up the need to consider legislation on the Federal level to provide uniform compliance with fair information practices for all."

Professor Linowes emphasized during his testimony the need for extensive examination of privacy rights because of the complex credit explosion in our society, coupled with major advances in computer and telecommunications technology. Linowes stated that:

"(F)or small business, in particular, the information is quite personal. As set forth by the Privacy Commission throughout our report covering personal privacy, potential for misuse and abuse of personal information does exist. This is true whether the report originates with a consumer reporting agency, or a commercial reporting service. Yet, the commercial reporting service is not subject to the Fair Credit Reporting Act."

Linowes noted that in the past, information and data accumulated had always been promptly destroyed after its use because it was too costly to store. Today that is not the case. Now, according to Linowes, it is cheaper to keep "2,000 to 60,000 bits of information stored on a pinhead size piece of silicon" than to destroy it because destruction requires that data already stored on a computer to run through the computer a second time. Linowes further related that because of the rapid development of advanced technology "this information is being disseminated across the Nation at the speed of light."

Linowes believed that if more businessmen were better informed about the collection, maintenance, and disclosure of information, they might very well seek to exercise stricter controls over its use. With respect to the unlimited amounts and types of data on business operations accumulated by scores or organizations and fed into data banks around the country, Linowes stated:

"Much of it is being shared with others, often without the knowledge of the principals concerned. With split-second retrieval, anything that is ever recorded about an executive or business entity becomes immediately available; and with computer-to-computer linkage anything put into the databank of one organization can be tied together with another organization's databank. It is this linkage which has the potential for creating major problems for vulnerable small business interests."

Based on a recent study conducted under his direction, Professor Linowes also expressed grave concern over the seemingly indiscriminate disclosure of credit information by banks concerning their customers. Linowes noted that since only 25 percent obtain customer authorization prior to disclosing some information and 80 percent never tell their customers that disclosures have been made, what these "secret practices" add up to is that "the small business organization apparently needs the same information privacy protections, as the Privacy Commission recommended for the individual."

2. Patricia P. Bailey, Commissioner, Federal Trade Commission, Washington, D.C.

Commissioner Bailey testified on behalf of the FTC about the complaints her agency received concerning commercial credit reporting practices.

Commissioner Bailey believed that basic, fair informational reporting practices which are guaranteed to consumers under the Fair Credit Reporting Act should also apply to commercial credit reports. Because the remedy under the Fair Credit Reporting Act is one of the weakest remedies afforded under Federal law, it is the FTC's position that such a remedy could be extended to cover commercial credit reports without hampering the recognized necessary flow of information. Although the FTC favors creation of a private cause of action, Commisisoner Bailey submitted proposed legislation which would have the effect of giving businesses injured by erroneous commercial credit reports the same rights as those guaranteed to consumers under the Fair Credit Reporting Act.

3. Panel I: (A) Gale Metzger, President, Statistical Research, Inc. (SRI), Westfield, N.J.; (B) Mark D. Berson, Vice President, Raphael's, Mobile, Ala.; (C) Martin H. Zanger, President, Bookland, Inc., Holyoke, Mass.

(*a*) Gale Metzger, the president of SRI, testified that SRI is a 10-year-old research company formed to design and conduct professional research and analysis for major national corporations and government. SRI has been a profitable business since it was formed and has experienced a steady growth in billings each year; it has never experienced any particular financial difficulties. Metzger indicated that his company pays all local suppliers within 7 to 10 days, and all national suppliers within 2 weeks.

SRI's only "credit problem" arose in 1979 when it attempted to open a new account with a supplier; SRI was informed by the supplier that credit would not be extended because SRI had a "bad credit rating." SRI was informed that this information was based on a credit report prepared by Dun & Bradstreet which listed them as "slow pay." The Dun & Bradstreet report further stated that Metzger declined to comment on the "reason for slowness." Metzger testified that this was false: That he last spoke to a Dun & Bradstreet representative in 1972 and that SRI paid all of its bills promptly. Metzger stated that his policy was not to provide Dun & Bradstreet or anyone else with financial information which he considered to be, and wanted to keep, confidential.

Metzger testified that immediately upon learning of these errors in the Dun & Bradstreet report, he attempted to resolve and correct these reporting errors through a number of telephone calls and letters to Dun & Bradstreet. He never received a satisfactory response concerning how these errors were made or from whom this erroneous information was collected. As to Dun & Bradstreet's attitude toward attempting to resolve these errors, Metzger reported that the "arrogance and platitudes" contained in Dun & Bradstreet's responses "are laughable." Metzger stated:

"Information is dynamic; yet they were never able to respond to our problem with anything but a static, standard, preprogrammed series of responses. Certainly, as a firm which trades in the vital free flow of credit information, they ought to be mightily concerned about accuracy, truth and responsibility."

Metzger further complained that Dun & Bradstreet refused to give him the basic right "to confront his accuser," the source of this erroneous information. Metzger reported that the damage to his business was not fatal, but this was "simply because we are bigger and more esteemed by our clients than any Dun & Bradstreet report." Metzger suggested that "to allow (D&B) to continue this irresponsible pattern of behavior would do great damage."

He summed up this experience with Dun & Bradstreet by stating:

"So much of our experience evidences that this is their way of doing business, rather than a simple mistake—as they chose to label it.

"For us, as a small business, there is no such thing as a simple mistake which can affect our existence.

"For us, whose business is to provide and disseminate accurate information, there is no rational explanation for their practice of publishing unchecked information.

"For us, as a sophisticated data firm in 1979, there is no explanation for a company such as this operating without sufficient systems checks that automatically flag inconsistent data fed into that system.

"For us, concerned about clear and actionable information, there is no sense in their policy of telling the business world whatever they learn, true or not.

When they were told that the report was in error, it took them 2 weeks to respond in any way whatsoever. When they were notified that there were other errors in the report, they did not bother to correct them. The report as I most recently saw it still includes significant errors. Dun & Bradstreet showed little regard for what they were doing in the first place and couldn't have cared less about correcting any error when it was pointed out. 'Business as usual' meant 'We'll get back to you when we're good and ready'.

"There is one other interesting parenthetic note to our experience with Dun & Bradstreet. During the first phone contact with [D&B] on February 9, I asked that the circulation of the false report be halted. One day short of a month later, our erroneous report still was in circulation not only to others, but sent directly to me. This is another illustration of a lack of control throughout the entire system, of a style of doing business, of a lack of concern about accuracy or responsibility."

Dun & Bradstreet responded to this and other complaints raised by several witnesses during its presentation to the committee, and submitted a more complete response for the record. More specifically, Dun & Bradstreet responded that when Metzger complained, they stopped distribution of the report immediately and sent a copy of the report to him. Dun & Bradstreet conceded that it did not answer Metzger promptly because it had difficulty in contacting the proper persons at the suppliers to resolve the dispute. When, after 17 days, Dun & Bradstreet was unable to verify information in the Dun & Bradstreet report it accepted Metzger's statement that the two reports of slow pay were inaccurate and issued a correction notice which Dun & Bradstreet said was sent to all subscribers who had received the earlier report.

Further, Dun & Bradstreet stated that the report Metzger received 1 month later, with an accompanying letter requesting that he review the report, was "part of a test program designed to explore another way of improving the quality of our reports," and was not in circulation to anyone else at this time.

(b) Mark D. Berson, vice president of Raphael's a leading women's clothes retail store in Alabama, testified that the store had been doing business since 1946, and was purchased by the Bersons in 1978. The Berson family has been in the retail clothing business for 32 years, and has established an outstanding credit and payment record.

When Berson first refused to answer inquiries from a commercial credit reporting service in New York Credit Exchange, Inc., he was told by a senior vice president that merchandise might be difficult for Raphael's to obtain if it did not cooperate and voluntarily supply Credit Exchange with financial information. Berson still refused, and despite Credit Exchange having no credit information on Raphael's whatsoever, potential new suppliers indicated that they had declined Raphael's credit based on a reliance on Credit Exchange's "recommendation" not to extend credit.

Berson also related to the committee Raphael's credit experience with Dun & Bradstreet. Berson reported that although Raphael's provided Dun & Bradstreet with a copy of the business' financial statements and other information requested, a Dun & Bradstreet subsidiary, Credit Clearinghouse, prepared and issued a report inaccurately listing Raphael's high credit range as $2,500—

despite the fact that it was in the range of $20,000—and recommending against credit being extended.

Berson testified that upon learning of the existence of the inaccurate Dun & Bradstreet report on Raphael's he requested and received a copy of the Dun & Bradstreet report. Berson noted that the Dun & Bradstreet report sent to him was printed on April 26, 1979, and contained a summary of Raphael's 1977 financial statement. However, when Berson requested from one of his suppliers a copy of the Dun & Bradstreet report sent to that supplier, the supplier provided Berson with a Dun & Bradstreet report dated 3 days earlier but containing both 1977 and 1978 financial information. How could reports printed 3 days apart be so different in content; and how could a later report contain substantially less information, Berson asked? In addition, the same supplier also enclosed a Dun & Bradstreet prepared cover sheet to the report which included Dun & Bradstreet's specific recommendation to the supplier that it not enter into a business credit transaction with Raphael's. In Dun & Bradstreet's response to Berson's request for a copy of the Dun & Bradstreet report on Raphael's, Dun & Bradstreet did not forward Berson a copy of this cover sheet nor did it indicate to Berson in any other way that Dun & Bradstreet was advising inquirers not to enter into credit transactions with his company.

Berson, like other witnesses who testified, agreed that it is necessary in the business world to have credit reporting agencies that can be relied upon, but stated further:

However, I am adamant in my belief that these agencies should be managed by responsible people. These agencies also should be regulated in the manner in which they report financial information to their clients.

"There are literally thousands of small retailers across America who are victims of undue pressure and brow-beating from irresponsible credit reporting agencies. Something needs to be done about this situation."

Dun & Bradstreet noted that Berson was sent only a copy of the regular business information report while his supplier was provided a separate report prepared by Dun & Bradstreet's industry subsidiary.

Dun & Bradstreet related that part of its confusion with respect to information sent to Berson directly and information made available to Berson's supplier was attributable to the fact that Dun & Bradstreet did not realize that Berson was requesting copies of all reports in their entirety that Dun & Bradstreet was circulating about the business and its creditworthiness. Subsequently, Dun & Bradstreet indicated it would change its procedures to attempt to provide to businesses all reports requested.

(c) Martin Zanger, president of Bookland, testified that he is engaged in the sale of books, periodicals, and greeting cards in stores in small shopping centers in Holyoke and Northampton, Mass. Bookland has a sales volume of $650,000 per year, and Zanger stated he has always paid all of his bills on time. He further reported to the committee that:

"We have had a problem with Dun & Bradstreet since 1976. At that time, their report on our company came to my attention and I noted several errors. They said our sales were $80,000 when, in fact they were eight hundred thousands. They stated that I had said sales were down. I never made such a statement as, in fact, sales were up that year."

When Zanger attempted to resolve the errors contained in the Dun & Bradstreet report, he found that Dun & Bradstreet had used as trade credit references two companies that he had never heard of nor had ever done business with, and one company that was a direct competitor of Bookland. To confirm his suspicion that Dun & Bradstreet had obtained its false credit information from a competitor, Zanger placed a telephone call to the competitor, identified himself as the credit manager of a nationally known publisher seeking a credit reference on Bookland, and got the following response: "I wouldn't touch it unless it was C.O.D. Their credit is no good."

Dun & Bradstreet subsequently acknowledged to Zanger that the information it had published was false, and that it had been obtained from one of Bookland's competitors. Dun & Bradstreet issued a new report on Bookland which deleted the specific false information. However, according to Zanger, even after he had pointed out other misstatements in the report to Dun & Bradstreet employees on five separate occasions, the new report, which was "reasonably correct," still contained other false information.

Zanger concluded his testimony to the committee by noting:

"Now, what are the implications of all of this. The fact that we had an undeserved bad report had little effect on our long term suppliers to the best of our knowledge but mitigated strongly against our obtaining credit from new suppliers. The book business is made up of many thousands of publishers and hardly a week goes by that we do not have at least one or more new suppliers. Generally our orders are small and what happened is that our small orders simply went unfilled. In some instances shipments were delayed while further credit checks were made.

"Dun & Bradstreet's policy of not checking or verifying any trade clearances permits the system to be abused. In our case, our competitor deliberately put through a blatantly false report in a successful attempt to interfere with our ability to purchase goods for resale. When we called their attention to the fact that the report was a lie, nothing was done for a very long time.

"It would certainly seem that we ought to have such legislation as would preclude credit agencies from using unverified data and would preclúde business firms from furnishing false data to credit agencies."

Dun & Bradstreet acknowledged that Zanger's account is substantially correct and his criticisms justifiable. With respect to the situation in which one of Bookland's competitors was able to provide false credit information on the business, Dun & Bradstreet admitted the factual situation, and said that it has instituted a new control system to guard against improper trade references.

4. Panel II: (A) Sheldon Feldman, Esq., National Retail Merchants Association (NRMA), Washington, D.C.; (B) Jo Goff, President, Jo's Place, Ltd.

(*a*) NRMA is the Nation's largest trade association in the general merchandise retail industry. Its members operate 35,000 stores, employ over 2.5 million people, and have current annual sales in excess of $95 billion. More than 80 percent of its members are small businesses with annual sales under $1 million.

NRMA polled its small, independent members to determine the experiences these retailers encountered in their relationships with commercial credit reporting agencies. Although the questionnaire admittedly did not employ generally accepted statistical techniques and, accordingly, the results cannot be interpreted as precise, they did provide an indication of the experiences of this nationwide group of more than 2,000 companies. The results indicate:

(i) nearly 14 percent of these questioned responded, which, according to NRMA, is double their normal response rate and indicates a high degree of interest and concern regarding current commercial credit reporting practices;

(ii) 43 percent found the practices of the commercial credit reporting firms to be "fair," while 23 percent found the practices to be "intrusive and unfair;"

(iii) nearly half the respondents found problems with the accuracy of the report, with the most prevalent complaint pertaining to the inclusion of obsolete data. 15 percent believed the reports were accurate; and,

(iv) nearly 82 percent advocated reform of commercial credit reporting practices.

During his testimony Feldman summarized the results of the NRMA survey for the committee as follows:

"The most important conclusion that we draw from the survey is the extent to which respondents believe that regulation of the practices of commercial credit reporting firms is essential. While the respondents do not dispute the right of the reporting firm to investigate and report upon them, they do believe that certain standard procedures should be followed by these firms in the conduct of their business. Primary among the suggested reforms is the right of the business or individual being investigated to have access to the credit report and to have the right to correct any misinformation or misrepresentations. Moreover, the respondents are virtually unanimous in advocating that strict confidentiality of information be maintained, that the propriety of questions be assured, and that guidelines for the use of commercial reporting firms be established.

"This dramatic support for regulation of commercial credit investigatory practices is particularly striking because, as a rule, small business executives oppose increased Federal control of or intervention in their business or private lives."

Feldman offered another comment from an NRMA member-retailer which he indicated typified the frustration felt by small business retailers who are confronted with inaccurate, misleading and out-of-date reports:

"I am basically opposed to (the) use of government action for private problems. However, since many credit reporting firms use and distribute erroneous information without opportunity for refutation, I guess the only cure is law."

Feldman recommended that, since fairness and equity demand that businesses be treated in the same manner and afforded basically the same protections as those provided for consumer credit, the protections afforded to consumers under the Fair Credit Reporting Act should be extended to businesses. He concluded that:

"If the reporting companies do, in fact, afford these rights, they will not be burdened by compliance with a law that reinforces their current policies. If they do not afford these rights, and we are persuaded that they do not, they should be required to start now."

(*b*) Jo's Place Ltd., a NRMA member, is a ladies store located in Knoxville, Iowa, with approximately $250,000 in annual gross sales.

Mrs. Goff, as a small business person, was acutely aware of her business' dependence upon good credit and the actions of credit reporting agencies for its very existence. She stated:

"Without it we cannot survive—and the commercial credit reporting agencies control that credit! In effect, the commercial credit reporting agencies control the existence of small retail businesses! We would all assume, as I did when I entered the business world, that anyone blessed with this kind of power would be above reproach when wielding it. I assumed, as most do, that credit reporting agencies were in business to protect and assist everyone involved—to simplify business transactions, and expedite delivery of orders placed with manufacturers. Unfortunately, the real world differs from the American dream in that most instances you are dealing with an unfeeling, inanimate computer in an office somewhere which may or may not be using current or correct information concerning your account * * * I can say very comfortably that in the past, some of the people with whom I have had to deal who were representing credit reporting agencies did not even understand the financial statements and accompanying figures which they were demanding."

Mrs. Goff reported that Jo's Place was denied credit due to an inaccurate D&B report. When she informed D&B of the inaccuracy and demanded a correction, D&B refused, simply stating that "time would heal all." In attempting to resolve the inaccuracies in the D&B report, she found the D&B personnel to be "rude, abrupt and overbearing," and concluded:

"I guess most of us could tolerate the inefficiency of reporting companies more if it weren't coupled with arrogance. The credit reporting agencies control your future and they know it and so do you. So you try your best to cope with their errors, insults, veiled threats, and overbearing employees in order to stay in business. The factors need the manufacturer to sell goods—or else there is no need for them to exist. The only people who continue to do business either way are the credit reporting firms. If a business is denied credit based on its rating with the reporting company, the retailer loses, the manufacturer loses and the factor loses. But does the failure to complete a transaction affect the reporting agency in any way? Not at all."

Mrs. Goff concluded, therefore, that the only way that small business could be assured fair, complete and accurate credit reporting by commercial credit reporting agencies was through Government intervention and appropriate legislation.

D&B indicated that, based on its review of the information it had in its files, the company's payments on the whole were good and D&B should have been in a position to answer her questions. If a request for information was refused, and a reporter declined to show the business a copy of the report, that was an error on the reporter's part, and against clear company policy.

5. Hon. Goldwater, Jr., U.S. House of Representatives, Washington, D.C.

Congressman Goldwater was a member of the Privacy Protection Study Commission and has been active in the House of Representatives on privacy matters. He is the sponsor of H.R. 2465, a comprehensive privacy bill, which contains a provision concerning commercial credit and privacy. Mr. Goldwater's testimony focused on the need for regulation of commercial credit reporting practices and the legislative proposal he is sponsoring.

Mr. Goldwater's bill adopts virtually all of the recommendations of the Privacy Protection Study Commission and, in substance, proposes that business entities be afforded the same remedies that consumers have been granted under the Fair Credit Reporting Act.

6. Panel III: (A) Peter Zimmerman, New York State Council of Retail Merchants, Inc., Albany, N.Y.; (B) Charles Green, President, Jack Green Men's Shop, Rochester, N.Y.; (C) Albert Wohl, Wohls Department Store, Cobleskill, N.Y.

(*a*) Peter Zimmerman is the Director of Governmental Affairs for the New York State Council of Retail Merchants, a statewide trade association representing 5,000 retail outlets throughout the State of New York. For many years the council has received numerous complaints about commercial credit reporting services. One of the more serious complaints received is that D&B, through its Credit Clearinghouse subsidiary, recommends that subscribers not enter into a transaction with a business for which D&B does not have a financial statement, thereby seriously impairing the ability of the business to obtain credit. The council has also received numerous complaints concerning the overall inaccuracies of credit reports; the use of outdated and obsolete information; delays and unresponsiveness in resolving complaints; and businesses' inability to learn sources of information.

As has been noted earlier, several witnesses indicated that they felt under pressure to volunteer information to commercial credit reporting agencies; others thought they were being penalized for their failure to provide financial and other background information to commercial credit reporting agencies. During the hearing, considerable attention was directed to Dun & Bradstreet's use of a blank rating for certain businesses. Under D&B's current use, the blank rating is given not only to businesses on which D&B has been unable to obtain sufficient information, but also businesses that are in bankruptcy or receivership, businesses that have incurred serious losses and where there is a strong chance that creditors may lose, businesses in critical financial condition, businesses where failure appears immient, and businesses where there is a serious question of moral risk.

The committee was concerned that lumping lack of information into a list of significant negative factors may have the effect of urging businesses to provide information so as to disprove the existence of any of the possible adverse implications. The committee recommended that D&B explore the feasibility of establishing rating notations separating lack of information from adverse information.

During the hearing, D&B indicated that it was unaware that its subscribers had interpreted the blank rating in the same manner as the committee, but agreed to carefully study the committee's suggestions. In a follow-up letter, D&B rejected any notion that its blank rating exerted pressure on businesses to provide information, and reaffirmed its earlier position that the business community generally regards the blank symbol as meaning insufficient information.

However, D&B also recognized that its current explanation of the blank rating could contribute to misunderstanding, and agreed to revise their literature on this point. Nevertheless, after internal deliberations, D&B decided against establishing differing symbols for the two classifications for fear of creating what it believed would be a readily identifiable don't sell notation, and decided to continue to allow lack of information and adverse information to be reflected by the same blank rating symbol.

(*b*) Charles Green, the president of Jack Green Men's Shop, testified that he has been in the menswear retail business for 20 years and heads up a well-established business that was started by his father. He owns and operates three menswear stores in Rochester, N.Y. He testified that although his company has never been slow in paying its bills, D&B has continually indicated slow payments in its reports on Jack Green Men's Shop.

Green indicated that D&B's Credit Clearinghouse subsidiary recommended over the telephone to a manufacturer that credit not be extended to his company despite his company's prompt payments during 23 years of operation. According to Green, the only reason that Credit Clearinghouse recommends against extending credit is because Green refuses to cooperate with D&B and voluntarily provide information. Examination at the hearing of a copy of the Credit Clearinghouse referral slip that Credit Clearinghouse subsequently sends to telephone inquirers to confirm its oral recommendation, confirmed that among the specific reasons cited for recommending against a credit transaction with that company are: "statement not submitted" and "statement refused."

Another of Green's major complaints was that when a dispute as to the accuracy in a credit report did arise, he was unable to learn D&B's sources for the erroneous information. As he put it, "certainly businesses, whose life continuance depends upon credit, are entitled, as are consumers, to know their accusers."

Mr. Green recommended to the committee that it enact legislation to prevent these abuses and among other things, to require credit reporting agencies to list their sources of information and to advise businesses immediately upon any update of credit reports prepared and issued.

Although critical of the way D&B conducts its credit reporting service, Mr. Green emphasized that:

"Despite the imperial attitude displayed to retailers by Dun & Bradstreet, we are not attempting to create the impression that they are 'an evil to be done away with'. On the contrary, we need reporting agencies, for without them, dispersal of credit information would be very cumbersome and thereby restrict commerce as we know it, in today's credit atmosphere. Yes, we do need reporting agencies, but we need some changes in their methods, so as to make their reports, subject to policing, as to their accuracy."

Dun & Bradstreet stated that it was unable to determine if the data in its July, 1977 report was correct. Therefore, it issued a new report which reflected no slowness in payments.

Dun & Bradstreet further commented that, as a matter of policy, when Credit Clearinghouse is unable to suggest a credit guideline because of the unavailability of financial information, the subscriber is so informed.

As noted previously, this means that because of the unavailability of financial information, D&B recommended against a credit transaction with Green's company.

(c) The third scheduled witness on the panel, Albert Wohl, president of Wohl's Department Store, Cobleskill, St., N.Y., was unable to personally testify but submitted a statement to the committee relating his experience with D&B.

Wohl's Department Store was refused credit from a manufacturer in the spring of 1979 after ordering goods. The manufacturer said that it would not extend him credit because of an unfavorable D&B report indicating his company was a slow payer. When Wohl learned that D&B had erroneously reported a slow payment and requested a copy of his report, D&B provided him a copy of a report that was 13 months old containing outdated information. Wohl has had great difficulty getting an updated and corrected report.

Wohl's written testimony related that if he had been given the opportunity to review his credit reports and update and correct deficiencies, the problems outlined in his testimony could have been avoided. Simply put, he stated that his interest was only in being assured that the credit reports prepared by D&B and other commercial credit agencies are accurate, and portray a realistic picture of his credit worthiness as a retailer and a small businessman.

With respect to Wohl's slow pay report, D&B was unable to find any such notation in its reports, and has not obtained a satisfactory response from suppliers as to the source of this information.

7. Richard D. Simmons, vice chairman of the board, the Dun & Bradstreet Corp., New York, N.Y.

(*a*) *Background information:*

The principal business of Dun & Bradstreet, Inc., is a commerical credit reporting service. Dun & Bradstreet reported that it does not collect or disseminate consumer credit information in the United States. Other subsidiaries of the parent company, the Dun & Bradstreet Corp., are involved in a variety of data and information activities.

According to D&B, 95 percent of the commercial establishments on which its reports can be classified as small business and 92 percent of the users of its reports are small businesses.

Dun & Bradstreet advised that it has a field staff of 1,600 reports/information collectors working out of field offices throughout the United States and that 80,000 companies subscribe to its service. D&B reports business information on over 4 million companies and, in 1978, processed over 14 million separate requests for this information. In addition, its credit reporting services are available in other countries.

The D&B business information report is an analysis of those aspects of a commerical enterprise that are relevant in making business credit decisions. It contains information about the manner in which a business pays its bills, its banking relationships, its operations, its financial statements, and its owners, partner, or officers.

According to Dun & Bradstreet, references to the principals of a business are limited to facts which are relevant in evaluating the present and probable future condition of the business, consisting solely of the executive's current position, previous business experience, educational background, year of birth, marital status, and bankruptcies or criminal convictions, if any. Dun & Bradstreet reports that it does not collect information on a businessman's personal habits, lifestyle, or the manner in which he pays his personal bills.

Dun & Bradstreet's Credit Clearinghouse is a division designed to provide credit information for manufacturers in the apparel industry. Inquiries can be made by mail or phone. When Dun & Bradstreet recommends over the telephone against entering into a credit transaction with a retailer, it confirms its recommendation by mail. Among the reasons cited on the Dun & Bradstreet confirmation slip as a basis to recommend against granting credit are two items which show a retailer's lack of cooperation: Item 20—"Statement refused" and item 21—"Statement not submitted."

(*b*) *Testimony of Richard Simmons:*

Richard D. Simmons, vice chairman of the board of the Dun & Bradstreet Corp., testified on behalf of Dun & Bradstreet. He reported to the committee that Dun & Bradstreet has voluntarily established the following practices to protect the rights of businesses on which it reports:

> (i) We believe that a business is the best source of information about itself and therefore we seek this information from the business whenever possible. At that time we inform the business that we intend to prepare a report on it and that the report may be used for a variety of business decisions.
>
> (ii) Any time a business wishes, we give it a copy of our report on it.
>
> (iii) We discuss our report with the business upon request and correct any errors called to our attention. We include a concise statement of the business' position if we are unable to resolve any differences of opinion concerning the facts in the report.
>
> (iv) We restrict the information concerning the principals of any business on which we report to that which will be used in the evaluation of the business. We do not conduct investigations of individuals with respect to their personal habits and lifestyle.

Dun & Bradstreet receives complaints in approximately three hundredths of 1 percent of the reports prepared.

According to Simmons, Federal regulation over the commercial credit reporting industry is not necessary and would be costly, cumbersome, and unnecessary. Furthermore, Dun & Bradstreet does not believe it is possible for Congress or the executive branch of Government to impose a "simple" privacy standard on commercial credit reporting without opening the door to a never-ending flow of rules by the supervising Government authority.

Dun & Bradstreet reported that the Privacy Commission also recognized major differences between the consumer and commercial credit reporting fields. While Dun & Bradstreet noted that the Commission did call for regulation intended to insure what Dun & Bradstreet asserted was already being accomplished on a volunatary basis, the Commission specifically concluded that:

> [A]lthough the Commission believes that the procedures established by Dun & Bradstreet to permit owners or managers of a firm to see commercial reports, to dispute their accuracy, and to request their correction are entirely laudable, it finds that such procedures are not entirely sufficient to protect individuals from unfairness in the use of commercial reports.

Although testimony from witnesses at the hearing, and documents received in evidence, indicated otherwise, Dun & Bradstreet denied that it makes a specific recommendation that a credit transaction not be entered into.

The committee also received written testimony from Dr. Andrew F. Brimmer, president of Brimmer & Co., a provider of economic and financial consulting services. In his statement on the "Economic Impact of Regulatory Delay in Commercial Credit Reporting," prepared and submitted on behalf of Dun & Bradstreet, Dr. Brimmer noted that the inevitable result of any Federal Government intervention to regulate commercial credit reporting now handled by the private sector would be a serious delay in the availability and increase in the real cost of commercial credit information. "In such a case as this, it would be the reduction or elimination of information on small businesses, and small businesses would suffer most," he concluded.

8. James H. Holly, Vice President and Director of Business Development, TRW, Inc., Orange, Calif.

Testimony by Mr. Holly revealed that TRW's National Credit Information Service (NACIS), operated on behalf of the National Association of Credit Management, does not investigate firms but merely compiles information obtained from commercial credit grantors and reports the information to other credit grantors. NACIS also collects and reports information about a firm's relationship with banks. NACIS provides no evaluative information about firms to credit grantors nor does the NACIS provide information about the business-related background of the company's management. TRW's fully computerized approach to information delivery is gaining industry acceptance.

TRW supplies trade-payment information that is no more than 90 days old. Thereafter, this information is automatically removed from the computer system.

Mr. Holly testified also that since TRW provides only current factual trade data and provides no evaluative information, it receives few complaints concerning its commercial credit reporting services. When there is a complaint, it is checked out with the supplier and unless the supplier reverifies its trade information, the information is automatically removed from the computer. In the event of error the company that declined credit is automatically sent a copy of the corrected credit report. TRW's complaint procedure is designed to resolve all complaints within 30 days.

9. William J. Parsons, vice president, National Association of Credit Management (NACM), New York, N.Y.

According to Mr. Parsons, NACM is a confederation of 58 autonomous trade groups that collects trade-payment information for their 44,000 members. Its operations are similar to TRW which is also a member of NACM. The major difference, however, is that NACM trade-payment information is collected and processed manually and is not computerized. NACM does not rate the credit position of the firm on which it reports, nor does it make any recommendations whatsoever regarding whether credit should be extended.

F. CONCLUSION

The testimony presented at the committee hearings, the first congressional follow-up to the Privacy Commission study, highlighted the profound effect commercial credit reports have on small businesses. It is apparent that commercial credit reporting agencies play an essential role for both the grantor of credit and for the business applying for credit. While inaccurate reporting exists, the commercial credit reporting agencies testified that there are adequate safeguards in the present system to protect small business. Acting on suggestions made at the hearings, Dun & Bradstreet subsequently indicated that a number of changes will be forthcoming in their procedures.

All the private sector witnesses that were heard, except for the commercial reporting agencies, believed that the existing statutory safeguards were inadequate to guarantee fair and accurate commercial credit reporting on small business. The committee has undertaken additional data gathering in this important area. In addition, Senator Weicker, the ranking minority member of the committee, stated that he would introduce legislation to provide Federal standards to protect against inaccurate business credit reports, and to provide a statutory remedy for injured businesses.

Mr. WEICKER. Mr. President, the testimony of Gale Metzger, president of Statistical Research, Inc., in New Jersey, was typical of that given at the hearings by small business owners. He condemned in no uncertain terms one commercial reporting agency for its attitude and policy toward resolving reporting errors. He testified that the "arrogance and platitudes" contained in their responses to problems "are laughable."

As he put it:

> Information is dynamic, yet they were never able to respond to our problem with anything but a static, standard, preprogrammed series of responses. Certainly, as a firm which trades in the vital free flow of credit information, they ought to be mighty concerned about accuracy, truth and responsibility.

Mr. Metzger summed up his experience with this reporting agency by noting that for a sophisticated data firm that publishes and disseminates information there is no rational explanation "for their practice of publishing unchecked information"; "for a company such as this operating without sufficient checks that automatically flag inconsistent data fed into the system"; and for "their policy of telling the business world whatever they learn, true or not."

Mr. President, it was clear from the testimony given during these hearings that an acceptable level of accuracy to protect the interest of small business is not insured under present commercial reporting practices and procedures.

At present, the small business person has no statutory protection against erroneous credit reports. The Fair Credit Reporting Act, which provides statutory protections and a judicial remedy for the consumer who has been victimized by an inaccurate credit report, does not apply to businesses.

The abuses depicted at the Small Business Committee hearings demonstrate that legislation is needed to insure that commercial reporting agencies exercise their responsibilities with fairness, accuracy, and a respect for the business' right to privacy. It is needed to insure that commercial reporting agencies minimize the extent to which recorded information about a business is a source of error or unfairness in any credit decision made on the basis of that information.

The Fair Commercial Reporting Practices Act would provide businesses with the legal safeguards they need. The act defines obligations with respect to the uses that will be made of recorded information about a business or its representatives. In addition, it will require that commercial reporting agencies adopt reasonable procedures with respect to commercial reporting practices by gathering information in a manner that is fair and equitable to insure the confidentiality, accuracy, and proper utilization of such information.

It is important to note that this legislation is a free standing act and not an amendment to the Fair Credit Reporting Act. The FTC will have no role to play in administering the law. No new bureaucracy will be necessary to insure that the interests of small businesses are properly protected.

In the event that these legal safeguards are violated, this legislation would allow businesses to present their grievances and enforce their legitimate rights in any appropriate U.S. district court.

Mr. President, this legislation will protect the interests of not only small businesses, but all businesses. It will insure that the same basic legal rights enjoyed by consumers are enjoyed by businesses and that commercial reporting agencies exercise their responsibilities with fairness, accuracy, and respect for the business' right to privacy. I urge my colleagues to support this legislation.

The President, I now ask at this point of the proceedings, first, whether my colleague, the good Senator from Maine, Senator MITCHELL, might respond as to whether or not it will be possible to have hearings on this matter at some time in the near future before he and his subcommittee.

Mr. MITCHELL. Mr. President, I agree with Senator WEICKER. Amendment No. 2344 is a good idea which deserves a hearing before the Banking Committee, and I assure the Senator that I will give serious consideration to holding hearings on this legislation before next summer.

Mr. WEICKER. Mr. President, I know that kind of a commitment from a fellow New Englander is something that will come to pass in reality. Therefore, I go ahead and ask that my amendment be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment is withdrawn.

Mr. SARBANES. Mr. President, the pending bill, H.R. 7554, is almost identical to titles I, II, and V of S. 2990, the Small Business Securities Acts Amendments of 1980. S. 2990 is on the calendar. I propose that the Senate accept the House-passed bill to expedite its final approval by both Houses and avoid the necessity of a conference. The only differences between S. 2990 and this House bill are titles III and IV which Senator NELSON developed and which I will offer as amendments to conform the House bill to the Senate's omnibus bill.

Mr. President, S. 2990—and this amendment—will go a great distance toward removing unnecessary and antiquated regulatory obstacles which impede the direct flow of capital to small business. It will also enhance the ability of venture capital companies to raise and rechannel funds to small and unseasoned companies which are unable to enter the capital markets or obtain financing through conventional sources. In its entirety, I believe the bill will make a significant contribution to the capital needs of the small business community and respond to the legitimate complaints of the venture capital industry.

Mr. President, the House bill and S. 2990 would amend the Federal securities laws to facilitate the activities of business development companies, encourage the mobilization of capital for new, small, and medium-sized and independent business, and maintain the system of investor protection.

Mr. President, one of the principal concerns of this and prior Congresses has been the relative lack of access which small and innovative businesses have had to the capital markets. Often they are unable to secure adequate bank financing or sell their securities to the public. Accordingly, a very important role is played in this capital-raising process by venture capital companies which are created to invest in small businesses with substantial future promise.

The availability of venture capital funds is determined for the most part by general economic conditions and tax incentives. To a much lesser extent the securities laws affect—if not the availability of capital—at least the manner in which venture capital companies operate. For instance, any company which has more than 40 percent of its assets invested in securities and has more than 100 shareholders must comply with the provisions of the Investment Company Act of 1940 ("act"). Without question, the provisions of the act are rigorous, but they are complied with by a variety of mutual funds, including money market funds.

The act was passed a number of years after the other securities laws when it became apparent that special legislation was needed to deal with investor abuse and conflict of interest transactions by managers of pools of cash and securities. As a tribute to the effectiveness of the act, the investment company industry has not experienced a debacle in 40 years.

However, the Investment Company Act of 1940 does proscribe conduct unique to the operations of venture capital companies, such as various kinds of incentive arrangements, the issuance of different classes of securities and engaging in transactions among various affiliated persons. Therefore, with few exceptions venture capital companies have avoided acquiring as many as 100 shareholders in order to preclude having to comply with the Investment Company Act of 1940.

Mr. President, titles I and II of the House bill would modify the provisions of existing law which restrict unduly the ability of venture capital companies to operate, whether they chose to do so as privately—or publicly owned firms. In place of many of the Investment Company Act's current provisions, which were not developed with venture capital firms in mind, the bill would provide a new statutory framework to govern affiliated person transactions and capital structure.

In many areas—such as requiring shareholder approval or executive compensation plans—the bill has been developed with the unique nature and requirements of venture capital firms and their investment advisers in mind. But investor protection has not been diminished.

For example, this bill would place an increased share of the regulatory role on the board of directors of the business development company. In contrast to the present Investment Company Act of 1940 which requires that at least 40 percent of the directors of the investment company be disinterested, this bill would require a business development company to have a majority of disinterested directors. The special status of such companies makes it appropriate to place special responsibility on their boards of directors to assure compliance with the act's provisions particularly where board approval is substituted for either Commission review or for a per se statutory restriction.

Notwithstanding the need for changes in the application of the Investment Company Act to business development companies, the committee recognizes that many of the act's provisions should remain applicable to business development companies.

For this reason, the existing law is expressly made applicable to business development companies in certain instances. Included among these are prohibitions against misconduct, for example, false filings, breaches of fiduciary duty, larceny and embezzlement, and the sections setting forth various administrative and enforcement procedures.

Title II of the House bill would make two changes to the securities laws, both of which should also aid in the capital formation process. Section 3(b) of the Securities Act—pursuant to which the Commission's simplified offering procedure, regulation A, was adopted—would be revised by increasing the $2,000,000 aggregate offering price limitation on its use to $5,000,000. Since smaller businesses are the principal users of regulation A, this change will assist such businesses by making that procedure available for larger offerings.

Similarly, title IV would amend the

Trust Indenture Act of 1939 to increase the maximum aggregate amount of debt securities that may be exempt from that act pursuant to sections 304(a)(8) and 304(a)(9) thereof, and give the Commission authority to establish from time to time the appropriate amount of debt securities under the revised ceiling amount that may be partially or totally exempt from that act.

Mr. President, the committee has worked closely with the SEC and representatives of the venture capital industry to produce a balanced bill. The bill incorporates appropriate relief from the Federal securities laws for qualifying companies that provide venture capital to small, developing businesses. At the same time, the bill expressly preserves many safeguards available to investors under existing law and creates new rights and protections for shareholders of venture capital companies to achieve the overall effect of strengthening the investor protection fabric of the securities laws.

Mr. President, the pride of authorship for this bill is shared by many Members of the House and Senate, without regard to partisanship. In the Senate, in addition to the members of the Subcommittee on Securities—Senators WILLIAMS and LUGAR—Senator TOWER was the principal author or cosponsor of the original bill on which hearings were held. From the Small Business Committee, its chairman, Senator NELSON, and Senator WEICKER provided the subcommittee with numerous specific bills to consider. More importantly, however, they shared with us the benefits of many years of study of the small business community.

And credit is due Commissioner Friedman of the SEC and the SEC staff whose personal efforts on behalf of this bill deserve special mention.

Mr. President, H.R. 7554 will contribute to the capital formation process for a critical sector of the business community, promote public investment and increase investor protection. I urge the Senate to approve this important measure without delay.

Mr. LUGAR. Mr. President, I am very pleased to support the amendment offered by Senator SARBANES, which would incorporate into the bill the text of S. 2990, the "Small Business Securities Act Amendments of 1980." I particularly want to thank the Senator from Maryland (Mr. SARBANES) for his role in the hearing process. In committee deliberations, and in bringing to the floor a proposal that takes into account the legitimate needs of business development companies to operate, and the important investor protection considerations reflected by the securities laws being amended. S. 2990 has received the support of the Banking Committee and represents an important step in the removal of regulatory barriers which interfere with the ability of the private sector to mobilize capital.

Titles I and II of the bill will encourage the growth of "business development companies" by removing counterproductive regulatory restraints.

These companies are defined as those which primarily invest in securities of small businesses, businesses in economic difficulty, and others for which venture capital-type investments are appropriate.

Business development firms provide a method of financing to companies that is not otherwise available. This is especially true with respect to companies which are engaged in the development of new technologies and services, since the risks associated with investments in these companies, especially in the early years of the companies or as they develop new products, may be substantial. Business development companies often provide long-term risk financing for companies which have progressed beyond the startup phase but are not yet in a position to attract equity capital on favorable terms through the public securities markets.

In many cases, business development companies provide more than capital to the developing companies in which they invest. As important as capital is to such companies, they also often need assistance in planning, financial analysis, or other aspects of the business. The business development company, unlike the passive institutional investor or the conventional lender, is often the best source of help, guidance, and staying power.

S. 2990 recognizes the need to review and replace outmoded regulatory requirements. When the Investment Company Act was enacted in 1940, there was no investment medium comparable to the venture capital company of today. Because such companies are "investment companies" within the meaning of the act, they are presently subject to the same restrictions as are applicable to other kinds of investment companies. This is true even though their operations are substantially different from those of mutual funds and other traditional investment companies which primarily act as passive investors holding and trading the securities of established companies.

Under the bill, business development companies will be freed of many of the onerous restrictions of the act, some of which have made it impossible to operate with public shareholders. While we cannot predict with certainty the effects which this may have upon capital availability, the legislation will enable the marketplace to operate more freely. As a result, investors of modest means will have the opportunity to invest a portion of their assets in professionally managed business development companies which provide capital so needed by developing businesses. In recent years, this opportunity has been available only to the wealthy investor.

Other titles of the amendment will provide the impetus for necessary changes in the Securities Act of 1933 and in the rules and regulations thereunder in order to remove unnecessary burdens on smaller issuers of securities. The Securities and Exchange Commission has exhibited sensitivity to these problems, and in the recent past has undertaken on its own initiative to modify existing regulations in order to address the needs of small businesses. In this regard the Commission has created an Office of Small Business Policy which has been the springboard for some of these initiatives.

The bill would recognize these achievements by the Commission and encourage its efforts to do more. I believe that these portions of the amendment are important in expressing congressional support and stimulation for the SEC's continuing efforts and in demonstrating our commitment to the successful business of tomorrow.

EXPLANATION OF THE AMENDMENT

BACKGROUND

As I noted earlier, the pending bill is identical to titles I and II of S. 2990, which was recently approved by the Banking Committee. The committee's report accompanying S. 2990 provides a detailed description of that bill, and I will not therefore undertake to describe it in great detail. Nevertheless, it is appropriate that I take a few moments to review its provisions, explain the background and purposes of the legislation, and discuss some of its important features.

In July 1979, Senator TOWER and I introduced S. 1533, the "Venture Capital Company Act of 1979," which had as its chief purpose amending the Investment Company Act of 1940 to recognize the need for specialized regulatory treatment of venture capital companies. This bill was based on the premise that the act as applied to venture capital companies interferes with legitimate business activities of such companies and does not allow sufficient flexibility to permit these companies to operate under the act, without serving its real purpose of protecting investors.

In October 1979, Senator NELSON and others including myself, introduced S. 1940, which also sought to deal with this problem; S. 1940 also would amend the Securities Act of 1933 with respect to limited securities offerings by issuers to "accredited investors."

The committee also had before it amendment number 1723 to S. 1940, introduced by Senators TOWER and NELSON, which recognized a second important problem adversely affecting the venture capital community, an unnecessary doubt about the possible application of the Investment Advisers Act to the operations of privately held venture capital companies.

These proposals were the basis of hearings earlier this year. These hearings led to the development of a multifaceted bill, S. 2990, which was introduced in July 1980 by Senator SARBANES and many others on the Banking Committee; the bill received the unanimous approval of the committee on July 31, 1980. Titles I and II of S. 2990 are designed to address the same problems which were the principal targets of S. 1533 and S. 1940, and the remainder of the bill incorporates provisions of other bills related to the securities regulation of small-, medium-sized and independent businesses.

NEED FOR THE LEGISLATION

TITLE I—AMENDMENTS TO THE INVESTMENT COMPANY ACT

The bill rests on the premise that the Investment Company Act of 1940 and the Investment Advisers Act of 1940, as presently interpreted, have unnecessarily constrained the activities of "business development companies." The term "business development company" refers to companies which acquire capital for investment in businesses which, because of their size, seasoning, financial condition or other related factors, need long-term capital. One of the principal characteristics of business development companies is their ability to provide this capital, which is often not available on favorable terms through the public securities markets, together with managerial assistance, if needed by the portfolio company.

While "business development companies" as defined in the bill are similar to many "venture capital companies," the committee has not attempted to define the venture capital industry. This industry consists of many different kinds of companies which defy simple definition, and the bill does not purport to undertake that definition. Instead, it utilizes the term "business development company" to refer to a class of company with respect to which the regulatory treatment under the Investment Company Act and the Investment Advisers Act should be changed.

In defining the types of businesses in which a business development company may invest, the bill recognizes the need for a substantial degree of flexibility in order to accomplish the purposes for which the legislation is designed. One of the most important lessons learned during the consideration of the legislation has been the need in the regulation of business development companies to allow for different and changing circumstances in the operations of the companies.

The bill recognizes this need in its treatment of the portfolios of business development companies. First, it would permit the portfolio to be invested up to 30 percent—or 40 percent in the case of private business development companies—in securities other than those which qualify by reference to the issuers involved and the kinds of transactions in which the securities are acquired. This is intended to allow the management of a business development company, exercising its business judgment, to maximize the company's ability to operate for the benefit of its shareholders.

This "window" is permitted because of the recognition that it would not be in the best interests of the business development company's shareholders to require that a larger percentage of the company's investments be tied up in the typs of securities commonly to be sold by "eligible portfolio companies." In this regard, the Banking Committee's report provides some examples of nonventure capital type investments which could be made in order to enhance the business development company's operations, such as by adding to the liquidity or diversification of the company's portfolio or by providing income or capital gains.

Second, the definition in the bill of "eligible portfolio company" in which business development companies should be expected to invest is intentionally broad. While some suggestion was made to define such companies in a manner which would assure that much of the financing provided by business development companies would go to "small business," the bill recognizes that it would be impossible, as well as undesirable, to use such a factor in defining "eligible portfolio company."

Among the reasons for this are the difficulty of defining "small" in this contest—particularly since many investments made by business development companies involve businesses which, while small compared to their competitors, may be large enough to be listed on securities exchanges; the fact that large businesses in some instances are excellent candidates for business development-type financing and managerial assistance of a kind which these companies provide; and the recognition that the kinds of companies which are appropriate for business development company financing should in large measure be determined by the managements and boards of directors of such companies in light of all the pertinent circumstances of potential candidates for financing as well as general economic conditions.

Similarly, the bill recognizes that a business development company may from time to time invest a significant portion of its qualifying assets in nonventure capital type investments, such as when it is evaluating proposed investments or awaiting one appropriate for its portfolio. Thus the bill treats as assets qualifying for the 70 percent test (or 60 percent in the case of private business development companies) cash and cash items, Government securities or short-term high quality debt securities. It should be noted that the Government securities need not be short term.

The definition of "eligible portfolio company" would make eligible as qualifying investments any company whose securities are not eligible for margin purchase under Federal Reserve Board rules. This is intended to be a rough test of the maturity of companies whose stock is owned by the public, since the margin list is based upon such factors as size, degree of public ownership and operating history. In addition, companies which are controlled by the business development company, regardless of size or other factors, would be eligible.

Finally, the bill will provide to the SEC specific rulemaking authority to expand the class of companies which can be treated as eligible. This third category recognizes the fact that the margin list is only a rough approximation of the factors determining appropriate candidates for business development company financing. For example, there are undoubtedly companies which have a class of securities eligible for margin but which, nevertheless, would be assisted by infusions of long term capital such as is provided by business development companies.

Examples of this would be companies which are listed only on regional securities exchanges, where listing standards do not necessarily mean that the companies listed are large, mature or well-capitalized; companies which have been on the margin list for only a few years; or companies which have been included on the margin list because of changes in the standards for margin, rather than substantial changes in the size, seasoning or financial condition of the companies.

The SEC in its rulemaking proceeding is expected to weigh the appropriate factors with a view toward increasing the number of companies deemed to be "eligible portfolio companies."

Another element of the bill's definition of "business development company" is the requirement that such a company make available significant managerial assistance to the eligible portfolio companies in which it invests. The bill and accompanying report explain the meaning of this requirement, and make clear that the forms which such assistance can take in particular cases will vary significantly. Again, it will be principally the responsibility of the management and directors of the business development company, in consultation with each portfolio company, to arrive at the arrangement.

The different forms of managerial assistance provided for in the bill are intended to recognize existing practices in the venture capital industry. I understand that, in most cases, the relationship between a business development company and portfolio companies to which it provides managerial assistance takes the form of a management consulting-type arrangement suited to the particular needs of the portfolio company.

The definition of managerial assistance also recognizes the common practice in which a business development company invests in conjunction with one or more other investors who may be individuals, other business development companies or institutional investors.

In such cases, either the business development company or another participant might make available managerial assistance, but no more than one of the investors would generally do so. It should be emphasized that this practice often occurs without the existence of any formal arrangement or agreement between the investors involved and without their acting together after the investment is made, and is an important means of providing greater capital to a portfolio company than would be made available if the business development company invested alone. The use of the terms "group" and "acting together" are not intended to create any inference under the Securities Exchange Act.

The bill would require that managerial assistance, in any of the permissible forms, be made available with respect to 70 percent of the assets invested in portfolio companies (60 percent in case of private business development companies). There is no requirement, express or implied, that such assistance be made available with respect to companies the securities of which are held by the business development company in the "window," although of course it would be permissible to do so. However, most if not all of the investments in the "window" could be in liquid securities of larger companies, or other investments for which there would be no need for managerial assistance.

The most important innovation in the bill is probably the increased reliance to be placed upon the board of directors of a business development company, and particularly upon the "not interested" directors. Under the Investment Company Act as presently written, many transactions can only be effected after prior review by the SEC if any parties to the transactions are "affiliates," a term defined very broadly in the act. This requirement of review is often impossible for business development companies, which frequently engage in affiliate transactions, often on short notice, and the time and resources required to obtain SEC approval can be substantial. Nevertheless, such transactions can be vital to the success of portfolio companies, and thus in the best interests of its shareholders and the shareholders of the business development company.

In order to reconcile the business development company's needs with recognition of the need for investor protection when affiliates are involved in transactions, the bill shifts the responsibilities for approval of many of these transactions to the board of directors (a majority of whom are required to be independent) and to the distinterested members of the board.

The Commission will still be involved in review of certain transactions in which controlling affiliates are involved, since these transactions are more likely to involve real potential conflicts between affiliates of a business development company and its shareholders. It is expected that the Commission will use its best efforts to expedite consideration of such transactions, particularly where a significant delay would frustrate beneficial results expected to result from the transaction.

The bill thus contemplates an active role for the independent directors of business development companies who, in the exercise of their judgment, are expected to review proposed transactions to safeguard the interests of the business development company's investors.

The bill would rely upon SEC rulemaking to deal with a specific issue arising under the so-called attribution rule in the act. Section 102 of the bill contemplates a liberalization of this provision in cases in which, by reason of an involuntary transfer of an interest in an investment company, beneficial ownership of the company might be increased. For example, the Commission could provide that one or a series of transfers made as the result of the settlement of an estate would not result in any additional number of beneficial owners, since the original owner should be considered the only beneficial owner for the purpose of determining the total number of beneficial owners of the investment company.

TITLE II—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

The principal purpose of title II is to remove any doubts about the possible application of the Investment Advisers Act of 1940 to the operation of private business development companies—that is, business development companies which have made no public offering of their securities. Section 205 of the Investment Advisers Act, which applies to any "investment Adviser" with more than 14 clients, generally prohibits the payment of performance-based compensation to investment advisers, and some legal uncertainty exists regarding whether, in particular circumstances, the manager of a business development company could be considered subject to this prohibition. This is a severe problem, because the use of performance-based compensation is widely regarded as an absolute necessity for business development firms.

Because of the uncertainty which exists, however, some firms have chosen to limit their companies to 14 or fewer investors. This represents an irrational and unnecessary limitation upon the ability of business development companies to attract capital to be reinvested in growing businesses.

Title II would address this problem without seeking to define, or creating any implication as to whether in particular instances, an investment advisory relationship exists. The bill would simply provide that a business development company, and not the investors therein are to be regarded as the "client" if such a relationship exists.

Because of the nature of private business development companies and their investors, there is no reason to apply the prohibition on performance-based compensation to them. On the contrary, it is apparent that there is no real Federal interest in regulating the compensation arrangements applicable to such companies, since the investors in private business development companies are by definition able to fend for themselves in arriving at acceptable terms regarding the management of the company. The amendment will permit greater private participation in business development companies without the artificial limitations which sometimes exist today.

It should be emphasized that this amendment is not intended to be exclusive, nor is it intended to affect adversely the status of persons who do not seek to rely upon it. For example, there are clearly situations in which managements of private business development companies or other firms which do not fall within the definition of business development company, do not have an investment advisory relationship with the investors in the firms. In those instances, the Investment Advisers Act would not apply, with or without the amendment.

Similarly, a business which is similar to a business development company but does not come within the statutory definition of that term would not be affected, directly or indirectly, by the amendment, and no contrary inference would be justified.

Title II of the bill also includes a standard with respect to the level of compensation to be charged by an investment adviser to a public business development company, in order to provide some guidance to directors of a company which elects to operate with an external adviser. I understand that existing private business development companies, which do not have investment advisers, often pay to their managers compensation which is calculated differently, and may be substantially higher in amount, than this standard. The Committee did not undertake any analysis of the compensation arrangements of private business development companies, and the standard adopted for new public business development companies with investment advisers is not intended to affect those arrangements.

TITLE III—V

Titles III through V of S. 2990 would amend the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939 with regard to the regulatory treatment of small and independent businesses. The purposes of these titles are to increase the small offering exemptions in the 1933 and 1939 Acts so as to further reduce the burdens associated with the issuance of securities (title V); to encourage the Commission to consult with and take into account the views of the small business community in reviewing the impact of its regulation on such companies, and to provide the Commission with the tools to do so; to promote greater consistency between Federal and State securities regulation, with a view toward minimizing conflicts which increase the costs involved in making securities offerings which span State lines (title III); and to create a new statutory exemption from the registration provisions of the Securities Act of 1933 for offerings of up to $5 million to "accredited investors," without the necessity of SEC rulemaking (title IV). However, the SEC would be given explicit rulemaking authority to expand the classes of persons deemed "accredited investors" in a manner consistent with investor protection.

Taken together, these provisions evidence a growing commitment to deal with the capital formation problems of smaller issuers, and to remove any unnecessary regulatory barriers which impede their access to the capital markets. There are undoubtedly other steps which should be taken, and the bill reflects a growing consensus of the need to do so.

Mr. President, I support the amendment and urge its adoption.

● Mr. TOWER. Mr. President, I strongly support the adoption of the bill which would incorporate the text of S. 2990, the "Small Business Securities Acts Amendments of 1980." S. 2990 represents the culmination of a lengthy effort to find ways to lessen the burdens of regulation under the Investment Company Act on the operations of business development companies, and to remove any doubts about the possibility that privately held business development companies could be subject to regulation under the Investment Advisers Act.

Business development companies provide capital to smaller business and others for which neither conventional financing nor the public securities markets is appropriate or available on favorable terms. They thus provide an invaluable link in the capital formation process, particularly for high-risk companies which often need years to develop.

The bill would amend the Investment Company Act and the Investment Advisers Act to remove unnecessary impediments to the operation of such companies, without removing those protections which are appropriate for the investors in business development companies.

S. 2990 is designed to make possible the creation of professionally managed, publicly held companies to provide capital and managerial assistance to small businesses, developing businesses, and others for which this type of financing is appropriate. While there is no direct prohibition against this today, it is virtually impossible to operate such a company under the Investment Company Act as presently interpreted.

If the exemptions created by the bill prove to be attractive, this legislation may provide the impetus for the creation of permanent business development companies able to meet the capital needs of generations of portfolio companies. This has not been possible in the past, in large part because business development companies have found it necessary, at the time if their organization, to program their own future liquidation, rather than consider operating under the Investment Company Act.

The greatest problems under the act result from provisions enacted 40 years ago to regulate traditional investment companies, which regularly invest in and trade the liquid securities of established companies. Thus many portfolio transactions of investment companies are subject to a detailed regulatory system including prior SEC approval of the transactions under section 17 of the act. This regulatory scheme is wholly unsuited for the activities of business development companies, which frequently and for good reason engage in successive transactions with affiliates, particularly those where securities are held in the company's portfolio.

Similarly, the bill would amend other sections of the Investment Company Act which unduly interfere with the ability of business development companies to operate for the best interests of their shareholders and for the companies in which they invest.

The Securities and Exchange Commission, which has statutory responsibility for administration of the Federal securities laws, is to be congratulated for the positive role played by its staff in the development of this legislation. Its active involvement in recent months has been of great value to the legislative effort.

It is important that the statutory and regulaory treatment of business development companies be sufficiently flexible to permit the broad range of activities in which such companies engage, and this is one of the bill's chief goals. The willingness of the SEC to contribute to the legislative effort suggests its responsiveness to this need, and I am confident that the Commission will remain sensitive to it in administering the act.

I have frequently spoken of the need to modify or eliminate regulations which restrict the ability of honest businessmen to contribute to economic growth and opportunity. Enactment of this legislation will be a significant step in that direction, and I therefore recommend its enactment.●

UP AMENDMENT NO. 1661

(Purpose: To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1981 through 1983)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES) proposes an unprinted amendment numbered 1661.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE IV—AUTHORIZATION

SEC. 401. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence thereof, by striking out "and" immediately after "1979,";

(2) by inserting immediately before the period at the end of the first sentence thereof the following: ", $85,500,000 for the fiscal year ending September 30, 1981, $96,640,000 for the fiscal year ending September 30, 1982, and $106,610,000 for the fiscal year ending September 30, 1983"; and

(3) in the last sentence thereof, by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1983".

Mr. SARBANES. Mr. President, this amendment is identical to S. 2465 and would authorize appropriations for the Securities and Exchange Commission in the amounts of $85,500,000 for fiscal year 1981; $96,640,000 for fiscal year 1982; and $106,610,000 for fiscal year 1983. The committee reported the bill prior to May 15 and it has been pending before the Senate since that time.

The Banking Committee studied the SEC's original budget and authorization requests carefully. This has been the practice since the committee began specific authorizations for this important agency in the mid-1970's. Hearings were held on March 24. On May 5, the committee ordered the bill to be reported to the Senate with an amendment reducing the authorization levels by $2.75 million.

Mr. President, for the first time the committee has approved a 3-year authorization for the SEC. As a result, the Commission will be placed on the same multiyear authorization cycle as most other independent regulatory agencies.

Mr. President, the committee is well aware of the expanding workload and responsibilities of the Commission which warrant the increases in SEC authorizations which the committee approved. I should take a moment to highlight these developments for my colleagues. To begin with, our financial markets are now in a period of unprecedented innovation and competition.

Increased competition among a variety of firms in the financial services industry, the development of increasingly complex financial transactions and instruments, and the development of innovative financial services and products which are being merchandised to the general public have substantially added to the workload of the Commission. There has been an unprecedented expansion of money market mutual funds in recent years; billion dollar tender offers have become commonplace; and now that the Commission has removed its moratorium on options trading, this activity is likely to experience rapid development.

Mr. President, the Congress has also contributed to the need for the increased authorization sought by the Commission. Numerous laws enacted in recent years, including the Securities Act Amendments of 1975 and the Foreign Corrupt Practices Act, have greatly expanded the statutory duties of the Commission. In addition, the Commission and its staff have undertaken major projects which correlated with issues under active congressional consideration, sometimes at the request of the Congress or the committee, including the Commission's study of questionable payments, its review of the existing tender offer laws, and its investigation into the circumstances surrounding transactions in the securities of New York City.

Mr. President, these and other developments in recent years have strained the abilities of the Commission to discharge its important responsibilities. Although it has performed remarkably well during one of the most active periods in our Nation's financial history, Chairman Harold Williams has expressed concern about this level of performance and success in the future. Specifically, at our hearings in March, Chairman Williams was candid in pointing out that "regardless of its resource allocation level, the Commission and its staff will continue their commitment to fulfill their responsibilities with a professionalism and dedication which Congress and the investing public have come to expect." At the same time, he expressed his opinion and warned "that the Commission's resources are not adequate to permit it to discharge its important responsibilities."

Mr. President, I share the Chairman's concern. Consistent with general budget constraints, I believe the Congress must make every effort to provide the Commission with the authorizations and appropriations that will permit it to continue to function as one of our flagship regulatory agencies during the next three fiscal years. In S. 2645, the Committee has balanced these considerations in the present bill, providing a multiyear authorization to permit long term agency planning and allow the Congress to review each year's spending annually through the appropriations process.

Mr. President, S. 2465 will provide funding commensurate with the SEC's augmented and expanding responsibilities. However, the committee reduced the amount of the original Commission request by $2.75 million for the market oversight surveillance system ("MOSS").

The SEC has developed MOSS in response to the dramatic changes in the structure of the trading markets, the rapid development of new products such as put and call options. The evolving national market system and the need to organizations.

Funding for the partial development and operation of a market oversight and surveillance system ("MOSS") was an important part of the SEC's original authorization request. The committee reduced the total funding for MOSS in the authorization bill by $2.75 million, or approximately 35 percent of the original amount requested for MOSS, to slow the development of MOSS to provide more opportunity for cooperation between the securities industry and the Commission and for oversight by the committee.

Mr. President, the funds authorized by the bill will enable the Commission to continue to protect investors and promote the highest confidence in the efficiency, integrity, fairness of our securities markets. I urge its passage.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment (UP No. 1661) was agreed to.

UP AMENDMENT NO. 1662

(Purpose: To amend Federal securities laws to encourage the mobilization of capital for new, small, and medium size and independent businesses, to maintain the system of investor protection and investor confidence, and for other purposes)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES) proposes an unprinted amendment numbered 1662.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE V—CAPITAL FORMATION

SHORT TITLE AND TABLE OF CONTENTS

SEC. 501. This title may be cited as the "Omnibus Small Business Capital Formation Act of 1980".

TABLE OF CONTENTS

Sec. 501. Short title and table of contents.
Sec. 502. Liaison between Securities and Exchange Commission and Small Business Administration.
Sec. 503. Annual government-business forum on capital formation.
Sec. 504. Additional funds authorized for the Securities and Exchange Commission.
Sec. 505. Federal-State cooperation in securities matters for the benefit of small business.
Sec. 506. Reduction of costs of small securities issues.
Sec. 507. Effective date.

LIAISON BETWEEN SECURITIES AND EXCHANGE COMMISSION AND SMALL BUSINESS ADMINISTRATION

SEC. 502. (a) The Securities and Exchange Commission shall gather, analyze, and make available to the public, information with respect to the capital formation needs, and the problems and costs involved with new, small, medium-sized, and independent businesses.

(b) The Commission shall make the results of such studies available to the Small Business Administration and otherwise have regular communication and liaison with such Administration in these matters.

ANNUAL GOVERNMENT-BUSINESS FORUM ON CAPITAL FORMATION

SEC. 503. (a) Pursuant to the consultation called for in section 502, the Securities and Exchange Comisssion shall conduct an annual Government-business forum to review the current status of problems and programs relating to small business capital formation.

(b) The Commission shall invite other Federal agencies, such as the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Small Business Administration, organizations representing State securities commissioners, and leading small business and professional organizations concerned with capital formation, to participate in the planning for such such forums.

(c) The Commission may request any of the Federal departments, agencies, or organizations such as those specified in subsection (b), or other groups or individuals, to prepare statements and reports to be delivered at such forums. Such departments and agencies shall cooperate in this effort.

(d) A summary of the proceedings of such forums and any findings or recommendations thereof shall be prepared and transmitted to the participants, appropriate committees of the Congress, and others who may be interested in the subject matter.

ADDITIONAL FUNDS AUTHORIZED FOR THE SECURITIES AND EXCHANGE COMMISSION

SEC. 504. For fiscal year 1982, and for each of the three succeeding fiscal years, there are hereby authorized to be appropriated such amounts as may be necessary and appropriate to carry out the provisions and purposes of this title. Any sums so appropriated shall remain available until expended.

FEDERAL-STATE COOPERATION IN SECURITIES MATTERS FOR THE BENEFIT OF SMALL BUSINESS

SEC. 505. Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end thereof the following:

"(c) (1) The Commission is authorized to cooperate with any association composed of duly constituted representatives of State governments whose primary assignment is the regulation of the securities business within those States, and which, in the judgment of the Commission, could assist in effectuating greater uniformity in Federal-State securities matters. The Commission shall, at its discretion, cooperate, coordinate, and share information with such an association for the purposes of carrying out the policies and projects set forth in paragraphs (2) and (3).

"(2) It is the declared policy of this subsection that there should be greater Federal and State cooperation in securities matters, including—

"(A) maximum effectiveness of regulation,

"(B) maximum uniformity in Federal and State regulatory standards,

"(C) minimum interference with the business of capital formation, and

"(D) a substantial reduction in costs and paperwork to diminish the burdens of raising investment capital (particularly by small business) and to diminish the costs of the administration of the Government programs involved.

"(3) The purpose of this subsection is to engender cooperation between the Commission any such association of State securities officials, and other duly constituted securities associations in the following areas:

"(A) maximum effectiveness of regulation, the registration or exemption of securities issues applied for in the various States;

"(B) the development and maintenance of uniform securities forms and procedures; and

"(C) the development of a uniform exemption from registration for small issuers which can be agreed upon among several States or between the States and the Federal Government. The Commission shall have the authority to adopt such an exemption as agreed upon for Federal purposes. Nothing in this Act shall be construed as authorizing preemption of State law.

"(4) In order to carry out these policies and purposes, the Commission shall conduct an annual conference as well as such other meetings as are deemed necessary, to which representatives from such securities associations, securities self-regulatory organizations, agencies, and private organizations involved in capital formation shall be invited to particpate.

"(5) For fiscal year 1982, and for each of the three succeeding fiscal years, there are authorized to be appropriated such amounts as may be necessary and appropriate to carry out the policies, provisions, and purposes of this subsection. Any sums so appropriated shall remain available until expended.".

REDUCTION OF COSTS OF SMALL SECURITIES ISSUES

SEC. 506. (a) The Securities and Exchange Commission shall use its best efforts to identify and reduce the costs of raising capital in connection with the issuance of securities by firms whose aggregate outstanding securities and other indebtedness have a market value of $25,000,000 or less, through such means as studies, giving appropriate publicity to improved technology developments in fields such as printing, communications, and filing, and giving special attention to the effect of existing and proposed regulatory changes upon the small companies wishing to raise capital and independent broker-dealers which are in a key position with respect to the costs of underwriting and making markets in the securities of smaller companies.

(b) The Commission shall report on these efforts at the annual Government-business forum required by section 503.

EFFECTIVE DATE

SEC. 507. Except as otherwise specified, the amendments made by this title shall become effective January 1 of the year following the date of enactment of this act.

TITLE VI—SMALL BUSINESS ISSUERS' SIMPLIFICATION

SHORT TITLE

SEC. 601. This title may be cited as the "Small Business Issuers' Simplification Act of 1980".

TRANSACTIONS INVOLVING ACCREDITED INVESTORS

SEC. 602. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(6) transactions involving offers of sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer files such notice with the Commission as the Commission shall prescribe.".

DEFINITIONS

SEC. 603. Section 2 of the Securities Act (15 U.S.C. 77b) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'accredited investor' shall mean—

"(i) a bank as defined in section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Act; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; or an employee benefit plan, including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser; or

"(ii) any person who, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial matters, or amount of assets under management qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.".

Mr. SARBANES. Mr. President, the contents of this amendment are identical to the substantive provisions of title III and IV of S. 2990, the Small Business Securities Acts Amendments of 1980. By adding the substance of these provisions to H.R. 7554, the House bill would be identical to the package assembled by the Banking Committee.

Both titles enjoy widespread support, from the SEC, the Small Business Administration and from the State securities administrators. And both titles would contribute to streamlining the registration requirements for small issuers of securities at both the Federal and State levels. Mr. President, I should note the distinguished Senator from Wisconsin, Senator NELSON, is responsible for both of these provisions in their original form.

Mr. President, proposed title IV of H.R. 7554 would address more general concerns about the capital formation process. It would provide a framework for cooperation between Federal and State agencies, regulatory bodies, and small business organizations, in studying and attempting to solve the problems encountered by small business in raising capitals in the securities markets.

The final provisions of the amendment would codify certain provisions of the SEC's rule 242 to aid smaller businesses in the capital raising process. A new section 4(6) would be added to the Securities Act of 1933 to exempt from its registration requirements transactions involving offers and sales to "accredited investors" where the aggregate offering price does not exceed the limit allowed under section 3(6) of the Securities Act and where there is no advertising or public solicitation involved in the offer. Accredited investors would include various institutions and other specified by rule. Realizing that this rule is still in the experimental stages, I expect the Commission to monitor the effectiveness of the exemption and to assure that the protection of investors and investor confidence in the integrity of the capital formation process are not diminished. The Commission should use the notice provisions of the statute for these purposes.

Mr. President, I am confident that the House will recognize the contributions this amendment will make to the overriding purposes of H.R. 7554 and expect that this amendment will meet with approval in that body.

Mr. WEICKER. Mr. President, I rise in support of this amendment to H.R. 7554. This amendment, which incorporates the provisions of S. 2990, of which I was an original cosponsor, will make it easier for new businesses to raise equity capital.

As ranking minority member on the Select Committee on Small Business, I have chaired numerous hearings on the capital formation problem confronting this Nation's smaller businesses. The severity of the problem has been attested to by an outstanding array of individuals representing diverse interests. Their testimony conclusively confirmed that these smaller businesses, which are a principal source of new ideas, new jobs, and economic growth, are not able to obtain the equity financing which is instrumental for growth.

The decline in the number of public equity securities offerings provides support for this conclusion. According to figures compiled by the Securities and Exchange Commission, there were 698 underwritings for companies with less than $5 million in assets in 1969. However, only 80 corporations of that size made public offerings in the 4 years between 1974 and 1977. The offerings in 1969 raised almost $1.5 billion, whereas the offerings in the 4-year period combined to produce merely $415 million in new capital. Equally disturbing is the decline in the number of corporations, of all sizes, making first-time public offerings. In 1972, 633 unseasoned corporations went public and raised nearly $1.7 billion.

However, there were only 125 initial offerings in the 3-year period from 1975 to 1977, and these first-time offerings raised just $459 million. In 1978, there were only 70 initial offerings which raised merely $295 million. Although the amount raised by initial public offerings increased in 1979 as a result of the reduction in the capital gains tax rate, this recovery trailed by far that for seasoned equity offerings.

Another indication of the difficulty which small businesses are having in obtaining equity capital is that the number of regulation A offerings which were filed with the SEC shrank from 998 in 1972 to 158 in 1977. Of those regulation A offerings which were filed, the 650 which cleared in 1972 raised $256 million while the 124 which cleared in 1977 raised only $46 million. As a result of Congress raising the limit on the aggregate offering price of securities which may be sold without a registration statement, and the corresponding increase in the size of a permissible regulation A offering from $500,000 to $1,500,000, there were 209 such offerings which cleared the SEC in 1978, raising nearly $127 million.

Although the trend shown by the revitalization of initial offerings and regulation A offerings is encouraging, there is still a long way to go. The scarcity of equity capital has effectively foreclosed most smaller companies from going public—which is the traditional first step for companies on their way to becoming larger ones.

The provisions of this amendment will help unleash a pool of capital for emerging businesses. First, the statutory ceiling on regulation A public stock offerings would be raised from $2 million to $5 million. By taking advantage of the simplified filing requirements permitted under regulation A, small businesses are able to minimize the costs associated with offering stock to the public. I hope the SEC will carefully review the advisability of raising the current cap of $1.5 million which they have imposed, pursuant to the discretion given them under section 3(b) of the Securities Act of 1933, on the permissible size of a simplified offering.

This legislation would also enable fledgling businesess to raise capital from institutional investors and other accredited investors—including sophisticated individual investors who qualify under rules to be prescribed by the SEC—without filing registration statements and other documents with the SEC. This provision would facilitate the flow of equity capital into small businesses by making it easier for young companies to tap the sizable pool of funds in the hands of these accredited investors.

Finally, a separate class of public venture capital firms called business development companies (BDC) would be created. These BDC's would not be required to obtain prior SEC approval for transactions with businesses in which they invest, provided the BDC has 70 percent of their assets in businesses which are so new or small that their stock cannot be bought on credit under Federal Reserve Board rules. These provisions promise to open up a large source of equity capital to those small companies that are presently starving for growth funds.

Mr. President, I am proud to have been an original cosponsor and author of S. 2990 and I urge my colleagues to support this amendment which incorporates the provisions of that legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment (UP No. 1662) was agreed to.

UP AMENDMENT NO. 1663

(Purpose: To amend the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to clarify exemptions from such Acts for the funding by insurance companies of certain employee benefit plans)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES) proposes an unprinted amendment numbered 1663.

Mr. SARBANES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE VII—EMPLOYEE BENEFIT PLAN EXEMPTIONS

SEC. 701. Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking out "or any interest or participation in a single" and all that follows through "section 401(c)(1) of such Code." and inserting in lieu thereof the following: "or any interest or participation in a single trust fund, or in a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contributions under section 404(a)(2) of such Code, or (C) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) the contributions under which are held in a single trust fund or in a separate account maintained by an insurance company for a single employer and under which an amount in excess of the employer's contribution is allocated to the purchase of securities (other than interests or participations in the trust or separate account itself) issued by the employer or any company directly or indirectly controlling, controlled by, or under common control with the employer, (ii) which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code, or (iii) which is a plan funded by an annuity contract described in section 403(b) of such Code.".

SEC. 702. Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended by striking out "any interest or participation in any collective trust fund" and all that follows through "section 401(c)(1) of such Code," and inserting in lieu thereof the following: "any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (C) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corps and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus and income of the funds accumulated to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) which covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (ii) which is a plan funded by an annuity contract described in section 403(b) of such Code.".

SEC. 703. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3 3(c)(11)) is amended to read as follows:

"(11) Any employee's stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954 or which holds only assts of governmental plans described in section 3(a)(2)(C) of the Securities Act of 1933; or any collective trust fund maintained by a bank consisting solely of assets of such trusts; or any separate account the assets of which are derived solely from (A) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1954 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.".

Mr. SARBANES. Mr. President, the content of this amendment is similar to S. 2973 which I introduced on July 25, 1980. The differences are technical and perfecting and were suggested by the SEC; the substance remains unchanged.

Mr. President, this amendment has two purposes. It would amend section 3(A)(2) of the Securities Act of 1933 and make corresponding changes in the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to:

First, clarify the inapplicability of the registration provisions of the 1933 act to contracts issued by an insurance company in connection with employee benefit plans covered by section 3(A)(2) without regard to whether the contracts are funded by a separate account or the insurer's general account; and

Second, Exempt from registration bank and insurance company funding of certain public employee retirement loans without regard to their qualification under section 401 of the IRS Code.

Mr. President, at the committee's markup on S. 2990, I alerted my colleagues to my intention to seek the views of the Securities and Exchange Commission on this measure before asking for its consideration. Today I propose this amendment with the official support of the SEC, communicated on August 29, 1980.

Mr. President, I ask unanimous consent that the letter of support from the SEC; as well as its detailed memorandum of justification, be printed at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., August 29, 1980.
Re S. 2973.
Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PROXMIRE: This responds to your request for the Commission's comments on S. 2973 (the "Bill"), which would amend the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to provide specific exemptions from such Acts for certain employee benefit plans funded by insurance companies and for interests in such plans. The Bill would also provide exemptive treatment for certain state and local government plans and for trusts and insurance company separate accounts holding assets of such plans.

As discussed in more detail in the attached memorandum, we support adoption of the Bill because it is consistent with the policy of Congress, expressed in prior exemptions from the registration and certain regulatory provisions of the federal securities laws for similar employee benefit plan trusts, interests in them and arrangements provided by insurance companies to fund them. The amendments which would be provided by the Bill are also consistent with "no-action" and interpretive positions taken by the Commission's staff.

At the same time, the Bill would preserve the present applicability of the antifraud provisions of the federal securities laws to the offer and sale of interests and participations in such plans and arrangements. It would also preserve the applicability of the registration provisions of the federal securities laws to so-called H.R. 10 or "Keogh" plans, to situations where employees' funds are used to purchase securities issued by their employers, and to plans available to public employees and others pursuant to Section 403(b) of the Internal Revenue Code.

The foregoing and the attached memorandum set forth the views of the Commission and do not necessarily reflect those of the President. We are sending a copy of these materials to the Office of Management and Budget and will inform you of any comments we receive from that Office.

We appreciate this opportunity to present our views and would be pleased to provide any additional assistance you desire in connection with the Bill.

Sincerely,
HAROLD M. WILLIAMS,
Chairman.

MEMORANDUM OF THE SECURITIES AND EXCHANGE COMMISSION ON S. 2973

The Commission is pleased to comment on S. 2973 (the "Bill"), which would amend the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to provide specific exemptions from such Acts for certain employee benefit plans funded by insurance companies and for interests in such plans. The Bill would also provide exemptive treatment for certain state and local government plans, and for trusts and insurance company separate accounts holding assets of such plans.

As discussed in more detail below, we support adoption of the bill because it is consistent with the policy of Congress, expressed in prior exemptions from the registration and certain regulatory provisions of the federal securities laws for similar employee benefit plan trusts, interests in them and arrangements provided by insurance companies to fund them. The amendments which would be provided by the Bill are also consistent with "no-action" and interpretive positions taken by the Commission's staff.*

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*We note one concern with the Bill as drafted. On Page 2, line 21, the words "maintained by a bank" modify "single trust fund," notwithstanding the earlier modification of Section 3(a)(2) which is designed to make clear that the exemption for interests in single trust funds does not depend on whether they are maintained by a bank. See p. 1, line 7; page 2, line 1. The phrase "maintained by a bank" on page 2, line 21 should therefore be deleted. This conforms to the prior change, and is consistent with long-standing Commission policy. *See* Sec. Act Rel. 33-6188 (Feb. 1, 1980).

At the same time, the Bill would preserve the present applicability of the antifraud provisions of the federal securities laws to the offer and sale of interests and participations in such plans and arrangements. It would also preserve the applicability of the registration provisions of the federal securities laws to so-called H.R. 10 or "Keogh" plans and to situations where employees' funds are used to purchase securities issued by their employers, and to plans offered to public employee and other pursuant to Section 403(b) of the Internal Revenue Code.

DISCUSSION

Section 1 of the Bill would amend Section 3(a) (2) of the Securities Act to exempt from the registration provisions of that Act any security arising out of a contract issued by an insurance company in connection with certain employee benefit plans qualified under Section 401 of the Internal Revenue Code or an annuity plan which meets the requirements for deduction of employers' contributions under Section 404(a) (2) of such Code. It also adds certain governmental plans defined in Section 414(d) of the Code and discussed below to the categories of employee plans to which such securities may be sold without registration.

Under Section 3(a) (2) of the Securities Act as it is presently written, interests in separate accounts created and maintained by insurance companies for the purpose of funding tax qualified employee benefit plans are exempt from the registration provisions of that Act. Although such interests have insurance characteristics, many of them, e.g., variable annuities, have investment features which result in their being treated as securities which would be required to be registered were it not for the exemption provided by Section 3(a) (2).[1] That exemption is based on the fact that, generally, trustees of tax qualified employee benefit plans created by corporations can fend for themselves and protect the interests of their beneficiaries and do not need the disclosures and other protections afforded by registration.

In recent years, insurance companies have created new products which are sold as annuities but which are funded by the general account of the company rather than by separate accounts, and thus do not fall within the exemptive language of Section 3(a) (2) which refers to separate accounts. Since many of these arrangements also have been investment elements which would result in their being treated as securities, they would also be required to be registered under the Securities Act, absent an exemption.[2] But the present exemptions provided in Section 3(a) (2) for interests in insurance company separate accounts are based, not on the identity of the issuer of the interests as an insurance company, nor the insurance elements of the interests, but rather on the nature of the offerees and purchasers as trustees of corporate tax-qualified employee benefit plans. In recognition of this fact, our staff has taken a non-action position with respect to the registration of such interests.[3] Section 1 of the Bill essentially codifies that position, and we support its adoption.

Section 1 also adds government plans, as defined in Section 414(d) of the Internal Revenue Code, to the category of plans to which interests in insurance company separate accounts may be offered and sold without registration under the Securities Act. Under the section, the insurance contracts funded by insurance company general accounts, discussed above, and interests in collective trust funds maintained by banks may also be offered and sold to such government plans without registration.[4]

Section 414(d) of the Internal Revenue Code provides special tax treatment for state and local employee benefit plans, and was added to the Code in 1978 in recognition of the fact that it is often difficult if not impossible for such plans to meet all the qualification requirements of Section 401, particularly the anti-discrimination requirements of Section 401(a), because the statutes establishing such plans prescribe a shorter vesting period for elected and appointed officials than for other covered employees[5] in recognition of the reality of political life. Section 1 of the Bill would make exemption from registration for bank and insurance company funding of public pension plans turn upon the plans' compliance with the substance of Section 401 as it is material to the operation of the securities laws, rather than on their compliance with all the technical requirements of that Section. Thus, it would provide an exemption from registration for bank and insurance company funding of Section 414(d) plans which have been established for the exclusive purpose of providing retirement benefits to employees or their beneficiaries and whose funds are segregated and cannot be diverted to other purposes. The two requirements contained in the amendment are based upon Section 401 (a) (1) and Section 401(a) (2) respectively, which are two of the three central provisions of Section 401.

The amendment does not contain a requirement comparable to the third of such provisions of Section 401, the anti-discrimination requirements of Section 401(a) (4). But we do not object to the omission of such requirements because they appear to have been enacted to further tax and not securities law policy. Moreover, we understand that the anti-discrimination provisions were omitted from Section 414(d) when it was added in recognition of the special nature of state and local government retirement plans.

Section 1, however, excludes from the exemption which would be provided by the Bill contracts issued in connection with tax deferred annuity plans described in Section 403 (b) of the Internal Revenue Code which are adopted primarily by public school systems and departments of education. This codifies the Commission's longstanding position that such contracts must be registered under the Securities Act unless some other exemption is avialable.

We support these amendments.

Section 2 of the Bill amends Section 3(a) (12) of the Securities Exchange Act to provide exemptive treatment under that Act similar to that provided under the Securities Act by Section 1.

Finally, Section 3 amends Section 3(c) (11) of the Investment Company Act of 1940 to exclude from the definition of "investment company" any employee benefit trust (1) which holds only assets of government plans as defined in Section 414(d) of the Internal Revenue Code; (2) any single trust fund or any collective trust fund maintained by a bank consisting solely of assets of such trust[6], and (3) any insurance company separate account the assets of which are derived from tax-qualified plans, including Section 414(d) government plans meeting the requirements of Section 3(a) (2) (C) of the Securities Act (discussed above).

We support these amendments because they are consistent with the exclusions previously provided by Congress under Section 3(c) (11) of the Investment Company Act for trusts and insurance company separate accounts whose assets derived from tax-qualified employee benefit plans.

Mr. SARBANES. Mr. President, Congress has recognized previously that tax qualified pension plans do not require application of the disclosure provisions of the securities laws to protect corporate and sophisticated investors. In 1970, Congress made the registration provisions inapplicable to insurance company separate accounts. Since then, through administrative exemptions and "no-action" positions from its staff, the Commission has provided equivalent treatment for tax qualified retirement plans participating in insurance company general accounts. This amendment would affirm this equivalent treatment by statute and provide that securities may be sold, without registration, to pension plan customers from a general or separate account.

Mr. President, this amendment is also necessary and desirable to complete work we began in 1970. In that year, Congress provided exemptions for private corporate pension and profit sharing plans from the registration requirements. No consideration was given, however, to comparable State and local government retirement plans because they were internally managed, for the most part.

Public retirement plans are now seeking management by banks and insurance companies in a manner comparable to qualified corporate retirement plans. However, uncertainties under the Federal securities laws have impeded the willingness of professional money managers to enter this business. This bill would remove the major legal impediments and allow State and local retirement systems the same opportunities to obtain professional investment management that private plan sponsors have.

Mr. President, I urge my colleagues to join this one amendment with the rest of the Federal securities laws we are considering this day. It is supported by the SEC and the American Council of Life Insurance.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment (UP No. 1663) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

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[1] *Securities and Exchange Commission* v. *Variable Annuity Life Insurance Company*, 359 U.S. 65 (1959); *Securities and Exchange Commission* v. *United Benefit Life Ins. Co.*, 387 U.S. 202 (1967); *Prudential Insurance Company* v. *Securities and Exchange Commission*, 326 F.2d 383 (3rd Cir. 1964) *cert. denied* 377 U.S. 953.

[2] Securities Act Release Nos. 6051 and 6050 (April 5, 1979).

[3] Letter dated March 18, 1977 from Burton M. Leibert, Special Counsel, Division of Investment Management to Paul Mason, Esq., Chief Counsel, Securities, American Council of Life Insurance.

[4] In addition, Section 1, by inserting the words "trust fund or in a" between the words "single" and "collective", codifies the longstanding interpretation by the Commission and its staff that single trusts described in Section 3(a) (2) need not be maintained by banks in order for interests in them to qualify for the exemptions from registration provided by the Section.

[5] IR–1869 August 10, 1977.

[6] Section 3 appears to have a typographical error in that it refers to "trust" instead of "trusts".

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 7554) was passed.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, as the statements have indicated, this is very important substantive legislation and represents, I believe, a significant legislative accomplishment.

I thank my colleague, Senator LUGAR, and others who have worked on this who have already been mentioned in the statements, but I particularly acknowledge the very fine work by members of the staff of the Banking Committee, Howard Menell and John Daniels, and I also acknowledge the very fine work of a member of my own staff, Judith Davidson, and of Bob Kabel of Senator LUGAR's staff.

Mr. LUGAR. Mr. President, I thank Senator SARBANES for the leadership of our subcommittee and join him in commending the staff and likewise the chairman of our committee, Senator PROXMIRE, and the ranking minority member, Senator GARN, for their assistance in our deliberations.

SECURITIES ACTS AMENDMENTS OF 1980 SMALL BUSINESS CAPITAL FORMATION LEGISLATION

● Mr. NELSON. Mr. President, the Senate has just approved a package of securities bills that will become the most important securities legislation of the past 40 years for small business and the free enterprise system.

The final bill, passed as H.R. 7554, is based upon a composite bill entitled the "Small Business Securities Acts Amendments of 1980" (S. 2990) introduced on July 29 by the chairman of the Senate Securities Subcommittee, the Senator from Maryland (Mr. SARBANES) in behalf of a bipartisan coalition of Banking Committee and Small Business Committee members.[1]

The composite Senate bill includes the major elements of three bills which were developed in the course of the Senate Small Business Committee's 3-year investigation of small business capital formation problems—S. 1940; S. 2699; and S. 2764.

I would like to commend the Senator from Maryland for his leadership in developing this complex legislation. There were 3 days of public hearings to explore the very difficult problems of small business capital formation, and extensive negotiation and consultation with private sector groups and Government agencies effected before this far-reaching piece of legislation could be drafted and approved in committee. The significance of the bill, in the words of the executive vice president of the National Association of Small Business Investment Companies, Walter Stults, is that:

> The "80 Act" may rank with the "40 Act"[2] in importance as to capital formation for small business and the U.S. economy.

WHAT THE BILL CONTAINS

In brief, this extensive seven title, bill has the following major elements:

Title I provides a substantial exemption from the Investment Company Act of 1940 for venture capital firms, or "business development companies" as they are defined in the bill.

Title II will liberalize the Investment Advisors Act of 1940, exempting most business development companies from SEC registration, and would allow advisors presently registered under this act to earn incentive compensation.

Title III will increase to $5 million the amount of debt capital that could be raised without a trust indenture, and increase to $10 million the amount of debt which could be raised without meeting the detailed qualifications of the Trust Indenture Act of 1939. The "regulation A" exemption ceiling for small equity issues would also be raised from the present $2 million to $5 million.

Title IV contains the authorizations for the Securities and Exchange Commission for fiscal years 1981 through 1983;

Title V will require Federal and State securities authorities to meet at least annually with each other, and with the investment community and small business representatives, to attempt to resolve small business capital formation problems.

Title VI will exempt from registration—under the Securities Act of 1933—stock issues of less than $5 million, if sold to institutional and "accredited" investors, those individuals who are willing to invest a substantial amount—a figure of $100,000 suggested in the original bill.

Title VII will simplify the regulatory treatment of life insurance accounts relating to pension plans.

EXPLANATION OF THE MAJOR TITLES

To elaborate somewhat title I, the centerpiece of the bill, contains amendments to the Investment Company Act of 1940 which recognizes the unique "business development company" functions of venture capital investment companies, and places them under different, more relaxed set of regulations.

For the past four decades, these venture investors were governored by tight and massive regulation for mutual funds pursuant to the 1940 act. In my testimony before the Securities Subcommittee I pointed out that this system of regulation was "unforseen and surely unintended." However, this pervasive regulation endured, and subjected all publicly held venture capital companies subject to crippling restrictions. For example, the 1940 act sets restrictions on a company's capital structure that are very much incompatible with venture financing. It makes transactions voidable months or years after the fact. Ultimately, the entire field was expected because smaller firms could not seek capital from more than 100 shareholders without being subject to total 1940 act regulation.

Thus, if investment companies sought capital from public shareholders and were required to register under the 1940 act, these firms were forced to avoid the true venture capital function of financing start-ups and early stage of growth of high risk/high potential enterprises. We thus have witnessed a systematic disappointment of congressional intent to create and involve new enterprises in this regard. This title of the bill is derived from S. 1940, originated by the Small Business Committee and S. 1533, developed by the Senator from Texas (Mr. TOWER) and the Senator from Indiana (Mr. LUGAR).

As such, there are four matters that the industry wished to see clarified as the legislation finally emerged.

First, this legislation is aimed at helping both small and developing businesses as well as financially troubled businesses. Two categories of eligible portfolio companies are spelled out in the legislation. Companies need only comply with these statutory provisions. The accompanying report should not be interpreted to impose any additional qualifications in order for a concern to be considered an eligible portfolio company.

However, there are several classes of businesses that are not presently covered by the definition of eligible portfolio company. I would hope that when the Securities and Exchange Commission comes to construe the standards for eligible portfolio companies, it will consider such examples as the following:

First, companies which may have all or a portion of their securities listed on one of the nine national securities exchanges, all of whose listing standards vary widely;

Second, companies which have recently gone public and which may need help for a few years even though their securities are marginable;

Third, larger seasoned companies with marginable securities but having financial difficulty; and

Fourth, a company that is small in relation to a concentrated industry even through it may have marginable securities.

Second, to maximize the flexibility of business development companies, the bill allows a certain portion of their assets to be invested in nonqualifying investments. I wish to emphasize that it was my intent as sponsor of S. 1940 that these so-called "window investments" remain completely free of any restrictions, including a purpose test or a requirement that the business development companies make available managerial assistance.

Third, it is also the intent of this legislation to remove uncertainty concerning the relationship between a privately held business development company and its manager. The bill accomplishes this purpose. By so doing, it should not under any circumstances be interpreted as impliedly indicating that there is an investment advisory relationship. Further, it should be pointed out that the bill does not attempt to alter the nature of managerial assistance as it is most commonly found in the industry today, that is, a type of management consulting arrangement.

Finally, I wish to note that the compensation standard dealing with the maximum percentage of net realized capital gains set forth in the statute applies only to business development com-

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Footnotes at end of article.

panies with registered advisors as defined in the bill, and should not be used or referred to for any other purpose.

Title II of the bill cures a long-standing thorn in the side of venture capital financing by getting them out from under the strictures of the Investment Advisors Act of 1940.

Previously, if there were more than 15 investors in a venture capital company or partnership, the operator or general partner would be required to register under the Investment Advisors Act, and to comply with its voluminous and specialized regulations.

This provision removes these registration and compliance requirements for bona fide "business development companies." It also allows advisors who are already registered under the Investors Advisors Act to receive incentive compensation, which is necessary to attract high-caliber management capable of dealing with the extraordinary risks associated with new and unproven businesses.

This provision, by providing relief for operators of such firms and their legal counsel, should open up opportunities for significant amounts of fresh capital to flow into small business financing. This portion of the bill was also embodied in our S. 1940 proposal.

CAPITAL GAP RECOGNIZED AND ADDRESSED

Title VI which was formerly title III of the Senate bill contains an "Omnibus" small business capital formation bill developed by the Senate Small Business Committee as a culmination of its 3 years of hearings on this subject.

The bill's preamble points out the "capital gap" affecting new and small businesses, and requires the systematic and continuous attention of governmental and private sector experts to do something about this problem. The chief provisions of the title call for two annual conferences where Federal and State securities authorities would meet with each other, and the investment community and small business organizations, for the purpose of resolving small business capital formation problems. One prime target would be the excessive regulations in this field, including the so-called Blue Sky laws, which are presently estimated to cost $50 million annually.

The first series of Federal-business conferences would be sponsored by the Securities and Exchange Commission in Washington, D.C., so that it would be convenient to bring in other Federal agencies such as the Treasury Department, the Federal Reserve, and the Small Business Administration, and have these policymakers and regulators in periodic contact with venture capitalists and small business representatives. Of course, the investment community should also participate. This would create an annual forum for ongoing discussion of steps that will improve small business capital formation over the long haul. This is necessary because the missions of the Federal agencies involved in this field are regulation and investor protection revenue raising, and so forth. They all need to be exposed to the special problems of capital formation.

The preliminary thinking on the part of SEC staff personnel is that task groups could tackle particular problems and research papers could be assigned and circulated in advance of meetings. We believe this is a highly constructive approach, because the problems in this area touch and concern the entire process of capital raising and therefore the entire economy. And, they are over changing. Now, there is no medium for focusing the attention of the Federal Government on the capital formation process. These forums, operated as preliminary envisioned by SEC, fill a vital national need.

The second set of conferences would promote cooperation between Federal and State regulatory authorities. Under present law, although there has been extraordinary effort in recent years there is no systematic contact between the Securities and Exchange Commission and the securities regulatory bodies of the 50 States. There is no authority for or framework for such contacts or for specific joint projects. For example, there is a common desire to seek improvement in the effectiveness of regulation while reducing its overall cost. Until now, there has been no congressional impetus toward the development of uniform standards, reporting forms, or even definitions.

The small business community has told us that, at present, there are 51 different regulatory systems for governing what securities can be sold, under what conditions they can be sold, and who can sell them. This situation is chaotic: It cries out for regular and cooperative effort. That is precisely what the legislation is designed to provide.

Once again, we emphatically state that this bill does not intend to preempt State law; or Federal law either. In drafting this provision as a part of S. 2764, we had no wish to mandate what regulatory authorities should do on any level. Nor did we wish to see any regulatory authority or agency mandating what another should do.

However, in our view, Federal and State regulators can all benefit from regular and systematic consultation. That consultation is long overdue.

ALL-OUT ATTACK ON COSTS OF CAPITAL RAISING

Another aspect of title III is a mandate for an all out assault by the Securities and Exchange Commission on the costs of small business capital raising. Data developed by the National Association of Securities Dealers shows that these costs are exceeding $200,000 for first time to market stock issues.

In my view, that is just too high a hurdle to place in front of a fledgling firm. Certain private studies, such as have been published by the American Enterprise Institute, indicated that under the most favorable circumstances, these costs could be cut 80 percent to the neighborhood of $40,000.

We hope this bill will enable SEC to mobilize all of the tools of the trade, including innovative regulatory techniques, new technology for printing and filing, and other departures developed through mutual cooperation, to bring these costs down out of the stratosphere.

An imaginative administration of this section—which we heartily encourage—might aim for breakthroughs in cost reduction in these areas through a combination of its own efforts, some judicious spending of seed money on promising techniques, and a broad distribution of such new developments.

DISCLOSURE REDUCED FOR ACCREDITED INVESTOR

Title V of H.R. 7554, which was formerly title IV of the Senate bill would permit fledgling firms to raise capital from sophisticated investors without filing the complex formal documents under the Securities Act of 1933. Eligibility for investment would be limited to financial institutions or individuals capable of investing large amounts of money—our bill, S. 2699, suggests $100,000. Studies by the American Enterprise Institute show this change would cut the cost of raising equity capital from an average of $200,000 to $40,000 for small firms.

The original bill, S. 2699, was developed by the Small Business Committee and the administration based upon concepts discussed at a conference of the American Bar Association Small Business Committee in 1979.

The Securities and Exchange Commission signified its willingness to experiment with this concept by publishing rule 242 in January 1980, and the legislation is a compromise between the legislative proposal and the rule. For example, the SEC rule would require two notices—one before and one after the capital raising. The bill required none as long as only accredited investors are involved. Our testimony to the Securities Subcommittee urged that there be no more than one simple notice, and that is the posture of the final language.

We have also advocated that the amount permitted be raised from $2 million in the rule to $5 to $10 million per year, and the legislation now establishes it at $5 million, which makes it possible to dispense with any technical definitions of eligible small business. That change could make capital raising easier for medium-sized and larger independent business which is all to the good but it is especially true for small businesses.

COSTS OF RAISING DEBT CAPITAL REDUCED

Title III of H.R. 7554, formerly title IV of the Senate bill contains further useful small business capital formation changes, such as:

The first small business amendments in the history of the Trust Indenture Act of 1939, which would make it easier for emerging companies to raise debt capital. The provisions would increase to $5 million the amount which could be raised without a trust indenture, and increase to $10 million the amount which could be raised without meeting the detailed qualifications of the 1939 act;

A large increase in the regulation A ceiling for small business equity issues from $2 million to $5 million which will permit stock sales of less than the amount without full SEC registration.

BILL CULMINATES MAJOR EFFORTS BY CONGRESS, THE SEC AND THE PRIVATE SECTOR

Our commendation to the subcommittee chairman in bringing out this historic bill also extends to other Banking Committee members, such as the Senator from Alabama (Mr. STEWART), the Senator from California (Mr. CRANSTON), the Senator from Texas (Mr. TOWER), and the Senator from Indiana (Mr. LUGAR), who made this a truly bipartisan effort; to the very able staff of the Securities Subcommittees of both bodies; to Howard Menell and John Daniels of the Senate; and to Franz Opper and Consuelo Washington of the House Commerce Committee, as well as Herbert Spira and Allen Neece of our own Small Business Committee staff. At the Securities and Exchange Commission, Commissioner Stephen Friedman, staff members Martin Lybecker, Alan Rosenblat, Arthur Brown, and Mary E. T. Beach, worked long hours, including evenings and weekends with industry representatives and Congresional staff to develop the bill, and especially its 1940 act provisions.

On behalf of the entire small business community, the 25,000 participants in the White House Conference on Small Business made clear that their top priority item was capital formation, with 5 of the top 10 recommendations devoted to various aspects of this problem.

Organizations such as the National Venture Capital Association and the National Association of Small Business Investment Companies, as well as individual industry leaders such as Ned Hizer, Ried Dennis, Dr. Morton Collins, and Tom Perkins have labored for years in assembling data, testifying, and otherwise contributing their expertise to formulation of this bill.

HISTORY OF THE LEGISLATION

A. CONGRESSIONAL HEARINGS

After consultation with the Senate Banking Committee, the Senate Small Business Committee conducted 8 days of public hearings on the capital formation problems of new, small and independent enterprises—February 8, 1978—April 7, 1980.[3] Our subcommittee held 3 additional days of hearings on April 29, May 16, and June 2, 1980.[4]

The hearings explored in detail the shortage of equity and venture capital experienced by small firms and the relationship of securities laws and regulations to these problems.

B. PRIVATE SECTOR STUDIES

During this period, several executive agencies and private organizations also performed excellent studies addressed directly to the capital formation problems of small enterprise. The list includes:

The report by the SBA Task Force on Venture and Equity Capital for Small Business, in 1977;[5]

The report of the American Electronics Association Capital Formation Task Force, presented to the Small Business Committee's initial hearings on Capital Formation in February 1978;[6]

A report by the Joint Industry/Government Committee of the National Association of Securities Dealers on Small Business Financing, in 1978;[7]

A report sponsored by the National Association of Small Business Investment Companies entitled, "Summary of the Economic Impact of The Small Business Investment Company Program," in 1980;[8]

A joint SBA-SEC report on the role of regional broker-dealers in small company capital formation, also in 1980.[9]

From this research and its own public hearings, it has been possible to give detailed consideration to the difficulties faced by new and independent businesses in raising capital.

C. LEGISLATION INTRODUCED

During the course of these hearings, many Senators concluded that Federal policies were having a significant adverse effect on the ability of new, small, growing and independent companies to obtain capital. Accordingly, several bills were developed and introduced in the Senate, including:

S. 1533, the "Venture Capital Company Act of 1979," introduced on July 18, 1979, by Senators TOWER and LUGAR; and a companion bill, S. 1940, the "Venture Capital Investors Act of 1979" introduced on October 25, 1979, by Senator NELSON, chairman of the Senate Small Business Committee.

S. 2699, the "Small Business Issuers Simplification Act of 1980," introduced on May 14, 1980, by Senator NELSON.

S. 2764, the "Omnibus Small Business Capital Formation Act of 1980," submitted on May 28, 1980 by Senator NELSON.

Subsequent to our hearings, the subcommittee chairman, Senator SARBANES introduced a composite bill (S. 2990) with extensive bipartisan cosponsorship of Banking Committee and Small Business Committee members including Senators TOWER, NELSON, WILLIAMS and LUGAR. The bill contained the substance of all of the above described bills, as well as of two House of Representatives bills: H.R. 7397, the "Securities Small Offering Improvements Act," which was introduced on May 20, 1980, by Representative RINALDO; and H.R. 7516, an amendment to the Trust Indenture Act of 1938, introduced on June 5, 1980, by Representative STAGGERS.

It is the composite bill as described above (S. 2990) which was reported by the Senate Banking Committee (Senate Report 96–958).

Title I and II of S. 2990 and H.R. 7554, as passed, are based upon S. 1533 and S. 1940 and their final format is the result of discussions in which the staffs of this committee and the Commission and representatives of the venture capital industry cooperated to produce a balanced bill that incorporates appropriate exemptive relief from the Federal securities laws for qualifying companies that provide venture capital to small, developing businesses. The industry representatives and the Securities and Exchange Commission are entitled to commendation for their dedicated and conscientious efforts in assisting the drafting of legislation that would remove unnecessary regulatory burdens on small business capital formation while at the same time adequately preserving needed investor protections.

Title III of the Senate bill (now title VI of H.R. 7554) is derived from S. 2764, the "Omnibus Small Business Capital Formation Act of 1980." Title IV of the bill is a revised version of S. 2699, the "Small Business Issuers' Simplification Act of 1980." Title V of the Senate bill (now title III of H.R. 7554) incorporates the provisions of H.R. 7397 and H.R. 7516.

NEED FOR THE LEGISLATION

Our Small Business Committee found that the problems of capital formation by U.S. businesses, and particularly by new and small businesses during the past decade are damaging the U.S. economy. We place these findings before the Securities Subcommittee of the Senate Banking Committee in detailed testimony.

D. DECLINE IN PRODUCTIVITY RELATED TO CAPITAL FORMATION PROBLEMS

We pointed out that economists have made clear that, nationally, both productivity and capital formation have slowed significantly since 1965.

The leading authority on productivity, Edward Denison, has shown that gross national income per person employed (GNIPPE) changed from a 2.43-percent annual increase in the years 1948–73 to a 0.54-percent annual decline in the 1973–76 period.

A group of U.S. Department of Labor economists which examined the decline of labor productivity relative to the decline of net capital stock and the ratio of investment to gross national product concluded the "1973–78 slowdown in productivity is largely accounted for by the weakness in capital formation."[10] To some extent—which has yet to be determined but which the committee believes to be significant—the striking decline in the investment capital available to new and small firms after 1972 has contributed to our overall economic problems.

This issue was raised by Professor Klein of the California Institute of Technology in these terms:

> The dynamism of the American economy is highly dependent upon new firms . . . (and the entry of new firms has become rare, primarily because of the unavailability of risk capital for new firms).
>
> A decline in openness has caused large firms to become more structured and, as such, less able to deal with risk.[11]

E. THE IMPORTANCE OF NEW AND SMALL BUSINESS

Extensive research by the Small Business Committee has established that new, small and independent firms occupy a key role in making the U.S. economy dynamic, productive and efficient. These contributions include:

BRINGING INNOVATIONS TO THE MARKETPLACE

One-half of all commercial innovations originate with small firms and individual inventors.[12] The U.S. Commerce Department estimates that 40–50 percent of economic growth stems from innovation. So, new and small firms may account for as much as 20–25 percent of national economic growth.

Furthermore, the National Science

Footnote at end of article.

Foundation found that small firms—less than 1,000 employees—incur one-fourth the cost per innovation of medium-sized firms—1,000 to 10,000 employees—and one twenty-fourth the cost of large firms—over 10,000 employees; [13]

CREATION OF NEW JOBS

Fifty-two percent of the new jobs generated between 1960 and 1976 were by independent businesses with less than 20 employees; [14]

SUSTAINING EXISTING EMPLOYMENT

Fifty-five percent of all existing jobs in the private sector are in small business as defined by the Small Business Administration—59 percent of farming is included; and [15]

SERVING AS ANCHORS OF COMMUNITY LIFE

Numerous studies establish that local businesses are a prime source of strength for their neighborhoods and communities and are the repository of many of the most deeply held American values, such as self-reliance, individuality, economic opportunity, hard work, craftsmanship, and human scale.[16]

F. DIFFICULTIES OF SMALL FIRMS IN RAISING CAPITAL

The statistics of the past 7 years establish that small enterprises have experienced great difficulties raising venture and equity capital. Authorities have observed, at certain times, that they have been virtually excluded from U.S. capital markets.

In 1977, Business Week magazine reported that:

> Access to U.S. capital markets has (for several years) been pretty much open to only the nation's big companies . . . the top 1,000 or so corporations.[17]

That figure of 1,000 would include only half of the listings of the New York Stock Exchange.

An American Electronics Association study in February 1978, revealed that electronics companies getting started in between 1971 and 1975 could raise only one-half the start-up capital—an average of $522,000—raised by the same type of company starting in the late 1966–70 period—$1,039,000.

This shortfall of capital availability for new and small firms is dramatized by statistics on equity capital raised pursuant to registered stock issues and regulation A stock issues over the past several years:

REGISTERED EQUITY SECURITY OFFERINGS OF SMALL COMPANIES

[With net worth of less than $5,000,000]

Year	Number of issues	Dollars raised (millions)
		3
1968	358	745.9
1969	698	1,366.0
1970	198	375.9
1971	248	550.0
1972	409	895.7
1973	69	159.1
1974	9	16.2
1975	4	16.8
1976	29	144.8
1977	22	74.3
1978	21	129.0
1979	58	271.

Source: Venture Capital magazine and Greater Washington Investments, Inc.

The contrasts are graphic. For the 2 years, 1968 and 1969, 1,056 smaller companies were able to raise over $2 billion in equity capital from the public. In 1978 and 1979, only 79 such companies could "go public." These companies were able to raise only $400 million.

Regulation A issues, even with increases in statutory limits from $500,000 to $2 million enacted by Congress during this period, plummeted from 817 filings in fiscal year 1973 to less than half that figure annually during each of the past 4 years:

REGULATION A STOCK OFFERINGS, CALENDAR YEARS 1973–79

	Number of filings		Amount of capital raised (millions)
	Overall	For cash	
Fiscal year:			
1973	817	393	$154
1974	438	224	78
1975	265	130	49
1976	240	123	45
1977	218	195	47
1978	242	159	61
1979	347	235	182

Source: Gross proceeds from primary regulation A securities offerings for cash, Securities and Exchange Commission, July 1980.

Firms raising capital for investment in new and small firms were experiencing similar difficulties. Over the past 10 years small business investment companies licensed by the Small Business Administration were able to raise an average of only $15 million a year in private capital.

DECLINE IN INDEPENDENT SECURITIES FIRMS

Another structural problem is the sharp decline of almost 40 percent in the number of independent broker-dealers during the past decade.

40-PERCENT DECLINE SECURITIES BUSINESSES IN PAST 20 YR

Year	Securities brokers
June 30, 1961 (approximation)	4,700
1965	3,755
1970	4,470
1975	2,893
1976	2,877
1977	2,772
1978	2,813
1979	2,801
1980	2,849

Source: National Association of Securities Dealers.

This independent regional and local segment of the securities industry historically has undertaken about four-fifths of all the capital raising efforts of new and small ventures.[18] The number of broker-dealers willing to "make markets," for example, who make a continuing financial commitment to buy and sell the securities of non-stock-exchange companies is even more limited. As of the end of 1979, there were only 468 "market-makers," an average of less than 10 per State. This total had also undergone a 37-percent decline since 1961.

With the natural concentration of most market makers in the most populous States, there are presently nine States with no firms and another three with only one such firm.[19]

The reduction of capital gains taxes from a maximum of 49.1 percent to 28 percent in the Revenue Act of 1978 brightened the picture considerably for new ventures and their financing specialists. Within a year, it had brought an estimated $300 million to $500 million into the venture capital field,[20] the first such major infusion of capital in a decade. This development is reflected in the upturn of above statistical tables in the past year.

Offsetting this favorable development have been many long-term trends unfavorable to small business such as increased ownership of equity securities by institutional investors—with little interest in investing in small business—and withdrawal of individual investors from the market, reducing the overall number of U.S. stockholders from 31 million to 25 million.

SUMMARY

Over the long term, we may summarize as follows:

The combination of economic, tax, and regulatory factors during the 1970's all but precluded the new and emerging companies from raising equity capital, the type they need most for growth, and these difficulties for small businesses have put a damper on the overall economy.

Capital availability for the startup and early growth phases of new and promising ventures is absolutely critical to the health of our economic system, to our ability to innovate, to compete internationally, to generate new jobs and economic growth, and to keep the doors of opportunity open to our citizens. Based upon this information, our committee found a need for a fresh treatment of this area by Federal capital formation policy. These Securities Acts amendments are addressed to these vital national requirements.

The passage of this bill signals that Congress now recognizes that smaller firms are excluded from most organized capital sources such as bond and commercial markets and cannot approach the stock market until, as the testimony before us showed, they are earning about $1 million in yearly profits. These firms have also been sealed off from investment on the part of large institutions by law, regulation, interpretation, and lack or research by financing analysts.

Because of the consequent importance of venture capital, the stringent regulation of these specialized firms has been at the center of the logjam in small business financing, which is reflected in the dearth of venture capital availability during the past decade. This, in turn, adversely impacts the total economy since small businesses account for half of all the innovations in the marketplace and a disproportionate share of new jobs, economic growth, and exports.

The new composite bill, as just passed by the Senate, is therefore a landmark in the annals of small business and capital formation. Parallel efforts over 2 years in the Consumer Protection and Finance Subcommittee of the House Commerce Committee resulted in the approval of H.R. 7554 by the full House of Representatives.

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If we can, by the enactment of this far-reaching legislation, gain agreement by the regulators at the SEC, the small business community, the Senate, and the House, it will, in my view, be a major achievement. The stranglehold of regulation will be relaxed, and the capital-raising process can be brought into the modern era. The pace of entrepreneurial activity will be quickened in the United States and all of our economy will benefit for years to come.

FOOTNOTES

[1] Senator Sarbanes introduced the bill for himself, Senators Nelson, Proxmire, Williams, Cranston, Riegle, Stewart, Mitchell, Tower, Lugar, Weicker, and Garn.

[2] The Investment Company Act of 1940; 15 U.S.C. sections 80 a-1 *et seq.*

[3] "Capital Formation—Parts 1-6", Hearings before the Senate Small Business Committee, February 8 and 10, May 15, September 21, 1978; May 22, 1979, March 3 and 5, and April 7, 1980.

[4] "Federal Securities Laws and Small Business Legislation", Hearing before the Securities Subcommittee, Senate Committee on Banking, Housing and Urban Development. Hearings, April 29, May 16, and June 2, 1980.

[5] The so-called "Casey Report", (after its chairman, former SEC chairman, William J. Casey), U.S. Small Business Administration, January, 1977.

[6] "Capital Formation—Part 1", Hearings before the Senate Small Business Committee, February 8, and 10, 1978, pages 5–54.

[7] "Small Business Financing—The Current Environment and Suggestions for Improvement", National Association of Securities Dealers, May 22, 1979.

[8] Arthur D. Little, Inc., Spring, 1980.

[9] "Initial Public Offerings of Common Stock: The Role of Regional Brokers-Dealers in the Capital Formation Process," Phase 1 report, U.S. Small Business Administration and U. S. Securities and Exchange Commission, March, 1980.

[10] "The Slowdown in Productivity Growth: Analysis of Some Contributing Factors," by J. R. Norsworthy, Michael J. Harper, and Kent Junze, Brookings Papers on Economic Activity, 2:1979, pages 387, at 390.

[11] *Dynamic Economics*, by Burton H. Klein, Harvard University Press, 1977.

[12] "Small Business and Innovation", Report of the Senate Small Business Committee, Sen. Rept. 95–1413, Dec. 28, 1978.

[13] "Small Firms and Federal Research and Development", Report of the Office of Procurement Policy, Office of Management and Budget. Executive Office of the President, March 10, 1977, Introduction.

[14] "The Job Generation Process", by David L. Birch, M.I.T. Program on Neighborhood and Regional Change, Cambridge, Mass., 1979, page 8.

[15] "Small Enterprise in the Economy", Small Business Administration, July 1976.

[16] "Small Business and the Quality of American Life", and numerous articles therein cited, Committee Print, Senate Small Business Committee, November 7, 1977.

[17] *Business Week*, October 17, 1977, page 63.

[18] "Initial Offerings of Common Stock", loc. cit., footnote 7.

[19] "The Nationwide Distribution of NASDAQ Companies and NASDAQ Market Makers", the NASDAQ OTC Securities Fact Book, National Association of Securities Dealers, Washington, D.C. 1978. A Small Business Committee bill addressed to this problem, S. 1967, is now pending as a part of H.R. 5829, as approved by the Senate Finance Committee on Aug. 21, 1980.

[20] "Reduction of Tax on Capital Gains Spurs Investment", Letter to the *Wall Street Journal*, by Edward I. O'Brien, President, Securities Industry Association, October 31, 1979.●

COLORADO NATIONAL FOREST WILDERNESS ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the distinguished minority leader. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 996, H.R. 5487.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5487) to designate certain National Forest System lands in the States of Colorado and South Dakota for inclusion in the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. DOMENICI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. Mr. President, I hope I do not have to object. I have been objecting for quite some time to bringing this bill up, but I wish to avoid that and let this measure proceed with dispatch.

I wish to discuss this matter with the distinguished Senator from Arkansas who is the chairman of the subcommittee that has jurisdiction here in the Senate.

I think the good Senator from Arkansas knows that New Mexico, through both of its Senators, and with full concurrence of the Governor of our State, introduced a wilderness bill. It is Senate 2583. The Senate committee has had full hearings on the New Mexico bill, and it was my hope that I could attach a New Mexico wilderness bill to this measure. But I understand it has not had any hearings in the House, and I truly do not want to cause the Colorado measure, which will have a couple of other States attached that are not significant wilderness areas but nonetheless will be attached, I do not intend to cause that to die in the House. But I need some assurances here. I have discussed it with Senator BUMPERS.

The New Mexico bill is ready to go, as I indicated, and I could have attached it as an amendment.

The Energy and Natural Resources Committee might very well have an opportunity, Senator BUMPERS, to mark up some measures that are pending before it before we go out to our prior-election recess, so I would, first, want to ask you, Senator BUMPERS, it is my understanding from both the minority and majority staff that the bill, the maps, the language, all are ready, and, as chairman of the subcommittee, you told me that you would see that it was put on the calendar and reported out at the first opportunity so that it could come to the floor before we go out for this recess.

Mr. BUMPERS. The Senator is correct.

Mr. DOMENICI. In addition, I might say to my good friend from Arkansas my understanding on my issue, the New Mexico measure, is that Congressman SEIBERLING, who chairs the subcommittee in the House, will have a hearing and mark up the New Mexico bill during the lameduck session, if we have one, and I understand we are going to. He gave me that commitment, and I am sure he has no objection to my making that statement here for the RECORD that he will conduct hearings.

It would be better for all concerned if he could have the New Mexico bill before him, Senator BUMPERS, when he starts.

So I ask you in the event we cannot mark up the bill in committee in the next week or so because we cannot get a quorum or do not call a meeting, would you assist me here on the floor in attempting to call up the New Mexico bill if we obtained the assistance of majority and minority leaders, so that we could have it over in the House when they come in, so that Congressman SEIBERLING can commence his hearings during the lameduck session?

Mr. BUMPERS. As the Senator knows, I have assured him repeatedly of my desire to cooperate and get this bill out as soon as possible. I would certainly hope we could get the bill up in committee and mark it up, and I believe we can.

Of course, in order to bring it up on the floor, the Senator could offer it as an amendment to any appropriate vehicle coming up. Other than that, we could require a vote to discharge the committee from its consideration and, perhaps, I could visit with him on that because that is always a rather traumatic way to get a bill up.

But I will assure the Senator that I will do everything within reason to assist him in getting his bill out. I know how very important it is to him, and he can expect my very greatest cooperation to get it up by the best possible means.

Mr. DOMENICI. I do want to make sure that the Senate understands that I am not making an unreasonable request because, as a matter of fact, two of the amendments that are going to be attached tonight to the House bill have not come out of our committee, Senator BUMPERS. They have had no hearings and have not been——

Mr. BUMPERS. The Senator is correct. All of those amendments, as you know, were passed by the House.

Mr. DOMENICI. That is correct. What I am saying is I would not be asking you to do anything untoward or anything unreasonable because tonight we are going to agree, because I will not object, to Louisiana, South Carolina——

Mr. BUMPERS. South Dakota and Missouri.

Mr. DOMENICI. But those two have not been reported out of your and my Energy Resources Committee. I understand they are somewhat different.

New Mexico and the Rocky Mountains are the subject matter of rather extensive wilderness areas, and those two States are not. But we would not be asking you or the committee to do anything that they are not doing here tonight in the event we are delaying New Mexico, and we bring it up here on the floor in the manner you have discussed, either by attaching it to a bill or bringing it up free standing.

So if that is the case, if you will so agree, and I trust you implicitly, I want to say to my good friends from Colorado it was never my intention to deny you an opportunity to get this bill passed this year. But I want to do everything possible to make sure that ours does not drag on indefinitely.

As you know, the real problem with wilderness is not only designating them but until you do have these de facto wilderness areas that result from some legal interpretations. They are merely being studied but, as a matter of fact, thousands and thousands of acres are managed as wilderness.

It is my intention to get that issue resolved and let the House have their actual debate and discussion on it.

So with that I want to say to my good friends, Senator HART and Senator ARMSTRONG, that to the extent that I have caused you any concern and any delay, I really never intended to do anything but to do what you are doing, by leveraging and expediting yours, and I was doing what I could with respect to New Mexico and to get yours accomplished by next Tuesday or Wednesday.

I hope you understand that just as your measure is supported by the two of you, my measure is supported by the Senators from New Mexico and by our Governor.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, the bill we will take up shortly is supported by a wide variety of interests and opposed by few.

The thing I rose to comment on, I just hope the people of New Mexico have some idea of the lengths to which the Senator from New Mexico has gone to represent their interests, and if a bill gets passed for New Mexico it is going to be, in my judgment, wholly and solely and completely because he was willing to come in early and stay late and take advantage of every opportunity, even some opportunities that no one but he dreamed existed, and I compliment him and pledge to him, by the way, that if the occasion arises when I can help him get his bill out, I will do it.

Mr. DOMENICI. Will the Senator correct the RECORD after he leaves the floor because I hope he will change "if" to "when." The Senator said if, and I think the Senator really meant when.

Let me ask, does your Governor support your measure?

Maybe I should not ask.

What I was going to say was if the two Senators support theirs, I have both Senators of New Mexico, plus the Governor of the State.

Mr. BUMPERS. And the Senator from Arkansas.

Mr. DOMENICI. So I hope the Senators from Colorado would lend me their support if not by way of supporting it, if they would be accommodating because we need a little accommodating to get ours through.

Having said that, I have no objection to the Senate continuing and passing the bill here this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Colorado National Forest Wilderness Act of 1980".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Colorado possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II) of National Forest System lands in the State of Colorado and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second Roadless Area Review and Evaluation of National Forest System lands in the State of Colorado and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Colorado as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other National Forest System lands in the State of Colorado be available for multiple uses, including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, dispersed recreation, energy and mineral exploration and production, preservation of wildlife and wildlife habitat, and watershed and vegetative protection and manipulation, in accordance with the general land use and environmental laws and regulations of the United States and the State of Colorado, so that nonwilderness options are not foreclosed and that the Nation's needs for energy, minerals, timber, wildlife, national security, watershed, nonwilderness recreation, employment, and a sound economy will be addressed in a timely and environmentally sound manner.

SEC. 3. (a) In accordance with subsection 3(c) of the Wilderness Act of 1964 (78 Stat. 892), the following National Forest System lands in the State of Colorado are designated as additions to the National Wilderness Preservation System:

(1) the Big Blue Wilderness, consisting of approximately eighty-three thousand one hundred acres in the Uncompahgre National Forest, as generally depicted on a map entitled "Big Blue Wilderness Proposal", dated June 1980;

(2) the Cache La Poudre Wilderness, consisting of approximately nine thousand four hundred acres in the Roosevelt National Forest, as generally depicted on a map entitled "Cache La Poudre Wilderness Proposal", dated October 1979;

(3) the Collegiate Peaks Wilderness, consisting of approximately one hundred sixty-eight thousand acres in the Gunnison, San Isabel, and White River National Forest, as generally depicted on a map entitled "Collegiate Peaks Wilderness Proposal", dated June 1980;

(4) the Comanche Peak Wilderness, consisting of approximately seventy-one thousand four hundred acres in the Roosevelt National Forest, as generally depicted on a map entitled "Comanche Peak Wilderness Proposal", dated June 1980;

(5) the Holy Cross Wilderness, consisting of approximately one hundred thirty-four thousand acres in the San Isabel and White River National Forest, as generally depicted on a map entitled "Holy Cross Wilderness Proposal", dated June 1980: *Provided*, That no right, or right of claim of right, to the diversion and use of existing conditional water rights for the Homestake Water Development project by the cities of Aurora and Colorado Springs, shall be prejudiced, expanded, diminished, altered, or affected by this Act, and that nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said project, nor the operation thereof, or any exchange or modification of the same agreed to by the cities and the United States, acting through any appropriate agency thereof;

(6) the La Garita Wilderness Additions, consisting of approximately sixty thousand acres in the Gunnison and Rio Grande National Forests, as generally depicted on a map entitled "La Garita Additions—Proposed", dated October 1979, which are incorporated in and shall be a part of the La Garita Wilderness as designated by Public Law 88–577;

(7) the Lizard Head Wilderness, consisting of approximately thirty-four thousand two hundred acres in the San Juan and Uncompaghre National Forests, as generally depicted on a map entitled "Lizard Head Wilderness Proposal," dated June 1980;

(8) the Lost Creek Wilderness, consisting of approximately one hundred six thousand acres in the Pike National Forest, as generally depicted on a map entitled "Lost Creek Wilderness Proposal", dated June 1980: *Provided*, That the Secretary of Agriculture shall permit access by the Board of Water Commissioners of the city and county of Denver to the property owned by such city and county within such wilderness area, in the same manner and to the same extent as such access was exercised before the date of enactment of this Act;

(9) the Maroon Bells—Snowmass Wilderness Additions, consisting of approximately one hundred thousand acres in the Gunnison and White River National Forests, as generally depicted on a map entitled "Maroon Bells—Snowmass Wilderness Additions—Proposed", dated June 1980, which are incorporated in and shall be a part of the Maroon Bells—Snowmass Wilderness as designated by Public Law 88–577;

(10) the Mount Evans Wilderness, consisting of approximately seventy-three thousand acres in the Arapaho and Pike National Forests, as generally depicted on a map entitled "Mount Evans Wilderness Proposal", dated June 1980;

(11) the Mount Massive Wilderness, consisting of (A) approximately twenty-six thousand acres in the San Isabel National Forest, as generally depicted on a map entitled "Hunter-Fryingpan Wilderness Additions—Proposed", dated October 1979; and (B) of the Hunter-Fryingpan Wilderness as designated by Public Law 95–237, which shall be incorporated in and shall be a part of the Mount Massive Wilderness; and any law, map, regulation, record, or document of the United

States which refers to the Hunter-Fryingpan Wilderness shall be held to refer to the Mount Massive Wilderness;

(12) the Mount Sneffels Wilderness, consisting of approximately sixteen thousand two hundred acres in the Uncompahgre National Forest, as generally depicted on a map entitled "Mount Sneffels Wilderness Proposal", dated October 1979;

(13) the Mount Zirkel Wilderness Additions, consisting of approximately sixty-eight thousand acres in the Routt National Forest, as generally depicted on a map entitled "Mount Zirkel Wilderness Additions—Proposed", dated June 1980, which are incorporated in and shall be a part of the Mount Zirkel Wilderness as designated by Public Law 88–577;

(14) the Neota Wilderness, consisting of approximately nine thousand nine hundred acres in the Roosevelt National Forest, as generally depicted on a map entitled "Neota Wilderness Proposal", dated October 1979;

(15) the Never Summer Wilderness, consisting of approximately fourteen thousand three hundred acres in the Arapaho National Forest, as generally depicted on a map entitled "Never Summer Wilderness Proposal", dated June 1980;

(16) the Raggeds Wilderness, consisting of approximately sixty-eight thousand three hundred acres in the Gunnison and White River National Forests, as generally depicted on a map entitled "Raggeds Wilderness Proposal", dated June 1980;

(17) the Rawah Wilderness Additions, consisting of approximately forty-eight thousand eight hundred acres in the Roosevelt and Routt National Forest, as generally depicted on a map entitled "Rawah Wilderness Additions—Proposed", dated June 1980, which are incorporated in and shall be a part of the Rawah Wilderness as designated by Public Law 88–577;

(18) the South San Juans Wilderness, consisting of approximately one hundred thirty thousand acres in the San Juan National Forest, as generally depicted on a map entitled "South San Juans Wilderness Proposal", dated October 1979;

(19) the Weminuche Wilderness Additions, consisting of approximately sixty-six thousand acres in the Rio Grande and San Juan National Forests, as generally depicted on a map entitled "Weminche Wilderness Additions—Proposed", dated October 1979, which are incorporated in and shall be a part of the Weminuche Wilderness as designated by Public Law 93–632; and

(20) the West Elk Wilderness Additions, consisting of approximately one hundred thirty-one thousand five hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "West Elk Wilderness Additions—Proposed", dated June 1980, which are incorporated in and shall be a part of the West Elk Wilderness as designated by Public Law 88–577.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this Act and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

(d) The previous classifications of the Uncompahgre Primitive Area and the Wilson Mountains Primitive Area are repealed.

Sec. 4. (a) The Secretary of Agriculture shall review and within two years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

(1) the Buffalo Peaks Wilderness Study Area, consisting of approximately fifty-six thousand nine hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Buffalo Peaks Wilderness Study Area Proposal", dated June 1980;

(2) the Fossil Ridge Wilderness Study Area, consisting of approximately fifty-four thousand seven hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "Fossil Ridge Wilderness Study Area Proposal", dated December 1979;

(3) the Greenhorn Mountain Wilderness Study Area, consisting of approximately twenty-two thousand three hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Greenhorn Mountain Wilderness Study Area Proposal", dated June 1980;

(4) the Montezuma Peak-V Rock Trail Wilderness Study Area, consisting of approximately thirty-two thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Montezuma Peak-V Rock Trail Wilderness Study Area", dated June 1980;

(5) the Piedra Wilderness Study Area, consisting of approximately forty-one thousand five hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Piedra Wilderness Study Area Proposal", dated June 1980;

(6) the Sangre de Cristo Wilderness Study Area, consisting of approximately two hundred twenty-one thousand acres in the Rio Grande and San Isabel National Forests, as generally depicted on a map entitled "Sangre de Cristo Wilderness Study Area Proposal", dated June 1980;

(7) the Spanish Peaks Wilderness Study Area, consisting of approximately nineteen thousand six hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Spanish Peaks Wilderness Study Area Proposal", dated June 1980;

(8) the Vasquez Peak Wilderness Study Area, consisting of approximately thirteen thousand three hundred acres in the Arapaho National Forest, as generally depicted on a map entitled "Vasquez Peak Wilderness Study Area Proposal", dated June 1980; and

(9) the West Needle Wilderness Study Area, consisting of approximately fifteen thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "West Needle Wilderness Study Area Proposal", dated June 1980.

(b) The Secretary of the Interior and the Secretary of Agriculture shall review jointly the Wheeler Geologic Study Area consisting of approximately twenty-one thousand acres in the Gunnison National Forest, as generally depicted on a map entitled "Wheeler Geologic Study Area Proposal", dated June 1980, and within two years following the date of enactment of this Act shall report to the President and to Congress their recommendations for management of the lands in such study area. In making such review and report, such Secretaries shall consider—

(1) the natural, historical, cultural, scenic, economic, educational, scientific, energy, mineral, and geologic values of the study area;

(2) the management and protection of fragile geologic resources within the area;

(3) possible land management options or designations including national park, national monument, or national recreation area designation; addition to the National Wilderness Preservation System; special administrative designations; and management under the general laws and regulations applicable to the National Forest System;

(4) the effect of possible land management options on consumers, national security, and national, State and local economies, including timber harvest, tourism, grazing, energy, water, mineral, and other commercial activities;

(5) the need for additional mineral exploration in such area; and

(6) the suitability and desirability of permanent or temporary road or other mechanized access into the study area, with special attention to access by the elderly and the handicapped.

(c) Subject to valid existing rights, the study areas designated by subsections (a) and (b) of this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided,* That with respect to grazing of livestock and oil, gas, or mineral exploration and development activities, such study areas shall be administered according to the laws generally applicable to the National Forest System.

Sec. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Colorado and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Colorado, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Colorado;

(2) with respect to the National Forest System lands in the State of Colorado which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, areas listed in section 4 of this Act, or previously congressionally designated wilderness study areas, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or re-

maining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide Roadless Area Review and Evaluation of National Forest System lands in the State of Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 6. The Congress hereby declares that, with respect to National Forest System components of the National Wilderness Preservation System in the State of Colorado, the provisions of the Wilderness Act relating to grazing shall be interpreted and administered in accordance with the guidelines contained under the heading "Grazing in National Forest Wilderness" in Report Numbered 96–617 of the House of Representatives which accompanied H.R. 5487 of the Ninety-sixth Congress, first session.

SEC. 7. Subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned lands within the boundaries of National Forest System components of the National Wilderness Preservation System in the State of Colorado as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner shall comply with rules and regulations applicable to access across the National Forest System.

SEC. 8. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding disease or insect outbreaks, forest fires, and the use of modern suppression methods and equipment in National Forest System components of the National Wilderness Preservation System in the State of Colorado, to insure that—

(a) such policies, practices, and regulations fully conform with and implement the intent of Congress regarding forest fire, disease and insect control, as such intent is expressed in the Wilderness Act and this Act; and

(b) policies, practices, and regulations are developed that will allow timely, efficient, and cost effective fire, insect, and disease control, to provide, to the extent reasonably practicable, adequate protection of adjacent Federal, State, and private nonwilderness lands from forest fires and disease or insect infestations.

SEC. 9. Congress does not intend that designation of wilderness areas in the State of Colorado lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Mr. BUMPERS. Mr. President, the committee reported version of H.R. 5487 represents a compromise worked out over many weeks between the two Colorado Senators.

The measure would add 20 areas in the State of Colorado, totaling approximately 1,418,100 acres of national forest land, to the National Wilderness Preservation System. As reported, the bill would also designate 10 areas comprising approximately 500,000 acres as wilderness study areas.

The Colorado bill represents the fourth time that the committee has dealt with the administration's RARE II recommendations during this Congress. Bills regarding RARE II proposals have already passed the Senate affecting Alaska, Idaho, and Oregon. I am still hopeful that the California RARE II proposal can be disposed of before the Congress adjourns this year. Should all five of these measures be enacted this Congress, I think it would be an excellent step toward ultimately disposing of all of the RARE II recommendations.

I am especially pleased that language has been developed and incorporated into this proposal which I hope will resolve the so-called "release" issue regarding national forest lands not designated by the Congress as wilderness. The language included in this legislation before us today is similar to that agreed to by Senators HART and ARMSTRONG in the compromise proposal they came to the committee with last month. During markup, that language was modified to reflect the provisions agreed to in the California bill which passed the House on August 18. I commend my colleagues from Colorado as well as Congressmen SEIBERLING and FOLEY for their efforts in resolving this difficult issue.

I ask unanimous consent that a table summarizing the differences between the various proposals be printed.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF COLORADO WILDERNESS DESIGNATION PROPOSALS

	Committee substitute	House-passed H.R. 5487	Hart, S. 2123*	Armstrong, S. 2741	Administration	State
Big Blue[1]	83, 100	100, 000	83, 100	96, 000	59, 500	59, 500
Cache La Poudre	9, 400	9, 400	9, 400	9, 400	9, 400	9, 400
Collegiate Peaks[2]	168, 000	155, 000	184, 200	154, 000	193, 500	193, 500
Comanche Peak	71, 400	59, 500	73, 300	59, 500	74, 000	74, 000
Holy Cross	134, 000	101, 400	131, 500	97, 000	121, 400	132, 900
La Garita additions	[3] 60, 000	[3] 60, 000	[3] 60, 000	[3] 60, 000	122, 000	[3] 72, 800
Lizard Head[4]	34, 200	40, 000	34, 400	40, 000	19, 000	19, 000
Lost Creek	106, 000	0	71, 000	71, 000	71, 000	71, 000
Maroon Bells-Snowmass additions	100, 000	101, 500	101, 500	85, 000	109, 100	109, 100
Mount Evans	73, 000	74, 000	74, 000	74, 000	74, 000	74, 000
Mount Massive[5]	26, 000	26, 000	26, 000	26, 000	26, 700	26, 700
Mount Sneffels	16, 200	16, 200	16, 200	16, 200	16, 200	16, 200
Mount Zirkel additions	68, 000	68, 800	86, 600	42, 500	113, 000	76, 600
Neota	9, 900	9, 900	9, 900	9, 900	9, 900	9, 900
Never Summer	14, 300	14, 900	25, 300	10, 000	14, 900	14, 900
Raggeds	68, 300	67, 000	70, 600	61, 100	61, 100	61, 100
Rawah additions	48, 800	48, 900	48, 900	48, 900	49, 200	49, 200
South San Juans[6]	[7] 130, 000	130, 000	162, 800	75, 000	134, 000	159, 000
Weminuche additions	66, 000	66, 000	66, 000	66, 000	66, 000	66, 000
West Elk additions	131, 500	130, 000	133, 500	119, 000	150, 000	131, 500
Buffalo Peaks	(56, 900)	0	0	0	56, 900	56, 900
Fossil Ridge	(54, 700)	0	(54, 700)	0	0	54, 700
Greenhorn Mountain	(22, 300)	0	0	0	22, 300	22, 300
Montezuma Peak-V Rock Trail	(32, 800)	0	0	0	0	0
Piedra	(41, 500)	0	0	0	41, 500	41, 500
Sangre de Cristo	(221, 000)	0	0	0	221, 000	221, 000
Spanish Peaks[8]	(19, 600)	0	0	0	19, 600	19, 600
Vasquez Peak[9]	(13, 300)	0	13, 300	9, 500	13, 300	13, 300
West Needle	(15, 800)	0	0	0	15, 800	15, 800
Wheeler Geologic Area	(21, 000)	11, 000	33, 000	11, 000	0	(58, 900)
Hermosa	0	0	0	0	75, 600	75, 600
Kannah Creek	0	0	0	0	30, 200	30, 200
Pawnee	0	0	0	0	12, 800	0
Platte River	0	0	0	0	800	800
San Miguel	0	0	0	0	0	30, 200
Service Creek	0	0	0	0	0	46, 900
Tabeguache	0	0	0	0	7, 800	7, 800
Total, wilderness area	1, 418, 100	1, 278, 500	1, 481, 900	1, 228, 000	2, 028, 600	2, 082, 900

[1] The name used in S. 2123 and S. 2741 for this area is Uncompahgre. This area includes the administration's recommendations for 2 separate wilderness areas: Big Blue and Courthouse Mountain.

[2] The name used in S. 2123 and S. 2741 for this area is Collegiate Mountains. The name used in the House bill and in the administration and State government recommendations is Elk Mountain-Collegiate.

[3] See related entry for Wheeler Geologic Study area.

[4] The name used in S. 2123 for this area is Wilson Mountains. This area includes the administration's and State government recommendations for 2 separate wilderness areas: Dolores Peak and Mount Wilson.

[5] The name used in the House bill for this area is Hunter-Fryingpan additions.

[6] The name used by the administration for this area is Gunsight Pass.

[7] See related entry for Montezuma Peak-V Rock Trail wilderness study area.

[8] The name used by the administration for this area is Wahatoya.

[9] The name used by the administration and State government and S. 2123 for this area is St. Louis Peak.

*These figures have been recalculated since S. 2123 was introduced and in some instances differ slightly from the figures used in the bill.

Note: All acreages are approximate. Figures in parentheses indicate wilderness study areas.

Mr. BUMPERS. Mr. President, on behalf of Senators EAGLETON and DANFORTH——

Mr. HART. Mr. President, will the Senator withhold 1 minute?

Mr. BUMPERS. I will be happy to.

Mr. HART. Both Senators from Colorado have agreed to two amendments to the principal bill here, and I do not know what the proper order would be, but it seems to me we might offer those amendments, if it is agreeable, before the other States are added, if that is agreeable to the floor manager.

Mr. BUMPERS. It certainly is agreeable to me. The sequence of amendments is immaterial to me.

Mr. HART. Perhaps the Senator from Arkansas will proceed. I did not mean to interrupt.

The PRESIDING OFFICER. Is there an amendment?

UP AMENDMENT NO. 1664

(Purpose: To designate certain lands in Missouri as wilderness)

Mr. BUMPERS. Mr. President, on behalf of Senators EAGLETON and DANFORTH I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for Mr. EAGLETON and Mr. DANFORTH, proposes an unprinted amendment numbered 1664.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, at the end thereof, add the following new section:

SEC. (a) In furtherance of the purpose of the Wilderness Act (78 Stat. 890), the following lands as generally depicted on maps appropriately referenced, dated July 1979, are hereby designated as wilderness and components of the National Wilderness Preservation System:

(1) certain lands in the Mark Twain National Forest, Missouri, which comprise about eight thousand five hundred and thirty acres, as generally depicted on a map entitled "Bell Mountain Wilderness, Proposed," dated July 1979, and shall be known as the "Bell Mountain Wilderness";

(2) certain lands in the Mark Twain National Forest, Missouri, which comprise about four thousand one hundred and twenty acres, as generally depicted on a map entitled "Rockpile Mountain Wilderness, Proposed," dated July 1979, and shall be known as the "Rockpile Mountain Wilderness";

(3) certain lands in the Mark Twain National Forest, Missouri, which comprise about eight thousand four hundred and thirteen acres, as generally depicted on a map entitled "Piney Creek Wilderness, Proposed," dated July 1979, and shall be known as the "Piney Creek Wilderness";

(4) certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand seven hundred and fifty-eight acres, as generally depicted on a map entitled "Devils Backbone Wilderness, Proposed," dated July 1979, and shall be known as the "Devil's Backbone Wilderness".

(b) As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this section with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the United States House of Representatives, and each such map and description shall have the same force and effect as if included in the Act: *Provided, however*, That correction of clerical and typographical errors in each such legal description and map may be made and such maps shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) Wilderness areas designated by this section shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(d) The wilderness study designations of the Bell Mountain Wilderness Study Area, the Piney Creek Wilderness Study Area, and the Rockpile Mountain Wilderness Study Area, as provided by the Act of October 19, 1976 (90 Stat. 2636), are hereby revoked, and the requirements of section 3 of said act are hereby declared fulfilled with respect to these areas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that two statements, one by Senator EAGLETON and one by Senator DANFORTH, be printed in the RECORD.

The statements follow:

STATEMENT BY SENATOR THOMAS F. EAGLETON

MISSOURI WILDERNESS

Mr. EAGLETON. Mr. President, I send to the desk an amendment to designate four areas in Missouri as part of the wilderness system. These areas are contained in the Mark Twain National Forest and total approximately 27,821 acres.

Bell Mountain, Rockpile Mountain, Devils Backbone, and Piney Creek have been under public review since 1976, and have wholeheartedly gained the support and enthusiasm of Missourians to be preserved as wilderness for future generations to enjoy. In 1976, Senator Symington and myself introduced legislation to establish some of these Missouri lands as wilderness study. The studies, which were overtaken by the Forest Service's Rare I and II studies, have now been completed, and recommendations have been made to Congress for the designation of these acres.

On August 3, 1979, Senator Danforth and myself introduced Senate bill 1685 to officially designate Missouri wilderness. The Senate Energy and Natural Resources Committee held subcommittee hearings on May 29th of this year. The House has passed Missouri's wilderness this year as part of H.R. 5341. I know of no Congressional opposition to the designation, and the 4 areas have support from Missouri's Governor and Department of Natural Resources.

Each of Missouri's four areas in this amendment is unique within its own boundaries. For instance, Piney Creek attracts visitors from all over the state as well as Kansas and Oklahoma to view the wintering ground of the bald eagle and blue heron. The Devils Backbone area is characterized by the rugged topography of its 6,830 acres. Wildlife is abundant and includes the ruffled grouse, which has just started to return to Missouri. Bell Mountain and Rockpile Mountain both are easily accessible to Saint Louis and feature broken ridges with unusual shut-ins, caves, and rock formations. Each wilderness is a new experience, and each changes with the seasons providing a kaleidoscope of nature.

The natural beauty of Missouri should not be dealt with recklessly; and I think the past five years of study, has taught everyone involved, that Missouri wilderness is indeed special and deserves its proper designation as wilderness, along with the other great wilderness units in states like Colorado.

STATEMENT BY SENATOR JOHN C. DANFORTH

Mr. DANFORTH. Mr. President, last August, Senator Eagleton and I introduced S. 1685, a bill that would designate four areas in Missouri as units of the National Wilderness Preservation System. These areas—Bill Mountain, Rockpile Mountain, Piney Creek and Devil's Backbone—have been recommended by the Roadless Area Review and Evaluation II program (RARE II). Their designation is not controversial.

Bell Mountain is located in Iron County, Missouri. It consists of 8,530 acres and is a part of the St. Francois Mountains, one of the oldest landforms in North America. Rockpile Mountain is also part of the St. Francois Mountains ,and contains 4,170 acres. The Piney Creek area is 8,430 acres and contains the entire drainage of Piney Creek which empties into the James River arm of Table Rock Lake. The fourth area, Devil's Backbone, is 6,830 acres.

These units represent a small fraction of Missouri's land base, and the economic impact of designating them as part of the Wilderness Preservation System is minimal. Their value as additions to wilderness area, however, is great.

In an era which places great emphasis on man-made progress, it is increasingly important that we preserve areas which only nature has touched. Anyone who has visited our nation's parklands and wilderness acreage knows their special and irreplaceable value. To set aside such areas for both present and future generations is to insure that Americans will always know the simple beauty of our land.

Mr. President, it is a privilege to live in a country with the incomparable natural resources of our own. We must guarantee that these resources are held in trust for the future. I know of no better way to do so than to set aside appropriate wilderness lands such as these.

Mr. BUMPERS. I move the adoption of the amendment.

Mr. ARMSTRONG. Mr. President, reserving the right to object—and I shall not object—I would just like to make it plain on the record that my acquiescence in this amendment and others is predicated on assurances I have received that adding these amendments to the bill will not burden the bill, they having been precleared by our colleagues in the House and passed by the House, and there is no controversy to them. So anyone who may wonder why we are prepared to accept amendments for other States, at least on my own behalf, that is the reason, we are eager to accommodate our colleagues but to do so in such a way that it does not burden the Colorado bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

Mr. BUMPERS' amendment (UP No. 1164) was agreed to.

UP AMENDMENT NO. 1665

(Purpose: To designate certain National Forest System lands in the state of South Dakota as the Black Elk Wilderness)

Mr. BUMPERS. Mr. President, on behalf of Senator McGOVERN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) on behalf of Mr. McGOVERN proposes an unprinted amendment numbered 1665.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, after line 24, insert the following:

"SEC. . In accordance with subsection 3(c) of the Wilderness Act of 1964 (78 Stat. 892), the Black Elk Wilderness, consisting of approximately ten thousand seven hundred acres in the Black Hills National Forest in the State of South Dakota, as generally depicted on a map entitled 'Black Elk Wilderness', dated June 1979, is designated as an addition to the National Wilderness Preservation System. The Secretary of Agriculture shall administer the Black Elk Wilderness in accordance with the provisions of the Act of June 5, 1920 (41 Stat. 986), and the Act of October 6, 1949 (63 Stat. 708, 709)."

Mr. BUMPERS. Mr. President, this amendment adds to the bill a 10,700 acre wilderness area in South Dakota, to be called the Black Elk Wilderness. This area has been approved by the House, as a part of the Colorado wilderness bill.

● Mr. McGOVERN. Mr. President, I am pleased the Senate is today considering the designation of 10,700 acres of RARE II wilderness in the Black Hills of South Dakota as the "Black Elk Wilderness." Similar legislation has already passed the House of Representatives, the sole difference being the name for the area which by the House's action is "Harney Peak Wilderness."

The Parks, Recreation, and Renewable Resources Subcommittee has reviewed this proposal and has the material at hand concerning its suitability for this designation. My remarks today will concentrate upon the reasons for the designation, the character of the area, and the naming of it.

The act of June 5, 1920 (43 Stat. 986) referred in this amendment along with the act of October 6, 1949 (63 Stat. 708–709) have to do with the setting aside of 34,873 acres in the Black Hills National Forest and Custer State Park as the "Norbeck Wildlife Preserve." The proposed wilderness lands are within the preserve, but the acres involved are totally Federal and are not State-owned. It is the wish of the South Dakota Congressional Delegation and the U.S. Forest Service that this wilderness be managed in a way which fosters the continuation of wildlife management within the preserve even though part of it will now be wilderness.

The purpose for which the Norbeck Wildlife Preserve was created is "the protection and propagation of wild game animals and birds." While I know of nothing in the Wilderness Act which would deny Forest Service management actions intended to further these purposes, it is important from my perspective that the wilderness legislation we are dealing with here today contain such statutory references as will assure continued management of the area for that purpose. This is important because the proposed Black Elk Wilderness is the heart of the Norbeck Wildlife Preserve.

My concern is for sufficient management flexibility as will allow for the manipulation of wildlife habitat found within the wilderness area. The two species of particular concern in this regard are Rocky Mountain goats and elk. In the case of the goats, there has been a problem with bedding areas which have become infested by some sort of parasite. For this reason, in planning overall management of the Norbeck Wildlife Preserve, the Forest Service has recommended a program of habitat manipulation which will increase the availability of bedding areas. The recommended approach is prescribed or controlled burning.

While I am informed there is no prohibition on such a management technique under terms of the Wilderness Act, I was concerned at one time language be incorporated into this designation which would statutorily authorize its use. Upon consultation with various interests I was informed that incorporating such an authorization in this legislation could have the effect of being interpreted to mean that when such an authorization is not included in a particular wilderness designation that the use of controlled or prescribed burning would not be allowed. It is certainly not my intent to foster that kind of confusion over congressional intent in designating wilderness, therefore such an authorization is not included in this instance. This is why the reference is made to earlier statutes in this amendment.

CLARIFICATION

Mr. President, on September 18, 1979, when I originally introduced the Black Elk Wilderness legislation my remarks incorporated a general description of the area surrounding the proposed wilderness which has the potential of confusing people as to congressional intent. Black Hills National Forest Supervisor James Mathers wrote to me on November 7, 1979, to say:

> The local news media recently carried erroneous information concerning the proposed . . . wilderness area. Several news accounts have indicated that both Horsethief and Sylvan Lakes are within the 10,700-acre area being considered for wilderness designation. This is not correct. Although both lakes are adjacent to the proposed wilderness area, neither is within it. The error may have originated from misinterpretation of a Forest Service description of the area which was provided to you some months ago.

Mr. President, I have examined my remarks of that date and Mr. Mather's surmise is correct. I want the record to show that these two lakes are not within the proposed Black Elk Wilderness. By letter of May 28 to Senator BUMPERS as chairman of the Parks, Recreation and Renewable Resources Subcommittee, I made available a map which clearly shows that these lakes are outside the proposed area. I hope this clears up any possible misunderstanding in this regard.

Second, there has been some concern expressed about the air quality designation the area would have. A May 4, 1979 letter from Secretary of Agriculture Bob Bergland addresses that point in saying:

> If the Norbeck area is designated wilderness by Congress it will not automatically become a Class 1 air quality area. Wilderness existing on August 7, 1977, and larger than 5,000 acres were made mandatory Class 1 areas by Congress in the 1977 Clean Air Act amendments. These wildernesses cannot be redesignated to any other Class except by Act of Congress. All other Provision of Significant Deterioration (PSD) areas were initially designated Class 2. This includes the wildernesses established after August 7, 1977, RARE II areas, etc.
>
> The Clean Air Act assigns States the authority to redesignate air classes over their lands, including those in Federal ownership, with some restrictions. Thus the Norbeck area is currently Class 2. It will remain Class 2 unless it is redesignated by the State of South Dakota.

I trust this information provided by the Secretary of Agriculture adequately answers any questions in this regard.

Finally, there may be some confusion as to why the original wilderness area proposed by the U.S. Forest Service amounted to 9,400 acres and under this legislation is expanded to 10,700 acres. By way of simple explanation, the Forest Service felt it necessary to refine the boundaries of the area using topographical features as opposed to arbitrarily drawn lines on a map. For example, if the originally drawn boundary resulted in it being along the side of a hill, the line was moved to the hill's crest. Such adjustments ranged anywhere from 500 feet to a quarter of a mile. In this way the additional acreage referred to in this legislation was picked up.

NOMENCLATURE

Mr. President, there could hardly be a less controversial RARE II wilderness proposal than this. It has the support of the South Dakota congressional delegation in the House of Representatives and has in fact already been approved by that body. It also has the support of my colleague from South Dakota (Senator PRESSLER).

The sole controversy, if in fact it can be characterized by such a strong term, is what name the area should bear. My colleague in the House, Congressman ABDNOR, has said the legislation which passed there bears the name "Harney Peak Wilderness" because it was originally suggested by the Forest Service and describes the area geographically since its most distinctive feature is Harney Peak. He has also said that he has no particular problem with naming it "Black Elk Wilderness" if that is the will of the Senate. I would like to urge my colleagues to use that name.

Nebraska's poet laureate, the late John G. Neihardt, compiled a rich body of literature concerning this area of the country and the people who occupied it before the coming of the white man and the settlers who later made their home there. Perhaps his best known work is the book "Black Elk Speaks" which was compiled from interviews he conducted with that Oglala Sioux holy man in 1931. Of that book, Vine Deloria, Jr., writes:

> Today the book is familiar reading for millions of people, some of whom have no clear conception of Black Elk's tribe, the Oglala Sioux, and others of whom do not, as a rule, even like Indians. The spiritual framework of the pipe ceremonies and the story of Black Elk's life and vision are well known, and speculations on the nature and substance of Plains Indian religion use the book as the criterion by which others books and interpretive essays are to be judged. If any great religious classic has emerged in this century or on this continent, it must certainly be judged in the company of Black Elk Speaks and withstand the criticism which such a comparison would inevitably invite.
>
> Black Elk shared his vision with John Neihardt because he wished to pass along to future generations some of the reality of Oglala life and, one suspects, to share the burden of the visions that remained unfulfilled with a compatible spirit. Black Elk might have been greatly surprised by the popularity of the book today. He could not help but be pleased by it. . . . So important has this book become that one cannot today attend a meeting on Indian religion and hear a series of Indian speakers without recalling the exact parts of the book that lie behind contemporary efforts to inspire and clarify those beliefs that are "truly Indian."

In the author's preface to the book, John Neilhardt relates his reasons for wanting to find, as he writes:

> some old medicine man who had been active in the Messiah Movement and who might somehow be induced to talk to me about the deeper spiritual significance of the matter.

As he said, he had plenty of information about the Messiah craze having culled facts from the records and old men who had lived at the time which culminated in the massacre at Wounded Knee. It had been a time of great hope and tragic disillusionment. What Neihardt sought was "something to be experienced through intimate contact, rather than to be received through telling." He found that in Black Elk—a "wichasha wakon" or holy man, priest—and from his conversations came the book "Black Elk Speaks." From that book has also come a stage production, performed here in Washington at the Kennedy Center during the "Longest Walk" of 2 years ago.

As Black Elk speaks:

> My friend, I am going to tell you the story of my life, as you wish; and if it were only the story of my life I think I would not tell it; for what is one man that he should make much of his winters, even when they bend him like a heavy snow? So many other men have lived and shall live that story, to be grass upon the hills.
>
> It is the story of all life that is holy and is good to tell, and of us two-leggeds sharing it in with the four-leggeds and the wings of the air and all green things; for these are the children of one mother and their father is one Spirit.

Mr. President, I do not ask that this wilderness area be named so much for the man Black Elk as much as I ask it be named for the vision he held in sacred trust and passed down the generations. In designating this area, Congress will be doing more than naming a part of the Black Hills for a man. We will be affirming a vision of the way life is, has been, and can be. There is hardly a better way to accomplish this than in setting aside wilderness. Yet if the name of the area must be justified by the quality of the man, it is important to let John Neihardt speak to that:

> I was deeply impressed by the scope of the man's life experience. In addition to having lived the common life of his people in the good old time as well as in the tragic and heroic years of their final defeat and degradation, from early youth he had lived in and for the world of higher values than those of food and shelter, and his years had been one long, passionate devotion to those values as he conceived them. As hunter, warrior, practicing holy man, and indubitable seer, he seemed . . . to represent the consciousness of the Plains Indian more fully than any other I had ever known; and when I became well acquainted with his inner world, I knew this to be true.
>
> In his intimate everyday family life Black Elk may fairly be described as a saint in the deeper meaning of that term, as signifying a rare form of genius. The members of his family and his friends all feel this, and the devotions shown to him by those who know him best is striking. Though a profound melancholy man, he is cheerful in all his human contacts and radiates an atmosphere of kindliness even when he sits brooding with that look of heart-break in his face that has made at least one white man love him. Surely in Black Elk we find the culture of his people in full flower.

Mr. President, in asking that this area be designated with Black Elk's name I am asking that it be done in recognition of his vision and in acknowledgment of the sacred nature of the Black Hills of South Dakota. In doing so, nothing is to be taken away from the memory of Gen. William S. Harney. The peak will still bear his name and in a sense there is something fitting that it will be the geographic centerpiece of an area bearing the name of one of the people he was sent into the Dakota territory to subdue.

Of General Harney's mission, Annie D. Tallent wrote in her history of the first 25 years of white man's presence in the Black Hills entitled "The Black Hills: or the Last Hunting Grounds of the Dakotahs":

> Prior to the year 1874, that portion of the Indian Territory known as the Black Hills, was a part and parcel of the happy hunting ground of the red man, and had for long centuries lain in an isolation almost as complete as "Darkest Africa." Up to that year none of the several expeditions sent to this Western country for the purpose of exploration or subduing the hostilities of the Indians, had succeeded individually or collectively in penetrating the mountain fastnesses of the Black Hills, with the sole exception of General Harney, who, with members of his staff, climbed the rugged peak, which was honored with that brave officer's name, and on its lofty summit unfurled our national emblem for the first time to the mountain breeze, and under its sacred folds pledged to it their allegiance and undying loyalty in numerous bumpers of sparkling champagne, as evidenced by the many empty bottles discovered on the spot by pioneers two decades later.

Mr. President, many such recreational visits have been made to Harney Peak in the last 100 years. By designating this area Black Elk Wilderness, we are in effect making an attempt to restore the wilderness character of the area or to prevent it from degenerating any further under the pressures of civilization.

The Black Hills were sacred to the Plains Indians. Christopher Sergel, the playwrite who adapted "Black Elk Speaks" for the stage put it this way in a letter to me.

> I pray that your plan for the Black Elk Wilderness will become a reality for it would send a thrilling signal of recognition to the broken and forgotten people who lived here first.
>
> The Black Hills, Paha Sapa, are holy to the ten nations of the Sioux, the Cheyenne, the Arapaho, and to many other Indian people. It was to those sacred hills that such leaders as Red Cloud, Sitting Bull and Crazy Horse went many times to seek visions and to purify themselves. The Black Hills were also the sanctuary where warring tribes would meet in peace. And to Black Elk, the Oglala holy man whose words and vision speak for all Native Americans, Harney Peak, the highest peak in the Black Hills, was the center of the world. Standing on Harney Peak in 1931 Black Elk's words recorded by John G. Neihardt, were spoken to the sky:
>
> "O Six Powers of the World, hear me in sorrow for I may never call again . . . O make my people live."

Mr. President, the Oglala military genius "Crazy Horse" once said:

> One does not sell the earth upon which the People walk.

It would seem entirely appropriate and sensitive to the people who lived here first and to the generations of their ancestors and the white settlers who followed if the Black Elk Wilderness is set aside as an "Earth upon which the People walk," for it is in walking that wilderness is to be enjoyed.

As people travel to the area, they will enter the Norbeck Wildlife Preserve, an area set aside for the benefit of resident wildlife species and in memory of that great South Dakotan—a former State legislator, Governor, and U.S. Senator—Peter Norbeck. His name and reputation as one of South Dakota's foremost conservationists will be recalled.

As they venture further, they will enter the Black Elk Wilderness and can recall the sacred nature of the Black Hills to the Indian people, its value as a spiritual retreat.

The visitor will then climb Harney Peak and can recall what happened in the intervening years, the magnet the Black Hills became and that peak especially for its scenic splendor.

In climbing Harney Peak, visitors can recall Black Elk's last visit there as recorded in the book and as related to me by John Neihardt's daughter, Hilda Neihardt Petry:

> I recall that when Black Elk had been recounting his great vision, during which he was taken in spirit to the top of Harney Peak, he said: "I wish I could go to the top of Harney Peak again before I die."
>
> "We'll go," my father replied, "as soon as we are finished with your story."
>
> And go we did. Black Elk, his son Ben, my father, my sister and I.
>
> On the way to the top, we stopped a few times so that Black Elk could rest. On one of these occasions, the old Sioux Holy Man remarked to my father, "If I have any power left, something should happen up there today." When questioned what he meant, he added: "There should be a little thunder and a little rain." You see, his power was the power of the West.
>
> We finally reached the craggy top of Harney Peak and looked in wonder out over the panorama of unspoiled beauty below us.
>
> Black Elk dressed himself as he was in his Vision, took his sacred pipe and, standing at one of the highest points on the rocky peak, faced the West and delivered his now world famous "Black Elk's Prayer." He spoke of his vision which had been given to him, of his people, the Sioux, and of all people.
>
> "The Vision is true and beautiful, and is for all people," he said.
>
> And as he spoke, what had been a clear and cloudless sky changed. Thin clouds came over the peak, and low, rumbling thunder was heard. . . . And a scant rain fell. Then the clouds left, and the day was once more bright and clear.

Mr. President, I hope I will have the support of my colleagues in naming this area after Black Elk. I ask that his prayer be printed in the RECORD at this point.

The prayer follows:

> Hey-a-a-hey! Hey-a-a-hey! Hey-a-a-hey! Hey-a-a-hey! Grandfather, Great Spirit, once more behold me on earth and hear my feeble voice. You lived first, and you are older than all need, older than all prayer. All things belong to you—the two-leggeds, the four leggeds, the wings of the air and all green things that live. You have set the powers of the four quarters to cross each other. The good road and the road of difficulties you have made to cross; and where they cross, the place is holy. Day in and day out, forever, you are the life of things.
>
> Therefore I am sending a voice, Great Spirit, my Grandfather, forgetting nothing you have made. the stars of the universe and the grasses of the earth.
>
> You have said to me, when I was still

> young and could hope, that in difficulty I should send a voice four times, once for each quarter of the earth, and you would hear me.
>
> To-day I send a voice for a people in despair.
>
> You have given me a sacred pipe, and through this I should make my offering. You see it now.
>
> From the west, you have given me the cup of living water and the sacred bow, the power to make live and to destroy. You have given me a sacred wind and the herb from where the white giant lives—the cleansing power and the healing. The daybreak star and the pipe, you have given from the east; and from the south, the nation's sacred hoop and the tree that was to bloom. To the center of the world you have taken me and showed the goodness and the beauty and the strangeness of the greening earth, the only mother—and there the spirit shapes of things, as they should be, you have shown to me and I have seen. At the center of this sacred hoop you have said that I should make the tree to bloom.
>
> With tears running, O Great Spirit, Great Spirit, my Grandfather—with running tears I must say now that the tree has never bloomed. A pitiful old man, you see me here, and I have fallen away and have done nothing. Here at the center of the world, where you took me when I was young and taught me; here, old, I stand, and the tree is withered, Grandfather, my Grandfather!
>
> Again, and maybe the last time on this earth, I recall the great vision you sent me. It may be that some little root of the sacred tree still lives. Nourish it then, that it may leaf and bloom and fill with singing birds. Hear me, not for myself, but for my people; I am old. Hear me that they may once more go back into the sacred hoop and find the good red road, the shielding tree.
>
> In sorrow I am sending a feeble voice, O Six Powers of the World. Hear me in my sorrow, for I may never call again. O make my people live!

Mr. President, it is my hope that in establishing the Black Elk Wilderness at the site of this moving prayer that the U.S. Congress will be nourishing the root of Black Elk's sacred tree—that from this site the reminder will come of man's relationship to nature and that in this small way Black Elk's vision of man's relationship to man and our destiny will take leaf and bloom and the tree be filled with singing birds. Such is the character of this special area and such is the nature of this one man's vision.●

Mr. BUMPERS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1665) was agreed to.

UP AMENDMENT NO. 1666

Mr. BUMPERS. Mr. President, on behalf of Senator Johnston, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS) on behalf of Mr. JOHNSTON proposes an unprinted amendment numbered 1666.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 27, after line 24, add the following new section—
>
> "SEC.   In accordance with subsection 3 (c) of the Wilderness Act of 1964 (78 Stat. 892), the following National Forest System lands in the State of Louisiana are designated as additions to the National Wilderness Preservation System: certain lands in the Kisatchie National Forest, Louisiana, which comprise approximately eight thousand seven hundred acres, are generally depicted on a map entitled "Kisatchie Hill Wilderness—Proposed", dated May 1980, and shall be known as the Kisatchie Hills Wilderness.".

Mr. BUMPERS. Mr. President, this amendment involves the RARE II wilderness proposal for Louisiana. It is identical to the House-passed Louisiana wilderness designations.

● Mr. JOHNSTON. Mr. President, I take great pleasure in offering to H.R. 5487 language which establishes certain lands in the Kisatchie National Forest in Louisiana as additions to the National Wilderness Preservation system. My proposed language is the same as passed the House under the patient and masterful guidance of my good friend JERRY HUCKABY. It will designate 8,700 acres as wilderness in the area initially habited by the Indians of the Caddo and Natchez groups who called it Kisatchie—meaning "long cane." The area has been tread on by the feet of Indians, Spanish and French explorers, farmers, loggers, travelers, and one very important woman, Miss Caroline Dorman, an important person because it was she who led the movement in Louisiana for a national forest. Largely because of her efforts, the Kisatchie National Forest was established in 1928.

This area is known locally as the "Little Grand Canyon." Some of my colleagues from our great Western States, may think us presumptuous for our borrowing their landmark's name but we are sure they will indulge our comparison when they remember that our largest city, New Orleans, is 5 feet below sea level. Thus the Kisatchie's 400 feet above sea level elevation represents a stark contrast in our largely coastal plains State. Creek beds running through the area, are bounded by ridges and hills that rise sharply forming cliffs pocketed by shallow caves and small waterfalls. This truly unique terrain in Louisiana supports a luscious population of longleaf pine and hardwoods.

The numerous species of wildlife and accessibility to all parts of Louisiana truly provides a wonderful recreational opportunity to our citizens.

The real value of wilderness in a developed world was best said, in my opinion, by then president of the Wilderness Society Harvey Brome in an address in 1953 honoring that great naturalist Aldo Leopold:

> Ours is the first great nation in history to be possessed of both the knowledge and means to bring about within its borders a state of permanent and harmonious coexistence with the land.
>
> Wilderness must be the cornerstone of such a world. For there are the grizzlies, the coyotes, and the deer; there are the lions and the chickadees; there are the forests and the waters, the fish and the insects; there are the humus and the soil, the prairie and marsh grasses, all living and existing in balance, in beauty and harmony. There, in the unspoiled remnants of the wild earth, spotted across our continent, man will find the basis of understanding. Then, wilderness will influence civilization and civilization will cease to alter and destroy wilderness. Then, indeed, will Thoreau's lord of creation walk as a member—and not as a fumbling outsider—in the community of living things.

A wilderness is a pocket of sanctity in a world that is sometimes too frantic to pause, to wonder, to feel, the vitality, the spirituality, of nature. I welcome Kisatchie's wilderness designation.●

Mr. BUMPERS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1666) was agreed to.

UP AMENDMENT NO. 1667

Mr. BUMPERS. Mr. President, on behalf of Senators HOLLINGS and THURMOND, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS) for Mr. HOLLINGS and Mr. THURMOND proposes an unprinted amendment numbered 1667.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 27, at the end thereof, add the following new section: Sec.   . In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore as components of the National Wilderness Preservation System—
>
> (a) certain lands in the Francis Marion National Forest, South Carolina, which comprises approximately five thousand one hundred acres, are generally depicted on a map entitled "Wambaw Swamp Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Swamp Wilderness;
>
> (b) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand nine hundred and eighty acres, are generally depicted on a map entitled "Hell Hole Bay Wilderness—Proposed", dated May 1980, and shall be known as the Hell Hole Bay Wilderness;
>
> (c) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately five thousand acres, are generally depicted on a map entitled "Little Wambaw Swamp Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Swamp Wilderness; and
>
> (d) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand six hundred and forty acres, are generally depicted on a map entitled "Wambaw Creek Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Creek Wilderness.

Mr. BUMPERS. Mr. President, this amendment involves the RARE II wilderness proposal for South Carolina. It is identical to the House-passed South Carolina wilderness designation.

● Mr. HOLLINGS. Mr. President, this amendment that I am offering today would designate as wilderness four areas located in the First Congressional District of South Carolina. These areas are contained in H.R. 5341 which passed the House of Representatives on July 1, 1980, by a vote of 324 to 82.

These four areas do not represent all the RARE II areas in South Carolina but just those of the coastal plains. Unlike the Western States, South Carolina does not have vast areas of wilderness. Since South Carolina has so little wilderness, we feel that it is imperative that we protect and preserve what is left.

Although these areas are small in size, they possess all the qualifications of wilderness and, in addition, have unique features of such appeal that they have excited great local and national interest.

The geological origin of "Hell Hole Bay"—swamp and marsh lands surrounding a grassy savanna—remains a mystery to this day. As long ago as 1840, Charleston's great naturalist, the Reverend John Bachman, wrote his friend Audubon that Hell Hole was the only place left near Charleston where bear, wolf, and cougar still survive. And today, according to Forest Service documents, the bear and cougar are thought to still exist there. Forest Service records also document a breeding colony of our rarest woodlawn warbler—the endangered Bachman's warbler in Hell Hole Bay.

Within the Little Wambaw Swamp and Big Wambaw Swamp is invaluable habitat for all manner of flora and fauna. Alteration of these areas could result in the extinction of several species in the Francis Marion National Forest. In addition, Little Wambaw Swamp offers a beautiful climax hardwood, bottomland swamp. It is an ancient forest, undisturbed and undrained for hundreds of years. In the heart of this swamp is a pure virgin stand of mature cypress, covering hundreds of acres.

Finally, Little Wambaw Creek is much smaller than some of the other areas proposed, but no less a jewel. At the heart of this wilderness is a pristine, blackwater stream that empties in the great Santee River. From this hardwood forest come most of the Francis Marion's wild turkey, black bear, and swallow-tail kites. This proposed wilderness is entirely mature hardwood-cypress swamp, with large portions of it unlogged for centuries.

I am confident that in years to come the Forest Service, timber interests, and environmentalists all will take credit proudly for the part each has played in creating these four wilderness areas. Rightly so. The establishment of wilderness in the wilderness-starved East is a privilege available only to our generation, and only at this time.

I urge the adoption of the amendment.●

Mr. BUMPERS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1667) was agreed to.

UP AMENDMENT NO. 1668

(Purpose: To revise the boundaries of Vasquez Peak Wilderness Study Area)

Mr. HART. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration. I offer this amendment on behalf of myself and my colleague from Colorado, Senator ARMSTRONG.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) for himself and Mr. ARMSTRONG proposes an unprinted amendment numbered 1668.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, lines 4 and 5, delete "thirteen thousand three hundred" and insert in lieu thereof "twelve thousand eight hundred".

On page 22, line 7, delete "June" and insert in lieu thereof "September".

Mr. HART. Mr. President, this amendment Senator ARMSTRONG and I are proposing will revise the boundary of the Vasquez Peak Wilderness study area to eliminate a possible conflict with a municipal water supply reservoir which may be constructed by the city and county of Denver. The boundary adjustment involves a deletion of approximately 500 acres, by moving the boundary of the study area slightly higher on the slope of the ridge east of Vasquez Creek.

The Denver Water Board has plans for the possible construction of a reservoir along Vasquez Creek as part of its Williams Fork water supply system. The Vasquez Creek Reservoir could possibly back water onto the edge of the study area proposed by the committee. The slight adjustment in the boundary which Senator ARMSTRONG and I are proposing would avoid this possible conflict, without affecting the integrity of the study area.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1668) was agreed to.

UP AMENDMENT NO. 1669

(Purpose: To revise the boundaries of Rocky Mountain National Park, Roosevelt National Forest, and Arapaho National Forest)

Mr. HART. Mr. President, I send to the desk an unprinted amendment on behalf of myself and Senator ARMSTRONG and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART), for himself and Mr. ARMSTRONG, proposes an unprinted amendment numbered 1669.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 5, delete "seventy-one thousand four hundred" and insert in lieu thereof "seventy-four thousand".

On page 14, line 8, delete "June" and insert in lieu thereof "September".

On page 17, line 19, delete "three" and insert in lieu thereof "one".

On page 17, line 22, delete "June" and insert in lieu thereof "September".

On page 27, after line 24, insert the following:

"SEC. 10. (a) The boundaries of Rocky Mountain National Park, the Roosevelt National Forest, and the Arapaho National Forest are revised as generally depicted on the map entitled "Boundary Adjustments, Rocky Mountain National Park," numbered 121–80,047, dated October 1, 1979, which shall be on file and available for public inspection in the Office of the Director, National Park Service, Department of the Interior, and the Office of the Chief, Forest Service, Department of Agriculture. All lands added or transferred by this Act to Rocky Mountain National Park, Roosevelt National Forest, and Arapaho National Forest shall be subject to the laws and regulations applicable to the appropriate National Park or National Forest. Lands within the Indian Peaks Wilderness Area as designated by Public Law 95–450 (92 Stat. 1099) that are transferred by this Act to Rocky Mountain National Park shall remain in the National Wilderness Preservation System. Lands within the Rocky Mountain National Park that are adjacent to the Indian Peaks Wilderness and that are transferred by this Act to the Roosevelt National Forest shall be incorporated in and become part of the Indian Peaks Wilderness.

"(b) The Secretary of the Interior, with respect to lands added or transferred by this Act to Rocky Mountain National Park, and the Secretary of Agriculture, with respect to lands added or transferred by this Act to Roosevelt and Arapaho National Forests, may acquire lands and interests in such lands, by donation, purchase with donated or appropriated funds, or by exchange. The Secretary of Agriculture, under the provisions of the Act of March 20, 1922 (42 Stat. 465), as amended, may accept on behalf of the United States title to any land in section 30, township 7 north, range 73 west, of the sixth principal Meridian which lies within the boundary of Rocky Mountain National Park as revised by this Act, in exchange for which the Secretary of the Interior, notwithstanding section 8(a) of the Wild and Scenic Rivers Act (Public Law 90–542, 82 Stat. 906), is authorized to issue patent to lands lying within the Cache La Poudre Wild and Scenic River study corridor. Upon completion of the exchange, the Secretary of Agriculture shall transfer to the administrative jurisdiction by the Secretary of the Interior the portion of such land lying within the boundary of the Rocky Mountain National Park as revised by this Act.

"(c) The Federal lands within the administrative jurisdiction of the Bureau of Land Management and within the areas referred to as E–2 and GL–3 on the map referred to in subsection (a) shall be transferred to Rocky Mountain National Park without transfer of funds.

"(d) If the City of Longmont, Colorado, notifies the Secretary of the Interior that lands within the area referred to as E–8 on the map referred to in subsection (a) of this section that are owned by such City are necessary for the development of a reservoir, the Secretary shall by publication of a revised boundary description in the Federal Register revise the boundary of Rocky Mountain National Park within such area to exclude the lands which are necessary for the development of the reservoir: *Provided*, That the authority of such Secretary to revise the boundary for this purpose shall expire on November 1, 1981; and the only lands which may be excluded are the approximately 129 acres owned by such City.

"(e) If after the completion of two complete fiscal years following the date of enactment of this Act the Secretary of the Interior has not purchased interests in the lands of approximately 1,200 acres known as the Old McGregor Ranch located within the area referred to as E-2 on the map referred to in subsection (a), and the owner of such lands petitions the Secretary to exclude such lands from Rocky Mountain National Park, the Secretary shall by publication of a revised boundary description in the Federal Register return the boundary of Rocky Mountain National Park in such area E-2 to the boundary as it existed before the enactment of this Act.

"(f) The Secretary of the Interior shall convey, to the City of Grand Lake, Colorado, without compensation or consideration, the lands, not to exceed two acres, within the area referred to as GL-5 on the map referred to in subsection (a).

"(g) The Secretary of the Interior may provide for the use of snowmobiles along the East Shore Trail of Shadow Mountain Lake if after study the Secretary determines such use will not result in any significant adverse impact upon wildlife."

Mr. HART. Mr. President, the amendment Senator ARMSTRONG and I are proposing will add to the Colorado wilderness bill a new section changing the boundaries of Rocky Mountain National Park, the Arapaho National Forest, and the Roosevelt National Forest.

These boundary changes were recommended by the National Park Service and the Forest Service following the boundary study required by the Indian Peaks Wilderness Act. This recommendation was forwarded to Congress on January 8, 1980. The proposal has been extensively reviewed, and supported, by the Indian Peaks citizens advisory committee, a group appointed by Congressman TIMOTHY E. WIRTH. The committee includes representatives of local governments, conservation and sportsmen's groups, and others interested in the national park and surrounding national forest lands.

The boundary changes include 13 separate adjustments in the boundaries between the national park and the two adjacent national forests. A primary purpose of the changes is to move the boundaries to natural features, such as ridge lines, rather than arbitrary surveyed lines, making the boundaries more easily identifiable on the ground. This will reduce confusion for the users of these lands, who often cannot tell whether they are in the national park or the national forests, but are still expected to comply with the appropriate regulations.

The boundary changes will also improve administrative efficiency for both the Park Service and the Forest Service. For example, a major mountain range separates the extreme northeastern corner of the park from the rest of the park. During half of the year, when heavy snows make this mountain range impassable, Park Service officials can only reach this part of the park by circling around the mountains through the adjacent national forests. With the boundary moved to the ridge line of the mountain range, the Park Service and the Forest Service will each be responsible for natural units which can be administered more easily.

The net effect of the 13 boundary adjustments is to transfer 1,118 acres of national park land to the national forest system.

The boundary changes on the southern edge of Rocky Mountain National Park involve some national forest lands which are now within the Indian Peaks Wilderness. These lands would be left within the National Wilderness Preservation System even though they are being transferred to the national park. Also, the lands now within the national park which are being transferred to the national forest, and which are adjacent to the Indian Peaks Wilderness, are added to the wilderness.

The amendment Senator ARMSTRONG and I are proposing includes two provisions not contained in the administration's original proposal for the boundary changes. The first change gives the Secretary of the Interior authority to make an administrative boundary change eliminating the McGregor ranch from the national park, if the National Park Service does not purchase a scenic easement applying to the ranch. The Park Service is currently negotiating with the trustees managing the McGregor ranch for the purchase of this easement. The trustees support the inclusion of the ranch within the park, but if the purchase of the scenic easement is not consummated, the trustees would have the option of removing the ranch from the park.

The second change in the administration's proposal restores a provision which was in the original recommendation made by the National Park Service and the Forest Service, but which was deleted by the Office of Management and Budget from the administration's final proposal. This provision conveys to the town of Grand Lake less than 2 acres of land currently within the national park. This land includes a portion of the intake works for the town of Grand Lake's Tonahutu Creek water supply system.

Transferring this land to the town will eliminate the need for and expenses of the Park Service's supervision of the operation and maintenance of the town's water supply system, and will reduce the number of Federal agencies the town needs to seek approval from for its water supply system. With the planned relocation of the North Inlet trailhead from this area to a new area where visitor congestion can be better managed, there is no Federal interest in the land to be conveyed to the town.

Because the boundary changes involve national forest land adjacent to the national park within two wilderness areas included in the bill, the amendment we are offering includes conforming amendments to those two wilderness proposals. With the wilderness boundaries redrawn to conform to the new boundaries between the national forests and the national park, the Comanche Peak Wilderness will contain 74,000 acres instead of 71,400 acres, and the Never Summer Wilderness will contain 14,100 acres instead of 14,300 acres.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1669) was agreed to.

Mr. HART. Mr. President, the underlying bill reported by the Energy Committee is, in my judgment, a balanced resolution of many Colorado RARE II issues. It is, in fact, a comprehensive compromise bill jointly recommended to the committee by my colleague, Senator ARMSTRONG, and myself. The bill answers, I think to our mutual satisfaction, all RARE II issues.

I believe that the people of Colorado support this package as a responsible and balanced measure reconciling the many different interests they have in the public lands of the State.

The bill, Mr. President, preserves what is most special about our magnificent State, while leaving more than adequate land available for development and other uses.

Mr. HART. The bill is an outgrowth of the Forest Service's RARE II study—the second roadless area review and evaluation. Under RARE II, the Forest Service studied, from 1977 through 1979, all possible wilderness areas in the Nation's Forest System. In Colorado, the inventoried areas totaled almost 6.5 million acres. During the review of these areas, they were managed to protect their wilderness character. At the completion of the study, at the President's directive, the Department of Agriculture lifted this freeze on most of the RARE II lands, returning them to nonwilderness management.

In Colorado, two-thirds of the total lands—about 4.2 million acres—were allocated to nonwilderness. The administration recommended wilderness designation for slightly more than 2 million acres. The remainder, about 235,000 acres, were set aside for further planning, to gather more information before a final determination is made on their wilderness suitability.

In the 16 months since the administration made its wilderness recommendations, I and my staff have worked long and hard, reviewing critically the proposals. I know that Senator ARMSTRONG and his staff have gone through a similar process. Fortunately, we have had help from many Coloradans. Literally thousands of Coloradans have participated, directly or indirectly, in shaping the RARE II legislation. Thousands commented to the Forest Service during its review.

After the administration's recommendations were announced, Colorado's Gov. Richard D. Lamm conducted his own extensive review of the most controversial areas. As part of the Governor's review, State officials held numerous public meetings throughout the State in which hundreds of people participated. Other groups, including especially Club 20, have held various public meetings to discuss the RARE II proposals.

In my own review of the RARE II recommendations, I have had direct contact with as many Coloradans as possible. I and my staff have met personally with dozens of groups representing different users of the public lands as well as with hundreds of interested individuals.

This extensive public involvement has paid off in two ways. First, the legislation is much better because of the close public scrutiny it has undergone. The additional public and congressional review since the Forest Service RARE II study was completed has led to many refinements in the administration's proposals.

Second, the willingness of so many Coloradans to move beyond their own narrow interests and help develop a common Colorado position has greatly increased the influence of our State on the final legislation. There is certainly a broad national interest in the protection of Colorado's wilderness lands. But even more certainly, Coloradans have more at stake in these wilderness decisions than other Americans do. By helping to develop a responsible Colorado solution, Coloradans have insured that we have the leading voice in the final decisions on these lands in our State.

The bill developed by Senator ARMSTRONG and myself and approved by the committee represents this accommodation of the different views held by Coloradans.

I have been impressed by how important our unspoiled mountain areas are to Coloradans. Our State is a magnificent one in many respects, but many Coloradans think first of our mountains when they think of the State. As our cities become more crowded and polluted, as we develop more of our resources to meet ever-growing needs, the preservation of a decent share of the relatively few remaining unspoiled areas becomes even more important.

The preservation of these areas is not just important to satisfy people's romantic or esthetic desires. It makes economic sense. Because Colorado's spectacular mountains are so unique, outdoor recreation is now our State's fourth largest industry, generating about $1 billion each year. While not all of this is directly tied to wilderness preservation, surprisingly much of it is. Last year, over 1 million sportsmen spent more than $400 million while hunting and fishing in Colorado. Most of the fish and wildlife sought by the sportsmen can only survive if sufficient unspoiled wild habitat is preserved.

For instance, Colorado has by far the Nation's largest elk population—and the greatest number of elk hunters. Wilderness designation is important to give necessary protection to the calving areas and other habitat the elk needs to survive.

Of course, most of the reasons Coloradans want wilderness preservation cannot be reduced to simple economic terms. It is difficult to measure the value of watershed protection that preserves the quality of the water we eventually drink. And it is impossible to measure accurately the value of a view of an unspoiled mountain range, of a glimpse of a mountain lion disappearing into the forest, of a quiet afternoon beside an alpine lake. For all these and many more reasons, Coloradans have increasingly come to support wilderness designations guaranteeing the preservation of their mountains.

But these are not the only values and interests Coloradans have expressed to me in our discussions about RARE II. They recognize that our national forests—famous as "the land of many uses"—serve many purposes, many incompatible with wilderness designation. The national forests provide opportunities for skiing and riding over jeep trails, as well as backpacking and hunting. The national forests also provide essential resources for our economy and our way of life. For example, virtually all of the timber harvested in Colorado—for houses, for lumber, for paper products—comes from our national forests.

As we move on all fronts to increase domestic energy production, the national forests will be turned to for their share of the oil, gas, coal, and uranium our Nation needs. Colorado's national forests are also important for the hardrock minerals they contain, including a large portion of the Colorado mineral belt, with its combination of molybdenum, gold, silver, tin, zinc, and other minerals. And, since they contain many of the headwaters of Colorado's several major rivers, the national forests are important sources for the water that must be stored and used to meet our growing needs.

The bill Senator ARMSTRONG and I prepared carefully balances these different interests Coloradans have in the national forests. Further, our agreement makes possible enactment this year of legislation resolving the Colorado RARE II issues. Most Coloradans want RARE II resolved this year. The question of which lands in the State will be designated as wilderness has been unresolved since 1977 when the Forest Service began the RARE II study. Although this bill will not answer for all time the question about which lands will receive wilderness protection, the bill is likely to be the most comprehensive Colorado wilderness legislation Congress will ever pass.

Together, the bill and the committee report accompanying it represent congressional action on the administration's recommendations for each of the 36 areas recommended for wilderness designation. Twenty-two of these areas are designated as wilderness. (In two instances, Big Blue and Lizard Head, two small areas recommended by the administration are combined into a larger single area.) The bill also designates for more detailed study seven other areas recommended by the administration, and two other possible wilderness areas.

The committee report expresses the congressional decision to reject the administration's recommendations that six other areas should be designated as wilderness, thereby returning these areas to the regular nonwilderness management process. And the bill includes policy provisions resolving the issue of "release" of nonwilderness lands and other issues associated with the RARE II process and wilderness designation.

The most important part of the bill is the wilderness designations. The bill will add 14 new areas to the National Wilderness Preservation System and will expand 6 existing wilderness areas. These 20 areas total about 1.42 million acres. This total is about 140,000 acres larger than the House bill. The bill will more than double the current amount of congressionally protected wilderness areas in Colorado, which now total 1.1 million acres.

The new wilderness areas include the most magnificant parts of the Colorado Rocky Mountains. In the 20 new wilderness areas, there are at least 23 peaks higher than 14,000 feet; about 140 higher than 13,000 feet; and about 200 higher than 12,000 feet. Well over half the acreage is above timberline. There are more than 400 alpine lakes, each larger than 1 acre. The new wilderness areas also include major stretches of the Continental Divide National Scenic Trail, established by Congress in 1978.

As one writer has said, wilderness without wildlife is just scenery. The wilderness being designated by this bill certainly includes spectacular scenery, but it also includes much more. The 1.42 million acres includes some of the most important wildlife habitat in the State. Among the wilderness-dependent species in these areas are: Elk, mule deer, mountain goats, bighorn sheep, mountain lions, grizzly and black bears, wolverines, lynx, bobcats, pine martens, and fishers.

The boundaries of all 20 new wilderness areas have been carefully drawn to accommodate the specific interests of Colorado's conservationists, ranchers, miners, and other users of the public lands. We have taken great pains to include in the wilderness areas lands with particularly high wildlife and other wilderness-related values, and to exclude from the wilderness areas lands best left in an unrestricted status.

The new wilderness areas include four larger than 100,000 acres.

The Collegiate Peaks Wilderness, at 168,000 acres, will be the largest new wilderness. Straddling the Continental Divide, this area by itself includes eight peaks higher than 14,000 feet and about 60 higher than 13,000 feet. Primitive recreation use of this area is higher than any other national forest area in the Rocky Mountains. During the Forest Service's RARE II process, more individuals commented in favor of wilderness designation for this area than for any other area in the Rocky Mountain region.

The committee proposal for this area is 13,000 acres larger than the area in the House bill. The Senate bill restores half of the larger northeastern area the House bill deleted from the administration proposal. The area being restored in the Senate bill includes La Plata Peak, the fifth highest mountain in the State, and other important wild lands which deserve preservation.

The Holy Cross area, containing 134,000 acres, will be an important addition to the wilderness system. This spectacular area is a short drive west of the Denver metropolitan area, and is heavily used by backpackers, crosscountry skiers, hunters, and other outdoor recreationists. The area includes more than 25 peaks over 13,000 feet in elevation, including the famous Mount of the Holy

Cross, which tower over glacial lakes, streams, and valleys. The area includes an unusual diversity of natural ecosystems, including alpine tundra, Engelmann spruce forests, and lush lowland meadows.

The bill includes a statutory exemption allowing construction and operation of the Homestake water project planned by the cities of Colorado Springs and Aurora. This water project will supply water which is necessary to meet the future municipal needs of these growing cities. Recognizing the important wilderness values of the Holy Cross areas, the project sponsors already are designing the project to reduce its interference with those wilderness values. For instance, access for construction within the wilderness will be by helicopter, horseback, or through underground tunnels; and the water will be diverted through a system of diversion structures designed to blend into the natural environment as much as possible and of underground conveyance tunnels.

The Lost Creek area is included in the committee bill as an addition to the House bill. This area of 106,000 acres, along the Front Range received more public support for wilderness designation during RARE I than any other area in the country. The area contains some of the most spectacular mountain formations to be found in Colorado, and is home for the Tarryall herd of bighorn sheep, the largest in the State. The close proximity of this area to the Denver metropolitan region provides an opportunity for recreation in an unspoiled environment, meeting the needs of the metropolitan population of more than 1 million people.

The South San Juans area of 130,000 acres contains some of the most rugged and inaccessible country in Colorado. This has probably been the most controversial wilderness proposal in the State. The area has, among people throughout most of Colorado, strong and widespread support for wilderness designation. During the Forest Service's RARE II study, wilderness protection for this area was supported by 92 percent of the Coloradans who commented on the area.

After conducting his own review of the Forest Service's recommendation, Governor Lamm identified the South San Juans as one of the most important wilderness areas in the State. However, since passage of the House bill, local opposition has developed to the designation of the part of the area east of the Continental Divide. Most of this opposition is based on a desire to keep the area open for snowmobiling and trailbiking.

The eastern portion of the South San Juans contains some of Colorado's most important wild lands, and clearly deserves wilderness designation. This was underscored last fall, when the confirmed presence of a grizzly bear in this area indicated that the species still survives in Colorado, despite the belief that it had been extinct for most of this century. There have been numerous other, unconfirmed reports of grizzlies in the area, and the Colorado Division of Wildlife has undertaken a major study to determine the population and range of grizzlies in the area.

While there are other reasons why wilderness designation of the South San Juans is essential, the likely presence of grizzly bears is by itself sufficient reason. Grizzlies now have only the most precarious of footholds in the lower 48 United States, because they—even more than other wildlife—require vast expanses of undisturbed wilderness for their survival.

Besides designation of these four new wilderness areas larger than 100,000 acres, the bill adds 131,500 acres to the existing West Elk Wilderness and 100,000 acres to the Maroon Bells-Snowmass Wilderness. The bill also includes 10 other new wilderness areas, and 4 other expansions of existing areas, which although not as large as 100,000 acres, are still very important mountain areas which deserve protection as wilderness.

Besides the new wilderness designations, the bill also directs the Forest Service to conduct more detailed wilderness studies of 10 separate areas, totaling about 500,000 acres. Seven of these areas were recommended by the administration for wilderness designation, but since they were not included in the House bill, they have not received the same level of public and congressional scrutiny as the areas we are designating as wilderness. Classifying these areas for wilderness study will insure their protection while they remain under review.

If these areas were not designated as wilderness by the bill, nor released in the committee report, they would be left as wilderness recommendations still undergoing review by Congress. While a wilderness recommendation is pending before Congress, the Forest Service manages that area to preserve its wilderness qualities. This protection, however, is not mandated by legislation, and could possibly be ended if a future administration withdrew the recommendations or concluded that Congress was not going to accept the recommendations. Because these seven areas deserve to be protected, pending future review by Congress, Senator ARMSTRONG and I agreed to provisions in the bill requiring the Forest Service to manage the areas to protect their existing wilderness character until Congress determines otherwise. The only exemptions from this strict standard will be for livestock grazing and mining, which could continue under the laws generally applying to the national forest system.

The wilderness study section also includes two areas not recommended by the administration for wilderness. One area, of 54,700 acres, is the Fossil Ridge area near Gunnison, which the State government recommended for wilderness designation. The other area, the 32,800-acre Montezuma Peak/V-Rock Trail area, is a possible expansion of the South San Juans Wilderness.

The committee report specifically releases to the regular nonwilderness management process six areas recommended for wilderness designation by the administration. On the recommendation of Senator ARMSTRONG and myself, the committee has decided that these areas should not be designated as wilderness. The Secretary of Agriculture, in a letter to me last May, indicated that the committee report directive is a sufficient statement of the congressional decision to reject the administration's recommendations to enable the Forest Service to release these areas from their current protected status as wilderness recommendations.

The six areas being released total 143,600 acres. The areas are Hermosa, 76,000 acres; Kannah Creek, 30,200 acres; Pawnee, 12,800 acres; Platte River, 800 acres; Roubideau, 16,000 acres; and Tabegauche, 7,800 acres. These areas—by virtue of their other resources values, their small size, or public opposition to wilderness designation—are, according to the information we now have, better left in the regular National Forest System and not included in the wilderness system.

Besides the congressional decisions on the RARE II wilderness recommendations, the bill contains policy provisions addressing some issues related to the RARE II process and wilderness designations. The most important of these deals with the general subject of "release" of the areas studied under RARE II but not recommended for wilderness designation. The controversy over this issue has blocked congressional passage of additional wilderness bills.

I am pleased that the committee accepted the "release," or sufficiency, proposal developed by Senator ARMSTRONG and myself, making only perfecting language changes developed by the House Interior and Agriculture Committees in the context of the California RARE II bill. The Colorado/California language is generally acceptable to all interested parties, ranging from the Sierra Club to the Forest Service to members of industry.

The so-called release issue was the greatest initial difference between Senator ARMSTRONG and myself. After three months of hard work to resolve our differences, we agreed to limited statutory provisions addressing—but not releasing—these areas. These provisions will provide greater certainty that the Forest Service's release last year of most of the RARE II lands will not be overturned by the courts .

The provisions contained in the bill do not allocate any lands to nonwilderness, which the committee report directive will do. The statutory provisions do not prohibit future wilderness consideration. The statutory provisions do not restrict the Forest Service's management discretion.

The most important part of our compromise on this issue is to preclude two specific lawsuits which could tie up the lands which have already been released.

First, the bill includes a finding that, because of the Congressional and public review of the Colorado RARE II proposals, the RARE II environmental impact statement shall not be subject to judicial review with respect to the Colorado lands. This provision will preclude a lawsuit in Colorado comparable to the court decision in California versus Bergland, which has tied up the RARE II lands in California. In that decision the judge ruled that the RARE II environmental impact statement did not comply with the National Environment Policy Act, and froze the California RARE II lands until new environmental studies are done.

I support the National Environmental Policy Act and the concept of environmental review. I also believe that the decision in California versus Bergland is legally correct. However, even if the Forest Service's official documents do not reflect it, the extensive congressional and public review of the RARE II decision has produced adequate consideration of the environmental effects of these decisions. It would be unacceptable to bring the RARE II process to a halt now, freezing all the roadless areas in Colorado until new studies are done.

The second statutory provision would preclude another possible lawsuit which would have a similar effect. Under the requirements of recent laws the Forest Service is now preparing land management plans for all national forests. Under the law those plans are to consider all management options for each national forest.

However, the Forest Service in the preparation of those plans is not considering new possible wilderness recommendations, having decided that the RARE II study removed the need for another immediate round of wilderness reviews.

The Forest Service decision on this point is on questionable legal ground. It is likely that if a lawsuit were brought questioning this Forest Service decision, the court would rule that the laws requiring the land management plans mandate wilderness reviews as part of those plans.

The effect of such a court decision would be to tie up the lands until new plans could be completed that include a wilderness review.

To preclude this lawsuit, the bill includes a legislative declaration that the RARE II study in Colorado serves the purpose of the wilderness review which otherwise would have been included in the first round of land management plans. This provision is a legislative ratification of the existing Forest Service regulations on the initial land management plans.

This provision only applies to the first round of plans. When the Forest Service revises the plans, as they are required to every 5 to 15 years, they will still be required to consider possible wilderness recommendations, as one of options for the revised plans covering lands still qualifying for wilderness.

The release provisions also preclude a RARE III in Colorado.

The bill also includes two other statutory provisions, of less significance than the first two.

The third provision makes it clear that the Forest Service is not required to manage the nonwilderness lands in a manner intended to preserve their wilderness suitability, pending a revision of the initial land management plans. This provision was drafted to address the concern that the possibility of future wilderness reviews and recommendations would require the Forest Service to tie up all lands as de facto wilderness.

The fourth provision prohibits an additional RARE-type study of national forest lands in Colorado. The RARE I and RARE II studies served a purpose by generally identifying and comparing the wilderness qualities of national forest roadless areas. This information will continue to be useful in the future, but there is no need to go through a similar process again. Nobody wants a RARE III.

This provision will not prohibit future wilderness reviews, which would continue to be required as part of the regular land management planning process.

The bill also contains a provision stating that the Wilderness Act's provisions relating to grazing shall be interpreted and administered in Colorado wilderness areas according to the guidelines in the House committee report accompanying the Colorado wilderness bill.

The guidelines were developed under the leadership of Chairman JOHN SEIBERLING of the House Public Lands Subcommittee with the assistance and concurrence of Congressmen JIM JOHNSON and RAY KOGOVSEK, Assistant Agriculture Secretary Rupert Cutler, and representatives of conservation and grazing groups.

The guidelines are designed to provide a consistent and fair policy for implementation by Forest Service field officials of the general provisions of the Wilderness Act. Those statutory provisions allow grazing to continue in wilderness areas, and generally allow the use of motorized vehicles within wilderness areas only in emergencies. Because the Forest Service has never had a clear national policy for the implementation of these general provisions, the local Forest Service officials have been forced to develop their own interpretations of the act. These interpretations have varied widely from region to region, and even from national forest to national forest. In Colorado, in particular, the management of grazing in certain areas has been unusually strict, with activities prohibited which are routinely allowed in the national forest wilderness areas in other States.

Faced with this situation, the House Interior and Insular Affairs Committee, during the consideration of the Colorado RARE II bill, developed detailed guidelines on how the Forest Service should interpret and administer the current provisions of the Wilderness Act. These guidelines apply to all wilderness areas. The committee included these guidelines in its reports on both the Colorado and Idaho RARE II bills. In addition, the Idaho bill, which has been enacted into law, includes a statutory provision directing the Forest Service to conform its policies on grazing in wilderness areas to comply with the intent of Congress, and the conference committee report repeated the guidelines to express that intent. The Forest Service has since undertaken steps to implement these guidelines nationwide.

The provision in the Colorado bill insures that the Forest Service follows the guidelines in Colorado. The provision does not amend any of the existing general provisions of the Wilderness Act; we just want to insure that the guidelines are followed as a statement of congressional intent on how the current law should be interpreted and administered.

I ask unanimous consent that the guidelines be printed in the RECORD:

There being no objection, the guidelines were ordered to be printed in the RECORD, as follows:

GRAZING IN NATIONAL FOREST WILDERNESS AREAS

Section 4(d) (4) (2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture."

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas established in the Wilderness Act of 1964, Congress has designated some 188 areas, covering lands administered by the Forest Service, Fish and Wildlife Service, National Park Service and Bureau of Land Management as components of the National Wilderness Preservation System. A number of these areas contain active grazing programs, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress, based on solid evidence developed by testimony at public hearings, that the practical language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies, not just the Forest Service. In fact, special language appears in all wilderness legislation, the intent of which is to assure that the applicable provisions of the Wilderness Act, including Section 4(d) (4) (2), will apply to all wilderness areas, regardless of agency jurisdiction.

Further, during the 95th Congress, Congressional committees became increasingly disturbed that, despite the language of section 4(d) (4) (2) of the Wilderness Act and despite a history of nearly 15 years in addressing and providing guidance to the wilderness management agencies for development of wilderness management policies, National Forest administrative regulations and policies were acting to discourage grazing in wilderness, or unduly restricting on-the-ground activities necessary for proper grazing management. To address this problem, two House Committee on Interior and Insular Affairs Reports (95–620 and 95–1321) specifically provided guidance as to how section 4(d) (4) (2) of the Wilderness Act should be interpreted. This guidance appeared in these reports as follows:

Section 4(d) (4) of the Wilderness Act states that grazing in wilderness areas, if established prior to designation of the area as wilderness, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". To clarify any lingering doubts, the committee wishes to stress that this language means that there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness. As stated in the Forest Service regulations (36 CFR 293.7), grazing in wilderness areas ordinarily will be controlled "under the general regulations governing grazing of livestock on National Forests * * *". This includes the establishment of normal range allotments and allotment management plans. Furthermore, wilderness designation should not prevent the maintenance of existing fences or other livestock management improvements, nor the construction and maintenance of new fences or improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range."

Despite the language of these two reports, RARE II hearings and field inspection trips in the 96th Congress have revealed that National Forest administrative policies on grazing in wilderness are subject to varying interpretations in the field, and are fraught with pronouncements that simply are not in accordance with section 4(d)(4)(2) of the Wilderness Act. This has led to demands on the part of grazing permittees that section 4(d)(4)(2) of the Wilderness Act be amended to clarify the intentions of Congress. However, because of the great diversity of conditions under which grazing uses (including different classes of livestock) is managed on the public lands, the Committee feels that the original broad language of the Wilderness Act is best left unchanged. Any attempts to draft specific statutory language covering grazing in the entire wilderness system (presently administered by four separate agencies in two different Departments) might prove to be unduly rigid in a specific area, and deprive the land management agencies of flexible opportunities to manage grazing in a creative and realistic site specific fashion. Therefore, the Committee declined to amend section 4(d)(4)(2) of the Wilderness Act, opting instead for a reaffirmation of the 4(d)(4)(2) of the Wilderness language in section 5 of H.R. 5487 and for the following nationwide guidelines and specific statements of legislative policy. It is the intention of the Committee that these guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this Act, and that they be promptly, fully, and diligently implemented and made available to Forest Service personnel at all levels and to all holders of permits for grazing in National Forest Wilderness areas:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used as an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the numbers of livestock permitted to graze in wilderness would remain at the approximate levels existing at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted in those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction of new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with these guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

In summary, subject to the conditions and policies outlined in this report, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to reestablish uses where such uses have been discontinued.

Mr. HART. The bill contains three other relatively minor policy provisions.

The first provision insures that owners of private land within wilderness areas in Colorado can have access to that land, to the extent the Forest Service deems reasonable.

The second provision directs the Forest Service to review its policies on control of fire, insects, and disease in Colorado wilderness areas to insure adequate protection of adjacent property owners. Again, this is essentially a restatement of a general provision in the Wilderness Act.

The third provision prohibits the Forest Service from using the creation of wilderness areas in Colorado to restrict activities within "buffer zones" around the wilderness areas. This is not a change in policy. It is a legislative ratification of Forest Service regulations.

Mr. President, taken as a whole, this bill is a responsible and balanced resolution of the important and controversial issues related to Colorado wilderness. I urge my colleagues to approve it.

Mr. President, finally, on my behalf, I want to offer my thanks to the distinguished managers of this bill on both sides of the aisle who have worked with us in bringing this bill finally to the floor. The Senator from Arkansas, the distinguished floor manager, has demonstrated extreme courtesy and understanding of the complexities of this problem. I thank him profoundly for his cooperation.

I want to add a word of encouragement and support to the Senator from New Mexico for his concern about his own State and his efforts to resolve the difficult problems presented by wilderness and RARE II.

Mr. President, I also want to pay tribute to my colleague, who put enormous effort into the production of this bill and who committed endless hours of his own time and even more endless hours of the time of his excellent staff, particularly Mr. Paul Driessen, Mr. Robert Potts, and Mr. David Swope, who worked so diligently with him and with us in resolving what are incredibly difficult problems.

The net effect of all of this is to provide as much as possible for the people we both represent the best possible piece of legislation that we could develop. It did take considerable time. It did take an enormous willingness to understand and compromise, in the best sense of the word. I thank Senator ARMSTRONG and congratulate him for his participation in this effort and want to say publicly how much I appreciate his willingness to work to this end.

I want to add just one word of thanks to the majority committee staff, especially Mr. Tom Williams, for his hours of cooperation and also his minority counterpart, Mr. Steve Crow.

Finally, Mr. President, I wish to say a word of thanks to a member of my own staff, Mr. Stephen Saunders, who has operated throughout this measure in the finest and highest traditions of any staff member that it has been my privilege to work with or know. He has put, for all practical purposes, a year of his life into this bill. I would hate to try to add up the amount of time that his efforts represent. He has had, at all occasions, the interest of the people of our State and our Nation uppermost in his mind. He has not sought to represent a particular point of view, but to balance all the competing interests, many as they are, to reach the compromise that we presently have on the Senate floor. I want him to know how much I appreciate, on behalf of the people that I represent, the efforts that he has put into this bill.

The PRESIDING OFFICER. Are there further amendments?

Mr. ARMSTRONG. Mr. President, today the Senate is taking final action on the Colorado National Forest Wilderness Act of 1980, a bill to designate over 1.4 million acres of RARE II forest lands in Colorado as wilderness, study other RARE II lands for possible designation in the future, and address certain important policy matters.

I would like to thank Senator JACKSON, Senator BUMPERS, Senator HATFIELD, and Senator MCCLURE, and the entire committee for their interest in this legislation, and for their consideration to Senator HART and me as this bill was developed.

This Colorado RARE II bill is the product of nearly a year of hard work, intensive research, repeated and extensive contacts with numerous individuals and groups in Colorado, and many negotiations among members of the Colorado congressional delegation, to formulate this consensus legislation.

The Senate bill resolves our earlier boundary disputes and proposes to double the wilderness acreage in Colorado. The bill also includes solutions to a number of policy problems which have become more and more pressing as the size and character of Colorado's wilderness system have changed in recent years.

Under the bill, 7 existing wilderness areas are expanded; 13 new areas are created; 6 areas are released back to multiple use management; 9 areas are targeted for further wilderness review; one other area is slated for a broader review which covers wilderness and other management options; and most of the administration's other recommendations for nonwilderness and further planning are affirmed by statutory language. Altogether, 6.5 million acres—an area equal to the entire State of Maryland or 10 percent of Colorado—are affected directly by this legislation.

Some lands have been allocated to wilderness, to assure that they will be preserved largely in their natural state and protected to a greater extent than might be the case if they were not designated as wilderness. Other lands will be managed for the full range of multiple uses—including habitat protection, watershed management, possible development, and nonwilderness recreation—but will still be protected under the general land, wildlife and environmental laws which we have so carefully developed over the past decade.

With these thoughts in mind, I would like to turn to several very important issues that are an integral part of this legislation and of my decision to accept such a large increase in Colorado's contribution to the National Wilderness Preservation System. The Energy Committee report articulates our many reasons for designating these lands as wilderness, and I do not want to repeat what has already been said.

Instead, I would like to focus on some of the economic and policy issues which are involved here, and which have not yet been addressed adequately.

In recent years, we have developed some very strong ideas about the need for wilderness and a rather narrowly circumscribed definition of the "public interest."

As the committee report illustrates, we in Congress tend to go into great detail about the values of wilderness and the way the public interest is served by these wilderness designations. I have no quarrel with this. Wilderness is a highly valuable use of land: it enhances and encourages certain kinds of tourism and recreation; it provides a high level of protection for wildlife and other environmental values, as well as an important tool for scientific research; and the very existence of wilderness provides a source of comfort and inspiration for many.

It is for these reasons that I have supported wilderness designations in my own State, and in other States.

But I want to point out what has all too frequently gone unsaid, with regard to those components of the public interest that are all to often ignored in the debates, reports and votes on wilderness and other public land legislation. We have heard it said many times that there is no such thing as a free lunch. Wilderness is no exception; a price must be paid for the privilege of having a wilderness system.

Unfortunately, that price is often not mentioned, or it is greatly down-played, in committee reports and public discussions of these issues. The public is frequently lead to believe that the wilderness values far exceed the unknown or unstated nonwilderness values; that wilderness is the only way available to protect important environmental values; and that very few energy, raw material, economic, recreational, employment, and national defense issues are involved.

For example, the committee report on this bill provides many detailed reasons as to why statutory release language and many individual RARE II study areas are being proposed for wilderness designation. However, it includes virtually no discussion of critical mineral, economic, and national security issues, even though they will be greatly affected by the bill. The report also fails to discuss the various policy provisions that have been included in this consensus legislation.

The committee report adds to these problems by including a letter from the Congressional Budget Office which suggests that the economic impacts from the Colorado wilderness bill will be far lower than is really the case. That letter focuses only on Federal receipts from timber sales that now will not be held. It understates the commercial timber value of the lands involved and completely ignores impacts which the loss of this timber will have on lumber supplies, housing starts, employment, and consumers. The letter also completely ignores the energy and mineral resource opportunities foregone; the economic, trade and national security implications of these resource withdrawals; and the water development, nonwilderness recreation and other impacts involved here.

Similarly, the committee report, in my judgment, significantly understates the regulatory and other impacts, by suggesting that "the bill is not a regulatory measure" and that there will be "no impact on personal privacy." These statements obscure the fact that wilderness designation, by its very nature, creates many more prohibitions, regulations and permit requirements with respect to use of the land, and that many parcels of privately owned land are contained within these new and existing wilderness areas.

I am not suggesting that we should de-emphasize wilderness or environmental values. But I do suggest that a fairer, more balanced, more complete discussion be presented.

There are other areas of the committee report in which, on the other hand, the discussion is very complete and extremely well done. The discussion of the critical issue of release is one of these. I compliment the Energy Committee and the House Interior Committee for their excellent work on this volatile issue.

The inclusion of release language means the threat of lawsuits like California against Bergland has been significantly reduced. It means investment and land-use decisions can now be made in an atmosphere of greater certainty that decisions will not be subject to repeated administrative appeals and litigation. In other words, it means that RARE II will, in fact, result in some long-lasting decisions about how these National Forest System lands will be managed.

This statutory release language also means the majority of Colorado's RARE II lands which are not being designated as wilderness by this legislation will be released from further wilderness study management, and will be managed under the general land-use and environmental laws which we have so carefully crafted during the past decade. These laws will insure that the nonwilderness lands will continue to be protected even as they are made available for other potential uses and, in most cases, will still be suitable for wilderness designation in the future, even if portions of them are opened to various development activities in the meantime.

Of course, statutory release language does not mean wilderness options are foreclosed. Congress can always reconsider this year's decisions and, under the land management planning process, the Forest Service and the Department of Agriculture can and will again review the wilderness options as they develop new forest plans under the Resources Planning Act.

What statutory release language does mean is that important nonwilderness option—energy, mineral, recreation, timber, watershed, ranching and wildlife management—will not be foreclosed to this and future generations.

I would like to conclude my comments here today by addressing some of the other policy issue and the reasons these provisions were included in the bill:

A. MINERAL ACTIVITIES IN FURTHER REVIEW AREAS

One of the reasons decisions were not made to release or designate nine of the Colorado RARE II areas is that, in part because of Forest Service restrictions on energy and mineral exploration during the RARE II process, not enough information is available on subsurface values at this time. The language in section 4(c) of the bill recognizes that this information is essential if Congress and the public are to make informed decisions that are in accord with the overall public interest and that take into account the trade-offs involved in designating the areas as wilderness. The language also recognizes that exploraton is the only way to acquire this information.

A further reason the language was included is that the vast majority of the Colorado RARE II areas, including most of these further review areas, lie within what is known as the Colorado mineral belt. This belt has high to extremely high potential for many energy and metallic minerals that are vital raw materials for the manufacture of many items important to national security and America's consumers.

At the same time, I wish to point out that our general land and environmental laws will insure that any mineral activities will be conducted in a manner which does not cause unnecessary harm to surface values, or make the areas unsuitable for possible wilderness designation.

There is also implicit recognition that many of the areas being designated as wilderness by this bill have had roads, mines, dwellings, clearcuts and other human activities in them in the past but, because man and nature have reclaimed the areas, they are now suitable once again for wilderness designation. (Examples include the proposed Rawah, Maroon Bells, South San Juans, Holy Cross wilderness areas.) This suggests that any new impacts, resulting from these authorized activities, will also be reclaimed to a similar degree, so that wilderness designation will remain a viable option.

B. GRAZING LANGUAGE

I am pleased to note that the Forest Service has been making efforts to review its existing policies toward grazing in wilderness areas, so as to eliminate the problems that have plagued Colorado's ranching community for years. However, as a May 12 letter from Assistant Secretary of Agriculture M. Rupert Cutler to Congressman John Seiberling indicates, legal questions still exist as to possible conflicts between grazing guidelines contained in House Report 96-617 and section 4(c) of the 1964 Wilderness Act.

Thus, there are still questions as to the Forest Service's ability, especially in the face of an administrative or district court challenger, follow all the provisions of these guidelines.

This statutory language is intended to make it clear that it is Congress intent that grazing continue, that past problems and conflicts be eliminated, and that the guidelines be followed in those cases where apparent conflicts exist between the guidelines and the Wilderness Act. The language will help insure that the guidelines, so carefully worked out by the House Interior Committee, can and will in fact be followed.

I should perhaps point out that this statutory language does nothing which the guidelines do not and nothing which Congressman Seiberling felt should not be permitted. The language merely adds some statutory authority, which the May 12 letter indicates is needed.

The wilderness boundaries contained in this bill are intended to eliminate known conflicts with fences, access roads and other facilities related to grazing. However, as this language recognizes, many presently unknown conflicts may still exist. Indeed, some were uncovered only in recent weeks, and others are noted on some topographic maps but not others for the very same areas (that is, the Rawah and West Elk areas).

In addition, the House report guidelines also cover grazing activities, in addition to actual physical facilities. This statutory language will help insure that those activities are also protected, and that Colorado's ranchers will no longer encounter the frustrations, problems and economic hardships that caused the House Interior Committee to draft the guidelines in the first place.

C. ACCESS LANGUAGE

This language is virtually the same as that incorporated in the Senate-passed Alaska lands legislation. It reaffirms that reasonable rights of access to private inholdings must be provided.

Such language is especially important today because: First, the present bill designates so much additional land as wilderness; second, much of this new wilderness land is located in lower elevations closer to civilization and human activity, is less "pristine" and contains many more private inholdings than do previously designated wildreness areas; and third, a June 23, 1980, Attorney General's opinion has suggested that the Federal Government does not necessarily have to grant access. As should be clear to all concerned, this access question is one of critical concern to many westerners.

D. FIRE, DISEASE, AND INSECT CONTROL

This provision—like those dealing with grazing, access and buffer zones—recognizes that today's National Wilderness Presevation System is far larger than the one Congress originally envisioned and vastly different in other ways, as well. Many of the new Colorado wilderness areas are found at lower elevations, include more private inholdings, and are much closer to homes, mountain communities, mine sites, and State, Federal and private commercial forest land.

For these reasons, new policy directions are essential.

As to the fire, disease, and insect control provision, I am concerned that present Forest Service policies and practices may be too restrictive with regard to the use of mechanized equipment, detection devices, and suppression techniques, in view of the proximity of many of the new wilderness areas to the human facilities and activities noted above. There is also a growing concern that present policies and regulations do not adequately address the occasional need to control insect and disease outbreaks, which can often be just as destructive as forest fires.

This language is intended to insure that these policies are reviewed and, if necessary, amended to guarantee that neighboring nonwilderness lands are adequately protected from the ravages of fire, disease, and insect outbreaks that originate in wilderness areas.

E. BUFFER ZONE LANGUAGE

In this provision as well, there is an implicit recognition that wilderness areas are now closer than ever before to various human activities and structures. Furthermore, in many cases, the boundaries of these new Colorado wilderness areas were drawn in such a way as barely to exclude structures, roads, grazing activities, proposed mines, important mining claims and energy development areas, highly valuable commercial timber land, nonwilderness recreation areas, and other nonwilderness values.

We do not intend that "buffer zones" be created around Colorado's wilderness areas. We were also concerned that, without language like this, problems may arise with regard to ongoing and proposed activities near these wilderness areas.

There are already indications that efforts will likely be made in the near future to restrict or stop activities outside of wilderness areas, on the ground that the activities can be seen or heard by persons hiking in the wilderness, or even standing on a mountaintop within a wilderness area. These indications include: An incident involving a ski area operator who was told part of a lift could not be built, because it would be visible from an adjacent wilderness area; the case of Sierra Club against Parker, which originated in Colorado; and recent letters from various Colorado wilderness organizations, which appear to support the concept of buffer zones.

This language gives a statutory basis for what is already general Forest Service policy. It is designed to protect the Forest Service and users of nonwilderness areas from legal actions through our courts and Federal agencies, and to provide a reasonable degree of certainty or predictability as to congressional intent and land management policies.

F. FURTHER REVIEW OF SPECIFIED AREAS

I believe it is also important to clarify further the congressional intent and legislative history on section 4, regarding the "further review" of certain specified areas. This review is not intended to be a duplication of land management plans already in progress in the national forests of Colorado.

It should be clear, as is indicated in the committee report on the bill, that the Forest Service's further review of the 10 study areas listed in this section should take place in conjunction with and as part of the land management planning process which is required under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

It is neither our intent nor our desire to cause duplicate wilderness studies to be conducted on these 10 areas. Such reviews should be conducted as part of the overall land management planning process and not be seperate and distinct studies, at least insofar as this is possible, considering forest planning schedules and other factors.

This is a well balanced bill. It designates large additional tracts of national forest land as wilderness; includes examples of land forms and ecosystems not already in the National Wilderness Preservation System; and protects some of our most valuable land, wildlife, and environmental values to a greater extent than would be possible in the absence of wilderness designation.

But at the same time, this legislation also addresses a number of very valid nonwilderness concerns which have been raised repeatedly by many westerners. These include release language and statutory provisions regarding access, grazing, fire and insect control, buffer zones, and the conduct of continuing wilderness reviews in the State of Colorado.

These provisions address problems which have become more and more serious as our wilderness system has grown in size and changed in character. Had these provisions not been included in the Colorado bill, I would not have been able to support such a large increase in my State's wilderness acreage. But, in the long run, I think these policy provisions will result in a much better National Wilderness Preservation System, and one which creates far fewer unintended side effects—side effects which will be felt much more strongly in the Western States, where the overwhelming majority of our Nation's wilderness areas are located.

Mr. President, this bill is a compromise. For more than a year, my colleague, Senator Hart, and I have worked with our counterparts in the House and with literally hundreds of interested individuals and groups to draft a bill which is reasonably, if not completely, satisfactory to all concerned. Thanks to the patience and skill of my colleagues and their staffs, I believe we have succeeded in doing so.

Mr. President, it is extraordinarily tempting for me on this occasion to speak at some length. I will not do that because it will serve no useful purpose.

This is a very, very satisfying moment to me personally and I think it must be to those people in the State which I represent who are knowledgeable of the situation because tonight we are passing a bill which, if enacted, if it gets through the conference committee and is repassed by both Houses and signed by the President, as I fully expect it will be, can have a tremendous and beneficial effect on the people in our States. It is, as my colleague (Mr. Hart) has described it, a bill which balances well the competing interests within our State. I think it is truly a credit to the process which has produced it.

I want to join with my colleague (Mr. Hart) in complimenting the distinguished chairman of the subcommittee, the Senator from Arkansas, and publicly thank him as I have privately for his faithfulness in addressing himself and the committee to this task, for his interest in the problems of the State of Colorado, for his patience, for his willingness to hold repeated hearings on this subject, and for his skill in helping Senator Hart and me to reconcile and compose our differences.

I say to the Senator tonight as I have before in private that all of the people of our State are indebted to him for his statesmanship.

May I also respond to the kind and gracious statement of my colleague from Colorado, not only acknowledging my appreciation for his kind remarks about me, but especially the remarks he has quite properly made about members of my staff who participated in drafting this legislation.

By the same token, may I particularly compliment Stephen Saunders, Peter Gold, Larry Smith, and other members of his staff, whose expertise and dedication in producing this legislation have been not only commendable but extraordinary.

Mr. President, with that brief word, let me just again thank the committee, the staff, and all who participated, and perhaps most of all the people of my State who have, through the last year or 18 months, come forward to volunteer their ideas, to argue vigorously opposing and competing points of view, and who now, I think, in large measure, agree with my colleague, Senator Hart, and me that what we have produced is a bill that while not perfect is very much in the interest of our State.

The PRESIDING OFFICER. Are there further amendments?

Mr. BUMPERS. Mr. President, I would like to publicly thank both Senators from Colorado for all the nice things they have said about me, all of which are true. [Laughter.]

With that, I am prepared to move to final passage.

● Mr. HATFIELD. Mr. President, after months of negotiation and careful consideration, the Energy and Natural Resources Committee is in a position to recommend passage of a RARE II wilderness bill for the State of Colorado.

This proposal would designate some 1.4 million acres of national forest land in Colorado for wilderness and another 500,000 acres for wilderness study. At the same time, it would allocate over 4 million acres of land for nonwilderness multiple use purposes. These nonwilderness lands would be allocated for multiple use through a statutory release provision which is included as section 5 of this bill.

One of the key issues in implementing the RARE II program has been whether "release language" will be included in the bill as statutory language or only outlined in the committee report. As I have stated before, every legal expert familiar with this problem agrees that report language will not insulate the Forest Service from RARE II lawsuits, not even one similar to the California case and based on that precedent. Only a statutory release provision can overcome an appeal or lawsuit based on statutory law.

The Senate recognized this concept when it approved statutory release language in the Oregon Wilderness Act, S. 2031. Language in S. 2031 was specifically designed to prevent delaying lawsuits if the action was based on an allegation of insufficient wilderness review. In the Colorado wilderness bill before us today, the Senate has again addressed this problem of implementing the RARE II nonwilderness recommendations.

During committee markup of the Colorado bill, I proposed an amendment on release language to the Hart-Armstrong substitute. This release provision is similar—with only minor changes—to the language approved by the House in the California wilderness bill. These release provisions are intended to avert RARE II court attacks, prevent a RARE III study and require multiple use on lands not designated as wilderness or wilderness study in the bill.

These release provisions are further clarified by our discussions in committee and the clear and strong language in the report which accompanied the bill. Report language emphasizes that there is no planning requirement for further wilderness consideration until there is total revision of the initial plans which in almost every case, will not occur before 1993.

For the record, Mr. President, I ask that the full text of the committee report dealing with section 5 be printed in the Record.

The text follows:

5. WILDERNESS REVIEW PROVISIONS—RELEASE LANGUAGE

The Committee notes that there has been considerable public debate over the broad concept of "release legislation," dealing with management of national forest roadless areas not designated as wilderness. The Committee believes that the language contained in Section 5 of H.R. 5487—to which commodity interests, conservation groups, and the Forest Service contributed—effectively addresses that divisive debate. This language was developed in the context of the California RARE II proposal which was passed by the House of Representatives on August 18, 1980.

The members of the House Interior and Insular Affairs Committee as well as the members of the House Agriculture Committee, especially its Chairman, Mr. Foley, are to be commended for their efforts in resolving this important issue. Like the House Interior and Insular Affairs Committee, the Committee considers this language to be a general model for dealing with the "release/sufficiency" issue. The Committee expects to utilize this general approach in future bills where the matter is an issue and such language can be appropriately applied.

Section 5 of the bill addresses the issue of management and future wilderness reconsideration of national forest system roadless areas in Colorado which are neither placed into the National Wilderness Preservation System by this Act, or left in further planning as a result of RARE II, or designated for wilderness study in this Act or a previous Act of Congress.

The language of section 5 does not prescribe any particular type of management for the lands involved or allocating any land to a particular category of management. It does, however, effectively block further judicial review of the RARE II EIS, removing the possibility of certain lawsuits which could restrict management activities on all Colorado RARE II lands allocated to nonwilderness by the President.

The principal objective of this language is to lessen uncertainty over the amount and location of lands available for nonwilderness uses. The Committee believes that this added predictability is important to allow those who depend on the national forests to better estimate the availability of timber supply and other resources in the future.

JUDICIAL REVIEW

Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Statement insofar as its consideration of wilderness in more than 40 areas in the State of California was concerned. In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in *State of California* v. *Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture.

While this court decision affects only the State of California, there has been considerable concern that similar suits might be filed in other states which would seriously disrupt the management of the national forest system.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in Colorado for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Final Environmental Statement insofar as national forest system lands in Colorado are concerned is unnecessary. Therefore, the bill provides that the Final Environmental Statement is not subject to judicial review with respect to national forest system lands in Colorado.

In the course of developing this language, concerns were raised about the potential impact of the "no judicial review" language on any litigation that might arise in other states concerning the RARE II Final Environmental Statement. The RARE II Final Environmental Statement is a single statement covering all states. A separate Final Environmental Statement was not issued for each state. Therefore, some expressed concern that insulating the statement from judicial review insofar as lands in Colorado are concerned would be taken to imply that the statement was legally and factually sufficient for lands in other states. By contrast, others expressed concern that providing an exception for judicial review only after a congressional review of roadless areas in Colorado would imply that the Final Environmental Statement was deficient in states where such congressional review has not taken place. The Committee, therefore, expressly states in the legislation that it is not passing on the question of the legal and factual sufficiency of the Final Environmental Statement with respect to national forest lands in states other than Colorado. The Committee has not addressed that question and takes no position on it directly or impliedly. It should be noted, however, that the Senate has passed language similar to this regarding judicial review of the RARE II EIS in Oregon.

MANAGEMENT AND FUTURE WILDERNESS CONSIDERATION OF ROADLESS AREAS NOT DESIGNATED AS WILDERNESS, WILDERNESS STUDY OR REMAINING IN FURTHER PLANNING

The RARE II process during 1977–1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System must be considered during the planning process for those lands which may be suited for wilderness. The Forest Service is presently developing the initial, or "first-generation", plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985. As one of the goals of RARE II was to consider the wilderness potential of all national forest roadless areas, the Forest Service regulations for implementing the National Forest Management Act (36 CFR § 219.12(3), Federal Register, September 17, 1979, pg. 53988) provide that lands designated by RARE II for multiple uses other than wilderness need not again be considered for wilderness in the course of developing the "first generation" plans.

The Committee believes that further consideration of wilderness during development of the initial plans for the national forest system roadless areas in Colorado not designated as wilderness or wilderness study or remaining in further planning upon enactment of H.R. 5487 would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress. Therefore, the legislation confirms the Forest Service regulations of section 36 CFR 219.12(e) as they apply to national forest lands in Colorado and provides that the RARE II process shall be deemed to be an adequate consideration of the wilderness suitability of such lands insofar as such consideration is required in development of the initial section 6 plans.

The applicable Forest Service regulation is effectively written into statute and insulated from any judicial challenge on the ground that it is inconsistent with the NFMA.

Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are to be completed by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide for revision at least every ten years.

The bill, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it revises the initial plans and in no case prior to the date established by law for completion of the initial planning cycle, September 30, 1985. By using the word "revision," the Committee intends to make it clear, consistent with Forest Service regulations, that merely amending a plan does not trigger the need for reconsideration of the wilderness option. The wilderness option need not be reconsidered until the entire plan is completely revised. For example, if a plan were amended to take into account the building of a new power line across a corner of a forest, the wilderness option would not have to be reexamined. Only when the entire plan is revised would the wilderness option have to be reexamined, and then only after September 30, 1985.

Chief of the Forest Service Max Peterson has indicated that, in his view, most plans will be in existence for approximately ten years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with forest plans to be in effect by late 1985, the time of revision for most plans will begin in approximately 1993. In almost every case, the Committee expects that the consideration of wilderness for these roadless areas will not be reexamined until approximately 1993.

Chief Peterson has indicated that revision of plans generally would begin approximately two years before a new plan is to be put into effect. Although continuing forest inventories and other data gathering used in the plan revision process may well begin some years ahead of the actual revision, this inventorying process should not be considered a part of the revision time period. The Committee intends that the revision process should be considered to commence when the Forest Service publishes in the Federal Register its announcement of the beginning of the Draft Environmental Impact Statement process for the plan being developed.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a situation would completely frustrate the orderly management of non-wilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as widerness, wilderness study, or remaining in further planning need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of Section 6 plans is required only for those lands which may be suited for wilderness at the time of the initiation of such future planning. There is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness.

For example, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third-generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation if the particular land in question still possesses wilderness attributes. But there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

NO FURTHER STATEWIDE REVIEW

The final issue addressed by the Committee in Section 5 of H.R. 5487 pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III."

This release provision and the report language have the support of both Senators from Colorado, and I believe this language together with the other elements of the bill represents an equitable solution to the RARE II issue in Colorado.

Both Senator ARMSTRONG and Senator HART have worked diligently for months in an effort to reach this agreement. The resolution of this controversial resource issue is a tribute to their patience and genuine interest in developing a wilderness bill for Colorado. Both Senators had able assistance during this process from their personal staff. In particular, Stephen Saunders of Senator HART's staff and Paul Driessan from Senator ARMSTRONG's staff were extremely helpful to the committee during our consideration of this legislation.

I urge my colleagues to act favorably on H.R. 5487, the Colorado National Forest Wilderness Act.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5487) was passed.

The title was amended so as to read:

An act to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HART. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the following Calendar Orders Nos. 1026, 1036, 1045, 1046, 1063, 1068, and 1092.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to provide an opportunity to advise the majority leader that the seven items identified by him are cleared on our calendar and we have no objection to their consideration and passage.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the various measures be considered en bloc, that amendments, where shown, both to the measures and/or to the titles, be agreed to en bloc, that the measures then be adopted en bloc, that a motion to reconsider en bloc—I will not take that motion away from the distinguished minority leader—and the distinguished minority leader's motion to table en bloc be considered as having been agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WATER RESOURCE DEVELOPMENT

The bill (S. 3017) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following salinity control proposals:

(1) Lower Gunnison Basin unit, located in Delta, Montrose, and Ouray Counties, Colorado.

(2) Glenwood-Dotsero Springs unit, located in Garfield and Eagle Counties, Colorado.

(3) Meeker Dome unit, located in Rio Blanco County, Colorado.

(4) McElmo Creek unit, located in Montezuma County, Colorado.

(5) Uintah Basin unit, located in Duchesne and Uintah Counties, Utah.

(6) Dirty Devil River unit, located in Sanpete, Sevier, Emery, and Wayne Counties, Utah.

(7) Price-San Rafael Rivers unit, located in Carbon, Emery, and Sanpete Counties, Utah.

(8) LaVerkin Springs unit, located in Washington County, Utah.

(9) Lower Virgin River unit, located in Clark County, Nevada, and Mohave County, Arizona.

(10) Big Sandy River unit, located in Sweetwater County, Wyoming.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–938), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of S. 3017 is to authorize the Secretary of the Interior to undertake feasibility level investigations of ten Colorado River salinity control projects.

Section 8 of the Federal Water Project Recreation Act (Public Law 89–72, 79 Stat. 213) provides:

SEC. 8. Effective on and after July 1, 1966, neither the Secretary of the Interior nor any bureau or any person acting under his authority shall engage in the preparation of any feasibility report under reclamation law with respect to any water resource project unless the preparation of such feasibility report has been specifically authorized by law, any other provision of law to the contrary notwithstanding.

S. 3017 would provide the authority required by Public Law 89–72 for the feasibility grade studies listed in the text of the measure.

Section 203 of title II of the Colorado River Salinity Control Act of 1974 listed 12 proposals for salinity control in the Colorado River Basin to be studied by the Secretary of the Interior. Of the 10 projects listed in S. 3017, only the Meeker Dome project was not among the proposals in the 1974 act. S. 3017 would authorize full-scale feasibility studies of nine of the projects in the 1974 act and in addition authorize a feasibility investigation at the Meeker Dome unit.

ADJUSTMENTS OF ALLOCATION OF FEDERAL SOCIAL SECURITY TAX RECEIPTS

The bill (H.R. 7670) to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–946), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The Social Security Act provides for the creation of three separate trust funds into which payroll tax receipts are automatically appropriated. These are the Old Age and Survivors Insurance (OASI) Trust Fund, the Disability Insurance (DI) Trust Fund, and the Hospital Insurance (HI) Trust Fund.

Under present law, tax allocation rates, which were established by the Social Security Amendments of 1977, reserves in the OASI fund are expected to be insufficient to meet benefit payments before the end of calendar year 1981. This is the result of sharp changes in economic conditions as compared to the economic assumptions that were made in 1977. Much higher increases in living costs have been experienced and are predicted for the next few years.

Reserves in the DI fund, however, are expected to increase steadily in the future under both the intermediate and pessimistic assumptions of the 1980 Trustees report. The more favorable condition of the DI trust fund is the result of the recent enactment of Public Law 96–265, the Disability Amendments of 1980, and the current experience of the DI program which has been more favorable than predicted at the time of the 1977 Amendments.

Reallocation has been the traditional way of redistributing the OASDI tax rates because of changes in benefit provisions and in the experience of the program. The Committee bill would provide for such a reallocation between the OASI and DI funds for two years only, 1980 and 1981. This is expected to maintain sufficient reserves in the OASI fund to pay benefits through the end of 1981, giving Congress time to take further remedial action next year.

The bill would not change the total social security tax rates for any year.

A comparison of the allocation rates for the OASI and DI Trust Funds, expressed in terms of the rates applicable to taxes paid by employers, employees and self-employed individuals, under present law and under H.R. 7670 is contained in table 1.

Table 2 indicates the estimated reserve rations in the OASI and DI trust funds, separately and combined, under present law and under H.R. 7670, according to the economic assumptions used for the July 1980 midsession budget review.

TABLE 1.—REALLOCATION OF TAX RATE SCHEDULE BETWEEN OASI AND DI UNDER H.R. 7670

[Percent of taxable earnings]

Calendar years	Total for OASDI[1]	Allocated rates under present law		Reallocated rates under H.R. 7670	
		OASI	DI	OASI	DI
Employees and employers, each:					
1980	5.08	4.330	0.750	4.520	0.560
1981	5.35	4.525	.825	4.700	.650
Self-employed persons:					
1980	7.05	6.0100	1.0400	6.2725	.777
1981	8.00	6.7625	1.2375	7.0250	.975

[1] The total OASDI tax rate under H.R. 7670 between OAS and DI is the same as under present law.

TABLE 2.—END-OF-YEAR CASH BENEFIT FUND BALANCES

[As a percent of following year outgo]

Year	Present law			H.R. 7670		
	OASI	DI	Combined funds	OASI	DI	Combined funds
1980	14	43	17	17	19	17
1981	4	58	10	11	11	10

LANGMUIR NATIONAL RESEARCH AREA

The Senate proceeded to consider the bill (S. 2364) to establish the Langmuir National Research Area in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That in order to encourage scientific research into atmospheric processes and astronomical phenomena, and to preserve conditions necessary for that research, there is hereby established the Langmuir Research Site (hereinafter referred to as the "research site") in the Cibola National Forest in the State of New Mexico.

SEC. 2. The Congress finds that the high altitude and freedom from air pollution and night luminosity caused by human activity, makes the research site uniquely suited to the conduct of research probes into thunder clouds and for other atmospheric and astronomical research purposes.

SEC. 3. The Secretary of Agriculture shall administer, protect, and regulate use of the research site in accordance with the laws, rules, and regulations applicable to National Forest System lands, and in such manner as will best contribute to purposes of this Act.

SEC. 4. The Secretary of Agriculture in furtherance of the purposes of this Act, is hereby authorized, and directed, to enter into an appropriate land use agreement with New Mexico Institute of Mining and Technology for the Langmuir Research Site for the purpose of establishing conditions for use of the national forest land, and to set forth working relationships during such period of use.

SEC. 5. (a) The research site shall consist of approximately thirty-one thousand acres, including a principal research facility of approximately one thousand acres. The boundaries are depicted on a map entitled "Langmuir Research Site", dated August 1980, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture.

(b) As soon as practicable, after enactment of this Act, the Secretary of Agriculture shall develop a comprehensive management plan for the research site consistent with requirements of the National Forest Management Act of 1976 (Public Law 94–588) (16 U.S.C. 1604), which shall be incorporated into the initial Cibola National Forest land and resource management plan as provided for under that Act.

(c) Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor adjustments in the boundaries of the research site to provide for more effective management or to encourage further research activity. For the purposes of this subsection, minor boundary adjustments shall not increase or decrease the amount of land within the research site by more than seven thousand acres.

(d) In developing the plan, the Secretary shall consult with the National Science Foundation, the New Mexico Institute of Mining and Technology, the New Mexico Academy of Science and appropriate conservation, wilderness, wildlife, industry, and other public interest groups.

(e) The plan shall prescribe specific research and management objectives necessary for the protection, management, and regulation of the research site as outlined in subsection (f) of this section.

(f) The research site shall be managed in accordance with the following objectives:

(1) The principal research facility shall be managed primarily for scientific research purposes. Dispersed recreation, grazing, and other uses which the Secretary determines to be compatible with scientific research may be permitted.

(2) The research site shall be managed to enhance scientific research objectives. Scientific research activities and associated research equipment and structures shall be permitted within the research site in accordance with the plan.

(3) Roads shall be limited to those necessary for scientific research activities and other reasonable activities as determined by the Secretary. Motor vehicle use shall be restricted to roads designated in the plan.

(4) The landing of small instrumented research rockets shall be permitted to continue in portions of the research site designated for such purposes in the plan.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to establish the Langmuir Research Site in the State of New Mexico, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–952), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of S. 2364 is to establish a national research area within the Cibola National Forest near Socorro, N. Mex. The area would encompass national forest lands used by the Langmuir Laboratory for Atmospheric Research and surrounding undeveloped national forest lands.

The Langmuir Laboratory was established by the New Mexico Institute of Mining and Technology to provide a base for the study of cloud processes that produce lightning, hail, and rain. These processes are not understood and are difficult to study because they operate in large clouds that cannot be simulated in a laboratory. The Magdalena Mountains in the Cibola National Forest were chosen for the location of the laboratory because thunderstorms are initiated by the mountains and the storms are often isolated, stationary, and relatively small. Because of the research activities there is a need to maintain the land around the laboratory in a natural and undeveloped state so that local air pollution is minimized and the area remains free of light sources. The use of instrumented rocket probes into thunderclouds requires limitations on human activities in regions where the probes fall to Earth.

The existing research facilities located on an area involving approximately 300 acres of national forest lands have been under special use permit to the New Mexico Institute of Mining and Technology since 1962. S. 2364 recognizes and expands this existing research area to approximately 31,000 acres, including a principal research facility of approximately 1,000 acres. The Secretary of Agriculture is directed to enter into a land use agreement for the Langmuir research site with the New Mexico Institute and to incorporate a comprehensive managment plan for the site into the initial Cibola National Forest land and resource management plan. Management objectives for the site are set forth in the bill.

ALLOCATION OF CERTAIN LANDS TO AMERICAN FALLS

The Senate proceeded to consider the bill (S. 1910) to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 17, after "Falls;", insert the following: "containing approximately 3.3 acres,".

On page 2, strike line 19 through and including page 3, line 12, and insert the following:

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the northwest corner of the southwest quarter of section 21, township 7 south, range 31 east, Boise meridian;

thence south 45 degrees 16 minutes east, a distance of 1,870.3 feet, more or less, to the southeast corner of said southwest quarter;

thence north 58 degrees 28 minutes west, a distance of 96.3 feet;

thence north 68 degrees 17 minutes west, a distance of 1,339.2 feet, more or less, to a point on the west section line of said section 21, said point being 548.2 feet north of the southwest corner of said section;

thence north along the west section line a distance of 770.5 feet, more or less, to the northwest corner of the southwest quarter of said section 21, the point of beginning.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas in land to the United States:

(a) The area identified as the Campbell

Stebbins Park, containing approximately 41.5 acres, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, containing approximately 8.8 acres, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls; containing approximately 3.3 acres,

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the nothwest corner of the southwest quarter of section 21, township 7 south, range 31 east, Boise meridian;

thence south 45 degrees 16 minutes east, a distance of 1,870.3 feet, more or less, to the southeast corner of said southwest quarter;

thence north 58 degrees 28 minutes west, a distance of 96.3 feet;

thence north 68 degrees 17 minutes west, a distance of 1,339.2 feet, more or less, to a point on the west section line of said section 21, said point being 548.2 feet north of the southwest corner of said section;

thence north along the west section line a distance of 770.5 feet, more or less, to the northwest corner of the southwest quarter of said section 21, the point of beginning.

(d) A tract of land containing 8.79 acres more or less in the south half of the southwest quarter. section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of said section 28;

thence north 44 degrees and 38 minutes east, 1,868.6 feet to the 16/17 corner of said section;

thence east along the north boundary of the southeast quarter southwest quarter of said section 28, 367.2 feet to a point;

thence south 324.9 feet to a point;

thence north 89 degrees and 59 minutes west, 92.8 feet to a point;

thence south 49 degrees and 23 minutes west, 361.9 feet to a point;

thence south 78 degrees and 34 minutes west, 708 feet to a point;

thence south 26 degrees and 55 minutes west, 333.7 feet to a point;

thence south 61 degrees and 51 minutes west, 271.6 feet to a point;

thence south 43 degrees and 29 minutes west, 280.3 feet to a point on the south boundary of said section 28;

thence south 89 degrees and 59 minutes west along the south boundary of said section 28, 34.9 feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the west half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of section 28;

thence north 44 degrees 38 minutes east, a distance of 1,886.6 feet to the northeast corner of the southwest quarter southwest quarter, of section 28;

thence north a distance of 1,320 feet to the northeast corner of the northwest quarter southwest quarter of section 28;

thence west, a distance of 30 feet to a point on the east edge of Hillcrest Avenue;

thence southwesterly along a curve on the side of Hillcrest Avenue a distance of 2,955 feet to a point on line between sections 28 and 29;

thence south 65.0 feet to the southwest corner of section 28, the place of beginning.

Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-953), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

S. 1910 directs the Secretary of the Interior to convey all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir.

During the 1920's the Reclamation Service (now Water and Power Resources Service) purchased lands to relocate a portion of the city of American Falls, Idaho. The authorizing legislation required the Reclamation Service to plat and convey lots necessary for relocation of individual residents who were displaced by the reservoir. However, the act was silent on the disposal of the lands to be utilized for public purposes such as parks, streets, water works and town squares. These lands were not deeded to the city.

The city has developed the parks and has used them over the years without knowing title to them was never transferred by the federal government. American Falls residents have paid taxes to maintain the parks for the past 55 years, and the parks have been treated by everyone as city property. However, a recent title search turned up the fact the federal government still owns the city golf course, the central city square, and several other smaller parcels. S.1910 would correct this problem by transferring title to these lands to the city of American Falls.

ALASKA FEDERAL-CIVILIAN ENERGY EFFICIENCY SWAP ACT OF 1980

The Senate proceeded to consider the bill (S. 1784) to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 1, line 4, strike "1979", and insert in lieu thereof "1980";

On page 2, line 12, strike "public utilities", and insert in lieu thereof "electric power";

On page 3, strike line 3 through and including line 7, and insert in lieu thereof the following:

(2) the term "surplus federally generated electric power" or "surplus power" means any electricity generated by on-line federally owned coal-fired plant equipment operating at optimum efficiency in excess of electricity specifically generated for consumption by a Federal facility, but does not mean electricity that could be generated by reserve or standby equipment in excess of normal operating needs; and

On page 3, line 24, strike "Alaska" through and including "powerplants" on line 25, and insert in lieu thereof "Alaska";

On page 4, line 2, strike "consumers" through and including "powerplants" on line 3, and insert in lieu thereof "consumers and";

On page 4, line 4, strike "Said" through and including "replace." on line 7, and insert in lieu thereof the following: "Such surplus power will be priced at not greater than the incremental cost of producing the surplus power by coal generation including appropriate charges for incremental fuel and operation and maintenance costs, plus one-half the difference between the costs of producing the electric power by coal generation and by the oil or gas generation being displaced.".

On page 4, line 25, after "facilities", insert the following: "or to employ reserve or standby equipment";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be referred to as the "Alaska Federal-Civilian Energy Efficiency Swap Act of 1980".

Sec. 2. Findings and Purposes.—(a) Congress finds and declares the following:

(1) Federal and civilian electrical power generating capacity are often duplicative in Alaska.

(2) The appropriate sharing of electricity produced in coal-fired powerplants could reduce electrical costs in Alaska to both Federal and civilian consumers.

(3) The severe nature of Arctic and sub-Arctic winters in Alaska creates uniquely high electrical power demands in Alaska during the winter months.

(4) As a result of, among other things, unique weather-related difficulties, Alaska electric power rates are the highest in the Nation.

(b) It is therefore declared to be the purpose of Congress in the Act—

(1) to improve the electrical generating efficiency of joint Federal-civilian sharing practices in Alaska;

(2) to increase the use of coal-fired, electrical generating powerplants in Alaska; and

(3) to lower the cost of electricity to civilian and Federal users in Alaska.

Sec. 3. Definitions.—As used in this Act, unless the context otherwise requires—

(1) the term "civilian generated electrical power" means any electricity specifically generated for consumption by consumers who are not part of a federally owned facility;

(2) the term "surplus federally generated electric power" or "surplus power" means any electricity generated by on-line federally owned coal-fired plant equipment operating at optimum efficiency in excess of electricity specifically generated for consumption by a Federal facility, but does not mean electricity that could be generated by reserve or standby equipment in excess of normal operating needs; and

(3) the term "Secretary" means the Secretary of any of the departments of the United States of America including but not limited to the Department of the Interior, the Department of Commerce, and the Department of Defense.

Sec. 4. Notwithstanding any other provisions of law, the Secretary concerned or his designee may sell or contract to sell surplus federally generated electrical power produced in Alaska without regard to availability of power from other local sources if such action will result in reduced electrical costs to Federal or civilian consumers and will result in reduced consumption of oil and natural gas. Such surplus power will be priced at not greater than the incremental cost of producing the surplus power by coal generation including appropriate charges for incremental fuel and operation and maintenance costs, plus one-half the difference between the costs of producing the electric power by coal generation and by the oil or gas generation being displaced.

Sec. 5. Notwithstanding any other provision of law, the Secretary concerned shall whenever practicable and consistent with the mandate of a Federal facility in Alaska endeavor to purchase civilian-generated electrical power when the purchase of such power will result in a savings to civilian consumers and will not increase the cost to Federal consumers or will result in a savings to Federal consumers without increasing costs to civilian consumers.

Sec. 6. The provisions of this Act shall apply only to surplus power. Nothing in this Act shall be construed as requiring the Federal Government to design or build future powerplants for Federal facilities or to employ reserve or standby equipment in order to accommodate the needs of civilian consumers.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–966), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Excerpt

The purpose of S. 1784 is to provide authority for sale in Alaska of surplus federally generated coal-fired electric power when such sale would result in reduced electric power costs and reduced consumption of oil or natural gas. The bill would also authorize Federal purchase of civilian generated power when such purchase provides a savings to either civilian or Federal consumers at no increase in cost to the other.

By authorizing such sales, the electrical generating efficiency in Alaska will be improved, the use of coal-fired electrical generating powerplants will be increased and the cost of electricity to both civilians and Federal users in Alaska will be lowered.

JERRY L. CROW

The Senate proceeded to consider the bill (S. 1715) for the relief of Jerry L. Crow, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert in lieu thereof the following:

That Jerry L. Crow may, within one year of the date of enactment of this Act, select not more than ten acres of land from the public lands included in his original application to purchase a trade and manufacturing site located at mile numbered 68 on the Denali Highway in the State of Alaska, and shall notify the Secretary of the Interior of his intention to purchase the selected land under the provisions of this Act.

Sec. 2. Notwithstanding the provisions of section 203 of the Federal Land Policy and Management Act (90 Stat. 2743) and as soon as practicable upon receipt of a notification under section 1 of this Act, the Secretary is directed to sell the selected land to Mr. Crow at a price based upon their fair market value as of 1967, excluding any value added to the lands by Mr. Crow.

Sec. 3. Pursuant to the provisions of section 302 of the Federal Land Policy and Management Act, the Secretary shall offer to enter into an agreement with Mr. Crow which—

(a) grants a thirty-year lease on those public lands included in the original application by Mr. Crow for a trade and manufacturing site, excluding any land selected under section 1 of this Act;

(b) provides that the annual lease fee be $10; and

(c) grants to Mr. Crow an option to purchase any portion or all of the leased land, exercisable at any time within the thirty-year lease period.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–970), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Excerpt

The purpose of S. 1715, as reported, is to allow Mr. Jerry L. Crow to purchase up to 10 acres of public land in Alaska and to lease about 30 acres of surrounding lands. These public lands were subject to Mr. Crow's application under Section 10 of the Act of May 14, 1898, as amended (43 U.S.C. 687a).

The lands which would be conveyed or leased to Mr. Jerry L. Crow were originally encompassed in an application filed for a trade and manufacturing site in 1967, under the Act of May 14, 1898.

This application was denied by the Bureau of Land Management, the Interior Board of Land Appeals and the U.S. District Court because it did not meet the legal tests set by the Bureau's regulations. Specifically, Mr. Crow failed to prove that the campground he had constructed on the site generated a sufficient cash flow to qualify as a "productive industry."

Nevertheless, the equities of the situation weigh in favor of permitting Mr. Crow to purchase the lands which were the subject of the rejected application. Mr. Crow has produced evidence of continued good faith efforts to comply with the requirements of the law. He worked to develop a campground on the land, improved the site and has run the campground during the appropriate seasons. The records of the Bureau of Land Management state that Mr. Crow "expended a fair amount in developing [the campground]" and indicate that he did make a good faith effort to move his application forward. A combination of factors beyond Mr. Crow's control, including the long period which elapsed between the filing of his application and the field examination and decision by the BLM together with requirements that were not made clear to Mr. Crow at the beginning of this period resulted in the failure of the application. The Committee believes that the sale of the lands to Mr. Crow would provide the equitable results of allowing him to continue to operate his campground but would not affect future decisions under the Act of May 14, 1898.

GENERAL ASSISTANCE FOR EDUCATION OF CUBAN AND HAITIAN REFUGEES

The Senate proceeded to consider the bill (H.R. 7859) to provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, and to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults, which had been reported from the Committee on Labor and Human Resources with amendments.

On page 14, line 15, after "less.", insert the following:

Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

On page 15, after line 18, insert the following:

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to Cuban and Haitian refugee children who meet the requirements of section 101(1).

On page 26, after line 3 insert the following:

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

Sec. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act 1980 to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition the President may by regulation provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) To facilitate the transfer of the functions described in paragraph (1) from the

Federal Emergency Management Agency to other Federal agencies pursuant to this subsection, the purposes for which the funds appropriated to the President in the first paragraph under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" in chapter VII of title I of the Supplemental Appropriations and Rescission Act, 1980, are available may be construed to include use in carrying out this subsection to the extent that those funds are allocated for use for any of the purposes described in paragraph (1) of this subsection.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrant" means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

ORDER VITIATING ACTION ON CALENDAR ORDER NO. 1092

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to vitiate the action on Calendar Order No. 1092.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later, the following occurred:)

GENERAL ASSISTANCE FOR EDUCATION OF CUBAN AND HAITIAN REFUGEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1092.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7859) to provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children and to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with amendments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. The Senate will proceed to consider the bill.

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources, on September 23, 1980, unanimously reported H.R. 7859, with two amendments, to the full Senate. This legislation has become necessary because of the strain placed on States, counties, and school districts due to the recent influx of Cuban and Haitian entrants, as well as to Indochinese refugees who have entered this country after January 1, 1979.

SUMMARY OF THE LEGISLATION

The Refugee Education Assistance Act of 1980 authorizes a new 3-year program of grants to State educational agencies for the purpose of assisting local educational agencies in meeting the general and special educational needs of Cuban and Haitian refugee children. The bill also authorizes special assistance for school districts heavily impacted by new Indochinese refugee children and assistance for adult education programs for Cubans and Haitians. In addition, the bill authorizes the President to exercise authorities with respect to Cuban and Haitian entrants identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act.

H.R. 7859 authorizes two different types of grants to State educational agencies. Title II of the bill would provide State educational agencies with a grant for assisting school districts which enroll Cuban and Haitian refugee students in providing basic education for those children. These funds are to be distributed on the basis of numbers of Cuban and Haitian refugee children enrolled in pulic elementary and secondary schools within the local educational agency. Each school district would be entitled to $450 per refugee child who entered the United States on or after November 1, 1979.

Title III authorizes grants to State educational agencies for providing additional assistance to local educational agencies with substantial increases in Cuban, Haitian, and Indochinese refugee enrollments. Local educational agencies qualify for this aid if the number of eligible refugee children enrolled in their schools equals at least 500 refugee children or 5 percent of their total enrollment, whichever is less. An amendment to the House-passed bill adopted by the subcommittee would also make eligible those school districts which qualify for Impact Aid payments under the strict provisions of the last sentence of section 3(b) and section 3(c)(2)(B) of Public Law 8-1874.

Allocations are based on numbers of Cuban, Haitian, or new Indochinese refugee students enrolled in the public and private elementary and secondary schools of a school district. Entitlements are calculated on a sliding scale which provides greater amounts for the first and second years the refugees are in attendance. Seven hundred and fifty dollars would be authorized for each eligible refugee child in the first year of attendance, $500 per child in the second year of attendance, and $350 per child in the third year of attendance. These funds are to be used to cover the excess costs of providing free appropriate education to the refugee children, including special supplementary educational services beyond those provided under the regular school program. State educational agencies must insure that eligible districts receive services consistent with their numbers.

Title IV of H.R. 7859 authorizes grants to State educational agencies for operating adult education programs for Cuban and Haitian refugees aged 16 or older and not enrolled in elementary or secondary school. Funds are allocated on the basis of numbers of Cuban and Haitian adults enrolled in such programs, with $300 per enrolled adult authorized. Grants can be awarded for programs provided directly by State agencies or by local educational agencies and public or private nonprofit agencies, organizations, or institutions.

Any funds received on a statutory formula basis under any other Federal program for the purpose of refugee educational assistance would reduce, dollar for dollar, the amount a State or local educational agency is entitled to receive under this bill. Funds received under discretionary grant programs for these same purposes would not be considered in the allocation formulas.

Titles II and III of the bill are authorized for fiscal year 1981 through 1983. Title IV is authorized for fiscal years 1982 and 1983. All the entitlements in the legislation are subject to ratable reductions if appropriations are insufficient to fully fund them. The use of the word "entitlement" does not have the same meaning as is given in section 401 (c)(2)(C) of the Budget Impoundment Control Act of 1974. Up to 1 percent of the funds for each title is to be set aside for programs in the outlying areas. These programs are to be administered by the Department of Education.

Title V of H.R. 7859, added by the Committee on Labor and Human Resources, authorizes the President to exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities exercised under chapter 2 of title IV of the Immigration and Nationality Act. Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act of 1980 to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to this authority.

In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of that act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

Under the direction of the President, any Federal agency may provide assistance for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Funds shall be available to reimburse State and local governments for expenses which they incur for these purposes. Funds appropriated to the President for the Federal Emergency Management Agency may be used to carry out the purposes of the title.

LEGISLATIVE CONSIDERATION

H.R. 7859 was considered in executive session by the Subcommittee on Education, Arts, and Humanities on September 18, 1980, and was reported, with two amendments, by a vote of 5 to 0. The bill was reported without further amendment by the Committee on Labor and Human Resources, by a voice vote, on September 23, 1980, and was filed in the Senate on the same day.

NEED FOR THE LEGISLATION

BACKGROUND

CUBANS AND HAITIANS

In April of this year events in Cuba resulted in the mass uncontrolled emigration of Cubans to the United States.

After 10,000 Cubans sought refuge in the Peruvian Embassy in Havana in the first week in April, the United States agreed to admit 3,500 of those in the compound. They were to be screened first in Costa Rica, but on April 18, Cuban Premier Fidel Castro halted flights to Costa Rica. On April 20, Castro announced that Cubans wishing to emigrate to the United States could do so by boarding boats at Mariel Harbor. This prompted a flotilla of private boats from the United States to go to Mariel and transport thousands of Cuban nationals back to this country each day. Threats and seizures of vessels by our Government failed to stem the flow of boats.

On May 6, President Carter declared an emergency in the State of Florida resulting from the Cuban emigration wave, thus making the Federal Emergency Management Agency responsible for providing reimbursements to Federal, State, and local agencies for extraordinary expenses and for coordinating the activities of government and private agencies involved in the emergency.

Four U.S. military facilities were designated as processing centers for those Cubans who lacked sponsorship pending the determination of their asylum status. A massive resettlement effort involving public and private agencies began.

On May 14, President Carter announced his program aimed at the safe and orderly exodus of all Cubans wishing to leave Cuba, but the Castro government did not accept this plan. U.S. Customs officials eventually seized about 1,000 vessels and, by mid-June the flow of boats from Cuba had abated.

More than 117,000 Cubans have arrived at ports in Florida seeking entry to the United States. In contrast to refugees whom the United States has agreed to accept under our immigration laws, the Cubans who arrived in boats were undocumented aliens seeking asylum in the United States. They are a heterogeneous group of people of varying ages and with a wide range of reasons for coming to the United States. Some were political prisoners, many seek reunification with their families here, and many seek greater economic opportunities and personal freedom. Technically, they have not been "admitted" to the United States, but are applying for admission as asylees (those who are granted asylum).

In recent years, south Florida has also become an entry point for thousands of Haitian "boat people" seeking refuge in the United States. The Immigration and Naturalization Service (INS) estimates that, since 1972, about 15,300 Haitians have been processed. However, there are probably several thousand more who have come into the country surreptitiously. Some estimates put the total number of Haitians as high as 35,000.

The Haitians are also seeking admission to our country as asylees. They appear to be in quest of greater economic opportunities, although many claim to be fleeing political repression. To date, only 220 have actually been granted asylum by the INS, with the determination being made on a case-by-case basis.

Technically, neither the Cubans nor the Haitians are considered "refugees" by our Government. They have been receiving permission to stay in this country under the Attorney General's parole authority pending processing of their applications for asylum. Under a new policy announced by the administration on June 20, the parole of Cuban emigres and of Haitians who were in INS proceedings as of June 19, 1980, was renewed for a 6-month period. As part of this new policy the aliens will be eligible for general assistance, including cash, medical, and Supplemental Security Income, if they would otherwise qualify in their State of residence. However, Federal funding of public assistance will not cover 100 percent of the costs, but will be available at the regular State-Federal matching rate. In addition, the major private agencies involved in resettling refugees will be provided a per capita grant to relocate Cubans and Haitians outside the south Florida area and to provide counseling and referral services to those already resettled.

Because of their status, the Cubans and Haitians are not entitled to benefits under the Refugee Act of 1980.

The administration has also announced the details of special legislation it anticipates for the Cubans and Haitians. Under this proposal, a new immigration status of "Cuban-Haitian entrant" would be created, and the emigres would be eligible for adjustment of status to that of permanent resident alien after 2 years.

INDOCHINESE

During the period since January 1, 1979, our country has also been accepting a substantial influx of Indochinese refugees. The rapid increase in numbers of Indochinese refugees stems from the President's announcement in June 1979, that the United States would double its monthly admission of Indochinese refugees from 7,000 to 14,000. Thus the stream of refugees from Laos, Cambodia, and Vietnam that began in 1975 has not abated.

Frequently referred to as the "new wave" of refugees, these children and their families face extraordinary adjustment problems. Unlike those arriving earlier, these emigrants are far less prepared to cope with the problems of adapting to a technological society. They have few resources. They often represent those who had least in the countries they left. A substantial portion of the Indochinese refugees now entering the country are tribesmen, some of whom have had no written languages in their tribes, and many of the children have never had a day of formal education in their lives. These "boat people" have little, if any, proficiency in English and lack other basic skills. As a consequence, virtually all of these refugee children require several types of special educational services, such as English language proficiency, counseling, tutorial services, and special instructional materials.

NUMBERS OF REFUGEE STUDENTS

Mr. President, the administration estimates that a total of 155,000 Cuban and Haitian refugees will have entered the United States by July 1980. From January 1, 1979, through fiscal year 1981, 405,000 Indochinese refugees are estimated to enter the country at a projected rate of 168,000 per year through 1982, declining to 120,000 by 1983. The administration further estimates that 20 percent of the Cuban and Haitian refugees and 40 percent of the Indochinese refugees are school-age children, and that 80 percent of these children will attend schools in areas that are eligible to receive special impact aid. Local and State educational agencies will become eligible for aid under H.R. 7859 in fiscal year 1981.

The impact of this large, unanticipated influx of refugee children on school districts in the areas of resettlement will be nothing less than traumatic. Those refugees who have already settled have begun to register their children for school at a tremendous rate. Cuban refugee students were entering the Dade County, Florida, schools in late June at a rate of 300 per day.

As of August 1, 1980, about 10,000 new Cuban refugee students—enough to fill 10 elementary schools—had entered the Dade County elementary and secondary schools since April 1980. Many more were anticipated to enroll when school started in September. In addition, Haitian refugee children have been enrolling in a Dade County schools at a rate of 50 per month over the past several months.

Other districts in south Florida expect similar enrollment increases due to this new wave of immigrants. Florida education officials have projected a statewide influx of over 11,000 new Cuban and Haitian refugee children.

While the south Florida statistics provide a dramatic illustration of the impact of the refugee flood, other States will undoubtedly experience enrollment jumps as resettlement progresses. As of June 23, 1980, 44,700 Cubans remained in the holding centers. It is unlikely that many of these refugees will eventually relocate to areas where established communities of Cubans and Haitians exist—urban areas whose public schools are likely to be already overburdened with high costs and declining revenues.

For example, Union City, N.J., a school system of 8,000 of which 50 percent are of Cuban descent, projects over 1,000 new Cuban students. This represents a 13-percent increase in total enrollment. The Elizabeth, N.J., School District expects 700 new refugees from the latest wave of immigrants.

According to a survey done by the National Center for Education Statistics in October of 1979, the estimated number of Indochinese children in the United States as of fall 1979 was almost double the number reported from the 1977–78 school year. In fact, the almost 100,000 Indochinese children residing in this country as of October 31, 1979, represent a 66-percent increase over the number here as of January 31, 1979. Undoubtedly, these numbers have grown even since that survey was taken.

These Indochinese children are concentrated primarily in the West and Southwest regions. Within all regions, further concentration exists among certain States, and within States, among certain school districts. According to the aforementioned survey, 41 districts in eight States account for 6 percent of the Nation's total enrollment, but 27 percent of all Indochinese children enrollment. Thus, the additional financial impact on a small number of school districts has been substantial.

COST OF EDUCATING REFUGEES

Mr. President, the strain on the budgets of States and local educational agencies to provide public education for the Cuban, Haitian, and Indochinese refugees will be enormous. More teachers will have to be hired, more materials purchased, and more support services allotted, in order to provide just a basic level of education for these youngsters. Districts with large increases in enrollments will also be called upon to build extra classrooms, buy extra buses, and increase the level of other noninstructional services.

In addition, most of the new Cuban, Haitian, and Indochinese entrants share a whole range of educational problems that necessitate special educational services more expensive than the basic instructional program. For example, these children bring no educational resources with them, so screening is difficult. The mere identification of students sometimes creates problems, especially in the case of the Haitians, who are often not enrolled in any school, who avoid seeking assistance, and who are often very mobile. The new refugees know little or no English, thus English language instruction and bilingual education programs must be provided. Their different cultural backgrounds necessitate programs of cultural orientation. Many require nutritional program coverage, medical and psychological services, and counseling. Preliminary screening done by some districts indicates a greater percentage of children who are handicapped or in need of remedial or bilingual assistance than among the previous Cuban immigrants.

It is inconceivable that school districts will be able to provide these services entirely from their own resources, without doing great damage to the quality of education for all the children in their schools.

State and local educational officials have estimated that providing education for the new refugees will require an expenditure of at least $1,000 additional per student above the regular costs of education.

FEDERAL RESPONSIBILITY

The managers believe that these State and local educational agencies should not be required to absorb on their own the enormous costs generated by a situation completely beyond their control. The huge flow of Cuban, Haitian, and Indochinese refugees is primarily a result of Federal refugee policies; therefore, the Federal Government has a responsibility to carry as much of the financial burden as possible.

Although they are now concentrated in particular communities around the country, the education of Cuban, Haitian, and Indochinese refugees should be a national concern that requires a national solution. This approach is consistent with our Nation's past treatment of large refugee groups as a Federal responsibility.

Receiving districts have acted in good faith by accepting the refugees and should not be penalized for it. Many of these States and school districts have opened their arms in the past to refugee groups and willingly worked with the Federal Government to integrate them successfully into the schools.

Unless the Federal Government assumes its responsibility, the victims will be the other children in the impacted school district. The victims will also be the refugee children themselves and our society as a whole. The schools, as one of the most influential institutions in a community, can play a vital role in the Cuban, Haitian, and Indochinese children's transition into our society and culture. But without an adequate education, the likelihood of the refugees' becoming productive members of society is greatly diminished.

NEED FOR ADULT PROGRAMS

A large proportion of the new Cuban and Haitian adult arrivals are also in desperate need of educational services if they are to function effectively in our society. The Cuban-Haitian Task Force estimates that there are 87,377 new Cuban entrants over age 18. It is not known how many of the 15,300 Haitians in INS processing are adults, although it is suspected that the majority of them are adult males.

Many of these refugees are illiterate in their own language as well as English and will require a combination of English language instruction, life skill training, and employability and job skill training. Without these educational services, the adult refugee is restricted to menial jobs and hampered in even the most elementary daily transactions.

Existing programs of adult education offered by State and local educational agencies and other public and private nonprofit agencies are not adequately funded to meet the needs of this latest influx of Cubans and Haitians. For example, the Pennsylvania Department of Education estimates that basic educational skill programs for adults are likely to cost $30,000 for each hundred persons who remain at Indiantown Gap, and somewhat less for adults who can enroll in existing programs.

The managers believe that the Federal Government has the same responsibility for aiding these Cuban and Haitian adults in obtaining necessary educational services as it does for the refugee children.

NEED FOR TITLE V (THE STONE-FASCELL AMENDMENT)

Earlier this year, $100 million was appropriated to assist in the handling of the unexpected influx of Cuban and Haitian entrants under title I of the Supplemental Appropriations and Rescissions Act of 1980. Authorization for these funds was contained in the International Security and Development Assistance Act of 1980. However, while there was no disagreement between the House or the Senate on the provisions of this authorization, the International Security and Development Assistance Act of 1980 has been in conference for some time, and it does not seem likely to be reported in the near future. Because of the urgent need for funds to handle the Cuban and Haitian entrant problem, similar authorization language was added to H.R. 7859 at title V, as follows:

PROVISIONS OF THE BILL

PURPOSE

The Rufugee Education Assistance Act of 1980 creates a separate new authority to compensate local educational agencies for three years for (1) the additional cost of providing a basic education for Cuban and Haitian refugee children, and (2) the unique educational burdens resulting from significant numbers of new Cuban, Haitian and Indochinese refugees. The bill also addresses the educational needs of Cuban and Haitian adult refugees. These programs are to be administered by the Department of Education.

The managers believe a new authorization is needed since the Cuban and Haitian emigres have not technically been extended "refugee" status under the Refugee Act of 1980. The use of the term "Refugee" in the title of this bill and the definition used to characterize the recent Cuban and Haitian emigres does not, in any way, modify the treatment of these emigres under the Refugee Act of 1980 or any other Federal statute.

DEFINITIONS

The bill defines "Cuban and Haitian refugee children and adults" to include natives of Cuba or Haiti who, on or after November 1, 1979, have been admitted or paroled under the Immigration and Nationality Act; who are applicants for asylum or have been granted asylum in the U.S.; or who are Cuban-Haitian entrants (status pending) who entered the U.S. on or after November 1, 1979. Persons qualifying under the last clause shall continue to be covered by this definition regardless of subsequent changes in status. This provision is necessary to make the recent Cuban and Haitian emigres, who are not technically considered "refugees" under Administration policy, eligible for the programs in this legislation.

The bill defines "Indochinese refugee children" to mean aliens who have fled from Cambodia, Vietnam, or Laos, and who, on or after January 1, 1979, have been admitted or paroled to the U.S. under the Immigration and Nationality Act; or who are applicants for asylum or have been granted asylum in the U.S.

The definitions for "elementary school"

and "secondary school" referenced in the bill made clear that education up through grade 12 is covered.

AUTHORIZATIONS

The bill authorizes such sums as may be necessary for fiscal years 1981, 1982, and 1983 for payments under this Act. The Committee bill stipulates that this appropriation is to be in the form of a lump sum for all programs under this Act in order to avoid a situation where funds would be appropriated for one title and not the others. However, the Managers intend that within this lump sum amounts are to be designated for separate grants to State educational agencies for each title.

The bill also permits States' entitlements under the Act to be ratably reduced if appropriations are insufficient to fully fund them.

TREATMENT OF OUTLYING AREAS

The bill sets aside up to 1 percent of the funds under each title for grants to the outlying areas of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific, Puerto Rico and the District of Columbia receive their allocations under the regular State formula.

STATE ADMINISTRATION

The bill allows up to 1 percent of the total of each State's grants to be used for State administrative costs.

WITHHOLDING

The bill directs the Secretary of Education to withhold payments to State educational agencies that fail to meet the requirements of the act until they are in compliance. Funds can be withheld only after the State is given an opportunity for a hearing. The Secretary has the option to require the State to withhold funds from local educational agencies who were responsible for the State's non-compliance, instead of stopping all payments to the State.

TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

State entitlements

This title of the bill authorizes payments to State educational agencies for fiscal year 1981 through 1983 to assist their local educational agencies in educating Cuban and Haitian refugee children enrolled in public elementary and secondary schools. The purpose of this general aid is to offset the local per pupil cost of providing a basic education for these children, so that during a three-year transition period the other children served by the local educational agency will not be penalized for lack of additional available local resources.

The bill sets out the following formula for calculating entitlements to State educational agencies: number of Cuban and Haitian children enrolled in public elementary and secondary schools in the State during the period for which the determination is made, times $450 per pupil. The $450 figure is intended to represent approximately 50 percent of the local basic education costs and parallels the rate authorized in the Indochina Refugee Children Assistance Act of 1976. The Managers felt that using a flat rate per child for this title would greatly simplify the administration of the program.

The entitlement to state and local educational agencies under this title would be reduced by an amount received under any other Federal program of general refugee children education assistance which is provided on a statutory formula basis. Discretionary grant monies, such as those received under Section 303 of the Elementary and Secondary Education Act and the Refugee Act of 1980, would not be considered in the calculation of the final awards under this bill.

The Managers urge the Appropriations Committee to consider all refugee education programs and, to the extent feasible, fund those programs which can be best coordinated and are not duplicative.

The bill also makes clear that payments to the outlying areas for the purposes of title II, although calculated according to a different procedure, are to be used in accordance with the provisions of title II. Elsewhere, the bill contains similar requirements for the use of payments to the outlying areas for titles III and IV.

The bill requires the Secretary to make payments for this title and the other titles on the basis of estimates of refugee counts whenever actual satisfactory data is not available. However, no State is to be deprived of what it would have been entitled to using accurate data because of an underestimate.

Applications

The bill requires State educational agencies to submit an application to the Secretary in order to receive title II funds. The application must include assurances that the State educational agency will use the funds for the intended purposes, distribute the funds in accordance with the statutory formula, afford local educational agencies an opportunity for a hearing before disapproving a local application, and make such reports as the Secretary may reasonably require.

The bill requires the Secretary to give a State educational agency the opportunity for a hearing before disapproving this application, or the State educational agency applications under titles III and IV.

With regard to the State assurance for distributing title II funds among local educational agencies, it is expected that States will use the same formula for intra-State distribution of funds under title II as the Federal government used for inter-State distribution. Likewise, States are expected to parallel the Federal formula in their intrastate distribution of funds under title III.

Payments

The bill requires the Secretary to pay each State educational agency with an approved application the amount to which it is entitled under titles II and III.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN REFUGEE ATTENDANCE

State entitlements

This title of the bill authorizes payments to State educational agencies for fiscal years 1981 through 1983 to provide additional supplementary assistance to their local educational agencies which have experienced substantial increase in Cuban and Haitian refugee children (as defined by the bill) or in Indochinese refugee children who have arrived since January 1, 1979.

There may be some justification for a policy whereby the Federal Government would reimburse all State and local governments for the full cost of providing these refugees with the educational services to which our laws entitle them. However, such an approach is not feasible at this time, due to fiscal constraints. Therefore, the bill authorizes a modest program of assistance to meet the minimal needs of all districts with Cuban and Haitian refugees in title II. In addition, the bill attempts to give priority to those districts with the most urgent needs and the greatest burden, in the form of a supplementary grant under the title III program. This combination of minimal assistance for all districts and additional assistance to the most heavily impacted is the most equitable approach given the existing fiscal climate.

There is currently no legislative authority which takes into account the needs of school districts most heavily impacted with Indochinese refugee children. The inclusion of recent Indochinese refugees in title III is an effort to fill in this serious funding gap, and thereby extend parity in funding to school districts receiving sizable groups of refugee children from countries other than Cuba and Haiti.

The formula for determining State entitlements under title III is based on the number of Cuban, Haitian, or eligible Indochinese refugee children enrolled in public and private elementary and secondary schools within qualifying local educational agencies in the State. For a local educational agency to qualify, the number of Cuban, Haitian or recent Indochinese refugee children who are enrolled in its schools and receiving supplementary educational services must equal at least 500 or 5 percent of its total enrollment, whichever is less.

Mr. President, an amendment to the House-passed bill was added in the Subcommittee on Education, Arts, and Humanities to provide assurance to a few small school districts with historically large refugee enrollments that they will be eligible for special impact assistance under title III of the bill.

Specifically, this amendment broadened the eligibility for special impact assistance to include those local educational agencies that qualify for Federal impact assistance under the strict provisions of the last sentence of section 3(b) and section 3(c)(2)(B) of Public Law 81–874. To qualify for this program, local educational agencies must have at least 20 percent of the children in average daily attendance classified as refugees at some time during the previous 3-year period. This is a very strenuous requirement which the Department of Education has assured the committee that only a few small local educational agencies have met during the past 8 years.

Although the committee expects that these districts will be eligible for special impact assistance under the provisions of section 301(a)(2) (A) and (B), it is concerned that the large refugee populations in these districts are extremely volatile and are subject to substantial monthly fluctuations in size. Since these fluctuations might jeopardize the eligibility of the districts under the provisions of section 301(b)(2) (A) and (B), this amendment was adopted to assure special impact assistance coverage for these few unique situations. This will allow these local educational agencies to plan for, staff, and provide the extensive special educational services that their circumstances call for.

Because the committee does expect these local educational agencies to qualify for special impact assistance under section 301(b)(2) (A) and (B), it does not believe that this amendment will result in any additional authorizations or outlays.

Payments are to be calculated according to a sliding scale designed to provide greater amounts per counted pupil for the first years the refugees are in attendance. This scale is based upon the assumption that as the refugees remain in the school and become integrated into the regular instructional program, the costs of educating them will go down. Thus, for fiscal year 1981, entitlements for all eligible refugees will be based on a rate of $750 per child, since this is the first year of assistance. For fiscal year 1982, entitlements for eligible refugees who were not enrolled during fiscal year 1981 will be based on a rate of $750 per child; while those who were enrolled during fiscal year 1981 will be based in a lower rate of $500 per child. For fiscal year 1983, there will be three rates in effect: $750 for those refugee children not enrolled during the previous two fiscal years; $500 for those enrolled during either fiscal year 1981 or 1982 but not both; and $350 for those enrolled in both of the previous two years. These amounts are intended to approximate 50 percent of the actual projected excess costs.

Similar to title II, any financial assistance received under other Federal programs must be subtracted from the recipient's entitlement under this bill if the eligibility for the assistance is determined by a concentration threshold of refugee children and the allocation of the assistance is based on a statutory formula.

Although part E of title XIII of the Education Amendments of 1980 does have a threshold, the committee considers this to be for administrative purposes and not to determine where there is a high concentration of refugee children. The term "significant" concentration is used in this bill to distinguish between administrative thresholds, as are included in part E of title XIII, and concentration thresholds as are included in section 301(b)(2) of this bill. Therefore, funds received under part E of title XIII would be subtracted from awards made under title II of this bill and not under title III.

For title III, the committee bill authorizes the Secretary to reallocate any unused State funds to other States with a need for more funds.

USES OF FUNDS

The purpose of the title III funds is to provide funds for supplementary educational services for Cuban, Haitian and eligible Indochinese refugees. It is also the intent of this title to assist these districts in maintaining the quality of instructional and other educational services.

Allowable uses of funds under title III of the committee bill include supplementary services necessary to enable these children to achieve a satisfactory level of performance. These are defined to include English language instruction, other bilingual education services, and special materials and supplies. Title III funds can also be used for additional basic instructional services directly attributable to the presence of the refugee children, including supplies, overhead, classroom space, and transportation; and for special inservice training for instructional personnel who will work with the refugee children. These title III services are to be provided to refugee children enrolled in private schools within the District, as well.

APPLICATIONS

The committee bill requires States to submit an application for title III funds which contains the same assurances as those required in the title II application, plus assurances relating to the provision of services to private school children.

PAYMENTS

The committee bill authorizes the Secretary to directly arrange for the provision of services to private school children in States which are prohibited by law from providing services to these children or in local educational agencies that have substantially failed or are unwilling to provide services to these children.

TITLE IV—ADULT EDUCATION PROGRAMS

STATE ENTITLEMENTS

Title IV authorizes payments to State educational agencies for fiscal years 1982 and 1983 for the operation of education programs for adult Cuban and Haitian refugees aged 16 or older. The committee bill sets out the following formula for determining title IV entitlements: the number of Cuban and Haitian adults aged 16 or older who are enrolled in adult education programs in the State, times $300. For purposes of this formula, adults 16 or older who are enrolled in elementary or secondary schools are not counted. This provision is included to avoid double-counting of refugees under title IV and the other two titles of the bill. The committee in no way intends this provision to mean that only those refugees 16 and under are counted for purposes of titles II and III.

The figure of $300 per adult represents approximately 50 percent of the annual per student cost of public school adult English language instructional programs.

As in titles II and III, a recipient's entitlement under this bill must be reduced by any funds received for adult refugee education assistance that is based on a statutory allocation formula. Although the Adult Education Act, allocates most of its money based on a statutory formula, historically, adult education money for refugees has been on a discretionary grant basis. Therefore, current monies targeted for adult refugees would not be considered in determining a recipient's final award under this bill.

USES OF FUNDS

The bill makes clear that the programs of adult education authorized under this title can be provided directly by the State educational agency, or through subgrants or contracts from the State educational agency to local educational agencies and other public and private nonprofit agencies, organizations, or institutions.

The bill permits title VI funds to be used for a variety of purposes, including instruction in basic and functional skills, administrative costs, educational support services such as counseling, and programs to develop occupational and related skills. With regard to this last use of funds, the bill calls for coordination of occupational programs with existing programs such as those funded under the Comprehensive Employment and Training Act and the Vocational Education Act.

The bill also requires States to review applications under this Title in conjunction with the State plan required under the Adult Education Act. In addition, the bill requires States to use their Title IV funds in such a way as to serve the maximum number of eligible refugees possible under these programs.

APPLICATIONS

The title IV application must contain assurances similar to those required in the Title II application, except that no assurance regarding a State formula for distribution of funds to eligible entities is required.

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

Title V of the bill enables the President to use the same authorities with respect to Cuban and Haitian entrants as he has with respect to refugees under the Immigration and Nationality Act. Further, it enables the President to provide the Cuban and Haitian entrants with same benefits that might be provided for refugees.

Title V also authorizes the President to direct any Federal agency to provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian refugees.. The President is also authorized to reimburse State and local governments for expenses they incur for the same purposes. Funds for the purpose of this paragraph have already been appropriated under title I of the Supplemental Appropriations and Rescission Act of 1980.●

● Mr. STONE. Mr. President, I would first like to thank Senator WILLIAMS for his fine leadership in shepherding this important legislation through his Labor and Human Resources Committee. I also would like to thank Senator PELL for his leadership on the Education Subcommittee, and, of course, Senator BYRD for clearing the way for quick floor action.

Mr. President, I will keep my comments brief. The Stack bill, as amended by the Fascell-Stone amendment, addresses very directly and very efficiently what clearly is a national problem.

The Stack bill specifically authorizes a new 3-year program of grants to States to provide for the educational needs of Cuban, Haitian, and Indochinese refugee children as well as for education programs for Cuban and Haitian adults.

The Fascell-Stone amending language simply provides authorization so that moneys—$100 million—already appropriated in the fiscal year 1980 supplemental appropriations bill can be spent. This money will go to reimburse State and local governments which have incurred costs as a result of the Cuban-Haitian influx. And, as anyone who visited those impacted areas know, this money is desperately needed; therefore, I hope the Senate will act quickly and affirmatively on this legislation.●

The PRESIDING OFFICER. The question is on the engrossment of the committee amendments and third reading of the bill.

The committee amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 527.

The legislative clerk read as follows:

A resolution (S. Res. 527) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7859.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 7859. Such waiver is necessary to permit emergency assistance to Cuban and Haitian refugee children.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

DISCONTINUATION OR AMENDMENT OF CERTAIN REQUIREMENTS FOR AGENCY REPORTS TO CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 6686.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6686) to discontinue or amend certain requirements for agency reports to Congress.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, the bill is now before the Senate, am I correct?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1670

(Purpose: To delete or add certain provisions relating to agency reports)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Chiles, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) on behalf of Mr. Chiles, proposes an unprinted amendment numbered 1670.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike out lines 22 and 23.

On page 2, line 24, strike out "(e)" and insert "(d)".

On page 3, line 1, strike out "(f)" and insert "(e)".

On page 3, line 3, strike out "(g)" and insert "(f)".

On page 3, strike out lines 8 through 11.

On page 3, strike out lines 13 through 17.

On page 3, line 18, strike out "(c)" and insert "sec. 103. (a)".

On page 3, strike out lines 20 through 25.

On page 4, line 1, strike out "(e)" and insert "(b)".

On page 4, strike out lines 9 through 12.

On page 4, line 13, strike out "(c)" and insert "(b)".

On page 4, line 16, strike out "(d)" and insert "(c)".

On page 4, beginning with line 22, strike out through line 2 on page 5.

On page 5, line 3, strike out "(c)" and insert "Sec. 105.".

On page 5, strike out lines 6 through 17.

On page 6, strike out lines 1 through 7.

On page 6, line 8, strike out "(f)" and insert "(d)".

On page 6, strike out lines 10 through 16.

On page 6, line 17, strike out "(j)" and insert "(e)".

On page 6, strike out lines 20 through 22.

On page 6, line 23, strike out "(1)" and insert "(f)".

On page 7, strike out lines 1 through 15.

On page 7, strike out lines 22 through 24.

On page 8, line 1, strike out "(c)" and insert "(b)".

On page 8, line 8, strike out "(d)" and insert "(c)".

On page 12, strike out lines 1 through 6.

On page 12, line 8, strike out "Sec. 114." and insert "Sec. 113.".

On page 12, line 13, strike out "Sec. 115." and insert "Sec. 114.".

On page 12, line 17, strike out "Sec. 116." and insert "Sec. 115.".

On page 13, line 2, strike out "Sec. 117." and insert "Sec. 116.".

On page 13, line 10, strike out "Sec. 118." and insert "Sec. 117.".

On page 13, line 15, strike out "Sec. 119." and insert "Sec. 118.".

On page 14, line 2, strike out "Sec. 120." and insert "Sec. 119.".

On page 14, line 6, strike out "Sec. 121." and insert "Sec. 120.".

On page 14, line 15, strike out "Sec. 122." and insert "Sec. 121.".

On page 14, strike out lines 19 through 22.

On page 15, strike out lines 2 through 6.

On page 15, strike out lines 8 through 14.

On page 15, line 15, strike out "(b)" and insert "Sec. 201. (a)".

On page 15, line 21, strike out "(c)" and insert "(b)".

On page 16, line 3, strike out "(d)" and insert "(c)".

On page 16, line 12, strike out "(e)" and insert "(d)".

On page 16, line 21, strike out "(f)" and insert "(e)".

On page 17, beginning with line 1, strike out through line 6 on page 18, and insert the following:

(f) Section 202 (c) of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1061; 33 U.S.C. 1442 (c)), is amended by inserting at the end thereof the following sentence: "The Secretary shall include in this report the report to Congress of activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665), required by that section.".

On page 18, line 8, strike out "Sec. 203." and insert "Sec. 202.".

On page 19, line 8, strike out "Sec. 204." and insert "Sec. 203.".

On page 20, strike out lines 7 through 18.

On page 20, line 19, strike out "(e)" and insert "(c)".

On page 21, line 3, strike out "(f)" and insert "(d)".

On page 21, line 19, strike out "(g)" and insert "(e)".

On page 22, line 11, strike out "(h)" and insert "(f)".

On page 23, strike out lines 1 through 10.

On page 23, line 11, strike out "(j)" and insert "(g)".

On page 23, line 18, strike out "(k)" and insert "(h)".

On page 23, beginning with line 24, strike out through line 6 on page 24.

On page 24, strike out lines 9 through 20.

On page 24, line 21, strike out "(c)" and insert "Sec. 204.".

On page 25, line 3, strike out "Sec. 206." and insert "Sec. 205.".

On page 25, line 15, strike out "Sec. 207." and insert "Sec. 206.".

On page 27, line 4, strike out "Sec. 208." and insert "Sec. 207.".

On page 27, line 1, strike out "Sec. 209.(a)" and insert "Sec. 208.".

On page 27, beginning with line 18, strike out through line 6 on page 28.

On page 28, line 8, strike out "Sec. 210." and insert "Sec. 209.".

On page 29, strike out lines 10 through 15.

On page 29, line 16, strike out "(g)" and insert "(f)".

On page 30, line 3, strike out "Sec. 211." and insert "Sec. 210.".

On page 30, line 8, strike out "Sec. 212." and insert "Sec. 211."

On page 30, line 21, strike out "Sec. 213." and insert "Sec. 212."

On page 31, strike out lines 12 through 18.

On page 31, line 21, strike out "Sec. 215." and insert "Sec. 213.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. CHILES. Mr. President, H.R. 6686, the Congressional Reports Elimination Act of 1980, which we are taking up today, represents a significant initial effort by Congress to review its own needs for certain reports from agencies in an effort to reduce the number of reports which may no longer be necessary. The purpose of this bill is to discontinue or amend certain requirements for agency reports determined to be no longer necessary and modifies others by providing for their simplification, requiring them less frequently by changing report dates or by consolidating several reports.

Over the years, such statutory requirements for reports have proliferated—to a total of 2,300 at this time. Each Congress requires more and more reports; for example, during the 1970's, almost 800 new reports were mandated.

H.R. 6686 is a result of recommendations received from the General Accounting Office (GAO) and the Office of Management and Budget (OMB). In compiling its list, staff of the GAO contacted affected congressional committees for concurrence with the GAO recommendations. OMB's list was based on suggestions by the individual agencies. In addition, I contacted each Senate committee by letter asking for their review and comments on all of the reports contained in the bill.

The Committee on Governmental Affairs favorably considered a companion bill to H.R. 6686. H.R. 6686 as I propose to amend it here today comports entirely with the bill considered by the Governmental Affairs Committee. It is important to note that, in support of this legislation, the committee further expressed its concern about the numerous examples of congressionally mandated reports being compiled by individual consultants and consulting firms. In an August 1980 report by the Comptroller General, entitled "Agencies Should Disclose Consultant's Roles in Preparing Congressionally Mandated Reports," the GAO in reviewing seven agencies found that consulting services were used to meet over 40 percent of their congressionally mandated reporting requirements during fiscal year 1977–79. Additionally, consulting services accounted for about two-thirds of the total costs incurred, and approximately 60 percent of the reports either did not disclose or inadequately disclosed consultants' involvement.

In an effort to assure that the Congress continues to receive the information necessary to fulfill its oversight function, we have accommodated all requests from the relevant committees to delete certain reports from the bill. The amendments I offer today embody all of these committee requests. In fact, my staff and the staff of the House Subcommittee on Legislation and National Security have worked together to insure that we are eliminating only those reports that were agreed upon by all House and Senate committees.

Therefore, I strongly urge the Senate to pass H.R. 6686, as it will result in significant savings to the government by better utilization of Federal employees' time and by reduction of paperwork and support costs.●

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTOR VEHICLE SAFETY AND COST SAVINGS AUTHORIZATION ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON I submit a report of the committee of conference on S. 1159 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and Motor Vehicle Information and Cost Savings Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

● Mr. CANNON. Mr. President, I urge the adoption of the conference report on the National Highway Traffic Safety Administration Authorization Act. The conference bill sets the authorization level for the agency for a 3-year period. The final figures agreed on are lower than the Senate-passed levels of $60 million for fiscal 1980 and $70 million for fiscal years 1981 and 1982. The final figures are: $48,500,000, 1980; $53,350,000, 1981; and $61,300,000, 1982. These authorization levels, however, are sufficient to meet the agency's current budget requests.

There are two important provisions of the conference report that I wish to comment on briefly. First, the conference report adopts the Senate provision lowering the bumper crash test standard from 5 mph to 25 mph. The conference report makes clear that NHTSA is to use the current proportional corner test approach under the lower standard. That is, NHTSA is to use a 1.5 mph corner impact test Also, after September 1, 1982, the Secretary is to conduct a rulemaking proceeding and compare experience with 5 and 2.5 mph bumpers. In that way, future policy can be established on the basis of real world comparison of bumper systems, not projections and controversial assumptions such as the future price of gasoline. I want to also point out that this amendment becomes effective upon enactment of the bill.

The second matter is a provision that would delay the effective date of the passive restraint standard. Currently it would go into effect on large cars in 1982, but would not apply to small cars until 1984. This would place domestic manufacturers at a great disadvantage against foreign competition. The conference report would delay the standard for 1 year for large manufacturers and also reverse the schedule so that it would apply to small cars first—in 1983, and in larger cars in 1984 and thereafter. Finally, the conference substitute requires the large car manufacturers to tool up and offer for sale airbag-equipped cars on one car line in 3 of the 4 model years between 1982 and 1985.

Mr. President, I thank all of the Members who served on the conference, particularly the Senator from Kentucky (Mr. FORD), whose leadership enabled the Senate to prevail on several important issues. The Senator from Virginia (Mr. WARNER) should also be recognized for his diligent work on the airbag issue. Finally, I thank the Senator from Washington (Mr. MAGNUSON) and the Senator from New Mexico (Mr. SCHMITT) whose cooperation greatly aided our efforts.●

● Mr. FORD. Mr. President, I urge the Senate to adopt the conference report on S. 1159, the Motor Vehicle Safety and Cost Savings Authorization Act of 1980.

This has been a long conference and it has taken a great deal of time to agree on the precise language implementing the decision of the conference. But I believe that the agreements that were finally made are fair and reasonable. The conference substitute reduces the authorized funding level for the National Highway Traffic Safety Administration from the amount passed by the Senate in 1979 to levels which are consistent with the second concurrent budget resolution; the conference substitute lowers the bumper impact standard from 5 mph to 2.5 mph, thus adopting the Senate amendment on bumper test standards; and the conference substitute provides a 1-year delay and a reversal of the schedule for the introduction of passive restraints so that the standard would effect small cars in 1983, and larger cars in later years.

The amendment dealing with passive restraints was a proposal originally made by the distinguished Senator from Virginia (Mr. WARNER), who played an active role in this conference.

Mr. President, I support the delay in and the reversal of the order for the introduction of passive restraints which is applicable to most of the large automobile manufacturers. If we stay on the present schedule, U.S. manufacturers would face a competitive disadvantage because under the current schedule, small-size cars would not be subject to the passive restraint rule for 2 years after it applied to full-sized cars. Since foreign manufacturers almost exclusively sell small cars, they would have a great advantage. But under the new schedule all large manufacturers, foreign and domestic, would have to meet the passive restraint standard on small cars in 1983 and larger cars in later years. This will equalize the burden between foreign and domestic manufacturers, and it will put passive restraints in small cars first which makes sense from a safety standpoint because small cars pose a greater risk of injury if they are involved in an accident.

Let me now turn to another important provision in the conference report; that is the provision which lowers the bumper impact standard from 5 mph to 2.5 mph until September 1, 1982. After that date, the Secretary of Transportation is to conduct a rulemaking proceeding and on the basis of comparative experience between the 5 and 2.5 mph bumpers to establish a new standard which would be applicable thereafter.

This lower bumper standard will allow for a 2-year comparison of the 2.5 mph bumpers with 5 mph bumpers. And we will not have to rely simply on crash tests. NHTSA can review the evidence on the basis of real world experience. After the insurance cost data for model year 1980 is compared with the experience from 1981 and 1982, then the Secretary of Transportation will be in a position to evaluate these bumper standards and make a determination as to what bumper standard is most appropriate and most cost effective. The Secretary has 18 months within which to complete this rulemaking proceeding. I want to emphasize and make very clear that there is to be no presumption in favor of any particular bumper standard in the proceeding that the Secretary will conduct.

He is to apply the current statutory criteria and weigh all factors to devise a standard which will provide the greatest saving to the consumer. All we are asking for is a careful and complete evaluation on the basis of current accurate and credible loss data. I want to point out one other very important understanding regarding the provision of the conference substitute lowering the bumper test impact standard. The statement of managers makes clear that it is the intent of the conferees that NHTSA will use the proportional approach to corner testing now utilized under the current 5 mph bumper standard. In other words, the impact test standard for corner testing will be 1.5 mph for a 2.5 frontal impact standard.

Mr. President, I thank all of my colleagues who served on this conference, for their patience and perseverance in completing action on the bill.●

Mr. ROBERT C. BYRD. Mr. President, the conference report on S. 1159, the National Highway Traffic Safety Administration authorization bill, represents the culmination of nearly 2½ years of my legislative interest in the part 581 Bumper standard promulgated by NHTSA.

Senate report 95–938 on the fiscal year 1979 appropriation bill for the Department of Transportation provided $300,000 for the National Highway Traffic Safety Administration to perform a cost-benefit analysis of the agency's 5-mph bumper standard. The report stated that:

> Such study is to be completed by December 31, 1978. NHTSA shall modify its bumper standard to reflect the results of this study.

NHTSA did not complete its study by the congressional deadline, but on January 26, 1979 NHTSA issued a seven-page "Analysis of the Bumper Standard" that showed that a 2.5-mph standard would cost consumers $188 million less than the 5-mph standard.

On February 8, 1979, I wrote to Administrator Joan Claybrook, and, citing the NHTSA study and a study by Houdaille Industries of Huntington, W. Va., both of which showed that consumers would benefit by a change to the 2.5 mph bumper standard, I called on NHTSA "to take immediate steps to change the standard." On February 13, I repeated this request in a letter to then Department of Transportation Secretary Brock Adams. On February 21, 1979, I telegraphed Administrator Claybrook again urging a change in the standard to 2.5 mph as indicated by the NHTSA analysis and required by the Senate report. I also requested the backup data and calculations for the seven-page January 26th "Analysis." On February 26, 1979, I received the full report including the backup data I requested. According to NHTSA, the February 26, 1979, analysis showed that consumers would save $720 million if a 2.5-mph standard were substituted for the current 5-mph standard. Despite all of this evidence showing that a 2.5-mph standard was preferable, NHTSA refused to change the standard. Instead, it continued to study the matter further.

On June 1, 1979, NHTSA released its third bumper study. This study concluded that a 5-mph standard was more cost beneficial than a 2.5-mph standard by $39 per car. This study was severely criticized by the Council on Wage and Price Stability and others for a number of erroneous assumptions it contained. For example, the agency used the unrealistically low figure of 73 cents for the price of gasoline and predicted that the price would not reach $1 per gallon before 1990. At the time, the price of gas was in excess of 90 cents per gallon and climbing fast. Moreover, NHTSA used an unreasonably low figure of 0.35 of a pound in estimating the amount of "secondary weight" that could be saved as a result of a 1-pound reduction in bumper weight. In contrast, all the auto industry estimates stated that a minimum of 1 pound could be saved as a result of a 1-pound reduction in bumper weight.

NHTSA, in part, responded to these criticisms releasing a fourth bumper study on January 8, 1980. This report conceded that the case for the 5-mph bumper was weaker than the agency had argued in June 1979; but it still claimed that a 5-mph standard was $11 to $29 more cost beneficial per car than the 2.5-mph standard. While NHTSA admitted that its fuel cost and secondary weight estimates were too low, it refused to adopt reasonable figures. It raised its assumption of gasoline prices to only 94.5 cents per gallon, and its secondary weight estimates to a range between 0.5 and 0.75 of a pound.

On January 25, 1980, Director R. Robert Russell of the Council on Wage and Price Stability wrote to Joan Claybrook after analyzing all of NHTSA's studies. He stated that, using certain alternative assumptions that the Council believed to be "more realistic or at least equally plausible" to those used in the final NHTSA analysis, the 2.5-mph standard is more cost beneficial than the 5-mph standard by a range of $7 to $70 per car. The Council on Wage and Price Stability report concluded that:

> In sum, we have seen no convincing basis for concluding that the 5-mph standard is preferable to the 2.5-mph standard.

On February 26, 1980, Director Russell informed me by letter that—

> On the basis of the limited evidence that we have examined, we believe that the net social benefits associated with the 2.5-mph standard are greater than for the 5-mph standard.

On April 15, 1980, in a letter to General Motors Corp., NHTSA stated that:

> NHTSA's analysis indicates that, if the Part 581 Bumper Standards were modified to require 2.5-mph front and rear barrier and pendulum impacts and 1.5-mph corner pendulum impacts, and if manufacturers took full advantage of the primary and secondary weight reductions made possible by such a modification, combined average fuel economy values would be increased by 0.3 miles per gallon.

This fuel-economy figure represents a savings of approximately 800 million gallons of gasoline every model year. And, it should be noted that this figure, large as it is, is extremely conservative because it is based on NHTSA's unreasonable assumption of a secondary weight estimate of only 0.5 pounds. The Department of Energy estimated that the savings would be approximately 1 billion gallons of gasoline every model year if the bumper standard were lowered.

The adoption of my amendment reflects the congressional determination that, on the overwhelming weight of the evidence that exists to date, the 2.5-mph bumper standard will benefit consumers by saving them significantly more money and gasoline than will a 5-mph standard. In addition, Congress has determined, in adopting this amendment, that NHTSA's retention of the 5-mph bumper standard, in defiance of the overwhelming weight of the evidence, constitutes "arbitrary and capricious rulemaking."

The bumper standard currently consists of 5-mph front and rear barrier crash tests, 5-mph front and rear longitudinal pendulum tests, and 3-mph corner pendulum tests. My amendment will change the 5-mph front and rear barrier and longitudinal pendulum tests to a speed of 2.5 mph. In addition, the corner pendulum impact test speed of 3 mph will be reduced proportionately, as contemplated by NHTSA's bumper analysis, to a speed of 1.5 mph (See page 1 of Robert F. McLean, "Design Analysis of Bumper Systems in Support of the Cost Benefit Study." (April, 1979).)

The reduction in the impact test speed set forth in part 581 of title 49 of the Code of Federal Regulations shall take place on the date of enactment of this amendment. On that date, new automobiles will be required to comply with the part 581 bumper standard, but with every impact test speed halved.

The Secretary of Transportation shall not have any authority to propose or establish any impact test velocity exceeding 2.5 mph for the barrier and longitudinal pendulum tests or for the 1.5-mph corner impact test before September 1, 1982. This limitation on the Secretary's authority to amend the standard is incorporated in the amendment for two reasons. First, it will encourage automobile manufacturers to redesign their bumper systems in order to take full advantage of the weight reductions associated with the 2.5-mph standard, benefiting consumers through cost and weight reductions. By freezing the standard in place until September 1, 1982, Congress intends to insure that automakers will be able to justify and recoup the retooling costs associated with this redesign. Second, this limitation on the Secretary's authority will insure that the Secretary will be able to develop realistic data comparing the relative performance of 2.5- and 5-mph bumper systems before any attempt is made to modify the bumper standard.

After the limitation on the Secretary's authority to propose or establish higher test velocity speeds elapses on September 1, 1982, the 2.5-mph standard will remain in effect. The Secretary of

Transportation will then be in a position to evaluate the actual performance of cars equipped with 2.5-mph bumper systems. In particular, attention should be focused on those vehicles that have been redesigned to achieve fully the cost and weight savings attendant to the 2.5-mph standard. Morever, 1983 and 1984 model year cars will be of particular importance, since the automakers will have had sufficient time to enable them to achieve the potential secondary weight reductions associated with the decreased weight of the bumper system.

A fundamental rule of economic theory is that it is inappropriate to impose more stringent regulatory burdens for a purely economic regulation having no safety implications—such as the Federal bumper standard—unless the clear and convincing evidence unmistakably shows that the additional burdens are substantially outweighed by greater consumer benefits. NHTSA has never made such a showing for its 5-mph bumper standard. Congress will not tolerate any attempt to reinstate that standard unless this considerable regulatory burden is established beyond dispute.

Consequently, any gaps in the evidence gathered by the Secretary during the period of rulemaking following September 1982 will necessarily be resolved against the imposition of higher and more costly economic regulation in this nonsafety related context. If, however, NHTSA should meet this heavy burden and thereby justify a change in the standard, it will, of course, be necessary to provide the automakers with sufficient lead time so that they can meet the new standard without incurring any needless expense.

Mr. President, I commend the manager of the bill, the Senator from Kentucky (Mr. Ford), for his outstanding efforts in moving this legislation through hearings, Senate consideration and the joint committee on conference. I also thank the chairman of the Committee on Commerce, Science, and Transportation, the Senator from Nevada (Mr. Cannon), for all of his forthright efforts to insist steadfastly on the position of the Senate in the joint committee on conference.

In addition, I also thank the ranking minority member of the full committee, the Senator from Oregon (Mr. Packwood), as well as the ranking minority member of the Subcommittee on Consumer (Mr. Danforth), for their many efforts to secure the passage of this legislation. I particularly thank the conferees of the Senate, the Senator from Kentucky, the Senator from Nevada, the Senator from Washington (Mr. Magnuson), the Senator from Virginia (Mr. Warner), and the Senator from New Mexico (Mr. Schmitt), for their many hours of labor in reaching agreement in the conference committee. The cooperation among the majority and minority members in dealing with these complicated issues is most commendable.

Aside from other provisions of this bill, this bumper standard amendment will save consumers 800 million or 1 billion gallons of gasoline per model year according to NHTSA and the Department of Energy, respectively. And, the bumper amendment will save the consumers hundreds of millions of dollars per model year in lower repair costs. Consumers also will benefit from a cost-saving to our automobile manufacturers who say that at least $1 billion in capital costs that would have otherwise been required to attain the increase in the fuel economy of 0.3 miles per gallon results from my amendment.

The good workers at the Huntington, W. Va. plant of Houdaille Industries have waited patiently for the enactment of this legislation. These fine people have shared in the impact on the automobile industry generally resulting from the dramatic downturn in sales of American-made vehicles, and they have been hampered further by the obdurate policies of NHTSA regarding its bumper standard. When operating at a normal economic level, the Huntington plant employed some 700 workers and supported an additional 500 jobs in the community, totaling approximately 4 percent of the total employment in the Huntington area. In the 1970's, the Huntington plant's annual payroll of $10 million—and the $15 million in indirect employment—generated $25 million for the economy of Huntington. In the 1970's, approximately 1 percent of the West Virginia business and occupation tax revenue was generated annually from the business of this plant.

I hope that the economic burdens that these people have had to bear as a result of the views of a few bureaucrats in NHTSA will be relieved by the enactment of my amendment on the bumper standard, along with an upturn in the manufacture and sales of American-made vehicles.

The Congress expects the automobile industry to implement my amendment immediately upon its enactment into law. Such implementation will surely result in the greater use of steel in the manufacture of bumper systems, and steel is less expensive to use than either aluminum, which is very energy intensive in its manufacture, or soft-face, which is a byproduct of chemical feedstocks from imported oil. Greater use of steel will also benefit the steel industry, which has a tremendous amount of excess capacity, and will indirectly aid the coal mining industry, which supplies the metallurgical coke that is employed in the manufacture of pig iron. (In West Virginia, there are 7,200 coal miners who are unemployed and who would benefit from the increased use of steel in the manufacture of American automobiles.)

Enactment of this legislation into law is in the best interests of consumers, automobile manufacturers, and West Virginians—especially the people in Huntington, who stand ready to continue their productive labors.

THE LEGISLATIVE VETO: TRUE REGULATORY REFORM

● Mr. SCHMITT. Mr. President, I support the conference report on the NHTSA authorization bill and urge the Senate to approve it. The conference committee has worked long and hard over a period of many weeks to develop an acceptable compromise.

I thank the distinguished chairman of the Commerce Committee (Mr. Cannon) and the chairman of the subcommittee (Mr. Ford) for the cooperation they have shown throughout this conference committee.

In particular, I thank the distinguished Senator from Virginia (Mr. Warner) for the diligence with which he has pursued a compromise on this report. He has been tireless in meeting with all interested parties and in examining all the nuances of the issues involved here. While we may not have agreed on every issue, I think he has done an excellent job on a very difficult conference.

I am particularly pleased with the resolution of the legislative veto issue. The conferees have agreed on a procedure that would provide for the proposed rules on NHTSA to be submitted to the Congress for 90 days before becoming effective. Should both Houses approve a resolution of disapproval within this time period the rule could not become effective. The procedure also calls for expedited consideration of resolutions is disapproval that would insure that such resolutions receive the careful attention of the appropriate committees.

If a committee should fail to address the issues raised by a resolution of disapproval, then the membership of either body could move to discharge the committee and bring the resolution to a vote on a fast-track expedited basis.

The legislative veto and the expedited procedures agreed to by the conference committee are designed to guarantee that the elected membership of the Congress have the final word on all NHTSA proposed regulations.

The legislative veto in this conference report is identical to that contained in the Federal Trade Commission authorization bill. It is a workable procedure that will give the Congress a valuable mechanism, for insuring that regulations are a mirror image of congressional intent. Should an agency stray from the boundaries established by the Congress, then the Congress will have the tools available to correct the situation. This is truly regulatory reform, and the conferees of both the House and Senate are to be commended for their action.

I believe the conference agreement is a reasonable and workable compromise and urge the Senate to adopt it.●

Mr. WARNER. Mr. President, I strongly support the conference substitute and report on S. 1159, the authorization for the National Highway Traffic Safety Administration, and I urge my colleagues to support this legislation.

I shall direct the remainder of my remarks to the provision in the legislation relating to the Department of Transportation's (DOT) passive restraint standard. This standard became an issue in this conference primarily because of a provision in the House bill requiring the automobile manufacturer to allow a purchaser of an automobile, defined to include the automobile dealer, to purchase an automobile with an active seat belt. It was argued to proponents that this amendment would guarantee consumers a freedom of choice. Opponents of that provision claimed it provided consumers only with a choice between an active seat belt and passive seat belt and that such a choice was in contravention of the purpose of the Federal standard—namely, automobile safety.

As a conferee on the bill, I assumed the responsibility of reviewing the standard and forging a compromise that would be acceptable to the House and Senate. I believe the proposal adopted by the conferees should be acceptable for several reasons.

First. It is fully consistent with the congressional and administration goal of reducing highway deaths and injuries; second, it revises the standard to assure effective and efficient use of dollars which are to be invested in automobile safety systems; third, it revises the standard to assure that foreign manufacturers will begin to meet the standard in the same year as domestic manufacturers; and fourth, it assures that in the coming years, there will be available in the marketplace a choice of automatic occupant protection systems for consumers to select.

Let me explain how the compromise provision accomplishes these goals.

The Department of Transportation adopted the passive restraint standard June 30, 1977 pursuant to the National Traffic and Motor Vehicle Safety Act. The law required the DOT passive restraint standard to be sent to Congress for review 60 days before its effective date. If both Houses of Congress adopted a resolution of disapproval the standard was not to become effective. Both the House and Senate reviewed the standard. The House Interstate and Foreign Commerce Committee voted against such a resolution of disapproval and the resolution was never voted on by the House.

The Senate Commerce Committee voted against such a resolution of disapproval but agreed to allow a Senate floor debate and vote. I was not a Member of the Senate in 1977, but legislative history shows that the Senate voted 65 to 31 to table the resolution of disapproval. The distinguished chairman of the Consumer Subcommittee, WENDELL FORD, led that successful floor action to table the resolution of disapproval.

The current passive restraint standard as adopted by DOT in 1977, provides that by model year 1982 all large cars must be equipped with either a new type seatbelt—called the passive belt—or an airbag; such requirement to be extended to include midsize cars in model year 1983; and small cars in model year 1984. The decision as to which safety device to place in each car was to be made by the automobile manufacturer.

Let me point out, because this is often misunderstood by the public, that the standard does not require a consumer purchasing a new automobile to purchase one with an airbag. In fact, consumers who would have wanted to purchase an automobile with an airbag would have had a difficult time because automobile manufacturers only planned to offer an airbag for sale on a limited number of luxury automobiles. In model year 1982 this translates into the Ford Lincoln Continental and Mark IV and the Mercedes Benz.

The current DOT standard is based on a 1977 market picture. The 1980 market picture is drastically different. Therefore, to meet the concerns of Members of both Houses with respect to this changed situation, it is clearly necessary to revise the standard.

The large car market has dropped off in volume as a consequence of rising family costs and fuel prices, thereby inducing people to buy smaller cars. Further, only one American automobile manufacturer—Ford—was intending to put in the automobile dealer's showroom a choice between the passive belt or an airbag. General Motors announced publicly this spring it would not manufacture cars with airbags, thereby denying the consumer that choice. A further complicating factor is the serious decline in the overall financial position of the American automobile industry and the drops in employment and sales. Part of this adverse trend is due to our sagging economy and part is due to the rising sales of cars manufactured in foreign countries.

The conference substitute corrects the deficiencies and inequities in the current DOT standard. It is supported by a coalition of organizations—among them the National Highway Traffic Safety Administration and the Automobile Occupant Protection Association—whose members are listed following this statement.

The conference substitute revises the 1977 standard in several ways.

First, it reverses the current safety standard schedule for the larger volume manufacturers by requiring small cars to be equipped with an automatic safety system in model year 1983. It also begins the standard schedule in model year 1983 instead of model year 1982. This provision is a positive step for several reasons. It allows for more efficient and effective use of dollars spent on passive safety systems. Ford and GM plan on phasing their current large cars out of production in the next 2 years.

Therefore, by postponing implementation of the standard for 1 year, Ford and GM will not have to spend money to tool up for 1 year for a new safety device. The new provision also advances by 1 year the requirement that small cars be equipped with passive safety system. Last year, in crashes between large and small cars, eight people were killed in the small car for every one who died in the large car. With the increase of smaller cars with improved fuel efficiency on our Nation's highways, and with estimates that loss of life will rise by as much as 15,000 a year by 1990, it is imperative that we achieve effective crash-protection systems in the 1980's.

This same revision will correct an inequity in the standard and assure that the American automobile industry will not be at a competitive disadvantage with the foreign automobile manufacturers. Under the conference substitute, the American automobile industry and the foreign manufacturers will be required to begin the passive restraint standard in the same year—model year 1983.

Second, the conference substitute requires the large volume manufacturers—Datsun, Toyota, Volkswagen, GM and Ford—to offer airbags for sale on one line of cars. Note that the consumer is not required to purchase an airbag car. This provision of the conference substitute is intended to assure the consumer freedom of choice among a variety of safety systems—including airbags—in cars of a range of prices and sizes. Currently, no such choice is available.

Ford and GM have already made an enormous investment in research and development of the airbag. In fact, Ford plans on offering the airbag for sale on Lincoln Continentals and Mark IV's in model year 1982. In addition, General Motors in a July 24, 1980, letter to Secretary Goldschmidt proposed that in exchange for the Department's slipping the standard schedule 1 year it would offer airbags for sale as an option on GM's full size cars. This would allow airbag availability on about 1 million cars per year for a period of 3 years.

I ask for unanimous consent for this letter to be made a part of the RECORD because it is evidence of the capability of GM to produce the airbag on a variety of GM automobiles and of its support for slipping the standard of 1 year.

While American automobile manufacturers have made significant strides in design, testing, and development of the airbag, the foreign manufacturer is behind in this safety effort. The conference substitute requires the foreign manufacturers to share the financial burden for safety research and development.

In addition, this provision will assure that the airbag automobile will receive a free market test. Manufacturers have been reluctant to offer airbag equipped autos for sale because they are unsure whether or not consumers will purchase them. Marketing surveys and polls indicate that many consumers do want to purchase an automobile with an airbag. For example, a recent marketing survey by General Motors showed that 70 percent of its large-car buyers preferred an airbag to a seatbelt and would pay $360 extra to obtain such a safety system in a new car. The results of this survey are included at the conclusion of my remarks for printing in the RECORD.

Furthermore, this provision will provide a real-world test of the airbag, which should put to rest any claims that the airbag is not a lifesaving device. Personally, I am confident that the airbag will save lives. The airbag has been tested more than any other automobile safety system. In over 600 million miles of real-world driving during the past 6 years, the airbag has demonstrated remarkable reliability and effectiveness.

The results of these tests are that airbags will save lives.

Moreover, several weeks ago six people came to my office to tell me of their real-life experiences and personal witness to the fact that these airbags do save lives. You see, these two men, one woman, one young adult, and two children are alive today because of the airbag. Yes, they were in accidents that would have surely been fatal to them—if it were not for the fact that they had airbag equipped automobiles. The Department of Transportation estimated in 1977 that the airbag would save approximately 9,000 to 12,000 lives per year. With the trend toward purchase of smaller cars, this number may be even greater in the future.

One last comment should be made regarding this provision. The Congress is not indicating any preference for airbags over automatic seatbelts. Both safety systems provide a significant degree of protection in automobile accidents. Automatic seatbelts will be preferred by many consumers because they are less expensive than the airbag. Yet statistics show that only 1 out of 10 Americans currently buckles up; 96 percent of the children riding in automobiles are unbelted and completely without protection. Therefore, I believe it is likely that many Americans would prefer to pay the extra dollars for the protection offered by the airbag and I believe these Americans should be enabled to do so.

Lastly, I want to point out that the conference substitute does support the concept for automatic occupant protection. I believe in this concept.

Casualties in automobile accidents continue to be a major public health problem of epidemic proportions. The current toll is now over 50,000 deaths and 4 million injuries each year. Measured in terms of working life lost, traffic deaths represent a social problem comparable to heart disease and cancer. Motor vehicle accidents are the largest single killer of Americans under the age of 34. At the present rates, 1 of every 60 infants born today will die in a traffic accident. Out of every three infants born, two will suffer injuries in a crash.

This Nation is in mourning, as it should be, for our 50 hostages in Iran and our hope for their eventual safe return is everlasting. Yet we give far less national concern as the highway death toll rises above 50,000 at a rate of more than 135 people per day.

The economic aspect of these injuries and deaths is severe. The taxpayer, through Federal and local governments, pays the cost of emergency medical care, police personnel, hospital care and rehabilitation, and lost revenue. In addition, the consumer pays again through higher insurance costs and higher hospital and medical costs. And the injured individual and his family suffer even greater costs through medical care, rehabilitation, and loss of wages. These costs are estimated to total $50 billion each year in medical and rehabilitation costs, lost wages, welfare, and property damage.

However, these statistics do not show the hidden personal costs, the trauma and heartbreak suffered by individuals, their families and their friends.

I believe the Congress has a responsibility to the taxpayers and consumers to reduce this economic and social human burden. Few complain of State laws requiring automobile owners to pay for high insurance policies, the purpose of which is to lessen the expense to the government when one has an accident.

Mr. President, I wish to call my colleagues' attention to three items reflecting my views on this issue. One is a letter from one of my constituents. Second is a 1977 editorial by George Will, and third is a 1977 editorial by Colman McCarthy. I submit them to be made a part of the Record.

In conclusion, I again urge my colleagues to support the conference bill.

The materials referred to are as follows:

NATIONAL COMMITTEE FOR AUTOMOBILE CRASH PROTECTION

MEMBERS

Allstate Insurance Companies, American Academy of Pediatrics, American Association of Physical Medicine & Rehabilitation, American Coalition of Citizens with Disabilities, American College of Preventive Medicine, American Congress of Rehabilitation Medicine, American Family Insurance Group, American Insurance Association, American Nurses Association Division on Medical Surgical Practice, American Public Health Association, American Trauma Society, Amica Mutual Insurance Company, Association of Massachusetts Consumers, The Atlantic Companies, Automobile Club of Missouri.

Automobile Owners Action Council, Susan P. Baker, Associate Professor, Johns Hopkins School of Hygiene and Public Health, Cal. Farm Life Insurance Company, Center for Auto Safety, Center for Concerned Engineering, Center for Independent Living, Chubb & Son, Inc., Colonial Penn Insurance Company, Commercial Union Assurance Company, Congress Watch, Craig Hospital, Denver, Colorado, Crum & Forster Insurance Companies, Disability Rights Center, Employers Insurance of America.

Farmers Insurance Exchange, Government Employees Insurance Company, Greenbelt Cooperation Inc., Harleysville Insurance, The Hartford Insurance Group, International Association of Chiefs of Police, League Insurance Group, Liberty Mutual Insurance Company, Maryland Institute for Emergency Medical Services, Mid Atlantic Medical Services Council, Ralph Nader, Attorney, National Association of Emergency Medical Technicians, National Association of Independent Insurers, National Association of Mutual Insurance Companies, National Association of Professional Insurance Agents.

National Consumers League, National Spinal Cord Injury Foundation, Nationwide Insurance Company, Norte Vista Medical Center, Hobbs, New Mexico, Ohio Farmers Insurance Company, Physicians for Auto Safety, Physicians National Housestaff Association, Prudential Insurance Company of America, Prudential Property & Casualty Insurance Company, Safeco Insurance Company of America, Saint-Paul Fire & Marine Insurance Company, State Farm Insurance Companies, S. Lynn Sutcliffe, Attorney, Travelers Insurance Companies, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), United Services Automobile Association, Wisconsin Consumers League.

GENERAL MOTORS CORP.,
Detroit, Mich., July 24, 1980.

Hon. NEIL GOLDSCHMIDT,
Secretary of Transportation,
Washington, D.C.

DEAR NEIL: This is in reference to our several discussions, and my letter of July 1, regarding possible installation of inflatable restraints.

What we are proposing is that you issue an amendment to MVSS 208, under which the passive restraint requirements, at the option of the manufacturer, would become effective first in the 1983 model year, rather than 1982. This option would also provide that the requirements would apply only to small cars in 1983, to small and mid-size cars in 1984 and to all cars in 1985. For our part, in return for such an optional amendment, GM would contract in writing with DOT to make available inflatable restraints as an option in our B–C production for the model years 1983, 1984 and 1985.

In our case, this would mean that if we so contracted with DOT, on the basis of current sales estimates for our full-size B–C cars, inflatable restraint availability would be offered on about one million cars per year or a total of three million cars for the three year period. Our current projections indicate that about 100,000 full-size car buyers would order the optional inflatable restraint in each of the three years. As I mentioned, we have drafted a contract reflecting this approach which we would be glad to discuss with you.

Sincerely,

PETE ESTES.

GM-DOT INFLATION RESTRAINT SYSTEM

ARTICE I—SCOPE OF WORK

To provide for a demonstration program to familiarize the American people with the benefits of Inflatable Restraint (IR) systems.

The primary objective of the demonstration program is to provide passenger cars equipped with an optional IR system on a nationwide basis, and in sufficient numbers, so that the American people can become familiar with the features and benefits of the IR, and to foster the continued development of passive restraint technology. In accordance with this objective, GM will offer an optional full front IR system on its "B" and "C" full-size cars during model years 1983–85.

The undersigned parties therefore agree as follows:

1. That GM will design, engineer and test an optional IR for its full-size "B" and "C" body passenger cars for each of the model years 1983–85. (The production volume for these models during model years 1983–85 is estimated to be 3.1 million vehicles.)

2. That GM will provide facilities, schedule and offer for sale in the United States an optional IR system on its full-size "B" and "C" body passenger cars beginning with the 1983 model years at least in line with incoming dealer orders consistent with available materials.

3. That GM will maintain a 30-day field stock supply of IR-equipped cars commencing two months after new model announcement day for each of the three aforementioned model years.

4. That GM will actively promote the sale of IR passenger cars nationwide. The key thrust of such promotion will be at the point-of-purchase and will involve the following:

a. Prior to the 1983 through 1985 new model introduction dates, GM will promote the sale of IR passenger cars at dealer pre-announcement shows and through advance materials.

b. GM will solicit orders from dealers for IR cars in advance of new model introduction date and efforts will be made to have at least one such car for purposes of display, demonstration, and purchase in each dealership at the introduction date.

c. A dealer salesman training program will be developed and implemented prior to the model year introduction date.

d. Merchandising materials for distribution to dealers will be developed including a special mini-theatre film to demonstrate to the consumer the IR system and its merits. Other material would include showroom promotional pieces and "take-away" brochures for prospective purchasers.

e. If necessary GM will establish appropriate incentive programs for selling IR passenger cars.

4. That GM will affix to the inside door of the glove box, or in some other prominent location of each IR passenger car, and include in the owner's manual, the following statement:

In the event of any accident involving this vehicle requiring towing or in which any injury to driver or passenger is sustained, or in the event the inflatable restraint deploys please notify: National Response Center, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone (toll free) (800)———.

5. That GM will establish a reporting system for 1983–1985 model full-size ("B" and "C" body) IR passenger cars among participating dealers that provide for notification to GM whenever the dealer becomes aware of (1) an IR deployment; (2) an IR passenger car being involved in an accident of sufficient severity to require such IR passenger car to be towed away; or (3) whenever an occupant in an IR passenger car is injured in an accident.

6. That GM will report to the National Highway Traffic Safety Administration (NHTSA) any information or notice it receives from one of its dealers or other sources with respect to the IR accident-injury criteria set out in paragraph 5 above.

7. That GM will report to NHTSA on a monthly basis the number of IR passenger cars manufactured and sold during the month and the days supply of vehicles on hand at the end of such month.

8. That in order to familiarize the public with IR and make the demonstration program a success it will require promotion and educational efforts by the Department of Transportation (Department) as well as GM. Therefore, the Department agrees to undertake appropriate efforts to familiarize the general public with the IR, and to promote the acceptance of the IR.

9. That the Department will make all reasonable efforts to develop a means by which the General Services Administration (GSA) will purchase IR vehicles, and to urge all federal and state agencies to purchase such vehicles.

10. That subject to Office of Management and Budget approval, the Department will establish a procedure within NHTSA to monitor the results of this demonstration program. NHTSA will compile data of accidents involving passenger cars equipped with passive restraints, analyze the data, use the data to study the reliability and effectiveness of passive restraints and other restraint systems, periodically publish the data and studies, and furnish such data to GM.

11. That this Contract may be modified or changed only upon mutual agreement of the parties in writing.

12. That nothing herein shall be construed to confer benefits or rights to any third party.

ARTICLE II—CONDITIONS

The above agreement is subject to the fulfillment of the following conditions:

1. That Federal Motor Vehicle Safety Standard (FMVSS) No. 208 shall be amended to provide, at the option of the manufacturer, a choice of complying with the passive restraint requirements in effect as of July 1, 1980, or a new option, which would provide in effect, as follows:

a. the initial effective date of the passive restraint requirements shall be September 1, 1982; and

b. the implementation schedule shall apply as follows:

(1) to passenger cars manufactured from and after September 1, 1982 with a wheelbase of 100 inches or less;

(2) to passenger cars manufactured from and after September 1, 1983 with a wheelbase of 114 inches or less;

(3) to all passenger cars manufactured from and after September 1, 1984.

2. That without any fault or negligence on the part of GM, no event shall have occurred to prevent performance by GM of any of its obligations hereunder, including but without limitation, acts of God or of the public enemy, fires, floods, strikes or labor disputes or the inability of GM to obtain supplies of satisfactory quality and required quantity from reputable suppliers.

ARTICLE III—PRICE

The Department and GM agree that the price to be paid by the Department for the work to be performed as set forth in the Scope of Work shall be One Dollar ($1.00), receipt of which is hereby acknowledged by GM. Both parties do hereby intend to be legally bound by this Contract, under seal.

ARTICLE IV—TERMINATION

1. The demonstration program will terminate if for any reason the conditions specified in Article II, Paragraph 1 do not remain in effect during the term of this program.

2. The Contract may be terminated by either party upon mutual agreement of the parties.

ARTICLE V—SEPARABILITY

If any provision of this Contract other than those in Article II or IV shall be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall not be effected or impaired in any way thereby.

This Contract shall not become effective unless and until it is approved by the Board of Directors of General Motors Corporation at its regular monthly meeting to be held on ----------------------.

In witness whereof the parties have executed this Contract this day of ----------.

[From the Washington Post, Dec. 7, 1979]

GM BUYERS WANT AIRBAGS, STUDIES SHOW

(By Larry Kramer)

Three previously indisclosed marketing studies by General Motors reveal that its own customers "strongly prefer airbags" over the alternative of safety belts, a fact the automaker did not reveal during the debate over proposed laws calling for passive restraints in autos.

The studies, released yesterday by Rep. John Burton (D-Calif.) chairman of the House government activities and transportation subcommittee; show that as recently as February 1979, 70 percent of those GM car owners questioned preferred airbags over active or automatic seat belts, even when told that the airbags could cost up to $360.

A 1971 study also released showed that 50 percent of those surveyed preferred airbags over a choice of either belts or no restraints at all.

And a third consumer study, done in 1978, told GM that airbags "received the highest ratings on all operation, comfort and appearance items evaluated."

Burton timed the release of the survey to influence legislative proposals next week that could halt pending Transportation Department regulations ordering automakers to phase in passive restraint systems between 1982 (large cars) and 1984 (small cars).

Although the present DOT regulation merely calls for any form of passive restraint, there are certain types of vehicles that, under present technology, could comply with the regulation only through the use of airbags.

Burton accused the world's largest automaker of suppressing the surveys while the House was considering related legislation.

Burton claimed that GM "has known for years that a significant and growing number of its customers strongly prefer airbags. Yet GM does not offer airbags as an option on a single car today."

A GM spokesman attending Burton's press conference. Technical Liaison Group manager Bill Chapman, acknowledged that the surveys were genuine, but denied that GM in any way suppressed them. "When the committee asked for them, we gave, them to them," he said.

Chapman further said that when GM offered airbags as an option in certain large cars from 1974–1976, only 5,000 people ordered them in the best year.

"We were tooled up to produce 100,000 a year," he said. "Some of the airbag proponents in this room did not buy them."

Chapman said marketing surveys are not in themselves enough to establish consumer demand. "There were lots of marketing studies done on the Edsel, too," he said.

General Motors had expressed safety concerns with its airbag system, which it originally had planned to offer on late-model 1980 cars. That introduction has been delayed because the automaker said its tests have shown that unrestrained and out-of-place children could be hurt by the airbag system.

But Burton said he was shocked to find that GM withheld the consumer studies during the congressional debate over airbags, particularly since some House members claimed that airbags were "not what the public really wants."

"This (information in these studies) destroys the argument that people won't want airbags," Burton said yesterday. He said he personally found airbags to be far superior to passive restraint belt systems, which he said a consumer would find uncomfortable, "unless he was some kind of bondage freak."

Passive restraint belts are the seat and shoulder belts that automatically close on the occupant when he or she closes the door of an automobile. They are presently offered as options only on Volkswagen Rabbits. There were, however, about 10,000 1978 Chevetes sold with a similar system.

Specifically, the three newly released studies revealed the following:

The 1971 Consumer Preference Study. This study involved 630 workshop participants who were interviewed extensively. They were asked their preferences on several different occasions, each time being given new information. What the survey found was that even after told of the extra costs and disadvantages of airbags, the majority of those surveyed found the airbag "far superior in all areas of style and convenience."

The 1978 Study. In this survey, GM asked 1,104 GM car owners in a midwestern city to examine and rate three items: active seatbelts (which must be buckled by the user);

automatic seatbelts and air bags. It concluded, "The air cushion restraint system . . . received the highest ratings on all operation, comfort and appearance items evaluated," and that "passive restraint systems were preferred by a margin of two-to-one over a mandatory seatbelt law."

The 1979 Study. Here 195 Chicago GM large-car owners were asked their preferences among three types of automatic seatbelts or airbags. Seventy percent preferred airbags, even when told it would cost more than four times the price of the most popular belt. The airbags were priced at $360, while the automatic belts were priced between $80 and $150.

Speaking yesterday GM's Chapman said. "There is a big difference between saying you're going to do something and writing the check to do it."

[From the Roanoke Times & World-News, Aug. 23, 1980]

AIRBAGS ENHANCE SAFETY

On a holiday weekend our son was a passenger in a car that hit a tree and overturned. He died of massive brain injuries in Roanoke Memorial Hospital 23 hours later. A seat belt wouldn't have saved him, but I believe an airbag would have. (One of the few cars equipped with air bags hit a moving freight train, and the passengers in the car were unhurt.)

I applaud Sen. Warner's efforts to get an airbag option to the consumer. I believe that most Americans put a value of over $500 on human life. If Sen. Warner is successful, for the price of cruise control or less than a good stereo system or two color paint jobs, we could buy this protection ($200 according to your editorial).

If I could turn back the calendar one year and buy an airbag to save my son, I would pay every penny I could possibly earn to the end of my life. If we really believe that we are God's children, why do we worship money even at the expense of human life and safety?

ANNA BELLE MITCHELL.

BLACKSBURG.

DRIVING WITHOUT RESTRAINT

(By George F. Will)

CHEVY CHASE VILLAGE.—Thinking he heard thunder, my neighbor went to close his car windows. Actually, he had heard a commonplace tragedy, the making of a statistic. A woman died and a man nearly did in an occurrence shocking but routine: an automobile accident.

The car veered out of control on Connecticut Avenue, hit trees, fragmented, broke in half. Three of us arrived immediately. Emergency equipment arrived quickly. Cleaning up took hours.

In 1900, this "village," six miles from the White House, was where Washingtonians came for country breezes. Today, it is a small incorporated area near the center of a sprawling metropolis. It is divided by Connecticut Avenue, which passes around a traffic circle as it enters Maryland. Trees on the circle are heavily scarred. Crumpling steel and crying sirens are common sounds here as on many urban thoroughfares.

Increasingly, American driving reflects, I think, the sublimated fury of persons heading for infuriating jobs, the animal spirits of persons whose lives allow little scope for such spirits. As Daniel Moynihan wrote years ago, the automobile is "both a symbol of aggression and a vehicle thereof. . . . It is a prime agent of risk-taking in a society that still values risk-taking, but does not provide many outlets."

The endless epidemic of accidents is one of the Nation's gravest public health problems. Automobile deaths and injuries have costs beyond counting, and are a special plague to the young. Of every 100,000 males at age 15, about 1,100 will die in accidents, most involving automobiles, before age 25—a death rate 20 times worse than polio inflicted at its worst.

As Moynihan notes, the social life of most Americans "now primarily takes the form of driving to a place where alcohol is consumed." And because traffic laws are widely ignored, almost everyone is a lawbreaker, and the incidence of arrest in America may be the highest of any nation in history. Repairing and replacing wrecked cars may provide 20 percent of the business for the automobile industry, the nation's most important.

Such statistics are as lifeless as the woman who lay beneath blankets on the Connecticut Avenue median strip. But they describe a river of sorrow flowing from monstrously irrational behavior.

Most drivers frequently exceed speed limits, only 25 per cent use seatbelts, only four per cent use harnesses. Because slaughter behind the wheel is deeply rooted in aggression and other irrationality, it is very difficult to substantially reduce accidents by reforming drivers. So government has tried to reduce the severity of injuries received in accidents.

The public disliked, and the government quickly disconnected, the ignition "interlock" system that prevented cars from starting when safety belts were unfastened. Today, new cars just make a brief buzz of disapproval.

Government may yet require "passive restraints"—air bags that instantly inflate to cushion passengers in collisions. There is evidence that they would save many thousands of lives annually and may be one answer to what Moynihan has called "the seeming incompatibility of safe driving and mass driving." That is a considerable problem in a nation where more people drive than pay taxes or vote.

Air bags require no forethought by drivers, so they are suited to the American driving public. The air bags would probably cost manufacturers less than $100, a fraction of what car buyers exuberantly spend when loading their cars with snappy wheel covers and other options.

Long before the most recent Connecticut Avenue death, I regretted having once argued that government has no business requiring drivers to buy and use inexpensive devices that might save them from self-destruction. There is a pitiless abstractness, and disrespect for life, in such dogmatic respect for the right of consenting adults to behave in ways disastrous to themselves. Besides, too many children passengers are sacrificed on that altar. And a large part of the bill for the irrationality of individual drivers is paid by society.

Most important, society desensitizes itself by passively accepting so much carnage.

On Connecticut Avenue that evening the police operated with the weary patience normal to those who are paid to look unblinkingly at what people do to themselves. "Go home," a policeman finally said, with barely noticeable disgust, to people milling around the debris. "Go home and watch television." After a while, we did.

THE FREEDOM TO CHOOSE SAFETY

(By Colman McCarthy)

As a listener to nearly every meaningful syllable uttered in the current debate on air bags, I have yet to hear from the one citizen I've been waiting for: a crash victim saved by an air bag but who is against air bags. I have listened to other opponents, from those who see the Department of Transportation's favorable ruling on this passive restraint system as Big Brotherism on the march again to others who believe air bags are being imposed as unproven and costly gimmicks that represent still another theft of what one congressman calls "our individual freedoms."

Many have been persuaded by these arguments, but for myself nothing would be more convincing than the words of a man who should be dead but who lives to denounce the federal government for denying him the individual freedom to be killed in his car. I would be persuaded by a man who walked away from a head-on collision livid that he had to pay $100 or even $200 to have his life saved.

If we haven't heard from this person, assumptions can be safely made, as our cars are not, that he doesn't exist. It is hard to imagine the automobile industry—the air bag's most stubborn opponent—not searching out, and then gleefully exploiting, at least one negative reaction from the one group of motorists whose knowledge of air bags is experiential, not theoretical.

This group is not large, but it is alive, well and has seen the gore in crashes from Mercer, Pa., to Needles, Calif. Although no air bag cars are currently on sale, about 12,000 vehicles so equipped—mostly General Motors cars from 1974 to 1976—have been on the highways. As of July 1, 153 crashes have occurred, involving 219 front-seat occupants.

Of the 219 crashes, 215 survived, and nearly all of those without major injuries. From a sampling of the survivors' sentiments, an ardency for air bags is evident.

The most recent partisan is C. W. Beck, a state senator from Port Orchard, Wash. On June 18, he wrote a letter to his friend Brock Adams, the Secretary of Transportation, who was then in the process of deciding favorably on air bags and hoping his decision would not be vetoed by Congress. Beck reported the details of his crash:

"On Tuesday, June 7, 1977, I was involved in a two-car collision on a perfectly clear, warm, dry day at the intersection of two Kitsap County arterials in which the lady who was driving the other car was killed. I am able to be sitting here today writing to you without a scratch, bruise, ache or pain because my car was equipped with an ACRS [air cushion restraint system]. I'm sure I owe my life to this device.

"You may not recall the car, but you rode in it about two years ago for a short distance in Seattle to the Olympic Hotel. It was a gray Cadillac Eldorado and was new then. It now has about 49,000 miles on it. It is no more, both cars were totaled out.

"I was driving in a 40 mph speed zone with my cruise control set at 39 mph. Only two cars were visible to me, one coming towards me and the one which I hit. It had pulled up to a boulevard stop sign and made what looked to be a legal stop.

"When I was about 50–75 feet from the intersection, the other car suddenly darted out, fast. I applied my brakes and swerved to the right but could not prevent the impact. I hit the right side of the other car head-on with my brakes set and skidding to swerve to the right.

"After the impact, both cars were diverted, mine to the right and the other to the left. My car had a multiple impact; it hit a telephone pole and sheared the pole off at the ground level.

"The sudden explosion and puff from the inflator assembly was heard and the bag inflated before I felt the impact and sudden stop of the vehicle. The inflation of this air bag was astounding. I worked as an engineer during the war and for many years with tools as an instrument maker and I couldn't believe the sensors from the bumper could actuate the inflators so fast.

"Normally, I wear seat belts, but this time I neglected them. This did not impair the air bags from performing their duty. The lap belt would have prevented me from being thrown around in the front seat.

"The bag in the steering wheel was the most effective; the passenger air cushion inflated and prevented me from being thrown to the floor on the passenger side. In fact, it shoved me back into an upright position behind the wheel. I was protected by both bags . . .

"At no time was my vision impaired by any part of the [air bag]. Rolling around with the lower part of my face in the steering wheel bag, I knocked my glasses off and they fell to the floor but they were not broken and I put them on before I got out of the car."

Similar testimony has come from other survivors, including a movie stunt man. He told the Department of Transportation last year that "when you look at a 44-ton brick wall and you know it is coming at you, you think of a whole lot of things, but the least of which is how much this air bag costs you."

For me, these voices are the most credible, and therefore the most persuasive. But even then, a judgment on air bags can be made in the area of the debate in which its opponents are most comfortable, the so-called "individual freedom" issue: The individual motorist must be free of the government's excessive power to restrict his liberty, even if government officials mean to keep you from danger. A Pennsylvania congressman, Bud Shuster, says "this air bag edict is a very small piece of a heavy and dark blanket, gradually being lowered over a free people by their paternalistic government."

Put that way, the question becomes ever broader. Whom do we choose to trust and believe: Big Brother in Washington or Big Cousin in Detroit? Both relatives have their nasty habits, but if I had a choice to disown either, it would be Big Cousin. Not only have automakers repeatedly resisted safety innovations but they have raised the cost of cars by heavily promoting those features of their products that do nothing at all to protect motorists.

When pressed by the gory consequences, auto executives plead their case with the argument of innocence: Don't blame us, we just give the customer what he wants. If that's the case, the showrooms of America are jammed with customers clamoring for cars that are incessantly being recalled for safety defects, that poison the air and can cost up to $686 in repairs for a front-end crash at 10 mph.

One who trusted Detroit more than the pro-air bag advisers in his own department was former Transportation Secretary William E. Coleman Jr. Last December, when he decided not to decide on air bags, Coleman struck an agreement with GM, Ford and Mercedes to offer air bags as options on a small number of cars. The agreement was a curious one, in light of earlier industry promises.

In 1970, General Motors said, as quoted in a recent report from the Insurance Institute for Highway Safety, "In the fall of 1974, the air cushion would be made standard equipment on all 1975 GM passenger cars . . . " Chrysler said, "We hope to be in a position to provide passive restraint systems in volume production by Jan 1, 1975" Ford said in 1970 that "air bags for the front right and center occupants could be installed in all 1975 model cars . . ."

Now it is 1983 before citizens can buy air bags as standard equipment on all cars. Tens of thousands of men, women and children will be killed before then. Few of these potential victims are likely to have strong ideological feeling one way or the other about air bags and the moral responsibility of government or industry to provide them. Most people probably assume that whatever is in the marketplace has to be safe or else it wouldn't be there. We have safety laws, don't we? And isn't there competition?

But the carnage occurs daily. The emotional cost to bereaved families is beyond counting. Estimates of other costs are more easily figured: Nationwide Insurance says air bags would mean an annual reduction of $2.5 billion in insurance premiums. The hospital care for citizens crippled in car crashes exceeds $1 billion a year.

Neither I nor anyone I know expects to be killed or maimed in a car crash, either today, this year or this century. But this is an expectation of the heart, not the head, because somewhere in America more than 100 people die every day in car crashes. The issue is less whether the government should protect lovers of liberty like Rep. Shuster than what it should do about the safety of countless citizens. Cars have become love objects, dream fulfillments, as well as common transporters, but who except the rare citizen suspects them of being potential exterminators? The air bag is merely the best system yet devised to give an individual the freedom to get in his car and drive off without suspecting that he may be killed. Such a freedom is worth preserving.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN A. DURKIN

Mr. ROBERT C. BYRD. Mr. President, during John Durkin's first term in office, he has built an impressive record of legislative initiatives and accomplishments. The list of his achievements is evidence of his active role in helping to formulate Federal policies and programs which will have lasting benefits for both New Hampshire and the Nation.

Senator Durkin's contributions to each of the three committees on which he serves—Energy and Natural Resources, Appropriations, and the Veterans' Affairs Committee—bear witness to his legislative skills and his understanding of a broad range of issues.

As a member of the Energy and Natural Resources Committee, he has contributed much to Congress' efforts to reduce U.S. dependence on foreign oil. He has long been an outspoken advocate of alternative energy sources and greater energy efficiency in homes, business, and industry. As chairman of the Subcommittee on Energy Conservation and Supply, he has promoted legislation which will encourage more efficient use of energy and increased domestic production and supplies.

He authored and guided to passage the small-scale hydroelectric feasibility and construction loan program. The financial assistance provided under this program will help to bring online additional energy sources by hastening the conversion of dams to small-scale hydroelectric powerplants: a clean, efficient source of energy which will go far to help both New Hampshire and other States gain greater energy self-sufficiency.

He supported the Home Energy Assistance Act, which will assist low- and moderate-income households, senior citizens and the handicapped in meeting the increasing costs of home heating fuel. He introduced the bill—now law—creating the solar bank, which will provide low-interest loans to consumers to purchase cost-saving solar energy systems. The legislation also will help create jobs and meet a national goal of providing 20 percent of our Nation's energy from solar and other renewable energy sources.

Senator Durkin sponsored legislation to encourage the development and commercialization of wood and wind energy, and is a strong advocate of gasohol development and production.

In other areas, as well, Senator Durkin has served his State and the Nation. His achievements have benefited particularly the veteran, the senior citizen, the small businessman, and our hard-pressed working families. As a member of the Veterans' Affairs Committee and the Appropriations Subcommittee responsible for veterans' programs, he has fought for adequate funding for those who have served our Nation in the military. Those who have been disabled, as well as veterans from disadvantaged backgrounds and their families have all benefits from Senator Durkin's active participation on and worthy contributions to these committees.

Senator Durkin has worked hard for legislation to enhance and stabilize the lives of our senior citizens. Elderly Americans increasingly face the prohibitively high cost of energy, food, health care, and transportation costs. For many, their main source of income is a monthly social security check. Senator Durkin has sponsored legislation opposing any tax on or reduction in social security benefits. He has authored legislation to amend the Social Security Act to provide for the payment of out-of-hospital prescription drugs, eyeglasses, hearing aids, and dentures. He supported successful efforts to gain discount fares for senior citizens traveling on Amtrak and aid to senior citizens to help them pay rising fuel costs.

The small businessman, the backbone of American enterprise and ingenuity, has a friend in Senator John Durkin. While small businesses employ millions of Americans, all across the Nation they are finding it more and more difficult to meet rising labor and production costs. Sympathetic to the needs and problems of small businesses, Senator Durkin has joined in efforts to ease their financial burdens. He supports moves to reduce the paperwork and cost of burdensome government regulations. He has sponsored legislation to reduce the corporate income tax rate for small businesses.

Senator Durkin has also made considerable and lasting contributions in the field of transportation. He has worked for numerous railroad revitalization efforts, including retention of the "Montrealer," Amtrak's only northern New England passenger service. He has supported safety legislation for automobiles, airports, railroads, and all forms of transportation. He has worked to secure funds for New Hampshire's roads and bridges to improve safety, productivity, and efficiency. His work in this field clearly demonstrates his commitment to meeting the transportation needs of New Hampshire and the Nation.

As a member of the Appropriations Committee Senator Durkin has demonstrated his commitment to fiscal responsibility and balancing the budget. Restricting Federal spending is a difficult task, but, as Senator Durkin's votes in committee and on the floor have shown, he is prepared to make those difficult decisions.

The close scrutiny and hard work which the distinguished Senator from New Hampshire (Mr. Durkin) gives to each of his numerous Senate responsibilities is evident in the number of legislative initiatives he has undertaken and in his many legislative accomplishments. His service to the State of New Hampshire, to the Nation and to the Senate is invaluable.

His extensive accomplishments comprise an enviable record. I look forward to working again with my distinguished colleague from New Hampshire, Senator John Durkin, in the 97th Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MONITORING FOREIGN OWNERSHIP OF U.S. REAL ESTATE—PM 245

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

Today, I am transmitting to the Congress a report required under Section 4 (d) of P.L. 94–472, as amended, the "International Investment Survey Act of 1976." The report, entitled "Monitoring Foreign Ownership of U.S. Real Estate—A Report to Congress", was prepared by the Secretary of Agriculture with oversight and review provided by an interdepartmental committee under the chairmanship of the Office of Federal Statistical Policy and Standards, Department of Commerce. The report addresses the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real estate property; including the feasibility of establishing a nationwide multipurpose land data system.

The study examined the feasibility of four methods of obtaining foreign ownership data:

1. A centralized compulsory Federal registration system that is exclusively devoted to reports filed by foreign owners of U.S. real estate.

2. A compilation of data on foreign holdings of U.S. real estate from Federal offices such as the Bureau of Economic Analysis, the Securities and Exchange Commission, and the Internal Revenue Service. These agencies already require reports on foreign investment, income, or other related matters.

3. A multipurpose, all-encompassing land information system using information collected at the local level. This system would serve a wide range of local, State, and national information needs.

4. Nationwide, periodic surveys of all domestic and foreign land ownership.

Foreign ownership information is presently being collected through compulsory registration and reports (Methods 1 and 2).

Although all four methods are deemed technically and legally feasible, I am not proposing the development of new or additional reporting systems. I believe that necessary information on foreign ownership of U.S. real estate can be acquired at less cost than Method 3 or 4 would entail.

Jimmy Carter.

The White House, *September 25, 1980.*

ANNUAL REPORT OF THE NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—PM 246

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with Title VI, Section 605 of the Ecoonmic Opportunity Act of 1964, I am transmitting herewith the Twelfth Annual Report to the Congress of the National Advisory Council on Economic Opportunity.

This report reflects the Council's views in its role of examining programs authorized by the Economic Opportunity Act of 1964, and their impact in alleviating certain problems confronting low-income people. There are a number of interesting and challenging recommendations contained in this report which we shall consider in the future.

Jimmy Carter.

The White House, *September 25, 1980.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on September 24, 1980, he had approved and signed the following acts:

S. 670. An act to provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Development Act of 1972, and for other purposes; and

S. 1625. An act to amend the Act of December 20, 1944, as amended.

MESSAGES FROM THE HOUSE

At 11:58 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 6308) to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the 20th century to be carried out by the Department of Energy.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and the revise and extend the programs of assistance under titles VII and VIII of such act for the education of health professions personnel, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Waxman, Mr. Satterfield, Mr. Preyer, Mr. Broyhill, and Mr. Carter were appointed as managers of the conference on the part of the House.

The message further announced that pursuant to the request of the Senate, the bill (S. 2724) to extend authorizations for law enforcement assistance at Corps of Engineers projects, is hereby returned to the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5898. An act to establish the Rattlesnake National Education and Recreation Area and Wilderness in the State of Mon-Montana;

H.R. 7385. An act to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes;

H.R. 7554. An act to amend the Federal securities laws to provide incentives for small business investment, and for other purposes;

H.R. 7588. An act to redesignate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Federal Building";

H.R. 8024. An act to change the name of Aubrey Lake, Tex., to Ray Roberts Lake; and

H.R. 8161. An act to designate the U.S. Federal Building in Pittsburg, Pa., as the "William S. Moorhead Federal Building."

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1442. An act to authorize the documentation of certain vessels as vessels of the United States, and for other purposes; and

H.R. 7590. An act making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

ENROLLED BILLS SIGNED

At 4:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks announced that the Speaker has signed the following enrolled bills:

S. 1123. An act to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such act for fiscal year 1980;

S. 2271. An act to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes;

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission; and

H.R. 7511. An act to amend title 38, United States Code to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 6:07 p.m. a message from the House of Representatives delivered by Mr. Gregory announced that the House has passed the bill (S. 568) to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers and to authorize appropriations for activities of the National Science Foundation for fiscal years 1981 and 1982, and for other purposes, with amendments; insists upon its amendments to the bill; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FUQUA, Mr. BROWN of California, Mr. SCHEUER, Mr. PEASE, Mr. HARKIN, Mr. WYDLER, and Mr. HOLLENBECK as managers of the conference on the part of the House.

The message also announced that the House has disagreed to the amendments of the Senate to the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. BEVILL, Mr. SABO, Mr. STEWART, Mr. WHITTEN, Mr. COUGHLIN, Mr. MCDADE, Mr. YOUNG of Florida, and Mr. CONTE be the managers of the conference on the part of the House.

The message further announced that the House has passed the bill (S. 1798) to reduce regulation of and increase competition in the household goods moving industry, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the amendments of the Senate to the following bills:

H.R. 5410. An act to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election; and

H.R. 8081. An act to establish the U.S. Holocaust Memorial Council.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1656. An act to provide for a national program of fisheries research and development, and for other purposes; and

S. 2163. An act to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources; and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4310) to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities program through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; and that the House recedes from its disagreement to the amendment of the Senate to the title of the bill, and concurs therein.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 7658. An act to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the rail rapid transit line specified in the Adopted Regional System;

H.R. 7782. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustment in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule;

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes;

H.R. 8018. An act to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam";

H.R. 8202. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period;

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.

HOUSE BILLS REFERRED

The following bills and joint resolution were read twice by their titles, and referred as indicated:

H.R. 5898. An act to establish the Rattlesnake National Education and Recreation Area and Wilderness in the State of Montana; to the Committee on Energy and Natural Resources.

H.R. 7588. An act to redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building": to the Committee on Environment and Public Works.

H.R. 7658. An act to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the tail rapid transit line specified in the Adopted Regional System; to the Committee on Governmental Affairs.

H.R. 7782. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustment in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule; to the Committee on Governmental Affairs.

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes; to the Committee on Environment and Public Works.

H.R. 8018. An act to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam"; to the Committee on Environment and Public Works.

H.R. 8024. An act to change the name of Aubrey Lake, Texas, to Ray Roberts Lake; to the Committee on Environment and Public Works.

H.R. 8161. An act to designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building"; to the Committee on Environment and Public Works.

H.R. 8202. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period; to the Committee on the Judiciary.

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981; to the Committee on Appropriations.

HOUSE BILL PLACED ON CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 7385. An act to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 25, 1980, he had presented to the President of the United States the following enrolled bill:

S. 1442. An act to authorize the documentation of certain vessels as vessels of the United States, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, with an amendment (in the nature of a substitute):

S. 2385. A bill to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes (with minority views) (Rept. No. 96–991).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, with an amendment (in the nature of a substitute):

S. 2887. A bill to protect the confidentiality of data made available to the Bureau of Labor Statistics, and for other purposes (Rept. No. 96–992).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 7779. An act to amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court (Rept. No. 96–993).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 527. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 7859.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment (in the nature of a substitute) and an amendment to the title:

S. 2861. A bill to designate certain National Forest System lands in the State of North Carolina for inclusion in the National Wilderness Preservation System, to release other national forest lands within the State of North Carolina from further consideration for wilderness designation, and for other purposes (Rept. No. 96–994).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute):

H.R. 7330. An Act to authorize appropriations for certain insular areas of the United States, and for other purposes (Rept. No. 96–995).

By Mr. MELCHER, from the Committee on Energy and Natural Resources, with amendments:

S. 3072. A bill to establish the Rattlesnake National Recreation Area and Wilderness in the State of Montana (Rept. No. 996).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 530. A resolution to waive section 402(a) of the Budget Act with respect to the consideration of S. 3152, authorizing an extension of the Public Works and Economic Development Act and Appalachian Regional Development Act through fiscal year 1981.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation.

Stanton P. Sender, of the District of Columbia, to be a member of the Board of Directors of the United States Railway Association.

(The above nomination reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests he appear and testify before any duly constituted committee of the Senate.)

Mr. HART. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: in the Army of the United States, there are four temporary appointments to the grades of major general and brigadier general—one major general and three brigadier generals—list beginning with Edward James Huycke. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. In addition Mr. President, in the U.S. Navy, there are 40 temporrary/permanent promotions to the grade of captain and below (list beginning with Philip J. Holwager), in the U.S. Navy and Reserve of the Navy, there are 15 temporary/permanent appointments to the grade of captain and below(list beginning with Glenn M. Brunner); and, in the U.S. Air Force, there are 1,834 promotions/appointments to the grade of lieutenant colonel and below (list beginning with John C. Aarni, Jr.) Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again. I ask unanimous consent that they be ordered to lie on the Secretary's Desk for the information of any Senator.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 15, 1980, at the end of the Senate proceedings.)

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Wallace Orphesus Green, of the District of Columbia, to be an Assistant Secretary of the Interior.

Mr. JACKSON. Mr. President, today the Committee on Energy and Natural Resources ordered favorably reported the nomination of Wallace Orphesus Green, of the District of Columbia, to be an Assistant Secretary of the Interior for Territorial and International Affairs. I ask unanimous consent that the biography of Mr. Green be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

WALLACE O. GREEN, ACTING ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS

Wallace O. Green has been named Acting Assistant Secretary in the newly-created post of Assistant Secretary for Territorial and International Affairs. His responsibilities for territorial affairs include territorial development assistance, Federal program coordination, and financial oversight. In international affairs his responsibilities involve the coordination of the Department's bilateral technical agreements and other relations with foreign countries and policy considerations and decision-making on natural resource issues which are international in scope.

Since July 1978, Mr. Green has been Deputy Under Secretary of the Department of the Interior, working primarily in the Department's human resources areas—Native Americans, Alaskans, and citizens of the territories and the Trust Territory of the Pacific Islands. Mr. Green also assisted the Secretary and Under Secretary in determining policy in such areas as urban parks and recreation, internal Department management, affirmative action, minority business enterprise, and Congressional and legislative affairs.

Prior to joining the Carter Administration, Mr. Green was staff director of the Congressional Joint Committee on Bicentennial Arrangements and staff director of the House District Committee on the Bicentennial, Environment, and International Community. In the private sector, Mr. Green was an advertising, marketing and public relations executive with firms in Boston and Washington, D.C.

Mr. Green is a board member of the Minority Legislative Education Program and a former chairman of the Institute for Political Education. He is listed in Who's Who In America, Who's Who Among Black Americans, and Outstanding Young Men In America. In 1976, he was responsible for developing the first complete collection of photographs and biographical data on black Americans in the United States Congress.

A 1970 graduate of Morgan State University, with a Bachelor's degree in Political Science, Mr. Green received a Master of Science degree in communications from Boston University. A native and resident of Washington, D.C., Mr. Green is married to the former Mary Lassiter of Queens, New York.

John C. Sawhill, of the District of Columbia, to the Chairman of the Board of Directors of the United States Synthetic Fuels Corporation.

Mr. JACKSON. Mr. President, today the Committee on Energy and Natural Resources ordered favorably reported the nomination of John C. Sawhill, of the District of Columbia, to be Chairman of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 7 years. I ask unanimous consent that the biography of Mr. Sawhill be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

JOHN CRITTENDEN SAWHILL

John Crittenden Sawhill was sworn in as Deputy Secretary of Energy on October 4, 1979, following his confirmation by the United States Senate on October 1.

Prior to joining the Department of Energy, Dr. Sawhill served as President of New York University (NYU) since 1975; Administrator of the Federal Energy Administration (FEA), from June 1974 to January 1975; Deputy Administrator of the Federal Energy

Office (the predecessor of the FEA), from December 1973 to June 1974; and, Associate Director for Natural Resources, Energy and Science of the Office of Management and Budget during 1973.

He served as Senior Vice President and member of the executive committee of Commercial Credit Corporation in Baltimore from 1968 to 1973 and Senior Associate in the management consulting firm of McKinsey and Company from 1966 to 1968. From 1964 to 1966, he was the Director of Credit and Research Planning for the Commercial Credit Corporation.

He has also served on the Boards of Directors of a number of major American corporations including RCA, Phillip Morris, Consolidated Edison, Crane Corporation, General American Investors, American International Group, Automatic Data Processing and North American Coal. He has, in addition, served as a Director of the American Association of Certified Public Accountants and a Trustee of the Committee for Economic Development.

While working on his Ph.D. at NYU from 1960 to 1963, he was assistant dean and assistant professor, Department of Economics. Prior to that, from 1958–1960, he was associated with the brokerage firm of Merrill Lynch, Pierce, Fenner and Smith.

Dr. Sawhill graduated cum laude from Princeton University's Woodrow Wilson School of Public and International Affairs in 1958 and received his Ph.D. in economics from New York University in 1963.

While serving as President of the Nation's largest private urban university, Dr. Sawhill was also a professor of economics and the first incumbent of the David B. Kriser Professorship in the Humanities.

Dr. Sawhill is a leading proponent of the maintenance of a diversified independent and public system of higher education, and is nationally known for his commitment to the principles of sound fiscal management as the key to survival for independent colleges and universities. During his term as President (he is currently on leave from NYU), NYU made one of the most dramatic fiscal and academic advances in higher education.

In the academic sector, he has been widely published and interviewed as a leading advocate for the reinvigoration and broadening of the humanistic perspective in higher education.

Even prior to his appointment as Deputy Secretary, Dr. Sawhill was an outspoken advocate of energy conservation, working closely with government leaders on energy issues and writing and lecturing extensively on the need for long-range energy planning and conservation. He is a co-author of a report, "Nuclear Power Issues and Choices," written after participating in a year-long Ford Foundation-sponsored study on the development and use of civilian nuclear energy and published in 1977. He is also the principal author of "Energy—Managing the Transition," a study prepared for the Trilateral Commission and published in June 1978 and of "Improving the Energy Efficiency of the American Economy," a collection of papers on energy conservation published in 1979.

While at NYU, Dr. Sawhill's civic activities included serving as a public member of the New York State Emergency Financial Control Board, and on the board of directors of the Association for a Better New York, among others. He was also co-chairman of the Aspen Institute for Humanistic Studies Energy Panel.

He currently serves as director of the American Association for the Advancement of Science. He has also acted as a trustee for the World Peace Foundation, the Committee for Economic Development, and the Urban Institute. Dr. Sawhill is a noted writer, having published numerous books, articles and reports on our educational system and a variety of energy subjects.

Born in Cleveland, Ohio, on June 12, 1936, Dr. Sawhill was raised in Baltimore, Maryland, the eldest of four children. He is married to the former Isabel Van Devanter. They have one child, James Winslow Sawhill, 20.

The following-named persons to be members of the Board of Directors of the United States Synthetic Fuels Corporation:

John D. DeButts, of Virginia; Catherine Blanchard Cleary, of Wisconsin; Frank Savage, of New York; Cecil D. Andrus, of Idaho; and Joseph Lane Kirkland, of the District of Columbia.

(The above nominations from the Committee on Energy and Natural Resources were reported with the recommendation that they be confirmed subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, today the Committee on Energy and Natural Resources ordered favorably reported the following nominations: John D. DeButts, of Virginia, for a term of 1 year; Catherine Blanchard Cleary, of Wisconsin, for a term of 2 years; Frank Savage, of New York, for a term of 3 years; Cecil D. Andrus, of Idaho, for a term of 4 years; and Joseph Lane Kirkland, of the District of Columbia, for a term of 5 years to be members of the Board of Directors of the U.S. Synthetic Fuels Corporation for the terms indicated. I ask unanimous consent that the biographies of the nominees be printed in the RECORD.

There being no objection, the biographies were ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL DATA

Name: John D. (Dulany) DeButts.

Position: Chairman of the Board and Chief Executive Officer, American Telephone and Telegraph Co. (Retired—Feb. 1, 1979).

Born: April 10, 1915—Greensboro, North Carolina.

Family: Parents: Syndor and Mary Ellen (Cutchin). Married: Gertrude Willoughby Walke, Nov. 4, 1939. Children: Talbot DeButts Cain (Mrs. Tyler Cain) (b. 1941), Mary Linda DeButts Couch (Mrs. R. Collins Couch) (b. 1946).

Education: Virginia Military Institute, B.S. in E.E., 1936.

Honorary Doctor of Laws, Knox College, June 4, 1966.

Honorary Doctor of Laws, Northwestern University, June 11, 1966.

Honorary Doctor of Laws, Loyola University (Chicago), June 11, 1967.

Honorary Doctor of Science (Business Administration), Clarkson College of Technology, May 20, 1973.

Honorary Doctor of Laws, Lehigh University, June 1, 1975.

Honorary Doctor of Comercial Science, Pace University, May 26, 1977.

Honorary Doctor of Engineering, Lafayette College, June 6, 1977.

Honorary Doctor of Humane Letters, St. Augustine College, February 11, 1978.

Honorary Doctor of Laws, Hampden-Sydney College, May 14, 1978.

Honorary Doctor of Laws, Columbia University, May 17, 1978.

Honorary Doctor of Engineering, Worcester Polytechnic Institute, June 2, 1979.

Early business career: construction gang on railroad during summer vacations.

Bell System career: started July 1, 1936.

The Chesapeake and Potomac Telephone Co. of Virginia:

Traffic Student (Richmond), July 1, 1936.

Traffic Inspector (Richmond, Lynchburg, Norfolk), October 15, 1936.

Traffic Supervisor (Richmond), Jan. 16, 1941.

District Traffic Supervisor (Richmond), Apr. 16, 1941.

Traffic Manager (Petersburg), June 1, 1942.

District Traffic Supervisor (Richmond), Dec. 1, 1942.

Traffic Manager (Richmond), Sept. 16, 1943.

District Traffic Manager (Lynchburg), Nov. 1, 1943.

AT&T (New York):

Engineer, Traffic Division, Operations & Engineering Dept., Apr. 15, 1949.

Staff Engineer, Administration-B, Oct. 1, 1950.

The Chesapeake and Potomac Telephone Co. of Virginia (Richmond, Va.):

General Traffic Manager, Nov. 30, 1951.

General Commercial Manager, Sept. 1, 1952.

AT&T:

Assistant Vice President, Revenue Requirements (New York), Aug. 31, 1955.

Assistant Vice President, Government Relations (Washington, D.C.), Jan. 1, 1957.

New York Telephone Co.:

General Manager, Westchester Area, Apr. 1, 1958.

The Chesapeake and Potomac Telephone Companies (Washington, D.C.):

Vice President—Operations and Engineering, and Director, Dec. 1, 1959.

Illinois Bell Telephone Co. (Chicago, Ill.):

President and Director, Mar. 1, 1962.

AT&T (New York):

Executive Vice President, Apr. 1, 1966.

Vice Chairman of the Board, Feb. 1, 1967.

Chairman of the Board and Chief Executive Officer, Apr. 1, 1972–Feb. 1, 1979.

Affiliations:

Director—American Telephone and Telegraph Co., Feb. 1, 1967–Jan. 31, 1979; Apr. 18, 1979; Citicorp, Jan. 16, 1973; General Motors, May 21, 1976; Kraft Corp., Apr. 17, 1969; United States Steel Corporation, Jan. 29, 1974; Hospital Corporation of America, Feb. 1979; and Wolf Trap Foundation, Feb. 14, 1979.

Trustee—Duke Endowment, Dec. 5, 1973; Vice Chairman, Jan. 29, 1975; Brookings Institution, Jan. 1979.

Member—Business Council, Dec. 1976, Chairman, Membership Comm.; Nominating Comm., Jan. 1979; Member, Executive Comm., 1972; Member, Membership Comm., Jan. 1975; Chairman, Dec. 1976–Jan. 1979; Vice Chairman, Jan. 1975–Dec. 1976; Northwestern University Associates, and Board of Visitors, Graduate School of Business Administration, Duke University, July 1974.

Hon. Life Member—Board of Lay Trustees, Loyola University, Chicago; Western Society of Engineers; Navy League of the United States; Advisory Board, Sept. 1978; and, Museum of Science and Industry, Chicago, 1966.

Awards:

Silver Beaver Award, Boy Scouts of America, 1964.

Founders' Day Award, Loyola University, 1965.

Honorary Citizen of Chicago, 1966.

Silver Plaque, Brotherhood Award, National Conference of Christians and Jews, 1966.

S. Byard Colgate Award; Gold Achievement Award, Junior Achievement Inc., 1970.

Silver Antelope Award, Boy Scouts of America, 1971.

Highest Honor, J. A. Leadership Award, Junior Achievement Inc., 1972.

Gold, Medal, Brotherhood Award, National Conference of Christians and Jews, 1972.

Corporate Man of the Year Award, B'nai B'rith, 1973.

Washington Award, Engineering Societies, 1974.

Annual Citation, Midwest Research Institute, 1974.

"Family of Man" Award, Council of Churches, 1974.

Gold Medal Award, USO, 1974.

Medal of Merit, U.S. Industrial Payroll, Savings Committee, 1975.

Distinguished Service Award, Virginia Military Institute Foundation, 1975.

"Virginian of the Year", Virginia Press Association, 1975.

Medallion of Honor, Virginians of Maryland, 1976.

Business Statesman Award, Harvard Business School Club of Greater New York, 1976.

Golden Plate Award, American Academy of Achievement, 1976.

Citation of Merit, Salvation Army, 1976.

Charles Evans Hughes Award, National Conference of Christians and Jews, 1976.

St. LaSalle Medal, Manhattan College, 1977.

Business Leadership Award, University of Michigan, 1977.

Medal of Merit, St. Nicholas Society of the City of New York, 1977.

C. Walter Nichols Award—New York University, 1978.

Leaders in Management Award, Pace University, 1978.

Distinguished Citizens Award, Boy Scouts of America, 1978.

Achievement in Communication Award—International Association of Business Communicators, 1978.

Public Service Award, Advertising Council, 1978.

Chicagoan of the Year, Boys Clubs of Chicago, 1979.

Distinguished Citizens Award, Virginia Chamber of Commerce, 1979.

North Carolina Award for 1979, North Carolina Awards Commission, 1979.

Benjamin F. Fairless Memorial Award, American Iron and Steel Institute, 1979.

Virginian of the Year, Virginia Association of Broadcasters, 1980.

Other affiliations:

Kappa Alpha fraternity; honorary member, Epsilon of Illinois chapter,

Beta Gamma Sigma (Loyola University); Episcopal Church, Republican.

Clubs: Metropolitan Club (Washington, D.C.); Commonwealth Club (Richmond, Va.); Augusta National Golf Club (Augusta, Ga.); and Thunderbird Country Club (Palm Springs, Calif.).

Past affiliations:

Director—The Chesapeake and Potomac Telephone Companies, 1959–1961; Illinois Bell Telephone Co., 1962–1966; Southwestern Bell Telephone Co., Sept. 23, 1966–Mar. 1972; New York Telephone Co., Sept. 28, 1966–Mar. 1972; 195 Broadway Corporation, Oct. 8, 1969–Mar. 1972; Continental Illinois National Bank & Trust Co. (resigned, 1966); Chicago Central Area Committee (resigned, 1966); Hospital Planning Council of Metropolitan Chicago; Protestant Foundation of Greater Chicago; Inland Steel Co. (resigned, Oct. 1966); First National City Corporation (New York), July 18, 1968–Feb. 1969; Sears, Roebuck and Co., May 18, 1964–May 1973; United Fund of Greater New York, May 1973–May 1976; and Citibank, Nov. 1, 1967–Oct. 1979.

Vice Chairman—Conference Board, Sept. 18, 1974—Sept. 1979; Member; Policy Comm. Sept. 18, 1974—Sept. 1979; Sr. Executive; Council, Feb. 1973—Sept. 1979.

Chairman—Chicago Merit Employment Committee, Chicago Association of Commerce and Industry; Business Advisory Council-Northwestern University Business School; National Junior Achievement, Sept. 1967–June 1971; 1974 U.S. Industrial Payroll Savings Committee.

Co-Chairman—The Business Roundtable, July 1974–June 1977; Member, Exec., Comm. and Policy Comm., Dec. 1972–Jan. 1979.

Governor—United Way of America, Nov. 1972–May 1979; Chairman, Nat'l. Corp., Devel. Comm., April 1976–Jan. 1979.

Vice President and Trustee—Evanston Hospital Association.

Trustee—Lincoln Academy of Illinois; Mt. Vernon Seminary, Washington, D.C.; Illinois Institute of Technology; Tax Foundation, 1973–1979; VMI (Virginia Military Institute) Foundation, Inc.; Joint Council on Economic Education, Oct. 24, 1969–Oct. 23, 1972; and, National Conference of Christians and Jews, Nov. 1971–Feb. 1976.

Gen. Campaign Manager—United Fund of Greater New York, 1972–1973.

Member Executive Board, Chicago Council, Boy Scouts of America Executive Board, Greater New York Councils, Boy Scouts of America, June 7, 1967–1972; Academic Advisory Board, U. S. Naval Academy; Citizens' Committee of the University of Chicago; Citizens' Committee of the University of Illinois; Business-Education Advisory Committee, Chicago Public Schools Students Science Fair; Mayor's Committee for Economic and Cultural Development, Chicago; and, Civil Defense Advisory Council, State of Illinois.

Member—Mid-America Club (Chicago); National Advisory Council on Minorities in Engineering, Nov. 1973—1979; Board of Visitors, Virginia Military Institute (Lexington, Va.); Boy Scouts of America, National Executive Board, May 22, 1970–Jan. 2, 1974; member, Executive Committee of Region Two, Oct 1968–Jan. 2, 1974; SRI Council, Stanford Research Institute, May 1971–Sept. 1974; Academic Advisory Board, U.S. Naval Academy, Feb. 1971–Nov. 1978; Business Committee for the Arts, Sept. 1972–Jan. 1979; and National Committee of Association of Episcopal Colleges, Inc., Nov. 1966–Sept. 1979.

Hon. Bd. Member—Alexander Graham Bell Association for the Deaf, 1978–1979.

Military service: ORC, 1936–1939 and U.S. National Guard, 1939–1940.

Hobbies: hunting, (quail, pheasant, grouse, etc.); fishing; golf.

Residence: P.O. Box 192, Upperville, Virginia 22176.

CATHERINE BLANCHARD CLEARY

EXPERIENCE

1978–Date: Adjunct Professor, School of Business Administration, University of Wisconsin.

1947–1978: First Wisconsin Trust Company: Chief Executive Officer; Chairman of the Board; President; Executive Vice President; Trust Officer; Assistant Trust Officer.

1953–1954: Assistant to the Secretary, U.S. Department of the Treasury.

1953: Assistant U.S. Treasurer.

1943–1944: Legal Department, Kohler Company.

1939–1940: Teacher, New Canaan Country School, New Canaan, Connecticut.

1937–1938: Apprentice, Shady Hill School, Cambridge, Massachusetts.

OTHER ACTIVITIES

Director: First Wisconsin Trust Company; AT&T; Kraft, Inc.; General Motors; Kohler Company.

Trustee: Northwestern Mutual Life Insurance Company.

Member: Wisconsin Bar Association; House of Governors (1951–1952); Chair, Committee Federal Legislation (1952–1953); President's Committee on Education Beyond High School (1956–1957); National Commission on Productivity and Work Quality (1974–1975).

EDUCATION

1943: University of Wisconsin, LL.B.

1937: University of Chicago, A.B.

PERSONAL

White Female.
Age 63.
Republican.

FRANK SAVAGE

EXPERIENCE

1970–1973; 1975–Date: The Equitable Life Assurance Society of the United States.

1976–Date: Vice President and Manager Investment Management Department.

1975–1976: Vice President and Investment Liaison Officer.

1970–1973: President/Chief Operating Officer, The Equitable Life Community Enterprises Corporation; (A wholly-owned subsidiary of Equitable Life Assurance).

1973–1975: Executive Vice President, Chief Operating Officer and Director; TAW International Leasing, Inc.

1964–1970: Loan and Operations Officer, International Division Officer, First National City Bank.

OTHER ACTIVITIES

Director: Freedom National Bank (Chair); Operation Crossroads Africa, Inc.; The Dance Theatre of Harlem; The Equitable Life Community Enterprises Corporation; YWCA, National Board.

Advisory Board: African-American Institute, Harlem Commonwealth Council.

EDUCATION

1964: Johns Hopkins University School of Advanced International Studies, M.A.

1962: Howard University, B.A.

PERSONAL

Black Male.
Age 42.
Democrat.

CECIL D. ANDRUS: 42ND SECRETARY OF THE INTERIOR

Cecil D. Andrus, Secretary of the Interior since January 1977 and former Governor of Idaho, undertook his Cabinet duties with a demonstrated concern for the environment and a pledge that the quality of life will not be sacrificed. He has been equally adamant that the Interior Department encourage development of needed resources in a balanced manner.

At Interior, Andrus has devoted as much attention to energy and water matters as to traditional environmental matters. He has worked to implement a new approach to water resources planning, and for modernization of the Reclamation Act of 1902; commenced implementation of the landmark Surface Mining Act of 1977; succeeded in breaking a nine-year legal deadlock in coal leasing on Federal lands; accelerated leasing for oil and gas on the Outer Continental Shelf, breaking records in 1979 for the largest number of lease sales in a year; begun work toward expansion of oil shale and tar sand leasing and development; and achieved needed administrative reforms in Interior's onshore oil and gas lease program.

He has led the Carter Adminstation's drive for comprehensive Alaska Lands legislation, characterizing his plan as a balanced one which would protect the State's matchless scenic and wildlife values while making the vast majority of its mineral resources available for development. He was instrumental in obtaining Congress' approval for expansion of Redwood National Park in California when the existing park was being damaged by uncontrolled logging just outside its boundaries.

He has worked toward more equitable consideration for Native Americans in their search for a fair return on their mineral resources and assertion of their water and fishing rights, while seeking to ease the inevitable conflicts with traditional interests impacted by those efforts. In these, as in his other activities, Secretary Andrus has declared his objective to seek carefully balanced solutions to economic, environmental and human concerns.

Born in Hood River, Oregon, August 25, 1931, to Hal and Dorothy Andrus, he grew up on a farm in logging country. He worked in the woods and sawmills, fished and hunted Idaho's streams and forests during all his growing years.

Following a year at Oregon State University, he served in the Navy during the Korean War, then returned with his wife, Carol, to Orofino, Idaho, to make his home. They have three daughters, Tana, Tracy, and Kelly.

Elected as a State Senator at the age of 29 from Clearwater County, Andrus was reelected to three successive terms to the Idaho Senate.

In 1970, he was elected Governor of Idaho and his first term saw the delivery of improved people services close to their home. An Executive Reorganization measure he spearheaded in 1972 streamlined the State bureaucracy from 270 agencies, boards, and commissions to 19 State departments.

As Governor of Idaho, Andrus worked within the limitations of the natural environment in achieving economic objectives. He has been a strong advocate of locally controlled, State-assisted land use planning.

He strongly supported regional approaches to the delivery of health services, better funding of education by the State, and fiscal solvency. During his years as Governor, he kept the State in a financially sound position with no debts and no encumbrances carried over into new fiscal years. Under his leadership, a three-mill reduction in property taxes was effected in 1973 and a State surplus in 1974 turned into an additional four-mill reduction.

Re-elected to a second term as Governor November 5, 1974, Andrus received 71 percent of the gubernatorial vote. In his second inaugural address, Andrus declared: "Conservation is no longer a pious ideal, it is an element of our survival."

As a freshman Governor he was named to the Executive Committee of the National Governors' Conference (1971–72). He served as Chairman of the Rocky Mountain Federation of States from 1970 to 1972, and through that organization brought an education satellite into use to aid remote Idaho communities. He was elected Chairman of the National Governors' Conference in 1976, and resigned upon being nominated Secretary of the Interior.

Shortly before he was sworn in as Secretary of the Interior, Andrus described his approach to natural resources issues in these terms, which he continues to endorse:

"You have heard me say many times that we want to maintain our unique recreational resources so that we many enjoy them, but also we must maintain an economy that gives us the financial abiilty to make that enjoyment real. We have to make a living, but after we make a living, we have to have a living that's worthwhile."

Lane Kirkland: President, AFL–CIO

Lane Kirkland was elected president of the AFL–CIO on November 19, 1979. He had served for ten years as secretary-treasurer, the labor federation's second-highest office.

Kirkland was born on March 12, 1922, in Camden, South Carolina. He graduated in 1942 from the U.S. Merchant Marine Academy in King's Point, Long Island, and served throughout World War II as a deck officer aboard merchant vessels carrying ammunition and other war materials to both Atlantic and Pacific combat zones.

Licensed as a master mariner near the end of the war, Kirkland entered the U.S. Navy's Hydrographic Office in Washington, D.C., as a nautical scientist while studying at night at Georgetown University's School of Foreign Service, from which he received a Bachelor of Science degree in 1948.

Shortly afterward, Kirkland joined the research staff of the AFL. Over a ten year period in the AFL and AFL–CIO he handled a wide range of assignments.

He joined the International Union of Operating Engineers as director of research and information in 1958 and two years later returned to the AFL–CIO as executive assistant to President Meany, a post he held until his election as secretary-treasurer in 1969. He was elected president without opposition at the 1979 convention.

Kirkland is a member of the International Organization of Masters, Mates and Pilots and a fellow of the American Association for the Advancement of Science. He has served on the following presidential commissions and advisory bodies:

U.S. Delegation, International Labor Organization Conference, Geneva, 1958, 1969, 1970, 1975, 1976, 1980.

Blue Ribbon Defense Panel, 1969–1970.

Commission on CIA Activities Within the United States, 1975.

Commission on Foundations and Private Philanthropy, 1969–1970.

General Advisory Committee on Arms Control and Disarmament, 1974.

National Commission on Productivity, 1971–1974.

Presidential Commission on Financial Structure and Regulation, 1970–1972.

President's Maritime Advisory Committee, 1964–1966.

President's Missile Sites Labor Commission (Alternate), 1961–1967.

Commission on Executive, Legislative & Judicial Salaries.

Committee on Selection of Federal Judicial Officers.

He is a director of the following non-governmental organizations:

American Council on Germany;

American Arbitration Association;

African-American Labor Center;

Carnegie Endowment for International Peace;

Asian-American Free Labor Institute;

The Rockefeller Foundation;

American Institute for Free Labor Development;

Council on Foreign Relations, Inc.;

The Brookings Institution; and

National Planning Association.

Kirkland and his wife, Irena, live in Washington, D.C.

Lane Kirkland

EXPERIENCE

1979–Date: President, AFL–CIO.

1969–1979: Secretary-Treasurer, AFL–CIO.

1960–1969: Executive Assistant to the President, AFL–CIO.

1959–1960: Director, Research & Education, International Union of Operating Engineers.

1953–1958: Assistant Director, Department of Social Security, AFL–CIO.

1948–1953: Research Staff, American Federation of Labor.

1947–1948: Nautical Scientist, Hydrographic Office, Department of the Navy.

OTHER ACTIVITIES

Member, Board of Trustees, Carnegie Endowment for International Peace; Council on Foreign Relations; General Advisory Committee on Arms Control and Disarmament; Trilateral Commission; and Board of Directors, National Urban League.

EDUCATION

1948: Georgetown University, B.S.

1942: U.S. Merchant Marine Academy.

PERSONAL

White Male.
Age 57.
Democrat.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JACKSON (by request):

S. 3156. A bill to designate certain rivers for study as potential additions to the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE:

S. 3157. A bill to amend the Internal Revenue Code with respect to allowance of jobs credit and WIN credit against alternative minimum tax; to the Committee on Finance.

S. 3158. A bill to amend the Adoption Assistance and Child Welfare Act of 1980 to extend the postponement of certain penalties relating to child support requirements; to the Committee on Finance.

S. 3159. A bill to make technical corrections in certain provisions of Public Law 96–249 and Public Law 96–265 which relate to information by the Commissioner of Social Security; to the Committee on Finance.

By Mr. PERCY (for himself, Mr. Sasser, Mr. Magnuson, Mr. Pryor, Mr. Huddleston, Mr. Lugar, and Mr. Hayakawa):

S. 3160. A bill to amend title 5 of the United States Code to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts of the United States; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 3161. A bill to limit the costs resulting from acts of negligence in health care and to improve the level of health care services in the United States, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JACKSON (for himself, Mr. Morgan, and Mr. Goldwater) (by request):

S.J. Res. 206. Joint resolution to provide for the appointment of David C. Acheson as citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. Bentsen (for himself, Mr. Glenn, Mr. Hatfield, Mr. Proxmire, Mr. Pryor, Mr. Baucus, Mr. Helms, Mr. Randolph, Mr. Goldwater, Mr. Williams, Mr. Stevenson, Mr. Tower, Mr. Hollings, Mr. Bayh, Mr. Stennis, Mr. Melcher, Mr. Stafford, Mr. Burdick, Mr. Roth, Mr. Danforth, Mr. Sarbanes, Mr. Durenberger, Mr. Cochran, Mr. Lugar, and Mr. Magnuson):

S.J. Res. 207. Joint resolution to authorize and request the President to proclaim November 28, 1980 as "Salvation Army Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (by request):

S. 3156. A bill to designate certain rivers for study as potential additions to the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

DESIGNATION OF CERTAIN RIVERS FOR STUDY AS POTENTIAL ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to designate certain rivers for study as potential additions to the National Wild and Scenic Rivers System.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the Record.

There being no objection, the bill and the letter were ordered to be printed in the Record, as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), as amended, is further amended as follows:

"( ) Cheat, West Virginia: The entire river in West Virginia including the tributaries, Blackwater River, Dry Fork, Shavers Fork and Glady Fork.

( ) Parker, Massachusetts: The main stem from Plum Island Sound to Interstate 95 including Plum Island River from Plum Island Sound to above Little Pine Creek.

( ) Saint Croix, Maine: The main stem from Grand Falls Flowage to Vanceboro.

( ) Wood, Rhode Island: The segments from Alton Pond to Interstate 95 and from KG Ranch Road to the headwaters.

( ) Caney Fork, Tennessee: The main stem from Tennessee State Road 4251 to its headwaters.

( ) French Broad, Tennessee and North Carolina: The main stem from Rosman, North Carolina, downstream to Tennessee Route 9 bridge.

( ) Dan, North Carolina and Virginia: The segment from above the U.S. Highway Bridge 311 at river mile 130 to its headwaters.

( ) Satilla River, Georgia: The entire river.

( ) Apalachicola, Florida: The main stem from Lake Seminole to Apalachicola Bay. For the purpose of this study, maintenance of authorized dredging operations on the study segment shall not be considered inconsistent with the values for which the river might be designated.

( ) Yellowstone, Wyoming and Montana: The segment from Yellowstone Lake to Pompey's Pillar.

( ) Niobrara, Nebraska: The segment from Sparks Gaging Station to Antelope Creek.

( ) Dismal, Nebraska: The main stem from the confluence of the North and South Forks to the confluence with the Middle Loup River.

( ) Cimarron, Kansas and Oklahoma: The main stem from the Colorado-Kansas State line in Comanche County, Kansas, including its tributaries Buff Creek and Crooked Creek.

( ) Cossatot, Arkansas: The segment from the north end of Gillham Reservoir to the headwaters.

( ) Canadian, New Mexico: the segment from the north end of Gillham Reservoir to the headwaters.

( ) Canadian, New Mexico: The segment from Conchas Reservoir to Taylor Springs.

( ) Gila, New Mexico: The main stem from the Arizona-New Mexico border to the confluence to the East and West Forks excluding the authorized Hooker Reservoir site; the West Fork to its headwaters; the East Fork to the junction of Taylor and Beaver Creeks; and the Middle Fork from its confluence with the West Fork to the junction of Galita and Willow Creeks.

( ) Prairie Dog Town Fork of the Red, Texas: The segment from the Brisco-Hall County line to Lake Tanglewood.

( ) Black, Wisconsin: The main stem from a point 1.4 miles from its confluence with the Mississippi River to Black River Falls Dam.

( ) Duckabush, Washington: The entire river.

( ) Hoh, Washington: The entire river.

( ) Humtulips, Washington: The entire river including the West Fork.

( ) Little Pee Dee, South Carolina: The segment from the confluence with the Pee Dee River to the North Carolina State line."

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., August 21, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a bill which would amend the Wild and Scenic Rivers Act (P.L. 90–542) to designate an additional 21 rivers for study under section 5(a) of the Act to determine whether they possess the necessary qualifications to be added to the national system.

We recommend that this draft bill be referred to the appropriate committee and that it be enacted by the Congress.

The proposed study rivers have been selected from the Nationwide Inventory of rivers. This inventory is maintained by the Heritage Conservation and Recreation Service and lists the rivers which appear to meet the qualifications for addition to the National Wild and Scenic Rivers System. The segments were selected in order to bring the System closer to a balanced representation of all river types found in each of the geographic areas of our country.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

Bob Herbst,
Assistant Secretary.●

By Mr. TALMADGE:

S. 3157. A bill to amend the Internal Revenue Code with respect to allowance of jobs credit and WIN credit against alternative minimum tax; to the Committee on Finance.

ALLOWANCE OF JOBS CREDIT AND WIN TAX CREDIT

● Mr. TALMADGE. Mr. President, the WIN tax credits were enacted by the Congress in an attempt to encourage the employment of welfare recipients, many of whom were difficult to employ. In 1978, Congress provided a targeted jobs credit to encourage employment among other hard-to-place persons. The recent passage of the alternative minimum tax has however had an unanticipated deleterious effect on certain type corporations which are employing welfare recipients and for individuals from the targeted jobs categories.

Subchapter S Corporations actually are not benefiting from these credits as we intended. Such corporations which use these tax credit provisions increase their net income, and may thus be subject to increased tax liability under the alternative minimum tax provision. The result in such cases is that they receive no benefit or reduced benefits from the tax credit provisions.

My bill would solve this problem by treating these job tax credits in the same way as the foreign tax credit for purposes of the alternative minimum tax. This has the effect of limiting the amount of the credit which can be counted in determining the tax due under the alternative minimum tax provisions.

Mr. President, I ask unanimous consent to insert the bill in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) In General.—Subsection (c) of section 55 of the Internal Revenue Code of 1954 (relating to credits) is amended—

(1) by inserting ", work incentive program credit, and employment credit" after "foreign tax credit" in the caption of paragraph (1),

(2) by striking out "foreign tax credit allowed under section 33 (a)" each place it appears in paragraph (1) and inserting in lieu thereof "credits allowed by sections 33, 40, and 44B",

(3) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) Carryback and carryover of certain credits.—For purposes of this part—

"(A) Substitute limitation.—In any taxable year in which a tax is imposed by this section (referred to as the "current taxable year'), the limitation on the amount (if any) of credit which may be carried back or over for any credit allowable under subpart A which is not allowable against the tax imposed by this section shall be computed in accordance with subparagraphs (B) and (C).

"(B) Order.—The amount of any limitation on carrybacks or carryovers under this paragraph shall be determined with respect to each credit in reverse order of the letter or number designation of the credits.

"(c) Determination of Amount.—The amount of each such limitation shall be the amount (if any) by which—

"(i) the amount of the credit allowable for the current taxable year (determined without regard to this paragraph), exceeds

"(ii) the smaller of—

"(I) such limitation (determined without regard to this paragraph), or

"(II) the net tax imposed by this section for the taxable year (reduced by the sum of the amounts determined under this subclause with respect to any credit which has a higher number or letter designation).

"(D) Net tax imposed by this section.—For purposes of this paragraph, the term 'net tax imposed by this section' means the tax imposed by this section reduced by the credits allowed by sections 33 (as modified by paragraph (2)), 40, and 44B.".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1978.●

By Mr. TALMADGE:

S. 3158. A bill to amend the Adoption Assistance and Child Welfare Act of

1980 to extend the postponement of certain penalties relating to child support requirements; to the Committee on Finance.

POSTPONEMENT OF CERTAIN PENALTIES RELATING TO CHILD SUPPORT PAYMENTS

● Mr. TALMADGE. Mr. President, present law provides that if a State is found by an annual audit not to have an effective child suport enforcement program which meets the requirements of title IV–D, the State's AFDC reimbursement must be reduced by 5 percent. Earlier this year, the conferees on H.R. 3434 agreed to include a provision which prohibited the imposition of this penalty before October 1, 1980. This bill became Public Law 96–277. The purpose was to give the Department of Health and Human Services time to review its audit and penalty procedures to assure that they could be equitably interpreted and applied and to allow time for the Subcommittee on Unemployment and Public Assistance of the Ways and Means Committee to hold hearings on the penalty provision in current law.

More time is needed to accomplish this, and my bill therefore would simply provide for an additional delay of 2 years, to October 1, 1982, before any penalty could be imposed. As we noted in the conference report on H.R. 3434 (now Public Law 96–272), this provision should not be considered to prejudice in any way the ultimate disposition of penalties for prior years.

This bill has no budgetary effect.

Mr. President, I ask unanimous consent that the bill be inserted in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309 of the Adoption Assistance and Child Welfare Act of 1980 is amended by striking out "fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980" and inserting in lieu thereof "any of the fiscal years 1977 through 1980 shall be made prior to October 1, 1982".●

By Mr. TALMADGE:

S. 3159. A bill to make technical corrections in certain provisions of Public Law 96–249 and Public Law 96–265 which relate to information by the Commission of Social Security; to the Committee on Finance.

AMENDMENT OF CERTAIN FOOD STAMP ACTS

● Mr. TALMADGE. Mr. President, my bill would make purely technical amendments to rectify errors which occurred as the result of the enactment of Public Law 96–249, the Food Stamp Amendments of 1980, and Public Law 96–265, the Social Security Disability Amendments of 1980.

In drafting the final changes in disability amendments agreed to by the conferees everyone failed to take into account the provisions of the Food Stamp Act which was being acted upon by Congress at the same time. Provisions of both bills amended the Internal Revenue Code with respect to disclosure of information provisions.

As a result, there are section designations which need to be corrected. My bill does nothing more than make the necessary corrections.

Mr. President, I ask unanimous consent to insert the bill in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 127(a)(1) of the Food Stamp Act Amendments of 1980 (Public Law 96–249) is amended by striking out "Subsection (i) of section 6103" and inserting in lieu thereof "Subsection (1) of section 6103".

(b)(1) Section 408(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96–265) is amended by striking out (in the new paragraph added thereby to subsection (1) of section 6103 of the Internal Revenue Code of 1954) "(7) Disclosure" and inserting in lieu thereof "(8) Disclosure".

(2) Section 408(a)(2) of the Social Security Disability Amendments of 1980 is amended—

(A) in subparagraph (A), by—

(i) striking out "(1)(1) or (4)(B) or (5)" and inserting in lieu thereof "(1)(1), (4)(B), (5), or (7)", and

(ii) striking out "(1)(1), (4)(B), (5), or (7)" and inserting in lieu thereof "(1)(1), (4)(B), (5), (7), or (8)";

(B) in subparagraph (B), by—

(i) striking out "(1) (3) or (6)" and inserting in lieu thereof "(1) (3), (6), or (7)", and

(ii) striking out "(1) (3), (6), or (7)" and inserting in lieu thereof "(1) (3), (6), (7), or (8)";

(C) in subparagraph (C), by—

(i) striking out (1) (6)" and inserting in lieu thereof "(1) (6) or (7)", and

(ii) striking out "(1) (6) or (7)" and inserting in lieu thereof "(1) (6), (7), or (8)"; and

(D) in subparagraph (D), by—

(i) striking out "subsection (d), (1) (6) or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (1) (6) or (7), or (m)(4)(B)", and

(ii) striking out "subsection (d), (1) (6) or (7), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (1) (6), (7) or (8), or (m)(4)(B)".

(3) Section 408(b) of the Social Security Disability Amendments of 1980 is amended—

A) in paragraph (1), by striking out (in new subsection added thereby to section 303 of the Social Security Act) "(d)(1) The State agency" and inserting in lieu thereof "(e)(1) The State agency", and

(B) in paragraph (2)—

(i) by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)", and

(ii) by striking out "subsection (b), (c), or (d)" and inserting in lieu thereof "subsection (b), (c), (d), or (e)".

(c) The amendment made by subsection (a) shall take effect on May 26, 1980; the amendments made by paragraphs (1) and (2) of subsection (b) shall take effect on June 9, 1980; and the amendments made by paragraph (3) of subsection (b) shall take effect on July 1, 1980.●

By Mr. PERCY (for himself, Mr. Sasser, Mr. Magnuson, Mr. Schmitt, Mr. Pryor, Mr. Huddleston, Mr. Lugar, and Mr. Hayakawa):

S. 3160. A bill to amend title 5 of the United States Code to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts of the United States; to the Committee on Governmental Affairs.

DEBT COLLECTION ACT OF 1980

Mr. PERCY. Mr. President, by best estimates, the Federal Government is owed billions of dollars in unpaid debts and is making little if any effort to collect them. Senator Sasser and I are introducing legislation today to create an incentive for Federal agencies to collect what is owed them and to provide agencies with the tools they need to do so. I would like to welcome Senator Pryor, Senator Huddleston, Senator Lugar, and Senator Hayakawa.

BILLIONS WRITTEN OFF BY AGENCIES AS UNCOLLECTABLE

The amount of money owed the Federal Government is enormous and growing. Total accounts receivable, including loans due the government, now total over $175 billion. The majority of this total debt will be routinely collected: however, an increasing amount will require more effective collection action to minimize the amounts that will be left unpaid.

Report to OMB from 23 Federal agencies reveal that of $93 billion due the Government in fiscal year 1980 at least $26 billion, and perhaps as much as $35 billion, is already delinquent. Exactly how much of this will not be paid is not known, however, the Treasury Department reports that at least $6.3 billion will be lost. Other sources say that at least 25 percent of this $26 to $36 billion will not be recovered.

Pitifully little attention is given these debts in the agencies and the ineffective and slow methods of collection are primarily responsible for the Government's miserable record in collecting its enormous debts. An LEAA program, for instance, will write off $18.2 million out of $38.4 million loaned—almost 50 percent, according to a recent GAO report. It is no wonder so much was lost: LEAA had only four full time employees assigned to service 210,000 accounts amounting to more than $150 million. This is not an isolated example.

Although it is not certain precisely how much can be collected, it is known that with improved collection efforts the Federal Government could reduce the amount of taxpayer's dollars that are wasted in this way.

DEBT COLLECTION ACT OF 1980

The General Accounting Office has focused attention on Government debts and several GAO reports provided inspiration for this legislation. GAO has recommended that certain practices commonly used in the private sector be adopted, including the use of credit bureaus. The experience of private firms, the results achieved by a State educational loan program, and specific tests by GAO all point to the need to establish in the Federal Government the same practices and aggressiveness common in the private sector.

The Debt Collection Act, which we are introducing today, addresses the methods of collection recommended by the

Comptroller General of the United States. Specifically, this legislation permits the use of credit bureaus, or consumer reporting agencies (CRAs). Additionally, the Office of Management and Budget is directed to establish a strict accounting system for the agencies to report defaulted debts. It is this provision which goes to the heart of reform.

STRICT REPORTING REQUIREMENTS WILL MAKE THE AGENCIES ACCOUNTABLE

The Federal Government has done a poor job in collecting loans not only because it has lacked the methods to collect loans, but because debt collection has not been viewed as a high priority. Agency collection divisions are not provided with sufficient resources. Loans are not processed or accounted for systematically. Thus essential information to determine the performance of agencies in collecting loans is unavailable.

The Debt Collection Act will require the agencies to periodically report on the status of loan programs. The Treasury Department has recently required information concerning debts to be reported and this legislation will expand those requirements. OMB, in consultation with Treasury and GAO, must establish a strict reporting system to assure aggressive collection action. I am hopeful that with the establishment of strict reporting requirements the agencies will be forced to acknowledge and, thus, to be accountable for their collection efforts.

USE OF CREDIT BUREAUS

Private firms, in contrast to the Federal Government, place primary reliance in collecting unsecured debts on aggressive collection backed by the consequences of adversely affecting the debtor's credit rating. Private industry officials say the single most powerful motivation for an individual to pay a debt is the stigma of having his credit rating reflect that he has not paid debts in time. When faced with the loss of credit, the majority of debtors agree to pay.

Last year, directives issued by the Justice Department and GAO required agencies to develop and implement procedures for reporting delinquent debts to credit bureas. Then, contrary to GAO recommendations, the Justice Department reversed its prior position and advised that any credit bureau which received data from a Federal agency must abide by the specific requirements of the Privacy Act in handling the data. Credit Bureaus, already governed by the Fair Credit Reporting Act, will not accept Federal records under these conditions.

I helped draft the Privacy Act of 1974 and continue to firmly support it. I do not believe it was the intent of Congress in enacting the Privacy Act to prevent Federal agencies from pursuing well accepted methods of collecting debts owed them. The legislation we are offering will amend the Privacy Act to permit the use of Credit Bureaus only under strictly limited conditions. These protections include a requirement that the agencies provide the debtor with an opportunity to review the debt and an opportunity to have that review reconsidered. In addition, the agencies must make certain that the commercial firms receiving the data comply with the Fair Credit Reporting Act and other laws that govern the credit industry. Finally, before utilizing the services of a Credit Bureau under this Act, the debtor must be informed that the Credit Bureau will be notified of the debtors failure to repay. Two written notices must be sent to the debtor. I believe that these limitations are necessary to protect the rights and privacy of the debtor.

The taxpayers would be shocked if they knew that a person defaulting on his legal obligation to pay back the Federal Government can obtain loans for a car or house from a bank that has no way of knowing about the debtors failure to pay the Government. They would be very angry to know that they are footing the bill for those who do not pay.

I have been involved in efforts to improve the collection of Federal debts for some time. In 1975, the Permanent Investigations Subcommittee, on which I serve as ranking minority member, held hearings focusing on the Office of Education's administration of the student loan program. As a result of those hearings, I introduced legislation—which is now law—to establish criminal penalties for abuses by school operators participating in the Student Loan Program.

Because of the enormity of this government-wide problem, OMB has undertaken an extensive project to determine the reasons for the soaring delinquency rates mentioned at the beginning of my statement, and the best solutions to this massive loss of taxpayer's dollars. An interim report by OMB has reiterated GAO's findings. It points to a lack of records to support effective credit management and agency interpretation of the Privacy Act which precludes potentially effective means of collection as two of the major impediments to improved Federal debt collection. OMB's commitment to finding solutions to these problems is encouraging indeed.

Now Congress must address this problem through legislation which provides the agencies with both the incentive and the tools to collect debts. With the authority to use the services of Credit Bureaus, the agencies will have an effective tool used in the private sector to collect debts. With strict accounting systems, the agencies will be made accountable for their collection efforts.

I hope the Senate will move expeditiously on this legislation. These delinquent debts become more difficult to collect each day that we delay. We must act out of fairness to the taxpayers who are footing the bill for those who default on their lawful obligations.

Mr. President, I ask unanimous consent that the text of this legislation, as well as an account of the success of the New Jersey Department of Higher Education in collecting defaulted debts, be printed at this point in the Record.

There being no objection, the bill and accompanying material were ordered to be printed in the Record, as follows:

S. 3160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Debt Collection Act of 1980".

AMENDMENTS TO TITLE 5 OF THE UNITED STATES CODE

Sec. 2. (a) Section 552a of title 5 of the United States Code is amended—

(1) in subsection (b) (10), by striking out "or";

(2) in subsection (b) (11), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "or";

(3) by adding at the end thereof the following:

"(12) to a consumer reporting agency, as defined in section 603 (f) of the Fair Credit Reporting Act, consistent with the provisions of subsection (r) of this section.".

(b) Section 552a of title 5 of the United States Code is further amended in subsection (m) thereof—

(1) by striking out "When an agency provides" and inserting in lieu thereof "(1) Except as provided in paragraph (2), when an agency provides"; and

(2) by adding at the end thereof the following:

"(2) A consumer reporting agency to which a record is disclosed under subsection (b) (12) of this section shall not be considered a contractor for the purposes of this section.".

(c) Section 552a of title 5 of the United States Code is further amended by adding at the end thereof the following:

"(r) Disclosure to a Consumer Reporting Agency.—Whenever the head of an agency or his designee attempts to collect a claim of the United States under section 3(a) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(a)), the head of the agency or his designee—

"(1) may notify a consumer reporting agency that a person is responsible for a claim if—

"(A) the head of the agency has sent two written notices informing such person that the agency intends to notify a consumer reporting agency that the person is responsible for such claim; and

"(B) such person has not repaid or agreed to repay such claim or has not filed for review of such claim under paragraph (2) of this subsection; and

"(2) shall provide, upon request of any person alleged by the agency to be responsible for such claim, for the review of the obligation of such person, with an opportunity for reconsideration of the initial decision upon review under such regulations and procedures as the head of the agency may provide, prior to the notification of any consumer reporting agency under paragraph (1) of this subsection and at such other times as may be permitted by law; and

"(3) shall, prior to the notification under paragraph (1), obtain satisfactory assurances from such consumer reporting agency concerning the compliance of the consumer reporting agency with the Fair Credit Reporting Act and any other Federal law governing the provision of consumer credit information.".

REPORT ON AGENCY LOAN COLLECTION ACTIVITIES

Sec. 3. (a) The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury and the Comptroller General of the United States, shall establish regulations requiring that each agency with authority to extend loans report to the Director at least once each year on the activities of the agency to collect such loans. Such report shall include the total amount of outstanding loans owed to the agency, and such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect such loans.

(b) The Director shall analyze the reports received by each agency under subsection (a) and shall report annually to the Congress on the management of agency loan collection activities, including the total amount of outstanding loans owed to each agency.

STATE OF NEW JERSEY,
DEPARTMENT OF HIGHER EDUCATION,
Trenton, N.J., May 3, 1978.

Mr. HERBERT MILLSTEIN,
Assistant Director, U.S. General Accounting Office, Washington, D.C.

DEAR MR. MILLSTEIN: I appreciated your telephone call the other day regarding the possible benefits to be derived from reporting to a nationwide credit data network certain indebtednesses resulting from government backed loans. This is an idea my claims and collection manager, John DeFeo, and I have been espousing for some time. It is a policy of the NJHEAA to report all defaulted student loans to a credit data agency; and we encourage our participating lenders to report all Guaranteed Student Loans at the time they are made. Let me tell you why.

Guaranty agencies are not primary credit granters per se and are not in the mainstream of daily credit transactions. Therefore, it is important that these educational loans, which represent sizeable sums of money, are properly recorded within the credit community so that they may be taken into consideration by creditors prior to the extension of further credit. Remember, student loan holders, for the most part, are young and have had little or no experience in the field of finance. They must consciously guard against and, in many cases, be helped to keep from becoming overindebted. Most students, fortunately, have honorable intensions about repaying the loan; but many procrastinate about beginning repayment in the belief that their earnings will be higher five or ten years from now and, therefore, will be in a better position to repay the loan. In reality, however, a person's standard of living tends to increase with his salary and his indebtedness tends to increase in proportion to his increased income. The goal, therefore, should be to get the individual to plan his student loan repayment budget before he gets into further debt, not after.

Repayment of indebtedness, especially a student loan, must remain a top priority. However, there is a tendency when the student leaves school for repayment of the loan to slip down the priority scale to number three, four, five or even lower, behind the payments on a new car, a stereo, a T.V., appliances and/or a personal loan. The student will do all he can to avoid repossession of these tangible items even to the point of defaulting on his student loan. There are some who suggest extending repayment of the student loan as a matter of policy, but that is merely relegating repayment to a lower priority. When you allow an individual to become so heavily indebted that he must seek help from a counseling service, or worse yet, declare bankruptcy, you have performed no service for that individual. Even worse, his character has been tarnished in his own eyes because of wanting to repay the loan but not being able to do so. You may have caused him mental anguish, marital difficulties (even divorce) and, in general, cheated this individual, as well as society who will eventually be asked to pick up the tab. In short, as much emphasis should be placed on monitoring the total indebtedness of an individual while it is occurring as is placed on collections after the individual has defaulted on his loans.

In December 1975, we began to give increased attention to monitoring total indebtedness by using the services of a credit data agency. Our experience to date has been most successful and can be documented by the figures in the enclosed summary report. The decrease in claims paid to lenders for defaulted loans and the very substantial increase in the number of payments received and dollar amount collected on defaulted loans can be directly attributed to the effectiveness of using this service; for during this time frame, there was no increase in the number of persons employed in the default prevention and collection activity of our agency. What can't be measured is the number of students who are repaying their loan to the original lender as the result of a report from the credit data agency. In my opinion, the decrease in claims purchased by this agency is testimony to the fact that it is playing a very significant role. Also enclosed you will find several case histories which typify our recent experiences.

I trust that this information is helpful and responsive to your needs. Should you wish further clarification or have any questions, please feel free to call John or me.

Sincerely yours,

WILLIAM C. NESTER.
Director.

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY—SUMMARY PER FISCAL YEAR ENDING JUNE 30

	1976	1977	1978[1]	Percent increase/(decrease)		
				1976 versus 1977	1977 versus 1978	1976 versus 1978
Loan value:						
Number of loans	41,144	49,937	56,000	21.4	12.1	36.1
Account guaranteed	$65,463,452	$84,510,200	$105,000,000	29.1	24.2	60.4
Average loan	$1,591	$1,692	$1,875	6.3	10.8	17.9
Defaults:						
Amount claims paid	$8,549,654	$8,381,900	$7,448,923	(2.0)	(11.1)	(12.9)
Number of payments	11,560	18,283	22,343	58.2	22.2	93.3
Amount collections	$551,607	$929,321	$1,105,384	68.5	18.9	100.4
Number of paid-in-fulls	183	293	328	60.1	11.9	79.2

[1] Based on actual 9-mo figures projected to 12 mo.

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY

Example A. Irregular Monthly Payments:

Address at loan disbursement: New Jersey.

Address at time of mortgage application: Virginia.

Date of default: April 1976.

Amount of default: $2,865.13.

Payments through 7/31/77: $450.00.

Scheduled payments: $50.00 monthly.

Summary: Mortgage inquiry—8/77 Subject applied for a FHA mortgage in excess of $30,000 through a mortgage corporation in Maryland. As a result of the account having been reported to a credit bureau, the mortgage company contacted this Agency in writing for purposes of updating the account.

Conclusion: The defaulted loan was paid in full on January 26, 1978 with a final payment of $2,107.79.

Example B. No payments (Monthly):

Address at loan disbursement: New Jersey.

Address at time of credit inquiry: Maryland.

Date of default: October 1972.

Amount of default: $1,151.88.

Scheduled payments: $50.00 per month, no payments received.

Date of credit inquiry: February 1978.

Subject was frequently moving and many times mail would be returned as "address unknown."

Summary: Subject applied for additional credit and as a result this Agency was contacted for purposes of updating the account.

Conclusion: Payment on full in the amount of $1,588.06 (principal and interest) received on April 27, 1978.

Example C. Skip located, Payment Initiated:

Address at loan disbursement: New Jersey.

Address at time of default: Georgia-"skip."

Reported as "Subscriber unable to locate."

Schedule Payments: $40.00 monthly with no payments made through 3/31/78.

Summary: Subject applied for additional credit at which time we were notified of his new address in Florida. We contacted this individual who is now working as a supervisor in that same area who agreed to $40.00 monthly payments with the first payment received on April 24, 1978.

Example D. Credit Card Denial:

Address at loan disbursement: New Jersey.

Address at time of payment in full: New Jersey.

Date of default: July 1969.

Amount of default: $4,317.88.

Summary: Subject obtained employment with a large corporation in New York City at $25,000 per annum. As a result of his position, he needed a credit card which was denied because of the defaulted educational loan. After the denial the subject made continual payments to the Higher Education Assistance Authority with the final payment of $1,938.81 paying his account in full on April 7, 1978.

Mr. SASSER. Mr. President, last spring I reported to my colleagues about the miserable efforts the Federal agencies are exerting to collect just debts owed to the Federal Government. At that time I reported that the Comptroller General of the United States published numerous investigative reports on this subject.

Unfortunately, debt collection is not keeping pace with the increasing number of debts.

NO ONE KNEW THE EXTENT OF DELINQUENT DEBTS

Last spring I reported to my colleagues that U.S. citizens and organizations owed over $95 billion at the start of fiscal year 1979. Estimates from some Federal agencies show that at least $3.5 billion will eventually be written off as uncollectable and as bad debts. GAO reports, however, that losses will probably be greater because not all agencies have accurately reported such data. Almost $500 million is actually written off every year. It just disappears from everyone's books without a trace.

At that time, I reported that it was a fact that no one in the Federal Government really knew how much had been written off as uncollectable in the last 10 years.

OMB DEBT COLLECTION PROJECT

Since August 1979, the Office of Management and Budget has been pursuing this matter with increased attention through the establishment of the "debt collection project." One of the primary efforts of this project is to get a firm grip on just how much is owed, by whom, and how much is delinquent.

AS MUCH AS $35 BILLION IS DELINQUENT

Mr. President, the preliminary estimates from the OMB "debt collection project" indicate that total accounts receivable, including loans due the Government, from U.S. citizens and organizations is now $126 billion. An additional $49 billion is owed the Government from foreign sources. The total amount owed is $175 billion.

Of this $175 billion, some $93 billion is due to be repaid in fiscal year 1980. Unfortunately, at least $26 billion ($23 billion from U.S. sources and $3 billion from foreign sources) is already delinquent—and the delinquent figure may be as high as $35 billion.

A $9 BILLION LOSS

Some of the delinquent debt will eventually be paid late. However, the Treasury Department reports that at least $6.3 billion will be lost—and the loss may run as high as $9 billion.

DEBT COLLECTION ACT OF 1980

All of this has led the distinguished senior Senator from Illinois (Mr. PERCY) and me to introduce the Debt Collection Act of 1980. This legislation is based on the recommendations of several GAO reports. It would allow Federal agencies to employ certain practices commonly used in the private sector to pursue these debts. More specifically, it would allow the Federal agencies to use credit bureaus and direct the OMB to establish a strict accounting system for the agencies to report defaulted debts.

USE OF CREDIT BUREAUS

Private firms, in contrast to the Federal Government, place primary reliance in collecting unsecured debts on aggressive collection backed by the consequences of adversely affecting the debtor's credit rating. Private industry officials say the single most powerful motivation for an individual to pay a debt is the stigma of having his credit rating reflect that he has not paid debts in time. When faced with the loss of credit, the majority of debtors agree to pay. For these reasons, our legislation would authorize Federal agencies to utilize, under strictly limited conditions designed to adequately protect the legitimate interests of debtors, the services of credit bureaus and credit reporting agencies.

LIMITATIONS TO PROTECT DEBTORS

These protections include a requirement that agencies provide the debtor with an opportunity to review the debt and an opportunity to have that review reconsidered. In addition, Federal agencies must make certain that commercial firms receiving the data comply with the Fair Credit Reporting Act and other laws that govern the credit industry. Finally, before utilizing these commercial services under this act, the debtor must be informed that credit bureaus will be informed of the debtor's failure to repay. Two written notices must be sent to the debtor. Senator PERCY and I believe these limitations are necessary to protect the rights of the debtor, although the Privacy Act does not require such limitations.

EXAMPLES OF DEFAULTERS

Mr. President, the General Accounting Office has supplied me with 10 examples of loan defaulters—all with the ability to pay. Each has a good credit rating outside the Government. They pay their bills to everybody except the taxpayers of this country. These cases represent the type of loans which would be susceptible to collection through the legislation being introduced today.

Each of the following examples have been in default since 1976 or earlier, and efforts to collect the amounts due have been unsuccesful.

None of the individuals have disputed the amount owed. In most cases, they simply refused to acknowledge the collection efforts.

CASE 1

The person defaulted for $454 in 1975. During the period 1975–79, he satisfactorily paid off four unsecured bank loans in the amounts of $1,900, $1,700, $500, and $1,000.

CASE 2

The person defaulted for $595 in 1973. In 1977, he was granted an automobile loan for $8,900 and as of July 1979, he had paid about $3,000 on that loan.

He is riding around in a new automobile but he cannot bring himself to pay the funds owed to the U.S. Government, which loaned him the money to get the education which perhaps enabled him to get the loan for the automobile.

He has also paid off over $600 on a $1,300 installment which was satisfactorily paid off in 6 months.

CASE 3

The person defaulted for $754 in 1976. during 1978, he was granted an unsecured bank loan for $1,300 which was satisfactorily paid off in 6 months.

UNANIMOUS CONSENT REQUEST

Mr. President, I ask unanimous consent that cases 4 through 10 be printed in the RECORD at this point.

There being no objection, the cases were ordered to be printed in the RECORD, as follows:

CASE 4

The person defaulted for $571 in 1972. During 1978–79 he satisfactorily paid off a $1,000 secured loan. He was then granted a $1,000 unsecured loan in March 1979, of which $88 has been paid off as of June 1979.

CASE 5

The person defaulted for $832 in 1976. She has a "bank card" account with a credit extension of $2,000 and two charge accounts at department stores with credit lines of $700 and $500. She has an estimated income of $10,000 and shares a $350 a month apartment with another person.

CASE 6

The person defaulted for $549 in 1976. In March 1979, she was granted an unsecured loan for $6,600. As of June 1979, she paid almost $2,000 on this loan.

CASE 7

The person defaulted for $301 in 1975. In 1979, he had been granted a charge account with a credit line of $900 at a local department store. He also had been given two bank card accounts with a credit line of $1,400 on each account. He is employed with an estimated annual income of about $12,000.

CASE 8

The person defaulted for $328 in 1976. In March 1979, she was granted a $6,400 car loan by a bank. She paid off almost $400 of the loan through June 1979.

CASE 9

The person defaulted for $505 in 1974. As of 1979, she had been granted two bank card accounts with lines of credit of $700 and $200. She has also had two department store charge accounts with lines of credit of $400 and $500.

CASE 10

The person defaulted for $829 in 1976. She has been granted a bank card account with a credit line of $1,600. She also has department store charge accounts with credit lines of $800 and $500.

Mr. SASSER. Mr. President, defaults on amounts owed the Federal Government—and a debt owed to the Federal Government is a debt owed the American taxpayer—are skyrocketing. Up to $35 billion will be delinquent this year alone. Something needs to be done. The legislation that Senator PERCY and I are introducing today along with others will provide the incentives and tools to collect just debts. It will provide strict debt accounting and reporting systems. I hope my colleagues will join us in this effort to see that just debts are repaid in a timely manner, thereby bringing some measure of relief to the American taxpayer whose tax bill and cost of living is affected—if only indirectly—by those who are able, but choose not to pay their just debts to the Federal Government. In these times of austerity and budget cutbacks, we need to utilize all measures necessary to insure that the Federal Government collects all the money owed it.

DEBT COLLECTION

Mr. SCHMITT. Mr. President, I am pleased to join with my distinguished colleagues, the Senator from Illinois, Mr. PERCY, and the Senator from Tennessee, Mr. SASSER, in cosponsoring S. 3160, agency debt collection legislation. The problem of overdue debts owed to the Federal Government is reaching staggering proportions. When individuals refuse to pay to the Government money which they owe, it is the taxpayers of this country who are being cheated.

Last year the Senate considered a proposal to institute a test program of collecting debts owed to the Government by having IRS deduct the amount owed from tax refunds. At that time, I opposed that program because of concerns of due process and the dangers of undermining our largely voluntary tax-collecting system. I did, however, pledge support for other efforts to collect the money that is owed to the Government by individuals and businesses.

This year, the Senate has made efforts in a number of ways to remedy this increasing problem. A number of appropriations bills, including the bill before the Senate today, contain provisions directing departments and agencies to improve their collection of overdue debts and to reduce the amounts of such debts written off as uncollectible. This is a far better and safer approach than the involvement of the Internal Revenue Service.

A number of years ago, the amount of unpaid student loans attracted the attention of the public and the Congress. At that time, the Department of Health, Education, and Welfare was directed to improve their collection procedures. Efforts to collect these debts were instituted with remarkable success. I feel that the action of the Appropriations Committee is the appropriate and proper manner to proceed.

There will, however, be some cases where the department or agency will not be able to collect the overdue accounts on their own. The bill which has been introduced today will provide for that situation. Departments and agencies will be able to utilize the services of commercial debt collection agencies. The bill does provide for the privacy concerns of our citizens and the need to collect debts owed to the Government.

Mr. President, my only concern with this legislation is that departments and agencies may become less aggressive in the collection of overdue accounts and refer more accounts to collection agencies than they should. I intend to convey this concern to the Governmental Affairs Committee at the proper time.

Mr. President, let me once again emphasize that I support efforts to collect the overdue accounts owed to the Government. I still believe that it would be a serious mistake to attempt to use the IRS for that effort. The proper approach is the two-fold approach we are taking this year: First, instructing departments and agencies to become more aggressive in their efforts to collect overdue accounts, and; second, to provide the authority for the use of commercial collection agencies. The Senator from Illinois and the Senator from Tennessee are to be congratulated for their work in the area of debts owed to the Government and specifically for their work on this bill.

By Mr. INOUYE:

S. 3161. A bill to limit the costs resulting from acts of negligence in health care and to improve the level of health care services in the United States, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE PROTECTION ACT

● Mr. INOUYE. Mr. President, today I am introducing legislation which, if enacted, would establish for the first time, uniform Federal standards for a network of health care malpractice screening panels across our Nation. The Health Care Protection Act of 1980 is an outgrowth of earlier legislation that I introduced back in 1975 during the midst of our medical malpractice insurance crisis. My original proposal was essentially a workers compensation, no-fault approach. It attempted to isolate and deal separately with the two, often emotionally charged, issues of practitioner competence and patient compensation. At that time, my colleague, Senator KENNEDY, joined with me in proposing various alternative approaches, including another bill which proffered a screening panel approach.

During the past 5 years, in my judgment, we have come a long way in determining what should be the appropriate role for the Federal Government in the many complex issues that are often unfortunately grouped together under the general label of "medical malpractice." For example, we have recognized that there are many different types of health care practitioners with different responsibilities, levels of professional training, and modes of practice. Further, we have begun to appreciate the extent to which the emotional trauma that generally accompanies the classic medical malpractice suit is beneficial for neither the unfortunate patient nor the practitioner, regardless of the ultimate outcome of the trial. We have also come to publicly admit that the delivery of health care is still largely an art, rather than a precise science, and that although in retrospect it is oftentimes tempting to second-guess the practitioner, no one is well served by that approach.

Since 1975, a growing number of State legislatures, and even courts, have experimented with different approaches depending upon their own unique circumstances and philosophical orientations. Admittedly, for the past several years now, the malpractice crisis seems to have abated. And a number of my colleagues may wonder why today I still feel that it is important to address this issue. However, the answer is quite simple. From all that I have seen and read, we have not satisfactorily addressed the fundamental causes behind our earlier crisis. Accordingly, rather than being truly resolved, these highly complex issues are merely dormant. I am afraid that it will not be long before another emotionally charged crisis evolves, and this time it may well be more disruptive than before.

Mr. President, I ask unanimous consent that a reporting from the February 1980, issue of the National Law Journal be printed in the RECORD at this juncture.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

IS ANOTHER CRISIS LOOMING?

(By Stu Chapman)

A new medical malpractice crisis could be brewing in the nation's courts.

After a lull in litigation following the crisis of 1975, insurance carriers are reporting a dramatic increase in the number of liability claims filed against physicians. The increase in claims, accompanied by huge awards for plaintiffs, has prompted some of the nation's major insurance carriers to hike premiums for doctors.

The St. Paul Fire and Marine Insurance Co., the largest medical malpractice carrier in the country, reports that malpractice claims against its physician subscribers rose 12 percent in 1978. The number of claims filed had dipped by as much as 11 percent during the previous two years.

In Chicago, the Illinois State Medical Society said that more medical malpractice claims were filed in Cook County in September 1979 than in any month since November 1975.

SUING POPULAR AGAIN

Suing the doctor is popular again for a number of reasons.

First, legislative efforts in many states to limit personal injury claims have undergone constitutional challenges. If the new malpractice laws have not been weakened, they apparently look less forbidding to attorneys than they did several years ago.

At the same time, court decisions have been expanding physician liability, particularly concerning birth defects and injuries. For example, two New York cases held physicians liable for the lifelong special costs of caring for defective children if the doctors failed to warn the prospective parents of possible genetic risks.

"The hair-raising verdicts are getting worse—particularly in New York," said Don Fager, assistant treasurer of Medical Liability Mutual Insurance Co., the physician-owned company set up by the Medical Society of the State of New York. "It used to be that we didn't get those million-dollar verdicts but now we get them routinely, and the publicity that accompanies them only whets the public's appetite for more."

MILLION-DOLLAR CASES

Million-Dollar cases are becoming more commonplace, figures show. Jury Verdict Research Inc. shows 23 million-dollar cases in 1977 and 1978 compared to only a few for all preceding years combined.

If the new groundswell of claims continues, it is not expected to have as widespread an impact, however, as the crisis that swamped physicians five years ago. The biggest difference: physician-owned insurance companies that can guarantee the availability of insurance for doctors and that are taking a tougher stand in fighting claims that might be marginal.

The impact of the new doctor-owned companies on litigation can be seen in figures from the National Association of Insurance Commissioners. Its survey of claims closed between July 1, 1976, and June 30, 1978, showed a big jump in the number of cases going to court. The study shows 16 percent of the cases going to trial compared to only 5 percent previously. And the doctor-owned companies are proving to be tough opponents in court—winning 90 percent of their cases compared to 80 percent a few years ago.

Mr. INOUYE. Mr. President, in December 1978, then-Attorney General Griffin Bell announced the Department of Justice's intention to propose legislation establishing minimum standards for procedures to resolve malpractice claims. At that time, the Attorney General stated, in part, that—

> Medical malpractice problems are high on our agenda. These problems have reached troubling proportions in several ways: the cost of medical care is substantially increased; inflation is fueled; and expense and delay in litigation are exacerbated. The cost of malpractice insurance adds considerably to the cost of medical services to the people of the country. Last year, the nation's hospitals alone spent approximately $1.2 billion for malpractice insurance. This represents a six-fold increase over the past five years. The malpractice costs by themselves add approximately $5 per day for every person who requires hospitalization. Moreover, existing litigation procedures do not always assure that meritorious claims are compensated or that physicians and hospitals are adequately protected against unmeritorious claims.
>
> In an effort to get at this problem, we will send to the Congress a proposal to improve the process for resolving medical malpractice claims. The experience of several states shows

that patients, doctors, and hospitals all benefit from a system that provides screening of malpractice claims and which is tied to improved professional discipline procedures.

The use of screening panels provides a means of weeding out unfounded claims and encouraging prompt and fair settlement of those which are meritorious. We are going to propose national minimum standards for procedures to resolve malpractice claims. Within those national standards, the states would be free to shape individual systems to fit local needs and conditions. We believe this proposal would have a substantial effect in both reducing the cost and improving the quality of medical care.

In June 1979, after consultation with the Attorney General, Senator JAVITS and I shared a working draft of the proposed legislation with the 50 State Governors, requesting their review and comment. Again, since the earlier pressures no longer existed, there was considerable disagreement about whether the Federal Government ought to become involved at all. The other issues that they raised were also extremely helpful and I have tried to incorporate them wherever possible. Unfortunately, since Griffin Bell's departure from the Department of Justice, the administration's enthusiasm for aggressively addressing the malpractice issue has naturally cooled. However, the need is still pressing and I feel that it is appropriate to continue the dialog.

The cost of health care in our Nation has skyrocketed beyond belief and continues to escalate faster than almost any other segment of our economy. Before we can ever hope to enact a comprehensive national health insurance program, we must first address the issue of medical malpractice. In 1975, there were 20,000 medical malpractice claims, three-quarters of which arose from incidents that occurred within our Nation's hospitals. For the in-hospital claims that went the full route to a jury settlement, the average award was $350,000. It is estimated that our Nation's health care providers and hospitals presently pay over $1.25 billion a year in medical malpractice insurance premiums, yet only about 20 percent of this sum reached the pockets of malpractice victims. Further, it is estimated that there are between $2 billion and $7 billion a year of needless testing and procedures being performed merely because our nation's health care providers feel that they must practice what is known as defensive medicine.

Some 25 States established malpractice panels during the mid-1970s. The screening panel approach has worked especially well in the State of Hawaii, where 80 percent of the medical malpractice cases since 1976 have been settled out of court. Our Medical Claims Conciliation Panel has the support of lawyers, physicians, insurance companies and claimants. More specifically, interviews with Hawaii physicians revealed that 94 percent felt that the panels were helpful in resolving malpractice cases; 90 percent of the attorneys using the screening panels felt the same. In fact, the Pacific Business News heralded this procedure as curbing our state's medical malpractice insurance rates.

The bill that I am introducing today proposes a basic framework and an economic incentive for our various state legislatures to develop their own malpractice screening panel programs. There are certain fundamental public policy value judgments inherent in my proposal that should be highlighted at this time. First, that malpractice is not limited only to the medical profession, but is the concern of all health care practitioners. Second, that a multidisciplinary screening approach should be utilized. Third, that all relevant information should be systematically collected and made public, and not hidden behind claims of privilege. And finally, that our malpractice insurance system should be reconceived to place far greater emphasis on compensating the unfortunate victim, rather than on pouring vast amounts of money and societal resources into courtroom clashes, claims administration, and insurer overhead.

My proposal is voluntary in nature. I have spelled out a number of specific standards which I feel would best serve the interests of all of the parties involved. I have authorized up to $25 million to be made available on a continuing basis for the Department of Justice to actively encourage states to comply. I proposed a mechanism for systematically collecting important data on malpractice claims, and in the future, when we have sufficient experience, I may very well make additional legislative recommendations. It is my expectation that eventually every state will adopt this screening panel approach. Eventually, I hope that a truly no-fault approach patterned after our workers compensation laws can be developed, built upon the network of malpractice screening panels already in place, in order to insure that those who deserve compensation receive it, and that those practitioners who do not live up to appropriate standards are identified and properly limited in the scope of their practice.

Mr. President, I ask unanimous consent that the bill and its summary be included in the RECORD.

There being no objection, the bill and the summary were ordered to be printed in the RECORD, as follows:

S. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Protection Act of 1980".

SEC. 2. CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the health care professions and industry serve needs vital to the continuing health and welfare of the American people and form a vital part of commerce between the States;

(2) every person needs ready and economical access to medical and other health care services for full participation in American society and for full exercise of individual rights;

(3) the health care professions and industry apply national standards of health care to State and regional needs and circumstances;

(4) the need to compensate persons injured by avoidable acts of health care negligence or malpractice and the resultant costs of malpractice insurance significantly increase the costs of medical and other health care services and products;

(5) divergent systems for insuring against, and for litigating and compensating, health care malpractice claims further raise the cost of needed malpractice insurance and prevent speedy compensation of injured persons;

(6) a large majority of the cost of premiums paid for malpractice insurance goes to investigating or trying malpractice claims in State courts, while less than one-third of the premium amounts are now used to compensate persons injured by malpractice;

(7) many more incidents of health care malpractice occur than result in a claim for damages, and many valid claims for compensation are prevented because of the high costs of trial; conversely, many claims of malpractice are unjustified but result in settlements or awards for damages out of sympathy for the physical condition of the claimant;

(8) these added costs of insurance protection, and the risk of liability for compensation, burden both the health care providers and their patients, further raising the cost of health care goods and services;

(9) these costs also increase the costs to the United States Government of carrying out its programs for aiding the people and the States in meeting health care needs, and affect the extent to which the United States may be finacially liable for health care services afforded by its own officers or employees, including the military services and veterans and public health care programs;

(10) failure to compensate adequately persons injured by health care malpractice adversely affects the general health and welfare of the people of the United States and burdens commerce between the States;

(11) many States have experimented successfully with nonjudicial malpractice claims systems using screening panels to reduce the costs of processing malpractice claims;

(12) early examination of claims regarding health care malpractice, before they reach court, by malpractice screening panels organized by the States according to uniform Federal standards will aid materially in reaching just and timely resolutions of those claims at much lower administrative and litigation costs than those now experienced under the existing system of direct tort litigation and malpractice insurance;

(13) members of the public and responsible public officials of the States are entitled to be informed in all instances in which health care malpractice is found by a State screening panel or court, in order to protect against the risk of further malpractice and to minimize the necessary costs of insurance protection;

(14) a small percentage of the health care providers account for a disproportionately high percentage of all malpractice claims, and an even higher percentage of insurance payments to persons injured by health care malpractice; and

(15) because insurance premiums are usually set for an entire specialty group in a given region, these high-risk providers do not bear a financial burden proportionate to the amount of injury they cause, so there is not an effective financial incentive for the safe practice of medicine and other health care specialties.

(b) Statement of Purpose.—The purpose of this Act is to provide minimum Federal standards for the creation by each State of health care malpractice screening panels and procedures that will reduce the costs to the public and to the health care professions of malpractice, and will provide full and expeditious compensation to the victims of health care malpractice.

SEC. 3. UNIFORM STANDARDS FOR COMPENSATION FOR HEALTH CARE MALPRACTICE.

(a) STATE PROGRAM FOR COMPENSATION.—Each State shall be encourage to establish within four years of the date of enactment of this Act a program for compensation and reduction of health care malpractice that complies with the standards set forth in this Act. The State may establish the program by legislative, executive, or judicial action, as authorized by the laws and constitution of the State.

(b) Attorney General Regulations.—The Attorney General shall have authority to promulgate regulations for the interpretation and implementation of this Act. Without limiting the foregoing, within one year of the date of enactment of this Act, the Attorney General shall issue regulations concerning certification of State programs established under this Act and for the payments under section 8 to support State programs.

Sec. 4. Malpractice Screening Panels.

(a) Establishment.—Each State shall be encouraged to establish one or more malpractice screening panels to hear all claims of health care malpractice by persons in the State who are licensed or certified by the State to provide health care services or who provide health care services for which State law requires a license or certification. If the State establishes more than one screening panel, the jurisdiction of the panels may be divided by geographic area within the State or by health care specialty.

(b) Membership and Appointment.—(1) A malpractice screening panel shall have at least three members, chosen and appointed under the laws or constitution of the State. A State may require that a panel sit as a single body or may authorize the panel to sit in smaller divisions of at least three members. Each panel, and each division before which a claim is heard, shall include at least one licensed or certified health care professional and at least one person admitted to practice law in the courts of the State, and may include such other members as the State shall provide. The State may annex a panel to a court of the State. The State shall specify the method of selection and assignment of members of the panels, and of any division thereof, in a manner that assures that each panel and division thereof will afford a full and fair hearing to all parties to any claim brought before it. The panel shall not be composed entirely of members of the same political party or persuasion, and shall be selected without regard to the sex, race, religion, or national origin of any person.

(2) The State shall provide that any member or employee of a screening panel is immune from suit for defamation, libel, or slander, arising from the performance of his official duties with the panel, unless malice or actual knowledge of the falsity of a defamatory statement is proved.

(c) Jurisdiction and Rules of Procedure.—The State program shall be encouraged to provide for the following:

(1) Each panel shall have original and exclusive jurisdiction within the State, or such area of the State or health care specialty as State law shall provide, to hear and decide any claim for damages resulting from injury or death incurred as a consequence of health care malpractice by an individual, group, or organization that is required to be licensed or certified by the State in order to provide health care goods or services in that State.

(2) Except as provided in subsection (j) or as provided for claims against the United States, every claim within the jurisdiction of a panel shall be filed with, heard, and decided by the panel.

(3) The existence or absence of requisite injury, causation, negligence, malpractice, or any other element of a claim, or defense to a claim, shall be determined under the law of the State, but the State shall authorize each panel and the person who appoints the panel to establish rules of procedure for fair and expedited hearing and decision of claims. All such rules of procedure shall be published and made available to the public.

(d) Claim and Answer.—Each State shall be encouraged to provide that a claim for damages resulting from injury or death incurred as a consequence of health care malpractice shall be filed with a malpractice screening panel within the State in which the malpractice allegedly occured. The State shall specify the procedure for filing a claim, including a procedure for transfer to the appropriate panel of a claim improperly filed with a court or with the wrong panel, and shall require that a copy of the claim and any accompanying documents be served at the time the claim is filed on each person alleged to have caused the injury, each of whom shall be named as a defendant. The State shall require that each defendant answer the claim in timely fashion and completely. The State shall provide that a filed claim fully describe the alleged malpractice that gave rise to the claim and the nature and extent of the injury that resulted and the manner in which it took place, list the names of all liable persons and decided their role in the malpractice, and list the names of all expert witnesses who will be called in support of the claim, including therewith their qualifications.

(e) Screening and Preliminary Investigation.—The panel or division of the panel to which the claim is assigned shall promptly review each claim and answer. If in the course of its review the panel or division determines that particular evidence will be needed to decide the claim, the panel or division shall notify the claimant and each defendant, and provide them an opportunity to provide the evidence at or before the hearing on the claim. The panel may, on its own motion, engage expert consultants or witnesses during review or at a hearing, and their testimony or reports shall be admitted into evidence.

(f) Discovery.—The panel or division may permit discovery and motion practice prior to the hearing required by subsection (g) only as specially provided by State law for malpractice screening panels. The panel shall not permit discovery that will burden unduly the claimant, the defendant, or any third party, in light of the size and nature of the claim, or that will delay unduly the resolution of the claim.

(g) Hearing.—The panel or division shall, within one hundred and eighty days of the date on which a claim is filed, conduct a hearing on the claim. One continuance, not to exceed ninety days, may be granted any party upon a showing that extraordinary circumstances not within that party's control warrant delay in the interests of justice. At the hearing, each party may be represented by counsel. The claimant shall be required to put on all evidence supporting his claim, and each defendant shall be required to put on all evidence rebutting or defending against that claim. Notwithstanding the rules of evidence applicable in the State's courts, the panel or division may hear and consider any relevant and material evidence, but a State may establish and publish rules or procedures preventing the introduction of irrelevant, unprobative, or unduly repetitious evidence. A State may establish and publish such separate procedures for the conduct of panel hearings as comport with the due process of law and with this section. A panel or division shall be authorized to compel the appearance of witnesses and the production of documents or other evidence.

(h) Panel or Division Decision.—After hearing all the evidence presented by the claimant and each defendant, the panel or division shall decide whether or not the malpractice was proved, and, if it was proved, whether the injury resulted from proved malpractice of one or more of the defendants. The decision shall be in writing and shall include a written statement of the findings of fact and conclusions of law on which the panel or division based its decision and determined any award under subsection (i).

(i) Awards of Damages.—If a panel or division finds compensable injury resulting from health care malpractice by one or more named defendants, it shall determine the amount of damages owed under State law by each liable defendant to the claimant, and shall enter an order to pay an award in that amount. An award by a panel is due upon entry of the award, but a State may provide for judicial enforcement of an award that is not paid promptly. In court proceedings to enforce an order to pay an award, the only issue shall be whether payment has been made according to the terms of the order. The decision of a panel or division shall not be open for review, except to review an allegation of unlawful conflict of interest by a member of the panel or division that entered the decision, or of fraud. A State shall provide that, notwithstanding any other provision of law but subject to any State law limiting the amount of recoverable damages—

(1) a panel or division may provide that any award for continuing or prospective damages of $100,000 or more be made in the form of suitable annual or other periodic payments as actual damages are incurred;

(2) a panel or division may provide that any award for damages of $200,000 or more may be satisfied by establishing a trust fund or purchasing an annuity for the life of each person to whom the award is made, or during continuance of the compensable injury or disability, with reversionary interest in the persons liable for the award; and

(3) the timing and amounts of periodic payments or of payments from a trust fund or annuity shall be such as to avoid hardship to, and assure full compensation of, the person or persons to whom the award is made, as determined by the panel or division thereof.

(j) Trial de novo in State Court.—(1) Each State shall provide that any party to a claim decided by a panel or division shall be entitled to trial de novo on the claim before a State court of appropriate jurisdiction on motion filed within sixty days of the panel's or division's decision. The decision of the panel or division and its written statement and order to pay an award shall be admissible as evidence in such trial on motion of any party to the panel or division hearing. Any right of trial by jury shall be preserved. If a trial de novo is held at the request of a party, that party may be liable for all costs of trial and for reasonable attorney's fees to opposing parties if, after final judgment in the State court, that party has not substantially prevailed in the action.

(2) A party has substantially prevailed in a trial de novo if—

(A) the party was a defendant at the panel or division hearing and is found by the court not to be liable in damages, or to be liable for damages in an amount at least 20 percent or $6,000 (whichever is higher) less than the defendant's liability as established by the panel or division; or

(B) the party was the claimant at the panel or division and the court awards damages in an amount at least 20 percent or $6,000 (whichever is higher) greater than the amount awarded to that claimant by the panel or division.

(k) Report of Findings of Malpractice or Negligence.—(1) The State shall require that if a panel, division, or court finds health care malpractice by one or more named defendants, or if a settlement agreement is filed with a panel or division before decision, the panel, division, or court shall within thirty days report its decision, or notice of the settlement, to the State Insurance Commissioner, together with its written statement, verdict, or opinion and any order of award made in the case. The panel or court shall within the same time make a similar report to the State licensing or certification board or professional conduct body, if any, with jurisdiction over the licensed or certified health care profession or industry concerned.

(2) The State Insurance Commissioner shall make all such reports available for public inspection by any person, shall take such further action with respect to the report of malpractice as State law authorizes, and shall promptly notify each insurance company or association offering malpractice insurance for the licensed or certified profession or business within the State of the terms of the panel's or court's decision, including the name of each person found to have committed professional malpractice, the nature of his liability, and the amount of any award.

(3) The State shall provide that insurance companies or associations are authorized to adjust their rates for persons who are held liable by a panel, division, or court for malpractice, or who have entered into two or more settlements within the preceding three years that require payments to claimants in malpractice actions.

(l) Settlement Before Decision or Award.—The parties to a claim filed with, but not yet decided by, a panel may enter into a settlement agreement at any time. A written copy of the agreement shall be filed with the panel. Any such settlement shall not provide for attorney's fees in excess of the amount authorized under section 5 of this Act. Upon receiving a copy of the agreement, the panel shall close its file on the claim and shall forward notice of the settlement as provided in subsection (k).

(m) Filing Claim Tolls Statute of Limitation.—The State shall provide that a statute of limitation pertaining to a claim relating to malpractice is tolled from the date on which the claim is filed under subsection (d) to the date of the panel's or division's decision.

SEC. 5. AWARD OF ATTORNEYS' FEES IN MALPRACTICE ACTIONS.

(a) Each State shall provide that in any action or claim filed under this Act with the panel in which the claimant receives an award of damages, the amount of payments to the claimant's attorney shall not exceed the sum of—

(1) one-third of the amount of an award of less than $100,000;

(2) one-quarter of the amount of an award between $100,000 and $200,000;

(3) 20 percent of the amount of an award between $200,000 and $300,000; and

(4) 15 percent of the amount of an award in excess of $300,000.

(b) Each State shall provide that where a panel or division orders payment of an award of damages in accordance with the methods set forth in paragraphs (1), (2) or (3) of section 4(i), payments of any contingent fee to the claimant's attorney shall be made out of the periodic payments therein provided for and shall in no instance be a larger fraction of such periodic payment than the proportion borne by the total fee payable under subsection (a) of this section to the total amount of damages awarded.

(c) (1) This section does not require that fees for malpractice claims be contingent fees, nor does it authorize the award of fees against a liable party except where authorized by section 4(j) or under State law.

(2) If an attorney accepts payment in excess of the amount provided by this section, he shall forfeit three times the amount of the excess, plus costs of recovery, to the State in any civil action for recovery brought by the State in any Federal district court within the State. The Federal district courts shall have original and exclusive jurisdiction of such actions for recovery.

SEC. 6. HEALTH CARE FACILITY RISK MANAGEMENT PROGRAMS.

(a) Development of Program.—Within two years of the date of enactment of this Act, each State shall be encouraged to develop a program to require each licensed hospital, out-patient facility other than the office of an individual practitioner, and residential health-care organization or facility, within the State to employ a risk management program consistent with the standards of this section. Each Federal health-care institution in a State shall comply with the State program approved by the Attorney General of the United States under section 7. A State risk management program shall be consistent with State law, which shall meet the minimum requirements set forth in subsection (b).

(b) MINIMUM REQUIREMENTS.—

(1) Reporting.—The State shall require that each licensed hospital or residential health care organization adopt procedures for identifying and reporting to a risk management committee or office approved by the State all known or suspected incidents of malpractice by that hospital or organization, or by the staff of the hospital or organization, or persons using facilities with the permission of the hospital or organization and for identifying the causes of such incidents and suspected incidents.

(2) Investigation and prevention.—Each approved risk management committee or office shall prepare a case file on each reported incident as soon as it is reported, and investigate the merits of any likely claim while evidence is fresh and the reports of witnesses are readily available. The case files and reports of investigations shall be made available to the patient and hospital or licensed organization. The reports shall be reviewed by the hospital or licensed organization to identify actions which can be taken to reduce the risk of further incidents of the same nature.

(c) JOINT COMMITTEES AND OFFICES.—Two or more licensed hospitals or residential health care organizations may jointly establish or use the same approved risk management committee or office, and approved committees or offices may exchange information concerning risk experience, prevention, and management, except that such committees or offices shall not be used for the exchange of price information in a manner forbidden by the antitrust laws of the United States, to fix prices for health care or insurance services, or to divide markets in a manner forbidden by the antitrust laws of the United States.

SEC. 7. CERTIFICATION OF QUALIFYING PROGRAM.

(a) The Governor of the State shall certify to the Attorney General of the United States within two years of the date of enactment of this Act whether the State has adopted a program which in the opinion of the Governor is in compliance with the provisions of this Act. The Governor shall attach to the certification copies of all relevant State laws, rules, procedures, and regulations which are a part of the State program.

(b) The Attorney General shall examine each certification within sixty days of receipt, and approve the certification if it is in substantial compliance with this Act. If in his opinion a State program is not substantially in compliance, the Attorney General shall within fifteen days notify the Governor accordingly and shall recommend revisions which would bring the State program into compliance.

(c) If within four years following the date of enactment of this Act the Attorney General is of the opinion that the program of a State does not substantially comply with the requirements of this Act, the Attorney General shall report that noncompliance to the Speaker of the House of Representatives, to the President pro tempore of the Senate, and to the President of the United States, together with his recommendations.

SEC. 8. PAYMENTS TO STATES WITH COMPLYING PROGRAMS.

(a) PAYMENTS BY ATTORNEY GENERAL.—The Attorney General shall, within ninety days of approving a State program certified by the Governor, pay to that State the amount specified in subsection (d). Payment shall be made in a single installment to the State officer, agency, or organization authorized by State law to receive it.

(b) FINANCIAL DEVELOPMENT OF STATE PROGRAM.—Payments made under subsection (a) shall be used by the receiving State to support and pay the costs of establishing the screening panel or panels established by it in compliance with section 4 and the costs of developing and submitting the State program required by section 7. Any amount of the payment not required to support the panel or panels or to reimburse the State for the costs of the program may be used by the State to—

(1) identify the causes of health care malpractice incidents within the State and develop means or programs to prevent or reduce the severity and frequency of avoidable injuries to patients;

(2) review the structure, authority, and operations of approved State malpractice claims plans, risk-management committees, professional standards review organizations, professional licensing bodies, and professional conduct bodies for licensed or certified health care professional and industries, and to develop or implement needed improvements; and

(3) develop or offer courses or materials on recognized standards for the safe and approved practice of any licensed or certified health care profession or industry within the State, and relating to ways in which the risks of avoidable injury to patients may be reduced and the standards of practice improved.

(c) REPORT OF GOVERNOR.—The Governor shall, within one year of the date of enactment of this Act, report to the Attorney General on the State's use of any payment received under subsection (a), and shall provide to the Attorney General upon request the results or reports of State actions funded under subsection (b).

(d) AMOUNT OF PAYMENTS.—The Attorney General shall allocate among the States the funds appropriated to make payments under this section as follows:

(1) The Attorney General shall allocate $250,000 to each State described in subsection (a). He shall allocate the remainder of the funds among the States according to state population.

(2) If a State has not submitted a certified program within thirty months after the date of enactment of this Act that complies with this Act, the Attorney General shall notify the Governor of the State that unless a program that is in compliance with this Act is certified within six months, the State's allocation will be terminated.

(3) If after six months from notification under paragraph (2) the State has not certified a program to the Attorney General, or if a certified State program is disapproved by the Attorney General as not in compliance with the requirements of this Act, the amount allocated to the State under paragraph (1) shall be reallocated as provided in paragraph (4).

(4) Unused funds subject to reallocation pursuant to paragraph (3) shall be reallocated and paid to those States which the Attorney General determines in his discretion are most in need of additional funds to support State programs adopted in compliance with this Act. In reallocating funds, the Attorney General shall consider all relevant circumstances, including—

(A) a high incidence of malpractice claims within the State;

(B) unique or unusual types of claims requiring exceptional expense to the State;

(C) long distances or other geographical barriers within the State which increase travel and administrative costs;

(D) particular claims involving unusual problems of proof or presenting new issues of scientific fact or professional standards;

(E) particular claims or patterns of claims involving similar or related injuries to a large number of persons similarly situated; and

(F) special litigation or management needs occasioned in order to comply with existing State law or State constitutional requirements.

(5) Unused funds subject to reallocation pursuant to paragraph (3) may also be allocated by the Attorney General to any State, or to the Federal Justice Research Program, for the purpose of assisting in the development or implementation of an initial or modified State program, or for studies of the operations of existing programs within a State. The results of any such study shall be reported to the Attorney General.

(6) Any decision by the Attorney General that a State program is not in compliance with this Act, or that funds allocated to a State shall revert, or to reallocate reverted funds, shall be final and not subject to judicial review.

SEC. 9. AUTHORIZATION.

There are authorized to be appropriated to the Department of Justice $25,000,000 for Fiscal Year 1981 and each succeeding Fiscal Year to carry out the purposes of this Act, which shall remain available until expended.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) "malpractice" means malpractice, or professional negligence, by an individual or group that provides health care services or goods and that is required by State law to be licensed or certified to provide such services or goods within the State;

(2) "panel" means a malpractice screening panel established pursuant to section 4;

(3) "division" means a division of a malpractice screening panel that is authorized to hear and decide malpractice claims pursuant to this Act; and

(4) "State Insurance Commissioner" means the officer or agency of State government charged with licensing or regulating the business of providing insurance against claims of malpractice within the State.

SUMMARY: THE HEALTH CARE PROTECTION ACT OF 1980

The Health Care Protection Act of 1980 ("the Act") provides financial incentives for States to establish health care malpractice screening panels in accordance with uniform federal standards. The Act also limits the size of attorney fees which can be awarded in a malpractice case, and introduces federal standards for health care facility risk management programs across the United States. It is intended to control the rising costs—in money and personal suffering—of malpractice disputes by providing uniform nationwide standards for fair, affordable and expedited review of malpractice damage claims. At the same time, the Act will improve the incentives for safer practice within the licensed health care professions and industries.

1. Scope. The Act covers all licensed and certified health care professions and industries. It is not limited to traditional "medical malpractice". Its scope includes all claims for damages resulting from injuries incurred as a result of malpractice or other negligent delivery of health care goods or services by any covered individual, group or organization.

2. Timing. Each state will be encouraged to: (a) establish a screening panel system for handling malpractice claims; (b) adopt a prescribed schedule of limits on attorney fees in malpractice cases; and (c) implement risk management programs which comply with the standards of the Act. An initial report would be due in two years from the date of enactment, and the Attorney General would authorize federal assistance payments to those states whose reports indicate that they have complying programs. The Attorney General would provide advice and assistance to the states, upon request, in developing or revising state programs to comply with the standards of the Act.

3. Uniform standards for malpractice screening panels. Each state would establish, under state law, one or more malpractice screening panel(s), which could be given specific jurisdiction according to state geography or health care specialty. Each panel would have three (3) or more members, with at least one licensed or certified health care professional and at least one member of the state bar on each panel or division before which a claim is heard.

All claims for damages resulting from health care malpractice or professional negligence would be heard and decided by the state panel using expedited procedures, within 180 days of the time a claim is filed. The state's statute of limitations would be tolled during that time. Any party dissatisfied with the panel's decision would be entitled to a full trial in the state's courts, at which the panel's written decision and award could be introduced into evidence. If a party took advantage of the right to a trial de novo and still failed to substantially improve his position (by the larger of $6,000 or 20 percent) over the panel's decision, the trial court could require the party to pay all costs of the trial including his opponent's attorney fees. Panel and court awards for future damages could be satisfied under the Act by requiring the responsible party to set up an annuity or trust fund, or to make periodic payments as damages are incurred, rather than through a lump-sum payment which might give rise to a windfall profit later.

Panel and court findings that malpractice or professional negligence has occurred would be reported to the state insurance commissioner and the state professional licensing board. Such reports would also eventually be made available to the public. Insurance companies offering malpractice coverage would be authorized to charge higher premiums to persons or organizations with a history of frequent malpractice settlements or liability.

4. Uniform standards for the award of attorney fees in malpractice actions. The Act also establishes federal standards which set the maximum amount of contingency fees payable to attorneys in malpractice cases. An attorney could collect no more than one-third of the first $100,000 of any judgment, and would be limited to a progressively declining share of each additional $100,000 increment. An attorney who accepted a higher fee would be liable to the state for treble damages in an action in federal district court.

5. Health care facility risk management programs. Under the Act, each state would within two years develop a program requiring all residential health care facilities to employ an approved risk management program. These programs would identify, report and investigate all known or suspected incidents of malpractice or negligence in a covered facility, and would require covered facilities and organizations to take positive steps to investigate and prevent future instances of malpractice or negligence.

6. Payments to States with complying plans. A total of $25 million would be authorized annually to fund state activities under the Act and would be allocated among the states by the Attorney General. Three years following its enactment, the Act would authorize the Attorney General to provide payments to only those states whose programs comply with the federal requirements. Funds not required for development costs could be used for studies and information development on state malpractice problems.●

By Mr. BENTSEN (for himself, Mr. GLENN, Mr. HATFIELD, Mr. PROXMIRE, Mr. PRYOR, Mr. BAUCUS, Mr. HELMS, Mr. RANDOLPH, Mr. GOLDWATER, Mr. WILLIAMS, Mr. STEVENSON, Mr. TOWER, Mr. HOLLINGS, Mr. BAYH, Mr. STENNIS, Mr. MELCHER, Mr. STAFFORD, Mr. BURDICK, Mr. ROTH, Mr. DANFORTH, Mr. SARBANES, Mr. DURENBERGER, Mr. COCHRAN, Mr. LUGAR, AND Mr. MAGNUSON):

S.J. Res. 207. Joint resolution to authorize and request the President to proclaim November 28, 1980, as "Salvation Army Day"; to the Committee on the Judiciary.

SALVATION ARMY DAY

● Mr. BENTSEN. Mr. President, I am today introducing a joint resolution which would recognize the Salvation Army for many, many years of good works to the people of our country.

Whenever there is an emergency we can always count on the Salvation Army to pitch in and provide help. When there is a large fire we see the Salvation Army Canteen providing hot food and drink for the firefighters. When there is a natural disaster that displaces persons we see the Salvation Army providing emergency shelter, food, blankets, medical supplies and other services. When we drive in parts of our cities that seemed to be abandoned by business and Government we see the Salvation Army social service centers.

Mr. President, I served for many years on the board of directors of the Salvation Army in Houston, Tex., and I think it is fitting, on the start of the Salvation Army's 100th year of service in America, that we say "Thank you for a job well done."

This thank you is especially fitting in this time when we are trying to fight inflation by keeping reign on spending in Federal programs. Can you imagine the cost to the Federal Government if all these services were provided by our agencies? The Salvation Army assisted 30,000,000 people last year using more than 414,000 members and 580,000 volunteers. If these people were on the Government payroll at an average of $10,000 per year we would see the budget jump by nearly $10 billion per year. Add to this the cost of those goods and services and we can see just how valuable the Salvation Army is.

But perhaps the most important part of these services is the impact the Salvation Army has made on people's lives. No one can measure the value of reuniting a family disrupted by a major disaster. We cannot count in dollars the lives who have been enriched by foster care service, employment services, counseling or skid row centers. Some of the Members of this body may even have been served by the Salvation Army in the military.

Yes, Mr. President, I hope that this small measure of appreciation will convey our many thanks for this service to America. On this 100th anniversary we congratulate the Salvation Army and wish it well on its second century of good works.●

ADDITIONAL COSPONSORS

S. 2385

At the request of Mr. Williams, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 2385, a bill to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes.

S. 2745

At the request of Mr. Dole, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 2745, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and deduction of contributions to, education savings accounts and housing savings accounts.

S. 2967

At the request of Mr. Nelson, the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 2967, a bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes.

S. 3151

At the request of Mr. Matsunaga, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 3151, a bill to amend the Employee Retirement Income Security Act of 1974, for the purpose of waiving preemption in the case of the Hawaii Prepaid Health Care Act.

SENATE JOINT RESOLUTION 182

At the request of Mr. Inouye, the Senator from Indiana (Mr. Bayh), and the Senator from Georgia (Mr. Talmadge) were added as cosponsors of Senate Joint Resolution 182, a joint resolution to authorize and request the President to designate November 14 of each year as "Operating Room Nurses Day."

SENATE JOINT RESOLUTION 196

At the request of Mr. Proxmire, the Senator from Utah (Mr. Garn), the Senator from Indiana (Mr. Bayh), the Senator from Massachusetts (Mr. Tsongas), the Senator from Minnesota (Mr. Durenberger), the Senator from Delaware (Mr. Roth), the Senator from Kansas (Mrs. Kassebaum), and the Senator from North Carolina (Mr. Helms) were added as cosponsors of Senate Joint Resolution 196, a joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day."

SENATE JOINT RESOLUTION 205

At the request of Mr. Talmadge, the Senator from Idaho (Mr. McClure), the Senator from Delaware (Mr. Roth), the Senator from West Virginia (Mr. Randolph), and the Senator from Pennsylvania (Mr. Schweiker) were added as cosponsors of Senate Joint Resolution 205, a joint resolution to proclaim March 19, 1981, as "National Agricultural Day."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. Dole, the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons.

SENATE RESOLUTION 525

At the request of Mr. Hollings, the Senator from Oregon (Mr. Hatfield), the Senator from Louisiana (Mr. Johnston), the Senator from Michigan (Mr. Levin), the Senator from South Dakota (Mr. McGovern), the Senator from Massachusetts (Mr. Tsongas), and the Senator from Maine (Mr. Cohen) were added as cosponsors of Senate Resolution 525, a resolution expressing the sense of the Senate with respect to the anticipated vote in the United Nations regarding the seating of a permanent representative of Cambodia.

AMENDMENTS SUBMITTED FOR PRINTING

STATE, JUSTICE, COMMERCE, AND THE JUDICIARY APPROPRIATIONS ACT, 1981

AMENDMENTS NOS. 2389 AND 2392

(Ordered to be printed and to lie on the table)

Mr. WEICKER submitted four amendments intended to be proposed by him to the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

AMENDMENT NO. 2393

(Ordered to be printed.)

Mr. PRESSLER proposed an amendment to the bill H.R. 7584, supra.

SENATE CONCURRENT RESOLUTION 129 — CONCURRENT RESOLUTION RELATING TO CURTAILMENT OF JEWISH EMIGRATION BY THE SOVIET UNION

Mr. CHURCH submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 129

Whereas the International Covenant on Civil and Political Rights guarantees the right of everyone "to leave any country, including his own";

Whereas the Soviet Union is a party to the International Covenant on Civil and Political Rights;

Whereas the signatories of the Helsinki Final Act of the conference on Security and Cooperation in Europe agreed that "applications for the purpose of family reunification which are not granted may be renewed at the appropriate level and will be reconsidered at reasonably short intervals";

Whereas the Government of the Soviet Union is a signatory of the Final Act of the Conference on Security and Cooperation in Europe;

Whereas the welcome and commendable rate of 50,000 in 1979 of Jewish emigration from the Union of Soviet Socialist Republics has been drastically cut back in 1980 as a result of administrative measures, which have severely restricted the eligibility of applicants, ignoring emigration procedures which were in effect for over ten years;

Whereas Soviet authorities in Kharkov are refusing to reconsider the application of any Jew who has once been denied permission to emigrate;

Whereas Soviet authorities in Kharkov are requiring Jews denied permission to emigrate to sign statements that they understand that their emigration refusals are final and that they have no right to reapply; and

Whereas the policy of the Soviet authorities in Kharkov is considered by many Jewish activists in the Soviet Union to be a bellwether of Soviet emigration policies: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) deplores the recent curtailment of Jewish emigration from the Union of Soviet Socialist Republics and the establishment in Kharkov of further restrictive policies;

(2) urges the President, the Secretary of State, and other appropriate executive branch officials to express at every suitable opportunity and in the strongest terms the opposition of the United States to such repression of human rights; and

(3) urges the President to instruct the United States delegation to the upcoming review meeting in Madrid, Spain, of the Conference on Security and Cooperation in Europe to seek an explanation of Soviet emigration policies in light of commitments made by the Government of the Soviet Union pursuant to the Helsinki Final Act of the Conference on Security and Cooperation and to protest violations of the family reunification provisions of such Final Act if such provisions are still in effect at the time of such meeting.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he transmit a copy of such resolution to the Ambassador of the Union of Soviet Socialist Republics to the United States.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of an open business meeting before the Select Committee on Indian Affairs.

An open business meeting is scheduled for September 26, 1980, beginning at 10 a.m., in room 6226 of the Dirksen Senate Office Building. The following is to be considered for markup: H.R. 7212, an act to ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Co., and for other purposes; and H.R. 7519, an act to amend section 2 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70a), as amended.

For further information regarding the business meeting, you may wish to contact Betty Jo Hunt of the committee staff on 224-2251.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct a hearing in Minneapolis, Minn., on October 13, 1980. The hearing will explore with small business persons in the Midwest the capital formation issue.

The hearing will begin at 1:30 p.m., and will be held in the Sheraton Inn Northwest in Minneapolis. For further information contact the Senate Small Business Committee.

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate today for the purpose of taking testimony in connection with the oversight inquiry of the Labor Department's investigation of the Teamsters Union Central States' Pension Fund.

THE PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROTECT LOCAL SERVICE STATIONS

● Mr. CULVER. Mr. President, several months ago I introduced the Small Business Motor Fuel Marketer Preservation Act, S. 2798, to protect a vital segment of our American economy: The small, local independent gasoline dealer who is being squeezed out of the market by a variety of economic pressures from major oil companies.

On September 9, the Senate Antitrust Subcommittee heard from a number of independent dealers from throughout the country who told story after story about unfair business practices being conducted by the major oil companies.

The independent dealers, who have have served their communities so faithfully, told us how they are being squeezed out of their supplies. Their rents are being increased dramatically each year. They are being forced to work hours in which they make little or no profit. And perhaps most importantly, they are being forced to compete with stations operated by the major oil companies who are able to provide lower prices, thereby undercutting their ability to provide competitive prices to the public.

Basically, S. 2798 would prevent the top 16 major oil companies from directly operating local stations, allow dealers to purchase gasoline from any source if the majors fail to supply adequate amounts, and provide Small Business Administration loans to dealers who wish to purchase their stations outright.

Mr. President, I am most pleased to witness the strong support this legislation is receiving. Just last week, the Senate Antitrust Subcommittee approved the measure unanimously. And the House Small Business Committee voted out a similar measure 25 to 1 several weeks ago.

In an editorial published Tuesday, the Cedar Rapids Gazette provided its readers with a concise description of S. 2798, and urged its speedy consideration by the Congress. I submit the editorial for the RECORD.

The editorial follows:

DIVORCEMENT IN ORDER

Those poor major oil companies are having a tough time these days moving their refined products, especially gasoline. But they apparently aren't using soft-sell techniques to get branded independent dealers to take on more volume. They are resorting to economic harassment and scare tactics—which may be the best reason yet for requiring that the majors get out of the retail gasoline business.

According to the Wall Street Journal, the problem is nationwide. Oil company sales representatives are telling independents that, if they don't take on their full monthly allocations and improve sales, the dealers face reduced deliveries in the future and possibly even cancellation of their station leases.

In Iowa, the pressures are subtler, but still there. Larry Blixt, executive vice president of the Iowa Gas Dealers Association, claims that the majors are telling dealers to stay open longer (which all companies can do, because hours of operation are a non-negotiable contract item). This may be good for the supplier, because more gas will be sold, but not for the dealer, who may sell only 50 to 100 gallons between midnight and 6 a.m. He makes under a nickel a gallon, which would not even take care of the added overhead.

Other tactics are worse yet. Blixt says the majors are squeezing dealers by jacking up their rents. A staffer on the House Small Business Committee's antitrust subcommittee notes that the majors are raising insurance costs by breaking them out of the contract package for the first time.

In Iowa, as in other states, oil companies are also spreading an unfounded rumor that the U.S. Department of Energy is planning to refigure the base year for gasoline allocation purposes so that dealers will automatically get less product in 1981. This makes the salesman's argument for taking on greater volumes now more compelling—while dealers are less and less able to compete with nonfranchised company stations and even some convenience stores and get preferential price treatment in purchasing their supplies.

For the sake of return on investment, the major oil companies are slowly driving independent dealers out of business—legally, in most cases. The only way to stop this is to make it illegal for them to operate their own gas stations. That is what divorcement is all about, and on Capitol Hill the idea at last is getting somewhere.

Committees of both Senate and House have so far reacted favorably to a bill that would disallow large integrated oil firms from operating retail outlets and selling gas at the terminal at discriminatory prices. The bill would also guarantee small business loans to branded dealers who want to purchase their stations outright.

It is legislation whose time has come. Congress should make haste to pass it this session.●

AID AND ITS AUDITOR ARE TO BE CONGRATULATED

● Mr. GARN. Mr. President, last winter when we held hearings on the budget request for the foreign assistance program, and again this summer when the foreign aid authorization legislation was considered on the floor of the Senate, I raised a longstanding concern of mine with reference to the audit function of the Agency for International Development. My concern at that time was that this function was being shunted aside by some in other parts of the executive branch, who, for obviously self-serving reasons, did not want to expand or enhance AID's auditing function.

I believe that at least partially because of my concern with respect to this matter, the administration has finally agreed to establish a regional AID audit office in West Africa, and otherwise AID auditors around the world are not as harassed as they used to be. This concern has been shared by many on the Foreign Relations Committee and as a result they accepted an amendment I offered which would help to enhance AID's audit function.

Mr. President, I would therefore like to take note and place in the RECORD today a story which appeared in the September 24 Washington Post entitled "U.S. Official Is Accused of Accepting Kickback in Cambodia AID Program." The story relates a very unsavory activity whereby an AID official is alleged to have profited, through extortion, from our feeding program to the starving people in that part of the world. The good part of this story is that this activity was uncovered by AID itself, specifically by the AID auditor's office. Mr. President, AID, and especially its auditor, are to be congratulated. I ask that the article from the Post that I referred to be printed in the RECORD.

The article follows:

U.S. OFFICIAL IS ACCUSED OF ACCEPTING KICKBACK IN CAMBODIA AID PROGRAM

(By Scott Armstrong)

The U.S. official in charge of procurement for the Cambodian refugee relief program was arrested last night in a Washington hotel room while accepting an alleged payoff from a rice seed brokerage firm based in Thailand, according to law enforcement officials.

A four-month investigation by the U.S. Agency for International Development found that George C. Warner, a senior executive with AID stationed in Thailand, allegedly extorted $134,000 in the last five months by threatening to change brokers if he were not paid a kickback of $7 per ton on rice seed, according to the officials.

Warner was arrested in the Georgetown Holiday Inn at 8:15 last night as FBI agents, Justice Department attorneys and AID officials watched him on a videotape monitor as he accepted $9,000 in $100 bills, according to informed sources.

Lee J. Radek, the deputy chief of the Justice Department's public integrity section, personally supervised the arrest. Radek's presence apparently reflects Justice Department concern that the videotaped transaction be admissable in court as evidence against Warner and does not encounter the same problems as the FBI's controversial Abscam investigation of corruption in Congress.

Warner's activity was first brought to AID's attention by Morton I. Abramowitz, the U.S. ambassador to Thailand, where the Cambodian refugee relief program is managed, according to State Department sources.

Abramowitz encouraged AID to accelerate its investigation and complete it before Warner returned to his job in Thailand with the assistance program.

Allegations that the Vietnamese Army occupying Cambodia has diverted rice and rice seed from refugees and is selling the commodiites to starving Cambodian peasants at exorbitant prices have circulated since the program began. This is the first allegation that a U.S. official has been involved in any impropriety regarding the Cambodian relief program.

The funds allegedly diverted by Warner would have been sufficient to purchase more than 600 tons of rice seed, yielding enough rice to feed thousands of Cambodian peasants, according to State Department sources.

The rice seed was being distributed by the U.N. World Food Program in an effort to end the chronic famine caused by 10 years of disruption and war.

Warner was previously the director of the U.S. AID programs in India and Bangladesh. In the fall of 1979, he was transferred to AID in Thailand, where he became part of the Khmer Emergency Group supervising U.S. assistance to refugees. He was then detailed to work with the World Food Program administered by the U.N. Development Program. While with WFP, Warner procured 20,000 tons of rice seed, all purchased with U.S. funds.

According to informed sources, shortly after he took his new position with the WFP, Warner approached Kurt Furrer, a Swiss national who heads Suisindo, the Thai company that purchases the rice seed, packages it and has it transported to distribution centers. Warner reportedly told Furrer that unless Suisindo paid Warner $7 per ton of rice seed, Warner would see to it that Suisindo would lose the brokerage agreement.

Reportedly, Furrer agreed to the arrangement, but because he received only $4.80 per ton for his commission, he arranged for the Thai company actually supplying the rice seed—E.P.C. Inc., owned by a Chinese Thai named Kim Tai Gai—to kick back $7 of the $240 per ton paid by the United States.

To create the appearance of a legitimate transaction, Warner reportedly insisted that Furrer sign a contract stating that Warner would invest up to $400,000 of Furrer's funds in a pecan grove in Texas.

Warner has ordered a total of roughly $4.8 million in rice seed through Suisinde over the past five months. Furrer, in turn, has made six payments totaling $125,000 over the same period. The seventh payment last night brought the total to $134,000. Warner reportedly expected another $11,000 for additional rice seed purchased but not yet paid for by the United States.

Shortly after the arrangement began, an informant tipped off Abramowitz . . . The informant was reportedly upset at the manner in which Warner allegedly extorted the money. In Thailand kickbacks are not uncommon in commercial transactions, but it is considered poor manners for a government official to insist on payment and to threaten to terminate an arrangement if the amount is not enough.

Abramowitz notified the State Department and called AID Deputy Auditor General Michael Hershman directly to ask for a prompt investigation. Abramowitz was concerned that the allegations of U.S. official corruption, if true, would undermine the controversial program in Congress as well as damage the already strained Southeast Asia.

Hershman dispatched an AID investigator, Charles Vann, to Thailand for six weeks, according to Douglas Bennet, the administrator of AID. However, Vann was unable to complete the investigation discreetly in the closed Thai society. Earlier this month, Hershman traveled to Thailand and was able to secure the first direct evidence against Warner. The evidence is said to include a cable from Warner to his Swiss bank asking if the bank had received a letter with a Swiss banknote enclosed drawn on Suisindo's Swiss account.

Shortly after sending the cable, Warner went to Switzerland on his way to Washington for a regularly scheduled home leave. Investigators say they believe he opened a new account at a Swiss bank where he already maintains an account.

Hershman brought in the FBI and Justice Department last week when he learned that Furrer planned to go to Washington to make a seventh payment to Warner.

Concerned that Warner might return to Thailand before Furrer arrived to make the next payment, federal investigators arranged through his boss, Kathleen S. Bitterman, to have more work assigned to him here.

Last night's meeting was monitored on a videotape disguised inside a television set in the hotel room and through bugs placed by the FBI in the room, according to a Justice Department source.

According to State Department sources, Warner's other tours of duty in India and Bangladesh will also be investigated. Before those assignments, Warner served in Brazil and Peru. He received the State Department's merit honor award in 1969. Since 1972, he has been at the rank for a Foreign Service Reserve Officer 3, equivalent to a GS15.

No other U.S. diplomats are under suspicion in the probe, according to State Department sources. However, other officials with the international refugee relief program are targets of scrutiny, the sources said.

AID investigators have also attempted to examine allegations that the rice seed and rice sent to Cambodia have been diverted to Vietnam, but are unable to track distribution beyond the Thai-Cambodia border. They do intend to pursue complaints that rice seed provided has been of an inferior quality.

The Washington Post learned of the investigation before its completion. Details were confirmed by Bennet last night. Bennet commended the work of the auditor general's office of AID, particularly the work of Hershman and Vann.●

COMMENDATION TO MILES KEATHLEY UPON HIS RETIREMENT FROM THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

● Mr. CHILES. Mr. President, I would like to take this opportunity to commend a native of the State of Florida, Miles (Bud) Keathley, who is retiring as Assistant Director of the Office of Criminal Enforcement, Bureau of Alcohol, Tobacco and Firearms.

Mr. Keathley's career should serve as a model for all those aspiring to success. He began his employment with the Bureau of Alcohol, Tobacco and Firearms 20 years ago as a special agent. His dedication and tireless efforts resulted in his promotions to progressively more responsible positions within the Bureau. In his last assignment as Assistant Director of the Office of Criminal Enforcement, he directed ATF special agents nationwide in their efforts to combat criminal violations of Federal firearms, explosives, alcohol, and tobacco laws. This Office, under Mr. Keathley's direction, has taken the initiative in developing and implementing investigative techniques aimed at curbing criminal bombings. Of special interest to Florida, Bud Keathley devised the strategy to implement the new Federal Cigarette Smuggling Act, a law which has already begun to show increased tax revenue to Florida and other States. Numerous other successful programs which have helped deter the criminal misuse of firearms have been attributed to Mr. Keathley's expertise and guidance.

In addition to his exemplary career with the Bureau of Alcohol, Tobacco and Firearms, Mr. Keathley further distinguished himself in the military service. He served as a fighter pilot with the Army Air Corps in England during World War II and with the Air Force during the Korean war.

During his tenure with ATF, Mr. Keathley has been accorded numerous Government awards for innovative programs and devotion to duty. Therefore, it is my pleasure to recognize him further and to wish him a long and happy retirement.●

THE NEED TO STOCKPILE CHEMICAL WEAPONS AS A DETERRENT

● Mr. ARMSTRONG. Mr. President, on April 22, 1915, at a place called Ypres in Belgium, a new horror wafted over a world which had thought itself immune to horror. German soldiers opened huge canisters of chlorine gas and let it blow downwind into the trenches of the unsuspecting British.

No weapon of war—not even the atomic bomb—has inspired the skin-crawling fear that poison gas has. That is why the debate was so intense, and the vote was so close, when the Senate took up a measure to build a new chemical weapons plant at Pine Bluff, Ark.

The world's revulsion over poison gas led to the Geneva Protocol of 1925, in which the use of chemical or biological weapons was banned. But most nations continued to produce and store poison gas, just in case the other side in a future war were to use its first.

Prior to World War II, Nazi Germany built up a huge stockpile of the nerve gas tabun, but refrained from using it, largely out of the mostly mistaken belief that the Allies possessed large amounts of equally deadly chemical weapons which they would use in retaliation.

After the war, the United States, Britain, and Russia divided up the Nazi stockpile of tabun. The United States and Britain dumped most of theirs at sea. The Russians took theirs home, along with the dismantled tabun laboratories and the scientists who made it, and went on to produce great quantities of this gas. The primary nerve gas in the Soviet arsenal today—soman—is a direct descendant of tabun.

In response to the Soviet stockpiling of poison gas, the United States built up a chemical weapons arsenal of its own, but never felt comfortable with it. We began negotiations with the Russians which led to a ban on biological weapons in 1972, and have been working since 1975 that would extend that prohibition to nerve gas and other chemical weapons as well.

Meanwhile, we unilaterally destroyed most of our stockpile of chemical weapons, and have manufactured no new ones since 1969.

The Russians have responded to our chemical disarmament by increasing the size and sophistication of their poison gas arsenal. The Soviets now have a stockpile of between 300,000 and 700,000 tons of chemical munitions. About every 3d Soviet missile and rocket warhead, and every 10th artillery and mortar shell is filled with lethal chemicals.

Soviet military doctrine calls for employment of nerve gas in the event of a war in Europe, and the Soviets have taken extensive steps to protect their soldiers from the primary Soviet nerve gas, soman. Every Red Army tank and armored personnel carrier is equipped with chemical detection alarm systems and efficient air filtration systems. Every Soviet soldier is equipped with a gas mask and protective clothing, and receives extensive chemical warfare training.

Any doubts we might have had about Soviet willingness to use their chemical arsenal should have been dispelled by recent events in Indochina and Afghanistan. North Vietnamese and Pathet Lao troops used Russian supplied nerve gas in their campaign to exterminate the Hmuong tribesmen in Laos. Hundreds of the refugees pouring into Pakistan have testified to Soviet gas attacks on defenseless Afghan villages.

In view of the alarming size of the Soviet stockpile of nerve gas, and their chilling willingness to use it, I believe it is essential for the United States to rebuild its stockpile of chemical weapons to serve as a deterrent. The bill to make this possible passed by a single vote.

There are those who regard the building of chemical weapons as immoral. But they should remember that Hitler was deterred from using his enormous stockpile of nerve gas not from any humanitarian consideration, but from his mistaken belief the Allies possessed equal quantities of gas with which to retaliate in kind.

The Soviets will be under no such illusions if we do not go ahead with the chemical weapons plant at Pine Bluff.●

JOE DUKE

● Mr. DECONCINI. Mr. President, many of my colleagues in the Senate will remember Joe Duke who served as Sergeant at Arms of the Senate from 1949 until his retirement in 1966. While I did not have the opportunity to work with Mr. Duke, I have heard from within and without this body of his dedication to the Senate and its Members, and I believe that it is fitting that we remember his contributions.

Joe Duke's superb service to the Senate is literally a matter of record. The Congressional Record of January 14, 1966, contains a host of statements from Senators praising Mr. Duke for his unfailing courtesy, competence, knowledge, efficiency, and devotion in the operation of his office.

Mr. Duke is a native of my home State of Arizona and as such his 15 years of service are a source of great pride for myself as well as the residents of Arizona. Therefore, I would like to commend and commemorate Joe Duke for his contribution to the Senate and the Southwest.●

A NEW UNDERGROUND RAILROAD

● Mr. SCHMITT. Mr. President, in his fourth article in the "Southwind" series, "A New Underground Railroad," Richard Louv of the San Diego Union describes the inhumane living conditions facing undocumented workers from Mexico; and more importantly, the legal anchronisms that perpetuate these conditions. Under current Federal law, a person who gives refuge to an undocumented worker is guilty of a felony. An assistant U.S. attorney in San Diego stated, quite correctly, that "immigration law frustrates anyone who comes in contact with it."

As Mr. Louv has reported in earlier articles, which I have placed in the Record, the undocumented workers from Mexico come here because there is a need for their labor in jobs that Americans will not do. The internal development problems of Mexico and the youth of her population insure that for the rest of this decade, at least, this problem will continue to confront us.

In this context, I have introduced S. 1427—the United States-Mexico Good Neighbor Act—which would create a legal temporary worker program with Mexico. Such a program only makes sense for only by legalizing the Mexican laborers conditions in this country can we improve the inhumane conditions described in this article.

Mr. President, I submit for the Record the article.

The article follows:

A New Underground Railroad

A new Underground Railroad stretches across the Mexican border, up through border communities like San Ysidro, through the cotton fields of Texas and the apple orchards of Northern California to the housing projects of Chicago's barrios.

For decades, a compadre network of Mexican immigrants has sheltered, fed and provided job contracts for relatives and friends from Mexico. Increasingly, the railroad also includes native-born U.S. citizens and religious organizations who knowingly or unwittingly break the law in order to harbor illegal aliens, much as the original Underground Railroad transported runaway slaves to freedom before the Civil War.

"Especially in California, the network is growing," says the Rev. Frank A. Sierra, an elderly, soft-spoken Catholic priest. "It's at least as important as the coyote system, the human smugglers."

For a decade, Sierra has been a familiar figure to the undocumented migrants of north San Diego County.

Until he moved to Brawley last July, Sierra regularly distributed food and clothing in the hills near San Luis Rey, Fallbrook and Oceanside, where hundreds of migrants sleep on the ground under plastic sheeting or in dugout caves. He also arranged shelter for sick and hungry migrants in the homes of North County residents.

"Almost every migrant has an address of a relative in the United States. By word of mouth, they hear of families or individuals who will help them. They know that California is the most compassionate state they can cross into," he says.

In Tijuana, many of the migrants arrange to be transported to Los Angeles or Chicago by the coyotes. According to Dr. Ellwyn Stoddard, a major borderlands scholar, coyotes have hauled the migrants "in refrigerated semi-trailers, U-Haul trucks, liquid-carrier tank trailers (with false bottoms), furniture vans, horse trailers (along with the horses), in private mobile homes and, for short distances, under the hood of a passenger car curled up next to the hot engine."

The migrant's chance for survival is greatly enhanced if a family is waiting for him in Los Angeles or Houston or Chicago—and is willing to pay the coyote on delivery.

More and more migrants are bypassing the coyote system, though, because of the brutality of the smugglers as well as the crackdown by the U.S. Attorney's office. During nine months of 1979 nearly 3,000 individuals in San Diego and Imperial counties have been charged with smuggling undocumented Mexicans.

Rather than travel by car trunk or horse trailer, many migrants now cross the border on foot in more desolate, less patrolled areas east of Tijuana, then walk 20 to 30 miles a day across the mountains. They travel light—no sleeping bags, no canteens, and usually no blankets.

It is not unusual for the migrants to go hungry for four or five days—but many of them, from the aching interior of Mexico, are used to hunger.

"Of every two households in the mountains, one will help the migrants. Some will allow them to stay the night in a shed. Some will give them food or blankets, but always the migrants must keep going," says Sierra.

"The people in the countryside extend this help to them with no thought of it building into a trail; when it happens, it happens. The trail, the grapevine is stronger in San Diego County than anywhere else along the border. The grapevine grows weaker as it extends northward, but the goodness in people is the same."

At the Underground Railroad's southern terminal is Tony Sanchez—not his real name—who lives in Jamul and speaks flawless English with only a hint of an accent. Sanchez has a good job, lives in a ranch house, and is about to receive a bachelor's degree in civil engineering from San Diego State University.

Born in 1949 in the Mexican state of Durango, Sanchez was the fourth of 15 children; eight of his brothers and sisters died of disease and accidents. By the time he came north, at 16, he had received a fourth-grade education.

He crossed the border near Otay Mesa. Lost on a moonless night in a maze-like marsh, sinking to his thighs in the ooze, grasping clumps of swamp grass, he decided to turn back.

When he crossed again, his luck improved. "Adopted" by a sympathetic 75-year-old American woman, herself a Russian immigrant who had fled the Russian Revolution, Sanchez prospered. Now, a naturalized U.S. citizen, he is risking it all to pass the favor on.

"Most of the men who left my village when I did are still illegal aliens in Los Angeles. I know how lucky I've been, and I remember what it was like," he says.

The migrants come down out of the hills on the south side of State 94, the same hills Sanchez crossed. He picks them up on the highway; groups of them come to his door, hungry and tired. He puts them up in his house, feeds them and calls nearby ranches to arrange for temporary jobs.

Although he accepts no money for his help, sometimes he hires the migrants for yard work at $15 a day. But usually he does not.

The Border Patrol knows of his activities—harboring illegal aliens is, of course, itself illegal. Periodically the patrol comes to his door and takes the young men away.

"They don't enforce the harboring law. They're overworked. So far, they haven't busted me, but it could happen," he says.

"A lot of the people around here will hire them, then turn their backs when the illegals go off to sleep in the bushes and the cold. They don't want to accept any responsibility," Sanchez adds, standing in the back room where the migrants sleep. He nudges the empty mattress on the floor with his shoe, and shrugs.

Tony Sanchez is not alone in his sympathies.

In the farm country near Temecula, an elderly couple regularly allows groups of migrants to sleep overnight in their barn. Almost every night, they feed the men and bring them blankets. Their barn is well-known on the migrant trail.

"I was amazed talking to these people," says Dr. Michael Kearney, an anthropologist from UC Riverside. "They expected nothing in return, they were not hiring or smuggling the migrants, and they were in no way the kind of people you'd expect to be breaking the law, to be helping fugitives.

"Their values, in fact, were bedrock conservative, Midwestern, rural. At another place and time, they might just as easily have been Ku Klux Klanners. In their retirement, though, they had taken this responsibility on as a hobby of sorts. They actually thought of themselves as participating in the kind of underground railroad that allowed black slaves to escape the South."

To the Rev. Frank Sierra, the analogy is accurate:

"Most of the Mexicans who come across," he says, "are the most illiterate, the simple ones with nothing to lose: girls who have been servants since they were 10, with no chance for an education or more than a few dollars a week; young men who have no chance of bettering themselves; Indians raised as a servant class who can never eat at the same table as their masters, or even in the same room.

"I spend most of my time making them aware of their dignity, of their liberation faculties.

"Well-to-do Mexican-Americans are the biggest obstacle to accepting the undocumenteds. They confuse illegality with immorality; they choose to be unconscious, aloof. They forget where they came from."

Asks Tony Sanchez:

"Do you know what it's like never to have been in the same restaurant as a wealthy person, and then to arrive in the United States where that is finally possible? Do you have any idea?"

Indeed, many of the migrants huddling before their small fires in the hills are hungry for more than food.

The harboring law—and how it is enforced—illustrates the schizophrenic nature of the U.S. policy that has evolved during the last few decades.

According to Assistant U.S. Attorney Pete Nuñez, if you accept an illegal alien into your home, feed him or her, shelter and hire him or her as a gardener or housekeeper or for any other kind of live-in work, you are not breaking any criminal statute—even if you overwork or underpay that alien.

On the other hand, if you feed and shelter an undocumented migrant solely out of a humanitarian urge—taking no money or labor from him or her—you are committing a felony punishable by up to five years in prison and/or a fine of $2,000.

"Apparently the key to the law is not your intentions, but whether or not you actually hire the illegal alien," says Nuñez, who handles most federal immigration cases in San Diego and Imperial counties.

"Immigration law," he observes wryly, "frustrates anyone who comes in contact with it."

Even the U.S. Court of Appeals, in carrying out the law, recognized its illogic. In a 1976 case, U.S. vs. Acosta D. Evans, the 9th Circuit Court ruled on the conviction of a Mexican-American woman of harboring an allegal alien—a relative—even though no smuggling fee had been paid. The judge questioned the fairness of exempting employers from the harboring law:

"The status to allow those who exploit their labor while penalizing persons who, in some instances, may be acting in a neighborly and humane fashion—but it is the kind of unfairness which it is for Congress, not the courts, to cure."

Because the Border Patrol is so overworked and the U.S. attorney has put such a low priority on the harboring law, it is rarely enforced—but the law still has an effect.

"When a family is sheltering an undocumented worker, their back alleys and streets are constantly watched by the Border Patrol," Sierra says. "If they are Mexican-American, members of the family are stopped and questioned by the Border Patrol just because of the color of their skin.

"It becomes a game, but it is still persecution."

The effect of the law also makes it virtually impossible for local governments to improve living conditions for the migrants.

Several months ago the San Diego County Board of Supervisors sought to correct what Supervisor Roger Hedgecock called "intolerable and inhumane conditions" of hundreds of undocumented agricultural workers in North County.

The conditions that Hedgecock reported included workers who were drinking irrigation water "so polluted with pesticides, fertilizer and the like that it was absolutely beyond belief that people could be drinking it.

"They had absolutely no access to sanitary facilities at all. Hundreds of people were cramped into very small places without even the minimum of protection against the elements," he said.

The responsibility of the county legally is to enforce minimum standards of drinking water and sanitary facilities for people working here, although it does not have similar jurisdiction over housing.

"We were able to force the growers to meet the minimum standards of drinking water and sanitary facilities."

"But we ran into a curious contradiction when we sought to enforce these standards. That was the contradiction between our own human-rights impulse to see that the workers have a minimum standard of living—and the federal law, on the other hand, which says that you cannot harbor people who are in this land illegally, and that it is a crime to do so."

Shortly after the growers began improving living conditions—installing drinking water and chemical toilets—a ranch in Oceanside was raided by the Border Patrol, which detained 109 undocumented workers. The foreman of the ranch was arrested for harboring illegal aliens.

Under this pressure, the growers backed away from complying with county standards. Apparently it was all right to hire illegal aliens, as long as you did not go out of your way to make their stay comfortable.

So, the law stands. According to Nunez its purpose is not to keep undocumented workers from entering the United States to work, but rather to keep them from staying.

Critics of U.S. immigration law point out that the double-message typifies how the United States has approached immigrant labor in the past. Chinese coolie labor became unpopular in the 1880s partly because Mexican labor was more convenient—and unlike the Chinese, the Mexicans could be shipped home after a harvest.

There was no need to bother with their health care, education, shelter, food or human rights. The harboring law, say its critics, reflects these priorities—The United States unofficially sanctions exploitation of undocumented Mexican laborers, but only minimally recognizes their human rights and needs.

Along the Underground Railroad, religious organizations are increasingly involved in illegal or quasi-legal support of the migrants.

"You could," Sierra says, "make a case that religion has no meaning unless we aid these people."

Four years ago, Sister Ann Gabriel Marcaicq and three other Tucson antipoverty workers were arrested on felony charges for counseling illegal aliens on how to legalize their status. The charges were dropped six months later.

Lutherans in Tucson give financial support to the Hispanic Community Ministry, which provides food and clothing for the undocumented—and helps pay their rent and electric bills.

Originally, church support for the migrants was primarily Roman Catholic, says the Rev. Frank Riley, an Augustinian priest. Riley is director of Centro de Asuntos Migratorios in National City, a "crisis assistance" program that offers immigration counseling to anyone needing it, documented or not.

"Now," he insists, "just about every mainstream church is involved one way or another. We're trying to pull together an ecumenical coalition to fight for the rights of undocumented workers and also to affect legislation."

One San Diego pastor active in assisting the migrants is cynical about the rush by many churches to join the effort.

"Churches, like Coors, follow the market," he says. "In a sense we're all competing for this new, unchurched population."

The purpose of Carolina Sotela and a group called Latin Community is purely humanitarian—and legal. They pick up the pieces. "We're the only ones who take care of the workers after they're released from hospital," says Sotela.

The Latin Community consists of 11 families affiliated with St. Michael's Catholic church in Paradise Hills. Primarily working-class people, the families feed, shelter and nurse migrants seriously injured while in the United States. They do this at their own considerable expense, with the help of donations from Mexican restaurants in the neighborhood.

Sitting in her small home, Sotela, a naturalized U.S. citizen, lists what she calls "the sad and beautiful ones."

"There was Flavio, who was only 21 years old. He has six little girls in Guadalajara. He was hiding from the Border Patrol in the fields near Otay Mesa and a jeep ran over him. He lost his leg and his hip was crushed. He stayed with us for many months, and now he is with a family in Chula Vista.

"Like the others, he cannot be deported until he's well. Our group sends his family in Mexico $50 a month.

"There's Valentino, who has been with us eight months. He fell asleep hiding from the Border Patrol. A tractor, a cultivator ran over him. He has had seven operations now, and steel pins in his arms and legs.

"And Raymundo, only 16 years old, who was found in a coma next to a road in Oceanside. He can't remember anything; he doesn't know where he's from or where he's going . . .

"There have been so many. We got to the hospital to see them. We take our guitars and sing. Sometimes we sing 'La Paloma,' a Cuban song; you know, the one which says, 'If you see the dove, treat him well, because he is my reflection.' The boys cry at that, and sometimes the Anglos do too."

Why does she do this?

She laughs and does not answer.

Pressed, she tries to find the right word in English. "Because I am . . ."

She looks toward her teen-age daughter for the word she was searching for. "A humanitarian," her daughter says.

"Yes, human," nods Sotela, "Human."

The railroad rumbles like distant thunder, and the Rev. Sierra worries: "We've turned our backs too long. We're not even close to doing enough."

He thinks constantly about the young men, freezing and hungry in the hills, about the brutality of the coyotes. And he wonders at the unofficial U.S. policy that reaches out to the migrants with one hand and slaps them with the other.●

THE "QUICK FIX" TAX CUT

● Mr. McGOVERN. Mr. President, there is no problem more pressing in the United States than the need to revive our flagging economy, and of the various means of reviving the economy none is more crucial than a revamping of the tax structure. With social security payroll taxes due to increase substantially on January 1, 1981, and with inflation pushing people into higher tax brackets, the Nation unquestionably needs tax reduction and reform.

So great, however, are the stakes for our prosperity, economic stability and national security, and so ominous are the pitfalls if we act unwisely or with excessive haste, that it would be a serious, potentially damaging mistake to proceed pell-mell with a quick-fix tax cut under the pressures of the election campaign. As the chairman of the House Ways and Means Committee has persuasively argued, the issue should be deferred until early 1981 when a new Congress will be free to give this most crucial matter its sustained attention, undistracted by the election campaign and uninfluenced by partisan pressures.

The issue at present is intensely partisan, with Democrats, I regret to say, scrambling to compete with, rather than contest, an exceedingly dubious Republican proposal. Mr. Reagan has embraced as a key plank in his platform the well-intended but ill-conceived Kemp-Roth proposal to reduce individual income tax rates across-the-board by 10 percent a year for the next 3 years. The advocates of this plan argue that it will so increase investment, productivity, and the supply of goods and services that the Government revenues initially lost will soon be regenerated without causing further inflation.

The Reagan-Kemp-Roth proposal has been analyzed by leading economists, almost all of whom judge it to be unsound. An analysis of an earlier version of Kemp-Roth prepared by the Congressional Research Service estimated, conservatively, that the plan "would gradually increase the inflation rate with a substantial acceleration by the mid-1980's." By 1987, according to the CRS study, prices would be at least 10 percent higher—probably much more than 10 percent higher—than they would be without the plan.

The CRS study also concluded that Mr. Reagan's adopted plan "would substantially increase the Federal deficit over the foreseeable future," and further, "would cause a gradual increase in interest rates over the next decade," well in excess of the levels they might otherwise be expected to attain. The farmers, bankers and small business people of South Dakota and other States had a dismaying experience with soaring interest rates in early 1980 that must cause them to think long and hard before embracing Mr. Reagan's enticing but unsound tax reduction plan.

With all respect to the chairman and members of the Senate Finance Committee, I suggest that a tax cut now amid all the election pressures would very likely be little if any better than the ill-advised first phase of the Reagan-Kemp-Roth plan. I suggest too that in its bipartisan rush toward an overall tax reduction of $25 to $30 billion, some Senators are underestimating the willingness of the American people to have the matter studied calmly and carefully in early 1981, all the more for the fact that a tax reduction adopted then could be made retroactive to January 1, 1981.

A "quick fix" tax cut now will push the economy onto dangerous, unknown terrain. Inflation has scarcely abated from its 18 percent annual rate of the early months of this year, and indeed soared again, though perhaps only temporarily, to an annual rate of over 20 percent in July.

In addition, the Federal Reserve reported a soaring money supply in early August, raising the double spectre of surging inflation and higher interest rates. An immediate tax cut, in a time of economic uncertainty, would arrest and likely reverse the recent modest decline in inflation and interest rates, and would also further increase projected budget deficits. The brief hopes of last spring for a balanced 1981 budget have already been abandoned; the "quick fix" tax cut will turn a projected modest deficit into an enormous one, which in turn would surely reverse the downturn of interest rates.

There is no question, I reiterate, of the need to reduce and reform taxes in 1981, with a view to stimulating investment and relieving the American people of the burdens of increased social security taxes and inflation-induced personal income tax increases. The need is so great, however, the stakes so high and the issue so complex that it is a disservice to the American people to proceed in haste without full knowledge of the prospective consequences of our action. Experience has shown that, after every recession inflation and interest rates rise again from a higher base than after the preceding recession, so that the spiral continues to rise.

Experience has shown too that we are falling steadily further behind other industrial countries in productivity, in obsolescence of plant and equipment, in our ability to compete for world markets, and therefore in the overall standard of living of our people. The answers to these problems are important and complex—too complex to be uncovered in the heat and hoopla of an election campaign.●

DICK OTTINGER—A REALIST ON THE MIDDLE EAST

● Mr. METZENBAUM. Mr. President, the outbreak of full-scale war between Iran and Iraq reminds us once again of the unstable nature of relations between the nations of the Middle East.

Here we have two nations whose people share a common religious faith, two nations worse governments are united in their hostility, and contempt for America's most cherished values, and two nations that compete with one another in the violence of their hatred for the State of Israel.

They have much in common, Iran and Iraq. Yet these two countries have now renewed their ancient hostility.

In recent years, when Iran had the upper hand militarily, the Shah's government seized disputed territories and wrung concessions from the Iraqis. Now, Iraq sees weakness in Iran—and has chosen to strike.

To me, Mr. President, the conflict between Iran and Iraq brings sharply into focus what our friends and allies in Israel have in mind when they talk about their national security requirements.

The people of Israel do not live in an ordered and rational region of the world. They live in the Middle East—a region where memories are long and where war or the threat of war is a constant fact of life. And what may appear to the uninformed as "recalcitrance" on the part of Israel is in fact nothing more than a prudent, measured set of responses to a tough, dangerous world in which the law of the jungle reigns supreme.

Does anyone believe that Israel wants to devote its resources to unproductive military spending?

Of course not.

Does anyone believe that the young men and women of Israel enjoy living with the knowledge that they must at all times be ready to go to war?

And is it not easy to understand the frustration that Israelis feel when they encounter well-intentioned people who do not understand the harsh realities with which Israel must live?

That, Mr. President, is why it is so important to our country, to Israel and to the peace of the world to have here in the Congress of the United States legislators who understand the terrible complexities of the Middle East.

Dick Ottinger is precisely that kind of Congressman—a man who understands that in these times, the cause of Israel is the cause of human rights.

Dick Ottinger knows the dangers posed to America, to Israel, and to all free nations by the "oil weapon" in the hands of countries like Iran, Iraq, Libya, and the kingdoms of the Persian Gulf. And as chairman of the Subcommittee on Energy Development and Applications, he brought a sense of urgency to his fight to double our commitment to conservation and to the development of alternate energy sources.

Dick Ottinger has taken the lead in pushing for an international oil consumers' cartel to counter the power of OPEC.

And he has not hesitated for one moment to take on this country's most powerful special interest—the giant, multinational oil companies.

Dick Ottinger is a fighter.

He read the Helsinki accords. And ever since, he has been a kind of Helsinki monitor in the U.S. House, constantly pushing the Soviet Union and other nations like Romania to honor their promises on human rights.

He has spoken out time and again, on

behalf of the heroic men and women who have stood for conscience against the power of the Soviet State.

He has stood up for the "Refuseniks," who have been denied permission to emigrate.

And he has stood up forcefully for Israel.

When the Arab nations came here seeking offensive arms, Dick Ottinger was heard.

Dick Ottinger was heard—loud and clear—last March when our Ambassador cast the disgraceful anti-Israel vote at the U.N.

Dick Ottinger has spoken out with strength against attempts to isolate Israel. He has fought efforts to convey international legitimacy to the terrorist thugs of the PLO, and Dick Ottinger has the kind of status, the kind of respect among his colleagues to insure that his voice is heard.

Mr. President, Dick Ottinger is one of the finest men in Congress. I warmly commend him for the outstanding service that he has given to this Nation.●

FURTHER POLITICAL ABUSES AT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

● Mr. SCHMITT. Mr. President, several weeks ago I placed articles from the Federal Times in the Record dealing with political abuses at the Department of Health and Human Services. These abuses included political speechmaking at taxpayers expense, attempting to obtain and use confidential student loan records against South Dakota Governor Janklow in the 1978 campaign, Hatch Act violations, attempting to aid incumbent Democratic Congressmen and allowing travel expenses at Government expense in order to aid a political career.

I have called for an investigation of these allegations. Furthermore, I and other members of the Senate Appropriations Committee have requested that the General Accounting Office investigate whether or not the Federal Election Commission's rules concerning political appearances by Cabinet officers are being adhered to.

Further politicalization cannot be imagined; yet to my dismay, Lewis Helm, a former Assistant Secretary of the Department of Health, Education, and Welfare, has reported in the Federal Times on September 15 and September 26 of more political abuses at the Department of Health and Human Services under Secretary Harris. Mr. Helm has reported that the Department has filled career-level positions with people whose main qualification appears to be that of having campaigned for Jimmy Carter in 1976. In one instance false statements on the SF–171—Federal job application form—were ignored while in another case an Inspector General report concerning Dr. Grace Michelson was referred to the U.S. attorney in Denver over her attempts to obtain the confidential student loan records of South Dakota Governor Janklow. No action was taken against her by the Carter Justice Department.

Of more pressing concern to me is the question of the integrity of the Inspector General of the Department of Health and Human Services. The present Inspector General, Richard B. Lowe III, is acting while his nomination is being considered by the Finance Committee. In his article of September 29, 1980, Mr. Helm reports on a number of events which, if true, severely question Mr. Lowe's fitness to hold that sensitive post. I urge my colleagues to scrutinize these and other reports and to review this nomination carefully before reporting on that nomination.

Mr. President, I ask that the articles I referred to be printed in the Record.

The articles follow:

Appearance's Sake

(By Lewis M. Helm)

Norma Jones' memo to her three-person public affairs staff in the Department of Health and Human Services regional office in Denver may stand as her one lasting contribution to government.

"It has been brought to my attention that the appearance of efficiency is just as important as efficiency itself," she wrote, putting into words what has become recognized as the standard of quality for HHS leadership.

The Jones memo instructed the GS–13 and GS–9 professionals to follow the dictates of the office's GS–5 secretary when she told them to open the mail.

After all, Jones continued, "the appearance of mail stacked for two or three days may lead one to believe that Freedom of Information Request [sic] would go unattended to [sic]."

Jones is part of the wave of political appointees succeeding career professionals in HHS regional offices during the last two years. In her case, as in some others, the department's political leadership overcame great odds to place her in the top public spot.

Jones was selected in February 1978, to become the GS–15 public affairs director although she had no PA experience, marginal experience as a reporter (the extent of which is disputed) and six years as an equal opportunity specialist.

Jones replaced a respected professional who had six years as public affairs chief in Denver and 15 years in network broadcasting positions.

Jones directed Denver HHS public affairs activities as a consultant, violating the law.

Jones was promoted to GS–15 from her GS–13 position at the Civil Rights Commission in Denver, violating the Whitten amendment.

After a Civil Service Commission investigation, her case was referred to CSC Washington headquarters for appropriate corrective action since "the situation in HEW Region VIII, appears to be similar to situations in other HEW regions, and it is apparent that Headquarters HEW has been involved in the actions taken."

Jones was finally installed as public affairs director, GS–14, after the Office of Personnel Management and the office of the HHS assistant secretary for personnel administration quietly resolved this and other illegalities in other regions.

Jones, meanwhile, told Denver careerists, "I'm not going to worry about paper from the Civil Service Commission" . . . concerning the limitations of her authority as a consultant.

The accuracy of Jones' statements about her work experience on her official Form 171 and resume have been seriously challenged by people who had worked with her, when questioned by civil service investigators and by me.

Material obtained from these contacts and from my Freedom of Information request show this:

She received a B.A. degree from Penn State University in 1968 and then for two years taught, worked with a television station in Philadelphia and attended graduate school. This is one of the periods when questions were raised about the accuracy of her statements.

She shows that she was an assistant producer of a live television show "Panorama", on WTTG–TV, Washington, D.C. in addition to filming "Christmas in the White House with the Lyndon Johnson Family."

Johnson's last White House Christmas was 1968, the same year Jones received her degree. It was a time when she was working in Philadelphia and going to graduate school.

No records were found at WTTG or Panorama to show that they had put a recent college graduate in charge of a White House production. No record was found to support her claim to have written the three documentaries.

WTTG does hire interns occasionally to do "some writing" and handle general "go-for" jobs. I could not find anyone now at WTTG who remembers her.

From November 1970, until October 1972, she said that she did "investigative reporting" for KWGN–TV, Denver, and chaired the station's committee on community relations, organized monthly community affairs meetings and produced, edited documentaries.

No one at the Denver station could remember her in those roles. Several said her description of responsibilities was "grossly overstated."

"She was an investigative reporter only in the sense that a reporter asks questions," one fellow worker told me.

"I remember her mainly as reading news briefs," another said.

Regarding her community relations role, another disagreement exists. "She attended some of those monthly community relations meetings as did other black employees but I know she didn't chair them," I was told.

No one could verify that she actually produced a full length documentary, as stated on her application. The station's collective memory was that she had helped in one or two of the minute mini-features used in the middle of newscasts.

The civil service investigation shows similar doubts about her credentials.

During 1978 the commission investigated and deliberated her appointment as a GS–15. She continued as a top-paid consultant, however. The head of the regional office, Wellington Webb, apparently recognized her management shortcomings.

Over an 18-month period, Webb sent her to six courses totaling 20 work days and costing almost $3000 in tuition. They included "Management Skills for New First-Line Women Supervisors" and "Self-Development Strategies for Black Managers."

She remained away from her office duties for 75 working days during 19 trips in little more than two years. These included eight to Washington, D.C., two to San Francisco and one to Chicago, Boston, New Orleans, and Seattle. They cost more than $8000 excluding salary.

In another effort to support her claim of effectiveness, Webb wrote to the deputy under secretary on May 9, 1978, about visits Jones had made to news offices.

"At the Rocky Mountain News, the other Denver daily, [she] met with Hal Knight, assistant editor, who introduced her to his assignment editors, as well as to some of the city and political reporters," Webb wrote.

I asked Knight about the visit. He replied:

"My name is Al Knight, not Hal. I never met her. And we don't have assignment editors."

On May 11, 1979, CSC headquarters told HEW that questions about her appointment had been resolved. Jones was appointed as a GS-14 public affairs chief in Denver where she remains.

Her record also raised questions about the other two Denver political appointees. I requested their files under the FOIA.

There is Dr. Grace Mickelson, Director of Intergovernment and Congressional Affairs, the former South Dakota state senator who illegally requested the confidential student loan file of South Dakota Governor William Janklow to use against him in the 1978 election campaign. An inspector general investigation into this was referred to the U.S. attorney in Denver for possible prosecution but charges were never filed.

Mickelson also hosted a meeting this year which careerists said was used in an attempt to get them to help in political campaigns.

Mickelson earns $43,554 a year. Just before joining HEW her files show that she was an unemployed graduate student. Before then, she was paid $15,300 a year as a high school math teacher. Her HEW starting salary jumped to $36,171.

Webb, principal regional official, is paid $50,112 a year. His main ticket was service in the 1976 presidential campaign as President Carter's Colorado manager. During that period he was paid $1,000 a month. He had received $14,000 a year through 1974 from the Colorado State University as a project officer. He also was a Colorado state representative.

In the past there has been a direct correlation between what the government paid a new employee and what that person's track record had been with past salaries, experience and education. In each of the Denver jobs, this requirement was ignored.

And so, when looking at the Norma Jones memo again, she apparently was right. She showed an understanding of the management attitude of the department that some of us are only now really beginning to gain.

At HHS appearance is as important as fact.

Harris' Mission

(By Lewis M. Helm)

Patricia Roberts Harris has all of the tickets the White House is seeking to become President Carter's first Supreme Court appointee, provided he is re-elected.

Oddly enough, though, her recent handling of public affairs at the Department of Health and Human Services might become a stumbling block.

Sen. Harrison Schmidt, R-N.M., has called for a Senate investigation of the alleged Hatch Act and Privacy Act violations at HHS revealed in these columns. He inserted into the Congressional Record the *Federal Times* columns to date which cited these possible violations.

Secretary Harris is black, female and experienced in government. Her lack of judicial experience, White House insiders openly say, is not important.

For this reason she has made slashing personal attacks against the President's opponent, Ronald Reagan. Her assignment is to win black votes in any way possible, using her position at the department that is most involved in social issues.

If she is successful and if the President sees her as his most ardent and effective producer of black votes, her appointment becomes probable. Secretary Harris likes that thought and is responding.

So, an examination of her "judicial temperament" in handling the public affairs matters becomes especially appropriate.

Shortly after these columns began to reflect unfavorably on some of her actions at HHS, Secretary Harris gave instructions that no comments would be made or material released under the Freedom of Information Act unless she personally approved. The assistant secretary for the public affairs office acts as her agent. Since she calls the shots, staff actions become hers.

Here is my seven-point indictment of her public affairs handling to date. More indictments will be returned later in these columns.

Hatch Act Violations and Coverup. Secretary Harris caused 11 HHS employees to violate the Hatch Act by writing, advancing and promoting her political speech August 5 before the Black Congress on Health and Law in Dallas and August 6 before the United Steelworkers of America. In these speeches she called on audiences to imagine "the spectre of white sheets" of the Klu Klux Klan standing behind Governor Reagan when he speaks.

Career and political appointees of the department wrote the speech, promoted media coverage of it and sent personnel in advance to her trip to build the audience. Top government attorneys who enforce Hatch Act provisions said this type of action seems clearly to violate the law, as reported in this column September 1.

I asked the department public affairs office if HHS would investigate the violations. Ten days later John Blamphin responded, "No. There is no indication of violations."

Freedom of Information Act Violations. On August 11 by letter I requested under the Freedom of Information Act travel documents and Forms 171 for "any department employee who either accompanied her during the trip, joined her at the meeting or advanced the trip." Documents for eight staff members were received by me . . . but two were not sent.

HHS Inspector General-designate Richard B. Lowe III and his acting executive assistant, Eileen Boyd, had attended the speech. Lowe, in fact, shared the speakers dais in Dallas with Secretary Harris as she attacked Reagan. Documents about their participation were not sent to me as required by law. Further, Lowe never questioned the use of federal funds for her travel, her speech, her publicity efforts and her sizable entourage.

Impropriety On the Part of the Inspector General. The inspector general is by law "non-political" and serves an indefinite term. He must be free of any taint of corruption or politics so that he can be in an incontestable position to render judicious judgments above any departmental or White House influence. He investigates misuse of federal funds, fraud and other touchy irregularities.

How could Lowe now investigate Secretary Harris' use of federal funds for political purposes after his silent approval by appearing on the dais without comment?

Inspector General Robert Wilson explained that Lowe and his assistant were in Dallas to meet with regional office workers and to attend other meetings in addition to the Harris speech.

"We did not respond to the FOIA request because Lowe and Ms. Boyd did not travel with the secretary. Lowe and Ms. Boyd traveled separately from each other, too," "Wilson quickly added.

"Mr. Lowe didn't participate in the preparation of the secretary's remarks in any way," Wilson added. He then said that the conference, not the secretary, invited the IG to sit on the dais.

"It wasn't unreasonable for Lowe and his assistant to attend the meeting since they were present for other meetings of the group."

Wilson ignored that my FOIA request specifically included "all persons who . . . joined her at the meeting."

Lowe presently is deputy IG at HHS and was nominated by President Carter on August 5 to be the IG. His confirmation hearing date before the Senate Finance Committee has not yet been set.

That hearing should provide an opportunity for him to explain to the Senate about his trip, his violation of the FOIA and other matters that will be explored in later columns.

Misuse of Government Personnel Appointments. Richard L. Rosen was advanceman for Secretary Harris' trip to Los Angeles, and John E. Sullivan served similarly on the trip to Dallas. Each is a G-13 staff assistant. Sullivan formerly handled First Lady Rosalynn Carter's trips and Rosen was involved in auto show promotions.

The official position description of neither calls for advance work. In fact, nothing on the PD even resembles advance work. Therefore, their trips to the two cities clearly violates personnel regulations which require official duties to be listed and explained.

A look at other Forms 171 for the entourage shows that this "non-political" trip was also supported by a speechwriter who previously wrote for a White House office and a senator; one who managed the 1976 Carter campaign in Washington, D.C., and another who held several positions on Capitol Hill.

Hatch Act Violation Coverup. On August 18 I wrote in this column that HHS congressional liaison specialist Robert H. Maloney flew to Denver and is reported to have told careerists, "I understand Senators Hart and McGovern and Representatives Schroeder, McKay and Kogovsek are in trouble this election. We want to do everything we can in this department to help them. I'm here to see how you can help."

In the column I quoted an HHS spokesman as saying that Assistant Secretary Thomas McFee had investigated "and found no violation of the Hatch Act."

Now, through FOIA, I have found that there was no investigation, just another coverup at Secretary Harris' instructions.

The HHS Freedom of Information office wrote to me on August 22:

"No records exist which would respond to your FOIA request of August 14 asking for 'copies of the investigation and other documents connected with' Robert H. Maloney's trip April 9, 1980, to Denver, Colo. No records were generated in the course of the review by the department officials."

Has there ever been any investigation in the government's history that failed to result in a written record? A record is essential for the protection of individuals concerned, the government and the public. HHS without doubt never investigated the incident. Secretary Harris gave tacit approval of Maloney's apparent violations.

There was an extensive investigation in the Denver regional office of another type, however. The issue to principal regional official Wellington Webb was "who leaked?" and not "who violated the law?"

At one point acting IG Lowe's office told me they would investigate the Maloney trip. Then there was a quick turn-around. Now they even deny promising to investigate.

Privacy Act Violation. Then there still is the case of the request of HHS Denver Region's director of intergovernmental affairs, Grace Mickelson, reported here August 11. She attempted to obtain the confidential student loan file of Governor William Janklow for possible use against him in the 1978 election campaign.

Mickelson remains on the job and was never prosecuted despite clear findings by an investigation that she had violated the law.

The Malaise. There really is a malaise in America and it's easy to see why. A great deal of it is reflected by dismayed HHS employees. They fear to use the department's legal and administrative systems to correct wrong-doings of political appointees. They fear candor will lead to being fired. As a result, they are forced to seek outside help through these columns.

I wonder how all of us would fare under a Supreme Court which included a member who causes this type of injustice. Maybe we'll see soon. Next Week: IG nomination of Robert B. Lowe III faces trouble.

NATIONAL CYSTIC FIBROSIS WEEK, SEPTEMBER 21–27

● Mr. DOLE. Mr. President, this week a special group of people in this country is being spotlighted as we observe "National Cystic Fibrosis Week." My heart goes out to people with cystic fibrosis. Their chances of emerging into adulthood are extremely limited, and they will never be able to fulfill their potential and look forward to the future with certainty.

Cystic fibrosis is an inherited disease that kills children and young adults. It attacks their respiratory and digestive systems, and eventually takes their lives. Every day, every 5 hours, a child is born with CF. These statistics are very impressive when we realize that half the children born today with CF will not survive to reach their twenties.

TREATMENT OF CF AND ITS IMPLICATIONS

Research and medical care have dramatically extended the life expectancy of cystic fibrosis patients in the past decade, but the painful irony of cystic fibrosis is that at the very time when most individuals are just beginning their lives, CF victims are faced with the inevitability of death. More than anything, the inescapable reality that the disease is fatal and will cause early death can impose a severe emotional burden on the cystic fibrosis patient, as well as on family members.

In addition to suffering through daily, time-consuming, and often unpleasant treatments required to sustain their lives, the majority of young adults with cystic fibrosis also experience the frustrations of unemployment, underemployment, low salaries—in short, inadequate incomes to cover their overwhelming medical expenses.

The problem becomes even more apparent when considering the annual cost of care for a young adult with cystic fibrosis: This averages between $6,000 and $12,000 per year and can reach $25,000 or more in some cases. Even in those instances where costs of health care are lower, they still constitute a severe financial burden for the patient and his or her family. And, these costs are often born with virtually no assistance from private health insurance plans. When young people with cystic fibrosis reach the age of 21, they are usually disqualified from further health insurance coverage under their parents' policies and may even be unable to get it on their own.

EFFORTS OF PRIVATE AND PUBLIC ORGANIZATIONS

The Cystic Fibrosis Foundation, which is the leading voluntary health organization in the fight against cystic fibrosis, has been working to correct this situation. The foundation is encouraging States to develop a special program that would extend benefits available under the crippled children's services to people 21 years and older.

In addition, the problems of people facing catastrophic medical expenses like these have been a focus of attention in the Senate Finance Committee, as we work to develop a responsible form of national health insurance for our country.

KEITH JONES AS INSPIRING EXAMPLE

Mr. President, I sincerely believe that young adults with cystic fibrosis can make, and indeed have already made, valuable contributions to our society.

I would like to bring to the attention of my colleagues in the Senate an inspiring example of courage and perseverance against overwhelming odds. In the early part of this summer, my office was honored to have as one of its summer interns from Kansas a young man named Keith Jones, who is a student at Kansas State University. The fact that Keith was born with CF would have escaped everyone's detection if he had not eventually told us. This disease does not affect an individual's ability to learn, his intelligence, motor skills, or speech. Keith plans to attend law school and go into practice upon completion of his education. He is not thinking in terms of his limitations, but what he can do with what time he has to be a productive individual. The positive thinking of this young man was an inspiration to all those he worked with this summer, and we will follow his progress with great interest and a special kind of caring.

LACK OF EMPLOYMENT OPPORTUNITIES

Keith Jones was a rare example of a CF victim whose life has been filled with accomplishment. Yet, these young people with CF are often prevented from obtaining meaningful employment and from participating in productive, constructive activities which enable them to realize their full potential.

Sometimes employment discrimination results from a fear that someone with cystic fibrosis would just be "too sick" to work. Sometimes an employer fears that hiring a person with a chronic disease will raise the firm's health insurance premiums, though this in fact rarely happens. Yet, adults with cystic fibrosis are currently engaged in successful careers as teachers, attorneys, biomedical researchers, nurses, ministers, parents, and just about any kind of profession they set as their goals. They still have cystic fibrosis, and they still face daily treatments and the other burdens of the disease, but they are determined not to let cystic fibrosis destroy the quality of life for the years they have remaining.

RECOGNITION OF POTENTIAL

Mr. President, I believe this courageous acceptance of their disability, as well as the determination to set goals and accomplish them, is a common attitude among most of the handicapped people I know. They should be an inspiration to all of us. This week in particular, we have a reason to focus attention on efforts to conquer cystic fibrosis. I urge my colleagues to add to this public awareness campaign and give enthusiastic support to local, State, and national activities being conducted by the Cystic Fibrosis Foundation during Cystic Fibrosis Week. Like all of us, children and young adults with this "hidden handicap" deserve a fair chance to live into their futures.●

SAGEBRUSH REBELLION

● Mr. HATCH. Mr. President, the Sagebrush Rebellion continues in the Western United States. Just recently, the citizens of Alaska voted into being a commission to study whether statehood has been desirable for Alaska. This is a strong movement, and one that needs to be taken seriously in the East.

A thoughtful editorial broadcast over KLUB radio in Salt Lake City suggests that all the results of the Sagebrush Rebellion might not be as awful as are often imagined around here. As many Senators know, there are problems with the preservation of priceless Indian artifacts. The Interior Department does not have the manpower to adequately police the Indian ruins and burial grounds, and to prevent looters from vandalizing these areas.

Nor does the Interior Department have the undivided cooperation of local law enforcement officials, and it is here that the KLUB editorial makes good sense. I can testify that the Federal agents are regarded as alien and occupying forces, and that some acts of vandalism are carried out in the spirit of guerrilla warfare. The Sagebrush Rebellion could defuse some of that acrimony, and would certainly produce more effective local law enforcement.

Mr. President, I submit for the RECORD the editorial mentioned.

The editorial follows:

AN OVERLOOKED BENEFIT IN SAGEBRUSH REBELLION

A number of local political pundits have recently bemoaned the inability of the agents of the Bureau of Land Management to enforce federal laws protecting archeological sites in Utah. In particular, the Anasazi ruins in San Juan County seem to be at risk. Legislation has apparently passed the Senate, but has been killed in the House, which would permit BLM agents to arrest suspected looters, and which would give them some training in law enforcement technique.

Without presuming to judge the merits of the specific legislation, we offer a comment on the psychology of many Utahans, and suggest that there may be preservationist benefits from the so-called "Sagebrush Rebellion."

It is a fact that many Utahans regard BLM lands, and the ruins that dot them, as their's and the BLM agents as enemy forces. In that context, the descration of gravesites, in addition to being profitable, is justifiable guerrilla warfare. Should those lands belong to the state, however, the whole psychology of the situation would change. We think it quite conceivable that those ruins would come to be regarded, perhaps very quickly, as a local resource, to be protected, not desecrated.

Certainly cooperation between the land management agent and the county sheriff would be improved if they were both agents of the same governmental body. We don't suggest that this possibility is enough reason to adopt the goals of the Sagebrush Rebellion without further question. But perhaps it would provide some benefits which have been, so far, overlooked.●

RICH GET RICHER USING U.S. AID TO MINORITY FIRMS

● Mr. HAYAKAWA. Mr. President, as a member of the Senate Select Committee on Small Business, it disturbs me very much to call attention, once again, to the alleged deficiencies in one of the Small Business Administration's minority assistance programs known as the 8(a) program. However, as we are deliberating today the 1981 appropriation for SBA, I think we must pause to consider our actions and the results thereof to many people the program was designed to help and has ended up doing exactly the opposite.

I am sure many of my Senate colleagues are aware of the problems that SBA has encountered in trying to administer the 8(a) program, and I specifically call to their attention the detailed article in today's Washington Post. The article focuses on hearings to be held on September 25 by Senator MAX BAUCUS and the Judiciary Subcommittee on Limitations of Contracted and Delegated Authority. Again the administration of this program and the agency's lack of assertive action and response to the Congress to correct inequities will be examined.

The committee has requested a $23,500,000 increase for fiscal year 1981 for the business loan and investment fund. Under the fund, the 8(a) business development expenses are spent, and these will be raised by $4 million. In view of the fact that nearly $4 billion have already been invested in the 12-year 8(a) program, I believe we owe it to the American people to question why we keep adding to a program that has been admittedly badly managed and has become a national scandal. It has attracted more negative attention and criticism than any other SBA program, and yet, year after year, we increase appropriations and do not insist on accurate and proper accounting from those responsible for spending the taxpayers' money.

Mr. President, the management of this program has been the subject of hearings, including the one to be held tomorrow, of three separate Senate Committees. As long ago as April of 1977, SBA Administrator Vernon Weaver testified before the Government Operations Committee to discuss the alleged irregularities of the program. His testimony on September 27, 1979, before a joint hearing of the committee and the Senate Small Business Committee marked his fourth appearance in the Senate concerning the 8(a) program.

And yet, Mr. President, we are to witness one more hearing, on the same program, from the same Administrator, who may be asked to explain the administration's desire to increase Federal assistance in a program that is being cynically abused and that is hurting many of the very people it was designed to help. The SBA published its own internal study detailing the failures of the program in 1979, and yet we are asked to continue to increase the appropriation for it without obtaining satisfactory answers about where all the money is going, the eligibility of the firms who are receiving it, and why a number of the participating firms have not been "graduated" from the 8(a) program by this time.

The congressional intent of the program was to provide a helping hand to those who were socially and economically disadvantaged so they could become independent business people. The Administrator of the agency was quoted in the Post article as still not being able to define an economically disadvantaged person for the purpose of this program.

Mr. President, it is not my intent today to take undue time from important Senate business or, indeed, to quarrel with the intent of the program. Since funding for the program is not a line item in the budget, there is no feasible action I can take today to hold funding at the present level. But I do wish to go on record as one Senator who intends to demand that the management of SBA, either the present Administrator or whoever may be the head of the agency next year, be more responsive to the constituency they serve and to Congress.

I wish to commend my colleagues who serve on the Appropriations Committee for the tremendous work they have done on the numerous and complicated appropriations measures before us today. I know they share my concern that appropriated funds are spent as efficiently as possible.

Mr. President, I would request that the full article from the September 24, 1980, Washington Post be inserted into the RECORD.

The article follows:

RICH GET RICHER USING U.S. AID TO MINORITY FIRMS

(By Jonathan Neumann and Ted Gup)

The federal goevrnment's flagship program to foster minority business is in many cases doing precisely the opposite of what was intended. It is helping rich white contractors get richer and turning away hundreds of the poor and disadvantaged it was designed to assist.

Formed in 1968 in what seemed to be a practical marriage of Lyndon Johnson's Great Society and Richard Nixon's Black Capitalism, the program was intended to provide "economically disadvantaged," minority-owned firms with noncompetitive government contracts and special grants through the Small Business Administration.

Over the last 12 years, as nearly $4 billion has been poured into the program, more and more examples have arisen of the money going to the rich rather than the poor. Last year alone, an SBA study found that more than one-third of the 1,505 firms that received money under the program may not have been qualified. Their ranks include:

Harold Greenspan, the white owner of four New Jersey companies, who controlled a Virginia janitorial firm that has received more than $1 million in minority set-aside contracts. The "president" of the firm, Ernest McNeal, a 57-year-old black, was paid $125 a week.

Allen Rand, the white owner of two New York city companies, who manages a Brooklyn packaging firm that has received $690,000 in federal minority set-aside contracts. The firm's 60-year-old black "president," Jesse Glover, is paid $225 a week. He spends much of his time driving a truck for Rand.

Keith Grundmann, a 37-year-old white steel company executive, who collects $52,000-a-year for managing the business of the impoverished Goshute Indians on a parttime basis—more than twice the salary of any Indian employee of the firm. Nearly $300,000 in federal minority assistance funds received by the tribe's firm have gone to Grundmann's steel company in purchases of steel.

Also enrolled in the government's minority business program are several millionaires, Rolls Royce-driving manufacturers and wealthy owners of sailboats and elegant cruisers.

There are literally hundreds of such cases, all of them profiling a well-intentioned government program that has seen abuses go uncurbed under three presidential administrations. But the issue is one of extreme political sensitivity. No president wants to be responsible for raising questions about a program that has such strong support among the black leadership, even if the program doesn't work as it should. The Carter administration, for example, is seeking to increase significantly the federal assistance next year above the present $1.6 billion level even though it has been in possession of the SBA study that outlines the failings of the system.

The program's success rate is uncertain. Of the 4,350 firms that have used the program, 174—or just under 5 percent—have "graduated" and now operate without special federal help. However, there are hundreds of minority firms in business today, many of which, though dependent on government set-asides, might not otherwise exist.

One essential problem with the program—known in bureaucratic jargon as the 8(a) program—is that the government has never been able to decide who should qualify for it. The official government language says that the program is intended for the "socially and economically disadvantaged." In 12 years, however, the SBA has never developed a dollar-figure definition of "economically disadvantaged."

In the end, officials concede, the decision on who qualifies for the money is subjective—taking into account an individual's net worth and access to capital. "It boils down to a judgment call, like so many other things in this program," said A. Vernon Weaver, administrator of SBA. "I must have spent a hundred hours with my general counsel, sitting in this office discussing: What the hell is 'economic disadvantage.'"

An SBA audit last year found 44 firms in the program whose owners had personal net worths of more than $100,000. Nineteen had net worths of more than $250,000, and several were millionaires. But to many of the program's staunchest supporters, such as U.S. Rep. Parren Mitchell (D-Baltimore) wealthy blacks deserve and need the federal assistance.

Said Mitchell: "In many businesses a million dollars is very little. I would raise the question: does he have the same access to capital . . . to loans . . . to bonding . . . as his white counterpart?"

While there is debate over what constitutes "economic disadvantage," there is general agreement that "fronts," or firms not controlled by minorities, do not belong in the program. In its audit last year, the SBA found that for 323 firms—21 percent of those in the program—it was not certain that the owner or controlling interests properly qualified. There was a pervasiveness of fronts controlled by whites through a variety of stock manipulations, lease arrangements, profit-sharing agreements, subcontracts, salary structures and other methods of controlling assets.

In some cases, the whites have been exploiting the minorities simply for profit. In other cases, the minority firms have shared profits with the whites in exchange for financing, bonding, administrative help and other services. And for some, the experience is humiliating. Said Ernest McNeal, "president" of a Virginia janitorial service: "I didn't do anything. All I did was go to the

SBA office in Richmond to show them I was black. That was it."

Despite the findings of the SBA audit one year ago, the government has not removed any of the questionable firms from the program. SBA administrator Weaver said he believes matters are now under control. Some members of Congress disagree.

This Thursday, a Senate subcommittee headed by Sen. Max Baucus (D-Mont.) will begin looking into problems with the minority-assistance program. "A program to help the disadvantaged has been taken advantage of," Baucus said recently. "SBA continues to ignore its own findings, compounding the evil."

What follows are case studies of a well-intentioned program that has gone awry.

LUTHER BENJAMIN

When Luther Benjamin, a black Virgin Islander, entered the SBA's minority assistance program in 1973, he estimated his own net worth to be $979,700—including some $794,200 in real estate investments on St. Thomas in the Virgin Islands.

At the time, he was also chairman of the Racing Commission, president of the General Contractor's Association of Virgin Islands, a member of the Governor's Board and president of the St. Thomas branch of the Republican Party.

A few months after Benjamin was admitted into the program, a perplexed General Services Administration official, Nathan L. Adler, wrote the SBA: "It strikes us as rather unusual that an individual with a net worth of almost a million dollars can qualify as an 8(a) subcontractor." Adler requested SBA to explain to him why Benjamin was considered "economically disadvantaged."

The SBA declined to explain.

But GSA's curiosity was more than a passing interest. Benjamin's construction firm, in a joint venture with another firm, had just been given a $7,368,479 contract to build the federal courthouse and office building on St. Thomas for the GSA.

Benjamin offered his own explanation in an earlier letter to the SBA in support of his application: "I have never had the opportunity of amassing big money or even modest means to acquire the expertise needed for today's competition."

Benjamin wrote that "for reasons beyond my control" he had "been deprived of an opportunity to develop and maintain a position in the competitive economy."

"If you want to call me a millionaire because I have a couple pieces of land in St. Thomas, you can call me a millionaire." said Benjamin in a recent interview. But Benjamin, whose most recent financial statement on file with the SBA puts his net worth at $1,381,100, says he is still "economically disadvantaged."

Now the SBA itself is trying to answer the question raised by the GSA official six years ago. Writes an SBA reviewer following a March 1, 1979, field audit of the firm:

"There is no documentation to support, or evidence to indicate, that Luther Benjamin is socially or economically deprived. The only eligibility criteria which is supported is that he is black," the reviewer wrote.

Benjamin expressed defiance at the possibility of being terminated from the program. "I don't have a thing to hide. If they throw me out of the program, they throw me out of the damn program. . . . Mr. Benjamin is a self-made man that has worked all his life. I have always found a way of making my living on my own."

YOU WILL BE PRESIDENT

Ernest McNeal had been working as a janitor at military bases in Virginia for 15 years when he received a long-distance telephone call from his boss in April 1972.

"How would you like to be in the SBA's minority business program?" asked Harold Greenspan his employer, according to McNeal.

"You can make a whole lot of money," McNeal recalls being told. "You will be president."

McNeal, 50 years old at the time, felt that this was the biggest opportunity of his life. He went to the bank to make arrangements to borrow $5,000 to start his new company, Multi-Mac. The loan was approved.

But McNeal never borrowed the money. "Mr. Greenspan, he wouldn't let me put up any money," McNeal said.

Instead, according to corporate records, McNeal was issued 153 shares of stock—totaling 51 percent ownership of the firm. Greenspan was issued 40 percent of the stock and the remaining 9 percent went to Harry Hardin another white working for Greenspan.

The stock was valued at $3.33 a share when it was issued, but McNeal did not pay for it.

"I didn't do anything," Michael recalls. "Mr. Greenspan handled everything . . . All I did was go to the SBA office in Richmond to show them I was black—and that was it."

Greenspan was the owner of Kleen-Rite Janitorial Services, as well as three other firms in New Jersey. In 1972, he listed his personal net worth as $243,450.

In an interview, Greenspan acknowledged that he did virtually all the work in financing and setting up Multi-Mac and in dealing with SBA to enter the 8(a) program. He said he went into the business in order to receive the set-aside contracts and share the profits with McNeal. He said he felt the firm would help McNeal's career.

"He [McNeal] was a loyal employe and a good worker," Greenspan said. "This was an opportunity for him to get involved."

Before the firm was formed in Hampton, Va., Greenspan was paying McNeal $125 a week. After the firm received its first contract, with McNeal as "president," his pay remained the same—$125 a week.

"I was president and I had 51 percent of the stock, but it was on paper only," McNeal said. "I was still working for Mr. Greenspan."

By the summer of 1976, Multi-Mac had received $1,076,889 in 8 (a) contracts. McNeal's salary had been boosted to $150 a week. McNeal and his wife began to grow uneasy not only with his "front" status, but also because he said he was signing vouchers for payments of thousands of dollars for products and services unrelated to the business.

McNeal told SBA investigators that Greenspan was transferring funds from Multi-Mac to his other corporations and to himself. He said that Multi-Mac funds were used to pay employes of other corporations, and he was asked to sign vouchers for expensive automobiles and airfare unrelated to Multi-Mac.

SBA auditors, using documents provided by McNeal, are still investigating the charges.

In an interview, Greenspan said he couldn't remember much about Multi-Mac since 1978. He said he couldn't recall if he was still a stockholder in Multi-Mac.

"I don't remember what happened to the stock," he said. "I guess I turned it over to him (McNeal). I'm not sure. I don't have anything to do with that anymore."

Regarding all of McNeal's charges, Greenspan simply said: "I doubt that." He refused to be more specific.

Multi-Mac is still in existence today and is still listed as an active member of the 8 (a) program. However, it is not doing any business.

McNeal left the firm and started another janitorial service on his own. He asked SBA for assistance in developing his new solely-owned company, Bobbie-Mac. The SBA refused to admit Bobbie-Mac into the 8 (a) program.

"NO QUESTIONS WERE ASKED"

Albert Maddox, a black, self-made millionaire, joined the SBA program in 1971 at the age of 67. His net worth at the time was $1,571,859.

"I just gave them my financial statement and no questions were asked," said Maddox. "I wasn't trying to hide anything."

His partner, Joseph Stabler, a white Beverly Hills millionaire, holds 49 percent of the stock in Maddox & Stabler Construction Co. The firm is in the same building that houses three other Maddox-controlled corporations.

Today, Maddox sets his net worth at $3,087,721, with an annual income of $286,295. Stabler is worth $1,210,800.

The SBA, although it accepted the firm with no hesitation, has since repeatedly questioned why the company is in a program intended for the "disadvantaged."

The minutes of a May 28, 1976, SBA evaluation committee meeting show that the seven members unanimously recommended that the firm be cut from the program because of the financial status of the owners.

Three weeks after that meeting, SBA's regional director, Stewart L. Rollins, recommended the firm receive no new 8(a) contracts.

One year later, on May 25, 1977, the evaluation committee recommended that the firm be approved for $1 million in contracts for that year. At the same time, the committee said that Maddox and Stabler should be cut from the program in six months.

Today, more than three years after that decision, Maddox and Stabler is still in the program. It has received $3,790,136 in SBA contracts to date.

SBA offers no explanation on why it has not acted on its own evaluation committee's decision to remove Maddox and Stabler from the 8 (a) program.

Stabler, who says that his firm has awarded subcontracts to minority firms, says of his involvement in the 8(a) program: "We could give this thing up today and it wouldn't even cause a ripple. Neither Maddox nor myself need this business. We don't make a hell of a lot of money from it."

MORE OR LESS FRIENDS

For 30 years, Jesse Glover drove a truck for Allen Rand, the president of Eur-Pak, a large Brooklyn, N.Y., packing firm. Glover, a father of six, earned $150 a week. Today he is the president of his own company, Pak-Well Inc. a firm that has received $690,284 in minority set-aside contracts.

But little really has changed for Jesse Glover.

He says he still spends much of his time driving a truck at Eur-Pak. His salary is $225 a week. His office and much of his equipment are leased from Rand at the Eur-Pak plant. His books are kept by Rand's bookkeeper. Even the telephone number for Glover's firm is the same as Rand's.

"I had wanted to go out on my own," recalls Glover, who says he and Rand (the firm's "secretary") formed Pak-Well in 1972 to take advantage of minority assistance contracts.

While Glover was given 51 percent of the Pak-Well stock, Rand has essentially run the company. In an interview, Glover acknowledged that he knows little about the management of the firm. For example, he could not say how much rent his firm pays to Rand.

"I wouldn't know off-hand. It varies from time to time," Glover said.

Rand said the rent does not vary. He said Pak-Well pays $700 a month rent to Rand Realty, another firm owned by Rand.

Glover also said he does not know how much federal money Pak-Well has received in its eight years. "I have no idea how much," he said. "Maybe a total of $12,000 to $18,000.

In fact, the firm has received $690,284 according to SBA records.

"He [Rand] knows more about the business than I do, but I'm learning," said

Glover. He insists that he does take some part in business decisions of the firm." Anything comes up, me and Mr. Rand get together more or less as friends," he said. Glover said his major role in the firm is to do the hiring. Pak-Well employs five people. All of them—including Glover—work for Eur-Pak "when things are slow," Glover said.

The situation at Pak-Well has been well-known to the SBA. As early as October 1976, an SBA official wrote a letter to the firm questioning who controlled the business, and temporarily suspending 8(a) funding. Two years later, after funding was restored, SBA field auditors again found Rand handling administrative matters.

But the firm is still an active 8(a) business today.

GRUNDMANN AND THE GOSHUTES

In 1971, the 320 members of the Goshute Indian tribe who live on the desolate Ibapah, Utah, reservation formed Goshute Enterprises and were accepted into the SBA's minority set-aside program. Their product was cattle guards—steel plates embedded in a road to prevent cattle from crossing.

Today, after nine years and some $3 million in federal contracts, the Goshute Indians themselves have little to do with the management of the firm. The man who runs the business is not a member of the tribe. "I am a management adviser for the tribal business," says Keith Grundmann, a 37-year-old steel company executive.

Grundmann's salary and share of the profits will bring him $52,000 this year—more than twice the salary of the highest paid Indian employed by the firm and $6,000 more than the tribe's total profit from the business.

For Grundmann, the job is only part-time. The rest of the time he is 200 miles away in Salt Lake City, running his $5 million-a-year K.D.J. Custom Steel Company and collecting another $50,000-a-year salary.

Before Grundmann was hired by the Goshute firm, the tribe owed him money for steel he had supplied. As part of the settlement of the debt, the tribe agreed to hire him as a manager.

The salary is not the only benefit Grundmann gets from managing the Goshute business. He estimates that about $300,000 in federal funds to the Goshute firm has gone to his own steel company for the purchase of steel used in the manufacture of the cattle guards.

Throughout 1978 and part of 1979, Grundmann leased the building, the ground, and the equipment the Goshutes used on their own reservation. It was only after the SBA objected to the lease that Grundmann abandoned it and sold the property to the Goshutes.

Today Goshute Enterprises' Salt Lake City office is located in the same building as K.D.J. Custom Steel.

The only tribal member with any management responsibility is Bob Steele, 60, who is paid about $21,000 a year to supervise tribe members who do the welding for the firm. Most of them, says Grundmann, earn about $12,000 a year.

Goshute Enterprises employs 10 of the tribe's 320 members. But Steele says his tribe is not resentful of Grundmann's management—it is simply a necessity. "Our people are not skilled in management. We don't have the education. That is the problem we are facing. That's why we hired Mr. Grundmann," said Steele.

Grundmann says he remains under the authority of the tribal council and the board of directors who gave him the contract. He says no one in the tribe is capable of taking over his job. He said he and the SBA have recently agreed on a training program to eventually bring Goshutes into management.

But Grundmann also is highly critical of the SBA program, which, he says fails to overcome the most basic needs of a new business—overcoming the lack of capital and acquiring basic managerial skills.

"I'm not sure the 8(a) program is worth a damn," says Grundmann.

FORMER PARTICIPANT DEFENDS 8(a)

The Post asked William Clement, the head of the 8(a) program, to provide the names of firms that had successfully completed the program. What follows is an interview with a spokesman for one of those firms:

"Without 8(a), I'd probably still have an apron on," says 56-year-old Royal Taylor, president of a former 8(a) firm and one of the program's most vigorous champions. "It's just a tremendous program, probably the best in the country."

Taylor says with the help of $6 million in 8(a) set-aside contracts, his Boston firm, Home Caterers Inc., grew from a three-employe operation eight years ago to a 100-employe firm doing $1 million in business a year.

Taylor's personal worth grew from $50,000 to $400,000 by the time he left the program in 1976.

"It opened my eyes. I learned how to forecast, project, the whole thing," says Taylor, the son of a garbage man. In short, says Taylor, the program taught him how to compete "in a business world run by white cats." ●

CONFLICT IN AFGHANISTAN

● Mr. CHURCH. Mr. President, 9 months after the Soviet invasion of Afghanistan, its military forces there are bogged down in a bloody struggle that shows no signs of ending. Although the conflict in Afghanistan is currently overshadowed by the Iraqi-Iranian war, the continued efforts of large-scale Soviet forces to subdue a proud Islamic people fighting for their religious freedom and national independence still poses a serious threat to the peace and stability of the entire region.

The Soviets, despite the presence of an 85,000 man force in Afghanistan, are experiencing great difficulty in maintaining a tenuous control of the major towns and highways against the lightly armed but determined insurgent forces. Popular revulsion against the puppet Marxist government installed by the Russians has robbed it of all claim to legitimacy. The Afghan army has suffered widespread desertions, and is virtually useless as a fighting force. Over a million Afghan refugees have sought asylum in neighboring Pakistan, creating a heavy burden on that country.

Just a year ago, I issued a statement warning the Soviets against sending military forces into Afghanistan. On September 26, 1979, I said:

> Soviet leaders face some serious decisions in the coming weeks and months. If they succumb to the creeping military logic that just a little more involvement will defeat the insurgents they risk becoming bogged down in a Soviet Vietnam that will cost them dearly in blood, money, and international prestige. . . . Moscow should know that the United States and the rest of the international community cannot stand by idly and ignore a Soviet "invasion" of Afghanistan, for whatever purpose.

The entire world would be better off today if the Soviet leaders had heeded that warning, for the resort to arms by one country heightens the inclination of others to settle their disputes by force, as the Iraqui-Iranian war indicates. The Soviet resort to crude military force has gravely weakened its international position, and led the nations of the free world to draw closer together to counter Soviet moves.

The Soviet Union has no prospect of subduing the insurgency in Afghanistan under present conditions. We should not underestimate Soviet military strength, but their inability to defeat the loosely-organized and poorly armed insurgents indicates the dangers of exaggerating their power. Frustration over this stalemate may tempt Soviet leaders to try to solve their problem by sending more troops into the country, but escalation will only compound their problems and increase the danger to peace in the entire region.

Soviet leaders should abandon their futile attempt to impose a puppet regime that is opposed by virtually all Afghans on their small neighbor, and accept the emergence of a genuinely nonalined government there.●

ENVIRONMENTALISM AGAINST NO GROWTH

● Mr. McCLURE. Mr. President, this week I attended a portion of the American Mining Convention where, as a keynote speaker, I addressed the issue of Federal regulations and their adverse impacts upon the mining industry. I am deeply concerned with the growth of laws and regulations which are initiating costly and often unnecessary obstacles to development, which is essential to this country's economic stability and national security. These growths are attributed to confusion over the past 10 years which has replaced the concept of a protected environment with the concept of no-growth.

The need to protect the environment is being recognized and undertaken by many industries today, but still, there is a dominating governmental and public policy to inhibit or kill development. The time has come to kill the no-growth philosophy and, instead, to provide incentives to development. This is essential to us all. We must stop working against advancement. We must remember the words of Thomas Jefferson who said:

> As new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.

It is possible and it is necessary.

I ask that the article "Cyprus Mines Gets Its Way By Preparing," by Lonnie Rosenwald and printed in the Wall Street Journal on September 22, 1980, be printed in the RECORD.

The article follows:

CYPRUS MINES GETS ITS WAY BY PREPARING

(By Lonnie Rosenwald)

CHALLIS, IDAHO.—Early next year, giant electric-powered excavators belonging to Cyprus Mines Corp. will begin clawing into a chunk of Idaho's Salmon River Mountains.

The pristine area is the habitat of deer, elk, a few hundred families and occasional city folk who come to hike through the River of No Return wilderness.

In the past, a large-scale mining project like the mile-wide, open-pit molybdenum mine that Cyprus Mines expects to start digging 30 miles southwest of Challis in January would have brought immediate howls from conservationists. Ten years ago, plans for another molybdenum mine near here were killed after critics warned it would spoil a scenic mountain and pollute the crystal-clear Salmon River. Molybdenum mines in Alaska and Colorado have been stalled indefinitely because of similar environmental fears.

But this time, the environmental lobby has been conspicuously silent. The reason seems to be the persuasive arguments of an expensive and meticulously researched public-relations campaign financed by Cyprus Mines, a unit of the Amoco Minerals division of Standard Oil Co. (Indiana).

"I have to laud Cyprus," says Jacquelynn Johnson, a member of the Idaho Environmental Council and an original opponent of the project. "I questioned them at length and I could find nothing they hadn't already thought of."

Cyprus' success so far in blunting opposition isn't any accident. Late last year, the company hired Jeff Thatcher, vice president of Denver Research Group Inc., a consulting firm, to shepherd its plan through Idaho. Mr. Thatcher isn't a newcomer to molybdenum skirmishes. He served on the Gunnison, Colo., city council when local residents effectively blocked a proposed mine.

After being retained by Cyprus, Mr. Thatcher set up offices in Boise, the state capital. He investigated the strengths and biases of Idaho's environmental groups. He met with state officials to identify potential obstacles. There were plenty. The mine requires 17 separate permits from the U.S. Forest Service and other agencies. Some of the approvals are still pending.

NOT MUCH ECONOMIC ACTIVITY

The biggest test of public opinion came at a public hearing in Boise. Cyprus Mines spent more than $10,000 preparing for it, Mr. Thatcher says. A topographical model of the mine site was built, and 20 Cyprus Mines employes were assembled to answer questions.

Many of the town's 1,000 residents were already in the company's corner. There hasn't been much economic activity in Challis since the silver mines played out 30 years ago, and some think stagnation was inevitable. "If it weren't for the influx of mining, we probably wouldn't have our grandchildren living here," says pharmacist Clyde Rigby.

Cyprus picked up a lot of support when it handed out a salary schedule showing that 80 percent of the mine workers would earn at least $18,000 annually, more than twice what many Challis employers pay.

STRAINS ON COMMUNITY

Instant prosperity does bring problems. With some 1,500 new residents, Challis' population will more than double, putting heavy demands on water and sewage systems and public schools. Challis doesn't have a police force of its own. The telephone system is already so taxed that local calls are limited to three minutes.

Cyprus Mines imported Nancy and Robert Sheldon, California-based consultants, to advise the town on how to apply for federal grants and how to float bonds to pay for local improvements.

Cyprus Mines' skill in heading off criticism from conservationists is all the more surprising because molybdenum mining isn't tidy. The mineral occurs in such small amounts that good-sized mountains often are chewed up to find enough ore to justify the investment. Molybdenum is used in manufacturing pipeline and stainless steel alloys, jet engine parts and other products.

WORRY ABOUT WATER

Pat Ford, director of the Idaho Conservation League, says there's still concern that the drainage from a 600-foot-high pile of tailings might pollute streams feeding the Salmon River.

Mr. Ford says Cyprus Mines consultants introduced themselves more than a year ago and have been candid in answering questions. "There isn't much doubt that the mine is going to happen, but that doesn't necessarily mean everything is hunky-dory as far as its impact. It just means that Cyprus has done a good job of planning and execution up to this point and that Idaho conservationists were busy with other things."

Mr. Ford says the mine is "essentially, a fait accompli."●

CHIEF CRAZY HORSE

● Mr. LEVIN. Mr. President, I believe that every Member of Congress has a collection of momentos. Each of us has, in the normal course of activity, received awards and plaques and gifts from various groups we have spoken to or worked with. During my years in public life, I must confess that I have amassed a collection of this kind as well. But one of the most prized objects in that collection is a simple rock that I acquired at the Crazy Horse Museum in South Dakota. In appearance it looks much like any rock that anyone could pick up along a road; but it is not a normal rock. It is a rock that was part of over 6 million tons of rock blasted from Crazy Horse Mountain by a most unusual man engaged in a most unusual project. That man is Korczak Ziolkowski who, for the past 33 years, has been carving a figure of Chief Crazy Horse in the Black Hills of South Dakota.

Working without Federal or State support, assisted primarily by members of his family, when assisted at all, Mr. Ziolkowski has blasted away at a mountain of stone and rock in his effort to create a 641-foot tall tribute to Chief Crazy Horse and the culture he represents. When completed—and it will be completed—this monument will dwarf other monumental efforts designed to commemorate events and figures of the past. It will be 350 feet taller than Mount Rushmore, 150 feet taller than the great pyramid of Gizeh, and almost 100 feet taller than the Washington Monument. It will be, then, a massive tribute to a massive culture and a massive man.

A few times a year I receive updates which detail the progress which is being made on this project. And each time I receive them, my thoughts go back to my own visit to the site. I find myself thinking, as I did then, about what motivates a man to spend his life working on a project of this kind; what makes a man accept a challenge that he knows he may not live to see completed; what makes a man pass from youth to old age in a lonely battle against a mountain which refuses to be easily changed from a tribute to nature to a tribute to a people.

I do not know that I have any answesr to those questions; I do not know that there are any real answers to them. But I know that those questions give this project the significance that it deserves. I know that they make it impossible to view the actions of this sculptor as the actions of a single man driven by an ideal. They make it possible to see this project as a tribute to all men and women—red and white and brown and yellow who see life as a challenge to be met.

The inspiration for this project came to Ziolkowski from a message he received from Chief Henry Standing Bear in 1939. The chief told Ziolkowski that "my fellow chiefs and I would like the white man to know that the red man had great heroes also." Having worked on Mount Rushmore, Ziolkowski knew the kind of effort that he was being invited to devote his life to and he wanted to be sure his time would be justified. So he investigated the life of Crazy Horse and his people. And he concluded that more than his time would be justified—his life would be justified as well. If through his efforts he could raise a monument worthy of the man and the people and, if through that monument he could force others to think again of the people that had been virtually destroyed, then his efforts would be well rewarded. And so he began.

The work was not easy then, and it is not easy now. His vision has expanded and grown to include more than the mountain; he now envisions his project as a centerpiece of a concentrated effort to commemorate and study the culture of the Indian people, in this land we now call ours. Included in that center will be a university and a medical center.

But despite the harsh nature of the effort, Ziolkowski has kept at it and has involved his family in it. He and his wife and family have made the completion of this project their life. And as such, the project will stand as a tribute to them as well as to Crazy Horse and his people. It will remind us all of the "epic story of a race of people the world should not forget" and it will remind us, as well, of what Thoreau told us so many years ago, "one man standing with the truth constitutes a majority." ●

ONLY 5 DAYS LEFT

● Mr. CANNON. Mr. President, I am pleased to inform my distinguished colleagues that there are only 5 days left before air fares are reduced by 3 percent. For example, this means that Senator MATSUNAGA can save up to $40 on his next trip to Honolulu. In addition, all of our constituents will save $660 million annually.●

THE OGALLALA AQUIFER: RUNNING DRY

● Mr. DOMENICI. Mr. President, one of the most vexing—and one of the most important—problems confronting the wise management of our Nation's water resources is the depletion of the Ogallala Aquifer. Portions of this aquifer stretch across at least six States from Nebraska to New Mexico, and provide water for crops that some have estimated have a value of $2.8 billion a year. Aquifer water grows a significant percentage of the Nation's wheat crop.

As a result of legislation I sponsored, the Economic Development Administration, in concert with the Army Corps of Engineers, is presently undertaking a broad and careful study of the depletion of the Ogallala. seeking to develop solutions that would reverse this depletion.

The results of that study will carry great significance for this vast section of the Nation.

Mr. President, the Wall Street Journal recently carried an interesting article discussing the Ogallala problem. I ask that the article be printed in the RECORD.

The article follows:

Huge Area in Midwest Relying on Irrigation Is Depleting Its Water

(By Steve Frazier and Brenton R. Schlender)

EARTH, TEXAS.—K. B. Parish grabs a stunted ear of corn from the thick forest of stalks and peels back the husk. His fears are confirmed. The uneven kernels inside show that his high-priced irrigation system, stymied by the drought and a dwindling underground water supply, has met its match.

"Our pumps are fixin' to fly all to pieces," Mr. Parish frets. Farmers' nerves are strained, too, as record heat and drought pound home the fact that much of the agriculture on the high plains relies on a shrinking water supply that grows ever more expensive to tap. Mr. Parish's corn harvest will drop 20 percent this year while his costs jump 40 percent. "We might lose even more money than the dryland boys this year," he says.

Similar problems afflict thousands of farmers in a California-sized area stretching from the Texas Panhandle to South Dakota. What explorers once called the Great American Desert has, over the years, been transformed into bountiful farmland by drawing on a huge underground formation saturated with water. But the geological formation, called the Ogallala Aquifer, is being depleted so rapidly that some farmers are being forced to cut their production. Experts warn that the effects of a declining water supply may already be rippling through the local economy as the region begins to revert to harsher, dryland farming.

NATIONALLY IMPORTANT

Moreover, the Ogallala Aquifer's importance extends far beyond the interests of the region's 1.8 million people. Nearly 12 percent of the nation's cotton, corn, grain sorghum and wheat, valued as high as $2.8 billion in recent years, are watered by the Ogallala (pronounced OH-guh-LAHL-uh). Almost half the nation's beef cattle are fattened on high-plains feedlots, which were lured to the high-plains (roughly the area over the aquifer as shown on the map) by the abundant feed.

"To the consumer, a declining supply of water on the high plains would mean declining food stocks and consequently higher food prices," says Herbert Grubb, an agricultural economist and planning director for the Texas Department of Water Resources.

Water experts say Ogallala water is being "mined" as surely as any depletable mineral. In fact, some Texas farmers are allowed to reduce their federal income taxes through a depletion allowance for the water they use.

The water table has been dropping steadily because even in normal years there is far too little rain on the high plains to replenish the aquifer. Moreover, the sand-and-gravel formation apparently doesn't take on new water readily. As a result, the aquifer in some areas is being drawn down 15 to 18 times faster than nature is replacing it. So the only alternative to the certain long-term demise of most irrigation on the high plains would be a multibillion-dollar program to import water through canals and pipelines from hundreds of miles away—an idea favored by those who stress the region's importance to the entire nation.

LOSS OF PRODUCTION

"When you go to dryland farming, the economy forgoes that added production from irrigation—which can disrupt an economy geared to higher production," says Duncan Ellison, executive director of Water Inc., a Lubbock, Texas, organization that advocates importing water. When production drops, "it will affect the guy in New Jersey just as much as the farmer back here," Mr. Ellison contends.

But importation plans are so costly and complicated that few expect anything but what Mr. Grubb calls "a phased drying out" of the high plains. "Nobody is saying 'if' the water runs out; people are saying 'when' the water runs out," notes Glen Kirk, the Interior Department's water-resources representative in Kansas.

Determining how long the water will last is complicated, too, and the answer can vary from county to county—or even from well to well on a single farm. In a few isolated areas, irrigation wells have already gone dry or lost so much efficiency that farmers have reverted to dryland farming. Other farmers measure their remaining water in terms of a few years.

In the Texas high plains, irrigated acreage is expected to drop 45 percent by the year 2000 even if conservation cuts water use 20 percent. By then, irrigation in western Kansas will have all but dried up, an Interior Department study estimates. Nebraska officials worry about water mainly in a few southwestern counties, however; they even predict that irrigation will boom in some undeveloped areas where the Ogallala formation is especially thick.

Even where water is abundant, many farmers are switching to dryland farming or to crops requiring only limited irrigation because fuel bills for pumping water are soaring as the water table sinks. This year's drought, along with the surge in fuel prices, has tightened the cost squeeze. "We'll run out of money before we run out of water," says Ronald Schilling, who grows cotton near Slaton, Texas. To cut costs, farmers are changing from high-yielding but thirsty crops such as corn to hardier ones such as grain sorghum, wheat or cotton. They thereby hope to make a profit even though gross revenues drop.

But by farming less intensively, farmers send fewer dollars multiplying through the economy. An average acre of irrigated corn brings in about $375 of revenue, while switching to irrigated wheat would cut the revenue to about $200. If the farmer reverts to dryland farming—that is, if he halts irrigation altogether—he may have to let his land lie fallow every other year to soak up natural moisture, and the acre of dryland wheat would average just $50 a year in revenue.

The switch to dryland farming also strongly affects many companies and service businesses involved in irrigation. Farmers merely reducing their intensive watering cut back their needs for fertilizer, labor, implements and maintenance. In Kansas alone, where the streets of some small towns are lined with irrigation-equipment suppliers, the state estimates that irrigation pumps into the economy $3 billion annually, including the added crop revenue.

All the related business benefits the region's companies even if weather or prices go bad on the farmers. "Before, the people on Main Street lived and died with the farmers," says Keith Farrar, a Kansas legislator who farms near Hugoton, in the state's southwestern corner. "What we've done with irrigation is to stabilize Main Street all over western Kansas."

Sam Forrer, a banker in nearby Ulysses, Kans., agrees with studies concluding that his area would lose jobs and population even if the farmers themselves switch to dryland farming profitably. "When we lose our water, either because it is gone or because we can't afford to get to it, our economy will dramatically shift," he says. "The people who are left behind are going to feel the ups and downs each season a lot more quickly and a lot more severely.

BASIC POTENTIAL?

But many think that the high plains' lucrative fling with irrigation couldn't last. "This part of the country lived with dryland farming for a good many years, and we may have to go back to that," says William Turrentine, a farmer in Garden City, Kans. "Maybe we overdeveloped the area beyond its real potential. Maybe we can't maintain this standard of living."

However, Mr. Turrentine, like most other irrigators, is trying to prolong the life of the aquifer and save fuel costs through a variety of new water-conservation techniques. Near Lubbock, James Mitchell, one of whose friends says his cotton farm has "more things going than anywhere but the agricultural experiment station," is willing to try anything to deal with declines in the amount of water that he can pump from the Ogallala. He has been forced to pool the meager production of 12 wells to get enough water to operate a single sprinkler system. And he stretches his supply with special sprinkler nozzles, sophisticated soil-moisture gauges and even plowing techniques that form a series of small dams to trap water in the furrows where it falls.

"We've learned we can stretch that water out," says Clifford Hilbers, another cotton farmer living nearby. "Ten or 15 years ago, we didn't dream we could do what we're doing now. The only way we could be more efficient with our land is to turn the ground over and farm the other side."

NEW ACREAGE

While some irrigators are trying to conserve what water they have, many others are just as intent on opening new acreage to irrigation before the Ogallala goes dry. To curb each farmer's urge to drain his portion of the prairie, regulatory agencies are controlling the amount of water that each can pump. But this policy forces regulators to make decisions that alienate those who want to expand irrigation, and yet it fails to solve the overall problem.

"It's a shame we didn't have water management back in the year 1950," says Gerald Wishman, a Scott City, Kans., farmer who sits on a local ground-water management board formed just a few years ago. "We could have put controls on, and, instead of lasting 40 years, the Ogallala would have lasted 80."

Even back in the 1950s, however, some Kansas farmers did start worrying about water supplies. Despite early warnings, though, irrigation exploded unchecked in the mid-1960s when development of new sprinkler systems made it possible to turn rolling sand hills previously suitable only for sagebrush and yucca plants into prolific cornfields. Much of the new farmland could never produce drylands crops. "If you go along and cut a farmer's water off," Mr. Wishman says, "you're telling him to go broke."

LAND VALUES INVOLVED

Tough decisions about water use ultimately affect land values, because irrigated farmland can fetch up to twice the price of land where irrigation is either impossible or forbidden. "The lines are drawn between the haves and the have-nots," says Mike Dealy, a hydrologist with the ground-water management district in Garden City, Kans.

Even with strict regulations and conservation efforts, however, "we're just stretching out time until the end result," Mr. Dealy says. "When the first well went down, that's when the water started running out."

The search for an exit from what seems a dead-end alley is stirring dreams of bringing in water from as far away as Kansas or even Canada. Various importation plans will be considered in a five-year study by the U.S. Economic Development Administration. Supporters of importation hope that the study, due to be completed in 1982, will find the Ogallala area so vital economically that federal help is justified.

Federal help would probably be needed, experts say, because the region's economy would be hard-pressed to pay for the capital costs and the maintenance and operation of the system. Only sketchy cost estimates have been made. In 1973, the Army Corps of Engineers estimated that bringing water from the lower Mississippi to the panhandle and distributing it would cost $20 billion. A more recent study concludes that just moving water from one part of Kansas to another would cost about $2.3 billion, require $300 million a year to operate by the year 2020—and still leave water shortages at both ends of the project after 12 years.

Moreover, moving such a vital resource as water from one area to another raises a thicket of legal and political questions, particularly as high-plains water shortages collide with a push by other arid Western states to find water to develop energy resources. "The area's water problems may be horrendous, but the political problems are stupendous," says John W. Weeks, an Interior Department geologist participating in the high-plains study.

Consequently, most people who depend on Ogallala water aren't counting on a rescue. "Importing water is science fiction as far as I'm concerned," says Mr. Turrentine of Garden City. "This area is just going to have to learn to live with less water."

Yet those who have resigned themselves to an end to plentiful irrigation water don't think the high plains will go back to the buffalo.

"We might be better off to let nature take its course and adapt to whatever nature brings," says Mr. Forrer, the Ulysses banker. "Leave us to our own devices out here. Some of us may go by the wayside—one of them may be me—but the ones who will be left will be strong and productive." ●

FREEDOM SUCCESSFULLY DEFENDS AMERICA'S CUP

● Mr. PELL. Mr. President, I would like to take a moment to extend my most sincere congratulations to the New York Yacht Club, to Dennis Conner and his entire crew and organization for their successful defense of the America's Cup aboard the yacht, *Freedom*.

As a resident of Newport, I have had the privilege of watching the 12-meter yachts in action, and I am proud that Newport was selected as the permanent home by the New York Yacht Club, shortly after the United States first won the cup over a century ago.

Later in the 1800's, a great Rhode Islander, Nathanial Herreshoff, was instrumental in America's Cup history, designing and skippering the early defenders. Today, his grandson Halsey is deserving of congratulations for his role as the tactician of the *Freedom*.

It was only through months of dedication and hard practice that *Freedom* was able to outsail its worthy competitors, first within its own syndicate and then within the American yachting community. Certainly all the competitors in this great event deserve kudos for their sportsmanlike conduct and their herculean efforts which continue to elevate racing to a true art.

All Rhode Islanders are intensely proud that our State and its unexcelled sailing waters are the home of the America's Cup, and we join all America tonight in congratulating *Freedom* on her glorious defense of the cup.●

TITLE II OF S. 1641: SOME COMMENTS FROM THE PUBLIC

● Mr. DOMENICI. Mr. President, title II of S. 1641, now on the calendar, creates a new and innovative approach to improve our national water resources development effort. It brings the States into the program in a meaningful way, and it, for the first time, requires the assessment and development of priorities, in lieu of our current ad hoc system.

This approach has won wide comment in recent months, and I believe it is important to share just a few of these observations with my colleagues.

For example, the National Rural Electric Cooperative Association recently wrote to Chairman Moynihan, of the Subcommittee on Water Resources, with its valuation of title II. Robert D. Partridge, executive vice president and general manager of the NRECA, made this observation:

> NRECA also have reviewed Title II of the legislation and we have listened with great interest to the briefing conducted by the Environment and Public Works Committee staff. We recognize that Title II of the bill presents a new approach to the traditional methods of authorizing water projects. Although we have no specific member resolution in support of such a plan, we believe it is a new and innovative approach that is worthy of every consideration.

Since that letter was written, a number of rural electric cooperative associations have endorsed title II.

The New York Times has editorially endorsed title II. While the editorial may inaccurately leave the impression that title II carries an anti-Western bias, any examination of the figures will show that to be false. What is important is that S. 1641 broadens the constituency for the water resources program, something it desperately needs.

The State of California has provided some detailed thoughts on title II, thoughts that I find most helpful to an understanding of the issue.

As it appears that this issue will not be resolved during this Congress, I hope that my colleagues, and others who are interested in water project development, will examine title II with great care. It is a proposal that offers the opportunity to move water project development forward, an action that we must accomplish during the 97th Congress. That is an action to which I am committed.

In addition, the Everett, Wash., Herald carried an editorial earlier this year entitled "Water Projects and the Senate." The editorial is just one more example of the fact that the present system is not working, as its ad hoc character provides absolutely no assurance that we are spending the taxpayers' dollars in a wise manner.

Mr. President, I ask that various attached items be printed at this point in the Record.

The material follows:

State of California,
Department of Water Resources,
Sacramento, Calif., June 27, 1980.

Hon. Pete V. Domenici,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Domenici: You have requested our comments on Title II of S. 1641 (Gravel) which provides for a block allocation demonstration program for the funding of water projects. Under the proposed program, $1 billion would be authorized each year for five years for federal construction of water projects to be selected by the states. Funds would be allocated among the states half on the basis of area and half on the basis of population. Additional funds would be furnished for studies of particular state-selected water problems.

The Department of Water Resources has consistently supported legislation which would provide the states with a meaningful role in the planning, construction, and operation of future water projects. Of particular importance in this regard are: (1) effective guarantees for early involvement of the states in the planning process; (2) requirements that projects be constructed and operated in conformity with state water rights law; (3) provisions for dam safety agencies in states with that capability to certify the safety of dam and reservoir projects; and (4) requirements for firm contracts for use of up to 75 percent of water and power supplies before commencement of project construction. You may recall that we expressed these views in testimony in support of S. 1241 (Domenici-Moynihan) before the Water Resources Subcommittee of the Senate Environment and Public Works Committee on July 24, 1979.

The block allocation demonstration program contained in Title II appears to be an innovative first step toward significant state involvement in water project planning, construction, and operation, despite the fact that it does not alter current cost-sharing formulas. However, it is our position that additional water project funding on this scale should be undertaken only if the traditional line-item method for authorizing and funding federal water projects is correspondingly reduced.

In addition, we urge that the role of the Water Resources Council (WRC) in the proposed demonstration program be expanded to include independent review of individual project studies prepared by federal water resources agencies at state request. As you are aware, the independent review function continues to be an issue of primary importance in connection with the several legislative proposals now before Congress to reauthorize and restructure the WRC. The State of California has consistently taken the position that an independent review function to insure that individual project studies conform to WRC Principles and Standards and other laws and requirements is essential to any effective overhaul of the federal water project authorization process. We have also continued to support efforts to improve and streamline the Principles and Standards and to strengthen State-Federal planning coordination.

Under Title II, as presently worded, the WRC would act as a conduit for state study requests to federal agencies. However, its review authority appears limited to concurring with or dissenting from federal agency recommendations against implementation or particular projects. There is no provision in the bill for the WRC to review proposed projects for compliance with WRC Principles and Standards and other laws and requirements related to the planning process. We strongly suggest that such a provision be added.

Thank you for requesting our views on this important topic. We continue to follow S. 1641 with great interest.

Sincerely,

RONALD B. ROBIE,
Director.

BLOOMED DESERTS, CRUMBLING AQUEDUCTS

Money for water projects has been **dammed** in the United States Senate. Although Congress has over the years approved projects in the West and South that could eventually cost Washington $30 billion, opposition to the frequent waste on waterworks has put a stop to appropriations. As a result, some sound projects have been left as high and dry as the unsound ones.

The Domenici-Moynihan bill, already reported out of the Committee on Environment and Public Works, would make up for the water legislation for which money is no longer available. It proposes a guaranteed $1 billion a year for such projects and, at least for five years, it would help many more states than are aided by today's procedures. The bill deserves support.

The bill would distribute waterworks funds on the basis of state population and area (Alaska, large but underpopulated, would follow its own formula). Thus Federal grants would not go, as the law now requires, mainly to states where projects serve more than one purpose—water supply, irrigation, transportation, flood control, recreation. The old multi-use formulas helped build the West, but they have lately kept Eastern states from getting the Federal help they need to replace or augment reservoirs and aqueducts.

The Domenici-Moynihan bill would let states set their own priorities for Federal funding, although Congress would still have to approve disputed proposals affecting more than one state. And a revamped Water Resources Council would be given enough money to study the feasibility of each proposed project.

The cost of maintaining aging dams and crumbling aqueducts is making the Northeast increasingly water-conscious, a fact highlighted by the election of Senator Moynihan as chairman of the water resources subcommittee of the Public Works Committee. Water projects once channeled wealth from the relatively rich, developed Northeastern states to the relatively poor South and arid West. The nation's patterns of economic health have changed over the years, yet Southern and Western senators want to see water money flowing in the same direction, if at all. But those old channels have became famously wasteful.

WATER PROJECTS AND THE SENATE

The Senate, which has yet to consider a water projects bill this year, should heed President Carter's warning that he will exercise the veto if Congress sends him a water resources measure similar to the $4.2 billion package that the House passed in February.

There are three straightforward guidelines that the Senate Committee on Environment and Public Works should scrupulously follow to write an acceptable water projects bill.

First the committee must tightly adhere to existing federal water policy.

Second the committee must comply with both the letter and the spirit of federal environmental policy.

Third the committee must cancel marginal projects to help achieve the budget-cutting goals of the president's anti-inflation program. Marginal projects are those which would not exhibit benefits exceeding costs if they were evaluated using the most recent economic and environmental criteria, for example the latest federal interest rate.

The committee should realize that the House-passed bill approves projects that blatantly violate our proposed guidelines and that would cost at least $2.5 billion in future outlays not adjusted for inflation. That amount, the committee should note, also is the estimated cost of nearly 100 projects in the House bill that are opposed by the Army Corps of Engineers. That amount, moreover, doesn't include the countless billions of dollars in spending that would result from the new federal responsibilities created by the legislation's ad-hoc departures from water policy and from environmental policy.

Here are some examples of the kind of pork barrel abuse that Congress must stop, abuse, we must add, that will entail an estimated $200 million to $300 million in spending in 1981. That estimate, by the way, doesn't include $209 million in 1981 spending for the nation's biggest water project which is also its biggest boondoggle, the Tennessee-Tombigbee Waterway to link the Ohio River with the Gulf of Mexico.

To begin with, there's the dangerous precedent of approving a project, no matter how worthwhile it appears, before the Corps completes all required studies and plans. That's exactly what the House did in the case of the second generating station for the McNary dam on the Columbia River in Washington and Oregon, a $600 million project.

Then there's the wasteful precedent of approving projects that fail to meet well-established economic or environmental standards. The House approved the $39 million Burlington dam on the Souris River in North Dakota, despite the fact that the latest federal interest rate pushes the project's cost higher than its benefits. Also, the House approved the $49 million Gulfport Harbor improvement in Mississippi by waiving the benefit-cost calculation on the disposal of dredged material, a calculation that would have killed the project.

Another sinning precedent is the departure from federal water policy to permit the construction of certain projects of purely local interest. The House legislation commits many of these costly sins and, in the process, covertly expands the federal financial role to support areas of water resources development that traditionally have been supported by local and state governments. The bill, for instance, contains a $30 million flood control project for Wenatchee, Washington, with the community's cost-sharing cut to one-fiftieth of the normal down payment. There's also an $84 million water supply system in Southwest Ohio with the local down payment at an incredible one-one thousandth of the usual commitment.

There are, of course, dozens of projects in the House bill that conform to our guidelines. We found about $1.4 billion worth of them which the Senate committee could put in its water projects bill and which would involve an estimated outlay of $120 million to $160 million in 1981.

That's a bill we're sure President Carter would sign. It's also a bill that for the first time in 30 years would be enough to give pork barrel a good name.●

ORDER FOR RECOGNITION OF SENATOR CHAFEE ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on tomorrow, Mr. CHAFEE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Are there any other orders, Mr. President, for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

ORDER TO RESUME CONSIDERATION OF THE STATE-JUSTICE APPROPRIATION BILL AND FOR THE RECOGNITION OF SENATOR STEVENSON ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following Mr. CHAFEE, the Senate resume consideration of the State-Justice appropriation bill, and that Mr. STEVENSON at that time be recognized for not to exceed 15 minutes, prior to the running of the 10 minutes which would otherwise be allotted on the bill, preliminarily to the vote that will occur in respect to the amendment by Mr. PRESSLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LIMIT TIME OF THE TWO LEADERS TO 5 MINUTES ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the time of the two leaders be limited to 5 minutes, with Mr. BAKER in control of the 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9:20 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow morning, it convene at 9:20 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on page 4 under Department of State; the nominations on page 5 under Department of State, U.S. Advisory Commission on Public Diplomacy, Inter-American Foundation; all the nominations on page 6; the nominations on page 7 under UNESCO General Conference Representatives, the nominations of Mr. JACOB K. JAVITS and Mr. PAUL E. TSONGAS under General Assembly of the United Nations, and the nomination of Joan Spero; and the nominations on page 9 placed on the Secretary's desk in the Diplomatic and Foreign Service.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, the nominations identified by the majority leader are cleared on our executive calendar and we have no objection to their consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the aforementioned nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. All nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Jerrold Martin North, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Morton I. Abramowitz, of Massachusetts, to be Career Minister.

Richard J. Bloomfield, of Connecticut, to be Career Minister.

Paul H. Boeker, of Ohio, to be Career Minister.

Walter L. Cutler, of Virginia, to be Career Minister.

William H. Gleysteen, Jr., of Pennsylvania, to be Career Minister.

Roger Kirk, of the District of Columbia, to be Career Minister.

Edward E. Masters, of Ohio, to be Career Minister.

Robert B. Oakley, of Louisiana, to be Career Minister.

Robert M. Sayre, of Virginia, to be Career Minister.

Talcott W. Seelye, of Maryland, to be Career Minister.

Nicholas A. Veliotes, of California, to be Career Minister.

Richard D. Vine, of California, to be Career Minister.

John W. Shirley, of Illinois, to be Career Minister for Information.

William Bodde, Jr., of Maryland, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Kiribati.

Charles F. Meissner, of Maryland, to be Ambassador.

Jack Robert Binns, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

Fernando E. Rondon, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Leonard Silverstein, of Maryland, to be a member of the U.S. Advisory Commission on Public Diplomacy.

INTER-AMERICAN FOUNDATION

Guy Feliz Erb, of California, to be a member of the Board of Directors of the Inter-American Foundation.

Doris B. Holleb, of Illinois, to be a member of the Board of Directors of the Inter-American Foundation.

Paula Stern, of the District of Columbia, to be a member of the Board of Directors of the Inter-American Foundation.

Luis Guerrero Nogales, of California, to be a member of the Board of Directors of the Inter-American Foundation.

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES

Gerald C. Smith, of the District of Columbia, to be the representative of the United States of America to the 24th session of the General Conference of the International Atomic Energy Agency.

Joseph Mallam Hendrie, of New York, to be the alternate representative of the United States of America to the 24th session of the General Conference of the International Atomic Energy Agency.

Roger Kirk, of the District of Columbia, to be the alternate representative of the United States of America to the 24th session of the General Conference of the International Atomic Energy Agency.

UNESCO GENERAL CONFERENCE REPRESENTATIVES

Robin Duke, of New York, to be a representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Barbara W. Newell, of Massachusetts, to be a representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Elie Abel, of California, to be a representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

John E. Fobes, of North Carolina, to be a representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

John Hope Franklin, of Illinois, to be a representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Sandra Lopez Bird, of New York, to be an alternative representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Joseph D. Duffey, of the District of Columbia, to be an alternative representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Kathleen Nolan, of California, to be an alternative representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Beatrice Ranis, of Hawaii, to be an alternative representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Roger Revelle, of California, to be an alternative representative of the United States of America to the 21st session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

GENERAL ASSEMBLY OF THE UNITED NATIONS

Jacob K. Javits, U.S. Senator from the State of New York, to be a representative of the United States of America to the 35th session of the General Assembly of the United Nations.

Paul E. Tsongas, U.S. Senator from the State of Massachusetts, to be a representative of the United States of America to the 35th session of the General Assembly of the United Nations.

Joan Edelman Spero, of New York, to be an alternate representative of the United States of America to the 35th session of the General Assembly of the United Nations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

Foreign Service nominations beginning Alfred V. Boerner, Jr., to be a Foreign Service information officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Arthur N. Buck, to be a Foreign Service information officer of class 7, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on July 2, 1980.

Foreign Service nominations beginning Melville E. Blake, Jr., to be a Foreign Service officer of class 1, and ending Henry C. Zimerowski, to be a Foreign Service officer of class 5, which nominations were received by the Senate on September 12, 1980, and appeared in the Congressional Record of September 15, 1980.

Diplomatic and Foreign Service nominations beginning Anthony William Sariti, to be a Foreign Service information officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Louis A. McCall, to be a Foreign Service officer of class 5, which nominations were received by the Senate on September 12, 1980, and appeared in the Congressional Record on September 15, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

RECESS UNTIL 9:20 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:20 tomorrow morning.

The motion was agreed to; and at 8:15 p.m. the Senate recessed until tomorrow, Friday, September 26, 1980, at 9:20 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1980:

DEPARTMENT OF STATE

Jack F. Matlock, Jr., of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

FOREIGN CLAIMS SETTLEMENT COMMISSION

Ralph W. Emerson, of the District of Columbia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1981 (new position, Public Law 96-209).

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be Members of the Board of Directors of the Overseas Private Investment Corporation for the terms indicated:

James M. Friedman, of Ohio, for a term expiring December 17, 1982 (reappointment).

Edward L. Marcus, of Connecticut, for a term of 3 years expiring December 17, 1983 (reappointment).

National Council on the Arts

Arthur I. Jacobs, of Florida, to be a Member of the National Council on the Arts for a term expiring September 3, 1986, vice Gunther Schuller, term expired.

Uniformed Services University of the Health Sciences

Doris A. Evans, of Ohio, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1983, vice Philip O'Bryan Montgomery, Jr., term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1980:

Department of State

Jerrold Martin North, of Illinois, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotenitary of the United States of America to the Republic of Djibouti.

The following-named Foreign Service officers for promotion from class 1 to the class of Career Minister:

Morton I. Abramowitz, of Massachusetts.
Richard J. Bloomfield, of Connecticut.
Paul H. Boeker, of Ohio.
Walter L. Cutler, of Virginia.
William H. Gleysteen, Jr., of Pennsylvania.
Roger Kirk, of the District of Columbia.
Edward E. Masters, of Ohio.
Robert B. Oakley, of Louisiana.
Robert M. Sayre, of Virginia.
Talcott W. Seelye, of Maryland.
Nicholas A. Veliotes, of California.
Richard D. Vine, of California.

John W. Shirley, of Illinois, a Foreign Service information officer of class 1, for promotion to the class of Career Minister for Information.

William Bodde, Jr., of Maryland, a Foreign Service officer of class 3, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Kiribati.

Charles F. Meissner, of Maryland, for the rank of Ambassador during his tenure of service as United States Special Negotiator for Economic Matters.

Jack Roberts Binns, of Washington, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

Fernando E. Rondon, of Virginia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

U.S. Advisory Commission on Public Diplomacy

Leonard Silverstein, of Maryland, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1983.

Inter-American Foundation

The following-named persons to be Members of the Board of Directors of the Inter-American Foundation for the terms indicated:

For the remainder of the term expiring September 20, 1982: Guy Feliz Erb, of California.

For the term expiring October 6, 1984: Doris B. Holleb, of Illinois.

For the term expiring September 20, 1986: Paula Stern, of the District of Columbia.

For the term expiring October 6, 1986: Luis Guerrero Nogales, of California.

International Atomic Energy Agency

The following-named persons to be the representative and an alternate representative of the United States of America to the Twenty-fourth Session of the General Conference of the International Atomic Energy Agency:

Representative: Gerard C. Smith, of the District of Columbia.

Alternate Representative: Joseph Mallam Hendrie, of New York.

Roger Kirk, of the District of Columbia, to be an alternate representative of the United States of America to the Twenty-fourth Session of the General Conference of the International Atomic Energy Agency.

UNESCO General Conference Representatives

The following-named persons to be representatives of the United States of America to the Twenty-first Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Robin Duke, of New York.
Barbara W. Newell, of Massachusetts.
Elie Abel, of California.
John E. Fobes, of North Carolina.
John Hope Franklin, of Illinois.

The following-named persons to be alternate representatives of the United States of America to the Twenty-first Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Sandra Lopez Bird, of New York.
Joseph D. Duffey, of the District of Columbia.
Kathleen Nolan, of California.
Beatrice Ranis, of Hawaii.
Roger Revelle, of California.

General Assembly of the United Nations

The following-named persons to be representatives of the United States of America to the Thirty-fifth Session of the General Assembly of the United Nations:

Jacob K. Javits, United States Senator from the State of New York.

Paul E. Tsongas, United States Senator from the State of Massachusetts.

The following-named person to be an Alternate Representative of the United States of America to the Thirty-fifth Session of the General Assembly of the United Nations:

Joan Edelman Spero, of New York.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

Department of State

Foreign Service nominations beginning Alfred V. Boerner, Jr., to be a Foreign Service information officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Arthur N. Buck, to be a Foreign Service information officer of class 7, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on July 2, 1980.

Foreign Service nominations beginning Melville E. Blake, Jr., to be a Foreign Service officer of class 1, and ending Henry C. Zimerowski, to be Foreign Service officer of class 5, which nominations were received by the Senate on September 12, 1980, and appeared in the Congressional Record on September 15, 1980.

Diplomatic and Foreign Service nominations beginning Anthony William Sariti, to be a Foreign Service information officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Louis A. McCall, to be a Foreign Service officer of class 5, which nominations were received by the Senate on September 12, 1980, and appeared in the Congressional Record on September 15, 1980.

HOUSE OF REPRESENTATIVES—*Thursday, September 25, 1980*

The House met at 10 a.m.

Rev. Dr. Frank L. Shaffer, Jr., Wesley United Methodist Church, Morgantown, W. Va., offered the following prayer:

O Thou hidden-yet-seen, Thou forever-yet-now, Thou everywhere-yet-here, let Thy spirit brood upon this Chamber, that Thy dreams for all humankind may find embodiment in these men and women. Teach us, that though our years are as a tale that is told—our history is significant in Thy ordering of a new creation. Therefore each word of ours, each act, makes eternity stand here, among our people and our governors, beside the needs of this moment and the expectations of tomorrow.

Be not silent witness to the day's business, O God, but seen in our minds, our flesh. Through whatever name by which You are called, but especially through the name of the Prince of Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1177) entitled:

An act to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7590) entitled:

An act making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House of Representatives to the amendments of the Senate numbered 7, 12, 22, 39, 42, 43, 52, and 53 to the above-entitled bill.

The message also announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 6331. An act to amend the act of July 31, 1946, as amended, relating to the U.S. Capitol Grounds, and for other purposes; and

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1464. An act to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; and

S. 2730. An act to amend the Federal Railroad Safety Act of 1970 and other rail safety acts to extend authorization for appropriations, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the Senate of the following title:

H.R. 7511. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 7631. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes; and

H.R. 8081. An act to establish the U.S. Holocaust Memorial Council.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7631) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes," disagreed to by the House; requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon; and appoints Mr. Proxmire, Mr. Stennis, Mr. Bayh, Mr. Huddleston, Mr. Leahy, Mr. Sasser, Mr. Durkin, Mr. Magnuson, Mr. Mathias, Mr. Bellmon, Mr. Wiecker, Mr. Laxalt, Mr. Schmitt, and Mr. Young to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1790) entitled "An act entitled the 'Privacy Protection Act of 1980'," agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Bayh, Mr. DeConcini, Mr. Heflin, Mr. Metzenbaum, Mr. Thurmond, Mr. Hatch, Mr. Simpson, and Mr. Mathias to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1482) entitled "An act to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information," agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Bayh, Mr. Biden, Mr. Leahy, Mr. Thurmond, Mr. Dole, and Mr. Cochran to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3147. An act to rename the Veterans' Administration Medical Center in Topeka, Kans., as the "Colmery-O'Neil Veterans' Administration Medical Center"; and

S. Con. Res. 128. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1177.

REV. FRANK L. SHAFFER, JR.

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, it is certainly my pleasure to have invited the Rev. Frank L. Shaffer, Jr., to give the invocation to the House this morning. I am grateful to him, as well as Chaplain James Ford, for having made this possible.

Dr. Shaffer is pastor of the Wesley United Methodist Church in Morgantown, W. Va., in the Second Congressional District. He and his gracious wife are natives of West Virginia. His father was a superintendent of the Methodist Church as well.

Reverend Shaffer has earned the respect and affection, not only of the members of his congregation, but of the entire community. His church is located near the campus of West Virginia University, and Dr. Shaffer has been an inspirational force in the lives of many students. We are very proud and happy to have him with us today.

TITAN II SILO EXPLOSION REMINDER OF PERIL AND DESTRUCTION OF WAR

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, last Friday at 5 a.m. a Titan II missile silo

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

exploded in my district near Damascus, Ark. I visited the site yesterday with my colleague from Arkansas (Mr. BETHUNE) and with investigators from the House Armed Services Committee and the Defense Appropriations Subcommittee.

I want to explain to the Members of this body that that site looked like the gates of hell were blasted open during which the devil belched his wrath at humanity.

The Arkansas countryside looked like a moonscape within about 100 yards of the silo. The broken concrete and steel was a product of a fuel explosion. No nuclear detonation was possible.

Let this be a sober reminder to us during times of peril of the destruction of war.

Let it also be a reminder that our military forces and the awesomely destructive weapons they wield are vitally necessary to the maintenance of peace.

Because they are vital and because they also present some hazards to civilians who reside in close proximity to our deployed weapons, it is clear that our military and defense officials bear a special burden of responsibility to develop policies, practices and procedures which will sustain and support public confidence in our military establishment.

In the incident at Damascus, there was created a good deal of uncertainty, fear and alarm in nearby communities. For that reason, I have initiated a cooperative inquiry to determine what happened at Damascus with a view toward evolving sounder, more flexible procedures for preventing future mishaps and allaying the fears of civilians who live in close proximity to weapons like the Titan II.

Mr. Speaker, the Damascus incident has been characterized as a "worst case" mishap. I suggest that the worst case is yet to come if we cannot develop ways of living safely with the weapons we need to sustain our national defense.

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

● Mr. BRADEMAS. Mr. Speaker, on Wednesday, September 24, I missed several recorded votes. The votes are as follows:

Rollcall No. 580, on the conference report on H.R. 7590, energy and water development appropriations, fiscal 1981. The report was adopted by a vote of 273 to 117. Had I been present, I would have voted "yea."

Rollcall No. 581, on a motion to concur in Senate amendment No. 36, to the conference report on H.R. 7590, energy and water development appropriations, fiscal 1981. The motion was agreed to by vote of 230 to 164. Had I been present, I would have voted "yea."

Rollcall No. 582, on House Resolution 780, the rule providing for consideration of H.R. 6777, Council on Wage and Price Stability extension. The resolution was agreed to by vote of 291 to 97. Had I been present, I would have voted "yea."

Rollcall No. 584, on an amendment to H.R. 6777, Council on Wage and Price Stability extension offered by Mr. WOLPE of Michigan. The amendment was rejected by a vote of 155 to 240 Had I been present, I would have voted "yea"

Rollcall No 585, on a motion to recommit H.R. 6777, Council on Wage and Price Stability extension, with instructions. The motion was agreed to by vote of 238 to 161. Had I been present, I would have voted "no."

Rollcall No. 586, on final passage of H.R. 6777, Council on Wage and Price Stability extension. The bill passed by vote of 299 to 165. Had I been present, I would have voted "yea."

Rollcall No. 587, on House Resolution 787, the rule providing for consideration of H.R. 7112, State and local fiscal assistance amendments. The resolution was agreed to by vote of 385 to 9. Had I been present, I would have voted "yea."

Rollcall No. 588, on House Resolution 791, the rule providing for consideration of S. 885, Pacific Northwest Electric Power Planning Act. The resolution was agreed to by vote of 378 to 5. Had I been present, I would have voted "yea."

Rollcall No. 589, on final passage of H.R. 8024, to change the name of Aubrey Lake, Tex., to Ray Roberts Lake. The bill passed by vote of 366 to 1. Had I been present, I would have voted "yea."

On Thursday, September 24, Mr. Speaker, I missed rollcall No. 594, on final passage of House Joint Resolution 601, International Monetary Fund appropriations, fiscal 1981. The resolution was agreed to by vote 224 to 146. Had I been present, I would have voted "yea."●

GLICKMAN QUESTIONS FRENCH TRADE POLICY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, the NATO countries adopted a policy not too long ago allowing open compentition for military procurement among all member nations. The intent of that policy was to increase trade among NATO allies. The United States has endorsed that policy and has abided by it. For example, the U.S. Coast Guard has purchased French-made jets and helicopters. Our Government understands the importance of encouraging cooperation within NATO and insuring that each member nation can procure the military equipment best suited to its requirements without regard to the national origin of the equipment.

I was disturbed by the report that France, a NATO member and a signator of the open competition agreement, recently selected a Brazilian airplane for use by the French Air Force as a training aircraft. Indications are that the decision was politically motivated.

When the French invited bids on the contracts, several American firms participated. After technical and performance evaluations, three aircraft were chosen for final consideration. Two U.S. trainers were ranked first and second in order of preference, with the Brazilian aircraft a distant third. The U.S. planes were also determined to be less costly.

I understand that between the time of the evaluation process and the selection of the Brazilian aircraft, the Government of Brazil made the French Government a generous offer for the purchase of French helicopters and fighter aircraft. Negotiations are still ongoing. Nonetheless, as a result the U.S. aircraft were judged preferable in both design and cost, political considerations ruled them out.

I presume the French decision is final. It must be pointed out, however, that French contractors have considerable access to commercial and military markets in the United States. If political considerations begin to dominate French trade decisions, the United States may be forced to reexamine its open markets policy toward that nation.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT FRIDAY, SEPTEMBER 26, 1980, TO FILE REPORT ON S. 2412, USED OIL RECYCLING ACT OF 1980

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight, Friday, September 26, 1980, to file a report on the Senate bill (S. 2412), the Used Oil Recycling Act of 1980.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REAGAN'S PARTISAN POLITICS THREATENS NATIONAL SECURITY

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, I have not taken the opportunity to use this device of 1 minute speeches before since I have been elected to Congress. I have been particularly contemptuous of some of the partisan political charades that I have seen performed here on the floor.

But this morning Governor Reagan's attack on President Carter, essentially accusing him of being the cause for the Iraqi-Iranian war in the Middle East, brings me to my feet to protest. I am particularly concerned that Governor Reagan's comments come after he rejected a request that he be allowed to join with others on a bipartisan basis and receive a briefing on the conflict. This is an almost unprecedented breach of political tradition that is in complete contradiction to the national interest in unity.

This comes in the context of his recent actions to try to preempt the President by spelling out the grounds upon which he would negotiate with Iran on the hostage situation. This action was completely inappropriate and almost every newspaper editor has warned the Governor of allowing the negotiations to become a partisan issue.

I think this brings us to a point where we have seen one man totally disrupt the effort to have a bipartisan foreign policy in this country, particularly during an election year. We knew that the ghost of Arthur Vandenberg had fled from this Congress, but I think when we see such destructive partisan political action of this nature engaged in during this sensitive period in an election campaign, we should warn the candidates involved, in this case Governor Reagan, that the American people have traditionally rejected this approach when it strikes at the very heart of our national security—our unity as a nation.

REAGAN'S CRITICISMS OF PRESIDENT'S MIDEAST POLICIES DANGEROUS FOR THE NATION

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, the explosive situation that has developed in the Mideast is of grave concern, I am sure, to all of my colleagues and to the American people as it well should be. The strategic importance of this area of the world, together with its vast oil reserves, cannot be underestimated.

Consequently, I believe it is important for the American people to know that, prior to launching a public criticism of President Carter's Mideast policies as somehow in a general way responsible for this latest outbreak, Ronald Reagan was offered a top level briefing on the situation by the White House. This was a courtesy President Carter extended, and I think a thoughtful and potentially helpful one to his opponent.

Nonetheless, for his own reasons, Mr. Reagan declined. He apparently preferred not to have the benefit of the latest and most accurate information on this developing situation, perhaps feeling that without the facts he would be freer to "honestly" criticize the President. As a Californian, this type of simply political rhetoric is something we have grown accustomed to hearing from Mr. Reagan from his days as Governor. But the arena to which he now aspires is far more critical, and far more sensitive, than any post he has previously held.

It seems quite clear that Mr. Reagan is drawing on his own background and experience. But the Mideast theater, to be sure, is not the movie theater. And, where "shooting from the hip" may be acceptable and at times lifesaving in one, the consequences are far more ominous and dangerous in the other.

☐ 1010

LATEST AVAILABLE INFORMATION ON CURRENT CRISIS BETWEEN IRAN AND IRAQ

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I have noted with a great deal of interest and personal concern that the Republican Presidential candidate, Mr. Reagan, yesterday blamed President Carter for the current crisis between Iran and Iraq. I suggest that his remarks were ill-timed, ill-advised, and quite possibly ill-informed, because Mr. Reagan was invited to be briefed on the situation so that he could have the latest available data, but he chose not to have the benefit of this advice.

At the very least, Mr. Speaker, it seems to me that a responsible person would seek all of the facts before condemning the actions of others. Mr. Reagan apparently would rather shoot first and ask questions later, and I suggest that with the deepening concern of the whole Free World in that area, now is the time for responsible action and now is the time for us to have and use all of the available information, particularly if we seek the highest office of the United States of America.

OBEY THE LAW—PASS THE BUDGET

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, yesterday the House Committee on the Budget began consideration of the second budget resolution. As we know, Public Law 93-344 requires that it should have been passed by September 15. Since the distinguished chairman of the Committee on the Budget announced yesterday that resolution should be ready for House consideration upon our return on November 12, would it not be better to stay here for another week and to complete our work on the budget? Would it not be better to obey the law and pass the budget resolution before we leave town? I urge the Speaker respectfully to reconsider his position, and let us do the job for which we were elected. Let us stay here and pass the budget resolution. Let us obey the law.

AMERICAN LITHUANIANS ARE PROSECUTED WHILE CHARGES AGAINST IRANIANS ARE DROPPED

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, I rise to call attention to the plight of some 16 Lithuanian Americans who are being prosecuted by the Department of Justice for a peaceful demonstration on the eve of the Olympics within 500 feet of the Soviet Embassy in Washington. Their trial is scheduled for October 7. These people include Simas Kudirka, who was the gentleman who was dragged physically off a Coast Guard boat by the Soviet Union before it was discovered he was an American citizen. The paradox is that 9 days later in Washington D.C. Iranian students protesting against the United States and creating violence, were arrested and charged with felonies for hurting police and bystanders, all charges against these pro-Khomeini rioters were later dismissed. Yet these American citizens, none of whom had any criminal record whatsoever, for merely peacefully protesting in favor of the United States and in support of its policy, are being prosecuted to the letter of the law and will come to trial October 7.

I have a letter to Mr. Phil Heymann, the head of the Criminal Division of Justice Department on which I would appreciate any of you who would like to, to put your names on it.

WASHINGTON, D.C., APPROPRIATIONS—TOO MUCH

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, the record of this Congress has been one of a liberal, liberal Congress. At home I often speak of the way "they" voted. They ask what I mean by "they". After we passed the D.C. appropriations bill the other day, I went back to review it to see just how liberal and big spending our Congress was. The D.C. appropriations bill passed Congress by a vote of 215 to 158. The District of Columbia needs to look ahead and plan better because we cannot justify this type of appropriation in the future.

From 1975 to 1980 the Washington D.C. population dropped from 723,000 to 568,300. During that same period Federal appropriations increased by almost $100 million. All this Federal aid has encouraged welfare to the point that 23 percent of the present population receives welfare payments of some kind. The per capita income in the District of Columbia is $10.911. In Texas it is $8,649 and yet we only have 9.8 percent (5.4 percent in Dallas County) of the people receiving welfare payments. In the District of Columbia they spend $357 million on their various welfare programs which amounts to $2,700 for every person.

And if that is not enough government, the District of Columbia has the highest full-time equivalent employment of State and local governments per 10,000 population at 748; whereas in Texas, we have 498 per 10,000. That means 50 percent more local government employees in city hall.

Education is another area in which Washington fails. Congress budgeted $392 million to the District of Columbia, for education in 1981; $276 million will go to public schools and that is a $100 million increase over 5 years ago. Accompanying that $100 million increase is a drop in enrollment from 127,000 to 98,000. During those same 5 years, the average expenditure per pupil rose from $1.470 to $2.823. Texans wonder why Congress subsidized Washington education which spends $2,823 per pupil while in Texas the average expenditure per pupil is $1,673.

The D.C. appropriations bill also calls for Federal payment of $52 million each of the next 25 years for the police, fire, and judges' retirement programs, plus $38.7 million on the teachers' retirement and annuity fund in 1981. In Texas we receive no Federal funds for police, fire, judges, or teachers' retirement.

The Washington, D.C. appropriations bill passed Congress by a vote of 215 to 158. We should ask for reductions next year.

THE WORD IS OUT

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, the results are in. A total of 26,205 Americans applied for 70 Federal jobs in Baltimore last week. Those 70 jobs are at the lowest level of the pay scale. An individual who is hired cannot become a permanent employee in under 3 years. Yet, more than 26,000 applied and all of those people put together are only a symbol of the millions of unemployed in the United States today.

Local welfare officials described the incident as "astounding" and "unprecedented." I would characterize it as yet another vivid example of the Carter administration's bankrupt economic policies.

Mr. Speaker, these jobs were not advertised on television or in the papers—the information was passed by word of mouth. And that is not the only message being passed and it is not just in Baltimore. The word is out that this administration has got to go.

MAINE'S ELECTION ON THE RESOLUTION ON NUCLEAR POWER

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I would like to call to the attention of the House the results of Maine's election on the resolution on nuclear power held this past Tuesday. In one of the largest turnouts for a special election in Maine's history, the people of Maine endorsed the continued operation of nuclear power in that State by a 3 to 2 margin.

Maine, the State of woods and streams and environmentalists' dreams, has endorsed nuclear power. Why? Because the voters of Maine did not want to pay an extra $140 million to buy power from outside the State, a cost which they would have had to bear if they were to shut down the Maine Yankee nuclear plant which is currently operating in that State.

The voters also did not like the alternatives, which included damming up their rivers and streams to provide hydropowered electricity.

In short, the advantages of cheap nuclear power won over the supposed disadvantages which the antinuclear advocates tried to sell the Maine voters.

The antinuclear forces, after losing a number of other State referenda on nuclear power, thought they had a sure win in Maine. They said it would be the beginning of the end of nuclear power. Now what do they say? Perhaps it is finally the beginning of the end of the antinuclear movement, whose prophecies of doom and destruction are being consistently ignored by cooler heads.

☐ 1020

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 26, 1980, TO FILE REPORT, TOGETHER WITH MINORITY VIEWS ON H.R. 7745, AMENDING THE BLACK LUNG BENEFITS ACT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor have until midnight, Friday, September 26, 1980, to file a report, together with minority views, on H.R. 7745, to amend the Black Lung Benefits Act to provide that certain amounts available for disbursements under section 424 of such act shall be available for the payment of benefits and reimbursements in the case of miners whose last coal mine employment occurred before July 1, 1973.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

THE LIBERALS DOUBLE STANDARD ON RELIGION AND POLITICS

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. I thank the Speaker.

Mr. Speaker, last week Humberto Cardinal Medeiros of Boston was subjected to stinging criticism by many liberals in politics for having the temerity to send a pastoral letter to his parishioners opposing abortion and noting the contrary stands of certain candidates on that issue.

This morning's paper, Mr. Speaker, contains a strident and intemperate attack by a member of the President's Cabinet, Secretary Patricia Harris, against the Reverend Jerry Falwell, for stating his views on certain political issues that affect the family.

Mr. Speaker, I did not hear any of these liberals say a word when Martin Luther King used his pulpit to advance civil rights, or when Rev. William Sloane Coffins fought against the Vietnam war, or when Rev. James Groppi took over the Wisconsin legislature in a welfare protest for days, or when the Reverends Dan and Phil Berrigan trespassed and destroyed property as a protest, or when the National Council of Churches gave thousands of dollars to advance terrorism in Rhodesia. No complaints there. To my liberal friends that was laudable activism and yet the Falwells and Medeiroses are sinister.

Mr. Speaker, I suggest it is very dangerous when Government officials start interfering with freedom of expression by religious leaders or any citizens, regardless of their political views.

Mr. Speaker, I include with my remarks the story from this morning's Washington Post and an excellent column from the Boston Globe by Joseph Sobran.

[From the Washington Post, Sept. 25, 1980]

HARRIS CRITICIZES "MORAL ABSOLUTISM"

Secretary of Health and Human Services Patricia Roberts Harris is sharply attacking the growing involvement of fundamentalist religious groups in partisan politics.

She charges that their "moral absolutism" poses a threat to the pluralism and tolerance of American democracy.

Harris sharply criticized the political tactics of such groups as the Moral Majority led by the Rev. Jerry Falwell, a television evangelist. She also compared politically active fundamentalists to Ayatollah Ruhollah Khomenini's followers in Iran.

Harris didn't name Falwell, but merely referred to a group known as "Moral Majority," which she said was founded by a fundamentalist minister from Virginia. Falwell could not be reached for comment.

Harris made the remarks in a speech Tuesday night to the Whig Society, a student debating group at Princeton University.

Harris said that in Iran, "the rich variety of Islamic culture has been trampled by religious zealots who profess to know the one truth and who are willing to impose their narrow interpretation of Moslem principles on the entire nation."

"The absolute certainty with which some individuals approach the political battle, and the arrogance with which they propose a crusade to 're-Christianize' America, is dangerous for our democracy," she charged.

"I am beginning to fear that we could have an Ayatollah Khomeini in this country, but that he will not have a beard, but he will have a television program."

[From the Boston Globe, Sept. 20, 1980]

A TRADITION OF LEADERSHIP

(By Joseph Sobran)

Two days before the Massachusetts primaries, Humberto Cardinal Medeiros issued a letter to Catholics in the Boston area warning them of the serious sinfulness of supporting abortion. His letter was understood to be directed against candidates like Democrat Barney Frank, who is seeking the seat being vacated by Father Robert Drinan. The pro-abortion Frank won anyway.

Despite Frank's victory, the Cardinal's letter moved New York Times columnist Anthony Lewis to observe that "the most important issue in the 1980 election is not inflation or foreign policy or unemployment. It is the role of religion in American politics." He has a solid point there. The trouble is, he takes the wrong side.

Like most liberals, Lewis seems to have no religion, which may be why he gets so alarmed when other people do. The prospect of a nation being taken over by Marxist terrorists doesn't scare him, but Jerry Falwell does, and Cardinal Medeiros does, and it's a safe bet the village parson does. And like many people with morbid anxieties, he projects them onto others. Thomas Jefferson, James Madison, and the boys, he assures us, "were mortally afraid of mixing religion into politics. Those who hold their view today should start taking the new political religiosity seriously."

Funny, but Lewis never worried about this back when the mixing of religion and politics was being done by Martin Luther King, William Sloane Coffin, James Groppi, Dan and Phil Berrigan, and the National Council of Churches. Why was their activism excusable, even laudable, and that of the Falwells and Medeiroses sinister? Isn't Lewis simply confusing his own preferences with constitutional principles?

Church and state, religion and politics should be kept separate as much as possible. But this requires that the state too remember its proper place. Many people criticized the churches for failing to speak out more forcefully when the German state was killing Jews. Why is it meddlesome for the churches to speak out against the killing of unborn children? Many applauded where clergymen supported civil rights and peace. Why act shocked when they support the family?

If religious people are refusing to leave politics alone, it's because they feel politics can't be trusted to leave them alone. Government has gotten ever more aggressive in its attempts to remake American society and morals. Men of faith didn't pick this fight. The separation of religion and politics ended when the state started trying to redefine right and wrong, in pornography, abortion, race, economics and the relations of the sexes.

Liberal complaints on this score give every appearance of being insincere. Not only are they inconsistent about American politics; they didn't, for instance, complain when Medeiros came out for cross-district racial busing. What is worse is that they never seem to object violations of the separation principle when it's the state, rather than the church, that is on the aggressive.

The very purpose of religion is to transform human beings. If it also improves the world we live in, that is all to the good. But it is generally agreed that the improvement of the world must come, for the most part, through multitudes of individual regenerations, not through social engineering, or clerical meddling, or churchmen engaging in partisan activities.

Cardinal Medeiros' letter was in the best tradition of clerical leadership, reminiscent of the Abolitionist movement that flourished in New England over a century ago. If he can be faulted for anything, it is for seeming to target his statement too closely to a particular contest. Perhaps it would have been wiser to speak out early and constantly, so that even Barney Frank would have had time to adjust his position. The real purpose of bearing witness, after all, is larger than just to swing an election.

TO CONTINUE IN EFFECT AUTHORITY PROVIDED UNDER DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, 1980

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 8202) to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1980, for a certain period, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

Mr. Speaker, could the gentleman from Texas explain his request.

Mr. BROOKS. I would be delighted to, Mr. Speaker.

Mr. Speaker, this bill is a very simple but limited solution to a difficult problem. As the House is aware, the current fiscal year will end on September 30 and the new year, fiscal 1981, will begin next Wednesday, October 1.

The Justice Department's present authorization, however, will expire with fiscal year 1980. Some limited temporary authority is necessary to give the House a chance to consider, in due course, the fiscal 1981 authorization legislation without penalizing the Department until that action takes place by lapsing some very critical authorities the Department requires to carry out its daily activities.

This bill would do just that. It is a simple 180-day extension of the authorities contained in last year's Justice Department authorization bill. I propose a 180-day extension because it would provide for the contingency that the House may not return immediately after the election recess. Furthermore, pending business and the need to organize the new Congress may take some time when we do return, so I wish to make ample provision that these authorities be extended until this body can enact the fiscal year 1981 authorization legislation.

Mr. Speaker, one point, however, cannot be emphasized strongly enough. The House needs to manage better its schedule in the future. Two years in a row, the Justice Department was appropriated before it was authorized and despite the fact that the Judiciary Committee met its Budget Act deadline by more than a month, this year's situation is virtually the same. The House has acted on the appropriation but not as yet on the Department s authorization.

The Judiciary Committee ordered the authorization bill reported on March 21; it filed its report with the House on April 14. The Rules Committee reported a rule on May 15, and still—more than 4 months later—we have not reached the floor with an authorization bill. We are talking about a bill ordered reported by the Judiciary Committee nearly 6 months ago.

This is a matter we must correct in the future. What we need today is this simple bill. Because the authorization will not be enacted by October 1, authority to conduct various vital Department activities may not exist after this weekend. The obligation and dispersal of funds for carrying on these activities would therefore be jeopardized.

Unless this simple 180-day extension is agreed to, the following problems are posed:

Authority for the FBI to conduct undercover operations in all areas of their investigative responsibilities would expire.

Authority to purchase firearms and ammunition for the FBI, INS, DEA, and U.S. Marshals would lapse.

Authority to expend funds by the FBI to protect the President and the Attorney General would expire.

Authority to hire motor vehicles would expire for DEA's utilization in its undercover operation.

The Bureau of Prisons would lose its authority to expend funds for assisting State and local governments to improve their correctional systems.

The Attorney General's authority to expend funds for certain emergency situations would be curtailed.

The authority to pay rewards by the FBI, DEA, INS, and the Bureau of Prisons would expire. Loss of this authority would seriously cripple the investigative efforts of the Department.

The authority for the U.S. Marshals to expend funds to provide for the supervision of U.S. prisoners in non-Federal institutions would be curtailed.

The authority to permit the U.S. Marshals to bring to the United States from foreign countries persons charged with a crime would expire.

The specific authority to expend funds by the FBI to acquire, collect, and classify records and exchange them with authorized Federal, State, local, and other institutions would expire.

Authority for the Attorney General to expend funds regarding the conduct of certain investigations requested by the Department of State would be curtailed.

The Congress prohibition on the use of the funds to create a "message switching" capability for the FBI without prior congressional approval would lapse.

The reprograming restrictions this Congress placed on the movement of funds from one program to another to improve fiscal discipline within the Department would lapse.

The requirement that the Attorney General report to Congress any policy change in the enforcement of a law, which is the responsibility of the Department because it is the Department's position that such a provision of law is not constitutional would lapse.

INS would not have authority to pay interpreters and translators needed to clarify documents.

The authority for DEA to employ aliens by contract abroad would not be available.

DEA's authority to conduct research related to enforcement and drug control would expire.

Certain medical benefits for employees to FBI, INS and DEA employees stationed abroad would expire.

Insurance for motor vehicles and aircraft operated on official business in foreign countries would not be available, thereby possibly subjecting the Department to expensive tort claims.

Mr. Speaker, these are but some of the critical authorities that could lapse if the House does not take action on this bill. I urge the adoption of this bill.

Mr. McCLORY. Mr. Speaker, will the gentleman yield to me?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I rise in support of H.R. 8202, the bill to continue in effect the authority provided under the Department of Justice Appropriation Authorization Act for fiscal year 1980, although somewhat reluctantly.

The authority for appropriations under that act will expire in a week. Clearly, there is insufficient time remaining before this deadline for this body to consider the authorization bill for fiscal year 1981 which the Committee on the Judiciary ordered favorably reported last March and for us to resolve our differences with the other body in conference. In the absence of continuing authority, authorization of many valuable operations within the Department would lapse, including the purchase of firearms for the FBI, INS, DEA, and U.S. Marshals, protection of the President and the Attorney General, and payment of rewards by the FBI and other divisions of the Department. As a result, enactment of this continuing authority is imperative.

It is unfortunate indeed that this body has failed to act upon a measure that was considered promptly and expeditiously by the Committee on the Judiciary. I hope that the need for a continuing authorization bill will not become an annual tradition. There is little incentive for the Committee on the Judiciary to devote itself to the task of marking up a Department of Justice authorization bill in a timely manner if the bill will not be scheduled for consideration by this body in time for enactment before the end of the fiscal year.

Mr. Speaker, I have suggested on prior occasions that we give serious consideration to authorizing appropriations for the Department of Justice on a biennial basis. This would enable us to continue our important oversight function, but would minimize what is apparently an unsolvable scheduling problem. Further, it would reassure the Committee on the Judiciary that its prompt and careful efforts in this area would be more likely to come to fruition.

In sum, Mr. Speaker, because of compelling necessity, I support the bill to continue in effect the authority for Justice Department appropriations provided for in the fiscal year 1980 act for 180 days. My support for this bill, however, should in no way be construed to imply approval of the scheduling decisions made with respect to the bill ordered reported by the Committee on the Judiciary last March.

Mr. BAUMAN. Mr. Speaker, may I observe that we are apparently going to recess next Thursday. Is the gentleman aware of other agencies whose legal authority is about to expire? We were told we could recess with impunity, that everything had been done and taken care of. If in fact there are a great many problems, perhaps we should stay here.

Mr. BROOKS. May I say to my distinguished friend from Maryland, I do not know of any others. I serve on the Committee on the Judiciary. I bring this measure before the House at the suggestion of our committee and the chairman of that committee, the gentleman from New Jersey (Mr. RODINO).

Within the Committee on Government Operations where I serve, we have no agencies we know of that will be terribly distraught by any failures on our part after October the 1st. With regard to other agencies, I cannot speak for them.

Mr. McCLORY. Will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I would just like to say that I would much prefer to stay here and have this body act on the Justice Department authorization bill which the Judiciary Committee reported, rather than this continuing resolution. As a practical matter, however, I see no alternative. We are bound to insure that the business of Government is carried on, even if it means that we must resort to this rather haphazard and disorganized way of handling this important legislation which involves the entire Department of Justice. Those of us on this side of the aisle do not manage the business in this Chamber.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would only observe that this is one concrete example of why this idea for a lameduck session is a mistake and why the calculated decision made by the Speaker and others a few months ago to adjourn for the elections was a mistake. When we find before us by unanimous consent a bill that would control the authority of the Department of Justice and the FBI, and without it that authority would expire completely at the end of this month, we have to raise a question about how many other instances of this kind of activity may be curtailed by our haste to go out and campaign rather than do our work.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield to me?

Mr. BAUMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Maryland for yielding.

Mr. Speaker, I would like to make an inquiry.

In the last two authorization bills for the Department of Justice there were certain restrictions and requirements imposed on th Department of Justice written into the law. One of these was a requirement that when the Department of Justice goes into court and concedes or admits that a law passed by Congress is unconstitutional, they must report that back to both Houses of Congress and they no longer can represent the United States in those proceedings. I would like to be assured that that requirement is ongoing and will not be omitted by this continuation.

Mr. BROOKS. Mr. Speaker, this bill provides for a simple 180-day extension of the same authorities contained in last year's Justice Department bill. It does not change anything.

Please understand the Committee on the Judiciary has already passed a new bill. That was passed on March 21. It was filed in the House April 14. The Rules Committee reported a rule May 15 and we have not gotten to the floor with that vet.

Mr. LEVITAS. Would the gentleman yield further?

Mr. BAUMAN. I do yield to the gentleman from Georgia.

Mr. LEVITAS. With the assurances that the restrictions and requirements that were in effect in the existing authorization will be carried forward for this 180-day period, I see no problem except the procedural one, but that assurance, I think, is very important.

□ 1030

Mr. McCLORY. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding further. May I just point out that I have urged that the Justice Department's authorization be for a 2-year period so that we would not encounter the type of problems that we have encountered today. Unfortunately, my advice went unheeded; instead of a 2-year authorization, which would have permitted us to do this in a much more orderly way, the majority decided that we should only have a 1-year authorization.

Consequently, we are up against this deadline. It seems to me that we have no alternative except to support this continuing resolution. However, it would have been preferable to have had a 2-year authorization, so that we would have more time to deliberate and pass upon this important legislation. Instead, we find ourselves in this rather hurried crunch as we hasten to recess, with the very undesirable prospect of the lameduck session to which the gentleman made reference.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authority, and any limitation on authority, contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, shall continue in effect with respect to activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) until the effective date of a general authorization Act or the end of the one hundred and eightieth day after the date of the enactment of this Act, whichever is earlier.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VETERANS' REHABILITATION AND EDUCATION AMENDMENTS OF 1979

Mr. HEFNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veterans' educational assistance program, and for other purposes: with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause, and insert: That (a) this Act may be cited as the "GI Bill Amendments Act of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—GI BILL RATE INCREASES

VOCATIONAL REHABILITATION

SEC. 101. The table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$260	$322	$378	$28
Three-quarter-time	196	242	284	21
Half-time	230	161	190	14
Farm cooperative, apprentice, or other on-job training: Full time	227	274	316	21".

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$288" and inserting in lieu thereof "$331";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$358	$426	$485	$30
Three-quarter-time	268	319	365	22
Half-time	179	213	243	15
Cooperative	289	338	384	22";

(3) striking out in section 1682(b) "$311" and inserting in lieu thereof "$358";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$289	$338	$384	$22
Three-quarter-time	216	254	289	17
Half-time	145	169	192	12";

(5) striking out in section 1692(b) "$69" and "$828" and inserting in lieu thereof "$75" and "$952", respectively; and

(6) striking out in section 1696(b) "$311" and inserting in lieu thereof "$358".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732(b) "$251" and inserting in lieu thereof "$289"; and

(2) striking out in section 1742(a) "$311", "$98", "$98", and "$10.40" and inserting in lieu thereof "$358", "$113", "$113", and "12.00", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING AND EDUCATION LOANS

SEC. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1786(a)(2) "$311" and inserting in lieu thereof "$359";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$260	$292	$319	$14
Second 6 months	194	227	254	14
Third 6 months	130	162	189	14
Fourth and any succeeding 6-month periods	64	97	124	14";

and

(3) striking out in paragraph (3) of section 1798(b) "$311" and inserting in lieu thereof "$358".

TITLE II—GI BILL PROGRAM ADJUSTMENTS

SEC. 201. Subsection (a) of section 1662 is amended by—

(1) inserting after "application" in paragraph (1) "made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) the effective date of the GI Bill Amendments Act of 1980, whichever is the latest" and inserting "so" after "that such veteran was" in such paragraph;

(2) adding at the end of paragraph (1) the following new sentences: "When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first date following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations of the Administrator, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter. For the purposes of this paragraph only, an alcohol or drug dependence or abuse disability from which the veteran has recovered shall not be considered to be the result of willful misconduct."; and

(3) adding at the end thereof the following new paragraphs:

"(3) Notwithstanding the expiration of the applicable delimiting period under paragraph (1) of this subsection and subject to any applicable counseling provisions set forth in section 1663(b) of this title, any eligible veterans who served on active duty at any time during the Vietnam era may, effective January 1, 1980, be provided educational assistance under this chapter until December 31, 1982, for the purpose of permitting such veterans to pursue—

"(A) a program of apprenticeship or other on-job training; or

"(B) an approved vocational objective or secondary education course pursuant to the provisions of section 1691(a)(1) of this title if such veteran does not have a secondary school diploma (or an equivalency certificate).

"(4) A program of education consisting exclusively of flight training may not be approved in the case of any veteran pursuing a program of education under paragraph (3) of this subsection.

"(5) Notwithstanding the provisions of section 3013 of this title, the Administrator shall pay an educational assistance allowance as provided in section 1691(b) of this title for any period of education or training completed by any veteran during any period after May 31, 1976, and before the date on which regulations to implement the amendment made by section 203(a)(1) of Public Law 95-202 are prescribed and published by the Administrator if (1) the delimiting period applicable to such veteran was extended by virtue of the exception in section 1662(a)(1) of this title, and (2) the educational assistance allowance would have otherwise been payable to such veteran had such veteran made timely application therefor.".

SEC. 202. Section 1663 is amended by inserting "(a)" before "The" at the beginning thereof and adding at the end thereof the following new subsection:

"(b)(1) A veteran who does not have a secondary school diploma (or an equivalency certificate) shall not be afforded educational assistance within three years of the date of expiration of such veteran's delimiting period as computed under paragraph (1) or (3) of subsection (a) of section 1662 of this title for any program of education leading to a vocational objective or a secondary school diploma (or an equivalency certificate) unless such veteran has received counseling under this section and the program of education to be pursued by such veteran has been approved by the Veterans' Administration counselor advising such veteran. Counseling shall not be required under this subsection in any case in which counseling furnished by the Veterans' Administration is not provided promptly after the veteran has made application for educational assistance.

"(2) The counselor advising any veteran described in paragraph (1) of this subsection may disapprove such veteran's application for an educational assistance allowance for pursuit of a program of education under paragraph (3)(B) of section 1662(a) of this title if such counselor determines that such veteran's proposed program of education is not reasonably designed to lead to a high school diploma (or equivalency certificate) or to reasonable prospects for future employment. A disapproval of any application under this paragraph shall be reviewed by the Administrator or the Administrator's designee in the Central Office of the Veterans' Administration within ninety days after the date of such disapproval unless, prior to such review, such veteran selects a different program of education, such program is approved by the counselor advising such veteran, and such veteran states in writing that he or she does not want such review of the disapproval action.

"(3) The Administrator shall advise each veteran who receives counseling under this subsection that such counseling will continue to be made available to such veteran, upon request, until the completion of his or her educational or training objective.".

SEC. 203. The second sentence of section 1671 is amended to read as follows: "The Administrator shall approve such application unless the Administrator finds that (1) such veteran or person is not eligible for or entitled to educational assistance for which application is made; (2) the veteran's or person's selected educational institution or training establishment fails to meet one or more of the requirements of this chapter or chapter 36 of this title; (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate one or more of the provisions of this chapter or chapter 36 of this title; or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered.".

Sec. 204. Section 1673 is amended by—

(1) amending subsection (a) by—

(A) inserting "(1)" before "The" at the beginning thereof;

(B) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(C) amending clause (B) of paragraph (1), as redesignated by subclause (B) of this clause, to read as follows:

"(B) any course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that (i) at least one-half of the persons who enrolled in such course over the preceding two-year period completed it, and (ii) at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment in an occupational category for which the course was designed to provide training and such employment constitutes the primary vocational pursuit and major source of occupational income of each such person;"; and

(D) adding at the end thereof the following new paragraph:

"(2)(B) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 per centum of the total enrollment in such institution during such period and the course has met the requirements of subclauses (i) and (ii) of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection in the case of any course with a vocational objective offered by any educational institution if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on the institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.";

(2) amending subsection (c) to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television."; and

(3) amending subsection (d) by—

(A) inserting "(1)" before "The" at the beginning thereof;

(B) striking out "and/or" in paragraph (1), as redesignated by subclause (A) of this clause, and inserting in lieu thereof "or, except as provided in paragraph (2) of this subsection,"; and

(C) adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the Administrator may not require any educational institution to compute the number of persons enrolled in such institution who are recipients of basic educational opportunity grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 or supplemental educational opportunity grants under subpart 2 of part A of title IV of such Act unless (A) the Administrator (i) determines that it is desirable and necessary to have such recipients included in computations made pursuant to this subsection and that there is a feasible system for including such recipients in such computations, and (ii) has submitted to the Committees on Veterans' Affairs of the Senate and of the House of Representatives notification of such determination, and (B) ninety days have elapsed from the date on which such notification was submitted to such committees.".

Sec. 205. Section 1674 is amended by striking out the second sentence thereof.

Sec. 206. (a) Subsection (f) of section 1652 is amended by adding at the end thereof the following new sentence: "Such term shall also include an educational institution which is located in a foreign country, which offers a course leading to a standard college degree, or the equivalent, and which is recognized by the commissioner of education (or comparable official) of such country.".

(b) Section 1676 is amended to read as follows:

"An eligible veteran may not enroll in any course at an educational institution in a foreign country unless such course is pursued at an approved institution of higher learning. The Administrator may deny or discontinue educational assistance under this chapter in the case of any veteran enrolled in an institution of higher learning in any foreign country if the Administrator determines that such enrollment is not in the best interest of the veteran or the Federal Government.".

Sec. 207. Section 1682 is amended by—

(1) amending subsection (b) by adding at the end thereof the following new sentence: "An individual's entitlement shall be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 1788 of this title.";

(2) amending subsection (e) to read as follows:

"(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, entitlement shall be charged at one-half of the full-time institutional rate. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training; a veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title."; and

(3) adding at the end thereof new subsections:

"(f) The educational assistance allowance of a veteran pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.

"(g)(1) Notwithstanding any other provision of this title, the educational assistance allowance for an eligible veteran who is pursuing an institutional program of education under this chapter while incarcerated in a Federal, State, county, or local prison or jail, shall be computed and paid as follows:

"(A) If the veteran is pursuing a program of education on a half-time or more basis and has no dependents, the Administrator shall pay the veteran such amount, not in excess of the appropriate rate, as is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans pursuing the same program. The Administrator shall withhold any amount in excess of such cost and pay such amount to the veteran upon the veteran's release from prison or jail or, at the request of the veteran, purchase with such excess amount and hold for the veteran United States Government securities and deliver them to the veteran upon the veteran's release from prison or jail.

"(B) If the veteran is pursuing a program of education on a half-time or more basis and has one or more dependents, the Administrator shall pay the veteran such amount, not in excess of such appropriate rate, as is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans pursuing the same program; and the Administrator shall pay any amount in excess of such cost to the veteran's dependent or dependents (or legal guardian or guardians thereof) designated by the veteran to receive such excess amount, but only if both the veteran and the designated dependent or dependents (or legal guardian or guardians thereof) so request. If the veteran does not request the Administrator to pay any amount payable on account of any particular dependent of the veteran to such dependent or the dependent does not join in such request, the amount involved, if not payable to the veteran under the second sentence of this paragraph, will not be paid to or accrued by the veteran. The Administrator shall pay any excess amount accrued by the veteran to the veteran upon the veteran's release from prison or jail or, at the request of the veteran, purchase with such excess amount and hold for the veteran United States Government securities and deliver them to the veteran upon the veteran's release from prison or jail.

"(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while placed and residing in a halfway house or while participating in a work-release program.".

Sec. 208. Subsection (b) of section 1691 is amended by—

(1) inserting "(1)" before "The" at the beginning thereof;

(2) inserting "(2)" after "subsection (a)"; and

(3) adding at the end thereof the following new paragraph:

"(2) The Administrator shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a)(1) of this section an educational assistance allowance (A) at the rate of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same course, courses, or program, or (B) at the institutional full-time rate provided in section 1682(a), whichever is the lesser.".

TITLE III—SURVIVORS' AND DEPENDENTS' PROGRAM ADJUSTMENTS

Sec. 301. Subsection (b) of section 1712 is amended by—

(1) inserting after "application" in para-

graph (2) "made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) the effective date of the GI Bill Amendments Act of 1980, whichever is the latest" and inserting "so" after "that such person was" in such paragraph;

(2) adding at the end of paragraph (2) the following new sentences: "When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first date following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations of the Administrator, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter. For the purposes of this paragraph only, an alcohol or drug dependence or abuse disability from which the eligible person has recovered shall not be considered to be the result of willful misconduct."; and

(3) adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of section 3013 of this title, the Administrator shall pay an educational assistance allowance as provided in section 1691(b) of this title for any period of education or training completed by any eligible person during any period after May 31, 1976, and before the date on which regulations to implement the amendment made by section 203(a)(1) of Public Law 95–202 are prescribed and published by the Administrator if (A) the delimiting period applicable to such eligible person was extended by virtue of the exception in section 1662(a)(1) of this title, and (B) the educational assistance allowance would have otherwise been payable to such eligible person had such person made timely application therefor.".

SEC. 302. Section 1721 is amended to read as follows:

"The Administrator shall finally approve an application if the Administrator finds that (1) section 1720 of this title has been complied with, (2) the proposed program of education constitutes a 'program of education' as that term is defined in this chapter, (3) the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered, (4) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title, and (5) it does not appear that the enrollment in or pursuit of such person's program of education would violate one or more of the provisons of this chapter or chapter 36 of this title.".

SEC. 303. Section 1723 is amended by—

(1) amending subsection (a) by—

(A) inserting "(1)" before "The" at the beginning thereof;

(B) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(C) amending clause (B) of paragraph (1), as redesignated by subclause (B) of this clause, to read as follows:

"(B) any course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that (i) at least one-half of the persons who enrolled in such course over the preceding two-year period completed it, and (ii) at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment in an occupational category for which the course was designed to provide training and such employment constitutes the primary vocational pursuit and major source of occupational income of each such person;"; and

(D) adding at the end thereof the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 per centum of the total enrollment in such institution during such period and the course has met the requirements of subclauses (i) and (ii) of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection in the case of any course with a vocational objective offered by any educational institution if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on the institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.";

(2) amending subsection (c) to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television."; and

(3) adding at the end thereof the following new subsection:

"(e) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such course is pursued at an approved institution of higher learning. The Administrator, in the Administrator's discretion, may deny or discontinue educational assistance under this chapter in the case of any eligible person in such an institution if the Administrator determines that such enrollment is not in the best interest of the eligible person or the Federal Government.".

SEC. 304. Paragraph (10) of section 1701(a) is amended by adding at the end thereof the following new sentence: "Such term shall also include an educational institution which is located in a foreign country, which offers a course leading to a standard college degree, or the equivalent, and which is recognized by the commissioner of education (or comparable official) of such country.".

SEC. 305. Section 1724 is amended by striking out the second sentence thereof.

SEC. 306. Subsection (b) of section 1731 is amended to read as follows:

"(b) The educational assistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.".

SEC. 307. Section 1732 is amended by—

(1) adding at the end of subsection (c) the following new paragraph:

"(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television shall be computed under section 1682(e) of this title for an independent study program."; and

(2) adding at the end thereof the following new subsection:

"(e) In the case of an educational assistance allowance for an eligible person who is pursuing an institutional program of education under this chapter while incarcerated in a Federal, State, county, or local prison or jail, the allowance shall be paid in the same manner prescribed in section 1682(g) of this title for incarcerated veterans without dependents.".

TITLE IV—AMENDMENTS TO ADMINISTRATIVE PROVISIONS

SEC. 401. Section 1780(a) is amended by—

(1) inserting "and pursuit" after "enrollment" in the second sentence thereof; and

(2) striking out in clause (1) "institution and the requirements of this chapter or of chapter 34 or 35 of this title" and inserting in lieu thereof "institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution".

SEC. 402. Section 1780(g) is amended by inserting "and define" after "determine" in the first sentence thereof.

SEC. 403. Section 1784 is amended by—

(1) amending the catchline to read as follows:

"§ 1784. Reports by veterans, eligible persons,
and institutions; reporting fee";

(2) amending subsection (a) to read as follows:

"(a) The veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 34, 35, or 36 of this title shall, without delay, report to the Administrator, in the form prescribed by the Administrator, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case tion (c) and inserting after subsection (a) lesson was serviced by a school.";

(3) redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection (b):

"(b) The Administrator, prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the Administrator."; and

(4) amending the table of sections at the beginning of chapter 36 by amending the item relating to section 1784 to read as follows:

"1784. Reports by veterans, eligible persons,
and institutions; reporting fee.".

SEC. 404. Section 1785 is amended to read as follows:

"(a) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person, the amount of such overpayment shall constitute a liability of such veteran or eligible person.

"(b) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person as the result of the willful or negligent—

"(1) failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or

"(2) false certification by an educational institution,

the amount of such overpayment shall constitute a liability of the educational institution.

"(c) Any overpayment referred to in subsection (a) or (b) of this section may be recovered, except as otherwise provided in section 1784(c) of this title, in the same manner as any other debt due the United States.

"(d) Any overpayment referred to in subsection (a) or (b) of this section may be waived as to a veteran or eligible person as provided in section 3102 of this title without in any way releasing any educational institution from its liability under subsection (b) of this section.

"(e) Any amount collected from a veteran or eligible person pursuant to this section shall be reimbursed to the educational institution which is liable pursuant to subsection (b) of this section to the extent that collection was made from the educational institution. This section shall not preclude the imposition of any civil or criminal liability under this title or any other law. Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.".

SEC. 405. Section 1788 is amended by—

(1) amending subsection (a) by—

(A) inserting "(a)(1)" immediately after "1775" each time it appears in clause (1) and (2) thereof;

(B) amending clause (4) by—

(i) striking out "on a" and inserting in lieu thereof "in residence on a standard"; and

(ii) inserting "per semester" after "fourteen semester hours" the first time it appears; and

(C) adding at the end thereof the following new sentences: "For the purposes of clause (4) of this subsection, the term 'in residence on a standard quarter- or semester-hour basis' shall mean study at the site (campus) of a college or university, or off-campus at an official resident center, requiring pursuit of rgeularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term 'standard class session' shall mean one hour (or fifty-minute period) of academic instruction, two hours of laboratory instruction, or three hours of workshop training."; and

(2) adding at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of this title—

"(1) An institutional undergraduate course leading to a standard college degree offered by a college or university shall be considered a full-time course if—

"(A) the educational institution offering such course considers it a full-time course,

"(B) less than 50 per centum of the persons enrolled in such course are receiving educational assistance under this title, and

"(C) such course (i) is offered in residence, and (ii) is treated in all respects (including the payment of full-time tuition) the same as courses offered at such institution which do or would qualify as full-time courses under subsection (a)(4) of this section, except that the number of hours of regularly scheduled weekly class instruction required for such course is less than required for such courses.

"(2) The educational assistance allowance for an eligible veteran or eligible person pursuing a course considered full time under paragraph (1) of this subsection shall be computed at not less than the rate prescribed in section 1682(a)(1) of this title for pursuit of a cooperative program and shall be paid for the entire term, quarter, or semester during which such course is offered.

"(d) Notwithstanding any other provision of this title, if an institutional undergraduate course leading to a standard college degree offered by a college or university (1) is considered full time under subsection (c)(1) of this section, and (2) during the term, quarter, or semester for which such course is offered requires the equivalent of a total number of standard class sessions equal to the number which for the same term, quarter, or semester would be required on a weekly basis by clause (4) of subsection (a) of this section multiplied by the total number of weeks in the term, quarter, or semester, the educational assistance allowance for an eligible veteran or eligible person enrolled in and pursuing such course shall be computed at the rate prescribed in section 1682 (a)(1) of this title for pursuit of a full-time institutional program and shall be paid for the entire term, quarter, or semester during which such course is offered.".

SEC. 406. (a) Section 1631(a)(1) is amended by adding at the end thereof the following new sentence: "The 36-month maximum shall be subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration.".

(b) Clause (4) of section 1795 is amended by inserting "32," after "31,".

TITLE V—MODIFICATIONS OF FLIGHT AND CORRESPONDENCE TRAINING PROVISIONS

SEC. 501. (a) Subsection (b) of section 1677 is amended by striking out "90 per centum" and inserting in lieu thereof "60 per centum".

(b) Section 1798 is amended by—

(1) striking out in the second sentence of subsection (c) "flight, apprentice or other on-job, or PREP training" and inserting in lieu thereof "or apprenticeship or other on-job training"; and

(2) adding at the end thereof the following new subsection:

"(h) In the case of a loan made to a veteran under this section to pursue a program of education consisting exclusively of flight training, the Administrator shall, as hereinafter provided in this subsection, cancel the repayment obligation (which for the purposes of this subsection shall include the obligation to pay interest), or reimburse for repayments already made, or both, as appropriate, if (1) such veteran has successfully completed such program and secured employment as a pilot or in a closely related occupation, and (2) such employment constitutes such veteran's primary vocational pursuit and major source of occupational income. Upon completion by such veteran of a full year of such employment during the first five years after the completion of such training, $1,000 of the repayment obligation under any such loan shall be canceled; and, upon the completion by such veteran of any additional three-month period of such employment during such five-year period, such repayment obligation shall be canceled at the rate of $250 for each such three-month period. In the event that a veteran meets the requirement of this section for a repayment obligation cancellation in an amount exceeding any remaining unpaid balance of such obligation, the Administrator shall, to the extent that the amount of the cancellation to which the veteran is entitled exceeds such balance, reimburse such veteran for any amounts of such obligation that such veteran has repaid.".

SEC. 502. Subsection (a) of section 1786 is amended by adding at the end thereof the following new paragraph:

"(3) No veteran, spouse, or surviving spouse may be paid an educational assistance allowance under this subsection unless the Administrator has determined that no type of education other than correspondence is reasonably and feasibly available to such veteran, spouse, or surviving spouse in order to pursue successfully the educational or vocational objective being sought.".

TITLE VI—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS, REPEAL OF AUTHORITY TO PURSUE PREDISCHARGE EDUCATION PROGRAM (PREP) TRAINING UNDER CHAPTER 32, AND RELATED AMENDMENTS

SEC. 601. Chapter 32 is amended by—

(1) amending section 1602(1)(A) by—

(A) inserting "who has never been finally determined to be eligible for educational assistance benefits under chapter 34 of this title and" after "any veteran"; and

(B) striking out "initially" in clauses (i) and (ii);

(2) amending section 1641 by—

(A) inserting "1663(a)," after "sections" the first place it appears; and

(B) striking out "1696, and 1698" and inserting in lieu thereof "and 1691(a)(1)"; and

(3) amending subsection (b) of section 1631 to read as follows:

"(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education to pursue a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a)(1) of this title, during the last 6 months of such member's first enlistment and at any time thereafter.".

SEC. 602. Chapter 34 is amended by—

(1) amending section 1661(c) by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V";

(2) amending section 1691(a) by—

(A) striking out "not on active duty"; and

(B) inserting "is not on active duty and who," after "(2)";

(3) striking out subchapter VI in its entirety; and

(4) striking out in the table of sections at the beginning of such chapter the item relating to subchapter VI in its entirety.

SEC. 603. Chapter 36 is amended by—

(1) amending section 1780(d) by—

(A) striking out in the third sentence of paragraph (2) "(other than under subchapter VI of chapter 34)";

(B) striking out paragraph (3);

(C) striking out in paragraph (5) "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)";

(D) striking out in paragraph (6) "(5)" and inserting in lieu thereof "(4)"; and

(E) redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; (2) striking out in section 1780(e) "and (3)"; (3) striking out in section 1780(f) "(except as provided by subsection (d)(3) of this section)";

(4) striking out in section 1784(c), as redesignated by section 303(3) of this Act, "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)";

(5) striking out in section 1788(a)(6) "or 1696(a)(2)";

(6) striking out in section 1789(b)(5) "or VI"; and

(7) striking out in section 1798(f)(2) "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

TITLE VII—PROTECTION FOR CERTAIN EMPLOYEES OF THE VETERANS' ADMINISTRATION

SEC. 701. Section 1114 of title 18, United States Code, is amended by inserting "or any officer or employee of the Veterans' Administration assigned to perform investigative or law enforcement functions," after "of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions,".

TITLE VIII—VETERANS' EMPLOYMENT ASSISTANCE ADJUSTMENTS

SEC. 801. Chapter 41 is amended by—

(1) amending section 2001 by—

(A) amending paragraph (1) to read as follows:

"(1) The term 'eligible veteran' has the same meaning provided in section 2011(4) of this title."; and

(B) redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively, and inserting after paragraph (1) the following new paragraphs:

"(2) The term 'veteran of the Vietnam era' has the same meaning provided in section 2011(2) of this title.

"(3) The term 'disabled veteran' has the same meaning provided in section 2011(3) of this title.

"(4) The term 'special disabled veteran' has the same meaning provided in section 2011(1) of this title."; and

(2) amending section 2007 by—

(A) inserting "veterans of the Vietnam era, and disabled veterans," after "duty," in subsection (a)(1); and

(B) amending the second sentence of subsection (c) to read as follows: "The report shall include, by State, the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of these, the number who were referred to jobs, the number who were placed in permanent jobs, the number who were referred to and the number who were placed in employment and job training programs supported by the Federal Government, the number who were counseled, and the number who received some reportable service.".

SEC. 802. Chapter 42 is amended by—

(1) amending section 2011 to read as follows:

"As used in this chapter—

"(1) The term 'special disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 per centum or more, or (B) an eligible veteran as defined in paragraph (4)(B) of this section.

"(2) The term 'veteran of the Vietnam era' means an eligible veteran—

"(A) who served on active duty at any time during the Vietnam era, and

"(B)(i) whose delimiting period under section 1662 (a)(1), (b), or (e), as appropriate, of this title for educational assistance under chapter 34 of this title has been expired for a period of less than two years, or

"(ii) who does not meet the nature of discharge or release requirements for educational assistance under chapter 34 of this title but whose delimiting period of such assistance under such chapter would not have expired had such veteran met such disclosure or release requirements on the date of such veteran's discharge or release from active duty and had such veteran not suffered from a physical or mental disability at any time thereafter.

Such term does not include a retired member of the Armed Forces (as defined in section 2108(5) of title 5) unless such member is a disabled veteran or unless such member was retired in a grade below major or the equivalent thereof.

"(3) The term 'disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (B) an eligible veteran as defined in paragraph (4)(B) of this section.

"(4) The term 'eligible veteran' means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

"(5) The term 'department or agency' means any department or agency of the Federal Government or any federally owned corporation."; and

(2) amending section 2012 by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this chapter, a veteran of the Vietnam era as defined in part in section 2011(2)(A) of this title (but not including a veteran excluded from such definition by the second sentence of section 2011(2) of this title) shall be considered to be a veteran of the Vietnam era for the purposes of this section until the expiration of (1) the applicable period during which such veteran would be considered a veteran of the Vietnam era under section 2011(2) of this title, or (2) a period of two years beginning on the date of the enactment of this subsection, whichever occurs later.".

SEC. 804. (a) Chapter 41 is amended by—

(1) amending section 2001(5), as redesignated by section 701(1)(B) of this title, by striking out "the" the first place it appears and inserting in lieu thereof "The";

(2) amending section 2001(6), as redesignated by section 701(1)(B) of this title, by inserting "the Commonwealth of the Northern Marianas Islands," after "the Virgin Islands,"; and

(3) amending section 2003—

(A) striking out in the fourth sentence "manpower" and inserting in lieu thereof "employment";

(B) inserting "system" after "public employment service" each time it appears; and

(C) striking out in clause (6) of the fifth sentence "that eligible veterans receive special consideration when required" and inserting in lieu thereof "compliance with the provisions of such Act relating to veterans".

(b) Chapter 42 is amended by—

(1) amending section 2012 by—

(A) amending the catchline to read as follows:

"§ 2012. Veterans' affirmative action under Federal contracts";

and

(B) inserting "special" after "qualified" in the first sentence of subsection (a); and

(C) inserting "special" after "If any" in the first sentence of subsection (b) and striking out "veteran who is entitled to disability compensation under the laws administered by the Veterans' Administration" and inserting in lieu thereof "disabled veteran".

(2) amending section 2013 by—

(A) amending the catchline to read as follows:

"§ 2013. Eligibility requirements for veterans under Federal employment and training programs";

and

(B) striking out "a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability" and inserting in lieu thereof "an eligible veteran"; and

(C) striking out "any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower" and inserting in lieu thereof "any employment or training program assisted under the Comprehensive Employment and Training Act of 1973, or any other employment or"; and (3) amending section 2014 by—

(A) striking out "Civil Service Commission" and "Commission" each place such terms appear and inserting in lieu thereof "Office of Personnel Management" and "Office", respectively;

(B) striking out in subsection (b)(2) "has the meaning given such term in section 2011(2)(A)" and inserting in lieu thereof "means an eligible veteran (as defined in section 2011(4) of this title) who served on active duty at any time during the Vietnam era";

(C) striking out in subsection (c) "Public Law 93-112 (87 Stat. 391)" and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791(b))"; and

(D) striking out in subsection (e) "such Public Law 93-112" and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791(d))"; and

(4) amending the table of sections at the beginning of such chapter by striking out the items relating to sections 2012 and 2013 and inserting in lieu thereof the following:

"2012. Veterans' affirmative action under Federal contracts.

"2013. Eligibility requirements for veterans under Federal employment and training programs.".

SEC. 804. The Secretary of Labor shall assure that any veteran who is made ineligible for employment assistance under chapter 41 of title 38, United States Code, by virtue of the amendments made by section 801(a)(1) of this Act shall be provided with the employment assistance and services made available under the provisions of the Wagner-Peyser Act (29 U.S.C. 49–49k), the Comprehensive Employment and Training Act (29 U.S.C. 801–999), and other applicable provisions of law.

SEC. 805. (a) Chapter 41 of title 38, United States Code, is amended by—

(1) striking out in the table of sections the word "Deputy" in the item relating to section 2002A;

(2) striking out "Deputy" before "Assistant Secretary" in section 2002;

(3) striking out "Deputy" in the catchline of section 2002A; and

(4) striking out "Deputy" before "Assistant Secretary" in section 2002A.

(b) Any reference in any law, regulation, directive, or other document to the Deputy Assistant Secretary of Labor for Veterans' Employment shall be deemed to refer to the Assistant Secretary of Labor for Veterans' Employment.

(c) Notwithstanding any other provision of law, the position of Deputy Assistant Secretary of Labor for Veterans' Employment, as constituted on the day before the date of the enactment of this section, shall remain in existence until a person has been appointed to and has qualified for the position of Assistant Secretary of Labor for Veterans' Employment (established by subsection (a) of this section).

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new position:

"Assistant Secretary of Labor for Veterans' Employment.".

SEC. 806. When the Bureau of Labor Statistics publishes annual statistics, and, whenever feasible, any other statistics, relating specifically to Vietnam-era veterans, it shall also publish separate statistics on the same subject matter dealing only with veterans who served in Vietnam, in air missions over Vietnam, or in naval missions in the waters adjacent to Vietnam.

TITLE IX—DISCLOSURES OF CERTAIN INFORMATION BY THE VETERANS' ADMINISTRATION

SEC. 901. Section 3301 of title 38, United States Code, is amended by—

(1) inserting "or in preparation for" after "In" in clause (5) of subsection (b);

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection:

"(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

"(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of participation in any veterans' benefits program carried out under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequences for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

"(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness;

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

"(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

"(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

"(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

"(B) Following the release of information under subparagraph (A) of this paragraph—

"(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly provide verification or correction, as appropriate, of such information; and

"(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A)(i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, not withstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

"(3) No contract entered into for any of the purposes of this subsection and no action taken pursuant to any such contract or this subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(4) For the purposes of this subsection—

"(A) The terms 'consumer report' and 'file' shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively.

"(B) The term 'consumer reporting agency' (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h) as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(3) of this section, any".

TITLE X—NURSING HOME RESPONSIBILITY AND AGENT ORANGE STUDY

SEC. 1001. (a) The Secretary of Health, Education, and Welfare and the Administrator of Veterans' Affairs shall submit a joint report to the Congress relating to the coordination of their responsibilities for the enforcement of quality and safety standards in nursing homes. Such report shall—

(1) identify the optimum method for coordinating Federal responsibility for enforcing quality and safety standards in nursing homes within one Federal agency;

(2) identify legislative and regulatory changes required to accomplish such coordination; and

(3) establish a timetable for such coordination beginning no later than January 1, 1981, and ending by January 1, 1982.

(b) The report required by subsection (a) shall be submitted to Congress no later than August 30, 1980.

SEC. 1002. (a)(1) In order to assist in determining the long-term health effects on veterans of their exposure to the herbicide known as "Agent Orange" while serving in the Armed Forces of the United States during the Vietnam era, the Secretary of Health, Education, and Welfare shall provide for the design of a protocol for and the conduct of an epidemiological study of various populations, such as such veterans, chemical workers, agricultural workers, Forest Service workers, and others, who were exposed to any of the class chemicals known as "the dioxins" produced during the manufacture of the various phenoxy herbicides to determine if there may be long-term adverse health effects in such persons from such exposure. The Secretary shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to such dioxins or other dioxins.

(2)(A)(i) The study conducted pursuant to paragraph (1) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(ii) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(B)(i) Concurrent with the approval or disapproval of any protocol under subparagraph (A)(i), the Director of the Office of Technology Assessment shall submit to the appropriate committees of the Congress a report explaining the basis for the Director's action in approving or disapproving such protocol and providing the Director's conclusions regarding the scientific validity and objectivity of such protocol.

(ii) In the event that the Director has

not approved such protocol during the one hundred and eighty days following the date of the enactment of this Act, the Director shall (I) submit to the appropriate committees of the Congress a report describing the reasons why the Director has not given such approval, and (II) submit an update report on such initial report each sixty days until such protocol is approved.

(C) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in the second sentence of this subparagraph, a report on the Director's monitoring of the conduct of such study pursuant to subparagraph (A)(ii). A report under the preceding sentence shall be submitted before the end of the six-month period beginning on the date of the approval of such protocol by the Director, before the end of the twelve-month period beginning on such date, and annually thereafter until such study is completed or terminated.

(3) The study conducted pursuant to paragraph (1) shall be continued for as long after the submission of the report under subsection (b)(2) as the Secretary may determine reasonable in light of the possibility of developing through such study significant new information on the long-term adverse health effects of exposure to dioxins.

(b)(1) Not later than twelve months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a report on the literature review and analysis conducted under subsection (a)(1).

(2) Not later than twenty-four months after the date of the approval of the protocol pursuant to subsection (a)(2)(A)(i) and annually thereafter, the Secretary shall submit to the appropriate committees of the Congress a report containing (A) a description of the results thus far obtained under this study conducted pursuant to such subsection, and (B) such comments and recommendations as the Secretary and the heads of other departments, agencies, and instrumentalities of the Federal Government described in subsection (c) consider appropriate in light of such results.

(c) For the purpose of assuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to dioxins is scientifically valid and is conducted with efficiency and objectivity, the President shall assure that—

(1) the study conducted pursuant to subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to dioxins; and

(2) all appropriate coordination and consultation is accomplished between and among the Secretary and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the study carried out pursuant to subsection (a), in the design, conduct, monitoring, or evaluation of such dioxin-exposure studies.

(d) There are authorized to be appropriated such sums as may be necessary for the conduct of the study required by subsection (a).

TITLE XI—TECHNICAL AMENDMENTS AND EFFECTIVE DATES

SEC. 1101. Section 1790(b)(2) is amended by striking out "therefore" and inserting in lieu thereof "for".

SEC. 1102. The GI Bill Improvement Act of 1977 (Public Law 95-202) is amended by—

(1) repealing section 305(a)(3) in its entirety;

(2) striking out "paragraph (1)" in section 305(b)(3) and inserting in lieu thereof "paragraph (2)"; and

(3) striking out "honor-and" in section 401(a)(1)(B) and inserting in lieu thereof "honorable".

SEC. 1103. (a) Except as provided in subsections (b), (c), (d), (e), and (f) of this section, the provisions of this Act shall become effective on October 1, 1979, or the first day of the second calendar month following the date of enactment, whichever occurs later.

(b) The provisions of title IV shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on August 1, 1979, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.

(c) The provisions of section 208 shall not apply to any person receiving educational assistance under chapter 34 of title 38, United States Code, on October 1, 1979, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for so long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for pursuit of such program.

(d) The provisions of title I shall be effective September 1, 1980.

(e) The provisions of section 601(1) shall be effective retroactively to January 1, 1977.

(f) The provisions of section 805 shall take effect on February 1, 1980.

SEC. 1104. (a) Chapter 34 is amended by—

(1) striking out "Commissioner" in section 1652(g) and inserting in lieu thereof "Secretary"; and

(2) striking out "Civil Service Commission" in section 1685(d) and inserting in lieu thereof "Office of Personnel Management".

(b) Section 1701(a)(11) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(c) Chapter 36 is amended by—

(1) striking out "Commissioner" each place it appears in section 1775(a) and inserting in lieu thereof "Secretary";

(2) striking out "Department of Health, Education, and Welfare" in section 1781 and inserting in lieu thereof "Department of Health and Human Services";

(3) striking out "Commissioner" and "Manpower" in section 1792 and inserting in lieu thereof "Secretary" and "Employment and Training", respectively; and

(4) striking out "Commissioner of Education, Department of Health, Education, and Welfare" in section 1789(d)(3) and inserting in lieu thereof "Secretary of Education".

(d) The amendments made by subsections (a), (b), and (c) of this section shall be effective one hundred and eighty days after the first Secretary of Education takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register as the date on which the provisions of Public Law 96-88 shall generally take effect.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons, to extend the educational assistance delimiting-date for Vietnam-era veterans under certain circumstances, to prescribe time limits for filing claims for and clarify eligibility for delimiting-date extensions based upon disability, to modify the standards of progress requirements and course-measurement criteria applicable to pursuit of certain education or training, to tighten the administration of assistance for vocational objective courses and modify provisions regarding flight and correspondence training assistance, to modify procedures for payment of educational assistance allowances to incarcerated veterans, to modify the definitions of various categories of veterans for certain employment assistance purposes, to permit certain disclosures to credit reporting agencies for certain specified purposes, and to elevate the Office of Deputy Assistant Secretary of Labor for Veterans' Employment to the Assistant Secretary level; and for other purposes.".

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That (a) this Act may be cited as the "Veterans' Rehabilitation and Education Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REHABILITATION AMENDMENTS

REVISION OF VETERANS' ADMINISTRATION REHABILITATION PROGRAMS

SEC. 101. (a) Chapter 31 is amended to read as follows:

"CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

"Sec.
"1500. Purposes.
"1501. Definitions.
"1502. Basic entitlement.
"1503. Periods of eligibility.
"1504. Scope of services and assistance.
"1505. Duration of rehabilitation programs.
"1506. Initial and extended evaluations; determinations regarding serious employment handicap.
"1507. Individualized vocational rehabilitation plan.
"1508. Allowances.
"1509. Entitlement to independent living services and assistance.
"1510. Leaves of absence.
"1511. Regulations to promote satisfactory conduct and cooperation.
"1512. Revolving fund loans.
"1513. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans.
"1514. Vocational rehabilitation outside the United States.
"1515. Rehabilitation resources.
"1516. Promotion of employment and training opportunities.
"1517. Employment assistance.
"1518. Personnel training, development, and qualifications.
"1519. Rehabilitation research and special projects.
"1520. Pilot program of independent living services and assistance.
"1521. Veterans' Advisory Committee on Rehabilitation.

"§ 1500. Purposes

"The purposes of this chapter are to provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

"§ 1501. Definitions

"For the purposes of this chapter—

"(1) The term 'employment handicap' means an impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

"(2) The term 'independence in daily living' means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran's family and community.

"(3) The term 'program of education' has the meaning provided in section 1652 (b) of this title.

"(4) The term 'program of independent living services and assistance' includes (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Administrator to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

"(5) The term 'rehabilitated to the point of employability' means rendered employable in an occuption for which a vocational rehabilitation program has been provided under this chapter.

"(6) The term 'rehabilitation program' means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance for a veteran for whom a vocational goal has been determined not to be reasonably feasible.

"(7) The term 'serious employment handicap' means a significant impairment of a veteran's ability to prepare for obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

"(8) The term 'vocational goal' means a gainful employment status consistent with a veteran's abilities, aptitudes, and interests.

"(9) The term 'vocational rehabilitation program' includes—

"(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Administrator to be needed—

"(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

"(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

"(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

"§ 1502. Basic entitlement

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if such person—

"(1)(A) is a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940, or (B) is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the Administrator determines will likely be compensable under chapter 11 of this title; and

"(2) is determined by the Administrator to be in need of rehabilitation because of an employment handicap.

"§ 1503. Periods of eligibility

"(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veterans' discharge or release from active military, naval, or air service.

"(b)(1) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to participate in such a program.

"(2) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because—

"(A) such veteran had not met the requirement of a discharge or release from active military, naval, or air service under conditions other than dishonorable before (i) the nature of such discharge or release was changed by appropriate authority, or (ii) the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions other than dishonorable, or

"(B) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator made a determination that such discharge or dismissal is not a bar to such benefits,

the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(3) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability described in section 1502(1)(A) of this title, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

"(c) In any case in which the Administrator determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator also determines, on the basis of such veteran's particular employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

"(1) that such veteran had not previously been rehabilitated to the point of employability;

"(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such veteran's employment handicap and capabilities; or

"(3) under regulations which the Administrator shall prescribe, that an extension of the period of eligibility of such veteran is necessary to accomplish the purposes of a rehabilitation program for such veteran.

"(d) In any case in which the Administrator has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicabe to such veteran if the Administrator also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

"§ 1504. Scope of services and assistance

"(a) Services and assistance which the Administrator may provide under this chapter, pursuant to regulations which the Administrator shall prescribe, include the following:

"(1) Evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether such veteran's disability or disabilities cause a serious employment handicap and whether a vocational goal is feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services and assistance to improve the vocational rehabilitation potential or independent living status of such veteran, as appropriate.

"(2) Educational, vocational, psychological, employment, and personal adjustment counseling.

"(3) An allowance and other appropriate assistance, as authorized by section 1508 of this title.

"(4) A work-study allowance as authorized by section 1685 of this title.

"(5) Placement services to effect suitable placement in employment, and postplacement services to attempt to insure satisfactory adjustment in employment.

"(6) Personal adjustment and work adjustment training.

"(7) Vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case.

"(8) Loans as authorized by section 1512 of this title.

"(9) Treatment, care, and services described in chapter 17 of this title.

"(10) Prosthetic appliances, eyeglasses, and other corrective and assistive devices.

"(11) Services to a veteran's family as necessary for the effective rehabilitation of such veteran.

"(12) For the most severely disabled veterans requiring homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Administrator determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Administrator shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

"(13) Travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage.

"(14) Special services (including services related to blindness and deafness) including—

"(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

"(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

"(C) telecommunications, sensory, and other technical aids and devices.

"(15) Services necessary to enable a veteran to achieve maximum independence in daily living.

"(16) Other incidental goods and services determined by the Administrator to be necessary to accomplish the purposes of a rehabilitation program in an individual case.

"(b) A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796).

"(c) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Administrator.

"§ 1505. Duration of rehabilitation programs

"(a) In any case in which the Administrator is unable to determine whether it is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 1506(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Administrator determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonably feasible in the case of such veteran.

"(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Administrator determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

"(c) The Administrator may extend the period of a vocational rehabilitation program for a veteran to the extent that the Administrator determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the Administrator also determines—

"(1) that such veteran had previously been rehabilitated to the point of employability but (A) such veteran's need for further vocational rehabilitation has arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated is not suitable in view of such veteran's employment handicap and capabilities; or

"(2) under regulations which the Administrator shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

"(d) Unless the Administrator determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the Administrator that such veteran's disability or disabilities are so severe that the achievement of a vocational goal is not reasonably feasible) may not exceed twenty-four months.

"§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

"(a) The Administrator shall provide any veteran who has a service-connected disability described in section 1502(1) (A) or (B) of this title and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 1504(a) (1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

"(A) whether such veteran has a serious employment handicap, and

"(B) whether the achievement of a vocational goal is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

"(b) In any case in which the Administrator has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507(a) of this title.

"(c) In any case in which the Administrator has determined that a veteran has a serious employment handicap but the Administrator is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal is reasonably feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a) (1) of this title, such services under this chapter as the Administrator determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

"(d) The Administrator shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 1505(a) of this title), the Administrator shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal is reasonably feasible, th Administrator shall resolve any reasonable doubt in favor of determining that such achievement is reasonably feasible.

"(e) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Administrator shall assign a veterans' Administration employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 1517 of this title) and assistance under this chapter to such veteran.

"§ 1507. Individualized vocational rehabilitation plan

"(a) The Administrator shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 1506(b) of this title. Such plan shall be developed with such veteran and shall include, but not be limited to (1) a statement of long-range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, and (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved.

"(b) The Administrator shall review at least annually the plan formulated under subsection (a) of this section for a veteran and shall afford such veteran the opportunity to participate in each such review. On the basis of such review, the Administrator shall (1) redevelop such plan with such veteran if the Administrator determines, under regulations which the Administrator shall prescribe, that redevelopment of such plan is appropriate, or (2) disapprove redevelopment of such plan if the Administrator determines, under such regulations, that redevelopment of such plan is not appropriate.

"(c) (1) Each veteran for whom a plan has been developed or redeveloped under subsection (a) or (b) (1), respectively, of this section or in whose case redevelopment of a plan has been disapproved under subsection (b) (2) of this section, shall be informed of such veteran's opportunity for a review as provided in paragraph (2) of this subsection.

"(2) In any case in which a veteran does not agree to such plan as proposed, to such plan as redeveloped, or to the disapproval of redevelopment of such plan, such veteran may submit to the person described in section 1506 (e) of this title a written statement containing such veteran's objections and request a review of such plan as proposed or redeveloped, or a review of the disapproval of redevelopment of such plan, as the case may be.

"(3) The Administrator shall review the statement submitted under paragraph (2) of this subsection and the plan as proposed or as redeveloped, and, if applicable, the disapproval of redevelopment of the plan, and render a decision on such review not later than ninety days after the date on which such veteran submits such statement, unless the case is one for which a longer period for review, not to exceed 150 days after such veteran submits such statement, is allowed under regulations prescribed by the Administrator, in which case the Administrator shall render a decision no later than the last day of the period prescribed in such regulations.

"§ 1508. Allowances

"(a) (1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Administrator to be a period of such veteran's participation under this chapter in a rehabilitation program.

"(2) In any case in which the Administrator determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months following the conclusion of such pursuit.

"(3) A subsistence allowance may not be paid under this chapter to a veteran for any period during which such veteran is being provided with an initial evaluation under section 1506 (a) of this title or during which such veteran is being provided only with counseling or with placement or postplacement services under section 1505 (b) of this title.

"(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$282	$349	$411	$30
Three-quarter-time	212	262	308	23
Half-time	141	175	206	15
Farm cooperative, apprentice, or other on-job training:				
Full-time	246	297	343	22
Extended evaluation:				
Full-time	282	349	411	30
Independent living training:				
Full-time	282	399	411	30
Three-quarter-time	212	262	308	23
Half-time	141	175	206	15"-

"(c) (1) In any case in which the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Administrator a statement in writing showing any wage, compensation, or other income paid (directly or indirectly) by the employer to such veteran for such month. Based upon such written statement, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Administrator shall establish in regulations which the Administrator shall prescribe.

"(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal agency under the provisions of section 1515(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

"(d)(1) The Administrator shall, in accordance with regulations which the Administrator shall prescribe, define full-time and each part-time status for veterans participating in rehabilitation porgrams under this chapter.

"(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the Administrator shall prescribe.

"(e) In any case in which a veteran is pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Administrator may (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence alllowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veterans' dependency status, under subsection (b) of this section for a full-time institutional program.

"(f)(1)(A) In any case in which the Administrator determines that a veteran is entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under chapter 34 of this title, if the Administrator approves the educational professional or vocational objective chosen by such veteran for such program.

"(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter 34 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

"(2) A veteran who is receiving an allowance pursuant to paragraph (1) of this subsection may not receive any of the services or assistance described in section 1504(a)(3), (7), and (8) of this title (other than an allowance and other assistance under this subsection).

"(g)(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(2) Paragraph (1) of this subsection shall apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.

"(h) Notwithstanding any other provision of this title, the amount of subsistence allowance, or other allowance under subsection (f) of this section, that may be paid to a veteran pursuing a rehabilitation program for any month for which such veteran receives compensation at the rate prescribed in section 314(j) of this title as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the Veterans' Administration may not exceed, when added to any compensation to which such veteran is entitled for such month, an amount equal to the greater of—

"(1) the sum of—

"(A) the amount of monthly subsistence or other allowance that would otherwise be paid to such veteran under this section, and

"(B) the amount of monthly compensation that would be paid to such veteran if such veteran were not receiving compensation at such rate as the result of such hospital treatment or observation; or

"(2) the amount of monthly compensation payable under section 314(j) of this title.

"(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

"§ 1509. Entitlement to independent living services and assistance

"In any case in which the Administrator has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

"§ 1510. Leaves of absence

"The Administrator shall prescribe such regulations as the Administrator determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

"§ 1511. Regulations to promote satisfactory conduct and cooperation

"The Administrator shall prescribe such rules and regulations as the Administrator determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursuing rehabilitation programs under this chapter. In any case in which the Administrator determines that a veteran has failed to maintain satisfactory conduct or cooperation, the Administrator may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the Administrator determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the Administrator may reinstitute such services and assistance only if the Administrator determines that—

"(1) the cause of the unsatisfactory conduct or cooperation of such veteran has been removed; and

"(2) the rehabilitation program which such veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests.

"§ 1512. Revolving fund loans

"The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents (as provided in section 1508(b) of this title) to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

"§ 1513. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

"(a) Services and assistance may be provided under this chapter to a person described in section 1502 (1)(B) and (2) of this title who is hospitalized pending discharge from active military, naval, or air service. In such cases, no subsistence allowance shall be paid.

"(b) Services and assistance may be provided under this chapter to a veteran who is receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in any other hospital or medical facility.

"§ 1514. Vocational rehabilitation outside the United States

"Under regulations which the Administrator shall prescribe, a vocational rehabilitation program under this chapter may be provided outside the United States if the Administrator determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

"§ 1515. Rehabilitation resources

"(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the Administrator may—

"(1) use the facilities of any Federal agency (including the Veterans' Administration) to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay in any case in which the Administrator determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

"(2) use the facilities, staff, and other resources of the Veterans' Administration;

"(3) employ such additional personnel and experts as the Administrator considers necessary; and

"(4) use the facilities and services of any Federal, State, or other public agency, any agency maintained by joint Federal and State contributions, any public or private institution or establishment, and any private individual.

"(b)(1) While pursuing on-job training or work experience under subsection (a)(1) of this section, a veteran shall be considered to be an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

"(2) Except as provided in chapter 17 of this title, hospital care and medical services provided under this chapter shall be furnished in facilities over which the Administrator has direct jurisdiction.

"(3) Use of facilities and services under clause (4) of subsection (a) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

"§ 1516. Promotion of employment and training opportunities

"(a) The Administrator shall actively promote the development and establishment of employment, training, and other related opportunities for (1) veterans who are participating or who have participated in a rehabilitation program under this chapter, (2) veterans with service-connected disabilities, and (3) other veterans to whom the employment emphases set forth in chapter 42 of this title apply. The Administrator shall promote the development and establishment of such opportunities through Veterans' Administration staff outreach efforts to employers and through Veterans' Administration coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations. In carrying out the provisions of this subsection with respect to veterans referred to in clause (3) of the first sentence of this subsection, the Administrator shall place particular emphasis on the needs of categories of such veterans on the basis of applicable rates of unemployment.

"(b)(1) The Administrator, pursuant to regulations prescribed in accordance with paragraph (3) of this subsection, may make payments to employers for providing on job training to veterans who have been rehabilitated to the point of employability in individual cases in which the Administrator determines that such payment is necessary to obtain needed on-job training or to begin employment. Such payments may not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity.

"(2) In any case in which a veteran described in paragraph (1) of this subsection participates in on-job training described in such paragraph that satisfies the criteria for payment of a training assistance allowance under section 1787 of this title, such veteran shall, to te extent that such veteran has remaining eligibility for and entitlement to such allowance, be paid such allowance.

"(3) The Administrator shall prescribe regulations under this subsection in consultation with the Secretary of Labor and, in prescribing such regulations, shall take into consideration the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V) and section 2012 of this title, and regulations prescribed under such provisions.

"§ 1517. Employment assistance

"(a)(1) A veteran with a service-connected disability who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 and who the Administrator has determined to be employable shall be furnished assistance in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap, including assistance necessary to insure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training.

"(2) Assistance provided under this subsection may include—

"(A) direct placement of such veteran in employment;

"(B) utilization of the services of disabled veterans outreach program specialists under section 2003A of this title; and

"(C) utilization of the job development and placement services of (i) programs under the Rehabilitation Act of 1973, (ii) the State employment service and the Veterans' Employment Service of the Department of Labor, (iii) the Office of Personnel Management, and (iv) any other public or nonprofit organization having placement services available.

"(b)(1) In any case in which a veteran has completed a vocational rehabilitation program for self-employment in a small business enterprise under this chapter, the Administrator shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to insure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.SC. 633(b)).

"(2) In the case of a veteran described in clause (12) of section 1504(a) of this title who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise, the Administrator may, subject to the limitations and criteria provided for in such clause, provide such veteran with such supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

"§ 1518. Personnel training, development, and qualifications

"(a) The Administrator shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

"(b) The Administrator shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

"(c) Notwithstanding any other provision of law, the Administrator shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 1506(e) of this title as the Administrator determines are necessary and appropriate to insure the quality of rehabilitation programs under this chaper. In establishing such qualifications, the Administrator shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

"§ 1519. Rehabilitation research and special projects

"(a) The Administrator shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

"(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

"(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

"(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

"(c) The Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

"§ 1520. Pilot program of independent living services and assistance

"(a)(1) During fiscal years 1982 through 1985, the Administrator may, under contracts with public or nonprofit private agencies or organizations, or through facilities of the Department of Medicine and Surgery, which possess a demonstrated capability to conduct programs of independent living services for severely handicapped persons, provide, under regulations which the Administrator shall prescribe, programs of independent living services and assistance under this chapter, in various geographic regions of the United States, to veterans described in paragraph (2) of this subsection.

"(2) A program of independent living services and assistance may be made available under this section only to a veteran who has a service-connected disability described in section 1502(1)(A) of this title and with respect to whom it is determined under section 1506(d) of this title that the achievement of a vocational goal is not reasonably feasible and who is selected pursuant to criteria provided for in regulations prescribed under paragraph (1) of this subsection.

"(3) The Administrator shall, to the maximum extent feasible, include among those veterans who are provided with programs of independent living services and assistance under this section substantial numbers of veterans described in paragraph (2) of this subsection who are receiving long-term care in Veterans' Administration hospitals and nursing homes and in nursing homes with which the Administrator contracts for the provision of care to veterans.

"(4) A program of independent living services and assistance for a veteran shall consist of such services described in section 1504 (a) and (b) of this title as the Administrator determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans under section 1507 of this title.

"(5) Any contract for services initiated with respect to any veteran under this section before the end of fiscal year 1985 may be continued in effect after the end of such year for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter.

"(6) Programs of independent living services and assistance shall be initiated for no more than five hundred veterans in each of the fiscal years 1982 through 1985, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

"(b) Not later than September 30, 1984, the Administrator shall submit to the Congress a report on the programs of independent living services and assistance provided for in subsection (a) of this section. Such report shall include—

"(1) the results of a study which the Administrator shall conduct of the accomplishments and cost-effectiveness of such programs, including the extent to which (A) such programs have met needs for comprehensive independent livig services that would not otherwise have been met, (B) severely disabled veterans have achieved and maintained greater independence in daily living as a result of participation in the programs, and (C) costs of care in hospital, nursing home, and domiciliary facilities have been and may be avoided as the result of such programs; and

"(2) the Administrator's recommendations for any legislative changes with respect to the provision of independent living services and assistance to veterans for whom the achievement of a vocational goal is not feasible.

"§ 1521. Veterans' Advisory Committee on Rehabilitation

"(a)(1) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Administration from the general public and shall serve for terms to be determined by the Administrator not to exceed three years. Veterans with service-connected disabilities shall be appropriately represented in the membership of the Committee, and the Committee shall also include persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Administrator may designate one of the members of the Committee appointed under this paragraph to chair the Committee.

"(3) The Committee shall also include as *ex officio* members the following: (A) one representative from the Department of Medicine and Surgery and one from the Department of Veterans' Benefits, (B) one representative from the Rehabilitation Services Administration of the Department of Education and one from the National Institute for Handicapped Research of the Department of Education, and (C) one representative of the Assistant Secretary of Labor for Veterans' Employment of the Department of Labor.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of veterans' rehabilitation programs under this title.

"(c) The Committee shall submit to the Administrator an annual report on the rehabilitation programs and activities of the Veterans' Administration and shall submit such other reports and recommendations to the Administrator as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Veterans' Administration designed to meet such needs. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a copy of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator was submitted to the Congress pursuant to such section.".

(b) The items relating to chapter 31 in the table of chapters at the beginning of title 38, United States Code, and in the table of chapters at the beginning of part III of such title, are amended to read as follows:

"31. Training and rehabilitation for veterans with service-connected disabilities ---------------------- 1500".

(c) The provisions of section 1508(g)(1) of title 38, United States Code, as added by subsection (a), shall not apply to an apportionment made under section 3107(c) of such title before the date of the enactment of this Act.

(d) With respect to veterans who are participating in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, on March 31, 1981—

(1) individualized written plans of vocational rehabilitation shall be formulated under section 1507 of such title (as amended by subsection (a)) for such veterans to the extent that and at such times as the Administrator determines that the formulation of such plans is feasible and on the basis of such priorities for the formulation of such plans as the Administrator shall prescribe; and

(2) extensions may be granted a veteran under sections 1503(c) and 1505(c)(2) of such title (as amended by subsection (a)) without regard to the requirement for a determination of a serious employment handicap.

LIMITATION ON PAYMENT OF SUBSISTENCE ALLOWANCE

SEC. 102. Section 1781 is amended by inserting a comma and "or subsistence allowance granted under chapter 31," after "36".

LIMITATION ON PERIOD OF ASSISTANCE UNDER TWO OR MORE PROGRAMS

SEC. 103. Section 1795 is amended by—

(1) inserting "(a)" before "The aggregate";

(2) striking out clause (4) and inserting in lieu thereof the following:

"(4) chapters 32, 34, 35, and 36 of this title and the former chapter 33;";

(3) striking out after "thereof)" the comma and "but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone" and inserting in lieu thereof a period; and

(4) adding at the end the following new subsection:

"(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), and (4) of this section in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 1501(5) of this title) in the individual case.".

TITLE II—GI BILL RATE INCREASES

PART A—INCREASES EFFECTIVE OCTOBER 1, 1980

RATES OF EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 201. Chapter 34 is amended by—

(1) striking out "$288" in the last sentence of section 1677(b) and inserting in lieu thereof "$302";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$327	$389	$443	$27
Three-quarter-time	245	292	332	20
Half-time	164	195	222	14
Cooperative	264	309	351	21";

(3) striking out "$311" in section 1682(b) and inserting in lieu thereof "327";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$264	$309	$357	$20
Three-quarter-time	198	232	263	15
Half-time	132	155	176	10";

and

(5) striking out "$69" and "$828" in section 1692 (b) and inserting in lieu thereof "$72" and "$869", respectively.

RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

SEC. 202. Chapter 35 is amended by—

(1) striking out "$251" in section 1732 (b) and inserting in lieu thereof "$264"; and

(2) striking out "$311", "$98", "$98", and "$10.40" in section 1742(a) and inserting in lieu thereof "$327", "$103", "$103", and "$10.92", respectively.

RATES FOR STATE APPROVING AGENCIES' ADMINISTRATIVE EXPENSES, TRAINING ALLOWANCES FOR TRAINING ON THE JOB, AND FOR EDUCATION LOANS

SEC. 203. Chapter 36 is amended by—

(1) amending subsection (b) of section 1774 to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$662.
Over $5,000 but not exceeding $10,000.	$1,191.
Over $10,000 but not exceeding $35,000.	$1,191 for the first $10,000, plus $1,103 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$7,205.
Over $40,000 but not exceeding $75,000.	$7,205 for the first $40,000, plus $953 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,288.
Over $80,000	$14,288 for the first $80,000, plus $833 for each additional $5,000 or fraction thereof."

(2) striking out "$311" in section 1786(a)(2) and inserting in lieu thereof "$327";

(3) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependent
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$237	$267	$291	$13
Second 6 months	177	207	232	13
Third 6 months	119	148	172	13
Fourth and any succeeding 6-month periods	59	88	113	13";

and

(4) striking out "$311" in paragraph (3) of section 1798(b) and inserting in lieu thereof "$327".

Part B—Increases Effective January 1, 1981

RATES OF EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 211. Chapter 34 is amended by—

(1) striking out "$302" in the last sentence of section 1677(b) and inserting in lieu thereof "$317";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	257	305	348	22
Half-time	171	204	232	15
Cooperative	276	323	367	21".

(3) striking out "$327" in section 1632(b) and inserting in lieu thereof "$342";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	242	275	16
Half-time	138	162	184	11",

(5) striking out "$72" and "$869" in section 1692(b) and inserting in lieu thereof "$76" and "$911", respectively.

RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

SEC. 212. Chapter 35 is amended by—

(1) striking out "$264" in section 1732(b) and inserting in lieu thereof "$276"; and

(2) striking out "$327", "$103", "$103", and "$10.92" in section 1742(a) and inserting in lieu thereof "$342", "$108", "$108", and "$11.44", respectively.

RATES FOR STATE APPROVING AGENCIES' ADMINISTRATIVE EXPENSES, FOR TRAINING ALLOWANCE FOR TRAINING ON THE JOB AND FOR EDUCATION LOANS

SEC. 213. Chapter 36 is amended by—

(1) amending subsection (b) of section 1774 to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000.	$1,247.
Over $10,000 but not exceeding $35,000.	$1,247 for the first $10,000, plus $1,155 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$7,548.
Over $40,000 but not exceeding $75,000.	$7,548 for the first $40,000, plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,969.
Over $80,000	$14,969 for the first $80,000, plus $872 for each additional $5,000 or fraction thereof."

(2) striking out "$327" in section 1786(a)(2) and inserting in lieu thereof "$342";

(3) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$249	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6-month periods	62	92	119	13".

and

(4) striking out "$327" in paragraph (3) of section 1798(b) and inserting in lieu thereof "$342".

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

Part A—Educational Assistance for Veterans

PERIOD WITHIN WHICH APPLICATION FOR EXTENSION OF DELIMITING PERIOD MUST BE FILED AND MEASUREMENT OF EXTENSION

SEC. 301. Section 1662(a)(1) is amended by—

(1) inserting "made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest" after "application";

(2) inserting "so" after "that such veteran was" in such paragraph; and

(3) adding at the end the following new sentence: "When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

CLARIFICATION OF AUTHORITY OF ADMINISTRATOR TO DISAPPROVE AN APPLICATION FOR BENEFITS

SEC. 302. The second sentence of section 1671 is amended to read as follows: "The Administrator shall approve such application unless the Administrator finds that (1) such veteran or person is not eligible for or entitled to the educational assistance for which application is made, (2) the veteran's or person's selected educational institution or training establishment fails to meet any requirement of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered.".

MODIFICATION OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL COURSES

SEC. 303. Section 1673(a) is amended by—

(1) inserting "(1)" before "The";

(2) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(3) amending clause (B) of paragraph (1), as redesignated by clause (2) of this section, to read as follows:

"(B) any course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;"; and

(4) adding at the end the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.".

APPROVAL OF COURSES OFFERED THROUGH OPEN CIRCUIT TELEVISION

Sec. 304. Subsection (c) of section 1673 is amended to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.".

ELIMINATION FROM COMPUTATION OF 85–15 RULE OF THE NUMBER OF PERSONS RECEIVING BASIC ECONOMIC OPPORTUNITY GRANTS AND SUPPLEMENTAL ECONOMIC OPPORTUNITY GRANTS

Sec. 305. The first sentence of section 1673 (d) is amended by—

(1) striking out the comma after "institution" and inserting in lieu thereof "or"; and

(2) striking out "and/or by grants from any Federal agency".

STANDARDS FOR DETERMINING SATISFACTORY PROGRESS

Sec. 306. Section 1674 is amended by striking out the second sentence.

EDUCATION OUTSIDE THE UNITED STATES

Sec. 307. (a) Section 1652 (f) is amended by adding at the end the following new sentence: "Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.".

(b) The text of section 1676 is amended to read as follows:

"An eligible veteran may not enroll in any course at an educational institution not located in a State unless such course is pursued at an approved institution of higher learning and the course is approved by the Administrator. The Administrator may deny or discontinue educational assistance under this chapter in the case of any veteran enrolled in an institution of higher learning not located in a State if the Administrator determines that such enrollment is not in the best interest of the veteran or the Federal Government.".

CHARGE AGAINST ENTITLEMENT FOR PURSUIT OF A PROGRAM OF EDUCATION WHILE ON ACTIVE DUTY OR ON A LESS THAN HALF-TIME BASIS

Sec. 308. Section 1682 (b) is amended by adding at the end the following new sentence: "An individual's entitlement shall be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 1788 of this title.".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCES AND CHARGES AGAINST ENTITLEMENT FOR PURSUIT OF INDEPENDENT STUDY

Sec. 309. Subsection (e) of section 1682 is amended to read as follows:

"(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, entitlement shall be charged at one-half of the full-time institutional rate. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE FOR PURSUIT OF COURSES BY OPEN CIRCUIT TELEVISION

Sec. 310. Section 1682 is amended by adding at the end thereof the following new subsection:

"(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.".

ENTITLEMENT-FREE PURSUIT OF PROGRAMS OF SECONDARY EDUCATION

Sec. 311. Section 1691 is amended—

(1) in subsection (a) by—

(A) striking out "not on active duty";

(B) striking out "at the time of the veteran's discharge or release from active duty"; and

(C) inserting "is not on active duty and who," after "(2)";

(2) in subsection (b) by—

(A) inserting "(1)" before "The";

(B) inserting "(2)" after "subsection (a)"; and

(C) adding at the end the following new paragraph:

"(2) The Administrator shall pay to an eligible veteran described in subsection (a) (1) of this section who is pursuing a course or courses or program under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate) an educational assistance allowance (A) at the rate of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same course, courses, or program, or (B) at the institutional full-time rate provided in section 1682(a), whichever is the lesser."; and

(3) by adding at the end the following new subsection:

"(c) The provisions of section 1673(d) of this title, relating to the disapproval of enrollment in certain courses, shall be applicable to the enrollment of an eligible veteran who, while serving on active duty, enrolls in one or more courses under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate).".

DISQUALIFICATION OF CERTAIN FAMILY MEMBERS FROM ELIGIBILITY AS QUALIFIED TUTORS

Sec. 312. Section 1692(b)(2) is amended by inserting "and is not the eligible veteran's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister" after "is qualified".

Part B—Educational Assistance for Survivors and Dependents

EXTENSION OF DEPENDENTS' PERIOD OF ELIGIBILITY IN CERTAIN CASES

Sec. 321. Section 1712(a) is amended by—

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting after clause (4) the following new clause (5):

"(5) if the person becomes eligible by reason of the provisions of section 1701 (a)(1)(A)(iii) of this title after the person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless clause (4) of this subsection applies) such period shall end eight years after the date on which the person becomes eligible by reason of such provisions, but in no event shall such period be extended beyond the person's thirty-first birthday by reason of this clause; and".

PERIOD WITHIN WHICH APPLICATION FOR EXTENSION OF DELIMITING PERIOD MUST BE FILED AND MEASUREMENT OF EXTENSION

Sec. 322. Section 1712(b)(2) is amended by—

(1) inserting "made within one year (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest" after "application";

(2) inserting "so" after "that such person was" in such paragraph; and

(3) adding at the end the following new sentence: "When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

REPEAL OF MANDATORY COUNSELING FOR DEPENDENTS

Sec. 323. (a) Section 1720(a) is amended by—

(1) striking out "shall arrange for, and the eligible person shall take advantage of," and inserting in lieu thereof "may, upon request, arrange for"; and

(2) striking out the second sentence.

(b) Section 1761(a) is amended by—

(1) striking out "required" and inserting in lieu thereof "authorized"; and

(2) striking out "or require".

CLARIFICATION OF AUTHORITY OF ADMINISTRATOR TO DISAPPROVE AN APPLICATION FOR BENEFITS

Sec. 324. The text of section 1721 is amended to read as follows:

"The Administrator shall finally approve an application if the Administrator finds that—

"(1) section 1720 of this title has been complied with;

"(2) the proposed program of education constitutes a 'program of education' as that term is defined in this chapter;

"(3) the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered;

"(4) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title; and

"(5) it does not appear that the enrollment in or pursuit of such person's program of education would violate any provisions of this chapter or chapter 36 of this title."

MODIFICATION OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL COURSES

SEC. 325. Section 1723 is amended by—

(1) inserting "(1)" before "The";

(2) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(3) amending clause (B) of paragraph (1), as redesignated by clause (2) of this section, to read as follows:

"(B) any course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training"; and

(4) adding at the end the following new paragraph:

"(2) (A) for the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans (as defined in section 1652 (a) (1) of this title) and eligible persons enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans (as defined in section 1652 (a) (1) of this title) and eligible persons enrolled in such institution.".

APPROVAL OF COURSES OFFERED THOUGH OPEN CIRCUIT TELEVISION

SEC. 326. Subsection (c) of section 1723 is amended to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which incudes, as an integral part thereof, subjects offered through open circuit television.".

EDUCATION OUTSIDE THE UNITED STATES

SEC. 327. (a) Paragraph (10) of section 1701(a) is amended by adding at the end the following new sentence: "Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.".

(b) Section 1723 is amended by adding at the end the following new subsection:

"(e) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such course is pursued at an approved institution of higher learning and the course is approved by the Administrator. The Administrator, in the Administrator's discretion, may deny or discontinue educational assistance under this chapter in the case eligible person in such an institution if the Administrator determines that such enrollment is not in the best interest of the eligible person or the Federal Government.".

STANDARDS FOR DETERMINING SATISFACTORY PROGRESS

SEC. 328. Section 1724 is amended by striking out the second sentence.

PAYMENT OF EDUCATIONAL ASSISTANCE ALLOWANCE ON BEHALF OF ELIGIBLE PERSONS

SEC. 329. Subsection (b) of section 1731 is amended to read as follows:

"(b) The educational assistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE FOR PURSUIT OF COURSES BY OPEN CIRCUIT TELEVISION

SEC. 330. Section 1732(c) is amended by adding at the end the following new paragraph:

"(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under section 1682(e) of this title for an independent study program.".

ELIGIBILITY FOR SPECIAL RESTORATIVE TRAINING

SEC. 331. Section 1740 is amended by striking out "(as defined in section 1701(a)(1) (A) of this title)" after "person".

PART C—AMENDMENTS RELATING TO THE ADMINISTRATION OF EDUCATIONAL BENEFITS

PERIODS FOR WHICH PAYMENT OF EDUCATIONAL ASSISTANCE OR SUBSISTENCE ALLOWANCES MAY BE PAID

SEC. 341. (a) Subsection (a) of section 1780 is amended by——

(1) inserting "in, and pursuit of, such program" after "enrollment" in the second sentence; and

(2) striking out "institution and the requirements of this chapter or of chapter 34 or 35 of this title" in clause (1) and inserting in lieu thereof "institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution".

(b) Subsection (g) of such section is amended by inserting "and define" after "determine" in the first sentence.

BREAKS IN EDUCATION WHICH ARE NOT COUNTED AS ABSENCES

SEC. 342. Section 1780(a)(2) is amended by inserting after "session" the following: "and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions".

REPORTS BY VETERANS, ELIGIBLE PERSONS, AND EDUCATIONAL INSTITUTIONS TO THE VETERANS' ADMINISTRATION

SEC. 343. (a) Section 1784 is amended by—

(1) amending subsection (a) to read as follows:

"(a) The veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 34, 35, or 36 of this title shall, without delay, report to the Administrator, in the form prescribed by the Administrator, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school."; and

(2) redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection (b):

"(b) The Administrator, prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the Administrator.".

(b)(1) The catchline of such section is amended to read as follows:

"§ 1784. Reports by veterans, eligible persons, and institutions; reporting fee".

(2) The item relating to such section in the table of sections at the beginning of chapter 36 is amended to read as follows:

"1784. Reports by veterans, eligible persons, and institutions; reporting fee.".

LIABILITY FOR OVERPAYMENT OF BENEFITS

SEC. 344. The text of section 1785 is amended to read as follows:

"(a) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person, the amount of such overpayment shall constitute a liability of such veteran or eligible person to the United States.

"(b) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person as the result of (1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or (2) the willful or negligent false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

"(c) Any overpayment referred to in subsection (a) or (b) of this section may be recovered, except as otherwise provided in the last sentence of section 1784(c) of this title, in the same manner as any other debt due the United States.

"(d) Any overpayment referred to in subsection (a) or (b) of this section may be waived as to a veteran or eligible person as provided in section 3102 of this title. Waiver of any such overpayment as to a veteran or eligible person shall in no way release any educational institution from liability under subsection (b) of this section.

"(e)(1) Any amount collected from a veteran or eligible person pursuant to this section shall be reimbursed to the educational institution which is liable pursuant to subsection (b) of this section to the extent that collection was made from the educational institution.

"(2) Nothing in this section or any other provision of this title shall be construed as (A) precluding the imposition of any civil or criminal liability under this title or any other law, or (B) requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.".

MEASUREMENT OF COURSES

SEC. 345. (a) Subsection (a) of section 1788 is amended by—

(1) inserting "(a)(1)" after "1775" in clauses (1) and (2);

(2) striking out "on a" in clause (4) and inserting in lieu thereof "in residence on a standard"; and

(3) inserting "per semester" in clause (4) after "fourteen semester hours" the first place it appears.

(b) Such section is further amended by adding at the end the following new subsections:

"(c) For the purposes of subsection (a)(4) of this section, the term 'in residence on a standard quarter- or semester-hour basis' means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term 'standard class session' means one hour (or fifty-minute period) of academic instruction, two hours of laboratory instruction, or three hours of workshop training.

"(d) Notwithstanding any other provision of this title, an institutional undergraduate course leading to a standard college degree offered by a college or university in residence shall be considered to be a full-time course if—

"(1) the educational institution offering such course considers such course to be a full-time course and treats such course as a full-time course for all purposes, including (A) payment of tuition and fees, (B) the awarding of academic credit for the purpose of meeting graduation requirements, and (C) the transfer of such credits to an undergraduate course meeting the criteria set forth in subsection (a)(4) of this section;

"(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under this title;

"(3) such course would qualify as a full-time course under subsection (a)(4) of this section, except that it does not meet the requirements of such subsection with respect to weekly class instruction; and

"(4) the course requires—

"(A) pursuit of standard class sessions for each credit at a rate not less frequent than every two weeks; and

"(B) monthly pursuit of a total number of standard class sessions equal to that number of standard class sessions which, during the same period of time, is required for a course qualifying as a full-time course under subsection (a)(4) of this section.".

ADVISORY COMMITTEE ON VETERANS' EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 346. The text of section 1792 is amended to read as follows:

"(a) There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 32, 34, or 35 of this title. The committee shall also include veterans representatives of World War II the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

"(b) The Administrator shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter and chapters 32, 34, and 35 of this title. The committee may make such reports and recommendations as it considers desirable to the Administrator and the Congress.

"(c) The committee shall remain in existence until December 31, 1989.".

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

ELIGIBILITY OF CERTAIN VETERANS FOR THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

SEC. 401. Section 1602(1)(A) is amended by—

(1) inserting "who is not eligible for educational assistance under chapter 34 of this title and" after "any veteran"; and

(2) striking out "initially" in clauses (i) and (ii).

DISTRIBUTION OF UNUSED CONTRIBUTIONS UPON DEATH OF PARTICIPANT

SEC. 402. Section 1624 is amended to read as follows:

"§ 1624. Death of participant

"In the event of a participant's death, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving child or children of the participant, in equal shares.

"(4) The surviving parent or parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to such participant's estate.".

ENTITLEMENT-FREE PURSUIT OF PROGRAMS OF SECONDARY EDUCATION

SEC. 403. Subsection (b) of section 1631 is amended to read as follows:

"(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a) of this title, during the last six months of such member's first enlistment and at any time thereafter.".

LIMITATION ON PERIOD OF ASSISTANCE UNDER TWO OR MORE PROGRAMS

SEC. 404. Paragraph (1) of section 1631(a) is amended to read as follows:

"(1) Subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration, a participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefits).".

APPLICABILITY OF CERTAIN PROVISIONS OF CHAPTER 34

SEC. 405. Section 1641 is amended by—

(1) inserting "1663," after "sections" the first place it appears; and

(2) striking out "1696, and 1698" and inserting in lieu thereof "and 1691(a)(1)".

AMENDMENTS RELATING TO MONTHLY CONTRIBUTIONS

SEC. 406. (a) Subsection (a) of section 1622 is amended by—

(1) striking out "Each" in the first sentence and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, each"; and

(2) striking out "$50" and "$75" in the second sentence and inserting in lieu thereof "$25" and "$100", respectively.

(b) Subsection (c) of such section is amended by inserting after "Forces" a comma and "including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section".

(c) Such section is further amended by adding at the end the following new subsection:

"(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by a participant shall be an addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of $75 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.".

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE AMENDMENTS

PROMOTION OF THE DEVELOPMENT AND ESTABLISHMENT OF EMPLOYMENT, TRAINING, AND OTHER OPPORTUNITIES

SEC. 501. Section 244 is amended by—

(1) redesignating clauses (2) through (5) as clauses (3) through (6), respectively; and

(2) inserting after clause (1) the following new clause (2):

"(2) in consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment, training, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title;".

PROMOTION OF THE DEVELOPMENT OF PROGRAMS OF TRAINING ON THE JOB

SEC. 502. Section 1772 is amended by adding at the end the following new subsection:

"(d) Pursuant to regulations prescribed by the Administrator in consultation with the Secretary of Labor, the Administrator shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of sections 1777 and 1787 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 2003A of this title to promote the development of such programs.".

ELIGIBILITY FOR JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES

SEC. 503. Section 2001 is amended by—

(1) amending paragraph (1) to read as follows:

"(1) The term 'special disabled veteran has the same meaning provided in section 2011(1) of this title."; and

(2) redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively, and inserting after paragraph (1) the following new paragraphs:

"(2) The term 'veteran of the Vietnam era' has the same meaning provided in section 2011(2) of this title.

"(3) The term 'disabled veteran' has the same meaning provided in section 2011(3) of this title.

"(4) The term 'eligible veteran' has the same meaning provided in section 2011(4) of this title.".

ELEVATION OF DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT TO ASSISTANT SECRETARY

SEC. 504. (a) Chapter 41 is amended by—

(1) striking out "Deputy" in the item relating to section 2002A in the table of sections at the beginning of such chapter;

(2) striking out "Deputy" before "Assistant Secretary" in section 2002;

(3) striking out "Deputy" in the catchline of section 2002A; and

(4) striking out "Deputy" before "Assistant Secretary" in section 2002A.

(b) Any reference in any law, regulation, directive, or other document to the Deputy Assistant Secretary of Labor for Veterans' Employment shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment.

(c) Notwithstanding any other provision of law, the position of Deputy Assistant Secretary of Labor for Veterans' Employment, as constituted on the day before the date of the enactment of this section, shall remain in existence until a person has been appointed to and has qualified for the position of Assistant Secretary of Labor for Veterans' Employment (established by the amendments made by subsection (a)).

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Assistant Secretary of Labor for Veterans' Employment.".

CLERICAL SUPPORT FOR VETERANS' EMPLOYMENT REPRESENTATIVES

SEC. 505. Section 2003 is amended by inserting "(and shall assign full-time clerical support to each such representative)" after "employment representative" in the first sentence.

DISABLED VETERANS' OUTREACH PROGRAM

SEC. 506. (a) Chapter 41 is amended by inserting after section 2003 the following new section:

"§ 2003A. Disabled veterans' outreach program

"(a) (1) The Secretary of Labor shall make available to each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

"(2) Funds provided to a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialist shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given to any veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

"(3) The Secretary shall also make available to the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

"(4) Specialists appointed pursuant to paragraph (2) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

"(b) (1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

"(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

"(B) Services to other disabled veterans.

"(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

"(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 621A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

"(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

"(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

"(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

"(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

"(4) Provision of appropriate assistance to community-based groups and organizations and prime sponsors under the Comprehensive Employment and Training Act in providing services to such veterans.

"(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

"(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

"(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

"(d) Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment.

"(e) The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment.".

(b) The table of sections at the beginning of chapter 41 is amended by inserting after the item relating to section 2003 the following new item:

"2003A. Disabled veterans' outreach program.".

EMPHASIS ON VETERANS OF THE VIETNAM ERA AND DISABLED VETERANS; REVISION OF ANNUAL REPORT

SEC. 507. Section 2007 is amended by—

(1) striking out "those veterans who have been recently discharged or released from active duty" in subsection (a) (1) and inserting in lieu thereof "veterans of the Vietnam era and disabled veterans"; and

(2) striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service.".

ELIGIBILITY FOR EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS OF THE VIETNAM ERA

SEC. 508. The text of section 2011 is amended to read as follows:

"As used in this chapter—

"(1) The term 'special disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of a service-connected disability.

"(2) (A) Subject to subparagraph (B) of this paragraph, the term 'veteran of the Vietnam era' means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

"(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

"(3) The term 'disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

"(4) The term 'eligible veteran' means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

"(5) The term 'department or agency' means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5.".

FILING OF COMPLAINTS REGARDING VIOLATIONS OF EMPLOYMENT EMPHASIS PROVISIONS IN FEDERAL CONTRACTS

SEC. 509. Subsection (b) of section 2012 is amended to read as follows:

"(b) If any special disabled veteran or veteran of the Vietnam era believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.".

EMPLOYMENT WITHIN THE FEDERAL GOVERNMENT

SEC. 510. Section 2014 is amended by adding at the end the following new subsection:

"(g) To further the policy stated in subsection (a) of this section, the Administrator may give preference to qualified special disabled veterans and qualified veterans of the Vietnam era for employment in the Veterans' Administration as veterans' benefits counselors and veterans' claims examiners and in positions to provide the outreach services required under section 241 of this title, to serve as veterans' representatives at certain educational institutions as provided in section 243 of this title, or to provide readjustment counseling under section 612A of this title to veterans of the Vietnam era.".

REEMPLOYMENT RIGHTS OF RESERVES CALLED TO ACTIVE DUTY

SEC. 511. (a) Subsections (c) and (g) of section 2024 are amended by striking out "three consecutive months" and inserting in lieu thereof "twelve consecutive weeks".

(b) Subsection (f) of such section is amended to read as follows:

"(f) For the purposes of subsections (c) and (d) of this section, full-time training or other full-time duty performed by a member of the National Guard under section 316, 502, 503, 504, or 505 of title 32 is considered active duty for training. For the purposes of subsection (d) this section, inactive duty training performed by that member under section 502 of title 32 or section 206, 301, 309, 402, or 1002 of title 37 is considered inactive duty training.".

EMPLOYMENT ASSISTANCE AND SERVICES FOR VETERANS INELIGIBLE FOR ASSISTANCE UNDER CHAPTER 41

SEC. 512. The Secretary of Labor shall assure that any veteran who is made ineligible for employment assistance under chapter 41 of title 38, United States Code, by virtue of the amendments made by section 503(1) of this Act shall be provided with the employment assistance and services made available under the provisions of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (commonly referred to as the "Wagner-Peyser Act"), (29 U.S.C. 49–49k), the Comprehensive Employment and Training Act (29 U.S.C. et seq.), and other applicable provisions of law.

REQUIREMENT FOR BUREAU OF LABOR STATISTICS TO PUBLISH CERTAIN UNEMPLOYMENT INFORMATION ANNUALLY

SEC. 513. (a) When the Commissioner of the Bureau of Labor Statistics publishes annual labor-market statistics relating specifically to veterans who served in the Armed Forces during the Vietnam era, the Commissioner shall also publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations. When the Commissioner of the Bureau of Labor Statistics publishes labor-market statistics which relate specifically to veterans who served in the Armed Forces during the Vietnam era in addition to those statistics published on an annual basis to which the preceding sentence applies, the Commissioner shall also, if feasible, publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations.

(b) For the purposes of this section, veterans who during the Vietnam era served in Vietnam, in air missions over Vietnam, or in naval missions in the waters adjacent to Vietnam shall be considered to be veterans who served in the Vietnam theatre of operations.

TITLE VI—COST-SAVING PROVISIONS

REPEAL OF AUTHORITY TO PURSUE PREDISCHARGE EDUCATION PROGRAM (PREP) UNDER CHAPTER 32

SEC. 601. (a)(1) Subchapter VI of chapter 34 is repealed.

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to subchapter VI and the items relating to sections 1695, 1696, 1697, and 1698.

(b) Section 1661(c) is amended by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V".

(c) Section 1780(d) is amended by—

(1) in paragraph (2)—

(A) striking out "(other than under subchapter VI of chapter 34)"; and

(B) striking out "paragraphs 5 (B) and (C) and (6)" and inserting in lieu thereof "paragraphs (4) (B) and (C) and (5)";

(2) striking out paragraph (3);

(3) redesignating paragraph (4) as paragraph (3);

(4) redesignating paragraph (5) as paragraph (4) and striking out "paragraphs (2) and (3)" in such paragraph and inserting in lieu thereof "paragraph (2)"; and

(5) redesignating paragraph (6) as paragraph (5) and striking out "paragraph (5)" in such paragraph and inserting in lieu thereof "paragraph (4)".

(d) Section 1780 is amended by—

(1) striking out "and (3)" in subsection (e); and

(2) striking out "(except as provided by subsection (d)(3) of this section)" in subsection (f).

(e) Section 1784(c), as redesignated by section 342(a)(2) of this Act, is amended by striking out "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

(f) Section 1788(a)(6) is amended by striking out "or 1696(a)(2)".

(g) Section 1789(b)(5) is amended by striking out "or VI".

(h) Section 1798(f)(2) is amended by striking out "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

LIMITATION ON PAYMENT OF EDUCATIONAL ASSISTANCE ALLOWANCES TO INCARCERATED VETERANS AND INCARCERATED PERSONS ELIGIBLE FOR EDUCATIONAL ASSISTANCE

SEC. 602. (a) Section 1682, as amended by section 310 of this Act, is further amended by adding at the end the following new subsection:

"(g)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or $311 per month for a full-time course, whichever is the lesser.

"(2) Paragraph (1) of this subsection shall apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.".

(b) Section 1732 is amended by adding at the end the following new subsection:

"(e) In the case of an eligible person who is pursuing an institutional program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony, the educational assistance allowance shall be paid in the same manner prescribed in section 1682(g) of this title for incarcerated veterans.".

(c) Section 1780(a) is amended by—

(1) striking out "or" at the end of clause (4);

(2) striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and "or"; and

(3) inserting after clause (5) the following new clause:

"(6) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) to the extent the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.".

(d) The provisions of section 1682(g)(1) of title 38, United States Code, as added by subsection (a), shall not apply to an apportionment made under section 3107(c) of such title before the date of the enactment of this Act.

REDUCTION IN EDUCATIONAL ASSISTANCE ALLOWANCE FOR FLIGHT TRAINING

SEC. 603. (a) Section 1677(b) is amended by striking out "90 per centum" and inserting in lieu thereof "60 percent".

(b) The second sentence of section 1798(c) is amended by striking out "flight, apprentice, or other on-job, or PREP training" and inserting in lieu thereof "or apprenticeship or other on-job training".

REDUCTION IN EDUCATIONAL ASSISTANCE FOR CORRESPONDENCE COURSES

SEC. 604. Section 1786(a)(1) is amended by striking out "90 per centum" and inserting in lieu thereof "60 percent".

DEBT COLLECTION

SEC. 605. (a)(1) Chapter 53 is amended by adding at the end the following new sections:

"§ 3114. Indebtedness offsets

"(a) Subject to subsections (b) and (d) of this section, the Administrator shall (unless the Administrator waives recovery under section 3102 of this title) deduct the amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program administered by the Veterans' Administration from future payments made to such person under any law administered by the Veterans' Administration.

"(b) Deductions may not be made under subsection (a) of this section with respect to the indebtedness of a person described in such subsection unless the Administrator—

"(1) has made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 3102 of this title;

"(2) has made a determination with respect to any such dispute or request or has determined that the time required to make such a determination before making deductions would jeopardize the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) has made reasonable efforts to notify such person about the proposed deductions from such payments.

"(c) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for the purpose of determining the creditworthiness of a person who owes such an indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"(d) The Administrator shall prescribe regulations for the administration of this section.

"§ 3115. Interest and administrative cost charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law and subject to section 3102 of this title, interest and administrative costs (as described in subsections (b) and (c) of this section) shall be charged, under regulations which the Administrator shall prescribe, on any amount owed to the United States—

"(1) for an indebtedness resulting from a person's participation in a benefits program administered by the Veterans' Administration other than a loan, loan-guaranty, or loan-insurance program;

"(2) for an indebtedness resulting from the provision of care or services under chapter 17 of this title; or

"(3) to the extent not precluded by the terms of the loan instruments concerned, for an indebtedness resulting from a person's participation in a program of loans, loan guaranties, or loan insurance administered by the Veterans' Administration under this title.

"(b)(1) Interest on the amount of any indebtedness described in subsection (a) of this section shall accrue from the day on which the initial notification of the amount due is mailed to the person who owes such amount (using the most current address of such person that is available to the Administrator), but interest under this section shall not be charged (A) for any period before the date of the enactment of this section, or (B) if the amount due is paid within a reasonable period of time. The Administrator shall, in the regulations prescribed pursuant to subsection (a) of this section, prescribe what constitutes a reasonable period of time for payment of an indebtedness after the initial notification of indebtedness has been mailed.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator under such regulations.

"(c) The administrative costs to be charged under this section with respect to an amount owed to the United States shall be so much of the costs incurred by the United States in collecting such amount as the Administrator determines, under such regulations, to be reasonable and appropriate.

"§ 3116. Authority to sue to collect certain debts

"(a)(1) Within ninety days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise, subject to paragraphs (2) and (3) of this subsection, the right of the United States to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by a person by virtue of such person's participation in a benefits program administered by the Veterans' Administration.

"(2) No suit may be filed under this section to recover any indebtedness owed by any person to the United States unless the Administrator has determined, under regulations which the Administrator shall prescribe, that such person has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(3) The activities of attorneys employed by the Veterans' Administration in bringing suit under this section shall be subject to the direction and supervision of the Attorney General of the United States and to such terms and conditions as the Attorney General may prescribe.

"(b) Not later than ninety days after the date of the enactment of this section, the Administrator and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"3114. Indebtedness offsets.
"3115. Interest and administrative cost charges on delinquent payments of certain amounts due the United States.
"3116. Authority to sue to collect certain debts.".

(b) The Administrator of Veterans' Affairs shall, not later than January 1, 1981, prescribe the regulations required to be prescribed under sections 3114 and 3115 of title 38, United States Code, as added by subsection (a).

(c)(1) Section 415 is amended by striking out subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(2) Section 506 is amended by striking out "(a)" at the beginning of subsection (a) and striking out subsection (b).

(3) Section 3102 is amended by—

(A) inserting "(or any interest thereon)" after "overpayments" in subsection (a); and

(B) inserting "(or any interest thereon)" after "indebtedness" both places it appears in subsection (c).

DISCLOSURE OF INFORMATION

SEC. 606. (a) Subsection (a) of section 3301 is amended by striking out "personnel of the armed services" and inserting in lieu thereof "members of the Armed Forces".

(b) Subsection (b) of such section is amended by adding at the end the following new clause:

"(6) In connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Veterans' Administration when in the judgment of the administrator such disclosure is deemed necessary and proper.".

(c) Subsection (c) of such section is amended to read as follows:

"(c)(1) The amount of any payment made by the Veterans' Administration to any person receiving benefits under a program administered by the Veterans' Administration shall be made known to any person who applies for such information.

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan guaranteed, insured, or made under chapter 37 of this title shall be made available to any person who applies for such report or certificate.

"(3) Subject to the approval of the President, the Administrator may publish at any time and in any manner any or all information of record pertaining to any claim filed with the Veterans' Administration if the Administrator determines that the public interest warrants or requires such publication.".

(d) The first sentence of subsection (f) of such section is amended by—

(1) striking out "names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents" and inserting in lieu thereof "name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces"; and

(2) striking out "such names or addresses" and inserting in lieu thereof "such name or address".

(e) Such section is further amended by redesignating subsection (g) as subsection (j) and inserting after subsection (f) the following new subsections:

"(g)(1) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, the Administrator may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces, to a consumer reporting agency if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

"(2) A release of information under paragraph (1) of this subsection concerning a person described in such paragraph may be made for the purpose of—

"(A) locating such a person—

"(i) who has been administratively determined to be indebted to the United States by virtue of the person's participation in a benefits program administered by the Veterans' Administration; or

"(ii) if the Administrator has determined under such regulations that (I) it is necessary to locate such person in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, and (II) all reasonable steps have been taken to assure that the release of such information to such reporting agency will not have an adverse effect on such person; or

"(B) obtaining a consumer report in order to assess the ability of a person described in clause (A)(i) of this paragraph to repay the indebtedness of such person to the United States, but the Administrator may release the name or address of such person for the purpose stated in this clause only if the Administrator determines under such regulations that such person has failed to respond appropriately to administrative efforts to collect such indebtedness.

"(3) The Administrator may also release to a consumer reporting agency, for the purposes specified in clause (A) or (B) of paragraph (2) of this subsection, such other information as the Administrator determines under such regulations is reasonably necessary to identify a person described in such paragraph, except that the Administrator may not release to a consumer reporting agency any information which indicates any indebtedness on the part of such person to the United States or any information which reflects adversely on such person. Before releasing any information under this paragraph, the Administrator shall, under such regulations, take reasonable steps to provide for the protection of the personal privacy of persons about whom information is proposed to be released under this paragraph.

"(4)(A) If the Administrator determines, under regulations which the Administrator shall prescribe, that a person described in paragraph (1) of this subsection has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness of such person described in paragraph (2)(A)(i) of this subsection, the Administrator may release information concerning the indebtedness, including the name and address of such person, to a consumer reporting agency for the purpose of making such information available for inclusion in consumer reports regarding such person and, if necessary, for the purpose of locating such person, if—

"(i) the Administrator has (I) made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 3102 of this title, (II) afforded such person a reasonable opportunity to exercise such rights, and (III) made a determination with respect to any such dispute or request; and

"(ii) thirty calendar days have elapsed after the day on which the Administrator has made a determination that reasonable efforts have been made to notify such person (I) that the Administrator intends to release such information for such purpose or purposes, and (II) that, upon the request of such person, the Administrator shall inform such person of whether such information has been so released and of the name and address of each consumer reporting agency to which such information was released by the Administrator and of the specific information so released.

"(B) After release of any information under subparagraph (A) of this paragraph concerning the indebtedness of any person, the Administrator shall promptly notify—

"(i) each consumer reporting agency to which such information has been released by the Administrator; and

"(ii) each consumer reporting agency described in subsection (i)(3)(B)(i) of this section to which such information has been transmitted by the Administrator through a consumer reporting agency described in subsection (i)(3)(B)(ii)(I) of this section,

of any substantial change in the status or amount of such indebtedness and, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly verify or correct, as appropriate, such information. The Administrator shall also, after the release of such information, inform such person, upon the request of such person, of the name and address of each consumer reporting agency described in clause (i) or (ii) of this subparagraph to which such information was released or transmitted by the Administrator and of the specific information so released or transmitted.

"(h)(1) Under regulations which the Administrator shall prescribe, the Administrator may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces (and other information relating to the identity of such person), to any person in a category of persons described in such regulations and specified in such regulations as a category of persons to whom such information may be released, if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

"(2) A release of information under paragraph (1) of this subsection may be made for the purpose of—

"(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(B) verifying, either before or after the Administrator has approved a person's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the creditworthiness, credit capacity, income, or financial resources of such persons;

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

"(i)(1) No contract entered into for any of the purposes of subsection (g) or (h) of this section, and no action taken pursuant to any such contract or either such subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or any employee of a consumer reporting agency.

"(2) The Administrator shall take reasonable steps to provide for the protection of the personal privacy of persons about whom information is disclosed under subsection (g) or (h) of this section.

"(3) For the purposes of this subsection and of subsection (g) of this section—

"(A) The term 'consumer report' has the meaning provided such term in subsection (d) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)).

"(B) The term 'consumer reporting agency' means—

"(i) a consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or

"(ii) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.".

(f) Subsection (j) of such section (as redesignated by subsection (e)) is amended by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (i)(1) of this section, any".

TITLE VII—MISCELLANEOUS PROVISIONS

ADMINISTRATOR'S RESPONSIBILITIES FOR ADVOCACY ON BEHALF OF VETERANS

SEC. 701. (a) Section 220 is amended by striking out the period at the end and inserting in lieu thereof a comma and "shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference for veterans.".

(b)(1) The catchline of such section is amended to read as follows:

"§ 220. Coordination and promotion of other Federal programs affecting veterans and their dependents".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"220. Coordination and promotion of other Federal programs affecting veterans and their dependents.".

NATIONAL INSTITUTE OF OCCUPATIONAL SAFETY AND HEALTH EXEMPTION

SEC. 702. Section 502 of the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96–128; 93 Stat. 987) is amended by adding at the end the following new sentence: "Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in the Internal Revenue Code of 1954.".

EFFECTIVE DATE FOR CHANGE IN PROBATIONARY PERIOD FOR CERTAIN EMPLOYEES

SEC. 703. The amendment made by section 303 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96–151; 93 Stat. 1096) shall apply only with respect to appointments described in section 4106(a) of title 38, United States Code, made after December 19, 1979.

AMENDMENT TO TITLE 18, UNITED STATES CODE

SEC. 704. Section 1114 of title 18, United States Code, is amended by inserting "or any officer or employee of the Veterans' Administration assigned to perform investigative or law enforcement functions," after "of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions,".

TITLE VIII—TECHNICAL AMENDMENTS AND EFFECTIVE DATES

TECHNICAL AMENDMENTS

SEC. 801. (a) Section 1652 is amended by—

(1) inserting "and chapter 36 of this title" after "chapter " the first place it appears;

(2) striking out "For the purposes of this chapter and chapter 36 of this title, the" in subsections (e), (f), and (g) and inserting in lieu thereof "The"; and

(3) striking out "Commissioner" in subsection (g) and inserting in lieu thereof "Secretary".

(b) Section 1685(d) is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(c) Section 1701(a) is amended by—

(1) inserting "and chapter 36 of this title" after "chapter" the first place it appears;

(2) striking out "For the purposes of this chapter and chapter 36 of this title, the" in paragraphs (9), (10), and (11) and inserting in lieu thereof "The"; and

(3) striking out "Commissioner" in paragraph (11) and inserting in lieu thereof "Secretary".

(d) Section 1775(a) is amended by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary".

(e) Section 1781 is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

(f) Section 1790(b)(2) is amended by striking out "therefor" and inserting in lieu thereof "for".

(g) Section 1798(d)(3) is amended by striking out "Commissioner of Education, Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

(h) Section 2001 is amended by—

(1) striking out "the" the first place it appears in paragraph (5), as redesignated by section 503(2), and inserting in lieu thereof "The"; and

(2) inserting "the Commonwealth of the Northern Marianas Islands," after "the Virgin Islands," in paragraph (6), as redesignated by section 503(2).

(i) Section 2003 is amended by—

(1) striking out ", United States Code," in the second sentence;

(2) striking out "manpower" in the fourth sentence and inserting in lieu thereof "employment";

(3) inserting "system" after "public employment service" each place it appears; and

(4) inserting ", disabled veterans, and veterans of the Vietnam era" in paragraph (6) after "eligible veterans".

(j) Section 2012(a) is amended by—

(1) inserting "special" after "qualified"; and

(2) striking out "within 60 days after the date of enactment of this section, which

regulations" and inserting in lieu thereof "which".

(k)(1) Section 2013 is amended by—

(A) striking out "a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability" and inserting in lieu thereof "an eligible veteran"; and

(B) striking out "any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower" and inserting in lieu thereof "any employment or training program assisted under the Comprehensive Employment and Training Act, or any other employment or".

(2)(A) The catchline of such section is amended to read as follows:

"§ 2013. Eligibility requirements for veterans under Federal employment and training programs".

(B) The item relating to such section in the table of sections at the beginning of chapter 42 is amended to read as follows:

"2013. Eligibility requirements for veterans under Federal employment and training programs.".

(l) Section 2014 is amended by—

(1) striking out "Civil Service Commission" and "Commission" each place such terms appear and inserting in lieu thereof "Office of Personnel Management" and "Office", respectively;

(2) striking out paragraph (2) of subsection (b) and redesignating paragraph (3) of such subsection as paragraph (2);

(3) striking out "Public Law 93–112 (87 Stat. 391)" in subsection (c) and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791 (b))"; and

(4) striking out "such Public Law 93–112" in subsection (e) and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791(d))".

(m) The GI Bill Improvement Act of 1977 (Public Law 95–202) is amended by—

(1) striking out paragraph (3) of section 305 (a);

(2) striking out "paragraph (1)" in section 305 (b) (3) and inserting in lieu thereof "paragraph (2)"; and

(3) striking out "honorand" in section 401 (a) (1) (B) and inserting in lieu thereof "honorable".

EFFECTIVE DATES

SEC. 802. (a)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) of section 101 shall become effective on April 1, 1981.

(2) The provisions of sections 1508, 1512, 1516, 1518, 1519, 1520, and 1521 of title 38, United States Code, as added by section 101 (a), shall become effective on October 1, 1980.

(3) Notwithstanding paragraph (2), the provisions of chapter 31 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act (other than section 1504, relating to subsistence allowances, and section 1507, relating to loans), shall continue in effect until March 31, 1981.

(4) Effective on October 1, 1980, sections 1504 and 1507 are repealed. During the period beginning on October 1, 1980, and ending on March 31, 1981, the provisions of sections 1508 and 1512 of title 38, United States Code, as added by section 101(a), shall apply to veterans pursuing a program of vocational rehabilitation training under chapter 31 of such title in the same manner as sections 1504 and 1507 of such title, respectively, applied to veterans pursuing a program of vocational rehabilitation training under such chapter on September 30, 1980.

(5) Subsection (c) of section 101 shall become effective on October 1, 1980. Subsection (d) of such section shall become effective on the date of the enactment of this Act.

(6) The amendments made by sections 102 and 103 shall become effective on October 1, 1980.

(b)(1) The amendments made by part A of title II shall become effective on October 1, 1980.

(2) The amendments made by part B of title II shall become effective on January 1, 1981.

(c)(1) Except as provided in paragraph (2), the amendments made by title III shall become effective on October 1, 1980.

(2) Paragraph (2) of section 1691(a) of title 38, United States Code, as added by section 311(2), shall not apply to any person receiving educational assistance under chapter 34 of title 38, United States Code, on October 1, 1980, for the pursuit of a program of education, as defined in section 1652 (b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for pursuit of such program.

(d)(1) The amendments made by section 401 shall take effect as of January 1, 1977.

(2) The amendments made by sections 402 through 406 shall become effective on October 1, 1980.

(e) The amendments made by title V and the provisions of sections 512 and 513 shall become effective on October 1, 1980.

(f)(1) Except as provided in paragraph (2), the amendments made by title VI shall become effective on October 1, 1980.

(2) The amendments made by sections 603 and 604 shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on September 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.

(g)(1) The amendments made by section 701 shall become effective on October 1, 1980.

(2) The amendment made by section 702 shall take effect as of November 28, 1979.

(3) Section 703 and the amendment made by section 704 shall take effect on the date of the enactment of this Act.

(h) Section 801 shall become effective on October 1, 1980.

In lieu of the Senate amendment to the title of the bill amend the title so as to read: "An Act to amend title 38, United States Code, to provide for updated and expanded rehabilitation programs for veterans with service-connected disabilities, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, and to provide for certain cost savings; and for other purposes.".

Mr. HEFNER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from North Carolina?

Mr. BONIOR of Michigan. Mr. Speaker, I reserve the right to object. My concern on this bill is that for the first time in the history of this Congress we have before us on the floor of the House an issue that, I think, is important to literally millions of Americans who served their country in Vietnam. The Senate passed an amendment to this rehabilitation bill to deal with the agent orange question. It was not a far-reaching amendment. The amendment was sponsored by Senator HEINZ, and basically lays out for the VA some steps and some rulemaking powers to systematically deal with the claims of veterans who feel they have been exposed to defoliants while serving their country in Vietnam.

It is very minimal in its scope, but yet for the first time we on this House floor get to address the question. No sooner do we get it than there is an attempt to recede from that amendment, and I am somewhat concerned about this because I think the issue needs a full debate in this Congress, and I think the issue particularly needs full debate on the floor of this body.

So, I am reluctant to go ahead with this important bill because I do not believe that we have gotten the assurances from the appropriate people in this Congress that we are going to take on this issue head-on and deal with the justice that is so richly needed and deserved for those Vietnam veterans who have suffered so long. It has been since 1970, when Senator Phil Hart commenced hearings on this issue in the U.S. Senate, that we have had the issue before the U.S. Congress. We have had study after study; epidemiological studies out of Sweden, out of Germany; the Oregon Primate Institute; Dr. Allen at the University of Wisconsin; Mendelson at Harvard. I could go on and on and on.

Yet we still do not want to take the issue on, for what reason I do not know. Cost—sure, this is going to cost some money, but when we figure that 3 million people in this country volunteered their services to their Nation, many of whom were wounded, many of whom lost their lives, many of whom now have families that are suffering because of this defoliant problem, it seems to me incumbent upon this body to take this issue on.

So I have real reluctance to move any further with any bill of the scope we are now discussing, specifically the rehab bill, until we can get a decision out of this Congress to move on the agent orange issue.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Michigan, because I too had intended to reserve the right to object. The feeling among many of us Vietnam veterans in Congress is that we simply have done nothing in the last 2 years but talk about this issue. We have held some good hearings in the Veterans Affairs Committee, and for that I commend the leadership of that committee.

I think the time has come to go well beyond the point where we discuss the issues, where we try to gather the facts, because the facts have now become abundantly clear. Action on the part of the Congress is now necessary. We have what is a very minor action on the part of this bill that could be helping restore some of the confidence which the Vietnam veterans across the country have in the way Congress is approaching that issue. We fail in restoring that confidence simply because we delete this provision. I think that is a mistake. I think the time has come to put that on the front burner, to take the committee and deal with this issue head on.

I hope, if we cannot do it in this bill, we can certainly do it at the very earliest time next year.

Mr. MOTTL. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, one of the children of a serviceperson from Ohio, who is being held hostage in Iran, has had the basis for eligibility for educational benefits under the Veterans' Administration dependents' education program terminated because of an oversight on the part of the Congress. This inequity could also apply to children of MIA's and POW's. This would not be the case, however, if the basis for eligibility for educational benefits was the service-connected death or permanent and total disability of the veteran.

Therefore, on August 22, 1980, I introduced H.R. 8007 to correct this oversight and unintended inequity in the law. Under the provisions of my bill, the veterans dependents education program would be modified so that the same criteria would be applied to eligible dependents of active duty military personnel who are missing in action, prisoners of war or forcibly detained or interred in the line of duty by a foreign government. Thus, my bill would provide that a dependent who becomes eligible for dependents assistance after reaching age 18, but before attaining age 26, will have until the expiration of an 8-year period, or until the dependent's 31st birthday, whichever comes first, to use the dependents' educational assistance authorized by Congress and administered by the Veterans' Administration.

I brought this unintended oversight to the attention of the distinguished chairman of the House Veterans' Affairs Committee, Mr. Roberts of Texas, and the chairman of the Senate Veterans' Affairs Committee, Mr. Cranston of California. Mr. Cranston included the substance of the provisions of my bill, H.R. 8007, as one of the provisions of S. 1188, a rehabilitation bill, which was passed by the Senate on September 4, 1980. I want to extend my highest commendation to both Mr. Roberts and Mr. Cranston for acting so quickly on this matter and for correcting this unintended oversight as provided in the proposed amendments being considered today by the House.

Today, one of the amendments in the proposed amendments to H.R. 5288 includes the substance of H.R. 8007, which is almost identical to the amendment in S. 1188 approved by the Senate on September 4, 1980.

I take this opportunity to express my appreciation to the distinguished chairman of the Subcommittee on Education, Training and Employment, Mr. Hefner, of North Carolina, and members of his subcommittee, for including the provisions of H.R. 8007 in the proposed amendments, and Mr. Roberts for bringing this amendment to the floor today for consideration and vote. I strongly urge prompt approval of the amendments to H.R. 5288.

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Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman for yielding, and I commend him for his concern about the Vietnam veterans in connection with this matter.

My Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce is even now hearing this question. The gentleman was before that subcommittee a moment ago, and I have excused myself; the gentleman from Tennessee (Mr. Gore) is now presiding.

We are hearing veterans who are very deeply concerned about the failure of the Veterans' Administration to accept at least tentatively the duty of looking into the question of accepting them as persons who are disabled because of a service-connected disability. I think we need to get into this matter as quickly as possible.

I commend the gentleman from Michigan (Mr. Bonior). Certainly we are going to push as hard as we can to investigate this possibly extremely hazardous substance. We know that dioxin was contained as a contaminant in agent orange that was used extensively in the Vietnam war.

We also noted from our hearings that in many instances the military has been very slow to look into the cause of disabilities, not only in the case of agent orange but in the Second World War cases with respect to the radiation injuries that occurred in Nevada and Utah. Our committee has also heard testimony on those.

Therefore, we are not satisfied with the proposition that is being proposed, because it is not yet known what causes the disabilities that seem to be springing up among Vietnam veterans who were exposed to agent orange. We feel the presumption should be in favor of those who were compelled to be in a physically adverse atmosphere, and that should remain until proof that their disability is from other causes is established.

Mr. Speaker, I compliment the gentleman for his bill, and I assure him if there is any way in which we can cooperate, we will do it.

Mr. BONIOR of Michigan. Mr. Speaker, I thank the gentleman from Texas (Mr. Eckhardt) for his cooperation and leadership in holding hearings on these issues.

As the gentleman indicated, this is not an easy issue to deal with, because of the scientific information that is so necessary on which to base an opinion. But I would remind my colleagues, especially the appropriate chairmen on the Committee on Veterans' Affairs, that we have in title 38 of the United States Code 38 presumptions of eligibility for different types of problems, and certainly the magnitude of this problem is one which should not be excluded from that list.

My concern here with going ahead is this: Certainly I have been cooperative for the 4 years I have been here and I have been trying to play ball, so to speak, with the committee. Sometimes it may require an objection to a very important bill with which other Members are concerned before we can get the action that is so necessary on this bill.

The excuse that I have been given over a period of time is: "Well, we don't have certainty. We don't have absolute certainty that dioxin is causing the problems of Vietnam veterans, and we have to have more certainty."

Well, we never are going to have certainty in these matters. In the recent benzene ruling of the Supreme Court they noted that we are not going to have absolute certainty and that should not be the requirement.

Mr. Speaker, I think the overwhelming preponderance of evidence indicates there are serious problems here, and I want some assurances, before I let this thing go, that we are going to address this problem and bring a bill to the floor in the next session of Congress.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to my colleague and friend, the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I certainly appreciate the fact that the gentleman from Michigan (Mr. Bonior) has worked very hard in this area. He has been a "Mr. Nice Guy," and I appreciate that.

I will not be on the committee next year perhaps, but I want to assure the gentleman that I will do everything I can to cooperate on this issue. However, let me say that we have not accepted any medical amendments to this education proposal. This is an educational bill, and some of these veterans have been waiting for 3 years to receive a cost-of-living increase. They have not had any benefit increase since 1977. Time is slipping away if we are to meet the October 1 effective date.

I appreciate the gentleman's concern. I cannot disagree with most things that he has said. We have been given an assurance that next year the Health Subcommittee will address the problem and we will have legislation on this House floor, but I would not think the Education Subcommittee should be addressing this particular issue.

I have been informed there have been three hearings by our subcommittee alone on agent orange already this year, and there have been four hearings altogether during this Congress.

The gentleman from Virginia (Mr. Satterfield) has not neglected his duty. I have been given the assurance that next year, shortly after the session begins, this matter will be given high priority.

Mr. Speaker, I agree with everything the gentleman from Michigan (Mr. BONIOR) has said, and I commend him for his work and his perseverance in this area.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman's yielding, and I also commend him for bringing this matter to the attention of the Members of the House. I commend also the gentleman from South Dakota (Mr. DASCHLE), who has been very active on this issue.

I am only a ranking member of the committee and a subcommittee chairman of the Committee on Veterans' Affairs, but I can assure the gentleman, I believe, that next year we will certainly go further into this matter of agent orange. However, I cannot give the gentleman a promise today that we would come out with the type of legislation that he might desire.

Our committee has not been ignoring this issue, because in fact the gentleman from Virginia (Mr. SATTERFIELD) and the Subcommittee on Medical Facilities and Benefits have had thorough hearings. In fact, they had one last week on agent orange that went from 10 o'clock in the morning until 6:30 at night.

Mr. BONIOR of Michigan. Mr. Speaker, on that point, if I may be allowed to reclaim my time for just a second, I commend the gentleman from Virginia (Mr. SATTERFIELD) for holding the hearings, and that is proper. But what I am suggesting is that we have been holding hearings since 1970. In 1970 the first hearings were held across the street, and Senator Phil Hart held them. That is long enough.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield further, let me say that I agree with the gentleman, but we are facing the issue. I do not think any other committee should become involved in this veteran matter as I get the impression Mr. ECKHARDT of Texas with his subcommittees are looking into the agent orange situation.

We have gotten fully into the matter, and it should be handled by our Veterans' Administration committee. If we do not handle it, then it should be taken away from us, but I think I can assure the gentleman that something will be done next year if we can get sufficient data to make a clear decision.

Mr. Speaker, I appreciate the gentleman's yielding.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from North Carolina?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, let me say that I fully support this legislation. It is probably the best compromise possible in the area of veterans education and employment, considering the budgetary constraints the Congress has been under this year. Although I would have gladly supported a more generous bill, I do recommend this one to my colleagues.

This legislation will give our veterans studying under the GI bill a 10-percent cost-of-living increase, the first such increase since 1977. It will provide the first major restructuring of the disabled veterans vocational rehabilitation program since its inception during World War II, finally allowing the Veterans' Administration to participate in job placement for those veterans who have completed study under vocational rehabilitation. It has major employment initiatives. Among them are the elevation of the Deputy Assistant Secretary of Labor for Veterans Employment to a full assistant secretaryship, which will increase the influence of veterans programs in the Department of Labor, where they have for so long been placed on the back burner. Another relates to the disabled veterans outreach program, which has been one of the most successful Government employment programs in recent history. This legislation will make the DVOP program permanent.

In another provision, I am sure the great majority of my colleagues will be pleased to learn that the flight training and correspondence school programs have been retained, although at a reduced level of funding. You will recall, Mr. Speaker, that the House eliminated these programs earlier this year, at the recommendation of the administration, through the budget process. The Veterans' Affairs Committee had earlier recommended full funding of both programs, but the Budget Committee felt otherwise and the Rules Committee did not allow open debate on the floor when the budget was considered. Thankfully the other body had retained the programs, and we were able to reach a meaningful compromise, thus avoiding the potential harm of a hasty decision by one small portion of our membership.

I will not belabor my colleagues with a discussion of other, more technical provisions of the bill, Mr. Speaker. Instead, let me point out that there are a number of them, and they have been meticulously considered. Consequently, I recommend this measure to my colleagues.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from North Carolina to explain the bill and our agreement with the other body.

Mr. HEFNER. Mr. Speaker, I think it would be very helpful for the Members to know exactly what this bill does, rather than what it does not do.

As the gentleman knows, over a year ago, the House passed and sent to the Senate, H.R. 5288, the Veterans' Rehabilitation and Education Amendments of 1979. The bill made major changes in the rehabilitation and education program for service-connected disabled veterans and increased the rate of subsistence allowance approximately 17 percent.

In January of this year, the Senate amended the bill and returned it to the House. The Senate amendments did not contain any of the House provisions relating to the rehabilitation program, but instead made major changes in the GI bill program, including a GI bill rate increase of 15 percent, effective September 1, 1980. It was not until a couple of weeks ago that the Senate focused attention on the rehabilitation program when it passed S. 1188. This measure also contained a proposed 10-percent rate increase in the GI bill program, and several nongermane medical amendments.

The ceilings established in the second budget resolution for fiscal year 1980 precluded the House from considering the 15-percent rate increase in the GI bill programs as passed by the Senate. Consequently, the Committee on Veterans' Affairs reported a clean bill to the House, H.R. 7394, incorporating all of the vocational rehabilitation provisions of H.R. 5288 as originally passed by the House, plus a 10-percent increase in the GI bill rates. The measure also contained about $180 million of the cost savings mandated by the House in the reconciliation bill. The House passed H.R. 7394 on July 21, by a vote of 383 to 0.

The proposed amendments reflect a compromise reached with the other body in the vocational rehabilitation programs, the GI bill education programs and the cost-savings provisions contained in both the House and Senate-passed bills.

The proposed amendments include substantially all of the vocational rehabilitation reforms already passed by the House. Including a 17-percent increase in the subsistence allowance for those currently participating in the program.

The amendments also propose a 10-percent increase in the rates paid to individuals going to school under the GI bill. This rate increase is consistent with the recommendation of the Budget Committee. It is the same rate increase that passed the House in July. One major change is in the effective date. Our bill recommended an October 1 effective date. The Senate would have delayed it until January 1, 1981. The compromise would provide a 5-percent rate increase on October 1, and another 5-percent increase effective January 1.

Finally, the proposed amendments contain almost the same cost-savings provisions originally passed by the House. The exceptions are in adjustments we have made for flight training and correspondence training programs. As you will recall, the House bill proposed to terminate these programs, effective October 1. The Senate measure recommended that the programs be continued but at a lower benefit rate. The proposed compromise would continue these programs as proposed by the Senate. The compromise will have a small impact on the cost savings proposed by the House for these two programs. We will more than make up the difference by providing a 10-percent rate increase in the GI bill programs rather than the 15-percent originally passed by the Senate.

The proposed amendments do not contain the nongermane medical amendments contained in the Senate-passed bill.

I want to thank the distinguished ranking minority member of the full committee, the gentleman from Arkansas, for his work and cooperation in bringing together this compromise. No one could offer more than the efforts he has provided in reaching this agreement. I also want to thank the very able gentleman from Texas, our chairman, RAY ROBERTS, for his usual good leadership. He has insisted that we get the education rate increases passed this week so that the VA will have ample time to get checks reflecting the increase to all veterans on time. I want to commend the ranking minority member of the Subcommittee on Education, Training and Employment, the gentlelady from Massachusetts, who has been most helpful in developing and bringing to the floor these amendments which are so important to millions of veterans and their dependents.

We have had to work within the limitations imposed by the first concurrent budget resolution and the increased benefits provided for in the proposed amendments are within the targets established in the resolution. The Congressional Budget Office has estimated that the compromise agreement will require $244 million during the next fiscal year in new budget authority and about $213 million in outlays.

The cost savings so important to the Committee on the Budget as contained in the reconciliation bill are virtually intact.

It is a good proposal and I urge that it be adopted.

Mr. Speaker, as I indicated, agreement has been reached with the other body on a number of provisions on rehabilitation, education, and training bills that have passed the Senate during this Congress. At the conclusion of my statement, I will include, as part of my remarks, an explanatory statement of each of the provisions, which has been agreed to for the benefit of the Members and the public.

Title I of H.R. 5288 proposes to update the vocational rehabilitation program. Last year when the House passed H.R. 5288, I included a detailed explanation of the major provisions of title I. As I stated, the major change in the vocational rehabilitation program in the proposed amendments includes greater emphasis on helping the seriously disabled veteran attain maximum independence. The proposed amendments also include a 17-percent cost-of-living increase in the subsistence allowance paid to disabled veterans while taking vocational rehabilitation training. A new Veterans' Advisory Committee on Rehabilitation is also one of the provisions in the proposed amendments relating to the vocational rehabilitation program.

Title II of the proposed amendments includes an across-the-board 10-percent cost-of-living increase in all education and training programs administered by the Veterans' Administration, with the exception of the vocational rehabilitation program. H.R. 7394, as approved by the House, proposes that the 10-percent increase be effective October 1, 1980. A Senate bill proposes that the 10-percent increase be effective January 1, 1981. We have compromised to provide that a 5-percent increase will go into effect October 1, 1980, with the balance effective January 1, 1981.

Title III of the proposed amendments propose a number of changes in Veterans' Administration education and training programs. Most of these amendments are substantially the same as provided in H.R. 5288 and H.R. 7394 as approved by the House. Most of these changes were recommended by the Veterans' Administration. It is hoped that these proposed amendments in title III will make the administration of veterans' education and training programs more effective, while at the same time, provide better service to veterans, as intended by the Congress in approving the GI bill and other veterans education and training programs.

Title IV includes minor amendments to the post-Vietnam era veterans educational assistance program (VEAP). One provision would permit certain veterans who were on active duty less than 180 days before January 1, 1977 to become eligible to participate in the VEAP program. Presently, a person who served before January 1, 1977, even for 1 day, is ineligible for the VEAP program. The other provision provides distribution of unused contributions made by the participant in the VEAP program upon the death of the participant. These provisions are intended to correct unexpected development regarding the VEAP program.

Title V relates to the revision of eligibility for veterans employment and training programs.

There are a number of preferences to which veterans are entitled under programs administered by the Department of Labor. The proposed amendments in title V would revise the definition of a veteran, a disabled veteran, and a Vietnam era veteran for eligibility to Department of Labor programs for veterans, and two minor amendments to the reemployment rights program for veterans. The agreement with the other body, includes three Senate amendments to elevate the position of the Deputy Assistant Secretary of Labor for Veterans Employment (DASVE) to Assistant Secretary of Labor for Veterans Employment, authorizing secretarial support for the State directors of veterans employment, and making the disabled veterans outreach program (DVOP) a permanent program within the Department of Labor.

The explanatory statement, which I am including as part of my remarks, explains the rationale and justification for these amendments which have been accepted by the House. These three Senate amendments are strongly supported by the major veterans organizations. At the Subcommittee on Education, Training, and Employment field hearings on employment programs, witnesses testified that Department of Labor programs for veterans are not as effective as they should be, and that veterans are not receiving the attention and consideration which Congress intended when it approved employment programs for veterans. Elevating the position of DASVE to the level of an Assistant Secretary, is expected to be the basis for a more effective program for veterans within the Department of Labor, and to provide more job assistance and jobs for veterans, as intended by Congress.

The fiscal year 1980 budget for the Department of Labor contemplated that State directors of veterans' employment would use secretarial support to be provided by State employment security agencies in which the director was stationed. Representatives of veterans organizations and Members of Congress, strongly protested this proposal on the grounds that it would undermine the effectiveness of the veterans' employment programs, which are the responsibility of the State directors of veterans employment in each of the States.

The provision in the proposed amendments authorizing secretarial support for the State directors of veterans employment simply assures that there will be no elimination of secretarial support for the directors in the future. A third amendment to employment programs in title V of the proposed amendments would make permanent the disabled veterans outreach program (DVOP).

In field hearings in Newark, N.J., Los Angeles, Calif., and Atlanta, Ga., the one veterans employment program which was highly praised for its effectiveness, was the DVOP program. The proposed amendment would make this very successful program, which was initiated by President Carter in 1977, a permanent one with additional responsibilities in reaching and counseling disabled veterans under programs administered by the Department of Labor.

Title VI of the proposed amendments includes the costs-savings provisions, which were contained in H.R. 7394, as approved by the House on July 21. There are a number of changes as explained in the explanatory statement at the conclusion of my remarks. Briefly, the House has agreed to a Senate amendment to continue both the flight training and correspondence training programs for veterans. However, the programs will be at a reduced level. Presently, the educational assistance allowance for flight training is computed at the rate of 90 percent being paid by the Veterans' Administration and 10 percent by the veteran for both flight and correspondence training. In the proposed amendments, the Veterans' Administration will pay 60 percent of the costs of flight training, with the veteran paying 40 percent for flight training courses. With regard to correspondence courses, the Veterans' Administration will be authorized to pay 70 percent of the costs and the veteran paying 30 percent. The House also agreed to a Senate provision to provide up to $2,500 in education loans to veterans taking flight training under the 60–40 formula for veterans needing additional funds under this reduced formula.

Title VII of the proposed amendments relate to a number of technical amendments to correct printing errors in previous laws, and title VIII relates to the effective date of the provisions of the bill.

Mr. Speaker, the Senate rehabilitation, education, and training bills pending before the House also contain a number of provisions which are unrelated to rehabilitation, education, training, and employment. The Senate amendments which relate to substantive medical care issues are not included in the proposed amendments to H.R. 5288, because they are not germane to education and training programs. In addition the committee has not had time to consider the amendments on their merits. However, it is expected that hearings will be held on some of these issues early next year.

There follows a detailed explanation of the proposed amendments:

EXPLANATORY STATEMENT H.R. 5288, THE VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1980

For the purposes of this explanatory statement, the "House bill" refers to H.R. 7394 as passed by the House of Representatives on July 21, 1980, the "Senate amendment" refers to H.R. 5288 as passed by the Senate on January 24, 1980, and the "Senate bill" refers to S. 1188 as passed by the Senate on September 4, 1980.

Rather than noting each place in the compromise agreement where a clarifying or other technical amendment or a correction has been made in a provision contained in the agreement, the Committees would point out at the outset that, in the course of the extensive discussions regarding and redrafting of the various provisions contained in the compromise agreement, such drafting changes have been made in nearly all such provisions.

TITLE I—REHABILITATION AMENDMENTS

Both the House and the Senate bills would restructure and make substantial improvements in present chapter 31 of title 38, United States Code, relating to the VA's vocational rehabilitation program for certain service-connected disabled veterans.

Purposes

Both the House and Senate bills would provide that the purposes of chapter 31 are to provide all services necessary to enable an eligible veteran with service-connected disabilities to become employable and to obtain and maintain suitable employment. In addition, both bills would include among those purposes the provision of services to enable such veterans to achieve maximum independence—the Senate bill more specifically referring to maximum independence in daily living, a term defined in the Senate bill as incorporating the concept of the ability to live and function in one's family and community. Also, the Senate bill, but not the House bill, would also specify the provision of all necessary assistance—for example, allowances and monetary and material items.

The House recedes.

Definitions

The House bill, but not the Senate bill, would define the term "employment handicap" as a disability the limiting effects of which impair the individual's ability to prepare for, obtain, or retain suitable employment. In the House bill, this term is used in setting the threshold requirements for chapter 31 eligibility—only those who have a compensable service-connected disability and need vocational rehabilitation because of an employment handicap are eligible.

The Senate recedes.

The Senate bill, but not the House bill, would define the term "independence in daily living" to mean the ability of a veteran without—or with reduced levels of—the services of others, to live and function within the veteran's family and community. In the Senate bill, the term is used in various sections of revised chapter 31 and is intended to incorporate in chapter 31 the concept of independent living in section 701 of the Rehabilitation Act of 1973 (29 U.S.C. 720).

The House recedes.

The Senate bill, but not the House bill, would define the term "medical condition" to mean a disability, including an alcohol or drug dependence or abuse disability, or combination of disabilities. The term is used in the Senate bill only in the provision pertaining to extensions of periods of eligibility, and the inclusion of an alcohol or drug dependence or abuse ability within the definition would—consistent with a comparable provision, section 201(a) of the Senate amendment amending the GI Bill delimiting-period provision (as described below in title III)—provide for a tolling of the period of eligibility during a period when an alcohol or drug disability prevented a veteran who later recovered from that disability from participating in a chapter 31 program.

The Senate recedes. The Committees note that, in deleting this definition, and the comparable provision in section 201(a) of the Senate amendment from the compromise agreement, they are taking no position as to whether such a provision is necessary in order to authorize the VA to toll the chapter 31 delimiting period in such cases.

The Senate bill, but not the House bill, would define the term "program of education" to have the same meaning as that provided in section 1652(b) of title 38. In the Senate bill, the term is used in the provision that would permit certain chapter 31 participants to elect to receive an allowance—in lieu of a subsistence allowance and certain other assistance provided for in chapter 31—equivalent to the educational assistance allowance available for the pursuit of a comparable program of education under chapter 34, the GI Bill.

The House recedes.

The Senate bill, but not the House bill, would define the term "program of independent living services and assistance" to include the services necessary to enable a veteran to achieve independence in daily living and the assistance authorized under chapter 31 for the veteran. In the Senate bill, this term is used in provisions entitling a veteran who is so severely disabled that the achievement of a vocational goal is not reasonably feasible to participate under certain circumstances in such a program and establishing a pilot program of independent living services and assistance for such veterans.

The House recedes.

The Senate bill, but not the House bill, would define the term "rehabilitated to the point of employability" to mean rendered employable in an occupation for which a veteran has been rehabilitated under this program. In the Senate bill, this term is used primarily to denote veterans for whom certain extensions of periods of eligibility and months of entitlement and certain employment assistance are authorized.

The House recedes.

The Senate bill, but not the House bill, would define the term "rehabilitation program" to mean either a vocational rehabilitation program or a program of independent living services and assistance. In the Senate bill, the term is used in various provisions to mean either type of program included in this definition, as appropriate in the individual case.

The House recedes.

The Senate bill, but not the House bill, would define the term "serious employment handicap" as a significant impairment of an individual's ability to prepare for, obtain, and retain suitable employment. In the Senate bill, the term is used in provisions focusing certain services on and limiting the benefit of certain provisions to those with such handicaps.

The House recedes.

The Senate bill, but not the House bill, would define the term "vocational goal" to mean a gainful employment status consistent with the veteran's abilities, aptitudes, and interests. In the Senate bill, the term is used in various provisions specifying the type of program to be provided to a veteran depending on whether the achievement of a vocational goal is or is not reasonably feasible or the possibility of achieving such a goal cannot be determined.

The House recedes.

The House bill and the Senate bill would define the terms "vocational rehabilitation" and "vocational rehabilitation program", respectively. Each bill would provide that the term includes the services needed to accomplish the purposes of the chapter and specify various services which may be rendered to a veteran to achieve the goals of employability, employment, and maximum independence. The Senate bill would specify a wider range of services—adding counseling, independent living, educational, and employment services—and would expressly provide that, in the case of a veteran as to whom no determination has been made that the achievement of a vocational goal is not reasonably feasible, a vocational rehabilitation program includes services necessary to determine whether a vocational goal is reasonably feasible, improve the veteran's potential to participate in a program of services leading to such a goal, and enable the veteran to achieve maximum independence in daily living. In addition, the Senate bill would provide explicitly that, when it has been determined that a vocational goal is reasonably feasible for the veteran, the vocational rehabilitation program would also include services necessary to help the veteran become employable and suitably employed.

The House recedes.

Basic entitlement

Both the House and Senate bills would provide entitlement under chapter 31 to an individual who has a service-connected disability compensable under chapter 11 of title 38 or is pending discharge while hospitalized in a hospital under the jurisdiction of the Secretary of Defense. The House bill, but not the Senate bill, would also require that, to be eligible for chapter 31 benefits, a veteran be in need of vocational rehabilitation because of an employment handicap. The Senate bill, but not the House bill, would provide entitlement to an individual receiving military retirement pay in lieu of compensation.

The Senate recedes on the requirement of the need for vocational rehabilitation. The House recedes on the provision of entitlement to those receiving retirement pay in lieu of compensation. The compromise agreement would provide entitlement to an individual pending discharge while hospitalized, in a hospital under the jurisdiction of the Secretary of the Department concerned, only if the individual is hospitalized for a disability that the Administrator determines would be reasonably likely to be compensable under chapter 11 of title 38 if the individual was a veteran.

Periods of eligibility

Both the House and Senate bills would provide for a basic period of eligibility to benefits under this chapter. The House bill would provide for a 9-year basic period of eligibility, and the Senate bill would provide for a 10-year period.

The compromise agreement would provide for a 12-year basic period of eligibility, consistent with the historical practice of making the chapter 31 delimiting period greater than that for chapter 34 (extended to 10 years in 1976).

Both the House and Senate bills would provide for extensions of the basic period of eligibility if it was medically infeasible for the veteran to participate in a rehabilitation program, if a veteran was prevented from participating in such a program because the veteran was not discharged under conditions other than dishonorable and the discharge was later changed, or if the veteran had not previously established the existence of a service-connected disability (compensable in the House bill and compensable under chapter 11 of title 38 in the Senate bill).

The Senate bill, but not the House bill, would also provide for an extension of the period of eligibility if a veteran did not receive a discharge under conditions other than dishonorable if the veteran later received a favorable character of service determination by the Administrator or if the discharge or dismissal had been determined to be a bar to benefits but such bar was later removed by the Administrator. The Senate bill, but not the House bill, would limit the availability of an extension of the basic period of eligibility where the existence of a service-connected disability compensable under chapter 11 of title 38 had not previously been established to those veterans who have a serious employment handicap. Under the House bill, the extension would be an additional four-year period beyond the basic period of eligibility. Under the Senate bill, the basic period of eligibility would be tolled while the veteran is prevented from participating in a rehabilitation program.

The House recedes on the provision allowing an extension if a favorable character of service determination is made by the Administrator or if a bar to benefits is removed by the Administrator. The Senate recedes to the reference to any compensable service-connected disability with respect to a subsequent determination of same and on the requirement that the veteran have a serious employment handicap to be eligible for an extension based upon the establishment of a compensable service-connected disability subsequent to the veteran's discharge or release. The House recedes on the provision relating to the length and measurement of extensions.

Both the House and Senate bills would also authorize extensions, as the Administrator determines to be necessary, of the applicable period of eligibility for certain more seriously disabled veterans under certain circumstances—the House bill for a veteran who is blind or who has another serious service-connected disability, the Senate bill for a veteran with a serious employment handicap. Both the House and Senate bills would provide for an extension in such cases if the veteran had not been previously rehabilitated as a result of training under this chapter, or, if veteran had previously been rehabilitated under this chapter, but the veteran could no longer perform the duties of the occupation for which the veteran was previously trained because of a worsening, in the House bill, or a change, in the Senate bill, of the veterans' service-connected disability.

The Senate bill, but not the House bill, would also provide for such an extension for a veteran previously rehabilitated under chapter 31 if the occupation for which such veteran was trained proved not to be appropriate. The Senate bill, but not the House bill, would also allow such an extension of the applicable period of eligibility for a veteran with a serious employment handicap as the Administrator determines, under regulations that the Administrator shall prescribe, is necessary to carry out the purposes of chapter 31.

The House recedes on limiting the availability of such extensions to only veterans with serious employment handicaps. The Senate recedes on the requirement that a previously-rehabilitated veteran's service-connected disability has "changed". The House recedes on the issue of allowing an extension of the applicable period of eligibility for a previously-trained veteran if the occupation for which the veteran was trained is not suitable. The House recedes on the provision authorizing such extension for a veteran with a serious employment handicap as the Administrator determines to be necessary.

The Senate bill, but not the House bill, would allow an extension of the applicable period of eligibility for a program of independent living services and assistance for a veteran for whom it has been determined that a vocational goal is not reasonably feasible, if the Administrator determines that an extension is necessary for such veteran to achieve maximum independence in daily living.

The House recedes.

Scope of services and assistance

Both the House and Senate bills would specify a wide range of services which the Administrator may provide under chapter 31. The Senate bill, but not the House bill, would require that the Administrator prescribe regulations pursuant to which such services would be provided.

The House recedes.

Both the House and Senate bills would provide for evaluation services to determine the veteran's potential for rehabilitation and whether the veteran's disability causes an employment handicap (a serious employment handicap in the Senate bill) to provide a basis for planning a rehabilitation (vocational rehabilitation in the Senate bill) program for the veteran or a program of services to improve the rehabilitation (vocational rehabilitation in the Senate bill) potential of the veteran. The Senate bill, but not the House bill, would expressly provide for periodic reevaluation as appropriate. In addition, the House bill would provide for evaluation to determine whether a rehabilitation goal is feasible for the veteran; the Senate bill, whether a vocational goal is feasible. The Senate bill, but not the House bill, would authorize evaluation to provide a basis for planning a program to improve the independent living status of the veteran.

The House recedes.

Both the House and Senate bills would provide for educational, vocational, psychological, employment, and personal adjustment counseling.

The compromise agreement contains this provision.

Both the House and Senate bills would provide for a variety of vocational and other training services and assistance. The Senate bill, but not the House bill, would allow such services and assistance to be provided only as determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case.

The House recedes.

Both the House and Senate bills would provide for prosthetic appliances, eyeglasses, and other corrective devices. The Senate bill, but not the House bill, would also provide for assistive devices.

The House recedes.

Both the House and Senate bills would provide for special services relating to blindness and deafness.

The compromise agreement would clarify that these services could be provided, as determined to be necessary by the Administrator, to eligible veterans other than those who are blind and deaf.

Both the House and the Senate bills would allow the most severely disabled veterans requiring homebound training, self-employment training, or both, to receive such essential equipment, supplies, and minimum stocks as the Administrator determines to be necessary for the veteran to begin employment, within criteria and cost limitations as the Administrator shall prescribe in regulations. The Senate bill, but not the House bill, would allow the provision of license fees to such a veteran under the same criteria and cost limitations.

The House recedes.

Both the House and Senate bills would provide for a comprehensive range of health-care services; for placement and post-placement services; for necessary services to the veteran's family; for allowances, including work-study allowances as authorized under the chapter 34 GI Bill program; for travel and incidental expenses, including a special transportation allowance for extraordinary travel expenses; and for chapter 31 loans.

The compromise agreement includes these provisions.

The House bill, but not the Senate bill, would provide discretionary authority for the provision of other incidental goods and services determined by the Administrator to be necessary in the individual case.

The Senate recedes.

The Senate bill, but not the House bill, would provide that a program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973.

The House recedes.

Both the House and Senate bill would provide that a rehabilitation program—including individual courses—shall be subject to the Administrator's approval.

Duration of services

Both the House and Senate bills would generally limit to twelve months the duration of evaluation—referred to as "extended evaluation" for a veteran with a serious employment handicap in the Senate bill—of a veteran as to whom it is undetermined whether the achievement of rehabilitation, in the House bill, or a vocational goal, in the Senate bill, is possible. The House bill would allow a longer period of time as prescribed by the Administrator. The Senate bill would allow this evaluation period to be extended for additional increments of up to six months each if the Administrator determines that, during the six-month period, it is reasonably likely that a determination can be made as to the feasibility of the achievement of a vocational goal for the individual veteran.

The House recedes.

Both the House and Senate bills would generally provide that a vocational rehabilitation program may not exceed a period of forty-eight months following a determination that the achievement of a vocational goal is reasonably feasible. The Senate bill would provide for an additional period of not to exceed eighteen months for counseling and placement and postplacement services only for a veteran with a serious employment handicap.

The House recedes with an amendment to delete the requirement that only a veteran with a serious employment handicap would be eligible for the extension for counseling and placement and postplacement services.

The House bill would allow extensions, as prescribed by the Administrator, of the 48-month period for vocational rehabilitation. The Senate bill would provide that, in the case of a veteran with a serious employment handicap, the Administrator may extend the period of vocational rehabilitation to the extent necessary to enable the veteran to achieve a vocational goal if the veteran had been previously rehabilitated to the point of employability but the veteran's service-connected disability had changed so as to preclude the performance of the duties of the occupation for which such veteran was trained or the occupation for which the veteran was trained was inappropriate in light of the veteran's employment handicap or abilities, or if the Administrator determines, under regulations which the Administrator shall prescribe, that an extension is necessary to carry out the purposes of chapter 31.

The House recedes with an amendment to delete the requirement that only a veteran with a serious employment handicap would be eligible for an extension based on a worsening of the veteran's disability or the inappropriateness of the occupation for which the veteran had trained.

The Senate bill would provide that the period of a program of independent living services and assistance for a veteran as to whom it has been determined that a vocational goal is not reasonably feasible may not exceed twenty-four months, unless the Administrator determines that a longer period is necessary and would likely result in a substantial increase in the veteran's level of independence in daily living. The House bill has no specific provisions for such a program.

The House recedes.

Evaluations

The Senate bill, but not the House bill, would provide for an initial evaluation to determine if the veteran has a serious employment handicap and if the achievement of a vocational goal is reasonably feasible and, if so, require that the veteran be provided counseling in accordance with an individualized written plan of vocational rehabilitation; would provide that extended evaluation—consisting of evaluation services and such other services under chapter 31 as the Administrator determines to be necessary to improve such veteran's potential for participation in a program designed to achieve a vocational goal and enable such veteran to achieve the maximum independence in daily living, and a subsistence allowance—shall be provided for a veteran who has been determined to have a serious employment handicap but for whom a determination as to the feasibility of the achievement of a vocational goal has not been made; would require the Administrator to determine as expeditiously as possible whether the achievement of a vocational goal is reasonably feasible and resolve any reasonable doubt in favor of determining that such achievement is reasonably feasible; and would require the Administrator to assign a Veterans' Administration employee, a case manager, to be responsible for the management and follow-up of the provision of services and assistance in connection with each period of extended evaluation and each rehabilitation program for a veteran who is determined to have a serious employment handicap.

The House recedes.

Counseling

The House bill would provide for mandatory initial counseling, subject to regulations which the Administrator shall prescribe, for all chapter 31 participants and necessary counseling during any period in which a veteran is undergoing evaluation, training, or post-training assistance. The Senate bill would provide for mandatory counseling only for a veteran with a serious employment handicap, require, in such cases, that counseling be included as part of the individualized written plan, and provide that counseling for other chapter 31 participants may be provided as determined to be necessary under regulations to be prescribed by the Administrator.

The House recedes.

Individualized written plans

Both the House and Senate bills would require the formulation of an individualized written plan of vocational rehabilitation. The House bill would provide that such a plan shall be formulated for each veteran pursuing a program of vocational rehabilitation and that the veteran participate in the formulation of such plan. The Senate bill would require that such plans be formulated only for a veteran with a serious employment handicap, that the plan be developed jointly with such veteran, and that the plan identify the case manager assigned to the veteran.

The House recedes on the serious employment handicap requirement and on the provision for the plan to be developed with the veteran with an amendment, striking the word "jointly". The Senate recedes on identifying the case manager in the plan.

Both the House and Senate bills would provide that the individualized written plan be reviewed at least annually and revised as appropriate. The Senate bill, but not the House bill, would require that the veteran be afforded the opportunity to participate in each review, and that, based on the review, the Administrator redevelop the plan jointly with the veteran as appropriate.

The House recedes with an amendment to strike the word "jointly".

The Senate bill, but not the House bill, would provide for a special review process if the veteran disagrees with the development, redevelopment, or denial of redevelopment of the plan.

The House recedes.

Allowances

Both the House and Senate bills would provide for the payment of a subsistence allowance during a period of the veterans' participation in a rehabilitation program. The House bill would provide for the payment of a subsistence allowance to a veteran during a period of evaluation, and the Senate bill, only in the case of extended evaluation. The House bill would provide for the payment of a subsistence allowance at the full-time rate prescribed for the type of program the veteran had been pursuing for the two-month period following vocational rehabilitation of a veteran who is determined to be employable, and the Senate bill would provide for such a two-month payment only for a veteran with a serious employment handicap.

The House recedes on the payment of subsistence allowance during a period of initial evaluation. The Senate recedes on the serious employment handicap requirement for the two-month post-training payment.

Both the House and Senate bills would provide for increases in the rates of monthly subsistence allowances. The House bill would provide for a 17-percent increase, and the Senate bill, a 10-percent increase.

The Senate recedes.

The Senate bill would provide categories of new rates—commensurate with existing rates as proposed to be increased in the Senate bill—for extended evaluation and for independent living training. The House bill would provide for new categories of rates for evaluation and improvement of rehabilitation potential—commensurate with existing rates as proposed to be increased in the House bill.

The House recedes on the new categories of rates to be established. The Senate recedes on the level of the new rates so as to make them consistent with the levels provided in the House bill.

Both the House and Senate bills would provide that, if a vocational rehabilitation program includes on-job training in any month, the employer must submit a written statement to the Administrator showing any income provided to the employee for that month and that, based upon such statement, the Administrator may reduce the veteran's subsistence allowance to an amount considered equitable and just. The Senate bill, but not the House bill, would require the Administrator to prescribe regulations establishing criteria for any such reductions.

The House recedes.

Both the House and Senate bills would provide for the payment of a subsistence allowance to a veteran pursuing on-job training or work experience without pay as part of a vocational rehabilitation program. The House bill would provide that such a veteran shall be paid a subsistence allowance at the full-time institutional rate. The Senate bill would provide that the subsistence allowance shall be paid at the appropriate institutional rate and would treat a veteran in such a program who is receiving nominal pay for such on-job training or work experience on the same basis as one receiving no pay.

The House recedes.

Both the House and Senate bills would require the Administrator to define full-time and part-time status for veterans participating in a rehabilitation program under this chapter. The Senate bill, but not the House bill, would require that the defining be done in accordance with regulations that the Administrator shall prescribe consistent with regulations promulgated under chapter 34, for determining full- and part-time status.

The compromise agreement requires that regulations be prescribed for this purpose.

The Senate bill, but not the House bill, would provide for the payment, in accordance with regulations that the Administrator shall prescribe, of a proportional subsistence allowance to a veteran participating in extended evaluation on less than a full-time basis.

The House recedes.

Both the House and Senate bills would provide that, in the case of a veteran pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Administrator may pay the cost of the veteran's room and board to such facility and may pay to the veteran the portion of the subsistence allowance for dependents as determined by the veteran's dependency status. The Senate bill, but not the House bill, would allow such payments to a facility only for a veteran in a full-time residential program and only upon the request of the veteran and would expressly provide that such payments would be in lieu of a substance allowance (other than any portion payable for dependents).

The Senate recedes on the full-time requirement and on the need for a veteran to request such payment. The House recedes on the provision that would expressly provide that such payments would be in lieu of a subsistence allowance.

The Senate bill would allow a veteran with entitlement to and eligibility for benefits under chapter 34 of title 38 and who wishes to pursue a vocational rehabilitation program under chapter 31 to elect to receive a chapter-34-equivalent allowance in lieu of certain assistance provided under this chapter. The House bill would amend chapter 34 to permit a veteran who is eligible for chapter 31 benefits to elect to pursue a vocational rehabilitation plan using his or her chapter 34 assistance entitlement and would provide that any veteran doing so would be considered for all purposes to be pursuing a vocational rehabilitation program under chapter 31, except that such veteran would not be eligible for such certain assistance (but excluding personal and work adjustment training) provided under this chapter.

The House recedes.

The House bill would prohibit the payment of a subsistence allowance to a veteran who is incarcerated in a Federal, State, county, or local prison or jail. The Senate bill would provide that a subsistence allowance payable to a veteran while incarcerated be withheld and paid to the veteran upon release and be paid to such veteran's dependents if the veteran and dependents so request, and would provide for the full payment of subsistence allowance to a veteran pursuing a rehabilitation program while residing in a halfway house or participating in a work-release program.

The compromise agreement would provide as follows:

(1) In the case of a veteran incarcerated for the conviction of a felony, no subsistence allowance may be paid.

(2) In the case of a veteran pursuing a program while residing in a halfway house or participating in a work-release program, the full subsistence allowance would be paid unless a governmental entity is paying for all of the veteran's living expenses.

(3) An apportioned amount of an educational assistance allowance may continue to be paid to the veteran's dependent or dependents if such apportionment was made prior to the date of enactment.

The Senate bill, but not the House bill, would provide for the payment of a subsistence allowance to a veteran pursuing a rehabilitation program while receiving care in a VA or contract medical facility for 30 days, and after 30 days, would provide that the allowance would accrue, be withheld, converted to securities, paid to such veteran upon discharge from such a facility, and paid to dependents on generally the same basis as provided in the Senate bill with respect to incarcerated veterans, except that the Administrator would be required, upon the request of the veteran, to pay the monthly allowance to the veteran to the extent determined to be necessary for the veteran to meet his or her continuing financial obligations.

The compromise agreement would limit the payment of a subsistence allowance to a veteran who is receiving compensation at the rate for 100-percent disabled veterans as the result of hospitalization in a VA or other facility at VA expense (under VA regulations, 38 C.F.R. § 4.29, an increase to the 100-percent is provided a veteran whose service-connected disability is rated at less than 100 percent after the 21st consecutive day of hospitalization for that disability) so that the allowance would not exceed, when added to the amount of compensation the veteran is receiving, the greater of the sum of the compensation amount and the subsistence allowance amount the veteran would receive if not hospitalized or the compensation amount paid a veteran rated 100-percent disabled.

Entitlement under certain circumstances to a program of independent living services and assistance

The Senate bill, but not the House bill, would provide entitlement to certain compensable service-connected disabled veterans to a program of independent living services and assistance, pursuant to the provisions discussed below establishing a pilot program for veterans for whom it has been determined that achievement of a vocational goal is not reasonably feasible.

The House recedes.

Satisfactory conduct and cooperation

Both the House and Senate bills would require the Administrator to prescribe rules and regulations to maintain satisfactory conduct and cooperation for chapter 31 participants, and would provide that, if a veteran fails to maintain satisfactory conduct and cooperation, services and assistance under this chapter may be discontinued and reinstituted, upon the determination of the Administrator that the cause of the unsatisfactory conduct and cooperation has been removed. The Senate bill, but not the House bill, would require that, prior to any discontinuation of chapter 31 benefits, the Administrator determine that all reasonable counseling efforts have been made and are not likely to be effective, and would require that prior to reinstituting benefits, the Administrator determine that the rehabilitation program that the veteran proposes to pursue is suitable.

The House recedes.

Revolving fund loans

The House bill would increase the maximum amount of loans that may be made from the chapter 31 revolving fund to $400; the Senate bill, to an amount equal to twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents—$564 as a result of the 17-percent increase provided for the compromise agreement. Both bills would add subsistence allowances and educational allowances to the categories of future VA payments to the veteran from which loan-repayment installments may be deducted.

The House recedes.

Return of books, supplies, and equipment

The House bill, but not the Senate bill, would repeal present section 1509, which provides that any books, supplies, and equipment furnished to a veteran under this chapter shall be deemed released to such veteran except that if, through the veteran's fault, the veteran failed to complete the course involved, the Administrator may require that such books, supplies, and equipment be returned, and may be returned to the educational or training institution for credit or be disposed of by the institution in such other manner as the Administrator approves.

The Senate recedes.

Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

Both the House and Senate bills would provide that chapter 31 benefits may be provided to an individual who is hospitalized pending discharge or release if such individual would be otherwise eligible, but that, in such cases, no subsistence allowance may be paid.

The compromise agreement would clarify that, for such an individual to be eligible for benefits under this section, he or she must be suffering from a disability which the Administrator determines is likely to be compensable under chapter 11 of title 38.

Both the House and Senate bills would provide that chapter 31 benefits may be provided to a veteran receiving care in a VA hospital or domiciliary. The Senate bill would also authorize the provision of benefits to a veteran receiving care in a VA nursing home. Both bills would also authorize the provision of benefits to veterans in any other hospital or medical facility, but, under the House bill, only where feasible.

The House recedes.

Vocational rehabilitation outside the United States

Both the House and Senate bills would provide that vocational rehabilitation under this chapter may be provided outside of the United States, under regulations which the Administrator shall prescribe, if it is determined to be necessary in the particular case to render the veteran employable in a suitable occupation and if it is in the best interest of the veteran and the Federal Government. The Senate bill, but not the House bill, would also provide a program of vocational rehabilitation if necessary to enable the veteran to obtain and retain suitable employment.

The House recedes.

Rehabilitation resources

Both the House and Senate bills would provide that the Administrator may use any facilities of any Federal agency to provide training or work experience as part or all of a vocational rehabilitation program without pay when the Administrator determines it to be necessary to accomplish the veteran's rehabilitation. Both bills would also provide that such veteran shall be deemed an employee of the United States for purposes of chapter 81 of title 5, United States Code, concerning compensation for work injuries, but not for purposes of laws administered by the Office of Personnel Management. The Senate bill, but not the House bill, would provide that such training or work experience may be provided for nominal pay.

The House recedes.

Both the House and Senate bills would authorize the VA, through contracts or other cooperative arrangements, to use the facilities and services of any Federal agency, agencies maintained by joint Federal and State contributions, private institutions and establishments, and private individuals.

The compromise agreement includes these provisions and further provides for the use of the facilities and services of any State or other public agency and any public institution or establishment.

The Senate bill, but not the House bill, would provide that the use of facilities, staff, and other resources of the Department of Medicine and Surgery to provide rehabilitation services, including hospital care and medical services described in chapter 17, shall be procured through contract with that Department and that the amounts charged for such services be determined in accordance with the accounting principles used by that Department, subject to review and modification by the Administrator.

The Senate recedes.

The House bill, but not the Senate bill in the chapter 31 revision, would require the Administrator actively to promote the development and establishment of on-job training opportunities for service-connected disabled veterans through outreach to employers and coordination with Federal, State, and local governmental agencies and appropriate nongovernmental agencies. The Senate bill would, in an amendment to existing section 220, require the Administrator to play an increased, active role with respect to advocacy of the implementation of existing laws and regulations relating to employment, training, and other opportunities for veterans, with particular emphasis on the needs of service-connected disabled veterans and other eligible veterans to whom the employment emphases in chapter 42 are applicable.

The Senate recedes with an amendment requiring that such promotional efforts be targeted on veterans who are or have been participating in a program of rehabilitation under this chapter, other service-connected disabled veterans, and other veterans with respect to whom the employment emphases set forth in chapter 42 of title 38 apply with particular emphasis being placed on the needs of categories of those veterans on the basis of applicable rates of unemployment.

Both the House and Senate bills would provide that payments may be made to employers, under regulations which the Administrator shall prescribe, for providing on-job training if the Administrator determines that such payment is necessary to obtain needed on-job training. The Senate bill, but not the House bill, would provide that the Administrator's regulations shall be made with the concurrence of the Secretary of Labor in light of the provisions of title V of the Rehabilitation Act of 1973, and section 2012 of title 38, and regulations prescribed thereunder, that payments may be made if the Administrator determines it necessary for a veteran to begin employment, that payments shall not exceed the direct expenses incurred by the employer in providing such on-job training or employment opportunity, and that if a veteran participates in on-job training that satisfies the criteria for payment of a training assistance allowance under section 1787 of title 38 and such veteran has eligibility for and entitlement to such allowance, the allowance shall be paid.

The House recedes with an amendment which would provide that the Administrator's regulations be made in consultation with the Secretary of Labor.

Both the House and Senate bills would generally provide for the furnishing of certain employment assistance to veterans who have participated in any (VA or non-VA) vocational rehabilitation program and have been determined to be employable (including direct placement in employment and utilization of the placement services of programs under the Rehabilitation Act of 1973, the State employment service and the Veterans' Employment Service of the Department of Labor, the Office of Personnel Management, and any other public or nonprofit organization with available placement services). The Senate bill, but not the House bill, would also provide for the use of personnel of the veterans' employment and training outreach program (proposed to be established under title II of the Senate bill) in furnishing such employment assistance; would include in such assistance any assistance necessary to assure that such veteran receive the benefit of any special consideration, emphasis, or preference for such veteran in employment and training under any applicable law or regulation; would limit the mandate of the furnishing of such assistance to only service-connected disabled veterans who have participated in a vocational rehabilitation program under chapter 31 or a similar program under the Rehabilitation Act of 1973; and would allow the provision of such employment assistance to be made available, only to the extent that resources are available, to a veteran without a service-connected disability who has participated in a vocational rehabilitation program and has been determined to be employable.

The House recedes with an amendment deleting the discretionary authority to provide employment assistance within available resources to a veteran who does not have a service-connected disability.

Both the House and Senate bills would require that, in the case of a veteran who has completed vocational rehabilitation for self-employment under chapter 31, the Administrator cooperate with the Small Business Administration (SBA) to assist the veteran to secure a loan for the purchase of equipment needed to establish the veteran's own business. The Senate bill, but not the House bill, would also require the Administrator to cooperate with the SBA to assure that such veteran receives the special consideration provided for in section 8 of the Small Business Act.

The House recedes.

Personnel training, development, and qualifications

Both the House and Senate bills would require the Administrator to provide a program of professional training and development for counseling and rehabilitation personnel involved in providing rehabilitation services to assure that such services are provided in accordance with the most advanced knowledge, method, and techniques available. To accomplish this, both bills would authorize the Administrator to employ consultants and to make grants to and contract with public or private agencies, including institutions of higher learning, to conduct such training and development.

The Senate bill, but not the House bill, would require the Administrator to establish qualifications for psychologists providing evaluation and rehabilitation services to veterans under chapter 31 and for case managers and, in establishing such qualifications, to take into account the provisions of section 4105(a) (10) of title 38, relating to qualifications of psychologists, and the qualifications established for comparable personnel under the Rehabilitation Act of 1973.

The House recedes with an amendment deleting the requirement that the Administrator take into account section 4105(a) (10).

Rehabilitation research and special projects

Both the House and Senate bills would require the Administrator to conduct and support studies and research concerning the psychological, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans and projects to increase resources and potential for rehabilitating veterans. The Senate bill, but not the House bill, would also require that the Administrator conduct and support studies and research concerning the educational and employment aspects of the rehabilitation of disabled veterans.

The House recedes.

The House bill would provide that the Administrator shall cooperate with the Secretary of Education regarding vocational studies, research, and special projects of mutual concern. The Senate bill would provide that the Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration (RSA) and the Director of the National Institute of Handicapped Research (NHR) in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services in this regard.

The House recedes.

The Senate bill, but not the House bill, would establish a pilot program of independent living services and assistance—to be conducted under contracts with public or nonprofit agencies (including the VA's Department of Medicine and Surgery on a reimbursable basis) that have the demonstrated capacity to provide programs of independent living services and assistance for severely handicapped persons—during fiscal years 1982 through 1985 for a maximum of 500 veterans in each fiscal year who are entitled to a program of such services and assistance under chapter 31 and are selected under criteria to be prescribed in regulations, including, to the maximum extent feasible, substantial numbers of veterans receiving long-term care in VA hospitals and nursing homes with which the Administrator contracts for the care of veterans; and would provide that the Administrator shall report to the Congress, not later than September 30, 1984, on such programs of independent living services and assistance, including the accomplishments and cost effectiveness of such programs and the Administrator's recommendations for any legislative changes concerning the provision of such services and assistance.

The House recedes with an amendment deleting the reference to the provision in the Senate bill that would require contracts with the Department of Medicine and Surgery to be on a reimbursable basis since that provision, as discussed above in connection with rehabilitation resources, is not included in the compromise agreement.

Veterans' Advisory Committee on Rehabilitation

Both the House and Senate bills would provide for the establishment of a Veterans' Advisory Committee on Rehabilitation to be comprised of members appointed by the Administrator for terms not to exceed 3 years, one of whom the Administrator may appoint as chairperson of the Committee. The House bill would also provide that the RSA Commissioner and the Director of NIHR in the Department of Education and the Assistant Secretary of Labor for Veterans' Employment of the Department of Labor would be ex officio members. The Senate bill would provide that those officials would be members of the Committee, together with representatives of the Department of Medicine and Surgery and the Department of Veterans' Benefits of the Veterans' Administration and the Secretary of Health and Human Services, and that the membership must include service-connected disabled veterans as not less than one-half of the total membership, and individuals who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs.

The House recedes with an amendment deleting the requirement that service-connected disabled veterans constitute at least half of the membership, providing that such veterans be appropriately represented in the membership of the Committee, deleting the representative of the Secretary of Health and Human Services from the membership, and providing that all representatives of various Federal officials would be ex officio members.

Both the House and Senate bills would require the Veterans' Advisory Committee on Rehabilitation to submit an annual report on VA rehabilitation programs and activities to the Administrator and such other reports and recommendations to the Administrator and the Congress as the Committee determines appropriate. The Senate bill, but not the House bill, would provide that the annual report shall be submitted to the Congress as well as to the Administrator.

The compromise agreement would provide that the annual report, as well as any other reports and recommendations, of the Committee shall be submitted only to the Administrator, that the Administrator shall submit the Committee's annual report to the Congress in the Administrator's annual report to the Congress, and that the Administrator shall also include in that report any other reports and recommendations submitted to the Administrator by the Committee since the previous annual report of the Administrator was submitted to the Congress.

Evaluations after individual unemployability adjudication

The Senate bill, but not the House bill, would provide that the Administrator shall provide for a comprehensive diagnostic evaluation for a veteran who has been determined to be totally disabled on the basis of the veteran's individual unemployability resulting from a service-connected disability if the Administrator believes that such veteran has the potential for vocational rehabilitation and employment.

The Senate recedes.

Bar to payment of subsistence allowance to active-duty personnel

Both the House and Senate bills would amend section 1781 to add a reference to the chapter 31 subsistence allowances to the existing provisions barring the payment of chapter 34, 35, or 36 allowances to an individual who is on active duty in the Armed Forces and is pursuing a course of education which is being paid for under certain Federal programs. For the purposes of this provision, the term "subsistence allowance" would be specifically defined to include a chapter-34-equivalent allowance paid pursuant to new section 1508(f).

The compromise agreement contains this provision.

Maximum aggregate period of assistance

Both the House and Senate bills would amend section 1795, generally limiting to 48 months the aggregate period for which a person may receive assistance under the laws cited therein, to delete chapter 31 from—and include chapter 32, relating to the post-Vietnam-era veterans' educational assistance program in—the listing of the laws to which that limit applies, and to provide that no person could receive assistance under chapter 31 in combination with assistance under those laws for a period in excess of 48 months, unless the Administrator determines that additional months of benefits under chapter 31 are required to accomplish the rehabilitation purposes set forth in chapter 31.

The compromise agreement contains these provisions.

Effective dates

The House bill would provide that title I would take effect on the first day of the first month beginning after the end of the 60-day period beginning on the date of enactment. The Senate bill would provide that title I shall become effective on October 1, 1980, except that, under grandfathering provisions for veterans participating in a program of vocational rehabilitation under chapter 31 of title 38 on September 30, 1980, (1) an individualized written plan shall be formulated (under new section 1507) for such veterans to the extent that and at such times as the Administrator determines feasible and on the basis of priorities that the Administrator shall prescribe, and (2) extensions of delimiting periods and months of entitlement may be granted such veterans without regard to the requirement that the veteran be determined to have a serious employment handicap.

The compromise agreement would provide a general effective date for the revisions of chapter 31 made by the compromise agreement of April 1, 1981, except that the provisions relating to allowances (new section 1508), revolving fund loans (new section 1512), promotion of employment and training opportunities (new section 1516), personnel training, development, and qualifications (new section 1518), rehabilitation research and special projects (new section 1519), pilot program of independent living services and assistance (new section 1520), and Veterans' Advisory Committee on Rehabilitation (new section 1521) would become effective on October 1, 1980. The compromise agreement would also make clear that the provisions of chapter 31 in effect on September 30, 1980, would remain in effect until March 31, 1981, except for the provisions relating to subsistence allowances seded on October 1, 1980, by new sections (new section 1507), which would be superceded on October 1, 1980, by new sections 1508 and 1512, respectively, of the compromise agreement. The House recedes on the grandfathering provisions in the Senate bill with an amendment to make those provisions applicable to veterans participating in a program of vocational rehabilitation on March 31, 1981.

TITLE II—GI BILL RATE INCREASES

Both the House and Senate bills would provide for a 10-percent increase in the rates of educational assistance allowances paid under chapters 34, Veterans' Educational Assistance, 35, Survivors' and Dependents' Educational Assistance, and 36, Administration of Educational Benefits. The House bill, but not the Senate bill, would also provide for a 10-percent increase in allowances under chapter 36 for administrative expenses incurred by State approving agencies. The House bill would provide for such increases effective October 1, 1980; the Senate bill, effective January 1, 1981.

The compromise agreement provides for 5-percent increases effective October 1, 1980, and the remainder of the 10-percent increase effective January 1, 1981.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

Deadline for applications for extensions of delimiting period based on disabilities

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to limit the period of time within which a veteran or eligible person may file an application for an extension of the delimiting period based on disability by requiring that the application be filed by the end of the one-year period, the termination of the period of disability, or the effective date of the bill, whichever is the latest.

The House recedes.

Measurement of delimiting period extensions based on disability

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to provide that, where the delimiting period is extended on the grounds of the veteran's or eligible person's disability, the delimiting period would again begin to run on the first date following the veteran's or eligible person's recovery from the disability on which it is reasonably feasible for the veteran or eligible person to commence pursuit of a program of education.

The House recedes.

Alcohol or drug dependence or abuse disabilities

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to provide that, solely for the purposes of determining eligibility for an extension of the delimiting period as a result of a disability that prevented the veteran or eligible person from pursuing training, an alcohol or drug dependence or abuse disability from which the individual has recovered shall not be considered to be the result of willful misconduct.

The Senate recedes. By deleting the Senate provision and the comparable provision which section 101 of the Senate bill proposed to be added to chapter 31, the Committees are taking no position as to whether such a provision is necessary in order to authorize the VA to make favorable determinations regarding GI Bill delimiting date extensions based on disability in the cases of veterans or eligible persons who have recovered from alcohol or drug dependence or abuse disabilities.

Expanded provision for retroactive benefits

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to suspend the one-year limitation on retroactive benefits under section 3013 for certain veterans and eligible persons whose delimiting dates have been extended on account of disability.

The Senate recedes.

Targeted delimiting date extension and related counseling requirements

The Senate amendment, but not the House bill, would amend chapter 34 to provide for an up-to-three-year extension of the delimiting period for certain Vietnam-era veterans for the pursuit of apprenticeship or on-job training or, in the case of those without high school diplomas, for the entitlement-free pursuit of secondary education courses or for the pursuit of vocational objective courses. In addition, the Senate amendment would amend chapter 34 to require the VA to provide counseling regarding use of GI Bill benefits to educationally disadvantaged veterans applying for GI Bill benefits for secondary education or vocational objective training during the last three years of their delimiting periods or during this proposed delimiting period extension.

The Senate recedes.

Modification of the 1989 termination date for chapter 34 training

The Senate bill, but not the House bill would amend chapter 34 to modify the 1989 termination date of the current GI Bill by providing that a veteran discharged from active duty after January 1, 1980, retains GI Bill benefit eligibility until the later of the expiration of a five-year period following discharge if the veteran initiates pursuit of a program of education within 2 years after discharge, or until December 31, 1989.

The Senate recedes.

Clarification of authority of Administrator to, disapprove an application for benefits

The House bill and the Senate amendment would amend both chapters 34 and 35 to include express authority for the Administrator to disapprove an application for benefits filed by a veteran or eligible person if the enrollment of the applicant would violate any of the provisions of chapter 36.

The compromise agreement includes these provisions.

Modifications of approval criteria for vocational courses

The Senate amendment, but not the House bill, would amend chapters 34 and 35 to add to the criteria for the approval of a vocational objective course a requirement that at least 50 percent of the enrollees complete the course.

The Senate recedes.

The Senate amendment, but not the House bill, would amend chapters 34 and 35 to modify the existing requirement that at least 50 percent of those who have completed a vocational objective course and are available for employment in the occupational field concerned be so employed to add a requirement that such employment be the individual's primary vocational pursuit and major source of occupational income.

The House recedes with an amendment providing that the qualifying employment be for an average of ten hours a week.

Both the House bill and the Senate amendment would amend both chapters 34 and 35 to exempt from further application of the criteria for approval of vocational objective courses institutions which have a history of compliance with the criteria and at which less than 35 percent of the enrollees are receiving VA educational assistance. The House bill would require this history of compliance to be demonstrated for two consecutive reporting periods (a total 4-year period). The Senate amendment would require a history of compliance with the criteria, as proposed to be modified, during a two-year period ending on or after the date of enactment.

The House recedes.

The Senate bill, but not the House bill, would amend both chapters 34 and 35 to provide the Administrator with the authority to waive the requirement of a demonstration of compliance with the criteria when it would work an undue administrative hardship on an educational institution in light of the small proportion of GI Bill (chapter 34 and 35) trainees enrolled there.

The House recedes.

Approval of courses offered through open circuit television

Both the House bill and the Senate amendment would amend chapter 34 to clarify and codify in title 38 current practices for computation of GI Bill benefits and charges to entitlement for courses pursued by open circuit television.

The compromise agreement contains this provision.

Elimination of recipients of BEOG's and SEOG's from inclusion in the "85–15" rule

The House bill would amend chapter 34 to repeal the requirement (currently suspended under section 304(a) of Public Law 95-202) for the inclusion of recipients of non-VA Federal assistance—primarily basic educational opportunity grants and supplemental educational opportunity grants—in computations of schools' compliance with the so-called "85-15" rule, under which enrollment of GI Bill trainees is prohibited in courses where more than 85 percent of the enrollees are in receipt of assistance from the educational institution, the VA, or any other Federal agency. The Senate amendment would codify in title 38 the current suspension of this requirement contained in Public Law 59-202.

The Senate recedes.

Satisfactory progress

Both the House bill and the Senate amendment would amend both chapters 34 and 35 to repeal the provisions linking "satisfactory progress" with the time it takes to complete a program of education.

The compromise agreement includes these provisions.

Education in a foreign country

Both the House bill and the Senate amendment would amend both chapters 34 and 35 to clarify the criteria under which a veteran or eligible person may receive GI Bill benefits for enrollment in an institution of higher learning in a foreign country.

The compromise agreement contains these provisions.

Computation of educational assistance allowances and charges to entitlement

The Senate amendment, but not the House bill, would amend chapter 34 to codify in title 38 the VA's current practices for charging a veteran's entitlement for less than half-time training, training while on active duty, and independent study, and for computing GI Bill benefits for independent study.

The House recedes.

GI bill benefits for continuing education

The House bill, but not the Senate bill or amendment, would amend chapter 34 to authorize an exception to the "already-qualified" rule—under which benefits are not available for the pursuit of training for an occupation for which the veteran is already qualified—to provide for the payment of GI Bill benefits for pursuit of programs of continuing education or training required by Federal, State, or local law for relicensing.

The House recedes.

Entitlement-free pursuit of secondary education

The Senate amendment, but not the House bill, would amend chapter 34 to provide for the payment of GI Bill benefits for a secondary education course while on active duty.

The House recedes with an amendment that subjects the in-service courses involved to a requirement of compliance with the "85-15" rule.

The Senate amendment, but not the House bill, would amend chapter 34 to limit benefits for a veteran enrolled in secondary education courses at no charge to entitlement to the payment of tuition and fees or benefits at the full-time institutional rate, whichever is the lesser. Under the Senate amendment this modification would not apply to veterans enrolled in such courses on October 1, 1979, for as long as they remain continuously enrolled.

The House recedes with an amendment to change the applicable cut-off date in the savings provision to October 1, 1980.

Disqualification of certain family members from eligibility as tutors

The House bill, but not the Senate bill or amendment, would amend chapter 34 to disqualify certain family members (parents, spouses, brothers, and sisters) of a veteran from eligibility as qualified tutors for the purposes of reimbursement of the veteran for tutorial expenses.

The Senate recedes with an amendment to add children to those members of the veteran's family who would be disqualified.

Breaks in education that are not counted as absences

The House bill, but not the Senate bill or amendment, would amend chapter 36 to provide for payment of GI Bill benefits to those attending courses not leading to a college degree during intervals between terms which do not exceed 15 calendar days and periods, not to exceed 5 days in a twelve-month period, when the school is not in session because of teacher conferences or teacher training sessions.

The Senate recedes with an amendment deleting the provision for benefits during intervals between terms.

Liability and responsibility for overpayments

Both the House bill and the Senate amendment would amend chapter 36 to clarify the responsibilities and liabilities of GI Bill trainees and educational institutions in cases of overpayments of GI Bill benefits.

The compromise agreement contains this provision.

Advisory Committee on Veteran's educational assistance programs

The House bill, but not the Senate bill or amendment, would amend chapter 36 to revise the authority for the Administrator's advisory committee on educational assistance programs to delete chapter 31 (rehabilitation) from and add chapter 32 (Post-Vietnam era educational assistance program) to the Committee's responsibilities; to add to the membership of the Committee a veteran of the post-Vietnam era; to provide that the Deputy Assistant Secretary of Labor for Veterans' Employment and the Assistant Secretary of Education for Post Secondary Education shall serve as *ex officio* members in lieu of the Administrator of the Manpower Administration and the Commissioner of Education; and to specify a termination date of December 31, 1989, for the committee.

The Senate recedes with an amendment recognizing the elevation of the Deputy Assistant Secretary to the assistant secretarial level (in title V of the compromise agreement) and providing that the Secretary of Education may designate an appropriate comparable departmental official to serve on the committee other than the Assistant Secretary of Education for Post Secondary Education.

Extension of dependents' eligibility in certain cases

The Senate amendment, but not the House bill, would amend chapter 35 to modify the age criteria for educational assistance under chapter 35 in the case of dependents of active-duty military personnel who are missing in action, prisoners of war, or forcibly detained or interned in the line of duty by a foreign government so as to apply generally the same age criteria applied under current law to chapter-35-eligible dependents who serve in the military. Thus, the Senate amendment would provide that a dependent who becomes eligible (whether before, on, or after enactment) for chapter 35 assistance after turning 18, but prior to attaining 26 years of age, would have until the expiration of an eight-year perior or until his or her 31st birthday, whichever occurs first, to utilize chapter 35 entitlement.

The House recedes.

Repeal of mandatory counseling for dependents

The House bill, but not the Senate bill or amendment, would amend chapter 35 to repeal the requirement for mandatory counseling of dependents training under chapter 35.

The Senate recedes.

Advance payment for eligible persons

Both the House bill and the Senate amendment would amend chapter 35 to conform the method for making advance payments of educational assistance allowances to eligible persons enrolled in courses not leading to a standard college degree to the method for making such advance payments to eligible veterans enrolled in courses under chapter 35.

The compromise agreement contains this provision.

Eligibility for special restorative training

The House bill, but not the Senate bill or amendment, would amend chapter 35 to limit eligibility for special restorative training under that chapter to the dependent children of the veteran, thus eliminating the eligibility of spouses and surviving spouses.

The Senate recedes.

"Seat-time": Measurement of courses

Both the House bill and the Senate amendment would amend chapter 36 to codify current VA policy and practice with respect to the measurement of institutional undergraduate courses for the purposes of payment of GI Bill benefits. VA policy, as provided in DVB Circular 20-77-16 and 38 CFR §§ 21.4200(g) and 21.4272, interprets the measurement criterion in present section 1788(a)(4) to mean pursuit of a program at the site of a college or university requiring regularly scheduled weekly classroom instruction at the rate of one standard class session per week through the quarter or semester for each quarter- or semester-hour of credit; and defines a standard class session as 1 hour (or a 50-minute period) of academic instruction, 2 hours of laboratory instruction, or 3 hours of workshop training.

The compromise agreement contains this provision.

The Senate amendment, but not the House bill, would provide two alternative measurement criteria for full-time courses.

Under the first alternative criterion, an undergraduate course would be considered full time and paid at not less than the cooperative rate if (a) the institution considers it to be a full time course; (b) less than 50 percent of the students enrolled in the course are receiving VA education benefits; (c) the course is offered in residence; and (d) it is equal in all respects (including tuition) except the number of regularly scheduled weekly class sessions, to other full-time courses offered at the institution that do or would meet the regular "seat time" criterion as it is proposed to be codified. Under the second alternative criterion, a course would be considered full time and paid at the full-time rate if it meets the first alternative criterion and, during the term, quarter, or semester for which the course is offered, it required a cumulative total number of standard class sessions equal to the number required by the VA to meet the "seat time" definition of full-time pursuit multiplied by the total number of weeks in the term, quarter, or semester.

The compromise agreement contains an alternative measurement criterion which provides that an institutional undergraduate course that is offered in residence will be considered a full-time course for the purposes of GI Bill benefits if under chapter 34 or 35—

(1) the educational institution offering such course considers it a full-time course and treats it as such for all purposes, including payment of tuition and fees, and awarding of credit (both for meeting graduation requirements and for transferring to other programs of the institution, including its own regular education program);

(2) less than 50 percent of the persons en-

rolled in such course are receiving educational assistance under title 38;

(3) such course would qualify as a full-time course under section 1788(a)(4) (relating to the measurement of institutional undergraduate courses), except that it does not meet the requirements for weekly class sessions, and

(4) the course requires pursuit of standard class sessions for each credit at a rate no less frequent than bi-weekly, and monthly pursuit of a total cumulative number of standard class sessions equal to the number of standard class sessions which, during the same period of time, is required for a course qualifying as full time under section 1788(a)(4).

The Committees recognize the development by certain educational institutions of nontraditional programs designed to draw into the higher education process those who, for various reasons, are not able to pursue or interested in pursuing an education through traditionally structured undergraduate programs. The Committees believe that this development can be beneficial and is consistent with the purposes of the GI Bill educational assistance program. Consequently, the compromise proposal permits full-time benefit payments for pursuit of such programs under specified circumstances designed to minimize abuse and assure that the course can compete effectively for other than GI Bill-assisted students.

The provisions of the compromise agreement, however, do not attempt to address all existing nontraditional programs, nor all programs which might possibly be established.

Although recognizing the potential advantages of a flexible approach to course structure and scheduling, the Committees also recognize that such flexibility may lend itself to program abuse. Thus, the Committees have sought to strike a reasonable balance between liberalizing measurement criteria for certain nontraditional programs and the continuing need to assure that full-time benefits are paid only for serious full-time pursuit of instruction of a reasonable quality. The Committees' intend to monitor very carefully the VA's implementation of the provisions contained in the compromise agreement so as to determine what, if any, abuses may occur in this area, and do not plan to consider further liberalization of the "seat-time" criterion until substantial experience has been gained with its implementation. The Committees direct the Administrator also to monitor these programs closely with respect to abuse. Should the Administrator determine that a significant abuse of VA educational benefits is occurring in a particular course, it is the intention of the Committees that prompt action be taken to correct such abuse or terminate approval of such courses for VA benefit purposes when the provisions of title 38 are violated.

The Committees do not intend that the GI Bill program be utilized as an income supplement. The compromise agreement attempts to provide some area within which the needs of certain veterans can be met while maintaining the integrity of the GI Bill program. If significant abuses are found to occur, the Committees intend to act promptly to make appropriate tightening amendments to the law, and, in this regard, direct the Administrator to keep them apprised annually, and more often if necessary, of the magnitude of any such abuses. As implementation of this new criterion proceeds, the Committees expect the Administrator and the VA's Advisory Committee on Veterans' Eductional Assistance Programs to continue to work together in this area to develop any further appropriate administrative or legislative responses to the "seat-time" issue that experience with such implementation suggests.

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL PROGRAM (VEAP) ADJUSTMENT

Eligibility of certain veterans

Both the House bill and the Senate amendment would amend chapter 32, Post-Vietnam Era Veterans' Educational Assistance, to make certain individuals who are not now eligible for either chapter 34 or chapter 32 educational assistance eligible for the chapter 32 program.

The compromise agreement contains this provision.

Distribution of unused contributions upon death of participant

Both the House bill and the Senate amendment would amend chapter 32 to specify how a participant's contributions to the Post-Vietnam Era Veterans' Educational Assistance program (VEAP) fund are to be distributed in the event of the participant's death.

The compromise agreement blends the provisions of both the bill and the amendment and repeals present subsection (b) as surplusage.

Entitlement-free pursuit of a program of secondary education

The Senate amendment, but not the House bill, would amend chapter 32 to make a member of the Armed Forces participating in VEAP eligible, at no charge to entitlement, for educational assistance benefits for pursuit of secondary education during the last six months of his or her first enlistment and at any time thereafter.

The House recedes.

Limitation on two or more programs

Both the House bill and the Senate amendment would amend both chapters 32 and 36 to include the chapter 32 VEAP program in the 48-month limitation on assistance under two or more educational or vocational assistance programs.

The compromise agreement contains this provision.

Applicability of certain provisions of chapter 34

Both the House bill and the Senate amendment would amend chapter 32 to make a participant in VEAP eligible for VA educational and vocational counseling services provided for in chapter 34.

The compromise agreement contains this provision.

Amendments relating to monthly contributions

The Senate bill, but not the House bill, would amend chapter 32 to raise the maximum permissible monthly contribution from $75 to $100 and lower the minimum permissible contribution from $50 to $25, to permit lump-sum contributions, and to clarify the Administrator's authority to make contributions on behalf of a servicemember.

The House recedes.

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE

Promoting the development and establishment of employment training and other opportunities for veterans

The Senate bill, but not the House bill, would amend subchapter IV, Veterans' Outreach Services Program, of chapter 3 to require the Administrator, in cooperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and related opportunities for veterans.

The House recedes with an amendment changing "cooperation" to "consultation". The Committees urge that a supplemental budget request for fiscal year 1981 be submitted for the VA's general operating expenses account to support such increased VA advocacy, outreach, and promotional activities.

Amendments related to apprenticeship and other on-job training

The Senate bill, but not the House bill, would amend chapter 36 to make explicit that the Administrator is directly responsible and accountable for the promotion, development, and approval of programs of training on the job, and provide that in carrying out this responsibility the Administrator may use the services of the veterans' employment and training outreach program specialists as proposed to be codified in chapter 42.

The House recedes with an amendment deleting the reference to the Administrator's direct responsibility for OJT approval and the reference to veterans employment and training outreach program specialists' involvement in approvals. The Committees wish to stress that the only effect of the provision in the compromise agreement is to make the Administrator explicitly responsible for seeking actively to promote the development of programs of training on the job and authorizing the Administrator, in carrying out this requirement, to use the services of disabled veterans outreach program specialists—a program codified in provisions of this title discussed below. The Committees call attention to the provision in existing section 1771(b) which provides for the Administrator to assume directly the approval function in the case of any State which fails or declines to create or designate a State approving agency.

Criteria for approval of programs of training on the job

The Senate bill, but not the House bill, would amend chapter 36 to update and streamline the criteria for approval of programs of training on the job.

The Senate recedes.

Assistant Secretary of Labor for veterans' employment

The Senate amendment, but not the House bill, would amend chapter 41, Job Counseling, Training and Placement Services for Veterans, to elevate the position of Deputy Assistant Secretary of Labor for Veterans' Employment to the level of Assistant Secretary, and to provide that the incumbent Deputy Assistant Secretary may continue to serve in that position until an Assistant Secretary is appointed by the President and confirmed by the Senate.

The House recedes.

Secretarial support for State veterans' employment representatives

The Senate bill, but not the House bill, would amend chapter 41 to require the provision by the Department of Labor of direct secretarial support to veterans' employment representatives assigned to the States.

The House recedes.

Disabled veterans' outreach program

The Senate bill, but not the House bill, would amend chapter 41 to establish a new Department of Labor-supported, state-operated veterans' employment and training outreach program (VETOP), modeled after the successful disabled veterans' outreach program (DVOP), and to authorize VETOP employees to be used to promote the development of and approve programs of apprenticeship or other on-job training for the purposes of GI Bill benefits.

The House recedes with an amendment that would retain the DVOP name and delete the authority for DVOP employees to become involved in approvals of programs of training on the job.

Emphasis on veterans of the Vietnam-era and disabled veterans

The House bill would amend chapter 41 to delete the requirement for the Secretary to place particular emphasis on the needs of veterans who have been recently discharged. The Senate amendment would add to the existing requirement a requirement for program emphasis on veterans of the Vietnam era and disabled veterans.

The compromise agreement incorporates both these provisions.

Revision of the annual report

Both the House bill and the Senate amendment revise the specified contents of the Secretary of Labor's annual report on services to veterans. The House bill would require the Secretary to report on the number of certain veterans placed in jobs expected to last 150 days; the Senate amendment, on the number placed in permanent jobs.

The compromise agreement requires the Secretary to report on the number placed in permanent jobs as defined by the Secretary.

Definitions for purposes of chapter 41 and 42

Both the House bill and the Senate amendment would make amendments to definitions contained in chapters 41 and 42, Employment and Training of Disabled and Vietnam era Veterans. The House bill would codify the definitions in chapters 41 and the Senate amendment would codify them in chapter 42.

The House recedes in light of the cross-references to the chapter 42 definitions in other laws.

Both the House bill and the Senate amendment would amend chapter 41 to require that an eligible veteran have a minimum of 181 days of active-duty service.

The compromise agreement contains this provision.

The House bill would define a disabled veteran as an eligible veteran in receipt of compensation at a rate of 10 percent or more, thus including such veterans in the employment emphasis mandated by section 2012 (in chapter 42). The Senate bill has no comparable provision, but it would denote 30-percent service-connected disabled veterans or more (those now covered by section 2012) as "special disabled veterans", retaining that as the minimum disability rating for chapter 42 assistance purposes.

The House recedes.

Both the House bill and the Senate amendment would delete the 48-month post-service limitation for Vietnam-era veterans for purposes of certain employment emphases in chapter 42 programs. The House bill would define a Vietnam-era veteran as a veteran with qualifying service during the era and continuing such eligibility until December 31, 1989. The Senate amendment would define a veteran of the Vietnam era as a veteran with qualifying service during the era for generally 2 years after the end of the applicable delimiting period.

The Senate recedes with an amendment changing the cut-off date to December 31, 1991.

The compromise agreement would also revise the definition of the term "department or agency" so as to mean any agency of the Federal Government or the District of Columbia, including any Executive agency as that term is defined in section 105 of title 5. That definition (and other pertinent definitions incorporated by reference in it) is as follows:

§ 105. Executive agency

For the purpose of this title, "Executive agency" means an Executive department, a Government corporation, and an independent establishment.

§ 101. Executive departments

The Executive departments are:

The Department of State.

The Department of the Treasury.

The Department of Defense.

The Department of Justice.

The Department of the Interior.

The Department of Agriculture.

The Department of Commerce.

The Department of Labor.

The Department of Health, Education, and Welfare.

The Department of Housing and Urban Development.

The Department of Transportation.

The Department of Energy.

§ 103. Government corporation

For the purpose of this title—

(1) "Government corporation" means a corporation owned or controlled by the Government of the United States; and

(2) "Government controlled corporation" does not include a corporation owned by the Government of the United States.

§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

(1) an establishment in the executive branch (other than the United States Postal Service or the Postal Rate Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and

(2) The General Accounting Office.

Filing of complaints with respect to veterans' employment emphasis in Federal contracts

The House bill, but not the Senate bill or amendment, would amend chapter 42 to permit certain disabled and Vietnam-era veterans to file directly with the Secretary of Labor complaints relating to a contractor's failure or refusal to comply with the provisions of current section 2012, relating to employment emphasis and affirmative action under Federal contracts (and deleting the provision in current law permitting veterans to file complaints related to section 504 of the Rehabilitation Act with the Veterans' Employment Service).

The Senate recedes.

Preference in hiring for certain VA positions

The House bill, but not the Senate bill or amendment, would amend chapter 42 to provide that the Administrator may give preference in VA hiring to qualified disabled and Vietnam-era veterans for the positions of veterans claims examiners and benefits counselors.

The Senate recedes with an amendment changing "disabled veteran" to "special disabled veteran", and expanding the positions involved to include readjustment counseling, outreach, and vet rep personnel.

Reemployment rights of reservists called to active duty

The House bill, but not the Senate bill or amendment, would amend chapter 43, Veterans' Reemployment Rights, to shorten from 3 months to 12 weeks the initial active-duty-for-training period required for new National Guard members and reservists in connection with their reemployment rights under chapter 43 so as to be consistent with Department of Defense policy and practice.

The Senate recedes.

The House bill, but not the Senate bill or amendment, would amend chapter 43 to recognize full-time training under section 502 of title 32, United States Code, as active duty for training for the purposes of reemployment rights.

The Senate recedes.

Labor market statistics on Vietnam-theatre veterans

The Senate amendment, but not the House bill, would require the Bureau of Labor Statistics to report annually, and otherwise whenever feasible, on the unemployment rates for Vietnam-theatre veterans.

The House recedes.

Employment assistance and services for veterans ineligible for assistance under chapter 41

The Senate amendment, but not the House bill, would require the Secretary of Labor to assure that veterans made ineligible for assistance under chapter 41 (veterans with less than 181 days service) as a result of the compromise agreement would be provided with appropriate employment assistance and services available under other Federal employment-related programs.

The House recedes.

TITLE VI—COST-SAVING AMENDMENT

Educational assistance for incarcerated veterans and eligible persons

The Senate amendment would amend chapter 34 to modify the method of payment of GI Bill benefits to a veteran who is incarcerated so as to provide for direct payment of benefits to the veteran only to the extent necessary to cover the cost of tuition and fees; to allow payment of any excess to dependents; and to provide for the VA to hold and invest for the veteran until release from incarceration any excess of the single-veteran rate over the educational costs that is not paid to dependents. The House bill would amend chapter 34 to limit the amount of educational assistance payable to an incarcerated veteran to tuition and fees; in cases where the tuition and fees of the veteran are paid under another Federal, State, or local program, no payments would be authorized.

The compromise agreement would provide as follows:

(1) In the case of a veteran incarcerated for the conviction of a felony, the educational assistance allowance shall not exceed the cost of tuition and fees except that the Administrator would have the authority also to pay the veteran—within the limits of the applicable allowance—an appropriate amount for books, supplies, and equipment needed for training.

(2) In the case of a veteran pursuing a program of education while residing in a halfway house or participating in a work-release program, the full educational assistance allowance would be paid unless a governmental entity is paying for all of the veteran's living expenses.

(3) An apportioned amount of an educational assistance allowance may continue to be paid to the veteran's dependent or dependents if such apportionment was made prior to the date of enactment.

Both the House bill and the Senate amendment would amend chapter 35 to provide for payment of an educational assistance allowance to an incarcerated eligible person in the same manner as such payment is made to an incarcerated veteran with no dependents.

The compromise agreement contains this provision.

The House bill, but not the Senate bill or amendment, would amend chapter 36 to provide that no educational assistance allowance would be paid in the case of an incarcerated veteran or eligible person for any course for which there are no tuition and fees or to the extent that tuition and fees are paid under any Federal, State, or local program, thus prohibiting duplication of payments or payments of GI Bill benefits for courses which have no cost.

The Senate recedes.

Modification of flight training provisions

The Senate amendment would amend chapters 34 and 36 to reduce from 90 percent to 60 percent the portion of the cost of a flight training course that the VA pays for an eligible veteran; to make veterans pursuing flight training courses eligible for VA educational loans of up to $2,500 per year; and to provide that a veteran who, after completing training, obtains employment in a flight-related occupation for a period of at least one year would have such a loan cancelled at the rate of $1,000 per year for each year that the veteran is so employed. The Senate amendment would not apply these modifications of the flight training program to those enrolled in flight training programs on August 1, 1979, as long as they remained continuously enrolled. The House bill would amend chapter 34 to repeal the authority to pay an educational assistance allowance for pursuit of a flight training program, effective October 1, 1980.

The House recedes with an amendment deleting the provision for loan cancellation and providing that the modifications made to the flight training authority will not apply to those enrolled in flight training programs as of September 1, 1980, as long as they remain continuously enrolled. In this regard, the Committees expect the VA to develop guidelines for making loans to veterans enrolled in flight training that take into account the generally high-cost and short-term nature of flight training courses, the 90- to 60-percent reduction of VA payments, and the fact that flight trainees receive no allowance for subsistence during training.

Modification of correspondence training provisions

The Senate amendment would amend chapter 36 to provide that benefits for correspondence course training may be paid only when no other means of educational pursuit are reasonably and feasibly available for the successful pursuit of the educational or vocational objective being sought. The Senate amendment would not apply this modification of the correspondence training program to those enrolled in correspondence training programs as of August 1, 1979, as long as they remained continuously enrolled. The House bill would amend chapter 36 to repeal, effective October 1, 1980, the provision of GI Bill benefits for correspondence course training.

The compromise agreement would provide for reducing from 90 percent to 70 percent the portion of the cost of a correspondence course that the VA will pay and would provide that the modifications made to the correspondence training authority will not apply to those enrolled in correspondence training programs as of September 1, 1980, as long as they remain continuously enrolled.

Termination of PREP

Both the House bill and the Senate amendment would repeal the authority to pursue Predischarge Education Program (PREP) training under chapter 32 and made necessary conforming amendments.

The compromise agreement contains this provision.

Debt collection: Deductions from future benefits payments

Both the Senate and House bills would add a new section 3114 to title 38 to require the VA to deduct the amounts of certain indebtednesses from future benefits payments to the debtor.

The Senate bill would require the VA to deduct the amount of an indebtedness resulting from an individual's participation in a benefits program administered by the VA from future benefits payments. The House bill would require that overpayments of certain specified VA benefits be deducted from future benefits payments.

The House recedes.

The Senate bill would require, before the VA may make deductions from future benefits payments, that the individual be notified of his or her right to dispute the existence or amount of the debt and to request a waiver of the debt, and that the individual be given a reasonable opportunity to exercise such rights. In addition, the Senate bill would require the Administrator to make a determination with respect to any such challenge or request prior to making such deductions, unless the time that would be required to make the determination before making a deduction would jeopardize the VA's ability to recover the full amount of the debt from future payments. The House bill would require the Administrator only to make reasonable efforts to notify the individual of the proposed deduction.

The House recedes with an amendment deleting the specific statutory requirement that the individual be given a reasonable opportunity to exercise his or her dispute and waiver rights. The Committees note that since the individual must be given notice of his or her right to dispute the existence or amount of the debt and to request a waiver and, since the Administrator must generally make a determination with respect to any such challenge or request, the individuals concerned would generally have this reasonable opportunity in any event.

Both the Senate and House bills would remove any time bars which might prevent the VA from taking administrative action to offset an indebtedness against future benefits payments. The Senate bill would also remove any time bars which might prevent the VA from taking other administrative actions (such as denying a loan guaranty while the delinquent debt remains unpaid and disclosing information pertaining to a delinquent debt to a consumer reporting agency in order to affect a debtor's credit rating) to collect an indebtedness or to determine an individual's credit worthiness.

The House recedes.

The Senate bill, but not the House bill, contains a provision that would specifically permit the VA to deduct less than the full amount of an overpayment from an individual's benefit payment in order to avoid undue hardship to the individual to the extent consistent with recovering the full amount of the indebtedness.

The Senate recedes.

The Committees note that the exclusion of the Senate provision from the compromise agreement does not indicate disapproval of the VA's current practice of deducting less than the full amount of an indebtedness from future benefits payments to the individual in cases where the debtor has a continuing entitlement to payment of benefits for at least one year and deduction of the full amount would result in hardship to the individual concerned.

Debt-collection: Interest and administrative cost charges

Both the Senate and House bills would add a new section 3115 to title 38 to require the VA to charge interest and administrative costs on amounts of certain delinquent indebtednesses.

The Senate bill, but not the House bill, would require the VA to charge interest and administrative costs on a debt resulting from an individual's participation in a loan, loan guaranty, or loan insurance program to the extent not precluded by the terms of the loan instrument concerned.

The House recedes.

The House bill would provide that interest shall accrue from the date of the initial notification of the amount due to the person or educational institution owing such amount but that no interest shall be charged if the indebtedness is paid within a reasonable period of time thereafter. The Senate bill would provide that interest shall accrue after the expiration of a reasonable period of time following the initial notification of the individual at the individual's most currently available address of the amount due, of the fact that such amount has not been paid, and of the Administrator's intention to charge interest. Both the Senate and House bills would provide that interest shall not accrue for any period prior to the enactment of new section 3115.

The Senate recedes with an amendment providing that accrual of interest shall run from the date on which the initial notification of the amount due is mailed to the debtor and specifying that, in mailing notification, the Administrator must use the most current address available.

The Committees intend that the requirement that the Administrator use the most current address available will be met if the notification is mailed to the most current address of the individual contained in VA files.

Both the Senate and House bills would provide that the administrative costs to be charged include the costs incurred in collecting the debt. The House bill would also include the costs to the VA of furnishing the benefit.

The House recedes.

The Senate bill, but not the House bill, would require the Administrator to consult with the Secretary of the Treasury in setting the interest rates to be charged on delinquent debts.

The Senate recedes.

Debt collection: Authority to sue to collect certain debts

The Senate bill, but not the House bill, would add a new section 3116 to title 38 to authorize the VA to use is own attorneys to pursue collection actions in court, subject to the direction and supervision and the terms and conditions prescribed by the Attorney General. In addition, the Senate bill would require the Attorney General and the Administrator to submit to the appropriate committees of Congress, not later than 120 days after the date of the enactment of this section, a joint report describing the actions taken by them in implementing this section.

The House recedes with an amendment requiring submission of the joint report not later than 90 days after the date of enactment.

The House bill, but not the Senate bill, would amend section 3102 of title 38, which authorizes the Administrator to waive certain indebtednesses, to authorize the Administrator to waive the interest charges on an indebtednes.

The Senate recedes.

The House bill, but not the Senate bill, would make a technical amedment (in light of the addition of new section 3114 regarding deduction of indebtednesses) to section 415 of title 38 to strike out subsection (f) relating to the deduction of overpayments of parents' disability and indemnity compensation from future benefit payments.

The Senate recedes.

The House bill, but not the Senate bill, would amend subsection (b) of section 506 of title 38 (in light of the new section 3115) to require the Administrator to deduct overpayments under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, as well as—under current law—overpayments of pension under sections 521, 541, or 542 of title 38, from future benefits payments.

The compromise agreement would repeal subsection (b) of section 506 of title 38. The Committees note that that subsection is no longer necessary as a result of the addition of new section 3114 to title 38 which requires the VA to deduct the amount of any indebtedness resulting from an individual's participation in any benefits program administered by the VA from future benefits payments.

Disclosures of amounts of monetary payments Made by the Veterans' Administration

The Senate bill, but not the House bill, would amend section 3301(c) of title 38 to expand the existing requirement that, upon any person's application, the Administrator disclose to that person the amount of pension, compensation, or DIC of any beneficiary to include disclosure of any monetary payments to a VA beneficiary.

Debt collection: Disclosures of information to consumer reporting agencies

Both the Senate and the House bills would amend section 3301 of title 38 to authorize the VA to disclose certain information to consumer reporting agencies (CRA's)—credit bureaus—in order to locate an individual (if the individual has been administratively determined to be indebted to the United States by virtue of participation in a VA benefits program or when necessary to conduct a study required or provided for by section 219 of title 38 or by other Federal law), to obtain a consumer report in order to assess an individual's ability to repay a debt, and, in certain cases of delinquent indebtedness, to disclose information pertaining to a debt in order to affect the debtor's credit rating.

The House bill would amend subsection (f) of section 3301 to authorize the VA to disclose to CRA's the name or address or both of any person who is a present or former member of the Armed Forces or a dependent of any such member as well as other information authorized to be released under subsection (e) of section 3301 (which authorizes the Administrator, with certain exceptions, to release any information when doing so would serve a useful purpose) for purposes of facilitating VA debt-collection efforts and carrying out section 219 and other studies. The Senate bill would add a new subsection (g) to section 3301 to authorize the VA to release the name and address of an individual and certain other identifying information to a CRA for such purposes.

The compromise agreement adds a new subsection (g) to section 3301 to authorize the Administrator to release to CRA's the name, address, and certain other identifying information pertaining to any person who is a present or former member of the Armed Forces, or a dependent of such a member, for purposes of facilitating VA debt-collection efforts and carrying out section 219 and other statutory studies.

The Committees note that, in providing in one new subsection comprehensive and unified authorization for the release of information to CRA's for debt collection purposes and for purposes of carrying out certain evaluative studies, the Committees do not intend to imply any disagreement with the VA's interpretation of its authority to make a combined release of name and address information under subsection (f) together with certain other information under subsection (e) as approved in the case of *Fitch* v. *Veterans' Administration*, 597 F.2d 1152 (8th Cir. 1979). The Committees also note their agreement with the discussion of this issue contained in pages 14 through 16 of the Senate Committee report accompanying S. 1518 (S. Rept. No. 96-555).

The Senate bill, but not the House bill, would require that, before the Administrator may release information to a CRA in order to locate an individual in connection with a section 219 or other study, the Administrator must determine that the individual's inclusion in such a study, in light of other alternatives reasonably available, warrants the release of information and that, the VA's inquiry will not be construed as indicating an indebtedness or otherwise have an adverse effect on the individual's credit standing.

The House recedes with an amendment requiring that the Administrator, before releasing information in order to locate an individual for study purposes, determine that all reasonable steps have been taken to assure that the release of information to a CRA will not have any adverse effect on the individual.

The Senate bill would, in cases where the VA discloses information to a CRA for purposes of locating an individual or obtaining a consumer report, prohibit the disclosure of information which expressly or implicitly indicates that an individual is indebted to the United States or which is otherwise adverse to the individual. In addition, the Senate bill would require the Administrator, prior to releasing information to a CRA, to determine that any CRA to which information is released by the VA will not indicate in its file or in disclosures made by it that the VA inquiry indicates an indebtedness or otherwise reflects adversely on the individual and would impose criminal sanctions on a CRA for failure to comply with this provision. The House bill would require that the Administrator take reasonable steps to protect the privacy of persons about whom information is disclosed by the VA.

The compromise agreement prohibits the VA from disclosing information which indicates that an individual is indebted to the United States or which is otherwise adverse to that individual and requires the Administrator to take other reasonable steps to protect the privacy of persons about whom information is released by the VA.

The Committees note that the compromise agreement retains in substance proposed Senate language for subsection (g)(3) that would prohibit the VA from disclosing "any information which indicates any indebtedness . . . or any other information which reflects adversely" on the debtor at the time that the VA is attempting to locate the debtor or assess his ability to repay the debt. It is clear, however, that it would generally be necessary for the VA to disclose the debtor's name, last known address, social security number, and date of birth to a CRA in order to obtain current address information and consumer reports. The Committees intend the language of subsection (g)(3) of the compromise agreement not to restrict disclosure of this type of identifying information.

The Senate bill would require the Administrator, prior to releasing information pertaining to a debt in order to affect an individual's credit standing, to provide notice to the individual of the right to dispute the existence or amount of the debt or to request a waiver, to provide the individual with a reasonable opportunity to exercise those rights, and to make a determination with respect to any such challenge or request. The House bill would require the Administrator, upon an individual's application prior to the VA's releasing information pertaining to a debt, to make a pre-release determination with respect to any allegation of error as to the existence or amount of the debt or that repayment is not required.

The House recedes with an amendment modifying the notice requirements so as to require the Administrator to make reasonable efforts to notify the individual of the rights described above.

The Senate bill, but not the House bill, would require the Administrator to notify CRA's (including CRA's to which information pertaining to a debt was transmitted by service bureaus, entities included within the definition of "consumer reporting agency", discussed below) of any substantial change in the status or amount of an indebtedness by the end of the calendar month following the calendar month during which such change occurred and to verify or correct promptly, upon a CRA's request, any information released by the VA to a CRA.

The House recedes with an amendment requiring the VA to notify promptly CRA's (including service bureaus) of any substantial change in the status or amount of the indebtedness.

The Senate bill would require that, before the Administrator may release to a CRA information pertaining to a debt, 60 days must elapse following notification to the debtor of the VA's intent to disclose information pertaining to the debt, of the name and address of each CRA to which information will be released by the VA, and of the specific information to be released. The House bill would require that, before the Administrator may release such information, 30 days must elapse after reasonable efforts have been made to notify the individual of the VA's intent to disclose information pertaining to the debt.

The compromise agreement requires that 30 days elapse after it is determined that reasonable efforts have been made to notify the individual that the VA intends to disclose information pertaining to the debt and that, upon the individual's request, that the VA will inform him or her whether the information has been released, of the name and address of each CRA to which information has been released, and of the specific information released. In addition, the compromise agreement requires the VA, upon the individual's request following the release of information, to so inform him or her.

The Senate bill, but not the House bill, would provide that information released to a CRA shall be deemed inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) (which requires CRA's to delete inaccurate information from an individual's file), if the Administrator determines that the individual did not receive actual notice of the indebtedness and would require the Administrator so to advise the individual and each CRA to which information was released by the VA.

The Senate recedes. The Committees note that the Fair Credit Reporting Act contains protections applicable to this situation pertaining to any debtor.

Disclosure of information for purposes of facilitating administration of the loan-guaranty program

Both the Senate and House bills would add a new subsection (subsection (h) in the compromise agreement) to section 3301 of title 38 to clarify the VA's authority to disclose the name, address, and other information relating to the identity of a present or former member of the Armed Forces or of a dependent of a present or former member, for the purposes of facilitating the administration of the VA's chapter 37 loan-guaranty program.

The Senate bill, but not the House bill, would provide that regulations prescribed by the Administrator for purposes of implementing this new subsection shall not become effective until 30 days following publication in the Federal Register.

The Senate recedes.

The Senate bill, but not the House bill, would require that the Administrator promptly record in the appropriate records of the individual the fact of a disclosure made under the new subsection to assist an applicant for chapter 37 benefits or to administer such benefits.

The House recedes.

Provisions relating to the disclosures to consumer reporting agencies

Both the Senate and House bills would provide an exemption from the application of the Privacy Act (5 U.S.C. 552a) with respect to information released under new subsections (g) and (h) of section 3301, discussed above, to a CRA under contract with the VA. In addition, the Senate bill would provide that no action taken pursuant to such a contract would result in the application of the Privacy Act to a CRA or a CRA employee. The House bill would also require the Administrator to take reasonable steps to protect the personal privacy of individuals about whom information is disclosed.

The compromise agreement adds a new subsection (i) to section 3301 which includes the Senate-bill language with respect to the Privacy Act exemption and the House-bill requirement that the Administrator take reasonable steps to protect the privacy of persons about whom information is released.

The Senate bill, but not the House bill, would define the terms "consumer report" and "file" to have the meanings provided in subsection (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively. Those provisions are as follows:

(d) The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section 1681b of this title. The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 1681m of this title.

* * * * *

(g) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

The House recedes with respect to the definition of the term "consumer report". The term "file" is not used in the compromise agreement.

Both the Senate and House bills would define the term "consumer reporting agency" to have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and to include entities known as "service bureaus", which are engaged in the business of obtaining credit and other information for the purpose of furnishing such information to CRA's. In addition, the Senate bill would define the term "consumer reporting agency" to include entities known as "marketing agents", which provide services enabling third parties to obtain information from CRA's.

The House recedes.

TITLE VII—MISCELLANEOUS AMENDMENTS

Administrator's responsibilities for advocacy

The Senate bill would amend subchapter IV of chapter 3 to require the Administrator to play an increased, active role with respect to advocacy of the implementation of existing laws and regulations relating to employment, training, and other opportunities for veterans, with particular emphasis on the needs of service-connected disabled veterans and other eligible veterans to whom the employment emphases in chapter 42 are applicable. The House bill contains no comparable provision.

The House recedes with an amendment deleting the references in this provision to employment and employment-related opportunities, thus giving the Administrator responsibilities relating ot advocacy of all existing laws and regulations pertaining to veterans. The Committees note that new section 1516 as added by title I of this Act has been expanded, in light of the Senate language deleted here, to require the Administrator, in actively promoting the development and establishment of on-job training opportunities for chapter 31 participants, to also make promotional efforts targeted on other service-connected disabled veterans and other veterans with respect to whom the employment emphases in chapter 42 apply with particular emphasis being placed on the needs of categories of those veterans on the basis of applicable rates of unemployment.

NIOSH exemption

The Senate bill, but not the House bill, would make a technical amendment in section 502 of Public Law 96–128, the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (which requires the National Institute of Occupational Safety and Health (NIOSH) to obtain from the Internal Revenue Service and to provide to the VA addresses of individuals who the VA has certified have been or may have been exposed to occupational hazards during active military service and permits the VA to disclose those addresses to agency contractors or other Federal agencies only for certain specified purposes, including carrying out epidemiological studies of the long-term health effects of exposure to radiation, Agent Orange, and other hazardous substances) to clarify that disclosures of information made pursuant to the authority provided in section 502 are not in technical violation of the Internal Revenue Code criminal provisions relating to the unauthorized disclosure of tax return information.

The House recedes.

The Committees note that the language in the compromise agreement, "authorized in the Internal Revenue Code of 1954", is intended to be substantially identical to the language "authorized in this title" in the provisions of section 7213(a) of title 26, United States Code, by virtue of which certain authorized tax-return information disclosures are expressly excluded from the criminal proscriptions in such provisions.

Probationary period for certain title 38 employees

The Senate bill, but not the House bill, would amend section 303 of Public Law 96–151, the Veterans' Health Programs Extension and Improvement Act of 1979, to clarify that that section (which reduced, from three years to two years, the probationary period for certain employees hired under the authority of title 38 in the VA's Department of Medicine and Surgery) applies only to appointments made on or after December 20, 1979, the date of the enactment of that law.

The House recedes.

The Committees note that this provision reflects the manner in which the VA has implemented this provision—an approach that avoids the confusion and administrative impracticalities that could result from any retroactive application of a reduced probationary period in the cases of employees who were well into their probationary service when the law was enacted, especially those in their third year of employment.

Protection for certain VA employees

The Senate amendment, but not the House bill, would amend section 1114 of title 18, United States Code, to include VA police officers and investigators among the specified Federal officials whom it is a Federal offense either to kill, assault, or interfere with while they are performing official duties.

The House recedes.

Outpatient care for chapter 31 participants

The Senate bill, but not the House bill, would amend section 612(f)(2) to provide chapter 31 participants with the same eligibility for VA outpatient care that veterans with service-connected disabilities rated at 50-percent-or-more disabling presently have, which would have the effect of including chapter 31 participants together with 50-percent-rated veterans in the second priority category for VA outpatient care in present section 612(i), behind veterans receiving treatment for a service-connected disability, and of making chapter 31 participants eligible for contract care on the same basis as 50-percent-rated veterans (which is the same, under present section 601(4)(C)(i) and (ii), as the basis on which contract care is available for the treatment of a service-connected disability).

The Senate recedes.

Health-care cost recovery

The Senate bill, but not the House bill, would strengthen and clarify the VA's authority to recover the costs of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for costs of health care provided to victims of crimes of personal violence.

The Senate recedes.

Grant assistance to new State medical schools

The Senate bill, but not the House bill, would modify the VA's program, under subchapter I of chapter 82, of assistance in the establishment of new State medical schools, under which five medical schools have received grants to assist in extending, altering, remodeling, improving, or repairing buildings to make them suitable for use as medical school facilities and in paying faculty salaries. Each of these schools is affiliated with at least one nearby VA medical center.

To new schools may now be established under this program, but the authorization of appropriations extends through fiscal year 1982, and funds previously appropriated remain available—by virtue of sections 5072(b) and 5082(b)—for six years after the year for which they were appropriated. Under section 5073(a)(2), a grant made for the payment of faculty salaries may be used for that purpose only during the first seven years of the school's operation and only up to specified percentages of total faculty salary costs—declining from 90 percent in the first three years of operation to 50 percent in the seventh year. The Senate bill would provide for an additional 12-month period—beyond the periods prescribed in sections 5072(b), 5082(b) and 5073(a)(2)—in which the five schools could obligate the funds which have been committed to them under subchapter I. This provision would not provide for authorization of appropriations for any additional funds for the schools in the eighth year and would limit the amount of the remaining funds which could be used to pay faculty salaries in the eighth year to 50 percent of the cost of such salaries, the same limit applicable in the seventh year.

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, nongermane health-care provisions in this measure.

Award of performance bonuses to SES employees

The Senate bill, but not the House bill, would amend paragraph (3) of section 4107 (c) of title 38, as added by Public Law 96–330, which allows VA nonphysician hospital directors to be considered for bonuses as part of the Senior Executive Service (SES), in order to add a cross reference, inadvertently not included in the text of Public Law 96–330, to a title 5 SES bonus provision (section 5384). This provision is contained in a compromise agreement on H.R. 7511, the proposed "Veterans' Disability Compensation and Housing Benefits Amendments of 1980", which was passed by the House on September 18, 1980, and by the Senate on September 24.

The Senate recedes.

Payment of education benefits to hospitalized chapter 34 trainees

The Senate bill, but not the House bill, would modify the method of payment of educational assistance allowances to chapter 34 GI Bill trainees while such trainees are receiving care for more than 30 days in a VA hospital, nursing home, or domiciliary facility, or other health care facility at VA expense, so as to be substantively identical to that proposed to be applicable to chapter 31.

The Senate recedes.

Nursing home standards

The Senate amendment, but not the House bill, would require the Secretary of Health, Education, and Welfare (now Health and Human Services) and the Administrator of Veterans Affairs to submit a joint report to the Congress relating to the coordination of their responsibilities for the enforcement of quality and safety standards in nursing homes.

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

Agent Orange

The Senate bill, but not the House bill, would authorize the expansion of the scope of the epidemiological study mandated by section 307 of Public Law 96-151 regarding veterans exposed to Agent Orange to include additional factors, would modify the study mandate, and would establish timetables within which the Administrator of Veterans' Affairs, based on the results of such study and other available pertinent information would develop regulations for the resolution of claims for benefits based on exposure to Agent Orange, or, if the scope of the study is expanded, on other factors.

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

Renaming the Topeka Veterans' Administration Medical Center

The Senate bill, but not the House bill, would provide for the renaming of the Veterans' Administration Medical Center at Topeka, Kansas, as the "Colmery-O'Neil Veterans' Administration Medical Center".

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

TITLE VIII—TECHNICAL AMENDMENTS AND EFFECTIVE DATES

Both the House bill, the Senate amendment, and the Senate bill make technical and conforming amendments throughout title 38 and in the GI Bill Improvement Act of 1977 (Public Law 95-202).

The compromise agreement includes appropriate tehcnical and conforming amendments.

The House bill provides for a general effective date of October 1, 1980, or the first day of the first month following sixty days after enactment, whichever is the later. The Senate amendment provides for an effective date of October 1, 1979, of the first day of the second month following enactment.

The compromise agreement generally provides for an effective date of October 1, 1980. Other effective dates are discussed in the applicable portions of this statement.

Mr. Speaker, the proposed amendments to the Senate amendments reflects many hours of negotiations with the other body. In my view we have significantly enhanced the vocational rehabilitation and education program for service-connected disabled veterans, especially the more seriously handicapped veterans. In addition, we have provided cost-of-living increases that will greatly benefit veterans participating in the vocational rehabilitation program and the GI bill program.

Mr. Speaker, these are very worthy amendments and I urge that they be adopted by the House so that the other body may concur with the amendments and forward them on to the President. If this is done without delay, more than a million eligible veterans and dependents will receive increases in their benefit payments in their November checks.

Finally Mr. Speaker, not only do I want to recognize the contributions of our own Members in putting together a very good legislative package here, I also want to express my deep appreciation to the chairman of the Senate Veterans' Affairs Committee, the Honorable ALAN CRANSTON of Califorinia. Mr. Speaker, this man is totally dedicated to veterans. He is totally committed to their welfare. I also want to thank the ranking minority member of the committee, the Honorable ALAN SIMPSON who has worked hard to bring this compromise agreement to the floor. Every Member of the other body has cooperated fully with us and for that I am personally grateful.

Mr. Speaker, I urge my colleagues to adopt the proposed amendments.

The SPEAKER pro tempore. Is there an objection to the request of the gentleman from North Carolina (Mr. HEFNER)?

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, regarding the colloquy that was held between the gentleman from Michigan, and others, on the agent orange question, I would want them to know that extensive hearings, have been held in our committee on this subject. I believe that the testimony, if studied by the gentleman from Michigan and the gentleman from Texas (Mr. ECKHARDT), who says he plans to hold hearings on the same subject matter, they would come to the conclusion that there is no easy answer and not enough clear evidence from that testimony on which to legislate at this time. That is the unfortunate part about it.

It is a great subject to worry about and feel sadly about, and we all do. We are concerned about any disabilities that any veteran may have received from the use of agent orange in Vietnam. Up to now no scientific or medical witness or no study has been able to tell us what if any are the causal effects from its use in Vietnam.

Now, I fully support this legislation. It is going to help about a million veterans and their dependents, including some of those veterans who served in Vietnam, in combat.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SAWYER. Reserving the right to object, Mr. Speaker, I would like to address the comments made by the gentleman from Michigan.

We in the Veterans' Affairs Committee have had very extensive hearings up to this date on agent orange. I, frankly, have approached it with an open mind. I would have to say that, as of this point, the causal connection between agent orange and the myriad symptomology, and whatnot, attached to it is very nebulous in the opinion of scientists, but nobody has written it off.

There is a group that were called the "Ranch Hands." These are the people who flew the planes that sprayed the agent orange and who got by far the most concentrated dosages of agent orange. There were 1,158 people in those planes, and all of them have been identified and located. Some 50-odd of them were killed or shot down in Vietnam or in crashes or died of other causes. The scientific community is embarking upon a detailed study of this group from an epidemiological viewpoint, individual physical viewpoint. They are the group which has the established highest concentrated exposure. That should provide proof of a nexus, if there be one, between the various etiologies claimed for the diseases attributed to agent orange. Up to now, the only thing that is established is—and that, through industrial accidents—chloracne, which is a disease or an affliction similar to teenage acne. And while it does the same thing, leaves some scarring, it has no residual serious health difficulty. We on the Veterans' Committee are into the thing, and into it deeply, and I think that the committee has a very open mind on it. We have had the benefit of pro and con opinions and this study should be somewhat definitive.

I might also say, in connection with this bill, that, in addition to all of the benefits that are conferred in it upon veterans we plugged a loophole which should save the taxpayers some money. Up till now, veterans who are incarcerated in prisons and for whom the various States are paying the full cost of education, books, and so forth, in college courses and, of course, are being provided with room and board, had been getting the full veterans' benefits for the asking. This as near we can determine, amounts to about $10 million worth of double dipping per year from the pockets of the taxpayer, and that loophole has been plugged and taken care of in this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BONIOR of Michigan. I reserve the right to object, Mr. Speaker.

Mr. HEFNER. Mr Speaker, will the gentleman yield?

Mr. BONIOR of Michigan, Mr. Speaker, I have a couple of comments to make, and then I will yield to my colleague, the gentleman from North Carolina.

Mr. Speaker, I would really like to take issue with the remarks of my two colleagues, the gentleman from Arkansas and the gentleman from Michigan.

It has been stated here by my colleague, the gentleman from Arkansas, that there are other issues involved in this piece of legislation, and he alluded to the fact that some of the veterans might want to get this legislation passed at the expense of not dealing with agent orange. That was the impression that I got from the gentleman's remarks.

I would just like to say to the gentleman that this issue of agent orange is one that I think if you would put it in front of a group of Vietnam veterans and you gave them the choice, they would be certainly willing to waive the education benefits and the voc rehab benefits in lieu of trying to get this issue resolved. I do not particularly need a lecture from my colleague, the gentleman from Arkansas, on what Vietnam veterans would prefer or not prefer.

The gentleman also alludes to the fact that we should take the time to read the 1,100-page study. Well, I have looked into the issue, and I would suggest to the gentleman from Arkansas that there are a number of top professionals in this country and in the world who would suggest to the gentleman that there is enough scientific evidence, European studies as well as studies in this country, to indicate that dioxin is a problem. If it were not a problem, the Environmental Protection Agency would not have taken it off of the list of prescribed uses of herbicides in this country, would not have banned the use of dioxin in this country because of the problems that have been associated with birth defects among children in Alsab, Oreg. So I do not need to be told that there is not conclusive evidence. Your own Government has given you conclusive evidence of this issue.

Mr. HEFNER. Mr. Speaker, will the gentleman yield

Mr. BONIOR of Michigan. Further reserving the right to object, I yield to my colleague, the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, as I said earlier, I do not take issue with the things that concern the gentleman from Michigan. I will be out in front with him next year, with whatever influence I have, that this issue will be properly addressed, and that we will have legislation to come before this body. I do not think that anyone intended to infer that other veterans would like to get their checks at the expense of the Vietnam veterans who possibly could be affected by agent orange. I certainly do not know any veterans who want to do that. It is certainly not my intention to do that at the expense of the Vietnam veteran. I am concerned about it, but I would hope that the gentleman would consider all of the far-reaching aspects of this bill and the good things that are in the bill. We have had to do some things in the bill that we did not like. We have had to make some sacrifices because of budgetary constraints we were under. I would hope that the gentleman would reconsider his position and not object to this important piece of legislation, because it is vital to an awful lot of veterans out there who are certainly concerned about its passage.

As I said earlier, we are up against the wall, so far as time is concerned, and I would hope that the gentleman would consider these things before he decides to object to the bill.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman has done an outstanding job in trying to present the concerns that we in the Vietnam era caucus have been trying to address over the last few years.

The problem, basically, is not one of trying to question the concern of the Veterans' Committee for looking at this issue. Yes, there are complicated issues; yes, there are concerns that need to be addressed. But after 7 years of looking at this issue, I think what we are basically interested in now is a commitment. Not a commitment to more studies, not a commitment to more hearings, but a commitment that there is going to be legislation on the floor next year. It may not be all we want, it may not address every issue that we are concerned about; but I think we ought to at least be entitled to a commitment that there will be legislation on the agent orange issue in the next session. I think the gentleman ought to ask for that.

□ 1100

Mr. BONIOR of Michigan. I have asked for it, and we have received some assurances this morning from the gentleman from Ohio (Mr. MOTTL), who may become the subcommittee chairman on the appropriate subcommittee, and also from the senior member of the Committee on Veterans' Affairs, the gentleman from Mississippi, who could very well be the chairman of the full committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina (Mr. HEFNER)?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, I think it is important that the House know this legislation is before us in the form that it is in because of the action of the Committee on Veterans' Affairs of the House and the Senate Committee on Veterans' Affairs and their subsequent agreement. There is no indication that we are dropping the agent orange subject. We are still seeking answers from professional studies.

I would be very pleased if those who have spoken, who are concerned on that matter, who are not on our committee, would propose specific legislation, would introduce it as a bill and send it to our committee so we can try to understand what their reasonable solution is on this subject matter.

From extensive hearings held by our House Subcommittee on Medical Facilities and Benefits we really have not been able to come to a conclusion to draft legislation on it, but if the distinguished gentleman from Michigan, and others, who have spoken with him on the mutual concern we all have on this serious matter would draft legislation, I can assure them it would receive full consideration before our committee.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. WYLIE. Mr. Speaker, I rise in strong support of the proposed amendments to H.R. 5288, as amended by the Senate. In doing so, I wish to commend the distinguished chairman of the Subcommittee on Education, Training and Employment, Mr. HEFNER, and the distinguished ranking minority member of that subcommittee, Mrs. HECKLER, for their wisdom and untiring efforts in initially shaping this legislation and now bringing it before us with these very important amendments.

One of the purposes of this legislation is to improve and modernize the vocational rehabilitation programs provided for service-connected disabled veterans. This represents the first major redesigning of the programs since their inception in 1943.

Additionally, the legislation seeks to address some of the hard employment problems that today confront our Vietnam-era veterans, their spouses and dependents. For instance, the highly successful disabled veterans outreach program (DVOP) has been made permanent, the Department of Labor definition of Vietnam-era veteran has been standardized, and the Deputy Assistant Secretary of Labor for Veterans' Employment has been promoted to a full Assistant Secretary.

It would also provide a 17-percent increase in the rates of monthly subsistance allowance for service-disabled veterans and a 10-percent cost-of-living increase in other veterans' education and training programs administered by the VA.

The numerous provisions in the proposed amendments, which have been well detailed by my colleagues, do not require my further elaboration. I do, however, wish to point out, Mr. Speaker, that the amendments would retain two important education and vocational training programs for veterans which our prior unamended bill singled out to be eliminated as of October 1, 1980.

By amendment, flight training benefits for veterans are to continue even though on a modified and somewhat reduced basis. Moreover, I am gratified to point out that the compromise agreement would also retain benefits for correspondence course training. The provision would reduce the portion of the cost of correspondence courses that the VA will pay from 90 percent to 70 percent, but very appropriately the modification will not be applicable to those enrolled in correspondence training programs as of September 1, 1980, as long as they remain continuously enrolled.

The compromise agreement on correspondence course benefits is in accord with my colloquy on the floor with the distinguished gentleman from North Carolina (Mr. HEFNER) as we earlier took up this legislation, and I heartily thank the gentleman for his cooperation and good work.

Mr. Speaker, I commend all of these amendments to my colleagues and urge their support of this legislation.●

● Mr. JEFFORDS. Mr. Speaker, I want to express my appreciation and support for the remarks of the gentleman from Michigan (Mr. BONIOR) regarding the problem of Vietnam veterans' exposure to dioxin. The Department of Defense, the Veterans' Administration and appropriate congressional bodies are aware of the potentially monumental cost of assigning a causal link between agent orange and certain regularly observed symptoms among Vietnam veterans. Too often, irresponsible officials acknowledge the proven effects of agent orange exposure on humans—nausea, weakness in the lower extremities, insomnia, cancer, liver diseases, and birth defects—but claim that such symptoms in Vietnam veterans may or may not be related to their combat experience.

The result of that knowledge has been orchestrated foot dragging and tactics of delay and failure to address the entire agent orange question in a forthright manner. This situation must not continue.

The blunt reality is that, today, as we deliberate this question in the Congress, there is the strong possibility that thousands of Vietnam veterans are being seriously affected. Not only is there the potential of immediate physical problems with exposed Vietnam veterans but as month after month, year after year go by with little action by the U.S. Government, the mental anguish of Vietnam veterans and their families grows exponentially.

What Vietnam veterans need above and beyond other considerations is a definitive statement from their Government that unequivocally defines the scope and depth of the agent orange question. Studies on the use of agent orange in Southeast Asia and on its effects must continue. I have cosponsored a bill, H.R. 6377, that extends service-connected disability benefits to veterans who have suffered dioxin poisoning. We never thought to question sending these men and women to Vietnam, subjecting them to contamination by agent orange. We have to pay that price 10 and 15 years later.

In my great State of Vermont, we have several fine veterans organizations who spend long hours assisting Vietnam veterans with their special problems. We are fortunate to have a Vietnam veterans center in Williston, Vt. This center is very effective, especially on an outreach basis, in providing Vietnam veterans with support and counseling. I especially wish to commend Walt Rutherford, team leader for the vet center. He has accomplished a great deal in a short period of time in this position. For the first time, he has united Vietnam veterans in the State of Vermont. These veterans now have a sense of worth and belonging, and I commend Mr. Rutherford for a job well done.

Again, I wish to associate myself with the remarks of Mr. BONIOR and would urge that this be a matter of high priority for the next Congress, resulting not just in hearings, but definitive legislation.●

● Mrs. HECKLER. Mr. Speaker, I am deeply disappointed that provisions which the other body has passed regarding agent orange are not in the House amendments to H.R. 5288, as amended by the Senate and which we now are considering.

On September 4, Senators HEINZ and CRANSTON amended S. 1188 to require the Veterans' Administration to develop regulations which define what conditions of service establish exposure to agent orange and what symptoms medical research has determined to be caused by such exposure.

The amendment would establish a minimum standard of performance for the Veterans' Administration regarding the 30,000 agent orange exposure claims it now has and whatever additional number it may further process.

Adoption of this standard by this House would mean Congress would require the VA to clarify and define an area that has remained vague. VA could then say to a worried Vietnam veteran who thinks he or she was exposed, whether or not exposure actually occurred, and whether symptoms of adverse health effects are present as a consequence of such exposure.

This clearly defined determination could then be entered into the veteran's file and be on the record for future reference and documentation, if necessary. The fact of exposure would be established, and the fact of any adverse health consequences would be documented.

I commend the chairman of the Subcommittee on Medical Facilities and Benefits of the Veteran's Committee, the distinguished gentleman from Virginia (Mr. SATTERFIELD), for agreeing to hold four hearings on this important subject during this the 96th Congress—three of those this year. His open approach, and that of the ranking minority member, the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT), has been instrumental in facilitating a serious and sincere effort to examine this matter in a through fashion.

However, to fail at this critical juncture—the closing weeks of the 96th Congress—to legislate this single minimum standard for our Vietnam veterans would be to fumble the ball at the goal line. We would be left with nothing but words to show for our efforts. As valuable as the testimony we have received is, the bottom line of this Chamber is legislation.

We do need to legislate this standard.

If, tragically, this amendment is not permitted to be considered by this body this year, surely we must think in terms of legislating next year on this important matter of health care for our Vietnam veterans.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina (Mr. HEFNER)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 5288.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7831, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 7831, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7631, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none and, without objection, appoints the following conferees: Messrs. BOLAND, TRAXLER, and STOKES, Mrs. BOGGS, Messrs. BEVILL, SABO, STEWART, WHITTEN, COUGHLIN, MCDADE, YOUNG of Florida, and CONTE.

There was no objection.

RECOGNIZING MERITORIOUS ACHIEVEMENTS OF INDIVIDUALS BY DESIGNATING POST OFFICES IN THEIR HONOR

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7815) to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I would ask the chairman to explain his request.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, this is a bill sponsored by the gentleman from Missouri (Mr. CLAY), which would designate three post offices in the State of Missouri, recognizing the achievements of three individuals who had rendered distinguished service to their community.

At the hearing which the committee held on this matter, we ascertained that each of the Members of Congress in whose district these post offices are located support this legislation which designates a post office in St. Louis, Mo., as the Henry Winfield Wheeler Post Office; designates a post office in Kansas City, Mo., as the Leon Mercer Jordan Post Office, and designates another post office in St. Louis, Mo., as the Bernard F. Dickmann Post Office.

Mr. Speaker, Bernard F. Dickmann was the former postmaster of St. Louis and also served as its mayor from 1933 through 1941.

Henry Wheeler was known as the conscience of the community for 50-odd years and pioneered in eliminating barriers of discrimination in jobs in public accommodations in St. Louis; and Leon Mercer Jordan served the people of Kansas City as a State legislator, a leader of the civil rights movement and police officer. He also served as police chief of Monrovia, Liberia.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the legislation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia (Mr. LEVITAS)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as soon as practicable after the date of the enactment of this Act, the Postmaster General shall—

(1) designate the post office located at 1140 Olive Street, Saint Louis, Missouri, as the "Henry Winfield Wheeler Post Office";

(2) designate the post office located at 3106 Indiana Street, Kansas City, Missouri, as the "Leon Mercer Jordan Post Office";

(3) designate the post office located at 1720 Market Street, Saint Louis, Missouri, as the "Bernard F. Dickmann Post Office"; and

(4) install in each post office referred to in paragraphs (1), (2) and (3), in places in open view of the public, an appropriate plaque indicating the designation of the post office pursuant to this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE WILLIAM H. HARSHA LAKE AND THE WILLIAM H. HARSHA DAM

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8018) to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I would ask the distinguished chairman of the subcommittee for an explanation of his request.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, H.R. 8018 names the East Fork Lake and Dam in the Little Miami River Basin, Ohio, the William H. Harsha Lake and the William H. Harsha Dam, respectively.

The bill as reported by the committee takes effect on January 4, 1981, in order to conform with our committee's policy that water resources projects be named in honor of Members of Congress after their retirement.

My distinguished colleague, Congressman WILLIAM H. HARSHA, has spent most of his adult life in civic and governmental work. After receiving his law degree from Western Reserve University, he worked as a practicing attorney and acted as the Portsmouth assistant city solicitor from 1947 to 1951 and the Scioto County prosecutor from 1951 to 1955. The recipient of many awards and accolades, Mr. HARSHA has distinguished himself as a Member of the U.S. House of Representatives during the 87th Congress through the 96th Congress. During that entire time he was a member of the Public Works and Transportation Committee and for the past 10 of those years he has been the ranking minority member. In these capacities he has been instrumental in passing needed legislation to develop this Nation's water resources, including the coordinated system of flood control works in the Ohio River Valley which includes the East Fork Dam and Lake.

Congressman HARSHA has announced his retirement at the end of this session. In recognition of his many years of distinguished public service and his efforts at bringing this and other projects into being, it is a just and fitting tribute to rename the East Fork Lake and Dam as the William H. Harsha Lake and Dam.

Mr. Speaker, I urge passage of the bill.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I want to associate myself with the explanation of the gentleman from Georgia of the bill and with his remarks and express my own appreciation for what this bill symbolizes today, the long and distinguished service of Mr. HARSHA the ranking minority member of the Committee on Public Works and Transportation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I certainly support the pending legislation honoring our colleague from Ohio, but last night the gentleman from Georgia and I had an interesting discussion about the criteria under which Federal buildings are named for retiring Members of Congress.

He was kind enough to inform me there are 10,000 Federal buildings still available, so that no Member of Congress who retires for whatever reason, and I assume that may even include being defeated, becoming a lameduck; they, too, perhaps will have the honor.

What occurs to the gentleman from Maryland this morning is, since we are now naming lakes and dams, that the possibilities are almost unlimited for honoring, not just Congressmen, but all sorts of public figures and officials at State and local levels as well.

Perhaps we should suggest some sort of compilation of available lakes and dams and rivers and sanitary districts, water pipes and other things, and then match that list in a computer against all existing Federal, local and State officials so that no one would feel upset if they were, by some chance, left out of the name game. That sounds like the kind of thing that would get America back to work again.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. As the gentleman knows, the Committee on Public Works and Transportation does have jurisdiction over all of those subjects which the gentleman has just mentioned.

I can assure the gentleman that we have even considered the possibility of sewage treatment plants as being an appropriate facility to name after certain individuals.

Mr. BAUMAN. I would hope the gentleman would not explore that further in reference to the gentleman from Maryland or other colleagues.

Mr. LEVITAS. It has certainly no reference to the gentleman from Maryland. Under those circumstances, perhaps a river.

However, I would say to the gentleman from Maryland in the same facetious vain that in the event we run out of public buildings or existing lakes, there are sufficient streams and rivers in this country which can be dammed, reservoirs created and an unending number of potential facilities, including the sewage treatment plants as well.

☐ 1110

Mr. BAUMAN. Well, I thank the gentleman.

I just want to make clear in my reservation that this is not in any way intended to disparage my good colleague, the gentleman from Ohio. Not only do I support naming a lake in his behalf, but I am willing to give a dam for him as well.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of the bill H.R. 8018 to name the East Fork Lake and Dam in honor of our distinguished colleague, Congressman WILLIAM H. HARSHA.

I have had the honor and the pleasure of serving with Congressman HARSHA during his service in the House of Representatives. He has been a member of the Committee on Public Works and Transportation during his entire tenure in the House and has been the ranking minority member of our committee for the past 10 years. During those years he has served our committee, the Congress, his constituents, and the Nation with honor and dedication. It is fair to say that without his able assistance the many important pieces of legislation originated by our committee would not have become law.

He has been particularly instrumental in the areas of water resources development and water pollution control. For these reasons especially I think it is entirely appropriate that his years of distinguished public service be recognized by naming the East Fork Lake in his honor. I urge passage of the bill.●

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the reservoir and dam in the Little Miami River Basin, Ohio, which—

(1) are known as "East Fork Lake" and "East Fork Dam", respectively; and

(2) were completed on site 44 of the general comprehensive flood control plan of 1937 for the Ohio River Basin which was submitted by the United States Army Corps of Engineers (described in Flood Control Committee Document Numbered 1, Seventy-fifth Congress, first session), and which is authorized under the heading "Ohio River Basin" in section 4 of the Act of June 28, 1938 (Public Law 75-61; 52 Stat. 1217), commonly known as the "Flood Control Act of 1938";

hereafter shall be known and designated as the "William H. Harsha Lake" and the "William H. Harsha Dam", respectively.

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to the reservoir or dam specified in the first section of this Act hereby is deemed to be a reference to the "William H. Harsha Lake" or the "William H. Harsha Dam", as the case may be.

SEC. 3. This Act shall take effect on January 4, 1981.

With the following committee amendment:

Page 2, after line 22, insert:

SEC. 3. This Act shall take effect on January 4, 1981.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

HOUSEHOLD GOODS TRANSPORTATION ACT OF 1979

Mr. HOWARD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1798) to reduce regulation of and increase competition in the household goods moving industry, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, I yield to our distinguished chairman, the gentleman from New Jersey, to explain his request.

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today, the Members of the House will decide on a bill that has important consequences for the American consumer. The bill is S. 1798, the Household Goods Transportation Act of 1980. This bill is one of several bills the Congress has taken up this year to reform Federal regulation of the trucking industry. As you know, Congress approved the Motor Carrier Act of 1980 earlier this year. That legislation applied across the board to all types of motor carriers, including household goods moving carriers. It made significant changes in the areas of entry, rate flexibility, and rate bureaus. The bill being considered today applies only to the household goods moving industry.

There are several factors which prompted the Public Works and Transportation Committee to consider legislation dealing specifically with the interstate moving industry. The industry is composed of approximately 2,650 individual carriers with combined revenues of $1.4 billion. It provides services to individual consumers as well as to the Government and various businesses. The fact that the industry does business directly with consumers is unique. These individuals usually move only once or twice in their lives, and consequently, lack a thorough understanding of the industry and sufficient economic clout to negotiate with it. They require special remedies and protections. The moving industry also is distinguished by the fact that it is the most frequent subject of consumer complaints to the Interstate Commerce Commission. Those complaints include ones related to loss and damage of goods, failure to pick up and deliver goods on time, and inaccurate estimates and improper weighing of shipments.

Finally, the industry has been the focus of much of the Commission's monitoring and enforcement efforts. This has led to allegations that the amount of paperwork imposed on the industry is excessive and that carriers have been penalized for violations, which have no bearing on the shipper's satisfaction with the shipment.

S. 1798, as reported by the Public Works and Transportation Committee, establishes a framework for regulation of the moving industry which places emphasis where the emphasis should be. Specifically, it establishes new remedies and protections for consumers; it reduces unnecessary Government regulation; and it furnishes additional service and price options for carriers and consumers.

S. 1798's consumer protection provisions are contained in several different sections of the bill. Section 6 reaffirms the Commission's authority to issue regulations for the protection of consumers, and makes clear that movers must advise consumers of their rights and remedies and of the quality and cost of available service. Section 7 calls for the establishment of dispute settlement programs which offer shippers a forum for the fair and expeditious settlement of claims. Further, it provides shippers with recovery of attorney's fees stemming from litigation involving claims where no dispute settlement program is available. Section 8 improves the Commission's enforcement tools by expanding its civil penalty capability and providing specific penalties for weight bumping. Section 8 also provides incentives for movers to compensate consumers for the harm they have suffered.

To help reduce unnecessary Government regulation, section 6 directs the Commission and other Federal Government agencies which regulate the interstate moving industry to minimize the regulations and paperwork required of the industry. Section 6 also directs the Commission to allow more industry flexibility for quoting price estimates, for weighing shipments, and for providing service options. Similarly, the Commission, where appropriate, is required to establish performance standards for compliance with its regulations related to consumer protection. Further, section 8 redirects the Commission's enforcement efforts away from "paperwork" violations and towards violations which actually cause injury to consumers.

Finally, section 4 insures movers and consumers new service and pricing options. First, it allows the movers to charge consumers on the basis of written, binding estimates rather than on the weight of the shipment. Second, it permits movers to offer rates which include guaranteed payments to consumers, if the movers fail to pick up and deliver the shipments when promised.

Mr. Speaker, the Public Works and Transportation Committee has worked hard to forge a workable, practical, well-balanced piece of legislation that will help American consumers and reduce unnecessary Government regulation. We have accomplished this not alone, but with the able assistance of such distinguished individuals as Mrs. Esther Peterson and Congressman BOB ECKHARDT. Further, the Interstate Commerce Commerce Commission, the Departments of Justice and Defense, the moving industry and various consumer groups all have played an important role in this process.

I believe that support from such divergent interests indicates that the Public Works and Transportation Committee has in S. 1798 a bill that will benefit the public interest and improve regulation of the household goods moving industry. I assure the Members of the House that our committee will hold vigorous oversight hearings on the implementation and effect of this legislation to see that its intended benefits and purposes are realized.

Mr. Speaker, I would like to say this bill passed the subcommittee and the full committee both by voice votes with no objection whatever. This has come about a great deal due to the hard work and dedication and cooperation of the ranking minority member of the subcommittee.

I would ask the gentleman from Arkansas at this time if he might yield to the gentleman from Pennsylvania (Mr. Shuster).

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I am pleased to yield to the distinguished ranking minority member of the subcommittee, the gentleman from Pennsylvania (Mr. Shuster).

Mr. SHUSTER. Mr. Speaker, I rise in strong bipartisan support of this legislation and associate myself with the remarks of the distinguished chairman of our subcommittee.

Mr. Speaker, the Household Goods Transportation Act of 1980 represents a bipartisan effort to reduce the regulatory burden on the household goods transportation industry while establishing consumer rights and protection and allowing carriers greatly needed flexibility.

I would point out that this bill was approved by voice vote and reported without amendment by the Public Works and Transportation Committee.

Like the Motor Carrier Act recently signed into law, S. 1798 is the product of a carefully fashioned compromise, reached only after extended negotiations involving the committee staffs of both House and Senate, the Interstate Commerce Commission, the administration, representatives of industry, and various consumer organizations.

None of the parties concerned got all that they were seeking in this legislation, but, in my judgment, it does represent a reasonable compromise and one that provides significant benefits to meet the pressing needs of both industry and consumers.

In drafting this bill, our committee recognized the special problems of the household goods transportation industry and sought to address them in a reasonable and effective manner, allowing for substantial reductions in regulations and paperwork and an increase in industry flexibility. However, for those few carriers who abuse the system, the bill provides appropriate penalties, and it permits direct action against unfit agents.

The legislation also provides greater protection for consumers through the establishment of dispute settlement programs, through which shippers can resolve their household goods complaints fairly and expeditiously.

Congress will study carefully the impact of S. 1798, during periodic oversight hearings to be conducted by the Public Works and Transportation Committee over the next 5 years.

Mr. Speaker, the compromise reached on S. 1798 is a good one and I urge its approval by this body.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of S. 1798, the Household Goods Transportation Act of 1980. The bill as reported by the Committee on Public Works and Transportation has the support of Congressman Eckhardt, chairman of the Subcommittee on Oversight and Investigation of the Committee on Interstate and Foreign Commerce, the White House, the Interstate Commerce Commission, the household goods moving industry, consumer groups, and others.

S. 1798 was passed by the Senate late last year. Subsequently, it was referred to the Committee on Public Works and Transportation. Hearings were held by the committee. After completion of the hearings, S. 1798 was substantially revised. It was revised: First, to eliminate certain aspects of S. 1798 which were covered in the Motor Carrier Act of 1980, and second, to incorporate provisions that more adequately address some of the concerns set forth by Congressman Eckhardt, the White House, the Interstate Commerce Commission, the moving industry, and consumer groups.

Those changes have been strongly endorsed by all of the above persons and groups and especially by the members of the Public Works Committee.

It is a bill in which I and the members of the committee take a great deal of pride. I say this because S. 1798 will accomplish three important goals. It will reduce unnecessary regulation; it will provide increased flexibility for pricing and service in the moving industry that should benefit the consumers and the industry; and it provides better remedies and more protection for the consumers.

The bill is the result of long and difficult negotiations. I wish to thank all the parties who participated in this process. More particularly, I wish to thank the chairman of the Subcommittee on Surface Transportation, James Howard, and Congressmen Bill Harsha and Bud Shuster, all of whom have contributed greatly in the effort to successfully report this legislation. Finally, I wish to thank Congressman Bob Eckhardt for his assistance and cooperation in this matter.●

● Mr. ANDERSON of California. Mr. Speaker, I am pleased today to support the passage of S. 1798, the Household Goods Transportation Act.

This important legislation will make significant changes in the way America handles the sometimes traumatic experience which is known as moving day. We can confidently say that these changes constitute real improvements.

They will allow the moving industry to offer more flexibility in the services provided to the shipper. For example, the shipper—or individual consumer—will now be able to receive a binding estimate from the mover, and so shop around for the best deal with a greater degree of certainty. A mover will also be able to offer shippers rates permitting per diem or penalty payments for late pickup and delivery of goods.

In the past, household goods carriers have actually been prohibited from such agreements. Those prohibitions will now be removed, to the benefit of efficient carriers and their customers.

But when problems do arise as a result of the movement of household goods, many consumers will now be able to turn to dispute resolution programs created under guidelines offered in this bill.

S. 1798 will help deter the few dishonest movers who may still be involved in the industry by providing authority for the Interstate Commerce Commission to take direct action against an agent who is engaging in bad business practices. And stiff new civil and criminal penalties are provided for weight-bumping and associated practices.

Mr. Speaker, this legislation has been endorsed by nationally recognized consumer groups, the administration, and spokesmen for the household goods industry. Since the bill was first introduced, I have been in contact with several industry members in my district, and they now all agree that this is a good bill, and one which they readily support. Many of these same people had very certain and severe technical problems with the legislation which had passed the Senate last year. We have addressed their problems with this bill, though, and objectionable provisions have been removed.

So, once again, let me reiterate my support for passage today of S. 1798, a balanced bill that will make moving day a bit easier for everyone.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. Howard)?

Mr. ECKHARDT. Mr. Speaker, I reserve the right to object. I do not intend to object.

Mr. Speaker, today, the House has before it a significant consumer protection measure dealing with the household goods motor carrier industry. At the outset, I would like to congratulate my colleagues, Committee Chairman Harold Johnson and Subcommittee Chairman Jim Howard, for their diligent efforts in striking an equitable balance between S. 1798, the Senate-referred legislation, and H.R. 6541, the House bill introduced by myself. The Household Goods Transportation Act of 1980 represents a true melding of the concerns expressed by the industry, the consumer groups, the administration, and myself.

S. 1798, as amended, provides for the reduction of unnecessary regulation of the household goods industry as well as the strengthening of consumer remedies and protections. Stressing carrier flexibility as a requisite for offering various price and service options to shippers, the bill reduces regulation to encourage more competition in the household goods industry. Additionally, the legislation reaffirms the authority of the Interstate Commerce Commission (ICC) for issuing regulations to protect individual household goods shippers. The bill also provides guidelines for carriers to establish informal dispute settlement mechanisms for resolving household goods shipper disputes in an inexpensive, expeditious, and fair manner.

The significance of this legislation is that the enforcement authority of the

ICC will be tied to the need to protect household goods shippers from harm which results from carrier abuses of consumer protection regulations. Where a carrier has violated a regulation and has failed to adequately compensate the shipper for resultant damages, the carrier will be subject to civil penalties up to $1,000 to be assessed either by the Commission under new administrative penalty authority or by the Department of Justice under a judicial remedy.

Restructuring the penalty system applicable to the transportation of household goods, the legislation provides the Commission with an improved set of enforcement tools to address substantive violations which cause injury to consumers rather than purely technical or "paperwork" violations. The bill also places new emphasis on the need for carriers to minimize shipper harm and to compensate shippers when harm occurs.

Given the broad consensus of support for this legislation, I commend S. 1798, as amended, for favorable consideration by the House.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, I wish to thank the gentleman from Texas very much for his efforts, because he had a great deal to do with this legislation, and for the testimony provided to the subcommittee by the gentleman from Texas and by the wife of the gentleman from Texas, who had a great deal of firsthand knowledge of the frustrations that people can go through without legislation such as the legislation we have before us today. I thank the distinguished gentleman and Mrs. Eckhardt for their contributions.

(Mr. ECKHARDT asked and was given permission to revise and extend his remarks.)

Mr. ECKHARDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. HOWARD)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Household Goods Transportation Act of 1979".

DECLARATION OF POLICY

SEC. 2. FINDINGS AND PURPOSE.—The Congress hereby finds —

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carriers is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum operational flexibility on the part of motor common carriers of household goods best serves the interests of shippers of household goods in that it provides the opportunity for servicing of the widest and most divergent needs and desires of the greatest number of consumers and allows a variety of quality and price options to meet changing market demands; and

(4) that the interests of consumers can best be protected by allowing the carriers of household goods the maximum flexibility in serving the needs of their shippers and by assuring the availability of accurate and complete information concerning carriers' performance and consumers' rights and remedies.

DEFINITIONS

SEC. 3. Section 10102 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) thereof the following new paragraph:

"(10) 'household goods' shall have the meaning defined for it by the Interstate Commerce Commission, but shall mean at least—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods;

except that in interpreting subparagraphs (A), (B), and (C) of this paragraph:

"(i) subparagraph (A) shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder;

"(ii) subparagraph (B) shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as an incident to the removal of the establishment, or a portion thereof, from one location to another; and

"(iii) subparagraph (C) shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually empoyed in moving household goods."; and

(2) by renumbering paragraphs (10) through (28) of such section, and all references thereto, as paragraphs (11) through (29), respectively.

ANTITRUST IMMUNITY

SEC. 4. Section 10706(b) of title 49, United States Code, is amended by striking the period at the end of the second sentence and inserting the following: ": *Provided,* That with respect to an agreement between two or more carriers engaged in the business of transporting household goods, that is solely related to or contains procedures for joint consideration, initiation, or establishment of (1) proposals for changes in the standard rate levels for household goods, including the formula, procedures, and tariff rules related thereto, and (2) charges between two carriers, and compensation paid or received, for the use of facilities and equipment, shall be deemed to further the transportation policy of section 10101 of this title.".

RATES

SEC. 5. (a) Chapter 107 of title 49, United States Code, is amended by inserting the following new section immediately after section 10731 thereof:

"§ 10732. Household goods rates

"(a) The Commission shall not have the authority to find any rate for the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than 10 percent above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not more than 10 percent below the standard rate level for the transportation of household goods, in effect on the 180th day after the date of enactment of this section.

"(b) The Commission shall not have the authority to find any charge for accessorial, terminal, storage, or other services incidental to the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than 20 percent above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not more than 20 percent below the standard rate level for the transportation of household goods, in effect on the 180th day after the date of enactment of this section.

"(c) Subsections (a) and (b) of this section shall not apply to any proposed decrease in any rate or charge that the Commission determines would be predatory. For the purposes of this section, a 'predatory' rate or charge shall be a rate or charge that fails to cover the variable costs of providing the specific service.

"(d) For the purposes of this section, the term 'standard rate levels for the transportation of household goods' means those rates and charges in effect on the 180th day after the date of enactment of this section for the transportation of household goods and for accessorial, terminal, storage, or other services incidental to the transportation of household goods, as adjusted in accordance with subsections (e) and (f) of this section.

"(e) Not later than 180 days after the date of enactment of this section, the Commission shall, on an interim basis, adjust the rates and charges in effect for the transportation of household goods to include: (1) additional costs that have been incurred at the time of such adjustment but not yet reflected in such rates and charges (2) estimated or foreseeable future costs anticipated for the first semiannual period during which such adjusted rates and charges would be in effect, and (3) reasonable levels of profit.

"(f) The Commission shall, not less than semiannually, adjust the standard rate level for household goods by increasing or decreasing such rate level by the percentage change from the previous period in the actual operating costs incurred by the carriers. The adjustments shall be made only through the development and application of a formula and procedure to determine objectively increases or decreases in costs and that (1) makes no adjustment to costs actually incurred, including but not limited to, costs related to overhead, labor, fuel, purchase or lease of equipment or facilities, payment of reasonable levels of claims and liabilities, depreciation, repayment of debt, and cost of capital, and (2) takes into consideration the reasonable estimated or foreseeable future costs anticipated for the next semiannual period during which the rate at issue would be in effect.

"(g) The Commission shall render a final decision by rulemaking establishing a formula and procedures for determining adjustments in the standard rate levels for the transportation of household goods not later than 180 days from the date of enactment of this section. Such formula and procedures may be reviewed upon application by any interested party or on the initiative of the Commission. Changes in the formula or procedures shall be made only after rulemaking in accordance with title 5, United States Code, section 553.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting

"10732. House goods rates."

immediately after

"10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials.".

(c) Section 10721(b)(1) of title 49, United States Code, is amended by inserting the following immediately before the period at the end thereof: ", except that any rates or charges for the transportation of household goods for the United States Government shall meet or exceed the variable costs of providing such transportation".

ENTRY

SEC. 6. (a) Chapter 109 of title 49, United States Code, is amended by inserting the following new section immediately after section 10933 thereof:

"§ 10934. Transportation of household goods

"(a) The Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation by motor carrier of household goods, if the Commission finds that (1) the applicant is fit, willing, and able to provide the transportation authorized by the certificate and to conform to the provisions of this title and the rules, regulations, and requirements of the Commission under this title, and (2) the transportation to be provided is consistent with the present and future public convenience and necessity.

"(b) In the determination as to whether an applicant is fit, willing, and able pursuant to subsection (a)(1) of this section, the burden of proof shall be upon the applicant. In the determination as to whether the transportation proposed is consistent with the public convenience and necessity pursuant to subsection (a)(2) of this section, the burden of proof shall be upon the opponents of the application.

"(c) In determining whether an application is consistent with the public convenience and necessity pursuant to subsection (a)(2) of this section, the Commission shall consider, and shall make findings and conclusions with respect to, among other things, the statement of congressional purpose and findings set forth in section 2 of the Household Goods Transportation Act of 1979 on each application filed hereunder.

"(d) Any person seeking authority under this section must file with the Commission an application which (1) is filed under oath, (2) contains information required by Commission regulations, and (3) is served on persons designated by the Commission. The Commission shall promulgate rules of procedure for processing such applications which provide for an adequate notice and opportunity for any interested person to file written evidence and argument, but need not provide for oral evidentiary hearings. Further, the Commission shall promulgate rules of appellate procedure which allow at least one appeal from an initial decision of the Commission, a division of the Commission, a Commissioner, or an employee board, and which may permit a further appeal where the Commission finds that an issue of general transportation importance is involved. The Commission shall render a final written decision upon applications for certificates under this section within 180 days of their filing. Each such final written decision shall include a statement of findings and conclusions as required by subsection (c) of this section. In an extraordinary situation, the Commission may extend the time period established by this subsection for a period of not more than 90 days, but in no event may the total period of time for rendering a final written decision exceed 270 days from the date of filing of the application.

"(e) Each certificate issued pursuant to this section shall specify the area in which the carrier may provide transportation.

"(f) The Commission may prescribe reasonable conditions with respect to a certificate, when the certificate is issued and at any time thereafter: *Provided*, That the Commission may not prescribe a condition preventing a motor common carrier of household goods from adding to its equipment and facilities or its transportation within the scope of its certificate in order to satisfy business development and public demand.

"(g) A certificate issued under this section shall not be construed to confer a proprietary or exclusive right to use the public highways.

"(h) The requirement that persons holding certificates under subsection (a)(1) of this section be fit, willing, and able shall be a continuing requirement applicable to each carrier. The Commission may, by order entered after notice and hearing, modify or condition such certificate to assure compliance with such continuing requirement that the carrier be fit, willing, and able, or to require such reports as the Commission may deem necessary to determine whether the carrier is fit, willing, and able.

"(i) If, after notice and hearing, the Commission finds that any person holding a certificate under this section is failing to comply with the continuing requirement that a carrier be fit, willing, and able, it may issue an order to compel compliance with such requirement. Thereafter, the Commission may, after further notice and further hearing, suspend or revoke the certificate of such person, in whole or in part, if it finds that such person, within a reasonable time, but in no event less than 30 days, has wilfully failed to comply with the order to compel compliance with such continuing requirement.

"(j) Any certificate issued by the Commission which authorizes a person to provide transportation of household goods and which is in effect, and not subject to suspension, on the day before the date of enactment of this section, shall be deemed to be a certificate issued pursuant to this section and shall continue in effect according to its terms until modified, conditioned, suspended, terminated, or revoked by the Commission, any court of competent jurisdiction, or by operation of law.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting

"10934. Transportation of household goods."

immediately after

"10933. Authorizing abandonment of freight forwarder service.".

(c) Chapter 109 of title 49, United States Code, is amended—

(1) in section 10925(a) by striking "or 10924" and inserting in lieu thereof "10924 or 10934";

(2) in section 10926 by striking "or 10923" and inserting in lieu thereof ", 10923 or 10934"; and

(3) in section 10927(a)(1) by striking "or 10923" and inserting in lieu thereof ", 10923 or 10934".

AGENTS

SEC. 7. (a) Chapter 109 of title 49, United States Code, is further amended by inserting the following after the new section 10934 as added by section 6 of this Act:

"§ 10935. Household goods agents

"(a) Each principal carrier shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) in interstate or foreign commerce and which are within the actual or apparent authority of the agent from the principal carrier or which are ratified by the principal carrier.

"(b) Each principal carrier shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by the Commission and by their principal.

"(c)(1) Whenever the Commission shall have reason to believe, from a complaint or an investigation, that an agent providing services under the authority of its principal carrier has violated section 11901(h)(3) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it shall issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be no later than 60 days after service of the complaint to such agent.

"(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) If such person does not appear at the hearing or if the Commission should find that the agent has violated section 11901(h)(3) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter the Commission may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods in interstate or foreign commerce if it finds that such agent, within a reasonable time, but in no event less than 30 days, has wilfully failed to comply with a compliance order issued under this subsection.

"(4) Upon a petition filed with the Interstate Commerce Commission by an agent who is the subject of an order issued pursuant to paragraph (3) of this subsection, a hearing shall be held after proper notice and with an opportunity to be heard. At such a hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States court of appeals, as provided by section 2112 of title 28, United States Code.

"(d) The antitrust laws, as defined in section 1 of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a principal carrier and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier; (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier; (3) allowances relating to transportation of household goods under the authority of the principal carrier; (4) pooling or divisions between the principal carrier and its agents of traffic or services or any part of their earnings related to services performed under the authority of the principal carriers, and (5) ownership of a principal carrier by an agent or membership on the board of directors of a principal carrier by an agent.

"(e) In the case of bankruptcy or dissolution of a carrier or freight forwarder of household goods any debts owed to an agent or owner-operator arising out of the services performed or goods provided by that agent or owner-operator for the carrier or freight forwarder shall be treated as secured debts and such debts owed to agents or owners shall be treated equally with the

carrier's or freight forwarder's other secured debts.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting

"10935. Household goods agents."

immediately after

"10934. Transportation of household goods.",

as added by section 6 of this Act.

RULES AND REGULATIONS

SEC. 8. (a) Chapter 111 of title 49, United States Code, is amended by inserting the following new section immediately following after section 11108 thereof:

"§ Household goods carrier operations

"(a) (1) No later than 60 days after the date of enactment of this section, the Commission shall institute a rule-making proceeding in which it shall review and revise all of its operational regulations pertaining to transportation of household goods.

"(2) The Commission shall reduce the regulations and paperwork required of each carrier to the maximum extent feasible, except for (A) regulations relating to charges; and (B) regulations for the protection of individual shippers.

"(3) A regulation described in paragraph (2) (B) of this subsection shall contain whenever possible reasonable performance standards.

"(4) The Commission shall conclude the rulemaking required by subsection (a) of this section within 270 days.

"(5) Nothing in this section shall be construed to limit the Commission's authority to require reports from carriers or to require carriers to provide specified information to consumers concerning their past performance.

"(6) To the maximum extent feasible, the requirements of this section shall apply to rules and regulations of Government departments and agencies on shipments transported under the authority of the United States Government including rules and regulations established for the distribution of such traffic.

"(b) Every carrier of household goods may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate. The Commission shall not prohibit any carrier from charging a prospective shipper for providing a written estimate for the transportation and proposed services, nor shall the Commission require the final charges to a shipper to be based on an estimate. This subsection, however, shall not be construed as prohibiting a carrier from voluntarily filing, nor the Commission from approving, a tariff basing the carrier's final charges to a shipper upon an estimate: *Provided*, That such tariffs do not result in charges to shippers that are predatory or discriminatory.

"(c) The Commission shall promulgate rules that provide motor carriers engaged in the transportation of household goods with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit household goods carriers from backweighing shipments, nor from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings and such weighings are performed on the same scale.

"(d) Motor carriers of household goods shall not be prohibited from offering to their shippers guarantees or options for per diem payments to shippers in the event the carrier does not pick up or deliver the shipper's shipment as agreed. If the carrier charges the shipper for such protection, the charges shall be contained in the carrier's lawfully published tariff. The charges, if any, for such protection may vary to reflect one or more options available to meet a particular shipper's needs.".

(b) The index to chapter 111 of title 49, United States Code, is amended by inserting

"11109. Household goods carrier operations."

immediately after

"11108. Water carriers subject to unreasonable discrimination in foreign transportation.".

DISPUTE RESOLUTION

SEC. 9. (a) Chapter 117 of title 49, United States Code, is amended by inserting the following new section immediately after section 11710 thereof:

"§ 11711. Dispute settlement for transportation of household goods

"(a) An action at law, initiated by a shipper, for loss, damage, or injury that relates to the transportation of household goods may include a claim for the recovery of attorney's fees, which shall be awarded if the shipper prevails in the action unless—

"(1) (A) the defendant carrier shall have filed with the Commission, printed and kept open to public inspection tariffs or schedules giving notice that, upon the complainant's agreeing to be similarly bound, it shall accept as final, without further judicial proceedings not inconsistent with this section, an adjudication of liability and of the amount of loss, damage, or injury to be arrived at under such informal dispute-settlement procedures, including arbitration, as shall have been published in such tariffs or schedules and approved by the Commission pursuant to subsection (c) of this section; or

"(B) the defendant carrier has developed and has in force a mechanism for the resolution of disputes that complies with the requirements of an act that (1) is enacted by the Congress subsequent to the enactment of this section and (2) seeks to promote the use of a mechanism or mechanisms for the resolution of disputes that would be suitable for resolving disputes between carriers and shippers arising from the transportation of household goods; and

"(2) the shipper has not filed a claim with the carrier within 120 days after such loss, damage or injury is ascertained and the carrier has not paid or denied the claim within 120 days after receipt of the claim.

"(b) (1) The Commission shall approve dispute-settlement programs within 30 days after the filing of such a program with the Commission by any carrier or carriers of household goods, if the program is established in accordance with the requirements of this section.

"(2) The Commission may review each such program on a regular and periodic basis.

"(3) The Commission may investigate the functioning of any dispute-settlement program and may suspend or revoke its approval for failure to conform to the requirements of this section.

"(c) Dispute-settlement programs in use by a carrier or carriers of household goods shall substantially fulfill the following objectives:

"(1) the dispute-settlement procedure shall be easy to read and understand, inexpensive, and expeditious for the use of any person for whom the household goods have been transported;

"(2) the dispute-settlement program shall be designed so as to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business;

"(3) the dispute-settlement program shall provide for adequate notice of the availability of such procedure and such notice shall be given to persons for whom the household goods are to be transported before any contract becomes binding and in adequate time to allow for an informed decision as to whether the person for whom the household goods are to be transported will agree to be bound by the dispute-settlement program;

"(4) the dispute-settlement program shall include a clear, easy-to-read, accurately written summary of the steps involved in using the procedure and such summary along with any forms necessary for initiating an action shall be provided to shippers filing claims;

"(5) each individual who is authorized, pursuant to an approved dispute-settlement program, to arbitrate or otherwise settle claims, shall be independent of the carrier or carriers sponsoring the procedure. The procedure shall insure that such person or persons chosen to settle the claims shall be authorized and able to obtain any material and relevant information to the extent necessary from the claimant or carrier to carry out the decisionmaking process properly. Materials and information obtained in the course of the dispute-resolution process may not be used to bring an action under section 11910 of this title; and

"(6) two or more carriers may join together in creating, maintaining, and sharing the cost of a dispute-settlement program.

"(d) The amount of the attorney's fee to be awarded shall be determined by the court and shall be no more than the reasonable fee for services necessarily performed, except that the court may award less than the reasonable fee or no fee if—

"(1) the recovery is less than the amount offered in a written offer of settlement made by the carrier to the claimant prior to commencement of the suit; or

"(2) the action was brought in a court of general jurisdiction when it could conveniently have been brought in a small claims court.

"(e) Where an informal dispute-settlement program pursuant to this section is available and the claimant brings an action in court in lieu of and after having agreed to such program, the transporting carrier who successfully defends an action for loss, damage, or injury to the extent that the judgment is less than the last written offer of settlement by the carrier prior to the institution of such suit under this section may be awarded reasonable attorney's fees for services necessarily performed to defend such action.

"(f) Where an informal dispute-settlement program is not available, the transporting carrier who successfully defends itself against an action for loss, damage, or injury pursuant to this section shall be awarded reasonable attorney's fees for necessarily performed services in defending itself against such action if the claimant commenced such action in bad faith.

"(g) An action to enforce an award of an arbitrator of a court for claims subject to this section may include a claim for the recovery of attorney's fees incurred in the enforcement action.

"(h) The provisions of this section shall apply only in the case of 'collect-on-delivery' transportation of those types of household goods described in section 10102(10) (A) of this title.

"(i) Subsections (a), (d), (e), (f), and (g) of this section concerning the recovery of attorney's fees shall become effective 270 days after the date of enactment of this section. The other provisions of this section shall become effective on the date of enactment of this section.".

(b) The index of chapter 117 of title 49, United States Code, is amended by inserting

"11711. Dispute settlement for transportation of househld goods.".

immediately after

"11710. Liability when property is delivered in violation of routing instructions.".

PENALTIES

SEC. 10. Section 11901 of title 49, United States Code, is amended by—

(1) inserting the following sentence at the end of subsection (g) thereof: "After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to the date of enactment of the preceding sentence shall be collected only in accordance with the procedures and standards set forth in subsection (h)(1) of this section.";

(2 redesignating subsection (h) of such section, including all references thereto, as subsection (i); and

(3) inserting immediately after subsection (g) the following new subsection:

"(h)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission, or an officer, agent, or employee of that person that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than $500 for each violation and for not more than $250 for each day during which the violation continues. In negotiating the amount of such civil penalties the Commission shall take into account the degree of culpability, any history of prior or such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require. In the case of an individual shipment, no penalty shall be imposed under this paragraph for failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission, unless the shipper has suffered actual harm and has not been adequately compensated for that harm.

"(2) A carrier of household goods providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of that carrier who fails or refuses to comply with regulation prescribed by the Commission with respect to standards for reasonable dispatch is liable to the United States for a civil penalty of not more than $2,000 for each violation and of not more than $1,000 for each additional day during which the violation continues. In negotiating the amount of such civil penalties the Commission shall take into account the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require. No penalty shall be imposed with respect to an individual shipment if the shipper is satisfied with the shipment.

"(3) The United States or any State may bring a civil action in the United States district courts to compel as individual or a person to pay civil penalties for engaging in or knowingly authorizing (A) deliberate falsification of documents used in the transportation of household goods which evidence the weight of a shipment, (B) deliberate charging for accessorial services not performed or for which the carrier is not entitled to be compensated when such services are not reasonably necessary in the safe and adequate movement of the shipment, or (C) deliberate refusal to allow the shipper to witness a reweighing of the shipper's shipment if requested in writing prior to the unloading of the shipment. Such persons shall be liable to the United States for a civil penalty of not more than $2,000 for each violation and for not more than $5,000 for each subsequent violation.".

WEIGHT BUMPING

SEC. 11. (a) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11916, the following new section:

"§ 11917. Weight-bumping in household goods transportation

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods subject to the jurisdiction of subchapter II of chapter 105 of this title.

"(b) Any individual who has been found to have committed weight-bumping shall be fined not less than $1,000 or more than $10,000 for each offense, imprisoned for not more than 2 years, or both.".

(b) The index to chapter 119 of title 49, United States Code, is amended by inserting

"11917. Weight-bumping in household goods transportation."

immediately after

"11916. Conclusiveness of rates in certain prosecutions.".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike all after the enacting clause and insert:

That this Act may be cited as the "Household Goods Transportation Act of 1980".

DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds—

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carrier is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum flexibility on the part of the carriers in the pricing of their services best serves the shippers of household goods and allows a variety of quality and price options to meet market demands; and

(4) that the interest of individual shippers can be best protected by allowing carriers of household goods maximum flexibility in serving the needs of their shippers, by providing accurate and complete information concerning carriers' performance and individual shippers' rights and remedies, by reducing the amount of unnecessary regulations, and by strengthening remedies for violations of those regulations that are necessary for protection of individual shippers.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

DEFINITIONS

SEC. 3. (a) Section 10102 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) the following new paragraph:

"(10) 'household goods' means—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and such other similar articles as the Commission may provide by regulation; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods."; and

(2) by redesignating paragraphs (10) through (28) of such section, and any references thereto, as paragraphs (11) through (29), respectively.

(b)(1) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(17)" and inserting in lieu thereof "10102(18)".

(2) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(11)" and inserting in lieu thereof "10102(12)".

RATES

SEC. 4. (a) Chapter 107 of title 49, United States Code, is amended by inserting after section 10733 the following new section:

"§ 10734. Household goods rates—Estimates; guarantees of service

"(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

"(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. he charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs but must be contained in the tariff the carrier publishes for such service under this title.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.".

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting

"10734. Household goods rates—estimates; guarantees of service."

after

AGENTS

SEC. 5. (a) (1) Chapter 109 of title 49, United States Code, is amended by inserting after section 10933 the following new section:

"§ 10934. Household goods agents

"(a) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this subtitle and by such carrier.

"(c) (1) Whenever the Commission has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has violated section 11901 (j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) If such person does not appear at the hearing or if the Commission finds that the agent has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Commission may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title if, after notice and an opportunity for a hearing, it finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) Upon filing of a petition with the Commission by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

"(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title by an agent or membership on the board of directors of any such motor common carrier by an agent.".

(2) The analysis for chapter 109 of title 49, United States Code, is amended by inserting

"10934. Household goods agents."

after

"10933. Authorizing abandonment of freight forwarder service.".

(b) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting ", or section 10934" before the period at the end of the first sentence; and

(2) by inserting "10934(c)," after "10928,".

(c) Subsection (b) of section 11342 of title 49, United States Code, is amended by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraphs:

"(2) In the case of an application for Commission approval of an agreement or combination between a motor common carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor common carriers providing transportation of household goods to pool or divide traffic or services or any part of their earnings approved by the Commission before the date of enactment of this paragraph.

"(3) The Commission shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor common carriers providing transportation of household goods and their agents.".

RULES AND REGULATIONS

SEC. 6. (a) (1) Chapter 111 of title 49, United States Code, is amended by inserting after section 11109 the following new section:

"§ 11110. Household goods carrier operations

"(a) (1) The regulations and paperwork required of motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

"(2) The Interstate Commerce Commission may issue regulations, including regulations protecting individual shippers, in order to carry out this subtitle with respect to the transportation of household goods by motor common carrier.

"(3) Regulations of the Commission protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. In establishing performance standards under this paragraph, the Commission shall take into account at least the following:

"(A) the level of performance that can be achieved by a well-managed motor common carrier transporting household goods;

"(B) the degree of harm to individual shippers which could result from a violation of the regulation;

"(C) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

"(D) service requirements of the carriers;

"(E) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

"(F) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(4) Nothing in this section shall be construed to limit the Commission's authority to require reports from motor common carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b) (1) Every motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate. The Commission shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services, nor shall the Commission require the final charges to a shipper to be based on an estimate.

"(2) Any charge for an estimate of charges provided by a motor common carrier to a shipper for transportation of household goods subject to the jurisdiction of the Commission under chapter II of chapter 105 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) The Commission shall issue regulations that provide motor carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.".

(2) The analysis for chapter 111 of title 49, United States Code, is amended by inserting

"1110. Household goods carrier operations."

after

"11109. Loading and unloading motor vehicles.".

(b)(1) Not later than sixty days after the date of enactment of this Act, the Interstate Commerce Commission shall institute a rulemaking proceeding in which it shall review and revise all of its operational regulations pertaining to transportation of household goods to carry out the purposes of section 11110(a) of title 49, United States Code.

(2) The Interstate Commerce Commission shall conclude the rulemaking proceeding required by this subsection within two hundred and seventy days after the date of enactment of this Act.

(3) To the maximum extent feasible, the provisions of this section, including the amendments made by this section, shall apply to rules and regulations pertaining to transportation of household goods for the United States Government issued by departments, agencies, and instrumentalities of the United States (other than the Interstate Commerce Commission), including rules and regulations established for the distribution of such traffic, to the same extent as such provisions apply to rules and regulations issued by the Interstate Commerce Commission.

DISPUTE SETTLEMENT

SEC. 7. (a)(1) Chapter 117 of title 49, United States Code, is amended by inserting after section 11710 the following new section:

"§ 11711. Dispute settlement program for household goods carriers

"(a)(1) One or more motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title who want to establish a program to settle disputes between such carriers and shippers of household goods concerning the transportation of household goods may submit an application for establishing such program to the Commission. Such application shall be in such form and contain such information as the Commission may, by regulation, require. The Commission shall review and approve, in accordance with the provisions of this section, each application submited under this subsection.

"(2) The Commission shall approve, at least within 45 days of its filing, any application to establish a program for settling disputes concerning the transportation of household goods which meets the requirements of subsection (b) of this section.

"(3) The Commission may investigate at any time the functioning of any program approved under this section and, after notice and an opportunity for a hearing, may suspend or revoke its approval for failure to meet the requirements of this section and such regulations as the Commission may issue to carry out the provisions of this section.

"(b) No program for settling disputes concerning the transportation of household goods may be approved under this section unless the program is a fair and expeditious method for settling such disputes and complies with each of the following requirements and such regulations as the Commission may issue:

"(1) The program is designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

"(2) The program provides for adequate notice of the availability of such program, including a concise easy-to-read, accurate summary of the program and disclosure of the legal effects of election to utilize the program. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

"(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action under the program to resolve a dispute.

"(4) Each person, authorized pursuant to the program to arbitrate or otherwise settle disputes, must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Commission may issue, to resolve such disputes fairly and expeditiously. The program must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

"(5) No fee for instituting a proceeding under the program may be charged the shipper; except that, if the program is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting a proceeding under the program. In any case in which a shipper is charged a fee under this paragraph for instituting a proceeding under the program and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

"(6) The program must not require the shipper to agree to utilize the dispute settlement program prior to the time that a dispute arises.

"(7) The program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

"(8) Any person settling a dispute concerning transportation of household goods under the program must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the dispute settler may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

"(c) Materials and information obtained in the course of a decisionmaking process to settle a dispute under a dispute settlement program approved under this section may not be used to bring an action under section 11910 of this title.

"(d) In any court action to resolve a dispute between a shipper of household goods and a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) no dispute settlement program approved under this section was available for use by the shipper to resolve the dispute; or

"(B) a decision resolving the dispute was not rendered under a dispute settlement program approved under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(C) the court proceeding is to enforce a decision rendered under a dispute settlement program approved under this section and is instituted after the period for performance under such decision has elapsed.

"(e) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute under a dispute settlement program approved under this section; or

"(2) after institution of a proceeding by the shipper to resolve such dispute under a dispute settlement program approved under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends, and (B) a decision resolving such dispute is rendered under such program.

"(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 10102(10)(A) of this title.".

(2) The analysis for chapter 117 of title 49, United States Code, is amended by inserting

"11711. Dispute settlement program for household goods carriers."

after

"11710. Liability when property is delivered in violation of routing instructions.".

(b) The amendments made by this section shall take effect on the date of enactment of this Act, except that subsections (d) and (e) of section 11711 of title 49, United States Code, as inserted in chapter 117 of such title by subsection (a)(1) of this section, shall take effect on the two hundred and fortieth day following such date of enactment.

PENALTIES

SEC. 8. (a) Section 11901 of title 49, United States Code, is amended—

(1) by adding at the end of subsection (g) the following new sentence: "After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to such date of enactment shall be collected only in accordance with the provisions of subsection (h) of this section.";

(2) by redesignating subsection (h) of such section, and any references thereto, as subsection (k) and inserting ", (h), (i)(1), or (j)" after "subsection (g)" in paragraph (2) of such subsection; and

(3) by inserting after subsection (g) the following new subsections:

"(h)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of such person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than $500 for each violation and of not more than $250 for each additional day during which the violation continues. No penalty shall be imposed under this paragraph for any failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission unless the shipper or shippers have suffered harm as a result of such failure.

"(2) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(i)(1) Subject to the provisions of paragraph (3) this subsection, if a common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Commission relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not more than $1,000 for each violation and of not more than $500 for each additional day during which the violation continues.

"(2)(A) If the Commission determines—

"(i) that a common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier has failed or refused to comply with a regulation issued by the Commission relating to protection of individual shippers in excess of any performance standard established in such regulation; and

"(ii) with respect to each such failure or refusal, that the shipper or shippers have suffered harm as a result of such failure or refusal;

the Commission may, in writing, notify the carrier, receiver, or trustee of its determinations and may elect to assess civil penalties under this paragraph for such failures and refusals in lieu of proceeding under paragraph (1) of this subsection with respect to such failures and refusals. If the Commission elects to assess civil penalties under this paragraph, such civl penalties may only be assessed after notice and opportunity for a hearing.

"(B) Subject to the provisions of paragraph (3) of this subsection, the amount of a civil penalty which may be assessed under this paragraph for a failure or refusal shall not be more than $1,000 for such failure or refusal and $500 for each additional day during which such failure or refusal continues.

"(C) Notwithstanding the provisions of section 1336 of title 28, United States Code, a proceeding to enjoin or suspend, in whole or part, an order issued by the Commission assessing one or more civil penalties under this paragraph may only be brought in the United States court of appeals as provided by and in the manner prescribed in chapter 158 of such title.

"(3) The amount of a civil penalty which may be assessed under paragraph (1) or (2) of this subsection for a failure or refusal shall not be more than $500 for such failure or refusal and $250 for each additional day during which such failure or refusal continues if, between the time the carrier, receiver, or trustee receives notice from the Commission of such failure or refusal and the commencement of the assessment hearing or trial, as the case may be, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal.

"(4)(A) No civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers unless the shipper or shippers have suffered harm as a result of such failure or or refusal.

"(B) In addition, no civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers—

"(i) if, before receiving notice from the Commission of such failure or refusal, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal; or

"(ii) in the case of a carrier, receiver, or trustee that does not know or have reason to know that the shipper or shippers have suffered harm as a result of such failure or refusal before receiving notice from the Commission of such failure or refusal, if such carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for such harm before commencement under this subsection of the assessment hearing or trial, as the case may be.

"(5) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require shall be taken into account.

"(j) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not more than $2,000 for each violation and of not more than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.".

(b)(1) Section 11348(a) of title 49, United States Code, is amended by striking out "(h)(1)" and inserting in lieu thereof "(k)(1)".

(2) Section 2342(5) of title 28, United States Code, is amended by inserting "and all final orders of such Commission made reviewable under section 11901(i)(2) of title 49, United States Code" after "section 2321 of this title".

WEIGHT BUMPING

SEC. 9. (a) Chapter 119 of title 49, United States Code, is amended by inserting after section 11916 the following new section:

"§ 11917. Weight-bumping in household goods transportation

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.".

(b) The analysis for chapter 119 of title 49, United States Code, is amended by inserting

"11917. Weight-bumping in household goods transportation."

after

"11916. Conclusiveness of rates in certain prosecutions.".

GOVERNMENT TRAFFIC

SEC. 10 (a) Section 10922(b) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) Notwithstanding the provisions of paragraph (4) of this subsection, the provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide transportation for the United States Government of used household goods which transportation is incidental to a pack and crate service on behalf of the Department of Defense.".

(b) Subsection (b) of section 10721 of title 49, Uinted States Code, is amended—

(1) by inserting before the period at the end of paragraph (1) of such subsection the following: "; except that any rates for the transportation of household goods for the United States Government shall not be predatory".

(2) by adding at the end of such subsection the following new parargraph:

"(3) Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates for the transportation of household goods for the United States Government on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title. However, pending final Commission action in a proceeding under section 10708 of this title to determine whether a proposed rate for the transportation of household goods for the United States Government under this subsection is predatory or not, the Commission may suspend the proposed rate under subsection (b) of such section 10708 only if it appears from specific facts shown by the verified complaint of a person that—

"(A) without suspension, the proposed rate will cause substantial injury to the complainant; and

"(B) it is likely that the complainant will prevail on the merits.".

TECHNICAL AMENDMENTS

SEC. 11. (a) Section 10526(a) of title 49, United States Code, is amended by striking out "or" at the end of paragraph (9) and by redesignating the last three paragraphs (the second paragraph (10) and paragraphs (11) and (12)) of such section as paragraphs (11), (12), and (13), respectively.

(b) Section 10528 of title 49, United States Code, is amended by striking out "(10), (11), or (12)" and inserting in lieu thereof "(11), (12), or (13)".

Mr. HOWARD (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The

question is on the committee amendment.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

U.S. SECRET SERVICE UNIFORMED DIVISION SALARY ADJUSTMENTS

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7782) to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Secret Service Uniformed Division as are given to Federal employees under the general schedule, and I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the purpose of this Act is to insure that officers and members of the United States Secret Service Uniformed Division are entitled to adjustments in basic compensation in the same overall percentage as are other Federal employees within the General Schedule under the Federal pay comparability system.

(b) Section 501 of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4-833) is amended—

(1) by striking out "Executive Protective Service" in subsection (a) and inserting in lieu thereof "United States Secret Service Uniformed Division";

(2) by inserting ", and the annual rate of basic compensation of officers and members of the United States Secret Service Uniformed Division be adjusted by the Secretary of the Treasury," in subsection (b)(1) after "Secretary of the Interior"; and

(3) by inserting "or to officers and members of the United States Secret Service Uniformed Division" in subsection (c) after "United States Park Police force".

(c) The amendments made by subsection (b) shall take effect on October 1, 1980.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2 line 17, strike out "shall" and insert in lieu thereof "may".

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, briefly, H.R. 7782 is a technical amendment which will insure that the officers and members of the U.S. Secret Service Uniformed Division are entitled to the same adjustments in their basic compensation, in the same overall percentage, as are all other Federal employees under the Federal pay comparability system. It provides that annual salary adjustments for these Secret Service members will be determined by the Federal Government as if under the General Schedule.

Currently, these annual increases are based upon the decisions made by the District of Columbia's municipal government, even though they are Federal employees and receive their paychecks from the Federal Treasury. All other Federal employees receive adjustments in their basic compensation based upon decisions made by the President of the United States.

Since 1958, the pay of the Secret Service Uniformed Division has been governed by the D.C. Police and Firemen's Salary Act. This was appropriate since, prior to home rule for the District, all police forces within the District were considered Federal forces. Even the District government was considered as a Federal agency and Congress was responsible for determining the pay and compensation of all these employees.

However, after passage of the Home Rule Act in 1973, the situation changed and the U.S. Park Police and the U.S. Secret Service Uniformed Division found themselves, as Federal police forces, with their pay governed by the decisions of the local District of Columbia government even though they are paid by the U.S. Government.

The Uniformed Division is in a very unique situation, particularly since, beginning this year, the Internatonal Brotherhood of Police Officers represents the Metropolitan Police Department in salary negotiations with the Mayor and District Council. As Federal employees, members of the Uniformed Division have no input in these negotiations, yet now they are affected by these decisions.

As a precedent, I should point out that similar action was taken on behalf of the Park Police in 1976 by this body. Public Law 94-533 insured that members of the U.S. Park Police force should be entitled to adjustments in basic compensation in the same overall percentage as are other Federal employees within the General Schedule under the Federal pay comparability system.

The committee found that members of the Uniformed Division are the last Federal employees who do not have their annual salary adjustments governed by the Federal Government. Without this legislation, the U.S. Secret Service Uniformed Division will be the only Federal employees who will not receive the annual salary adjustment for fiscal year 1981.

Mr. HARRIS. Mr. Speaker, will my colleague, the gentleman from California, yield on that?

Mr. DELLUMS. I yield to my distinguished colleague from Virginia.

Mr. HARRIS. Mr. Speaker, I rise in support of my colleague's statement. He has stated the problem and the situation precisely correctly.

This is a minor, but a very important amendment to existing law which, I think, helps us to rectify a serious injustice.

I applaud my colleague for bringing this matter to the floor and urge its passage.

☐ 1120

Mr. DELLUMS. I thank my distinguished colleague for his compliment.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I am glad to yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the chairman, the gentleman from California (Mr. DELLUMS) and commend him for his interest and response to the needs of these individuals.

I rise in full support of H.R. 7782 legislation to provide for long overdue salary adjustments for the members of the U.S. Secret Service. I rise to take this position not only as a concerned Member of Congress but more germanely as a former law enforcement officer myself having served 23 years in the New York City Police Department.

The Secret Service are among the most effective and competent of all law enforcement organizations not only in this Nation but in the world. They are vested with the extraordinarily important responsibility of protecting the life of the President of the United States and his family.

Yet, despite the magnitude of their responsibilities, the Secret Service remains the last group of Federal employees who do not have their annual salary adjustments governed by the Federal Government. In reality, despite the fact that the Secret Service is responsible for the protection of the highest Federal officials and Federal property their salary adjustments are dictated by decisions of the District of Columbia government. This situation needs to be rectified. H.R. 7782 will do so.

Law enforcement like any other profession can only attract high caliber people if the compensation levels are sufficient. Many Secret Service officers risk their lives on a daily basis in the performance of their duties. They do no need the added worry of having financial ends meet.

I consider this to be very important legislation one which if passed would be an appropriate demonstration of this Congress support and appreciation for the work of the Secret Service.

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Maryland.

Mr. BARNES. I thank the chairman for yielding. I just want to commend the chairman for his leadership on this issue. It is important that all Federal employees be treated equally and this legislation will make sure that that is, in fact, the case.

I note the administration has supported this modest change in the law. It is modest, but it is important and, again, I salute the chairman and other members of the committee for bringing this legislation to the floor and I want to join in strong support.

Mr. DELLUMS. I thank my distinguished colleague.

Mr. Speaker, I yield back the balance of my time.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word, and I rise to speak in favor of the bill.

Mr. Speaker, this bill which we bring to the floor today, H.R. 7782, is another in the legacy of legislative initiatives necessary to clarify the Federal/city relationship following congressional passages of the home rule bill in 1973.

This is a very noncontroversial piece of legislation. Quite simply, it removes the 800 member uniformed division of the U.S. Secret Service from their past ties to the District of Columbia Police and Fireman's Salary Act. This relationship which has existed since 1958 must be broken at this time in order to properly categorize the Uniformed Division of the U.S. Secret Service as Federal officers entitled to benefit from the same 9.1 percent salary adjustment that will be passed on to all Federal employees effective October 1.

Under the present rules, as long as the uniformed division of the Secret Service is tied to the D.C. Police and Fireman's Salary Act, their pay will be determined by the Mayor of the District of Columbia. This relationship worked from the passage of the home rule bill until now. During those interim years, the pay raise granted to the Federal employees and the D.C. employees was equal. However, the recent passage of the D.C. Personnel Act, which went into effect on January 1, means that D.C. employees no longer receive the same automatic pay raise granted to Federal employees. In fact, while Federal employees will receive 9.1 percent next month, the fiscal restraints presently being felt by the D.C. government mandates that D.C. employees will be limited to a raise in the neighborhood of 5 percent.

In recent years, as international terrorism has spread and demonstrations against foreign governments here in the Nation's Capital have become commonplace, we have all witnessed the fact that the uniformed division of the Secret Service plays a vital role in this city. I doubt that there are few of us who can say that these men and women have not earned their right to the same pay adjustment being offered their counterparts directly covered by the Federal system.

Mr. Speaker, I commend the sponsor of this legislation, Mr. ZEFERETTI, and I thank the chairman of the D.C. committee for acting so swiftly in resolving this problem prior to the October 1 deadline.

Mr. ZEFERETTI. Mr. Speaker, I move to strike the last word.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. ZEFERETTI. I yield to the gentleman from Virginia.

Mr. HARRIS. I want to take this opportunity to applaud the gentleman for his leadership. He is one that really spotted this problem, designed the legislation, and brought it to our committee. I think he did it because of his experience and his longtime connection with law enforcement in this country. I just would like to take this opportunity to congratulate him for his efforts.

Mr. ZEFERETTI. I thank the gentleman for his kind words.

Mr. Speaker, I have the honor today of speaking in support of H.R. 7782, a relatively simple but much-needed piece of legislation I introduced to amend the District of Columbia Police and Firemen's Salary Act of 1958 so that members of the U.S. Secret Service Uniformed Division will receive pay increases comparable to those received by other Federal employees. Without the timely passage of this bill, these men will be excluded from the Federal pay comparability raise that will take effect on October 1.

I want to express my thanks to Chairman DELLUMS and the ranking minority member of the committee, Mr. McKINNEY for making it possible to bring this long-overdue measure before us today.

Mr. Speaker, for a number of years the pay of the Uniformed Division has been governed by the District of Columbia Police and Firemen's Act of 1958. Prior to enactment of the District of Columbia Home Rule Act in January 1975, it made sense to cover the Uniformed Division and the Metropolitan Police Department concurrently in the same legislation since the District government was considered a Federal agency at that time and Congress was responsible for determining the compensation for both police forces.

Because the enactment of the Home Rule Act, it is no longer sensible to continue to combine both forces for pay purposes. The local District of Columbia government should have authority over salary adjustments for members of the Metropolitan Police Department—its local police force—and the Federal Government should have the authority over the annual salary adjustments of the uniformed division, since members of the division are, in fact, Federal employees. It is important to bear in mind that these men are paid by the Department of the Treasury. They are not paid by the District of Columbia municipal government. Therefore, members of the uniformed division are bearing the brunt of conditions imposed upon them by one government, because of its fiscal problems, when, in fact, the members receive their checks from another sovereign government—the United States.

Mr. Speaker, the 800 or so officers and members of this prestigious force are regarded as being one of the very finest—only 1 applicant out of every 25 is selected for appointment because of the high standards required to perform the necessary duties and rigorous training. Those selected must be of the highest caliber, mentally and physically. All Secret Service Uniformed Division personnel must possess top-secret security clearances because of their access to conversations between the President and high officials, both United States and foreign, which frequently involve critically sensitive information relating to national security and foreign affairs. This clearance is also necessary because of their critically important responsibility of protecting the President, the Vice President, their families, and high U.S. Government officials. Frequently, this protective responsibility involves access to sensitive documents and sophisticated communications equipment.

To assure the effective performance in maintaining the security of the Executive residence, all employees are trained in modern methods of security and police procedures—they are skilled in crowd control, firefighting, and public speaking.

Since the Service also has responsibility for assuring the safety of foreign diplomats and foreign embassies within the Washington, D.C. area, they have been trained in up-to-date crime fighting, canine explosive detection, and other techniques designed to prevent criminal acts against the diplomatic community.

Mr. Speaker, the U.S. Secret Service Uniformed Division has been and continues to be a remarkably unique police force. Perhaps no other police work in the United States carries as much responsibility as does the uniformed division. I respectfully urge all of my colleagues to support H.R. 7782, to bring members of the uniformed division into the Federal pay comparability system. Only by this means, will this gross inequity now afflicting them be corrected and the high quality of the force insured to the benefit of all of us.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield briefly to me?

Mr. ZEFERETTI. I yield to the gentleman.

Mr. DELLUMS. I thank my colleague for yielding. I simply rise to associate myself with the remarks of the gentleman from Virginia (Mr. HARRIS) in applauding the gentleman in the well for his leadership in the legislation before the body at this moment. I thank the gentleman for yielding.

Mr. ZEFERETTI. Again I thank the distinguished chairman for his help in bringing this matter to the floor.

The SPEAKER pro tempore. The question is on the committee amendment.

The amendment was agreed to.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the U.S. Secret Service Uniformed Division as are given to Federal employees under the general schedule."

A motion to reconsider was laid on the table.

WMATA STUDY OF PROPOSED RAPID RAIL EXTENSIONS IN MARYLAND, VIRGINIA, AND THE DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7658), to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the rail rapid transit line specified in the Adopted Regional System, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1441 et seq.) is amended by adding after section 16 the following new section:

"STUDY OF EXTENSIONS OF TRANSIT LINES

"SEC. 17. (a)(1) The Secretary of Transportation shall contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering, of extending rail rapid transit lines—

"(A) from the vicinity of Virginia Route 7 on the Virginia Interstate 66 Route of the Adopted Regional System to the Dulles International Airport;

"(B) from the vicinity of Virginia Interstate Route 95 and the proposed Springfield rail rapid transit station of the Adapted Regional System to the vicinity of Virginia Route 645 in Burke, Virginia;

"(C) from the proposed Addison Road rail rapid transit station of the Adopted Regional System to the Capital Centre in Largo, Maryland and on to the vicinity of Bowie, Maryland;

"(D) from the proposed Shady Grove rail rapid transit station of the Adopted Regional System to the vicinity of Gaithersburg, Maryland, and Germantown, Maryland; and

"(E) within the District of Columbia on routes determined by the Transit Authority to be practicable after consultation with the Mayor and the Council of the District of Columbia.

"(2) The contract entered into pursuant to paragraph (1) shall require the Transit Authority in conducting the study to take into consideration estimated demand for each proposed rail rapid transit line extension, projected population growth along each proposed rail rapid transit line extension, and the engineering feasibility of each proposed rail rapid transit line extension.

"(b) The contract entered into pursuant to subsection (a)(1) shall require the Transit Authority to submit to the Secretary of Transportation and the Congress, not later than 18 months after the date the contract is entered into pursuant to subsection (a)(1), a report on the study conducted under such contract, which report shall contain proposed routes for each proposed rail rapid transit line extension specified in subsection (a)(1).

"(c)(1) The contract entered into pursuant to subsection (a)(1) shall provide for a Federal contribution to be paid by the Secretary of Transportation to the Transit Authority to pay for the costs of carrying out the contract.

"(2) The amount of the Federal contribution paid pursuant to paragraph (1) shall not exceed an amount equal to 80 percent of the costs of carrying out the contract entered into pursuant to subsection (a)(1).

"(d) Effective October 1, 1981, there is authorized to be appropriated to the Secretary of Transportation to carry out this section $1,500,000.".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

That the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1441 et seq.) is amended by adding after section 16 the following new section:

"STUDY OF EXTENSIONS OF TRANSIT LINES

"SEC. 17. (a)(1) The Secretary of Transportation shall contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering, of extending rail rapid transit lines—

"(A) from the vicinity of Virginia Route 7 on the Virginia Interstate 66 Route of the Adopted Regional System to the Dulles International Airport;

"(B) from the vicinity of Virginia Interstate Route 95 and the proposed Franconia rail rapid transit station of the Adoptd Regional System to the vicinity of Virginia Route 645 in Burke, Virginia;

"(C) from the vicinity of Virginia Interstate Route 95 and the proposed Franconia rail rapid transit system of the Adopted Regional System to the vicinity of the intersection of Virginia Interstate Route 95 and Lorton Road, in Virginia;

"(D) from the proposed Addison Road rail rapid transit station of the Adopted Regional System to the Capital Centre in Largo, Maryland, and on to the vicinity of Bowie, Maryland;

"(E) from the proposed Shady Grove rail rapid transit station of the Adopted Regional System to the vicinity of Gaithersburg, Maryland, and on to the vicinity of Germantown, Maryland, and on to the vicinity of Clarksburg, Maryland;

"(F) from the proposed Rosecroft rail rapid transit station of the Adopted Regional System to the vicinity of the intersection of United States Route 301 and Maryland Route 5, in Maryland;

"(G) within the District of Columbia on routes determined to be practicable by the Mayor, after consultation with the Transit Authority, and approved by the Council of the District of Columbia; and

"(H) to the extent funds are available, on routes determined by the Transit Authority to be appropriate and feasible.

"(2) The contract entered into pursuant to paragraph (1) shall require the Transit Authority in conducting the study to take into consideration estimated demand for each proposed rail rapid transit line extension, projected population growth along each proposed rail rapid transit line extension, and the engineering feasibility of each proposed rail rapid transit line extension.

"(b) The contract entered into pursuant to subsection (a)(1) shall require the Transportation and the Congress—

"(1) a report on the part of the study, conducted under such contract, on the feasibility of extending a rail rapid transit line to the Dulles International Airport, not later than 6 months after the date the contract is entered into; and

"(2) a report on the entire study, conducted under such contract, which shall contain proposed routes for each proposed rail rapid transit line extention specified in subsection (a)(1), not later than 18 months after the date the contract is entered into.

"(c)(1) The contract entered into pursuant to subsection (a)(1) shall provide for a Federal contribution to be paid by the Secretary of Transportation to the Transit Authority to pay for the costs of carrying out the contract.

"(2) The amount of the Federal contribution paid pursuant to paragraph (1) shall not exceed an amount equal to 80 percent of the costs of carrying out the contract entered into pursuant to subsection (a)(1).

"(d) Effective October 1, 1981, there are authorized to be appropriated to the Secretary of Transportation to carry out this section $1,840,000.

Mr. DELLUMS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The Chair now recognizes the gentleman from California (Mr. DELLUMS).

☐ 1130

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 7658 directs the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of the feasibility of extending rail rapid transit lines to Dulles International Airport, other sites in neighboring Virginia and Maryland jurisdictions, and the addition of a route or routes in the District of Columbia, as may be appropriate. The legislation is the work of the Subcommittee on Metropolitan Affairs, chaired by my distinguished colleague, the gentleman from California (Mr. STARK), and sponsored by the distinguished gentleman from Virginia (Mr. HARRIS), who will manage the bill and further explain it.

Mr. Speaker, I am pleased to rise in support of H.R. 7658, legislation of which I am a sponsor, to authorize a study of various extensions of the Metro transit system.

I believe that it is indeed timely for us to initiate a study of future public transit needs in the metropolitan area. It is far better to act now to try to prevent future transportation problems than to wait until severe problems occur and react to them. Responsible public officials must do what they can to anticipate and plan to meet future needs. It is not at all too early for us to take a close look at possible extensions of the Metro system to learn what might be essential to meet the future transportation needs of this region.

The District of Columbia government believes there is a need for crosstown lines to serve the city with rail transit in a way that the Capital Beltway provides connections to radial highway routes in the region. Two major activity areas—Georgetown and Fort Lincoln New Town—are not served by existing radial Metrorail routes. In order to link these areas together with the rest of the system, we propose that a 7-mile alinement with nine station locations be studied. This route could improve transit service and encourage development in the following areas of the city:

The Georgetown area;

The West End area;

The Thomas Circle area;

The Washington Convention Center area;

H Street commercial corridor;

The New York Avenue industrial corridor, and

The Fort Lincoln New Town area.

This bill, as amended, would allow for the study of this suggested Metrorail route for the District of Columbia, as well as in the entire Greater Washington area.

Mr. Speaker, H.R. 7658, if approved, would give us the opportunity to take a calm and careful look at the future transit needs of the area. It will help us to get out ahead of a situation before major problems develop. That is good public policy. That is good sense.

I urge that my colleagues support the provisions of H.R. 7658.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, it is with a great deal of pleasure that I stand here today with my colleagues from the House District Committee and from the neighboring Maryland and Virginia jurisdictions to speak in support of H.R. 7658, the legislation we are considering today.

It is not the first time that I have addressed this body on the subject of Metro, and I am sure it will not be the last. Rarely have any of us questioned what has come to be accepted fact—Metro is essential to the well-being of the entire Washington area.

Today we are considering legislation which would authorize a study of the feasibility of extending additional rail rapid transit lines well into Virginia, Maryland and through the District of Columbia. Considering the tremendous growth of the District of Columbia suburbs in recent years, the need for bringing Metro to the people is as relevant today as when Congress first faced this issue.

The people are using Metro. During the gasoline crisis of the spring and summer of 1979 Metro saw a tremendous spurt in ridership. This increase was not a temporary fluke. Metro ended up keeping most of those riders, and continues to add new ones daily. As Metro moves further and further into the outlying areas, ridership will almost surely increase.

Of all the extensions of Metro envisioned in the proposed study, I feel that the one to Dulles International Airport stands out as being the singular extension that will best serve the entire area. This extension should have top priority. I have long felt, and have publicly stated, that Metro's original planners erred in not incorporating the Dulles link into the master plan for this system. It was needed in 1971, it is needed more now, and will be critically needed by 1990. When Dulles was built in 1962 it was to have been the region's primary jetport. Instead, it handles only 15 percent of the area's jet traffic, with National handling by far the heaviest load.

Just recently the FAA completed an $8 million addition to the main terminal, but Dulles is still in trouble. Only when we make Dulles as convenient as National, and the extension will almost certainly be a major step in that direction, will we have a tremendous boost to Dulles' air traffic. In addition, this growth will help relieve the congestion at National and ally the fears of many that the present overcrowding will inevitably lead to a major disaster.

I think it is interesting to point out to the Members that the time to Dulles Airport if this link were completed from Metro Center would be 30 minutes.

Mr. Speaker, we all recognize and acknowledge that mass transit is the transportation of the future. We are already paying the price for having delayed this inevitability thus far. I hope that all of my colleagues will recognize the merits of H.R. 7658 and join in supporting this farsighted legislation.

Mr. Speaker, I also would just like to add that there are other viable reasons for the Dulles link in that it could serve Reston, Wolf Trap, and Tysons Corner and do an excellent job. The main problem is that National cannot much longer go on in the present condition, and Dulles, on which we have spent millions and millions and millions of the taxpayer's money, including having purchased when Dulles was built the entire access route to it, should be better used and will only be better used and better utilized when someone can get there in a convenient time for the flights to California and points west.

Mr. HARRIS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise today in support of H.R. 7658, legislation that I have introduced along with Mr. STARK, Mr. McKINNEY, Mr. BARNES, Mr. FISHER, Mr. FAUNTROY, and Mrs. SPELLMAN. This legislation authorizes funding for an economic feasibility study of extending the National Capital area's Metrorail system to Burke, Lorton, and Dulles Airport in Virginia by way of Reston; to Bowie and Clarksburg, by way of Gaithersburg/Germantown and to the Brandywine area of Maryland and an appropriate corridor within the District of Columbia. When we adopted the 101 mile Metro system in 1969, we took into consideration future extension into growth areas of the National Capitl region. And now is the time to start considering rapid rail transit corridors to relieve increasing congestion on Virginia's Interstate 95 and Route 7 along with Maryland's Route 50 and Route 5, and Interstate 270.

This bill provides for the study of 77-plus miles of possible Metrorail extension and will enable Metro to begin planning for the Washington area's future rail transit needs.

This bill would authorize $1.84 million in Federal funds to the Washington Metropolitan Area Transit Authority for an 18-month study of possible route extensions, each of which were included as future extensions in the region's master transportation plan adopted in 1968, and routes in areas of projected population growth as well as consideration of routes within the District of Columbia. State or local governments would provide $460,000 as their share of the study.

Metro is serving the area well, but as we know, the area is growing rapidly and new transportation needs must be faced. There has been tremendous suburban growth since we first began planning Metro 20 years ago. Today's communities go well beyond the beltway and are becoming home to thousands of people who commute to Washington daily.

An above-ground Metrorail extension on existing right-of-ways could prove to be an extremely cost-efficient method of saving energy and preserving the environment. Metro has proven its worth both as an energy saving transportation system and as a boon to regional economic growth. It is time we began to plan for the transportation needs of the eighties by considering the extension of Metro to Burke, Lorton, and Dulles Airport in Virginia as well as the fast-growth areas in Prince Georges and Montgomery Counties.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding. Maybe we should just point out to our colleagues that the Senate in 1972 actually authorized the construction of the Dulles line, but because of the parliamentary situation the House never acted upon that or did anything about it, so it has been studied to the point where one body of Congress has actually authorized it as far back as 8 years ago.

Mr. HARRIS. My colleague is absolutely correct. It was the Senator from Virginia, Mr. Spong, at that time who sponsored the initial economic feasibility study, which was extremely important.

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Maryland.

Mr. BARNES. I thank the gentleman for yielding. As the gentleman knows, I am a cosponsor of legislation. I want to commend the gentleman from Virginia (Mr. HARRIS) for his foresight and leadership in bringing this bill through the legislative process and now to the floor of the House. As the gentleman has said, we need to plan ahead if we are going to be able to provide adequate public transportation, and this is exactly the kind of foresighted legislation that is needed.

In my own area in Montgomery County, Md., with all of the growth projections, we are going to see a tremendous growth in population of the I–270 corridor beyond the presently projected end of the Metro line at the Shady Grove Station, so it is altogether appropriate for us at least to consider—and that is all this bill asks us to do—whether or not it would be appropriate to continue that line just a few miles farther up into that area where all the growth is now taking place.

So I am pleased to join the gentleman from Virginia (Mr. HARRIS) and other members of the District of Columbia Committee who are urging support for this legislation. We have had strong bipartisan support for the legislation, and I would urge all of our colleagues to join in looking ahead to see what the needs for public transportation in the Washington area will be.

The SPEAKER pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. HARRIS. I will be happy to yield to my distinguished colleague from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. The one thing that has bothered the gentleman from Maryland is that quite obviously we have spent many, many millions of dollars, Federal dollars, on this Metro system, and there have been repeated questions raised about its financial viability. I do not really wish to debate that today. Why is it not the duty of the Commonwealth of Virginia, the State of Maryland, and the District government to plan a study of this nature? There is $1,840,000 of Federal dollars being appropriated in this bill authorized for the Secretary of Transportation.

I notice, for instance, that part of this is a study of possible routes wholly within the District of Columbia. It seems to me that there is some obligation on the part of those jurisdictions to do their own planning and investigation as opposed to coming back to the Federal taxpayers each time to ask them to finance further activities related to Metro. Enough is enough.

Mr. HARRIS. May I say to my colleague that, of course, it is a question of how we approach transportation. The bill requires 80-20 percent matching, which is the way we have always proceeded with respect to mass transportation. Of course, with regard to highways, we go 90-10 percent. It has occurred to this Member that we might consider going that direction with regard to mass transportation but, of course, that is probably down the pike a bit as far as our thinking is concerned. But I do think when we are talking not about a locality but the Nation's Capital that we at least ought to go the 80-20 to make sure that this system that my colleague from Maryland has invested so much of his sustenance and life in—that we all have—is not just a good system but that it is the best in the world. I say this country deserves the best mass transportation system in the world in this Nation's Capital.

□ 1140

I say it can get it. I say with a little bit of foresight we can do it economically and not do it by last-minute decisions and uneconomic construction.

I am pleased to have the support of a man like the gentleman from Maryland in this endeavor.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. HARRIS. I will be happy to yield to the gentleman from Maryland.

Mr. BAUMAN. The gentleman has just said many things, but he has not answered my question and that is, Why the wealthiest county in the State of Maryland, Montgomery County, for instance, cannot contribute partial funding to this study as opposed to the taxpayers of all the United States, all 50 States?

Mr. HARRIS. I am sorry. I tried to answer that question. They are required to put in 20 percent.

Mr. BAUMAN. My question is, Why do they not pay for all of it if they want a study of the matter?

Mr. HARRIS. Let me say, as my colleague knows, there are years of precedent of this being a system for the National Capital area. It is not just for the citizens of Montgomery County or the citizens of Fairfax County. It is there for the citizens of the Eastern Shore who want to come here and visit.

Mr. BAUMAN. Well, the gentleman is not proposing a Metro system to the Eastern Shore, I hope. God forbid.

Mr. HARRIS. I think if the gentleman from Maryland and I put our heads together we might come up with something.

The SPEAKER pro tempore (Mr. FOLEY). The time of the gentleman has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 8 additional minutes.)

Mr. BAUMAN. Will the gentleman yield further?

Mr. HARRIS. I do yield to the gentleman from Maryland.

Mr. BAUMAN. A few years ago, a candidate for Congress from Montgomery County proposed an underground subway from Montgomery County and Washington to Ocean City. Aside from the salt water problem I cannot think of anything more devastating to my district than such a suggestion.

Mr. HARRIS. Mr. Speaker, my colleague has convinced me. I do not think we should try that.

Mr. BAUMAN. This may be the down payment, and that is what concerns me.

Mr. FISHER. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, I thank my colleague for yielding. I rise to support this bill of which I am a cosponsor. I want to point out several things about it that I feel to be important.

First, there is a very long leadtime involved that stretches from the moment when studies are really first engaged seriously to the time decisions are made and construction performed. In fact, the leadtime is well underway already for this because nearly 10 years ago moves were made in the Congress to get on with an extension of Metro to Dulles. It will take some time even if we launch this study right away, which I hope we will.

By the time all of this has gone through, the need for some of these extensions will be more than apparent. They are already visible in the projections, in the look ahead.

Mr. Speaker, I would like to say a word on behalf of the plight of Dulles Airport and remind my colleagues that both Dulles and National Airports are in the 10th District of Virginia which I represent.

Things are not going well at Dulles. Flights are being canceled, many of them are being placed at National Airport and elsewhere.

There are several things needed. One surely is to put some kind of cap or ceiling on the growth at National Airport. That airport is already highly congested. It is in the heart of a big metropolitan region and creates a monumental nuisance of noise, but most important of all, there is excellent and knowledgeable testimony that it is becoming unsafe. There are various ways to put some kind of check or limit on growth at National. The FAA has proposed a set of policies for doing this that are under debate and consideration in the Congress right at this time. I do not know exactly how that ought to come out but I do firmly believe there has to be some concept of limited growth there for the reasons I have cited.

Until this is done, naturally the airlines are going to want to go into National and not use outlying airports, especially Dulles. So for all kinds of reasons, we should not postpone the time that we adopt a policy of checking growth at National.

The second thing that is needed for Dulles is to improve and promote that airport itself. This bill we are considering today gets us into the business of extending the Metro Rail out there. This will surely improve the service that Dulles Airport can render to Members of Congress, to constituents from all over the country, and this is the way to go.

There are other things that need to be done, also, to improve and promote the use of Dulles. My analysis would indicate—I have been thinking about this hard for a long time as you can imagine—indicates that we ought to examine the pros and cons of having these two airports, National and Dulles, not operated or owned any longer by the Federal Government but taken over by the State of Virginia or some instrumentality of the State. These are the only two civil airports in the country owned and operated by the Federal Government. It is done through FAA. The principal responsibility of FAA is to regulate the safety and other operational features of airports all over the country and to do that evenhandedly. It is asking too much for FAA to promote business at two airports, at the same time regulating in an evenhanded way the affairs of all civil airports all over the country.

Mr. Speaker, this is the old business of trying to mix promotion in with regulation.

We learned in the old Atomic Energy and in other Federal agencies that this mix just does not work. I think the long-run solution lies in that direction.

Finally, as a former board member and board chairman of Metro and as a person who has done economic analyses and planning studies, I have long come to the conclusion, long ago come to the conclusion that we simply have to study and get on with decisions about extending the Metro system. This is the way to do it, it is the efficient way and it comports with pollution standards and it is safer for all kinds of reasons this is the direction in which to go.

I think the first step is to pass this bill, engage the studies and move on from there.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, some reference has been made to Metro's financial condition and why should they want to do this. I would point out to my colleagues in the House that Amtrak's position is not of the best and yet they have seen it to be worthwhile to take an Amtrak line and have a station built next to the Baltimore-Washington International Airport because they feel it will pay exceedingly well. Also, the New York Transit Authority has now run a special train from New York City to Kennedy Airport which has greatly increased the amount of usage of Kennedy as opposed to LaGuardia which is tremendously overcrowded. I think there is precedent and more and more people are saying that airports, particularly in the outlying regions, are only going to be as effective as the method of getting to them.

● Mr. ANDERSON of California. Mr. Speaker, I would like to add my name to those of our colleagues who have expressed their support of H.R. 7658, authorizing a feasibility study on the possible extension of the Washington Metro Subway to Dulles International Airport. In passing H.R. 7658, as reported by the Committee on the District of Columbia, the House will demonstrate that it is concerned about making Dulles a more attractive and viable airport to individuals traveling to and from Washington. This is not a purely local issue, for insuring easy access to the Nation's Capital is of interest to all of our constituents.

The Subcommittee on Aviation, which I chair, held 3 days of hearings in June concerning the future of National and Dulles Airports. One common theme at these hearings was that our constituents will continue to demand access to Washington through National Airport so long as travel to Dulles Airport is so time consuming. We must act to "move" Dulles International Airport "closer in," by reducing this travel time. I believe that we will take a positive step in that direction with the passage of H.R. 7658.

Dulles Airport has great potential. When Dulles was built, 10,000 acres of land were acquired in order to provide noise buffer zones and make it a good neighbor for the surrounding community. Dulles has considerable excess passenger capacity. It is a modern and efficient airport. By acting positively today, we will be taking a step that could lead to the reduction of congestion at National Airport, and the general improvement of air access to the Nation's Capital. So, I urge the passage of this legislation today, with the hope that the Senate will quickly follow suit.●

● Mr. FAUNTROY. Mr. Speaker, I am pleased to rise in support of H.R. 7658, legislation of which I am a sponsor, to authorize a study of various extensions of the Metro transit system.

I believe that it is indeed timely for us to initiate a study of future public transit needs in the metropolitan area. It is far better to act now to try to prevent future transportation problems than to wait until severe problems occur and react to them. Responsible public officials must do what they can to anticipate and plan to meet future needs. It is not all too early for us to take a close look at possible extensions of the Metro system to learn what might be essential to meet the future transportation needs of this region.

The District of Columbia government believes there is a need for crosstown lines to serve the city with rail transit in a way that the Capital Beltway provides connections to radial highway routes in the region. Two major activity areas—Georgetown and Fort Lincoln New Town—are not served by existing radial Metrorail routes. In order to link these areas together with the rest of the system, we propose that a 7-mile alinement with nine station locations be studied. This route could improve transit service and encourage development in the following areas of the city: The Georgetown area, the West End area, the Thomas Circle area, the Washington Convention Center area, H Street commercial corridor, the New York Avenue industrial corridor, and the Fort Lincoln New Town area.

This bill, as amended, would allow for the study of this suggested Metrorail route for the District of Columbia, as well as in the entire Greater Washington area.

Mr. Speaker, H.R. 7658, if approved, would give us the opportunity to take a calm and careful look at the future transit needs of the area. It will help us to get out ahead of a situation before major problems develop. That is good public policy. That is good sense.

I urge that my colleagues support the provisions of H.R. 7658.●

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1150

The SPEAKER pro tempore (Mr. FOLEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 140, not voting 41 as follows:

[Roll No. 590]

YEAS—251

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burton, Phillip
Carr
Chisholm
Clay
Coelho
Conable
Conte
Conyers
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Donnelly
Dornan
Dougherty
Drinan
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.

Fountain
Fowler
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Huckaby
Hutchinson
Hyde
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kildee
Kindness
Kostmayer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Long, La.
Lowry
Lujan
Lundine
Lungren
McCormack
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey

Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Satterfield
Scheuer
Schroeder
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—140

Abdnor
Ambro
Applegate
Ashbrook
Badham

Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune

Bouquard
Broomfield
Brown, Ohio
Burgener
Burlison

Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Dannemeyer
Davis, Mich.
Deckard
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Flippo
Forsythe
Frenzel
Gaydos
Gilman
Gingrich
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Hopkins
Hubbard
Hughes
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lent
Loeffler
Long, Md.
Lott
Luken
McClory
McDonald
McKay
Madigan
Marriott
Martin
Mathis
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
O'Brien
Paul
Petri
Porter
Regula
Ritter
Roth
Rudd
Santini
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stockman
Stump
Tauke
Taylor
Vander Jagt
Volkmer
Walker
Watkins
Whittaker
Whitten
Wydler
Yatron
Young, Alaska

NOT VOTING—41

Anderson, Ill.
Archer
Atkinson
Bowen
Burton, John
Butler
Carter
Cavanaugh
Collins, Ill.
Corman
Derwinski
Dixon
Dodd
Downey
Frost
Gonzalez
Goodling
Holt
Holtzman
Hutto
Ichord
Jenrette
McCloskey
Mitchell, Md.
Musto
Myers, Pa.
Nolan
Pepper
Quayle
Quillen
Roberts
Rousselot
Royer
Seiberling
Stewart
Symms
Thomas
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn

☐ 1200

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Carter against.

Mr. Musto for, with Mr. Archer against.

Mr. Pepper for, with Mr. Derwinski against.

Mr. Dixon for, with Mr. Quayle against.

Mr. Butler for, with Mr. Quillen against.

Mrs. Holt for, with Mr. Rousselot against.

Mr. McCloskey for, with Mr. Winn against.

Mr. Whitehurst for, with Mr. Symms against.

Until further notice:

Mr. John L. Burton with Mr. Goodling.

Mrs. Collins of Illinois with Mr. Thomas.

Mr. Dornan with Mr. Royer.

Mr. Roberts with Mr. Bob Wilson.

Mr. Charles H. Wilson of California with Mr. Frost.

Mr. Myers of Pennsylvania with Mr. Gonzalez.

Mr. Jenrette with Mr. Ichord.

Mr. Hutto with Mr. Nolan.

Mr. Bowen with Mr. Seiberling.

Mr. Atkinson with Mr. Dodd.

Mr. Cavanaugh with Mr. Downey.

Mr. Stewart with Ms. Holtzman.

Mr. McKAY changed his vote from "yea" to "nay."

Mr. BONER of Tennessee changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2977, DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Mr. SIMON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 2977) to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 568, NATIONAL SCIENCE FOUNDATION AUTHORIZATION AND WOMEN IN SCIENCE ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 568) to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers and to authorize appropriations for activities for the National Science Foundation for fiscal years 1981 and 1982, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none, and, without objection, appoints the following conferees: Messrs. FUQUA, BROWN of California, SCHEUER, PEASE, HARKIN, WYDLER, and HOLLENBECK.

There was no objection.

☐ 1210

CONFERENCE REPORT ON H.R. 4310, RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT ACT OF 1980

Mr. BIAGGI. Mr. Speaker, I call up the conference report on the bill (H.R. 4310) to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of September 16, 1980.)

POINT OF ORDER

Mr. FRENZEL. Mr. Speaker, I make a point of order under clause 4 of rule XXVIII that title III of the conference report accompanying H.R. 4310 is a nongermane amendment.

Mr. Speaker, H.R. 4310, as it passed the House, related to boating safety. It did not amend the Internal Revenue Code. Title III now in the conference report relates to a trust fund for reforestation and contains a significant amendment to the Internal Revenue Code. It would have been nongermane to H.R. 4310 when that bill was originally considered by the House.

The purposes of the bill before us is to amend the Federal Boat Safety Act to improve recreational boating safety and facilities through the development and financing of a national improvement program. Title III provides several Federal initiatives to promote reforestation on both private and public timberlands by providing an amortization schedule and investment credit for a limited amount of qualifying reforestation expenditures each year, as well as the establishment of a trust fund to finance the reforestation activities.

There should be no question that title III is nongermane to the purposes of the bill. It has been a long established principle of germaneness that—

> An amendment changing existing law in order to achieve one individual purpose is not germane to a proposition which does not amend that law and which seeks to accomplish another individual purpose. (Deschler's Procedure, chapter 28)

This is exactly the case before us today. In general the bill would amend the Federal Boat Safety Act of 1971 whereas title III would amend the Internal Revenue Code of 1954, as amended. There is no relationship or similarity of purpose between boat safety and reforestation, except that some boats are made of wood. I contend, Mr. Speaker, that title III should be ruled nongermane and considered in violation of clause 7 of rule XVI.

Mr. Speaker, I understand the point of order will not be contested.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, we concede the point of order.

The SPEAKER pro tempore. The point of order is sustained.

MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. FRENZEL moves that the House reject title III of the conference report accompanying H.R. 4310.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes, and the gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, title III provides a 10-percent tax credit on reforestation costs, up to $10,000 per year. It would allow the reforestation costs to be amortized over 7 years. Finally, it establishes a new reforestation trust fund, into which the import duties imposed on lumber and plywoods would be deposited.

The trust fund is calculated to make up for a shortfall of appropriated funds for reforestation. Everybody wants more money than this Congress will appropriate. Subversion of the regular order is not the right way to solve this problem.

First, the full Ways and Means Committee has not considered this issue. The Select Revenue Measures Subcommittee did hold a hearing on the general reforestation issue in June, but I do not believe the subcommittee reached any final decision on the merits.

Second, the Congress is now developing a new consensus on how to streamline our depreciation rules. It is premature to split off one, isolated type of business expense for special accelerated treatment. The tax treatment of reforestation expenses should be treated consistently with the reforms we adopt for all business capital expenditures.

Third, timber now enjoys special tax benefits, such as lower capital gains treatment. We have had no opportunity to evaluate the need for special new incentives in light of the existing incentives.

Fourth, the diversion of import duties on lumber and plywood into a reforestation trust fund would set a significant and perhaps dangerous precedent. Why should not the import duties on all articles be deposited in trust funds to provide relief to the American businesses affected by the imports? The Ways and Means Committee has not considered this sensitive issue.

Mr. Speaker, the detailed examination of this issue by the Ways and Means Committee might well have resulted in legislation similar to title III. But it might very well have resulted differently. The conference committee's action short-circuits the orderly process of congressional debate and unduly impinges on the prerogatives of the House. Title III is a nongermane amendment which should not have been accepted by the House managers.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I find myself in total concurrence with what my colleague, the gentleman from Minnesota, has said. I find not only the germaneness of this amendment a problem, but also the procedure by which this conference operated.

Mr. Speaker, I rise in opposition to the nongermane amendment. It is not often that I take the floor in opposition to legislation that has been approved by a conference committee, particular a conference of which I was theoretically a member. But the recent legislative history of this measure forces me to do so.

In joining my colleague, Mr. FRENZEL, in opposing this amendment, I am expressing my reservations not only with respect to the nongermane title III relating to reforestation, but also to the procedural steps that led to such results. In voicing my opposition in this way, I wish to serve notice to Members of this body and, as importantly, of the other body, that we cannot expect to write decent legislation in an environment such as the one in which this report was developed.

Let me first review for my colleagues some of the fast moving developments of this bill of which I am sure most are unaware.

First, on August 25, 1980, this boat safety bill was briefly debated by the Senate. Prior to its approval, a nongermane amendment providing tax incentives for reforestation and establishing a trust fund to make available additional Federal funds for reforestation was added to the bill without debate.

Next, the Senate insisted on its amendments—both to the boat safety provisions and the new reforestation title—and appointed conferees. Senate conferees were appointed representing the Senate Commerce Committee. No Finance Committee members as such were appointed although Senator PACKWOOD, the ranking minority member on Commerce, also serves on the Finance Committee.

On September 9, 14 House conferees (8 from Merchant Marine, 6 from Ways and Means) were appointed to the conference by the Speaker. Although no formal division of jurisdictional responsibility among conferees was stipulated, I understand that informal assurances were exchanged between the chief counsels of the two House committees that the conferees would only participate with respect to matters within their respective committee jurisdictions.

The conference itself was scheduled to convene at 11 a.m. on September 10. Unfortunately due to an 11 a.m. vote in the Ways and Means Trade Subcommittee, I, along with another Ways and Means conferee, were not able to leave for the conference committee meeting until 11:10 a.m. Before reaching the meeting room, at 11:12 a.m., I encountered yet another Ways and Means conferee who informed me that prior to his arrival the conference already had completed its work. While efficiency is to be commended, procedural rules of this institution are designed to protect fairness as well as promote efficiency.

While the inability of any one conferee to be present obviously does not (and should not) retard the ability of a conference to begin or complete its work, in this case the substantive work of the conference was concluded by 11:05 a.m. with only one House and one Senate conferee present. The House conferee, from the Merchant Marine Committee, not only was willing to resolve the differences (both tax and nontax) on the boat safety bill but was willing to accept the nongermane reforestation tax title added by the Senate, before a single Ways and Means conferee entered the room.

After the conference was concluded, Senate Commerce Committee staffers appeared at my office seeking signatures on a report document. In response to inquiries as to what was in the report, my staff was informed that a draft agreement had been brought around by the Senate staff on the previous day and that it had all been worked out ahead of time. Mr. Speaker, the tax-writing committee has enough difficulty coping with nongermane amendments on our own tax bills, without the Senate Commerce Committee staff trying to resolve all our problems for us. We should not be left to the fate of two-man conference committee meetings to approve preconference agreements to which all conferees were not a party.

Mr. Speaker, once the boat safety bill had efficiently sailed through its 5-minute conference, the Senate conferee at least agreed to accept some technical amendments offered by Ways and Means members who first arrived at 11:05 a.m. Those of us arriving 10 to 15 minutes after the hour were too late to even receive a copy of what substantive amendments were agreed to.

Although by this time quite frustrated, I did ask the Ways and Means staff to obtain a copy of what was agreed to in order that I might review it over the weekend and make my decision as to whether, despite the procedural shortcomings, to sign and support the report. To my surprise, the Senate called up and agreed to the report on Wednesday afternoon effectively discharging the conferees. Like everything else with this bill this, of course, was done without debate.

With this quick approval, not only did the Senate ignore the custom which dictates that the House act first on this matter, they managed to agree to a report that they had not bothered to even formally file.

Mr. Speaker, these are not provisions without some controversy, I understand that the administration has some reservation about the boat safety bill itself, and Treasury testimony before my Subcommittee on Select Revenue Measures indicates that serious policy questions exist about the appropriateness of still additional tax incentives for the timber industry. Currently there is an Agriculture-Treasury study as well as a GAO study underway on this precise question. Clearly there were too many unanswered policy questions to rush to agree to a nongermane amendment in a phantom conference.

Now that my colleagues are aware of the procedural questions surrounding this bill, let us spend a few minutes on the substance of the nongermane amendment that was accepted in the "conference." First let me point out from Treasury testimony on the reforestation issue during Ways and Means Subcommittee hearings on June 26, 1980, that the timber industry, both large companies and small lot owners, already receives quite favorable tax treatment.

As noted in the Treasury testimony:

First, under current law, a taxpayer may elect to treat the cutting of timber as the sale or exchange of a capital asset. Thus, only 40 percent of the revenue from the sale of timber is taxed while the revenues of other product manufacturers and producers are taxed as ordinary income. Taxation at capital gain rates reduced the taxes of the industry by an estimated $350 million in 1978.

Second, costs incurred in connection with growing and carrying timber (after planted trees have become established) are currently deducted against ordinary income. These costs represent up to approximately three-fourths of the total cost of growing timber. This is in contrast to the general principle that an expenditure is not currently deducted if it is related to the purchase or production of an asset that will provide a benefit beyond the year the expenditure is made.

The third element of the current timber subsidy is the conversion of ordinary income into capital gains. This conversion is a result of the first two subsidies described above: Capital gains treatment of timber income and the current expensing of the costs of growing and carrying timber. Such expenses are currently deducted against other ordinary income of the timber grower, such as from logging or some other activity, while the revenue ultimately produced by these expenses—the sale of timber—is taxed at the capital gains rate. The effect is as if the cost of the purchase of securities was currently deducted against wage income while the capital gain treatment on sale applied not only to profit but to nearly the entire proceeds of the sale.

To all these advantages, title III of the Boat Safety Act would allow the one-quarter of reforestation expenses not currently deductible to be amortized over 7 years. In addition, these same expenditures would be eligible for the full 10-percent investment credit. While proponents argue that the bill's provisions which limit the amortization and investment credit provisions to $10,000 a year in reforestation expenses, would help only the small timber grower, small growers are not currently penalized since they get all the other existing tax incentives that big companies do. In addition, adoption of this provision would give timber another first. I know of no other place in the Tax Code where businesses, small or large, receive an investment credit for the purchase of inventory.

As noted in subcommittee testimony, this industry gets a Federal tax subsidy of between 38 and 45 percent for every dollar spent. Because of the interaction of these subsidies, and the artificial losses they generate, the Government would actually save money by exempting timber production from taxes. Deductions from timber production would then be unavailable to shelter other income.

Finally, Mr. Speaker, it is not at all clear that this subsidy is necessary. As I mentioned earlier, two studies are underway to evaluate this issue. In the meantime, the Library of Congress has supplied me with some data which shows reforestation is on the rise among farmers and other small lot owners.

Clearly the case has not been made for end-running the established legislative framework to enact another tax incentive of questionable value for an already favored industry.

In dissenting as I do at this time, I recognize the interest of many Members of the House in the boat safety part of this bill. As such, I have not exercised all available options to delay or otherwise impede its passage. But as one of several Members who failed to sign the conference report, I take this opportunity to serve notice to those who seek to avoid the regular order in the consideration of such legislation, that such sailing will not be so tranquil in the future.

Mr. FRENZEL. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in opposition to the motion.

This amendment which was introduced by the Senate had 41 sponsors. It concerns the establishment of a trust fund comprised of import duties analogous to the boating fund comprised of motorboat excise taxes established in H.R. 4310, the bill which the House approved overwhelmingly.

The amendment also contains identical language to Senate bill S. 100 introduced by Senator PACKWOOD on January 18, 1979, and reported favorably by the Finance Committee as title II of H.R. 2492 on May 6, 1980.

There is no substantive objection to the amendment by either the Committee on Ways and Means or the Committee on Agriculture within which the joint jurisdiction of the subject matter of the amendment lies.

The amendment is supported by the forestry industry and environmental groups such as the Sierra Club. Hearings were held on a similar proposal by the House Committee on Ways and Means and the Committee on Agriculture. The conference report was adopted unanimously on the part of the House conferees of the committee on the conference. Notwithstanding the nongermaneness, I suggest that the motion should be defeated and the House should eventually accept the conference report.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, one of the crying needs of this country is for reforestation. We look ot the countries of Europe. Our practices here of cutting timber and not replacing it are totally indefensible. This provision is a small beginning at a reforestation program in America, both in the private sector and the public sector. I think it would be unthinkable at this point to adopt the Frenzel amendment, so I hope that the Members will vote against the Frenzel amendment and support the chairman of the committee.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I rise in strong support of the conference report on the Recreational Boating Safety and Facilities Improvement Act, H.R. 4310, and specifically to support the reforestation provisions inserted in the legislation by the distinguished Senator from Oregon (Mr. PACKWOOD). He has been the moving force behind these provisions and is here with us today on the House floor to assist in coordinating and tracking the final approval of his amendment.

Having been a consistent, strong supporter of legislation developed through our Western Forestry Coalition which places particular emphasis on reforestation, I am pleased as the ranking Republican on the Interior Committee to lend my voice of support for this effort.

A point of order has been made with respect to the germaneness of the provisions. I fully respect the position of the gentleman from Minnesota (Mr. FRENZEL) and the gentleman from Illinois (Mr. ROSTENKOWSKI) with regard to the jurisdiction of the Ways and Means Committee. However, in light of the time factor which must be dealt with, I would urge my colleagues to advance this proposal without delay. The pending adjournment date requires our prompt action as well as the fact that the planning leadtime for reforestation efforts is lengthy. We must have a congressional commitment to the establishment of the trust fund in order for the program to get underway as soon as possible.

The measure includes two provisions with regard to reforestation—a tax incentive provision as well as the establishment of a reforestation trust fund.

The U.S. Forest Service estimates that in the last 10 years, 7 million acres of forests in small private ownership have been cut but not replaced. Reforestation is essential and important but it is a long-time, high-risk investment. Oftentimes, small landowners are not ready to take this risk. This measure is designed to provide that needed extra incentive.

The measure will allow a 10-percent investment tax credit and 7-year amortization of expenses for reforestation of private lands. The credit is limited to annual expenses of $10,000 to target the benefit to those in the greatest need—the small woodlot owners.

Congress has addressed the need for accelerated replanting of our national forest lands for nearly 50 years in five separate acts. The 1976 National Forest Management Act set a 1985 deadline for eliminating this backlog. Over half a million acres must still be reforested and unless full funding is assured we will again fail to meet our reforestation goal.

This problem is addressed in this legislation by the establishment of a reforestation trust fund. The fund will contain no more than $30 million and the revenues will come from existing import duties on lumber and plywood which are currently deposited in the general fund of the Treasury. The Secretary of Agriculture will be authorized to supplement regular reforestation appropriations with trust funds when the amount appropriated is less than the Secretary determines is needed to eliminate the backlog by 1985. The trust fund will expire automatically in 1985.

Everyone agrees that our renewable resources are taking on an increasing importance as we attempt to meet the many and varied needs of our growing population. I am personally aware of the fact that the Sierra Club, the building trades organizations, and the forest products industry are all supportive of this reforestation effort.

I am particularly pleased to be able to assist the Senator from Oregon (Mr. Packwood) and would like to commend him for his insight and initiative which all of us in the West appreciate. He has provided us with a vehicle for meeting some of the problems we face in the West and the forestry needs of the future. I believe, we should respond by passing this legislation with his amendment.

I know of no opposition in the House to the concept which is being advanced only to the procedural and jurisdictional questions involved. I urge my colleagues to allow this measure to pass as its merits far outweigh any objections to the manner in which it has come before us.

Mr. AuCOIN. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Speaker, I support the conference report and strongly oppose the motion to delete vitally needed incentives to reforest our private timberlands, lands which will play an increasingly important role in helping meet our Nation's demand for wood fiber in the years ahead.

When the earliest settlers landed on American shores, forests covered nearly all the land from the eastern seaboard to the Great Plains. Most people back then regarded timber as something to get rid of, because it blocked progress.

Now we realize how wrong we were. We vitally need timber resources.

Our public timber resources, though vast, will not be adequate to meet our needs in the decades to come. We must rely more heavily on privately held timberlands.

This legislation begins to give the necessary priority and incentive to manage private timberlands with an eye to the future. It does it simply by putting investments in timber on the same footing as investments of other kinds.

It is has been illogical to expect Americans to invest substantially in private timberlands, absorb all costs and take all risks, without any return to the investor for decades. And at that the return on equity for wood products is lower than the return on other capital investments.

This bill will help remedy that by enabling thousands of woodlot owners to cover capitalized reforestation expenses.

This step will not in itself solve our timber shortages. But it is a positive step to stimulate the production of more timber for the future. It would be an economic and environmental waste to do otherwise.

This legislation also recognizes the need to place a greater reliance on our own public timberland because depending on other nations is risky. It would use the receipts from timber import duties to create a trust fund aimed at speeding reforestation of public timberlands.

Both of these proposals will help achieve the forward-looking and imaginative goals set forth in a white paper delivered by the Senate Subcommittee on Forestry. That white paper foresees a 50-year goal for refurbishing public and private timberland. It projects drastically increasing wood-growing productivity, with a target of reaching 90 percent of our timberland's potential by the year 2030, up from 60 percent utilization now.

Clearly, today we can take the first step on the road to achieving higher productivity from our private and public timberlands. Clearly, today we can begin to reverse the decline of our forests that once graced our land from sea to shining sea. Clearly, today we can begin to show the attention to a precious natural resource that gives life and jobs to our nation and its people.

I want to say that I strongly concur with the remarks of the gentleman.

Mr. BIAGGI. The gentleman opposes the motion?

Mr. AuCOIN. I oppose the motion.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Speaker, I rise in support of the reforestation provisions in this report. I support the position of the chairman.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I rise in support of the conference report on H.R. 4310, the Federal Boat Safety Act.

In particular, I would like to address myself to title III of the report dealing with reforestation. This is a very important provision which attempts to move on the very serious backlog of reforestation we have in this country, not only on our public forest lands, but also the small, private nonindustrial lands. The tax incentives provided for small landowners is very important if we hope to increase commercial timber for the benefit of future generations.

As the ranking minority member of the Subcommittee on Forests, I am well aware of the problems we have on public and private forest lands. Because the U.S. Forest Service has not been provided the funds over the years to adequately reforest the lands on our national forest system, we have a serious backlog of millions of acres. In addition, the U.S. Forest Service has advised us on numerous occasions that if we hope to meet future demand for timber and forest products, it must come from the small landowner, in particular since the industrial commercial timberlands have a deficit. This is what title III of the conference report is designed to do.

It allows small landowners to spend up to $10,000 a year for reforestation, for which he can amortize the expenditures by one-seventh each year over a 7-year period. In addition, title III establishes a trust fund of $30 million a year for the next 5 years to be used exclusively for reforestation of our public lands. These provisions are very important when you consider the fact that over the years, each administration has ignored the serious problem of reforestation because of budget considerations. Each year, the Federal budget is geared more and more toward transfer payments and current consumption, to the exclusion of long-term investment in our commercial, industrial, and natural resource base. We must reverse this process before it is too late.

In each session of Congress, we have bills introduced which attempt to deal with the problem of moving the backlog of lands which need to be reforested, both on public and private lands. While the intent is meritorious, in reality these bills would accomplish little and be very expensive in the process. Tax incentives are the most direct way to accomplish a purpose. It eliminates the need for a Federal bureaucracy, and getting the Government involved further with insured and guaranteed loans, for which the taxpayers and consumers receive little.

Title III of the conference report attacks the reforestation problem in a direct and positive manner, and it is for these reasons that I urge my colleagues to support passage of the report.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, I rise in strong opposition to the motion and in support of the conference report, and especially to the title on reforestation.

I also serve on the Forestry Subcommittee, and I can say that this legislation is long overdue.

I would like to add to my remarks in support of the reforestation provisions contained in the Boat Safety and Facilities Act.

By providing through tax credits an incentive to replant forest lands, Congress has put in motion events for which our children and grandchildren will be grateful.

Recent surveys reflect that in the next few decades the demand for wood in this country will double. Those same studies show that the share of that demand for timber grown in our southern States will be disproportionately high because forests can be replaced in the South much quicker due to a faster growth capability. Therefore, it is absolutely imperative if we are to have the wood products we need, that the harvested timberlands be replanted. Unfortunately, in the past they have not been adequately replanted. This is particularly true with nonindustrial, private timberlands as opposed to industry owned lands or publicly owned lands.

In my State of Arkansas and in the South, in general, over 60 percent of the timberlands are owned by private individuals. When many of these landowners harvest trees from their lands they do not replant. The reason is simple. There is no economic incentive for them to do so. If such an individual has to wait 30 or 40 years to recoup the expense of replanting and other sound forestry practices, he simply will not do so.

In Arkansas only 1 acre of private nonindustrial timberland is being seeded for every 20 acres harvested, while for industry owned land, 1.1 acres are replanted for every 1 acre harvested. In the South there are over 1 million acres of timberland every year that are harvested and not properly replanted.

Mr. Speaker, the provisions of this bill which encourage reforestation will address this problem and hopefully reverse the existing trend.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Virginia (Mr. WAMPLER).

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Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on H.R. 4310, the Recreational Boating Safety and Facilities Improvement Act of 1980. In particular, I would like to address myself to title III of the report on reforestation.

I do not object to title III of the bill, but I do object to the fact that members of the House Committee on Agriculture, of which I am the ranking member, were not included in the conference committee since the House Agriculture Committee has jurisdiction over agriculture and forestry matters in general. While some may argue that title III is a tax matter under the jurisdiction of the House Ways and Means Committee, the fact remains that the House Agriculture Committee is still the authorizing committee for agriculture and forestry appropriations.

Last year, Senator PACKWOOD of Oregon introduced a bill to provide tax incentives for reforestation on public and private lands, and it is my understanding that his bill was reported unanimously out of the Senate Finance Committee in August 1979. It was his bill which was attached as title III of the report before us today, and supported in the Senate without objection. Senator PACKWOOD is to be commended for his efforts on this important matter.

Title III allows small, private nonindustrial landowners to spend up to $10,000 a year for reforestation of commercial timberland, for which the landowner can amortize expenses by one-seventh every year for 7 years. The title also establishes a trust fund to reforest our public forest lands.

Moneys for the trust fund will come from tariffs on imported lumber and plywood, and a maximum of $30 million will be placed in the trust fund for the purpose of reforesting public lands. The trust fund will be extinguished on September 30, 1985.

This reforestation provision is very important to the future well-being of this Nation. We have an enormous backlog of public lands to be reforested, numbering in the millions of acres. The commercial, industrial forest lands presently have a deficit, and the private nonindustrial small landowner is not doing the job due to the expense involved and the lack of incentives. The U.S. Forest Service projects that demand for forestry products will increase faster than the supply in the years ahead, and we cannot continue to rely on the national forests to make up the shortfall. The shortfall must come from small forest landowners.

Over the years, one administration after another has shortchanged our forestry resources by rejecting increases in expenditures for reforestation and forestry research. We can no longer afford to ignore these problems because they affect our natural resources and the well-being of future generations.

In my opinion, the fastest way to increase timber resources on private and public lands is to provide incentives through the Tax Code. A few years ago, Brazil embarked on a similar program with great success. By providing tax incentives, Brazil reforested millions of acres of timberland. We cannot afford to do any less.

Mr. Speaker, I urge my colleagues to support passage of this conference report.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I rise in opposition to the motion to strike title III of the conference report.

While I understand that the amendment attaching title III to the conference report on H.R. 4310 raises issues not considered by the House in the bill we passed earlier, I believe these provisions should be retained in the bill. There are increasing demands being placed upon our Nation's forest resources and our legislative responsibility requires that we prepare to meet those new demands.

In many parts of our country, the reforestation of private forest lands has been long neglected because of a lack of sufficient economic incentive. The inventory of our private forest lands will become increasingly important as the national demand for forest resources increases.

Approximately 73 percent of our Nation's timberlands are privately owned, many of these lands are of high quality and are capable of providing a very major share of the Nation's need for forest products. This title provides two major incentives to promote reforestation of private timberlands. The title promotes private reforestation efforts by providing that certain expenditures to prepare and maintain reforestation sites can be amortized over a period of 7 years. Until this time those expenditures would only have been recovered through a reduction of the net taxable gain when the timber was harvested.

This provision provides a significant incentive to undertake extensive projects because it allows the individuals to recover the tax reduction at an earlier time. The second major incentive included in this title is a provision which allows the individuals undertaking reforestation projects to take the regular 10-percent tax credit for expenditures directly related to the reforestation project.

Up to this time, ordinary expenditures covered by this provision were not included in the investment tax credit. Both of these incentives are limited to $10,000 per year which should make the incentives more useful to small woodlot owners and businesses than to large commercial timberland owners.

The fact that this title provides considerably more incentives to small woodlot owners is significant to my own State of Vermont. In Vermont there are over 70,000 woodlot owners of nonindustrial private forestland involving over 3 million acres. While the benefits of reforestation incentives will be greater in other portions of the country where more intensive reforestation practices are necessary, the effect in Vermont will be significant. The demand for forest products has dramatically increased to meet new energy demands and will soon force more intensive management and reforestation practices in the northeastern forests. The provisions in this title will insure that the economic incentives are ready and waiting for when circumstances dictate that private woodlot owners in the State of Vermont supply increasingly large quantities of forest products.

I also approve of the provisions of this bill which will establish a trust fund for reforestation of our national forests from the duties imposed upon imports of foreign forest products. The long-term interests of the United States dictate that we take a responsible approach to reforestation of our national forests, with a continuing source of funding for that purpose.

I urge the support of the Members of the House for this title.

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to the motion by the gentleman from Minnesota (Mr. FRENZEL). I do so because the reforestation amendment to this bill has a most desirable environmental and conservation aspects to it.

Farmers in the plains and prairie States can use these reforestation incentives to create income producing woodlots on marginal agricultural lands as well as extensions of existing shelterbelt groves.

These greenbelt areas will help cut the wind erosion which strips good top soil from our prime agricultural land. They will also give added protective cover to a vast number of song birds, game birds, and animals.

It is these kinds of tax incentives that will bring about much of the environmental changes which we all know are needed.

I know from experience that farmers who are allowed to invest in long range soil saving practices will do so if they are not pushed to fence row to fence row cropping by high taxes. They along with the most ardent city dwelling conservationist know how pleasant the sounds of migrating and native song birds or nesting quail and pheasant.

I congratulate my friend, the Congressman from New York, MARIO BIAGGI, for having the perseverance to push this bill and its amendments to a vote here today.

Mr. BIAGGI. Mr. Speaker, I have no further requests for time.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. FRENZEL).

The motion was rejected.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on title III.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BIAGGI) will be recognized for 30 minutes, and the gentleman from Washington (Mr. PRITCHARD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the report of the committee of conference resolving the differences between the two Houses on the bill, H.R. 4310, to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

H.R. 4310 was passed unanimously by the House on December 3, 1979. The Senate acted on the bill on August 25, 1980—making certain amendments to titles I and II of the bill, and adding a new title III.

In approving the measure, the Senate insisted on its amendments, appointed conferees, and requested a conference with the House upon the disagreeing votes of the respective bodies.

The House agreed to the conference and appointed managers on September 9, who met with the Senate managers on September 10.

By mutual consent of the House managers, the conferees appointed from the Merchant Marine and Fisheries Committee restricted their substantive consideration to the Senate amendments to title I of the bill, permitting the conferees appointed from the Committee on Ways and Means to confer on the Senate amendments to title II—and to the new title III of the bill. I would defer to my distinguished colleague from Oregon—the chairman of the Committee on Ways and Means—to discuss the substantive provisions of title III of the substitute text developed in conference.

I will now summarize the substantive amendments made by the Senate to the House-passed bill—and the corresponding recommendations of the managers reflected in the substitute text developed in conference, constituting a germane modification of those matters in disagreement between the two Houses:

Specifically, the Senate in its amendments:

First. Deleted authorization for appropriations of $20 million for fiscal years 1981 through 1983 for Federal assistance to State boating facilities improvement programs—including safety features related to facilities development—as part of the comprehensive statewide program in each eligible State;

Second. Deleted authorization for appropriations for Federal assistance for State boating safety programs for fiscal year 1981;

Third. Postponed transfer of Federal motorboat tax receipts to the new recreational boating safety and facilities improvement fund until after October 1, 1981; and

Fourth. Reduced the limitation on transfers to the fund and the fund ceiling from $30 million to $10 million in any fiscal year.

On these substantive matters in disagreement, the managers on the part of the House recommend that the House adopt the substitute text developed by the committee of conference—already adopted by the Senate—which provides as follows:

First. Reinstatement of a separate authorization for appropriation of $10 million for fiscal years 1981 through 1983 for Federal assistance to State boating facilities programs—each State to participate in this program at its election. The House provisions—requiring consultation with the Secretary of the Interior in developing guidelines under this program—consultation of the designated State authority or agency with the respective State liaison officer—and consistency with approved State coastal zone management plans—are also reincluded in the conference substitute;

Second. Reinstatement of a separate authorization for appropriations of $10 million for fiscal year 1981 for Federal assistance to State boating safety programs.

Third. Restoration of those provisions which transfer Federal motorboat tax receipts to the new boating fund—effective October 1, 1980; and

Fourth. Raising the limitation on annual transfers to the fund and the fund ceiling to $20 million in any fiscal year.

In addition to these principal points of agreement, the substitute text incorporates several additional items from the Senate amendments to the House-passed version which:

First. Effect a minor change in the authorization for the Secretary of Transportation to expend a portion of the fund as reimbursement for administrative expenses associated with the fund's administration from $100,000 to the greater of $250,000 or 2 percent of the fund balance; and

Second. Authorize the Secretary to allocate up to 5 percent of the fund balance to support national boating safety activities of various nonprofit organizations.

Mr. Speaker, in my judgment, the House managers and the committee of conference have worked a most acceptable compromise—resolving the substantive differences between the two Houses on this legislation, which—

Reaffirms the consistent congressional intent to improve the safety and welfare of recreational boating for the 50 million recreational boaters in this country while promoting the use and enjoyment of all the waters of the United States.

Restores the integrity of the House-passed version of the legislation by reinstating the all-important public access and boating facilities provisions of the original bill.

Reemphasizes the fundamental equity considerations underlying the legislation through the earmarking of boating-derived revenue for the benefit of recreational boating in the form of user fees.

Recognizes the reality of present and prospective fiscal austerity by reducing the total authorization for appropriations from the original House-authorized level by one-third.

Reflects a clear congressional intent to closely monitor the expenditure of that portion of Federal motorboat excise tax receipts that will continue to be deposited in the land and water conservation fund—to insure that those moneys are also utilized for clearly identifiable boating-related projects.

Realines Federal fiscal policy to more closely conform to that of a majority of the States by matching Federal boating-related tax revenue with State fuel tax and license fees for the singular benefit of recreational boating.

This will provide the States a secure fiscal foundation, permitting them to assume a greater share of the burden of promoting boating safety through the provision and expansion of vitally needed education, assistance, and enforcement programs under Coast Guard guidance and supervision—thereby insuring uniformity and consistency in the conduct of those programs.

And, finally, the bill reallocates Federal motorboat excise tax revenues to a clearly higher priority purpose—the promotion of boating safety—within existing budget ceilings. This action by the House is both indicative of its firm commitment to fiscal responsibility as well as clearly precedental in nature.

I strongly urge the adoption of the report of the committee of conference by my colleagues in the House.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume and I rise in strong support of this measure.

Mr. Speaker, we consider today the conference report on H.R. 4310, the Recreational Boating Safety and Facilities Improvement Act of 1980.

The purpose of H.R. 4310 is to amend the Federal Boat Safety Act to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program. In addition, a provision has been added by the Senate relating to reforestation incentives.

The boating provisions of the bill adopt a matching fund approach to distribute funds to States for recreational boating safety and facilities improvement programs. This would be accomplished through the establishment of a trust fund which would be derived from taxes on fuels for motorboats. These funds are normally credited to the land and water conservation fund but would be diverted to this trust fund for the purposes of this bill. As adopted by the House on December 3, 1979, the funds would be limited to a maximum of $10 million for boating safety and $20 million for facilities improvements. In addition, the Secretary of Transportation would be directed to consult with the Secretary of the Interior to develop guidelines and regulation to avoid duplication or conflicts in administering the provisions of this bill. Further, State programs approved under ths bill must be consistent with coastal zone management programs.

When considered by the Senate, the provisions regarding boating facilities were deleted and a reforestation amendment was added. This reforestation provision provides for incentives and funds to promote reforestation on both private and public forest lands. Private woodlot owners are given a reforestation tax credit. This provision allows a 10-percent investment tax credit and 7-year amortization of expenses for reforestation of private lands which have been cut but not replanted during the last 10 years. This is an extra incentive for this long-term risky investment. For public forest lands, a national reforestation trust fund is established. This fund is designed to eliminate the backlog of unreforested public lands in our national forests. This fund has a cap of $30 million to be derived from tariffs on imported lumber and plywood. Further, this trust fund is subject to the appropriation process to authorize expenditures and has a 1985 sunset provision.

Mr. Speaker, the conference committee adopted the boating facilities provisions of the House bill, setting a level of funding at a maximum of $10 million. Included in this are those provisions avoiding duplication of Government programs including coastal zone management and avoiding double use of matching funds. In addition, the reforestation amendment in its entirety was adopted by the conference committee.

Mr. Speaker, I support the conference report on H.R. 4310 and urge its adoption. This bill would continue necessary boating safety programs which have dramatically reduced the recreational boating facilities in the United States and would establish incentives and funding to restore our valuable forestlands.

Mr. ULLMAN. Mr. Speaker, I support this conference report.

The conference report contains two titles in the jurisdiction of the Committee on Ways and Means which I shall summarize for the House.

TITLE II. ESTABLISHMENT OF BOATING SAFETY AND FACILITIES IMPROVEMENT FUND

Under this title, a special fund shall be established in the Treasury from which amounts may be appropriated to carry out the purposes in title I of this report.

The fund will receive transfers from the highway trust fund of motorboat fuel taxes. No more than $20 million may be transferred to the account in any fiscal year. In addition, no transfer of motorboat fuel taxes may be made to the fund that would increase the amount in the fund above $20 million. Motorboat fuel taxes that are not transferred to the special fund will be transfered to the land and water conservation fund.

Transfers to the motorboat safety and facilities fund will be made from motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1983. Appropriations from the fund are authorized for expenditures after September 30, 1980, and before April 1, 1984.

The Secretary of the Treasury is instructed to conduct a study, and report it to Congress after 2 years, to determine the portion of the excise tax receipts from motor fuels and petroleum products is attributable to fuel used in recreational motorboats.

The Ways and Means Committee favorably reported the special fund that was in the House passed version of this bill.

TITLE III. REFORESTATION PROVISIONS

GENERAL

The reforestation provisions of the report are designed to realize two objectives: First, to encourage individuals through tax relief to maintain and increase the amount of their land devoted to timber, and second, to provide a temporary trust fund—financed by existing tariff revenue from lumber imports—that would fund increased expenditures for reforesting portions of the national forests.

AMORTIZATION OF REFORESTATION EXPENDITURES

The report will permit a taxpayer to amortize over a 7-year period up to $10,000 of the costs incurred in a taxable year for reforestation or forestation. The eligible costs are the direct costs incurred by planting or seeding. The relevant costs also include the costs for preparation of the site, seeds and seedlings, and labor, tools and equipment—including tractors, trucks and tree planters—used directly in planting or seeding.

Timber property that qualifies for amortization must be a site that will contain trees in significant commercial quantities and which is held by the taxpayer for growing and ultimately cutting trees for sale or use in the commercial production of timber products. With this provision, Congress intends that the forested or reforested property be at least a woodlot that is an acre or more in size. Planting two or three trees on the lot of a large suburban residence, whether for shade or as a windbreak, is a personal use.

This provision will be effective for qualified expenditures added to capital account after December 31, 1979.

INVESTMENT TAX CREDIT

The conference report also provides that the regular investment credit will be allowed for the cost of the property eligible for amortization; that is, the $10,000 eligible for amortization. The normal growing period of the trees shall be treated as the useful life of the property for determining whether the property will qualify for a full or partial investment credit. This provision will apply to additions to capital account made after December 31, 1979.

REFORESTATION TRUST FUND

Under the conference report, a reforestation trust fund will be established to finance some of the Federal costs necessary for reforestation and timber stock improvement on publicly owned national forests. These funds will eliminate and help prevent a backlog of reforestation of the National Forest System.

Up to $30 million derived from tariffs collected on imports of plywood and lumber during fiscal years 1980 through 1984 will finance the trust funds.

The trust fund will finance amounts which the Secretary of Agriculture estimates to be necessary for reforestation and timber improvement that are greater than the amounts appropriated for those purposes under the Forest and Rangeland Renewable Resources Planning Act of 1974. These funds will be available to be appropriated for fiscal years 1981 through 1985.

Any unspent amounts, including interest earnings, that remain in the trust fund after September 30, 1985, shall be paid into the general fund of the Treasury.

Mr. Speaker, this is a good bill which will encourage an increase in reforestation of private and public lands during the next 5 years. I urge my colleagues to approve this conference report.

The Ways and Means Committee did not act on the reforestation provisions, although public hearings were held on two bills that intended to accomplish similar reforestation objectives in different ways.

● Mr. ANDERSON of California. Mr. Speaker, I thank my friend, the chairman of the subcommittee for yielding.

I rise in support of the conference report on H.R. 4310, the Recreational Boating Act of 1980. I am especially enthusiastic about title I of this bill, the continuation of the boating safety program. Over the last year, I have heard from a number of boaters, both groups and individuals, urging me to support and promote this legislation. But more importantly perhaps. I have heard for a much longer period of time very favorable comments about this program from boaters when there was no legislation pending.

I think those kind of unsolicited positive comments are testimony to the success of this safety program. While it is not hard to compile statistics on the number of lives lost through boating accidents, it is impossible to calculate the lives saved by this program. But there is no one in the boating community who doubts that the number of lives saved would be high over the 20 years of Federal assistance in education and enforcement in boating safety.

With the continued growth in recreational boating in this country, the need for this program grows, rather than diminishes.

The funds for this program come from the taxes paid on fuel used by motorboats. Federal program of holding money collected in trust funds, in effect rebating taxes collected through a program to benefit those who paid the taxes, which have such undisputably worthwhile results.

With all of the controversial legislation we must consider, with all of the decisions we must make when the results are less than guaranteed, it is indeed rewarding to continue a program in which the results are so clear cut and valuable.●

● Mr. AKAKA. Mr. Speaker, I rise in support of the Boating Safety Act conference report. This bill, like the prior grant program, is crucial for the safety of the boating public.

Under the previous grant program, there was a reduction of more than 50 percent of boating-related fatalities. In 1972, there were 20.2 fatalities per 100,000 boats. In 1978, 6 years after enactment of the program, there were 9.4 fatalities per 100,000 boats. There was a decrease in the number of accidents, despite the fact that there was a tremendous increase in the number of boats owned and used in the Nation's waters.

This conference report represents our continuing commitment to the improvement of boating safety. Every State and district will gain the benefits of improved safety in their waters. I urge all Members to join together and support this measure.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of the conference report on H.R. 4310, the Recreational Boating Safety and Facilities Improvement Act of 1980.

I am proud to be a cosponsor of the boating safety bill. I especially want to recognize the leadership of my friend and the chairman of the Subcommittee on Coast Guard and Navigation, Mr. BIAGGI, in guiding this bill through the legislative process.

My primary interest in this legislation is the continuation of Federal support for a boating safety program that has proved to be a model of Federal-State cooperation. The boating safety programs which most States have established with assistance from the Federal Government have paid off in terms of lives saved. Boating-related fatalities have actually declined, in spite of the fact that the number of registered boats has dramatically increased. Few programs can claim such clear-cut results.

H.R. 4310 as approved by the House also contained a $20 million authorization to initiate a joint Federal-State boating facilities improvement program. The Senate chose to delete this provision, but in conference it was restored to an annual authorization of $10 million.

While I believe we must move slowly in establishing any new Federal programs, I believe this is a modest and appropriate compromise which recognizes the millions of dollars that the boating public contributes to the land and water conservation fund each year through the motorboat fuels tax. Creation of a safety and facilities fund will more directly benefit the user group which bears the brunt of this tax.

Let me also note that I contributed several amendments in committee which have been retained in the conference report. These amendments are intended to minimize duplication with expenditures from the land and water conservation fund, to assure consistency with State coastal zone management programs, and to prevent States from using Federal funds from one source as their matching fund contribution to meet the requirements of the Boating Safety Act.

When the Senate acted on our boating safety bill, they attached an amendment concerning financial incentives for reforestation efforts on private and national forests. While this matter is not a concern of the Merchant Marine Committee, the health and productivity of our Nation's forests is a matter which concerns us all, and I support the Senate's efforts in this regard.

Mr. Speaker, I support the conference report on H.R. 4310, and urge its adoption by my colleagues.●

● Mr. MURPHY of New York. Mr. Speaker, I strongly support adoption by the House of the conference report on H.R. 4310 to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program.

It is the purpose of this bill to establish a national program for recreational boating safety and facilities improvement and thus to meet a crucial need for Federal support of the boating public of our Nation. The bill would provide assistance to State boating programs through dedication of Federal motorboat fuel tax revenues. State governments would be assured of a proper and continuing role in the management of recreational boating programs and in the improvement of facilities to serve the 55 million of our citizens who engage in recreational boating.

The national program would be self-supporting. It would adopt the principle of matching funds, thus multiplying the benefits obtained from a centrally administered national fund. And it would provide for appropriate legislative safeguards through the congressional authorization and appropriation process.

This bill would be viewed against the backdrop of the boating safety grant program, which is in the process of phasing out. In 1971, the Federal Boat Safety Act established the principal of Federal assistance for State boating safety programs. For 1972, and for each ensuing fiscal year through 1979, the Congress provided funds for this purpose—funds administered by the Coast Guard through its boating safety grant program.

Last year, in enacting the Coast Guard authorization bill, we authorized appropriations of up to $10 million to continue this program for fiscal year 1980. Yet, for reasons still obscure, the administration—in submitting its 1980 budget—failed to request funds for this purpose. The House Committee on Appropriation, in reporting out the Department of Transportation appropriations bill for 1980, did not include funds for the boating safety grant program—chiefly because the administration did not ask for them.

We can only hope that this development does not signal the decline of State boating safety programs, now nearing maturity and full effectiveness. The comparatively small Federal investments beginning in 1972 nourished the growth and health of established State programs and sustained the progress of State agencies—some of which are only now hitting their stride.

The return on Federal investments in State boating safety programs accrues not only to the benefit of each State but to the Federal Government as well. Through close cooperation and mutual efforts, State authorities substantially augment Coast Guard activities in boating safety, search and rescue, and marine environmental protection. The efforts and dedication of State administrators and field personnel add immeasurably to the effectiveness of the national program. Given the success of these endeavors, it is incumbent upon us to fashion through legislation a new means of sustaining State boating safety efforts within a national framework.

H.R. 4310 provides such a way by charting a new course toward lasting Federal-State cooperation and mutual assistance in the boating safety field. The bill would not legislate a grant program, which some in the administration find so onerous. Rather, the bill would provide for the boating public to pay its own way through allocation of Federal marine fuels tax revenues to a national fund. Even the cost of administering the fund will not be borne by the nonboating public: It will be financed from the fund itself. This concept has been tested in both Federal and State programs of varying purpose and has been found to be sound. It is time now to apply it to the clearly identified needs in the field of boating safety by acting favorably on the bill before us.

H.R. 4310 provides a rational, workable, and effective solution to the problems we face today in boating safety and facilities programs nationwide. The boating public does not constitute a rich elite, but boaters are capable of paying their own way, given the opportunity. The financial mechanism employed in this legislation provides that opportunity. Furthermore, boating is a $7 billion national industry, employing 550,000 people in 5,000 locations throughout our Nation.

Presently, 50 percent of the country's population lives in coastal areas. Estimates are that this proportion will grow to 75 percent by the 1990's. H.R. 4310 will help sustain the wide-flung boating industry and will open new opportunities for our populace to enjoy the benefits of recreational boating. It thus satisfies important national purposes and pays its own way in the bargain.

This is sound and responsible legislation. I urge adoption of the conference report on H.R. 4310.●

● Mr. FOLEY. Mr. Speaker, I would like to address the attention of the gentleman, chairman of the conferees on the part of the House.

One of the provisions added by the Senate amendment to the bill, H.R. 4310, included in the conference report, is unrelated to the Federal Boat Safety Act of 1971 and affects a matter under the jurisdiction of the House Committee on Agriculture. Section 303 of the conference report provides for the establishment of a reforestation trust fund and authorizes for each of the 5 fiscal years beginning October 1, 1980 amounts to be appropriated for reforestation and other treatment of acreage in the national forests. The amounts are to be devoted to reforestation and other treatment as set forth in a report transmitted by the Secretary of Agriculture to Congress under section 3(d)(2) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

Mr. Speaker, that legislation originated with the House Committee on Agriculture and amendments to that legislation likewise have originated with the Agriculture Committee. While I am in support of the provision in question, I wish to point out that under the rules of the House, the use of funds for these purposes affects matters which fall within the jurisdiction of the House Committee on Agriculture. Rule X, clause 1(a) provides the Agriculture Committee with jurisdiction over forestry in general.

I wish to establish a record today that the action being taken on the conference report does not in any way prejudice the jurisdiction of the House Committee on Agriculture over the matter in section 303 of the conference report and that further the Agriculture Committee would continue to have jurisdiction regarding any amendments that may be made in the future to this section, as provided in the rules of the House.

The provisions of the conference agreement authorizing appropriations for reforestation programs properly lie within the jurisdiction of the Committee on Agriculture.

Unfortunately, the Committee on Agriculture was not represented on the conference committee. I appreciate the courtesy of the gentleman from Washington (Mr. FOLEY) in interposing no objections to the consideration of this conference report and I want to assure him and the other Members of the House that I recognize the legitimate jurisdictional interest of his committee over this issue.●

● Mr. WEAVER. Mr. Speaker, I rise in support of title III of the conference report, which establishes an investment tax credit for reforestation. Adequate reforestation is without doubt one of this country's most pressing resource needs, and potentially one of the most profitable long-term investments which we can make. It is inconceivable to me that a country which faces potentially devastating reforestation backlog, such as we currently face, can deny investment tax credits to those who would replant our Nation's forests while providing them to builders of warehouses and office buildings.

I first introduced a bill to establish a reforestation tax credit 3 years ago. As chairman of the Forests Subcommittee, I have pressed hard for a bill since that time. I do not think we can afford to ignore the opportunity which we have before us to enact a tax credit to rebuild our timber resource. I urge my colleagues to support the reforestation tax credit, and the conference report.●

Mr. PRITCHARD. I have no further requests for time, and I yield back the balance of my time.

Mr. BIAGGI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BIAGGI moves that the House recede from its disagreement with the Senate and concur in the Senate amendment to the title of H.R. 4310.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

A motion to reconsider was laid on the table.

Mr. BIAGGI. Mr. Speaker, I would like to take this opportunity to thank the gentleman from Maryland (Mr. LONG) for being so gracious in permitting this committee to bring up the conference report.

PRIVILEGES OF THE HOUSE—PROVIDING FOR THE CONSIDERATION OF H.R. 6674, NATIONAL VISITORS CENTER AUTHORIZATION

Mr. LOTT. Mr. Speaker, I rise to a question of privilege, and pursuant to clause 4(c) of House rule XI, I call up House Resolution 675 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6674) to amend the National Visitor Center Facilities Act of 1968 to authorize additional funds, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separat vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. Under the rule, this resolution is a highly privileged one.

The gentleman from Mississippi (Mr. LOTT) is recognized for 1 hour.

Mr. LOTT. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The Chair does not entertain that motion at this time.

Mr. LOTT. Mr. Speaker, I yield the usual 30 minutes to a majority member of the Committee on Rules, should the majority choose to use its time, but I reserve to myself the balance of the time not used by the majority.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have invoked this rarely used House rule, clause 4(c) of rule XI, because I think there comes a time when we must invoke the House rules in order to call to the attention of the House and the American people the fact that we are ignoring, even violating, a far more important law and House rule which should be binding on this Congress. I am referring, of course, to the Congressional Budget Act of 1974 which in section 310(c) requires, and I quote:

Not later than September 15 of each year, the Congress shall complete action on the concurrent resolution on the Budget.

Here it is, September 25, 1980, 10 days after that Budget Act deadline, and the second concurrent resolution on the budget is still being held hostage in the House Budget Committee. Yes; this is day-10 for our budget resolution hostage, and still there is no sign that the majority leadership is taking any action to rescue or free that budget resolution before we take an election-year recess sometime next week.

Mr. Speaker, what does all this have to do with the pending resolution making in order the consideration of H.R. 6674, the National Visitor Center Facilities Act amendments? Well, for one thing, the rule waives section 402(a) of the Budget Act, the May 15 reporting requirement. But the Budget Committeee has agreed to this waiver with the understanding that the Public Works Committee will correct this violation by an amendment when the bill is brought to the floor.

In other words, the Budget Committee has said that it will permit the consideration of the bill, provided the committee offers an amendment to come into compliance with the Budget Act once the bill is under consideration. But the Budget Committee has held firm in this case on insisting that the Budget Act not be violated.

Compare this situation in turn with the far more blatant and serious violation of the Budget Act's section 310(c), the September 15 deadline for completing action on the second concurrent resolution on the budget. In that instance, the Rules Committee has not recommended, the House has not adopted, and the Budget Committee has not agreed to a waiver of that very fundamental provision of the Budget Act. And yet this Congress stands in clear violation of its own statutory requirement to complete action on that budget resolution by September 15.

There are some other appropriate analogies between our delay on this Visitor Center bill and our delay on the second concurrent resolution on the budget. The authorization for the Visitor Center has been presented by the Committee on Public Works as a very urgent, emergency piece of legislation because the roof is literally falling in and no money is available to make the necessary repairs. I would suggest to my colleagues that the very same situation applies to our congressional budget process—the roof is falling in on the budget process, it is in urgent need of repair, and emergency actions are required to restore that process if it is to continue to serve this Congress as intended.

There may well be another link between this delay on work on the Visitor Center and this delay in passing the second budget resolution. It could well be that the majority leadership does not want to make it possible to visit Washington when our own House is in such disorder and disrepair. How could we possibly explain to all those visitors who would find their way from Union Station over to the Capitol that our Nation's lawmakers are actually breaking their own budget law? How could we possibly explain to all those visitors that the balanced budget we projected for ourselves in that first budget resolution has not only turned to dust, but red dust at that? How could we possibly explain to all those visitors that we would rather ignore the budget act deadline so we can rush back to our districts to campaign for reelection without having to vote on a huge budget deficit which has been piled up by this Democratic administration and Democratic Congress in the 4 short months since we proudly proclaimed a balanced budget?

Mr. Speaker, I think it is appropriate to quote at this point from the report of the Public Works Committee on this National Visitor Center bill. Quoting from page 1:

> This is the second time the Committee has brought this matter to the House floor in this 96th Congress—an unusual procedure but one fully justified by the urgency of the situation.

Well, by now this should also have been the second time this House has considered a budget resolution for fiscal year 1981, but that second budget resolution is still languishing in committee. As a result, we should take our cue from the Public Works Committee and resort to an unusual procedure and yet one which is fully justified by the urgency of the situation. For that reason I would urge my colleagues to vote down the previous question on this rule so that I might offer a substitute rule which would make it in order not only to consider the National Visitor Center bill, but more importantly, to first call up a concurrent resolution consisting of the text of the second concurrent resolution on the budget reported by the Senate Budget Committee, Senate Concurrent Resolution 119, and consider that resolution under conditions prescribed by the Budget Act.

To make this procedural question quite clear, let me explain that a "no" vote on the previous question is a vote against violating the Budget Act, and a vote against passing the spending buck to a "lame duck." A vote for the previous question is a vote for violating our own congressional budget act and a vote for lame-ducking the tough fiscal issues before an election. Our constituents will not be fooled by such foul deeds: Today's chickens will be November's lameducks. Let us straighten up and fly right: Vote down the previous question.

□ 1230

Mr. Speaker, I yield to the distinguished chairman of the Committee on Rules. I have already yielded 30 minutes to the gentleman.

Mr. BOLLING. Mr. Speaker, I do not find myself speechless. I find myself interested in the process. It is a little unusual. I have no particular objection to it. We have anticipated that our friends for a variety of reasons might do this on some one of the resolutions that under the rules is in order to be called up by any member of the Rules Committee.

One of the older Members that is on the floor now and who has been here longer indicated this is the first time he has seen it.

I would say that it is the first time in my experience that I have seen this done without notice to the majority. We have tried in the Rules Committee to make sure that the other side knew what was coming up and when.

I cannot say that I resent this, because it does not surprise me particularly. Surprise seems to be valued by some. I have always found that in a parliamentary situation it never served a useful purpose.

Before I debate the issue, which I think I know a good deal about, having had considerable involvement in the writing of the Budget Act in the first place and having stayed interested in the matter all of the 6 years since, I would like the minority to continue to yield so that I can really understand how extensive is the thrust of the minority and how purposeful they are in terms of substance in dealing with this matter.

My impression is that the minority is saying that the majority should follow the Budget Act to its final conclusion at this point in time before we recess to come back on what the gentleman describes as a lameduck session.

I also gather from what the gentleman has already said that it is his contention by failing to act now on the Budget Act that we are somehow copping out in some kind of political fashion.

I would like to have an opportunity to hear some of the leaders of the minority party speak on that subject so that I may be sure that it represents the minority party point of view rather than some who aspire to leadership in the minority party.

I am not clear as to where we are now and I would like to wait if I might to use my time a little bit later.

The SPEAKER pro tempore. The gentleman from Missouri reserves his time.

Mr. LOTT. Mr. Speaker, I yield 8 minutes to the gentleman from Arizona (Mr. RHODES), the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I assure my good friend from Missouri that this is not a matter which is done lightly. It is not a matter which is being done, as the gentleman suggested, by a rump of the Republican Party.

As a matter of fact, the gentleman who made the motion, the gentleman from Mississippi, is a member of the leadership of this party. The motion which he made is in full accordance with the nine members of the leadership.

We think also the gentleman from Missouri knows why it became necessary. It is a matter of conscience in many ways, because we think that the House of Representatives not only should make laws, we think they should abide by laws, and there is a law, and the gentleman from Missouri mentioned he was instrumental in propounding and promulgating and preparing that law. I was, too. The law says that by September 15 of each year there should be a second concurrent budget resolution established which would set the level of spending for the coming fiscal year, that fiscal year beginning on October 1.

I am sure the gentleman recalls also that one reason that September 15 was picked was because it is 15 days before the beginning of the fiscal year.

I am sure the gentleman will also recall that fiscal year used to begin on July 1, but when we adopted the new budget process, we changed the beginning of the fiscal year to October 1 and the whole structure of the budget process was worked out very carefully so that the executive department might know before the fiscal year begins exactly what it has to spend and so that it can plan that spending so that the work of Government can proceed in the most efficient manner possible.

Here we are, not only after September 15, but some 10 days after September 15, and there has been no second concurrent budget resolution brought up. The reason for our consternation at this is partially because of the fact that we are breaking the law, but it also is because of the fact that we do not understand the motivation for not bringing this second concurrent budget resolution up.

The Budget Committee of the other body has voted out a resolution which is or could be the second concurrent budget resolution. The Budget Committee of the

House has not voted out such a resolution. I understand that it is now engaged in a markup and that it is hoped that if we come back for this lameduck session that there might be a resolution ready.

I am the suspicious type. I have my doubts that we are going to come back to a lameduck session that will last long enough to take up the second concurrent budget resolution.

□ 1240

I also am a student of history to some extent and I remember full well that in other years where there was an election coming off that the House of Representatives stayed in session until some time between the 15th and the 20th of October in order to get its work done.

I submit that this particular task of the second concurrent budget resolution is a very important part of that work which needs to be done. I just wonder if the gentleman from Missouri might agree with me that the motivations involved here are rather interesting. Naturally I do not delve into other people's brains and I cannot tell exactly what the motivations are but, from the scenario which evolves around the situation in which we find ourselves, I think I have a pretty good idea.

I think there are two votes that the leadership of the majority does not want to have its troops make before the election. I think one of those votes is a vote on the foreign aid appropriation bill. I can imagine the consternation in bringing up that bill when I am certain that the votes to pass it, if it is adopted, would have to come from the majority side and the feeling is that they do not want to go home, they do not want to go home and tell their constituents that the last thing they did was to adopt a foreign aid appropriation bill.

Now, I have voted for the foreign aid appropriation bill. Many Republicans have. But ordinarily we realize that when we do it is a pretty unpopular thing to do. I can understand that the majority, being beleaguered as they are by so many of the mistakes that they have made, and so many of the mistakes that their administration has made, that they would not want to have that vote around the neck of so many of the beleaguered Members when they go home to talk to their constituents.

Also I think it is important to realize that the other difficult vote is on the second concurrent budget resolution itself which is why we have chosen this particular vehicle to demonstrate, this is one of the reasons, to demonstrate just what this lameduck session is all about.

The gentleman from Mississippi (Mr. LOTT) said, and he is absolutely right, the majority party was chortling and beating its chest about having a balanced budget. Some of us who believed that their figures were correct, or wanted to believe them, were very happy about it, too, because we have wanted a balanced budget for years and years and years and have been working toward one. But the balanced budget was caught up with. It was caught up with by President Carter's recession finally arriving. He had been hoping for a recession for quite some time and finally it came. As a result, we have seen the revenues go down and we have seen the expenses go up. As a result, instead of having the prospect of a balanced budget for the second concurrent resolution, we wil have one that is probably $39 or $40 billion in deficit.

Now, that is a tough vote to ask anybody to make just before he goes home for election, to vote for a concurrent budget resolution that is $39 billion out of balance.

But I know the gentleman from Missouri will remember, as I will remember that one of the reasons we have this system is so that each Member, instead of just voting on appropriation bills as they come time after time in sequence and not knowing whether they are voting on a balanced budget or not, we wanted the Members to have to vote either for a balanced budget or for an unbalanced budget. So by not bringing this up again, the majority is defeating one of the prime purposes for the congressional budget process which the gentleman from Missouri and I both worked for.

So I find myself feeling sad as a Member of the House that this has not been accomplished, that we have not had a chance to vote on the second concurrent budget resolution. I congratulate the gentleman from Mississippi for his ingenuity and for his absolute dedication to the idea of the House complying with the law by bringing this matter up. I hope it will be adopted.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, 50 years ago this House found it necessary to give a Member of the minority the right to call up a rule on a piece of legislation that had been pigeonholed.

We invoke that right today, Mr. Speaker, not to dramatize the urgent need for reauthorization of the National Visitor's Center, although the Visitor's Center is in urgent need of something.

We invoke this right to focus public attention on the Budget Act. It is dying, Mr. Speaker, and its demise will be a great loss to the legislative process. It sits there like the National Visitors Center, lingering uselessly and forlornly, suffering from neglect and abandonment.

The Budget Act, like the Visitor's Center was once of grand design, of solid architecture and great promise. It was once a monument to the Congress as was the Visitor's Center once a monument to the City.

Now the Visitor's Center is not much more than a large hole in the ground. Hardly anybody supports the place, and no one wants to see the project through. The same holds true for the Budget Act. It is a gaping hole on the legislative landscape. No one supports it, and no one wants to see it through. Our attention is focused elsewhere.

Such are the perils of politics. Maybe it would be appropriate to take the budget act and enshrine it in the Visitor's Center, or bury it in that hole over there.

Maybe it would be nice if we dug up old second budget resolutions and submitted them to Ripley's Believe-It-Or-Not. Future generations might find them humorous.

Maybe we ought to make a scrapbook of old budget resolutions and make them a gift to newly elected Members of Congress. Then we oldtimers around here could sit down with them in the Speaker's Lobby at the beginning of each new Congress and show them the scrapbook and tell them about the good old days. We could point to those resolutions and explain that this was the way we used to run the Government before the great congressional stampede of 1980 when we abandoned this city and left the Government to the bureaucracy.

When they ask why that happened back in the fall of 1980, we could show them pictures and say there was rebellion in the air. Those Members of the majority elected to run the Government were running scared. They could not think and they could not act. They were confused and frightened like a herd of buffalo before a storm. Finally, they just dropped everything they were doing and ran to their homes to hide under the porch until the storm had passed, and the budget process was never heard from again.

As I have stated earlier, the procedure that we are using today to consider this rule is a good one and should not be disabused. We are using this procedure because it is incorporated in the rules of the House. Its purpose is to prevent a chairman, or even the majority, from blockading legislation from consideration.

The Budget Act, which this rule would waive in part, was designed to provide for an orderly procedure and timetable for the consideration of its revenue and spending measures before the beginning of the next fiscal year. The budget process was crafted in such a manner as to prevent obstructions and delays in meeting this all important timetable. The act has provisions such as section 305(d) which require certain action by the House and Senate conferees within 7 days and failing to meet that timetable the act requires each House to consider motions to resolve the differences quickly between the two bodies.

The act has that single purpose—allowing Congress, without any obstruction, to finalize its budget before the fiscal year. We in the minority are outraged that the majority party acting through the chairmen of the Budget Committee has refused to honor that timetable because you do not want to vote on the budget before the election. This is totally contrary to the intent of the process.

Before the end of this Congress, I will introduce legislation and hope Members on both sides of the aisle will join me in reforming the Budget Act to allow the immediate consideration of what I call a "current services budget resolution." Whenever we miss our deadline on the second resolution for more than 7 days, it would be in order for any member of the Budget Committee to call up a resolution embodying current spending. Such a resolution would be open to amendment and would allow the Congress to work its will on what fiscal policy ought to be followed for the next fiscal year.

I do not think that the public really understands the importance of what we are doing here in this House. I do not think they understand the importance of the second budget resolution.

It is a measure that we are required by law to enact 15 days prior to the beginning of the new fiscal year. It is now just 5 days prior to beginning of the new fiscal year, and this House has no intention of adopting a budget for the new year for nearly 2 more months, after the election, after there is no incentive to be responsible with public moneys.

We simply must begin the new fiscal year with more of a game plan than we have today. Over the course of the last year and a half we have proposed just about every other change in the budget process we can think of, in order to save it. The Democratic leadership has turned thumbs down on all of them.

Now, the final hour has arrived and the train is leaving. If those in the majority want to kiss the budget process goodby and climb aboard we cannot stop you. Just remember to look back over your shoulder at the Visitor's Center at Union Station, because when you come back, if you do, the whole Government is going to be in the same sorry shape.

□ 1250

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, a budget is the stuff of Government. There is nothing more basic that we do than to try to put together a budget. The Budget Act is very specific. The second budget resolution shall be passed by the Congress by the 15th of September. We have missed that deadline, but nobody can doubt that the budget remains the critical document for the coming year. Also, nobody can doubt that if the American people are to have any chance of judging the effectiveness of this Congress, they must know our plan for the coming year, which discloses the direction of Government and whether the wishes of the people are being heeded.

There is more than the Budget Act involved here. There is the Grassley amendment which was enacted into law last year. It said that we should have a balanced budget by the end of fiscal year 1981. This is another issue that I think the American people would like to have developed before they judge the success of this Congress. It is going to be impossible to put together a second budget resolution if we are to adjourn early next week as some people are suggesting that we should.

We in the minority, who must rely on rules of the House, whether they are exotic or otherwise, what the majority is willing to do in the way of facilitating completion of the second budget resolution before we go home for the claimed right to face the people. I, Mr. Speaker, as a member of the minority, am also a Member of the House. I am concerned about how I defend my position as a Member of the House before my constituents if I do not, when I go home to them, say that I have done everything I can to see to it that we have achieved an accountability that will permit us to go before them and claim the right to reelection to this body.

So, I say that there is adequate time remaining. We are using a rules device rarely used in this House to try to insure that we will achieve during that time the completion of the second budget resolution.

I say to the gentleman from Missouri, I have no aspirations to leadership in my party on this side. I would like to hear from him, now that he has heard from the minority leader and the minority whip—and there can be no doubt of the seriousness of our purpose on this issue—what the majority will offer us in the way of achievement for the second budget resolution.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Yes.

Mr. WRIGHT. What is it the gentleman proposes to do? The gentleman proposes to bring the Senate resolution and adopt it as an amendment to this bill?

Mr. CONABLE. We have to do what is advisable. In some way we are going to have to bring a second budget resolution to the floor.

Mr. WRIGHT. Let me ask this. How many votes does the gentleman think he will get on the Republican side for that Senate budget resolution if we had it before us right now?

Mr. CONABLE. I will say to the majority leader I do not believe budgeting is a laughing matter, no matter how the majority treats it. We are not going to take any more time on our side to entertain the majority leader.

Mr. WRIGHT. I thought the gentleman yielded for some comments.

Mr. CONABLE. I yield no further.

Mr. Speaker, I think it is time that we faced up to this question rather than trying to laugh it away. I, for one, do not want to go home without a serious effort to get the second budget resolution before us in whatever unusual way we can do it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LOTT. I think the record is clear now about the strong serious feelings of the leadership on this side of the aisle. I wonder whether maybe the gentleman from Missouri (Mr. BOLLING) would care to comment.

Mr. BOLLING. Mr. Speaker, I yield myself 1 minute.

I thank the gentleman for cooperating. It is absolutely clear that the whole Republican leadership is involved in this unusual maneuver.

I yield 10 minutes to the distinguished gentleman from Connecticut (Mr. GIAIMO) who chairs the Committee on the Budget.

Mr. GIAIMO. Mr. Speaker, I have been looking forward to January 3, 1981, because, as you know, I am retiring after 22 years in Congress, and I am really looking forward to being a private citizen again. I intend to do many things when I retire, hopefully a little teaching, hopefully a little law practice. I also hope to be able to be in a position to work to make this budget process a more effective vehicle for saving the taxpayers' money. I think that this is the last hope that we in Congress have to be able to get effective control over $630 billion worth of the taxpayers' money that we spend every year. I urge and encourage all of you to join in that combat, in that struggle. It is going to be the prevailing issue in the years of the 1980's, how we get better and more effective control over public spending.

Our people demand it as we tax them heavily at all levels of government and as we tax them heavily with inflation and with high interest rates.

We cannot treat this as a joke, and we cannot laugh about it. I can say to you that no one on the majority side laughs about budget matters, so I urge all of you to work with us. The budget process will work. It must work if Congress is to be effective.

We are late this year. We are past the September 15 deadline. It is not good; it is not healthy; I do not like it. I wish we were not late, but we are. But it is not fatal. We can do our job. We have to adopt a budget for fiscal year 1981, which will start next week. We also have to adopt $450 billion worth of appropriations for fiscal year 1981, and we have not done that either. As you well know, the other body has not passed its appropriation bills. We were somewhat late in passing our appropriations. It has been a late year for everything in Government. Do not ask me the reasons; you can conjecture as you will. But we are late. However, we will complete action.

I am hoping that we will have a postelection session. Obviously, it is essential for all of us on the minority side and on the majority side. I said "for all of us"—not for me. I am enjoying the first fall since 1948 when I do not have to run for reelection or help my friends run for reelection back home.

It is clearly the American tradition to take a month off to go home to run for reelection. Quite frankly, it is better that we handle the public's money and do it after the election because of the vituperative spirit that I read about in the newspapers and hear on television. In the obvious political atmosphere and rhetoric that I have heard here in this last hour, this is no time to be working on budgets or appropriations. It certainly is no time to be working on taxes because everything that we do, everything that we insist upon or try to do in the month before election, may be designed not for the benefit of the American people, I am afraid and I suspect, but rather for what effect it may have in the election. So I tell you, go home, run for office, get reelected. Good luck. You are going to need it on the minority side. And come back here in November and pass your appropriations and let us adopt a meaningful budget resolution.

Budget resolutions have difficulty in the House. They remind me of a doubles game in tennis with three players rather than four. On one side is the other body where the Republicans and the Democrats are able to get together, and do get together, and have very little difficulty in ironing out their differences and arriving at a budget resolution.

□ 1300

In the House, we are on the other side of that tennis net and we do not have two players. We have one. The Democratic majority which believes in and votes for budgeting. The Republican minority does not believe in and does not vote for and support budgeting, except for a few Members, particularly my good friend, the gentleman from Ohio (Mr. LATTA).

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will when I am through.

If we could get a foursome for once in this Congress, I submit, we would not have delays and we would be able to pass meaningful budgets and we would save the taxpayers' money.

One of the other reasons why we are late this year is because of the issue of reconciliation which is a big word which really means nothing other than it is a tool to save $6 billion plus $4 billion in additional revenue, $10 billion off of the public deficit, if you will.

Republicans always give lipservice and support to reconciliation until you get them down to the line and then they balk, as they balked throughout the reconciliation process this last summer. It would have been so much easier to pass reconciliation had they supported us consistently for reconcilation as they did last year when it was a moot issue. When it became a reality they peeled off.

Let me talk to you about some of the reasons for delays in the present situation. We had a meeting of the Budget Committee yesterday to begin markup. The first request from the minority side, from the leader of the minority side, in the Budget Committee, was, "We cannot mark up without having additional hearings on defense."

He needs more information on defense. I think he is entitled to his request. We are going to set up hearings next week.

Mr. LATTA. Mr. Speaker, will the gentleman yield to me?

Mr. GIAIMO. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I am very happy that my chairman yields to my request because the gentleman is not oblivious to the facts of the situation in Iraq and Iran, at the present time, that demands attention. I think to pass out a resolution at this time on the matter of defense would be irresponsible. We have got to hear from the Joint Chiefs of Staff. We requested that this morning. Hopefully, we will get them before the committee and we will get a firsthand nonpolitical report on what is going on.

Mr. GIAIMO. I will try and I will do my best to get the adequate witnesses next week but we must understand this flies in the face of the request of the gentleman from Mississippi (Mr. LOTT) who wants to take up the Senate Budget Committee measure now and pass it.

Mr. LATTA. We could certainly work on a concurrent resolution. We cannot pass it in a day. There is no question about that.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will yield to the minority leader.

Mr. RHODES. I just wanted to enlighten the gentleman from Connecticut and the Members of the House as to why things are different in the other body than they are in the House of Representatives. The Senate operates on the basis of unanimous consent in most of its affairs as you know. It becomes necessary for the majority to consult the minority before they take positions. That is not true over here. The majority governs and the majority in this particular body has no interest whatsoever in working with the minority. So why does the gentleman from Connecticut expect that the minority is going to turn its cheek and jump through hoops to cooperate with the majority? It could be a cooperative effort but it is not.

My good friend, the Speaker, has said any number of times, he does not expect the Republicans to have anything to do with legislation and if they do, it will be an accident. Well, we have not seen many accidents but I would like to see more. I would like to work with the majority.

Mr. GIAIMO. Let me say to the gentleman from Arizona that we have tried to develop a bipartisan rapport and I think we have, to a degree. Let me tell you, this year more than ever we have worked very closely and happily, I might say, with the gentleman from Ohio (Mr. LATTA).

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield an additional 5 minutes to the gentleman from Connecticut.

Mr. GIAIMO. With Mr. MICHEL from Illinois and with minority members of the Committee on the Budget, we have worked together on a lot of things. We understand the problem. We do.

My friend from Ohio and I understand if we could truly harness a bipartisan effort in budgeting we would not be dependent upon the extremes of either the right or the left and that we could more effectively protect and moderate Government spending.

Mr. Speaker, I have been a member of the Democratic Party since I came out of the army in 1947. I know the greatness of the Democratic Party and I know weaknesses we have in the Democratic Party and the differences and the divisions. We are a huge umbrella type party with all different kinds of factions in it.

Let me tell you something. I have had opportunity to watch the minority party very closely because of my cooperation with the gentleman from Ohio (Mr. LATTA) and his people on matters of reconciliation, budgeting and the like. I will say the minority party, sir, is schizophrenic. You cannot bring them together at all and you have that very real problem. I have seen it happen.

Mr. LATTA. Mr. Speaker, would my chairman yield at that point?

Mr. GIAIMO. I do yield to the gentleman from Ohio.

Mr. LATTA. Let me say, Mr. Speaker, I think the record shows otherwise.

Mr. GIAIMO. I have seen the internal struggles which you have had in the Republican Party on budgeting. You know, it is very similar to the same struggles that you had out in Detroit between the conservative branch of your party and the so-called eastern establishment or liberal branch.

Mr. LATTA. Mr. Speaker, will my chairman yield?

Mr. GIAIMO. That is the problem.

Mr. LATTA. Will the chairman yield?

Mr. GIAIMO. All of your Republicans but one on the Committee on the Budget voted to report out the first budget resolution. Am I correct? If I am not correct, correct me.

All of you led by Mr. LATTA voted to report it out. We get it to the floor. You cannot get the majority of your Republicans or anything even approximating a strong minority of them to support what you yourself recommend to them. That is the problem.

Mr. LATTA. Now, will the gentleman yield?

Mr. GIAIMO. I know what is going on in your party. You cannot help it. I wish that DEL LATTA, JOHN RHODES, BOB MICHEL, and BARBER CONABLE and others could control your party better.

I know what is happening. You have your troubles. I am sorry for you. We have got some on our side. But man alive, you do have more on yours.

Let me say something else to you. You know, I want to take a few liberties because I will not be able to speak here after January 3.

You are making a mistake. Forget the budget. Forget everything. Let us talk about the election in November. You are blowing an election, believe me. You are a minority party. Your only hope is to get out of being a minority party and appealing to the great American people, but you will not do it. Do you know why? Because that same group that fights DEL LATTA and JOHN RHODES on budgeting in here is that same group that will not let you do the things that the American people want. And so you are in trouble. You are in serious trouble.

Mr. LATTA. Now will the gentleman yield?

Mr. GIAIMO. Now I will yield.

Mr. LATTA. Let me first correct the gentleman about our side not being cohesive because on the Latta substitute we had a unanimous vote on this side. I would like to have the gentleman point to the time when the gentleman had a unanimous vote on his side on any substitute on any budget resolution. I am sure the gentleman will say he has to be corrected.

Mr. GIAIMO. DEL, you are my friend and you and I are going to be good friends for the rest of our lives and I love you, I really do, and I do not have to tell the gentleman what the problem is on the Republican side. The gentleman knows it better than I do. It is very real. I can single out some Members there who do not have office in your party in the Congress, but they surely act as if they were the minority leader and the minority whip and a few other things.

☐ 1310

We all know who they are. You cannot kid the people. The media is up there. They are writing all the time. They know what is going on. They even refer to who is running the House, not only on the Republican side; they even say he is running our beloved Speaker, and of course you know that is not true. But, they say it.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield for some facts?

Mr. GIAIMO. I will be delighted to yield.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has again expired.

Mr. BOLLING. Mr. Speaker, I yield 5 additional minutes to the gentleman from Connecticut.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will yield briefly.

Mr. SHUSTER. Mr. Speaker, I thank my friend for yielding. I appreciate that using levity might be a way to try to denigrate efforts of the minority, but I would share with the gentleman the fact——

Mr. GIAIMO. I do not denigrate your efforts, or DEL LATTA'S, BOB MICHEL'S or JOHN RHODES'.

Mr. SHUSTER. I would like to share two facts with the gentleman.

Mr. GIAIMO. I will not name the ones at fault; you know them. We all know them.

Mr. SHUSTER. When the gentleman says, "You can't bring your party together," I would respectfully suggest that is not an accurate statement. The facts are, on Republican positions, the Republicans have been together 92 percent of the time. The Washington Post in a headline last winter, said that the Republicans represent the largest cohesive force in the Congress.

So, I would most seriously and respectfully suggest to the gentleman that, all the levity aside, the facts are that Republicans are together on those issues we choose to take a stand on, and the media has recognized that we are together. We should approach this whole problem in a very serious fashion, because it is serious that we are breaking the law.

Mr. GIAIMO. I am not asking you to march in step with the Democratic majority in the House. I am not asking you to march in step once in a while with the Democratic majority in the Senate. But, how come you never march in step with the Republican minority in the Senate on budget matters? How come? You are the only ones who are right, and all the other three groups are always wrong.

Mr. SHUSTER. To answer the question the gentleman poses, in the Senate the Republicans and Democrats work much more closely together to arrive at compromise. Here in the House we find ourselves in a position of coming forward with a Republican alternative, but we do not get the kind of compromise that makes it possible for us to cooperate with the majority, and that is the fundamental difference.

We do not get the compromise, but Republicans are together, and that is not rhetoric—that is the truth, that is the fact. Republicans are together 92 percent of the time, and I am sure the gentlemen on the other side of the aisle, wish they could make that kind of a claim for their party. We indeed recognize that those facts simply are not there with regard to the majority party.

Mr. GIAIMO. Let me say, there is a line somewhere in literature that starts off with, "Excuses, excuses."

The modern generation would call that a copout. I will not say anything.

Let me just say this: Let us not try to tear ourselves apart in here. It is much too late in the year. We have got real serious business to do. We have got to adopt a budget resolution. We have got to adopt $400 billion worth of appropriations for 1981, and we have to make determinations and decisions on taxes for next year. Let us all embrace each other in the spirit of brotherly love. Let us go home and tear each other apart in our election campaigns until the first week in November. And then let us come back here in early November determined in several days, or however long it will take, to do the public's business.

I want to end this on a note of fraternity and love and friendship and happiness, so I will not yield further.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I have one speaker left. I cannot have the last word because the gentleman from Mississippi has control, but I would like to be next to last.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I do not know that it will take 2 minutes to demolish the last argument, but I do thank the gentleman for yielding.

I just wanted to quote the words of the Speaker of the House to the gentleman from Connecticut. I thought the statistical analysis about which party is united and which is not is most interesting, but let me read from a publication of September 13 in which the Speaker tells us:

> "The Democratic Party," he said, "has today become little more than an organizational convenience."

I think that is a very generous description myself.

> "Because 274 House Members call themselves Democrats and pledge to vote together on the first day of the new Congress, they are able to control the House and its committees. But after that, the party apparatus becomes more dependent on the Members than the Members are on the party," he said.
>
> Speaking of his own party in the House, O'Neill went on, "we're five parties in one."

Mr. Speaker, that is more than schizophrenia, I would interject.

> "We've got about 25 strong liberals, 110 progressive liberals, maybe 60 moderates, about 45 people just to the right of the moderates, and 35 conservatives. We have 10 fellows who haven't voted with us 10 percent of the time. We have 13 who haven't voted with us 20 percent of the time."

Now, I do not know what sort of psychological problems the Speaker's numerical estimate describes in his party, but I do know that it is far more than schizophrenic. But, the important point to remember is that those Members add up to a majority and that means you and your party control the floor.

What is involved in this debate today on a rule that is of minor importance is that the majority party, with absolute control of this House, is unable to produce a national budget, unable to vote on a tax cut, unable to address the issues that are making the American people suffer; inflation, the No. 1 issue in this Nation, hurting everyone and you walk away from this session without voting on the budget. The Democratic leadership has made a calculated decision not to address these issues so that their members do not have to go to the polls with a record the American people can examine. Those of you in the majority can laugh all you want about it, but the majority leader is in trouble in Fort Worth because of this kind of conduct, and the majority whip is in trouble, and other Members on your side are scared for their hides. They do not even want to be seen with the President of the United States in their campaigns. You know it and I know it, and this decision not to finish the business of Congress was made last August to avoid political responsibility, to avoid the very mandate of the people that gave you power. And that mandate will not be renewed by the American people because of your lack of responsibility.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. I just basically want to refer to the reconciliation process which is now ongoing. We have a number of subconferences that are now meeting. Finance and Ways and Means are meeting on reforms and savings in medicare, medicaid, and a number of other areas relating to revenues. In the area of nutrition savings, we now have a subconference presently meeting on the Senate side. We also have a Post Office subconference that is meeting on postal reforms and savings.

I might say along those lines that one of the savings that is involved in that subconference relates to cost-of-living increases, to try to reduce from twice a year to once a year the increases for Federal retirees. It was the gentleman from Maryland in the Rules Committee that stopped getting a closed rule with regard to all reconciliation savings. Instead he advocated eliminating substantial savings by keeping COLA. As a result of that effort, we lost that saving on the House side. We lost close to a billion dollars in savings that could have been achieved.

Now, we are fighting in the reconciliation conferences to try to retrieve that saving in some way so that we can bring a reconciliation bill to the floor. We cannot legitimately deal with the second budget resolution until we know whether we have got $10 billion in savings that had been accomplished in reconciliation. It would be irresponsible for the House to proceed without resolving reconciliation first.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. KRAMER).

☐ 1320

Mr. KRAMER. Mr. Speaker, I could not agree more that we have a problem on our side of the aisle, but the problem is not as the gentleman from Connecticut (Mr. GIAIMO) has characterized it. The one and only problem we have is that we are in the minority, we have been in the minority for 26 consecutive years, and that is why the country has suffered.

I said to the Members on the other side: You can accuse us of all the poor tactics in the world and all the poor kinds of strategies you want, but you cannot change the simple fact of the matter that you have a 2-to-1 majority in this body and you cannot govern.

The American people deserve solutions to the problem of inflation. They want to know why the inflation rate has been up to 18 percent this year. They want to know why this year's budget and next year's budget are going to show more record deficits that are going to mean more inflation. They want to know why the majority party has not been able to govern and get through a budget this year. They want to know why we are going home instead of staying here to do the job we are paid $60,000 a year to do. They want to know what the blueprint is for inflation, for unemployment, for taxation, and for regulation, and they want to know before the election so that they can judge the performance of this Congress before they go to those ballot boxes and make their choices as to who is going to be in power next year.

I submit that when we are in the majority, we will be able to govern. And I say to the other side: We will be happy to consider your input, we will be happy to consider your suggestions and recommendations, and we will be happy to govern with you in the spirit of friendship and in cooperation.

But until that time, the problems of this country are far too serious to laugh away. Cynicism or cynical laughter is not the answer for the person who is out of a job, it is not the answer for the person who cannot pay his bills at the end of the month it is not the answer to overregulation, and it is not the answer for a military that is incapable of defending us against a threat from the Soviet Union.

The SPEAKER (Mr. ROSTENKOWSKI). The time of the gentleman from Colorado (Mr. KRAMER) has expired.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 5 minutes.

Mr. BOLLING. Mr. Speaker, I apologize to the gentleman from Mississippi (Mr. LOTT) for indicating that I did not recognize that he represented the leadership. My reason was relatively simple. He is the third member on the Republican side of the Rules Committee, and I would have expected the gentleman from Tennessee (Mr. QUILLEN), the ranking minority member, to have undertaken this initiative on behalf of the coordinated Republican leadership.

The last time it was done was in 1956, and I do not have any particular objection to the approach. I do not think the circumstances are quite that desperate. Time is not that hard to come by.

The issue is obviously political. The Democrats and Republicans are united usually on one thing: They each favor their own candidate for President, and they each favor their own candidates for Congress. That is sort of normal.

Every now and then the Republicans pull themselves together and get a unanimous vote on a procedunal matter or something like that. It is not terribly significant. I do not remember a time that the Democrats have ever been totally unanimous on anything. We have always prided ourselves on that.

The question of whether we can govern as a party, as compared to the Republican Party, is, I think, a good one to raise. I hope the American people remember what preceded Carter—a very nice man who succeeded somebody else. But I do not think that really is pertinent nor do I think this charade we are going through now is pertinent.

I have to come to the floor and say, "Please do vote for the previous question." This is a rule reported by the Committee on Rules that brings up a relatively important matter that has not been reached. There are a great many other rules that could have been brought up. For a variety of reasons, as usual, under Republican administrations and Democratic administrations, we have not completed all the bills that have been reported out of the committees.

We have not even finished the budget resolution. How many times have we seen the appropriations business completed? This time the other body has completed, I guess, very few of the appropriation bills.

What kind of a charade is this? Everybody knows there is no way to complete the elementary business of the Congress this year, for many reasons. I am not going to talk about who has done the delaying in committee and other places. The way out of this particular little problem, which seems to be highly partisan and certainly is not very significant in and of itself, is to vote up the previous question, vote for the previous question and pass the rule.

Mr. Speaker, maybe someday we will be able to deal with the Visitors Center in a rational, bipartisan way, but there is no point in furthering this discussion, because it has only one meaning: that this is a political year, that this is a Presidential year, and that our friends are doing what comes naturally.

The SPEAKER pro tempore. The time of the gentleman from Missouri (Mr. BOLLING) has expired.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, we appreciate the attempted use of laughter by the majority to denigrate what we believe is a very, very serious effort.

We have heard the statement here that this is a charade, that this is an unusual maneuver, and that the issue is political. Well, it is an unusual maneuver, Mr. Speaker. It is a very unusual maneuver. It is a very serious maneuver, but it is one of the few vehicles available to the minority to attempt to say—and this is what this is all about—that we believe that the Congress should obey the law.

The Congress should obey the law, and the public law says that the second budget resolution shall be passed by September 15. We believe that this is important. We do not think it is a laughing matter.

Now, we are told that the Democratic majority "votes for budgeting." Well, the facts—not the rhetoric, not the words, but the facts—are that the Democrats have almost a two-thirds majority control of this body. The facts are that the Democrats can do anything they want to do because of that overwhelming majority.

So I think a reasonable person can conclude that if indeed they have a two-thirds majority and can do what they want to do, then they are doing what they want to do.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. And what they want to do is to turn their back on the law which requires this body to pass a budget resolution by September 15.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. Mr. Speaker, those are the facts. Now, what is the motivation? I think the American people are going to have to answer that question.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. SHUSTER) has expired.

Mr. LOTT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me conclude by just asking my colleagues to vote no on the previous question. It is a vote against violating the Budget Act. Let us free this budget hostage, and let us give ourselves a chance to do the job before we go home and ask to be rehired.

With that, Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RHODES. Mr. Speaker on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 246, nays 144, not voting 42, as follows:

[Roll No. 591]

YEAS—246

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chappell
Chisholm
Clay
Coelho
Conyers
Cotter
D'Amours
Daniel, Dan
Danielson
de la Garza
Dellums
Derrick
Dicks
Dingell
Donnelly
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McCormack
McHugh
McKay
Maguire
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Satterfield
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—144

Abdnor
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Porter
Pritchard
Pursell
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rudd
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whittaker
Williams, Ohio
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—42

Anderson, Ill.
Biaggi
Bowen
Butler
Carter
Cavanaugh
Collins, Ill.
Corman
Daschle
Davis, S.C.
Derwinski
Dixon
Dodd
Dornan
Downey
Gray
Holt
Holtzman
Ichord
Jenrette
Lee
Lundine
McCloskey
McKinney
Markey
Mitchell, Md.
Musto
Myers, Pa.
Nolan
Pepper
Quayle
Quillen
Roberts
Rousselot
Royer
Solarz
Symms
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn
Wydler

□ 1340

Mr. BUCHANAN changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BROOKS). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following date the President approved and signed a bill of the House of the following titles:

September 24, 1980:

H.R. 5766. An act to authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 26, 1980, TO FILE CONFERENCE REPORT ON S. 2719, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, September 26, 1980, to file a conference report on the Senate bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 26, 1980, TO FILE REPORTS ON S. 265, H.R. 8178 AND H.R. 4273, AND CONFERENCE REPORT ON S. 1790

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight, Friday, September 26, 1980, to file Committee Reports on the following bills:

S. 265, an act entitled "Equal Access to Justice Act," as amended; H.R. 8178, to amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes; and H.R. 4273, to amend section 17 of the Act of July 5, 1946, as amended, entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes." and the conference report on S. 1790, an act entitled the "Privacy Protection Act of 1980."

The SPEAKER pro tempore. Is there objection to the request of the genleman from Wisconsin?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 26, 1980, TO FILE CONFERENCE REPORT ON H.R. 6790, FOREIGN SERVICE ACT OF 1980

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Friday, September 26, 1980, to file a conference report on the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

INTERNATIONAL MONETARY FUND APPROPRIATIONS

Mr. LONG of Maryland. Mr. Speaker, pursuant to House Resolution 778 adopted by the House, I call up the joint resolution (H.J. Res. 601) making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981, and ask for its immediate consideration in the House as in the Committee of the Whole.

The Clerk read the joint resolution, as follows:

H.J. RES. 601

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MONETARY PROGRAMS

United States Quota, International Monetary Fund

For an increase to the United States quota in the International Monetary Fund, the dollar equivalent of 4,202.5 million Special Drawing Rights (approximately $5,537,839,000), to remain available until expended, and balances equivalent to the current SDR value of the United States quota in the Fund shall be merged with this appropriation. Amounts equivalent to the United States reserve position in the Fund shall be credited to this appropriation. Amounts available in this account may be transferred to the Fund by the Secretary of the Treasury to meet United States obligations in the Fund in an amount not to exceed at any time the United States quota in the Fund. The amounts provided for valuation adjustments of Fund holdings of United States dollars shall continue to be available for this purpose and shall be available for transfers to this appropriation account for the purpose of such adjustments.

Mr. LONG of Maryland. Mr. Speaker, I move to strike the last word.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 601).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. LONG of Maryland. Mr. Speaker, the resolution before the House today would provide approximately $5.5 billion for the International Monetary Fund. But in the form of budget authority rather than in any net outlays or spending, since the United States will receive a credit in its account with the IMF which it can use when it faces balance-of-payments difficulties.

The IMF is the world's major international institution charged with preserving and promoting financial and monetary stability.

The IMF is not a foreign aid institution—I repeat—not a foreign aid institution. The United States has used funds from the IMF on some 24 different occasions over the past 17 years when our own dollar needed support.

The purposes of the IMF are basically as follows:

To facilitate the expansion and balanced growth of international trade, the achievement of high levels of employment and real incomes, and the development of productive resources of all members;

To promote exchange stability and orderly exchange arrangements, and to avoid competitive exchange depreciation;

To assist in the elimination of exchange restrictions;

To assist members in correcting payment imbalances without resorting to measures destructive of national or international prosperity.

The role of the IMF was broadened and strengthened by amendments which became effective in 1978. These amendments were, in effect, a reaction to the vastly significant changes in the world economic order that had occurred since the Fund's inception.

REASONS FOR THE QUOTA INCREASE

The changes in the world's economic structure have greatly aggravated balance-of-payments problems for numerous nations throughout the world. The role of the IMF has become more and more critical.

In the report before you, on page 3, is a table which shows the percentage which IMF resources are of world trade, a percentage that has declined from 13 to 4 percent.

The funds in this bill will stabilize that decline and for a few years provide a slightly increased amount of resources for the IMF.

These funds, of course, will not solve the world's growing economic problems. But they will enable the IMF to continue to play an important role in assisting countries, both rich and poor, stabilize their financial system.

The resolution has support on both sides of the aisle and passed the subcommittee and full Appropriations Committee by voice vote.

The House has just adopted the authorization for this legislation. I urge support of the appropriation measure.

□ 1350

Let me just add and point out the importance of this in terms of a little piece of history. In the early 1920's the German economy suffered the worst inflation on record. This was because the Germans had to buy gold to make their reparations payments and they had to get that gold four times, I believe. All the speculators knew when the German Government went out to sell paper money to buy the gold, so the speculators all sold the mark short. The result was that the German mark ended up not being able to do anything. A postage stamp, for example, would not even carry its own weight through the mail. That is how bad the inflation became. People used to go out and demand their pay two or three times a day because in a couple hours the money would have been worthless.

This was the major factor leading to the rise of Hitlerism and the rise of Nazism and World War II. Tremendous feelings of frustration and injustice arose out of that. This monetary fund at that time could have prevented that and could have prevented World War II.

It also could have prevented the Great Depression and the excesses of the Great Depression. In an attempt of various countries to compete with each other, to try to hold their balance of payments in the late twenties and early thirties, they were all going to competitive exchange depreciation and the International Monetary Fund could have prevented those excesses in the Great Depression.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. LONG) has expired.

(By unanimous consent, Mr. LONG of Maryland was allowed to proceed for 2 additional minutes.)

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Speaker, I appreciate the gentleman yielding and I congratulate him for his leadership and for his superb historical example.

It is true that the International Monetary Fund in the 35 years of its existence following Bretton Woods in 1945 has avoided the kind of international monetary panic which brought the world to its knees in the thirties and forties, and for a very simple reaffirmation of faith of which the House gave the first installment a few days ago when we approved the authorization brought to the floor by the Banking Committee, by a very simple affirmation of faith we can tell the world that this time and in this generation we are being responsible about international monetary affairs.

I hope that the gentleman's appropriation will be overwhelmingly adopted, as it deserves to be.

Mr. LONG of Maryland. Mr. Speaker, I thank the distinguished chairman.

Let me point out also that there is no expenditure of money, but we simply provide a letter of credit and in exchange for that we get a deposit in the International Monetary Fund that is absolutely safe. The gold reserves of the International Monetary Fund equal about $70 billion and the total quotas are only $50 billion. In short, it is as good as gold, so I hope the House will support this.

Mr. YOUNG of Florida. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this is sort of a historic time for most Members of the House in that most Members have never had an opportunity to vote on this type of a bill before, a separate appropriations bill for the International Monetary Fund. The reason for that is that the International Monetary Fund appropriation has always been included with the regular foreign aid bill.

Now, this year, for some reason, this bill has been separated; while the regular foreign aid bill has been lost somewhere and apparently is not going to come to the House before the election, the IMF bill is before us now and it is well that we proceed with the debate.

I would say that there has already been much debate on the question of the IMF because the authorizing bill was just approved last week and the debate was handled very well in a timely fashion. It was our belief that the appropriation bill could have been handled expeditiously, except that things have intervened and people's feelings have gotten maybe excited about this point or that point and it may take a little longer than we had anticipated; but nevertheless, we will move ahead and finish this as soon as we possibly can.

We are talking about increasing our quota for the IMF, as well as the quota of every other member of the International Monetary Fund by about 50 percent.

Some have the idea that this is a foreign aid bill like the World Bank or some of the other multinationals. In defense of IMF, I have to say that is not the case. This really is not a foreign aid bill in that same context.

As a matter of fact, the United States when we get into balance-of-payments problems on occasion, we ourselves are users of the IMF. We draw SDR's. As a matter of fact, we are the second largest user of the International Monetary Fund. The British Empire, the United Kingdom, is the largest user, of course, a friend and ally. Other friends and allies are users of the International Monetary Fund; Turkey, for example; Greece, South Korea, the Philippines, and others that we are attempting to help in the world. When they make their draw, when they are able they replace the SDR's back into the fund or the dollars or the yen or the marks or whatever it is that they draw out because of their balance-of-payment problems.

The way I view this, is somewhat like a small loan company. You know, we see the advertisements, "Consolidate your debts, take all these many payments that you have and put them together under one repayment to a small loan company."

I do not particularly like that approach. I think that is not a strong way to build a world economy; however, like the case of the small loan company, sometimes that is the only way out.

Now, what happens, a country gets into debt, their balance-of-payments deficit becomes very serious, they need some help immediately and it is the IMF that provides that help.

Now, when the IMF gives them the help with the dollars or whatever currency they happen to draw on, the IMF actually puts into place some very severe economic restraints. IMF requires the countries to operate fiscally in a frankly very conservative manner, to the point that some countries have had internal problems because they had to cut back on some of their social programs or their give-away programs.

I would much rather that this bill today were a part of the foreign aid bill that we might get sometime after the election; but, nevertheless, this is the way we have it.

There are two amendments that I am aware of, one amendment that I would like to mention now deals with the question of the PLO having observer status at the meetings of the IMF.

□ 1400

On the authorizing bill, the gentleman from New York (Mr. GILMAN) offered an amendment which was adopted with only two negative votes to establish the intent of Congress that we do not desire to have the PLO as a part of or as an observer at the IMF. The gentleman from New York (Mr. GILMAN) will offer a similar amendment today to this bill. I think we can dispose of that without any lengthy debate and hopefully it will once again establish that the Congress does not intend for the PLO to become part of the International Monetary Fund, either as a member or as an observer.

Now, we want to get more involvement on the part of OPEC countries in the IMF because much of the balance of trade, balance of payment deficit that these countries have is because of OPEC. Because of the tremendous increases in the cost of energy, they run out of money.

We really need to find a way to get the OPEC countries more involved in helping to solve the world's financial problems because they, in fact, are creating much of the world's financial problems. Now we have this problem.

If we encourage the OPEC countries to become more involved directly in the International Monetary Fund they will get a much larger vote and if they get too big of a vote, of course, a vote on admitting the PLO or on giving them an observer status would go contrary to the wishes of our Government and our Congress.

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

(By unanimous consent Mr. YOUNG of Florida was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Florida. That is something we have to be considering and debating as we go along the road of trying to encourage OPEC to become more involved.

Mr. Speaker, before I yield back the balance of my time I want to say that when the gentleman from New York (Mr. GILMAN) offers his amendment, I would hope that it would be soon and that we will accept the amendment, and I hope that we can save a lot of time on the debate.

Mr. CONTE. Mr. Speaker, I move to strike the requisite number of words and rise in support of the joint resolution.

Mr. Speaker, I will not take a great amount of time explaining this bill, as the House voted September 18, 1979 to authorize the fund which are appropriated here. The issues have been discussed extensively, and I hope we can act on this bill quickly and move on to other business.

Mr. Speaker, the International Monetary Fund is an essential tool in our task of assuring a relatively stable economic and monetary system in the world in the 1980's. It is essential to the stability of the United States itself. Indeed, we have been the second largest user of IMF assistance as we have attempted to stabilize the value of the dollar in world markets.

IMF drawings are not foreign assistance. Rather, it is temporary balance-of-payments financing for countries which have demonstrated a commitment toward self-help economic recovery. In recent years the economies of Great Britain, Turkey, Sudan, Liberia, Italy, the Philippines, and others have benefited from IMF support and assistance. In turn, the economies of these nations are important to our own economy and security.

IMF resources must be increased at this time to meet the requirements of the rising level of world trade and steadily increasing oil prices. While the relative level of IMF activity in comparison with total world imports is small—about 4 percent—the IMF is a critical catalyst which can and has stimulated private and public emergency financing aid to countries experiencing severe balance-of-payments difficulties.

In addition, the sometimes hard economic and political actions required by the IMF in connection with its assistance have been instrumental in turning governments away from popular damaging policies.

The IMF is able to play this important role of catalyst because of the high regard in which it is held by private and public financial institutions. For this important relationship to continue, IMF resources must be maintained at a reasonable level.

Established in 1945, the Fund has two basic functions. First, it oversees the operation and evolution of the international monetary system. Second, the IMF provides short-term financing to countries with balance-of-payments deficits until more suitable long-range solutions to such problems can be found. Member nations contribute to a pool of currencies, allowing each country to draw from the pool in the IMF unit of account, the special drawing right (SDR).

The United States has itself benefited directly from its drawing privileges. From 1947–79, the United States drew SDR $5.8 billion, or 11.6 percent of the total drawn from the IMF pool over this period. Nearly half of the U.S. drawing (SDR $2.3 billion) was utilized in November 1978 to support the U.S. dollar in foreign markets.

The IMF is the world's principal source of official balance-of-payments financing, designed to support effective and cooperative economic programs initiated by member countries to correct their balance-of-payments difficulties, and thus to foster global monetary stability. The increase in the U.S. quota would be part of an overall increase in IMF quotas totaling 50 percent, from SDR $39 billion to SDR $58 billion, recommended by the IMF Board of Governors on December 11, 1978, pursuant to its Seventh General Review of Quotas. The increase in quotas will constitute a permanent expansion of the IMF's resources. This increase in resources is needed to maintain the IMF's ability to meet demands during a period of rising international trade and financial transactions, and, especially, during a period of rapidly increasing global payments imbalances and potential strains on the international monetary system.

In short, the IMF utilizes the financial commitments of countries in strong payments positions at any particular point to provide financing to other members facing payments difficulty. Balance-of-payments patterns can change rapidly, and many IMF members, including the United States, have been on both sides of the ledger, providing IMF financing at times and utilizing it at others.

Mr. Speaker, it is definitely in our own national interests to continue to play a leading role in the International Monetary Fund, and I urge a strong vote in favor of this bill.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 2, line 19, strike the period and insert the following:

In the administration of these funds it shall be the policy of the United States:

(1) that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund;

(2) that the United States Executive Director of the Fund shall promptly notify the Fund of such policy;

(3) that in the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of U.S. support; and

(4) that upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further U.S. participation in the Fund.

Mr. GILMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, the amendment which I am offering today, along with the gentleman from Florida (Mr. YOUNG) is identical to the one we offered and which was adopted by the House to the International Monetary Fund (IMF) authorization bill last week. The purpose of that amendment as well as this one is to make it clear that the Congress strongly opposes the efforts of certain Arab States to politicize the IMF and opposes the PLO's participation on an official basis in any IMF activities.

In response to congressional action last week and as a result of the concerted effort by the executive branch, our American delegation was able to gain approval of a U.S.-sponsored resolution in the IMF to bar the PLO. Unfortunately, this is only the first round of the battle. Before the adoption of that resolution, the chairman of next week's annual meeting of the IMF, Mr. Amir Jamal of Tanzania, announced that he planned to allow PLO participation under his own authority as Chairman. In addition, the Arab States that are seeking PLO participation, in an effort to keep the issue alive, have formally requested that an item called "observer status for the PLO," be placed on the agenda for the annual meeting.

Therefore, it is extremely important that we reaffirm our position on this issue in opposition to the inclusion of terrorist organizations to the IMF. The PLO is not a sovereign state. It is not an economic institution. Its acceptance into the Fund would establish a dangerous precedent that could lead to a serious erosion of U.S. support for the Fund and its activities.

Accordingly, I urge my colleagues to join in strong support of this amendment.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the distinguished chairman, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, we have studied the gentleman's amendment and it is an admirable one. It has already been adopted in the authorizing bill. It is valuable. It is needed. It states our position. I understand there is general support for it and I accept it on behalf of the subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Florida (Mr. YOUNG) and thank the distinguished chairman (Mr. LONG) for his remarks in behalf of the committee and for himself in support of this amendment.

Mr. YOUNG of Florida. I thank the gentleman for yielding. I want to advise the gentleman that we are very happy to accept this amendment.

I would like our colleagues to know that this is basically the same amendment that was added to the authorizing bill. It has been adjusted so that it is germane to this bill, but the intent and effect is exactly the same.

□ 1410

Mr. GILMAN. I thank the gentleman for his support of the measure and for being a cosponsor of the original amendment.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding. I want to commend the gentleman from New York and want to associate myself with his remarks.

Mr. GILMAN. I thank the gentleman and wish to commend him for his strong support and leadership on this important issue.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding. I would like to commend the gentleman for the leadership role he has taken on this issue. As has been pointed out, we accepted tne amendment and the authorizing legislation. At this time it is appropriate to commend the Administration on its leadership role and its success in keeping the PLO out.

Mr. GILMAN. I thank the gentleman. I hope that sort of support in barring the PLO will continue to be successful.

● Mr. BROOMFIELD. Mr. Speaker, I support the amendment offered by the gentleman from New York (Mr. GILMAN).

The effort to obtain observer status for the PLO at the International Monetary Fund is a slap at the United States and its friends.

The United States should make it clear that it will not accept observer status for the PLO at the IMF. Although we may not be able to block the efforts of certain states, Saudi Arabia among them, to obtain observer status for the PLO, the result of their actions will be a sharp cut in U.S. financial support for this institution.

The IMF is a cooperative organization designed to help pool international resources to help nations overcome economic difficulties. It has performed tremendous services in aiding and stimulating reforms in the economies of Portugal, Italy, and Turkey, among other nations.

If the IMF is now going to cease being an institution of cooperation and mutual support and become one of contention over political issues in which the major thrust is the embarrassment of the United States and its friends, it no longer deserves our support.

The PLO is not a government; it has sovereignty over no territory; it is not a nation. There is absolutely no ground, therefore, for providing it membership in or observer status at the IMF. The object of this effort is to advance official recognition of the PLO which is contrary to U.S. policy and which must remain so. The United States must make it absolutely clear that it opposes PLO observer status at the IMF and will take strong action in opposition to this step.

I urge support for the Gilman amendment.●

● Mr. WOLFF. Mr. Speaker, last week this body overwhelmingly passed, by a vote of 386 to 2, an amendment offered by my friend and colleague from New York (Mr. GILMAN). This amendment put the House of Representatives on record as being opposed to the IMF granting observer status to the PLO. The amendment also made clear that the granting of any such status "would result in a serious dimunition of U.S. support."

I was very pleased to learn early this week that the Board of Governors agreed to a resolution presented by the United States which in effect prohibits granting the PLO observer status this year.

I believe that this vote was critical for reaffirming the nonpolitical mandate of the IMF and the World Bank. Other international bodies have been politicized and impeded in carrying out their mandates because of PLO politics. Recognizing the PLO at the U.N. and in other fora has had the effect of legitimizing this terrorist group in the international community. To try to legitimize the PLO in a political forum, such as the General Assembly, is bad enough. To grant any sort of recognition to the PLO in the context of an international financial organization is absurd. Perhaps the PLO would like to lend some of its $1 million per day terrorism budget to some Third World country staggering under the burden of increased oil costs? I do not think they want to spare it. The PLO has no national legitimacy, and has no place in a forum where international financial matters are decided.

Mr. Speaker, the IMF is a very important institution for the United States. We borrow from the IMF to help with our balance-of-payments problems. In fact we borrow as much as we contribute. In addition, the IMF is the institution most capable of dealing with the incredible financial dislocations caused by oil price increases. This is not the time to decrease our appropriation to the IMF. The critical question of recycling petrodollars must be more effectively addressed. If we reduce our appropriation, all we are doing is decreasing our voting rights, diminishing our international financial clout. The OPEC countries are increasingly dominating world financial affairs. This is not the time to abdicate our responsibilities for the enormous problems of world finance. For the sake of international stability, we must continue, strongly, to seek solutions to the difficulties posed by the lopsided trade imbalances caused by oil price increases. We cannot afford to do otherwise.

I understand that, despite the fact that the U.S. resolution passed, there may still be efforts to bring up the question of PLO observer status as an issue to be debated. Thus Congressman GILMAN is offering an amendment very similar to the one overwhelmingly passed by this body last week to the authorization bill. I think that it would be worthwhile to pass this amendment, to show the IMF how serious we are about this issue.

This year the U.S. view on observer status for the PLO prevailed. If we reduce our participation now, who is to say what will happen next year. The IMF is too important an organization for us to stand by while this organization is rent apart by political matters which have no place in financial discussions. We must not pull back and let oil politics dictate oil financing.●

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MADIGAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 1, not voting 44, as follows:

[Roll No. 592]

YEAS—387

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Conyers

NOT VOTING—44

Anderson, Ill.
Bethune
Biaggi
Bowen
Butler
Carter
Cavanaugh
Chisholm
Collins, Ill.
Corman
Davis, S.C.
Derwinski
Dixon
Dodd
Donnelly
Downey
Glickman
Hance
Holt
Holtzman
Ichord
Jenrette
Johnson, Colo.
Leach, La.
McCloskey
McEwen
Mathis
Matsui
Mitchell, Md.
Moorhead, Calif.
Musto
Myers, Pa.
Nolan
Pepper
Quayle
Quillen
Roberts
Rousselot
Royer
Symms
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn

☐ 1420

So the amendment was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendment just agreed to.

The SPEAKER pro tempore (Mr. BROOKS). Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL 5 P.M., FRIDAY, SEPTEMBER 26, 1980, TO FILE SUNDRY REPORTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until 5 p.m., Friday, September 26, in which to file sundry reports.

The reports are on:

H.R. 7960, relating to trust status of certain lands for Edison Chiloquin;

H.R. 5108, relating to enrollment of Metlakatla Indian community;

H.R. 6257, relating to management of certain national forest lands;

H.R. 3489, relating to enlargement of Bumping Lake;

S. 1972, relating to Sangre de Cristo Development Co., Inc.; and

H.R. 8112, relating to the Ute Mountain Ute Indians.

And others which may be ready for filing.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Arizona?

There was no objection.

□ 1430

(By unanimous consent Mr. MADIGAN was allowed to speak out of order for 3 minutes.)

PRESIDENT MUST CANCEL LETTER FROM DEMOCRATIC NATIONAL COMMITTEE TO RAILROAD EXECUTIVES

Mr. MADIGAN. Mr. Speaker, I have served in this House for 8 years, and have never taken part in any type of dilatory practice in the 8 years that I have served here.

A few weeks ago, the President of the United States assured me personally, in the presence of Mr. STAGGERS, Mr. FLORIO, and others, that the railroad deregulation bill was a bipartisan effort, that it should be regarded as such, and that he regarded it as such an effort. It passed here with the support of Republicans. It passed in the Senate with the support of Republicans.

Now, I am given to understand that Ambassador Strauss, the President's campaign manager, and Secretary Goldschmidt, Secretary of the Department of Transportation, are calling in the executives of all the railroads in America to a breakfast meeting in the Madison hotel next week to "talk about the needs of the Democratic National Committee in advance of the President's signing the deregulation bill."

As I have said, I have never taken part in any dilatory practice in this House in the 8 years that I have served here, but until this meeting is canceled I will demand a recorded vote on everything, and I will object to every unanimous-consent request that is made.

This is a letter announcing the meeting. I think there needs to be another letter canceling the meeting.

I yield back the balance of my time.

(By unanimous consent, Mr. CHAPPELL was allowed to speak out of order for 2 minutes.)

THE SPARTANS AT THERMOPYLAE

Mr. CHAPPELL. Mr. Speaker, our great Democratic team, in its usual good way, rose to the challenge of a brave and courageous Republican team last night at Four Mile Run Ball Park during the 19th Annual Congressional Baseball Game. It is with a feeling of both admiration and sadness that I recount this great contest.

My admiration for such courage is real. I always feel heartened by the spectacle of men bravely facing hopeless odds.

The Spartans defeat at Thermopylae, Davy Crockett and Jim Bowie at the Alamo. Those images do stir the blood of any patriot.

Of course, one thing about such scenes—to those who participate in them—is the fact that while the odds may seem hopeless—no one can know the outcome in advance.

As John Paul Jones proved: A refusal to surrender can lead to victory. Such was not last night's expression. Our opponents surrendered at the end of the sixth. The score: 21 to 9.

Unfortunately, the situation of the Republican ball team last night was not like the battle of John Paul Jones against the British.

It was more like the attempt of the medieval English King Kanute to stop the oncoming tide by lashing the waves.

This causes me much sadness.

I am very saddened to see a once worthy opponent so hopelessly felled in battle.

Yet it was but madness for the Republicans to challenge the very tide of overwhelming power.

There is a difference, after all, between jumping in front of a runaway horse in an attempt to save its rider and jumping in front of an avalanche.

The first is heroism. The second suicide.

And so I am sad to see my Republican colleagues come to such a pass.

But wait. Perhaps there is a lesson here. All is not lost by our fallen comrades for they leave a lesson for our posterity.

It occurs to me the reason King Kanute ordered the tide to halt was not in any expectation that it would stop.

In fact, he purposely took up this futile contest in order to prove his limitations to his subjects.

Some things, he said, I can oppose. Others, I cannot.

Such was the lesson I feel certain our Republican colleagues learned last night.

Some things undoubtedly they can do. But there are other things they should not be expected to do—such as defeating Democrats.

Mr. Speaker, the members of the Democratic ball team stand humble in victory and respectful of the brave and courageous Republicans who fought until capitulation at the end of the sixth and thusly proved that sometimes surrender is the better part of valor.

I offer the game statistics for all to see.

DEMOCRATS VERSUS REPUBLICANS 1980

DEMOCRATS

	AB	R	H	RBI
Fauntroy 1b	6	4	4	1
Synar rf	2	1	1	1
Riegle cf	5	3	3	5
Sabo 2b	4	2	2	0
Chappell c	5	1	2	1
Mottl p	5	1	1	0
Bonior ss	3	3	2	2
Downey 3b	5	1	1	4
Moffett lf	1	1	0	0
Fazio lf	2	2	1	1
Panetta rf	0	1	0	0
Hutto 1b	1	0	0	0
Duncan, B. lf	1	0	0	0
Stenholm ph	1	1	1	1
Total	41	21	18	16

REPUBLICANS

	AB	R	H	RBI
McCloskey lf	3	2	1	0
Clausen rf	2	1	1	0
Pursell 1b	4	0	3	6
Lee ss	2	0	0	1
Paul cf	3	0	0	0
Williams c	3	1	1	0
Cochran 2b	3	0	0	0
Beard 3b	1	0	0	0
Cohen p.	3	1	1	0
Pritchard pr	0	2	0	0
Royer ph	0	2	0	0
Total	24	9	7	7

	1	2	3	4	5	6	Total
Democrats	4	2	6	3	2	4	21
Republicans	2	0	0	5	0	2	9

E—Lee 2, Beard 2, Downey, Hutto. LOB—Demos 8, Repubs 4. 2B—Chappell, Bonior, Pursell, Williams. 3B—Riegle. HR—Downey (1). SB—Fauntroy 6, Synar 3, Riegle 3, Chappell 1, Moffett 1, Fazio 2, Russo 1, Panetta 1, Stenholm 1, McCloskey 1, Williams 1, Pritchard 2. SAC—Lee.

	IP	H	R	ER	BB	SO
Democrat pitching:						
Mottl, R. (W, 4-2)	6	7	9	6	2	7
Republican pitching:						
Cohen, B. (L, 2-4)	6	18	21	16	4	8

HBP—Panetta, Moffett, Clausen. WP—Cohen 2, Mottl 1. PB—Williams 2, Chappell 1.

Democrat coach—Bill Chappell, Republican coach—Carl Pursell. Republican general manager—Sil Conte. Field—Alexandria, Va. Date—Sept. 24, 1960. Scorer—Joe Foley. T—2:15.

(By unanimous consent Mr. PURSELL was allowed to speak out of order for 1 minute.)

A REPUBLICAN PROMISE

Mr. PURSELL. Mr. Speaker, I realize the Republican Party was defeated last night in a close game, but I just wanted to indicate that the big victory is yet to come, on November 4. So, I just say, I hope that they feel comfortable in their sweet victory last night, because the evening of November 4 we will see a great victory for our party, our new baseball club, because we are going to have about 30 new ballplayers next year and we will be ready to play at Baltimore Stadium and be ready for revenge next year.

So, good luck, and we wish you well. We all had a lot of fun. Everybody had a chance to make a lot of errors—mental, hitting, fielding. We made them last night, but not on November 4.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 2, after the period on line 19, add the following new sentence: Notwithstanding any other provision of this Act the amount of Special Drawing Rights and the dollar equivalent thereof made available in this Act shall be reduced by 10 percent.".

Mr. BAUMAN. Mr. Speaker, this is a 10-percent cut in the bill that is before us. Ten percent of $5,537,893,000 comes out to about half a billion dollars plus.

Now, I recognize that in the world in which we live in the House of Representatives that half a billion dollars may seem somewhat insignificant to some Members, but to me and a great many other Americans it is a lot of money. I chose 10 percent because I thought it was a representative figure and was a way of the House expressing its concern about the economy and the fact that we are going home without a balanced budget; going home with an enormous deficit facing us for this current fiscal year and for the new one that begins in a few days.

I happen to believe the $5.5 billion in this bill for the IMF can stand a modest 10-percent cut. After all, this bill, $5.5 billion, is being added to the more than $8 billion of the IMF's quota already imposed upon the United States.

I quite understand the argument that has been made by those who support the International Monetary Fund's full funding, that this is not really an appropriation. I am not going to repeat their argument because I want the Members to listen to it. It is very interesting to hear a Member of Congress explain why an appropriation bill is not an appropriation. It has something to do with the amounts staying in the hands of the Treasurer and being available, and so on, but nevertheless we do have an appropriation bill before us and the amount is $5.5 billion.

My amendment would cut it by 10 percent. There is a real question of whether or not the IMF needs the additional money. Its track record is really not all that good. Some of our colleagues referred to the fact that an internal analysis by IMF itself states that less than a third of its programs have been successful by their own estimation. Others have made the charge that the policies of the IMF have sought to impoverish many of the Third World countries by their very liberal approach to credit and the approval of credit ratings of these nations.

We all know we have an enormous Federal deficit, and these moneys must be borrowed by the U.S. Treasury—and let us not kid ourselves, this at the very least is an interest subsidy for the IMF, because the taxpayers will have to pay interest rates in the open market to borrow this money and bring it into the Treasury, and make the money available to the IMF.

☐ 1440

So if the Members would like to save approximately a half a billion dollars in one rollcall vote, I would hope that they would support this amendment. It may require that there be some renegotiation with the other members of the IMF, but in fact that is our prerogative here in the Congress to approve or disapprove of these negotiations. We have no obligation to ratify what the international bureaucrats who are involved recommend. We have the final say on the people's money, as the Constitution provides.

Mr. Speaker, I would hope that the Members will support this modest 10-percent cut in the funding for the IMF quota increase.

Mr. LONG of Maryland. Mr. Speaker, I rise in opposition to the amendment.

I oppose the amendment as it is totally unnecessary, gratuitous, and not accomplishing the purpose the gentleman from Maryland (Mr. BAUMAN) wants to achieve. In the first place, this is not a foreign aid bill. This is a bill to provide a mechanism for stabilizing international economies which are under great stress because of the various things that are going on in the world.

I would point out that if we cut this appropriation, we are simply playing into the hands of the Arab countries that would love to be allowed to increase their quotas. What we have to do is to maintain our quota, which is 20 percent, enough to keep a veto power, so that the Arabs cannot get together and have all the underdeveloped countries get together and gang up on us.

I might point out that there are $70 billion worth of gold assets in this International Monetary Fund, and if we have any sense at all, we will try to keep control of it and not turn it over to the Arab countries.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just like to make the point that any reduction in any amount whatsoever would cause a serious foreign policy problem for the United States. The IMF, with the U.S. leadership, just precluded the PLO from being considered as observers at their meeting. I think any indication at all on the part of the United States that we were withdrawing or reducing our level of interest would cause a great number of people in that institution to take a look at that vote again, and I think it would be highly risky.

In addition, I ought to point out that what the subcommittee chairman indicated is correct, that this is not foreign aid. The United States is the second largest drawer on this fund of anybody in the world.

I would also like to point out that we have a fundamental world economic problem that we are trying to deal with here. In 1975 the trade surplus of OPEC was $3 billion and the rest of the world had a deficit of $3 billion. Five years later OPEC has a surplus of $120 billion, and the rest of the world has a deficit of $120 billion.

Yet the IMF, which is the major instrument by which we balance out the economic problems that are caused by things like that, would be affected, and the size of the IMF in relationship to world trade has been reduced by half. We are in a dangerous situation. These amounts have been negotiated. We have no alternative but to stick to them if we want to provide U.S. leadership in an important institution for the U.S. economy.

Mr. Speaker, I would urge a "no" vote on this amendment.

Mr. LONG of Maryland. Mr. Speaker, let me point out that we are not doing ourselves any favor by cutting this down. What we are doing is playing into the hands of the Arabs who are begging to increase their quotas. They would love this.

This calls to my mind some of the raids made on corporations that have nice, big, juicy treasuries. Here is $70 billion worth of gold that many countries would like to get control of, just like an awful lot of people would love to get control of our big corporations. That is why we often see proxy fights, and this is in a sense rather analogous to that situation.

Mr. Speaker, I hope we vote this amendment down. It would be very damaging to our national interest.

Mr. LEACH of Iowa. Mr. Speaker, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Speaker, this can only be described as a mischievous amendment. It is like cutting off our nose to spite our face. If we reduce our membership quota in the IMF, other countries will proportionately increase theirs.

I would like to give some examples of the types of things other countries have in mind. Countries like Jamaica could use their increased clout to work for changes in the IMF charter to get loans with no strings attached.

Venezuela could press the IMF to tie the issuance of world liquidity SDR's only to developing countries.

Tanzania might take the opportunity to press for a new agency to take over the IMF, an agency to work on the one-state-one-vote principle, in which the United States would lose almost total control.

Vietnam could take our decrease in influence in the IMF as an opportunity to call for the creation of a new trust fund to distribute the IMF gold stock to other countries rather than the original contributors of the gold.

France has been longing for a long time to increase their influence in the IMF and to lessen the role of the U.S. dollar in international finance.

Germany might welcome its increased vote share to work against the dollar substitution account.

The Arab States might move to politicize the Fund's decisions against the interest of Israel.

The real losers, if we adopt this amendment, will be the American public. They certainly do not support a diminished role for the United States in this international financial system. They do not want to see the IMF resources turned over to developing countries. They do not want to see the dollar replaced by the deutschemark or the yen, and they do not want to see the PLO seated at IMF-World Bank meetings.

Mr. Speaker, I believe the supporters of this amendment sell the American people short. The countries of the IMF have legitimate concerns, but we all know the extraordinary problems inherent in international finance today.

Mr. Speaker, this is simply not a time to play parliamentary games with the International Monetary Fund. The world economy is far too fragile for such foolishness.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I am delighted to yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I appreciate my friend's yielding.

I take this time, Mr. Speaker, just to impress upon the House that from the standpoint of the prestige of the United States of America I cannot think of a more important vote that we are going to have in this entire session than the vote we will soon make.

Last week in this very House we made a commitment to the International Monetary Fund and to our partners around the world that we would accept the quota that we fought for. I think the big thing to remember is that this is a vote for the United States of America, the Nation that fought for this particular quota. If we cut other countries, as has been eloquently said, this is going to be taken as a signal by Saudi Arabia. The fact that we just voted on the PLO question 100 to nothing or 100,000 percent to nothing should reenforce our vote for keeping the quota that the United States has fought for. If we do not, other countries will laugh at us next week when they assemble.

Mr. Speaker, I hope we recognize our true responsibility and back up our vote today and next week. If Members are against the IMF—and there are about 180 Members in this House who vote against it—that is fine, and I understand that.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I would like to commend the gentleman from Maryland (Mr. BAUMAN) for offering this amendment. I will not support the amendment, but at the same time I do not label it "mischievous" at all. I think it is a statement of austerity that the gentleman has made consistently, one which we ought to hear more about.

But I think in this case it is misplaced because this appropriation does not result in any net drawdown of U.S. assets. Therefore, this will not increase the deficit. Simply by appropriating this money we are entitled to have a reciprocal use of the special drawing rights that the International Monetary Fund produces.

One of the most important factors to be considered is confidence in the economies of developing countries. Private banks make a significant contribution to investment in these developing countries. If we signal a shrinking back, a lessening interest in the stability of these economies, by withdrawing from a commitment that we have made to the International Monetary Fund, so will private investors. If we are interested in the economies of these countries being strong and in using that weapon other than just a military weapon to resist the aggression of communism, which occurs in the economic field as well as the military field, we will want to keep the IMF strong, and we do want to keep our leadership in the IMF. This is not adding to the deficit.

Mr. Speaker, I respectfully urge defeat of this amendment, once again saluting my friend, the gentleman from Maryland (Mr. BAUMAN).

Mr. JACOBS. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Speaker, several orators in the past few minutes have said that this amendment would diminish our quota to the International Monetary Fund.

I wonder if I could have the attention of the subcommittee chairman of the Committee on Banking, Finance and Urban Affairs and ask this question: Has the bill that passed this House the other day been signed by the President?

Mr. NEAL. Mr. Speaker, if the gentleman will yield, not to my understanding. It is my understanding that the Congress and the President want to deal with both the authorizing and the appropriation bills at the same time.

□ 1450

Mr. JACOBS. So you see that the amendment proffered by the gentleman from Maryland (Mr. BAUMAN) does not in any way diminish our commitment to the International Monetary Fund. It only provides that only 90 percent of the increase will take place.

The United States has now 21 percent of the voting power on the question of whether the quotas of the various and several nations will increased. The U.S. Government has not as yet by law been authorized even to vote on the question.

So let the House and the record know and understand that it is inaccurate to say that the amendment proffered by the gentleman from Maryland (Mr. BAUMAN) will diminish our commitment to the International Monetary Fund. The question before the House is whether it shall be increased by 5,000 times a million dollars of American taxpayers' money.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Keep in mind that at one time the quotas in the International Monetary Fund were 13 percent of the total world trade. Those have now gone down to about 4 percent. Inflation and an expanding world economy has made the International Monetary Fund a smaller part of the world economy. It is felt necessary not to go back to the 13 percent, but to raise it somewhat up to 16 percent, to give us a little cushion. Now, that is the purpose of it.

If we let this amendment go through, let the whole Fund go up, but cut our share just back a little, then we will be getting a little bit less than what we hoped to keep, namely, slightly more than 21 percent. It is very important that we keep our veto. Now, 15 percent would be needed to give us a veto. But there are also many votes, like the PLO vote, which can be done in the majority where we have to get other countries to help us.

So we do need a certain percentage there if we are going to keep control. I would hope that the gentleman would recognize the practicalities of dealing with an international organization, with all of the Arab countries and underdeveloped countries that are just thirsting to cut us down to size, and I would hope the gentleman would withdraw his support for this amendment.

Mr. JACOBS. I would say to the gentleman that if this mechanism permitted small countries to cut us down to size in the way the gentleman suggests, I would agree with the gentleman. But I point out that if the Bauman amendment passes, as a practical matter it simply would mean that the United States would cast its 21 percent of the vote, and a very substantial part of the contribution, by the way, if the United States does not increase its quota, other countries are not going to put up that kind of money just to let the PLO come in to take a look at what is going on in some meeting someplace. Do not kid yourselves about that.

The fact is that the quota has not as yet been increased, and the U.S. Government has not even been authorized to vote to increase it yet. So this reduction is really an amendment that would allow 90 percent of the $5.5 billion increase, rather than the full amount.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Speaker, I just want to point out to the gentleman that we have taken the lead historically in the quota increases, and over one-half of the member countries in the IMF have already agreed to increase their quota by 50 percent.

I have to say again that we discussed rather extensively during the authorizing legislation that this is to our advantage, maintaining a strong voice in the IMF is to our advantage; it is not to the advantage of other countries.

Let me give the Members an example of the sort of questions that are decided and that we could have an influence on by maintaining our strong voice in the IMF.

The SPEAKER pro tempore. The time of the gentleman from Indiana (Mr. JACOBS) has expired.

Mr. NEAL. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana be allowed to proceed for 3 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. LONG of Maryland. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

(By unanimous consent, Mr. CONTE was allowed to speak for 2 minutes out of order.)

LOSING THE 19TH ANNUAL CONGRESSIONAL BASEBALL GAME

Mr. CONTE. Mr. Speaker, last night at Four-Mile Run Park in Alexandria a titanic struggle between the Democrats and Republicans was decided in a heated and closely fought contest. When the dust had cleared, the Democrats had barely eked out a victory by the score of 21 to 9.

You know the game was really exciting because the commissioner of baseball, Mr. Bowie Kuhn, said after the game that he had never seen anything like it. In fact, he suggested that if the game goes like this next year, we should invite Pete Rozelle.

As general manager of the Republican Mighty Elephants, I must concede defeat to the Democrats, but I must tell you that everything was stacked against us last night. I hate to make excuses, but I have to say that I was a bit dismayed to learn that the umpires were the secretary and the treasurer of the Democratic National Committee and the scorekeeper is a former tax adviser to the Georgia State Budget Office. My ball players as usual were too honest and refused to steal bases.

Mr. Speaker, I would not want to cry "foul ball," but I find it in extremely bad taste for BILL CHAPPELL to stand near third base with a bull horn and hum the "Tennessee Waltz" whenever a ground ball was hit to ROBIN BEARD. One Democrat bunted the ball all the way to left field while ROBIN put his hat over his heart and stood at attention. And I would not want to accuse RON MOTTL of throwing a spitball, but when DON CLAUSEN hit a grounder to short, it left a grease mark across the entire infield.

I certainly do not want to suggest that BILL CHAPPELL used ringers in the Democrat lineup, but last night a player named Mendel Davis got five hits and scored six runs. This particular Mendel Davis was 6 feet 5 inches tall and had a 33-inch waist.

Yet, Mr. Speaker we Republicans are proud in defeat. Never let it be said that we do not go down graciously when we lose. However I want it known that I have filed suit in Federal district court for fraud against the Democrat team because after the game the Democrat players all got on a bus marked "New York Yankees" and drove to National Airport.

So, just wait till next year. We will have a great team because I have an agreement now from the Republican Congressional Committee to only give campaign funds to Republican candidates who can bat over 300 and run the 40-yard dash in under 5 seconds.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, in keeping with the high level of this debate, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 174, nays 208, not voting 50, as follows:

[Roll No. 593]

YEAS—174

Abdnor
Ambro
Andrews, N.C.
Andrews, N.Dak.
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Boner
Bouquard
Breaux
Brinkley
Brown, Ohio
Broyhill
Byron
Chappell
Clausen
Cleveland
Coleman
Collins, Tex.
Conyers
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derrick
Devine
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Findley
Flippo
Fountain
Fuqua
Gaydos
Gilman
Gingrich
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler
Hightower
Hinson
Hopkins
Hubbard
Huckaby
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McDade
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mavroules
Mica
Mikulski
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Pickle
Ritter
Robinson
Rose
Roth
Rudd
Russo
Santini
Satterfield
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stenholm
Stockman
Stump
Tauzin
Taylor
Thomas
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitley
Whittaker
Whitten
Wilson, Tex.
Wolpe
Wyatt
Yatron
Young, Alaska
Young, Fla.

NAYS—208

Akaka
Alexander
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Campbell
Carr
Cheney
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Dicks
Dingell
Dougherty
Drinan
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Horton
Howard
Hughes
Hutchinson
Hyde
Jeffords
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCormack
McEwen
McHugh
McKinney
Maguire
Markey
Matsui
Mazzoli
Michel
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murtha
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Simon
Smith, Iowa
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Waxman
Weiss
Williams, Mont.
Wirth
Wolff
Wright
Wylie
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—50

Addabbo
Albosta
Anderson, Ill.
Badham
Bowen
Butler
Carney
Carter
Cavanaugh
Corman
Davis, S.C.
Derwinski
Dickinson
Dixon
Dodd
Donnelly
Downey
Duncan, Oreg.
Fish
Glickman
Hance
Hillis
Holt
Holtzman
Ichord
Jenrette
Leach, La.
Lewis
McCloskey
Mattox
Mitchell, Md.
Musto
Myers, Pa.
Nolan
Pepper
Quayle
Quillen
Roberts
Rousselot
Royer
Sebelius
Solarz
Symms
Trible
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wydler

☐ 1510

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Addabbo against.

Mr. Wydler for, with Mr. Corman against.

Mrs. Holt for, with Mr. Dixon against.

Mr. Dickinson for, with Mr. Mitchell of Maryland against.

Mr. Carter for, with Mr. Pepper against.

Mr. Sebelius for, with Mr. Musto against.

Mr. Symms for, with Mr. Solarz against.

Mr. Rousselot for, with Mr. Charles H. Wilson of California against.

Mr. BROOMFIELD changed his vote from "yea" to "nay."

Mr. BROWN of Ohio and Mr. CONYERS changed their votes from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. PORTER. Mr. Speaker, I rise in support of the amendment offered by the gentleman from New York to House Joint Resolution 601, the International Monetary Fund appropriation.

This amendment changes the Bretton Woods Agreement Act to state that it is U.S. policy that the Palestine Liberation Organization (PLO) should not be given membership in the International Monetary Fund (IMF) or be given observer status or any other official status at any meeting sponsored by or associated with the Fund. Further, this amendment provides that in the event that the Fund gives either membership, observer status, or any other official status to the PLO, such action would result in a serious dimunition of U.S. support. Upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further U.S. participation in the Fund.

Mr. Speaker, it is the purpose and to the advantage of the PLO to receive some degree of official recognition in as many places as possible. Their strategy includes attempting to be included at the IMF annual meeting at the end of the month in Washington and to translate great OPEC financial resources used in their behalf into political influence.

But, Mr. Speaker, the PLO is a terrorist organization committed in its first covenant to Israel's destruction. The PLO trains and subsidizes international terrorist groups menacing the entire Western World.

IMF has long been an example of cooperation and compromise between governments of many nations. The inclusion of the PLO with any status in the IMF would be detrimental to the very order of the international monetary system which this legislation is intended to maintain. To allow a terrorist organization without sovereignty and having no standing with financial institutions even observer status would be outrageous. A precedent would be established that would allow other terrorist organizations like it to make similar demands.

The politicization of the IMF must be resisted by opposing admittance of the PLO as an observer. We must discourage the same kind of politicking as seen so often in the United Nations General Assembly and which was recently evidenced in the Copenhagen Mid Decade Conference on Women which turned into a PLO propaganda-fest.

Adoption of this amendment would demonstrate to the IMF and to the world community the strong opposition of our Nation to the acceptance of terrorist groups such as the PLO in any international forum.

It is consistent with American efforts to withhold even symbolic recognition from the PLO while it denies Israel's right to exist. Mr. Speaker, the PLO is knocking on the door of legitimization, and the door should be slammed in its face.●

Mr. LONG of Maryland. Mr. Speaker, I move the previous question on the joint resolution and the amendment thereto to final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MADIGAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 146, not voting 62, as follows:

[Roll No. 594]

YEAS—224

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, Phillip
Campbell
Carr
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Conable
Conte
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Derrick
Dicks
Dingell
Dougherty
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Guyer
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Huckaby
Hughes
Hutchinson
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lederer
Lee
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Matsui
Mavroules
Mazzoli
Michel
Mikulski
Mineta
Minish
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nelson
Nowak
Oakar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Porter
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Shumway
Simon
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Waxman
Weiss
Williams, Mont.
Wirth
Wolff
Wright
Wylie
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—146

Abdnor
Andrews, N.C.
Andrews, N.Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Bouquard
Brinkley
Brown, Ohio
Broyhill
Burton, John
Byron
Chappell
Clausen
Coleman
Collins, Tex.
Conyers
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Dellums
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
English
Evans, Ga.
Evans, Ind.
Flippo
Fountain
Fuqua
Gaydos
Gilman
Gingrich
Goldwater
Gramm
Grassley
Grisham
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Hinson
Hopkins
Hubbard
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leath, Tex.
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
Madigan
Marks
Marlenee
Marriott
Martin
Mica
Miller, Calif.
Miller, Ohio
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Natcher
Nichols
O'Brien
Oberstar
Pashayan
Paul
Petri
Pickle
Ritter
Robinson
Roth
Rudd
Russo
Santini
Satterfield
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Taylor
Thomas
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitley
Whittaker
Whitten
Wilson, Tex.
Wolpe
Wyatt
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—62

Albosta
Anderson, Ill.
Boner
Bowen
Brademas
Butler
Carney
Carter
Cavanaugh
Collins, Ill.
Corman
Davis, S.C.
Derwinski
Devine
Dickinson
Dixon
Dodd
Donnelly
Downey
Fish
Glickman
Hance
Hillis
Holt
Holtzman
Ichord
Jenrette
LaFalce
Latta
Leach, La.
Lehman
McCloskey
Mathis
Mattox
Mitchell, Md.
Murphy, Pa.
Musto
Myers, Ind.
Myers, Pa.
Nolan
Pepper
Pursell
Quayle
Quillen
Regula
Roberts
Roe
Rousselot
Royer
Schulze
Sebelius
Stewart
Symms
Traxler
Trible
Udall
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wydler

☐ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Brademas for, with Mr. Butler against.

Mrs. Collins of Illinois for, with Mr. Carter against.

Mr. Dixon for, with Mr. Devine against.

Mr. Stewart for, with Mr. Dickinson against.

Mr. Musto for, with Mrs. Holt against.

Mr. Mitchell of Maryland for, with Mr. Latta against.

Mr. Jenrette for, with Mr. Myers of Indiana against.

Mr. Pepper for, with Mr. Quayle against.

Mr. Lehman for, with Mr. Quillen against.

Mr. Charles H. Wilson of California for, with Mr. Rousselot against.

Mr. Myers of Pennsylvania for, with Mr. Schulze against.

Mr. Roe for, with Mr. Sebelius against.

Mr. Corman for, with Mr. Symms against.

Mr. Murphy of Pennsylvania for, with Mr. Wydler against.

Until further notice:

Mr. Albosta with Mr. Anderson of Illinois.

Mr. Boner of Tennessee with Mr. Hance.

Ms. Holtzman with Mr. Regula.

Mr. Roberts with Mr. Carney.

Mr. Traxler with Mr. Hillis.

Mr. Udall with Mr. Royer.

Mr. Cavanaugh with Mr. Derwinski.

Mr. Davis of South Carolina with Mr. Fish.

Mr. Dodd with Mr. McCloskey.

Mr. Donnelly with Mr. Pursell.

Mr. Mathis with Mr. Trible.

Mr. Ichord with Mr. Whitehurst.

Mr. Downey with Mr. Mattox.

Mr. Glickman with Mr. Leach of Louisiana.

Mr. Nolan with Mr. Williams of Ohio.

Mr. LaFalce with Mr. Bob Wilson.

Mr. Bowen with Mr. Winn.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I ask to proceed at this time for the purpose of inquiring of the acting majority leader the program for next week.

Mr. FOLEY. Will the distinguished minority whip yield to me?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, this concludes the business for today and this week. Next week the House will meet at noon on Monday and consider the bill S. 885, Pacific Northwest Electric Power Planning and Conservation Act, under an open rule, with 2 hours of debate. The rule has already been adopted.

H.R. 6979, the Coastal Zone Management Improvement Act, under an open rule, with 1 hour of debate.

H.R. 6721, the Airport and Airway Improvement Act of 1980, under a modified rule, with 2½ hours of debate.

The House meets on Tuesday at 10 a.m., and it may be a Special Private Day.

There will be 25 suspension bills. Votes on suspension bills will be postponed until the conclusion of all the suspension bill considerations.

I might say, as Members understand, it is anticipated that there will be votes on Monday.

On Tuesday the suspensions on which votes will be postponed until the end of the suspensions are:

H.R. 7859, Refugee Education Assistance Act of 1980;

H.R. 7729, Amendments to Trading with the Enemy Act;

H. Con. Res. 435, relating to the situation in Poland;

H.R. 6440, to establish priorities in payment of China claims;

S. 2412, Used Oil Recycling Act;

H.R. 7103, Hazardous Materials Transportation Act amendments;

H.R. 4892, Communications Act of 1980;

H.R. 6228, cross-ownership bill;

H.R. 7536, CHAMPUS programs;

H.R. 8189, CHAMPUS dental programs;

H.R. 8188, U.S. Court of Military Appeals;

H. Con. Res. 301, sense of Congress re foreign language studies;

H.R. 5888, police and firefighters death benefits, United States Code, title 5;

H.R. 4968, real estate investment taxes loss carryover;

H.R. 6750, Hovercraft Skirt Tariff Act;

H.R. 7660, duty-free treatment of certain freight containers;

H.R. 7709, tariff amendments re duty-free treatment of cigarettes;

H.R. 7802, tariff amendments re duty on Ephedrine and Recephedrine;

H. Con. Res. 376, Japan-United States trade resolution;

H.R. 7665, Fifth Circuit Reorganization Act;

H. Res. 693, sense of House re age discrimination in appointment of judges;

H.R. 7873, Gasohol Competition Act;

H.R. 6933, patent and trademark laws amendments;

H.R. 154, Gold Star Wives bill;

H.R. 2279, National Ski Patrol bill;

In addition to that, there will be H.R. 8146—Federal Supplemental Unemployment Compensation Act of 1980, subject to a rule being granted;

H.R. 7112, State and local fiscal assistance amendments, under an open rule, with 2 hours of debate. The rule has already been adopted.

On Wednesday the House will meet at 10 a.m. and consider:

H.R. 5615, Intelligence Identities Protection Act, under an open rule, with 1 hour of debate;

H.R. 4370, Coal Pipeline Act of 1980, under an open rule, with 2 hours of debate;

H.R. 6704, Juvenile Justice and Delinquency Prevention Act, under an open rule, with 1 hour of debate;

H.R. 6667, Water Pollution Control Act, under an open rule, with 1 hour of debate;

H.R. 7548, Farm Credit Act Amendments of 1980, under an open rule, with 1 hour of debate.

On Thursday the House meets at 10 a.m. and will consider:

H. Res. 794, In the matter of Michael J. Myers;

H.R. 7265, DOE authorizations of defense programs;

H.R. 3263, Regulatory Reform Act, subject to a rule being granted;

H.R. 6811, International Development Association and African Development Bank, under an open rule, with 1 hour of debate.

At the close of business on Thursday, the House will adjourn until noon on Wednesday, November 12, 1980. I am advised, Mr. Speaker, by the leadership on this side that it is the intention of the leadership to have late sessions each night, and that I think should be communicated to Members; also we anticipate that we will have a late session Thursday night.

Mr. CONABLE. Mr. Speaker, will the gentleman yield to me for a question of the distinguished acting majority leader?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman.

I would like to ask about the Fiscal Assistance Act. Does the gentleman have every intention of completing that on Tuesday night after 25 suspensions and the unemployment insurance bill? Tuesday is the last day of the existence of that program. What masterpiece of planning brought it up so that we will be considering it after 10 o'clock on Tuesday night?

Mr. FOLEY. I do not think it is the intention of the leadership that we will take that long to reach the bill, I will tell the distinguished gentleman, and, yes, we have every intention of completing the program on Tuesday, and every hope as well.

Mr. CONABLE. I would like to say, if the gentleman will yield further, that I think that is a very cavalier way to treat a rather important program. I am upset about it.

Mr. FOLEY. If the gentleman from Illinois will yield, I want to treat the gentleman's question seriously because it is an important program. It is so recognized on our side, and it is the intention of the leadership that this bill will be considered and acted upon in a timely fashion. I know the gentleman's concern.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding. As the acting majority leader knows, the Committee on Agriculture reported favorably a bill dealing with quite a threat to the economy of our country, the Swine Health Act, which would seek to give the Federal Government the authority to deal with the danger of African swine fever entering this country.

□ 1540

Due to the urgency of this measure, I am wondering if the gentleman can give us any hope that it may be added to next week's program.

Mr. FOLEY. I think I can give the gentleman some hope. I have communicated in my capacity as chairman of the Committee on Agriculture a request to the leadership that the bill be considered on the Suspension Calendar next week. This is probably not the full extent although it may be the full extent of the Suspension Calendar. I have not yet received an answer to my request. If the gentleman has some hope that my request may be favorably viewed by the leadership on this side. I certainly do, also, and we may have that bill up. I hope so.

Mr. FINDLEY. If the gentleman will yield further, I do not mean to demean the importance of any of the suspensions listed here but some of them are hardly in the category of urgent matters whereas the threat of African swine fever is a very real threat to the welfare not only of the pork industry but the entire economy of this country.

Mr. FOLEY. I share the concern of the gentleman from Illinois in that matter and, again, I hope we will be able to complete action on it next week.

Mr. MICHEL. May I inquire of the distinguished gentleman, in view of the exchange with the gentleman from Illinois (Mr. FINDLEY), that we might even expect more than 25 bills under suspension on Tuesday, that that is not altogether a secure list?

Mr. FOLEY. I think the distinguished minority whip knows that although the announcement at the end each week attempts to be just as accurate as possible in predicting the business for the forthcoming week, often deletions and additions occur subsequent to the announcement.

I do not expect an enormous number of additions. There may be one or two. There possibly could be one or two deletions as well. As the gentleman knows, this represents a very heavy work program for next week, needless to say.

Mr. MICHEL. Did I understand the gentleman to say that with the exception of Tuesday night, we should expect to be here late, assuming it would be Monday, Wednesday, and Thursday?

Mr. FOLEY. I believe Members should consider the possibility of working late every night next week. I do not think it would be wise to make an assumption on any early adjournments.

Mr. MADIGAN. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. MADIGAN. I would like to inquire of the gentleman, if I may, is it the gentleman's understanding meeting at 10 o'clock in the morning on Tuesday would require unanimous consent and also having a special private day would require unanimous consent.

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. I think when I made the announcement I said the leadership hoped to be able to do so.

Mr. MADIGAN. In fairness to the gentleman from Illinois and as part of the discussion here I think I should make the point that I intend to object to the unanimous consent request at that time for whatever impact that has upon the schedule.

I thank the gentleman for yielding.

Mr. FOLEY. If the gentleman will yield further, let me say I do not wish to anticipate any action on the part of my friend from Illinois but I recognize that is subject to unanimous consent and to objection.

Mr. BAUMAN. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. May I infer from this program that we are not going to take up the Federal budget before we recess?

Mr. FOLEY. I do not seem to find any additional matter on the list anything I have not already read to the gentleman and to the Members.

Mr. BAUMAN. Perhaps it may be one of those suspensions on Tuesday.

Mr. FOLEY. Perhaps.

Mr. MICHEL. May I make one further inquiry?

If the gentleman does not receive unanimous request to come in at 10 on Tuesday, would the gentleman move that request on Monday?

Mr. FOLEY. I do not think it is my intention to make such a motion today. I cannot give assurance that it might not be made at some other time.

Mr. MICHEL. I thank the gentleman for his response.

REQUEST TO DISPENSE WITH THE CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MADIGAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO MONDAY, SEPTEMBER 29, 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday, September 29, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO MEET AT 10 A.M. ON TUESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourn to meet at 10 a.m. on Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MADIGAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MAKING IN ORDER CALL OF CONSENT CALENDAR ON MONDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order to call the Consent Calendar on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WEAVER. Mr. Speaker, reserving the right to object, could the distinguished acting majority leader inform us what the special Consent Calendar is, what that includes?

Mr. FOLEY. We are not going to have a Consent Calendar before the recess unless we have a special Consent Calendar permitted on Monday and whatever consent matters are pending will be considered if the unanimous-consent request is agreed to.

Mr. WEAVER. May I ask the distinguished acting majority leader one specific question: Does this affect whether or not S. 885, the Pacific Northwest bill comes before us?

Mr. FOLEY. I assure the gentleman it has no connection with that legislation or any other legislation announced on Monday.

Mr. WEAVER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there further objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO MAKE IN ORDER CALL OF PRIVATE CALENDAR ON TUESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order to call the Private Calendar on Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MADIGAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON S. 985, CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. FOLEY submitted the following conference report and statement on the Senate bill (S. 985) to amend the Consolidated Farm and Rural Development Act:

CONFERENCE REPORT (H. REPT. No. 96-1394)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the House amendment to the bill (S. 985) to amend the Consolidated Farm and Rural Development Act having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

RENEWABLE RESOURCE ENERGY LOANS

SECTION 1 The Consolidated Farm and Rural Development Act is amended by—

(1) in section 303(b), amending paragraph (1) to read as follows:

"(1) the term 'improving farms' includes, but is not limited to, the acquisition, installation, and modification of any qualified nonfossil energy system located on a family farm; and";

(2) in the first sentence of section 310B(a), striking out all that follows "individuals" down through the end of the sentence and inserting in lieu thereof the following: "for the purposes of (1) improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control, (2) the conservation, development, and use of water for aquaculture purposes in rural areas, and (3) reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems, in rural areas. For the purposes of this subsection, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974, as amended."; and

(3) in the first sentence of section 312(a), striking out "and" immediately before clause (10) and inserting immediately before the period at the end of the sentence a comma and the following: "and (11) assisting farmers and ranchers in reducing their dependence on nonrenewable energy resources through the development and construction of solar energy systems, including the modification of existing systems".

LOAN ELIGIBILITY

SEC. 2. The Consolidated Farm and Rural Development Act is amended by—

(1) in section 306(a)(7), immediately after "in excess of ten thousand inhabitants, except that", inserting the following: "(A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of twenty thousand inhabitants; and (B)";

(2) in section 343, inserting a new clause (3) as follows: "(3) the term 'owner-operator' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this title, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan,"; and

(3) adding at the end thereof a new section 348 as follows:

"SEC. 348. Notwithstanding the provisions of this title limiting the making and insuring of loans to citizens of the United States, the Secretary may make and insure loans under this title to aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act: *Provided*, That no loans may be made or insured under this title to such aliens until the Secretary issues regulations establishing the terms and conditions under which such aliens may receive loans: *Providing further*, That the Secretary shall submit the regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 30 days prior to the date the regulations are published in the Federal Register.".

EMERGENCY LOAN PROGRAM

SEC. 3. (a) Section 120 of the Act of July 2, 1980 (94 Stat. 841), is repealed.

(b) Subtitle C of the Consolidated Farm and Rural Development Act is amended by—

(1) amending sections 321, 322, 323, and 324 to read as follows:

"SEC. 321. (a) The Secretary shall make and insure loans under this subtitle to (1) established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States, and (2) farm cooperatives or private domestic corporations or partnerships in which a majority interest is held by members, stockholders, or partners who are citizens of the United States if the cooperative, corporation, or partnership is engaged primarily in farming, ranching, or aquaculture, where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974: *Provided*, That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are not able to obtain sufficient credit elsewhere.

"(b) Notwithstanding the credit elsewhere requirements of subsection (a) of this section and section 333(a) of this title, the Secretary shall implement a program under which the Secretary may make or insure loans under this subtitle to applicants able to obtain sufficient credit elsewhere, subject to the other terms and conditions for loans made or insured under this subtitle and such other terms and conditions as the Secretary may, by regulation, prescribe.

"(c) The Secretary shall conduct the emergency loan program under this subtitle in a manner that will foster and encourage the family farm system of agriculture, consistent with the reaffirmation of policy and declaration of the intent of Congress contained in section 102(a) of the Food and Agriculture Act of 1977.

"(d) For the purposes of this subtitle—

"(1) 'aquaculture' means the husbandry of aquatic organisms under a controlled or selected environment; and

"(2) 'able to obtain sufficient credit elsewhere' means able to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

"SEC. 322. (a) For the purpose of determining whether to make or insure any loan under this subtitle, the Secretary shall take into consideration the net worth of the applicant involved, including all the assets and liabilities of the applicant.

"(b) For the purpose of determining whether an applicant under this subtitle is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided*, That for loans in excess of $300,000, the Secretary shall require at least two such written declinations: *Provided further*, That for loans of $300,000 or less, the Secretary may waive the requirement of this subsection if the Secretary determines that it would impose an undue burden on the applicant.

"SEC. 323. Loans may be made or insured under this subtitle for any purpose authorized for loans under subtitle A or B of this title and for crop or livestock changes deemed desirable by the applicant, subject to the limitations on the amounts of loans provided in section 324(a) of this title.

"SEC. 324. (a)(1) Except as otherwise provided in paragraph (2) of this subsection, no loan made or insured under this subtitle may exceed the amount of the actual loss caused by the disaster or $500,000, whichever is less, for each disaster.

"(2) Through September 30, 1982, loans may be made or insured under this subtitle in amounts in excess of the amount of actual loss (as limited under paragraph (1) of this subsection) to applicants who are not able to obtain sufficient credit elsewhere, within the following limits:

"(A) Through the end of fiscal year 1980, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $1,500,000;

"(B) During fiscal year 1981, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $1,000,000;

"(C) During fiscal year 1982, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $500,000; and

"(D) No loan or portion of a loan in excess of the amount of actual loss that is for more than $300,000 may be made or insured under this subtitle unless the Secretary determines that the applicant is not able to obtain from a private or cooperative lending agency a loan guaranteed by the Secretary under this subtitle sufficient to finance the applicant's actual needs at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time).

"(b) Loans under this subtitle shall be at rates of interest as follows:

"(1) For loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest shall be at rates prescribed by the Secretary, but (A) if the applicant is not able to obtain sufficient credit elsewhere, not in excess of 5 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum; and

"(2) For loans or portions of loans in excess of the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, (A) the interest for insured loans shall be at rates prevailing in the private market for similar loans, as determined by the Secretary, and (B) the interest for guaranteed loans shall be at rates agreed on by the borrower and lender, but not in excess of such rates as may be determined by the Secretary.

"(c) For guaranteed loans under this subtitle, the Secretary may pay interest subsidies to the lenders for those portions of the loans up to the amount of the actual loss caused by the disaster, as limited under subsection (a)(1) of this section. Any such subsidy shall not exceed the difference between the interest rate being charged for loans up to the amount of the actual loss, as established under subsection (b)(1) of this section, and the maximum interest rate for guaranteed loans, as established under subsection (b)(2) of this section.

"(d) All loans under this subtitle shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than as provided for loans for similar purposes under subtitles A and B of this title, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loans, except that if such security is not available because of the disaster, the Secretary shall (1) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with the Secretary's confidence in the repayment ability of the applicant, is adequate security for the loan, and (2) make such loan repayable at such times as the Secretary may determine, not later than as provided under subtitles A and B of this title, as justified by the needs of the applicant: *Provided further*, That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subtitle B of this title, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further*, That for any direct or insured loan (other than a guaranteed loan) approved under section 321(b) of this title, three years after the loan is made or insured, and every two years thereafter for the term of the loan, the Secretary shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall, on request by the Secretary, apply for and accept such non-Federal loan in sufficient amount to repay the Secretary.

"(e) Any political subdivision of a State with a population of less than ten thousand inhabitants that, if such subdivision had a population of ten thousand or more inhabitants, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under the Consolidated Farm and Rural Development Act during any period in which the Community Emergency Drought Relief Act of 1977 is or has been in effect."; and

(2) amending section 330 to read as follows:

"SEC. 330. Subsequent loans to continue the farming, ranching, or aquaculture operation may be made under this subtitle on an annual basis, for not to exceed two additional years, to eligible borrowers, subject to the limits on loans and the rates of interest established under section 324 of this title.".

(c) Section 333(b) of the Consolidated Farm and Rural Development Act is amended by striking out "321(b)(2)" wherever it appears and inserting in lieu thereof "321(a)(2)".

(d) The amendments to subtitle C of the Consolidated Farm and Rural Development Act made by subsection (b) of this section shall be effective with respect to loans approved by the Secretary of Agriculture under subtitle C after the date of enactment of this Act, except that, for borrowers with loans outstanding under subtitle C as of December 15, 1979—

(1) the limits on loans under section 324 of the Consolidated Farm and Rural Development Act made by subsection (b)(1) of this section, and

(2) the reduction in the time limit on subsequent emergency loans under section 330 of the Consolidated Farm and Rural Development Act made by subsection (b)(2) of this section

shall not apply to subsequent emergency loans under section 330 (as in effect on the date preceding the date of enactment of this Act) that are made to such borrowers for the disasters for which the borrowers obtained loans under subtitle C prior to December 16, 1979.

LENDING LIMITS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 4. Section 346 of the Consolidated Farm and Rural Development Act is amended by inserting "(a)" after "SEC. 346" and adding at the end thereof new subsections (b) and (c) as follows:

"(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,615,000,000, including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories, and $100,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories;

"(B) operating loans, $1,200,000,000 of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and

"(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

Not more than 75 per centum, of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for applicants other than low-income, limited-resource borrowers.

"(2) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $1,000,000,000;

"(B) industrial development loans, $1,500,000,000 of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between categories; and

"(C) insured community facility loans, $500,000,000.

"(c) The Secretary shall develop long-term cost projections for loan program authorizations required under subsection (a) of this section. Each such projection shall include analyses of (1) the long-term costs of the lending levels that the Secretary requests to be authorized under subsection (a) of this section and (2) the long-term costs for increases in lending levels beyond those requested to be authorized, based on increments of $10,000,000 or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and each three-year period thereafter shall be submitted to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations at the time the requests for authorizations for those periods are submitted to Congress. Not later than 15 days after the date of enactment of this subsection the Secretary shall submit to such committees long-term cost projections covering authorized lending levels for the loan programs for fiscal years 1981 and 1982.".

And the Senate agree to the same.

Thomas S. Foley,
Ed Jones,
Tom Harkin,
Jerry Huckaby,
Dan Glickman,
Kent Hance,
George E. Brown, Jr.,
Frederick W. Richmond,
Alvin Baldus,
Berkley Bedell,
Glenn English,
Leon E. Panetta,
Tom S. Daschle,
Edward R. Madigan,
James M. Jeffords,
E. Thomas Coleman,
Ron Marlenee,
Larry J. Hopkins,
William M. Thomas,
Managers on the Part of the House.

Herman E. Talmadge,
George McGovern,
Walter D. Huddleston,
Edward Zorinsky,
Jesse Helms,
S. I. Hayakawa,
Roger W. Jepsen,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the House amendment to the bill (S. 985) to amend the Consolidated Farm and Rural Development Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the House amendment and the Senate amendment to the House amendment, and the substitute agreed to in conference, are noted in the following outline, except for conforming, clarifying, and technical changes:

(1) LOANS FOR RENEWABLE RESOURCE ENERGY FACILITIES

(a) The *House* amendment authorizes the Secretary of Agriculture to provide guaranteed or insured farm ownership loans to qualified persons for the acquisition, installation, and modification of nonfossil energy systems on family farms. Under present law, such loans are limited to systems located in residential structures on family farms.

The *Senate* amendment contains no comparable provision.

The *Conference* substitutes adopts the *House* provision.

(b) The *House* amendment makes clear that the Secretary may provide to qualified persons guaranteed or insured loans that promote rural industrialization through the development of nonfossil energy systems.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(c) The *House* amendment specifically authorizes the Secretary to provide guaranteed or insured farm operating loans to qualified persons for the development and construction of nonfossil energy systems.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provison.

(2) COMMUNITIES ELIGIBLE FOR WATER, SEWER, AND COMMUNITY FACILITY LOANS AND GRANTS AND POWER TRANSMISSION FACILITY LOANS

The *House* amendment increases from 10,000 to 20,000 inhabitants the population of cities and towns eligible for water, sewer, and community facility loans and grants and power transmission facility loans.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute increases from 10,000 to 20,000 inhabitants the population of cities and towns eligible for community facility loans (such as for hospitals, nursing homes, fire stations, and fire fighting equipment, among others) but not for water and sewer loans and grants and power transmission facility loans.

(3) CONDUCT OF THE EMERGENCY LOAN PROGRAM TO ENCOURAGE FAMILY FARMING

The *Senate* amendment requires the Secretary to conduct the emergency loan program under the Consolidated Farm and Rural Development Act in a manner that will foster and encourage the family farm system of agriculture, consistent with the intent of Congress that no agriculture-related program be administered in a manner that will place the family farm operation at an unfair economic disadvantage.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(4) EMERGENCY LOANS—NET WORTH CONSIDERATIONS

The *House* amendment requires that in determining whether to make or insure any emergency loan the net worth of the applicant must be considered.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. Under the provision, the Secretary could continue his existing policy of taking into account the net worth of any person deemed relevant in making the determination.

(5) EMERGENCY LOANS—REPEAL OF COUNTY COMMITTEE CERTIFICATION REQUIREMENT

The *Senate* amendment repeals section 323 of the Consolidated Farm and Rural Development Act, which prohibits the Secretary from making any emergency loan in excess of an amount certified by the county committee.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(6) INTEREST SUBSIDY FOR GUARANTEED EMERGENCY LOANS

Under the Consolidated Farm and Rural Development Act, the interest rate for insured and guaranteed emergency loans covering actual losses to persons who cannot obtain credit elsewhere is not in excess of five percent annually. The *Conference* substitute provides (as noted in item (9)) that the interest rate for loans covering actual losses for persons who can obtain credit elsewhere will be at the cost of money to the Government, plus an additional charge of up to one percent. Both the *House* amendment and the *Senate* amendment provide that the interest rate for guaranteed emergency loans for purposes other than to cover actual losses is to be the rate agreed on by the borrower and lender, but not in excess of such rate as may be determined by the Secretary.

The *Senate* amendment provides that, for any guaranteed loan that includes funds for actual losses, the Secretary may pay an interest subsidy to the lender for that portion of the loan representing actual losses. The subsidy may not exceed the difference between the interest rate being charged for loans covering actual losses and the maximum interest rate for guaranteed emergency loans for purposes other than to cover actual losses.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) EMERGENCY LOANS—TEST FOR CREDIT ELSEWHERE

The *House* amendment provides that in determining whether an applicant is unable to obtain credit elsewhere, if the emergency loan does not exceed $300,000, the Secretary must require at least one written declination of credit, specifying the reasons for refusal, from a lending institution within reasonable proximity to the applicant, except that the Secretary may waive this requirement if it would impose an undue burden on the applicant. For loans over $300,000, the Secretary must require at least two such declinations. No waiver provisions are provided for such loans.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(8) LIMITS ON EMERGENCY LOANS

(a) The *House* amendment provides that any limitation on the amount of emergency loans to any one borrower that the Secretary may impose by regulation must take into consideration the operations and financial status of each borrower.

The *Senate* amendment (1) for emergency loans covering actual losses, sets a limit of $500,000 per disaster, and (2) for loans for purposes other than to cover actual losses, provides that the total unpaid indebtedness of any borrower for such loan may not exceed $1,500,000 at any time.

The *Conference* substitute (1) for emergency loans covering actual losses, adopts the *Senate* provision which provides a limit of $500,000 per disaster, and (2) for emergency loans other than to cover actual losses, provides that the total unpaid principal indebtedness of any borrower for such loans may not exceed at any time—$1,500,000 in fiscal year 1980, $1,000,000 in fiscal year 1981, $500,000 in fiscal year 1982, and deletes provisions for such loans thereafter.

(b) The *House* amendment provides that no emergency loan in excess of actual loss may be made or insured by the Secretary, unless the Secretary determines that the applicant cannot obtain from a private or cooperative lender a loan guaranteed by the Secretary sufficient to finance the applicant's actual needs.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to make the requirement applicable to emergency loans of more than $300,000 in excess of actual loss.

(9) EMERGENCY LOANS TO PERSONS WHO CAN OBTAIN CREDIT ELSEWHERE

The *Senate* amendment provides that the Secretary may approve emergency loans to persons who can obtain credit elsewhere. Such loans (a) would be at an interest rate set by the Secretary, but not in excess of the cost of money to the Government, plus an additional charge of up to one percent annually as determined by the Secretary, (b) would be limited to loans covering actual losses, and (c) could not exceed for any one borrower $500,000 per disaster.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification specifically providing that the Secretary is to implement a disaster loan program for creditworthy borrowers. Under this provision, loans may be made by the Secretary to persons who can obtain credit elsewhere and are subject to such terms and conditions as the Secretary may prescribe.

Section 120 of Public Law 96-302, enacted July 2, 1980, contains amendments to subtitle C (emergency loans) of the Consolidated Farm and Rural Development Act, establishing a disaster loan program for creditworthy borrowers at the Farmers Home Administration.

The *Conference* substitute incorporates the amendments made by section 120 of Public Law 96-302 into S. 985. Therefore, as a technical amendment, the *Conference* substitute repeals section 120 of Public Law 96-302.

However, the *conferees* recognize the relationship between the Small Business Administration and the Farmers Home Administration established in Public Law 96-302 and do not intend to change that relationship by the enactment of S. 985. Furthermore, the *conferees* intend that the legislative history accompanying section 120 of Public Law 96-302 apply to the *Conference* substitute.

(10) EMERGENCY LOANS—TIME LIMITATION ON SUBSEQUENT ANNUAL LOANS

The *Senate* amendment reduces from five years to two years the time during which any emergency loan borrower is eligible for subsequent annual loans to continue the farm operation.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (As a result of the phase-out of the program for loans in excess of the amount of the actual loss noted in item (8), no subsequent loans may be made after fiscal year 1982 except as noted in item (11).)

(11) EMERGENCY LOANS—EFFECTIVE DATE OF AMENDMENTS

The *Senate* amendment provides that the amendments made to the Consolidated Farm and Rural Development Act emergency loan provisions will become effective with respect to emergency loans approved after the date of enactment of the bill.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that for borrowers with emergency loans outstanding on December 15, 1979, the loan limitation established under the *Conference* substitute and the reduced time period for subsequent loans provided by the *Conference* substitute shall not apply to any subsequent loans under section 330 of the Consolidated Farm and Rural Development Act made for disasters for which the borrowers obtained emergency loans prior to December 16, 1979. Section 330 currently authorizes subsequent operating loans for not to exceed five years to eligible borrowers at prevailing market rates of interest when the financial situation of the farming operation has not improved sufficiently to permit the borrower to obtain such financing from other sources.

(12) LOAN ELIGIBILITY FOR PERMANENT RESIDENT ALIENS

The *House* amendment provides a definition of the term "citizens of the United States", as used in the Consolidated Farm and Rural Development Act, that extends eligibility for loans under the Act to aliens admitted for permanent residence.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute gives the Secretary discretion to issue regulations that would make aliens lawfully admitted for permanent residence eligible for loans under the Consolidated Farm and Rural Development Act, subject, however, to the same terms and conditions that apply to citizens. Any such regulations are required, however, to be submitted at least 30 days in advance of their publications in the Federal Register to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

(13) LENDING LIMITS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Both the *House* amendment and the *Senate* amendment amend the Consolidated Farm and Rural Development Act to comply with the requirement that, beginning with fiscal year 1980, lending limits for the loan programs under the Act must be set for each three-year period thereafter. The *House* amendment and the *Senate* amendment set identical lending limits for insured and guaranteed loan programs under the Act for each of the fiscal years 1980, 1981, and 1982.

(a) The *House* amendment authorizes the Secretary to transfer not more than 25 percent of the authorized amounts for real estate loans between categories of insured and guaranteed loans.

The *Senate* amendment authorizes the transfer of the authorized amounts for real estate loans between categories of insured and guaranteed loans without a limitation on the amount that may be transferred.

The *Conference* substitute adopts the *House* provision.

(b) The *House* amendment authorizes the Secretary of Agriculture to transfer not more than 25 percent of the authorized amounts for operating loans between categories of insured and guaranteed loans.

The *Senate* amendment authorizes the transfer of the authorized amounts for operating loans between categories of insured and guaranteed loans without a limitation on the amount that may be transferred.

The *Conference* substitute adopts the *House* provision.

(c) The *House* amendment requires that at least 25 percent of insured loans authorized for farm ownership purposes and at least 25 percent of insured loans authorized for farm operating purposes must be for low income, limited resource borrowers.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The conferees intend that the amounts specified in the bill are only a minimum and fully expect that the actual percentages for these loans will, in many States, exceed those amounts.

(d) The *House* amendment requires the Secretary to develop long-term projections of the costs for (1) the levels of loans authorized under the bill and as may be requested by the Secretary for future three-year periods, and (2) increases in such lending levels beyond those requested to be authorized (based on $10,000,000 increments or such other levels as the Secretary determines appropriate).

Such projections for fiscal years 1981 and 1982 must be submitted to the *House* and *Senate* agriculture and appropriations committees by February 15, 1980; and for each three-year period thereafter, such projections must be submitted to the committees at the times the Secretary submits to Congress a request for authorization for the period.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment providing that the projections for fiscal years 1981 and 1982 must be submitted not later than 15 days after the date of enactment of the bill.

Thomas S. Foley,
Ed Jones,
Tom Harkin,
Jerry Huckaby,
Dan Glickman,
Kent Hance,
George E. Brown, Jr.,
Frederick W. Richmond,
Alvin Baldus,
Berkley Bedell,
Glenn English,
Leon E. Panetta,
Tom Daschle,
Edward R. Madigan,
James M. Jeffords,
E. Thomas Coleman,
Ron Marlenee,
Larry J. Hopkins,
William M. Thomas,
Managers on the Part of the House.

Herman E. Talmadge,
George McGovern,
Walter D. Huddleston,
Edward Zorinsky,
Jesse Helms,
S. I. Hayakawa,
Roger W. Jepsen,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, SEPTEMBER 26, 1980, TO FILE FIVE REPORTS

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight Friday to file five reports, as follows:

H.R. 7893, Inspector General Act Amendments of 1980;

Oversight report on Farmers' Home Administration's Unified Management Information System;

Emergency energy conservation programs: DOE oversight;

Evaluating nuclear utilities performance: NRC oversight; and

Ground water contamination: EPA oversight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may we have the assurance of the gentleman from Pennsylvania that the minority has been advised in each instance and has no objection?

Mr. MOORHEAD of Pennsylvania. The minority has been advised and voices no objection.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there further objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, SATURDAY, SEPTEMBER 27, 1980, TO FILE CONFERENCE REPORT ON S. 2475, AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers have until midnight Saturday, September 27, 1980, to file a conference report on the Senate bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "improving automotive efficiency," to exempt very low volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ESTABLISHING THE U.S. HOLOCAUST MEMORIAL COUNCIL

Mr. WEAVER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8081) to establish the U.S. Holocaust Memorial Council, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 14, after "appointed" insert "(except as otherwise provided in this section)".

Page 2, line 23, after "Senate" insert "upon the recommendations of the majority and minority leaders".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR NOTIFICATION OF LOSS OR REDUCTION IN CIVIL SERVICE SURVIVOR BENEFITS FOR SPOUSES

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5410) to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 6, insert:

SEC. 2. The last sentence of section 12(b) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-522), is amended to read as follows: "Any member of the United States Secret Service Division appointed from the Executive Protection Service, or appointed from the Metropolitan Police Force prior to January 1, 1972, and assigned to duties directly related to the protection of the President shall receive credit for periods of prior service with the Metropolitan Police force, the United States Park Police force, or the Executive Protective Service toward the required ten years or more service.".

Page 2, line 7, strike out "2" and insert "3.".

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I assume this is a nongermane amendment but that it is acceptable to everyone?

Mrs. SPELLMAN. Mr. Speaker, the Senate amendment would grant retirement credit under the District of Columbia police and firemen's retirement system to Secret Service personnel who were recruited directly from the District of Columbia police force prior to January 1, 1972. The Senate amendment corrects an apparent oversight in legislation enacted in 1964.

This amendment has been cleared with the Committee on the District of Columbia, which has jurisdiction over the District of Columbia police and firemen's retirement system, and that committee has no objection to the Senate amendment.

Mr. BAUMAN. Mr. Speaker, I thank my colleague, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

DIRECTING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO SENATE AMENDMENTS TO H.R. 5288, VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1979

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate amendments to the bill (H.R. 5288) the Clerk of the House of Representatives be directed to make the following correction: In the matter proposed to be inserted in section 1786(a)(1) of title 38, United States Code, by section 604 of the House amendment to the Senate amendment to the text of the bill, strike out "60" and insert in lieu thereof "70".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I just want to say that I concur with the gentleman from Mississippi. There is no objection from this side, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

These was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORTS ON H.R. 8188, REVISING LAWS GOVERNING U.S. COURT OF MILITARY APPEALS; AND H.R. 8189, AUTHORIZING DENTAL CARE UNDER CIVILIAN HEALTH AND MEDICAL PROGRAM OF UNIFORMED SERVICES FOR ACTIVE DUTY DEPENDENTS

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have until midnight, Friday, September 26, to file reports on H.R. 8188, revising the laws governing the U.S. Court of Military Appeals; and H.R. 8189, authorizing dental care under the civilian health and medical program of the uniformed services for active-duty dependents.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ENTITLED "MONITORING FOREIGN OWNERSHIP OF U.S. REAL ESTATE—A REPORT TO CONGRESS"—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, September 25, 1980.)

TWELFTH ANNUAL REPORT OF NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, September 25, 1980.)

REQUEST FOR PERMISSION TO MAKE IN ORDER CALLING CONSENT CALENDAR AT ANY TIME DURING MONDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the Consent Calendar is called on Monday next, in accordance with the unanimous-consent request previously agreed to, it shall be in order to call the Consent Calendar at any time during Monday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WEAVER. Mr. Speaker, reserving the right to object, could the acting majority leader inform this Member and other Members of this House what effect this has?

Mr. FOLEY. The only effect it has is to permit the calling of the Consent Calendar at any time during the session on Monday.

Mr. WEAVER. Why is this necessary? What is the reason for it?

Mr. FOLEY. The reason for it is that when there is normally a conclusion of the Consent Calendar, then it is not in order to call any more Consent Calendar bills, and the Consent Calendar is typically read. The Consent Calendar is read, and at that point it is concluded. It will be in order, if this unanimous-consent request is granted, to begin that process at any time during the day.

Mr. WEAVER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CARTER ADMINISTRATION'S SUPERFUND: SUPERFRAUD—OR JUST AN INABILITY TO PRODUCE?

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, I am afraid that, more and more every day, the American people are in danger of being defrauded by the Carter administration. The latest example involves an issue no less important than our recently passed superfund legislation.

Twice in the past 6 days, the House of Representatives has debated and overwhelmingly passed bills which address the issue of toxic contamination of our environment. Last Friday, by a recorded vote of 288 to 11, we resoundingly passed H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, which deals with actual or threatened discharges of oil and hazardous substances into the Nation's waters. Two days ago, by another landslide vote of 351 to 23, we passed H.R. 7020, the Hazardous Waste Containment Act, to provide authorities to respond to releases of hazardous waste from inactive waste sites.

Both of these bills were passed here in the House with total bipartisan support. Republicans and Democrats alike, from four different committees and from congressional districts all over this Nation, worked shoulder to shoulder to pass this legislation. The record will clearly show this to have been the case.

Unfortunately, insinuations were made by the gentleman from Tennessee (Mr. Gore) that I believe were motivated either out of a sense of selfish personal political ambition or a total misunderstanding of the process by which the bills were brought to the House floor—and I think the votes on the two bills clearly bears this out. In debating the bill's rules, the gentleman from Tennessee spoke of a Republican Party, to use his words, "that takes it upon itself to speak up for the narrow special interest and say 'wait, wait, we want a delay'." His blatantly erroneous and totally offensive message was that the Republican Party was out to kill the superfund bills.

I would suggest that the facts refute his insinuations. Furthermore, I would suggest that events of the past few days can be interpreted as indicating that it is, not the Republicans, but the Carter administration which may be guilty of delaying this legislation—and, in the process, defrauding the American people. At a minimum, it would appear that these events may demonstrate once again that the Carter administration is one only of rhetoric and one which, when it comes to standing behind its promises and commitments, is painfully incapable of producing results.

On innumerable occasions during the course of this 96th Congress, the Carter administration has told us that the problem of toxic contamination of our environment is the major environment issue facing this Nation. They have used terms like "ticking time bomb," "environmental horror story of the 1980's" and "the sleeping giant of the decade" to characterize the severity of the problem posed by toxic pollution. They have announced that enactment of superfund legislation is among the administration's highest priorities.

However, Mr. Speaker, when achievement of the goal of enacting a superfund law finally begins to become possible, after countless hours of work by Members of this body and after overwhelming votes in favor of enactment, the Carter administration appears content to allow both H.R. 85 and H.R. 7020 to be delayed to death by what can only be characterized as parliamentary chicanery.

The House of Representatives, pursuant to our rules, has passed, engrossed and enrolled both bills. Unbelievably, I am told that the Senate refuses to accept them. And I do not mean that the Senate refuses to agree with their substantive provisions; that happens all the time. Instead, I have been informed that the Senate has refused to physically receive the bills. When H.R. 85 was transmitted to the other body, it was demanded that the bill be returned to the House, and the House was informed that no similar bills would be accepted by the Senate for the near future. This maneuver is one virtually unheard of, even among our most senior and experienced Members.

Mr. Speaker, such a decision could only have come from the Senate leadership. And I do not have to tell you that, in this administration, the Senator from West Virginia, the majority leader, is most responsive to administration requests. Which all leads to one of two conclusions: Either President Carter ordered the Senate leadership to refuse to accept the bills, knowing full well the very short amount of time remaining this Congress in which to develop consensus superfund legislation and being willing to seriously jeopardize through delay the legislation's chances, or President Carter is incapable of working with the Congress to actually produce meaningful and much-needed legislation.

In either event, the American people are the clear losers.

Mr. Speaker, I hope that I am wrong, but I fear that I am not. In any event, I challenge President Carter to place the interests of the American people uppermost in his decisionmaking and to allow the Senate leadership to accept the House-passed superfund legislation and to act on it this Congress. If he does not, superfund stands to be viewed by many as being nothing more than a superfraud perpetrated by this administration.

FEDERAL SUPPLEMENTAL BENEFITS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, I would like to call my colleagues' attention to H.R. 8146, legislation to establish a program of Federal supplemental benefits for the many unemployed persons who have exhausted their State and Federal/State extended unemployment benefits. This bill was reported out of the Ways and Means Committee on Tuesday of this week, September 23, and it is of utmost importance that the House approve the measure as quickly as possible so the program can be in place on October 1, the intended date of enactment. I feel compelled to remind us all that October 1 is next Wednesday—less than 1 week away.

It is openly acknowledged that the administration is pursuing a policy of fighting inflation with unemployment. This policy has been remarkably effective on one front. Unemployment rates have skyrocketed. But, just as sadly, the misery index has not compensated on the other front, as inflation rates have continued apace. In short, the case could not be more compelling for the Federal supplemental benefit program as recommended by the Ways and Means Committee.

It is crucial that we act quickly for several reasons. Our system of unemployment compensation is currently structured to respond to normal economic conditions. In my home State of Wisconsin, benefits are available to jobless workers for a maximum of 39 weeks, 34 weeks of State unemployment compensation benefits and 5 weeks of Federal/State extended benefits. The most recent figures on the number of Wisconsinites collecting regular and extended benefits, from the week ending September 6, shows some 111,000 in the aggregate, with 6,000 to 7,000 collecting Federal/State extended benefits. For each week of the last 2 months, July and August, approximately 1,000 people in Wisconsin have exhausted their unemployment benefits—over 8,000 in all—and, without remedial action, these numbers are likely to swell.

The people of Wisconsin are certainly not alone in this predicament. Our national unemployment rate has hovered between 7.6 and 7.8 percent in recent months with over 8 million workers jobless. And the numbers nationwide of people who have exhausted their benefits, including the Federal/State extended benefits, are staggering. The administration calculates over 60,000 exhaustees per month, and estimates that 385,000 people will be eligible for the Federal supplemental benefits prescribed in H.R. 8146 in the first month and a half of the program.

We simply must not desert the thousands of people who have been put out of work as a result of Federal policy. It is incumbent upon the Federal Government to secure for them and their families a minimum floor of purchasing power to put a stop to the hemorrhaging of our economy. The ripple effect of unemployment on retail and service industries is itself a serious matter. There is a further side effect of skilled workers being pushed into our welfare system. We have effectively curtailed economic growth, thereby limiting job opportunities, and so have created a situation in which productive people who want only to work, must turn to welfare as the only source of income. America's working men and women have earned and deserve more than welfare benefits.

Another aspect of this situation is the financing mechanism. For welfare benefits, the States' resources are called upon to shoulder a responsibility that rightfully lies with the Federal Government, that of providing for workers who are unemployed for such long periods of time.

In this context, it should be noted that the Federal supplemental benefit program proposed in H.R. 8146, would be entirely financed by the Federal Government, out of general revenues.

One final footnote to this discussion is the pressing need to provide the States with adequate funds to deal with the administrative burden that is implied by H.R. 8146. In Wisconsin, it is safe to assume that a large percentage of those who have already exhausted their unemployment compensation benefits, the 8,500 or so, will walk into employment service offices across the State on October 1 if this program is in place. It is essential that we include the funds to help our national network of employment service offices cope with this onslaught.

Mr. Speaker, I look forward to the opportunity to vote for H.R. 8146 at the earliest possible date, and urge my colleagues to support this important bill.

SECOND GENERATION OF PERSONAL SAVINGS FORMATION

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, yesterday I introduced legislation H.R. 8201 which serves as the second generation of encouragement of personal savings formation. The first is found within the Windfall Oil Profits Act. It is a $200 per individual and $400 joint return interest and dividend exclusion for 1981 and 1982 only. After months of hard battle within the Ways and Means Committee on my part to give interest income a degree of tax relief for the first time, our colleague in the other body from Texas (Mr. BENTSEN) and I successfully joined forces to win approval of the 1981 and 1982 exclusion.

The second generation of savings formation embodies six steps, is accompanied by a static revenue loss estimate of some $3.5 billion, and could produce as much as $15 billion in new savings formation that provides more capital for economic expansion and more jobs for Americans. It expands entry into individual retirement accounts and has incentives for wider participation.

The first step is to make the $200 per individual, $400 joint return exclusion of interest and dividend income a permanent feature of the tax code.

Second, persons age 65 or older would be allowed to receive $500 annually in interest and dividend income tax free. Those filing joint returns would be allowed $1,000.

Third, the present ban against individual retirement account participation by employees having pension plans at work is lifted.

Fourth, the present $1,500 annual IRA contribution limit is increased to $2,000 and the current 15 percent of earnings test is repealed.

Fifth, above the $2,000 in deductible IRA contributions allowed annually, another $2,000 in nondeductible contributions could be added each year and a one-time nondeductible addition of $8,000 more would be allowed.

Taxes would not be deferred on these nondeductible amounts and this allowance is made to give persons who are nearing retirement age the opportunity to build an IRA of sufficient size so retirement benefits will be increased.

Finally, to encourage young taxpayers to open an IRA, I would permit avoidance of the current 10 percent early withdrawal penalty under two conditions. Funds could be withdrawn from the IRA for downpayment for purchase of a first home or for family education expenses beyond high school. A lifetime ceiling of $10,000 would be imposed on withdrawals, no less than $1,000 could be taken out in any instance, and at least $2,000 would have to be kept in the IRA at all times.

This legislative package is cost-efficient and compatable with steps underway in the Senate Finance Committee to expand IRA participation and encouragement of its use.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1985. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes;

S. 2373. An act for the relief of Sandra Reyes Pellecer;

S. 2724. An Act to extend authorizations for law enforcement assistance at Corps of Engineers projects; and

S. Con. Res. 62. Concurrent Resolution urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4417. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes.

THE HONORABLE ROBERT DUNCAN OF OREGON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN), is recognized for 60 minutes.

Mr. ULLMAN. Mr. Speaker, I rise with mixed feelings to congratulate my colleague from Oregon, ROBERT DUNCAN, on his legislative achievements over the past 24 years, to bid him farewell—at least for the next 2 years—and to comment on the special character that BOB has brought to our deliberations in the House, a character that I regard with particular pride because I view it as essentially Northwestern, the product of a tradition which I share.

BOB and I come from the last outpost of the American frontier, the end of the Oregon Trail. We represent constituents who are individualists, self-starters, who are accustomed to solving problems in their own way and who look upon the county, the State, and certainly upon the Federal Government as intermediaries of last resort.

No one in our district would dream of calling upon the Feds for help unless things have gotten totally out of hand at home. People would rather do it themselves.

BOB has been faithful to that spirit. He is fond of quoting our former Speaker John McCormack that it is the function of Government to pour oil on troubled joints, to step in and equalize the scales when one group begins to take advantage of another. The key word in that statement, according to BOB, is unfair.

If, as Representative of his district to the Congress, BOB has been a believer that less Government means more opportunities for his constituents to assert themselves as individuals, he has also believed that his job required some larger vision—a rationale and reason behind the day to day votes, a concept of what Government is trying to accomplish that reaches farther than the political climate of the moment, one that encompasses and subsumes each bill, each constituent, and each interest group.

In his efforts to achieve balance and equity for his district and the Nation, Bob applied a standard of fairness that we all came to admire. He was a forceful and effective regional whip from 1974–78. He has been a highly respected member of the Democratic Steering and Policy Committee since 1978.

Bob was particularly well-placed on the Appropriations Committee, where his Scotch scrutiny of every proposed expenditure assured a cost-beneficial allocation of the tax dollar. We all become overzealous at times when it comes to defending our district projects. When one of mine got through Bob's subcommittee, I knew that it had made it on its merits.

Bob applied the same problem-solving approach—facing the issue squarely, then thrashing out the details—when it came to the individual constituent whose troubled points needed oil. He was famous with his staff for taking the seemingly hopeless case off their hands to mull over on his own until he had arrived at a solution. How many of our wives find constituents' letters in our pockets when they send our suits to the cleaners?

Mr. Speaker, let me say that a lot of my colleagues have asked to participate, but let me relate this first to Frank Thompson, who, after saying a lot of things that we will place in the Record—not all complimentary, but all meant in the spirit of fun—said:

> Bob is, in fact, the Nation's favorite Scotch individual except for Mr. Dewar.

Then he said:

> In the event I cannot be there, I am enclosing a short-time supply of snuff for Bob. Please tell him all the snuff is certifiably harmless and will remain so unless he fails to put a double name on the Federal building in Portland.

But on examining the package left by Mr. Thompson, I find three containers that I am not sure Bob Duncan would recognize as his own, and I will be very anxious to see him use this very special kind of European snuff.

Mr. Speaker, I include Mr. Thompson's letter, as follows:

Washington, D.C.,
September 24, 1980.

Hon. Al Ullman,
Longworth Office Building,
Washington, D.C.

Dear Al: I hope to be among the two or three friends honoring the Nation's favorite Scotsman, Bob Duncan, on Thursday. Your note indicates very clearly the esteem in which Bob is held by most of our colleagues when you characterize him as the "Northwest's favorite Scotsman." Bob is, in fact, the Nation's favorite Scotch individual except for Mr. Dewar.

Perhaps Bob's outstanding qualities are those of forgiveness and love. He has always loved Edith Green, a fact which can be proven by his forgiveness of her "friendship" toward him.

In the event that I cannot be there, I am enclosing a short time supply of snuff for Bob. Please tell him that all of the snuff is certifiably harmless and will remain so unless he fails to put a double name on the Federal Building in Portland!

I have searched my memory for a legislative achievement of Duncan's and have discovered none. Nevertheless, in the great tradition of the House of Representatives, I join those who characterize him as "a great American, a man who has served his people faithfully and well and a distinguished legislator who will be missed by everyone."

Best regards.

Cordially,

Frank Thompson, Jr.

Mr. Speaker, I yield the floor with some regret, because I could go on telling Bob Duncan stories all night. On the other hand, I also enjoy listening to Bob Duncan stories.

Mr. Speaker, I join my colleagues in saluting a great representative of the Oregon territories—a man as Northwestern as Mount St. Helen's, as close to the spirit of the country as his own hero, Chief Joseph.

The legendary leader of the Nez Perce is best remembered by his statement, "I will fight no more forever."

Mr. Speaker, that is not going to happen to Bob Duncan. As long as Bob Duncan is on this Earth, he is going to fight battles and fight them with great ability and great distinction. I am very proud and honored to consider Bob Duncan a friend, and I wish him the very best in the years ahead.

□ 1600

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to my good friend, the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, I want to compliment the gentleman from Oregon (Mr. Ullman) for taking this special order, and I wish to make a very brief comment.

Bob Duncan, in the time he served here, was a really refreshing Member in that we always knew very quickly where he stood and we knew that he would have good reasons for the position that he took. His frankness and candor were refreshing in an institution which seems to me is becoming more and more gray-flannel-suited in that too few people are willing to express their real views frankly.

Mr. Speaker, Bob Duncan's contribution of friendship and frankness has been extraordinarily refreshing in an institution that will probably miss him probably even more than it now recognizes.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman from Missouri (Mr. Bolling).

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am happy to yield to the distinguished dean of the House, the chairman of the Committee on Appropriations, under whom Bob Duncan has served.

Mr. WHITTEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I join with my colleagues in paying tribute to my good friend Bob Duncan from Oregon. It is with great personal regret when I see that the Appropriations Committee, the Congress, and the American people are losing Bob's service in Congress. Somehow it seems we frequently lose the best Members and that certainly is the case when we have to give up Bob Duncan.

Bob distinguished himself during his tenure in the House of Representatives as a decent, forthright, and personable human being and as an extremely effective legislator.

His dedication and untiring service to the Third District of Oregon and the entire country set him apart as an outstanding public servant. The Third District of Oregon and the Nation have lost a rare talent which will be difficult if not impossible to replace.

Bob is no newcomer to the House Appropriations Committee having served on this committee in the 89th Congress. Bob's record as a member of the Appropriations Committee and particularly as chairman of the Subcommittee on Transportation exemplifies his ability to deal with very difficult situations while at the same time respecting the concerns of his colleagues. It has been my privilege to work closely with Bob on the Appropriations Committee and through this close association, I was fortunate to enjoy his able assistance, patience and valued advice.

Bob will be sorely missed, not only in his capacity as a leader and respected colleague but as a dear friend and able counsel.

I know I join with all my colleagues in wishing Bob and his family all the best in whatever the future may hold knowing full well in whatever endeavor Bob may pursue he will be a success.

Mr. ULLMAN. Mr. Speaker, I thank the distinguished gentleman from Mississippi (Mr. Whitten).

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am happy to yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, feel a sense of disappointment and sadness that Bob Duncan will not be coming back. I met him in service on the Appropriations Committee, and like the rest of us who served with him, I have enormous respect for his ability, his high sense of responsibility, and his public and private integrity. I think we lose something in losing him.

Mr. Speaker, Bob Duncan has certainly improved the average of this House by his presence.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am pleased to yield to the distinguished minority whip.

Mr. MICHEL. Mr. Speaker, I thank the distinguished committee chairman for yielding.

Mr. Speaker, I had no idea the gentleman was taking this special order on behalf of our colleague, Bob Duncan. Luckily for me, I happened to be on the floor at the time, and I am happy to join in this tribute to Bob.

As the Members may know, he married an Illinois girl, and that caused us, I guess, early on to have a very special association and relationship in this House. As a matter of fact, we have driven back to Illinois together, and we have had an extraordinarily fine, cordial relationship even though serving on opposite sides of the aisle.

I must say, too, that in his work on our Appropriations Committee, when Bob spoke or when he was presenting his bill as the subcommittee chairman to the full committee, he commanded attention.

□ 1610

He was very reserved with the number of words he used, but when he did speak it was with authority. Those of us who served with him and worked on specific pieces of legislation are really going to miss his craftsmanship and the industrious way in which he addressed every problem. He was a super individual to serve in this House, one who really gave it additional stature and credit, and I personally have to regret that he leaves us in the fashion he does, but certainly with flag flying high. We all wish him well in whatever he pursues.

Mr. ULLMAN. I thank the gentleman for his remarks.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank my distinguished colleague, the gentleman from Oregon (Mr. Ullman), the dean of our delegation, for yielding to me and I thank him for setting up this time to allow us to make our remarks about one of our dearest friends, Bob Duncan.

I have known Bob for 25 years. He once served as the Member of Congress from the congressional district I now represent. Bob is still loved in that congressional district. I speak, I know, for many of my constituents as well as myself when I say he is one of the most decent, most honest, and kindest people. We love both him and his wife Marijane and all of his wonderful children. We will certainly miss Bob. I know him to be a true friend. We have always felt that comradeship and friendship are more important than any political differences ever.

I think I would be negligent if I did not say, however, that he had one grievous fault, and that is his use of chewing tobacco. We will miss his passing around that tin of Copenhagen in this House, but I am sure that anyone who wishes a chew of snoose can come to Oregon or wherever Bob is, and it will be out there ready for you.

Mr. ULLMAN. I thank the gentleman for his comments.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, I would like to thank the gentleman in the well for requesting this time to pay tribute to our colleague Bob Duncan.

I first became aware of Bob when I was a student at Lewis & Clark College in Portland and I was serving as an intern in the Oregon Legislature. At that time Bob was serving in the U.S. House of Representatives and he had returned to the area and was being introduced by, I believe, the former speaker of the Oregon State Legislature, and I recall at the time in that introduction the acknowledgment that Bob was probably one of the most popular persons to serve in the Oregon Legislature. Judging from the reception he received that day, I can see those words ring true.

And then when I came back to work for a U.S. Senator, in Washington, D.C., I was aware of Bob's many accomplishments as a new House Member.

Oregon is known for sending to the U.S. Congress men and women of fierce independence and of conviction. I think it was because of that that Bob paid a heavy price on election day, because indeed he was a man who stuck to his principles, both as a public figure and also as one who was a formidable campaigner, not only for the House seat he held, but also as a candidate for the U.S. Senate on two occasions.

He also has another distinction. He is one of the few Members of this body to have served in the Congress representing two different congressional districts, representing at one time with distinction the Fourth Congressional District of our colleague, Mr. Weaver, and then on another occasion representing the Third District in Portland. I would like to note that I sensed at the time he was serving in the Fourth District he had rather liberal and urban views on many issues which were inconsistent, it seemed to be, with that congressional district; and then when he represented an urban district in Portland, he seemed to have those views which were more acceptable to rural areas. But I think that says a lot about our colleague, Bob Duncan. He was steadfast in his convictions. He was not afraid to express his opinions. He is a skilled legislator, a highly respected Member of this body. Bob is also known as a solid family person. He has raised dynamic children, who are very attractive and have always been very supportive of him.

Mr. Speaker, it is always a sad day when a man who is primarily motivated by conviction leaves the Congress, but Bob Duncan is doing so with considerable pride and honor.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Speaker, I want to commend my colleague, the gentleman from Oregon (Mr. Ullman) for taking this time so that we could pay tribute to a good American and a good friend, Bob Duncan.

I have had the privilege over the last 4 years to serve with Bob on the House Appropriations Committee. We worked together on the Interior Subcommittee, and I can tell you that no one has done more to develop the natural resources of this country than Bob Duncan. His work in developing the Forest Service, his work for reforestation, his work for the enhancement of environmental goals in our National Forest System and Bureau of Land Management system are absolutely legendary in terms of our committee's work and efforts.

We have worked together since I have joined that committee, but I must say that it was always under Bob's direction and leadership. He clearly was the person on our subcommittee who knew the most about this issue, and it did not take much to persuade me, but I was always impressed how he could persuade someone like Chairman Yates from Chicago, or other people from other parts of the country, about why they should take the taxpayers' money and invest it wisely in developing our national forest resources.

So Bob's legacy in this area will live on for a long period of time.

As chairman of the Subcommittee on Transportation, I think he has done yeoman's work in making sure that America has a sound transportation system.

I would also like to say, as my other colleagues have said, Bob had the fierce independence and the character that I think all Members should be proud of. Maybe in fact that did lead to political difficulties at home. But it certainly enhanced his respect here in this House. I for one will feel a great sense of loss. I hope, of course, that Bob will be nearby so that those of us who have to carry on these battles, particularly in the natural resources area, will be able to call upon his wisdom and counsel in the future, and I am sure we will.

As has been mentioned, he has a wonderful family, wonderful children, and really is one of those great human beings. He and I differed on some issues, but it was always fun to sit and negotiate and talk and work with Bob. I think he has made a great contribution to this Congress, a great contribution to this country, and he will certainly be missed by his friends in the Pacific Northwest.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to compliment the gentleman in the well, the chairman of the Committee on Ways and Means (Mr. Ullman), for honoring one of the finest gentleman in the House of Representatives.

I know I should get up here and say some nice things about Bob Duncan, but I really do not know if I can do it. You see, Bob took some time out during consideration of this year's transportation appropriations bill to criticize my loyal hunting dog Primo, a pet who possesses the intelligence, good looks, and—lucky for Bob—good humor of his master. Primo, of course, was not here that fateful day to hear Bob's insults first hand, but when I relayed to him the gist of Bob's remarks, he rightfully demanded that the gentleman from Oregon "bark down" on his words.

But although Primo may not miss Bob's sterling wit, I count myself among the many Members of this House who will feel a void next year—not only in the Transportation Appropriations Subcommittee, but in the full membership. I have worked with many members on Transportation Appropriations in my years in Congress, but Bob's tenacity and eagerness to learn mark his 2-year tenure as subcommittee chairman as one of the most successful. He has shared my own concern over energy scarcity and our Nation's ability to move goods and people efficiently and safely; and he has exhibited his talents by bringing out appropriations bills that are clean, tight, and responsible.

Aside from his obvious talents as a chairman, Bob has been an excellent all-around legislator—and a great guy to work and hunt with. I know that Bob has had as many careers as he has talents, and that any vocation he chooses in the future will bring him further success and admiration. But, I do want to emphasize my personal sense of loss, and I know that it is shared by many others.

☐ 1620

I know that it is shared by so many as I have said, that one of the nicest things you can say about a man is that he is a good man, and in my book, Bob Duncan is a good man.

Mr. ULLMAN. I thank the gentleman.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am delighted to yield to the distinguished gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I am grateful to the gentleman from Oregon for giving me the opportunity to say a fond au revoir and a hearty thank-you to Bob Duncan, loyal friend, considerate, compassionate citizen, able legislator, levelheaded member of the Appropriations Committee. We are really very regretful to see him leave this body and long will his contributions to this institution and to his district and to the Nation be remembered by all those of us who have had the privilege to serve with him; and of course, I wish his lovely family and Bob the very best of happiness in all of their future endeavors.

I thank the gentleman for allowing me to participate.

Mr. ULLMAN. I thank the gentlewoman.

Mr. AKAKA. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am happy to yield to the gentleman from Hawaii.

Mr. AKAKA. I thank the gentleman for yielding.

Mr. Speaker, I am proud to rise and join my colleagues in honoring a man who, over the years, has earned my deepest respect.

From my earliest days in Congress, Bob Duncan has been one of the most helpful and supportive Members on the floor of the House. Bob's advice has long been a valuable resource to me throughout the years that we served together.

No matter the issue, he has always given me a clear understanding of his position. His dealings with people have always been straightforward, and this has been one of his true marks of excellence. He took positions and held them. His word was golden. He has listened to each person's special concern, and dealt with each of us with complete fairness.

I deeply appreciate his help in matters of personal importance to me. Wherever he could, Bob has gone down the line to offer that special kind of help.

I know he will be missed on the Appropriations Committee and chairman of the Subcommittee on Transportation, where he most ably served. He will certainly be missed by all of his friends and colleagues that served with him over the years.

I wish him, his wife Marijane, and family every success in the future.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am happy to yield to the gentleman from Illinois.

Mr. FINDLEY. I would like very much to join in this salute to our good friend, Bob Duncan.

One of the qualities I have admired especially is his willingness to stand alone on a controversial issue, a quality especially admired.

There is one aspect of his life that has not been noted as yet. He had the good fortune to find his wife in Schuyler County, Ill. Not everyone is that fortunate. I am sure that that choice helped Bob immensely on the road to success.

I thank the gentleman.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Indiana.

Mr. JACOBS. Maybe something ought to be said about what Bob Duncan looks like in a gymnasium, just for the record.

I see a vital figure in a somewhat less than vital and somewhat beat-up sweatsuit. Perhaps some of the Members might be familiar with that figure. I see him beating the brains out of any athletic competition, more often than not. I see that same figure carrying the fight through his career for what is right as God gives him the light to see what is right.

The words are Shakespeare's, from Henry V:

> To imitate the action of the tiger, stiffen the sinews.

And if that is an apt description of Bob at his best in working for the success of a cause in which he believes unwaiveringly, it also describes in a sense, in the feline sense, his political career.

Bob has had several of his nine political lives already, but he has several left.

Speaking of Illinois, if I remember correctly, there was a Representative, a former Member of this body, who served in this body, never served in the other body, never served as a Governor, but the first thing you know, he was President of the United States.

One of these days, if the people of this country are in the market for a fellow who thinks as he pleases and says what he thinks, finds that refreshing, I would not be a bit surprised if we might all be addressing him as Mr. President Duncan one day.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Nevada.

Mr. SANTINI. I welcome the opportunity to express some personal sentiments about the quality and contribution of Bob Duncan.

Bob Duncan was and is, in my judgment one of the extraordinary legislators to serve in this body.

Upon arriving on this scene as an unemployed judge, I immediately identified with some of the aptitudes and talents of Bob Duncan. He was gifted with a particular oratorical flare. He had a resonance of his voice that would rattle both these walls and any brain in the Chamber into attention and response.

He had a personal sense of scholarship that I immediately admired.

He did extraordinary things like he read committee reports. I very much hope that does not get to be a practice in this body. But he was committed, so committed to understanding an issue that he did his homework day-in and day-out to prepare himself to discuss that issue.

Another quality in particular I admired about him was he was most selective on that subject matter to which he addressed himself in this body with all of his intellectual and verbal skills, and he could have unleased them in a torrent of involvement on a day-in and day-out basis. Bob would pick and choose, and only when he felt deeply and strongly and intellectually about an issue would he take to the well or take to this microphone to share his judgment processes with the Members of this body.

He is one of those extraordinary Members who I grew to admire so particularly because I knew that a Bob Duncan outside the service in the House of Representatives could have enjoyed an income five, six, seven, eight times the remuneration he received for serving in the House of Representatives. But for some peculiar compassion and compulsion, Bob wanted to serve people rather than his own economic self-interest.

I suppose the immediate decision may compel some personal economic self-interest, but I hope that this country and the State of Oregon and his congressional district will once again see the extraordinary service and representation of Bob Duncan, because this House will both miss his service and not see many like him.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I am more than delighted to participate in this tribute to our working colleague, Bob Duncan, and to you, Al Ullman. I am just more than grateful you have given us this opportunity by taking this special order here today.

☐ 1630

Mr. Speaker, I came to the Congress in the 88th Congress with Bob Duncan. As you know, Al, I had the privilege of serving in a neighboring congressional district with Bob. We became very well acquainted on a number of areas of mutual interest. I told him personally, as I can share with my colleagues here on the floor, that I feel I know Bob Duncan like I know my own brother. As a matter of fact, that is one of the things that has caused me to become closely attached to Bob, because Bob Duncan and my own older brother could literally pass for twin brothers.

I happen to be quite fond of my own older brother. I have also had a chance to get acquainted with Bob and his lovely wife, Marijane, on a trip that we took to the southern flank of Europe at a time when it was important for us to become acquainted with the NATO security problems in that particular section of the world. I do want to share what has been said about Marijane. She is a very special person and one that I can understand has added a great measure of love and genuine stability to all of Bob's life. I am sure he would be the first to admit that.

But how do you describe an individual like this? I am just going to try to use a few words that come to my mind. It has already been said that he is an outstanding legislator. Any one of us who have observed him on the floor of the House, working in the committee, and then more importantly, communicating with us on western resource and transportation matters recognize that here is a man with an extraordinary amount of dedication and commitment to those issues and values that we all believe in and are important to the West. We are really going to miss Bob's determination, willingness to cooperate and his genuinely constructive recommendations for solutions to problems unique to the West.

He is a great advocate. He is a fierce in-fighter, but he is eminently fair and impeccably honest. These are the qualities that I admire so much about Bob Duncan.

But there is one other thing, and I think this comes, possibly, from the similarity of our backgrounds, those who have been involved in aviation have a broader perspective about life in general. Bob, like myself, had a very extensive aviation background. That was one of the other areas of mutual interest that he and I shared.

The fact that we were in these neighboring districts of southern Oregon and northern California caused us to work in unison on matters that affected fishermen, farmers, the forestry interests and all other resource interests. These joint efforts have accrued to the benefit of the entire Western part of the United States, as well as our respective states and congressional districts. He has really left his mark in the sands of time and all Americans are much the richer for his many contributions.

Let me just say in conclusion that I will always admire and genuinely respect Bob Duncan as an individual whom I would describe as smart, tough and articulate, but in addition to that, he had a special sensitivity to people's interests and concerns. I am talking about those that so many of us describe as the little people. I have seen it firsthand. If there was an individual that had a serious problem in his particular congressional district, Bob Duncan would be the kind of person that showed those human qualities of going right to the heart of the problem and try to find a solution.

So while I will say that we are going to miss Bob, I can tell you one thing, his constituency in Oregon is going to miss him a heck of a lot more than he will miss the institution of the Congress.

He personally, as Jim Santini said, is going to be much better off in terms of time and monetary gain for having left the Congress, but that congressional district in Oregon is never going to have the kind of representation that Bob and Edith Green used to provide them in that particular district. So it is with a great deal of personal pleasure that I join with you in paying tribute to an individual who I think of as one of the finest legislators this Congress has ever produced and this comes from his friend, a Republican from California.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman.

Mr. JEFFORDS. Mr. Speaker, the time-tried and tireless legislative abilities of our distinguished colleague from Oregon will be sorely missed during the next Congress. This body is certainly going to rue the absence of a dedicated man who, perhaps owing to overdedication, was unable to retain his seat.

Permit me to reminisce, without becoming maudlin, on several of the instances when the gentleman from Oregon lent his invaluable expertise to worthwhile legislative initiatives in his capacity as chairman of the Appropriations Subcommittee on Transportation.

Many of you will recall that, last year, then Secretary of Transportation Brock Adams proposed the amputation of 43 percent of the energy-efficient rail passenger system run by Amtrak. This plan included the elimination of the Montrealer, which extends from Washington, D.C., northward, through New York City, through my State of Vermont to Montreal, Canada, and the Pioneer, which serves the good gentleman's State of Oregon. It soon became apparent that the administration had based its study on a restructuring of Amtrak's routes on incomplete input from the American public, outdated ridership figures and an almost all-consuming passion to fit the rail passenger system into an arbitrary framework of objectives drawn up by the Office of Management and Budget.

For example, DOT's report which recommended that certain trains be scrapped used ridership, performance, and profitability numbers for the Montrealer that were unrealistically low; the report was compiled with 1977 statistics, and overlooked the fact that the Montrealer was the fourth most profitable train in its class. Moreover, DOT's perspective ignored the indisputable fact that, as gasoline becomes more scarce and more costly, train travel will become increasingly attractive to the public. We are going to need a viable rail network in this country, and had we followed the administration's blueprint, we would have faced the prospect of replacing a vanished or seriously deteriorated system at staggering costs.

Fortunately, with the assistance of the gentleman from Oregon and others, we were able to save a number of worthwhile lines in the Amtrak Reorganization Act of 1979. Since that time, we have put into effect some significant cost savings on the Montrealer, through alterations in the fueling pattern and cost reductions agreed to by the Canadian National Railroad. And we are working on still greater savings in the areas of reduced crews, and possible rerouting and shifting of departure times. I believe the progress we have made, and the improved performance of the train, shows that the confidence Mr. Duncan was willing to place in us, the selfless chance he was willing to take to preserve something he thought was worthwhile, against considerable odds, was justified. His intuition and good sense have been borne out.

A second area where our departing colleague has more recently been of considerable help is in legislating how money from the highway trust fund is administered and distributed.

When the administration rescinded over a billion dollars from the Federal-aid highways account earlier this year, it then began to redistribute the remaining unobligated funds in a rather strange fashion, creating a severe shortfall of highway funds in some States. The highway trust fund has always been administered in a fairly exotic way. So exotic are the administrative procedures in constant use over at Federal Highway Administration that, when one studies them, one comes away with a kind of administrative culture shock. This year, the deferral of funds highlighted some of DOT's peculiar procedures. Under the distribution system proposed by the administration, some States were slated to receive well over 100 percent of the fiscal year 1980 money they originally expected to receive, whereas other States, such as my State of Vermont and other New England States, were to receive less than 50 percent.

The supplemental appropriations bill took several steps in terms of redressing some of the inequity, and with the cooperation of the chairman of the Appropriations Transportation Subcommittee, we were able to insert some language in the conference report on that bill which, we thought, would be to the benefit of States hardest hit by the deferral, in that it would give them first shot at money from the account redistributed after August 15. We were assured by DOT that there would be money available for redistribution. As much as $300 million, they told us. Well, it turned out that we had been unwittingly victimized by still more exotic behavior, a little legerdemain. We are now told that there is no money available for redistribution. Someone down at DOT has been playing a shell game with an invisible pea.

This unfortunate development notwithstanding, the intentions of my friend from the Northwest were unimpeachable. Once again, he demonstrated compassion for the small States and was willing to use his considerable influence to assist them when they were faced with the prospect of being shortchanged. I think we are moving in the direction of making the highway trust fund more accountable, and our good friend deserves his share of the credit. Certainly the fiscal year 1981 authorization bills from both bodies, in reducing that portion of annual obligations from the Federal-aid highways account that is released on a first-come, first-served basis, do much to bring the fund into line.

In closing, Bob, I want you to know that as you return to the restful confines of the Beaver State, our thoughts will go with you, and you can go with the happy thought that the Nation's highways and railroads are better off for the services you have rendered here. We wish you the best of luck in whatever enterprises you may undertake in the future.

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am happy to yield to the distinguished gentleman from New York.

Mr. NOWAK. Mr. Speaker, I thank the gentleman for yielding. Certainly, it is no surprise to many of us here who served with Bob Duncan to listen to what has been said. It is just unfortunate, however, that a man of the caliber of Bob Duncan has to leave before hearing these things on the House floor. I am sure that many Members have expressed great regrets to him personally; but I think it is still a different matter to publicly say the things that perhaps are on the minds of many of us concerning Bob Duncan. He was someone who I became very close to because of his work on the transportation appropriation subcommittee.

I know that I speak for many Members of the House Authorization Committee, when they authorized the projects to go to him, they know that they would be treated absolutely fairly and with utmost honesty. He has been a person who I think every Member had great confidence in. I think we would all like to see everyone else emulate him.

I know on behalf of New York, he took our special problems into consideration.

I know that he also scrutinized every appropriation that he ever signed off on himself personally, as well as having all the great detail right at hand and personally took control of that subcommittee like no other Member I believe ever did.

So it is going to be a great loss, not only to the Congress, and as my predecessor said, to the district from which he came, but I hope and I certainly pray that he has a great future ahead of him. I know that many of us will feel a great need to cooperate with him in the future and we all want to wish him the best of everything.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman.

I am pleased to yield to the distinguished gentleman from North Carolina (Mr. Andrews).

Mr. ANDREWS of North Carolina. Mr. Speaker, I did not have the pleasure of knowing Bob Duncan as well as some of those who have spoken, and certainly the chairman, the gentleman from Oregon (Mr. Ullman). I did not serve on any committee with him since coming to the Congress, but I would like to relate a little different part of the Bob Duncan who was with us and who we will miss so much.

Almost 2 years ago I was able for the first time to move my office to the Rayburn Building on the fourth floor next door to Bob Duncan. The elevator which serves that wing of the first floor is immediately in front of my office door. Now, I have no special relationship with Bob. I am from North Carolina, a long ways away, on no committee with him. No member of my staff has any particular association with Bob Duncan; but Bob Duncan for reasons of just being Bob Duncan took a lot of time last year and this year to become acquainted with everybody on my staff. He knows them all. They all know him. He visits in the office. He jokes with the staff. I believe he does more for the rapport in our office than I do and he practically never caught that elevator door during these years but that he would go by the door and speak to the people there on the staff. I just do not know any of the rest of us that would take the time or the trouble or be thoughtful enough to do that.

I believe the staff would like me to join with all of you here in thanking Bob Duncan for his service and for being the great kind of human being that he is.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman.

I yield to the distinguished gentleman from Washington (Mr. Lowry).

Mr. LOWRY. Mr. Speaker, I thank the dean of the Northwest delegation for yielding and for taking this time for all these very apt accolates to a great Congressman.

As a new Member of Congress, I have probably known Bob less than anybody else that has spoken tonight; but I immediately liked him upon meeting him. Maybe it is because we dress the same way. I noticed a comment made by the chairman of the Rules Committee. I think Mr. Duncan and I both are explicit dressers; but in the less than 2 years that I have had a chance to serve, my respect has grown greatly for the service Bob has done to his country and to his great State of Oregon and to all our adjoining State of Washington. For that service, we are very grateful. He will be greatly missed. We want to say thank you for the work done, Bob.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman.

I yield to the distinguished gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Speaker, I am glad to join in this special order to honor our friend and colleague, Robert Duncan. Bob Duncan is a great character and a great Congressman. He is as different, as distinct, as honorable and sometimes as onery as anyone in this House.

In all seriousness, however, underneath Bob's bravado, we find a sharp individual and a serious vein. Because Bob Duncan is one of the ablest Members here. When he steps up to debate, his presentation is strong, rapid fire, and certain. His affability disappears, yet his sense of decorum and politeness is still there. His arguments are persuasive.

Bob Duncan probably has to restrain himself from getting involved in all discussions on the floor. He follows everything like a hawk. And he is qualified to speak on just about everything.

In fact, Bob is one of the most brilliant Members of Congress. Perhaps my affection for him is rooted in the fact that we are fellow members of the 88th Club, the group of freshmen elected in 1962 and 1963. His wife, Marijane and my wife and I have enjoyed a warm special friendship through the years.

Bob Duncan is an affable "Scotchman" and I hear, he might be a snuffdipper. If anyone ever took Carl Vinson's place, it would be Bob. I am told Mr. Vinson's old spitoon still has a place on the House floor and that place is presided over by one Bob Duncan.

Our friend from Oregon is truly a unique individual, a talented man who protects the national interest and a patriotic fellow who love his country. We shall always hol dhim in respect and affection.

In shtort, Bob Duncan is one of my favorite friends. He is strong medicine, but just about the morst delightful, respected, and loved Member in this body. I cannot understand the Oregon folks, but I do understand and love Bob Duncan.

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Mr. ULLMAN. I am delighted to yield to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from Oregon, the chairman of the Ways and Means Committee, for yielding.

Lest this sound as though it may be something that it should not be, as though Bob Duncan had passed away, let me tell you, Bob Duncan is alive and kicking. Anyone who does not believe that should have been to the conference of the Transportation Appropriations Subcommittee yesterday.

Bob Duncan was in charge all the way. He was in charge just the same as he has been during our hearings on the Transportation Appropriations Subcommittee.

Bob Duncan is able to get from witnesses information that is absolutely necessary and essential. When Bob holds hearings he is in complete control, and this year those hearings filled, as I recall, 8 volumes and some 6,500 pages of testimony. My colleagues will find Bob questioning and probing witnesses on most every page.

When we find someone like Bob who is so dedicated to what he is doing as to be able to pull out of the witnesses the proper information at the proper time, we find we will be making good legislation.

When we stop to think about the Transportation Subcommittee that Bob chairs, we find that he has left his mark on the safety people enjoy as they travel by air, highway, rail, and water. He has seen to it that we are a little safer today than we were yesterday. We also have more conveniences, more miles of highway, and better transportation systems because Bob worked so long and hard.

This chairmanship is not a part-time job. It certainly was a full-time job for my friend from Oregon, Bob Duncan. Bob, we appreciated your contribution and loyal service to this House. We will miss you.

Mr. ULLMAN. I thank the gentleman. I am delighted to yield at this time to my friend from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Speaker, I am a great friend of Bob Duncan. He is a great legislator. He is a fine person. He leaves behind a distinguished record. He will be missed.

I confess a measure of great sorrow in seeing his departure but also a measure of envy in knowing that he will be doing some of the things that he enjoys and wants to do. Like all my other colleagues, I wish him and his well in his departure from this body and wish him to know that he will be missed.

I thank my friend for yielding.

Mr. ULLMAN. I thank the gentleman. I am delighted to yield to my friend from California (Mr. Anderson).

Mr. ANDERSON of California. Mr. Speaker, I rise today to speak about one of our colleagues—about one of our most respected and cherished colleagues—who will not be with us next year when the 97th Congress commences.

I did not know Bob Duncan during his first period of tenure in the House. I was still serving as Lieutenant Governor of California. But I have had the privilege of working closely with him since he returned to Congress in 1974. I know, though, that his first 4 years must have been marked by the same characteristics as these last 6; fairness, integrity, hard work, devotion to his constituents and country, and the willingness and ability to fight for those things that he thought would best serve them. Those characteristics are the mark of Bob Duncan, and they are reflected in all he has done here in Washington.

During the past 2 years, Bob has served as chairman of the Appropriations Subcommittee on Transportation, a position of great national importance. The development of an integrated transportation system in the United States is one of the most important challenges facing the Nation. Under Bob's stewardship, it is a challenge that we have begun to address. Whoever becomes the next chairman of this panel will have to face two tasks. Completing the work that Bob has set in motion, and simply replacing Bob in the hearts and minds of his colleagues. They will both be difficult tasks.

You know, if Bob has stood before us as an example of what a good Congressman should be—and he has—he is also an example of the vagaries of elected public service. Bob has twice offered himself to the people of Oregon to serve as their Senator. I do not intend to disparage the people who were finally selected by the voters, but I do not imagine that they served any better or any more faithfully, than Bob Duncan would have.

One of the exhilarating things about elective politics is that when election day rolls around, and people make their selection by secret ballot, you can only count on one vote, your own. A disappointing aspect of this is; you do not always win.

Bob has experienced the exhilaration and the disappointment. I cannot imagine a better job being done here in Washington on behalf of the people of Oregon's Third District than that which was performed by Bob. Yet he will not be with us next year.

Mr. Speaker, we all cherish our system of representative democracy. But sometimes its results can be puzzling.

In an important job, and in trying times, Bob has served the people of his district, and his country, well and with honor. Serving with Congressman Duncan has been a pleasure and a privilege.

I do not know what Bob will be doing when he leaves us, but whatever it is, I know he will be doing it well, and the way that it should be done. My wife, Lee, and I extend our best wishes to Bob, his wife Marijane, and family.

Mr. ULLMAN. Mr. Speaker, all of us who know Bob Duncan's limitless energy, his integrity, his compulsion for public service, know that he is going to be around and that we are going to hear from him. But for this time, in this theater, we bid him a fond adieu. He is a great statesman and a great legislator, a great American. My wife Audrey and I wish Bob Duncan and Marijane and their family the very, very best in the years ahead.

● Mr. O'NEILL. Mr. Speaker, I am delighted to take this opportunity to join my colleagues in honoring Robert Duncan of Oregon and recognizing his 10 years of exemplary service in the House of Representatives.

Bob Duncan is a national Democrat and has been a sensitive, compassionate, and dedicated Member of the House. Intelligent, competent, and resourceful, Bob has spent a total of a decade focusing on the main areas of legislative interest to the constituents of Oregon's Third District: Pacific Northwest electric power and forest management, issues that are the lifeblood for America's Northwest.

Bob has earned the respect and admiration of his colleagues for his competence and ability. His generally easygoing manner has helped him win many friends among his colleagues.

Bob has been an integral part of the House Democratic leadership team as a zone whip and as a member of the Steering and Policy Committee. As Speaker, I am deeply grateful for the support and assistance that Bob has given the leadership over the past two Congresses. We will greatly miss his wise counsel in the whip meetings of the 97th Congress.

Before Bob was elected to Congress, he served in the Oregon House of Representatives and attained the position of Speaker. Bob Duncan was equal to the task at hand in the State legislature and has been equal to the legislative task in Washington. When he came to the Congress, he quickly built upon what he had learned in the State legislature. As a member of the Appropriations Committee and particularly the Labor-HEW Subcommittee, Bob has been involved in the important budgetary and fiscal decisions affecting each congressional district.

Bob Duncan has been an outstanding public servant, and I wish him much happiness with his lovely wife Marijane and children in the years ahead.●

● Mr. BRADEMAS. Mr. Speaker, I would like to add my voice to those paying tribute today to Bob Duncan, our estimable colleague from Oregon who will be leaving the House this year.

It has been an honor to have been associated with Bob and a privilege to have worked with him. We have all benefitted from the wisdom and diligence he brought to the Appropriations Committee where he served as chairman of the Transportation Subcommittee and as a member of the Interior Subcommittee. He also has been a valued member of the Democratic Steering and Policy Committee, and I can with knowledge observe, of the Democratic whip organization as an assistant whip.

Few Members of Congress have had as varied a career as Bob Duncan—gold miner, merchant seaman, hybrid corn salesman, lawyer, and legislator.

He left this body once before to return a decade later. It will surprise none of us to see him return again and we will all be better for it if he does.●

● Mr. BOLAND. Mr. Speaker, I appreciate the opportunity provided by Congressman Al Ullman to pay tribute to our friend and colleague, Representative Bob Duncan.

Bob's distinguished career of public service at the State and Federal levels has had several unique aspects. Even though he served in the Oregon House of Representatives for only 6 years, he was the first person in the State's history to be successively elected Speaker. The fact is an eloquent testament to Bob's legislative acumen and ability to provide leadership. In addition, Bob has been one of the few Members of Congress to represent different districts in the same State. That record is a tribute to the kind of trust and confidence he inspired in those who would be his constituents.

I have had the pleasure of serving with Bob on the Appropriations Committee since he has been in the House. In my judgment, there has been no member of that committee who has been better prepared, or taken more of an interest in the matters coming before the committee, than Bob Duncan. It was a privilege for me to serve as a member of the Appropriations Subcommittee on Transportation during Bob's tenure as chairman. He was evenhanded in his treatment of differing points of view, and consistently recognized the right of the Members to be consulted on matters affecting the subcommittee. He was as diligent in insuring that the Federal Government received full value for the money it expended as he would have been had the money been his own. All of those who use this Nation's transportation system owe Bob Duncan a debt of thanks for his efforts on their behalf.

The States west of the Mississippi River have the reputation of being the last preserve of the "rugged individualist." That, it seems to me, is a fitting description of Bob Duncan. A man of varied interests, he can converse with an ease born of experience on subjects as diverse as gold mining, cabinetmaking, or life at sea. He was unafraid to take positions which might be costly from a political standpoint. The standard by which he measured a course of conduct was not whether it was popular, but whether it was right. By adhering to that standard he has earned the respect and admiration of his colleagues. The people of Oregon and the people of the United States have been well served by Bob Duncan's work in this House. I know that he will continue to seek ways to be of service to his country, and I wish him every success in those efforts.●

● Mr. STEED. Mr. Speaker, as a member of the Transportation Appropriations Subcommittee I have had a rewarding experience in working first as a fellow member and more recently under the chairmanship of my friend Bob Duncan.

He has given outstanding service to the House and to the people in a highly specialized field in which he has a grasp of technical knowledge rarely possessed by Members of the Congress.

His background as a pilot, as a seaman and as a businessman has given him a remarkable combination of skills, and he has the sound judgment and good sense to make effective use of it.

When he visited the huge Mike Monroney Aviation Center at Oklahoma City with me, he showed better understanding of the aviation industry and of the intricate functions of the center than anyone else whom I have had the honor of taking there.

I know of no bill requiring more expertise than the Transportation Appropriations bill. It deals with highways and the highway trust fund, trucking, aviation, safety, railroads, the Coast Guard, the Panama Canal and other intricate waterway problems—in short, with all the ramifications of the movement of people and freight in America.

Never have I seen anyone do a better job in this area than Bob Duncan. He can communicate cordially while thoroughly investigating a problem. He runs a good show as chairman and in addition is a fine colleague who always has something to contribute.

The bill he has produced this year again is an outstanding one. The loss of Bob Duncan will be a painful blow to this House because he has talents that can seldom be matched. I am proud to have served with him and know he still has a great deal of constructive work ahead of him.●

● Mr. GIAIMO. Mr. Speaker, I would like to take this opportunity to express my best wishes to my friend and colleague Bob Duncan of Oregon who will be leaving the Congress at the end of this year.

Unlike many of my colleagues who first met Bob in 1975, I knew him in his earlier career. Bob first came to the House in 1963 when I was beginning my third term. Two years later he joined me on the Appropriations Committee, and it was there that I first began to observe his dedication to the service of his constitutents, his State, and his Nation. After an 8 year hiatus, he returned to the House in 1975 and picked up where he had left off.

Bob is one of the few Members I know who was elected in two different eras: The 1960's and the 1970's. Bob always seems to have done things differently than most of us. His varied careers in the private sector underscore that fact. Nevertheless, no matter what he has done, he did it well.

The House will miss Bob Duncan more than it now realizes. But, have no fear—perhaps you will see him later in the 1980's.●

● Mr. JONES of North Carolina. Mr. Speaker, few, if any, Members are more dedicated to their job than my friend, Bob Duncan. For the past several terms of Congress, I have observed him and his intense interest in his own district as well as the entire United States. He had a strong friendship with the majority of the Members of this House, and certainly his absence will be felt in the next session of Congress.

In closing, I want to wish him many years of success, happiness and health in whatever endeavor he chooses to pursue.●

● Mr. YOUNG of Missouri. Mr. Speaker, in an era of specialists, Bob Duncan is a generalist whose encyclopedic interests range from transportation to foreign policy to energy and the environment.

Those of us with a deep interest in transportation matters have found Bob a tough, but fair chairman of the Appropriations Subcommittee on Transportation who always places the public interest ahead of any individual's or interest group's concerns.

Bob has been a positive force for peace in the Middle East, meeting with President Sadat in Egypt and elsewhere in an effort to assist in reconciling differences in that area of the world. He also has been sensitive to the problems of emerging Africa.

Typically, Bob has taken a broad—never a narrow, parochial—perspective in dealing with the many energy questions before us.

I value his counsel, and Congress will be poorer for his absence.●

● Mr. ANNUNZIO. Mr. Speaker, I am honored to join my colleague, the distinguished chairman of the House Ways and Means Committee, Al Ullman, in tribute to the Honorable Robert Duncan, who is retiring at the end of this session of Congress after serving in the 88th and the 89th Congress, and also in the 94th, the 95th, and the 96th Congress.

Robert Duncan has given 10 years of dedicated and devoted service to his constituents in Oregon, and has compiled a splendid record of excellence and ability. His diligent efforts as chairman of the Subcommittee on Transportation of the House Appropriations Committee have been both fruitful and beneficial to the citizens of this Nation.

Few men have given more of themselves to good Government, or have a more compassionate understanding of human problems than has Robert Duncan, who served as a naval aviator during World War II and also served in the Oregon State Legislature for 6 years. He was elected Speaker of the Oregon House of Representatives in 1959 and 1961.

Bob has been in the forefront of efforts to implement meaningful solutions and effective action on behalf of individual citizens. He is a fine legislator and a distinguished leader, and he will be missed here in the House of Representatives.

I extend to Robert Duncan my best wishes for continued success in devotion to the highest principles.●

○ Mr. ERLENBORN. Mr. Speaker, Bob Duncan has been an able, discerning, and respected legislator, one who has played a constructive role in shaping our laws for the common good. He can leave Congress knowing this and knowing that he will be missed.

I hope that before he casts his final vote in Congress, Bob will be able to add to his list of achievements a law he and I have sought for more years than either of us like to admit. I refer, of course, to the religious freedom bill to eliminate the need for those whose religious convictions do not allow them to join unions to choose between their religion and their jobs. Enactment of this legislation would be, I am certain, the most fitting tribute we could make to Bob.

Come what may, he must feel deep gratification for having tried, not just once, but again and again and I am confident those who follow him in Congress will, if need be, pursue his cause because it is right and just.

I join our colleagues today in wishing Bob success and satisfaction in whatever he does after he departs these Halls. He deserves both.●

● Mr. DRINAN. Mr. Speaker, I am pleased to have this opportunity to extend my warmest regards to my colleague from Oregon (Mr. Duncan) and to express my sense of loss that he will not be with us next year.

Bob's varied background, including his work as a seaman in the merchant marine, in the gold fields of Alaska, for a bank in Chicago, and as an insurance adjuster has added unique experiences and a wealth of knowledge to the House.

His determination earned him a coveted seat on the Appropriations Committee, and the chairmanship of its Subcommittee on Transportation. He is probably best known for his excellent work with timber, range, minerals, and other aspects of natural resource management, and for maintaining the difficult role of mediator between conflicting forces in Congress and in his home State. Bob's ability to strike a balance between competing interests will surely be missed.

Bob has provided exemplary service to his constituents during his years in Congress as evidenced by his fight for a clean and healthy Oregon environment.

It has been a pleasure to work along side of Bob during his five terms in office. He will be sorely missed by all others who had the opportunity to work with him. I am assured, however, of his success in whatever endeavor he chooses. He has my best wishes for the continuation of his many achievements.●

● Mr. MOORE. Mr. Speaker, each of us during our periodic office relocations among the House Office Building recalls a neighbor we got to know particularly well and the establishment of a friendship in office environments where we and our staffs often find ourselves in cramped quarters. Bob Duncan's office was across the hall from my own in the far reaches of the top floor of the Rayburn Building until I moved a few months ago. As many of you know it is not a penthouse up there and Bob Duncan would see to it that the taxpayers of Oregon got every pennysworth of time from himself and his staff. Bob Duncan enjoys hard work, demands thorough research, and has a trained eye toward decisions that give taxpayers a maximum return for each tax dollar invested in Government. Many of you have seen his skill at work as chairman of the Subcommittee on Transportation Appropriations. Those who knock on his office door know they must be equally prepared for his questions. He has repeatedly shown himself to be a man of conviction and courage, not compromise or expediency. He is missed as a neighbor and he will be missed as a colleague. I wish him, his wife and family and his staff well in their future endeavors.●

● Mr. LONG of Louisiana. Mr. Speaker, when I entered the House in 1962, I joined a class that included Bob Duncan of Oregon. We both left the House soon afterwards, and we were both fortunate to have the opportunity to return. Bob's background is a testament to his ability to meet almost any challenge. He has sailed with the merchant marine, prospected for gold in Alaska, and convinced Illinois farmers of the virtues of hybrid corn.

I am certain all of these varied skills have been useful to Bob in the Congress. Our Members are as difficult to convince as many a farmer; the odds of getting legislation through sometimes seem as tough as searching for gold; and the storms on this floor are as rough as any one encounters on the high seas. In all these tasks, Bob has impressed his colleagues with his ability to get the job done.

Oregon is a long way from Louisiana, but I feel an affinity for that Western State. It shares with Louisiana what often seems to be an even greater distance from Washington. Seeing that Federal legislation meets the needs of outlying States is a major task for members from these areas. Particularly in his service as chairman of the Transportation Subcommittee of the Committee on Appropriations, Bob has shown his dedication in shaping a truly balanced and national transportation policy. He has seen to it that Federal dollars for transportation serve the needs of all—the urban dweller, the small town resident, the farmer. It has been my honor and privilege to serve with Bob and the House will miss him.●

● Mr. ADDABBO. Mr. Speaker, I would like to take a few moments to pay tribute to Congressman Bob Duncan, an outstanding Representative from the State of Oregon, and trusted friend, who will not be returning to Washington for the 97th Congress. I believe I speak for many here today when I say the people of Oregon have a lot to be proud of in Bob Duncan, and his absence will be a loss for this Chamber, as it was when he left in 1964.

Paying tribute to a colleague who is leaving the House, especially to such a dedicated man as Bob, creates mixed emotions in me. Although I enjoy the opportunity to honor and praise the work of Bob, I also wish I didn't have to say farewell to a man who has been such an asset to the Hill, as Bob has been.

I've known Bob ever since he came to Washington and have always considered him one of the ablest and hardest working gentlemen in the House. Bob and I have worked closely a number of times on the Appropriations Committee and I have admired his ability to handle the numerous complicated issues that have often come before the committee. As chairman of the all important Transportation Subcommittee. Bob has proven himself to be one of the most knowledgeable Representatives in this field, equally considerate of the needs of urban, as well as rural areas. As chairman he has been extremely helpful in securing needed transportation funds for New York City, in everything from pavement of roads to bus and subway improvements. His concern for the transportation needs of the "Big Apple" will long be appreciated by New Yorkers.

Bob has also done outstanding work as a member of the Interior Subcommittee, where he has earned the admiration of his colleagues for his knowledge and concern for our Nation's valuable resources. In addition, as the region II representative on the Democratic Steering and Policy Committee he has done an outstanding job in shaping policy for the party during the legislative session, and his leadership in this area will be greatly missed.

Losing Bob Duncan is a great loss to Congress. Although I am uncertain as to his plans for the future, knowing Bob, I am confident he will continue to apply the same hard work and long hours he shared with us here. I wish him and his family the best of luck and good health in the years to come.●

● Mr. MURTHA. Mr. Speaker, during the last few years it has been a source of reassurance to look around the table of the Interior Appropriations Subcommittee and see Bob Duncan sitting there. You knew that with a mixture of informality, wit, pleasantness, and perceptiveness he would get to the heart of the issue before us, would ask the right question to summarize the testimony.

He brought to the subcommittee a tremendous expertise in the timber industry which was natural because it affected his area. But his great interest and devotion to the Trust Territories is better summarized by his simple concern for people, and his desire to see Government work for them. And only his inquisitiveness and concern for the Nation's energy problems can explain why he took time to come to my part of Pennsylvania to tour a coal mine.

Bob Duncan will be missed. From our subcommittee, from the people who he helped through his progressive legislation, from the field of transportation where he so ably headed the Transportation Appropriations Subcommittee.

But he will also be missed—maybe missed the most—for the attitude and outlook he brought to Congress. I would like to close these remarks by quoting from a letter he wrote to a constituent that outlines a vigorous, vital philosophy that was a key part of Bob Duncan:

> Issues come and go. It is the preservation of the system—and handling each issue in such a fashion as to protect and enhance our free society and the integrity and dependability of its institutions, officers, and employees and the two party system that is vital.
>
> Accordingly, I look upon my efforts to settle disputes—to reconcile differences—to strike a balance between the conflicting viewpoints and needs of those involved in the issues before us. I think that our form of democracy has remained strong over the years because we have been able to accommodate so many interests, avoiding the resolutions that leave only winners and losers. In this way we have tried to help all parties remain a part of the process and have enabled free men and women to govern themselves and still remain free.●

● Mr. VANIK. Mr. Speaker, I want to take this opportunity to pay tribute to the leadership and contribution made in the House of Representatives by our distinguished colleague, the Honorable Robert B. Duncan of Portland, Oreg. It was my privilege to serve with "Bob" in the 88th Congress, the 89th Congress, as well as the 94th, 95th and 96th Congresses.

Bob Duncan has served as a very influential member of the Appropriations Committee and chairman of the Transportation Subcommittee. His work, his positions were always of high integrity and studied objectivity. He is certainly a successful legislator whose judgment and advice has always served to guide his colleagues to this Chamber.

The success of Bob Duncan's in this Congress is attributable to the gentle persuasion and good judgment which have become his trademark. It has been a gratifying experience to serve in this Congress with Bob Duncan and I know that he will always continue to make a valuable contribution to the public good.

● Mr. ROBERTS. Mr. Speaker, I am honored to join in this farewell to our good friend, Bob Duncan. It has been my privilege to work closely with him—both when he represented southern Oregon in the mid-sixties and also these past 6 years he has served the Portland area. So, I feel I know Bob Duncan pretty well, and I can assure you that he will be sorely missed next year.

Bob is an excellent legislator and has been a superb chairman of the Transportation Appropriations Subcommittee. His legislative achievements are impressive, particularly in the area of natural resource management and transportation where he has demonstrated time and time again extraordinary insight and expertise.

But I think what we will miss most is the example he has set as a man who stands by his convictions, no matter the cost to him politically. In this day and age, when elected officials are literally torn apart by special interest groups, Bob Duncan has never been afraid to say no. He made his share of enemies that way, in fact, some say it has ultimately cost him his seat. But nobody has ever questioned his integrity or his courage. You always know exactly where you stand with Duncan whether you like it or not. If we had more elected officials of his caliber, this country would be in much better shape today.

It is with a great sense of personal loss and regret that I see him go, and I wish him the very best for the years ahead.●

● Ms. OAKAR. Mr. Speaker, Congressman Robert Duncan, of Oregon, has admirably served both the State of Oregon and our Nation for more than a decade. His sincerity of purpose and integrity of action is clearly beyond repute. His spirit of fair play and dedication has provided a sterling example for all of his colleagues and constituents alike. There is no question the Chambers of the House of Representatives will note well his absence.

Among the distinguished Congressman's many accomplishments, his 17 year effort to persuade the Food and Drug Administration to extend the use of dimethyl sulfoxide (DMSO) in the treatment of a broad range of illnesses affecting the elderly, especially arthritis, must be applauded.

Throughout his career, Congressman Robert Duncan has been a prime advocate for the elderly. His concern and compassion for the seniors in our society will be greatly missed.

May I take this opportunity to wish Congressman Duncan well in his retirement from the House of Representatives.●

● Mr. RAHALL. Mr. Speaker, I am pleased to join my colleagues today in paying tribute and thanks to Bob Duncan, a fine man and a fine legislator, who will be retiring from Congress this year.

His public career began as an Oregon State Legislator in 1956, and that body realized his leadership qualities early, as it elected him Speaker of the House in 1959. In 1962, the residents of the Third District of Oregon sent him to Washington as their Congressman.

During World War II, Bob Duncan served his country as a naval aviator, and has had a varied life as a gold miner, a sailor, a hybrid corn salesman, an insurance adjuster, and as an attorney.

Bob Duncan is the type of man we need more of in public life. He has seen it all, and he knows what the people want. He has carried out this philosophy as a Member of Congress.

I wish Bob, his wife, and his seven children the very best in the years to come. His hard work over the years has earned this retirement, but we all cannot help to realize the void his absence will cause. His constituents will realize it as well.

Bob Duncan has closely served the needs of his district as the sponsor of the Mount Hood National Forest bill and as a tireless advocate of a veterans' facilitiy in Portland.

He has represented his State and his Nation well. Bob Duncan can be proud, as we are of him.●

● Mr. REUSS. Mr. Speaker, I am pleased to join my colleagues in this well-deserved tribute to Congressman Robert Duncan. Bob has served with great distinction as chairman of the Appropriations Subcommittee on Transportation, where his expertise and his conscientious attempts to prevent wasteful spending will be missed.

In his years as a U.S. Representative. Bob has demonstrated his allegiance to the ideals of his political mentors: Adlai Stevenson and Hubert Humphrey. A native of Illinois, Bob was raised in Stevenson's hometown of Bloomington. After moving to Oregon. Bob was a hardworking State campaign chairman for Stevenson's two Presidential campaigns. He then became a member of the Oregon State Legislature. and was elected its Speaker in only his second term. He was subsequently reelected, serving 4 years as speaker before running successfully for Congress in 1962.

When Bob leaves Congress, he will leave many friends and admirers, on both sides of the aisle, but he can be confident of a job well done. I wish him, his wife Marijane, and their seven children the very best in their future endeavors.●

● Mr. DERWINSKI. Mr. Speaker, I wish to join my colleagues in paying a special tribute to Bob Duncan, who will leave us at the end of this session after 10 years of dedicated and capable service.

Although there is, of course, a great deal of disappointment over the outcome of the Oregon primary, political defeat cannot dim the impressive record that Bob compiled during his years in Congress.

Bob has distinguished himself as a man of integrity and ability who has served well and contributed significantly to the legislative process. His work on the Appropriations Committee has been significant in shaping responsible fiscal policy beneficial to all Americans. Bob has been an extremely hard-working member of that important committee as shown in his dedication to solving the economic problems surrounding our Federal budget.

During his 10 years of effective service, Bob has made many invaluable contributions to the people of this Nation. The people of Oregon have been fortunate to have such a fine and responsible Representative serving them in the Congress.

I wish Bob all the best in the years ahead, in whatever endeavors he might undertake, and add my sincerest wishes to him and his wife, Marijane for continued good health and happiness.●

● Mr. YATES. Mr. Speaker, those of us who have ever addressed a high school civics class in our district are fond of describing the American political process as one which, though fraught with complexities and whimsicalities, nevertheless still manages to work. It is always sad, when one whom we in Washington know to be as fiercely devoted to the interests of his constituents and as equally dedicated to the welfare of the American people as our good friend from Oregon, Bob Duncan, leaves us. I am delighted to have the opportunity to honor Bob. I am deeply sorry he is leaving the House.

Bob and I have worked together for many years in the House, on the Appropriations Committee, and especially in the Interior and Transportation Subcommittees. During that time, Bob has been a tireless worker, incisive, probing, and occasionally caustic, but with a blunt honesty and common sense that could cut through days of bureaucratic discourse and legislative wrangling. With an unyielding tenacity, Bob fought for the programs of the Forest Service in committee and at conference, assuring that future generations would have access to a supply of our most precious renewable resource, trees. He championed support of the Youth Conservation Corps, providing jobs and training to thousands of our young people. He supported clean and inexpensive forms of mass transit, for the citizens of his native Portland and for cities around the country.

I will miss Bob's candor, his wit, and even the scatterings of snuff which inevitably powdered any space he occupied. I can only hope that he will be returning to us soon.●

● Mr. PEYSER. Mr. Speaker, getting to know Congressman Bob Duncan is an experience in itself. He has an outstanding Scottish wit and has the ability to make his point known and accepted by his incisive methods of stating the facts as he sees them. During his time in the Congress he has served with great distinction and we in the country, as well as his district in Oregon, will feel his loss next year.●

● Mr. SMITH of Iowa. Mr. Speaker, I have known Bob Duncan for a good many years and have had the privilege of serving with him on the Appropriations Committee. I can say without reservations that he has been one of the very most valuable members of that committee and he enjoys that deserved reputation because he works hard and thoroughly analyzes every proposal, exercises independent judgment and has the background and foundation necessary to appropriately do so. I served as a member of the Subcommittee on Transportation Appropriations which he now chairs and I can say without reservation that his reputation for reception and diligence was so great among members of the committee that his word was taken on most matters without reservation as the judgment of the committee and the House.

He has legislative skills which will be sorely missed and the whole country owes his district a great deal for having provided him to the Congress during the years that he has served here. While the seat he occupies will be filled in the next Congress by someone else, he will not fully be replaced. Being a person so dedicated to public service, I am sure that his public service will not end with his retirement from the House.

I know that we all profited from having served with him and will not forget his legislative achievements.●

● Mr. McDADE. Mr. Speaker, it is with very mixed emotions that I join in this tribute to our good friend and colleague, Bob Duncan. I would much rather welcome him back into the Congress next year to resume the leadership he has so consistently displayed in our committee and on the floor of this House. But since such a happening is not to be, I join with his friends of both parties in expressing our deepest gratitude for his service to our nation.

I have the great honor to sit with Bob Duncan on the Interior and Related Agencies Subcommittee of the House Appropriations Committee. There is no one on our committee who does not value and welcome the great expertise and understanding he has brought to our committee of the need to manage our Nation's forests and public lands.

For the past several years Bob Duncan has led the fight to increase our timber cut, to make more timber available for sales, to reforest our Nation's timber stands, to conduct the necessary research on disease control, to build the roads we need to bring that timber to market. We have relied upon his know-how for this important work, and we have always learned to trust him. The success we have achieved over the past several years in increasing our timber cut and managing our Nation's forests and public lands is testimony to his know-how.

Bob Duncan's stewardship for this Nation and the leadership he has given to the Congress have always been demonstrated in the person of a real gentleman, a man with a quick wit, a keen mind, who is able to get to the bottom of the most complex issue with great speed, and a man whose essential sense of fairness and decency always give a fair and complete hearing to everyone who sought his help.

I can only wish him the greatest success in his future endeavors. Knowing Bob and knowing his great strengths, his retirement from this Congress finds us the richer for his friendship and the poorer for having lost one of our Nation's most distinguished public servants.●

● Mr. MAZZOLI. Mr. Speaker, I would like to join with my colleagues in the House of Representatives in paying tribute to our distinguished colleague, Bob Duncan, who will not be returning to the 97th Congress.

Bob is a man of many talents and has contributed much to the Congress, especially through his work on the Appropriations Committee. His varied background brought a wealth of experience to his work on the Transportation and Interior Subcommittees. He will be sorely missed by all.

Bob knows what I mean by the following cryptic remark: After he leaves I will have the most disreputable clunker on the block.

I wish Bob and his family much health and happiness in the years to come.●

● Mr. OBERSTAR. Mr. Speaker, I rise as one of the many, many Members of this House who will truly miss the gentleman from Oregon. His departure at the end of the 96th Congress will be a great loss to the House.

Bob Duncan has been a most conscientious, hard-working, and effective legislator who has served both his constituents and the national interest. His primary election loss was literally a shock.

I have had the opportunity to seek the gentleman's assistance in matters before the Appropriations Committee and the Subcommittee on Transportation which he chairs. This year, his leadership was essential in securing House approval of a much-needed appropriation for a project of great interest to those of us concerned about the safety of navigation on the Great Lakes.

His succession at the beginning of the 96th Congress to the chairmanship of the Subcommittee on Transportation was greeted with widespread pleasure and relief.

Bob Duncan brought a unique understanding of the problems affecting urban, suburban, and rural districts. His representation of two different districts during his service in the House provided a special perspective on the responsibilities of a House Member.

There are few Members who have had the breadth of experience of Bob Duncan. His ability, integrity, and dedication have made Bob Duncan a valuable Congressman and a respected colleague.

Chairman Ullman said it correctly in his Dear Colleague announcing this afternoon's tribute: "The House without Bob Duncan. 'What next?' " ●

● Mr. REGULA. Mr. Speaker, it is a privilege to share this time with my colleagues to pay tribute to my friend, Congressman Robert Duncan.

Bob Duncan is one of the finest and most capable Members of this body and we will surely miss him.

I have especially appreciated his leadership and expertise on the Appropriations Committee where he has been an outstanding, hard-working member. His knowledge and concern for our Nation's forests was particularly important in the Interior Subcommittee on which we served together. His recognition of the importance of our country's forest lands helped us all to focus on the need to nurture these vital resources in order to assure sufficient supplies for future generations. They will have a debt to his leadership that few will know or understand.

The Transportation Subcommittee will truly miss his capable leadership as chairman.

Not only will we miss Bob Duncan's excellent legislative abilities, we will miss a dedicated, sincere individual who has served the people in this country with the enthusiasm and hard work that has made him a very special person as well as an esteemed Member of Congress.

On a personal note, I cherish the friendship of Bob Duncan. He wears well. I will miss him and his thoughtful counsel as a colleague in this body.●

● Mr. JOHNSON of California. Mr. Speaker, I am delighted to have the opportunity to join with my colleagues in paying tribute today to Congressman Bob Duncan. I have been able to observe at close range the ability and integrity of Bob Duncan since he is chairman of the Appropriations Subcommittee on Transportation, which is our partner on many of the programs which my committee, Public Works and Transportation, authorizes.

One trait that stands out in my memories of my work with Bob Duncan is his courage. He is unafraid of hard decisions. He has the mental, physical and moral strength that enables a Member of Congress to sift through the clutter of competing interests to find the answer that is best for the Nation and the people he represents. To go with this capacity for finding the right answer, Bob Duncan has the will and the ability to see that his judgment prevails in committee and here on the House floor. In short, Bob Duncan has the strength and the courage of his convictions to say what needs to be said and to do what needs to be done to be a leader among leaders.

It is appropriate on occasions like today to recognize the importance in this institution of courage and concern for the common welfare. It is fitting to recognize the value to this body of having a keen sense of what is right and what is wrong. Bob Duncan, in addition to being a clear, precise thinker, and an articulate speaker, was good enough and great enough to meet the highest standards of public service and to add to the stature of the House and every Member of it.

Bob and his family have worn their Scottish ancestry with pride. This brings to mind the statement of Samuel Johnson, the noted English author and editor, who said, "Much may be made of a Scotchman if he be caught young." Bob Duncan must have been "caught young," because without a doubt much has been made of this legislator, and he in turn has made much of his opportunity for public service.

I know we can expect even greater accomplishments from Bob Duncan in the future. We will miss him particularly in our deliberations on transportation matters, but we will miss him in a larger sense as a truly exemplary Member of the House of Representatives.●

● Mr. BRINKLEY. Mr. Speaker, I rise to pay tribute to our colleague, Mr. Robert Duncan of Oregon. He is one of the finest debaters to serve in the Congress, and has always exhibited grace under pressure. He will be missed a very great deal.

The thing that distinguishes and sets him aside is his willingness to consider the special needs of all sections of the country. In that connection, I shall never forget his working with me in behalf of the Columbus, Ga. Metro Airport during an era where the medium-sized airports have been placed at the bottom of the line. Bob's foresight in this regard takes into account the fact that there will be another chapter in which these facilities will be emerging to places of greater service and the time for planning is "Now." I appreciate his being a man of vision, which, according to one Roman of old, was the quality of a prince.●

● Mr. EARLY. Mr. Speaker, I am very pleased to join in this House tribute to a great and good man, our colleague from the Third Congressional District of Oregon, and my dear friend Bob Duncan.

Because of my assignment to the Appropriations Committee I met Bob very shortly after I came to Congress nearly 6 years ago. Since that time I have continuously benefited from his personal friendship, his wide knowledge and his guiding advice.

It is said that the Members of legislative bodies are most often given to the use of loose and expansive language in making promises and describing their objectives and accomplishments. On this occasion it is refreshing to realize that all the nice things being said about Bob Duncan here this afternoon are exactly right and completely true.

I know that our united membership judgment is that Bob Duncan is a fundamentally honorable and decent person. That he is a humble, good-humored, cooperative, compassionate, man of vast practical experience, and great wisdom. That he is a loyal friend. That he is an individual of the very highest character and integrity who has earned the respect, admiration and affection of all of his associates. That during his tenure here he has proven himself to be a national legislator of exceptional competence, concern, and dedication for the betterment of the people of his commonwealth and this country. When Bob Duncan departs from here he will leave an indelible mark on this body. That mark will be his continuous example of personal sacrifice, unbending principle, fair treatment, individual responsibility and persevering loyalty in unselfishly serving the American people.

It is my belief that the most important obligation of a Member of Congress is to try to conduct himself or herself in a manner to preserve and strengthen the trust and confidence of our people in their national government. On that score and from my experience of some 18 years in public office I do not hesitate to say that Congressman Bob Duncan is unequalled in his acceptance and fulfillment of that high duty.

That is why this House tribute to Bob is well merited. I shall greatly miss his valued friendship. This body will be much poorer for his departure. I wish him and his gracious wife Marijane continuing good health and increasing success in all their future endeavors.●

● Mr. PATTEN. Mr. Speaker, I would like to join my colleagues today in saluting Bob Duncan. I have had the pleasure of serving with Bob on the Appropriations Committee for many years and have always found him to be a hard-working and conscientious legislator.

Based on ability, he would have to be classified among the top Congressmen in the House. He is a solid citizen and his absence will surely be felt in the Congress.

I hope that he will enjoy his coming years of retirement and wish him and his family all the best.●

● Mr. McEWEN. Mr. Speaker, I am pleased to join with my colleagues today to pay tribute to our esteemed colleague, my good friend, Bob Duncan. I am truly sorry to see Bob Duncan leave the Congress because I consider him to be one of the most hard-working and able Members of this body.

He is a man who has served admirably on our Appropriations Committee. As chairman of its Subcommittee on Transportation, he has on two occasions visited the administrative headquarters and operations at the St. Lawrence Seaway Development Corporation in Massena, N.Y., in my congressional district. His first visit in the summer of 1979 was to inspect the day-to-day operations of the seaway at the height of the Great Lakes-St. Lawrence Seaway shipping season. At that time, he talked with my constituents and was briefed on the operations of the Seaway Corp., perhaps the smallest of the governmental agencies whose budgets are reviewed by the Transportation Subcommittee.

He returned last winter to observe a major maintenance project at the Dwight D. Eisenhower Lock in Massena. At that time, he went down 80 feet to the bottom of the dewatered lock to see the work in progress and talk with the people who were working there. His visit was the subject of a feature article in the Seaway Review magazine which, you may recall Mr. Speaker, I brought to your attention in the Record last spring.

I point out these visits to show that Bob Duncan is a chairman who not only took his job seriously, but is always trying to do the very best he can for the subcommittee and this body. His visits were working visits.

During the years I have served with Bob Duncan, I have learned to respect his sincerity and integrity and cherish his friendship. When Bob Duncan leaves the Congress, he will leave a large pair of shoes to be filled. I wish him the very best for the future and hope that, while in retirement, he will continue his interest in his State and Nation as he has done admirably for so many years.●

● Mr. HORTON. Mr. Speaker, I am pleased to join my colleagues today to honor one of the most outstanding Members of the House of Representatives, Congressman Bob Duncan. His exceptional contributions to the House and the dedication he brought to his work in the House will be sorely missed.

I have known and respected Bob since 1962 when we were both elected to the 88th Congress. Bob has served with distinction on the House Appropriations Committee where he serves as chairman of the Transportation Subcommittee. Although I do not serve on that committee, I have worked with Bob and his subcommittee on a number of issues. He has always demonstrated a willingness to listen and achieve a balanced final product.

Bob has been a personal friend and colleague. Although his leadership and friendship will be missed, I join with my colleagues in wishing him well in whatever endeavor he takes on.●

● Mr. BENJAMIN. Mr. Speaker, I wish to thank the gentleman from Oregon, (Mr. Ullman) for his courtesy in providing the House with this opportunity to honor Bob Duncan, a man who has contributed much to the institution and more to the people it is charged to serve.

I first became acquainted with Bob as a fledgeling Member of the House and as a newly-appointed member of the Transportation Subcommittee on Appropriations.

In the intervening 3½ years, I have witnessed the work of a courageous, dedicated and persuasive leader whose commitment to the Nation's transportation system will be legend for years to come.

Bob's legislative ability is incomparable. Equally important, his candor and integrity are obvious qualities which became hallmarks of his legislative style and approach.

Bob is genuine, sincere and whether he admits it or not, truly gentle and sensitive. His tenacious pursuit of what he considers right never made him less appreciative of the opposite side of an issue or his opponent. All of the qualities, attributes and other character traits that belong to Bob Duncan, the fact that he is and will always be a true gentlemen of the great American tradition, will always be remembered.

This institution and I will sorely miss Bob Duncan as a friend and a counselor. He is a person of great personal warmth and charm whose intellect we respect without qualification.

Bob is fond of the opera and I am told that his favorite is La Boheme by Puccini.

In Act One, the poet Rodolpho objects when his companion Marcello, the painter, suggests burning his painting for warmth. Rodolpho explains two reasons for stopping Marcello. First, Rodolpho will feed his play to the flames for warmth and send its soul back whence it came. Secondly, if Marcelo burned his painting, it would probably smell too badly.

In a sence, the scene is illustrative of Bob Duncan's nature—altruistic, but practical.

I could detail Bob's personal and professional achievements, but perhaps Charles Dickens did it best in "A Christmas Carol." Bob Duncan is "as good a friend, as good a master, and as good a man as the good old city knew."

That others could say that of us, we can only hope. That we can say that of Bob Duncan, we know.

Bob, as you chart a new course and raise your sail, may the wind always be gentle.●

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7301, MILITARY CONSTRUCTION AUTHORIZATION, FISCAL YEAR 1981

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Friday, September 26, 1980 to file a conference report on the bill, H.R. 7301, the fiscal year 1981 military construction appropriation bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Conference Report (H. Rept. No. 96–1399)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7301) to authorize certain construction at military installations for fiscal year 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Military Construction Authorization Act, 1981".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $16,350,000.
Fort Campbell, Kentucky, $14,200,000.
Fort Carson, Colorado, $129,960,000.
Fort Devens, Massachusetts, $1,000,000.
Fort Drum, New York, $5,900,000.
Fort Gillem, Georgia, $2,600,000.
Fort Hood, Texas, $24,420,000.
Fort Hunter-Liggett, California, $5,100,000.
Fort Lewis, Washington, $16,000,000.
Fort Ord, California, $4,700,000.
Fort Polk, Louisiana, $14,800,000.
Fort Riley, Kansas, $890,000.
Fort Sam Houston, Texas, $3,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $31,700,000.
Presidio of San Francisco, California, $750,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, $12,220,000.
Tripler Army Medical Center, Hawaii, $84,500,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort A. P. Hill, Virginia, $930,000.
Fort Belvoir, Virginia, $2,310,000.
Fort Benning, Georgia, $13,390,000.
Fort Bliss, Texas, $2,400,000.
Fort Dix, New Jersey, $4,510,000.
Fort Eustis, Virginia, $1,100,000.
Fort Gordon, Georgia, $2,500,000.
Fort Jackson, South Carolina, $20,140,000.
Fort Knox, Kentucky, $5,400,000.
Fort Leavenworth, Kansas, $1,250,000.
Fort Leonard Wood, Missouri, $7,900,000.
Fort Rucker, Alabama, $30,560,000.
Fort Sill, Oklahoma, $4,100,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Anniston Army Depot, Alabama, $3,550,000.
Badger Army Ammunition Plant, Wisconsin, $2,100,000.
Corpus Christi Army Depot, Texas, $1,600,000.
Fort Monmouth, New Jersey, $2,000,000.
Holston Army Ammunition Plant, Tennessee, $4,690,000.
Indiana Army Ammunition Plant, Indiana, $2,800,000.
Iowa Army Ammunition Plant, Iowa, $1,650,000.
Jefferson Proving Ground, Indiana, $960,000.
Letterkenny Army Depot, Pennsylvania, $9,250,000.
Lone Star Army Ammunition Plant, Texas, $4,350,000.
Louisiana Army Ammunition Plant, Louisiana, $1,050,000.
McAlester Army Ammunition Plant, Oklahoma, $620,000.
Picatinny Arsenal, New Jersey, $1,400,000.
Pine Bluff Arsenal, Arkansas, $3,150,000.
Red River Army Depot, Texas, $3,800,000.
Redstone Arsenal, Alabama, $12,190,000.
Rock Island Arsenal, Illinois, $6,870,000.
Rocky Mountain Arsenal, Colorado, $10,400,000.
Sacramento Army Depot, California, $1,930,000.
Sierra Army Depot, California, $550,000.
St. Louis Support Activity, Illinois, $3,050,000.
Tobyhanna Army Depot, Pennsylvania, $680,000.
Tooele Army Depot, Utah, $2,050,000.
Twin City Army Ammunition Plant, Minnesota, $820,000.
Umatilla Army Depot, Oregon, $620,000.
Volunteer Army Ammunition Plant, Tennessee, $2,150,000.
White Sands Missile Range, New Mexico, $1,000,000.
Yuma Proving Ground, Arizona, $2,650,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $300,000.
Indiana Army Ammunition Plant, Indiana, $3,570,000.
Iowa Army Ammunition Plant, Iowa, $2,300,000.
Lake City Army Ammunition Plant, Missouri, $220,000.
Lone Star Army Ammunition Plant, Texas, $540,000.
Longhorn Army Ammunition Plant, Texas, $260,000.
Louisiana Army Ammunition Plant, Louisiana, $380,000.
Milan Army Ammunition Plant, Tennessee, $210,000.
Radford Army Ammunition Plant, Virginia, $5,890,000.

UNITED STATES ARMY CORPS OF ENGINEERS

Cold Regions Laboratory, New Hampshire, $6,100,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $930,000.
Fort McNair, Washington, District of Columbia, $690,000.
Fort Myer, Virginia, $1,150,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $4,650,000.
Fort Ritchie, Maryland, $1,750,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $1,350,000.
Fitzsimmons Army Medical Center, Colorado, $790,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $660,000.
Sunny Point Terminal, North Carolina, $1,800,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY, KOREA

Various Locations, $62,074,000.

KWAJALEIN MISSILE RANGE

National Missile Range, $5,440,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $8,100,000.

UNITED STATES ARMY, JAPAN

Kawakami, Japan, $3,000,000.

UNITED STATES ARMY, EUROPE

Various Locations, $168,340,000.
United States Army Intelligence and Security Command, Korea, $1,186,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1981, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $44,560,000.

DEFICIENCY AUTHORIZATION FOR FISCAL YEAR 1979 PROJECTS

SEC. 104. Section 602(1) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 580), is amended to read as follows:

"(1) for title I: inside the United States $503,794,000; outside the United States $232,510,000; minor construction $35,365,000; for a total of $771,669,000.".

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, $930,000.
Marine Corps Base, Camp Lejeune, North Carolina, $24,700,000.
Marine Corps Base, Camp Pendleton, California, $8,050,000.
Marine Corps Air Station, Cherry Point, North Carolina, $16,700,000.
Marine Corps Air Station, El Toro, California, $11,500,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $620,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $6,800,000.
Marine Corps Development and Education Command, Quantico, Virginia, $5,800,000.
Marine Corps Air Ground Combat Center, Twentynine Palms, California, $9,400,000.
Marine Corps Air Station, Yuma, Arizona, $2,200,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $7,300,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Base, Bangor, Bremerton, Washington, $8,562,000.
Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $18,000,000.
Commandant Naval District, Washington, District of Columbia, $790,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $4,100,000.
Naval Station, Charleston, South Carolina, $13,200,000.
Naval Air Station, Jacksonville, Florida, $3,830,000.
Naval Amphibious Base, Little Creek, Virginia, $8,100,000.
Naval Station, Mayport, Florida, $24,620,000.

Naval Submarine Base, New London, Groton, Connecticut, $8,030,000.

Headquarters Support Activity, Atlantic Fleet, Norfolk, Virginia, $3,400,000.

Naval Air Station, Norfolk, Virginia, $2,450,000.

Naval Station, Norfolk, Virginia, $15,500,000.

Naval Air Station, Oceana, Virginia, $19,350,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Station, Alameda, California, $10,850,000.

Naval Air Station, Barbers Point, Hawaii, $2,500,000.

Naval Air Station, Fallon, Nevada, $330,000.

Naval Air Station, Lemoore, California, $5,810,000.

Naval Magazine, Lualualei, Hawaii, $6,600,000.

Naval Air Station, Miramar, California, $1,200,000.

Naval Air Station, North Island, California, $850,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $1,900,000.

Naval Station, San Diego, California, $4,950,000.

Navy Submarine Support Facility, San Diego, California, $4,150,000.

Naval Air Station, Whidbey Island, Washington, $2,390,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, $1,100,000.

Fleet Combat Training Center, Atlantic, Dam Work, Virginia, $4,700,000.

Naval Submarine School, Groton, Connecticut, $1,150,000.

Naval Education and Training Center, Newport, Rhode Island, $620,000.

Naval Training Center, Orlando, Florida. $7,050,000.

Fleet Combat Training Center, Pacific San Diego, California, $540,000.

Naval Submarine Training Center, San Diego, California, $4,450,000.

Naval Air Station, Whiting Field, Florida, $3,680,000.

BUREAU OF MEDICINE AND SURGERY

National Naval Medical Center, Bethesda, Maryland, $23,000,000.

Naval Regional Medical Center, San Diego, California, $293,000,000, including land acquisition.

NAVAL MATERIAL COMMAND

Naval Air Rework Facility, Alameda, California, $2,350,000.

Puget Sound Naval Shipyard, Bremerton, Washington, $35,000,000.

Naval Supply Center, Puget Sound, Bremerton, Washington. $2,200,000.

Naval Fuel Annex, Casco Bay, Maine, $3,900,000.

Charleston Naval Shipyard, Charleston, South Carolina, $6.600.000.

Naval Weapons Station, Charleston, South Carolina, $3,410,000.

Polaris Missile Facility, Atlantic, Charleston, South Carolina, $8,400.000.

Naval Weapons Center, China Lake, California, $9,050,000.

Naval Construction Battalion Center, Davisville, Rhode Island, $550,000.

Navy Public Works Center, Great Lakes, Illinois, $8,400,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $860,000.

Portsmouth Naval Shipyard, Kittery, Maine, $13,880,000.

Long Beach Naval Shipyard, Long Beach, California, $4,400,000.

Naval Ordnance Station, Louisville, Kentucky, $2,050,000.

Naval Supply Center, Norfolk, Virginia, $13,150,000.

Navy Public Works Center, Norfolk, Virginia, $1,560,000.

Naval Supply Center, Oakland, California, $4,600,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $5,783,000.

Naval Air Rework Facility, Pensacola, Florida, $1,550,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $10,710,000.

Pacific Missile Test Center, Point Mugu, California, $8,750,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $11,500,000.

Naval Supply Center, San Diego, California, $2,900,000.

Navy Public Works Center, San Diego, California, $670,000.

Mare Island Naval Shipyard, Vallejo, California, $7,100,000.

NAVAL TELECOMMUNCATIONS COMMAND

Naval Communications Area Master Station Eastern Pacific, Honolulu, Hawaii, $2,000,000.

Naval Communications Area Master Station Atlantic, Norfolk, Virginia, $700,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Winter Harbor, Maine, $1,150,000.

OUTSIDE THE UNITED STATES

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Brawdy, Wales, United Kingdom, $3,600,000.

Naval Station, Keflavik, Iceland, $49,200,000.

Naval Station, Roosevelt Roads, Puerto Rico, $10,500,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, $1,000,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $108,177,000.

Naval Station, Subic Bay, Republic of the Philippines, $780,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station Western Pacific, Guam, Mariana Islands, $1,900,000.

Naval Communication Station, Keflavik, Iceland, $3,600,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1981, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,010,000.

DUAL PURPOSE AIR TERMINAL, KEFLAVIK, ICELAND

SEC. 204. (a) The Secretary of the Navy may contract for the construction of the Air Passenger Terminal in Keflavik, Iceland, in accordance with this section and any agreement which may be made between the Government of Iceland and the Government of the United States. Of the amount authorized in section 201 for the Naval Station, Keflavik, Iceland, no more than $20,000,000 may be contributed by the United States as the United States share of the cost of such construction.

(b) A contract for such construction may not be entered into until the Government of Iceland agrees (1) to provide to the Government of the United States funds equal to the difference between the amount required to complete the construction and the amount of the United States share authorized in subsection (a), and (2) to make those funds available, in advance of the time when payments are due, in such amounts and at such times as may be required by the Government of the United States.

NAVAL REGIONAL MEDICAL CENTER, SAN DIEGO, CALIFORNIA

SEC. 205. None of the funds authorized to be appropriated for the construction of the Naval Regional Medical Center, San Diego, California, may be obligated or expended until—

(1) the Secretary of the Navy has submitted a report to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives which includes (A) an evaluation of the Balboa Park and Helix Heights areas as proposed sites for the construction of such medical center, (B) a statement of the Secretary's preference between the two sites, and (C) a statement justifying the Secretary's preference; and

(2) a period of 30 calendar days has elapsed after the date on which such report is received by such committees.

NAVAL WEAPONS CENTER, CHINA LAKE, CALIFORNIA

SEC. 206. The Secretary of the Navy is authorized to acquire such lands or interests in lands as may be needed for two established low-level, high-speed aircraft corridors to serve the Naval Weapons Center at China Lake, California. The acquisition of such lands or interests may be made only by exchange, on an equal value basis, of excess land of the Naval Weapons Center, China Lake, California.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $9,650,000.

Kelly Air Force Base, Texas, $650,000.

McClellan Air Force Base, California, $3,250,000.

Robins Air Force Base, Georgia, $4,850,000.

Tinker Air Force Base, Oklahoma, $11,870,000.

Wright-Patterson Air Force Base, Ohio, $3,700,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $11,500,000.

Brooks Air Force Base, Texas, $4,200,000.

Buckley Air National Guard Base, Colorado, $900,000.

Cape Canaveral Air Force Station, Florida, $22,300,000.

Edwards Air Force Base, California, $10,500,000.

Hanscom Air Force Base, Massachusetts, $7,200,000.

Port Hueneme Naval Installation, California, $16,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $14,648,000.

Keesler Air Force Base, Mississippi, $2,810,000.

Lackland Air Force Base, Texas, $9,740,000.

Laughlin Air Force Base, Texas, $1,100,000.

Lowry Air Force Base, Colorado, $840,000.

Mather Air Force Base, California, $860,000.

Maxwell Air Force Base, Alabama, $11,184,000.

Randolph Air Force Base, Texas, $7,850,000.

Reese Air Force Base, Texas, $4,290,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $5,190,000.

Elmendorf Air Force Base, Alaska, $14,820,000.

Galen Air Force Base, Alaska, $930,000.

King Salmon Airport, Alaska, $1,000,000.

Shemya Air Force Base, Alaska, $2,900,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $3,140,000.

Charleston Air Force Base, South Carolina, $1,740,000.

Dover Air Force Base, Delaware, $4,500,000.

Kirtland Air Force Base, New Mexico, $1,200,000.

McChord Air Force Base, Washington, $5,500,000.

Norton Air Force Base, California, $2,000,000.

Pope Air Force Base, North Carolina, $9,250,000.

Scott Air Force Base, Illinois, $4,000,000.

Travis Air Force Base, California, $1,080,000.

PACIFIC AIR FORCES

Hickham Air Force Base, Hawaii, $580,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $3,200,000.

Beale Air Force Base, California, $2,670,000.

Blytheville Air Force Base, Arkansas, $6,141,000.

Carswell Air Force Base, Texas, $13,920,000.

Castle Air Force Base, California, $19,850,000.

Dyess Air Force Base, Texas, $10,300,000.

Ellsworth Air Force Base, South Dakota, $20,720,000.

Fairchild Air Force Base, Washington, $22,860,000.

Grand Forks Air Force Base, North Dakota, $22,650,000.

Griffiss Air Force Base, New York, $14,850,000.

K. I. Sawyer Air Force Base, Michigan, $3,700,000.

Loring Air Force Base, Maine, $11,800,000.

Malmstrom Air Force Base, Montana, $750,000.

McConnell Air Force Base, Kansas, $4,040,000.

Minot Air Force Base, North Dakota, $2,570,000.

Offutt Air Force Base, Nebraska, $5,360,000.

Pease Air Force Base, New Hampshire, $10,500,000.

Peterson Air Force Base, Colorado, $600,000.

Rickenbacker Air Force Base, Indiana, $6,300,000.

Vandenberg Air Force Base, California, $75,300,000.

Whiteman Air Force Base, Missouri, $990,000.

Wurtsmith Air Force Base, Michigan, $34,970,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $1,910,000.

Davis Monthan Air Force Base, Arizona, $3,200,000.

George Air Force Base, California, $640,000.

Holloman Air Force Base, New Mexico, $5,800,000.

Homestead Air Force Base, Florida, $670,000.

Langley Air Force Base, Virginia, $3,892,000.

Luke Air Force Base, Arizona, $2,650,000.

MacDill Air Force Base, Florida, $1,160,000.

Moody Air Force Base, Georgia, $1,470,000.

Myrtle Beach Air Force Base, South Carolina, $780,000.

Nellis Air Force Base, Nevada, $6,250,000.

Shaw Air Force Base, South Carolina, $3,800,000.

Tyndall Air Force Base, Florida, $2,300,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $22,300,000.

PACIFIC AIR FORCES

Camp Zama, Japan, $1,100,000.

Clark Air Base, Republic of the Philippines, $13,050,000.

Kadena Air Base, Japan, $10,280,000.

Kunsan Air Base, Korea, $4,400,000.

Kwang-Ju Air Base, Korea, $5,900,000.

Misawa Air Base, Japan, $1,930,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $23,700,000.

Osan Air Base, Korea, $16,800,000.

Taegu Air Base, Korea, $8,350,000.

UNITED STATES AIR FORCES IN EUROPE

Various Locations, United Kingdom, $2,200,000.

Various Locations, $34,477,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1981, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $24,870,000.

INSTALLATION OF ALARM SYSTEM AT TITAN II MISSILE SITES

SEC. 304. The Secretary of the Air Force shall acquire and install, out of funds appropriated pursuant to section 303, an appropriate warning system at each Titan II missile site which has in its near vicinity a significant size population.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $32,700,000.

DEFENSE LOGISTICS AGENCY

Defense Electronics Supply Center, Dayton, Ohio, $730,000.

Defense Fuel Support Point, Norwalk, California, $2,000,000.

Defense Fuel Support Point, Searsport, Maine, $3,000,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $750,000.

Defense Storage Facility, Bayonne, New Jersey, $1,450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $1,500,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $5,065,000.

Kunia, Oahu, Hawaii, $2,700,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $16,500,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Bitburg, Germany, $1,350,000.

NATIONAL SECURITY AGENCY

Classified Location, $674,000.

OFFICE OF THE SECRETARY OF DEFENSE CLASSIFIED LOCATION

Classified Activity, $3,500,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Aschaffenburg, Germany, $1,110,000.

Baumholder, Wetzel Housing Area, Germany, $3,065,000.

Bermuda, Naval Air Station, $2,580,000.

Clark Air Base, Republic of the Philippines, $1,650,000.

Iwakuni, Marine Corps Air Station, Japan, $6,060,000.

Osan Air Base, Korea, $1,900,000.

Pruem Air Station, Germany, $1,150,000.

Sagamihara, Japan, $3,220,000.

Seoul, Yongsan Garrison, Korea, $4,500,000.

Taegu, Korea, $4,100,000.

Wiesbaden, Germany, $10,176,000.

Yokota Air Base West, Japan, $7,500,000.

EMERGENCY CONSTRUCTION

Sec. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the Security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $15,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

Sec. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $3,680,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 404. (a) (1) The Secretary of Defense, acting on behalf of the United States, may participate in the five-year slice group plan for 1980 through 1984 to implement the North Atlantic Treaty Organization Infrastructure program. The Secretary may participate in such five-year slice group plan, heretofore agreed to by member nations of the North Atlantic Treaty Organization, only to the extent the that United States share under such plan does not exceed 27.42 percent of the total amount of the commitments made by all member nations under such plan.

(2) No funds may be obligated or expended in connection with the North Atlantic Treaty Organization Infrastructure program in any year unless such funds have been authorized by law for such program for such year.

(b) The Secretary of Defense is authorized to incur obligations in amounts not to exceed $300,000,000 for the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including military headquarters) for the collective defense of the North Atlantic Treaty Area.

(c) Within thirty days after the end of each calendar year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of all obligations incurred by the United States during the preceding quarter to meet the United States share of the cost of the multilateral programs for which the Secretary of Defense is authorized to incur obligations.

SPECIAL CONTINGENCY FACILITIES CONSTRUCTION FUNDS

Sec. 405. (a) There is authorized to be appropriated to the Secretary of Defense the sum of $150,000,000 for the construction of contingency facilities to support the national security interests of the United States in strategic areas of the world, including the Middle East and Indian Ocean areas.

(b) None of the funds appropriated pursuant to subsection (a) may be obligated or expended for the construction of any facility until (1) the United States and the country which exercises sovereignty over the land on which the facility is to be constructed have entered into a formal agreement which guarantees the United States access to and use of such facility during the term of the agreement, and (2) a copy of such agreement has been transmitted to the Congress.

(c) None of the funds appropriated pursuant to subsection (a) may be obligated or expended for such construction if such construction is authorized under the terms of a renegotiated, amended, or extended agreement, previously entered into by the United States with any other country, until after a copy of the renegotiated, amended, or extended agreement has been transmitted to the Congress.

(d) On each separate occasion that the Secretary of Defense plans to obligate any part of the funds appropriated pursuant to subsection (a), he shall—

(1) transmit to the appropriate committees of the Congress a written report stating the purpose for which the funds are to be obligated and the amount proposed to be obligated for such purpose; and

(2) withhold such amount from obligation for such purpose for a period of thirty days following the day on which such report is received by such committees.

Each report transmitted under this subsection shall include (A) a detailed accounting of funds appropriated pursuant to subsection (a) that have been previously obligated, (B) a detailed accounting of funds planned for obligation, and (C) a statement of the purposes and the estimated amounts for which any unobligated balance of such funds are to be used (excluding the amount for which an explanation under clause (B) is included).

(e) None of the funds appropriated pursuant to subsection (a) may be obligated or expended to carry out any contract for the construction of any contingency facility referred to in such subsection unless such contract requires that (1) all construction materials (except cement, cement products, and aggregates) used in the construction of such facility under such contract will be materials produced, manufactured, or refined in the United States, and (2) materials will be transported on United States flagships from the United States to the country in which the contingency facility is to be located.

(f) The provisions of subsections (c) and (e) of this section shall apply with respect to funds appropriated pursuant to sections 201 and 301 for the construction of a naval support facility at Diego Garcia.

DEFENSE INTELLIGENCE AGENCY BUILDING STUDY

Sec. 406. (a) None of the funds authorized to be appropriated in this title for the construction of a new facility at Bolling Air Force Base, Washington, District of Columbia, for the Defense Intelligence Agency may be obligated or expended until—

(1) the Secretary of Defense has conducted a study to examine alternatives to the facility currently planned for construction at Bolling Air Force Base;

(2) the Secretary of Defense has submitted the results of such study to the appropriate committees of the Congress together with his decision regarding the location and scope of the facility to be constructed for the Defense Intelligence Agency; and

(3) a period of thirty calendar days has elapsed after the date on which such study is received by such committees.

(b) The study conducted pursuant to subsection (a) (1) shall, as a minimum—

(1) examine alternatives in project scope for the proposed facility referred to in subsection (a) which could result in reduced requirements for new construction;

(2) examine alternative sites for the construction of such facility taking into account available lands and facilities as well as land and facilities that could be made available by consolidations; and

(3) provide detailed costs and operational efficiency comparisons of the alternatives considered.

(c) The study conducted pursuant to subsection (a) (1) shall be submitted to the appropriate committees of the Congress not later than ninety days after the date of the enactment of this Act.

TITLE V—MILITARY FAMILY HOUSING

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

Sec. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units:

Marine Corps Air Station, Yuma, Arizona, one hundred thirty-two units, $8,050,000.

Defense Housing Complex, South Bay, San Francisco, California, two hundred seventy units, $19,045,000.

Marine Corps Air Station, El Toro, California, three hundred units, $17,483,000.

Fort Ord, California, five hundred units, $30,808,000.

Naval Complex, New London, Connecticut, four hundred units, $24,608,000.

Fort Stewart, Georgia, two hundred units, $9,716,000.

Fort Polk, Louisiana, two hundred units, $11,173,000.

Naval Air Station, Brunswick, Maine, sixty-two units, $3,956,000.

Naval Complex, Norfolk, Virginia, two hundred and thirty-two units, $12,093,000.

Lajes Field, Azores, one hundred and fifty units, $9,768,000.

Incirlik Air Base, Turkey, two hundred units, $11,723,000.

Classified locaiton overseas, five units, $468,000.

(d) The amounts specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

IMPROVEMENT OF EXISTING QUARTERS

SEC. 502. (a) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $42,436,000, of which $27,150,000 shall be available only for energy conservation projects;

(2) for the Department of the Navy, $13,562,000, of which $2,819,000 shall be available only for energy conservation projects;

(3) for the Department of the Air Force, $52,819,000, of which $17,000,000 shall be available only for energy conservation projects; and

(4) for the Defense Agencies, $23,000.

(b) The first sentence of section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90–110, 81 Stat. 305) is amended to read as follows: "None of the funds authorized by this or any other Act may be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units when such units are to be converted into or used as a single family housing unit, if the total cost of such improvements exceeds $20,000, adjusted by the area construction cost index (as developed by the Department of Defense) for the location at the time of contract award. The total cost of any such improvement shall include all repair costs undertaken as part of the improvement project and all costs in connection with (1) the furnishing of electricity, gas, water, and sewage disposal, (2) the construction or repair of roads and walks, and (3) any grading and drainage work.".

(c) The Secretary of Defense, or the Secretary's designee, within the amounts specified in subsection (a), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (42 U.S.C. 1594h–2), as follows:

Redstone Arsenal, Alabama, forty units, $891,000.

Navy Public Works Center, Pearl Harbor, Hawaii, one hundred and forty-six units, $5,468,000.

Fort Knox, Kentucky, one hundred units, $2,592,000.

Loring Air Force Base, Maine, five hundred and sixty-five units, $12,723,600.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, $2,458,100.

Marine Corps Development and Education Command, Quantico, Virginia, fifty-two units, $1,910,000.

Warren Air Force Base, Wyoming, one hundred and sixty-two units, $3,150,000.

Hahn Air Base, Federal Republic of Germany, twenty-eight units, $980,000.

Ramstein Air Base (Vogelweh and Landstuhl), Federal Republic of Germany, twenty units, $993,000.

Yokota Air Base, Japan, two hundred and sixty-eight units, $9,054,800.

ADVANCE PLANNING AND DESIGN

SEC. 503. The Secretary of Defense, or the Secretary's designee, may carry out advance planning and construction design and may obtain architectural and engineering services in connection with any family housing construction, including improvements, authorized or not otherwise authorized by law at a total cost of not to exceed—

(1) for the Department of the Army, $3,993,000;

(2) for the Department of the Navy, $2,994,000;

(3) for the Department of the Air Force, $1,380,000; and

(4) for the Defense agencies, $2,000.

LEASING OF FAMILY HOUSING

SEC. 504. (a) Subsection (c) of section 2686 of title 10, United States Code, relating to leases for military family housing in the United States, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), expenditures for the rental of such housing facilities (including the cost of utilities, maintenance, and operation) may not exceed $515 per month for any unit.

"(2) The Secretary of Defense may lease not more than five hundred housing units under this section for which the expenditure for the rental of such facilities (including the cost of utilities, maintenance, and operation) exceeds $515 per month but does not exceed $600 per month.".

(b) The first sentence of section 2675(d)(1) of such title, relating to leases in foreign countries, is amended to read as follows: "Expenditures for the rental of family housing in foreign countries (including the cost of utilities and maintenance and operation) may not exceed $1,115 per month for any unit.".

SETTLEMENT OF CONTRACTOR CLAIMS ON MILITARY FAMILY HOUSING

SEC. 505. Notwithstanding any other provision of law, if the proposed settlement of any contractor claim or claims arising out of the construction of new or improvement of existing family housing would cause authorized cost limitations on the construction or improvement of family housing to be exceeded, the Secretary of Defense may proceed with the settlement of such claim or claims after (1) he has submitted a report regarding such claim or claims, including the amount of the proposed settlement, to the Committees on Armed Services of the Senate and House of Representatives, and (2) a period of thirty days has elapsed after the date of submission of such report to such committees.

OCCUPANT LIABILITY FOR DAMAGES TO FAMILY HOUSING

SEC. 506. (a) Chapter 165 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2775. Liability of member for damages to family housing, equipment, and furnishings

"(a) A member of the armed forces shall be liable to the United States for damage to any family housing unit, or damage to or loss of any equipment or furnishing of any family housing unit, assigned to or provided such member if it is determined, under regulations issued by the Secretary of Defense, that such damage or loss was caused by the abuse or negligence of such member or a dependent of such member.

"(b)(1) The Secretary concerned may deduct from a member's pay an amount sufficient to pay for the cost of the repairs or replacements made necessary as the result of any abuse or negligence referred to in subsection (a) on the part of such member or any dependent of such member.

"(2) The final determination of an amount to be deducted from the pay of an officer of an armed force in accordance with regulations issued under this section shall be deemed to be a special order authorizing such deduction for the purposes of section 1007 of title 37.

"(c) Amounts deducted from members' pay under this section shall be credited to the Department of Defense family housing management account established under section 501 of Public Law 87–554 (76 Stat. 236; 42 U.S.C. 1594a–1) and shall be available for use for the same purposes and under the same circumstances as other funds in such account.

"(d) The Secretary of Defense shall issue regulations to carry out the provisions of this section, including regulations for determining the cost of repairs or replacements made necessary as the result of abuse or negligence on the part of a member or dependent of a member.".

(b) The table of sections at the beginning of chapter 165 of such title is amended by adding at the end thereof the following new item:

"2775. Liability of member for damages to family housing, equipment, and furnishings.".

INCREASED AUTHORIZATION FOR CONSTRUCTION, OAHU, HAWAII

SEC. 507. Notwithstanding the limitations on costs contained in sections 501(a) and 205 of the Military Construction Authorization Act, 1974 (Public Law 93–166; 87 Stat. 673) and sections 501(a) and 502 of the Military Construction Authorization Act, 1975 (Public Law 93–552; 88 Stat. 1757, 1758), the Secretary of Defense is authorized to complete construction of two thousand six hundred family housing units in support of Department of Defense requirements in Oahu, Hawaii, at a total cost of not to exceed $117,150,000.

DEFICIENCY AUTHORIZATION FOR NEW CONSTRUCTION

SEC. 508. (a) Section 501(c) of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 577), is amended—

(1) by striking out "$1,509,000" in the item relating to the Naval Facility, Centerville Beach, California, and inserting in lieu thereof "$2,030,000"; and

(2) by striking out "$4,307,000" in the item relating to the Marine Corps Base, Twentynine Palms, California, and inserting in lieu thereof "$6,069,000".

(b)(1) Section 505(1) of such Act is amended by striking out "$139,105,000 and inserting in lieu thereof "$140,867,000".

(2) Section 602(5) of such Act is amended by striking out "$1,701,605,000" and inserting in lieu thereof "$1,703,367,000".

REPEAL OF PROVISIONS RELATING TO ENERGY CONSUMPTION METERING DEVICES AND EXCESS ENERGY CONSUMPTION CHARGES

SEC. 509. Sections 506 and 507 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 372), are repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. (a) There is authorized to be appropriated for fiscal year 1981 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purpose:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, improvements to public quarters, relocation of family housing, and planning, an amount not to exceed $276,100,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the

National Housing Act (12 U.S.C. 1715), an amount not to exceed $1,880,760,000, of which not more than $25,000,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and of which not more than $95,000,000 may be obligated or expended for the leasing of military family housing in foreign countries.

(b) The amounts authorized to be appropriated in subsection (a)(2) may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

FAMILY HOUSING MANAGEMENT ACCOUNT

SEC. 511. Subsection (b) of Section 501 of Public Law 87-554 (42 U.S.C. 1594a-1) is amended to read as follows:

"(b) The management account shall be administered by the Secretary of Defense as a single account. There shall be transferred into such account (1) appropriations made to the Department of Defense for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operating and maintenance, and disposal of family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c) of the National Housing Act (12 U.S.C. 1715m(c)), (2) proceeds from the rental of family housing and mobile home facilities under the control of the Department of Defense, reimbursements from occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the management account, and (3) notwithstanding any other provision of law, proceeds of the handling and the disposal of family housing of the Department of Defense, including related land and improvements, whether effected by the Department of Defense or any other Federal agency, but less those expenses payable pursuant to section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)), to remain available until expended.".

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal years beginning after September 30, 1980, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, and IV shall not exceed—

(1) for title I: inside the United States $586,800,000; outside the United States $248,140,000; minor construction $44,560,000; for a total of $879,500,000.

(2) for title II: inside the United States $777,925,000; outside the United States $178,757,000; minor construction $33,010,000; for a total of $989,692,000.

(3) for title III: inside the United States $546,985,00; outside the United States $144,487,000; minor construction $24,870,000; for a total of $716,342,000.

(4) for title IV: a total of $587,610,000, including $3,680,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS.—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed after the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORT TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed after the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project ,including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 634. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdicion and supervision of the Corps of Engineers, Department of the Army, the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1981, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 928), and all such authorizations contained in Acts approved before November 26, 1979, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1981, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 944), authorizations for the following items authorized in section 101 of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 565) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) Energy Control System construction in the amount of $3,300,000 at Fort Jackson, South Carolina.

(2) Regional Sewage Treatment Plant Upgrade construction in the amount of $1,209,000 at Fort Bliss, Texas.

(3) Regional Sewage Treatment Plant Upgrade construction in the amount of $550,000 at Fort Monroe, Virginia.

(4) Barracks with Dining construction in the amount of $4,603,000 at Fulda, Germany.

(5) Improvements to Heating System in the amount of $394,000 at Kansas Army Ammunition Plant, Kansas.

(6) Energy Control System in the amount of $1,372,000 at Fitzsimmons Army Medical Center, Colorado.

(7) Hospital addition, alteration, and upgrade in the amount of $30,283,000 at 2d General Hospital, Landstuhl, Germany.

(8) Facilities Modernization in the amount of $1,782,000 at Christensen Barracks, Bindlach, Germany.

(9) Facilities Modernization in the amount of $7,731,000 at Ferris Barracks, Erlangen, Germany.

(10) Barracks without dining facilities in the amount of $2,299,000 at Conn Barracks, Schweinfurt, Germany.

(11) Small Arms Maintenance and Storage Facility in the amount of $3,645,000 at Fort Benning, Georgia.

(12) Cargo Handling Training Facility in the amount of $3,666,000 at Fort Eustis, Virginia.

(13) Petroleum Storage Facilities in the amount of $2,437,000 at Fort Leonard Wood, Missouri.

(14) Tactical Equipment Shop and Facilities in the amount of $2,272,000 at Fort Polk, Louisiana.

(15) Contaminated Waste Incinerator construction in the amount of $620,000 at Kansas Army Ammunition Plant, Kansas.

(16) Contaminated Waste Incinerator Plant construction in the amount of $501,000 at Iowa Army Ammunition Plant, Iowa.

(17) Contaminated Waste Incinerator construction in the amount of $637,000 at Milan Army Ammunition Plant, Tennessee.

(18) Contaminated Waste Incinerator construction in the amount of $518,000 at Sunflower Army Ammunition Plant, Kansas.

(19) Tactical Equipment Shop and Facilities in the amount of $1,037,000 at Wildflecken Training Area, Germany.

(20) Facilities Modernization in the amount of $7,000,000 at Mannheim, Germany.

(21) Facilities Modernization in the amount of $14,000,000 at Baumholder, Germany.

(22) Flight Simulator Building in the amount of $1,739,000 at Mannheim, Germany.

(23) Explosive Waste Incinerator construction in the amount of $763,000 at Sunflower Army Ammunition Plant, Kansas.

(24) Missile Maintenance Facility in the amount of $863,000 at Fort Polk, Louisiana.

(c) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 944), authorizations for the following items authorized in section 201 of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 567) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) Energy Monitoring and Control System in the amount of $765,000 at the Naval Air Station, Jacksonville, Florida.

(2) Municipal Sewer Connection construction in the amount of $2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(d) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 944), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 572) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) Space Transportation System airfield facilities in the amount of $32,100,000 at Vandenberg Air Force Base, California.

(2) Energy—Alter Lighting System in the amount of $850,000 at Hill Air Force Base, Utah.

(3) Energy Monitoring and Control System in the amount of $3,300,000 at Kelly Air Force Base, Texas.

(4) Fire Station in the amount of $1,031,000 at Tinker Air Force Base, Oklahoma.

(5) Energy—Alter Mechanical, Electrical and Structural Systems in the amount of $1,120,000 at Wright-Patterson Air Force Base, Ohio.

(6) Energy Monitoring and Control System in the amount of $3,350,000 at Wright-Patterson Air Force Base, Ohio.

(7) Propulsion Wind Tunnel—16T High Angle Automatic Sting in the amount of $2,710,000 at Arnold Engineering Development Center, Tennessee.

(8) Energy Monitoring and Control System in the amount of $2,750,000 at Edwards Air Force Base, California.

(9) Insulate Heating and Cooling Controls and Insulate Buildings in the amount of $650,000 at Edwards Air Force Base, California.

(10) Chapel Center in the amount of $1,190,000 at Eglin Air Force Base, Florida.

(11) Energy Monitoring and Control System in the amount of $2,000,000 at Hanscom Air Force Base, Massachusetts.

(12) Aircraft Corrosion Control Facility in the amount of $7,310,000 at Dover Air Force Base, Delaware.

(13) Chapel Center in the amount of $1,240,000 at Castle Air Force Base, California.

(14) Energy Monitoring and Control System in the amount of $610,000 at Grand Forks Air Force Base, North Dakota.

(15) Air Installation Compatible Use Zone in the amount of $314,000 at Grissom Air Force Base, Indiana.

(16) Air Installation Compatible Use Zone in the amount of $357,000 at March Air Force Base, California.

(17) Sewage Main Regional Connection in the amount of $946,000 at Rickenbacker Air Force Base, Ohio.

(18) Energy Monitoring and Control System in the amount of $540,000 at Holloman Air Force Base, New Mexico.

(19) Energy Monitoring and Control System in the amount of $900,000 at Nellis Air Force Base, Nevada.

(20) Add to the Alter Cadet Library in the amount of $4,000,000 at the United States Air Force Academy, Colorado.

(21) Special Operation Facilities in the amount of $2,800,000 at Various Locations, Pacific Air Forces.

(22) Telecommunications Facility in the amount of $6,515,000 at Various Locations (Ramstein Air Base), Germany.

(e) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 944), authorizations for the following items authorized in section 401 of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 572) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) ADP and Communications Facility—Alteration of existing space in the amount of $1,573,000 at Defense Depot, Ogden, Utah.

(2) Storage Facilities—Construction in the amount of $1,353,000 at Defense Property Disposal Office, Indianapolis, Indiana.

(3) Covered Storage Facilities—Construction in the amount of $584,000 at Defense Property Disposal Office, Subic Bay, Republic of the Philippines.

(f) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 944), authorization for the Effluent Land Irrigation System construction in the amount of $6,933,000 at Fort Ord, California, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1349) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later.

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $52 per square foot for permanent barracks; or

(2) $56 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on units costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

AMENDMENT TO PRIOR AUTHORIZATION

SEC. 607. (a) Section 301 of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 572), is amended under the heading "Inside the United States" by striking out "$141,782,000" in the item relating to Vandenberg Air Force Base, California, under the subheading "strategic air command" and inserting in lieu thereof "$223,161,000".

(b) Section 6023(3) of such Act is amended by striking out "$423,059,000" and "$522,743,000" and inserting in lieu thereof "$504,438,000" and "$604,122,000", respectively.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 608. Titles I, II, III, IV, and V shall take effect on October 1, 1980.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $36,000,000; and

(B) for the Army Reserve, $42,225,000.

(2) For the Department of the Navy: for the Naval and Marine Corps Reserves, $30,550,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $73,500,000; and

(B) for the Air Force Reserve, $17,725,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

TITLE VIII—GENERAL PROVISIONS

IMPACT ASSISTANCE FOR FISCAL YEAR 1981 FOR AREAS AFFECTED BY THE MX WEAPON SYSTEM AND THE EAST COAST TRIDENT BASE

SEC. 801. During fiscal year 1981, the Secretary of Defense may utilize funds appropriated for planning and design purposes to provide community planning assistance as follows:

(1) To assist communities near MX Weapon System sites, $5,000,000.

(2) To assist communities near the East Coast Trident Base, $1,000,000.

IMPACT ASSISTANCE FOR FISCAL YEARS AFTER FISCAL YEAR 1981 FOR AREAS AFFECTED BY THE MX WEAPON SYSTEM AND THE EAST COAST TRIDENT BASE

SEC. 802. (a) The Secretary of Defense (hereinafter in this section referred to as the "Secretary") is authorized to assist communities located near MX Weapon System sites, communities located near the East Coast Trident Base, and the States in which such communities are located in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with operation of the MX Weapon System or the East Coast Trident Base, as the case may be, and that an unfair and excessive financial burden will be incurred by such communities, or the States in which such communities are located, as a result of the increased need for such services and facilities.

(b)(1) The Secretary shall carry out the program of assistance authorized under this section through existing Federal programs. In carrying out such program of assistance, the Secretary is authorized, subject to the provisions of subsection (d), to (A) supplement funds made available under such Federal programs through a direct transfer of funds from the Secretary to the department or agency concerned in such amounts as the Secretary considers necessary, (B) provide financial assistance to communities described in subsection (a) to help such communities pay their share of the costs under such programs, and (C) guarantee State or municipal indebtedness for improved public facilities related to the MX Weapon System or the East Coast Trident Base.

(2) The head of each department and agency of the Federal Government concerned shall cooperate fully with the Secretary in carrying out the provisions of this section on a priority basis.

(3) Notwithstanding any other provision of law, the Secretary, in cooperation with the heads of other departments and agencies of the Federal Government, is authorized to provide facilities and services in anticipation of the work to be carried out in connection with the MX Weapon System and the East Coast Trident Base. No department or agency may charge a management fee for assisting the Secretary in carrying out the provisions of this section.

(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary shall consult with the head of the department or agency concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration (1) the time lag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population, (2) the possible temporary nature of the increased population and the long-range cost impact on the permanent residents of any such community, (3) the initial capitalization required for municipal sewer and water systems, (4) the initial operating cost for upgrading municipal services, and (5) such other pertinent factors as the Secretary considers appropriate.

(d) Funds appropriated to the Department of Defense for carrying out the MX Weapon System and the East Coast Trident Base may, to the extent specifically authorized in Military Construction Authorization Acts, be utilized by the Secretary in carrying out the provisions of this section.

(e) The Secretary shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, not later than sixty days after the end of each fiscal year beginning after fiscal year 1981, a written report indicating the total amount transferred to and the amount obligated and expended by each local community or State which has been provided assistance under the authority of this section during the preceding fiscal year, the specific projects for which assistance was provided during such year, and the total amount for each such project during such year.

COMMUNITY IMPACT ASSISTANCE STUDY

SEC. 803. (a) The Congress finds that—

(1) the Department of Defense is required from time to time, for national security reasons, to provide for the construction in the United States of major, new military facilities which have a serious adverse impact on the communities and the areas in which such facilities are constructed; and

(2) neither the impacted local governments nor the States in which such facilities are constructed should be expected to bear the full cost of such impact.

(b) The President shall conduct a thorough study of the adverse impact of communities in areas in which major, new military facilities are constructed with a view to determining the most effective and practicable means of promptly mitigating such impact. In carrying out such study the President shall, as a minimum—

(1) identify those potential Department of Defense actions that are sufficient in scope to warrant impact assistance by the Federal Government;

(2) examine various options and recommend organizational mechanisms to administer the Federal community impact assistance to be made available;

(3) examine various options and recommend procedures for the budgeting of community impact assistance funds;

(4) recommend such changes in existing programs as may be necessary to provide effective and timely impact assistance to areas adversely affected by the construction of major, new military facilities; and

(5) consult with and seek the advice of appropriate State and local leaders and officials regarding the problems and needs of communities that result from the construction of major, new military facilities in or near such communities.

(c) The President shall submit the results of the study required by subsection (b) to the Congress not later than March 1, 1981, together with such comments and recommendations as the President considers appropriate.

USE OF SOLAR ENERGY SYSTEMS IN NEW CONSTRUCTION

SEC. 804. Section 2688(b) of title 10, United States Code, is amended to read as follows:

"(b) For the purposes of this section, a solar energy system shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using accepted life cycle costing procedures. Such accepted life cycle costing procedures shall include—

"(1) the use of undiscounted, constant dollars in all calculations;

"(2) an assumption that any additional maintenance costs incurred as a result of the installation of a solar system will be offset by a corresponding reduction in the maintenance costs for a conventional backup system; and

"(3) the use of realistic assumptions with regard to the rate of inflation on the cost of fossil fuel as compared with the general rate of inflation, but in no event may the assumed general rate of inflation be greater than the assumed rate of inflation on the cost of fossil fuel.".

REPORTS ON REAL PROPERTY TRANSACTIONS

SEC. 805. Section 2662 of title 10, United States Code, is amended by striking out "$50,000" each place it appears in subsections (a), (b), and (e) and inserting in lieu thereof "$100,000".

INCREASE IN MAXIMUM AMOUNT THE SECRETARY OF A MILITARY DEPARTMENT IS AUTHORIZED TO EXPEND FOR ACQUISITION OF INTERESTS IN LAND

SEC. 806. (a) Section 2672 of title 10, United States Code, is amended—

(1) by striking out "$50,000" in the catchline and inserting in lieu thereof "$100,000"; and

(2) by striking out "$50,000" each place it appears in the text of such section and inserting in lieu thereof "$100,000".

(b) The table of sections at the beginning of chapter 159 of such title is amended by striking out "$50,000" in the item relating to section 2662 and inserting in lieu thereof "$100,000".

ALTERNATE FUELS USE STUDY

SEC. 807. (a) Within one hundred and eighty days after the date of the enactment of this Act, the Secretary of Defense shall furnish a report to the appropriate committees of the Congress outlining a plan (1) to convert to the use of a fuel other than oil or gas all oil and gas fired plants of the Department of Defense which have heat input rates of fifty million British thermal units per hour or more, and (2) to replace, in each case in which such action would be cost effective, existing oil or gas fired plants with new central plants that use a fuel other than oil or gas.

(b) Such report shall include with respect to each plant the following:

(1) The estimated cost of conversion or replacement, including a breakdown of costs by major work items (powerplant, utilities, fuel handling facilities, pollution, abatement facilities, and related or similar items.

(2) The estimated oil and gas savings that would result from such conversion or replacement.

(3) The estimated annual net fuel cost savings that would result from such conversion or replacement.

(4) The computed benefit-cost ratio and the estimated payback period using accepted life cycle costing procedures.

Such report shall also include funding schedules based on the assumption that such conversions and replacements are to be completed within (A) a five-year period, and (B) a ten-year period.

NEW BOILER PLANT CONSTRUCTION

SEC. 808. (a) Except as provided in subsection (b) of this section, no new facility or plant which requires heat input rates of fifty million British thermal units per hour or more and which uses oil or gas (or a derivative of either) as fuel may be constructed on lands under the jurisdiction of the Department of Defense.

(b) The Secretary of Defense may waive the provisions of subsection (a) in rare, unusual situations, but no such waiver shall become effective until after the Secretary has notified the appropriate committees of the Congress of the waiver in writing.

(c) The Secretary of Defense may not provide heating service for any new facility or plant in increments in order to avoid the prohibition contained in subsection (a).

REMOVAL OF CHEMICAL MUNITIONS, ROCKY MOUNTAIN ARSENAL

SEC. 809. (a) Notwithstanding any other provision of law, the Secretary of Defense shall remove all chemical munitions from the Rocky Mountain Arsenal, Colorado, within one year after the date of the enactment of this Act.

(b) Within ninety days after the date of the enactment of this Act, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives in writing of the methods proposed to be used in carrying out the provisions of subsection (a).

(c) The Secretary of Defense shall not take any action to carry out the provisions of subsection (a) until a period of thirty days has elapsed after the receipt by the Committees on Armed Services of the notification required under subsection (b).

DECONTAMINATION STUDY, KAHOOLAWE ISDAND

SEC. 810. (a) In order to determine the feasibility and cost of clearing the island of Kahoolawe, Hawaii, and the adjacent waters of ordnance and other debris resulting from the use of such island as a target range by the United States Navy, the Secretary of the Navy is authorized and directed to (1) develop appropriate technology for clearing unexploded ordnance from test land which has the same or similar soil composition as the island of Kahoolawe and from submerged land which has the ecology characteristics of subtropical waters, and (2) demonstrate the developed technology at selected sites on the island of Kahoolawe.

(b) The Secretary of the Navy shall begin work on the development of the technology described in subsection (a) within six months after the date of the enactment of this Act and shall complete the development and demonstration of such technology at the earliest practical date. The Secretary of the Navy shall submit progress reports to the Committees on Armed Services of the Senate and the House of Representatives each year until the project provided for in subsection (a) is completed.

(c) Any land or water area which may be cleared of unexploded ordnance incident to the demonstration of the technology shall be fenced or buoyed and be used for such purpose or purposes as the Secretary of the Navy may approve.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section during fiscal year 1981.

STUDY OF CONDITION OF THE STRATEGIC RAIL CORRIDOR

SEC. 811. (a) The Secretary of Defense, in consultation with the Secretary of Transportation, shall conduct a study of the condition of railroad lines identified in the Strategic Rail Corridor Network (STRACNET) for National Defense (Military Traffic Management Command Report RND 76–1, An Analysis of a Strategic Rail Corridor Network for National Defense, November 1976). Such study shall include (1) an identification of those segments of the corridor which, as a result of deferred maintenance or deterioration, may potentially have an adverse impact on the movement of personnel, equipment, and materials among Federal military arsenals and installations, and (2) an estimate of the cost of rehabilitating such segments.

(b) The Secretary of Defense shall submit the results of such study, together with recommendations for correcting deficiencies in the Strategic Rail Corridor Network in order to strengthen the Armed Forces' combat readiness and mobilization base, to the Committees on Armed Services of the Senate and the House of Representatives not later than July 1, 1981.

LAND CONVEYANCE, SOUTH PORTLAND, MAINE

SEC. 812. (a) The first section and section 2 of the Act entitled "An Act to provide for the conveyance to the State of Maine of certain lands located is such State", approved August 28, 1957 (71 Stat. 467), are amended by striking out "for vocational or other school purposes" and inserting in lieu thereof "for public purposes".

(b) The Secretary of the Navy shall issue such written instructions, deeds, or other instruments as may be necessary to bring the conveyance made to the State of Maine under the authority of the Act referred to in subsection (a) into conformity with the amendment made by such subsection.

MODIFICATION OF PRIOR AUTHORITY FOR LAND CONVEYANCE, SOUTH CHARLESTON, WEST VIRGINIA

SEC. 813. Section 609 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1365), is amended—

(1) by striking out "a section of land" in the first sentence and inserting in lieu thereof "three parcels of land";

(2) by striking out "4.5 acres" in the first sentence and inserting in lieu thereof "eight acres";

(3) by striking out "eight acres" in the second sentence and inserting in lieu thereof "approximately ten acres"; and

(4) by striking out the period at the end of the last sentence and inserting in lieu thereof "or the Department of the Navy.".

MODIFICATION OF PRIOR LAND ACQUISITION, SAN DIEGO, CALIFORNIA

SEC. 814. (a)(1) Subject to paragraph (3), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") shall amend the declaration of taking described in paragraph (2) by substituting for the interest described in such declaration of taking which is condemned for the use of the United States an interest consisting of all right, title, and interest of the City of San Diego, California, in and to the tract of land described in such declaration subject to a possibility of reverter of such tract of land (including improvements thereon) to the City of San Diego in the event that the United States ceases to use the land for hospital or medical purposes (or purposes related thereto).

(2) The declaration of taking referred to in paragraph (1) is the declaration of taking signed by the Secretary on December 26, 1979, and filed in Civil Action No. 80–0021–E in the United States District Court for the Southern District of California under the authority of section 809 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 950), condemning for the use of the United States all right, title, and interest of the City of San Diego, California, in and to a certain tract of land consisting of 40 acres, more or less, in Balboa Park, San Diego, California.

(3) The amendment to such declaration of taking authorized by paragraph (1) may not be made without the consent of the City of San Diego.

(b) The Secretary may convey to the City of San Diego as consideration, in whole or in part, for the acquisition under the declaration of taking described in subsection (a) all right, title, and interest of the United States, or any lesser interest, in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, California, that has been conveyed, leased, or otherwise made available to the United States by the City of San Diego other than through the acquisition under such declaration of taking.

(c) Notwithstanding any other provision of law, the Secretary may construct on the land referred to in subsection (a) or on any other land acquired by the United States from the City of San Diego which is contiguous to such land and in which the United States has less than a fee simple absolute interest any military construction project for a hospital or other medical facility which is otherwise authorized by law.

(d) The provisions of subsections (c) and (d) of section 809 of the Military Construction Authorization Act, 1980, shall apply to the acquisition under the declaration of taking described in subsection (a), as amended under such subsection.

LAND ACQUISITION, SAN DIEGO, CALIFORNIA

SEC. 815. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the San Diego Unified School District (hereinafter in this section referred to as the "District") in and to certain parcels of land in the County of San Diego, State of California, comprising approximately 5.11 acres of land (together with improvements thereon) known and identified as the Fairhaven School, San Diego, California, as shown and more particularly described on a map entitled "Naval Station San Diego, California, Acquisition of Fairhaven School", on file at the Western Division, Naval Facilities Engineering Command, San Bruno, California.

(b) In consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the District all right, title, and interest of the United States in and to land and improvements having a fair market value (as determined by the Secretary) equal to or gerater than the fair market value (as determined by the Secretary) of the improvements on the property to be acquired. If the fair market value of the land and improvements conveyed by the Secretary exceeds the fair market value of such improvements, the difference shall be paid by the District to the United States and shall be covered into the Treasury as miscellaneous receipts.

(c) The exact acreages and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND ACQUISITION, SACRAMENTO COUNTY, CALIFORNIA

SEC. 816. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest in all or any part of three tracts of land contiguous to McClellan Air Force Base, Sacramento County, California, consisting of a total of approximately 443.3 acres.

(b) As consideration for any acquisition under subsection (a), the Secretary is authorized to convey to the owners of the property to be acquired all right, title, and interest of the United States under the jurisdiction of the Secretary (including any improvements thereon) having a fair market value of not more than the fair market value of the property to be acquired.

(c) The exact acreage and legal description of any real property acquired or conveyer under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND EXCHANGE, WABASHA, MINNESOTA

SEC. 817. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the City of Wabasha, Minnesota (hereinafter in this section referred to as the "City") all right, title, and interest of the United States in and to the land and improvements comprising the United States Army Reserve Center, Wabasha, Minnesota.

(b) In consideration for the acquisition under subsection (a), the City shall convey to the United States all right, title, and interest of the City in and to a certain tract of land of approximately seven acres owned by the City. If the fair market value of the land conveyed by the City under this subsection is less than the fair market value of the land conveyed by the United States under subsection (a), the City shall pay to the United States the amount of the difference between such fair market values. Any amount received under the preceeding sentence shall be covered into the Treasury as miscellaneous receipts.

(c) The conveyances under subsections (a) and (b) shall not be made until a new Army Reserve Center has been constructed on the land to be conveyed to the United States under subsection (b) and the existing Army Reserve Center referred to in subsection (a) has been vacated. Before such conveyances are made, the City shall make available to the Secretary without charge the lands to be conveyed under subsection (b) for the purpose of allowing the construction of the new Army Reserve Center.

(d) The exact acreages and legal descriptions of any property acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(e) The Secretary is authorized to accept and administer any real property conveyed to the United States under this section.

LAND CONVEYANCE, GUAM, MARIANAS ISLANDS

SEC. 818. (a) (1) Subject to subsections (b) and (c), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Government of Guam all right, title, and interest of the United States in and to the lands (or any part of the lands) described in paragraph (2), together with the improvements thereon.

(2) The lands referred to in paragraph (1) consist of approximately 927 acres of land located on Cabras Island and within the northern portion of the Apra Harbor Naval Complex, Guam, Marianas Islands, as shown and more particularly described on a map entitled "Apra Harbor Complex, Guam, Marianas Islands, Conveyance of 927 Acres of Land to the Government of Guam", on file at the Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, Hawaii.

(b) (1) Conveyance of the property described in subsection (a) shall be made at such times, and shall be subject to such terms and conditions, as the Secretary considers to be in the interest of national defense.

(2) Conveyance of the property described in subsection (a) shall be subject to the condition that any disposal by sale or lease of any part or all of the property by the Government of Guam shall only be for a monetary consideration equal to or in excess of the fair market value (at the time of the disposal) of the property concerned, or of the leasehold interest therein, as determined by the Administrator of General Services, and any such monetary consideration received by the Government of Guam, minus any reasonable development costs incurred by such Government in preparing the property concerned for disposal, shall be paid to the United States.

(3) The United States shall reserve easements for all existing utilities and navigation aids in the conveyed parcels as exist on the date of conveyance of the property whether or not such utilities and facilities are specifically mentioned in the conveyance documents for the property. The Government of Guam, for as long as it owns the conveyed lands, shall agree to issue easements not interfering with their facilities and operations to the United States at no cost for the future facility installations including, but not limited to, construction, installation, reconstruction, operation, maintenance, and removal of water, oil, gas, fuel, and other pipelines, drainage and sewage systems, power and telephone transmission lines, water sewage, and other utility lines, navigation aids, and all things incident thereto, in, on, under, and over the conveyed lands toegther with all necessary rights and privileges for the full enjoyment of the foregoing, including, without limitation, the right of ingress and egress. The Government of Guam shall agree that for as long as it owns the conveyed lands, it will bear all costs of relocation of existing and future utility lines and other facilities owned by the United States in the conveyed lands requisite to construction on the conveyed lands by the Government of Guam and authorized other parties.

(4) All leases, licenses, easements, and other property interests affecting the conveyed lands at the time of conveyance issued by the United States shall be honored by the Government of Guam until their final expiration dates. All rents due to be collected under such contracts shall be remitted to the United States for all periods prior to the date the property is conveyed, after which date the rents will be the property of the Government of Guam.

(5) All leases, licenses, easements, conveyances of land, and other real estate interests granted by the Government of Guam after conveyance, shall be subject to the terms, conditions, convenants, and reservations stated in this subsection and shall recite the same in the contractual documents.

(c) The exact acreage and legal descriptions of all lands to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of such surveys, together with all other direct and indirect costs related to any conveyance under this section, shall be borne by the Government of Guam.

MELVIN PRICE,
LUCIEN N. NEDZI,
CHARLES H. WILSON,
JACK BRINKLEY,
MENDEL J. DAVIS,
ANTONIO BORJA WON PAT,
BEVERLY B. BYRON,
BOB WILSON,
WILLIAM G. WHITEHURST,
ROBIN L. BEARD,
DONALD J. MITCHELL,
WILLIAM L. DICKINSON,
Managers on the Part of the House.

GARY HART,
JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD, Jr.,
SAM NUNN,
STROM THURMOND,
JOHN W. WARNER,
GORDON HUMPHREY,
BILL COHEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7301) to authorize certain construction at military installations for fiscal year 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

COMPARISON OF HOUSE AND SENATE BILLS

As passed by the House, H.R. 7301, provided $5,538,003,000 in new authorization.

The bill as amended by the Senate provided $5,460,028,000 in new authorization.

SUMMARY OF RESOLUTION OF DIFFERENCES

As a result of the conference between the House and Senate on the differences in H.R. 7301, the conferees agreed to a new adjusted authorization for military construction for fiscal year 1981 in the amount of $5,530,004,000.

Originally, the Department of Defense and the respective military departments had requested a total of $5,294,073,000 for new construction authorization for fiscal year 1981. Subsequently, the Department submitted an amended fiscal year 1980 supplemental request of $23,500,000 (consideration of which was combined with the fiscal year 1981 request) and an additional request of $221,137,000 for fiscal year 1981. The total requested authorizations were $5,538,710,000. The action of the conferees therefore decreases the Department's combined requests by $8,706,000 in new authorization.

Total authorization granted, fiscal year 1981

Title I (Army):	
Inside the United States	$586,800,000
Outside the United States	248,140,000
Minor construction	44,560,000
Subtotal	879,500,000
Title II (Navy):	
Inside the United States	777,925,000
Outside the United States	178,757,000
Minor construction	33,010,000
Subtotal	989,692,000
Title III (Air Force):	
Inside the United States	546,985,000
Outside the United States	144,487,000
Minor construction	24,870,000
Subtotal	716,342,000
Title IV (Defense Agencies)	583,930,000
Minor construction	3,680,000
Subtotal	587,610,000
Title V (military family housing)	2,156,860,000
Title VI (Reserve Forces facilities):	
Army National Guard	36,000,000
Army Reserve	42,225,000
Naval and Marine Corps Reserve	30,550,000
Air National Guard	73,500,000
Air Force Reserve	17,725,000
Subtotal	200,000,000
Total granted by titles I, II, III, IV, V, and VII	5,530,004,000

GENERAL TOPICS

Unfunded military construction projects

The conferees were faced with many good military construction projects which were the subject of conference action. In general, all of the projects subject to conference action represented valid service requirements that were of high priority and warranted immediate authorization and funding. However, the conferees were constrained to produce a bill within the limits of the scope of the conference and within prudent budgetary guidelines, and therefore many good projects were not authorized. The conferees expect to see these projects revalidated and given top priority in the fiscal year 1982 military construction budget request.

The conferees also recognize that some of the projects that were authorized by the conference may, for numerous reasons, not be funded in the fiscal year 1981 military construction appropriations bill. Such projects should be given first priority for funding in the fiscal year 1982 military construction appropriations request.

Special contingency facilities construction fund

The House bill provided specific line item authorization in the respective service titles for construction of facilities associated with Middle East/Indian Ocean basing initiatives. A total of $270,377,000 was authorized for such purposes, including $149,677,000 for Navy and Air Force activities at Diego Garcia.

The Senate bill established a contingency fund of $200,000,000 for Middle East/Indian Ocean construction, including Diego Garcia.

The conferees agreed to use a contingency fund approach in order to provide the Secretary of Defense with sufficient flexibility to program vitally needed construction for meeting the many political and military uncertainties facing the United States at this time. In doing so, $150,000,000 has been authorized for such purposes. The conferees agreed, however, to keep Diego Garcia construction in the separate service titles because it is an established United States installation and requirements are well established.

In approving the contingency fund the conferees expressed support for the Department of the Army's request to construct a division-sized staging facility in the Middle East/Indian Ocean for the rapid deployment force when a site decision is made.

In authorizing the contingency fund, the conferees endorse the specific reporting requirements contained in both bills and expect the Department of Defense to comply fully with them. Also, the conferees expect full compliance with the spirit and intent of Section 405(e) which requires the use of U.S. construction materials shipped on United States flag vessels in the construction of these facilities. This provision is intended to give American contractors a reasonable chance of success in bidding on contracts for construction of these facilities. The conferees envision that in most cases contracts for construction will probably go to American contractor-host nation contractor joint ventures with the American contractor supplying the materials, the project management, and the highly skilled workforce, and the host nation providing the bulk of the labor requirement.

Use of non-appropriated funds for construction

For the second consecutive year, conferees debated the issue of determining the proper use of non-appropriated funds for construction of certain facilities. Some facilities such as commissaries, exchanges, and bowling alleys are now built exclusively with non-appropriated funds. Other facilities such as child care centers, gymnasiums, and auto self-help shops have been built with both appropriated and non-appropriated funds with each service determining its own approach. Last year, conferees directed the Defense Department to establish a consistent programming policy for this class of facilities in the fiscal year 1981 budget request. The department has now posed a new policy in this area; however, the conferees were not in full accord with the new policy and felt that the policy should be examined further. In the interim, conferees did agree to authorize child care centers at Fort Hood, Texas, and Pirmasens, Germany; an exchange warehouse at Fort Clayton in Panama; and a commissary warehouse in Ansbach, Germany; with the Senate receding to the House position on these four projects.

While the new department policy remains under review by the House and Senate, the conferees will expect that any future requests for morale, welfare and recreation facilities by the military services will abide by a consistent policy as established by the Defense Department.

Prior year authorizations

The conferees considered 17 projects previously authorized where authorizations had not expired. In agreeing to direct the services to utilize existing authorization it is recognized that scope changes may be involved with some of the projects. The conferees do not object to justified changes in scope and expect the services to use Section 603 authority when required in reporting revised costs to the committees after project bids have been received.

Miscellaneous report requirements

In their respective reports on the bill, both the Senate and the House Armed Services Committees included items of "Special Emphasis". The conferees hereby endorse the language on items of "Special Emphasis" found in both reports and, unless some modification to that language is contained in this joint statement of the committee of conference, the positions and requirements contained under items of "Special Emphasis" in both Senate and House reports on the fiscal year 1981 military construction authorization bills are concurred in by the conferees.

TITLE I—ARMY

The Senate approved new construction authorization in the amount of $921,980,000, including $47,040,000 in minor construction for the Department of the Army. The House approved new construction authorization for the Army in the amount of $773,310,000, including $44,560,000, in minor construction. The conferees agreed to a new total for Title I in the amount of $879,500,000, which is $42,480,000 below the Senate figure and $106,190,000 above the House figure. Among the major items considered in conference and acted upon by the conferees was the following:

European construction

In handling the Army's request for construction at U.S. bases in the Federal Republic of Germany, (FRG), the Senate denied a number of House approved projects on the basis that the Department should seek funding either through the North Atlantic Treaty Organization (NATO) Infrastructure Fund or by the host country.

In reconciling these differences, the Senate receded to the House position authorizing funds for improvements at training ranges operated by the Army in the FRG.

The Senate had insisted that the improvements be considered for financing through NATO Infrastructure and receded only after conferees agreed that this is the last time these type improvements should be funded unilaterally by the United States since the ranges support the NATO alliance and fit the NATO Infrastructure definition. Therefore, conferees serve notice to the Defense Department that changes should be sought to the NATO criteria so that future improvements on these ranges can be paid for by NATO Infrastructure without any loss of U.S. control over the use of these ranges.

On a related matter, the Senate denied an Army request for a new barracks at Garlstedt for its brigade in northern Germany on the grounds that the FRG should be requested to build the barracks since it previously financed a major portion of the facilities construction needed for stationing of the brigade. House conferees felt that the Senate position was reasonable and, therefore, receded.

TITLE II—NAVY

The Senate approved $866,785,000 in new construction authorization, including $33,010,000 in minor construction for the Department of the Navy. The House approved new construction authorization for the Navy in the amount of $1,070,640,000, including $33,010,000 in minor construction. The conferees agreed to a new total for Title II in the amount of $989,692,000, which is $122,907,000 above the Senate figure and $80,948,000 below the House figure.

Among the major items considered in the conference were the following:

Naval Regional Medical Center, San Diego, California

The House and Senate each authorized $293,000,000 for construction of a new Regional Medical Center in San Diego. However, the Senate directed that no funds for the project be obligated until the Navy fully evaluates the Balboa Park and Helix Heights sites, declares its preference between the two, and receives formal approval of its site selection from the Committees on Armed Services and on Appropriations of the House and Senate.

Recognizing that formal approval by the four committees might cause an unreasonable and costly delay of the project, the conferees agreed to modify that requirement with a provision stating that no construction funds may be obligated for the project until 30 calendar days expire after the date on which the Navy's report on its preferred site is received by the four committees. This action was taken by conferees to insure that the Navy makes a thorough evaluation of the two sites and to give the committees reasonable time to study the Navy's findings.

Nautilus Memorial, Groton, Connecticut

The Navy requested $2,600,000 to retire the U.S.S. *Nautilus*, the world's first nuclear powered submarine, and permanently place it on public display at Groton, Connecticut. The House reduced the request to $1,930,000 stating that amount is to be the maximum Federal contribution for preparation of the memorial site and that the State of Connecticut and other non-federal sources would have to pay all costs above the approved amount. The Senate, however, denied the request and ordered the Secretary of the Navy to conduct a study of potential sites before selecting a preferred location.

Senate conferees receded to the House position with conferees endorsing the Administration's conditions relating to the responsibility of the state to develop and protect the integrity of the site as a national memorial.

Land acquisition, Mariana Islands

In its bill, the House approved the Navy's request for $28,200,000 to obtain a 50-year lease for land on the Northern Mariana Islands of Tinian, Saipan and Farallon de Medinilla. The Senate, however, denied the request on the basis that the Defense Department failed to identify specific defense requirements for the land.

The conferees felt that the proposed lease appeared to have merit and might warrant authorization as "insurance" against future contingencies in the Far East. However, with the budgetary constraints imposed by the scope of the conference, and in view of the fact that the lease option can still be exercised in the fiscal year 1982 budget, the House reluctantly receded. The conferees strongly urge that the Defense Department give consideration to exercising the lease option next year in preparing the fiscal year 1982 budget request if justified by defense contingency requirements in the Far East.

TITLE III—AIR FORCE

The Senate approved $644,540,000, including $24,870,000 in minor construction, in new construction authorization for Department of Air Force. The House approved $794,082,000 in new construction authorization including $24,870,000 for minor construction authorization.

The conferees agreed to a new total in the amount of $716,342,000 which is $71,802,000 above the Senate figure and $77,740,000 below the House figure.

Among the major items resolved in conference was:

Titan II missile warning systems, various locations

Three days before the September 19, 1980 accidental explosion of a Titan II missile at a silo site in Arkansas, the Senate, by floor amendment, added to its bill a requirement that the Air Force install siren systems at Titan II missile sites to warn surrounding populations in case of an accident. House conferees agreed that warning systems are required and after some discussion the conference broadened the provision to allow the Air Force to select an "appropriate" warning system, rather than limit it to sirens. While the conferees eliminated the specific siren system in the Senate bill, it is not the intent of the conferees to preclude the installation of such a siren system if it is determined to be the most effective warning system. The conferees expect the Air Force to act rapidly without waiting for any further studies to implement this provision. The systems are to be acquired and installed, using minor construction authority in this legislation.

TITLE IV—DEFENSE AGENCIES

The Senate approved $637,610,000 in new construction authorization for the Defense agencies, including $3,680,000 for minor construction. The House approved $546,110,000, including $6,180,000 for minor construction.

The conferees agreed to a new total of $589,610,000, which is $50,000,000 below the Senate figure and $41,500,000 above the House figure.

Defense Intelligence Agency Building, Bolling AFB, D.C.

The House approved the Defense Intelligence Agency's authorization request for $106,200,000 to build a facility at Bolling Air Force Base to house DIA operations now scattered in four locations throughout the Washington, D.C. metropolitan area. The Senate approved only partial authorization in the amount of $32,700,000 which is the same as the appropriations request for fiscal year 1981.

The House conferees reluctantly receded to the Senate position which also requires DIA to restudy the proposed scope and location of this facility before authorized funds may be obligated for the start of construction.

TITLE V—MILITARY FAMILY HOUSING

The Senate approved $2,189,113,000 for construction, operation, maintenance, leasing and debt payment for military family housing. The House approved $2,156,860,000.

The conference agreed to the House figure, which is $32,253,000 below the Senate figure.

Conferees approved a total authorization of $158,891,000 for construction of 2,651 units of family housing which includes 900 units for the Army, 1,396 units for the Navy, 350 units for the Air Force and five units for defense agencies.

Leasing

The House bill increased the maximum monthly unit lease cost to $515 for domestic leases and $1115 for foreign leases, eliminated the statutory average monthly cost limitation for domestic leases and permitted leasing of 500 domestic housing units at cost not to exceed $600 per month.

The Senate bill increased the maximum monthly unit lease costs for domestic and foreign leases by lesser amounts, retained a statutory monthly average cost limitation for domestic leases and limited the exemption for domestic leases to one percent of the leases in effect.

The conferees agreed to modify the House provision by establishing a total dollar authorization ceiling for leases in the military family housing operation and maintenance account. The ceiling should provide more effective financial management of leasing activities and eliminate the administrative and accounting burden of maintaining an average monthly cost.

Metering of family housing

The Senate bill repealed the requirements specified in the Fiscal Year 1978 Military Construction Authorization Act (Public Law 95-82) to meter all family housing units, establish consumption norms, and charge occupants for energy used in excess of the norm. As required by that legislation, Defense tested the feasibility of doing what Congress directed and provided the results of that test to the committees in February of this year. The test indicated that such an approach would not be cost effective at this time.

In agreeing to the Senate provision, it is the understanding of the conferees that all new military family housing will be constructed with appropriate metering. The cost of installing meters at the time of new construction is considerably less costly as compared to retrofitting meters on existing housing.

TITLE VII—GUARD AND RESERVE FACILITIES

In its bill the Senate provided lump sum authorization of $200,000,000 for the Guard and Reserve construction program. The House approved $197,001,000. The conferees agreed to the higher authorization.

In addition to those projects programmed, conferees expected the Guard and Reserves to proceed with construction in fiscal year 1981 of those specific projects mentioned in the respective committee reports.

TITLE VIII—GENERAL PROVISIONS

Community impact assistance

The House bill amended the existing community impact assistance program to include MX system areas and East Coast Trident Base areas.

The Senate bill modified the existing impact assistance program to provide more programming flexibility and more expeditious delivery of assistance to affected communities. This additional authority would expire at the end of fiscal year 1982. In addition, the Senate bill provided for an in-depth study of the impact assistance program to determine if any changes need to be made in the program and authorized $6,000,000 in planning assistance for the affected areas.

The conferees agreed to accept the Senate approach and provide permanent authority for the programs. The assistance program, however, is subject to annual authorization and appropriation so that the responsible committees will retain full oversight.

Melvin Price,
Lucien N. Nedzi,
Charles H. Wilson,
Jack Brinkley,
Mendel J. Davis,
Antonio Borja Won Pat,
Beverly B. Bryon,
Bob Wilson,
William G. Whitehurst,
Robin L. Beard,
Donald J. Mitchell,
William L. Dickinson,
Managers on the Part of the House.

Gary Hart,
John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd, Jr.,
Sam Nunn,
Strom Thurmond,
John W. Warner,
Gordon Humphrey,
Bill Cohen,
Managers on the Part of the Senate.

UNITED STATES AND ALLIES MUST ORGANIZE TO PROTECT FLOW OF OIL FROM PERSIAN GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, the United States and its allies must organize to protect the flow of oil from the Persian Gulf. If they do not, they risk sacrificing the security and well-being of the entire Western World.

The flow of oil is threatened by the conflict that is now raging between Iran and Iraq. At the same time, the United States alone need not and should not attempt to meet this challenge. The threat hits most of the Western World, not just the United States.

For 6 years I have been urging that these nations work together in order to establish a system for sea lane safety and security to assure that the products from the United States can reach destinations half way around the world, and at the same time to assure that products that we need will reach our shores.

House Concurrent Resolution 234 is the spirit of that concept. This resolution calls upon the President of the United States to work with friendly nations to establish a sea lane security system. There are 29 cosponsors of this resolution, including the distinguished gentleman from Illinois (Mr. PRICE) the chairman of the House Committee on Armed Services. I am glad to report that just a couple of days ago the Department of the Navy, speaking for the Department of Defense, gave its support to this resolution, and I am hopeful that the Committee on Foreign Affairs will soon advance it to the consideration of the full membership of the House.

The people of the United States, I am sure, understand that the loss of Persian Gulf oil would cause hardship and dislocations in their lives, but I doubt if any of them really are aware of the enormous loss and hardship that this would cause. Recent studies indicate that a cutoff of Persian Gulf oil for just 1 year could reduce the U.S. gross national product by 20 percent of $500 billion, the equivalent of another Great Depression. Gasoline prices could shoot up as high as $5 a gallon, and contrasted with these figures, the cost of preparedness in the form of a sea lane safety system would be modest, indeed.

But the Western Nations should act together and act promptly to assure the flow of oil through the Straits of Hormuz. France, which has the single largest permanent Indian Ocean fleet, West Germany and Japan, which have the strongest economies, Britain, which has a presence in Oman in the Persian Gulf area, and the United States—all of these nations should move in concert. All would be affected adversely and very severely by a shutoff of Persian Gulf oil and all, therefore, should make every effort to avert such a catastrophe.

A show of common Western resolve would dispel the current appearance of disunity among the Western Alliance that invites Soviet aggression and leaves the way open to Iran and Iraq to conceivably block the flow of oil from the Persian Gulf, a flow that adds up to 40 percent of the Free World's supply of this precious form of energy.

IRISH AFFAIRS COMMITTEE'S THIRD ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, September 27 marks the third anniversary of the founding of the Ad Hoc Congressional Committee for Irish Affairs, and as a member of this organization, I am proud to have joined with my good friend and distinguished colleague who founded the committee, the Honorable MARIO BIAGGI, in the work it is doing to promote human rights and an end to the terrible violence in Northern Ireland.

Our own Government must persevere in its commitment to peace and justice in Ulster, and our committee has been instrumental in maintaining the suspension of arms shipments to the Royal Ulster Constabulary because of this police force's proven human rights violations. Full human rights for all citizens in Northern Ireland must be the centerpiece of our Nation's policy in Ireland and oppression in all its forms must be condemned. The British Government can and must be encouraged to respect the lives, the freedoms, and the dignity of the Irish people.

The Ad Hoc Congressional Committee for Irish Affairs recognized that peace and cooperation is the only way that the suffering in Ireland can be halted, and we strongly condemn the violence perpetrated in the past by individuals and by the government there. The Irish people have suffered too much and too long already and any continued violence makes an end to the hostility there much more difficult to attain.

As the Ad Hoc Congressional Committee begins its fourth year, it is my hope and prayer that Northern Ireland's talented and hardworking people continue unhindered in their progress toward a peaceful and just society, with the assurance of our own Nation's continued commitment to human rights there as the most vital part of its policies toward Ireland, Britain, and the people of Northern Ireland themselves.●

SPEECH OF REAR ADM. ROSS N. WILLIAMS, OCEANOGRAPHER OF THE NAVY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, I and many of my colleagues have long recognized the importance of the oceans to our national security and social well-being. We are limited only by our imagination, innovation, and commitment to realizing the opportunities the oceans represent in terms of food, energy, and hard mineral resources.

Last week, when Rear Adm. Ross Williams, the Oceanographer of the Navy, spoke before the American Oceanic Organization, his message characterized the type of leadership which is needed. Noting that—

> There is much to be gained from promoting more cooperation among agencies that support the development of ocean opportunities.

Admiral Williams' stressed that—

> parochial goals have to be avoided by selecting qualified managers who are willing and capable of exercising vision greater than single agency objectives.

Whether we consider ocean science, ocean engineering, ocean mapping and charting, or meteorology, there are many common objectives between the Navy and the ocean-involved civil agencies. Cooperation is absolutely vital because, as Admiral Williams stated:

> As a manager and a taxpayer, I believe we should do what makes sense to get the most out of the national resources we have available to us.

I offer for the consideration of all Members of Congress, the speech by the Oceanographer of the Navy:

SPEECH BY REAR ADM. ROSS N. WILLIAMS, THE OCEANOGRAPHER OF THE NAVY

I appreciate the invitation to share some of my thoughts with you about living with the high cost of ocean programs.

All of you are here, today, because you are interested in supporting the advancement of our Nation's capabilities in the ocean environment.

You express that by your membership in the American Oceanic Organization.

As members of AOO, you hear more about ocean goals and how to reach them than does the general public.

But there is good reason to remind ourselves about the urgencies of making progress toward better use of the sea and its resources.

A number of Federal agencies are charged with responsibilities for learning how to gain access to those resources and how to sustain the good quality of the Marine environment as we invade those areas.

The National Oceanic and Atmospheric Administration has a mission of exploring, mapping, and charting the global ocean and its living resources.

It is a very broad mission that calls on the sciences of oceanography and meteorology to provide information for forecasting weather and ocean conditions so that safety and the national economy are enhanced.

The NOAA mission reaches out to all areas of the Marine environment to gain knowledge and to make it available in the task of improving nonmilitary uses of the sea and air around us

Our Naval Oceanographic Program serves the fulfillment of similar goals in the attainment of better capabilities for naval operations, as well as safe navigation for mariners in general.

Our military investigations of the oceans and atmosphere are directed to the improvement of naval tactics and strategies employed in national defense.

However, like other program managers, we have to compete with many, other urgently required Navy and national requirements for financial and human resources.

As our Navy's requirements for oceanographic products and services expand, the cost of delivering them to the fleet escalates faster than budget growth.

The cost of delivery I refer to is the advancement of technology which provides better response to need but demands costly development and implementation.

Most of us think of our Nation as blessed with more than enough of nearly everything.

It is a concept that has strengthened our pride and our will to accomplish all kinds of things.

It is not easy nor is it popular to talk about modifying such an idea.

I'm not about to lead you into a discussion of our destiny as a nation.

I would, however, like to set the stage for talking, briefly, about ways to get things done even when there are not enough resources for each agency to do its own thing.

Totally independent activities could well be considered an extravagance.

Extravagance is a harsh indictment when it is critically levelled at our personal efforts to get a job done.

But, I think we all might agree that it has been demonstrated in past years as we expanded our efforts to learn more about the ocean environment.

Frequently, agencies and institutions went their own way in programs investigating the nature and behavior of the oceans.

Much of it was a genuine reinforcement of new knowledge and provided needed assistance in the development of some dramatic ocean technology.

From that surge of effort in the fifties, and the sixties came the deep sea technology that found application in deep research vehicles, diving technology and other capabilities for expanding our experience in the sea.

We have gone past the primary stage, now, and are able to look beyond the fundamentals to specific problems related to particular goals.

It is possible, and necessary, to focus our energies and other resources on a few high priority requirements.

The cost of those fewer, high priority requirements is a matter of great concern to me, and I'm sure it is to you.

I expect that most of you have heard it said, more than you care to, that keeping a ship at sea costs a lot of money.

I want to say it again in terms of what it means to our naval oceanographic program.

We have 200-plus ship-years of validated coastal survey requirements, and that doesn't include other requirements for deep ocean hydrography or oceanography.

The deep ocean hydrographic survey ships cost us $20,000 a day to operate.

Some are less expensive but none of the major survey vessels cost less than $10,000 a day at sea.

A number of academic institutions are finding it necessary to take their oceanographic research ships out of service because costs are going so high.

In FY 81, will send more than $60 million to keep our 12 Navy survey ships at sea, and that doesn't include the cost of the science that's conducted aboard the ship.

A recent advertisement by a ship leasing firm asked the question, "Are high fuel costs making you sea sick?"

The question is pertinent because fuel costs are a serious problem, costing our Navy program slowed advancement into urgently needed achievements for the operating fleet.

We must find ways to use our ships and other resources more efficiently to meet those demands.

We must develop alternative means for collecting the data we need.

There is much to be gained from promoting more cooperation among agencies that support the development of ocean opportunities.

I think that many of you know I serve in an additional duty assignment as the Naval Deputy to the Administrator of NOAA.

That is a formalized recognition of a need for and the existence of close cooperation between NOAA and Navy, in a wide variety of ocean programs.

Our final goals are different in ocean programs but we get to them along parallel and sometimes identical pathways.

The opportunities for exchanging beneficial information are endless and the years of cooperation between our two agencies has been mutually rewarding.

I want to illustrate with a recent example of NOAA/Navy cooperation that saved both agencies some precious resource dollars.

The Navy needed hydrographic data from selected areas of the Yucatan Channel, to support general navigation into the Gulf of Mexico.

Scheduling a Navy survey ship into the area could not be accomplished until early in 1981.

In our daily liaison with NOAA, we learned that one of the NOAA ships was being placed in reserve because of funding constraints.

Admiral Lippold and I discussed the feasibility of funding the Mt. Mitchell, a NOAA ship, to do the job.

With concurrence from NOAA and Navy authorities, an agreement was effected.

In the case of the Yucatan survey, we needed about 36 days of survey time and the Mt. Mitchell was unexpectedly available.

The long-range goal served by this kind of resource sharing is avoidance of ship lay-ups which are expensive and inefficient actions.

But we cannot simply let ships lie idle, at the pier, because that is prohibitively expensive, also.

One solution is multi-agency use in ship scheduling that would provide time at sea for all who need it, without compromising objectives.

Our cooperation with NOAA provides numerous opportunities for jointly sponsored and share programs.

The Navy is sending some of our junior officers to the National Ocean Survey School at the Pacific Marine Center, in Seattle, so that methods of doing survey work are shared between us.

The Navy has adopted the National Ocean Survey Hydrographic Manual and we follow, very closely, each other's research and development efforts in hydrographic methods and technology.

Navy and the National Ocean Survey jointly financed the acquisition and testing of a new swath sounding sonar system, called "Seabeam", that accurately maps a wide path across the seafloor.

NOAA and Navy jointly operate and fund the Joint Ice Center to gain the highest level of return from mutually beneficial ice forecasting for the polar areas.

I could go on listing examples of close cooperation between NOAA and Navy, but I won't take our time to recite a very long list of them.

I am presently serving as chairman of the Federal Oceanographic Fleet Coordinating Council.

The Council is established as a subcommittee of the President's Committee on Atmosphere and Oceans.

Our objectives, in the Council, are to bring together all the agencies which fund oceanographic ship programs of one kind or another, to develop procedures for more efficient use of ship time.

The first meeting brought together representatives from Navy, NOAA, Coast Guard, National Science Foundation, Department of State, Environmental Protection Agency, and the Department of Health and Human Services.

The Federal Oceanographic Fleet Coordinating Council will work to discover ways that agencies might be able to achieve scientific or technical objectives, working together at sea.

We all recognize that such an agreement of cooperation brings about a sacrifice of certain desirable conditions or opportunities.

Some priority objectives may have to await future inclusion in shared time at sea, but acceptance of some sacrifice of independence can provide fulfillment of other, high priority requirements.

I think a fine example of multi-agency cooperation is the National Oceanic Satellite System (NOSS).

It would be easier, in many respects, to develop and operate dedicated satellites for collecting oceanographic data to satisfy Navy requirements.

Total control means responsiveness and it permits a focus of energies on familiar objectives.

Dedicated programs also guarantee inclusions of special elements and delivery of specialized data.

But, satellites are too expensive for one agency to fly independently, especially when requirements are compatible and performance can be shared by others.

We learned that a long time ago when we, the Navy, joined hands with the Air Force in the DMSP program. Multi-agency activities are not always easy.

Joint ventures, or cooperative programs, are sometimes complex to manage and they generate a number of problems not found in single agency programs.

For example, there are special problems in the division of labor; cost sharing scheme to be used; individual and multi-agency budget justification and defense; management structure; and, national security concerns.

When agreement has been reached that common objectives will be served by working together, the task of deciding who does what may be nearly as difficult as the work of the project itself.

Decisions have to be made about how many personnel from each agency will perform as part of the labor force in the project.

People with "agency" viewpoints about goals and how to reach them will work alongside one another.

Conflicts need to be anticipated and the most efficiently compatible team selected.

Cost sharing needs to be equitable in light of expected benefits, but also in consideration of what each agency can logically support in cost.

There is no point in saying that it all comes from the same bank account because each agency continues to bear its burdens of fiscal responsibility.

Budgets have to be justified in terms of individual agency requirements as well as in the sense of the multi-agency program.

Clarifying and defending budget decisions as individual agencies and as team members executing costly programs can be demanding of high level skills and patience.

Management structures for running the programs need to incorporate the finest talent and knowledge about the program from each participating agency while avoiding friction in leadership relations.

Parochial goals have to be avoided by selecting qualified managers who are willing and capable of exercising vision greater than single agency objectives.

Apart from the complex mechanics of bringing together endless management details, there is the problem of spirited differences in opinion, from agency training.

Many of the emotions which sustain esprit de corps and drive people to dedicated efforts are interlaced with the same responses that foster parochial roadblocks and hostility.

Even though we'd rather not have to consider them, they are always present.

They might either threaten or strengthen a multi-agency program, depending on attitudes and recognizability of value in stated goals.

Another problem which must be faced and resolved, for some multi-agency programs is what each development does to national security.

For obvious reasons, Defense Department programs are more often classified than most other work.

But, the security implications of civilian and jointly sponsored programs must be considered as well.

The civilian scientist, as well as the military, faces a dilemma when pursuit of scientific truth leads us into areas where openly sharing our knowledge or data may be detrimental to our national security.

It is sometimes difficult for those who are unfamiliar with military operations and security concerns to sense the military implications of open dissemination of scientific data.

Too often, the military are viewed by civilian colleagues as arbitrary and unnecessarily obstructing the free exchange of scientific information.

In these days of increased international competition it is a complex determination in many cases to identify the precise boundaries beyond which information needs to be limited in distribution.

We must face these problems in a realistic manner if we are to be able to take advantage of the many opportunities for joint agency programs.

All of the problems I have recited are evident to any program manager as likely to complicate multi-agency cooperation, and have done so in the past.

My point is, not how can we do something to avoid all problems.

Rather, how can we overcome some unavoidable problems but get on with enhancement of our Nation's opportunities in the sea.

As a manager and a taxpayer, I believe we should do what makes sense to get the most out of the national resources we have available to us.

Recently, Mr. Jule M. Sugarman, Deputy Director of the Office of Personnel Management said to the Alumni of the Federal Executive Institute that Federal officials should work together.

He strongly admonished engagements by agencies in "turf-protection" and asked, "Why do we build walls rather than bridges between us?"

I am convinced we cannot afford to deny ourselves the attainment of urgent goals in the ocean because of parochial attitudes.

I am reminded, daily, that we cannot afford to pursue those goals by funding single agency programs, only.

But, I am confident that many of our commonly shared objectives in ocean science and technology can be achieved in cooperation with one another.

I encourage you as individuals, and as members of an organization expressing concern about ocean issues, to support the concept of increasing cooperation in ocean programs.

Thank you.●

BANCO DI ROMA—100TH ANNIVERSARY COMMEMORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I would like to call to the attention of my colleagues an anniversary of importance to all Americans, and particularly those of Italian heritage. The 100th aniversary of Banco di Roma is being celebrated this weekend here in Washington, which underscores the closeness Banco di Roma sees in the United States-Italy relationship. This institution has played an integral role in the history and growth of Italy, a nation of longstanding alliance with the United States and homeland to millions of Americans of Italian descent.

Founded in 1880, Banco di Roma financed construction and public service projects in Rome during its early years. Through several wars and periods of upheaval during the history of Italy, the bank was a source of financial strength for the nation and its people. Today, Banco di Roma is one of Italy's major financial institutions, present throughout that country with 293 offices in 75 of its 95 provinces.

As one of the hundred largest banks in the world, the bank represents Italian financial and trade interests on the international economic scene and plays a major role in financing trade between Italy and the United States. Banco di Roma's presence in the United States includes operations in New York, Chicago, Houston, Los Angeles, and San Francisco.

On behalf of the millions of Italian-Americans whose families have been served by Banco di Roma over the past 100 years and on behalf of the American industries which continue to trade with Italy, our partner and ally, I congratulate Banco di Roma, and its president, Mr. Giovanni Guidi, on its first 100 years and wish it continued success.●

THE IMPORTANCE OF BEING BILINGUAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LaFalce) is recognized for 20 minutes.

● Mr. LaFALCE. Mr. Speaker, today's society is becoming increasingly international, and we, as a Nation, seem to be keeping pace in every way but one. We are lagging behind, to an embarrassing degree, all of the other developed countries in our knowledge, and use of, a language other than our own. Why is this important, many may ask, especially since everyone can speak English? Well, the fact is that everyone cannot speak English, nor should they have to in their native country.

We have been spoiled for too long by never having to learn another language to do business or to travel. America, in her greatness, always expected others to come to her and to learn her ways. Learning another language was nice, but not necessary. It was something often connected with the well-to-do and expensive boarding schools. Who else had the time to learn? Bilingualism was far less important when we, as a country, did not have to compete for business in the international trade arena but rather let the business come to us.

Such a situation no longer exists, now that international travel and trade have become commonplace around the globe. We have many competitors in the international business world and it is a safe bet that none of them speak only one language. Therefore, in order for us to break into the markets abroad in the way that foreign businessmen are constantly making inroads into our markets at home, we must compete on an equal level, and that includes language.

Bilingualism is not only important, it is now expected by those with whom we do business. Any language barriers that exist can only be a detriment to successfull business dealings at a time when international trade and commerce are of growing importance to our Nation.

More important, however, than either foreign travelers or businessmen, is the fact that there are at least 15 million persons in the United States who are considered to be limited-English speakers; 3.6 million of whom are school age. How are we to communicate with these people, who oftentimes live side-by-side with us? Are we to ignore them because we cannot speak their language? They shop in our stores; send their children to our schools; and participate in our everyday life in many ways. It is evident that we need some way to communicate with this ever-growing segment of our population.

A large portion of these limited-English speaking persons are of Spanish-speaking backgrounds. It is predicted, in fact, that Hispanics will become the single largest minority group in America over the next 5 to 10 years. Studies have shown that school-age children of Hispanics have lower enrollment rates than any English-speaking group in all grades of school.

Hispanic children are also less likely to be enrolled in postsecondary education and, when they do enroll, their drop-out rate is 4½ times higher than that of English-speaking students. All of this data seems to show that limited, English speaking students are not faring well in our educational system. To address this problem, the Federal Government has taken an active part in financing bilingual education in an effort to help States and localities provide adequate educational programs for limited-English speaking students.

The problems encountered by limited-English speakers within our country, and those experienced by our businessmen and travelers abroad, are not going to go away, nor will they lessen. The need to communicate in languages other than our own will only increase. Shirley Hufstedler, Secretary of the Department of Education, made the points I have made, in very pragmatic and realistic terms, in her recent speech before the National Alliance of Business on July 17, 1980. I would like to insert, for the Record, an excerpt from that speech which discusses, in particular, the importance of bilingualism in today's world. The excerpt follows:

> To take but one example, Hispanics will very probably pass Blacks to become the largest single minority group in America over the next five to ten years. There is a widespread tendency to think of this as a change that is taking place somewhere else; but in reality, it is occurring all over the country. Few of you would be surprised, for instance, to learn that in my hometown of Los Angeles the school population is well over one-third

Hispanic. I wonder how many of you realize, however, that the same statement can be made about John Filer's hometown of Hartford, Connecticut

The implications are obvious both for the marketplace and for the schoolhouse. Media buyers are going to have to start learning about Spanish language radio and television—not just in Los Angeles either. And every person in this room is going to have a much bigger stake in bilingual education than he or she might once have thought.

If you want to retain your markets both at home and abroad, your companies are going to have to learn to communicate in Spanish to sell your products. And that, of course, will involve having many people in your employ who are bilingual.

The ability of schools to cope with complicated questions of bilingualism will be high on the list of business concerns in the 80's and 90's.

The same kinds of considerations arise with overseas markets. There was a time when American businesses operated at home and abroad with relatively little concern about foreign competition—back around the time of the penny postcard. Today, however, American firms have to struggle for important business abroad. And quite often they begin that competition a linguistic halfstep behind. It is a rare Japanese or German or French young person who cannot speak at least two languages. By contrast, we are reaching the unhappy position of considering it a triumph when the average American student has a good command of English.

There is no way to be certain how much, if any, international business we lose by virtue of poor language capabilities. What is certain is that we will lose more tomorrow than we do today. The trend toward internationalization grows more pronounced with every passing year. If we do not adapt, it is only a matter of time before we put ourselves at a serious competitive disadvantage.●

JACK MURPHY, 1923–80

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 10 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, my home city of San Diego lost one of its leading citizens yesterday with the death of Jack Murphy, the San Diego Union's gifted sports editor and columnist.

Jack became the paper's sports editor at 28 and served in that capacity until his untimely death at 57. During his tenure, San Diego became a major league city, attracting such franchises as the football Chargers, the baseball Padres, the basketball Clippers, and a soccer franchise, the Sockers. As much as anyone, Jack Murphy was responsible for our evolvement as a professional sports center with all that has meant for the growth, development and image of our city.

Jack was instrumental in luring the Chargers—now one of the truly successful teams in the National Football League—from Los Angeles in 1961. Four years later he headed the successful drive for passage of a $26 million bond issue to finance construction of a beautiful 52,000-seat stadium in Mission Valley. Success begat success, and the availability of a first-class arena drew the expansionist Padres and up and coming NASL Sockers to San Diego.

Through it all, Jack Murphy remained a down-to-earth, no-nonsense sort, notwithstanding his great influence and superlative writing skills.

He never took himself very seriously, in print, and in fact would often refer to sports as the "fun and games" department of the newspaper.

It is certainly true that the "games" he did so much to promote have contributed substantially to the enjoyment of hundreds of thousands of his fellow San Diegans. In the marvelous passes of a Dan Fouts, the prodigious hits of a Dave Winfield, or the towering presence of a Bill Walton, San Diego people find new reason for pride and affection for their city.

Jack Murphy may be gone, but he has left us a rich legacy.

An editorial and obituary from today's San Diego Union follow:

THE MURPHY STYLE

The obituary we publish today with grief and regret describes Jack Murphy as a sportsman, a sports editor and columnist. That will have to do because the word is yet to be coined that would describe what Jack really was, to his readers, to his colleagues on this newspaper and to those whose victories and defeats he wrote about in the world of sports.

Sports was the field that Jack chose to cover, but the term is too narrow for what came out when he covered it. This helps explain why he drew readers to the sports page who might otherwise have flipped on through the paper. A taste for ball games or boxing, or for hunting trips, was not necessary to discover that these events could take on an unusual human dimension under Jack Murphy's byline.

Rarely has a man more gentle made such a mark in a field where violence and toughness are often the order of the day. Jack abhorred meanness, and could puncture vanity with humor.

He had a respect for sportsmanship that could shame some of the sports figures he covered. Though he worked from a perch in the pressbox, his heart was with the people in the stands who look for what is fair, clean and exciting in the world of athletics.

That's how Jack wanted sports to be and how he wanted his city to be. His column and his work behind the scenes helped keep San Diego and its sports that way. Coming to San Diego almost 30 years ago, he also wanted to see this city move into the upper ranks in sports. Our major league baseball and football teams and the stadium in which they play owe more than a little to his dedication to that goal.

When terrorists struck at the 1972 Olympics, Jack Murphy the craftsman was there and filed some of the most memorable accounts of those ugly and dramatic hours in Munich.

Reporters and editors in the *Union* newsroom approached Jack Murphy's desk with a respect that bordered on awe, with affection, and with admiration for all that he brought to his craft. They now pass his empty chair and silent typewriter with pain and a profound sense of loss.

JACK MURPHY DIES AT 57; S.D. UNION SPORTS EDITOR, COMMUNITY LEADER

(By Michael Grant)

Jack Murphy, sportsman and patron of sport, died yesterday morning of cancer in his Poway home, stilling at age 57 a giant but gentle voice of journalism.

He was in his 29th year as sports editor and columnist for The San Diego Union, a tenure not so coincidentally paralleling San Diego's growth from "very much a small town," as Murphy once put it, to a ranking major league city.

Murphy had returned home last week following hospitalization for treatment of cancer that was discovered in July. His last column appeared in The Union on July 23.

He is survived by Patricia, his wife of 33 years; a daughter, Robin Sue George of El Cajon, two grandchildren, Amy George, 11, and Christopher David George, 16, and a brother, Robert of Greenwich, Conn.

Plans for a memorial service are pending. The family requests donations to the American Cancer Society in lieu of flowers.

As both observer and advocate, Murphy, who came to San Diego in December, 1951, from Oklahoma City, turned no small hand in organizing community support for sport at all levels.

He was a founder of the Greater San Diego Sports Association in the late 1950s; was instrumental in bringing the Chargers here from Los Angeles in 1961; and was a principal contributor to the mood of an electorate that in 1965 approved by a 73 percent majority plans for a 50,000-seat stadium in Mission Valley.

He later remembered that election night as "the happiest night I ever enjoyed. That made everything that's followed possible."

What followed was the San Diego Stadium, a new home for the Chargers, the arrival of the National League Padres and the maturation of sport in San Diego. Murphy's maturation as a caring, professional journalist occurred some time earlier.

"I knew Jack Murphy in the early 1950s, during his first years at The San Diego Union," said Helen K. Copley, publisher of The Union, yesterday.

"Sports columnists usually have a specialized following, it was obvious from the first that Jack's gentle personality and professional standards were such to be admired by a broader spectrum of readers."

When Richard Pourade, then editor of The Union, lured him away from the Daily Oklahoman in 1951, Murphy at 28 became the youngest sports editor of a metropolitan daily in the country.

At that time, the Union's sports staff numbered seven, and it seldom ventured beyond the city limits in its coverage. Murphy insisted on expanded coverage and soon won permission from the editor to send his reporters on assignment wherever the stories were.

In addition, Murphy quickly expanded the staff, bringing in baseball writer Phil Collier from Fort Worth, outdoor writer Rolla Williams from San Antonio, golf writer Jim Trinkle (since returned to Texas) from Fort Worth, and football writer Jerry Magee from Norman, Okla.

Today, the sports staff numbers 20 and routinely covers events as far-flung as the Olympics, the Davis Cup, the World Series and the America's Cup.

Murphy himself, besides his duties as sports editor, wrote five columns a week, frequently accompanying the beat writers to provide The Union's readers with his own crisp, clear commentary.

Nelson Fisher, The Union's longtime turf writer, remembered when Murphy began to accompany him to the Kentucky Derby.

"The most important thing about that," Fisher recalled, "was that it nurtured what turned out to be a beautiful friendship with Red Smith."

"Jack might have been my best friend," said Smith, the Pulitzer Prize-winning sports columnist for The New York Times by phone from New York yesterday.

"Neither of us could remember when or how we first met," Smith said. "Not all of a sudden, but after a while we found ourselves pounding the same beat, covering the same assignments. We became traveling companions. He was a great companion."

"When he came to New York on assignment in recent years, he always, by our earnest invitation and, I think, by his preference, he always chose to stay at the Smith Hilton, instead of in Manhattan."

"He was one of the truly competent workmen in our field," Smith said, "a craftsman and a truly great guy."

Ironically, several of Murphy's most telling works were accomplished without his typewriter.

"It isn't generally known," said Murphy in 1976, on the occasion of a banquet honoring his 25th year here, "but we kept Don Coryell here (at San Diego State) an extra 10 years by supplementing his salary, with the permission of Dr. (Malcolm) Love."

Dr. Love was then president at San Diego State. Coryell had just begun to build what would become an Aztec football powerhouse when he received a lucrative offer from the University of Arizona.

Murphy asked Coryell if money would matter in keeping him here.

"He said, 'You bet it would,'" Murphy recalled.

"The next morning, I got on the phone. Within half an hour, I got pledges for $10,000. The Sports Association took over that money. And Coryell stayed for another 10 years before we lost him (to the St. Louis Cardinals)."

More than 600 attended that 1976 banquet, where Murphy was presented a Jeep Wagoneer. Coryell was still coaching in St. Louis. But Murphy would not rest on his laurels. Coryell would be back.

"Jack was a catalyst in the hiring of Don Coryell (in 1978) as head coach of the Chargers," said Chargers owner Gene Klein yesterday. "He urged me to hire Don when Don was free, and he urged Don to go to work for the Chargers."

"I consider Jack one of the best personal friends I've ever had," said Coryell yesterday.

John Patrick Murphy was born in Tulsa, Okla., on Feb. 5, 1923. His father was in the oil business, but before he had finished grade school, Jack Murphy knew what he wanted from life.

"I remember one day when I was 11 years old," he said once. "I was reading the paper and something just clicked. I said, "This is something I want to do, and I set about learning how to do it."

At 17, Murphy was stringing for the Tulsa World. For two years, he attended Tulsa University and worked a full shift, 4 to midnight, at the World's sports department.

In 1943, at age 20, Murphy joined the Marines. He went to Okinawa as a rifleman but soon convinced a captain in the public information detachment that he would make a good war correspondent.

"I told him he was overlooking one of the great journalistic talents in the Western Pacific," was the way Murphy reconstructed it.

Murphy served out his tour in the Pacific, and also saw duty in China after the Japanese surrendered. He was offered Far East positions both with the Associated Press and a United Nations agency.

He chose instead to return to Tulsa, and the World. But no jobs were open in sports. He became the assistant oil editor and was able to endure it for only six weeks. He begged a transfer to the police beat, and there met a young woman reporter named Patricia Aston.

"Pat was a reporter, and a damn good one," Murphy would recall. In six months, they were married. And eventually Murphy got back into sports.

He wrote his first columns for the World, and after a brief fling at public relations as Tulsa University's sports information director, became a sports writer and sometime columnist for the Fort Worth Star-Telegram.

Murphy's work at the Star-Telegram was such that the Daily Oklahoman offered him a job as full-time columnist. Murphy took it, and Pourade, looking for a sports editor for The Union, found him there in 1951.

Murphy almost didn't accept Pourade's offer. He had seen San Diego from a Marine's-eye view.

"Thank God Pourade waited around four days for me to make up my mind." Murphy remembered. "I didn't know the charms of San Diego. It didn't take me long to realize that I'd never go anywhere else."

Three years after his arrival here, Murphy won a National Headliner Award for "a consistently outstanding sports column." In 1962, he won the "Best Sports Story" award given by the E. P. Dutton annual anthology. "Best Sports Stories." Murphy's work has appeared in seven editions of "Best Sports Stories." He won, among other honors, national awards for his columns on golf and horse racing.

Murphy wrote pieces for Sports Illustrated, Collier's, Venture Magazine, The Saturday Evening Post, Golf Digest and The New York Times Sunday Magazine.

His piece on Archie Moore, breathing easy poignancy into that old warrior's tale of perseverance, stood as the longest profile ever published in the New Yorker. "The Mongoose," as the piece was titled, is among Murphy's best-known works.

He also authored two books, "Abe and Me," and "Damn You, Al Davis!"

Murphy admired, and worked very hard to produce clean sentences. What resulted was a facile style that carried the reader along as lightly as a leaf on a running brook.

"It seems to me," said Red Smith, "that he himself was a very warm person, and a great deal of that showed in his column. I don't know where he got his convictions. He told me once that when he left Tulsa for the first time, his old sports editors said, 'You'll be back. Nobody can leave Tulsa forever.'"

Murphy didn't go back, but he never lost his Tulsan's eye for the simple heart of the matter.

"I think of myself as a storyteller, to a considerable extent," he once said.

When he had to, he could tell a story of tragedy in terms that all could understand. "The Olympic Games lost their innocence in Munich," he reported from West Germany in 1972.

But he much preferred the laughter of life that fell so easily on his ear and trickled through his sentences. Don Freeman, The Union's television columnist, once described Murphy's world as "populated by no heroes and no villains. Instead, that world is inhabited only by individuals with fire in their bellies who stir up a writer's juices. . . ."

Many of Murphy's most memorable columns dwelled not on sport at all, but on the way the sky looks in autumn, the logic of hunting deer without bullets ("Why didn't you shoot one?" "Because if I shoot one, I'll have to stop hunting."), the miracle that rain works on mountain meadows; and Abe:

Murphy wrote frequently and with marvelously controlled feeling of Abe of Spoon River, the black Labrador whose companionship he treasured for 13 years. When Abe was struck and killed by a car in February of 1977, the community wept.

Of course Jack, in his eulogy, went straight to the mark.

"Abe is everywhere in the house," he wrote, "but I can't find him."

So it is now, with Jack and the city.●

RETURNING PRAYER TO THE SCHOOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 15 minutes.

Mr. NEAL. Mr. Speaker, during the three terms that I have served in the Congress, I have received many letters of concern about the absence of prayer in the public schools. This concern is so widespread, and so persistent, that I have been working with my staff for several years in seeking a remedy that will meet the needs of society, and leave inviolate our Constitution and our precious heritage of freedom of religion and separation of church and state.

We were still considering an appropriate approach when, on April 5, 1979, the Senate by a huge majority passed a measure which seemed, from my lay perspective, to be both unconstitutional and a real threat to freedom of religion in our country. Five days later, I introduced House Concurrent Resolution 106, which is a simple, direct, fully constitutional approach to restoring prayer to the public schools. The resolution reads as follows:

H. CON. RES. 106

Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) that the Constitution of the United States does not preclude periods of silence to be used, solely at the discretion of the individual student in public schools, for quiet and private prayer, meditation, contemplation, or introspection, even if these moments are supervised by a school official; and

(2) that public school authorities should recognize the historic importance of religion to our civilization by encouraging such periods of silence.

Mr. Speaker, should there be any doubt about the constitutionality of such an approach, I would point out that the State of Massachusetts has a statute allowing for similar periods of silence. That statute has been challenged in the Federal courts and has stood a constitutional test.

The opinion of U.S. District Court, District of Massachusetts, upheld in an appellate decision, in Civil Action No. 76–435–M, Lynda Gaines, et al. against Winston D. Anderson, et al. reads, in part:

> We have closely scrutinized the statute and guidelines in our analysis of plaintiffs' claims because First Amendment liberties are at issue. In our view plaintiffs have failed to show the absence of a neutral, secular purpose for the opening moment of silence in the Framingham public schools. The statute and guidelines do not have a primary effect of favoring or sponsoring religion. They do not involve the state in religious exercises or directly in the realm of religion. They do not fall within the proscriptions of the First Amendment.

The Massachusetts statute on which the Federal court ruled reads as follows:

> At the commencement of the first class of each day in all grades in all public schools the teacher in charge of the room in which each such class is held shall announce that a period of silence not to exceed one minute in duration shall be observed for meditation or prayer, and during any such period si-

lence shall be maintained and no activities engaged in. (St. 1966, ch. 130, as amended by St. 1973, ch. 621; Mass. Gen. Laws ch. 71, Sec. 1A).

Mr. Speaker, I recently testified in support of my resolution before the Committee on the Judiciary's Subcommittee on Courts, Justice, and Civil Liberties. At this point in the Record, I would like to share that testimony with my colleagues:

Testimony of Hon. Stephen L. Neal

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee to discuss the issue of voluntary prayer in the public schools—and, specifically, my resolution (H. Con. Res. 106) dealing with that subject.

I have followed the previous hearings of the Subcommittee with intense interest, because of both my personal concern about the school prayer controversy, and that of my constituency in North Carolina. It is an issue that is very much alive in the press and much alive in the minds and hearts of the people of North Carolina.

It would appear to me, in considering the testimony that has been given heretofore, that a resolution to the controversy has not been offered. You have, indeed, heard eloquent and reasonable arguments from advocates and opponents of the present circumstance. Those who would formalize prayer in the classroom have pursued their objective with vigor; those who oppose it, with equal conviction. I say, Mr. Chairman, that there is a third approach wherein we may find an accommodation of the other two—that is, those who say we cannot, and those who say we must, pray in the public schools. The answer, contained in my resolution—which I will discuss at some length later—is that we can if we want to.

First, it is necessary, I believe, to clear up some of the misconceptions that exist concerning the Supreme Court's decision regarding prayer in the schools.

We know, of course, that the Court has not ruled out voluntary prayer in the schools. It has stated only that such prayer cannot be required, written, or supervised by the state or its representative—that is, the administrators or the faculties of the public schools. Yet, while voluntary prayer is permissible, there has been great difficulty in formulating a recitative prayer, and that may be an impossible task, and a prayer period, that do not exceed the limits set by the court.

Second, this misunderstanding of the Court's rulings has created in the minds of many people the idea that the Supreme Court baned prayer in the schools, and in so doing has denied, rather than protected, their rights under the First Amendment. The misconception has led to the widespread belief that "God has been expelled from the classroom."

The result has been both understandable and predictable. I have seen poll data which indicate that some 80 per cent of Americans believe prayer in the schools should be permitted. That implies, of course, that 80 per cent believe it is not permissible. The idea that one is not free to pray wherever and whenever one chooses is offensive to all Americans who cherish our fundamental freedoms, and especially to those who find in our religious tradition a source of great comfort and pride.

This concern has led, I firmly believe, to suggested solutions which are unacceptable, and if carried to fruition, would be intolerable. I have in mind, in particular, an amendment to S. 450, which would remove questions of prayer in the state schools from the jurisdiction of the federal courts. The Subcommittee has heard much testimony about this amendment, but I would beg your indulgence of some further thoughts on the subject.

The amendment strikes at the very foundation of our constitutional form of government. It would compromise that most basic guaranty of our individual rights—the First Amendment—which was appended by men of clear vision and noble purpose. That purpose, simply stated, was to guarantee that government shall in no way control religious thought, speech, or practice.

Further, it also guarantees that religion shall not control the state, and through government impose the religious preferences of one persuasion upon a lesser number who do not completely agree with it. This we call separation of church and state. It has served both constituencies extremely well.

Mr. Chairman, this constitutional doctrine was not established either easily or by chance. Powerful forces argued against it. I think we have to thank Thomas Jefferson and James Madison for insisting that it be a part of our Constitution. Especially Mr. Jefferson, who had fought this battle in the Virginia House of Burgesses, which ultimately adopted his Bill for Establishing Religious Freedom. It should be noted that only three accomplishments adorn the grave marker of Mr. Jefferson. That statute is one of them. He asked, also, to be remembered as author of the Declaration of Independence and founder of the University of Virginia.

Mr. Chairman, please permit me to quote from Mr. Jefferson, and from his biographers, some of his observations about freedom and separation of church and state:

From Saul K. Padover's "Jefferson: A Great American's life and Ideas":

"In few things was Jefferson more consistent than in his advocacy of religious liberty, or more resolute than in his hatred of religious tyranny. He went farther than those who merely believed in toleration. Mere toleration was a lazy man's creed; it meant indifference toward the political problems involved in the religious question. Toleration, therefore, was not enough. What Jefferson wanted, and ultimately achieved, was liberty—liberty fully protected by the law, to believe or not to believe whatever a man saw fit; liberty of the genuine Protestant variety, for a man and his conscience to care for his soul in his own fashion."

And from Mr. Jefferson's "Notes on Religion," penned shortly after he wrote the Declaration of Independence:

"The care of every man's soul belongs to himself . . . God himself will not save men against their wills. . . . I cannot give up my guidance to the magistrates, because he knows no more of the way to heaven than I do, and is less concerned to direct me right than I am to go right."

Mr. Jefferson in that instance was concerned about the state being in charge of religion. He was equally if not more concerned about the church being in charge of the state. Assailed by the stinging criticism of some elements of the clergy, he wrote to a friend:

"They (the clergy) believe that any portion of power confided to me, will be exerted in opposition to their schemes. And they believe, rightly; for *I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man.*"

The last clause of that immortal statement is familiar to everyone who visits the Jefferson Memorial, for it is engraved in the marble there. The basic issue in his time, as in ours, was separation of church and state.

I would not contend, Mr. Chairman, that conditions have not changed since Mr. Jefferson's day. I would submit, however, that our need to be free has not changed; that it took many more years after the First Amendment was ratified to establish religious freedom uniformly throughout the states; and that we ought not to surrender one inch of the ground which our forebears struggled to gain for themselves and their posterity.

Former Senator Sam J. Ervin, Jr., a distinguished Constitutional scholar, felt just as strongly as did the Founding Fathers that the separation of church and state must remain absolute, and in 1966 he argued forcefully and long against the Dirksen and Bayh proposals to amend the Constitution so as to reestablish prayer in the classroom. A telling point in Senator Ervin's argument was his observation that the Supreme Court's opinions, as he interpreted them, did not deal with the subject of voluntary prayer. "All they do is to hold that under the establishment of religion clause, the State cannot require religious exercises to be conducted in the public schools," he said.

Mr. Chairman, these distinguished Americans were absolutely right. If the State were to be given power to make us pray, it would have equal power to stop us from praying. The Constitution declares that the state does not have the power to make us do either.

But the problem remains. The people of America want prayer in the schools, and they believe their government is prohibiting it.

Mr. Chairman, I would argue that my resolution (H. Con. Res. 106) would solve the problem. In fact that might even be accomplished by just holding these hearings—giving me an opportunity to point out, and for you to confirm, that the Supreme Court decisions do not prohibit periods of silence for the purpose of private prayer, meditation, contemplation, or introspection; and that local school authorities can now provide such periods of silence under the law. But I don't think these hearings will be enough, and I therefore urge the passage of H. Con. Res 106, for the following reasons:

It would clear up the misconception that the Supreme Court decision of 1962 prohibits prayer in the public schools, and that government (the Supreme Court) has expelled God from the classroom. The lack of a clear expression on the permissibility of voluntary prayer has had a "chilling" effect on local school boards which, upon passage of the resolution, would receive both guidance and encouragement to provide the opportunity for voluntary prayer in the schools.

It would help restore the public's trust in government, and in the democratic process, which many have come to doubt as concerns the issue of prayer in the public schools.

It would inspire widespread discussions between students, their parents, and religious leaders of all religions and all denominations as to how the "periods of silence" suggested in H. Con. Res. 106 should be filled. In my opinion, such healthy discussion among all Americans contains, at the very least, the possibility of an understanding that reaches beyond the temporal and the transitory. Perhaps it would result in a heightened spirit of unity, while maintaining diversity; perhaps a higher awareness of man's relationship to his Creator and his fellowman; perhaps a higher level of trust, tolerance, and understanding among ourselves.

Finally, the passage of this resolution would restore truly voluntary prayer to the public schools, by which the majority might confirm, with no threat to or infringement of the rights of the minority, our Nation's motto, "In God We Trust."

LEGISLATION ALLEVIATING INEQUITY TO PERSONS ENTITLED TO BOTH UNEMPLOYMENT INSURANCE AND RETIREMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Murphy) is recognized for 5 minutes.

● Mr. MURPHY of New York. Mr. Speaker, today I am introducing a bill to alleviate an inequity in the current law regarding individuals who are entitled to both unemployment insurance and retirement benefits.

Public Law 94-566 states that if a person collects retirement benefits, gets a job to supplement his or her retirement income, and is subsequently laid off from their job, then his or her unemployment insurance is reduced on a dollar-for-dollar basis by the amount of retirement the person collects. The Congress passed a virtual repeal of this law as part of the Multiemployer Pension Plan Amendments Act of 1980, H.R. 3904. However, this becomes effective October 1, 1981, a year and a half after the effective date of Public Law 94-566—18 months' worth of unemployment insurance which the pensioner needs to supplement his meager retirement income. The bill I am offering today would make the proposals contained in the Multiemployer Pension Plan Amendments Act of 1980 retroactive to March 31 of this year, instead of effective October 1, 1981, so these pensioners will be able to collect the full amount of retirement and unemployment they are entitled to.

This retroactive provision is necessary as more and more pensioners are taking jobs to supplement their retirement incomes to keep pace with today's high inflation rate. I know that I, as well as all of you, have been inundated with complaints about the inequity of this law. I would like to read you a portion of a letter I recently received:

> DEAR SIR: As one of your constituents, I wonder if you can send me a copy of a bill passed in Congress about three years ago. This bill, among other things, mandates that any Unemployment Insurance benefits be reduced by any Social Security and/or Pension benefits a person might be getting.
>
> I am one of the victims of that bill and I wonder why the Congress could not have found any other way to reduce expenses, except at the cost of retired people who might be collecting some Social Security or pension.
>
> I think that you, as my Congressman, should lead the way in rescinding this evil bill and if the government needs this money so badly then they should soak the rich instead of some retired people who need this money . . .

It is a sad state of affairs when people who have worked all their lives cannot make ends meet when they reach retirement age. Enactment of my proposal would ease the heavy financial burden which inflation places squarely on the backs of the retiree and I urge my colleagues' quick approval of this proposal.●

LEGISLATION REGARDING CURTAILMENT OF JEWISH EMIGRATION BY USSR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MOFFETT) is recognized for 5 minutes.

● Mr. MOFFETT. Mr. Speaker, surely all of us here in Congress are aware of the lack of concern for human rights in the Soviet Union—particularly for Soviet Jews, whose cultural and religious expression is so repressed. One of the most painful violations of human rights for Soviet Jews, however, must be the denial of the right to emigrate and to join family members in Israel, the United States, and other countries.

One would think that the Soviet Union shares this country's view on human rights and emigration as both countries signed the Helsinki Final Act of the Conference on Security and Cooperation in Europe. This act affirmed that "applications for the purpose of family reunification which are not granted may be renewed at the appropriate level and will be reconsidered at reasonably short intervals." But now, Soviet authorities in Kharkov, a city considered to be a "bellweather" of Soviet immigration policies, have imposed new restrictions on Soviet Jews seeking to emigrate—Jews who are denied visas must now sign statements saying that they understand their emigration refusal is final and that they have no right to reapply.

This new policy is in addition to restrictions implemented in 1979. In mid-1979, Soviet authorities curbed Jewish emigration by accepting affidavits only from first degree relatives living in Israel. This policy, with others, has resulted in a drastic cutback in emigration by Jews from the Soviet Union. Fifty thousand Jews were allowed to leave the Soviet Union in 1979—but only 15,000 have been allowed to leave during the first 8 months of this year. And, the Soviet's new restrictions on visas can only result in a further decrease in Jewish emigration.

To express opposition to the renewed repression of Soviet Jews, I have introduced a resolution deploring the Soviet Union's heightened restrictions on Jewish emigration. It is my firm belief that we cannot idly stand by and permit this abdication of human rights to continue. I strongly urge all of my colleagues to support our resolution, as only a strong protest from both the House and the Senate will convince the Soviet Union of our alarm over their new emigration policy for Soviet Jews. In addition, I urge that the rights of Soviet Jews be thoroughly discussed at the upcoming international review of the implementation of the Helsinki Final Act in Madrid in November 1980. The text of the concurrent resolution is as follows:

H. Con. Res. 438

Concurrent resolution relating to the recent curtailment of Jewish emigration by the Government of the Union of Soviet Socialist Republics

Whereas the International Covenant on Civil and Political Rights guarantees the right of everyone "to leave any country, including his own";

Whereas the Soviet Union is a party to the International Covenant on Civil and Political Rights;

Whereas the signatories of the Helsinki Final Act of the Conference on Security and Cooperation in Europe agreed that "applications for the purpose of family reunification which are not granted may be renewed at the appropriate level and will be reconsidered at reasonably short intervals";

Whereas the Government of the Soviet Union is a signatory of the Final Act of the Conference on Security and Cooperation in Europe;

Whereas we welcome the commendable rate of 50,000 in 1979 of Jewish emigration from the Union of Soviet Socialist Republics has been drastically cut back in 1980 as a result of administrative measures which have severely restricted the eligibility of applicants, ignoring emigration procedures which were in effect for over ten years;

Whereas Soviet authorities in Kharkov are refusing to reconsider the application of any Jew who has once been denied permission to emigrate;

Whereas Soviet authorities in Kharkov are requiring Jews denied permission to emigrate to sign statements that they understand that their emigration refusals are final and that they have no right to reapply; and

Whereas the policy of the Soviet authorities in Kharkov is considered by many Jewish activists in the Soviet Union to be a bellwether of Soviet emigration policies: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) deplores the recent curtailment of Jewish emigration from the Union of Soviet Socialist Republics and the establishment in Kharkov of further restrictive policies;

(2) urges the President, the Secretary of State, and other appropriate executive branch officials to express at every suitable opportunity and in the strongest terms the opposition of the United States to such repression of human rights; and

(3) urges the President to instruct the United States delegation to the upcoming review meeting in Madrid, Spain, of the Conference on Security and Cooperation in Europe to seek an explanation of Soviet emigration policies in light of commitments made by the Government of the Soviet Union pursuant to the Helsinki Final Act of the Conference on Security and Cooperation and to protest violations of the family reunification provisions of such Final Act if such provisions are still in effect at the time of such meeting.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President with the request that he transmit a copy of such resolution to the Ambassador of the Union of Soviet Socialist Republics to the United States.●

RAIL DEREGULATION BILL SIGNIFICANTLY CHANGED IN CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 30 minutes.

● Mr. ECKHARDT. Mr. Speaker, I have taken this time to inform Members about what has happened to H.R. 7235, the rail deregulation bill, since it has gone to conference. The first meeting of the conferees was set at 1 p.m. on September 24. At about this time, I was approaching the room in which the conference was being held in the Russell Building when my beeper signaled a vote on the floor of the House. I immediately returned to the House floor to cast my vote. The voting process ended at about 1:20. After casting my vote I immediately returned to the room where the conference was scheduled. As I approached the room, people were coming out in my direction, and saying "the conference is over." I recall that my colleague, the gentleman from Illinois (Mr. MADIGAN) who was also returning from the vote, was as surprised as I was. I think neither one of us had had an opportunity to sit in on the conference, because the vote on the House floor occupied just about the whole time the conferees met.

I have subsequently determined from my staff people that the conference commenced about 3 minutes after 1 p.m. and lasted for exactly 19 minutes. Senators CANNON and PACKWOOD and about six of the House conferees were present. It is my understanding that the gentleman from New Jersey (Mr. FLORIO) announced that the conferees had reached an agreement and that the staff would be preparing a draft of it. Senator CANNON, I understand, confirmed this, but said that Members would, of course, have the opportunity to review the final bill and report before they were filed.

I was not present to hear any of this, but arrived before certain of the conferees and certain of the staff members had left the room. I asked Mr. Greg Lawler, counsel for the Transportation Subcommittee, who had been working on the bill for a copy of the proposed conference agreement. He said there were only two copies, one in his possession and one being duplicated by the Senate staff. I asked if any of the other conferees had copies of the so-called agreement. He said no, that there had not been time to duplicate it and get it to all Members. I asked that it be supplied me at the earliest possible time. Mr. Lawler was then able to find a draft of the so-called agreement which bore the date, September 23.

My staff and I then took this draft, reproduced it and studied it over the evening. We have identified several material changes from the so-called Staggers compromise agreement that was passed in the House. None of these appear to be compromises moving toward the Senate position.

The following two provisions that appeared in the Staggers substitute were eliminated in one proposed conference agreement:

> § 206. Rate Regulation Proceedings
>
> (d) The rail carrier rate level resulting from any case pending in any Federal court on July 22, 1980 (including any case on remand), shall be considered to be the rate for purposes of determining permissible rate increases under chapter 107 of title 49, United States Code.
>
> EFFECT ON PENDING MATTERS
>
> SEC. 702. Any application, action, or proceeding pending before the Secretary of Transportation, the Interstate Commerce Commission, or any court on the effective date of this Act shall be adjudicated or determined as if this Act had not been enacted.

It will be noted that these provisions were for the purpose of protecting certain pending coal cases. The substitute provisions, which are listed below, restrict retention of present law to mergers and certain rate bureau matters within control of the railroads. The provisions inserted in place of the above deletions are as follows:

> EFFECT ON PENDING MATTERS
>
> SEC. 706. (a) Any application filed or pending on the effective date of this Act under section 11343, 11344, or 11345 of title 49, United States Code, before the Secretary of Transportation, the Interstate Commerce Commission, or any court shall be adjudicated or determined as if this Act had not been enacted.
>
> (b) In the case of any *proposal docketed* with a rate bureau prior to the effective date of this Act which is or becomes the subject of an application or proceeding before the Interstate Commerce Commission, such application or proceeding shall be determined as if this Act had not been enacted, and the antitrust immunity provided in section 10706(b) of title 49, United States Code, resulting from approval of such agreement shall continue in effect.

The second major change in the language and effect of the Staggers substitute is the insertion of the emphasized clause in the language below:

> (b)(1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may increase any rate over which the Commission has jurisdiction under section 10709 of this title so long as the increased rate is not greater than the adjusted base rate for the transportation involved *plus any rate increases implemented under subsection (c) or (d) of this section*. An increase authorized under this subsection may not be found to exceed a reasonable maximum for the transportation involved.

Subsection (c), referred to, deals with the 6 percent zone of rate flexibility which may be made applicable to the initial threshold of 160 percent through the various threshold figures rising to 175 percent in 1983. Subsection (d) applies to the 4-percent rate increases applicable to the ICC jurisdictional thresholds after October 1984. Under the Staggers substitute these additions were subject to shipper challenge. The change as made in the proposed conference bill preserves the shippers procedural right to challenge, but the presumption of rate increase reasonableness resulting from the inserted language renders this right meaningless.

The third significant change made by the proported conference bill is one pertaining to section 203(a), subchapter I of chapter 107 of title 49, United States Code, which is amended by inserting after section 10707 the following new section:

> "§ 10707a. Zone of rail carrier rate flexibility
>
> (a) In this section—
>
> (1)(A) "base rate" means (i) the rate in effect on the effective date of the Staggers Rail Act of 1980 for the transportation of a particular commodity, *or (ii) a rate for the transportation of a particular commodity that produces a revenue-variable cost percentage that does not exceed 160 percent whichever is greater.*

The emphasized language was added in the proposed conference bill. It defines "base rate" as existing rate or 160 percent. Senator RUSSELL LONG in a memorandum to conferees, criticized this change in the following words:

> It is my understanding that certain provisions, both in the legislative language and in the conference report being drafted by staff, are still in substantial dispute.
>
> It is my impression that some items which were in both bills have been dropped completely, while other items which were in neither bill have been inserted.
>
> One issue of grave concern is the change made to the provision of the House-passed bill defining a "base rate." The Senate bill defined "base rate" as the rate in effect January 1, 1980; the House-passed bill defined it as the rate in effect on the effective date of the act.
>
> Yet, the conference language expands this to provide for a minimum base rate of 160 percent of variable cost—no matter what the rate was on either the effective date of the legislation or on January 1, 1980. This greatly expanded definition of a base rate was not contemplated by either bill and, as far as I am concerned, is not in conference.
>
> Unless I can be assured that the final draft of the legislative language and the language of the report do not exceed the scope of the conference and do not violate the clear intent of the understandings achieved in recent days. I shall demand that the conferees meet again to resolve these issues.

I agree with Senator LONG that this is a very material change from what was contained in the Staggers substitute.

The fourth change contained in the proposed conference bill eliminates the Eckhardt amendment in the goal section of the bill. That section was as follows:

> (14) to encourage and promote energy conservation and reasonably priced rail transportation of coal in accordance with the nationally stated objectives of energy independence.

In addition the goal section is altered as shown by the bracketed language set out below.

> (3) to promote a safe and efficient rail transportation system by allowing [efficient] rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission [while maintaining reasonable rates;]
>
> (4) today, [while much] *most* transportation within the United States is competitive, [some amount of traffic is alleged to be captive to rail;]

It will be noted that both of these changes give a very different directive to the ICC than was contained in the goals section in the Staggers substitute. The Commission would not have to look at the efficiency of the rail carrier in order to authorize a very high rate and the language would also ignore the fact that certain traffic was captive to rail.

The elimination of the Eckhardt amendment would indicate that it should not be important to the Commission that inordinately high rates might have the tendency to discourage energy conservation.

I point these differences out for the convenience of the Members. The purported conference bill is more than 174 pages long, and, since its provisions are not available to Members, and probably will not be until quite close to the time that they are called upon to make a decision on the report, this synopsis may be helpful in letting Members know what changes from House floor action have been made in a proposed conference bill.

I hasten to say that these very significant alterations of the House's position may be eliminated—and should be—in a final draft of a conference bill. I have not found any indication that the changes were pursuant to Senate demands, and in the one case I have pointed out they were clearly in conflict with Senator LONG's position. Senator LONG and I both agree that certain changes were outside the scope of conference. Hopefully there will be corrections to eliminate these discrepancies.

PROTECTING THE PRIVACY OF TELEPHONE TOLL RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Preyer) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, last week I informed the Member of the House of the steps I have taken as chairman of the Government Information and Individual Rights Subcommittee to find out exactly what happened when the Justice Department obtained the telephone records of a major newspaper and one of its reporters. I also told you that I planned to offer legislation which would protect the privacy of telephone toll records (Congressional Record, Sept. 10, 1980, p. 24994). Today I offer that legislation.

As I explained last week, I consider this bill the starting point for inquiry, not the final product. I hope it will receive the careful consideration of the Congress and the administration.

The bill restricts disclosure of an individual's telephone toll records by the telephone company. It permits access by Government agents only through use of a subpena or through an ex parte court order. If a subpena is employed to gain access to the records, the Government must notify an individual that it is seeking his records. After he is notified, the individual may go to court and challenge the request for his records.

Where the Government believes that notice to the individual will harm its investigation, it may apply for a court order similar to the order required to tap a phone. The procedures in the bill for access to toll records, however, are less restrictive than those of the current wiretap statutes. In particular, the showing that the Government must make to obtain an order is one of "reasonable cause"—a standard less than the "probable cause" required for a search warrant but more than an allegation, suspicion or mere belief. At the same time, the bill's requirements for obtaining an order for telephone records are substantially higher than the showing which is required to sustain a subpena or similar form of legal process.

Besides giving an individual the right to challenge a subpena for his records, the bill establishes civil liabilities and criminal penalties for violations of its provisions.

Finally, the bill provides strict limitations on the subsequent use and redisclosure of telephone toll records obtained by a government agency, insuring that the records will not simply become information available for general government use.

Structurally, the legislation would amend the Privacy Act of 1974 and the Communications Act of 1934.

The bill represents a new, and I hope useful, approach to protecting privacy in an area where no legal protections exist. While the privacy of telephone conversations is strictly protected by the fourth amendment (*Katz* v. *United States*, 389 U.S. 347 (1967)) and by Federal statute (18 U.S.C. 2410 et seq.), the privacy of other aspects of telephone communications has no statutory or constitutional protection. Recently, the Supreme Court declined, by a 5-to-4 majority, to recognize a fourth amendment interest in the privacy of the fact of a telephone call equivalent to the interest in the privacy of the content of the call. (*Smith* v. *Maryland*, 61 L. Ed. 220 (1979)).

The lack of protection for telephone record information is unjustifiable, particularly in light of the longstanding protection for telephone conversations, the pervasive role that telecommunications play in daily life, and the firm belief of most Americans that they have a right to conduct their private affairs by telephone without fear of Government surveillance.

The need for legal protection of telephone records becomes greater every day. Traditionally, only the telephone numbers for long distance calls have been recorded for billing purposes. Access to those numbers provides a partial dossier of a citizen's social, business, and political contacts. Today's billing records, however, have begun to provide a much more complete profile; in many areas usage-sensitive pricing of telephone services now requires local as well as long distance numbers to be recorded, along with the accompanying indications of date, time, place, and duration of the call.

Again, I urge the fullest consideration of this legislation and hope that we will soon provide full protections for telephone communications.●

HOUSING AND THE ECONOMY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, last week I had the privilege of meeting with members of the United Home Builders Association of the Third Congressional District of Indiana. We had a most useful discussion of some of the problems facing the homebuilding industry in the United States.

During their discussion, I had occasion to refer to an excellent statement on "Housing and the Economy" delivered before the Joint Economic Committee of Congress on behalf of the National Association of Home Builders by the president-elect of the NAHB, Mr. Herman J. Smith, of Fort Worth, Tex.

Because I believe that my colleagues will find Mr. Smith's statement helpful in their understanding of the crisis in homebuilding, I insert the statements at this point in the Record.

Statement of The National Association of Home Builders Before The Joint Economic Committee, U.S. Congress, on "Housing and the Economy," September 17, 1980

Mr. Chairman and Members of the Committee:

My name is Herman J. Smith, and I am a home builder from Fort Worth, Texas. I am testifying today on behalf of the more than 122.000 members of the National Association of Home Builders, (NAHB), who employ over 3 million workers. NAHB is the trade association of the nation's home building industry, of which I am first Vice President. Accompanying me today are Robert D. Bannister, Senior Vice President for Governmental Affairs and Dr. Michael Sumichrast, Chief Economist.

Mr. Chairman, I am very pleased to appear before your distinguished Committee this afternoon to discuss the short-term outlook for housing and to examine the existing and emerging problems for the housing industry—and the housing consumer.

At the outset, let me say that we have reviewed your Committee's midyear report on the recession and the recovery. It is a unique achievement that this Committee has been able to reach a bipartisan consensus on long-term policies to increase our nation's productive capacity in the midst of this hotly-contested election year. But, in a sense, it should not be so surprising. Your basic premise reflects simple logic—inflation and unemployment require long-term solutions to promote "greater and more efficient production." As the representative of the industry which has been at the "cutting edge" of each of the seven recessions within the last 35 years, we enthusiastically endorse the principal message in your annual report—"America does not have to fight inflation during the 1980's by periodically pulling up the drawbridge with recessions that doom millions of Americans to unemployment." And, may I add, that will deny millions of low-income, moderate-income, and even middle-income Americans the opportunity of decent, affordable shelter and the dream of owning a home of their own.

Mr. Chairman, the Federal Government could make no greater contribution to housing the American people in the 1980's than by putting the economy on a steady, predictable growth path which will create jobs and help hold down price increases by allowing us to provide sufficient housing to meet the growing demand in this decade. Of course, there will still be a need for special assistance for certain segments of the market such as low-income housing, multi-family rental production, and first-time homebuyers. In those areas as well, a steady and predictable level of Federal support would go a long way to ensure reasonable progress toward our national goal of a decent home for every American family.

Mr. Chairman (and Representative Brown), I am aware that it is not very productive to engage in a lengthy recitation of "I told you so's" as the economy begins on the slow path to recovery. But I feel constrained to briefly sympathize with this Committee. I know that in June 1979, Chairman Bentsen and Representative Brown jointly urged enactment of a supply stimulus for businesses and individuals to encourage savings, improve productivity, and enhance economic growth. I agree with Representative Brown's assessment that we could have avoided the worst of our current economic crisis and would have built a solid base for growth—if only the advice of this Committee had been heeded by the Administration and the Congress.

My personal view is that if the Administration and the Congress had reacted to our industry's warnings last October and enacted an emergency home purchase assistance program—as was done in 1974–75—along with the general savings and productivity measures urged by this Committee, I would be coming here today with a much more optimistic short-term outlook. And, equally as important, our nation would be on the path to steady and predictable growth in the 1980's. Enough of hindsight. As Dr. Sumichrast, our Chief Economist has said, it would be easy to forecast—if only we did not have to predict the future.

IMPACT OF HOUSING ON THE ECONOMY

I am aware that this Committee recognizes the importance of the housing industry to our nation's economy. The numbers help put it in perspective. The housing industry is one of the largest contributors to the Gross National Product, and new residential construction accounted for about 4.8 percent of the GNP in 1979, representing 114.1 billion. Housing production has a powerful ripple effect throughout the economy, creating jobs and stimulating sales and demand for goods and services. The total economic impact of the 1979 production rate of 1.74 million new housing starts has been estimated to be in excess of $210 billion. The production of 1.74 million new housing units has generated more than 2.5 million full time jobs; some $45 billion in wages; over $5 billion in Federal income tax revenue; about $2 billion in local real estate tax revenue; and an additional $850 million in state income tax. This represents a tremendous contribution by an industry whose members are predominantly small businessmen and women who build an average of about 15 new homes a year. Housing represents a productive investment which creates employment and increases Federal and local revenues. And I believe that a healthy housing industry is an essential element in providing the impetus for a national economic recovery.

HOUSING OUTLOOK

Mr. Chairman, it has been said that when the economy has a cold, the housing industry gets pneumonia. There is no doubt that our industry was taken to the emergency room when the Federal Reserve Board acted last October and again in February. And, frankly, there were a few months when we thought that the patient's condition was terminal. But, I must candidly say that we have witnessed a reasonably strong rebound in June, July, and up to mid-August. But as the attached charts on monthly housing starts and sales (Exhibits A & B) show we have a long way to go toward recovery. What I fear most today is that the patient may be suffering a relapse. Unless there is a decline from the sharp increases in interest rates of the last few weeks, we could have one of the shortest housing recoveries on record.

In June and July, interest rates declined sharply after reaching their all-time historical high. During that period, the decline in housing starts and sales began to reverse. Sales of less expensive homes financed under FHA and VA were to a large degree responsible for this recovery. I must add that this recovery has not been uniform throughout the country. In some areas of high unemployment and stagnant economic conditions, such as the mid-West and New England, housing starts and sales remain severely depressed despite the reduction in interest rates. During this period, car sales and retail sales improved while unemployment hovered just under 8 percent. But we perceive a renewed weakness which has developed in the last four to five weeks as a result of the escalation in interest rates. Housing sales have already been hit by about a 200 basis point increase in interest rates (Exhibit C). And any significant reduction in rates in the near future seems very unlikely. In our opinion, housing will have to improve in order for the national economy to recover.

Our latest housing starts forecast calls for fewer than 1.2 million housing starts (single and multi-family) in 1980 and 1.49 million starts in 1981 (Exhibit D). But recent trends in interest rates raise the question of whether even these low levels will be reached. Our latest estimates indicate the possibility of a loss of 50 to 75,000 units this year and another 170 to 200,000 units next year from the forecasted levels.

The latest Freddy Mac auction showed yields at 13.6 percent (Exhibit E). Similar sharp increases in FNMA & FHA yields have resulted in a serious decline in volume. It is clear that there is little demand for 14 percent mortgages.

This increase in mortgage rates has already had an impact on sales, although this has not yet been reflected in published data. Our analysis of reports from the field shows clearly that the lower end of the market—financed by FHA loans and VA guarantees—has been hard hit by cancellations of commitments by mortgage bankers as well as cancellations of sales. Back in mid-March, 90 percent of the builders responding to our survey reported "poor" sales. By late August, this was reduced to 50 percent. A telephone survey taken about a week and a half ago shows an increase to 63 percent—a substantial jump in such a short period of time.

At the same time, the unemployment rate among construction workers continues to rise. In August it reached 18.3 percent—934,000 people out of work. This compares with July's 16.1 percent or 807,000 unemployed. And these figures represent only wage and salary workers—they do not include the independent firms, self-employed, and contract workers.

Mr. Chairman, we are facing the possibility of a return to the scenario of last October and this spring. We see little hope of a decline in interest rates by this October or November. We do not see steady or predictable growth in the economy or stability in prices generally. This will make it extremely difficult to sell and produce the housing needed by the American people.

This rather pessimistic outlook only underscores the importance of the restoration of a stable economic climate. Three times in less than one year, we have seen interest rates rise and fall so sharply and so rapidly that it seems virtually impossible to sustain any level of stability in housing production. Only a few years ago, a rise in mortgage rates of 200 basis points took place over a period of two years. Today, it seems that it only takes a matter of a few weeks. It seems clear that some fundamental changes are needed in order for our industry to function as the provider of needed housing and a major contributor to our national economy.

EMERGING PROBLEMS FOR THE HOUSING INDUSTRY

What does the industry face as we begin to recover from one of the most severe downturns in history?

Housing demand

First, the underlying demand for housing is very strong and will grow substantially through the decade of the 1980's. Projections indicate that during the 1980's, 41 million Americans will reach the prime homebuying age of 30. This compares with about 31 million who will have reached the age of 30 during the 1970's. The rate of new household formation will be 25 percent higher in the 1980's than during the last decade.

This increased rate of family formation is largely the result of the postwar baby boom and the number of increased single person households. We predict that there will be no significant drop in housing demand until the 1990's, when the "baby bust" generation of the 1960's enters the housing market.

When combined with the number of families currently occupying substandard housing and the number of housing units removed from the market each year by demolition, disaster, or other means, an additional 23 million housing units would be needed during this decade (Exhibit F). The demand for housing would not even be met by a level of production of 2 million units per year, which has traditionally been considered "very good year" for housing. And any lower production levels will almost certainly result in increased upward pressure on home prices due to the simple facts of supply and demand.

Rental housing

Second, the crisis in rental housing and the inability of the private sector to develop and operate multi-family housing in today's market will mean that, unless new incentives are provided, rental housing will not be able to meet any substantial portion of the existing demand. In fact, as many potential new homebuyers are being priced out of the homeownership market, there has been a shrinkage in the available inventory of rental apartments nationwide. This gives young families increasingly limited choice in meeting their housing needs.

Let me just briefly outline the problem. The numbers are quite startling. Statistics compiled by NAHB's Economic Department show that in the last three years, the annual net loss of rental inventory has been about 1½ percent. Last year, the loss of rental units exceeded the number of new units constructed by about 200,000.

Equally as troubling is the low level of privately financed multi-family construction. In 1979, of about 430,000 multi-family rental units built, only about 210,000 were privately financed. Over 50 percent of the units were subsidized low and moderate income housing and FHA-insured multi-family housing. At the same time, losses to the inventory in 1978 due to demolition, fires, and abandonment totalled about 400,000.

It is evidence that high interest rates, increased operating costs and the expansion of rent controls and regulation of condominium and cooperative conversions have all but dried up the private market in rental housing construction. Existing tax incentives are no longer sufficient to stimulate rental construction. In addition, several provisions added in the 1976 Tax Reform Act are major disincentives to the development of new multi-family rental housing.

At the same time, demand for multi-family housing is high. The nationwide multi-family rental vacancy rate fell below 5 percent in 1979, according to Census Bureau statistics—the lowest figure since this statistic was first compiled 20 years ago. After removing substandard units and second homes, the effective vacancy rate is about 2 to 3 percent. A vacancy rate over 7 percent is essential in order to provide for reasonable mobility in housing. In addition, there continues to be a substantial unmet need for housing for the elderly, large families, newly-forming households, and for replacement of older declining housing stock.

A General Accounting Office report on rental housing released on November 8, 1979 found that the shortage of affordable rental housing is so acute that immediate Congressional action is needed. GAO found that multi-family starts in the private sector last year were at their second lowest rate in 20 years. They projected that this year the private sector would provide only about 25 percent of the new rental units, and that most of these would be for high-income tenants. The 75 percent of the starts which are financed by government represent a troublesome trend and a tremendous increase over the 22 percent government share of starts in 1972 and 44 percent in 1978. In fact, while the government-aided share has increased over the past few years, the actual number of units produced has declined.

Housing costs

A housing cost crisis of unknown proportions threatens to engulf American society in the 1980's. It threatens to divide our society, separating those who have already realized the American dream of owning a home from those who will be denied affordable housing in the future. It is an issue that pits one generation of Americans against another. It is a crisis that further penalizes those who are most vulnerable in our society—the young, the elderly, and the poor.

The statistics are alarming. If present trends persist, the median price of a new home will reach $100,000 by 1984. Since the end of 1974, the median price of new housing has increased by over 75 percent, from $36,000 in 1974 to over $63,000 today. In many metropolitan areas, a modest three bedroom home now costs well over $80,000. In sharp contrast, median family income rose only 48 percent during the same five-year period and consumer prices as a whole increased by only 47 percent.

The cost of building new housing is not likely to recede or even moderate significantly during this decade. In 1979, building materials prices went up another 8 percent, despite the 15 percent decline in housing production. Land and land development costs continued to soar. The cost of a developed lot now accounts for between 20 and 30 percent of the purchase price of a typical new home.

Another inflationary factor that cannot be ignored is the effect of the deregulation of depository institutions and the phaseout of Regulation Q on the cost of housing. I testified before the House Banking Committee on this issue last month. Just as interest rates were beginning to decline, the actions of the Depository Institutions Deregulations Committee effectively imposed a floor on mortgage interest rates by establishing an artificial minimum rate for 6 month and 30 month savings certificates. This certainly inhibited the housing recovery, and assured that mortgage interest rates would not drop below 11 percent.

Part of the housing cost problem can obviously be attributed to the general rate of inflation which has been pushing up the cost of virtually everything. Housing's boom-and-bust cycles are extremely disruptive and are in themselves inflationary. They have reduced productivity in housing by disrupting management and decimating the supply of skilled construction labor. In addition, they make rational planning by suppliers extremely difficult. During periods of slack construction, plant and equipment stand idle; the capacity for manufacturing materials and components used in housing construction is underutilized; and construction workers are not employed. During periods of high construction activity, workers demand higher wages to provide reasonable annual incomes (considering periods of unemployment); returns on plant and equipment must be higher to make up for losses during idle periods; and the demand for resources used in housing is increased sharply. This results in higher land prices, higher material prices, higher interest costs, and higher wage costs.

Excessive governmental regulations and long delays involved in the governmental review process are another major cost problem for builders and potential home buyers. There are three basic regulatory problems. First, there are the obvious no-growth policies that reduce the supply of available land, thereby pushing up the price of remaining parcels of land still available for residential development.

In a sense, this problem pits existing residents against newcomers. Existing residents want to protect the value of their property. They don't want to be bothered with the problems of growth—the increases in school enrollments and traffic and the other strains on public facilities and services that new growth eventually brings.

Since existing homeowners are the established voters in the community, public officials often fall into line, implementing zoning and growth policies and development fee schemes that restrict the number and types of new housing that can be built in their community.

Newcomers are then pushed to bordering communities which must assume a greater share of the growth burden in the region, or to undeveloped, outlying areas where completely new road systems, schools, sewer and water treatment plants, and other public facilities must be constructed at a much greater cost—economically, environmentally, and from an energy standpoint.

Consequently, the price of raw land has soared. Unreasonable zoning and growth policies that restrict the supply of available land for development are primarily responsible for this sharp escalation in land prices.

Excessive land development, subdivision and construction standards and fees are the second major regulatory problem confronting home builders. The General Accounting Office recently surveyed eleven metropolitan areas, including 87 individual jurisdictions, to determine the extent of the problem. That study concluded that the more restrictive communities had: (1) excessive standards for streets and related site improvements that could increase the cost of a typical home by as much as $2,655; (2) requirements for 100 to 200 foot wide lots that further increased the cost of each home; (3) requirements for dedicating land for parks and schools costing up to $850 per house; (4) municipal fees as high as $3,265 a house for such items as local reviews, permits, inspections, and utility connections; and (5) approval processes that took as long as 21 months before a builder was permitted to start construction.

To a certain extent, the sharp increase in land development costs reflects a major shift in local policies. Until recently, the community as a whole was willing to pay most of the cost of providing new public services and facilities or upgrading existing facilities on the theory that these new facilities benefitted all community residents—existing residents as well as newcomers. Now, however, more communities are forcing new home buyers to pay a much greater share or all of the cost of providing these new facilities.

Consequently, fees, standards, and requirements are inflated. For example, builders in some areas are required to construct lightly traveled subdivision streets to interstate highway standards. That ensures a minimum of repair work on those roads for the local community over the next 10 years. Or the municipality may charge $2,500 or more for each home connecting into the sewer and water lines, when the actual cost of connecting that new home is a few hundred dollars. In addition, builders are required to dedicate land for schools, open space, and other public facilities. All these costs are passed on to new home buyers, even though the new or upgraded public facilities serve the entire community.

The third major regulatory cost problem is caused by the long delays in receiving permit and building plan approvals through the dozen or more agencies with some authority in the development process. Often there are conflicts between two agencies on a certain standard or requirement, creating what builders term the "pinball' effect as the developer is bounced from one department to the other in an attempt to reach some suitable compromise. In addition to the frustration, this is a very costly, time-consuming process that can add thousands of dollars to the cost of building a new home.

In 1960, it took about 12 months for a builder to complete the first home in a subdivision after purchasing the raw land. Now it can take as long as three years or longer to obtain all the necessary approvals before beginning construction. Unfortunately, the longer it takes to develop a parcel of land and build the homes, the greater the cost to the home purchaser.

MORTGAGE FINANCE

Major changes are occuring in the cost and availability of mortgage finance. In the past, financial institutions had a pool of 5 percent and 5¼ percent savings deposits upon which they could draw to finance mortgage loans. This provided mortgage financing at the low-possible interest rates to home buyers. However, the passage of the Depository Institutions Deregulation and Monetary Control Act of 1980 will bring on a new era in mortgage finance. Regulation Q, which prescribed the 5 percent and 5¼ percent interest rate ceiling, is to be phased out within six years. At that time, there will be no ceilings on the interest rates financial institutions may pay for their savings deposits. To be competitive and to attract savings, financial institutions will be required to pay prevailing market interest rates. If market interest rates are, for example, 9½ percent, then it will not be possible for financial institutions to make mortgage loans at interest rates below 11 percent or 11½ percent. These are likely to be minimum interest rates, and mortgage rates will probably fluctuate above that level.

What this means is that despite the overwhelming need and demand for housing, increasingly fewer families will be able to afford a median-priced new home. Exhibit G shows the effects of higher interest rates on housing affordability. Assuming a $65,000 house, with a 5 percent down payment, and a 30-year fixed rate mortgage period at 9 percent interest, the monthly principal and interest payment would be $497 and the annual income necessary to afford the house would be just over $34,000.

At 12 percent interest, the principal and interest payment jumps by $138 a month to $635, and the annual income needed to afford the house increases to $40,800. Assuming the same $65,000 house with a 5 percent down payment, the increase in interest rate from 9 percent to 12 percent eliminates more than 4 million households from the ability to purchase that home.

We must look to innovative new mortgage instruments such as graduated payment mortgages, renegotiated rate mortgages and other instruments which are just being developed to help bridge the affordability gap. We must actively work to promote the secondary mortgage market and encourage investment by the multi-billion dollar pension funds, life insurance companies, and other non-traditional investors. In addition, some form of assistance should be devised to help the first-time homebuyer to accumulate the funds needed to purchase a home. Finally, I know that many members of this Committee are actively working for legislation which will increase the rate of savings through tax incentives that the thrift institutions will continue to be able to serve as the principal mortgage lender.

LEGISLATIVE RECOMMENDATIONS

1. Tax Cut—A tax cut must be targeted and structured in a way to avoid inflationary pressures. It should be directed toward improving business productivity and creating jobs. For the housing industry, a tax cut should be structured to accomplish two results: (1) to provide a stable source of single family home financing at interest rates which families can afford and (2) to stimulate the production of multi-family housing. Accomplishing these objectives will create employment and moderate inflationary pressures on home prices by allowing the production of housing to better meet demand.

(A) Tax Incentives for Savings—In testimony before the Senate Finance and House Ways and Means Committee, we urged support for legislation which would provide a tax exemption for interest on savings deposits used by financial institutions for residential mortgages (S. 2560, introduced by Senator Nelson). We also suported a bill to provide for tax-exempt housing savings accounts to assist first-time homebuyers in accumulating the downpayment on a home (S. 2745, introduced by Senator Dole). There are a number of other proposals which would reduce taxation on savings, such as Representative Brown's bill, H.R. 6400, which are worthy of your consideration.

(B) Tax-Exempt Revenue Bonds—NAHB believes that revenue bonds offer one of the tools which should be used to provide mortgage financing at affordable interest rates. Revenue bonds provide cities, counties, and states the opportunity of tailoring mortgage financing to the needs and demands of those individual jurisdictions. And we believe no one is in a better position to assess the needs and demands of local communities than the state or local government. We have urged that a tax cut bill include a provision permitting the issuance of tax-exempt revenue bonds after December 31, 1980.

We would support either Senator Williams' bill (S. 2064) with the amendment introduced by Senators Randolph and Byrd, or the bill introduced by Senator Hart (S. 2746). Both the Williams bill and the Hart bill recognize that state housing finance agencies are responsible entities, strictly supervised by their state legislatures. Both bills recognize that the lending programs of state housing finance agencies generally are subject to income and mortgage limits developed by the state. These limits are carefully drawn to the needs of each state and represent the particular conditions in the state.

If restrictions are to be placed on cities or counties, then we would support either the Randolph/Byrd amendment to the Williams bill or the approach taken in Senator Hart's bill. The Randolph/Byrd approach provides that revenue bond financing can only be provided to families with incomes which do not exceed 45 percent of the average new one-family housing cost for the state in which the residence is located. The advantage of this approach is that it ties income levels to the actual cost of housing within each individual state. It does not set some arbitrary income level for the entire country which may or may not work in individual states.

Senator Hart's bill requires that families have an income not exceeding 150 percent of the median income for the statistical area in which the residence is located. If a fixed income limit is to be used, Senator Hart's approach makes good sense. With housing costs continuing to rise, this type of income limit permits the sale of some of the less expensive newly contructed homes, in addition to existing homes. A lower limit would almost surely prevent the sale of newly constructed houses.

(C) Rental Housing—Mr. Chairman, you are well aware of our support for S. 2969, which provides a comprehensive package of reforms to stimulate the production of rental housing. We are very pleased that you were able to include a 20/15 year straight line depreciation provision in the Senate Finance Committee tax package. This proposal would greatly simplify and give certainty to the depreciation process. We would strongly urge repeal of Section 189 of the Internal Revenue Code in order to allow deduction of construction period interest and taxes in the year in which the payments were made. As current and short-term expenses, these items should not be capitalized and should be treated as they are in other businesses. Finally, we believe that provisions for rapid amortization of expenditures for rehabilitation of low-income housing, historic preservation, and removal of barriers for the handicapped and elderly should be extended indefinitely. These provisions, which are due to expire, have proven their worth and help to promote important housing and social objectives.

2. Other Measures to Reduce Cycliality.—We share the views expressed in the Committee's report that frequently governmental stimulus programs are activated too late in the recession cycle to have the desired countercyclical effect. In fact, some programs have been criticized for their substitution effect. The fault, however, does not lie in the programs themselves but in the inability of government machinery (the Administration and Congress) to move rapidly enough to provide assistance as well as the inability to anticipate the need for such assistance. We would urge consideration of an automatic triggering mechanism for emergency housing assistance. In fact, such a trigger was proposed by Senator Proxmire back in 1975 in the Senate version of the Emergency Housing Act. It provided that emergency mortgage assistance would be automatically activated if housing starts fall below a 4-month moving average annual rate of 1.6 million units for four consecutive months. (This idea was revived by Senator Heinz in this year's houseing bill as a "negative trigger" for the Brooke-Cranston Program). Such a "trigger" could automatically activate a program such as Brooke-Cranston, an expanded use of tax-exempt revenue bonds, or a tax credit for the purchase of a new home, as well as an expansion of the Section 235 Homeownership Program.

3. Assisted Housing—As I stated earlier, there is a great need for a stable and reasonable level of assistance for rental and homeownership assistance for low- and moderate-income families and the elderly, both in urban and rural areas. The supply of decent rental housing, particularly for large families and low-income people, is so limited that only increased production will begin to reduce the inflationary impact on rents. The rural housing situation in both owner-occupied and rental units is even below the record low vacancy rates of our urban centers. Because of severe savings outflow and traditionally limited credit availability in rural areas, moderate- and even middle-income families are unable to obtain financing from private conventional sources.

RECOMMENDATIONS TO THE JOINT ECONOMIC COMMITTEE

Mr. Chairman, we are very impressed with the work of this Committee under your distinguished leadership and with the assistance of your highly capable and talented staff.

I would like to conclude by making some recommendations as to areas which we believe would be fruitful for the Committee to pursue in the year ahead.

First, a good deal has been written recently about the cost of seasonal cycles in the housing industry. I would particularly recommend Seasonal Cycles in the Housing Market by Professor Kenneth Rosen of the University of California at Berkeley and a study by the Department of Labor issued in April 1979 on Social Costs of Instability in Construction. Both of these analyses reveal seasonal fluctuations in employment and construction output of real significance. This instability only increases the pressure on housing prices as well as unemployment.

Professor Rosen recommends consideration of an incentive to stimulate winter employment in housing construction as was tried in Canada and Norway in the 1960's. These programs provided a flat grant to the first purchaser of a home built primarily in the winter months. While NAHB has not taken a position on such form of assistance, I believe it is worthy of your review and analysis.

Second, because of our great concern about meeting the demand for housing in the 1980's, we would urge this Committee to reexamine the various needs analysis of single-family and multifamily housing for this decade. It is only by such an objective evaluation that responsible housing, tax, and economic policies can be developed for both government-assisted and privately-developed housing.

Finally, this Committee would perform an inestimable service if you could help devise a rational system for budgeting Federal housing programs. It has been our concern that reflecting the entire long-term budget authority for assisted housing programs in a single year's budget puts housing at a serious disadvantage in regard to other budget priorities. We are aware of no other major Federal programs that are accounted for in this manner. Others have maintained that the authorized budget authority may not be sufficient to meet the full-term of commitments. Inexplicably to us, the Brooke-Cranston Program is budgeted as a full-cost, long-term item even though the Federal Government recovers a substantial portion of the assistance through eventual sale of the mortgages—and may even result in a positive return to the government. This problem has unfortunately been with us since the 1974 Budget Act and is long overdue for reasoned analysis.

CONCLUSION

Mr. Chairman, I apologize for the length of this statement. Perhaps the downturn in housing has given us both the time and the impetus to reflect on the future of our industry and our ability as a nation to house upcoming generations of Americans.

I am sincerely grateful for the opportunity to appear before you today. I would be pleased to answer any questions you may have.●

CONFERENCE REPORT ON H.R. 7831

Mr. DUNCAN of Oregon submitted the following conference report and statement on the bill (H.R. 7831) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1981, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 1400)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7831) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1981), and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 10, 11, 15, 34, 35, 51, 52, 58, 59, 60, 64, 65, 66, 76, 81, and 82.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 6, 9, 14, 17, 19, 26, 31, 33, 36, 37, 38, 42, 43, 56, 57, 67, and 68, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$333,935,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$525,000,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$21,155,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$191,282,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $6,600,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$85,876,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$26,963,500"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,477,500"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,395,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$26,000,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$90,000,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$202,000,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$65,500,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$63,500,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,190,000,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$72,500,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,455,000,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

For necessary expenses for conducting one waterborne transportation demonstration project, $10,000,000 to remain available until expended.

and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$31,420,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,291,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,200,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$29,000,000"; and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert "325"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert "326"; and the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert "327"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

SEC. 328. None of the funds in this Act shall be used to mandate any reduction under the Washington National Airport Policy of the number of certificated air carrier slots per hour at Washington National Airport below the number authorized on September 12, 1980, until April 26, 1981.

and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 12, 18, 24, 28, 29, 30, 49, 53, 54, 61, 62, 63, 69, 70, 71, 72, 73, 74, and 75.

Robert B. Duncan,
Adam Benjamin, Jr.,
William Lehman,
Martin Olav Sabo
(except amendment No. 75),
Bennett M. Stewart,
Vic Fazio
(except amendment No. 75),
Sidney R. Yates,
Jamie L. Whitten,
Silvio O. Conte
(except amendment No. 75),
Jack Edwards,
Clarence E. Miller
(except amendment No. 80),
Lawrence Coughlin,
Managers on the Part of the House.

Birch Bayh,
Warren G. Magnuson,
John C. Stennis,
Robert C. Byrd,
Thomas F. Eagleton,
John A. Durkin,
James A. McClure,
Charles McC. Mathias, Jr.
(reserving amendment No. 80),
Lowell P. Weicker, Jr.,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and expenses

Amendment No. 1: Appropriates $35,680,000 as proposed by the House instead of $35,740,000 as proposed by the Senate. The conferees direct that the Motor Vehicle Industry Research Center within the National Transportation Research Center at Cambridge, Mass., be established with the cooperation of the existing automotive research centers at the universities of Purdue and Stanford. The conferees expect the Department of Transportation to report to the House and Senate Committees on Appropriations its plans to establish this Center prior to the hearings on the fiscal year 1982 budget.

The conferees believe that any study of possible extensions to the Washington, D.C. Metro rail transit system should be conducted by the Washington Council of Governments under UMTA's technical studies program.

Transportation planning, research and development

Amendment No. 2: Appropriates $10,788,699 as proposed by the Senate instead of $11,100,000 as proposed by the House.

Limitation on working capital fund

Amendment No. 3: Limits obligations for operating costs and capital outlays to $56,843,000 as proposed by the Senate instead of $60,253,000 as proposed by the House.

COAST GUARD

Operating expenses

Amendment No. 4: Appropriates $1,193,112,000 as proposed by the Senate instead of $1,206,967,000 as proposed by the House. In deleting the $14,700,000 added by the House for fuel cost increases, the conferees recognize that a supplemental might be required to cover these costs. The conferees expect any such request to be given appropriate consideration by the House and Senate Committees on Appropriations. With the exception of the proposed fuel cost increases, the conference agreement includes the changes contained in the House report, including the operation of the New York and New Orleans vessel traffic systems, and the continued operation of the boating safety detachment at Parker Dam on the Colorado River as directed by the Senate report. The conferees also reiterate the language contained in the House report regarding the submission of a plan for a roles and mission review.

Acquisition, construction and improvements

Amendment No. 5: Appropriates $333,985,000 instead of $324,392,000 as proposed by the Senate and $339,585,000 as proposed by the House. The conference agreement includes the following changes to the budget request and Senate allowance:

Safety improvements to the *Eagle*	+$5,000,000
Great Lakes and Delaware River aids to navigation	+5,000,000
Newport, Oregon shore facility	+3,200,000
Patrol boat for Virgin Islands	+143,000
Minor shore construction facilities	−1,250,000
Use of prior year unobligated funds	−2,500,000
Net increase	+9,593,000

Research, development, test, and evaluation

Amendment No. 6: Appropriates $25,000,000 as proposed by the Senate instead of $25,100,000 as proposed by the House. The conference agreement includes $1,000,000 for a technical and operational evaluation of lighter-than-air craft for the performance of Coast Guard missions.

FEDERAL AVIATION ADMINISTRATION

Operations

Amendment No. 7: Provides that $525,000,000 of the appropriation shall be derived from the Airport and Airway Trust Fund instead of $350,000,000 as proposed by the Senate and $700,000,000 as proposed by the House. The conference agreement includes 33 flight service station positions in addition to the House allowance.

Facilities, engineering and development

Amendment No. 8: Appropriates $21,155,000 instead of $20,000,000 as proposed by the Senate and $22,310,000 as proposed by the House. The conferees reiterate the concerns expressed in the House report regarding FAA's interior cabin materials research and the implementation of the results of that research.

Facilities and equipment (Airport and Airway Trust Fund)

Amendment No. 9: Appropriates $350,000,000 as proposed by the Senate instead of $359,000,000 as proposed by the House. The conference agreement includes the specific earmarkings contained in the House and Senate report), including $2,850,000 for the relocation of the air traffic control tower at Philadelphia International Airport. The conference agreement has deleted the funds for a Sabreliner flight trainer.

Research, engineering and development (Airport and Airway Trust Fund)

Amendment No. 10: Appropriates $85,000,000 as proposed by the House instead of $75,000,000 as proposed by the Senate.

In restoring the Senate reduction of $10,000,000, the conferees direct that none of the funds in this account be obligated for any new contracts for the replacement of the enroute air traffic control computer system until the concerns raised in the Senate report have been adequately addressed. The conferees are aware that in a letter dated September 15, 1980, the Senate Committee was assured by the FAA Administrator that this would be the case and that FAA would address the concerns and recommendations of the Committee. The conferees agree and direct that FAA should respond to the appropriate Committees in a timely manner, but no later than the following dates:

Recommendation 1—by June, 1981.
Recommendations 2 and 8—by July, 1981.
Recommendation 3—by September, 1981.
Recommendation 4—by January, 1981.
Recommendation 5—by December, 1980.
Recommendations 6 and 7—by October, 1980.

Construction, Metropolitan Washington airports

Amendment No. 11: Appropriates $16,200,000 as proposed by the House instead of $5,350,000 as proposed by the Senate. The conference agreement restores the funds for the extension of the Dulles access highway.

Aircraft purchase loan guarantee program

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That this limitation shall not apply to any guarantee of an aircraft purchase loan where (1) the loan guarantee applicant has submitted a loan guarantee application before October 1, 1980; (2) the Federal Aviation Administration has indicated prior to October 1, 1980, that the applicant was conditionally eligible for a guarantee; (3) the aircraft are financed and delivered in fiscal year 1981 for reasons beyond the purchaser's control; and (4) the aggregate of all guarantees which meet the preceding three conditions when combined with guarantees issued during fiscal year 1980 shall not exceed $650,000,000 in principal amount.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on general operating expenses

Amendment No. 13: Limits general operating expenses to $191,282,000 instead of $190,705,000 as proposed by the House and $191,882,000 as proposed by the Senate.

Highway beautification

Amendment No. 14: Deletes reference to subsection (j) of 23 U.S.C. 131 as proposed by the Senate.

Amendment No. 15: Restores language making the appropriation available to carry out section 104(a) (11) of the Surface Transportation Assistance Act of 1978 as proposed by the House.

Amendment No. 16: Appropriates $6,600,000 instead of $6,100,000 as proposed by the House and $7,200,000 as proposed by the Senate.

Railroad-highway crossings demonstration projects

The conferees note that as of July 31, 1980, approximately $57,600,000 of prior-year appropriations remain unobligated and $21,500,000 remains unallocated. The conferees are concerned that a current Federal Highway Administration policy requiring the set aside of all construction funds when right of way allocations are made, will prohibit current appropriation levels from meeting project funding needs in fiscal year 1981. As a result of this policy, a large portion of the unobligated funds are dormant construction phase funds which will not be obligated in fiscal year 1981. Therefore, the conferees direct the Secretary to abandon this policy to ensure that unobligated funds are available to projects requiring funding in fiscal year 1981. The use of these dormant construction funds should be adequate to permit all of these projects to proceed on schedule during fiscal year 1981.

The conferees direct that $12,000,000 should be made available to the project in Hammond, Indiana, and $6,000,000 should be made available to the project in Lafayette, Indiana.

Access highways to public recreation areas on certain lakes

Amendment No. 17: Appropriates $6,525,000 as proposed by the Senate instead of $1,875,000 as proposed by the House. The conference agreement includes the following projects:

Bliss Road, Tioga County, Pennsylvania	$1,875,000
Route T–430, Huntington County, Pennsylvania	2,400,000
Access road to Sims Mesa, New Mexico	2,250,000

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which extends the availability of the unobligated balances appropriated under this heading by Public Law 95–85.

Federal-aid highways (Liquidation of contract authorization) (Trust Fund)

Amendment No. 19: Appropriates $7,500,000,000 as proposed by the Senate instead of $7,600,000,000 as proposed by the House.

In addition to the projects identified in the Senate report, the conferees direct that priority be given to U.S. 131 in Mecosta County, Michigan and to the James Island Bridge in Charleston, South Carolina.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and research

Amendment No. 20: Appropriates $85,876,000 instead of $82,253,000 as proposed by the House and $99,500,000 as proposed by the Senate. The conference agreement has deleted funding for fuel economy and odometer compliance support, citizen participation, and the program to equip certain publicly-owned vehicles with air bags. The conferees agree that, subject to the availability of air bag equipped vehicles, a supplemental request will be considered for this demonstration program. Except as noted above, the conferees intend for the funds to be applied to NHTSA's highest priority operations and research programs.

Amendment No. 21: Provides that $26,963,500 of the appropriation shall be derived from the Highway Trust Fund instead of $26,225,000 as proposed by the House and $27,702,000 as proposed by the Senate.

Amendment No. 22: Provides that $38,477,500 of the appropriation shall remain available until expended instead of $35,587,-

000 as proposed by the House and $51,368,000 as proposed by the Senate.

Amendment No. 23: Provides that $11,395,000 of the amount appropriated to remain available until expended shall be derived from the Highway Trust Fund instead of $11,034,000 as proposed by the House and $11,749,000 as proposed by the Senate.

State and community highway safety (Including liquidation of contract authorization)

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$38,593,000, of which $10,000,000 shall be available for transportation systems management, and".

The managers on the part of the Senate will move to concur in amendment of the House to the amendment of the Senate.

The conference agreement provides for a direct appropriation of $38,593,000 according to the following table:

Program:	*Appropriation*
National maximum speed enforcement	$25,000,000
Transportation systems management	10,000,000
Innovative grants	1,000,000
State and community highway safety:	
Trust Territories	2,593,000
Total	38,593,000

The conferees intend that there be no decrease in the overall effort to enforce the national maximum speed limit. The National Highway Traffic Safety Administration should, therefore, continue its efforts to obligate significant sums from the State and Community Highway Safety section 402 program to at least maintain the fiscal year 1980 level of enforcement.

The conferees have earmarked $10,000,000 under this heading and $5,000,000 of the funds included for urban discretionary grants to accomplish the energy conservation and air quality objectives of the transportation systems management program. In addition to these funds, the conference agreement also provides funding for certain programs of the Federal Highway Administration, Urban Mass Transportation Administration, and the National Highway Traffic Safety Administration which have similar objectives to those of the transportation systems management program.

The conferees expect these programs to be coordinated and consolidated to the maximum extent possible so that the most efficient use of funds is made to meet these objectives in the most cost effective manner. The Department is directed to report to the House and Senate Committees on Appropriations on the administrative steps it has taken to better coordinate and consolidate the planning and implementation of such activities by March 1, 1981. This report should focus both on internal improvements between Department of Transportation administrations and external improvements between the Department of Transportation and other public entities.

Amendment No. 25: Provides that $26,000,000 of the appropriation shall be derived from the Highway Trust Fund instead of $21,000,000 as proposed by the House and $41,000,000 as proposed by the Senate.

FEDERAL RAILROAD ADMINISTRATION

Railroad research and development

Amendment No. 26: Appropriates $50,000,000 as proposed by the Senate instead of $52,000,000 as proposed by the House.

Rail service assistance

Amendment No. 27: Appropriates $90,000,000 instead of $86,600,000 as proposed by the House and $90,577,000 as proposed by the Senate. The conference agreement includes $80,000,000 for local rail service assistance, $4,000,000 for necessary studies for 13 "emerging Amtrak corridors", and $6,000,000 for administration and special projects. The conferees direct that no funds be committed for engineering and operating feasibility studies for any of the 13 Amtrak emerging corridors until the corresponding marketing studies have been completed and expressly approved by the House and Senate Committees on Appropriations.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum named in said amendment, insert: "$25,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees will consider additional requests for funds later this fiscal year when the structure of this program is defined by the pending authorizing legislation and the magnitude of the need is better known.

Northeast Corridor improvement program

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.

Grants to the National Railroad Passenger Corporation

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$881,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees hope that Amtrak will establish appropriate liaison with the Mayor of Gary, Ind., so that they will be prepared to fully utilize the intermodal terminal facility to be funded by the Urban Mass Transportation Administration.

The conferees also encourage Amtrak to consider ways of providing additional stops in Gary, Ind., for its existing passenger trains. Of particular concern is the lack of service provided by the *Cardinal*, which passes through Gary enroute from Cincinnati to Chicago, but does not stop.

Amendment No. 31: Appropriates $650,000,000 for operating losses incurred by the Corporation as proposed by the Senate instead of $674,900,000 as proposed by the House. The conferees will consider requests for additional funds later this fiscal year should the need arise.

Amendment No. 32: Appropriates $202,000,000 for Amtrak capital improvements instead of $183,000,000 as proposed by the House and $221,000,000 as proposed by the Senate. The conferees will consider the need for additional passenger railcars later this fiscal year if such request can be fully justified on cost effectiveness and system performance bases.

In addition to the regular fiscal year 1982 budget request, the conferees direct Amtrak to submit a detailed budget estimate for fiscal year 1982 and projections for future years assuming the termination of the five least cost effective long-haul routes on September 30, 1981. The budget submission should contain the most detailed revenues and costs associated with each of the five routes.

Amendment No. 33: Deletes language proposed by the House prohibiting the use of funds for the temporary reduction of indebtedness under 45 U.S.C. 602.

Amendment No. 34: Inserts language proposed by the House prohibiting commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602.

Amendment No. 35: Inserts language proposed by the House providing that the incurring of any obligations or commitments by the Corporation for capital improvements not expressly provided for in an appropriation act shall be deemed a violation of 31 U.S.C. 665. The inclusion of amendments numbered 34 and 35 is not intended to reflect unfavorably upon the actions of present Amtrak management, but rather is intended to be an attempt by the conferees to provide for appropriate Congressional and administrative control over the Corporation's capital grant program.

Payments to the Alaska Railroad Revolving Fund

Amendment No. 36: Appropriates $10,640,000 for payment to the Alaska Railroad Revolving Fund as proposed by the Senate instead of $8,600,000 as proposed by the House. The conferees also direct the Interstate Commerce Commission, in cooperation with the Federal Railroad Administration and the State of Alaska, to provide a determination (along with supporting data) to the House and Senate Committees on Appropriations as to whether Alaska Railroad water/rail contract rates and water/rail tariff charges recovery the full variable costs of such service as well as any subsidy allocable in providing such service. Such determination shall be provided no later than June 1, 1981.

Railroad rehabilitation and improvement funds

Amendment No. 37: Limits principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94–210, as amended, to $770,000,000 as proposed by the Senate instead of $600,000,000 as proposed by the House. The conferees direct that the Department shall not approve the application to purchase, rehabilitate, and/or construct trackage to the Powder River Basin, Wyoming, without the consent of the House and Senate Committees on Appropriations. The conferees believe a timely decision on this matter is essential and, therefore, direct the Secretary to provide the Committees on Appropriations with his recommendation along with supporting data which fully discusses all viable alternatives as soon as is feasible, but no later than October 31, 1980.

Rail labor assistance

Amendment No. 38: Appropriates $1,500,000 for new career training assistance under section 119 of the Rock Island Transition and Employment Assistance Act as proposed by the Senate.

URBAN MASS TRANSPORTATION ADMINISTRATION

Research, development, and demonstrations and university research and training

Amendment No. 39: Appropriates $65,500,000 instead of $57,820,000 as proposed by the House and $68,000,000 as proposed by the Senate. The conference agreement includes the $5,500,000 for the Notre Dame University cold weather research program, $1,000,000 for the study and conversion of existing transit buses to use methanol, $2,000,000 for downtown people mover research and $7,500,000 for the continued development of an advanced group rapid transit system. The conferees direct that no funds be reprogrammed for the Georgetown University vehicle access demonstration project without the prior approval of the House and Senate Committees on Appropriations.

Amendment No. 40: Earmarks $63,500,000 of the appropriation under this heading for research, development and demonstrations instead of $55,820,000 as proposed by the House and $66,000,000 as proposed by the Senate.

Urban discretionary grants

Amendment No. 41: Appropriates $2,190,000,000 instead of $2,140,000,000 as proposed by the Senate and $2,220,000,000 as proposed by the House. The conference agreement includes the following amounts:

Bus and bus related procurement	$580, 000, 000
Existing fixed guideway modernization and extensions	945, 000, 000
New systems	435, 000, 000
Downtown people movers	50, 000, 000
Urban initiatives	90, 000, 000
Planning	65, 000, 000
Innovative techniques	15, 000, 000
Technology introduction	10, 000, 000
Total	2, 190, 000, 000

The conferees direct that $5,000,000 of the amount included for innovative techniques shall be made available for transportation systems management.

The conferees recognize that buses provide the largest portion of urban public transportation throughout the country. The conferees believe that the $580,000,000 included under section 3 and the $350,000,000 included under section 5 should provide adequate funds for bus purchases during fiscal year 1981. If these amounts prove to be insufficient, the conferees will consider either a reprogramming or supplemental for this program.

The conferees expect that the eight major rail areas (New York, Northern New Jersey, Chicago, Philadelphia, Pittsburgh, Boston, Cleveland, and San Francisco) will receive equal consideration along with all other cities under the bus and bus related program. In addition to the rail transit service provided in these locations, approximately 35 percent of the nation's bus service (as measured in revenue vehicle-miles) is provided in these eight areas. Despite the level of bus service concentrated in these areas, to date they have received a relatively small amount of discretionary bus grant funds. The conferees expect UMTA to make the necessary adjustments in its bus grant program and to submit a report showing the distribution of these section 3 grants by December 31, 1980.

Under new systems the conference agreement includes funds for preliminary engineering for the Houston rail transit system. The agreement also includes $10,000,000 for the completion of phase 1 of the Baltimore rail transit system and, subject to the issuance of a letter of intent, $10,000,000 to start the next leg, the northwest extension. The conferees recognize the potential economies which might be achieved if this extension is constructed concurrently with the proposed highway and expect that the Department will consider this fact in determining if and when to submit a letter of intent.

Under urban initiatives, the conferees reiterate the priorities expressed in the House and Senate reports. The conferees also reiterate the House report language regarding the potential for energy and operating cost savings of the hydraulic energy storage device proposed for trial and evaluation by Tri-Met in Portland, Oregon and urges full consideration by UMTA of this device.

Amendment No. 42: Deletes language proposed by the House making $705,000,000 of the appropriation under this heading available only upon the enactment of authorizing legislation.

Amendment No. 43: Deletes language proposed by the House and inserts language proposed by the Senate regarding the "Buy America" provisions of section 401 of Public Law 95–599.

The conference agreement includes language which requires that UMTA apply the Buy America domestic preference provisions of Section 401 of Public Law 95–599 to grants awarded in fiscal year 1981 which use funds appropriated by this Act. The purpose of this provision is to ensure that appropriations that are authorized by statutes enacted after Public Law 95–599 are administered in a manner that provides incentives to manufacture in the United States and to employ United States workers. At a time when inflation and unemployment are presenting problems here in the United States, the conference language ensures that domestic companies and domestic jobs will be protected when capital grants are awarded for any highway or transit project.

The conferees believe that Section 401 of Public Law 95–599 provides uniform, national domestic preference requirements for transit equipment and construction supplies purchased with UMTA funds. Thus, the conference agreement language which is intended to ensure that no highway or transit funds be made available unless such funds are obligated pursuant to the provisions of Section 401 of Public Law 95–599. Under Section 401 only American-made materials are to be used in highway and transit projects unless one of four exceptions apply—public interest, unavailability, and two exceptions for unreasonable cost. The conferees believe these should be the only exceptions.

Over the past several years, many states have enacted domestic preference legislation related to procurements using state funds. A problem might arise in the case of joint State-Federal participation in a project, such as UMTA-funded procurement, where a State will wish to impose its domestic preference law. If a contract bid does not fall within the scope of any of the exceptions cited in Section 401 of Public Law 95–599, then the grantee should not be denied UMTA financial assistance simply because of the imposition of a state domestic preference law. The conferees do not intend the term "state domestic preference law" to include so-called "buy-state laws" which require preferences for products manufactured in a particular state or subdivision and any such state laws shall not prevail over Federal law. On the other hand, if the imposition of a state domestic preference law causes the contract bid to fall within the scope of any or all of the exceptions cited in Section 401 of Public Law 95–599, then UMTA financial assistance could be denied because State statutes are undoubtedly subject to Federal law prescribing the "Buy America" exceptions of public interest, unavailability and unreasonable cost.

In addition to implementation of Section 401 of Public Law 95–599, the conferees direct UMTA to explore additional regulatory approaches to enhance domestic protections, including, but not limited to, measures to encourage the use of American steel and high technology assemblies in any foreign-made components that are incorporated into United States products. UMTA should cooperate with other Federal agencies to lessen the opportunity for unfair trade practices in transit procurements. UMTA should also monitor the implementation of state preference provisions to determine if it would be in the national interest to apply at the Federal level any provisions that states apply to their self-funded projects.

Non-urban formula grants

Amendment No. 44: Appropriates $72,500,000 instead of $65,000,000 as proposed by the House and $80,000,000 as proposed by the Senate.

Urban formula grants

Amendment No. 45: Appropriates $1,455,000,000 instead of $1,400,000,000 as proposed by the Senate and $1,500,000,000 as proposed by the House. The conference agreement includes the following amounts:

Tier I	$850, 000, 000
Tier II	165, 000, 000
Commuter rail/fixed guideway	90, 000, 000
Bus and bus facilities	350, 000, 000
Total	1, 455, 000, 000

Waterborne transportation demonstration project

Amendment No. 46: Appropriates $10,000,000 for one project instead of $20,000,000 for two projects as proposed by the House. The conferees intend these funds to be used to complete the demonstration project authorized by section 320 of the Surface Transportation Assistance Act of 1978.

Interstate transfer grants

The conferees intend that the first priority for funding should be given to the projects in northeast Illinois (Chicago); District of Columbia (Metro) and New Jersey, making every effort to complete those projects. In addition, the conferees expect UMTA to meet its commitments to ongoing projects in Boston, Mass., Philadelphia, Pa., Hartford, Conn.; Portland and Salem, Oreg., as well as consider the project at Hennepin County, Minn.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATIONS

Research and special programs

Amendment No. 47: Appropriates $31,420,000 instead of $29,820,000 as proposed by the House and $32,558,000 as proposed by the Senate. The conference agreement includes $1,600,000 for the automotive transportation center at Purdue University, $500,000 for the continued review of potential uses of lighter-than-air vehicles and funds for a study of the economic and technical feasibility of developing intermodal terminals in southwestern Pennsylvania, West Virginia and Ohio.

Amendment No. 48: Provides that $12,291,000 of the appropriation shall remain available until expended instead of $10,691,000 as proposed by the House and $13,429,000 as proposed by the Senate.

Cooperative automotive research

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

Cooperative automotive research

For necessary expenses to discharge the functions of a cooperative automotive research program for conducting basic automotive research, $12,000,000, to remain available until expended: *Provided*, That no additional funds shall be expended thereafter, unless authorized by Congress: *Provided further*, That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000: *Provided further*, That the Department of Transportation, in cooperation with the Department of Commerce, Department of Defense, National Science Foundation, National Aeronautics and Space Administration, Environmental Protection

Agency, and Department of Energy, report to the Congress within 6 months of enactment of this Act its assessment of current Federal automotive and other surface transportation research and development and its analysis of options for the Federal management structure, areas of research, including applied research detailed objectives and funding requirements for a cooperative automotive research program: *Provided further,* That it is also the intention of the Congress that an authorization bill with positive or negative recommendations be reported out by the appropriate committees within said period.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF THE INSPECTOR GENERAL

The conferees are following the progress of the implementation of the Inspector General Act of 1978 with great interest. The conferees believe that an aggressive Inspector General's Office can be of invaluable assistance to the Congress in fulfilling its oversight responsibilities.

Although both the House and Senate have agreed to give the Inspector General's office its full budget request, the conferees wish to bring attention to several areas of concern which have come out in both the House and Senate hearings.

First, the conferees hope that the semiannual reports of the Inspector General will be as detailed and as accurate a record of the office's activities as is possible. It is crucial that these documents provide the Congress with specific program recommendations. It is also of the utmost importance that the reports clearly communicate the dollar amounts by program account which have been recovered by the Treasury as a result of the office's activities as well as the potential dollar savings which have yet to be resolved.

Second, the conferees are concerned about testimony of FHWA and UMTA that these agencies and others are hiring additional personnel to perform functions which were once performed by agency auditors who were transferred to the Inspector General's office when it was created. The conferees direct the Department to stop this practice or to justify on a case by case basis why it is necessary to duplicate the functions in individual agencies which appear to be the responsibility of the Inspector General to perform.

Third, the conferees want to urge the Inspector General to proceed with caution in centralizing its offices. The conferees are aware of at least one instance where an employee was moved from a district office to a regional office only to move back to the district office on travel and per diem a few days later for an extended "visit".

The conferees also urge the Inspector General, or his designee, to communicate on a regular basis with the appropriate Members of Congress charged with reviewing the Department's programs. This communication should not only take the form of the semiannual reports and seven-day reports specified in the enabling legislation, but should also include regular consultation with the Congress.

TITLE II—RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and expenses

Amendment No. 50: Appropriates $18,200,000 instead of $17,900,000 as proposed by the House and $18,500,000 as proposed by the Senate.

INTERSTATE COMMERCE COMMISSION

Payments for directed rail service

Amendment No. 51: Inserts the words "or any other legislation" as proposed by the House.

PANAMA CANAL COMMISSION

Capital outlay

Amendment No. 52: Inserts language permitting the Commission to incur obligations in advance of receipts in the Panama Canal Commission Fund as proposed by the House. The conferees believe that the Panama Canal Act of 1979 and the funds included in the conference agreement provide adequate authority for the continued operation of the Commission. The conferees note that there could be a subsidy from the General Fund to the Commission to the extent that Treasury borrowing is increased as a result of the Commission incurring obligations in advance of receipts in the Panama Canal Commission Fund. The conferees believe the appropriate authorizing committees should review this matter.

Reimbursement of general fund

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to reimburse the General Fund of the Treasury for the total fiscal year 1980 outlays from the Panama Canal Commission operating expenses and capital outlay accounts.

DEPARTMENT OF TREASURY

Office of the Secretary

Investment fund anticipation notes

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum named in said amendment, insert: "$25,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

UNITED STATES RAILWAY ASSOCIATION

Administrative expenses

Amendment No. 55: Appropriates $29,000,000 instead of $28,500,000 as proposed by the House and $29,280,000 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 56: Limits commitments for grants-in-aid for airports to $700,000,000 as proposed by the Senate instead of $725,000,000 as proposed by the House. The conferees reiterate the priorities identified in the House and Senate reports. The conferees believe that in the future Committee records should contain detailed justifications for all earmarkings that circumvent previously established priorities.

Amendment No. 57: Inserts the words "and programs" as proposed by the Senate.

Amendment Nos. 58 & 59: Insert language proposed by the House to permit the continued use of preferential fare systems for the elderly and handicapped which offer a free return ride upon payment of the generally applicable full fare when existing fare collection systems do not reasonably permit the collection of half fares.

Amendment No. 60: Limits obligations for Federal-Aid Highways to $8,750,000,000 as proposed by the House instead of $8,400,000,000 as proposed by the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: "; Provided further, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than 60 days after date of enactment of this Act, designate under 23 U.S.C. 103 (e)(1) as a route on the National System of Interstate and Defense Highways 3.03 miles in the State of Missouri extending I-170 southward from I-70 to tie into U.S. 40 and 6.25 miles in the State of Alabama connecting I-10 and I-65 in the vicinity of Mobile-Prichard.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees believe these routes contain special and unique circumstances which justify their inclusion in the Interstate System. It is the intention of the conferees, however, *that* the 1983 and 1986 deadlines contained in the Surface Transportation Assistance Act of 1978 with respect to completion of the Interstate System be applicable to these routes. The conferees also intend that these routes not be eligible for withdrawal from the Interstate System under the provisions of 23 U.S.C. 103(e)(4).

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that there shall be no obligational constraints placed upon on-going emergency projects funded under the Discretionary Bridge Replacement Fund or the Emergency Relief Fund.

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

(a) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by the above allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(b) Notwithstanding subsection (a), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (a) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 64: Conforms section number.

Amendment No. 65: Inserts language proposed by the House prohibiting the obligation of funds for the extension of the Dulles Airport access highway prior to the Commonwealth of Virginia agreeing to assume responsibility for maintenance and operation of such extension.

Amendment No. 66: Deletes language proposed by the Senate prohibiting the Panama

Canal Commission from holding board meetings unless such meetings are open to the public in accordance with the provisions of the Sunshine Act.

Amendment No. 67: Deletes language proposed by the House and inserts language proposed by the Senate prohibiting the use of funds to assist any State in imposing State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Federal motor carrier safety regulations. The House bill contained a similar prohibition for vehicles not engaged in interstate commercial transportation.

Amendment No. 68: Deletes language proposed by the House to prohibit the use of funds to implement or enforce the passive restraint system standard or regulation.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes the House language and inserts language requiring contracts for consulting services to be available for public inspection and to be included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the amendment is to be updated quarterly.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. The Senate amendment deletes the House language and inserts language requiring: (1) that contracts be awarded in full compliance with the Office of Federal Procurement Policy Act and any regulations promulgated thereunder; and (2) that reports and any other documents prepared pursuant to a contract or prepared by an agency but substantially derived from a contracted report contain information identifying the contractor who prepared the report.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes the House language and inserts language limiting obligations incurred during the last quarter of fiscal year 1981 to 30% of the total available budget authority for the fiscal year.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring more timely completion of unresolved audit reports.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring improvements in the collection of overdue debts owed to the United States, the billing of interest on delinquent debts and the reduction of amounts of such debts written off as uncollectible.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which reduces funds available for consultant services for the Department of Transportation by $3,894,000.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 324. None of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1973, except—

"(1) to the extent which would be required under the amendment contained in section 118 of S. 2720 (96th Congress, Federal Public Transportation Act of 1980), as passed by the Senate on June 26, 1980, or

"(2) where such authorities have elected to purchase such lifts."

This section shall be effective only until modified by subsequent legislation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 76: Deletes language proposed by the Senate regarding the creating of additional paperwork. However, the conferees strongly endorse the spirit in which this amendment was offered and wish to reiterate their deep concern for the heavy paperwork burdens placed on the public by all government agencies. The Secretary is directed to intensify his administrative efforts to reduce paperwork and should be prepared to discuss these efforts in depth in the fiscal year 1982 budget hearings before the House and Senate Appropriations Committees.

Amendment No. 77: Inserts language proposed by the Senate prohibiting the use of funds to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval adopted in accordance with the applicable laws of the United States. Section number is changed from 326 to 325.

Amendment No. 78: Inserts language proposed by the Senate which reduces appropriations for advertising or public relations activities by 10 percent. Section number is changed from 327 to 326.

Amendment No. 79: Inserts language proposed by the Senate which prohibits the availability of Federal funds for Interstate highway I-69 between Charlotte and Lansing, Michigan for 90 days after the date of enactment. Section number is changed from 328 to 327.

Amendment No. 80: Inserts the language proposed by the Senate prohibiting funds to mandate any reduction in the number of certificated air carrier slots per hour at Washington National Airport below the number authorized on September 12, 1980, until April 26, 1981. Section number is also changed from 329 to 328. In delaying the reduction in hourly certificated air carrier slots the conferees do not intend to negate the Washington National Airport Policy. The conferees expect that those aspects of the policy other than the number of hourly air carrier slots will be implemented as scheduled. The conferees recognize that the rapid introduction of wide-bodied aircraft prior to April 26, 1981, could strain the airport's ground facilities and, therefore, expect that these aircraft will be phased into National on a gradual basis.

Amendment No. 81: Deletes language proposed by the Senate requiring the submission of a schedule of anticipated outlays for each month of fiscal year 1981.

Amendment No. 82: Deletes language proposed by the Senate prohibiting funds for training labor union or management personnel on matters related to labor-management relations.

Conference total—With comparisons

The total new budget (obligational) authority for the fiscal year 1981 recommended by the Committee of Conference, with comparisons to the fiscal year 1980 amount, the 1981 budget estimates, and the House and Senate bills for 1981 follow:

New budget (obligational) authority, fiscal year 1980	$10,379,710,439
Budget estimates of new (obligational) authority, fiscal year 1981	[1] 12,971,135,065
House bill, fiscal year 1981	12,032,784,065
Senate bill, fiscal year 1981	11,970,242,764
Conference agreement	11,991,261,764
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1980	+1,611,551,325
Budget estimates of new (obligational) authority, fiscal year 1981	−979,873,301
House bill, fiscal year 1981	−41,522,301
Senate bill, fiscal year 1981	+21,019,000

[1] Includes $513,500,000 of budget estimates not considered by the House.

Robert B. Duncan,
Adam Benjamin, Jr.,
William Lehman,
Martin Olav Sabo
(except amendment No. 75),
Bennett M. Stewart,
Vic Fazio
(except amendment No. 75),
Sidney R. Yates,
Jamie L. Whitten,
Silvio O. Conte
(except amendment No. 75),
Jack Edwards,
Clarence E. Miller
(except amendment No. 80),
Lawrence Coughlin,
Managers on the Part of the House.

Birch Bayh,
Warren G. Magnuson,
John C. Stennis,
Robert C. Byrd,
Thomas F. Eagleton,
John A. Durkin,
James A. McClure,
Charles McC. Mathias, Jr.
(reserving amendment No. 80),
Lowell P. Weicker, Jr.,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2977

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 2977) to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96-1401)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2977) to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—DOMESTIC VIOLENCE PREVENTION

SEC. 100. This title may be cited as the "Domestic Violence Prevention and Services Act."

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress hereby finds that—

(1) a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families;

(2) the reported incidence of domestic violence represents only a portion of the total number of incidents of domestic violence;

(3) a large percentage of the deaths of law enforcement officers in the line of duty results from intervention by law enforcement officers in incidents of domestic violence;

(4) domestic violence is a complex problem affecting families from all social and economic backgrounds; and

(5) the effectivenes of State laws and State and local programs in reporting and preventing domestic violence and in providing immediate shelter and other assistance for victims and dependents of victims of domestic violence is not readily ascertainable.

(b) It is the purpose of this title—

(1) to increase the participation by States, local public agencies, local communities, nonprofit private organizations, and individual citizens in efforts to prevent domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence;

(2) to provide technical assistance and training relating to domestic violence programs to States, local public agencies, nonprofit private organizations, and other interested groups, officials, and persons seeking such assistance;

(3) to establish a Federal interagency council to seek to coordinate Federal programs and activities relating to domestic violence; and

(4) to provide for essential information gathering and reporting programs relating to domestic violence.

GRANTS AUTHORIZED

SEC. 102. (a) (1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence, the Secretary is authorized, in accordance with the provisions of this title, to make grants to States that meet the requirements of this subsection.

(2) No grant may be made under this subsection unless the chief executive officer of the State seeking such grant submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that funds provided under this subsection will be distributed in grants to local public agencies and nonprofit private organizations for programs and projects within such State to prevent incidents of domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence;

(B) provide, with respect to funds provided to a State under this subsection for any fiscal year, that—

(i) not less than 70 percent of such funds will be distributed in grants to nonprofit private organizations within the State; and

(ii) in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness, particularly projects which operate shelters for victims and dependents of victims of domestic violence;

(C) provide that the State, whenever feasible, in making grants under this subsection, will provide reasonable assurances, and the basis therefor, to local public agencies and nonprofit private organizations receiving such grants of the level of future support which each such agency or organization is likely to receive from the State, assuming continuation of an adequate level of Federal assistance under this title;

(D) set forth procedures designed to assure an equitable distribution of grants and grant funds within the State in accordance with the provisions of this title;

(E) set forth procedures for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds provided to the State under this title, including such funds distributed by the State to local public agencies and nonprofit private organizations;

(F) specify the State agency to be designated as responsible for the administration of programs and activities relating to domestic violence which are carried out by the State under this title and for coordination of programs within the State that are or could be used in relation to the prevention of domestic violence or the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence;

(G) provide for making such reasonable reports in such form, at such times, and containing such additional information as the Secretary may deem essential to carry out the purposes and provisions of this title, and for keeping such records and affording such access thereto as the Secretary may deem essential to assure the correctness and verification of such reports;

(H) provide assurances of, and procedures for, compliance with the provisions of section 108, relating to confidentiality, and provide assurances that the address or location of any shelter for victims and dependents of victims of domestic violence which is in receipt of a grant under this subsection will, at the request of the person responsible for the operation of such shelter, not be made public;

(I) set forth procedures to assure active citizen participation within the State with respect to—

(i) overseeing within the State the development and implementation of Federal, State, and local programs and projects funded under this title, including consideration of the extent to which the geographic distribution of grants and grant funds by the State is equitable, taking into account the distribution of population within the State, and, to the extent feasible, examining and evaluating other Federal, State, and local programs providing services in the State that are or could be used in relation to the prevention of domestic violence or the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence; and

(ii) the distribution of fund to be made by the State through grants to local public agencies and nonprofit private organizations, and the development of plans for effectively meeting statewide needs;

(J) provide assurances that any project for which a grant is made under this subsection will—

(i) seek to coordinate its activities with other programs in the State that are or could be used in relation to the prevention of domestic violence or the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence; and

(ii) be administered and operated by personnel with appropriate skills, training, or experience and that, where a substantial number of individuals with limited English-language proficiency will be served, particular attention will be given to the provision of services which respect cultural sensitivities and bridge linquistic and cultural differences;

(K) provide that technical assistance will be available to local public agencies and nonprofit private organizations located in the State, in coordination with other Federal, State, and local efforts to provide such assistance, for the purpose of assisting such agencies and organizations in obtaining an adequate level of support from a variety of sources;

(L) provide for submitting anually to the legislature of the State involved the report which such State is required to submit to the Secretary under section 105; and

(M) provide such other assurances and include such other information as the Secretary deems essential to carry out the purposes and provisions of this title.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice, opportunity for correction of any deficiencies, and notice of, and an opportunity for, a hearing.

(b) (1) The Secretary is authorized to make grants to Indian tribes and intertribal organizations for projects designed to prevent domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence if such projects will be available within or will specifically serve—

(A) a federally recognized Indian reservation;

(B) any land area in Oklahoma the title to which is either (i) held by the United States in trust for the benefit of any Indian tribe or individual, or (ii) held by any Indian tribe or individual subject to a restriction against alienation imposed by the United States;

(C) a native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

(D) an Indian community the members of which are recognized as eligible for services under the Indian Health Care Improvement Act (90 Stat. 1400).

(2) No grant shall be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Such application shall comply, as applicable, with the provisions of clauses (E), (G), (H), and (J) of subsection (a) (2) of this section.

(3) Indian tribes and intertribal organizations seeking or receiving grants under this subsection shall have the same rights as States under subsections (i) and (j) of this section, and the duties of the Secretary under such subsections shall apply to grants under this subsection.

(c) No grant may be made under this section in any fiscal year to any single entity (other than to a State) for an amount in excess of $50,000, and the total amount of such grants to any single entity may not exceed $150,000, or be awarded in excess of three fiscal years.

(d) No funds provided through grants made under this section may be used as direct payment to any victim or any dependent of a victim of domestic violence.

(e) (1) No income eligibility standard may be imposed with respect to any individual seeking assistance or services from any local public agency or nonprofit private organization which receives a grant under this title.

(2) No funds may be made available under this section to any local public agency or nonprofit private organization unless such agency or organization agrees to seek to recover fees for services provided by such agency or organization to victims or dependents of victims of domestic violence. The amount of such fees shall be based upon the ability of such victims to pay for the provision of such services.

(f) No grant may be made under this section to any local public agency or nonprofit private organization unless such agency or organization provides for the following local share as a proportion of the total amount of Federal funds provided under this title to the program or project involved: 25 percent in the first year such program or project receives a grant under this title, 33⅓ percent in the second such year, and 50 percent in the third such year. Except in the case of a public entity, not less than 50 percent of the local share of such agency or organization shall be raised from private sources in the community served by such agency or organization. The local share required under this subsection may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services. The local share may not include any Federal funds provided under any authority other than this title.

(g) The Secretary shall assure that not less than 75 percent of the funds distributed under subsection (a) of this section and not less than 75 percent of the funds distributed under subsection (b) of this section shall be distributed under each such subsection to entities for the purpose of providing immediate shelter and related assistance to victims and dependents of victims of domestic violence.

(h) In any case in which the Secretary approves an application submitted to the Secretary by a State for grant under this section, the Secretary shall submit written notice of such approval as soon as practicable after the date of such approval to the State legislature for the State involved for review by such legislature. Such notice shall include such information as the Secretary considers appropriate describing the nature of activities which are proposed in such application and the reasons of the Secretary for approving such application.

(i) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State which has received a grant under subsection (a) or section 103, finds that there is a substantial failure to comply with the requirements of this section in the administration of any such grant, the Secretary shall notify the State that no further payments will be made to the State under this title (or, in the discretion of the Secretary, that further payments to the State will be limited to programs not affected by such failure) until the Secretary is satisfied that there will no longer be any such failure to comply. Until so satisfied, the Secretary shall make no further payments to such State under this title (or the Secretary may limit further payments to programs not affected by such failure). The hearing required under this section shall be held within the State concerned unless otherwise agreed to by the Secretary and such State.

(j)(1) Any State adversely affected or aggrieved by any action of the Secretary under subsection (a)(3) or subsection (i) may, not later than 60 days after notice of such action, file a petition for review of such action with the United States court of appeals for the circuit in which such State is located. A copy of such petition shall be transmitted by the clerk of such court to the Secretary. The Secretary, after receiving such copy, shall file in such court the record of the proceedings upon which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive, except that the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify the previous determination. The Secretary shall certify to the court the record of any further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

(3) The United States court of appeals involved shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SUPPLEMENTAL GRANTS AUTHORIZED

SEC. 103. (a) The Secretary is authorized, in accordance with the provisions of this title, to make grants to any applying State that has met the requirements for a grant under section 102(a) for the purpose of paying the costs of—

(1) administering programs and activities relating to domestic violence carried out by such State in accordance with this title;

(2) developing and implementing the State's domestic violence programs as specified in the application submitted by such State under such section;

(3) assuring active citizen participation in accordance with section 102(a)(2)(I) and providing technical assistance in accordance with section 102(a)(2)(K); and

(4) developing a media campaign to increase public awareness of the problem of domestic violence and the availability of services for its victims.

(b) An application for a grant under this section may be made by a State as part of the application provided for under section 102(a)(2).

ALLOTMENT OF FUNDS

SEC. 104. (a) From the sums appropriated under section 114 for grants to States for any fiscal year, each State shall be allotted for payment in a grant authorized under sections 102 and 103 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

(1) each State shall be allotted not less than whichever is the greater of the following amounts: one-half of 1 percent of the amounts available for grants under sections 102(a) and 103 for the fiscal year for which the allotment is made, or $45,000 for the purposes of section 102 and $7,500 for the purposes of section 103; and

(2) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 percent of the amounts available for grants under sections 102(a) and 103 for the fiscal year for which the allotment is made.

For the purpose of the exception contained in paragraph (1) of this subsection only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) For the purpose of this section, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

(c) If the sums appropriated under section 114 for any fiscal year for grants to States under sections 102 and 103 are not sufficient to pay in full the total amounts which all States are entitled to receive under each such section, respectively, for such fiscal year, then the maximum amounts which all States are entitled to receive under each such section for such fiscal year shall be ratably reduced. In the event that additional funds become available for making such grants for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d)(1) If, at the end of the sixth month of any fiscal year for which sums are appropriated under section 114, the amount allotted to a State has not been made available to such State in grants under sections 102 and 103 because of the failure of such State to meet the requirements for a grant, then the Secretary shall reallot such amount to States which are eligible to receive grants under section 102. Each such State shall be paid an amount which bears the same ratio to the total amount to be reallotted as the population of such State bears to the population of all such States.

(2) The Secretary may make available for reallotment, in accordance with the provisions of paragraph (1), such amounts made available for any fiscal year in a grant to a State under section 102 or section 103 as the Secretary determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this title. Any State with respect to which such a determination is made for any fiscal year shall not be eligible to receive any reallotments under this paragraph or under paragraph (1) for such fiscal year.

(3) Funds made available by the Secretary through reallotment under paragraph (1) or paragraph (2) shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

STATE REPORTS

SEC. 105. (a) For the purpose of furnishing information to the Congress to aid in its oversight activities, each State receiving a grant under section 102(a) shall submit to the Secretary, on or before December 1 of each year, a concise report providing specific information on the implementation of programs and projects under this title. Each such report shall include (with amounts of funds provided under sections 102(a) and 103 shown separately) information for the preceding fiscal year as to—

(1) the amount used to administer programs and activities relating to domestic violence carried out by such State in accordance with this title;

(2) the amount used for assuring active citizen participation in accordance with section 102(a)(2)(I), and the amount used for programs and project to provide training and technical assistance with respect to domestic violence in accordance with section 102(a)(2)(K);

(3) the amount used for services provided and activities conducted, or caused to be provided or conducted, by the State, including the amount used by each agency and the amount used for each type of service and activity conducted or caused to be conducted by each agency;

(4) the number, nature, recipients, and amounts of grants made to local public agencies, the number, nature, recipients, and amounts of grants made to nonprofit private organizations and the number, nature, recipients, and amounts of grants to entities providing shelter and related assistance to victims and dependents of victims of domestic violence;

(5) the number of persons estimated to have been assisted in projects described in

paragraphs (2) through (4), respectively, of this subsection; and

(6) such other specific information as the Secretary may deem essential to carry out the purposes and provisions of this title.

(b) Before requiring any specific information under subsection (a) (6) of this section, the Secretary shall advise the appropriate committees of the Congress and each participating State of the reasons for requiring such information.

DESIGNATION OF DIRECTOR FOR PROGRAMS

SEC. 106. (a) (1) The Secretary shall designate, within the Department of Health and Human Services, a director of the programs and activities carried out under this title (including activities described in subsection (b) of this section), who shall be an individual with expertise relating to the domestic violence prevention and treatment programs administered by such department.

(b) The Secretary shall—

(1) be responsible for overseeing all programs and activities carried out under this title and shall seek to coordinate, through the Council, all Federal programs and activities (including research activities), to the extent such programs and activities relate to domestic violence, carried out with respect to the prevention of domestic violence or the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence;

(2) in order to aid the Congress in its legislative and oversight responsibilities—

(A) make legislative recommendations to the Congress, in coordination with the Council, concerning the need for the modification of Federal programs which may affect victims of domestic violence; and

(B) take whatever action is necessary to keep the Congress fully and currently informed with respect to the administration and implementation of this title;

(3) provide for the acquisition of information regarding research projects relating to domestic violence; and

(4) provide for the establishment of a national information and resource clearinghouse on domestic violence and for its operation in coordination with the information clearinghouse maintained by the National Center on Child Abuse and Neglect under section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102(b) (2), in order to—

(A) collect, analyze, prepare, and disseminate information and statistics relating to the incidence and prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence; and

(B) provide appropriate technical assistance to persons or organizations interested in preventing domestic violence or providing immediate shelter and other assistance to victims and dependents of victims of domestic violence.

(c) The Secretary is authorized to make grants to public or nonprofit private entities or enter into contracts with public or private entities to provide technical assistance, training, and outreach services, to the extent that such assistance is not otherwise available, to States, local public agencies, and nonprofit private organizations participating or interested in participating in the programs and projects authorized by this title. The Secretary shall inform such States, agencies, and organizations and all other interested parties, officials, and organizations of alternative sources of assistance available with respect to the prevention of incidents of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence.

ANNUAL REPORTS

SEC. 107. For the purpose of furnishing information to aid the Congress in its legislative and oversight responsibilities, the Secretary on or before February 1 of each year, shall prepare and submit to the Congress a concise report providing specific information on the programs authorized by this title. Each such report shall include for the preceding fiscal year—

(1) the name of each State to which a grant is made under section 102(a) and the amounts of funds provided to such State by way of allotment and reallotment and the name of each State to which a grant is made under section 103 and the amount of such grant;

(2) the total amounts of funds reallotted pursuant to section 104;

(3) the names of the grantees, the nature of the research activity or demonstration project, and the amounts of funds awarded for research activities and demonstration projects described in section 112(c);

(4) with respect to grants made under section 102(a), a tabulation of the data described in section 105(a);

(5) with respect to grants made under section 102(b)—

(A) the number of such grants;

(B) a listing, by State, of the grants made to Indian tribes and intertribal organizations; and

(C) the number of grants made, and the percentage of funds provided in grants, to entities providing shelter and related assistance to victims and dependents of victims of domestic violence; and

(6) any recommendation which the Secretary determines to be appropriate for improving the programs authorized or activities provided for by this title or described in this title.

CONFIDENTIALITY

SEC. 108. (a) Records pertaining to any individual which are maintained in connection with the provision of domestic violence prevention or treatment services to such individual by any program, project, or activity conducted, regulated, or assisted by the Department of Health and Human Services shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) (1) The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the individual with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) whether or not the individual with respect to whom any given record referred to in subsection (a) of this section is maintained gives his or her written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not disclose, directly or indirectly, in any report of such research, audit, or evaluation the identity of any individual with respect to whom such record is maintained, or otherwise disclose in any manner the identity of any such individual.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the individual concerned, to any professional-client relationship involved, and to the ability of the program, project, or activity concerned and of other programs, projects, and activities described in subsection (a) of this section to provide services with adequate and appropriate assurances of confidentiality.

(c) Except as authorized by a court order granted under subsection (b) (2) (C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against an individual or to conduct any investigation of an individual.

(d) The prohibitions of this section shall continue to apply to records concerning any individual, irrespective of whether or when he or she ceases to receive the services described in subsection (a) of this section.

(e) Any person who obtains consent for disclosure of a record under subsection (b) (1) of this section shall assure that such consent is informed and voluntary.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) The Secretary, after consultation with the heads of other departments and agencies of the United States substantially affected by the provisions of this section, shall prescribe regulations to carry out the purposes of this section. Such regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b) (2) (C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) Nothing in this section shall be construed as superseding the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State authorities.

(i) For the purposes of this section, the term "identity" means—

(A) an individual's name or other data from which it could be reasonably anticipated that a person could—

(i) identify such individual, or

(ii) ascertain other data from which such individual might be identified, or

(B) a code, number, or other means used to identify the individual in relation to a record regarding him or her.

AUDIT PROVISIONS

SEC. 109. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after the completion of any program, project, or activity authorized or assisted under this title, have access, consistent with the provisions of section 108, for the purpose of audit and examination, to any books, documents, papers, and records of recipients which, in the opinion of the Comptroller General, after consultation with the Secretary, may be related or pertinent to, the grants or contracts authorized to be made under this title.

EVALUATION

SEC. 110. (a) The Secretary shall review, evaluate, and report to the Congress, not later than two years after the date funds are obligated under section 102(a) for the first time after the date of enactment of this title, as to the effectiveness of the programs administered and operated pursuant to this title. Such review, evaluation, and report shall be conducted and prepared by persons not directly involved in the administration or operation of such programs. Such review and evaluation shall include examination of—

(1) the extent to which public awareness of the problem of domestic violence has been increased;

(2) the extent to which the availability and the effectiveness of immediate shelter and other assistance with respect to domestic violence has been increased:

(3) the extent to which assistance made available under this title has served as a catalyst for State, local governmental, and community involvement and support (including financial and in-kind support) for projects relating to domestic violence;

(4) the extent to which limiting the dollar amount of grants which may be awarded in any one fiscal year or over a three-year period has provided more opportunities for communities and nonprofit private organizations to establish, maintain, and expand projects under this title;

(5) the extent to which such dollar limitations have resulted in stimulating State, local governmental, and community financial support for projects with respect to domestic violence;

(6) the extent to which projects assisted under this title have continued, without assistance under this title, to provide services with respect to domestic violence;

(7) the extent to which the Council has assisted the Secretary in coordinating at the Federal level programs for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence;

(8) the extent to which the Secretary has provided the necessary relevant information and assistance with respect to domestic violence to participating and interested States, local public agencies and communities, and nonprofit private organizations; and

(9) the extent to which research activities and demostration projects described in section 112(c) have been useful to projects providing shelter and other assistance relating to domestic violence.

(b) As part of such evaluations, the Secretary, to the maximum extent feasible, shall consult with the appropriate committees of the Congress, appropriate State officials, local community officials, providers of services, nonprofit private organizations, and individuals who have been victims of domestic violence.

(c) For the purpose of carrying out the evaluation activities provided for under this section, the Secretary shall reserve each year, from sums otherwise available to the Secretary, a sum equal to not less than 1 percent nor more than 2 percent of the sums appropriated under section 114.

DISCRIMINATION PROHIBITED

SEC. 111. (a) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect to such program specifically provides that no individual with responsibilities in the operation of such program will discriminate unlawfully with respect to any such program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

(b) No individual in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this title. Nothing in this title shall require any such program to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal operation of that particular program or activity. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act (42 U.S.C. 2000d–2) shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that an individual may have if that individual is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this title.

COORDINATION OF FEDERAL PROGRAMS

SEC. 112. (a)(1) In order to assist in coordinating at the Federal level programs for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence, the Secretary shall, not later than 60 days after the date of the enactment of this Act, establish a council to be known as the Federal Interagency Council on Domestic Violence. The Council shall be chaired by the Secretary or by an officer designated by the Secretary from the Department of Health and Human Services. The members of the Council shall include—

(A) representatives of Federal agencies which have responsibility for programs and activities relating to domestic violence, including representatives of the Department of Agriculture, the Department of Defense, the Department of Housing and Urban Development, the Department of Justice (including the Law Enforcement Assistance Administration), the ACTION Agency, the Community Services Administration, the Legal Services Corporation, the appropriate Institutes within the Alcohol, Drug Abuse, and Mental Health Administration, and representatives of such other departments and agencies as the President may designate;

(B) representatives of State governments;

(C) representatives of local governments; and

(D) not less than 5 members of the general public who have been victims of domestic violence or who have experience in the provision of shelter and other services to victims and the dependents of victims of domestic violence.

(2) The Council shall assist the Secretary in coordinating programs and activities—

(A) for the prevention of domestic violence; and

(B) for the provision of immediate shelter and other assistance to victims of domestic violence and the dependents of victims of domestic violence;

administered under this Act with similar programs administered or assisted by other Federal agencies.

(3) The Council shall—

(4) identify, assess, and facilitate the coordination of all Federal programs, projects, and plans for programs and projects providing immediate shelter to victims and dependents of victims of domestic violence, and other services or research support relating to domestic violence;

(B) identify Federal programs which assist, or are capable of providing assistance to, programs relating to domestic violence, for the purpose of encouraging the continuation and expansion of Federal support for such programs; and

(C) make such recommendations as it considers appropriate to the President and the Congress with respect to coordination of policy, the elimination of duplication of Federal programs relating to domestic violence, and development of objectives and priorities for all Federal programs relating to domestic violence.

(4) The Council shall meet not less often than four times each year.

(5) Members of the Council, other than those regularly employed by the Federal Government, while serving on business of the Council, shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties as members of the Council, at rates provided for in subchapter I of chapter 57 of title 5, United States Code.

(b) In seeking to coordinate programs with respect to domestic violence, provide information, otherwise carry out clearinghouse functions, and make grants and contracts under this title, the Secretary shall give particular attention to—

(1) the availability for assignment of VISTA volunteers serving under part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.); and

(2) the availability of assistance through the conduct of, or grants to, special volunteer or demonstration programs under part C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4991 et seq.), and through grants and contracts made under title II of such Act (42 U.S.C. 5001 et seq.).

(c)(1) From sums otherwise available to the Secretary, the Secretary shall assure that there are applied to research such sums each year as will be adequate to conduct, directly or by grant or contract, research activities and demonstration projects that are closely associated with the provision of shelter and other assistance to victims and dependents of victims of domestic violence.

(2) Not later than ninety days after the close of fiscal year 1981 and of each fiscal year thereafter, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives specific information for such fiscal year on—

(A)(i) the number of applications approved by the Secretary in the fiscal year reported on for grants and contracts for research which relates specifically to domestic violence, (ii) the total amount of funding requested under such applications, (iii) the number of such applications for which funds were provided in such fiscal year, and (iv) the total amount of such funds; and

(B)(i) the number of applications approved by the Secretary in such fiscal year for grants and contracts for research which relates generally to domestic violence, (ii) the total amount requested under such applications, (iii) the number of such applications for which funds were provided in such fiscal year, and (iv) the total amount of such funds.

DEFINITIONS

SEC. 113. As used in this title:

(1) The term "Council" means the Federal Interagency Council on Domestic Violence established by section 112(a).

(2) The term "domestic violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person eighteen years of age or older against another such person to whom such person is or was married or otherwise legally related, or by a person of any age against another person with whom such person is or was residing in a relationship of husband and wife.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 State. 688), which is recognized as eligible for the special programs and services provided by the United

States to Indians because of their status as Indians.

(4) The term "Secretary" means the Secretary of Health and Human Services.

(5) The term "shelter" means the provision of temporary refuge and related assistance in compliance with applicable State law or regulations governing the provision, on a regular basis, of shelter, meals, and related assistance to victims and dependents of victims of domestic violence.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 114. (a) There are authorized to be appropriated to carry out the provisions of this title $15,000,000 for fiscal year 1981, $20,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983.

(b) Of the sums appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be used by the Secretary for making grants to States, Indian tribes, and intertribal organizations under sections 102(a) and 102(b), of which not less than one-half of 1 percent or more than 1 percent of such sums appropriated under subsection (a) shall be available for the purposes of making grants to Indian tribes and intertribal organizations under section 102(b);

(2) 15 percent shall be used by the Secretary for making supplemental grants to States under section 103; and

(3) 10 percent shall be used by the Secretary for carrying out the provisions of this title.

REPEAL OF ACT

SEC. 115. Effective at the close of fiscal year 1984 or on September 30 of the third fiscal year beginning after the first fiscal year in which funds are first appropriated, the foregoing provisions of this title are repealed.

TITLE II—STUDY OF ABUSE OF ELDERLY INDIVIDUALS

SEC. 201. (a) The Secretary shall conduct a full and complete investigation and study, including analysis of necessary data, of the nature and incidence of abuse of elderly individuals.

(b) Not later than eighteen months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the President and to the Congress on the results of the study required by subsection (a) of this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—PARENTAL KIDNAPING PREVENTION ACT OF 1980

SHORT TITLE

SEC. 301. This title may be cited as the "Parental Kidnaping Prevention Act of 1980".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

(c) The general purposes of this title are to—

(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

(3) facilitate the enforcement of custody and visitation decrees of sister States;

(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.

FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS

SEC. 303. (a) Chapter 115 of title 28, United States Code, is amended by adding immediately after section 1738 the following new section:

"§ 1738A. Full faith and credit given to child custody determinations

"(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

"(b) As used in this section, the term—

"(1) 'child' means a person under the age of eighteen;

"(2) 'contestant' means a person, including a parent, who claims a right to custody or visitation of a child;

"(3) 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications;

"(4) 'home State' means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

"(5) 'modification' and 'modify' refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

"(6) 'person acting as a parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

"(7) 'physical custody' means actual possession and control of a child; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if—

"(1) such court has jurisdiction under the law of such State; and

"(2) one of the following conditions is met:

"(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

"(B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

"(C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

(D)(i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

"(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

"(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

"(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of a child.

"(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

"(1) it has jurisdiction to make such a child custody determination; and

"(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

"(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determinations; and

(b) The table of sections at the beginning of chapter 115 of title 28, United States Code is amended by inserting after the item relating to section 1738 the following new item:

"1738A. Full faith and credit given to child custody determinations.".

(c) In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to—

(1) afford priority to proceedings for custody determinations; and

(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys' fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination, in any case in which—

(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physcal custody; or

(B) the court determines it is appropriate.

USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

SEC. 304. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of a State which has in effect an agreement with the Secretary entered into pursuant to section 463 for the use of the Parent Locator Service established under section 453, to accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorized persons, and to impose and collect (in accordance with regulations of the Secretary) a fee sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, to transmit to the Secretary from time to time (in accordance with such regulations) so much of the fees collected as are attributable to such costs to the Secretary so incurred, and, during the period that such agreement is in effect, otherwise to comply with such agreement and regulations of the Secretary with respect thereto.".

(b) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

"SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(b) An agreement entered into under this section shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(c) Information authorized to be provided by the Secretary under this section shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any absent parent or child shall be provided under this section.

"(d) For purposes of this section—

"(1) the term 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modification;

"(2) the term 'authorized person' means—

"(A) any agent or attorney of any State having an agreement under this section, who has the duty or authority under the law of such State to enforce a child custody determination;

"(B) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court; and

"(C) any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.".

(c) Section 455(a) of such Act is amended by adding after paragraph (3) the following: "except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463.".

(d) No agreement entered into under section 463 of the Social Security Act shall become effective before the date on which section 1738A of title 28, United States Code (as added by this title) becomes effective.

PARENTAL KIDNAPING

SEC. 305. (a) In view of the findings of the Congress and the purposes of this title set forth in section 302, the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code, in cases involving parental kidnaping;

(2) data relating to the number of complaints issued in such cases; and

(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.

TITLE IV—COMMISSION ON PROPOSALS FOR THE NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

AVAILABILITY OF FUNDS

SEC. 401. Section 1515(a) of the Education Amendments of 1978 is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The Commission may receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purpose of the Commission, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions.".

REPORTING DATE

SEC. 402. The first sentence of section 1516 of the Education Amendments of 1978 is amended by striking out "not later than one year after the date on which appropriations first became available to carry out this title" and inserting in lieu thereof "not later than January 31, 1981".

AVAILABILITY OF FUNDS

SEC. 403. Section 1518 of the Education Amendments of 1978 is amended by adding at the end thereof the following new sentence: "Funds appropriated under this section shall remain available for the fiscal year succeeding the fiscal year for which they were appropriated.".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, and provide for coordination and evaluation of programs and activities pertaining to domestic violence; and for other purposes.".

And the Senate agree to the same.

For the consideration of titles I, II, III, and V of the Senate amendment and modifications thereof:

CARL D. PERKINS,
JOHN BRADEMAS,
AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
PAUL SIMON,
EDWARD P. BEARD,
GEO. MILLER,
E. J. STACK,
TOM COLEMAN,
KEN KRAMER,
ARLEN ERDAHL,

For the consideration of sections 401, 402, 403, and 405 of title IV of the Senate amendment and modifications thereof:

Jack Brooks,
Don Edwards,
John Conyers,
Henry J. Hyde,
James M. Sensenbrenner,

For the consideration of section 404 of title IV of the Senate amendment and modifications thereof:

Al Ullman,
James C. Corman,
Barber Conable,

Managers on the Part of the House.

Alan Cranston,
Harrison A. Williams,
Gaylord Nelson,
Don Riegle,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2977) to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Title

Both the House bill and the Senate amendment utilize the short title, "Domestic Violence Prevention and Services Act".

The conference agreement includes this title.

Findings

Both the House bill and the Senate amendment include findings that a significant number of homicides and injuries occur in the home; that the reported incidence of domestic violence underrepresents the actual proportions of the problem; that a large percentage of deaths of law enforcement personnel result from intervention in domestic violence situations; that domestic violence is a complex problem affecting families from all social and economic backgrounds; and that the effectiveness of State laws and State and local programs in preventing and assisting victims of domestic violence is not readily ascertainable.

The conference agreement contains these provisions.

Purpose

Both the House bill and the Senate amendment set forth the purpose of the legislation to increase the participation of States, local communities, nonprofit private organizations, and individual citizens in efforts to prevent domestic violence and assist victims and dependents of victims of domestic violence (hereinafter in this explanatory statement referred to collectively as "domestic violence victims").

The Senate amendment but not the House bill, includes the specific purpose of providing immediate shelter to domestic violence victims.

The House recedes.

GRANTS AUTHORIZED

State applications

Both the House bill and the Senate amendment authorize the Secretary to make grants to States that meet the requirements set forth, upon application by the Governor at such time and manner as the Secretary requires.

The conference agreement includes this provision.

Subgrants to local public agencies and nonprofit private organizations

Both the House bill and the Senate amendment provide that funds provided to the States shall be distributed in grants to local public agencies and nonprofit private organizations for programs and projects to prevent incidents of domestic violence and to provide assistance to domestic violence victims.

The Senate amendment, but not the House bill, makes specific reference to the provision of immediate shelter for domestic violence victims.

The House recedes.

Emphasis on programs of demonstrated effectiveness and those operating shelters

Both the House bill and the Senate amendment provide that, in the distribution of grants, the State give special emphasis to the support of community-based projects of demonstrated effectiveness, particularly those operating shelters.

The House bill provides that not less than 75% of the funds received by the State under this subsection will be distributed in grants to nonprofit private organizations. The Senate bill requires that not less than ⅔'s of the funds received by the State be distributed in grants to nonprofit private organizations.

The conference agreement provides that not less than 70% of a State's funds shall be distributed in grants to nonprofit private organizations.

Assurances to recipients regarding future support

Both the House bill and the Senate amendment provide that the State, wherever feasible, provide reasonable assurance to grant recipients of the level of future support the grantee is likely to receive from the State, assuming continuation of an adequate level of Federal assistance.

The conference agreement includes this provision.

Procedures for equitable distribution of funds

Both the House bill and the Senate amendment require the State to set forth procedures designed to assure equitable distribution of funds within the State.

The conference agreement includes this provision.

Procedures for fiscal control and fund accounting

Both the House bill and the Senate amendment require the State to establish procedures for fiscal control and fund accounting.

The Senate amendment, but not the House bill, requires such procedures to be applicable to all Federal funds received under the title.

The conference agreement requires that the procedures established by the State be applicable to all funds received by the State under both the State program grant and the State supplemental grant.

Specification of State agency responsible for administration and Coordination of programs

Both the House bill and the Senate amendment require the State to specify the State agency to be responsible for the administration of programs and activities relating to domestic violence carried out under the title.

The Senate amendment, but not the House bill, requires such agency also to be responsible for coordination of programs within the State that are or could be used in relation to the prevention of domestic violence or the provision of immediate shelter and other assistance to domestic violence victims.

The House recedes.

Reporting requirements

The House bill provides for the making of such reports as the Secretary considers necessary.

The Senate amendment provides for the making of such reasonable reports as the Secretary deems essential.

The House recedes.

Compliance with confidentiality requirements

Both the House bill and the Senate amendment require States to provide assurances of, and procedures for, compliance with the confidentiality provisions and provide assurances that the address or location of any shelter funded under the title will, at the request of such shelter, not be made public.

Citizen participation

Both the House bill and the Senate amendment provide for active citizen participation in the development and implementation of domestic violence programs and projects.

The conference agreement includes this provision.

Coordination with other State programs

The Senate amendment requires assurances that projects funded under this subsection will coordinate activities with other programs within the State that are or could be used in relation to domestic violence.

The House bill does not contain a comparable provision.

The House recedes with an amendment which requires assurances that projects will "seek to" so coordinate.

Personnel requirements

Both the House bill and the Senate amendment require that assurances be provided that projects will be administered and operated by appropriate personnel; and require appropriate services where a substantial number of individuals with limited English-language proficiency and cultural differences will be served.

The conference agreement includes this provision.

Technical assistance, training, and outreach

The House bill requires the State to provide that technical assistance will be available to local public agencies and private nonprofit organizations located in the State, in coordination with other Federal, State, and local efforts to provide such assistance.

The Senate amendment requires the Secretary to make grants or enter into contracts with public and private entities to provide technical assistance, training, and outreach services to States, local public agencies, and nonprofit private organizations participating in the programs and projects authorized by the title, and to inform such States, agencies, and organizations and all other interested individuals and organizations of alternative sources of assistance available for domestic violence programs.

The conference agreement includes both provisions but authorizes, rather than requires, the Secretary to make grants or enter into contracts for technical assistance, training, and outreach services but only to the extent that such assistance is not otherwise available.

Annual report

The House bill provides that the annual report submitted to the Secretary also be submitted to the appropriate State legislature.

The Senate amendment does not contain a comparable provision.

The Senate recedes.

Other assurances and information

The House bill requires the State to provide such other assurances and information as the Secretary considers necessary.

The Senate amendment provides for such other assurances and information as the Secretary deems essential.

The House recedes.

Approval and disapproval of State applications

Both the House bill and the Senate amendment require the Secretary to approve any application that meets the requirements of this subsection.

The House bill provides that the Secretary shall not disapprove such application except after reasonable notice, opportunity for correction of any deficiencies, and notice of, and an opportunity for, a hearing.

The Senate amendment is the same except that the hearing need not precede the disapproval.

The Senate recedes.

Maximum grant allowed

Both the House bill and the Senate amendment provide that no grant (other than to a State) may exceed $50,000 in any fiscal year and that no program or project may receive more than $150,000 in total grants.

The conference agreement includes this provision.

Maximum number of years grants awarded

Both the House bill and the Senate amendment provide that no grants may be awarded for more than a certain number of fiscal years (House: three; Senate: four).

The Senate recedes.

Matching requirements

The House bill limits grants to the lesser of $50,000 or 25 percent of the annual budget except for private nonprofit organizations in existence for less than 1 year, in which case the grant may equal 50 percent of the annual budget (not to exceed $50,000).

The Senate amendment requires grantees to provide a local share in proportion to the total Federal funds received as follows: 25 percent in fiscal year 1981, 33⅓ percent in fiscal year 1982 and 50 percent in fiscal year 1983. The Senate amendment also requires that in each year not less than 50 percent of the local share be raised from private funds in the community to be served, and provides that the entire local share can be in cash or in kind.

The House recedes with amendments clarifying that the matching requirements are applicable only to funds appropriated under this title and that Federal funds provided under other authorities may not be included in the non-federal share, clarifying that the private share can be cash or in-kind goods or services, exempting public entities from the requirement of a private share, and providing that the percentage matching requirements will be applicable on the basis of grant-years, rather than fiscal years.

Prohibition against direct payment to victims

Both the House bill and the Senate amendment prohibit the use of funds for direct payment to any domestic violence victims.

The conference agreement includes this provision.

Prohibition against income eligibility standards

Both the House bill and the Senate amendment prohibit the use of income eligibility standards with respect to any individual seeking services or assistance.

The conference agreement includes this provision.

Recovery of fees for services

The House bill provides that entities receiving funds must agree to seek to recover fees, based upon the domestic violence victim's ability to pay for services provided.

The Senate amendment does not contain a comparable provision.

The Senate recedes. It is the intent of the conferees that this provision be administered in a manner which assures that the ability of a domestic violence victim who has received assistance to pay for such assistance will be based solely upon income and assets which are actually available to that individual. This would not preclude any program or project from seeking to recover such fees at a subsequent time, should the program or project so desire.

Termination of funds for noncompliance

The House bill provides for the Secretary to terminate, after reasonable notice and opportunity for hearing, funds to any State for failure to comply with the requirements set forth in the Act with respect to such funds and provides for judicial review upon petition of any State adversely affected or aggrieved by the Secretary's actions with respect to termination of funds or denial of an application for funds.

The Senate amendment does not contain a comparable provision.

The Senate recedes with an amendment providing that the Secretary shall terminate funds for "substantial" failure to comply with requirements set forth in the Act, and that any administrative hearings be held within the applicable State unless otherwise agreed.

Grants to units of general local government

The Senate amendment authorizes the Secretary to make grants to units of general local government for domestic violence projects or for such units to make grants for such projects to public agencies and nonprofit private organizations within the jurisdiction of such unit of general local government.

The House bill contains no comparable provision.

The Senate recedes.

Set-aside for grants to Indians

The Senate amendment authorizes the Secretary to make grants to Indian tribes, intertribal organizations, and urban Indian organizations for domestic violence programs and projects.

The House bill does not contain a comparable provision.

The House recedes with an amendment deleting the authorization to make grants to urban Indian organizations, and reducing the percentage of the total authorization which may be set aside for this section from not less than 1 nor more than 3 percent to not less than ½ nor more than 1 percent. The conferees deleted the provision making specific reference to urban Indians with the understanding that the non-discrimination provision of the Act would require that equitable services be provided to Indians residing in urban areas.

Distributor of funds to shelters

The Senate amendment requires that not less than 75 percent of the grant funds distributed to States and to units of general local government shall be distributed to entities providing immediate shelter and related assistance to domestic violence victims.

The House bill has no comparable provision.

The House recedes with respect to State grants and applies the limitation to Indian grants as well.

The Senate recedes with respect to units of general local government in view of its receding on the provision authorizing direct grants to units of general local governments.

Notice to State legislature regarding grants

The Senate amendment requires the Secretary to provide written notice to the applicable State legislature of approval of an application for funding by a State and the reasons therefor.

The House bill has no comparable provision.

The House recedes.

SUPPLEMENTAL GRANTS

State grants

Both the House bill and the Senate amendment provide for making supplemental administrative grants to States in order to administer domestic violence programs and activities, to develop and implement the programs set forth in the State's application for funds, to provide technical assistance and to assure the required citizen participation.

The conference agreement includes this provision.

Media campaign

The House bill authorizes States to develop a media campaign to increase public awareness of the problem of domestic violence and the availability of services.

The Senate amendment requires the Secretary to develop a national media campaign to increase public awareness of the problem of domestic violence and the availability of immediate shelter and other assistance, including, if deemed necessary, the establishment of a national toll-free hotline to provide information regarding the availability of such services in particular areas of the country.

The Senate recedes.

State application for supplemental grant

The House bill requires the State to submit an application for a grant to carry out the State activities related to domestic violence.

The Senate amendment does not contain a comparable provision.

The Senate recedes with a technical amendment to provide if a State applies for such a supplemental grant, it shall include the application therefor as part of its application for a program grant.

ALLOTMENT OF FUNDS

Grants distributed according to population

Both the House bill and the Senate amendment provide for distribution of funds on the basis of population.

The conference agreement includes this provision.

Minimum State grant

Both the House bill and the Senate amendment provide for a minimum grant (House: $50,000; Senate: $40,000) to States for distribution to programs and projects within such State and a minimum grant (House: $7,000; Senate: $8,000) for such State to carry out its own activities relating to domestic violence and administration of the State grant.

The conference agreement provides for a minimum of $45,000 for State grants and $7,500 for State supplemental grants.

Minimum grants for trust territories

Both the House bill and the Senate amendment provide minimum grant levels for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

The conference agreement includes this provision.

Population determination

The House bill provides that, for the purposes of distribution of funds, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent satisfactory data available.

The Senate amendment does not contain a comparable provision.

The Senate recedes.

Pro rata reductions

The House bill provides that if funds appropriated for grants to States are not sufficient to pay in full the total amounts which all States are entitled to receive under this Act, then the maximum amounts which all States are entitled to receive shall be reduced proportionately, and that if additional funds become available, they will be distributed on the same basis as the reductions were made.

The Senate amendment does not contain a comparable provision.

The Senate recedes.

Reallotment of funds

Both the House bill and the Senate amendment provide for the reallotment of funds which have not been awarded because of a State's failure to qualify for funding.

The House bill provides that such reallotted funds will be distributed on the basis of population, among those States which have qualified for funding.

The Senate amendment provides that not less than 50 percent of the reallotted funds will be distributed, on the basis of population, among those States that have qualified for funding and the remaining 50 percent to units of general local government, unless the Secretary determines that a lesser amount would more effectively carry out the purposes of the Act, with special consideration given in allotting such funds to applications from units of general local government in States that do not have a qualifying State plan.

The Senate recedes in view of its receding on the provision authorizing direct grants to units of general local government.

Reallotment of unused funds

Both the House bill and the Senate amendment provide that the Secretary may also reallot those funds which the Secretary determines, after consultation with the applicable State, will not be used by such State.

The conference agreement includes this provision.

Reallotted funds available through fiscal year following year of reallotment

Both the House bill and the Senate amendment provide that funds made available through reallotment shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become avaliable for reallotment.

The conference agreement includes this provision.

STATE REPORTS

Annual report

Both the House bill and the Senate amendment provide for an annual report from each participating State, with specific information on the implementation of programs funded under the Act.

The conference agreement includes this provision.

Additional reporting requirement

The Senate amendment requires the Secretary to advise the appropriate Committees of the Congress with respect to any additional information requested by the Secretary.

The House bill does not contain a comparable provision.

The House recedes.

DESIGNATION OF A DIRECTOR FOR PROGRAMS

Both the House bill and the Senate amendment provide for the Secretary to designate an individual with expertise relating to domestic violence programs to carry out the programs administered by the Department.

The House bill, but not the Senate amendment, designates such person to serve as the coordinator of domestic violence programs administered under the Act. The Senate amendment, but not the House bill, provides for the Secretary to designate within the Office of the Secretary an identifiable administrative unit to carry out such program.

The compromise agreement provides for the Secretary to designate an individual with specified expertise to serve as the "director" (rather than "coordinator") of domestic violence programs and activities carried out under the title.

NATIONAL CLEARINGHOUSE

Coordination with the National Center on Child Abuse and Neglect

Both the House bill and the Senate amendment provide for the establishment of a national clearinghouse on domestic violence. The House bill, but not the Senate amendment, requires that the clearinghouse be coordinated with the clearinghouse maintained by the National Center on Child Abuse and neglect.

The Senate recedes.

Additional functions

The Senate amendment requires the domestic violence clearinghouse to serve as an advocate for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims of domestic violence, and to provide appropriate technical assistance to interested persons and organizations.

The House bill does not contain a comparable provision.

The House recedes with an amendment deleting the requirement that the clearinghouse serve as an advocate for the prevention of domestic violence and the provision of immediate shelter and related assistance to domestic violence victims.

RESPONSIBILITIES OF THE SECRETARY

Oversight and coordination

The Senate amendment provides that the Secretary shall be responsible for overseeing all programs and activities carried out under this title and shall seek to coordinate, through the Interagency Council on Domestic Violence, all Federal programs and activities, including research activities, relating to domestic violence.

The House bill requires the Interagency Council on Domestic Violence to assist the Secretary in coordinating domestic violence programs administered by other Federal agencies.

The conference agreement contains both provisions.

Provision of information and recommendations to Congress

The House bill requires the Secretary, in coordination with the Interagency Council on Domestic Violence, to make legislative recommendations to the Congress, concerning the need for modification of Federal programs which may affect victims of domestic violence.

The Senate amendment requires the Secretary to keep the Congress fully and currently informed with respect to the administration and implementation of this title.

The conference agreement contains both provisions.

Research

The House bill provides that the Secretary shall provide for the acquisition of information regarding research projects relating to domestic violence.

The Senate amendment provides that the Secretary, from sums appropriated under authorities other than this title, shall assure that there are applied to research such sums as will be adequate to conduct research activities and demonstration projects and provide annual reports to the appropriate Committees of Congress on research activities and applications therefor.

The conference agreement contains both provisions.

ANNUAL REPORT

Both the House bill and the Senate amendment provide for the Secretary to submit to the Congress an annual report on programs authorized by the Act.

The conference agreement includes this provision.

Scope of report

The Senate amendment, but not the House bill, requires such report to include information relating to total amounts of funds realloted, research activities carried out, tabulations of data provided in annual State reports, and grants made to units of general local government.

The House recedes with an amendment deleting the reference to grants to units of general local government.

REVIEW AND EVALUATION OF PROGRAM EFFECTIVENESS

Evaluation report

Both the House bill and the Senate amendment provide for a review and evaluation of the effectiveness of programs carried out under this Act.

The House bill requires this report to be submitted not later than 3 years after funds are first obligated; the Senate amendment, 2 years.

The House recedes.

Evaluation of research activities

The Senate amendment requires evaluation of research activities, requires the Secretary to advise appropriate Committees of Congress and consult with other appropriate State and local officials and organizations, and requires the Secretary to reserve from funds appropriated under other authorities than this title, a sum equal to not less than 1 percent nor more than 2 percent of the total sums appropriated for carrying out the title.

The House bill does not contain a comparable provision.

The House recedes.

CONFIDENTIALITY REQUIREMENTS

Programs covered

Both the House bill and the Senate amendment apply confidentiality requirements to the records of individuals provided services under the Act. The House bill incorporates by reference the confidentiality provisions of section 408 of the Drug Abuse Office and Treatment Act (section 408). The Senate amendment has a comparable provision specifically setting confidentiality provisions based upon the provisions of section 408.

The House bill applies the confidentiality requirements to records of any individuals subject to any program, project, or activity assisted under the provisions of this Act. The Senate amendment applies this provision to the records of any individual maintained in connection with the provision of domestic violence services by any program, project or activity conducted, regulated, or directly or indirectly assisted by, any Federal agency or department.

The House recedes with an amendment applying the confidentiality provisions to all programs conducted, regulated, or assisted by the department. The conferees intend that the confidentiality requirements shall continue to apply to such records if they are transferred to any other entity or program.

Disclosure upon written consent

Both section 408 and the Senate amendment provide that the content of a record protected under this section may be disclosed with the prior written consent of the individual with respect to whom the record is maintained.

The conference agreement includes this provision.

Conditions for disclosure without written consent

Both section 408 and the Senate amendment provide that the contents of a record protected under this section may be revealed without the prior written consent of the individual whose record is in question (1) to medical personnel where it is necessary for a bona fide medical emergency; (2) to qualified personnel for scientific research or audits (provided that such personnel may not disclose the identity of the individual whose record is being used); and (3) if authorized by an order of a court of competent jurisdiction after a showing of good cause.

The conference agreement includes this provision.

Prohibition against use of records for criminal proceedings

Both section 408 and the Senate amendment prohibit the use of records referred to in this section to initiate or substantiate criminal charges against an individual.

The conference agreement includes this provision.

Requirement that consent be informed and voluntary

The Senate amendment requires any person who obtains consent for disclosure to assure that such consent is informed and voluntary.

Neither the House bill nor section 408 contains a comparable provision.

The House recedes

Fines and violations

Both section 408 and the Senate amendment provide for fines of not more than $500 for the first offense, and not more than $5,000 for the second offense for violation of the confidentiality provisions.

The conference agreement includes this provision.

Regulations

Both section 408 and the Senate amendment authorize the Secretary, after consultation with other departments and agencies substantially affected, to prescribe regulations to carry out these provisions.

The conference agreement includes this provision.

Child abuse reporting requirements not superseded

The Senate amendment provides that the confidentiality provisions shall not be construed to supersede the application of State or local requirements for reporting suspected child abuse.

Neither the House bill nor section 408 contains a comparable provision.

The House recedes.

"Identity" defined

The Senate amendment defines the term "identity" to mean an individual's name or other data, which could be used to identify an individual.

Neither the House bill nor section 408 contains a comparable provision.

The House recedes.

AUDIT PROVISIONS

Both the House bill and the Senate amendment provide that the Secretary and the Comptroller General of the United States and their representatives shall, until the expiration of three years after the completion of programs, projects, or activities carried out under the Act, have access, for the purpose of audit and examination subject to the confidentiality provisions, to any books, documents, papers, and records related thereto.

The conference agreement includes this provision.

DISCRIMINATION PROHIBITED

The Senate amendment provides that no program assisted under the Act shall discriminate unlawfully on the basis of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation except for sex being appropriately used as a bona fide occupational qualification or programmatic factor.

The House bill does not contain a comparable provision.

The House recedes.

COORDINATION OF FEDERAL PROGRAMS

Interagency Council on Domestic Violence

Both the House bill and the Senate amendment provide for the establishment of an Interagency Council on Domestic Violence, including representatives from the Departments of Agriculture, Defense, HUD, and Justice, the ACTION Agency, the Community Services Administration, the Legal Services Corporation, and the appropriate institutes within the Alcohol, Drug Abuse and Mental Health Administration, and five members of the general public who have been domestic violence victims or have experience in the provision of shelter and other services to domestic violence victims.

The House bill provides for inclusion of representatives of State and local governments. The Senate amendment provides for inclusion of representatives from such other departments and agencies as the President may designate.

The conference agreement contains both provisions.

Chair of Council

The House bill provides that the Secretary shall serve as Chairman of the Council.

The Senate amendment authorizes the Secretary to designate an officer from the Department of Health and Human Services to chair the Council.

The conference agreement provides that the Secretary or a designee shall chair the Council.

Secretary and Council to coordinate Federal programs

The House bill provides that the Council shall assist the Secretary in coordinating domestic violence programs administered under this Act with similar programs administered or assisted by other Federal agencies. The Senate amendment provides for the Secretary to coordinate, through the Council such programs.

The conference agreement contains both provisions.

Council's recommendations to Congress

Both the House bill and the Senate amendment provide for the Council to identify, assess, and facilitate the coordination of all Federal programs, projects, and plans for programs and projects relating to domestic violence, and to make recommendations to the President and the Congress with respect to coordination of policy, objectives, and priorities for all Federal programs relating to domestic violence.

The conference agreement includes this provision.

Council's recommendations regarding elimination of duplication

The House bill provides for the Council to identify Federal programs which assist or could assist programs relating to domestic violence and to make recommendations for the elimination of duplication in Federal programs relating to domestic violence.

The Senate amendment does not contain a comparable provision.

The Senate recedes.

Council meeting

The House bill provides that the Council shall meet at the call of the Chair. The Senate amendment provides that the Council shall meet not less often than 4 times each year.

The House recedes.

Reimbursement for Council members' travel expenses

The House bill authorizes reimbursement for travel expenses of members of the Council; the Senate amendment only for Council members other than those regularly employed by the Federal Government.

The House recedes.

Special emphasis on availability of volunteers

Both the House bill and the Senate amendment require that special attention be given to the availability of ACTION Agency volunteers and volunteer programs in carrying out activities under the Act.

The conference agreement includes this provision.

DEFINITIONS

"Coordinator" and "Council"

The House bill defines "Coordinator" to mean the coordinator of domestic violence programs designated by the Secretary and "Council" to mean the Federal Interagency Council on Domestic Violence.

The Senate amendment does not contain a comparable provision.

The House recedes with respect to the definition of "Coordinator" and the Senate recedes with respect to the definition of "Council".

"Domestic violence"

The House bill defines "domestic violence" to mean any act or threatened act of violence, including any forceful detention of an individual that results or threatens to result in physical injury and is committed by a person to whom such person is married or has been married or with whom such person is residing or has resided.

The Senate amendment defines domestic violence to mean any act or threatened act of violence including any forceful detention of an individual that results or threatens to result in physical injury and is committed by a person 18 years of age or older against another such person to whom such person is or was married or legally related or by a person of any age against another person with whom such person is or was residing in a relationship of husband and wife.

The House recedes.

"Indian tribe"

The Senate amendment defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and defines "Urban Indian organization" to mean a nonprofit corporate body situated in an urban center, governed by an Indian-controlled Board of Governors, providing for the maximum participation of all interested Indian groups and individuals, which is capable of legally cooperating with other public and private entities.

The House bill does not contain comparable provisions.

The House recedes with an amendment deleting the definition of "urban Indian organization" in view of the Senate receding on the eligibility of such organizations under the Indian grant authority.

"Secretary"

The House bill defines "Secretary" to mean the Secretary of Health, Education, and Welfare. The Senate amendment defines "Secretary" to mean the Secretary of Health and Human Services.

The House recedes.

"Shelter"

The Senate amendment defines "shelter" to mean the provision of temporary refuge and related assistance in compliance with applicable State law or regulations governing the provision, on a regular basis, of shelter, meals, and related assistance to victims and dependents of victims of domestic violence.

The House bill does not contain a comparable provision.

The House recedes.

"State"

Both the House bill and the Senate amendment define "State" to mean each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

The conference agreement includes this provision.

AUTHORIZATION OF APPROPRIATIONS

Amounts authorized

Both the House bill and the Senate amendment authorize to be appropriated $15,000,000 for fiscal year 1981, $20,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983.

The conference agreement includes this provision.

Earmarks for specific purposes

The House bill provides that of the sums appropriated for any fiscal year, 75 percent shall be used for grants to States for distribution to private and public entities, 15 percent to States to carry out State activities, and 10 percent for the Secretary to carry out Federal programs and activities.

The Senate amendment provides that of the sums appropriated for any fiscal year, 60 percent shall be used for grants to States for distribution to private and public entities, not less than 22 nor more than 24 percent for grants to units of local general government, not less than 1 nor more than 3 percent for grants to Indian tribes, intertribal organizations, and urban Indian organizations, 10 percent to States to carry out State activities, and 5 percent for the Secretary for administrative expenses of the Department of Health and Human Services in carrying out programs under the title.

The Senate recedes with an amendment adding an earmark of not less than one-half of one percent nor more than 1 percent of the total funds appropriated for grants to Indian tribes and intertribal organizations.

Sunset provision

The House bill repeals the provisions of the Act at the end of fiscal year 1983.

The Senate amendment does not contain a comparable provision.

The Senate recedes with an amendment providing that the provisions of the Act are repealed at the end of fiscal year 1984, or on September 30 of the third fiscal year beginning after the first fiscal year in which funds are first appropriated, whichever is the later year.

TITLE II

Presidential Commission on National Service

The Senate amendment contains a title II which provides for the establishment of a Presidential Commission on National Service to study the desirability of establishing a national service program.

The House bill does not contain a comparable title, but a similar Commission would be established by H.R. 6868, ordered reported by the Select Education Subcommittee on September 3, 1980 and by the Education and Labor Committee on September 23, 1980.

The Senate recedes in view of the jurisdictional objections interposed by the House Armed Services Committee and with the understanding of the Conferees that efforts will be made to move forward with H.R. 6868 as rapidly as possible.

TITLE III

Study of elder abuse

The Senate amendment contains a title III which provides for the Secretary of Health and Human Services to conduct a study of the nature and incidence of abuse of elderly individuals.

The House bill does not contain a comparable provision.

The House recedes.

TITLE IV

PARENTAL KIDNAPING

Findings and purposes

The Senate amendment contains a statement of findings relating to the problem of interstate disputes and conflicts in matters relating to child custody and visitation matters and provides that the purpose of this title is to promote cooperation among the States in the enforcement of custody and visitation orders, discourage continuing interstate controversies and conflicts, and deter interstate abductions of children.

The House has no comparable provision.

The House recedes.

Full faith and credit provisions

The Senate amendment provides that the appropriate authorities of every State shall enforce and not modify any child custody determination entered by a court of another State having jurisdiction consistent with the provisions of the title.

The House has no comparable provision.

The House recedes.

Federal Parent Locator Service

The Senate amendment authorizes the Secretary of Health and Human Services to enter into agreements with States for utilization of the Federal Parent Locator Service for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of enforcing any State or Federal law with respect to the unlawful taking or restraint of a child or making or enforcing a child custody determination.

The House has no comparable provision.

The House recedes with an amendment clarifying that the information provided under such agreement will be limited to information as to the most recent address and place of employment of any absent parent of the child and making conforming changes in references to State and Federal law relating to child custody.

Criminal provisions

The Senate amendment contains provisions which would establish a new federal criminal offense relating to parental kidnaping.

The House has no comparable provision.

The House recedes with an amendment deleting the provisions in the Senate amendment establishing a new federal criminal offense and substituting a provision setting forth Congressional intent that section 1073 of title 18, United States Code, is applicable to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes and requiring the Attorney General of the United States to submit to the Congress reports with respect to the steps taken to comply with the intent of Congress.

It is the view of the Conferees that authority presently exists under 18 U.S.C. 1073 (the so-called "Fugitive Felon Act") for the exercise of federal jurisdiction in many cases involving parental kidnaping. However, that statute, which proscribes, *inter alia*, interstate or foreign flight to avoid prosecution under state felony statutes, is rarely used. This is the case because the Department of Justice policy as set forth in the U.S. Attorneys' Manual discourages the use of 18 U.S.C. 1073 as a basis for federal involvement in parental kidnaping cases. Although section 9-69.410 of the Manual states that the primary purpose of the Act is "to assist in the location and apprehension of fugitives from State justice," section 9-69.421 of the Manual requires the express prior approval of the Criminal Division before a U.S. Attorney may issue a complaint under the Fugitive Felon Act in a parental kidnaping case. Section 9-69.421 states that such approval will occur only in "rare instances", and erroneously cites the "intent of Congress" supposedly implied in the parental exception to the federal kidnaping statute (18 U.S.C. 1201(a)) as a basis for this general policy against using the Fugitive Felon Act in cases involving flight to avoid state prosecution on felony charges growing out of parental kidnaping.

Although the Department of Justice should be permitted to reasonably exercise some prosecutorial discretion under the Fugitive Felon Act as under any other Federal criminal law, the Conferees find the reasoning cited in the U.S. Attorneys' Manual for the heretofore limited use of 18 U.S.C. 1073 in parental kidnaping cases to be illogical and largely irrelevant. The fact that Congress has not made parental kidnaping an offense under 18 U.S.C. 1201 does not in any way constitute "Congressional intent" as to whether or how often 18 U.S.C. 1073 should be employed as a jurisdictional basis for federal intervention in parental kidnaping cases. Section 1073 does not require that some other federal offense be found to form the basis of federal jurisdiction, nor does it anywhere suggest that the existence of an equivalent federal offense should be a factor influencing the Attorney General's use of discretion thereunder. The section itself is the jurisdictional basis.

The Conferees are of the opinion that the Attorney General should review and revise this section of the U.S. Attorneys' Manual to provide more specific guidance to the U.S. Attorneys in order to regularize the procedures to be followed by the Department of Justice and to correctly reflect Congressional intent with respect to the use of the Fugitive Felon Act in parental kidnaping cases as stated in section 405(a) of the bill and this Joint Explanatory Statement. Specifically, the Conferees expressly disapprove of the policy of the Department of Justice as set forth in section 9-69.421 of the United States Attorneys' Manual (August 16, 1979) to limit the application of 18 U.S.C. 1073 to those parental kidnaping cases where there is a showing that the "abducting parent, by reason of his or her medical condition or acute pattern of behavior (e.g., alcoholism, interpersonal violence), presents a serious threat of physical injury to the child." It is the Conferees view that section 1073 should be applied to state felony parental kidnaping cases in the same manner as in any other State felony case where the other jurisdictional requirements of section 1073 are satisfied.

TITLE V

Commission on Proposals for the National Academy of Peace and Conflict Resolution

The Senate amendment contains a title V which authorizes the Commission on Proposals for the National Academy of Peace and Conflict Resolution to continue its activities (utilizing funds already appropriated) until January 31, 1981.

The House bill does not contain a comparable provision.

The House recedes.

For the consideration of titles I, II, III and V of the Senate amendment and modifications thereof:

Carl D. Perkins,
John Brademas,
Augustus F. Hawkins,
Mario Biaggi,
Paul Simon,
Edward P. Beard,
Geo. Miller,
E. J. Stack,
Tom Coleman,
Ken Kramer,
Arlen Erdahl,

For the consideration of sections 401, 402, 403, and 405 of title IV of the Senate amendment and modifications thereof:

Jack Brooks,
Don Edwards,
John Conyers,
Henry J. Hyde,
James M. Sensenbrenner,

For the consideration of section 404 of title IV of the Senate amendment and modifications thereof:

Al Ullman,
James C. Corman,
Barber Conable,

Managers on the Part of the House.

Alan Cranston,
Harrison A. Williams,
Gaylord Nelson,
Don Riegle,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2475

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improving Automotive Efficiency," to exempt very low volume automobile manufacturers from certain requirements of the Act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes.

Conference Report (H. Rept. No. 96–1402)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improving Automotive Efficiency", to exempt very low volume automobile manufacturers from certain requirements of the Act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

Section 1. Short Title; Table of Contents.

(a) Short Title.—This Act may be cited as the "Automobile Fuel Efficiency Act of 1980".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Fuel efficiency standards applicable to small manufacturers.
Sec. 4. Modification of local content requirements to encourage domestic production of fuel efficient automobiles.
Sec. 5. Adjustments regarding standards for 4-wheel drive, light-duty trucks.
Sec. 6. Determinations of unlawful conduct; 3-year carryforward and carryback.
Sec. 7. Exemptions for emergency vehicles.
Sec. 8. Technical, clerical, and conforming amendments.
Sec. 9. Effective date.

Sec. 2. Purposes.

It is the purpose of this Act—

(1) to amend certain Federal automobile fuel economy requirements to improve fuel efficiency, and thereby facilitate conservation of petroleum and reduce petroleum imports, and

(2) to encourage full employment in the domestic automobile manufacturing sector.

Sec. 3. Fuel Efficiency Standards Applicable to Small Manufacturers.

(a) Standards.—(1) Section 502(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)) is amended by inserting "(1)" after "(c)", and by adding at the end thereof the following new paragraph:

"(2) Any manufacturer may elect in any application submitted under paragraph (1) to have the applications for, and administrative determinations regarding, exemptions and alternative average fuel economy standards be consolidated for two or more of the model years after model year 1980 and before model year 1986. The Secretary may grant an exemption and set an alternative standard or standards for all model years covered by such application.".

(2) Any application filed for model year 1981 under section 502(c) of such Act before the effective date of this Act may be amended by the applicant to make the election allowed under the amendment made by paragraph (1) and have such application apply for the model years covered by the election. Additional information shall not be required in connection with such application for the years covered by such election except information which the Secretary of Transportation may specifically request.

(3)(A) The Secretary of Transportation shall review the requirements and procedures established pursuant to section 502(c)(1) of such Act (as redesignated by this subsection) as soon as practicable after the date of the enactment of this Act and modify such requirements and procedures to the maximum extent practicable in order to further reduce administrative burdens on such applicants and the Secretary, and expedite determinations regarding such applications.

(B) The Secretary shall notify the Congress of the review and actions taken or to be taken under this paragraph in the first annual report to the Congress which is made under section 512 of such Act after the completion of such review.

(b) Certain Reporting Requirements.—Section 505(a) of such Act (15 U.S.C. 2005(a)) is amended by inserting at the end thereof the following new paragraph:

"(4) The provisions of this subsection shall not apply to any manufacturer for any model year for which that manufacturer is subject to an alternative average fuel economy standard under section 502(c).".

Sec. 4. Modification of Local Content Requirements To Encourage Domestic Production of Fuel Efficient Automobiles.

(a) Certain New Domestic Manufacturers.—(1) Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) After consideration of a petition (and comments thereon) for an exemption from the provisions of paragraph (1) filed by a manufacturer, the Secretary shall, by order, grant an exemption from such provisions for passenger automobiles manufactured by that manufacturer during the period provided for in such order, unless the Secretary finds, after notice and reasonable opportunity for written or oral comment, that the proposed exemption would, for such period, result in reduced employment in the United States related to motor vehicle manufacturing.

"(B) Any exemption granted under subparagraph (A) shall be effective for a period of 5 model years or, at the request of the manufacturer, such longer period as the Secretary may provide, as specified in the order.

"(C) An exemption granted under subparagraph (A) for any manufacturer shall not be effective unless the manufacturer—

"(i) began automobile production or assembly in the United States after December 22, 1975, and before May 1, 1980; or

"(ii) began automobile production or assembly in the United States on or after May 1, 1980, and has engaged in such production or assembly in the United States for at least one model year ending on or before December 31, 1985.

"(D)(i) Any decision by the Secretary to grant or deny an exemption under subparagraph (A) shall be made, and notice thereof published in the Federal Register, not later than 90 days after the date of the petition for that exemption. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. In no event may such period be extended beyond the 150th day after the date of the petition for such exemption.

"(ii) The period for written or oral comment provided in subparagraph (A) for any petition shall end not later than 60 days after the filing of the petition, except that such period may be extended by the Secretary for not to exceed an additional 30 days. If the Secretary fails to make a decision pursuant to this paragraph within the period for a decision in clause (i)—

"(I) the petition shall be deemed to have been granted; and

"(II) the Secretary, within 30 days after the end of such decision period, shall submit a written statement to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives setting forth the reasons for failing to decide within such decision period.

"(E)(i) Any person adversely affected by a decision of the Secretary denying or granting an exemption pursuant to this paragraph may, not later than 30 days after publication of the notice of such decision, file a petition of review of such decision in the United States Court of Appeals for the District of Columbia. Such court shall have exclusive jurisdiction to review such decision, in accordance with section 706(2)(A) through (D) of title 5, of the United States Code, and to affirm, demand, or set aside the decision of the Secretary.

"(ii) Any such proceeding shall be assigned for a hearing and completed at the earliest possible date and shall be expedited in every possible way by such court. The court shall render its decision in any such proceeding within 60 days after the date of filing the petition for review unless the court determines that a longer period of time is necessary to satisfy the requirements of the Constitution of the United States.

"(iii) The judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. Application therefor shall be made within 30 days after entry of such judgment.

"(iv) Notwithstanding any other provision of law, a decision of the Secretary on an exemption pursuant to this paragraph shall not be subject to judicial or administrative review except as provided in this paragraph.

"(F) Notwithstanding section 502(l), in the case of any model year for which an exemption under this subsection is effective for any manufacturer—

"(i) no credit may be earned under section 502(l)(1)(B) by the manufacturer; and

"(ii) no credit may be made available under section 502(l)(1)(C) for the manufacturer.".

(2) Section 512 of such Act (15 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(c)(1) After an exemption has been granted under section 503(b)(3), the Secretary and the Secretary of Labor shall annually conduct a joint examination of the extent to which the amendment made to section 503(b) by section 4(a)(1) of the Automobile Fuel Efficiency Act of 1980—

"(A) achieves the purposes of that Act and this title, including whether such amendment has promoted employment in the United States related to motor vehicle manufacturing,

"(B) has not caused undue harm to the motor vehicle manufacturing sector in the United States, and

"(C) has permitted any manufacturer that has assembled passenger automobiles which are considered domestically manufactured under section 503(b)(2)(E) to thereafter assemble in the United States passenger automobiles of the same model type which have less than 75 percent of their value added in the United States or Canada, together with the reasons for such action.

"(2) The Secretary shall include the results of such examination in each annual report that is made to the Congress under subsection (a) more than 180 days after an exemption has been granted under section 503(b)(3) of this subsection, or transmit the results of such examination directly to the Congress before such a report in any case in which circumstances so warrant.".

(b) Transition Provisions for Certain New Domestic Production.—Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) If a plan has been submitted by a manufacturer and approved by the Secretary under subparagraph (B), the EPA Administrator shall for each of the four model years covered by such plan include under paragraph (1)(A) (and exclude under paragraph (1)(B)) with respect to that manufacturer not more than 150,000 passenger automobiles which are manufactured by that manufacturer but which do not qualify as domestically manufactured if—

"(i) the model type or types involved have not previously been domestically manufactured;

"(ii) at least 50 percent of the cost to the manufacturer of each such automobile is attributable to value added in the United States or Canada;

"(iii) in the case of any such automobile the assembly of which is completed in Canada, that automobile is imported into the United States not later than 30 days following the end of the model year involved; and

"(iv) such automobile model type or types are domestically manufactured before the close of the fourth model year covered by such plan.

"(B)(i) A manufacturer may submit to the Secretary for approval a plan, including supporting material, which shall set forth the actions, and the dates by which such actions are to be taken, which will assure that the automobile model type or types referred to in subparagraph (A) will be domestically manufactured before the end of the fourth model year covered by such plan.

"(ii) The Secretary shall promptly consider and act upon any plan submitted under this subparagraph. The Secretary shall approve any such plan unless—

"(I) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph, or

"(II) the manufacturer has previously submitted a plan which has been approved by the Secretary under this paragraph.

"(C) This paragraph shall only apply with respect to model years beginning after model year 1980.".

(c) Conforming Amendments.—(1) Section 501(8) of such Act (15 U.S.C. 2001(8)) is amended by adding at the end thereof the following new sentence: "Such term also includes any predecessor or successor of such a manufacturer to the extent provided under rules which the Secretary shall prescribe.".

(2) Section 503(b)(1) of such Act (15 U.S.C. 2003(b)(1)) is amended—

(A) in subparagraph (A), by inserting "and passenger automobiles which are included within this category pursuant to paragraph (3)" after "manufactured by such manufacturer"; and

(B) in subparagraph (B), by inserting "and which are not included in the domestic category pursuant to paragraph (3)" after "manufactured by such manufacturer".

(3) Section 503(b)(2)(F) of such Act (15 U.S.C. 2003(b)(2)) is amended by striking out "or 1979," and inserting in lieu thereof "or any subsequent model year,".

Sec. 5. Adjustments Regarding Standards for 4-Wheel Drive, Light-Duty Trucks.

Section 502 of such Act (15 U.S.C. 2002), as amended, is further amended by adding at the end thereof the following new subsection:

"(k)(1) On the petition of any manufacturer for any model year beginning after model year 1981 and before model year 1986, the Secretary may conduct an examination of the impacts on that manufacturer or a class of manufacturers of any standard under subsection (b) applicable to 4-wheel drive automobiles. If after consideration of the results of that examination the Secretary finds in accordance with paragraph (2) that the manufacturer has demonstrated that such manufacturer or class of manufacturers would not otherwise be able to comply with such standard for that model year as it applies to 4-wheel drive automobiles without causing severe economic impacts, such as plant closures or reduction in employment in the United States related to motor vehicle manufacturing, the Secretary shall, by order, make an adjustment or otherwise provide relief regarding—

"(A) the manner by which the average fuel economy of that manufacturer or class of manufacturers is calculated for purposes of that standard as it applies to 4-wheel drive automobiles, or

"(B) other aspects regarding the application of that standard to the manufacturer or class of manufacturers with respect to such automobiles to the extent consistent with the provisions of this title.

"(2) Any finding by the Secretary under paragraph (1) shall be made (A) after notice and a reasonable opportunity for written or oral comment, and (B) after consideration of the benefits available under the amendments made by the Automobile Fuel Efficiency Act of 1980.

"(3) The authority of the Secretary under this subsection to make any adjustment or provide other relief shall not be effective for any model year after model year 1985.

"(4) The Secretary shall notify the Congress of any adjustment or other relief provided under this subsection in the first annual report submitted to the Congress under section 512 after the order is issued providing for that adjustment or relief.

"(5)(A) Any final decision of the Secretary under this subsection shall be made, and notice thereof published in the Federal Register, not later than 120 days after the date of the petition involved. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. Any such decision by the Secretary shall become final 30 days after the publication of the notice of final decision unless a petition for judicial review is filed under subparagraph (B).

"(B) Any person adversely affected by such a decision may, not later than 30 days after publication of notice of such decision, file a petition for review of such decision with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides, or in which the principal place of business of such person is located. The United States Court of appeals involved shall have jurisdiction to review such decision in accordance with section 706(2)(A) through (D) of title 5, United States Code, and to affirm, remand, or set aside the decision of the Secretary. Except as otherwise provided in this subparagraph, section 504(c) and (d) shall apply to such review to the same extent and manner as it applies with respect to review of any rule prescribed under this section or section 501, 503, or 506.

"(6) The availability of any adjustment or other relief under this subsection shall not be taken into account in prescribing standards under subsection (b).".

Sec. 6. Determinations of Unlawful Conduct; 3-year Carryforward and Carryback.

(a) Unlawful Conduct.—Section 507 of such Act (15 U.S.C. 2007) is amended—

(1) by striking out "The" and inserting in lieu thereof "(a) Subject to subsection (b), the"; and

(2) by adding at the end thereof the following new subsection:

"(b) A manufacturer shall not be considered to have engaged in unlawful conduct, or to have failed to comply with any fuel economy standard applicable to such manufacturer under section 502, if the average fuel economy of such manufacturer, after taking into account the credits then available to the manufacturer under section 502(l), would result in the applicable standard being met or exceeded.".

(b) 3-Year Carryforward and Carryback of Credits.—Section 502 of such Act (15 U.S.C. 2002), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(l)(1)(A) For purposes of this part, credits under this subsection shall be considered to be available to any manufacturer upon the completion of the model year in which such credits are earned under subparagraph (B) unless under subparagraph (C) the credits are made available for use at a time prior to the model year in which earned.

"(B) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under subsection (a) or (c) (determined by the Secretary without regard to any adjustment under subsection (d) or any credit under this subsection), such manufacturer shall be entitled to a credit, calculated under subparagraph (C), which—

"(i) shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(C)(i) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for passenger automobiles will be below such applicable standard for that model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under subparagraph (B) within the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

"(ii) Such credits shall be available for the model year involved subject to—

"(I) the Secretary approving such plan; and

"(II) the manufacturer earning such credits in accordance with such plan.

"(iii) The Secretary shall approve any such plan unless the Secretary finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

"(iv) The Secretary shall provide notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under subsection (a) or (c), after taking into account credits available under subparagraph (B)(i), and afford the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this subparagraph.

"(D) The amount of credit to which a manufacturer is entitled under this paragraph shall be equal to—

"(i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to this paragraph exceeds the applicable average fuel economy standard established under section (a) or (c), multiplied by

"(ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(E) The Secretary shall take credits into account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the volume of passenger automobiles manufactured that model year by the manufacturer. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Secretary shall provide the manufacturer involved with written notice and reasonable opportunity to comment thereon.

"(2) Credits for manufacturers of automobiles which are not passenger automobiles shall be earned and be available to be taken into account for model years in which the average fuel economy of such class of automobiles is below the applicable average fuel economy standard established under subsection (b) to the same extent and in the same manner as provided for under paragraph (1). Not later than 60 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations to carry out the provisions of this paragraph.

"(3) Whenever a civil penalty has been assessed and collected under section 508 from a manufacturer who is entitled to a credit under this subsection, the Secretary of the Treasury shall refund to such manufacturer the amount of the civil penalty so collected to the extent that penalty is attributable to credits available under this subsection.

"(4) The Secretary may prescribe rules for purposes of carrying out the provisions of this subsection.".

(c) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 508 of such Act (15 U.S.C. 2008) are each amended by striking out "507(1)", "507(2)", "507(3)", and "507 (1) or (2)" each place such terms appear and inserting in lieu thereof "507(a)(1)", "507(a)(2)"; "507(a)(3)", and "507(a)(1) or (2)", respectively.

(2) Section 508(a) of such Act (15 U.S.C. 2008(a)) is amended by striking out paragraph (3).

(3) Subparagraphs (A) and (B) of section 508(b)(1) of such Act (15 U.S.C. 2008) are each amended—

(A) by striking out "(i) $5 for each tenth" and inserting in lieu thereof "the amount obtained by multiplying $5 by (i) the number of tenths";

(B) by striking out "by (ii) the total" and inserting in lieu thereof "by the"; and

(C) by striking out the period at the end thereof and inserting in lieu thereof ", reduced by (ii) the credits then available under section 502(1) for such model year".

(4) Section 508(d) of such Act (15 U.S.C. 2008(d)) is amended by striking out paragraph (4).

(d) EFFECTIVE DATE.—Under such regulations as the Secretary of Transportation shall prescribe, the amendments made by this section shall apply to the 3 model years preceding the model year during which this Act is enacted.

SEC. 7. EXEMPTION FOR EMERGENCY VEHICLES.

Section 502 of such Act (15 U.S.C. 2002) is amended by redesignating subsection (g) and the following two subsections as subsections (h), (i), and (j), respectively, and by inserting after subsection (f) the following new subsection:

"(g)(1) At the election of any manufacturer, the fuel economy of any emergency vehicle shall not be taken into account in applying any fuel economy standard prescribed by or under subsection (a), (b), or (c). Any manufacturer electing to have the provisions of this subsection shall provide written notice of that election to the Secretary and to the Environmental Protection Agency Administrator.

"(2) For purposes of paragraph (1), the term 'emergency vehicle' means any automobile manufactured primarily for use—

"(A) as an ambulance or combination ambulance-hearse,

"(B) by the United States or by a State or local government for police or other law enforcement purposes, or

"(C) for other emergency uses prescribed by the Secretary of Transportation by regulation.".

SEC. 8. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS.

(a)(1) The table of contents for such Act is amended by striking out the item relating to part A.

(2) Section 2 of such Act (15 U.S.C. 1901) is amended by striking out "except part A of title V" and inserting in lieu thereof "except title V".

(3) Title V of such Act is amended by striking out the designation relating to part A.

(b) Section 501(9) of such Act (15 U.S.C. 2001(9)) is amended by striking out "manufacturer" and inserting in lieu thereof "manufacture".

(c) Section 502(b) of such Act (15 U.S.C. 2002(b)) is amended by striking out "and shall be" and inserting in lieu thereof "and such standards shall be".

(d) Section 502(d)(3)(E) of such Act (15 U.S.C. 2002(d)(3)(E)) is amended by striking out "subparagraph," and inserting in lieu thereof "subsection,".

(e) Section 503(b)(2)(A)(ii)(I) of such Act (15 U.S.C. 2003(b)(2)(A)(ii)(I)) is amended by striking out "base" the last place it appears.

(f) Section 508(b)(1)(A) of such Act (15 U.S.C. 2008(b)(1)(A)) is amended by inserting before ", shall be" the following "with respect to any model year".

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to amend title V of the Motor Vehicle Information and Cost Savings Act to reduce administrative burdens on low volume automobile manufacturers, to encourage an increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes.".

And the House agree to the same.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
RICHARD OTTINGER,
PHILIP R. SHARP,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE BROWN,
DAVE STOCKMAN,
Managers on the Part of the House.

HOWARD W. CANNON,
ADLAI STEVENSON,
DONALD RIEGLE,
HARRISON SCHMITT,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improving Automotive Efficiency", to exempt very low volume automobile manufacturers from certain requirements of the Act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the

House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

On April 16, 1980, the Senate passed S. 2475 by voice vote. The bill made several amendments to the Automobile Fuel Efficiency provisions of title V of the Motor Vehicle Information and Cost Savings Act. On June 3, 1980, the House passed S. 2475 with amendments, by voice vote. On September 25, 1980, conferees met and agreed to a conference substitute. With respect to substantive provisions of the conference substitute, a summary of the relevant provisions of existing laws, the Senate and House provisions, and the conference substitute follows:

SECTION 3. FUEL EFFICIENT STANDARDS APPLICATION TO SMALL MANUFACTURES

Under current law, manufacturers of fewer than 10,000 automobiles per year may petition the DOT for an exemption from the Corporate Average Fuel Economy (CAFE) standards on a case-by-case basis. If an exemption is granted, DOT must establish an alternative fuel economy standard for the petitioner.

Both the House and Senate bills modified the existing exemption procedure.

Under the conference substitute, the existing exemption procedure would be modified to permit an applicant to file a single application for an exemption and alternate standards for any period during model years 1981 through 1985. The agreement would also permit any application already submitted and accepted by DOT for model year 1981 to be amended and extended through model year 1985 with Secretarial discretion to require additional economic or technical data from the applicant. In addition, the conferees agreed to require the Secretary to review the exemption and standards setting procedure to further reduce administrative burdens and to notify the Congress of his findings.

Finally, the conferees agreed that small manufacturers would be exempt from certain reporting requirements.

The conferees emphasize that in establishing alternate fuel economy standards, the Secretary of Transportation may establish a single standard for the duration of the exemption.

SECTION 4. MODIFICATION OF LOCAL CONTENT REQUIREMENTS TO ENCOURAGE DOMESTIC PRODUCTION OF FUEL EFFICIENT AUTOMOBILES

Subsection (a) deals with new domestic manufacturers. Under current law, a manufacturer must calculate a separate CAFE for passenger automobiles which are domestically manufactured from those which are imported. Domestically manufactured means that at least 75 percent of the value was added in the United States or Canada. The Senate amended the law to provide that a manufacturer which began production in the United States after December 22, 1975, shall combine its domestic and imported fleets into a single fleet for CAFE purposes. The House provision also permitted such averaging with several modifications. First, new domestic manufacturers included only those which had commenced production after December 22, 1975, and had completed one model year's production by December 31, 1985. Second, the Secretary of Transportation was required to act on petitions by manufacturers for exemptions and grant exemptions based upon a finding that the exemption would increase employment in the United States and reduce imports of parts and supplies used in automobiles produced by that manufacturer. Third, it precluded manufacturers from using both this provision and the carry forward/carry back provision during the period of the exemption. Fourth, it required the Secretaries of Transportation and Labor to report to Congress on the effects of the provision.

The conference substitute modifies the House provision in two significant respects. First, the Secretary must grant a request to combine fleets unless the Secretary finds that the exemption would reduce employment in the United States related to motor vehicle manufacturing. Second, provision is made to expedite the Secretary's decision and any judicial review of the decision. The conferees intend to limit any dilatory action by either the Secretary in making a decision or other parties in seeking judicial review. Provisions have been made to avoid needless delays which can frustrate the purposes of the provision. The conferees expect the courts to act expeditiously and to dispose of frivolous or dilatory litigation at an early stage.

The conference substitute allows manufacturers to petition for and receive an exemption any time after the date of enactment of the Act. Petitions for judicial review of the Secretary's decision must be made within 30 days after the notice of the decision, regardless of the effective date of the exemption.

Because the purpose of this provision is to encourage increased employment in the United States, the conferees intend that new domestic manufacturers which utilize this provision and go above 75 percent local content will not later reduce the local content below 75 percent. Therefore, the House provision requiring the Secretaries of Transportation and Labor to monitor the effects of the provision, including whether new domestic manufacturers have reduced domestic content below 75 percent, and to report annually to Congress has been included in the conference substitute.

Subsection (b) relates to transition provisions for certain new domestic production. Current law requires that any manufacturer's domestically manufactured automobile fleet and imported fleet separately meet the annual CAFE standard.

The Senate provision permitted a manufacturer to include up to 150,000 imported automobiles annually in its domestic fleet for purposes of determining its CAFE performance, provided several conditions are met, the most critical of which were: (1) that such automobiles are produced with at least 50 percent domestic content; (2) that the manufacturer submits a transition plan acceptable to the Secretary of Transportation for achieving domestic manufacture of such automobiles (75 percent domestic content) within four model years.

The House provision added a requirement that the manufacturer in fact achieve domestic manufacture within four model years.

The conferees agreed to the House provision.

SECTION 5—ADJUSTMENTS REGARDING STANDARDS FOR 4-WHEEL DRIVE, LIGHT DUTY TRUCKS

The House provisions provided the Secretary with authority to adjust the calculation of CAFE standards covering light-duty trucks.

The Senate had no comparable provision.

The conference agreement includes the House provision but limits its application to 4-wheel drive, light-duty trucks.

SECTION 6—DETERMINATIONS OF UNLAWFUL CONDUCT; 3 YEAR CARRY FORWARD AND CARRY BACK

Current law provides for a one year carry forward/carry back of credits earned by a manufacturer if its fleet is more fuel efficient than the CAFE standards for a model year. These credits may be applied to the previous or subsequent model year if the manufacturer's fleet fails to meet the CAFE standards in such previous or subsequent model year.

Both the House and Senate bills extended this carry forward/carry back provision to 3 years but differed slightly as to how the new carry forward and carry back provisions would be implemented. The conference substitute adopted a modified House provision. The conferees intend that the Secretary act expeditiously in considering the plan for approval.

SECTION 7—EXEMPTIONS FOR EMERGENCY VEHICLES

The House bill permitted a manufacturer to elect to exclude emergency vehicles (e.g. ambulances, police cars) from his fleet for the purpose of calculating CAFE averages. The Senate bill had no similar provision. The conference substitute adopted the House provision.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
RICHARD OTTINGER,
PHILIP R. SHARP,
TOBY MOFFETT,
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Managers on the Part of the House.

HOWARD W. CANNON,
ADLAI STEVENSON,
DONALD RIEGLE,
HARRISON SCHMITT,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. WINN (at the request of Mr. RHODES), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRENZEL) to revise and extend their remarks and include extraneous material:)

Mr. FINDLEY, for 5 minutes, today.

Mr. CONABLE, for 60 minutes, on September 29, 1980.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 30 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. LAFALCE, for 20 minutes, today.

Mr. VAN DEERLIN, for 10 minutes, today.

Mr. NEAL, for 15 minutes, today.

Mr. MURPHY of New York, for 5 minutes, today.

Mr. MOFFETT, for 5 minutes, today.

Mr. ECKHARDT, for 30 minutes, today.

Mr. PREYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BRADEMAS, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,670.25.

(The following Members (at the request of Mr. FRENZEL) and to include extraneous matter:)

Mr. WINN.
Mr. MCKINNEY.
Mr. GRADISON.
Mr. WYDLER in two instances.
Mr. FINDLEY in three instances.
Mr. DERWINSKI.
Mr. ABDNOR in two instances.
Mr. LAGOMARSINO in three instances.
Mr. HYDE in three instances.
Mr. HORTON.
Mr. BROYHILL.
Mr. DOUGHERTY.
Mr. ROUSSELOT in two instances.
Mr. FRENZEL in three instances.
Mr. LEE.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous matter.)

Mr. NOLAN.
Mr. NATCHER.
Mr. DINGELL in two instances.
Mr. WAXMAN.
Mr. TAUZIN.
Mr. PEPPER.
Mr. DODD.
Mr. STARK.
Mr. MINISH.
Mr. LEHMAN.
Mr. LAFALCE in two instances.
Mrs. SCHROEDER.
Mr. UDALL.
Mr. MINETA.
Mr. RANGEL.
Mr. OTTINGER.
Mr. BRADEMAS in 10 instances.
Mr. MURPHY of New York.
Mr. ROBERTS in two instances.
Mr. AMBRO.
Mr. AUCOIN.
Mr. DELLUMS.
Mr. WOLFF.
Mr. SANTINI.
Mr. BIAGGI in two instances.
Mr. KASTENMEIER.
Mr. HARRIS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1985. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Interior and Insular Affairs;

S. 2373. An act for the relief of Sanda Reyes Pellecer; to the Committee on the Judiciary;

S. 3147. An act to rename the Veterans' Administration Medical Center in Topeka, Kans., as the "Colmery-O'Neil Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs; and

S. Con. Res. 62. Concurrent resolution urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes; to the Committee on Foreign Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1123. An act to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such act for fiscal year 1980;

S. 1442. An act to authorize the documentation of certain vessels as vessels of the United States, and for other purposes; and

S. 2271. An act to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission;

H.R. 7511. An act to amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to finance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes; and

H.R. 7590. An act making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

ADJOURNMENT

Mr. ECKHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until Monday, September 29, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5378. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by John A. Burroughs, Jr., Ambassador-designate to Malawi, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

5379. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Jack B. Kubisch, nominated to the rank of Ambassador while serving as U.S. Special Negotiator of a successor agreement or treaty to the current United States-Spanish Treaty of Friendship and Cooperation, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

5380. A letter from the Director, Defense Security Assistance Agency, transmitting a report showing the estimated number of officers and employees of the U.S. Government and U.S. civilian contract personnel assigned in foreign countries for purposes of implementing foreign military sales agreements and commercial exports as of March 31, 1980, pursuant to section 36(a) (7) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5381. A letter from the Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes; to the Committee on Interior and Insular Affairs.

5382. A letter from the treasurer, Jewish War Veterans U.S.A. National Memorial, Inc., transmitting the annual audit report of the organization for the year ended March 31, 1980, pursuant to section 3 of Public Law 83-504; to the Committee on the Judiciary.

5383. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Spring Creek, Wakulla County, Fla., in response to resolutions of the Senate and House Committees on Public Works adopted July 23, 1963, and April 14, 1964, respectively; to the Committee on Public Works and Transportation.

5384. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Cape Cod Easterly Shores, Massachusetts, in response to a resolution of the House Committee on Public Works adopted December 2, 1970; to the Committee on Public Works and Transportation.

5385. A letter from the Comptroller General of the United States, transmitting a report on indoor air pollution (CED-80-111, Sept. 24, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. House Concurrent Resolution 301. Concurrent resolution expressing the sense of the Congress that there is a need to strengthen course offerings and requirements in foreign language studies and international studies in the Nation's schools, colleges, and universities; with amendments (Rept. No. 96-1388). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 3559. A bill to amend the act of May 27, 1930, to expand the emergency authority of the Secretary of Agriculture regarding persons who are lost, seriously ill, injured, or who die within the national forest system, and for other purposes; with amendment (Rept. No. 96-1389). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 7665. A bill to amend title 28, United States Code, to divide the fifth judicial circuit of the United States into two circuits, and for other purposes; with amendment (Rept. No. 96-1390). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. House Resolution 693. Resolution expressing the sense of the House of Representatives with respect to the policy of the Standing Committee on Federal Judiciary of the American Bar Association and the U.S. Department of Justice pertaining to potential nominees for lifetime Federal judgeships who, but for their age, might otherwise be found qualified (Rept. No. 96–1391). Referred to the House Calendar.

Mr. FUQUA: Committee on Science and Technology. S. 1391. A bill to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, 1982, and 1983; with amendment (Rept. No. 96–1392). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 3263. A bill to make regulations more cost-effective, to insure periodic review of old rules, to improve regulatory planning and management, to eliminate needless legal formality and delay, to enhance public participation in the regulatory process, and for other purposes; with amendment (Rept. No. 96–1393). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee of Conference. Conference report on S. 985 (Rept. No. 96–1394). Ordered to be printed.

Mr. RODINO: Committee on the Judiciary. H.R. 8115. A bill to amend section 274 of the Immigration and Nationality Act relating to the seizure of vessels, vehicles, and aircraft by the Immigration and Naturalization Service (Rept. 96–1395). Referred to the Committee of the Whole House on the State of the Union.

Mr. DRINAN: Committee on the Judiciary. H.R. 6915. A bill to revise title 18 of the United States Code, and for other purposes; with amendment (Rept. No. 96–1396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 154. A bill to incorporate the Gold Star Wives of America; with amendment (Rept. No. 96–1397). Referred to the House Calendar.

Mr. DANIELSON: Committee on the Judiciary. H.R. 2279. A bill to promote safety and health in skiing and other outdoor winter recreational activities; with amendment (Rept. No. 96–1398). Referred to the House Calendar.

Mr. NEDZI: Committee of conference. Conference report on H.R. 7301 (Rept. No. 96–1399). Ordered to be printed.

Mr. DUNCAN of Oregon: Committee of conference. Conference report on H.R. 7831 (Rept. No. 96–1400). Ordered to be printed.

Mr. PERKINS: Committee of conference. Conference report on H.R. 2977 (Rept. No. 96–1401). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 2475 (Rept. No. 96–1402). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROBERT W. DANIEL, JR.:

H.R. 8210. A bill to amend the Consolidated Farm and Rural Development Act to provide the Secretary of Agriculture with emergency credit readjustment authority, and for other purposes; to the Committee on Agriculture.

By Mr. EVANS of Georgia:

H.R. 8211. A bill to amend the Consolidated Farm and Rural Development Act to provide the Secretary of Agriculture with emergency credit readjustment authority, and for other purposes; to the Committee on Agriculture.

By Mr. GIBBONS:

H.R. 8212. A bill to require the Secretary of Health and Human Services to study whether there is a relationship between the exposure of members of the Armed Forces of the United States to nuclear radiation in connection with the atomic detonations at Hiroshima and Nagasaki during 1945 and various symptoms currently exhibited by such members; to the Committee on Interstate and Foreign Commerce.

By Mr. HOLLAND:

H.R. 8213. A bill to amend the Internal Revenue Code of 1954 to increase the maximum amounts allowable as a deduction for contributions to retirement plans for self-employed individuals and to simplified employee pensions and to provide an inflation adjustment for such amounts; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 8214. A bill to amend the Internal Revenue Code of 1954 to repeal the "family rental tax"; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 8215. A bill to amend the privacy Act of 1974 and the Communications Act of 1934 to provide for the protection of telephone records, and for other purposes; jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and the Judiciary.

By Mr. LEACH of Louisiana:

H.R. 8216. A bill to amend the Internal Revenue Code of 1954 to provide for royalty owners and independent producers an annual $1,200 credit against the crude oil windfall profit tax, and for other purposes; to the Committee on Ways and Means.

By Mr. MICA:

H.R. 8217. A bill to provide for the establishment of a national cemetery in Withlacoochee State Forest in Sumter County Fla.; to the Committee on Veterans' Affairs.

By Mr. MURPHY of New York:

H.R. 8218. A bill relating to the effective date of the amendment contained in the Multiemployer Pension Plan Amendments Act of 1980 which relates to the treatment of certain retirement benefits under State unemployment compensation laws; to the Committee on Ways and Means.

By Mr. PREYER (for himself, Mr. Drinan, and Mr. Waxman):

H.R. 8219. A bill to amend the Privacy Act of 1974 and the Communications Act of 1934 to provide for the protection of telephone records, and for other purposes; jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and the Judiciary.

By Mr. MOFFETT:

H. Con. Res. 438. Concurrent resolution relating to the recent curtailment of Jewish emigration by the Government of the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

By Mr. PAUL:

H. Con. Res. 439. Concurrent resolution expressing the sense of Congress that the frozen Iranian assets be used to compensate the American hostages and their families; to the Committee on Foreign Affairs.

By Mr. PATTERSON:

H. Con. Res. 440. Concurrent resolution expressing the sense of the Congress that the Depository Institutions Deregulation Committee should establish a housing differential for thrift institutions of one-quarter of 1 percent on all categories of deposits and accounts, other than negotiable order-of-withdrawal accounts, which were established after December 10, 1975; to the Committee on Banking, Finance and Urban Affairs

By Mr. MARKEY:

H. Res. 795. Resolution relating to price increases for crude oil and other petroleum products resulting from the current conflict between Iran and Iraq; jointly, to the Committees on Interstate and Foreign Commerce, Foreign Affairs, and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5858: Mr. Moffett.

H.R. 7189: Mr. Murphy of Illinois.

H.R. 7541: Mr. Brown of Ohio.

H.R. 7563: Mr. Porter and Mr. Evans of Delaware.

H.R. 7773: Mr. Leach of Louisiana.

H.R. 7928: Ms. Ferraro.

H.R. 8083: Mr. Weiss.

H.R. 8092: Mr. Conable, Mr. Downey, Mr. Martin, Mr. Lederer, Mr. Moorhead of California, Mr. Udall, Mr. Panetta, Mr. Lloyd, Mr. Pepper, Mr. Lundine, Mr. Kemp, Mr. Charles Wilson of Texas, Mr. Young of Alaska, Mrs. Spellman, Mr. Whitehurst, Mr. Forsythe, Mr. McHugh, Mr. Hollenbeck, Mr. Seiberling, Mr. Whittaker, Mr. Moffett, and Mr. Pritchard.

H.R. 8152: Mr. Conable.

H.J. Res. 511: Mr. Long of Maryland, Mr. Hefner, Mr. Harsha, Mr. Taylor, Mr. O'Brien, Mr. Reuss, Mr. Michel, Mr. Lewis, Mr. Hawkins, Mr. Akaka, Mr. Edgar, Mr. Stangeland, Mr. Whitten, Mr. AuCoin, Mr. Bonior of Michigan, Mr. Weaver, Mr. Bauman, Mr. Patten, Mr. Dicks, Mr. McKay, Mr. Hagedorn, Mr. Findley, Mrs. Bouquard, Mr. Evans of Georgia, Mr. Gibbons, Mr. Heftel, Mr. Lloyd, Mr. Peyser, Mr. McClory, Mr. Carr, Mr. Eckhardt, Mr. Myers of Indiana, Mr. Boner of Tennessee, Mr. Van Deerlin, Mr. Lehman, Mr. Bolling, Mr. Stack, Mr. Albosta, Mr. Jacobs, Mr. Trible, Mr. Roth, Mr. Minish, Mr. Wydler, Mr. Miller of Ohio, and Mr. Bereuter.

H. Con. Res. 422: Mr. Anthony, Mr. Boner of Tennessee, Mr. Grassley, and Mr. Preyer.

H. Con. Res. 436: Mr. Pepper, Mr. Evans of the Virgin Islands, Mr. Donnelly, Mr. Fascell, Mr. Lott, Mr. Robinson, Mr. Whitehurst, Mr. Montgomery, Mr. Watkins, Mr. Ottinger, Mr. Corrada, Mr. Solomon, Mr. Barnes, Mr. Nowak, Mr. Kogovsek, Mr. Kindness, Mr. Winn, Mr. Forsythe, Mr. Cleveland, Mr. Green, Mr. Gradison, Mr. Fazio, Mr. Anderson of California, Mr. Maguire, Mr. Kemp, and Mr. Roe.

H. Res. 113: Mr. Ottinger.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5615

By Mr. AMBRO:

—Page 2, line 19, strike out "be" and all that follows through line 21, and insert in lieu thereof the following: "receive the penalty and fine prescribed for an individual guilty of treason under section 2381 of title 18, United States Code.".

—Page 2, line 19, strike out "be" and all that follows through line 21, and insert in lieu thereof the following: "suffer death, or shall be imprisoned not less than ten years and fined not less than $50,000; and shall be incapable of holding any office under the United States.".

H.R. 8146

By Mr. HILLIS:

(Amendment in the nature of a substitute.)

—On page 1, strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Emergency Unemployment Compensation Act of 1980".

FEDERAL-STATE AGREEMENTS

SEC. 2. (a) Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter in this Act referred to as the "Secretary") under section 3304 of the Internal Revenue Code of 1954 which desires to do so, may enter into and participate in an agreement with the Secretary under this Act, if such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Any State which is a party to an agreement under this Act may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) for any week of unemployment which begins in—

(A) an emergency benefit period (as defined in subsection (c)(2)), and

(B) the individual's period of eligibility (as defined in section 5(a)(2));

except that no payment of emergency compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c)(1) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2)(A)(i) For purposes of subsection (b)(2)(A), in the case of any area of a State, an emergency benefit period—

(I) shall begin with the third week after a week for which there is an area "emergency on" indicator; and

(II) shall end with the third week after the first week for which there is an area "emergency off" indicator.

(ii) In the case of any area of a State, no emergency benefit period shall last for a period of less than 26 consecutive weeks.

(iii) When a determination has been made that an emergency benefit period is beginning or ending with respect to any area of a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(B)(i) For purposes of subparagraph (A), there is an area "emergency on" indicator for a week if the rate of insured unemployment in such area for the period consisting of such week and the immediately preceding three weeks equaled or exceeded 10 per centum.

(ii) For purposes of subparagraph (A), there is an area "emergency off" indicator for a week if the rate of insured unemployment in such area for the period consisting of such week and the immediately preceding three weeks is less than 10 per centum.

(d) For purposes of any agreement under this Act—

(1) the amount of the emergency compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law; and

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall (except where inconsistent with the provisions of this Act or regulations of the Secretary promulgated to carry out this Act) apply to claims for emergency compensation and the payment thereof.

(e)(1) Any agreement under this Act with a State shall provide that the State will establish, for each eligible individual who files an application for emergency compensation, an emergency compensation account with respect to such individual's benefit year.

(2) The amount established in such account for any individual shall be equal to the lesser of—

(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(f)(1) No emergency compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into, or

(B) the first week which begins after the date of the enactment of this Act.

(2) No emergency compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning after October 1, 1981.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY COMPENSATION

SEC. 3. (a) There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 per centum of the emergency compensation paid to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this Act.

(c) Sums payable to any State by reason of such State's having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which would have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCIAL PROVISIONS

SEC. 4. (a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the funds appropriated pursuant to subsection (b) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out the purposes of this Act.

DEFINITIONS

SEC. 5. (a) For purposes of this Act—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State," "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970,

(2) the term "period of eligibility" means, in the case of any individual, the weeks in his benefit year which begin in an emergency benefit period and, if his benefit year ends within such emergency benefit period, any weeks thereafter which begin in such emergency benefit period;

(3) the term "area" means, with respect to any State—

(A) a labor market area or part of a labor market area which is located within such State, and

(B) all other parts of such State which are not located within any labor market area;

(4) the term "labor market area" means any area (determined without regard to paragraph (3)) deisgnated by the Secretary as being a contiguous population center with a population of at least 50,000 individuals;

(5) the term "rate of insured unemployment" means the percentage arrived at by dividing

(A) the average weekly number of individuals who are filing claims for weeks of unemployment with respect to the specified period and whose last employment during their base periods was in the area (as determined on the basis of the reports made by the State agency to the Secretary), by

(B) the average monthly covered employment in the area for the specified period;

(6) the rate of insured unemployment for any four-week period shall be determined by reference to the average monthly covered employment in the area under the State law for the first four of the most recent six calendar quarters ending before the close of such period; and

(7) determinations with respect to the rate of insured unemployment in any area of a State shall be made by the State agency in accordance with regulations prescribed by the Secretary.

For purposes of any State law which refers to an extension under Federal law of the duration of benefits under the Federal-State Extended Unemployment Compensation Act of 1970, this Act shall be treated as amendatory of such Act.

(b) For purposes of this Act, to the extent that an emergency benefit period is not in effect in all areas of a State, the determination of an individual's period of eligibility or of whether there is an emergency benefit period applicable to the individual shall be made by reference to the area in which the individual was last employed during the base period for the benefit year with respect to which such individual most recently received regular compensation.

(c)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency compensation under this Act to which he was not entitled, such individual—

(A) shall be ineligible for further emergency compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2) (A) In the case of individuals who have received amounts of emergency compensation under this Act to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such emergency compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such emergency compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the emergency compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

EXTENSIONS OF REMARKS

GOVERNMENT HAS LOST TOUCH WITH THE PEOPLE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. ABDNOR. Mr. Speaker, on September 12, I addressed the annual convention of East River Electric Power Cooperative, Inc., in Madison, S. Dak. The main theme of my remarks was that government has lost touch with the people; and the result is governmental excesses which contribute to inflation, to restriction of productivity, and to a loss of confidence among our citizens.

There is no single, simple solution to the serious problems facing our Nation; but the solutions required can only come from labors of the working men and women of America. It is vital, therefore, in seeking solutions that the Government is in tune with the people, and that means the people must elect public officials who think like they do.

South Dakota's strengths are agriculture and small businesses which serve the farming community. It is the thinking of farmers and small businessmen that I have endeavored most to represent in Washington; and, since I am a farmer myself, that only comes naturally.

The text of my remarks follows:

Thank you, Bob. It's always a pleasure to be with my friends, the members of East River Electric Power Cooperative. As I look out over the crowd, I see many friends and acquaintances I've made over the years.

One of the greatest honors I have ever experienced was to receive East River's eminent service award. It hangs on the wall of my office in Washington, and being here with you again today, helps to keep fresh in my mind why it is that I am in Washington.

It is good to be with you again. . . .

You're hearing a lot of speeches today, they'll probably sound a lot like others you've heard before. There is one simple message that I'd like to leave with you, though. That message is that our Government, like our economy, is less and less in control of the people. Whereas the individual used to count, and a person could make a difference, it now seems that the bureaucracy often acts in spite of the people.

In too many cases, government has simply lost touch with the people.

You don't need to be told that. You know it, and you know that your neighbors know it. The farmers on the mall knew it by the time they left Washington—even though when they came to our Nation's Capital, they hoped that it wouldn't be so.

Your board of directors and your employees, the staff of East River, know it when they are forced to try to justify rate increases which result in part from bureaucratic governmental regulations which are without apparent justification. Your board did not relish the thought of increasing the 1981 wholesale power rate by almost 22 percent, but how much of that increase do you suppose was required by unnecessary governmental regulations?

And the problem begins at home, because there is scarcely any federal program or regulation which does not have its ardent supporters. In many cases they are a tiny minority, but they are able to capitalize on the notion that there is no problem too big or too small to be solved by Uncle Sam.

But there comes a point at which uncle becomes a bigger part of the problem than of the solution. And it's high time we reversed the trend.

Why is it that other nations—particularly Japan and West Germany—are able to prosper on a policy of cooperation between government and industry—while the U.S. economy stagnates in confrontation? In the current regulatory climate, could the rural electrification movement have gotten off the ground?

You know, as I was flying across our great state at night a couple of weeks ago, I couldn't help being impressed by the beauty of all those tiny beacons of light dotting the countryside. It wasn't long ago that I would have seen only darkness. I wonder if the countryside were dark today, if the current maze of bureaucracy and governmental red tape would ever allow us to electrify rural America as we have done. I can only guess how many environmental impact statements it would take.

The point is not that there is not a proper role for government to play in protecting our environment, and in protecting us against others, and against harm we may inadvertently do to ourselves. The point is that government has gone too far. And in doing so, it has grown apart from the people. It is no longer a government of, by, and for the people. It is a government above, beyond, and out of control of the people.

But there is nothing which says it must be that way.

As long as we continue to have the privilege of free elections, there is hope. Because the people have the power to regain control of their government, and to bring it back to reality. What it will take is for the people to vote for those candidates who think like they do, and to elect public officials who have an accurate perception of the proper role of government in modern America.

That is not to suggest that simply cutting the bureaucracy will solve all of our problems, nor is it to suggest that I have all the answers . . . let me tell you, though . . . we have all sorts of people in congress: We have too many lawyers. We have doctors. We've got businessmen . . . professors and teachers . . . clergymen . . . and even a former professional basketball player.

But we have few, if any honest-to-goodness dirt farmers who came out of the seat of a tractor like I did. And, believe me, it makes a difference how our congressmen and senators think.

South Dakota is more dependent upon agriculture than virtually any other state. Without farming, there would hardly be a South Dakota . . . and yet, I am the first and only fulltime farmer South Dakotans have ever sent to Washington to represent the interests of the people of the State.

When South Dakota is reduced to one seat in the 435 member House of Representatives in 1982, it will be more important than ever that our senators represent the mainstream of the thinking of the people of our State. Being one of only one hundred, a senator has four times the voting power of a congressman and twice as many staff to assist him.

While about four hundred of the four hundred thirty-five members of the House represent urban districts, every state has some rural areas and some agriculture. Every Senator has an interest in agriculture and rural America. It is no wonder that many farm and rural legislative initiatives must start in the Senate, and that's one reason I want to be there.

There are great and urgent problems which must be addressed . . . but they must be addressed in recognition of the fact that many of the so-called solutions have been tried and proven failures. We cannot spend ourselves into prosperity, and federal deficit spending invariably aggravates our biggest problem of all . . . that is, inflation.

We are being nickeled and dimed to death. Not only has the Federal Government been powerless to stop inflation, but it has actually aggravated the situation time and time again.

How many times have we been told that a new regulation will add only a few cents to the final cost of the consumer? . . . Well, let me tell you, there are nearly eighty thousand pages of regulations we live by in this country. And it doesn't take much to figure out that cents add up to dollars, dollars add up to tens, tens to hundreds, hundreds to thousands, thousands to millions, and millions to billions.

In 1979 alone, seventy-seven thousand four hundred ninety-eight pages of new regulations were proposed in the daily Federal Register. And if it is published in the Federal Register as a final rule, it has the effect of law. Never mind that no one has the time to read seventy-seven thousand pages to find out if he is breaking the law.

We've got to start discriminating better between government which costs more than it benefits our citizens, and government which justifies its costs.

The costs imposed upon the private sector by governmental regulations are bad enough, but did you know that the national debt on the books of the U.S. Treasury now totals about nine hundred billion! . . that's right. . . nine hundred billion dollars. . . that's over four thousand dollars for every man, woman, and child in the U.S.; and it's over ten thousand dollars for every person employed in the private sector and contributing the tax revenues to pay the interest.

Economist William Bewley has pointed out that there are now, in 1980, only 1.1 "makers" to every "taker" in our nation. That is, for virtually every worker employed in the private sector, there is another American who is employed by government or receiving social security, public assistance, or a government pension. These figures do not include those on food stamps or receiving unemployment compensation.

That's a heavy burden for the working people of America to bear. We've got to be productive to do it, and our economy just cannot stand overregulation which unduly impedes progress and hampers productivity.

There are things Government can do to help, though, and the rural electrification program is a shining example. . . . The REA program has proven itself not to be an expense to the Federal Government but,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

rather, an investment which pays rich dividends in increased productivity in rural America. And increased productivity is the name of the game when it comes to fighting inflation.

When it comes to fighting inflation in electricity costs, by increasing the productivity of our electric power supply system, there is one major investment which sticks out like a rain cloud on a hot South Dakota summer day. . . . It's called the Gregory County pumped-storage hydroelectric power project. It will cost nearly three hundred million dollars to construct, but it will more than pay its cost. It alone will increase the generating capacity of the Missouri River Basin system by fifty-eight per cent, and it will save up to 2.4 million barrels of imported oil each year!

That's the kind of investment our Government ought to make to develop our own energy resources, to reduce oil imports, and to lower energy costs. Instead, the President chooses to add more taxes to increase the price of gas, and opposes development of the Gregory project.

Well, the President may not be able to recognize a good energy investment when he sees one, but I have already persuaded the House to pass the authorization—not just once, but twice. I am hopeful the Senate will pass the authorization yet this year, too, but I am prepared to do battle on the other side of Capitol Hill next year, if necessary.

Again, the three hundred million dollar Gregory project is the kind of investment the Federal Government ought to make, and I intend to see it built—with or without the President's support.

I could go on and talk about the other great water development potentials I see for the future of our State, and I'd like to talk about my efforts in Washington to save our railroads, too. . . Railroad and water development, along with working for responsible farm policies, are among my highest priorities.

Time will not permit me to go into detail on these important issues here today, but you can be sure they will continue to have my utmost attention in Washington.

My political campaign advisors tell me I should be in South Dakota campaigning, but the last month of the Congressional session is too important to miss. There is critical legislation in all three areas—farm policy, railroads, and water development—which must be passed. I'll have to trust the voters to recognize that I must be in Washington to see that it gets done.

In closing, I'd like to return to the main theme of my remarks. That is, that Government has lost touch with the people.

You know, coops, like East River, and Congressmen have a lot in common. A coop is only as good as the people it represents, and it's only as good as it represents its people.

East River and I are fortunate to represent some of the best people in the world. I hope I do as well as East River does, and I hope the people of South Dakota will give me a chance to do it in the U.S. Senate.

Thank you very much.●

HOUSE CONCURRENT RESOLUTION 399

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. OTTINGER. Mr. Speaker, I recently introduced House Concurrent Resolution 399, and to date several of my colleagues have cosponsored this legislation. In light of recent developments in Poland, I think it is particularly important for those who have not yet cosponsored House Concurrent Resolution 399 to join me today, so that we may show the Polish people and all Eastern Europeans that we are concerned for their well-being. This resolution establishes Congress recognition of the plight of the refugees from all Eastern European countries.

We must remember the Eastern Europeans, in particular, have endured persecution for over 30 years, and those who have been fortunate enough to reach this country have made extremely important contributions to our society. One need only consider the achievements of Leopold Stokowski, the former conductor of the Philadelphia symphony; Tibor Rado, the great mathematician; Ignace Paderewski, the piano virtuoso; and the innumerable other achievements to realize the lasting impact of Eastern European immigrants.

This resolution recognizes these achievements, and reaffirms our Nation's dedication to the acceptance of refugees from Eastern European countries to the same extent as those from other countries.

With respect to recent developments in Poland, I am encouraged that the Polish workers' strike seems to be settling without any outside interference. However, we should not lose sight of the fact that Soviet troops have been stationed on the Polish borders.

As a cosponsor of House Concurrent Resolution 399, and a cosponsor of House Concurrent Resolution 416, which calls for the legitimate demands of the Polish workers to be met by peaceful means without interference from outside powers, I urge Congress to serve notice to the world of our unwavering commitment to the Polish people and our steadfast support for their rights.●

GOOD MANNERS IN BAD REPAIR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. HYDE. Mr. Speaker, one of my constituents, Ms. Florence Dubnick of Oak Park, Ill., recently took the opportunity to speak out in a "Perspective" column for the Chicago Tribune. I believe Ms. Dubnick's views on the necessity of courtesy on the part of Government employees and civil servants at all levels are an important reminder to all of us in Government service, and I take pleasure in sharing her insightful comments with my colleagues:

GOOD MANNERS IN BAD REPAIR

I was walking recently through an outdoor shopping mall where bicycling is forbidden. Despite this prohibition, publicized by newspapers and by signs saying "Park & Walk," young people invariably ride there. One boy, about 12, was confronted by a policeman who, hands on hips, demanded, "Where do you think you're going?" The boy answered, abashed and respectful, "Over to the street." The policeman snapped, "Not that way, you're not." The boy got off the bike and walked the rest of the way.

The flaw in this vignette of law enforcement and public order is that it bred arrogance in the policeman, resentment in the boy, and dismay in the spectator. Granted, the boy was breaking the law. But he was young, and it is the sort of law that almost begs to be broken. The officer could have enforced it just as well if he'd been polite. His smart-aleck, tough-guy act didn't help.

Civil servants have to make an extra effort to be courteous to the public. The success of a government office, unlike that of a grocery store, does not depend on advertising or the sunny smiles of the clerks to draw customers. And many government jobs are tedious and thankless, inviting public complaints and boorishness.

People often take out their frustrations with the bureaucracy on the poor fellow selling them their licenses, assessing their taxes, or initialing their forms. It's easy to see why civil servants may not go out of their way to be polite to the people they serve. And it is just this fact that makes courtesy all the more necessary.

Not just for government employees, of course. It's necessary for everyone. Courtesy seems to be forgotten in the most common, everyday transactions. One motorist cusses out another, a waitress snaps at a customer (or vice versa), a shopper takes eight items into the six-item express lane.

I'm not saying such behavior is the norm, but it occurs far too frequently. And I'm not saying that waitresses, shop clerks, and cops have easy jobs and therefore should tolerate all kinds of abuse. But the point remains that rudeness benefits no one. The perpetrator feels petty (or ought to) and the victim feels offended. And for what? All this ill-feeling could be avoided with a little self-control.

The danger is worse just now because good manners have lost much of the world's high regard. Witness the rise of "assertiveness," which often boils down to plain selfishness. "Consumerism" is another trend that, while basically sound, may encourage people to make public scenes and complain abusively.

It is widely believed that bureaucracy is unassailable through normal channels—that only the squeakiest wheels get any grease. But I believe people are more responsive when they are approached politely and sympathetically, with consideration for their own outlook.

Some may say that such courtesy is only superficial, mere lip-service—in a word, hypocrisy. This is true, of course. But it is always best to be honest and candid, baring one's soul and making one's convictions wholly public? A little hypocrisy is a small price to pay for smoother and happier relations with other people.●

ENERGY: A GLOBAL PREDICAMENT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. BROYHILL. Mr. Speaker, I recently had the opportunity to read a most insightful and thought-provoking piece on our Nation's energy situation, which appeared in the September 1980 issue of Carolina Country. The author, Mr. James M. Hubbard, serves as the executive vice president of the North Carolina Association of Electric Cooperatives. In addition, Mr. Hubbard has served on a national power supply study committee, which conducted an exhaustive study of the Nation's energy situation and the outlook for future power supply.

Mr. Hubbard's credentials reflect a thorough understanding of the numerous and complex factors which have helped to shape our tenuous national energy policies. In the first part of his article, Mr. Hubbard traces the events which have contributed to the precarious energy position in which we find ourselves today. The energy history which is summarized in the article points to only one solution to our growing energy shortage. As the author points out, only through further development and utilization of nuclear energy are we going to be able to meet our country's ever-increasing energy needs and reduce our dependence on foreign oil at the same time.

In view of the massive upheavals and violence now taking place in the Middle East and threatening to choke off the world's oil supply, James Hubbard's remarks are particularly timely, and I commend them to all my colleagues in the House. At this time, I would like to insert in the Record the first part of Mr. Hubbard's synopsis of our national energy dilemma.

ENERGY: A GLOBAL PREDICAMENT

America enters the last fifth of the century in peril on two fronts:

(1) On the international scene, the situation is more unstable and more dangerous than at any time I can remember since World War II. We have an enormous credibility problem around the world—a world that respects strength and not our long-time indecisiveness.

(2) On the domestic scene, the White House and the Congress are made impotent by conflicting interests and "single issue" groups, pulling tragically apart on such vital issues as energy, the economy, inflation, defense and ecology.

U.S. FACES CRITICAL PROBLEMS

We face social, political and economic problems of a magnitude seldom experienced by any society.

Look at what has happened in the past two years in just one area of the globe:

The late Shah of Iran was overthrown, his pro-western army of 754,000 well-equipped men shattered without a fight, and they have been replaced by an Islamic and radical left coalition that is openly hostile to the United States. OPEC has raised oil prices with impunity and, with Iran joining the radical coalition of Libya, Iraq, and Algeria, further huge increases are coming.

The neutralist government of Afghanistan was overthrown by a communist successor who himself was then deposed and executed in the Soviet invasion of last December. The Soviets have taken over the huge all-weather airport in Afghanistan, built by the United States, and Soviet bombers and fighters are only 450 miles from the jittery Saudi peninsula.

Meanwhile, there were several assassinations of North Yemen leaders by agents from communist South Yemen, followed by an attempt at military invasion.

You need not be reminded of the violation and capture of the U.S. Embassy in Iran by a group of Marxist terrorists operating under the ludicrous banner of "students."

Our national leadership is also concerned that Saudi Arabia, which is our major source of foreign oil, is vulnerable to similar disturbances.

Underlying and related to all of these uncertainties is energy. We are indeed living in an interdependent world.

AN ENERGY MESS

How did we get into this energy mess, into a situation in which we are at the mercy of the oil exporting countries that are members of the OPEC cartel?

It began a half century ago. Oil was discovered by two Standard Oil geologists on Bahrain Island on the Persian gulf. A few years later, surveys indicated oil lay beneath the sands of Saudi Arabia. That oil company drilled six wells; six dry holes resulted. The outlook was not promising.

Standard Oil drilled a seventh well, and it came in at 7,000 barrels a day, which is big and that began the great success story of Saudi Arabia.

That country is today, after the USSR and the U.S., the world's largest oil producer, and it is our largest foreign supplier.

One could argue that abundant Middle East oil was the source of today's crisis. Oil in those vast Middle East pools was cheaper than water. It cost no more than *15 cents a barrel* to produce oil. The American, British and Dutch oil companies explored, financed, produced, shipped, refined and marketed the Middle East oil, sharing the profit of production with the countries from which the oil came. Under the management of the oil companies, the world price ranged between $1.30 and $2 per barrel.

COUNT THE CONSEQUENCES

What have been the consequences of this cheap and abundant oil?

1. It encouraged a massive program of road building in this country, which in turn enabled people to live as far as they wished from where they worked. In most parts of the country people thought nothing of living 30-50 miles from where they worked.

2. Detroit was encouraged to build big cars, big gas guzzlers. When asked many years ago, why he didn't build a smaller car, Henry Ford replied, "Nobody wants a smaller car; if they did I would build it."

3. Cheap oil and gas forced coal out of the market, or at least reduced its market greatly.

4. Cheap oil diminished the interest or incentive for anyone to produce competitive fuels. Tinkerers, inventors and research-oriented companies had no incentives to exploit the energy field. That is why other forms of energy aren't available today.

The U.S. has been slow to wake up to the facts about energy. Neither the public nor Congress has been willing to acknowledge that a problem exists.

NATIONAL RESOLVE GATHERING

I have a feeling, however, that we as a nation may finally be gathering the political strength and resolve to alter the direction in which our nation has drifted for all of our lives.

Forecasters agree that as oil prices go up, the growth of U.S. energy consumption will slow down. But no studies claim that we'll be using less energy in ten years than we're using now. Even with the most stringent conservation, we'll need 30-50 percent more energy in 1990 (just ten short years) than we used in 1978.

If we hold oil imports down to 1977 levels, as the President has promised, where will this additional energy come from?

Can the U.S. get more energy in the foreseeable future than it's getting now from domestic oil? Probably not a good deal more. But with reasonable government policy, we are told that we can stop the decline in U.S. oil production that's been going on since 1970.

GAS PRODUCTION UNCERTAIN

Like oil production, natural gas production peaked in 1970. We've been producing less natural gas since then, although 1978's new natural gas law made more supplies available by shifting some gas from the Southwest to other states.

The impact of the Natural Gas Policy Act, a complicated semi-decontrol law, is still uncertain. So we may not have as much gas as will be needed in 1990.

In 1890, coal accounted for 96 percent of the world's energy. By 1970, that percentage had declined to about 30 percent. Coal could give us a lot more energy—and quickly.

Some of it could be burned right now—in industry and utility boilers that can use either coal or oil. But the Clean Air Act blocks the use of high-sulphur coal in many areas. And, 70 percent of all low-sulphur Western coal is locked up on public lands that can't be developed. Such substitution will be slow because of the limited number of boilers that can be directly converted to coal. Many will require outright replacement with new facilities, which will place even heavier capital burdens on already capital-burdened utilities.

U.S. mines are producing more than 750 million tons of coal a year. But, they could be bringing out 100 million tons more—if the coal could be used. We're going to need that coal within the next five years to reduce our dependence on oil imports. Energy experts predict that coal may increase by five percent a year, but that won't make up for all the missing oil that won't be produced or the missing gas that won't be produced.

If we have less oil in ten years—and, we have the same or little more natural gas . . . and, we have more coal, but not enough to cover all energy growth, what will make up the difference?

NUCLEAR OUR ONLY OPTION

Our only other foreseeable option is nuclear power. The total installed capacity of all reactors operating at the beginning of last year could provide the equivalent of about 1.4 million barrels of oil a day. Completing all the plants under construction would bring that total to the equivalent of four million barrels of oil a day. And, building all the plants now in the planning stage would provide installed capacity equal to about five million barrels a day.

I sincerely believe that the political handling of nuclear energy policy in this nation during the last half of the 70's will be viewed by history as one of the great tragedies of this century. Safe operation of generating facilities, transportation and storage and reprocessing of this valuable energy resource can all be technically accomplished with adequate safety now.

NATIONAL WILL LACKING

All that is lacking is the national will and purpose.

Other countries, however, with little oil or coal resources are going ahead with comprehensive nuclear development programs. France expects to be generating one half of its electricity from nuclear sources by 1985. The United Kingdom is moving in the same direction. Russia and its eastern European allies are embarked upon a program to increase their nuclear power generating capacity tenfold by 1990.

Our own congressman from the 6th District, Steve Neal, recently recalled a statement by General Douglas MacArthur which seems applicable to our dilemma. He was, of course, speaking in another time on another subject: "The history of war can be summed up in two words: Too late. Too late in comprehending the deadly purpose of potential enemy; Too late in realizing the mortal danger; Too late in preparedness; Too late in uniting all possible forces for resistance; Too late in standing with one's friends."

Our whole industrial system is like a vehicle built to operate on $3 oil puffing along with an inefficient engine leaking vast amounts of energy. Each drop wasted drives higher the price of future oil purchases, which in turn makes it easier for OPEC to cut production and raise prices even more. Now that we have $30 oil, correcting this situation is the nation's first order of business.●

SEATIME TRAINING REQUIREMENTS FOR ABLE-BODIED SEAMEN

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. TAUZIN. Mr. Speaker, in the great State of Louisiana, 70 percent of the State's merchant marine and fishing industry is within the Third Congressional District, the district I proudly represent. Concern for that vital industry has spurred my strong and active support of the Small Vessel Inspection and Manning Act, along with my colleagues LINDY (Mrs. HALE) BOGGS, JOHN BREAUX, and BOB LIVINGSTON. This bill is necessary if we are to conform to law, requirements which are not being handled with liberal understandings and interpretations by the U.S. Coast Guard.

A key feature of this legislation of particular importance to the Louisiana offshore marine industry, is the provision calling for a 6-month period of seatime training, as opposed to a 12-month period. To Louisiana's offshore supply fleet personnel, accustomed to a 7-day-on/7-day-off work schedule, this translates into spending 24 months to accumulate the previously required 12-month training to qualify as an able-bodied seaman.

The U.S. Coast Guard has testified before the conference committee, confirming that a 6-month seatime requirement is more that adequate for training and that safety is in no way diminished by the shorter period.

It is my firm opinion that passage of this bill is vital not only to south Louisiana, but the entire country. With 95 percent of the U.S. offshore oil and gas developments in Louisiana, the State cannot maintain its preeminent position if the lifeline of the industry—crew and supply boats—is struggling with a severe shortage of qualified seamen. The reduced training time is critical to Louisiana in helping to alleviate our chronic shortage of able-bodied seamen, thereby enabling the State's offshore oil and commercial boating industries to continue their part in developing the natural resources so vital to the Nation's economic strength and well-being.●

FRENCH NUCLEAR PROGRAM MOVES AT TOP SPEED

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. WYDLER. Mr. Speaker, while the Carter administration has vacillated between ambivalency and downright opposition to U.S. nuclear power development, the French Government is moving at a pace which will assure that they reach the ambitious nuclear goals which they set in the early seventies. The August 22 edition of Science magazine included a particularly informative article on French nuclear power development which I strongly recommend to my colleagues. I think they will be particularly struck by the fact that French nuclear plants are now coming on stream at the rate of about one every 2 months, while President Giscard d'Estaing contends they have not made any compromises on safety.

The article follows:

At Creys-Malville on the bank of the River Rhone, some 30 miles east of Lyon in the province of Isère, the world's most advanced fast breeder reactor is coming into being. The 275-foot-high containment dome is already in place. Sometime this month, through a gaping hole left in a wall, a crane will hoist the massive steel cauldron built to hold the unranium-plutonium core of the reactor and the 3500 metric tons of liquid sodium needed to cool it. When the $2.5-billion reactor goes critical, scheduled for August 1983, France will have taken another major step toward the goal of making her uranium reserves a source of energy potentially equivalent to all the oil in Saudi Arabia.

Super-Phénix, as the Creys-Malville reactor is called, is the preeminent success symbol of an increasingly impressive technological enterprise, the French nuclear power program. By virtue of decisions taken long ago and steadily pursued while other nations dithered, France is emerging in the 1980's with what is certainly the most vigorous nuclear energy program in the world, and with an evident lead in several important aspects of nuclear technology.

The vitality of the French nuclear program is unmistakable. New nuclear power plants are now coming on stream at the rate of about one every 2 months, the maximum of French industrial capacity. Electricité de France, the national utility company, is investing 16 billion francs a year ($4 billion) in its policy of "tout nucleaire," that of building no more oil or coal fired plants but only nuclear.

In parallel with the reactors is a comprehensive program covering all parts of the nuclear power cycle, from the mining of uranium to the disposal of radioactive wastes. French technical competence has been demonstrated in the massive Eurodif uranium enrichment plant, which started production last year, in the La Hague reprocessing center, and in the development of breeder reactors, where France appears to exercise an increasingly commanding lead.

Energy independence is the necessity that drives this huge and ambitious undertaking. In the autumn of 1973, when the price of oil quadrupled, France found herself relying for 67 percent of her energy needs on imported oil. Quite apart from the political dependency so created, it was evident that the bills for oil were fast becoming unpayable.

The response was a decision to invest massively in France's one energy asset—a certain amount of uranium within her borders, plus a competence in nuclear technology born of a distinguished research tradition and a vigorous nuclear military program. Before the end of 1973, Electricité de France had decided that the existing nuclear power program would be expanded so that more than 60 percent of the nation's electricity would be of nuclear origin by 1985. A political consensus among France's four major parties, so far unshaken by environmental opposition, has enabled the program to be implemented without hesitation.

Eight years later, it is evident that the ambitious goal set in 1973 will be substantially, though not completely, attained. Nineteen reactors, with a capacity of 10,000 megawatts, are already in operation as of August 1980; by 1985, 49 nuclear reactors, with a total capacity of 40,000 megawatts, will supply 50 percent of France's electricity and 19 percent of her primary energy consumption. On 2 April this year, Minister of Industry André Giraud announced France's energy goals for 1990: nuclear's share of primary energy, still only 5 percent, is to rise to 30 percent by the end of the decade, with oil's contribution reduced to 30 percent by the same date.

"Just as at the races, the horses often emerge from round the turning post in a different order to that before, so France, following the confusion at the end of the 1970's, has suddenly found herself at the head of the pack of Western nuclear nations, both at the level of scientific research and at that of industrial accomplishments," writes Bertrand Goldschmidt, a longtime member of the French nuclear elite, in his recent book Le Complexe Atomique. France's prominent position has made her nuclear energy program of increasing interest to other nations, especially now that all the main pieces of its infrastructure are in a place and beginning to operate. Even a cursory tour of France's nuclear energy facilities, made by Science last month, makes evident the scale of the French undertaking.

The Super-Phenix reactor at Creys-Malville, 1200 megawatts in capacity, will the world's first commercial-size fast breeder when it comes into operation. Some 15 miles down the Rhone valley from Creys-Malville is the Bugey power station, where five nuclear reactors provide some 10 percent of France's electricity. The group is a symbol of a painful but clear-sighted decision. One of the reactors, the first to be built there, is a gas-graphite model of purely French design. The other four are pressurized water reactors built under license to the Westinghouse corporation of Pittsburgh. During the 1960's a bitter dispute arose between the Commissariat à l'Energie Atomique (CEA), France's powerful nuclear energy agency, and Electricité de France (EdF). CEA scientists favored the gas-graphite reactors, fueled by natural uranium, which they had developed originally to produce plutonium for France's military needs. EdF, however, wanted to standardize the future nuclear power program on light-water reactors, which cost only two-thirds as much to build and seemed slightly cheaper to operate. But because the reactors use enriched uranium, in which the United States had for long enjoyed a monopoly, the choice would mean buying an American design.

After considerable political maneuverings—at first the decision was referred to General de Gaulle, who in 1968 ruled in favor of the CEA, which he himself had founded in 1945—the EdF's position prevailed. The license fees owed to Westinghouse, which now amount to $200 million a year, were a small price to pay for an immediately available design already proven in world wide markets. Everything has been done to profit from economies of scale. Matching EdF's size as a customer, the fragmented French nuclear industry was reorganized in the 1960's into a single large manufacturer, Framatone. The Westinghouse pressurized-water reactors (PWR's), virtually mass produced, are located usually four at a site for maximum standardization. The early models were of the 900-megawatt size, but EdF has recently switched to ordering 1300-megawatt reactors, a size in which it will be the world's most experienced operator before long.

In part because of these economies, in part because of a simpler licensing process, it takes from 6 to 7 years to build a reactor in France, compared with an average of 11 years in the United States. Though the cost of nuclear electricity, like everything else, is rising, nuclear stations are gaining a widening price advantage over oil and coal fired stations. According to EdF's calculations as of May 1980, the cost of nuclear electricity from its fleet of PWR's is 13.52 centimes per kilowatt-hour, compared with 24.79 for coal stations and 36.32 for oil stations. In 1972, by contrast, all three forms of electricity cost much the same, from 4 to 6 centimes per kilowatt-hour.

Electricité de France's "tout nucleaire" policy has not been totally free of problems. The construction program is running about a year behind schedule, though the delay may not seem bad by international standards. A safety issue with the Framatome-made PWR's has cropped up in the affair of the "fissures," small cracks under the stainless steel cladding of the pressure vessel nozzles and the steam generator tube sheet. The problem was important in being generic: most of the PWR's so far made have the cracks, the cause of which was a new welding technique adopted by Framatome 5 years ago. But the cracks are all small, generally less than a centimeter in length and depth, and seem to be stable. Since they affect only the protective cladding, not the main plumbing, EdF has continued to put the affected reactors into operation while keeping close watch on the cracks and preparing remote control repair equipment should it be necessary.

The effect of the problem was magnified by maladroit public relations; although EdF had known about the cracks for 18 months, it allowed its unions to announce the cracks to the public in September last year, together with charges of a management cover-up. With the French public already sensitized to nuclear mishaps by the Three Mile Island accident (a PWR, but not of Westinghouse design), the news of the cracks created considerably less stir than might have been expected.

Electricité de France's other principal problem has been the often vigorous local opposition from the prospective neighbors of nuclear reactors. The recent announcement that those living near nuclear power stations will enjoy a 15 percent reduction in their electricity bills may or may not be persuasive but in any event underscores the government's sensitivity to the issue. Public opposition has been particularly vehement at the proposed nuclear site of Plogoff, a natural beauty spot on the westernmost tip of France, deep in Breton country. The 45 days of public hearings held there earlier this year turned into a daily battle, known as the "mass," which was celebrated by police and demonstrators from all over France. Despite the Bretons' manifest hostility, the three commissioners conducting the public inquiry recommended on 15 April that the nuclear station should proceed.

France's decision in 1970 to base her nuclear future on PWR's entailed another far-reaching choice, that of ensuring a dependable supply of enriched uranium to fuel the reactors. The United States was offering enriched uranium at bargain prices, and the Soviet Union also had stocks for sale, invariably at 5 percent less than the going American price. Ignoring these siren voices, France determined to build her own uranium enrichment plant.

Down the Rhone valley from Bugey, about halfway between Lyons and Marseilles, the realization of this decision has almost taken final shape. Started in 1972, the $5.5 billion plant is based on the technology of enrichment by gaseous diffusion which was developed by French scientists for the military enrichment plant at nearby Pierrelatte. The first stages in the Eurodif cascade came into production last year. When complete, in 1981, Eurodif will produce 10,800 tons of separative work units per year, about a quarter of the world production of enriched uranium, and enough to fuel one hundred 1000-megawatt reactors. Built on a gigantic scale, the plant itself requires four 930-megawatt nuclear reactors to fulfill its electrical needs.* * *

Eurodif, like Super-Phenix, is a European undertaking under French direction. Cogema, France's state-dominated nuclear materials company, owns 51 percent of Eurodif; the rest belongs to Italian, Belgian, Spanish, and Iranian interests.

A visible triumph of French technology, Eurodif is also a guarantee of independence. Never again will the United States be able to impose political or commercial conditions because of its monopoly of enriched uranium. "The Americans," says the CEA's Goldschmidt, "had started the war of reactor types. . . . They would effectively win the combat and impose the light-water reactor, but at the same time would lose their trump card." In Eurodif, France feels she has finessed it.

If enrichment is one key to nuclear independence, the other, in the French view, is that of the breeder reactor. If used only to fuel light-water reactors, world uranium reserves will not last long. For France, Cogema controls about 100,000 tons of uranium in deposits in France and 140,000 tons abroad, chiefly in Niger and Gabon. But French consumption is at present 6,000 tons a year, rising to an annual 10,000 tons in the 1990's, at which rate the present reserves will run out shortly after the year 2000. Light-water reactors, however, exploit only a fraction of the energy potential in uranium. Some 50 times more energy lies in the depleted uranium that is the by-product of the enrichment plant. The key to unlocking the energy is the breeder reactor, which converts the uranium-238 into plutonium, opening the way to the completely efficient use of uranium.

Some 10 miles down the Rhone from Eurodif, across the river from the ancient town of Orange, is the Marcoule atomic center and the Phénix breeder reactor. Phénix, which was put into operation on Bastille day, 1974, is the middle of a triad of breeder reactor prototypes that span a quarter-century of research. Rapsodie, at the nearby Cadarache research center, is its predecessor; the Super-Phénix at Creys-Malville is its successor. Each is a judiciously scaled up version of the last, the grand design being to attain a commercially viable reactor, preferably competitive in cost with the current PWR'S.

Phénix has aroused the enthusiasm of nuclear engineers in France and abroad because of its almost faultless operating performance. The 250-megawatt reactor has validated several important aspects of breeder design, paving the way for the 1200-megawatt Super-Phénix. The costs of generating energy with the Super-Phénix are expected to be high—probably 24 centimes per kilowatt-hour, compared to 14 for the PWR's. When the commercial series of breeders starts, it is hoped that the cost can be reduced to 16 centimes per kilowatt-hour, partly by building the reactors in groups of four like the PWR'S.

Essential to the operation of both the PWR's and later the breeder reactors is a viable system for reprocessing the spent fuel, a matter of removing the fission products and recycling the uranium and plutonium. Fuel from the PWR's will be reprocessed at the complex at La Hague, near Cherbourg, the only commercial-scale PWR reprocessing center at present in operation. Reprocessing is technically arduous, and carries the basic constraint of ensuring that the plutonium moving through the plant nowhere concentrates toward a critical mass.

The main reprocessing plant at La Hague has had several successful runs since its debut in 1976, but has nowhere near reached its intended design capacity of handling 400 tons of spent fuel per year by 1980. Nonetheless, plans call for an increase of capacity to 1600 tons a year so as to handle fuel both from the French PWR fleet and from European and Japanese customers. In view of these plans, and a campaign by environmentalists to close down the La Hague plant, its operator Cogema was somewhat embarrassed when a fire broke out in the electrical substation on 15 April this year. The plant was back in operation within a week, with no radioactivity lost to the outside; nonetheless, the design of the substation was such that all main power was lost in the accident.

The final stage in the nuclear fuel cycle is the disposal of waste, a problem that is not regarded as insoluble in France. At the Marcoule center, a stone's throw from the Phenix reactor, is the world's first industrial-scale vitrification plant. Highly radioactive fission products, collected in liquid form by reprocessing plants, are first desiccated to a material that resembles freeze-dried coffee. In a continuous process, under remote control, the wastes are mixed with borosilicate powder, converted into molten glass, and poured into steel canisters. The canisters are at present stored in wells beneath the floor of the Marcoule vitrification plant, pending selection of a final storage site, probably in granite rock.

Because of its radioacitivity, the glass can reach temperatures of 600°C at the center of the canisters, but French scientists state that it is thermally stable and hard to leach should it ever be exposed to water. Bellot, director of the Marcoule center, dismisses criticisms of the vitrification process as "marginal studies by people at American universities. This is not the only process, and we don't claim it is the best, but it is a commercial solution and it has attained its objectives," he says. The vitrification plant started operation in 1976, after many years of pilot studies, and has performed so well that it has already produced some 70 tons of glass, accounting for most of the backlog of high-level military waste stored at the site. A similar plant has been sold to Germany.

France's commitment to nuclear energy has solid political backing, but the program is far from being uncontroversial. On a local basis, as at Plogoff and now at Chooz, opposition is often vigorous. In July 1977 some 20,000 people attended a demonstration at Creys-Malville, in the course of which one person was killed and several wounded. But the local opposition has not so far made any real impression at a central level. All of France's four main political parties continue to support the nuclear program. The Gaullists and Giscardists have endorsed it without reservation, as has the Communist party. "The enemy of the workers is not nuclear power and science, but capitalists and management," declared a Communist deputy this June. There is a sentiment among the Socialist party to halt the breeder program, but the party otherwise is also pro-nuclear.

Critics often point out that parliament has not debated the nuclear program since 1975, and even then without a vote being taken. But the lack of debate is allied to a lack of any other good choices. "France has no viable alternative to nuclear power other than economic recession and dependence," states flatly Minister of Industry Andre Giraud.

Though the nuclear program is not cheap—it costs a total of $8 billion a year, with $40 billion already invested, according to one estimate—it has clear economic advantages. Besides the increasing price advantage of nuclear electricity, the implementation of the program creates jobs for more than 120,000 people. By 1985, nuclear energy should be providing the equivalent of 40 million tons of oil a year, saving France some $10 billion in oil purchases even at today's prices. And France expects to earn a healthy income from the export of enriched uranium by Eurodif and of PWR's by Framatome.

The political standing of the program in France has also been helped by its achievements. The projects undertaken by French nuclear engineers have been successful, in the military as well as civilian fields. The management structure of the program owes much to Giraud, the present Minister of Industry. As head of the CEA from 1970 to 1978, Giraud shaped the major features of the present nuclear program, by pushing ahead with Eurodif, founding Cogema, healing the rift between EdF and CEA, and backing development of the fast breeder. French president Valèry Giscard d'Estaing, also an engineer by training, has given the program full support since taking office in 1974.

Continuity is the characteristic theme of the French nuclear power program. Beginning at least in 1970, a political and technical consensus as to its objectives has allowed France's program, perhaps alone of Western countries, a period of continuous and sustained development. The government has refused to be deflected from its nuclear goals either by internal opposition or by external pressures such as the nonproliferation policy launched by President Carter in 1976.

Is the French experiment of all-out commitment to nuclear power the one sure road to energy independence, as the government insists, or a gigantic economic and safety gamble which will bring the nation to disaster, as the program's critics predict? The ambitious program is only now beginning to assume its mature form, but the strengths already evident suggest that nuclear energy makes sense, at least for France.—NICHOLAS WADE.●

IN MEMORY OF JIM MARIGLIA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. STARK. Mr. Speaker, the city of San Leandro, Calif., has lost one of its greatest citizens; recently, Mr. Jim Mariglia passed away. The San Leandro Chamber of Commerce knows how much he will be missed, and they have set aside October 11 to establish a Jim Mariglia Memorial Scholarship Fund.

Over 30 years ago, Jim Mariglia began to build one of the most respected, and certainly the most tasteful, catering companies in California. As owner of a meat market, he dabbled in cooking as a hobby, and by the early 1950's Jim had opened his own catering service.

Many people have benefited from the culinary talents of Jim Mariglia. In 1968, A's owner, Charles O. Finley, contracted Jim's cuisine to add special flair to his press lounge. Jim has since served all three world's series in Oakland.

In addition to his talents in the kitchen, Jim has contributed to the city of San Leandro through his participation in various community clubs and projects such as the Kiwanis, Knights of Columbus, Native Sons of the Golden West, Elks, and the Sierra Club. His dedication and enthusiasm made him one of the city's most respected citizens.

San Leandro will miss Jim Mariglia, and we mourn his loss, but his dedication and contributions remain alive. His son, Mike, now has full responsibility for continuing the traditions and good tastes of the Jim Mariglia Catering Service.●

ARMAND J. CASTELLANI: A SYMBOL OF EXCELLENCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LAFALCE. Mr. Speaker, Italian Americans are blessed with heritage rich with tradition and accomplishment. A beautiful collage of religion, music, art, government, and commerce, this legacy has stretched from the days of ancient Rome until the very present. From Roman law to modern high fashion, from the Coliseum to the Via Veneto, from Virgil and Ovid to Puccini and Giuseppe Verdi, this never-ending line of accomplishments has stretched itself over an entire millennium.

The heirs of that tradition who live in our Nation—6 million Italian immigrants and millions of their offspring—have continued that tradition of excellence. Today, as a result, the culture of the United States is blessed with the many contributions in the arts, business, and government that this special community and its people have made. Like the American pioneers who ventured west in wooden wagons to meet the challenges of the prairie, Italian Americans have faced the desert of poverty, crossed the language barrier, and withstood the barbs and arrows of discrimination. Having done so, both the Nation as a whole, and this special people, are better for the struggle.

One particular individual epitomizes the beauty of this journey. Carried to this Nation as a child from Italy, his family settled in a warm Italian American community in Niagara Falls, N.Y., in 1922. His father, Ferranti, opened a grocery store on the corner of Garden and Highland in that city, where husband and wife worked long hours to prosper in the new land.

His mother died in 1933 and the teenage son left school to help run the family business; his education, however, had just begun. He continued to thrive among the warmth of the North End, an area that he once recalled "would have been considered a slum or ghetto" by today's standards. "But if anyone had termed it so," he continued, "when we were happy kids there, he would have been in trouble. He certainly would have temporarily viewed the rest of the world through blackened eyes."

Growing up at the foot of the suspension bridge taught this youth a good many things about what made the average person tick. And, oh how this young man learned these lessons.

Within a few years, he had opened his own grocery store, and then another, and then another. Today, sitting at the head of one of western New York's best-known and most prosperous companies, this man is now a teacher as well as a student. But, most of all, he is a symbol.

To millions of western New Yorkers, he symbolized the can-do spirit of the region. To his friends and colleagues, he is a decisive, brilliant leader. To his fellow Italian Americans, he is yet another symbol that the tradition lives.

To honor this man and pay tribute to his contributions, the Federation of Italian-American Societies' will present him their Man of the Year Award on October 11, 1980.

For Armand J. Castellani, it will be another sign of the esteem his peers hold for him.

Chairman of the board of directors of Niagara Frontier Services, Inc., Armand Castellani steers the fortunes of a network of businesses that serve thousands of western New Yorkers on a daily basis. From Tops markets to Ferrante's restaurants, the imprint of this man can be seen in every community on the Niagara Frontier.

This man has, however, not only business acumen, but a warm and vigorous interest in the world outside the office. And it has been in this arena that my good friend Armand

Castellani's heritage has shown brightly. Allow me, Mr. Speaker, to give you but one example.

In the late 1970's, Armand took a moment from his busy schedule to reflect on one of his growing passions: art. For some time he had enjoyed collecting paintings and other works of art, and the many contemplative hours spent in museums across the world. Now, his thoughts turned homeward, and especially to his hometown of Niagara Falls.

Never one to avoid dreaming of the best, his goal was to raise money and possibly donate an administration building for an art museum; this idea became financially prohibitive.

Seven years later, his interest in art becoming a self-termed addiction, Armand sat down with Father Gerard M. Mahoney, C.M., president of Niagara University to discuss his idea. With the acquisition of a new auxiliary campus and a building of the proper size, the possibility of an art gallery appeared to be gaining momentum. With this positive news, Armand went to work.

Armand purchased and eventually donated more than 300 art works valued conservatively at $1 million, and financed a $1 million renovation of the building that today is known as the Buscaglia-Castellani Art Gallery. Among the collection are works by French masters Degas and Gaugin, American artists Grandma Moses, Andrew Wyeth, and Susan Rothenberg.

For Armand Castellani, opening day for the gallery was the realization of another goal. For his many admirers it was an addition to an already long list of accomplishments, contributions, and honors.

To name only a few of these requires a fair amount of space: He almost singlehandedly brought little league baseball to Niagara Falls; he was 1974 honorary chairman of the United Way of Buffalo and Erie County; he serves on the board of directors of the Niagara Council of Arts, the Erie County Energy Advisory Board, the Daemen College Advisory Committee of the Arts, and the Buffalo Fine Arts Academy; he has received man of the year awards from the Niagara County chapter of the Disabled American Veterans, the Niagara Falls B'nai B'rith, and the State University at Buffalo's School of Management. In 1976, he received Israel's Prime Minister Medal, that nation's highest civilian honor, for selling $1,000,000 of Israeli bonds in western New York. This list, I must add, goes on and on.

Armand is a man who shares his great talents with all who meet him. The success of his business has given thousands employment and brought important services to shoppers throughout western New York. At home, he has helped his charming wife Eleanor raise 11 children.

Mr. Speaker, the tradition of excellence lives on in the person of Armand Castellani. As a symbol to all Americans, he deserves recognition for his honesty, warmth, concern, and brilliance. The Federation of Italian-American Societies honors itself when it honors a man of this stature—my very good friend, Armand J. Castellani, as its 1980 Man of the Year.●

THE PLO AND UNESCO

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. WOLFF. Mr. Speaker, once again the people of the United States and the world have been witness to a misuse of the most important international forum in the world: the U.N. The representatives of Iraq challenged the credentials of the State of Israel at UNESCO, the United Nations Educational, Scientific, and Cultural Organization. I believe that the people of the United States have grown tired of such ridiculous unproductive use of the United Nations General Assembly and service organizations for political propaganda purposes. There are such a large number of issues that the United Nations could play an active and beneficial role in, and yet we continually see the enemies of Israel wasting the time of the entire world by employing such base and wasteful political tactics.

Particularly revolting was the latest in this series of efforts to discredit the honorable participation of Israel in the United Nations. UNESCO is no place for the exercise of political polemics. The purpose of UNESCO is to stimulate progress in education, science, culture, and communication. It encourages international cooperation in these fields by bringing experts together. Israel's past participation in this U.N. body has been beneficial to all the member states of UNESCO. The Iraqi challenge to Israel's credentials signifies a new low in these interminable attacks against Israel, and demonstrates the desperate lengths the enemies of Israel will go to both discredit that state and waste the time of the United Nations. The Iraqis claimed that since Israel's credentials originate from Jerusalem the acceptance of them would represent the recognition of Jerusalem as the capital of Israel. The fact is that Israel is a member in good standing of the U.N. and that the U.N. played the instrumental role in the establishment of the State of Israel in international law. I call for the termination of these endless assaults on the State of Israel in all manners of U.N. sponsored forums, including the Copenhagen Mid-decade Conference on Women, and I predict that if this unconscionable practice of using the valuable time and resources of the United Nations is allowed to continue that the vital role that the U.N. has to play in solving the many problems of the world will continue to diminish. Let us push for constructive use of the U.N., for this organization is a valuable institution for the dissemination of the opinions of all the nations that must share the surface of this planet. No more useless politicization of the U.N.●

EVERYBODY'S TRYING TO LOOK COMPETENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LAGOMARSINO. Mr. Speaker, attached is an interesting and appropriate commentary on competency by columnist George Will.

I commend it to my colleagues and the American people.

EVERYBODY'S TRYING TO LOOK COMPETENT

Neither fellow swept like a sirocco through Baltimore, but John Anderson did what he wanted to do, and what Ronald Reagan wanted him to do, and Reagan did what he wanted to do, and neither did what Jimmy Carter wanted them to do.

For reasons of amour-propre as well as politics, Carter wanted the debate to draw a small audience. But the audience (approximately 55 million) was larger than expected. Carter wanted Reagan to blunder, and he wanted both of them to engage in an unpresidential brawl. But the only unpleasantness in Baltimore was the surliness of several journalists on the panel.

Anderson, taken in 60-minute dollops rather than the bite-sized chunks offered by network newscasts, begins to sound a bit too wound up, like a Volkswagen stuck in second gear. But on virtually every issue, Anderson endorsed, with the force of a Ferrari, a clearly liberal program, an even more government-directed life for Americans. Reagan probably had to suppress an urge to bound across the stage and hug Anderson when, in his closing statement, Anderson underscored the fact that he and Reagan had differed on everything except opposition to a peacetime draft.

Approximately 70 percent of the American people do not positively desire the reelection of Carter. That fact defines Anderson's and Reagan's tasks. Anderson's is to become the de facto Democratic nominee in key states, and then hope for spontaneous combustion, nationwide, as a result.

Reagan's more manageable task is "legitimization," toward which the Baltimore debate was a significant step. He must reassure people, and especially women, that he can perform competently under pressure. A disproportionate share of the voters currently inclined to oppose him are women whose inclinations have nothing to do with ERA and all that. Rather, their inclinations are rooted in the usual conservatism of many women voters, conservatism in the sense of reluctance to risk unsettling change. Polls indicate that women usually are, as they were in 1976, less inclined than men are to make a commitment against an incumbent. But as Election Day approaches, the difference between men and women in this regard tends to diminish.

From here on in, the overarching issue is apt to be, in a word, competence. Anderson will say: vote for a competent, rather than an incompetent, liberal. Reagan himself may not even need to emphasize that Carter's campaign style indicates that Carter's record is not redeemed by his personal goodness.

Because Carter was only a one-term governor, he has never had to run on his record. And because of his moralizing, he has always been conceded the "character" issue. But because of the Stealth aircraft leaks, the smear of Reagan as a "racist" and the perceived arrogance of Carter's position regarding the Baltimore debate, Carter's character is becoming an issue.

Two days before the debate, his operatives withdrew an especially raw advertisement, which cited Carter's benefits to black Americans and then said: "That's why the Republicans are out to beat him." Confronted with widespread revulsion against his original attempt to smear Reagan, Carter responded at a press conference wth a mini-semi-denial that he had intended to do what he had done. When the ad was withdrawn (after running in about 100 black-oriented newspapers and magazines), the campaign explained, lamely, that "no one at the White House had seen the ad." During Watergate, that was known as the "John Dean did it" ploy.

The withdrawn ad called to mind Robert Moses' memoir of Fiorello LaGuardia: "In exploiting racial and religious prejudices LaGuardia could run circles around the bosses he despised and derided. When it came to raking ashes of Old World hates, warming ancient grudges, waving the bloody shirt, tuning the ear to ancestral voices, he could easily outdemagogue the demagogues. And for what purpose? . . : He knew that the aim of the rabble-rousers is simply to shoo into office for entirely extraneous, illogical and even silly reasons the municipal officials who clean city streets, teach in schools, protect, house and keep healthy, strong and happy millions of people crowded together here."

It was once a common approach to politics, especially at the municipal level. But as Carter has learned, abruptly, the country has outgrown it. The ad he prudently withdrew incited racial hatred against the entire Republican Party. The fact that he had to withdraw it suggests that the man who promised "government as good as the American people" has learned something about the perils of conducting a campaign that underestimates the American people.●

JEWISH VIEW OF PALESTINIANS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. FINDLEY. Mr. Speaker, the September 15 issue of Newsweek contains a thoughtful commentary by a prominent Jewish musician on the Palestinian state of affairs in the Middle East. In it he calls for Israel to take the risk of sitting down with the PLO to see what can be negotiated.

The text follows:

IS IT GOOD FOR THE JEWS?

(By Joseph Eger)

Menachem Begin reminds me of my father. They look alike, talk alike and come from the same orthodox tradition. My father was so orthodox that, when the eldest of my six sisters married a non-Jew, he "sat shivah" and ordered my mother also to perform the rites for the dead.

My sister was mortally wounded by this rejection. She would surreptitiously visit me, her baby brother, as I played in the streets. My tiny heart could hardly contain the anguish and compassion I felt for her and, at the same time, for my good parents. She obediently died a few years later—of colitis, which many psychologists connect with repressed grief or anger.

Survival was the big and only question in my family when I was growing up—economic survival and survival of the Jews as a people. My grandmother judged all but strictly family affairs by one criterion: "Is it good for the Jews?"

Is Begin good for the Jews? The answer must be "No," though there is plenty of history to rationalize Begin's motivations and mindset.

In 1951, I moved to Israel to play first horn in the Israel Philharmonic. I was deeply moved to see Jews holding their heads up; in Israel we had become warriors who won the land, then farmers who turned the desert into a garden. I felt a new dignity.

Adventure: I returned to Israel in 1972 to lecture and conduct. A musician in the Haifa Symphony approached me after a rehearsal and invited me to accompany him to the West Bank. Israeli friends thought it dangerous and counseled me not to go. One said, only half facetiously, that I might be invited to an Arab tent and on turning to leave might find a knife in my back. But my sense of adventure and curiosity prevailed. We set out by foot since there was no transportation across the "border."

The two of us, an Israeli and an American Jew, were alone for three days among Arabs. My companion, born in Palestine, spoke fluent Arabic and had many Arab friends. We talked with peasants, farmers, people in the streets, in buses and cabs. We spent a fascinating afternoon with one of King Hussein's former generals and one of his doctor sons. We encountered gracious hospitality everywhere. Shopkeepers plied us with their specialties, calling us their "Jewish cousins." Several times they refused to take money. The only reservations we encountered were from some Arabs who felt a familial hurt at being treated as second-class citizens by childhood neighbors. I left the West Bank with the impression that there was (*then*) a reservoir of good will among the Palestinians waiting to be tapped. I saw neither knives nor tents.

Back in Israel, I told friends about my experience. Their reaction shocked me. They seemed reluctant to hear positive things about people they had been taught to view as enemies. Most preferred their myths. They were suspicious when I suggested that the Arabs I met were fine, cultivated people. I soon learned to keep quiet.

When I returned to the United States, it was worse. Could I be a traitor because I had had friendly experiences with the enemy? Again, I kept quiet, except among carefully chosen friends.

I can no longer keep silent. I care too much about my people, as well as my Arab friends. Moreover, *all* peoples have a vital stake in the Middle East today. A conflagration there would ignite the world.

Just as my father's beliefs unwittingly contributed to the death of a loved one, so is outdated political orthodoxy contributing to the destruction of our own people. Non-Jews with whom I have shared my reservations about Begin's policies have been relieved to hear that all Jews do not monolithically support those policies. They recognize and fear the growth of anti-Semitism. The fires are stoked when a Geula Cohen makes the preposterous statement, "The Jews did not come back to Israel to be safe but to build a nation on the lands given to us by the Bible" and forces Knesset support for a new law that unnecessarily antagonizes most of the world.

The crushing burden of armaments and the seizing of land have not provided and will not provide security, either temporary or permanent. Nor will railing at the U.N. and stiff-arming the few dissidents who dare question the present Israeli Administration. Friends of Israel and the Jewish people continue to drop away; oil politics whittle away others. The result has been the accelerating isolation of Israel in the world community and re-emerging anti-Semitism in the Diaspora.

Strength: The Arabs I know want peace as much as we Jews do. The concept of winners and losers is obsolete in the nuclear era. Either we all win or we all lose. the solution for us Jews lies in our real strength, which is not in force of arms but in the morality, fairness and justice we learned as children in our chaders (schools). We must stop seizing the lands of people who have lived on them for centuries, Biblical/geographical names notwithstanding.

Above all, we must open conversations with our palestinian neighbors and treat them with respect rather than indulging in self-fulfilling diatribes which only promote further atrocities. It is naive to think that we can foist any settlement on them without their participation. Instead of chasing the moderates into the arms of the extremists (weren't all of us extreme and even "terrorist" when our survival was at stake?), if we Jews were willing to sit down and negotiate with the Palestine Liberation Organization, we might find more moderates than we expected.

I have read more than one hint from Yasir Arafat himself that, given the right climate for negotiation, the PLO might be willing "to offer Israel peace in exchange for a Palestinian state."

Risky? Sure. But we've tried the other ways, and they're failing. This path won't be easy. I know our counterarguments: "defense," "appeasement and pandering to the PLO will only invite more terrorism," and "Israel can afford to be wrong only once." Perhaps we are wrong and that "once" is right now. We may find, if it isn't too late, that what is good for the Arabs—and for all peoples—is also good for the Jews.●

STRAIGHT ANSWERS FROM THE DEBATERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. HYDE. Mr. Speaker, in today's Chicago Tribune, one of Chicago's most respected journalists, Jack Mabley, has provided some informed commentary on the Presidential debate the other evening, which deserves to be shared with my colleagues:

STRAIGHT ANSWERS FROM THE DEBATERS

Who won the debate? I felt that I—an independent and undecided voter—was the winner.

Was there a loser? Yes—Carter.

I tuned in the debate with skepticism. I expected Reagan and Anderson to twist and duck and convert every answer into standard campaign oratory. To an extent they did this; but I soon found myself listening to their answers, and respecting both men for clarifying many issues.

The answers were old stuff to the reporters and commentators who have been traveling with the candidates, or following closely what they have said. The CBS reporter told Walter Cronkite that Reagan hadn't uttered "one syllable" that was new.

However, he and a colleague wisely agreed that they were not the ones to judge the debate. The person at home was the best judge.

We at home have had a year's diet of bits and pieces of the candidates' ideas, a 20-second snippet of Reagan on the 5:30 news, 10 seconds of Carter addressing an airport crowd.

We're also getting a flock of commercials for Reagan and Carter that are about as useful in evaluating a candidate as is the cover for evaluating a book.

Sunday night we got an hour of meaty discussion of issues. Of course, they bobbed and weaved through some tough questions. But at the end I thought I finally had a reasonably good definition of Reagan and Anderson.

Carter is more responsible than any other person for the problems Reagan and Anderson said they could alleviate. It was contemptible that he ducked a confrontation with his challengers.

George Gallup, Lou Harris, and other pollsters are burning the phone lines to measure the change—if any—in the ratings of the candidates because of the debate. I said before the debate, and am more confident after it, that Reagan and Anderson will pick up a significant number of points in the polls because of the debate, and most of the support will come at the expense of Carter.

There may be more of a shift than the straw polls detect. Little more than half the registered voters bother to vote in the presidential election. Sunday's audience was made up primarily of people who care enough to vote and care enough to devote an hour to the debate.

The nonvoters were watching a movie or whatever. If the straw polls could deal only with people who will vote in November, their validity would increase, and the impact of this first debate would be better understood.

I apologize for setting myself up as a guinea pig, but there are so many man-on-the-street reaction stories I believe that I can add mine.

My feeling toward the presidential election has been one of emptiness, of dissatisfaction with all of the leading candidates. But I was leaning toward Carter.

Now, scratch Carter. He got us into the dreadful economic mess and the foreign and energy problems. He had a chance to explain and defend. Instead what we're getting from Carter is shots of him waving from the Air Force One door and those slick, meaningless commercials.

After Sunday night's performance Reagan and Anderson no longer make me nervous. I am not a Reagan fan, but there is an excellent chance he will become President, and now I don't fear we're going to hell-in-a-handbasket if he's in the White House.

He spoke well and easily, had the facts, and was more temperate in several areas than I had believed.

Anderson came across as more forceful, and in some cases more realistic, about tackling our problems.

On one tiny but significant matter Reagan badly outpointed Anderson. It is mere cosmetics, but on such things are elections won and lost. Reagan referred to Anderson as "John." Anderson referred to Reagan mostly with the cold, formal "my opponent." Reagan was the nice guy without any loss of authority.

They clarified their positions, and differences, on the MX missile. Both made their positions crystal clear on abortion, and though I may disagree with one or the other, I understood and respected the rationale of both men.

All in all, things don't look quite as bleak today.●

ON THE OCCASION OF THE RETIREMENT OF PHIL CARLSON

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. HORTON. Mr. Speaker, Congress will lose one of its most exemplary public servants at the end of this month when my friend J. Philip Carlson retires from the Federal Government after giving the House of Representative 24 years of distinguished service as the minority counsel for the Committee on Government Operations. I know that I speak not only for myself but for the committee, for my House colleagues who know and respect him, and for his many friends on Capitol Hill when I wish him many years of happiness and continued success in his new career as director of government liaison with the Washington office of the American National Standards Institute.

Mr. Speaker, Phil's lengthy dedication to public life began 45 years ago this month when, as a young graduate of Nebraska's State Teachers College, he found employment with that State's public schools. With typical Carlsonian versatility, during the next 7 years he served three different school systems in such widely varying capacities as principal, teacher, athletic director, and basketball coach.

When World War II erupted, Phil answered his Nation's call and enlisted as a cadet in the Army Air Corps. He served with true distinction during the war, participating in the Rome-Arno, Air Combat-Balkans, and Air Offensive-Europe military campaigns. He was shot down over Yugoslavia in May of 1944 and was listed as missing in action through August 10, 1944. When he was discharged from active duty in 1945, he held the rank of captain and had won the Distinguished Flying Cross, the Air Medal with Oak Leaf Cluster, the Presidential Unit Citation, the Army Commendation Medal, and a host of other military honors.

Phil's public career resumed in 1946 when he was named Veterans Adviser for the Office of Price Administration. A year later he became a training specialist with the Navy Department in Washington, a position he held until his appointment as the House Government Operations Committee's minority counsel in 1956. He improved himself every step of the way, marrying his lovely wife Maryjo in 1950, earning his law degree from Georgetown University in 1951, and gaining admission to the District of Columbia Bar in 1952 and to the U.S. Supreme Court in 1957. He later was an American Political Science Association congressional staff fellow at Columbia University, where he earned an M.A. degree in economics in 1967. Through it all, he remained active in the U.S. Air Force Reserve, rising to the rank of lieutenant colonel before retiring from military reserve service in 1975.

Phil's contribution to the committee has been unique. It is best measured not by the sheer volume of legislation to which he has contributed, or the literary quality and substantive mastery of the reports that he has drafted, but by his innate ability to gently facilitate cooperation and compromise between groups with competing interests. He has been a catalyst between the majority and minority during each of the last 24 years and that is one of the highest compliments that we as Members of Congress can pay him. No congressional committee can function effectively without such a catalyst.

While his professional and military credits are impressive, they do not reflect the full measure of the man himself. If words could adequately describe him, it could be said of Phil Carlson—but of few others among us mortals—that he is everyone's first choice. Whatever the purpose—skillful analysis, trenchant observation, delightful companionship, or genuine friendship—his name would come first to mind.

As modest as he is generous, and as helpful as he is talented, Phil Carlson will be missed by his friends on Capitol Hill.

Mr. Speaker, I invite my colleagues to join me in saluting a quintessential American public servant, J. Philip Carlson.●

PERSONAL EXPLANATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LEE. Mr. Speaker, on rollcall 591, ordering the previous question on House Resolution 675, providing for the consideration of the bill H.R. 6674, a measure authorizing funds for the National Visitors Center, I was unable to vote. Had I been present, I would have voted "nay."●

OUR TONGUE-TIED DIPLOMATS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LAGOMARSINO. Mr. Speaker, Mr. Peter Osnos in today's Washington Post points out another failure in our foreign relations, a shortage of foreign language speakers in a foreign post. It is hard to imagine the United States did not have a Russian speaking diplomat in our Embassy in Afghanistan.

OUR TONGUE-TIED DIPLOMATS

When a Soviet soldier tried to defect in Afghanistan the other day, our embassy there was, for understandable reasons, in something of a flutter. Diplomacy and superpower politics aside, the problem was that no one in the embassy spoke Russian. Consider that fact: one hundred thousand Soviet troops and thousands more Soviet advisers enmeshed in a nasty war that has seriously damaged U.S.-Soviet relations. And, apparently, not a single American official capable of interviewing an ordinary Russian dogface.

American preparedness is a major issue in this presidential campaign season, and much has been said about our military posture. But what about our ability in sensitive far-flung posts to communicate with the army of our Soviet adversaries? Suppose a division of the formidable Red Army had had enough of Afghanistan and contacted the embassy in Kabul to let us know. We wouldn't even have been able to take the call!

The official explanation for the lapse is that there are less than 20 people in the embassy, including six Marines; and with everything else that needed to be done, speaking Russian, well, just fell between the cracks.

If the situation in Afghanistan were unique, it would be merely embarrassing. But the reality is that Americans too often are incapable of carrying out their functions abroad because of language shortcomings. The consequences range from the comic to the tragic. Remember the American translator in Poland a couple of years ago who fouled up a presidential greeting to the point that American jokes became the rage in Warsaw?

One of the worst cases was in Cambodia a decade ago, where a major U.S. military and diplomatic commitment was undermined in large part because we so utterly lacked any sense of understanding about the country. At times there were no more than one or two Khmer-speakers in the entire American establishment. French and later some English were the *lingua franca* for dealing with most Cambodians, which explains why we were shut off from the vast majority of the country's people.

The problem extends to private Americans as well. In 1976, when the networks were vying with each other to win the lucrative contract to broadcast the Moscow Olympics, they relied on Soviet-supplied interpreters during the bargaining. Turning matters around, it would be unthinkable for the Soviets to depend on Americans in a complex technical negotiation. Now, we may well think the Russians are excessively suspicious. But when it comes to doing business—any business—the idea that you rely on the other fellow's agent to tell you what is being said seems absurd.

Given the current hand-wringing on America's trade weaknesses, some figures compiled by Sen. S. I. Hayakawa (R-Calif.) are also revealing. There are, The New Republic quoted him as saying last spring, 10,000 Japanese businessmen in the United States, all of whom speak English, but only 1,000 U.S. businessmen in Japan, only a few of whom can speak any Japanese at all. The savviest traders are the ones who can chat up the customer.

But mercenary considerations aside, the Afghanistan incident reflects a serious continuing problem for U.S. diplomacy. At the present time, for instance, there are no Somali-speakers among the officials at the U.S. Embassy in Mogadishu, according to State Department officials. This is bound to complicate matters at a time when the United States is engaged in sensitive discussions about the implementation of a new Somali-American basing agreement.

At the height of the Iranian revolution in 1978, according to The New Republic article by Executive Editor Morton Kondracke, only six of the 60 U.S. Foreign Service officers there were "minimally proficient" in Farsi. At the time of the takeover of our embassy last November, congressional sources say, even fewer of our envoys could make themselves understood in the language of their captors.

It would seem difficult to defend a policy of not speaking the language of the country to which you are assigned. But some officials make the point that it is too much trouble to learn the obscure languages of many lands. Take Somalia. Everybody who counts speaks English, said one U.S. diplomat. "Only the people out in the countryside speak Somali," he said. The attitude is the same one that prevailed in Cambodia.

As for not speaking Russian in Afghanistan, the reasoning behind the State Department policy is that Americans are "supposed to have as little contact with the Russians as possible," one diplomat explained. So to deal with the hapless would-be defector, a U.S. official had to be flown from Moscow to talk to him. Shortly after he arrived, the defector met with the Soviet ambassador in Kabul and said, all things considered, he'd rather go home.●

PRISONERS IN THE SOVIET UNION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. UDALL. Mr. Speaker, I would once again like to bring my colleagues' attention to the plight of Soviet Jewish refuseniks. In recent months the situation of Soviet Jews who wish to emigrate has grown worse. Not only have Soviet officials continued to harass Jews who have applied to emigrate, not only do they continue to turn down the vast majority of exit visa applications, but they have now also begun to enforce, selectively, an "immediate family" requirement. Simply put, this rule states that no one may apply for an exist visa unless they have immediate family members living in the state to which they desire to emigrate. Immediate family is defined very narrowly. This has had a devastating effect on Jewish emigration. In the first 9 months of 1980 emigration is down over 40 percent from 1979 levels. The new requirement has created whole new groups of people who are denied even the hope of emigration. They are, in a very real sense, prisoners in the Soviet Union.

I am confident that this and future Congresses will continue to work for a relaxation of Soviet emigration policies. I recently joined over 60 of my colleagues in writing to Soviet Chairman Leonid Brezhnev asking for a change in current Soviet policy, and to Griffin Bell, chairman of the U.S. delegation to the Madrid Conference on the Helsinki Accords, asking that he continue to press the Soviets on this issue. I commend my good friend from Maryland, Mr. BARNES, for taking the lead with these two actions.

Our position is simple. The term "family unification," which is included in the Helsinki Act as one of the goals of the international movement of peoples, ought to include extended family members. A more liberal definition would greatly increase the number of Jews eligible for exit visas.

This position is consistent with past Soviet promises. In the Helsinki Accords, to which the Soviet Union is a signatory, nations promise to—

> make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or publicly, among persons, institutions, and orgnizations of the participating States.

The accords specifically state that persons who wish to be united with their families be treated in a "positive humanitarian spirit." But after allowing an increase in emigration in 1979 the Soviets have simply changed their minds. High levels of emigration will not be tolerated, those educated people upon whom Soviet society depends will not be allowed to leave. The immediate family requirement has been imposed, the level of harassment has increased, more threats are made against refuseniks and their families. This position is unacceptable, and we must press Soviet decisionmakers to change current emigration law. Obviously, the performance of the Soviet Union in this area that is so close to the hearts of the American people, the treatment of people who are asserting their claims to the most basic of freedoms, will have an effect on how this Congress and this Nation perceive the Soviet Union and its intentions and promises and willingness to reduce tensions.

I have previously spoken out in favor of three specific Soviet Jewish families: the Paritskys, the Rosensteins, and the Fradkins.

ROSENSTEIN

Gregory Rosenstein, after filing an application for exit visas almost 7 years ago, was fired from his position at a Soviet medical institution. The Soviet Union rejected his application with the claim that Mr. Rosenstein was shown a secret document some 14 years ago, and thus could pose a security risk to the country. Since Dr. Rosenstein has devoted his career to the study of epilepsy and has published the results of his research, this pretext is farfetched. Dr. Rosenstein has now been reduced to menial work in order to support his family, and he and his family are continually harassed and tormented, charged with "parasitism" because of their claims for their religious and civil rights. In recent months they have been experiencing threats by Soviet authorities and increased ostracism from other members of the community. Although the Rosensteins' son was guaranteed an exit visa some time ago, that promise has not been kept. The rest of the family has been told that they must wait until 1981 to apply for visas.

PARITSKY

The Paritsky family has been subject to extreme emotional stress due to their attempts to leave their homeland. Alexander Paritsky has been denied exit visas for his family since 1976 on the grounds that his job in a scientific institute exposed him to classified information. This is a frequent Soviet claim. But Mr. Paritsky's position as a professor at the Institute of Meteorology did not involve any access to secret information.

Even more frustrating than simply being denied exit visas, the Paritskys have also been subjected to official harassment. Both Mr. and Mrs. Paritsky lost their jobs, and now live in continual fear that they will be accused of parasitism. Mr. Paritsky recently found work but fears he will be dismissed at any time.

The Paritskys' daughter has been teased and humiliated by other students for writing an essay expressing her desire to leave for Israel. Soviet authorities threatened to expel her from school. Soviet papers have continued to print articles accusing the Paritskys with wrongdoing. The Paritskys are prevented from receiving any visitors at their apartment. Persons having any kind of contact with them are visited afterward by the KGB. In their toleration of abuse from the press, neighbors, and employers, the Paritskys have shown incredible courage and strength.

FRADKIN

Another refusenik family that does not appear any closer to freedom is the Fradkins. They have been trying to leave the Soviet Union since 1972, and have been denied exit visas on the pretense that Mr. Fradkin had access to secret documents in 1963. This is another hollow excuse, not only because of the dated nature of any secret from 1963, but also because Daniel Fradkin was only marginally involved with the problems he helped to solve. Daniel Fradkin is now facing charges of "anti-Soviet agitation" for teaching Hebrew and for trying to obtain his rights as guaranteed under the Soviet Constitution.

These families who wish to leave the U.S.S.R. do not want to take over the Soviet Government, blow up buildings, change society, or hurt anyone. They do not have any desire to spread state secrets or wage a revolution against the Government. They only wish to be united with the rest of their families and to live without constant fear of persecution. They simply want out.

The Rosensteins, Paritskys, and Fradkins are only a few of the hundred of families that have been denied this fundamental right to choose where they wish to live. As U.S. citizens, we take for granted our right to move about freely. We should not forget our obligation to help these courageous individuals who must struggle each day for basic human rights and basic human dignity.●

THE 101ST CAVALRY SQUADRON

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. MURPHY of New York. Mr. Speaker, many times it is easy for us to forget the contributions of those dedicated men and women who give up weekends and 2 weeks during the summer to train for the defense of this country. I am speaking of course of our military reserves.

These citizens set an example for all Americans, by their unselfish devotion to the service of their country. Most of their time is spent working at regular jobs—they are bakers, policemen, office workers, and so forth—but once a month and every summer they become soldiers, taking classes, learning skills and participating in exercises that will ultimately allow them to perform as topflight military personnel if they are called to active duty in time of war or national emergency.

Recently, Time magazine took a look at one determined group of Army National Guard Reservists, the 101st Cavalry Squadron, which is based on Staten Island, N.Y. I would like to include this article at this point in recognition of this outfit—and the hundreds like it across the country—who silently serve the interests of this Nation.

IN NEW YORK: SUMMER SOLDIERS

(By John Tompkins)

It is 5 in the morning on a warm Saturday. New York City is asleep. But the crenellated red brick armory of the 101st Cavalry Squadron on Staten Island is busy. Hundreds of men in Army greens and black combat boots load trucks and Jeeps with weapons, tools, radios, medical gear. At 6:35 a.m., a 48-vehicle column rolls out, past the sleeping homes of Clove Lake Park, across the Goethals Bridge and into New Jersey. In twelve hours the 101st will reach Fort Drum on New York's border with Canada to begin its annual two-week summer training as scouts for the 8,500-man 42nd Infantry Division, Army National Guard.

Somewhere along Route 80, civilian life drops away. Instead of bus drivers or cops, insurance men or factory workers, the men begin to feel like troopers in the 101st Cavalry, a proud and dashing outfit that in 1916 chased Pancho Villa across Mexico. The horses were replaced by tanks in 1942, but a certain amount of cavalry elan persists. Thoughts of home and work are replaced by simpler concerns—food, a cigarette, a breakdown ahead. Vocabularies slide easily into the four-letter Anglo-Saxon mode. At dusk, when the group rolls into Fort Drum, the barracks area is like a class reunion as men greet one another after a year apart.

Fort Drum is huge. You could lose Detroit inside its perimeter and still have room for Manhattan Island and then some. Its rolling hills resemble the Rhineland, and this year's exercise, appropriately enough, involves a breakthrough by "Soviet" forces. Early Sunday the influence of legendary Tanker George Patton is obvious. Major General Joseph A. Healey, 50 (general manager, public services, New York Telephone Co.), trim and tough in freshly pressed greens, tells unit commanders, "These few days are precious. Begin to get angry about your mission of killing 'Russians,'"

The 101st checks out 18 tanks and boresights their cannons. They are "Iron Coffins," 20-year-old M-48 Pattons, recently modernized with 105-mm turret guns and twelve-cylinder diesels. Crashing through trees and brush, the 54-tonners seem invulnerable. Tankmen know better; but they think they can shoot faster and straighter than the "Russians."

The 101st sets up camp at a tank range, miles of scrub and shrubbery dotted with pop-up silhouette targets that look like Soviet tanks, trucks and armored cars. Staff Sergeant Donald Fogal, 36, tank commander (foreman in an auto parts plant), and his regular gunner, Sergeant Ron Pospisil, 31 (Xerox representative), have to run through the qualification course with a pickup driver, Corporal Victor Feliciano, 32 (nursing home worker), and loader, Corporal Terry Bell, 27 (prison teacher). They all work up a sweat piling the tank full of machine-gun ammunition and 105-mm shells that weigh 38 lbs. apiece.

"O.K.!" Fogal yells on the intercom. "Crank it up!" The diesel roars to life and sounds like a Mack truck idling. They move out over the dusty range. Three T-62 tanks appear suddenly nearly a mile downrange. "Gunner! Heat! Tank!" Fogal screams. The words alert the crew, order a high-explosive antitank round to be loaded and specify the target.

"Identified!" says Pospisil, with the first tank in his gunsight. Fogal yells "Fire!" An orange flame bursts from the cannon. A thunderclap of sound. The tank rocks like a boat hitting a wave. The gunner's "On the way!" is drowned by the noise. "Target!" cries a voice from the control tower. A stench of burned powder chokes the crew as Bell loads another round. "Fire!" The breech slams back like a pile driver. Even with earplugs, the shuddering sound is unbelievable. "I flinch every time," says Bell. "Fire!" The control tower: "Target! Target! Good shooting." It is a perfect score: three tanks in 24 sec. at 1,150 meters.

Fogal's crew is debriefed by an Army evaluator. "Real good," he says. "You guys are ready for combat." During the firing, General Edward C. Meyer, Army Chief of Staff, has helicoptered in to watch. As a reward for the tank's performance, Fogal is asked if he wants to meet the general. "Nope," says the sergeant.

At dawn there are dehydrated eggs, freeze-dried sausage, coffee, lemonade. Then a runner calls Fogal to a conference. A three-tank recon mission has been assigned. "Crank her up!" says Fogal, and they roll out of the woods onto a dirt road. He guides the lumbering tank carefully into strange territory. As the Patton dodges from one side of the road to the other, he guides its cannon constantly back and forth to cover the tree line. Rain begins to fall. The road turns to mud.

Another mission takes the tank across a field of grass, where it turns up a truck full of soldiers in specially tailored "Russian" uniforms. They are angry at being captured, and when a tankman climbs into their truck, he is roughly pushed off. In retaliation, his comrades tie the "Russians" up with their own belts. Inside Fogal's tank, a mess of C-ration cans, cartridge cases, girlie mags has accumulated. Also a dog-eared copy of The Third World War: August 1985 by British General Sir John Hackett. It tells how the Soviets launch an attack from Eastern Europe. Before peace is made, Birmingham, England, and Minsk are wiped out.

By now the tankmen have forgotten their homes. They no longer know what day it is. Boots are caked with mud, uniforms black with sweat, faces smeared with camouflage paint, bug repellent and dirt.

Eventually, the 42nd moves up to take positions on the "frontier." Across the border are five enemy armored divisions and four motorized rifle divisions. The 101st is assigned to feel out the enemy and report back. Over the next two days, Fogal's tank destroys six or seven tanks. The 42nd stops the "Russian" armored attack in five days of fighting. Later, Fogal and his crew learn that the enemy was supposed to break through—but did not.●

VOTER APATHY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. MINISH. Mr. Speaker, we are all concerned about voter apathy. After the election of 1976, when only 71 percent of adults registered and only 54 percent went on to actually vote, there were all kinds of proposals to legislate remedies for this low level of political participation. Now, it is true that the percentage of eligible voters who actually participate in our elections has continued to decline year by year. However, I question whether new laws would offer either a satisfactory or an appropriate way to address this problem. We should not force people to vote; a genuinely democratic way to encourage people to participate should come from the people themselves.

I am proud to report that such a grassroots effort is taking place in my own congressional district. Since 1977, the Hoffmann-La Roche health care company of Nutley, N.J. has been conducting annual employee voter registration drives. On September 16 and 17, with the advice and practical assistance of the New Jersey League of Women Voters, the company completed its fourth annual registration campaign. Through these annual drives, well over 500 Roche employees have been added to the voter rolls. In addition to helping its workers become eligible to cast their ballots in the general election, I believe that this company-sponsored program helps to encourage their overall awareness of the political process and the significance of participating in it.

At a time of low voter registration, this Roche program is an act of responsible corporate citizenship which I hope will be a model for other firms across America.●

ELYCE TURNER TO SHARE BAT MITZVAH WITH SOVIET JEW

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. AMBRO. Mr. Speaker, tomorrow evening, at the East Northport Jewish Center, a charming young lady will share one of the most important religious milestones in her life with an unknown child in the Soviet Union who is not permitted to have such an experience of her own. I am specifically speaking of Elyce Turner, the 13-year-old daughter of Lorrie and Ira Turner, who will celebrate her Bat Mitzvah on September 26. As we all know, the Bar or Bat Mitzvah is not only a solemn ceremony, but also a ritual which marks the passing from childhood to adulthood in terms of the Jewish tradition. It is an experience that is shared by Jewish youngsters all over the world. All over, that is, but in the Soviet Union where the teaching of the Jewish religion and the practice of its rituals and ceremonies are forbidden.

Therefore, as Elyce Turner participates in her service of Bat Mitzvah tomorrow evening, she has decided to share it with a 13-year-old Soviet youngster, Lena Barber of Beltsy in the Moldavian Soviet Socialist Republic, who with her family has neither been allowed to emigrate from Russia to Israel nor been permitted to learn about or practice her religion. Elyce thus is a participant in a new program which has been begun by the Long Island Committee for Soviet Jewry called Twinning, in which an American youngster agrees to dedicate his or her Bar or Bat Mitzvah to a Soviet refusenik child.

Elyce will read a statement at her own Bat Mitzvah telling the congregation about Lena and how she is acting as her surrogate on this most important of occasions for her.

Rabbi Stanley Wernick, the spiritual leader of the East Northport Jewish Center will also include Lena and her family in his Bat Mitzvah remarks and prayers, pointing out the empty chair that will be located on the dais with the Soviet youngster's name attached to it. In addition, Elyce has pledged that she will send a prayer book and a copy of her Bat Mitzvah invitation to Lena and will write to her on a biweekly basis until she and her family are allowed to emigrate to Israel to be reunited with their grandparents living there.

Mr. Speaker, it is particularly significant that Elyce is sharing her Bat Mitzvah with Lena on this particular Friday evening, because it marks the celebration of the Festival of Succoth on the Jewish calendar, the holiday which commemorates the first free settlement of Israel following the exodus. Unfortunately for Lena and for thousands of other Soviet Jews, the first settlement in Israel is yet to come.

That Elyce, a modern suburban youngster who attends Elwood Junior High School and is interested in animals and sports, should understand the plight of her peers in the Soviet Union and choose to share her special occasion with them, is a challenge to all of us to continue our work on behalf of Soviet Jewry, so that Lena and all of the Russian boys and girls might one day be allowed to joyously participate in their own religious ceremonies and to live freely as Jews.●

SECRETARY MILLER—U.S. SUPPORT FOR WORLD BANK IS IN AMERICA'S INTEREST

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LAFALCE. Mr. Speaker, many of you have been questioning whether the United States should continue its role as a major donor in the funding of the World Bank and the IMF during a period of budgetary restraint at home. Many of you question what good our contributions do for the American people. Time and time again, I, and others, have argued for the continued funding of these institutions on the basis of need—their need, not ours. Time and time again, certain Members of this House have used charts and figures to illustrate that our contribution is decreasing while other donor countries increase theirs; that the amount of money we spend for foreign aid is only a fraction of what we spend on social programs. Yet still, the Congress drags its feet as the arguments fall on deaf ears.

This continued delay has caused a different scenario to unfold. We are still concerned about other nations' needs for food and clothing, but now it is our needs that we should be concerned with as well. Our relations with other countries are being seriously threatened by the failure of the Congress to approve funding for the World Bank and other development agencies. The U.S. economy has become increasingly dependent on other countries for both economic and security reasons. One out of every $3 of American business profits comes from international trade. For example, the United States is currently exporting $53 billion to non-OPEC countries.

Treasury Secretary Miller discussed these reasons, and more, for immediate congressional approval of the foreign aid legislation in a speech before the Economics Club of Indianapolis which should be read by every Member of Congress. The text of the speech follows:

REMARKS OF HON. G. WILLIAM MILLER, SECRETARY OF THE TREASURY

In the years since World War II, the world has been transformed.

We now share this globe with over 100 developing nations—nations with their own problems, interests and aspirations and with the ability, singularly and collectively, to affect our interests and the peace and progress of the world.

We have a new concern with development assistance to overcome the barriers to economic development in these lands and reverse the widening inequality of human living standards.

Today I want to talk to you about a crucial aspect of our relations with these countries: our assistance to them through the multilateral lending institutions.

And my message is simple but important. It is just this:

U.S. support for the World Bank and the regional development banks is in America's interest.

If we neglect this interest the United States will pay a heavy price for our oversight.

We will lose exports and jobs and income here in Indiana and all across this nation.

We will lose powerful support for our foreign policy.

We will miss an opportunity to help build a more stable and more prosperous world economic, political and social system.

And we will betray our humanitarian tradition of helping people in need.

ECONOMIC REVITALIZATION AT HOME

It goes without saying that the fundamentals of America's future prosperity must be created in our own domestic economy.

Our challenge for the 1980's is:

To increase our savings and investment;

To revive and enhance our productivity growth;

To foster innovation and sharpen our competitiveness; and

To achieve, through these measures and others, non-inflationary economic growth, high employment and rising standards of living.

President Carter's economic revitalization program announced last month is a major step toward meeting these challenges.

It is not a short term program or a quick fix.

It does not pour purchasing power into the economy with no more than a hope and a prayer for miraculous and unprecedented increases in the supply of goods and services.

This is not the time for that kind of black box economics. We cannot afford to fan the coals of inflation.

What is required is a prudent, targeted program that addresses our critical economic problems in ways that can be understood and explained.

The President's program is long-term. It provides more than half its proposed tax relief to expand investment and productivity. The fact reflects more than economic good sense. It reflects political courage—the same kind of courage the President showed when he acted to decontrol domestic oil prices and set us on the road to reduced dependence on imported oil.

The President's program combats inflation both by increasing productivity and by offsetting Social Security increases that would raise business costs and cut workers' take-home pay.

And it retains a fiscal posture that is consistent with budget balance as the economy strengthens.

We can, and I believe we will, meet our economic challenges at home.

UNITED STATES IN THE WORLD ECONOMY

But that is not enough. We live in the world economy. America's prosperity cannot be divorced from development beyond our borders.

Many Americans may not realize the full extent of our interdependence with other countries. But, consider this:

Over 12 percent of our economic output now goes into exports of goods and services. Ten years ago it was little more than 6 percent.

One of every three acres of U.S. farmlands and one of every seven manufacturing jobs produce for export. In 1979 U.S. agricultural exports hit a record of $32 billion. That will be broken this year with $40 billion and again next year with $45 billion.

One of every three dollars of U.S. corporate profits comes from the international activities of U.S. firms.

Developing nations, other than oil exporters, are our fastest growing markets. Already they take nearly a third of our exports—more than we sell to all of Europe.

Indiana is a major participant in this burgeoning trade. Your state is our 8th largest exporter of agricultural products and 9th largest exporter of manufactured goods, with a substantial share of each going to developing countries.

All of this has not happened by chance. At the end of World War II, the United States took the lead in creating institutions that would help achieve an open and growing world economy.

THE DEVELOPMENT BANKS

The World Bank, established in 1945, and the three regional banks that were set up later, have played a vital role in the post war economy.

The capital subscribed to the banks by industrialized countries allows the banks to raise funds in the private markets. The banks then lend to the world's developing countries capital they could not obtain on their own or could get only on unfavorable terms.

Other contributions to the World Bank's International Development Association and to similar units of the regional banks permit long-term, virtually interest-free loans to the poorest countries—countries where the annual per capita income is less than three weeks average wages in the United States.

In 1979 the World Bank, the Inter-American Development Bank, the Asian Development Bank and the African Development Fund provided $14 billion to the developing nations. They were the largest official source of capital. They provided 10 to 15 percent of all the external resources reaching the developing world, and an even larger share for the poorest countries.

With active support of the United States, the banks have shifted their lending from roads and dams and communications systems toward agriculture, rural development, education, health, population control and energy. Projects of these types not only help poor people directly. They also have an economic return in higher growth and productivity that matches or exceeds investments in physical capital.

The huge increases in world oil prices and the world-wide economic problems it has caused make the banks more needed now than ever.

In oil-importing countries, industrial and developing alike, inflation has soared, growth has slowed, and unemployment has risen. And this increases the danger of protectionism and the temptation to solve domestic problems at the expense of foreigners that proved so disastrous in the Thirties.

This year the OPEC nations will receive $100 to $120 billion more than they will spend for foreign goods and services. The counterpart of their surplus is huge balance of payments deficits among the oil importing nations.

The developing countries are hardest hit. The 1973-74 rise in oil prices had already increased their external debt. Now many of them are no longer able to finance the huge increase in energy costs. They must struggle to make basic changes in their economies to reduce their demand for imported oil.

The United States, therefore, strongly supports the World Bank's new emphasis on programs for energy exploration and development in less developed countries. Already the bank is participating in oil and gas projects that will cost $33 billion over the next five years. These projects will ultimately yield the equivalent of 2½ million barrels of oil a day in new energy production in the developing countries.

These new energy sources will eliminate a roadblock to progress in the developing countries. And they will help the United States and the other oil importers by reducing pressure on world oil prices.

BENEFITS OF U.S. PARTICIPATION IN THE BANKS

Now there are four solid reasons why it is in our own self interest to support these efforts of the banks:

First, the United States derives direct economic benefits.

The banks play a crucial role in the economic growth of the developing world. That growth in turn generates the demand for exports from the United States.

Here in Indiana you have recently sold about $1.5 billion a year in manufactured goods and farm products to developing nations. These countries have provided markets for your transportation equipment and for your electric, electronic and machinery industries. Two dollars out of every five earned by Indiana farmers comes from exports, including exports to developing countries.

The United States is now exporting $53 billion to non-oil developing nations. We figure that every dollar the United States pays into the development banks generates three dollars worth of economic activity in the United States. That means employment in the United States is 50,000 higher every year as a result of our contributions to the banks. Because this economic activity increases Federal revenues, the net budget cost of our contributions is minimal.

Second, the aid delivered by the banks is many times the amount of our contributions.

Our participation in the banks helps assure the participation of other countries and allows us to work for reasonable sharing of the burdens of development assistance. As the strength of other industrialized nations has grown since the War, we have been able to reduce our capital share in the World Bank from 35 percent in 1945 to 22 percent today. Similarly, our share in the International Development Association has declined from 43 percent at its inception in 1960 to 27 percent now.

We benefit from these increased contributions by others. But we will not pursue this path too far because we want to and should contribute substantially to the development process. In these institutions voting power is linked to the level of contributions. So we want also to retain a degree of influence appropriate to our world role.

The money we pay to the banks is further multiplied by the banks' borrowings in the private capital markets. When the United States and the other donors subscribe capital to the World Bank, only 10 percent is paid in cash. The remainder is on call in case the bank cannot otherwise repay its debts. In 35 years, we have not paid out a penny for this reason.

The net result is that for each dollar we pay to the World Bank, the Bank lends fifty dollars. That's the kind of leverage that makes the multilateral approach so effective.

Third, the development banks use their funds effectively and efficiently.

The banks do much more than lend money. They are multilateral institutions in which the developing countries themselves have a voice. As such, they can and do provide policy advice and development projects based on objective economic criteria that might be resented and rejected if they came from a single donor.

They are contributing mightily to the process of institution building and the development of skills and training and education that economist call "human capital formation." These may be the banks greatest contributions to the long-term economic prospects of the developing countries.

The combination of project financier, financial catalyst and institution builder makes the banks uniquely effective agents of development.

Fourth, development assistance through the banks helps support American foreign policy.

The developing world comprises three billion people in over 100 nations. It provides the industrial world with an array of vital resources such as tin, bauxite, cobalt, natural rubber, tungsten and zinc.

Throughout the developing world, the desire for economic progress and a better life is intense.

In about 40 countries, national output is still *below* $360 per person. Over 800 million people have incomes too low to provide for minimum standards of health, nutrition, housing or education. Even in the more advanced developing countries, a large spread remains between their incomes and living standards and those of the industrialized world.

How we respond to these countries; deeply-felt aspirations for future development will have a pervasive and enduring effect on their attitudes and actions toward us and the entire Free World.

No one should expect development assistance to translate necessarily into friendship or support for our policies, especially in the short run. But it surely has positive effects on the broad contest of our long-term relationships that are both real and important.

Development assistance through the banks contributes to the achievement of the open and growing world economy that America wants.

It helps poor countries to maintain their independence—as we want them to do.

And it provides significant support to countries critical to U.S. strategic interests. In Egypt, for example, the World Bank Group is lending about $300 million annually for industrial, infrastructure, and agricultural projects. These will buttress President Sadat's efforts to strengthen the Egyptian economy and demonstrate the economic benefits of peace.

Thailand, with is continuing exposure to the turmoil in Southeast Asia, has received nearly $2 billion in loans from the World Bank and the Asian Development Bank over the last five years. These have helped the Thais achieve annual economic growth of almost 9 percent, in real terms. And they have done this despite the burdens of 350,000 refugees from Vietnam, Cambodia and Laos.

U.S. FINANCIAL SUPPORT FOR THE BANKS

But despite these benefits of our participation in the development banks, the United States is lagging in its financial support for the banks.

We have been unable to obtain Congressional approval to make our full contributions on time. Today we are $1.3 billion behind on our subscriptions. We are the only major contributor in arrears.

The result of this is more than a delay in receipt of U.S. funds. Because our contributions are needed to complete financing arrangements with other donor countries, lending by the banks grinds to a halt or is seriously disrupted.

Sometimes, the side effects are particularly perverse. For example, at the very time we were trying to respond to the Russian invasion of Afghanistan, our inability to come up with the U.S. share of contributions to the Asian Development Fund effectively blocked more than $250 million in loans to Pakistan.

By the middle of this year, due to delays in U.S. financing, the Asian Development Fund had been able to make commitments on only 8 percent of its programs.

For eight months, the Inter-American Development Bank was out of money to lend because of delays in U.S. subscriptions and contributions. This was particularly damaging to small economies in the Caribbean and Central America.

The delays and doubts about our contributions have also hurt our relations with the other donor countries.

Such a performance is bound to call into question our leadership in a matter of great importance to the entire Free World.

We are currently seeking from Congress authorization for an average of $1.2 billion a year over the next three years. This would provide urgently needed funding for the world's poorest nations through the World Bank and the regional banks.

We are also seeking appropriations for the current fiscal year—the year that ends next week—for almost $1.9 billion. The impact of these actions on actual expenditure by the United States over the next two years will be about $250 million.

We need this money so the banks can carry on their work.

When we helped create the World Bank 36 years ago, we built well. The World Bank and the regional banks serve our interest as a nation, even while they advance the broader moral and humanitarian causes of relieving human poverty and misery.

The world cannot be a safe place for Americans if it is full of people who are so poor that they have no stake in life. It can only be a tinder box for disaster. We must compete in the world not solely through military power. We must compete for the minds of people who seek freedom and a better life by giving them an economic opportunity to achieve just that. If we deny them that economic opportunity, can we fault them for falling into radical ideologies? Give the world a chance and mankind will progress toward freedom and justice and peace and prosperity.

It is time for us to recognize our true interest and to provide these banks the support they deserve.●

CARTER: WRONG IN THE GULF

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LAGOMARSINO. Mr. Speaker, in today's Washington Post columnist Joseph Kraft comments on and criticizes President Carter's actions and inactions regarding the Persian Gulf.

Mr. Kraft, in his fourth paragraph, discusses the matter I spoke about yesterday on the floor; that is, Carter's statements on the hostages and spare parts.

The article follows:

Carter: Wrong in the Gulf

The outbreak of war between Iraq and Iran demonstrates once again that goodguyism does not work in foreign affairs. To prove its sterling character to Ayatollah Khomeini, the United States proclaimed a strictly neutral attitude.

It thus rendered itself impotent in the vortex of world politics. Now whatever happens works against American interests and leaves Russia as the dominant power in the area.

The American position surfaced in a quick diplomatic exchange. As soon as the fighting with Iraq began to mount, Ayatollah Khomeini fingered the United States. "We are at war with America," he said, "and today the American hand is showing through the sleeve of Iraq."

President Carter, in Los Angeles, announced that the United States was "not taking a position," and then let slip the reason why. He said the conflict might convince the Iranians they needed friends, "and therefore induce them to release the hostages." Privately, American diplomats explained that if the hostages were released, the United States would make spare parts available to Iran and work through the Islamic bloc at the United Nations to promote a cease-fire.

Putting the United States at the mercy of the Ayatollah yielded the usual non-results with respect to release of the hostages. Meanwhile, events unfolded in a way predictably at odds with American interests. First of all, the fighting intensified. While the military action has not been decisive, it has raised a direct threat to the flow of oil from both countries. Once again there is the possibility of a supply crunch.

Second, a dark shadow was cast across the monarchical regimes of Kuwait and Saudi Arabia and the sheikdoms of the lower Persian Gulf. For those countries—which supply the great bulk of foreign oil consumed in Europe, Japan and the United States—are highly vulnerable to the political acids distilled in Tehran and Baghdad.

If the Iraquis emerge as top dog in the fighting, the left-wing socialists of the Baath regime there will be in still better position to subvert the dynasties of the Gulf. If the Iranians do well, the religious fundamentalism of the ayatollah will inspire new hostility to the "imperialism" of the oil sheiks.

An adverse impact on the Camp David process is equally assured. Serious hopes for further progress depend on bringing Jordan into the talks between Egypt and Israel. The Jordanians, however, will not come forth unless given at least tacit support by Saudi Arabia.

But the Saudi find themselves living with still more evidence of American weakness. They will have to gauge even more sensitively the relative influence of Iran and Iraq. Whichever way the Saudi turn, they will be advancing toward hard-liners of the Arab-Israel question.

The one thing President Saddam Hussein of Iraq shares with the ayatollah is an attitude of the deepest intransigence toward what he calls the "Zionist entity." So whoever gains the edge in the fighting, the Saudi will be even more pushed to align themselves against settlement with Israel.

Last, there are the Soviets. Saddam Hussein, while cracking down hard on the communists within Iraq, personally engineered a security treaty with the Russians a decade ago, and now depends on Moscow for sophisticated weapons. He sent one of his closest collaborators, Tariq Aziz, to Moscow after the fighting with Iran turned serious. Clearly the Russians will solidify their position in Baghdad by not pulling the string on the Iraqi military effort.

At some point, however, opportunity will also beckon to the Russians in Iran. Either they can patronize a settlement that saves the regime of the ayatollah, or—if the regime cracks—they can pick up the pieces. In either case Russia has become the arbiter of conflict in the Persian Gulf.

Apologists for President Carter will no doubt claim that the United States had no alternative. They will, in that connection, mouth the usual pop sociology about the "inexorable workings of a revolution brought on by the shah."

But they have a lot to explain. Why, when the shah was forced out, did the president pretend that nothing much had happened? How come the Carter Doctrine, proclaimed with such fanfare only eight months ago, turned out to have no application? Above all, why is the United States so paralyzed now? Why doesn't it move to promote a pro-Western government in Tehran? Wouldn't that satisfy the Iraqis, reassure the Saudi and bring the war to an end? Wouldn't that enable the United States to emerge as top dog in the area?

The answer to all these questions is the same. The Carter administration has no concept of the strategic importance of Iran. It felt guilty about the American presence in that country. And in the process of trying to purify itself, it became the author of America's self-defeat in the Gulf.●

SEALANE SECURITY SYSTEM COULD AVERT CATASTROPHE IN PERSIAN GULF

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. FINDLEY. Mr. Speaker, the United States and its allies must organize to protect the flow of oil from the Persian Gulf or risk sacrificing the security and well-being of the Western World. House Concurrent Resolution 234 directs the President to establish with its allies a Sealane Security System which can keep the vital shipping lanes open to world trade. The resolution is sponsored by 29 Members of the House and was just last week supported by the Defense Department. In a two-page letter to Chairman Clement Zablocki, the Department stated: "The Department of the Navy, on behalf of the Department of Defense, supports the purpose of House Concurrent Resolution 234."

No other foreign policy issue has such a direct and inescapable impact on the American economy, jobs, and our hopes for the future.

Most people understand that the loss of Persian Gulf oil would cause hardship and dislocations in our way of life. But few are aware of how enormously large the economic damage would be. Recent studies indicate that a shutoff of Persian Gulf oil for 1 year could reduce the U.S. gross national product by 20 percent or $500 billion—the equivalent of another Great Depression. Gasoline prices could shoot up to $4 or $5 a gallon. Next to this, the cost of prudent defense measures is modest.

The Western nations should act together to assure the flow of oil through the Straits of Hormuz. France which has the single largest permanent Indian Ocean fleet, West Germany and Japan which have the strongest economies, Britain which has a presence in Oman, and the United States—all should move in concert. All would be affected by a shutoff of Persian Gulf oil and all should, therefore, make every effort to avert such a castrophe.

A show of common Western resolve would dispel the current appearance of disunity among the Western Alliance that invites Soviet aggression and leaves the way open to Iran and Iraq to block 40 percent of the free world's oil supply by closing the straits.●

MSPB SHOULD STOP INTERFERING WITH OPERATIONS OF SPECIAL COUNSEL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mrs. SCHROEDER. Mr. Speaker, no aspect of the implementation of the Civil Service Reform Act of 1978 has been more difficult than getting the whistleblower protection provisions working as intended. The Office of Special Counsel was created to protect Federal employees from reprisal when they blow the whistle on waste, fraud, or abuse. Its first 20 months of existence have been plagued with problems. One problem has been that the Office has not had a Presidentially appointed, Senate-confirmed Special Counsel since it opened its doors. Another problem has been the inadequate budget provided for the Office. A third problem has been the lack of a cooperative relationship between the Office and the Merit Systems Protection Board (MSPB). All these problems came to a head, a few weeks ago, when the chair of MSPB made an unwarranted attempt to assert control over the day-to-day operations of the Office of Special Counsel.

Members of the Committee on Government Affairs of the other body learned of this and sent a strong letter to the chair of MSPB warning her to stop interfering with the investigatory and prosecutory functions of the Office. I completely agree with what the Senators said. For the information of my colleagues, I include the letter in the Record:

U.S. Senate,
Committee on Governmental Affairs,
Washington, D.C., September 9, 1980.

Ruth T. Prokop,
Chairwoman, Merit Systems Protection Board, Washington, D.C.

Dear Chairwoman Prokop: Thank you for your recent letter enclosing a copy of a Report to Congress on the potential funding deficiency of the Office of Special Counsel. We deeply regret the difficulties which continue to beset the operations of the Office and hamper the successful accomplishment of its mission. However, we are concerned about the extent of supervision which the Board proposes to exercise over the operations of the Office.

We believe that Reorganization Plan No. 2 of 1978 and the Civil Service Reform Act make clear the separation and responsibilities of the two entities. The Administration and Congress intended that the Special Counsel alone be responsible for the discharge of the mission of that Office. The functions of the Office are not shared with the Board.

The relationship of the Board and Special Counsel was a matter of substantial concern during both House and Senate consideration of the civil service reorganization plan and the legislation. The reports of the House and Senate committees on Reorganization Plan No. 2 stressed, ". . . that the Special Counsel shall be independent of the Board and not subject to direction by the Board."[1] Spokesmen for the Administration stated the President's intent with regard to absolute independence of the Special Counsel from the Board. OMB Director McIntyre testified before the House Committee on Government Operations:

Mr. Horton. Will the Special Counsel be subject to the supervision of the Merit Systems Protection Board in any way?

Mr. McIntyre. There certainly will be a requirement that there be a great deal of cooperation between the Special Counsel and the Board Members. . . . But the Counsel will be independent and will not be subject to the direct control and supervision of the Merit Systems Protection Board.[2]

In response to questions submitted by Senators Ribicoff and Percy, former Chairman of the Civil Service Commission Campbell explained: "The Special Counsel will be an independent official located in the MSPB for administrative purposes only and will be answerable only to the President. The Special Counsel will be an administrative prosecutor before the Board, and so requires strict and complete independence from it. As a Presidential appointee, the Special Counsel is subject to removal only by the President. The Board will have no authority over the Special Counsel, and would not have any control over his budget."[3]

Questions were also raised before the House Committee on Government Operations regarding the submission of the Budget for the Special Counsel.

In response to Congressman Horton, Director McIntyre stated: "We anticipate the MSPB will follow the customary budgetary procedures which in the past have applied to the Civil Service Commission. We do, however, plan to establish a separate line item for the Special Counsel within the MSPB budget as an additional oversight mechanism. This will permit Congress to focus specifically on the resources identified for that function."[4]

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[1] U.S. Senate Committee on Governmental Affairs, Report to Accompany Reorganization Plan No. 2 of 1978, S. Rept. No. 95-1049 (1978), 95th Cong., 2d Sess., p. 7.

See also, U.S. House of Representatives Committee on Government Operations, Report to Accompany Reorganization Plan No. 2 of 1978, H. Rept. No. 95-1396 (1978), 95th Cong., 2d Sess., p. 2 and p. 12.

[2] U.S. House of Representatives Committee on Government Operations, Federal Personnel Management System: Hearings before a Subcommittee of the Committee on Government Operations (Reorganization Plan No. 2 of 1978), 95th Cong., 2d Sess., p. 23.

[3] U.S. Senate Committee on Governmental Affairs, Hearings before the Committee on Governmental Affairs Regarding the Civil Service Reform Act of 1978 and Reorganization Plan No. 2 of 1978 (1978), 95th Cong., 2d Sess., p. 142.

The procedures to which Mr. McIntyre referred were subsequently changed by the Congress during consideration of the Civil Service Reform Act of 1978. Section 1205(j) of title 5, United States Code, requires that the Board by-pass procedures followed by most Federal agencies and concurrently submit its budget to the Congress. That section also requires that the budget request for the Board be indicated as a separate line item in the President's budget. This modification was made because the Congress believed that the Board itself should be insulated from undue Executive Branch pressures. It did not confer upon the Board any additional authorities with respect to the Office of Special Counsel which had not been conferred in the reorganization plan. That Congress altered the procedures for submission of the budget of the Board cannot be construed to mean that it fundamentally changed the relationship which was intended to exist between the Board and the Special Counsel.

We are not at all insensitive to the current situation which both the Board and Special Counsel face because of the unanticipated recission. We recognize the need for additional measures to achieve prudent management of that Office. However, we believe that any supervision by the Board over the budget of the Office of Special Counsel is constrained by statute and that the Board lacks the authority to approve the budget as stated in footnote number 4 of its letter of August 21: ". . . the Board will approve and defend the requested amounts as part of the Board's budget, and will submit the requests to the same scrutiny and evaluation as the requests of other Board offices."[5]

Such supervision would place the Board in the inappropriate position of assuming responsibility for the policies and operations of the Office—functions for which only the Special Counsel is responsible. The prerogative of changing the budget requested by the Special Counsel rests with the President and is subject to the same limitation as set forth in section 1205(j).

Executive Branch oversight over the spending of the Office of Special Counsel rests with the Office of Management and Budget. It is properly the responsibility of OMB to assure fiscal integrity by the Office and to satisfy itself, on behalf of the President, that the expenditures of the Office are consistent with the funds appropriated and any limitations with respect thereto established by the Congress. The relationship of the Office of Special Counsel to OMB in these matters is analogous to the relationship between an independent agency and OMB.

Similarly, while coordination with the Board and the Office concerning legislative matters is desirable, the Special Counsel's independence in this area should be unfettered. There is nothing in the legislation or the legislative history which suggests that the Administration or Congress intended that the Special Counsel be inhibited from communicating directly with Congress on its budget or any other matter directly affecting the responsibilities of the Office.

It is indeed unfortunate that, almost two years after the passage of the Civil Service Reform Act, the Board and the Special Counsel's Office have failed to develop a cooperative relationship designed to effectively implement the Civil Service Reform Act. We continue to be concerned by reports that officials of both the Board and the Special Counsel repeatedly have attempted to disparage the motives and performance of each other. This type of activity reflects adversely on both the Board and the Office and only serves to undermine the Civil Service Reform Act. We hope that we can count on your cooperation in developing a better relationship between the Board and the Office in the future.

Sincerely,

ABE RIBICOFF,
Chairman.
DAVID PRYOR.
THOMAS F. EAGLETON.
CHARLES H. PERCY,
Ranking Minority Member.
CHARLES McC. MATHIAS, Jr.
TED STEVENS.●

DELAY ON NATIONAL AIRPORT POLICY INTOLERABLE, INEXCUSABLE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. HARRIS. Mr. Speaker, the decision yesterday by conferees on the fiscal year 1981 transportation appropriations bill to delay implementation of the slot reduction at National Airport represents a clear and present danger to the people of Alexandria, Mount Vernon, and Springfield who desperately need relief from airplane noise, and who live under the threat of unsafe operating conditions at National Airport.

The new operating policy for National Airport, while it does not go far enough in my view, is an essential first step in noise reduction for the Washington area, and in alleviating the pressing safety hazards at this, the Nation's 10th busiest airport. In fact, with only one main runway, National is the world's 16th busiest airport. And it still does not have a comprehensive management policy.

Although I was not a member of the conference committee, I wrote to each of the House conferees, and spoke to a number of them personally, to convey the urgency of implementing the National Airport policy. I believe the policy itself is a compromise, and delay will be unacceptable, inexcusable, and intolerable.

I intend to continue my efforts to impose strict operating limitations on National Airport. It may mean that some Members of Congress are going to be inconvenienced. That's too bad.

National is overcrowded, it is unsafe, and it is the major source of noise pollution in Old Town, Mount Vernon, Springfield, and other parts of the metropolitan area. National's operations need to be reduced dramatically without delay and I shall keep fighting to attain that goal.●

ITALIAN AMERICAN HERITAGE WEEK

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. RINALDO. Mr. Speaker, it is with a sense of great pride in the achievements of generations of Italian Americans dating from the founding of our country that I strongly supported House Joint Resolution 568 to authorize and request the President of the United States to proclaim the week of October 12-19 as Italian American Heritage Week.

The history of Italian Americans is identified with many great achievements—achievements in science, education, and religion; in art, music, and literature; in commerce, law, and government, and of course, in the great explorations that brought Christopher Columbus to the New World on his voyage of discovery.

Italian Americans desire to see Columbus Day maintained as a national holiday that reminds Americans of the courage and tenacity of Columbus and the other Italians who ventured to America in search of new horizons. We do not wish to see Columbus Day relegated to a national sales day. America needs authentic heroes who have forged her destiny with courage, ideas, and decisive action. Certainly Christopher Columbus belongs in this class, and is due the respect of all Americans.

Italian American Heritage Week also reminds us that America has been immensely enriched by the contributions of Marconi, Toscannini, Enrico Fermi, Philip Mazzei, and countless others who achieved fame and international stature while living and working in America. They brought to this country the traditions of Michelangelo, DaVinci, Bernini, Pirandello, Garibaldi, and the humanists, poets, writers, legal scholars, and leaders who are part of the evolution of Western civilization.

Italian American Heritage Week is an opportunity to renew this spiritual bond between the past and the present. By appreciating and understanding their contributions to America, we build respect for our own institutions and for the freedom that enabled so many poor immigrant Italians to come to America and change the course of history.

The International Conference on the Role of Americans of Italian Descent is embarked on acquainting new generations of Italian Americans with an authentic picture of their history and culture. Under the sponsorship of the National Italian American Foundation and the Giovanni Agnelli Foundation, the dialog started by this conference can help millions of Italian Americans understand their roots and their place in American history.

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[4] U.S. House of Representatives Committee on Government Operations, Federal Personnel Management System: Hearings, op. cit., p. 24.

[5] Letter to the Honorable Walter F. Mondale, President of the Senate, from Ruth T. Prokop, Chairwoman of the Merit Systems Protection Board, August 21, 1980, p. 5.

Knowledge of Italian American culture is a key to understanding Western civilization, which is the underpinning of our society.

At a time when the world is threatened by a new dark age of political terror, Communist repression, and brute force in many developing nations, we need to remind ourselves of the Western civilization's reliance on reason, law, respect for nature and the dignity of man. These values are a rich tapestry in the Italian American experience.

In urging passage of this resolution in the House, I also wish to commend Jeno F. Paulucci, national chairman of the National Italian American Foundation, for promoting the second international conference held in Washington September 11-13. It succeeded in stimulating a new consciousness of the role that Italian Americans will play in the future of this country, and in exploring their own heritage. Thank you, Mr. Speaker.●

NATIONAL HUNTING AND FISHING DAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. DINGELL. Mr. Speaker, this Saturday, September 27, the Nation will once again recognize National Hunting and Fishing Day. Now in its ninth year of celebration, National Hunting and Fishing Day continues to foster a public awareness of the overwhelming contribution of the Nation's outdoor sportsmen to the conservation and wise management of our natural resources and wildlife. Too often, these outdoor hunting and fishing enthusiasts are overlooked as being major contributors to the conservation of our natural resources.

Just last year, President Carter formally recognized the tremendous significance of National Hunting and Fishing Day by issuing a Presidential proclamation designating the fourth Saturday in September, in perpetuity, as National Hunting and Fishing Day.

The resolution reads as follows:

NATIONAL HUNTING AND FISHING DAY, 1979—A PROCLAMATION

The millions of hunting and fishing licenses issued each year reflect a widespread appreciation of the healthy recreation, peaceful solitude and closeness to nature these pursuits offer.

America's hunters and fishermen have long been leaders in the conservation movement. They understand the importance of clean air, good water and adequate habitat for wildlife. They support those goals through the purchase of licenses and the payment of taxes on hunting and fishing equipment. They and the organizations that represent them are also effective leaders in the promotion of firearm and boating safety.

It is appropriate that we recognize all of these contributions by the observance of a National Hunting and Fishing Day.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Saturday, September 22, 1979, and the fourth Saturday of September in each succeeding year, as National Hunting and Fishing Day.

I urge all of our citizens to join with outdoor sportsmen in the wise use and management of our natural resources.

In witness whereof, I have hereunto set my hand this eleventh day of September, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

In the past half century, hunters and fishermen have contributed more than $5 billion for natural resource conservation and wildlife protection and management. In a day's time, sportsmen will contribute almost $1.4 million to conservation of our resources. This adds up to more than $500,000,000 a year. There is no other group that does so much.

Throughout the years, conservation funds have been made available through the revenues from excise taxes charged on ammunition components and fishing equipment under the authority of the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act. Funds for resource conservation and wildlife management and protection at the State level are also derived from the sale of hunting and fishing licenses and specialized hunting tags and stamps.

Today, the voices of conservation speak more effectively than ever before in history—and justifiably. The continual encroachment of destructive elements—oftentimes initiated by man—on our dwindling natural resources must be recognized as a serious treat and must therefore be met with serious action.

In recent years, the emergence of numerous conservation groups have indeed created an appreciable awareness of man's relationship to the outdoors and it has been conscientious hunters and fishermen who comprise the bulk of these organizations who have been in the forefront. This was true in the days of Theodore Roosevelt, Grinnell and Audubon, and it remains true today.

Million of sportsmen will actively participate in State and locally held Hunting and Fishing Day activities across the Nation on September 27. Everyone will share the collective recognition that each and every American has a responsibility to work hard at conserving our natural and wildlife resources. National Hunting and Fishing Day activities will also serve as a learning center for all. Conservation exhibits, skill development seminars, and guest speakers will provide an opportunity for the public to gain and appreciate an awareness of what actions can be taken to better conserve and protect our Nation's treasures.

We all should pay tribute on September 27 to the outdoor sportsmen of this country and recognize their major contribution to the continued enhancement of our natural resources.●

ALVIS TEMPLE OF BOWLING GREEN, KY.

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. NATCHER. Mr. Speaker, one of the nicest things that has happened to me during my lifetime is the opportunity that I have had to associate with and be a friend of Al Temple of Bowling Green, Ky.

This gentleman recently turned 76 years of age, and has announced his retirement as treasurer of the Kentucky Broadcasters Association, to become effective December 31, 1980.

Prior to his assignment as treasurer of the Kentucky Broadcasters Association, he was associated with the Daily News of Bowling Green, Ky., for a great many years. He was known throughout the Commonwealth of Kentucky as an excellent newspaper correspondent and for many years prepared excellent editorials which were not only used in the local Bowling Green paper, but by many other newspapers throughout the State. Al Temple always believed that a newspaper's primary function is to serve the public interest and general welfare. He knew full well that to effectively serve a newspaper, you must have confidence in and have the confidence of the public. Early in life, he discovered that the biggest news is the nearest news. He won the trust of his readers and in his articles, whether on the local or distant scene, he wrote with truth and objectivity. He always gave his reading audience factual and accurate information as fully as he could develop it so that they might perceive the meaning of the news and understand the public questions. He understood the influence that was his while occupying his position at the Daily News, and early in his newspaper career, he commited himself to serve, sustain and promote the home community. He was skilled in describing the ordinary, the familiar and everyday life in a manner that enabled the people to better know themselves and the city. In his editorials, he was always fair and decisive.

Following his newspaper days, he operated one of the local radio stations in Bowling Green, Ky., and in the year 1954 was 1 of the 12 organizers of the Kentucky Broadcasters Association. He has served for many years as a board member of this association.

Al Temple was a graduate of Ogden College, and for many years has served as chairman of the Ogden Fondation. I first met Al Temple at Ogden College. I was in the preparatory department and he was in the college department. He established an outstanding record as a student at Ogden College.

Mr. Speaker, my friend Al Temple has been good for the State of Kentucky and for the United States of America. I want to wish him the best of everything on the occasion of his 76th birthday, and upon his retirement as treasurer of the Kentucky Broadcasters Association.●

A COMMITTEE ON SCIENCE AND TECHNOLOGY IN THE STATE OF KANSAS

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. WINN. Mr. Speaker, for the past 14 years it has been my pleasure to serve as an active participant on the Science and Technology Committee. This opportunity has allowed me to take part in some of the most critical debates and discussions over questions involving the very future of our society—discussions about energy and the environment, man's technological enterprises, his conquest of space, and the application of the knowledge he has obtained as a result of these activities. We have discussed as members of this committee the limitless opportunities that advanced technology presents, but its cost in human terms as well. Whatever else we may conclude—and this is an area in which the only constant is change—we must all agree, I think, that the kind of technology with which he must deal has crept into every aspect of our daily lives. I personally support technology. However, I recognize that there are those who do not agree with me—that we are blessed on this committee with many conflicting views—and I recognize the legitimacy of these conflicts.

The space program, for example, is viewed by some of us as a glorous exploration of a new frontier that represents high hopes for a better future. Others, however, see it as a collosal waste of public funds. Nuclear technology provides another obvious example. To some, it represents a limitless source of energy to fuel a growing, dynamic economy. To others, it represents an untested technology with enormous, perhaps fatal, potential for damage.

It is out of a concern that we better understand the diversity of such views on science and technology policy in the State of Kansas that I today call for the establishment of a Kansas Science and Technology Advisory Committee. I am pleased to announce that the University of Kansas has agreed to cooperate with me in the organization of this committee, which I hope will for the first time establish a valuable means of communication between the State and the entire Kansas congressional delegation.

This committee is to be composed of representatives of the academic community, big and small business, the power and utility companies, State government, and the public. Its objectives will be to identify the most important issues in the area of science and technology policy, to come to some concensus regarding their relative importance and to formulate briefing papers on each—information that will serve as an invaluable aid to the delegation in its legislative deliberations.

I sincerely hope that such a committee can be organized in time for it to be consulted in deliberations over the Federal budget in early 1981. As currently planned, the group would meet for a 2-day conference at the University of Kansas early in the year, giving members of the Kansas delegation an opportunity to discuss with the committee the most significant science and technology related issues that they will confront.●

H.R. 8081, U.S. HOLOCAUST MEMORIAL COUNCIL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. WAXMAN. Mr. Speaker, I am extremely proud that the House has passed H.R. 8081, to establish the U.S. Holocaust Memorial Council, which will implement the landmark report of the President's Commission on the Holocaust. As a cosponsor of this legislation, I want to express my thanks to Representative Sid Yates for introducing this measure, and my profound gratitude to Representative Phil Burton for his sensitive and determined leadership in guiding this bill toward enactment. He has rendered an enormous service which honors the living no less than the memory of the millions of victims of the holocaust.

The holocaust is perhaps the most significant event in modern times. That it occurred is testament to the wretched depths of barbarism and depravity, of hate and evil, that man is capable of. The lessons of those unspeakable events are enduring ones, which go far beyond nazism's defeat or the redemption of its survivors in freedom in Israel and throughout the world. Our memory gives meaning to these lessons. And it is incumbent on all of us never to let any forget what happened lest such crimes against humanity be repeated.

Memorials to the holocaust exist on the sites of extermination themselves, in Germany and Poland, and at Yad Vashem in Israel. But there is no official memorial in the United States, whose armies were the first to liberate the concentration camps.

H.R. 8081 establishes a U.S. Holocaust Memorial Council and gives it a mandate to find a suitable site in Washington, D.C., on which to build a holocaust memorial. It will also recommend a design for this museum.

All of us look forward to the early completion of this phase of the Holocaust Council's activities, and to the ultimate opening of an American memorial for people in our country and the world.●

VALUABLE READING OF PUBLIC OPINION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. FINDLEY. Mr. Speaker, this summer I conducted my 20th annual survey of district opinion among my constituents in Illinois. As in previous years, I find their answers on the important issues facing our country to be enlightening and helpful to my efforts to represent them in Congress.

Of the 11 questions included in my questionnaire this year, 7 produced answers that show an overwhelming consensus of public opinion. The strongest agreement came when 98 percent of over 21,000 respondents agreed that welfare should be reformed by requiring able-bodied recipients to work off their benefits.

Such near-absolute agreement suggests that workfare promises to be the welfare reform of the 1980's.

My bill H.R. 6794 which would establish across-the-board workfare in Federal welfare programs has 50 sponsors so far. Every indication is that the American people agree that workfare is an idea whose time has come.

The questionnaire tally also shows that the people of west central Illinois:

Do not feel that U.S. military strength is adequate—93 percent.

Want taxes on interest earned by small savers eliminated—91 percent.

Favor cutting nonmilitary spending even if that means cutting back services—79 percent.

Approved a Federal program of low-interest loans for fuel alcohol plants—79 percent.

Favor establishing a military draft for men—84 percent.

Disapprove of President Carter's handling of the hostages crisis—77 percent.

This valuable reading of public opinion in the 20th congressional district of Illinois would not have been possible unless thousands of citizens take their time to fill out and return their questionnaires. I am deeply grateful for their commitment to civic duty.

Following are the results of the survey:

20TH DISTRICT QUESTIONNAIRE RESULTS

	Yes	Percent	No	Percent
1. Should able-bodied welfare recipients (age 18-64) be required to perform public service jobs (workfare) in order to work off the value of the benefits they receive	20,668	98	361	2
2. Should Saturday mail delivery be eliminated to help balance the budget	9,934	47	11,428	53
3. In general, do you feel that U.S. military strength is adequate	3,068	7	17,469	93
4. Has the administration done enough to protect farmers from the price-depressing effect of the Soviet grain embargo	6,381	34	12,580	66
5. Should Congress eliminate taxes on interest earned by small savers	18,803	91	1,881	9
6. Should Federal nonmilitary spending be cut even if that means a cutback in services	15,872	79	4,314	21
7. Should the Federal Government require the registration of all firearms	7,896	39	12,578	61
8. Do you approve of the Supreme Court's 1973 decision which permits abortions during the first 6 months of pregnancy, but allows states to prohibit them during the final 3 months	8,068	40	11,900	60
9. Should the Federal Government establish a program of low-interest loans to encourage construction of fuel alcohol plants for gasohol	15,833	79	4,182	21
10. Should the U.S. require the military draft for: Men	16,298	84	3,115	16
Women	6,741	35	12,703	65
11. In general, do you approve of President Carter's handling of the hostage crisis	4,614	23	15,548	77

This was my 20th annual survey of home-district opinion. Until this year almost all were tabulated by Mrs. Kathryn Gemme of Stoughton, Mass., mother of Mrs. Findley. She volunteered this valuable work.

This year Mrs. Gemme was unable to handle the project due to an injury, and the volunteer work was done by friends and former constituents, Eleanor and Cliff Gauble of Salem, Ill.●

OAHE, WEB, AND SOUTH DAKOTA WATER DEVELOPMENT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. ABDNOR. Mr. Speaker, development of South Dakota's abundant water resources is the best and surest way to improve our State's economy, mitigate the devastating impact of inevitably recurring droughts, and assure adequate quantities of good quality drinking water for our citizens.

That is why water development has a very high priority with me, and that is why I continue to insist that the Federal Government live up to its commitment to my State under the Pick-Sloan Missouri Basin program. This massive plan of development provided flood control, navigation flows, and hydropower to other States, but at the loss of over 500,000 acres in South Dakota.

We were assured that we would be compensated through Federal assistance for the development of our water resources. That assistance has not been provided, however, and the one major irrigation project which remains authorized for development—the Oahe Unit, initial stage—is in jeopardy of being deauthorized.

Mr. Speaker, I have worked continuously to achieve development of other, acceptable South Dakota water projects and shall continue to do so if the people of my State elect me to the Senate. We have succeeded in achieving authorization of the WEB water system, and I am continuing to press for hearings on other potential developments as well.

The following correspondence documents some of my recent efforts relating to this important issue:

House of Representatives,
Washington, D.C., September 23, 1980.

John Sieh,
Chairman, Oahe Conservancy Sub-district Board, Rural Route, Groton, S.D.

Dear John: Thank you for your letter of August 28th concerning Oahe deauthorization hearings and legislation, as well as WEB and other South Dakota water projects. Please excuse the delay in this response, which has been revised several times to account for rapidly changing circumstances.

As you know, the Congressional delegation has introduced "by request" the Administration's Oahe deauthorization bill. As you also know, introduction has been delayed due to the delay caused by the Administration in approval of the WEB authorization. The enclosed reprint of my September 8th letter to Morris Kurle describes the key points which finally enabled passage of the WEB authorization and, consequently, introduction of the "by request" deauthorization bill (H.R. 8078).

My responses to the five points enumerated in your letter are, as follows:

(1) I have repeatedly written and spoken with Chairman Kazen concerning the field hearings on the Belle Fourche and Grass Rope projects, as well as the Oahe authorization. In addition, two Republican members of the Interior Committee, Messrs. Bereuter and Johnson, wrote him on my behalf. (See the enclosed copy of their letter of September 16th.) Ever since I initiated the request in October of last year, the Chairman has indicated an intent to bring the Subcommittee on Water and Power Resources to South Dakota. The Subcommittee has been tied up with other priority legislation, but until recently we had remained hopeful they would come to our state prior to the election. Assistant Secretary Martin had suggested in June that the hearing be postponed until next year, but the Chairman only recently concluded that they could not come prior to the election. (See the enclosed copy of his letter of September 18th, addressed to Congressman Daschle and me.) Besides the reasons cited in his letter, the Chairman seems to have two other basic concerns: (a) He does not want the Subcommittee involved in proceedings that could be perceived to be "political" in view of the forthcoming election, and (b) due to the importance of this issue he wants to participate personally and is unable to do so prior to the election. The latter point may be taken as a good sign not only that we have his attention but that the hearing will be influential in prompting action by the Subcommittee as well.

I have not given up on the prospect of a field hearing yet this year, and you will note the Chairman has not ruled one out. I shall continue to press the issue at an appropriate time after the election, when the opportunity will be improved for a more adequate, two-day hearing in any event. I share your disappointment that the hearing could not be held sooner, but I would caution against over-reaction to the Chairman's decision. He is a fair-minded and forceful individual. We can expect that he will give us a fair hearing when circumstances permit, but he will not be intimidated, nor will criticism of his decision serve the purpose of influencing Subcommittee action in the best interest of our state.

(2) I absolutely will not endorse H.R. 5807, the Bedell bill, since its enactment would be contrary to the best interests of water development in our state. The delegation has, as you know, introduced "by request" the Administration's deauthorization bill, and it remains my intent to introduce the measure we've drafted to carry out the intent of the Legislature, as set forth in Senate Concurrent Resolution No. 8.

(3) I will not at this time commit myself either to the terms of deauthorization of the Oahe Unit or to an absolute timetable for action. If the Administration and the Congress allow funding of the WEB authorization, there will be considerable pressure to deauthorize Oahe by September 30, 1981, but other overriding State interests may require an extension of that date. As is evidenced in the case of WEB and virtually every other South Dakota project, 12 months is not a lot of time when it comes to water development. I do agree, however, that it is desirable that we have a clearer sense of direction by the end of Fiscal Year 1981. My efforts will continue to be directed toward development of a positive water development program and implementation as quickly as possible of specific projects with local support, but it is my judgment that the best interests of the people of South Dakota will not be served at this time by the setting of an arbitrary date for deauthorization.

(4) I have been and will continue aggressively to pursue funding for South Dakota water projects. As you know, Secretary Andrus offered in his June 18th letter to accelerate consideration of other projects in lieu of the Oahe Unit. Unfortunately, though, despite my repeated urgings with respect to the Clark, B-D-M, and other rural water systems, as well as other water projects in our state, the Administration's record of performance does not match the Secretary's words. For example, not only has the Grass Rope Unit not been accelerated, the report has actually been delayed. We are told the Belle Fourche project will require yet another study, and no major South Dakota rural water system will be funded out of the national pooling of Farmers Home Administration rural water and sewer monies at the end of this fiscal year.

(5) It is my judgment that supporting a Federal reservation of Missouri River water could set a very bad precedent for States' rights with respect to allocation of water resources. If the Federal Government reserves water (and only for 10 years in the proposal we've seen) for South Dakota, why not for Texas and for ETSI, too? We do not have the political muscle to prevail if a Federal system of water allocation is established. The water will go where the votes are, and South Dakota will lose.

There is considerable support, even in Washington, for maintaining the existing system of States' rights when it comes to allocation of scarce Western water resources. Certainly, we do not want to jeopardize that system and unwittingly foster a Federal usurpation of States' rights. In other words, a Federal reservation of water for South Dakota has a certain simplistic political apppeal, but it is meaningless at best and an exceedingly bad idea worst. The development of beneficial use has been and will continue to be the only real and effective means of reserving to the people of South Dakota access to Missouri River water. If you'd like further information on the legal ramifications, you might contact Attorney General Meierhenry.

I hope, John, that this necessarily delayed and too-lengthy reply is helpful. I shall continue to work to achieve rapid development of South Dakota water projects which have local support, and I continue to believe that a field hearing of the Subcommittee on Water and Power Resources before the election would have been conducive toward that end. Although the Subcommittee cannot come prior to the election, there still is a chance for the hearing during the almost certain "lame duck" session. The possibility of a hearing conducted by the Congressional delegation after the election also bears consideration, particularly if WEB is funded and we are facing a September 30, 1981, deadline.

With cordial regards,

Sincerely,

JAMES ABDNOR,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 8, 1980.
MORRIS KURLE,
Chairman, WEB Water Development Association, Bowdle, S.D.

DEAR MORRIS: You've undoubtedly heard by now, but House Agriculture Committee Chairman Foley has agreed to include the WEB authorization in H.R. 3580, the Rural Development Policy Act. That's great news, and we're told the bill may be on the floor of the House as soon as Monday, September 15th!

After all the months of waiting, such apparently speedy action may seem surprising; but let me reiterate what has transpired since my letter of August 18th:

First, the Committee has worked out an agreement on the terms of H.R. 3580 itself. The Administration has dropped its opposition, and none too soon with the end of the 96th Congress nearing.

Second, Congressman Daschle and I have continued to urge Chairman Foley to include WEB in H.R. 3580. I enlisted the support of other members of the Agriculture Committee, in an effort to ensure favorable action by the Chairman; and your visit to Washington was very helpful to us in impressing upon him the importance of WEB.

Third, we succeeded in winning assurances that the Department of the Interior would take an active, rather than just a passive role in supporting WEB authorization and funding. Deputy Assistant Secretary Beard promised that either Secretary Andrus or Assistant Secretary Martin would call Chairman Foley on our behalf.

Fourth and finally, Chairman Foley apparently has been convinced that WEB is both wanted and needed, and that it will not jeopardize passage of H.R. 3580 itself. Administration support and consideration under "suspension of the rules" should ensure passage of H.R. 3580, with the WEB amendment included by the Chairman.

As you know, this is a much different picture than we were getting when I sounded the alarm, just a short time ago. I am delighted that we have been able to turn it around; and, combined with the long overdue approval of the Administration for H.R. 3580, your visit to Washington may prove to be one of the best timed and most effective lobbying efforts ever. Success is not yet guaranteed, but winning Chairman Foley's support is a critical step in the right direction. It is gratifying to know that we now have it, and your persuasive powers on behalf of the local supporters of the project have a lot to do with it.

We'll keep you apprised of further developments.

With best wishes,

Sincerely,

JAMES ABDNOR,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C. September 16, 1980.
Hon. ABRAHAM KAZEN,
Chairman, Subcommittee on Water and Power Resources, Committee on Interior and Insular Affairs, Longworth Building, Washington, D.C.

DEAR CHICK: We understand that Ray Kogovsek has offered to chair a field hearing in South Dakota on October 6th, to take testimony on deauthorization of the Oahe Unit and on other South Dakota projects which might be developed instead.

This is just to let you know that if you decide to authorize the hearing on October 6th, we will make ourselves available to fulfill the requirement that a minority member be present.

With best personal regards.

Sincerely,

JAMES JOHNSON,
Member of Congress.
DOUGLAS BEREUTER,
Member of Congress.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES,
September 18, 1980.
Hon. JAMES ABDNOR,
Hon. THOMAS A. DASCHLE,
U.S. House of Representatives,
Washington, D.C.

DEAR JIM AND TOM: I regret that I must advise you that it will not be possible for the Subcommittee on Water and Power Resources to hold hearings on the proposal to deauthorize the Oahe Unit, James River Division, Missouri Basin Project, at any time before November. Nor can I give you a definite date for such hearings at the present time.

As you know, the time remaining in the present Congress is very limited and it would not be possible to hold the necessary hearings and complete action on this legislation in Committee and on the Floor of the House this year.

You have been very diligent in your efforts to obtain action on the legislation and I know that it has been a disappointment to both of you that other matters have prevented consideration of the Oahe deauthorization by the Subcommittee. However, I am sure that you will agree with me that such a proposal deserves close scrutiny and serious consideration and that it would be a mistake to attempt to rush it through the legislative process.

I will assure you that I will do everything I can to make sure that the people of South Dakota get a full and fair hearing on this matter, if not this year, then early next year.

I do regret that there may have been some reports in the press to the effect that hearings would be held in October. As you know, no hearings were ever actually scheduled and such reports do not, consequently, reflect an official position of the Subcommittee.

Sincerely,

ABRAHAM KAZEN, Jr.,
Chairman, Subcommittee on Water and Power Resources.

OAHE CONSERVANCY SUB-DISTRICT,
Aberdeen, S. Dak., August 28, 1980.
Senator GEORGE MCGOVERN,
Dirksen Senate Office Building,
Senator LARRY PRESSLER,
Dirksen Senate Office Building,
Congressman JAMES ABDNOR,
Longworth House Office Building,
Congressman TOM DASCHLE,
Cannon House Office Building,
Washington, D.C.

DEAR GENTLEMEN: It has come to our attention that one or several members of the South Dakota Congressional Delegation are considering introducing deauthorization legislation within the next few weeks.

Also, that one or several members of the Congressional Delegation are advocating that the South Dakota Congressional Delegation hold a hearing on the Oahe Irrigation Project themselves following the November elections. Some comment on these two matters appears to be in order.

First, the "agreement" reached earlier this year between the members of the South Dakota Congressional Delegation and the Carter Administration called for South Dakota's Congressmen to introduce Oahe deauthorization legislation "by request" immediately following consummation of the agreement. As you know, "by request" legislation means that the sponsor or sponsors does not necessarily support the legislation, but is introducing it at the request of the Administration as part of an understanding or agreement. In this case, it would be as part of a long range agreement to reach a settlement of the Oahe issue, and move forward with acceptable water development for South Dakota. It does not mean that they would necessarily support it nor they are going to advocate or advance it.

While such action, at this time, by one or several of you, would be a first important step in pursuing funding for the WEB Pipeline Project and other projects outlined in the agreement with the Carter Administration, it does not mean that you are deauthorizing Oahe.

Secondly, it has been proposed that the South Dakota Congressional Delegation hold hearings themselves on Oahe Unit after November. The only way in which Oahe Unit can be deauthorized and a settlement reached is if formal Congressional hearings are held by the appropriate Committees of Congress.

The House Subcommittee on Water and Power, and its counterpart in the Senate, hold the responsibility and authority for holding deauthorization hearings on the Oahe Project. It is clearly spelled out in federal law which Committees of Congress shall hold hearings on the authorization and deauthorization of reclamation projects like Oahe. No member of the South Dakota Congressional Delegation is a member of these Committees, therefore any "hearings" you might hold on your own would hold no formal status in a deauthorization process. Meetings or forums held by one or several members of the Congressional Delegation could not be classified as "Hearings" on deauthorization of Oahe, instead they would simply be public meetings or "political hearings". There is considerable difference in this type of meeting and the "deauthorization hearings" being requested by the Oahe Conservancy Sub-district Board, 12 counties of the Sub-district, and local farmers.

January 16, 1978 the Oahe Board asked Congress to deauthorize the Oahe Project and redirect finances to acceptable water projects. In summary, we have asked that you do at least 5 things with regard to "settlement" on Oahe;

1. Contact Congressman Kazen, Chairman of the House Subcommittee on Water and Power, and secure a formal Congressional Hearing on Oahe deauthorization prior to November 4, 1980, with the hearing being held in South Dakota if at all possible.

2. Either endorse H.R. 5807 to deauthorize Oahe, or introduce deauthorization legislation "by request" as you agreed to do earlier this year.

3. Provide a formal statement committing yourselves to deauthorization of the Oahe Irrigation Project on or before September 30, 1981, allowing over 12 months to reach a settlement package.

4. Pursue funding for other pending water projects such as the WEB Pipeline, Clark Rural Water System, BDM Rural Water System, and other water projects this year as the Administration's agreement provides.

5. Pursue the option of securing 1 million acre feet of Missouri River water for future use in South Dakota, as part of an Oahe settlement, by setting the water right out in the law which deauthorizes Oahe.

I hope this clearly restates our position on these matters. We have stated them several times before. Introduction of Oahe deauthorization "by request" can not be misunderstood as taking action on deauthorization of Oahe. However, it would be partial fulfillment of a promise you jointly made earlier this year. Also, only formal Congressional hearings conducted by the appropriate Committee of Congress can be recognized as true "Oahe deauthorization hearings". . . and will be the only real means of beginning the long process of setting Oahe behind us and moving forward on acceptable water resource development for our State and this Sub-district.

You all agree that Oahe as authorized and planned is dead. Yet, none of you have been willing or able to secure the necessary Congressional hearings which would allow South Dakotan's the opportunity to resolve this controversy. If you were honest in your promises to try to reach settlement of Oahe before September 30, 1981, you will secure formal Congressional hearings in South Dakota immediately so that all South Dakotan's can begin the difficult task of setting out a settlement acceptable to all.

Sincerely,

JOHN SIEH,
Chairman, Oahe Conservancy Sub-District Board.●

IRVIN STEINBERG ELECTED AS NATIONAL COMMANDER OF JEWISH WAR VETERANS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LEHMAN. Mr. Speaker, I am proud to report that my friend and constituent, Irvin Steinberg of North Miami Beach, Fla., was elected national commander of the Jewish War Veterans of the U.S.A. at the close of the Jewish War Veterans' 85th annual convention in New Orleans, La.

A native of Philadelphia, Irvin Steinberg served in the U.S. Army during World War II and was decorated with the Purple Heart and Bronze Star. Irvin was affiliated with the JWV as a member of Post 77 and 575 until he organized the Abe Horriwitz Post 682 of North Miami Beach, Fla., in 1953. He served three times as post commander.

At the 1955 national convention, Steinberg was named "Outstanding Post Commander of the U.S.A." He was department commander of Florida in 1959 to 1960 and 4th regional commander from 1962 to 1965. He has served on JWV's National Executive Committee, the Policy Committee and the National Convention Committee, and has just completed a term as national program chairman.

Irvin, employed at the Florida Department of Agriculture, is also a member of the American Legion and a member of Beth Torah Congregation of North Miami Beach.

I know that the Jewish War Veterans of the United States will be most ably led by Irvin Steinberg, and my congratulations and best wishes go to him.●

WHY THE GOP IS RIGHT ON ABORTION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. HYDE. Mr. Speaker, Steven R. Valentine, a law clerk for Indiana's attorney general, wrote a most perceptive article which was published by the New York Times recently on why the GOP is right on abortion. Mr. Valentine discusses the Democratic and Republican planks on abortion, and concludes that the Republicans are the true idealists.

I take pleasure in sharing Mr. Valentine's insightful article with my colleagues:

THE GOP IS RIGHT ON ABORTION

INDIANAPOLIS.—The landmark United States Supreme Court decision in 1973 in Roe v. Wade, which effectively legalized abortion, was supposed to have laid the issue to rest. It did not. That the abortion dilemma remains very much a controversial and divisive public concern is nowhere more plainly evident than in the Democratic and Republican platforms. The parties' planks on abortion are diametrically opposed.

The Democrats affirm the Court's ruling as the law of the land, oppose any effort to overturn that decision by means of a constitutional amendment, and endorse a renewal by Congress of Federal funding of abortions for poor women.

The Republicans enthusiastically support the proposed constitutional amendment that would protect the "right to life" of unborn children, oppose Federal funding for abortion, and even support the idea that a prime qualification for nominees to the Federal bench should be that they have taken a "pro-life" stand.

Many political commentators have portrayed the major parties' opposing viewpoints on abortion policy as a classic liberal-conservative split. But the root causes of the schism are complex and defy traditional labels.

The Democratic platform is unabashedly pro-abortion not because the liberal cadres of Senator Edward M. Kennedy or the populist fans of President Carter particularly wanted it that way, but primarily because being pro-abortion is widely equated with being pro-feminist rights. The fervent Equal Rights Amendment backers, whom neither Mr. Carter nor Mr. Kennedy wanted to offend, see the abortion issue as an extension of their cause.

But tying together the separate issues of equality for women and abortion is a mistake. If the moral basis for support of the feminist cause is opposition to oppression, then is it not inconsistent to endorse the ultimate oppression of depriving an unborn child of his or her right to live? Does it not ultimately undermine the essential goals of the women's-rights crusade to promote a policy that allows a couple to choose abortion, say, simply because a medical test has indicated that the fetus is female when the parents prefer a male? Thus, the Democratic platform's E.R.A. and abortion planks seem more a testament to the power of the party's women's-rights activists than an effort to be morally and philosophically consistent.

Digging deeper, the Democrats' platform on abortion proposes to ratify the end results of the cultural revolution in sexual values that began in the 60's and was nurtured by 70's narcissism. Acceptance of the idea that sexual activity should be less "inhibited" and more "accepted" or "free" leads logically to the need for an equally "liberating" way to avoid the resulting increase in the number of unwanted children. Viewed in such a light, the Democrats have made less a liberal political statement on the abortion question than a social one.

The Republicans emphatically reject the idea that the issue of women's rights should be fused with that of abortion, and view the steady erosion of traditional family values over the last two decades as a mortal danger to the nation. But beyond that is the central concern of the GOP statement on abortion for the protection of "innocent human life."

The plank calling for the appointment of "pro-life" judges gives this commitment some real teeth. Since five Supreme Court members are over 70 years old, it is perfectly possible that as President Ronald Reagan could name several justices in a four-year term. Since all five of the septuagenarians voted with the 7 to 2 majority in Roe v. Wade, several Reagan appointments might well result in a total reversal or significant modification of the historic 1973 ruling.

Far from being dogmatically rightwing in its approach to the abortion question, the Republican Party under Mr. Reagan is acting in accordance with the heritage of its idealistic dedication to the idea that gave it birth—the abolition of slavery.

In supporting a constitutional amendment to ban abortions, the party seeks to nullify the Roe v. Wade decision, which in essence took the position that the unborn child in the womb is not a person and therefore cannot be accorded full protection under the Constitution.

The Republicans under Abraham Lincoln effectively toppled the Supreme Court's ruling in the Dred Scott case, in which the view was taken that the Negro is not a person and therefore is not entitled to the full rights conferred on citizens by the Constitution. The party was as convinced then that blacks are people as it is today that objectively the unborn child is likewise a member of our community.

In recognizing the necessity of untangling completely the fundamentally separate issues of women's rights and abortion, the Republican platform is more intellectually honest and morally consistent than that of the Democrats. By holding fast to the idea of the sanctity of life while it is under attack by the culture of narcissism, the Republicans are the true idealists, in their best progressive tradition, on the abortion question.●

H.R. 5615, THE INTELLIGENCE IDENTITIES PROTECTION ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. RANGEL. Mr. Speaker, H.R. 5615, as reported by the Judiciary Committee, contains a provision that would make it a crime to publish the identity of a covert agent, even if the information was garnered from public sources. I think that this provision, although it may have been conceived by a noble intention, takes us too far down the road of sacrificing basic civil liberties for vaguely defined reasons of national security. I would like to insert into the RECORD an article by Tom Wicker that appeared in the New York Times of September 5, which discusses the serious constitutional implications of this bill, and enumerates a number of potential abuses that are very possible if this provision is to become law.

KILLING FREEDOM TO SAVE IT

On June 24, a Justice Department spokesman appeared before the Senate Intelligence Committee to oppose a bill making it a crime for anyone to publish information—whether or not classified—leading to the identification of a covert agent of the Central Intelligence Agency.

On Aug. 19, the same spokesman told a House subcommittee that the measure was all right after all. This week the House Judiciary Committee approved it by 21 to 8, with the full House expected to follow suit. The Senate, where a subcommittee will hold hearings today, apparently offers the only chance to stop this dangerous and unnecessary legislation that stabs the First Amendment to its heart.

Why did the Carter Administration change its mind? The Justice Department says its objections were removed when the bill's language was changed to require that disclosures, to be criminal, had to be part of a "pattern of activities intended to expose agents."

More likely, the Administration jumped on the bandwagon after July 4, when the home of a man alleged to be the C.I.A. station chief in Jamaica was attacked with automatic weapons fire, after disclosure of his name and address in the so-called Covert Action Information Bulletin. In an election year, the disclosure legislation immediately became a popular cause in Congress.

Finally, it's an election year for Jimmy Carter, too, and his opponents are charging that he's soft on national security and has let down the nation's guard. One way to riposte is to take the kind of hard-nosed, know-nothing stand exemplified by the bill's principal Republican backer, Representative Henry J. Hyde of Illinois, who told the Judiciary Committee that if people—just anyone—published the names of C.I.A. agents, "They should be treated like the criminals they are," not "permitted to hide" behind the First Amendment.

But the legislation now moving rapidly through Congress does not aim itself exclusively at the Covert Action Information Bulletin, or even at ex-C.I.A. agents who disclose agency secrets, or former Government employees who violate secrecy oaths or classification rules. It in no way limits itself to those who disclose classified information. It makes no exception for the publication of information already available in public records.

Instead, this sweeping legislation, sowing widely the seeds of an Official Secrets Act, would make a criminal of anyone who "discloses, with the intent to impair or impede the foreign intelligence activities of the United States, to any individual not authorized to receive classified information, any information that identifies a covert agent . . ."

That the Senate version would require such disclosure to be part of a "pattern of activities intended to disclose agents" is only a faint improvement, whatever the Carter Administration might claim. A reporter publishing, say, a series of articles could be demonstrating such a pattern, as might one who had published a number of such articles over the years. Yet, those articles might disclose reprehensible C.I.A. attempts to assassinate foreign leaders, or to infiltrate domestic organizations, or to overthrow legitimate governments.

Nor is the requirement of "intent to impair or impede . . . foreign intelligence activities" a saving grace. That might be precisely the intent, and legitimately so, of articles that would expose in advance and thus prevent something like the Bay of Pigs fiasco. Such intent might also be "established" if the C.I.A. had asked a reporter in advance not to publish a story, for reasons however self-serving, and he or she published it anyway.

The key phrases are "any individual not authorized to receive classified information." Taken together, they mean that *any* information—no matter how obtained, even from a public and unclassified record—published by anybody in virtually any form, if it could be read to disclose an agent's identity, would be a crime. such legislation would impose a prior restraint unprecedented in American history, even on information that may already be in the public domain.

It would give the C.I.A., for example, just the weapon it wants to hide, or prosecute disclosures of, embarrassing or damaging misdeeds, failures and illegalities—spying on Americans in America, or helping a President to cover up criminal activities, or infiltrating the clergy. Reporting such stories, even if clearly in the public interest, would be virtually impossible without risking disclosure of some agent's identity—or at least risking that the C.I.A. would claim that such disclosure had resulted.

How can Stansfield Turner, the C.I.A. Director, argue that this blatant power grab is "vital to the maintenance of an effective intelligence apparatus and the successful conduct of United States foreign policy"? That is to say that only if free American institutions are undermined from within can we be successful in the world. But what is success, if not the protection and maintenance of those same free institutions?●

TRIBUTE TO FATHER DUGAN

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. DODD. Mr. Speaker, the Reverend Thomas J. Dugan, S.J., died on June 28, 1980. Father Dugan spent 33 years working with young people as a scholar, as a counselor, and as a friend.

Father Dugan was a man who always had time for the boys of his beloved school, the Georgetown Preparatory School. It was there that he served as prefect of discipline, as well as moderator of athletics, director of golf, and treasurer of the school.

Because of his prefect position, he might easily have become an enemy of the students. However, Father Dugan was an exception to the rule. Students and faculty alike respected him.

Born in Baltimore, and ordained into the priesthood in 1944, Father Dugan communicated his ideals with him througout his life. His discipline was firm, but always ordered out of love and understanding.

Father Dugan reserved a special place in his heart for his school's football team. From 1947 to 1970 he only missed one Georgetown Preparatory football game. Before every football game Father Dugan celebrated a mass for the players. Father Dugan was a legend at the football games, and many an alumni went to see him as well as the game.

As a former student at Georgetown Preparatory School, I have many fond memories of Father Dugan. Through living in the boarding department, he became a friend, as well as a respected administrator. He helped to shape my future, and the futures of countless other students. The influence of Father Dugan pervades the halls of Georgetown Preparatory School and the lives of its alumni.

Father Dugan would have counseled against excesses in his students, but no excess of praise could ever reflect the generous gifts of love and understanding that Father Dugan gave to all of us who knew him.●

DECLINE IN NET FARM INCOME

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. NOLAN. Mr. Speaker, in testimony before the House Agriculture Subcommittee on Family Farms, Rural Development, and Special Studies, on September 18, 1980, the General Accounting Office stated that parity prices for agricultural commodities are "a useful barometer or indicator of economic well-being" in agriculture. Specifically, GAO stated that "changes in the parity ratio have tracked: first, structural changes—as the ratio has fallen so have the number of farms; second, changes in farmer's margins on a per-unit basis; and third, net farm income from marketing receipts."

The following tables prepared by the Congressional Research Service convert market prices received by farmers and price support levels over the past 20 years into a percentage of parity. The parity figures clearly illustrate the substantial decline in net farm income over the last 20 years.

Although market prices were dropping rapidly in the late 1960's, the support levels were much higher, in terms of purchasing power, than today. As the tables show, both market prices and support levels are now extremely low—except for dairy prices which have been supported by law at a minimum of 80 percent of parity in recent years.

If any of the Presidential candidates think they can get by with only minimal increases in the current price support programs, they better look at the figures which indicate a deeper financial crisis for farmers and rural communities in the years ahead.

The tables follow:

TABLE I.—WHEAT PRICE, LOAN RATE AND TARGET PRICE AS A PERCENT OF PARITY, CROP YEARS 1960–79

	Season average farm price [1] ($/bu)	Farm price as a percent of parity	Loan rate [1] ($/bu)	Loan rate as a percent of parity	Target price [1] ($/bu)	Target price as a percent of parity	Parity price [1] [2] ($/bu)
1960	1.74	73	1.78	75			2.37
1961	1.83	77	1.79	75			2.39 April.
1962	2.04	86	2.00	84			2.37 July.
1963	1.85	76	1.82	75	[a] 2.00	81	2.44 September.
1964	1.37	54	1.30	52	[b] 2.00	79	2.52 March.
1965	1.35	54	1.25	50	[b] 2.00	80	2.51 July.
1966	1.63	63	1.25	49	[b] 2.57	100	2.57 June.
1967	1.39	53	1.25	48	[b] 2.61	100	2.61
1968	1.24	47	1.25	48	[b] 2.63	100	2.63
1969	1.25	45	1.25	45	[b] 2.77	100	2.77
1970	1.33	47	1.25	44	[b] 2.82	100	2.82
1971	1.34	46	1.25	43	[b] 2.93	100	2.93
1972	1.76	58	1.25	41	[b] 3.02	100	3.02
1973	3.95	117	1.25	37	[b] 3.39	100	3.39
1974	4.09	105	1.37	35	[c] 2.05	53	3.89
1975	3.56	78	1.37	30	[c] 2.05	45	4.58
1976	2.73	56	2.25	46	[c] 2.29	47	4.90
1977	2.33	46	2.25	44	[d] 2.90	57	5.07
1978	2.98	56	2.35	44	[e] 3.40	64	5.29
1979	3.82	64	2.50	42	[e] 3.40	57	5.98

[1] Data obtained from USDA, Agricultural Statistics 1960–1979, Agricultural Stabilization and Conservation Service, (ASCS) Commodity Fact Sheet, June 1980.

[2] Parity price is based on data for the month of June, unless otherwise noted.

[a] Total support.

[b] Support for wheat used for domestic food.

[c] Established target price guaranteed on production from allotment acreage.

[d] Established target price on planted allotment acreage; target price on unplanted acreage was $2.47.

[e] Established target price.

TABLE 2.—UPLAND COTTON PRICE, LOAN RATE AND TARGET PRICE AS A PERCENT OF PARITY, CROP YEARS 1960–79

	Season average farm price [1] (¢/lb)	Farm price as a percent of parity	Loan rate [1] (¢/lb)	Loan rate as a percent of parity	Target Price [1] (¢/lb)	Target price as a percent of parity	Parity price [1] [2] (¢/lb)
1960	30.08	79	26.63	70			38 January.
1961	32.00	84	33.04	79			38 January.
1962	31.74	84	32.47	85			38 December.
1963	32.02	80	32.47	81			40 April.
1964	29.62	74	30.00	75	33.50	83	40 April.
1965	28.03	68	29.00	73	33.35	83	40 November.
1966	20.64	50	21.00	51	30.42	74	41 November.
1967	25.69	60	20.25	47	31.78	74	43 November.
1968	22.02	51	20.25	47	32.49	75	43 November.
1969	20.94	47	20.25	45	34.98	78	45 October.
1970	21.86	46	20.25	42	37.05	77	48 September.
1971	28.07	55	19.50	38	35.00	69	51
1972	27.02	49	19.50	35	35.85	65	55
1973	44.40	70	19.50	31	41.52	66	63
1974	42.70	60	27.06	38	38.00	54	71
1975	51.10	66	36.12	46	38.00	49	78
1976	63.80	81	38.92	49	43.20	55	79
1977	52.10	62	44.63	53	47.80	57	84
1978	58.10	65	48.00	53	52.00	58	90
1979	61.20	61	50.23	50	57.70	58	100

[1] Data obtained from USDA, Agricultural Statistics 1960–79, and Agricultural Stabilization and Conservation Service (ASCS) Commodity Fact Sheet, April 1980.

[2] Parity is based on data for the month of July, unless otherwise noted.

TABLE 3.—CORN PRICE, LOAN RATE, AND TARGET PRICE AS A PERCENT OF PARITY, CROP YEARS 1960–79

	Season average [1] farm price ($/bu)	Farm price as a percent of parity	Loan rate [1] ($/bu)	Loan rate as a percent of parity	Target price [1] ($/bu)	Target price as a percent of parity	Parity price [1] [2] ($/bu)
1960	1.00	61	1.06	65			1.63 January.
1961	1.10	68	1.20	74			1.62 February.
1962	1.12	69	1.20	74			1.62 December.
1963	1.11	69	1.25	78	1.07	66	1.61 November.
1964	1.17	74	1.25	79	1.10	69	1.59 June.
1965	1.16	74	1.25	80	1.05	67	1.56 November.
1966	1.24	79	1.30	83	1.00	64	1.57 November.
1967	1.03	64	1.35	84	1.05	66	1.60 October.
1968	1.08	66	1.35	83	1.05	64	1.63 October.
1969	1.16	69	1.35	81	1.05	63	1.67 November.
1970	1.33	74	1.35	75	1.05	59	1.79 November.
1971	1.08	57	1.35	72	1.05	56	1.88
1972	1.57	78	1.41	70	1.05	33	2.01
1973	2.55	109	1.64	70	1.05	45	2.34
1974	3.02	111	1.38	51	1.10	40	2.72
1975	2.54	82	1.38	45	1.10	35	3.10
1976	2.15	66	1.57	48	1.50	46	3.28
1977	2.02	59	2.00	58	2.00	58	3.45
1978	2.25	60	2.00	53	2.10	56	3.74
1979	2.41	57	2.10	50	2.20	52	4.21

[1] Data obtained from USDA, Agricultural Statistics 1960–79, and Agricultural Stabilization and Conservation Service (ASCS) Commodity Fact Sheet, January 1979.

[2] Parity is based on data for the month of September, unless otherwise noted.

TABLE 4.—MILK PRICE AND SUPPORT LEVEL AS A PERCENT OF PARITY, MARKETING YEARS 1960–1979

	Season average farm price [1]	($/cwt) Percent of parity	Support level as a percent of parity [1] [2]	Parity price [1] [3] ($/cwt)
1960–61	3.30	67	80	4.93
1961–62	3.38	68	83	4.98
1962–63	3.19	62	75	5.13
1963–64	3.24	61	75	5.30
1964–65	3.29	62	75	5.33
1965–66	3.45	62	75	5.53 February.
1966–67	4.11	72	83	5.73 March.
1967–68	4.07	70	87	5.83
1968–69	4.30	72	89	5.97
1969–70	4.55	73	83	6.23
1970–71	4.76	72	85	6.65
1971–72	4.91	70	85	7.05
1972–73	5.22	70	85	7.49
1973–74	6.95	85	80	8.17
1974–75	6.87	72	89	9.59
1975–76	8.12	74	84	11.00
1976–77	8.58	74	82	11.60
1977–78	9.30	76	86	12.20
1978–79	10.86	84	87	13.00

[1] Data obtained from USDA, Agricultural Statistics, 1960–1979, and Agricultural Stabilization and Conservation Service (ASCS) Commodity Fact Sheet, January 1980.

[2] The support level used in the calculation was the level existing at the beginning of the marketing year. In many years the support level was adjusted at 6-month intervals.

[3] Parity is based on the effective parity price for all milk, for the month of December unless otherwise noted.

TABLE 5.—INDEX OF PRICES RECEIVED FOR ALL CROPS AS A PERCENT OF THE PARITY INDEX, CROP YEARS 1960–79

	Index of prices received by farmers for all crops [1]	Index of prices for all crops as a percent of the parity index [2]
1960	222	74
1961	227	75
1962	232	76
1963	240	77
1964	239	76
1965	230	71
1966	238	71
1967	225	66
1968	225	64
1969	217	59
1970	225	59
1971	242	61
1972	257	61
1973	394	80
1974	504	90
1975	452	74
1976	444	68
1977	432	63
1978	458	61
1979	502	59

[1] Data obtained from USDA, Agricultural Statistics, 1979, 1976, 1974, and Agricultural Prices Summary 1979, 1976, Crop Reporting Board, Economics, Statistics, and Cooperative Service.

[2] This was calculated by dividing the index of prices received by farmers for all crops, by the index of prices paid by farmers for commodities, service, interest, taxes and wage rates (parity index—1910–14 = 100). ●

TRIBUTE TO MARY ALICE STEELE "DOING WHAT SHE DOES BEST" FOR AMERICAN AIRLINES

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. ROUSSELOT. Mr. Speaker, travel to and from our districts is a necessary function for Members of Congress. The distance varies from as near as the other side of the Potomac River to as far as halfway across the Pacific Ocean. The means of conveyance can range from taking the Washington Metro to flying big-body jets.

Those of us who are more dependent upon commercial airlines logically book our passage with those airlines which provide a schedule most convenient to the location of our congressional districts. Members of Congress who travel in and out of a large metropolis, such as my area in Los Angeles, have a choice of several airlines. The prices are fairly equal and the flight arrival and departure schedules are quite frequent. Thus, these two factors being equal, the selection becomes one of personal choice and that is often based upon the service which one gets. That service can begin at the moment of contact with the reservationist. This is the service that Mary Alice Steele provides. She is American Airline's congressional desk sales agent—doing what she does best and the best at what she does.

Rarely does an individual come along whom we instinctively and instantly recognize as being special—someone who creates an aura so pleasant that you look forward to each contact and every opportunity to do business with them. Such a person is Mary Alice Steele.

It is, therefore, with mixed emotions that we learn of her decision to retire after only 36 years of continuous work for American Airlines. With 17 years as an airline representative to the Congress, she will be sorely missed. Evidently her employers and coworkers feel as affectionately toward Mary Alice as many of us do for they have chosen to hold a reception in her honor on Capitol Hill this Monday, September 29, 1980.

It has been an ongoing pleasure for my office to know Mary Alice. Her diligence, perseverance, and unfailing courtesy in assisting me and my staff with travel arrangements has made our jobs more enjoyable. Mary Alice is an exceptional woman. She has always given generously of her time and energy. Mary Alice is an individual who is capable of maintaining a calm disposition despite the erratic, fickle, inconstant nature of congressional activity. Frequently, reservations must be revised as the legislative agenda changes, and yet Mary Alice has been able to accommodate travel adjustments with seeming ease and the greatest personal consideration for the Member's convenience.

A graduate of Andrew Jackson Business College in Tennessee, Mary Alice began working with American Airlines in Nashville, Tenn., as a junior reservations clerk on January 5, 1944. In April of 1962, she moved to Washington, D.C., and assumed the duties of control agent for the airlines. Then, in September 1963, Mary Alice was promoted to be the congressional desk sales agent.

Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join in this tribute to Mary Alice Steele for her outstanding service, and to thank her for all she has done to aid in our scheduling and travel arrangements. Added to these words of appreciation inserted today, Mary Alice Steele has many letters of commendation received over the years from Congressmen and Senators. I am certain that her husband, Ben, is more happy than we are for she will be missed. We wish Mary Alice and Ben the best of everything as they return to their hometown in Nashville, Tenn. We hope they will find plenty of time to fly American Airlines, and do what they do best.●

ROBERT WINTHROP KEAN

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. COURTER. Mr. Speaker, I take this opportunity to honor the memory of one of New Jersey's, and our Nation's, finest statesmen, Congressman Robert Winthrop Kean, who represented the 12th District of New Jersey in the U.S. Congress for over 20 years.

On September 28, 1893, Robert Kean was born into a family which had distinguished itself throughout our country's history. His father, Hamilton Fish Kean, was the U.S. Senator from New Jersey from 1929 until 1935. His uncle, John Kean, was both a Representative and Senator from New Jersey. Closer to the roots of the family tree was great-great-grandfather John Kean, a member of the first Continental Congress, and great-great-great-uncle William Livingston, New Jersey's first Governor.

Schooled at Harvard College, Robert Kean was called to serve his country during World War I. For brave and meritorious actions beyond the call of duty during battle, Robert Kean was awarded the Distinguished Service Cross and the Silver Star.

After the war, he returned to New Jersey to become a partner in the Wall Street firm of Kean, Taylor & Co., and in 1927, he founded the Livingston National Bank, of which he was president for 25 years.

Robert Kean entered politics in 1938 with a successful bid for Congress from New Jersey's 12th District. During his notable career, Kean held the position of ranking minority member on the Committee on Ways and Means. For his efforts to introduce and promote passage of landmark social security legislation, Kean was affectionately nicknamed "Mr. Social Security." He was appointed by President Harry Truman to a special committee to investigate the Bureau of Internal Revenue, and he presided over difficult and complex hearings which resulted in the reorganization of the entire Bureau.

After his defeat in a 1958 Senate election, Kean continued his public service career in 1960 with an appointment by President Dwight D. Eisenhower to chair the White House Committee on Aging.

Until his death, Robert Kean was involved in many local business endeavors and community causes, such as director and former chairman of the board of St. Barnabas Medical Center. He was also director of Elizabethtown Water Co., former director of the Hackensack Water Co., and director of the National Utilities and Industries Corp.

Mr. Speaker, it is with respect that we look back on the memory of Robert Winthrop Kean as the personification of such qualities as conviction, courage, righteousness, and honor, the same qualities we as Representatives of the people surely seek within ourselves. The people of the State of New Jersey and our Nation deeply mourn the death of a fine statesman and a great man.●

HATS OFF TO HUMMEL JUNIOR ALL STARS

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. RATCHFORD. Mr. Speaker, I would like to take this opportunity to congratulate the George J. Hummel Little League Junior Girls All Stars on their outstanding performance during the little league softball world series held last month in Kalamazoo, Mich. This fine team from Seymour, Conn., finished second in the Nation out of 1,400 junior girls teams, an unprecedented and praiseworthy achievement.

These young athletes combined hard work, enthusiasm, and determination to produce an impressive list of accomplishments. Beginning with their district and State championships, the all stars continued to dominate the winner's circle with victories in both the New England and eastern regional finals. Their loss to Glendale, Calif., in the world series finals was unfortunate, but these remarkable young women mastered their disappointment and displayed the highest values of athletic competition.

I applaud the members of this championship team: Jennifer Burns, Kelly Connors, Chris Cweklinsky, Laura Konnik, Michele Leggio, Margaret Nolan, Jody Podgorski, Jody Radcliffe, Stacey Schofield, July Sizensky, Michele St. Louis, Ellen Sypniewski, Wendy Tkacz, and Allison Yaeger. Tremendous credit also belongs to the team's coach, Mel St. Louis, and manager, Bob LePardo. Their patient guidance and unselfish devotion to the team were, and continue to be, invaluable contributions.

Congratulations and the best of luck in the future.●

A TRIBUTE TO EILEEN PULLIAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. ANDERSON of California. Mr. Speaker, after over 8 years of dedicated and outstanding service to the people of Wilmington, Eileen Pulliam is retiring as manager of the Wilmington Chamber of Commerce. Accordingly, a dinner in her honor will be held on October 2. I would like to inform my colleagues about Eileen, and the things she has done for Wilmington.

Although born in Wyoming, Eileen and her family moved to California when Eileen was 5 years old. She attended Torrance schools, El Camino College, UCLA, and Purdue University. When Eileen settled in Wilmington, she became active in local events, which led to her becoming Wilmington's chamber manager.

A chamber of commerce, if run effectively, can become the core of any community, and Eileen Pulliam has done just that for Wilmington. Her accomplishments have established a higher quality of living for Wilmington's residents, and so, I would like to mention just a few of these innovative contributions.

Eileen organized "membership mixers," which meet on a monthly basis and give the chamber's members a chance to meet each other socially, rather than the business atmosphere which is usually the case in chambers of commerce. "Operation Pride"—a successful campaign to rid the city of Wilmington of ugly graffiti; and Wilmington Day at the Los Angeles County Fair; were both coordinated and led by Eileen Pulliam. Yet not one to simply rest on these laurels, Eileen helped create the United Chamber Insurance Trust Fund, which provides chamber members with their own hospitalization insurance program.

Mr. Speaker, one incident which comes to the fore was Eileen's successful fight to get designation of a freeway sign for Wilmington. Request to State officials had previously been denied, yet Eileen was victorious. And since now Wilmington was "on the freeway," maps of Wilmington were printed, under Eileen's direction, for use by area businesses and visitors to the city. When one arrives in Wilmington during the holiday season, the business district is nicely decorated and awash in festive lights; this too, is Eileen Pulliam's doing. Thus, Mr. Speaker, one can easily see how Eileen's mind was working. Slowly, but surely, one link after another was added to the chain, until a large ring of accomplishments made Wilmington a nicer place not only for its citizens, but for all her visitors as well. Getting there was easier, moving around the city was facilitated by the maps, and completing one's errands, whether personal or official, was accomplished in a much more pleasant fashion, since now graffiti was gone, and the holiday spirit was firmly in its place.

Eileen Pulliam is an excellent example of what any city can achieve with the dedication and vitality of the right individuals. Eileen's concern for her fellow citizens included surveying Wilmington's job needs, and subsequently introducing employers with potential employees. You can see, Mr. Speaker, how involved Eileen became in Wilmington's activities; no stone was left unturned, and all of us in the South Bay area will miss her greatly.

As a member of the California Chamber of Commerce Executives, the Southern California Chamber of Commerce Executives, and the South Bay Association of Chambers of Commerce, Eileen Pulliam has demonstrated that creative input of ideas can yield successful and concrete results. Her giving of herself extends to the spiritual as well, since Eileen is a licensed practitioner of the Church of Religious Science in Redondo Beach. Her husband Leroy, and her sons, Robert and James, can truly be proud of Eileen's distinguished career of service to the community. My wife, Lee, and I, salute Eileen Pulliam for her admirable work with the Wilmington Chamber of Commerce, and wish Eileen and her family many more years of success and happiness.●

HON. ROBERT WINTHROP KEAN

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. HOLLENBECK. Mr. Speaker, I rise to address the House and express my sadness over the passing of Robert Winthrop Kean, who served in the House of Representatives for 20 years from 1939 to 1959.

Robert was decorated with the Silver Star Medal and the Distinguished Service Cross for his acts of bravery in service of our Nation during the First World War. After his retirement from the House, he served as chairman of the National Advisory Committee of the White House Conference on Aging from May 1959 to April 1961. Robert was a man of integrity and honor and those qualities marked his service not only to the State of New Jersey, but to the Nation as well.

The Kean family has and continues to distinguish itself as one that honorably serves the public's interest. Robert continued his family's long and dedicated public service record during his terms in this body. And, this family tradition has been carried on by Robert's son, Thomas, with whom I had the pleasure of serving in the New Jersey State Legislature.

Again, I express my heartfelt sorrow and extend my condolences to Robert's family and friends. We will surely miss him.●

CAHIT YETER: DEDICATED ATHLETE, DISTINGUISHED AMERICAN IMMIGRANT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. BIAGGI. Mr. Speaker, Oliver Wendell Holmes once called Americans "the Romans of the modern world—the great assimilating people." Since her founding, America has, indeed, been a nation of immigrants. Peoples from all across the world have come to our shores, seeking freedom and a chance to fulfill their potential; by their dedicated spirit, they have left an invaluable mark on the American way of life. The success stories of so many such immigrants testify to the value of our system and to the reality of the American ideal.

One outstanding immigrant from the heart of my own district in Parkchester, Bronx, N.Y., is Cahit Yeter. Born in abject poverty in Istanbul, Turkey, he fought against incredible adversity, coming to the United States and ultimately fulfilling his natural talent by becoming a marathon runner and by breaking world master records.

In 1978 alone, Cahit Yeter set three world master records, and two age group records, a truly remarkable span of achievements. It was at Flushing Meadow Park in Queens, N.Y., that he earned the 100 mile world master record with a running time of 14 hours and 30 minutes. This exceptional performance gave him the fifth best time in the world in this event. Madim, Mass., saw him set the 100 kilometers world master record in 7 hours and 28 minutes. He was later, in Toledo, Ohio, to top that time by 5 minutes, winning the 100 kilometer race in 7 hours and 23 minutes.

At the Boston marathon, also that same year, Cahit Yeter set a national age group record for age 44 by turning in a time of 2 hours and 27 minutes. And it was finishing the New York City marathon in 2 hours and 34 minutes which brought him the record for men masters of age 44, in 1978.

The achievements continue. To note yet still one other outstanding feat in a stream of accomplishments, let us look at February 29, 1980, in the Road Runners Club of America championship race, Miami, Fla. There, Cahit Yeter was the overall winner, setting a world masters record for a 48 hour race—$147\frac{5}{10}$ miles was completed in 32 hours, 32 minutes, and 47 seconds.

Mr. Speaker, I cite Cahit Yeter's extraordinary athletic prowess and will also speak of the background of these accomplishments, because his perseverance, courage, and iron will have set an example and provided the inspiration for so many. In honoring him today, let us also pay tribute to all the immigrants who have done so much for America and to the system which has made possible their advance.

Mr. Yeter was the 14th of 15 very poor children. Attending a poor family's summer camp, he came to excel in running. Each summer he returned to camp and each summer he received further running training. As his unique talent was gradually recognized, Mr. Yeter was trained by the Turkish Government, and went to a full-time camp for year-round practice. In time he was a bona fide world class runner.

In 1958, Mr. Yeter was injured in a tragic car accident in which 30 percent of his body was burned. Advised that his running carreer was over, he was given a no-show job—a paycheck for no work—from the Turkish Government. Believing that a no-show job was a dishonor, and faced with the fact that he had no real education since he had spent most of this teenage years training, Mr. Yeter went to Switzerland to study hotel management. He was later hired by Hilton Hotels in Munich, Montreal, and New York, ultimately becoming a naturalized citizen of the United States.

One night in 1974, Mr. Yeter was attacked and mugged by a group of teenage youths in New York. Humiliated that he, a former world class runner, could not run fast enough to escape his attackers, and determined to recover his self-esteem, Mr. Yeter started a program of intensive training in the Pelham Bay Park area of the Bronx. By 1978, as we have seen, he won world master races and broke world records.

In addition to his personal marathon achievements, Mr. Yeter has formed the Cahit Pacers Athletic Club. Composed of representatives of a number of States, this organization sponsors over 30 races each year in the Pelham Bay Park area, which location is also within my congressional district. As its goals, the Cahit Pacers Athletic Club aims to condition its members toward good physical shape, to provide a means of meeting people, and to offer a community service by maintaining the tracks and encouraging frequent marathon races.

Mr. Yeter frequently remarks that "everyone has talent; what makes a champion is hard work." Every day, he himself runs for several hours—usually about 25 miles—and spends the afternoon conditioning. He is certainly to be commended by us all for his personal achievements—overcoming his disability—and for his sincere service to the community vis-a-vis the athletic club. He is an inspiration to the handicapped, as one who set a goal and remains committed to it.

Mr. Speaker, I know I speak for all the Members of this august body when I salute Cahit Yeter for all that he has done, and for the example he has set for America's immigrants.●

SYMPOSIUM ON AGING AND CANCER

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. PEPPER. Mr. Speaker, I want to pay tribute to one of our distinguished colleagues in the Congress, Senator ALAN CRANSTON of California, for the most significant and excellent address which he presented on September 23, 1980, to the International Symposium on Aging and Cancer.

It has long been my dream that we would be able to gather distinguished scholars from throughout the world in an attempt to define how best we can overcome cancer, the insidious killer disease which takes hundreds of thousands of Americans from their loved ones each year. This week my dream has borne fruit in the form of a World Conference on Aging and Cancer, at which scholars and researchers from throughout the world have met to discuss critical scientific issues regarding our understanding of cancer, particularly as it relates to aging and older people.

The conference was privileged this week to be addressed by my good friend Senator CRANSTON. I was most impressed by the understanding and sensitivity which Senator CRANSTON's address demonstrated. But I was certainly not surprised, for all of us know well of Senator CRANSTON's leadership role in the Senate, in the Nation, and in the world of ideas. I want to pay tribute to our colleague, ALAN CRANSTON, for all that he has done to improve the quality of life for older Americans, particularly with respect to health, and I want to share with the Congress the important speech he delivered this week to the Conference on Aging and Cancer.

RESEARCH FRONTIERS IN AGING AND CANCER: INTERNATIONAL SYMPOSIUM FOR THE 1980'S

I want to thank you Claude Pepper, Mr. Chairman, for your great leadership in bringing about this gathering. And I thank the other members of the Select Committee on Aging for this opportunity to address the International Symposium on Aging and Cancer.

I am grateful to Banker's Life and Casualty, to the Retirement Research Foundation, to the National Institute on Aging, and the National Cancer Institute for their important role in making this very significant gathering possible. These groups have worked very hard and with a high degree of cooperation and dedication to arrange this outstanding scientific program. And it's a great pleasure for me to play a small part in it.

This important conference brings together some of the world's leading medical and scientific authorities to examine the threads that link the processes of so-called normal aging and those of the devastating biological events we call cancer. It may be, as many now believe, that cancer and aging are sides of the same coin—that both share a common genetic basis of origin at the molecular level. It might also be true that senescence and cancer almost simultaneously will yield some of their mystery as new insights are gained in the rapidly expanding fields of cell biology and molecular biology.

Like Lewis Thomas, I am an optimist convinced that we are going to learn our way around disease and disability sooner or later. Scientific exchanges like those taking place here this week help greatly to compress the time in which we will achieve our major medical goals.

As a member of the Senate Health and Scientific Research Subcommittee, and as Chairman of the Committee which oversees all Veterans' Administration hospitals and VA medical research, I follow closely our progress in biomedical research. In 1973, I chaired Senate hearings in California which helped establish the National Institute on Aging.

Since then I have become particularly aware of the potential benefits of research in the mechanisms of human aging and in the many scientific specialty areas which may hold part of the answer to the puzzle of the aging process.

Two years ago I began calling together small groups of research scientists to meet after Senate hours and on weekends in my office in the Capitol. There they have an opportunity to discuss their work in an informal, cross-disciplinary forum. And they can share their findings with others working in parallel and complimentary research.

What I have heard at these sessions is astonishing to a layman. I suspect many scientists, too, would be surprised to learn how quickly we are assembling the pieces to a very fundamental puzzle.

For years the field of gerontology, the study of aging, was considered an unglamorous and unpromising field. To a degree that attitude persists. But now we also are seeing a stirring of great interest among scientists in the basic biology of aging.

Researchers across the country are closing in on the disease of aging by pursuing strong leads in immunology, neural and endocrine systems, genetics, protein synthesis, and free radical pathology.

Scientists are probing basic mechanisms at the cellular and molecular level with tools that were unknown and unavailable just a few years ago. They are unraveling the secrets of how and why people age. Already some have successfully delayed and even reversed some aspects of the aging process in laboratory animals.

I'm often astounded by some new insight into the degree of rapid forward movement which is apparent all across the biosciences.

Unfortunately, it is still true that much of the research sponsored by the government and some large private foundations is, to a great extent, overly conventional, conservative, "me too" research. Too often, these institutions do not respond quickly to new ideas which involve coordination of several scientific fields.

Arthur Clark's observation about scientific authorities is still true today. He said: "When a distinguished, but elderly scientist states something is possible, he is almost certainly right. When he states that something is improbable, he is very probably wrong."

Nevertheless, the sheer mass of talented people, new paradigms and sophisticated instrumentation in life sciences, push the frontiers forward.

We find ourselves in the midst of a revolution of knowledge in the life sciences.

Some of our most promising areas of study are just beginning to bloom. In the

1940s we did not even know what the genetic material of life was. In the 1950s we still didn't know how it was translated or turned into proteins. In the 1960s we had no idea that there are mechanisms to repair genetic damage and to maintain the fidelity of genetic messages.

Just within the last decade we have begun to understand how these mechanisms may play a role in various degenerative diseases—including cancer and aging.

Fifteen years ago medical orthodoxy held that senility in older people was: A) inevitable, B) irreversible, and C) due to hardening of the arteries. Today we know that all three assumptions are wrong.

Eighteen months ago, one of the meetings in my office focused on efforts to hasten human testing of host modifier agents in cancer therapy, particularly interferon and thymosin.

The group concurred, because of the great expense of producing these agents in quantity by conventional means, that large-scale testing would have to await a breakthrough in recombinant DNA technology. Moreover, these leaders in the field were unanimous in assessing such a breakthrough to be eight to ten years in the future.

Today—18 months later—both thymosin and several forms of biologically active interferon have been successfully produced by combining genetic material in common E coli bacteria in commercial laboratories.

It now appears that thymosin, a hormone that works on the human immune system, can be produced in even larger and more potent form through chemical synthesis. Thymosin conceivably could play a role in rejuvenating aged immune systems.

This month the National Cancer Institute will begin national trials to determine safety and efficacy of both thymosin and interferon as treatments for cancer.

The interferon now being used in clinical trials is less than 1% pure. Yet, a leading research and development company tells me they have begun to produce interferon with recombinant techniques that is 95% pure. This vastly improved product will be ready for use in human subjects in one year.

Less than one year ago, some of the scientists who had been meeting in my office, joined with several leading citizen activists interested in health care to form a private, non-profit foundation. Together they now seek to act as a catalyst among investigators in aging.

Mr. Harvey Silbert, a prominent attorney, businessman and civic leader in Los Angeles, heads the lay activities of the group. Its scientific functions are carried out under the direction of Dr. William Regelson, a gifted generalist in the life sciences, a medical oncologist and member of the faculty of the Medical College of Virginia.

Their group is called FIBER—the Fund for Integrative Biomedical Research. FIBER operates on a small budget, but strives to make a large impact on the aging field by providing ready funds for travel by scientists, for small group conferences, and for "seed grant" support for promising individuals and joint efforts.

Last May, FIBER organized a major conference at George Washington University Medical School. Forty scientists, representing a dozen or more separate disciplines, met to assess current technology for establishing measurable biomarkers of the aging process. To measure accurately fundamental changes with age is the first step toward intervening in the process.

Several fruitful collaborations have come from that meeting. Perhaps the most exciting result of the May conference is that our government—in conjunction with private industry—now is considering a major program to map and index the thousands of proteins produced and affected by the human gene.

Dr. Norman Anderson, of Argonne National Laboratory, spoke at the FIBER conference. Then, just three weeks ago, he addressed a gathering in my office of government officials, and leaders in science, industry, and private philanthropy. Dr. Anderson and a back-up team of distinguished scientists outlined in precise detail the significance and utility of establishing a human protein index.

Dr. Anderson's point is this: A more complete catalogue of protein gene products—when correlated with peptide maps of various disease states and aging profiles—could become a significant national resource for diagnosing and treating disease and genetic defects. It could be the tool that gives basic scientists a far deeper understanding of evolutionary genetics, cell differentiation, and the aging process.

This audacious proposal could not have been made to government and industry just one year ago. It has only been within a year's time that the mapping techniques have achieved a ten-times greater degree of sensitivity and resolution.

Soon, I predict, molecular biologists and computer scientists will begin to chart the universe of human proteins as astronomers for centuries have explored the heavenly bodies.

It is entirely possible—even likely—that the rapidly advancing development I have described will have a profound effect on the lives of everyone in this room, and on the lives of our children and their children in turn.

I am convinced that we are on the verge of major advances in what we know about the underlying biological mechanisms of human aging. And to understand these mechanisms is to begin to control them. At the very least, age-slowing techniques will give physicians a powerful new strategy for preventing disease. But it is not enough, in my opinion, to lengthen life merely by eliminating one disease after another.

Even total conquest of cancer, heart disease and stroke will add only relatively few years to life expectancy. Old people will continue to die, even if somewhat later, from the cumulative physical and mental collapse we call old age.

As one witness before our Health Subcommittee said a few years ago: "Given the present state of our knowledge, it would be like trying to carry water in a paper bag; we patch it in one place and it breaks somewhere else."

What if killer diseases are eliminated, but no remedy is found for the degenerative processes of old age? The prospect of life prolonged, but no enhanced, is chilling.

A far more satisfying goal of gerontology, I believe, is to learn to keep people fully functional and in possession of all their faculties until the very end. Researchers must strive to learn how we can avoid the prolonged deterioration of mind and body which now devastates so many people far short of their full life span.

If gerontologists can pinpoint whatever it is that triggers aging and regulates its speed, the ability to extend human life and its good years will be within our grasp.

This ability can come none too soon for our society. There are 23 million Americans over the age of 65—11% of our population. Their number grows by a half-million each year. By the year 2025, their number is expected to double.

The 65 to 75-year-olds statistically are a fairly vital, robust and healthy group of people. But as people pass 75, the years increasingly for many become a time of multiple diseases and utter dependency.

In the United States there are about one million older persons in long-term nursing care—more than all the people in all the hospitals in our country. The total bill for nursing home care will be $21.6 billion this year, according to the National Institute on Aging. That figure will double in five years and triple by 1990, the N.I.A. reports.

As a society we have an urgent need to find lifespan technologies which will allow us to free the productive energies and mainfold contribution of a longer-lived, healthier population.

In the course of human history we have seen life expectancy raise from 18 years in the Bronze Age to 49 years at the beginning of this century, to the mid-70s today. Those who expect that we have reached the end of our longevity potential, place themselves with the Commissioner of Patents who declared in 1844: "We see the arrival at that period where human improvement is at an end."

I take note that the Arthur D. Little consulting organization estimates that the most important changes we will see in the 1980s will be produced by major developmental spurts in the technologies of life sciences and information. And I am further encouraged by a Rand Corporation report of a sampling of scientific forecasters which projects a 50% increase over present life expectancy in the first few decades of the coming century.

What will our society be like?

What will the world be like when people live to one hundred or more with the capacity to be vigorous and competitive until the very end?

What will be the burden of future health care capacity and tax supported services?

What about overpopulation? Jobs for everyone? Living space?

Will our culture stagnate if there are more and more old people and fewer younger citizens?

Certainly, improved survival will have a profound effect on our nation's economics, insurance, pensions and social security, health care costs, social change, interest groups and politics, values and ethics.

Our challenge is to master as quickly as possible the mechanisms of aging to help people stay vigorous, productive and mentally alert to cope with these changes and to fend for themselves in a future world. In short, we must set as our goal, the achievement of lifespan technologies which have the effect of extending middle age rather than extending old age.

Our pledge, to overselves, should be that our people and those of the world may look forward to living a full, vital, productive and nonsenescent life.

George Bernard Shaw wrote: "Men do not live long enough. They are, for all purposes of higher civilization, mere children when they die."

I believe an older, wiser population will be an asset, and perhaps an absolute necessity if we are to cope with the future. It will help us grasp solutions that require years of technical training and the kind of learning and wisdom that comes only through long and vast experience.

In a technically complex society, such as ours, talented young people spend an increasing proportion of their lives being trained to produce and contribute. But long before their years of experience have enabled them to realize their very fullest potential, their faculties begin to fail and fall to the processes of age.

We cannot delay our efforts to find lifespan technologies that allow us to lengthen the middle years and to reduce to a minimum the period of eventual decline. The result can be a generation of people with the wisdom, insight and energy to lead us confidently forward to the future.

We will not get to that happy day as quickly as we should unless we marshal our intellectual and financial resources and begin to do it now.

In the present state of our knowledge there are very few facts and observations that are beyond dispute. Differences of opinion are many, even among scientific experts. In the study of aging we are badly handicapped by the fact that the investigators don't live any longer than their subjects, and researchers don't have the advantage of observing even a single generation from beginning to end.

In order to save years and even generations of time, I believe we are justified in applying working hypotheses based on a reasonably high order or probability. This entails the risk that we may sometimes be wrong, but I have no question that it is far more desirable to put to use new knowledge as soon as possible, and run the risk of being wrong occasionally, than to hold off until those distant millennia when everybody agrees.

It was once wisely said that nothing will ever be attempted if all possible objections must first be overcome.

We cannot go backwards, nor can we afford to stand still. We cannot even slow down, really, the onrush of new information in science, even if some would like to.

Instead, we should move ahead to take full advantage of this exciting time.

Of course, no one can say with certainty how soon research breakthroughs will occur. Surely we must be careful that we do not raise, with our optimism false clinical expectations.

Still, our minds must be open and alert to new possibilities of combating age and its disabilities. Otherwise we are in danger of failing to recognize and exploit critical discoveries when they occur.

We ought to accelerate basic science investigations into the aging process. We should encourage immunologists, biochemists, molecular biologists and geneticists to work together to test new theories of aging.

Surely we have the technical and intellectual capacity to overcome senility, arthritis, diabetes, atherosclerosis and cancer. These afflictions are not inevitable. They can be solved.

I welcome you—each and all of you—to the lifespan revolution.

With your help, these will be the best years of our lives.●

AD HOC COMMITTEE FOR IRISH AFFAIRS

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Ms. FERRARO. Mr. Speaker, on September 27, the Ad Hoc Congressional Committee for Irish Affairs will celebrate its third anniversary. I am proud to be a member of this committee and join in recognizing its successes in the past, and hopes for future victories.

One of the major objectives of the 96th Congress and the Carter administration has been a moral commitment to the attainment of human rights. In that light, one of the major objectives of the ad hoc committee is to call on Great Britain to set forth a new peace initiative for all of Ireland that will put an end to the gross violations of human rights occurring in the north of Ireland.

Believing that the solution to the problems in Ireland must come from the Irish people, the committee attempts to obtain its information through an open forum allowing all the Irish people a free an equal voice. This democratic approach is consistent with the essential problem in Northern Ireland: Whether England has the moral or legal right to govern any of the northern Irish counties.

As an attorney I am appalled by the callus deprivation of due process of law so evident in the British judicial system in Northern Ireland. The "Diplock Courts," as they are commonly known, have little if any respect for the individual rights of the the Irish citizens. Since the Congress and the ad hoc committee are striving for justice and peace in Ireland, I believe it is our responsibility to pursue the reinstatement of due process principles in the north of Ireland.

The time has come for the British occupation of Irish soil to end. The time has come for an Ireland to be one, undivided. Therefore, I ask all my colleague to pledge, themselves toward the attainment of peace and justice in Ireland, and to join me in applauding the efforts and successes of the Ad Hoc Committee on Irish Affairs.●

SUPERFUND LEGISLATION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. SYNAR. Mr. Speaker, this week and last the House of Representatives considered legislation to deal with the issues of existing hazardous waste disposal sites and future oil and chemical spills into navigable waters.

Very rarely does the Congress deal with an issue which affects so many of our citizens in such a direct way. It is unfortunate that only recently have we come to grips with the fact that the problem is more serious, and more widespread, than ever suspected. Almost every week we learn of another dump site explosion, another case of groundwater contamination, another river polluted by toxic chemicals, or another Love Canal. Estimates of the extent of the problem, the severity of the hazard, and the costs of cleanup vary widely. But one fact is crystal clear: the problem exists, and poses an extremely serious threat to the public health and to our precious natural resources.

No congressional district, no State and no region is immune from the problems posed by improper disposal of hazardous wastes. The citizens of Love Canal focused the Nation's attention on the grave threat posed by improper toxic chemical disposal. It is unfortunate that we must witness this kind of tragedy before real and effective action is taken at the national level. It is just as unfortunate that in our ignorance of the hazards, we allowed so many years to pass before the threat was brought to the forefront of national public debate.

The mandate the people have given us is one of responsible legislation action, not simply a mandate for expeditious action. Problems as serious and complex as toxic waste disposal and oil and chemical spills in our waters, whether past or future, deserves no less than determined and rationed consideration by Congress, health and environmental experts, industry and the legal community. I wish I could say that I believe we have carried out that mandate. In my view, we have not gathered all the evidence, realistically assessed the legal dilemmas, or enacted sensible or responsible legislation to deal with the problem. Both bills seem to me deficient in many areas, and I want to address the specific concerns that I have over H.R. 85 and H.R. 7020.

The Oil and Chemical Pollution Liability and Compensation Act (H.R. 85) passed by a wide margin on September 19, 1980, after only a few hours of debate. To some extent, I wish I could have supported it, because we must have the authority in place for emergency responses to spills in our navigable waters. This Nation's coastal waters and our rivers and streams are an irreplaceable natural resource, and we must continue to do everything we can to protect them. Oil and chemical spills in these waters are all-too-common occurrences, and each of us is familiar with the economic damage, and the devastation to wildlife and water quality caused by such mishaps. The question in my mind is not whether we need such legislation, but whether oil and chemical spills can realistically be treated in the same way. In my view, they cannot and should not be included in the same bill. As I read the committee report on H.R. 85, issued by the House Merchant Marine and Fisheries Committee, it was clear that others agreed. To quote from the report:

> Hazardous substances is not only a subject unto itself, separate and apart from oil pollution, but is also full of complex subdivisions and degrees of hazards. * * *
>
> In contrast to the issues involved in oil pollution liability and compensation, these issues connected with hazardous substances have not been studied in depth, have not been the subject of detailed Congressional hearings, and have not been sufficiently considered by the various interested parties at conferences and symposia over a period of several years. It is the belief of the Committee that the subject of hazardous substances liability and compensation deserves the same thorough study and extensive input from concerned interests as has been the case with oil. * * *

> The Committee notes that the Administration has established a task force to study the numerous issues related to hazardous substances liability and compensation, and that the same issues are also the subject of extensive consideration within the international maritime community through the Inter-Governmental Maritime Consultative Organization. The Committee agrees that, had such studies been conducted earlier, the Administration would now be in a better position to recommend a means for inclusion of hazardous substances within H.R. 85 or within similar proposals. The Committee disagrees with those who believe that the term "study", in the eyes of Congress and the public, has become a euphemism for delay. A subject of this importance and complexity deserves extensive study.
>
> In conclusion, the Committee agreed that the hazardous substances problem is a separate and highly complex one that should be handled by separate legislation after everyone has been given an opportunity to be heard. The Committee also agreed that it would consider and review the issues of hazardous substances liability and compensation as soon as the work on this bill, H.R. 85, is completed. This would permit the development of a fair and equitable hazardous substances liability and compensation scheme, coupled with an agressive and effective enforcement program. * * *

Mr. Speaker, I could not agree more that the issues of oil and chemical spills are distinctly different problems that should be dealt with separately. To quote the committee's report further, "The issues of oil pollution liability and compensation have had extensive review and have essentially been resolved, while the issues of hazardous substances liability and compensation have only recently been opened to public discussion and Congressional review." That statement was made in the May 15, 1979 report of the Merchant Marine Committee. It seems to me that the subject still has not been opened to full public or congressional scrutiny, since the House Public Works Committee held only 3 days of hearings on all of H.R. 85. There is no doubt that chemical spills in any waterway are hazardous—some more so than others. Yet, what we are trying to do is enact a new Federal law which treats chemical spills in exactly the same manner as oil spills, with little evidence to suggest that this approach is appropriate or even desirable. In my view, this is not the way the Congress should deal with an issue of such importance.

I believe it would have been more advisable to enact legislation limited initially to oil spill liability and compensation. We know a great deal about the subject matter and can react responsibly with legislation carefully developed to provide strong enforcement abilities, yet which is equitable for the industry as well. Unfortunately, we can not say the same about chemical spill liability and compensation, and I believe enactment of title III should have been delayed until the issues related to chemical spills are more thoroughly understood. This is not to say that the problem should be studied to death, and I do not suggest delay for its own sake. Rather, we should act from the conviction that comes with knowledge, as opposed to acting for the sake of action.

With respect to H.R. 7020, the Hazardous Waste Containment Act of 1980, many of my concerns parallel those I expressed over H.R. 85.

There is absolutely no doubt in my mind that legislation to provide emergency cleanup authority is necessary. I have followed with great concern the frequent news reports of hazardous waste disposal problems across our Nation. A local court in my own district of Oklahoma recently ordered the owner of a waste disposal operation to clean up the site within the next few months, or face serious legal sanctions. I became involved in this matter when local residents contacted me about their concerns over possible contamination of their only source of drinking water. I am currently in contact with both the Environmental Protection Agency and the Oklahoma State Health Department to make sure that the site is cleaned up in an appropriate manner as ordered by the court, and to insure that any possible risk to the residents in the area is detected immediately. To date, I am unaware of any problem which either EPA or the State have had in getting this site cleaned up. I note this in the context of my concern over how far this new Federal law should go with so little evidence to suggest that drastic changes are needed in our basic legal system.

As an attorney and a member of the House Judiciary Committee, I have some serious reservations over the scope of the liability provisions of the bill which passed the House. For a bill which addresses so complex a subject matter, both in legality and equity, I am distressed that so little substantive debate seems to have occurred on this issue. To my knowledge, not a single noted legal scholar was asked to present detailed testimony on the ramifications of the strict, joint and several liability provisions of this bill. Those concerned over the liability aspects of the bill have made several claims: that the strict, joint and several liability clauses preempt State tort and precedents; that current Federal and State laws are sufficient to deal with liability problems; that Federal courts will have imposed upon them an onerous—and perhaps unnecessary—additional burden; and that the provisions are not based on sound causation principles.

My concern over these claims led me, prior to consideration of the bill, to have several discussions on the liability provisions with a respected legal expert in this area of the law. Those discussions simply underscored my initial concerns over the consequences of our action under this new law.

But the liability provisions are by no means my only concern. There is no doubt in my mind that those clearly proven responsible for damages from hazardous waste sites should be held liable. But what this bill does is, to a great extent, make all companies liable for the illegalities of a few, no matter that their own record might be one of careful disposal of hazardous wastes. An editorial which recently appeared in the Washington Post took issue with the concept of a fee imposed upon the entire industry, by stating:

> The trouble is that this approach makes no distinction between companies that are careful with their waste and those that are careless or even grossly negligent. Consequently, it removes most of the incentive to improve. If you have already paid once it is hardly good business to pay twice by, for example, redesigning your process so it generates less waste. Thus, superfund violates the tenet that regulation should be designed to encourage a higher standard of care: to prevent damage, not punish.

While the fee on industry was changed by the Ways and Means Committee to an excise tax, the argument is still valid, and to a great extent goes to the heart of my concern over the apparent lack of thought given to the equity of this legislation toward those companies who have shown a high degree of care in hazardous waste disposal.

I also have serious concerns over the discretionary powers granted the Environmental Protection Agency under this measure. I have never doubted that the Agency's intentions are good, and that its primary role has been the protection of the public health and welfare. So, my concern is not so much that we grant this enormous amount of power to EPA; rather, it is that we grant this degree of discretionary power to any Federal agency with so little thought before we do so. During consideration, the House rejected by voice vote an amendment that would have imposed a legislative veto on the Agency's regulations under this measure. While legislation veto might not be appropriate in all instances, it is hard for me to believe that the House would delegate such a great amount of discretionary powers to EPA and then reject a legislative veto provision which could have retained for the Congress some degree of influence over EPA's use of that power.

Mr. Speaker, my final and perhaps greatest concern is the seemingly arbitrary way in which the amount of funds for the trust was established, and the industry-Government shares of financing.

EPA and other groups have estimated the number of potentially troublesome sites in the country, but these estimates vary widely from all reports I have seen, as do the estimates of the cleanup costs. But we are relatively certain that there are several hundred which pose serious threats to health and the environment, and there can be no doubt that cleaning just the most serious sites will be expensive for industry and the taxpayers, and no doubt that it must be done. Somehow, with all these estimates in mind, the Commerce Committee determined that a nice, round figure of $600 million was enough to clean up sites and get superfund moving. Exactly what evidence was the basis for this figure, I do not know, because it is not spelled out in the committee's report. But let us assume that after hearing testimony and studying the facts, the committee's determination as to the amount necessary to carry out the task was reliable. The bill then goes to the House Ways and Means Committee and suddenly the minimum amount necessary increases to $1.2 billion, coincidentally exactly double the Commerce Committee amount. Ways and Means also determined that the industry share of the superfund should be 75 percent of $1.2 billion, instead of 50 percent of $600 million. As if that alone is not sufficiently bewildering, the House on September 23, by voice vote with no debate accepts this amendment.

I would be hard pressed to recall another piece of legislation in recent memory for which the funding level was established so arbitrarily by this body.

The claim was made during the relatively short debate on this bill that the superfund proposal has been extensively debated by the Congress over many months. I am aware of frequent hearings in the House and Senate on the issue of threats to health and environment from improper hazardous waste disposal. The Environment, Energy and Natural Resources Subcommittee, of which I am a member, has held hearings on groundwater contamination from these practices. Our knowledge of the problems associated with waste disposal has grown tremendously just since I have come to the Congress. But extensive hearings on the dangers of improper disposal practices is not the same as extensive hearings on the most reasoned and responsible solution to the problem.

Mr. Speaker, we have learned much about the threat of existing and oftentimes abandoned dump sites. We know it is a critical issue facing our Nation. The American people are justified in demanding of the Congress that action be taken to protect them from these hazards. In an area so new and complex, and so emotionally heated, the burden on us to act is a heavy one. But in our haste to take some action, we must remember that this mandate requires deliberate and reasoned action. The problem is of great magnitude, and the solution is necessarily of equal magnitude. Unfortunately, in this bill we have substituted big for better and in the process have neglected the mandate of the people that the actions we take be the right actions for the right reasons.

My concern over the threats from these sites is great; and the need for an expeditious solution is great. Were this not the case, my disappointment in the final bill would not be so great.

I remain hopeful that my worst fears over this legislation are not realized. But given all the concerns which I have over the possible consequences of our action, I was compelled to oppose the bill on final passage.●

PHIL COHEN NAMED PROTOCOL CHIEF FOR 1981 MACCABIAH GAMES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. LEHMAN. Mr. Speaker, my constituent and friend, Col. Philip Cohen, a U.S. Marine Corps retiree and the southern regional director of B'nai B'rith, has been appointed by the United States and Israel to serve as chief of protocol for the 1981 Maccabiah games to be held in Israel next July. Colonel Cohen's responsibility will be to see that all competing nations adhere to the Olympic rules and policies.

Phil's background in sports, as an athlete, teacher, and coach on the college and professional circuit, and as past athletic director of the St. Joseph's Industrial School and the Broadwood Athletic Club in Philadelphia, testifies to his longstanding dedication to excellence in sports.

Since 1940, when Phil was appointed to the Pennsylvania State Athletic Commission, he has been active in the world of sports. In 1965, Phil organized the famous B'nai B'rith Sports Lodge in Philadelphia and is currently honorary president of the Miami Sports Lodge of B'nai B'rith. He served as coordinator and director of the Maccabiah games in 1961, 1965, 1969, and 1973. In 1977, he was captain of the U.S. team which won the world championship.

Phil Cohen has also been honored as a life member of the Wingate Institute in Natanya, Israel, an institution which trains physical education teachers and serves as a rehabilitation center for the handicapped and disabled veterans of all Israel wartime conflicts.

Of the many major awards Phil Cohen has received, of note are his commendations in 1954 for extraordinary service from the Secretary of Defense, and five awards from the State of Israel, for leadership for youth throughout the world.

Since the first Maccabiah games in 1932, thousands of Jewish athletes from around the world have taken part in the games, which are recognized by the International Olympic Committee and the International Sports Federation; 3,000 contestants from 30 countries will take part in the 10-day games, participating in more than 30 different sporting events.

The Maccabiah games are named and dedicated to the memory of Maccabees, who led the Chanukah rebellion against the Greeks more than 2,000 years ago.

Phil entered the Navy in 1941 and was selected to attend officers training in the U.S. Marine Corps. He subsequently won the Marine Corps heavyweight boxing championship in 1942. After serving as a commissioned officer from 1943 to 1946 in reconnaissance and operations attached to the Pacific Fleet, Phil joined the 6th Infantry Battalion, serving as company commander and operations officer. In 1950 he was recalled to active duty to serve in the Korean conflict. Phil is past commander of the Jewish War Veterans and Disabled War Vet.●

THE NUCLEAR HAVES AND HAVE NOTS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. WYDLER. Mr. Speaker, this April in Stockholm, I made a speech to an international symposium on the future of nuclear power and discussed U.S. nonproliferation policy and its severe limitations. In that speech, I discussed at some length the possibility of amending the Nonproliferation Treaty (NPT) to assure reliable supply of nuclear materials and technology, particularly to the lesser developed countries among the nonsupplier nations.

The appropriate excerpts of that speech follow:

> While everyone pays lip service to the problem as being one of nuclear proliferation, when discussed it becomes clear the problem is really one of American policy. I believe that the most serious difficulty with non-proliferation is that the U.S. has been simply trying to have everyone play by our set of rules, but as INFCE indicates, we are a majority of one. There are claims that INFCE was simply a technical exercise but I believe that it had major political impact since it didn't turn out the way the Administration had hoped and planned. President Carter called for INFCE to obtain international agreement to his non-proliferation approach. Clearly the results are negative in that its general conclusions are: multilateral controls are much more important than technical fixes and there is no proliferation-proof fuel cycle.
>
> My own interest in non-proliferation matters began with the breeder reactor issue in the spring of 1977 when our Science and Technology Committee became involved in that matter with the President. Since then I have visited nearly 20 countries and come away with one overwhelming conclusion: we could not have gone about non-proliferation in a more counterproductive manner. No one can deny that non-proliferation is a desirable goal but we have approached the issue based on the premise that "a policy of denial" will work. Unlike the situation during the fifties, the U.S. does not monopolize the nuclear technology or material. Nevertheless, based on the misguided policy

we have lost billions of dollars in nuclear business and related policy influence on other nations. The INFCE exercise, while buying time for President Carter, cannot be considered in a vacuum. While the Administration was asking everyone to await INFCE results for new policy directives, the U.S. nuclear industry was being subjugated to second place in the nuclear league. We have lost irretrievable ground in nuclear capability and that has been aggravated by our growing reputation as an unreliable supplier and the reaction to our policy of insisting that other nations renegotiate contracts.

I also recognize that the Nuclear Non-proliferation Act had no small part to play in making this unfortunate reputation for the U.S. It is now clear that the Act must be amended and a new set of guidelines established which will be acceptable to all nations of the world.

It is obvious that developed and developing nations must arrive at a modern set of rules for sharing nuclear technology, that is, an international standard covered by all-inclusive language. There must be a general set of rules which recognizes the need for reliability of supply and the fact we can no longer simply separate nations into "have" and "have not" camps. The U.S. must agree to be bound by these new guidelines. It can no longer be "the U.S. versus the world" as INFCE so clearly confirmed. Thus these new guidelines should allow governments to minimize the impact of non-proliferation policy changes on supply while reducing the real risks.

So the question is: where do we go from here with the INFCE results? I believe that the upcoming NPT Review Conference should consider a resolution on the question of assured supply. President Carter should take the leadership role on the issue and suggest that supplier and consumer nations meet on this matter next year. That meeting should be the vehicle for arriving at new general guidelines. The United States must agree to be bound by these rules because it has been clearly the heart of the supply problem.

Secretary Pickering has indicated that the Administration is willing to seek a "new normalcy" and I consider that movement a hopeful sign. However, I am not satisfied with the Administration timetable for resolution which is open-ended. Mr. Reagan, as I mentioned, has indicated he favors a shift from a negative policy of denial to a positive supplier's position. In any event, by early next year we will know who is formulating the U.S. position, hopefully on the basis that a "generic and predictable" approach is preferable to the present unstable situation.

Just last month, Nucleonics Week published an article on the NPT review conference in Geneva which is particularly pertinent to this question of reliable nuclear supply. This article points out the lack of incentive for nonsupplier nations to sign the NPT, as particularly evidenced in the statement of the Yugoslavian representatives, a leading spokesman group for the nonsupplying nations:

NPT REVIEW THUS FAR TURNS UP LITTLE SUBSTANTIVE CHANGE

In the five years since the first Nonproliferation Treaty review conference to the one concluding in Geneva next week, little apparently has occurred to close the gap between the expectations of nonweapon customer states to the treaty, on the one hand, and the positions of weapons and nonweapons supplier states on the other. This view is evident not only from the published proceedings of both conferences but is put forth by a variety of participants in the current meeting. Few denigrate entirely the potential of the NPT for fostering nonproliferation and cooperation between the developed and developing world in peaceful nuclear development, but few persons in private conversation call the NPT a success in its two major aims.

"There is no unity of purpose at this conference," said one source with an especially good vantage point on the international nuclear scene. "The superpowers do not want anything to happen. The less that happens, the stronger the implication that the treaty works. For the superpowers, whatever can happen in the framework of the treaty has happened. All the benefits are there." However, this source added, "This may portend an erosion from within. It's too early to happen here. Erosion is a gradual process."

Indeed, there has been virtually no talk from the nonweapons/nonsupplier nations of renouncing the treaty, with perhaps the lone exception of Peru. There has been a great deal of talk, however, to the effect that nonsupplier signatories receive no benefit over nontreaty states in nuclear development. While supplier nations such as Australia and the U.S. call for discrimination in favor of treaty members, there has been no proposal, according to a number of sources, which would actually accomplish such an effect. And as if to dramatize the frustration of member states, there sit in a single row in the conference representatives of nontreaty states which, in the case of Brazil and Argentina, have had adequate access to a significant portion of fuel cycle technology, or, in the case of Israel, can have such access by adhering to measures other than the NPT.

"There is no incentive at all to join the treaty," said a source in the delegation of one of the nonparty observer states, who said he can speak for all of them. "After 10 years our opinion is that staying outside could be a pressure for countries inside to attract us. What's the use of agreeing to something when the internal legislatures of various countries can change everything," said another nontreaty delegate, "The NPT is essentially meaningless to nuclear development."

While many of those in the nonsupplier delegations deny it publicly and privately, sources in supplier nations claim that much of the nonsupply nation's discontent is a matter of national pride rather than of practical considerations. This is particularly true, they say, in regard to the frequent criticism aimed at the guidelines laid out by the London Suppliers Group which, the nonsupplier nations frequently note, came about since the last review conference.

Yugoslavia, a leader among the nonsupplier nations, offered early this week the following proposed statement to be included in any final communique: "The conference noted with concern that immediately after the (first) NPT review conference a group of exporting countries have unilaterally imposed additional proliferation conditions which were far beyond the safeguards requirements deriving from . . . the NPT and IAEA's safeguards activities. . . . Exporting countries made these requirements without consulting and informing other countries party to the treaty. . . . In closed meetings, exporting countries party to the treaty prepared and agreed upon the list of so-called sensitive materials and technologies on which they decided to apply special additional measures of control. . . . In addition to this . . . they hamper economic and technological development. . . . These actions demonstrated doubts of exporting countries on the IAEA safeguards system and thereby caused serious damage to the reputation of the IAEA safeguards system."

Inclusion of such a statement in a final communique, if there is to be one, is unlikely, some sources predict, because of strong opposition from the suppliers group. As for any similar emanation from the "group of 77," comprised of nonaligned developing nations and in which Yugoslavia plays a major role, no one could say this week. The "group of 77," which meets in private, is said by some sources to be consumed with reproaches of Israel and South Africa and has agreed on little else.

While the NPT may not be the forum for resolution of nuclear development issues, numerous individuals indicate that the new IAEA committee on assurances of supply has that potential. It is there, if anywhere, that the tradeoffs between safeguards and assurances may be established, said a number of sources, and the fledgling panel has been cited frequently in public. "If they can concentrate on the front end and leave the back end alone, then they can accomplish something," said one source. The committee has its initial meeting in Vienna from Sept. 30 to Oct. 4.●

ED SANDERS, OUTSTANDING HANDICAPPED FEDERAL EMPLOYEE

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. DOUGHERTY. Mr. Speaker, Ed Sanders of my district, a laborer in the Material Department at the Naval Publications and Forms Center (NPFC) in Philadelphia, has been selected as the Navy's worldwide choice and 1 of the 10 1980 outstanding handicapped Federal employees of the year. The final selection was made by a special blue-ribbon committee appointed by the President. Sanders had previously been selected as the NPFC's and then the Naval Supply Systems Command's nominee.

Sanders is blind, deaf, and unable to speak. Yet, because of his extremely high productivity, his desire to achieve, and his eager acceptance of challenges, he was previously honored for his sustained superior performance in 1970. He sets an example of courage and dedication that surmounts his physical handicaps.

At the Naval Publications and Forms Center, Sanders' duties include collating and packing materials into envelopes of cardboard containers and placing the finished products on a conveyor belt or stacking them on skids. The daily workload is heavy, but Sanders has no trouble keeping up with the tasks. He is a fast learner and strives to better his already high production rate. He accepts difficult assignments, completing them with little supervision. Many times, he must meet deadlines on priority distributions and he can always be relied on to meet the deadlines.

Last year Sanders was selected as "Very Important Person" of his department by an overwhelming majority of his coworkers. For the past 4 years, he has traveled to NPFC alone every day, using public transportation. His attendance and punctuality records are exceptional, demonstrating his loyalty to his job.

Deaf since childhood, Ed Sanders worked for 10 years as a clothes presser in an agency for the handicapped. When his vision decreased, he lost that job. At the age of 44, his sight impaired, unable to hear or talk, he entered the Helen Keller National Center for the Deaf-Blind in Sands Point, N.Y., for job-skill training. After only 17 months, he entered the job market, feeling confident that he was ready for the competition.

The Helen Keller rehabilitation and placement staff met with NPFC personnel to discuss employment opportunities for Sanders. Both the Keller staff and the NPFC believed that he could perform well in the material department. Before his job at NPFC began, Sanders developed a medical problem unrelated to his disabilities, making it impossible for him to comply with the job requirements. When NPFC was notified of the delay, the Center remained totally committed to hiring him when his health permitted.

After Sanders' doctor cleared him for employment, a mobility instructor from the Keller Center worked with NPFC personnel to orient Sanders with his work area and with his bus route from home to the job. A Keller placement specialist trained Sanders to do his job, while instructing his supervisor in basic sign/manual finger spelling.

With this assistance and outstanding support from both the Naval Publications and Forms Center and the Helen Keller Center for the Deaf/Blind in Philadelphia and New York, Sanders now displays the self-confidence to complete a full day's work and he commands the respect and admiration of his supervisor and coworkers for his commendable achievements.

During National Handicapped Week in October, Ed Sanders will be in the Nation's capital to receive the recognition he so richly deserves. He will be honored by the Navy at the Naval Supply Systems Command on October 8, and on October 9 he will receive the Outstanding Handicapped Federal Employee of the Year Award along with nine other handicapped Federal employees at the Commerce Building.

Mr. Speaker, to Ed Sanders we extend our congratulations for the awards he has received and our gratitude for the inspiration he has provided us with his example of courage and determination to overcome his handicaps. He has shown us that a person's ability to perform is not determined by his problems, but by the ways in which he overcomes them.●

JOHN BUCHANAN: D.C.'S VALUABLE ASSET

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. McKINNEY. Mr. Speaker, last week, I had the opportunity to attend an event which unfortunately went unnoticed by many Members of Congress. I think that this event deserves special mention here today not only because I am a strong supporter of the cause which was promoted, but because I am an ardent fan of the man who was honored. I speak specifically of the fund raiser for Self-Determination for D.C.

Self-Determination for D.C. is a group with which we have all become familiar within the past decade. This group has been the guiding force behind both congressional passage of the Home Rule Act in 1973 and the D.C. voting rights amendment in 1978. Their congressional victories are now behind them, but they are still very much alive.

Having met and conquered the challenges of the past, Self-Determination for D.C. is now actively engaged in trying to convince the individual State legislatures of the need for the D.C. voting rights amendment. I am sure we all realize that this endeavor is Self-Determination's great challenge. So far in the 2 years since the D.C. voting rights amendment passed the Congress, nine States have given their endorsement to adding this important amendment to the Constitution. However, along with these victories have come some disappointing setbacks but the fight for the additional 29 States continues unabated.

If I have learned anything from my association with this group it is the fact that there are some very hard working dedicated people in Self-Determination's ranks. Included in this list are elected officials, labor leaders, civic activists, and most importantly, thousands of D.C. citizens who are simply seeking the rights that have been denied them for far too long.

Of all those involved with Self-Determination for D.C. I could single out quite a few individuals who have made lasting and valuable contributions over the years. However, at last week's gathering, Self-Determination quite properly focused on their most valuable supporter when they honored our colleague, John Buchanan.

John Buchanan has been at the forefront of the fight for the District of Columbia ever since he arrived in Washington in 1965. From the very start, his community involvement in his neighborhood and in his church led to a commitment to assist in the legislative battles the District had to fight on the floor of the House. I can personally attest to the fact that John Buchanan's alliance with those of us pushing the home rule bill and the voting rights amendment made the going much easier. When John Buchanan stood up to speak for D.C. we all listened. We listened because we knew that this man spoke from his heart. He spoke out of conviction and concern. Though a preacher by trade, John did not preach, yet his words were very convincing. Those of us in the forefront of this movement like to believe that those words helped to carry the day.

Mr. Speaker, as I mentioned before, the fight for the D.C. voting rights amendment is not over. There are many more battles to be won. I have asked John privately and I now ask him publically to stay involved in this battle. All of us in Self-Determination for D.C. realize that John Buchanan has been a great asset in the past and, if he is willing, perhaps he can continue to serve our cause in the State capitals across this land. This is one soldier I would not like to see fade away.●

THE CONTINUING PLIGHT OF THE YAKIR FAMILY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. GRADISON. Mr. Speaker, I am pleased to join my colleagues today in the Spirit of Helsinki Vigil 1980, a concerted effort by the Congress to draw attention to the plight of individuals trapped under the arbitrary and inequitable Soviet system. Hopefully, our actions will both strengthen these individuals in their resolve to pursue their freedom and remind the Soviet authorities that we will never forget their continuing violations of human rights.

For several years, a number of my constituents and I have been in contact with the Yakir family of Moscow—Yevgeny and Reema and their son, Alexander. While in the Soviet Union for discussions with Soviet officials in 1979, I met with the Yakirs and other prominent dissidents to discuss their plight. I left these encounters more convinced than ever of the value of actions such as those we take today.

For over 40 years, the Yakir family has suffered at the hands of repressive Soviet regimes. In 1938, Alexander's grandfather was executed during the Stalin purges; his grandmother was exiled to Siberia. In 1973, the family applied for exit visas and were refused, supposedly because of Yevgeny's secret classification as a mechanical engineer, although his job was entirely routine. In 1976, Alexander reluctantly applied for a visa alone; he wished to join his fiance in Israel. However, Soviet officials denied him a visa at that time on the ridiculous grounds that "The USSR does not split families".

To complicate matters further, Alexander is subject to the draft for the Soviet military. Should he be inducted, he would probably have to wait at least 5 years after his 2 years of active service until his visa application would even be considered again.

In 1978, I expressed my fervent hope that another vigil would not go by with the Yakirs still in the Soviet Union. For three generations this family has been victimized by the Soviets. It is time for their ordeal to end.●

THE FOREIGN TRAVELER—AN UNTAPPED VEIN OF TOURISM GOLD

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. SANTINI. Mr. Speaker, is the United States sitting on a gold mine and doing nothing about it? Given the potential for economic benefit to this country, I believe the answer is "yes."

International travel services rank as the United States third largest export industry, and in the National Tourism Policy Act, passed by this House, we recognized that gold mine for what it is and called for an improved, structured, and organized effort to tap that mine for all its potential value. The House also formed, in the first session of this Congress, the Congressional Travel and Tourism Caucus, which now claims 250 members and of which I am proud to serve as chairman.

There has been, and probably will continue to be, much discussion of the appropriate role for the Federal Government in fostering U.S. travel exports. And "exports" is the operative word. Our debates on this issue will have a new focus and take a new direction if we can keep in mind that international travel to the United States is an export industry. It brings foreign dollars to our economy and contributes in a positive way to the U.S. balance of payments. It is imperative that travel and tourism receive proper recognition and priority in all discussions of U.S. exports. We have no aversion to a Federal role in the promotion of many export commodities and services and, similarly, we should have no aversion to promoting the United States as a destination for foreign travelers.

In a speech before the Democratic House-Senate Council, Bob Strauss, while serving as Special Trade Representative, responded to a question about the tourist industry and the efforts of this country to attract international tourists by saying, we are doing a lousy job. It is a big business and with the dollar like it is now it is an outrage that we are not doing a better job of attracting people here. There is not a soul in this room that would not be in favor of appropriating some money for tourism because it would be a good investment. It is a question of understanding.

An article appears in the May-June 1980 New England Economic Review entitled "International Travel in the U.S. Balance of Payments." The author, Jane Sneddon Little, an economist with the Federal Reserve Bank of Boston, presents a great deal of information which can go a long way toward improving our understanding of the situation.

Ms. Sneddon points out that for many reasons the international travel industry deserves more attention than has previously been accorded it. One outgrowth of the relatively new focus on travel has been a debate about the appropriate role of the Federal Government in fostering U.S. travel exports. As proponents of an expanded Federal commitment point out, most foreign governments attach considerably more importance and assign more resources to international travel than does the U.S. Government. She emphasizes that the U.S. Government's efforts in promoting U.S. travel exports have been minimal.

The article concludes by saying, international travel is one of the largest U.S. export industries. Yet it has the potential for contributing even more to the domestic economy and the balance of payments. The U.S. travel deficit has narrowed primarily because travelers have responded to our relatively good price performance which was only partly offset by the travel-trade-weighted average appreciation of the dollar. In the future, despite popular assumptions, the United States cannot rely on growing world income and currency depreciation to maintain a healthy international tourism industry. Analysis of travel trade between individual countries suggests that income growth is not always associated with strong increases in real travel imports. Moreover, since a cyclical downturn in this country combined with rising gasoline prices will undoubtedly have a depressing effect on the domestic segment of the industry, the time is particularly ripe for attention to be focused on promoting travel exports.

All in all, the article paints a very vivid picture of the true potential of travel and tourism exports, its importance to our economy, and why we must agressively and effectively promote the United States as a travel destination if we wish to improve and hold on to our fair share of the foreign market. The international travel marketplace is truly a gold mine waiting to be discovered by the United States. The national tourism policy legislation, now in conference, will provide the tools to allow us to begin tapping this heretofore ignored resource.

For those of my colleagues that would be interested in reviewing the full text of "International Travel in the U.S. Balance of Payments," please contact the U.S. Congressional Travel and Tourism Caucus' staff located in room 3272, House Office Building Annex No. 2.●

SENATE—*Friday, September 26, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:20 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

God of grace and God of glory, in the days that test men's souls, we long for the mind of the Master that we may be wiser and better than we are. May our hours together, in this room, become more sacred, the toil more sacramental, the vision more divine. Work Thy will in and through us that Thy promised kingdom may soon come on Earth as it is in heaven. Consecrate us to the work of this place that we may give the best that is in us to the right that needs assistance and against the wrong that needs resistance. At the end grant us the peace which the world can never give nor take away.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., September 26, 1980.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized for not to exceed 5 minutes.

Mr. BAKER. Mr. President, I am absolutely overwhelmed at the deviation from the norm.

The ACTING PRESIDENT pro tempore. So is the Chair.

Mr. BAKER. So is the Chair, I could observe from the expression of the Chair's face, if I may indulge in a personal reference.

Mr. President, I state first that I believe there is a special order for the Senator from Rhode Island (Mr. CHAFEE) this morning, is there not?

The ACTING PRESIDENT pro tempore. Yes.

Mr. BAKER. He will not be here to use that special order.

I ask unanimous consent that the time heretofore allocated to the Senator from Rhode Island be divided equally between the majority and minority leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that is now under the control of the two leaders be allocated to routine morning business and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SALT COMPLIANCE

Mr. BAKER. Mr. President, President Carter in his state of the Union address of January of this year stated that the mutual observance of SALT II "will be in the best interests of both countries, and will help preserve world peace." He pledged to "consult very closely with the Congress in this matter, as we strive to control nuclear weapons."

Six months earlier before a joint session of Congress President Carter ridiculed the idea that the Soviet Union would violate the terms of SALT II. He declared that:

> Were the Soviet Union to take the enormous risk of trying to violate this treaty in any way that might affect the strategic balance, there is no doubt that we would discover it in time to respond fully and effectively.

Recent press accounts, however, strongly suggest that this administration, while attempting to make SALT II an election issue, is attempting also to hide behind official secrecy in withholding vital information from the American people.

Last week Congressman ROBIN BEARD, a distinguished member of the House Armed Services Committee, expressed his concern that the Soviet Union had recently violated the terms of SALT I, SALT II, and the Threshold Test Ban Treaty of 1974. Rather than seriously addressing the issues raised by Congressman BEARD, the Carter administration has attempted to shift the frame of reference from alleged Soviet violations to the fact that the Congressman voiced his concern.

This issue is, and always has been, Soviet compliance with arms control treaties. We must do more, however, than merely monitor Soviet compliance—we must hold the Soviets accountable should there be violations. This administration has attempted to stifle informed debate on this vital issue. As the Senate Intelligence Committee observed in its report on SALT II verification, "the capability to determine whether the Soviets had violated the SALT II agreement would be of little consequence if at the same time the United States did not have the will and determination to pursue an aggressive verification policy."

I seriously question whether the Carter administration has demonstrated the "will and determination" to insure compliance with SALT II or any other arms control treaty. And it would indeed be regrettable were this administration to hide behind the cloak of official secrecy to obscure this lack of demonstrable will.

This past week we have read articles in Aviation Week and the Washington Post that suggest the possibility of numerous Soviet violations of existing arms control treaties. In the wake of these accounts, and as the Carter administration chooses to campaign for re-election on the basis of SALT without demonstrating its ability and determination to insure compliance, I must wonder what this administration is in fact withholding.

Therefore, I support Congressman ROBIN BEARD's call for full and open hearings on this issue. It is a critical issue that in no uncertain terms affects the adequacy of our deterrent to nuclear warfare.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

GUARDIANS OF THE CHILDREN

Mr. PROXMIRE. Mr. President, 75 percent of the Jewish population in France during World War II escaped the final solution. The Nazis were distressed by failures of the French anti-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Semites and collaborationists. In July of 1942 they conducted an extensive raid in Paris intended to capture 22,000 Jews. But the warnings and assistance offered to the Jews by the French people at least partially thwarted the Nazi plan, which accomplished the arrest of only half of the targeted number. Of the 11,000 arrested, 4,000 were children. French indignation was widely broadcast, and efforts escalated to save the Jewish children.

The French clergy excelled in such rescue tactics. One man in particular, Jesuit Father Pierre Chaillet, became the hero of the French Resistance. Hundreds of Jewish children owe their lives to this man, who sheltered many children in his monastery. He hid four children found shivering and starving in a cave. He saved 30 others by providing them with forged Aryan papers and homes among the French peasants. He rescued 12 more whose parents had been deported. Father Chaillet did not wait for the desperate children to come to him. He combed the streets of Lyons to find even more in need of protection. In 1942 the Prefect of Police ordered Father Chaillet to surrender the 120 Jewish children then under his care. Upon his refusal, Father Chaillet was arrested and imprisoned. Father Chaillet's colleagues smuggled the endangered children into safe, surrounding villages.

Father Charles Devaux, the head of a Catholic missionary organization, also risked his life to support the condemned Jews. By the end of 1942, Father Devaux had established a temporary shelter for his wards, who eventually were hidden in the homes of peasants, in convents and monasteries. Expenses for the care of these relocated children were met by contributions from the many who admired the work of Father Devaux. In the face of official Nazi reprimands and threats, Father Devaux continued to perform what he later would call his duty as a human being. Father Devaux and his missionary group saved over 900 Jews, 443 of whom were children.

Mr. President, I commend Father Chaillet and Father Devaux, along with the many others whom they represent, for their courage and success. Together these two leaders saved hundreds of Jewish children. Though many Jewish adults also were saved, these two men must have believed that by saving the Jewish children they were securing the future of Judaism. But the future of any people is far from secure in a world where genocide is not soundly condemned. By refusing to ratify the Genocide Convention, this body devalues the work of Father Chaillet and Father Devaux. We may recognize that they saved hundreds of young lives, but our inaction on the Genocide Convention imperils the future of all children. I urge my colleagues to join Father Chaillet and Father Devaux in striving to guard the world's children. I urge my colleagues to ratify the Genocide Convention.

Mr. President, I thank my good friend, the majority leader, and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I thank my good friend, Mr. PROXMIRE.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. If there is no further business, morning business is terminated.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 7584, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. STEVENSON) is recognized for not to exceed 15 minutes.

AMENDMENT NO. 7393 (FORMERLY UP NO. 1660)

Mr. STEVENSON. Mr. President, the Senate has before it an amendment offered by the Senator from South Dakota (Mr. PRESSLER) which endeavors to rescind the grain embargo against the Soviet Union.

Mr. President, that embargo punishes the United States for the transgressions of the Russians.

It costs the United States heavily, not only in lost exports and increased Federal expenditures for the support of farmers, but more importantly by confirming the world's opinion that the United States is an unreliable supplier of goods and services. The real cost of this embargo is a weak dollar, a chronic trade deficit, inflation and economic stagnation.

The embargo punishes the professed objects of our solicitude—people seeking to emigrate from the Soviet Union. It does nothing to influence the Russians positively. In fact, both sides are now dug in, with Russia's departure from Afghanistan made the more unlikely.

With its other sanctions, the United States has now played out its nonmilitary string, leaving it with nothing except force, the next time Russian imperialism is rediscovered. We are as helpless as we were at the height of the cold war when the Russians invaded Czechoslovakia.

Having said all that once again, I must also say that one mistake does not deserve another.

The embargo is imposed under authority of the Export Administration Act. That act gives Congress an avenue for revoking export controls imposed on agricultural exports for foreign policy purposes, as in the case of the Russian grain embargo. Section 8(g)(3) of the act gives Congress an opportunity to veto an embargo within 30 days of its notice of the embargo. Congress was notified in mid-January of the controls on grain sales to Russia. I convened a hearing in the Subcommittee on International Finance on January 22, the first day Congress was back in session. But the embargo was supported in the Congress. Many Members, like myself, felt that however unwise the embargo, it would make matters worse to repudiate the President. Bipartisan acceptance of the President's action has evaporated in the heat of an election campaign.

I urge my colleagues to consider the consequences of a congressional rescission of the embargo. Such an action would signify American capitulation to the Soviet Union. It would signify the triumph of mercantilism and election year politics over principle. It would signify U.S. acquiescence in the Russian invasion of Afghanistan. And it would weaken a Presidency already weakened by repeated congressional interventions in the conduct of foreign policy. No future President, Republican, Democrat, or Independent, could credibly wield the threat of cutting off access to U.S. agricultural products.

The export of food is potentially America's strongest foreign policy weapon—if used wisely. Rescinding the authority to use that weapon is neither wise policy nor wise politics—and I represent the largest agricultural exporting State in the Nation.

The Congress would serve the Nation better by resisting the temptation to play politics with foreign policy. It would serve the Nation better by examining ways of using our capacity for the production of food in a hungry world to serve both the Nation's economic and its political purposes. Authority to license exports of grain for a fee exists under the Export Administration Act. That authority could be used to compel the Soviet Union or other objects of our disfavor, to pay a higher than market price for U.S. grain, instead of for Argentinian grain. It could compel Russians to pay for their transgressions in dollars remitted to U.S. farmers and the U.S. economy.

The Commodity Credit Corporation could take over sales to Russia or other embargoed countries and negotiate sales of grain government to government, implying that the price and availability of American food depend on behavior. Only a minor change in the law is necessary to give CCC that authority to negotiate such sales on behalf of the United States, perhaps easing Russia and the United States out of their respective corners. Such Government sales from our large reserves might be a way of getting back into the Russian market without depressing farm prices or disserving our political interests. But the Congress does not act on responsible legislation to create that possibility.

Mr. President, we could mix carrots and sticks and give adversaries an incentive to responsible conduct, as well as disincentives to irresponsible conduct. As it is now, Russia has little more to lose. It would be more responsible to examine such alternatives to embargoes and sensible ways of getting out of this imbroglio.

This amendment should be defeated, no matter what one's feelings about embargoes. It would humiliate the Nation and embarrass its President. And there never is a good time for doing that. But the events in Poland and southwest Asia make this a particularly inappropriate time to undermine the presidency and the authority of the United States.

Mr. President, I ask unanimous consent that a speech I made on January 16, 1980, which deals with this subject at greater length, and with more persuasiveness in retrospect, be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

USING U.S. RESOURCES FOR POLITICAL PURPOSES AS AN ALTERNATIVE TO "ECONOMIC ACTS OF WAR"

Russian imperialism did not begin in Afghanistan. It began 1,000 years ago. In our lifetime it could realize the dreams of the Czars for warm water ports and ambitions, inconceivable in their days, for global supremacy based on effective control of world fuel supplies.

With a fictitious invitation and the pretext of American imperialism, the Russians invaded Afghanistan and destroyed that nation as a buffer zone. They may be preparing to extend their power by force through Pakistan and Iran to the Persian Gulf. The instabilities in the region, the apparent irresolve of the United States and the seeming futility of efforts to work cooperatively with the United States upon strategic arms limitations, peace in the Middle East and other enterprises may have tempted the Russians beyond forbearance and undermined whatever forces for moderation exist within the Politburo.

Six years ago the U.S. subsidized Soviet wheat purchases. In one year during the heyday of détente the U.S. offered the Soviets about $1 billion in credits for the purchase of nonagricultural commodities. At Helsinki it offered the Soviets a Western imprimatur on Soviet domination of Eastern Europe in exchange for lip service to human rights.

No sooner were credits extended than the game of "linkage" began. The Soviets were denied access to official credits and U.S. markets upon most favored nations terms because of their emigration policies. During the darkest days of Stalin's repressions the U.S. protested little.

It protested strenuously the repression of human rights by the Soviet Union, as it began to respect them in the 1970s. Traumatized by Vietnam, the United States turned its back to the victims of Russian aggression in Angola—and invited more.

Now American foreign policy is lurching away from East-West trade and President Carter's crusade for human rights and nuclear nonproliferation. The build-up of NATO forces in Western Europe yields to a renewed interest in rapid deployment forces, and we hear ominous reports of plans to mine the Persian Gulf. Russian imperialism is rediscovered. Its defeat is this year's moral equivalent of war.

The incoherence of U.S. policy in the 1970s dismayed friends and bewildered enemies. If the end of innocence is followed by overreaction to the Russian aggression against Afghanistan, the world will remain unimpressed, except by our continued ability to damage its security and our own welfare. The world will make its accommodations with the Soviet Union. Russian imperialism will continue its march, tempted by our decline, filling the cracks left by our default, unmoved by any prospect for the peaceful accommodation of conflicting interests by great powers.

American strategy toward the Russians would wisely move on parallel fronts. It would keep alive possibilities for political accommodation. It would also demonstrate that Russian aggression is expensive. It would offer incentives to responsible conduct, as well as disincentives to irresponsible conduct. The Russians are a minority in their restless empire. An arthritic economic system, a heavy arms burden, real and imagined threats from within and on all Russia's borders, a dark and bloody history create anxieties which require some understanding.

Our long-term objectives should include an effort to increase the world's supply of energy. Most fossil fuels lie outside the sedimentary basins of the Persian Gulf, the North American continent and Russia. They have not been explored and developed. We have capital and technology. Yet we perpetuate our dependence on undependable and expensive oil from the Middle East, ever undermining the efforts of the World Bank.

The U.S. should recognize that step by step diplomacy was doomed from the start and seek an overall settlement of the conflict in the Middle East based on the exchange of territories occupied by Israel for international recognition and guarantees of its peace and territorial integrity. Nothing has been so destabilizing and destructive of U.S. interests in the region, especially Iran, as the continuing Mideast War.

Our military power in South West Asia is limited by perception of the United States as a neo-colonialist power and an agent and architect of Israeli power. A similar perception of the Shah helped bring him down. No governments in the region, except Egypt, dare to unequivocally embrace American power or military assistance. And Egypt's influence in the Muslim world has been undermined by its association with Israel, the U.S. and a peace process which produces no peace and continues to neglect the Palestinian right of self-determination.

The events in South West Asia give us a lesson in the limits of U.S. military power in a resource hungry, interdependent and newly liberated world. Our sophisticated weapons are of little avail in the streets of Teheran or Kabul. They are not relevant to passions generated by the failures of modernization, the embittered revolution of rising expectations, ideas of Muhammed and Marx and dangerous men with access to the mass media. Supply lines are shorter for the Russians. Kabul is on the other side of the earth from the U.S.

Within the limits of its military power, the United States can establish power in the region and prepare for contingencies. It should establish bases for the supply of U.S. and friendly forces. In addition to Diego Garcia such bases might be established in Egypt and Somalia. Marines should be placed on U.S. naval vessels in the Indian Ocean.

Because overt U.S. military assistance is unwelcome in the region, the United States should organize an international effort to aid the rebel Afghans and the Pakistanis. That international effort should include nations from the region, as well as China and Western Europe. The situation offers the U.S. a chance to organize the world community against aggression—as it did not in Angola—and on the side of Islam. This aid effort must take into account India's sensibilities about Pakistan and the danger of Soviet retaliation. We should not overdo it. The aim should be to produce arms, supplies and, for Pakistan and Turkey, substantial assistance for their battered economies. Until international efforts along these lines are organized, other ways of supplying U.S. arms and supplies to the Afghans and Pakistanis must be utilized.

The capabilities of U.S. intelligence services should be strengthened. Greater efforts should be undertaken through the V.O.A. and other media—to reach the world's multitudes with the truth about our objectives and those of the Soviets. The U.N. and other platforms, the mass media included, should be utilized discreetly to build up resistance to Russian expansionism in the name of nationalism and nonalignment. Afghanistan gives us some opportunities to get off the defensive and align ourselves with the Third World.

Other measures are called for. But there are also limits to our economic power.

The United States has cut off cultural exchanges, cut off official credits, denied the Soviets MFN, and now embargoed sales of food and other commodities. Sales of technology with military potentials have been embargoed for years. The U.S. has abandoned the old policy of even-handedness in favor of accommodations with China. We have deferred action on the SALT treaty. We have done everything we can think of short of cutting off all trade and boycotting the Olympics. And those possibilities are under active consideration.

Little is left, short of military action, for the next time the United States is moved to make the Soviet Union pay a price for its transgressions. Soviet policies are more likely to be influenced constructively by mixed prospects for improved relations and Soviet economic development than by prospects for economic warfare, undiluted by possibilities for peaceful progress on any front. That which powers may be persuaded to do by old-fashioned and now neglected methods of quiet diplomacy can be made the more unlikely under threat when national pride is on the line. When the House of Representatives linked trade with the U.S. to free emigration from the U.S.S.R., emigration plummeted. During the pendency of SALT II, emigration increased. When it appears dead, Russia invaded Afghanistan. They may conclude that they have little to lose by aggression—and much to gain.

The purpose of embargoes is not to compel withdrawal of Russian troops from Afghanistan. The purpose is to signify that Russian adventurism in the world has a price. But we also pay a price with little prospect of influencing the Russians constructively.

The most immediate cost of the grain embargo for taxpayers is in excess of $2.5 billion to purchase grain destined for Russia. The longer term costs are much higher. Land set-asides may be reinstated, that is to say, payments to farmers for the nonproduction of corn. Large public expenditures for price supports and storage costs may also be necessary for some time. Russian livestock, if destroyed, would take years to replace. The movement toward a market determined farm price has been interrupted. The taxpayers could be required to support the farmer for a long time. The Federal expenditures are the smallest part of the cost.

Embargoes, like the freezing of Iranian assets, feed the general impression in the world that the United States is impulsive, unpredictable and an unreliable supplier of goods and services. Increasingly, nations come to the United States for the purchase of food and other goods and services only as a last resort. Russian managers with five-year plans will not come back to the U.S. market at the risk of having their plans interrupted by embargoes. Eastern Europeans and other Russian allies will be pressured to avoid U.S. products. American companies, recognizing these facts of life, are already escaping the caprice of American policy by locating plants overseas. They can avoid embargoes by manufacturing with foreign sourced materials in foreign subsidiaries. Embargoes against exports of U.S. goods, therefore, produce exports of U.S. jobs and capital.

The embargoes will have an adverse effect on the U.S. balance of payments. The dollar is weakened by these actions. They may require taxes and Treasury borrowings to support the farmer and affected agribusinesses for a long time. The federal deficit for fiscal '80 may be increased by 10 percent, causing higher interest rates than otherwise. If the farmers are to be protected, other industries adversely affected could similarly demand relief. The economic results for the United States are difficult to quantify. But they include more inflation, economic stagnation and unemployment. The burden falls heaviest on the American public in general—not the American farmer in particular. He has mechanisms, and American politics, to protect him.

As for the Russians, they will liquidate some livestock and poultry and look for grain elsewhere. The immediate effect of the embargo is to place more meat on the Russian plate. The Russian consumer may not feel the effect of the grain embargo for a year. Longer term effects depend on weather in Russia and Eastern Europe and the success of Russian production efforts.

Our experience indicates that the Russians respond to embargoes by devoting resources to the development of their own capabilities. Deny them equipment for the production of industrial diamonds, for example, and they become the world's largest producer of industrial diamonds.

They are already the world's largest oil producer. The denial of equipment for the production of oil would, if successful, reduce world oil production temporarily—which hurts the United States and all oil consumers.

The Russians divert resources from lower economic priorities and redouble their efforts to produce whatever is denied them. What they cannot supply themselves, they buy from our competitors. With their gold and oil increased still higher in value by these actions, the Russians have hard currencies to spend. They are one of the world's best credits.

Embargoes of more high technology could hurt the Russian economy. Perhaps the Administration will identify such technologies which can be embargoed effectively without undue damage to our own economy.

In general, embargoes are difficult to enforce. Even the COCOM system which has the support of our allies, has not always been effective as a means of controlling exports to the Soviet Union of high technology with military potentials. Wheat, corn and soy beans are not, like computers, easily identified by source of origin. Transshipments and substitutions of shipments are possible in violation of regulations and promises.

Not all grain exporters will even promise compliance; some of them have been treated shabbily by the U.S. in recent years. The non-agricultural commodities embargoed, except spare parts, are virtually all available from competitor nations eager to produce, sell and pay the oil bill.

They do not share the full extent of President Carter's moral indignation, or his conviction that embargoes are an effective means of bringing Russian imperialism to heel. They will give some lip service to our efforts and go on doing business with the Russians, picking up our business in the bargain.

The cost of the embargoes for the U.S. is high; their effect on the Soviet Union problematical. They put the United States on a slippery slope. Such actions as embargoes against the Soviet Union and the freeze of Iranian assets once taken are difficult to undo. They await some undivined sign from the Russians—but conciliatory signs are made the more difficult for Russia by the implication that it is yielding to pressure. If the U.S. were to lift embargoes without some such sign it could signal its concession to Russian intransigence. Embargoes, like the freezing of assets, are economic acts of war. This economic war will not be ended by Russian or American capitulation.

What counteractions the Russians will take to demonstrate their contempt for the embargoes, I cannot say—except that some will come. These could include the withdrawal of deposits from American banks, as well as the discontinuation of business with other U.S. firms in a general hardening of the line.

The U.S., having deferred Senate action on SALT II, has freed the Russians to deploy missiles without limit and without restrictions on their ability to conceal them.

The objects of our solicitude—the unfortunates seeking to emigrate from Russia—will pay for our actions. The Russians have already vetoed the resolution for sanctions against Iran by the United Nations.

They could call for sacrifice at home, redouble their economic and military efforts and resume their march. Such hurt as is sustained by the people of the Soviet Union will be laid to American imperialism and produce more unity and resolve in the U.S.S.R. The U.S.-U.S.S.R. relationship will spiral downward without some unfamiliar acts of statesmanship on one side or the other to break the spiral.

No end is in sight. And we have played out almost all our nonmilitary string.

In the continuing competition between the U.S. and U.S.S.R. it would be wise to act with more predictability and respect for our own economic interests. It would be best if our actions were governed by some strategy and a clearer perception of Russian interests.

That strategy should include an appropriate use of all our resources for our political purposes. In a contest for survival, one is not overly fastidious about the weapons. We should use them all—but not upon ourselves.

The United States has potentially more control over world food supplies than Saudi Arabia has over oil, but we have never moved to use that power effectively. Irrespective of Russian provocation, the United States should develop a food policy for an era of chronic poverty, hunger, malnutrition and political instability. The Administration's recent report on hunger suggests the magnitude of the suffering in store for the world and the challenge to the United States. The Russian invasion of Afghanistan offers an opportunity to adopt a food policy more promising than a combination of expensive price supports, intermittent embargoes and the stealthy purchase of U.S. grain on advantageous terms by hostile nations.

The free market has been an article of faith among farmers and in the Congress. The truth is that the market is not free. It is run by five or six multinational trading companies and their subsidiaries. Like the multinational oil companies, they buy and sell in the world to enhance their profit, not our national interest.

Other nations, both producers and consumers, lacking the luxury of large surpluses and internal markets have public agencies to manage the marketing of grain. Canada and Australia have wheat boards which are their exclusive exporters. The centrally planned economies have government purchasing commissions which are their exclusive importers, determining their needs and negotiating all purchases. An estimated 80 percent of U.S. wheat exports are purchased by state trading corporations. The U.S. which alone has the power to control world food supplies and prices has multinational trading companies—and embargoes.

We should seriously consider making the Commodity Credit Corporation our own national grain board with exclusive authority to market U.S. wheat and feed grains in the world. We will continue to have the world's largest exportable surpluses. In this hungry and dangerous world the United States disarms itself uniquely and unilaterally by leaving the sale and distribution of American food to multinational traders and their foreign government customers. At least, the CCC should be made the exclusive agent for grain sales to the Communist nations.

Under the law, the CCC could have taken over the Russian grain stocks, scaled down the sales step by step, making it clear that the ultimate result could be an embargo. The policy could have been carried out, giving markets time to adjust and the Russians time to adjust to the carrot, as well as the stick. The President could have embargoed private grain sales and through the CCC retained control over grain sales to the U.S.S.R.

This would have avoided the crisis which has damaged the U.S. economy and deprived us of an opportunity to use food to influence the Soviet Union.

Profits on the sale of food to Russia might have been increased, even as we brought our political interests into play. This mechanism still offers a means of demonstrating rewards to be achieved by responsible behavior, at the same time the United States demonstrates that aggression has its price. The CCC with its newly acquired grain stocks could still be the mechanism for getting the U.S. back into the Russian market.

The CCC must dispose of these stocks somehow. Only in the Russian market, now denied us, can it sell without depressing grain prices. It remains to be seen whether or when the Russians let us enter their markets.

Until OPEC and Iran, farmers have generally resisted the use of grain as an instrument of foreign policy. While resenting their own impotence in the marketplace and the unfair practices of foreign governments, both competitors and customers, they were not convinced that a U.S. marketing agency would protect them. Suddenly with OPEC oil prices, the seizure of the American Embassy in Teheran and the invasion by Russia of Afghanistan, farmers have begun to see a future filled with embargoes. They may be persuaded now that CCC controlled grain sales to the Communist governments are in the farmers' interests and the nation's.

Russian imperialism has been on the march for many centuries. Under Communism the Russians perfected the police state and gave their totalitarian society and their designs upon the world an ideological cover. Action by the United States to resist this imperialism is overdue.

The real issue is over the kind of action. And the danger is that we will punish ourselves for Russian transgressions and overreact, harden the lines, and with like reactions on the other side, move towards world chaos, even war. There are possibilities for constructive action in these circumstances. But they require an unfamiliar statesmanship which presses restraint, as well as action.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I rise in opposition to the amendment offered by my colleague from South Dakota. His amendment would effectively destroy one of the opportunities this country has to exert influence over Soviet policy.

I have heard it argued that the embargo which this Nation imposed on the Soviet Union early this year in response to that nation's invasion of Afghanistan has had little effect in the Soviet Union. But the facts seem clear that the embargo has caused substantial dislocation in the Soviet economy. And the cost to the United States for imposing this embargo has been less than some of its opponents would lead us to believe.

Mr. President, the Department of Agriculture reports that the Soviets, despite their best efforts, have been unable to circumvent the embargo and have been unable to obtain 6 million of the 19 million tons of wheat, corn, and soybeans denied them because of their uncivilized actions in Afghanistan. This shortfall is significant. It denies the Soviets about 10 percent of their feedstuff needs. Milk production has dropped 4 percent, and meat production for the month of June was 11-percent lower than in the previous year. Soviet planners had intended to increase the per capita meat consumption to 63 kilograms per person, but because of the embargo, they are forced to settle for 57 kilograms per person, the same level as in 1975.

In fact, this meat shortage has caused long lines outside stores in the Soviet Union and is considered a leading cause of work stoppages and labor unrest at Soviet motor vehicle plants this summer. Although it is difficult to measure the effects of the embargo on the Soviet Union, there have been a number of reports in the press detailing the results of the embargo. I ask unanimous consent that these articles be printed in the RECORD at the end of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, Soviet planners had hoped to recover from the embargo with a healthy harvest this autumn. But due to widespread flooding, they now face the prospect of lower stocks than they had counted on. Moreover, the last-minute buying that the Soviets have been forced into has completely disrupted their shipping schedules and has led to congestion in several of their major ports.

In contrast to this, the cost to the United States has been quite light. Commodity prices have recovered from the plunge they took immediately after the embargo was imposed. The Agriculture Department estimates that we have withstood a loss of only 4 million tons of grain exports, or only 2 percent of the total value of all agricultural exports for this year, which will be an all-time high of $40 billion.

The huge domestic surpluses of grain which were predicted by opponents of the embargo have failed to appear. In fact, many experts are now saying that without the embargo, we would not have been able to offset the decline in agricultural production caused by the devastating drought that swept the center of our country this summer.

Also, measures which were taken to minimize the effect of the embargo on American farmers have been effective. There is still a need for expansion of the farmer-held grain reserve and the establishment of a food security reserve. And farm prices are slightly lower than they would have been without the embargo. But prices are rebounding and recent crop developments are enhancing price and income prospects for U.S. agriculture.

And so, in looking over the entire situation we have created a most difficult situation for the Soviet Union while sacrificing relatively little ourselves. And at the same time, this important policy program has become a political football in this election.

While candidate Reagan continues to proclaim we should spend much more for military capability to deal with Russia he now appears unwilling to have this country sacrifice only a small bit to have a significant effect on all Soviet citizens, without once using the force of arms to make our point. The costs of defense, a la Reagan, will be great; the costs of a grain embargo, have been relatively small. There has been an overwhelming sacrifice by the people of Afghanistan. As late as June 30, of this year, Reagan told Time magazine that after the invasion of Afghanistan "was the time for us to have said. 'Look, don't talk to us about trade. There will be none.'" Yet he now states that he opposes the embargo. One cannot have it both ways. If we want to stop Russian aggression we must sacrifice.

The facts are clear. The embargo is hurting the Soviets and the cost has been minimal. We should work to support this effective foreign policy tool, not to destroy it. I urge my colleagues to oppose the amendment.

EXHIBIT 1

[From the Journal of Commerce, Sept. 15, 1980]

SOVIET MEAT PRODUCTION SEEN DECLINING STEADILY SINCE MARCH: CONTRARY TO CLAIMS THAT EMBARGO IS INEFFECTIVE

MOSCOW.—A dramatic decline in Soviet meat production since the spring contradicts Kremlin claims that this country has not been hurt by the United States embargo on grain sales.

What's more, Western experts expect that no-better-than-average grain harvest this Fall will make the embargo an even bigger burden in 1981, provided it survives the presidential election.

Ronald Reagan has said that if he wins, he will rescind the restrictions on grain sales to the Soviet Union that President Carter imposed at the beginning of 1980 to protest the Soviet military intervention in Afghanistan.

Compared with 1979, Soviet meat production has been declining since March, with output for the first seven months of this year only 97 percent of what it was at the same time last year.

The falloff has been particularly steep since May, Soviet statistics show. In May, meat production declined 5 percent compared with May, 1979. In June the dropoff was 10 percent, and in July it reached 15 percent.

Figures for August have not yet been released, but Western agronomists watching the situation expect the downward trend to continue, perhaps less sharply, for the rest of the year.

The agronomists say the principal problem plaguing meat production is a shortage of high-quality feed. The bulk of the grain the Soviets buy abroad is used to feed animals raised for meat.

The U.S. Department of Agriculture says that, largely as a result of Mr. Carter's embargo, Soviet imports of foreign-grown grain in the 1979–80 fiscal year fell about five million tons short of what was wanted, despite President Leonid Brezhnev's recent claim in Kazakhstan that the Soviets were able to "find substitutes for all grain lost because of the embargo."

In addition, if the embargo is extended in 1981, the shortage could be twice as big, Western agronomists agree, because this year's figures include U.S. grain that was purchased by the Soviets before the embargo but not delivered until later.

The embargo limits Soviet grain purchases from the United States to a maximum of eight million metric tons. The Agriculture Department says 18 million tons of U.S. grain actually reached the Soviet Union in fiscal 1979–80.

Until Mr. Carter imposed the freeze, the Soviets were expected to buy about 25 million tons of American grain, mostly corn, to offset the effects of last year's grim harvest of 179 million tons, more than 50 million tons below what had been planned.

The Soviets were expected to import a total of about 37 million tons of grain. The Agriculture Department estimates that they actually bought about 31.5 million tons.

NEXT YEAR'S IMPORTS?

"If the United States holds them to an eight million ton total again next year, they'll be able to buy somewhere between 25 and 30 million tons," one source said. "I think the lower estimate is more likely."

Observers say the shortage will be sorely felt, since this year's grain harvest is not expected to be a very good one. The grain crop in Kazakhstan, which set a record last year, is thought to be about average, one source said.

"If the embargo continues, it's going to hurt them more next year than it did this year," the source said. "They won't have enough to replenish reduced stocks. Also, with the lousy weather in the western areas at harvest, you really have to wonder about the quality of the crop."

Experts say the damage done by the embargo cannot be measured simply in terms of import totals.

"True, the Soviets were able to buy a lot of grain elsewhere to make up for most of what the embargo cost them in terms of U.S. grain," one agronomist said, "but what they got was often inferior to what they would have bought, or not the kind of grain that they really wanted."

The Soviets are thought to have bought considerably less corn than they had hoped to. Corn is an important ingredient in feed for hogs and chickens, and the Soviet Union grows very little of it.

[From the Chicago Tribune, Sept. 12, 1980]

SOVIET MEAT PRODUCTION ON DECLINE—EXPERTS SAY CAUSE IS U.S. GRAIN EMBARGO

(By Jim Gallagher)

MOSCOW.—A dramatic decline in Soviet meat production since the spring contradicts Kremlin claims that this country has not been hurt by the United States embargo on grain sales.

What's more, Western experts here expect that a no-better-than-average grain harvest this fall will make the embargo an even bigger burden in 1981, provided it survives the presidential election.

Ronald Reagan has said that if he wins, he will rescind the restrictions on grain sales to the Soviet Union that President Carter imposed at the beginning of 1980 to protest the Soviet military intervention in Afghanistan.

Compared with 1979, Soviet meat production has been declining since March, with output for the first seven months of this year only 97 per cent of what it was at the same time last year.

The falloff has been particularly steep since May, Soviet statistics show. In May, meat production declined 5 per cent compared with May, 1979. In June the dropoff was 10 percent, and in July it reached 15 percent.

Figures for August have not yet been released, but Western agronomists watching the situation expect the downward trend to continue, perhaps less sharply, for the rest of the year.

The agronomists say the principal problem plaguing meat production is a shortage of high-quality feed. The bulk of the grain the Soviets buy abroad is used to feed animals raised for meat.

The U.S. Department of Agriculture says that largely as a result of the Carter embargo. Soviet imports of foreign-grown grain in the 1979-80 fiscal year fell about 5 million tons short of what was wanted, despite President Leonid Brezhnev's recent claim in Kazakhstan that the Soviets were able to find substitutes for all grain lost because of the embargo.

In addition, if the embargo is extended in 1981, the shortage could be twice as big, Western agronomists here agree, because this year's figures include U.S. grain that was purchased by the Soviets before the embargo but not delivered until later.

The embargo limits Soviet grain purchases from the U.S. to a maximum of 8 million metric tons. The Agriculture Department says 18 million tons of U.S. grain actually reached the Soviet Union in fiscal 1979–80.

Until the President imposed the freeze, the Soviets were expected to buy about 25 million tons of American grain, mostly corn, to offset the effects of last year's grim harvest of 179 million tons, more than 50 million tons below what had been planned.

The Soviets were expected to import a total of about 37 million tons of grain. The Agriculture Department estimates that they actually bought about 31.5 million tons.

"If the U.S. holds them to 8 million tons total again next year, they'll be able to buy somewhere between 25 and 30 million tons," one source here said. "I think the lower estimate is more likely."

Observers say the shortage will be sorely felt, since this year's grain harvest is not expected to be a very good one. The grain crop in Kazakhstan, which set a record last year, is thought to be about average, one source said.

"If the embargo continues, it's going to hurt them more next year than it did this year," the source said. "They won't have enough to replenish reduced stocks. Also, with the lousy weather in the western areas at harvest, you really have to wonder about the quality of the crop."

Experts say the damage done by the embargo cannot be measured simply in terms of import totals.

"True, the Soviets were able to buy a lot of grain elsewhere to make up for most of what the embargo cost them in terms of U.S. grain," one agronomist said, "but what they got was often inferior to what they would have bought, or not the kind of grain that they really wanted."

The Soviets are thought to have bought considerably less corn than they had hoped to. Corn is an important ingredient in feed for hogs and chickens and the Soviet Union grows very little of it.

As a result, Soviet livestock was fed even less efficient food than usual, the source said. "They had to change ingredients in their feed too fast, and they had a lot of trouble getting consistency in their feed. When they bought from the U.S., they knew what they were getting, and what use to put it to, but with what they bought this year, there was a lot of stumbling around in the dark, and the animals suffered."

Even before this year's falloff in production the Soviet meat industry was stagnating and in serious trouble. Despite a record grain harvest in 1978 and grain imports totaling more than 20 million tons, meat production in 1979 barely kept pace with production the previous year. In both years output totaled 15.5 million tons.

Observers here say that output in 1980 could fall below 15 million tons, or more than 2.3 million tons below what was originally planned.

This year's setback will make it possible for the Soviets to meet their long-term meat goals, observers say. Output by 1985 is supposed to reach 19.5 million tons. The political consequences of a failure to do so could be considerable, some Western analysts suspect.

"It may take them two years or more to get back to the output level of last year," one agronomist said. "Absolute inventories for hogs are already down 200,000 head from this time last year. Cattle numbers are being maintained, but the animals weigh much less than they did last year. The slaughter weights being reported for cattle are very low."

Some western analysts say a failure to fulfill the promise of more and better meat could have a traumatic effect on the political picture here. They point out that workers in several Soviet cities staged brief work stoppages earlier this year to protest shortages of meat and milk. Milk production has been declining for the last three years, and this is down 4 per cent from last year. Grain shortages are part of the problem.

Despite a marginal increase in meat production since 1975, the average Soviet citizen is actually eating less. According to Soviet statistics, per capita meat consumption in 1975 was 57 kilograms. Last year, it was one kilogram less, and the figure should fall again in 1980.

By contrast, Soviet nutritionists say that 82 kilograms per person is the minimum annual requirement for a balanced diet.

Adding to the problem is the fact that per capita consumption of fruits and vegetables is also declining. In some parts of the country, meat is almost never available. In other areas, the only meat sold is cold sausage.

[From the New York Times, Sept. 8, 1980]

SOVIET GRAIN PROSPECTS WORSENING; EMBARGO BY U.S. MAY CUT DEEPER

(By Anthony Austin)

Moscow, September 7.—The weather has been bad for farmers over most of the Soviet Union during the last month, and prospects for the 1980 grain harvest have worsened.

This means that the already tight supply situation in feed grains, the controlling factor in the Government's hopes of increasing meat production, will be that much tighter, and the impact of the American embargo on grain sales to the Soviet Union will be that much sharper.

Western agricultural experts here still expect the country's state and collective farms to bring in an average harvest. But their July forecast of a grain yield of 210 million to 215 million metric tons has been trimmed to an estimate of between 200 million and 210 million tons.

Soviet authorities had hoped for a near-record grain harvest of 235 million tons, hoping to bounce back from the crop failure of 1979, when only 179 million tons were brought in. Indifferent winter and spring weather had dashed these hopes, but barring an exceptionally bad summer, the country seemed assured of a good enough harvest to get over the worst of the effects of the 1979 disaster.

The summer has not been a disaster, but it has not been good. There has been a lot of rain recently in European Russia and northern Kazakhstan, and it has been dry in the southern agricultural belt. The Soviet press has exhorted farmers to battle the elements and reduce losses to yield. There have been none of the preliminary harvest figures that usually come out this time of the year.

Western experts have been following the harvest prospects with special attention this year because of the important economic and political implications for meat production and grain imports.

BEEF SHORTAGE IS ACUTE

Despite the Soviet leadership's repeated promises to raise meat production, the increase has barely kept pace with population growth, and, according to official statistics, the average Soviet citizen is getting no more meat now than he did in 1976. The shortage is particularly acute in beef: in many parts of the country, beef is not to be had in the state stores and is available only at much higher prices in the farmers' markets.

More than an improvement in diet is involved in the Government's promises to increase meat supply. The promises go to the heart of the entire economic plan.

The Soviet Union's economic growth rate is lagging, and there are no extra resources in manpower or energy to throw in as a way of increasing production. The only way is to increase productivity with more output per man-hour.

But productivity rates have also been slipping. There is little incentive for the Soviet citizen to work harder if, after he gets paid, there is so little available for him to buy. Improving meat supplies has been a key feature of the Governments' program for increasing consumer goods and incentive in the work place.

Because of lower productivity in the livestock industry, meat production has been going down. Last July, the expectation was that in 1980 it may be 5 percent below last year's total. Now with harvest prospects just a bit worse, the meat situation will be that much tighter.

Last January and February, as a result of some distress slaughtering of livestock, meat production went up about 14 percent. Then it started slipping, and it has declined steeply in the last three months. Production was down 5 percent in May, 10 percent in June and 15 percent in July, compared with figures for the same months of 1979. It seems inevitable that instead of going up this year, as planned, per-capital consumption of meat will go down.

A group of American farmers visiting Soviet agricultural areas recently asked a Western farm expert whether the American grain embargo was working.

"Well," he replied, "the Soviet troops are still in Afghanistan, aren't they?"

If President Carter's grain embargo was designed to force a Soviet withdrawal from Afghanistan, it has not worked. But it is questionable whether Washington really thought that denying the Russians 17 million tons of American grain—while still letting them have the 8 million tons the United States is obliged to sell them annually under a five-year agreement ending in 1981—would produce that effect. It is more reasonable to regard the embargo as designed to give the Soviet Union added problems in an already difficult supply situation.

To make up for the loss of American grain, the Soviet Union has had to pay higher prices for often lower quality from other suppliers, principally Argentina. The Russians have had problems with feed-grain formulas for their livestock as a result of the change in grains, and they may have trouble buying as much this year as last.

In the 12 months that ended June 30, Moscow appears to have made up 11 million or 12 million tons of the lost American grain, bringing their total imports to an estimated 31.2 million tons. But this total included a substantial amount of American grain—in addition to the 8 million tons provided annually—in the form of carryovers from previous years' sales.

Now there is no carryover left. If the United States again sells only the 8 million ton minimum in the 12 months starting July 1, the Soviet Union may find it difficult to obtain more than a total of 25 million tons from other markets, according to Western experts here.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I have two technical amendments to add to the bill. They have been cleared with the distinguished ranking member (Mr. WEICKER) on our side and the distinguished minority leader. I ask unanimous consent that the amendments be in order at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1671

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1671:
>
> On page 21 line 9 after "reasonable" insert "servicing and".

Mr. HOLLINGS. Mr. President, this amendment merely provides that EDA's funds may be used for servicing for defaulted loans as well as liquidating. This has been a longstanding practice under the economic development revolving fund, which is being eliminated in the new authorizing legislation, so this merely continues the present practice.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1671) was agreed to.

UP AMENDMENT NO. 1672

Mr. HOLLINGS. Mr. President, I ask unanimous consent that another technical amendment be in order to be considered. It has been cleared on both sides. It deals with the limitation of travel expenditures that the committee added, section 610 of the bill. The amendment would exempt the judiciary from this limitation. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1672:
>
> On page 53, line 4 after "section" insert: "*Provided further*, That this section shall not apply to The Judiciary".

Mr. HOLLINGS. Mr. President, the purpose of section 610 is to restrict travel of the agencies in this bill to the amounts in the budget estimates. This follows on the provision in last year's continuing resolution when the committee directed a $500,000,000 reduction in travel. This language will maintain a lid on travel. However, the judiciary has indicated that their estimates are understated due to the changes in the travel allowances and I believe that we should not include them this year. Of course, they will be restricted by the total appropriations and when we review the impact further next year, we shall consider the inclusion of the judiciary.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1672) was agreed to.

Mr. HOLLINGS. Mr. President, I thank the distinguished minority leader and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, the Soviet grain embargo has not been successful. It has cost one group, American farmers, a great deal. We have not had a total embargo. I certainly would support a total embargo on the Soviet Union.

It has consistently been the practice of our Government to put embargoes on grain and not other manufactured items. We are still selling to the Soviets around 43 manufactured items to grow grain with. The arguments that were made in this Chamber last night in this debate, I think, stand. I urge my colleagues to vote to end the Soviet grain embargo.

Mr. HOLLINGS. Mr. President, I hope we shall not change a very well calculated, serious foreign policy with respect to this Nation, Afghanistan, and the Soviets via an amendment on an appropriation bill. Nothing works completely, but this embargo has worked. The farmers now are doing better, even with a drought or otherwise. I think this is something that should be taken up by the Foreign Relations Committee, if it is taken up at all. We are still trying to do all that we possibly can, short of an actual conflict, to show our displeasure and disapproval with the Soviet invasion of Afghanistan.

AMENDMENT NO. 2393 (FORMERLY UP NO. 1660)

• Mr. DeCONCINI. Mr. President, I strongly supported the President's decision to suspend shipments of grain to the Soviet Union in the wake of that nation's invasion of Afghanistan. The embargo is, in my view, a legitimate and effective foreign policy instrument to communicate to the Russians that they can not engage in aggression and expect to maintain normal trade relations with the United States.

Department of Agriculture statistics clearly demonstrate that the first 6 months of the embargo have had a detrimental impact on the Soviet economy. Among these impacts are: An unusually severe shortage of foodstuffs; a precipitous decline in meat and milk production; a significant reduction in the weights of livestock; and, labor unrest as a result of the shortages of meat and milk. I shall include for the RECORD an article which recently appeared in the Western Livestock Journal, which further details the setbacks which have been experienced by the Soviet Union as a result of the suspension of U.S. grain shipments.

If we hope to deter the Russians and other Communist States from seeking to force their will and political philosophy on other nations, then we must stand firm on the initiatives we have undertaken with respect to the invasion of Afghanistan. To cancel the embargo for domestic, political, or economic reasons would be contrary to the foreign policy objectives of the United States and would signal the Russians that this Nation does not possess the resolve to stand by its commitments. Such an action would invite continued Communist expansionism and further erode confidence in the United States as a respected world leader. The political events of the past few years dramatize the dangers of such a course of action and I would urge the President to keep the embargo in place until the Soviets have withdrawn their troops from Afghanistan.

It seems to me, Mr. President, if we want to demonstrate our opposition to Communist aggression and indicate to the world our continued opposition to world communism we must continue the embargo. No doubt we could and should do more but we cannot afford to pull back. I understand the desire to sell to the Soviets but I also believe that most people including farmers in our Nation are willing to make sacrifices.

The article follows:

SOVIETS FEEL EFFECTS OF EMBARGO—USDA

Official Soviet statistics, Soviet press reports and Western observers in the Soviet Union confirm that the Soviet livestock industry has been set back substantially, primarily because of the poor 1979 Soviet grain and forage harvest and the "U.S. trade suspension," Howard W. Hjort, the USDA's director of economics, policy analysis and budget, said.

Summarizing a just-released USDA report on the effect of President Carter's agricultural sales suspension, Hjort said, "The suspension prevented the Soviets from obtaining all the grain they had intended to import to compensate for their 1979 grain shortfall. As a result, the Soviets were denied about 10% of their feed grain requirements for the six-month period before they could draw on newly harvested 1980 feed supplies.

"Total Soviet meat production for the first half of 1980 is 1.2 percent below the amount produced in the first half of 1979," Hjort said. In 1979, the Soviets produced 15.5 million tons of meat and lowered their goal for 1980 production from 17.3 million tons to 15.7 million. We now project, however, the Soviets will not achieve any increase in meat production in 1980 and, in fact, will produce slightly less than in 1979.

"Beef production on Soviet state and collective farms in June 1980 was 16 percent less than it was a year ago, and pork production was off 10 percent," Hjort said. "Total meat production for the month was 11 percent less than for June 1979." State and collective farms generally account for about three-quarters of USSR output.

"The effects of the reduced meat production have shown up in press reports of work stoppages and labor unrest prompted by shortages of meat and dairy products," Hjort said. He noted the Soviet government denies reports of unrest related to short food supplies.

The report lists other developments attributable, at least in part, to the trade suspension:

Milk production on state and collective farms from the first half of 1980 was four percent below the year-earlier level. Milk cow productivity was off five percent for the same period.

Hog inventories on July 1 were 1.8 percent below what they were on the same date in 1979 and are likely to remain below year earlier levels for the remainder of 1980.

The rate of growth in Soviet cattle and poultry inventories appears to have been checked. Cattle numbers on July 1 were 0.6 percent above a year ago, compared with increases of 1.2 percent and 1.8 percent registered on the same date in 1979 and 1978, respectively. Poultry numbers were up 2.7 percent, compared with a 6.3 percent increase

July 1, 1979, and a 7.9 percent gain for the same date in 1978.

Average slaughter weights for hogs and cattle were considerably lighter in the first half of 1980 than in the first half of 1979.

The Soviets are likely to import a record amount of meat in 1980.

Soviet per capita meat consumption is expected to decline to 57 kilograms in 1980, well below the goal for this year of 63 kilograms the Soviets announced in 1975.

The import of substitute grains from other sources, in ships considerably smaller than the large bulk carriers the U.S. employs, has caused severe congestion in Soviet ports.●

● Mr. YOUNG. Mr. President, the administration's embargo on grain sales to the Soviet Union has had little adverse effect on the Russians. According to market sources, the Russians are getting all the grain they need even though at somewhat higher prices. The embargo has actually hurt midwestern farmers more than it has the Russians.

No matter how well intentioned President Carter's embargo of grain sales to Russia may have been, it is not working. There have been embargoes imposed many times in the past, usually for the purpose of holding down the price. Although that was not the stated purpose in this case, that was in effect the result.

The end result of the embargo is that in future years we have lost most of the large Soviet market. They will not be buying more grain than they are committed to purchase.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Idaho (Mr. CHURCH).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CHURCH

I feel I must vote for the pending amendment deleting funds for enforcement of the grain embargo against the Soviet Union as a protest against the manner in which the Administration has dealt with the farmers of this nation since the embargo was imposed.

When the President announced the embargo, I said that I believed the use of the "food weapon" to be a legitimate tool in America's foreign policy arsenal, although it should be used very sparingly. I also made it clear that if this weapon is to be used to advance our foreign policy objectives, it is imperative that the farmers of the United States not be made to bear the brunt of embargo sales abroad.

To this end, I introduced legislation that would have isolated the embargoed grain totally from the domestic and international marketplace, and would have allowed its use for but two purposes: the production of alcohol for fuel and for famine relief abroad. I still believe that legislation is important, and would protect American growers while giving the President necessary flexibility when he feels it is in the national interest to use the food weapon abroad.

In early July, disturbed by the failure of the Administration to take steps to protect the American farm community in the aftermath of the embargo, I wrote to the Secretary of Agriculture, asking for detailed information on the impact of the embargo, an analysis of the ability of the Soviet Union to make up grain purchases from other nations, and for an assessment of its effectiveness. I also urged the Administration to endorse my legislation, and to seriously reconsider the wisdom of continuing the embargo in light of grain sales to the Soviets from other nations.

To date, I have yet to have even the courtesy of an acknowledgement of my letter.

Therefore, I will vote for the pending amendment in protest against the treatment of American farmers in the wake of the embargo.

Mr. THURMOND. Mr. President, I rise today in support of the amendment offered by the distinguished Senator from South Dakota, (Mr. PRESSLER).

Mr. President, the Carter administration's response to the Soviet invasion of Afghanistan has been a halfway measure. I called upon this administration in March 1980 to permanently halt the sale of high technology to the Soviets and to cease issuing commercial credits for the export of these items to the Soviet Union. Unfortunately, the administration has not stopped. As late as May 1980 the administration approved a license for a high technology oil drilling rig to the Soviets. We just do not seem to be able to stop giving away critical, strategic technology. I have also called for a permanent grain embargo, a permanent ban on Soviet fishing vessels within 200 miles of the United States, and encouragement of our allies to follow comparable policies.

Mr. President, I have always believed and continue to believe that we should not be trading with our enemies. However, with respect to the grain embargo, I am deeply concerned that the American farmer is taking and absorbing the full effect of the embargo. The Carter administration has promised that the American farmer would not be hurt. Yet, recent Government statistics show that farm income is down 40 percent from a year ago. The Carter administration's promise has not been kept.

Therefore, Mr. President, although I strongly believe that the administration export policy is not tight enough—not adequate—I cannot let the American farmer carry the full burden of our weak and vacillating position. On that basis, I agree that the farmers must be able to sell their grain. If President Carter will not stop all high technology sales to the Soviets, then we might as well sell grain to them. I would prefer that we not sell the Soviets anything. However, the broken promises to the American farmer need to be rectified.

GRAIN EMBARGO

● Mr. RIEGLE. Mr. President, I am voting against the amendment offered by my friend, Senator PRESSLER, which would lift the grain embargo. I was not an advocate of the grain embargo, and continue to have strong reservations about the wisdom of that action. I have seen evidence which indicates the Soviet Union has been able to purchase enough grain to offset most of the shortfalls caused by our cut-off. The long-term effects on the Soviet Union are difficult to calculate, but it is safe to assume that their domestic economy will not suffer great harm, especially in light of our decision to sell them 8 million tons of feedgrains in 1981. Even had the embargo been much more effective in creating feedgrain shortages in the Soviet Union, it is extremely doubtful that it would have had significant influence on Soviet actions in Afghanistan.

The termination of sales had a devastating impact on our own markets in the spring of 1980. Corn and wheat prices dipped to extremely low levels. Expectations had been high at the beginning of the 1980 crop year that prices would rebound from the levels of the last 3 years, and that farmers would finally receive some measure of return for the cost invested.

Those expectations were initially dashed by the embargo, although current price trends have strengthened, with corn and wheat far above pre-embargo levels. This is due, in part, to the drought we experienced this year, but also to the aggressive marketing program that has been conducted around the world. The brightest spot in our agricultural picture is the dramatic expansion in agricultural exports, which are now running over 50 percent above 1979. If we can continue this effort, as we must, we will succeed in mitigating the worst effects of the embargo.

For this reason, I feel that we should not take an abrupt action at this time that will again disrupt our domestic grain markets. I have spoken with farmers and elevator operators in Michigan, and have found a concensus of opinion that indicates that we have now adjusted to the realities of the embargo, we have established new trading patterns, and we have seen prices rise again to more reasonable levels. In light of these facts, there is a concern that an immediate lifting of the embargo, with a sudden release of grain under reserve, will wreak havoc in our markets and cause many new problems.

I continue to have strong reservations about the rationale behind the partial embargo of grains. I feel, however, that since we have established this policy, we must maintain its course at least for the foreseeable future. I am watching prices on the farm very closely, and will continue to support all efforts to limit and offset the adverse impact of the embargo.●

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:10 having arrived, the Senate will now vote in relation to the amendment of the Senator from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (after having voted in the negative). On this vote I have a live pair with the Senator from Idaho (Mr. CHURCH). If he were present and voting, he would vote "aye." I have voted "nay." I withdraw my vote.

Mr. SCHMITT (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." I, therefore, withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURkin), the Senator from Missouri (Mr. Eagleton), the Senator from Massachusetts (Mr. Kennedy), the Senator from North Carolina (Mr. Morgan), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. Zorinsky) is absent because of illness.

I further announce that, if present and voting, the Senator from Missouri (Mr. Eagleton) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), th Senator from California (Mr. Hayakawa), the Senator from New Hampshire (Mr. Humphrey), the Senator from New York (Mr. Javits), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower), are necessarily absent.

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from Oregon (Mr. Hatfield). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The ACTING PRESIDENT pro tempore. Are there any other Senators who desire to vote?

The result was announced—yeas 40, nays 41, as follows:

[Rollcall Vote No. 449 Leg.]

YEAS—40

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Cochran
Culver
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Hart
Hatch
Heinz
Helms
Jackson
Jepsen
Kassebaum
Laxalt
Lugar
Magnuson
Mathias
McClure
McGovern
Melcher
Packwood
Pressler
Roth
Schweiker
Simpson
Stevens
Talmadge
Wallop
Warner
Young

NAYS—41

Biden
Bradley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chafee
Chiles
Cohen
Cranston
DeConcini
Ford
Glenn
Gravel
Heflin
Hollings
Huddleston
Inouye
Johnston
Leahy
Levin
Long
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stennis
Stevenson
Tsongas
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Robert C. Byrd, against.
Schmitt, against.

NOT VOTING—17

Bayh
Church
Durkin
Eagleton
Goldwater
Hatfield
Hayakawa
Humphrey
Javits
Kennedy
Morgan
Sasser
Stewart
Stone
Thurmond
Tower
Zorinsky

So the amendment (No. 2393) was rejected.

The ACTING PRESIDENT pro tempore. The question is now on the amendment offered by the Senator from South Dakota in the first degree.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the tablc the motion to reconsider the vote by which the amendment was rejected.

On this question, the yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Wisconsin (Mr. Nelson), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. Zorinsky) is absent because of illness.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), and the Senator from South Dakota (Mr. McGovern) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Hayakawa), the Senator from New Hampshire (Mr. Humphrey), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) are necessarily absent.

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from Texas (Mr. Tower). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Texas would vote "nay."

The PRESIDING OFFICER (Mr. Burdick). Have all Senators voted?

The result was announced—yeas 39, nays 43, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—39

Biden
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cohen
Cranston
DeConcini
Ford
Glenn
Gravel
Heflin
Hollings
Huddleston
Inouye
Johnston
Leahy
Levin
Long
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stennis
Stevenson
Tsongas
Weicker
Williams

NAYS—43

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Chafee
Cochran
Culver
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Hart
Hatch
Heinz
Helms
Jackson
Jepsen
Kassebaum
Laxalt
Lugar
Magnuson
Mathias
McClure
Melcher
Packwood
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Talmadge
Thurmond
Wallop
Warner
Young

NOT VOTING—18

Bayh
Church
Durkin
Eagleton
Goldwater
Hatfield
Hayakawa
Humphrey
Javits
Kennedy
McGovern
Morgan
Nelson
Sasser
Stewart
Stone
Tower
Zorinsky

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on the motion to reconsider.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Wisconsin (Mr. Nelson), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. Zorinsky) is absent because of illness.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), and the Senator from South Dakota (Mr. McGovern) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Hayakawa), the Senator from New Hampshire (Mr. Humphrey), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) are necessarily absent.

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from Oregon (Mr. Hatfield). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The PRESIDING OFFICER (Mr.

BOREN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 39, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—43

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Chafee
Cochran
Culver
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Hart
Hatch
Heinz
Helms
Jackson
Jepsen
Kassebaum
Laxalt
Lugar
Magunson
Mathias
McClure
Melcher
Packwood
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Talmadge
Thurmond
Wallop
Warner
Young

NAYS—39

Biden
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cohen
Cranston
DeConcini
Ford
Glenn
Gravel
Heflin
Hollings
Huddleston
Inouye
Johnston
Leahy
Levin
Long
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nunn
Fell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stennis
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—18

Bayh
Church
Durkin
Eagleton
Goldwater
Hatfield
Hayakawa
Humphrey
Javits
Kennedy
McGovern
Morgan
Nelson
Sasser
Stewart
Stone
Tower
Zorinsky

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment. The yeas and nays are automatic.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2393) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question new recurs on the amendment in the first degree as amended.

The amendment (No. 1940) was agreed to.

UP AMENDMENT NO. 1673

(Purpose: To prohibit the use of funds for certain forms employed by the Bureau of the Census)

Mr. MELCHER. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Mr. HELMS, proposes an unprinted amendment numbered 1673:

On page 19, line 24, after the second comma, insert: or form 79-A9A, or form 79-A9B,

Mr. MELCHER. Mr. President, very briefly, this amendment would eliminate this particular form. There are about 83 questions on this form, and it is sent out to 100,000 different farmers and farmowners every year.

The farmer must fill it out and answer all these questions. They get pretty nosy and pretty prying, some of them—for example, how much money you have in the bank and how much you owe, and all that sort of stuff.

Mr. President, I do not object to the Department collecting all of the information that they can and providing it to people who want that information if they do it on a volunteer basis and do not threaten people under a penalty of a fine or possible imprisonment for not sending them back in.

For that reason, I offered the amendment. I think it will save a small amount of money—I do not know how much—but I think the important thing is that we should not be forcing citizens to answer these types of things, which takes a lot of their time, which is pretty snoopy and pretty personal, and telling them, or else we are going to fine them or something. That is what I object to.

I hope the Senate can accept it.

Mr. HOLLINGS. Mr. President, I am told the elimination of this survey would ultimately be harmful to all farmers. That is exactly what the Department of Agriculture says. It is the only source of information on overall farm debt, the extent of foreign ownership of farm land, farm related income, financial structure of farms, the financial and credit characteristics of small farm operators. It provides data bases for determining the appropriate level of financial reserves and in analyzing alternative strategies that producers use in coping with risk and uncertainty in farm production.

The information serves the farmer by insuring that banks in rural areas have enough money for credit. In addition, the information is vital in shaping Government programs that are set up to help farmers. It is a primary source of information for USDA in evaluating the effectiveness of many programs. Without this information, it would be impossible for the USDA to evaluate equity and asset information from the farm community.

Users of the data include the USDA, the Farm Credit Administration, the Federal Reserve System and the Bureau of Economic Analysis. The survey also provides benchmark data for use in compiling the gross national product.

It may be considered burdensome by those who are required to fill out these forms, but ultimately, it benefits all farmers.

However, Mr. President, we had a similar amendment on the bill last year, and the Senator from Montana educated the Senator from South Carolina. However, we feel that, on this bill, we ought to carry out the intent of the authorizing committees. We made the same argument last year about the authorizing committees. It put us in a position of saying all the farmers wanted it. We had a rollcall and all the farmers came and voted against it—I think it was something like 92 to 3—I think I was among the 3—with my very persuasive argument. I am not going to go through that exercise again.

Mr. WEICKER. Mr. President, I think this is an excellent amendment. I voted for it last year; I shall vote for it again this year. I think we ought to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (UP No. 1673) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was

ORDER FOR CONSIDERATION OF THE CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the pending business or on motion to proceed to the consideration of the continuing resolution, the Senate proceed to the consideration of the continuing resolution, whichever is earlier.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I simply want to say that we have gone to some lengths to ascertain that it is satisfactory on this side to go to the continuing resolution next. The reason for the additional proviso in the majority leader's request, I think, is well taken. That is, if it turns out that this bill is not disposed of in a timely way, it seems urgently necessary that we get on with the continuing resolution. So I fully subscribe to the request as formulated by the majority leader, and there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Will the distinguished Senator yield for a minute so we can make a record on a few items?

Mr. WEICKER. I yield to the distinguished Senator from South Carolina.

Mr. STEVENS. Mr. President, I wish to ask a question of the manager of this bill. I understand that the committee has recommended allocating $146,000 of the Federal Communications Commission research budget to do a study of the propagation of radio waves in the arctic. The need for this study has been noted several times by the Commission; especially, in the recent clear channel proceedings. Radio waves in northern latitudes propagate much differently than in more southerly climates, because of the high level of electromagnetic activity in the atmosphere, the higher ground conductivity and the long hours of winter darkness which reduces the ionization of the atmosphere.

A great deal of study has been done on this phenomenon, but no significant research has ever been done in the standard broadcast band. This funding would allow a study in the AM band to be conducted. It is expected that the results of this study will permit Alaskan broadcasters to increase their power and broadcast to larger areas. Currently, they are limited by data derived in the early 1930's from research only in lower latitudes.

The State of Alaska has voluntarily offered to contribute $10,000 to the cost of this study. I should like to ask the manager of this bill the committee's reaction of this study.

Mr. HOLLINGS. Mr. President, I thank the Senator. The committee has carefully reviewed this proposal and strongly supports it. We have designated a portion of the funds appropriated to the Commission in this bill for this study and urge the FCC to carry out the study as expeditiously as possible.

Alaskan broadcasters face an enormous task in trying to cover their huge State. If this study results in the conclusion that they should be allowed to increase their power, I hope the FCC will act promptly to implement that conclusion so broadcasters, both public and private in Alaska, can get on with their task.

Mr. CANNON. Mr. President, I commend the Appropriations Committee for its responsible approach to the fiscal year 1981 appropriation for the National Oceanic and Atmospheric Administration (NOAA). The committee's recommendation emphasizes fiscal constraint without sacrificing basic agency services.

While I am satisfied with the money side of NOAA's fiscal year 1981 budget, I am nevertheless concerned about the personnel ceiling set for NOAA in fiscal year 1981. NOAA has been assigned more and more duties over the years, and I am uncertain whether its personnel levels properly reflect that growth in responsibility.

When NOAA was created in 1970, it had a budget of about $200 million and a ceiling of 12,831 full-time personnel. In fiscal year 1980, NOAA's budget was just over $800 million, but it was authorized only 13,640 full-time personnel. Questions have been raised as to whether this increase of only 800 positions is adequate in light of the new legislative responsibilities NOAA has assumed in the last 10 years. For example, NOAA administers the Marine Mammal Protection Act of 1972, the Marine Protection, Research, and Sanctuaries Act of 1972, the Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, the Fishery Conservation and Management Act of 1976, the National Ocean Pollution Research Act of 1978, and the National Climate Program Act of 1978. And this year has seen NOAA take on lead agency responsibilities involving land remote sensing satellites, deep seabed mining and ocean thermal energy conversion.

The Commerce Committee, of course, strongly favors the wise, efficient use of personnel by Federal agencies. However, our review of NOAA programs and manpower indicates that NOAA's personnel strength may be too lean to effectively carry out its numerous important missions. The Commerce Committee will be looking into this problem during the coming months, and we hope next year to have some information for the Appropriations Committee for use when it evaluates NOAA's fiscal year 1982 budget.

Mr. HOLLINGS. Mr. President, I am glad to see the chairman of the Committee on Commerce, Science, and Transportation raising the question of NOAA's personnel needs. I have been concerned about them for years, and have said as such on many occasions, both in the Commerce Committee and in my Appropriations Subcommittee.

My understanding is that NOAA has had about a 2-percent increase in personnel over the last 10 years, while its budget has increased 4 times over the same period. As a result, the agency has been strapped for people to carry out the programs it has responsibility for. I do not condone unreasoned growth in Federal employment either, but it seems a more equitable system could be worked out. While NOAA has had virtually no personnel added since 1970, the Environmental Protection Agency received over 7,000 additional employees. In the Department of Interior, the Bureau of Land Management, Fish and Wildlife Service, and the Geological Survey received over 4,000 additional employees over the same period. There is inequity here, and I am delighted that the chairman of the Commerce Committee will be looking into it.

Mr. MAGNUSON. Mr. President, I agree with my distinguished colleagues from South Carolina and Nevada that we need to look at the number of people allocated to NOAA. I point out that, even though NOAA had personnel ceilings of 12,831 in fiscal year 1970 and 13,640 in fiscal year 1980, the actual number of people on board at the agency was much lower—11,873 in 1970 and 12,840 in 1980. That is real overall growth of only 8 percent in 10 years, during a decade when NOAA was assigned several major new programs.

I think it is important to keep in mind that NOAA provides a number of routine services, such as weather forecasting and mapping and charting, which tie up most of its personnel slots. Approximately 63 percent of NOAA personnel work at the National Weather Service, the National Ocean Survey, the Environmental Data and Information Service and the National Earth Satellite Service. These services will always require a certain number of people to gather and analyze data, regardless of how many new regulatory programs NOAA is given by the Congress.

I have worked to pass a number of the oceans and fisheries statutes which NOAA administers, and I want to see that it has the people necessary to carry out those programs correctly.

AMENDMENT NO. 2392

Mr. WEICKER. Mr. President, I ask that my amendment No. 2392 be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 2392:
>
> On page 50, line 14, strike the period following the word "handicapped" and insert in lieu thereof the following: ": *Provided*, That nothing in this section shall be interpreted to prevent the Department of Justice from initiating or participating in litigation to secure remedies for violations of the fifth or fourteenth amendments to the Constitution of the United States.".

Mr. WEICKER. Mr. President, yesterday, in action taken on this floor, the Senate reinstituted language in the bill, which language specifically states that no part of any appropriation contained in this act shall be used by the Department of Justice to bring any sort of action to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped. That is the language in the bill as it now stands. This amendment would add to the language approved by my colleagues, the following proviso:

> *Provided*, That nothing in this section shall be interpreted to prevent the Department of Justice from initiating or participating in litigation to secure remedies for violations of the fifth or 14th amendments to the Constitution of the United States.

Mr. President, I am not here to get into a wrangle on the pros and cons of busing.

Many experts, and nonexperts, Senators, and non-Senators, have their own opinions as to the merits of that particular remedy.

Indeed, the Senate, at least the majority vote of the Senate yesterday, indicated some reservations about that remedy.

But there can be no reservation on the part of any one of us that the laws of this country, more particularly, the provisions of the Constitution of the United States, should be upheld.

That is the sum and substance of what it is I offer to my colleagues today. It is one thing to sit here and try to influence policy, but quite another to interfere with the basic rights of all Americans.

The difficulty with the language as it now reads is that it could be interpreted, in its broadest sense, as preventing the Department of Justice from initiating any investigation of discrimination, an issue quite separate and apart from that of busing. That is a power, certainly, that is properly lodged in the Department of Justice and one that they should have the capacity to exercise.

So, without taking a great deal of time on this issue, I hope that, indeed, whatever our feelings are and whatever our commitments to philosophy or to party, that the oath we took to the Constitution of the United States would prevail, so that there can be no mistake that the Senate expressed itself on a matter of policy, but also, expressed itself on that greatest of all obligations we take when we become Members of this body, which is to uphold the Constitution of the United States.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Connecticut is manifestly correct on a factual basis.

I guess that no one has a longer record now against busing than the Senator from South Carolina. I had the distinction of joining with Senator Ervin in the brief, amicus curiae, in Swann against the county of Mecklenburg, wherein the court held against us and felt busing could be employed.

I have no question about how I feel and how my constituency feels with respect to its application and how it has worked. But as much as I do not like the busing, similarly that with the same verve, desire, and zeal, I like and respect the Constitution. Particularly as the Senator from Connecticut has clarified, we cannot come in a willy-nilly fashion on an appropriation bill and set policy.

It almost gets to be, rather than a convenience, an ambush. We bring the bill out, try to provide the moneys required in order to carry out the intent of Congress, the authorizing committees, and the different programs. Then income, single-issue groups trying to ambush the bill itself, whether it be on a particular measure relative to foreign policy, embargoes, or whether in this particular issue that gets into the fundamental of civil rights.

The fundamental is sound. The Constitution is there. We all take an oath to adhere to it.

Mr. President, I appreciate the Senator from Connecticut presenting this amendment, because it takes the executive branch of the Government, charged with the responsibility of enforcing the law, namely, of bringing the remedies for violations to the 5th and 14th amendments to the Constitution, and says that nothing herein provided shall prevent that Department of Justice from doing its duty under that Constitution, and especially with respect to these two constitutional amendments.

So I support the amendment of the Senator from Connecticut, and on behalf of the committee would be glad to accept it.

Mr. WEICKER. I thank the distinguished chairman.

I gather that Senator THURMOND desires to speak on this issue. Out of fairness to him, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, with the agreement of the author of the amendment and the ranking minority member, the Senator from Connecticut, in order to expedite the presentation of amendments, while the distinguished senior Senator is out of the Chamber determining exactly what course to take on this amendment, I ask unanimous consent that this amendment be set aside temporarily, so that we can call up the amendment of the Senator from New York.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. What is this?

Mr. HOLLINGS. Just to set aside the amendment, unless the Senator from South Carolina is ready to speak.

Mr. THURMOND. I think we can go ahead.

Mr. HOLLINGS. Excuse me.

The PRESIDING OFFICER. Does the Senator withdraw the request?

Mr. HOLLINGS. I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

The senior Senator from South Carolina is recognized.

Mr. THURMOND. Has the Senator made a motion?

Mr. WEICKER. I say to the distinguished Senator from South Carolina that I have proposed an amendment which would add to section 607 the following language:

> *Provided,* That nothing in this section shall be interpreted to prevent the Department of Justice from initiating or participating in litigation to secure remedies for violations of the fifth or fourteenth amendments to the Constitution of the United States.

That is the language I have added to the language which is now a part of the bill, which the Senator successfully included in the bill yesterday.

Mr. THURMOND. Mr. President, I raise the point that this is legislation on an appropriation bill. The House put in the original wording, and this was not done in the Senate.

Yesterday, the distinguished manager of the bill admitted that if it had not been done in the House, it would be legislation on an appropriation bill. So this is wording that is being added to this bill and is legislation on an appropriation bill.

The PRESIDING OFFICER. The Senator makes that point of order?

Mr. THURMOND. I make that point of order.

Mr. WEICKER. Mr. President, I raise the issue of germaneness.

The PRESIDING OFFICER. Under rule XVI, the Chair is obligated to submit to the Senate the question: Is the amendment germane?

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment germane? On this question the yeas and nays have been ordered, and the clerk will call the role.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Nebraska (Mr. EXON), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. ZORINSKY) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there other Senators present who desire to vote?

The result was announced—yeas 51, nays 27, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—51

Baucus
Bellmon
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Glenn
Hart
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Schmitt
Simpson
Stafford
Stennis
Stevens
Stevenson
Tsongas
Weicker
Williams
Young

NAYS—27

Armstrong
Baker
Bentsen
Biden
Byrd,
Harry F., Jr.
Cannon
Chiles
Cochran
Dole
Ford
Garn
Hatch
Helms
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Nunn
Proxmire
Roth
Schweiker
Talmadge
Thurmond
Wallop
Warner

NOT VOTING—22

Bayh
Church
Durkin
Eagleton
Exon
Goldwater
Gravel
Hatfield
Hayakawa
Humphrey
Javits
Kennedy
McGovern
Morgan
Nelson
Pressler
Randolph
Sasser
Stewart
Stone
Tower
Zorinsky

The PRESIDING OFFICER. The amendment is declared to be germane and the point of order falls.

The question recurs on agreeing to the amendment of the Senator from Connecticut.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is there time available on this bill?

The PRESIDING OFFICER. There is none.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTOMOBILE FUEL EFFICIENCY ACT OF 1980—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a conference report on S. 2475, the Automobile Fuel Efficiency Act of 1980, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improve Automobile Efficiency", to exempt very low volume automobile manufacturers from certain requirements of the Act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the conference report?

Mr. BAKER. Mr. President, reserving the right to object, I do not know what this is all about. I wonder if the Senator would withhold just for a moment.

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The Senate will be in order.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I am sorry, but I wonder if the Senator would withhold his request momentarily. We had no notice of it, as far as I can tell. I am sure it is all right, but I need time to clear it.

Mr. CANNON. Mr. President, I know of no opposition to the conference report. I was told by the staff that the minority had approved it. I am sorry if they had not.

Mr. BAKER. Mr. President, I apologize to the Senator, but let me go through my clearance procedure.

Will the Senator withdraw his request at this time?

Mr. CANNON. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from North Carolina.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

AMENDMENT NO. 2392

Mr. HELMS. Mr. President, I have no desire to delay the Senate on Friday afternoon. I know many Senators want to depart.

To see where we stand on this amendment, I move that it lay on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. KENNEDY. Mr. President, I support the amendment offered by Senator WEICKER.

It is absolutely imperative that there be no doubt regarding the Justice Department's ability to comply with the constitutional mandate under article II, section 3, that the executive branch "take care that the laws be faithfully executed."

This amendment states that "provided, that nothing in this section shall be interpreted to prevent the Department of Justice from initiating or participating in litigation to secure remedies for violations of the 5th or 14th amendments to the Constitution of the United States."

If a citizen's right to due process of law or equal protection has been abridged, the Justice Department must remain unrestrained in its ability to seek appropriate redress for such violations.

The action taken yesterday effectively bars the Justice Department from even bringing suits in school desegration cases. This provision creates a very dangerous precedent and, in my view, would probably be held unconstitutional. To allow any restrictions on the type of case Justice can bring or direct would be extremely unwise.

The right to enjoy educational opportunities in integrated facilities is one that the Supreme Court has upheld. Segregated educational facilities are inherently unequal. In those appropriate cases, the Justice Department has been, and must continue to be able to bring actions to remedy unconstitutional segregation in public schools.

Mr. President, the Weicker amendment helps insure that the Justice Department will be able to initiate or participate in litigation to secure appropriate remedies.

I urge my colleagues to consider carefully the dangerous and unavoidable precedent that will be established if we do not adopt the Weicker amendment. The Senate of the United States should not bind the Justice Department to such a degree that it cannot bring certain kinds of lawsuits or seek certain remedies. Mr. President, we must not allow the restrictive language to stand. The Weicker amendment will help insure that there is no question regarding the ability of the chief law enforcement agency of the country to carry out its constitutional mandate and insure that the laws be faithfully executed.

I urge adoption of the amendment offered the Senator from Connecticut.●

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table offered by the Senator from North Carolina (Mr. HELMS).

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. ZORINSKY) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. MITCHELL). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 27, nays 54, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—27

Armstrong
Bentsen
Biden
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cochran
Dole
Exon
Ford
Garn
Hatch
Helms
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Nunn
Proxmire
Randolph
Roth
Schweiker
Thurmond
Warner
Young

NAYS—54

Baker
Baucus
Bellmon
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Schmitt
Simpson
Stafford
Stennis
Stevens
Talmadge
Tsongas
Wallop
Weicker
Williams

NOT VOTING—19

Bayh
Church
Durkin
Eagleton
Goldwater
Hayakawa
Humphrey
Javits
Kennedy
McGovern
Morgan
Nelson
Pressler
Sasser
Stevenson
Stewart
Stone
Tower
Zorinsky

So the motion to lay on the table Mr. WEICKER's amendment (No. 2392) was rejected.

Mr. ROBERT C. BYRD. Mr. President, the motion to lay the Weicker amendment on the table having failed, I inquire as to whether or not Senators would be willing to proceed to vote on the amendment by Mr. WEICKER.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. Mr. President, I do not presume the answer for other Senators, but I am reliably informed that there are a number of Senators who are not prepared to proceed to vote on the Weicker amendment. I hope that, in view of that, the majority leader might consider our future course or at least our course for the remainder of the day, because of the fact that there is likely to be a long debate on the Weicker amendment.

Mr. THURMOND addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, with the understanding that I not lose my right to the floor, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, the purpose of the Weicker amendment, in my opinion, is to gut the amendment we approved yesterday. The people of America have waited for years to end forced school busing. Yesterday the Senate agreed to do that. Now, the Senator from Connecticut has come here and confused some of our Senators into believing that this is necessary to bring suit. It is not necessary. The Justice Department can bring suit for discrimination anytime. If you want to end school busing, then you want to do what we did yesterday to end forced school busing; restore the provision the House put in this bill.

That is all we did yesterday. We put back in the bill the same provision that the House had included, but which the Appropriations Committee had taken out. Since there is such confusion over this matter, I think it may take some discussion here on the Senate floor to bring the thing into proper focus.

Mr. BUMPERS. Mr. President, will the Senator yield for just a moment?

Mr. ROBERT C. BYRD. Yes, without losing my right to the floor.

Mr. BUMPERS. Mr. President, I am not going to get into lengthy debate on this, but I see the amendment we adopted yesterday as institutionalizing busing where it exists—namely, in Arkansas, Alabama, Tennessee, and Florida—because this amendment will operate prospectively. What we are saying is that we do not want Chicago and some of the other cities who are now just enjoying the fruits of busing to enjoy the same thing we have been enjoying for years in our States. I voted no and I am going to continue to vote no on that basis.

Mr. ROBERT C. BYRD. As I understand it, then, Mr. President, there is an inclination on the part of some Senators not to allow the Senate to vote on the Weicker amendment.

Mr. HOLLINGS. Mr. President, let me just say something.

Mr. ROBERT C. BYRD. I yield without losing my right to the floor.

Mr. HOLLINGS. Mr. President, there is no question of my position with respect to busing. I voted for the amendment. But there is also no question about our oath to the Constitution. By a very close vote of 54 Senators, a bare majority, we have just upheld the Constitution. I do not find this amendment irreconcilable or incompatible with the Constitution, or to be gutting anything.

When the distinguished Senator from Connecticut puts his amendment forward that says notwithstanding any other provision, the Justice Department can enforce the 5th and 14th amendments, and we have just a bare majority that is a sort of sad day. The language in the House bill is there, and the language in the Senate bill is there. No one can disturb that language. Under the Weicker amendment we just reiterate the 5th and 14th amendments to the Constitution. I want to get on record somehow to say that I happen to believe in the Constitution. I do not know how to say it any differently than that.

Mr. President, we have had a vote for Russia already this morning and a very close vote barely upholding the Constitution. It is almost a coup. I think I counseled over 2 weeks ago that we ought to adjourn. It gets worse and worse.

Mr. THURMOND. Mr. President, I should like to reply to a portion of that statement.

Mr. ROBERT C. BYRD. Mr. President, one reply engenders another reply. If Mr. THURMOND speaks, Mr. HOLLINGS will speak again; then that is all I am yielding. The Senator from Connecticut wanted me to yield earlier.

Mr. WEICKER. That is all right, Mr. President. The Senator from South Carolina (Mr. HOLLINGS) said it.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from South Carolina (Mr. THURMOND) without losing my right to the floor.

Mr. THURMOND. Mr. President. I just want to say, in reply to the remarks by my distinguished colleague from South Carolina about the Senate voting today for Russia, that I resent that. It is not true. What happened is that I went to the White House on January 5 of this year and President Carter at that time was discussing various matters. I asked him "When are you going to stop sending high technology to the Soviets?"

We discussed. that. Senator HARRY BYRD was there at that time. He said, "We will stop it now."

Well, Mr. President, several months later, a representative of the Defense Department came and testified before a committee which Senator HARRY BYRD was chairing and we asked her the question. She did not seem to know anything about it. So Senator BYRD and I said, "Well, you haven't gotten the message from the President then."

They were still selling high technology, but she said they were going to look into it and discontinue some of it. As a matter of fact, they have not discontinued it. They are selling computers, they are selling technology and materials to Soviet ball bearing plants, they are selling to Soviet truck plants and otherwise supplying the Russians with sensitive materials.

Although, at first, Mr. President, I voted against selling grain, I took the position today that if the President of the United States is going to sell all of this sensitive material to the Soviets, I do not see why the farmers should be punished and not allow their grain to be sold. I think it is better not to let any of it be sold, but I do not believe in punishing the farmers of this country in an unnecessary way.

When my colleague says the Senate voted today for Russia it is simply not so. Mr. President, I want to say this——

Mr. ROBERT C. BYRD. Mr. President, I yield 1 more minute to my friend from South Carolina.

Mr. THURMOND. Mr. President, I just want to say that I am not in favor of any form of discrimination. There is a high school named after me in South Carolina of which 65 percent are black students. We bus them all. They get equal treatment. The whole State of South Carolina has desegregated its schools. The whole South has desegregated the schools. The parts of the Nation today that are not desegregated are other parts. Go to Massachusetts, go to Illinois, go to California and to Michigan or some of these other places and question their records on school desegregation.

We have done our part, but the people of this country, by a big vote, 80 percent of the people of this country, I believe, have voted against forced busing. The people do not want it. That is what we tried to end yesterday. Then today, to come along with an amendment allowing the Justice Department to enforce constitutional rights is simply an attempt to reverse that vote.

The PRESIDING OFFICER. The Senator's 1 minute is up.

Mr. THURMOND. Will the Senator extend me a half a minute?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. THURMOND. Mr. President, we do not need that language in the provision. The Justice Department can enforce rights or bring suits against discrimination whenever and wherever it wants. Individuals can bring suits against discrimination. This is purely a method to try to get around yesterday's vote and give the attorneys in the Justice Department the right to keep on bringing suit, against the school districts and the people of this country. I think it ought to be ended. That is what I am trying to do.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Does the Senator from North Carolina want me to yield to him?

Mr. HELMS. I thank the Senator.

Mr. ROBERT C. BYRD. I yield without losing my right to the floor.

Mr. HELMS. Mr. President, with respect to what my friend the junior Senator from South Carolina said about the Constitution, I just say he is wrong.

If we want to take a vote on who loves the Constitution, I guess we would get 100 Senators to vote in favor of the Constitution. Certainly, I will. But this is a matter of constitutional interpretation.

If the Senator wants to get into a discussion about the 14th amendment, I am prepared to do that. I am prepared to do it in terms of what the Congress has the authority to do under the amendment and, in my judgment, the duty to do.

So I hope we will not wrap ourselves in a cloak of sanctimony and say, "We believe in the Constitution and you guys do not."

I think what the Court has done is unconstitutional. I think we have an imperial Court in this country.

What we did yesterday was to throttle the Justice Department attorneys who have in large measure encouraged all this mess.

Somewhere along the line we have to pay attention to the people of this country, both black and white, who, as Senator THURMOND said, have overwhelmingly stated in poll after poll that they do not want any forced busing.

I thank the Senator for yielding to me.

Mr. ROBERT C. BYRD. Mr. President, the continuing resolution is a matter that must be disposed of before the Senate recesses for the election. The deadline, I believe, is September 30, midnight.

Once that deadline is reached, then the Government will not be able to operate, at least those agencies which have not been funded.

So it is important that the Senate proceed to consider the continuing resolution.

I hope that, as it does so, we will restrain ourselves in our desire to attach amendments that are legislative in nature, or that are not germane, in order to make the record, or with hope the House might accept them and thus take advantage of an opportunity to get something done which otherwise might not be easy to do.

So I would urge my colleagues on both sides to restrain themselves in the offering of amendments.

The sooner we can get this resolution to conference, the sooner the conferees can begin to resolve the differences between the two Houses and the resolution can be sent to the President's desk for his signature.

I hope all that can be done before midnight Tuesday, and well before midnight Tuesday.

Did the distinguished minority leader wish me to yield?

Mr. BAKER. Mr. President, if the majority leader will yield to me briefly, I would echo his urging that we resist the almost inevitable temptation to add other amendments to this measure.

We simply must pass a continuing resolution, in my judgment. The order entered this morning recognizes that fact.

The transactions that have occurred, even those which occurred on yesterday, implicitly recognize the fact that this measure simply must be passed.

So I would urge Members on our side, indeed, all Members of the Senate, to save their amendments, to find some other vehicle to carry them, and get on with the necessary business on the continuing resolution as promptly as possible.

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. I thank the distinguished minority leader. I yield to the Senator.

Mr. McCLURE. Mr. President, this Senator has already, for himself at least, followed that process.

There are a number of things that I have been very much concerned about that I have offered as amendments on other appropriation measures.

But I resist that temptation, and for one other reason not stated, and perhaps it ought to be stated.

This body has been greatly offended in the past as we got to an adjournment or recess resolution to find that we go to a conference, the other body then adopts the conference report and leaves, and leaves this body hostage to the changes they made under the threat of failure to pass a continuing resolution.

I think we may be faced with the same difficulty this time, only in a much larger measure, because of the length of the recess and the nature of the recess over the election process.

I think it is very important from our standpoint as a coequal legislation body to get the continuing resolution through here as rapidly as possible, and through the conference as rapidly as possible, so we can minimize that effect, or the temptation to have that effect, so far as the other body is concerned.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Idaho for his fine statement.

I apologize to the distinguished Senator from South Carolina, the manager of the pending business. I apologize to the distinguished Senator from Connecticut, the ranking manager of the pending business. They have done a good job. They worked hard. But it appears to be impossible to see action completed on this pending bill today.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1981

Mr. ROBERT C. BYRD. Mr. President, with those apologies, I move, under the order entered, that the Senate proceed to the consideration of House Joint Resolution 610.

The PRESIDING OFFICER. Under the previous order, the clerk will state the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with amendments.

AUTOMOBILE FUEL EFFICIENCY ACT OF 1980—CONFERENCE REPORT

Mr. CANNON. Mr. President, I again call up the conference report on S. 2475, which has previously been reported, and ask for its immediate consideration.

Mr. President, I know of no opposition to the conference report and urge its immediate adoption.

Mr. BAKER. Mr. President, I am happy to report to the distinguished Senator from Nevada that this matter is cleared on our side and we have no objection to its consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improve Automobile Efficiency", to exempt very low volume automobile manufacturers from certain requirements of the Act, to encourge increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes, having met, after full and free conferences, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1981

The Senate continued with the consideration of House Joint Resolution 610.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment, provided that no points of order be considered as waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, strike line 8;

On page 3, strike line 20 through and including page 4, line 2, and insert in lieu thereof the following:

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980. Except section 201 of title II of the Department of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

On page 5, line 6, strike "current" through and including "authority on line 8, and insert the following:

rate which would have been provided under the terms of the conference report (House Report 96–787), and in accordance with associated agreements stated in the Joint Explanatory Statement of the Committee of Conference, accompanying H.R. 4473, except that for Operating Expenses of the Agency for International Development the rate for operations shall be at an annual rate of $280,000,000: *Provided,* That not more than $105,700,000 of this amount shall be for AID/Washington Operating Expenses.

On page 5, line 22, after "1980", insert the following:

the House of Representatives, July 21, 1980, except that the amount provided therein for salaries and expenses of the General Accounting Office shall be $216,000,000 for the purposes of this joint resolution and that section 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office.

On page 6, after line 12, insert the following:

activities of the Marshals Service pertaining to the processing and detention of Cuban and Haitians and the service of private process;

On page 6, strike line 22 through and including page 7, line 8.

On page 7, strike line 18 through and including line 20;

On page 8, line 2, strike "Act; and" and insert "Act;";

On page 8, at the beginning of line 4, insert the following:

"title III, title VIII,"

On page 8, after line 5, strike "Act." and insert "Act;" and

On page 8, after line 5, insert the following:

activities for support of State Medicaid Fraud Control Units at the matching rate specified in section 1903(a)(6) of the Social Security Act, notwithstanding the limitations on eligible quarters contained therein.

On page 9, line 9, strike "for fiscal year 1981";

On page 9 line 15, after "102" insert the following:

"(a) and (b) and section 128"

On page 10, line 1, strike "terms, conditions, and";

On page 10, line 4, after "96–124" insert the following:

and the terms and conditions of the Home Energy Assistance Act of 1980, except that for purposes of such low-income energy assistance programs, an eligible household, under section 305 of the Home Energy Assistance Act of 1980, shall include any single person household at or below 125 per centum of poverty.

(i) Such amounts as may be necessary for projects and activities provided for in the Energy and Water Development Appropriation Act, 1981 (H.R. 7590), at a rate of operations, and to the extent and in the manner provided for in such Act as adopted by the House of Representatives and the Senate on September 24, 1980, notwithstanding the provisions of section 102(c) and section 128 of this joint resolution: *Provided*, That appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(j) Funds available under the provisions of this section for child nutrition programs of the Department of Agriculture may be used to pay valid claims submitted in fiscal year 1981 regardless of the period in which the meals were served.

(k) Such amounts as may be necessary to continue activities of the National Health Service Corps under section 338(a) of the Public Health Service Act at a rate not to exceed the fiscal year 1981 budget estimate.

(l) Such amounts as provided in H.R. 8105, entitled the Department of Defense Appropriations Act, 1981, as passed the House of Representatives, September 18, 1980, and under the authority and conditions provided in the Department of Defense Appropriations Act, 1980.

On page 14, after line 20, insert the following:

Sec. 112. Notwithstanding any other provision of this joint resolution, appropriations made by section 101(a)(1) to carry out military construction projects may be used for the purpose of entering into contracts for the construction of new projects to the extent that such new projects have been included in identical form in the Military Construction Appropriation Act, 1981, as passed by the House and the Senate.

Sec. 113. Of the additional amount appropriated under Public Law 96–304, to the Department of Agriculture, Forest Service for "Forest Management, Protection and Utilization", $15.000.000 for emergency activities caused by the eruption of Mount St. Helens in Washington State shall remain available for obligation until expended.

Sec. 114. Notwithstanding any other provision of this joint resolution, the activities described in House document numbered 96–368 for the Environmental Protection Agency shall be continued at a rate not to exceed an annual rate contained in the Senate passed version of H.R. 7631.

Sec. 115. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to promulgate or enforce any final regulations which replace the current "LAU remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

Sec. 116. Notwithstanding section 101(a) of this joint resolution, the Administrator of the Small Business Administration, pursuant to section 4(c)(5)(a) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $174,000,000 for the purpose of providing disaster loans.

Sec. 117. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment becomes effective, rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 50 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 96–74; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Sec. 118. Notwithstanding the provisions of section 101, activities of the Department of Energy to initiate preimplementation of standby gasoline rationing plans, as authorized by the Emergency Energy Conservation Act of 1979, shall be funded at not to exceed an annual rate for obligations of $46,000,000.

Sec. 119. Notwithstanding any other provision of this joint resolution there is appropriated $1,383,000,000, to remain available until expended, for strategic petroleum reserve petroleum acquisition as authorized by the Energy Policy and Conservation Act of 1975 (Public Law 94–163) and the Energy Security Act (Public Law 96–294).

Sec. 120. Notwithstanding section 101(A) of this joint resolution, obligations for grants to States for the work incentive program authorized by title IV of the Social Security Act shall not exceed the rate of $251,615,000.

Sec. 121. Notwithstanding any other provision of this joint resolution, the amount available for the Postal Service shall not exceed the amount as reported in H.R. 7583 by the Senate Committee on Appropriations.

Sec. 122. Notwithstanding section 101(a) of this joint resolution, the following programs in the Department of Health and Human Services shall be continued at the following levels:

Health Care Financing Administration: Professional Standards Review Organizations, at the level of the President's budget request for fiscal year 1981;

Research Demonstration and Evaluation, Federal Funds, at the level of $34,000,000;

Social Security Administration, Limitation on Research and Statistics, Survey of Income and Program Participation, $11,000,000.

Sec. 123. Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. Any such special census of revised estimate shall be conducted solely at Federal expense. Such special census or revised estimate shall be conducted no later than twelve months after the regular census date and shall be designated the official census statistics and may be used in the manner provided by applicable law.

Sec. 124. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which must be approved by the General Services Administration in coordination with the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

Sec. 125. Notwithstanding section 101(a) of this joint resolution, $280,000,000 for aging social services and centers, $38,100,000 for aging research, training, and special projects, and $3,000,000 for the White House Conference on Aging shall be available under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981.

Sec. 126. Notwithstanding section 101(a) of this joint resolution, $2,030,000,000 shall be available to continue the low-income energy assistance program under the terms, conditions, and State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96–1244, except that the ratio for residential energy expenditures and heating degree days shall be 50 per centum each in lieu of the 25 per centum and 75 per centum referred to in the House report; except that the sum of $25,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance agreed to in House Conference Report 96–817, such payments to be the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation, and except that $100,000,000 (in lieu of the $20,000,000 referred to in the appropriation for Low-Income Energy Assistance in H.R. 7998) shall be transferred to the Community Services Administration for Energy Crisis Assistance; that for purposes of such low-income energy assistance program, an eligible household shall include any single person household at or below 125 per centum of poverty in addition to those households qualifying under the regulations referenced in House Report 96-1244; and that the $500 limitation on assistance to households as referred to in H.R. 7998 does not apply.

SEC. 127. Should it be necessary such amounts, as may be required for expenses, Presidential transition, notwithstanding any other provision of this joint resolution, but at a rate of operations not in excess of the amount as reported in H.R. 7583 by the Senate Committee on Appropriations.

SEC. 128. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1980.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD an explanation of the committee action. The committee unanimously agreed that we would not print this so that we could move this bill quickly.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTINUING APPROPRIATIONS, 1981: EXPLANATION OF COMMITTEE ACTION

Section 101(a)(4)

RATE FOR OPERATIONS

The Committee amended section 101(a)(4) of the House passed joint resolution to specify that activities for which only the House has passed a regular Appropriations Act will be continued at the House passed rate or the current rate, whichever is lower. The House passed continuing resolution would have allowed expansion of activities even in the absence of Senate action. The Committee amendment restores the traditional continuing resolution formula by which most ongoing programs would be mintained at their end-of-year spending rate. Under the Senate amendment, House action alone on the regular Appropriations Act would only be effective in further reducing spending.

Agencies should operate as cautiously as possible until regular appropriations are enacted. In most cases, the total appropriation for the current year should serve as the upper limit in determining the current rate for operations. Nevertheless, the "current rate" should not be interpreted as requiring cutbacks in ongoing program levels which Congress has approved.

The Committee notes that where programs were authorized to expand during the current year, it is likely that the cost of operating the program for a full year at the rate achieved at the end of the current year would exceed the total cost for the program in the current year. The current rate for operations should be construed to maintain individual program and activity levels except where Congress has expressed a contrary intent with respect to specific programs.

Section 101(a)(4)

POTENTIAL UNINTENDED DECREASE IN BUDGET AUTHORITY OF $500 MILLION

The House-passed continuing resolution includes a provision which makes applicable in 1981 all the general provisions enacted in 1980 appropriations acts. The Department of Health and Human Services' General Counsel has indicated that this section thus enacts for 1981 the same $500 million budget authority reduction which was legislated in 1980 in section 201 of H.R. 4389. This $500,000,000 reduction was to be achieved by reducing fraud, abuse, and waste.

No such reduction was discussed for fiscal year 1981 nor was one reflected in the 1981 Labor-HHS-Education appropriations bill, H.R. 7998, as passed by the House, so to avoid the Department having a budget authority reduction of $500,000,000 in fiscal year 1981 because of section 201 of last year's bill, section 101(a)(4) of this resolution was revised to include the following language:

* * * except section 201 of title II of the Departments of Labor and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

We still have in effect the error rate standards requiring that the States reduce their AFDC and medicaid error rates to 4 percent by 1982. These standards are our best hope for long-run savings.

Section 101(b)

FOREIGN OPERATIONS

The House-passed version of H.J. Res. 610 would have set the rate of operations for Foreign Assistance and Related Programs at the current rate or the fiscal year 1981 budget estimate, whichever is lower. The Committee amendment, on the other hand, would set the rate of operations for these programs at the rate which would have been provided in the conference agreement on the fiscal year 1980 Foreign Assistance and Related Programs appropriation bill (H. Rept. 96-787).

Unlike other programs for which funding is extended under this resolution, the current rate for most of the programs in the Foreign Assistance and Related Programs appropriation bill is not based on a fiscal year 1980 appropriation; it is actually the level which was appropriated in fiscal year 1979. This anomalous situation arises from the fact that the Congress did not enact a Foreign Assistance and Related Programs appropriation bill for fiscal year 1980.

The Committee believes that grave consequences would ensue from legislation setting a rate of operations for fiscal year 1981 at levels which were appropriate for fiscal year 1979. A continuing resolution for fiscal year 1981, which took as its base the rate provided by the Congress in fiscal year 1979, would severely impair United States economic and security assistance programs. It would have a harsh, negative impact on our security interests abroad.

To counter this adverse impact, the Committee would provide a rate of operations which is more nearly suited to the conditions which our economic and security assistance programs must address today. Rather than a rate of operations which was set 2 years ago, the Committee amendment incorporates the rate of operations, and the terms and conditions, which were agreed to by the Committee of Conference in February this year.

It will be noted that the Committee has provided one exception. Under the conference agreement, the amount provided for operating expenses of the Agency for International Development would be lower than the current rate. This is because, in fiscal year 1980, with prior congressional approval the Agency transferred $7,000,000 from development assistance accounts to the operating expenses account. This transfer was not part of the conference agreement, though it was subsequently approved by the Appropriations Committee of both Houses of the Congress.

The Committee amendment responds to this exceptional circumstance and allows a modest adjustment for inflation.

Section 101(c)

GENERAL ACCOUNTING OFFICE

The Committee adopted an amendment to section 101(c) of the House-passed joint resolution. The Comptroller General has indicated that he will be forced to implement a reduction in force for 450 of his employees unless an amendment is made to the continuing resolution. The Committee concurs that the House reduction may have been too deep on the GAO budget. The Committee amendment would partially restore the House reduction and minimize the necessity for a reduction in force. The Committee believes that this amendment is appropriate for the General Accounting Office, an agency that saves the taxpayer $20 for every $1 it spends.

Almost 40 percent of work of General Accounting Office is done in direct response to specific statutory mandates and Committee and Member requests. The rest of it is done in discharge of its basic statutory responsibility to review all matters relating to the raising and expenditure of public funds, including periodic audits of all Federal activities to assure proper accountability to congressional intent and to prevent and expose instances of fraud, abuse, waste, and error. All of its work benefits the Congress in discharge of its legislative and oversight functions.

Section 101(d)

MARSHALS SERVICE PROCESSING OF REFUGEES

The Committee inserted language providing for continuation of the Marshals Service processing of the Cuban refugees as well as the service of private process.

Section 101(d)

MEDICAID FRAUD CONTROL UNITS

The section extends the authorization of matching payments for the establishment and operation of State medicaid fraud control units at the rate of 90 percent for the fiscal year. These payments would be subject to a ceiling of the higher of $125,000 or one-quarter of 1 percent of total medicaid outlays in the State in previous quarter. The Inspector General of the Department of Health and Human Services (HHS) reports that the benefits from recoveries, deterrence, and program improvements far and away exceed the cost of the units. The General Accounting Office has released a draft report which endorses the extension of funding and this report is expected to be issued in final soon.

Under current law, 90 percent Federal funding is available to States that establish agencies to investigate and prosecute fraud in their medicaid programs. To encourage the development of such medicaid fraud control units, Congress in 1977 provided that States would be reimbursed for 90 percent of the start-up and operating costs. This 90 percent matching rate is scheduled to expire on September 30, 1980. Thereafter, the Federal matching payment will drop to 50 percent, the usual rate provided in the medicaid program for administrative costs.

There are now 30 States with these medicaid fraud control units and at least another 11 are expected to establish them if this section is enacted. The Committee believes that all States should have such means of vigorous fraud control, and that we must maintain sufficient incentives for States to do so. We have been told by unit managers that 22 of the existing units would immediately go out of existence by October 1 if we do not enact this section, and that in 19 States all of the difficult criminal cases now pending would be dropped as far as State law is concerned. The remainder of the units would be substantially reduced in size and effectiveness without this amendment. Many States are already losing highly qualified staff due to the uncertainty of future funding. The Inspector General has estimated that without a continuation of the higher Federal matching rate, most existing State fraud agencies would cease operation and other States now interested in establishing units would not do so.

We believe that expenditures to assure the development and continued operation of effective State fraud units constitute a highly effective use of Federal funds. Although there is little question that most units are clearly cost effective, without the special Federal funding there is a concern that pressures and inertia within a State might result in the medicaid agencies simply absorbing the antifraud activities into their already numerous functions, with a loss of effectiveness in criminal investigation and prosecution activities, for which the independent antifraud agencies are better suited. In too many States, medicaid fraud control activity would cease altogether. We cannot allow the dismantling of this most effective and needed program.

Section 101(i)

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

The Committee recommends an amendment striking the fifth and ninth paragraphs under section 101(d) which provides continuing authority at the current level for the energy and water development bill and the Water Resources Council, respectively. The Committee recommends a new section 101(i) providing authority at a rate of operations, and to the extent and in the manner of H.R. 7590, House Report 96-1366, the Energy and Water Development Appropriation Act, 1981, as adopted and approved by the House and Senate on September 24, 1980. This change reflects the latest action by the Congress on the Energy and Water Development Appropriations Act which occurred subsequent to House approval of the continuing resolution.

Also, amendments are recommended to section 101(f) which would strike "for fiscal year 1981" and add "(a)" and "(b)" and section 127" after section 102. The purpose of these amendments is to provide for the current rate of operations to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation only for the period of this continuing resolution.

Section 101(j)

CHILD NUTRITION

The Committee approved an amendment to permit the Agriculture Department to pay valid claims for meals served in the child nutrition program regardless of the period in which the meals were served. Last July, in acting on the 1980 supplemental appropriations act, the Congress directed that the child nutrition accounts convert payments from an accrual to a cash basis, and fund meals served in September 1980 out of 1981 appropriations. Provisions in the 1980 Agriculture Appropriations Act, which are continued by the continuing resolution, would prevent valid claims from being paid for meals served during 1980 but claimed in 1981. The Agriculture Subcommittee intends to rectify this problem in the regular 1981 appropriation bill, but until that occurs, the language of the resolution would prevent payment from continuing appropriations for September 1980 meals served in the child nutrition programs.

Section 101(k)

NATIONAL HEALTH SERVICE CORPS

The Committee amended section 101(a) (4) to allow the Health Service Corps to operate at the President's budget request of $87,200,000, excluding the pay raise, which is $3,000,000 more than the level allowed in the House version including pay.

If the program is maintained at the 1980 level, approximately 800 graduating scholarship recipients would have to be released permanently from their service obligations in underserved areas because of insufficient funds to pay their salaries.

If program funding is not increased to $87,200,000, it will be difficult to recruit 300 needed additional volunteers. For personal and financial reasons, those who can be recruited during the next 6 months will want to report within a few weeks of their decision to join—the recruiting period is now. It is critical that the planning process for this begin now.

During the second quarter the Corps would not have congressional authority to match scholarship recipients and underserved communities. This would leave the assignees and the communities they are matched with in a state of suspense.

It would be more difficult to encourage assignees to choose the private practice option, which is preferred by Congress because the community, rather than the Corps, pays the award recipient's salary. Many assignees will probably delay choosing this option, gambling that the Corps will not have enough funds to pay them in the usual way, and they could thereby avoid their obligation altogether.

A lower funding level would mean that the mission of the Corps would not be accomplished in 1981, thus frustrating one of our major goals of providing more services to the medically underserved.

Section 101(l)

DEPARTMENT OF DEFENSE ACTIVITIES

The Committee action maintains the House passed authority under the joint resolution to continue Department of Defense activities at the level approved by the House in the regular fiscal year 1981 Appropriations Act. This will allow needed House passed defense spending increases to be initiated during the term of the continuing resolution.

FOOD STAMP PROGRAM

The Committee notes that under the provisions of the resolution, the annual rate of operations for the food stamp program cannot exceed the current rate. It must be recognized that it was not possible for the House to provide an appropriation in excess of the current rate, since the program is limited by the present authorization. In order to preserve the flexibility and prerogatives of the Congress to act on pending authorization and appropriation requests, the Department of Agriculture will be expected to continue to operate the food stamp program at current benefit levels in accordance with the directive contained in House Report 96-1095, which accompanied H.R. 7591 and which stated:

> Timely review and disposition of program funding requirements is anticipated upon the enactment of still further legislative authorization and Presidential budget reestimates, if needed. In the interim, the Department will be expected to continue program operations at the current level of benefits and to fully utilize all regulatory and administrative methods available to curtail fraud, waste, and abuse in the program.

REHABILITATION OF HANDICAPPED

To secure more effective independent living programs for severely disabled citizens, the Committee approved a program-design to be carried out to coordinate and integrate the combined requirements of housing, transportation, personal attendant care, transitional rehabilitation training centers and allied support services. Public and private resources would be directed in a coordinated approach to plan, execute, and operate such programs in the most cost-effective manner. This systems-analysis design will use qualified personnel at several regions of the United States as may be deemed appropriate, with a subsequent full report to the Committee as to its value and findings.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For Grants to States for Unemployment Insurance and Employment Services, the continuing resolution is intended to cover the necessary costs needed to properly process and pay benefit and allowance claims.

Section 112

MILITARY CONSTRUCTION FACILITIES

The Committee added a new section 112 to clarify the authority of the military department, Defense Agencies, National Guard, Reserve Forces, and Secretary of Defense for family Housing to enter into construction contracts for the construction of new or the modernization of existing facilities. The Congress has urged the Department of Defense and military departments to accelerate their planning and design process so that they can maximize the execution of construction contracts in the first quarter of a fiscal year. The authority provided by this section will permit a balanced execution program for the first quarter of fiscal year 1981.

This authority is in addition to the traditional authority included in continuing resolutions to permit planning and design, minor construction, access roads and family housing operations and maintenance programs to go forward.

Section 113

MOUNT ST. HELENS DISASTER

The Committee added a new section 113. $25,000,000 was appropriated in the fiscal year 1980 supplemental to the Forest Service for the Mount St. Helens disaster. Only $10,000,000 will be obligated by October 1, leaving a balance of $15,000,000 to be expended. The amendment does not require any additional money but continues the availability of the remaining $15,000,000 until expended.

Section 114

EPA HAZARDOUS WASTES

The Committee added a new section 114 to permit EPA to obligate funds for hazardous wastes site identification, control and clean up at a rate specified in the Senate-passed version of H.R. 7631. This provision was included to accommodate a budget amendment received by the Senate after the House had passed H.R. 7631. The Senate version of the bill was amended to include $16,000,000 for this purpose. The new provision allows EPA to obligate funds at a rate consistent with the Senate version.

Section 116

SBA DISASTER LOAN FUND

On September 4, 1980, the President transmitted a budget amendment (House Document 96-368) calling for $1,480,000,000 in borrowing authority for the disaster loan fund of the Small Business Administration due to the drought in 22 States and Hurricane Allen. The Committee deferred action on this request during the consideration of the State, Justice, Commerce bill as the allocation under the first concurrent budget resolution only assumed $174,000,000 for the 1981 disaster requirements.

SBA has advised the Committee that the unobligated balance to be carried into fiscal year 1981, along with the principal and interest and other fund revenue during the period October 1, to December 15, 1980, would probably be sufficient to meet current demand on the fund through December. However, demand may likely accelerate above current levels after the harvest. The Committee therefore recommends the appropriation of $174,000,000 as a safety valve if SBA's projected demand proves low.

The Committee recognizes that $1,306,000,000 of the estimates for SBA disaster loans still remains pending. We intend to consider these additional requirements carefully and, should future appropriations be required, will take necessary action in future bills in this session of the Congress.

The Committee is concerned that SBA does not adequately take into account the possibility of dual payments to farmers due to crop losses. The Administrator of SBA testified at the Committee's hearing on September 18 that the disaster grants made by the Department of Agriculture are taken into account by SBA's loan processors. The Committee directs the Administrator to issue a special bulletin to disaster personnel that such payments and other compensation for losses must be considered before any SBA assistance is taken into account.

BLUE-COLLAR PAY

The Committee added a new section 117 recommending a cap for the cost-of-living adjustments to be provided for blue-collar workers not to exceed the cost-of-living adjustment to be provided to white-collar workers. The Committee agreed to amend the language it had previously agreed to on September 16, 1980, when it reported the appropriations bill for Treasury, Postal Service, and General Government by permitting half of the cost-of-living adjustments to occur on October 1, which had been expected by most Federal blue-collar workers due to the implementation of previous pay caps. The remaining half, plus the worker's normal adjustment subject to the pay cap, will be provided on the anniversary date of the blue-collar worker instead of the entire adjustment occurring on the anniversary date of each blue-collar worker.

Section 118

GAS RATIONING

The Committee added a new section 118 to allow the Department of Energy to initiate preimplementation of stand-by gasoline rationing plans, as authorized by the Emergency Energy Conservation Act of 1979. This activity shall be undertaken at an annual rate of $46,000,000.

Section 119

STRATEGIC PETROLEUM RESERVE

The Committee added a new section 119 which provides an appropriation $1,383,000,000, to remain available until expended, for petroleum acquisition to expand the strategic petroleum reserve. These funds are needed to obtain authorized reserve stocks at current advantageous prices.

Section 120

WORK INCENTIVE PROGRAM (WIN)

The Committee added a new section 120 to reduce the work incentive program by $100,000 from $365,000,000 down to $265,000.000.

The WIN program an older program whose purpose has been taken over by title II of CETA for which the House has agreed to $4,316.000,000 funding—in fact, a large part of the training and employment for WIN is actually carried out by the CETA program.

Only $119.000,000, or one-third, of the WIN expenditures are for the special child care and supportive services which is an exclusive WIN program. The remainder is for intake—$128.000.000—and work and training—$121.000.000, which are like CETA. To begin the phase out, the Committee, therefore, directs that the $100.000.000 reduction come only from the expenditures for intake, work, and training.

Section 121

POSTAL SERVICE

The Committee added a new section 121 to require the Postal Service to spend at a rate which assumes a subsidy no larger than $1.063.217.000. This is the figure recommended by the Committee last Tuesday on September 16. It is $530.000.000 below the amount recommended by the House and $280.000.000 below the amount requested by the President.

The Committee agreed last week that no more than $250.000.000 of this reduction should be taken from the public service subsidy in order that 6-day service not be interfered with.

It is imperative that we maintain this reduction if we are to have any chance of living within the allocation provided to this subcommittee pursuant to the first concurrent resolution.

Section 122

Health and Human Services

HEALTH CARE FINANCING ADMINISTRATION

Professional Standards Review Organization (PSRO's)

The House reduced the President's request for PSRO's by $12.000.000 and restricted them to hospital review activities. We have heard extensive testimony before this Committee and others about the rapidly rising costs in medicare and medicaid. For instance, we have found outpatient costs in medicare going up 20 percent in each of the last 2 years with only a 5-percent increase in people using services. The Committee, therefore, urges that a broader, not narrower, cost and quality control program be developed at the local level. While the recent evaluations have shown only small overall net cost savings from PSRO's, that is an average of high-performing PSRO's and low ones. The Committee urges the Department to continue its efforts to improve PSRO's in the low-performing areas.

Section 122

Research, Demonstration, and Evaluation

The Committee has raised the funding for this item to $34,000,000, $4,000,000 above the House bill, in order to provide an increase in long-term care alternatives demonstration projects to $25,000,000. If this, $10,500,000 is funded by the Administration on Aging and the Office of the Secretary coordinates the entire project. These demonstrations are vital to develop more appropriate means of community care and reduce the mounting costs of institutionalization of the elderly.

Section 122

SOCIAL SECURITY ADMINISTRATION

Survey of Income and Program Participation (SIPP)

The President has requested a trust fund limitation of $16,000,000 for SIPP; the House cut it to zero. The Committee recommends that this important program be initiated by allowing a minimum level of $11,000,000. This is a trust fund activity, and does not add new budget authority to the bill.

This survey will provide us the first data on the total amount of assistance going to individuals or households. For example, right now we cannot tell how many social recipients also get food stamps, veterans' pensions, or other Federal benefits. Thus, we cannot tell whether our retirees have too little to live on, or whether a few are getting served by several programs and others are getting nothing.

Section 123

PERIODIC CENSUS AND PROGRAMS

The Committee adopted a new section 123 to allow the President to order a special census count or use other means of revising census estimates in those special situations where there is a large flow of legal immigrants within 6 months of the census enumeration, such as the recent influx of Cubans and Haitians. Where such a revision of census estimates occurs, the revised data shall be used for all normal purposes, including Federal funding formulas.

Section 124

M'NEIL ISLAND, WASH.

The Committee added a new section 124 directing the Bureau of Prisons to cease dismantling the physical facilities of the Federal penitentiary at McNeil Island, Wash. The language further directs the Bureau, in coordination with GSA and the Fish and Wildlife Service, to develop a plan which precludes removal of any property essential to the proper functioning of the facility, and protects the natural resources and wildlife of the Island. It is essential that the status quo be maintained should the State of Washington decide to acquire the Island, when it is surplused, for use as a State prison or as a wildlife sanctuary.

Section 125

AGING PROGRAMS

The Committee provided $280,000,000 for the social services and centers program under the Administration on Aging, the same level as the President's original budget request. Under the 1978 Older Americans Act amendment, the funding of nutrition supportive services (such as transportation) is no longer allowable under title III–C, leaving title III–B money as the only likely substitute. The Committee understands that States have identified more than $27,000,000 of title III–C money spent on nutrition supportive services in 1980. Just to maintain the same funding resources for social services, therefore, requires almost the entire $280,000,000 in the original request, not including any adjustments for inflation.

The Committee has also reduced AOA's research, training, and special programs by $7,400,000. Of this reduction, $2,400,000 is intended to eliminate funding for the five biregional training centers which largely duplicate exiting State training programs. The remaining $5,000,000 reduction is intended to reduce the Commissioner's discretionary account. The Committee does not believe it has adequate justification for that amount of expenditure. However, the Committee wishes to emphasize its intent that no reductions be made in the long-term care channeling demonstration.

The Committee has also included $3,000,000, the same amount as the budget request for fiscal year 1981 to continue ongoing activities of the White House Conference on Aging.

Section 126

PRESIDENTIAL TRANSITION

The Committee recommended that funds be available in the event of a transition in the Office of the Presidency to assist with that transition. The spending level for this purpose as recommended by the Committee is identical to the spending level recommended to the full Senate by the Appropriations Committee when it reported its recommendation on the appropriations bill for Treasury, Postal Service, and General Government on September 17, 1980.

Section 127

NO NEW STARTS

The Committee added a new section 127 which specifies that the authority provided by the joint resolution shall not be used to initiate or resume any project or activity not funded in fiscal year 1980. This provision has traditionally been included in continuing resolutions to prevent new starts pending enactment of the applicable regular appropriations acts.

Mr. MAGNUSON. Mr. President, this is a large continuing resolution but one that we must pass, complete the conference, and send to the President before we adjourn. As a matter of fact, this must be done before Tuesday night, at midnight.

The committe spent 3 days working on this resolution, and some hard decisions were made. We worked from 10 o'clock in the morning until 7 or 8 at night, for 3 days.

In summary, like all resolutions of the past, the Departments will be restricted in spending to the lowest level of funding between the House or Senate bill and the current rate.

There are exceptions to this, but the most important one is Defense.

The Department of Defense will be spending at a rate of $157 billion. That is $20 billion more than the current rate. It is critical that we continue to improve and expand our vital national defense capability even while the resolution runs.

The committee did agree with the House and the end rate for the resolution is December 15.

In the past 2½ weeks, we have made excellent progress in the Appropriations Committee in reporting out bills that have been done in that short time.

Eight bills—energy and water, military construction, transportation, HUD, State-Justice-Commerce, Treasury-Post Office, and Interior—are now reported.

That only leaves legislative, Labor, Health and Human Services and Education. Defense, Agriculture, and Foreign Operations, which the House has not passed.

Senator YOUNG has a few comments he would like to make.

Mr. YOUNG. I thank my colleague, the chairman of the Senate Appropriations Committee.

Mr. President, the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, has provided the highlights of the continuing resolution for fiscal year 1981. I should like to add a few comments concerning this bill.

This is a very complicated continuing resolution because it must provide the authority to spend funds for all branches of Government to continue to operate until their respective annual appropriations bills are passed. This bill was further complicated by the House proposal which would have established the House-passed appropriations levels for all branches of Government without the Senate's consideration for such appropriations. The committee did not agree with the House in this regard and spent 2 days marking up the resolution.

The committee has protected as much as possible the Senate position on those bills which have been passed and the bills which are still to be considered by the Appropriations Committee and its subcommittees. The committee action in no way is meant to criticize what the House proposed in its bill but felt very strongly that the Senate should have an opportunity both in committee and on the floor to express the will of the Senate on this continuing resolution.

Mr. President, since the hiatus on the Federal Trade Commission appropriations earlier this year, the Attorney General has ruled that the Antideficiency Act prohibits any activity by the employees of a department or agency if their appropriation has not been signed into law. In the past, Congress always felt that it had approximately 2 weeks leeway from the expiration of the fiscal year or a continuing resolution until the next pay period when these first costs would have to be met. This is no longer true. If Federal employees are to continue working, the funds must be available either through the regular appropriations bill or a continuing resolution at the beginning of the fiscal year.

This is one of the many reasons why I hope three will be expeditious action on this bill. Many differences will have to be ironed out in conference with the House. We have to pass this resolution before adjournment. So I hope that a minimum number of amendments will be offered.

Mr. MAGNUSON. I express the same hope, Mr. President.

We will have to have a long conference with the House—not necessarily long, but there are many items which the Senate put in. However, that remains to be seen. We have to come back with a conference report before midnight on Tuesday or the whole Government will stop operation.

The Attorney General has ruled that unless this continuing resolution is passed, nobody should go to work on Wednesday morning. I suppose that includes Congress, too. So we will all have a vacation, unless the continuing resolution is passed.

Mr. JACKSON. Mr. President, it is my understanding that the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, which operated on reprogramed HHS funds for its existence during part of fiscal year 1980, is provided for under this resolution at a level not lower than its current rate of funding, prorated over a calendar year's time or the House-passed level, whichever is lower. Is my interpretation correct?

Mr. MAGNUSON. Yes. The President's Commission is an ongoing entity, and this resolution includes the Commission at the rate the Senator has described.

Mr. DURENBERGER. Mr. President, it is my understanding that under the terms of the continuing resolution, programs are to be continued on an orderly basis unless specifically altered by Congress. Consequently, there is no basis for a reduction in the various services performed by the Fruit and Vegetable Market News Service contained within the Department of Agriculture budget.

Mr. EAGLETON. The Senator is correct. The intent of the continuing resolution is the orderly continuation of programs, not their termination unless so directed by the Congress.

Mr. DURENBERGER. I thank the Senator from Missouri. The Agricultural Marketing Service activities at its various offices are vital to the fruit, vegetable, and horticultural industries. The availability of current information on price and supply of horticultural, fruit, and vegetable crops in various key markets is essential to industry market research programs. Equally important, it is the only valid information base relating to imports of cut flowers and plants. Consequently, I look forward to the Senate's having an opportunity to examine the issue in connection with action on the 1981 Agriculture appropriations bill before any administrative action is taken to reduce or dismantle the service.

Mr. INOUYE. This resolution, as I understand, authorizes the lower of the 1980 level or the House-passed amount. I am concerned about what this would mean for the title XX social services program, administered by the Department of Health and Human Services, where we have recently enacted an increase in the entitlement ceiling from $2.7 billion up to $2.9 billion. Does this resolution provide for the higher amount?

Mr. MAGNUSON. Yes, the higher authorized amount would be permitted by this resolution. There is a separate section in the bill that deals with mandatory spending authorizations and the title XX program would be covered under the definitions of section 101(e).

FEDERAL BLUE COLLAR PAY

Mr. STEVENS. Mr. President, I would like to ask the distinguished Senator from Washington a question regarding the pay cap on Federal blue-collar workers as drafted in this bill. It is my understanding that this language will authorize the payment of one-half of the October adjustment most Federal blue-collar workers were expecting to receive at the beginning of October and that they will receive the remainder plus their normal adjustment when their respective wage surveys become effective subject to the 9.1 percent overall pay cap.

Mr. MAGNUSON. That is correct.

Mr. STEVENS. Let me pose an example so there will be no misunderstanding by the Federal agencies. On July 18, 1980, the comparability adjustment for Federal blue-collar workers in Atlanta, Ga., was determined to be 13.84 percent. Because of the fiscal year 1980 pay cap, these workers received a 5.05 percent adjustment on July 18, 1980. Due to the precedent of the last 2 years, these same workers were expecting to receive an 8.8 percent increase as of October 1, 1980. It is my understanding, though, that the language as presently drafted in the bill will authorize instead a 4.4 percent increase on October 1 and a 4.4 percent increase plus a 0.3 percent increase in July 1981.

Mr. MAGNUSON. That is correct. The workers you mentioned on the average will receive a 4.4 percent increase on October 1 and a 4.7 percent increase in July 1981. Of course, these increases will vary nationwide due to the numerous wage areas throughout the country. But, as an example, the situation in Atlanta, Ga., would operate in the manner in which you posed.

● Mr. TSONGAS. Mr. President, I rise in support of the actions taken by the Appropriations Committee with respect to low-income energy assistance. The committee has achieved equitable solutions to the two most difficult problems with respect to this program. I refer to the funding level and to the formula under which funds would be distributed.

The compromise solutions make it possible to address the dramatic increase in home heating costs in the Northeast and, at the same time, provide assistance to cope with extended heat spells in some Southern States, such as occurred this past summer. The windfall profits formula is based on average increases in residential energy expenditures. Both the House formula and the compromise worked out by the Appropriations Committee take into consideration the dramatic increases expected in costs of home heating oil and fact that oil costs have risen much faster than costs of gas or electricity. The cost of home heating oil is projected to cost 25 to 30 percent more this winter than last winter. The Appropriations Committee formula is fair. It reduces the regional disparities that result from either of the other two formulas under serious discussion.

The level of funding approved by the committee—$2,030,000,000—deserves support by the full Senate—$2 billion was the amount approved for this program in the budget resolution. The additional $30 million is necessary to make certain that three States, which would have benefited much more under the windfall profits formula, receive no less than 75 percent of what they would have received under windfall profits. The $2.03 billion also takes into consideration the substantial increases in number of eligibles under this year's program.

The committee also corrected a technical deficiency in the House resolution which particularly affects the elderly. If the House resolution had not been technically amended, between 125,000 and 250,000 single-member households nationally would have been eliminated from eligibility. This was corrected by changing the eligibility standard for single-member households to the BLS lower living standard or 125 percent of the poverty level, whichever is higher.

The committee also eliminated the $500 cap on assistance to a single household imposed by the House. A cap is inconsistent with the intent of Congress when it adopted the State plan approach. A rigid cap destroys a State's flexibility in determining the appropriate level of subsidy in terms of that State's particular circumstances. A cap was imposed because some members of the Appropriations Committee considered assistance levels by a few States to be too high. Rather than imposing a cap, a more reasonable solution is to require approval of a State's schedule of subsidies by Health and Human Services. This is already required under this year's program.

Finally, the Appropriations Committee restored the $100 million in funds that the Community Services Administration was expected to receive under windfall profits. This was necessary to provide a mechanism for delivering noncash crisis intervention services. State cap's will perform this function. The need of an eligible household may not always be payment of a fuel bill or a utility bill. It may be emergency repair of a broken furnace, temporary relocation, or warm clothing. These funds must be restored to make sure a mechanism is in place to respond to acute crises, which occur at some time in every State.

Mr. President, I applaud the Appropriations Committee for achieving such equitable solutions to these difficult problems. I urge my colleagues to support the continuing resolution as reported so that States can get this vital program off and running in advance of this winter's heating season.●

Mr. MAGNUSON. Mr. President, in view of the fact that so few Members are here who are interested in the bill, we probably should pass it and go about our business, but I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators who have amendments will come to the Chamber and offer them. It is the intention of the leadership to finish action on this continuing resolution today, and I believe I am joined in that statement. I believe the distinguished Senator from Washington, the manager of the bill, the chairman of the Appropriations Committee, and the distinguished acting manager, Mr. YOUNG, join me in that statement. I believe the minority leader joins me in that statement.

We intend to finish the resolution today and get it to conference.

So this is not one of those Fridays when we stop at 1:30 in the afternoon and have no votes in the afternoon. We may be in late. I suggest that Senators get their amendments, get them over here and call them up and let us try to dispose of them, and we also express the hope, I am hoping against hope, that Senators will restrain themselves in calling up amendments and save their amendments for some other bill.

Mr. MAGNUSON. Mr. President, if the Senator will yield to me, I do not know that there are many amendments to be proposed. Maybe we should pass the resolution and go about our business right now.

There is one amendment that has been suggested by the Senator from Connecticut on the abortion matter, and the Senator from Florida I think, has an amendment on CETA. Those are the only two important amendments of which I know.

Anyway, let us suggest the absence of a quorum and see if we can rout these Senators out. Maybe they did not want the amendments.

Senator YOUNG and I can vote for the resolution right now and have it passed.

Mr. ROBERT C. BYRD. Mr. President, I ask our respective cloakrooms to try to ascertain within the next 5 minutes whether or not there are any amendments that Senators intend to call up on this resolution. Otherwise, I hope that the Senate will proceed to passage.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I am hopeful that the majority leader and myself will ask for third reading of the resolution by 2 p.m.

Mr. ROBERT C. BYRD. I have no hesitancy about asking for third reading within the next 5 minutes if we do not get a call back from Senators.

Mr. MAGNUSON. All right.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage of the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I urge the cloakrooms to find out what Senators have amendments so that we can know within the next 5 minutes. If we get no call backs then I will ask for third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

Mr. MAGNUSON. I yield to the Senator from Oklahoma, who has an amendment.

UP AMENDMENT NO. 1674

(Purpose: To provide a definition of the term "current rate")

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1674.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, after line 5, add the following new section:

"SEC. . For the purpose of this joint resolution, the term "current rate" shall mean the total appropriation available for a project or activity during FY 1980, except that the appropriation level shall be increased or decreased by the amounts that are necessary to respond to any expansion or contraction of a particular program in FY 1980 as directed by Congress."

Mr. BELLMON. Mr. President, this amendment would add to the joint resolution a new provision to clarify an ambiguity over the meaning of the term "current rate." This term is repeatedly used in the measure. It is very crucial to the proper interpretation of congressional intent as to the levels which are authorized by the continuing resolution.

While the term "current rate" has been used in previous continuing resolutions, it has been interpreted in differing ways by the administration and the Comptroller General. I believe it is both necessary and timely to provide a clear definition on this term.

Mr. President, the definition that I am offering is fully consistent with the language contained in the House Report (95–1095) accompanying this joint resolution and repeated in the explanation of the distinguished Senator from Washington, chairman of the Appropriations Committee.

The definition makes clear that the term "current rate," as used in the continuing resolution generally refers to the total amount appropriated in fiscal year 1980, however, in those cases where programs or activities have seasonal workload to have expanded or contracted during the course of the fiscal year as authorized by Congress, the term means this seasonal level or end-of-year level.

Mr. President, it is important that the administration interpret this definition with a full appreciation of congressional intent: that is, the general purpose of a continuing resolution is to maintain ongoing programs without significant changes in operations until Congress has the opportunity to act on the regular appropriations bill.

It is my hope that my amendment will provide for interpretation of the continuing resolution in a manner more consistent with this purpose.

I believe the amendment has been discussed with the floor managers of the bill and I hope they will accept the amendment.

Mr. YOUNG. Mr. President, will the Senator yield for a question? It will not be necessary for me to ask that question, because I see no objection to the amendment.

Mr. BELLMON. I thank my friend from North Dakota.

Mr. MAGNUSON. Mr. President, I think the Bellmon amendment merely clarifies what the term "current rate" means, is that correct?

Mr. BELLMON. That is correct.

Mr. MAGNUSON. I think we can accept the amendment.

Mr. YOUNG. It is a good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. BELLMON'S amendment (UP No. 1674) was agreed to.

Mr. BELLMON. Mr. President, I thank my friends, the managers of the bill.

UP AMENDMENT NO. 1675

(Purpose: To preclude SBA disaster loans for losses eligible for direct Federal compensation)

Mr. BELLMON. Mr. President, I have a second amendment which I send to the desk and ask for it to be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1675:

On page 21, after line 5, add the following new section:

"SEC. . No part of the funds provided in this joint resolution for the Small Business Administration may be used to administer any disaster loan program in which participants may receive loans for that portion of those losses which are eligible for compensation through other direct Federal payment programs."

Mr. BELLMON. Mr. President, this amendment may not be acceptable to the floor managers so, perhaps, I should explain it in some detail.

The amendment is similar to the one the Senate adopted yesterday on the State, Justice appropriations bill. It is needed to eliminate a potential abuse in the Small Business Administration disaster loan program. This situation arises when a farmer is eligible for Federal crop disaster payments in addition to SBA disaster loans. The Federal crop disaster payment is available to producers of wheat, feed grains, rice or upland cotton who, because of a natural disaster or condition beyond their control are prevented from planting or harvesting a designated percentage of their normal production.

These disaster payments are not loans. They are outright grants to producers who comply with price support program requirements.

The Small Business Administration may also make disaster loans to agricultural producers who suffer such losses—at very favorable and subsidized interest rates and conditions.

The Farmers Home Administration which has similar lending authority has implemented a procedure that precludes a farmer from receiving a disaster payment for a loss covered by a disaster loan. SBA, however, has failed to implement such a procedure—despite a General Accounting Office recommendation to do so. Because of this failure, hundreds of millions of dollars are outlayed by SBA for losses which will be fully compensated for by another Federal agency.

SBA must be compelled to implement stronger more effective procedures to insure that such double payments are not made. I believe that the amendment adopted yesterday, under the terms of section 101(a)(3) of the continuing resolution, is sufficient authority to require immediate compliance by the SBA to eliminate this potential source of abuse. I am offering this amendment again, however, to make it abundantly clear to that agency the seriousness of our goal to curb wasteful and unnecessary spending.

Here is the situation: When a farmer is eligible for direct Federal disaster payments and is also eligible for SBA loans he comes in and applies for a loan. The Small Business Administration has the farmer report how much the disaster payment is going to be. But then they turn around and make a loan for the total disaster, and the farmer in that way gets a loan as a result of the disaster, and then he gets a direct payment from the ASCS for the same problem. In contrast when the farmer goes to the Farmers Home Administration that agency, which is part of the USDA, takes into account the size of the disaster payment and makes a loan for the difference, so in that way the Government is not putting out money twice for the same disaster.

In 1979 the producers received $368 million under the direct disaster payment program. In 1980 the payments are estimated to be $236 million. But next year USDA estimates that payments will total $459 million.

So what we are going to be doing is putting out $459 million through the direct disaster loan payments and then coming along and making the same loans through the SBA, unless an amendment like this is adopted.

I am not trying to hurt the farmers—I am a farmer myself, and I know how much of a hardship disasters work on them. But there is no justification in my mind for making a farmer a direct disaster payment for the loss of his crop and then turning around and making a loan for the same reason. We should deduct from the loan the amount of direct disaster payment we are going to make.

Mr. MAGNUSON. I do not know why the Senator wants it on this bill. I understand a similar amendment was adopted by the Senate yesterday on the State, Justice regular appropriation bill. I do not know why he would want it on this bill.

Mr. BELLMON. The reason for putting it on this bill is this is a continuing resolution that will be in effect for a quarter or until the President signs the State, Justice bill. Once the State, Justice bill is signed, then, of course, this would no longer be of any force or effect.

Mr. MAGNUSON. Since the Senator is a member of the Appropriations Committee, I assume he brought this amendment up in committee, did he not?

Mr. BELLMON. I am sorry to say that I do not remember whether I brought it up in committee. Perhaps I did.

Mr. MAGNUSON. There was some discussion of it anyway. Has the Senator checked this with Senator HOLLINGS?

Mr. BELLMON. Senator HOLLINGS is in support of what we are trying to do. As a matter of fact, I believe he accepted the amendment on the State, Justice bill without a vote.

Mr. MAGNUSON. I will yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. BELLMON. I would be glad to yield.

Mr. YOUNG. The Senator is correct. Many farmers will receive disaster payments.

I am a little bit concerned about the way the Senator worded his statement that the disaster payment should be deducted from his loan. The farmer may get a disaster payment and still have a need for a sizeable loan. The fact that he got a disaster payment would not interfere with SBA giving him a loan based on his needs; is that correct?

Mr. BELLMON. That is not the intent of the amendment, might I say to my friend from North Dakota. We intend the farmer will get the loan for whatever he can demonstrate is his need. But the SBA should be aware and take into account the fact that there will be a disaster payment made directly to the farmer by the USDA.

Mr. MAGNUSON. Suppose a farmer suffers from a disaster and he gets a direct disaster grant, but then he may want to have an SBA loan on top of that because he is going to pay it back, and he may add to the disaster grant. Is that it? Is that permissible under this amendment?

Mr. BELLMON. It is absolutely permissible. If he is eligible for an SBA loan because of a disaster he would still be eligible, but the SBA would take into account the amount of direct disaster payment the farmer would get when the eligibility for the loan amount is calculated.

Mr. YOUNG. Mr. President, with the explanation of the Senator from Oklahoma I see no objection to it. In fact, the amendment has considerable merit.

Mr. MAGNUSON. I will be glad to accept the amendment on that basis. So that it is clearly understood, let us take the disaster out in my State. Some of the farmers are going to get direct grants.

Mr. BELLMON. Right.

Mr. MAGNUSON. But that is a one-shot deal. That is because of the damages suffered by reason of the disaster. But they still may want to go out and negotiate a Small Business Administration loan which is for a long term and is going to be paid back.

Mr. BELLMON. The disaster payments generally are not adequate to cover the full extent of the loss.

Mr. MAGNUSON. That is what I was going to say, that the disaster payment is not adequate to keep the farmers going.

Mr. BELLMON. At the same time, if the farmer is going to get disaster payments, the SBA people who make the loan should take that into account and know that the farmer does have this other income in sight.

Mr. MAGNUSON. Yes. Before they grant the loan.

Mr. BELLMON. That is right.

Mr. MAGNUSON. Mr. President, I am glad to accept the amendment.

Mr. BELLMON. I thank my friends.

Mr. YOUNG. Mr. President, I am glad to accept the amendment. I think it is a good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oklahoma (Mr. BELLMON).

The amendment (UP No. 1675) was agreed to.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that the following members of the Appropriations and Budget Committee staff be granted privileges of the floor during all debate and votes on House Joint Resolution 610, the continuing appropriations resolution: John McEvoy, Sid Brown, Mike Joy, George Merrill, Liz Tankersley, Ken Apfel, Susan Lepper, Dorothy Blocklin, Jim Conroy, Jack Conway, and Charles Flickner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I again urge Senators who have amendments to call them up so that the Senate can complete action on the resolution and get it to conference. I hope that Senators who can offer their amendments to some other bill or resolution will withhold the urge to call up amendments to this resolution. That would help to expedite action on it.

The managers of the bill—Mr. MAGNUSON and Mr. YOUNG—have been patiently waiting the calling up of amendments by Senators.

UP AMENDMENT NO. 1676

(Purpose: To reduce CETA title VI public service jobs to 50,000 by the end of fiscal year 1981, saving $900 million; and increase funding of the existing youth employment and training program by $200 million)

Mr. CHILES. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself and Messrs. BELLMON, JOHNSTON, DOMENICI, and SCHWEIKER, proposes an unprinted amendment numbered 1676:

Insert at the appropriate point a new section to read as follows:

"Notwithstanding any other provision of this resolution:

For Temporary Employment Assistance under Title VI of the Comprehensive Employment and Training Act, no more than $393,000,000 of new obligations shall be available; notwithstanding subpart (4) of part A of Title VI of the Comprehensive Employment and Training Act, obligations for the Youth Employment and Training Program under subpart (3) of part A of Title IV of that Act shall be at the rate of $920,000,000."

Mr. CHILES. Mr. President, the purpose of this amendment would be to make a cut in the title VI public service jobs, to cut by $900 million the figures included in the House in the concurrent resolution, and to reduce to 50,000 the amount of title VI jobs by the end of fiscal year 1981. That would leave outlays of $770 million in title VI throughout the year and would allow the reduction of the jobs to be done by attrition, with no firing, and it would not affect title II or title III.

This is not as drastic a cut as that assumed in the budget resolution, which would have eliminated title VI entirely, and the first concurrent resolution was adopted on that basis.

So in effect, Mr. President, what the House has done is, contrary to the first concurrent resolution, provided that there would be virtually no reduction in the title VI, which was to be the temporary jobs program and has now been going on all of these years.

Congress has said many times in the budget resolution before this that we would phase it out, in this last resolution that we would phase it out totally by the end of 1981, and the amendment I have even assured of that. I wanted to make sure we would be able to phase them down through attrition without having to see that anybody, a title VI recipient, would be actually fired or laid off from his job.

At the same time, Mr. President, I would add $200 million to youth employment and training.

Again, I think the direction of this Congress has been that we ought to get out of the temporary job programs. We know they have not turned out to be of much benefit. They have not helped many workers get a real job. At the same time, we know our greatest problem is in our hardcore youth unemployed, where we have tremendous numbers and there is a question of really getting some job training and trying to break a pattern that will cause these people to be welfare recipients the rest of their lives.

So I would substitute part of the money we would save out of the title VI program, $200 million of that, to youth.

This amendment responds to the current economic needs of the country. We need a long-term emphasis on training and upgrading of lower skilled workers, particularly the disadvantaged youth.

We do not need more local government employees, which is what title VI is now providing.

The overall unemployed rate is going down. The increase back in the spring was due to layoffs in home construction and in auto manufacturing, and these are not the workers who need or take public service jobs.

Title VI has a poor record for moving people into permanent jobs. For example, of the 72,000 title VI participants who terminated at the end of 1979, only 13,000, or 19 percent, were placed in unsubsidized employment by the program.

The current unemployment rate is only 7.6 percent. It has not gone up to the 8.5 percent or 9 percent projected by the administration.

State and local employment keeps going up, despite the phaseout of CETA. During 1979, State and local jobs increased by 214,000, while CETA declined by 140,000.

So the net hiring out of State and local funds was thus an increase of 354,000 jobs last year.

From January to June of this year, there was an increase of 226,000 State and local jobs, while CETA went down 24,000. An addition of 250,000 jobs in 6 months does not sound like a recession effect.

We certainly need this cut if we are going to stay within the budget resolution. If we do not start the phaseout now, there is absolutely no way we can make these savings next spring.

I urge the adoption of the amendment.

Mr. MAGNUSON. Mr. President, I oppose this amendment, because the program has been cut 75 percent below the level of 2 years ago, when there were 600,000 CETA title VI public service jobs.

I ask unanimous consent to have printed in the RECORD a table in this connection.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CETA TITLE VI PUBLIC SERVICE JOBS

[Fiscal years]

	1980	1981 continuous resolution (end of year)	1981 Chiles/Bellmon amendment (end of year)
Alabama	3,613	2,468	864
Alaska	845	353	124
Arizona	1,335	1,238	432
Arkansas	1,959	1,468	513
California	23,335	13,976	4,890
Colorado	1,512	1,321	462
Connecticut	1,526	1,356	475
Delaware	799	411	144
District of Columbia	1,105	535	187
Florida	7,493	5,577	1,954
Georgia	2,917	2,715	951
Hawaii	1,088	592	207
Idaho	597	501	175
Illinois	8,310	5,865	2,053
Indiana	3,919	2,915	1,020
Iowa	838	1,047	364
Kansas	442	722	252
Kentucky	1,948	1,913	670
Louisiana	3,551	2,402	840
Maine	928	675	235
Maryland	4,046	2,022	706
Massachusetts	5,371	3,080	1,077
Michigan	11,194	6,151	2,154
Minnesota	1,166	1,475	516
Mississippi	2,442	1,671	585
Missouri	2,360	2,170	762
Montana	410	377	132
Nebraska	286	449	157
Nevada	291	268	94
New Hampshire	255	258	91
New Jersey	9,285	4,732	1,662
New Mexico	714	699	244
New York	22,538	11,948	4,182
North Carolina	1,856	2,305	805
North Dakota	225	262	91
Ohio	6,856	5,244	1,834
Oklahoma	759	1,076	376
Oregon	2,434	1,579	552
Pennsylvania	12,718	7,455	2,608
Puerto Rico	8,441	3,992	1,396

CETA TITLE VI PUBLIC SERVICE JOBS—Continued

[Fiscal years]

	1980	1981 continuous resolution (end of year)	1981 Chiles/Bellmon amendment (end of year)
Rhode Island	1,118	619	216
South Carolina	1,557	1,569	549
South Dakota	135	243	85
Tennessee	2,483	2,581	903
Texas	5,681	5,593	1,960
Utah	316	384	135
Vermont	282	242	85
Virginia	2,741	2,670	936
Washington	3,992	2,417	844
West Virginia	1,337	1,058	370
Wisconsin	2,211	1,983	694
Wyoming	85	118	40
Discretionary fund		24,260	6,180
National total	183,625	149,000	50,000

Mr. MAGNUSON. Mr. President, funding has already been cut from $3.4 billion in fiscal 1979 to $1.3 billion budgeted for fiscal 1981.

Unemployment in August was 7.6 percent, up from 6.2 percent from March 1980. For youth, unemployment is 19 percent, and 35 percent for black youth.

Over 8 million people are now unemployed. Another million have given up looking for work and are no longer counted in the official unemployment rate.

Ninety-three percent of enrollees are hard-core, long-term unemployed. Without CETA employment and training, many would go on welfare.

The loss of about 100,000 jobs would raise unemployment 0.1 percent and, therefore, cost $3 billion in lost revenues and extra unemployment benefits, welfare and food stamps, in order to save $1 billion in CETA.

It is better to provide jobs and self-respect than to pay for welfare benefits, and crime that follows despair.

Sixty percent of enrollees find unsubsidized, permanent jobs within 6 months after CETA participation. That is a pretty good record.

A continuing resolution should not be used to cut or eliminate existing programs; such amendments should be considered in the regular bill.

These riders on these appropriation bills are becoming unbearable. This amendment does not belong on the bill, to begin with. But inasmuch as the Senator from Florida has raised the question, I am going to oppose it.

Mr. MOYNIHAN. Mr. President, I support the distinguished chairman of the Appropriations Committee, the President pro tempore of the Senate, in this matter.

What is becoming of this Chamber? This morning, in an act which we will regret, we overturned the grain embargo, one of the central aspects of our response to the Soviet invasion of Afghanistan, one of the central positions this country has taken in the face of totalitarian aggression.

In the middle of the day, we were discussing whether the 5th amendment and the 14th amendment still apply to our laws. To the astonishment, I believe, of some Members, on one occasion by a 1-vote margin, in another by a 2-vote margin, and finally by a 4-vote margin, we mustered a majority in continuing recognition that the 5th and 14th amendments are part of the American Constitution. What behavior in the U.S. Senate.

Now we are here to reduce a remnant—in effect, to destroy—one of the few serious employment programs of the 1970's that was enacted by Congress. The Comprehensive Employment and Training Act was the culmination of a decade of efforts to bring forth Federal action to resolve the persisting and peculiar problem of unemployment, a problem that has plagued the American economy has had for the last generation.

This effort began with President Kennedy. The Manpower Development Training Act of 1962 was the great domestic achievement of President Kennedy's administration. I was an Assistant Secretary of Labor at the time, and I recall with what pride President Kennedy said:

> We did one thing: we got the Federal Government into manpower training, and we are going to do something about the problems of our cities, about the problems of our minorities.

These problems were then looming on the radar screens of the labor statistics of this country; people who could read those screens understood what they meant.

We began modestly. It was a period of experiment and development. After a decade, we felt that we knew something of unemployment—both how difficult it would be to deal with, plus how important it was to get on to the job of dealing with it.

We passed the Comprehensive Employment Training Act. We put some coherence, some symmetry, some review processes into the work, and we got under way. It appeared that we were making some progress, and then what has this Democratic Senate done in the last 2 years? It has hacked, whacked, smacked, cut this program from 183,000 individuals just a year ago to 149,000 the coming year, and now it is proposed to reduce it to 50,000, to cut a program that not 4 years ago had 600,000 persons in it. It is one-third excised today. It will be one-quarter excised next year. We now propose to make it 8 percent of that size.

What has come over us, that we, as Democrats, should do this to the fundamental commitment of our party to provide work to those who seek it?

The distinguished chairman of the Committee on Labor and Human Resources is in the Chamber. For 20 years, he has put through legislation to help provide Americans with work, and he should be proud of it. The country is proud of him for it. Yet here, on our own side of the aisle, we threaten to dismantle our program.

We hear of the waste involved in social programs. Are we going to cut the one program that asks that people be put to work? This has not been a perfect program, but it is a necessary one. It deals with a highly imperfect job market, a highly imperfect training system, an absolutely and incomparably bad system of moving from the world of school to the world of work, but it is needed.

There is no industrial society on Earth that dumps its children out of high school and lets them find jobs, as ours does. In any country in Europe, in Japan, Australia, or New Zealand, any child who leaves high school heads for a job and knows where he is going—he or she is not dumped onto the streets.

Unemployment rates run 30 and 40 percent among some young people. We know it, and that has been so for a generation.

Do we mean, in this body, to rip apart what is left of John F. Kennedy's legacy? I cannot believe so. CETA has done good. We have something to show for it. Sixty percent of CETA enrollees, within 6 months, have found themselves a job, an unsubsidized job, a job in the public or private sector, a regular job, a job available to anybody with the capacity, the training, the ability, and the will to work. They have had the capacity, the training, the ability, and the will to work. The program is working.

Here we are, still in a recession. In the second quarter of this year, we had the sharpest drop in the GNP since 1935, and we are tearing down this program. It will not happen. It must not happen.

It is almost an impertinence for a relatively junior Senator to command the President pro tempore of the Senate. But, Mr. Chairman, I command you: Do not let this happen. You will not. We believe in you. We revere you. You have passed every one of these bills in your time in this body. Do not let this happen to a legacy the Democratic Party is proud of, just as we are proud of you. I cannot imagine that this will happen. I am sure that with your leadership, it will not.

Mr. MAGNUSON. I thank the Senator from New York.

I yield to the Senator from Michigan.

Mr. RIEGLE. Mr. President, if the Senator from New Jersey wishes to respond, I know he was mentioned by name.

Mr. WILLIAMS. I wish to respond, but not at length. The Senator from New York certainly has nailed every commanding point that should be made to defeat this amendment.

Mr. President, I strongly oppose the amendment of the Senator from Florida (Mr. CHILES) to reduce new budget authority for public service employment, under title VI of CETA, by $900 million for the coming fiscal year.

Whatever signs of economic recovery are beginning to emerge, there are still 8½ million Americans who are unable to find work, despite their best efforts, today.

This is no time to be cutting into the bone of a jobs program that is specifically intended for use as an antirecession tool—and one that the Secretary of Labor has found to be one of the least inflationary tools for combating recessionary unemployment.

It is important to bear in mind that title VI targets job funds on the basis of both general unemployment rates and concentrations of unemployment in specific areas. It allows for a minimal amount of funds in areas of relatively low unemployment, just to keep the program operational. But the great majority of the funds are concentrated in high unemployment areas.

It also is important to bear in mind that the Congress, in 1978, substantially revised the CETA program with the specific purpose of correcting major deficiencies. The 1978 amendments—

Clamped down on "substitution" of CETA workers for regular employees of local government;

Strengthened the Secretary of Labor's power to enforce regulations and to root out abuse;

Required more training and less simple work experience in all CETA programs, including title VI; and

Narrowed the eligibility criteria for programs so that, at the present time, over 90 percent of the participants in the title VI programs are economically disadvantaged.

This last point is worthy of further emphasis. Nobody is eligible for a title VI job whose household income is below the level of the lower-living standard budget. In fact, however, 93 percent of the participants come from households with incomes below 70 percent of that level.

In other words, title VI focuses on those in the lowest income brackets who have unusual difficulty finding a job or returning to their original position. For the most part, these are people who were the last hired and the first laid off as the economic recession closed in.

Perhaps we are on our way out of that recession. Nobody knows for sure.

Until we do know, it simply makes no sense to adopt a policy under which a significant and important tool for confronting cyclical unemployment would be eliminated altogether.

Bear in mind that the program has already been cut to the bone. The President, in his revised budget of late March, proposed a 27-percent reduction in the program.

The unemployment rate already has risen one-half of 1 percent higher than the President's March estimate of 7.3 percent. Over 500,000 additional workers have been added to the unemployment rolls.

Under these circumstances, any further reduction in jobs would create hardships for depressed urban areas, disadvantaged and minority workers, and would worsen further the rate of unemployment.

Any further reduction is simply going to result in these low-wage workers relying on nonproductive income maintenance programs to support their households and families, rather than on productive work as a source of income. The reduction proposed by the amendment, $900 million, will add $200 million to the cost of public assistance programs in the Federal budget alone. State and local governments would have to come up nearly the same amount.

As you know, Mr. President, the new CETA legislation authorizes title VI funding levels that are related to the unemployment rate, with the size of the program dependent upon the extent to which the unemployment rate exceeds 4 percent. In the coming fiscal year, over 900,000 title VI jobs are authorized, compared with the requested level—provided for in the bill—of 149,000. This represents meeting only 16 percent of the need as determined by the statutory formula.

Again I would emphasize, in light of the minimal commitment that is being made to providing jobs for cyclically unemployed workers, this is no time to be making cuts of this scope in an important program for dealing with the current recession.

Mr. President, I also must point out that this program has received cut after cut after cut already this year.

It was created as part of a response to massive unemployment in a recession some 6 years ago. We are now in a recession. If there is any time that we should not cut even more out of this program, it is now when we are in a recession.

Mr. MOYNIHAN. Precisely.

Mr. WILLIAMS. And this would be ruinous not only to so many thousands who would be thrown out of work but also to the employment projects which are doing work that is increasingly needed. Many of these people are employed in nonprofit social service agencies, not only State, county, and local governments.

This is no place to cut for all the reasons that the Senator from New York has pointed out and that the Senator from Michigan, I know, will address, and I know that the distinguished chairman of the full committee will make the final call for the defeat of this amendment that could be so damaging within our communities.

Mr. MAGNUSON. Mr. President, it should be reiterated that this program has been working fairly well. Sixty percent of these people find permanent jobs, and these are some of our hard-core unemployed. If we do not provide jobs, many will go on welfare, and we are not saving a nickel anyway. We are paying it out in welfare.

Mr. WILLIAMS. That is right.

Mr. MAGNUSON. I hope Senators will look at the table which shows how many jobs would be eliminated in each State. Even the continuing resolution cuts New Jersey's quota, and this amendment would cut it more, way down, from 4,732 jobs to 1,662 jobs. That is not right.

In Michigan, it is just as bad, with a cut from 6,151 jobs, down to 2,154 people.

What are 2,100 people in the State of Michigan? We might as well phase out the whole program.

Mr. RIEGLE. Mr. President, will the chairman yield?

Mr. MAGNUSON. I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the chairman.

Mr. President, I rise to oppose the amendment offered by Senator CHILES to cut $900 million out of the CETA title VI public service jobs program.

It is important to remember that title VI serves America's hard-core unemployed. Ninety-three percent of the new participants in the title VI program this year are economically disadvantaged. Forty-six percent are black or Hispanic. Twenty-one percent are young people. Twenty-five percent have less than a high school education. Twenty-six percent are public assistance recipients.

National unemployment is 7.6 percent. The unemployment rate today in the United States among minorities is 13.6 percent and as has been noted by others, the jobless rate among minority youth today is a wasteful and shameful 37.4 percent.

If we accept this amendment of the Senator from Florida, it will mean 142,000 fewer jobs for minorities. It will mean 65,000 fewer jobs for youth. It will mean massive layoffs among those currently employed under title VI, exactly at a time when we should be putting people back to work rather than putting more people in the unemployment line.

In the city of Detroit alone it will mean eliminating 2,100 jobs at a time when unemployment in that city is near 18 percent.

If we accept this Chiles amendment, we must also accept cuts in social service programs across the United States because many of these programs are staffed, in part, by these very CETA workers.

Cutting CETA jobs will increase spending in other parts of the budget, as the chairman has just pointed out. The reduction in the title VI program that has been proposed here will increase welfare costs by an estimated $230 million, as people are forced to move from jobs onto public assistance.

Just a few weeks ago in the city of Detroit, it was advertised that 10 jobs were available in the sanitation department. In a matter of hours 3,500 people had come forward to apply for those 10 jobs. Stories like this are not unique to my State. I am sure that most Senators within the last week saw the article in the Washington Post about a similar situation in Baltimore. There were 70 Federal jobs. Over 15,000 people came forward to compete to get 1 of those 70 jobs.

Do we want people working or do we want people on welfare? I hope we want people working. But if one happens to be in this country and if he is black or if he is in a disadvantaged situation and he wants to work, there may not be jobs available.

We have tried to open the door into our economy to people who have been left out, with programs just like CETA. Now this amendment wants to shut that door and slam it shut in the face of those people who are waiting in line.

I have supported the Senator from Florida in the past—and I will in the future—on funds to deal with the problem of Cuban refugees who have come into his State. It is a serious problem and I respect the fact that he has fought for funds to try to help those people.

I say again here I will help him in the future on that because I think it is right. But how can we begin to justify helping that group of people and at the same time turn our back on CETA workers, on people who find that it is their only avenue, their only hope at this time?

To come in here and cut $900 million out of CETA at a time of high unemployment makes no sense at all. It is irresponsible when we look at the realities that we face in this country today.

This program has been working. As the Senator from New York has said, it has not worked perfectly. What Federal program has? There is not an area of the Government where we have perfection. But I know one thing: The money we spend here is designed to help people who need the help most. I do not know how any of us in this body, all well employed, all well fed, all well housed, can find it in ourselves to say to the people who are on the very bottom of our society, "Tough luck. We have been willing to help until now but we are not willing any more. We are sorry we have got to cut back, and you are the ones who are going to have to take the cutback."

I hope we are not that heartless and not that shortsighted and not that foolish. This is an investment in our country. It is an investment in people, and if we have to choose between investments in people and investments in other kinds of activities, I hope we never decide that the people are less important, and especially the ones who need the help the most. That is what we are talking about here.

I hope the Senate will not be so heartless and so indifferent to this real problem that we just walk out a side door and say, "These folks can fend for themselves." That is not the answer.

Mr. FORD. Mr. President, I rise in opposition to the pending amendment offered by Senator CHILES. The approach taken in this instance is the incorrect one. Fiscal restraint is a must, but we have to consider the impact that such drastic cuts at the Federal level will have on State and local governments. I certainly do not think that the mayors and county judges or even the Governors of the Nation are awash with money.

Simply put, we have a number of unanswered questions about the impact of the pending amendment.

For example, if title VI is phased out, how much will welfare costs increase as a result? It is nice to be able to go home and say that we cut over almost a billion dollars from the budget, but really what we have done is reduce workers to the welfare rolls. Now I realize that everyone holding a title VI job will not immediately receive welfare when he or she is dropped from the CETA program. But surely we cannot deny that a high percentage will find their way to the welfare office.

Something else that must be considered is what passage of this amendment will mean to the disadvantaged youth and minorities of our Nation. As far as I am concerned, it will be a slap in the face, pure and simple. Over 20 percent of these jobs are held by young people who have very few other options for employment. Almost half of the participants of the programs are minorities who face an uphill battle in their fight to find employment. The unemployment rate for minorities is 13.6 percent and the rate for minority youth is an astounding 37.4 percent. A drastic cut in one of the few programs that offers hope to these people is the wrong course that we need to take right now. To these people a job is far more important than a symbolic budget cut in the fight against inflation.

If the Chiles amendment carries, what are we to tell the present recipients of title XX services? Are my colleagues aware that title VI CETA workers are employed to provide support services for some title XX and aging programs? CETA workers have retrofitted curbs to increase access for the handicapped, rehabilitated housing for low income people, worked in day care centers, and provided health education information for the elderly. A great many community-based organizations will suffer if the title VI program is phased out. This loss of an adequate support staff is compounded by the fact that title XX programs are already facing severe budget problems.

The bottom line here today is whether or not the Senate will go on record in continued support of the CETA program. I for one, believe in the concept on which the program is based. In 1978, we put the prime sponsors on notice that they had to tighten up the operation of the programs. At that time we did not allow the highly-publicized mismanagement by a minority of participants to scuttle a sound program which was being appropriately administered by the majority. Today, we are faced with much the same choice. Do we succumb to the urge to slash a program because isolated abuses hit the papers, or do we take the more prudent choice of allowing the continued operation of the program?

Finally, I question the vehicle for this amendment today. The Senate has not acted on the Labor, Health and Human Services and Education appropriation bill, and this continuing resolution will only carry us until December 15. This measure assures the orderly operation of the Federal Government and should not be used to establish such an important policy decision. Let the subcommittee and full Appropriations Committee consider this matter and provide the Senate with direction in the written report on the 1981 Labor, Health and Human Services and Education bill.

This amendment is ill-advised because of its lack of merit and because the continuing resolution is the improper vehicle for the consideration of an issue of this importance. Therefore I urge that it be rejected.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 4 minutes.

I rise not only to support the amendment but to commend the Senator from Florida because it is always difficult to come to the floor of the Senate and propose an amendment of this type.

I think it is obvious from the arguments which have just been made how difficult it is. But I want to make just a few clarifying points.

First, I want to say to my good friend from Michigan, who has just argued very diligently about the problems he has in his State, I think he knows, and the Senator should be aware of the fact, that this program, so-called countercyclical title VI jobs, is really not a program that was ever intended to zero in on the kind of problems that a State like Michigan has because of the present failure in the automobile industry.

I think the Senate knows this is a national countercyclical program. It came into being in the depths of the recession of 1974 and 1975 and was truly going to phase in and phase out, and that is why we called it countercyclical.

What the Senator from Michigan also knows is that many of us are aware that those States with heavy, heavy unemployment would have been helped immeasurably by an amendment to title VI that Senator BELLMON proposed which would have had these funds going to the heavy unemployment areas. That would have made it the kind of program that justified the arguments that have been made here today against the Chiles amendment.

The Senate adopted that approach. The House has not seen fit to go along. So the Senate should know this is not a program directed at heavy and high unemployment areas but in the name of curing a recession of 1974 and 1975 it will go across this land, and the way it looks to this Senator it comes right in when you are out of the recession and when inflation is coming back and beginning to show its head again in a strong manner, and then along we come with a countercyclical program that is out of phase. That is precisely what the facts indicate.

Having said that, the Senate should know that there is $8 billion in this bill for Comprehensive Employment Training Act jobs, 250,000. That is 36,000 more than were in existence in August of this year. That is not being touched by this amendment. That is there. Those are the title II CETA jobs, 250,000 of them.

To put it into perspective, when this CETA was first brought to the floor of the Senate it was a 50,000-job program. We are not killing it. The Chiles amendment is saying 250,000, $8 billion, will remain in effect.

In addition, since we have youth unemployment, this amendment adds $200 million there.

This amendment says the Senate has voted two times by rather compelling margins to phase out a countercyclical CETA jobs program, one that is supposed to come in and come out with the tide of a recession. It is not for heavy unemployment areas. We do not have that kind of program.

The Chiles amendment will not even phase it out. It will leave 50,000 jobs in that part of CETA which everyone understood would have been phased out months ago.

Basically by leaving 50,000 there, providing 250,000 in the base program, the Chiles amendment leaves 300,000 jobs. That will actually be only 34,000 less than if we left this entire $900 million in this particular countercyclical phase inphaseout program.

I hope everyone knows that Senator CHILES is a Member who has evidenced great concern about unemployment, but who is equally concerned about inflation and about some kind of fiscal restraint in this institution in behalf of the American taxpayer.

I do not believe 300,000 public service jobs, 250,000, 34,000 more than we have today, and 50,000 in title VI are anything more than a continuation of the concern we have for helping those who need training, the very long-term unemployed, and having a bit of commonsense that $900 million for a title VI program we never intended to keep very long, that is not targeted, will spread across this country. While it will have jobs in a few of our cities, it is not directed at heavy unemployment cities. Cities that hardly need it will get it.

So it seems to this Senator that the amendment is an excellent compromise. It clearly indicates the concern we have. Although there are many who would even question the validity of the CETA program in total, many who would question the propriety of the basic program, I repeat it is left intact and added to.

So I hope the U.S. Senate, which has been voting along the lines of some commonsense fiscal prudence, will once again, for the third time since they have already voted twice before, begin an orderly phaseout of this program.

It will not be phased out, as the Senate indicated in its two previous votes, and we did that. There will be 50,000 jobs left in that particular title.

So it seems to this Senator that the arguments that have been made here this afternoon can be made for almost any program that is existing in America today. Obviously, somebody is helped to some extent by every billion dollars we spend. But we have a responsibility to begin to bring inflation under control and to set ourselves on a path which will produce confidence in the American people and in the marketplace so that thousands more can have productive jobs in this country without the ravages of recession and inflation.

I hope we will do what we did before in the two previous votes on this and that is leave the basic CETA program intact and add to it as the Chiles amendment does, but begin to phase out that part of this program which was never intended to go on as long as it has, which is not aimed at curing the problems that States like Michigan have, because it is not targeted. It will spread out across this land with little or no effect other than $900 million added to what is literally going to be a huge deficit in 1981, preventing us from moving on to a more productive action-oriented policy and other things that we know we need.

I yield.

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Louisiana.

Mr. **JOHNSTON**. Mr. President, service on the Budget Committee has been one of the most illuminating experiences I have had since I have been in the Senate. I shared the view that many people have across this land that the question of balancing the budget was simply a question of cutting the fat.

We heard that phrase many times in this political campaign and we are told that you can balance the budget by cutting the fat. Somehow there is the impression that there is a lot of conspicuous Government waste in this land that is susceptible of Government action if we simply would cut out that fat.

Well, Mr. President, I can tell you, after a number of years now on the Budget Committee, that it cannot be done. It simply cannot be done. I am as much an opponent of the fat and the waste and inefficiency in Government as any Member of this body.

The fact of the matter is cutting that budget is very difficult. The reason is that when you take the entitlement programs, which are now approaching $250 billion, and then you take the defense budget which is another $150 billion plus, $156 billion as I recall, and then you put on top of that those functions of Government which cannot be cut, like interest on the national debt, like all the retirement programs, like a host of other programs, by the time you take all those functions of Government that are insusceptible of cuts—I say insusceptible of cuts because the Congress has made it clear we are not going to cut social security. Both candidates, Republican and Democrat, have made that clear—when you eliminate all of those things, you have very few functions of Government that are even susceptible of a cut.

Of those that are susceptible of a cut, Mr. President, many of them are not only popular with broad political constituencies, but they are indeed attractive and advantageous and desirable programs that nobody wants to cut. So that leaves you with very few targets for cuts.

Mr. President, as we look at that budget and look at the different things that can be cut, it seems to me that CETA is one of the principal targets for a cut if we really want to try to cut the budget.

Now is it fat? That is a question of opinion, Mr. President. Some would say it is a question of conspicuous consumption; it is an example of the egregious waste in Government. Others would point out that indeed it does provide jobs for those for whom jobs would not otherwise be available.

The fact of the matter is, Mr. President, there is not a single function of Government that I know of where people are employed as to which you could not make that statement. Every program employs people. Every program would take some people off the unemployment rolls.

The question is—and the question of priorities and the ranking of priorities—is this a less hurtful way to cut the budget than others? Mr. President, I submit that it very clearly is one of the least hurtful ways to cut the budget and save some significant dollars of all the functions of Government that I know.

Now we have heard a great deal today about the economy, Mr. President, how unemployment is inflicting great harm on various segments of the population; those who are unemployed. And that is certainly true. But Mr. President, experience has shown that this program provides, in the rank of priorities, a less advantageous way to get to permanent jobs, to productive jobs, and to meaningful jobs of almost any activity of Government.

When we look at the economy, Mr. President, it is true that unemployment is a serious problem. As Governor Reagan says, if you are unemployed, it is a depression. And I quite agree with that. If you are unemployed, it is a disaster.

But, Mr. President, the principal problem with this economy is inflation. Everyone quite agrees that the size of the Federal deficit is one of the principal driving forces, one of the principal engines of that inflation. If we cannot cut on this program, then we might as well quit, Mr. President, because there is no other program that I know of that is as easy to cut in terms of human misery and in terms of its effect upon the economy as is the CETA program.

Mr. President, all the economists tell us that we are coming out of this recession, and coming out of the recession means that unemployment will go down and that inflation will go up. Indeed, Mr. President, the rate of inflation, which is, in my view, ready to be ignited, will perhaps exceed the rate of inflation that took place prior to this recession.

The difficult medicine of a recession has traditionally been that with a recession you cut inflation while you are suffering the unemployment. It has not worked in this particular recession. We have had unemployment go up, albeit not as high as was predicted. It was predicted that it would go from 8.5 to 9 percent. In fact, it only went to 7.6 percent; 7.6 percent in terms of human misery and in terms of the individual collection of disasters that are individually inflicted upon families, is a serious problem. But it is not as serious as was predicted.

Everyone agrees we are coming out of the recession, which is both good news and bad news; particularly bad news because of the fact that we have not nipped inflation in the bud.

Mr. President, this amendment gives us a chance to make a significant step toward curing one of the principal problems of inflation, which is deficit spending. It gives us that chance to do it with a $900 million cut. That is a big cut, in terms of the potential targets for cuts in this budget.

(Mr. EXON assumed the Chair.)

Mr. **MAGNUSON**. Will the Senator yield?

Mr. **JOHNSTON**. Yes, I yield to the distinguished chairman.

Mr. **MAGNUSON**. Mr. President, all the economists—from Burns to Heller to Greenspan—everyone testified in front of the Budget Committee that Government expenditures, Government deficits, were only one-half of 1 percent of the cause of inflation. Now, that should be corrected anyway, because deficits are bad psychologically.

But the Senator realizes the real cause of inflation that is responsible for six or seven points is OPEC. That is the real cause of inflation in this country, together with high interest rates.

We worked hard to try to balance the budget. But the reason I am against this amendment is because 60 percent of the people in CETA go to permanent jobs. Sixty percent.

Mr. **JOHNSTON**. I will say to my distinguished chairman that the figures, which I believe are correct, are that of the title VI participants who were terminated at the end of 1979, only some 13,000, or 19 percent, were placed in unsubsidized employment by the program.

Mr. **MAGNUSON**. I do not want to argue about figures, but a loss of 100,000 jobs would raise unemployment about 0.1 percent and, therefore, cost $3 billion in lost revenues and increased mandatory benefit payments. With extra unemployment benefits, food stamps, you name it, I do not think we are saving any money. It would be what I would call a washout.

For each 1 percent of unemployment in this country it costs the Treasury anywhere from $22 to $28 billion; just 1 percent. That is not only due to unemployment insurance, but because so many go on welfare. A person who is unemployed is taking money out of the Treasury and not putting it back in. At least, the CETA people are working and paying a small amount of taxes. They are not many and it is not much, but they are paying. I do not think this is any saving at all. That is my analysis.

Mr. JOHNSTON. Let me say to my distinguished chairman that I quite agree, to cut $900 million from this budget is not, by itself, going to cure inflation. Indeed, if we were able to balance the budget this year that, in itself, would not cure inflation.

Mr. MAGNUSON. I just wanted to be clear on that because deficits are bad for inflation but they are not the main cause of inflation. OPEC and high interest rates are the main causes of inflation. All economists will tell us that.

Mr. JOHNSTON. Let me say to my chairman that high interest rates are a function of inflation. High interest rates do not cause inflation but they are simply a function of inflation. Interest rates must be one or two points above the inflation rate, whatever it is, and it is going to follow up or down with inflation. There is no question that deficit spending, particularly cumulative deficits, each year, add to the inflationary impact.

If we are going to try to cut the budget, I say this is the best place to do it.

Mr. MAGNUSON. The amazing thing that people do not understand is that with OPEC and worldwide inflation, with high interest rates, Congress has little control. We cannot control OPEC. Every economist says that is responsible for at least 6 percent of the inflation figure. We do not have any control over the Federal Reserve Bank. We can jump on them a little bit, but that is all. I think the Federal Reserve Bank ought to be sent to Siberia with some beans.

Mr. JOHNSTON. I agree with the Senator.

Mr. MAGNUSON. There is almost political incest going on down there. When one fellow quits, they dip down and pick somebody who is part of the Federal Reserve Board System. We have little control over it.

Mr. JOHNSTON. I agree with the chairman that we do not have any control over OPEC, but that is not a reason not to do anything about balancing the budget.

Mr. MAGNUSON. No, I was not saying that. But I do not think we save any money by this cut.

Mr. JOHNSTON. Let me make one final point.

Mr. MAGNUSON. I am the ranking member of the Budget Committee. I voted for budget cuts. I voted with the Senator for upping the budget in many cases, on special projects.

Mr. JOHNSTON. Mr. President, let me make one final point. It has more to do with my cosponsorship of this amendment than anything else. That is my personal experience, my personal observation of the CETA program as it has worked in my State.

As it has worked in my State, it has simply been another form of revenue sharing. The cities and towns and the other parts of government eligible for these jobs simply use this CETA money as a way to hire people that they would hire with their own funds, or if they are people who would not be hired with their own funds, then they are unneeded jobs. Both are true. That is to say some people are hired who are unneeded and others are hired who would otherwise be hired and paid for with local tax revenue. So it is another form of revenue sharing, but it is not the best form of revenue sharing because the best form of revenue sharing is where you give the money to cities and towns and let them spend the money precisely as they wish so that if they hire someone they can keep them on the payroll.

The worst form is where you have these conditions upon the expenditure, in this case a limitation of time, a limitation in the amount of salaries, so it makes the money less useful to the cities and towns than regular revenue sharing would be.

Mr. President, I repeat, if we cannot cut this CETA budget at a time when we are coming out of the recession, at a time when the country is ready to go upwards again on that roller coaster of high interest rates—if we cannot cut this, then we cannot cut anything and we might as well face it.

I hope the Senate will face up to the fact that we can cut CETA; that the amount of human misery inflicted by it is less than cuts in other programs. I hope Senators will support this.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have listened with interest to this debate. I must confess that I am dismayed, I am disturbed, and I am saddened that on this $640 billion continuing resolution what we are talking about. We are talking about saving $700 million. From whom are we going to save it? Are we going to save it by making the oil companies pay their fair share of taxes? Of course not.

Are we saving it by taking a look at some of those new water programs that everybody in this body insists we must have, except those who do not have any special interest in those new water programs? The answer is no.

We are told that we must cut back on the CETA funding. They say, "This is fat."

Is it fat for some poor bloke trying to make $7,200 a year on a CETA job?

We are told that this is conspicuous consumption.

Surely you do not believe the American people believe that a $7,200 a year job is conspicuous consumption.

We are told that this is one place that is easy to cut in terms of human misery. That is the phrase that was used.

Of course it is easy to cut in terms of human misery. The reason is because those who are poor do not have anybody to speak for them. They have no lobby. They have no special interest group that comes here with a political action committee (PAC).

Where is the poor people's PAC? It does not exist. Therefore, it is easy to cut in terms of human misery. Tell those 26,000 people who applied for jobs in Baltimore the other day—jobs ranking from about $7,000 to $11,000 each.

Tell them that they do not need a CETA program. And tell them about the great water programs that we are funding in the U.S. Senate, funding especially for those who are so anxious to cut the CETA funding. Tell them about the $343 million in tobacco subsidies. Tell them how we have one program in our Government that urges people not to smoke and another program in our Government that gives $343 million in tobacco subsidies encouraging its use.

One program is attacked in this whole continuing resolution. That is the program that says that we do not want people to be on welfare. And we want them to work and earn an honest day's pay.

Tell them also that in this continuing resolution, we make a special exception for higher defense spending, about $20 billion extra? Sure, we need extra money for our military, and I am not arguing that point. However, do we "cut the fat" when they fail to have competitive bidding? Ninety percent of their contracts are not let on a competitive-bid basis, and we do not do anything about that. We talk about it and say it is horrible. However, we do not "cut the fat" from the military.

Tell them about the cost overruns and the fact that we have better than $6 billion a year in cost overruns for the military. We do not do anything about that kind of "fat." No, Mr. President, we are only worried about trying to cut the budget where it is easy to cut in terms of human misery, where it involves "conspicuous consumption" in jobs at $7,200 a year.

Do we do anything in this resolution about the fact that the Department of Energy spent $8.5 billion for consultants out of a $10 billion contract? No, we do not cut anything back there at all. The only one group that we move in on, that we zero in on, that we say we can really cut back on—they are the poor and the disadvantaged and those people who would like to have a job.

OK, the argument is made that the program has not worked too well. I agree with that. But we have a lot of military expenditures and the programs which do not work too well and we keep funding them. And we put $1.5 billion out for Chrysler, and I voted for it, and their cars do not work too well.

We spend money day in and day out around here, and we do not eliminate programs when the programs do not work well except when it comes to the poor.

This amendment was offered in the Appropriations Committee and soundly defeated by a vote of 10 to 14, and rightly so. So why do we have it now in this continuing resolution? I recognize the fact that the amendment may pass. But that will not make it any more right. It will only indicate that there is indifference and a lack of compassion. It will indicate a sense of callous disregard for the human tragedy resulting from the extraordinarily high unemployment rate.

Those who would say to me that unemployment is coming down, come walk with me through the streets of Cleveland, Youngstown, Toledo, Dayton, and Cincinnati. Come see the unemployed in Ohio, in Akron. We have over 10 percent unemployment in my State.

Mr. President, this amendment is a slap in the face to the millions of American workers and their families who are now forced to look for government assistance in the form of unemployment benefits, food stamps, and, eventually, welfare. It is a tragic human story, one that tends to be overlooked among all the statistics that we see nightly on the tube or in the daily newspapers.

Unemployment is a continuing concern in many States of this Union, particularly in my own. We have seen major industries closing their plants, not for a few days or weeks, but for months at a time, and many plants are closing permanently because of the national economy. Factory workers have lost their jobs in the automobile plants of Cleveland and Toledo, and rubber workers in Akron. And steelworkers in Youngstown have watched their plants close. In southeastern Ohio, the coal miners have been idled as the mines have been closed. Even in the middle of a national energy crisis, the miners are unemployed.

With so many things to be done in this country, Mr. President, it does not make sense that so many industries are idle and so many jobs are lost, and it certainly does not make sense to put people on welfare instead of permitting them to have CETA jobs.

A lot of Members seem to take the attitude that the problem of unemployment does not exist or, if it does, it will quietly steal away into the night if we ignore it long enough.

Whom are we kidding when we talk about cutting back on the CETA jobs program at a time when national unemployment is 7.6 percent—and something like 14 percent in Michigan, 10 percent in Ohio? Whom are we kidding when we talk about title VI not moving people into permanent jobs? And whom are we kidding when we talk about this amendment responding to the economic needs of this country?

Mr. President, I submit that we are only kidding ourselves. Surely, we are not kidding the thousands of people served by this program, the minority groups as well as majority groups. Nor are we kidding the 65,000 young people participating in the program at the present time. Those people know that they will face the prospect of hitting the streets while unemployment among minorities is 14 percent and while the minority youth unemployment rate is an astounding 40 percent.

Mr. President, the arguments in support of this amendment have a hollow ring to those individuals. And the argument of decreasing title VI by $900 million and increasing title IV by $200 million has an even more hollow ring when the net effect is to reduce unemployment and training programs. These arguments of "conspicuous consumption" and "fat" are intended to fool the American people.

Mr. President, these arguments are intended to hide the fact that this Congress would force people on to welfare and deny them the dignity of making a contribution to their community. They intended to hide the fact that minorities will again bear a disproportionate burden of this kind of cut.

Mr. President, this amendment places the entire burden—the entire burden—of attempting to cut back on Federal expenses on one group. Out of a $640 billion continuing resolution, we zero in on whom? Those who can least speak up for themselves, on those who need the jobs. I want to repeat what I said earlier in these remarks, Mr. President. That is that this past week, 26,000 people applied for 70 jobs in Baltimore—not jobs paying tremendous sums of money, but jobs paying $7,000 to $11,000. And 26,000 people applied for them.

The people of this country want to work, Mr. President. They do not want to be on welfare. Some of my friends in this body are opposed to welfare, and I oppose it and believe it would be much better if every person could have a job.

If you believe that welfare is the answer, then you ought to vote for this amendment. But if you think that every person ought to have an opportunity to be gainfully employed, then I strongly urge that we defeat this amendment.

Mr. MOYNIHAN and Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I speak in opposition to Senator CHILES' amendment, which proposes to cut drastically the CETA title VI program. Given the present economic problems facing our Nation and the staggering level of unemployment created by this economic crisis, it would be socially unconscionable and economically unwise to reduce the number of CETA positions.

There are over 8 million Americans without jobs today. That represents over 2 million more persons out of work than at this time last year. Our unemployment rate, all admit, is at a disastrously high level of 7.6 percent. In my home State of Michigan, that rate is close to 13 percent with over 600,000 workers jobless.

In the face of this economic reality, we now have an amendment pending before us that would cut one of our major jobs programs. Under this proposal, 100,000 jobs, two-thirds of the CETA title VI jobs, would be eliminated, if you compare this amendment with what the President proposed in his fiscal year 1981 budget and what the House approved.

It has been called a phaseout amendment. I would suggest it is clearly a title VI knockout amendment.

Compared with our present funding level, this cut represents an elimination of almost three-fourths of the CETA title VI program. What the Senate should be considering now is an increase in the CETA program. We should be addressing the problems of joblessness in our country rather than contemplating proposals that would place more people on unemployment compensation programs and on welfare rolls. With all its problems, CETA has been a useful and important program which addresses the issue of unemployment in a constructive manner. The criticisms directed at CETA were addressed in the 1978 CETA amendment and I believe we now have reasonably well run program that achieves the objectives which Congress established.

For many of those persons who would be cut from the CETA program or who would miss the opportunity to participate, welfare may be the only alternative, and welfare or public assistance is not free. The average payment in Michigan is $374 per month. The Department of Labor estimates that this amendment would result in at least $230 million in additional public assistance funds being expended by the Federal Government.

When people are willing and anxious to work, why tell them that they should go on welfare rather than have a job? The tens of thousands of persons who lined up for 70 jobs at the Baltimore social security office several weeks ago are dramatic evidence of the desperate desire of Americans for work in the midst of this recession.

We are not coming out of recession. We are in its depths. There are 120,000 unemployed people in my home city of Detroit—120,000 people—and this amendment would cut an additional 2,100 jobs from Detroit's title VI program—18.4 percent of Detroit is unemployed. This program was never needed more, ask the 8 million unemployed Americans.

I thank the Chair.

Several Senators addressed the Chair.

Mr. CHILES. Mr. President, it is my understanding that the Senator from New York is about ready to make a motion to table. I know a lot of people need to leave.

I say in closing that I reject the argument that we have to keep a program that is unsound, that we have to keep a program that has been a total failure, because we say we have got unemployment.

I think we need to train these people. That is what we should be doing, training them, not having a temporary jobs program that has not worked, is not working, and is not going to work.

I think we ought to adopt the amendment.

Mr. BELLMON. Mr. President, I strongly support the Chiles amendment. In fiscal 1979, we began retargeting our employment and training programs away from countercyclical objectives—and toward meeting the needs of the hardcore unemployed. Youth, and particularly minority youth, clearly face substantial problems in seeking useful employment opportunities. They are far worse off than any group in our country today. The Chiles amendment would reduce spending for an outmoded, poorly targeted, program in favor of higher funding for programs to serve unemployed youth.

The last three budget resolutions the Senate has adopted have assumed the phaseout of title VI of CETA by the end of fiscal 1981. The Chiles amendment would not cut title VI as deeply as would the budget resolution. The amendment would allow for $770 million in outlays for countercyclical jobs next year—and would allow for a phase down from the current 150,000 jobs level to 50,000 jobs by the end of the fiscal year. This would not require layoffs. This phase down could be accomplished through normal attrition.

Furthermore, the law says that no one may stay in a title VI job for more than 18 months. The Department of Labor began a hiring freeze in this program in May of this year.[1] So almost everyone now in the program would have to leave before the end of next fiscal year, in any case.

Title VI is not well targeted. Proponents of the program will say that the participants are economically disadvantaged, just as are the participants in the structural programs in CETA. But being economically disadvantaged in title VI does not mean the same thing as being economically disadvantaged, for the purposes of the structural CETA programs. There are 25 percent more people who meet the definition of economically disadvantaged for title VI than for the structural programs.

Title VI is not well targeted geographically. These funds go to every area of the country, no matter how low the unemployment rate may be in some areas. We should not be sending so-called countercyclical jobs funds to areas with very low unemployment rates; but the House has been intransigent in its refusal to target this program to areas with high unemployment.

This so-called countercyclical program was conceived during the 1974–75 recession. It reached its high point, when it was funded at the rate of $6 billion per year, during the summer of 1976, when the economy was well into recovery. Title VI of CETA is a perfect example of a "temporary" program that refuses to go away.

If we are ever to balance the budget, constrain Federal spending, and control inflation, we simply must insist on reductions in funding for programs like title VI of CETA which have outlived their usefulness.

On the other hand, there is a real problem with youth unemployment—and particularly with minority youth unemployment—in the country now. To the extent that we are able to fund unemployment and training programs, our resources should be concentrated in programs directed to the needs of those suffering most the burdens of unemployment, and clearly youth are now among those suffering most. The Chiles amendment would make $200 million more available to meet the needs of unemployed youth. Those funds would be available, whether or not Congress is able to agree on youth employment legislation this year.

In a period of scarce resources, we have to prioritize; and that is just exactly what the Chiles amendment seeks to do. It would cut back on a lower priority program, which the Senate has voted three times to phase out—and it makes more money available for the higher priority needs of unemployed youth.

The Chiles amendment would also reduce total expenditures—compared to the continuing resolution as reported—by $700 million in budget authority and $750 million in outlays in fiscal 1981. Together with the reductions agreed to in the Appropriations Committee, this will help to insure that when we come back to work on a second budget resolution for fiscal 1981 we will not be locked into spending levels so high that the deficit could skyrocket to unacceptable heights.

Mr. President. I urge the adoption of the amendment.

Mr. MOYNIHAN. Mr. President, I move to table the amendment of the Senator from Florida.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Florida. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri, (Mr. EAGLETON), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. ZORINSKY) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 38, nays 42, as follows:

[Rollcall Vote No. 454 Leg.]

YEAS—38

Baucus
Bentsen
Biden
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Culver
DeConcini
Durenberger
Ford

Glenn
Gravel
Hatfield
Heflin
Huddleston
Inouye
Jackson
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher

Metzenbaum
Mitchell
Packwood
Pell
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Tsongas
Weicker
Williams

NAYS—42

Armstrong
Baker
Bellmon
Boren

Boschwitz
Bumpers
Byrd,
Harry F., Jr.

Chiles
Cochran
Cohen
Danforth

Dole
Domenici
Exon
Garn
Hatch
Heinz
Helms
Hollings
Jepsen
Johnston
Kassebaum

Laxalt
Long
Lugar
McClure
Moynihan
Nunn
Percy
Pressler
Proxmire
Pryor
Roth

Schmitt
Schweiker
Simpson
Stennis
Stevens
Thurmond
Wallop
Warner
Young

NOT VOTING—20

Bayh
Church
Durkin
Eagleton
Goldwater
Hart
Hayakawa

Humphrey
Javits
Kennedy
McGovern
Morgan
Nelson
Sasser

Stevenson
Stewart
Stone
Talmadge
Tower
Zorinsky

So the motion to lay on the table Mr. CHILES' amendment (UP No. 1676) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

Mr. CHILES. Mr. President, was the Senator on the prevailing side?

The PRESIDING OFFICER. The Senator from New York voted in the negative and was, therefore, on the prevailing side.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President. I move to lay on the table the motion to reconsider, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table was rejected.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. RANDOLPH. Mr. President, I hesitate to do what I do at times, and I do not care to do it. This well should be cleared on rollcalls and Members should be at their desks.

The PRESIDING OFFICER. The point is well taken of the distinguished Senator from West Virginia. There is a great deal of staff in the Chamber. We are honored with a great number of Senators on hand for votes now. We must maintain order.

It might be difficult for Senators to believe out there, but it is difficult for us even to hear Senators attempting to cast their votes.

So the Chair is going to direct that the well be cleared, that Senators take their seats, so that we can proceed in an orderly fashion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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[1] The Department has allowed some areas to begin hiring again this month—but even with that new hiring, national enrollment levels are declining.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 40, nays 39, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—40

Armstrong
Baker
Bellmon
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Garn
Hatch
Heinz
Helms
Hollings
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Nunn
Percy
Proxmire
Pryor
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Thurmond
Wallop
Warner
Young

NAYS—39

Baucus
Bentsen
Biden
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Culver
DeConcini
Durenberger
Ford
Glenn
Hatfield
Heflin
Huddleston
Inouye
Jackson
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—21

Bayh
Church
Durkin
Eagleton
Goldwater
Gravel
Hart
Hayakawa
Humphrey
Javits
Kennedy
McGovern
Morgan
Nelson
Pressler
Sasser
Stevenson
Stewart
Stone
Talmadge
Tower

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Florida.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum so that I might prepare an amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, in order that the distinguished Senator from Mississippi may have 5 minutes, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TITAN II MISSILE INCIDENT

Mr. STENNIS. Mr. President, I have spoken to the leadership and to the managers of the bill about taking 4 or 5 minutes to make a brief statement regarding the explosion of the missile recently in Arkansas. I do have, I think, an important statement here.

I will abbreviate it and utilize the time that was needed to prepare the amendment.

Mr. President, this is a very grave matter. I hope the Senator from Kansas (Mr. DOLE) is here. I was not able to locate him.

The PRESIDING OFFICER. With the Chair's apology to the Senator from Mississippi, I must interrupt and ask for order in the Senate once again. The Senator from Mississippi, the distinguished chairman of the Armed Services Committee, is trying to make an address on a very important subject. With that once again, will the Senate please be in order?

Mr. STENNIS. Mr. President, I thank the Chair.

The PRESIDING OFFICER. If I might just interrupt the Senator from Mississippi once again. In the opinion of the Chair, the Senate is not yet in order.

The Senator from Mississippi.

Mr. STENNIS. I thank the Chair. The entire country was shocked by the explosion of a Titan II missile in Arkansas 1 week ago today. The tragic loss of the life of a young airman and the injuries suffered by approximately 20 other Air Force personnel are regrettable. This is the latest in a series of incidents affecting the Titan II missile force and is cause for concern.

The Armed Services Committee has been concerned with the condition of the Titan II missile force since several incidents involving the leaking or spilling of propellant at missile sites in Kansas in 1978. Last year a provision was included in the Department of Defense authorization bill requiring a top to bottom study of the safety of the Titan II missile.

That study was submitted to the Armed Services Committee in May of this year, and among other conclusions, was the following:

> The physical condition of the Titan II weapon system is good and considered by many to be better now than when it was new. Maintenance procedures are adequate to safely and effectively maintain the system. No recommendations have been provided as a result of this investigation as regards physical or procedural improvements to protect the public safety.

In light of the explosion of the missile last Friday, we must re-examine that entire study and take another look at the Titan II missile force. The Armed Services Committee has already taken some steps in that direction and will continue to pursue it in the months ahead.

Several hours after the explosion last Friday, a committee staff member was dispatched to Arkansas to gather first hand information on the incident. In addition, discussions have been held on this matter with the Secretary and Chief of Staff of the Air Force together with other officials. I have been assured by the highest levels of both the Air Force and the Department of Energy that there was never any possibility of a nuclear explosion. There would not have been the possibility of making such a definitive statement regarding the radiation situation if the warhead had been damaged, but fortunately, this did not happen. The warhead has been recoverd in remarkably good condition considering the violent nature of the explosion of missile fuel.

I have been assured that the Air Force accident investigation team was onsite Saturday morning following the accident and will vigorously pursue their investigation paying particular attention to any change in maintenance or operational procedures that should be made immediately in the Titan II force. I have been advised that the accident investigation team will take about a month to complete their work, but that any major findings that require immediate action will be taken care of as the investigation proceeds.

Looking beyond the immediate concerns of this incident it is absolutely essential that we make another review of the safety of the Titan II force. I have been advised that the Air Force is convening a senior review panel to do this and that we can expect their results within about 2 months.

The time has come when we must go beyond immediate concerns for the safety of the Titan II force. The Titan II missile has been in the inventory over 15 years and represents a significant portion of our ICBM force. The rest of the ICBM force was converted in the late 1960's and early 1970's from the liquid fuel missiles to the solid fuel Minuteman missile, for among other reasons, ease and safety of maintenance and operation. It is imperative that we now consider what options we have for carrying out the missions of the Titan II missiles.

This should not be construed as an alert or panic call for their elimination from the force. They are an important part of our strategic retaliatory capability and we cannot take precipitous steps without careful analysis of the implications of those steps. However, it is time to make a careful analysis of what options we have both in the near term of the next couple years and in the longer term as the MX missile comes into the force.

The Armed Services Committee will continue to monitor the situation of the Titan II very closely to insure that the safety of operation is enhanced while the missiles remain in the inventory. The committee will continue its investigation including the holding of hearings as appropriate.

The incident in Arkansas was tragic and regrettable. It is cause for concern, but not panic. There is no nuclear danger from this accident. We need to systematically take the steps necessary to enhance the safety of our military crews and civilian population around the sites. We also need to seriously explore what alternatives we have for replacing this missile as soon as practicable.

One encouraging outcome of this incident was the remarkable display of courage and dedication of the missile crews and maintenance people as they worked to minimize the potential damage. The missile began leaking about 6:30 in the evening and for the next 8½ hours the maintenance personnel worked feverishly to try to avoid an explosion and to minimize any damage. The courage and dedication displayed by these men was in the finest traditions of the military service. Too often we hear only about the shortcomings of our military forces and it is encouraging to me to see such courage and devotion to duty still exists. They were working in an extremely hazardous environment as a result of the leaking fuel and the fumes it created, but there was no hesitation to perform their duty in an effort to minimize the danger to the surrounding civilian community.

Finally, I want to thank the two Senators from Arkansas, Senator BUMPERS and Senator PRYOR, who have been active and concerned about this matter. They both visited the actual site very soon after the accident and have been in touch with the committee on a number of related matters. I also want to thank Senator DOLE of Kansas for his long interest and work on the Titan missile system, part of which is also located in his State.

Mr. President, for emphasis, I will cover especially two or three of these paragraphs.

Mr. President, in the first place, we have been assured—and I mean those of us representing the Armed Services Committee and the staff—by the highest levels of both the Air Force and the Department of Energy that there was never any possibility of a nuclear explosion.

Now, that is a broad, far-reaching statement. These were highly competent men as to that conclusion, including the Secretary of the Air Force himself, who is an outstanding noted scientist, even in the nuclear field, Dr. Hans Mark.

I repeat that we had been assured by the highest levels of both the Air Force and the Department of Energy that there was never any possibility of a nuclear explosion in this case. The explosion was so violent that it had a lifting force such that it lifted the concrete cover over that missile setup which weighed close to 1.5 million pounds; over 700 tons made of concrete. It lifted it up and it fell back to the ground in many different pieces. Still, that nuclear warhead within a few feet, you might say, was not set off.

It is almost conclusive proof that the mechanism, the makeup—and I will try not to go into that—is such that these kinds of incidents are not going to cause the nuclear part of this weaponry to explode.

If there had been a crack or a breach of any kind, there could have been the possibility of radiation, so that we could not make such a conclusive statement. But there was no breaking, breach, or cracking of it. Thankfully, there was no harm done.

I see the Senator from Kansas (Mr. DOLE) sitting here. I called for him. I spoke to the Senator from Arkansas as he came by.

The Senator from Kansas, almost 2 years ago, called our attention to the trouble in this field of the Titan II missile. He was not trying to discredit it, but it was just a situation that needed attention. The Air Force was responsive and gave us another report on this matter as late as May of this year. The Senators from Kansas and the Senators from Arkansas and Members of the House, to some degree, were interested. I commend them, all four, and thank them, too, for their assistance in this matter. They did what they could with reference to the safety of the people in the area affected.

But I am convinced—and I think all of our Members are—that we must go further. That is not to downgrade totally—certainly not with me—the Titan missile. We have a need for it. I feel sure we do. I believe and hope that we can take care of the situation where we can keep it in a useful position for a while, anyway.

But that is really to be determined. It is conclusive that vigilance, with the utmost possible attention and care, is necessary in this field of weaponry. It is a fine weapon in many ways, but the reason we got away from it, one reason, concerned liquid fuels.

This goes beyond the immediate concern that we have and over into the time span of how long we may continue to have this in our arsenal ready to go. We will continue, as I say, this close surveillance over the situation, with an insistence beyond what we have done in the past in connection with the safety of the people.

There was a magnificent response by these young men in the Air Force who went into this area of total hazard, with one ultimately losing his life. But they stayed with it. They stayed on the job, facing the probability of death and destruction right there on the scene. My hat is off to them. I appreciate them very much, very much. There was an instant response that they gave with total dedication.

Mr. President, that sums up, as far as we can say with certainty now. It will take the Air Force something like 30 additional days to explore completely the probabilities and give a final report as to this incident.

It will take policy decisions which will require longer than that, for the military, the civilians within the Departments of Defense & Energy, and then this body, to decide what will be the policy.

There are many Members of this body who know as much about this matter or more than I do. The Senator from Kansas has an interest, I know.

I did tell the manager of the bill that I would not take much time.

I yield to the Senator from Kansas.

Mr. DOLE. I will just take 5 seconds to thank the chairman for what I know will be a very thorough investigation. As he has indicated, we should not push the panic button. We are going to find out what the facts are and then make a judgment.

Mr. PRYOR. Will the chairman yield for a moment?

Mr. STENNIS. I yield.

Mr. PRYOR. I also would like to thank the distinguished chairman of the Armed Services Committee. On early Monday morning, when we came back from the State of Arkansas, after the Titan II explosion, the chairman called me. I went to his office immediately and the chairman pledged to me his full support in any and all investigations if necessary. This confirms that conversation. I sincerely thank the Chair.

Mr. STENNIS. I thank the Senator. I was speaking for every member of our delegation.

Mr. President, I thank the Senator from Washington.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1981

The Senate continued with the consideration of the joint resolution (H.J. Res. 610).

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay aside the pending amendment temporarily until the emissaries are able to work out a compromise in order to take up another amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1677

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1677.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof add the following new section:

For the purposes of Public Law 96–304 and Public Law 96–126 relating only to cooperative agreements and feasibility studies, the term "alternative fuels" as defined in Public Law 96–126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production.

Mr. HATFIELD. Mr. President, the language of this amendment is identical to the language which appears in the Interior and related agencies appropriations bill as part of a larger matter that I worked out with my colleagues on the subcommittee.

The reason I must further pursue this point on the continuing resolution is that it affects the DOE solicitation now on the street so that it must be corrected very soon. It is quite possible that the Interior appropriation bill will not be signed into law before we recess for the election.

The amendment states that in the purpose of the second round of solicitations for feasibility studies and cooperative agreements under the alternative fuels production program, the definition of alternative fuel is expanded to include upgraded heavy oil, energy from innovative systems, including the direct combustion of minerals and organic materials other than oil and natural gas.

The committee intent in the first round

under Public Law 96–126, last year's Interior Appropriation Act, was to include wood combustion, but DOE ignored it. The committee intent was further clarified for second round under Public Law 96–304 in the fiscal 1980 supplemental to pick up heavy oil, but DOE ignored it again.

This amendment ends the argument by redefining alternative fuel in time to cover the second round.

Mr. President, this has been cleared with the subcommittee chairman (Mr. Robert C. Byrd), the ranking minority member (Mr. Stevens), with the ranking member of the full committee (Mr. Young), and with the chairman of the full committee (Mr. Magnuson).

Mr. MAGNUSON. And I believe it has been cleared on the Interior Committee.

Mr. HATFIELD. Yes. Senator Byrd, as the ranking member of the Interior Subcommittee, has personally reviewed this as he did at the time of the subcommittee markup, and he has no objections to it.

Mr. YOUNG. Mr. President, this is an important amendment and I think it is very appropriate.

Mr. MAGNUSON. The amendment is acceptable, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1677) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. YOUNG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I have an amendment I wish to offer and with the consent of those working on the pending business, I ask unanimous consent that that amendment be laid aside temporarily.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1678

(Purpose: To prevent enforcement of certain proposed regulations relating to business use of a dwelling unit)

Mr. ARMSTRONG. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. Armstrong) proposes an unprinted amendment numbered 1678:

At the appropriate place, insert the following new section:

Sec. 112. No funds appropriated by this Act may be used to implement or enforce provisions of any regulation or ruling with respect to section 280A of the Internal Revenue Code of 1954 which relate to—

(1) the rental of a dwelling unit to a member of the family of a taxpayer,

(2) the determination of the principal place of business of the taxpayer, or

(3) the circumstances under which use of the dwelling unit for repairs and maintenance constitutes personal use by the taxpayer.

Mr. ARMSTRONG. Mr. President, in the interest of time, I will be quite brief in my explanation of this amendment, which I trust will not be controversial.

I am seeking to stop a proposed IRS regulation which substantially penalizes those families who choose to rent a dwelling to other members of their family. Senators may not be aware of these regulations, but it would be my judgment that unless we act to head off the IRS we will soon be hearing from hundreds and possibly thousands of our constituents because the proposed rule is just basically unfair as well as, in my judgment, unwise.

The rules which have been proposed by the IRS have this effect: First, the rules permit individuals renting a home to a nonrelative to deduct the normal business expenses in connection with the rental, things such as depreciation and insurance. But if the same house is rented to a relative and rent is charged, then business expenses are not deductible.

Just on the grounds of basic equity and fairness, certainly we should not discriminate against family members. I am not suggesting that family members should have a preferential status, but it seems most unusual and most unfair that they should be adversely discriminated against.

Second, homeowners who have a legitimate secondary source of income and who set aside a small portion of their home as an office will not, under the proposed regulations of the IRS, be able to deduct business-related expenses for that office.

Finally, property owners who rent their property will be charged with a full day of personal use of the property for every visit if virtually every minute is not spent and every member of the family is not working on the house.

What we are seeing here, Mr. President, is a typical example of the IRS proceeding well beyond the proper intent of Congress, just as they did when they attempted to impose taxes on fringe benefits, just as they did in the private schools regulatory proposal, and others.

With that word of explanation, Mr. President, I ask unanimous consent that an article from the Washington Post, which explains the matter in detail, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Coming Soon From IRS: A "Family Rental Tax"

(By Kenneth R. Harney)

The Internal Revenue Service has issued a list of proposed regulations on real estate that could shock even the most fervent tax reformer.

The eight-page IRS bombshell appeared in the Aug. 7 Federal Register.

Among other things, it said that:

Americans who rent property to close relatives—such as an elderly mother or a young son or daughter just out of college—will be penalized at tax time, even if the relative was charged rental for the property at the full market rate.

Homeowners who have a legitimate secondary source of income, and who set aside a small portion of their home as an office, will not be able to deduct business-related expenses on that office—despite a 1980 decision by the top federal tax court that says they can.

Vacation property owners who rent their units will be charged with a full day of "personal" use of the property every time they visit it without spending virtually every minute repairing it. Even if a parent who owns a cabin in the woods does spend eight hours each day fixing it up, he or she will get tagged with personal use if, for example, an accompanying 17-year-old child was not forced to work on the house for eight hours also.

The suggested regulations affect far more than real estate, by the way: they apply to any type of nonhotel accommodation that is rented, including houseboats, recreational vehicles, trailers and mobile homes.

These are just a few of the surprises awaiting taxpayers who learn about the tough new IRS proposals.

The proposals derive from a law passed by Congress in 1976, during the waning moments of the last push for reform to plug the loopholes in our labyrinthine tax code. The IRS was supposed to issue regulations within a year of that law but only now has gotten around to publishing them in proposed form.

The rules will go into effect this fall—and could trigger thousands of tax audits on returns beginning next year—unless the Treasury Department is convinced by public outcry to postpone them. The IRS is taking "comments" in the form of letters and telegrams from the public through Oct. 6, so it is not too late for you to make your feelings on the subject known to the IRS.

You've heard of the "marriage tax" in the current IRS code that penalizes couples who marry but rewards those who live together unmarried. Now the country is about to get a "family rental tax"—a penalty for providing shelter to members of the family and in-laws!

This rule, penalizing anyone who rents property to a close relative, undoubtedly is the most hard-nosed of the proposed regulations. It prohibits the owner of a house, a condominium or other dwelling unit rented to a relative—at full market rates—from taking the normal tax benefits associated with rental property.

Under the new IRS rules, an owner will not be allowed to deduct any more on such a property than he or she receives in rental income. The owner will be able to deduct property taxes and mortgage interest but will not be allowed to add the full extent of depreciation, routine maintenance and other customary deductions if total writeoffs exceed rental income.

The amount at stake could involve several thousand dollars a year in lost deductions in the case of a rental house or condominium in a typical U.S. metropolitan market.

In practical terms, this means that a person, who normally would be able to take a paper "loss" for tax purposes on a house rented to a stranger, would have to pay higher taxes for renting it to a close relative.

If the IRS meant to restrict its rule only to rentals to family members at less than the going market rate, that would be tough enough. But to discourage taxpayers from renting either full-time residences or vacation space to relatives, paying the same rate that a stranger would be charged, is downright mean.

The IRS explains that it's merely following the sense of Congress on this whole issue—a

Congress that dates back to 1976. The law clearly distinguished rentals to relatives from rentals to others, IRS maintains. Rentals to family members are considered personal use by the property owner, even if the owner never sets foot on the place.

If you rent out property of any type, or were thinking about doing so, get a copy of IRS's Aug. 7 proposals and show them to your accountant or attorney. The rules could cost you a lot of money. They could also cost some innocent renters a family roof over their heads.

IRS HOME BUSINESS REGULATIONS

Mr. DOLE. Mr. President, the Senator from Kansas shares the concern expressed by the Senator from Colorado (Mr. ARMSTRONG). The proposed regulations do indeed raise a number of serious questions for taxpayers who are engaged in legitimate business activities out of their homes. The proposed regulations would effectively reverse the Tax Court and would deny any business deductions to persons who use their homes in a secondary occupation. This would discourage many energetic and productive citizens from setting up small businesses to supplement their primary source of income. Often persons with a good idea start their businesses in this way and then the business mushrooms into a full-time occupation or even into a major corporation.

While I understand and agree with its objective of eliminating abuse of the business home deductions, at first blush the proposed regulations seem to go too far. Already, this Senator has heard from a number of taxpayers who seem to have legitimate concerns about the IRS proposal. In my view, this is an area that the Senate Finance Committee should revisit by holding hearings to review the proposed regulations and section 280A of the Internal Revenue Code upon which the regulations are based.

Accordingly, the Senator from Kansas supports the Armstrong motion, since it will give the Senate Finance Committee an opportunity to hold hearings on this matter.

Mr. ARMSTRONG. Unless there are questions, Mr. President, I hope the managers will accept this amendment.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I shall be very pleased to yield.

Mr. METZENBAUM. Mr. President, I understand paragraph A, I think it is, which has to do with the principle or the question of family residence, but I do not understand paragraph B, having to do with the determination of the principal place of business for the taxpayer. What does that have to do with the amendment?

Mr. ARMSTRONG. The issue is, I say to the Senator from Ohio, for those taxpayers who have a secondary income and who set aside a portion of their home as an office, under the proposed regulation, they will not be able to deduct, as they have in the past, this home office expense. That is what we are seeking to prevent the IRS from accomplishing.

Mr. METZENBAUM. Mr. President, I point out to my friend from Colorado that I think the first part of this amendment is not of concern, but I believe the language in the second section goes far beyond what he apparently intends to do. I should like to question that, because it talks about the determination—none of the funds shall be used for determination of the principal place of business for the taxpayers. That does not have to do with the family. That has to do with corporate residences and can be a very important consideration. I am wondering whether or not the Senator would be prepared to delete that particular section from the amendment.

Mr. ARMSTRONG. Mr. President, I think that the Senator's concern is not well founded. I am advised by staff and by counsel that the amendment is properly drawn. Because the amendment itself refers only to section 280 of the Code, it does not have the broader effects that the Senator inquires about. Certainly it is not intended to and counsel advises me that it is properly drawn.

Mr. METZENBAUM. I yield to the Senator from Washington, who has prime responsibility.

Mr. MAGNUSON. Mr. President, let me say to the Senator from Colorado that this is tax legislation on an appropriation bill. It is subject to a point of order. It is pure tax legislation. It belongs in the Committee on Finance.

Mr. DOLE. Will the Senator yield?

Mr. ARMSTRONG. I am happy to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I appreciate the Senator's raising that point, speaking as the ranking member on the Finance Committee. We have discussed this in the Joint Tax Committee. I do not see Senator LONG on the floor. It is properly within the jurisdiction of the Finance Committee. At the same time, it is a limitation on expenditures.

We do not disagree with the thrust of the amendment. We share the concern expressed by the Senator from Colorado. It is our hope that the amendment might be accepted.

In the meantime, Mr. President, we are going to proceed to contact the IRS to see if we can, somehow, delay the implementation of these proposed regulations.

I assure the Senator from Washington that we have discussed it with the staff of the Committee on Finance, with members of the Joint Tax Committee, and I first discussed it with Senator LONG. I do not see him on the floor.

Mr. MAGNUSON. Mr. President, I have no objection to the thrust of the amendment, but it is subject to a point of order because it is tax legislation.

Mr. ARMSTRONG. Mr. President, perhaps I might add to the explanation of the Senator from Kansas. It is my own personal opinion that the amendment is not subject to a point of order. But even if it were, I hope the distinguished chairman will not be disposed to raise such a point of order.

My purpose, Mr. President, is not for a second to preempt the jurisdiction of the Finance Committee but, indeed, to preserve it. What has happened is that the IRS has moved precipitately to change, in a basic and fundamental way, a longstanding aspect of our tax system. The only way we can preserve the opportunity for the Finance Committee and Congress to act on this matter in the ordinary way is by hooking some kind of limitation on this bill.

All we are seeking to do, Mr. President, is delay the IRS from implementing this and give the opportunity for the Finance Committee and the Ways and Means Committee to hold hearings. This is precisely the way in which we gained time to prevent the imposition of a tax on fringe benefits. It was done—in fact, I offered the amendment in the House and, subsequently, in the Senate to prevent the IRS from taking fringe benefits, again to gain time for proper hearings.

Mr. MAGNUSON. Mr. President, I know what the Senator is trying to do. I do not disagree with it. This bill is only for 2 months. I do not think the Finance Committee is going to get at it in 2 months. We are going to leave for a month. Knowing the Finance Committee as I do, I do not think they are going to address themselves to this thing at all. It is merely a temporary thing.

Mr. ARMSTRONG. Mr. President, the Senator is correct, of course. It was my original intention to propose this amendment as an amendment to the appropriations bill for the Department of Treasury and Post Office, where it more properly belongs. Since that bill is not before us and will not be before us until sometime after mid-November, this is the only place it can be put now.

If, in fact, the chairman's observation is correct about the timing of possible legislation and hearing—and I suspect he is right—when we bring up the Treasury and Post Office appropriations bill after the election, I shall again bring up the amendment so the limitation on IRS will be continued until sometime next year, when the committee gets a chance to act.

Mr. MAGNUSON. Mr. President, I should like to hear from the Senator from Florida, who is chairman of the Appropriations Subcommittee on Treasury and Post Office, what he thinks about this.

Will the Senator from Colorado temporarily lay this aside until I can confer with the chairman of the Treasury and Post Office Subcommittee?

Mr. ARMSTRONG. I shall be happy to do that, Mr. President. It is my understanding, from secondhand information, that the subcommittee chairman is sympathetic to this amendment. I shall be happy to lay it aside at the chairman's request.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the amendment of the Senator from Colorado be temporarily laid aside until I can confer about this amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Kansas know whether or not the amendment of the distinguished Senator from Colorado has been cleared with Mr. LONG, the chairman of the Finance Committee?

Mr. DOLE. I cannot say, the Senator told me he supports this. He has the same idea about it that I do. This is within the jurisdiction of the Senate Finance Committee. We have checked out with the staff and the staff of the Joint Tax Committee. He knew this was in the offing. He hoped it might be accepted on a voice vote.

Mr. ROBERT C. BYRD. It is not his intention to oppose it?

Mr. DOLE. Mr. President, it is my feeling he does not. We are attempting to reach him.

Mr. ARMSTRONG. Mr. President, if the amendment of the Senator from Florida is ready for us to proceed, I think that is the pending business. If it is not ready for us to proceed, I ask that it again be temporarily laid aside so I may submit another amendment.

The PRESIDING OFFICER (Mr. BAUCUS). Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1679

(Purpose: To limit the funding available for the Denver Income Maintenance Program)

Mr. ARMSTRONG. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration. The amendment is brief and I suggest that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. ARMSTRONG) proposed an unprinted amendment numbered 1679:
>
> At the end of the joint resolution add the following new section:
>
> SEC. . None of the funds appropriated by this joint resolution may be used for the purpose of carrying out the Denver Income Maintenance Program, authorized under section 1110 of the Social Security Act after November 15, 1980.

Mr. ARMSTRONG. Mr. President, again, this is an amendment which I think will not be controversial, but let me explain it briefly.

Mr. President, in explanation of the amendment I have offered, the experiment was begun in 1971. The purpose of this experiment and a few others started at about the same time was to test the guaranteed income theory and to determine what effect having a guaranteed income would have on the family life, lifestyle, working incentives, and human relations of the recipients.

This seemed fairly far-reached to me. But, nonetheless, we have been nearly a decade testing this theory.

Recently, in part at my urging, the Department decided to terminate the program, a very wise decision, in my opinion.

Unfortunately, however, instead of cutting it off, as seemed eminently reasonable, they decided to phase it out over a 3-year period.

The amount of money is not large by comparison with the total amount of this bill. But it seems to me it is worth saving, about $1.5 million. So I am hopeful the committee will accept the amendment.

Mr. MAGNUSON. We will accept the amendment.

Mr. ROBERT C. BYRD. Mr. President, I would like to clear this amendment with a Senator before it is accepted.

Mr. President, before the Chair puts the question, I wish to suggest the absence of a quorum until a Senator can be contacted.

Mr. ARMSTRONG. Mr. President, if the majority leader will withhold, I am happy to lay this aside and send another amendment to the desk, which I think will not be the subject of controversy.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Without objection, the amendment is temporarily laid aside.

Mr. MAGNUSON. The bill is open to further amendment.

UP AMENDMENT NO. 1680

(To prohibit funding of new HHS interagency day care regulations)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

Mr. MAGNUSON. How many amendments does the Senator from Colorado have?

Mr. ARMSTRONG. I have a few more, which I will dispose of, I think, quite quickly.

Mr. MAGNUSON. Are they all unprinted?

Mr. ARMSTRONG. I believe that is correct.

Mr. MAGNUSON. I hope the Senator from Colorado will not offer any extraneous amendments. We have got to get this bill done. We have to get it done because without it the Government will run out of money on Tuesday at midnight. And we still must conference with the House and get the bill to the President.

Your amendments are all unprinted. I do not know what they are. I have not had a chance to look at them. No member of the committee has had a chance to look at them. I hope the Senator will not offer a lot of amendments to this bill, because unless we finish this bill Monday, the whole Government will stop on Tuesday.

The Attorney General has ruled that no one can go to work unless this bill is passed. I hope that extends to Members of Congress, too, but I guess it will not.

I hope the Senator will not offer all these unprinted amendments. They are all subject to a point of order.

Mr. ARMSTRONG. I say to the distinguished chairman, I am mindful of his concern about time. It will be the purpose of the Senator from Colorado to proceed with utmost dispatch. I am not eager to delay final action on the bill.

My remarks have been, on each amendment, brief.

Mr. MAGNUSON. Well, the amendments do not belong on this bill.

Mr. ARMSTRONG. With all respect, they do belong on the bill because this is the only vehicle for handling certain matters.

Mr. MAGNUSON. This is the only vehicle for every single amendment that anybody who is frustrated wants to offer.

The period covered is only 2½ months. Why does the Senator not wait for the regular appropriation bill?

Mr. ARMSTRONG. Mr. President, the answer to that question is because the regular appropriation bills are not coming before the Senate.

Mr. MAGNUSON. We will finish the regular appropriation bills before December 15. We have nine of them reported now and there will be three more, probably, before we finish. We will have them all up here.

But this is a continuing emergency bill. Why put all these amendments on?

Mr. ARMSTRONG. Mr. President, I appeal to the distinguished chairman to consider them on their merits. They are not controversial or in any way intended to delay the proceedings of the Senate. They are amendments——

Mr. MAGNUSON. If everybody cluttered up the bill the way the Senator is cluttering it up, we would have a bill 6 inches thick.

The Senator ought to wait for the regular appropriation bill.

Mr. ARMSTRONG addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The clerk will state the amendment.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. If an amendment is placed on the continuing resolution, as we see many are placed on the continuing resolution today, do those amendments fall at the expiration of the continuing resolution or are they part of the law?

The PRESIDING OFFICER. The Chair is advised that that is a legal interpretation, and the Chair is not empowered to make a legal interpretation.

The clerk will state the amendment.

Mr. FORD. Will the Chair ask the Parliamentarian?

The point I am trying to make to the distinguished Presiding Officer is that maybe these amendments are just temporary, and if they are placed on a continuing resolution, the continuing resolution runs for 30 days, these amendments are only good for 30 days.

The Chair says it is a legal interpretation. The Chair cannot give a legal interpretation.

I thank the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. ARMSTRONG), for himself and Mr. BOREN, proposes an unprinted amendment numbered 1680:
>
> At the appropriate place in the Joint Resolution insert.
>
> SEC. . Notwithstanding any other provision of this Joint Resolution, no funds may be made available for implementing requirements imposed by Section 2002(a)(9) of the Social Security Act or by any regulations provided by the Department to carry out this section, to the extent that such requirements would not otherwise be applicable under State or local law.

Mr. ARMSTRONG. Mr. President, the Department of Health and Human Services has proposed new Federal interagency day care regulations which are to go into effect on October 1, 1980.

These regulations, among other things, impose new staffing standards—which are expected to make the average cost for care per child equal to $3,500 a year. States are concerned about the cost and may have to cut back on day care services, probably resulting in fewer working welfare mothers, or eliminate the use of Federal funds for day care in order not to have to meet the new requirements.

In the words of the distinguished Senator from Kansas (Mr. DOLE) indicated during the consideration of the reconciliation bill on the Senate floor on June 30 of this year:

> This issue . . . has . . . angered a large segment of the public.

Accordingly, the Senate followed the recommendation of the Senate Finance Committee in the reconciliation bill to postpone the new regulations until October 1, 1981. They rebuffed an effort by Senator CRANSTON to remove part of the postponement by a vote of 72 to 17.

The reason for this amendment is very simple. The reconciliation bill is now in conference. The conferees have not yet reached this item, and it is not plain at this point that the conference on the reconciliation bill will be presented and acted upon in time to prevent the implementation of these Federal interagency day care regulations, which go into effect on October 1.

So, for the reasons we have discussed previously, this is a somewhat awkward means of getting at the problem. However, so far as I can see, it is the only way to prevent the implementation of these rules, which we must do, and in so doing, to implement the clearly expressed desire of the vast majority of Senators as they voted a few weeks ago.

With that word of explanation, I ask for approval of this amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair: Is this amendment under the jurisdiction of the Finance Committee?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I ask the distinguished Senator from Colorado whether he has cleared this amendment with the chairman and ranking minority member of the Finance Committee.

Mr. ARMSTRONG. Mr. President, I say to the distinguished majority leader that I have presented it to the distinguished ranking member, and it is my understanding that it has been presented on the other side. I cannot speak for Chairman LONG. It is Senator DOLE's indication that he approves of this amendment.

Mr. ROBERT C. BYRD. Mr. President, I would be hesitant to see the Senate act on amendments that are under the jurisdiction of the Finance Committee, without the approval of Mr. LONG and Mr. DOLE—at least the approval of those two Senators.

I suggest that we not proceed with action on this amendment at this point.

I ask the distinguished Senator—I do not want to delay his calling up his other amendments and getting action on them, if possible—whether his remaining amendments come within the jurisdiction of the Finance Committee.

Mr. ARMSTRONG. Mr. President, the only reason why I am reluctant to give assurance that this has been approved by the chairman and the ranking minority member is that I have not personally heard them say so. I am advised that at the staff level they have been approved. It is only out of an abundance of caution and a desire to protect fully the interests of the Finance Committee that I am reluctant to vouch for it.

It is my belief that when the leader checks, they will approve of this amendment.

Mr. ROBERT C. BYRD. Will the Senator answer my question as to his remaining amendments, as to whether they are under the jurisdiction of the Finance Committee?

Mr. ARMSTRONG. Mr. President, it is my intention presently to call up only one or perhaps two more amendments, and neither happens to be under the jurisdiction of the Finance Committee.

Mr. ROBERT C. BYRD. Will the Senator set this amendment aside and proceed with his other amendments until we can get some clearance from the Finance Committee?

Mr. ARMSTRONG. Yes. I will be happy to do that.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MAGNUSON. I intend to make a point of order.

Mr. President, I make the point of order that this amendment is legislation on an appropriation bill.

The PRESIDING OFFICER. The amendment constitutes legislation on an appropriations bill, in that it affects funds in other appropriations bills in addition to this one. Therefore, the point of order lies, and the amendment is not in order.

Mr. ARMSTRONG. Mr. President, in light of the ruling of the Chair, it is the purpose of the Senator from Colorado to recast the amendment in proper form so that it would not be subject to a point of order and to resubmit it at the proper time.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Florida.

UP AMENDMENT NO. 1681

(Purpose: To reduce CETA title VI public service jobs by the end of fiscal year 1981, saving $550 million; and increase funding of the existing youth employment and training program by $200 million)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1681:

In lieu of the language proposed to be inserted:

"Notwithstanding any other provision of this resolution: For Temporary Employment Assistance under Title VI of the Comprehensive Employment and Training Act, no more than $743,000,000 of new obligations shall be available; notwithstanding subpart(4) of part A of Title VI of the Comprehensive Employment and Training Act, obligations for the Youth Employment and Training Program under subpart (3) of part A of Title IV of that Act shall be at the rate of $920,000,000."

The PRESIDING OFFICER. The Chair inquires of the Senator whether this is an amendment to the amendment of the Senator from Florida in the nature of a substitute.

Mr. METZENBAUM. The Presiding Officer is correct. It is an amendment offered in that manner.

I recognize that it restates the entire amendment. The intent is to change the figure only of the Chiles amendment. It is offered jointly by Senator CHILES and me, and it would add back in $350 million.

Mr. BELLMON. Mr. President, may we see the amendment? I will be willing to suggest the absence of a quorum while we look at it.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DECONCINI. Mr. President, before that occurs, will the Senator yield for a question?

Mr. METZENBAUM. I yield.

Mr. DECONCINI. Will the Senator from Ohio be kind enough to permit me—if I can secure unanimous consent—to bring up a couple of acceptable amendments, for not to exceed 3 minutes?

Mr. METZENBAUM. The Senator from Ohio has no objection, if the majority leader has none. As I understand it, the Senator from Arizona is asking that this matter be set aside for not to exceed 3 minutes.

Mr. DECONCINI. Yes—if the majority leader has no objection.

Mr. ROBERT C. BYRD. No.

Mr. DECONCINI. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection to setting aside the Metzenbaum and Chiles amendments? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1682

(Purpose: To provide for continued funding for Joint State and Joint State and Local Law Enforcement Agencies)

Mr. DECONCINI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1682.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Mr. President, may we have the amendment read?

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

On page 6, between lines 15 and 16 insert: "activities of the Attorney General in connection with assistance for Joint State and Joint State and Local Law Enforcement Agencies."

On page 6 after line 19 insert: "activities of the United States Travel Service including the Assistant Secretary for Tourism;"

Mr. DECONCINI. Mr. President, when the Committee on Appropriations considered the continuing resolution we assumed that the State, Justice, Commerce bill would be approved by the Senate by October 1. Inasmuch as it has now been set aside and it is not clear that the Senate would consider action by October 1. It is necessary to amend the continuing resolution to provide authority for the Attorney General for assistance to the joint State and joint State and local law enforcement agencies, as well as the activities of the U.S. Travel Service including the Assistant Secretary for Tourism in the Department of Commerce.

This amendment has been endorsed by the chairman of the State, Justice, Commerce Subcommittee (Senator HOLLINGS) as well as Senator INOUYE with regard to the Travel Service item.

Mr. President, these are existing programs, add no money whatsoever to the bill, and only permit continuing operation in the event that the State-Justice bill is not passed by this body.

Mr. MAGNUSON. Mr. President, we accept the amendment.

Mr. YOUNG. We accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1682) was agreed to.

Mr. DECONCINI. I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Ohio.

Mr. METZENBAUM. Has the Senator from Oklahoma had an opportunity to examine the amendment?

Mr. BELLMON. Mr. President, we are still working on it and would like a few more minutes.

Mr. METZENBAUM. Unless someone has another amendment to call up, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1678

Mr. ARMSTRONG. Mr. President, after conferring with the chairman of the Appropriations Committee and with the majority leader, I now ask unanimous consent that we resume consideration of my earlier amendment on the IRS regulations relating to family rental unit.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report amendment 1678.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1678:

At the appropriate place, insert the following new section:

SEC. 112. No funds appropriated by this Act may be used to implement or enforce provisions of any regulation or ruling with respect to section 280A of the Internal Revenue Code of 1954 which relate to—

(1) the rental of a dwelling unit to a member of the family of a taxpayer,

(2) the determination of the principal place of business of the taxpayer, or

(3) the circumstances under which use of the dwelling unit for repairs and maintenance constitutes personal use by the taxpayer.

Mr. ARMSTRONG. Mr. President, is the Senator from Florida seeking recognition?

Mr. CHILES. Mr. President, I just was going to take the floor and say that I suppose this amendment would fall under my portion of the bill, the Treasury Department. It is something I have not looked at as yet. My first impression in looking at it is that, in effect, we are sort of writing tax law on the floor.

I have not been able to talk to the chairman of the Finance Committee. I do not know whether he has seen this amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. ROBERT C. BYRD. May I suggest this: I do not believe the Senate should legislate on any amendment dealing with tax law unless we know what the chairman wants to do about it. He may very well support or oppose it.

I am reluctant to allow the Senate to come to a vote on this matter until we clear it with Mr. LONG and Mr. DOLE—or a least apprise them of it—so that if they are opposed to it, they can come to the floor and oppose it.

Mr. ARMSTRONG. Mr. President, I believe that in asking that it be brought up again for consideration, I was misinformed. I thought that at this point it had been cleared. If that is not the case, I will be happy to set it aside until we have a chance to check with Mr. LONG. I believe that it will be his inclination to support it.

I think it is consistent with amendments he has similarly offered in the past.

Mr. President, may I inquire, are we ready to proceed to the consideration of the DIM amendment?

Mr. METZENBAUM. On which?

Mr. ARMSTRONG. On the Denver income maintenance amendment.

Mr. MAGNUSON. We can accept that.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that we proceed to the consideration of that amendment and to its adoption.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ARMSTRONG. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator. The Senator may keep the floor as long as he wishes, but I still have not cleared this amendment with a Senator. We are attempting to do so.

So I hope we will not act on the amendment until I clear it.

Mr. President, I ask for the regular order.

UP AMENDMENT NO. 1681

The PRESIDING OFFICER. The regular order is the amendment of the Senator from Ohio to the amendment of the Senator from Florida.

Mr. METZENBAUM. Mr. President, this amendment is a simple amendment. The amendment simply stated refers to the fact or can be stated concisely as a $350 million CETA cut is better than a $700 million cut.

This is an amendment that has been worked out in an effort to compromise the question with my distinguished and good friend from Florida and has been offered jointly by us to his original amendment which would have cut back $700 million in CETA funds.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 1681) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1676

The PRESIDING OFFICER. The question now recurs on the amendment, as amended, of the Senator from Florida.

The amendment, as amended (UP No. 1676) was agreed to.

AMENDMENT NO. 1678

The PRESIDING OFFICER. The question now recurs on unprinted amendment No. 1678, the amendment offered by the Senator from Colorado.

Mr. METZENBAUM. Mr. President, will the Senator from Colorado succinctly tell us what his amendment does?

Mr. ARMSTRONG. Mr. President, my attention wandered. Have we returned to the consideration of one of my amendments?

The PRESIDING OFFICER. The Senator is correct. We returned to amendment No. 1678.

Mr. ARMSTRONG. Mr. President, the copies of the amendment which I have at my desk are not numbered.

Could we refresh our recollection as to which amendment this is?

The PRESIDING OFFICER. This is an amendment to the enforcement of certain proposed regulations relating to business use of the dwelling unit.

Mr. ARMSTRONG. Mr. President, I think at the suggestion of the majority leader we agreed to lay this aside and it is not his intention or mine for us to proceed to the consideration of it at this time.

Unless there is other business, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will withhold that, does he have any other amendment he wishes to call up on which perhaps the Senate could act?

Mr. ARMSTRONG. Mr President, at this time I do not.

Mr ROBERT C. BYRD. I thank the distinguished Senator.

Does he wish to proceed with a quorum call?

Mr. ARMSTRONG. It is at the pleasure of the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1680

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that we now proceed to the consideration of the amendment which the Senator from Oklahoma (Mr. BOREN) and I have offered on day care centers.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I have no objection, but is this one of the two amendments under the jurisdiction of the Committee on Finance?

Mr. ARMSTRONG. It is.

Mr. ROBERT C. BYRD. This is not an amendment ruled out of order?

Mr. ARMSTRONG. No.

The PRESIDING OFFICER. If the Senator is referring to amendment 1680, it has been ruled out of order.

Mr. ARMSTRONG. Mr. President, I apologize for unintentionally misleading the majority leader. There was a technical error in the amendment as originally presented, and I ask unanimous consent that I be permitted to send a revised amendment to the desk. The effect is exactly the same. In the earlier draft we said inadvertently, "No funds may be made available," when we should have said, "None of the funds contained herein."

UP AMENDMENT NO. 1683

(Purpose: To prohibit funding of new HHS interagency day care regulations)

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. ARMSTRONG), for himself, Mr. BOREN, and Mr. HELMS, proposes an unprinted amendment numbered 1683:
>
> At the appropriate place in the joint resolution insert:
>
> SEC. . Notwithstanding any other provision of this joint resolution none of the funds contained herein may be made available for implementing requirements imposed by section 2002(a)(9) of the Social Security Act or by any regulations promulgated by the Department to carry out this section, to the extent that such requirements would not otherwise be applicable under State or local law.

The PRESIDING OFFICER. Is there objection to proceeding to the consideration of this amendment at this time?

Mr. YOUNG. There is no objection on this side. It is an amendment which has been cleared with the chairman of the Finance Committee. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I thank the distinguished chairman of the Finance Committee and the ranking Republican member on the Appropriations Committee.

Since I have already explained the amendment, I will defer to my distinguished cosponsor, the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from Colorado.

Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Colorado, Senator ARMSTRONG and myself.

The matter of delaying the implementation of Federal rules and regulations pertaining to day care centers has been of great concern to me for some time.

On June 30 of this year, the Senate voted overwhelmingly to support a 1-year deferral of these regulations—that vote was 72 to 17.

My colleagues will recall that the 1-year deferral of these regulations was included as a cost saving item by the Finance Committee on the reconciliation bill. The conference committee, of which I am a member, is currently meeting to discuss this very matter.

The bill before us contains that Senate provision which is identical in its thrust to the amendment offered by the Senator from Colorado at this time.

It is, therefore, entirely appropriate that this amendment be adopted as part of this continuing resolution.

If, after the Senate adjourns on November 12, the Reconciliation Conference will have decided not to defer the regulations, we will have plenty of time to deal with the situation in the proper manner.

In the meantime, we should make it clear to the Health and Human Services Department that they are not to proceed until Congress has decided the question.

It is not my intent here to reargue the full case for deferral. However, I would remind my collegaues that the regulations being proposed by HHS will result in the increased costs of day care on the average, from the present $6 per child per day, the present average prevailing cost, up to $12 per child per day, thus doubling the cost of day care to working mothers.

In addition, under the 20-percent rule, it is very possible that low-income children who are receiving Federal assistance are going to be turned away from day care center by the thousands across the country, so that these centers can gain exemption from these Federal standards.

There are many other arguments that I could make, Mr. President, but I think the point has been forcefully made earlier on the vote on the reconciliation bill that the Senate is in full accord with deferring the implementation of these standards for a 1-year period. My colleagues made it quite clear that since it took over 3 years for the agency to formulate the rules, it is not unreasonable for the Senate to take an additional year to study their potential impact.

The Armstrong amendment will make it clear that we will not be thwarted by accident or design in this endeavor, and I urge its immediate passage.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. ARMSTRONG's amendment (UP No. 1683) was agreed to.

UP AMENDMENT NO. 1678

Mr. ARMSTRONG. Mr. President, I now ask unanimous consent to proceed to the consideration of the amendment on family rental, and I will be prepared now to dispose of that amendment. That is amendment No. 1678.

The PRESIDING OFFICER. The question recurs on agreeing to that amendment.

Mr. ARMSTRONG. I think it has been adequately discussed, and I believe it has been approved all around, so I think we are ready for the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. ARMSTRONG's amendment (UP No. 1678) was agreed to.

UP AMENDMENT NO. 1684

(Purpose: To prohibit funding of the Council on Wage and Price Stability without authorizing legislation)

Mr. ARMSTRONG. The only other amendment I have pending we are not ready to act on, and unless other Senators wish to proceed, I have one other amendment which I will send to the desk and for which I ask immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1684:
>
> At the appropriate place in the joint resolution insert:
>
> SEC. . Not withstanding any other provision of this joint resolution no funds may be made available for the expenses of the Council on Wage and Price Stability without authorization therefore.

Mr. ARMSTRONG. Mr. President, this amendment arises because the basic statutory authority for the Council on Wage and Price Stability expires on September 30. Both the House and Senate have passed versions of the authorization bill, but it is not plain that the conference will act in a timely fashion.

My desire is, first of all, if we permit this authorizing legislation to expire then I think we should not go ahead and spend the money because under that circumstance the Council would not have any legal basis or any legal authority to continue in existence or to exercise any power.

Second, it seems to me it would be well for the conferees to have some encouragement to go ahead and complete the work on this and to express a policy judgment.

This amendment, I think, is straightforward and simple. I have discussed it with the chairman and ranking Republican member of the Banking Committee which has jurisdiction of the Council on Wage and Price Stability and they both approve of the spirit of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I think that the Senator from Colorado is correct in his statement that both Houses have now passed bills that would reauthorize the Council on Wage and Price Stability.

I think that this being a continuing resolution, if we put the kind of language on there that the Senator from Colorado is suggesting and then, for some reason, if, because we go out, the conferees do not have a chance to finish and put those two bills together, you could have the authorization expire at the end of September 30 and so, under the language that the Senator put on there, COWPS would be out of business and there would be no way of paying their salaries.

It seems that one of the things we do in a continuing resolution is that there are a lot of times that we are continuing programs for the period of that continuing resolution that are up for authorization or that the authorizations are pending. That happens a lot of time in our foreign aid authorizations. It happens in a lot of our other authorizations.

While I generally tend to favor language like the Senator from Colorado is talking about—none of these funds shall be spent until the project is authorized—I do not think that it is fair to put that on a continuing resolution when you have a situation, as we know we have here, in which the Senate and the House have passed bills reauthorizing the Council on Wage and Price Stability, but we have simply not gone to conference on those bills and will not have a chance, I do not think, to complete a conference prior to the expiration of September 30. The Congress will be out.

So, in effect, you dismantle that office during the entire time that we are out until we come back, until the conferees have a chance to get together and put their bill together. We do not do that in any other areas, as I say.

It seems to me that that is not very good government, to have that kind of dismantling of an agency that both Houses have indicated they intend to continue by virtue of the authorization bills that we have passed.

Under those circumstances, I think that this is an amendment, with that kind of language, that we should not adopt.

Mr. ARMSTRONG. Will the Senator yield to me for a moment?

Mr. CHILES. Yes.

Mr. ARMSTRONG. Mr. President, I was not surprised that the Senator from Florida made a very thoughtful observation about this amendment and about the general problem of appropriating for agencies when their authorization expires. I am, at least in part, persuaded by his comments and I would like to propose this question to him: Would the Senator agree that if the authorization bill is not passed, say, some time before the expiration of this continuing resolution, then, at that point, language of the kind I have suggested would be appropriate?

Mr. CHILES. Well, the language that the House has put into the continuing resolution says——

Mr. ARMSTRONG. What I am really asking the Senator is: Would he be willing to agree that we should not appropriate, say, beyond December 15, unless we get some kind of resolution of the authorizing problem that would give us time to work out the problem that he has mentioned?

Mr. CHILES. The majority leader suggested the Department of Energy would have been out of business a long time ago if we had followed that.

The one reason that I would not immediately jump to that is because I do not know—I hear the rumors, like everyone else, that the December 15 continuing resolution may be extended to a February or January date of a continuing resolution. Then, if you made some agreement, in effect, Congress might just come in for a couple of days and extend the continuing resolution and not have any time to come back.

Mr. ARMSTRONG. Mr. President, does the Senator from Florida wish to continue?

Mr. CHILES. Mr. President, I was just saying that my concern with doing what the Senator from Colorado suggested is that we may come back in here for a day or so and pass a further continuing resolution.

So, under those circumstances, I think if you put a date in here automatic and said nothing after December 15, again you may be in the same situation that I am afraid the Senator's amendment would put us in today.

Mr. ARMSTRONG. Mr. President, I think the Senator from Florida raises a very real concern. I appreciate his perspective on this.

Let me propound a further question. In the event that the continuing resolution appropriates money, what power and what functions will be performed by the Council on Wage and Price Stability?

I do not see in the continuing resolution any extension of the basic statutory grant authority, only the extension of the right to spend money.

The amount of money involved is not large by comparison with the total of the continuing resolution. But I am concerned about the idea that here is an agency whose legal existence, its basic charter, expires on September 30. What would the Senator from Florida say would be the powers, duties, and responsibilities of the agency after September 30 if we extended the money but not the statutory authority?

Mr. CHILES. Mr. President, my feeling is that they would have the same powers that they now have and that would be granted to them by the language in the continuing resolution. I judge that not really from saying I know, as such, what the language is in here with regard to the Council on Wage and Price Stability, but what has happened in other agencies, such as the Department of Energy, where we have passed and sort of continued their activities through a continuing resolution.

Mr. ARMSTRONG. Mr. President, in a moment I am going to ask unanimous consent to withdraw this amendment, but I want to make this observation: I believe this discussion has been useful, because it brings into sharper focus the fact that some of the powers which have been exercised by the Council on Wage and Price Stability have, in fact, been very controversial and have been the subject of extensive litigation.

My concern is, as we prepare to adjourn, that we do not leave in limbo an agency like this. I am willing to go along for a reasonable period of time, say, until the 15th of December, in this limbo status. I am glad to have had a chance to raise this issue. It will be my purpose the next time we have a continuing resolution, if another continuing resolution becomes necessary, not only to press this amendment but also—and I would ask the distinguished chairman of the Appropriations Committee to understand this—it will not only be my purpose to press this amendment, but other amendments relating to the basic statutory authority of the Council on Wage and Price Stability, because if we are unable to resolve that in the normal authorizing process, which is the correct place to do it, then the Senator from Colorado, and others who have this concern about COWPS, would have no other forum or opportunity to do so.

With that word of explanation, and in order to expedite the proceedings of the Senate, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 1679

The question now recurs on unprinted amendment No. 1679.

Mr. ARMSTRONG. Mr. President, I think we are not ready for that amendment, as yet.

Are we ready?

Mr. ROBERT C. BYRD. No, not yet. Mr. President, it is all right to proceed with that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. ARMSTRONG).

The amendment (UP No. 1679) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

UP AMENDMENT NO. 1685

(Purpose: To continue funding for emergency energy conservation services under the Community Services Administration at the 1980 level)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. (Mr. BAUCUS). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1685:

At the end of the joint resolution, add the following new section:

"SEC. Notwithstanding any other provisions of this joint resolution, funding for emergency energy conservation services under the Community Services Administration shall be continued at a level not lower than that provided in fiscal year 1980."

NCAT FUNDING

Mr. MELCHER. Mr. President, this amendment simply provides funding for the National Center for Appropriate Technology at the existing level. Its adoption will neither expand the program nor will it be the final word on NCAT's funding for fiscal 1981. This amendment is necessary to avoid having the program shut down on October 1.

NCAT is being strangled by a series of procedural and policy decisions beyond its control. Since the Senate has not passed the Labor-HHS appropriations bill, we have not yet had the opportunity to consider the 1981 funding level for Appropriate Technology. The House has already passed the Labor-HHS bill but regrettably overlooked NCAT's funding needs. Because the continuing resolution now before us would fund programs under the Community Services Administration at the rate provided in the House version of the bill, NCAT would not be funded unless action is taken now.

The ideal would be to have weatherization programs consolidated in one agency of Government, and the Community Services Administration seems the best choice. However, both the House of Representatives and the Senate have included in their reports on the Interior appropriations bill specific recommendations against the transfer of the weatherization programs back to CSA from the Department of Energy. This was done despite the fact that the Senate labor and human resources report on S. 1725, the economic opportunity amendments which the Senate passed February 28, was sternly critical of the Department of Energy's weatherization efforts. If the weatherization funds were shifted back to CSA—where they belong—NCAT would be able to provide services to low-income people with regular and reliable funding.

This program could be lost if we do not act quickly. It would be a loss all of us would feel, especially those who are poor or elderly or ill.

The National Center for Appropriate Technology is a bridge between national energy policy and practical energy benefits. It is an independent nonprofit corporation funded by the Community Services Administration. It develops and applies appropriate technologies to specific needs expressed by low-income people. It promotes locally based programs that restore individual and community self-reliance. NCAT is committed to serving the interests of the poor through community action agencies and other community-based groups working directly with the poor.

NCAT offers a nationwide program of technical research and assistance, small grants and local support activities. The Center has made major strides in appropriate technology. This year they funded over 100 solar greenhouses for both food and energy production in the homes of low-income elderly. In research, NCAT is in the forefront in the construction of model alcohol fuel production geared for the small farm and are doing trail blazing work with computer models for passive solar equipment used in new construction.

In NCAT's second year of operation, they funded 66 grants out of 912 submitted for a total of $900,000. They assisted a greenhouse in Iron River, Mich. They are working on a solar project in New Mexico, a greenhouse for an Indian tribe in Washington, and projects in Maine, Oklahoma, and Hawaii. Among energy experts, NCAT has established a reputation for quality and reliability. NCAT is making a national contribution and underlying all of it is the aim of helping our low-income people deal with scarce, expensive energy.

This is not the time to halt their work. NCAT should certainly not become a victim of the pace with which Congress has dealt with appropriations bill.

My amendment is not a back door attempt to continue funding for this project. Rather, it is an up-front step to prevent NCAT from dying a quiet, untimely death.

This amendment does not make the final decision on NCAT. It keeps the facility running until the Senate can make its final decision on 1981 funds in the regular appropriations process. I hope the Senate will approve this necessary amendment.

Mr. MAGNUSON. I am willing to accept it. It is the same thing we did last year, I believe.

Mr. MELCHER. It is the same as we did last year, $3.7 million.

Mr. MAGNUSON. All right, we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1685) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1686

Mr. MAGNUSON. Mr. President, I send an amendment to the desk on behalf of the committee. It is somewhat technical in nature. For reason, we passed this amendment in the committee but the printer dropped it out. We are just putting it back in. It provides activities for the energy conservation bank.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1686:

At an appropriate place in the Joint Resolution, add the following new section:

"Notwithstanding any other provision of this joint resolution, the activities of the Solar Energy and Energy Conservation Bank shall be funded at a rate not to exceed the annual rate provided for in H.R. 7631 as passed by the Senate."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1686) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, the bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

GI BILL AMENDMENTS ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5288.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, and I shall not object, Mr. President, the purpose of my reservation is to advise the distinguished majority whip that this item is cleared on our calendar and we have no objection to its consideration at this time.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5288) to amend title 38, United States Code to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veterans' educational assistance program, and for other purposes.

(The amendment of the House is printed in the RECORD of September 25, 1980, beginning at page H9637.)

Mr. CRANSTON. Mr. President, I ask unanimous consent that, upon the completion of Senate action on the House amendments to the Senate amendments to H.R. 5288, I be recognized for the purpose of asking unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 4015 and that the Senate proceed to its immediate consideration; that no amendments be in order other than a committee amendment and a title amendment that I shall offer embodying three VA health-care related provisions that passed the Senate on September 4 as part of S. 1188 and that are not included in the Compromise Agreement on H.R. 5288 that is pending before the Senate at this time; and that no motion except a motion to reconsider and a motion to table such motion be in order with respect to H.R. 4015 when it is before the Senate.

The PRESIDING OFFICER. Is there objection to such a request?

Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I further ask unanimous consent that immediately following disposition of the aforementioned H.R. 4015, I be recognized for the purpose of submitting a concurrent resolution making technical changes in the engrossment of the House amendments to H.R. 5288 and requesting unanimous consent for its immediate consideration, and that no amendments or motions with respect to that concurrent resolution be in order except for a motion to reconsider and a motion to table such motion.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, returning to H.R. 5288, as chairman of the Committee on Veterans' Affairs, I will urge concurrence in the House amendments to the Senate amendments to the bill, H.R. 5288, the proposed Veterans' Rehabilitation and Education Amendments of 1980, a compromise agreed to between the two Veterans' Affairs Committees after extensive discussion and negotiation.

BACKGROUND

Mr. President, this compromise agreement incorporates provisions derived from four Senate-passed measures—H.R. 5288, the GI Bill Amendments of 1980; S. 1188, the Disabled Veterans Rehabilitation Act of 1980; S. 2885, the Reconciliation Act of 1980; and H.R. 7511, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980—and three House-passed measures—H.R. 5288, the Veterans' Rehabilitation and Education Amendments of 1979, and H.R. 7394, the Veterans' Rehabilitation and Education Amendments of 1980, and H.R. 7765, the Omnibus Reconciliation Act of 1980.

H.R. 5288 was originally passed by the House of Representatives on October 16, 1979. On January 23 and 24, 1980, the Senate considered S. 870, as reported by the Senate Committee on Veterans' Affairs on September 7, 1979. Following Senate consideration of S. 870 as reported, the provisions of that measure, as amended, were substituted in lieu of the provisions of H.R. 5288 as passed by the House. As so amended, H.R. 5288 was passed by the Senate on January 24.

S. 1188 was reported by the Senate Committee on Veterans' Affairs on May 15, 1980, and passed by the Senate, with amendments, on September 4.

S. 2885, title VIII of which contained various cost-saving provisions that the Committee on Veterans' Affairs had recommended, was passed by the Senate on June 30, 1980.

H.R. 7394 as passed by the House of Representatives on July 21, 1980. contained the provisions of the House-passed version of H.R. 5288 with certain modifications, a 10-percent GI bill rate increase, and certain cost-saving provisions that were also contained in H.R. 7765, the Omnibus Reconciliation Act of 1980.

Mr. President, the Veterans' Affairs Committees of the two Houses enjoy a most constructive and cooperative relationship. Although we occasionally advocate different legislative approaches to a particular issue, as in this instance, it is clear that the two committees share a deep commitment to insuring that our Nation's veterans receive all the benefits and services to which they are entitled and that veterans' programs serve their intended purposes effectively and efficiently.

This commitment can again be seen in the measure pending before the Senate today. As with all compromises, it does not contain every provision that passed the Senate or that I would have liked to have seen in this legislation—and it contains certain provisions that I have agreed to very reluctantly. However, I believe that it represents a fair and equitable resolution of the differences between the various provisions of the House- and Senate-passed bills.

As I noted on Wednesday of this week, during consideration of H.R. 7511, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980, which the Senate that day sent to the President for signing, the provisions of the pending measure and of H.R. 7511 were fashioned in light of the need to insure that, as a result of the enactment of both bills, the budget allocations to the Veterans' Affairs Committees under the first concurrent resolution for fiscal year 1981 are not exceeded. Thus, I can assure my colleagues that net costs of this compromise agreement are within those allocations.

Mr. President, the compromise agreement would improve, update, and expand Veterans' Administration rehabilitation programs for service-connected disabled veterans and provide a 17-percent increase, effective October 1, 1980, in rates of subsistence allowances paid to veterans participating in such programs; provide for a 10-percent increase in GI bill benefits phased in in two steps—half on October 1, 1980, and the rest on January 1, 1981; make various improvements in the educational, job training, and employment assistance programs for veterans; modify flight and correspondence training programs under the GI bill to eliminate waste and abuse in those programs; and strengthen and expand VA debt-collection efforts.

TITLE I: VA REHABILITATION PROGRAM FOR SERVICE-CONNECTED DISABLED VETERANS

Mr. President, title I of the compromise agreement, which comprehensively restructures the VA's rehabilitation programs under chapter 31 of title 38, United States Code, incorporates the substance of virtually all of the rehabilitation provisions passed by the Senate in S. 1188. I am most appreciative of the outstanding cooperation we received from the House Committee on those most important provisions. The chapter 31 rehabilitation program has not been thoroughly revised since its inception in 1943. Therefore, I am particularly pleased that we were successful in working out this revision of chapter 31 rehabilitation programs, taking into account all that has been learned in the general field of rehabilitation of handicapped persons, particularly since the enactment of the Rehabilitation Act of 1973.

As a principal author of the Rehabilitation Act, I have been most concerned that the concepts and methods—now developed and tested by experience—under that landmark legislation be made fully available to service-connected disabled veterans under the VA chapter 31 program.

In this connection, I would like to note that the compromise agreement retains the basic thrust of the Senate bill's emphasis in S. 1188 on focusing services and assistance on veterans with serious employment handicaps. This targeting on those with the greatest need is consistent with the emphasis of Congress in the 1973 Rehabilitation Act. This focusing is contained in several provisions of the compromise agreement, including those which would provide that counseling be provided and an individualized written plan be formulated for these veterans to set forth the rehabilitation goals of the veteran and the services and assistance to be provided to meet those goals and that certain extensions of the delimiting period and months of entitlement may be granted only for such veterans.

In addition, the compromise agreement retains the 4-year pilot program of independent living services and assistance as proposed in S. 1188—limited to 500 new participants each year—for those who are determined to be too severely disabled to pursue a vocational goal. This program is also fashioned after a similar program in the Rehabilitation Act.

Among the other major provisions of title I are those which would expand the scope of services authorized under chapter 31 in certain respects. The new services would include, very importantly, pretraining services to help improve the ability of severely disabled veterans to participate in vocational training and independent living services for seriously disabled chapter 31 participants in need of this kind of assistance to achieve a maximum level of independent, self-sustaining life in their families and communities and to achieve the capacity for vocational rehabilitation.

The compromise agreement also includes the Senate provision for extended, in-depth evaluation of rehabilitation potential in the relatively rare cases in which it is impossible to determine at the time of initial evaluation whether it is reasonably feasible for the veteran to achieve a vocational goal. During the period of extended evaluation, the veteran could be provided independent living services and services to improve his or her potential for pursuing training toward a vocational goal.

Title I of the compromise agreement would also expand the purpose and effective operation of the chapter 31 program beyond achieving the employability of the veteran to that of helping the veteran find and maintain employment in a suitable job. This expansion is designed to make certain that following completion of a vocational rehabilitation program, a veteran with a serious employment handicap is assured of all reasonable assistance that he or she may need in making a successful entry into the workforce and adjusting to his or her employment situation.

Also, Mr. President, the compromise agreement provides for a 17-percent cost-of-living increase in the existing chapter 31 subsistence allowance rates—the House-passed increase, which is 7 percent higher than the Senate-passed increase. It would also establish new rates, at levels commensurate with the existing rates as so increased, for the new categories of chapter 31 participation that the compromise agreement would create, extended evaluation and programs of independent living services and assistance. In addition, the compromise agreement would provide for a 12-year basic period of eligibility—3 years longer than the delimiting period under current law.

COST-OF-LIVING INCREASE

Finally, Mr. President, I am pleased to bring before the Senate for its final approval a measure which will provide for a 10-percent cost-of-living increase in GI benefits during fiscal year 1981—half to be effective on October 1, 1980, and the remainder on January 1, 1981.

As Members may recall, on January 24 of this year, the Senate, on the recommendation of our committee, approved a 15-percent increase effective September 1, 1980, and it was with very deep regret that, for budgetary reasons, our committee recommend to the Senate that the increase be reduced to 10 percent and delayed so as to come within the fiscal year 1981 budget ceilings that were established for function 700—veterans' benefits and services, as well as to help meet this committee's responsibilities as part of the reconciliation process under section 3 of Senate Concurrent Resolution 307, the first concurrent budget resolution for fiscal year 1981.

Frankly, I continue to believe strongly that this increase should have been higher and sooner in order to offset more fully the effects of the inflation since the last increase in GI bill benefits became effective 3 years ago. However, Mr. President, I am pleased that enactment of this increase will assist in meeting the needs of the hundreds of thousands of veterans training under the GI bill in schools, universities, and on-job training sites across the country.

DISABLED VETERANS' OUTREACH PROGRAM

The compromise agreement also includes the Senate provision from S. 1188 for the permanent establishment of the highly successful disabled veterans' outreach program now conducted under the Secretary of Labor's discretionary authority in the Comprehensive Employment and Training Act. I am very pleased that the House agreed to my proposal for giving a permanent statutory basis to this program, which has so effectively served the employment needs of eligible veterans.

FLIGHT AND CORRESPONDENCE TRAINING

Mr. President, I believe that, in many cases, correspondence and flight training are both appropriate and valid courses of study from which the veteran can benefit greatly. In the case of flight training, I am delighted that the House—which passed a provision to terminate the program—has receded to the Senate position to the extent that the cost of the course paid for by the VA will be reduced from 90 percent to 60 percent, and a VA educational loan of up to $2,500 will be available to the veteran to supplement the benefit. However, the House would not accept the provision on loan cancellation for veterans who subsequently become employed in a flight related occupation. The end result is, in light of the House position, a fair and reasonable one.

In the case of correspondence training, the committees have agreed to a provision that will reimburse the veteran at 70 percent of the cost of the training, rather than 90 percent as in current law.

Mr. President, the compromise agreement further provides that the reduction in payments made by the VA would not be made with respect to training undertaken prior to October 1, 1980, and that those veterans enrolled as of September 1, 1980, in a program of education—which can include a series of courses leading to a program objective—would not be subject to the reduction for so long as they remain enrolled in the program and would be grandfathered in under the provisions of current law.

This means, for example, that a veteran who was enrolled in a program of flight training on August 29 would not be subject to the modifications made by the compromise agreement as he remains continuously enrolled. A veteran who enrolled in a flight training course as of September 2 would continue to be reimbursed 90 percent of the cost of training received prior to October 1.

SEAT TIME

Mr. President, I am also gratified to report that after most extensive negotiations with the House and VA officials, we were able to concur on an alternative criterion for measurement of full-time courses for the purposes of GI bill benefits. The issue involved—the so-called "seat time" issue—was a most difficult area in which to develop an acceptable approach that would address the needs and concerns of all those involved—the VA, the education community, the veteran, the taxpayer, and the Congress. I believe we have achieved a fair resolution of these competing needs and concerns.

I hope, Mr. President, that those who are interested in this "seat-time" matter will take the time to review carefully the explanatory statement regarding his compromise agreement that I will ask be inserted in the RECORD at the conclusion of my remarks. I believe that, although it is clear that this compromise may not satisfy all of those who had hoped for more, it will be apparent how far we have come in this area. I urge that the VA issue its implementing circulars as rapidly as possible and continue to work closely with the Administrator's Advisory Committee on Veterans' Educational Assistance to follow progress under the compromise alternative measurement criteria and to develop other approaches as indicated.

DEBT COLLECTION

Mr. President, the compromise agreement contains provisions to strengthen substantially VA debt-collection efforts, including provisions to authorize the VA to disclose to consumer reporting agencies—credit bureaus—nonadverse information identifying an individual who has been determined to be indebted to the VA in order to obtain current address information or consumer reports needed to pursue collection efforts and, in appropriate cases, under carefully prescribed procedures, information identifying a delinquent debtor and disclosing the fact of the indebtedness in order to affect a debtor's credit rating.

These provisions are comparable to those reported by the committee on January 23, 1980, in S. 1518, which were passed by the Senate on January 24 as an amendment to H.R. 5288, on June 26, in title VIII of S. 2885, the reconciliation bill, and again on September 4, as an amendment to S. 1188. The House has also passed comparable provisions in H.R. 7394.

In addition, the compromise agreement contains provisions—substantially similar to those passed by the Senate in S. 2885 and as an amendment to S. 1188—to require the VA to offset indebtedness against the debtor's future benefit payments; to remove any time bars which might prevent the VA from taking administrative action to collect delinquent debts; and to authorize the VA to charge interest and administrative costs on delinquent debts. The House passed comparable provisions in H.R. 7394. The compromise agreement would also authorize the VA to use its own attorneys to pursue collection actions in court under the direction and supervision of the Attorney General. This provision was also contained in S. 2885 and S. 1188.

The basic difference between the House and Senate approaches to the debt-collection provisions was the Senate bill's emphasis on procedural protections and more specifically formulated processes in terms of safeguards for individual privacy and due process within the administrative process. I believe that the compromise agreement basically vindicates the Senate's strong concerns in these areas.

Mr. President, there are a number of Senate provisions on which compromise with the House position was quite difficult to achieve. As I have stated, I believe that on balance, the compromise agreement that has been worked out is a reasonable one and fully worthy of the Senate's support. However, I would like to note the disposition of certain Senate-approved provisions on which the Senate most reluctantly receded.

TARGETED DELIMITING DATE

Mr. President, the Senate amendment would have provided for a 3-year, one-shot extension of the delimiting period for certain Vietnam-era veterans for the pursuit of apprenticeship or on-job training or, in the case of such veterans without high school diplomas, for the entitlement-free pursuit of secondary education courses or the pursuit of vocational objective courses. In addition, the Senate amendment would have required educationally disadvantaged veterans applying for GI bill benefits for secondary education or vocational objective training during the last 3 years of their delimiting periods or during the proposed one-shot delimiting period extension, to receive VA counseling regarding their use of GI bill benefits.

As Members may recall, the House has on two occasions—in 1976 and 1977—rejected modified delimiting date extensions, both of which were much less targeted than the provision in the Senate amendment. I had hoped that they would find this very tightly structured extension that would have assisted more than 23,000 Vietnam-era veterans who are unemployed or educationally disadvantaged and who have not yet effectively used their GI bill entitlements acceptable. Thus, I was and am extremely disappointed that the House has, again, refused to approve any extension of the delimiting date, even this specially targeted provision. Most regrettably, no significant support for this Senate provision was manifested in the other body during our discussions.

ALCOHOL AND DRUG ABUSE DISABILITIES

Mr. President, as Members will recall H.R. 5288 as passed by this body in January contained a provision that would have provided that, solely for the purposes of determining eligibility for an extension of the delimiting period as a result of a disability that prevented the veteran or eligible person from pursuing training, an alcohol or drug dependence or abuse disability from which the individual has recovered shall not be considered to be the result of willful misconduct.

This provision grew out of the committee's concerns relating to a number of cases in which the VA has taken the position that, under current law and regulations, it has to deny a delimiting period extension to an otherwise eligible veteran on the grounds that an alcohol or drug abuse or addiction disability, is the result of the veteran's willful misconduct.

Regrettably, the House was adamant in its refusal to accept this provision. However, I would note for the record that I have been advised by the VA that it is conducting a review to determine if there is sufficient latitude under current law to permit them to make favorable determinations in these cases and the view of our committee that, in view of the neutral position taken in the explanatory statement on this compromise agreement, the VA does have that authority and should exercise it.

INCARCERATED VETERANS

Mr. President, I also deeply regret that the Senate was unable to prevail with regard to the payment of GI bill and rehabilitation allowances to incarcerated veterans. As I have stated many times in the past, these veterans have earned their benefits by serving their Nation honorably in time of war, and to deprive them of their full entitlement is, in effect, to inflict additional punishment.

Under provisions in H.R. 5288 as passed by the Senate and S. 1188, an incarcerated veteran's GI bill benefit generally would, to the extent not needed for direct educational expenses, have been held in escrow until his or her release from incarceration. These provisions would have solved the problem of unneeded funds flowing into prisons and would have served to facilitate the veteran's readjustment to and rehabilitation in the community following incarceration and, thus, helped to deter recidivism.

A floor amendment proposed by the Senator from Kansas (Mr. DOLE) to strike these provisions from H.R. 5288 as reported by our committee and to limit an incarcerated veteran's GI bill benefits to tuition and fees or the half-time rate for institutional training, whichever is the lesser, was voted down 66 to 28 on January 23.

In our negotiations, the House adamantly refused to accept the Senate provisions and insisted on its provisions to limit an incarcerated veteran's GI bill benefits to tuition and fees—just as it insisted on its incarcerated provision regarding compensation in H.R. 7511 agreed to Wednesday in this body. Because I became convinced that the House would not agree to any measure not including some such limitation, most reluctantly I went along—but only after certain important, narrowing modifications were made in the House provisions.

Under the modifications which we were able to persuade the House to make, the limitation will be effective only for those veterans who are incarcerated as a result of a conviction and then only conviction of a felony; the Administrator will be given the discretion to pay appropriate amounts for books, supplies, and equipment needed for training; the limitation will not apply to veterans residing in halfway houses or participating in work-release programs unless all of their living expenses are paid for by a governmental entity and an apportioned amount of educational assistance allowance will be paid to the veteran's dependents if the apportionment was made prior to the date of enactment.

I sincerely regret the loss of the Senate provisions and do not regard this action—or the agreement in H.R. 7511—as setting any precedent with respect to conditioning a veteran's earned benefits on subsequent actions.

GI BILL—1989 TERMINATION DATE

Mr. President, an issue of great interest to many Members of both the Senate and the House has been the need to improve the rate of retention in our Armed Forces. Under the current, Vietnam-era GI bill, no chapter 34 educational assistance benefits may be paid after December 31, 1989. This termination date, which was added to chapter 34 in 1976 by Public Law 94-502, was designed to permit all those who entered the service prior to December 31, 1976—the general cutoff date for entry into the service for current GI bill benefits eligibility—to complete their initial enlistments and then have a 10-year period in which to use their GI bill benefits.

However, the 1989 termination date is apparently now creating incentives for active-duty personnel—especially in the Navy—with GI bill eligibility not to reenlist in order to leave the service and take full advantage of their educational benefits before the 1989 termination date. Obviously, this incentive runs counter to our efforts to retain experienced personnel in the Armed Forces.

Senators MATSUNAGA, ARMSTRONG, COHEN, JEPSEN, NUNN, THURMOND, and WARNER have all actively expressed strong interest in modifying the 1989 termination date for veterans eligible for GI bill assistance to avoid this adverse effect on the retention of personnel. The Committee on Veterans' Affairs heard testimony in support of modification of the termination date at a hearing held on June 19, 1980.

Mr. President, in response to this situation, the Veterans' Affairs Committee proposed an amendment to S. 1188 as reported and it was agreed to by the Senate on September 4, 1980. That amendment provided that a veteran who is discharged after December 31, 1979, would be entitled to educational assistance for a period of 5 years following his or her initiation of a program of education under the GI bill after discharge if such initiation occurs within 2 years after discharge or until December 31, 1989, whichever is later.

The committee's proposal would have removed the incentives for experienced and well-qualified military personnel to leave the service to use their GI bill benefits.

Mr. President, I personally discussed this issue with House Committee Chairman ROBERTS, but to no avail. The House adamantly refused to consider this provision this year, but they have indicated that they would take a look at it next year in the context of efforts in both committees to design an All-Volunteer Force GI bill. I believe postponing consideration of this important modification is most unfortunate because of the numbers of valuable military personnel whose current enlistments are scheduled to end soon and who may fail to reenlist because they would not have sufficient time following reenlistment and before December 31, 1989, to make full use of their GI bill benefits. Many of these people will be making plans and decisions regarding reenlistment and their educations during the next year. Prompt action is, thus, clearly needed.

Mr. President, I am a strong supporter of the All-Volunteer Force which needs to retain qualified, dedicated service members if it is to survive as our country's means of military preparedness. I deeply regret the loss of this important and timely provision. However, I pledge to continue to push hard next year for enactment of a provision along these lines.

HEALTH-CARE PROVISIONS

Mr. President, there are four provisions related to VA health-care issues that were included in S. 1188 as it passed the Senate on September 4, 1980, that are not included in the compromise agreement—one authored by Senator Dole to rename the VA Medical Center in Topeka, Kans., in honor of two now deceased former American Legion leaders from Kansas; a second, also passed by the Senate in H.R. 7102 on June 5, 1980, to strengthen and clarify the VA's authority to recover the costs of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for the costs of health care provided to victims of crimes of personal violence; a third, to modify the VA's program of grant assistance to new State medical schools under chapter 82 of title 38 to provide an additional 12-month period in which the five new State medical schools established pursuant to such chapter could obligate funds previously committed to them under subchapter I of such chapter; and a fourth, relating to the VA's activity with reference to agent orange that was added to S. 1188 by amendments offered by Senator Simpson and myself and by Senator Heinz, with our cosponsorship.

For my colleague's reference, Mr. President, these provisions were described in detail during the Senate's consideration of S. 1188, and I would refer those who wish to review them to pages S12010 through S12018 of the Record for September 4.

Mr. President, with the possible exception of the amendments related to agent orange—which were agreed to by the Senate with no opposition but which provide for important and significant changes in the VA's activity on this very critical issue and are, therefore, not free from controversy—I believe that these health-care-related provisions are not controversial, and I fully expected the House to accept them as part of the compromise agreement.

However, Mr. President, despite my strong and personal efforts to secure agreement with the House Committee on Veterans' Affairs, this proved impossible on germaneness grounds which precluded any substantive discussion of the issues, and they are not included in the compromise before the Senate today.

Mr. President, earlier this week and in anticipation of this result, the Senator from Kansas (Mr. Dole) brought the provisions he had authored relating to the renaming of the VA Medical Center in Topeka, Kans., before the Senate in a separate bill, S. 3147. The Senate passed this measure and it is now pending in the House where, with the question of germaneness now removed, it can receive appropriate consideration by the House committee on its merits.

In a similar action, Mr. President, following final passage of the pending measure, I will ask that the Committee on Veterans' Affairs be discharged from further consideration of a health-care measure pending in the committee, H.R. 4015, the provisions of which were dealt with in legislation that has since been enacted as Public Law 96–330, and ask for immediate consideration of that measure. I will then offer a substitute amendment comprised of the language of the remaining three health-care-related provisions that were passed as part of S. 1188, and seek Senate adoption of H.R. 4105 as so amended.

Mr. President, I would hope that once this new measure reaches the House, it will provide an opportunity for the members of the House committee to consider the various provisions on their merits so that some or all may be enacted by the end of this Congress.

Mr. President, I want to note that in the event that the House fails to act during the balance of this Congress on the provisions that will be included in H.R. 4015 as amended, I have already received the commitment of the chairman and a senior member of the committee who is the chairman of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs (Mr. Montgomery) that, if a similar bill—which I would intend to introduce—is passed by the Senate early next year, a step that I anticipate will be taken, the House committee will take prompt action to hold hearings on these provisions and give them full and fair consideration.

Mr. President, I ask unanimous consent that there be printed in the Record at this point an exchange of letters between House committee chairman Ray Roberts and me regarding my request for a meeting to discuss specifically the agent orange provisions included in S. 1188.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Committee on Veterans' Affairs,
Washington, D.C., September 16, 1980.

Hon. Ray Roberts,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

Dear Ray: During consideration of S. 1188, the proposed "Disabled Veterans Rehabilitation Act of 1980", on September 4, the Senate adopted two amendments related to the Agent Orange issue—one (No. 1549) that I offered with our ranking minority member, Senator Simpson, and the other (No. 1550) offered by Senator Heinz with the cosponsorship of Senator Simpson and me among others. I am writing to urge that you give these amendments your personal attention and consider including them as part of the compromise agreement on the VA education measure (H.R. 7394) or the compensation measure (H.R. 7511) that Committee staffs are working on at present.

The amendment that Senator Simpson and I offered would make three changes to the Agent Orange study provision in section 307 of Public Law 96–151. The first change would amend the description of that study so as to remove an unintended threshold problem confronting those planning the study. (As originally enacted, the study provision requires a study of veterans exposed to dioxin as found in Agent Orange during their Vietnam service. As our amendment would change the study mandate, the VA would be required to study the health of Vietnam veterans as their health may have been affected by exposure to dioxin in Agent Orange. Thus, under our amendment, the VA could begin the study by identifying a population with service in Vietnam and then focus on the question of dioxin exposure in that population rather than having to identify an exposed population prior to beginning the study.) VA officials and scientists and others have advised that this change would greatly facilitate the conduct of the study.

The second change that would be made by Amendment No. 1549 to the study provision would be to provide the Administrator with the authority to expand the scope of the epidemiological study, as well as the literature search mandated by the law, to include the health effects of factors associated with Vietnam service other than Agent Orange. This discretionary authority to expand the study responds to a recommendation made by the Scientific Panel of the Interagency Work Group to Study the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants—the so-called IAG. The IAG's Scientific Panel made this recommendation in response to problems that the panel found in identifying a population of ground troops exposed to Agent Orange as well as to concerns about the wide variety of other elements—such as the anti-malarial drug, Dapsone—that Vietnam veterans may have been exposed to during their service and that may affect their health. Let me stress that the Agent Orange study would continue to be mandated under the amendment. The third change would clarify that the VA has the authority to contract with an outside entity for the management of the study.

Amendment No. 1550, on which I worked very closely with Senator Heinz, is intended to provide a framework within which the VA will translate information developed on the effects of exposure to Agent Orange—and other factors if the study is expanded—during Vietnam service into guidelines for responding to claims based on exposure to such elements. It is not the same amendment that Senator Heinz has proposed in the past (Nos. 922 in January 1980 and 2274, an amendment submitted for printing but not offered to S. 1188), but was substantially revised.

As I know you appreciate, Ray, the Agent Orange issue has taken on very large proportions. There continues to be strong support for further Federal government action, not only from Vietnam veterans and their families but from many other segments of the public as well. I am personally convinced that the Federal government is making an appropriate effort at this time to resolve the issue and that the major impediment to such a resolution is the lack of credible scientific evidence on the questions of actual exposure to Agent Orange or other substances in Vietnam and the likely adverse health effects of exposure. Amendment No. 1550, although it cannot—and should not—speed the results of the various efforts to gather the needed information on these questions, will nevertheless serve to defuse some of the pressure and anxiety by establishing specific time points, tied to the time points already included in the Public Law 96–151 study provision, for the VA to develop and issue guidelines for the resolution of Agent Orange claims. I believe that such an approach is a most appropriate way to proceed now, especially given my belief that there is nothing in Senator Heinz' amendment that the VA is not already authorized to do and which the agency would not do in its efforts to resolve this very difficult matter. I believe that adopting these amendments at this time, when the VA is on the verge of taking significant, preliminary action under the study provision, would have an important psychological impact.

Furthermore, I do not believe that the amendment as adopted by the Senate prejudges the issue in any way in terms of possible adverse health effects.

At the Committee's hearings on the Agent Orange issue on September 10, a number of witnesses expressed general support for one or both of these amendments. Both Ms. Jodie Bernstein, General Counsel of the Department of Health and Human Services and Chairperson of the IAG, and Guy McMichael, although nothing that a final administration position would not be available until later this week, indicated support for the amendment I authored that authorizes an expansion in the scope of the study. With reference to the second amendment, Ms. Bernstein expressed strong personal support for the regulatory approach contemplated by that amendment. Mr. McMichael indicated that he was still studying the Heinz amendment and could not provide specific comments on it but that he did not believe that a process employing public notice and hearing for the development of Agent Orange-related regulations was inappropriate. Other witnesses expressing support for one or both of the amendments included The American Legion, the Vietnam Veterans of America, and the National Veterans Law Center, all of whom have been very active on the Agent Orange issue. I believe that the testimony at the hearing demonstrates the merit of the two amendments.

Ray, I have enclosed a copy of the two amendments together with a copy of section 307 of Public Law 96–151 as it would be amended by the two amendments. I would appreciate it, once you have had an opportunity to study the two amendments, if you and I, together with Dave Satterfield and Sonny Montgomery, could get together briefly to discuss the prospects for including these amendments in any agreement on the education or compensation bill.

Thank you, Ray, for your consideration of my request. I look forward to hearing from you at your earliest convenience.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

SEPTEMBER 17, 1980.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 16 concerning the amendment to S. 1188 recently adopted by the Senate relating to Agent Orange.

As you know, Dave Satterfield and his Subcommittee have held extensive hearings on this issue during this session of the Congress, the latest one being yesterday.

Senator, I appreciate your concern about this matter; however, as you know, the Committee has relied totally on Dave in the past in determining how to proceed on this complex matter. He is most knowledgeable in the area and I must defer to his judgment, as I always have in the past, as to whether this amendment, or any compromise thereto, would be acceptable. If it is your desire to pursue this matter as an amendment to the education bill now pending before the two Committees, in my view, you should discuss the issue with Dave directly rather than with the Members you propose. Our Members would prefer to rely on Dave's judgment in this case.

Sincerely,

RAY ROBERTS,
Chairman.

Mr. CRANSTON. Mr. President, as I noted in my September 16 letter to Chairman ROBERTS, our committee's hearings on September 10 on agent orange issue had as a primary focus to receive testimony on the two agent orange amendments by the Senate as part of S. 1188. As I also noted, a number of witnesses at that hearing expressed general support for one or both of the amendments.

Mr. President, I obviously would prefer that—with the germaneness problem removed—action be taken during this Congress, and I hope the other body will give these a fair evaluation before the Congress adjourns sine die. Failing that, however, I believe the commitment I have received from the House committee leadership bodes well for appropriate and timely consideration early in the next Congress.

Mr. President, in order that all Senators and the public may fully understand the provisions of the compromise agreement, I ask unanimous consent that there be printed in the RECORD at this point in lieu of a joint explanatory statement accompanying a conference report, a document, also inserted in the RECORD during consideration in the other body yesterday, entitled "Explanatory Statement, H.R. 5288, the Veterans' Rehabilitation and Education Amendments of 1980," followed by a cost estimate from the Congressional Budget Office.

There being no objection, the explanatory statement and the CBO cost estimate were ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT

For the purposes of this explanatory statement, the "House bill" refers to H.R. 7394 as passed by the House of Representatives on July 21, 1980, the "Senate amendment" refers to H.R. 5288 as passed by the Senate on January 24, 1980, and the "Senate bill" refers to S. 1188 as passed by the Senate on September 4, 1980.

Rather than noting each place in the compromise agreement where a clarifying or other technical amendment or a correction has been made in a provision contained in the agreement, the Committees would point out at the outset that, in the course of the extensive discussions regarding and redrafting of the various provisions contained in the compromise agreement, such drafting changes have been made in nearly all such provisions.

TITLE I—REHABILITATION AMENDMENTS

Both the House and Senate bills would restructure and make substantial improvements in present chapter 31 of title 38, United States Code, relating to the VA's vocational rehabilitation program for certain service-connected disabled veterans.

Purposes

Both the House and Senate bills would provide that the purposes of chapter 31 are to provide all services necessary to enable an eligible veteran with service-connected disabilities to become employable and to obtain and maintain suitable employment. In addition, both bills would include among those purposes the provision of services to enable such veterans to achieve maximum independence—the Senate bill more specifically referring to maximum independence in daily living, a term defined in the Senate bill as incorporating the concept of the ability to live and function in one's family and community. Also, the Senate bill, but not the House bill, would also specify the provision of all necessary assistance—for example, allowances and monetary and material items.

The House recedes.

Definitions

The House bill, but not the Senate bill, would define the term "employment handicap" as a disability the limiting effects of which impair the individual's ability to prepare for, obtain, or retain suitable employment. In the House bill, this term is used in setting the threshold requirements for chapter 31 eligibility—only those who have a compensable service-connected disability and need vocational rehabilitation because of an employment handicap are eligible.

The Senate recedes.

The Senate bill, but not the House bill, would define the term "independence in daily living" to mean the ability of a veteran without—or with reduced levels of—the services of others, to live and function within the veteran's family and community. In the Senate bill, the term is used in various sections of revised chapter 31 and is intended to incorporate in chapter 31 the concept of independent living in section 701 of the Rehabilitation Act of 1973 (29 U.S.C. 720).

The House recedes.

The Senate bill, but not the House bill, would define the term "medical condition" to mean a disability, including an alcohol or drug dependence or abuse disability, or combination of disabilities. The term is used in the Senate bill only in the provision pertaining to extensions of periods of eligibility, and the inclusion of an alcohol or drug dependence or abuse ability within the definition would—consistent with a comparable provision, section 201(a) of the Senate amendment amending the GI Bill delimiting-period provision (as described below in title III)—provide for a tolling of the period of eligibility during a period when an alcohol or drug disability prevented a veteran who later recovered from that disability from participating in a chapter 31 program.

The Senate recedes. The Committees note that, in deleting this definition, and the comparable provision in section 201(a) of the Senate amendment from the compromise agreement, they are taking no position as to whether such a provision is necessary in order to authorize the VA to toll the chapter 31 delimiting period in such cases.

The Senate bill, but not the House bill, would define the term "program of education" to have the same meaning as that provided in section 1652(b) of title 38. In the Senate bill, the term is used in the provision that would permit certain chapter 31 participants to elect to receive an allowance—in lieu of a subsistence allowance and certain other assistance provided for in chapter 31—equivalent to the educational assistance allowance available for the pursuit of a comparable program of education under chapter 34, the GI Bill.

The House recedes.

The Senate bill, but not the House bill, would define the term "program of independent living services and assistance" to include the services necessary to enable a veteran to achieve independence in daily living and the assistance authorized under chapter 31 for the veteran. In the Senate bill, this term is used in provisions entitling a veteran who is so severely disabled that the achievement of a vocational goal is not reasonably feasible to participate under certain circumstances in such a program and establishing a pilot program of independent living services and assistance for such veterans.

The House recedes.

The Senate bill, but not the House bill, would define the term "rehabilitated to the point of employability" to mean rendered employable in an occupation for which a veteran has been rehabilitated under this program. In the Senate bill, this term is used primarily to denote veterans for whom certain extensions of periods of eligibility and months of entitlement and certain employment assistance are authorized.

The House recedes.

The Senate bill, but not the House bill, would define the term "rehabilitation program" to mean either a vocational rehabilitation program or a program of independent living services and assistance. In the Senate bill, the term is used in various provisions to mean either type of program included in this definition, as appropriate in the individual case.

The House recedes.

The Senate bill, but not the House bill, would define the term "serious employment handicap" as a significant impairment of an individual's ability to prepare for, obtain, and retain suitable employment. In the Senate bill, the term is used in provisions focusing certain services on and limiting the benefit of certain provisions to those with such handicaps.

The House recedes.

The Senate bill, but not the House bill, would define the term "vocational goal" to mean a gainful employment status consistent with the veteran's abilities, aptitudes, and interests. In the Senate bill, the term is used in various provisions specifying the type of program to be provided to a veteran depending on whether the achievement of a vocational goal is or is not reasonably feasible or the possibility of achieving such a goal cannot be determined.

The House recedes.

The House bill and the Senate bill would define the terms "vocational rehabilitation" and "vocational rehabilitation program", respectively. Each bill would provide that the term includes the services needed to accomplish the purposes of the chapter and specify various services which may be rendered to a veteran to achieve the goals of employability, employment, and maximum independence. The Senate bill would specify a wider range of services—adding counseling, independent living, educational, and employment services—and would expressly provide that, in the case of a veteran as to whom no determination has been made that the achievement of a vocational goal is not reasonably feasible, a vocational rehabilitation program includes services necessary to determine whether a vocational goal is reasonably feasible, improve the veteran's potential to participate in a program of services leading to such a goal, and enable the veteran to achieve maximum independence in daily living. In addition, the Senate bill would provide explicitly that, when it has been determined that a vocational goal is reasonably feasible for the veteran, the vocational rehabilitation program would also include services necessary to help the veteran become employable and suitably employed.

The House recedes.

Basic entitlement

Both the House and Senate bills would provide entitlement under chapter 31 to an individual who has a service-connected disability compensable under chapter 11 of title 38 or is pending discharge while hospitalized in a hospital under the jurisdiction of the Secretary of Defense. The House bill, but not the Senate bill, would also require that, to be eligible for chapter 31 benefits, a veteran be in need of vocational rehabilitation because of an employment handicap. The Senate bill, but not the House bill. would provide entitlement to an individual receiving military retirement pay in lieu of compensation.

The Senate recedes on the requirement of the need for vocational rehabilitation. The House recedes on the provision of entitlement to those receiving retirement pay in lieu of compensation. The compromise agreement would provide entitlement to an individual pending discharge while hospitalized, in a hospital under the jurisdiction of the Secretary of the Department concerned, only if the individual is hospitalized for a disability that the Administrator determines would be reasonably likely to be compensable under chapter 11 of title 38 if the individual was a veteran.

Periods of Eligibility

Both the House and Senate bills would provide for a basic period of eligibility to benefits under this chapter. The House bill would provide for a 9-year basic period of eligibility, and the Senate bill would provide for a 10-year period.

The compromise agreement would provide for a 12-year basic period of eligibility, consistent with the historical practice of making the chapter 31 delimiting period greater than that for chapter 34 (extended to 10 years in 1976).

Both the House and Senate bills would provide for extensions of the basic period of eligibility if it was medically infeasible for the veteran to participate in a rehabilitation program, if a veteran was prevented from participating in such a program because the veteran was not discharged under conditions other than dishonorable and the discharge was later changed, or if the veteran had not previously established the existence of a service-connected disability (compensable in the House bill and compensable under chapter 11 of title 38 in the Senate bill). The Senate bill, but not the House bill, would also provide for an extension of the period of eligibility if a veteran did not receive a discharge under conditions other than dishonorable if the veteran later received a favorable character of service determination by the Administrator or if the discharge or dismissal had been determined to be a bar to benefits but such bar was later removed by the Administrator. The Senate bill, but not the House bill, would limit the availability of an extension of the basic period of eligibility where the existence of a service-connected disability compensable under chapter 11 of title 38 had not previously been established to those veterans who have a serious employment handicap. Under the House bill, the extension would be an additional four-year period beyond the basic period of eligibility. Under the Senate bill, the basic period of eligibility would be tolled while the veteran is prevented from participating in a rehabilitation program.

The House recedes on the provision allowing an extension if a favorable character of service determination is made by the Administrator or if a bar to benefits is removed by the Administrator. The Senate recedes to the reference to any compensable service-connected disability with respect to a subsequent determination of same and on the requirement that the veteran have a serious employment handicap to be eligible for an extension based upon the establishment of a compensable service-connected disability subsequent to the veteran's discharge or release. The House recedes on the provision relating to the length and measurement of extensions.

Both the House and Senate bills would also authorize extensions, as the Administrator determines to be necessary, of the applicable period of eligibility for certain more seriously disabled veterans under certain circumstances—the House bill for a veteran who is blind or who has another serious service-connected disability, the Senate bill for a veteran with a serious employment handicap. Both the House and Senate bills would provide for an extension in such cases if the veteran had not been previously rehabilitated as a result of training under this chapter, or, if the veteran had previously been rehabilitated under this chapter, but the veteran could no longer perform the duties of the occupation for which the veteran was previously trained because of a worsening, in the House bill, or a change, in the Senate bill, of the veterans' service-connected disability. The Senate bill, but not the House bill, would also provide for such an extension for a veteran previously rehabilitated under chapter 31 if the occupation for which such veteran was trained proved not to be appropriate. The Senate bill, but not the House bill, would also allow such an extension of the applicable period of eligibility for a veteran with a serious employment handicap as the Administrator determines, under regulations that the Administrator shall prescribe, is necessary to carry out the purposes of chapter 31.

The House recedes on limiting the availability of such extensions to only veterans with serious employment handicaps. The Senate recedes on the requirement that a previously-rehabilitated veteran's service-connected disability has "changed". The House recedes on the issue of allowing an extension of the applicable period of eligibility for a previously-trained veteran if the occupation for which the veteran was trained is not suitable. The House recedes on the provision authorizing such extension for a veteran with a serious employment handicap as the Administrator determines to be necessary.

The Senate bill, but not the House bill, would allow an extension of the applicable period of eligibility for a program of independent living services and assistance for a veteran for whom it has been determined that a vocational goal is not reasonably feasible, if the Administrator determines that an extension is necesary for such veteran to achieve maximum independence in daily living.

The House recedes.

Scope of services and assistance

Both the House and Senate bills would specify a wide range of services which the Administrator may provide under chapter 31. The Senate bill, but not the House bill, would require that the Administrator prescribe regulations pursuant to which such services would be provided.

The House recedes.

Both the House and Senate bills would provide for evaluation services to determine the veteran's potential for rehabilitation and whether the veteran's disability causes an employment handicap (a serious employment handicap in the Senate bill) to provide a basis for planning a rehabilitation (vocational rehabilitation in the Senate bill) program for the veteran or a program of services to improve the rehabilitation (vocational rehabilitation in the Senate bill) potential of the veteran. The Senate bill, but not the House bill, would expressly provide for periodic reevaluation as appropriate. In addition, the House bill would provide for evaluation to determine whether a rehabilitation goal is feasible for the veteran; the Senate bill, whether a vocational goal is feasible. The Senate bill, but not the House bill, would authorize evaluation to provide a basis for planning a program to improve the independent living status of the veteran.

The House recedes.

Both the House and Senate bills would provide for educational, vocational, psychological, employment, and personal adjustment counseling.

The compromise agreement contains this provision.

Both the House and Senate bills would provide for a variety of vocational and other training services and assistance. The Senate bill, but not the House bill, would allow such services and assistance to be provided only as determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case.

The House recedes.

Both the House and Senate bills would provide for prosthetic appliances, eyeglasses, and other corrective devices. The Senate bill, but not the House bill, would also provide for assistive devices.

The House recedes.

Both the House and Senate bills would provide for special services relating to blindness and deafness.

The compromise agreement would clarify that these services could be provided, as determined to be necessary by the Administrator, to eligible veterans other than those who are blind and deaf.

Both the House and the Senate bills would allow the most severely disabled veterans requiring homebound training, self-employment training, or both, to receive such essential equipment, supplies, and minimum stocks as the Administrator determines to be necessary for the veteran to begin employment, within criteria and cost limitations as the Administrator shall prescribe in regulations. The Senate bill, but not the House bill, would allow the provision of license fees to such a veteran under the same criteria and cost limitations.

The House recedes.

Both the House and Senate bills would provide for a comprehensive range of health-care services; for placement and post-placement services; for necessary services to the veteran's family; for allowances, including work-study allowances as authorized under the chapter 34 GI Bill program; for travel and incidental expenses, including a special transportation allowance for extraordinary travel expenses; and for chapter 31 loans.

The compromise agreement includes these provisions.

The House bill, but not the Senate bill, would provide discretionary authority for the provision of other incidental goods and services determined by the Administrator to be necessary in the individual case.

The Senate recedes.

The Senate bill, but not the House bill, would provide that a program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973.

The House recedes.

Both the House and Senate bill would provide that a rehabilitation program—including individual courses—shall be subject to the Administrator's approval.

The compromise agreement contains this provision.

Duration of services

Both the House and Senate bills would generally limit to twelve months the duration of evaluation—referred to as "extended evaluation" for a veteran with a serious employment handicap in the Senate bill—of a veteran as to whom it is undetermined whether the achievement of rehabilitation, in the House bill, or a vocational goal, in the Senate bill, is possible. The House bill would allow a longer period of time as prescribed by the Administrator. The Senate bill would allow this evaluation period to be extended for additional increments of up to six months each if the Administrator determines that, during the six-month period, it is reasonably likely that a determination can be made as to the feasibility of the achievement of a vocational goal for the individual veteran.

The House recedes.

Both the House and Senate bills would generally provide that a vocational rehabilitation program may not exceed a period of forty-eight months following a determination that the achievement of a vocational goal is reasonably feasible. The Senate bill would provide for an additional period of not to exceed eighteen months for counseling and placement and postplacement services only for a veteran with a serious employment handicap.

The House recedes with an amendment to delete the requirement that only a veteran with a serious employment handicap would be eligible for the extension for counseling and placement and postplacement services.

The House bill would allow extensions, as prescribed by the Administrator, of the 48-month period for vocational rehabilitation. The Senate bill would provide that, in the case of a veteran with a serious employment handicap, the Administrator may extend the period of vocational rehabilitation to the extent necessary to enable the veteran to achieve a vocational goal if the veteran had been previously rehabilitated to the point of employability but the veteran's service-connected disability had changed so as to preclude the performance of the duties of the occupation for which such veteran was trained or the occupation for which the veteran was trained was inappropriate in light of the veteran's employment handicap or abilities, or if the Administrator determines, under regulations which the Administrator shall prescribe, that an extension is necessary to carry out the purposes of chapter 31.

The House recedes with an amendment to delete the requirement that only a veteran with a serious employment handicap would be eligible for an extension based on a worsening of the veteran's disability or the inappropriateness of the occupation for which the veteran had trained.

The Senate bill would provide that the period of a program of independent living services and assistance for a veteran as to whom it has been determined that a vocational goal is not reasonably feasible may not exceed twenty-four months, unless the Administrator determines that a longer period is necessary and would likely result in a substantial increase in the veteran's level of independence in daily living. The House bill has no specific provisions for such a program.

The House recedes.

Evaluations

The Senate bill, but not the House bill, would provide for an initial evaluation to determine if the veteran has a serious employment handicap and if the achievement of a vocational goal is reasonably feasible and, if so, require that the veteran be provided counseling in accordance with an individualized written plan of vocational rehabilitation; would provide that extended evaluation—consisting of evaluation services and such other services under chapter 31 as the Administrator determines to be necessary to improve such veteran's potential for participation in a program designed to achieve a vocational goal and enable such veteran to achieve the maximum independence in daily living, and a subsistence allowance—shall be provided for a veteran who has been determined to have a serious employment handicap but for whom a determination as to the feasibility of the achievement of a vocational goal has not been made; would require the Administrator to determine as expeditiously as possible whether the achievement of a vocational goal is reasonably feasible and resolve any reasonable doubt in favor of determining that such achievement is reasonably feasible; and would require the Administrator to assign a Veterans' Administration employee, a case manager, to be responsible for the management and follow-up of the provision of services and assistance in connection with each period of extended evaluation and each rehabilitation program for a veteran who is determined to have a serious employment handicap.

The House recedes.

Counseling

The House bill would provide for mandatory initial counseling, subject to regulations which the Administrator shall prescribe, for all chapter 31 participants and necessary counseling during any period in which a veteran is undergoing evaluation, training, or post-training assistance. The Senate bill would provide for mandatory counseling only for a veteran with a serious employment handicap, require, in such cases, that counseling be included as part of the individualized written plan, and provide that counseling for other chapter 31 participants may be provided as determined to be necessary under regulations to be prescribed by the Administrator.

The House recedes.

Individualized written plans

Both the House and Senate bills would require the formulation of an individualized written plan of vocational rehabilitation. The House bill would provide that such a plan shall be formulated for each veteran pursuing a program of vocational rehabilitation and that the veteran participate in the formulation of such plan. The Senate bill would require that such plans be formulated only for a veteran with a serious employment handicap, that the plan be developed jointly with such veteran, and that the plan identify the case manager assigned to the veteran.

The House recedes on the serious employment handicap requirement and on the provision for the plan to be developed with the veteran with an amendment, striking the word "jointly". The Senate recedes on identifying the case manager in the plan.

Both the House and Senate bills would provide that the individualized written plan be reviewed at least annually and revised as appropriate. The Senate bill, but not the House bill, would require that the veteran be afforded the opportunity to participate in each review, and that, based on the review, the Administrator redevelop the plan jointly with the veteran as appropriate.

The House recedes with an amendment to strike the word "jointly".

The Senate bill, but not the House bill, would provide for a special review process if the veteran disagrees with the development, redevelopment, or denial of redevelopment of the plan.

The House recedes.

Allowances

Both the House and Senate bills would provide for the payment of a subsistence allowance during a period of the veteran's participation in a rehabilitation program. The House bill would provide for the payment of a subsistence allowance to a veteran during a period of evaluation, and the Senate bill, only in the case of extended evaluation. The House bill would provide for the payment of a subsistence allowance at the full-time rate prescribed for the type of program the veteran had been pursuing for the two-month period following vocational rehabilitation of a veteran who is determined to be employable, and the Senate bill would provide for such a two-month payment only for a veteran with a serious employment handicap.

The House recedes on the payment of subsistence allowance during a period of initial evaluation. The Senate recedes on the serious employment handicap requirement for the two-month post-training payment.

Both the House and Senate bills would provide for increases in the rates of monthly subsistence allowances. The House bill would provide for a 17-percent increase, and the Senate bill, a 10-percent increase.

The Senate recedes.

The Senate bill would provide categories of new rates—commensurate with existing rates as proposed to be increased in the Senate bill—for extended evaluation and for independent living training. The House bill would provide for new categories of rates for evaluation and improvement of rehabilitation potential—commensurate with existing rates as proposed to be increased in the House bill.

The House recedes on the new categories of rates to be established. The Senate recedes on the level of the new rates so as to make them consistent with the levels provided in the House bill.

Both the House and Senate bills would provide that, if a vocational rehabilitation program includes on-job training in any month, the employer must submit a written statement to the Administrator showing any income provided to the employee for that month and that, based upon such statement, the Administrator may reduce the veteran's subsistence allowance to an amount considered equitable and just. The Senate bill, but not the House bill, would require the Administrator to prescribe regulations establishing criteria for any such reductions.

The House recedes.

Both the House and Senate bills would provide for the payment of a subsistence allowance to a veteran pursuing on-job training or work experience without pay as part of a vocational rehabilitation program. The House bill would provide that such a veteran shall be paid a subsistence allowance at the full-time institutional rate. The Senate bill would provide that the subsistence allowance shall be paid at the appropriate institutional rate and would treat a veteran in such a program who is receiving nominal pay for such on-job training or work experience on the same basis as one receiving no pay.

The House recedes.

Both the House and Senate bills would require the Administrator to define full-time and part-time status for veterans participating in a rehabilitation program under this chapter. The Senate bill, but not the House bill, would require that the defining be done in accordance with regulations that the Administrator shall prescribe consistent with regulations promulgated under chapter 34, for determining full- and part-time status.

The compromise agreement requires that regulations be prescribed for this purpose.

The Senate bill, but not the House bill, would provide for the payment, in accordance with regulations that the Administrator shall prescribe, of a proportional substances allowance to a veteran participating in extended evaluation on less than a full-time basis.

The House recedes.

Both the House and Senate bills would provide that, in the case of a veteran pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Administrator may pay the cost of the veteran's room and board to such facility and may pay to the veteran the portion of the subsistence allowance for dependents as determined by the veteran's dependency status. The Senate bill, but not the House bill, would allow such payments to a facility only for a veteran in a full-time residential program and only upon the request of the veteran and would expressly provide that such payments would be in lieu of a subsistence allowance (other than any portion payable for dependents).

The Senate recedes on the full-time requirement and on the need for a veteran to request such payment. The House recedes on the provision that would expressly provide that such payments would be in lieu of a subsistence allowance.

The Senate bill would allow a veteran with entitlement to and eligibility for benefits under chapter 34 of title 38 and who wishes to pursue a vocational rehabilitation program under chapter 31 to elect to receive a chapter-34-equivalent allowance in lieu of certain assistance provided under this chapter. The House bill would amend chapter 34 to permit a veteran who is eligible for chapter 31 benefits to elect to pursue a vocational rehabilitation plan using his or her chapter 34 assistance entitlement and would provide that any veteran doing so would be considered for all purposes to be pursuing a vocational rehabilitation program under chapter 31, except that such veteran would not be eligible for such certain assistance (but excluding personal and work adjustment training) provided under this chapter.

The House recedes.

The House bill would prohibit the pavment of a subsistence allowance to a veteran who is incarcerated in a Federal, State, county, or local prison or jail. The Senate bill would provide that a subsistence allowance payable to a veteran while incarcerated be withheld and paid to the veteran upon release and be paid to such veteran's dependents if the veteran and deoendents so request, and would provide for the full payment of subsistence allowance to a veteran pursuing a rehabilitation program while residing in a halfway house or participating in a work-release program.

The compromise agreement would provide as follows:

(1) In the case of a veteran incarcerated for the conviction of a felony, no subsistence allowance may be paid.

(2) In the case of a veteran pursuing a program while residing in a halfway house or participating in a work-release program, the full subsistence allowance would be paid unless a governmental entity is paying for all of the veteran's living expenses.

(3) An apportioned amount of an educational assistance allowance may continue to be paid to the veteran's dependent or dependents if such apportionment was made prior to the date of enactment.

The Senate bill, but not the House bill, would provide for the payment of a subsistence allowance to a veteran pursuing a rehabilitation program while receiving care in a VA or contract medical facility for 30 days, and after 30 days, would provide that the allowance would accrue, be withheld, converted to securities, paid to such veteran upon discharge from such a facility, and paid to dependents on generally the same basis as provided in the Senate bill with respect to incarcerated veterans, except that the Administrator would be required, upon the request of the veteran, to the monthly allowance to the veteran to the extent determined to be necessary for the veteran to meet his or her continuing financial obligations.

The compromise agreement would limit the payment of a subsistence allowance to a veteran who is receiving compensation at the rate for 100-percent disabled veterans as the result of hospitalization in a VA or other facility at VA expense (under VA regulations, 38 C.F.R. § 4.29, an increase to the 100-percent is provided a veteran whose service-connected disability is rated at less than 100 percent after the 21st consecutive day of hospitalization for that disability) so that the allowance would not exceed, when added to the amount of compensation the veteran is receiving, the greater of the sum of the compensation amount and the subsistence allowance amount the veteran would receive if not hospitalized or the compensation amount paid a veteran rated 100-percent disabled.

Entitlement under certain circumstances to a program of independent living services and assistance

The Senate bill, but not the House bill, would provide entitlement to certain compensable service-connected disabled veterans to a program of independent living services and assistance, pursuant to the provisions discussed below establishing a pilot program for veterans for whom it has been determined that achievement of a vocational goal is not reasonably feasible.

The House recedes.

Satisfactory conduct and cooperation

Both the House and Senate bills would require the Administrator to prescribe rules and regulations to maintain satisfactory conduct and cooperation for chapter 31 participants, and would provide that, if a veteran fails to maintain satisfactory conduct and cooperation, services and assistance under this chapter may be discontinued and reinstituted, upon the determination of the Administrator that the cause of the unsatisfactory conduct and cooperation has been removed. The Senate bill, but not the House bill, would require that, prior to any discontinuation of chapter 31 benefits, the Administrator determine that all reasonable counseling efforts have been made and are not likely to be effective, and would require that prior to reinstituting benefits, the Administrator determine that the rehabilitation program that the veteran proposes to pursue is suitable.

The House recedes.

Revolving fund loans

The House bill would increase the maximum amount of loans that may be made from the chapter 31 revolving fund to $400; the Senate bill, to an amount equal to twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents—$564 as a result of the 17-percent increase provided for the compromise agreement. Both bills would add subsistence allowances and educational allowances to the categories of future VA payments to the veteran from which loan-repayment installments may be deducted.

The House recedes.

Return of books, supplies, and equipment

The House bill, but not the Senate bill, would repeal present section 1509, which provides that any books, supplies, and equipment furnished to a veteran under this chapter shall be deemed released to such veteran except that if, through the veteran's fault, the veteran failed to complete the course involved, the Administrator may require that such books, supplies, and equipment be returned, and may be returned to the educational or training institution for credit or be disposed of by the institution in such other manner as the Administrator approves.

The Senate recedes.

Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

Both the House and Senate bills would provide that chapter 31 benefits may be provided to an individual who is hospitalized pending discharge or release if such individual would be otherwise eligible, but that, in such cases, no subsistence allowance may be paid.

The compromise agreement would clarify that, for such an individual to be eligible for benefits under this section, he or she must be suffering from a disability which the Administrator determines is likely to be compensable under chapter 11 of title 38.

Both the House and Senate bills would provide that chapter 31 benefits may be provided to a veteran receiving care in a VA hospital or domiciliary. The Senate bill would also authorize the provision of benefits to a veteran receiving care in a VA nursing home. Both bills would also authorize the provision of benefits to veterans in any other hospital or medical facility, but, under the House bill, only where feasible.

The House recedes.

Vocational rehabilitation outside the United States

Both the House and Senate bills would provide that vocational rehabilitation under this chapter may be provided outside of the United States, under regulations which the Administrator shall prescribe, if it is determined to be necessary in the particular case to render the veteran employable in a suitable occupation and if it is in the best interest of the veteran and the Federal Government. The Senate bill, but not the House bill, would also provide a program of vocational rehabilitation if necessary to enable the veteran to obtain and retain suitable employment.

The House recedes.

Rehabilitation resources

Both the House and Senate bills would provide that the Administrator may use any facilities of any Federal agency to provide training or work experience as part or all of a vocational rehabilitation program without pay when the Administrator determines it to be necessary to accomplish the veteran's rehabilitation. Both bills would also provide that such veteran shall be deemed an employee of the United States for purposes of chapter 81 of title 5, United States Code, concerning compensation for work injuries, but not for purposes of laws administered by the Office of Personnel Management. The Senate bill, but not the House bill, would provide that such training or work experience may be provided for nominal pay.

The House recedes.

Both the House and Senate bills would authorize the VA, through contracts or other cooperative arrangements, to use the facilities and services of any Federal agency, agencies maintained by joint Federal and State contributions, private institutions and establishments, and private individuals.

The compromise agreement includes these

provisions and further provides for the use of the facilities and services of any State or other public agency and any public institution or establishment.

The Senate bill, but not the House bill, would provide that the use of facilities, staff, and other resources of the Department of Medicine and Surgery to provide rehabilitation services, including hospital care and medical services described in chapter 17, shall be procured through contract with that Department and that the amounts charged for such services be determined in accordance with the accounting principles used by that Department, subject to review and modification by the Administrator.

The Senate recedes.

The House bill, but not the Senate bill in the chapter 31 revision, would require the Administrator actively to promote the development and establishment of on-job training opportunities for service-connected disabled veterans through outreach to employers and coordination with Federal, State, and local governmental agencies and appropriate non-governmental agencies. The Senate bill would, in an amendment to existing section 220, require the Administrator to play an increased, active role with respect to advocacy of the implementation of existing laws and regulations relating to employment, training, and other opportunities for veterans, with particular emphasis on the needs of service-connected disabled veterans and other eligible veterans to whom the employment emphases in chapter 42 are applicable.

The Senate recedes with an amendment requiring that such promotional efforts be targeted on veterans who are or have been participating in a program of rehabilitation under this chapter, other service-connected disabled veterans, and other veterans with respect to whom the employment emphases set forth in chapter 42 of title 38 apply with particular emphasis being placed on the needs of categories of those veterans on the basis of applicable rates of unemployment.

Both the House and Senate bills would provide that payments may be made to employers, under regulations which the Administrator shall prescribe, for providing on-job training if the Administrator determines that such payment is necessary to obtain needed on-job training. The Senate bill, but not the House bill, would provide that the Administrator's regulations shall be made with the concurrence of the Secretary of Labor in light of the provisions of title V of the Rehabilitation Act of 1973, and section 2012 of title 38, and regulations prescribed thereunder, that payments may be made if the Administrator determines it necessary for a veteran to begin employment, that payments shall not exceed the direct expenses incurred by the employer in providing such on-job training or employment opportunity, and that if a veteran participates in on-job training that satisfies the criteria for payment of a training assistance allowance under section 1787 of title 38 and such veteran has eligibility for and entitlement to such allowance, the allowance shall be paid.

The House recedes with an amendment which would provide that the Administrator's regulations be made in consultation with the Secretary of Labor.

Both the House and Senate bills would generally provide for the furnishing of certain employment assistance to veterans who have participated in any (VA or non-VA) vocational rehabilitation program and have been determined to be employable, including direct placement in employment and utilization of the placement services of programs under the Rehabilitation Act of 1973, the State employment service and the Veterans' Employment Service of the Department of Labor, the Office of Personnel Management, and any other public or nonprofit organization with available placement services). The Senate bill, but not the House bill, would also provide for the use of personnel of the veterans' employment and training outreach program (proposed to be established under title II of the Senate bill) in furnishing such employment assistance; would include in such assistance any assistance necessary to assure that such veteran receives the benefit of any special consideration, emphasis, or preference for such veteran in employment and training under any applicable law or regulation; would limit the mandate of the furnishing of such assistance to only service-connected disabled veterans who have participated in a vocational rehabilitation program under chapter 31 or a similar program under the Rehabilitation Act of 1973; and would allow the provision of such employment assistance to be made available, only to the extent that resources are available, to a veteran without a service-connected disability who has participated in a vocational rehabilitation program and has been determined to be employable.

The House recedes with an amendment deleting the discretionary authority to provide employment assistance within available resources to a veteran who does not have a service-connected disability.

Both the House and Senate bills would require that, in the case of a veteran who has completed vocational rehabilitation for self-employment under chapter 31, the Administrator cooperate with the Small Business Administration (SBA) to assist the veteran to secure a loan for the purchase of equipment needed to establish the veteran's own business. The Senate bill, but not the House bill, would also require the Administrator to cooperate with the SBA to assure that such veteran receives the special consideration provided for in section 8 of the Small Business Act.

The House recedes.

Personnel training, development, and qualifications

Both the House and Senate bills would require the Administrator to provide a program of professional training and development for counseling and rehabilitation personnel involved in providing rehabilitation services to assure that such services are provided in accordance with the most advanced knowledge, method, and techniques available. To accomplish this, both bills would authorize the Administrator to employ consultants and to make grants to and contract with public or private agencies, including institutions of higher learning, to conduct such training and development.

The Senate bill, but not the House bill, would require the Administrator to establish qualifications for psychologists providing evaluation and rehabilitation services to veterans under chapter 31 and for case managers and, in establishing such qualifications, to take into account the provisions of section 4105(a) (10) of title 38, relating to qualifications of psychologists, and the qualifications established for comparable personnel under the Rehabilitation Act of 1973.

The House recedes with an amendment deleting the requirement that the Administrator take into account section 4105(a) (10).

Rehabilitation research and special projects

Both the House and Senate bills would require the Administrator to conduct and support studies and research concerning the psychological, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans and projects to increase resources and potential for rehabilitating veterans. The Senate bill, but not the House bill, would also require that the Administrator conduct and support studies and research concerning the educational and employment aspects of the rehabilitation of disabled veterans.

The House recedes.

The House bill would provide that the Administrator shall cooperate with the Secretary of Education regarding vocational rehabilitation studies, research, and special projects of mutual concern. The Senate bill would provide that the Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration (RSA) and the Director of the National Institute of Handicapped Research (NIHR) in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services in this regard.

The House recedes.

The Senate bill, but not the House bill, would establish a pilot program of independent living services and assistance—to be conducted under contracts with public or nonprofit agencies (including the VA's Department of Medicine and Surgery on a reimbursable basis) that have the demonstrated capacity to provide programs of independent living services and assistance for severely handicapped persons—during fiscal years 1982 through 1985 for a maximum of 500 veterans in each fiscal year who are entitled to a program of such services and assistance under chapter 31 and are selected under criteria to be prescribed in regulations, including, to the maximum extent feasible, substantial numbers of veterans receiving long-term care in VA hospitals and nursing homes and nursing homes with which the Administrator contracts for the care of veterans; and would provide that the Administrator shall report to the Congress, not later than September 30, 1984, on such programs of independent living services and assistance, including the accomplishments and cost effectiveness of such programs and the Administrator's recommendations for any legislative changes concerning the provision of such services and assistance.

The House recedes with an amendment deleting the reference to the provision in the Senate bill that would require contracts with the Department of Medicine and Surgery to be on a reimbursable basis since that provision, as discussed above in connection with rehabilitation resources, is not included in the compromise agreement.

Veterans' advisory committee on rehabilitation

Both the House and Senate bills would provide for the establishment of a Veterans' Advisory Committee on Rehabilitation to be comprised of members appointed by the Administrator for terms not to exceed 3 years, one of whom the Administrator may appoint as chairperson of the Committee. The House bill would also provide that the RSA Commissioner and the Director of NIHR in the Department of Education and the Assistant Secretary of Labor for Veterans' Employment of the Department of Labor would be ex officio members. The Senate bill would provide that those officials would be members of the Committee, together with representatives of the Department of Medicine and Surgery and the Department of Veterans' Benefits of the Veterans' Administration and the Secretary of Health and Human Services, and that the membership must include service-connected disabled veterans as not less than one-half of the total membership, and individuals who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs.

The House recedes with an amendment deleting the requirement that service-connected disabled veterans constitute at least half of the membership, providing that such veterans be appropriately represented in the membership of the Committee, deleting the representative of the Secretary of Health and Human Services from the membership, and providing that all representatives of various Federal officials would be ex officio members.

Both the House and Senate bills would require the Veterans' Advisory Committee on Rehabilitation to submit an annual report on VA rehabilitation programs and activities to the Administrator and such other reports and recommendations to the Administrator and the Congress as the Committee determines appropriate. The Senate bill, but not the House bill, would provide that the annual report shall be submitted to the Congress as well as to the Administrator.

The compromise agreement would provide that the annual report, as well as any other reports and recommendations, of the Committee shall be submitted only to the Administrator, that the Administrator shall submit the Committee's annual report to the Congress in the Administrator's annual report to the Congress, and that the Administrator shall also include in that report any other reports and recommendations submitted to the Administrator by the Committee since the previous annual report of the Administrator was submitted to the Congress.

Evaluations after individual unemployability adjudication

The Senate bill, but not the House bill, would provide that the Administrator shall provide for a comprehensive diagnostic evaluation for a veteran who has been determined to be totally disabled on the basis of the veteran's individual unemployability resulting from a service-connected disability if the Administrator believes that such veteran has the potential for vocational rehabilitation and employment.

The Senate recedes.

Bar to payment of subsistence allowance to active-duty personnel

Both the House and Senate bills would amend section 1781 to add a reference to the chapter 31 subsistence allowances to the existing provisions barring the payment of chapter 34, 35, or 36 allowances to an individual who is on active duty in the Armed Forces and is pursuing a course of education which is being paid for under certain Federal programs. For the purposes of this provision, the term "subsistence allowance" would be specifically defined to include a chapter-34-equivalent allowance paid pursuant to new section 1508(f).

The compromise agreement contains this provision.

Maximum aggregate period of assistance

Both the House and Senate bills would amend section 1795, generally limiting to 48 months the aggregate period for which a person may receive assistance under the laws cited therein, to delete chapter 31 from—and include chapter 32, relating to the post-Vietnam-era veterans' educational assistance program in—the listing of the laws to which that limit applies, and to provide that no person could receive assistance under chapter 31 in combination with assistance under those laws for a period in excess of 48 months, unless the Administrator determines that additional months of benefits under chapter 31 are required to accomplish the rehabilitation purposes set forth in chapter 31.

The compromise agreement contains these provisions.

Effective dates

The House bill would provide that title I would take effect on the first day of the first month beginning after the end of the 60-day period beginning on the date of enactment. The Senate bill would provide that title I shall become effective on October 1, 1980, except that, under grandfathering provisions for veterans participating in a program of vocational rehabilitation under chapter 31 of title 38 on September 30, 1980, (1) an individualized written plan shall be formulated (under new section 1507) for such veterans to the extent that and at such times as the Administrator determines feasible and on the basis of priorities that the Administrator shall prescribe, and (2) extensions of delimiting periods and months of entitlement may be granted such veterans without regard to the requirement that the veteran be determined to have a serious employment handicap.

The compromise agreement would provide a general effective date for the revisions of chapter 31 made by the compromise agreement of April 1, 1981, except that the provisions relating to allowances (new section 1508), revolving fund loans (new section 1512), promotion of employment and training opportunities (new section 1516), personnel training, development, and qualifications (new section 1518), rehabilitation research and special projects (new section 1519), pilot program of independent living services and assistance (new section 1520), and Veterans' Advisory Committee on Rehabilitation (new section 1521) would become effective on October 1, 1980. The compromise agreement would also make clear that the provisions of chapter 31 in effect on September 30, 1980, would remain in effect until March 31, 1981, except for the provisions relating to subsistence allowances (present section 1504) and chapter 31 loans (new section 1507), which would be superceded on October 1, 1980, by new sections 1508 and 1512, respectively, of the compromise agreement. The House recedes on the grandfathering provisions in the Senate bill with an amendment to make those provisions applicable to veterans participating in a program of vocational rehabilitation on March 31, 1981.

TITLE II—GI BILL RATE INCREASES

Both the House and Senate bills would provide for a 10-percent increase in the rates of educational assistance allowances paid under chapters 34, Veterans' Educational Assistance, 35, Survivors' and Dependents' Educational Assistance, and 36, Administration of Educational Benefits. The House bill, but not the Senate bill, would also provide for a 10-percent increase in allowances under chapter 36 for administrative expenses incurred by State approving agencies. The House bill would provide for such increases effective October 1, 1980; the Senate bill, effective January 1, 1981.

The compromise agreement provides for 5-percent increases effective October 1, 1980, and the remainder of the 10-percent increases effective January 1, 1981.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

Deadline for applications for extensions of delimiting period based on disabilities

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to limit the period of time within which a veteran or eligible person may file an application for an extension of the delimiting period based on disability by requiring that the application be filed by the end of the one-year period, the termination of the period of disability, or the effective date of the bill, whichever is the latest.

The House recedes.

Measurement of delimiting period extensions based on disability

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to provide that, where the delimiting period is extended on the grounds of the veteran's or eligible person's disability, the delimiting period would again begin to run on the first date following the veteran's or eligible person's recovery from the disability on which it is reasonably feasible for the veteran or eligible person to commence pursuit of a program of education.

The House recedes.

Alcohol or drug dependence or abuse disabilities

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to provide that, solely for the purposes of determining eligibility for an extension of the delimiting period as a result of a disability that prevented the veteran or eligible person from pursuing training, an alcohol or drug dependence or abuse disability from which the individual has recovered shall not be considered to be the result of willful misconduct.

The Senate recedes. By deleting the Senate provision and the comparable provision which section 101 of the Senate bill proposed to be added to chapter 31, the Committees are taking no position as to whether such a provision is necessary in order to authorize the VA to make favorable determinations regarding GI Bill delimiting date extensions based on disability in the cases of veterans or eligible persons who have recovered from alcohol or drug dependence or abuse disabilities.

Expanded provision for retroactive benefits

The Senate amendment, but not the House bill, would amend both chapters 34 and 35 to suspend the one-year limitation on retroactive benefits under section 3013 for certain veterans and eligible persons whose delimiting dates have been extended on account of disability.

The Senate recedes.

Targeted delimiting date extension and related counseling requirements

The Senate amendment, but not the House bill, would amend chapter 34 to provide for an up-to-three-year extension of the delimiting period for certain Vietnam-era veterans for the pursuit of apprenticeship or on-job training or, in the case of those without high school diplomas, for the entitlement-free pursuit of secondary education courses or for the pursuit of vocational objective courses. In addition, the Senate amendment would amend chapter 34 to require the VA to provide counseling regarding use of GI Bill benefits to educationally disadvantaged veterans applying for GI Bill benefits for secondary education or vocational objective training during the last three years of their delimiting periods or during this proposed delimiting period extension.

The Senate recedes.

Modification of the 1989 termination date for chapter 34 training

The Senate bill, but not the House bill, would amend chapter 34 to modify the 1989 termination date of the current GI Bill by providing that a veteran discharged from active duty after January 1, 1980, retains GI Bill benefit eligibility until the later of the expiration of a five-year period following discharge if the veteran initiates pursuit of a program of education within 2 years after discharge, or until December 31, 1989.

The Senate recedes.

Clarification of authority of Administrator to disapprove an application for benefits

Both the House bill and the Senate amendment would amend both chapters 34 and 38 to include express authority for the Administrator to disapprove an application for benefits filed by a veteran or eligible person if the enrollment of the applicant would violate any of the provisions of chapter 36.

The compromise agreement includes these provisions.

Modifications of approval criteria for vocational courses

The Senate amendment, but not the House bill, would amend chapters 34 and 35 to add to the criteria for the approval of a vocational objective course a requirement that at least 50 percent of the enrollees complete the course.

The Senate recedes.

The Senate amendment, but not the House

bill, would amend chapters 34 and 35 to modify the existing requirement that at least 50 percent of those who have completed a vocational objective course and are available for employment in the occupational field concerned be so employed to add a requirement that such employment be the individual's primary vocational pursuit and major source of occupational income.

The House recedes with an amendment providing that the qualifying employment be for an average of ten hours a week.

Both the House bill and the Senate amendment would amend both chapters 34 and 35 to exempt from further application of the criteria for approval of vocational objective courses institutions which have a history of compliance with the criteria and at which less than 35 percent of the enrollees are receiving VA educational assistance. The House bill would require this history of compliance to be demonstrated for two consecutive reporting periods (a total 4-year period). The Senate amendment would require a history of compliance with the criteria, as proposed to be modified, during a two-year period ending on or after the date of enactment.

The House recedes.

The Senate bill, but not the House bill, would amend both chapters 34 and 35 to provide the Administrator with the authority to waive the requirement of a demonstration of compliance with the criteria when it would work an undue administrative hardship on an educational institution in light of the small proportion of GI Bill (chapters 34 and 35) trainees enrolled there.

The House recedes.

Approval of courses offered through open circuit television

Both the House bill and the Senate amendment would amend chapter 34 to clarify and codify in title 38 current practices for computation of GI Bill benefits and charges to entitlement for courses pursued by open circuit television.

The compromise agreement contains this provision.

Elimination of recipients of BEOG's and SEOG's from inclusion in the "85–15" rule

The House bill would amend chapter 34 to repeal the requirement (currently suspended under section 304(a) of Public Law 95-202) for the inclusion of recipients of non-VA Federal assistance—primarily basic educational opportunity grants and supplemental educational opportunity grants—in computations of schools' compliance with the so-called "85–15" rule, under which enrollment of GI Bill trainees is prohibited in courses where more than 85 percent of the enrollees are in receipt of assistance from the educational institution, the VA, or any other Federal agency. The Senate amendment would codify in title 38 the current suspension of this requirement contained in Public Law 95-202.

The Senate recedes.

Satisfactory progress

Both the House bill and the Senate amendment would amend both chapters 34 and 35 to repeal the provisions linking "satisfactory progress" with the time it takes to complete a program of education.

The compromise agreement includes these provisions.

Education in a foreign country

Both the House bill and the Senate amendment would amend both chapters 34 and 35 to clarify the criteria under which a veteran or eligible person may receive GI Bill benefits for enrollment in an institution of higher learning in a foreign country.

The compromise agreement contains these provisions.

Computation of educational assistance allowances and charges to entitlement

The Senate amendment, but not the House bill, would amend chapter 34 to codify in title 38 the VA's current practices for charging a veteran's entitlement for less than half-time training, training while on active duty, and independent study, and for computing GI Bill benefits for independent study.

The House recedes.

GI bill benefits for continuing education

The House bill, but not the Senate bill or amendment, would amend chapter 34 to authorize an exception to the "already-qualified" rule—under which benefits are not available for the pursuit of training for an occupation for which the veteran is already qualified—to provide for the payment of GI Bill benefits for pursuit of programs of continuing education or training required by Federal, State, or local law for relicensing.

The House recedes.

Entitlement-free pursuit of secondary education

The Senate amendment, but not the House bill, would amend chapter 34 to provide for the payment of GI Bill benefits for a secondary education course while on active duty.

The House recedes with an amendment that subjects the in-service courses involved to a requirement of compliance with the "85–15" rule.

The Senate amendment, but not the House bill, would amend chapter 34 to limit benefits for a veteran enrolled in secondary education courses at no charge to entitlement to the payment of tuition and fees or benefits at the full-time institutional rate, whichever is the lesser. Under the Senate amendment this modification would not apply to veterans enrolled in such courses on October 1, 1979, for as long as they remain continuously enrolled.

The House recedes with an amendment to change the applicable cut-off date in the savings provision to October 1, 1980.

Disqualification of certain family members from eligibility as tutors

The House bill, but not the Senate bill or amendment, would amend chapter 34 to disqualify certain family members (parents, spouses, brothers, and sisters) of a veteran from eligibility as qualified tutors for the purposes of reimbursement of the veteran for tutorial expenses.

The Senate recedes with an amendment to add children to those members of the veteran's family who would be disqualified.

Breaks in education that are not counted as absences

The House bill, but not the Senate bill or amendment, would amend chapter 36 to provide for payment of GI Bill benefits to those attending courses not leading to a college degree during intervals between terms which do not exceed 15 calendar days and periods, not to exceed 5 days in a twelve-month period, when the school is not in session because of teacher conferences or teacher training sessions.

The Senate recedes with an amendment deleting the provision for benefits during intervals between terms.

Liability and responsibility for overpayments

Both the House bill and the Senate amendment would amend chapter 36 to clarify the responsibilities and liabilities of GI Bill trainees and educational institutions in cases of overpayments of GI Bill benefits.

The compromise agreement contains this provision.

Advisory committee on veteran's educational assistance programs

The House bill, but not the Senate bill or amendment, would amend chapter 36 to revise the authority for the Administrator's advisory committee on educational assistance programs to delete chapter 31 (rehabilitation) from and add chapter 32 (Post-Vietnam era educational assistance program) to the Committee's responsibilities; to add to the membership of the Committee a veteran of the post-Vietnam era; to provide that the Deputy Assistant Secretary of Labor for Veterans' Employment and the Assistant Secretary of Education for Post Secondary Education shall serve as *ex officio* members in lieu of the Administrator of the Manpower Administration and the Commissioner of Education; and to specify a termination date of December 31, 1989, for the committee.

The Senate recedes with an amendment recognizing the elevation of the Deputy Assistant Secretary to the assistant secretarial level (in title V of the compromise agreement) and providing that the Secretary of Education may designate an appropriate comparable departmental official to serve on the committee other than the Assistant Secretary of Education for Post Secondary Education.

Extension of dependents' eligibility in certain cases

The Senate amendment, but not the House bill, would amend chapter 35 to modify the age criteria for educational assistance under chapter 35 in the case of dependents of active-duty military personnel who are missing in action, prisoners of war, or forcibly detained or interned in the line of duty by a foreign government so as to apply generally the same age criteria applied under current law to chapter-35-eligible dependents who serve in the military. Thus, the Senate amendment would provide that a dependent who becomes eligible (whether before, on, or after enactment) for chapter 35 assistance after turning 18, but prior to attaining 26 years of age, would have until the expiration of an eight-year period or until his or her 31st birthday, whichever occurs first, to utilize chapter 35 entitlement.

The House recedes.

Repeal of mandatory counseling for dependents

The House bill, but not the Senate bill or amendment, would amend chapter 35 to repeal the requirement for mandatory counseling of dependents training under chapter 25.

The Senate recedes.

Advance payment for eligible persons

Both the House bill and the Senate amendment would amend chapter 35 to conform the method for making advance payments of educational assistance allowances to eligible persons enrolled in courses not leading to a standard college degree to the method for making such advance payments to eligible veterans enrolled in courses under chapter 34.

The compromise agreement contains this provision.

Eligibility for special restorative training

The House bill, but not the Senate bill or amendment, would amend chapter 35 to limit eligibility for special restorative training under that chapter to the dependent children of the veterans, thus eliminating the eligibility of spouses and surviving spouses.

The Senate recedes.

Seat-time: measurement of courses

Both the House bill and the Senate amendment would amend chapter 36 to codify current VA policy and practice with respect to the measurement of institutional undergraduate courses for the purposes of payment of GI Bill benefits. VA policy, as provided in DVB Circular 20–77–16 and 38 CFR §§ 21.4200(g) and 21.4272, interprets the measurement criterion in present section 1788(a)(4) to mean pursuit of a program at the site of a college or university requiring regularly scheduled weekly classroom instruction at the rate of one standard class session per week through the quarter or semester for each quarter- or semester-hour of credit; and defines a standard class session as 1 hour (or a 50-minute period) of academic instruction, 2 hours of laboratory instruction, or 3 hours of workshop training.

The compromise agreement contains this provision.

The Senate amendment, but not the House bill, would provide two alternative measurement criteria for full-time courses.

Under the first alternative criterion, an undergraduate course would be considered full time and paid at not less than the cooperative rate if (a) the institution considers it to be a full time course; (b) less than 50 percent of the students enrolled in the course are receiving VA education benefits; (c) the course is offered in residence; and (d) it is equal in all respects (including tuition) except the number of regularly scheduled weekly class sessions, to other full-time courses offered at the institution that do or would meet the regular "seat time" criterion as it is proposed to be codified. Under the second alternative criterion, a course would be considered full time and paid at the full-time rate if it meets the first alternative criterion and, during the term, quarter, or semester for which the course is offered, it required a cumulative total number of standard class sessions equal to the number required by the VA to meet the "seat time" definition of full-time pursuit multiplied by the total number of weeks in the term, quarter, or semester.

The compromise agreement contains an alternative measurement criteria which provides that an institutional undergraduate course that is offered in residence will be considered a full-time course for the purposes of GI Bill benefits if under chapter 34 or 35—

(1) the educational institution offering such course considers it a full-time course and treats it as such for all purposes, including payment of tuition and fees, and awarding of credit (both for meeting graduation requirements and for transferring to other programs of the institution, including its own regular education program);

(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under title 38;

(3) such course would qualify as a full-time course under section 1788(a)(4) (relating to the measurement of institutional undergraduate courses), except that it does not meet the requirements for weekly class sessions; and

(4) the course requires pursuit of standard class sessions for each credit at a rate no less frequent than bi-weekly, and monthly pursuit of a total cumulative number of standard class sessions equal to the number of standard class sessions which, during the same period of time, is required for a course qualifying as full time under section 1788(a)(4).

The Committees recognize the development by certain educational institutions of nontraditional programs designed to draw into the higher education process those who, for various reasons, are not able to pursue or interested in pursuing an education through traditionally structured undergraduate programs. The Committees believe that this development can be beneficial and is consistent with the purposes of the GI Bill educational assistance program. Consequently, the compromise proposal permits full-time benefit payments for pursuit of such programs under specified circumstances designed to minimize abuse and assure that the course can compete effectively for other than GI Bill-assisted students.

The provisions of the compromise agreement, however, do not attempt to address all existing nontraditional programs, nor all programs which might possibly be established.

Although recognizing the potential advantages of a flexible approach to course structure and scheduling, the Committees also recognize that such flexibility may lend itself to program abuse. Thus, the Committees have sought to strike a reasonable balance between liberalizing measurement criteria for certain nontraditional programs and the continuing need to assure that full-time benefits are paid only for serious full-time pursuit of instruction of a reasonable quality. The Committees' intend to monitor very carefully the VA's implementation of the provisions contained in the compromise agreement so as to determine what, if any, abuses may occur in this area, and do not plan to consider further liberalization of the "seat-time" criterion until substantial experience has been gained with its implementation. The Committees direct the Administrator also to monitor these programs closely with respect to abuse. Should the Administrator determine that a significant abuse of VA educational benefits is occurring in a particular course, it is the intention of the Committees that prompt action be taken to correct such abuse or terminate approval of such courses for VA benefit purposes when the provisions of title 38 are violated.

The Committees do not intend that the GI Bill program be utilized as an income supplement. The compromise agreement attempts to provide some area within which the needs of certain veterans can be met while maintaining the integrity of the GI Bill program. If significant abuses are found to occur, the Committees intend to act promptly to make appropriate tightening amendments to the law, and, in this regard, direct the Administrator to keep them apprised annually, and more often if necessary, of the magnitude of any such abuses. As implementation of this new criterion proceeds, the Committees expect the Administrator and the VA's Advisory Committee on Veterans' Educational Assistance Programs to continue to work together in this area to develop any further appropriate administrative or legislative responses to the "seat-time" issue that experience with such implementation suggests.

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL PROGRAM (VEAP) ADJUSTMENTS

Eligibility of certain veterans

Both the House bill and the Senate amendment would amend chapter 32, Post-Vietnam Era Veterans' Educational Assistance, to make certain individuals who are not now eligible for either chapter 34 or chapter 32 educational assistance eligible for the chapter 32 program.

The compromise agreement contains this provision.

Distribution of unused contributions upon death of participant

Both the House bill and the Senate amendment would amend chapter 32 to specify how a participant's contributions to the Post-Vietnam Era Veterans' Educational Assistance program (VEAP) fund are to be distributed in the event of the participant's death.

The compromise agreement blends the provisions of both the bill and the amendment and repeals present subsection (b) as surplusage.

Entitlement-free pursuit of a program of secondary education

The Senate amendment, but not the House bill, would amend chapter 32 to make a member of the Armed Forces participating in VEAP eligible, at no charge to entitlement, for educational assistance benefits for pursuit of secondary education courses during the last six months of his or her first enlistment and at any time thereafter.

The House recedes.

Limitation on two or more programs

Both the House bill and the Senate amendment would amend both chapters 32 and 36 to include the chapter 32 VEAP program in the 48-month limitation on assistance under two or more educational or vocational assistance programs.

The compromise agreement contains this provision.

Applicability of certain provisions of chapter 34

Both the House bill and the Senate amendment would amend chapter 32 to make a participant in VEAP eligible for VA educational and vocational counseling services provided for in chapter 34.

The compromise agreement contains this provision.

Amendments relating to monthly contributions

The Senate bill, but not the House bill, would amend chapter 32 to raise the maximum permissible monthly contribution from $75 to $100 and lower the minimum permissible contribution from $50 to $25, to permit lump-sum contributions, and to clarify the Secretary of Defense's authority to make contributions on behalf of a servicemember.

The House recedes.

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE ADJUSTMENTS

Promoting the development and establishment of employment, training, and other opportunities for veterans

The Senate bill, but not the House bill, would amend subchapter IV, Veterans' Outreach Services Program, of chapter 3 to require the Administrator, in cooperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and related opportunities for veterans.

The House recedes with an amendment changing "cooperation" to "consultation". The Committees urge that a supplemental budget request for fiscal year 1981 be submitted for the VA's general operating expenses account to support such increased VA advocacy, outreach, and promotional activities.

Amendments related to apprenticeship and other on-job training

The Senate bill, but not the House bill, would amend chapter 36 to make explicit that the Administrator is directly responsible and accountable for the promotion, development, and approval of programs of training on the job, and provide that in carrying out this responsibility the Administrator may use the services of the veterans' employment and training outreach program specialists as proposed to be codified in chapter 42.

The House recedes with an amendment deleting the reference to the Administrator's direct responsibility for OJT approval and the reference to veterans employment and training outreach program specialists' involvement in approvals. The Committees wish to stress that the only effect of the provision in the compromise agreement is to make the Administrator explicitly responsible for seeking actively to promote the development of programs of training on the job and authorizing the Administrator, in carrying out this requirement, to use the services of disabled veterans outreach program specialists—a program codified in provisions of this title discussed below. The Committees call attention to the provision in existing section 1771(b) which provides for the Administrator to assume directly the approval function in the case of any State which fails or declines to create or designate a State approving agency.

Criteria for approval of programs of training on the job

The Senate bill, but not the House bill, would amend chapter 36 to update and streamline the criteria for approval of programs of training on the job.

The Senate recedes.

Assistant Secretary of Labor for veterans' employment

The Senate amendment, but not the House bill, would amend chapter 41, Job Counseling, Training and Placement Services for Veterans, to elevate the position of Deputy Assistant Secretary of Labor for Veterans' Employment to the level of Assistant Secretary, and to provide that the incumbent Deputy Assistant Secretary may continue to serve in that position until an Assistant Secretary is appointed by the President and confirmed by the Senate.

The House recedes.

Secretarial support for State veterans' employment representatives

The Senate bill, but not the House bill, would amend chapter 41 to require the provision by the Department of Labor of direct secretarial support to veterans' employment representatives assigned to the States.

The House recedes.

Disabled veterans' outreach program

The Senate bill, but not the House bill, would amend chapter 41 to establish a new Department of Labor-supported, state-operated veterans' employment and training outreach program (VETOP), modeled after the successful disabled veterans' outreach program (DVOP), and to authorize VETOP employees to be used to promote the development of and approve programs of apprenticeship or other on-job training for the purposes of GI Bill benefits.

The House recedes with an amendment that would retain the DVOP name and delete the authority for DVOP employees to become involved in approvals of programs of training on the job.

Emphasis on veterans of the Vietnam Era and disabled veterans

The House bill would amend chapter 41 to delete the requirement for the Secretary to place particular emphasis on the needs of veterans who have been recently discharged. The Senate amendment would add to the existing requirement a requirement for program emphasis on veterans of the Vietnam era and disabled veterans.

The compromise agreement incorporates both these provisions.

Revision of the annual report

Both the House bill and the Senate amendment revise the specified contents of the Secretary of Labor's annual report on services to veterans. The House bill would require the Secretary to report on the number of certain veterans placed in jobs expected to last 150 days; the Senate amendment, on the number placed in permanent jobs.

The compromise agreement requires the Secretary to report on the number placed in permanent jobs as defined by the Secretary.

Definitions for purposes of chapters 41 and 42

Both the House bill and the Senate amendment would make amendments to definitions contained in chapters 41 and 42, Employment and Training of Disabled and Vietnam era Veterans. The House bill would codify the definitions in chapter 41 and the Senate amendment would codify them in chapter 42.

The House recedes in light of the cross-references to the chapter 42 definitions in other laws.

Both the House bill and the Senate amendment would amend chapter 41 to require that an eligible veteran have a minimum of 181 days of active-duty service.

The compromise agreement contains this provision.

The House bill would define a disabled veteran as an eligible veteran in receipt of compensation at a rate of 10 percent or more, thus including such veterans in the employment emphasis mandated by section 2012 (in chapter 42). The Senate bill has no comparable provision, but it would denote 30-percent service-connected disabled veterans or more (those now covered by section 2012) as "special disabled veterans", retaining that as the minimum disability rating for chapter 42 assistance purposes.

The House recedes.

Both the House bill and the Senate amendment would delete the 48-month post-service limitation for Vietnam-era veterans for purposes of certain employment emphases in chapter 42 programs. The House bill would define a Vietnam-era veteran as a veteran with qualifying service during the era and continuing such eligibility until December 31, 1989. The Senate amendment would define a veteran of the Vietnam era as a veteran with qualifying service during the era for generally 2 years after the end of the applicable delimiting period.

The Senate recedes with an amendment changing the cut-off date to December 31, 1991.

The compromise agreement would also revise the definition of the term "department or agency" so as to mean any agency of the Federal Government or the District of Columbia, including any Executive agency as that term is defined in section 105 of title 5. That definition (and other pertinent definitions incorporated by reference in it) is as follows:

§ 105. Executive agency

For the purpose of this title, "Executive agency" means an Executive department, a Government corporation, and an independent establishment.

§ 101. Executive departments

The Executive departments are:

The Department of State.

The Department of the Treasury.

The Department of Defense.

The Department of Justice.

The Department of the Interior.

The Department of Agriculture.

The Department of Commerce.

The Department of Labor.

The Department of Health, Education, and Welfare.

The Department of Housing and Urban Development.

The Department of Transportation.

The Department of Energy.

§ 103. Government corporation

For the purpose of this title—

(1) "Government corporation" means a corporation owned or controlled by the Government of the United States; and

(2) "Government controlled corporation" does not include a corporation owned by the Government of the United States.

§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

(1) an establishment in the executive branch (other than the United States Postal Service or the Postal Rate Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and

(2) The General Accounting Office.

Filing of complaints with respect to veterans' employment emphasis in Federal contracts

The House bill, but not the Senate bill or amendment, would amend chapter 42 to permit certain disabled and Vietnam-era veterans to file directly with the Secretary of Labor complaints relating to a contractor's failure or refusal to comply with the provisions of current section 2012, relating to employment emphasis and affirmative action under Federal contracts (and deleting the provision in current law permitting veterans to file complaints related to section 504 of the Rehabilitation Act with the Veterans' Employment Service).

The Senate recedes.

Preference in hiring for certain VA positions

The House bill, but not the Senate bill or amendment, would amend chapter 42 to provide that the Administrator may give preference in VA hiring to qualified disabled and Vietnam-era veterans for the positions of veterans claims examiners and benefits counselors.

The Senate recedes with an amendment changing "disabled veteran" to "special disabled veteran", and expanding the positions involved to include readjustment counseling, outreach, and vet rep personnel.

Reemployment rights of Reservists called to active duty

The House bill, but not the Senate bill or amendment, would amend chapter 43, Veterans' Reemployment Rights, to shorten from 3 months to 12 weeks the initial active-duty-for training period required for new National Guard members and reservists in connection with their reemployment rights under chapter 43 so as to be consistent with Department of Defense policy and practice.

The Senate recedes.

The House bill, but not the Senate bill or amendment, would amend chapter 43 to recognize full-time training under section 502 of title 32, United States Code, as active duty for training for the purpose of reemployment rights.

The Senate recedes.

Labor market statistics on Vietnam-Theatre Veterans

The Senate amendment, but not the House bill, would require the Bureau of Labor Statistics to report annually, and otherwise whenever feasible, on the unemployment rates for Vietnam-theatre veterans.

The House recedes.

Employment assistance and services for veterans ineligible for assistance under chapter 41

The Senate amendment, but not the House bill, would require the Secretary of Labor to assure that veterans made ineligible for assistance under chapter 41 (veterans with less than 181 days service) as a result of the compromise agreement would be provided with appropriate employment assistance and services available under other Federal employment-related programs.

The House recedes.

TITLE VI—COST-SAVING AMENDMENTS

Educational assistance for incarcerated veterans and eligible persons

The Senate amendment would amend chapter 34 to modify the method of payment of GI Bill benefits to a veteran who is incarcerated so as to provide for direct payment of benefits to the veteran only to the extent necessary to cover the cost of tuition and fees; to allow payment of any excess to dependents; and to provide for the VA to hold and invest for the veteran until release from incarceration any excess of the single-veteran rate over the educational costs that is not paid to dependents. The House bill would amend chapter 34 to limit the amount of educational assistance payable to an incarcerated veteran to tuition and fees; in cases where the tuition and fees of the veteran are paid under another Federal, State, or local program, no payments would be authorized.

The compromise agreement would provide as follows:

(1) In the case of a veteran incarcerated for the conviction of a felony, the educational assistance allowance shall not exceed the cost of tuition and fees except that the Administrator would have the authority also to pay the veteran—within the limits of the applicable allowance—an appropriate amount for books, supplies, and equipment needed for training.

(2) In the case of a veteran pursuing a program of education while residing in a halfway house or participating in a work-release program, the full educational assistance allowance would be paid unless a governmental entity is paying for all of the veteran's living expenses.

(3) An apportioned amount of an educational assistance allowance may continue to be paid to the veteran's dependent or dependents if such apportionment was made prior to the date of enactment.

Both the House bill and the Senate amendment would amend chapter 35 to provide for payment of an educational assistance allowance to an incarcerated eligible person in the same manner as such payment is made to an incarcerated veteran with no dependents.

The compromise agreement contains this provision.

The House bill, but not the Senate bill or amendment, would amend chapter 36 to provide that no educational assistance allowance would be paid in the case of an incarcerated veteran or eligible person for any course for which there are no tuition and fees or to the extent that tuition and fees are paid under any Federal, State, or local program, thus prohibiting duplication of payments or payments of GI Bill benefits for courses which have no cost.

The Senate recedes.

Modification of flight training provisions

The Senate amendment would amend chapters 34 and 36 to reduce from 90 percent to 60 percent the portion of the cost of a flight training course that the VA pays for an eligible veteran; to make veterans pursuing flight training courses eligible for VA educational loans of up to $2,500 per year; and to provide that a veteran who, after completing training, obtains employment in a flight-related occupation for a period of at least one year would have such a loan cancelled at the rate of $1,000 per year for each year that the veteran is so employed. The Senate amendment would not apply these modifications of the flight training program to those enrolled in flight training programs on August 1, 1979, as long as they remained continuously enrolled. The House bill would amend chapter 34 to repeal the authority to pay an educational assistance allowance for pursuit of a flight training program, effective October 1, 1980.

The House recedes with an amendment deleting the provision for loan cancellation and providing that the modifications made to the flight training authority will not apply to those enrolled in flight training programs as of September 1, 1980, as long as they remain continuously enrolled. In this regard, the Committees expect the VA to develop guidelines for making loans to veterans enrolled in flight training that take into account the generally high-cost and short-term nature of flight training courses, the 90- to 60-percent reduction of VA payments, and the fact that flight trainees receive no allowance for subsistence during training.

Modification of correspondence training provisions

The Senate amendment would amend chapter 36 to provide that benefits for correspondence course training may be paid only when no other means of educational pursuit are reasonably and feasibly available for the successful pursuit of the educational or vocational objective being sought. The Senate amendment would not apply this modification of the correspondence training program to those enrolled in correspondence training programs as of August 1, 1979, as long as they remained continuously enrolled. The House bill would amend chapter 36 to repeal, effective October 1, 1980, the provision of GI Bill benefits for correspondence course training.

The compromise agreement would provide for reducing from 90 percent to 70 percent the portion of the cost of a correspondence course that the VA will pay and would provide that the modifications made to the correspondence training authority will not apply to those enrolled in correspondence training programs as of September 1, 1980, as long as they remain continuously enrolled.

Termination of PREP

Both the House bill and the Senate amendment would repeal the authority to pursue Predischarge Education Program (PREP) training under chapter 32 and made necessary conforming amendments.

The compromise agreement contains this provision.

Debt collection: Deductions from future benefits payments

Both the Senate and House bills would add a new section 3114 to title 38 to require the VA to deduct the amounts of certain indebtednesses from future benefits payments to the debtor.

The Senate bill would require the VA to deduct the amount of an indebtedness resulting from an individual's participation in a benefits program administered by the VA from future benefits payments. The House bill would require that overpayments of certain specified VA benefits be deducted from future benefits payments.

The House recedes.

The Senate bill would require, before the VA may make deductions from future benefits payments, that the individual be notified of his or her right to dispute the existence or amount of the debt and to request a waiver of the debt, and that the individual be given a reasonable opportunity to exercise such rights. In addition, the Senate bill would require the Administrator to make a determination with respect to any such challenge or request prior to making such deductions, unless the time that would be required to make the determination before making a deduction would jeopardize the VA's ability to recover the full amount of the debt from future payments. The House bill would require the Administrator only to make reasonable efforts to notify the individual of the proposed deduction.

The House recedes with an amendment deleting the specific statutory requirement that the individual be given a reasonable opportunity to exercise his or her dispute and waiver rights. The Committees note that since the individual must be given notice of his or her right to dispute the existence or amount of the debt and to request a waiver and, since the Administrator must generally make a determination with respect to any such challenge or request, the individuals concerned would generally have this reasonable opportunity in any event.

Both the Senate and House bills would remove any time bars which might prevent the VA from taking administrative action to offset an indebtedness against future benefits payments. The Senate bill would also remove any time bars which might prevent the VA from taking other administrative actions (such as denying a loan guaranty while the delinquent debt remains unpaid and disclosing information pertaining to a delinquent debt to a consumer reporting agency in order to affect a debtor's credit rating) to collect an indebtedness or to determine an individual's credit worthiness.

The House recedes.

The Senate bill, but not the House bill, contains a provision that would specifically permit the VA to deduct less than the full amount of an overpayment from an individual's benefit payment in order to avoid undue hardship to the individual to the extent consistent with recovering the full amount of the indebtedness.

The Senate recedes.

The Committees note that the exclusion of the Senate provision from the compromise agreement does not indicate disapproval of the VA's current practice of deducting less than the full amount of an indebtedness from future benefits payments to the individual in cases where the debtor has a continuing entitlement to payment of benefits for at least one year and deduction of the full amount would result in hardship to the individual concerned.

Debt-collection: Interest and administrative cost charges

Both the Senate and House bills would add a new section 3115 to title 38 to require the VA to charge interest and administrative costs on amounts of certain delinquent indebtednesses.

The Senate bill, but not the House bill, would require the VA to charge interest and administrative costs on a debt resulting from an individual's participation in a loan, loan guaranty, or loan insurance program to the extent not precluded by the terms of the loan instrument concerned.

The House recedes.

The House bill would provide that interest shall accrue from the date of the initial notification of the amount due to the person or educational institution owing such amount but that no interest shall be charged if the indebtedness is paid within a reasonable period of time thereafter. The Senate bill would provide that interest shall accrue after the expiration of a reasonable period of time following the initial notification of the individual at the individual's most currently available address of the amount due, of the fact that such amount has not been paid, and of the Administrator's intention to charge interest. Both the Senate and House bills would provide that interest shall not accrue for any period prior to the enactment of new section 3115.

The Senate recedes with an amendment providing that accrual of interest shall run from the date on which the initial notification of the amount due is mailed to the debtor and specifying that, in mailing notification, the Administrator must use the most current address available.

The Committees intend that the requirement that the Administrator use the most current address available will be met if the notification is mailed to the most current address of the individual contained in VA files.

Both the Senate and House bills would provide that the administrative costs to be charged include the costs incurred in collecting the debt. The House bill would also include the costs to the VA of furnishing the benefit.

The House recedes.

The Senate bill, but not the House bill, would require the Administrator to consult with the Secretary of the Treasury in setting the interest rates to be charged on delinquent debts.

The Senate recedes.

Debt collection: Authority to sue to collect certain debts

The Senate bill, but not the House bill, would add a new section 3116 to title 38 to authorize the VA to use its own attorneys to pursue collection actions in court, subject to the direction and supervision and the terms and conditions prescribed by the Attorney General. In addition, the Senate bill would require the Attorney General and the Administrator to submit to the appropriate committees of Congress, not later than 120 days after the date of the enactment of this section, a joint report describing the actions taken by them in implementing this section.

The House recedes with an amendment requiring submission of the joint report not later than 90 days after the date of enactment.

The House bill, but not the Senate bill, would amend section 3102 of title 38, which authorize the Administrator to waive certain indebtedness, to authorize the Administrator to waive the interest charges on an indebtedness.

The Senate recedes.

The House bill, but not the Senate bill, would make a technical amendment (in light of the addition of new section 3114 regarding deduction of indebtedness) to section 415 of title 38 to strike out subsection (f) relating to the deduction of overpayments of parents' disability and indemnity compensation from future benefit payments.

The Senate recedes.

The House bill, but not the Senate bill, would amend subsection (b) of section 506 of title 38 (in light of the new section 3115) to require the Administrator to deduct overpayments under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, as well as—under current law—overpayments of pension under section 521, 541, or 542 of title 38, from future benefits payments.

The compromise agreement would repeal subsection (b) of section 506 of title 38. The Committees note that that subsection is no longer necessary as a result of the addition of new section 3114 to title 38 which requires the VA to deduct the amount of any indebtedness resulting from an individual's participation in any benefits program administered by the VA from future benefits payments.

Disclosures of amounts of monetary payments made by the Veterans' Administration

The Senate bill, but not the House bill, would amend section 3301(c) of title 38 to expand the existing requirement that, upon any person's application, the Administrator disclose to that person the amount of pension, compensation, or DIC of any beneficiary to include disclosure of any monetary payments to a VA beneficiary.

The House recedes.

Debt collection: Disclosures of information to consumer reporting agencies

Both the Senate and the House bills would amend section 3301 of title 38 to authorize the VA to disclose certain information to consumer reporting agencies (CRA's)—credit bureaus—in order to locate an individual (if the individual has been administratively determined to be indebted to the United States by virtue of participation in a VA benefits program or when necessary to conduct a study required or provided for by section 219 of title 38 or by other Federal law), to obtain a consumer report in order to assess an individual's ability to repay a debt, and, in certain cases of delinquent indebtedness, to disclose information pertaining to a debt in order to affect the debtor's credit rating.

The House bill would amend subsection (f) of section 3301 to authorize the VA to disclose to CRA's the name or address or both of any person who is a present or former member of the Armed Forces or a dependent of any such member as well as other information authorized to be released under subsection (e) of section 3301 (which authorizes the Administrator, with certain exceptions, to release any information when doing so would serve a useful purpose) for purposes of facilitating VA debt-collection efforts and carrying out section 219 and other studies. The Senate bill would add a new subsection (g) to section 3301 to authorize the VA to release the name and address of an individual and certain other identifying information to a CRA for such purposes.

The compromise agreement adds a new subsection (g) to selection 3301 to authorize the Administrator to release to CRA's the name, address, and certain other identifying information pertaining to any person who is a present or former member of the Armed Forces, or a dependent of such a member, for purposes of facilitating VA debt-collection efforts and carrying out section 219 and other statutory studies.

The Committees note that, in providing in one new subsection comprehensive and unified authorization for the release of information to CRA's for debt collection purposes and for purposes of carrying out certain evaluative studies, the Committees do not intend to imply any disagreement with the VA's interpretation of its authority to make a combined release of name and address information under subsection (f) together with certain other information under subsection (e) as approved in the case of *Fitch v. Veterans' Administration*, 597 F.2d 1152 (8th Cir. 1979). The Committees also note their agreement with the discussion of this issue contained in pages 14 through 16 of the Senate Committee report accompanying S. 1518 (S. Rept. No. 96–555).

The Senate bill, but not the House bill, would require that, before the Administrator may release information to a CRA in order to locate an individual in connection with a section 219 or other study, the Administrator must determine that the individual's inclusion in such a study, in light of other alternatives reasonably available, warrants the release of information and that the VA's inquiry will not be construed as indicating an indebtedness or otherwise have an adverse effect on the individual's credit standing.

The House recedes with an amendment requiring that the Administrator, before releasing information in order to locate an individual for study purposes, determine that all reasonable steps have been taken to assure that the release of information to a CRA will not have any adverse effect on the individual.

The Senate bill would, in cases where the VA discloses information to a CRA for purposes of locating an individual or obtaining a consumer report, prohibit the disclosure of information which expressly or implicitly indicates that an individual is indebted to the United States or which is otherwise adverse to the individual. In addition, the Senate bill would require the Administrator, prior to releasing information to a CRA, to determine that any CRA to which information is released by the VA will not indicate in its file or in disclosures made by it that the VA inquiry indicates an indebtedness or otherwise reflects adversely on the individual and would impose criminal sanctions on a CRA for failure to comply with this provision. The House bill would require that the Administrator take reasonable steps to protect the privacy of persons about whom information is disclosed by the VA.

The compromise agreement prohibits the VA from disclosing information which indicates that an individual is indebted to the United States or which is otherwise adverse to that individual and requires the Administrator to take other reasonable steps to protect the privacy of persons about whom information is released by the VA.

The Committees note that the compromise agreement retains in substance proposed Senate language for subsection (g) (3) that would prohibit the VA from disclosing "any information which indicates any indebtedness . . . or any other information which reflects adversely" on the debtor at the time that the VA is attempting to locate the debtor or assess his ability to repay the debt. It is clear, however, that it would generally be necessary for the VA to disclose the debtor's name, last known address, social security number, and date of birth to a CRA in order to obtain current address information and consumer reports. The Committees intend the language of subsection (g) (3) of the compromise agreement not to restrict disclosure of this type of identifying information.

The Senate bill would require the Administrator, prior to releasing information pertaining to a debt in order to affect an individual's credit standing, to provide notice to the individual of the right to dispute the existence or amount of the debt or to request a waiver, to provide the individual with a reasonable opportunity to exercise those rights, and to make a determination with respect to any such challenge or request. The House bill would require the Administrator, upon an individual's application prior to the VA's releasing information pertaining to a debt, to make a prerelease determination with respect to any allegation of error as to the existence or amount of the debt or that repayment is not required.

The House recedes with an amendment modifying the notice requirements so as to require the Administrator to make reasonable efforts to notify the individual of the rights described above.

The Senate bill, but not the House bill, would require the Administrator to notify CRA's (including CRA's to which information pertaining to a debt was transmitted by service bureaus, entities included within the definition of "consumer reporting agency", discussed below) of any substantial change in the status or amount of an indebtedness by the end of the calendar month following the calendar month during which such change occurred and to verify or correct promptly, upon a CRA's request, any information released by the VA to a CRA.

The House recedes with an amendment requiring the VA to notify promptly CRA's (including service bureaus) of any substantial change in the status or amount of the indebtedness.

The Senate bill would require that, before the Administrator may release to a CRA information pertaining to a debt, 60 days must elapse following notification to the debtor of the VA's intent to disclose information pertaining to the debt, of the name and address of each CRA to which information will be released by the VA, and of the specific information to be released. The House bill would require that, before the Administrator may release such information, 30 days must elapse after reasonable efforts have been made to notify the individual of the VA's intent to disclose information pertaining to the debt.

The compromise agreement requires that 30 days elapse after it is determined that reasonable efforts have been made to notify the individual that the VA intends to disclose information pertaining to the debt and that, upon the individual's request, that the VA will inform him or her whether the information has been released, of the name and address of each CRA to which information has been released, and of the specific information released. In addition, the compromise agreement requires the VA, upon the individual's request following the release of information, to so inform him or her.

The Senate bill, but not the House bill, would provide that information released to a CRA shall be deemed inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) (which requires CRA's to delete inaccurate information from an individual's file), if the Administrator determines that the individual did not receive actual notice of the indebtedness and would require the Administrator so to advise the individual and each CRA to which information was released by the VA.

The Senate recedes. The Committees note that the Fair Credit Reporting Act contains protections applicable to this situation pertaining to any debtor.

Disclosure of information for purposes of facilitating administration of the loan-guaranty program

Both the Senate and House bills would add a new subsection (subsection (h) in the compromise agreement) to section 3301 of title 38 to clarify the VA's authority to disclose the name, address, and other information relating to the identity of a present or former member of the Armed Forces or of a dependent of a present or former member, for the purposes of facilitating the administration of the VA's chapter 37 loan-guaranty program.

The Senate bill, but not the House bill, would provide that regulations prescribed by the Administrator for purposes of implementing this new subsection shall not become effective until 30 days following publication in the Federal Register.

The Senate recedes.

The Senate bill, but not the House bill, would require that the Administrator promptly record in the appropriate records of the individual the fact of a disclosure made under the new subsection to assist an applicant for chapter 37 benefits or to administer such benefits.

The House recedes.

Provisions relating to the disclosures to consumer reporting agencies

Both the Senate and House bills would provide an exemption from the application of the Privacy Act (5 U.S.C. 552a) with respect to information released under new subsections (g) and (h) of section 3301, discussed above, to a CRA under contract with the VA. In addition, the Senate bill would provide that no action taken pursuant to such a contract would result in the application of the Privacy Act to a CRA or a CRA employee. The House bill would also require the Administrator to take reasonable steps to protect the personal privacy of individuals about whom information is disclosed.

The compromise agreement adds a new subsection (j) to section 3301 which includes the Senate-bill language with respect to the Privacy Act exemption and the House-bill requirement that the Administrator take reasonable steps to protect the privacy of persons about whom information is released.

The Senate bill, but not the House bill, would define the terms "consumer report" and "file" to have the meanings provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively. Those provisions are as follows:

(d) The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit-worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section 1681b of this title. The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 1681m of this title.

* * * * *

(g) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

The House recedes with respect to the definition of the term "consumer report". The term "file" is not used in the compromise agreement.

Both the Senate and House bills would define the term "consumer reporting agency" to have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (f)) and to include entities known as "service bureaus", which are engaged in the business of obtaining credit and other information for the purpose of furnishing such information to CRA's. In addition, the Senate bill would define the term "consumer reporting agency" to include entities known as "marketing agents", which provide services enabling third parties to obtain information from CRA's.

The House recedes.

TITLE VII—MISCELLANEOUS AMENDMENTS

Administrator's responsibilities for advocacy

The Senate bill would amend subchapter IV of chapter 3 to require the Administrator to play an increased, active role with respect to advocacy of the implementation of existing laws and regulations relating to employment, training, and other opportunities for veterans, with particular emphasis on the needs of service-connected disabled veterans and other eligible veterans to whom the employment emphases in chapter 42 are applicable. The House bill contains no comparable provision.

The House recedes with an amendment deleting the references in this provision to employment and employment-related opportunities, thus giving the Administrator responsibilities relating to advocacy of all existing laws and regulations pertaining to veterans. The Committees note that new section 1516 as added by title I of this Act has been expanded, in light of the Senate language deleted here, to require the Administrator, in actively promoting the development and establishment of on-job training opportunities for chapter 31 participants, to also make promotional efforts targeted on other service-connected disabled veterans and other veterans with respect to whom the employment emphases in chapter 42 apply with particular emphasis being placed on the needs of categories of those veterans on the basis of applicable rates of unemployment.

NIOSH exemption

Th Senate bill, but not the House bill, would make a technical amendment in section 502 of Public Law 96–128, the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (which requires the National Institute of Occupational Safety and Health (NIOSH) to obtain from the Internal Revenue Service and to provide to the VA addresses of individuals who the VA has certified have been or may have been exposed to occupational hazards during active military service and permits the VA to disclose those addresses to agency contractors or other Federal agencies only for certain specified purposes, including carrying out epidemiological studies of the long-term health effects of exposure to radiation, Agent Orange, and other hazardous substances) to clarify that disclosures of information made pursuant to the authority provided in section 502 are not in technical violation of the Internal Revenue Code criminal provisions relating to the unauthorized disclosure of tax return information.

The House recedes.

The Committees note that the language in the compromise agreement, "authorized in the Internal Revenue Code of 1954", is intended to be substantially identical to the language "authorized in this title" in the provisions of section 7213(a) of title 26, United States Code, by virtue of which certain authorized tax-return information disclosures are expressly excluded from the criminal proscriptions in such provisions.

Probationary period for certain title 38 employees

The Senate bill, but not the House bill, would amend section 303 of Public Law 96–151, the Veterans' Health Programs Extension and Improvement Act of 1979, to clarify that that section (which reduced, from three years to two years, the probationary period for certain employees hired under the authority of title 38 in the VA's Department of Medicine and Surgery) applies only to appointments made on or after December 20, 1979, the date of the enactment of that law.

The House recedes.

The Committees note that this provision reflects the manner in which the VA has implemented this provision—an approach that avoids the confusion and administrative impracticalities that could result from any retroactive application of a reduced probationary period in the cases of employees who were well into their probationary service when the law was enacted, especially those in their third year of employment.

Protection for certain VA employees

The Senate amendment, but not the House bill, would amend section 1114 of title 18, United States Code, to include VA police officers and investigators among the specified Federal officials whom it is a Federal offense either to kill, assault, or interfere with while they are performing official duties.

The House recedes.

Outpatient care for chapter 31 participants

The Senate bill, but not the House bill, would amend section 612(f)(2) to provide chapter 31 participants with the same eligibility for VA outpatient care that veterans with service-connected disabilities rated at 50-percent-or-more disabling presently have, which would have the effect of including chapter 31 participants together with 50-percent-rated veterans in the second priority category for VA outpatient care in present section 612(i), behind veterans receiving treatment for a service-connected disability, and of making chapter 31 participants eligible for contract care on the same basis as 50-percent-rated veterans (which is the same, under present section 601(4)(C)(i) and (ii), as the basis on which contract care is available for the treatment of a service-connected disability).

The Senate recedes.

Health-care cost recovery

The Senate bill, but not the House bill, would strengthen and clarify the VA's authority to recover the costs of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for costs of health care provided to victims of crimes of personal violence.

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

Grant assistance to new State medical schools

The Senate bill, but not the House bill, would modify the VA's program, under subchapter I of chapter 82, of assistance in the establishment of new State medical schools, under which five medical schools have received grants to assist in extending, altering, remodeling, improving, or repairing buildings to make them suitable for use as medical school facilities and in paying faculty salaries. Each of these schools is affiliated with at least one nearby VA medical center.

No new schools may now be established under this program, but the authorization of appropriations extends through fiscal year 1982, and funds previously appropriated remain available—by virtue of sections 5072 (b) and 5082(b)—for six years after the year for which they were appropriated. Under section 5073(a)(2), a grant made for the payment of faculty salaries may be used for that purpose only during the first seven years of the school's operation and only up to specified percentages of total faculty salary costs—declining from 90 percent in the first three years of operation to 50 percent in the seventh year. The Senate bill would provide for an additional 12-month period—beyond the periods prescribed in sections 5072(b), 5082(b) and 5073(a)(2)—in which the five schools could obligate the funds which have been committed to them under subchapter I. This provision would not provide for authorization of appropriations for any additional funds for the schools in the eighth year and would limit the amount of the remaining funds which could be used to pay faculty salaries in the eighth year to 50 percent of the cost of such salaries, the same limit applicable in the seventh year.

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

Award of performance bonuses to SES employees

The Senate bill, but not the House bill, would amend paragraph (3) of section 4107 (c) of title 38, as added by Public Law 96–330, which allows VA non-physician hospital directors to be considered for bonuses as part of the Senior Executive Services (SES), in order to add a cross reference, inadvertently not included in the text of Public Law 96–330, to a title 5 SES bonus provision (section 5384). This provision is contained in a compromise agreement on H.R. 7511, the proposed "Veterans' Disability Compensation and Housing Benefits Amendments of 1980", which was passed by the House on September 18, 1980, and by the Senate on September 24.

The Senate recedes.

Payment of education benefits to hospitalized chapter 34 trainees

The Senate bill, but not the House bill, would modify the method of payment of educational assistance allowances to chapter 34 GI Bill trainees while such trainees are receiving care for more than 30 days in a VA hospital, nursing home, or domiciliary facility, or other health-care facility at VA expense, so as to be substantively identical to that proposed to be applicable to chapter 31.

The Senate recedes.

Nursing home standards

The Senate amendment, but not the House bill, would require the Secretary of Health, Education, and Welfare (now Health and Human Services) and the Administrator of Veterans' Affairs to submit a joint report to the Congress relating to the coordination of their responsibilities for the enforcement of quality and safety standards in nursing homes.

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

Agent orange

The Senate bill, but not the House bill, would authorize the expansion of the scope of the epidemiological study mandated by section 307 of Public Law 96–151 regarding veterans exposed to Agent Orange to include additional factors, would modify the study mandate, and would establish timetables within which the Administrator of Veterans' Affairs, based on the results of such study and other available pertinent information, would develop regulations for the resolution of claims for benefits based on exposure to Agent Orange, or, if the scope of the study is expanded, on other factors.

The Senate recedes in view of the House position in oppcsition to the inclusion of other than technical, non-germane health-care provisions in this measure.

Renaming the Topeka Veterans' Administration Medical Center

The Senate bill, but not the House bill, would provide for the renaming of the Veterans' Administration Medical Center at Topeka, Kansas, as the "Colmery-O'Neil Veterans' Administration Medical Center".

The Senate recedes in view of the House position in opposition to the inclusion of other than technical, non-germane health-care provisions in this measure.

TITLE VIII—TECHNICAL AMENDMENTS AND EFFECTIVE DATES

Both the House bill, the Senate amendment, and the Senate bill make technical and conforming amendments throughout title 38 and in the GI Bill Improvement Act of 1977 (Public Law 95–202).

The compromise agreement includes appropriate technical and conforming amendments.

The House bill provides for a general effective date of October 1, 1980, or the first day of the first month following sixty days after enactment, whichever is the later. The Senate amendment provides for an effective date of October 1, 1979, of the first day of the second month following enactment.

The compromise agreement generally provides for an effective date of October 1, 1980. Other effective dates are discussed in the applicable portions of this statement.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 26, 1980.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 202 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 5288, the Veterans Rehabilitation and Education Amendments of 1980.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,
ROBERT D. REISCHAUER
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE: COST ESTIMATE

1. Bill number: H.R. 5288.

2. Bill title: Veterans Rehabilitation and Education Amendments of 1980.

3. Bill status: As passed by the House of Representatives, September 25, 1980.

4. Bill purpose: To amend title 38, United States Code to revise the veterans' vocational rehabilitation program, to provide a 10 percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, to provide certain cost-saving administrative provisions, and for other purposes.

5. Cost estimate: This bill would result in additional future federal liabilities through an extension of existing entitlements and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of H.R. 5288.

A negative budget authority indicates that this bill would reduce future federal liabilities through a change to an existing entitlement and therefore could permit subsequent appropriations action to reduce the budget authority for this and other programs. Negative figures shown as "Required Budget Authority" represent that amount by which budget authority for the program could be reduced, as a result of this bill, below the level needed under current law.

Ony those sections of H.R. 5288 with cost impact are listed in the cost estimate.

The costs of this bill fall in function 700 except for the Expanded Outreach Program which falls in function 500.

[By fiscal years; in millions of dollars]

	1981	1982	1983	1984	1985
Title I:					
Modifications to vocational rehabilitation:					
Required budget authority	8.4	19.0	16.9	16.6	16.3
Estimated outlays	8.2	19.2	16.9	16.6	16.3
17-percent rate increase for ch. 31:					
Required budget authority	21.2	30.2	30.6	25.4	21.4
Estimated outlays	19.2	31.0	31.2	26.0	21.4
Title II: 10-percent rate increase for chs. 34 and 35 (5 percent on Oct. 1, 1980 and 5 percent on Jan. 1, 1980):					
Required budget authority	210.8	291.7	238.8	164.5	126.2
Estimated outlays	184.0	298.1	244.4	171.1	126.2
Title IV: Post-Vietnam era veterans' educational program (VEAP) adjustments:					
Required budget authority	0	−.3	.2	1.0	3.1
Estimated outlays	−1.1	−2.3	−2.0	−.6	1.5
Title V: Expanded outreach program (Function 500):					
Required budget authority	12.9	23.6	34.8	42.7	46.1
Estimated outlays	12.9	23.6	34.8	42.7	46.1
Title VI: Cost savings provisions:					
Modify vocational objective course criteria:					
Required budget authority	−1.6	−1.3	−1.2	−1.0	−.8
Estimated outlays	−1.6	−1.3	−1.2	−1.0	−.8
Title VI: Cost savings provisions—Con.					
Educational assistance to incarcerated veterans:					
Required budget authority	−8.7	−5.9	−4.1	−2.7	−2.0
Estimated outlays	−8.7	−5.9	−4.1	−2.7	−2.0
Modify correspondence and flight training:					
Required budget authority	−20.0	−22.0	−19.1	−14.6	−11.3
Estimated outlays	−20.0	−22.0	−19.1	−14.6	−11.3
Repeal of PREP authority:					
Required budget authority	−1.0	−2.7	−2.0	−1.4	−1.3
Estimated outlays	−1.0	−2.7	−2.0	−1.4	−1.3
Debt collection provisions:					
Required budget authority	−144.2	−172.0	−135.0	−109.0	−81.0
Estimated outlays	−144.2	−172.0	−135.0	−109.0	−81.0
Totals:					
Function 500:					
Required budget authority	12.9	23.6	34.8	42.7	46.1
Estimated outlays	12.9	23.6	34.8	42.7	46.1
Function 700:					
Required budget authority	64.9	136.7	125.1	78.8	70.6
Estimated outlays	34.8	142.1	129.1	84.4	69.0
Total budget impact:					
Required budget authority	77.8	160.3	159.9	121.5	116.7
Estimated outlays	47.7	165.7	163.9	127.1	115.1

6. Basis of estimate:

TITLE I—REHABILITATION AMENDMENTS

This title would restructure Chapter 31 of Title 38, U.S.C. to update, improve and expand the Vocational Rehabilitation Program for service connected disabled veterans under that chapter. Major provisions of this title would:

(1) enlarge the purpose and effective operation of the VA's rehabilitation programs beyond the veterans' employability to obtaining and maintaining employment and to enable a veteran to achieve independence in daily living.

(2) specify a broad range of services and assistance that may be provided under Chapter 31 in order to provide clear authority for a full range of evaluative, counseling, independent-living, pretraining, training, and employment-assistance services. (The VA interpretation of current law equates vocational rehabilitation under Chapter 31 with training and thus does not provide for pretraining services that may enable a veteran, whose mental or physical disability renders entry into training infeasible, to prepare to enter into a training program.)

(3) provide authority for independent living services to help a veteran with very serious disabilities to live and function within his or her family and community. This includes authority beginning in fiscal year 1982 for a four-year pilot program of independent living services and assistance for up to 500 new veterans each year for whom the achievement of a vocational goal has been determined not to be reasonably feasible.

(4) enable veterans participating in Chapter 31 rehabilitation programs who have remaining eligibility for and entitlement to Chapter 34 (GI Bill) benefits to receive, as part of their Chapter 31 benefits, allowances and assistance equal to the Chapter 34 allowances and assistance appropriate to their training programs in lieu of payment of the subsistence allowance, tuition, and fees and of certain other services and assistance provided for under Chapter 31.

(5) establish a Veterans Advisory Committee on Rehabilitation.

(6) provide a 17 percent cost-of-living increase for those training under Chapter 31.

(7) provide for a liberalization of the delimiting period and associated eligibility and provide for a liberalization of entitlement.

CBO and the VA have nearly identical cost estimates for the provisions of this title except for item (6). Item (3), independent living provisions become effective in fiscal year 1982. Item (6), the cost-of-living increase is effective October 1, 1980. All other provisions become effective April 1, 1981.

COST ESTIMATE[1]

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	8.4	19.0	16.9	16.6	16.3
Estimated outlays	8.2	19.2	16.9	16.6	16.3

[1] Cost for all items except (6).

Item (6). Rate Increase for Training Under Vocational Rehabilitation:

This provision would raise the payment rate for vocational rehabilitation by 17 percent. Additional expenditures would occur three different ways: 1) additional payments will be made to those in training; 2) some disabled veterans will be induced to train who would not have trained; and 3) some disabled veterans currently training under Chapter 34 would be induced to train under Chapter 31 at the new higher rate.

For fiscal year 1981, these three costs are determined:

(1) For the projected 25,500 who would train in any case, average cost rises from an estimated $3,450 to $3,864, resulting in a cost of $10.6 million.

(2) For an estimated 2,000 additional disabled veterans induced to train, there is an additional cost of $7.7 million.

(3) And, for the estimated 2,500 veterans who choose chapter 31 instead of chapter 34, there is an additional cost of $2.9 million.

COST ESTIMATE

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	21.2	30.2	30.6	25.4	21.4
Estimated outlays	19.2	31.0	31.2	26.0	21.4

TITLE II

This provision would raise benefit levels by 10 percent for Chapters 34 and 35 (respectively, the Veterans' Educational Assistance Program and the Survivors and Dependents Educational Assistance Program). This increase will occur in two steps: a 5 percent increase on October 1, 1980 and a 5 percent increase on January 1, 1981. It is expected that this will raise expenditures in two ways. First, it will cause the average cost per trainee to go up by about 10 percent on a full year basis. For veterans training under the Veterans' Educational Assistance program, average cost per year can be expected to rise from $2,025 per year to $2,225. For those training under the Survivors' and Dependents' Educational Assistance program, the average cost will rise from an estimated $2,065 per year to $2,275. Second, it will cause additional persons to train who would not have trained otherwise. The following table shows the estimated number of veterans training under the GI Bill with and without the increase.

ESTIMATED NUMBER OF VETERANS WHO WILL TRAIN UNDER THE GI BILL

[By fiscal years, in thousands]

	1981	1982	1983	1984	1985
Without the 10 percent increase	668	442	291	200	141
With the 10 percent increase (assumes 17 percent rate increase in chapter 31)	710	515	349	237	166

Note: Similar relative differences occur for the smaller survivors' and dependents' educational assistance program. The total cost including the increased cost both for the current trainees and new trainees is shown below.

COST ESTIMATE

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	210.8	291.7	238.8	164.5	126.2
Estimated outlays	184.0	298.1	244.4	171.1	126.2

TITLE IV

Under the current Veterans Education Assistance Program (VEAP) veterans contribute between $50 and $75 per month out of their monthly pay into the post-Vietnam era veterans' education account. This money is matched by the VA in the amount of $2 for every $1 contributed when the veteran later draws his money out to take training. This provision would expand the contribution range to a minimum of $25 per month and a maximum of $100 per month. It would also allow veterans to pay in lump sum amounts to the VEAP accounts up to a maximum of $2,700.

Although it is not possible to estimate with any degree of precision what the cost of this new provision would be, CBO expects the broader rule structure of the program to result in additional participants. CBO assumes that liberalizing the contribution procedure will result in 5,000 additional participants each year (3,000 the first year). The assumption is made that in the third year of the program the average monthly contribution would be $25 per month for 2,000 participants for 9 months, $100 per month for 2,000 participants for 9 months, and lump sum payments of $1,150 from the remaining 1,000 participants.

Total contributions are, therefore, expected to reach $3.4 million in that year. First and second year contributions are expected to be less than this because of normal start-up procedures. No change in contribution levels are assumed for those who would have participated in the $50 to $75 program as it stands now. VA matching payments are not expected to occur under the new provision until fiscal year 1983 (Outlays in fiscal year 1982 represent disenrollments) and then only at a fairly low level. Subsequent years should show additional outlays.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Deduction from military Pay:					
Required budget authority	−1.1	−2.6	−3.4	−3.4	−3.4
Estimated outlays	−1.1	−2.6	−3.4	−3.4	−3.4
Post-Vietnam era veterans education:					
Required budget authority	1.1	2.3	3.6	4.4	6.5
Estimated outlays	0	.3	1.4	2.8	4.9
Cost estimate:					
Required budget authority	0	.3	.2	1.0	3.1
Estimated outlays	−1.1	−2.3	−2.0	−.6	1.5

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE ADJUSTMENTS

This title would establish a new Disabled Veterans Outreach Program (DVOP) in the Department of Labor.

It would make available to each state sufficient funding to support 2,000 DVOP specialists nationwide. These specialists would supplement but not supplant the existing staff of Veterans' Employment Service and local veterans' employment representatives. They would have a variety of duties designed to promote employment and training opportunities for eligible veterans. This program would absorb the current Disabled Veterans Outreach Program now conducted by the DOL under Title III of CETA. The costs of the new DVOP program would be offset by what the current DVOP program would have cost.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Cost of new DVOP program	33.9	36.6	39.5	42.7	46.1
Cost of old DVOP program	−21.0	−13.0	−4.7	0	0
Net addition to cost	12.9	23.6	34.8	42.7	46.1
Cost estimate:					
Required budget authority	12.9	23.6	34.8	42.7	46.1
Estimated outlays	12.9	23.6	34.8	42.7	46.1

TITLE VI—COST-SAVING PROVISIONS

Modify vocational-objective course criteria:

Currently, all courses with vocational objectives are required to have 50 percent of their graduates placed in training-related jobs. This provision would strengthen that requirement by requiring that a training-related job is redefined to include employment which makes substantial use of the training (at least 10 hours per week).

CBO estimates that in fiscal year 1981, 27,000 people in vocational/technical schools could be affected by this provision along with 4,500 flight trainees and 9,500 correspondence trainees.[1]

CBO estimates that these changes will reduce the number of eligible vocational courses and students by 2.8 percent. CBO has assumed, however, that two-thirds of the displaced students will sign up for alternative training courses. The provision is estimated to save $1.6 million in 1981.

COST ESTIMATE

[By fiscal years in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−1.6	−1.3	−1.2	−1.0	−0.8
Estimated outlays	−1.6	−1.3	−1.2	−1.0	−.8

Educational assistance to incarcerated veterans:

This provision would limit veterans' educational assistance for incarcerated veterans to the payment of tuition and fees except for an apportioned amount which may be continued to be paid to the veteran's dependents if such apportionment was made or requested prior to the date of enactment. Payment of tuition, books and fees would also be eliminated where federal or state programs provide this support. A recent VA survey has shown that there are about 5,500 veterans currently receiving GI Bill payments for training. CBO assumes that payments for these individuals average $2,000 per year and that one-third of these payments go for tuition, books and fees. Currently the cost per year for providing the GI Bill to these veterans is thus $11.0 million. Lowering the payment to one-third of $2,000 per veteran gives a new average cost of $667 per year. Assuming three-fourths of the 5,500 veterans remain in training at the new lower rate lowers the total cost per year to $2.8 million ($667 x 5,500) for a savings of $8.2 million in fiscal year 1981. CBO assumes an additional $0.5 million will be saved as a result of eliminating payments for tuition, books and fees for those veteran inmates receiving payments under federal or state programs

COST ESTIMATE

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−8.7	−5.9	−4.1	−2.7	−2 0
Estimated outlays	−8.7	−5.9	−4.1	−2.7	−2.0

Modify flight and correspondence training provisions:

This provision would reduce the reimbursement rate paid to flight and correspondence trainees.

For flight training the reimbursement rate would drop from 90 percent to 60 percent of the cost of completed training. Those in training on September 1, 1980, however, would be grandfathered in the program at the 90 percent rate. CBO assumes that the 60 percent reimbursement rate would result in fewer trainees than the current 90 percent rate. In addition, average payments to flght trainees would decrease. CBO estimates that in fiscal year 1981 there would be 5,000 fewer trainees (out of 18,000) as a result of this provision, and the average payment for flight training would drop by 18 percent. Total savings are estimated to be $18.6 million in 1981.

The reimbursement rate for correspondence training under this provision is dropped from 90 to 70 percent. Average cost on a full year basis can thus be expected to drop to 7/9ths of the current cost or $303.41\times 7/9=$ $235.99. The number in correspondence after the drop in the reimbursement rate from 100 to 90 percent was about 11 percent below what it would have been without the decrease. CBO expects a decrease of double that order of magnitude going from 90 to 70 percent (on a full year basis, a drop from 35,790 trainees to 27,900 trainees) a full year's savings of $4.3 million can be expected had the provision been in full operation on October 1, 1980 ($\$303.41\times 35{,}790 - 235.99\times 27{,}900$). Because those in training on September 1, 1980 are grandfathered in at the old rate, only about one-third of these savings will occur the first year.

EFFECT OF EXPENDITURES

	1981	1982	1983	1984	1985
Flight	−18.6	−20.0	−17.0	−13.0	−10.0
Correspondence	−1.4	−2.0	−2.1	−1.6	−1.3
Total	−20.0	−22.0	−19.1	−14.6	−11.3

COST ESTIMATE

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−20.0	−22.0	−19.1	−14.6	−11.3
Estimated outlays	−20.0	−22.0	−19.1	−14.6	−11.3

Note: Repeal PREP Authority—This proposal would eliminate the predischarge education program (PREP) provided under ch. 32. CBO estimates that this would result in 2,500 fewer trainees and save $1 million in fiscal year 1981.

COST ESTIMATE

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−1.0	−2.7	−2.0	−1.4	−1 3
Estimated outlays	−1.0	−2.7	−2.0	−1.4	−1.3

Debt collection provisions:

There are four basic provisions that apply to VA debt collection procedures.

(1) To allow VA to disclose names and addresses of veterans and other information to consumer reporting agencies for debt collection purposes,

(2) To authorize VA to charge interest on debts owed the federal government plus additional charges to cover the cost of the debt collection procedures,

(3) To eliminate the current six year statute of limitations on debts owed the United States for programs administered by the Veterans Administration,

(4) To allow the Veterans Administration, under supervision by the Justice Department, the authority to sue to collect debts.

As of the end of January 1980, veterans owed the Veterans Administration roughly $900 million because of VA overpayments. In fiscal year 1981, these four provisions are assumed to result in a savings of $120 million to the federal government as a result of increased collections of overpayments.

[By fiscal years; in millions of dollars]

	1981	1982	1983	1984	1985
Cost	−120	−155	−119	−95	−71

The Veterans Administration has indicated that they will incur costs for administering the disclosure of names to consumer reporting agencies and for hiring legal staff to prosecute cases. The following CBO estimates of costs are based on information provided by the VA.

[By fiscal years; in millions of dollars]

	1981	1982	1983	1984	1985
Cost	10.8	13	8	4	3

Finally, additional savings should result as veterans either avoid overpayments or pay them back more quickly. According to the Veterans Administration, during fiscal year 1979 there were $503 million in overpayments and through April 1980 there were $261 million in fiscal year 1980 overpayments. While there is no hard evidence available, CBO assumes a $35 million savings as a result of the deterrent factor in fiscal year 1981.

[By fiscal years; in millions of dollars]

	1981	1982	1983	1984	1985
Cost	−35.0	−30	−24	−18	−13
Cost estimate:					
Required budget authority	−144.2	−172	−135	−109	−81
Estimated outlays	−144.2	−172	−135	−109	−81

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Al Peden (225–7766).
10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing I would like to express my great appreciation to the chairman (Mr. ROBERTS) and ranking minority member (Mr. HAMMERSCHMIDT) of the House Veterans' Affairs Committee and to the chairman (Mr. HEFNER) and ranking minority member (Mrs. HECKLER) of the Subcommittee on Education, Training, and Employment for their hard work and outstanding cooperation in making this compromise agreement the reasonable and equitable measure that it is. I would also like to thank the distinguished ranking minority member of the Senate Committee on Veterans' Affairs (Mr. SIMPSON) for his excellent assistance on this bill. Of course, I am also grateful to the other members of our committee, all of whom contributed so much to the development of this legislation.

In addition, I want to extend my thanks to the staff members of the House Committee—Mack Fleming, Frank Stover, Peter Sroka, and Jim Webb—for their excellent work on this measure. And I also wish to express my gratitude for their long and hard work in this effort to Senate committee staff members Babette Polzer, Janice Orr, Kerry Shortle, Ed Scott, Jon Steinberg, and Julie Susman, and to our committee's editorial director Harold Carter, who is so ably assisted by Jim MacRae and Walt Klingner. As always, I am very grateful to our legislative counsels, Hugh Evans of the Senate and Bob Cover of the House. Finally, we are most appreciative of the excellent technical assistance we received from VA officials.

Mr. President, I believe that the measure before us is a much-needed and well-developed piece of legislation that reflects fair and reasonable compromises. Therefore, I urge my colleagues to concur in the House amendments to H.R. 5288.

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[1] This is after accounting for the effects of the provision to modify flight and correspondence training.

Mr. BELLMON. Mr. President, I rise to commend the Veterans' Affairs Committees of both Houses for their diligence in reaching agreement so rapidly on legislation to achieve the level of savings required by the reconciliation bill. The chairman of both the House and Senate Committees, the Members from each side of the aisle as well as their staffs should feel a great sense of accomplishment for this achievement. I am sure it has not been an easy task. I believe, however, that their efforts have resulted in a rational, commonsense approach to the reduction of spending for veterans programs. They have chosen to enact provisions which will result in more effective administration of programs serving veterans and which will reduce spending for programs which several studies have demonstrated to be ineffective.

I am concerned with the Veterans' Committees' actions on two provisions. This conference agreement modifies and reduces costs for flight and correspondence training. The House version of this bill would have eliminated the authority for these programs effective October 1, 1980. Based on the data I have seen from several studies, I believe the House's position was and still is the preferred one.

The second provision which troubles me is the one concerning nursing home standards. The Senate version of this bill would have required the Secretary of Health and Human Services (HHS) and the Veterans' Administration (VA) to submit a joint report to Congress relating to the coordination of their responsibilities for the enforcement of quality and safety standards in nursing homes. I would have preferred an even stronger provision, requiring HHS and VA to coordinate and eventually consolidate their nursing home standards enforcement responsibilities. However, even the weaker Senate version was rejected in conference. This is unfortunate. I hope this issue will be reviewed in the next Congress.

Mr. THURMOND. Mr. President, I rise in support of H.R. 5288, as amended, the "Veterans' Rehabilitation and Education Act of 1980."

H.R. 5288, as amended, will overhaul chapter 31 of title 38 of the United States Code. Prior legislative action in the area of the Veterans' Administration's vocational rehabilitation program has been addressed only in piecemeal fashion since 1943. Although the VA has become a leader in vocational rehabilitation, I believe H.R. 5288 will be a great improvement to this VA program and will enhance the rehabilitation opportunities of our disabled veterans.

Mr. President, H.R. 5288 would expand the purpose and effective operation of the VA's rehabilitation program beyond the achievement of a veteran's employability to that of obtaining and maintaining suitable employment. The VA would take a greater role in not only training a disabled veteran for a particular occupation but the agency would expand its function in assisting the veteran in obtaining employment.

The VA would be given authority to provide a broader range of services and assistance than is provided under current law. Due to the great advances that have been made in the past few years in the field of rehabilitative medicine, the VA's authority to provide these services pursuant to existing law has been questioned. Therefore, H.R. 5288 provides greater latitude for the VA to utilize a full range of rehabilitative and employment services.

Mr. President, the Administrator's responsibility to seek and insure that veterans participating in chapter 31 programs obtain employment will be expanded. The Administrator will be greatly involved in all Federal veterans employment efforts and programs. These would include the Comprehensive Employment Training Administration (CETA) program within the Department of Labor; the veterans cost of instruction program (VCIP) conducted by the Department of Education; and provisions mandating preference for veterans under the Small Business Act, and other similar programs.

Mr. President, I am pleased that H.R. 5288 contains a provision that would provide, by statute, a clerical secretary for each of the 52 State representatives of the Veterans' Employment Service. These secretaries will become an integral part of the Veterans' Employment Service and its effort to assist veterans obtain employment in each State. H.R. 5288 also provides that the current position of Deputy Assistant Secretary of Labor for Veterans' Employment be upgraded to that of Assistant Secretary of Labor. I believe this provision is very important in that veterans will now have more equality of representation within the Department of Labor.

Mr. President, H.R. 5288 contains many modifications to the VA educational programs that are similar to S. 870, which passed the Senate on January 24, 1980. These modifications will respond to several studies that have been conducted by the General Accounting Office concerning various GI bill programs and will attempt to curb abuses that have been found within the programs. Furthermore, in an effort to reduce paperwork for both the veteran and the institution, H.R. 5288 would codify certain existing regulations concerning the day-to-day administration of these educational programs. This bill also provides for a 10 percent cost-of-living increase for recipients of GI bill benefits. This is extremely important since these veterans have not had their monthly payments increased since October 1977.

I believe, Mr. President, that H.R. 5288, as amended, will provide the VA the needed statutory authority to render service and training to those veterans who have been disabled while serving our Nation, and it will authorize much needed changes in the GI bill. I urge my colleagues to support H.R. 5288, as amended.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may yield the floor to the Senator from Louisiana, with the understanding that I will obtain the floor when he has finished.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the continuing resolution, House Joint Resolution 610.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1687

(Purpose: To eliminate the reduction in funding for the Work Incentive program)

Mr. LONG. Mr. President, on behalf of Mr. TALMADGE, I call up an amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for Mr. TALMADGE, proposes an unprinted amendment numbered 1687:

On page 18, beginning on line 16 strike out section 120 of the joint resolution.

Mr. LONG. Mr. President, my amendment would eliminate the proposed reduction in funding for the work incentive program, thereby continuing the level of Federal funding for WIN at the same level as approved by the House Appropriations Committee.

The continuing resolution before us now provides for a cut of $100 million below the amount available for WIN in 1980. I think the Senate should be made aware of the fact that this cut would not simply reduce, but would effectively destroy the WIN program in most counties of the country.

In recent years the WIN program has been increasingly successful in helping welfare recipients to move into jobs and off the welfare rolls. It is the single major program we have for that purpose.

WIN was created with the purpose of implementing the requirement in AFDC law that adults on welfare who are not ill, or who do not have a small child to care for, must register for, and participate in, employment and training. To destroy WIN would be to seriously undermine any AFDC work requirement. In addition, many welfare recipients who volunteer for work and training would no longer have services available to them.

Furthermore, Mr. President, this cut would end up not as a saving to the Government, but as a cost. Labor Department statistics for the third quarter of 1980 indicate that there will be a projected saving in the AFDC program due to WIN activities of $563 million in 1980. Additional savings in the medicaid and food stamp programs are expected to bring total savings to $971 million, a total of 271,000 people will be placed in jobs, and about 50 percent of these placements will result in the removal of families from welfare.

These benefits to families, and these savings in dollars, would be severely reduced by the cut in funding. The cut of

$100 million would in fact increase AFDC costs by about $280 million, and would increase food stamp and medicaid costs by about $200 million.

It is my judgment that these facts call for an expansion of the WIN program, not a drastic cutback, as is proposed in the resolution.

The argument is made that this reduction is justified because WIN overlaps with the CETA program. The administration does not agree with this. It requested an increase in the WIN funding 1981 budget. The House does not agree with the cut. It has proposed no cut in funding.

Mr. President, I point out that although CETA is now targeted toward serving economically disadvantaged persons, CETA prime sponsors are not required to serve AFDC recipients. A cut in WIN funding will certainly result in a cut in service to welfare recipients. Even if CETA funds were specifically earmarked to offset WIN reductions, the clear result would be a cut in services to other disadvantaged individuals.

I would also like to emphasize that WIN staff throughout the country have been developing increasing capability to serve AFDC recipients, many of whom need special services. CETA prime sponsors do not generally have the same capacity. They are used to serving a different group of clients, and are not prepared to meet the special kinds of needs of AFDC recipients.

WIN has a system of combining social services, such as child care, with manpower services, so that AFDC recipients have the range of resources needed to help them find and keep a job.

In June of this year we passed a law to further strengthen the ability of the WIN program to help people find jobs. We authorized job search programs whereby WIN offices throughout the country can begin to assist people in finding jobs as soon as they are in need, and before they have had to resign themselves to prolonged welfare dependence. These amendments, Mr. President, which we agreed to just 2 months ago, would be entirely undermined by the proposed cut in funding.

The Department of Labor has prepared an analysis of the impact this $100 million cut would have on the WIN program.

The analysis shows that the cut would reduce WIN program availability and the work requirement enforcement procedure for approximately 1 million AFDC families. Of the 3,104 counties in the United States where we have AFDC recipients, a total of 1,774 currently have a WIN program. This cut could reduce program coverage to the 177 most densely populated counties, with one small project in each of the 23 States with relatively low population, a reduction of 89 percent. WIN would become almost exclusively an urban program.

State and local staff would be reduced from 13,000 to approximately 6,600 persons, a reduction of 51 percent.

Intake services, such as employability evaluations and exposure to the labor market, would be reduced 33 percent.

Institutional and work experience training would be eliminated.

Public service employment and on-the-job training would be held at the minimum level consistent with the mandate in the law that expenditures for these activities make up one-third of all WIN expenditures.

There would be a 50-percent cut in the number of man years of work and training that could be provided.

Child care and other supportive services would be reduced by 30 percent to $84 million. Persons in need of multiple services could not be served.

The number of persons placed in employment would fall to 140,000, or 50 percent below the currently projected number.

Welfare grant reductions would be about $280 million at this funding level, only half of current levels.

Summing up, Mr. President, this cut, if approved, would have repercussions far more serious than the dollar figures suggest. It would undermine in the most serious way our long-standing commitment to help families become self-sufficient.

As I mentioned earlier, this Congress just recently acted to strengthen the WIN program. We finally succeeded in enacting amendments passed by this body several times previously. In doing so, we held out the promise of better services to needy families on welfare. Surely we cannot lightly renege on that promise.

This is a period of economic difficulty for many, and welfare families have reason to be among the most discouraged. Cutting WIN could only discourage them further, by reducing their hope to find a job. and a better life.

Mr. President, I request unanimous consent to have printed in the RECORD the WIN State allocations for fiscal year 1981 pursuant to the President's budget request and under the Chiles amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WIN STATE ALLOCATIONS FISCAL YEAR 1981

	President's budget request	Chiles amendment
Region 1:		
Connecticut	5,398,709	3,765,554
Maine	2,081,013	1,451,489
Massachusetts	11,632,653	8,113,678
New Hampshire	806,081	562,234
Rhode Island	1,868,317	1,303,135
Vermont	2,190,165	1,527,622
Total	23,976,938	16,723,714
Region 2:		
New Jersey	12,818,278	8,940,642
New York	32,720,152	22,822,033
Puerto Rico	2,087,235	1,455,829
Virgin Islands	433,768	302,549
Total	48,059,433	33,521,053
Region 3:		
Delaware	1,209,639	843,713
District of Columbia	3,292,849	2,296,734
Maryland	6,842,993	4,772,930
Pennsylvania	15,434,205	10,765,229
Virginia	4,866,771	3,394,532
West Virginia	4,743,200	3,308,342
Total	36,389,657	25,381,482
Region 4:		
Alabama	3,086,695	2,152,944
Florida	4,900,706	3,418,201
Georgia	5,697,053	3,973,646
Kentucky	3,595,764	2,508,015
Mississippi	2,674,375	1,865,354
North Carolina	5,139,679	3,584,883
South Carolina	2,603,500	1,815,919
Tennessee	3,375,146	2,354,136
Total	31,072,918	21,673,101
Region 5:		
Illinois	16,907,988	11,793,180
Indiana	4,388,252	3,060,769
Michigan	26,546,041	18,515,642
Minnesota	6,654,095	4,641,175
Ohio	21,793,815	15,201,004
Wisconsin	14,299,223	9,973,588
Total	90,589,414	63,185,360
Region 6:		
Arkansas	2,048,753	1,428,988
Louisiana	2,601,865	1,814,779
New Mexico	1,426,426	994,920
Oklahoma	2,172,725	1,515,457
Texas	7,117,476	4,964,380
Total	15,367,245	10,718,525
Region 7:		
Iowa	3,869,344	2,698,835
Kansas	2,550,277	1,778,796
Missouri	4,725,731	3,296,157
Nebraska	1,304,224	909,685
Total	12,449,576	8,683,475
Region 8:		
Colorado	5,682,995	3,963,841
Montana	1,586,136	1,106,316
North Dakota	1,004,257	700,460
South Dakota	1,535,122	1,070,734
Utah	4,763,323	3,322,378
Wyoming	642,666	448,254
Total	15,214,499	10,611,986
Region 9:		
Arizona	2,335,532	1,629,014
California	45,862,650	31,988,815
Hawaii	2,038,939	1,422,142
Nevada	1,065,593	743,242
Guam	255,671	178,328
Total	51,558,385	35,961,543
Region 10:		
Alaska	1,098,134	765,939
Idaho	2,080,554	1,451,169
Oregon	10,549,542	7,358,217
Washington	11,418,677	7,964,431
Total	25,146,907	17,539,757
National totals	349,824,972	244,000,000
Undistributed	15,175,028	21,000,000
Grand total	365,000,000	265,000,000

Mr. LONG. Mr. President, the purpose of this amendment is to restore the cut that was made on the work incentives program. It is the judgment of the Finance Committee that for every dollar we spend in this work incentive program, we save $4 by moving people off welfare and into work.

We believe that this program should be continued, as was recommended by the House, because we believe that this expenditure will save four times what it costs. Our experiences and the studies in the department indicate that there is a very great saving in doing this.

I hope this funding for the work incentive program can be continued at the level recommended by the House of Representatives.

Mr. MAGNUSON. Mr. President, I was a little concerned about this amendment because it put back $100 million in the work incentive program. This amendment simply restores a $100 million cut below the House. However, we saved $350 million on the CETA program. This is a similar program. CETA is to put people to work, and this does so in a different way. I believe this will keep us at a net saving of $350 million, below the House-passed version of the continuing resolution.

So I am willing to accept the amendment, if the Senator from North Dakota agrees.

Mr. YOUNG. Mr. President, in accepting the amendment, our bill will be about $350 million below what the bill was.

Mr. MAGNUSON. Yes. We still would be approximately $350 million below the original bill as it passed the House.

Mr. YOUNG. And the amendment of the distinguished Senator from Louisiana is job related.

Mr. MAGNUSON. It is job related. It is the same idea—to get people to work.

Mr. YOUNG. I believe we should accept it.

Mr. MAGNUSON. The amendment of the Senator from Louisiana picks up more of a permanent program, and it is trying to get people off welfare and into work, and I believe that is a good idea.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1687) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOW-INCOME ENERGY ASSISTANCE

Mr. LEAHY. Mr. President, during our discussion on the many important programs contained in this continuing resolution, I wanted to comment on one program which is particularly essential—and timely. This is emergency energy assistance to help the low income and elderly meet the rising costs of energy. This program is of vital importance to thousands of Vermonters who are already starting to feel the first cold twinges of winter.

Last year at this time, Congress was not yet aware of the very real anxiety that many Americans were suffering—anxiety that they might not make it through the winter. This funding was not made available until well into the heating season, and not before many people had given up hope for any relief.

The poor and the elderly in my State have nowhere else to turn for help. They have already conserved, weatherized, and switched to cheaper forms of energy where they can. They have closed off rooms, turned off lights, and foregone necessary medication and sometimes food. The assistance provided in this bill is the only hope that many of these people have to make it through the winter.

I cannot help feel that the Government has a growing responsibility to assist those who simply cannot cope with soaring energy costs. Government policy is at least partly responsible for these increases, and we must continue to work to improve those policies. But in the meantime, the Government has a responsibility to assist those who cannot cope, and to protect them from undue suffering and hardship.

Each region in this country has its own problems and needs—all of them serious and legitimate. My colleague on the committee, Mr. Chiles, spoke very eloquently and compassionately of the deaths in his State due to the unrelenting high temperatures it experienced this summer. I know in my State, Vermonters must keep their furnaces lighted from October through April, and often have to suffer through subzero temperatures for weeks at a time. Energy costs are rising everywhere, and many people need relief.

The House level of $1.8 billion is an increase over last year's level, but it is far from what is needed. The $2.03 billion provided by the Senate committee, and recommended by the Budget Committee in its second budget resolution, is absolutely necessary just to offer the same assistance it did last year. Fuel oil costs have risen by over 50 percent, and are expected to rise to as high as $1.15 or $1.20 per gallon this winter. Even the price of wood has reached $90 to $100 per cord. There simply is no cheap energy to be had.

These statistics are solemn enough, but they do not even take into account the 50-percent increase in households eligible for this assistance. The House figure represents only a 12.5-percent increase over last year's funding and is far from adequate to compensate for these other increases. The Senate recommendation of $2.03 billion is essential if we are not to deceive millions of poor and elderly who are relying on this assistance. It is still possible that this level of funding may not be sufficient to meet the level of need.

The action taken by the committee included some long, and often animated discussions between myself and my colleague from Florida (Mr. Chiles). The solution we reached is fair and balanced, and is a solution which I think will be responsive to the needs of each State. It is important to note that every State received an increase over last year's funding, despite the change in formula.

To recap some of the other committee action on the emergency energy assistance program, the committee lifted the $500 cap on assistance to an individual household, which was of concern to a number of States. In Vermont, for example, the average heating bill is $1,200. and the cap would have severely limited the amount of assistance the State could have provided.

The committee also restored the $100 million of these funds to be used for emergency, stopgap measures that can't be provided under the regular assistance program. This assistance will be provided by the local community action agencies, and can take the form of blankets, repairing windows, or simply arranging for a fuel delivery when the regular office is closed.

I am heartened by the timeliness of the committee's action as well as its recognition of the magnitude of the problem. I look forward to the day when this sort of assistance is no longer necessary. But until that day, I firmly believe we must assist those for whom energy costs remain out of control.

CONTINUING RESOLUTION; LOW-INCOME ENERGY ASSISTANCE

Mr. CRANSTON. Mr. President. I want to take this opportunity to thank my colleagues on the Committee on Appropriations for their action on the low-income energy assistance formula.

It has taken many months of work and tremendous insight and unselfishness to recognize and address the needs of an entire Nation in adopting a formula for the low-income energy assistance program. I have stressed, from the time we marked up this legislation in the Labor and Human Resources Committee, that this legislation must be designed to give assistance to poor people to meet increased energy bills. The legislation makes it absolutely clear—as I with others, insisted it should—that it is the intent of Congress to address both heating and cooling needs.

Mr. President, several months ago, when we discussed this legislation on the Senate floor, many of my colleagues scoffed at the idea that heat deaths were a real problem for elderly and poor persons. This summer burned its way through the Nation, leaving hundreds of senior citizens dead in its wake. The importance of energy assistance for meeting the needs of cooling the homes of poor and elderly individuals, in addition to meeting their heating needs, should no longer be open to serious question.

There are numerous reports, from friends, neighbors and social workers, about finding seniors dead in their homes—homes which were equipped with fans and air conditioners. Why? Because they did not use their fans and air conditioners, Mr. President; their budgets just could not afford an additional $8 on their energy bills.

Although I am certainly far from fully satisfied with the Appropriations Committee's formula, it does use—to some degree—the more equitable Windfall Profits Act formula we enacted last year.

Mr. President, overall, I think the final product is acceptable, and I urge its adoption, and I know that there was much discussion in the Appropriations Committee markup about the importance of maintaining in conference the 75-percent floor in the Senate committee formula.

Finally, Mr. President, I am very grateful to the Senator from Florida (Mr. Chiles), with whom I have worked very closely on this matter, for his great leadership in the Appropriations Committee in achieving a reasonable resolution of a most thorny matter.

● Mr. SCHWEIKER. Mr. President, as Senators may know, a regular committee report was not filed with this continuing resolution. Instead, an "explanation of committee action" has been put in the CONGRESSIONAL RECORD.

The "explanation" covers many items, but one should be of particular interest. This concerns the National Health Service Corps (NHSC).

I believe it is important to set the record straight in regard to the language in the committee "explanation" on the Corps.

The most glaring error in the "explanation" involves the statement that the committee increased the funding for the NHSC by $3 million above the level in the House-passed continuing resolution. This is simply not so.

The actual increase is $8.2 million—a 40-percent personnel increase in a continuing resolution. This comes about because the current rate for the Corps as provided by the House version of the continuing resolution—and as affirmed in information provided by the Department of HHS—is $79 million.

The amendment before our committee in marking up the continuing resolution was to increase the funding for the Corps to the level of the fiscal year 1981 budget request, or $87.2 million. As a bit of subtraction will show, the difference between $87.2 million and $79 million is $8.2 million.

Yet the amendment was represented as a "$3 million increase." It is not—it is an $8.2 million increase and I told the Members this at the time. I deeply regret the amendment was agreed to—it has no place on this continuing resolution.

Moreover, the amount of money provided by the amendment is not authorized at this time. As the ranking minority member of the Committee on Labor and Human Resources, I have worked very hard on the new health manpower bill which deals with the National Health Service Corps. We recently passed the measure in the Senate and are in conference with the House.

Yet this NHSC amendment to the continuing resolution would usurp the jurisdiction of our Labor and Human Resources Committee because, simply put, the amendment authorizes at the same time as it appropriates.

I would reemphasize that between now and December 15 no individual will be released from his or her service obligation if the House appropriations position is adopted nor will the goals of the NHSC fail to be met in fiscal year 1981.

I regret this has been done and I voted against the proposal in the Appropriations Committee when it was brought up. The committee explanation is at odds with my clear understanding of the cost of the NHSC amendment, and I wanted to call this to the Members' attention so the record will be straight.●

GI BILL AMENDMENTS ACT

The Senate continued with the consideration of a message from the House of Representatives on H.R. 5288.

Mr. CRANSTON. Mr. President, this measure, the House amendment to the Senate amendment to H.R. 5288, embodies a compromise agreed to by the two Veterans' Affairs Committees and passed by the House of Representatives yesterday. It has been cleared on both sides and incorporates certain provisions of the several Senate-passed measures and a House-passed measure, H.R. 7394. This represents a fair compromise of the differences between the various provisions of the House- and Senate-passed bills and indicates a large proportion of the basic Senate positions on the matters addressed by the legislation.

I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 5288 be printed with the amendments just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 4015

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from consideration of H.R. 4015, that the Senate proceed to its immediate consideration, that the committee amendment that is at the desk be adopted by striking out all after the enacting clause and inserting the text I have described, that the bill be considered as having been read a third time, that the bill as so amended be passed, and that the title be amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 4015 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, the provisions of the committee amendment just agreed to—all relating to VA health-care issues, clarification of certain VA health-care cost recovery authorities, revisions of the agent orange study provisions of Public Law 96–151, and extension of the availability of funds committed under the VA's assistance to new State medical schools program—were agreed to by the Senate on September 4, 1980, as amendments to S. 1188, the "Disabled Veterans Rehabilitation Act of 1980." During the negotiations that I discussed during consideration of the prior measure, between the Committees on Veterans' Affairs, to work out the differences between S. 1188, Senate and House versions of H.R. 5288, and H.R. 7394, the House refused to consider any of these provisions for inclusion in the compromise agreement on those bills on the grounds that they were not germane to any House-passed education, employment, and rehabilitation provisions in those measures.

Thus, our committee has today returned to the House the three health-care-related provisions as an amendment to a health-care bill, H.R. 4015, in order to seek consideration of them by the House in a germane context.

SENATE CONCURRENT RESOLUTION 130—AUTHORIZING CORRECTIONS IN ENROLLMENT OF H.R. 5288

Mr. CRANSTON. Mr. President, I send to the desk a concurrent resolution making technical changes in the House amendments to H.R. 5288, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 130) authorizing corrections to be made in the enrollment of H.R. 5288.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

The concurrent resolution (S. Con. Res. 130) is as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In clause (3) of section 103 of the bill, strike out "and inserting in lieu thereof a period".

(2) In subsection (b) of section 1774, as amended by section 203 of the bill, strike out "1,103" and "833" and insert in lieu thereof "$1,103" and "$833", respectively.

(3) In section 325 of the bill, strike out "1723" and insert in lieu thereof "1723(a)".

(4) In section 331 of the bill, strike out "striking out" and insert in lieu thereof "inserting".

(5) In subsection (c) of section 1788, as added by section 345(b) of the bill, strike out "means a study" and insert in lieu thereof "means study".

(6) In section 505 of the bill, after the quotation marks after "representative" insert "the first time such term appears".

(7) In subsection (g)(1) of section 1682, as added by section 602(a) of the bill, strike out "$311 per month for a full-time course" and insert in lieu thereof "the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title.".

(8) In subsection (e) of section 1732, as added by section 602(b) of the bill, strike out "institutional".

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, finally I ask unanimous consent that H.R. 5288 be printed with the House amendments just agreed to with the technical corrections made by the concurrent resolution and that H.R. 7511 be printed with the House amendments agreed to Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank one and all for their cooperation.

SPEECHES DELIVERED AT THE 1980 VETERANS OF FOREIGN WARS NATIONAL CONVENTION

Mr. THURMOND. Mr. President, the Veterans of Foreign Wars (VFW) is an organization founded upon noble principles and committed to providing service to our Nation's veterans. Its membership totals 1.9 million—of which 500,000 are of the Vietnam era. In addition, the Ladies Auxiliary numbers 600,000 members.

During the week of August 17–23, 1980, the VFW held its National Convention in Chicago, Ill. and elected my good friend T. C. Selman, of Freeport, Tex. as the National Commander in Chief of this great veterans organization. As a native Texan, Commander Selman earned his battle stars and veteran status as a first sergeant during the invasion of Guam in June 1944. His ability to get the job done was soon recognized following the Guam campaign when he was advanced to sergeant major—the highest noncommissioned officer rank. He also saw action in the Solomon Islands, Saipan, and the Marianas Island campaigns and was discharged in September 1945. With this battle record and his years of subsequent service on the local and State levels in behalf of veterans, T. C. Selman is an excellent choice for the high post of National Commander in Chief of the VFW.

For the benefit of my colleagues, I ask unanimous consent that the acceptance speech by Commander Selman be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, also attending and speaking before the VFW National Convention was my colleague and ranking Republican member of the Senate Veterans' Affairs Commitee (Mr. Simpson).

It has been my pleasure to work with Al Simpson on the Veterans' Affairs Committee during this Congress. As a freshman in the Senate, Al Simpson has shouldered the responsibility of ranking member of this committee in a most responsible and effective manner. I look forward to his continued committee leadership and wise counsel in the Senate during the 97th Congress.

Mr. President, Al Simpson's speech was one of the most outstanding speeches given at this National Convention. He pointed out the challenges facing our Nation and our Nation's veterans, and he made recommendations regarding the necessary action that should be taken. I urge my colleagues to read this speech and consider his views and recommendations. Mr. President, I ask unanimous consent that this speech by Al Simpson also be placed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Exhibit 1

Acceptance Speech of T. C. Selman

I wish to begin my acceptance speech by expressing one sincere thought as your newly elected commander-in-chief. I am sick and tired of the treatment our Nation's veterans are receiving at the hands of the Carter administration and by too many members of Congress!

It is time for the Congress of the United States to again accept the responsibility of taking care of those they chose to defend this country!

They must realize that they cannot vote against veterans programs and then tomorrow ask the youth of this Nation to defend it.

They must stop buying the White House "party line" and stand on their own principles and vote their conscience instead of their political beliefs.

The challenges that were in the future are upon us today. The question is: Do we care enough to overcome the battle to save our beloved country and the programs for those who fought her battles on land, sea, and in the air?

Knowing the commanders on all levels within the Veterans of Foreign Wars of the United States, I can with all honesty and confidence say that by remaining always faithful to our ideals—we can!

The challenges are many. They range from the loss of relatively minor entitlements for veterans to the loss of major weapon systems for the defense of our country.

But, faced with the knowledge of the challenges, I am sure that we, the V.F.W., can undertake to be the leader in the restoration of all those things held so dear by those who care.

We have seen under this administration over the past years a constant attack on hard won entitlements for veterans. Much of the reductions have been directed at the younger Vietnam veteran. Budgets have not increased his GI bill educational assistance payments. The budget for next year is shamefully lower than it should be to provide these veterans the programs they need.

The direct loan program is being phased out. The Vietnam veteran will lose the chance to take correspondence courses and flight training. Dental care for newly discharged veterans is being eliminated. And veterans preference in hiring at the Federal and state level continues to come under attack.

This must stop!

It is the Vietnam veteran to whom we must look for leadership in the future. I pledge to you that the Veterans of Foreign Wars will champion the causes of this group, yet continue to care for all veterans of all wars, their widows and orphans.

Of course, the attacks do not stop with Vietnam veterans. The main attack has been and continues to focus on the veterans' medical care system which is for all those veterans who are eligible.

Tight budgets proposed by the administration have closed over 5,000 beds, turned veterans away from outpatient facilities, dropped 7,000 medical people from the rolls—and, while the V.F.W. was able to restore 3,800 only 2,200 have actually been rehired.

There is a freeze on hiring VA employees, so that only one for each two vacant spaces may be hired. Beneficiary travel pay has been cut which limits reimbursement for those going to facilities for non-service connected disabilities. The administration has attempted to cut over-the-counter medicines, and the 1981 budget will cut outpatient care for retired military people.

The administration has proposed that the VA become a provider organization in their national health plan. They have also proposed that patients in VA hospitals be treated only for service connected disabilities and that other sicknesses be covered by community hospitals, welfare institutions or health care providers such as medicare and Blue Shield.

I say that veterans are too special to line up with people who have never served overseas in time of war to receive welfare from any agency of this government.

This treatment of veterans must stop. It cannot continue. We in the V.F.W. must see to it that our veterans receive proper care as authorized by law. It must be a priority during the coming year.

These are our problems in a nutshell.

To remove these problems your Washington office has presented to both political parties, V.F.W. recommendations which request the following stands:

First, they must pledge submission of a realistic budget for the Veterans' Administration. One which will restore the 5,200 hospital beds already eliminated and the 7,000 medical care personnel cut due to budgetary constraints.

Second, they must pledge that no national health insurance plan will be approved which would, or could invade the VA hospital and medical care system.

Third, they must pledge that no reorganization plan will be submitted which would abolish all, or part, of the functions of the VA and its programs, or transfer any function or program to any other agency.

Then, they must pledge to uphold and enforce veterans preference in Federal employment.

They must pledge that the department of labor budget will include as an identifiable line item adequate funding for the veterans employment service.

And, lastly, pledge to expedite radiation and herbicide exposure studies by the VA.

I urge each of you to take every opportunity to let your representatives and senators know that you expect them to vote for an adequate budget; let them know when you have been denied care at a VA facility; let them know that as a Vietnam veteran you resent being short-changed on educational benefits and the VA dragging its feet with respect to the agent orange situation. On the other hand don't forget to thank them for voting in support of our positions. Let them know that we in the V.F.W. watch what they do in Washington.

Any discussion concerning veterans programs, and yes, even budgets for our national defense must touch on a new problem we are seeing in Washington.

As late as last year, while the administration was proposing a VA budget which would not do the job, the V.F.W. knew we could go to our friends in the Congress to get money added to this budget. Most of the time, money for additional VA funds was added by voice vote or in a conference between the Senate and the House of Representatives.

As the year wore on, it became clearly evident that some members of the congress were speaking out against additional money for veterans or the country. Budget limits were imposed and even members of the veterans' affairs committees became budget-cutters and questioned the wisdom of long-standing programs for our country and those who served.

A decision was made to recommend that the V.F.W. form a political action committee. The delegates approved it by a voice vote. I commend you for that action!

It was a controversial step, but, the V.F.W. has never avoided controversy when it was good for the order. I can assure you that this was a refreshing move. One watched by other veterans organizations, the press, the public, the administration, the President of the United States and the Congress.

I can also assure that for a young political action committee, it has been a huge success. Thousands of you have joined together to make your voices heard for your country and its veterans. That is what your VFW-PAC stands for. Not Republican or Democrat, but for our country and its veterans.

The courage of the board of directors in selecting candidates for election was backed by the voting records of those chosen or by their statements concerning what they would do if elected to office.

Those endorsed have praised the V.F.W. for being the only group with the strength to form such a committee and have complimented us for our courage.

I believe that when the history of the Veterans of Foreign Wars is written, our organization will be characterized by words such as foresight, dedication, courage and wisdom.

I do know that for the first time in any such group's history we have pointed the finger and said, "your voting record, as we see it, shows that you could love your country's defense and veterans more."

Now that the board of directors has done his job, the remainder of the work lies on your shoulders. You have the ball.

Between today and election day, you must get out and work for these endorsed candidates. Give them a call. Tell them that you know that your VFW-PAC has endorsed them. Ask what you can do to get someone who has stood up for his country's defense and its veterans relected.

You can drive others to the polling place. You can volunteer to answer telephone calls. You can distribute voting leaflets where legal. You can babysit to free someone to vote. In short, we must get these people elected to the Senate or House so that our country remains free and takes care of those who fought.

Turning to the national security of our beloved country, today it is both politically safe and smart to be "for" defense.

"Always faithful," your Veterans of Foreign Wars stood by the embattled and belittled armed services long before the sickening events in Iran and Afghanistan made such a stand popular.

And we'll choose what is right over what is popular for as long as there is a Veterans of Foreign Wars of the United States.

I put it to you plainly: This administration's so-called national defense policy is a transparent catering to election year domestic political considerations.

There was "progress"—remember?—on the hostage question on the day of the Wisconsin primary, not the day before or the day after.

The failed desert #1 rescue mission reeked of politically-timid force reductions and initiative-killing restrictions. We wound up with the worst of both worlds: Looking both weak and aggressive at the same time.

That wasn't easy to do, but this administration managed to pull it off.

Well, I've got news for our national leadership, elected or appointed.

The American people are far ahead of their politicians. We are willing, in President Kennedy's words, "to pay any price and bear any burden to assure the survival and success of liberty."

It's easy, of course, to point to problems and offer no solutions.

Starting now, and for as long as I will serve as your commander-in-chief, when I point out a problem, I will offer a solution.

Now for some of the major problems affecting our national security and my solutions thereto:

Problem: The lack of a central, agreed national security strategy.

What we see today is a policy of flutter, stutter, mumble, and fumble.

Solution: At the core of a new American strategy, we can, must, and will rediscover the guts and the means to halt the relentless spread of Soviet, global, military imperialism.

The SALT II treaty, as written, is a thinly veiled strategic surrender. It deserves to be killed—and it will be killed.

The defense budget can, must, and will be raised to the peace-time level it held in 1964, about 8 percent of our gross national product. (I will spell out specifics in a minute.)

Problem: The overall failure of the all volunteer force method of raising our armed services.

Today, we neither "buy" adequate forces by means of compensation or "breed" our fighting men by means of a fair, loophole-free draft.

Solution: I say to all thumb-sucking, poll-watching politicians: To heck with whether or not a fair, loophole-free male draft is "popular." It is needed, and desperately needed, and as your commander-in-chief, I intend to fight for it. In time, we will have it because we must.

Not only will our Armed Forces be made more representative of the people they serve, but short term military service is just what many of our pampered, over-educated, under-motivated affluent youngsters need.

There are tougher decisions in life than arguing about what television show to watch.

For our career service people, experiencing what the chief of naval operations has described as a "hemorrhage of talent," we will fight for increased flight pay, dollars to handle moves, and all the other career incentives jointly proposed by Senators Nunn (Georgia) and Warner (Virginia).

We will call for an across-the-board military pay increase of at least 11.7 percent as proposed by Senator Bill Armstrong (Colorado).

And we will point out to $60,000-a-year Senators that they park their cars for free while $9,900 a year service people at some 34 duty stations must pay to park where they are ordered to go.

And, many of these same Congressmen are wringing their hands over plummeting service morale.

Problem: The 2,027,000 active duty men and women in our Armed Forces are out-tanked, out-gunned, out-planed, out-missiled, and out-shipped by the 4.8 million men (only 10,000 women) in the armed forces of the Soviet Union.

They lead us in 17 of 21 measurements of military power and, if present trends continue, by 1985 we will lead only in helicopters which, like wild geese, can honk and fly away.

Solution: The specific measures I will now spell out will cost money, but I stand with President "Ike" Eisenhower when he reminded us that "In the final analysis, a soldier's pack is not so heavy as a prisoner's chains."

I hereby recommend, as a minimum:

An added $260 billion to defense over the next 6 years to assure:

(a) A total of five more active duty Army and Marine divisions;

(b) 127 more major surface combatant ships than now planned towards a Navy of 650 ships;

(c) 180 additional Air Force and Navy fighter/bombers;

(d) 200 more Air Force transport planes;

(e) A combined increase of approximately 300,000 people in the four military services;

(f) 300 newer versions of the Minuteman ICBM;

(g) 100 modern U.S. penetrating manned bombers better than the Soviet Union's "Backfire" bomber;

(h) Two additional Trident submarines per year; and, as I earlier called for;

(i) An adequate pay raise for the Armed Forces and a modern, fair, loophole-free form of draft for the active and reserve forces.

And, if the Soviets continue to increase their military spending as a recent CIA report indicates, I will propose an even tougher American response.

Problem. A sieve-like U.S. immigration "non-policy" which has permitted Florida and much of the Southwest to be flooded with Cubans and other illegal aliens. This total breakdown has (a) added to social unrest; (b) contributed to unemployment among veterans and other U.S. citizens; (c) threatened the integrity of the VA hospital system; (d) swamped congressional districts; and, (e) has tied up the Armed Forces by putting them in the refugee care business.

Solution: Regain control of our immigration policy—and national destiny—by:

(a) Deporting every illegal alien currently on welfare rolls;

(b) Causing employers across the country to verify that their employees are legally in the U.S. or face heavy fines;

(c) Reinforcing the border guards of the Immigration and Naturalization Service to prevent further illegal landings or crossings;

(d) Immediately deport any illegal alien guilty of a crime;

(e) Throw out every Iranian illegally in this country now.

Our Founding Fathers, in drawing up our Bill of Rights, were talking about citizens not, repeat not, law-breaking revolutionaries who enrage honest Americans by using our freedom to destroy our freedom.

We are the beacon of liberty, not the "godfather"; and finally—

(f) Develop a modern immigration policy which seeks out skilled, productive people America needs and not the current "non-policy" which, through default and mismanagement, lets criminals, queers, and welfare queens in.

Lets face it, America's riches have limits—as does our patience.

We are made to look and act the fool by a so-called "open arms" policy used by Castro to export his basket cases.

I've had it up to here. It must be brought to a skidding halt, and I mean now.

A few concluding thoughts:

My friends, there is no other "America" out there to save us from our folly. We re-arm or we die. It is that simple.

We seek to strengthen America not at the behest of any arms makers or special interests. We do what we do because we are what we are: Nearly two million members in 10,000 post homes—"pockets of patriotism" I call them—here at home and overseas.

Predictably, you and I will be called "war mongers."

Well, my skin is tough and if standing up for the richest, freest, and most decent society ever devised in the 3,431 years of recorded history equals being dubbed a "war monger," so be it. Meet "war monger number one."

You know in the 18th Century, we Americans gave birth to the freest society in the world.

In the 19th Century, we made it the richest nation ever.

And in the 20th Century, I find far too many of our fellow citizens apologizing for both accomplishments.

We are free because we are secure—not the other way around—and we'd best never forget it.

"Always faithful," I pledge to you and to every member you represent, that when I lay down this high honor you have bestowed upon me, with your help, together we will fight and win for America and for America's combat veterans.

In closing, let me leave you with a quote from former President Theodore Roosevelt, a thought which will guide the efforts of the V.F.W. for the coming year:

"A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards. More than that no man is entitled to, and less than that no man shall have."

Thank you.

EXHIBIT 2

SENATOR ALAN SIMPSON SPEECH BEFORE THE VFW NATIONAL CONVENTION

That's better than the introduction I had in Cheyenne last week where the guy got up and said, "And now for the latest dope from Washington, here's Al Simpson."

I want to pay my respects to the National Commander in Chief, Howard Vander Clute. I hadn't been on the Washington scene for two months when I attended your marvelous VFW meeting in March of 1979 in your honoring of the Voice of Democracy Contest Winners (very impressive and a gal from Cheyenne, Bonnie Droge (Dro-gee) won 2d place and $7000 scholarship) and my seatmate was Howard Vander Clute. We had a great visit at that time and I knew he would make a fine and able National Commander in Chief. Indeed, he has been just that.

I also wish to pay my respects to the National President of the Ladies Auxiliary Vona Houtz (Howtz); Past National Commanders in Chief; distinguished guests; ladies and gentlemen and my fellow comrades of the VFW.

I am most pleased and proud to have this opportunity to appear before you at this our 81st National Convention.

I bring you greetings from the high country of Wyoming—the land of high altitude and low multitudes—out where the canary bird sings bass. I am a lifetime member of the Cody Post and have always greatly enjoyed my membership in the VFW.

The story of the old cowboy standing out by the fence in Wyoming and the woman from the East drove by and said, "Young man, I understand that you have more cows than you do people out here. Why is that?" The old cowboy looked at her for a minute, hooked his thumb in his belt and said, "We prefer 'em."

And I must say that considering the festivities witnessed here in the hotel when I arrived late last night, I congratulate each and every one of you for your exceptional fortitude and gumption you display by your presence in this room at this rather unseemly hour.

Let me just briefly touch upon a number of veterans topics that are of particular concern to me.

How frequently we, as individuals—including me, also—can lose sight of the purposes and reasons for our efforts. Many people have stated it eloquently in many different ways but I have yet to hear it said any more clearly, more simply and more beautifully than it was said by Abraham Lincoln. Referring to the impending termination of the Civil War, in his Second Inaugural Address, Lincoln recognized the obligations of a reunited country. And one obligation was to "Care for him who shall have borne the battle and for his widow and his orphan". We need to often be reminded of exactly what the obligation of this country is to those who have fought in its behalf.

We in the Congress have been fortunate in the past 35 years to have had many veterans within the legislative halls. But time and the course of events in this nation in recent years are slowly reducing the number of veterans who serve in Congress. As that number of veterans serving in Congress diminishes further, so will diminish the sense of obligation to the needs of our 30 million veterans.

I would ask my comrades in the VFW and all other veteran's organizations to encourage the participation of more veterans in the political process. Veterans must be willing to enter the political arena and it is our responsibility as an organization to sponsor such participation at every opportunity. Because politics is where the action is, my friends. In this day and age we either, "Take part—or get taken apart."

You have already seen that reality in the forming of a Political Action Committee. I commend you. Encourage fellow veterans to run for local, state and national office—Democrat or Republican. Get involved. Surely anyone in these times who is naive enough to sit on the sidelines and say, "Well, I'm just too busy to get involved in that kind of stuff—that's politics—." Woe be it to those poor wandering souls with that kind of an attitude when they view the action that goes on in Washington, D.C.! Cooper T. and Don will tell you that!

Let me just share with you one of the greatest definitions I have ever heard of politics. "In politics there are no right answers, only a continuing flow of compromises between groups—resulting in a changing, cloudy and ambiguous series of public decisions where appetite and ambition compete openly with knowledge and wisdom."

Although the trends for the future are unclear, I can say, without reservation, that the total legislative accomplishments of the past decade have been significant. The veteran's lobby is a powerful one. Good things have been accomplished. Those who state that we have done little for the American veteran—are obviously unaware of the full extent of the efforts undertaken especially for the Vietnam Era veteran, in these past ten years:

Veterans Education and Training Amendments Act of 1970

The Veterans Housing Act of 1970

Veteran's Preference Under the Emergency Employment Act of 1971

Veteran's Cost of Instruction Program Legislation

Veteran's Compensation and Relief Act of 1972

The Vietnam Era Veterans Readjustment Assistance Act of 1972

Special Preferences under the Comprehensive and Employment and Training Act of 1973

The Emergency Jobs and Unemployment Assistance Act of 1974, providing on-the-job and other training opportunities for Vietnam Era veterans

The Vietnam Era Veterans Readjustment Assistance Act of 1974

The Disabled Veterans and Servicemen's Automobile and Adaptive Equipment Amendments of 1974

The Veterans Education and Employment Assistance Act of 1976

The GI Bill Improvement Act of 1977, acquiring more extensive VA educational and vocational counseling in outreach services

The Veterans Housing Benefits Act of 1978, increasing the amount of grants for specially adapted housing to assist severely disabled veterans

The VA Programs Extension Act of 1978

The 1978 Amendments to the Comprehensive Employment and Training Act, including Veterans' Preference

Veterans Health Care Amendments of 1979, containing a number of important new VA Health Care programs—most importantly the Vietnam Era Veterans Readjustment Counseling Program. A real outreach program with outreach teams. It is estimated that almost 2 million Vietnam Era veterans will participate in this program in its first two years.

And this year the Committee has reported out legislation to improve provisions of the GI Bill and provide for the much needed cost of living increase. We have reported out legislation that streamlines and improves the vocational rehabilitation available to service disabled veterans.

We have reported legislation revising the incentive pay system for VA physicians and dentists in order to attract and retain quality health care professionals in the VA hospital system and, of course, as we do in each year, we have adjusted the rates of compensation for the service disabled to compensate for the rate of inflation over the past 12 months.

And we'll bust one or two of those loose on the Senate Floor before Labor Day.

I do serve as the ranking minority member of the Senate Veterans Affairs Committee. I consider that a rare privilege and honor. In fact, it is a rare treat to outrank Senator Strom Thurmond or Senator Bob Stafford in any thing! And in large measure many of the achievements in the past ten years can be credited to the tireless efforts of the Chairman of the Senate Veterans Affairs Committee, Senator Al Cranston. Our first names are exactly the same and we have the same distinctive hairline!

Al Cranston and I may sometimes be at opposite ends of the political spectrum of philosophy, and yet when it comes to issues involving veterans' affairs, those types of differences are of little consequence since we are both dedicated to the proposition that pure partisanship has no relevance in issues concerning the veterans of this nation, and that an outstandingly creativity, development and oversight of our legislative programs. Each member of the Committee—Democrat and Republican—is willing to make the hard choices that are required.

But all is not roses, let me share with you another concern considering the grave economic realities that this nation now faces—and the fact that we will see a budget deficit for the last fiscal year of some $60 billion and one for this fiscal year of perhaps $40 billion—and all of the time while we were told that the budget was being "balanced"—then I doubt that many can rationally propose that we continue to meet the very real and specific needs of individual veterans with purely general programs.

I believe we made a mistake—in the poor use of our nation's material resources, when we accord all benefits to all veterans without regard to theatre of service or their actual needs or their circumstances. No, I do not anticipate that the VA share of the Federal budget will be reduced. In fact, under a new administration, I hunch it will be increased. Yet, under the best of circumstances we cannot afford to be less than totally efficient in crafting and implementing specific programs to meet specific needs. I am always told that it is "impossible" to differentiate between veterans with overseas and combat theatre experience and those who—admittedly through absolutely no decision making on their part—fulfill their service wholly within the continental United States.

My hunch is that we will all be taking a closer look at that. It is a harsh time for truth in the economics of government. People wander into my office and say, "Cut her back here, Al, and cut her back there," but before they leave they ask for their $5, $10 or $20 million bucks for their pet and particular project. And in Washington we handle that very maturely—and I fall prey to it too—we say, "Give that group their $5, $10 or $20 million bucks and get them out of town so that we can get back to the real issues of the day." Well the real issues of the day are that we have severe business, labor and economic problems.

I would just hope will all come to join with me in becoming very tired of hearing about "econometric models" and "transcendental curves" and "conceptual analysis" and "modular synthesis" and all of that junk. The issue is if you continue to spend more than you earn you lose your butt. (You will find few technical pamphlets written on that subject in that particular fashion and with that particular vocabulary!)

But it is the same with governments as it is right there in your own house. You can't do it with mirrors, and eventually your will be asked to cough up what you owe. That is the way it is and it's your money we're using.

I have also been particularly concerned in the past few years by the efforts of some groups and organizations to undermine the essence of honorable service. The Veterans Affairs Committee has been effective in blunting the legislative efforts of those who would accord a veteran with a less than honorable discharge with all the benefits of honorable service.

I do not feel that such legislative efforts are productive, and I am confident that we continue to defeat such attempts. No man or woman who serves less than honorable and faithfully in our armed forces should be accorded the veterans' benefits that a grateful nation bestows upon those who accept the serious and sacred obligation to defend our way of life.

Let's take a quick look at the all volunteer force. Since its advent the armed services have been plagued by attrition rates of upwards of 30 to 40 percent. There are those afoot in the land who look upon the present armed services as a type of laboratory of social experimentation for each of the services that would have no greater purpose than to provide refuge for the unemployable and emotionally crippled elements of our society.

Tragically, such individuals serve no greater utility in the armed services than they did in the civilian economy and are often unwilling to adapt to the rigor and discipline required in military life. Consequently, they are discharged from the services by the thousands for reasons of apathy and unwillingness to put forth even the minimum of effort.

Those who manage the swelling public assistance roles of this nation—in an effort to reduce the heat on themselves—seem poised to see that these admittedly unfortunate persons be accorded public assistance and medical care through the VA rather than through the normal agencies dedicated to that purpose. To allow that to continue is to break faith with the millions of men and women who served honorably and faithfully in the armed forces of the past two centuries.

I have joined in the presentation of legislation to prevent any enlisted member of our all volunteer force from receiving veterans benefits until he or she has completed two years of service. There are exceptions, of course, for those medically discharged or those who are discharged for reasons of hardship. I feel that the passage of that legislation is soon to come.

Perhaps my greatest concern for the veterans of this nation—and especially for those with service connected disabilities—is that they have continual access to the Veterans Administration Hospital system for their health care needs. This is the VA's first priority and I can assure you that this is my first priority. We have made tremendous progress in the past 10 years in increasing both the quality and availability of medical care and we must continue those efforts.

I have been and continue to be concerned that we are not meeting the health care needs of our older veterans. Again, Senator Thurmond (one hell of a life member) has been instrumental in initiating a pilot program of geriatric medicine within the VA's Department of Medicine and Surgery.

I have supported him in this effort and will continue to do so in the future. This has been one area that has been largely ignored in the past—yet this is where, within just a few years, the needs and demands will be the greatest. We must expand and not reduce such care—to care for he who has borne the battle.

Well! Whenever we get into a discussion about national defense and a strong military posture we are always faced with those who refer to us as "war mongers" and "those kooks with their hands on the button, saber rattlers"—not me, I'm just a realist.

You can bet a buck during this campaign we will hear a ton of horror stories about the raw fear of electing a man to the White House who will have his finger poised twitchingly above the red button.

That won't sell. Not with that great American who spoke to you Monday—Ronald Reagan. I am reminded of a phrase that my good colleague, Senator Roger Jepsen of Iowa, shared with me—and it is among the real truths of the day. It is this. "There are some things that are worse than war—and they all spring from defeat. Bondage, torture, slavery—whatever your mind can conjure up."

It is a solid and serious thought and it should make us all carefully alert when we stand up to that hail of historical hysteria about war mongering and all of that jazz. No one in this hall wants war. VFW members have been there and seen it and its aftermath. And remember that little poem about appeasement,

"No man escapes when freedom fails,
The best men rot in filthy jails,
And those who cry, "appease, appease,"
Are hanged by those they sought to please."

I notice that Max Cleland is next on the program. I wish to personally thank Max for the courtesies shown to me in the past two years. We can disagree without being disagreeable. He has a thankless and demanding job—and you sometimes lay it on him pretty strong—and I land on him too. But he carries out his responsibilities with effectiveness and with a sense of grace and style—and a sense of humor too. And that is most uncommon, especially in Washington.

And as we leave here after addressing these vital issues on a national level—"scoping" of the various problems and identifying them in the high levels of Washington and in your National Convention, it is sometimes easy to forget just who put us here to deliberate in these high councils.

The guy or gal who put us here is the ex-GI with the military service outside our shores—the one who pays dues to that local VFW Post in that small town of Iowa or West Virginia or Wyoming and serves as commander or quartermaster or on the House Committee—and all those auxiliary members who sell all those Buddy Poppies and serve up that Saturday or Sunday lunch or the holiday feed. It is those who participate fully at the local post level that we must not forget. We must promote and nurture that. Without that participation our goals will not be reached.

And for heavens sake—in these times—let the VFW continue to lead the way for veterans—and make the tough and responsible decisions. Indeed, let's always stand for something—lest we fall for anything.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1981

The Senate continued with consideration of the resolution (H.J. Res. 610)

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday when the Senate resumes consideration of this measure, that only one amendment in the first degree and one amendment to that amendment in the second degree be in order and that the amendment in the second degree must be germane to the amendment in the first degree, the amendment in the first degree to be offered by Mr. Weicker, and that no Senator's right to table or make any pertinent point of order be waived.

Mr. BAKER. Mr. President, reserving the right to object, I understand the request of the majority leader would mean in practical effect that no other amendment would be in order except the Weicker amendment plus the germane amendment to it.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. And following on after the disposition of that by a tabling motion or other appropriate procedural motion or by an up and down vote, we would proceed then to third reading and final disposition of the continuing resolution.

Mr. ROBERT C. BYRD. That was to be the remainder of my request, yes.

Mr. BAKER. I thank the majority leader.

Mr. MAGNUSON. Mr. President, I do hope as to the unanimous-consent, particularly as to the third reading of the bill, that the Senator from North Carolina and the remainder of Senators involved will be very brief.

Mr. HELMS. We shall be brief.

Mr. MAGNUSON. Brief.

Mr. HELMS. I guarantee it.

Mr. MAGNUSON. Good. We have to get this resolution over to the House of Representatives and if we can have third reading around noon, or something like that, 12:30, good, because I am going to call a conference with the House of Representatives no later than 2 p.m. because we only have 1 day. Otherwise, the whole Government is going to stop business. Senator Young and I have been very patient, but we cannot take much more of this, and we are willing to go back to work.

Is that not right?

Mr. YOUNG. That is right. I think the Senator is optimistic. I hope we will finish in time. I think the Senate may have to stick around for a couple days because of delays.

Mr. MAGNUSON. I hope it can be done, if we get the cooperation of the Senator from North Carolina and the Senator from Connecticut.

Mr. HELMS. You have it.

Mr. MAGNUSON. I am sure the Senator from Oregon will cooperate. I am sure the Senator from North Dakota and I will. Maybe we can get this done early Monday. But I want the third reading in the unanimous-consent request because over the weekend Senators think up other amendments. They go home and they think, "I should have amended this and amended that." We are apt to be flooded with a slew of other amendments, and I hope that the third reading takes place after these two amendments.

Mr. PACKWOOD. I understand.

ORDER FOR PROCEDURE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, the Senate under the order entered some days ago will come in at noon Monday.

What time, may I ask the distinguished chairman and ranking minority member, would they want to resume work on this measure on Monday?

Mr. YOUNG. Monday morning.

Mr. ROBERT C. BYRD. What time?

Mr. YOUNG. I would think no later than 10 a.m.

Mr. ROBERT C. BYRD. Start at 10 a.m. on Monday?

Mr. MAGNUSON. Yes. It is all right.

Mr. ROBERT C. BYRD. Mr. President,

are there any orders for the recognition of Senators on Monday?

The PRESIDING OFFICER. There are none.

ORDER FOR RECESS UNTIL 9:45 A.M. ON MONDAY AND ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:45 a.m. on Monday; that the time of the two leaders be reduced to 10 minutes to be equally divided; that the Senate then resume consideration of the concurrent resolution at which time only one amendment by Mr. WEICKER be in order and that only one amendment in the second degree—and I do not know that any will be offered—only one amendment in the second degree germane to the amendment by Mr. WEICKER be in order; that upon the disposition of the amendment by Mr. WEICKER the Senate then proceed without further amendment, motion, or debate to third reading; that the Senate then without further debate or motion proceed immediately to final passage of the continuing resolution and that there be no time for debate on any motion to reconsider the passage of the continuing resolution; provided, further, that Senators' right to table or to raise points of order not be waived, and that Mr. PACKWOOD in any event have at least 10 minutes before any motion to table.

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the request put by the majority leader accords with the understanding of the arrangements that I believe have now been made among the distinguished Senator from North Dakota, the Senator from Washington, the Senator from Connecticut, the Senator from North Carolina, and the Senator from Oregon.

I know of no objection on this side and I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on the continuing resolution today. But let me make sure we all understand the situation on Monday.

After the two leaders have been recognized on Monday under the standing order, they will be limited to 10 minutes to be equally divided. The Senate will resume consideration of the continuing resolution at which time no amendments will be in order except an amendment by Mr. WEICKER. Will Mr. WEICKER state the number of his amendment at this time?

Mr. WEICKER. Mr. President, in response to the distinguished majority leader, I do not think a number has been assigned, but I am assured that we will get a number.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. WEICKER. Everything else in this country has a number. There is no reason why my amendment should not have a number.

Mr. MAGNUSON. All right.

Mr. WEICKER. Amendment No. 2413.

Mr. ROBERT C. BYRD. Mr. President, on Monday only one amendment in the first degree, that is amendment No. 2413 by Mr. WEICKER will be in order, and only one amendment in the second degree if offered will be in order to Mr. WEICKER's amendment, such second degree amendment being required to be germane to Mr. WEICKER's amendment No. 2413; and upon the disposition of the Weicker amendment the Senate then will proceed to third reading without any further amendment, debate, or motion, and upon third reading will proceed immediately to passage of the continuing resolution and on any motion to reconsider the action on that resolution there will be no time for debate.

Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. May I ask the majority leader when are we going to bring up the Interior appropriations?

Mr. ROBERT C. BYRD. I wish to wait until Monday and think about that over the weekend.

Mr. MAGNUSON. All right.

Mr. ROBERT C. BYRD. I thank all Senators.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators may speak therein and the period not extend beyond 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

LT. GEN. JOHN W. MORRIS

Mr. GRAVEL. Mr. President, I would like to take this opportunity to pay tribute to a distinguished American, Lt. Gen. John W. Morris, Chief of the U.S. Army Corps of Engineers, who will retire this month after over 30 years service to his country. General Morris, a native of Princess Anne, Md., and a 1943 graduate of the U.S. Military Academy at West Point, has served as the Chief of Engineers since 1976.

During his military career, he has commanded troops at every level from platoon to separate brigade and has held every major leadership position in the U.S. Army Corps of Engineers. He has served as a combat commander in two wars. In World War II, General Morris served with distinction in the Pacific Theater of Operations where he was awarded various combat medals and battle stars. In Vietnam, he served as the commanding general of the 15,000-man 18th Combat Engineer Brigade. For his service in South Vietnam, in addition to numerous combat decorations, he was awarded the Distinguished Service Medal, the highest meritorious award this Nation bestows.

His glowing combat record is, however, overshadowed by his dynamic leadership of the Corps of Engineers, during the "Environmental Decade of the 70's." Through "Jack" Morris' achievements the U.S. Army Corps of Engineers has been recognized not only as a national asset but as an international asset. In 1977, Engineering News Record selected him as construction's man of the year for the corps' work in Saudi Arabia. His credentials are many, he has received numerous awards, and is a member of the National Academy of Engineering.

Jack Morris has provided the Senate Water Resources Subcommittee, which I chaired for 8 years, with invaluable assistance and advice on water policy and related matters. I do not believe the Corps of Engineers could have executed its civil works and environmental responsibilities more effectively and efficiently under anyone else's leadership during the 70's.

I would like to congratulate Jack Morris on a distinguished and honorable career. This Nation can look back with great pride on the accomplishments of the U.S. Army Corps of Engineers under his leadership.

Mr. President, I ask unanimous consent that the remainder of my statement on the accomplishments of the U.S. Corps of Engineers under Lt. Gen. John W. Morris' leadership appear in the RECORD as read.

The natural resources of the United States have made possible the growth and development of this Nation as the most powerful in the world. In the center of the struggle to preserve America and its heritage, the U.S. Army Corps of Engineers has played a peacetime role of managing the Nation's water resources since 1824.

The corps has made many admirable achievements in the environmental arena many years before the enactment of the National Environmental Policy Act. Many of these contributions were made through the leadership of Lt. Gen. John W. Morris. During the decade of the 70's General Morris held key positions in the corps as Missouri River Division Engineer, Director of Civil Works, Deputy Chief of Engineers and Chief of Engineers.

In a Brookings Institution book, "Can Organizations Change?", the authors found: ". . . By the early 1970's, however, neither public pressure nor legislation has succeeded in prompting major organizational and programmatic changes in the Federal bureaucracy—with one apparent exception. The Army Corps of Engineers, a seemingly entrenched bureaucracy, appeared to be making a noteworthy attempt to accommodate itself to both the spirit and the letter of the law by calling for greater public participation in project planning and decision making and by showing a hightened awareness of the environment."

No agency of the Government has ever wrought better than the Army Corps of Engineers. George Washington appreciated their worth. He provided for the construction of nonmilitary works by the corps. Future engineers are selected and appointed to West Point by Senators and Representatives. The corps selects from the high men of each class. They take post-graduate work after graduating at West Point. No engineers are better trained. They are prepared to meet challenges of peace as well as war, of emergency, and of disaster. They are on the job through all disasters.

In the corps' environmental actions, the Chiefs of Engineers since the 1970's were the stewards of the water resource management portion of the environmental movement. These Chiefs were well served. General Morris was Director of Civil Works at the beginning of the decade, with responsibility for the corps' role in the environmental rescue and maintenance operation. He saw to it that the corps turned around completely from its Depression-era emphasis on construction and quickly embarked on a course to meet environmental concerns head on.

Before 1970 most corps project planning activities had been carried out by a relatively small number of people—usually Federal experts along with State and local officials directly concerned with the proposed work.

Today, in addition to the Federal, State, and local officials, there are large numbers of private citizens, environmental groups, and others, who are interested in these projects and are taking an active part in planning their development.

Public participation in corps projects is a two-way process to insure that water projects serve the people to the largest degree possible as well as meet the needs for the region's economic growth.

ENVIRONMENTAL ADVISORY BOARD

The corps now encourages participation by these individuals and groups to bring the public more into this decisionmaking process.

Shortly after the National Environmental Policy Act became law, the Chief of Engineers established his Environmental Advisory Board to provide him with a broad range of outside knowledge and experience in environmental matters dealing with corps projects.

Following appointment of the Environmental Advisory Board, the Chief instructed all division and district engineers to give more attention to environmental concerns in planning water resource projects.

An objective evaluation of the corps' record during their period will show that the corps not only accepted the environmental policies adopted by the administration and Congress, but that it was actually providing environmental leadership throughout the Government to balance the objectives of development and conservation, rather than merely emphasize development.

ENVIRONMENTAL EXPERTS JOIN CORPS RANKS

In the last decade, the corps has added top level environmental experts to assist in planning, designing, and constructing water resource projects related to ecology and the environment.

Today there are almost 1,000 such experts on the corps payroll including biologists, zoologists, geologists, ecologists, recreation specialists, fish and wildlife management professionals, hydrologists, oceanographers, marine biologists as well as environmental engineers and environmental lawyers.

Together, these specialists are working with corps planning and design engineers to provide better water resource projects that will benefit the Nation's economy without damaging the environment.

CEQ LAUDS CORPS ON NEPA

The corps implementation of the National Environmental Policy Act has won praise from President's Council on Environmental Quality. In a March 1976 report on environmental impact statements, CEQ said:

> The Corps dropped or abandoned work on more than a dozen proposed projects because its NEPA process (not litigation) . . . revealed that significant environmental damage would result. Even other projects were stopped until environmental analysis could be completed. The Corps also modified or recommended deauthorization of many more projects in large part because of NEPA and the EIS requirement. . . . The action resulted in widespread benefits which are real and substantial but cannot be tallied in monetary terms.

PERMIT PROGRAM

In 1966 a Supreme Court decision gave the Army Corps of Engineers expanded authority against water polluters, even though their discharges would not have hindered commercial navigation. Prior to this, court decisions and attorney general opinions, related to the River and Harbor Act of 1899, had limited corps regulations to the protection of navigation only.

In line with this decision the Department of the Army and Department of Interior in 1967 signed a memorandum of understanding on cooperating and preserving wetlands and estuarine shallows.

In December 1968, one full year before NEPA, the corps changed its dredge and fill permit regulation and began considering such questions as fish and wildlife conservation, pollution, aesthetics, ecology, and the general public interest as well as the effect the proposed work would have on navigation.

WETLAND DEFENDER

The corps, under section 404 of the 1972 Federal Water Pollution Control Act, later revised the permit regulation extensively and began regulating the disposal of dredged and fill material in all waters of the United States, rather than just waters that were used or likely to be used for navigation. The section 404 program has gone far to make the corps a defender of the Nation's wetlands, since it regulates the placement of dredged or fill material that could alter or destroy these valuable resources. About half of the 16,000 permit applications the corps approved in 1979 involved 404 work.

DREDGED MATERIALS RESEARCH PROGRAM

Dredging operations, one of the oldest missions of the corps, is also one of its most challenging. Dredging keeps waterways navigable, but dredging necessitates the disposal of huge volumes of dredged material in an environmentally acceptable manner. The River and Harbor Act of 1970 authorized the corps to begin a comprehensive $30 million nationwide study to provide more definitive information on the environmental impact of dredging and disposal operations, and to investigate possible productive uses of dredged materials. The program study, now complete, is providing evidence and helping the corps implement concepts for putting the information into the hands of decisionmakers.

URBAN STUDIES

In 1970 the Chief of Engineers asked Congress to let him clean up one of the "dirtiest rivers" (Cuyahoga River) in the U.S. Congress responded by authorizing the corps to conduct pilot wastewater management studies in five major metropolitan areas of the United States: Boston, Cleveland, Detroit, Chicago, and San Francisco.

From these five pilot studies the corps gained valuable experience in wastewater management planning.

The 1972 Federal Water Pollution Control Act authorized the corps to provide similar planning and engineering assistance to States and regional urban bodies upon request. So far, more than 40 urban studies have been conducted for localities in the United States helping them examine their water and related land problems for the next 50 years.

PRESIDENT REVIEWS PROJECTS

The month after President Carter took office he called for a reappraisal of all Federal water resource projects—those of the then Bureau of Reclamation, Tennessee Valley Authority, Department of Agriculture, as well as the Army Corps of Engineers.

The President wanted the review of projects to help reshape the standards which had traditionally governed Federal investment in water resource projects. The corps welcomed the review because it helped "clear the air" on many water resource projects which were conceived, justified, and authorized years earlier, based on different criteria.

It is significant that out of more than 200 projects reviewed, only 2 percent of them were deleted from the corps program. Many people failed to appreciate that 98 percent of the corps' projects passed the review with flying colors.

DAM INSPECTION PROGRAM

The failure of several non-Federal dams in the early 1970's with loss of life and much property damage, brought about the National Dam Inspection Act of 1972, although no funds were provided for inspecting any dams. However, the corps did compile an inventory of almost 50,000 dams in the United States and developed guidelines for carrying out an inspection of non-Federal dams. Congress appropriated funds for the dam inspection program in August 1977 and the following November the President directed the Secretary of the Army to begin inspecting some 9,000 non-Federal dams that presented a high potential for loss of life or property. Working in cooperation with the various States and private architect-engineer firms, the corps has inspected more than 5,000 non-Federal dams and found over 25 percent unsafe, mostly because of inadequate spillway capacity. Emergency action was taken to draw down some dams found to be in a weakened or unsafe condition.

About 3,000 more dams will be inspected and appropriate Governors notified by the completion of the program in fiscal year 1981.

NONSTRUCTURAL SOLUTIONS TO FLOOD CONTROL

During the 1970's the corps had given special attention to nonstructural solutions to flood control problems. This involves flood plain regulation and the moving of structures, including homes, out of flood-prone areas. Since the passage of the 1974 Water Resource Development Act the corps has taken the initiative in its planning and now requires that nonstructural solutions be given as much weight as the more traditional structural solutions, including dams, levees and flood walls.

Recent examples of nonstructural solutions to flood control problems are projected at Littleton, Colo.; Prairie du Chien, Wis.; and Indian Bend Wash, Ariz.; which have left the streams in their natural state as much as possible.

DISASTER RELIEF

Emergency operations to assist the public during floods, hurricanes, earthquakes, and other disasters have taken on major importance to the Army Corps of Engineers.

Under Public Law 84–99 the corps provides assistance to the public in flood fighting and rescue work, rehabilitation of flood control works and protection of federally authorized shore protection structures when hit by severe coastal storms.

Under Public Law 93–288 the corps has assisted the Federal Emergency Management Agency in emergency and recovery work following various types of natural disasters. Last year the corps was asked to assist in disaster recovery operations about once every 2 weeks.

Also, hurricanes, blizzards, ice jams, and other emergencies including Mount St. Helens volcanic eruption earlier this year, have tested the corps ability to bring relief to the public following major disasters.

President Carter, at a press conference during his visit to the devastated area around Mount St. Helens, praised the corps for moving out quickly to begin dredging the Portland Harbor Channel that was blocked by millions of tons of silt and volcanic ash.

RECREATION AT CORPS LAKES

During the past decade use of corps lakes for recreation has almost doubled, making these reservoirs among the most popular family vacationing spots for all Americans, young and old. There are more visitors at corps' lakes than at national parks and national forests combined.

Recreation, once a minor assignment for the corps, is now one of its major responsibilities. Most corps lakes are within a 50-mile distance from major urban centers and thus have a steadily increasing number of visitors each year. More than 449 million recreation visits were made at the 426 corps' lakes in 1979, an increase of 11 million more than the previous years.

EPA CONSTRUCTION GRANTS PROGRAMS

In January 1978 the corps and the Environmental Protection Agency signed a 3-year agreement under which the corps began helping EPA manage its construction grants program for sewage treatment plants. The agreement calls for the corps to review treatment facility plans for constructability and to oversee construction of the project once EPA has granted the money and the local sewage treatment authority has awarded the construction contract. The corps provides on-site personnel to monitor the construction for all large and complex projects.

WATERPOWER 1979

In October 1979 the Chief of Engineers and the Secretary of Energy jointly sponsored the Nation's first international conference on small-scale hydropower.

Waterpower 1979, as the 3-day conference was called, brought together 1,200 international experts who exchanged information and ideas on better ways to develop and use small-scale hydropower plants in the United States and other countries throughout the world.

Waterpower 1981 will be held in Washington, D.C., June 22–24, 1981, to maintain the interest and momentum generated by last year's conference.

SAUDI ARABIA

The Corps of Engineers has about 1,400 employees (1,000 in Saudi Arabia and 400 in Berryville, Va.) working on a $12-plus billion nation-building program for the Kingdom of Saudi Arabia. With work now scheduled to extend into the mid-1980's, the program has the potential of exceeding $20 billion, and is fully funded and prepaid by the Saudis.

What began as a modest program financed by the Agency for International Development in the 1950's and 1960's has grown during the past decade to include various types of military construction for the Saudi army, navy, national guard as well as related port facilities and housing.

STRATEGIC PETROLEUM RESERVE

In 1973, when the OPEC oil embargo hit, it became necessary for the United States to consider the state of its crude oil supplies. As a result, the Energy Policy and Conservation Act was passed, calling for storage of oil in existing mines and caverns along the gulf coast in Louisiana and Texas. Responsibility for that program—the strategic petroleum reserve—fell to the Department of Energy; the mission of providing technical management support to DOE was assigned to the corps.

As of now, there are over 90 million barrels in the ground.

ISRAELI AIR BASES

As a result of the Camp David agreement between Egypt and Israel, the corps is building two military airbases in the Negev Desert. The bases, which must be operational in 3 years—half the normal construction time—will replace two bases which the Israelis will give up under the treaty. Construction began last year. The U.S. Government has provided $800 million of an estimated $1.04 billion total cost.

CONSERVATION DECADE

The 1980's lie ahead and new missions are seen for the U.S. Army Corps of Engineers. Along with the Nation, the corps is moving from the decade of the 1970's—the decade of the environment with less growth and development—to the decade of the 1980's—the decade of conservation.

Now the corps is ready to begin this new period of conservation which may very well dominate the 1980's the way the environment dominated the 1970's. It will take time to develop the President's national policy for conservation and then implement that policy within the Corps of Engineers.

The corps is in a unique position to help shape this period of conservation. With the help of the corps, the Nation can benefit from new and modified activities, including a complete review of operating procedures, emergency planning for drought, reuse of wastewater, and the reevaluation of all uses of water.

As a Nation, this country will want to assure a good supply of water for all its people. The Nation will need to store water during time of plenty and to transport large quantities of water from one region to another during time of shortage. When this country appreciates all the requirements of conservation, it will be well on the road to a proper balance between need and environmental consideration.

The corps is developing a water conservation policy that will be applied eventually throughout all corps civil works programs. Future work by the corps will emphasize water conservation as the policy is applied to individual projects.

NATIONAL WATERWAYS STUDY

In October 1977, the corps began a comprehensive study of the Nation's waterways and their ability to meet future U.S. transportation needs. The study is scheduled to be completed next year. Study objectives include: First, the Nation's need for a first-class waterway system; second, assessing the ability of the existing system to meet current and future needs; third, considering the relationship between waterways for transportation and other purposes, including flood control, water supply, hydroelectric power, and recreation; fourth, formulating alternative plans for improvements to the Nation's waterways to meet future needs; and fifth, recommending to Congress the best possible future waterways systems.

NATIONAL HYDROPOWER STUDY

The corps is also conducting the national hydropower study to assess the Nation's hydroelectric power resources, present and future. The study, also due to be completed next year, will provide a current estimate of potential hydropower development at existing dams as well as undeveloped sites around the country. A preliminary inventory indicates the U.S. hydropower resources, if fully developed, would produce 512 million kilowatts of power at existing structures and future ones yet unbuilt.

MX MISSILE BASE

In early September 1979, the President made the decision to proceed with full scale engineering development of the MX missile system. The program cost estimate developed by the Air Force is $30 billion with $15 billion for the construction of facilities to be in place by the end of 1989. The corps has been designated as the design and construction agent. The magnitude, the location, and the development schedule make MX one of the most challenging programs ever faced by the corps.

GUIDE TO SOLAR ENERGY PROGRAMS

Mr. LEAHY. Mr. President, this summer the President signed the Energy Security Act into law. The act authorizes a massive, federally supported synthetic fuels production program. The Energy Security Act also provides additional incentives for the development of solar energy, biomass, hydro and energy conservation.

One of the most significant new energy programs is the Solar Energy and Energy Conservation Bank, created within the Department of Housing and Urban Development. The Bank will provide subsidized loans to people who install solar energy systems or make energy conservation improvements in residential or commercial buildings.

The use of passive and active solar technologies has gained widespread acceptance of homebuilders, architects and homeowners. A major impediment to greater commercialization of these technologies, however, has been a perception that they are not easily marketable and are too expensive. The availability of the Solar Bank's low-interest loans should help significantly to overcome this perception and to encourage wider use of solar energy.

Solar energy is a proven technology and has applications for every region of the country. Just this week, Vermont's State Energy Office and Housing Finance Agency announced the winners of a solar-home design contest. The nine winners will construct homes, costing less than $60,000, that will result in savings of at least 30 percent in energy consumption. In announcing the winning designs, the energy office director, Ronald Allbee, stated that the contest proved that 35 to 95 percent of a Vermont's home energy can be provided from passive and active solar energy systems. For a cold and generally cloudy State like Vermont, that is certainly good news.

The increased interest in solar energy has highlighted a major problem. Homeowners, renters, and business people interested in converting their existing buildings to solar or constructing new buildings that utilize the sun's rays and heat often do not know where to go or who to ask for information on systems or building designs, costs, or financial assistance. Earlier this year the Environmental Study Conference (ESC), of which I am vice-chairman, prepared information guides for Federal solar and conservation programs. The guides provide descriptions of technologies, Federal assistance programs, an overview of State programs, and a list of other sources of information on solar energy and energy conservation.

Recently, the ESC staff prepared an update of the solar energy and energy conservation guides. Both guides have proved extremely helpful to me and my fellow Vermonters. My distinguished colleague from Rhode Island (Mr. CHAFEE), as chairman of ESC, and I are very pleased to make these guides available to our other colleagues.

Today, Mr. President, I ask unanimous consent that the ESC Guide to Solar Energy Programs be printed in the RECORD. I extend my gratitude and congratulations to the staff of the Environmental Study Conference for another fine job.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESC GUIDE TO SOLAR ENERGY PROGRAMS

The 96th Congress enacted two major laws boosting federal support of solar energy development.

Expanded tax credits for solar investment, part of the Crude Oil Windfall Profits Tax Act, and a variety of subsidies and research efforts authorized by the Energy Security Act of 1980 join the more than 40 federal programs offering aid to homeowners, renters, businessmen and state and local governments.

This guide, developed for Environmental Study Conference Members and their constituents by the conference staff, includes:

Brief descriptions of solar technologies.

List of federal assistance programs grouped by administering agency.

Overview of state solar programs.

Directory of sources for further information.

Index of programs according to their target audience.

This guide was prepared by Peter Rossbach and David Lauter.

For copies, write your Senator or Congressman.

For energy conservation information, see ESC companion Guide to Federal Energy Conservation Assistance.

Highlights of New Programs: The Energy Security Act (PL 96–294) establishes a Solar Energy and Energy Conservation Bank to subsidize solar energy and energy conservation investments. The act also authorizes new alcohol fuels and biomass energy development programs and incentives for small hydroelectric facilities.

Loan Subsidies: Homeowners may be eligible for subsidies if they take out home improvement loans to finance solar energy installations. The amount of the subsidy will vary according to the borrower's income. Solar loan subsidies will also be available for loans taken out by businessmen, home builders and apartment house owners, but are not available to residential tenants.

Tax Credits: Under the Windfall Profits Tax Act, homeowners and renters who invest in solar, wind or geothermal energy for their dwellings are eligible to take a 40 percent tax credit on the first $10,000 they spend for a maximum credit of $4,000, if that amount exceeds a person's tax liability, he may carry forward to another year the excess credit. A 15 percent credit is available for solar energy investments by businesses.

No Double Dipping: A person cannot take both a loan subsidy and a tax credit for the same item. But a person may take a loan subsidy for one solar investment and a tax credit for a different investment in the same year.

Biomass Energy Development: The Energy Security Act also provided $1.2 billion for alcohol fuels research and development and for aid to municipal garbage-to-energy conversion projects.

The money will be shared during the next several years by the Departments of Energy and Agriculture.

Agricultural programs designed to produce alcohol for fuel will be split, with DOE responsible for assisting larger programs and USDA assisting smaller programs.

Municipal waste-to-energy projects will be eligible for loans and loan guarantees from DOE.

SOLAR TECHNOLOGIES

Many and varied ways have been developed to convert the heat of the sun to useful forms of energy. Some, such as photovoltaic technologies, convert sunlight directly to a useable form, in this case electricity. Others, such as biomass conversions, use indirect methods.

Some solar technologies are designed to be integrated into centralized power generating systems, while others lend themselves to small-scale, decentralized applications. All have the advantage of using an energy source which is totally renewable.

Solar energy technologies may be divided into eight basic categories:

Passive solar;
Direct solar heating and cooling;
Process heat;
Wind power;
Photovoltaics;
High-temperature electric generation;
Ocean thermal energy conversion; and
Biomass conversion.

Different technologies can be integrated into "hybrid systems" to increase reliability and power. Both electricity and process heat, for example, can be provided by using a combination of solar devices.

Passive Solar: "Passive solar" means designing and siting buildings to employ sunshine, wind, evaporation and other natural processes for heating or cooling.

Modern architects who use passive solar designs are rediscovering ancient principles. Indians of the Southwest positioned their buildings under cliffs to receive direct sunlight in the low winter sun but shade in hot summer months. Similar designs were used in Classical Greece.

Passive designs employ the position of a building and the orientation of walls, windows and baffles to let in the sun in cool weather but keep shade during the heat of a summer afternoon. Decidious trees may be planted to provide extra shade in the summer. Storage ponds, greenhouses and sites oriented to take advantage of prevailing winds can also help keep down building energy needs.

DOE contact: Division of Passive Solar Heating and Cooling Energy Systems, David Pellish, residential branch, mail stop 5G–033, 1000 Independence Ave. S.W., Washington, D.C. 20585, (202 252–8131; Bob Shibley, community branch, mail stop CS–60, same address, (202) 252–9388.

Direct Solar Heating and Cooling: The "active" solar technologies with the greatest potential for widespread application now are those for space heating and domestic hot water—systems which do not require high temperatures.

Standard heating systems include a solar collector panel, a storage unit, an energy exchange and distribution network, a backup energy supply and a thermostat. Collectors, most often located on a building's roof, are simply designed. In many parts of the country, commercially available panels, now made by dozens of manufacturers, can provide relatively efficient operation and save considerable amounts of energy and money over the lifetime of the unit.

For cooling, an additional component must be added, either a standard "absorption" air conditioner or a mechanical motor-driven system.

To be used efficiently, solar heating systems should be accompanied by effective insulation and other energy conservation measures. For information on conservation programs, see ESC Guide to Federal Conservation Assistance.

DOE contact: Jim Dollard, Division of Active Heating and Cooling Energy Systems, mail stop 6B-025, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–8150.

Process Heat: Both direct sunlight and solar energy collected by panels for low- and medium-temperature heat can be used in many agricultural processes, including grain and crop drying, heating of greenhouses and livestock shelters and food processing, and in industrial processes at textile, paper and chemical plants. Most agricultural and industrial applications replace propane and natural gas.

DOE contact: Gerald Braun, Division of Solar Thermal Energy Systems, Room 418, 600 E St. N.W., Washington, D.C. 20585. (202) 376-1934.

Wind Power: Small-scale wind energy systems have supplied energy for centuries and are now used widely for pumping water or generating small amounts of electricity.

Current research concentrates on applying the expertise of helicopter designers to develop more efficient blades for large-scale centralized projects which could be hooked into existing power grids. Smaller models might be useful for supplying residential or agricultural electricity needs, particularly in coastal areas and the "windbelt" areas of the Midwest and elsewhere.

DOE contact: Louis Divone, Division of Wind Energy Systems, Room 413, 600 E St. N.W., Washington, D.C. 20585. (202) 376–4878.

Photovoltaics: Photovoltaic cells use chemical reactions to convert light directly to electricity. They have successfully powered satellites since the early days of the space program.

In recent years, the market for photovoltaics have grown as they have been increasingly used to provide electricity in remote areas. Private and government researchers are working to develop more efficient cells—current cells convert to electricity only to 10 13 percent of the light energy which reaches them. They can be used to provide electricity for building or hooked together to generate power for utilities.

DOE contact: Paul Maycock, Division of Photovoltaic Energy Systems, Rooms 412, 600 E St., N.W., Washington, D.C. 20585.

High-temperature Electric Generation: Plans for large-scale solar thermal devices involve large expanses of mirrors which focus the sun's rays onto a boiler. The boiler would generate steam which would power a conventional turbine to produce electricity. A prototype system is under construction in California.

DOE contact: Gerald Braun (see address above).

Ocean Thermal Energy Conversion: The ocean is both a vast solar collector and a huge solar storage system.

Ocean thermal energy conversion systems work by exploiting the difference in temperature between surface and deep waters. Warm surface water passes through a heat exchanger of evaporate a fluid such as ammonia. The warmed vapors pass through a turbine, generating electricity. The vapors then travel through a second heat exchanger where they are cooled and condensed by cold water pumped from below, and the cycle begins again.

A small-scale OTEC demonstration plant recently completed a successful test run in Honolulu harbor, and plans are proceeding for building a larger model.

Because the sea stores heat so efficiently, OTEC generators could be used even when the sun is not shining. As a result OTEC could provide base-load power to utilities.

DOE contact: William Richards, Division of Ocean Energy Systems, Room 421, 600 E St. N.W., Washington, D.C. 20585. (202) 376–5889.

Biomass Conversion: Plants capture the sun's power through photosynthesis.

People can recapture that stored energy in many ways, ranging from simple burning of wood and other plant material to more complex processes such as anaerobic digestion to produce methane (natural gas), fermentation to produce alcohol, biophotolysis of water to yield combustible hydrogen and several thermochemical gasification and liquefaction processes.

The most promising sources of biomass for conversion to energy are agricultural and timber residues and municipal wastes.

Several companies have already begun converting agricultural wastes to alcohol for "gasohol" fuel.

The paper and lumber industry has begun to save money by becoming partially energy self-sufficient through the burning of forest residues.

Several city and county governments have begun experiments in burning garbage for electricity and steam. Waste-to-energy plants have long been common in Europe.

DOE contact: Beverly Berger, Division of Biomass Energy Systems, Room 413, 600 E St. N.W., Washington, D.C. 20585. (202) 376–9739.

FEDERAL SOLAR ASSISTANCE PROGRAMS

Department of Energy

State Energy Conservation Programs: States can obtain grants to develop and carry out plans to reduce the consumption of nonrenewable energy resources. Those plans can include solar strategies. FY 1980 funding was $48 million.

DOE contact: Mary Fowler, Director, Office of State Energy Conservation Programs, mail stop 2H–027, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2344.

Energy Extension Service: The goal of EES is to promote conservation and renewable resources by getting the word out to architects, small-businessmen, savings and loan officers, farmers, renters and homeowners and local government officials. FY 1980 funding was $25 million.

The states design and administer EES programs, while DOE provides guidance and technical assistance. EES can provide residential and commercial energy audits, specialized training, an energy information hotline (usually located within the state energy office) and a central location for solar and conservation information and technical assistance. The state programs also alert DOE and other federal agencies to institutional and technical barriers to energy conservation and the use of renewable resources.

State programs vary greatly. Contact your state energy office for details on your state's EES program.

DOE contact: Mary Fowler (see address above).

Schools and Hospitals: This program provides grants, $141.2 million in fiscal year 1980, to help public and non-profit, private schools and hospitals pay for energy audits and the installation of solar and energy conservation equipment. These grants normally cover up to 50 percent of the cost of approved projects, but may pay as much as 90 percent in hardship cases.

State energy offices provide eligible institutions with application forms and notices of grant cycles and regulations.

DOE contact: Rich Minning, Acting Director, Schools and Hospitals Program, mail stop 2H–027, 1000 Independence Ave. SW., Washington, D.C. 20585 (202) 252–9727.

Local Public Buildings and Public-Care Institutions: Energy audits and technical assistance are available from this office for public buildings owned by local governments and for non-profit, private care institutions such as nursing homes, orphanages and neighborhood health centers. FY 1980 funding was $17 million.

State energy offices recommend institutions for funding by means of the state's general grant application to DOE. A free fact sheet is available on request from either DOE or state energy offices.

DOE contact: Bill Raup, Director, Local Government Conservation Division, DOE, mail stop 111–027, 1000 Independence Ave. S.W., Washington, D.C. 20585 (202) 252–2335.

Solar Cities and Towns: This pilot program has provided urban areas with financing and technical assistance in the design and implementation of comprehensive local solar energy plans.

Grant money will be available in the fall of 1980 through request for proposals (RFP) solicitations.

DOE contact: Frank Deserto, Division of Cities and Commercial Buildings, DOE, mail stop 6D–025, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252–8153.

Community Services: Local public officials can get technical assistance and information on developing comprehensive energy management programs and alternative fuels projects. The Division of Community Systems in the Office of Buildings and Community Systems runs the program.

The President's Clearinghouse for Community Energy Efficiency is the division's information center for local officials interested in energy conservation and solar energy. The clearinghouse transfers the experience of innovative and effective local programs to other jurisdictions. The clearinghouse also serves as a guide to federal programs available to local officials.

Contact: The President's Clearinghouse on Community Energy Efficiency, DOE, Suite 801, 400 N. Capitol St. NW., Washington, D.C., 20001, (202) 252–2855, or call toll-free (800) 424–9040; Alaska and Hawaii: (800) 424–9081.

A demonstration program run by the community systems division, Community Technology Systems Research and Development, experiments with the urban applications of alternative fuels, including municipal waste-to-energy conversion, cogeneration and small-scale electric generating units which can use many fuels.

DOE contact: Donald Walter, Program Manager, Community Technology Systems, Division of Community Services, mail stop IH–031, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–9397.

Municipal Waste-to-Energy Development: The Energy Security Act authorizes DOE to provide loans and loan guarantees for as much as 75 percent of the estimated cost of a municipal waste-to-energy system.

Price support loans will be available for new or existing projects, and price guarantees are available for new projects.

Priority for financial assistance will be given to projects which produce liquid fuel, or which replace petroleum or natural gas as a fuel.

Money is also available to demonstrate new waste-to-energy techniques.

A total of $231 million is available through 1984 for the program. See the Federal Register, August 14, 1980, p54264–54280, for loan guarantee solicitation announcements.

DOE contact: Donald Walter, Acting Director, Office of Energy From Municipal Waste, mail stop IH–031, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252-9397.

Small Hydroelectric Loans: Loans are available for small hydroelectric projects (less than 30 megawatts capability) added to existing dams.

A total of $30 million is available through fiscal year 1981.

DOE regional offices have information kits for applicants. Send both solicited and unsolicited applications either to your regional office or to the hydroelectric loan office. The office also publishes a small-hydroelectric bulletin which announces workshops, new hydroelectric developments and requests for proposals from DOE.

Small hydroelectric facilities added to existing dams are also eligible for exemptions from many of the Federal Energy Regulatory Commission's licensing requirements.

DOE contact: Al Hymer, Hydroelectric Loan Program, DOE, 550 Second St., Idaho Falls, ID 83401. (208) 526-9180.

FERC contact: Ron Corso, Director, Division of Licensed Projects, FERC, 875 N. Capitol St., Washington, D.C. 20426 (202) 357-5321.

Innovative Rate Program: This DOE office provides information and recommendations to rural electric cooperatives and municipal and state public service commissions on ways to adjust electric utility rates to foster the use of renewable energy resources.

Federal law also directs state utility commissions to require utilities to buy surplus power and sell backup power to cogenerators and small solar power producers at nondiscriminatory rates.

DOE contact: Howard Perry, Acting director, Innovative Rates Program, DOE, 200 M St., N.W., Washington, D.C. 20461 (202) 653-4006.

FERC contact: Bernard Chew, Director of Interconnection and Systems Analysis, 400 First St. N.W., Washington, D.C. 20426. (202) 376-9264.

Information and Publications: Non-technical information and publications on energy-related issues are available in bulk and single copies from DOE.

Contact: William Anderson, Director, Editorial Services, Office of Public Affairs, DOE, mail stop 1E-218, 1000 Independence Ave. S.W., Washington, D.C., 20585. (202) 252-2053.

Technical information and publications can be obtained from the Technical Information Center, DOE, PO Box 62, Oak Ridge, Tenn. 37830. (615) 576-1308.

Educational Resources Development: Energy education materials for all school and college levels are available from the Education Programs Division of DOE.

A faculty development program offers grants to universities and colleges to conduct energy education workshops for teachers at all levels. Typical grants for this program are $20,000. Application deadline for 1981 is October 31, 1980.

This office also offers grants for programs to encourage incoming college freshmen majoring in engineering to pursue energy courses.

FY 1980 funding totaled $5 million. Guidelines are available from the division office.

Program materials are available from the DOE Technical Information Center, see address above.

DOE contact: Don Duggan, Education Program, DOE, mail stop 7E-054, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252-6484.

Training and Education Programs: DOE also helps train people to install solar energy equipment.

The Office of Solar Energy for Buildings has instructional materials for vocational training programs in fields related to solar energy. Instructors in the sheet metal industry, junior and community colleges, vocational schools and correctional institutions may obtain these materials to supplement their regular curricula.

A separate college credit correspondence course in solar application is run by the North American Heating and Air Conditioning Wholesalers Association (NHAW) home study institute, with DOE assistance, under the title "Fundamentals of Solar Heating." NHAW address: 1661 West Henderson Rd., Columbus, Ohio 43220. (614) 459-2100.

Additional training and educational programs are run for architects and lending institution officials. For further information, contact the Regional Solar Energy Centers.

DOE contacts: Deborah Langford, Training Programs, and Charles Hays, Education Programs, Office of Solar Applications for Buildings, mail stop 5G-026, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252-8107.

Appropriate Technology Grants: This program gives grants averaging $13,000 to encourage development and demonstration of small-scale energy systems using local renewable resources.

Individuals, local non-profit organizations, state and local agencies, Indian tribes and small businesses are eligible. Grants can fund work on a variety of solar applications, including heating and cooling, biomass conversion, wind and small hydroelectric power generators. For fiscal year 1980, $12 million was available. The maximum grant is $50,000.

For a grant application and further information, write to the Program Manager, Appropriate Technology Small Grants Program, at the DOE office in your region.

DOE contact: Anne Hegnauer, Director, Appropriate Technology, Small-Scale Technology Division, DOE, mail stop 6G-040, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252-9104.

Project Proposals and Inventions: DOE has money for unsolicited proposals for solar energy research, as well as for solicited proposals for advanced solar research.

When DOE wishes to finance a specific project, a request for proposal (RFP) is printed in the "Commerce Business Daily," available in many public libraries or from the Government Printing Office by subscription.

People who wish to submit unsolicited proposals should contact DOE for advice first. Unsolicited proposals are sent to the National Bureau of Standards Office of Energy Related Inventions for evaluation. Those whose proposals survive that initial screening are then invited to apply for grants.

DOE Contact: Patrick Donohoe, Division of Business Programs, Intergovernmental Relations, DOE, 8G-031, Washington, D.C. 20585. (202) 252-9104. National Bureau of Standards Contact: George Lewett, Office of Energy Related Inventions, National Bureau of Standards, Gaithersburg, Md. 20760. (301) 921-3694.

DOE Regional Offices

The following officials oversee the implementation of DOE programs in the regions and can direct requests to the appropriate program manager.

Region I: Harold Keohone, DOE, 150 Causeway St., Analex Building, Room 700, Boston, Mass. 02114. (617) 223-3701. Connecticut, Maine, New Hampshire, Massachusetts, Rhode Island, Vermont.

Region II: Robert Low, DOE, 26 Federal Plaza, Room 3206, New York, N.Y. 10007. (212) 264-4780. New York, New Jersey, Puerto Rico, Virgin Islands.

Region III: Obra S. Kernodle, DOE, 1421 Cherry St., 10th Floor, Philadelphia, Pa. 19102. (215) 597-3890. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV: Louis F. Centofenti, DOE, 1655 Peachtree St. N.E., Eighth Floor, Altanta, Ga. 30309. (404) 257-2837. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V: Robert H. Bauer, DOE, 175 West Jackson Blvd., Room A-333, Chicago, Ill. 60604. (312) 353-8420. Illinois, Indiana, Minnesota, Michigan, Wisconsin, Ohio.

Region VI: G. Dan Rambo, DOE, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Tex. 75235. (214) 767-7741. Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII: Mary O'Halloran, 324 East 11th St., Kansas City, Mo. 64106. (816) 374-2061. Iowa, Kansas, Missouri, Nebraska.

Region VIII: Charles Metzger, DOE, P.O. Box 26247 Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226. (303) 234-2420. Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX: William Arntz, DOE, 333 Market St., San Francisco, Calif. 94111. (415) 556-7216. Arizona, California, Hawaii, Guam, American Samoa, Nevada.

Region X: Jack Robertson, DOE, 992 Federal Building, 915 Second Ave., Seattle, Wash. 98174. (206) 442-7285. Alaska, Idaho, Oregon, Washington.

SOLAR ENERGY CENTERS

The Solar Energy Research Institute and four regional centers provide general information and assistance for commercialization of solar technologies, including technical assistance and local market analysis.

Solar Energy Research Institute (SERI), 1617 Cole Blvd., Golden, Colo. 80401. (303) 231-1000.

Northeast Solar Energy Center, 470 Atlantic Ave., Boston, Mass. 02110. (617) 292-9250.

Mid-American Solar Energy Complex, 8140 26th Ave. S., Bloomington, Minn. 55420. (612) 853-0400.

Western Solar Utilization Network, Pioneer Park Building, 715 Southwest Morrison, Suite 800, Portland, Ore. 97205. (503) 221-2437.

Southern Solar Energy Center, Exchange Place, 61 Perimeter Park, Atlanta, Ga. 30341. (404) 458-8765.

Department of Housing and Urban Development

Solar Energy and Energy Conservation Bank: The installation of solar energy systems and energy conservation improvements in both new and existing residential, commercial and agricultural buildings will be subsidized by the new federal bank created by the Energy Security Act of 1980.

The Solar Energy and Energy Conservation Bank will be a "bank for banks" which consumers will not deal with directly. Instead commercial banks, savings and loans and other lending institutions will have forms for borrowers to use to apply for the federal subsidy when they apply for their loans. The lender will forward the form to the federal office, which will determine what subsidy the borrower can get. Borrowers will be told what subsidy they are eligible for before having to sign finally for their loan.

HUD regulations, which will resolve whether loans taken out during 1980 will be eligible for retroactive subsidies, will be published in the Federal Register. Target dates for issuing the regulations are December 27, 1980, for single-family homes and March 27, 1981, for multi-family homes and commercial and agricultural buildings.

The amount of the homeowner's subsidy will be tied to income. Borrowers whose average family income exceeds 160 per cent of their area's median ($18,000 in most areas) will be eligible to receive up to 40 per cent of the cost of solar improvements. Borrowers whose incomes fall between 80 and 160 per cent of the area median could get up to a 50 percent subsidy, and borrowers with lower incomes will be eligible for a 60 percent subsidy. No single-family home owner can receive more than $5,000 in loan subsidies. Similar subsidies, with a maximum of $2,500 per unit, are available to owners of small (two-to-four unit) apartment houses.

Owners or builders of commercial buildings will be eligible for 40 percent subsidies up to a $100,000 maximum. Owners of apartment houses with more than four units and builders of both single- and multi-family residential buildings will be eligible for 40 percent subsidies with a $2500-per-unit maximum.

For information on how to obtain a loan subsidy, contact a participating local lending institution.

HUD contact: Eric Nathanson, solar program analyst, Office of Policy Development, Department of Housing and Urban Development, Room 8158, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-6900.

Community Development Block Grants: This urban renewal program can be used by local governments to finance solar energy installations in housing projects.

Large urban areas have an automatic entitlement to funds. Smaller communities may apply to the HUD area offices for discretionary grants.

A community's chief executive or office of housing and community development is the contact for individuals or neighborhood groups.

Local officials contact: HUD Area Offices listed under U.S. Gov't in telephone white pages; James Broughman, Entitlement Cities Division, Assistant Secretary for Community Planning and Development, HUD, Room 7282, 451 Seventh St. S.W., Washington, D.C. 20410, (202) 755–9267; or James Forsberg, Director, Small Cities Program, same address, (202) 755–6322.

Urban Development Action Grants: This job and community development program may grant funds to projects which use renewable energy.

In order to be eligible for UDAG funds, projects must provide new permanent jobs and increased revenues for a distressed city or urban county. Projects may be residential, business or industrial, commercial or for local government.

HUD contact: David Cordish, Director UDAG, Community Planning and Development, HUD, Room 7232, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 472–3947.

Section 312 Loans: Direct federal loans are available for rehabilitating substandard residential and non-residential property.

Rehabilitation loans are available at 3 percent interest for 20 years, with a maximum of $27,000 per residential and $100,000 per non-residential loan. The interest rate will increase on Feb. 15, 1981.

The cost of solar energy and energy conservation improvements can be financed by Section 312 loans.

Eligible applicants may be owners or tenants in urban renewal areas, code enforcement areas, areas designated for rehabilitation under the Community Development Block Grant Program or Urban Homesteading areas. Priority is mandated for low- and moderate-income applicants.

The local office administering community development programs is the first point of contact.

HUD contact: Robert I. Dodge III, Director, Office of Urban Rehabilitation and Community Reinvestment, HUD, Room 7170, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755–5685.

Loan Insurance for Multi-Family Housing: The National Energy Act of 1978 authorized HUD to insure Federal Housing Administration and conventional loans taken out by owners of private multi-family housing to make energy-saving and renewable energy improvements.

The interest rates on such loans are set by HUD at a level no higher than necessary to meet market demands.

HUD contacts: Michael C. Wells, program analyst, Office of Housing, HUD, Room 9220, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755–6454.

Home Improvement Loan Insurance: HUD may insure home improvement loans covering solar energy systems.

Borrowers must be creditworthy, and tenants must have leases that run six months longer than the term of the loan.

Fifteen years is the repayment period. Maximum home loans were $15,000 at 15 percent interest at press time. For apartments, the maximum was $7,500 per unit and $37,500 per building.

HUD contact: Local HUD-approved lending institutions, local HUD area offices or John Brady, Title I Insured Loan Division, HUD, Room 9172, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755–6880.

Basic Home Mortgage Insurance: Used primarily for one- to four-unit homes, basic home mortgage insurance is available to any creditworthy applicant seeking to buy a home.

Solar projects may be part of the insured property. For properties more than one year old, the limits on mortgage insurance may be increased by up to 20 percent if the increase is due to installation of a solar energy system. Maximum insured loans range from $67,500 for single-family housing to $107,000 for a building with four units.

HUD contact: Local HUD-approved lending institutions, HUD area offices, or Single-family Development Division, Office of Single-family Housing and Mortgage Activities, HUD, Room 9270, 451 Seventh St., S.W., Washington, D.C. 20410. (202) 755–6720.

Solar Heating and Cooling Demonstration: This program finances solar demonstrations to encourage the use of solar, to stimulate the market for solar and to inform builders, designers, lenders, realtors, buyers and others involved in residential housing about solar techniques. Final 1980 budget was $4 million.

Information on program results can be requested free by telephone: call (800) 523–2929; from Pennsylvania dial: (800) 462–4983; from Hawaii/Alaska dial: (800) 523–4700. Mailing address: Solar Heating, P.O. Box 1607, Rockville, Md. 20850. HUD contact: David C. Moore, SHCD, Room 8162, HUD, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755–6900.

Department of the Treasury

Internal Revenue Service

The Windfall Profits Tax Act of 1980 (PL 96–223) boosted tax credits available for investments in conservation and solar energy. Unlike a tax deduction, a tax credit is subtracted directly from the tax a person owes and is available whether or not an itemized return is filed.

If the amount of available credit exceeds a person's tax liability, he may carry the credit forward to another year.

Residential Tax Credits for Renewable Resources: Tax credits are available to homeowners and renters for investments in solar, wind and geothermal energy equipment at a rate of 40 per cent on the first $10,000 of expenditures, for a maximum $4,000 credit. Joint investors (for instance, those who share a two-family home) are each eligible for the credits.

Tenants may take a credit only on solar installations whose cost they bore directly and did not deduct from rent.

The credits will be available through 1985 and cover investments made since the beginning of 1980. A lower credit can be taken for investments made before 1980 by people who neglected to take advantage of the tax benefits then available.

Equipment qualifying for credits includes solar heating, cooling, electricity and hot water systems; geothermal heating or hot water systems; and wind energy systems used for residential purposes. Drilling expenses for geothermal wells may also be deductible.

The cost of a solar roof panel is made eligible by a specific exemption from the general rule forbidding credits for structural components of a house.

Credits apply only for principal residence, not vacation homes.

Credits currently are not available for investments in passive solar designs although those regulations may be altered later this year.

Other tax credits are available for conservation investments.

For further information on all residential energy credits, taxpayers should contact the IRS "Tax Information" listing in their local telephone white papers.

IRS contact: Walter Woo, Legislation and Regulation Division, Office of the Chief Counsel, IRS, Room 4311, 1111 Constitution Ave., N.W., Washington, D.C. 20224. (202) 566–3299.

Business Tax Credits for Renewable Resources: Solar, geothermal and wind energy equipment to generate electricity or to heat, cool or provide hot water for business uses qualities for a 15 percent non-refundable tax credit through the end of 1985. The credit also is available for equipment which uses solar energy to provide process heat for industrial, commercial and agricultural applications. Similar credits are available for conservation and cogeneration equipment.

Hydroelectric: Hydroelectric generating facilities, including utility property, are eligible for an 11 percent tax credit from the beginning of 1980 through 1985.

In addition, expenses made through 1988 for hydroelectric projects registered with the Federal Energy Regulatory Commission by the end of 1985 also qualify for the tax credit. This credit applies to both new and supplemental hydroelectric facilities. Costs for the repair and rehabilitation, but not enlargement, of restraining dams, and for powerhouses, penstocks, and fish passageways are all eligible for credit. Related electric transmission equipment is not eligible for this credit.

The size of the facility determines the exact amount of credit available. Facilities capable of producing up to 25 megawatts receive full credit. The credit declines as capability increases, to zero when the capability reaches 125 megawatts.

Biomass: Businesses which install equipment to burn or handle biomass fuels are eligible for a 10 percent credit through the end of 1985.

Investments to convert biomass to synthetic solid fuels, or to burn that fuel or biomass qualify for credits.

Any organic substance other than fossil fuel is defined as biomass for tax purposes. Biomass fuel or feedstock handling, storage and preparation equipment, as well as equipment, that stores fuel derived from garbage at the site where the fuel is produced, are all eligible for the 10 percent tax credit.

For further information on any of the above credits, investors should contact their local IRS "Tax Information" listing in the telephone white pages.

IRS contact: Richard Mull, Legislation and Regulation Division, Office of the Chief Counsel, IRS, Room 4108, 1111 Constitution Ave. NW., Washington, D.C. 20224. (202) 566–3458.

Alcohol Fuel Tax Breaks: Gasohol containing at least 10 per cent alcohol is exempt from the four-cent-per-gallon federal excise tax through 1992.

In addition, a credit of 40 cents per gallon for alcohol of at least 190 proof and of 30 cents per gallon for alcohol of between 150 and 190 proof is available to a blender if the alcohol is produced from biomass and sold or used as fuel. These credits go into effect beginning October 1, 1980 and end on Sept. 30, 1992.

IRS contact: John Bromell, Regulations and Legislation Division, Office of the Chief Counsel, IRS, Room 4311, 1111 Constitution Ave. N.W., Washington, D.C. 20224. (202) 566–3346.

Tax-exempt Industrial Development Bonds: Industrial Development Bonds (IDBs) issued by state and local governments are exempt from federal taxation if used to finance facilities which convert solid waste to steam or alcohol or which produce electric energy from solid waste.

The Windfall Profits Tax Act also provides tax exemption for IDBs invested in solar, wind and small-hydroelectric resources.

IRS contact: John McMaster, Legislation

and Regulation Division, Office of the Chief Counsel, IRS, Room 4320, 1111 Constitution Ave., N.W., Washington, D.C. 20224. (202) 566-3294.

Department of Agriculture

Biomass Energy and Alcohol Fuels: The Energy Security Act provides DOE and the USDA each with $525 million for biomass energy projects with annual production capacities of less than 15 million gallons of ethanol, or its biomass energy equivalent.

The DOE Office of Alcohol Fuels has jurisdiction over larger projects. DOE also has responsibility for reviewing the energy value and technical feasibility of the smaller projects aided by USDA.

Special priority in granting assistance will be given to biomass projects which do not use oil or natural gas as their primary energy source.

Special priority also will be given to biomass energy projects which apply new technologies that expand possible feedstocks, which produce new forms of biomass energy, or which produce biomass fuel using new or improved technologies.

Financial assistance may be provided in the form of loans, loan guarantees, or purchase agreements. Applications for financial assistance can be made in response to Farmer's Home Administration solicitations or by contacting state FmHA offices. For further details and FmHA regulations, see Federal Register, vol. 45, No. 152, Aug. 5, 1980, p. 51818–51832.

DOE contact: Bert Greenglass, Office of Alcohol Fuels, DOE, Room 68211 Forrestal Bldg., 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–9487.

USDA contact: Don Fink, Office of Energy, FmHA, Room 5175 S, South Bldg., USDA, Washington, D.C. 20250. (202) 447–7195.

National Forest Service: USDA is required to make the timber resources of the National Forest System available, in accordance with timber appraisal and sales procedures, for use in biomass energy projects.

Forest Service contact: John Hornick, Energy Coordinator, Biomass Energy Program, U.S. Forest Service, Room 3236 S, South Bldg., USDA, PO Box 2417, Washington, D.C. 20013. (202) 447–4821.

Rural Agricultural and Forestry Biomass Energy Demonstration Grants: The Energy Security Act authorized USDA to make grants for research on the production and marketing of alcohol and industrial fuels made from agricultural and forest products.

Grants are available for research into increasing the energy efficiency of alcohol production processes and improving the transportation of waste residues and agricultural or forestry byproducts.

USDA cooperative extension services and land grant colleges and universities will be adding biomass energy programs to their research extension and teaching programs.

USDA contact: Landy Altman, Energy Coordinator, Science and Education Administration (SEA), 10301 Baltimore Blvd., Beltsville, Md. 20705. (301) 344–2740.

Farmer's Home Administration: FmHA provides financial assistance for community facilities, housing, agricultural development and business and industrial enterprises in rural areas.

Solar applications are eligible for inclusion in all financially assisted projects on the condition that they are modest in cost, design and construction and have been proved to be technically feasible and cost effective. Contact the FmHA county supervisor or state architectural or engineering advisors for local information and assistance applications.

In particular, FmHA housing assistance loans may be used for solar devices of demonstrated economic and technical viability, such as solar hot water heaters, residential heating and cooling, and wind energy systems.

FmHA's housing loan program provides financing for rural single-family homes to those who cannot obtain financing elsewhere. Loans for multi-family housing are available to low-income and elderly residents of rural areas.

FmHA contacts: Daniel Ball, Environmental and Technology Staff Director, (202) 447–3394; Jennings Orr, Single Family Housing Administrator, (202) 447–5668; L. D. Elwell, Multi-Family and Rental Housing Manager, (202) 447–3213; Allan Broch, Farmer's Programs, (202) 447–4671; John Bowles, Community Facilities, (202) 447–7667; Robert Butler, Business and Industries Division, (202) 447–5243; FmHA, 5014 S, South Bldg., USDA, Washington, D.C. 20250.

Cooperative Extension Service: The Cooperative Extension Service works through the 71 land grant colleges in the United States to provide information and assistance to the agricultural community.

Energy conservation and alternative energy sources for homes, farms and agribusinesses are within the expertise of CES offices. Local information outlets are the land grant colleges or the cooperative service offices located in each of the country's 3,150 counties, usually in the county seat. USDA contact: Glenda Pifer, Energy Coordinator, Extension Service, Room 5412 S, South Bldg., USDA, Washington, D.C. 20250. (202) 447-7273.

Department of Commerce

Economic Development Administration

Business Development Loans and Public Investment Grants: This is EDA's main program for financing local public works projects and assistance to private businesses for development and expansion.

Recent regulations require applicants for assistance to submit energy-efficiency analyses as part of their proposal to the EDA regional office. Special consideration will be given to financing projects which will reduce the nation's dependence on oil and natural gas.

The average EDA loan or grant provides over $1 million per project. For loans and subsidies of less than $350,000, contact the Small Business Administration.

EDA contact: Alan Gregerman, Policy Division, EDA, Department of Commerce, Room 6226, 14th and Constitution Ave. N.W., Washington, D.C. 20230. (202) 377–5103.

Another potential source of EPA funds for renewable energy projects is the grant program for communities with severe unemployment problems.

For further information or application forms, contact the economic development representatives in your state EDA office. EDA contact: Charles Coss, Director, Office of Public Investments, Room 7884, 14th and E Sts. N.W., Washington, D.C. 20230. (202) 377–5265.

Small Business Administration

Energy Loans: The Small Business Administration can make direct loans or guarantee bank loans for small energy-oriented businesses under a special renewable-energy loan program created by Section 7L of the Small Business Act of 1978.

Loans are available to designers, manufacturers, distributors, marketers, installers or servicers of solar energy, wind, biomass, hydroelectric or industrial cogeneration equipment. The loans are available through local SBA offices for plan construction, conversion, expansion or startups as well as for acquisition of equipment and facilities.

For fiscal 1980, appropriations include $15 million for direct loans and $30 million in guarantees. To stretch the funds, SBA stresses maximum bank participation in each loan under its guarantee program.

SBA will guarantee 90 percent of a loan up to $500,000 at interest rates negotiated between the borrower and lender, subject to an SBA maximum. If unable to obtain a guaranteed loan, an applicant may apply for a direct loan, which is limited to $350,000 at an interest rate based upon the cost of money to the federal government.

Information on the program is available in 63 major cities from SBA district offices listed in the telephone white pages under U.S. Government. Regulations are Part 130 of SBA rules, reprinted in the Federal Register, Jan. 5, 1979, p. 1369.

SBA contact: Dick Wray, Office of Business Loans, SBA, 1441 L St. NW., Washington, D.C. 20416. (202) 653–6696.

Small Business Training: This program assists small-business owners and managers by offering training and counseling in ways to reduce energy costs.

Seminars and individual counseling by the Service Corps of Retired Executives (SCORE) are available through the Small Business Administration district field offices working with DOE. Free publications are available from the program office on conservation programs for apartment management, service stations, retail stores, florists and greenhouses, dry cleaners, printers, and garages.

SBA contact: Johnnie Albertson, Chief of Business Management Training, SBA, Room 602, 1441 L St. N.W., Washington, D.C. 20416. (202) 653–6768.

Department of Education

Energy and Education Action Center: This program helps teachers prepare energy-related classroom materials.

The center offers technical assistance, teacher and administrator in-service training, clearinghouse services and an information hotline. The office is sponsoring expositions in several cities. It has a summary publication: "A Selected Guide to Federal Energy and Education Assistance."

ED contact: Wilton Anderson, Director, Energy and Education Action Center, Dept. of Education, Reporter Building, Room 514, 300 Seventh St. S.W., Washington, D.C. 20202. (202) 472–7777.

Community Services and Continuing Education: This program awards grants, usually about $150,000 for two years, to colleges and universities for assisting in the solution of community problems. Regulations for the program are in the Federal Register, August 11, 1978, pp. 35645–35906.

ED contact: Charles Griffith, Chief of the Community Services and Continuing Education Branch, Dept. of Education, Room 3717, Seventh and D Sts. S.W., Washington, D.C. 20202. (202) 245–9868.

Department of Labor

Jobs Corps—Solar Employment Training: The Jobs Corps in 1980 will train 120 of its enrollees for entry-level positions with solar energy firms.

The program is open to all Jobs Corps members, although current members with prior experience in a Jobs Corps construction-trades program will receive preferential consideration. The Solar Energy Industries Association is contracted to provide technical direction to the program.

SEIA contact: Les Dennis, SEIA, 1001 Connecticut Ave. N.W., Washington, D.C. 20036. (202) 293–2981.

DOL contracts: Juan Medina and Rich Hirach, Jobs Corps, Department of Labor, Room 6004, 601 D St. N.W., Washington, D.C. 20213. (202) 376–7600.

Community services administration

Regional Solar Initiatives Program: Beginning Nov. 1, CSA will make roughly $1 million available to its regional offices to be distributed among local community action agencies for the materials costs of solar projects.

Community action agencies will be required to match the CSA grant with administrative and labor financing from other sources. No CAA will receive more than $20,000. Community action agencies interested in providing solar initiatives for elderly and low-income groups not served under the 1979 crisis intervention program should contact their regional CSA energy coordinators.

CSA contact: Marian Charnoff, Energy Office, Community Services Administration, Room 334, 1200 19th St. N.W., Washington, D.C. 20506. (202) 632–6503.

Community Energy Planning: CSA plans to offer grants for the purpose of getting low-income groups and the elderly into the planning procedures of local energy management programs.

Fifteen grants will be offered to community action agencies and other groups for studies and revisions of current plans for allocating fuel and developing community energy self-sufficiency projects.

Grants will provide up to $30,000 to each recipient. Applications are due October 31, 1980.

CSA contact: Kate Jackson, Energy Office, Community Services Administration, 1200 19th St. N.W., Washington, D.C. 20506. (202) 632–6503.

Low-Income Community Grants: Community action agencies can apply for project grants to assist in the design, planning, building and installation of solar energy systems for low-income homes.

In areas not served by CAAs, non-profit community groups are eligible to apply for these grants. Grants will provide up to $25,000 for each recipient. Although regulations were not published at press time, CSA is supposed to publish them during September, 1980.

CSA contact: Richard Saul, Energy Program Director, Community Services Administration, Room 339, 1200 19th St. N.W., Washington, D.C. 20506. (202) 632–6503.

Energy Task Force: The task force conducts energy audits and helps low-income tenants rehabilitate their apartments. Currently, the program serves only the New York City area, but task force members can offer interested parties advice and publications on tenant organization, tenement rehabilitation, urban wind systems and related topics.

Contacts: Michael Johnson or Loretta Gouraige, Energy Task Force, 156 Fifth Ave., New York, N.Y. 10010. (212) 675–1920.

Veterans' Administration

The VA home acquisition and guaranteed loan program may be used to finance conservation improvements and economical solar and wind power installations.

Private lenders may offer loans at the maximum legal rate established for VA loans, payable over thirty years. Solar equipment must meet HUD–FHA standards. Eligible veterans and active-duty personnel should apply for VA loans through regular lending institutions. The VA must appraise the property involved and assess the credit worthiness of the applicant.

Direct loans are also available on a limited basis in housing—credit shortage areas—usually Indian reservations and remote rural areas—for conservation improvements and solar installations.

VA contract: Walter Burke, Department of Veteran's Benefits, Construction Evaluation Office, Veterans' Administration, Room 353, 810 Vermont Ave. N.W., Washington, D.C. 20420. (202) 389–2249.

Federal Solar Buildings Program

Sixteen federal agencies have been awarded a total of $31 million under the National Energy Conservation Policy Act for the design, construction and installation of solar systems in 843 buildings located throughout the country.

Projects range from small residential hot water heaters to large industrial process heat systems and include both passive and active systems.

The design and construction of all projects should be completed by the fall of 1981. Construction contracts are awarded by individual agencies.

Department of Defense

Demonstration and information programs on energy conservation and solar applications are directed at officials in the military service.

DOE contact: Ed Dykeman, Director of the Office of Energy Technology, Office of Energy Policy, Office of the Secretary of Defense, Room ID–760, Pentagon, Washington, D.C. 20301. (703) 697–2500.

Tennessee Valley Authority

During the past four years, TVA has become a national leader among utilities in the promotion of solar energy.

Although TVA programs are available only in the Tennessee Valley service area, utilities in other parts of the country have begun to adopt some TVA innovations.

Among TVA renewable resource programs are free home energy audits, low-interest loans for solar hot water heaters, interest-free loans of up to $800 for purchases of air-tight woodburning stoves and financial and design assistance to home builders who seek to use solar energy.

TVA also is building solar houses for sale to its customers and a new office complex in Chattanooga, Tenn., which will utilize passive and active solar technologies to cut by three-quarters the traditional lighting and cooling energy demands of an office building.

For further information contact: Robert J. King (hot water heaters), (615 755–2017: Karen Knight (woodburning stoves), (615) 755–2118; James T. Gallagher (solar homes), (615) 755–2017; all at TVA, 310 Credit Union Building, Chattanooga, Tenn. 37401. For information on TVA's office complex project contact: J.J. O'Donnell, TVA, 400 Commerce Ave., W12A4, Knoxville, Tenn. 37902. (615) 632–6139.

State and local involvement

More than half the states have laws to promote solar energy.

In addition to financial incentive programs designed to encourage purchase and installation of home solar units, state actions have included financing of research and development, modification of state building codes to ease the introduction of solar devices, information and promotional activities, promulgation of solar energy product standards and the legal recognition of "sun rights."

Several types of financial incentives have been implemented: income and property tax credits and deductions, direct loans for the purchase of solar equipment, loan subsidies of various sorts and sales tax exemptions for solar energy vendors.

The National Solar Heating and Cooling Information Center keeps an up-to-date list of state solar developments and can direct interested parties to the proper state offices. The National Conference of State Legislatures also monitors state actions and reports on them in its "Energy Report to the States."

NCSL contact: Elgie Holstein, Director, State Energy Project, NCSL, 444 N. Capitol St., Washington, D.C. 20001. (202) 624–5432.

NSHCIC can be contacted by writing "Solar Heating," PO Box 1607, Rockville, Md. 20850, or by calling toll-free (800) 523–2929. From Pennsylvania, dial (800) 462–4983. From Alaska or Hawaii (800) 523–4700.

Information for Local Governments: The National Association of Counties has a packet of advice on local solar energy demonstration projects, consumer protection for solar users, utility rate restructuring and direct and indirect financial incentives. It is available free by writing the NACO Energy Project, 1735 New York Ave. N.W., Washington, D.C. 20006.

State Energy Offices: Each state has a state energy office of one form or another. Citizens interested in identifying programs and incentives for solar and conservation in their state should contact their state government and ask for the energy office. These offices often can put individuals directly in touch with local builders, architects and firms specializing in solar and conservation.

International City Managers Association: ICMA Energy Management Program offers training programs, research and innovation reports to city and town managers and county administrators. Contact: David Pomerantz Director Energy Management Program, ICMA, 1140 Connecticut Ave. N.W., Washington, D.C. 20036. (202) 828–3663.

Other information sources

Federal Government: The Federal government's primary solar information center is the Solar Energy Information Data Bank. SEIDB distributes its information and pamphlets through the National Solar Heating and Cooling Information Center and the Solar Energy Research Institute.

NSHCIC provides information on solar heating and cooling applications for buildings, while SERI covers the distribution of information on all other solar applications, legal questions and solar-related school and college courses.

SEIDB distributes directories on request on topics such as solar products, standards and regulations, public events and consumer protection.

Technical information can be obtained from DOE's Technical Information Center, PO Box 62, Oak Ridge, Tenn. 37830, (615) 483–8611; or from the Commerce Department's National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161. (703) 557–4600.

DOE also publishes "The Energy Consumer," a monthly bulletin on solar activities. Copies may be obtained from the Technology Transfer Branch. Office of Conservation and Solar Applications, DOE, Washington, D.C. 20585.

Federal government publications on solar energy are listed in a free pamphlet, "Solar Energy, Subject Bibliography No. 9," available through: Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402. (202) 783–3238.

Two particularly useful government publications are SERI's Reaching Up, Reaching Out, A Guide to Organizing Local Solar Events (GPO stock No. 061–000–00345–2), $8.50, and the Council on Environmental Quality's report The Good News About Energy (GPO stock No. 041–011–00041–1), $2.30.

For non-governmental publications on solar energy, check with the trade associations and non-profit groups listed below.

Building and Installing Your Own System: Persons interested in designing their own solar installations can get assistance from the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) or the National Association of Home Builders (NAHB). There are also many how-to publications.

Professional engineers and architects and individuals in the building industry interested in expanding into the solar market can contact ASHRAE and NAHB.

Contact: ASHRAE. Director of Research and Technical Services, 345 E. 47th St., New York, N.Y. 10107, (212) 644–7953 or NAHB Research Foundation, P.O. Box 1627, Rockville, Md. 20850, (301) 762–4200.

Trade associations

American Section of the International Solar Energy Society: AS/ISES chapters exist in almost every state in the country, providing professional help and informative publications and audiovisual materials. National Headquarters: American Technical University, P.O. Box 1416, Killeen, Texas 76541. (817) 526-1300.

American Wind Energy Association: Publishes "Windlette," bi-monthly, and two quarterlies, "Wind Technology Journal" and "Wind Power Digest." 1609 Connecticut Ave. N.W., Washington, D.C. 20009. (202) 667-9137.

Bio-Energy Council: Publishes "Bio-Energy Directory," $40. 1625 Eye Street N.W., Suite 825A, Washington, D.C. 20006. 833-5656.

National Association of Home Builders: 15th and M Sts. NW., Washington, D.C. 20005. (202) 452-0362. Michael Bell and Robert Boras, energy directors.

National Association of Solar Contractors: Offers information of particular use to plumbers, electricians, masons, remodelers and other solar contractors.

National Office: Rick Schwolsky, Director, Suite 928, 910 17th St. NW., Washington, D.C. 20006. (202) 785-3247.

NASC also operates a training program for contractors in solar related fields. Contact: Jim McCall, Director, Sunrise Builders School, P.O. Box 125, Grafton, Vt. 05146. (802) 843-2311.

Sheet Metal Workers' International Association, AFL-CIO: Provides in-service training for laborers interested in supplementing their skills with solar-related expertise. 1750 New York Ave. NW., Washington, D.C. 20006. (202) 783-5880.

Solar Energy Industries Association: SEIA, a trade group organized to promote the interests of the solar industry, provides many services of interest to the general public as well as its members. For information contact: Luana Moore, SEIA, 1001 Connecticut Ave. NW., Washington, D.C. 20036. (202) 293-2981.

Wood Energy Institute: Publishes two newsletters, "WEI Reports" and "Wood'N Energy." WEI, Suite 700, 1101 Connecticut Ave. NW., Washington, D.C. 20036. (202) 857-1100.

Non-profit groups

Citizen's Energy Project: Offers research and education materials, as well as a nationwide directory to energy and community action groups. Publishes Citizens' Energy Directory, a state-by-state list of organizations, companies and individuals who provide solar information, assistance and services. 1110 Sixth St. NW., Washington, D.C. 20001. (202) 387-8998.

Institute for Local Self-Reliance: Research and education materials are available, targeted at community groups. 1717 18th St. NW., Washington, D.C. 20009. 232-4108.

Minorities Organized for Renewable Energy: MORE does local organizing and provides information to minority-group organizations. 1328 New York Ave. NW., Suite 515, Washington, D.C. 20036. (202) 638-4786.

National Center for Appropriate Technology: Low-income individuals and groups can receive grants and technical assistance for small, innovative conservation and solar energy projects.

NCAT also publishes guides to solar design, energy advice for low-income persons and a guide to federal appropriate technology programs.

Contact: Hiram Shaw, Director, NCAT Technical Information Center, P.O. Box 3838, 3040 Continental Drive, Butte, Mont. 59701. (406) 723-6533.

THE IRAN-IRAQ WAR

Mr. MITCHELL. Mr. President, the war now raging between Iran and Iraq confronts the Western World not only with the danger of escalation that all wars represent in the nuclear age. It also embodies a threat to the lifeline of the industrialized Western World, for it could threaten the narrow waterway through which 60 percent of the oil in international commerce must pass—the Strait of Hormuz in the Persian Gulf.

It is absolutely essential that the military action between Iran and Iraq cease, and that their border differences be resolved through negotiation. It is even more essential that the conflict not be widened through the intervention of either great power.

Our President has publicly committed our country to strict and impartial neutrality in this conflict. He has called on the Soviet Union to exercise similar restraint.

The nine European nations of the Common Market have unequivocally stated the importance of maintaining free navigation in the gulf and through the Hormuz Strait. Our Government has endorsed that statement. President Carter said:

> It is imperative that there be no infringement of freedom of passage of ships to and from the Persian Gulf Region.

The long-simmering differences between the predominantly Arabian people of Iraq and the Aryan peoples who inhabit most of Iran center on border disputes that arose over the past decade.

In 1970, when the British withdrew their troops from the region, the Shah of Iran seized three islands which guard the Hormuz Strait, garrisoned them, and announced that Iranian protection of the waterway was the only way to assure its international accessibility.

The inhabitants of these islands are principally Arab, and Iraq has never accepted the Iranian seizure.

In 1975, Iraq signed an agreement with Iran ceding territory where the Euphrates and Tigris Rivers empty into the Persian Gulf, at the estuary of Shatt al Arab. Iraq contends that this concession was obtained only in exchange for Iranian agreement to stop financing separatist Kurdish rebels in Iraqi territory.

On September 17, when Iraq unilaterally canceled that border agreement, she reiterated her assertion that it had been extracted under threat and was not freely entered into by Iraq.

When Iran staged an overflight of the waterway the following day to reemphasize her claim to the area, Iraq shot down two Iranian planes.

On September 20, Iran began calling up military reserves. On September 22, Iraq bombed 10 airfields in Iran, including Teheran's International Airport. A day later, Iraq attacked the major Iranian refinery complex at Abadan and Iran bombed Iraq's capital of Baghdad.

Our Navy currently has two battle groups in the region. Our Government is consulting with our European allies on the need for a joint fleet in case the conflict escalates and threatens world oil supplies. No firm agreements have been reached on such a joint effort, and unless a very clear threat arises that demands a western response, open discussion of such an effort is counterproductive. It feeds the misinformation in which Iran is dealing, that Americans are backing the Iraqi effort. And it provides too ready a rationalization for Soviet temptations.

The military outlook is clouded by uncertainty about the ability of the Iranian Air Force to continue operations for a prolonged period, and about the internal stability of Iran itself.

Soviet anxiety about the turmoil on her southern borders, coupled with the 1921 Soviet-Iranian friendship agreement, could well tempt that country into ill-advised action if the present conflict results in a general breakdown of government authority in Iran.

Khuzistan province produces most of Iran's oil and has a majority Arab population whose sympathies are clearly with their Arab counterparts in bordering Iraq.

British military analysts indicate that Iraq's ability to launch a serious invasion of Iran is not credible because of the mountainous terrain over which such an invasion would have to pass, and the lack of in-depth support Iraq could provide an invading force.

Similarly, Iraqi threats to close the Strait of Hormuz are difficult to assess. The Strait's sea lanes are 300 feet deep, well beyond the 40 feet most tankers draw, so closing the strait would require a continuous military operation. It could not be accomplished by simply scuttling vessels to block the passage. The strain on Iraqi resources to maintain such an operation would be immense, and could not be maintained long without outside support.

Other countries in the Gulf region, such as Oman on the Arabian Peninsula, could well intervene to keep the passage open, as well.

U.S. military analysis believe that absent Soviet action, the task of keeping the Strait of Hormuz open would be relatively easy for the West.

But signs of military weakness in both parties to the conflict ought not give us grounds for a sense of complacency in this crisis.

For a continued threat to the strait and to shipping in the gulf could as easily discourage tanker traffic as an outright seizure of the passage itself.

And a major supply interruption promises enormous consequences for the West.

An immediate consequence has been the cessation of both Iranian and Iraqi oil shipments, totaling about 2.7 to 2.8 million barrels per day. The temporary glut of oil on the international market in recent months consisted of an oversupply of about 2.5 million barrels per day, so this stoppage immediately eliminated the oversupply and, in fact, threatens an immediate, if minor, shortage.

The nations of the Middle East use the strait of Hormuz predominantly for their oil shipments: 40 percent of the non-Communist world supply of oil moves through that 26-mile-wide passage, at the rate of three tankers every hour, 17.3 million barrels every day.

The United States receives 15 percent of its supply through that source.

The impact of its being choked off is incalculable.

Even if only the Iranian and Iraqi supply vanishes from the market for a prolonged period, the shortage of oil will be felt and prices will rise. Spot market prices in Amsterdam for refined petroleum products have already risen by 10 and 15 percent. All analysts agree it is only a matter of time before the price rise affects crude oil as well.

An important contributor to such a price rise would be over-anxiety in the West about a prolonged conflict.

And, in that connection, there are some encouraging signs:

At this time, reports indicate that Iraq has invaded some 10 miles into Iranian territory along a 200-mile front. Iran is claiming that it has pushed back some of these advances.

Iraq has announced that if her territorial demands are met, she is ready to negotiate a cease-fire and to discuss conditions for a peaceful settlement. These conditions include a revision to the pre-1975 border along the Shatt-al-Arab estuary and the three islands seized in 1970.

There are other encouraging developments:

The Islamic group of nations at the United Nations will attempt to mediate the conflict;

The Soviet Union has rejected an Iraqi request for more arms;

The United States, in a reciprocal gesture, has curtailed the shipment of six turbine engines for Iraqi ships;

Secretary of State Muskie reports from his meeting with his Soviet counterpart that there is reason to believe the Soviets are not interested in expanding or prolonging the conflict;

And, most importantly, the Iraqi Vice Premier, Tariq Aziz, has stated that Iraq has regained what it considers its legitimate territory and has no further claims on Iranian land.

So there are some grounds for cautious optimism.

But we should not let that optimism lull us into a sense of security about the very serious threat this conflict presents to the Western World.

The Strait of Hormuz is the only inlet to the Persian Gulf, from which the bulk of the Western World's oil is shipped.

In military terms it is a 26-mile-wide choke point.

And although we might be able to ration ourselves against a suspension of traffic through that passage, we are bound by international treaty to share the shortages of our allies in the case of a world-wide interruption to the oil supply. The International Energy Agreement, to which we are a party, requires signatory nations to begin oil-sharing whenever the worldwide supply is reduced by 7 percent.

That trigger point has not been reached yet, but there is no question a general closing of the Hormuz Strait would immediately trigger it—and the currently high crude oil stocks available to the industrialized world could be used up very quickly, unless their withdrawal has been properly planned.

At this time, we can only hope that the parties will agree to a cease-fire and commence negotiations.

But there are other steps we and the western world can take:

First, we should immediately develop, with our allies, joint agreements to avoid panic buying, limit hoarding, and eliminate competitive bidding for the oil now on the world market. The lesson of 1979, when the Iranian revolution temporarily reduced world supplies, is clear: Panicked, competitive bidding forces the price up—to $40 per barrel last year—and when oil prices rise, they do not readily go down. The recent OPEC meeting is evidence of this, for even with a world oversupply of 2.5 million barrels daily, the supplier nations were still able to agree upon—and extort from buyers—a $2 per barrel price increase.

So, joint action to prevent a recurrence of such a panic is essential.

Second, we must immediately develop a plan for the rational use of current stocks in the case of a supply shutdown. Worldwide stocks are at record heights at present. 5.2 billion barrels of crude have been stockpiled. The United States holds 1.3 billion barrels. This is a fortunate cushion against a supply interruption, but unless we have a rational plan to use it to ameliorate the effects of a supply interruption, that surplus could vanish very quickly, leaving the United States with no further resources.

A fairly drawn and restrained plan for using the surplus is essential. It should be in place as quickly as possible, for in the current unsettled condition of the Persian Gulf, a massive supply interruption could occur at any time.

Third, the uncertainties facing us in this situation clearly demand that our country move forward with the filling of strategic petroleum reserve. The reserve has been denigrated as simply pumping oil out of the ground and dumping it back in another place. The present danger to the continuity of supply demonstrates, I think vividly, the dangers of a simplistic dismissal of the need for a reserve.

When oil is in ample supply, and the Middle East is quiescent, it is easy to disregard the need for a reserve to protect ourselves against a supply interruption. But when we can clearly see the very thin thread by which the West's industry is able to function—a 26-mile-wide passage of water—it is clear that a reserve must be properly filled and available to us. And as long as this region of the world remains as troubled as it evidently is today, a properly filled and available reserve is essential.

Congress has mandated that the administration buy and fill the reserve at the rate of 100,000 barrels per day. This is a first step, but it is not enough. The existing surplus and the amount now in the reserve permit some latitude today. But the lesson for the future is clear: Our Nation will be defenseless against another threat to the continuity of oil supplies as long as we have no credible reserve to fall back upon.

Fourth, the most important step we and our allies can take is to reduce our dependence on oil. That is for the long term. With our efforts to develop and commercialize alternative fuels, to encourage conservation, to exploit our massive coal reserves, we have moved toward that long-range goal. The rate of increase in our oil use is declining. We should do whatever we can to accelerate that decline. This is our long-term response to the price gouging and uncertainties of supply associated with OPEC oil.

A short-term response we and our allies can and should take, as well, would be to encourage and assist in increasing production from non-OPEC sources and from regions outside the Middle East. The world's dependence on this region and source of supply has caused inestimable harm to the international economy and to our ability to defend ourselves. Today, it could embroil us in a tragic conflict. It is imperative for the West to free itself from its over-dependence on that region and that source of energy. We can and should encourage alternative sources of supply as aggressively as possible.

These four recommendations are not the whole answer to the threat of conflict in the Middle East, and the danger it represents to the energy source on which our Nation and people depend. But they would go some way to ameliorating the dangers implicit in the present crisis, and enabling us to face the threat of another crisis more easily.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

REPORT OF THE WHITE HOUSE CONFERENCE ON LIBRARIES AND INFORMATION SCIENCES—PM 247

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I am pleased to transmit to you the Report of the White House Conference on Libraries and Information Services and my own recommendations on public access to information, as required by Sec. 1(d) of Public Law 93-568 of December 31, 1974.

Information is the essence of education and the lifeblood of democracy. People need accurate information to make the personal and political decisions that will shape the country's future. The production and distribution of information is a significant factor in our economy. A technological explosion is reshaping the way information is stored and communicated, while rising costs and limited resources strain the public institutions that make information accessible.

The White House Conference considered all these issues. It examined our information needs and problems and the key role of libraries in meeting them. The delegates included librarians, information specialists and community leaders. They were selected at conferences in every state and territory, through a process that involved 100,000 people. I wish to commend the National Conference on Libraries and Information Services for their key role in making the Conference a success. The Conference theme was "Bringing Information to the People." Its recommendations will help us frame an information policy for the 1980's.

THE IMPORTANCE OF LIBRARIES

Since the beginning of our Nation, libraries have played an important role in providing citizens with the information they need to guide our destiny. Our First Amendment rights have been strengthened by the independent status of libraries free from government control. By preserving the records of our history and culture, libraries serve as a door into our past. As a source of the information we need to direct our lives, they also serve as a door into our future. As we plan for the information requirements of the 1980's and beyond, we should acknowledge the contributions that libraries have made and ensure they remain vital.

Most libraries are local institutions, under local control. State and local governments bear the responsibility for supporting and operating public and school libraries. I agree with the White House Conference that this principle must be maintained.

At the same time, the Federal Government has assumed a special role of helping libraries provide access to information for all. The Government also provides leadership in developing new technologies and services, and encouraging resource sharing among all types of libraries. This Federal role complements the basic responsibilities of state and local governments. My Administration has worked with Congress to fulfill that role.

To ensure that library programs get the attention they deserve, we created an Office of Libraries and Learning Technologies in the new Department of Education, headed by a Deputy Assistant Secretary.

Overall Federal support for libraries has increased by almost 30% since the beginning of my Administration. We proposed improvements in the Higher Education Act to strengthen support for library research and demonstration and training programs and for college and research libraries. We supported literacy and school library and media programs through our 1978 amendments to the Elementary and Secondary Education Act.

My 1982 budget request to Congress will reflect our response to the Conference recommendations for increased budgetary support for resource sharing among libraries; research and development in information technologies; and research libraries.

The Conference recommended a new National Library and Information Services Act to redefine the Federal role. I will submit new legislation to replace the Library Services and Construction Act which will expire in 1982. This legislation will include such issues as:

Barriers to information access for the handicapped and disadvantaged;

Library networking and resource sharing;

The role of large urban libraries and research libraries as centers for library resource networks; and

New information technologies.

I urge the Congress, the library community, and the public to join in the discussion during the next year on the priorities among these important concerns.

GOVERNMENT INFORMATION

The Federal Government has a special responsibility to ensure that its information is made available to the people. Open government is vital to democracy. We must also recognize the constraints of national security, privacy, efficient decision making, and costs.

We are workng to address these concerns in a way that increases access to information. A new office has been established in the Office of Management and Budget to develop Federal information policy. This office is working closely with the agencies, libraries, and private sector to develop a policy on the management and dissemination of information by Federal agencies. This policy will affirm the key role of the Federal depository libraries as centers where citizens can obtain free access to government publications.

The policy will also stress the special role libraries can play in helping Federal agencies disseminate information that people need. We should not create new delivery systems when libraries, with strong community bases, can do the job. The Denver Public Library is one example of a library that is working closely with several agencies to make consumer and environmental information available. I encourage and support cooperation like this. To foster such partnership, I have directed the Administrator of the General Services Administration to work with the library community and the Department of Education to select three to five Federal Information Centers and locate them together with libraries. If this cooperative effort is as successful as I expect, I will expand the program.

My Administration has also taken a number of other initiatives to improve and enhance public access to government information. For example:

We revamped the security classification system to eliminate needless initial classification and reduce the time that documents remain classified while strengthening protection for necessary secrets. About 250 million pages of documents will be released because of this change.

The Freedom of Information Act is being administered fairly. The Department of Justice has instructed agencies to release information that could legally be withheld if the release could not be clearly harmful.

Our policy on industrial innovation calls for an improvement in the dissemination of patent information, which will make over 4 million patents accessible.

The National Technical Information Service has expanded the indexing and dissemination systems available to scientists and engineers.

Increases were requested for the National Commission on Libraries and Information Sciences, an agency which has a vital leadership and coordination role in library and information science at the national level.

THE NEEDS OF THE DISADVANTAGED

The Conference report serves as a reminder that too many of our citizens are cut off from the information available to most of us. One of the greatest barriers is functional illiteracy. To overcome this problem, I have directed the Department of Education to take the lead in coordinating Federal efforts to eliminate functional illiteracy. Their task will be to identify methods and programs of demonstrated value and to work with local education agencies, libraries, and voluntary organizations to implement these programs. Twenty percent of our Americans are functionally illiterate, and we must expand our commitment to helping these people obtain the basic skills they need.

Under my Administration, a new Basic Skills Improvement Program was authorized in 1979. Its overall objective is to bring about national improvement in student achievements in the fundamentals of education—reading, writing, speaking and mathematics.

We are working to assist disabled Americans. At my request, the broadcasting networks helped establish a pilot closed-captioning television system to permit the hearing-impaired to share the educational and entertainment shows available to everyone. In addition, the Library of Congress and the Department of Education are working to provide special materials, equipment and services for those with physical handicaps and learning disabilities.

Another frequently overlooked barrier to information is geography. Many Americans are denied access to information because of where they live, such as an Indian reservation, a Pacific Island, or an isolated area. To address these problems and those of other persons isolated from information due to their location, I am directing the Department of the Interior to analyze these issues and provide recommendations to me.

I will soon send to the Senate a protocol to the Florence Agreement of 1952 further liberalizing the exchange of books and information and reducing barriers to international understanding. The National Commission on Libraries and Information Sciences has already begun working with the International Federation of Library Associations.

THE NEW INFORMATION AND COMMUNICATIONS TECHNOLOGIES

New technologies are revolutionizing the ways in which we create, store and disseminate information. For example, the text of 3,200 books can now be stored on a 12-inch videodisc which costs $20. In the library computers are replacing the card catalog. The sum of changes like these will have a major impact on our lives.

My Administration is actively encouraging the creative application of these technologies for the benefit of all individuals. As the largest user of computer technology in the world, the Federal government plays a major role in deciding how this technology is applied everywhere. We are using technology to provide government services, including information, in new and better ways. A number of agencies are actively involved in conducting or supporting research and development into new technologies and their application. We shall aggressively pursue such research. We also have a program to develop standards which will enhance our ability to transfer technology.

We have worked to remove regulations that prevent competition and constrain application of the new technologies. The Federal Communications Commission is completing a dramatic overhaul of its regulations, opening up competition and promoting diversity. Recent actions are creating 1000 new radio stations and a whole new class of community TV stations. We developed a program which has doubled minority ownership of broadcast stations. We are working with Congress to pass legislation to reduce regulation and promote competition in telecommunications. The explosion of outlets in the electronic media provides special opportunities for libraries. For example, libraries can work with cable TV systems to program public service channels. Competition will stimulate innovation, increase productivity, and make the communications industries more responsive to consumer demands.

Actions we have taken to realize the public dividend from the new technologies include:

—My space policy, which is helping public service producers use satellites to cut their communication costs. The Commerce Department is responsible for this program, and I am directing them to work with the library community to make satellite and other emerging communication technologies available where it is cost-effective for networking and other purposes.

—The Department of Education will support a conference of independent experts to develop an agenda for library research in the 1980's.

—The library and information science communities will be encouraged to propose technology assessment studies for consideration by Federal agencies.

As our society expands use of the new information technologies, we must protect our personal privacy. Last year I proposed the Nation's first comprehensive privacy policy. Five privacy bills are now before Congress, covering medical, bank, insurance and other types of records. Their passage is an essential ingredient to an information policy of the 1980's.

The biggest challenges rest with the library and information community. These institutions are run by talented and dedicated people with strong bases in their communities. They have contributed much, and they can do even more to meet people's needs in coping with the problems we face in the 80's. I believe we have viewed libraries too narrowly. The needs of the public who must cope with our increasingly complex society can only be met by libraries actively providing access to the great variety of information they have. Libraries can provide information to individuals about jobs and education opportunities; information to families about social services and energy; and consumer information to small business on marketing and technological innovation. Americans must be able to obtain this information in convenient, accessible, community institutions like the library. To survive as community institutions, libraries must be strengthened and the public made more aware of their potential.

We expect that the libraries will help to teach people the value of energy conservation and the ways to accomplish it; help the American people protect themselves from inflation by informed purchasing; help them to see that we live in an interrelated world which requires both America's strength but also American patience and American understanding; and, help them most of all to learn that we have to look at the world as it is and not as we remembered it 25 years ago. I have every confidence that you will meet these challenges as you have others in the past. Libraries will continue to be a critical ingredient in building a stronger, a more vibrant, a more informed America that we all hope for.

JIMMY CARTER.

THE WHITE HOUSE, *September 26, 1980.*

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 26, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1123. An act to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such act for fiscal year 1980.

S. 2271. An act to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4658. A communication from the Governor of the Farm Credit Administration, transmitting, pursuant to law the 46th Annual Report of the Farm Credit Administration and the cooperative Farm Credit System; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4659. A communication from the Assistant Secretary of Defense (Research, Development, and Logistics), transmitting, pursuant to law, notice that a study has been conducted with respect to converting the commissary shelf-stocking and custodial service functions at Mather Air Force Base, California, and that a decision has been made that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-4660. A communication from the Acting Assistant Secretary of Defense (Research, Development, and Logistics), transmitting, pursuant to law, notice that a study has been conducted with respect to converting the clothing alterations functions at Lackland Air Force Base, Texas, and that a decision has been made that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-4661. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, notice that a study has been made with respect to converting the military housing maintenance function at Lowery Air Force Base, Colorado, and that a decision has been made that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-4662. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, notice that a study has been conducted with respect to converting the motor vehicle operation and maintenance function at Fitzsimons Army Medical Center, Denver, Colorado, and that a decision has been made that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-4663. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "An Analytical Framework For Federal Policies and Programs Influencing Capital Formation in the United States"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4664. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for the month of July 1980; to the Committee on Commerce; Science, and Transportation.

EC-4665. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Fast Breeder Reactor Program Needs Direction"; to the Committee on Energy and Natural Resources.

EC-4666. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4667. A communication from the Chairman of the United States Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, a request for an increase in the appropriation for the operation of the Board for fiscal year 1982; to the Committee on Environment and Public Works.

EC-4668. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Indoor Air Pollution; An Emerging Health Problem;" to the Committee on Environment and Public Works.

EC-4669. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for the acquisition of leased space for the Environmental Protection Agency; to the Committee on Environment and Public Works.

EC-4670. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report on the implementation and effectiveness of Title

XX of the Social Security Act; to the Committee on Finance.

EC–4671. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on State Medicaid program compliance with section 1903(g) of the Social Security Act; to the Committee on Finance.

EC–4672. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Nuclear Non-Proliferation Policy: Impact On Exports And Nuclear Industry Could Not Be Determined"; to the Committee on Foreign Relations.

EC–4673. A communication from the Director of ACTION, transmitting, pursuant to law, a report on a proposed new system of records for ACTION for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–4674. A communication from the Assistant Secretary of Transportation for Administration, transmitting, pursuant to law, a report on a new system of records for the Department of Transportation for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–4675. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report on records management activities of the Federal Government during fiscal year 1979; to the Committee on Governmental Affairs.

EC–4676. A communication from the Assistant Secretary of Housing and Urban Development for Administration, transmitting, pursuant to law, a report on a new system of records for the Department of Housing and Urban Development for implementing the Privacy Act; to the Committee on Governmental Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions; which were referred or ordered to lie on the table, as indicated:

POM–864. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

"SENATE JOINT RESOLUTION No. 43

"Whereas, It is desirable to achieve a resolution of the continuing divisive controversy surrounding the siting of the proposed Naval Regional Medical Center in the City of San Diego, County of San Diego, State of California; and

"Whereas, The Legislature of the State of California supports the federal policy of promoting energy conservation; and

"Whereas, The construction of the proposed medical facility is an irreversible commitment of resources; and

"Whereas, The decision concerning the siting of the proposed medical facility will have a profound impact on the people of the San Diego region, the United States Navy, and the citizens of the United States; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States, the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, the Commandant of the 11th Naval District, and the Mayor and City Council of the City of San Diego to cooperate in the review of available alternative sites to determine the optimum location for the proposed Naval Regional Medical Center in the City of San Diego, State of California, taking into consideration all of the following matters:

"(1) Presidential executive orders requiring that when federal facilities are established in urban areas consideration shall be given to a centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials;

"(2) The desirability of conservation and revitalization of existing urban resources, including urban parklands;

"(3) The necessity for energy efficiency in a large regional capital investment;

"(4) Time constraints concerning the immediacy of need for the proposed medical facility;

"(5) Economic efficiency concerning the size and location of the proposed medical facility;

"(6) The impact of construction of the medical facility on environmental and employment conditions and needs;

"(7) The enhancement of the quality of life for the citizens of the San Diego region;

"(8) Preservation of open space in urban areas;

"(9) Control and reduction of air pollution;

"(10) The impact of the proposed medical facility on traffic conditions in the immediate and adjacent areas;

"(11) The creation and maintenance of conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans;

"(12) The promotion of good will between the Navy and the citizens and elected officials of the City of San Diego, all for the public good; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Defense, to the Secretary of the Navy, to the Chief of Naval Operations, to the Commandant of the 11th Naval District, and to the Mayor and City Council of San Diego, California."

POM–865. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"SENATE JOINT RESOLUTION No. 31

"Whereas, The United States of America is dependent upon the seas for commerce as well as survival; and

"Whereas, Shipbuilding and shipyard facilities compose a basic and vital element of the national security assurance structure of the nation; and

"Whereas, The prospects for the construction of merchant ships for the United States shipping fleet have been severely circumscribed by the absence of a forward-looking national maritime policy and program; and

"Whereas, The current five-year plan for the construction of naval vessels for the United States Navy has been reduced from 157 to 97 ships; and

"Whereas, As a result, the national security and economic interests of the United States may be endangered, shipbuilding production facilities may be idled, and gainful employment for skilled shipyard workers, including many women and minorities, may be jeopardized; and

"Whereas, Workers in many industries and activities which supply and support shipbuilding will also be affected; and

"Whereas, These prospective conditions will sensitively impact on shipyards in the State of California, and, in turn, on the economy, industry, and people of the State of California; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California deplores the continuing inadequacy of national policymaking and decisionmaking in devising a comprehensive industrial strategy for shipbuilding to serve United States national interests; and be it further

"*Resolved,* That the Legislature of the State of California memorializes the President and the Congress of the United States to promptly institute a coordinated, coherent, and effective policy and program which will ensure continuity and stability in the maintenance of essential shipyard resources and work forces, not only in the State of California but throughout the nation; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–866. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION No. 81

"Whereas, The federal Department of Energy administers a gasoline allocation program, pursuant to the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751, et seq.); and

"Whereas, As part of its gasoline allocation program, the Department of Energy allows states to administer a state set-aside program to allocate 5 percent of gasoline supplies and 4 percent of diesel fuel supplies within the state to meet hardship and emergency requirements of its citizens; and

"Whereas, The State of California administers such a set-aside program in an effort to minimize the inefficiencies and inequities created by the Department of Energy's gasoline allocation program; and

"Whereas, The Department of Energy has provided no reimbursement to the State of California for the costs associated with the administration of the set-aside program, despite the fact that the set-aside program exists primarily as a remedy for the problems created by the federal allocation system, even though the Emergency Petroleum Allocation Act of 1973 allows the Department of Energy to reimburse states for expenditures pursuant to that act; and

"Whereas, The Department of Energy has been neither responsive nor timely in granting either upward adjustments in the existing gasoline allocations for Californian communities, businesses, and farms, or new gasoline allocations to new businesses and farms within California; and

"Whereas, The Department of Energy has ignored requests by the California Legislature to appear before Legislative committee hearings to explain the federal gasoline allocation program and why it takes the Department of Energy so long to reach decisions, and the bases of its decisions concerning gasoline allocations; and

"Whereas, The Department of Energy should provide full reimbursement to the State of California for the costs incurred by California in administering this federal program; and

"Whereas, Agriculture is the number one industry in the number one agriculture producing state in the nation; and

"Whereas, Within recent months, there have been critical shortages of aviation fuel in California which, if unabated, will jeopardize this state's production of high quality food and fiber for this country and the world; and

"Whereas, The timely application of various nutrients by agricultural aircraft on farm products is crucial; and

"Whereas, The State Fuel Allocation Office does not currently have a set-aside allotment for aviation fuel; and

"Whereas, The Legislature declares that every effort should be made by the oil company refiners in California to give a priority to agricultural users' aviation fuel needs; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Department of Energy to make every effort to improve and streamline its regulations dealing with the gasoline allocation program and to shorten the amount of time necessary to render relief to Californians experiencing fuel related hardships; and be it further

"Resolved, That the Department of Agriculture and the Department of Energy is hereby memorialized to develop a program providing for the total current needs of all aviation fuels for agricultural purposes and respectfully memorializes the President and Congress of the United States to take all the necessary actions to ensure the implementation of such a program at the earliest possible date; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Secretary of Energy, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-867. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION No. 87

"Whereas, The Legislature of the State of California has declared wind, geothermal, and solar energy an important element of the state's energy supply mix; and

"Whereas, The State Energy Resources Conservation and Development Commission, in its biennial report to the Governor and Legislature, recommends that first priority be given to geothermal and renewable energy resources when determining need for new electrical capacity; and

"Whereas, Energy from wind, geothermal, and solar resources can replace use of foreign oil and reduce air pollution, and energy from wind can reduce consumptive use of water for powerplant cooling; and

"Whereas, Approximately 40 percent of the state's wind resources and 50 percent of the state's geothermal resources are located in the southeastern desert; and

"Whereas, The United States Bureau of Land Management (BLM) is considering alternative uses for their lands in the California desert and will recommend a land use plan in September 1980; and

"Whereas, The Federal Land Policy and Management Act of 1976 requires the full assessment of BLM lands for the production of energy and mineral resources; and

"Whereas, The extent and value of wind and mineral resources on the California desert have not been fully assessed; and

"Whereas, Two of the three alternative land use plans currently proposed by the United States Bureau of Land Management substantially preclude the production of geothermal, wind, and solar energy and the development of mineral resources; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Secretary of the Interior to require the United States Bureau of Land Management to do all of the following with respect to lands administered by the Bureau of Land Management:

"(a) Adequately inventory and evaluate, in cooperation with the Department of Energy and the State Energy Resources Conservation and Development Commission, the wind and solar energy resources in the California desert.

"(b) Classify those areas with potential wind or solar energy resource potential in a land use classification which will permit the full and expeditious development of that energy resource consistent with established environmental criteria.

"(c) Adequately inventory and evaluate, in cooperation with the United States Bureau of Mines, the United States Geological Survey, and the Division of Mines and Geology of the Department of Conservation of this state, the mineral resources in the California desert.

"(d) Classify those areas with potential mineral resource development potential in a land use classification which will permit the full and expeditious development of that mineral resource consistent with established environmental criteria.

"(e) Designate transmission corridors to connect the wind and known geothermal resource areas with the power grid.

"(f) Classify those areas which are presently known geothermal resource areas and those areas which are potential geothermal resource areas in a land use classification which will permit the full and expeditious resource assessment and development of the geothermal resource consistent with established environmental criteria; and be it further

"(g) Consider fully any impact which the planning efforts will have upon energy or mineral or other resources on state lands administered by the State Lands Commission and cooperate closely with the State Lands Commission in further efforts on the plant development; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-868. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION No. 88

"Whereas, The Governor and the Legislature of the State of California, the Public Utilities Commission of this state, and the State Energy Resources Conservation and Development Commission have determined that California faces an energy shortage arising from the increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand; and

"Whereas, Providing California residents with adequate supplies of energy; facilitating the efficient use of that energy; reducing reliance on imported and domestic energy sources; and protecting the environment are essential to the continued welfare and prosperity of the people of the State of California; and

"Whereas, The Pacific Gas and Electric Company has proposed two interest-free loan programs to assist residential customers to accomplish these goals; and

"Whereas, The Pacific Gas and Electric Company's zero interest plans will enable its residential customers to install cost-effective energy conservation measures and renewable resource measures; and

"Whereas, The Weatherization Zero Interest Plan will finance, without interest all cost-effective measures including, but not limited to, ceiling, wall, floor and duct insulation, storm windows and doors, weatherstripping, caulking, water heater insulation wrap, automatic setback thermostats, lighting conversion, and intermittent ignition devices; and

"Whereas, During the test phase, it is estimated that the Weatherization Zero Interest Plan will save 56 million kilowatt hours of electricity and 41 million therms of gas, which is equivalent to approximately 750,000 barrels of oil; and

"Whereas, The Solar Zero Interest Plan will finance, with zero or low interest, the installation of domestic solar water heating systems; and

"Whereas, The Solar Zero Interest Plan will annually save an estimated 77 million kilowatt hours of electricity and 7.1 million therms of gas, which is equivalent to approximately 237,000 barrels of oil; and

"Whereas, These Pacific Gas and Electric Company no-interest and low-interest loan programs will reduce energy consumption and California's dependence on foreign and domestic fossil fuels; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Secretary of Energy to take appropriate actions and adopt such rules and regulations as are necessary to ensure prompt implementation of the Energy Security Act as it amends provisions of the National Energy and Conservation Policy Act relating to energy conservation financing; and be it further

"Resolved, That the Pacific Utilities Commission of this state give continued special priority to consideration of Pacific Gas and Electric Company's two such zero interest plans and reach a decision on such applications as soon as possible; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of Energy, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the President and each Member of the Public Utilities Commission of this state."

POM-869. A resolution adopted by the Council of the City of Lorain, Ohio, favoring action to facilitate the admission of Puerto Rico as the fifty-first State of the Union; to the Committee on Energy and Natural Resources.

POM-870. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 90

"Whereas, The United States Olympic athletes must be of amateur status and require public financed support; and

"Whereas, Many Americans support the Olympic effort and are desirous of a means to contribute a small financial amount to this effort; and

"Whereas, Existing federal tax law does permit the taxpayer to designate $1 of tax for presidential campaign purposes; now, therefore; be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to make the necessary revisions in federal tax law to allow for a $1 voluntary tax designation for funding of United States Olympic athletes and their participation in the Olympic Games; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to

the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-871. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 78

"Whereas, Most of the populations of the world's whales are still depleted and in jeopardy; and

"Whereas, Commercial whaling continues by countries that are members of the International Whaling Commission and by some that are not; and

"Whereas, There are substitutes readily available for every use made of whole products; and

"Whereas, A majority of nations in the International Whaling Commission voted for moratorium on commercial whaling at last year's meeeting (but not enough to meet the required three-fourths majority); and

"Whereas, The public appreciation for living whales continues to increase; and

"Whereas, Pressures on whale habitat are increasing from mineral exploration, development, and transportation; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the United States press vigorously for passage of a moratorium on commercial whaling at the next annual meeting of the International Whaling Commission, which will be held in Brighton, England, on July 21 to 26, 1980; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, the Council on Environmental Quality, the Marine Mammal Commission, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-872. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION No. 92

"Whereas, The past development of the public ports of the United States is the result of a fruitful partnership in which state and local authorities have assumed major responsibilities for land-based port development with the federal government constructing and maintaining the navigable waterways and harbors of the United States; and

"Whereas, The economic, social, and cultural developments in the history of the port cities and states have mirrored the conditions of the ports of the United States; and

"Whereas, Ports serving our waterborne commerce are responsible for the creation and continued employment of more than one million workers and an annual contribution in excess of $56,000,000,000 to our nation's economic well-being; and

"Whereas, The development of our nation's ports is indispensable to our foreign trade and vital for the achievement of a favorable balance of trade; and

"Whereas, Viable ports are necessary to national security and the maintenance of an adequate defense; and

"Whereas, The continued development of ports is being adversely affected by economic, physical, and other factors, including the problems associated with the adequacy of the harbors and channels; and

"Whereas, The ability of the public ports to continue their vital contribution to national security and welfare may be in question; and

"Whereas, There is an urgent need for continuing attention to the needs of the public ports; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to designate the week beginning on October 5, 1980 as "National Port Week"; and be it further

"*Resolved*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to support legislation requiring the Secretary of Commerce to report annually on the conditions of the public ports in this country; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-873. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION No. 10

"Whereas, federal judges, pursuant to Article 2, Section 2, Clause 2 of the United States Constitution, are appointed by the President of the United States, with the advice and consent of the Senate; and

"Whereas, the method of appointment of federal judges creates a federal judicial system which is less responsive and less responsible to the people over whom they sit in judgment than is a judicial system which is elected by popular vote; and

"Whereas, the fact that judges in the federal court system are appointed tends to politicize the office by vesting in one person the opportunity to control the general tenor of the federal judiciary by appointment of individuals who hold certain philosophical positions, not necessarily representative of the general population of the country.

"*Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana*, the Senate thereof concurring, that the Congress of the United States is hereby memorialized to consider the adoption of legislation which proposes an amendment to the United States Constitution to provide for the selection of all judges of the federal court system by popular election.

"*Be it further resolved* that copies of this Resolution shall be transmitted to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and to each member of the Louisiana Congressional delegation."

POM-874. A resolution adopted by the Council of the City of Hialeah, Florida, expressing support and appreciation for outstanding law enforcement; to the Committee on the Judiciary.

POM-875. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION No. 98

"Whereas, The Legislature of the State of California recognizes that drug products may contain inactive ingredients intended to facilitate the manufacture of, or otherwise affect, such drug products; and

"Whereas, The Legislature of the State of California believes that some inactive ingredients may have the potential to cause unintended effects upon the patient, either directly or indirectly, via an effect upon the use of the drugs they consume; and

"Whereas, The Legislature of the State of California believes that the citizens of this state have a right to know the full contents of the drug they consume; and

"Whereas, The Legislature of the State of California believes that drug labels should disclose all information necessary to promote the safe and effective use of drug products; and

"Whereas, The Legislature of the State of California believes that the advantages of such labeling requirements should be enjoyed by all the citizens of the United States; and

"Whereas, The Congress of the United States is currently considering comprehensive legislation to overhaul the existing drug regulatory law enforced by the Food and Drug Administration which should require such labeling; and

"Whereas, The Legislature of the State of California believes that drug ingredient labeling requirements should cover all drug products moving in interstate commerce; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact such drug product labeling provisions at the current session in order to enhance and protect the public health and to include therein authority for the Secretary of Health and Human Services to require drug manufacturers or drug distributors to include, upon sale, written information stating the name of any component that is contained in a drug product; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States."

POM-876. A joint resolution adopted by the State of California; ordered to lie on the table.

"SENATE JOINT RESOLUTION No. 44

"Whereas, The United States now imports more than half of its oil from other countries; and

"Whereas, The United States petroleum production has been declining for the past decade, and

"Whereas, The United States will need expanded supplies of domestic energy to assure its economic and sovereign future; and

"Whereas, Under the wilderness land study program the federal government is withholding 68 million acres of land from development of any kind; and

"Whereas, According to the Department of Energy, 40 percent of the impounded land may cover millions of barrels of oil and trillions of cubic feet of natural gas, all of which is being denied us while the federal government decides which part will be set aside under the wilderness program; and

"Whereas, More than one-third of the nation's entire remaining energy potential probably lies untapped in Alaska, including oil, natural gas, and coal fields; and

"Whereas, Canadian studies indicate that the Arctic Ocean-Polar Ice Cap areas Canada shares with Alaska may contain larger oil reserves than those of the Organization of Petroleum Exporting Countries; and

"Whereas, There are efforts to close off vast tracts of resource-rich Alaskan lands; and

"Whereas, It is important that limited exploration be permitted prior to permanently setting aside these lands; and

"Whereas, In the vent such exploration justifies the development of energy resources in this area, it is important that reasonable opportunity be provided to obtain

these invaluable resources; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, Jointly,* That the Legislature of the State of California supports the concept of rational exploration and a variety of uses for all public lands, including those in Alaska; and be it further

"*Resolved,* That the Legislature of the State of California opposes legislation which will further encourage dependency on foreign resources and opposes any decisions to set aside such wilderness areas without weighing the potential benefits such as energy resources and which eliminate even the possibility of making those determinations in future generations; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to each Member of the Congress of the United States, and to the Secretary of the United States Department of Interior."

POM-877. A resolution adopted by the Milwaukee County Board of Supervisors, favoring legislation (S. 1647 and H.R. 5499) to establish a commission to review the incarceration of Japanese American Citizens during World War II; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment (in the nature of a substitute), and an amendment to the title:

H.R. 6571. An act to amend the Tariff Act of 1930 to continue temporarily the duty-free status of the cost of certain fish net and netting purchases and repairs (Rept. No. 96-997).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 518. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 333.

By Mr. LONG, from the Committee on Finance, with an amendment (in the nature of a substitute) and an amendment to the title:

H.R. 4007. An act to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments (Rept. No. 96-998).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes (Rept. No. 96-999).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 6883. An act to amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales (Rept. No. 96-1000).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

H.R. 7212. An act to ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes (Rept. No. 96-1001).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment:

H.J. Res. 569. Joint resolution to proclaim March 19, 1981, as "National Agriculture Day";

S. Res. 523. A resolution to designate the week of October 6 through October 12, 1980, as "National Productivity Improvement Week";

S.J. Res. 199. Joint resolution designating the week of September 28-October 4, 1980, as "National High School Activities Week";

S.J. Res. 201. Joint resolution to provide for the designation of a week as "National Lupus Week";

S.J. Res. 205. Joint resolution to proclaim March 19, 1981, as "National Agriculture Day"; and

S.J. Res. 207. Joint resolution to authorize and request the President to proclaim November 28, 1980, as "Salvation Army Day".

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment, and with an amendment to the title;

S.J. Res. 196. Joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day";

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 521. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1480.

By Mr. HOLLINGS, from the Committee on the Budget and the Committee on Governmental Affairs, jointly, with an amendment:

S. 3087. An act to amend the Congressional Budget Act to require the Congressional Budget Office for every significant bill or resolution reported in the House or Senate to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution (Rept. No. 96-1002).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. CANNON. Mr. President, from the Committee on Commerce, Science, and Transportation, I report favorably nomination lists in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 23, and September 3, 1980, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE:

S. 3162. A bill to amend section 160(c)(1) of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. HART:

S. 3163. A bill to direct the Secretary of the Interior to exchange certain public lands in Mesa County, Colorado; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 3164. A bill for the relief of Nicholas Hipolito Valencia, his wife Blanca D. Trivino de Valenci, and their children Carlos A. Valencia and Javier Valencia; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 3162. A bill to amend section 160(c)(1) of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

STRATEGIC PETROLEUM RESERVE

• Mr. DOLE. Mr. President, months have passed since the Senate expressed its will in adopting the so-called Dole-Bradley amendment which requires the President to fill the strategic oil reserve at the minimum rate of 100,000 barrels a day. The storage and pumping facilities have been built, the money for the purchase of the oil has been appropriated, the will of the people has been demonstrated—yet the reserve remains close to empty at less than one-tenth of the intended mark.

Now, with the outbreak of fighting between Iran and Iraq, we are faced with the very type of international calamity for which the strategic oil reserve was created. Iraq is OPEC's second largest oil producer and the main Iraqui oil port, Basrah, is in the area where the fighting is ongoing. The loss of Iraq's 3-million barrel per day output spells jeopardy for world oil supplies. The United States has agreed that in the event that the world's supply of oil is interrupted, that it will share any available oil with its allies.

Mr. President, I ask unanimous consent that the lead editorial in Thursday, September 25, 1980, Washington Star be printed in full at this point in the RECORD. This editorial entitled "Little War, Big Costs" succinctly outlines the Persian Gulf dilemma and our own vulnerability due to a weak strategic petroleum reserve.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LITTLE WAR, BIG COSTS

The Iraqi-Iranian hostilities have quickly gone beyond the limits of a regional conflict. A suicidal exchange of attacks on vulnerable oil facilities threatens to add huge economic losses to the human toll in the two countries.

Iraq seems determined to prove its military edge over its formerly strong neighbor, for whatever this might do to undermine the Islamic revolution of the Ayatollah Khomeini and the associated menace of Shiite Moslem agitation in Iraq. Neither side would seem to have the power or endurance to conquer the other. But they can hurt each other grievously before the ammunition runs low and military exhaustion sets in, which should be soon.

The cutoff of oil exports from both of the combatants was a cause of immediate concern in the industrial West. The United States is little affected directly by Iraqi supplies and not at all by embargoed Iranian exports, but the world generally is touched by the reduction of 2.8 million barrels a day, wiping out the "glut" represented by the recent excess of supply over demand.

A really massive blow to the international economy was suggested in the hint of Iranian action to close the Strait of Hormuz at the entrance to the Persian Gulf, followed by an Iraqi vow to keep it open. The blockage of this vital supertanker route would stop not only the Iraqi and Iranian flow, but oil from the rest of the Gulf producers, most importantly the 9 million barrels a day from Saudi Arabia. More than 40 per cent of the non-communist world's oil would be affected, with corresponding damage to the Western economies.

So the little border war could produce distant ripples—and worse. The immediate reaction of President Carter was to soft-pedal the possible U.S. response to a Persian Gulf crisis, in the absence of a Soviet move into the area. This makes some sense in the hope that soothing words might do more than military gestures to get Iran and Iraq to stop the shooting. But the fact that an accessible Persian Gulf is vital to Western interests—no matter who or what threatens to close it—is not deniable.

The new specter of an oil stoppage should turn the eyes of Americans to their own defenses against such a calamity. (Though the United States gets only 15 percent of its supplies from the Gulf, we are committed to alleviating the much worse shortages some of our allies would suffer.) The recommended billion-barrel strategic oil reserve is less than 10 per cent full, at 92 million barrels—a 15-day supply of imports. Congress has ordered additions to the reserve after more than a year of inactivity, but that is a slow process. While conservation and the effects of higher prices have reduced the United States' need for imported oil, the nation is far from the energy independence that has been our goal since 1974.

The Iranian-Iraqi conflict will have served a chastening purpose if it reminds Americans of how vulnerable they are in every outbreak of unstable Middle Eastern passions. Will the U.S. energy picture look better the next time the supertanker schedules are disrupted? As for the destructive little war at hand, exhaustion and mediation must soon bring it to an end.

Mr. DOLE. Mr. President, we currently have enough oil in the reserve to last for about 12 days. There simply is no reason for this lack of preparedness. Just last week (CONGRESSIONAL RECORD, p. 25757) I chastised the timid brand of leadership exercised by this administration and at that time I warned, as many others have, that a disruption of this type might come—that is why the SPR machinery is in place. But the operator of the machinery, the President, has managed to tie up the controls for filling the reserve.

Nations involved in the production of oil have shown they have a variety of energy strategies and, thus far, the United States has not questioned them. The Saudis, for example, have a very definite strategy, as demonstrated by their actions at OPEC's meeting in Vienna last week. Although it may have the short-term effect of reducing some of the member country oil prices, we should not misinterpret as philanthropy the Saudi strategy of unifying world oil prices. The Saudis' long-term view is that the world must be weaned of its oil consumption as slowly as possible. They are uncomfortable with the American energy industry's investment of $20 billion into synthetic fuels and wish to deflate this threat by keeping the world price of oil below that of synthetics so as to remove the immediate momentary impetus for synthetic fuels.

Well, Mr. President, one certainly cannot reproach the Saudis for looking out for their best interests. We certainly have not quesioned their motives. There has been no protest against the latest OPEC move to raise prices. There has been no rancor, no display of unified protest by the industralized countries that might make the Saudis think twice before they again deliver their blow.

The irony and ultimate tragedy of this situation is that the Carter administration has been acting in deference to Saudi wishes in not adding to the reserve at all. Every leader has a duty to see that those he serves are provided for in the best possible manner. We recognize that the Saudis are looking out for themselves. Why is it, then, that this administration fails to do the same? Mr. President, we are not speaking about an overt act that might have the effect of disenfranchising our friends; we are talking about energy insurance—a banked supply of oil that the United States could utilize in the event the major oil producers cannot settle their differences as amicably as they did last week.

Just as the Saudis are looking after their best interests, we, too, must not hesitate to consider all of the elements that comprise a healthy oil situation for the United States. Although this administration does not like to speak in terms that might offend our friendly oil providers, the realities of the world political atmosphere make it necessary to consider all of the possibilities. As it presently exists, this country is so unprepared and exposed that an extended oil embargo would not only devastate our economy and cause grave political risks, but would also make us vulnerable to foreign military and political aggression. This is a fact of life.

Mr. President, the only short-term solution to the lack of oil currently found in the reserve, is to increase the rate of the flow into it. Our best interests are at stake. This mandate must be enacted now.

Today all that remains of the strategic petroleum reserve concept is a gaping hole on the legislative landscape, just as President Carter's timidity and lack of decisive leadership has left a gaping hole on our Nation's entire national security and energy security landscape.

Under former President Ford's leadership the strategic reserve was in its proper place on our list of national priorities. He initiated the program, he initiated the filling of it. When confronted with foreign opposition to the program he stood strong and continued the program because he realized the vital role such a reserve plays in overall U.S. policy. It is a sad commentary on the current administration that when confronted with the option of meeting its responsibility to insure national security or kow-towing to foreign pressure they chose the latter. What is sadder is that their timidity affects millions and millions of Americans who place their faith in their Government to do what is in the Nation's best interest.

The bill I am introducing today is a very simple measure. It merely increases the minimum daily fill-rate from 100,000 to 300,000 barrels. The bill does one more thing. It forces the administration to fully utilize the funds appropriated for SPRO. Last year the administration did not use the funds which the Congress so wisely appropriated for this vital program.

The Senator from Kansas is not pleased to have to offer such a measure but the administration leaves him no alternative. Allowing the administration flexibility in terms of SPRO purchases has left our Nation in a very tenuous position. No one in this body wants to tie the President's hands or restrict his fulfilling his constitutional duties; however, flexibility in this area has cost our Nation too much. Yes, as I stated last week, the Carter no-pro policy has cost our economy about $1 billion. But, Mr. President, it has cost much more. It has left our Nation's military preparedness in question and has placed us in a very perilous geopolitical position in the volatile Persian Gulf region.

For these reasons I am compelled to introduce this legislation and urge my colleagues to join my efforts. It is reasonable. It is responsible. It is right and the Congress must no longer permit a timid administration to play Russian roulette with our national security.●

By Mr. HART:

S. 3163. A bill to direct the Secretary of the Interior to exchange certain public lands in Mesa County, Colo.; to the Committee on Energy and Natural Resources.

EXCHANGE OF PUBLIC LANDS IN MESA COUNTY, COLO.

● Mr. HART. Mr. President, this bill directs the Bureau of Land Management to convey about 400 acres of public land in Mesa County, Colo., to the Ute Water Conservancy District in exchange for other land of equal or greater public value.

This legislation is necessary because BLM has stubbornly blocked the best use of this land—as a protected reservoir site to help supply adequate, safe drinking water to Ute's more than 30,000 customers.

The Ute Conservancy District is a quasi-municipal, nonprofit organization operating under Colorado State laws governing water conservancy districts. It supplies water to all residents and businesses in all of Mesa County except for the towns of Grand Junction and Palisade, which have separate water supply systems.

Ute has constructed two reservoirs—Jerry Creek Reservoirs Nos. 1 and 2—just north of Plateau Creek, near the junction of Colorado highways 65 and 330, in Mesa County. The reservoirs are used to store excess water during times of high runoff, for release during later times of low streamflow.

Jerry Creek Reservoir No. 1 was constructed in 1963 on land owned by Ute. Some of the water impounded in the reservoir inundates BLM land, as allowed by a right-of-way easement granted by the agency. Under the terms of this easement, public access to the reservoir is prohibited.

In 1977, to meet the needs of its increasing number of customers, Ute constructed Jerry Creek Reservoir No. 2 on nearby land owned by the Conservancy District. If this reservoir were filled to its capacity, like reservoir No. 1 it would back water onto about 80 acres of public land at the upper end of the reservoir.

However, when BLM decided to grant Ute approval for the use of this land for the reservoir, the agency attempted to impose a condition that public access be permitted to the reservoir for fishing and other recreational use. The proposed easement also included a provision, reversing BLM's earlier policy, that Ute would have to allow public access to reservoir No. 1.

Ute strongly opposes public access to the reservoirs for public health reasons. If the reservoirs are open to the public for fishing and other recreation, contamination of the water by litter and human wastes is likely. The water quality problems which could be caused by the public use of the reservoirs include turbidity and concentrations of algae and organic chemicals. Because both reservoirs are terminal reservoirs—points of last storage before the water enters the public water system through closed conduits—there is little opportunity for natural processes to purify the water. Because of its concerns about the health effects of public access to the reservoirs, Ute has refused to accept the BLM easement covering reservoir No. 2. Ute has filled the reservoir only to the boundary line between Ute's land and the public land. This has limited the amount of water which can be stored in the reservoir to 1,500 acre-feet, rather than the reservoir's planned capacity of 7,700 acre-feet.

Ute has attempted to persuade BLM to change its position, but the conservancy district's appeals have not been successful. Ute has also offered to purchase the lands from BLM or to exchange other lands for them, but BLM has rejected these offers.

The central question here is one of public health. All public lands should be managed under the principle of multiple use, with as many compatible uses as possible permitted on a single tract of land. Under this principle, fishing and recreational activities should be allowed at reservoirs on public lands—if those uses are compatible with the land's primary use as a reservoir. But the multiple use principle should not be used to endanger public health. If recreational uses pose a risk of contamination to the water supply, protection of people's health must come first and the reservoir must be closed to the public.

When Ute approached me with an account of their inability to reach an agreement with BLM, I asked the conservancy district to arrange for evaluations by unbiased experts who could best determine whether public access would pose a public health risk at Jerry Creek Reservoirs No. 1 and No. 2. Following up on this suggestion, Ute arranged for three of the top authorities in the country to examine the site of the reservoirs, to study the information which had been gathered on the health question, and to issue opinions on whether public access should be prohibited.

The three experts are Mr. John A. Roller, of Takoma, Wash.; Mr. Kenneth J. Miller, of Denver, Colo.; and Dr. Robert L. Champlin, of Laramie, Wyo. All three are nationally recognized experts in water supply and public health. Mr. Roller is a registered professional engineer and is currently superintendent of Takoma's water division. He is very active in the American Water Works Association, and is chairman of the Association Watershed Protection and Control Committee. Mr. Miller is vice president and director of water engineering in the respected Denver firm of CH2M HILL. He was director of planning and water resources for the Denver Water Department, is national vice president of the American Water Works Association, and will become president of the association in 1981. Dr. Champlin has a Ph. D. in environmental engineering from Harvard University and is president of environmental engineering and operations in Laramie. He is also professor of civil engineering at the University of Wyoming, and chairman-elect of the Rocky Mountain section of the American Water Works Association.

All three of these experts agreed that public use of Jerry Creek Reservoirs No. 1 and No. 2 would pose a risk to the health of Ute's customers. The opinions of these experts following this statement.

Despite the unanimous judgment of these health authorities BLM has stubbornly refused to change its position. This stalemate does not serve the public interest. The public land is not being used for what everybody concedes is its best use—an expansion of Jerry Creek Reservoir No. 2. Ute is unable to store the full amount of water the reservoir could hold if filled to capacity.

Since BLM will not make this land available to Ute for a reservoir closed to public access, Congress could.

The best solution is a congressional directive to BLM to enter into a land exchange agreement with Ute. With an exchange, Ute would take over ownership and control of the lands needed for Jerry Creek Reservoirs No. 1 and No. 2. The conservancy district will then be able to fill reservoir No. 2 to capacity and take reasonable steps to protect water quality at both reservoirs—including closing them to public access.

At the same time, an exchange will protect the national interest. Ute owns other valuable lands which it is willing to exchange for the lands at the reservoir sites. The total value of the lands in public ownership will not be diminished.

I ask unanimous consent that the opinions and resumes of the authorities I mentioned, and a text of the bill, appear in the RECORD at this point.

There being no objection, the bill, opinions, and résumés of the authorities were ordered to be printed in the RECORD, as follows:

S. 3163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall negotiate and enter into an agreement for the conveyance to the Ute Water Conservancy District, of Grand Junction, Colorado, of all right, title, and interests of the United States to approximately 400 acres of public land in Mesa County, Colorado, consisting of the following portions of township 10 south, range 96 west, sixth principal meridian—

(1) in section 9, the northeast, southwest and southeast quarters of the southwest quarter; the southwest and southeast quarters of the northeast quarter; and the northwest and northeast quarter of the southeast quarter;

(2) in section 10, the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter; and

(3) in section 16, the northwest quarter of the northwest quarter, in exchange for conveyance by the Ute Water Conservancy District to the United States of right, title, and interest in lands to be agreed upon by the Secretary and the Ute Water Conservancy District. The Secretary shall negotiate and execute this exchange according to the provisions of subsections 206(b) and 206(c) of the Federal Land Policy and Management Act of 1976 (Public Law 94-579, 90 Stat. 2743). Ute Water Conservancy District shall pay any administrative expenses of the Secretary, including appraisal, filing, and recording fees, arising from the exchange.

JUNE 8, 1980.

Mr. WAYNE WEATHERS,
Manager, Ute Water Conservancy District,
Grand Junction, Colo

DEAR MR. WEATHERS: I wish to acknowledge the receipt of the letter from Mr. Goslin dated May 7, 1980 and the attached information pertaining to the Ute Water Conservancy District's Jerry Creek Reservoirs No. 1 and No. 2. As discussed with you last week, I have attached a copy of my resume which is a capsulation of over 30 years of progressive experience in the field of water resource planning and protection, together with treatment, operation and maintenance and management of a major public fresh water supply system.

I appreciate the opportunity to have personally toured the Ute water system in general and the Jerry Creek Reservoirs in particular. The terrain is not unlike the public water supply watersheds and reservoirs on the West Coast or those of other areas of the North American Continent. As I flew into Grand Junction from the East, I was impressed with the number of lakes which were within a few miles of the Jerry Creek Reservoirs. I would certainly concur in the remarks of Mr. Jack Hoffbuhr of the U.S. Environmental Protection Agency that because of the—"abundance of water-based recreational activities"—that these additional reservoirs are not necessary.

The reservoirs themselves have several characteristics which magnify the risk imposed by incompatible uses. The area has very light soil and the vegetation is sparse. Any destruction of ground cover will impact soil stability eventually adding to the turbidity of the water. The reservoirs themselves are relatively small so the beneficial effects on water by the natural purification processes of dilution and sedimentation are minimized. The operation of the reservoir to accommodate the discharge of water from the Molina Power Plant causes weekly fluctuations in reservoir storage. The power plant is operated during week days and currently shut down on Saturday and Sunday. As a result of this operation the reservoir would be at the low stage of this weekly cycle on week-ends and by mid-week any debris or foreign material left along the shore line during a week-end would be inundated.

Public Health Officials have for many years understood the limitations of our knowledge of water supply treatment processes. There are many experts who recommend that a wide margin of safety should be utilized when making health judgments related to public water supply systems. This philosophy was confirmed by the Supreme Court of the State of Washington in the case of the City of Tacoma vs. Geo. Welcher et. al. wherein the city sought to condemn land to protect the source of its fresh water supply from pollution. Even though the city could not demonstrate an immediate need, the Court in a 9 to 0 decision found that the city not only has a right but it has a responsibility to protect its water source.

The American Water Works Association has taken a position on terminal reservoirs such as the Jerry Creek reservoirs which provide water to the treatment process immediately before the water enters the distribution system. There are a number of important considerations which lead to the recommendation that terminal reservoirs should not be used for recreational purposes. I would like to present a few of these:

1. Human beings are their own worst enemies because they can carry pathogenic organisms which infect other humans. These organisms are excreted by normal bodily functions.

2. It is not prudent to rely solely on a mechanical or hydraulic system which is subject to failure or human error to provide protection to a public water system when other remedies are available. Disruption of treatment can allow untreated water to enter the distribution system.

3. A Public water system can become an efficient method of mass distribution of pathogenic organisms. Even with minor degrees of contamination the risk is grave because of the number of potential victims.

4. There are many uncertainties in the detection of pathogenic organisms. The coliform test, which is recommended by EPA and is the primary bacteriological test used for checking public water supply quality has several limitations:

A. The test takes 24 hours to obtain results. Many times the water is consumed before the results are known.

B. The test checks for the presence of the coliform organisms many of which are associated with the fecal discharge from warm blooded creatures including human beings. Due to the limitations of the test, pathogenic organisms, particularly viruses, can be present even though the test results indicate the water to be safe. Most viruses cannot be cultured or detected by laboratory tests. Even the polio virus which can be cultured requires laboratory procedures that are not appropriate for water supply monitoring.

5. The present economy of the world is predicated on an ever evolving chemical base and new compounds are being developed faster than we can develop suitable detection methods or determine the significance of their presence.

6. People who are looking for recreation are normally looking for solitude and to open a lake to public access with the presumption of controlling the activities of the visitors is not reasonable because to do so would require almost one inspector per visitor.

The Ute water supply system is in every sense of the word a "public water system". Not only do a large number of local residences rely on the system for their fresh water, but it also supplies the needs of dairy farmers and food processors who ship their products out of the area. The district supplies water to the airport and to a number of Motels and Restaurants located in the area particularly along I-70. The traveling public accept on faith that the water is safe and wholesome.

Knowing the risks involved by public use of these public water supply reservoirs, it is my professional judgment that the risk is unwarranted and not in the best interest of the water customers, the traveling public or the users of food processed in the area.

The present posture of the Bureau of Land Management which would dictate public access to the reservoir areas does not serve the best public interest. I would most strongly recommend that the Water District take every step possible to prevent public access to these water storage facilities.

Very truly yours,

JOHN A. ROLLER,
Professional Engineer.

MAY 30, 1980.

Mr. WAYNE WEATHERS,
Manager, Ute Water Conservatory District,
P.O. Box 460
Grand Junction, Colo.

DEAR MR. WEATHERS: Mr. Ival V. Goslin, of Western Engineers, Inc., has asked that I write to you and advise the District regarding the use of Jerry Creek Reservoirs for public use.

Perhaps, I should first state my qualifications to offer such advice. For twenty-five years, I was associated with the Denver Department of Public Health and the Denver Board of Water Commissioners. I was in charge of the public health water quality laboratory and the water quality program including the water treatment plants for the Denver Water Department. I am currently member of EPA's National Drinking Water Advisory Council, the National Academy of Sciences, Assembly of Engineers Committee member, committee member—American Water Works Association, Watershed Protection and Control Committee, Recreational Use of Potable Reservoirs Committee and Vice President of the American Water Works Association. A brief resume of my education and work experience will be attached to this letter.

I have reviewed the following information relating to the question of public access to the Jerry Creek Reservoirs:

1. Bureau of Land Management memorandum dated May 17, 1979 authorized by L. MacBerta.

2. Letter from Ute to EPA of November 28, 1979.

3. Letter from EPA to Ute of December 31, 1979.

4. Letter from EPA to Ute of October 17, 1978.

5. Letter from Colorado Department of Health to Ute of September 23, 1977.

6. Letter from Colorado Department of Health to Ute of April 27, 1979.

7. Letter from Governor Lamm to BLM of March 12, 1980.

8. Map of the Jerry Creek Reservoirs.

In addition to the above, I am familiar with this part of the State of Colorado and the area surrounding the reservoirs.

After reviewing the above information, I would not recommend to your District that either Jerry Creek Reservoir No. 1 or No. 2 be opened for public access or recreation. I make this recommendation for the following reasons:

1. Both reservoirs are terminal reservoirs to the Ute Water District's drinking water system. A terminal reservoir can be defined as the final storage reservoir before being transported by closed pipeline to a potable water treatment plant. Generally speaking, other reservoirs are classified as upland reservoirs and usually have many miles of stream or river which exists before arriving at the terminal reservoir site. While it is impossible to categorize all reservoirs into the above definitions, it is clear that the Jerry Creek Reservoirs are small terminal reservoirs. There is a significant difference in potable water quality values which should be maintained in the two reservoir systems.

2. Public Law 93-523 passed by Congress in 1974, and known as the Safe Drinking Water Act, places the final responsibility for the quality of the potable water supplied to the public with the water purveyor, in this case the Ute Water Conservancy District. Both EPA and the Colorado Department of Public Health, the agencies charged with the responsibility of controlling drinking water quality and enforcement of P.L. 93-523 recommend against public access to the Jerry Creek Reservoirs. I would suggest that the District has no other recourse but to comply with the recommendations of the U.S. Environmental Protection Agency and the Colorado Department of Public Health.

3. The District would have very limited control over the public admitted, and the very real threat of contamination of the drinking water supply, which can be introduced into the supply either directly or indirectly by accident or purposely.

4. Public health regulations do not permit public access to treated water reservoirs. The basis for these regulations should also apply to small terminal reservoirs, which are considered as an integral part of the treatment process. For example, to properly control fresh water algae and their resultant taste and odor properties, the water purveyor generally will apply an algicide into terminal reservoirs. Most algicides are toxic to fish. In the case of the Jerry Creek Reservoirs it would be very difficult to maintain effective algae control without killing fish.

5. EPA has recently promulgated regulations to control trihalomethane levels in finished drinking water. These organic compounds are measured in parts per billion range. Effective control is based upon maintaining a very small amount of organic material in the source water. Recreation has been shown to increase the trace amount of organic precursors in the raw water supplies.

6. Public access and recreation has been shown to increase ground erosion and the resulting turbidity values, bacteria and virus densities and significant amount of inorganic contamination.

7. Terminal reservoirs act as a final buffer or mixing basin for any contamination or spill occurring on the watershed above the reservoir. Off-stream terminal reservoirs provide additional protection when properly operated.

8. I recommend that both reservoirs be protected by a security fence. This is particularly important near the intakes, valve house structures and operating and monitoring equipment.

9. While water quality monitoring is an essential part of any good water quality control program, it is extremely difficult, if not impossible, to provide continuous monitoring of all potential contaminants which could result from public access.

In summary, the germane issue is public access and recreational use of terminal reservoirs versus upland reservoirs. I would agree with the Bureau of Land Management that under certain conditions on specific large upland reservoirs public access and controlled recreation can be safely permitted. I do not recommend public access and recreation on terminal reservoirs which are an integral part of a potable drinking water system. The Safe Drinking Water Act, which is enforced by EPA and the State Health Department, places the final water quality responsibility with the water purveyor. The Federal and state enforcement agencies recommend against public access and recreation on Jerry Creek Reservoirs. I agree with these recommendations. They are made on sound principles of public health and water utility operations.

If I can supply any additional information or be of service, please contact me at any time.

Sincerely,

KENNETH J. MILLER,
Vice President and Director of Water Engineering.

ENVIRONMENTAL ENGINEERING AND OPERATIONS,
Laramie, Wyo., June 14, 1980.

Mr. WAYNE WEATHERS,
Manager, Ute Water Conservancy District,
P.O. Box 460, Grand Junction, Colo.

DEAR MR. WEATHERS: Mr. Ival V. Goslin, of Western Engineers, Inc., asked me to visit the Ute Conservancy District and to evaluate the proposed public use of Jerry Creek Reservoirs No. 1 and No. 2.

BACKGROUND

Prior to and during my person visit I read and studied the following documents which are concerned with the proposed public access problem:

From, to, and date:

1. Ralph W. Leidholdt, Wayne Weathers, September 23, 1977.
2. Thomas K. Henry, Jr., Tom Owen, February 15, 1978.
3. Robert L. Evans, Dale R. Andrus, March 17, 1978.
4. Jack Grieb, Col. Donald M. O'Shei, May 16, 1978.
5. Lee Carle, Wayne Weathers, September 18, 1978.
6. Jack W. Hoffbuhr, Wayne Weathers, October 17, 1978.
7. Jack C. Dice, Wayne Weathers, November 13, 1978.
8. Gov. Richard D. Lamm, Eric Oakley, March 19, 1979.
9. Frank J. Rozich, Wayne Weathers, April 27, 1979.
10. Dale R. Andrus, Ute Water Conservancy District, May 9, 1979.
11. Lowell L. Madsen, Judge Edward W. Stuebing, October 16, 1979.
12. S. 1960 96th Congress, October 31, 1979.
13. Gov. Richard D. Lamm, Hon. James Johnson, November 1, 1979.
14. Michael L. Walker, Kenneth Balcomb, November 2, 1979.
15. Kenneth Balcomb, Gov. Richard D. Lamm, November 26, 1979.
16. Wayne Weathers, Rogers L. Williams, November 28, 1979.
17. Rogers Williams, Wayne Weathers, December 31, 1979.
18. Gov. Richard D. Lamm, Dale Andrus, March 12, 1980.
19. Background for H.R. 4681 and S. 1960, April 15, 1980.
20. Ival Goslin, Congressional Delegation, April 24, 1980.
21. Ray Sparkman, May 6, 1980.

An on site visit was made to your District on June 4, 5, and 6, 1980. I visited the entire system except for the upper supply lakes. Access to these lakes was limited due to snow. In order to formulate some of the problem areas I foresee, I have included a brief overview of the system.

The District receives its main water supply from several lakes in the Grand Mesa Bonham and Cottonwood Lakes area. This is essentially a snow melt water. The water quality is typical of many Rocky Mountain supplies. It is a pristine type of water with very little dissolved minerals. It is poorly buffered and requires constant attention in treatment processing in order to maintain a proper potability. This kind of a water is sensitive to changes in its environment.

The water from the upper lakes is piped to the Molina Power Plants. The Ute District picks up the water at the Lower Molina Plant and moves it through a 6 mile transmission line to the Jerry Creek Reservoirs No. 1 and No. 2.

The Jerry Creek Reservoirs are used as water quality and water quantity control units. The reservoirs are referred to as terminal reservoirs. Jerry Creek Reservoir No. 1 has a capacity of about 1100 acre feet of water. Jerry Creek No. 2 has a capacity of about 6800 acre feet and covers about 170 acres. Part of the land flooded by Jerry Creek No. 2 (about ⅓) is owned by the Bureau of Land Management (BLM). They have stipulated that the Ute District can use the land only if public access to both reservoirs is made available.

The BLM granted the right-of-way permit, as amended, for Jerry Creek No. 1 (constructed in 1964) with no public access. The dam was constructed for Jerry Creek Reservoir No. 2 with similar assurances. Later the BLM changed its mind and now requires open public access with fishing for both Reservoirs as a condition for a right-of-way permit on Jerry Creek Reservoir No. 2.

The water from the Jerry Creek Reservoirs passes through about 12 miles of transmission lines to the treatment plant. The treatment plant is a direct filtration type. Chemicals are added to control turbidity with direct application, after a mixing contact tank, to the filters. This type system requires a low raw water turbidity, generally less than 20 TU, for proper operation. Fluoride and lime are added for dental protection and pH corrosion control adjustment. Activated carbon is available for taste and odor control when necessary.

The water is stored in a clear well tank and then is passed on through 13 miles of transmission line to the distribution system. The distribution system consists of some 900 miles of distribution lines serving over 30,000 people. The distribution area covers the entire valley above and below the city of Grand Junction. Only the city of Grand Junction and one or two small areas are not served by the Ute system. The Ute area is growing at a very fast rate due to the energy crisis. It is estimated that in 20 years the system will serve 160,000 people.

ANALYSIS

Three general areas of evaluation analysis were made for the Jerry Creek Reservoir problem: management, operations and maintenance and health risk evaluations.

MANAGEMENT

The management of the Reservoirs, as proposed by BLM, would be dual. BLM would apparently have primary management rights concerning public access, recreation and fishing (Recreation Management Plan, RMP), and general overall control. Ute would have responsibility for: health hazards at the reservoirs sites and in the water, monitoring requirements of people, cars, animals, kids and water at the reservoirs.

The dual responsibilities indicate dual and in many ways conflicting approaches to the management of the Reservoirs.

Suggestions have been made as sort of a compromise that:

1. Only walk-in-access be provided.
2. No body contact with the water would be allowed.
3. No boating.
4. Only artificial flies would be permitted.
5. Many trash cans would be provided.
6. Closed vault toilets would be provided.
7. No fishing near outlet and inlets.
8. No winter access.
9. Regular and frequent testing of water quality.

These suggestions are theoretically possible but are hardly practical in any real sense. The policing of the reservoir areas under these rules would require at least one or two guards 24 hours a day during 6 to 8 months a year. The personnel would require policing authority. The recreational justification for this extravagant expense is not of sufficient merit for any real consideration.

Management predicated on a frequent water quality monitoring program needs closer examination. The proposal presumes that several samples would be taken per week (several per day would really be necessary) and delivered to the treatment plant for examination. This would require about 3 hours per sampling per trip, and would require one man per day for just the sampling. Testing would require one additional man also. Round trips would cover approximately 30 miles of canyon driving.

When a problem developed concerning the potability of the water who would do what? From the letter review, apparently the BLM would have management control but not fiscal or liability responsibility.

There is no doubt in my mind that dual management with these conflicting requirements is not an acceptable management plan. From personal conversations in the area and from the letter information review it is apparent that many lakes are available for recreational use in this general area. There is no demonstrated requirement or justification for public access to these reservoirs for recreational pursuits.

OPERATIONS AND MAINTENANCE

Several operational problems concerning these reservoirs are unique. The power plants shut down on the weekends and holidays. This means that no water is being supplied to the reservoirs during this time. Since water demands are generally higher on the weekends for the District, a significant drop in reservoir height is noted. It is estimated that the reservoirs will change height 3 to 5 feet on the weekends.

This change in height will cause the banks to erode, especially with human traffic, causing stability and water deterioration problem. The banks along both Jerry Creek Reservoirs are steep and unstable. Normal rainfall along the banks is collected in cutoff ditches and is drained away from the reservoir area. These ditches were put in to maintain water quality and bank stability. Human traffic will destroy this effort.

Another problem with open reservoirs is algae. Algae production and control are already serious problems at the Jerry Creek Reservoirs. Large blooms of algae cause many treatment problems. They quickly clog filters increasing production costs. They release taste and odor compounds which destroy the water palatability. Control of algae at these reservoirs requires chemical addition to the surface. Usually copper sulfate (CuS04) or potassium permanganate ($KMnO_4$) is used. These chemicals also will kill fish. Again the dual requirements run into conflict. In order to control the algae and keep a potable water the recreational asset would be reduced or eliminated. Chemicals are added several times a year (spring, summer, fall) depending on the problem at the reservoirs.

It is possible with experience and good operational control that some fish will survive these frequent chemical doses but many will not.

Another problem somewhat unique to this District is the treatment plant. The treatment plant is capable of changing processes to meet changing raw water quality. These process changes, however, must be anticipated and planned. Sudden or shock loading of the plant can produce an unacceptable water. In some cases a dangerous water. Monitoring of the reservoirs and the treatment plant might catch this—but too late. The water would already be in the distribution system and 900 miles of pipe may contain a dangerous problem. Monitoring and analysis is not generally in real time. A lab tech may not catch a "new" problem for 2 or 3 days.

This concept seems to have escaped several of the agencies in their decision making. Jerry Creek No. 1 and No. 2 are called terminal Reservoirs. They are not the usual quantity type reservoirs but are actually part of the water treatment plant. The quality of these reservoirs must be maintained, controlled and known. The treatment plant must know what kind of water it is treating. It cannot quickly handle surprises developed from public access problems.

In order to more fully describe this problem consider the following example. Due to a breakdown in a toilet facility at the reservoir heavy enteric bacteria and possible pathogenic organisms are flowing into the reservoir. Treatment plant processes are set for low or minimum bacterial contamination. Because of the heavy bacterial load some organisms may pass on through the plant. Samples are taken at the plant and throughout the distribution system and brought to the lab for analysis. Usual time involved for collection and testing is about 3 days. In 3 days the problem is noted. If serious enough, "boil water orders" would be issued and lines flushed. The source would be found and corrected, treatment plant processes would be tuned to higher bacterial counts and the problem would finally be resolved. But for three or more days the 30,000 customers of the Ute District may have been drinking contaminated water without anyone's knowledge. This is and must be an unacceptable risk.

The two reservoirs are quantity and quality buffers for treatment plant operations. The treatment plant must be assured of the raw water quality.

HEALTH PROBLEMS

The concept of risk and disease occurrence as a concentration type term (X per 100,000) are common health management tools. Our water industry tries, sometimes unsuccessfully, to minimize the risks associated with drinking our product water.

Many areas of health problems are new to our industry. Recently developed analytical tools are providing us with information which was unknown only 3 or 4 years ago. This information has shown us how important it is to control the quality of our source water. We have always recommended that cities start with the best water available, protect it, purify it and distribute it.

This advice is really paying off for systems. Older systems that secured less than good sources or have allowed multiple uses of their water are now finding that many compounds that they were unaware of are in their water. Some are carcinogenic. The concept of multi use is old fashioned and is no longer best acceptable practice.

EPA is in the process of evaluating many of these new organic type compounds. Some of these compounds can be produced from humic type materials, common leachate of forest leaves, and chlorination used for bacterial disinfection. We have always though that our waters in the Rockies wouldn't have these kinds of problems. But we can and do. Again our industry must be given control of our buffer reservoirs so that we can control our water processing and our water product.

It is apparent from recent information that these types of reservoirs will require more and more quality control in the future. Dual management and dual conflicting requirements produce unacceptable hazards and health risks. The health requirements must be the primary management control of this type of reservoir.

I met with Harold Vicstorm, Superintendent of the Water Treating Plant. We discussed several of the points I have mentioned. He indicated that the chlorine demand of the Ute raw water has risen some 30% in the last 15 years. He indicated this was probably due to increased public use on the upper lakes. Chlorine demand is the amount of chlorine that is used up in chemical reactions before a residual is measured. Some of this demand is producing the chlorinated hydrocarbons we are just finding out about. Increased use, especially at Jerry Creek No. 1 and No. 2, would certainly increase this problem.

CONCLUSION

In conclusion I firmly believe from a management, an operations and maintenance, and a health perspective that no public access should be permitted on Jerry Creek Reservoir No. 1 and No. 2. All of your environmental consultants both National, State, and private are saying the same thing.

Yours truly,

ROBERT L. CHAMPLIN,
Ph. D., P.E.●

By Mr. MOYNIHAN:

S. 3164. A bill for the relief of Nicholas Hipolito Valencia, his wife Blanca D. Trivino de Valencia, and their children Carlos A. Valencia and Javier Valencia; to the Committee on the Judiciary.

NICHOLAS VALENCIA FAMILY

● Mr. MOYNIHAN. Mr. President, I am today introducing a private relief bill which, if enacted by Congress, would permit the Nicholas Valencia family to remain in the United States. This family, a resident of New York for 11 years, presently faces deportation because of misrepresentations made by Mr. Valencia in his application to enter this country from his native Equador. All avenues of appeal open to Mr. Valencia have been tried, none has proven successful, despite the support of many New Yorkers, including Congressmen GARCIA and RANGEL who have made repeated attempts to convince the Immigration and Naturalization Service to allow the Valencias to remain in this country on humanitarian grounds.

The sum of Mr. Valencia's misconduct is as follows: He entered this country in 1969, understanding that for his entrance, a minimum of 4 years of work experience was required. In Mr. Valencia's case, he indicated that he had worked as an auto mechanic for 5 years while in his native country and intended to pursue the same work if allowed to enter the United States. On this basis, he was admitted. His wife and two young children followed him shortly thereafter.

Soon after coming to the United States, an allegation was made that Mr. Valencia had misrepresented himself on his application for entry. This allegation was found to be true by the Immigration and Naturalization Service, and efforts were undertaken to deport the family. In the ensuing 10 years, Mr. Valencia has spent thousands of dollars in legal fees attempting to have the Immigration and Naturalization Service stay the order for deportation. Officials at the Immigration and Naturalization Service have given him every opportunity to present his views on this matter. They have also rejected each and every request that would allow the family to remain in this country.

It is not disputed, to my knowledge, that Mr. Valencia and the members of his family have been good citizens since they entered this country. With the exception of the continuing controversy which surrounds his original application, he and his family could be looked at as an American "success" story: Despite differences in culture and language, he has continued to work and to support his family. His two children, now nearly grown, have achieved a high degree of scholastic achievement, indeed, distinction.

I mention all of this for one reason. It is not my intention to condone in any way wrongdoing or the violation of the Nation's immigration statutes. On the other hand, I am convinced that a compelling humanitarian basis exists for forgiveness of his original transgression. If not for his sake, surely for his wife and two children who had nothing to do with the original offense, but who stand to have their lives distrupted on the basis of 11-year-old error. I would submit to my colleagues that only rarely should a private legislation be introduced. Obviously, I believe this to be one of those situations. I hope my colleagues will be able to support this measure.●

ADDITIONAL COSPONSORS

S. 2979

At the request of Mr. METZENBAUM, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

S. 3007

At the request of Mr. HOLLINGS, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 3007, a bill entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980."

S. 3087

At the request of Mr. SASSER, the Senator from New Jersey (Mr. BRADLEY), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 3087, a bill to amend the Congressional Budget Act to require the Congressional Budget Office, for every significant bill or resolution reported in the House or Senate, to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution.

SENATE JOINT RESOLUTION 196

At the request of Mr. PROXMIRE, the Senator from Utah (Mr. HATCH), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of Senate Joint Resolution 196, a joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day".

SENATE JOINT RESOLUTION 202

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. HART), the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. SASSER), the Senator from Montana (Mr. BAUCUS), the Senator from Montana (Mr. MELCHER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Oklahoma (Mr. BOREN), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Delaware (Mr. ROTH), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arkansas (Mr. PRYOR), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Florida (Mr. CHILES), the Senator from Florida (Mr. STONE), the Senator from Mississippi (Mr. STENNIS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Iowa (Mr. CULVER), the Senator from Iowa (Mr. JEPSEN), the Senator from Missouri (Mr. DANFORTH), the Senator from Missouri (Mr. EAGLETON), the Senator from Kansas (Mr. DOLE), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Kentucky (Mr. FORD), the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Alabama (Mr. HEFLIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from North Carolina (Mr. HELMS), the Senator from North Carolina (Mr. MORGAN), the Senator from South Carolina (Mr. THURMOND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Nevada (Mr. LAXALT), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Mr. RIEGLE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Idaho (Mr. MCCLURE), the Senator from Maine (Mr. MITCHELL), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia, (Mr. NUNN), the Senator from Illinois (Mr. PERCY), the Senator from Illinois (Mr. STEVENSON), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. LEAHY), the Senator from Vermont (Mr. STAFFORD), the Senator from Maryland (Mr. SARBANES), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), the Senator from North Dakota (Mr. YOUNG), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of Senate Joint Resolution 202, a joint resolution to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week."

SENATE JOINT RESOLUTION 205

At the request of Mr. TALMADGE, the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Arkansas (Mr. BUMPERS), the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of Senate Joint Resolution 205, a joint resolution to proclaim March 19, 1981, as "National Agriculture Day."

SENATE RESOLUTION 523

At the request of Mr. NUNN, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of Senate Resolution 523, a resolution to designate the week of October 6 through October 12, 1980, as "National Productivity Improvement Week."

AMENDMENT NO. 1940

At the request of Mr. PRESSLER, the Senator from Colorado (Mr. HART), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of amendment No. 1940 proposed to H.R. 7584, a bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

AMENDMENT NO. 2393

At the request of Mr. PRESSLER, the Senator from Colorado (Mr. HART), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of amendment No. 2393 proposed to H.R. 7584, a bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1981

AMENDMENT NO. 2394

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

LIABILITY FOR COMPENSATION AND CLEANUP OF HAZARDOUS SUBSTANCES

AMENDMENTS NOS. 2395 THROUGH 2406

(Ordered to be printed and to lie on the table)

Mr. SCHMITT submitted 12 amendments intended to be proposed by him to the bill (S. 1480) to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

● Mr. SCHMITT. Mr. President, I am today submitting several amendments to the bill S. 1480. I ask unanimous consent that the amendments and accompanying explanations be printed in the RECORD.

There being no objection, the amendments and explanations was ordered to be printed in the RECORD, as follows:

Strike the word "discharge" wherever it appears in the bill, except on page 2, line 13, and on page 10, line 2.

AMENDMENT NO. 2395

"Release" is defined as including "discharge." However, in the bill "release" and "discharge" are both used together. "Discharge" is subsummed in "release" and thus is unnecessary. This amendment would clarify the use of these terms by removing "discharge" wherever it appears in the bill except where it appears in the definition of "release" and where it is defined through a cross-reference to the Clean Water Act. This would ensure that "discharge" is not intended to mean something more than "release."

On page 2, lines 9–10, strike "(including rolling stock)".

AMENDMENT NO. 2396

"Facility" is defined to include "rolling stock." Thus the reference "(including rolling stock)" after the term "facility" is unnecessary. This amendment would correct this redundancy.

On page 2, line 13, insert the phrase "Act of God," after "terms".

On page 3, strike lines 3 through 7 and redesignate succeeding paragraphs accordingly.

AMENDMENT NO. 2397

Under the bill as presently drafted, the term "act of God" is defined in an unnecessarily limited way to include "other natural phenomenon" of an "exceptional, inevitable and irresistible character." In addition, to be an "act of God," its effects could not have been "prevented or avoided" by the "exercise of due care or foresight." The Clean Water Act defines an "Act of God" as an "unanticipated grave natural disaster." This amendment would conform the definition of "act of God" in S. 1480 to the one in the Clean Water Act.

Of particular concern in the definition as drafted is the breadth and unclear meaning of the terms "exceptional" and "irresistible." In addition, the requirement that one claiming this defense must show that the effect of the event "could not have been prevented or avoided by the exercise of due care or foresight" seems unduly burdensome. Such unclear and additive limitations would make the "act of God" defense almost legally unassertable, which seems harsh in light of the already limited number of defenses allowed under S. 1480.

On page 7, line 4, immediately before the semi-colon therein, insert the following: ", but such term does not include vessels or public vessels".

AMENDMENT NO. 2398

The definition of the term "facility" in S. 1480 is sufficiently broad to include vessel or parts of vessels. However, the term "vessel" is separately defined and used in the bill. This amendment is intended to clarify that "vessels" are not also intended to be "facilities" for the purposes of this Act.

On page 11, line 1, strike "field".

AMENDMENT NO. 2399

S. 1480 currently excludes the "normal field application of fertilizer" from the definition of "release." The reference to "field" is too restrictive. Fertilizer could normally and appropriately be used in areas other than a field, including gardens or green houses. Such normal use should be exempted from the coverage of the Act, and this amendment provides for such exclusion.

On page 37, line 3, strike "field.".

AMENDMENT NO. 2400

Section 4(k) provides that the liability provisions of S. 1480 shall not apply to the "normal field application" of pesticides. The limitation to "field" application is too restrictive; no distinction should be drawn between the application of pesticides to fields and forests or other "normal" use of pesticides. This amendment clarifies that no such distinction is to be drawn.

On page 17, strike all after "both." on line 13 through 17.

AMENDMENT NO. 2401

Section 3(a) (4) (A) of S. 1480 provides that certain persons are required to notify the Environmental Protection Agency of the existence of hazardous substance storage or disposal facilities. Criminal penalties are applicable for failure to provide such notification. In addition, the last sentence of this paragraph states that any person failing to provide such notification shall not be entitled to any limitation of liability under "this or any other law," or to any defenses to liability under this Act.

This amendment would strike this last sentence. The criminal penalties should be sufficient to encourage notification. Furthermore, there is no limitation of liability in this bill, and it is unclear to what limitations under other laws the sentence might refer. Finally, the denial of defenses is unrelated to, and is excessive for, such an offense.

On page 73, strike lines 15 through 18, and insert in lieu thereof the following:

"(C) The President shall provide for the promulgation of rules and regulations with respect to the notice to be provided to potential injured parties by an owner and operator of any vessel or facility from which a hazardous substance has been released. Such rules and regulations shall consider the scope and form of the notice which would be appropriate to carry out the purposes of this subparagraph. Upon promulgation of such rules and regulations, the owner and operator of any vessel or facility from which a hazardous substance has been released shall provide notice in accordance with such rules and regulations. With respect to releases from public vessels, the President shall provide such notification as is appropriate to potential injured parties.".

AMENDMENT NO. 2402

Section 6(b)(3)(C) of S. 1480 provides:

"The owner and operator of any vessel or facility from which a hazardous substance has been discharged or released shall provide notice to all potential injured parties."

This provision provides no guidance as to what type of notice is sufficient, nor does it identify the scope of "all potential" parties. This amendment would strike this provision and provide instead that the President shall promulgate regulations with respect to such notice.

On page 34, line 20, strike "transferor" and insert in lieu thereof "transferee.".

AMENDMENT NO. 2403

This amendment clarifies that it is the person to whom the property is being transferred rather than the transferor, who must provide assurance of financial responsibility "consistent with the degree and duration of risks associated with such facility or site". The person who will be given responsibility for the facility should prove that he can handle the risk.

Page 61, line 19, insert ", other than removal costs or expenses and remedial action costs referred to in subparagraph (C) of this paragraph," after "costs of removal".

Page 61, line 24, insert ", other than removal costs or expenses and remedial action costs referred to in subparagraph (C) of this paragraph," after "costs of removal".

On page 62, strike lines 3 through 9, and insert in lieu thereof:

"(C) all removal costs or exepnses and remedial action costs incurred under section 3 of this Act, subsections (c) and (d) of section 311 of the Clean Water Act respecting releases or threatened releases of hazardous substances, or the Intervention on the High Seas Act respecting releases or threatened releases of substances other than convention oil, as defined in that Act, without regard to the potential liability of any person for such costs and expenses;".

On page 11, strike "and" on line 10, and on line 18, insert the following immediately before the semicolon therein:

"(iv) costs incurred under the Intervention on the High Seas Act respecting releases of substances other than convention oil (as defined in that Act); and

"(v) costs incurred under section 3(c)(1) of this Act."

AMENDMENT NO. 2404

The purposes of this amendment are twofold: First, to clarify that Federal response costs are recoverable from the Fund regardless of whether such costs can be recovered from a liable person; and, second, to clarify that response costs incurred pursuant to the Intervention on the High Seas Act are also recoverable from the Fund.

On page 83, line 4, strike "greater)" and insert in lieu thereof the following:

"greater: *Provided*, That the President may prescribe by regulation levels of financial responsibility requirements applicable to persons owning or operating more than one vessel: *And provided further*, That in no case may the total amount of financial responsibility so prescribed be less than the amount applicable to the largest of those vessels as determined under this paragraph. Financial responsibility may be established by any one, or any permitted combination, of the following methods acceptable to the President: (A) evidence of insurance; (B) guaranty; (C) surety bond; or (D) qualification as a self-insurer. Any bond filed shall be issued by a surety company authorized to do a surety business in at least one of the United States).".

AMENDMENT NO. 2405

Section 7(a)(1) provides that the owner or operator of certain vessels must maintain evidence of financial responsibility as prescribed in that section. Under this provision, owners of more than one vessel would be required to maintain such evidence for each vessel owned, which would result in excessive and unnecessary insurance requirements for such owners. This amendment would permit the President to set lower requirements for such owners, so long as the owner has at least the level required for his largest vessel. Second, the amendment clarifies that such financial responsibility may be established by evidence of insurance, guaranty, surety bond, or qualification as a self-insurer. This amendment is consistent with the existing provision in section 31(p)(1) of the Clean Water Act.

On page 77, lines 20 and 21, strike "and, without regard to any limitation of liability," and insert in lieu thereof "and".

AMENDMENT NO. 2406

This amendment would clarify that the Fund could not collect against the party "without regard to any limitation of liability". It would be inconsistent and inappropriate to allow the Fund to act against a party when he has been otherwise excluded due to limitation of liability provisions.●

STATE, JUSTICE, AND COMMERCE APPROPRIATIONS, 1981

AMENDMENT NO. 2407

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

LIABILITY FOR COMPENSATION AND CLEANUP OF HAZARDOUS SUBSTANCES

AMENDMENTS NOS. 2408 THROUGH 2412

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to the bill (S. 1480) to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

CONTINUING APPROPRIATIONS, 1981

AMENDMENT NO. 2413

(Ordered to be printed.)

Mr. WEICKER proposed an amendment to the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes.

YOUTH EMPLOYMENT OPPORTUNITY ACT

AMENDMENT NO. 2414

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 2385) to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes.

● Mr. PERCY. Mr. President, I am today introducing an amendment to establish a youth subminimum wage which I intend to call up when the Senate considers S. 2385, the Youth Act of 1980, in the next few days.

It is consistent with a position I have taken in many Senate votes and with remarks I have made in past years before the Illinois Federation of Labor (CIO-AFL) State conventions. I have told members of my own labor advisory board, in the past, that I would hold off for awhile introducing my own bill or amendment to see if other programs, supported by organized labor would work. Regretfully they have not.

Since Congress last voted on this issue in 1977, the overall youth unemployment rate has consistently remained well over 15 percent. The monthly figure for July of this year was 19 percent for young people between the ages of 16 and 19. The figures for black and other minority youth are much worse: For the first half of this year, the rate for this group exceeded 30 percent. Since that figure represents the national average, we can only conclude that among black, inner-city youth in cities such as Chicago, East St. Louis, and others, the rate is even higher; in some cases exceeding 50 percent. It is a deplorable situation that leads to despair, a feeling of worthlessness and contributes heavily to drug abuse and crime.

When the Senate takes up S. 2385, it will be considering a major Federal effort to coordinate educational and youth training programs for the purpose of improving the youth employment picture in this country. The addition of a provision for a youth subminimum wage could truly make this bill the Comprehensive Youth Act of 1980.

Without creating a new Federal program, without creating a new Federal bureaucracy, without creating new and substantial Federal outlays, we have, through my amendment, a way of overcoming the reluctance businesses express about hiring inexperienced young people at the current minimum wage of $3.10, soon to increase to $3.35 on this coming January 1.

In a recent issue paper published by the Congressional Budget Office entitled, "Youth Employment and Education: Possible Federal Approaches," the following is stated:

> Estimates of the effects of minimum wages on youth employment vary, but many researchers believe that each 10 percent rise in the minimum wage relative to the average

hourly wage reduces youth employment by something between one and four percent. If the one percent estimate is valid, then lowering the minimum wage for all persons in 1981 from $3.35 to $2.85 an hour could increase employment among youth aged 16 to 19 by perhaps 60,000 jobs. Establishing a subminimum wage only for youth might bring about even greater job increases for them, although these increases might be offset by rising joblessness among older workers.

My amendment would establish a subminimum wage for young persons 16 to 19 years of age at 85 percent of the adult minimum wage. This would provide for a rate of $2.63 per hour for the remainder of this year, and $2.85 when the adult rate goes up on the first of January. Based on the premise that an inexperienced young person should be paid a lower wage during his or her training period, this youth subminimum wage would be in effect for the first 6 months of employment of that individual by a single employer.

To address the reservation expressed in the last line of the excerpt quoted above from the CBO report, my amendment provides for adequate penalties for abuse of the youth subminimum; that is if it is used for the purpose of displacing older workers. It further provides for a twice yearly report to Congress by the Secretary of Labor on the effect of this provision on the employment rates of both young persons and adults.

Finally, Mr. President, in recognition of the fact that Congress seldom has the perfect answers to our national problems. This amendment has a sunset provision. After 3 years, the youth subminimum wage would have to be reviewed by Congress and would expire, unless specifically reauthorized. Since experts differ on the precise effects of a youth subminimum wage, I believe a 3-year experimental period would give us a sufficient data base and some practical experience on which to judge its usefulness as a tool in the fight against youth unemployment.

Mr. President, I have supported CETA youth employment and training programs in the past and I believe their continuation is essential to the employment and training of young people with the greatest employment handicaps. But logic dictates that we should encourage the best employment and training program we have—our free enterprise system—to handle part of the youth employment problem: young people in that marginal group who could be hired if only the minimum wage were not at its present level. I am not proposing a youth subminimum wage as a substitute for CETA programs, but rather as a complementary and much needed effort to address the very critical problem we have before us.

Mr. President, I do urge my colleagues to give this amendment careful consideration.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point, along with the accompanying factsheet.

There being no objection, the amendment and factsheet were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2414

At the appropriate place insert the following:

TITLE—YOUTH EMPLOYMENT OPPORTUNITY

SEC. . This Act may be cited as the "Youth Employment Opportunity Act of 1980".

YOUTH EMPLOYMENT OPPORTUNITY ACT

SEC. . (a) Section 14(b) of the Fair Labor) Standards Act of 1938 (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth employment an employer may employ any youth who has not attained 20 years of age, for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least 6 months or is currently employed by an employer at a rate of at least the minimum wage in effect on the day prior to the date of enactment of the Youth Opportunity Wage Act of 1980.

"(2) While no prior certification shall be required by the Secretary for purposes of paragraph (1), the Secretary is authorized under this Act to insure that the provisions of paragraph (1) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or at a wage rate lower than the applicable wage rate under section 6 after the period of time specified by this subsection, or is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the wage provided for under this subsection,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.

(b) Section 13(a)(7) (29 U.S.C. 312(a)(7)) is amended to read as follows:

"(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(b); or".

SEC. . (a) The amendments made by this Act are repealed, effective 3 years after the date of enactment of this Act.

(b) The Secretary of Labor shall prepare and submit a biannual report to the Congress on the effect of the amendments made by this Act. Such report shall include—

(1) the number of persons employed at the wages prescribed under the amendments made by this Act;

(2) the number of employers employing persons at wages prescribed under the amendments made by this Act;

(3) the general rate of unemployment of persons under 20 years of age;

(4) the effect of the amendments made by this Act upon employment of adults and persons under 20 years of age; and

(5) such other information as the Secretary of Labor determines appropriate.

PROPOSED PERCY AMENDMENT TO ESTABLISH A YOUTH SUBMINIMUM WAGE

1. Title: Youth Employment Opportunity Act.

2. Coverage: Persons aged 16–19 years of age, inclusive.

3. Duration: First 180 days of employment by each employer.

4. Wage level: 85 percent of the adult minimum wage rate; for the remainder of 1980, the youth wage level would be $2.63 per hour; for 1981, $2.85 per hour.

5. Exceptions: Shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or who is employed by an employer at a rate of at least the full minimum wage at the time of enactment.

6. Penalties: Not to exceed $2,500 for first offense by an employer; not to exceed $10,000 for any subsequent offense by same employer; violations of the act include: employment of a young person at a rate lower than the youth subminimum, a pattern and practice of—

(a) substituting younger workers employed at less than minimum wage for older workers employed at or above the minimum wage;

(b) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the subminimum.

7. Effective period of the Act: To expire three years from the date of enactment.

8. Report from Secretary of Labor: Secretary of Labor shall report to Congress twice each year, while law is in effect, on its implementation and shall include the following information: number of young people employed at the subminimum; number of employers utilizing the rate; the rates of youth unemployment; effects of youth subminimum on youth and adult unemployment.●

CONTINUATION OF DUTY FREE STATUS OF CERTAIN FISH NET AND NETTING PURCHASES AND REPAIRS

AMENDMENTS NOS. 2415 THROUGH 2609

(Ordered to be printed and to lie on the table.)

Mr. CANNON submitted 195 amendments intended to be proposed by him to the bill (H.R. 6571) to amend the Tariff Act of 1930 to continue temporarily the duty-free status of the cost of certain fish net and netting purchases and repairs.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to consider H.R. 7519, legislation amending the Indian Claims Act, and H.R. 7212, legislation to ratify a settlement agreement between the Pamunkey Indian Tribe and the Southern Railroad Co.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, September 29, 1980, to consider pending executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Monday and Tuesday, September 29 and 30, 1980, to hold public hearings on the oversight inquiry of the Labor Department's investigation of the Teamsters Union Central States' pension fund.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GOVERNMENT INTRUSIONS INTO FAMILY MATTERS

● Mr. McCLURE. Mr. President, over the past several years the American people have become increasingly concerned over the instrusions by the Federal Government into family matters which until recently had been thought to be beyond the purview of government. While the Congress, dominated by Members of the Democrat Party, has contributed its share by passing laws that involve the Government very deeply in family relationships, many of the recent extensions of governmental authority have been the result of decisions by judges of an activist character and liberal philosophy known at the time of their appointment.

The 1980 Republican Party Platform reflected this growing concern when it stated:

> We pledge . . . the appointment of women and men who respect and reflect the values of the American people, and whose judicial philosophy is characterized by the highest regard for protecting the rights of law-abiding citizens, and is consistent with the belief in the decentralization of the federal government and efforts to return decisionmaking power to state and local elected officials. We will work for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life.

This pledge by the Republican Party has drawn considerable comment in the news media and has fostered a reexamination of the power of the Presidency in regard to the Federal judiciary. It has also focused public attention upon how the Federal judiciary has treated the family as an institution in American society.

Mr. President, I would like to share with my colleagues two recent studies by constitutional scholars on these subjects. The first, entitled "Ronald Reagan and the Supreme Court Issue" by Prof. Charles E. Rice of Notre Dame Law School is from the September 22 Wall Street Journal. The second, entitled "Is the Family Constitutional?" is by Prof. John T. Noonan, Jr., of the University of California, Berkeley, and published by the American Family Institute.

Mr. President, I submit both of these excellent articles for the RECORD.

The articles follow:

RONALD REAGAN AND THE SUPREME COURT ISSUE

(By Charles E. Rice)

The Republican platform has been criticized because it calls for the appointment of judges who have "the highest regard for protecting the rights of law-abiding citizens," whose philosophy "is consistent with the belief in the decentralization of the federal government and efforts to return decision-making power to state and local elected officials" and "who respect traditional family values and the sanctity of innocent human life." This is the first time in a major party platform that such an express pledge has been made. The fact, however, is that the Republican platform in this respect is merely a specification of a practice sanctioned by tradition and practical necessity.

Presidents have routinely considered the philosophy and positions on particular issues of candidates for judicial appointments. Washington, for example, insisted that all 10 of his nominees to the Supreme Court be "firm supporters of the Federalist interpretation of the Constitution." He "wanted men who would support the broad exercise of power by the national government, especially for the purposes of maintaining public order and encouraging commerce and industry; and those who would limit the power of the states to interfere with these and other national purposes." (Robert Scigliano, "The Supreme Court and the Presidency," Macmillan, 1971, pages 125–26) Virtually every President has followed Washington's example in this respect.

A Henry J. Abraham summarizes the issue: "There is, of course, nothing wrong in the President's attempt to staff the court with jurists who read the Constitution his way. All Presidents have tried to pack the court, to mold in their images. Nothing is wrong with this, provided, however, that the nominees are professionally, intellectually, and morally qualified to serve." ("Justices and Presidents," Oxford, 1974, page 271.)

Of course, Presidents have frequently been surprised by the performance of their appointees, who are truly independent once they don the robes. Madison's appointment of Joseph Story and Wilson's appointment of James C. McReynolds are frequently cited to illustrate this unpredictability. More recent examples are available, lending substance to Truman's admission that "packing the Supreme Court simply can't be done. . . . I've tried it and it won't work. . . . Whenever you put a man on the Supreme Court he ceases to be your friend. I'm sure of that." (Lecture at Columbia University, April 28, 1959.)

While none can doubt that the philosophy of the nominee is a pivotal consideration in a Supreme Court nomination, it is absurd to say that a President cannot consider a potential nominees stand on specific issues. How else do you measure any person's philosophy except with repect to his positions on definite issues? Would it have been improper for Lincoln to consider whether his nominees accepted or rejected the dictum of the Dred Scott case that slaves are merely property and not persons?

So it is with the issues of the 1980s, as spelled out in the Republican platform. It is clearly untenable to say that a President can realistically evaluate the philosophy of a potential nominee in these respects without using as a criterion the nominee's agreement or disagreement with Supreme Court decisions that present these specific issues.

Opponents of Judges Carswell and Haynsworth, the unsuccessful Nixon appointees, had no hesitation in criticizing their philosophies and positions on particular issues as indicated by the stands they took in cases that came before them. And Judge Carswell was attacked for holding office as a director of a racially discriminatory golf club. If such is a legitimate factor in evaluating a nominee, as it is, how can it be irrelevant to ask his positions in detail on the very basic issues specified in the 1980 Republican judiciary plank?

Nevertheless, one important distinction is generally overlooked. While a President may properly consider what Theodore Roosevelt called the nominee's "real politics," that is, his views on particular public issues, it would be improper for him to solicit from a potential nominee a commitment to vote a certain way on specific issues that may come before him.

Explaining why he nominated Salmon P. Chase as Chief Justice, Abraham Lincoln said, "We wish for a Chief Justice who will sustain what has been done in regard to emancipation and the legal tenders. We cannot ask a man what he will do, and if we should, and he should answer us, we should despise him for it. Therefore we must take a man whose opinions are known." (Quoted in David M. Silver, "Lincoln's Supreme Court," University of Illinois Press, 1956, pages 207–08.)

In his acceptance speech, Gov. Reagan said, "I ask you not simply to trust me, but to trust your values—our values—and to hold me responsible for living up to them." The election of Gov. Reagan would impose upon him a clear moral duty to carry out the philosophy on the strength of which he sought and achieved election. There is no way a President Reagan could adequately fulfill his pledges without appointing otherwise qualified judges and other officers who share his philosophy on the issues on which he sought and gained election.

The criteria specified in the Republican plank on the judiciary reflect the philosophy Gov. Reagan has frequently enunciated. The platform implicitly acknowledges the fact that judges are not mere automatons mechanically applying the Constitution. Rather, whether he knows it or not, everyone has a philosophy which affects his approach to basic issues. The Republican platform does not at all imply that a President Reagan would nominate unqualified persons or that he would seek from them commitments to vote a certain way. But in its explicit affirmation of what everyone knows that every President actually and properly does in nominating judges, it has struck a needed blow in the cause of truth in labeling.

IS THE FAMILY CONSTITUTIONAL?

I chose the title for this talk, "Is the Family Constitutional?", with an awareness that it could be considered to embody a frivolous or impertinent question. In one sense, the question is frivolous and impertinent, if attention is given to the long line of jurisprudence which treats the family as a major unit of American society.

To bring to mind those cases which make the question seem frivolous, let me run through seven cases of the last fifty years. They begin in the 1920's, with Meyer v. Nebraska and Pierce v. Society of Sisters. In both cases, the rights of parents to send their children to the school of parental choice was upheld. In both cases, the natural right of the parents to educate children was asserted against the power of the State. Those cases seem solidly to recognize the family as a constitutional unit. They are unintelligible unless parents have some special duties and rights with respect to their children.

In the 1940's, there occurred the case of Skinner v. Oklahoma. The State of Oklahoma wanted to sterilize recidivists and was going to sterilize a recidivist chicken thief; he asserted his right to procreate. With the Supreme Court acting very much in revulsion to what was done by the Nazis by way of compulsory sterilization, the Court found that it was unconstitutional to curtail his natural right to procreation.

Then in the 1960's, there was Griswold v. Connecticut, striking down a Connecticut law on the distribution of contraceptives because it invaded marital privacy. Justice Douglas, of all people, asserted that "the sacred precincts of the marital bedroom" were protected from State interference. This decision was followed by Loving v. Virginia in 1967, where the natural right to marry was defended by the Court against longstanding statutes preventing marriage between persons of different races. The natural right to form a family by marriage was said to be superior to the positive law of the State.

Even into the 1970's, the family has been treated by the Supreme Court with great respect in some contexts. In 1971, you had Boddie v. Connecticut, which together with Loving v. Virginia makes what one could call the "Loving-Boddie Syndrome." Boddie v. Connecticut upheld the right of someone to get a divorce even though he couldn't pay the court fees. The reason he didn't have to pay the court fees, in Justice Harlan's opinion, was that he was seeking access to a fundamental human relationship, namely, marriage. To deprivate him of the right of divorce was to deprive him of the natural right of marriage.

As recently as January of last year, the Court in the Zablocki case once more said that marriage was a fundamental right. That case, as you may know, involved a Wisconsin law that had special provisions if you were a father and paying support to children who were not in your custody. If you were in that situation, you could not marry without showing the court that you were satisfying your support obligation. The plaintiff was refused a license to marry in these circumstances and attacked the Wisconsin statute as interfering with his fundamental right to marry. Justice Marshall in the opinion for the Court affirmed that there was such a thing as a fundamental right to marriage and even went so far as to say that it would be absurd to recognize a right of privacy in other areas and to deny this right, which he was good enough to say was the foundation of American society.

Such is the line of seven cases over fifty years. They seem to make it clear that there is no question that the family is here to stay, even in our constitutional sphere. What runs against it are cases decided in the last decade, specifically in the 1970's. It is not the results in those cases, which in some instances are not altogether bad, but it is the kind of analysis offered and the constitutional principles asserted in those cases which make the status of the family constitutionally doubtful.

One type of case of the 1970's is the kind which indicates that benefits cannot be distributed on a family basis. There are two striking examples. One is called *New Jersey Welfare Rights Organization v. Cahill.* New Jersey had a family assistance plan which distributed aid to a family but required that the children in the family either be born in lawful wedlock or, if not, be adopted. The rationale was clear: the plan would strengthen the family by encouraging people either to have children in wedlock or, at least, to adopt those who were not born in wedlock. The lower courts found that a reasonable system for encouraging and strengthening the family. The Supreme Court struck it down as a denial of equal protection of the law.

The other case in the same category is *United States Department of Agriculture v. Moreno,* the Second Food Stamps Case. Congress had provided that food stamps be distributed to households only where the household was composed of related persons. The committee reports made crystal clear that the congressional intent was to strengthen the family, to strengthen groups bound by blood and marriage, and not to help groups living in communes where there was no family life. Justice Brennan said the statute was totally without rational foundation and struck it down. The idea that there could be governmental benefits tied to marriage seemed strange to the Court when it threw out these two schemes of distributing benefits.

A second type of case is somewhat different analytically from the benefit cases, though close to them. It is the kind of case in which the Court has said it does not make any difference whether you are married or not. The first in that line is Stanley v. Illinois, where there was a man who had fathered several children out of wedlock and had lived with the mother off and on for over twenty years without ever adopting the children. The mother died and the father was engaged in incest with two of the girls. The state welfare organization wanted to put the children with another parent, an adoptive parent, and it took the position under Illinois law that it didn't have to give any hearing to this father who had never bothered to marry the mother or adopt the children. The Supreme Court insisted that that was wrong, that the natural father had to be treated essentially like a father who had either adopted the children or had sired them in lawful wedlock. He had to be given a hearing.

The same line of thought, ignoring differences between the married and the unmarried, has been continued again, only this year, in the case of *Caban* v. *Muhammad.* New York adoption law provided that, in the adoption of a child born out of wedlock, the consent of the mother was needed, but not the consent of the father. The New York Court of Appeals, upholding the law, explained the law as embodying the presumption that the father in these situations has normally abandoned the child. Everyone knew who the mother was, because the mother had actually given birth. But the father was gone and often very difficult to find; it would impose a great deal of suffering on the child being adopted if the father's consent had to be obtained. This explanation was not good enough for the Supreme Court, which held the scheme unconstitutional and, in a rather mechanical application of sex equality, said natural fathers have to be treated like natural mothers. It did not make any difference whether the father was married or not.

The most destructive of this group of cases obliterating the distinction between the married and the unmarried was *Eisenstadt* v. *Baird.* The Baird of that case is the famous Bill Baird. Eisenstadt was the Sheriff of Suffolk County, Massachusetts; and the procedural history is of some interest. Baird had distributed contraceptives at Boston University and was arrested under a statute that said he could not distribute them to unmarried persons. The trial judge referred the constitutional claim of Baird to the Supreme Judicial Court of Massachusetts before sending him to jail. The Supreme Judicial Court held the statute constitutional. Baird applied to the United States Supreme Court for certiorari and the application was denied. The trial judge sentenced him to three months in jail. When he was in jail, having been turned down by both Supreme Courts, he brought a petition for habeas corpus. The District Judge turned that down; and Baird's lawyers went just upstairs in the Federal Building to Circuit Judge Bailey Aldrich, who granted the habeas corpus.

If the proceeding had been allowed to run in its normal course, the jail term would have been served and he would have been out before the appeal to the Supreme Court. But because he was out on habeas corpus, then the State, through the Sheriff, was in the position of having to petition the Supreme Court by way of appeal. Hence there was an appeal to the Supreme Court, which had turned the case down before and now was given the chance to pronounce on the Massachusetts statute.

In holding the law unconstitutional, Justice Brennan had the opportunity to lay the groundwork for Roe v. Wade and also to say that, whether married or not, the right of privacy could be asserted by an individual seeking contraceptives. What had been in Griswold the basis of the decision, namely the sacred precincts of matrimony and marital privacy, was turned on its head by Justice Brennan. He made the right to contraceptives a matter of the privacy of the individual person. In a statement which was either consciously or unconsciously a challenge to the Christian tradition and to Genesis, he said that the married couple do not have one mind and heart and are not a single entity. He taught, in so many words, that all you had were individuals who happened to be living in marriage and were in no way, for these purposes at least, more privileged than the persons who were not married.

Such is the line of cases which say it doesn't make any difference whether you're married or not, there are to be no privileges for the married. There is a third group of cases which say that what the married have—what rights they have—they have only by the grace and consent and delegation of the State. These cases fall particularly in the abortion area; but quite apart from the abortion issue, they represnt intrusions on the family.

First is Planned Parenthood v. Danforth, where the husband's consent to an abortion was required by statute. That provision of Missouri law was struck down with Justice Blackmun expressing the point of view that you only had rights over your own offspring if the State had delegated you those rights. Since Roe v. Wade had found that the State had no interest to protect in an abortion, why, it had nothing to delegate to the father. Blackmun's analysis of course could not be more of an inversion of the earlier analysis which saw the rights of the parent as superior to those of the State. Nor could anything be more contrary to the right recognized as natural in Skinner v. Oklahoma, the right to procreate. The father's right to procreate became dependent on the delegation of the State. The right to procreate, for a man, suddenly became a very limited right. It was the right to start the process, but no right to have that process continue until birth.

The other large case of the same kind was the recent decision in *Belloti* v. *Baird*. Baird again made constitutional history somewhat the same way the Jehovah's Witnesses used to make constitutional history in the 1930's and 1940's. Massachusetts in 1974 enacted a law requiring the consent of both parents to the abortion of a minor, with the statute providing for a judge of the Superior Court to permit it if he thought it was in the best interest of the minor. That statute was immediately enjoined by the Federal Court in Boston on behalf of Baird's abortion clinic, which obviously would have been seriously interfered with if the young teenagers coming in had had to get parental permission. For five years the statute stayed suspended, while the federal courts sent it up and down. It went up to the Supreme Court in 1976, back to the District Court, and sideways to the Supreme Judicial Court of Massachusetts. The Supreme Judicial Court fell over backwards in trying to construe the statute so that it would meet whatever the Supreme Court wanted. The Massachusetts Court actually said it would construe the law any way it had to in order to make it constitutional; and in the course of doing that, the Massachusetts court created out of nothing a right on the part of a child to have a lawyer to litigate against parents who would not consent to the abortion. Out of public funds, and on no statutory basis, this right to a lawyer, so disruptive to the family, was created by the Massachusetts Court.

But that wasn't enough. Circuit Judge Bailey Aldrich more or less openly sneered when he got the State Court's interpretation back. He held the statute unconstitutional anyway. And, of course, the Supreme Court did.

Justice Powell's opinion or the Supreme Court in this case is particularly shocking because it went out of its way to say that parents do have an interest in their child's welfare, even in the abortion area. But having said that, recognizing that parents do have an interest in these fundamental matters, Powell denied them not only the right to consent but the right to be notified of the judicial hearing in which the abortion would be permitted.

This decision goes beyond an invasion of parents' rights. It is an invasion of what most people have considered an absolutely essential element of due process of law. If you have an interest in a matter, recognized as a legitimate interest, you have a right to be heard on it. When it is said that, in a judicial proceeding, the proceeding will be set up so that you will not even be told it's going on, you are being denied basic due process, basic justice. This is the position of all parents of teenage daughters in the United States today.

Bellotti v. *Baird* leaves the parental relation to children seriously curtailed, and the line of thinking that this represents reaches its reductio ad absurdum in Clement Haynesworth's famous opinion in the lower courts, *Floyd* v. *Anders*. Clement Haynesworth said in that case that the Supreme Court had decided that the fetus was not alive. He took the same line as Justice Blackmun: that everything comes from the State, and what the State determines is the ultimate reality. It is extraordinary, however, that a civilized human being, a federal judge, could actually make such an explicit statement. Was it possible that, in the year 1977, any educated person could believe that the human creature in the womb is not living? It is clearly possible for those judges whose measure of reality is the dictates of the Supreme Court.

If you put these cases together, you see that the family is in constitutional danger. Its rights depend on delegation by the State. The government cannot distribute benefits on the basis of marriage. It does not make any difference whether you are married or not. And whether you are a living member of the family will be decided not by human perception but by judicial fiat.

There are those, of course, who would say, well, you can confine the statements made by the Court to the facts of the particular cases. But constitutional principles and analysis are meant to have a generality. They are meant to go beyond the particular facts. If, in the cases we have been considering, they are taken seriously and generally, they really take away the meaning of the family.

Like all legal institutions, marriage and the family are a bundle of rights and immunities and benefits. If you have principles that say you cannot give these immunities and benefits on the basis of marriage, you really take away the meaning of marriage. When Justice Marshall says, as he did in 1978, that marriage is a fundamental right, one must ask what that means. A right to what? To a piece of paper? To a license? Or a right to certain privileges, benefits, and immunities that the unmarried do not have. A piece of paper or a license means nothing without the privileges which follow. But according to the jurisprudence of these last eight years, marriage cannot be privileged. It cannot be distinguished from the single state. We are all equal individuals.

One might also speculate that perhaps the Court supposes the family will survive even without marriage; after all, we could have biological entities which do not depend on marriage. I suggest that this notion rests on an illusion. We have no experience of formless biological blobs. Either in primitive societies or in our own society, we know the family as structured by marriage. If you take away the legal insignia which mark marriage off from some other status, you are really destroying the form which holds the family together.

A great many areas of law would have difficulty surviving if the Court means what it says. You could start with the Internal Revenue Code, in its treatment of married taxpayers as distinct from unmarried taxpayers in its rate structure, in its exemptions and deductions, and as to the estate and gift taxes. The only way the Court could escape such difficulties would be for it to say that the Sixteenth Amendment gives Congress such plenary power of taxation that it does not have to observe other constitutional rules when it taxes.

Supposing it did escape, you would still have such familiar areas as the law of evidence—for example, the law permitting a spouse not to testify against a spouse, a law which does privilege the married. You would have the law of property, with such ancient institutions as dower and tenancy by the entirety clearly brought into question if the married cannot constitutionally be singled out from the unmarried.

It would be hazardous to predict what the Court would do if actually confronted with ancient common law institutions or even the Internal Revenue Code and asked to apply the principles it has developed in the cases we have examined today. For the Court has followed two deeply inconsistent courses and would have to choose between them: either accept the family as a natural reality, the foundation of our society, or, in fact, hold the family unconstitutional. To the perceptive observer of the Court's pronouncements in the Seventies, it is neither frivolous nor impertinent to wonder whether the Court has understood the basis of the family as an institution and whether it has not laid the groundwork for the family's constitutional demise.

TABLE OF CASES

Bellotti v. *Baird* 47 LW 4969 (1979).
Boddie v. *Connecticut* 401 U.S. 371 (1971).
Caban v. *Muhammad* 47 LW 4462 (1979).
Eisenstadt v. *Baird* 405 U.S. 438 (1972).
Floyd v. *Anders* 440 F. Supp. 535 (D. So. Car. 1977).
Griswold v. *Connecticut* 381 U.S. 479 (1965).
Loving v. *Virginia* 388 U.S. 1 (1967).
Meyer v. *Nebraska* 262 U.S. 3920 (1923).
New Jersey Welfare Rights Organization v. *Cahill* 411 U.S. 619 (1973).
Pierce v. *Society of Sisters* 268 U.S. 510 (1925).
Planned Parenthood v. *Danforth* 428 U.S. 52 (1976).
Roe v. *Wade* 410 U.S. 113 (1973).
Skinner v. *Oklahoma* 315 U.S. 535 (1942).
Stanley v. *Illinois* 405 U.S. 645 (1972).
United States Department of Agriculture v. *Moreno* 413 U.S. 508 (1973).
Zablocki v. *Redhail* 46 LW 4093 (1978).

ONLY 4 DAYS LEFT

● Mr. CANNON. Mr. President, I am pleased to inform my distinguished colleagues that there are only 4 days left before airfares are reduced by 3 percent. For example, this means that Senator PACKWOOD can save up to $24 on his next trip to Portland. In addition, all of our constituents will save $660 million annually.●

THANKS DUE TO DAN DeSIMONE

● Mr. HATCH. Mr. President, as a Senate representative to the bipartisan, bicameral governing board of the Office of Technology Assessment, I would just like to take a minute to express our thanks to Dan DeSimone, deputy director of OTA, for his excellent service to that agency of the legislative branch.

As many of you may know, Dan will be leaving OTA at the end of September to assume the presidency of a new organization called the "Innovation Group." I am utterly confident that his leadership of this new enterprise will insure its success and I want to be among all of his friends and admirers in the Congress who wish him all the best in this challenging new endeavor.

Dan has had a long and distinguished career in Government service, including positions the Commerce Department and as assistant to the White House Science Advisor and chairman of the Federal Council for Science and Technology Policy. Joining OTA at its inception in 1973 as its first deputy director, Dan DeSimone has served three directors and can be fully credited with keeping OTA's ship afloat during some very rough sailing. Twice, while the directorship was in transition, Dan assumed the job of acting director for substantial periods of time, and not only sustained the ageny in his administrative duties, but provided the strength of his own professionalism and integrity.

Our wholehearted thanks are due to Dan DeSimone for serving us so well and I hope that the continued efforts of OTA in helping the Congress understand the possible effects of technology on society will bear Dan's watermark of fairness, objectivity and excellence.●

SCHWEIKER, HEINZ CHARGE CARTER ADMINISTRATION SUPPRESSED REPORT SHOWING EPA POLICIES HURT STEELWORKERS, INDUSTRY

● Mr. SCHWEIKER. Mr. President, Senator HEINZ and I today charge the Carter administration with deliberately suppressing a Government-commissioned study showing that its regulatory policies could irreparably damage the domestic steel industry putting tens of thousands of steelworkers out of work.

For almost 16 months the Carter Environmental Protection Agency (EPA) has clamped a tight lid of secrecy on a Battelle Memorial Institute report which statistically confirmed that certain EPA regulations are without great environmental benefit but impose enormous costs on steel industry efforts to modernize plants for increased efficiency, productivity, competitiveness, and badly needed jobs for steelworkers.

During the same period they were suppressing the embarassing Battelle report commissioned at taxpayers' expense, the Carter administration released another study supporting their position in favor of overly burdensome and nonproductive regulation.

Despite the President's election year rhetoric about revitalizing domestic industries, the attempt to hide the Battelle report from public view strongly suggests that the Carter administration is holding firm to an unjustifiable policy of "Let the steelworkers' jobs be damned."

The study the Carter administration has tried to keep under wraps contains convincing evidence that its regulatory policies have imposed, and will continue to impose, staggering costs on capital-starved metals industries. Data in the study confirms that the metals industries, especially steel, are hurt far more by incremental control costs than other industries reviewed.

It demonstrates that efforts to force industries which have already achieved high levels of pollution control to even higher levels are highly questionable in terms of cost-effectiveness.

The study is particularly sobering when it contrasts the impact of pollution control costs on the metals industries, particularly steel, with the effects on other industries.

In effect, an already depressed steel industry is paying a very high price for regulatory policies the Carter administration insists on pursuing regardless of the cost in capital and jobs.

The really crucial issue here is not the data contained in the study—important and serious as it is—but what the Carter administration's suppression of it tells us about its promises to steelworkers and the steel industry. The administration claims it wants to revitalize the steel industry. It has engaged with much ballyhoo in the Tripartite Steel Committee negotiations with steel management and labor, with the alleged purpose of working out a program to help.

But, when faced with solid evidence for the past 16 months that its regulatory policies are imposing a heavy and unreasonable economic burden on the steel industry, the Carter administration chooses to ignore the evidence, and worse, to hide it.

A draft of the Battelle study has been available to the Carter EPA since June 1979, but ever since they have suppressed the valuable information in it. Is this because the study tells the administration what it does not want to hear, namely that it cannot justify the costs of its regulatory policy toward the steel industry? If EPA doubts the validity of the study, why has it treated it like a classified "Royal" document for 16 months?

The handling of this study raises serious questions about the administration's good faith in dealings with the steel industry. It belies the administration's rhetoric about concern for the jobs of steelworkers.

We think the EPA's inexcusable action is part of a pattern which inescapably points to a clear Carter administration policy of indifference to the further deterioration of the already heavily burdened steel industry.

If the Carter EPA is to choose a "hard line" which jeopardizes jobs and a crucial American industry much more than it protects the environment, they had better have a good reason. We call today upon President Carter and EPA Administrator Douglas Costle for an explanation of their suppression of the Battelle report and a justification for their regulatory policy in light of the facts this report discloses.

I submit for the RECORD the text of the Battelle report.

The report follows:

[Contractor's Draft Report Containing Serious errors and Not Representing EPA's Findings or Conclusions]

REPORT ON INCREMENTAL COST EFFECTIVENESS FOR AIRBORNE POLLUTION ABATEMENT TO U.S. ENVIRONMENTAL PROTECTION AGENCY

(By D. M. Jenkins, J. E. Burch, C. Buoni)

This report presents estimates of the incremental cost effectiveness of air pollution abatement. The cost effectiveness of control of air pollution from mobile sources has not yet been incorporated into the analysis. The incremental cost effectiveness estimates are summarized in the attached tables. There is a table for each pollutant category. These are:

Table 1. Particulate.
Table 2. Hydrocarbons.
Table 3. Carbon Monoxide.
Table 4. Sulfur Dioxide.
Table 5. Nitrogen Oxides.
Table 6. Vinyl Chloride.
Table 7. Mercury.
Table 8. Fluoride.

BASIS

Incremental cost effectiveness is defined as the increment of cost between two levels of pollution control at a plant divided by the increment of pollution abated. That is, incremental cost effectiveness for control technology B, which is more effective than control technology A, is

$$\frac{c_B - c_A}{e_A - e_B}$$

where c and e are the annual cost and emissions from the two levels of pollution control at a plant, respectively.

The incremental cost effectiveness values presented in the attached table generally represent the cost of model plants near the industry median size. In a few cases the cost represents the industry mean. Additional detail on the impact of plant size on incremental cost effectiveness is given in Appendix A.

The costs presented in the summary tables represent the costs of pollution abatement to society. These are the pretax costs of operating and maintaining pollution abatement equipment, as well as pretax annualized capital charges. At a 50 percent effective tax rate, the after-tax cost to industry would be half the numbers presented in the tables.

The costs are in current dollars. An equal annual cost was derived which gives the same present value as the inflating future cash flows. A 7 percent inflation rate was assumed. Other key assumptions are 1979 construction and startup, 10 percent tax credit taken in 1979, and accelerated depreciation (five years straight line) for pollution control equipment. Details of the cost calculation are given in Appendix B.

In some cases there are two or more pollutants controlled by the same technology. For example, in many industries hydrocarbons and carbon monoxide are simultaneously controlled by incineration. In the attached tables the costs have been allocated to the pollutant of interest, with a footnote indicating that another pollutant is also controlled.

The level of control corresponding to RACT, BACT, and LAER [*] have been included where these were indicated in the source documents. In some cases the source documents indicated the technology would conform with the old state implementation plans (SIP) or new source performance standards (NSPS). In general, the SIP technology is RACT and NSPS is BACT.

OBSERVATIONS

Although no conclusions are reached in this study, a number of observations can be made regarding incremental cost effectiveness. The reader is cautioned, however, that the results presented in this study should be considered to be approximations. Information has been taken from numerous data sources, which have different bases. Although an effort was made to put the data on a consistent basis, some discrepancies probably remain. In addition, the size and specific design of a facility can significantly influence the incremental cost effectiveness of pollution control. This is illustrated by the increasing cost of sulfur dioxide abatement from eastern industrial boilers with decreasing size, shown later in Table 4. The incremental control cost for 85 percent removal increases from $0.61 to $1.55/kg as the boiler size is decreased from about 250,000 pounds per hour to 25,000 pounds per hour steam. Many other examples of the effect of size on incremental cost effectiveness can be found in Appendix A.

The incremental cost effectiveness analysis indicates that the larger sources of pollution usually have lower incremental abatement costs.

Increasing stringency of control generally results in rapidly increasing incremental costs. For example, increasing the control of particulate emissions from power plants burning eastern coal from 98.8 to 99.4 to 99.7 percent increases the incremental cost from $0.04 to $0.46 to $0.68/kg particulate. In a few cases, although the costs for pollution abatement continue to rise with increasing abatement, the incremental costs may actually decline. Thus, the incremental cost of controlling sulfur dioxide from power plants burning 3.5 percent sulfur coal increases from $0.13 to $0.28/kg sulfur dioxide as the percent removal is increased from 32 to 80 percent, but decreases to $0.15/kg for the increment between 80 and 90 percent removal.

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[*] RACT: Reasonably Available Control Technology; BACT: Best Available Control Technology; LAER: Lowest Achievable Emission Rate.

The initial increment of control is almost always the most cost effective. This is because a large fraction of the uncontrolled emission is abated by the first increment of control. While the costs of subsequent abatement technologies may be the same order of magnitude as the cost of the first increment, the emission reduction of the initial increment is usually ten times or more the emission reduction from subsequent control technologies.

There is a wide variation in the incremental cost effectiveness of pollution abatement between industries. The greatest variation observed was in the control of particulate, which ranges from a low of $0.008/kg for control with an electrostatic precipitator on lime kilns to $105/kg for use of fabric filters to control particulates from basic oxygen furnace slag-pouring operations in the steel industry. The data indicate that costs of particulate control appear to be higher in the metals industries than in other industrial sectors.

TABLE 1.—INCREMENTAL COST EFFECTIVENESS—AIRBORNE PARTICULATE ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $/kg particulate	Emission g/kg product (unless otherwise noted)	Control technology
Electric utility:				
Coal-fired eastern coal	0		3,689 ng/j	
	98.8	0.036	43	Electrostatic precipitator.
	99.4	0.46	22	Do.
	99.7	0.68	13	Do.
Coal-fired western coal	0		2,135 ng/j	
	99.4	0.081	13	Fabric filter.
Petroleum refining:				
Fluid catalytic cracking	0		0.68 g/kg crude	
	93	0.55	0.048	Electrostatic precipitator.
Coal cleaning	0		32.6 g/kg	
	99.8	0.01	0.065	Venturi scrubber.
Phosphate fertilizer:				
Triple superphosphate	0		60	
	99.9	0.056	0.06 (SIP)	Scrubber.
Normal superphosphate	0		5	
	98	0.096	0.09 (SIP)	Do.
Diammonium phosphate	0		41	
	99.8	0.033	0.08 (SIP)	Do.
NPK	0		41	
	99.8	0.01	0.08	Do.
Chemicals:				
Phosphorous	0		23	
	99	0.027	0.23	Do.
Defluorinated phosphate rock	0		24.5	
	99	0.21	0.25	Do.
Dicalcium phosphate	0		0.81	
	99	1.43	0.0081	Do.
Iron and steel:				
Raw materials:				
Ore handling	0		0.185	
	40 (RACT)	0.93	0.111	Water spray.
	75 (BACT)	0.66	0.046	Do.
	90 (LAER)	18.05	0.019	Do.
Coal handling	0		0.058	
	40 (RACT)	3.09	0.035	Water spray.
	75 (BACT)	1.43	0.015	Do.
	90 (LAER)	63.61	0.006	Do.
Coal crushing	0		0.20	
	90 (RACT)	0.51	0.02	Fabric filter.
	99 (BACT)	0.14	0.002	Do.
Sintering:				
Sinter windbox	0		2.15	
	88 (RACT)	0.93	0.26	Scrubber.
	93 (BACT)	2.56	0.15	Do.
	98 (LAER)	18.40	0.043	Wet electrostatic precipitator.
Sinter discharge	0		3.50	
	84 (RACT)	0.13	0.56	Fabric filter.
	99 (BACT)	0.84	0.035	Do.
Sinter fugitives	0		3.5	
	99 (BACT)	0.24	0.004	Fabric filter.
Coke:				
Coke oven charging	0		0. 57	
	86 (RACT)	3. 37	0. 08	Modify car.
	98 (BACT)	8.96	0.011	New car.
Coke pushing	0		2.85	
	99 (RACT)	1.48	0.057	Enclose hot car.
Coke quench	0		4.30	
	76 (RACT)	0.018	1. 03	Baffles.
	88 (BACT)	4.61	0.52	Baffles plus clean water.
	96 (LAER)	7.93	0.17	Dry quench.
Coke oven doors	0		0.355	
	80 (RACT)	6.68	0.071	Maintenance.
	90 (BACT)	27.85	0.036	Maintenance plus auto clean.
Coke oven topside	0		0.50	
	91 (RACT)	4.12	0.022	Improve maintenance.
Coke underfine stack	0		0.50	
	85 (BACT)	4.42	0.075	Electrostatic precipitator.
	92 (LAER)	3.08	0.040	"Do."
Coke handling	0		0.017	
	99 (BACT)	1.40	Nil	Fabric filter.
Coke oven and preheater	0		0.063	
	80 (RACT)	3.59	0.013	Scrubber.
Ironmaking:				
Cast house	0		0.345	
	90 (RACT)	6.92	0.035	Tap hole plus baghouse.
	94 (LAER)	23.67	0.021	Evacuation.
Slag pouring	0		0.14	
	95 (BACT)	25.30	0.007	Hood plus scrubber.
Slag crushing	0		0.12	
	50 (RACT)	1.99	0.06	Water spray.
	90 (BACT)	1.21	0.012	Fabric filter.
Steelmaking:				
Open hearth hot metal transfer	0		0.175	
	98 (RACT)	13.02	0.004	
Open hearth refining	0		8.70	
	98 (RACT)	0.59	0.17	Electrostatic precipitator.
Open hearth slag crushing	0		0.105	
	48 (RACT)	0.239	0.055	Water spray.
BOF hot metal transfer	0		0.175	
	98 (RACT)	3.63	0.004	Fabric filter.
BOF refining	0		25.5	
	93.8 (RACT)	0.09	1.58	Open hood plus ESP.
	94.4 (BACT)	7.59	1.43	Closed hood plus scrubber.

Industry sector	Percent removed	Incremental cost effectiveness $/kg particulate	Emission g/kg product (unless otherwise noted)	Control technology
BOF charging plus tapping	0		0.50	
	60 (RACT)	0.75	0 20	Hood.
	92 (BACT)	5.55	0.025	Furnace enclosure.
BOF slag pouring	0		0.06	
	83 (RACT)	0.34	0.01	Water spray.
	92 (BACT)	105	0.005	Fabric filter.
BOF slag processing	0		0.085	
	53 (RACT)	0.18	0.040	Water spray.
	94 (BACT)	1.45	0.005	Fabric filter.
EAF carbon steel	0		15	
	90 (RACT)	0.26	1.5	Direct evacuation canopy hood plus RACT building evacuation plus BACT.
	97 (BACT)	4.98	0.45	
	99 (LAER)	32.20	0.15	
EAF alloy steel	0		7.5	
	85 (RACT)	1.21	1.13	Canopy hood.
	87 (BACT)	0.34	0.98	Building evacuation plus BACT
	94 (LAER)	0.81	0.45	Do.
EAF slag pouring	0		0.050	
	50 (RACT)	3.00	0.025	Water spray.
	86 (BACT)	21.50	0.005	Fabric filter.
Continuous casting	0		0.064	Do.
	92 (BACT)	6.70	0.005	
Soaking pits	0		0.10	
	85 (BACT)	11.20	0.015	Electrostatic precipitator.
Automatic scarfing	0		0.12	
	88 (BACT)	12.50	0.014	Wet electrostatic precipitator.
Reheat furnace	0		0.21	
	86 (BACT)	9.03	0.029	Electrostatic precipitator.
Metals:				
Secondary aluminum	0		18.6	
	99	2.00	0.2 (SIP)	Wet scrubber.
	99	0.81	0.2 (NSPS)	Do.
Secondary brass and bronze:				
Ingot reverberatory furnace	0		35	
	97.5	1.03	0.9	Fabric filter.
Ingot rotary furnace	0		30	
	97.5	2.34	0.8	Do.
Ingot crucible furnace	0		6	
	97.5	28.90	0.2	Do.
Secondary brass mills	0		32	
	97.5	0.10	0.8	Do.
Secondary lead:				
Cupola	0		96.5	
	99	.052	1	Do.
Reverberatory	0		73.5	
	99	.068	0.7	Do.
Secondary zinc	0		23	
	97.5	2.13	0.58	Do.
Ferro alloys	0		157	
	98	0.45	3.2	Do.
Cement, wet grinding:				
Kiln	0		114	
	99.9	0.023	0. 09	Electrastatic precipitation.
Grinding and mixing	0		16	
	99.9	0.056	0.013	Fabric filter.
Cement, dry grinding:				
Kiln	0		122	
	99.9	0.027	0.098	Do.
Grinding and mixing	0		48	
	99.9	0.055	0.038	Do.
Lime:				
Vertical kiln	0		10	
	99	0. 082	0.1	Do.
Rotary kiln	0		100	
	99	0.008	1	Electrostatic precipitator wet scrubber (typically used in smaller plants).
	99	0.022	1	
Rotary kiln	0		100	
	99	0.008	1	Do.
	99	0.002	1	Wet scrubber (typically used in smaller plants).
Asphalt concrete	0		7.5	
	96	0.065	0.29	Multi-cyclone.
	99.99	1.79	0.0009 (NSPS)	Fabric filter.
Paint	0		0.45	
	99	0.63	0.005	Do.
Kraft pulp:				
Recovery boiler, etc	0		100	
	99	0.015	1	Electrostatic precipitator.
	99.7	2.44	0.3	Do.
Lime kiln	0		22.5	
	93	0	1.6	Venturi scrubber.
	99	0.02	0.2	Do.
Smelt tank	0		2.5	
	80	0	0.5	Mesh pad.
	97	0.94	0.075	Scrubber.
NSSC Paper:				
Bark boiler	0		25	
	99	0.043	0.3	Electrostatic precipitator.
Grain handling:				
Country elevator	0		7.65	
	98.5	0.21	0.11	Fabric filter.
Inland terminal	0		3.21	
	98.5	0.21	.05	Do.
	98.5	0.16	.05	Fabric filter (new plant).
Port terminal	0		2.3	
	98.5	0.087	.035	Fabric filter.
Feed mills	0		6.0	
	98	0.46	0.13	Do.
Open burning dumps	0		8	
	100	1.00[1]	0	Sanitary landfill.
Municipal incinerators	0		21	
	98	0.42	0.4	Electrostatic precipitator.
Refuse-fired steam generator	0		8	
	98	0.12	0.16 (SIP)	Do.

See footnote at end of table.

TABLE 1.—INCREMENTAL COST EFFECTIVENESS—AIRBORNE PARTICULATE ABATEMENT—Continued

Industry sector	Percent removed	Incremental cost effectiveness $/kg particulate	Emission g/kg product (unless otherwise noted)	Control technology
Sewage sludge incineration	0		50	
	97	0.31	1.5 (SIP)	Wet scrubber.
Incinerators	0		7.5	
	80	6.61	1.5	Do.

[1] Also controls sulfur oxides, CO, hydrocarbons, and NO_x.

TABLE 2.—INCREMENTAL COST EFFECTIVENESS—AIRBORNE HYDROCARBON ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $kg hydrocarbon	Emission g/kg product	Control technology
Petrochemicals:				
Formaldehyde:				
Silver process	0		3.0	
	95	0.51[1]	0.15 (SIP)	Thermal incineration.
Metal oxide process	0		2.9	
	95	0.05[1]	0.14 (SIP)	Do.
Acrylonitrile	0		184	
	95	0.04[1]	9.2 (SIP)	Do.
Ethylene oxide:				
Oxygen process	0		7.9	
	95	0.15	0.4 (SIP)	Do.
Air oxidation	0		111	
	95	0.09	5.6 (SIP)	Do.
Phthalic anhydride	0		43	
	95	0.22[1]	2.1 (SIP)	Do.
Ethylene dichloride	0		3.25	
	95	1.00	0.16 (BACT)	Incineration.
Structural clay:				
Products	0		4.18	
	99.9	1.00	0.004	Do.
Paint	0		5.6	
	50	1.25	2.8	Do.
Coal coating	0		55.0	
Existing	90	0.13	55	Do.
New plants	90	0.07	55	Do.
Wood furniture:				
Finishing	0		600	
	85	5.46	90	Carbon adsorption.
Automotive:				
Auto prime	0		550	
	87	0.55	72	Electrodeposition.
Auto top coat	0		650	
	65	0.19	228	Substitute enamel for lacquer.
	92	2.72	52	Water base paint.
Dry cleaning:				
(Perchloroethylene coin operated plants)	0		120	
	58	2.07	70	Carbon adsorption.
Petroleum solvents	0		180	
Dryer	90	1.24	18	Do.
Filter muck	0		60	
	90	0.25	6	Centrifuge.
Entire plant	0		280	
	75	0.92	70	Solvent change.

[1] Carbon monoxide is also controlled by this technology. All costs have been assigned to hydrocarbons.

TABLE 3.—INCREMENTAL COST EFFECTIVENESS—CARBON MONOXIDE ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness, $/kg CO	Emission	Control technology
Petrochemicals:				
Formaldehyde (silver process)	0		5.1 g/kg product	
	95	0.30[1]	0.26 (SIP)	Thermal incineration.
Formaldehyde (metal oxide process)	0		12.1	
	95	0.12[1]	0.6	Do.
Acrylonitrile	0		164	
	95	0.045[1]	8.2	Do.
Phthalic anhydride	0		162	
	95	0.06[1]	8.1	Do.
Open burning dumps	0		42	
	100	0.19[2]	0	Sanitary landfill.

[1] Hydrocarbon emissions are also controlled. All costs have been assigned to CO.

[2] Particulate, sulfur oxide, hydrocarbon and No_x also controlled. All costs have been assigned to CO.

TABLE 4.—INCREMENTAL COST EFFECTIVENESS—SULFUR DIOXIDE ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $/kg sulfur dioxide	Emission	Control technology
Electric utility:				
Eastern coal, 3.5 percent S	0		2,510 ng/j	
	32	0.13	1,707	Physical coal cleaning.
	80	0.28	516	Flue gas desulfurization.
	90 (NSPS)	0.15	251	Do.
Eastern coal, 7 percent S	0		5,020	
	32	0.06	3,414	Physical coal cleaning.
	90 (NSPS)	0.37	516	Flue gas desulfurization.
Western coal, 0.8 percent S	0		689	
	90 (NSPS)	1.09	69	Do.

Industry sector	Percent removed	Incremental cost effectiveness $/kg sulfur dioxide	Emission	Control technology
Natural gas processing	0		2 kg/kg S	
	95	0.0	105 g/kg	Claus plant.
	99	0.14	20	Tail gas treating.
Petroleum refining	0		2,000 g/kg S	
	94.5	0.0	113	Claus plant.
	99.5	0.20	9.4	Tail gas treating.
Iron and steel coke oven	0		6.7 g/kg coke	
	86 (RACT)	0.33	0.94	Sulfiban and Claus.
	92 (BACT)	0.64	0.53	Do.
	98 (LAER)	0.58	0.13	Do.
Sulfuric acid	0		19 g/kg	
Old sulfur burning	90	0.17	1.9	Dual absoprtion.
New sulfur burning	90	0.054	1.9	Do.
Old wet gas	95	0.29	0.95	Do.
Primary copper	0		625 g/kg	
	67	0.38	206	Dual absorption acid plant.
	98 (RACT)	0.70	13	Nonreverb process.
Fugitives from roasting	0		38	
	95	1.75	1.9	Building enclosures and hoods.
Primary lead	0		298	
	76	0.15	70	Acid plant.
Primary zinc	0		550	
	94	0.78	33	Do.
Structural clay	0		2.6	
Tunnel kilns	60	0.53	1.04	Wet scrubber.
Periodic kilns	60	0.65	1.04	Do.
Kraft paper	0		6.5[1]	
Recovery boiler	63	0.16[1]	2.4[1]	Black liquor oxidation.
Open burning dumps	0		0.5	
	100	15.90[2]	0	Sanitary landfill.
Industrial and commercial boilers:				
Eastern coal 4.5 percent S, 12,000 Btu/lb	0		3,228 ng/j	
	32	0.10	1,033	Physical coal cleaning.
	85	0.61	484	Flue gas desulfurization, 250,000 pph.
	85	0.71	484	FGD, 150,000 pph.
	85	0.83	484	FGD, 100,000 pph.
	85	1.11	484	FGD, 50,000 pph.
	85	1.56	484	FGD, 25,000 pph.
Western coal, 0.4 percent S, 8,000 Btu/lb	0		430	
	50	0.61	215	FGD, 250,000 pph.
	50	0.73	215	FGD, 150,000 pph.
	50	0.85	215	FGD, 100,000 pph.
	50	1.23	215	FGD, 50,000 pph.
	50	1.82	215	FGD, 25,000 pph.

[1] Based on total reduced sulfur; to convert to equivalent sulfur dioxide: multiply emission by 2, divide cost effectiveness by 2.

[2] Also controls particulate, CO, hydrocarbon, and NO_x; all costs assigned to sulfur dioxide.

TABLE 5.—INCREMENTAL COST EFFECTIVENESS—NO_x ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $/kg NO_x	Emission	Controll technology
Nitric acid	0		22 g/kg product	None.
	7	0.12	2.8	Catalytic reduction-retrofit.
	87	0.10	2.8	Catalytic reduction-NSPS.

TABLE 6.—INCREMENTAL COST EFFECTIVENESS—VINYL CHLORIDE ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $/kg vinyl chloride	Emission	Control technology
Vinyl chloride:				
VCM plant	0		4.1 g/kg product	
	94	2.30	0.25 (BACT)	Incineration and fugitive emission control.
VCM plus EDC plant	0		4.5	
	94	2.74	0.26 (BACT)	Do.
Polyvinylchoride	0		43.8	
	95	0.75	2.1 (BACT)	Do.

TABLE 7.—INCREMENTAL COST EFFECTIVENESS—AIRBORNE MERCURY ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $/kg mercury	Emission	Control technology
Chlor-alkali: mercury cell	0		0.2 g/kg chlorine	
	98.8	19	0.0025	Cooling, demisting, molecular sieves.

TABLE 8.—INCREMENTAL COST EFFECTIVENESS—FLUORIDE ABATEMENT

Industry sector	Percent removed	Incremental cost effectiveness $/kg NO_x	Emission	Control technology
Primary aluminum	0		25	
Prebaked anodes	96	2.24[1]	1	Hood plus fluid bed dry scrubber.
Vertical stud Solderberg	96	4.72[1]	1	Wet electrostatic precipitator.
Horizontal stud	96	8.61[1]	1	Do.

[1] Particulate emissions also controlled; all cost has been assigned to floride.

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APPENDIX A—COST DATA

ELECTRIC UTILITY

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission ng/J(lb/10⁶Btu)	Emission reduction, percent	Incremental cost effecti veness, $/kg
Coal-fired plants eastern coal 3.5 percent S, 14 percent ash 12,000 Btu/lb.	Air	Particulate		None	5	500 Mw	3,690 (8.57)		
				Electrostatic precipitator.	18	500 Mw	43 (0.10)	98.8	0.036.
				do	18	500 Mw	22 (0.05)	99.4	0.46.
				do	18	500 Mw	13 (0.03)	99.7	0.68.
Coal-fired plant western coal 0.8 percent S, 8 percent ash 10,000 Btu/lb.	do	do		None	5	500 Mw	2,135 (4.96)		
				Fabric filter	18	500 Mw	13 (0.03)	99.4	0.08.
Coal-fired plant eastern coal 3.5 percent S. 14 percent ash 12,000 Btu/lb.	do	Sulfur dioxide		None		500 Mw	2,510 (5.83)		
				Physical coal cleaning.	17	500 Mw	1,707 (3.97)	32	0.129.
				Lime FGD	18	500 Mw	516 (1.2)	80	0.276.
			NSPS	do	18	500 Mw	251 (0.58)	90	0.145.
Coal-fired plant eastern coal 7 percent S, 14 percent ash 12,000 Btu/lb.	do	Sulfur dioxide		None		500 Mw	5,020 (11.67)		
				Physical coal cleaning.	17	500 Mw	3,414 (7.94)	32	0.0646.
			NSPS	Lime FGD	18	500 Mw	516 (1.2)	90	0.367.
Coal-fired western coal 0.8 percent S, 8 percent ash 10,000 Btu/lb.	do	do		None		500 Mw	689 (1.6)		
			NSPS	Lime FGD	18	500 Mw	69 (0.16)	90	1.086.

INDUSTRIAL AND COMMERCIAL STEAM GENERATORS

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant	Emission	Emission reduction, percent	Incremental cost effectiveness $/kg pollutant
Industrial and commercial boilers, eastern coal 4.5 percent S, 12,000 Btu/lb.	Air	SO_2		Uncontrolled			3,228 ng/j (7.5 lb/MM Btu).		
				Physical coal cleaning.	17		2,195	32	0.100.
				Double alkali FGD.	20	25 MM Btu/hr	484	85	1.559.
				do		50	484	85	1.107.
				do		100	484	85	0.836.
				do		150	484	85	0.723.
				do		250	484	85	0.625.
				Lime FGD	20	25	484	85	1.660.
				do		50	484	85	1.126.
				do		100	484	85	0.830.
				do		150	484	85	0.711.
				do		250	484	85	0.609.
Western coal 0.4 percent S, 8,000 Btu/lb.	do	SO_2		Uncontrolled double alkali.			430		
				FGD	20	25 MM Btu/hr	215	50	1.823.
				FGD		50	215	50	1.227.
				FGD		100	215	50	0.856.
				FGD		150	215	50	0.732.
				FGD		250	215	50	0.610.
				Lime FGD	20	25	215	50	2.039.
				do		50	215	50	1.352.
				do		100	215	50	0.936.
				do		150	215	50	0.804.
				do		250	215	50	0.672.

ENERGY INDUSTRIES

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission	Emission reduction, percent	Incremental cost effectiveness, $/kg pollutant
Natural gas processing	Air	SO_2		Uncontrolled	1,2,3		2 kg SO_2/kg S		
				Claus plant			105 g/kg		0 (sulfur worth more than recovery cost).
				Tailgas cleanup		Claus plant size: 9,530	21g SO_2/kg S	99	0.372.
						26,670	do	99	0.248.
						74,676	do	99	0.176.
						245,364	do	99	0.118.
						Total industry			0.139.
Petroleum refining	do	SO_2		Emission from claus.	1,3,15		113g SO_2/Kg S		
			SIP	Tailgas cleanup		All clause plants: Average existing plants.	9.38g SO_2/kg S	91.3	0.217.
			NSPS			Average new plants.	do	91.3	0.164.
						Total industry.	do	91.3	0.197.
Fluid catalytic cracking	do	Particulate		Uncontrolled	1,3,5,15		0.684/kg crude		
			SIP	Electrostatic		All FCC units: Average existing	0.048g/kg crude	93	0.573.
			NSPS	Precipitator		Average new	do	93	0.479.
						Total industry	do	93	0.548.
Coal cleaning	do	Particulate		Uncontrolled	1,8		32.6g/kg dried		
			NSPS/SIP	Venturi wet scrubber.		Dried cleaned coal: 272,015 dried coal.	0.065g/kg	99.8	0.010.

CHEMICAL INDUSTRY

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 100 kg/yr	Emission	Emission reduction, percent	Incremental cost effectiveness
Petrochemicals:									
Formaldehyde silver process	Air	CO		Uncontrolled	(1), (3)		5.12 g/kg HCHO		
			SIP	Thermal incineration		12,475	0.256 g/kg HCHO	95	$0.316/kg CO.
						38,075	0.256 g/kg HCHO	95	0.301/kg CO.
						80,160	0.256 g/kg HCHO	95	0.217/kg CO.
						238,515	0.256 g/kg HCHO	95	0.183/kg CO.
		HC		Uncontrolled			3.04 g/kg HCHO		
			SIP	Thermal incineration		12,475	0.152 g/kg	95	0.538/kg HC.
						38,075	0.152 g/kg HCHO	95	0.513/kg HC.
						80,610	0.152 g/kg HCHO	95	0.370/kg HC.
						238,515	0.152 g/kg HCHO	95	0.311/kg HC.
Formaldehyde oxide process	Air	CO		Uncontrolled	(1), (3)		12.08 g/kg HCHO		
			SIP	Thermal incineration		21,090	0.604 g/kg HCHO	95	0.146/kg CO.
						37,195	0.604 g/kg HCHO	95	0.129/kg CO.
						61,010	0.604 g/kg HCHO	95	0.116/kg CO.
	Air	HC		Uncontrolled	(1), (3)		2.88 g/kg HCHO		
			SIP	Thermal incineration.		21,090	0.144 g/kg HCHO	95	0.621/kg HC.
				do		37,195	0.144 g/kg HCHO	95	0.548/kg HC.
				do		61,010	0.144 g/kg HCHO	95	0.495/kg HC.
Acrylonitrile	Air	HC		Uncontrolled	(1)		183.96 g/kg Acrylo	95	
			SIP	Thermal incineration.		150,595	9.198 g/kg Acrylo	95	0.040/kg HC.
		CO		Uncontrolled			163.42 g/kg Acrylo		
			SIP	Thermal incineration.		150,595	8.171 g/kg Acrylo	95	0.045/kg CO.
Ethylene oxide:									
O_2 oxidation		HC		Uncontrolled	(1)		7.92 g/kg Eth Ox		
			SIP	Thermal incineration.		108,864	0.396 g/kg Eth Ox	95	3.153/kg HC.
Air oxidation		HC		Uncontrolled	(1)		111.24 g/kg Eth Ox	95	
			SIP	Thermal incineration.		40,825	5.562 g/kg Eth Ox	95	0.091/kg HC.
						106,595	5.562 g/kg Eth Ox	95	0.087/kg HC.
						250,250	5.562 g/kg Eth Ox	95	0.084/kg HC.
Phthalic anhydride	Air	HC		Uncontrolled	(1)		42.96 g/kg PAA		
			SIP	Thermal incineration.		40,825	2.148 g/kg PAA	95	0.235/kg HC.
				do		106,595	2.148 g/kg PAA	95	0.224/kg HC.
				do		250,250	2.146 g/kg PAA	95	0.216/kg HC.
		CO		Uncontrolled	(1)		162.48 g/kg PAA		
			SIP	Thermal incineration.		40,825	8.123 g/kg PAA	95	0.062/kg CO.
				do		106,595	8.123 g/kg PAA	95	0.059/kg CO.
				do		250,250	8.123 g/kg PAA	95	0.057/kg CO.
Vinyl chloride:									
EDC–VCM balanced plant	Air	VCM		Uncontrolled	(1)		4.48 g/kg VCM		
			BACT	Incineration plus fugitive control.		129,730	0.263 g/kg PAA	94	2.736/kg VCM.
						335,665	0.263 g/kg PAA	94	1.271/kg VCM.
VCM plants only	Air	VCM		Uncontrolled	(1)		4.12 g/kg VCM		
			BACT	Incineration plus fugitive control.		126,100	0.247 g/kg VCM	94	2.304/kg VCM.
EDC plants only	Air	HC (trace VCM)		Uncontrolled	(1)		3.25 g/kg EDC		
			BACT	Incineration		199,585	0.163 g/kg EDC	95	1.009/kg EDC.
PVC plants	Air	VCM		Uncontrolled	(1), (4)		43.82 g/kg PVC		
			BACT	Incineration plus		39,917	2.12 g/kg PVC	95	1.369/kg VCM.
						87,998	2.12 g/kg PVC	95	0.747/kg VCM.
				do		144,698	2.12 g/kg PVC	95	0.538/kg VCM.

CHEMICAL INDUSTRY—Continued

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 100 kg/yr	Emission	Emission reduction, percent	Incremental cost effectiveness
Phosphate fertilizer:									
Triple superphos	Air	Particulates		Uncontrolled	(1), (3)		60 g/kg TSP		
			SIP	Scrubber		47,628	0.062 g/kg TSP	99.9	0.076/kg particulates.
				do		182,193	0.062 g/kg	99.9	0.056/kg particulates.
				do		495,431	0.062 g/kg TSP	99.9	0.044/kg particulates.
Normal superphos	Air	Particulates	SIP	Uncontrolled	(1), (3)		5 g/kg		
				Scrubber		56,880	0.086 g/kg TSP	99.9	0.108/kg particulates.
						89,815	0.086 g/kg NSP	98	0.101/kg particulates.
						119,750	0.086 g/kg NSP	98	0.096/kg particulates.
						149,690	0.086 g/kg NSP	98	0.093/kg particulates.
						179,625	0.086 g/kg NSP	98	0.091/kg particulates.
						209,560	0.086 g/kg NSP	98	0.089/kg particulates.
Diammon, phosphate	Air	Particulates		Uncontrolled	(1), (3)		41 g/kg DAP		
			SIP	Scrubber		48,000	0.077 g/kg DAP	99.8	0.047/kg particulates.
						163,300	0.077 g/kg DAP	99.8	0.033/kg particulates.
						549,465	0.077 g/kg DAP	99.8	0.024/kg particulates.
NPK plants	Air	Particulates		Uncontrolled	(1), (3)		41 g/kg NPK		
			SIP	Scrubber		40,825	0.077 g/kg NPK	99.8	0.007/kg particulates.
Nonfertilizer phosphorus chemicals:									
Phosphorus	Air	Fluoride (particulates).		Uncontrolled	(1), (3)		23 g/kg P_4		
				Scrubber		14, 520	0.23 g/kg P_4	99	0.045/kg particulates.
						42, 410	0,23 g/kg P_4	99	0.032/kg particulates.
						117, 940	0.23 g/kg P_4	99	0.022/kg particulates.
						Total industry	0.23 g/kg P_4	99	0.027/kg particulates.
Defluorinated phosphate rock	Air	Fluoride (particulates)		Uncontrolled	(1), (3)		24.45 g/kg 18.5 percent P rock		
				Scrubber		60,480	0.2445 g/kg 18.5 percent P rock	99	0.030/kg particulates.
						276,695	0.2445 g/kg 18.5 percent P rock	99	0.018/kg particulates.
						Total industry	0.2445 g/kg 18.5 percent P rock	99	0.021/kg particulates.
Dicalcium phosphate	Air	Fluoride (particulates)		Uncontrolled	(1), (3), (6)		0.81 g/kg Dical	99	
				Scrubber		22,680	0.0081 g/kg Dical	99	2,600/kg particulates.
						39,690	0.0081 g/kg Dical	99	2,129/kg particulates.
						199,580	0.0081 g/kg Dical	99	1,202/kg particulates.
						Total industry	0.0081 g/kg Dical	99	1.431/kg particulates.
Chlor-alkali, mercury-cell	Mercury			Uncontrolled	(1), (2), (3), (7),		0.2 g/kg Cl_2		
			Hazardous.	Cooling, demisting, molecular sieves.		37,970	0.0025 g/kg Cl_2	98.75	24.900/kg Hg.
						74,580	0.0025 h/kg Cl_2	98.75	20.534/kg Hg.
						100,980	0.0025 g/kg Cl_2	98.75	18.980/kg Hg.
						163,680	0.0025 g/kg Cl_2	98.75	19.224/kg Hg.
						Total industry	0.0025 g/kg Cl_2	98.75	19.224/kg. Hg.
Sulfuric acid		SO_2		Uncontrolled	(1), (3)		19 g/kg H_2SO_4		
		Acid mist		do			0.5 g/kg H_2SO_4		
			NSPS/SIP	Dual absorption	Sulfur burning:				
						Old 225,278.	1.9 g/kg SO_2/m.T H_2SO_4	90	0.169/kg SO_2.
						New 558,643	1.9 g/kg SO_2/m.t H_2SO_4	90	0.054/kg SO_2.
						Wet gas: Old 216,191.	0.95 g/kg SO_2/m.T H_2SO_4	95	0.291/kg SO_2.
						Total industry			0.178/kg SO_2.
Nitric acid	Air	NO_x		Uncontrolled	(1), (3)		22 g/kg HNO_3		
			SIP	Catalytied Red'n		Existing:			
			SIP			37,330	2.75 g/kg HNO_3	87.5	0.142/kg NO_x
			SIP			79,035	2.75 g/kg HNO_3	87.5	0.125/kg NO_x
			SIP			107,665	2.75 g/kg HNO_3	87.5	0.119/kg NO_x
			SIP			278,000	2.75 g/kg HNO_3	87.5	0.105/kg NO_x
			NSPS			139,800	2.75 g/kg HNO_3	87.5	0.100/kg NO_x
						Total industry	2.75 g/kg HNO_3	87.5	0.117/kg NO_x

i=interest on debt,
T=tax rate,
d=depreciation,
C=tax credit applicable in year n.

Discounting at return on equity m, and setting the present value of after-tax cash flows equal to equity investment E, we obtain

$$(1-T)(R'-O')=E\beta+\frac{D}{N}+(1-T)iD-\frac{(1-T)iD}{Nm}\left[1-\frac{N\beta}{(1+m)}N\right]-\frac{T}{M}\frac{\beta}{\alpha}-\beta C$$

where m=return on equity,
β=capital recovery factor for N years, m

$$\text{or } \frac{m(1+m)^N}{(1+m)^N-1}$$

α=capital recovery factor for M years, m
M=tax life for depreciation
C=investment tax credit taken in year 0.

The value of (R′−O′)/(E+D) is the capital recovery factor expressed in current dollars over the life of the project. This value was used to calculate costs, assuming the project started in 1979.

If costs expressed in constant 1979 dollars were derived, one would multiply the capital recovery factor (R′−O′)/(E+D) by the ratio of capital recovery factor at the nominal return on equity to the capital recovery factor at the real return on equity.

Costs were adjusted for inflation using the Chemical Engineering Index. This index gives results within 2 percent of the pollution control index developed by Bureau of Economic Analysis* and is available for a greater time span.

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*Rutledge, G. L., "Pollution Abatement and Control Expenditures in Constant and Current Dollars", Survey of Cur. Bus., 13 (Feb. 1979).

IRON AND STEEL

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission g/kg product or material handled	Emission reduction, percent	Incremental cost effectiveness $/kg pollutant
Raw materials:									
Ore handling and storage	Air	Particulates		Uncontrolled	19		0.185		
			RACT—retrofit	Water spray dust suppression		2,280,000	0.111	40	2.67.
			BACT—retrofit	do		2,280,000	0.046	75	5.588.
			LAER—retrofit	do		2,280,000	0.019	90	44.55.
			RACT—new	do		2,280,000	0.111	40	0.89.
			BACT—new	do		2,280,000	0.046	75	0.61.
			LAER—new	do		2,280,000	0.019	90	17.51.
Coal handling and storage	Air	do		Uncontrolled	19		0.058		
			RACT—retrofit	Water spray dust suppression		1,400,000	0.035	40	7.359.
			BACT—retrofit	do		1,400,000	0.015	75	11.291.
			LAER—retrofit	do		1,400,000	0.006	90	126.243.
			RACT—new	do		1,400,000	0.035	40	3.00.
			BACT—new	do		1,400,000	0.015	75	1.25.
			LAER—new	do		1,400,000	0.006	90	61.89.
Coal crusning and transfer	Air	do		Uncontrolled	19		0.200		
			RACT—retrofit	Baghouse		2,000,000	0. 02	90	2.823.
			BACT—retrofit	do		2,000,000	0.002	99	2.647.
			RACT—new	do		2,000,000	0.02	90	0.495.
			BACT—new	do		2,000,000	0.002	99	0.194.
Sintering:									
Sinter windbox	Air	do		Uncontrolled	19		2.15		
			RACT—retrofit	Scrubber		1,406,000	0.258	88	1.683.
			BACT—retrofit	do		1,406,000	0.151	93	4.116.
			LAER—retrofit	Wet ESP		1,406,000	0.043	98	8.306.
			RACT—new	Scrubber		1,406,000	0.258	88	0.905.
			BACT—new	do		1,406,000	0.151	93	2.51.
			LAER—new	Wet ESP		1,406,000	0.043	98	18.89.
Sinter discharge	Air	do		Uncontrolled	19		3.50		
			RACT—retrofit	Baghouse		1,406,000	0.560	84	0.246.
			BACT—retrofit	do		1,406,000	0.035	99	0.442.
			RACT—new	do		1,406,000	0.560	84	0.121.
			BACT—new	do		1,406,000	0.035	99	0.125.
Sinter building fugitives	Air	do		Uncontrolled	19		0.350		
			BACT—retrofit	Baghouse		1,406,000	0.004	99	0.577.
			BACT—new	do		1,406,000	0.004	99	0.240.
Coking:									
Wet coal: charging	Air	do		Uncontrolled	19		0.570		
			RACT—retrofit	Stage charging—modified larry car.		372,000	0.080	86	3.297.
			BACT—retrofit	Stage charging—new larry car		372,000	0.011	98	31.529.
			RACT—new	Stage charging—modified larry car.		372,000	0.080	86	3.35.
			RACT—new	Stage charging—new larry car		372,000	0.011	98	8.23.
Coke pushing	Air	do		Uncontrolled			2.85		
			RACT—retrofit	Enclosed hot car		372,000	0.057	99	2.114.
			RACT—new	Enclosed hot		372,000	0.057	99	1.29.
Coke quenching	Air	do		Uncontrolled	19		4.30		
			RACT—retrofit	Baffles		1,400,000	1.03	76	6.905.
			BACT—retrofit	Baffles and clean water		1,400,000	0.516	88	4.61.
			LAER—retrofit	Dry quenching		1,400,000	0.172	96	2.114.
			RACT—new	Baffles		1,400,000	1.03	76	0.016.
			BACT—new	Baffles and clean water		1,400,000	0.516	88	4.59.
			LAER—new	Dry quenching		1,400,000	0.172	96	7.89.
Coke oven doors	Air	do		Uncontrolled	19		0.355		
			RACT—retrofit	Door maintenance		372,000	0.071	80	17.759.
			BACT—retrofit	Door maintenance and auto cleaning.		372,000	0.036	90	27.85.
			RACT—new	Door maintenance		372,000	0.071	80	LAER 38.734.
			BACT—new	Door maintenance and auto cleaning.		372,000	0.036	90	26.92.
Coke oven topside	Air	do		Uncontrolled	19		0.245		
			RACT—retrofit and new	Good maintenance		372,000	0.022	91	7.784.
Underfire stack	Air	do		Uncontrolled	19		0.500		
			BACT—retrofit	Dry ESP		372,000	0.075	85	4.914.
			LAER—retrofit	do		372,000	C.040	92	10.399.
			BACT—new	do		372,000	0.075	85	4.17.
			LAER—new	do		372,000	0.040	92	2.69.
Coke handling	Air	do		Uncontrolled	19		0.017		
			BACT—retrofit	Baghouse		1,400,000	Neg	99	25.239.
			BACT—new	do		1,400,000	Neg	99	1.36.
Coal preheater				Uncontrolled	19		0.063		
			RACT—retrofit	Scrubber		372,000	0.013	80	0.195.
			RACT—new	do			0.013	80	3.55.
Coke oven	Air	(11$_2$S)[1]		Uncontrolled	19		6.66 (3.54)		
			RACT—retrofit	Sulfiban system and class plant		1,400,000	0.934 (0.496)	86	0.473 (0.623).
			BACT—retrofit	do		1,400,000	0.532 (0.283)	92	0.534 (1.20).
			LAER—retrofit	do		1,400,000	0.134 (0.171)	98	0.702 1.09.
			RACT—new	do		1,400,000	0.934 (0.496)	86	0.295 (0.556).
			BACT—new	do		1,400,000	0.532 (0.283)	92	0.616 (1.16).
			LAER—new	do		1,400,000	0.134 (0.071)	98	0.558 (1.05).
Ironmaking:									
Cast house emissions	Pair	Particulates.		Uncontrolled	19		0.345		
			RACT—retrofit	Taphole and baghouse		653,000	0.035	90	7.542.
			BACT—retrofit	RACT and runner covers		653,000	0.021	94	297.570.
			LAER—retrofit	Cast house evacuation		653,000	0.021	94	23.67.[2]
			RACT—new	Taphole and baghouse		653,000	0.035	90	6.32.
			BACT—new	RACT and runner covers		653,000	0.021	94	144.89.
			LAER—new	Cast house evacuation		653,000	0.021	94	22.78.[2]
Slag pouring	Air	do		Uncontrolled	19		0.140		
			BACT—retrofit	Hood and Scrubber		653,000	0.007	95	32.134.
			BACT—new	do		653,000	0.007	95	24.57.
Slag crushing and screening	Air	do		Uncontrolled	19		0.120		
			BACT—retrofit	Water sprays		2,280,000	0.060	50	0.992.
			BACT—retrofit	Baghouse		2,280,000	0.012	90	5.959.
			BACT—new	Water sprays		2,280,000	0.060	50	1.99.
			BACT—new	Baghouse		2,280,000	0.012	90	1.17.

See footnotes at end of table.

IRON AND STEEL—Continued

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission g/kg product or material handled	Emission reduction, percent	Incremental cost effectiveness $/kg pollutant
Steelmaking:									
Open hearth hot metal transfer	Air	Particulates		Uncontrolled	19		0.175		
			BACT—retrofit	Baghouse		272,000	0.004	98	20.288.
			BACT—new	do		272,000	0.004	98	12.37.
Open hearth refining	Air	do		Uncontrolled	19		8.70		
			BACT—retrofit	ESP		272,000	0.174	98	1.094.
			BACT—new	do		272,000	0.174	98	0.54.
Open hearth slag	Air	do		Uncontrolled	19		0.015		
Crushing and screening			RACT—retrofit and new	Watersprays		1,715,000	0.055	48	2.858.
BOF hot metal transfer				Uncontrolled			0.175		
			RACT—retrofit	Baghouse		1,243,000	0.004	98	3.735.
			RACT—new	do		1,243,000	0.004	98	3.51.
BOF refining	Air	do		Uncontrolled	19		25.50		
			RACT—retrofit	Open hood—ESP		1,243,000	1.58	93.8	0.135.
			BACT—retrofit	Closed hood scrubber		1, 243,000	1.43	94.4	10.645.
			RACT—new	Open hood—ESP		1,243,000	1.58	93.8	0.087.
			BACT—new	Closed hood scrubber		1,243,000	1.43	94.4	1.42.
BOF charging, tapping	Air	do		Uncontrolled	19		0.500		
			RACT—retrofit	Hood to existing furnance control.		1,243,000	0.200	60	2.764.
			BACT—retrofit	Furnance enclosure		1,243,000	0.025	92	5.397.
			RACT—new	Hood to existing furnance control.		1,243,000	0.200	60	0.713.
			BACT—new	Furnance enclosure		1,243,000	0.025	92	5.09.
BOF slag pouring	Air	do		Uncontrolled	19		0.060		
			RACT—retrofit	Water sprays		1,243,000	0.010	83	1.042.
			BACT—retrofit	Baghouse		1,243,000	0.005	92	35.051.
			RACT—new	Water sprays		1,243,000	0.010	83	0.339.
			BACT—new	Baghouse		1,243,000	0.005	92	101.00.
BOF slag processing	Air	do		Uncontrolled	19		0.085		
			RACT—retrofit	Water sprays		2,658,000	0.040	53	0.695.
			BACT—retrofit	Baghouse		2,658,000	0.005	94	4.282.
			RACT—new	Water sprays		2,658,000	0.040	53	0.175.
			BACT—new	Baghouse		2,658,000	0.005	94	1.38.
EAF[3]—carbon steel	Air	do		Uncontrolled	19		15.0		
			RACT—retrofit	Direct evacuation		272,000	1.50	90	0.383.
			BACT—retrofit	Direct evacuation and canopy hood.		272,000	0.450	97	5.623.
			LAER—retrofit	BACT and building evacuation		272,000	0.150	99	25.601.
			RACT—new	Direct evacuation		272,000	1.50	90	0.254.
			BACT—new	Direct evacuation and canopy hood.		272,000	0.45	97	4.02.
			LAER—new	BACT and building evacuation		272,000	0.150	99	30.63.
EAF[3]—alloy steel	Air	do		Uncontrolled	19		7.50		
			RACT—retrofit	Canopy hood		272,000	1.13	85	2.319.
			BACT—retrofit	do		272.000	0.975	87	0.
			LAER—retrofit	BACT and building evacuation		272 000	0.450	94	19.583.
			RACT—new	Canopy hood		272 000	1.13	85	1.12.
			BACT—new	do		272.000	0.975	87	1.41.
			LAER—new	BACT and building evacuation		272,000	0.430	94	0.762.
EAF[3]—slag pouring	Air	do		Uncontrolled	19		0.035		
			RACT—retrofit	Water spray		272 000	0.018	50	8.165.
			BACT—retrofit	Baghouse		272 000	0.005	86	160.654.
			RACT—new	Water sprays		272 000	0.018	50	4.20.
			BACT—new	Baghouse		272,000	0.005	86	91.25.
EAF[3]—slag processing	Air	do		Uncontrolled	19		0.050		
			RACT—retrofit	Water spray		689.000	0.025	50	5.715.
			BACT—retrofit	Baghouse		689 000	0.005	90	35.331.
			RACT—new	Water spray		689.000	0.025	50	3.00.
			BACT—new	Baghouse		689,000	0.005	90	21.00.
Continuous casting	Air	do		Uncontrolled	19		0.064		
			BACT—retrofit	Baghouse		907,000	0.005	92	23.646.
			BACT—new	do		907,000	0.005	92	6.30.
Soaking pits using 100 percent oil at 1 percent sulfur.	Air	do			19		0.100		
			BACT—retrofit	ESP		907,000	0.015	85	11.21.
			BACT—new	do		907,000	0.015	85	10.64.
Automatic scarfing	Air	do		Uncontrolled	19		0.120		
			RACT—retrofit	Wet ESP		907,000	0.014	88	23.472.
			RACT—new	do		907,000	0.014	88	12.08.
Reheat furnaces using 100 percent oil at 1 percent sulfur.	Air	do		Uncontrolled	19		0.210		
			BACT—retrofit	ESP		907,000	0.029	86	9.03.
			BACT—new	do		907,000	0.029	86	8.51.
Boiler stack—coal fired	Air	do		Uncontrolled	19		2.70		
			RACT—retrofit	FGD			0.189	93	
			RACT—new	do			0.189	93	
Boiler stack—oil fired	Air	do		Uncontrolled	19		0.075		
			RACT—retrofit	ESP			0.025	67	
			RACT—new	do			0.025	67	

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[1] Figures in parentheses based on hydrogen sulfide emissions which is the escaping sulfur species. Other values are equivalent sulfur dioxide.

[2] Cost effectiveness for LAER is compared with RACT.

[3] The definition of primary emissions and fugitive emissions in the electric furnace category changes as the control technology changes.

NONFERROUS METALS INDUSTRY

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission	Emission reduction, percent	Incremental cost effectiveness
Primary lead	Air	SO_2		Uncontrolled	1,3		298 g/kg		
				Acid plant		107,049	70 g/kg	76.5	0.157/kg SO_2.
						130,638	70 g/kg	76.5	0.148/kg SO_2.
Primary zinc	do	SO_2		Uncontrolled	1,3		550 g/kg		
				Acid plant		121,440	33 g/kg	94	0.785/kg SO_2.
Secondary aluminum	do	Particulates		Uncontrolled	1,3		18.6 g/kg		
			SIP	Wet scrubber		5,259	0.2 g/kg	99	3.03/kg particulates.
			SIP			17,125	0.2	99	2.01/kg particulates.
			SIP			43,555	0.2	99	1.01/kg particulates.
			NSPS			47,636	0.2	99	0.81/kg particulates.

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission	Emission reduction, percent	Incremental cost effectiveness
Secondary brass and bronze	Air	Particulates							
Ingot reverberator; furnace				Uncontrolled			35		
				Fabric filter		11,000	0.9	97.5	1.03/kg particulates.
Ingot rotary furnace				Uncontrolled			30		
				Fabric filter		2,964	0.8	97.5	2.34/kg particulates.
Ingot crucible furnace				Uncontrolled			6		
				Fabric filter		717	0.2	97.5	28.87/kg particulates.
Brass mills				Uncontrolled			31.99 g/kg		
				Fabric filter baghouse		5,093	0.80	97.5	0.104/kg particulates.
Metals:									
Secondary lead	do	do		Uncontrolled	1, 3		75.5, 96.5 g/kg		
				Fabric filter		3,950	0.74	99	0.061/kg particulates.
				Baghouse		13,500	0.74	99	0.068/kg particulates.
						27,250	0.97	99	0.044/kg particulates.
Secondary zinc	do	do		Uncontrolled	1, 3		23 g/kg		
				Fabric filter		4,990	0.58	97.5	2.13/kg particulates.
						10,886	0.58	97.5	1.03/kg particulates.
Ferroalloys	do	do		Uncontrolled	1,2,3		100		
				Scrubber [1]		1,034,300	2	98	0.756.
				ESP [1]		3,113,300	2	98	0.404.
	do	do		Uncontrolled			157.5		
				Baghouse [1]		3,452,800	3.2	98	0.446.
Primary copper	do	SO_2		Uncontrolled	1,3,11		625		
			NAAQS, PSD, RACT.	Dual stage acid		90,720	206	67 [2]	0.375.[3]
				Nonreverb		90,720	12.5	98	0.702.[3]
(With roasting)	do	Fugitive SO_2	NSPS	Uncontrolled			38.1		
				Building enclosure: secondary hooding of process equip.		90,720	1.9	95	1.75.
(Without roasting)				Uncontrolled			2		
				Enclosure and hoods		90,720	0.1	95	33.40.
Primary aluminum:									
Air fluoride	Air	Fluoride		Uncontrolled	1		25		
(Prebaked anodes)				Hoods plus fluid bed dry scrubber.			1.0	96	2.24/kg F.
(Vertical stud solderberg)				Electrostatic precipitator			1	96	4.72/kg F.
(Horizontal stud solderberg)				Wet electrostatic precipitator.			1	96	8.61/kg F.

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[1] Costs and emissions developed on a furnace basis.

[2] SO_2 control is 90 percent for roasting and converting operations, 67 percent for roasting, converting and smelting operations.

[3] Also controls about 67.5g. particulates/kg copper. Particulate must be removed to remove sulfur dioxide in acid plant, therefore, all cost was assigned to sulfur dioxide.

QUARRYING AND CONSTRUCTION INDUSTRIES

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission g/kg product	Emission reduction percent	Incremental cost effectiveness
Cement, wet:									
Kiln	Air	Particulate		Uncontrolled	1, 2, 3, 4		114		
			NSPS	ESP		406,160	0.091	99.92	$0.023/kg particulate.
Grinding, mixing	Air	do		Uncontrolled	1, 2, 3, 4		16		
			NSPS	Fabric filter		406,160	0.013	99.92	$0.056/kg particulate.
Cement, dry:									
Kiln	Air	do		Uncontrolled	1, 2, 3, 4		122		
			NSPS	Fabric filter		291,525	0.098	99.92	$0.027/kg particulate.
Grinding, mixing	Air	do		Uncontrolled	1, 2, 3, 4		48		
			NSPS	Fabric filter		283,900	0.038	99.92	$0.055/kg particulate.
Structural clay products	Air	SO_x		Uncontrolled	1, 2, 3, 8		2.6		
Tunnel kilns			SIP	Wet scrubber		99,338	1.04	60	$0.534/kg SO_x.
Periodic kilns			SIP	do		66,226	1.04	60	$0.651/kg SO_x.
		HC		Uncontrolled			4.18		
Periodic kilns			SIP	Thermal incineration		66,226	0.004	99.9	$1.001/kg HC.
Lime:									
Vertical kiln	Air	Particulate		Uncontrolled	1, 2, 3, 9		10		
			SIP	Fabric filter		12,825	0.1	99	$0.286/kg particulate.
						57,457	0.1	99	$0.139/kg particulate.
						224,560	0.1	99	$0.073/kg particulate.
						648,670	0.1	99	$0.042/kg particulate.
						Industry total	0.1	99	$0.082/kg particulate.
Rotary kiln	Air	do		Uncontrolled	1,2,3,9		100		
			SIP	Wet scrubber		12,825	1	99	$0.033/kg particulate.
						57,457	1	99	$0.025/kg particulate.
						224,560	1	99	$0.021/kg particulate.
						648,670	1	99	$0.019/kg particulate.
						Industry total	1	99	$0.022/kg particulate.
				ESP	1, 2, 3, 9	224,560	1	99	$0.010/kg particulate.
						648,670	1	99	$0.007/kg particulate.
						Industry total	1	99	$0.008/kg particulate.
Asphalt concrete processing	Air	do		Uncontrolled	1, 2, 3, 5		7.5		
			SIP	Multicyclone scrubber		57,782	0.285	96.2	$0.070/kg particulate.
						81,372	0.285	96.2	$0.064/kg particulate.
						160,926	0.285	96.2	$0.054/kg particulate.
						Industry total	0.285	96.2	$0.065/kg particulate.
			NSPS	Fabric filter		57,720	0.00036	99.93	$1.983/kg particulate.
						81,367	0.00086	99.99	$1.710/kg particulate.
						160,891	0.00036	99.99	$1.277/kg particulate.
						Industry total	0.00036	99.99	$1.787/kg particulate.
			NSPS	Venturi scrubber		57,785	0.00257	99.96	$2.018/kg particulate.
						81,372	0.00257	99.96	$1.927/kg particulate.
						160,984	0.00257	99.96	$1.703/kg particulate.
						Industry total	0.00257	99.96	$1.957/kg particulate.

APPENDIX B—COST CALCULATION PROCEDURE

A capital recovery factor was derived to convert capital investment into annual costs. The capital recovery factor gives equal annual pretax revenues (in current dollars) over the life of the pollution abatement equipment assuming

7 percent annual inflation rate
40/60 debt/equity ratio
9.7 percent interest on debt
14.5 percent after-tax return on equity
50 percent effective tax rate
10 percent investment tax credit taken in year 0
5-year straight line depreciation for tax purposes.

The debt/equity ratio is based on historic data from the FTC Quarterly Financial Report. Obviously, this ratio varies significantly from industry to industry and from company to company within a given industry. The 40/60 ratio appeared representative of most industries, although there has been a trend towards increasing debt fraction in the past few years.

The interesst rate of 9.7 percent corresponds to a real interest rate of 2.5 percent, assuming 7 percent inflation. This real interest rate was estimated at 1.25 times the real rate of 2 percent on government bonds in the 1957–1966 period.

The return on equity was based on a study of stock prices for 8 major industries during 1971–1974.

The derivation of the capital recovery factor follows. The after-tax cash flow in any year is

revenue—operating—cost—debt repayment—interest—income tax

$$R_n - O_n - \frac{D}{N} - iD\left(1-\frac{n-1}{N}\right)$$

$$-T\left[R_n - O_n - iD\left(1-\frac{n-1}{N}\right) - d_n\right] + C_n$$

where R_n = revenue in year n,
O_n = direct operating and maintenance expense in year n,
D = debt,
N = project life,
n = year.

OTHER MANUFACTURING AND SERVICES

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission g/kg	Emission reduction, percent	Incremental cost effectiveness, $/kg pollutant
Paint	Air	Hydrocarbons		Uncontrolled	1,3		5.6		
				Incineration		7,262	2.8	50	1.25.
	Air	Particulates		Uncontrolled			0.45		
				Baghouse	1,3	7,262	0.005	99	0.626.
Surface coating:									
Coil Coating	Air	Hydrocarbons		Uncontrolled	1,3,12		550		
				Incineration		1,864	55	90	0.127.
			NSPS	do		1.864	55	90	0.073.
Wood furniture finishing	Air	Hydrocarbon		Uncontrolled	1.3.12		600		
				Carbon adsorption		4	90	85	5.46.
						38	90	85	3.02.
						259	90	85	3.07.
Auto and light duty truck industry:									
Auto Prime	Air	do		Uncontrolled	1,3,12		551		
				Electrodeposition		4,911	72	87	0.547.
Auto top coat	Air	do		Uncontrolled	1,3,12		651		
				Waterborne paint		4,911	52	92	2.72.
				Solvent switching [1]		4,911	228	65	0.186.
Dry cleaning:									
Synthetic solvents:									
Perchloroethylene	Air	do		Uncontrolled carbon adsorption.	1, 3, 14		120 [2]		
Coin operated			SIP			4	70	58	2. 07.
Do			NSPS			4	70	58	1.03.
Commercial			SIP			49	70	58	(0.423).
Industrial			SIP			408	70	58	(0.558).
Do			NSPS			408	70	58	(0.573).
Petroleum solvents:									
Driers	Air	do		Uncontrolled			180		
			SIP	Carbon adsorption		48.6	18	90	1.24.
						408	18	90	(0.0375).
Filter muck				Uncontrolled			60		
			SIP	Centrifuge separator		48.6	6	90	0.248.
						408	6	90	(0.256).
Entire plant				Uncontrolled			280		
			SIP	Solvent Switching (to perchloroethylene) with carbon adsorption, and good housekeeping.		48.6	70	75	0.919.
						408	70	75	0.163.
FOREST AND AGRICULTURAL PRODUCTS INDUSTRIES									
Kraft pulp:									
Recovery boiler and direct contact evaporator; powerboiler.	Air	Particulate		Uncontrolled			100		
			SIP	ESP	10	297, 562		99	0.015.
			NSPS	ESP	10	997,562	0.3	99.7	2.44.
Lime	Air	Particulate		Uncontrolled			22.5		
Kiln			SIP	Ventilator scrubber	10	297,562	1.6	93	(0.001).
			NSPS	Ventilator scrubber	10	297,562	0.2	99	0.124.
Smelt tank	Air	Particulate		Uncontrolled			2.50		
			SIP	Mesh Pad	10	297,562	0.50	80	o. (net credit).
			NSPS	Oirfice Scrubber	10	296,562	0.075	97	0.937.
				Uncontrolled Black liquor					
Recovery boiler, direct contact evaporator.	Air	TRS (reduced sulfur).		Uncontrolled			6.5		
			NSPS	Black liquor oxidation)	10	297,562	2.4	63	0.162.
NSSC paper:									
Bark/oil boilers	Air	Particulate		Uncontrolled			19.95		
			SIP	ESP	10	225,849	0.2	99	0.160.
Bark boiler				Uncontrolled			25		
			SIP	ESP	10	178,537	0.3	99	0.043.
Grain handling:									
Country elevator	Air	do		Uncontrolled	1, 2, 3, 16	23,673	7.65		
			SIP	Fabric filter		23,673	0.115	98.5	0.209.
Inland terminal				Uncontrolled		133,333	3.12		
			SIP	Fabric filter		133,333	0.048	98.5	0.207.
			NSPS	do		133,333	0.048	98.5	0.16.
Port terminal				Uncontrolled		1,255,500	2.30		
			SIP	Fabric filter		1,255,500	0.035	98.5	0.087.
Feed mills	Air	do		Uncontrolled	1, 3		6.014		
			SIP	Fabric filter		11,271	0.132	97.8	0.631.
				do		25,090	0 132	97.8	0.408.
				do		34,216	0.132	97.8	0.345.
				do		Total industry	0.132	97.8	0.46.
			NSPS	do		25,090	0.132	97.8	0.370.

See footnotes at end of table.

SOLID WASTE DISPOSAL OR REDUCTION

Industry sector	Medium	Pollutant	Regulation	Technology	Data sources	Model plant 1,000 kg/yr	Emission g/kg	Emission reduction, percent	Incremental cost effectiveness, $/kg pollutant
Open-burning dumps	Air	Particulate		Uncontrolled	(1), (2), (3)		8		
				Sanitary landfill		11,794	0	100	1.068/kg particulates.
				do		35,381	0	100	0.999/kg particulates.
				do		82,555	0	100	0.973/kg particulates.
				do		176,904	0	100	0.966/kg particulates.
				do		353,808	0	100	0.968/kg particulates.
				do		Industry total	0	100	0.994/kg particulates.
		SO_2		Uncontrolled			0.5		
				Sanitary landfill		11,794	0	100	17.080/kg SO_x.
				do		35,381	0	100	15.976/kg SO_x.
				do		82,555	0	100	15.573/kg SO_x.
				do		176,904	0	100	15.451/kg SO_x.
				do		353,808	0	100	15.491/kg SO_x.
				do		Industry total	0	100	15.902/kg SO_x.
		CO		Uncontrolled			4.2		
				Sanitary landfill		11,794	0	100	0.203/kg CO.
				do		35,381	0	100	0.190/kg CO.
				do		82,555	0	100	0.185/kg CO.
				do		176,904	0	100	0.184/kg CO.
				do		353,808	0	100	Do.
				do		Industry total	0	100	0.189/kg CO.
	Air	HC		Uncontrolled	1, 2, 3		15		
				Sanitary landfill		11,794	0	100	0.569/kg HC.
				do		35,381	0	100	0.533/kg HC.
				do		82,555	0	100	0.519/kg HC.
				do		176,904	0	100	0.515/kg HC.
				do		353,808	0	100	0.516/kg HC.
				do		Industry total	0	100	0.530/kg HC.
		No_x		Uncontrolled			2		
				Sanitary landfill		11,794	0	100	4.270/kg No_x.
				do		35,381	0	100	3.994/kg NO_x.
				do		82,555	0	100	3.893/kg NO_x.
				do		176,904	0	100	3.863/kg NO_x.
				do		353,808	0	100	3.873/kg NO_x.
				do		Industry total	0	100	3.976/kg NO_x.
		All of above		Uncontrolled			67.5		
				Sanitary landfill		11,794	0	100	0.127/kg pollutants.
				do		35,381	0	100	0.118/kg pollutants.
				do		82,555	0	100	0.115/kg pollutants.
				do		176,904	0	100	0.114/kg pollutants.
				do		353,808	0	100	0.115/kg pollutants.
				do		Industry total	0	100	0.118/kg pollutants.
Municipal incinerators	Air	Particulate		Uncontrolled	1, 2, 3		21		
				ESP		348,345	0.42	98	0.121/kg particulate.
Refuse-fired steam generators	Air	do		Uncontrolled	1, 2, 3		8	(20 refuse, 80 coal).	
			SIP (0.08 gr/scf)	ESP		258,280	0.16	98	0.123/kg particulate.
				ESP		457,620	0.16	98	0.120/kg particulate.
				ESP		1,379,150	0.16	98	0.115/kg particulate.
				ESP		Industry total	0.16	98	0.118/kg particulate.
Sewage sludge incineration	Air	do		Uncontrolled	1, 2, 3		50		
			SIP (2 g/kg)	Wet scrubber		1,589	1.5	97	0.565/kg particulate.
						6,225	1.5	97	0.375/kg particulate.
						19,040	1.5	97	0.270/kg particulate.
						52,086	1.5	97	0.202/kg particulate.
						Industry total	1.5	97	0.311/kg particulate.
Industrial: Commercial and building incinerators.	Air	do		Uncontrolled	1, 2, 3		7.5		
			Fed (2 g/kg)	Wet scrubber		Average 81		80	6.607/kg particulate.

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[1] Use of enamels instead of lacquers.

[2] Emission in g hydrocarbon/kg clothes cleaned.

ILLEGAL ALIENS

● Mr. HUDDLESTON. Mr. President, on August 1, I introduced an amendment to S. 1763 which would impose a penalty upon any employer who knowingly employs an illegal alien. This amendment is merely an extension of an existing Federal law which presently applies to certain types of agricultural employers.

This legislation is needed now rather than at some uncertain future date. Justification for this amendment can be found in a recent article in the Wall Street Journal. The article begins with the assertion that joblessness among black youths "keeps getting worse instead of better." In 1960 about 24 percent of blacks between the ages of 16 and 19 were unemployed. This rate has now jumped to 37 percent in 1980.

The article points out that illegal aliens are one of the factors causing such high unemployment. It states that:

> Competition from other groups, notably adult women, illegal aliens and recent immigrants to the U.S. has been a growing factor in recent higher joblessness among black youth.

I ask that this article be printed in the RECORD.

The article follows:

JOBLESSNESS WORSENS AMONG BLACK YOUTHS, WITH NO SOLUTIONS SEEN

It's the problem that won't go away—the one that keeps getting worse instead of better.

"It seems almost unsolvable," says Elijah Anderson, a professor of sociology at the University of Pennsylvania, who has studied it.

"We've been working at it for 10 years. We've had 10 years of frustration," says Walter H. Palmer, director of equal-opportunity programs at Raytheon Co. in Lexington, Mass.

"It" is black-youth unemployment, the most basic and persistent of all the economic problems facing blacks in the U.S.

Twenty years ago, most observers agreed that young black Americans would participate in the work force at about the same rates as young whites if they could raise educational attainments, if laws banning racial discrimination in hiring and promotion were passed, and if government and business would provide training in specific job skills.

All those things have happened to some degree, but to no avail. When the economy is in a recession, as it is now, joblessness among black youths rises faster than it does for other groups. And when good times return, it falls more slowly.

In 1960, about 24 percent of blacks between the ages of 16 and 19 were unemployed, compared with 13 percent of whites in the same age group; in August 1980, the rates stood at 37.4 percent and 17 percent, respectively. Among blacks aged 20 to 24, the 1960 rate was about 9 percent, against just over 4 percent for whites; in August, the comparable figures were 22 percent and 10 percent.

THE COMPARISONS WORSEN

The most discouraging aspect of those statistics is that they worsen comparatively for young blacks as educational attainment rises. A U.S. Labor Department survey of persons aged 16 through 24 taken last October showed that among high-school dropouts, the jobless rate for blacks was 31.6 percent, compared with 16.4 percent for whites. For high school graduates, the figures were 21.3 percent and 8.5 percent. Among college graduates, fully 17.1 percent of blacks were unemployed, against 4 percent of whites. Looked at another way, young blacks with college degrees were jobless at a higher rate than young whites who hadn't completed high school.

The ramifications of this touch on just about every aspect of black life in the U.S.; high youth unemployment is widely seen as an early link in the chain that shackles blacks to higher crime rates than whites, a higher incident of family breakups and a lifelong economic disadvantage.

"If a person can't get a good job when he's young, his chances don't improve much when he's older," asserts Paul Osterman, a professor of economics at Boston University. "It is some exaggeration, but not much, to talk about a lost generation" of young blacks.

Labor-force experts agree that the foremost reason many young blacks can't find jobs is racial discrimination, which the experts say is no less real even though it is seldom blatant anymore.

Says Prof. Osterman: "The fact that the differences in unemployment rates occur between the groups (blacks and whites) of equal education is decisive evidence of the discrimination. As education levels (of blacks) have gone up, so have the criteria for all kinds of jobs. Employers artificially raise the job requirements. For instance, on their face, testing and bonding requirements may appear neutral, but they really are discriminatory."

OTHER FACTORS

But few authorities, black or white, see evidence that racial discrimination in America has increased enough in the last 20 years to account for the steady rise in unemployment among young blacks. Consequently, they say, others factors must be at work.

The list of these factors is long, indeed. It begins with the fact that the black birth rate is higher than the white rate, putting proportionately more young blacks into the job market. The unemployment rate for all young people, black and white, runs higher than the rate for other age groups, because the young workers tend to be inexperienced and, in addition, often move back and forth between jobs and school.

Competition from other groups, notably adult white women, illegal aliens and recent immigrants to the U.S., has been a growing factor in recent higher joblessness among black youth. Black perceptions that new arrivals to this country are given preferential consideration for jobs have been a point of friction in some cities and a main cause of the riots in Miani, Fla., early this summer.

Another element has been the pronounced movement of companies and jobs away from the central cities of the East and the Midwest, where many blacks live, to the suburbs and certain regions of the country where there aren't large concentrations of blacks. The companies, including Raytheon, say asking young blacks to commute from their inner-city homes to plants in the suburbs has hampered efforts to train them for low-paid entry-level jobs that might lead to better opportunities later.

Life in poor inner-city neighborhoods, where schools typically are worse than elsewhere and where "street life" is a powerful force separating young blacks from the nine-to-five world of work, is a potent obstacle to finding and keeping good jobs, experts say.

Kujaatele Kwell, director of the youth-development division of the National Urban League in New York, believes that ghetto life further hampers young blacks in the job market by isolating them from the "buddy system" through which many job openings are filled.

He explains: "People naturally hire their friends. Nobody (with jobs to dispense) knows black kids."

According to some observers, changes within the black community have militated against young blacks filling jobs that might be open to them. "Black youth are more prideful and assertive than they used to be. They want jobs with a future, not menial jobs." says Prof. Anderson of Pennsylvania.

Finally, there exists what might be called an "information gap" separating many black young people from the skills they need to be successful in the workplace. Kids who get the message and get into solid vocational programs don't have much trouble finding jobs; companies are waiting in line to grab our machine-shop kids when they graduate," says Gwendolyn Johnson, a job-development counselor at predominantly black John Adams High School in Cleveland. "For the others—the misfits, the ones who take college-prep courses but then can't or don't go to college, and the ones who get out of school without skills or any notion of how to get them—it's another story altogether."

Here are four of those "other" stories.

JOHN THOMAS

John dropped out of high school in his hometown of Atlanta when he was 16 years old. That was almost two years ago, but since then he has had only one full-time job: a three-month stint as a busboy in a restaurant. He also spent four months in a "halfway" house as part of a two-year probationary sentence he was given for a burglary conviction.

John has been looking for work for six months with no success and no apparent prospects for it. He has no readily marketable skills and admits he doesn't read or write well enough to fill out job applications easily.

"There's work I could do," he says. "I could cook. I could do construction. I could cut grass. I could drive a forklift truck if they teach me. Trouble is, people act like they don't think I'm capable of doing the job. They won't give me a try."

John, who is tall and slim and wears an earring in his left ear, lives with a woman of 27 who has two children. Her welfare check covers their living expenses. When he is short of cash, which is frequently, he borrows from his friends and his six sisters. He spends his time checking job ads, watching television at home and hanging out on the streets.

He says he isn't happy being unemployed because "it ain't right for a man to let a woman take care of him," but he is fatalistic about his chances of finding work soon. "I can apply, but I can't make nobody hire me," he says. "I can't make nobody do nothing they don't want to do."

DONNIE ALLIE

Miss Allie's qualifications are quite different from those of John Thomas: She is a college graduate. Still, she hasn't been able to find a job since she received a bachelor's degree last April from Wilberforce University in Ohio.

Miss Allie, who is 23 years old and lives in Bryn Mawr, Pa., near Philadelphia, began her job search in her college major of vocational rehabilitation, but when this proved fruitless, she lowered her sights. "I even tried places like card shops—stuff like that. I need money, and I'm willing to settle for anything," she says.

She assesses her situation with more than a little bitterness, a feeling made worse because she has had to go on welfare to support herself. "I went to an almost all-white school," she says. "I run into (white) people I went to school with, and none of them have the problem I do. Even friends who didn't go to college are working. I guess they're right when they say it's not what you know, but who you know."

Miss Allie has been thinking of going back to school to improve her chances for employment; law school is a possibility. But she says she can't afford that now and isn't sure it would be worth it if she could. "Not finding a job has been a big disappointment to me," she says. "I feel like I wasted the four years I spent at college."

ALTON WILLIAMS

Until he was laid off from a job as a plumber's apprentice in May, Mr. Williams never had trouble finding work. He has held seven full-time jobs since his graduation from high school five years ago. He has been a janitor, a gasoline-station attendant, a car parker, a security guard and a driver of a moving van and a dry cleaner's delivery truck, in addition to his plumbing stint.

In a pattern that job counselors say is repeated by many black and white youths without a strong vocational bent, Mr. Williams has quit four of his jobs and was fired twice. Nothing he has done for a living has really suited him. "It's hard to accept peanuts knowing there are people out there with better jobs—jobs you know you can do," he says vaguely.

Mr. Williams, who is 23 years old and lives with his parents in East Orange, N.J., has been able to find work because he is well-spoken, dresses neatly and knows the job-hunting ropes; among other things, he usually carries a few résumés "in case I see a help-wanted sign when I'm driving or walking around."

His most recent bout of unemployment, however, has convinced him he could use some specific training, so he signed up for a one-night-a-week "electronics" course. He says that when he finishes it next spring, he will be qualified to repair anything electrical, from computers to television sets.

Days, he is on the street looking for work, with his only source of income a few dollars a week he picks up parking cars in a lot part time. It's slim pickings, but he is sure it is only temporary. "Once I get my foot in the door, no one will be able to keep me back," he says with enthusiasm. "I have so many ideas. I know I have something important to contribute."

IRIS HILL

Miss Hill spent three years in college training to be a teacher, but financial difficulties caused her to drop out. Since then, she has been on a job-hunting merry-go-round characterized by what she considers to be bad luck.

The attractive 23-year-old relates that she quit her first job, as a stenographer, when an executive made sexual advances toward her. She landed another secretarial job only to be abruptly fired; she believes she was hired so the firm could build up its minority-employment figures in order to win a government contract and was let go when it failed to do so. She got a job driving a school bus but lost it when a traffic ticket she received while driving her own car cost her her driver's license.

It is a sequence she finds puzzling. "I don't know whose fault it is" (that she isn't working), she says. "I just know it's not mine."

Miss Hill has been looking for work for several months now. Her search has been hampered somewhat because she also must care for her seven-month-old son, who was born out of wedlock. Having a child to support has intensified her frustration over not finding work. "Sometimes I get depressed," she says, "because there's so much I want to do for him."●

WAGE-PRICE GUIDELINES

● Mr. DOLE. Mr. President, I am pleased to cosponsor the amendment offered by the Senator from Colorado. Senator ARMSTRONG's longstanding commitment to preventing the imposition of wage and price controls is well known.

Some of us in Congress have been arguing for months that President Carter's wage and price guidelines have not worked and, indeed, could not work. They distort economic indicators, retard economic growth, and cannot be administered fairly. In essence, they act as a floor, not a ceiling, on wage and price increases, because no one will settle for less than the Government allows. Because of exceptions and loopholes, increases often exceed the guidelines.

More importantly, wage and price guidelines attack the symptoms of inflation, high wages and prices, and distract us from the underlying economic problems which cause inflation. Congress must realize that the fiscal and monetary policies of the Government are the primary sources of inflation.

Faced with the failure of his "voluntary" guidelines, the President has, in effect, made them mandatory by invoking the possibility of contract denials for noncompliance. President Carter is trying to punish the victims of inflation, the wage earners and consumers, rather than the perpetrators of high inflation, poor economic policy. This amendment addresses this problem of prohibiting economic sanctions until the COWPS authorization bill is passed.

Despite language in the legislation creating the Council on Wage and Price Stability which explicitly prohibited mandatory economic controls, The D.C. Court of Appeals upheld the withholding of Government contracts in enforcing compliance with the guidelines. In part, the court based its decision on Congress failure to disapprove the program. I find it hard to believe that our failure to overturn the President's program is an implied ratification of it since existing statute already prohibits such activity. As I have stated before, Congress had a number of other reasons for delaying congressional intervention.

However, now that the courts have granted President Carter the power to use economic sanctions, we must act to prevent the future threat of these "mandatory" guidelines.

While I am convinced that the President has no constitutional or statutory authority. I am more concerned than this program actually causes further inflation by adding to the "inflationary psychology" already rampant in our economy. Not only are they ineffective, they are harmful.

The Carter administration itself seems to be reconsidering its wage-price guidelines program. Recent press reports indicate that White House advisers are worried that the guidelines have been ineffective and could cause distortions in the economy if continued too long. The administration seems to be refocusing on tax incentives and an elimination of inflationary Government regulations.

I am glad President Carter is seeing the light, though I am sorry it has taken him so long. If present thinking continues, the wage-price guideline program may be dismantled without congressional action. But I am not willing to take that chance. President Carter's record has been one of vacillation and inconsistency. Today's promise is likely to become tomorrow's broken promise.

I urge my colleagues to act today to prevent the use of economic sanctions to enforce the misconceived wage-price guidelines program.●

CUTS IN FUNDING OF DRUG ABUSE PROGRAMS ILL TIMED IN LIGHT OF NEW HEROIN EPIDEMIC

● Mr. **WILLIAMS**. Mr. President, I wish to call my colleagues' attention to a new and dangerous development in our continuing struggle against the use of heroin.

An article which appeared in the New York Times on September 23 reports a speech made by Manhattan District Attorney Robert M. Morgenthau, before the National Association of Citizens Crime Commissions, citing evidence that cities on the eastern seaboard were "in the early stages of a massive crisis" of heroin addiction. He cites sharp increases in heroin arrests and heroin-caused deaths. He notes the corresponding increase in crimes and that the problem is not confined to the cities' slums, but occurs in the middle-class suburbs as well.

An editorial which appeared the next day in the Times (September 24) addresses this problem and cites the need for both an increase in treatment programs, and a coordinated Federal effort to stop the international and national drug trafficking.

I shall submit for the RECORD the news article and the editorial.

In the early 1970's, as heroin traffic across our southern border increased, we sought and received the cooperation of the Governments of Mexico and those South American countries where the heroin originated. Through this combined effort, the tide was somewhat stemmed. However, the "new" heroin now reaching our shores originates in the "Golden Crescent" countries of Iran, Pakistan, and Afghanistan, as well as Turkey, where political turbulence and anti-American hostility severely limit our efforts to enlist the aid of local governments in controlling the harvesting, production, and export of heroin. The harvests are fat, the heroin is "pure," and the results are deadly to our Nation.

I ask my colleagues to bear this situation in mind as we vote on the continuing resolution, or when the time comes, the Labor/HHS/Education appropriations bill, which funds programs for drug abuse. At a time when money is so urgently needed to expand—at minimum, maintain—programs to combat a proven increase in drug abuse, funding for these programs is being reduced. The amount which was approved by the House and will be binding if we enact the continuing resolution at $8 million below the fiscal year 1980 allocation. Of particular concern to me is that this reduction was made primarily in the "grants to States" (formula grants) which provide direct treatment services to drug abusers.

Cuts in this area mean that new clients cannot avail themselves of treatment, and the current reduction comes at a particularly dangerous time. The cut of $8 million to the formula grant program means a loss nationwide of 400 publicly supported treatment programs, denying treatment to 460,000 clients. The social costs of this cutback are incalculable.

As the Times editorial states:

> Cuts in treatment programs over the last 2 years need to be restored.

As reported in the Times article of September 23, Governor Carey of New York has written to President Carter calling for a comprehensive Federal program of increased Federal financing of heroin-addiction programs. "It's killing our youngsters," the Governor said.

Programs to combat drug abuse, like those for alcoholism, are not only cost effective in financial terms, but are essential to maintaining the health of our Nation.

The articles follow:

A "MASSIVE CRISIS" ON HEROIN IN EAST SEEN BY MORGENTHAU

(By Lee A. Daniels)

Citing statistics showing sharp increases in heroin arrests and heroin-caused deaths in New York City, the Manhattan District Attorney, Robert M. Morgenthau, said yesterday that cities on the Eastern Seaboard were "in the early stages of a massive crisis" of heroin addiction.

He said the situation was similar to the nationwide epidemic of heroin abuse in the early 1970's. Mr. Morgenthau made the statements in a speech before the National Association of Citizens Crime Commissions.

Mr. Morgenthau and state and Federal officials who were interviewed later cited earlier reports that heroin had been smuggled into New York and several other Eastern cities in increasing amounts over the last two years from Southwest Asian countries, primarily Iran, Pakistan, Afghanistan and Turkey. They are all countries beset by political turbulence.

PROMPT ACTION URGED

It is being transported over the same routes—and, in some instances, by the same people—who were involved in the notorious "French Connection" drug-smuggling route of the 1960's and 1970's, Mr. Morgenthau said. Figures in organized crime, both in the United States and Europe are also involved, he said, but he added that there were "new actors" in the drug-trafficking as well. These are blacks and Hispanic people on the East and West Coasts and in certain Midwestern cities like Chicago who gained international experience and connections smuggling drugs into the country from Southeast Asia, Mexico, and South America.

"It is important to attack this problem now," Mr. Morgenthau asserted. "The longer you wait, that many more cities will be involved, that many more addicts will get hooked, that many more drug-related crimes will be committed, and the more expensive it will be to ameliorate."

Meanwhile, Governor Carey took note of the problem when he called on Representative Elizabeth Holtzman, the Democratic candidate for the United States Senate, to make an issue of the "terrible drug epidemic."

The Governor made the statement in a news conference at his New York City office in which he announced his endorsement of Ms. Holtzman.

"We cannot as a state cope with the conditions," said Mr. Carey, who has repeatedly raised the issue in recent weeks, beginning with a letter to President Carter in which he called for a comprehensive Federal program of increased Federal financing of heroin-addiction programs and increased Federal law enforcement and antismuggling efforts.

"It's killing our youngsters," the Governor said.

Mr. Morgenthau, citing New York City as an example of the new heroin influx, made the following assertions in his address:

Heroin arrests for 1980 have increased by 85 percent over those for a comparable period for 1978, and nearly 40 percent over those for 1979.

About 600 people will die this year from an overdose of heroin, up from the 472 deaths of last year, which, in turn, was a sharp increase over the 246 deaths in 1978.

The number of heroin-related emergency room episodes in hospitals in the metropolitan area this year is 684. The total number for 1979 was 702. The total number for 1978 was 480.

In addition, Mr. Morgenthau cited statistics indicating that the purity and price of heroin had increased dramatically in the last three years, and that in the first half of 1980 cases of serum hepatitis B—which results when impure needles are used to inject the heroin—have risen by 37 percent.

The District Attorney also said that urinalyses from methadone treatment programs indicated that a significant number of former addicts, tempted by the purity of the new heroin, were once again taking the drug.

A rise in heroin addiction will bring a corresponding increase in crime, especially burglaries and robberies, he said, "because people have to support their $100-a-day habit."

Mr. Morgenthau also said that the problem of heroin was not confined to slum areas. He described a videotape that police officials had made last Friday of drug transactions on streets in the Wall Street area, in Union Square Park and at Eighth Avenue and 117th Street.

"The drug marketplace tends to be located in the ghettos, but the people who buy come from all over—from New Jersey, from Westchester County, from nice middle-class neighborhoods," the District Attorney said.

David Hoover, a spokesman for the Federal Drug Enforcement Administration, supported Mr. Morgenthau's statements in a telephone interview. Mr. Hoover said that, according to the agency's estimates, in 1978 only 10.6 kilograms of heroin were smuggled out of all Southwest Asia and in 1979 the total rose to 47.4 kilograms. For the first half of this year, the total is 53.3 kilograms, he said.

Mr. Morgenthau and Sterling Johnson Jr., special assistant district attorney on narcotics, said state and Federal officials were not financing their antidrug efforts to the level needed. Both men said their narcotics enforcement programs were currently getting less state and Federal funds than they were in the mid-1970's.

State officials could not be reached for comment. However, Mr. Hoover said that the Drug Enforcement Administration had established a special office to fight the heroin influx from Southwest Asia and to break the six largest international drug rings involved in it.

Mr. Hoover also said that the agency had decided to make special antidrug efforts in New York City, Boston, Philadelphia, Washington, Baltimore and Newark

HEROIN IS COMING, HELP IS NOT

There is now undeniable evidence of a rising new heroin tide. Manhattan District Attorney Robert Morgenthau reports that in the New York metropolitan area, heroin arrests are up 38 percent over last year, 85 percent over 1978. Heroin-related medical emergencies from January through June almost equaled those for all of 1979. At that rate, heroin deaths will climb from 472 to perhaps 600.

New York and other afflicted cities have little choice but to look to Washington for help. Drug traffic control is a national and international problem, its prime source now being the fat opium harvests in Afghanistan, Iran and elsewhere in Southwest Asia. Yet the Federal Government has, over the past two years, failed to commit the money and manpower required to coordinate the task.

The latest White House assault on heroin includes a request that Veterans Administration hospitals and public health clinics take in drug patients for whom other programs have no room. What a hollow gesture that is: almost every V.A. and public health drug program is already overcrowded—and there is no provision for the needed funds and trained personnel.

The Administration also wants international efforts to control heroin intensified. Excellent, but how? A drug processing lab in Italy was raided recently with the cooperation of American and Italian agents. Federal officials say that destroying that kind of basic operation is comparable to arresting 100 top-level domestic drug dealers. But of the $1 billion the Government is spending this year on drug enforcement, less than $100 million is allocated to efforts abroad, like controlling opium crops and helping other governments police drug traffic. Although the Drug Enforcement Administration has moved a few more agents overseas, it recently decided to cut costs by closing its Paris office. Yet foreign operations plainly pay off.

Admittedly, budget restraints have forced cuts in many Government programs. Still, the White House could almost certainly help curb the crisis by reallocating much of the drug enforcement money it already has. Cuts in treatment programs over the last two years need to be restored. And the best time to stem the heroin tide is before it surges from foreign shores.●

S. 2926, THE MAGNETIC FUSION ENERGY ENGINEERING ACT OF 1980

● **Mr. SIMPSON.** Mr. President, I wish to comment briefly on a significant piece of legislation approved by the Senate on September 23—S. 2926, the Magnetic Fusion Energy Engineering Act of 1980.

This Nation faces an energy crisis which will require tremendous efforts to resolve, and we must seriously explore all options and all energy technologies which are realistically available.

Scientists—working in laboratories in several sections of the country—are nurturing and developing an energy source which may, eventually provide the Nation with awesome quantities of electrical power. This energy source is nuclear fusion.

Nuclear fusion is a strikingly different, unique process from other power-generating techniques. It has the potential to become what may well be an inexhaustible supply of energy. The process uses materials this Nation has in abundance—unlike nuclear fission which requires less plentiful resources which must be enriched. As a significant bonus, fusion leaves very little nuclear waste product to dispose of.

Fusion power will not solve our immediate national energy shortage, as the developmental stage of this technology will include an exhaustive and thorough series of time-consuming experiments. However, fusion does disclose a great potential advantage for the future of our Nation.

The legislation approved by the Senate, S. 2926, the Magnetic Fusion Energy Engineering Act of 1980, is significant for several important reasons: it recognizes the potential of fusion power; it focuses national attention on this valuable technology; and it encourages its development by mandating a clear plan to achieve a workable fusion technology in the United States by the end of this decade.

S. 2926 is primarily only a policy statement—a blueprint for the Department of Energy to foster an aggressive development of fusion technology. The bill does not specifically authorize funds to the Department to carry out these goals. That decision will be made more appropriately in conjunction with the other energy research and development activities of the Department. However, the bill does urge a doubling of the present funding levels for fusion technology without consideration of inflation within 7 years, as well as a 25-percent increase in funding for each of the fiscal years 1982 and 1983.

Of particular importance are other provisions of S. 2926 which set the clear objective of achieving—not later than the year 1990—the operation of a magnetic fusion engineering device, with a national goal of the operation of a magnetic fusion demonstration plant at the turn of the century. In addition, the bill requires the Secretary of Energy to develop and transmit to Congress a comprehensive program management plan not later than January 1, 1982. This plan must include information which will prove to be important in assessing the risks of fusion technology, in analyzing related institutional, environmental and economic considerations, and in establishing milestone goals in program development, with associated budget and resources requirements.

I do not believe that we, as a nation, should ever be looking solely to any one single source of energy for the resolution of our present and future energy problems—but nuclear fusion is one source that certainly must not be overlooked. In my judgment, development of this technology must be strongly encouraged. The Magnetic Fusion Energy Engineering Act of 1980, S. 2926, does this. I have cosponsored and fully support this legislation and I am pleased that both the Senate and House of Representatives have heartily endorsed it.●

OMB—EXIMBANK GUIDELINES

● **Mr. GARN.** Mr. President, I would like to call my colleagues' attention to a very significant directive which has been given to the Export-Import Bank. As those of us in the Senate who fought to provide the Eximbank with adequate direct loan authority to meet the demands of the American exporting community remember all too well, we were confronted by an administration which was of two minds—and faces.

On the one hand, there was the public face of the Carter administration—the great friend of the American exporter, promising to fight to defend American exports against unfair foreign competition and to promote U.S. products in the international marketplace. But, on the other hand and at the very same time, there was the private face of the administration—waging an 18-month-long battle to prevent the Eximbank from getting fiscal year 1980 loan authority adequate to service the demand from American exporters in head-to-head competition against European and Japanese firms who are armed with virtually unlimited lines of officially-supported export credits.

All the while that American exporters were hearing how much the Carter administration was going to do for them from the President himself and from spokesmen at the Commerce Department and the Office of the Special Trade Representative, that very same administration, through the Office of Management and Budget, was fighting to defeat those of us in the Senate who sought to provide U.S. exporters with the Eximbank credits they so desperately needed to match their foreign counterparts in the fierce competition for export contracts. Which was the true face of Jimmy Carter? Well, I would submit that his actions through OMB should have drowned out his sweet rhetoric.

The latest OMB directive to Eximbank should remove any lingering doubts from the minds of American exporters as to whether they can expect support from this administration. In a letter to the Chairman of the Eximbank, John L. Moore, Jr., on July 21, and a follow-up letter on August 11, James McIntyre, Director of OMB, was brutally frank about what he expected from the Bank in terms of policy changes. He presented Eximbank with budget guidelines, which, if followed, would leave American exporters, by the Bank's own estimates, with a $2 billion direct loan gap during fiscal year 1981. A similar $2-billion shortfall would occur in the following fiscal year as well.

Mr. President, that $4 billion gap in loan authority which this administration is trying to impose on Eximbank translates into the loss of more than a quarter of a million jobs which otherwise would have been generated by additional export contracts won if adequate loan authority had been available. Not only should the American exporting community be dismayed by the lack of support from this administration, the Carter White House owes some answers to American working men and women as well.

Let me add that I am not bound by OMB directives, and I intend to continue my battle to provide the Eximbank with the sort of direct credit authority needed to assure that American exporters with superior products do not lose out to foreign competition on the basis of credit.

Mr. President, I ask that the OMB directive to Eximbank along with a September 23 article in the Washington Star about this subject be printed in the RECORD.

The material follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 11, 1980.

HON. JOHN L. MOORE, JR.,
President and Chairman of the Board, Export-Import Bank of the United States, Washington, D.C.

DEAR CHAIRMAN MOORE: As you know, we recently met with the President to discuss the current budget situation and planning guidance for 1982–85. I want to take this opportunity to relay to you the decisions that came out of that meeting.

We outlined to the President the budgetary problems faced by Eximbank in 1980–81, including your estimate that, under current policies, demand for direct loans and guarantees will be as much as $1.5 billion above the approved budget availabilities for the two year period. We indicated an Eximbank preference that direct loan authority be increased by $1 billion in 1981. We also presented alternative guidance levels for the 1982–85 multi-year planning period. As in previous years, the alternative budget levels were discussed in terms of basic policy options; namely, operating a fully competitive financial program as sought by Eximbank *versus* operating a more restrained credit program consistent with past budget and policy decisions.

The President stated his strong desire that existing budget guidance be adhered to and form the basis for the Bank's fall budget estimates for 1982 and beyond. He continues to expect that the Bank will set its policies and manage its program in a manner consistent with its resource constraints. This will require that the Bank alter its current policies to reduce the projected 1980–81 demand and minimize preemption of the 1982 budget from deferred 1981 business. While the necessary policy changes should be implemented in an orderly manner, they should assure that the 1980–81 program not exceed the already approved budget levels.

The overall budgetary situation at this time is extremely tight. The pressures on the budget are limiting the President's options and making it very difficult to achieve his objective of controlling Federal spending. I am asking the Bank, therefore, to indicate clearly in its fall budget materials what policy and programmatic changes it will undertake in order to stay within currently budgeted resources. The response should include both the steps to be undertaken now to deal with 1980–81 demand and the steps that will be taken to enable the Bank to operate within the planning ceilings for 1982–1985 that were sent to you in my letter of July 21, 1980.

Sincerely,

JIM MCINTYRE.

EX-IM BANK ORDERED TO CUT LOAN PROGRAM FOR AIDING U.S. TRADE

(By Bailey Morris)

The Export-Import Bank has been ordered by top administration officials to curtail sharply an ambitious five-year loan program designed to make American products more competitive abroad.

In a letter signed by Office of Management and Budget Director James McIntyre, Exim Bank President John L. Moore has been told to make the policy and program changes necessary to stay within currently approved budget levels for fiscal years 1981 and beyond.

Moore, who has advocated an aggressive U.S. financing policy as one way of shrinking the estimated $30 billion trade deficit this year, had asked for additional direct loan authority of $1 billion in fiscal 1981 alone.

Demand for direct loans and guarantees to finance business abroad is running as much as $1.5 billion above approved levels for the 1980–81 period, Moore estimated in an earlier exchange with OMB.

"We outlined to the president the budgetary problems faced by Eximbank in 1980–81, including your estimate that, under current policies, demand for direct loans and guarantees will be as much as $1.5 billion above the approved budget for the two-year period," McIntyre said.

"The president stated his strong desire that existing budget guidance be adhered to and form the basis for the bank's fall budget estimates for 1982 and beyond," McIntyre added.

Moore, in a telephone interview, said it is too early to estimate what effect the budgetary constraints will have on Exim's programs specifically and on the administration's export promotion program generally.

"I'm hopeful we'll find the room to remain decently competitive," Moore said.

He said the bank has already gone back to OMB with a new set of figures and proposals which he hopes administration officials will approve.

Moore said he is "not pessimistic" about Ex-Im's future ability to loan, explaining that the curtailment in lending may mean some loss of contracts for American firms but not enough to produce a "dramatic effect."

Another Ex-Im bank official, who asked not to be identified, was not as optimistic. The restrictions proposed by McIntyre represent, in his opinion, a "major shift in policy."

"Instead of getting the green light to go out and become fully competitive with the financing offered by Japan, Germany, Great Britain and other countries, we're being told in effect to hold the line, continuing policies set by past administrations," the official said.

"I don't think this is consistent with the administration's recently renewed pledge to a strong trade policy," the official said.

A spokesman for the bank said the new budget levels proposed by McIntyre would mean "a 10 to 15 percent across-the-board cut in all of our programs." He said the bank's office of policy planning is working now on the detailed cuts in an effort to comply with the White House directive that Ex-Im report back on the policy changes it will have to make.

Business leaders have suspected for some time that the administration planned to curtail the export lending efforts of the bank.

"There has been uncertainty in the business community about Ex-Im and its abilities to support companies doing business abroad for some time. It has been out of business and then back in business. The Senate has had one level of spending and the House another," said a representative of a major energy conglomerate.

"We regard this cutback as proposed as one of the hidden disincentives to trade. It means we won't be able to count on Ex-Im financing for long-term projects," the lobbyist said.

As proposed by OMB, Ex-Im, which has current loan authority of close to $4 billion, will be held to a level of $5.1 billion in fiscal 1981 and to $5.4 billion in fiscal 1982.●

EXIMBANK BUDGETARY CONSTRAINTS

● Mr. HEINZ. Mr. President, I am disturbed by reports which have surfaced in the last few days that the Office of Management and Budget has given the Export-Import Bank a directive to significantly curtail direct loan activity the next 2 years. If the Carter administration prevails in this attempt to make the Export-Import Bank a less aggressive agency of U.S. export promotion, the result will be to significantly handicap our Nation's exporting community.

Mr. President, what is particularly upsetting to me about the OMB parsimony with regard to the Eximbank is that it is likely to significantly weaken the negotiating posture of our representatives at the current multilateral discussions within the Organization for Economic Cooperation and Development aimed at ending predatory officially supported export credit competition.

What we are saying to our trade competitors when we unilaterally cut our own Eximbank's direct loan authority is that we are not really serious about competing in the arena of officially supported export credits, and that we hope that our trade competitors feel the same way. Obviously, however, our counterparts in the OECD—particularly France and Japan—do not feel the same way.

Otherwise, we could have reached an agreement to end predatory export credit competition last year when we first approached them on this issue. Now, however, we have one agency of our Government—the Office of Management and Budget—moving toward unilateral disarmament while another agency of our Government seeks to negotiate a fair and equitable export credit agreement. As I have said before, I would no more counsel unilateral disarmament as an approach to negotiating trade issues with our allies than I would recommend it for dealing with the Russians on global security. I only wish the Carter administration understood that simple proposition.

Mr. President, we have just finished an 18-month-long battle over the fiscal year 1980 direct loan authorization for the Eximbank in which the administration stubbornly adhered to a budgetary position which failed to provide adequate direct credit limit despite overwhelming evidence that billions of dollars in export contracts and hundreds of thousands of U.S. jobs would be lost to foreign competitors unless the Eximbank direct credit limit was increased.

The same dispute is likely once again for fiscal year 1981. However, it seems that this time the administration has decided that it does not want to be embarrassed by Exim commitments outstanding and in need of funding. Therefore, OMB has, in essence, told the Eximbank in its latest directive to be less aggressive in its competition for export contracts. "Less aggressive" is likely to translate into a posture in which Exim offers loan coverage of 42 to 60 percent and loan rates averaging 100 to 200 basis points above the foreign competition. The results should be obvious. There will be far fewer preliminary commitments in need of funding, because there will be far fewer American firms winning export contracts.

Our allies are likely to be laughing up their sleeves as we try to induce them to reach a multilateral export credit agreement while at the same time we are, in effect, dropping out of the competition.

I would hope—although I do not expect—that the Carter White House would overrule the bookkeepers at OMB. Such a policy decision would lend substance to the fine rhetoric we have been hearing over the past 2 years about this administration's unshakable commitment to export promotion, and at the same time it would provide credibility to our negotiators at the OECD.●

THE "PUSH" FACTORS

● Mr. SCHMITT. Mr. President, in the fifth "Southwinds" article, Richard Louv of the San Diego Union has addressed one of the two main reasons for Mexican migration. Called the "push" factor. it simply means that the conditions in Mexico are so grim at present that it cannot yet provide employment to its adult population.

Mexico's population doubled between 1940 and 1970 and almost half of her 66 million people are under the age of 15. It will be many years before Mexico's economic development provides good paying jobs for her populace. With the fertility decline that began in 1969 and the continued improvement of Mexico's economy, especially the petrochemical development, there are hopeful signs that in the long term an economically strong Mexico will be able to gainfully employ her working population. In the near term, the next 15–20 years, there will still be such a labor surplus that outward migration is a certainty.

It is to this short-term problem that S. 1427—the United States-Mexico Good Neighbor Act—is addressed. I introduced this bill on June 27, 1979 and an identical bill (H.R. 5128) was introduced in the House of Representatives by Congressman LUNGREN. The bill would create a temporary worker program to legalize what is unenforceably illegal today. It is a logical program to aid in solving this terrible problem.

Presently, the Select Commission on Immigration and Refugee Policy is considering this approach in their recommendations due in March of 1981. It is my sincere hope that this proposal will be among their recommendations.

Mr. President, I ask that the article I referred to be printed in the RECORD.

The article follows:

THE "PUSH" FACTORS

If one undocumented Mexican worker could be found to speak for all the others, this is what he might say:

"As long as you don't kill me, I'm going to keep coming back to the United States. You can deport me, jail me, starve me, hurt me—but I'll keep coming back.

"You can turn your back on me when I sleep in dugout caves or under the chaparral. You can turn me away from your doors when I am hungry (although I harvest the food on your table). But I'll keep coming back.

"You can turn away when I burn in the desert and freeze in the mountains or huddle in the trunk of a *coyote's* car. You can blame your economic problems on me, you can hate me and ignore your own role in asking me here—but I'll keep coming back.

"Why? Because I have nothing else. Gradually, quietly, my land has been taken from me—not only by Mexican businessmen, but by corporations from your country.

"My country gives me no education, no job, no health care; and it hopes that I will leave, that I will go north. And so I do, with my compadres—millions of us, an army of hunger, an army with no anger—we go north to take the jobs that you will not take, to work for the factories and the ranches and the restaurants that sends for us.

"We are without a country; no one cares the restaurants that send for us.

"So as long as you don't kill me—I'll keep coming back."

The Mexican migration has not occurred simply because Mexicans decide they can make a few dollars more in the United States. Given the choice, most of the migrants would prefer to stay home. Few of them—as would few of us—enjoy being uprooted and driven into a strange, inhospitable country. But like the hot winds that rise at the equator and fall in the mid-latitudes, economic and political forces carry the migrants north.

There are too many workers in Mexico and too few jobs; too many farmers and too little available land; too much hunger and too little food.

Half of Mexico's citizens are unemployed or underemployed. And despite recent discoveries of massive oil reserves, most economists expect the unemployment picture to worsen.

"Just to keep the unemployment rate from going any higher, Mexico is going to have to create over 800,000 new jobs every year for the next 10 or 15 years," says Dr. Calvin Blair, professor of resources and international business, University of Texas at Austin.

"With millions of young workers born in the 1950's and 1960's now flooding the market, it's doubtful that Mexico can keep up, even with the big economic boom now gearing up in Mexico," says Blair. In fact, some economists believe Mexico will be lucky if it can create more than half that number of jobs, especially since the government is unlikely to fund a massive public-sector job program.

When the poor migrate to the United States to find seasonal or permanent work, the Mexican government considers it a blessing. Like a steam valve on a pressure cooker, the migration relieves economic and political stress in Mexico, while the government tries to transform its oil reserves into massive development.

"The migration is not a problem," explains Mexican Consul General Esteban Morales. "It is a situation."

The pressure is building.

Mexico's rate of population increase doubled between 1940 and 1970, due in part to the government's efforts to improve public health. Nearly half of the nation's 66 million people are under 15 years of age, an age make-up equaled only by countries such as Bangladesh. Mexico City, soon to be the largest city in the world, has swollen to 15 million residents—half of them unemployed.

Mexico's families have been producing less children since 1969, though, and the nation appears to be on the verge of a significant fertility decline. However, most social scientists do not believe the decline will have any effect on the number of migrants for at least 15 years.

While Mexico boasts a growing number of professionals, the nation has done little to train its people for "blue collar" technical jobs—training which would help them make the transition from farm jobs to urban industry.

Education is a luxury. In the state of Jalisco, for example, only three percent of young people could attend secondary schools in 1970. Even in Mexico City, the secondary schools could accommodate less than a third of school-age children by 1978.

Then there is hunger. Social scientists estimate that malnutrition affects 60 percent of adults and 80 percent of children under five. Dr. Carlos Perez Hildalgo, chief of epidemiology at Mexico's National Institute of Nutrition, contends that 100,000 Mexican children die every year of nutritional illnesses and infections.

At the root of these trends, and at the root of the migration, is the maldistribution of land and wealth.

"The disparities between the rich and the poor are twice as great in Mexico as in the U.S.," says Mexican sociologist Jorge Bustamante, who has conducted government-sponsored studies of the migration. "This makes for conditions of explosion and expulsion."

The gap between rich and poor is about equal, in fact, to what it was in 1910, before the Mexican Revolution. About 20 percent of the population controls 70 percent of its wealth, and the poorest six million make only $400 a year.

Mexico has been working hard to increase peasant ownership of farm land. In fact, the nation's agrarian reform program is the longest running (since 1915) in the world, and the most successful in Latin America. Under it, millions of acres of land have been expropriated from illegal owners and redistributed to about three million peasants. But population and mechanization have outpaced the reform program.

At the turn of the century, close to 80 percent of Mexicans worked in agriculture, mostly as relatively self-sufficient peasant farmers who owned their own small tracts of land. During the last several decades, however, a system of "contract farming" was introduced by U.S.-based food processing corporations such as Del Monte, Campbell's and General Foods. The corporations moved over the central plateau, revolutionizing the way farming was done. They ignored the small farmers and courted the large growers, bestowing upon them credit, the use of expensive machinery, new technology, fertilizers, high-yield seeds and favorable marketing arrangements.

Unable to compete, the small farmers rented or sold their land to the large landholders and then went to work as wage-laborers in the fields that had once been under their control. Soon there was less need for year around wage-laborers, because more tractors and cultivators and mechanical pickers rolled across the earth, changing everything.

So the wage-laborers, cut loose from their land, joined the growing army of peasant farmers migrating across Mexico to the cities or following the planting seasons to find work where they could. And as their numbers swelled, they headed north to work in the fields of the United States, especially when the U.S. bracero program invited them north.

Even the crops changed. Where once corn had grown, long rows of strawberries were planted; where once crops had produced food for the small farmers and their families, now the crops were exported for profit, chiefly to the United States. And corn, Mexico's most basic food, was imported from the United States.

The process is continuing today, according to UCSD's migration expert, Dr. Wayne Cornelius, with more and more mechanization, wider income inequalities, greater concentration of land ownership, more unemployment and underemployment.

"Tractors are still being introduced in many areas at a rapid rate," says Cornelius, "reducing labor needs sharply."

The rich get richer, and the poor keep moving.

"The historical trend of almost all countries, including the United States, has been to increase productivity through mechanization," says Calvin Blair, "and at the same time increase unemployment. Very few governments do anything about this, except tell the unemployed to go find jobs—somewhere."

Increasingly, Mexican economists point to U.S. involvement in helping create the conditions for migration.

"I don't agree with that analysis," says Gerard Vanheuven, executive vice president of the U.S.-Mexican Chamber of Commerce. "The U.S. market does take in a lot of vegetables from Mexico, but if that market was cut off many Mexicans would lose their jobs. Most of the vegetables come from the Sinaloa area, where the exporting farms employ about 120,000 families. Cut off the market and those 120,000 would cross the border *en masse.*"

Vanheuven contends that Mexico has to modernize, with or without U.S. help, to keep pace with the rising population.

"Small plots of land just don't produce enough food," he says.

To Wayne Cornelius, the question is not whether Mexico modernizes, but how. While Mexico has encouraged foreign investment in a number of large-scale, commercial farms, little has been done to expand irrigation systems, credit and marketing facilities in Mexico's poorest farm regions—those which send the most migrants to the United States. Given some economic encouragement, the regions might be able to develop labor-intensive small farms and industries.

Indeed, the Mexican government seems to be moving in that direction. In 1979, President Jose Lopez Portillo introduced a new Industrial Development Plan, which is designed to encourage job development outside the major urban areas, through incentive tax breaks, energy assistance and other favorable treatment to corporations, foreign or national.

Calvin Blair, immersed in researching the ultimate effect of this plan, says:

"Given a few years, the program is going to promote massive development and decentralization. While it will probably make income distribution even worse, it will discourage some of the migration to the U.S. It's certainly the biggest development policy in Mexico's history.

"But many private firms will ignore the incentives. The attraction of Mexico City is just too great; the companies will want to remain close to their major markets."

Many of the firms that will refuse to relocate in regions that send the migrants north are U.S.-based corporations.

Among Mexico's largest 100 manufacturing firms, 61 were foreign controlled as of 1972, according to a recent congressional study. Two-thirds of the foreign controlled corporations were U.S.-based. Many of these corporations employ high-technology rather than workers. They are the kind of firms that increase the rate of mechanization and automation.

U.S. involvement in what social scientists call the "push factors" of the Mexican migration, poses an interesting possibility: If the U.S. government is serious about decreasing the number of undocumented workers flowing across the border, wouldn't it make sense to put pressure on U.S.-based corporations in Mexico to begin shifting from capital-intensive to labor intensive approaches, to move their operations out of the urban areas and into the rural regions that send the most migrants?

"That's the kind of question more and more Mexican economists are asking," says Dr. Norris Clement, San Diego State economist and director of the Border Area Resources Center, "and they're not getting very good answers.

"It's been a strange omission in the national policy debate that the involvement of U.S. and multi-national corporations has not been included. None of the agencies and commissions studying the problems have asked for any analysis of corporate involvement. It's not even discussed as a policy variable. How can we know what our real options are, if this isn't included?"

A source high in the Justice Department's Select Commission on Immigration and Refugee Policy, the most important government body studying policy options, confirmed Clement's claim:

"No paper has been commissioned on the role of corporations. It should be studied, but we're not moving specifically on that point. The reason is, you can't tell the corporations to tell Mexico what to do."

"We have to be careful not to blame all of Mexico's problems on the United States," cautions Leonel Castillo, who recently resigned as director of the Immigration and Naturalization Service, "but we should certainly take a look at how we've contributed to the conditions in Mexico that force people to migrate. The problem with going that route is that the corporations would make less profit, and they don't want that. Every corporate president I talk to wishes we could legalize the labor flow.

"Then there's the pride issue. The Mexican government has spent all these years encouraging technological improvement and they perceive the labor-intensive approach as a step backward.

"Although neither country admits it, the temporary worker situation is accepted by both countries like a weather condition. It's built into the two economies."

The way Castillo sees it, neither the United States nor Mexico—despite their public pronouncements—really wants the migration to stop. It provides cheap labor for the United States, an escape valve for rising political and economic tension in Mexico and a natural "technology transfer":

"Every migrant that has worked in a machine shop in the United States, for instance, who goes home to Mexico takes with him new skills. That's going to have a huge, positive effect on Mexico in the future."

Castillo believes, "We should cease talking about stopping the migration and start talking about legalizing and regulating it. Until we do, there's just going to be more exploitation and brutality and suffering."

A few days ago, two young Mexican migrants sat in a living room in Paradise Hills and talked about their future.

Valentino, 24, had been run over by a tractor when he had fallen asleep hiding from the Border Patrol. His leg had been crushed, and now, eight operations later, the leg was riveted with pins and infected. He clenched his jaws from the pain.

Raymundo, 16, had been found in a coma next to a road in Oceanside and now suffered from amnesia. He fingered his long, Mixtec hair and vaguely remembered hunger.

When both of these young men were asked what they would do when they were ultimately deported to Mexico, they looked at each other. They laughed.

Raymundo spoke for both of them. While he was unsure of his past, of whether or not he even had a family, he knew one thing for certain. Despite the suffering he had endured, he nodded:

"We'll be back."●

MODIFICATION OF FINANCE COMMITTEE AMENDMENT TO H.R. 3122

● Mr. LONG. Mr. President, on December 11, 1979, the Committee on Finance favorably reported H.R. 3122, with amendments. H.R. 3122 as reported makes numerous miscellaneous minor substantive and technical changes to the tariff and trade laws of the United States. The Senate has not been able to consider this bill, and the passage of time, the Finance Committee has taken another look at the bill and agreed to modifications to the committee amendments to the bill.

The committee modifications make necessary technical corrections to H.R. 3122, such as those needed to take account of the revision of the tariff schedules of the United States to implement the results of the multilateral trade negotiations. The committee modifications also make certain substantive changes, such as adding provisions of the same nature as those in H.R. 3122 as reported, and changes needed to take account of new information.

In order to aid in the eventual consideration of this bill by the Senate this session, I submit for the RECORD H.R. 3122 as amended by the modified committee amendment, followed by a brief section-by-section explanation of the bill.

The material follows:

H.R. 3122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT DUTY-FREE TREATMENT TO CERTAIN DYEING AND TANNING MATERIALS.

(a)(1) Subpart A of part 9 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out item 470.15 and inserting in lieu thereof the following:

	Other:		
''470.16	Logwood	Free	Free.
470.18	Other	4% ad val	15% ad val.''

(B) by striking out "15% ad val." in each of items 470.23 and 470.65 and inserting in lieu thereof "Free";

(C) by striking out "6% ad val." and "15% ad val." in item 470.25 and inserting in lieu thereof "Free";

(D) by striking out "2.5% ad val." and "15% ad val." in item 470.55 and inserting in lieu thereof "Free"; and

(E) by striking out "3.5% ad val." and "15% ad val." in item 470.57 and inserting in lieu thereof "Free".

(2) Item 907.80 of the Appendix to such Schedules is repealed.

(b)(1) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 907.80 of the Tariff Schedules of the United States (as in effect on June 30, 1978) and—

(A) that was made after June 30, 1978, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if any of the amendments made by subsection (a)(1) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

SEC. 2. SUSPENSION OF DUTY ON WOOD EXCELSIOR UNTIL JULY 1, 1981.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new item:

''904.00	Wood excelsior, including excelsior pads and wrappings (provided for in item 200.25, part 1A, schedule 2)	Free.	No change.	On or before 6/30/81.''

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. SUSPENSION OF DUTY ON 2-METHYL-4-CHLOROPHENOL UNTIL JULY 1, 1981.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

''907.11	2-Methyl-4-chlorophenol (provided for in item 403.60, part 1B, schedule 4)	Free	No change	On or before 6/30/81''.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 4. REDUCTION OF DUTY ON CERTAIN CERAMIC INSULATIONS UNTIL JULY 1, 1981.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

''909.20	Ceramic insulators having an alumina oxide content of not less than 96%, if used in spark plugs (provided for in item 535.14, part 2D, schedule 5)	4% ad val.	No change	On or before 6/30/81''.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 5. SUSPENSION OF DUTIES ON CERTAIN FORMS OF ZINC UNTIL JULY 1, 1981.

(a) Items 911.00, 911.01, 911.02, and 911.03 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/78" and inserting in lieu thereof "6/30/84".

(b)(1) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in items 911.00, 911.01, 911.02, or 911.03 of the Tariff Schedules of the United States (as in effect on June 30, 1978) and—

(A) that was made after June 30, 1978, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if any of the amendments made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

SEC. 6. PERMANENT DUTY-FREE TREATMENT FOR CERTAIN CARILLON BELLS.

(a)(1) Item 725.38 of the Tariff Schedules of the United States (19 U.S.C. 1202, relating to chimes, peals, or carillons containing over 34 bells) is amended by striking out 2.6% ad val." and inserting in lieu thereof "Free".

(2) The amendment made by paragraph (1) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(b)(1) The Secretary of the Treasury shall admit free of duty 47 carillon bells (including all accompanying parts and accessories) for the use of Wake Forest University, Winston-Salem, North Carolina, such bells being provided by the Paccard Fonderie de Cloches, Annecy, France.

(2) The Secretary of the Treasury shall admit free of duty 49 carillon bells (including all accompanying parts and accessories) for the use of the University of Florida, Gainesville, Flordia, such bells being provided by Koninkligke Eijsbouts B.V., Asten, The Netherlands.

(3) If the liquidation of the entry for consumption of any article subject to the provisions of paragraph (1) or (2) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

SEC. 7. EXTENSION OF DUTY-FREE ENTRY PERIOD FOR TELESCOPE AND OTHER ARTICLES FOR USE OF THE INTERNATIONAL TELESCOPE PROJECT IN HAWAII.

(a) Section 2(a) of Public Law 93-630 (88 Stat. 2152) is amended by striking out "June 30, 1980" and inserting in lieu thereof "June 30, 1982".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in section 2 of Public Law 93-630 (88 Stat. 2152) (as in effect on June 30, 1980) and—

(1) that was made after June 30, 1980, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this act.

SEC. 8. SUSPENSION OF DUTY ON SYNTHETIC RUTILE UNTIL JUNE 30, 1982.

(a) Item 911.25 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/79" and inserting in lieu thereof "6/30/82".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 911.25 of the Tariff Schedules of the United States (as in effect on June 30, 1979) and—

(1) that was made after June 30, 1979, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

SEC. 9. PERMANENT DUTY-FREE TREATMENT FOR SYNTHETIC TANTALUM-COLUMBIUM CONCENTRATES

(a) Part 1 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C.

1202) is amended by inserting immediately after item 603.65 the following new item:

"603. 67	Materials, other than the foregoing, which are synthetic tantalum-columbium concentrates......	Free........	30% ad val.".

(b) Item 911.27 of the Appendix to such Schedules is repealed.

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 911.27 of the Tariff Schedules of the United States (as in effect on June 30, 1980) and—

(1) that was made after June 30, 1980, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Sec. 10. Temporary Suspension of Duty on Certain Alloys of Cobalt.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"911. 90	Unwrought allovs of cobalt containing, by weight, 76% or more but less than 99% cobalt (provided for in item 632.88, part 2K, schedule 6)...	Free	No change	On or before 6/30/82".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Sec. 11. Temporary Suspension of Duty on Bicycle Parts and Accessories.

(a) Item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/80" and inserting in lieu thereof "6/30/83".

(b) Item 912.10 of the Appendix to such Schedules is amended—

(1) by inserting "two-speed hubs with internal gear-changing mechanisms," immediately after "coaster brakes,";

(2) by striking out "rims," and inserting in lieu thereof "frame lugs,";

(3) by striking out "and 732.41" and inserting in lieu thereof "732.41 and 732.42"; and

(4) by striking out "6/30/80" and inserting in lieu thereof "6/30/83".

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article to which item 912.05 or 912.10 of the Tariff Schedules of the United States (as amended by subsection (b)) would have applied if this Act had been enacted before July 1, 1980, and—

(1) that was made after June 30, 1980, and before the date of enactment of this Act, and

(2) with respect to which there would have been no duty if the amendments made by subsections (a) and (b) applied to such entry or withdrawal, shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Sec. 12. Retroactive Duty-Free Treatment for Manganese Ore and Related Products.

Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of manganese ore, including ferruginous manganese ore, and manganiferous iron ore, all the foregoing containing over 10 percent by weight of manganese (provided for in item 601.27 of the Tariff Schedules of the United States (19 U.S.C. 1202))—

(1) that was made after June 30, 1979, and before January 1, 1980; and

(2) with respect to which there would have been no duty if the entry or withdrawal had been made on or after January 1, 1890;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated on reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Sec. 13. Definition of Rubber for Purposes of the Tariff Schedules.

(a) Headnote 2 to subpart B of part 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"2. (a) For the purposes of the tariff schedules, the term 'rubber' means any substance, whether natural or synthetic, in bale, crumb, powder, latex, or other crude form, that—

"(i) can be vulcanized or otherwise cross-linked, and

"(ii) after cross-linking, can be stretched at 68° F. to at least three times its original length and that, after having been stretched to twice its original length and the stress removed, returns within 5 minutes to less than 150 percent of its original length.

"(b) For purposes of the tariff schedules other than schedule 4, the term 'rubber' also means any substance described in subdivision (a) that also contains fillers, extenders, pigments, or rubber-processing chemicals, whether or not such substance, after the addition of such fillers, extenders, pigments, or chemicals, can meet the tests specified in clauses (i) and (ii) of subdivision (a).".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of the enactment of this Act.

Sec. 14. Miscellaneous Amendments to the Trade Agreements Act of 1979.

(a) The Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144-317) is amended as follows:

(1) Paragraph (8) of section 510 is amended by striking out "item 719.—" and inserting in lieu thereof "items 717.—, 718.—, and 719.—".

(2) The rate of duty column in section 514(a) is amended—

(A) by striking out "1% ad val." opposite each of items 607.01, 607.02, 607.03, and 607.04 and inserting in lieu thereof "Additional duty of 1% ad val."; and

(B) by striking out "0.5% ad val. + additional duties" opposite item 607.21 and inserting in lieu thereof "1% ad val. + additional duties".

(3) Subsection (a) of section 601 is amended—

(A) by inserting immediataely after "such articles" in paragraph (2) the following: "(other than flight simulating machines classified in item 678.50 and civil aircraft classified in item 694.15, 694.20, or 694.40)"; and

(B) by amending paragraph (3) to read as follows:

"(3) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

" '(f) Civil Aircraft Exception.—The duty imposed under subsection (a) shall not apply to the cost of equipments, or any part thereof, purchased, of repair parts or materials used, or of repairs made in a foreign country with respect to a United States civil aircraft, within the meaning of headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States.' ".

(b) The amendments made by subsections (a)(1) and (a)(2) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1980. The amendment made by subsection (a)(3) shall apply with respect to entries made under section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) on or after January 1, 1980.

Sec. 15. Duty-Free Entry of Tiles for Chinese Cultural Center, Philadelphia, Pennsylvania.

(a) The Secretary of the Treasury shall admit free of duty the number of tiles (provided for in article 532.31 of the Tariff Schedules of the United States) purchased by the Chinese Cultural and Community Center, Philadelphia, Pennsylvania, for the renovation of the roof of the center, such tiles being purchased from the China National Arts and Crafts Import and Export Corporation.

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

Sec. 16. Field Glasses and Binoculars.

(a) (1) Item 708.51 is amended by striking out "7.9% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "3.4% ad val." in the LDDC rate column.

(2) Item 708.52 is amended by striking out "18.5% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "8% ad val." in the LDDC rate column.

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Sec. 7. Suspension of Duty on Crude Feathers and Downs Until July 1, 1984.

(a) Items 903.70 and 903.80 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "On or before 6/30/79" and inserting in lieu thereof "On or before 6/30/84".

(b) (1) The amendments made by subsection (a) shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 903.70 or 903.80 of the Tariff Schedules of the United States (as in effect on June 30, 1979) and—

(A) that was made after June 30, 1979, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if any of the amendments made by subsection (a) applied to such entry or withdrawal, shall, nothwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Sec. 18. Duty-Free Entry of Organ for Ohio Wesleyan University.

(a) The Secretary of the Treasury shall admit free of duty one organ (including all accompanying parts and accessories) for the use of Ohio Wesleyan University, Delaware, Ohio, such organ being provided by Johannes Klais Orgelbau K.G., Bonn, Federal Republic of Germany.

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

Sec. 19. Duty-Free Entry of Organ Components for St. Paul's Episcopal Church, Riverside, Connecticut.

(a) The Secretary of the Treasury shall admit free of duty the components of the tracker pipe organ which were built (pursuant to contract with Gerhard Hradetzky of Austria) for St. Paul's Episcopal Church, Riverside, Connecticut, and which entered at New York, New York, on January 19, 1979 (entry number 266710).

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

Sec. 20. Cold Finished Steel Bars.

(a) Headnote 3(i) to subpart B of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "or cut to length" each place it appears therein.

(b) Item 606.88 in subpart B of part 2 of schedule 6 of such Tariff Schedules is amended by striking out "8.5 percent ad val." in rate column numbered 1 and inserting "7.5 percent ad val." in lieu thereof.

(c) Subpart B of part 1 of the Appendix to such Tariff Schedules is amended by inserting, in numerical sequence, the following new item:

"911.45	Finished, drawn products of any cross-sectional configuration, not over 0.703 inch in maximum cross-sectional dimension and containing not over 0.25 by weight of carbon (provided for in item 606.88, part 2B, schedule 6).......	5% ad val.	No change	On or before 12/31/81"

(d) The amendments made by subsections (a), (b), and (c) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

Sec. 21. Clarification of Application of Customs Laws to Deepwater Ports.

Section 644 of the Tariff Act of 1930 (19 U.S.C. 1644) is amended—

(1) by inserting "; Application of Customs Laws to Deepwater Port Act of 1974" in the caption thereof immediately after "1926",

(2) by inserting "(a)" before the first word of the text thereof, and

(3) by adding at the end thereof the following new subsection:

"(b) For purposes of section 19 (d) of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the term 'customs laws administered by the Secretary of the Treasury' shall mean this Act and any other provisions of law classified to title 19, United States Code.".

Summary Description of H.R. 3122 as Amended by the Modified Committee Amendment

The following is a brief description of each section of H.R. 3122 as it would be amended by the modified Committee amendment. Unless otherwise indicated, references to sections of the bill are references to the sections in the bill as it would appear with adoption of the modified Committee amendment.

The first section of H.R. 3122 would provide for permanent duty-free treatment of certain dyeing and tanning materials of vegetable origin from the date of enactment. The duty-free treatment would apply retroactively upon timely request to such articles entered, or withdrawn from warehouse, for consumption after June 30, 1978, the date of termination of a previous duty suspension. The United States depends upon imports for virtually all of its requirements of these vegetable tanning extracts. This provision would help U.S. tanners hold down the cost of producing leather.

Section 2 of the bill would suspend the duty applicable to most-favored-nation (MFN) imports of wood excelsior from the date of enactment through June 30, 1981. Wood excelsior consists of thin, narrow, flexible strands of wood which tend to curl and form a loosely joined mass. It is used in various ways, including to filter substances and as an acoustical component in wall panels. Imports of wood excelsior supply a minimal amount of U.S. consumption and are not injurious to the U.S. industry producing wood excelsior. Section 2 of the bill would remove an unnecessary cost to producers of products employing wood excelsior.

Section 3 of the bill as reported in December 1979 would have suspended the duty applicable to MFN imports of soluble nitrocellulose from the date of enactment through June 30, 1980. Since the period of the originally proposed duty suspension has passed and sufficient domestic production of nitrocellulose will be available, the modified Committee amendment deletes this provision.

Section 3 of the bill (section 4 of the bill as reported in December) would suspend the duty applicable to MFN imports of 2-methyl-4-chlorophenol from the date of enactment through June 30, 1981. This would eliminate an unnecessary cost of an important component of certain herbicides which is not produced domestically. It would make U.S. producers of herbicides made from this product more competitive with foreign herbicide producers.

Section 4 of the bill (section 5 of the bill as reported in December) would reduce the duty on MFN imports of certain ceramic insulators used in spark plugs to 4 percent from the date of enactment through June 30, 1981. This would provide competition in the markets for certain spark plugs by reducing the cost of ceramic insulators for a firm which imports these insulators and makes spark plugs which compete with imports of spark plugs and with spark plugs made by other U.S. firms which make their own ceramic insulators.

Section 5 of the bill (section 6 of the bill as reported in December) would reinstate the suspension of duty on MFN imports of certain forms of zinc through June 30, 1984. As originally reported, this provision would have suspended the duty through June 30, 1981. However, the modified Committee amendment would extend this date, as the domestic industry and the Administration agree that the conditions justifying the original duty suspension period also justify the extended period. The suspension would apply retroactively, upon timely request, to such articles entered, or withdrawn from warehouse, for consumption after June 30, 1978, the date of termination of the previous suspension. Domestic zinc mines cannot supply enough ore to satisfy the demand for zinc metal. Section 5 of the bill is intended to reduce the cost of an important source of zinc for domestic manufacturers.

Section 6 of the bill (section 7 of the bill as reported in December) would provide for permanent duty-free treatment of MFN imports of carillon and similar tuned bells (in sets containing more than 34 bells) after the date of enactment, and for retroactive duty-free treatment with respect to specific carillon bells already entered for the use of Wake Forest University and the University of Florida. This provision would reduce the cost of imports of carillons and similar tuned bells in sets of more than 34 bells, which have not been produced in the United States in recent years.

Section 7 of the bill (section 8 of the bill as reported in December) would reinstate duty-free treatment through June 30, 1982, with respect to the importation of a telescope and other articles for the use of the Canada-France-Hawaii telescope project in Hawaii, thereby reducing the cost of this project. The duty-free treatment would apply retroactively, upon timely request, to such articles entered, or withdrawn from warehouse, for consumption after June 30, 1980, the date of termination of the previous suspension.

Section 8 of the bill (section 9 of the bill as reported in December) would reinstate the suspension of duty on MFN imports of synthetic rutile, a pigment used in paints and for other purposes. The suspension would terminate at the close of June 30, 1982, and would apply retroactively, upon timely request, to imports entered, or withdrawn from warehouse, for consumption after June 30, 1979, the date of termination of the previous suspension. This would reduce the costs of users of synthetic rutile, a necessary raw material some of which must be imported and the demand for which is growing.

Section 9 of the bill (section 10 of the bill as reported in December) would provide for permanent duty-free treatment of MFN imports of synthetic tantalum/columbium concentrates from the date of enactment. The duty-free treatment would apply retroactively upon timely request, to importations after June 30, 1980, the date on which a previous suspension of duties on these products expired. There is no known domestic production of either natural or synthetic tantalum/columbian concentrates, which is used in steel production, electronic circuitry, and chemical processing equipment. Section 9 of the bill would help producers of these products to lower their costs without injury to any domestic industry.

Section 10 of the bill (section 11 of the bill as reported in December) would provide for suspension of duty on MFN imports of unwrought alloys of cobalt from the date of enactment through June 30, 1982. The cost of cobalt alloys, a strategic raw material, has quadrupled recently, increasing the duties payable on imports of this substance and the costs to U.S. consumers. Section 10 of the bill would improve the competitive position of domestic consumers.

Section 11 of the bill (section 12 of the bill as reported in December) would suspend duties on MFN imports of certain bicycle parts through June 30, 1983. Duties had been suspended from 1971 through June 30, 1979 on these certain bicycle parts in order to improve the ability of domestic producers of complete bicycles to compete with imported complete bicycles. The suspension provided in this section would apply retroactively, upon timely request, to imports entered, or withdrawn from warehouse, for consumption after June 30, 1979, the expiration date of the previous suspension.

Section 12 of the bill (section 13 of the bill as reported in December), as amended by the modified Committee amendment, would provide for duty-free treatment of manganese ore imported after June 30, 1979 and on or before December 31, 1979. Prior to June 30, 1979, the duty had been temporarily suspended. After December 31, 1979, permanent duty-free treatment is applicable to these ores as a result of a tariff concession made in the Multilateral Trade Negotiations. At the time H.R. 3122 was reported, it did not take account of the MTN concession, which makes the suspension of duty provided for in the bill as reported unnecessary. There is no domestic commercial production of manganese ore. Duties of MFN imports of manganese ore have been suspended for 3-year periods continuously since July 1, 1964. Section 12 of the bill would reduce the cost to the domestic industry that requires manganese ore, principally for the manufacture of cast iron and steel.

Section 13 of the bill (section 15 of the bill as reported in December) would amend the definition of "rubber" in the headnotes of the Tariff Schedules of the United States (TSUS) to preserve existing Customs Service practice relating to the classification of products as rubber or as containing rubber. Recent court decisions concerning the meaning of "rubber" as used in the TSUS have resulted in some articles being assessed at a rate of duty different from that which Congress intended. Section 13 of the bill restores the previous practice of the Customs Service, which was in accordance with Congressional intent, as it relates to classification of rubber articles.

Section 14 of the bill as reported in December 1979 would have created a new item in the TSUS for model household furnishings and accessories which would have provided an 8 percent ad valorem duty for MFN imports and 45 percent ad valorem duty for non-MFN imports. The modified Committee amendment deletes this provision.

When the Committee reported favorably this provision of H.R. 3122 last December, it acted on misinformation. The information before the Committee, which was the best available, indicated that there was only a small domestic industry with one commercial producer. Since that time, at least four commercial producers have been identified, and the industry, originally thought to involve sales of around $500,000 per year, now is thought to have sales of in excess of $5 million per year. Also, no objections had been received to the provision before it was reported, but after it was reported, numerous objections were received from the domestic industry. The provision as reported would have reduced the duties on most of the scale models covered by the provision. The Administration has opposed this duty-reduction aspect of the bill, feeling it removes needed protection from the domestic industry and is a unilateral concession being bestowed by the United States greater than that negotiated in the MTN. The effect of this reduction of duties would be increased imports selling at even lower prices, reducing sales by U.S. producers, injuring a U.S. industry.

Section 14 of the bill (section 16 of the bill as reported in December) would correct four technical errors in the Trade Agreements Act of 1979 (93 Stat. 144; Public Law 96–39).

Section 15 of the bill (section 17 of the bill as reported in December) would permit a one-time duty-free entry of roof tiles from the People's Republic of China for the use of the Chinese Cultural and Community Center in Philadelphia, Pennsylvania. The nonprofit Chinese Cultural and Community Center has a one-time need for authentic and durable roofing tiles consistent with the architecture of the Center's building.

Section 16 of the bill as amended by the modified Committee amendment (section 18 of the bill as reported in December) would provide permanently for duty-free treatment of MFN imports of field glasses, opera glasses, and prism binoculars. As reported, this provision had provided for a suspension of duties on MFN imports of field glasses, opera glasses, and prism binoculars from the date of enactment through December 31, 1981. There is no U.S. production of field glasses, opera glasses, and prism binoculars. Since reporting the bill, the Committee has assured itself that there is no U.S. production contemplated or other interest that could be injured by duty-free treatment, and thus the modified Committee Amendment would provide for permanent duty-free treatment. Section 16 of the bill would permit a reduction in the price of these items to consumers.

Section 17 of the bill is a new provision added to H.R. 3122 by the modified Committee amendment to provide duty-free treatment with respect to imports of crude feathers and downs. This section, which contains the substance of H.R. 2492 as it passed the House, would suspend the duties on MFN imports and the greater portion of non-MFN imports of crude feathers and downs entered, or withdrawn from warehouse, for consumption on or after the date of enactment and on or before June 30, 1984. A previous suspension of these duties expired on June 30, 1979. Upon timely request, new section 17 would permit the duty-free treatment resulting from the suspension to be provided with respect to entries or withdrawals made after June 30, 1979, and before the date of enactment. MFN duties are now 7.5 percent *ad valorem*, while non-MFN duties are 20 percent *ad valorem*.

U.S. demand for crude feathers and downs is expected to remain high in the next several years, as demand for cold-weather, down-filled sportswear and other products using feathers and downs remain strong. Prices for feathers and downs have risen rapidly. U.S. producers of articles using crude feathers and downs expect to remain dependent on foreign sources for the crude products during the foreseeable future. Suspension of the duty on the feathers and downs would reduce the costs of U.S. producers of articles employing the feathers and downs, and keep the cost of these feathers and downs competitive with the cost to foreign manufacturers and permit U.S. producers of products using feathers and downs to remain competitive with foreign producers of similar products. The suspension would permit potential savings to consumers of articles using feathers and downs without adversely affecting the domestic industry producing crude feathers and downs.

The Administration has no objections to enactment of this section, nor have any objections to the bill as passed by the House been received from any source. The customs revenue loss resulting from the suspension of duties is estimated at about $5 million per year.

Section 18 of the bill is a new provision of H.R. 3122 added by the modified Committee amendment. It contains the substance of H.R. 3317 as it passed the House and would permit duty-free entry of a pipe organ and accompanying parts and accessories imported for Ohio Wesleyan University. Section 19 of the bill is also a new provision of H.R. 3122 added by the modified Committee amendment. It contains the substance of H.R. 3755 as it passed the House and would permit duty-free entry of components for a pipe organ for St. Paul's Episcopal Church in Riverside, Connecticut. On January 1, 1980, the five percent ad valorem duty on MFN imports of pipe organs was reduced to two percent ad valorem. The duty on all MFN imports of pipe organs will be eliminated on January 1, 1981.

The Committee received favorable testimony with respect to the tariff relief that would be provided by these provisions. The Administration is opposed to enactment, asserting that the existing duty does provide some protection for the domestic industry. However, these organs have already been imported. Denying duty-free treatment with respect to the imports would therefore not help the domestic industry make a sale which they would not otherwise have. However, the Committee believes that future suspension of duties on pipe organs should not be encouraged, as there is available U.S. production of pipe organs. Therefore, the Committee does not intend to report out duty-suspension bills relating to pipe organs in the future.

Duty suspension with respect to the pipe organ for the use of Ohio Wesleyan University would result in a one-time loss of customs revenues of approximately $17,500. As a result of the suspension of duties with respect to the entry of the pipe organ intended for St. Paul's Espicopal Church, the one-time loss of customs revenues of approximately $7,000 would be experienced.

Section 20 of the bill is a new provision added to H.R. 3122 by the modified Committee amendment. The substance of section 20 is H.R. 4309 as passed by the House. This provision would provide for a change in definition of steel wire so as to exclude the "cut to length" products, mainly of cold finished steel, from that definition. These products would be classified as bar subject to a higher rate of duty. In order to take account of any inconsistency of such a change with U.S. obligations under international trade agreements, the provision provides that from the date of enactment until January 1, 1982, there would be two classifications for bar. The first classification would cover small diameter bar, presently classified as wire, which would receive an MFN rate of duty of 5 percent ad valorem (as opposed to the present rate of about 1.7 percent ad valorem).

This increase in duty would be compensated for by a reduction for the same period in duty on the second classification, applicable to other bar, from 8.5 percent to 7.5 percent ad valorem. On and after January 1, 1982, all cold finished steel bar would be classified in a single item dutiable at an MFN rate of 7.5 percent ad valorem. The Committee expects that the Executive Branch would negotiate prior to January 1, 1982, an appropriate agreement with trading partners permitting this increase in duty in a manner consistent with U.S. trade agreements.

Domestically, cold finished steel bar is produced by major U.S. steel producers to be used in the production of bridges, buildings, ships, agricultural implements, and so on. Imports are principally from Japan, the United Kingdom, Belgium, and Canada.

The Administration does not object to the reclassification, provided by the provision, but does object to the upward adjustment of duties as inconsistent with U.S. obligations under the General Agreement on Tariffs and Trade.

Enactment of this provision would result in a customs revenue loss of approximately $70,000 for 1980 and 1981, and an estimated increase in revenues beginning in 1982 of about $600,000 per year. This amount would increase to about $1.2 million per year in 1987 and remain at that level thereafter.

Section 21 of the bill is a new provision added to H.R. 3122 by the modified Committee amendment. This provision is needed to clarify the duties of the U.S. Customs Service at deepwater ports. A provision of this nature has already passed the House as an amendment to H.R. 6864, the authorization bill for the administration of the Deepwater

Port Act of 1974, but the bill will not be acted on this year because of a difference of opinion between the Houses as to whether the authorization bill itself is needed. Section 21 does no more than carry out the original intent of the Congress in the Deepwater Port Act.

The Deepwater Port Act was passed to provide for the licensing of private persons to build and operate port structures beyond the territorial sea off the coast of the United States that would receive imported oil from supertankers for transportation to the mainland. One such license has been issued by the Office of Deepwater Ports in the Department of Transportation to LOOP, Inc., a private corporation chartered under the laws of Louisiana, to operate a deepwater port that will go into use in 1981. The Act provides elaborate environmental controls, including authority in the U.S. Customs Service to deny a vessel permission to leave a deepwater port if the vessel is believed to be responsible for an oil spill.

Aside from this environmental responsibility of the U.S. Customs Service, it was the intention of the Congress that the Service have no responsibilities at the deepwater port itself. The Act provides that the customs laws should not apply to the deepwater ports, and that the oil unloaded at the port would not be subject to normal U.S. Customs Service processing until it was actually pumped into the territory of the United States.

However, the U.S. Customs Service issued a ruling in December 1979, that, in effect, held that while the Service would not exercise any authority over oil received at a deepwater port until it physically entered the United States, the Service would have to go out to deepwater ports to enter the supertankers themselves. This interpretation of the Deepwater Port Act would result in increased expenses related to the importation of oil at deepwater ports because vessels would have to lay over there more than was necessary merely to make their oil delivery, and is an interpretation at variance with a basic purpose of the Act, to reduce the cost of imported oil. Even though the Customs Service itself did not want to send people out to these deepwater ports, the term "customs laws" used in the Act was not inclusive enough to relieve the Service of responsibility. Legal requirements for entry of vessels—as distinguished from the entry of the cargo of these vessels—are technically termed "navigation laws", not "customs laws." Some of these navigation laws appear in title 19 of the U.S. Code (where the so-called customs laws are located) and some are in title 46 (where the shipping laws are located).

The intent of the Deepwater Port Act was that the navigation laws in title 19, such as vessel entry laws, not apply to deepwater ports, but that the navigation laws in title 46 apply to the ports to the extent otherwise stated in the Act, such as the environmental provision mentioned earlier. Section 21 of H.R. 3122 clarifies this intent by amending title 19 to provide that customs laws as used in the Deepwater Port Act include all the provisions in title 19.●

FEDERAL EMPLOYEE PARKING ACT

● Mr. PERCY. Mr. President, I am sure that all of mv colleagues in the Senate are aware of my feelings about the availability of free parking for Federal employees. In fact, staff members have not hesitated to make their own feelings unmistakably clear to me. In both the last Congress and this Congress, I introduced bills to end the "free ride" that many Federal employees have received at the expense of American taxpayers. Although such legislation has been unpopular with many of my congressional colleagues, the administration has moved to reduce the inequity. In April of last year, President Carter announced a new policy of requiring parking fees at executive branch facilities, and this policy went into effect last November.

While this program has not included the legislative and judicial branches, and therefore has not been as comprehensive as the program I have recommended, it has been a step in the right direction. However, the administration's parking plan now appears to be in trouble. In an opinion handed down yesterday, a U.S. district court indicated that the plan is illegal because congressional approval was not obtained. This points out the need for the type of legislation that I have introduced. My bill, the Federal Employee Parking Act, cosponsored by Senator Durenberger, would incorporate a program of parking fees into law and would provide the kind of congressional mandate that is currently missing.

The Federal Employee Parking Act would not only correct the inequity of requiring taxpayers to pay for Federal parking (in shared building facilities, many private sector employees pay for their own parking spaces that are furnished free to Federal employees), but would also result in a variety of other benefits. It would encourage carpooling, vanpooling, and the use of mass transit, for example. These are energy conservation measures that I have long advocated as ways of symbolically reducing the balance-of-trade problems and the energy vulnerability that America faces as a result of our oil imports. These conservation measures deserve renewed support, especially in light of the military activities being undertaken by Iran and Iraq.

Other benefits that would become available by prohibiting free parking include cleaner air due to reduced vehicle emissions and reduced congestion in many urban areas. It would also help to reduce the Federal deficit by recycling the collected fees into the costs of maintaining the Government's parking facilities.

Mr. President, I feel that the passage of the Federal Employee Parking Act would send an important signal to the American people. It would indicate that the Federal Government is willing to assume some of the responsibility for reducing the burden of America's taxpayers, for cutting down on energy consumption, and for improving our environment.

Unfortunately, time is short for the movement of legislation through this year's Congress. However, I feel that energy conservation initiatives such as the Federal Employee Parking Act are important enough to be given a very high priority in the next Congress. I plan to aggressively pursue this and other conservation measures when we reconvene in Januarv, and I ask that my colleagues do likewise.●

SECURITY AND THE THIRD WORLD

● Mr. JACKSON. Mr. President. I wish to call to the attention of Members of Congress a significant analysis of the likely evolution of the Third World for the balance of this century. We are indebted to former Secretary of Defense and former Secretary of Energy, James R. Schlesinger for a penetrating keynote address delivered at the International Institute of Strategic Studies Annual Conference in Stresa, Italy, on September 11, 1980.

Dr. Schlesinger believes that the prospect is for increased turbulence and instability in the Third World during the period ahead, basically because of "the relative decline of American power, and associated with it, the reduced will of the American people to play a combined role of international guardian and self-appointed moral preceptor—in short, the end of Pax Americana."

I believe this address will be of great interest to my colleagues and ask that it be printed in full at this point in the Record.

The address follows:

Security and the Third World: The End of Pax Americana

(By James R. Schlesinger)

The theme of the Institute's Annual Conference is conflict and security in the Third World. To the implicit question that theme poses about the future, the generic answer is quite simple: the prospects are for increased turbulence and instability for the balance of the century The basic reason is also simple: the relative decline of American power and, associated with it, the reduced will of the American people to play a combined role of international guardian and self-appointed moral preceptor—in short, the end of Pax Americana. Though the outlines for the future remain dim, we are in a period of international transition. The old order changeth, yielding place to the new. The balance of the century will have an as yet undetermined character reflecting the slow unraveling of a framework of international security earlier provided by the United States—partly fortuitously, partly through deliberate policy—for a period of thirty years after the close of World War II. As in many periods of transition, the seas ahead remain uncharted.

The ultimate outccme will reflect the resolution of identifiable but presently unmeasurable forces. The first is the degree of realism among Third World leaders—and their willingness to limit ideological posturing in exchange for concrete, if limited, advantages. Next is the character of the post-Brezhnev leadership in the Soviet Union—whether it will be moderate or aggressive in the use of its new found power position. Third is the orientation of the People's Republic of China—whether it will continue to lean against the forms of turbulence that can be exploited by its arch rival, the Soviet Union. A fourth element will be the emerging policies of the principal European states—whether, having discovered that the United States can exhibit the same irresponsibility and parochialism that has characterized their own policies since World War II, they will gradually abandon the Atlantic relationship in the futile quest for a Europe that is simultaneously independent and strong. Finally, and perhaps most significant, will be the future policy of the United States. Will the American people once again acquire a renewed sense of mission—and of realism—or will they continue in the slough of preachiness and withdrawal?

For we must bear in mind that, given the realities of power, the evolution of the Third World during this period of transition will be to a large extent determined by forces impinging on it from the outside.

To a considerable degree, the world has become a single strategic stage—with its separate strategic theaters inevitably linked—sometimes tightly, sometimes more loosely. The policies of the Chinese People's Republic affect the whole. What occurs in the oil-producing regions of the Middle East will, to a large extent, determine the ultimate outcome. But Middle Eastern developments will, in turn, be significantly affected by the policies—deliberate or haphazard—of the United States and the Soviet Union. Even the outcomes in other Third World regions—the Caribbean, Southern or Eastern Africa, or Southeast Asia—will to some, if a lesser, extent affect the overall balance. Yet, it remains almost axiomatic that shifts in the Third World—attention-grabbing and suggestive of international trends as they may be—are unlikely in themselves to be decisive.

In order to anticipate the future one must understand the past—and the process by which we have arrived at the present. After World War II developments in the Third World to a large degree reflected American policies and American predilections. Initially the United States possessed a nuclear monopoly, and for a long period remained the world's dominant military power. Under the aegis of American power, a framework of security was established in which international trade and investment flourished. As a consequence there occurred an enormous worldwide expansion of trade, investment, and income affecting directly many of the nations of the Third World. That astounding growth of the international economy, shared in rather unevenly by nations in the Third World, was based upon that more or less unquestioned security and upon the exploitation of cheap energy. It is perhaps unnecessary to add that neither of these prerequisites for international economic expansion remains fully applicable today.

The oddity was that the American nation never fully understood or even embraced the international order of which it was the principal, if unwitting, foundation. International security was provided by a democratic people whose historical experience precluded a visceral understanding of the meaning of insecurity. For one hundred and fifty years, it had been protected by two oceans and its remoteness from the centers of international conflict. For the next quarter century, after its emergence as the principal world power, America's military position was inherently so powerful that no challenge could be seriously regarded as a direct threat to its own security. Indeed, in the 1960's and 1970's, after the passions of the Cold War had begun to ebb, a generation arose that simply took security for granted—an inheritance, rather than something that had to be earned anew continuously.

Furthermore, in its long period of gestation, the United States had developed the belief that its institutions and values were a suitable model for all mankind. Sporadically breaking out of its isolation, it exhibited—as in the two world wars—a missionary zeal for the redemption of the old world from its wicked habits of power politics. In short, the United States considered itself a secular New Jerusalem, with its varied virtues to be enjoyed either in isolation or in extension to other people.

After World War II, this pent-up idealism burst forth on an industrial world worn down or devastated by war and on a Third World still under Colonial rules and generally economically backward. That American idealism became embroiled in a steady flow of both resources and technology overseas—to help resuscitate both weakened allies and vanquished foes. It was reflected institutionally in the Marshall Plan, the World Bank, Point Four, and a host of other examples. For the Third World it was reflected in developmental and technical assistance and numerous institutions for the provision of multilateral and bilateral assistance. These economic policies must be borne in mind, though I have insufficient time to develop them. Instead, I shall mention some of the major political elements bearing on the Third World.

First, true to the American Revolution and to the precepts of Jeffersonism, the United States pressed steadily for decolonization. Sometimes those pressures were quite direct, as in the case of the Dutch East Indies, more frequently indirect. As the process of decolonization unfolded, the pressures from the United States diminished; but even at the close of the period, tacit pressures on the remnants of the French and Portuguese empires could readily be discerned. The process of decolonization was recognizably the chief force in shaping the Third World of today.

Middle Eastern nations may boggle at this suggestion, and will insist that Israel is a dramatic and, for them, a most painful episode of Western colonialism imposed after World War II. Even if one were to accept this somewhat strained interpretation for the introduction of an external population in the creation of the new state, the case of Israel does remain unique. The motivation that lay behind it can scarcely be viewed in terms of traditional motives for colonization. It reflected Western feelings of guilt and the desire for restitution after the tragedies in the period of Hitler's rule. If one puts aside this distinctive and controversial case, one can categorically state that the evolution of the Third World was determined by decolonization, a goal both practical and ethical pursued by the United States after the close of the war.

A second element, pursued intermittently and somewhat fitfully, was pressure for democratization and the enhancement of civil rights. These pressures tended to coincide with Democratic Administrations. Under President Kennedy, the Alianza para el Progreso concentrated on Latin America and foresaw measured progress as the standard for assessing movement toward these political goals. Under President Carter the pressures have become more general and universal, and not so directly concerned with specific time and circumstance.

A third element, the counterpart of domestic reform on the international scene, has been the historic American stress on legality. Subversion or coups might be tolerated, but sending forces across recognized international frontiers was considered unacceptable. This continuing emphasis on the inviolability of international frontiers made the United States the natural, if half-conscious, protector of the independence of national states. It led to both the American involvement in South Korea and the unsuccessful attempt to preserve South Vietnam.

Neither friend nor foe, practiced in the standards of realism, could anticipate or understand either the American tendency to invest such moral enthusiasm into strict legality or the vehemence of American reactions. The British and French (and the Israelis) were nonplussed by what they regarded as the quixotic American response at Suez in 1956. Similarily, the Soviets were quite unprepared for the vehement American reaction when their forces crossed the border into Afghanistan in 1979. After all, politically a far more serious development—the Taraki Coup in April 1978 that raised the red banner over Afghanistan—had passed virtually without comment in the United States. The Soviets might readily believe that a supplementary action, justified as an extension of the Brezhnev doctrine, to sustain a socialist state, would scarcely elicit a reaction so sharply different in kind—so plainly at odds with easily recognized "correlation of forces." No more than our Allies did they recognize the emotional depth of the American commitment to the sanctity of international frontiers.

Curiously, this neo-Wilsonian moral enthusiasm reached its apogee with the Carter Administration in 1977. Some might suggest that it represented a second attempt by a southern Protestant to redeem this wicked world from its sinful ways. Certainly the Administration came into office rejecting the (sinful) power politics embodied, in its view, in the figure of Henry Kissinger.

Other nations apparently had simply lacked the opportunity to hear the advantages of human rights eloquently extolled by Americans. That such nations might be more concerned with the maintenance of order or with political survival was simply ignored. The Soviets, so the belief apparently ran, had until then simply been seeking an opportunity to divest themselves of the nuclear weapons—in which they had made so vast an investment of national effort. It was just that nobody had approached them in the right manner. In the Middle East, the failure to achieve a comprehensive settlement had simply reflected a prior lack of necessary will and enthusiasm. The disputes between the industrial and underdeveloped worlds reflected not concern about interests or resources but rather a lack of communication.

These neo-Wilsonian impulses shaped the initial responses of the Administration through a series of national setbacks and humiliations, including the fall of the Shah and the seizure of the American Embassy in Teheran. They still remain a powerful if temporarily suppressed force—even after the Soviet movement into Afghanistan.

The policies of the Carter Administration represented simply an extreme manifestation of endemic American beliefs that had, in large degree, shaped the post-war world. Nonetheless, the decline in America's relative position in the world, particularly after the Vietnam War, inevitably meant that the influence of these cherished American views had waned. Perhaps not surprisingly, the Americans were the last to recognize this unavoidable reality.

Americans had long taken security as axiomatic. In part this reflected a widespread American conviction that our international influence reflected less American power than the purity of American motives. And it was, of course, flattering to hear the purity of those motives praised—so long as America's power was preeminent.

As a world power the United States had oddly but steadily neglected the creation of a necessary base structure with which to exercise its military power worldwide. This reflected its firm belief in national sovereignty and a touching faith that in times of troubles other nations would adhere to our banner because of the rightness of the cause—irrespective of political risks that they might incur. Especially after the Vietnam War, America's underfunding of its military establishment, upon which the security of the Free World depended, became almost a case of willful negligence. The premise of the political left that the United States had been too powerful for its own and the world's good was then put to the test. The outcome is hardly surprising: as America's strength ebbed, so did her influence.

With the decline of American power, America's moral impulses were increasingly directed toward those whom it could reach, namely friendly nations, allies, and dependents. Hostile nations—the Cubas and the Soviet Unions—could turn a deaf ear to America's exhortations; her associates could do so less readily. The force of America's crusading impulses as a practical matter thus were directed against states like Argentina and Brazil, Iran, and South Korea with whose foreign policies the United States had no quarrel—only with their internal arrangements.

As a practical matter, the United States could do little for Soviet dissidents. By contrast, it could effectively—if only temporarily—better the lot of dissidents in Iran. Needless to say, it was only where the United States was most effective that it succeeded in inflicting the most grievous wounds upon herself.

In the practical world of security arrangements, the value of an American alliance—once virtually absolute—became discounted. Perhaps the most suggestive milestone was the American response to Brezhnev's provocative warning in November 1978 that the United States should not intervene in Iran. To this direct assault on America's alliance system, there was no Truman-esque response warning against Soviet intrusion, no reiteration of America's fidelity to her ally or reference to the CENTO alliance that the United States had been instrumental in creating. Instead, Secretary Vance meekly responded that the United States had no intention of intervening and, by noting prior Soviet statements of intent, implicitly called on the Soviets to exhibit a similar sense of responsibility. The intent, no doubt, was to reassure the Soviets, but the mild response provided reassurance to few others.

One wishes to avoid exaggeration. This episode clearly lacks the drama of Munich in 1938. Yet, its aftermath offers some remarkable parallels. It was only after the Munich Conference that other nations began to edge away from the protection provided by the Western allies and toward Germany. After September 1938, the Soviet Union abandoned its quest for collective security against Hitler's Germany with the Western allies and began its approach towards accommodation with Germany—which ultimately resulted in the Hitler-Stalin Pact. Similarly, Rumania, Yugoslavia, and Hungary—and later Slovakia—edged away from the Western allies and towards Germany. And, similarly once again, since the fall of the Shah, America's partners—in Europe as well as in the Middle East—have edged away from the United States in a search for alternative arrangements that would provide security.

And that brings us down to the present day.

How should we relate these broader international trends to the specific theme of this conference, the prospects for security and conflict in the Third World? In light of the vast extent and variety of the areas under consideration, generalizations do not come easily. Those generalizations that do come lack concreteness, for they must be distilled from highly distinctive and localized constellations of income levels, resources, rivalries, and power balances. A useful initial observation is that in security matters the term "Third World" is less appropriate than the older term "gray area." The latter provides more accurate imagery, for in these regions questions of security are inherently difficult to define with precision.

Nonetheless, two generalizations do appear relevant. First, the partial dissolution of the security framework provided by the United States for a quarter century after World War II makes the entire world—at least outside the Soviet Union and its immediate satellites—far more unstable. There is no longer so effective a natural protector of national independence and of national frontiers. Consequently, one must anticipate a heightened willingness in the years ahead to move across national borders.

The heightened instability which follows the decline of American power is perhaps most marked in the region of the Arabian Gulf, for on that region the rest of the Free World depends for its supply of energy. Yet, that region is also noticeably close to the main sources of Soviet power. Until quite recently, the dominance of America's strategic nuclear forces and the clear-cut superiority of American naval and mobility forces provided adequate deterrence of outside threats to the region. Now, however, that strategic nuclear superiority has disappeared and American naval and mobility forces no longer possess the clear-cut advantages of times past. As a consequence, the region of the Gulf is susceptible to political-military pressures from the north to a degree not heretofore known. This heightened vulnerability, combined with the dependency of the outside world on Arabian Gulf energy resources, implies both a degree of risk and a contagion of fear in what has now become the vortex of international strategic conflict.

Second, the increased insecurity worldwide flowing from the dissolution of the post-war security framework bears with particular force on other gray area nations. Few such nations possess great inherent strength or international weight. Consequently, disruption within such a country or even its loss to one side or another does not immediately affect the vital interests of the great powers or their coalitions. It is a reflection of the grayness of such areas that even shifts of allegiances will not significantly affect the overall coloration of the world's political map. It is this attribute of grayness that allows sharply increased local insecurity without substantially affecting international political risks. In the industrial world, by contrast, lines of division and greater political weight imply far greater risks in the event of major damage or of bold action.

Quite clearly, if the nations of Western Europe, Japan, or China were to shift sides this would imply a major, if not decisive, swing in the equilibrium of power. The eastern frontier of the Federal Republic is a clearly demarcated and highly sensitive dividing line. The risks of incursion are consequently enormous. In the case of Berlin, the demarcation is clear. There is no grayness. The risks of disturbance are high—far too high for any prospective gains. But in the gray areas the risks are low; incursions, subversion, pressures may occur without any major impact on the overall balance of power and, consequently, no great likelihood of their inducing major hostilities. Low risk is an attribute of grayness, and it helps to explain why heightened world insecurity will tend to be concentrated in these gray areas.

There is, of course, some limit to the ebb and flow that might be tolerable. Territory implies the possibility of bases. It implies the prospective establishment of advance positions as stepping stones. It provides the potential for geographical infection—or falling dominoes. None of these need be fatal. By contrast, a threat to Europe, Japan, or (for different reasons) the Arabian Gulf could start a process without limit. In the face of events prospectively going out of control, all powers necessarily will remain prudent. That prudence will not inhibit actions elsewhere in the world.

These two points—the heightened insecurity flowing from a weakened international security framework and the concentration of that insecurity in the gray areas—provide the necessary backdrop against which the inner dynamics of Third World countries may be viewed. The direction and pace of such internal developments are critically important. For example, despite the climate for decolonization fostered by the United States after the war, the timing and nature of independence movements depended primarily upon indigenous rather than external forces. But after independence, Third World nations had to face innumerable internal problems that previously had been subsumed in the cohesion of the independence movement. Ethnic rivalries, for example, were legion, resulting in severe internal conflicts. Alternatively, since boundaries had been determined for the convenience of the colonial powers, the overlapping of international frontiers by specific ethnic groups resulted in unresolved and bitter border disputes. Serious internal disparities of wealth existed—causing further conflict. Too frequently the overall impression was of a new state with an immature political system, great internal divisions, and weak leadership.

From the standpoint of many Third World nations, a great advantage of the Pax Americana was that it provided a stable background against which many of these problems could be temporarily compromised or worked out relatively benignly. A consequence of the decline of the international order represented by the Pax Americana, therefore, is that these internal problems come into stark relief. They must now be worked out in the face of heightened competition from other regional contenders—and in the absence of an international order that is even clear. Quite obviously, this is a prescription for unrest. For a time it may seem that a confrontation of the South with the industrial North can serve as a substitute for order and a disguise for unrest. But, given the disparities within the South reflecting particularly the divergent flows of oil revenues, the North-South confrontation becomes a charade that must ultimately break down. Claims against the North cannot for long mask the discontents, tensions, and unrest in the gray areas.

Revising Voltaire, a third generalization may be suggested: In the light of the remarkable differences among regions and of local power balances—all generalizations are false. The structure of military-political power is far too variegated and each region so differently affected by the international structure of power to attempt anything other than a differentiated treatment of each region. The key ingredients will be proximity to the sources of Soviet or American power, residual influence by European states as in Francophone Africa, and the presence or absence of a locally dominant military power. Very broadly, the Third World can be divided into the Eurasian periphery of the Soviet Union—with particular notice of the Middle Eastern portions stretching from Turkey to Pakistan and including the Arabian Peninsula, the Western Hemisphere, and other areas visibly less marked by great power influence or threat.

Soviet military power provides a massive threat only to the areas on its periphery. These areas have long been the focus of Russian, and now Soviet, imperial ambitions. The rise of American military power after World War II precluded for many years the furtherance of those ambitions, reflected for example in the forced Soviet withdrawal from Iran in 1946. But the subsequent growth of Soviet military power and, in particular, the development of its mobility forces have once again created a possibility for the Soviets to contemplate movement towards the Indian Ocean. Unlike Vietnam, there can be little question that the vital interests of the West are engaged in this region. It is the coincidence in this region of the potential for Soviet military action and the existence of vital Free World interests that provide the potential for conflagration. The Middle Eastern region alone provides this potential for an uncontrolled clash between the Soviet Union and the United States. In the unlikely event of a Soviet assault on the oil fields of the Arabian Gulf, the United States would have little choice but to resist with whatever military means were at hand. That is a simple political imperative.

Yet, one must also recognize that the deterrent posture to forestall such a Soviet move is not now adequate. The Soviets may continue to be restrained by political prudence and, perhaps, the belief that time is on their side. But the military forces presently and prospectively in place in the region are not sufficient by themselves adequately to constrain Soviet moves if the Soviet Union were to become more aggressive. Whether there remains sufficient cohesion and trust between the Middle Eastern countries under threat and the United States to arrange for an adequate military deterrent in time remains to be seen. Nonetheless, an appropriate military deterrent in place remains an indispensable ingredient for avoiding collapse in the Middle East. That is the simple military imperative.

In the Western Hemisphere, on the American periphery, conditions are quité different. The United States distinctly remains the dominant military power. Despite the irritations of recent years, most nations in Latin America retain sufficient fidelity to the Hemispheric system, as exemplified in the Rio Treaty, and little desire to see the prevailing tranquility upset. The most notable exception is Castro's Cuba, a Soviet satellite, and the ambitions that Castro represents—now quite apparently bearing fruit in Nicaragua. Nonetheless, the reality of American military superiority in the Caribbean remains accepted by all. Cuban behavior exists at the sufferance of the United States in the same manner that prospects for liberalization in Poland depend on the sufferance of the Soviet Union. Indeed, Castro recognizes this fundamental reality. His actions over the years since 1962 have been carefully gauged to what he believes various administrations in Washington have been prepared to tolerate.

From the standpoint of this conference, therefore, perhaps the other regions—especially Africa and Southeast Asia—are perhaps the most noteworthy. Since the fundamental interests of neither power bloc are obviously engaged, there is far greater latitude for shifting relationships and for the tolerance of general unrest. These are regions not readily susceptible to Soviet military action. Despite the growth of Soviet blue-water naval capabilities and the improvement of her mobility and intervention forces, they remain generally less capable than the military forces of the Western world. Whatever the shifts in the balance of power around the periphery of the Soviet Union, American naval and air capabilities elsewhere remain generally superior. The sustaining of Cuban expeditionary forces in Angola, for example, ultimately remains dependent upon an American disinclination to intervene. Paradoxically, it is the reality of low potential gains and low risks that makes these regions especially susceptible to a set of low-level military activities.

While the Soviet Union has created an immensely powerful military establishment, that establishment remains notably range-limited. Unless the United States permits its forces to erode far more rapidly than now seems likely, the Soviet Union cannot prudently contemplate military moves in these regions in the absence of invitations from inside.

Political penetration will provide the principal means for acquiring positions of influence. Yet such political penetrations will in the longer run depend on the acquiescence of those in the regions. Since political attitudes are notably susceptible to change, it would be wise to anticipate a pattern of shifting allegiances and shifting confrontations over time. The dramatic reversals of allegiances in the Horn of Africa over the last decade represent one likely model for the longer term.

This appreciation is somewhat modified by the presence or absence in a particular region of a locally dominant military power. Vietnam, South Africa, and Israel come readily to mind. Yet each is subject to special constraints. Israel is limited not only by American pressure but by its sense of siege—and, one may hope, by the recognition that military victory only intensifies problems of control under conditions demographically unfavorable to her. South Africa is limited by its severe internal problems—and the recognition that foreign adventures—if exhausting—could only intensify its problem of internal control. Vietnam is perhaps less inhibited, yet it too must take into consideration the presence of China to the north and the American commitments to Thailand. Nonetheless, these local power balances do pose special problems, and the presence of respectable military establishments implies much higher costs for outside intervention.

Yet, taken all together, we may recognize a high degree of fluidity in these gray regions. Considerable leeway for unrest and for trouble-making will continue to exist. The outcome will largely depend upon the sense of realism in the Third World countries. After the first blush of revolutionary fervor, Third World leaders have generally demonstrated a keen understanding of the need for rational calculation. They have recognized the need to maintain associations with the Western nations—for the latter will remain the principal source of developmental and technical assistance and the principal market for their products. Aside from military equipment, the Soviet Union has persuasively demonstrated that it has remarkably little to offer.

Thus, hopes for economic progress will rest on reasonably friendly relations with the industrial world. But these hopes must also be sustained by some degree of confidence in the adequacy of security arrangements. The Western nations have the capacity to provide the minimum semblance of security arrangements that are necessary. No Third World nation can ignore the realities of power. Therefore, the perception of military capability does remain important. Third World leaders will closely, if quietly, examine which nations possess the military chips. The Western nations will be obliged to maintain appropriate forces to provide sustenance to their friends and to constrain the ambitions of those who may be hostile.

In the gray areas there will remain great latitude for unrest. But there will also be the knowledge that there may be limits to that general tolerance in the event that gross disturbances are fostered. Unquestionably, direct intervention should be employed very sparingly, if at all. Yet the knowledge that the military capability does exist and *might* be employed may be the necessary condition for avoiding the descent of particular regions into chaos—and for the preservation of reasonable chances for economic progress.

For the Third World there is no longer outside insurance against internal irresponsibility. For the West there should be a recognition that neither universal guidelines nor blanket slogans can guide its policies. Its reactions will depend upon particular times and circumstances.

For progress to be maintained, there must be both a minimum of security and a continued association with the industrial world. Neither that association nor economic progress will be much enhanced by continuing illusions and rhetoric regarding a new international economic order or the massive transfer of resources from the industrial to the underdeveloped worlds. Neither is going to occur (aside from the ongoing massive transfer to the oil exporting countries). By and large, resources will flow in accordance with ordinary commercial arrangements based on supply and demand—and the creation of a reasonably promising climate for investment activity. Illusions to the contrary will certainly not foster economic progress. In all likelihood they would only add to a climate of unrest which, under the best of circumstances, will likely remain the hallmark of the gray areas for the balance of the century.

It is time to draw a few conclusions.

The partial dissolution of the international security framework has not only increased instability worldwide, that instability and unrest weighs particularly heavily on the Third World. The era for the relatively benign resolution of disputes ended with the Pax Americana. The Third World is now more on its own—to grapple with its internal tensions. Given the internal dynamics in the Third World, inevitably the level of unrest will run high. The degree of success in tamping down the unrest is critically dependent upon Third World leadership. If there is a willingness to avoid feeding the flames, if there is a realistic appreciation of economic opportunities—however limited—and a serious effort to work with the industrial world, then modest economic progress may continue and some minimal level of security maintained. Failure to exercise restraint and patiently to cultivate economic and political ties with the industrial world may result in conditions approaching chaos.

At the outset, I underscored that the world has become a single strategic stage and that the interlocking theaters affect one another. The future of the Third World depends not only on its inner dynamics and the quality of leadership but also upon forces impinging from the outside. Whether the ultimate outcome is satisfactory also depends upon whether or not these outside forces are relatively constructive.

The world is now in transition to a new geopolitical equilibrium. The character of that equilibrium will depend upon the future decisions and actions of the more influential players on the international scene.

A major ingredient, needless to say, will be the character of Soviet policy. How will the Soviets utilize their enhanced strength and stature in the world? Will they refrain from the direct employment of their forces in the Third World? This question becomes increasingly important as mobility and logistics improve, and as the reach of those forces expands. If those forces are employed extensively, then the likelihood of chaotic conflict arises.

It is perhaps too much to expect that the Soviets will not continue to subvert or influence Third World governments. Backed up by an increasingly impressive military capability that danger will become steadily more serious. The chief responsibility for resisting such efforts will lie with the Third World nations themselves. To the extent that they collaborate, the likely result will be the spreading of the kinds of troubles observable in Angola or in the Horn of Africa.

A second ingredient is the evolution of European policies and attitudes. Will the major European states allow the drift away from the Atlantic relationship to continue? Given the realities of Soviet strength, along that path lies neither security nor long-term independence. A growing division between the two sides of the Atlantic would encourage further American disengagement from the affairs of the eastern hemisphere. The result would be further to weaken the existing security framework—and would thereby affect the Third World. Moreover, growing competition for political influence among Western nations would add to Third World unrest. Augmented unrest would intensify those problems arising from the further weakening of the international security framework.

Perhaps the most critical ingredient is the future direction of American policy. Will the American people, given the inherent strength of the United States, acquire a new sense of mission and of responsibility towards the outside world? Would such a renewed effort be marked by greater realism and lessened expectations about long-lived gratitude? Or will the United States follow the path of preachings and injured feelings—the sour fruit of the Vietnam era?

It seems likely that American policy will be characterized by a higher degree of nationalism. A cynic will suggest that idealism is the luxury of the powerful and secure. American power and American innocence seem destined to decline together. The probable result will be a diminished search for the grievances of others with the concomitant belief that, if only those grievances can be revealed, they can be satisfied. There would be more painstaking attention to national interests and greater indulgence in traditional types of power policies. All in all, the results may be healthier worldwide than a continuation of high-flown preaching.

Such a change would result in greater clarity in American policy. One can hardly blame others for being confused about American policies, for the United States has contributed to that confusion. When a principal American spokesman can refer to Khomeini as "a kind of saint" or to the Cubans as part of a stabilizing mission in Angola, it is hardly surprising that others are either bewildered by or attempt to exploit this old combination of guilt and confusion. It was Bismarck who observed that the strong are weak because of their inhibitions. One might even suggest that the United States in this era has been weak because of its illusions—and from the neuroses that stem from Vietnam.

One final observation on a matter critical for Third World stability. An illusion that has been particularly pernicious has been the hope for instant democratization. The task of dealing with the Third World is more complex than conforming to a checklist developed by the American Civil Liberties Union. Maintaining order in conditions of unrest is not a simple task. Any approach to dealing with the Third World must grapple with the centuries-old issue of liberty and order and the need for striking an appropriate balance between the two. It should be self-evident that an appropriate balance betwen liberty and order necessarily will vary as between one society and another—and that consideration will always have to be given to local conditions, historical experience, and public attitudes. Yet, this has not been self-evident to many Americans who, at base, are inclined to believe that social customs akin to American institutions are not only universally desirable but, more importantly, universally achievable.

It serves the Third World ill to base policies upon this fundamental misconception. In the future, the Third World will be better served by deeper understanding of the relevance to the Third World of that hoary political issue of reconciling liberty and order.●

U.S. FOREIGN POLICY

● Mr. HATCH. Mr. President, when the Prime Minister of Japan, the President of France, the German Chancellor, and the President of Egypt all complain publicly to the press about the vacuum brought about by "an unsteady American foreign policy" and the failure of the United States to live up to its leadership role, things have gone too far. In his recent column in the Wall Street Journal of July 24, 1980. Paul Craig Roberts shows how the architects of this administration's foreign policy have brought about the crisis in the alliance. To restore our position requires a definite change in attitudes. We need policymakers who are more suspicious of Soviet power than of our own.

The longer we wait before we take the necessary measures to restore our position, the more likely we and our allies will find that the new direction in international politics is accommodation to Soviet power. I ask that Dr. Roberts' article, "U.S. Foreign Role: Restoration or Accommodation?" be printed in the RECORD.

The article follows:

U.S. FOREIGN ROLE: RESTORATION OR ACCOMMODATION?

(By Paul Craig Roberts)

The architects of Carter foreign policy, reeling from the disastrous results of "getting on the side of change" (a euphemism for getting out of the way of Soviet expansion), have taken to prescribing foreign policy for Moscow as well. If only the Soviets would cooperate, they say, Carter foreign policy would work fine. After all, they point out, it represents a complete break with the past and is unbesmirched by cold warriors, American hegemonism or calculations of national interest. If the Soviets would just notice that we are dismantling our power, abandoning our anti-Communist allies and no longer provoking an arms race, the Politburo wouldn't feel compelled to undertake "defensive moves" like invading Afghanistan or working to exploit "social change" in Latin America.

Leslie Gelb, the first director of the Bureau of Politico-Military Affairs in the Carter State Department, recently spelled out his "Policies for Washington and for Moscow" in the New York Times. To insure that the Soviets conduct a proper foreign policy he recommends "a set of contacts with the Russians" consisting of "two regularly scheduled meetings each year between the Soviet Foreign Minister and the U.S. Secretary of State, an annual meeting between the Chairman of the Joint Chiefs of Staff and his Soviet counterpart, and a round of meetings between arms control experts on both sides."

Mr. Gelb is surely correct that if the Soviets had this much contact with administration officials, any "fears and anxieties" they might still have about American power would be rapidly dispelled. But I am less certain than he that the Soviets will lay down their arms once they are cured of "paranoia" about American power. They might just as well decide to gobble up the world faster.

While Carter policymakers are operating on the basis of their premise that American power is a source of tension, hostility and instability in the world (see Carl Gershman's article in the July Commentary for their names and specific arguments), our allies are bemoaning its absence. In May, shortly before his death, Japanese Prime Minister Ohira said: "The U.S. has become one of the powers and not a superpower any more. The days are gone when we were able to rely on America's deterrent." The State Department's reassurances sound nice, say the Japanese politely, but where is the fleet?

By the end of June when the allies met in Venice, Mr. Ohira's observation was commonplace. Newspaper reports of the Venice meeting noted that under Carter the U.S. has lost is role as leader of the Western alliance and is now just one of the boys. According to press accounts French President Giscard d'Estaing and German Chancellor Schmidt are responding to waning U.S. strength and influence with a new partnership "to fill the vacuum and to more strongly protect their own interests in the face of an unsteady American foreign policy."

By all accounts the Carter administration has succeeded in dismantling a foreign policy based on American power. The disagreement is over the consequences. On July 11 Egyptian President Sadat lashed out at the U.S. for failing to stop Soviet infiltration of Africa and the Middle East. "The entire Gulf region is shaking," said Sadat, "not only Saudi Arabia, but all the emirates and sheikdoms there." That was the same day that Leslie Gelb assured the readers of the New York Times that the only danger from the Soviets would be one provoked by the re-emergence in the U.S. of a "get strong and get tough" policy that would lock us "into a long period of high-risk confrontation."

Who is right? Is it Sadat, whose perception is tempered by his near arrest and assassination in a KGB-planned coup, or is it the group of American policymakers whose perception is shaped by a Vietnam complex?

Judging from the straight talk at recent high-level meetings under the auspices of Georgetown University's Center for Strategic and International Studies and the International Management Foundation of St. Gallen, Switzerland, few, if any, of the free world's business and political leaders share the premise of Carter foreign policy. Men whose success depends upon their judgment rather than their ideology observed that it was a year ago that the Saudi press began describing American passivity in the face of Soviet onslaughts. Everyone but the Carter administration perceives that American weaknes has stripped away the veil that the Saudis need if they are to maintain a pro-Western policy. Without the guise of having to accommodate the interests of a great power, policies that the Saudis would like to pursue are too openly pro-American for their own good.

Many nations have been unnerved by the administration's repudiation of American action based on power and by its willingness to accommodate world power changes. They are beginning to perceive the Soviets as the winner in the East-West conflict and are maneuvering toward a deal while they still have a bargaining position.

If Mr. Carter is re-elected, the outside world might interpret it as a sign that the American people don't know or don't care about the deterioration in the geopolitical position of the West. That could set off a stampede toward a catastrophic realignment of world politics. Our friends might see no other choices than to make their money on the decline of the dollar and the rise in gold and to seek accommodation with the Soviets in order to guarantee their oil supplies.

Many of the European and Japanese leaders with whom I spoke were uneasy about the prospect of a Reagan presidency. Nevertheless, they believe that the question is restoration or accommodation and that without American leadership there is no prospect of the former. Any demonstration of the seriousness of American purpose, they said, requires a new administration. And Reagan for sure would turn his back to those intellectuals who denigrate American power. With that one thought to comfort them, they are waiting for November.●

CARTER OFFICIALS CALL STEEL "LEMON INDUSTRY": ADVOCATE PHASING OUT MOST U.S. STEEL PRODUCTION

● Mr. SCHWEIKER. Mr. President, Senator JOHN HEINZ and I today made public an internal Carter administration document which brands the domestic raw steel industry "a lemon industry" and advocates letting a substantial part of it go down the drain despite "unfortunate unemployment and community impacts that result.

It is crucial to note that this plan being advocated by President Carter's top level administrator could reduce America's raw steel producing capacity to such a crippling effect it could close down many steel mills in the Ohio Valley industrial region and cost the jobs of a great many steelworkers in this country.

The memorandum recommends that U.S. steel capacity be maintained only as "required for defense purposes" and states that "to replace our outmoded plants would be foolhardy."

The memorandum was prepared for submission by Carter-appointee, Assistant EPA Administrator for Planning and Management, William Drayton, Jr., to EPA Administrator Douglas Costle.

Senator Heinz and I have been reliably informed the senior EPA economic official chiefly responsible for drafting the memo for Drayton—a briefing paper to Costle for steel policy meetings with Labor Secretary Marshall, Commerce Secretary Klutznick, and Treasury Secretary Miller—also chaired subcommittee meetings of President Carter's Tripartite Steel Committee. The official has recently been named to a key Commerce Department post in overseeing steel import activity.

At the same time that the Carter administration is moving to set a new steel policy for the Nation, we see that top-placed officials in his administration are ringing a death kneel for this industry. We have got to ask ourselves: How prevalent are the ideas expressed in this memo?

We must ask whether the Carter administration is negotiating a new policy in good faith with steelworkers and the steel industry, or is the administration just paying lipservice to steelworkers and the steel industry?

This Carter EPA document is damning evidence of the Carter adminstration's disregard for the future of an industry employing tens of thousands of American workers—some 62,000 of whom are already out of jobs due in no small part to Carter administration policies.

The callous indifference of Carter administration officials is clearly evident in this memo's recommendation to, in effect, write off the steel industry and attempt to buy off steelworkers with labor assistance programs to aid displaced workers and community assistance to aid depressed communities.

The hypocrisy of the Carter administration is exemplified by the fact that the principal author of this outrageous recommendation to let much of the steel industry wither and die has chaired subcommittee meetings of President Carter's much ballyhooed Tripartite Steel Committee which the administration would have us believe is trying to help solve the steel problem.

The Carter EPA document Senator Heinz and I released today recommends a Government policy that would allow the raw steel industry to gradually decrease in size to inaugurate (sic) programs to provide transitional relief to displaced workers and depressed communities and to provide incentives for diverting our resources to more promising industries.

It describes aid to the steel industry as "the worst possible economic policy" and describes such aid as "lemon socialism."

The document acknowledges that "recommending that the steel industry be gradually reduced in size is likely to be regarded with some suspicion" and cautions "that we have a great deal of groundwork to lay before we can spring these ideas full-grown onto the public."

I ask to have the memorandum printed at this point in order that my colleagues may review it.

The memorandum follows:

BRIEFING MEMORANDUM

Subject: Steel Industry Policy Considerations—for Meetings with Secretaries Marshall, Klutznick and Miller.

From: William Drayton, Jr., Assistant Administrator for Planning and Management.

The steel industry claims that they are facing a capital shortfall of $2 billion per year over the next five years and are requesting a package of government assistance, including regulatory relief, to help them meet their "requirements". Whether they actually need that assistance depends primarily on how much capacity they will rebuild over the next decade.

The industry says that it "must" maintain sufficient capacity to supply 85 percent of the domestic market. To do this will require replacing the 25 percent of industry capacity that is currently obsolete and adding some additional capacity. Our analysis indicates that: (1) there is no need to maintain any more capacity than is required for defense purposes; and (2) to replace our outmoded plants would be foolhardy—based on production costs the U.S. cannot compete in the raw steel market in the future.

We therefore find ourselves at odds not only with the steel industry, but also with the conventional wisdom of the times and with the politically attractive point of view. Nevertheless, we feel that it is vitally important that someone begin to make this argument. To offer subsidies to an industry in which the United States no longer has a competitive advantage would be the worst possible economic policy. It would drain our resources and put us firmly on the path toward lemon socialism. A rational policy would allow the industry to gradually decrease in size, to inaugurate programs to provide transitional relief to displaced workers and depressed communities, and to provide incentives for diverting our resources to more promising industries.

The remainder of this memorandum summarizes the industry's position, our own analysis, the effect of environmental regulations on the industry's position, and our policy recommendations.

The steel industry claims that it needs an additional $2 billion each year in order to remain healthy.—

Over the next five years the steel industry claims that it will have capital requirements of approximately $6 billion per year to modernize and meet environmental requirements on its existing capacity ($52 billion for modernization and $0.8 billion for environmental control) while the capital available to the industry will amount to only $4 billion per year. This is the latest estimate of the Steel Tripartite Committee Working Group on Modernization and Capital Formation. The projected capital deficit can be attributed partly to the low profit levels expected during the recession, but mostly to the very high levels of capital expenditures scheduled for modernizing existing capacity and meeting pollution control requirements.

About 85% of the capital requirements are for replacing and modernizing existing plants. As you know, the steel industry includes a number of very old, outmoded facilities. The industry argues that these facilities must be replaced so that the United States can avoid being dependent upon foreign suppliers. They would like to see imports maintained at no more than 15% of domestic consumption compared with the current level of 18%. National security arguments and fears of a steel "OPEC" seem to stand at the base of their reasoning.

We argue that the steel industry will not need that much capital, because it will not need to replace outmoded raw steel capacity.—

Replacing our old, outmoded steel plants only makes sense if the plants will be competitive suppliers of steel to U.S. customers or will be needed for security reasons. We do not think that this will be the case.

Although we have not yet been able to get any opinions from the Defense Department, we doubt very much the industry needs to supply 85% of the nation's steel market to meet potential defense demand. We will continue to do what we can to get a realistic estimate of this figure, but in the meantime we can only assume that the industry is overstating the defense requirement. They have provided no analysis on which to base their conclusion.

The competitive position of the United States' steel industry varies among segments of the industry and among companies. In general, most of the plants of the large, integrated producers of raw steel are no longer competitive. These are the companies with the old plants which are spearheading the drive for government assistance. The non-integrated producers and the producers of specialty and alloy steels are doing quite well and are not demanding federal assistance.

Over the last decade the economics of steel production have changed dramatically. Trends in raw materials, energy, and labor—the three most important elements of steel production—have all taken the competitive advantage away from the United States. Whereas the United States was once the best place to make steel, it is no longer. New raw steel mills will be located in countries where raw materials, energy, and/or labor are cheap—countries in South America and the Middle East, for example—and not in the United States. Our analysis indicates that a steel mill in the United States would have about an $80 per finished ton, or 20 percent, cost disadvantage when compared with a Japanese mill. Add to this the realization that the Japanese and the Germans have decided to get out of the raw steel business because they think that they cannot compete with the less developed countries in the long run and the position of the United States producers looks even worse.

This fact has not eluded the attention of our steelmakers. Most of the large, integrated companies have been diversifying into more profitable industries for some time. U.S. Steel now obtains fully 20 percent of its revenues from non-steel sources and Armco almost 30 percent. To be sure some companies, such as Republic, have resisted the trend, but nevertheless the facts indicate that whereas the integrated steel companies have averaged only a 3 percent return on their steel operations, they have earned a return of over 19 percent on their non-steel operations.

The situation with non-integrated and specialty/alloy steel mills is much different. Since these mills do not produce a simple, basic commodity such as raw steel, their competitive position depends more on technical skills and product development than on basic ingredient costs. In these areas the United States still has a competitive advantage and consequently our nonintegrated and specialty/alloy producers are doing very well. During 1969–1978 the non-integrated producers nearly doubled their market share from 12.8 percent to 23.6 percent. The return on investment for non-integrated producers in 1978 was as high as 25 percent and only one company experienced a return considerably less than 10 percent. The average returns on investment for the non-integrated steel sector and the specialty/alloy producers were 12.3 percent and 11.1 percent respectively in 1978. The integrated steel sector averaged a return of 6.2 percent in that year.

Non-integrated and specialty/alloy steel mills might be a good investment, but we find it difficult to justify the construction of new integrated raw steel mills in the United States. Their construction would only lead to a continuing round of subsidies and import restrictions as the new mills are forced to compete with much lower cost foreign mills. We would be better advised to put our resources into industries in which we will be competitive.

Given this analysis, our projections of the capital requirements for the steel industry for modernization and pollution control on its existing capacity are much less than those of the Working Group on Capital Formation and Modernization. Annual capital expenditures for the period 1980–1984 will average not $6 billion, but only $2.5 billion; ($2.1 billion for modernization and $0.4 billion for environmental control.)

These estimates assume that the industry will gradually retire its outmoded plants. This will decrease the amounts to meet regulatory requirements.

Pollution control requirements will account for only $0.4 billion per year or about 18 percent of capital expenditures.—

We estimate that of the $12.4 billion of capital expenditures projected for the industry for 1980–1984, only $2.0 billion will be required to comply with pollution control regulations, $1.3 billion for air pollution control and $0.7 billion for water pollution control.

During the same period, annual operation and maintenance costs for pollution control in the steel industry are estimated at $279 million—$207 for air pollution control and $72 million for water pollution control. These estimates assume full compliance and take into account the capacity retirement discussed above. The annual costs of environmental control amount to about $14 per ton of steel, approximately 2.7 percent of production costs.

The steel companies are arguing that their capital costs for pollution control have become a very large portion of their annual capital expenditures—about 30%. This is largely because they have delayed complying and have postponed their expenditures until the last minute. Now that the statutory deadlines of 1982 for air and 1984 for water are approaching they will have to do most of their spending in a very few years. Their expenditures for these few years will be very high, but such extremes could have been avoided had they scheduled their investments more reasonably.

I recommend that you press for steel policies which provide reasonable transitional relief but do not subsidize new mills.—

The steel industry is obviously in trouble, but the solution is not to provide the industry with a guaranteed market share. Except for that portion needed for defense purposes the industry should be left to compete with our other industries for capital resources. Such a policy will most likely lead to the gradual decline of the industry and the unfortunate unemployment and community impacts that result. The transition will be painful, but not nearly as painful as the depressed state of the economy that would result from continually having to prop up a lemon industry.

Although some of the industry's proposals are sound and should be adopted—proposals for refraining from price controls and allowing more realistic depreciation schedules, for example, the thrust of our policy toward the steel industry should not be to prop it up as the industry is suggesting, but to ease the transition of labor and capital into more profitable enterprises. Such a program would include labor assistance programs to aid displaced workers and community assistance programs to aid depressed communities. Possible labor assistance programs include the workers' productivity tax credit that I suggested in conjunction with our automobile policy and increased maintenance allowances tied to accepting retraining or relocation. Aid to depressed communities would undoubtedly take the form of our current EDA programs, although I am sure that there is room for some creative improvements in that area as well.

As I am sure you must realize, espousing these policies will not make you the most popular figure around town. Furthermore, the intent of the Agency in recommending that the steel industry be gradually reduced in size is likely to be regarded with some suspicion. For these reasons I recommend that you proceed with some caution at these initial meetings and begin by merely calling some of the industry's basic assumptions into question. It will be possible, I think, to be firm in asking for answers to lead the discussion into consideration of the consequences which will flow from the answers to those questions. I think that we have a great deal of ground work to lay before we can spring these ideas full-grown onto the public.●

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I make this request on behalf of Mr. EXON, that the Senate go into executive session to consider the nomination of Mr. Mack A. Backhaus, of Nebraska, to be U.S. marshal.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the item identified by the majority leader has been cleared on this side and we have no objection to his consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Mack A. Backhaus, of Nebraska, to be a U.S. marshal for the district of Nebraska.

Mr. EXON. Mr. President, I would just like to take a moment to thank very much the distinguished majority leader, the distinguished minority leader, and the majority and the minority on the Judiciary Committee for their cooperation in this matter. Those involved in this know it has been a very long and very difficult, if not a treacherous, road for the last 3½ years to get a U.S. marshal approved for Nebraska.

There has been unusual cooperation, and for that and for their consideration I thank not only the leadership but those on both sides of the aisle for the consideration extended in this case.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Nebraska.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Nebraska.

The nomination was considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I ask that the President be notified of the confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HEFLIN I ask unanimous consent now that the Senate proceed to the consideration of the nomination of Mr. Myron H. Thompson, of Alabama, to be a U.S. district judge.

Mr. BAKER. Mr. President, reserving the right to object, the nomination identified by the majority leader has been the subject of extended conversations today, and I am happy to advise that there is no objection on this side to the consideration of that nominee and his confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the nomination.

The assistant legislative clerk read the nomination of Myron H. Thompson, of Alabama, to be a U.S. district judge for the middle district of Alabama.

Mr. HEFLIN. I would like to thank the majority leader and the minority leader for their assistance and help in bringing this nomination to the floor.

Mr. President, it gives me great pleasure today to support the nomination of Myron H. Thompson to the Federal bench for the middle district of Alabama. I want to thank the Department of Justice, Senator STEWART, the chairman and the ranking minority member of the Judiciary Committee and their respective staffs, especially Stephen Breyer, Gen. Emory Sneeden, Burt Wides, and Duke Short, for facilitating the investigation and the committee process.

Myron Thompson attended Yale College as a national achievement scholar. He received his B.A. from Yale in 1969, majoring in political science. He received his J.D. from the Yale Law School in 1972. He is admitted to practice in all courts of the State of Alabama, the U.S. Court of Appeals for the Fifth Circuit, and the U.S. district courts for both the middle and northern districts of Alabama.

Upon graduation from law school, Mr. Thompson returned to Alabama, where he became the first black assistant attorney general in the State's history. For 2 years, he wrote attorney general advisory opinions, drafted legislation, represented the State in the appeal of criminal cases, served as head of the election law and consumer protection divisions of the attorney general's office, and was special counsel to the Alabama Air Pollution Control Commission.

Since 1974, Mr. Thompson has been in private practice, for 5 years as a sole practitioner, and for the last year as senior partner of the Dothan, Ala., firm of Thompson and Faulk. I should point out that Mr. Thompson has a "BV" rating in Martindale-Hubbell, a high rating for someone in private practice for only 6 years.

In confirming nominees to the Federal bench, however, we look not so much at length of time in practice but the quality of the practice and the ability of the lawyer. On both counts, Myron Thompson measures up.

He has handled a variety of cases and clients while in private practice, and his trial and appellate experience is extensive. He has tried 84 cases in courts of record to a verdict or judgment, serving as a sole counsel in all but four of those cases, and in two of those four he was chief counsel. He has tried civil and criminal cases, in Federal and State court, both jury and nonjury, and has carried appeals to the Alabama Supreme Court and the U.S. Court of Appeals for the Fifth Circuit. It would take the normal lawyer who becomes a Federal judge at least 15 years to acquire the experience that Myron Thompson has acquired in 8 years.

He is an expert in the area of education law, having handled numerous cases involving school desegregation, teacher rights, and the rights of students. In addition, he has had a varied practice in areas as diverse as bankruptcy, business, civil rights, commercial, consumer, criminal, domestic relations, election, environmental, labor, real estate, social security, personal injury, trusts, and workmen's compensation law.

He served from 1975 to 1976 as municipal judge for the town of Gordon, Ala., in Houston County, handling misdemeanors and traffic offenses. From 1975 to 1979, Mr. Thompson was a member of the State board of bar examiners. The first black bar examiner in Alabama, he drafted, administered, and graded exams in the areas of wills and estates, equity, and Federal income taxation. He has taught constitutional law at both Jones Law Institute in Montgomery, and Tuskegee Institute in Tuskegee. While in law school, as further evidence of his varied background, he was a law clerk for the large corporate firm of LeBoef, Lamb, Leiby, & McCrae, in New York City, and for Atlantic Richfield, also in their New York office.

Mr. Thompson is a member of the Alabama, American, and Houston Bar Associations—having served the latter as Secretary and, later, Chairman of the Continuing Legal Education Committee. He is a member of the Alabama Black Lawyers' Association, the National Bar Association, a past member of the Alabama Trial Lawyers' Association, and currently serves on the advisory committee on criminal procedure for the Supreme Court of Alabama.

Mr. Thompson is a member of the committee on continuing legal education for the Alabama State bar, and is a past member of its committee on correctional institutions and procedures, and its committee on the bar exam. He serves on the board of directors of the Legal Services Corporation of Alabama, and is a member of the Alabama Democratic Conference and the NAACP. He has served on the Alabama election law commission, the Alabama Governor's constitution committee, the Dothian Community Housing Resources Board, the Dothan-Houston County Chamber of Commerce.

He has been extensively involved in civic, community, charitable, fraternal, and religious activities and organizations too numerous to mention.

Myron Thompson has a diverse, varied experience in government and private practice. He has taught at two different institutions of higher learning. He has a record of excellence in academic achievement at one of this Nation's finest universities. He was the first black assistant attorney general in the State of Alabama, and our State's first black bar examiner. His industriousness is evidenced by a string of jobs he held in high school, college, and law school. He is a young man of rare maturity, diverse interests and keen judicial temperament. His intellectual capacity is unquestioned, and he has had great responsibility thrust upon him at an early age.

He comes before this committee with the near-unanimous endorsement of his colleagues in the Houston County bar. His former boss, attorney general Bill Baxley, gives him his strongest endorsement. I have spoken with numerous sheriffs and law enforcement officials who give him their highest praise. His record is unblemished, and his character is beyond reproach.

The only question raised at all about Mr. Thompson, in fact, concerns his age. He is only 33, as he will readily admit. But his record to date proves he is up to the task, and I would almost hasten to remind this committee that, in the State of Alabama, we have a tradition of young judges on the Federal bench. Two of the finest Federal judges ever—not only in Alabama, but in this Nation—Frank Johnson and Sam Pointer, were both confirmed while in their early or mid-thirties.

In the normal course of events, experience as a lawyer is a quality that adds tremendously to the abilities, outlook and performance of a judge. This is true because such experience provides:

First. A diverse, varied background particularly in the field of trial practice that allows a judge to have a grasp of issues which gives him a foundation to try almost any sort of case.

Second. A demeanor which normally has to be developed through the university of hard knocks so that normal intensity and anger of an individual is tempered with practicality and such intensity and anger disappears.

Third. A realization that everything is not black or white but there is a lot of gray in every issue.

Fourth. That human beings and their problems and approaches to solving their problems are complex and simple explanations seldom are the answers.

Myron Thompson has had diverse active trial practice that has compressed what a normal lawyer acquires after 15 years of practice. Regardless of his years, Myron Thompson has developed a demeanor, a sense of fairness in a short period of time. God gave him the intellectual capacity. While experience benefits everyone, this man has developed in years that which in a lifetime an ordinary man would not develop.

Finally, Mr. President, Myron Thompson has a deep and abiding respect for the law, and for equal justice under the law. He has rendered valuable legal services to numerous nonprofit, charitable groups, and individuals unable to pay. Perhaps he will wish to tell you more of this.

In closing these remarks, Mr. President, I would simply remind the Senate of the importance—both symbolically and substantively—of elevating minorities to the Federal bench. On a previous occasion before the Senate, I have affirmed my belief in a society in which true equality is a national birthright. I have indicated how fervently I believe that one way we correct many years of injustice and oppression is to see to it that no Americans are precluded from consideration for the Federal bench because of color of their skin, their sex, or their surname.

By entrusting to those who have known inequality and injustice firsthand the important responsibility for guaranteeing the rights afforded under the Constitution, we insure—once, and for all—the protections of liberty and justice to which we all aspire. Myron Thompson will do that, and do it with distinction.

Thank you, Mr. President.

I move that the Senate confirm the nomination.

The nomination was considered and confirmed.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I ask that the President be notified of the confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISASTER RELIEF ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BURDICK, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 976, S. 3027, by Mr. BURDICK and reported by Mr. BURDICK.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BAKER. Mr. President, reserving the right to object, we have no objection.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works.

UP AMENDMENT NO. 1689

Mr. BURDICK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from North Dakota (Mr. BURDICK) proposes an unprinted amendment numbered 1689.

Mr. BURDICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 1, line 5, strike all through page 2, line 4;
>
> On page 2, line 5, strike "Sec. 3." and insert in lieu thereof "Sec. 2."; and
>
> On page 2, after line 10, add the following new section:
>
> "Sec. 3. (a) Notwithstanding any provision of the Disaster Relief Act of 1970 (the Act), any unit of local government or any of the privately owned nonprofit libraries listed in subsection (b) is relieved from any liability for the repayment of contributions erroneously made by the United States for disaster relief activities for the benefit of such libraries which were damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania.
>
> (b) The following libraries are hereby entitled to assistance as if eligible under the provisions of the Act as in effect at the time of such disaster:
>
> (1) the William D. Himmelreich Memorial Library in Lewisburg, Pennsylvania;
>
> (2) the Milton Library in Milton, Pennsylvania;
>
> (3) the Shippensburg Public Library in Shippensburg, Pennsylvania;
>
> (4) the West Shore Public Library in Camp Hill, Pennsylvania;
>
> (5) the Osterhout Library in Wilkes-Barre, Pennsylvania; and
>
> (6) the West Pittston Library in West Pittston, Pennsylvania.
>
> (c) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.".

Mr. BURDICK. Mr. President, as we take up this legislation to reauthorize the Disaster Relief Act, a few brief comments should be made to explain the nature of the action recommended here. At this time the Committee on Environment and Public Works propose only a 1-year reauthorization. In the committee was also added some language intended to clarify the scope of the act, but ongoing discussions have indicated that those intentions will be better served by not including such language until we can hold oversight hearings to build a precise record on the issue. I will discuss this matter at greater length after first making some general observations.

The basic act continues to function extremely well and does not require major modifications at this time. At the outset I would emphasize how vital this legislation has shown itself to be during the years it has been in effect. Nearly every State in the Union has received some significant form of assistance for emergencies or disasters declared by the President under this act. I attach for the information of Senators some figures, supplied by the Federal Emergency Management Agency which now administers these programs, illustrating the scope of Federal assistance during the past several years.

The Disaster Relief Act in many respects sets forth a model Federal program. It begins with the fundamental premise that this assistance supplements the efforts of State and local entities. It does not supplant them of their own responsibilities and capabilities. I would note with approval the efforts being made by the Federal Emergency Management Agency to improve State participation in carrying out assistance programs in the field.

Furthermore, the act carefully balances the wide flexibility needed to respond in times of grave unforseen danger requiring immediate action with the necessary containment of Federal response and expenditures to those situations of truly national urgency. A quick perusal of the figures contained on the attached chart should convince anyone that the significant expenditures taking place, while crucial, should not be blithely expanded at a time when our budgetary constraints pose such obvious difficulties on all sides.

In addition, a concurrence of cause and effect must exist before a disaster declaration may be in order. The types of events set forth in the definitions section must cause effects of a certain scale threatening health and safety before federally authorized assistance should be provided. Simply because a set of circumstances cause a threat to safety or health does not give cause for a declaration. Undeniably, if such grave dangers arise they must be met but using the proper tools set forth in other legislation or if necessary through special legislation.

Having said that Mr. President, it should be easy to comprehend why the committee has taken the action of a limited reauthorization. The report accompanying the bill sets out the background on a situation of some confusion over congressional intent about what situations qualify for declarations under the Disaster Relief Act. Specifically, as the committee was preparing to report reauthorizing legislation, the President used this act to provide assistance to parts of Florida hard pressed by the arrival of massive numbers of Cuban refugees. Then and now I clearly supported some Federal assistance for what was unquestionably a major problem. However, at no time was it appropriate to use this act as the means to provide that assistance.

The committee position has been clear that this act could not also embrace social and economic distress in addition to the events set forth in the act itself. Policy and congressional intent aside, the open ended fiscal implications of such policy could be staggering. In conversations I had with the President, members of his staff, and members of the Federal Emergency Management Agency, as a well as correspondence with the Vice President, it became clear that we needed to clarify the scope of the act. Therefore we inserted in committee the adjectives "natural or physical" before the term "other catastrophe" as a way to remove further doubt.

However, concerns have been voiced over our qualification of the term catastrophe with those words. Some see it as an unwarranted expansion, others as an attempt to limit valid administrative discretion. It is neither. These adjectives merely make explicit what has always been implicit. We had thought our intentions sufficiently clear in the past. However, the administration as noted has recently shown a certain lack of appreciation for those intentions. To insure that no untoward expansion of the authorities of the act takes place by this or any other administration we in the committee set forth existing limits in this manner, not to cut back, certainly not to expand, but quite simply to clarify what situations would qualify for disaster assistance, and by contradistinction, what situations clearly do not.

Let me state right away that when we added this language in the definitions section our intention was solely to clarify what has always been the understanding of the committee and the Congress on what we presumed to be the clear significance of the term "other catastrophe." We included it along with other items listed to insure that authority was in place for response to disasters of a complex or unusual nature, not specifically spelled out by the other terms in the section. At the same time "other catastrophe" went along with those other terms indicating certain types of events, not social conditions or economic distress per se.

For years we in the committee have held the line on this act. We have stated over and over that it is not intended as a vehicle for the fiscal relief of cities or States. Mr. President, the record of the committee on those matters demonstrates our ongoing concern for the careful and appropriate use of this act. It can not become an open window for the unchecked obligation of Federal funds. It must be flexible and responsive but unless that flexibility remains consistent with congressional intent, the whole act may be jeopardized.

The administration approved the use of this act for response to Love Canal. That has been done. However, I wish to voice my support for the concern of Senators that this act not become the primary tool for the clean up of other abandoned dump sites all around the country. The Committee on Environmental and Public Works has spent 2 years preparing legislation to cover that and other related problems. S. 1480, the Environmental Emergency Response Act, will effectively deal with the grave danger posed at such sites.

Mr. President, given all these concerns it has become apparent that we may need to find an even more precise definition of our intent on this issue of scope. Thus to prevent any possible misinterpretation we have chosen to hold back on any additional language now with the understanding that we expect the administration to act prudently until we have completed oversight hearings and settled upon a satisfactory way to achieve the necessary clarification.

Mr. President, I would hope the Senate will see fit to approve this legislation so that the essential work carried out under this act may continue to go forward.

I ask unanimous consent that the tables previously referred to be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TOTAL ESTIMATED REQUIREMENTS AS OF SEPT. 3, 1980, FOR PRESIDENTIALLY DECLARED MAJOR DISASTERS AND EMERGENCIES

State	1976	1977	1978	1979	1980	5-yr totals
Alabama	5, 632, 829	2, 167, 954	446, 859	197, 091, 826	6, 502, 170	211, 841, 638
Alaska	8, 140, 128					8, 140, 128
Arizona		123, 488	15, 339, 494	25, 081, 656	17, 552, 108	58, 096, 746
Arkansas	411, 364	3, 094, 012	2, 077, 180	1, 889, 611	371, 600	7, 843, 767
California	9, 026, 115	7, 595, 154	93, 066, 354	7, 919, 771	195, 190, 000	312, 797, 394
Colorado	12, 297, 536	1, 384, 611				13, 682, 147
Connecticut			4, 592, 177		1, 650, 000	6, 242, 177
Delaware						0
Florida	6, 160, 059	20, 282, 859		7, 959, 565	245, 000, 000	279, 402, 483
Georgia	619, 004	627, 848	2, 435, 287	41, 000		3, 723, 139
Hawaii	917, 343			1, 360, 391	4, 546, 946	6, 824, 680
Idaho	33, 875, 720	109, 977			2, 006, 070	35, 991, 767
Illinois	2, 060, 634			50, 176, 927		52, 237, 561
Indiana		450, 850	9, 727, 045	6, 069, 168		16, 247, 063
Iowa		341, 632		2, 967, 250		3, 308, 882
Kansas	1, 950, 674	3, 982, 054		1, 618, 555		7, 551, 283
Kentucky		67, 997, 490		14, 548, 327		82, 545, 817
Louisiana		3, 463, 731	6, 880, 594	6, 006, 152	7, 056, 000	23, 406, 477
Maine			2, 375, 548			2, 375, 548
Maryland	2, 446, 300	3, 403, 584		15, 651, 650		21, 501, 534
Massachusetts			57, 609, 268			57, 609, 268
Michigan	9, 226, 221	957, 353	8, 922, 375		2, 078, 699	21, 184, 648
Minnesota	28, 123, 505		11, 815, 086	7, 312, 326		47, 250, 917
Mississippi	999, 390	1, 398, 030		76, 713, 364	4, 934, 600	84, 045, 384
Missouri	10, 645, 582	15, 609, 772		11, 614, 343	566, 000	38, 435, 697
Montana			5, 903, 719			5, 903, 719
Nebraska	21, 388, 015	264, 078	4, 517, 973		7, 221, 650	33, 391, 716
Nevada						0
New Hampshire			547, 584	319, 168		866, 752
New Jersey	9, 700, 607	296, 226				9, 996, 833
New Mexico		1, 145, 687		5, 243, 075		6, 388, 762
New York	26, 123, 547	37, 684, 175	6, 455, 112		8, 030, 286	78, 293, 120
North Carolina		564, 715	19, 890, 827	220, 062		20, 675, 604
North Dakota	9, 695, 089		4, 521, 933	22, 425, 339		36, 642, 361
Ohio	4, 223, 474	828, 014	8, 776, 836			13, 828, 324
Oklahoma	2, 437, 035			1, 255, 000		3, 692, 035
Oregon		188, 017				188, 017
Pennsylvania	35, 558, 099	142, 136, 906			1, 082, 581	178, 777, 586
Rhode Island			6, 006, 914			6, 006, 914
South Carolina		36, 356				36, 356
South Dakota	29, 421, 239					29, 421, 239
Tennessee		2, 897, 154	5, 222, 020	6, 836, 392		14, 955, 566
Texas	8, 113, 836		10, 959, 444	57, 376, 594	13, 979, 500	90, 429, 674
Utah		1, 467, 379				1, 467, 379
Vermont	8, 352, 663					8, 352, 663
Virginia		35, 557, 158	5, 024, 126	4, 771, 284		45, 352, 568
Washington	6, 687, 182	240, 866	4, 384, 121	30, 000	76, 671, 439	88, 013, 608
West Virginia	4, 895, 862	48, 651, 483		7, 272, 062	49, 000	60, 868, 407
Wisconsin	23, 603, 583	632, 927	6, 445, 327	959, 220	266, 500	31, 907, 557
Wyoming		17, 004	1, 605, 619	1, 425, 713		3, 048, 336
American Samoa					510, 000	510, 000
Commonwealth of Northern Marianas	3, 841, 818		1, 931, 926			5, 773, 744
District of Columbia						
Federated States of Micronesia						
Guam	28, 457, 916					28, 457, 916
Puerto Rico	58, 442, 298			166, 751, 769		225, 194, 067
Virgin Islands		175, 918		5, 069, 000		5, 244, 918
Trust Territory of Pacific Islands	4, 405, 299			1, 157, 923	9, 496, 671	15, 059, 893
Total	417, 879, 966	405, 774, 462	307, 481, 048	715, 134, 483	604, 761, 820	2, 451, 031, 779

● Mr. ZORINSKY. Mr. President, I rise today in support of S. 3027 the Disaster Relief Reauthorization of 1980.

This bill, as originally reported by the Senate Environment and Public Works Committee contained a slight modification of existing law by adding the words, "or other physical or natural catastrophe." At first glance, this does not appear to represent a major change in the existing law.

Upon closer scrutiny, it becomes obvious that interpretations exist as to the exact definition of "physical and natural"; and what these interpretations might mean for eligible disasters to be funded under the Disaster Relief Act.

I believe the committee's good intent was to make it perfectly clear to the administration that social and economic disasters such as the Cuban refugees influx and the Miami riots are not to be considered eligible disasters under the authority of the Disaster Relief Act. I fully agree. However, by addition of the word "physical", to preclude these situations, the Disaster Relief Act is left open for a wide variety of interpretations as to the meaning of a physical disaster.

My particular concern, which Senator BURDICK was more than willing to accommodate, involved the interpretation of the word "physical" in relation to funding a relatively new problem which this Nation faces: That is, the thousands of potentially disasterous hazardous waste dump sites scattered throughout this great Nation.

The EPA has informed me that there are 2,000 dump sites which could have the disasterous potential as experienced at Love Canal. I have no doubt that these unfortunate situations are indeed disasterous and a matter of great concern to the victims involved as well as all of us. But is the Disaster Relief Act the appropirate legislative vehicle to provide financial remedies for these manmade disasters?

A preliminary CRS report suggests that it is fair to conclude—after a thorough research of the legislative history, congressional intent and application of the law—that there has been no congressional intent to expand the concept of "other catastrophe" in disaster relief legislation to include causes not commonly recognized as natural hazards. The report goes on to conclude that because of the important effect such a restriction might have, this first known attempt in more than 30 years to modify this particular language warrants careful analysis and consideration. FEMA—Federal Emergency Management Agency—officials have also confirmed that the word "physical" could give them the broad authority to declare any hazardous waste site which adversely affects nature or a significant population a major disaster. And what of the victims of disasters occurring as a result of an act of God? These people will now be in competition for scarce Federal dollars which may be appropriated under this authority to victims of manmade disasters.

Both the fiscal year 1981 HUD/Independent Agency Appropriations Committee and the committee report on the fiscal year 1980 supplemental make note of the fact that hazardous waste disposal is an issue that needs substantive legislation to define the responsibilities of FEMA in response to future toxic pollutant crises.

I believe the committee has today taken the rational and correct approach by deferring any modification of existing law and planning extensive oversight hearings next year.

I applaud Senator BURDICK and members of the Environment and Public Works Committee for this commendable approach to the reauthorization of the Disaster Relief Act.

Mr. President, I ask unanimous consent that my remarks occur at the appropriate place in the RECORD during the consideration of S. 3027, and that the recently published study by the Congressional Research Service of the Library of Congress be printed in the RECORD at the conclusion of my remarks. The study was prepared by Dr. Clark F. Norton who, for a number of years, served on the staff of the Senate Public Works Committee, and, among his other responsibilities, assisted the committee in drafting the current disaster relief law as well as preceding disaster relief statutes. Characteristic of the work of Dr. Norton, this study is a thorough review of disaster relief measures all the way back to 1947.

The study follows:

"OTHER CATASTROPHE" STATUTORY AUTHORITY FOR MAJOR DISASTER DECLARATIONS

Since 1950 permanent statutory authority has authorized the President to declare a major disaster (and since 1974 to declare an emergency) because of the occurrence of what is listed in the law as an "other catastrophe," as well as for numerous other specific causes. The lack of a legal definition of this phrase, however, has led to questions, especially in recent years, about its meaning. In particular, whether or not it allows such a declaration to be made for other than so-called "natural events" has become an important issue.

Nearly all of the 630 declarations of major disasters in the past 30 years have been to provide Federal assistance for loss or damage attributable to one or more of the natural causes set forth in disaster relief laws, such as floods, tornadoes, hurricanes, earthquakes, etc. Nevertheless, in a few instances aid has been extended by the President in situations which resulted primarily, if not entirely, from human activity rather than natural hazards. A bill has been introduced in the Senate (S. 3027) in an attempt to clarify as well as to limit the reasons for which a President may declare a major disaster or emergency by inserting the words "physical or natural" before the word "catastrophe." The purpose of this report is to examine the legislative history, intent, previous application and interpretation of the "other catastrophe" clause and the possible effects which such an amendment might have in the future.

LEGISLATIVE HISTORY AND CONGRESSIONAL INTENT

Although the words "other catastrophe" have been incorporatd in all three permanent disaster relief laws adopted since 1950, earlier usage of the same phrase may help to understand its meaning in the later acts. The same words appear in disaster measures adopted in 1947, 1948, and 1949 which in several respects serve as precedents for the 1950 basic law. The framers of the latter probably understood the phrase to have a context similar to that of the previous acts.

In the 1947 act (61 Stat. 422; P.L. 80–233; July 25, 1947) the War Assets Administration was directed to transfer to the Federal Works Administrator, whenever the President determined it to be necessary or appropriate because of a "flood or other catastrophe," personal property declared surplus under the Surplus Property Act of 1944. The Administrator of the latter in turn was authorized to loan or transfer such property, with or without compensation, to States and to local governments "situated in any area struck by any such flood or catastrophe."

By employing the word "struck" in conjunction with "flood or catastrophe," it could be inferred logically that Congress intended such surplus goods to be transferred only for damage caused by natural hazards and not for losses resulting from other types of events. It seems unlikely that the term catastrophe would have been used here to apply to purely man-made incidents, which are seldom thought of as "striking" an area. When an area is described as having been "struck" by a disaster, in normal parlance the reference is to some act of nature, such as a flood, earthquake or tornado. This interpretation is supported, moreover, by language in the Senate report on this provision, which refers to the use of surplus property for purposes of assisting in the "shelter protection, and medical care of distressed people. . . ."[1]

As part of the Second Deficiency Appropriation Act of 1948, Congress appropriated $500,000 to enable the President to supplement State and local government efforts and resources whenever he found that "any flood, fire, hurricane, earthquake or other catastrophe" proved to be of enough severity to justify assistance (62 Stat. 1027; P.L. 80–785; June 25, 1948). With regard to the intended meaning of "other catastrophe," it is important to note a proviso in the act which stipulated that no expenditures could be made "with respect to any such catastrophe" until the Governor of a State had entered into a prescribed agreement. Rather than repeating the specific natural causes (flood, fire, hurricane, and earthquake) listed earlier, the proviso simply grouped them together in one category as "any such catastrophe."

It would seem reasonable to conclude, from this treatment of the word "catastrophe" as inclusive of other types of natural hazards, that Congress intended the phrase "other catastrophe" to apply only to such natural events and not to man-made situations. Otherwise, it would have been necessary to list again the separate natural causes and to indicate, by adding the phrase "or other catastrophe," that assistance could be provided for other reasons. The interchangeable usage of the word "catastrophe" with specific natural hazards only appears on its face to exclude causes that were not purely acts of nature.

The language of the report by the House Committee on Appropriations on this 1948 bill (H.R. 6935) provides further evidence substantiating this view. According to the Committee, the $500.000 was being appropriated primarily for the purpose of relieving distress in a disastrous flood in the Columbia River Valley, but it also stated that the bill was ". . . written in such terms as to permit its use for any similar catastrophe occurring elsewhere."[2] The phrase "any similar catastrophe" as used here clearly seems to refer to damage that might be inflicted by some act of nature like a flood and not to other kinds of situations.

A similar conclusion can be implied from the wording of an act passed by Congress in 1949. An emergency fund of $1 million was appropriated in the Independent Offices Appropriation Act for fiscal year 1950, which was to be used by the President to supplement the efforts and resources of State and local governments or other agencies in "alleviating hardship or suffering caused by flood, fire, hurricane earthquake or other catastrophe" (63 Stat. 631; P.L. 81–266; August 24 1949). Just as in the 1948 appropriation act cited above the language of the 1949 law lists the four specific natural hazards only once then in subsequent provisions employs the phrase "such a catastrophe" three different times and the word "catastrophe" once to refer to them as an entity. Again this seems to indicate that "other catastrophe" was used in this law to apply only to natural phenomena since the phrase was used interchangeably with specifically listed natural hazards with no implication that it encompassed other types of causes.

The same reasons for extending disaster relief—flood, fire, hurricane, earthquake or other catastrophe—contained in the 1948 and 1949 appropriation acts were repeated in the bill (H.R. 8396) which became the Disaster Relief Act of 1950. Although some attention was paid to the meaning of the words "other catastrophe" during consideration and passage of this bill the evidence is not conclusive of congressional intent.

The possibility that damages inflicted during military or subversive operations might qualify as a catastrophic event was referred to in two of the ten comments on the bill submitted by departments and agencies to the House Committee on Public Works. Jess Larson, Administrator of the General Services Administration, stated that the measure ". . . evidently is intended to apply in general to peacetime civilian disasters even though the definition of 'major disaster' in section 2(a) is broad enough to include disasters engendered by war, enemy attack, or subversive action." John L. Thurston, Acting Administrator of the Federal Security Agency, noted that the bill ". . . would be applicable to 'any catastrophe' which is a major disaster and thus seems to include disasters due to enemy action."[3] The latter suggested that the relationship of peacetime disaster relief to civil defense ought to be considered.

Debate in the House of Representatives on the bill focused mainly on such issues as to whether or not Federal aid should continue to be extended, as it had been in the past, by special act of Congress each time a disaster occurred rather than by general legislation, and whether it would be appropriate to establish a new, probably expanding program at a time when the country was engaged in military action in Korea. Nevertheless, three members (all from Minnesota) suggested that disaster aid could be provided under the bill for damages caused by military activity. Representative Fred Marshall (Dem.-Minn.) conjectured that the phrase "or other catastrophe" could be the "vehicle that we might have to take care of damage done by bombs." Representative Harold C. Hagen (Rep.-Minn.) said that it would include "bombing of cities like New York and Chicago," and Representative H. Carl Andersen (Rep.-Minn.) stated that in his opinion ". . . it could cover any calamity our people suffer." On the other hand, in response Representative John W. Byrnes (Rep.-Wis.) pointed out that the bill ". . . does not even mention disaster as the result of enemy action" and that aid for such damage would be handled "by legislation designed specifically for that purpose."[4]

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[1] U.S. Congress. Senate. Committee on Expenditures in the Executive Departments. Alleviation of Damage from Flood or Other Catastrophe. Report to Accompany S. 1515. Senate Report No. 435, 80th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1947. p. 3.

[2] U.S. Congress. House of Representatives. Committee on Appropriations. Second Deficiency Appropriation Bill, 1948. Report to Accompany H.R. 6395. House Report No. 2348, 80th Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1948. p. 2.

[3] For departmental comments on the bill, see U.S. Congress. House of Representatives. Committee on Public Works. Authorizing Federal Assistance to States and Local Governments in Major Disasters. Report to Accompany H.R. 8396. House Report No. 2727, 81st Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1950, p. 5–16.

These scattered references seem insufficient to demonstrate beyond doubt that Congress intended in the Disaster Relief Act of 1950 to expand the implied or unspecified reasons for which disaster assistance could be provided. With respect to those reasons the language of the bill and of the act was identical with that of the 1948 and 1949 appropriation acts discussed above. There is nothing to indicate, moreover, that the original author of H.R. 8396, Representative William Lenke (Rep.–N.D.), who died before the bill was enacted, did not simply incorporate the earlier phraselogy without contemplating any change in its meaning. It is true that Representative Hagen, who suggested that "bombings" might be encompassed within the word catastrophe, did introduce a bill (H.R. 8461) similar to that of Representative Lenke. Nevertheless, neither the official committee reports nor the debates during passage of the bill indicate a clear intent by Congress to enlarge the scope of disaster causes beyond those falling within the category of natural events.[5]

Despite numerous occasions on which disaster assistance legislation has been considered during the past 30 years, there has been no change in the phrase "other catastrophe" as an addendum to particular listed causes for which a major disaster can be declared. In this period Congress adopted three basic laws, the Disaster Relief Acts of 1950 (P.L. 81–875), of 1970 (P.L. 91–606) and of 1974 (P.L. 93–288). Amendments to the 1950 Act were passed in 1951 (P.L. 82–107), in 1953 (P.L. 83–134), in 1955 (P.L. 84–71), in 1962 (P.L. 87–502), in 1966 (P.L. 89–769) and in 1969 (P.L. 91–79). The 1970 Act was amended in 1971 (P.L. 92–209) and in 1972 (P.L. 92–318 and 92–385), and the 1974 Act was extended for three years in 1977 (P.L. 95–51). In addition special disaster relief acts were adopted providing assistance in 1964 for damage inflicted by the Alaskan Earthquake (P.L. 88–451) and in 1965 by floods in the Pacific Northwest States (P.L. 89–41) and by a hurricane in the Southeast Gulf States (P.L. 89–339). Aid to elementary and secondary schools for disaster losses was authorized in 1965 (P.L. 89–313) and in 1968 (P.L. 90–247). Other acts not part of the basic disaster relief laws also have provided for flood insurance, loans for disaster losses incurred by homes, businesses and farms, and other types of assistance.[6]

Although Congress has taken action on measures affecting disaster relief law at least 18 times during the past three decades, the "other catastrophe" language in the basic legislation has remained intact. On the other hand, several specific reasons for which a major disaster may be declared, all but one of which clearly applied only to natural causes, were added in each of the three general statutes passed in this period. Drought and storm were joined by the 1950 Act to the four causes (flood, fire. hurricane, and earthquake) listed in the 1948 and 1949 Appropriations Acts noted above. Incorporated in the 1970 Act as further reasons were high-water, wind-driven water, and tidal wave, and in the 1974 Act tsunami, volcanic eruption, landslide, mudslide, snowslide, and explosion were also included. The latter—explosion—was the only one of the 11 new items which normally might be the direct result of a man-made as well as a natural cause.

No documentary evidence has been found showing that, in enacting the Disaster Relief Acts of 1970 and 1974 and the various other amendments, Congress contemplated broadening disaster assistance coverage beyond the causes specifically listed in the law. Even though a few proposals were made in the past decade to provide disaster aid for situations not attributable to acts of nature, such as economic suffering, severe unemployment, energy shortages, and home heating needs, none of them was adopted. For example, a bill (S. 2394) which would have amended the Disaster Relief Act to authorize a declaration of a major disaster for an area experiencing an economic disaster was passed by the Senate on August 3, 1971, but received no action in the House of Representatives. Economic disaster aid for communities also was proposed by a House bill (H.R. 808) in 1977, and at least two other bills (H.R. 3427 in 1977 and H.R. 3195 in 1979) advocated disaster aid during energy shortages. Likewise, a 1979 Senate bill (S. 1331) would have authorized the Director of the Federal Emergency Management Agency to provide assistance to any State or substate area in which he determined that an emergency existed.

It is important to note that, while none of these bills proposing to extend economic disaster aid became law, their authors apparently did not believe that the "or other catastrophe" phrase could be construed properly to apply to man-made events. Certainly there has been no lack of opportunity during the last 30 years, when 11 new specific causes were added and other amendments were being adopted, to review and broaden disaster assistance coverage to other types of situations. In the absence of data to the contrary, it seems fair to conclude that there has been no congressional intent to expand the concept of "other catastrophe" in disaster relief legislation to include causes not commonly recognized as natural hazards.

INTERPRETATION AND APPLICATION

In the absence of a clear legal definition of the words "other catastrophe," the interpretation and application of this phrase in actual practice assumes greater significance. Presidential authority to extend disaster assistance has been exercised almost exclusively in cases where damage was caused by or was closely related to some act of nature. There certainly has not been any extensive usage of the "other catastrophe" phraseology to provide aid for losses ascribed primarily to human causes. Although aid has been provided sometimes in situations under different legislative authority by the Small Business Administration, Farmers Home Administration, Veterans Administration, or other agencies, it seldom has been made available under the three basic Disaster Relief Acts of 1950, 1970 and 1974. Even with respect to the two causes listed in the law which are not necessarily the result of natural events only—fire and explosion (the latter added in 1974)—there have been very few declarations of a major disaster or an emergency.

A review of certain cases in which Presidents have refused to declare a major disaster or an emergency when requested by a State governor seems to indicate that in several instances the determination depended mainly upon the fact that losses were not incurred because of natural causes. Of course, this cannot be ascertained with finality from documentation only, because such a rejection may be for different reasons. For instance, a President may decide that a particular situation is not, and does not threaten to become, of sufficient severity or magnitude to warrant assistance, or that a State and its local subdivisions have not devoted a sufficient amount of their own efforts and resources to alleviate damage, hardship or suffering. Nevertheless, in the following instances it appears that a leading factor contributing to turndowns for requested assistance may have been the human involvement in the cause of the event itself:

1967—Riot damage in Detroit, Michigan.

1972—Railroad car explosion in Illinois.

1974—Collapsed bridge in Tennessee.

1974—Commercial salmon fishing loss in Washington because of a court-ordered reduced season.

1974—Train explosion and fire in Illinois.

1975—Water supply problem in New Jersey.

1977—Power outage and resulting damage in New York.

1977—Oil spills in Massachusetts and Rhode Island.

1977—Sewage plant contamination in Kentucky.

On the other hand, assistance has been provided in a few instances under the authority of disaster relief laws for damage or suffering which appears to have been attributable more to human than to natural causes or where human error played a more significant role than some kind of natural hazard. Listed below are those few major disaster or emergency declarations by the President that have been located in which an act of nature does not appear to have been the primary determining factor:

1962—accidental sinking of a chlorine-laden barge in the Mississippi River (major disasters Nos. 135 and 139; Mississippi and Louisiana; Oct. 10 and Nov. 5, 1962).

1963—Bursting of dam (Baldwin Hills), the cause of which was claimed to be inadequate construction and safety standards (major disaster No. 161; California; Dec. 21, 1963).

1972—Bursting of private slag-pile dam on Buffalo Creek attributed to unsafe structure (major disaster No. 323; West Virginia; Feb. 27, 1972).

1973—Flooding caused by failure of dam (major disaster No. 379; Colorado; May 8, 1973).

1976—Collapse of Teton Dam, a Bureau of Reclamation structure determined later to be faulty in engineering, construction and site location (major disaster No. 505; Idaho; June 6. 1976).

1977—Collapse of private, earthen dam at Toccoa Falls College (major disaster No. 541; Georgia; Nov. 7, 1977).

1978—Adverse impact of buried toxic

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[4] For these remarks and other debate on the bill, see Congressional Record, v. 96, Aug. 7, 1950. p. 11908–11909.

[5] The House report referred to the purpose of the bill as one to provide assistance to alleviate damage resulting from "a major peacetime disaster" and called attention to previous appropriations for "relief from floods and snowstorms," and the Senate report quoted the House report verbatim. See U.S. Congress. House of Representatives. Committee on Public Works. Authorizing Federal Assistance to States and Local Governments in Major Disasters. Report to Accompany H.R. 8396. House Report No. 2727, 81st Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1950. p. 2. U.S. Congress. Senate. Committee on Public Works. Authorizing Federal Assistance to States and Local Governments in Major Disasters. Report to Accompany H.R. 8396. Senate Report No. 2571, 91st Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1950. p. 1–2.

[6] For a brief description of disaster relief legislation see U.S. Library of Congress. Congressional Research Service. Emergency Preparedness and Disaster Assistance: Federal Organization and Programs. Report No. 78–102 GOV, by Clark F. Norton. Washington, 1979. 119 p. p. 25–57.

chemicals at Love Canal, Niagara Falls City (emergency No. 3066; New York; Aug. 7, 1978).

1979—Emergency chemical waste disposal (major disaster No. 568; Kentucky; Dec. 12, 1978; amended Jan. 10, 1979, to provide assistance in disposing chemical waste).

1980—Extraordinary impact and expenses caused by arrival of large numbers of undocumented aliens from Cuba (emergency No. 3079; Florida; May 6, 1980).

1980—Relocation and temporary housing for families adversely affected by chemical wastes buried at Love Canal, Niagara Falls City (emergency No. 3080; New York; May 21, 1980).

Perhaps it should be pointed out also that a few major disaster declarations have been made in the past decade for damages resulting from acts of nature which are not listed specifically in disaster relief legislation. As noted below, Presidents have extended aid for losses incurred because of such matters as toxic algae, freezing, ice, frost and cold weather, none of which is included among the causes set forth by statute. Authority for these determinations must depend upon interpretation of the "or other catastrophe" clause. By making declarations for these particular reasons, a President in effect is recognizing that other natural causes for disasters exist which may be implied but have not been enumerated in the law. At the same time such declarations also may tend to support, at least to some extent, the viewpoint that the words "or other catastrophe" were intended to refer mainly to other acts of nature than those listed and not to damage resulting from human factors.

1972—Damage to shellfish industry caused by toxic algae (the so-called "red tide"; major disasters No. 356 and 357; Maine and Massachusetts; Sept. 28, 1972).

1974—Freezing of red salmon spawning areas (major disaster No. 444; Alaska; June 24, 1974).

1977—Ice conditions preventing oystering on Chesapeake Bay (major disasters No. 524 and 525; Maryland and Virginia; Jan. 26, 1977).

1977—Citrus industry damage caused by frost and freezing (major disaster No. 526; Florida; Jan. 31, 1977).

1977—Shrimp loss because of cold weather (major disaster No. 536; Georgia; June 2, 1977, declared several months after the event occurred).

1980—Toxic paralytic shellfish poisoning (emergency No. 3082; Sept. 20, 1980).

AMENDMENT PROPOSED TO P.L. 93–288 BY S. 3027

The proposed amendment to the Disaster Relief Act of 1974 would insert "physical or natural" before the word "catastrophe," so that the phraseology in section 102 (1) and (2) would read "or other physical or natural catastrophe." The apparent purpose would be to limit Presidential discretion in declaring either a major disaster or an emergency for some cause other than those set forth specifically in that section. Because of the important effect such a restriction might have, this first known attempt in more than 30 years to modify this particular language warrants careful analysis and consideration.

Of the two new words, perhaps the addition of "natural" would be the easiest to define but the more far-reaching in consequence. Although it is not uncommon to write or speak about natural disasters, the word "natural" as such is unknown to disaster relief law. Instead, all statutes have referred only to a major disaster or to an emergency, enumerating specific causes for which either one may be declared and Federal assistance extended. Obviously, if the word natural alone were to be added, so-called acts of nature would be the only reasons for which disaster assistance could be provided. Certain earlier situations mentioned above, such as the sunken chlorine barge, the Teton dam failure, and the toxic waste dumps, would be ineligible for Federal aid under the Disaster Relief Act of 1974. Assistance might be provided, of course, for these or similar losses under authority of different laws, but Presidential discretion to declare disasters would be confined by statute to those situations which undoubtedly fall within the category of natural events.

The purpose for incorporating the word "physical" in the law presumably would be to permit a major disaster or an emergency to be declared under certain types of circumstances usually not considered to be "natural" in their origin. At the same time it is probably believed that the door would not be opened to a variety of other types of losses suffered largely as the result of human activities. For instance, the intent of the amendment evidently is to authorize aid for such "physical" matters as disposing of dangerous chemicals or of toxic wastes but to deny help for costs involved in such "human" endeavors as providing housing for or resettling alien refugees.

There is no certainty that this goal would be achieved by this language change. Lack of a clear, precise definition or understanding of the meaning of the word "physical" could prevent formulating guidelines that would be followed with any consistency in using it as a criterion for providing disaster assistance. Consequently, it is difficult if not impossible to predict how it would be interpreted and applied by a President (and if challenged, by the courts) in responding to future requests for Federal aid.

In several respects the meaning of "physical" appears to be closely related to if not identical with the ordinary concept of what is "natural." For instance, two of the three appropriate parts of the definition of the word in a standard dictionary (Webster's International 2nd ed., 1949) refer only to this aspect:

1. Of or pertaining to nature (as including all created existences); pertaining to, or in accordance with, the laws of nature; also, of or relating to natural or material things as opposed to things mental, moral, spiritual, or imaginary; material; natural.

2. Of, pertaining to, concerned with, or devoted to natural science or natural philosophy.

3. Of or pertaining to physics; characterized or produced by the forces and operations of physics; employed in the processes of physics; as, physical changes; physical combinations.

Although the definition of "physical" in Black's Legal Dictionary places more emphasis on material, substantive and real features, it does not provide much guidance in resolving this question:

Relating to or pertaining to the body, as distinguished from the mind or soul or the emotions; material, substantive, having an objective existence, as distinguished from imaginary or fictitious; real, having relation to facts, as distinguished from moral or constructive.

If physical were to be interpreted as meaning no more or less than natural, using it as an additional modifier before "other catastrophe" would neither expand nor contract presently authorized and implied reasons for determining the existence of a major disaster or an emergency. As related to disasters, acts of nature must be considered to be physical events as well, and as such potentially would qualify for disaster aid whether or not the word physical were attached.

On the other hand, in ordinary usage physical is also generally thought of as having a somewhat broader connotation than natural. That is, physical changes or physical combinations (as cited in Webster) may be wrought by man as well as by nature. Viewed in this sense, inserting the word physical in the phraseology probably would enlarge formally the statutory reasons for proclaiming a disaster or an emergency to include other types of losses sustained because of certain man-made developments or occurrences

If both words were to be added, then, the problem obviously would be deciding which particular situations not attributable to natural causes would be entitled to recognition under the aegis of being physical. Where can the line be drawn appropriately between physical and non-physical human activities? Disposing of toxic wastes undoubtedly would be judged to be physical whereas a plunge in stock-market prices likely would be deemed to be non-physical for disaster purposes. But is a huge influx of foreign refugees during a brief period to be considered non-physical? Logistically, the problems and costs associated with transporting, housing, feeding, doctoring, teaching, guarding and even imprisoning some of more than 200,000 aliens thrust upon a small area almost overnight might well be interpreted to be physical. From a definitional standpoint, these activities appear to meet dictionary tests: they relate to or pertain to the body as distinguished from the mind, soul, or emotions; they are material, substantive and real; they have an objective existence; they are not imaginary or fictitious; and they may result in changes and combinations.

The point is that the word physical does not appear to be sufficiently precise and limited in meaning to prevent a President from exercising rather wide discretion in determining what types of events would warrant Federal disaster assistance. If one were to assume that the proposed amendment had been enacted and become effective before 1980, would it have precluded the declaration of the emergency issued on May 6 because of the Cuban refugees? Clearly the immediate cause of the State of Florida's problems was not an act of nature. Nevertheless, would a President have been forced to rule that the unexpected, unprecedented and virtually unregulated movement of thousands of men, women and children over more than 100 miles of open sea in small boats was a *non-physical* act? The answer to that question is not certain because the scope of what would be physical or not in this context seems indeterminable.

CONCLUSION

To review briefly, evidence indicates that, in enacting the Disaster Relief Acts of 1950, 1970 and 1974, Congress intended the "or other catastrophe" phrase to apply primarily to damages or losses caused by acts of nature rather than to acts of man. Only in a few of the more than 630 major disaster and several score emergency declarations have Presidents determined that non-natural causes would justify Federal aid.

The effect of the proposed amendment, if it were passed, cannot be predicted with accuracy. Adding the word "natural" would by itself confine the scope of disaster causes, but the word "physical" would tend to enlarge it to an unknown extent. It must be remembered that under the present law, even if the amendment were adopted, the President would still be the judge of whether a particular type of occurrence and its severity would constitute a major disaster, an emergency, or not sufficient for aid. If it is decided to limit the causes for which disaster help can be provided, perhaps such a goal could be accomplished better by listing specific reasons why a President may not extend aid than by attempting to do so through the addition of modifiers to the word "catastrophe."

● Mr. HEINZ. Mr. President, this amendment is intended to correct a gross inequity that has been perpetrated upon residents of the area of Wilkes-Barre, Pa., as a result of bureaucratic bungling on the part of the Federal Emergency Management Agency and its predecessor, the Office of Emergency Preparedness.

The history of Wilkes-Barre's longstanding efforts to secure disaster relief funds so that restoration of streets and other work to undo the damage wrought by the 1972 Hurricane Agnes flood is a long and complex one. For the benefit of my distinguished colleague, let me briefly summarize the contents of my voluminous files on this subject.

Following the 1972 Agnes flood, FEMA approved and advanced to the city of Wilkes-Barre funds for the restoration of the Osterhout Free Library and other nonprofit privately owned libraries. By FEMA's own admission, these funds were approved and advanced with the knowledge that the libraries in question were not municipally owned.

After the funds for library in restoration in Wilkes-Barre had already been spent, FEMA determined that it had in fact erred in approving this funding, that the privately owned nonprofit libraries were not eligible recipients of assistance under the Disaster Relief Act.

As a result, FEMA deleted some $612,000 from the city's outstanding claim with FEMA to compensate for the funds that had erroneously been advanced to Wilkes-Barre.

Because Wilkes-Barre had already spent these funds for library restoration, as earmarked by FEMA, the effect of this denial of part of the city's claim has been to preclude the restoration of streets in the city's neighborhoods damaged by the flood. In short, for years the residents of Wilkes-Barre have been denied the disaster relief to which they are legally entitled as a result of bureaucratic snafus for which they were not responsible.

The purpose of this amendment, therefore, is to correct the gross injustice which has been perpetrated on the citizens of Wilkes-Barre by authorizing FEMA to reimburse for the restoration of the libraries as if they were eligible under the Disaster Relief Act. This language has been drafted by counsel at FEMA and will correct this inequity without opening the proverbial floodgates to new disaster relief claims.

I hope that my distinguished colleagues can support this amendment as S. 3072 comes up for consideration.

I ask unanimous consent that copies of recent correspondence from FEMA and a chronology of FEMA's action to date on Wilkes-Barre's claim be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL EMERGENCY
MANAGEMENT AGENCY,
Washington, D.C., August 18, 1980.

Hon. H. JOHN HEINZ III,
U.S. Senate,
Washington, D.C.

DEAR JOHN: You have requested the opinion of the Federal Emergency Management Agency (FEMA) concerning the appropriateness of the language found at section 4 of H.R. 6863, 96th Cong., 2d Sess., to authorize relief for six private nonprofit libraries in Pennsylvania which were damaged in 1972 in Hurricane Agnes. That provision currently states:

"Sec. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby declared eligible for assistance under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster."

FEMA's Office of General Counsel believes that the language of section 4 of H.R. 6863 is inadequate because it indicates that the libraries for which relief is sought were ". . . eligible for assistance under the provisions of the Disaster Relief Act of 1970." In fact, the need for the proposed relief legislation has arisen because these libraries were not eligible for assistance under the terms of the Disaster Relief Act of 1970. The language of the proposed legislation can be modified slightly to correct this problem. Our Office of General Counsel suggests the following language:

"Sec. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby entitled to assistance as if eligible under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster."

House Report No. 96–962, which accompanies H.R. 6863, contains a brief discussion of the proposed legislation. The Report states at page 3 that enactment of section 4 of H.R. 6863 would relieve the Ousterhout Library of liability to the Federal Government in the amount of $457,318, and would relieve the West Pittston Library of liability to the Federal Government in the amount of $9,984. These figures do not represent the full amount of the costs of repairing these two libraries following the damages they suffered in Hurricane Agnes. Neither of these two libraries has undergone final audit following completion of their repairs and, until final audit, it is not possible to calculate precisely what amount they would be eligible for if the proposed legislation were enacted. However, our best estimates of the amounts they would be eligible for are $565,423 for the Ousterhout Library and $48,986 for the West Pittston Library. We, therefore, recommend that the statistics in the House Report be amended to the higher figures, but with the proviso that the exact amounts for the relief of these libraries are subject to final audit.

I hope this information is of assistance to you. If I can be of any further assistance in this matter, please feel free to contact me.

Sincerely yours,

JOHN W. MACY, Jr.,
Director.

FEDERAL EMERGENCY
MANAGEMENT AGENCY,
Washington, D.C., June 30, 1980.

Hon. H. JOHN HEINZ III,
U.S. Senate,
Washington, D.C.

DEAR JOHN: This is in response to your letter of June 4, 1980 concerning the City of Wilkes-Barre's disaster claim that stems from the Agnes disaster in Pennsylvania.

Our Regional office in Philadelphia approved funds for a privately owned library in Wilkes-Barre whose damages were included by the City in its own project application. It was the Region's understanding that the City owned the library. Funds were advanced to the City, based on the approved project application, and a portion of those funds was earmarked for the library.

Subsequent to that transaction the library was found to be a private nonprofit facility and therefore ineligible under PL 91–606, the disaster law in effect at that time. (Private nonprofit libraries then, as now, were ineligible under the law.) The amount advanced for the library ($457,318) was recouped by the Region by withholding that amount from later payments to the City. The total eligible cost of restoration of the library (if it were eligible) is unknown until such time as the library records are audited by FEMA auditors.

Wilkes-Barre had approached our Regional Office with the proposal that the indebtedness be lifted from them by FEMA and be placed on the library so that the City would be released from responsibility for the expenditure of the $457,318 by the library, and FEMA would then have to look to the library for the return of that amount.

Our contractual agreement (project application) is with the City. When its agent signed the project application the City assumed responsibility for all funds advanced or paid to it. We have no such agreement with the library, nor could we, since under PL 91–606 a private nonprofit organization could not apply for disaster assistance on its own behalf.

The Reauthorization Bill—H.R. 6863—which is pending Congressional action includes in Section 4 relief for private nonprofit libraries that were damaged by Hurricane Agnes. My Associate Director William Wilcox, testified on that Bill on March 26, 1980. A copy of the Committee Report is enclosed for your information.

The special legislation that is pending Congressional action which we as an agency have endorsed, would provide relief for Osterhout Library as well as five other private, nonprofit libraries in Pennsylvania.

I am very concerned about Osterhout Library and the City's problem and I can assure you that as soon as the bill is passed we will have an audit made of Osterhout's records so that the proper amount of payment may be expedited. However, under the circumstances I do not believe there is anything to be gained by the City from a visit at this time. We will be glad to discuss the problem with them by telephone if they have any questions.

I will continue to monitor the progress of the bill and work with you toward a solution of the problem as rapidly as possible.

Sincerely yours,

JOHN W. MACY, Jr.,
Director.

SUMMARY OF F.E.M.A.'S ADMINISTRATIVE ACTION

1. September 11, 1972:

On this date a letter from Mr. David Lacy, Assistant City Planner, to Mr. Kevin Nelson of OEP (see Exhibit A) requested that OEP make decision concerning the legal status of the Osterhout Library. The letter clearly requests that OEP make such a determination. The letter also requested information regarding whom should be the sponsor of an application for the Osterhout Library if OEP deemed it eligible for assistance.

2. September 13, 1972:

Mr. Ray Willman, OEP, attended a meeting on this date with City officials and officials of the Osterhout Library (see Exhibit B, minutes of meeting). It was reported that OEP had designated the Library as "a public institution" thereby making it eligible for funding through OEP. It was also determined by OEP that the City should act as the agent for funding. OEP's decision was made with full knowledge of the fact that the library was not municipally owned.

3. November 28, 1972:

On this date, Mr. Dick, State Council of Civil Defense, advised the City that Supplement #1 (Osterhout Library Claim) had been approved in the amount of $591,450. See Exhibit C–1 and C–2 for notice of approval and Exhibit C–3. The engineering analysis provides further documentation that

Supplement #1 was approved with full knowledge that the library was not municipally owned. Please refer to Exhibit D–1 and D–2, and D–3.

The important point to be acknowledged is that OEP made the initial mistake. It appears that OEP officials in field did not fully understand the criteria for eligibility for libraries. The City and the Osterhout Library acted in good faith under the advice and direction of OEP.

4. The actual funding to the Library was divided into two phases. Phase I was the physical restoration of the building and Phase II was a grant-in-lieu for the replacement of books, periodicals, etc.

5. September 1975:

A federal audit is completed on Phase I and approved in the amount of $173,531.42 (see Exhibit E).

6. April 9, 1975:

With Phase II (grant-in-lieu) still incompleted. Mr. Paul Cain and Ms. Barbara Bosak (FDAA) advised the Library to request for a time extension. (See Exhibit F).

7. August 5, 1975:

All work under Phase II is completed. The Osterhout Library requests an audit for full settlement for their claim.

8. August 20, 1975:

Mr. Herbert Herman, FDAA, conducts a final inspection on the grant-in-lieu portion of the claim. See Exhibit G for a copy of the Final Inspection Report Under Item 10 (Remarks), Mr. Herman states.

"Applicant has spent the exact amount of the grant-in-lieu in a careful manner with very good records and documentation. All costs are in order and therefore full reimbursement is recommended subject to final audit."

9. May 17, 1976:

Mr. Arthur T. Doyle (FDAA Regional Director) notifies Mr. Craig Williamson (Acting Director of State Council of Civil Defense) that FDAA was now questioning the eligibility of thirteen libraries throughout the State which received assistance (see Exhibit H). The Osterhout Library is one of such libraries. The letter also notes a survey was conducted for each library, and a copy of FDAA's survey of the Osterhout is forwarded to Wilkes-Barre for verification of the accuracy (see Exhibit I).

Two important points for verification are:

(1) from August 20, 1975, the date which a final audit was requested, FDAA took no positive action to schedule such audit. If such an audit were conducted the City of Wilkes-Barre would today be in a more favorable position, i.e. we would have received a bill of collection rather than FEMA's withholding of funds;

(2) the survey of the Osterhout Library (Exhibit 1) was forwarded to us by FDAA. Thus a review of the information contained within it again verifies that Supplement No. 1 was approved by FDAA with full knowledge that the Osterhout was a private non-profit library.

10. July 29, 1976:

Mr. Dallas Dick (State Office of Civil Defense) advised the City of Supplement No. 37 which deletes $612,000 from the claim as a result of FDAA's declaration of ineligibility (see Exhibit J).

11. August 13, 1976:

Mr. Arthur Silverblatt, Attorney for the Osterhout Library, prepares the appeal. (See Exhibit K.)

12. October, 1976:

Mr. Arthur Doyle notifies Mr. Oran K. Henderson (Director of the State Council of Civil Defense) that libraries must be owned by the state or local government to be eligible (see Exhibit L). Mr. Doyle notes in this letter two outstanding appeals based on the Doctrine of Estoppel, Law of Restitution etc., had been referred to the FDAA Administrator for his determination. To date we have never received a formal notice per the Law of Restitution under Mr. Silverblatt's appeal.

13. 1978, 1979, 1980:

The City has requested that FEMA issue a bill of collection to the Osterhout in order that other funds programed for street restoration within the South Wilkes-Barre Disaster Urban Renewal Project could be released. FEMA has advised us that such action cannot be taken.●

● Mr. SCHWEIKER. Mr. President, I am particularly pleased that the floor managers of S. 3027, the Disaster Relief Act Amendments of 1980, will include as a technical, my amendment to provide relief for six Pennsylvania libraries unwittingly placed in an awkward position by the Federal Government. This amendment is similar to S. 1147 and S. 400, bills I introduced in the 95th and 96th Congresses respectively, which were passed by the Senate.

The Office of Disaster Response and Recovery of the Federal Emergency Management Agency is demanding repayment of almost $600,000 mistakenly given as disaster payments after Hurricane Agnes. And my amendment would relieve the libraries of this repayment. In addition, this amendment provides additional funds to two of the six libraries in order that they be treated equally and consistently with the other four libraries. To understand the amendment, it is necessary to look at the circumstances following Hurricane Agnes in 1972.

Pennsylvania, more than any other State, suffered extensive damage from Hurricane Agnes. Damage nationwide was so great that Congress wisely adopted, for all States hit by Agnes, a special relief package to help individuals and businesses repair or replace their losses. In addition, section 252(a) of the Disaster Relief Act of 1970, which was law at the time of the Agnes disaster, provided Federal assistance to State and local governments for the restoration of public facilities following a major disaster.

After the President declared Pennsylvania a major disaster area, making State and local facilities eligible for Federal assistance, the Office of Emergency Preparedness, later the Federal Disaster Assistance Administration and now the Office of Disaster Response and Recovery, approved project applications for Federal assistance from a large number of local governments in Pennsylvania. Included among them were applications for the repair of damages sustained by the six privately owned library facilities covered by this amendment.

In 1976, the FDAA recognized its mistake in providing disaster relief to these six libraries and requested repayment. The FDAA was correct when it claimed these six libraries should not have received funds under the Disaster Relief Act of 1970. Privately owned facilities were not eligible to receive grants under the law as it existed at the time of Agnes.

The FDAA then moved to collect the money it had erroneously paid out. Four of the libraries had received their final payments from the FDAA; two had not. These two libraries, Osterhout Library in Wilkes-Barre and West Pittston Library in West Pittston, had also not had their projects audited. Even today, it is unclear exactly what the total project cost is for these two libraries because final audits are only now underway.

The two bills I introduced in the 95th and 96th Congresses respectively, S. 1147 and S. 400, which were passed by the Senate, would relieve these six libraries from the need to repay the amount already paid out by the Federal Government, as would this amendment. The need for this legislation and the committee's technical amendment is apparent in the following excerpt from a letter to me from Mr. Jack Varaly, executive director of the Wilkes-Barre Department of Planning and Development:

> Although you are already aware of the dire financial effects of the FDAA error regarding funding of the six libraries, I would like to take this opportunity to expand on Wilkes-Barre's situation. The amount of funds in question for Wilkes-Barre is $614,171 of which $513,812 has been already advanced and spent by the Osterhout Free Library. In view of the fact that Wilkes-Barre's FDAA Agnes Flood Claim has not yet been closed out, FDAA has administratively decided that the $513,812 will be deducted from approved funds yet due to the City. Without the passage of your legislation the City will receive only $513,031 of $1,026,843 of funding which has been previously approved. The end result of the cash shortfall will be that approximately $500,000 worth of street improvements for sections of Wilkes-Barre inundated by the Agnes Flood cannot be completed. Thus residents of Wilkes-Barre which have been patiently waiting since 1972 for the restoration of their neighborhoods must face the possibility that their private reinvestment into their neighborhood will not be reinforced by a public investment as promised.

Spokesmen for the six libraries and their respective cities and towns are not the only proponents of my legislation.

The General Accounting Office reported favorably on H.R. 2064, the House counterpart to my bill S. 400, in a report to Chairman Rodino of the House Judiciary Committee. Cited below are reasons GAO gave for supporting the bill:

> 1. The communities involved acted in good faith and relied upon federal government determinations as to their eligibility for disaster assistance in undertaking repair and restoration of their storm-damaged libraries.
>
> 2. This is a case of limited applicability where, because of the unique circumstances involved, the remedy provided will not establish an undesirable precedent. These are the only privately owned libraries nationwide which erroneously received disaster relief payments under 252(a) of the Disaster Relief Act of 1970.
>
> 3. The Disaster Relief Act of 1974 which repealed the Disaster Relief Act of 1970 has been interpreted by the Federal Emergency Management Agency to authorize federal disaster assistance to privately owned libraries that receive a certain amount of public funding. If the damage in question had occurred on or after the effective date of the 1974 act, all of these libraries would have been eligible for federal disaster assistance.

I would also like to cite a letter from M. R. F. Keller, Deputy Comptroller General, to Senator Kennedy on May 22, 1979, stating GAO's position on S. 400, my bill to relieve these six libraries. In that letter it is stated that GAO does not "(a)s a matter of general policy . . . favor legislation granting private relief of indebtedness to the United States Government." However, GAO pointed out that at times it makes exceptions "when the circumstances are extraordinary and unlikely to be replicated, and when equitable considerations strongly favor relief." The letter then describes the circumstances of the six Pennsylvania libraries, and concludes by saying, "In view of all the foregoing factors, we would not object to the granting of the relief described."

Last, I would like to quote from a letter by Edward W. Norton, Acting General Counsel of the Department of Housing and Urban Development, responding to a query on S. 400 from the Senate Judiciary Committee:

> To require the libraries to reimburse the Government for these grants at this time would only serve to penalize the beneficiaries of their services—the public. In our opinion, this is a case of limited applicability where, because of the unique circumstances involved, the remedy provided by the bill will not establish an undesirable precedent . . . Accordingly, we would have no objection to the enactment of S. 400.

As can be seen, my bill gained strong support from all concerned: The Department of Housing and Urban Development and the Federal Disaster Assistance Administration, which at that time was HUD, and OMB, GAO, the Senate Judiciary Committee, and the full Senate.

However, at my urging, the committee's technical amendment goes one step further than my earlier bills. The amendment treats these six libraries as if they had been eligible to receive disaster relief assistance under the Disaster Relief Act of 1970. This change would not affect the dollar amounts already paid out by the Federal Government to four of the libraries covered in S. 400 and S. 1147. However, two of the libraries would receive additional funds over and above what they have already received. These additional funds would probably amount to at most $200,000, with the exact amount to be determined through final audit by FEMA. Let me explain the rationale for this.

In 1976, when the Federal Disaster Assistance Administration demanded reimbursement from the six libraries, two of the six libraries had not yet completed their rehabilitation work. These two libraries, the Osterhout Library in Wilkes-Barre and the West Pittston Library in West Pittston, requested final audits. However, FDAA officials delayed settlement and claims of these two libraries until their eligibility for disaster relief assistance was determined under the Disaster Relief Act of 1970. As GAO points out in its report to Chairman Rodino of the House Judiciary Committee:

> If audit and settlement had taken place before the determination of ineligibility, Osterhout/Wilkes-Barre and West Pittston would now find themselves in the position of the other four communities named in (S. 400): they would be provided relief in the full amount of eligible costs of library restoration.

GAO also points out that to treat these two libraries as if they were eligible for disaster assistance "would ensure equal and consistent treatment of all communities concerned. No community would be penalized simply because it had not been able to arrange a Federal audit and settlement of its claims before the determination of its ineligibility."

I might point out that the Federal Management Agency (FEMA) and its Office of Disaster Response and Recovery, successor to the Federal Disaster Assistance Administration, support my amendment on these six libraries.

FEMA has also suggested a permanent and explicit change in the law which would permit private, nonprofit libraries, like these six Pennsylvania libraries, to be eligible for Federal disaster assistance in the future. The situation faced by these libraries in Pennsylvania has uncovered a shortcoming in the present disaster relief law.

These libraries, although privately owned, are essentially public in nature. All are open to the public, their revenues are mostly derived from public funds, and five of the six library facilities are in structures owned by a library board or association and have corporate names implying public ownership. Because of their quasi-public nature, eligibility for Federal disaster assistance seems most appropriate.

The roots of our community library system go back to our prerevolutionary period when most libraries were privately owned and looked to community generosity for support. Since then, community libraries have made valuable contributions to our Nation. These six Pennsylvania libraries play an important role in their respective communities, and I do not believe that in good conscience we can jeopardize the future of these libraries.

To sum up, Mr. President, these libraries suffered damages at the hands of Hurricane Agnes, were informed they were eligible for disaster relief, and their applications for relief were approved by the Federal Government. For example, it was pointed out in 1972 to State and Federal officials that although the Shippensburg Public Library received funds from the Borough of Shippensburg and the school district, it was privately owned. But disaster relief was still granted. The same occurred with Osterhout Library in Wilkes-Barre. It was not until 1976 that the axe fell, and the Federal Disaster Assistance Administration demanded reimbursement.

Mr. President, I would be greatly distressed if we were to turn our backs on these six libraries and force them to raise approximately $700,000 to pay for damages received from the worst disaster in Pennsylvania's history. Therefore, Mr. President, I strongly recommend adoption of this amendment by my colleagues.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota.

Mr. Burdick's amendment (UP No. 1689) was agreed to.

The PRESIDING OFFICER The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Relief Act Amendments of 1980".

Sec. 2. Section 102 of the Disaster Relief Act of 1974 (Public Law 93–288, 88 Stat. 152) is amended as follows:

(a) Paragraph (1) is amended by inserting "physical or natural" before "catastrophe".

(b) Paragraph (2) is amended by inserting "physical or natural" before "catastrophe".

Sec. 3. Section 606 of the Disaster Relief Act of 1974, as amended, is amended by striking "September 30, 1980" and inserting in lieu thereof "September 30, 1981, and to the Federal Emergency Management Agency such sums as may be necessary for administrative expenses through the close of September 30, 1981.".

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER DISCHARGING COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FROM CONSIDERATION OF CERTAIN BILLS

Mr. ROBERT C. BYRD. Mr. President, the following requests have been cleared with the chairman of the Committee on Environment and Public Works, my distinguished senior colleague, who is present on the floor.

I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of the following measures and that the Senate proceed to their consideration: H.R. 6531, H.R. 7414, H.R. 5732, H.R. 7770, H.R. 7450, H.R. 4792, H.R. 8018, H.R. 8024, H.R. 7130, and S. 3148.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, my purpose is to advise the majority leader that the 10 items identified by him just now are clear on our calendar and we have no objection to their consideration and passage.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I ask unanimous consent that the action be taken en bloc, that the measure be considered en bloc, the measures be adopted en bloc, with the exception of H.R. 7130.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINTON-CAPEHART FEDERAL BUILDING

The bill (H.R. 6531) to name a certain Federal building in Indianapolis, Ind., the Minton-Capehart Federal Building was considered, ordered to a third reading, read the third time, and passed.

J. MARVIN JONES FEDERAL BUILDING

The bill (H.R. 7414) to designate the building known as the Federal Building and U.S. Courthouse in Amarillo, Tex., as the "J. Marvin Jones Federal Building" was considered.

● Mr. BENTSEN. Mr. President, I want to urge the Senate to agree to this bill to name the Federal Building and U.S. Courthouse in Amarillo, Tex., as the J. Marvin Jones Federal Building. Marvin Jones served the Panhandle of Texas from 1917 to 1940. When he retired from Congress he was the chairman of the Committee on Agriculture of the U.S. House of Representatives. He was appointed to the court of claims in 1940 then took leave from the bench to serve as War Food Administrator during World War II. He returned to the court and served as chief judge from 1947 until his retirement in 1964. He passed away in 1976.

Marvin Jones was born in Cook County, Tex. in February 1886. Before coming to Congress in 1917 he served in Company A 308th battalion of the tank corps during World War I.

This was a man who spent most of his adult life in public service. It is now entirely appropriate to designate the Federal Building and the U.S. Courthouse in Amarillo where he began his law practice in 1907 and so ably served in so many capacities for so many years as the "J. Marvin Jones Federal Building." ●

The bill was ordered to be read a third time, was read the third time, and passed.

O. C. FISHER FEDERAL BUILDING

The bill (H.R. 5732) to designate the Federal Building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Federal Building" was considered.

● Mr. BENTSEN. Mr. President, I support the bill to name the Federal building in San Angelo, Tex., as the O. C. Fisher Building. O. C. Fisher represented the 21st District of Texas for 32 years—from 1942 until his retirement at the end of the 93d Congress in 1974. For 25 years Congressman Fisher served on the Armed Services Committee. Prior to his Federal public office he served as county attorney from 1931 until 1935 and then served in the Texas State House of Representatives from 1935 to 1937 followed by service as district attorney from 1937 to 1943. I served in the House with O. C. Fisher and worked with him closely when I became a Member of the Senate. I think it entirely fitting and proper that this building in San Angelo, a city that is so much a part of O. C. Fisher's life, should be named after him recognizing the many things that he did to help that area.●

● Mr. TOWER. Mr. President, I am very pleased that the Senate is today considering the renaming of the Federal building in San Angelo, Tex., the "O. C. Fisher Federal Building."

Congressman Fisher's is a household word in the 21st Congressional District of Texas. He had a distinguished congressional career that spanned 32 years, from the time he was first elected in 1942, until he voluntarily retired in 1974.

Clark Fisher was a consistent voice for strong defense and served on the House Armed Services Committee for 25 years. His name is also long synonymous with two issues of great importance to west Texas—soil conservation and flood control. With his leadership, the Twin Buttes reclamation project and the Amistad Dam became realities, endearing his name forever to the residents of Texas.

I urge my colleagues to support passage of H.R. 5732 that will enable the Federal Building in San Angelo, Tex., to be renamed the O. C. Fisher Federal Building.●

The bill was ordered to be read a third time, was read the third time, and passed.

THE ANDREW W. BREIDENBACH ENVIRONMENTAL RESEARCH CENTER

The bill (H.R. 7770) to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center," was considered.

Mr. GLENN. Mr. President, Dr. Andrew W. Breidenbach was a highly respected and internationally recognized environmental scientist who devoted most of his career to public service. He was a grand administrator, a distinguished educator, and a leader in his field.

Andy Breidenbach's former colleagues, after his untimely death, came to the conclusion that the Municipal Environmental Research Laboratory in Cincinnati should be appropriately renamed in his honor as the "Andrew W. Breidenbach Environmental Research Laboratory."

The bill, H.R. 7770, would accomplish this goal. I, too, find it most fitting and urge the Senate to approve this bill.

The late Andy Breidenbach was a graduate of the University of Cincinnati, where he also later served as an adjunct professor. He served in a number of positions at the Robert A. Taft Sanitary Engineering Center in Cincinnati, with the public health service in the division of water supply and pollution control in Cincinnati, and as director of the national environmental research center in Cincinnati. He later served the Environmental Protection Agency as the Assistant Administrator for Water and Hazardous Material and was special assistant to EPA Administrator Douglas Costle.

Dr. Breidenbach was held in very high esteem by his colleagues in Ohio, Washington, and elsewhere. The naming of this facility in his honor is truly a fitting gesture.

The bill was ordered to be read a third time, was read the third time, and passed.

JOHN S. MONAGAN FEDERAL BUILDING

The bill (H.R. 7450) to designate the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Conn., as the "John S. Monagan Federal Building" was considered, ordered to a third reading, read the third time, and passed.

BOB CASEY FEDERAL BUILDING—U.S. COURTHOUSE

The bill (H.R. 4792) to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse was considered, ordered to a third reading, read the third time, and passed.

"WILLIAM H. HARSHA LAKE" AND THE "WILLIAM H. HARSHA DAM"

The bill (H.R. 8018) to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam" was considered, ordered to a third reading, read the third time, and passed.

RAY ROBERTS LAKE

The bill (H.R. 8024) to change the name of Aubrey Lake, Tex., to Ray Roberts Lake was considered.

● Mr. BENTSEN. Mr. President, I am pleased to support the renaming of Aubrey Lake for Congressman RAY ROBERTS. I have known RAY ROBERTS for many years. He has served his district, the State of Texas, and the Nation with distinction throughout the many years he has been in public service. RAY ROBERTS first came to Washington on the staff of Speaker Sam Rayburn. After serving in the Texas State Senate in 1955 to 1962 he was elected to the 87th Congress in a special election in 1962 to fill the unexpired term of Sam Rayburn. He has been an able and capable Representative since then. As chairman of the House Veterans' Affairs Committee and the Water Resources Subcommittee of the Public Works and Transportation Committee he has molded legislation that spans the scope of Texas interest. There is no water project in Texas which has not received the close scrutiny and careful judgment of RAY ROBERTS before it has been authorized into law. Similarly the veterans of the Nation's Armed Forces can look upon his efforts in considering the benefits that they have available to them.

RAY ROBERTS has now chosen to retire from Congress. While I recognize that he thought long and hard before making this decision, I must say that I regret his choice. I have worked with him these past 10 years and it is a working partnership that I will sorely miss.

I think it is a fitting tribute that this lake in the heart of RAY ROBERTS country should be named after him. He has been a strong and sturdy steward of the national water resources. And this tribute will be the first among many that will be accorded him upon his retirement.●

The bill was ordered to be read a third time, was read the third time, and passed.

FRANK CARLSON FEDERAL BUILDING

The bill (S. 3148) to name the Federal Building located at 444 Southeast Quincy, Topeka, Kans., the "Frank Carlson Federal Building" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, shall hereafter be known and designated as the "Frank Carlson Federal Building". Any reference in any law, map, regulation, document, record or other paper of the United States to that building shall be held and considered to be a reference to the "Frank Carlson Federal Building".

Mr. ROBERT C. BYRD. Now, Mr. President, I move to reconsider en bloc the votes by which the measures were adopted en bloc.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JAMES M. HANLEY FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, with respect to H.R. 7130, I ask the clerk to proceed.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 7130) to designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building".

UP AMENDMENT NO. 1690

Mr. RANDOLPH. Mr. President, I send an amendment to the desk on behalf of my colleague, Mr. MOYNIHAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) for Mr. MOYNIHAN proposes an unprinted amendment numbered 1690:

On page 2, after line 2, insert the following new section:

"Sec. 2. This Act shall be effective on January 4, 1981.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1690) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROBERT N. GIAIMO FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7544.

The Presiding Officer laid before the Senate H.R. 7544, an act to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building," which was read twice by its title.

UP AMENDMENT NO. 1691

Mr. RANDOLPH. Mr. President, I send an amendment to the desk and for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an unprinted amendment numbered 1691:

On page 2, strike line 1 and, insert the following new section:

"SEC. 2. This Act shall be effective on January 4, 1981.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1691) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was engrossed, and the bill to be read a third time.

The bill was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, has the measure been passed?

The PRESIDING OFFICER. It has.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished chairman of the Committee on Environment and Public Works, my colleague, Mr. RANDOLPH, for the action that he has taken in connection with moving these measures out of his committee and expediting the Senate floor action thereon.

Mr. RANDOLPH. Mr. President, I only comment to say that the committee structure, one committee after another, in the Senate, I believe, through Members, both Democrat and Republican, are attempting in every way possible to cooperate with the majority leader and also to cooperate with the minority leader, Mr. BAKER. I think that this reflects a spirit of cooperation that crosses party lines, as we recognize the need for the passage of legislation which, in these cases, honor men that have distinguished service in this body, as well as the body known as the House.

Mr. BAKER. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I think the distinguished senior Senator from West Virginia sets an example for all of us, not only in his diligence in managing the administration and operation of his committee, but in the spirit of bipartisanship that he has unfailingly shown.

I take this opportunity to express my personal appreciation to him. I am sure I speak for every Member on this side when I express our admiration, as well.

Mr. ROBERT C. BYRD. Mr. President, I could add nothing to what Mr. BAKER has said. I wish to subscribe to every word, with emphasis.

Mr. RANDOLPH. Mr. President, if I might add, it is a privilege for me to cooperate with both the majority and minority leaders of this body.

Mr. ROBERT C. BYRD. Mr. President, I thank my colleague and friend.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 993, 1060, 1069, 1113, and 1104.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, once again I wish to advise the majority leader that the five items just identified by him are cleared on our calendar and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair proceed with, first, Calendar Order No. 1113.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVING CONGRESSIONAL BUDGET ACT

The resolution (S. Res. 530) to waive section 402(a) of the Budget Act with respect to the consideration of S. 3152 authorizing an extension of the Public Works and Economic Development Act and Appalachian Regional Development Act through fiscal year 1981, was considered and agreed to, as follows:

S. RES. 530

Resolved, That section 402(a) of the Congressional Budget Act of 1974 is waived with respect to the consideration of an original bill authorizing a two-year extension through fiscal year 1981 of the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

On August 1, 1979, the Senate passed S. 914, reauthorizing the Economic Development and Appalachian Regional Commission Acts. This bill provided a four-year extension of these programs and provided an expanded business development program for the Economic Development Administration. The authorization level contained in that bill was $1.6 billion.

The conference committee on S. 914 has been meeting for more than 9 months and has been unable to resolve a lot of the differences. The main issues have been an authorization for a continuation of the local public works program and the high funding levels proposed by the House of Representatives.

The conferees, at their last meeting, could not agree on authorization levels and therefore agreed the best alternative is a simple two-year extension of the Act. The authorization level provided will be $1.65 billion. This is broken down as $1.3 billion for EDA and the title V commissions and $350 million for the Appalachian Regional Commission.

The Committee on Environment and Public Works, therefore, requests a waiver of section 402(a) so that the Senate can consider a bill authorized by the Environment and Public Works Committee to provide an authorization for fiscal years 1980 and 1981 of $1.65 billion per fiscal year since the conferees have been unable to resolve the differences on S. 914, the reauthorization legislation.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining measures be considered en bloc, that the measures be passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

PUBLIC DEBT MANAGEMENT

The bill (H.R. 7478) to facilitate the management of the public debt by permitting an increase in the investment yield on U.S. savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding, was considered, ordered to a third reading, read the third time, and passed.

VIKTOR IVANOVICH BELENKO

The bill (S. 2961) for the relief of Viktor Ivanovich Belenko, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Viktor Ivanovich Belenko, who was lawfully admitted to the United States for permanent residence on September 9, 1976, shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States; shall not be held or considered to be within any of the classes of persons described in section 313 of that Act; and, notwithstanding the provisions of section 310(d) of that Act, may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under the Immigration and Nationality Act.

NATIONAL AFRO-AMERICAN HISTORY AND CULTURE COMMISSION

The Senate proceeded to consider the bill (S. 1814) to provide for a National Afro-American History and Culture Commission, which shall establish the National Center of Afro-American History and Culture, and for other purposes, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 2, line 1, after "Center" insert the following: "for the study of";

On page 2, line 6, strike "twenty nine", and insert in lieu thereof "fifteen";

On page 2, line 8, strike "duties;", and insert in lieu thereof "duties-";

On page 2, line 12, after "for" insert the following: "the Study of";

On page 2, line 22, after "for" insert the following: "the study of";

On page 3, line 12, after "the" insert the following: "knowledge, preservation, and presentation of the"

On page 3, strike line 14 through and including line 17;

On page 3, line 18, strike "(H)", and insert in lieu thereof "(G)";

On page 3, line 20, strike "(I)", and insert in lieu thereof "(H)";

On page 3, strike line 22 through and including page 4, line 2, and insert in lieu thereof the following:

"(2) (A) the Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service are allowed expenses under section 5703 of title 5, United States Code."

On page 4, line 18, strike the following: "the first sentence";

On page 4, line 23, after "art", insert the following: "artifacts or other materials";

On page 5 line 12, strike "artifacts" through and including "and" on line 13;

On page 5, line 18, strike "center; and", and insert in lieu thereof "center";

On page 5, strike line 19 through and including line 21;

On page 5, line 23, strike "twenty nine", and insert in lieu thereof "fifteen";

On page 5, strike line 24 through and including line 25, and insert in lieu thereof the following:

"(1) The Secretary of the Interior (or his designee).

"(2) The Secretary of Education (or his designee)."

On page 6, strike line 6 through and including line 7;

On page 6, strike line 10 through and including line 12;

On page 6, line 13, strike "(7)", and insert in lieu thereof "(5)";

On page 6, line 15, strike "(8) Twenty one", and insert in lieu thereof "(6) Nine";

On page 6, line 21, strike "(7)", and insert in lieu thereof "(5)";

On page 6, line 23, strike "(8)", and insert in lieu thereof "(6)";

On page 7, line 1, strike "six", and insert in lieu thereof "three";

On page 7, line 3, strike "five", and insert in lieu thereof "three";

On page 7, strike line 5 through and including line 6;

On page 7, line 7, strike "(4) five", and insert in lieu thereof "(3) three";

On page 7, line 11, strike "(7)", and insert in lieu thereof "(5)";

On page 7, line 23, strike "Sixteen", and insert in lieu thereof "Six";

On page 8, line 16, strike "(1) Except as provided in paragraph 2, members", and insert in lieu thereof "Members";

On page 8, strike line 18 through and including page 9, line 10;

On page 9, line 11, strike "(b)", and insert in lieu thereof "(k)";

On page 9, line 11, strike "procure", and insert in lieu thereof "procure, subject to the availability of funds";

On page 9, line 15, strike "(e)", and insert in lieu thereof "(1)";

On page 9, line 15, after the comma, insert the following: "and subject to the availability of funds";

On page 9, line 20, strike "(d)", and insert in lieu thereof "(m)";

On page 9, strike line 24 through and including page 11, line 3;

On page 11, line 4, strike "8", and insert in lieu thereof "4";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Center for the Study of Afro-American History and Culture Act".

SEC. 2. (a) There is established a commission to be known as the National Afro-American History and Culture Commission (hereinafter in this Act referred to as the "Commission") which shall be composed of fifteen members, as specified in section 3 of this Act.

(b) The Commission shall have the following duties—

(1) The Commission shall be responsible for the development of a definitive plan for the construction and operation of the National Center for the Study of Afro-American History and Culture and shall submit the plan, together with any recommendations for additional legislation, to the President of the United States and the Congress not later than twenty-four months after the date of the enactment of this Act. The plan shall include, but not be limited to, identification of—

(A) the main objectives to be achieved by the establishment, development, and operation of the National Center for the Study of Afro-American History and Culture;

(B) the types of uses, both public and private, to be accommodated by such a center;

(C) the criteria and recommendations for the design and appearance of such a center;

(D) the proposed ownership and operation of the center;

(E) the criteria and recommendations for interpretive, cultural, and educational programs and uses of the center;

(F) the areas where cooperative agreements might be developed between the center and Afro-American institutions, organizations, and universities to enhance their programs and projects relating to the knowledge, preservation, and presentation of the history and culture of Afro-Americans;

(G) the estimates of costs, both public and private, for implementing the plan; and

(H) the procedures to be used in implementing the plan.

(2) (A) the Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service are allowed expenses under section 5703 of title 5, United States Code. Any funds so received by the Commission shall be placed in special deposit account with the Treasurer of the United States, and may be expended by the Commission only to meet the costs specified in this subparagraph.

(B) The General Services Administration, the Smithsonian Institution, and other agencies of the Government may donate or loan to the Commission for the purposes of the center any works of art, artifacts or other materials under their control.

(c) For the purpose of carrying out this Act, the Commission may—

(1) acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), transfer from any Federal or State agency, exchange, or otherwise, suitable land (together with any buildings or other improvements thereon) and interest in land in the vicinity of Wilberforce, Ohio, for the location of the headquarters of the center;

(2) borrow or acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), or otherwise, any other real or personal property necessary for the establishment and operation of the center; and

(3) sell, exchange, or otherwise dispose of any property acquired under this subsection and designate any proceeds from such disposal for the benefit of the center.

SEC. 3. (a) The Commission shall be composed of fifteen members as follows:

(1) The Secretary of the Interior (or his designee).

(2) The Secretary of Education (or his designee).

(3) The Librarian of Congress (or his designee).

(4) The President of the Association for the Study of Afro-American Life and History.

(5) The presidents of Wilberforce University and Central State University in Ohio.

(6) Nine members appointed by the President, who are especially qualified to serve on the Commission by reason of their background and experience. No more than two members appointed under this paragraph shall be from any one State.

(b) Subject to subsection (c), the members of the Commission specified in paragraphs (1) through (5) of subsection (a) shall serve for the life of the Commission. The members of the Commission appointed under paragraph (6) of such subsection shall serve for terms of four years, except that of the members first appointed—

(1) three shall be appointed for terms of one year;

(2) three shall be appointed for terms of two years; and

(3) three shall be appointed for terms of four years;

as designated by the President at the time of appointment.

(c) If any member of the Commission who was appointed to the Commission under paragraphs (1) through (5) as an officer designated under such paragraphs leaves such office, such member may continue as a member of the Commission for not longer than the thirty-day period beginning on the date he leaves that office.

(d)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(e) Six members of the Commission shall constitute a quorum.

(f) The Commission shall act by affirmative majority vote.

(g) The Commission shall elect a chairman and other officers from among its members to serve for terms established by the Commission.

(h) The Commission shall meet at the call of the chairman or a majority of its members, but not less than two times each year. The headquarters of the Commission shall be at Wilberforce, Ohio, and the Commission shall conduct its meetings in such city unless circumstances otherwise require.

(i) The Commission may adopt an official set which shall be judicially noticed and may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act.

(j) Members of the Commission shall serve without pay.

(k) The Commission may procure, subject to the availability of funds, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 United States Code.

(l) Upon request of the Commission, and subject to the availability of funds, the head of any Federal agency may detail to the Commission on a reimbursable basis any of the personnel of such agency to assist the Commission in carrying out its duties under this Act.

(m) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this Act.

SEC. 4. On the first January 1 occurring after the date of the enactment of this Act, and on each subsequent January 1, the Commission shall submit to appropriate committees of the Congress a report which contains a detailed statement of the financial transactions of the Commission and the activities undertaken by the Commission during the previous year. The report shall contain such other appropriate information as the committees to whom the report is submitted may from time to time request.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to provide for a National Afro-American History and Culture Commission, which shall establish the National Center for the Study of Afro-American History and Culture, and for other purposes.

AMENDMENT OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AND THE APPALACHIAN REGIONAL DEVELOPMENT ACT

A bill (S. 3152) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such acts for 2 additional years.

The Senate proceeded to consider the bill.

Mr. RANDOLPH. Mr. President, today I join with Senator ROBERT STAFFORD, ranking minority member of the Committee on Environment and Public Works, in urging Senate passage of legislation to extend the existing programs of the Economic Development Administration and the Regional Development Commissions through fiscal year 1981.

This is not the legislation which I had anticipated bringing to the Senate. On August 1, 1979, the Senate passed S. 914, the National Public Works and Economic Development Act. The House of Representatives passed a companion bill, H.R. 2063, on November 14, 1979. The first day of conference was held on December 13 of last year.

Mr. President, despite numerous conferences and informal meetings between both members and staff, the differences in the two bills have not been resolved. The legislation has been in conference over 9 months. On September 18, members of the conference committee concluded that a compromise could not be reached. For this reason Senator STAFFORD and I introduced this extension bill 2 days ago.

This bill extends all existing programs of the Economic Development Administration for fiscal years 1980 and 1981. This includes the activities of the title V regional commissions, established under the original 1965 Public Works and Economic Development Act. It also includes a 2-year extension of the programs of the Appalachian Regional Commission, also established in 1965.

In terms of cost, the bill we bring to the Senate today authorizes approximately $1.32 billion for each of the fiscal years 1980 and 1981 for ongoing programs of the Economic Development Administration, and approximately $198 million for the Appalachian Regional Commission for each of those years. This authorization falls considerably below that of the 4-year bill approved by the Senate last year, which also included new programs. No new programs or authorities are authorized in this legislation. This is a simple extension to permit these Federal agencies to continue valuable programs uninterrupted.

Mr. STAFFORD. Mr. President, I would like to say a few words urging the Senate's favorable consideration of S. 3152. This bill simply extends existing authorities under the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act through the end of fiscal year 1981. In my opinion it is highly desirable that the Congress approve this measure with dispatch.

On Thursday, September 18, 1980, the House and Senate conferees on S. 914 agreed to conclude their efforts to write legislation reauthorizing and expanding these Federal economic development programs. S. 914 passed the Senate on August 1, 1979. It has been in conference since December 6, 1979. Month after frustrating month of negotiations between the House and Senate produced no agreement with respect to numerous items in both bills.

Of particular concern to the Senate conferees was a House proposal authorizing $2 billion for a third round of what is called local public works. Such a program was not and is not accommodated in the budget resolutions approved by both bodies, was opposed by the administration, and is of questionable merit in countering recessions in the business cycle.

Furthermore, the Senate and House could not agree on the levels of funding for the Economic Development Administration's program for community development, economic adjustment, and business assistance. The authorizations in the original Senate bill itself exceeded the Administration's request and the allowance in the congressional budget resolution. The House bill exceeds the Senate bill by several billion dollars. The gap could not be narrowed in a way acceptable to the Senate conferees and to me personally.

As a result, both the House and the Senate conferees agreed to introduce and press for enactment of legislation to continue these programs under existing authority through the next fiscal year. The bill before us accomplishes the expressed intent of the conferees.

For the activities of the Economic Development Administration this bill provides authorizations totaling slightly over $1 billion, approximately the same level approved by the Senate when this bill passed last year. It also provides an authorization framework for the agency appropriations currently pending in this body in the State-Justice-Commerce appropriation bill for fiscal year 1981. This measure provides $684 million for the activities of the Economic Development Administration for next year. This is a considerable expansion from the appropriation in current law.

For each of the fiscal years 1979 and 1980, EDA has operated with a budget of $550 million. In addition, this pending appropriation bill provides $425 million in loan guarantee authority for the Economic Development Administration for fiscal year 1981. This amount is several times greater than the agency has previously made available under its regular program.

With respect to S. 3152 the Budget Committee has approved our waiver resolution, without objection.

In consideration of the lateness of the hour in the 96th Congress and the imminence of fiscal year 1981, I believe the only appropriate course of action for the conferees to take is to obtain the approval of both the Senate and the House of the measure before us now. Therefore, I would urge my colleagues to support the Senate conferees, all of whom are cosponsors of the bill before us, by voting to approve it, and send it to the House forthwith.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended as follows:

(1) The first sentence of section 102 is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(2) Section 105 is amended by striking out "and September 30, 1979." at the end of the first sentence and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981.". Section 105 is further amended by striking out "and September 30, 1979," in the third sentence thereof and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(3) Section 201(c) is amended by striking out "and September 30, 1979." at the end therefore and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981.".

(4) Section 204(c) is amended by striking out "and September 30, 1979." and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981.".

(5) Section 303(a) is amended by striking out "and September 30, 1979." and inserting in lieu thereof "September 30, 1979. September 30, 1980, and September 30, 1981.". Section 303(b) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(6) The first sentence of section 304(a) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(7) Section 403(g) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(8) Section 404 is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(9) Section 509(d)(1) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,". Section 509(d)(2) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981,".

(10) Section 905 is amended by striking out "and September 30, 1979." and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981.".

(11) Section 1007 is amended by striking out "September 30, 1979." and inserting in lieu thereof "September 30, 1981.".

Sec. 2. Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (Public Law 91–304) as amended, is amended by striking out "September 30, 1979," and inserting in lieu thereof "September 30, 1981,".

Sec. 3. The Appalachian Regional Development Act of 1965 is amended as follows:

(1) Section 105(b) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: ", and not to exceed $6,700,000 for the two-fiscal-year period ending September 30, 1981 (of such amount not to exceed $1,100,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).".

(2) Section 106(7) is amended by striking out "1979" and inserting in lieu thereof "1981".

(3) Section 201(g) is amended by striking out "and $170,000,000" and inserting in lieu thereof "and $215,000,000".

(4) Section 214(c) is amended by striking out "1978" and inserting in lieu thereof "1980".

(5) Section 401 is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: ", and $300,000,000 for the two-fiscal-year period ending December 31, 1981.".

(6) Section 405 is amended by striking out "1979" and inserting in lieu thereof "1981".

NUCLEAR SAFETY RESEARCH AND DEVELOPMENT ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1030.

The Senate proceeded to consider the bill (S. 2884) to provide for an accelerated program of light water nuclear reactor safety research and development, to be carried out by the Department of Energy, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Nuclear Safety Research and Development Act of 1980".

FINDINGS AND PURPOSE

Sec. 2. (2) The Congress finds that—

(1) nuclear energy is one of the two major energy sources available for electric energy production in the United States during the balance of the twentieth century;

(2) continued development of nuclear power is dependent upon maintaining an extremely high level of safety in the operation of nuclear plants, and on public recognition that these facilities do not constitute a significant threat to human health or safety;

(3) it is the responsibility of utilities, as owners and operators of nuclear powerplants, to assure that such plants are designed and operated safely and reliably; and

(4) a proper role of the Federal Government in assuring nuclear powerplant safety, in addition to its regulatory function, is the conduct of a research, development, and demonstration program to provide important scientific and technical information which can contribute to sound design and safe operation of these plants.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish a research and development program for developing practical improvements in the generic safety of nuclear powerplants during the next five years, beginning in the fiscal year 1981. The objectives of such program shall be—

(1) to reduce the likelihood and severity of potentially serious nuclear powerplant accidents; and

(2) to reduce the likelihood of disrupting the population in the vicinity of nuclear powerplants as the result of nuclear powerplant accidents.

Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities, in addition to those specified in this Act, which appropriately further the purpose and objectives set forth in this subsection.

DEFINITIONS

Sec. 3. For purposes of this Act—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "Government agency" means any department, agency, commission, or independent establishment in the executive branch of the Federal Government, or any corporation, wholly or partly owned by the United States, which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Federal Government.

ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM FOR IMPROVING THE SAFETY OF NUCLEAR POWERPLANTS

Sec. 4 (a) The Secretary shall establish a research and development program to carry out the purpose of this Act. As part of such program, the Secretary shall at a minimum—

(1) refine further the assessment of risk factors associated with the generic design and operation of nuclear powerplants and the means of determining acceptable levels of failure risk in the design of components, subsystems, and systems;

(2) develop potentially cost-beneficial changes in the generic design and operation of nuclear powerplants that can (A) significantly reduce the risks from unintentional release of radioactive material from the various engineered barriers of nuclear powerplants and (B) reduce the radiation exposure to workers during plant operation and maintenance;

(3) develop potentially cost-beneficial generic methods and designs that will significantly improve the performance of operators of nuclear powerplants under abnormal and accident conditions;

(4) identify the effect of total or partial automation of generic plant systems on reactor safety, operation, reliability, economics, and operator performance;

(5) to conduct further experimental investigations under abnormal operational and postulated accident conditions to determine the consequences of such conditions. These investigations shall include, but not be limited to, the following:

(A) fuel failure at higher than standard burn-up levels;

(B) fuel-cladding interactions;

(C) fuel and cladding interactions with coolant under various temperatures and pressures;

(D) thermohydraulic behavior in the reactor core;

(E) mechanisms to suppress and control the generation of hydrogen gas;

(F) improved instrumentation for monitoring reactor cores;

(G) engineered-barrier failure modes; and

(H) fission product release and transport from failed fuel.

(6) provide for the examination and analysis of any nuclear powerplant fuels, components, and subsystems which the Secretary deems to offer significant benefit in safety analysis and which are made available to the Secretary for a nominal cost, such as $1; and

(7) identify the aptitudes, training, and manning levels which are necessary to assure reliable operator performance under normal, abnormal, and emergency conditions.

(b) In carrying out the generic safety research and development program established under this Act the Secretary—

(1) shall, to the extent practicable, coordinate his activities with other Government agencies through memoranda of understanding and with nongovernmental entities supporting nuclear safety research and development in order to minimize his duplication of efforts by others and to ensure that advanced concepts resulting from his activities on generic nuclear powerplant safety are available for application in a timely manner;

(2) shall utilize, to the extent feasible, underutilized federally owned research reactors and facilities, along with the associated personnel, to maintain existing capabilities and to ensure that the research is generic in nature; and

(3) shall have as a prime objective the reduction in the complexity of nuclear powerplant systems, including secondary systems, and operations.

(c) The Secretary shall explore the potential benefits of, and may enter into, international agreements in the development and implementation of the program under this Act: *Provided*, That, no such agreement shall have the effect of delaying the development and implementation of such program.

NATIONAL REACTOR ENGINEERING SIMULATOR

SEC. 5. (a) The Secretary shall initiate a study of the feasibility of creating a reactor engineering simulator facility at a national laboratory for the primary purpose of fostering research in generic design improvements and simplifications through the simulation of the performance of various types of reactors under a wide variety of abnormal conditions and postulated accident conditions and for other associated activities.

(b) In performing the study, the Secretary shall consider relevant factors including, but not limited to—

(1) the savings of cost and time that would accrue from the establishment of such a versatile national simulatory facility;

(2) the extent to which such a facility would further the generic safety research and development program established by this Act;

(3) the importance of such a facility in emergencies to limit the extent of any future nuclear powerplant excursions;

(4) the potential for international cooperation in the generic safety research and development program;

(5) the opportunities for cost sharing by nongovernmental entities in the construction and operation of such a facility.

(c) The Secretary shall submit by July 1, 1981, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the study and the resulting conclusions and recommendations.

FEDERAL NUCLEAR OPERATIONS CORPS

SEC. 6. (a) The Secretary in cooperation with the Nuclear Regulatory Commission shall initiate a study as to the sufficiency of efforts in the United States to provide specifically trained professionals to operate the control rooms of nuclear powerplants and other facilities in the back-end of the nuclear fuel cycle.

(b)(1) In conducting the study the Secretary shall assess the desirability and feasibility of creating a Federal Corps of such professionals to inspect and supervise such operations.

(2) The assessment shall consider the establishment of an academy to train Corps professionals in all aspects of nuclear technology, nuclear operations, nuclear regulatory and related law, and health science.

(3) The assessment shall include the appropriate organizational approach for the establishment of a Federal Corp within the executive branch.

(c) The Secretary shall complete the study within one year after the date of enactment of this Act and shall submit a report along with his recommendations to the Congress.

REPORTS AND DISSEMINATION OF INFORMATION

SEC. 7. The Secretary shall assure that full and complete safety-related information resulting from any project or other activity conducted under this Act is made available in a timely manner to appropriate committees of Congress, Federal, State, and local authorities, relevant segments of private industry, the scientific community, and the public.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 8. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct of research and development activities under this Act consistent with the provisions of section 4. In the preparation of such plan the Secretary shall consult with the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within six months after the date of the enactment of this Act. Revisions to the plan shall be transmitted to such committees whenever deemed appropriate by the Secretary.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b) the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect. The detailed description of the comprehensive plan under this subsection shall include but need not be limited to a statement setting forth any change in—

(1) the program strategies and plans including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(2) the economic environmental and societal significance which the program may have;

(3) the total estimated cost of individual program items; and

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes a description of the progress made toward achieving the goals of this Act a statement on the status of interagency cooperation in meeting such goals and any legislative or other recommendations which the Secretary may have to help attain such goals.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is authorized to be appropriated to the Secretary to carry out this Act such sums as may be authorized by legislation hereafter enacted.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UNPRINTED AMENDMENT NO. 1692

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I send to the desk a technical amendment to the reported substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CHURCH, proposes an unprinted amendment numbered 1692.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The amendment is as follows:

On page 14, line 4, add the following new sentence: "Nothing in this Act shall authorize the Secretary to assume responsibility for the management, cleanup or repair of any commercial nuclear powerplant.".

On page 14, line 8, strike "and".

On page 14, line 9, strike "(3)" and insert in lieu thereof "(2)".

On page 14, line 17, strike the period, insert in lieu thereof a semicolon, and add the following on line 18:

"(3) the term "Commission" means the Nuclear Regulatory Commission; and

"(4) the term "Advisory Committee" means the Advisory Committee on Reactor Safeguards established by section 29 of the Atomic Energy Act of 1954, as amended.

On page 16, line 15, strike all down through line 19 and insert in lieu thereof the following:

"(6) provide for the examination and analysis of any nuclear powerplant fuel, component, or subsystem which the Secretary deems to offer significant benefit in safety analysis and which is made available to the Secretary for a nominal cost, such as $1: *Provided, however,* That the Secretary shall accept only the minimum number of samples of such fuel, component, or subsystem necessary to carry out such examination and analysis;"

On page 17, line 4, insert the following new paragraph (1) and renumber existing paragraphs (1)-(3) as appropriate:

"(1) shall consult with the Commission for the purpose of eliminating unnecessary duplication and avoiding programmatic conflict with any reactor safety rseearch program of the Commission, including the Improved Safety Systems Research program."

On page 18, line 2, after "Secretary" strike all down through "of" on line 3 and insert the following:

", in consultation with the Commission and the Advisory Committee, shall initiate a study of the need for and feasibility of".

On page 18, line 8, strike all that follows "conditions" and insert in lieu thereof a period.

On page 18, line 12, strike all down through line 25, and insert in lieu thereof the following:

"(1) the potential advantages that would accrue from the establishment of such a facility;

(2) the extent to which such a facility would further the generic safety research and development program established by this Act;

(3) the extent to which such a facility can be established by non-governmental entities;

(4) the opportunities for cost sharing by non-governmental entities in the construction and operation of such a facility;

(5) the importance of such a facility in emergencies to limit the extent of any future nuclear powerplant excursions; and

(6) the potential for international cooperation in the establishment and operation of such a facility."

On page 20, line 16, insert the following after "with": "the Commission and the Advisory Committee and with".

On page 20, line 20, after "plan", insert the following: ", including separate reports by the Secretary and the Commission on whether the programs under such plan unnecessarily duplicate or conflict programmatically with any reactor safety research programs of the Commission, including the Improved Safety Systems Research program,".

On page 20, line 22, after "Resources" add the following: "and the Committee on Environment and Public Works".

On page 15, strike lines 1 through 5, and insert in lieu thereof the following:

"(1) refine further the means of determining failure rates in components, subsystems, and systems, and the methodology of assessing the effects of such failures on the generic design and operation of nuclear power plants;"

On page 22, after the number "9", insert "(a)", and after line 4 insert the following:

"(b) In carrying out the provisions of this Act, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts."

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Church I am authorized to state that the committee has two technical amendments, Nos. 13 and 14 to S. 2884 to clarify their intent. The first amendment better states the committee's intent that they further refine the methodology for failure rates in nuclear powerplants of various key elements. This makes it clear that they are not commissioning a new version of WASH-1400 but, rather, trying to better understand the way in which failure of one component affects other components or systems or subsystems in a nuclear powerplant. The second amendment recognizes that the Secretary should not sign contracts which are binding beyond 1 fiscal year without provision for termination of the contract if the appropriations for continuing the activity are not forthcoming.

The committee also proposes a number of further technical amendments to clarify the committee's intent, which was not clear to the Committee on Environment and Public Works. The amendments have been reviewed by that committee and now satisfy their misgivings about the bill's meaning and intent on the respective roles of the Department of Energy and the Nuclear Regulatory Commission; on the nature and extent of the Secretary's authority to examine fuels, components, and subsystems from commercial nuclear powerplants; and on the scope of the feasibility study in section 5.

Mr. President, on behalf of Mr. Church, I wish to confirm with Senator Randolph the intent with respect to one of the technical amendments. In providing for transmittal of the DOE plan under section 8 to the Committee on Environment and Public Works, Mr. Church wants to establish that the intent is not to result in a role for that committee to act legislatively upon the Secretary's program, but rather to merely review the DOE plan for unnecessary duplication and programmatic conflict with the NRC programs. Is that the understanding of the senior Senator from West Virginia?

Mr. RANDOLPH. Yes, Mr. President, our committee only seeks an opportunity to review the DOE plan for this purpose.

I appreciate the willingness of the Senator from Idaho to accept these changes in S. 2884, particularly the provisions pertaining to the authority of the Secretary of Energy to examine and analyze nuclear powerplant fuels, components, and subsystems, and pertaining to the responsibility for the management, cleanup or repair of any commercial nuclear powerplant. Am I correct in my understanding that these provisions are not intended to provide any authority under this act for any subsidy by the Federal Government to any owner of such fuel, component or subsystem accepted by the Secretary of Energy?

Mr. ROBERT C. BYRD. Mr. President, again answering on behalf of Senator Church, the answer is, "Yes." This act is not intended to provide authority for the Federal Government to financially assist owners of commercial nuclear powerplants. The Secretary must expect that costs of examination and analysis of reactor fuels, components or subsystems will be offset by benefits in improved nuclear safety. It is not intended under this act that any significant indirect subsidy accrue through any such examination and analysis by the Secretary.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1692) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. Church on S. 2884 be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Church

Today the Senate considers S. 2884, the Nuclear Safety Research and Development Act of 1980. This bill, which I introduced with Senator Jackson as a cosponsor, is similar to H.R. 7865, which was introduced by Congressman McCormack in the House of Representatives and passed by the House on August 27 by a vote of 365 in favor to only 7 against.

The accident at Three Mile Island Nuclear Power Plant has resulted in great ammunition for those who wish to terminate the use of nuclear energy in the United States. However, sincere as their concerns may be, their objective is not in the best interests of the United States. The world's oil supply will begin to fall short of total demand at some point in this decade. This shortfall will grow rapidly, and this will confront us with a potential energy crisis of enormous magnitude. If we are to close the gap, it will be necessary to put to use every available source of energy, including nuclear energy. In fact, the number of nuclear power plants will have to be expanded if we are to meet the energy demands of our economy. However, if we are to achieve public acceptance for the expanded use of nuclear energy, we must make additional efforts to improve further light water reactors so that they are even safer than existing operating reactors and other types of generating plants.

S. 2884 gives expanded authority and direction to the Department of Energy for performing generic research on light water reactor technology. By focusing on generic features rather than any particular manufacturers' design, the Department of Energy will be performing research which is separate and distinct from the Nuclear Regulatory Commission's program of confirmatory research on nuclear safety. The program established by this bill will give us the chance to step back and take a fresh look at the design of many of the important systems of a nuclear power plant for ways to simplify and streamline the construction and operation.

Many changes in nuclear power plants have come as a direct result of a safety concern expressed by the Nuclear Regulatory Commission. In some cases these successive changes have increased the complexity of the construction and operation of the power plants. In making these ad hoc modifications, instead of adding substantially to the safety of these units, the NRC actions may have inadvertently reduced safety in some instances because of the effect such changes could have on the operation of the other systems and subsystems in the power plant. It seems to me that it is desirable to step back and look for ways to accomplish the safety goals of the NRC with simpler designs to allow greater predictability in the performance of reactors and their control systems in abnormal and emergency conditions. It is a proper role for the Department of Energy to examine the design of light water reactors for cost beneficial methods of further reducing the risks associated with various aspects of nuclear power plants.

This legislation also calls for a study of the feasibility of creating a reactor engineering simulator facility at a national laboratory. This facility would be used to perform research on the safety of various designs of various reactors under accidental reactor excursions. Through the use of this simulator, the need for generic changes in reactor designs might be demonstrated by simulating a variety of abnormal or postulated conditions.

In my judgment, the ideal location for this reactor engineering simulator facility is at the Idaho National Engineering Laboratory (INEL). One of my intentions with this simulator is that it have sufficient capability that it might in fact not only simulate light water reactors, but also high temperature gas cooled reactors, gas cooled breeders, and liquid metal fast breeder reactors. We have a professional staff of experts in nuclear reactors and nuclear safety at INEL that I believe is unmatched anywhere else in the country or in the world.

The activities at INEL have already made a major contribution in the development of nuclear reactors and the confirmation of their safety. For instance, the activities at the Loss of Fluid Test (LOFT) facility have resulted in the greater understanding of the consequences of a major loss of coolant in a reactor core. These activities have given us much greater confidence in the safety of light water reactors under such a loss-of-coolant condition. The people involved in the LOFT project deserve high praise for their excellent work.

Another example of how the expertise at INEL can be applied to problems was demonstrated during the Three Mile Island accident. Using the semi-scale facility, the experts at INEL were able to provide an understanding of what was occurring in the reactor at the TMI power plant and facilitate a safe, cooled shut-down of that power plant. The INEL facilities include a number of underutilized facilities which can be profitably put to use to answer many questions regarding the effects of abnormal and postulated conditions on reactor cores. I believe the most cost-effective way for DOE to manage this new program is to provide for the continued expanded use of these facilities.

I recommend this bill highly to my colleagues and urge its adoption.

Mr. McCLURE. Mr. President, I rise in support of S. 2884, the Nuclear Safety Research and Development Act of 1980. I believe this bill is particularly timely in light of recent events related to our nuclear power option. Yesterday, the voters of the State of Maine gave a ringing endorsement by a 2-to-1 margin of the operation of the Marine Yankee nuclear powerplant.

Several weeks ago, the Nuclear Regulatory Commission voted to resume the licensing of nuclear powerplants by licensing the North Anna nuclear powerplant. Both these events are representative of renewed support for nuclear power in the post-Three Mile Island timeframe. We have now successfully transitioned from the TMI investigations and reviews to affirmative action to proceed with nuclear power with heightened sensitivity to nuclear safety.

I have never been satisfied that we have done as much as we should have in the area of nuclear safety research and development. Consequently, I welcome the thrust toward greater emphasis on the safety aspect of nuclear power operations in our research and development program that would result from this bill.

I also believe that this bill is an appropriate research and development response to the conclusions of the Hart-Simpson subcommittee's investigation of TMI and the resulting conclusion of those Senators that the industry and the Government can develop and implement the necessary safety improvements to continue to operate existing and new nuclear powerplants safely. That same conclusion was made by the NRC and the President's Kemeny Commission in their review of TMI.

This bill will mandate the initiatives in the existing Energy Department research program to satisfy the challenges identified in those various reports. I would hope that this bill and the reports I have mentioned will settle once and for all many of the unfounded fears and concerns which have surrounded much of the media and public discussion of TMI over the last year.

I also am pleased that the Senate and the Congress finally are acting to mandate such research initiatives this year. This Senator in June of last year proposed a nuclear safety R. & D. amendment in the full committee markup of S. 688, last year's DOE authorization. The amendment would have authorized and directed the Secretary of Energy to proceed immediately to develop a program quite similar to that in S. 2884. The amendment was deferred to the Senate floor after opposition was expressed to the effect that such an effort was premature. Certainly, the administration was at that time less than enthusiastic about the amendment. Six months later, the President in his response to the Kemeny Commission, called for an increased emphasis on nuclear safety R. & D. by Government and industry. Typical of this administration, however, his DOE budget request for fiscal year 1981 actually proposes a reduction in funding for the applicable budget category from the fiscal year 1980 appropriation.

Also, the administration continues to oppose further commitments to the safety research facility in Idaho, commitments I might add made personally by the President. So here we are, another year has passed, and still no emphasis by the administration on nuclear safety research. That, Mr. President, is why this bill is critical to get that effort underway in the months ahead.

I should add that this bill is not intended to reflect dissatisfaction with the efforts of the nuclear industry to increase emphasis on nuclear safety R. & D. analysis and operations. The record developed in the committee's hearing on this bill demonstrates conclusively that the industry is moving with great speed and commitment in all related areas of nuclear safety to materially advance the operational and technical safety features of today's existing plants and future plants. I was particularly impressed in the hearing with the programs proposed by Adm. Eugene Wilkinson, the Director of the new Institute for Nuclear Power Operations, and supporting programs initiated by the industry. I have every confidence that the Energy Department and the industry under this bill will be able to form a partnership to accomplish the needed research and development. I certainly expect that result.

Mr. President, I urge the passage of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 7865 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 7865) to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 7865 be stricken and that inserted in lieu thereof be the language of S. 2884, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, third reading of the bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2884 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF SMALL BUSINESS ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Nelson, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No 1072, H.R. 5612.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5612) to amend section 8(a) of the Small Business Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Small Business with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. The last sentence of section 8 (a) (1) of the Small Business Act is amended by striking "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

Sec. 2. The second sentence of section 7 (j) (10) of the Small Business Act is amended by striking the phrase "Associate Administrator for Minority Small Business and Capital Ownership Development" and inserting in lieu thereof "Administrator".

Sec. 3. Section 8(a) (8) of the Small Business Act is amended by inserting after the phrase "Associate Administrator for Minority Small Business and Capital Ownership Development" the phrase "with the concurrence of the Administrator".

Sec. 4. Section 7(j) (10) (A) (i) of the Small Business Act is amended by striking the semicolon at the end thereof and inserting in lieu thereof "for correcting the impairment of such concern's ability to compete, as determined for such concern pursuant to section 8(a) (6) of this Act, within a fixed period of time as determined by the Administration: *Provided*, That not less than one year prior to the expiration of such period of time the Administration shall, upon request of such concern, review and extend such period as may be necessary and appropriate: *Provided further*, That no determination made under this subsection shall be considered a denial of total participation for the purposes of section 8(a) (9) of this Act;".

Sec. 5. Section 7(j)(10)(C) of the Small Business Act is amended to read as follows:

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless—

"(i) the business plan required pursuant to section 7(j)(10)(A)(i) is approved by the Administration; and

"(ii) the program is able to provide such concern with, but not limited to, such management, technical and financial services as may be necessary to achieve the targets, objectives and goals of such business plan.".

Sec. 6. The second sentence of section 3(a) of the Small Business Act is amended by striking "business." and inserting in lieu thereof "business: *Provided*, That the Administration shall not promulgate, amend, or rescind any rule or regulation with respect to size standards prior to March 31, 1981.".

UP AMENDMENT NO. 1693

(Purpose: To extend expiring programs in the Small Business Administration to provide increased export assistance for small business, and for other purposes)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NELSON, I send an amendment to the desk in the nature of a substitute to the reported committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. NELSON, proposes an unprinted amendment numbered 1693.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

"PART A—SMALL BUSINESS ADMINISTRATION MINORITY BUSINESS DEVELOPMENT PROGRAM AMENDMENTS"

SECTION 101. The last sentence of section 8(a)(1) of the Small Business Act is amended by striking "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

Sec. 102. The second of section 7(j)(10) of the Small Business Act is amended by striking the phrase "Associate Administrator for Minority Small Business and Capital Ownership Development" and inserting in lieu thereof "Administrator".

Sec. 103. Section 8(a)(8) of the Small Business Act is amended by inserting after the phrase "Associate Administrator for Minority Small Business and Capital Ownership Development" the phrase "with the concurrence of the Administrator".

Sec. 104. Section 7(j)(10)(A)(i) of the Small Business Act is amended by striking the semicolon at the end thereof and inserting in lieu thereof "for correcting the impairment of such concern's ability to compete, as determined for such concern pursuant to section 8(a)(6) of this Act, within a fixed period of time as determined by the Administration: Provided, That not less than one year prior to the expiration of such period of time the Administration shall, upon request of such concern, review and extend such period as may be necessary and appropriate: Provided further, That no determination made under this subsection shall be considered a denial of total participation for the purposes of section 8(a)(9) of this Act;".

Sec. 105. Section 7(j)(10)(C) of the Small Business Act is amended to read as follows:

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless—

"(i) the business plan required pursuant to section 7(j)(10)(A)(i) is approved by the Administration; and

"(ii) the program is able to provide such concern with, but not limited to, such management, technical and financial services as may be necessary to achieve the targets, objectives and goals of such business plan.".

Sec. 106. The second sentence of section 3(a) of the Small Business Act is amended by striking "business." and inserting in lieu thereof "business: Provided, That the Administration shall not promulgate, amend, or rescind any rule or regulation with respect to size standards prior to March 31, 1981.".

PART B. SMALL BUSINESS EXPORT FINANCING

Sec. 110. This part may be cited as the "Small Business Export Expansion Act of 1980".

Sec. 111. (a) The Congress finds and declares that—

(1) a strong export policy is essential to the health and well-being of the United States economy;

(2) exports of goods and services account for one out of every six jobs in the manufacturing sector and 10 per centum of the gross national product;

(3) every billion dollars in new exports is estimated to provide forty thousand jobs;

(4) there is increased and fierce competition in international markets to United States goods and services;

(5) small businesses account for no more than 10 per centum of all United States export sales;

(6) Federal Government programs are not sufficiently responsive to the needs of small business for export education and development of overseas marketing opportunities necessary to insure that small businesses realize their potential; and

(7) it is in the national interest to systematically and consistently promote and encourage small business participation in international markets.

(b) It is therefore the purpose of this part to encourage and promote small business exporting by—

(1) providing educational and marketing assistance to small businesses;

(2) insuring better access to export information and assistance for small businesses by upgrading and expanding the export development programs and services of the Department of Commerce and the Small Business Administration; and

(3) promoting the competitive viability of such firms in export trade and encouraging increased tourism in the United States by creating a program to provide limited financial, technical, and management assistance as may be necessary.

Sec. 112. Section 7(a) of the Small Business Act is amended by inserting before the phrase "to finance plant construction," the phrase "to finance export assistance,".

Sec. 113. Section 7(a) of the Small Business Act is further amended by inserting before the phrase "The foregoing powers shall be subject, however," the following new sentences: "The Administration is further empowered, only to such extent and in such amounts as are provided in appropriation Acts, to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however,* That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.".

Sec. 114. Section 7(a)(4) of the Small Business Act is amended by adding at the end thereof the following new sentence: "In the case of any deferred participation loan or extension or revolving line of credit made under section 7(a) for export purposes, the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by section 4(c)(1)(B) of this Act shall not exceed $750,000.".

Sec. 115. The Small Business Act is amended by adding after section 21 the following new section:

"Sec. 22. (a) There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section.

"(b) The office shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

"(1) provide small businesses with access to current and complete export information by—

"(A) making available, at the Administration's regional offices through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

"(B) maintaining a current list of financial institutions that finance export operations;

"(C) maintaining a current directory of all Federal, regional, State and private sector programs that provide export information and assistance to small businesses; and

"(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business exporting firms so as to insure that the maximum information is made available to small businesses in a readily usable form;

"(2) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and

"(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each Administration regional office. Such specialists shall—

"(A) assist small businesses in obtaining export information and assistance from other Federal departments and agencies;

"(B) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

"(C) encourage financial institutions to develop and expand programs for export financing;

"(D) provide advice to Administration personnel involved in granting loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small businesses engaged in exports; and

"(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine small businesses' needs for export information and assistance.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

TITLE II—EQUAL ACCESS TO JUSTICE ACT

SEC. 201. This title may be cited as the "Equal Access to Justice Act".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the United States the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this title—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

SEC. 203. (a) (1) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) (1) An agency that conducts an adversary adjudication shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency as a party to the proceeding was substantially justified or that special circumstances make an award unjust.

"(2) A party seeking an award of fees and other expenses shall, within thirty days of a final disposition in the adjudication, submit to the agency an application which shows that the party is a prevailing party and is eligible to receive an award under this section, and the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the agency was not substantially justified.

"(3) The adjudicative officer of the agency may reduce the amount to be awarded, or deny an award, to the extent that the party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the adjudicative officer of the agency under this section shall be made a part of the record containing the final decision of the agency and shall include written findings and conclusions and the reason or basis therefor.

"(b) (1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. (The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the agency involved, and (ii) attorney or agent fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee);

"(B) 'party' means a party, as defined in section 551 (3) of this title, which is an individual, partnership, corporation, association, or public or private organization other than an agency, but excludes (i) any individual whose net worth exceeded $1,000,000 at the time the adversary adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adversary adjudication was initiated, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501 (a) of the Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, and (ii) any sole owner of an unincorporated business, or any partnership, corporation, association, or organization, having more than 500 employees at the time the adversary adjudication was initiated;

"(C) 'adversary adjudication' means an adjudication under section 554 of this title in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

"(D) 'adjudication officer' means the deciding official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c) (1) After consultation with the Chairman of the Administrative Conference of the United States, each agency shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d) (3) of title 28, United States Code.

"(2) A party dissatisfied with the fee determination made under subsection (a) may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) (1) Fees and other expenses awarded under this section may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made pursuant to section 2414 of title 28, United States Code.

"(2) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984, such sums as may be necessary to pay fees and other expenses awarded under this section in such fiscal years.

"(e) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(b) Section 202 of the Act entitled "An Act to amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes" approved June 4, 1976 (16 U.S.C. 634b), is amended—

(1) by striking out "and" after the semicolon in paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) advise, cooperate with, and consult with, the Chairman of the Administrative Conference of the United States with respect to section 504(e) of title 5 of the United States Code.".

(c) Effective October 1, 1984, section 504, and the item relating to section 504 in the table of sections, of title 5, United States Code, as added by subsection (a) of this section, are repealed, except that the provisions of such section shall continue to apply through final disposition of any adversary adjudication as defined in subsection (b) (1) (C) of such section, initiated before the date of repeal.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 204. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including the fees and expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action. A judgment for costs when taxed against the United States shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by such party in litigation.

"(b) Unless expressly prohibited by statute, a court may award reasonable fees and expenses of attorneys, in addition to the costs which may be awarded pursuant to subsection (a), to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action. The United States shall be liable for such fees and expenses to the same extent that any other party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c) (1) Any judgment against the United States for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to any relief provided in the judgment.

"(2) Any judgment against the United States for fees and expenses of attorneys pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title, except that if the basis for the award is a finding that the United States acted in bad faith, then the award shall be paid by any agency found to have acted in bad faith and shall be in addition to any relief provided in the judgment.

"(d)(1)(A) Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by the party in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

"(B) A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this subsection, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege in such application that the position of the United States was not substantially justified.

"(C) The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. (The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee);

"(B) 'party' means a party that is (i) an individual whose net worth did not exceed $1,000,000 at the time the civil action was filed, (ii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed $5,000,000 at the time the civil action was filed, except that an organization described in section 501 (c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of the Code, and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, or (iii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization, having not more than 500 employees at the time the civil action was filed; and

"(c) 'United States' includes any agency and any official of the United States acting in his or her official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, United States Code, or an adversary adjudication subject to the Contract Disputes Act of 1978, the court shall include in that award fees and other expenses to the same extent authorized in subsection (a) of such section, unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4)(A) Fees and other expenses awarded under this subsection may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made in accordance with sections 2414 and 2517 of this title.

"(B) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984 such sums as may be necessary to pay fees and other expenses awarded pursuant to this subsection in such fiscal years.

"(5) The Director of the Administrative Office of the United States Courts shall include in the annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective October 1, 1984, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 205. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

EFFECT ON OTHER LAWS

SEC. 206. Nothing in section 2412(d) of title 28, United States Code, as added by section 204(a) of this title, alters, modifies, repeals, invalidates, or supersedes any other provision of Federal law which authorizes an award of such fees and other expenses to any party other than the United States that prevails in any civil action brought by or against the United States.

EFFECTIVE DATE AND APPLICATION

SEC. 207. This title and the amendments made by this title shall take effect on October 1, 1981, and shall apply to any adversary adjudication, as defined in section 504(b)(1)(C) of title 5, United States Code, and any civil action described in section 2412 of title 28, United States Code, which is pending on, or commenced on or after, such date.

Amend the title so as to read: "An Act to provide for the payment by the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States.".

TITLE III—SMALL BUSINESS EXPORT EXTENSION ASSISTANCE

SEC. 301. (a) The Secretary of Commerce, after consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish an export promotion center in each of two district offices of the International Trade Administration of the Department of Commerce which are located in metropolitan areas where district offices of the Small Business Administration and the Internal Revenue Service exist.

(b) The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce, and the Small Business Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each export promotion center shall serve as a one-stop information center on Federal Government export assistance, financing programs available to small business, and other provisions of law governing exporting for small business.

(c) Not later than six months after the enactment of this title, the Secretary of Commerce shall report to the Select Committee on Small Business and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Small Business and the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing the provisions of this section.

(d) Within two years after the date of enactment of this title, the Secretary of Commerce shall evaluate these export promotion centers, including, but not limited to, an analysis of the effectiveness of the centers in developing and expanding small business exports, and a comparison of the effectiveness of the centers in relation to district offices of the Department of Commerce which do not have an export promotion center. Such evaluation shall be submitted to the committees of the Senate and the House of Representatives referred to in subsection (c).

(e) This title shall take effect on October 1, 1980, or on the date of the enactment of this title, whichever occurs later and shall expire on October 1, 1983.

SEC. 302. (a) The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to make grants (including contracts and cooperative agreements) to a qualified applicant to encourage the development and implementation of a small business international marketing program (hereinafter referred to as "the program"). Each qualified applicant under this title may receive a Federal grant not to exceed $150,000 annually for each of three years. Nothing in this section shall be construed as authorizing the Secretary to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriation Acts.

(b) (1) To be eligible for a grant under this section, an applicant proposing to carry out a small business international marketing program must submit to the Secretary an application demonstrating, at a minimum:

(A) the geographical area to be served;

(B) the number of firms to be assisted;

(C) the staff required to administer the program;

(D) the means to counsel small businesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(E) the ability to provide market analysis of the export potential of small business concerns; and

(F) the capability for developing contacts with potential foreign customers and distributors for small business and their products, including arrangements and sponsorship of foreign trade missions for small business concerns to meet with identified potential customers, distributors, sales representatives, and organizations interested in licensing or joint ventures: *Provided, however,* That no portion of any Federal funds may be used to directly underwrite any small business participation in foreign trade missions abroad.

(2) Program services shall be provided to small business concerns through outreach services at the most local level practicable.

(3) Each small business international marketing program shall establish an advisory board of nine members to be appointed and access to export specialists to counsel and to assist small business clients in international marketing.

(c) (1) Each small business international marketing program shall establish an advisory board of nine members to be appointed by the staff director of the program, not less than five members of whom shall be small business persons or representatives of small business associations.

(2) Each advisory board shall elect a chairman and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

(d) The Secretary shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that a sum equal to the amount of such grant be provided from sources other than the Federal Government: *Provided,* That the additional amount shall not include any amount of indirect costs or inkind contributions paid for under any Federal program, nor shall indirect costs or inkind contributions exceed 50 per centum of the non-Federal additional amount.

(e) The Secretary shall develop a plan to evaluate programs approved under this section which shall only—

(1) determine the impact of small business international marketing programs on those small businesses assisted;

(2) determine the amount of export sales generated by small business assisted through such programs; and

(3) make recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure. Such evaluation shall be submitted to the Congress by October 1, 1982.

(f) For the purpose of the evaluation under subsection (e), the Secretary is authorized to require any small business international marketing program, or party receiving assistance under this section, to furnish such information as is deemed appropriate to complete the required evaluation.

(g) As used in this section, the term "applicant" means any State government or agency or instrumentality thereof, any Small Business Administration—designated small business development center, any for profit small business, any nonprofit corporation, any regional commission, or any combination of such entities, which will carry out a small business international marketing program.

(h) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriation Acts.

SEC. 303. At least one small business international program shall be established within each region of the Department of Commerce. There are authorized to be appropriated to the Secretary $1,500,000 for each fiscal year 1981, 1982, and 1983, to carry out the program established in section 302.

SEC. 304. The Secretary, through the International Trade Administration, shall, only to such extent and in such amounts as are provided in appropriation Acts on and after October 1, 1980, maintain a central clearinghouse to provide for the collection, dissemination, and exchange of information between programs established pursuant to sections 301 and 302 of this title, section 115 of this Act, and other interested concerns.".

● Mr. NELSON. Mr. President, this is a simple amendment we are offering. During the past several weeks, we have been working closely with the Small Business Administration, the House committees, and many interested small business groups, to pass some of the most important items on concern to the small business community, items strongly endorsed by the White House Conference on Small Business, and others.

The amendment being offered, which has the full concurrence of the members of the Small Business Committee, would:

First, restate the committee's position on the amendments to expand the SBA minority business development program (included in the committee-reported version of H.R. 5612);

Second, include legislation increasing the export opportunities for small business which the Senate passed on September 3, 1980 (in S. 2620, the "Small Business Export Expansion Act of 1980"); and

Third, add the provisions of the Equal Access to Justice Act (S. 265, which the Senate has overwhelmingly passed on two separate occasions) in the same form as approved yesterday by the House Judiciary Committee.

Mr. President, the legislative history of these provisions is clearly stated in the committee reports accompanying the individual pieces of legislation. Our interest, and intention, in adding these provisions is to insure that the respective committees can quickly work out their differences in conference and approve this legislation prior to the election recess.

I strongly urge my colleagues to support this amendment, and the passage of the bill.●

● Mr. DeCONCINI. Mr. President, I am pleased to have the privilege to speak in support of this amendment, which adds to H.R. 5612 the basic language of S. 265, the Equal Access to Justice Act. This amendment addresses the award of attorney fees and other expenses that would be payable to prevailing parties in successful agency proceedings or civil litigation with the Federal Government. This amendment has special meaning for me. During the last session the Senate passed the Equal Access to Justice Act, by an overwhelming vote of 94 to 3. I then had the privilege of cosponsoring and conducting hearings on that important legislation. The essence of S. 265 is embraced by this amendment, and I am grateful for the opportunity to speak in support of this legislation.

Mr. President, I would first like to express my gratitude to my distinguished colleagues, Senators DOMENICI and NELSON, whose continued support for S. 265 has been unswerving. Indeed, we all had the opportnuity to testify recently in support of S. 265 before the House Judiciary Subcommitte that has jurisdiction of this matter. I should also add that we also had the opportunity to testify before the House Small Business Subcommittee considering legislation virtually identical to S. 265. That bill, the Small Business Equal Access to Justice Act, was recently reported out by the House Small Business Committee by a vote of 26 to 0.

The House Judiciary Subcommittee has also favorably passed on S. 265 and under the leadership of Congressmen KASTENMEIER and RAILSBACK the full Judiciary Committee has also favorably reported S. 265 by the wide margin of 25 to 3. I commend both Congressmen for their successful effort, and I congratulate the House Judiciary Committee for bringing the Equal Access to Justice Act one step closer to enactment.

The amendment under consideration today reflects the essence of S. 265 as passed by the Senate adjusted to equally reflect all of the substantive changes made by the House Judiciary Committee along with minor technical changes. Thus, both the House and Senate versions are identical in each and every aspect that is of any consequence. With the recess soon upon us and the paperwork logistics associated with enactment, it is hoped that this amendment will provide the House with a "safety valve" approach for passage of the Equal Access to Justice Act as reported by the House Judiciary Committee.

Mr. President, whether we are considering S. 265 or its mirror image such as the amendment before us today, the results should be the same because the premise is identical. This amendment stands for the premise that certain individuals, partnerships, and other organizations are deterred from seeking review of or defending against arbitrary Government action because of the expense involved in securing a vindication of their rights in civil and administrative proceedings. Simply stated under this amendment, individuals and small businesses, which prevail in agency adjudications or in civil actions brought by or against the Federal Government, will be able to recover their attorney fees and other expenses unless the Government can show that its action was substantially justified or that special circumstances would make such an award unjust. The fee award will come directly from the operating budget of the involved agency.

As Americans we are proud of the fact that we are a nation governed by laws. And we are equally proud that we are able to resort to our judicial system to challenge those laws as well as to vindicate our rights under them. Unfortunately, however, the system today is out of balance. Regulation is excessive. Simple laws have grown into a complex web of rules, regulations, responsibilities, and rights—sometimes conflicting and almost always confusing. At the same time, justice has simply become too expensive for the average American, particularly when he must litigate against the practically unlimited resources and expertise of the Federal Government.

Because of these economic deterrents, many citizens today have no effective remedy against unreasonable Government regulation. When the cost of contesting a Government order exceeds the amount at stake, a citizen or small business has no rational choice except to pay a fine or knuckle under to an unfair order.

The danger extends well beyond the individual case. When citizens cannot afford to challenge unreasonable regulations, the result is a type of coerced compliance which undermines the integrity of the entire decisionmaking process. Administrative decisions should reflect informed deliberations. But when citizens and small businesses are forced to comply with regulations simply because it is too costly to fight them, precedent is established on the basis of an uncontested order rather than the thoughtful presentation of opposing views.

In fact, there is evidence that individual Americans and small businesses bear the brunt of administrative regulation and enforcement precisely because they do not have the resources to fully litigate the issues. They are, in short, the easiest targets. As the hearing record on S. 265 demonstrates, citizens and small businesses are too often confronted with an unacceptable alternative: Accept the particular Government edict or fight back knowing from the beginning that the cost in time and money will be much greater than the pending fine or other penalty.

During the hearings on the Equal Access to Justice Act, we heard from a small businessman who spent $3,000 to successfully contest a $25 fine from OSHA; and from a small businessman restaurant owner, who fought back successfully against a Labor Department demand for $54,000 in back pay allegedly owed to his employees only to be faced with a $30,000 legal bill. The hearing record is replete with such accounts. The real world choice in such cases is no choice at all.

The purpose of this amendment is twofold: First, it is intended to provide small businesses and qualifying individuals with effective access to judicial and administrative remedies. Under the present circumstances, a citizen's remedies are more theoretical than real. The legislation would at least make it a "fair fight" for all concerned by providing greater access to the courts.

In this manner, the amendment will achieve its second purpose—to make the bureaucracy more accountable in the exercise of its regulatory powers and more responsive to the needs of citizens. By allowing a decision to contest Government action to be based on the merits of the case rather than the cost of litigating, I believe that this legislation will help assure that administrative decisions reflect a more informed deliberation.

By affirmatively encouraging individual citizens and small businesses to challenge actions which they believe to be unreasonable or irresponsible, this legislation recognizes that those who choose to litigate an issue are not only representing their own interests. They are also refining public policy, correcting errors on the part of the Government, and helping to define the limits of Federal authority. In short, these people are serving a public policy and a public purpose, and it is unfair to ask them to finance through their tax dollars unreasonable Government action and then to also bear the costs of vindicating their rights.

Mr. President, in closing I would like to emphasize again that the imbalance between individual Americans and the power of the bureaucracy must be redressed and realined. Congressional oversight alone will never be a sufficient safeguard against regulatory abuse. Businesses and individuals, the persons who bear the brunt of administrative regulation, must be able to check arbritrary agency actions by contesting them. Through the device of fee-shifting, this amendment will improve small businesses' access to courts and administrative proceedings * * * indeed, this legislation will improve the quality of justice in America.●

Mr. WEICKER. Mr. President, I rise in support of the passage of H.R. 5612, as amended and reported by the Senate Select Committee on Small Business. This bill addresses several key aspects of the Small Business Administration's section 8(a) minority business development program. This legislation delays the implementation of any new size standards for small business until March 31, 1981. I urge the Senate to adopt these provisions.

Despite efforts over the past 10 years, it continues to be an unchallengeable fact that minorities are outside the mainstream of the American free enterprise system. Although minorities constitute over 20 percent of the population, less than 4 percent of the total number of firms are owned by minorities. Less than 2 percent of all business receipts come from minority firms. Certainly a greater minority business participation in the American entrepreneurial system must be one of our national objectives. One of the tools of the Federal Government for promoting this objective has been the Small Business Administration's section 8(a) minority business development program.

Under the regular section 8(a) procurement program, the Federal agencies and departments voluntarily offer to SBA procurement requirements for which SBA is authorized to subcontract the work to small businesses owned by socially and economically disadvantaged persons. Under the pilot procurement program extended by this legislation, the SBA has the authority to identify and select which procurement needs of an agency designated by the President, currently the Army, are suitable for inclusion in the 8(a) program.

Most of the Federal contracts awarded under the 8(a) program have traditionally been for work in general construction or general services, such as food services or janitorial services. Indeed, most minority firms have been in the retail and service sectors. In areas with the highest potential for economic growth, such as manufacturing, minority firms have continued to be only a small percentage. By giving SBA the authority to select the suitable procurement needs of an agency for the 8(a) program, the Congress intended that the SBA would select contracts in nontraditional areas which would begin to develop minority firms in areas with a higher potential for economic growth.

Although the pilot program became effective on October 24, 1978, upon the signing of Public Law 95-507, the President did not designate the Army as the pilot agency until January 10, 1979. Furthermore, it was not until May 24, 1979, 7 months after the authority took effect, that the interagency agreement was agreed to between SBA and Army. The first contract was not awarded under the program until September 27, 1979. Clearly, this authority granted the SBA has not been fully tested.

H.R. 5612, as originally passed by the House of Representatives, extended the 8(a) pilot procurement program for an additional 2 years, until September 30, 1982. The House extended this program for an additional 2 years because the SBA had been very slow in implementing the program, and additional time and experience was necessary in order to test its validity. The Senate substitute provides for a 1 year extension of the pilot procurement program, and does not extend a second pilot program concerning surety bond waivers. While I agree with the House that the administration has been very slow in implementing this program, I firmly support the position of the Senate committee on these provisions, particularly the 1-year extension of the pilot procurement program.

On August 4, 1980 the Small Business Committee heard testimony from the Small Business Administration, the Army, representatives of contractors who have benefited from the authority and a contractor who has expressed serious reservations about the implementation of the program. At that time, 29 contracts had been reserved and 4 contracts had been awarded. With almost double the number of reservations and one more award, the Senate had the benefit of more information to review the agency's performance than the House SBC did when it held hearings 5 months before.

The hearing record developed in the Senate indicated that there are several serious problem areas which demand further examination by the committee. SBA's exercise of this unique procurement authority has left much to be desired. The potential benefits to minority businesses have not been realized.

The committee intends to closely scrutinize SBA's handling of this pilot program and continue its actions to insure it achieves the goal of minority business development.

By extending the program for 1 year, the committee will have a sufficient basis to fully evaluate this approach to minority business development. By that time, GAO will have submitted to the committee its report on the pilot program, as mandated by Public Law 95-507.

Mr. President, Federal Government through the contracting process, should provide minority contractors with new opportunities to grow and expand. However, we must be assured that these contracts are in the best interest of the business involved and the Government.

The Small Business Committee also considered whether to extend the surety bond waiver authority, scheduled to expire on September 30, 1980. H.R. 5612, as passed the House, extends this authority for an additional 2 years. Over the 2 years, SBA did not once exercise this authority.

Despite a similar lack of experience, the committee decided not to extend the surety bond waiver authority for two basic reasons. First, the authority is so limited that few if any firms may qualify for a waiver. This view is supported by an August 20, 1980 report by the GAO.

Second, the committee is currently conducting an extensive investigation into SBA's surety bond program. Until that inquiry is completed, any extension of this limited waiver authority would be ill-advised.

During consideration of H.R. 5612, the committee also considered amendments to the 8(a) program offered by Senator MORGAN. The first proposal would shift final program authority for the 8(a) program from the Associate Administrator for Minority Business Development to the Administrator of SBA. I agree with this administrative change which essentially puts the accountability for this program like other programs in the Agency, where it ought to ultimately be placed: In the hands of the person responsible for running the Agency, the Administrator. I would only expect that the Administrator would delegate this authority to the person most qualified and suitable to handle the day-to-day operation and management of the programs, which in this case would be the Associate Administrator Minority Small Business/Capital Ownership and Development.

The second proposal offered by Senator MORGAN would require the SBA to set a fixed graduation date for each firm when it is accepted into the 8(a) program. The SBA has the authority, under the existing law and the regulatory guidelines to graduate firms; however, very few firms have been graduated. There have been many well publicized instances of abuses of this program and cases of firms which should have been removed from the program, but have continued to receive noncompetitive Government contracts.

Of the 4,350 firms that have been involved in the program, only 174 have successfully graduated. This reluctance on the part of SBA to utilize its current authority to graduate firms compelled the committee to adopt the amendment offered by Senator MORGAN.

During committee consideration of the graduation proposal, I shared the concern that Senator MORGAN's amendment did not allow the SBA the flexibility to take into account a firm's varying circumstances once a fixed graduation date was set. I was pleased to see the modification, offered by Senator LEVIN, which would allow a firm to request an extension of the date within 1 year before the graduation date.

Finally, H.R. 5612, by my amendment, would prohibit the SBA from implementing any size standards changes before March 31, 1981. This past March the SBA issued an advanced notice of proposed rulemaking on size standards. That proposed rule has been the source of considerable concern and controversy within the small business community. Recently, the SBA published a list of six issues raised by comments submitted on the proposed rule. SBA has requested comments by October 27, 1980, on those issues. Several small business associations are concerned that the SBA plans to issue a final rule by the end of January, before the next administration takes office. This provision simply takes this process out of the "political season," and will give the Congress and the agency additional time to study and evaluate any proposed changes in the definition of a small business.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 5612), as amended, was passed.

The title was amended so as to read: "An Act to expand the Small Business Administration's minority business development programs, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed and the title was amended.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. NELSON, that the Senate insist on its amendment and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. NELSON, Mr. MORGAN, Mr. LEVIN, Mr. WEICKER, and Mr. HATCH; as additional conferees solely for the consideration of title II of the Senate amendment: Mr. DECONCINI and Mr. DOLE.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7203.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such act for the education of health professions personnel, and other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. On behalf of Mr. KENNEDY, I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. CRANSTON, Mr. METZENBAUM, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. JAVITS, Mr. HATCH, and Mr. HUMPHREY conferees on the part of the Senate.

TO AMEND THE DISTRICT OF COLUMBIA POLICE AND FIREMEN'S SALARY ACT OF 1958

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EAGLETON, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 7782 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7782) to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Secret Service uniformed division as are given to Federal employees under the general schedule.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7782) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROMOTION OF U.S. TECHNOLOGICAL INNOVATION

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1250.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1250) entitled "An Act to promote United States technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes", do pass with the following amendments:

(1) Page 1, line 3, strike out " "Stevenson," and insert: "Stevenson-Wydler".

(2) Page 2, line 8, strike out "Government", and insert "Federal".

(3) Page 2, line 11, after "labor.", insert: "Cooperation among academia, Federal laboratories, labor, and industry, in such forms as technology transfer, personnel exchange, joint research projects and others, should be renewed, expanded, and strengthened.".

(4) Page 3, line 3, after "No", insert: "comprehensive".

(5) Page 3, line 4, after "purposes.", insert: "There is a need for such a policy, including a strong national policy supporting domestic technology transfer and utilization of the science and technology resources of the Federal Government.

"(9) It is in the national interest to promote the adaptation of technological innovations to State and local government uses. Technological innovations can improve services, reduce their costs, and increase productivity in State and local governments.

"(10) The Federal laboratories and other performers of federally funded research and development frequently provide scientific and technological developments of potential use to State and local governments and private industry. These developments should be made accessible to those governments and industry. There is a need to provide means of access and to give adequate personnel and funding support to these means.

"(11) The Nation should give fuller recognition to individuals and companies which have made outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.".

6 Page 3, strike out lines 6 through 9, inclusive, and insert: "It is the purpose of this Act to improve the economic, environmental, and social well-being of the United States by—

(1) establishing organizations in the executive branch to study and stimulate technology;

(2) promoting technology development through the establishment of centers for industrial technology;

(3) stimulating improved utilization of federally funded technology developments by State and local governments and the private sector;

(4) providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

(5) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

7 Page 3, line 21, after "second 6", insert: "or section 8".

8 Page 4, strike out lines 3 and 4, and insert:

(6) "Federal laboratory" means any laboratory, any federally funded research and development center, or any center established under section 6 or section 8 of this Act that is owned and funded by the Federal Government, whether operated by the Government or by a contractor.

(7) "Supporting agency" means either the Secretary of Commerce or the National Science Foundation, as appropriate.

9 Page 4, line 9, strike out President, and insert: Secretary

10 Page 4, lines 9 and 10, strike out "appoint, by and with the advice and consent of the Senate," and insert: "appoint".

11 Page 4, lines 14 and 15, strike out "In addition to any other duty prescribed by law or assigned by the", and insert: "The".

(12) Page 4, line 15, after "Secretary,", insert: "through".

13 Page 5, strike out lines 16 through 19, inclusive.

14 Page 5, lines 20 and 21, strike out "(7) recommend to the Secretary for transmittal to the President and Congress", and insert: (6) consider

15 Page 6, lines 1 and 2, strike out "(8) assist in the preparation of the report required under subsection (d) and", and insert: (7)

16 Page 6, line 8, strike out "and 6", and insert: 6, 8, 11, 12, and 13

17 Page 6, line 11, strike out "Director", and insert: Secretary

18 Page 6, line 13, after "be", insert: nonprofit institutions and shall be

19 Page 8, line 9, strike out "Director", and insert: Secretary

20 Page 9, line 10, strike out "Director", and insert: Secretary

21 Page 9, strike out all after line 13, over to and including line 22 on page 11.

22 Page 11, strike out lines 15 through 22, inclusive, and insert:

(e) ADDITIONAL CONSIDERATION.—The supporting agency may request the Attorney General's opinion whether the proposed joint research activities of a Center would violate any of the antitrust laws. The Attorney General shall advise the supporting agency of his determination and the reasons for it within 120 days after receipt of such request. However, the establishment of a Center, the rendering of an opinion by the Attorney General, or any other activity undertaken or approved under this Act, shall not convey to any person, association, corporation or other business organization immunity from civil or criminal liability, or create defenses to actions under any antitrust law.

23 Page 11, line 24, strike out "Director", and insert: Secretary

24 Page 12, line 6, strike out "Director", and insert: Secretary

25 Page 12, lines 9 and 10, strike out "Director" each place it appears, and insert: Secretary

26 Page 12, line 15, strike out "paragraphs", and insert: paragraph

27 Page 12, line 16, strike out "and (3)"

28 Page 12, line 17, strike out "Director", and insert: Secretary

29 Page 12, line 22, strike out "Director", and insert: Secretary

30 Page 13, after line 4, insert:

SEC. 8. NATIONAL SCIENCE FOUNDATION CENTERS FOR INDUSTRIAL TECHNOLOGY.

(a) ESTABLISHMENT AND PROVISIONS.—The National Science Foundation shall provide assistance for the establishment of Centers for Industrial Technology: Such Centers shall be affiliated with a university, or other nonprofit institution, or a group thereof. The objective of the Centers is to enhance technological innovation as provided in section 6(a) through the conduct of activities as provided in section 6(b). The provisions of section 6(e) shall apply to Centers established under this section.

(b) PLANNING GRANTS.—The National Science Foundation is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing a plan, as described under section 6(c) (3).

(c) TERMS AND CONDITIONS.—Grants, contracts, and cooperative agreements entered into by the National Science Foundation in execution of the powers and duties of the National Science Foundation under this Act shall be governed by the National Science Foundation Act of 1950 and other pertinent Acts.

Page 13, line 5, strike out "SEC. 8.", and insert "SEC. 9.".

Page 13, line 6, strike out "Director", and insert "Secretary and the National Science Foundation".

Page 13, lines 12 and 13, strike out "Health, Education, and Welfare,", and insert "Education, Health and Human Services,".

Page 13, line 15, strike out "National Science Foundation,".

Page 13, strike out lines 19 through 24, inclusive, and insert:

(b) COOPERATION.—It is the sense of the Congress that departments and agencies, including the Federal laboratories, whose missions are affected by, or could contribute to, the programs established under this Act, should, within the limits of budgetary authorizations and appropriations, support or participate in activities or projects authorized by this Act.

(c) ADMINISTRATIVE AUTHORIZATION.—

(1) Departments and agencies described in subsection (b) are authorized to participate in, contribute to, and serve as resources for the Centers and for any other activities authorized under this Act.

(2) The Secretary and the National Science Foundation are authorized to receive moneys and to receive other forms of assistance from other departments or agencies to support activities of the Centers and any other activities authorized under this Act.

Page 14, strike out line 1, and insert "SEC. 10. EXTERNAL ADVICE."

37 Page 14, strike out lines 2 through 4, inclusive.

38 Page 14, lines 5 and 6, strike out "(b) DUTIES.—The Board shall take such steps as may be necessary", and insert: The Secretary shall require an appropriate advisory committee

39 Page 14, line 7, strike out "and advise", and insert: and to advise

40 Page 14, line 16, strike out "Board", and insert: Committee

41 Page 14, line 17, strike out "Board", and insert: Committee

42 Page 14, strike out all after line 19, over to and including line 2 on page 16, and insert:

SEC. 11. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) POLICY.—It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and local governments and to the private sector.

(b) ESTABLISHMENT OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—Each Federal laboratory shall establish an Office of Research and Technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time as staff for its Office of Research and Technology Applications, and (2) after September 30, 1981, each Federal agency which operates or directs one or more Federal laboratories shall make available not less than 0.5 percent of the agency's research and development budget to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications. The agency head may waive the requirements set forth in (1) and/or (2) of this subsection. If the agency head waives either requirement (1) or (2), the agency head shall submit to Congress at the time the President submits the budget to Congress an explanation of the reasons for the waiver and alternate plans for conducting the technology transfer function at the agency.

(c) FUNCTIONS OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—It shall be the function of each Office of Research and Technology Applications—

(1) to prepare an application assessment of each research and development project in which that laboratory is engaged which has potential for successful application in State or local government or in private industry;

"(2) to provide and disseminate information on federally owned or originated products, processes, and services having potential application to State and local governments and to private industry;

"(3) to cooperate with and assist the Center for the Utilization of Federal Technology and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry; and

"(4) to provide technical assistance in response to requests from State and local government officials.

Agencies which have established organizational structures outside their Federal laboratories which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

"(d) CENTER FOR THE UTILIZATION OF FEDERAL TECHNOLOGY.—There is hereby established in the Department of Commerce a Center for the Utilization of Federal Technology. The Center for the Utilization of Federal Technology shall—

"(1) serve as a central clearinghouse for the collection, dissemination and transfer of information on Federally-owned or originated technologies having potential application to State and local governments and to private industry;

"(2) coordinate the activities of the Offices of Research and Technology Applications of the Federal laboratories;

"(3) utilize the expertise and services of the National Science Foundation and the existing Federal Laboratory Consortium for Technology Transfer, particularly in dealing with State and local governments;

"(4) receive requests for technical assistance from State and local governments and refer these requests to the appropriate Federal laboratories;

"(5) provide funding, at the discretion of the Secretary, for Federal laboratories to provide the assistance specified in subsection (c)(4); and

"(6) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems.

(e) AGENCY REPORTING.—Each Federal agency which operates or directs one or more Federal laboratories shall prepare biennially a report summarizing the activities performed by that agency and its Federal laboratories pursuant to the provisions of this section. The report shall be transmitted to the Center for the Utilization of Federal Technology by November 1 of each year in which it is due.

SEC. 12. NATIONAL TECHNOLOGY MEDAL.

(a) ESTABLISHMENT.—There is hereby established a National Technology Medal, which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the Office of Science and Technology Policy, may prescribe.

(b) AWARD.—The President shall periodically award the medal, on the basis of recommendations received from the Secretary or on the basis of such other information and evidence as he deems appropriate, to individuals or companies, which in his judgment are deserving of special recognition of reason of their outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social wellbeing of the United States.

(c) PRESENTATION.—The presentation of the award shall be made by the President with such ceremonies as he may deem proper.

SEC. 13. PERSONNEL EXCHANGES.

The Secretary and the National Science Foundation, jointly, shall establish a program to foster the exchange of scientific and technical personnel among academia, industry, and Federal laboratories. Such program shall include both (1) federally supported exchanges and (2) efforts to stimulate exchanges without Federal funding.

43 Page 16, line 3, strike out "SEC. 10." and insert: SEC. 14.

44 Page 16, line 12, after "appropriated", insert: to the Secretary

45 Page 16, line 14, strike out "$3,000,000", and insert: $5,000,000

46 Page 16, line 15, strike out "$5,000,000", and insert: $9,000,000

47 Page 16, line 16, strike out "$10,000,000", and insert: $14,000,000

48 Page 16, after line 19, insert:

(d) To enable the National Science Foundation to carry out its powers and duties under this Act only such sums may be appropriated as the Congress may authorize by law.

SEC. 15. SPENDING AUTHORITY.

No payments shall be made or contracts shall be entered into pursuant to this Act except to such extent or in such amounts as are provided in advance in appropriation Acts.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I submit a motion which has been reduced to writing, which I send to the desk, and ask that the motion be stated by the clerk.

The assistant legislative clerk read as follows:

Motion of Mr. STEVENSON with regard to the message from the House.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

MOTION OF MR. STEVENSON IN REGARD TO THE MESSAGE OF THE HOUSE ON S. 1250

I move that the Senate concur in the amendments of the House of Representatives numbered: (1), (2), (3), (4), (5), (6), (7), (11), (12), (16), (17), (19), (20), (23), (24), (25), (26), (27), (28), (29), (31), (32), (33), (34), (43), (44), (45), (46), (47), and (48).

That the Senate disagree to the amendments of the House of Representatives numbered (9), (10), (18), (22), (37), (38), (39), and (41).

That the Senate concur in the remainder of the amendments of the House of Representatives with the following amendments:

1. In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered (8), substitute the following:

(6) "Board" means the National Industrial Technical Board established pursuant to section 10.

(7) "Federal laboratory" means any laboratory, any federally funded research and development center, or any center established under section 6 or section 8 of this Act that is owned and funded by the Federal Government, whether operated by the Government or by a contractor.

(8) "Supporting agency" means either the Department of Commerce or the National Science Foundation, as appropriate.

2. In the amendment of the House of Representatives numbered (13), insert the following immediately before the period at the end thereof; and insert:

(6) provide that cooperative efforts to stimulate industrial innovation be undertaken between the Director and other officials in the Department of Commerce responsible for such areas as trade and economic assistance;

3. In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered (14), substitute: (7) consider

4. In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered (15), substitute: (8)

5. In the amendment of the House of Representatives numbered (21), insert the following immediately before the period at the end thereof: and insert:

(e) RESEARCH AND DEVELOPMENT UTILIZATION.—(1) To promote technological innovation and commercialization of research and development efforts, each Center has the option of acquiring title to any invention conceived or made under the auspices of the Center that was supported at least in part by Federal funds: *Provided*, That—

(A) the Center reports the invention to the supporting agency together with a list of each country in which the Center elects to file a patent application on the invention;

(B) said option shall be exercised at the time of disclosure of invention or within such time thereafter as may be provided in the grant or cooperative agreement;

(C) the Center intends to promote the commercialization of the invention and file a United States patent application;

(D) royalties be used for compensation of the inventor or for educational or research activities of the Center;

(E) the Center make periodic reports to the supporting agency, and the supporting agency may treat information contained in such reports as privileged and confidential technical, commercial, and financial information and not subject to disclosures under the Freedom of Information Act; and

(F) any Federal department or agency shall have the royalty-free right to practice, or have practiced on its behalf, the invention for governmental purposes.

The supporting agency shall have the right to acquire title to any patent on an invention in any country in which the Center elects not to file a patent application or fails to file within a reasonable time.

(2) Where a Center has retained title to an invention under paragraph (1) of this subsection the supporting agency shall have the right to require the Center or its licensee to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, if the supporting agency determines, after public notice and opportunity for hearing, that such action is necessary—

(A) because the Center or licensee has not taken and is not expected to take timely and effecive action to achieve practical application of the invention;

(B) to meet health, safety, environmental, or national security needs which are not reasonably satisfied by the contractor or licensee; or

(C) because the granting of exclusive rights in the invention has tended substantially to lessen competition or to result in undue market concentration in the United States in any line of commerce to which the technology relates.

(3) Any individual, partnership, corporation, association, institution, or other entity adversely affected by a supporting agency determination made under paragraph (2) of this subsection may, at any time within 60 days after the determination is issued, file a petition to the United States Court of Claims which shall have jurisdiction to determine that matter de novo and to affirm, reverse, or modify as appropriate, the determination of the supporting agency.

(f) ADDITIONAL CONSIDERATION.—The supporting agency may request the Attorney General's opinion whether the proposed joint research activities of a Center would violate any of the antitrust laws. The Attorney General shall advise the supporting agency of his determination and the reasons for it within 120 days after receipt of such request.

6. In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered (30), substitute the following:

SEC. 8. NATIONAL SCIENCE FOUNDATION CENTERS FOR INDUSTRIAL TECHNOLOGY.

(a) ESTABLISHMENT AND PROVISIONS.—The National Science Foundation shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be affiliated with a university, or other nonprofit institution, or a group thereof. The objective of the Centers is to enhance technological innovation as provided in section 6(a) through the conduct of activities as provided in section 6(b). The provisions of sections 6(e) and 6(f) shall apply to Centers established under this section.

(b) PLANNING GRANTS.—The National Science Foundation is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing the plan, as described under section 6(c)(3).

(c) TERMS AND CONDITIONS.—Grants, contracts, and cooperative agreements entered into by the National Science Foundation in execution of the powers and duties of the National Science Foundation under this Act shall be governed by the National Science Foundation Act of 1950 and other pertinent Acts.

7. At the end of the matter proposed to be inserted by the amendment of the House of Representatives numbered (35), add the following new subsection:

(d) COOPERATIVE EFFORTS.—The Secretary and the National Science Foundation shall, on a continuing basis, provide each other the opportunity to comment on any proposed program of activity under sections 6, 8, or 13 of this Act before funds are committed to such program in order to mount complementary efforts and avoid duplication.

8. In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered (36), substiute the following: SEC. (10) NATIONAL INDUSTRIAL TECHNOLOGY BOARD.

9. In lieu of the matter proposed to be inserted by the amendment of the House of of Representatives numbered (36), substitute the following: Board, including the establishment of Centers under section 8 of this Act,

10. In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered (42), substitute the following:

The National Science Foundation shall make available to the Board such information and assistance as it may reasonably require to carry out its duties.

(c) MEMBERSHIP, TERMS, AND POWERS.—

(1) The Board shall consist of 15 voting members who shall be appointed by the Secretary. The Director shall serve as a nonvoting member of the Board. The members of the Board shall be individuals who, by reason of knowledge, experience, or training are especially qualified in one or more of the disciplines and fields dealing with technology, labor, and industrial innovation or who are affected by technological innovation. The majority of the members of the Board shall be individuals from industry and business.

(2) The term of office of a voting member of the Board shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years.

(3) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be appointed as a voting member after serving more than two full terms as such a member.

(4) The Board shall select a voting member to serve as the Chairperson and another voting member to serve as the Vice Chairperson. The Vice Chairperson shall perform the functions of the Chairperson in the absence or incapacity of the Chairperson.

(5) Voting members of the Board may receive compensation at a daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, when actually engaged in the performance of duties for such Board, and may be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

SEC. 11. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) POLICY.—It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and local governments and to the private sector.

(b) ESTABLISHMENT OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—Each Federal laboratory shall establish an Office of Research and Technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time as staff for its Office of Research and Technology Applications, and (2) after September 30, 1981, each Federal agency which operates or directs one or more Federal laboratories shall make available not less than 0.5 percent of the agency's research and development budget to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications The agency head may waive the requirements set forth in (1) and/or (2) of this subsection. If the agency head waives either requirement (1) or (2), the agency head shall submit to Congress at the time the President submits the budget to Congress an and alternate plans for conducting the technology transfer function at the agency.

(c) FUNCTIONS OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—It shall be the function of each Office of Research and Technology Applications—

(1) to prepare an application assessment of each research and development project in which that laboratory is engaged which has potential for successful application in State or local government or in private industry;

(2) to provide and disseminate information on federally owned or originated products, processes, and services having potential application to State and local governments and to private industry;

(3) to cooperate with and assist the Center for the Utilization of Federal Technology and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry; and

(4) to provide technical assistance in response to requests from State and local government officials.

Agencies which have established organizational structures outside their Federal laboratories which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

(d) CENTER FOR THE UTILIZATION OF FEDERAL TECHNOLOGY.—There is hereby established in the Department of Commerce a Center for the Utilization of Federal Technology. The Center for the Utilization of Federal Technology shall—

(1) serve as a central clearinghouse for the collection, dissemination and transfer of information on Federally-owned or originated technologies having potential application to State and local governments and to private industry;

(2) coordinate the activities of the Offices of Research and Technology Applications of the Federal laboratories;

(3) utilize the expertise and services of the National Science Foundation and the existing Federal Laboratory Consortium for Technology Transfer, particularly in dealing with State and local governments;

(4) receive requests for technical assistance from State and local governments and refer these requests to the appropriate Federal laboratories;

(5) provide funding, at the discretion of the Secretary, for Federal laboratories to pro-

vide the assistance specified in subsection (c)(4); and

(6) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems.

(e) AGENCY REPORTING.—Each Federal agency which operates or directs one or more Federal laboratories shall prepare biennially a report summarizing the activities performed by that agency and its Federal laboratories pursuant to the provisions of this section. The report shall be transmitted to the Center for the Utilization of Federal Technology by November 1 of each year in which it is due.

SEC. 12. NATIONAL TECHNOLOGY MEDAL.

(a) ESTABLISHMENT.—There is hereby established a National Technology Medal, which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the Office of Science and Technology Policy, may prescribe.

(b) AWARD.—The President shall periodically award the medal, on the basis of recommendations received from the Secretary or on the basis of such other information and evidence as he deems appropriate, to individuals or companies, which in his judgment are deserving of special recognition by reason of their outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(c) PRESENTATION.—The presentation of the award shall be made by the President with such ceremonies as he may deem proper.

SEC. 13. PERSONNEL EXCHANGES.

The Secretary and the National Science Foundation, jointly, shall establish a program to foster the exchange of scientific and technical personnel among academia, industry, and Federal laboratories. Such program shall include both (1) federally supported exchanges and (2) efforts to stimulate exchanges without Federal funding.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, this motion would have the Senate concur in certain amendments of the House and disagree to other amendments of the House and concur in the remaining amendments of the House, with amendments. I am told by Mr. STEVENSON that the motion has been cleared on both sides of the aisle and there is no opposition to its adoption. I understand the minority leader has no opposition to the motion and I ask that it be put.

Mr. BAKER. Mr. President, if the distinguished majority leader will yield, the statement just made by the majority leader is correct. There is no opposition on this side.

● Mr. STEVENSON. Mr. President, the Senate has before it today S. 1250, the Stevenson-Wydler Technology Innovation Act. S. 1250 originally passed the Senate on May 28, 1980. Again, I am grateful to my colleagues for their sentiments and disavow any responsibility for the name under which this bill labors.

The House of Representatives passed its version of S. 1250 on September 8, 1980. The versions of S. 1250 passed by the House and Senate are different in some of their provisions, but not in their intent, namely, to stimulate U.S. industrial technology and innovation. The House passed bill incorporates the framework of the Senate bill and adds several provisions. These provisions include some items requested by the administration which the President originally proposed in his industrial innovation announcement last October.

The House also includes a section that would promote the transfer of technology and R. & D. originally developed in Federal laboratories. This technology transfer provision should be useful in stimulating innovation in the public as well as the private sectors.

Originally, I was concerned with the technology transfer section because it might go too far too fast. Section 11 of the House-passed bill calls for a 0.5 percent set-aside of all Federal R. & D. efforts that would be devoted to the technology transfer program. While this may not seem like a significant figure, it would amount to more than $150 million in fiscal year 1981.

Many Federal R. & D. agencies and national laboratories already engage in technology transfer efforts and would have little difficulty showing that they devote at least that amount for technology transfer. NASA, for example, has had an excellent record in this area. Set-asides, however, are not always the best tools in managing and developing effective programs. The differences in our R. & D. agencies are such that they could have difficulties in complying with a specific set-aside provision. And, even those with excellent programs may not always want to organize their efforts as proposed originally in section 11.

I am pleased that the version passed by the House recognizes these potential problems. The House-passed bill now includes a waiver provision. This provision provides that should problems be encountered in implementing the technology transfer program, the agencies can explain these problems and waive the set-aside requirements. This waiver provision will allow time for the establishment of sound, ongoing, and cost-effective efforts in technology transfer across our Federal R. & D. agencies.

The amendment I propose today compromises the House and Senate versions, maintains the integrity of the Senate bill, and incorporates the additional House provisions.

I urge the Senate to agree to this amendment and approve the bill, as amended. I expect that the House will then approve the bill and send it to the President. Since this bill implements a number of items the President requested in his innovation message last fall, I anticipate that the President will sign it.

Finally, I note again that this bill is intended as a modest, first step to help stimulate industrial innovation. It is not a cure-all, but rather an essential part of an effort to restore the United States to its former preeminence in world commerce and industry. There are other measures being considered in the Congress that could contribute to this effort, including measures dealing with patents, taxes, regulatory reform, and small business proposals. Progress in all these areas is essential to restore U.S. industrial and economic vitality. I urge my colleagues to continue supporting efforts in all these areas and to approve this amendment and bill.●

● Mr. METZENBAUM. Mr. President, I would like to ask the Senator from Illinois a question about certain language deleted from the House version of the bill. While the present language in section 6(f) of the bill is identical to the first two sentences of section 6(e) of the House version, the last sentence of section 6(e) of the House version has been deleted. That language was:

> However, the establishment of a center, the rendering of an opinion by the Attorney General, or any other activity undertaken or approved under this act, shall not convey to any person, association, corporation or other business organization immunity from civil or criminal liability, or create defenses to actions under any antitrust law.

I assume that this language was merely surplusage, since nothing in the bill is designed to create any type of antitrust immunity, and that deletion of this surplusage will avoid confusion. I also assume that the bill as reported will not have the effect of creating any such antitrust immunity. Am I correct in these assumptions?

Mr. STEVENSON. Mr. President, I want to assure the Senator from Ohio that his assumptions are entirely correct. It was unnecessary to include the deleted language because the bill was never intended and is not presently written to grant any sort of antitrust immunity to the centers. It is clear from the bill as presently written and reported that the antitrust laws are applicable to the centers, and that neither the rendering of an opinion by the Attorney General under section 6(f), nor the setting up of a center under section 6, nor any other activity undertaken or approved under this bill, in any way provides express or implied antitrust immunity.●

● Mr. CANNON. Mr. President, following passage by the House and prompt resolution of minor differences between the House and Senate versions, we call up S. 1250, the Stevenson-Wydler Technology Innovation Act, for final action by the Senate.

Through Government- and industry-funded generic technology centers, this legislation will launch cooperative efforts to develop new industrial technologies to improve America's productivity and competitiveness. Through a new Office of Industrial Technology in the Commerce Department, the bill establishes an analytical basis for identifying further measures to encourage or remove barriers to innovation.

The Stevenson-Wydler Technology Innovation Act is not only important to the Nation's economy but also a tribute to its author's leadership in areas that are relatively new to the Commerce Committee's jurisdiction.

Three and a half years ago, the Committee on Commerce, Science, and Transportation was given jurisdiction on matters pertaining to science, engineering, and technology research and development policy. As part of its oversight responsibility, the committee can review all matters relating to science and technology. To handle this responsibility, the committee formed a new Subcommittee on Science, Technology, and Space, and

Senator ADLAI STEVENSON of Illinois became its first chairman.

Senator STEVENSON has distinguished himself in carrying out the responsibilities of the subcommittee. He has been the leader in developing the national agenda for science and technology, and as a result of his efforts, the subcommittee has been instrumental in advancing industrial innovation initiatives, constructing a national space policy, and overseeing the U.S. space program and promoting international cooperation in science and technology.

While Senator STEVENSON will be retiring at the end of this Congress, the efforts he initiated will continue. Much still needs to be done in such areas as space policy and industrial innovation. These are areas of personal interest to me and are important to others on the committee. S. 1250 lays a foundation for our further efforts.

Finally, it should be noted that S. 1250 represents the first legislation incorporating major elements of President Carter's message to Congress on industrial innovation of last October. The bill's industrial technology centers are similar in conception to the President's proposed cooperative generic technology program. The House has added provisions for Federal Government technology utilization, personnel exchanges between Government and industry, and a Presidential technology medal. We will continue to work cooperatively with the administration on matters relating to technological innovation and industrial development.●

● Mr. SCHMITT. Mr. President, earlier this year the Senate passed S. 1250, the Stevenson Technology Innovation Act of 1980, a bill designed to stimulated technological innovation in the United States and enhance the economic well-being of all Americans. That bill was the result of extensive hearings conducted by the Subcommittee on Science, Technology and Space and concern that the continued failure by the executive branch to develop and implement policies and programs designed to stimulate U.S. technological innovation and productivity was significantly contributing to the continuing decline of the U.S. economy and the U.S. trade balance. For example:

We are faced with a real decline in the rate of our national investment in Federal and private research and development at a time when our free world competitors are increasing their respective expenditures in research and development.

Capital investment in the United States is growing more slowly than it is elsewhere, and the U.S. trading position, even in many formerly safe, high technology areas, appears to be deteriorating.

The number of patentable inventions made under federally supported research has been steadily declining while the share of U.S. patents issued to foreign applicants has doubled in the last 14 years.

Statistics confirm that American productivity is growing at a much slower rate than that of our free world competitors.

For the past 2 years the Senate Commerce Committee has conducted an extensive review of the state of American technology and the role of the Federal Government in promoting technology utilization. Witnesses before the committee have repeatedly underscored the need to stimulate the development, application and diffusion of new products and processes if we are to reverse the alarming downward trend in our economic growth and productivity.

Admittedly, the problems are varied and complex—overburdensome and costly regulations, lack of an overall trade policy, repressive tax policies, and inadequate funding of basic research—to name just a few.

My distinguished colleague, Senator STEVENSON, deserves special recognition for his visionary leadership of the Science, Technology and Space Subcommittee over the past 4 years and his efforts to awaken the Nation to the dangers posed by the failure to establish and pursue aggressive national policies and objectives in such diverse areas as industrial innovation, space, patents, remote sensing and materials. His leadership in these important areas has been a tribute to the Congress and the Nation and resulted in key congressional initiatives required to fill the vacuum created by the administration's continued unwillingness to fashion policies and programs so necessary to insure U.S. leadership in the upcoming decades.

I have served with Senator STEVENSON on three committees during the past 4 years: Commerce, Science and Transportation; Banking, Housing and Urban Affairs; and Ethics. In all these activities his guidance, leadership and integrity contributed significantly to extremely important national issues and to maintaining America's leadership. He is a man working to build our Nation, and I am honored to have worked with him so closely on so many issues.

Senator STEVENSON's leadership on S. 1250 is an example of Congress having to act in an innovative manner because of the lack of initiative by the administration. These technology innovation centers will help us in rebuilding our technological base. It is a concrete step as opposed to the rhetoric followed by inaction of the Carter administration. It offers a positive step to aid in the reindustrialization of our Nation, rather than the administration's negative plans of increased taxes, regulations, and stagnation. It is a creative mechanism to begin to solve our energy problems, our automotive industry problems and our decline in productivity.

We are on the verge of a scientific and economic golden age for Americans and for mankind. The frontiers of physics, bio-engineering, material sciences, geosciences, laser technology, information technology, and space technology, to name just a few, have never been more exciting and more promising. On the horizon are solutions to the age-old problems of hunger, disease, poverty, and ignorance as well as realization of the benefits of inexhaustible and clean energy, mutually assured protection rather than destruction and of settlements in space.

Mr. President, S. 1250 represents one small but vitally important step toward the solution of some key economic problems facing the Nation today. I strongly support the enactment of the Stevenson-Wydler Technology Innovation Act of 1980 and offer my sincere congratulations to Senator STEVENSON on this effort.●

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, could we have the Senate agree again to the motion?

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARTIN LUTHER KING, JR., NATIONAL HISTORIC SITE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 7218.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7218) to establish the Martin Luther King, Jr., National Historic Site in the State of Georgia, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bill.

Mr. BUMPERS. Mr. President, with the tragic death of Martin Luther King, Jr., on April 4, 1968, the United States was deprived of one of its greatest leaders, a man who dedicated his life to insuring equal rights for all Americans through the principle of nonviolence.

One of the highest honors our Nation can bestow upon men and women of this country is the designation of sites for inclusion in the National Park System to commemorate their life, work, and contribution to society. Through the designation of the Martin Luther King, Jr., National Historic Site in Atlanta, Ga., we have an opportunity to recognize the many achievements of this remarkable man.

The key objective of this proposal is to preserve the historic environs in which Martin Luther King, Jr., grew up. The significance of this area was first recognized when the Martin Luther King., Jr., Historic District and the Sweet Auburn

Historic District were entered into the National Register of Historic Places in 1974 and 1976. In 1977, its outstanding national significance was recognized when the core area surrounding Dr. Kings' birthplace and grave became a national landmark.

Within the proposed 23.5-acre historic site and the surrounding preservation district are a number of residential and commercial buildings and other structures which comprise a focal point for telling the story of Dr. King and for understanding his role in the history of our country.

Mr. President, this measure has passed the House on three occasions; as part of H.R. 3; as part of an amendment to S. 2363; and as H.R. 7218. The Senate Parks, Recreation and Renewable Resources Subcommittee conducted a hearing on the Senate version of the measure, S. 2630, on September 11, 1980. On September 17, 1980, the full Energy and Natural Resources Committee unanimously ordered the measure favorably reported to the Senate with an amendment in the nature of a substitute conforming the Senate bill to the House-passed bill we are considering today.

Mr. President, this is a timely proposal because of increasing development pressures within this section of Atlanta. Little has been lost to date, but the pressures are increasing daily. These sites and the general environs have outstanding national significance in their association with Dr. Martin Luther King, Jr., the civil rights movement, nonviolence, and black history. H.R. 7218 provides an outstanding opportunity to tell the important story of an individual who helped to shape major changes in the social, political, and economic systems of the United States. I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7218) was ordered to a third reading, was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL AND GAS LEASE NEW MEXICO 33955

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. FORD, I ask that the Chair lay before the Senate a message from the House on H.R. 6538.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6538) to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6538) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENDATION OF ELMER B. STAATS

Mr. ROBERT C. BYRD. Mr. President, I submit a Senate resolution on behalf of Mr. RIBICOFF and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 531) commending Elmer B. Staats, Comptroller General of the United States, on the occasion of the conclusion of his distinguished career of Federal service.

● Mr. RIBICOFF. Mr. President, the resolution Senator PERCY and I have introduced commends the Honorable Elmer B. Staats, fifth Comptroller General of the United States. Mr. Staats has given long and distinguished public service. He has greatly contributed to improved management of Federal programs and activities and has strengthened the role of Congress in its oversight function.

Elmer Staats was sworn in as Comptroller General of the United States on March 8, 1966—almost 15 years ago. From 1939 to 1966 he served as Executive Officer of the National Security Council and as Assistant Director and Deputy Director of the Bureau of the Budget, now the Office of Management and Budget.

As Comptroller General, Mr. Staats has directed the General Accounting Office—Congress watchdog over executive branch operations. Under his leadership, the GAO has changed dramatically, moving beyond solely auditing Government spending to also evaluating how well a Government program works.

Mr. Staats is known for his independence of judgment. He has preserved the nonpartisan character of the post of Comptroller General. He has supervised fair and unbiased GAO reporting. Under his direction, the GAO has studied all areas of Government activity—issuing more than 1,000 reports annually. It reports its findings of waste and mismanagement in countless programs, and it recommends numerous ways to improve Government efficiency.

Mr. President, Mr. Staats is to be congratulated upon his approaching retirement. He leaves his position much admired and respected. I know he will continue to lend his valuable knowledge in continuing to help make our Government work its best—in the most efficient and effective manner possible.●

● Mr. PERCY. Mr. President, I am delighted to join the chairman of the Senate Governmental Affairs Committee in introducing a Senate resolution in honor of Comptroller General Elmer B. Staats.

Elmer Staats has served the Congress for nearly 15 years. He has directed the General Accounting Office for longer than I and many of my colleagues have served here, and I am personally very disappointed to see his term come to a close.

As ranking minority member of the Governmental Affairs Committee it has been my pleasure to work closely with Elmer Staats on countless occasions. The General Accounting Office, under his direction, has done a tremendous, and too often unheralded, job of fulfilling its congressional mandate. A considerable number of the accomplishments of the Congress have been made possible only because of the painstaking and highly professional work performed by the General Accounting Office.

Only a few weeks ago I have the occasion to note—as I often have over the years—that the General Accounting Office is the most cost effective agency in the entire Federal Government. Its oversight over the executive branch has led to savings which exceed by many times the cost of the GAO itself. On that occasion, we were, as we have many times in the past, conducting a hearing on an issue which GAO had investigated and developed to the point of corrective legislation. It was yet another occasion on which Elmer Staats' guidance and leadership had rebounded to the credit of the GAO and the Congress itself.

Elmer Staats is a true professional and a true public servant, and this resolution can serve as only a small token of the gratitude that I know we all share. I wish him the best in his retirement, regretting only that it comes so soon.●

Mr. BAKER. Mr. President, I shall not take long. I simply want to express my personal appreciation to General Staats for a career of long and faithful service and for the contribution he has made to the evolution and development of Government as we know it today.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

To commend Elmer B. Staats, Comptroller General of the United States, on the occasion of the conclusion of his distinguished career of Federal service.

Whereas, the Congress and the Nation wish to recognize the dedicated service of Elmer B. Staats as Comptroller General of the United States since 1966, during which time he has exhibited selfless devotion to the objective of making the General Accounting Office, an arm of the legislative branch of Government, a valuable asset to the Congress;

Whereas, the Congress and the Nation wish to express their appreciation for the service of Elmer B. Staats prior to 1966 as Deputy Director of the Bureau of the Budget under four Presidents, during which time he consistently applied himself in innumerable ways to the objective of improving the efficiency and effectiveness of governmental programs and activities; and

Whereas, the Congress and the Nation note with praise the lifelong contributions of Comptroller General Staats to the cause of strengthening the profession of public administration and the spirit of public service: Now, therefore, be it

Resolved, That the Senate of the United States hereby commends the Honorable Elmer B. Staats, Fifth Comptroller General of the United States, for his long and distinguished public career and for his immense contributions to the goals of improved management of Federal programs and activities and strengthened congressional oversight.

SEC. 2. A copy of this resolution shall be transmitted to the distinguished Comptroller General of the United States, Elmer B. Staats.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREE

(S. 1156)

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from West Virginia (Mr. RANDOLPH) I ask unanimous consent that the Senator from Texas (Mr. BENTSEN) be appointed a conferee on S. 1156 to succeed former Senator Muskie.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR JOHN CULVER

Mr. ROBERT C. BYRD. Mr. President, the qualities for which the senior Senator from Iowa (Mr. CULVER) is well known in the Senate are serving him well in his campaign for reelection.

He is standing by his record on defense as he talks with the people of his home State. As a member of the Committee on Armed Services, JOHN CULVER has campaigned here in Congress for enhanced military preparedness. He has stressed the importance of maintaining the readiness of existing equipment rather than spending more and more for new and unproven equipment. He is bringing this budget-minded message home with the same clarity and forthrightness that he employes in the Senate.

Senator CULVER's efforts on behalf of the people of Iowa, particularly for the elderly and the family farmer, are well documented in numerous legislative initiatives. His direct, commonsense approach is equally apparent in all that he does. An article in the September 26 Wall Street Journal, "The Feisty Culver Campaign," tells a story that will ring true to those of us who know and work with JOHN CULVER. I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FEISTY CULVER CAMPAIGN

(By Dennis Farney)

AMES, IOWA.—John Culver, ex-Marine and former Harvard fullback, doesn't duck fights. He enjoys them, in fact. Sometimes he picks them.

So the liberal Democratic Senator's reaction wasn't surprising when he learned that an ultraconservative "new right" group, the Christian Voice Moral Government Fund, had given his voting record a moral rating of zero. It was a visceral response, angry and effective.

Hut-one! Hut-two! He charged—a fullback smash into the line.

"The new right is not the New Testament," the burly legislator roared here in the Iowa State University student union one quiet Sunday morning recently. His student audience tittered as he began calling the roll, relaying Christian Voice's rating of other lawmakers. A pattern quickly emerged: Liberals were "immoral," conservatives right up there with the angel Gabriel.

"Father Drinan, the Congressman from Massachusetts. Zero!

"Sen. John Glenn, an elder in the Presbyterian Church. Zero!

"The Rev. Bob Edgar, a Methodist minister and Pennsylvania Congressman. Eight!"

IN RARE FORM

Sen. Culver was in rare form now. He was pacing back and forth, his arms cutting great swaths through the air, his face flushed and grinning.

"And then I came to Richard Kelly, the only Republican who admitted taking the money in the Abscam scandal," he shouted gleefully. "He got 100 percent." The audience broke up.

The bare-knuckles counterattack typifies the Senator's approach to his difficult reelection race this fall. Indeed, it typifies his whole approach to politics. In a year when a conservative wind is blowing, when the Senator is one of the top three Senate targets singled out by Republicans and conservatives, he isn't retreating from his liberal record; he would rather fight than switch.

"I'm proud of my record," he says simply. "I don't have any trouble calling myself a liberal."

This approach contrasts sharply with the defensive way other hard-pressed liberal incumbents are seeking reelection this year. Sen. George McGovern of South Dakota has announced that he now would support a cheaper version of the B1 bomber he once strongly opposed. Sen. Frank Church of Idaho, a dove in a hawkish state, rehabilitated his image last fall by suddenly discovering a Soviet "combat brigade" in Cuba and demanding that it be withdrawn. Sen. Birch Bayh of Indiana finesses his liberal record with a just-plain-folks campaign style.

Such tactics may be smart politics in these three conservative states. But there is something half-apologetic about them.

John Culver, though, sees nothing to apologize for in a record that includes opposition to the B1 and the neutron bomb, unequivocal support for the Equal Rights Amendment, consistent support for labor-backed legislation and a strong record on environmental issues. Instead, he has turned the tables on his conservative Republican opponent, Rep. Charles Grassley, in one of the rare cases where a liberal is taking the offensive this fall.

"You have to tell your people that they're playing tackle out there; let's go," he explained last year. Certainly he was playing tackle—or hardball, maybe—when he met Rep. Grassley in a recent one-on-one debate in Des Moines.

Congressman Grassley, a gangling ex-farmer and ex-teacher, is a fiscal conservative who has represented north central Iowa since 1974. A homespun low-key man, he's nevertheless backed this year by a collection of strident "new right" groups such as Christian Voice. His opening statement in the debate portrayed Sen. Culver as out of touch and wedded to out-of-date spending programs.

"The record shows that I am on the side of the majority of Iowans and John is on the side of New York City and the Washington bureaucrats," he said. ". . . His policies are big government and big spending that did not work in the 1960s, did not work in the 1970s and, John, they won't work in the 1980s either."

"Let's talk about savings," Sen. Culver retorted. "I voted against the B1 bomber. That's thirty billion dollars, the biggest savings to the taxpayer in the history of this country. Chuck Grassley voted with me . . . six times against it, called it a federal boondoggle, and in the last two years has decided that he now wants to build it. It will now cost sixty billion dollars and it still can't penetrate Soviet defenses."

As the debate continued, the Senator continued to hammer away, defending SALT II, defending his vote for higher payroll taxes to shore up the Social Security system, calling the nuclear aircraft carrier "a large sitting duck." When Rep. Grassley was pressed for similar specifics, he appeared to wilt behind his lectern.

Despite repeated attempts to pry it out of him, Rep. Grassley refused to take a stand on the Equal Rights Amendment. (He says it's a state issue now and he doesn't intend to intrude into state business.) Finally, an exasperated reporter on the podium demanded. "If I tell you how I'm going to vote on ERA, will you tell me how you're going to vote?" Looking uncomfortable, Mr. Grassley demurred again.

The Senator didn't miss the opportunity. "I'm for it at the state level, I'm for it at the federal level and, frankly, if it were available at the county level, I'd be for it there too," he declared. "With me it's not a matter of geography. It's a matter of principle."

The contrasting performances lent credence to one of Sen. Culver's main campaign themes. He portrays his opponents as "nervous" and vacillating. "When you go down to the United States Senate, you better bring courage with you, because you ain't gonna find it in your desk," he thundered the next day here in Ames. The theme grows naturally out of the personality of the Senator, an explosive man with a short fuse.

Last year, lecturing a hundred noise-control experts at a fancy Washington restaurant, he asked how many were aware that the Senate had just given airlines three more years to curb noisy jets. (He had voted against the waiver.) Only 10 were, and the Senator hit the ceiling.

"We can meet here in the most sophisticated, umpity-ump places in the world, and none of it is going to make a bit of difference unless your concerns are translated to the people and the politicians," he roared. "Otherwise, you're just going to die with your little secret."

"All this," observed the Des Moines Register, "was said at about 90 decibels, more or less."

BLASTING DEMOCRATS

Similarly, he caused a small furor within the Iowa Democratic Party last year by blasting Democratic state legislators for supporting a constitutional amendment that would require a balanced federal budget. As he saw it, they were saying, "I'll do any stupid thing to hold onto my seat." He suggested that voters dump them in the next primary.

These days the Senator is disturbed—more puzzled than angry, really—by what he calls the mea culpa theme among some liberals. He has little patience with Democrats like California Gov. Jerry Brown or Massachusetts Sen. Paul Tsongas, who says liberalism has grown sterile, out of touch, out of ideas.

Somehow, he muses, the intellectual climate has gotten out of whack; it's suddenly chic to be a skinflint. "These days, if you have a little compassion in your heart," he says sarcastically, "you're a jerk. And if you're mean and hard-hearted—why, you're one smart s.o.b."

Can this climate be changed? In that question lies the national significance of the Senate campaign in Iowa. If, after standing up for his record, the Senator wins on Nov. 4, the victory might help arrest the creeping defensiveness in liberal ranks. But if he loses, you'll see few liberals campaign his way in 1982.

"There are people watching us, other Senators and Congressmen," he told students here in Ames. "If we don't stand up now, the new right is going to take its bullyboy techniques to every congressional district and Senate campaign in the country."

The outcome of the Iowa race is too close to call. Sen. Culver leads in the latest Des Moines Register poll of likely voters, 47% to 46%. In late June, he trailed by 17 percentage points. But the Register poll failed to detect a conservative groundswell in 1978, when another Iowa liberal, Sen. Dick Clark, was upset by a conservative Republican supported by the same single-issue groups that now oppose Sen. Culver.

One thing is sure: John Culver won't make Dick Clark's mistake. Mr. Clark coasted into Election Day, believing himself comfortably ahead, keeping a low profile. If John Culver goes down, he'll go down with all guns firing.

"I'm a target," he told students here. "Sure, I'm a target. But this target is going to fight back."

ORDER OF PROCEDURE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, earlier, the order had provided for the convening of the Senate at 12 o'clock noon on Monday. Some Senators may have been under the impression, therefore, that there will be no votes until after 12 noon. However, I call attention in the RECORD and I hope that our respective cloakrooms will bring to the attention of Senators' offices the fact that the convening hour has been moved from 12 o'clock noon on Monday to 9:45 a.m. on Monday. I fully expect rollcall votes to occur before 12 o'clock noon on Monday, and I hope that Senators will be so notified and prepared accordingly.

It is anticipated that there will be votes in connection with the amendment by Mr. WEICKER and a vote on passage of the continuing resolution. These votes conceivably could all occur before noon on Monday.

There will be other action by the Senate on Monday afternoon on other measures as well.

RECESS UNTIL MONDAY, SEPTEMBER 29, 1980, AT 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 9:45 a.m. on Monday.

The motion was agreed to and, at 6:15 p.m., the Senate recessed until Monday, September 29, 1980, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 26, 1980:

DEPARTMENT OF JUSTICE

Mack A. Backhaus, of Nebraska, to be U.S. marshal for the district of Nebraska for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Myron H. Thompson, of Alabama, to be U.S. district judge for the middle district of Alabama.

HOUSE OF REPRESENTATIVES—*Friday, September 26, 1980*

CONFERENCE REPORT ON S. 1790

Pursuant to permission granted, Mr. KASTENMEIER submitted the following conference report and statement on the bill (S. 1790) to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96–1411)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1790) to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That this Act may be cited as the "Privacy Protection Act of 1980".

TITLE I—FIRST AMENDMENT PRIVACY PROTECTION

PART A—UNLAWFUL ACTS

SEC. 101. (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense to which the materials relate: *Provided however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783)); or

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being.

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product materials, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783));

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being;

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of such materials; or

(4) such materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and—

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice.

(c) In the event a search warrant is sought pursuant to paragraph (4)(B) of subsection (b), the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

PART B—REMEDIES, EXCEPTIONS, AND DEFINITIONS

SEC. 105. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of, or at international points of, entry to the United States in order to enforce the customs laws of the United States.

SEC. 106. (a) A person aggrieved by a search for or seizure of materials in violation of this Act shall have a civil cause of action for damages for such search or seizure—

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this Act, or against any other governmental unit, all of which shall be liable for violations of this Act by their officers or employees while acting within the scope or under color of their office or employment; and

(2) against an officer or employee of a State who has violated this Act while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1).

(b) It shall be a complete defense to a civil action brought under paragraph (2) of subsection (a) that the officer or employee had a reasonable good faith belief in the lawfulness of his conduct.

(c) The United States, a State, or any other governmental unit liable for violations of this Act under subsection (a)(1), may not assert as a defense to a claim arising under this Act the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(d) The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this Act, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(e) Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this Act.

(f) A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of $1,000, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however,* That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment.

(g) The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this Act by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted.

(h) The district courts shall have original jurisdiction of all civil actions arising under this section.

SEC. 107. (a) "Documentary materials", as used in this Act, means materials upon which is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magnetically or electronically recorded cards, tapes, or discs, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense.

(b) "Work product materials", as used in this Act, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by any other person;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authored, or created such material.

(c) "Any other governmental unit", as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

SEC. 108. The provisions of this title shall become effective on January 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the provisions of this title shall become effective one year from the date of enactment of this Act.

TITLE II—ATTORNEY GENERAL GUIDELINES

SEC. 201. (a) The Attorney General shall, within six months of date of enactment of this Act, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of any offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained;

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship such as that which may exist between clergyman and parishioner; lawyer and client; or doctor and patient; and

(4) a requirement that an application for a warrant to conduct a search governed by this title be approved by an attorney for the Government, except that in an emergency situation the application may be approved by another appropriate supervisory official if within 24 hours of such emergency the appropriate United States Attorney is notified.

(b) The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the use of search warrants by Federal officers and employees for documentary materials described in subsection (a)(3).

SEC. 202. Guidelines issued by the Attorney General under this title shall have the full force and effect of Department of Justice regulations and any violation of these guidelines shall make the employee or officer involved subject to appropriate administrative disciplinary action. However, an issue relating to the compliance, or the failure to comply, with guidelines issued pursuant to this title may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence.

And the Senate agree to the same.

ROBERT W. KASTENMEIER,
R. L. MAZZOLI,
HERBERT E. HARRIS,
LAMAR GUDGER,
TOM RAILSBACK,
HAL SAWYER,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

BIRCH BAYH,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
DENNIS DECONCINI,
HOWELL HEFLIN,
STROM THURMOND,
ORRIN G. HATCH,
CHARLES MCC. MATHIAS, Jr.,
ALAN SIMPSON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1790) to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE

The House amendment changed the title to delete the phrase, "engaged in first amendment activities" describing persons possessing documentary materials. This was done due to the ambiguous meaning of "first amendment activities" and the inclusion of guidelines in the bill recognizing the privacy interests of nonsuspect third parties. The Conference substitute adopts the House amendment.

REMEDIES

The House amendment replaced the section dealing with remedies to violations to this act. The Conference substitute adopts the Senate language with the exception of the provision which permits punitive damages in Sec. 106(f).

DOCUMETARY MATERIALS DEFINITION

The House amendment changed the definition of documentary materials in Sec. 107 to include mechanically, magnetically or electronically recorded cards, tapes, or discs. The Conference substitute adopts the House amendment with the understanding that files which contain reporters notes and interviews are considered to be included to the extent that such files contain protected materials.

WORK PRODUCT MATERIALS DEFINITION

The Conference substitute adopts the Senate language. The definition of "work product materials" in section 107(b) is intended to limit the protections in Section 101(a) to those documentary materials whose very creation arises out of the purpose of conveying information to the public and which involve some measure of original contribution on the part of the person whose intent is that the materials be disseminated to the public. The requirement that "work product materials" include the "mental impressions, conclusions, opinions, or theories" of such person borrows from a provision in Rule 26(b)(3) of the Federal Rules of Civil Procedure (General Provisions Governing Discovery). This provision emphasizes the mental processes employed by attorneys in creating their own "work product". While there is a specific exception in 107(b) for certain kinds of materials, such as contraband or the fruits of a crime, it is intended that the definition of "work product" is such that this evidence would rarely fall within this definition in any event.

DATE OF ENACTMENT CLAUSE

The House amendment contained no date of enactment clause. The Conference substitute adopts the Senate language, except it alters the date of enactment from October 1, 1980 to January 1, 1981. The enactment clause also states that provisions applicable to state and local governments will become effective one year after the date of enactment.

TITLE II

The House amendment included Attorney General Guidelines (Title II) in a slightly different form from the Senate bill. The differences in the House amendment included the fuller explanation of "privacy interests" in Sec. 201(a)(3), and a requirement that a U.S. Attorney approve an application for a warrant in most cases. The Conference substitute adopts the House amendment.

Four standards are established which must be incorporated in the development of the guidelines. Paragraph 1 of section 201(a) mandates a recognition of the personal privacy interests of the person possessing the materials sought. Paragraph 2 requires that the least intrusive means of obtaining the materials be employed which do not substantially jeopardize the availability or usefulness of the material sought. The Committee expects these two standards to be translated into guidelines which will require an informal request or a subpoena wherever there is an opportunity for an effective alternative to search and seizure. In other words, the principal exception which would allow the use of a search warrant as opposed to a request or a subpoena is where there is sufficient reason to believe that the documentary materials sought would be destroyed if a subpoena were to be issued, or when immediate seizure of the materials is required to prevent substantial reduction in their usefulness. Destruction of evidentiary materials would be most likely to occur in those cases where a close, sympathetic relationship exists between the possessor of the materials and the suspect, or where the suspect holds some form of dominance over the possessor. This type of close relationship is most frequently found in marital or family settings, and therefore, establishes the basis for the exclusion of those "related by blood or marriage to such a suspect" from the protections of the guidelines.

The third standard to be incorporated in guidelines as provided in paragraph 3 is a recognition of special concern for the privacy interests represented in a known, professional, confidential relationship, such as doctor-patient, attorney-client, or clergyman-parishioner. Testimony on *Standard Daily* legislation before the Committee convinced the members of the extreme sensitivity of the relationship, for example, between a psychiatrist and his or her patient, and the harm which can be done by an intrusive governmental seizure of confidential information, and police rummaging through confidential files. The reference to these three relationships in the statute is not intended to be an exclusive reference. Other important confidential relationships such as exist between psychologist and client, psychiatric social worker and client and psychiatric nurse and client shall be recognized. Further, it is the intent of Congress that the phrase "doctor-patient" be construed broadly to include all doctor-like therapeutic relationships.

The fourth standard to be incorporated in the guidelines is a specific requirement that any application for a warrant to conduct a search governed by this Title be approved by an Attorney for the Government. Only in rare and genuine emergencies could another appropriate supervisory official approve such an application and then only if within 24 hours of such emergency the appropriate U.S. Attorney is notified. It is the intent of Congress that an accurate and up-to-date record of any such emergencies be maintained.

The searches of those in privileged relationships which have been brought to the Committee's attention have all been executed at the state or local level. The Committee has been struck by the lack of definitive, federal data available in this sensitive area, however, and therefore in subsection (b) of section 201 has required the Attorney General to collect and compile information on the use of search warrants by federal officers or employees for documentary materials in the possession of those in professionally confidential relationships. These data are to be reported annually to the Judiciary Committees of the House and Senate acting in their oversight capacity over the Department. Section 202 provides that guidelines issued by the Attorney General shall have the full force and effect of Department of Justice regulations and that appropriate disciplinary action shall be fully initiated against any errant officer or employee. It is the view of Congress that the Office of Professional Responsibility of the Department of Justice shall be called upon to investigate and act upon any alleged violation of the guidelines developed pursuant to this act.

This section also provides that noncompliance with guidelines would not be litigable, and the evidence obtained through a violation of guidelines would not be subject to the exclusionary rule, and that the Federal courts would be without jurisdiction over any claim based solely on a failure to follow such guidelines.

Non-litigability provisions similar to subsection 201(c) are found in section 205 of S. 1722, the proposed revision of the federal criminal code, which sets forth factors to be considered in the exercise of concurrent federal jurisdiction and in section 537a of S. 1612, the proposed FBI charter legislation.

Absent explicit language, it is arguable that judicial review of the adequacy of guidelines would be available under section 704 of the Administrative Procedures Act, 5 U.S.C. § 704. However, the well-established "presumption of reviewability" of *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967) is subject to an exception under section 701(a) of the APA, i.e., where the "statute precludes judicial review".

Whether the exclusionary rule could be invoked absent the language of this section is debatable. The Supreme Court in *United States* v. *Caceres*, 440 U.S. 741 (1978) did not resolve the issue of whether the violation of regulations gives rise to the application of the exclusionary rule. Dicta in *Caceres* might be interpreted to allow exclusion of evidence if the violation of guidelines rises to the level of a statutory violation, but whether a defendant would have the requisite standing to invoke the rule for such a violation in the search of a third party without an explicit congressional authorization remains highly doubtful. In any case, the explicit language of subsection (c) forecloses such a possibility.

It was the position of the Department of Justice, in which the Committee concurred, that guidelines should not create the opportunity for litigation which would be both burdensome and unnecessary to achieve the purposes of the guidelines. Title II of S. 1790 will assure that the present practices, of restraint by federal officers in the area of third party searches, become an articulated Departmental policy binding on all federal law enforcement officers. The Committee expects that under the guidelines any officer who violates the guidelines will be subject to disciplinary action by the Department, and that the Department will enforce the guidelines fully in good faith compliance with the policy toward third party searches that they express.

ROBERT W. KASTENMEIER,
R. L. MAZZOLI,
HERBERT E. HARRIS,
LAMAR GUDGER,
TOM RAILSBACK,
HAL SAWYER,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

BIRCH BAYH,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
DENNIS DECONCINI,
HOWELL HEFLIN,
STROM THURMOND,
ORRIN G. HATCH,
CHARLES MCC. MATHIAS, JR.,
ALAN SIMPSON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2719

Pursuant to permission granted Mr. REUSS submitted the following conference report and statement on the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96–1420)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective House as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Housing and Community Development Act of 1980".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

ADMINISTRATION OF COMMUNITY DEVELOPMENT PROGRAM

SEC. 101. (a) Section 102(b) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, for the fiscal years 1981, 1982, and 1983, (1) no data derived from the 1980 Decennial Census, as provided for in subchapter II of title 13, United States Code, except those relating to population and poverty, shall be taken into account for purposes of section 119 or the allocation of amounts under section 106, and (2) no revision to the criteria for establishing a metropolitan area or defining a central city of such an area published after January 1, 1980, shall be taken into account for purposes of this title, except that any area or city which would newly qualify as a metropolitan area or a central city of such an area by reason of any such revision shall be so considered.".

(b)(1) Section 102 of such Act is amended by striking out susbection (d) and inserting in lieu thereof the following:

"(d) With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 103(a)(1), the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(6)(B) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant under section 106 as a separate entity, unless the application by the urban county is disapproved or withdrawn prior to or during such three-year period. During any such three-year period, the population of any unit of general local government which is not included in that of the urban county for the first year shall not be eligible for such inclusion in the second or third year.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1981.

(c) Section 102 of such Act is amended by adding at the end thereof the following:

"(e) Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county under subsection (a)(6)(B)(1), of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).".

(d) Section 104 of such Act is amended by adding the following new subsection at the end thereof:

"(j) In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of planning a joint community development program meeting the application requirements of this section, and implementing such program.".

PRO RATA REDUCTION OF GRANTS

SEC. 102. Section 106(g) of the Housing and Community Development Act of 1974, as redesignated by section 111(d) of this Act, is amended—

(1) by striking out "fiscal year 1978, fiscal year 1979, or fiscal year 1980" and inserting in lieu thereof "any fiscal year";

(2) by striking out "and hold-harmless" wherever it appears; and

(3) by striking out "(d)(2)" and "(f)(1)(B)" and inserting in lieu thereof "(c)" and "(e)", respectively.

INCLUSION OF CERTAIN INDEPENDENT CITIES IN DETERMINING COMMUNITY DEVELOPMENT GRANT AMOUNTS FOR URBAN COUNTIES

SEC. 103. Section 106(b)(4) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

"(A) is not part of any county;

"(B) is not eligible for a grant pursuant to subsection (b)(1);

"(C) is contiguous to the urban county;

"(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

"(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible for a grant under subsection (c) or (e) with respect to such fiscal year.".

ENERGY AND ELIGIBLE ACTIVITIES

SEC. 104. (a) Section 101 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (1) of subsection (a);

(2) by striking out the period at the end of paragraph (2) of subsection (a) and inserting in lieu thereof "; and";

(3) by adding the following new paragraph at the end of subsection (a):

"(3) increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities.";

(4) by striking out "and" at the end of paragraph (2) of subsection (b);

(5) by striking out the period at the end of paragraph (3) of subsection (b) and inserting in lieu thereof "; and";

(6) by adding the following new paragraph at the end of subsection (b):

"(4) concerted action by Federal, State, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies.";

(7) by striking out "and" at the end of paragraph (7) of subsection (c);

(8) by striking out the period at the end of paragraph (8) of subsection (c) and inserting in lieu thereof "; and"; and

(9) by adding the following new paragraph after paragraph (8) of subsection (c):

"(9) the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.".

(b) Section 104(a) of such Act is amended by adding the following new sentence at the end thereof:

"The applicant may, at the discretion of the applicant, include (as part of the program summary, formulation, and description requirements described in paragraphs (1), (2), and (3) of this subsection) comparable information with respect to the applicant's energy conservation and renewable energy resource needs and objectives.".

(c) Section 105(a) of such Act is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation which promote energy efficiency) of public works, facilities and site or other improvements—including neighborhood facilities, centers for the handicapped, senior centers, historic properties, utilities (including power generation and distribution facilities using renewable resource energy systems), streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, and parks, playgrounds, and recreation facilities (including parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river and land adjacent thereto where assistance under other Federal laws or programs is determined to be unavailable), flood and drainage facilities in cases where assistance for such facilities under other Federal laws or programs is determined to be unavailable, and parking facilities, solid waste disposal facilities, recycling or conversion facilities, and fire protection services and facilities which are located in or which serve designated community development areas;";

(2) by inserting after "rehabilitation" the first time it appears in paragraph (4) the following: "(including rehabilitation which promotes energy efficiency)";

(3) by inserting after "education," in paragraph (8) the following: "energy conservation,";

(4) by inserting after "community economic development" in paragraph (15) the following: "or energy conservation"; and

(5) by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(16) activities necessary to the development of a comprehensive community-wide energy use strategy, which may include items such as—

"(A) a description of energy use and projected demand by sector, by fuel type, and by geographic area;

"(B) an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

"(C) an analysis of the manner in, and extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation strategy;

"(D) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

"(E) a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

"(F) appropriate provisions for energy emergencies;

"(G) identification of the local governmental unit responsible for administering the energy use strategy;

"(H) provision of a schedule for implementation of each element in the strategy; and

"(I) a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy.".

(d) Section 105(a)(4) of such Act is amended by inserting ", and including the renovation of closed school buildings" after "privately owned properties".

(e) Section 105(a) of such Act is amended—

(1) by inserting after "activities" the first time it appears in paragraph (14) the following: "(as specifically described in the application submitted pursuant to section 104)"; and

(2) by inserting after "project" in paragraph (15) the following: "(as specifically described in the application submitted pursuant to section 104)".

DISPLACEMENT

SEC. 105. (a) Section 104(a)(2) of the Housing and Commmunity Development Act of 1974 is amended—

(1) by striking out "including activities," in clause (B) and inserting in lieu thereof "activities, and objectives, including activities";

(2) by striking out "and objectives," in clause (B); and

(3) by striking out clause (C) and inserting in lieu thereof the following: "(C) takes into account the effect of such activities on the involuntary displacement of low- and moderate-income persons and takes into account appropriate environmental factors;".

(b) The Secretary of Housing and Urban Development shall continue the study on involuntary displacement conducted under section 902 of the Housing and Community Development Amendments of 1978 and shall transmit, not later than March 30, 1981, a report to the Congress which shall contain (1) data collected since the initial report submitted under such section 902, and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement.

AUTHORIZATIONS

SEC. 106. (a) The second sentence of section 103(a)(1) of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for these purposes not to exceed $3,810,000,000 for the fiscal year 1981, not to exceed $3,960,000,000 for the fiscal year 1982, and not to exceed $4,110,000,000 for the fiscal year 1983.".

(b) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $275,000,000 for the fiscal year 1981 shall be added to the amount available for allocation under section 106(c) and shall not be subject to the provisions of section 107.".

(C) Section 103(c) of such Act is amended to read as follows:

"(c) There are authorized to be appropriated for supplemental grant assistance under section 119 amounts aggregating not to exceed $1,475,000,000 for fiscal years prior to the fiscal year 1981, and an additional amount not to exceed $675,000,000 for each of the fiscal years 1981, 1982, and 1983.".

SECTION 107 DISCRETIONARY FUND

SEC. 107. Section (a) of the Housing and Community Development Act of 1974 is amended by striking out "of authority to enter into contracts approved in appropriation Acts under section 103 (a) (1) for each of the fiscal years 1975, 1976, 1977, 1978, 1979, and 1980, an amount equal to 3 per centum thereof shall" and inserting lieu thereof "approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1981, 1982, and 1983, not more than $104,000,000 for fiscal year 1981, not more than $104,000,000 for fiscal year 1982, and not more than $107,000,000 for fiscal year 1983, may".

LIMITATION ON COMMUNITY DEVELOPMENT GUARANTEES

SEC. 108. Section 108 of the Housing and Community Development Act of 1974 is amended—

(1) by inserting after "commitments to guarantee" in the first sentence of subsection (a) the following: ", only to such extent or in such amounts as provided in appropriation Acts,";

(2) by adding the following new sentence at the end of subsection (a): "During fiscal year 1981, the Secretary may not enter into commitments to guarantee under this section notes and other obligations with an aggregate principal amount in excess of $300,000,000."; and

(3) by striking out "Notwithstanding any other provision of this section, the" in subsection (k) and inserting in lieu thereof "The".

PERFORMANCE REPORTS FOR CERTAIN NON-ENTITLEMENT COMMUNITIES

Sec. 109. Section 104(d) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each" in the first sentence and inserting in lieu thereof "Each";

(2) by inserting after the first sentence the following new sentence: "The performance report shall be submitted annually prior to the beginning of each fiscal year, except that a grantee which receives a grant made pursuant to subsection (c) or (e) of section 106 which the Secretary determines does not fund a comprehensive community development program may submit a report with respect to such grant less frequently than annually as determined by the Secretary."; and

(3) by inserting "(or less frequently as the Secretary determines appropriate in the case of a grant for which a report is submitted less frequently than annually in accordance with the second sentence of this paragraph)" after "at least on an annual basis" in the third sentence.

HISTORIC PRESERVATION

Sec. 110. (a) Section 119(c) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph after paragraph (6):

"(7) include (A) an identification of all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) an identification of all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; and (C) a description of the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B).".

(b) Section 119 of such Act is amended by adding the following new subsection at the end thereof:

"(n) In the case of any application which identifies any property in accordance with subsection (c)(7)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 121(b).".

(c) Title I of such Act is amended by adding the following new section at the end thereof:

"HISTORIC PRESERVATION REQUIREMENTS

"Sec. 121. (a) With respect to applications for assistance under section 119, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 119 and their relationship with—

"(1) 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 14, 1966, as amended; and

"(2) 'An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam', approved June 27, 1960, as amended.

"(b) In prescribing and implementing such regulations with respect to applications submitted under section 119 which identify any property pursuant to subsection (c)(7)(B) of such section, the Secretary of the Interior shall provide at least that—

"(1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

"(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.

"(c) The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 106 of the Act referred to in subsection (a)(1) in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 119.".

TECHNICAL AMENDMENTS TO THE BLOCK GRANT PROGRAM

Sec. 111. (a) Section 102 of the Housing and Community Development Act of 1974 is amended by striking out "Office of Management and Budget" each place it appears in paragraphs (3), (4), and (8) of subsection (a) and in subsection (b) and inserting in lieu thereof "Department of Commerce".

(b) Section 103 of such Act is amended by striking out subsection (e).

(c) Section 104 of such Act is amended—

(1) by striking out "106(a)" in the first sentence of subsection (c) and inserting in lieu thereof "106(b)"; and

(2) by striking out "(d)(2)" and "(f)(1)(B)" wherever they appear in subsections (d) and (e) and inserting in lieu thereof "(c)" and "(e)", respectively.

(d) Section 106 of such Act is amended by striking out subsections (c), (g), (h), (i), (j), and (l) and redesignating subsections (d), (e), (f), (k), and (m) as subsections (c), (d), (e), (f), and (g) respectively.

(e) The second sentence of section 106(a) of such Act is amended—

(1) by striking out "subsections (c) and (e)" and inserting in lieu thereof "subsection (d)"; and

(2) by striking out "aggregate", "the greater of" and "or its hold-harmless amount computed pursuant to subsection (g)".

(f) Section 106(c) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out "allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and second, in accordance with the provisions of paragraph (2).

"(2) Any portion of such amounts which remains after applying the provisions of paragraph (1) shall be";

(2) by redesignating paragraph (3) as paragraph (2);

(3) by striking out "paragraph (2)" wherever it appears in paragraph (2), as redesignated by paragraph (2) of this subsection, and inserting in lieu thereof "paragraph (1)";

(4) by striking out the second sentence of paragraph (2), as redesignated; and

(5) by striking out in the final sentence of paragraph (2), as redesignated, ", Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h)" and inserting in lieu thereof "and Indian tribes".

(g) Section 106(e) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out in the first sentence of paragraph (1) the following: "allocated by the Secretary—

"(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h); and

"(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be";

(2) by striking out "(i)" and "(ii)" in the first sentence of paragraph (1) and inserting in lieu thereof "(A)" and "(B)", respectively, and by striking out "(I)", "(II)", and "(III)" wherever they appear in such sentence and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively;

(3) by striking out "clause (i) of subparagraph (B)" and "clause (ii) of subparagraph (B)" in the second sentence of paragraph (1) and inserting in lieu thereof "subparagraph (A)", and "subparagraph (B)", respectively;

(4) by striking out "subparagraph (B)" in the third sentence of paragraph (1) and inserting in lieu thereof "this paragraph", and by striking out "such subparagraph" wherever it appears in such sentence and inserting in lieu thereof "such paragraph";

(5) by striking out the second sentence of paragraph (2);

(6) by striking out "paragraph (1)(B)" wherever it appears in paragraph (2) and inserting in lieu thereof "paragraph (1)";

(7) by striking out "units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) and" in the last sentence of paragraph (2); and

(8) by striking out "paragraph (1)(B)" in the first sentence of paragraph (3) and inserting in lieu thereof "paragraph (1)".

(h) Section 116 of such Act is amended—

(1) by striking out subsections (b), (f), and (h), and by redesignating subsection (g) as subsection (b); and

(2) by striking out in subsection (b), as redesignated, "or from a unit a general local government for a grant pursuant to section 106(h)".

REALLOCATION OF FUNDS

Sec. 112. Section 106 (d) of the Housing and Community Development Act of 1974, as redesignated by section 111(d) of this Act, is amended by striking out "first," and all that follows through the period at the end of the first sentence and inserting in lieu thereof the following: "first, in any metropolitan area in the same State, with a preference for units of general local government in the same metropolitan area to which such funds were originally allocated, and second, in any other metropolitan area.".

REPORT ON COMMUNITY DEVELOPMENT GRANT FORMULA

Sec. 113. The Secretary of Housing and Urban Development shall, not later than January 1, 1983, report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the manner in which such formula is or could be affected by the data derived from the 1980 decennial census.

REHABILITATION LOANS

Sec. 114. (a) Section 312(c)(4) of the Housing Act of 1964 is amended—

(1) by striking out in subparagraph (A) "$27,000" and inserting in lieu thereof "$33,500";

(2) by inserting "(i)" after "secured by such property" in subparagraph (A);

(3) by inserting ", and (ii) if the Secretary determines that such refinancing is necessary and appropriate" before the semicolon at the end of subparagraph (A);

(4) by striking out "and" at the end of subparagraph (A);

(5) by redesignating subparagraph (B) as subparagraph (D); and

(6) by inserting after subparagraph (A) the following:

"(B) in the case of residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility where meals can be served to the occupants of such residential property, $25,000 per dwelling unit;

"(C) in the case of residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities, $15,000 per dwelling unit; and".

(b) Section 312(d) of such Act is amended—

(1) by striking out "and not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979" in the first sentence and inserting in lieu thereof "not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979, not to exceed $144,000,000 for the fiscal year beginning on October 1, 1980, and not to exceed $129,000,000 for the fiscal year beginning on October 1, 1981";

(2) by inserting the following before the period at the end of the third sentence thereof: ", and not more than $210,000,000 may be approved in appropriation Acts for such loans with respect to the fiscal year beginning on October 1, 1980"; and

(3) by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Of the amount available for loans under this section during any fiscal year beginning on or after October 1, 1980, the Secretary may utilize not more than one-third for rehabilitation loans for multifamily properties.".

(c) Section 312(f) of such Act is amended by inserting before the period at the end thereof the following: ", except that the Secretary may not delegate to any agency or organization outside the Department of Housing and Urban Development the authority to determine whether to permit refinancing of existing indebtedness under subsection (c)(4)(A)".

(d) Section 312(h) of such Act is amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

Sec. 115. The first sentence of section 705 of the Housing and Community Development Amendments of 1978 is amended by inserting after "1980" the following: ", and not to exceed $10,000,000 for the fiscal year 1981".

URBAN HOMESTEADING

Sec. 116. The first sentence of section 810 (h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (g)".

UDAG AMENDMENTS RELATING TO GUAM, THE VIRGIN ISLANDS, AND INDIAN TRIBES

Sec. 117. (a) Section 119 of the Housing and Community Development Act of 1974 is amended by adding the following new subsection at the end thereof:

"(o)(1) For the purpose of carrying out this section, the term 'city' includes Guam, the Virgin Islands, and Indian tribes.

"(2) The application requirements—

"(A) of section 104, and

"(B) of subsection (c)(2) of this section, to the extent such subsection requires a concentrated urban development action program to be consistent with the program and plan described in paragraphs (2) and (4) of section 104(a),

shall not apply to applications by Guam, the Virgin Islands, or Indian tribes for assistance under this section.

"(3) Grants may be made under this section to Guam, the Virgin Islands, or an Indian tribe only with respect to fiscal years for which Guam, the Virgin Islands, or such Indian tribe, as the case may be, has submitted an application meeting requirements prescribed pursuant to section 107.

"(4) The Secretary may not approve a grant to an Indian tribe unless such Indian tribe—

"(A) is located on a reservation or in an Alaskan Native Village; and

"(B) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.".

(b) Section 107 (d) of such Act is amended by inserting "under this title" after "Indian tribe" in first sentence.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW INCOME HOUSING

Sec. 201. (a) Section 5(c) of the United States Housing Act of 1937 is amended to read as follows:

"(c)(1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts; in addition, the aggregate amount which may be obligated, with respect to the additional authority provided on October 1, 1980, over the duration of the contracts may not exceed $31,200,000,000. The Secretary, in utilizing the additional authority to enter into such contracts provided on and after October 1, 1980, shall administer the programs authorized by this Act to provide assistance, to the maximum extent practicable, consistent with section 213(d) of the Housing and Community Development Act of 1974.

"(2)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1980, the Secretary shall enter into contracts aggregating at least $100,000,000 for assistance to projects under section 14.

"(B) Of the balance of such additional authority approved in appropriation Acts and made available on October 1, 1980, which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary may not enter into contracts aggregating—

"(i) more than 37.5 per centum of such balance for existing units assisted under section 8, including assistance provided under subsection (j) of such section; and

"(ii) more than 62.5 per centum of such balance for newly constructed and substantially rehabilitated units assisted under this Act, of which not more than $265,800,000 shall be made available for such units assisted under this Act other than section 8.

"(3) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

"(4) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

"(5) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) including repayments or other realizations of the principal of loans made out of such funds, shall not be available for the payment of such annual contributions.".

(b) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately after "on or after October 1, 1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $862,000,000 on or after October 1, 1980".

(c) Section 6(b) of such Act is amended—

(1) by inserting the following before the period at the end of the second sentence: "; except that, for projects to be constructed as a result of assistance provided under this Act and which are to be located on Indian reservations or in Alaskan Native villages, the Secretary shall determine and make the prototype costs available within a reasonable time prior to the beginning of each construction season as is determined to be appropriate for the area in which the project is to be located"; and

(2) by striking out "and" at the end of clause (6) of the third sentence, and by adding the following before the period at the end of such sentence: ", and (8) with respect to remote areas such as may be found in connection with projects developed under the Indian and Alaskan Native housing program assisted under this Act, the extensive transportation required to provide the necessary labor, materials, and equipment to the project site and any additional conditions that the Secretary determines should be taken into consideration under clauses (1) through (7) for such projects".

(d) Section 9(a)(1) of such Act is amended by striking out "and" before "(B)" in the second sentence, and by inserting the following before the period at the end of the second sentence: ", and (C) with respect to housing projects developed under the Indian and Alaskan Native housing program assisted under this Act, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 5 and until such time as the project is occupied".

(e) Section 6(c)(4)(A) of such Act is amended by inserting immediately after "(A)" the following: "except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families,".

PUBLIC HOUSING COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

SEC. 202. (a) The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

"SEC. 14. (a) It is the purpose of this section to provide assistance—

"(1) to improve the physical condition of existing public housing projects, and

"(2) to upgrade the management and operation of such projects,

in order to assure that such projects continue to be available to serve low-income families.

"(b) The Secretary may make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as may be approved in appropriations Acts) to public housing agencies for the purpose of improving the physical condition of existing low-rent public housing projects and for upgrading the management and operation of such projects to the extent necessary to maintain such physical improvements.

"(c) Assistance under subsection (b) may be made available only for low-rent housing projects which—

"(1) are owned by public housing agencies;

"(2) are operated as rental housing projects and receive assistance under section 5 (c) or section 9 of this Act;

"(3) are not assisted under section 8 of this Act; and

"(4) meet such other requirements consistent with the purposes of this section as the Secretary may prescribe.

"(d) Except as provided in subsection (e) (4), no assistance may be made available under subsection (b) unless the Secretary has approved an application from the public housing agency which has been developed in consultation with appropriate local officials and with tenants of the housing projects for which assistance is requested. Such application shall contain at least—

"(1) a comprehensive assessment of (A) the current physical condition of each project for which assistance is requested, and (B) the physical improvements necessary for each such project to meet the standards established by the Secretary pursuant to subsection (j);

"(2) an identification, for each such project, of the equipment systems or structural elements which would normally be replaced (assuming routine and timely maintenance is performed) over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application, whichever period is longer;

"(3) a comprehensive assessment of the improvements needed to upgrade the management and operation of each such project so that decent, safe, and sanitary living conditions will be provided in such projects; such assessment shall include at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the public housing agency which are related to each project eligible for assistance under this section;

"(B) the adequacy and qualifications of personnel employed by such public housing agency (in the management and operation of such projects) for each category of employment; and

"(C) the adequacy and efficacy of—

"(i) tenant programs and services in such projects;

"(ii) the security of each such project and its tenants;

"(iii) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(iv) other policies and procedures of such agency relating to such projects, as specified by the Secretary; and

"(4) a plan for making the improvements and replacements, and for meeting the needs, described in paragraphs (1), (2), and (3); such plan shall include at least—

"(A) a schedule of those actions which are to be completed, over a period of not greater than 5 years from the date of approval of such application by the Secretary, within each 12-month period covered by such plan and which are necessary—

"(i) to make the improvements, described in paragraph (1)(B), for each project for which assistance is requested, and

"(ii) to upgrade the management and operation of such projects as described in paragraph (3);

"(B) the estimated cost of each of the actions described in subparagraph (A);

"(C) an estimate of the total costs of the replacement of the items identified for each such project pursuant to paragraph (2) over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application, whichever period is longer, including an estimate of the amount of funds necessary to fund the costs which have accrued for the period which ends upon the date on which the application is made, and an estimate of the costs which will accrue during each 12-month period subsequent to such application;

"(D) an operating budget for each such project for each 12-month period covered by such plan, excluding costs described in subparagraphs (B) and (C); and

"(E) an estimate of the financial resources which will be available from all sources to each such project and to the public housing agency (to the extent the resources of the agency relate to such project), and the amounts of assistance which are being requested pursuant to subsection (b) for each 12-month period covered by the plan.

"(e) The amount of financial assistance made available under subsection (b) to any public housing agency with respect to any year may not exceed the sum of—

"(1) an amount determined by the Secretary to be necessary to undertake the actions specified for such year in the schedule submitted pursuant to subsection (d)(4)(A);

"(2) the amount determined necessary by the Secretary to fund the replacement costs which have been identified pursuant to subsection (d)(4)(C) for each project, which have accrued for the period ending at the beginning of such year, and for which payment under subsection (b) has not been made previously;

"(3) the amount determined necessary by the Secretary to reimburse the public housing agency for the cost of developing the plan described pursuant to subsection (d) (4), less any amount which has been provided such public housing agency with respect to such year under paragraph (4); and

"(4) in the case of a public housing agency which meets such criteria of financial distress as are established by the Secretary and which has submitted the information described in paragraphs (1), (2), and (3) of subsection (d), the amount determined necessary by the Secretary to enable such agency to develop the plan described pursuant to subsection (d)(4);

except that not more than 5 per centum of the total amount utilized for annual contributions contracts under subsection (b) in any year shall be made available for the purposes described in paragraphs (3) and (4).

"(f) Where an application made pursuant to this section proposes demolition of any low-rent housing project or any portion of such a project, the Secretary may not approve such application unless the Secretary determines that—

"(1) timely replacement of the units in such project will be undertaken by the public housing agency;

"(2) the total cost of providing such replacement housing is less than the total cost of rehabilitation of such project, except that the Secretary may waive such requirement where the Secretary determines that the demolition is necessary to meet the purposes of this section; and

"(3) low-income families displaced by such proposed demolition will be provided with decent, safe, sanitary, and affordable housing.

"(g) No assistance shall be made available to a public housing agency pursuant to subsection (b) for any year subsequent to the first year for which such assistance is made available to such agency unless the Secretary has determined that such agency has made the substantial efforts to meet the objectives for the preceding year under the plan described in subsection (d) (4) and approved by the Secretary.

"(h) In making assistance available under subsection (b), the Secretary shall give preference to public housing agencies—

"(1) which request assistance for projects (A) having conditions which threaten the health or safety of the tenants, or (B) having a significant number of vacant, substandard units; and

"(2) which have demonstrated a capability of carrying out the activities proposed in the plan submitted by the agency pursuant to subsection (d) (4) and approved by the Secretary.

"(i)(1) In addition to assistance made available under subsection (b), the Secretary may, without regard to the requirements of subsections (c), (d), (e), (g), and (h), make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as approved in appropriation Acts) to any public housing agency in an amount which the Secretary determines is necessary to meet emergency or special purpose needs. Such needs shall be limited to—

"(A) correcting conditions which threaten the health or safety of the tenants of any project (i) which is described in subsection (c), and (ii) with respect to which an application for assistance pursuant to subsection (d) has not been approved by the Secretary;

"(B) correcting conditions (i) which threaten the health or safety of the tenants of any project with respect to which an application for assistance pursuant to subsection (d) has been approved, and (ii) which were unanticipated at the time of the development of such application;

"(C) correcting conditions which threaten the health or safety of the occupants of any low-income housing project not described in subsection (c) and not assisted pursuant to section 8; or

"(D) physical improvements needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8.

"(2) The Secretary may issue such rules and regulations as may be necessary to carry out this subsection.

"(j)(1) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

"(2) The Secretary shall issue rules and regulations establishing standards which provide for decent, safe, and sanitary living conditions in low-rent public housing projects and for energy conserving improvements in such projects and which, to the extent practicable, are consistent with the Minimum Property Standards for Multi-Family Housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards on a project-by-project basis in such cases where the Secretary deems such higher standards appropriate for furthering the purposes of this section.".

(b) Section 13 of such Act is amended—

(1) by striking out subsection (a); and

(2) by striking out "(b)" in subsection (b).

(c) Section 6(f) of such Act is amended by inserting "pursuant to section 14" after "modifications" in the first and second sentences thereof.

(d) Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by striking out "modernization of low-income housing projects" and inserting in lieu thereof "carrying out section 14 of such Act."

SECTION 8 AMENDMENTS

SEC. 203. (a) Section 8(c)(1) of the United States Housing Act of 1937 is amended by adding the following new sentence after the second sentence: "In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980.".

(b) Section 8(e)(5) of such Act is amended by inserting the following new sentence after the second sentence thereof: "Notwithstanding subsection (c)(1) of this section, the Secretary may, in carrying out the preceding sentence, establish a maximum monthly rent (for units upgraded pursuant to this paragraph) which exceeds the fair market rental by not more than 20 per centum if such units are located in an area where the Secretary finds cost levels so require, except that the Secretary may approve maximum monthly rents which exceed the fair market rentals by more than 20 but not more than 30 per centum where the Secretary determines that special circumstances warrant such higher rent or where necessary to the implementation of a local housing assistance plan.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 204. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "and" after "the fiscal year 1979,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $31,100,000 for the fiscal year 1981".

(b) Section 236(f)(3)(B) of the National Housing Act is amended—

(1) by striking out "September 30, 1980" in the third sentence and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out "on or after October 1, 1978," in the first sentence and all that follows through "October 31, 1978,".

RENT SUPPLEMENTS

SEC. 205. Section 101(1) of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out "may" the first time it appears in the first sentence and inserting in lieu thereof "shall, not later than 4 years after the date of enactment of the Housing and Community Development Act of 1960,";

(2) by inserting the following new sentence after the first sentence thereof: "In amending such contracts, the Secretary shall provide that the housing with respect to which payments are made under this section be maintained as low- and moderate-income housing during the term of the original contract."; and

(3) by striking out "preceding" in the second sentence and inserting in lieu thereof "the first sentence of this paragraph".

SECTION 235 STANDARD PROGRAM

SEC. 206. (a) Section 235 of the National Housing Act is amended—

(1) by striking out "$32,000", "$38,000", "$38,000", and "$44,000" in the last proviso in subsection (b)(2) and inserting in lieu thereof "$40,000", "$47,500", "$47,500", and "$55,000", respectively;

(2) by striking out "$32,000", "$38,000", "$38,000", and "$44,000", wherever they appear in subsections (i)(3)(B) and (i)(3)(C), and inserting in lieu thereof "$40,000", "$47,500", "$47,500", and "$55,000", respectively;

(3) by striking out "$44,000", and "$49,000" in subsection (i)(3)(D) and inserting in lieu thereof "$55,000", and "$61,250", respectively;

(4) by adding at the end thereof the following new subsection:

"(p) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.".

(b)(1) Subsection (c) of such section is amended—

(A) by inserting "(1)" after "(c)";

(B) by redesignating paragraph (1) and (2) of such subsection as subparagraphs (A) and (B), respectively; and

(C) by adding the following new paragraph at the end of such subsection:

"(2)(A) Upon disposition by the homeowner of any property assisted pursuant to this section or where the homeowner ceases for a period of 90 continuous days or more making payments required under the mortgage, loan, or advance of credit secured by such a property, or rents such a property (or the owner's unit in the case of a two- to four-family property) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this section, other than any amount provided under subsection (e), or (ii) an amount equal to at least 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage amount as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

"(B) Subparagraph (A) does not apply to any property with respect to which there is assumption in accordance with paragraph (1) of this subsection or to any property which is subject to a mortgage, loan, or other advance of credit insured pursuant to subsection (q).".

(2) The amendment made by paragraph (1) does not apply to any assistance contract under section 235 of the National Housing Act entered into pursuant to a commitment issued within 6 months following the date of enactment of this Act.

(c)(1) The Secretary of Housing and Urban Development shall conduct a study of the effects which the application of subsection (n) of section 235 of the National Housing Act has had or is likely to have on the program established by subsection (a) of such section. If the program established by subsection (q) of such section is implemented, the Secretary shall include in the study an analysis of the effects on the subsection (q) program of the application of subsection (n) to such program.

(2) The Secretary shall transmit to the Congress, not later than January 1, 1982, a report containing the findings and conclusions of the study described in paragraph (1).

SECTION 235(Q) PROGRAM

SEC. 207. Section 235 of the National Housing Act is amended by adding at the end thereof the following:

"(q)(1) Notwithstanding any other provision of this section, except subsection (n), if the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments, to the extent of not to exceed 75 per centum of the authority available pursuant to subsection (h)(1), on behalf of homeowners, including owners of manufactured homes, to mortgagees or other lenders holding mortgages, loans, or advances of credit which meet the requirements of this subsection. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages, loans, or advances of credit assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection. The authority to enter into contracts to provide assistance payments and to insure mortgages under this subsection shall terminate on June 1, 1981, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present, except pursuant to a commitment entered into prior to such date.

"(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

"(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new manufactured home consisting of two or more modules and a lot on which the manufactured home is situated, where insurance under section 2 of this Act covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such manufactured home and lot has been granted to the lender making such loan, advance of credit, or purchase of an obligation; and

"(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

"(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage, loan, or advance of credit. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

"(4) The amount of the assistance payments in the case of a mortgage shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 per centum of the mortgagor's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

"(b) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 203(b), other than mortgages subject to section 3(a)(2) of Public Law 90–301, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9½ per centum per annum.

"(5) Assistance payments on behalf of the owner of a manufactured home shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying a minimum of 25 per centum of the manufactured homeowner's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear an interest rate determined by the Secretary which shall not be less than 12 per centum per annum.

"(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under paragraph (4) or (5), as the Secretary deems appropriate to reimburse the mortgage or other lender for its reasonable and necessary expenses in handling the mortgage, loan, or advance of credit.

"(7) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary.

"(8) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

"(9) The Secretary may, in addition to mortgages insured under subsection (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

"(10) To be eligible for insurance under this subsection, a mortgage shall—

"(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

"(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and which has never been sold other than to the mortgagor;

"(D) involve a principal residence the sales price of which does not exceed 82 per centum of the applicable maximum principal obligation of a mortgage which may be insured in the area pursuant to section 203(b)(2), determined without regard to the last sentence of such section;

"(E) have maturity and amortization provisions satisfactory to the Secretary;

"(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 203(b);

"(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

"(H) contain such other terms and conditions as the Secretary may prescribe.

"(11) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources.

"(12) A mortgage to be assisted under this subsection shall, where the Secretary deems it appropriate, provide for graduated payments pursuant to section 245.

"(13) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production, and other factors he deems appropriate. Assistance provided under this subsection shall not be subject to section 213 of the Housing and Community Development Act of 1974.

"(14) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner ceases for a period of 90 continuous days or more making payments on the mortgage, loan, or advance of credit secured by the property, or rents the property (or the owner's unit in the case of a two- to four-family residence) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount provided under paragraph (6), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

"(15) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).".

CONGREGATE SERVICES PROGRAM AMENDMENTS

Sec. 208. (a) Section 405(c) of the Housing and Community Development Amendments of 1978 is amended by inserting after "for assistance" the following: "to provide congregate services to elderly residents".

(b) Section 405(b) of such Act is amended by inserting after "this title" in the first sentence the following: "for the provision of congregate services to elderly residents".

(c) Section 405(e) of such Act is amended—

(1) by striking out "When" and all that follows through "local agency" in paragraph (1) and inserting in lieu thereof the following: "A public housing agency or nonprofit corporation applying for assistance to provide congregate services to nonelderly handicapped residents shall consult with the appropriate agency"; and

(2) by striking out "local" in the first sentence of paragraph (2).

SECURITY PROGRAM FOR PUBLIC HOUSING

Sec. 209. (a) This section may be cited as the "Public Housing Anti-Crime Amendments of 1980".

(b) The Congress finds that—

(1) public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

(2) funding to provide more security for public housing can be used to leverage funding from other sources and thereby produce more successful anti-crime efforts;

(3) the effects of inflation and the need for reductions in the budget of the Federal Government result in a need for more co-targeting of Federal and local anti-crime resources;

(4) as authorized by the Public Housing Security Demonstration Act of 1978, the Urban Initiatives Anti-Crime Program has performed in a promising manner; and

(5) the First Annual Report to Congress of the Urban Initiatives Anti-Crime Program and the two General Accounting Office reports to Congress on such Program have provided useful suggestions which can now be implemented.

(c) It is, therefore, the purpose of this section to continue the efforts of the Urban Initiatives Anti-Crime Programs so that more progress can be made in providing secure, decent, safe, and sanitary dwelling units for low-income and elderly tenants in public housing projects.

(d) Section 207 of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out subsection (c)(4) and inserting in lieu thereof the following:

"(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Department of Justice, the Department of the Interior, the Department of Commerce, the Department of Education, ACTION, the Community Services Administration, and State and local agencies.

"(5) In order to assess the impact of crime and vandalism in public housing projects, the Secretary may, as part of the Annual Housing Survey conducted by the Department of Housing and Urban Development or by other means, collect data on crime and vandalism and integrate the data collection with the victimization surveys undertaken by the Department of Justice and the Department of Commerce.

"(6) The Secretary shall, to the maximum extent practicable, utilize information derived from the program authorized by this section for assisting in establishing (A) guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under the United States Housing Act of 1937, other than under section 8 of such Act, and (B) guidelines for improvements relating to the security of projects (and the tenants living in such projects) assisted under section 14 of such Act.";

(2) by striking out "this Act" in the first sentence of subsection (e) and inserting in lieu thereof "the Housing and Community Development Act of 1980"; and

(3) by adding the following new sentence at the end of subsection (f): "Of the authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 with respect to the fiscal year beginning on October 1, 1980, the Secretary may enter into contracts to carry out this section, except that the aggregate amount obligated over the duration of such contracts may not exceed $10,000,000.".

SOLAR ENERGY SYSTEMS IN PUBLIC HOUSING PROJECTS

SEC. 210. Section 5 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(i) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 8), the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.".

SECTION 236 AMENDMENT

SEC. 211. Section 236 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(q) The Secretary may provide assistance under section 8 of the United States Housing Act of 1937 with respect to residents of units in a project assisted under this section. In entering into contracts under section 5(c) of such Act with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than $20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 8, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments.".

PAYMENT OF NONFEDERAL SHARE

SEC. 212. The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"PAYMENT OF NONFEDERAL SHARE

"SEC. 15. Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8:

"(1) annual contributions under this Act for operation of the project; or

"(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed with loans or debt service annual contributions under this Act.".

MANAGEMENT AND PRESERVATION OF HOUSING AND URBAN DEVELOPMENT-OWNED MULTIFAMILY HOUSING PROJECTS

SEC. 213. (a) Section 203(a) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) preserving the housing units so that at least those units which are occupied by low- and moderate-income persons or which are vacant, at the time of acquisition, are available to and affordable by such persons;";

(2) by striking out "and" at the end of clause (4);

(3) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(6) maintaining the project for the purpose of providing rental or cooperative housing.".

(b) Section 203(b)(1) of such Act is amended by inserting after "considering the low- and moderate-income character of the project" the following: ", including the number of units in the project occupied by low- and moderate-income persons,".

(c) Section 203(c) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) of such subsection and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) maintain the project for purposes of providing rental or cooperative housing for the longest feasible period.".

(d) Subparagraphs (B) and (C) of Section 203(d)(2) of such Act are amended by inserting "except for tenants of above-moderate income." before "to".

(e) Section 203(f) of such Act is amended to read as follows:

"(f) For the purpose of this section, the term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964, or which is acquired by the Secretary pursuant to any other provision of law.".

RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 214. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any nonimmigrant student-alien.

(b) For purposes of this section—

(1) the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965; and

(2) the term "nonimmigrant student-alien" means (A) an alien having a residence in a foreign country which he or she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States temporarily and solely for purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him or her and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (B) the alien spouse and minor children of any such alien if accompanying him or her or following to join him or her.

REPORT ON HOUSING ASSISTANCE BLOCK GRANT PROGRAM

SEC. 215. The Secretary shall conduct a comprehensive examination of the feasibility of a housing assistance block grant program, including the feasibility of replacing the categorical housing assistance programs proposed to be utilized in fiscal year 1982, and shall transmit to the Congress a report thereon not later than March 31, 1981. Such examination shall include, but not be limited to—

(1) simplified and expedited application and review procedures;

(2) an equitable allocation formula which reflects both current program experience and identified needs; and

(3) such other recommendations as the Secretary deems appropriate.

FINANCIAL ASSISTANCE IN IMPACTED AREAS

SEC. 216. The Secretary of Housing and Urban Development shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. For the purposes of this section, the term "federally assisted housing programs" means any program authorized by the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or section 202 of the Housing Act of 1959.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1980" in the first sentence and inserting in lieu thereof "October 1, 1981".

(b) Section 217 of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1980" in the fifth sentence and inserting in lieu thereof "September 30, 1981".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(f) Section 244(d) of such Act is amended by—

(1) striking out "September 30, 1980" in the first sentence and inserting in lieu thereof "September 30, 1981"; and

(2) striking out "October 1, 1980" in the second sentence and inserting in lieu thereof "October 1, 1981".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1980" where it appears and inserting in lieu thereof "September 30, 1981".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. (a) Section 3(a) of Public Law 90-301 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1981".

(b) Section 3(a) of such Public Law is amended—

(1) by inserting after "finds necessary to meet the mortgage market," in the first sentence thereof the following: "taking into consideration the yields on mortgages in the primary and secondary markets,";

(2) by inserting after "finds necessary to meet the loan market" in the second sentence the following: ", taking into consideration the yields on home improvement and manufactured home loans"; and

(3) by adding the following new sentence at the end thereof: "In setting such rates, the Secretary shall seek to minimize uncertainty and speculation in connection with mortgage and loan transactions insured under the National Housing Act, and when effective rates on home mortgages and other such loans are rising, the Secretary shall exercise the authority to set the interest rates for such mortgage and loan insurance programs with sufficient frequency to promote the objective that discount points payable in connection with mortgages and loans insured pursuant to such programs should be minimized.".

RESEARCH AUTHORIZATIONS

SEC. 303. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $50,300,000 for the fiscal year 1980" and inserting in lieu thereof "not to exceed $51,000,000 for the fiscal year 1981".

AUTHORIZATION FOR FLOOD INSURANCE STUDIES

SEC. 304. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $74,000,000 for the fiscal year 1980" and inserting in lieu thereof "not to exceed $74,000,000 for the fiscal year 1980, and not to exceed $61,000,000 for fiscal year 1981".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 305. Section 519(f) of the National Housing Act is amended by striking out all that follows "General Insurance Fund not to exceed" and inserting in lieu thereof "$1,738,000,000.".

DEFINITION OF MORTGAGE UNDER THE NATIONAL HOUSING ACT

SEC. 306. Section 201(a) of the National Housing Act is amended by striking out "having a period of not less than fifty years to run from the date the mortgage was executed" and inserting in lieu thereof "having a period of not less than ten years to run beyond the maturity date of the mortgage".

RELIEF OF THE CITY OF SPRINGFIELD, ILLINOIS

SEC. 307. Notwithstanding the provisions of title VII of the Housing Act of 1961 or any other law, the transactions under which land acquired by the city of Springfield, Illinois, in connection with Open-Space Projects Numbered Ill.–OSC–171 (DL) and Numbered Ill.–OSC–246 (DL) was transferred by such city to the United States Department of the Interior for the Lincoln Home National Historic Site shall be deemed to have been made in accordance with all provisions of title VII of such Act and of any other law and with any regulations or other requirements in implementation thereof.

MANUFACTURED HOUSING

SEC. 308. (a) Section 2(b) of the National Housing Act is amended—

(1) by striking out "$18,000 ($27,000 in the case of a mobile home containing two or more modules)" in the first sentence and inserting in lieu thereof "$20,000 ($30,000 in the case of a manufactured home composed of two or more modules)";

(2) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof the following:

"(A) involve an amount not exceeding $26,675 ($36,675 in the case of a manufactured home composed of more than two modules); and";

(3) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve an amount not exceeding $30,550 ($40,550 in the case of a manufactured home composed of two or more modules); and"; and

(4) by striking out "$6,250 in the case of an undeveloped lot, or (ii) $9,375" in the fourth paragraph and inserting in lieu thereof "$6,950 in the case of an undeveloped lot, or (ii) $10,425".

(b) Section 2(b) of the National Housing Act is amended by adding the following new sentence at the end of the last paragraph: "In other areas where there are high high land costs or high set-up costs, the Secretary may, by regulation, increase any such dollar amount limitation to—

"(1) $32,500 (or $43,000 with respect to a manufactured home composed of two or more modules) in the case of a manufactured home and an undeveloped lot;

"(2) $38,100 (or $49,000 with respect to a manufactured home composed of two or more modules) in the case of a manufactured home and a developed lot; and

"(3) $11,750 (or $17,450 with respect to a developed lot) in the case of a lot in which to place a manufactured home.".

(c)(1) The National Housing Act is amended by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home".

(2) Section 235(a)(2)(B) of such Act is amended by striking out "mobile homeowner" and "mobile homeowner's" and inserting in lieu thereof "manufactured homeowner" and "manufactured homeowner's", respectively.

(3) The United States Housing Act of 1937 is amended by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home".

(4) Title VI of the Housing and Community Development Act of 1974 is amended by striking out "Mobile Home" each place it appears, other than in section 601, and inserting in lieu thereof "Manufactured Home" and by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home".

(5) Section 601 of the Housing and Community Development Act of 1974 is amended by striking out "Mobile Home" and inserting in lieu thereof "Manufactured Housing".

(6) Section 501(e)(4) of Public Law 96–221 is amended by striking out "mobile home" and inserting in lieu thereof "manufactured home".

(7) In adopting regulations and procedures in accordance with this subsection, the Secretary of Housing and Urban Development shall have discretion to take actions in a manner which he deems necessary to insure that the public is fully aware of the distinctions between the various types of factory-built housing.

(d) Section 603(6) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "is eight body feet or more in width and is thirty-two body feet or more in length" and inserting in lieu thereof ", in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet"; and

(B) by inserting the following after the semicolon at the end thereof: "except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title;".

(e) Not later than January 1, 1982, the Secretary of Housing and Urban Development shall develop a procedure for collecting and regularly reporting data on the mean and median sales price for new manufactured homes, and, where available, data on the mean and median sales price for manufactured home lots and combination new manufactured home and lot packages. Such reports shall contain, to the maximum extent feasible, sales price information for the Nation, each census region, each State on an annual basis, and selected standard metropolitan statistical areas having sufficient activity on an annual basis.

ELIMINATION OF SECTION 8 CONDITION ON GNMA PURCHASE OF CERTAIN MULTIFAMILY MORTGAGES

SEC. 309. The second sentence of section 302(b)(1) of the National Housing Act is amended—

(1) by striking out "(1)"; and

(2) by striking out ", and (2)" and all that follows through "1937".

INCREASE IN CERTAIN MAXIMUM MORTGAGE AMOUNTS FOR SOLAR ENERGY SYSTEMS AND ENERGY CONSERVING MEASURE

SEC. 310. (a) The last sentence of section 207(c)(3) of the National Housing Act is amended by striking out "therein" and inserting in lieu thereof "or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein".

(b) Section 213 of such Act is amended by adding at the end thereof the following:

"(p) Notwithstanding any other provision of this section, the project mortgage amounts which may be insured under this section may be increased by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein.".

(c) Section 220(d)(3)(B)(iii) of such Act is amended by inserting before the semicolon at the end thereof the following: ": *And provided further*, That the Secretary may further increase any of the dollar amount limitations which would otherwise apply for the purpose of this clause by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein".

(d) Section 221 of such Act is amended by adding at the end thereof the following new subsection:

"(k) With respect to any project insured under subsection (d)(3) or (d)(4), the

Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of those subsections by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein.".

(e) Section 231(c)(2) of such Act is amended by inserting immediately before the semicolon at the end thereof ": *Provided*, That the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of this section by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein".

(f) Section 232(d)(2) of such Act is amended to read as follows:

"(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, including—

"(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or

"(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.".

(g) Section 234 of such Act is amended by adding at the end thereof the following new subsection:

"(j) The Secretary may further increase the dollar amount limitations which would otherwise apply under subsection (e) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of a project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein.".

(h) Section 242(d)(2) of such Act is amended to read as follows:

"(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project including—

"(A) equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed; and

"(B) a solar energy system (as defined in subpargraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.".

(i) Section 1101(c)(2) of such Act is amended by inserting immediately after "the boundaries of the property," the following: "a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11)(A) through (G) and (I) of Public Law 95–619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure,".

SECTION 220 MORTGAGE INSURANCE IN AREAS OF CONCENTRATED DEVELOPMENT ACTIVITIES

SEC. 311. (a) Section 220(d)(1)(A) of the National Housing Act is amended by inserting after "pursuant to section 117 of the Housing Act of 1949" the following: ", or (v) an area, designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation, or preservation".

(b) Section 220(d)(3)(B)(iv) of such Act is amended by inserting after "urban renewal plan" the following: "or, where appropriate, with the locally developed strategy for neighborhood improvement, conservation or preservation".

REPORT OF HOUSING PRODUCTION GOALS

SEC. 312. Section 1603 of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "January 20 of each year" and inserting in lieu thereof "March 15 of each year beginning with calendar year 1981";

(2) by inserting after "current year" in paragraph (2) the following: "and sets general objectives for such activity during the next year";

(3) by striking out "objective" in paragraph (3) and inserting in lieu thereof "objectives"; and

(4) by inserting after "current year" in paragraph (7) the following: "and, as feasible, the next year".

FEDERAL NATIONAL MORTGAGE ASSOCIATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION MORTGAGE AMENDMENTS

SEC. 313. (a) Section 302(b)(2) of the National Housing Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For the purpose of this section, the term 'conventional mortgages' shall include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member of a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it. Such limitations shall not exceed $93,750 for a mortgage secured by a single-family residence, $120,000 for a mortgage secured by a two-family residence, $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the limitations established under section 207(c)(3) of this Act. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, and Hawaii.".

(b) Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by striking out the last sentence and inserting in lieu thereof the following: "The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it. Such limitations shall not exceed $93,750 for a mortgage secured by a single-family residence, $120,000 for a mortgage secured by a two-family residence, $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. With respect to mortgages of property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the limitations established under section 207(c)(3) of the National Housing Act. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, and Hawaii.".

SUPPLEMENTARY LOANS

SEC. 314. Section 241(e)(1) of the National Housing Act is amended by inserting after "multifamily housing project" the following: "if such meters are purchased or installed in connection with other energy conserving improvements or with a solar energy system or the project meets minimum standards of energy conservation established by the Secretary,".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 315. Title VI of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "National" in section 603(a);

(2) by striking out "supervising" in the first sentence of section 606(a)(1) and inserting in lieu thereof the word "monitoring"; and

(3) by striking out "and not to exceed $12,000,000 for fiscal year 1980" in section 608(a) and inserting in lieu thereof the following: "not to exceed $12,000,000 for fiscal year 1980, and not to exceed $13,426,000 for fiscal year 1981".

MUTUAL HOUSING ASSOCIATION DEMONSTRATION

SEC. 316. (a) The Congress—

(1) recognizes the significant potential of mutual housing associations for helping make multifamily housing in the United States more affordable; and

(2) commends and encourages the efforts being made in connection with the national demonstration program of mutual housing associations being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank with the cooperation of the Department of Housing and Urban Development.

(b) The Neighborhood Reinvestment Corporation, in conjunction with the National Consumer Cooperative Bank and the Secretary of Housing and Urban Development, shall transmit a report to the Congress on the findings and conclusions reached as a result of the demonstration program described in subsection (a)(2), together with legislative recommendations, not later than September 30, 1981.

COLLECTION OF DELINQUENCY DATA

SEC. 317. The Secretary of Housing and Urban Development shall conduct a study to determine the feasibility of collecting data pertaining to all home mortgage delinquencies on an appropriate regional basis, and shall, as soon as practicable, but not later than April 1, 1981, transmit to the Congress a report containing the results of such study.

AMENDMENT TO SECTION 234

SEC. 318. The first sentence of section 234 (c) of the National Housing Act is amended by inserting after "Act)" the following: "or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code".

MODERATE REHABILITATION OF SMALL GROUP HOMES AND SIMILAR FACILITIES FOR THE HANDICAPPED

SEC. 319. Section 202(d)(3) of the Housing Act of 1959 is amended by adding at the end thereof the following: "In the case of housing to meet the needs of handicapped (primarily nonelderly) persons, such term also means the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation, thereof, and the cost of the land on which the housing and related facilities are located.".

TIME OF PAYMENT OF PREMIUM CHARGES

SEC. 320. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"TIME OF PAYMENT OF PREMIUM CHARGES

"SEC. 530. In carrying out the provisions of titles I, II, IV, VII, VIII, IX, X and XI pertaining to the payment of loan or mortgage insurance premium charges by a financial institution, other mortgages, or agent thereof to the Federal Government in connection with a loan or mortgage insurance program established pursuant to any of these titles, the Secretary shall require that payment of such premiums be made promptly upon their receipt from the borrower; except that the Secretary may approve payment of such premiums within twenty-four months of such receipt if the financial institution, mortgagee, or agent thereof pays interest, at a rate specified by the Secretary, to the insurance fund for the period beginning twenty days after reecipt from the borrower and ending upon payment of the premiums to the Federal Government.".

FORECLOSURE OF LOANS UNDER THE SECTION 203(K) REHABILITATION LOAN INSURANCE PROGRAM

SEC. 321. Section 203(k)(5) of the National Housing Act is amended by striking out the second sentence and inserting in lieu thereof the following: "Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 204, except that all references in section 204 to the Mutual Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.".

VALLEY HOMES MUTUAL HOUSING CORPORATION

SEC. 322. (a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued out unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and by future claims Valley Homes Mutual Housing Corporation, its successors and assigns may have against the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

(b) The President of the Government National Mortgage Association is authorized and directed to release Valley Homes Mutual Housing Corporation from its liability to the Association and to discharge the mortgage note secured by the mortgage on the multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio.

(c) No amount in excess of ten per centum of the principal and interest due upon the mortgage released under subsection (b) of this provision shall be paid to or received by an attorney or other person in consideration for services rendered in connection with the claims of Valley Homes Mutual Housing Corporation against the United States or any of its Agencies referred to in subsection (a) of this provision. Any person who violates this subsection shall be fined not more than $1,000.

STUDY OF FACTORY-BUILT HOUSING

SEC. 323. The Secretary of Housing and Urban Development shall study the feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Native, and shall, not later than eighteen months after the date of enactment of this Act, transmit a report to the Congress containing the findings and conclusions of such study, including a comparison of the costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which ether type of housing could be used.

USURY PROVISIONS

SEC. 324. (a) Section 501(a)(1)(A) (of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended—

(1) by striking out "stock" the first place it appears and inserting in lieu thereof "all stock allocated to a dwelling unit"; and

(2) by striking out "where the loan, mortgage, or advance is used to finance the acquisition of such stock".

(b) Section 511 of such Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) For the purpose of this part—

"(1) the term 'loan' includes all secured and unsecured loans, credit sales, forebearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, Government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and

"(4) the term 'person' means a natural person or organization.".

(c)(1) Section 512 of such Act is amended—

(A) by inserting "(a)" after "Sec. 512."; and

(B) by adding at the end thereof the following:

"(b) A loan shall be deemed to be made during the period described in subsection (a) if such loan—

"(1)(A) is funded or made in whole or in part during such period. regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(B) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(C) is a renewal, extension, or other modification during such period of any loan, if such renewal, extension, or other modification is made with the written consent of any person obligated to repay such loan; and

"(2)(A) is an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980): or

"(B) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980)."

(2) The amendments made by paragraph (1) take effect on April 1, 1980.

(d) Part B of title V of such Act, other than section 512(b), is amended by striking out "$25,000" wherever it appears and inserting in lieu thereof "$1,000".

(e) Section 501(a)(1)(C)(vi) of such Act is amended by inserting before the period at the end thereof the following: ", and any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence".

LIQUID, HIGHLY RATED CORPORATE DEBT OBLIGATIONS

SEC. 325. (a) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act is amended—

(1) by striking out "and" before "(E)";

(2) by redesignating clause (E) as subparagraph (E);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following:

"(F) to such extent as the Board may approve as liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity; and

"(G) to such extent as the Board may so approve, highly rated commercial paper with 270 days or less remaining until maturity.".

(b) Section 916 of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following sentence: "In addition, to such extent as the Federal Home Loan Bank Board may so approve, unpledged deposits in the Savings Banks Trust Company, New York, New York, may be considered assets for the purposes of meeting the liquidity requirements of section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)).".

EXTENSION OF DEADLINE FOR ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SEC. 326. (a) Paragraphs (1) and (2) of section 304(a) of the Energy Conservation Standards for New Buildings Act of 1976 are amended by striking out "within 6 months after the date of publication of the proposed standards" in the last sentence of each such paragraph and inserting in lieu thereof "by April 1, 1983,".

(b) Section 304(a)(1) of such Act is amended by inserting the following new sentences after the first sentence thereof: "Interim performance standards for new commercial buildings shall be promulgated by August 1, 1981, and, for at least the 12-month period beginning on such date, the Secretary of Energy shall conduct a demonstration project utilizing such standards in at least two geographical areas in different climatic regions of the country. Prior to the effective date of final performance standards promulgated pursuant to this paragraph and not later than 180 days after completing such demonstration project, such Secretary shall transmit to both Houses of the Congress a report containing an analysis of the findings and conclusions made as a result of carrying out such project, including at least an analysis of the effect such standards would have on the design, construction costs, and the estimated total energy savings (including the types of energy) to be realized from utilizing such energy standards in commercial buildings.".

(c) Section 304(a)(2) of such Act is amended by inserting the following new sentences after the first sentence thereof: "Interim performance standards for new residential buildings shall be promulgated by August 1, 1981, and, for at least the 12-month period beginning on such date, the Secretary of Energy shall conduct a demonstration project utilizing such standards in at least two geographical areas in different climatic regions of the country. Prior to the effective date of final performance standards promulgated pursuant to this paragraph and not later than 180 days after completing such demonstration project, such Secretary shall transmit to both Houses of the Congress a report containing an analysis of the findings and conclusions made as a result of carrying out such project, including at least (A) an analysis of the impact of such standards on builders (especially on small builders) and on the cost of constructing such buildings and the impact of such cost on the ability of low- and moderate-income persons to purchase or rent such buildings, and (B) an analysis of the estimated total energy savings (including the types of energy) to be realized from utilizing such standards in residential buildings.".

(d) Section 306 of such Act is amended by striking out "final performance standards" and all that follows and inserting in lieu thereof the following: "interim performance standards promulgated pursuant to section 304(a). Upon the effective date of the final performance standards promulgated pursuant to such section, the head of each such agency shall adopt such procedures as may be necessary to assure that construction of any Federal building meets or exceeds the applicable final performance standards.".

(e) Section 526 of the National Housing Act is amended by striking out ", until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective" in the second sentence.

RENTAL HOUSING PRESERVATION

SEC. 327. Section 223(f) of the National Housing Act is amended—

(1) by inserting "(1)" after "(f)";

(2) by inserting "(2)" at the beginning of the second sentence and redesignating that sentence as a new paragraph;

(3) by inserting "the purchase or" after "In the case of" in paragraph (2) as so redesignated.

(4) by inserting after "located in an older, declining urban area, the Secretary shall" in paragraph (2), as so redesignated, the following: "make available an amount not to exceed $30,000,000 of available purchase authority pursuant to section 305 of this Act to reduce interest rates on low- and moderate-income rental housing in projects having 100 units or less which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The Secretary shall";

(5) by striking out "(1)" before "the refinancing" in paragraph (2), as so redesignated and inserting in lieu thereof "(A)" and by striking out "and" after the semicolon;

(6) in paragraph (2) as so redesignated, by striking out "(2)" before "during" and inserting in lieu thereof "(B)", by inserting "and maintain reasonable profit levels" before "approved by the Secretary";

(7) by inserting after subparagraph (B), as so redesignated, the following:

"(3) For all insurance authorized by this subsection and provided pursuant to a commitment entered into after the date of enactment of the Housing and Community Development Act of 1980, the Secretary may not accept an offer to prepay or request refinancing of a mortgage secured by rental housing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest thereof) to utilize the property as a rental property for a period of five years from the date on which the insurance was provided (twenty years in the case of any such mortgage purchased under section 305) unless the Secretary finds that—

"(A) the conversion of the property to a cooperative, or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

"(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

"(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood."; and

(8) by inserting "(5)" before the sentence beginning "In the case of refinancing of an existing hospital" and redesignating that sentence as paragraph (5).

TITLE INSURANCE RELIEF

SEC. 328. Section 203 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(p)(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation shall prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

"(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or nation;

"(B) such ownership claims are reasonably likely to be settled, by court action or otherwise; and

"(C) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April, 1980, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or nation pursuant to a dispute involving the Articles of Confederation, Trade and Intercourse Act of 1790, or any similar State or Federal law.

"(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this title relating to marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner-occupant of a home in a community specified in paragraph (1). The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 238 of this title.".

PARTICIPATION BY LOCAL PERSONS AND FIRMS IN ASSISTED PROJECTS

SEC. 329. Section 3 of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "residing in the area of such project" in paragraph (1) and inserting in lieu thereof "residing within the unit of local government or the metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located"; and

(2) by striking out "residing in the area of such project" in paragraph (2) and inserting in lieu thereof "residing in the same metropolitan area (or nonmetropolitan county) as the project".

MORTGAGE-BACKED SECURITIES PROGRAM

SEC. 330. If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development or the Secretary of the Treasury, after the date of enactment of this section, a proposal with respect to undertaking a mortgage-backed securities program, the Secretary of Housing and Urban Development or the Secretary of the Treasury, as the case may be, shall, within 90 days after submission of such proposal, approve the proposal or transmit to the Congress a report explaining why the proposal has not been approved.

EXTENSION OF HUD MINIMUM PROPERTY STANDARDS; LOCAL ACCEPTABLE STANDARDS FOR MASONRY CONSTRUCTION

SEC. 331. (a) Until the Secretary of Housing and Urban Development submits the report required by subsection (b) to the Congress, any final rule published for effect by the Secretary pertaining to increases in thermal requirements for the Department of Housing and Urban Development's minimum property standards shall provide for the continuation of any local acceptable standards exemptions, approved by the Secretary prior to May 31, 1979, which are applicable to masonry construction.

(b) The Secretary shall conduct an analysis and, on August 1, 1981, report to Congress on the cost of constructing, heating, and cooling masonry, frame, log, and other buildings that comply with the increased thermal requirements and on the competitive economic impact of applying such increased thermal standards or permitting any exemptions from them.

(c) If such analysis shows there is an economic justification for any exemption from the thermal standards, an appropriate exemption for a specific construction type in a specific geographical location may be provided by the Secretary.

NEGOTIATED INTEREST RATES UNDER SECTION 203

SEC. 332. Section 3(a) of Public Law 90-301 is amended—

(1) by inserting "(1)" after "Sec. 3. (a)";

(2) by inserting ", except those provided for in paragraph (2)," in the first sentence after "for all purposes"; and

(3) by adding the following new paragraph at the end thereof:

"(2)(A) Notwithstanding any other provision of law, the Secretary may provide that the interest rate applicable to mortgages insured under section 203(b) of the National Housing Act shall be an interest rate specified in a commitment agreement which is negotiated between the mortgagor and mortgagee if—

"(i) the mortgagee discloses to the borrower, prior to the commitment, information on the applicable maximum rate established under paragraph (1) and a good faith estimate of the prevailing number of discount points associated with such rate;

"(ii) the agreement commits the mortgagee to such specified interest rate for at least 30 days after the date on which it is entered into; and

"(iii) the agreement contains a commitment with respect to any discount points to be charged which shall be binding during the same period as the commitment period with respect to the specified interest rate.

"(B) The number of mortgages which are insured in accordance with this paragraph in any fiscal year may not exceed—

"(i) the number of mortgages which exceeds 10 per centum of all mortgages insured under such section 203 during the preceding fiscal year, or

"(ii) 50,000 mortgages,

whichever is greater.

"(C) The provisions of this paragraph shall not apply with respect to mortgages which are subject to section 245 of the National Housing Act.

"(D) The Secretary shall monitor experience under this paragraph and report to Congress by March 1, 1982, comparing the discount points and effective yields associated with mortgages insured under this paragraph with the discount points and effective yields associated with (i) mortgages in the conventional mortgage market, and (ii) other mortgages insured under section 203 (b) of the National Housing Act.".

DELETION OF REFERENCES TO REMAINING ECONOMIC LIFE

SEC. 333. (a) Section 203(b)(3) of the National Housing Act is amended by striking out the following: "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, whichever is the lesser".

(b) Section 220(h)(2)(iv) of such Act is amended by striking out the following: "or three-quarters of the remaining economic life of the structure, whichever is the lesser".

(c) Section 221(d)(6) of such Act is amended by striking out ": *Provided,* That no mortgage insured under subsection (d)(2) shall have a maturity exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements".

(d) Section 221(i)(2)(A)(iv) of such Act is amended by striking out "the lesser of" and by striking out "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements".

(e) Section 234(c) of such Act is amended by striking out the following: "or three-fourths of the Secretary's estimate of the remaining economic life of the project, whichever is the lesser".

(f) Section 240(c)(5) of such Act is amended by striking out the following: "or three-quarters of the remaining economic life of the home, whichever is the lesser".

CONGRESSIONAL REVIEW

SEC. 334. (a) Section 7 (o) (3) of the Department of Housing and Urban Development Act is amended by striking out "20" each place it appears and inserting in lieu thereof "30".

(b) The amendment made by subsection (a) shall apply only to rules and regulations which are published as final on or after the date of enactment of this Act.

AUTHORITY TO PROTECT FEDERAL GOVERNMENT'S INTERESTS IN CERTAIN SITUATIONS

SEC. 335. Section 306(g) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "Any Federal, State, or other law to the contrary notwithstanding, the" in the fourth sentence and inserting in lieu thereof "The"; and

(2) by inserting after the fourth sentence the following new sentence: "No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Association of (A) its power to contract with the issuer on the terms stated in the preceding sentence, (B) its rights to enforce any such contract with the issuer, or (C) its ownership rights, as provided in the preceding sentence, in the mortgages constituting the trust or pool against which the guaranteed securities are issued.".

MORTGAGE LIMITS

SEC. 336. (a) Section 203 (b) (2) of the National Housing Act is amended by inserting after "four-family residence" the following: "; except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 133⅓ per centum of the dollar amount specified, or (B) in the case of a one-family residence, 95 percentum of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; dence, 150 per centum of such median price".

(b) Section 220 (d) (3) (A) (i) of such Act is amended—

(1) by striking out "$67,500" and all that follows through "four-family residence" and inserting in lieu thereof the following: "the applicable maximum principal obligation which may be insured in the area under section 203 (b)";

(2) by striking out "$107,000" the second place it apears and inserting in lieu thereof "the applicable maximum principal obligation secured by a four-family residence which may insured in the area under section 203(b)"; and

(3) by striking out "$8,250" and inserting in lieu thereof "$9,165".

(c) Section 222(b)(2) of such Act is amended to read as follows:

"(2) involve a dwelling designed principally for a one-family residence or a one-family unit in a condominium project;".

(d) Section 234(c) of such Act is amended by inserting after "$67,500," the following: "except that the Secretary may increase such maximum dollar amount on an area-by-area basis to the extent the Secretary deems necessary, after taking into considertion the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limit, as so increased, exceed the lesser of 111 per centum of such amount or 95 per centum of the median one-family house price in the area, as determined by the Secretary;".

(e) The Secretary of Housing and Urban Development shall conduct a study of the appropriate role of mortgage and loan insurance programs administered by the Federal Housing Administration—

(1) in assisting various income groups to obtain homeownership:

(2) in assuring an adequate level of new home construction;

(3) in assuring an adequate flow of capital into mortgage markets; and

(4) in moderating housing costs.

In conducting such study, the Secretary shall examine the desirability and feasibility of establishing mortgage limits for the mortgage insurance programs on an area-by-area basis and the desirability and feasibility of doing so by relating such limits to housing sales price data or indices. The Secretary shall prepare a report (including such recommendations as the Secretary deems appropriate) based upon such study and transmit it to the Congress by March 1, 1981.

AMENDMENTS TO THE PROGRAM ESTABLISHED BY THE EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 337. (a) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1981".

(b) Section 313 of the National Housing Act is amended—

(1) by inserting "and if the Secretary determines that the implementation of this section will not significantly worsen inflationary conditions," after "1968," in the first sentence of subsection (a)(1);

(2) by striking out "mortgages" in the first sentence of subsection (a)(1) and inserting in lieu thereof "mortgages and securities";

(3) by striking out "mortgages (1)" in the first sentence of subsection (b) and inserting in lieu thereof "(1) mortgages";

(4) by striking out "or (2)" in the first sentence of subsection (b) and inserting in lieu thereof ", (2) securities guaranteed by the Association and backed by loans and advances of credit insured under title I of the National Housing Act, or guaranteed under chapter 37 of title 38, United States Code, and made for the purchase of a manufactured home and lot, or manufactured home, or (3) mortgages";

(5) by inserting "or guaranteed under title V of the Housing Act of 1949" before "or by qualified" in the first sentence of subsection (b);

(6) by striking out all that follows "such mortgage involves an original principal obligation not to exceed" in clause (B) of the second sentence of subsection (b) and inserting in lieu thereof the following: ", for that part of the property attributable to dwelling use in the case of a more than four-family residence, the per unit limitations under the section of the National Housing Act under which the project mortgage is insured or, in the case of a manufactured home loan or advance of credit, the limitation contained in section 2(b) of this Act;";

(7) by striking out in clause (C) of the second sentence of subsection (b) "such mortgage involves an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and administrative costs under this section, but in no event shall such rate exceed the lesser of (i) 7½ per centum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 203(b) of the National Housing Act" and inserting in lieu thereof the following: "such mortgage involves an interest rate which the Secretary may prescribe which shall be as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost, but if such mortgage is executed to finance the acquisition of a one-to-four family residence, it may not bear interest at a rate lower than 3 percentage points below the average contract commitment rate for single family, thirty-year conventional mortgages with loan-to-value ratios of 90 per centum in the monthly survey of all major lenders

conducted by the Federal Home Loan Bank Board which is most recently available at the time that funds are released, and if such mortgage is executed to finance the acquisition of a more than four-family residence, it may not bear interest at a rate lower than 4½ percentage points below such average contract commitment rate";

(8) by striking out all that follows "such mortgage involves a principal residence the sales price of which does not exceed" in clause (D) of the second sentence of subsection (b) and inserting in lieu thereof the following: "92 per centum of the applicable maximum principal obligation which may be insured in the area under section 203 (b).";

(9) by adding the following new sentence at the end of subsection (b):

"A security may be purchased under this section only if all of the loans or advances of credit backing such security (i) finance the purchase of manufactured homes and lots, or manufactured homes, which will be the principal residences of the borrowers, and (ii) involve an interest rate which the Secretary may prescribe which shall be as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost, but in no event shall such rate be lower than 3 percentage points below the rate set by the Secretary and applicable to loans and advances of credit insured under title I of the National Housing Act.";

(10) by inserting "or securities" after "mortgages" the first time it appears in subsection (d)(2);

(11) by striking out "enactment of this section" in subsection (e) and inserting in lieu thereof "the issuance of the commitment to purchase the mortgage";

(12) by inserting "or securities" after "mortgages" in subsection (f)(1);

(13) in subsection (h)—

(A) by inserting "and" at the end of clause (3);

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4); and

(14) by adding at the end thereof the following new subsections:

"(i) The Association may not purchase under this section any mortgage or loan which was executed or made (1) to finance the conversion of an existing rental housing project into a condominium or cooperative project, or (2) to finance the purchase of an individual unit in a condominium project or the purchase of a share in a cooperative project, in connection with such a conversion.

"(j) In carrying out the provisions of this section, the Association shall, to the extent practicable, purchase mortgages secured by dwelling units which contribute to the conservation of land and energy resources.".

INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY

SEC. 338. Section 305(c) of the Federal National Mortgage Association Charter Act is amended by inserting the following before the period at the end thereof: ", and by $900,000,000 on October 1, 1980".

FEDERAL NATIONAL MORTGAGE ASSOCIATION AUTHORITY

SEC. 339. (a)(1) Section 302(b)(3) of the Federal National Mortgage Association Charter Act is amended to read as follows:

"(3) The corporation is authorized, with the approval of the Secretary of Housing and Urban Development, to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of home improvements, including energy conserving improvements or solar energy systems described in the last paragraph of section 2(a) of the National Housing Act and residential energy conservation measures as described in section 210(11) of the National Energy Conservation Policy Act and financed by a public utility in accordance with the requirements of title II of such Act. To be eligible for purchase, any such loan or advance of credit (other than a loan or advance made with respect to energy conserving improvements or solar energy systems or residential energy conservation measures) not insured under title I of the National Housing Act shall be secured by a lien against the property to be improved.".

(2) When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by paragraph (1), the Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why such proposal has not been approved.

(b)(1) Section 302(b) of such Act is amended by adding at the end thereof the following:

"(4) The corporation is authorized, with the approval of the Secretary of Housing and Urban Development, to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit secured by mortgages or other liens against manufactured homes.".

(2) When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by paragraph (1), the Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why such proposal has not been approved.

HOME MORTGAGE DISCLOSURE ACT AMENDMENTS

SEC. 340. (a) Section 304 of the Home Mortgage Disclosure Act of 1975 is amended—

(1) by striking out "Office of Management and Budget" in subsection (a)(1) and inserting in lieu thereof "Department of Commerce";

(2) by amending subsection (a)(2)(A) to read as follows:

"(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000, within that standard metropolitan statistical area, otherwise, by county, for mortgage loans secured by property located within any other county within that standard metropolitan statistical area."; and

(3) by adding at the end thereof the following:

"(d) Notwithstanding the provisions of subsection (a)(1), data required to be disclosed under this section for 1980 and thereafter shall be disclosed for each calendar year. Any depository institution which is required to make disclosures under this section but which has been making disclosures on some basis other than a calendar year basis shall make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report.

"(e) The Board shall prescribe a standard format for the disclosures required under this section.

"(f) The Federal Financial Institutions Examination Council, in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each standard metropolitan statistical area. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such standard metropolitan statistical area.".

(b) Section 310 of such Act is repealed.

(c) Such Act is amended by adding at the end thereof the following:

"COMPILATION OF AGGREGATE DATA

"SEC. 310. (a) Beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council shall compile each year, for each standard metropolitan statistical area, aggregate data by census tract for all depository institutions which are required to disclose data under section 304 or which are exempt pursuant to section 306 (b). The Council shall also produce tables indicating, for each standard metropolitan statistical area, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

"(b) The Board shall provide staff and data processing resources to the Council to enable it to carry out the provisions of subsection (a).

"(c) The data and tables required pursuant to subsection (a) shall be made available to the public by no later than December 31 of the year following the calendar year on which the data is based.

"DISCLOSURE BY THE SECRETARY

"SEC. 311. Beginning with data for calendar year 1980, the Secretary shall make publicly available data in the Secretary's possession for each mortgagee which is not otherwise subject to the requirements of this title and which is not exempt pursuant to section 306 (b), with respect to mortgage loans approved by the Secretary for insurance under title I or II of the National Housing Act. Such data to be disclosed shall consist of data comparable to the data which would be disclosed if such mortgagee were subject to the requirements of section 304. Disclosure statements containing data for each such mortgagee for a standard metropolitan statistical area shall, at a minimum, be publicly available at the central depository of data established pursuant to section 304(f) for such standard metropolitan statistical area. The Secretary shall also compile and make publicly available aggregate data for such mortgagees by census tract, and tables indicating aggregate lending patterns, in a manner comparable to the information required to be made publicly available in accordance with section 310.".

(d) The Federal Financial Institutions Examination Council, in consultation with the Administrator of the Small Business Administration, shall conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The Council shall submit a report on the results of such study, together with recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives not later than March 1, 1981.

(e) To promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act of 1975. Such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing such a unified system.

TEMPORARY MORTGAGE ASSISTANCE PAYMENTS

SEC. 341. Section 230 of the National Housing Act is amended to read as follows:

"TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ACQUISITION OF MORTGAGES TO AVOID FORECLOSURE

"SEC. 230. (a) (1) Upon receiving notice of the default of any mortgage covering a one-, two-, three-, or four-family residence insured under this Act, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the fact that the Secretary has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance) may make all or part of the monthly payments due under the mortgage directly to the mortgagee on behalf of the mortgagor, if such default was caused by circumstances which are beyond the mortgagor's control and render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments. Payments may be made only in accordance with the provisions of this subsection and shall be subject to any additional requirements the Secretary may prescribe.

"(2) No payments may be provided under this subsection unless the Secretary has determined that such payments are necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able—

"(A) to resume full mortgage payments within thirty-six months after the beginning of the period for which such payments are provided or upon termination of assistance under this subsection;

"(B) to commence repayment of the payments made under this subsection at a time designated by the Secretary; and

"(C) to pay the mortgage in full by its maturity date or by a later date established by the Secretary for completing the mortgage payments.

"(3) Payments under this subsection may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, mortgagee's expenses in connection with payments or repayments under this subsection, and mortgage insurance premiums due under the mortgage, and the initial payment may include an amount necessary to make the payments on the mortgage current. Payments may not exceed amounts which the Secretary determines to be necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments.

"(4) Payments under this subsection may be provided for a period of not to exceed eighteen months, and any period of default. Such period may be extended, in the Secretary's discretion, for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in paragraph (2) of this subsection. The Secretary shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination, or adjustment in the amount of the payments. Payments shall be discontinued at any time when the Secretary determines that, because of changes in the mortgagor's financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in paragraph (2) of this subsection.

"(5) All payments shall be secured by a lien on the property and by such other obligation as the Secretary may require. Payments shall be repayable upon terms and conditions prescribed by the Secretary, and such terms and conditions may include requirements for repayment of any amount paid by the Secretary toward a mortgagee's expenses in connection with the payment or repayments made under this subsection. The Secretary may establish interest charges on payments made under this subsection; except that such charges shall not exceed a rate which is more than the maximum interest rate applicable with respect to level payment mortgages insured pursuant to section 203(b) of this Act at the time assistance under this section is approved by the Secretary. Such charges shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

"(6) Payments under this subsection may be made without regard to whether the Secretary has previously taken action to avoid mortgage acquisition or foreclosure, except that payments may be provided on behalf of a mortgagor previously assisted under this section only in cases in which full mortgage payments (and any repayments to the Secretary which may have been requested) have been made by such mortgagor for at least 12 months from the time such previous assistance under this section was terminated.

"(b) (1) When the Secretary receives notice of a default described in subsection (a) (1) and makes a determination that asistance under subsection (a) would be inappropriate in the case of the mortgagor, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the facts described in the parenthetical material contained in subsection (a) (1) and the fact that payments have been made under subsection (a) with respect to the mortgage) shall, if determined necessary by the Secretary, acquire the mortgage and security therefor upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the mortgage plus any unpaid mortgage interest and reimbursement for such costs and attorney's fees as the Secretary finds were properly incurred in connection with the defaulted mortgage and its assignment to the Secretary, and for any proper advances theretofore made by the mortgagee under the provisions of the mortgage. After the acquisition of such mortgage by the Secretary, the mortgagee shall have no further rights, liabilities, or obligations with respect thereto. The provisions of section 204 relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this subsection, and the provisions of section 204 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when the Secretary has acquired an insured mortgage under this section, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purpose appropriate and effective) which shall be prescribed by the Secretary.

"(2) The Secretary may provide assistance, to a mortgagor whose mortgage has been acquired under paragraph (1) of this subsection, through forebearance of interest or principal, or both, or through other means, for a period of not more than eighteen months after the acquisition of the mortgage, if the mortgagor has not been assisted under subsection (a) within twelve months of the date of such acquisition and if the Secretary determines that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subsection (a) (2). Such period may be extended, in the Secretary's discretion, for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subsection (a) (2). Such assistance (which may include any expenses of the Secretary incurred in connection with providing such assistance) shall be repayable upon terms and conditions prescribed by the Secretary, except that in no event shall any interest rate charged on such repayments exceed the interest rate chargeable for repayments of assistance made under subsection (a). Such rate shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

"(3) In carrying out paragraph (1), the Secretary shall, if determined necessary by the Secretary, acquire a mortgage, with respect to which assistance was being provided under subsection (a) immediately prior to such acquisition, for the sole purpose of extending the term of repayment under the mortgage so that the mortgagor will be able to make the full payments on the mortgage.

"(c) All expenditures made under this section shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the property to which the payments made relate. and any payments received under this section shall be credited to such fund; except that payments made pursuant to subsection (a) of this section may only be made to the extent approved in appropriation Acts.

"(d) The Secretary shall, to the extent practicable, provide homeownership counseling to persons assisted under this section.".

TITLE IV—PLANNING ASSISTANCE

SEC. 401. Section 701 of the Housing Act of 1954 is amended to read as follows:

"PLANNING ASSISTANCE

"SEC. 701. (a) The Congress finds that—

"(1) the general welfare requires the conservation and the orderly and efficient growth and development of the Nation's communities, particularly communities suffering from fiscal, economic, and social distress;

"(2) effective and coordinated planning efforts at all levels of government are necessary in order for such conservation, growth, and development to be effectively and efficiently achieved;

"(3) a major component of such planning effort should be detailed strategies that can guide governmental actions in order to assure that, to the maximum extent practicable, the goals and objectives of such plans will be achieved through the implementation of such planning efforts;

"(4) such planning efforts and strategies should be consistent with National Policy Objectives; and

"(5) Federal actions and programs, to the extent practicable, should be administered in conference with State, areawide and local plans and strategies.

"(b) The purposes of this section are—

"(1) to provide assistance to encourage State and local governments and areawide planning organizations to develop strategies for implementing comprehensive plans (or components of such plans) and to the extent necessary comprehensive plans or components of such plans, giving particular emphasis to those strategies which are designed to implement those components of the plan which relate to the National Policy Objectives; and

"(2) to encourage, to the maximum extent practicable, the coordination of Federal policy and program decisions with such plans and strategies.

"(c) As used in this section—

"(1) the term 'Secretary' means the Secretary of Housing and Urban Development;

"(2) the term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(3) the term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State;

"(4) the term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512);

"(5) the term 'metropolitan area' means a standard metropolitan statistical area, established by the Department of Commerce, except that, to the extent the Secretary deems appropriate to carry out the purposes of this section, the Secretary may modify or extend such an area, but such modification or extension shall not affect the boundaries of any standard metropolitan statistical area for any other purpose;

"(6) the term 'areawide planning organization' means any multi-jurisdictional unit which—

"(A) is established under State law, interstate compact, or interlocal agreement for the purpose of formulating policies and plans for the orderly development of a substate or interstate region;

"(B) is formally charged with carrying out the provisions of section 401 of the Intergovernmental Cooperation Act of 1968;

"(C) in the absence of State law to the contrary, has at least a majority of elected officials from local governments on its governing body; and

"(D) meets such other standards as the Secretary may prescribe by regulation;

"(7) the term 'National Policy Objectives' means—

"(A) the conservation and improvement of existing communities, particularly the improvement of those communities which are characterized by fiscal, economic or social distress;

"(B) an increase in housing and employment opportunities and choices, particularly for lower income, minority persons, women, and persons with special needs such as the elderly and handicapped, and a reduction in the cost of housing; and

"(C) the promotion of orderly and efficient growth and development of communities, regions and States, taking into consideration the necessity of conserving energy;

"(8) the term 'comprehensive plan' means a plan which includes, at least, housing and land use elements which take into account factors prescribed by the Secretary, including those required to achieve the National Policy Objectives;

"(9) the term 'strategy' means a detailed strategy statement designed to identify and describe the actions required to implement such plan, or components of such plan, in order to achieve, to the maximum extent practicable, the goals and objectives of such plan or, in the absence of such plan, the actions which will be required in the course of developing a comprehensive plan; and

"(10) the term 'action program' means a program which includes (A) an identification of specific actions that are necessary for implementing elements included in the strategy statement; (B) an identification of the governmental entity responsible for undertaking each such action; (C) a timetable specifying when each such action may be reasonably expected to be carried out; and (D) to the maximum extent practicable, agreements, by the governmental entities identified as being responsible for undertaking such actions, that they will undertake such actions.

"(d)(1) The Secretary may contract to make, and make, grants on an annual basis which are approved in accordance with the provisions of this section to—

"(A) States, for statewide activities;

"(B) States, for the provision of assistance to (i) nonmetropolitan areawide planning organizations; (ii) units of general local government (except counties) having a population of less than 50,000 according to the latest decennial or mid-decade census, as appropriate; (iii) counties, other than urban counties as defined under title I of the Housing and Community Development Act of 1974; and (iv) any group of adjacent units of general local government having a total population of less than 50,000 (according to the latest decennial or mid-decade census, as appropriate) and having common or related planning needs; except that a grant may not be made under this paragraph where the State would be undertaking the activities described in subsection (e) on behalf of such organization, local government, county, or group of adjacent units of local government unless such organization, local government, county, or group of adjacent units of local government requests the State to undertake such activities;

(C) metropolitan areawide planning organizations;

"(D) units of general purpose local government having a total population of fifty thousand or more according to the latest decennial or mid-decade census, as appropriate;

"(E) urban counties as defined under title I of the Housing and Community Development Act of 1974;

"(F) Indian tribes; and

"(G) the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"(2) In making grants under paragraph (1), the Secretary may make grants to States for the provision of assistance to any entity which is described in subparagraphs (C), (D), or (E) and which does not receive direct funding from the Secretary under paragraph (1), except that such grants may be made only if such entity notifies the Secretary of its desire to receive funding through the State.

"(e) Grants may be made under this section only for those activities determined by the Secretary to be necessary to assist—

"(1) in the development of strategies and action programs to implement a comprehensive plan or a part thereof or related plans or planning and, where such a plan does not exist or is determined by the Secretary to be inadequate, in the development of a comprehensive plan;

"(2) in the development of evaluations or studies related to such plan, strategies, or action programs; or

"(3) in the carrying out of the clearinghouse functions required pursuant to OMB Circular A-95.

"(f)(1) The Secretary shall require that each recipient develop strategies and action programs and, except as provided in paragraph (2), maintain and update a comprehensive plan and a planning process.

"(2) In the case of a recipient that is not covered by or does not have a comprehensive plan and a planning process, the Secretary shall require, with respect to such a plan and process, only that such recipient begin the phased development of such a plan and process in a manner designed to assure that such a plan and process will be completed in a reasonable period of time taking into consideration the nature and scope of the recipient's reasonable planning needs and its financial resources.

"(3) In carrying out this subsection, the Secretary shall require—

"(A) citizen participation pursuant to regulations of the Secretary;

"(B) the development and subsequent modifications of an implementation strategy and an action program and, to the extent necessary, a comprehensive plan and the review of such strategy, program, and plan, at least triennially for necessary or desirable amendments; and

"(C) procedures, including criteria set forth in advance, for evaluating programs and activities undertaken pursuant to this section to determine whether such programs and activities are meeting the goals and objectives set forth in the strategies.

"(g) The Secretary may not approve a grant for any year after the first year in which a grant pursuant to this section is made to a recipient unless the Secretary determines that—

"(1) additional funds are required to assist in the development of the strategy, action program, and, to the extent necessary, the comprehensive plan or part thereof; and

"(2) substantial progress has been made in the development and implementation of the strategy.

To assist the Secretary in making such determinations, the applicant shall submit to the Secretary such information as the Secretary may require, including the performance report required pursuant to subsection (l), except that at least triennially the Secretary shall require the applicant to submit a detailed evaluation of the progress it has made during the preceding three-year period toward the development of such strategy and its implementation.

"(h) The Secretary shall encourage the cooperation of all interested States, areawide planning organizations, municipalities, political subdivisions, public agencies, and other parties in the preparation of and in the carrying out of programs developed pursuant to this section. Such parties shall be afforded by the recipient organization or government a reasonable opportunity to comment on such strategies, plans, and programs.

"(i) States are authorized, subject to approval of the Secretary, to provide for the administration by areawide planning organizations of assistance provided pursuant to subsection (d), except that responsibility for adherence to the requirements of this section and other applicable laws shall remain with the State.

"(j)(1) Contracts to make grants pursuant to this section shall contain such terms and conditions as the Secretary may prescribe.

"(2) A grant made under subsection (d) shall not exceed two-thirds of the estimated cost of the work for which the grant is made.

"(3) The Secretary is authorized by grant, contract, or otherwise to provide technical assistance directly to the entities referred to in subsection (d) to assist such entities to carry out the purposes of this section.

"(k) In providing assistance to areawide planning organizations under subsection (d), the Secretary (or the State, in the case of assistance provided through the State) shall give preference to, and may provide additional funding for, organizations which provide for voting rights among their members weighted in proportion to the population of the areas represented by such members.

"(l)(1) The Secretary shall, by regulation, establish criteria for the evaluation and approval of applications for grants under this section.

"(2) For each year in which activities assisted under this section are being carried out, each entity receiving assistance directly from the Secretary shall submit to the Secretary a performance report concerning activities carried out with such assistance. The

Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether a recipient of funds under this section has carried out activities substantially as described in its application, whether such actions and activities conformed to the requirements of this section and other applicable laws, and whether the recipient has a continuing capacity to carry out such actions and activities in a timely manner. The Secretary shall adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits.

"(3) Insofar as they relate to funds provided under this section, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

"(m) (1) Grants made under this section shall only be used to carry out planning and related activities necessary to carry out the purposes of this section.

"(2) Grant assistance under this section shall not be used to defray the cost of the acquisition, construction, repair or rehabilitation of, or the preparation of engineering drawings or similar detailed specifications for, specific housing, capital facilities, public works projects, or for financing routine administrative responsibilities of any State or local government.

"(3) Grant assistance under this section may be made available for—

"(A) communities with populations of 25,000 or less; or

"(B) communities with populations above 25,000 but less than 50,000 which meet the criteria set forth in section 119(e) of the Housing and Community Development Act of 1974;

for the preparation of applications for Federal financial assistance, except that there shall be a priority for such assistance to communities with populations of 25,000 or less.

"(n) (1) The Secretary shall utilize, to the maximum extent practicable, the plans and strategies approved by the Secretary under this section to guide policy and funding decisions with respect to the programs and activities of the Department of Housing and Urban Development which affect the geographical areas covered by such plans.

"(2) The Secretary shall encourage other Federal departments and agencies to use the plans and strategies approved by the Secretary, to the maximum extent practicable, to guide policy and funding decisions with respect to their programs and activities which affect the geographical areas covered by such plans and strategies. The Secretary shall encourage other Federal departments and agencies, consistent with their program authority, to adopt approved plans (or components thereof) as all or part of the planning requirements of such departments or agencies.

"(3) A plan and strategy approved by the Secretary under this section shall remain in effect for a maximum of three years following the date of its approval. Any extension of a plan and strategy beyond such three-year term, or any major modification (as approved by the Secretary) of such a plan and strategy during such term, shall meet all of the requirements of this section and must be approved by the Secretary. Any proposed modification shall be submitted to the Secretary prior to its incorporation into the plan or strategy.

"(4) The Secretary shall report to the Congress no later than January 15, 1984, and no later than January 15 of every third year thereafter, concerning the progress made in encouraging other Federal departments and agencies to use approved plans and strategies as provided in paragraphs (1) and (2) of this subsection.

"(o) The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the growth and development of interstate, metropolitan, or other urban areas, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

"(p) There is authorized to be appropriated for purposes of this section an amount not to exceed $40,000,000 for the fiscal year 1981, and not to exceed $40,000,000 for the fiscal year 1982. Any amounts appropriated shall remain available until expended.".

Sec. 402. This title shall become effective on the effective date of regulations implementing section 401 of this title, but in no event later than May 1, 1981.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

Sec. 501. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $4,484,000,000 with respect to fiscal year ending September 30, 1980" in subsection (a) and inserting in lieu thereof "not to exceed $3,797,600,000 with respect to the fiscal year ending September 30, 1981";

(2) by striking out "not less than $3,070,000,000" in subsection (a) (1) and inserting in lieu thereof "not less than $3,120,000,000";

(3) by striking out "not more than $38,000,000" in subsection (a) (2) and inserting in lieu thereof "not more than $25,600,000";

(4) by striking out "and" at the end of subsection (a) (2), by striking out the period at the end of subsection (a) (3) and inserting in lieu thereof "; and", and by adding at the end of subsection (a) the following new paragraph:

"(4) not more than $100,00,000 of such amount shall be available for loans guaranteed pursuant to this title on behalf of borrowers who do not receive assistance pursuant to subparagraph (B) or (C) of section 521 (a) (1).";

(5) by striking out subsection (b) (2) and inserting in lieu thereof the following:

"(2) not to exceed $49,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1981, of which not more than $25,000,000 shall be available for grants;";

(6) by striking out "not to exceed $30,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1980" in subsection (b) (3) and inserting in lieu thereof "not to exceed $25,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1981"; and

(7) by striking out "not to exceed $1,500,000 for the purposes of section 525(a) of which not less than $750,000 shall be used for counseling purchasers and delinquent borrowers and not to exceed $1,000,000 for the purposes of section 525(b) for the fiscal year ending September 30, 1980" in subsection (b) (4) and inserting in lieu thereof "not to exceed $2,000,000 for the purposes of section 525(a), of which not less than $1,000,000 shall be used for counseling purchasers and delinquent borrowers, for the fiscal year ending September 30, 1981".

(b) Section 515(b) (5) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(c) Section 517(a) (1) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(d) Section 523 of such Act is amended—

(1) by striking out "1980" each place it appears in subsection (f) and inserting in lieu thereof "1981"; and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) There are authorized to be appropriated for the purposes of subsection (b) (1) (B) not to exceed $2,500,000 for fiscal year 1981. Amounts appropriated under this subsection, together with principal collections from loans made under appropriations in any previous fiscal years, shall be deposited in the Self-Help Housing Land Development Fund, which shall be available as a revolving fund for making loans under subsection (b) (1) (B). Instruments and property acquired by the Secretary in or as a result of making such loans shall be assets of the Self-Help Land Development Fund.".

(e) Section 521 (a) (2) of such Act is amended by adding the following new subparagraph at the end thereof:

"(D) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance contracts aggregating not more than $493,000,000 in carrying out subparagraph (A) with respect to the fiscal year ending on September 30, 1981, except that such amount shall be reduced by any amount approved in appropriation Acts for use pursuant to section 521 (a) (1) (C).".

(f) Section 521 (a) (1) (C) of such Act is amended—

(1) by striking out the second sentence thereof and inserting in lieu thereof the following: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $100,000,000."; and

(2) by striking out "1980" in the third sentence thereof and inserting in lieu thereof "1981".

REFINANCING FOR CONSUMER COOPERATIVE

Sec. 502. Section 515 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfers of memberships in the cooperatives upon such terms and conditions as low- and moderate-income persons can reasonably afford, except that such loans shall not be made upon terms more favorable than are authorized under section 521 (a), and that the total loan to a cooperative under this section shall not exceed the value of the property.".

CONTINUED ELIGIBILITY OF CO-OP MEMBERS

Sec. 503. (a) Section 515(a) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (3) the following:

"(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.".

(b) Section 515(b) of such Act is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.".

SURPLUS FEDERAL LAND

SEC. 504. The first sentence of section 414 of the Housing and Urban Development Act of 1969 is amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development or the Secretary of Agriculture at the request of either such Secretary for sale or lease by either Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low- or moderate-income, assisted under a Federal housing assistance program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture or under a State or local program found by the appropriate Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the appropriate Secretary.".

INTEREST CREDITS

SEC. 505. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by striking out "may" and inserting in lieu thereof "shall".

DEFINITIONS

SEC. 506. Section 501(b) of the Housing Act of 1949 is amended by adding at the end thereof the following new paragraphs:

"(6) For the purposes of this title, the term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).

"(7) For the purposes of this title, the term 'rural resident' shall include a family or a person who is a renter of a dwelling unit in a rural area.

"(8) For the purposes of this title, the term 'adequate dwelling' means a decent, safe, and sanitary dwelling unit.".

ASSISTANCE TO INDIANS AND ALASKAN NATIVES AND TO OTHER PERSONS RESIDING IN RESERVATIONS OR VILLAGES

SEC. 507. (a) Section 501 of the Housing Act of 1949 is amended by inserting the following after "residents" in subsection (a)(2): ", including persons who reside in reservations or villages of Indian tribes,".

(b) Section 514 of such Act is amended by inserting "or to any Indian tribe for such purpose," before "or to any State" in subsection (a).

(c) Section 515 of such Act is amended—

(1) by inserting "and Indian tribes" after "consumer cooperatives" in subsection (a); and

(2) by inserting "Indian tribe," after "trust," in subsection (b).

(d) Section 516 of such Act is amended by inserting "or any Indian tribe," after "or political subdivision thereof" in subsection (a).

(e) Section 523 of such Act is amended—

(1) by inserting "Indian tribes," after "organizations," in subsection (b)(1)(A);

(2) by inserting "and to Indian tribes" after "private nonprofit organizations" in subsection (b)(1)(B); and

(3) by inserting ", including Indian tribes," after "other associations" in subsection (b)(2).

(f) Section 524(a) of such Act is amended by inserting "and to Indian tribes" after "nonprofit organizations" the first time it appears in the first sentence.

(g) Section 525 of such Act is amended by inserting "Indian tribes," after "organizations," in the first sentences of subsections (a) and (b).

(h) The second sentence of section 501(c) of such Act is amended by inserting "or Indian tribe" after "local public agency".

APPLICABILITY OF ENERGY CONSERVATION STANDARDS TO HOMES ACQUIRED AND SOLD BY THE FARMERS' HOME ADMINISTRATION

SEC. 508. Section 510(e) of the Housing Act of 1949 is amended by inserting after "standards" in clause (1) the following: "including cost-effective energy conservation standards prescribed under section 509(a),".

SEC. 509. Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"CONDITION ON RENT INCREASES IN 514, 515, AND 517 PROJECTS

"SEC. 530. The Secretary may not approve any increase in rental payments, with respect to units in which the tenants are paying rentals in excess of 25 per centum of their incomes, in any project which is assisted under section 514, 515, or 517 and under section 521(a)(1)(B) unless the project owner is receiving, or has applied for (within the most recent period of 180 days prior to the effective date of such increase), rental assistance payments with respect to such project under section 521(a)(2)(A) of this title or section 8 of the United States Housing Act of 1937.".

SUBSECTION LOANS IN INELIGIBLE AREAS

SEC. 510. Section 510 of the Housing Act of 1949 is amended by inserting the following after "available" in subsection (h): "for subsequent loans to permit necessary dwelling repairs and rehabilitation and".

GUARANTEED LOANS

SEC. 511. Section 517(n) of the Housing Act of 1949 is amended by inserting "moderate or" after "borrowers with".

DISPLACEMENT

SEC. 512. Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g) The programs authorized by this title shall be carried out, consistent with program goals and objectives, so that the involuntary displacement of families and businesses is avoided.".

STUDY

SEC. 513. (a) The Secretary of Agriculture shall study the legislative and administrative changes which would be required—

(1) to conform the procedures of the Farmers Home Administration for reporting budget and accounting information with the reporting principles established by the Presidential Commission on Budget Concepts;

(2) to establish procedures to reflect fully in the Federal Budget the budget authority and budget outlays of the programs administered by the Farmers Home Administration;

(3) to remove budget and accounting practices which are inconsistent with the practices for reporting debt transactions as provided in the current policy of the Office of Management and Budget; and

(4) to simplify the authorities provided in title V of the Housing Act of 1949.

(b) In carrying out this study, the Secretary shall consult with the appropriate committees of the Congress, the Comptroller General of the United States, and the Office of Management and Budget.

(c) The Secretary shall report to the Congress the results of such study with recommendations for legislative and administrative changes for each of the matters described in paragraphs (1) through (4) of subsection (a), no later than the date on which the President's Budget for Fiscal Year 1982 is submitted to the Congress.

PREPAYMENT AND REFINANCING OF LOANS UNDER SECTIONS 514 AND 515

SEC. 514. (a) Section 502(c) of the Housing Act of 1949 is amended—

(1) by striking out "Except as provided in paragraph (2), the" in paragraph (1) and inserting in lieu thereof "The";

(2) by striking out "entered into before or after" each time it appears in paragraph (1) and inserting in lieu thereof "entered into after"; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) If any loan which was made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, is prepaid or refinanced on or after the date of enactment of the Housing and Community Development Act of 1980, and tenants of the housing and related facilities financed with such loan are displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of such prepayment or refinancing, the Secretary shall provide such tenants a priority for relocation in alternative housing assisted pursuant to this title.".

(b) The Secretary of Agriculture shall conduct a study of, and report to the Congress not later than 6 months after the date of enactment of this Act on, any adverse effects the amendments made by subsection (a) may have on housing, particularly for the elderly and persons of low-income.

TITLE VI—CONDOMINIUM AND COOPERATIVE CONVERSION PROTECTION AND ABUSE RELIEF

SHORT TITLE

SEC. 601. This title may be cited as the "Condominium and Cooperative Abuse Relief Act of 1980".

FINDINGS AND PURPOSE

SEC. 602. (a) The Congress finds and declares that—

(1) there is a shortage of adequate and affordable housing throughout the Nation, especially for low- and moderate-income and elderly and handicapped persons;

(2) the number of conversions of rental housing to condominiums and cooperatives is accelerating, which in some communities may restrict the shelter options of low- and moderate-income and elderly and handicapped persons;

(3) certain long-term leasing arrangements for recreation and other condominium- or cooperative-related facilities which have been used in the formation of cooperative and condominium projects may be unconscionable; in certain situations State governments are unable to provide appropriate relief; as a result of these leases, economic and social hardships may have been imposed upon cooperative and condominium owners, which may threaten the continued use and acceptability of these forms of ownership and interfere with the interstate sale of cooperatives and condominiums; appropriate relief from these abuses requires Federal action; and

(4) there is a Federal involvement with the cooperative and condominium housing markets through the operation of Federal tax, housing, and community development laws, through the operation of federally chartered and insured financial institutions, and through other Federal activities; that

the creation of many condominiums and cooperatives is undertaken by entities operating on an interstate basis.

(b) The purposes of this title are to seek to minimize the adverse impacts of condominium and cooperative conversions particularly on the housing opportunities of low- and moderate-income and elderly and handicapped persons, to assure fair and equitable principles are followed in the establishment of condominium and cooperative opportunities, and to provide appropriate relief where long-term leases of recreation and other cooperative- and condominium-related facilities are determined to be unconscionable.

CONVERSION LENDING

SEC. 603. It is the sense of the Congress that lending by federally insured lending institutions for the conversion of rental housing to condominiums and cooperative housing should be discouraged where there are adverse impacts on housing opportunities of the low- and moderate-income and elderly and handicapped tenants involved.

DEFINITIONS

SEC. 604. For the purpose of this title—

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (A) is a general partner, officer, director, or employer of the developer, (B) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (C) controls in any manner the election of a majority of the directors of the developer, or (D) has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if the developer (i) is a general partner, officer, director or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the person, (iii) controls in any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the person;

(2) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at the rate of an economic, commodity, or consumer price index or at a percentage rate such that the actual increases in the rental payment over the lease term cannot be established with specificity at the time the lease is entered into;

(3) "common elements" means all portions of the cooperative or condominium project, other than the units designated for separate ownership or for exclusive possession or use;

(4) "condominium association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominimium project;

(5) "condominium project" means real estate (A) which has five or more residental condominium units, in each residential structure, and the remaining portions of the real estate are designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (B) where such units are or have been offered for sale or sold, directly or indirectly, through the use of any means or instruments of transportation or communication of interstate commerce, or the mails

(6) "condominium unit" means a portion of a condominium project designated for separate ownership;

(7) "conversion project" means a project, which has five or more residential units, which was used primarily for residential rental purposes immediately prior to being converted to a condominum or cooperative projects;

(8) "convey or conveyance" means (A) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation, or (B) the acquisition by a purchaser of a leasehold interest for more than five years;

(9) "cooperative association" means an organization that owns the record interest in the residential cooperative property or a leasehold of the residential property of a cooperative project and that is responsible for the operation of the cooperative project;

(10) "cooperative project" means real estate (A) which has five or more residential cooperative units, in each residential structure, subject to separate use and possession by one or more individual cooperative unit owners whose interest in such units and in the undivided assets of the cooperative association which are appurtenant to the unit are evidenced by a membership or share interest in a cooperative association and a lease or other muniment of title or possession granted by the cooperative association as the owner of all the cooperative property, and (B) an interest in which is or has been offered for sale or lease or sold, or leased directly or indirectly, through use of any means or instruments of transportation or communication in interstate commerce or of the mails;

(11) "cooperative property" means the real estate and personal property subject to cooperative ownership and all other property owned by the cooperative association;

(12) "cooperative unit" means a part of the coopertive property which is subject to exclusive use and possession by a cooperative unit owner. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents;

(13) "cooperative unit owner" means the person having a membership or share interest in the cooperative association and holding a lease, or other muniment of title or possession, of a cooperative unit that is granted by the cooperative association as the owner of the cooperative property;

(14) "developer" means (A) any person who offers to sell or sells his interest in a cooperative or condominium unit not previously conveyed, or (B) any successor of such person who offers to sell or sells his interests in units in a cooperative or condominium project and who has the authority to exercise special developer control in the project including the right to: add, convert, or withdraw real estate from the cooperative or condominium project, and maintain sales offices, management offices and rental units; exercise easements through common elements for the purpose of making improvements within the cooperative or condominium; or exercise control of the owners' association;

(15) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication, or exchange;

(16) "lease" includes any agreement or arrangement containing a condominium or cooperative unit owner's obligation, individually, collectively, or through an association to make payments for a leasehold interest or for other rights to use or possess real estate, or personal property (which rights may include the right to receive services with respect to such real estate or personal property), except a lease does not include mortgages or other such agreements for the purchase of real estate;

(17) "person" means a natural person, corporation, partnership, association, trust or other entity, or any combination thereof;

(18) "purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (A) a leasehold interest (including renewal options) of less than five years, or (B) as security for an obligation;

(19) "real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(20) "residential" means used as a dwelling;

(21) "sale", "sale of a cooperative unit" or "sale of a condominum unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a cooperative or condominum unit, excluding options or reservations not binding on the purchaser;

(22) "special developer control" means any right arising under State law, cooperative or condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners' association or its executive board. A developer's right to exercise the voting share allocated to any condominum or cooperative unit which he owns is not deemed a right of special developer control if the voting share allocated to that condominium or cooperative unit is the same voting share as would be allocated to the same condominium or cooperative unit were that unit owned by any other unit owner at that time;

(23) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(24) "tenants' organization" means a bona fide organization of tenants who represent a majority of the occupied rental units in a rental housing project.

EXEMPTIONS

SEC. 605. The provisions of this title shall not apply to—

(1) a cooperative or condominium unit sold or offered for sale by the Federal Government, by any State or local government, by any corporate instrumentality of the United States, or by any agency thereof;

(2) a cooperative or condominium project in which all units are restricted to nonresidential purposes or uses; or

(3) any lease or portion thereof—

(A) which establishes any leasehold or other estate or interest in, over or under land on or in which one or more residential condominium or cooperative units are located, the termination of which will terminate the condominium or cooperative project, or reduce the number of units in such project, or

(B) which establishes a leasehold interest in, or other rights to use, possess, or gain access to, a condomium or cooperative unit.

CONDOMINIUM AND COOPERATIVE CONVERSIONS

SEC. 606. It is the sense of the Congress that, when multifamily rental housing projects are converted to condominiums or cooperative use, tenants in those projects are entitled to adequate notice of the pending conversion and to receive the first opportunity to purchase units in the converted projects and that State and local governments which have not already provided for such notice and opportunity for purchase should move toward that end. The Congress believes it is the responsibility of State and local governments to provide for such notice and opportunity to purchase in a prompt manner. The Congress has decided not to intervene and therefore leaves this responsibility to State and local government to be carried out.

FEDERAL HOUSING ADMINISTRATION INSURANCE

SEC. 607. Where an application for mortgage loan insurance in connection with a conversion or purchase of a rental housing project being undertaken by a tenants' organization is submitted, the Secretary of Housing and Urban Development shall expedite the processing of the application in every way and shall make a final decision on such application at the earliest practicable time.

OPTIONAL TERMINATION OF SELF-DEALING CONTRACTS

SEC. 608. (a) Any contract or portion thereof which is entered into after the effective date of this title, and which—

(1) provides for operation, maintenance, or management of a condominium or cooperative association in a conversion project, or of property serving the condominium or cooperative unit owners in such project;

(2) is between such unit owners or such association and the developer or an affiliate of the developer;

(3) was entered into while such association was controlled by the developer through special developer control or because the developer held a majority of the votes in such association; and

(4) is for a period of more than three years, including any automatic renewal provisions which are exercisable at the sole option of the developer or an affiliate of the developer,

may be terminated without penalty by such unit owners or such association.

(b) Any termination under this section may occur only during the two-year period beginning on the date on which—

(1) special developer control over the association is terminated; or

(2) the developer owns 25 per centum or less of the units in the conversion project,

whichever occurs first.

(c) A termination under this section shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(c) Following the unit owners' vote, the termination shall be effective ninety days after hand delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

CIVIL ACTION: UNCONSCIONABLE LEASES

SEC. 609. (a) Cooperative and condominium unit owners through the unit owners' association may bring an action seeking a judicial determination that a lease or leases, or portions thereof, were unconscionable at the time they were made. An action may be brought under this section if each such lease has all of the following characteristics:

(1) it was made in connection with a cooperative or condominium project;

(2) it was entered into while the cooperative or condominium owners' association was controlled by the developer either through special developer control or because the developer held a majority of the votes in the owners' association;

(3) it had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project;

(4) it is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years;

(5) it contains an automatic rent increase clause; and

(6) it was entered into prior to June 4, 1975.

Such action must be authorized by the cooperative or condominium unit owners through a vote of not less than two-thirds of the owners of the units other than units owned by the developer or an affiliate of the developer, and may be brought by the cooperative or condominium unit owners through the units owners' association. Prior to instituting such action, the cooperative or condominium units owners must, through a vote of not less than two-thirds of the owners of the units other than units owned by the developer or an affiliate of the developer agree to enter into negotiation with the lessor and must seek through such negotiation to eliminate or modify any lease terms that are alleged to be unconscionable; if an agreement is not reached in ninety days from the date on which the authorizing vote was taken, the unit owners may authorize an action after following the procedure specified in the preceding sentence.

(b) A rebuttable presumption of unconscionability exists if it is established that, in addition to the characteristics set forth in subsection (a) of this section, the lease—

(1) creates a lien subjecting any unit to foreclosure for failure to make payments;

(2) contains provisions requiring either the cooperative or condominium units owners or the cooperative or condominium association as lessees to assume all or substantially all obligations and liabilities associated with the maintenance, management and use of the leased property, in addition to the obligation to make lease payments;

(3) contains an automatic rent increase clause without establishing a specific maximum lease payment; and

(4) requires an annual rental which exceeds 25 per centum of the appraised value of the leased property as improved: *Provided*, That, for purposes of this paragraph "annual rental" means the amount due during the first twelve months of the lease for all units, regardless of whether such units were occupied or sold during that period, and "appraised value" means the appraised value placed upon the leased property the first tax year after the sale of a unit in the condominium or after the sale of a membership or share interest in the cooperative association to a party who is not an affiliate of the developer.

Once the rebuttable presumption is established, the court, in making its finding, shall consider the lease or portion of the lease to be unconscionable unless proven otherwise by a preponderance of the evidence to the contrary.

(c) Whenever it is claimed, or appears to the court, that a lease or any portion thereof is, or may have been, unconscionable at the time it was made, the parties shall be afforded a reasonable opportunity to present evidence at least as to—

(1) the commercial setting of the negotiations;

(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests;

(3) the effect and purpose of the lease or portion thereof, including its relationship to other contracts between the association, the unit owners and the developer or an affiliate of the developer; and

(4) the disparity between the amount charged under the lease and the value of the real estate subject to the lease measured by the price at which similar real estate was readily obtainable in similar transactions.

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court shall exercise its authority to grant remedial relief as necessary to avoid an unconscionable result, taking into consideration the economic value of the lease. Such relief may include, but shall not be limited to rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit.

(e) Nothing in this section may be construed to authorize the bringing of an action by cooperative and condominium unit owners' association, seeking a judicial determination that a lease or leases, or portions thereof, are unconscionable, where such unit owners or a unit owners' association representing them has, after the termination of special developer control, reached an agreement with a holder of such lease or leases which either—

(1) set forth the terms and conditions under which such lease or leases is or shall be purchased by such unit owners or associations; or

(2) reforms any clause in the lease which contained an automatic rent increase clause, unless such agreement was entered into when the leaseholder or his affiliate held a majority of the votes in the owners' association.

PROHIBITIONS

SEC. 610. Any provision in any lease or contract requiring unit owners or the owners' association, in any conversion project involving a contract meeting the requirements of section 608 of this title or in any project involving a lease meeting the requirements of section 609 of this title, to reimburse, regardless of outcome, the developer, his successor, or affiliate of the developer for attorneys' fees or money judgments, in a suit between unit owners or the owners' association and the developer arising under the lease or agreement, is against public policy and void.

STATE AND LOCAL JURISDICTION

SEC. 611. Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium, cooperative, or conversion project, if such law, ordinance, or code does not abridge, deny, or contravene any standard for consumer protection established under this title. Notwithstanding the preceding sentence, the provisions of this title, except for the application of section 609 and the prohibition included in section 610 as it relates to a lease with respect to which a cause of action may be established under section 609, shall not apply in the case of any State or local government which has the authority to enact and enforce such a law, ordinance, or code, if during the three-year period following the date of enactment of this title, such State or local government enacts a law, ordinance, or code, or amendments thereto, stating in substance that such provisions of this title shall not apply in that State or local government jurisdiction.

ADDITIONAL REMEDIES

SEC. 612. (a) Unless otherwise limited as in section 608 or 609 of this title, any person aggrieved by a violation of this title may sue at law or in equity.

(b) In any action authorized by this section for a violation of section 608 or 610 where actual damages have been suffered, such damages may be awarded or such other relief granted as deemed fair, just, and equitable.

(c) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(d) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit.

JURISDICTION

SEC. 613. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction under this title and, concurrent with State courts, of actions at law or in equity brought under this title without regard to the amount in controversy. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the sale took place, and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party.

LIMITATION OF ACTIONS

SEC. 614. No action shall be maintained to enforce any right or liability created by this title unless brought within six years after such cause of action accrued, except that an action pursuant to section 609 must be brought within four years after the date of enactment of this title.

CONTRARY STIPULATIONS VOID

SEC. 615. Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this title shall be void.

ADDITIONAL REMEDIES

SEC. 616. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

SEPARABILITY

SEC. 617. If any provisions of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title shall not be affected thereby.

EFFECTIVE DATE

SEC. 618. The provisions of this title shall become effective upon enactment, except that section 609, and the prohibition included in section 610 as it relates to a lease with respect to which a cause of action may be established under section 609, shall become effective one year after enactment.

And the House agree to the same.

HENRY REUSS,
THOMAS L. ASHLEY,
FERNAND ST GERMAIN,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
LES AUCOIN,
STANLEY N. LUNDINE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
BILL STANTON,
CHALMERS WYLIE,
STEWART B. MCKINNEY,
TOM EVANS,
BILL GREEN,
Managers on the Part of the House.

WILLIAM PROXMIRE,
HARRISON WILLIAMS,
ALAN CRANSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—COMMUNITY DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANT AMENDMENTS

Urban county programs

Three-year qualification—The Senate bill contained a provision that with respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 103(a) (1), the population of any unit of general local government which is included in that of an urban county as provided in subsection (a) (6) (B) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible as a seperate entity, unless the grant to the urban county is disapproved or withdrawn prior to or during such three-year period. The Senate provision also provided that during any such three-year period, the population of any unit of general local government which is not included in that of the urban county for the first year shall not be eligible for such inclusion in the second or third year. The House amendment contained a provision that with respect to program years beginning with the program year in which grants are made to urban counties from fiscal year 1981 appropriations, the population of any unit of general local government included in that of an urban county shall be so included for three program years beginning with the first year in which it is so included; and that during any such three-year period, the population of any unit of government which is not included in that of the urban county in the first year is not eligible for inclusion in the second or third year. The conference report contains the Senate provision with an amendment to clarify (1) existing law applies to fiscal year 1981 program applications; (2) the exclusion for separate funding applies only to section 106; and (3) the terms "disapproved" and "withdrawn" refer to applications and not grants.

Notification of included units—The Senate bill contained a provision to conform the requirement under existing law which requires urban counties to notify included units of government of their opportunity to be excluded from the county for the three-year urban county qualification period, including counties seeking to continue their urban county status, and to provide that such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide for a reasonable period for response prior to the period for which qualification is sought. The House amendment contained a similar provision, except that it did not specifically provide that notification be provided so as to provide for a reasonable period of response. The conference report contains the Senate provision.

Inclusion of metropolitan cities—The Senate bill provided that in the case of a metropolitan city which is located in whole or in part within the jurisdiction of an urban county, the Secretary is authorized, upon the joint request of such city and urban county, to provide for (1) the addition of the amount allocated to such city pursuant to section 106(b) (1) to that allocated to such urban county pursuant to section 106 (b) (2); and (2) the inclusion, to the extent and in the manner prescribed by the Secretary, of such city in such urban county for purposes of grants made pursuant to section 106(b). The House amendment provided that where a metropolitan city is located within an urban county, the Secretary may, upon the point request of such city and county, approve the inclusion of the city as part of the county for purposes of planning a joint community program, meeting section 104 application requirements, and implementing such program. The conference report contains the House provision amended to permit the Secretary to approve the inclusion of metropolitan cities located in whole or in part within an urban county as part of the county for section 104 application purposes. The conferees believe that existing law provides the Secretary with adequate flexibility to adjust the regulations as necessary to accommodate the special nature of such consolidated applications.

Eligible activities

Energy conservation—The House amendment contained several provisions not found in the Senate bill:

Purpose and findings—The House amendment established as an additional finding of title I of the Housing and Community Development Act of 1974 that problems arising from increasing energy costs have seriously undermined the quality and overall effectiveness of local community and housing development activities; and require concerted action by federal, state, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies. The conference report contains this provision.

Objectives—The House amendment also established as an additional objective under title I of that Act the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply. The conference report contains this provision.

Statement of energy conservation needs and objectives—The House amendment contained a provision to amend section 104(a) of the Housing and Community Development Act of 1974 to provide that an applicant may, at the discretion of the applicant, include as part of the program summary, formulation, and description requirements under section 104(a), comparable information with respect to the applicant's energy conservation and renewable energy resource needs and objectives. The conference report contains the House provision.

Expansion of eligible activities—The House amendment contained a provision to expand eligible activities under section 105 (a): (1) to include as eligible activities under section 105(a) (2) design features and improvements which promote energy efficiency with respect to the construction, reconstruction and installation of public works, facilities and improvements; power generation and distribution facilities using renewable energy systems; and solid waste recycling or conversion facilities; (a) to include rehabilitation of buildings and improvements which promote energy efficiency as an eligible activity under section 105(a) (4); (3) to include energy conservation as an eligible public service activity under section 105(a) (8); (4) to include as eligible under section 105(a) (15) grants made to neighborhood-based, nonprofit organizations, local development corporations or entities organized under the Small Business Investment Act of 1958, for the purpose of carrying out an energy conservation project in furtherance of the objectives of section 101(c) of the Act; and (5) to make eligible for assistance activities necessary to the development of a comprehensive community-wide energy use strategy, which may include—

(a) a description of energy use and projected demand by sector, by fuel type, and by geographic area;

(b) an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

(c) analysis of the manner in, and extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation strategy;

(d) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

(e) a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential restructures, and any other proposed energy conservation activities;

(f) appropriate provisions for energy emergencies;

(g) identification of the local governmental unit responsible for administering the energy use strategy;

(h) provision of a schedule for implementation of each element in the strategy; and

(i) a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy.

The conference report contains the House provision with an amendment to clarify that the development of a comprehensive community-wide energy use strategy may include "items such as" those described in the House provision.

The conferees wish to emphasize that this provision does not provide any authority for the Secretary of HUD to require an applicant for Community Development Block Grant funds to include as part of that application an analysis of its energy needs, the outline or details of a comprehensive community energy conservation strategy, or the implementation of individual activities designed to conserve energy. It does provide, however, that a community, in its discretion, may use CDBG funds for conservation related activities that will assist a community in meeting the objectives of the community development program. A community may use these funds to implement one or more energy conservation activities, for the development of a comprehensive conservation strategy or for the development of a single component of that strategy. The eligible activities that are specified in the statute are illustrative, and not exclusive. A community may receive funds for alternative activities identified by the community as being necessary to the development of a comprehensive community-wide energy use strategy.

River recreation facilities—The Senate bill contained a provision to amend section 105 (a) (2) to clarify that eligible activities under such section include parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river where such assistance under other federal laws or programs is determined to be unavailable. The House amendment contained a similar provision, except that it also provided that reclamation and other construction activities may be conducted with respect to land adjacent to rivers. The conference report contains the Senate provision amended to include activities conducted with respect to land adjacent to rivers.

For the purpose of this provision, the term "unavailable" means that these projects are ineligible for funding under alternative federal programs.

Conversion of surplus schools—The Senate bill contained several provisions not contained in the House amendment. The Senate bill provided that this provision may be cited as the "Surplus School Conservation Act of 1980," and it provided congressional findings that (1) declining school enrollments and population migration have caused many school closings throughout the country; (2) the school buildings that have been closed represent valuable resources and should be maintained and operated for other productive uses; (3) local governments lack the necessary funds to adequately maintain and operate closed school buildings; and (4) the Federal Government has a stake in ensuring that the resources which these closed schools represent are conserved and maintained. The Senate provision also added as an eligible activity under section 105(a) the renovation of closed school buildings for uses otherwise eligible under that section. The conference report contains a provision to provide that eligible activities under section 105(a) (4) include the renovation of closed school buildings.

Authorizations

CDBG—The Senate bill aggregated CDBG authorizations prior to fiscal year 1981, and authorized to be appropriated additional amounts not to exceed $3.95 billion for fiscal year 1981, not to exceed $4.1 billion for fiscal year 1982, and not to exceed $4.25 billion for fiscal year 1983. The House amendment contained a provision to authorize to be appropriated not to exceed $3.81 billion for fiscal year 1981, not to exceed $3.96 billion for fiscal year 1982, and not to exceed $4.11 billion for fiscal year 1983. The conference report contains the House provision.

CDBG metropolitan balances—The Senate bill contained a provision to provide for a set-aside of CDBG funds for nonentitlement metropolitan communities for fiscal year 1981 of $285 million. The House amendment contained a provision to provide for a set-aside of $275 million for fiscal year 1981. The conference report contains the House provision.

UDAG—The Senate bill contained a provision to aggregate authorizations prior to fiscal year 1981 at not to exceed $1,475,000,000, and to authorize to be appropriated for Urban Development Action Grants $675 million for each of fiscal years 1981–1983. The House amendment contained a similar provision, except that it did not aggregate authorizations prior to fiscal year 1981. The conference report contains the Senate provision.

Reallocation of funds

The House amendment contained a provision not contained in the Senate bill which provided that any funds (a) which remain after entitlement allocations have been made or (b) which are added to the set-aside of funds for nonentitlement metropolitan communities shall be allocated by the Secretary, first, to other units of general local government in the metropolitan area to which the funds were originally allocated, second, in any metropolitan area in the same state, and third, in any other metropolitan area. The conference report contains this provision with an amendment to provide that the reallocated funds should first be reallocated for use by communities in the metropolitan areas of the same state in which they were originally allocated, but that a preference in that reallocation shall be given to communities in the same metropolitan area in which the funds were originally allocated, and second, be reallocated for use by communities in any other metropolitan area. The conferees recognize that when funds are turned back by, or withdrawn from, a community, additional community development pressures may be placed on the surrounding jurisdictions. And, therefore the conferees have given a preference to such communities in the reallocation of these funds. However, we wish to emphasize that metropolitan communities in other areas of the state may have more pressing needs. Therefore, the preference is meant only to provide direction to the Secretary in situations where applications from different metropolitan areas have similar merit.

Secretary's discretionary fund

The Senate bill contained a provision to provide on a permanent basis that the amount of the Secretary's discretionary fund be equal to 3 percent of the total amount approved in an appropriation Act for any fiscal year. The House amendment contained a provision to limit the Secretary's discretionary fund at not more than $90 million for fiscal year 1981, not more than $95 million for fiscal year 1982, and not more than $100 million for fiscal year 1983. The conference report contains the House provision amended to limit the Secretary's discretionary fund to $104 million for fiscal year 1981, $104 million for fiscal year 1982, and $107 million for fiscal year 1983.

Displacement

CDBG application requirements—The Senate bill contained a provision which provided that as part of the program formulation requirements under section 104(a) (2), title I assisted activities which could displace low- and moderate-income persons from their immediate neighborhoods be taken into account. The House amendment contained a provision which required CDBG applicants, as part of the program formulation requirements of section 104(a) (2) to: (1) indicate non-title I resources expected to be made available towards meeting identified needs, objectives and activities; and (2) take into account, the effect of both title I and non-title I assisted activities on the involuntary displacement of low- and moderate-income persons. The conference report contains the House provision.

Objectives of the CDBG program—The House amendment contained a provision not contained in the Senate bill to expand the objective of the CDBG program concerning the conservation and expansion of the nation's housing stock to include persons of low and moderate income who are involuntarily displaced from their housing as a result of public or private development activities conducted in connection with a community development program receiving assistance under title I of the Housing and Community Development Act of 1974. The conference report does not contain the House provision.

Study—The House amendment contained a provision not contained in the Senate bill, which provided that the Secretary of HUD shall continue the study on involuntary displacement conducted under section 902 of the Housing and Community Development Amendments of 1978 and shall transmit, not later than March 30, 1981, a report to the Congress which shall contain (1) data collected since the initial report submitted, and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement. The conference report contains the House provision.

Limitation on section 108 loan guarantees

The Senate bill contained a provision which provided that section 108 loan guarantees may be provided only to such extent or in such amounts as provided in appropriation Acts. The House amendment contained a provision to limit to not more than $300,000,000 the notes or other obligations which may be authorized in appropriation Acts to be guaranteed under section 108. The conference report contains the House provision with an amendment to include in the limitation commitments to guarantee under section 108.

Performance reports for non-entitlement communities

The House amendment contained a provision not contained in the Senate bill to amend section 104(d) of the Housing and Community Development Act of 1974 to provide that in the case of a community receiving a small cities grant which the Secretary determines does not fund a comprehensive community development program, the performance report to be made with respect to such grant may be submitted less frequently than annually as determined by the Secretary; and to provide that the Secretary may review and audit such report less frequently than annually as the Secretary deems appropriate. The conference report contains the House provision.

Economic development certification

The Senate bill, but not the House amendment, contained a provision to amend the conditions for CDBG application approval under section 104(b)(2) to provide that if the object of any part of an applicant's community development program is economic development and unless the program comprises only one specifically identified project involving economic development, the applicant must certify to the satisfaction of the Secretary that such part of the program has been developed so as to benefit principally low and moderate income persons through either services to low and moderate income neighborhoods or job opportunities primarily for low and moderate income persons. The conference report contains a substitute provision which amends section 105(a) (14) and (15) to require that the activities or projects undertaken pursuant to these paragraphs must be specifically described in the application submitted pursuant to section 104.

The conferees are aware of several studies which have shown that communities have not provided sufficient information concerning their economic development activities to permit adequate review by HUD and adequate review by the public through the citizen participation process. The conferees believe that the applicant must specifically describe these economic development activities in its application whether or not the activities are described in these paragraphs. The description of an activity must be sufficient to allow the Department to be assured that the activity clearly fits within the community development purpose the applicant has identified. The conferees are especially concerned that the applicant provide an adequate description where it is claimed that the activity is designed to benefit low- and moderate-income persons.

SECTION 312 REHABILITATION LOANS

Maximum loan amounts

The Senate bill contained a provision to increase the maximum loan amounts for residential property under section 312 from $27,000 to $35,000. The House amendment contained a similar provision, except that it increased the maximum loan amounts from $27,000 to $32,000. The conference report contains a provision to increase the maximum loan amounts to $33,500.

Congregate housing

The Senate bill contained a provision to amend the maximum loan amounts for residential property to provide that in the case of residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility where meals can be served to the occupants of such residential property, such limits are established at $25,000 per dwelling unit. The House amendment contained a provision to define the term "congregate housing" to mean residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility, and to establish the maximum loan amount in the case of congregate housing at $25,000 per dwelling unit. The conference report contains the Senate provision.

Single-room-occupancy housing

The Senate bill contained a provision to amend the maximum loan amounts for residential property to provide that in the case of residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities, such limits are established at $15,000 per dwelling unit. The House amendment contained a provision to define the term "single-room-occupancy housing" to mean residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities, and to establish the maximum loan amount for SRO housing at $15,000 per dwelling unit. The conference report contains the Senate provision.

Authorization

The Senate bill contained a provision which authorized to be appropriated for section 312 rehabilitation loans not to exceed $124 million for fiscal year 1981, not to exceed $129 million for fiscal year 1982, and not to exceed $134 million for fiscal year 1983. The House amendment contained a provision which authorized to be appropriated not to exceed $183 million for fiscal year 1981. The conference report contains a provision to authorize to be appropriated not to exceed $144 million for fiscal year 1981, and not to exceed $129 million for fiscal year 1982.

Limitation on aggregate commitments

The House amendment contained a provision not contained in the Senate bill which provided that not more than $250 million may be approved in appropriation Acts for section 312 loans for fiscal year 1981. The conference report contains this provision with an amendment to limit the aggregate amount of commitments at not more than $210 million for fiscal year 1981.

Limitation of multifamily loans

The House amendment contained a provision not contained in the Senate bill which provided that of the amount available for loans under section 312 during any fiscal year beginning on or after October 1, 1980, the Secretary may utilize not more than one-third of such amount for rehabilitation loans for multifamily properties. The conference report contains this provision.

Extension of loan authority

The Senate bill extended for three years, through September 30, 1983, the period within which obligations pursuant to section 312 may be entered into. The House amendment provided for a one-year extension, through September 30, 1981. The conference report contains the Senate amended provision to extend for two years, through September 30, 1982, the period within which such obligations may be entered into.

Refinancing

The Senate bill, but not the House amendment, contained a provision which provided that no loan may be made under the section 312 program to refinance existing indebtedness unless the Secretary determines that such loan is necessary and appropriate. The conference report contains the Senate provision with an amendment (1) to amend section 312(c)(4)(A) to add a further requirement that the Secretary must determine that such refinancing is necessary and appropriate; and (2) that section 312(f) is amended to provide that the Secretary may not delegate to any federal or local public or private agency or organization the decision to refinance existing indebtedness. The conferees believe that recently published final regulations of HUD limiting the use of refinancing under section 312 establish standards which satisfy the new requirement in section 312(c)(4)(A) established by this provision that the refinancing must be necessary and appropriate.

URBAN DEVELOPMENT ACTION GRANTS

Eligibility of Guam and the Virign Islands

The House amendment contained a provision not contained in the Senate bill to amend the definition of the term "city" for the purposes of eligibility under the UDAG program to include Guam and the Virgin Islands. The conference report contains the House provision amended to provide that Guam and the Virgin Islands would not be subect to the application requirements under section 104 of the Housing and Community Development Act of 1974, but would be subject to the application requirements under section 107.

Historic preservation

Application requirements—The House amendment contained a provision not in the Senate bill to amend section 119(c) of the Housing and Community Development Act of 1974 to provide that applications for assistance shall include (a) an identification of all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (b) an identification of all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; and (c) a description of the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (a) and (b). The conference report contained this provision.

Notification—The House amendment, but not the Senate bill, also provided that in the case of any application which identifies properties which will be affected by such project, and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places, the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the HUD Secretary that the appropriate state historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the notice and comment procedures established by this Act. The conference report contains this provision.

Promulgation of regulations

UDAG and historic preservation acts—The House amendment contained a provision not included in the Senate bill to amend title I of the Housing and Community Development Act of 1974 to provide that with respect to applications for assistance under section 119, the Secretary of Interior, after consulting with the Secretary of HUD, shall prescribe and implement regulations concerning projects funded under section 119 and their relationship with, (1) "An act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes," approved October 14, 1966, as amended; and (2) "An act to provide for the preservation of historical and archeological data (including relics and specimens which might otherwise be lost as a result of the construction of a dam," approved June 27, 1960, as amended. The conference report contains the House provision.

Notification and comment procedures—The House amendment also provided that in prescribing and implementing such regulations with respect to applications submitted under section 119 which identify any property which will be affected by the project for which that application is made, and which, as determined by the applicant, may meet criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places, the Secretary of Interior shall provide at least—

(1) the appropriate state historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places. The conference report contains the House provision.

Advisory Council on Historic Preservation—The House amendment also contained a provision which provided that the Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 106 of "an Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes," approved October 14, 1966, as amended, in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 119. The conference report contains this provision.

The House provision amends section 119(c) of the Housing and Community Development Act of 1974 by adding a new paragraph (7) which requires that applications for Urban Development Action Grants include an identification of all properties which will be affected by the project and which are either on the National Register of Historic Places or may meet the criteria for inclusion on the Register. A description of the project's effect on these properties is also to be provided. In all three matters—where properties on the Register are affected, whether other affected properties appear to be eligible for the Register, and the nature of the effect—the determinations are to be made by the applicant, following the procedures prescribed for such determinations. The House provision also adds a new subsection (o) to section 119 of the Act to require that, where the applicant has determined that properties may meet the criteria for Register eligibility, the Secretary of HUD may not commit funds for an approved UDGA application unless the applicant has certified that the Secretary of the Interior and the appropriate state historic preservation officer have been given an opportunity to take action pursuant to section 121(b) of the Act as amended. Under this provision, HUD will continue to be able to approve preliminary applications for UDAGs prior to the certification. The intent is to assure adequate opportunity of historic preservation review without imposing any undue delays in the current processing of UDAG applications. In no case would any funds be made available to use for physical activities on the site until such time that the section 106 process has been completed. The conferees encourage the close coordination of HUD's UDAG processing and the historic preservation reviews to ensure that any historic preservation issues are resolved and included in the HUD process in an expeditious manner. The opportunity afforded to the Secretary of Interior and the state historic preservation officer under new subsection (o) need not exceed the two 45 day time periods specified in the newly added section 121(b). If either the state or the Secretary of Interior fails to act within those time limits, the application's certification may be submitted and approved, and the funds committed without further delay, providing there are no other properties in the project which have been put on the register or determined eligible for the Register and for which The Advisory Council on Historic Preservation has not had the opporunity to complete the section 106 process. Completion of the certification in accordance with the proposed subsection 119(o) will mean the applicant has complied with all historic preservation requirements, and that the Secretary may commit funds for the project. Historic preservation issues may not be reopened after that point in the process unless a significant amendment is proposed for the project which would in some way change the determinations made pursuant to section 119(c)(7), or unless the applicant fails to implement any mitigating measures required as a result of the initial review process.

Eligibility of Indian tribes

The Senate bill contained several provisions not included in the House amendment to (1) exempt Indian tribes from the requirement under existing law that the application and review requirements under section 104 be met as a condition for receiving a grant pursuant to section 119; (2) provide that Indian tribes applying for a UDAG grant must show assurances of conformity with the provisions of title II of the Civil Rights Act of 1968; (3) amend section 119(e) of the Housing and Community Development Act of 1974 to authorize the Secretary to establish such criteria as the Secretary deems appropriate for the purpose of making grants to Indian tribes; and (4) include Indian tribes in section 119(k) which provides that not less than 25 percent of funds be made available for cities under 50.000 population which are not central cities of an SMSA. The Senate bill also provided that the Secretary is authorized to make grants to Indian tribes, except that the Secretary may not approve a grant to an Indian tribe unless such Indian tribe (1) is located outside a city or urban county; (2) meets such minimum standards of distress as the Secretary may prescribe; (3) has submitted an application which includes documentation of eligibility for grants in accordance with such minimum standards, and which meets such other requirements as specified in paragraphs (2) through (16) of section 119(c) of the Housing and Community Development Act of 1974, except for the requirements that the UDAG application be consistent with the requirements for formulation of a community development program and housing assistance plan; and (4) has submitted an application for assistance under section 107(d)(7) of such Act.

The conference report contains a substitute provision which (1) provides that in order to be eligible for UDAG assistance, Indian tribes must be located on a reservation or in an Alaskan Native Village and be considered as eligible recipients under the State and Local Fiscal Assistance Act of 1972; (2) exempts Indian tribes from the section 104 application requirements, but provides that they would be subject to the section 107 application requirements; and (3) clarifies existing exemption of Indian tribes from certain requirements of title I to include UDAG's, as well as section 107 discretionary grants. The conferees believe that the Secretary has sufficient flexibility under existing laws to establish criteria necessary to implement the Indian UDAG assistance provisions. In addition, the conferees wish to emphasize their intent to see that the Secretary not consider any tribe as eligible for UDAG assistance unless he determines that it has a level of distress similar to small cities that are eligible for UDAG.

CDBG FORMULA STUDY

The House amendment, but not the Senate bill, provided that the Secretary of HUD shall, not later than January 1, 1983, report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the manner in which such formula is or could be affected by the data derived from the 1980 decennial census. The conference report contains this provision.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW INCOME HOUSING ASSISTANCE

Total contract authority

The Senate bill contained a provision increasing the authorization for the Secretary to enter into contracts for annual contributions subject to appropriation by not to exceed $1,419,707,000 after October 1, 1980, for low-income housing assistance. The House amendment contained a similar provision, except that it aggregated funds authorized through fiscal year 1980, and authorized an increase of not to exceed $1,536,000,000. The conference report contains the House provision amended to increase the authority to enter into annual contributions contracts (subject to appropriation) by $1,494,400,000 on October 1, 1980.

Allocation of assistance

The Senate bill provided that in utilizing the additional authority provided on and after October 1, 1980, the Secretary, to the maximum extent practicable consistent with carrying out the objectives of the U.S. Housing Act of 1937, shall accommodate desires of local government regarding the allocations of assistance among new, substantially rehabilitated, and existing housing units. The House amendment provided that the Secretary, in utilizing such additional authority, shall administer the programs authorized by the U.S. Housing Act of 1937 and section 203 of the Housing and Community Development Act of 1980 to provide assistance, to the maximum extent practicable, consistent with section 213(d) of the Housing and Community Development Act of 1974. The conference report contains the House provision amended to delete the reference to section 203 of the Housing and Community Development Act of 1980.

Limitation on budget authority

The Senate bill included a provision not contained in the House amendment which provided that the total budget authority associated with such additional contract authority shall not exceed $30,927,500,000. The conference report contains the Senate provision amended to provide that the aggregate amount which may be obligated over the duration of the contracts entered into with respect to such additional authority may not exceed $31,200,000,000.

Limitation on annual contributions contact authority

The Senate bill contained a provision which provided that of the additional authority to enter into contracts provided on October 1, 1980, and approved in appropriation Acts, $321,343,000 shall be available only for units assisted under the U.S. Housing Act of 1937, other than under section 8 (not less than $75,000,000 of which shall be available for modernization or substantial rehabilitation of such units). The House amendment contained a provision which provided that in no case may the Secretary, with respect to the additional authority made available on October 1, 1980, enter into such contracts aggregating—

(A) more than $589,000,000 for existing units assisted under section 8, including assistance provided under subsection (j) of such section;

(B) more than $847,000,000 for newly constructed and substantially rehabilitated units assisted under the U.S. Housing Act of 1937, of which not more than $261,000,000 shall be made available for such units assisted under such Act other than section 8; and not more than $61,000,000 shall be made available for units assisted under section 203 of the Housing and Community Development Act of 1980; or

(C) less than $100,000,000 for units assisted under the public housing comprehensive improvement assistance program under section 14 of the U.S. Housing Act of 1937 established by section 202 of this bill.

The conference report contains the House provision amended to provide that in no case may the Secretary, with respect to the authority to enter into contracts made available on October 1, 1980, and approved in appropriation Acts, enter into contracts aggregating—

(A) less than $100 million for assistance to projects under the public housing comprehensive improvement program (section 14);

(B) more than 37.5 percent of the balance of appropriated authority (after deducting the amount to be provided under (A)) for existing units assisted under section 8 including assistance provided under section 8(j); and

(C) more than 62.5 percent of such balance for newly constructed and substantially rehabilitated units assisted under the U.S. Housing Act of 1937, of which not more than $265.8 million of the amount so determined may be made available for such units assisted under such Act other than section 8.

Contracts for preliminary loans

The House amendment, but not the Senate bill, provided that the Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into. The conference report contains the House provision.

Payment of annual contributions contracts

The House amendment contained two provisions not in the Senate bill which provided that (1) the full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracts for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments; and (2) all payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of the U.S. Housing Act of 1937 or section 203 of the Housing and Community Development Act of 1980 when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions. The conference report contains the House provisions amended to delete the reference to section 203 of the Housing and Community Development Act of 1980.

Section 8 income eligibility

The Senate bill contained a provision not included in the House amendment to amend the definition of "lower-income families" used to determine eligibility under section 8 of the U.S. Housing Act of 1937 to lower the income ceiling from 80 percent of area median income to 65 percent of area median income, and to provide further that such amendment shall not affect the eligibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing subject to an annual contribution contract on the effective date of this section. The conference report does not contain the Senate provision.

Elderly projects: income mix

The Senate bill, but not the House amendment, included a provision to amend section 6(c)(4)(A) of the U.S. Housing Act of 1937 to exempt projects specifically designed for elderly families from the requirement that tenant selection criteria be designed to assure that projects include families with a broad range of incomes, and avoid concentrations of low-income and deprived families with serious social problems if the Secretary has determined that application of such requirement would result in excessive delays in meeting the housing needs of such elderly families. The conference report contains the Senate provision.

PUBLIC HOUSING COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

Purpose

The House amendment included a provision not contained in the Senate bill to establish as the purpose of this section to provide assistance (1) to improve the physical condition of existing public housing projects, and (2) to upgrade the management and operation of such projects, in order to assure that such projects continue to be available to serve low-income families. The conference report contains the House provision.

Authority to make assistance

The House amendment contained a provision not in the Senate bill which provided that the Secretary may make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) of the U.S. Housing Act of 1937 and as may be approved in appropriations Acts) to public housing agencies for the purpose of improving the physical condition of existing low-rent public housing projects and for upgrading the management and operation of such projects to the extent necessary to maintain such physical improvements. The conference report includes the House provision.

Eligibility for assistance

The House amendment contained a provision not in the Senate bill which provided that assistance may be made available only for low-rent public housing projects which (1) are owned by public housing agencies; (2) are operated as rental housing projects and receive assistance under section 5(c) or section 9 of the U.S. Housing Act of 1937; (3) are not assisted under section 8 of such Act; and (4) meet such other requirements consistent with the purposes of this section as the Secretary may prescribe. The conference report contains this provision.

Application for assistance

The House amendment, but not the Senate bill, contained a provision that except for such sums as may be necessary to fund a financially distressed public housing agency in order to develop an implementation plan for the purposes of this program, no assistance shall be made available unless the Secretary has approved an application from the public housing agency which has been developed in consultation with appropriate local officials and with tenants of the housing projects for which assistance is requested. The conference report contains the House provision.

Contents of the application—The House amendment but not the Senate bill provided that the application for assistance must at least contain: a comprehensive assessment of the current physical condition of each project for which assistance is requested, and the physical improvements necessary for each such project to meet the standards established by the Secretary pursuant to this program; and an identification, for each such project, of the equipment, systems or structural elements which would normally be replaced (assuming routine and timely maintenance is performed) over the remaining useful life of the project; and a comprehensive assessment of the improvements needed to upgrade the management and operation of each such project so that decent, safe, and sanitary living conditions will be provided in such projects.

The application must also include a plan for making the improvements necessary to address the physical, management, and replacement needs of such projects. Such plan shall include at least (A) a schedule of these actions which are to be completed, over a period of not greater than 5 years from the date of approval of such application by the Secretary, within each 12-month period covered by such plan and which are necessary to meet such needs; (B) the estimated cost of each such action; (C) an estimate of the total costs of the replacement of the items identified to need replacement during the remaining useful life of each such project, including an estimate of the amount of funds necessary to fund the costs which have accrued for the period which ends upon the date on which the application is made, and an estimate of the costs which will accrue during each 12-month period subsequent to such application; (D) an operating budget for each such project for each 12-month period covered by such plan, excluding the cost of undertaking the plan for making improvements and the cost of replacement of systems and structures; and (E) an estimate of the financial resources which will be available from all sources to each such project and to the public housing agency (to the extent the resources of the agency relate to such project), and the amounts of assistance which are being requested for each 12-month period covered by the plan.

The conference report contains these House provisions with an amendment which deletes the references to "remaining useful life" and provides that the application identify the projects' equipment systems and structures which would normally be replaced, and the total costs of the items identified to need replacement, over a thirty-year period or the remaining term of the annual contributions contract covering such project, whichever is greater.

Limitation on amount of assistance

The House amendment contained a provision not in the Senate bill which provided that the amount of financial assistance made available to any public housing agency with respect to any year may not exceed the sum of:

(1) An amount determined by the Secretary to be necessary to undertake the actions specified for such year in the plan submitted by the public housing agency;

(2) The amount determined necessary by the Secretary to fund the replacement costs which have been identified for each project, which have accrued for the period ending at the beginning of such year, and for which payment has not been made previously;

(3) The amount determined necessary by the Secretary to reimburse the public hous-

ing agency for the cost of developing the implementation plan, less any amount which has been provided such public housing agency prior to development of such plan; except that not more than 5 percent of any funds made available to such agency shall be made available for such reimbursement; and

(4) In the case of a public housing agency which meets such criteria of financial distress as are established by the Secretary and which has submitted the assessment of its physical, management, and replacement item needs, the amount determined necessary by the Secretary to enable such agency to develop its implementation plan.

The House provision also provided that not more than 5 percent of the ACC amount made available to all public housing agencies under subsection (b) in any year shall be made available for the purposes of funding the development of such plan. The conference report contains the House provision with an amendment to delete the limitation that not more than 5 percent of the total assistance made available to any one PHA can be for reimbursement for developing the implementation plan.

The conferees would like to make clear that removing the limitation on reimbursement for individual PHAs does not alter the overall limitation that not more than 5 percent of the total funds made available to all PHAs may be used for planning purposes. The conferees are concerned that assistance for the purpose of developing the implementation plan should be carefully allocated by the Secretary, and that the Secretary should exercise care to assure that PHAs do not receive planning assistance over a number of years without ever moving to implement their improvements plan. The conferees strongly believe that the principal focus of the program should be on the physical and energy conserving and management improvements to be made to the projects, and that planning of implementation plans be funded only to the degree necessary to achieve these objectives. In this regard, the conferees direct the Secretary to make available, beginning with the fiscal year 1982 budget, the details concerning the number of PHAs and the amount of funds under the new program provided to such PHAs for the purpose of planning the implementation of the program. The conferees believe that by eliminating the limitation on individual PHAs, the Secretary will be provided with the flexibility to fund PHAs for planning to a slightly lesser or greater degree, according to the type of plan that is being proposed. For example, a plan which places a greater emphasis on software or management-related improvements might involve a greater need for planning assistance than one which focuses on capital improvements. However, the conferees expect the Secretary to utilize a 5 percent individual limitation as a goal in determining the appropriate amount of planning assistance for each PHA. Due to this limitation, the Secretary would not be permitted to provide more than 5 percent of the Fiscal Year 1981 appropriated funds (e.g. $5 million out of the estimated $100 million ACC amount).

Demolition

The House amendment contained a provision not contained in the Senate bill which provided that where an application made pursuant to this section proposes demolition of any low-rent housing project or any portion of such a project, the Secretary may not approve such application unless the Secretary determines that (1) timely replacement of the units in such project will be undertaken by the public housing agency; (2) the total cost of providing such replacement housing is less than the total cost of rehabilitation of such project, except that the Secretary may waive such requirement where the Secretary determines that the demolition is necessary to meet the purposes of this section; and (3) low-income families displaced by such proposed demolition will be provided with decent, safe, sanitary, and affordable housing. The conference report includes this provision.

Condition on subsequent assistance

The House amendment included a provision not contained in the Senate bill which provided that no assistance shall be made to a public housing agency pursuant to this section for any year subsequent to the first year for which such assistance is made available to such agency unless the Secretary has determined that such agency has made substantial efforts to meet the objectives for the preceding year under the implementation plan approved by the Secretary. The conference report contains the House provision.

Preference in making assistance available

The House amendment, but not the Senate bill, also provided that in making assistance available, the Secretary shall give preference to public housing agencies (1) which request assistance for projects (A) having condition which threaten the health or safety of the tenants, or (B) having a significant number of vacant, substandard units; and (2) which have demonstrated a capability of carrying out the activities proposed in the implementation plan approved by the Secretary. The conference report contains the House provision.

Funding of emergency or special purpose needs

The House amendment also contained provisions not included in the Senate bill which provided that the Secretary may also, without regard to the requirements concerning comprehensive assessment of needs and development of the implementation plan, make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) of the U.S. Housing Act of 1937 and as approved in appropriation Acts) to any public housing agency in an amount which the Secretary determines is necessary to meet emergency or special purpose needs. The House provision limited needs for which such assistance may be made to (A) correcting conditions which threaten the health or safety of the tenants of any PHA-owned rental project other than projects assisted under section 8 with respect to which an application for assistance pursuant to subsection (d) has not been approved by the Secretary; (B) correcting conditions (i) which threaten the health or safety of the tenants of any project with respect to which an application for assistance pursuant to subsection (d) has been approved and (ii) which were unanticipated at the time of the development of such application; (C) correcting conditions which threaten the health or safety of the occupants of any low-income rental housing project not owned by the public housing agency and not assisted pursuant to section 8; or (D) physical improvements needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8. The House provision also provided that the Secretary may issue such rules and regulations as may be necessary to carry out this subsection. The conference report contains these provisions.

Promulgation of rules

The Senate bill contained a provision to amend section 13 of the U.S. Housing Act of 1937 to provide that in utilizing the additional authority provided under section 5(c) on or after October 1, 1980, and made available for modernization or substantial rehabilitation of projects assisted under such Act, other than under section 8, the Secretary shall establish standards which provide for energy conserving improvements in such projects which, to the extent practicable, shall be consistent with minimum property standards for multifamily housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards where the Secretary determines that such higher standards are appropriate. The House amendment contained a provision which provided that the Secretary may issue such rules and regulations as may be necessary to carry out the provisions and purposes of the Comprehensive Improvement Assistance Program, including standards which provide for decent, safe, and sanitary living conditions in low-rent public housing projects and for energy conserving improvements in such projects and which, to the extent practicable, are consistent with minimum property standards for multifamily housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards on a project-by-project basis in such cases where the Secretary deems such higher standards appropriate for furthering the purposes of this section. The conference report contains the House provision amended to provide that the Secretary shall issue rules and regulations concerning standards for decent, safe, and sanitary living conditions and energy conservation.

Weatherization of low-income housing projects

The House amendment, but not the Senate bill, contained a provision to amend section 13 of the U.S. Housing Act of 1937 to delete the requirement that in utilizing contract authority for use in the modernization of low-income housing projects, the Secretary shall take into consideration projects which will be modernized to a substantial extent with weatherization materials. The conference report contains this provision.

Modifications

The House amendment included a provision not contained in the Senate bill to amend section 6(f) of the U.S. Housing Act of 1937 to clarify that any modifications to the physical condition, location, or other factors relating to low-income housing project shall be made pursuant to this section. The conference report contains the House provision. The conferees recognize that by this provision, a modification to the project would be presumptively infeasible if no funds are available under this section.

Section 213 allocation

The House amendment, but not the Senate bill, also contained a provision to amend section 213(d)(1) of the Housing and Community Development Act of 1974 to exempt from the allocation requirements financial assistance made for the purpose of carrying out this section. The conference report contains the House provision.

MULTIFAMILY HOUSING INITIATIVE PROGRAM

Purpose

The House amendment contained a provision not contained in the Senate bill which established as a purpose of the new program to increase the Nation's stock of rental housing, and thereby reduce rental charges paid by tenants for such housing, by encouraging the construction of new or substantially rehabilitated multifamily rental housing projects designed for families with incomes which do not exceed 150 percent of the median income of the area in which the project is located. The conference report does not contain this provision.

Although the conference report does not contain the multifamily housing initiative program, the conferees believe that the

Secretary should study the feasibility and necessity of establishing such a shallow subsidy program to encourage the development of rental housing. In such a study, the Secretary shall examine: current rental housing needs; the impact that expansion of the rental stock would have on lower income families; the effect that changes in the tax laws would have on the production of new rental housing and the relationship such changes would have to a shallow subsidy rental housing production program; and the desirability of employing such a program to promote mixed income housing. The Secretary shall report to the Congress by March 1, 1981, the results of the study along with any recommendations for legislative or administrative action.

Assistance payments

Authority to make payments—The House amendment included a provision not contained in the Senate bill which provided that the Secretary may make, and contract to make, periodic interest reduction payments (in such amounts as are authorized pursuant to section 5(c) of the U.S. Housing Act of 1937 and as may be approved in appropriation Acts) on behalf of the owner of a multifamily rental project eligible for assistance under this section. The conference report does not include the House provision.

Maximum period of assistance—The House amendment contained a provision not contained in the Senate bill to limit payments to mortgagees holding mortgages secured by projects assisted under this section to a period of not more than 30 years, and upon such other terms and conditions which are consistent with the purpose of this section and are specified by the Secretary. The conference report does not contain the House provision.

Initial amount of payments—The House amendment but not the Senate bill provided that the amount of payments shall be established and maintained for each such project at an amount which (1) the Secretary determines is the minimum amount necessary to establish the project in the area, taking into consideration that the non-section 8 assisted tenants of the project shall be paying at least 20 percent and not more than 30 percent of their incomes for rents, and (2) does not exceed the difference between the monthly payment for principal, interest, and mortgage insurance premium (if any) which the project owner as a mortgagor is obliged to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear a 7½ percent annual interest rate. The conference report does not contain this provision.

Increase in amount of payments—The House amendment included a provision not included in the Senate bill which provided that the Secretary may increase the payments above the minimum amount established for the project if (1) the Secretary determines that such increase is necessary to assure the financial feasibility of such project, and (2) such increase does not cause the average interest rate for all assisted mortgages to fall below 7½ percent; and which also provided that payments may be also increased by an amount necessary to reimburse the mortgagee for its reasonable and necessary expenses in handling the mortgage. The conference report does not contain this provision.

Phase-out of payments—The House amendment but not the Senate bill also provided that after the first 10 years of payments, the Secretary may reduce the payments during the remaining term of the contract. but in no case may such payments be reduced in any year by more than 10 percent of the amount of the payments made during the 10th year of such payments. The conference report does not contain this provision.

Eligible projects

The House amendment contained several provisions not contained in the Senate bill which provided conditions for determining the eligibility of projects to receive assistance under the program. It provided that such projects must (1) be newly constructed or substantially rehabilitated at the time payments are commenced, contain five or more dwelling units, and be used predominantly for residential purposes; (2) have at least 20 percent and not more than 30 percent of the units in the project occupied by families assisted under section 8 of the U.S. Housing Act of 1937 during at least the first 20 years of payments; (3) have the project's non-section 8 assisted units occupied by tenants whose incomes at the time of initial occupancy do not exceed 150 percent of area median income; (4) meet, for at least 30 years, all eligibility requirements and comply with income recertification requirements; (5) secure a mortgage with a principal amount not more than the amount which could be insured for the project under section 207 of the National Housing Act, and an interest rate and other terms and conditions which the Secretary determines are reasonable; (6) agree to give a preference, in determining who will reside in the project, to applicants who are seeking housing as a result of their being involuntarily displaced from rental housing units which were or are being converted into cooperative or condominium units; and (7) meet other conditions consistent with the purpose of this section and specified by the Secretary, including conditions relating to energy conservation. The conference report does not contain these provisions.

Income recertification

The House amendment contained provisions not included in the Senate bill (1) directing the Secretary to establish procedures for the biennial review of non-section 8 assisted tenants; (2) providing for a three-year phase-in of rent increases in the case of families whose incomes exceed 150 percent of area median; and (3) providing for a reduction in section 8 assistance as a result of the increased rental payments due to increases in income about 150 percent of area median. The conference report does not contain these provisions.

Regulation of rentals and rate of return

The House amendment but not the Senate bill contained a provision that notwithstanding any other provision of law, the Secretary shall provide that any project assisted under this section be regulated or restricted, at least until the termination of the payments, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment. The conference report does not contain this provision.

Waiver of use restrictions

The House amendment but not the Senate bill provided that if the Secretary determines it consistent with the purpose of this section the Secretary may waive the requirements that the project meet eligibility requirements and comply with income recertification requirements for at least thirty years. The conference report does not contain the House provision.

Repayment of assistance

The House amendment contained provisions not included in the Senate bill providing for repayment of assistance in the event of a project's no longer meeting eligibility requirements. In the event of a Secretarial waiver during the first 30 years after initial payment is made under the program, the owner is obligated to repay the entire amount of assistance provided under the program, except that the Secretary may reduce the amount repayable, in whole or part, to the extent which the Secretary determines is reasonable and necessary to relieve an undue hardship upon the owner of, or the families residing in, the project. If, after the first 30 years after initial payment under the program, the project fails to be used as described above, the owner shall make a payment to the Secretary in an amount equal to (1) the total amount of payments made under this section with respect to such project, minus (2) an amount derived by multiplying 10 percent of such total amount by the number of years after 30-year period during which project was so utilized, except that the Secretary may reduce repayment to the extent which the Secretary determines is reasonable and necessary to relieve an undue hardship upon the owner of, or families residing in, the projects. The conference report does not contain these House provisions.

Protection of Federal Government's interests

The House amendment included a provision not included in the Senate bill that notwithstanding any other provision of law, any assistance made under this section shall constitute a debt secured by the security instruments given by the mortgagor to the Secretary. The conference report does not contain this provision.

Restriction on use of assistance

The House amendment but not the Senate bill required the Secretary to provide that payments under the program are made only wtih respect to that portion of the mortgage concerning the portion of the project which is used for residential purposes and only for the benefit of the families residing in such projects. The conference report does not contain the House provision.

Other conditions on assistance

The House amendment included a provision not contained in the Senate bill which provided that with respect to projects located within the jurisdictional boundaries of a unit of general local government which receives assistance under title 1 of the Housing and Commuity Development Act of 1974, the Secretary may not contract to make any assistance under this section unless the unit of general local government has made substantial progress in meeting its annual goals for lower income persons as specified in its annual housing assistance plan submitted pursuant to section 104(a)(4) of such Act. The conference report does not contain this provision.

Preference

The House amendment but not the Senate bill directed the Secretary to give a preference for assistance to projects receiving financial contributions from state or local governments other than contributions relating to notes or obligations exempt from federal taxation. The conference report does not include the House provision.

Extension of section 8 contracts

The House amendment included a provision not contained in the Senate bill providing that the Secretary shall, in entering into contracts for assistance for less than 30 years under section 8 of the U.S. Housing Act of 1937 with respect to residents in any project assisted under this section, provide that such contracts may be extended, at the discretion of the Secretary and subject to the availability of funds at the time of such extension, to a period of 30 years if the Secretary makes a determination that there is a need for housing for lower income families in the area at such time. The conference report does not include the House provision.

Advances for construction financing

The House amendment but not the Senate bill contained a provision to permit the Secretary to make assistance payments under this section with respect to advances on mortgages insured under the National Housing Act during construction of up to one-twentieth of the total amount of assistance payments to the project. The conference report does not contain this provision.

Definitions

The House amendment contained a provision not contained in the Senate bill to define: the term "income" to mean income as determined under section 8 of the U.S. Housing Act of 1937; the terms "mortgage", "mortgagee", and "mortgagor" to have the meanings given such terms under paragraphs (1), (2) and (3), respectively, of section 207 (a) of the National Housing Act, except that the term "mortgage" may also include mortgages or loans secured by other than a first lien on the property; the term "mortgage insurance premium" to have the same meaning given such term in section 236(b) of the National Housing Act; the term "substantially rehabilitated" to include the rehabilitation in whole or in part of properties which contain dwelling units which are not habitable, are abandoned, or are in imminent danger of abandonment; and the term "Secretary" to mean the Secretary of Housing and Urban Development. The conference report does not contain these provisions.

Housing assistant plan requirements

The House amendment included a provision not contained in the Senate bill to amend section 104(a)(4) of the Housing and Community Development Act of 1974 to require the HAPs to include: (1) an accurate survey of the condition of housing stock in the community designed for persons who have incomes which do not exceed 150 percent of the median income for the area and who are not taken into account in other HAP provisions; (2) an assessment of the housing assistance needs of such persons; (3) a specification of a realistic goal of the number of rental dwelling units which will be provided such persons as a result of the program; and (4) an indication of the general locations of such dwelling units. The conference report does not contain this provision.

Relation to section 213 requirements

The House amendment but not the Senate bill contained a provision to subject all applications for assistance under the program to the notification, comment, and approval provisions of section 213(a) of the Housing and Community Development Act of 1974; and delete provision in existing law which exempts application for assistance with respect to housing financed from a state or agency thereof from such provisions. The conference report does not include the House provision.

Prohibition

The House amendment contained a provision not contained in the Senate bill that notwithstanding any other provision of law, assistance under this section shall not be made available if the unit of general local government, with jurisdiction over the area in which the project is to be located, has any law, ordinance or other measure which would control rents on projects built after the date of enactment of this subsection. The conference report does not contain this provision.

TROUBLED PROJECTS

Section 236 fund

The House amendment contained a provision not in the Senate bill to amend section 236(f)(3)(B) of the National Housing Act to delete references to specific dates for the purpose of determining which amounts in the section 236 rental housing assistance fund must be used for the Troubled Projects Program. The conference report contains the House provision.

Purpose

The Senate bill included a provision not contained in the House bill to amend section 201(a) of the Housing and Community Development Amendments of 1978 to add as an additional purpose of the Troubled Projects Program the prevention of projects from becoming financially unsound. The conference report does not include the Senate provision.

Conditions on assistance

The Senate bill, but not the House amendment, contained a provision to amend section 201(d)(1) of the Housing and Community Development Amendments of 1978 which precludes assistance under the Troubled Projects Program unless such assistance is necessary, and in the determination of the Secretary will restore or maintain the financial soundness of the project, to provide that the Secretary may also make such assistance available if necessary to prevent a project which has a substantial number of tenants paying more than 50 percent of their incomes for rent from becoming financially unsound. The conference report does not contain this provision.

Amount of assistance

The Senate bill contained a provision not in the House amendment to amend section 201(f)(1)(B) of the 1978 Act to provide that the maximum amount of annual assistance may include the amount determined by the Secretary as necessary to maintain the project's low- and moderate-income character by preventing deficiencies which exist at the beginning of the year in the project's reserve funds, or which would be substantially likely to occur because of the high rent-to-income ratios in the project. The conference report does not include the Senate provision.

RENT SUPPLEMENTS

The House amendment contained a provision not in the Senate bill to amend section 101(1) of the Housing and Urban Development Act of 1965 to provide that the Secretary shall, not later than four years after enactment of this Act, offer to amend each rent supplement contract as provided pursuant to such section; and to provide further that in amending such contracts, the Secretary shall provide that the housing with respect to which payments are made under such section be maintained as low- and moderate-income housing during the term of the original contract. The conference report contains the House provision.

SECTION 235 HOMEOWNERSHIP ASSISTANCE

Section 235 standard program

Recapture—The House amendment contained a provision not contained in the Senate bill to amend section 235 of the National Housing Act to provide that upon a disposition or nonoccupancy by the homeowner of any property assisted pursuant to section 235, except any property with respect to which there is an assumption in accordance with section 235(c)(1), the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, or (B) an amount equal to at least 50 percent of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, and the reasonable costs of improvements made to the property. The conference report contains the House provision amended (1) to substitute the reference to "nonoccupancy" with language to provide that where the borrower ceases to make payments on the insured mortgage for 90 continuous days or more or has rented the property (or for 2-4 family properties, the owner's unit) for more than a year the recapture provision is triggered; (2) to provide that where a graduated payment mortgage is involved the term "net appreciation" does not include any increased loan balance due to the graduated payments under S. 245; and (3) to provide that this provision shall not affect any assistance contract for which a commitment was made prior to 6 months after enactment.

During the period before this provision takes effect the conferees direct the Secretary to continue to permit new contract commitments to be made and to not artificially restrict the availability of funds simply to delay the commitments until after the effective date of the provision. The conferees have provided that the Secretary may require recapture in the event the homeowner ceases to make loan payments. Although the minimum period is 90 days, the Secretary may extend that period where he finds that the borrower will be able to resume full payments within a reasonable period of time or will participate in the S. 230 program. The conferees have provided that the recapture would be *at least* 50 percent of the net appreciation (or the amount of subsidy whichever is less) so as to provide the Secretary flexibility to provide incentives for the homeowner to maintain marketable condition; however, the conferees direct the Secretary to recapture no more than 50 percent of the net appreciation if the homeowner has indeed maintained the property in marketable condition. In establishing incentives, the conferees believe that the Secretary should take into account the risk that too sizeable a recapture may encourage the homeowner to abandon the property. Since the homeownership programs of FmHA have a similar recapture provision, the conferees direct the Secretaries of HUD and Agriculture to consult in the development and modification of their recapture regulations so that these regulations are consistent to the extent practicable.

Assisted dwellings in a single subdivision—The Senate bill contained a provision not included in the House amendment to amend section 235(n) of the National Housing Act to provide that the existing requirement that no more than 40 percent of the units in a subdivision can receive section 235 assistance be discretionary with, and subject to regulation by the Secretary. The Senate provision also prohibited the 40 percent limitation with respect to any rehabilitated unit, or to any unit or subdivision located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community-sponsored overall redevelopment plan as determined by the Secretary; provided further that the Secretary may, at his discretion, modify the 40 percent subdivision limit to encourage the production of safe and affordable housing. The conference report does not contain the Senate provision but does contain a provision requiring the Secretary to study the effects that the 40 percent subdivision limitation has had and are likely to have on the program established by section 235(a) (standard program). In addition, the Secretary shall study the effects which this limitation may have with respect to the program established by section 235(q) (stimulus program) if it is activated. The Secretary shall submit a report to the Congress containing the findings and conclusions of this study not later than January 1, 1982.

Section 235 stimulus program

Authority to make assistance—The Senate bill contained a provision which provided that notwithstanding any other provision of section 235, where the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments on behalf of homeowners, to mortgagees holding mortgages (A) which cover dwellings the construction of which is completed on or after the date which was one year prior to the date of enactment of this subsection and which have never been sold, (B) which meet the requirements of this subsection, and (C) which are executed, or for which the commitments have been made, on or after the date of enactment of this subsection and prior to March 1, 1981. The House amendment contained a provision which provided that notwithstanding any other provision of section 235 execpt subsection (n), in order to prevent inflationary conditions and related governmental actions or other economic conditions from having a severely disproportionate effect on the housing industry, and to avoid a resulting reduction in the volume of home construction or acquisition which threatens seriously to affect the economy, the Secretary may make and contract to make periodic assistance payments to mortgagees or other lenders on behalf of homeowners (including the owners of mobile homes) as provided in this subsection.

The conference report contains the Senate provision with an amendment (1) to delete "where" and insert "if"; (2) to provide that assistance can be provided to mortgagees or other lenders on behalf of homeowners, including owners of mobile homes: and (3) makes other changes to conform this provision to the amendments contained in other provisions.

Limit in aggregate assistance—The Senate bill contained a provision to limit the aggregate amount of authority to enter into contracts under this subsection to that available under section 235(h)(1), but not to exceed $135 million per year. The House amendment contained a provision that not more than 75 percent of the authority available pursuant to section 235(h)(1) may be utilized for the purposes of assistance payments under this subsection. The conference report contains the House provision.

Assisted dwellings in a single subdivision—The Senate bill contained a provision which provides that a mortgage which meets the requirements of this subsection may be eligible for assistance irrespective of how many other mortgages covering dwellings in the same subdivision will be assisted under section 235. The House amendment contained a provision to subject the stimulus program to section 235(n), which limits the number of units assisted under the revised program to not more than 40 percent of the total units in a subdivision. The conference report contains the House provision.

Termination of authority—The Senate bill provided that commitments for mortgages assisted under the stimulus program must be made prior to March 1, 1981, or such earlier date as the Secretary may deem appropriate where the Secretary determines no overriding need exists for emergency stimulation of the housing market. The House amendment provided that the authority to enter into new contracts to provide assistance payments and new commitments to insure mortgages under this subsection shall terminate on September 30, 1981, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority are no longer present. The conference report contains a provision which provides that no mortgage shall be insured and no contract shall be entered into under this subsection after June 1, 1981, or at such earlier date as the Secretary may deem appropriate upon a determination that the conditions which gave rise to the exercise of this authority are no longer present, except pursuant to a commitment to insure or contract entered into before that date.

The conferees have observed in other programs, commitments remaining unused for extended periods with the result being that no net increase in activity results from those commitments. The conferees therefore expect the Secretary to act to terminate commitments after a reasonable period of time.

Eligible homeowners—The Senate bill provided that the Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages assisted under the stimulus program as the Secretary deems appropriate, consistent with the provisions of this subsection. It also authorized the Secretary to establish income limits. In addition it provided that in setting such limits, the Secretary (A) may prescribe different limits for different areas, taking into account variations such as prevailing levels of construction costs, unusually high or low median family incomes, or other factors, and (B) shall, to the maximum extent feasible consistent with the emergency purpose of this subsection, assure that the assistance payments pursuant to this subsection shall be used to promote homeownership opportunities for moderate income homebuyers. The House amendment provided that payments may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who: (1) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or is the original owner of a new mobile home consisting of two or more modules and a lot on which the mobile home is situated, where insurance under section 2 of title I of the National Housing Act covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such mobile home and lot has been granted to the institution making such loan, advance of credit, or purchase of an obligation; and (2) has a family income, at the time of initial occupancy, which does not exceed 120 percent of the median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

The conference report contains the House provision amended to provide that families with incomes which do not exceed 130 percent of the area median income are eligible.

Transfer of assistance—The House amendment included two provisions not in the Senate bill, which provided that (1) if approved by the Secretary, assistance payments may be made on behalf of a homeowner who meets the income requirements, who assumes a mortgage insured under this subsection with respect to which assistance payments have been made on behalf of the previous owner, and who assumes the obligations of recapture; and (2) the Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making assistance payments. The conference report contains the second House provision.

Limit on amount of assistance to homeowners—The Senate bill provided that assistance payments on behalf of a mortgagor whose mortgage is insured under this subsection shall not at any time exceed the lesser of (A) the balance of the monthly payment for principal, interest, taxes, insurance and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage which remains unpaid after applying 20 percent of the mortgagor's income; or (B) the difference between such monthly payment which would be required for a level payment mortgage insured under section 203 of the National Housing Act and such monthly payment which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing an interest rate of 11 percent per year.

The House amendment contained a similar provision, except that it provided that the amount of assistance payments may not exceed the lesser of (A) the balance of such monthly payment that remains unpaid after applying 20 precent of the mortgagor's income; or (B) the difference between the amount of the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at a rate determined by the Secretary which shall not be less than 8 percent per year.

The conference report contains the Senate provision amended to provide that (1) the homeowner contribution to principal, interest, taxes, insurance and mortgage insurance premium shall be at least 25 percent of the mortgagor's income, except that the Secretary may lower such percentage to the extent he deems necessary, but in no event shall such percentage be below 20 percent; and (2) the minimum interest rate would be 9½ percent.

The conferees would like to make clear how they intend the Secretary to determine the subsidy for each eligible family. The Secretary shall first establish the maximum amount of the family's income which could reasonably be used to cover their housing costs. If this amount represents less than 25 percent (but more than 20 percent) of the family's income, the Secretary must determine that this lower share was due to reasonable expenses. At this point, the Secretary shall establish the necessary amount of subsidy and calculate the resulting interest rate which in no event could fall below 9½ percent.

Limit on amount of assistance to mobile homeowners—The House amendment also contained a provision, not included in the Senate bill, which provided that assistance payments on behalf of the owner of a mobile home shall not at any time exceed the lesser of (A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of Title I of the National Housing Act due under the loan or advance of credit remaining unpaid after applying 20 percent of the mobile homeowner's income; or (B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of Title I of the National Housing Act which the mobile homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under paragraph (11) of this Act at the time such loan or advance of credit is made and an interest rate determined by the Secretary which shall not be less than 8 percent per year.

The conference report contains the House provision amended to provide that (1) the mobile homeowner's contribution for principal, interest, real and personal taxes, insurance and mortgage insurance premiums shall be at least 25 percent of the borrower's income, except that the Secretary may lower such percentage to the extent he deems necessary but in no event shall such percentage fall below 20 percent; and (2) the minimum interest rate would be 12 percent.

The conferees direct the Secretary to determine the amount of subsidy for each mobile homeowner in the same way as for other homeowners, except that the resulting interest rate shall in no event fall below 12 percent.

Reimbursement of mortgage's expenses—The House amendment contained a provision not included in the Senate bill which provided that the Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount of assistance made on behalf of the homeowner, as the Secretary deems appropriate to reimburse the mortgage or lender for its reasonable and necessary expenses in handling the mortgage. loan or advance of credit. The conference report contains the House provision.

Regulation of sales price—The Senate bill contained a provision that a residence covered by the assisted mortgage involve a sales price which does not exceed the appraised value of the property, as determined by the Secretary. The House amendment required the Secretary to prescribe regulations necessary to assure that the sales price paid in connection with a property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure under the revised program is computed. The conference report includes the House provision.

Limit on mobile homes assisted—The House amendment, but not the Senate bill, included a provision to limit assistance payments made to mobile homeowners to not more than 20 percent of the total number of units with respect to which assistance is approved under this subsection. The conference report contains this provision.

Authority to insure mortgages—The Senate amendment included a provision which authorized the Secretary to insure a mortgage which meets the requirements of and is to be assisted under the revised program, but did not require that there be mortgage insurance provided in conjunction with assistance payments under the revised program. The House amendment included a provision which provided that: (1) the Secretary may, in addition to mortgages insured under section 235 (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary; and (2) permitted commitments for the insurance of such mortgages to be issued prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. The conference report contains the House provision.

Mortgage eligibility—The Senate bill provided that a mortgage to be assisted under this subsection shall (1) cover dwellings the construction of which is completed on or after the date which was one year prior to the date of enactment of this subsection and which have never been sold, which meet the requirements of this subsection, and which are executed, or for which commitments have been made, on or after the date of enactment of this subsection and prior to March 1, 1981; (2) involve a principal residence the sales price of which does not exceed 80 percent of the average new one-family house price in the area, as determined by the Secretary, or $60,000, whichever is greater; (3) be subject to the Secretary's authority to establish terms and conditions relating to mortgages assisted under this subsection; (3) bear interest at not to exceed such rate as the Secretary may prescribe; and (4) contain such other terms and conditions as the Secretary may prescribe.

The House amendment provided that to be eligible for insurance, a mortgage shall (1) be a first lien on real estate held in fee simple, or a leasehold under a lease which meets terms and conditions established by the Secretary; (2) have been made to and held by a mortgagee approved by Secretary as responsible and able to service the mortgage properly; (3) involve a one- to four-family dwelling which has been approved by the Secretary prior to beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and has had no previous owner-occupant other than the mortgagor; (4) involve a principal obligation (including such initial service charges, appraisal, inspection and other fees as the Secretary shall approve) in an amount: not to exceed $50,000 ($60,000 in high-cost areas) for a one-family residence; not to exceed $55,000 ($65,000) for a two-family residence; not to exceed $64,000 ($76,000) for a three-family residence; and not to exceed $73,000 ($87,000) for a four-family residence; (5) have maturity and amortization provisions satisfactory to the Secretary; (6) bear interest exclusive of insurance premium and service charges not exceeding the maximum section 203(b) rate; (7) be executed by a mortgagor who has paid in cash or its equivalent, on account of the property, at least an amount equal to 3 percent of the Secretary's estimate of the cost of acquisition; and (8) contain such other terms and conditions as the Secretary may require, including conditions encouraging conservation of land and energy resources.

The conference report contains the House provision with an amendment (1) to delete the phrase "no previous owner" and substitute "never been sold"; (2) to delete the mortgage limits and to provide that the sales price limit be equal to 82 percent of the applicable mortgage limits under section 203(b) (as they may be adjusted by the Secretary for the area).; (3) to provide that the mortgage may not bear an interest rate which exceeds the applicable section 203(b) rate; and (4) to provide as a general requirement of the stimulus program that the Secretary, to the extent practicable, shall insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources.

The conferees do not intend that homes which have been previously insured under the HUD "operative builder" program be barred from the stimulus program as a result of limiting the program to homes which have never been sold. It is also the intent of the conferees that only condominiums which are of the townhouse type and which (under current HUD regulations) can be processed for insurance under the section 203(b) program be eligible for the stimulus program.

Graduated payment mortgages—The Senate bill contained a provision which provided that the Secretary shall provide with respect to mortgages insured under this subsection for graduated payments pursuant to section 245, where the Secretary deems appropriate. The House amendment contained in a similar provision, except that it provided that where the Secretary deems it appropriate, a mortgage insured under this subsection may provide for graduated payments pursuant to section 245. In addition the House provision provided that notwithstanding the requirements of the last sentence in section 245(b) of the National Housing Act (concerning maximum number of mortgages under that subsection), the Secretary may provide assistance under this subsection to assist mortgagors meeting the section 245(b) requirements, and to insure mortgages pursuant to section 245(b) for not to exceed 100,000 mortgages. (Such mortgages shall not be included in determining the number of mortgages which may be insured as provided in the last sentence of section 245(b).) The conference report adopts the Senate provision.

Allocation of assistance—The Senate bill provided that the Secretary shall allocate funds so that preference is given to areas where housing construction activity is most in need of stimulation, as measured by factors such as population, relative decline in building permits, and such other factors as the Secretary deems appropriate. The House amendment provided that prior to making assistance available, the Secretary shall, develop a system to allocate such assistance in a manner which furthers and promotes the purposes of this subsection. The conference report contains a provision which provides that, prior to making assistance available, the Secretary shall develop and utilize a system to allocate such assistance in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline to building permits, the need for increased housing production and other factors he deems appropriate.

Property standards—The Senate bill but not the House amendment contained a provision that the Secretary may not make assistance payments under this section with respect to any dwelling which does not meet all minimum property standards applicable under this Act. The conference report does not include this provision, since HUD minimum property standards will apply to any home assisted under this subsection.

Recapture of subsidy—The Senate amendment contained a provision that (1) the Secretary shall provide, upon disposition of the property, for recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, or (B) an amount equal to 50 percent of the net appreciation of the property, as determined by the Secretary; (2) for the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale and any increase in the loan balance as of the time of sale over the original loan balance; and (3) in providing for such recapture, the Secretary shall, to the extent necessary, provide incentives for the borrower to maintain the property in a marketable condition. The House amendment contained a similar provision, except that it also (1) provided for recapture upon non-occupancy; (2) exempted properties where an assumption of the mortgage was undertaken from the recapture provisions; (3) provided that the amount of assistance be the lesser of the amount of assistance or at least 50 percent of the property's net appreciation; (4) did not specify that incentives for property maintenance be provided by the Secretary to the extent necessary; and (5) provided that withstanding any other provision of law, assistance under this subsection shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

The conference report contains the House provision amended (1) to substitute the term "non-occupancy" with language providing that where the borrower ceases to make payments on the insured mortgage or has rented the property (or for 2–4 family properties, the owner's unit) for more than a year the recapture provision is triggered; and (2) to delete the exemption for assumed mortgages.

The conferees have provided that the recapture would be *at least* 50 percent of net appreciation (or the amount of subsidy whichever is less) so as to give the Secretary flexibility to provide incentives for the homeowner to maintain the property in marketable condition. The conferees have provided that the Secretary may require recapture in the event the homeowner ceases to make loan payments. Although the minimum period is 90 days, the Secretary may extend that period where he finds that the borrower will be able to resume full payments within a reasonable period of time or will participate in the S. 230 program. Since the homeownership to recapture no more than 50 percent of net appreciation if the homeowner has indeed maintained the property in marketable condition. In establishing incentives, the conferees believe that the Secretary should take into account the risk that too sizeable a recapture may encourage a homeowner to abandon the property. Since the homeownership programs of FmHA have a similar recapture provision, the conferees direct the Secretaries of HUD and Agriculture to consult in the development and modification of their recapture regulations so that these regulations are consistent to the extent practicable. In addition, the conferees do not intend that the development of regulations for this provision delay the implementation of this program.

MANAGEMENT AND DISPOSITION OF HUD-OWNED PROPERTIES

Goals

The Senate bill included a provision to add as a goal of HUD's property management and disposition program under section 203(a) of the Housing and Community Development Amendments of 1978 to maintain, to the maximum extent feasible and appropriate, the rental character of multifamily rental housing projects. The House amendment contained a provision to amend section 203(a)(1) of the Housing and Community Development Amendments of 1978 which provides as one goal of the property management and disposition program preserving the housing units so that they can remain available to and affordable by low- and moderate-income families, to provide that the housing units are preserved so that they are available to and affordable by such persons and remain available for other families who occupy them at the time of acquisition. The conference report contains the Senate provision with an amendment to provide that an additional goal under section 203(a) shall be to maintain the project for purpose of providing rental or cooperative housing.

Preservation as rental housing

The Senate bill provided that in disposing of any multifamily rental housing project, the Secretary shall require that the project remain rental in character for a period of at least twenty years from the date of disposition, except (1) in the case of a conversion of the project to a condominium or a cooperative form of ownership sponsored by a bona fide tenants' organization representing a majority of the households in the projects; or (2) where the Secretary finds (A) that the continuance of the project as a rental housing is clearly not necessary to assure adequate rental housing opportunities in the community for low- and moderate-income people, or (B) that the continuation of the project as rental housing will have an undesirable and deleterious effect on the surrounding neighborhood. The House amendment contained a provision to amend section 203(c) of such Act which requires the Secretary, except where the Secretary has determined on a case-by-case basis that it would be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of, to maintain all HUD-owned projects in a decent, safe, and sanitary condition, and to maintain full occupancy, to provide that the Secretary shall also seek to maintain the project for purposes of providing rental or cooperative housing.

The conference report contains the House provision amended to provide that unless the Secretary determines on a case-by-case basis that it is clearly inappropriate he shall seek to maintain the project for purpose of providing rental or cooperative housing for the longest feasible period. The conferees expect this period in most cases to be at least twenty years, or if the Secretary holds the mortgage, for at least the remainder of the term of the mortgage. The conferees believe that the Secretary would be able to find that it would be clearly inappropriate to require the project to remain rental if: (i) the majority of the tenants desired to convert it to condominium or cooperative use; (ii) the Secretary finds there are adequate rental opportunities in the community for low- and moderate-income families without the project; or (iii) the Secretary finds that maintaining the project as rental would have a deleterious and undesirable effect on the neighborhood.

Considerations

The Senate bill contained a provision not included in the House amendment to amend the requirement under section 203(b)(1) that in setting the terms and conditions of disposition, the Secretary shall take into consideration the low- and moderate-income character of the project to provide that the Secretary shall consider the number of units in the project occupied by low- and moderate-income persons. The conference report contains this provision with an amendment which provides that in setting the terms and conditions of disposition the Secretary shall take into consideration the low- and moderate-income character of the project, including the number of units in the project occupied by low- and moderate-income persons.

Definition of multifamily project

The Senate bill contained a provision which provided that (1) the term "multifamily rental housing project" means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964, or which is acquired by the Secretary pursuant to any other provision of law; (2) that the objectives set forth in section 203(a)(1) (to preserve the housing units so they can remain available to and affordable by low- and moderate-income families) and the requirements set forth in section 203(d)(2) (B) and (C) (that the Secretary shall seek to assume the maximum opportunity for any displaced tenant to occupy another HUD-owned unit or to obtain rental assistance under the U.S. Housing Act of 1937) shall not apply to formerly unsubsidized projects in which the majority of units are not occupied by low and moderate-income households at the time of acquisition; and (3) that the requirements set forth in section 203(d)(2) (B) and (C) shall apply to low- and moderate-income tenants in such projects. The House amendment contained a provision to amend the definition of multifamily housing project to expand the program to multifamily projects which are or, prior to HUD acquisition, were insured under the National Housing Act.

The conference report includes the Senate provision with an amendment (1) which includes the Senate definition of the term "multifamily rental housing project"; (2) which provides that above-moderate income persons would not be eligible for the displacement benefits set forth in section 203 (d)(2) (B) and (C) (that the Secretary shall seek to assure the maximum opportunity for any displaced tenant to occupy another HUD-owned unit or to obtain rental assistance under the U.S. Housing Act of 1937); and (3) which replaces the goal in section 203(a)(1) in existing law with the following language: "(1) preserving the housing units so that at least those units occupied by low- and moderate-income persons or vacant at the time of acquisition are available to and affordable by such persons;"

PUBLIC HOUSING FOR INDIAN AND ALASKAN NATIVES

Administrative costs

The House amendment contained a provision not included in the Senate bill to amend section 9(a)(1) of the United States Housing Act of 1937 to provide that contributions made under such section may also be made, with respect to housing projects for Indian and Alaskan Natives assisted pursuant to section 5(c) of such Act, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of such a project and until such time as such project is occupied. The conference report includes the House provision.

The conferees wish to make clear that in implementing the special operating subsidy provisions for Indian Housing Authorities (IHA), the Secretary is directed to make such subsidies available at the time that a program reservation is approved by HUD, but only to the extent that at such time there are actual administrative costs attributable to the project for which such program reservation is made. In determining the amount of such subsidy, the Secretary is expected to take into account such costs as are necessary to assure the expeditious development of the project in terms of the number of staff required and the types of skills necessary in relation to the size of and characteristics of the project. The conferees further intend that such subsidies will be available to assist new or existing IHAs that lack sufficient financial resources of their own to support effective administration of the pre-occupancy phase of a project. The term during which the conferees intend that this special operating subsidy is to be available shall not extend beyond the rent-up period of the project.

Prototype costs

The House amendment, but not the Senate bill, included a provision to amend section 6(b) of the United States Housing Act of 1937 to provide that (1) in the case of prototype costs for projects to be constructed as a result of assistance provided under such Act and which are to be located on Indian reservations or in Alaskan Native villages, the Secretary shall determine and make the prototype costs available within a reasonable time prior to the beginning of each construction season as is determined to be appropriate for the area in which the project is to be located; and (2) in determining the prototype costs for projects located in remote areas such as may be found in connection with the Indian and Alaskan Native housing program, the Secretary shall take into account the extensive transportation required to provide the necessary labor, materials, and equipment to the project site and any additional conditions that the Secretary determines should be taken into consideration. The conference report adopts this provision.

SOLAR ENERGY SYSTEM IN PUBLIC HOUSING

The House amendment included a provision not contained in the Senate bill to amend section 5 of the United States Housing Act of 1937 to provide that in entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under such section (other than for projects assisted pursuant to section 8), the Secretary shall require the installation of a passive or active solar energy system in any such project unless the Secretary determines that such installation would not be cost effective over the estimated life of the system. The conference report contains this provision amended to provide that the Secretary shall require the installation of such systems in any project where the Secretary determines that such installation would be cost-effective. The conferees expect that all new or substantially rehabilitated public housing projects should include active or passive solar energy systems where such systems are cost-effective. In determining whether a solar energy system is cost-effective, the Secretary should require an analysis of the value of the estimated energy saved by using a solar energy heating or cooling system over the life of such system compared to using conventional energy sources such as electricity, oil, gas or coal. The cost benefit analysis should take into account the estimated useful lives of the heating or cooling systems, the projected increases in energy costs over those useful lives and the estimated maintenance and replacement costs for those systems. The conferees urge the Department to consider and encourage the use of passive solar designs which may be particularly cost-effective.

SECTION 8 ASSISTANCE IN SECTION 236 PROJECTS

The House amendment included a provision not in the Senate bill to amend section 236 of the National Housing Act to provide that the Secretary may provide assistance under section 8 of the United States Housing Act of 1937 with respect to residents of units in a project assisted under section 236. In entering into contracts under section 5(c) of the U.S. Housing Act of 1937 with respect to the additional authority provided on October 1, 1980, the Secretary shall utilize not more than $20 million of such additional authority to provide assistance for elderly or handicapped families, which, at the time of applying for assistance under section 8, are residents of a section 236 assisted project and are expending more than 50 percent of their income on rental payments. The conference report contains this provision. The conferees wish to emphasize that in utilizing this authority, the Secretary should take into account the excessive rent burden of all tenants in a project, in addition to those paying in excess of 50 percent of income for rent, in order to avoid unnecessary inequities. Moreover, the conferees recognize that this is only a short-term solution to a broader problem.

SECTION 8 MAXIMUM RENT

Moderately rehabilitated units

The House amendment contained a provision not included in the Senate bill to amend section 8(e) (5) of the United States Housing Act of 1937 to provide that the Secretary may establish a maximum monthly rent for moderately rehabilitated units which exceeds the fair market rental by not more than 30 percent if such units are located in an area where the Secretary finds cost levels so require. The conference report contains this provision with an amendment that the Secretary may approve maximum monthly rents which exceed the FMRs by not more than 20 percent if such units are located in an area where the Secretary finds cost levels so require, except that the Secretary may approve maximum monthly rents which exceed the FMRs by up to 30 percent where the Secretary determines that special circumstances warrant such higher rent or where necessary to the implementation of a local HAP.

New and substantially rehabilitated units

The House amendment, but not the Senate bill, also contained a provision to amend section 8(c) (1) of the United States Housing Act of 1937 to provide that the maximum monthly rent for new and substantially rehabilitated units may not exceed by more than 10 percent the fair market rental established for an area. The conference report contains this provision with an amendment which amends section 8(c) of the United States Housing Act of 1937 to provide that in the case of newly constructed and substantially rehabilitated units, the Secretary may not authorize monthly rents for such units which exceed by more than 10 percent the FMR for more than 20 percent of the total amount of the annual contributions contract authority allocated for such units to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980.

The conferees continue to be concerned about the high cost of the section 8 new construction and substantial rehabilitation programs. Over the last several years, the Department has made some significant efforts to restrain the cost of these programs. As a part of this effort, the Department, in 1978, formed a section 8 task force. Based on the task force's recommendations, a "benchmark cost" system was developed and the regulations and handbooks for these programs were completely revised. These actions are a start in achieving some reduction for the programs. However, the conferees believe that much still needs to be done. It is the view of the conferees that the Department must take a new look at the way it develops fair market rents and approves exceptions to those rents. Ultimately, the control of program costs lies in assuring that these rent levels are as low as possible within the context of rent comparability and reasonableness in making the project feasible. As it now stands, the FMRs are in large part based upon subjective judgments and increases are often granted without a sound analytic basis. The conferees recognize that the task of the Department in establishing FMRs is formidable, but they hold the strong view that a careful and thorough review of the method of establishing these rent levels and approving increases will lead to a more efficient and less costly program.

PUBLIC HOUSING SECURITY DEMONSTRATION PROGRAM

Guidelines

The Senate bill contained a provision to amend section 207(c) (4) of the Housing and Community Development Amendments of 1978 to provide that the Secretary shall, to the maximum extent practical, utilize information derived from the Public Housing Security Demonstration Program authorized by such Act to determine strategies to meet the security needs of tenants of public housing projects assisted under the U.S. Housing Act of 1937, other than section 8. The House amendment contained a similar provision, except that it provided that such information shall be utilized to assist in establishing guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under section 14 of the U.S. Housing Act of 1937 (Comprehensive Improvement Assistance Program). The conference report contains the Senate provision amended to provide that such information should also be utilized by the Secretary in establishing guidelines for improvements relating to the security of projects and the tenants living in such projects) assisted under section 14 of the U.S. Housing Act of 1937.

Authorization

The Senate bill contained a provision to amend section 207(f) of such Act to provide that of the budget authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under section 5(c) of the U.S. Housing Act of 1937 with respect to fiscal year 1981, the Secretary may utilize up to $10 million of such authority to carry out the Public Housing Security Demonstration Program. The House amendment contained a similar provision, except that it provided that of such contract authority approved in appropriation Acts the Secretary may utilize up to $10 million of such authority for such purpose. The conference report contains the Senate provision.

RESTRICTIONS ON USE OF ASSISTED HOUSING

The House amendment contained several provisions not included in the Senate bill. These provided that (1) notwithstanding any other provision of law, the Secretary may not make financial assistance available for the benefit of any nonimmigrant student-alien; and (2) defined the term "financial assistance" to mean financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or section 203 of this Act, and defined the term "nonimmigrant student-alien" to mean (A) an alien having a residence in a foreign country which he or she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States temporarily and solely for purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him or her and approved by the Attorney General after consultation with the Department of Education of the United States which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant students, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (B) the alien spouse and minor children of any such alien if accompanying him or her or following to join him or her. The conference report contains these provisions.

HOUSING PROJECT SITE LOCATION

The House amendment included a provision not contained in the Senate bill which provided that the Secretary shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area, and that for the purposes of this section, the term "federally assisted housing programs" means program authorized by the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1967, or section 202 of the Housing Act of 1959. The conference report contains the House provision.

The purpose of this provision is to protect against the arbitrary denial of assistance to a project solely because it is to be located in an area which contains a high concentration of minority residents. The provision in no way diminishes HUD's duty to promote equal opportunity and enforce the statutory and constitutional prohibitions against racial discrimination. To the contrary, the conferees expect that this provision will be administered in a manner that is consistent with HUD's obligation under section 808(e) (5) of the Civil Rights Act of 1968 to implement its programs "in a manner affirmatively to further the policies" of title VII of that Act.

The conferees wish to emphasize that current HUD regulations covering site and neighborhood standards are not inconsistent with this provision. However, there have been claims that, in some instances, HUD has implemented the regulations in a manner which has arbitrarily denied assistance to areas of minority concentration. This provision is included in the conference report in order to address this concern.

PAYMENT OF NON-FEDERAL SHARE

The Senate bill provided that any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under the U.S. Housing Act of 1937 Act, other than under section 8: (1) development or modernization cost financed with loans or debt service annual contributions under such Act; (2) annual contributions under such Act for operation of the project; or (3) rental or use-value of buildings or facilities paid for, in whole or in part, with the assistance specified in clause (1) of (2) of this sentence. The House amendment contained a similar provision, except that it provided that only (1) annual contributions under such Act for operation of the project; or (2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed with loans or debt service annual contributions under such Act could be so used. The conference report contains the House provision.

CONGREGATE HOUSING

The Senate bill included a provision not contained in the House amendment to amend section 403 of the Housing and Community Development Amendments of 1978 to expand eligibility for congregate services funding to include housing which is assisted under section 8 of the U.S. Housing Act of 1937, is occupied solely by handicapped persons, is designed to provide congregate services, and is owned and operated by a nonprofit organization. The conference report does not contain this provision.

HOUSING BLOCK GRANT REPORT

The Senate bill, but not the House amendment, provided that not later than March 31, 1981, the Secretary shall submit a comprehensive feasibility study of a housing assistance block grant program as an alternative to the fiscal year 1982 budget for categorical housing assistance programs. Such study shall include, but not be limited to (1) simplified and expedited application and review procedures; (2) an equitable allocation formula which reflects both current program experience and identified needs; and (3) such other recommendations as the Secretary deems appropriate. The conference report contains this provision with an amendment which specifies that the study involve a comprehensive examination of the feasibility of a housing assistance block grant program, including replacing the categorical housing assistance programs proposed to be utilized in fiscal year 1982, with such a program.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

AMENDMENTS TO FLEXIBLE INTEREST RATE AUTHORITY

FHA interest rate

The House amendment contained a provision, not included in the Senate bill, which provided that the maximum rate for the FHA mortgage insurance programs shall be set at the level the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; that the maximum interest rate for mobile home loan programs shall be set at a level which the Secretary finds necessary to meet the loan market, taking into consideration the yields on home improvement and mobile home loans; and that the Secretary shall set the maximum interest rates for both the FHA mortgage insurance and mobile home loan programs no less frequently than quarterly. The conference report contains the House provision amended to delete the requirement that the Secretary set the FHA rate no less frequently than quarterly. While the conference agreement does not include a statutory requirement for the Secretary to set the maximum FHA rate at least quarterly, the conferees believe that FHA must thoroughly review the relationship between the FHA rate and the yields on conventional mortgages frequently in order to minimize discount points and uncertainty and speculation in transactions in insured mortgages. The conferees expect the Secretary to make such a thorough review at least quarterly or more frequently when mortgage market conditions are changing rapidly.

Minimization of discount points

The Senate bill provided that when effective rates on home mortgages are rising, the Secretary shall set the interest rates for the FHA programs with sufficient frequency to promote the objective that discount points payable in connection with mortgages insured pursuant to such programs should be minimized to the maximum extent feasible. The House amendment provided that when FHA interest rates are set, the Secretary shall seek to minimize discount points which cause uncertainty and speculation in connection with mortgage and loan transactions insured under the National Housing Act. The conference report contains the Senate provision amended to provide that in setting such rates, the Secretary shall seek to minimize uncertainty and speculation in connection with loan transactions insured under the National Housing Act, and that when effective rates on home mortgages are rising, the Secretary shall exercise the authority to set the interest rates for the FHA programs with sufficient frequency to promote the objective that discount points payable in connection with mortgages insured pursuant to such programs should be minimized.

Demonstration program for negotiated interest rates

The House amendment contained a provision not included in the Senate bill which created a demonstration program for negotiated FHA interest rates on section 203(b) single family homes. It provided that the interest rate would be specified in a commitment agreement which is negotiated between the mortgagor and mortgagee and which commits the mortgagee to such specified rate for at least 30 days after the date on which it is entered into; the number of such mortgages which could be insured in any fiscal year may not exceed the greater of 10 percent of all mortgages insured under such section 203 of the National Housing Act during the preceding fiscal year, or 50,000 mortgages; and the demonstration program shall not apply to mortgages insured in accordance with section 245 of the National Housing Act. The conference report contains the House provision amended to provide that (1) any discount points must be specified in the commitment agreement and be binding for the same period as the commitment period of the specified rate; (2) the mortgagee must disclose to the borrower, prior to the commitment, information on the FHA maximum rate and a good faith estimate of the prevailing number of discount points associated with such rate; and (3) the Secretary shall monitor experience under this provision and report to Congress by March 1, 1982, comparing the discount points and effective yields associated with mortgages insured under this provision with the discount points and effective yields associated with mortgages in the conventional mortgage market and with other mortgages insured under section 203 (b).

The conferees intend that regulations promulgated by HUD shall require notification to the borrower that most FHA loans are available under a system with a specified maximum rate. In addition, the borrower would be required to acknowledge receipt of such notification revealing the current FHA maximum rate and a good faith estimate of the prevailing number of discount points. The conferees intend that these notification requirements be simple and not present any significant administrative burden on the mortgagee. The conferees wish to point out that this provision only applies to section 203(b) mortgages and that mortgages insured under section 235 and any other insurance program would be ineligible.

The conferees are concerned that given the long standing practice of requiring substantial discount points in connection with FHA loans, allowing a negotiated rate may not automatically result in the reduction of discount points to the level which generally prevails in the conventional market. Thus, the conference report provides that the Secretary shall closely monitor this experience and report back to Congress by March 1, 1982, so that Congress can determine whether additional changes in the law are desirable.

AMENDMENTS TO EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

Findings

The Senate bill included a provision not contained in the House amendment to amend section 313(a) of the National Housing Act to provide that, as part of the required findings, the Secretary must determine that the implementation of this section will not significantly worsen inflationary conditions. The conference report contains this provision.

Purpose

The Senate bill includes a provision not contained in the House amendment to amend section 313(a) of the National Housing Act to provide that to the extent feasible and consistent with the purpose of such section to stabilize housing production, the Secretary may direct the exercise of the authority conferred by this section to promote the construction of multifamily rental housing as well as to promote homeownership opportunities for moderate income families. The conference report does not include the Senate provision.

Activation

The Senate bill, but not the House amendment, provided that the program authorized by section 313(a) may not be activated unless the most recently available four-month moving average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as determined by the Director of the Bureau of Census is less than 1,600,000 and that this activated program shall be terminated whenever the most recently available four-month moving average annual rate of such starts is 1,600,000 or more. The conference report does not contain this provision.

Multifamily loans

The House amendment included a provision not contained in the Senate bill to delete the authority of GNMA to purchase, and make commitments to purchase, mortgages which cover more than four-family residences, and to delete all other references to multifamily housing. The conference report does not contain the House provision.

Nevertheless, the conferees are concerned that because of the greater length of the production process and long start-up period associated with multifamily housing, this form of housing may be less appropriate to a counter-cyclical program, such as Brooke-Cranston. Thus, if the program is used for multifamily housing, the conferees direct the Secretary to target the purchase of multifamily loans to projects which are in the construction pipeline at the time of activation of the program, and which can be completed within six months.

Mobile homes

The Senate bill contained a provision which provided GNMA with the authority to purchase loans covering one- to four-family residences, including mobile homes. The House amendment contained a provision to extend GNMA's authority to purchase and make commitments to purchase securities guaranteed by GNMA and backed by mobile home and lot, or mobile home, loans or advances of credit insured under title I of the National Housing Act. The conference report contains the House provision.

FmHA guaranteed loans

The House amendment contained a provision not included in the Senate bill to extend GNMA's purchase authority to include mortgages guaranteed under title V of the Housing Act of 1949. The conference report contains this provision.

Maximum mortgage amount

The Senate bill contained a provision to delete the maximum mortgage amounts for one- to four-family residences, and to provide that, for the part of the property attributable to dwelling use in the case of a more than four-family residence, the per unit limitations under the section of the National Housing Act under which the project mortgage is insured shall apply or in the case of a mobile home loan, the limitation contained in section 2(b) of the National Housing Act shall apply. The House amendment contained a provision to increase the maximum mortgage amount from $42,000 to $60,000; and from $49,000 to $67,500 in Alaska, Hawaii, Guam and any other geographical area where the Secretary determines that cost levels so require. The conference report contains the Senate provision.

Maximum sales price

The Senate bill contained a provision to increase the sales price limits in the case of a one-family residence, to 90 percent of the average new one-family house price in the area, as determined by the Secretary; or in the case of a two-family residence, to 100 percent of such average; or in the case of a three-family residence, to 120 percent of such average; or in the case of a four-family residence, to 140 percent of such average. The House amendment included a provision to increase the maximum sales price from $48,000 to 105 percent of the maximum mortgage amount. The conference report contains the Senate provision with an amendment that the sales price limits be equal to 92 percent of the appropriate mortgage limits authorized under section 203(b).

Interest rate

The Senate bill contained a provision which provided that the rate shall be established as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost. If such mortgage is executed to finance the acquisition of a one- to four-family residence, it may not bear an interest rate lower than 3 percentage points below the average contract commitment rate for single family, thirty-year conventional mortgages with loan-to-value ratios of 90 percent in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board which is most recently available at the time that funds are released; and if such mortgage is executed to finance the acquisition of a more than four-family residence, it may not bear an interest rate lower than 4½ percentage points below such average contract commitment rate. The House amendment contained a provision to remove the existing reference to the 7½ percent maximum interest rate limitation with respect to one- to four-family mortgages which may be purchased so as to permit the Secretary to establish the interest rate at a level consistent with current market conditions, but not in excess of the maximum rate under section 203(b) of the National Housing Act. The conference report contains the Senate provision.

Purchase of mobile home-backed securities

The House amendment contained a provision not included in the Senate bill which provided that a security may be purchased under this section only if all of the mobile home and lot, or mobile home, loans or advances of credit backing such security (i) finance the acquisition of residences (including lots on which such residences are located) which will be the principal residences of the borrowers, and (ii) involve an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and administrative costs under this section. In no event shall such rate exceed the rate set by the Secretary and applicable to loans and advances of credit insured under title I of the National Housing Act. In addition, no state or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan or advance of credit transactions or any state law prohibiting the coverage of insurance required by GNMA shall apply to such transactions under this section.

The conference report adopts the House provision with an amendment (1) to provide that the loan backing such security may not involve an interest rate lower than 3 percentage points below the maximum rate applicable to loans and advances of credit insured under title I of the National Housing Act and (2) to delete the usury override. The conferees have not included the language in the House provision permitting an override of state usury laws because they believe that other laws are sufficient to permit this override.

Purchase of mortgages financing condominium or cooperative conversions

The Senate bill but not the House amendment included a provision to prohibit the purchase of any insured or non-insured mortgage or loan which was executed or made (1) to finance the conversion of an existing rental housing project into a condominium or cooperative project, or (2) to finance the purchase of an individual unit in a condominium project or the purchase of a share in a cooperative project, in connection with such a conversion. (Under existing law such prohibition extends only to non-insured projects being converted to condominiums.) The conference report adopts the Senate provision.

Promotion of conservation of land and resources

The House amendment included a provision not contained in the Senate bill which provided that in carrying out the provisions of this section, GNMA shall, to the extent practicable, purchase mortgages secured by dwelling units which contribute to the conservation of land and energy resources. The conference report adopts the House provision.

RESEARCH AUTHORIZATION

The Senate bill contained a provision to authorize appropriations of not to exceed $52,100,000 for research in fiscal year 1981. The House amendment contained a provision to authorize appropriations of not to exceed $50,000,000 for research in fiscal year 1981. The conference report contains a provision to authorize to be appropriated not to exceed $51 million for fiscal year 1981 for research.

FLOOD INSURANCE STUDIES

The Senate bill included a provision to authorize to be appropriated for flood insurance studies not to exceed $61,591,000 for fiscal year 1981. The House amendment included a similar provision, except that it authorized to be appropriated for flood insurance not to exceed $61,600,000 for fiscal year 1981. The conference report contains the House provision.

PROTECTION OF FEDERAL GOVERNMENT'S INTERESTS

The House amendment contained a provision not contained in the Senate bill to amend section 306(g) of the National Housing Act to clarify that the Government National Mortgage Association's authority to contract with an issuer of mortgage backed securities guaranteed by the Association to enforce such a contract or to exercise ownership rights related to the mortgages in the pool against which the guaranteed securities are issued shall not be limited by any other Federal, state, or other law, except by Federal law enacted expressly in limitation of this subsection after the effective date of enactment. The conference report includes the House provision.

GNMA

Purchase authority

The Senate bill contained a provision to increase GNMA's mortgage purchase authority under the Special Assistance Functions by $200,000,000 for fiscal year 1981. The House amendment contained a similar provision except that it increased such authority by $900,000,000 for fiscal year 1981. The conference report contains the House provision.

Demonstration program

The Senate bill but not the House amendment contained a provision which provided that the President of GNMA may authorize the Association to make payments to financial institutions for the purpose of subsidizing below-market-rate loans which are secured by FHA-insured mortgages covering properties of five or more dwelling units; that the amount of any payment made with respect to any loan shall be in an amount necessary, as determined by GNMA, to compenste the financial institution for the difference in yield between making such a loan at an interest rate determined by GNMA and the market rate; and which authorized to be appropriated for the demonstration program not to exceed $30,000,000 for fiscal year 1981, to remain available until expended. The conference report does not include the Senate provision.

MORTGAGE AMOUNTS: SOLAR ENERGY AND ENERGY CONSERVING MEASURES

The Senate bill included a provision to (1) increase by up to 20 percent, the mortgage limits for the following FHA multifamily residential mortgage insurance programs when such additional sums are needed to finance the installation of solar energy systems or energy conservation measures: Sections 213, 220(d)(3)(B)(iii), 221, 231(c), (2), 232(d)(2), 234, 242(d)(2), and 1101(c)(2); and (2) to provide that the limits be similarly increased for the section 207 program where necessary to finance the installation of energy conserving measures. The House amendment provided similar increases for solar energy systems only and did not amend the section 207 program. The conference report contains the Senate provision with an amendment to provide that the increase for energy conserving improvements is restricted to cases where the Secretary determines the conservation measures are in addition to those required under the FHA minimum property standards and are cost-effective over the life of the measure.

TITLE I CLAIMS COLLECTION

The Senate bill but not the House amendment authorized the Secretary to contract with private business concerns to perform the credit and collection function presently carried out by HUD field representatives under the title I insurance program, and required that contracts for such services must provide that attempts to collect or compromise such claims or obligations shall be conducted in accordance with the Fair Debt Collection Practices Act. The conference report does not contain the Senate provision.

SECTION 220 MORTGAGE INSURANCE: ELIGIBLE AREAS

The Senate bill contained a provision to permit mortgages to be insured under section 220 of the National Housing Act in an area, designated by the Secretary where concentrated housing, physical development and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation. The House amendment contained a similar provision, except that it provided that such areas must be ones where concentrated community development activities under title I of the Housing and Community Development Act of 1974 are being or will be carried out, and allowed such nondwelling facilities as the Secretary deems desirable and consistent with such activities to be included in the insured mortgage. The conference report contains the Senate provision.

TEMPORARY MORTGAGE PAYMENT ASSISTANCE

The program

The House amendment included a provision not contained in the Senate bill which provided that upon notice of default of the owner of a single-family mortgage insured under the National Housing Act, the Secretary, in order to avoid foreclosure, may make all or part of the monthly mortgage payments on behalf of a borrower who has defaulted on his mortgage directly to the lender where the default was caused by circumstances beyond the borrower's control and which renders the borrower temporarily unable to correct a mortgage delinquency and resume full payments. The conference report contains the House provision.

Conditions

The House amendment contained a provision not in the Senate bill which provided that no payments may be made unless the Secretary has determined that: (1) such payments are necessary to avoid foreclosure; and (2) there is a reasonable prospect that the borrower will be able to (a) resume full payments within 36 months after the beginning of the period for which payments are provided or upon termination of this assistance, (b) commence repayment of the payments made under this program at a time designated by the Secretary, and (c) pay the mortgage in full by its maturity date or by a later date previously approved by the Secretary under section 204(a). The conference report contains the House provision with an amendment to provide that the Secretary must determine that the borrower will be able to pay the mortgage in full by its maturity date or by a later date for completing the mortgage payments established by the Secretary. The conferees believe that the Secretary should utilize the same period of time for which repayment is generally extended under the assignment program (10 years) in establishing eligibility for both TMAP and assignment. The Secretary may also, in situations where an extension for the purpose of repayment under section 204 has already been made, use the approved repayment period for the purposes of determining eligibility.

Amount of assistance

The House amendment but not the Senate bill provided that assistance payments may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, mortgage expense, and mortgage insurance premiums due under the mortgage and the initial payment may include an amount necessary to make the mortgage current; and that payments may not exceed amounts which the Secretary determines to be reasonably necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments. The conference report contains this provision. The conferees do not intend that this provision would prelude not intend that this provision would preclude to the mortgage and separately collecting the mortgagor's contribution.

Period of assistance

The House amendment contained a provision not in the Senate bill providing that payments may be made for up to 18 months, inclusive of any period of default; where determined by the Secretary such period may be extended for up to 18 months if necessary to avoid foreclosure; the Secretary shall establish procedures for periodic review of the borrower's financial circumstances; where determined by the Secretary, payments shall be discontinued. The conference report contains the House provision with an amendment to provide that payments may be made for up to 18 months, and any period of default. The conferees expect the Secretary to take steps to assure that assistance provided under TMAP is consistent with the relief provided under assignment, and to avoid inequities. The Secretary should take steps to structure the programs so that the homeowner, whether assisted under assignment or under TMAP, would be provided the same gross period of forebearance (or gross period of assistance under TMAP).

Repayment conditions

The House amendment contained a provision not included in the Senate bill which provided that all payments by the Secretary shall be secured by such obligation as the Secretary may require, and shall include a lien on the mortgaged property; the Secretary shall prescribe the terms and conditions of repayment, which may include requirements for repayment of any amounts that the Secretary has paid toward the lender's expenses; the Secretary may establish interest charges on such payments which shall not be governed by any state or local interest ceiling on loans or credit advances, except that the interest shall not exceed the maximum rate for section 203(b). The conference report contains the House provision with an amendment to clarify that the interest rate shall not exceed the maximum 203(b) rate at the time assistance under this section is approved by the Secretary. While repayments under the assignment program could not be charged an interest rate in excess of that chargeable for repayments under TMAP, the Secretary should in both instances consider the individual circumstances of the homeowner in determining the interest rate, and consider the section 203(b) rate only as a maximum.

Eligibility for subsequent assistance

The House amendment but not the Senate bill provided that assistance may by provided even though the Secretary previously has taken action to avoid acquisition or foreclosure, except that payments may be made on behalf of previously assisted mortgages only where full mortgage payments (and any requested repayments) have been made by the borrower for at least 12 months from the time when previous assistance was terminated. The conference report contains the House provision.

Acquisition of the mortgage

The House amendment contained a provision not included in the Senate bill that where the Secretary receives notice of a default and determines that temporary mortgage assistance payments under this section would be impracticable, the Secretary may acquire the loan and security with respect to an insured single-family dwelling. The Secretary may provide assistance to a borrower whose mortgage had been so acquired through forebearance of interest, principal, or both, or through other means, for up to 18 months if the borrower has not been assisted under TMAP within 12 months of acquisition and the Secretary determines that there is a reasonable prospect that the borrower will be able to resume full payments and pay the mortgage in full by maturity date or by a later date approved by the Secretary. At the Secretary's discretion, this assistance may be provided for an additional 18 months where the extension is necessary to avoid foreclosure and there is reasonable prospect that the borrower will be able to meet the same conditions applicable to the TMAP assistance. These payments would be repaid in the same terms as required under TMAP. The Secretary may also acquire a mortgage with respect to which assistance is being provided under TMAP immediately prior to such acquisition, for the sole purpose of extending the term of repayment under the mortgage so that the borrower will be able to make the full payments on the mortgage. The conference report contains the House provision with an amendment (1) to delete the term "impracticable" and insert in lieu thereof "inappropriate"; (2) to provide that the Secretary shall, if determined necessary by the Secretary, acquire a mortgage for the purpose of extending the term of repayment; and (3) to provide that relief provided under assignment shall be repayable upon terms and conditions prescribed by the Secretary, provided that in no event shall any interest rate which may be charged for such repayments exceed the interest rate chargeable for repayments of assistance made under TMAP.

The Secretary shall determine that assistance under TMAP is inappropriate, and therefore shall acquire the mortgage, in cases where extension of the mortgage would be necessary in order for the homeowner to afford repayment and the mortgagee is unwilling to do so. This would assure that a homeowner would not be denied assistance under section 230. The conferees also believe that the Secretary may find that in certain cases, relief under the assignment program would be more appropriate than under TMAP, even though the assistance to be provided would be basically the same. This would also be sufficient to warrant a Secretarial finding of inappropriateness.

It is the intent of the conferees that the TMAP Program be developed as a possibly lower cost alternative to the existing assignment program. The conferees do not intend, however, that primary reliance on TMAP should make assistance under section 230 generally more difficult to obtain, since any substantial tightening of criteria for assistance to section 230 could result in an increase in foreclosures. Therefore, the conferees direct that the Secretary implement TMAP in a manner that will assure that assistance under section 230 will not become less accessible to deserving homeowners who are in default. One way to accomplish this is to assure that the assignment program could remain active as an alternative to TMAP and that the Secretary has the discretion to the program both as a primary source of assistance to defaulting homeowners, and as a backup for homeowners for whom TMAP would be inappropriate.

The conferees also direct the Secretary, in establishing the amount of forebearance under the assignment program, to take into consideration all of the costs of homeownership borne by the mortgagor.

Source of expenditures

The House amendment contained a provision not included in the Senate bill which provided that all expenditures under the TMAP shall be made from the insurance fund chargeable for insurance benefits on the mortgage for which the payments are made, and repayments shall be credited to such fund; expenditures may include amounts paid by the Secretary toward the lender's expenses in connection with payments or repayments under this subsection. The conference report contains the House provision.

Homeownership counseling

The House amendment but not the Senate bill also provided that the Secretary shall, to the extent practicable, provide homeownership counseling to persons assisted under this section. The conference report contains the House provision.

REPORT ON HOUSING PRODUCTION GOALS

The House amendment included a provision not contained in the Senate bill to direct the President to submit to the Congress the Housing Production Report not later than March 15 of every other year beginning with calendar year 1981. (Existing law requires submission of the Report by January 20 of each year.) The conference report contains this provision amended to provide that the Report shall be submitted not later than March 15 on an annual basis.

ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

Promulgation of final rule

The Senate bill contained a provision to amend section 304(a) of the Energy Conservation Standards for New Buildings Act of 1976 to provide that DOE shall promulgate the final rule for building energy conservation performance standards (BEPS) from August 1, 1980, to August 1, 1982. The House amendment contained a similar provision, except that it extended the date for final promulgation of the Building Energy Performance Standards to April 1, 1983. The conference report contains the House provision.

Demonstration program

The House amendment contained a provision not contained in the Senate bill to amend section 304(a)(1) and (a)(2) of the Energy Conservation Standards for New Buildings Act of 1976 to direct the Secretary of Energy to promulgate interim standards for BEPS by August 1, 1981, and, for at least the 12 month period beginning on the date of promulgation, to conduct a commercial building and a residential building demonstration project in at least two geographical areas in different climatic areas of the country using those standards. Prior to the effective date of the final performance standards, and not later than 6 months after completing the demonstration projects, the DOE Secretary shall transmit to the House and the Senate a report containing an analysis of the findings and conclusions reached as a result of each of the demonstration programs. The report on the commercial building demonstration shall include at least an analysis of the effect such standards would have on the design, construction cost and estimated total energy savings from various energy sources that would result from the application of these standards to commercial buildings. The report on the residential building demonstration shall include at least an analysis of the impact of such standards on builders (particularly on small builders), on residential construction costs, and on the ability of low- and moderate-income persons to purchase or rent such buildings. The report shall also analyse the estimated total energy savings from various energy sources that would result from utilizing the standards in residential buildings. The conference report contains the House provision.

The language requiring that the demonstration be conducted for "at least" twelve months is intended to provide some flexibility for the Department of Energy if the interim regulations were published prior to the institution of the demonstration program. However, the conferees urge the Department to do everything possible to complete the design of the demonstration program and to select the appropriate contractors as quickly as possible so that the demonstration projects can be implemented as soon as the interim regulations are published. Existing state or local building conservation codes will be unaffected by the promulgation of the interim rule. However, the conferees expect that before final regulations are issued, and before alternative implementation proposals are recommended to Congress, a careful review of some of the more successful state building conservation standards and programs, including consultation with the Administration of these programs, should be accomplished. The experience of these states should be taken into account in designing an effective federal program.

Application of interim rule to new Federal buildings

The House amendment but not the Senate bill contained a provision to amend section 306 of the Energy Conservation Standards for New Buildings Act of 1976 to require the head of each federal agency responsible for the construction of any federal building to adopt procedures to assure that all such construction meets or exceeds the interim building energy performance standards for commercial buildings. When final performance standards become effective, they shall be applied to all new federal buildings. The conference report contains this provision. Once the interim standards are issued, the conferees expect the Department of Energy to conduct an extensive public comment period on those standards.

Relationship of BEPS to FHA minimum property standards

The House amendment contained a provision not contained in the Senate bill to amend section 526 of the National Housing Act to clarify that the requirement that the HUD minimum property standards establish energy performance requirements for new construction is not related to the date of promulgation of final BEPS regulations. The conference report contains this provision.

Transfer of implementation authority

The Senate bill, but not the House amendment, provided for a transfer from the Secretary of HUD to the Secretary of Energy the authority to implement energy performance standards for new residential and commercial buildings. The conference report does not contain the Senate provision.

It is expected that the Department of Energy and the Department of Housing and Urban Development will work particularly closely to assure that the Building Energy Performance Standards (BEPS), and the procedures for certifying equivalent state and local conservation codes are practical and cost-effective. Clearly, if a state or local government implements a building code which achieves substantially equivalent or better energy savings than the final Building Energy Performance Standard, that state or local code should be applied. The conferees expect that a broad range of implementation alternatives will be examined, including alternatives that could involve agencies other than HUD or DOE and that any proposals recommended to Congress by HUD regarding alternatives to the mandatory implementation scheme described in existing law should be developed jointly by DOE and HUD.

FNMA AND FHLMC CONVENTIONAL MORTGAGE LIMITS

The Senate bill contained a provision to establish maximum principal obligation limits for conventional mortgages purchased by FNMA and FHLMC. It provided that such limits shall not exceed $93,750 for a single-family residence, $120,000 for two-family residence, $145,000 for three-family residence, and $180,000 for four-family residence; that these limits shall be adjusted as of January 1 of each year beginning with 1981; and that the adjustment will be made by adding to the maximum limitation (as it may have been previously adjusted) a percentage equal to the percentage of increase during the 12-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the FHLBB series for average prices for new and existing homes. It provided that for multifamily properties, the limits may not exceed 125 percent of the maximum mortgage limits established under section 207 of the National Housing Act; and that the foregoing limitations may be increased by up to 50 percent with respect to properties located in Alaska, Guam, and Hawaii. The House amendment contained a similar provision, except that it limited the up to 50 percent increase for properties in Alaska, Guam, and Hawaii to one- to four-family properties only. The conference report contains the Senate provision.

SUPPLEMENTARY LOANS

The House amendment contained a provision not contained in the Senate bill to amend section 241(e)(1) of the National Housing Act to permit the Secretary to insure a loan for the purchase and installation of individual utility meters in a multifamily housing project if such meters are purchased or installed in connection with other energy conserving improvements or with an approved solar energy system or the project meets minimum standards of energy conservation established by the Secretary.

The conference report contains this provision. While the conferees recognize that actual energy use is likely to be reduced when a building is converted from a master to individual unit utility meters, they are also concerned that if an owner only installs individual utility meters without taking steps to make the building more weather tight or the heating system more efficient, the tenants will be burdened with higher rents to cover the capital cost of the installation of the meters with little ability to improve the energy efficiency of the building in which they live.

FHA MORTGAGE LIMITS

Section 203(b)

The Senate bill contained a provision to revise the section 203(b) limits as follows: for a single-family home, $67,500 or 95 percent of the median one-family house price in the area as determined by the Secretray, whichever is greater; for two-family homes, $76,000 or 107 percent of such median, whichever is greater; for a three-family residence, $92,000 or 130 percent of such median, whichever is greater; for a four-family residence, $107,000 or 150 percent of such median, whichever is greater. The House amendment contained a provision to increase the section 203(b) mortgage ceilings from $67,500 to $75,000 for single-family home; from $76,000 to $84,440 for two-family homes; from $92,000 to $102,210 for a three-family residence; and from $107,000 to $118,880 for a four-family residence.

The conference report contains a provision which (1) establishes the mortgage limits as follows: $67,500 for a single-family residence; $76,000 for a two-family residence; $92,000 for a three-family residence; $107,000 for a four-family residence; (2) provides that the Secretary may increase these limits on an area-by-area basis to the extent he deems necessary after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, except that such limits as so increased may not exceed the lesser of 133⅓ percent of the basic limits or 95 percent of the area median sales price, as determined by the Secreary, and (3) provides that the Secretary shall conduct a study of the appropriate role that FHA, through the provision of mortgage insurance, should play (a) in assisting various income groups to obtain homeownership; (b) in assuring an adequate level of new home construction; (c) in assuring an adequate flow of capital into mortgage markets; and (d) in moderating housing costs. Such study shall examine the desirability and feasibility of establishing mortgage limits for the mortgage insurance programs on an area basis and the desirability and feasibility of doing so by relating such limits to housing sales price data or indices. The Secretary shall prepare a report (including such recommendations as he deems appropriate) based upon such study and submit it to the Congress by March 1, 1981.

Section 220(d)(3) rehabilitation and neighborhood conservation mortgage insurance

The House amendment but not the Senate bill contained a provision to increase the mortgage insurance ceilings from $67,500 to $75,000 for a single-family home; $76,000 to $84,440 for a two-family residence; $92,000 to $102,210 for a three-family residence; $107,000 to $118,880 for a four-family residence; and $8,250 to $9,165 per unit in a residence with more than four units. The conference report contains a provision to amend the section 220(d)(3) limits to incorporate by reference the same increased section 203(b) limits.

Section 222(b) serviceman mortgage insurance

The Senate bill contained a provision to delete specific dollar limits in existing law for section 222 mortgage loan ceilings, incorporating by reference the dollar limits under sections 203 221(d)(2) and 234(c); and to restrict section 222 to one-family residences and one-family condominium units. The House amendment contained a provision to increase the section 222 mortgage loan ceiling from $67,500 to $75,000. The conference report contains the Senate provision.

Section 234(c) condominium mortgage insurance

The House amendment contained a provision not included in the Senate bill to increase the section 234(c) mortgage insurance ceiling from $67,500 to $750,000. The conference report contains a provision to (1) establish the basic limit at $67,500 and (2) provide that the Secretary may increase these limits on an area-by-area basis to the extent he deems necessary after taking into consideration the extent to which moderate and middle income families have limited housing opportunities in the area due to high prevailing housing sales prices, except that the limits as so increased may not exceed the lesser of 111 percent of the basic limit or 95 percent of the median one-family house price in the area as determined by the Secretary.

MOBILE HOMES

Loan limits: High-cost areas

The Senate bill contained a provision to increase the maximum loan amounts for mobile homes in high-cost areas other than Alaska, Guam, or Hawaii to: in the case of a manufactured home and an undeveloped lot, $33,000 for a single-module manufactured home (or $45,700 for a manufactured home with two or more modules); in the case of a manufactured home and a developed lot, $38,100 for a single-module manufactured house (or $50,600 for a manufactured home with two or more modules); and $11,125 for an undeveloped lot on which to place a manufactured home (or $16,675 for a developed lot). The House amendment contained a similar provision, except that it provided that such limits may be increased to: $29,500 for a single-module mobile home (or $38,500 for a mobile home with two or more modules) in the case of a mobile home and an undeveloped lot; $35,575 for a single-module mobile home (or $44,575 for a mobile home with two or more modules) in the case of mobile home and a developed lot; and $11,750 for an undeveloped lot on which to place a mobile home (or $17,450 for a developed lot).

The conference report contains a provision to increase such limits as follows: to $32,500 for a single module manufactured home (or $43,000 for a manufactured home with two or more modules) in the case of a manufactured home and an undeveloped lot; to $38,100 for a single module manufactured home (or $49,000 for a manufactured home with two or more modules) in the case of a manufactured home and a developed lot; and $11,750 for an undeveloped lot on which to place a manufactured home (or $17,450 for a developed lot). The Committee intends that this authority should relate to the high cost of land or to the high costs of setting up the manufactured home and not to the cost of additional amenities pertaining to the modules themselves or to the development of the lots where the module will be located.

Implementation of name change

The House amendment included a provision not contained in the Senate bill which provided that in adopting regulations and procedures in accordance with the name change from "mobile home" to "manufactured home", the Secretary shall have discretion to take actions in a manner which he deems necessary to insure that the public is fully aware of the distinctions between the various types of manufactured housing.

The conference report contains this provision with an amendment to change the reference to the distinctions between the various types of "manufactured home" to a description of "factory built housing". While this change in nomenclature becomes effective on the date of enactment, the conferees recognize that the amendment will require numerous conforming changes in other federal laws, administrative issuances, state and local laws and in the publications of the factory built housing industry. It is very important that these changes take place in a rational manner and that the Secretary of HUD implements these changes in a manner that minimizes confusion. However, it is particularly important that HUD assures that consumers are made aware of the distinctions between various types of factory built housing (manufactured, modular, panelized) and that manufactured housing is required to meet a federal construction standard. It is expected that for a reasonably brief transition period the term "mobile home" may have to be used interchangeably with the term "manufactured home".

Definition of mobile home.

The Senate bill contained a provision to amend the dimensions of a mobile home as defined in the National Mobile Home Construction and Safety Standards Act of 1974 to cover a structure which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, contains 400 or more square feet in interior space. The House amendment contained a similar provision, except that it amended such Act to cover a structure which is more than 8 body feet in width, more than 40 body feet in length in the traveling mode, or when erected on site, is 320 or more square feet, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under such title. The conference report contains the House provision.

Pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, the Federal Mobile Home Construction and Safety Standards are to be reasonable and meet the needs of the public including the need for quality, durability and safety. In adopting standards for smaller manufactured homes whose square footage is between 320 and 400 square feet, particularly those that are designed to be frequently transported, the Secretary should carefully examine them to be certain that they meet but do not grossly exceed the needs of consumers who buy and live in or use smaller manufactured homes. In particular, the Secretary should examine carefully standards which relate to areas such as portability, room size, ceiling height, door and hallway width, size of appliances, and water pipe and drain size, to be certain that such standards are appropriate for such smaller mobile homes and should consult with manufacturers of smaller manufactured homes during this review process.

Reports

The Senate bill but not the House amendment provided that not later than January 1, 1982, the Secretary shall develop a procedure for collecting and regularly reporting data on the mean and median sales price for new manufactured homes, and where available, data on the mean and median sales price for manufactured home lots and combination new manufactured home and lot packages. Such reports shall contain, to the maximum extent feasible, sales price information for the Nation, each census region, for each state on an annual basis and selected SMSAs having sufficient activity on an annual basis. The conference report contains this provision.

TITLE INSURANCE RELIEF

The House amendment continued a provision authorizing the Secretary, notwithstanding any other provision of Title II of the National Housing Act, to insure, under section 203(b), as modified by this subsection, a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation shall prescribe to further the purpose of this subsection, in any community where the Secretary determines that (1) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or nation; (2) such ownership claims are reasonably likely to be settled, by court action or otherwise; and (3) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, group, or nation pursuant to a dispute involving the Trade and Intercourse Act of 1790, Articles of Confederation, or any similar state or federal law. The House provision made eligible for insurance under section 203(b) a mortgage without regard to limitations in Title II relating to marketability of title, or any other statutory restrictions which the Secretary determines is contrary to the purpose of this provision, but only if the mortgagor is an owner-occupant of a home in a community specified above; and provided that the Secretary, in connection with any mortgage so insured, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under section 203(b), except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. The House provision also provided that notwithstanding section 202 of the National Housing Act, the insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund. The conference report contains the House provisions.

NEIGHBORHOOD REINVESTMENT CORPORATION AUTHORIZATION

The Senate bill contained a provision to authorize appropriations not to exceed $13.426 million for the Neighborhood Reinvestment Corporation for fiscal year 1981. The House amendment contained a provision to authorize appropriations of not to exceed $13.5 million for the Corporation for fiscal year 1981. The conference report contains the Senate provision.

INDIAN HOUSING STUDY

The House amendment but not the Senate bill contained a provision directing the Secretary to study the feasibility of utilizing manufactured and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Natives. The Secretary shall, not later than eighteen months after the date of the enactment of this Act, transmit a report to the Congress containing the findings and conclusions of the study, including a comparison of the costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used. The conference report contains the House provision with an amendment to substitute the term "factory built housing" for "manufactured housing".

FNMA AUTHORITY

The Senate bill contained a provision authorizing FNMA, with the approval of the Secretary of HUD, to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for improvements to properties as to which FNMA may purchase a mortgage; and that to be eligible for purchase, any such loan (other than one made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act) not insured under title I of such Act shall be secured by a lien against the property to be improved. The Senate provision further provided that when FNMA submits its proposal to the Secretary to implement such authority, the Secretary shall respond with comments within 90 days. The House amendment contained a provision to amend FNMA's existing authority to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of energy conserving improvements or solar energy systems to include loans and advances of credit for the purchase and installation of home improvements, or for the purchase of a mobile home. It provided that in order to be eligible for purchase, any such loan or advance of credit (other than a loan or advance made with respect to energy conserving improvements or solar energy systems or for residential energy conservation measures) shall be secured by a lien against the property being improved or against the mobile home or shall be insured under title I of the National Housing Act.

The conference report contains a substitute provision which provides: (1) authority for FNMA with the approval of HUD to purchase, sell, service, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of home improvements, including energy conserving improvements or solar energy system; with the exception of solar and conservation loans any loan or advance of credit purchased by FNMA which is not insured by FHA must be secured by a lien against the property being improved and provides that when FNMA submits its proposal to HUD to implement this authority, HUD shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why the proposal has not been approved; and (2) authority for FNMA with the approval of HUD to purchase, sell, service, lend on the security of and otherwise deal in loans or advances of credit made in connection with manufactured homes where such loans or advances are insured by FHA or secured by a lien against the manufactured home and provides that when FNMA submits its proposal to HUD to implement this authority, HUD shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why the proposal has not been approved.

The conferees wish to make clear that a conditional approval of a proposal shall not be considered an approval for purposes of this section. Therefore, if a conditional approval is provided the Secretary would be required to transmit the report to Congress.

VALLEY HOMES MUTUAL HOUSING CORPORATION

The Senate bill provided that the Valley Homes Mutual Housing Corporation is relieved of all liability to the United States Government for the outstanding principal balance on a mortgage secured by a multifamily housing project located in Lincoln Heights, Ohio, and held by the Government National Mortgage Corporation. The provision also limited the attorney fees payable for services rendered in connection with the claims settled under this provision. The House amendment provided that if GNMA holds any mortgage secured by property which was conveyed to the mortgagor by the Public Housing Administration pursuant to the Lanham Act and if, in so conveying such property, the purchase price exceeded the Public Housing Administration's fair market value appraisal of such property, GNMA may reduce the remaining amount of principal and interest due on such mortgage to the extent that the purchase price exceeded the appraisal. The conference report contains the Senate provision.

TIME OF PAYMENT OF PREMIUM CHARGES

The House amendment contained a provision, not included in the Senate bill, which directed the HUD Secretary to require that payment of FHA loan or mortgage insurance premiums paid in connection with a federally insured mortgage loan be made promptly upon their receipt from the borower; except that the Secretary may approve payment of such premiums within twelve months of such receipt if the financial institution, mortgage, or agent thereof pays interest, at a rate specified by the Secretary, to the insurance fund for the period beginning twenty days after receipt from the borrower and ending upon payment of the premiums to the Federal Government. The conference report contains the House provision amended to provide the payments to the Federal Government shall be made within 24 months of receipt by the financial institution, mortgage or agent thereof.

FORECLOSURE OF LOANS UNDER SECTION 203 (K)

The House amendment contained a provision not included in the Senate bill which provided that mortgagees may foreclose upon loans secured by a first mortgage and insured under the 203(k) rehabilitation loan insurance program in accordance with the procedures established under section 204 of the National Housing Act. The conference report includes this provision.

CONDOMINIUM LOAN INSURANCE

The House amendment contained a provision not included in the Senate bill which provided that under the FHA section 234 condominium mortgage insurance program, the Secretary may insure any mortgage covering a one-family unit in a multifamily project if the project was approved for a VA-loan or guaranteed insurance. The conference report includes the House provision.

MINIMUM PROPERTY STANDARDS EXEMPTION FOR MASONRY CONSTRUCTION

The House amendment contained a provision not included in the Senate bill which provided that pending the effective date of the final rule for Building Energy Performance Standards, any final rule published for effect by HUD pertaining to increases in thermal requirements for the HUD minimum property standards shall provide for the continuation of any local acceptable standards exemptions, approved by HUD as of June 8, 1979, which are applicable to masonry construction. The conference report contains the House provision amended provide that any local acceptable standard exemptions from the FHA Minimum Property Standard Thermal requirements that were in existence prior to May 31, 1979, shall continue in effect until such time as HUD completes an analysis and reports to Congress on the cost of constructing, heating, and cooling masonry, frame, log and other buildings that comply with the increased thermal requirements and on the competitive economic impact of applying such increased thermal standards or permitting any exemptions from them. The Department shall report to Congress on August 1, 1981. If such study shows there is an economic justification for any exemption from the thermal standards, an appropriate exemption for a specific construction type in a specific geographical location may be provided by the Department.

Since masonry construction in certain areas of the country has been exempt from meeting the standards applicable to frame construction since 1974, the study should include an examination of the increased cost required of frame construction since that time. The study shall also include an examination of data provided by industry sources, particularly those sources located in areas where the local acceptable standard exemptions were in effect prior to May 31, 1979.

AMENDMENT TO FHLMC AUTHORITY

The House amendment contained a provision prohibiting the Federal Home Loan Mortgage Corporation from refusing to purchase an assumed mortgage if the original purchaser remained liable for the entire remaining indebtedness. The Senate bill contained no such provision.

Although the conference report does not contain the House provision, the conferees are aware of concerns that the increasing use of Due-on-Sale clauses may inhibit the ability of homebuyers to purchase a home by assumption. The conferees recognize that mortgage assumption has proved to be an important resource for many homebuyers. The conferees are also aware of concerns that assumable mortgages may present an increased degree of risk of default and may have cost implications.

The conferees direct the Secretary of Housing and Urban Development to conduct a study of Due-on-Sale clauses as it effects the assumability of residential mortgages. The Secretary shall consult with the President of the Federal Home Loan Mortgage Corporation, President of the Federal National Mortgage Association, Chairman of Federal Reserve Board, the Comptroller of the Currency, and the Chairman of the Federal Home Loan Bank Board. The study shall include an analysis of: (1) the prevalence of Due-on-Sale clauses in residential mortgage instruments; (2) the effect of Due-on-Sale clauses on the ability of prospective homebuyers to purchase a home; (3) the effect of Due-on-Sale clauses on the availability of housing opportunity for moderate-income persons; (4) the effect on the assumability of mortgages if the interest rate is allowed to be increased upon transfer; and (5) the effect of universal assumability on the profitability of such mortgages and the resulting cost of future mortgages.

The study shall also include an estimate of the increased risk of default, if any, associated with assumed mortgages and whether credit underwriting of the prospective homebuyer or an increased interest rate upon transfer, has any effect upon the probability of default. The conferees expect the Secretary to report to the Congress by April 1, 1981, with the results of such study.

LEGISLATIVE VETO

The House amendment contained a provision not contained in the Senate bill which provided that notwithstanding any other provision of law, simultaneously with prescribing any rule or regulation by the Department of Housing and Urban Development, except rules governing the FHA interest rate, the Secretary shall transmit a copy thereof to the Senate and the House. Except as provided below, the regulation shall not become effective, if (A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, disapproving of the specific matter of the rule or regulation, or (B) within 60 calendar days of continuous session after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal. If, at the end of 60 calendar days of continuous session after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided above; Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of the rule involved. It also provided that for the purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die; and that the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

The conference report contains a substitute provision to amend section 7(o)(3) of the Department of Housing and Urban Development Act to extend from 20 to 30 calendar days of continuous session of Congress the time period within which rules or regulations published as final may become effective, and to similarly extend from 20 to 30 days the time period within which either Committee may report out or discharge a resolution of disapproval. This provision would only apply to regulations published for effect after the effective date of this amendment.

TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES

The House amendment contained a provision not contained in the Senate bill which provides that Social Security benefit increases occurring after May, 1980, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the U.S. Housing Act of 1937, the National Housing Act, the HUD Act of 1965, or the Housing Act of 1949; which defines the term "Social Security benefit increases occurring after May, 1980," and which provided that this section shall be effective only with respect to housing assistance which is provided for periods after September 30, 1980. The conference report does not contain the House provision. It is the intent of the conferees that the Secretary shall report to the Congress by March 31, 1981, on the desirability of excluding cost-of-living increases (or any portion thereof) provided under Social Security, in addition to other federal pensions and private pensions, for the purposes of determining eligibility or the amount of assistance under the U.S. Housing Act of 1937, the National Housing Act, the HUD Act of 1965, or the Housing Act of 1949. Such study shall at least include (1) the number of persons over the age of 60 who are living in federally-assisted housing; (2) an analysis of the income characteristics and housing expenses and other costs of such persons; (3) an analysis of the income characteristics and housing expenses and other costs of elderly persons receiving such pensions who are not living in federally-assisted housing; and (4) the impact of excluding cost-of-living increases (or any portion thereof) provided under such pensions on the cost and administration of these federally-assisted housing programs.

DELETION OF REFERENCES TO REMAINING ECONOMIC LIFE

The Senate bill contained a provision not contained in the House amendment to delete the requirement under sections 203(b), 220(h), 221(d)(2), 221(i)(2)(iv), 234(c), and 240 of the Natonal Housing Act which provides that insured loans under those sections have a maturity not exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

The conference report contains the Senate provision. The conferees note that FHA has determined that as a practical matter, it is extremely difficult to predict remaining economic life, and thus in practice it affects the terms of an FHA loan only in extremely limited circumstances.

In striking these references to remaining economic life from the National Housing Act, the conference report only affects procedures relating to the setting of mortgage terms, and is not related to the appraisal of fair market value. In addition, the conferees wish to emphasize that striking references to "remaining economic life" in no way diminishes the responsibility of HUD to underwrite loans on a sound basis. Clearly, in order for a loan to be sound, the value of the property should at all times exceed the outstanding balance of the loan. In applying this concept, the conferees believe that the key is evaluating the risk of value decline during the early years of the mortgage term. It is extremely difficult to project value trends beyond the early years of the mortgage. Moreover, studies indicate, that on a long-term basis, value trends are almost universally up. On the other hand, on a short-term basis, values sometimes go down. Thus, the relevant risk that should be evaluated is the risk of a value decline during the early years of the mortgage when the cushion between loan balance and value may already be small.

PARTICIPATION IN HUD-ASSISTED PROJECTS

The Senate bill included a provision not contained in the House amendment to eliminate the requirement under section 3 of the Housing and Urban Development Act of 1968 that, in order to be given priority for training and employment in connection with projects receiving direct financial assistance from HUD, lower income persons must reside in the area of such projects. It also replaced the requirement under section 3 that, to the greatest extent feasible, work contracts to be performed in connection with HUD-assisted projects be awarded to business concerns located in or owned in substantial part by persons residing in the area of such HUD-assisted projects with the requirement that, to the greatest extent feasible, such work contracts should be awarded to socially and economically disadvantaged individuals, and to firms owned and controlled by such individuals. The conference report contains a substitute provision (1) to amend section 3(1) of the HUD Act of 1968 to specify that opportunities for training and employment arising in connection with the planning and carrying out of any HUD-assisted project be given to lower-income persons residing within the boundaries of the unit of local government or metropolitan area or nonmetropolitan county) in which the project is located; and (2) to amend section 3(2) of the HUD Act of 1968 to specify that to the greatest extent feasible contracts for work to be performed in connection with any HUD-assisted project be given to business concerns located in or in substantial part owned by persons residing in the same metropolitan area (or nonmetropolitan county) as the project.

The conferees believe that (with the exception of being more specific with regard to the locale in which the priorities are to be given), section 3, as it is presently constituted, is adequate. The conferees believe that training and employment opportunities should be provided to the maximum extent feasible to those persons residing closest to the project. In addition, although the conferees have provided that business contracts may be awarded on a metropolitan-wide basis, the conferees expect that in larger SMSAs, the Secretary should utilize his discretionary authority to provide that the advertisement of contracts and other such requirements be kept to a manageable market area.

MODERATE REHABILITATION OF FACILITIES FOR THE HANDICAPPED

The Senate bill contained a provision not contained in the House amendment to amend section 202 of the Housing Act of 1959 to provide that amounts set aside under the section 202 program of housing for the elderly and handicapped for use by nonprofit sponsors of housing for primarily non-elderly handicapped people may be used to acquire existing structures and for the rehabilitation, alteration, conversion, or improvement of such housing to meet the needs of handicapped (primarily non-elderly) persons; and to include in the definition of "development cost" for such housing the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located. The conference report includes the Senate provision amended to delete the references to funding. It is the intent of the conferees that the improvements to be made include bringing the property up to general standards of habitability, in addition to meeting the special needs of the handicapped.

RENTAL HOUSING PRESERVATION

Findings

The Senate bill but not the House amendment included a provision stating congressional findings for the need to conserve existing low- and moderate-cost rental housing stock. The conference report does not include this provision.

Use of tandem authority under section 223(f)

The Senate bill but not the House amendment also amended section 223(f) of the National Housing Act to authorize the Secretary to make available for the purchase or refinancing of a mortgage under section 223(f) covering a multifamily project located in an older, declining urban area not to exceed $30 million of available GNMA Tandem authority in order to reduce interest rates on low- and moderate-income rental housing which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The conference report contains this provision with an amendment which provides that only mortgages covering projects with 100 units or less would be eligible for purchase. The conferees are concerned that refinancing existing debt under section 223(f) could result in a windfall to the original lender. Many of the original loans which would be the subject of S. 223(f) refinancing have current market (i.e., discounted) value far below their face value. The conferees direct the Secretary to limit GNMA purchases of section 223(f) loans to situations where the original lender has forgiven a substantial portion of the difference between the current market value of the loan and its face amount.

Rent increases

The Senate bill included a provision not included in the House amendment to amend existing law which requires the Secretary to assure that, during the mortgage term of a mortgage covering a multifamily project in an older, declining urban area purchased or refinanced under section 223(f), no rental increases may be made except those necessary to offset operating expenses or other necessary expense increases approved by the Secretary to provide that rental increases may also be made if necessary to maintain reasonable profit levels approved by the Secretary. The conference report adopts this provision.

Default

The Senate bill but not the House amendment provided that for any multifamily housing project purchased or refinanced with a mortgage insured under section 223(f) which, because of mortgage amount, does not qualify for GNMA's Mortgage-Backed Securities Program, the Secretary shall, in the case of default, pay the lender in cash, at ninety-nine cents on the dollar, the amount of outstanding mortgage debt that is insured by the Federal Housing Administration. The conference report does not contain this Senate provision.

Maintenance of rental character

The Senate bill contained a provision not contained in the House amendment which provided that for all insurance authorized by this subsection and provided pursuant to a commitment entered into after the date of enactment of this provision, the Secretary may not accept an offer to prepay or request refinancing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest) to utilize the property as a rental property for a period of twenty years from that date on which the insurance was provided unless the Secretary finds that—

(A) the conversion of the property to a cooperative or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood.

The conference report contains the Senate provision with an amendment which provides that (1) this provision applies to loans purchased by GNMA pursuant to this section; and (2) in the case of other loans insured pursuant to section 223(f), this provision applies for a period of 5 years.

Report

The Senate bill but not the House amendment also required the Secretary to include in the annual report to the Congress a description of the status of the existing rental housing stock including, but not limited to:

(A) an analysis of the demand for and availability for low- and moderate-cost rental housing in the United States;

(B) an analysis of the current role of federal, state, and local governments in the conservation of decent and affordable rental housing; and

(C) recommendations for effective federal, state, and local government strategies and programs to conserve decent and reasonably priced rental housing, including but not limited to, improved implementation of existing programs, strategies for leveraging private sector investment in rental housing, modification to federal, state, and local tax laws, and alternative financing strategies.

The conference report does not include the Senate provision. The conferees believe that information on the existing rental housing stock is already provided in HUD's annual report, but that the Secretary should take the necessary steps to assure that such information is presented in a manner consistent with the intent of the Senate provision.

MUTUAL HOUSING ASSOCIATION DEMONSTRATION PROGRAM

The Senate bill contained a provision not contained in the House amendment which provided that the Congress recognizes the significant potential of mutual housing associations for helping make multifamily housing in the United States more affordable, and commends and encourages the efforts being made in connection with the national demonstration program of mutual housing associations being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank with the cooperation of the Department of Housing and Urban Development. The Senate provision also provided that the Neighborhood Reinvestment Corporation, in conjunction with the National Consumer Cooperative Bank and the Secretary of Housing and Urban Development, shall transmit a report to the Congress on the findings and conclusions reached as a result of the demonstration program described above together with legislative recommendations, not later than September 30, 1981. The conference report adopts this provision.

COLLECTION OF DELINQUENCY DATA

The Senate bill included a provision not contained in the House amendment providing that the Secretary shall conduct a study to determine the feasibility and cost of developing and implementing a system, utilizing existing data collection systems, for the collection of data pertaining to all home mortgage delinquencies for the area covered by each area office of the Department of Housing and Urban Development, and shall, as soon as practicable, but not later than the date of submission of the fiscal year 1982 budget request, transmit to the Congress a report containing the results of such study. The conference report includes the Senate provision with an amendment which provides that the study shall examine the feasibility of collecting delinquency data on an appropriate regional basis and shall be transmitted to Congress not later than April 1, 1981. The conferees expect that the study shall also examine the appropriateness of collecting data according to census regions, HUD regional designations or smaller data collection areas.

HOME MORTGAGE DISCLOSURE ACT AMENDMENTS

Designation of SMSAs

The Senate bill contained a provision not contained in the House amendment to amend section 304 of the Home Mortgage Disclosure Act (HMDA) to refer to SMSA's as defined by the Department of Commerce, rather than as defined by OMB. The conference report contains the Senate provision.

Reporting Requirements

The Senate bill contained a provision not included in the House amendment to amend section 304 of HMDA which requires that depository institutions report SMSA lending activity by census tracts, where readily available at a reasonable cost as determined by the Federal Reserve, otherwise by ZIP code, to require depository institutions to report SMSA lending activity by census tracts for loans secured by property located within any county with a population more than 30,000; for counties under 30,000 population within SMSAs, reporting shall be made by county. The conference report contains the Senate provision.

Standardized reporting period

The Senate bill contained a provision not included in the House amendment to amend section 304 of HMDA to provide that lending data required to be disclosed for 1980 and thereafter shall be disclosed on a calendar year basis (existing law uses the depository institution's fiscal year), and to provide that depository institutions which have been reporting on a non-calendar year basis must make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full-year report prior to 1980 calendar year report. The conference report contains the Senate provision.

Standardized reporting format

The Senate bill contained a provision not contained in the House amendment to amend section 304 of HMDA to provide that the Federal Reserve Board shall prescribe a standard format for the disclosures required by HMDA. The conference report contains this provision.

Central depositories of data

The Senate bill contained a provision not contained in the House amendment to amend section 304 of HMDA to provide that the Federal Financial Institutions Examination Council shall, in consultation with the Secretary, implement a system to facilitate access to data required to be disclosed under section 304 of HMDA; that such system shall include arrangements for a central depository of data in each SMSA; and that disclosure statements shall be made available to the public for inspection and copying at such central depository for all depository institutions which are required to disclose information under section 304 (or which are exempt by reason of having substantially equivalent state or local law) and which have a home or branch office wtihin such SMSA. The conference report contains the Senate provision.

Extension of act

The Senate bill contained a provision not contained in the House amendment to repeal section 310 of HMDA (termination of authority) to make the Act permanent. The conference report contains the Senate provision.

Compilation of aggregate data

The Senate bill contained a provision not contained in the House amendment to amend HMDA to provide: that beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council shall compile each year, for each SMSA, aggregate data by census tract for all depository institutions which are required to disclose data under the Act or which are exempt by reason of substantially equivalent state or local law that the Council shall also produce tables indicating, for each SMSA, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics; that the Federal Reserve Board shall provide staff and data processing resources to the Council to enable it to carry out these compilations; and that the data and tables required shall be made available to the public by not later than December 31 of the year following the calendar year on which the data is based. The conference report contains the Senate provision.

Disclosure by HUD Secretary

The Senate bill included a provision not contained in the House amendment to amend HMDA to provide: that beginning with data for calendar year 1980, the Secretary of HUD shall make publicly available data in the Secretary's possession for each mortgage which is not otherwise subject to the requirements of HMDA and which is not exempt by reason of equivalent state or local law, with respect to mortgage loans approved by the Secretary for insurance under title I or II of the National Housing Act; and that such data to be disclosed shall consist of data comparable to data which would be disclosed if such mortgage were subject to the requirements of HMDA. It also provided that disclosure statements containing data for each such mortgagee for a standard metropolitan statistical area shall, at a minimum, be publicly available at the central depository of data established by the Federal Financial Institutions Examination Council for such standard metropolitan statistical area; and that the Secretary shall also compile and make publicly available aggregate data for such mortgagees by census tract, and tables indicating aggregate lending patterns, in a manner comparable to the information required to be made publicly available by the Federal Financial Institutions Examination Council. The conference report contains the Senate provision.

Small business loan study

The Senate bill contained a provision not included in the House amendment which provided that the Federal Financial Institutions Examination Council, in consultation with the Small Business Administration, shall conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans; and that the Council shall submit a report on the results of such study, together with recommendations, to the House and Senate Banking Committees not later that March 1, 1981. The conference report adopts the Senate provision.

Feasibility report

The Senate bill but not the House amendment included a provision which provided that to promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act of 1975. It provided that such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending community reinvestment, and shall outline possible specific timetables for implementing such a unified system. The conference report contains the Senate provision.

PREEMPTION OF STATE USURY LAW

Business and agricultural loans

The Senate bill contained provisions not contained in the House amendment to amend the Depository Institutions Deregulation and Monetary Control Act of 1980 (1) to provide that effective April 1, 1980, business and agriculture loans to which the preemption of state usury law apply include: (a) loans funded or made in whole or in part after April 1, 1980, regardless of whether a commitment or other agreement to make the loan was made before that date; (b) variable or fluctuating rate loans made on or prior to April 1, 1980; (c) loans that are renewals, extensions or other modifications made on or after April 1, 1980, if the renewal, extension or modification is made with the written consent of the obligee; in addition, the loan must be for $25,000 or more, or be part of a series of advances aggregating, or agreed or contemplated eventually to aggregate, $25,000 or more; (2) to decrease from $25,000 to $1,000 the threshold amount required for a business or agricultural loan to be covered by the state usury law preemption provisions contained in the Act; and (3) to define the term "loan" to include all secured and unsecured loans, credit sales, forebearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes; to define the term "interest" to include any compensation, however denominated, for a loan; to define the term "organization" to mean a corporation, governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and to define the term "person" to mean a natural person or organization. The conference report adopts these provisions.

Residential property loans

The Senate bill contained a provision not included in the House amendment to preempt state usury laws in the case of any individual who finances the sale or exchange of residential real property which he or she owns and in which he or she is or has been an occupant as the principal resident. The conference report contains the Senate provision.

Refinancing of individual cooperative units

The Senate bill contained a provision not contained in the House amendment to preempt state usury laws in the case of refinancing of an existing loan, mortgage, or advance which was used to finance the acquisition of stock in a residential cooperative housing corporation and secured by a first lien on all such stock allocated to the dwelling unit if the proceeds of the new loan are used to finance the rehabilitation or improvement of the dwelling unit, or if the rate of interest on the new loan, mortgage, or advance is less than the rate of interest on the existing loan, mortgage, or advance. (Existing law preempts state usury laws in the case of loans the original proceeds of which are used to finance the acquisition of stock in a residential cooperative housing corporation.) The conference report contains a substitute provision to amend section 501(a)(1)(A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 to (1) provide that the loan, mortgage, or advance must be secured by a first lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation; and (2) delete the requirement that the loan, mortgage, or advance must be used to finance the acquisition of such stock.

FEDERAL HOME LOAN BANK ACT AMENDMENTS

The Senate bill included a provision not contained in the House amendment to add as categories qualifying as liquidity investments for Federal Home Loan Bank System members, to extent approved by the FHLBB, (a) highly rated corporate debt obligations with 3 or less years remaining to maturity, (b) highly rated commercial paper with 270 days or less remaining to maturity, and (c) unpledged deposits in the Savings Bank Trust Company, New York, New York. The conference report contains the Senate provision.

MORTGAGE-BACKED SECURITIES

Title

The Senate bill contained a provision not contained in the House amendment to title the provisions in this section as the "Mortgage-Backed Securities Development Act of 1980." The conference report does not contain this provision.

Findings

The Senate bill but not the House amendment contained a provision establishing the findings of Congress for the development of a conventional mortgage-backed securities program. The conference report does not include the Senate provision.

Purpose

The Senate bill contained a provision not contained in the House amendment providing that the purposes of this section are to direct FNMA to develop as soon as possible a mortgage-backed security instrument attractive to large investors and marketable by private sector investment bankers which ultimately will attract more capital from large institutional investors into the residential mortgage market. The conference report does not contain this provision.

Program

The Senate bill contained a provision which provided that FNMA shall, at the earliest possible date, develop a proposal for attracting security pension funds and other large institutional investors into the residential mortgage and home construction market; and that the Secretaries of HUD and Treasury shall, within 90 days after development of such proposal, approve the proposal or transmit to Congress a report explaining why this proposal was not approved. The House amendment did not contain a similar provision.

The conference report contains a substitute provision which provides that if FNMA submits a proposal after the date of enactment of this section to the Secretary of HUD or the Secretary of the Treasury with respect to the undertaking of a mortgage-backed securities program, the Secretary of HUD or the Secretary of Treasury shall, within 90 days after submission of such proposal, approve the proposal or transmit to Congress a report explaining why the proposal has not been approved. The conferees believe that the basic authority for FNMA to undertake a mortgage-backed securities program is provided in existing law. The conferees expect that if FNMA submits a proposal to the HUD Secretary or the Secretary of the Treasury, any differences could be resolved within the 90-day period. If they cannot, the reasons for not approving the proposal shall be reported to the Congress. It is the intent of the conferees that a conditional approval would not constitute an approval, and would require a report to the Congress. The conferees also do not intend that submission of a proposal to the Secretary of the Treasury for the purpose of obtaining an IRS ruling shall be subject to this provision.

TITLE IV—PLANNING ASSISTANCE

The planning assistance provisions contained in the Senate bill and in the House amendments, although similar in many respects, were considerably different in format. The conferees, therefore, essentially followed the format contained in the House amendments in the consideration of the items contained in the conference agenda.

FINDINGS

The Senate bill amended section 701 of the Housing Act of 1954 to state that Congress finds that (1) the general welfare requires the promotion of the conservation and orderly and efficient growth of communities and the increase of housing and employment opportunities; (2) these needs require effective and coordinated planning at all levels; (3) national policy objectives are required to guide planning among states, areawide planning organizations and local governments; and (4) these efforts should facilitate federal support of state, areawide and local planning decisions. The House amendment amended section 701 of the Housing Act of 1954 to state that Congress finds that (1) the general welfare requires the conservation and orderly and efficient growth and development of communities, particularly those that are socially, economically and fiscally distressed; (2) to be effectively and efficiently achieved, conservation, growth and development require effective and coordinated planning at all levels of government; (3) planning efforts should include detailed strategies for guiding governmental actions to implement such plans to achieve their goals and objectives; (4) plans and strategies should be consistent with national policy objectives; and (5) to the extent practicable, federal actions and programs should conform with state, areawide and local plans and strategies. The conference report contains the House provision.

PURPOSES

The Senate bill provided that the purposes of the planning assistance program are to (1) encourage joint efforts of state and local governments and areawide planning organizations in developing state and areawide strategies; and (2) assure that strategies developed pursuant to this program will lead to implementation activities by states, areawide planning organizations and local governments and to a coordinated response by all government levels to carry out such strategies. The House amendment provided that the purposes of section 701 planning assistance are to encourage (1) states, areawide and local planning agencies to develop comprehensive plans which include strategies for their implementation, with particular emphasis on plans that address national policy objectives; and (2) the coordination of federal policy and program decisions with state, areawide, and local plans and strategies. The conference report contains the House provision with an amendment to provide that one of the two purposes of section 701 planning assistance is to encourage state and local governments and areawide planning organizations to develop strategies for implementing comprehensive plans (or components of such plans) and to the extent necessary, comprehensive plans or components of such plans, giving particular emphasis to those strategies which are designed to implement those components of the plan which relate to the National Policy Objectives.

DEFINITIONS

Metropolitan area

The Senate bill provided a definition of "metropolitan area" similar to that which was included in the House amendment except the House definition included the term "standard" before "metropolitan statistical area". The conference report adopted the House provision.

National policy objectives

The House amendment set forth three National Policy Objectives under definitions similar to those included in the Senate bill except that the House called for (1) the conservation and improvement of existing communities, particularly those characterized by fiscal, economic or social distress; and (2) an increase in housing and employment opportunities and choices for lower income and minority persons and residents with special needs such as the elderly and handicapped, and reduction in cost of housing. The Senate bill stated under findings, the following National Policy Objectives: (1) the conservation and improvement of existing communities, particularly the improvement of those communities faced with fiscal, economic, or social distress; and (2) an increase in housing and employment opportunities and choices, especially for lower income and minority persons, women, the elderly, the handicapped and other disadvantaged groups. The conference report contains the House provisions with an amendment to include women in the second objective.

Definitions of comprehensive plan, strategy and action programs

The House amendment contained a provision that was not contained in the Senate bill which set forth the meaning of a comprehensive plan, strategy and action program in connection with the process by which the Secretary would require certain recipients to carry out the activities for which grants are made. The conference report contains the House provision with an amendment under definitions that include the following: the term "comprehensive plan" means a plan which includes, at least, housing and land use elements which take into account factors prescribed by the Secretary, including those required to achieve the National Policy Objectives: the term "strategy" means a detailed strategy statement designed to identify and describe the actions required to implement such plan, or components of such plan, in order to achieve, to the maximum extent practicable, the goals and objectives of such plan or, in the absence of such plan, the actions which will be required in the course of developing a comprehensive plan: and the term "action program" means a program which includes (A) an identification of specific actions necessary for implementing elements included in the strategy statements; (B) an identification of the governmental entity responsible for undertaking each such action; (C) a timetable specifying when each such action may reasonably be expected to be carried out; and (D) to the maximum extent practicable, agreements, by the governmental entities identified as being responsible for undertaking such actions, that they will undertake such actions.

GRANT AUTHORITY

The House amendment contained a provision not found in the Senate bill which permitted annual grants. The conference report contains the House provision.

ELIGIBILITY

Recipient agencies

States—The Senate bill provided that grants may be made to states for statewide activities. The House amendment provided grants for states for statewide planning activities. The conference report contains the Senate provision.

States for provision of assistance to other entities—The Senate bill contained a provision similar to the House provision, except that it (1) additionally permitted grants to states for assistance to metropolitan Areawide Planning Organizations (APO), where administration of assistance was to be carried out by the state pursuant to an agreement between the state and the metropolitan APO, as approved by the Secretary; and (2) referred to adjacent units with related planning "problems and opportunities". The House amendment provided for grants to the States, for the provision of assistance to nonmetropolitan areawide planning organizations (APOs), units of general and local government (except counties) under 50,000 population, counties (other than urban counties), and adjacent units of local government having less than 50,000 population with related planning needs, except that grants could not be made for provision of assistance to these entities by the state where the state will be undertaking the eligible activities on their behalf unless they requested the state to undertake the activities. The conference report contains the House provision with an amendment providing that grants may be made to the states, for the provision of assistance to (i) nonmetropolitan areawide planning organizations; (ii) units of general local government (except counties) having a population of less than 50,000 according to the latest decennial or mid-decade census, as appropriate; (iii) counties, other than urban counties as defined under title I of the Housing and Community Development Act of 1974; and (iv) any group of adjacent units of general local government having a total population of less than 50,000 (according to the latest decennial or mid-decade census, as appropriate) and having common or related planning needs; except that where the state would be undertaking the activities on behalf of such organization, local government, county, or group of adjacent units of local government a grant may not be made unless such entities request that the state undertake such activities.

APOs—The Senate bill contained a provision that made metropolitan APOs eligible for direct grants and made nonmetropolitan APOs eligible for grants through the States. The House amendment made all APOs eligible for direct grants from the Secretary. The conference report contains the Senate provision.

Local governments—the Senate bill provided that units of local government are only eligible as indirect recipients of planning assistance through states, and that such units must have less than 50,000 population. The House amendment contained a provision that included such units as eligible for direct assistance without limitation as to their size. The conference report contains the House provision amended to include only those units of local government of 50,000 or more as directly eligible.

Counties—the Senate bill provided that non-urban counties are only eligible as indirect recipients through their states. The House amendment provided that all counties be eligible recipients. The Conference report contains the House provision amended to include as eligible for direct asistance only urban counties as defined under title I of the Housing and Community Development Act of 1974; and to require that grants to states for the provision of assistance to eligible APOs, local governments and counties which do not receive direct funding from the Secretary be made only if such entities notify the Secretary of their desire to receive funding through the state.

In requiring that recipients funded through the states, in whose behalf the states undertake the activities, have the opportunity to request that such activities be undertaken by the states, the conferees wish to make clear their intent to recognize the distinction between the states' role when acting as a conduit for planning assistance funds and the states' role when actually undertaking the activities financed by such assistance in behalf of these recipients. Clearly the conferees intend that where states or APOs are requested to undertake activities on behalf of recipients, such states or APOs not be permitted to carry out activities which are unacceptable to the recipients.

The conferees intend that in administering the new planning assistance provisions, the Secretary consider applications from Indian Tribes on reservations and Alaskan Native villages where these tribes or villages certify that comprehensive plans will be available to rationally guide the decisions of the several federal agencies and the Tribal agencies, particularly with respect to the development of federally assisted housing. The conferees believe there is serious need to coordinate the respective actions of such agencies in order to assure in connection with housing development initiatives that the necessary utilities (including water and sewer facilities), roads and related infrastructure will be in place when needed. These agencies should plan their activities and prepare their budget in conformance with the housing development plans and programs of the Tribes and HUD. The conferees believe that these actions can assist in reducing the costly delays that have ensued in the past and will substantially improve the Indian housing delivery system.

ELIGIBLE ACTIVITIES

The Senate bill provided that, other than grants for technical assistance, planning assistance grants must be used for planning and management actions and activities clearly related to the National Policy Objectives, and contained several prohibitions on the use of planning assistance funds.

The House amendment contained provisions limiting grants only to activities determined by the Secretary to be necessary to assist in the development of a comprehensive plan as part of an ongoing planning process; in the development of strategies and action programs to implement such a plan, part of a plan, or related plans or planning; in the development of evaluations or studies related to such plan, strategies or action programs; or in carrying out clearinghouse functions required under OMB. In addition, the House amendment (a) provided that grants may be used to carry out planning and management actions and activities necessary to carry out 701 purposes; (b) prohibited the use of section 701 funds for certain activities; and, (c) limited their use to prepare federal assistance applications to communities of 25,000 or less in population. The conference report contains the House provision amended to provide that grants may be made only for those activities determined by the Secretary to be necessary to assist (1) in the development of strategies and action programs to implement a comprehensive plan or a part thereof or related plans or planning and, where such a plan does not exist or is determined by the Secretary to be inadequate, in the development of a comprehensive plan; (2) in the development of evaluations or studies related to such plan, strategies, or action programs; or (3) in the carrying out of the A–95 clearinghouse functions. Additionally, the amendment provided that grants for the preparation of applications for federal financial assistance may only be made (a) to communities of 25,000, or less, in population; and (b) to communities with populations of between 25,000 and 50,000 which are considered to be distressed cities under UDAG criteria, except that the Secretary is required to give a funding priority to communities of 25,000 population or less.

GRANTEE REQUIREMENTS

Application requirements according to grantee category

The Senate bill contained several provisions that were not contained in the House amendment which established requirements that varied according to the type of grantee and which provided that—

(1) A grant may be made to a state for statewide activities, or to a metro areawide organization seeking assistance directly from the Secretary, if the application submitted to the Secretary (a) either sets forth a strategy statement which identifies policies and programs over at least a three-year period which addresses the major issues and problems of the jurisdiction and which is clearly designed to carry out each of the national policy objectives, or indicates that the application is based on a previously approved strategy statement still in effect; (b) formulates an action program describing specific actions and activities to be undertaken to implement the strategy statement; (c) establishes a timetable for achievement of specific results; (d) submits all comments received pursuant to citizen participation requirements concerning the strategy statement and action program and indicates modification, if any, made to the strategy statement or action program as a result thereof; (e) certifies consistency of strategy statement and action program with other appropriate plans and activities; (f) certifies that the recipient has the authority to implement and execute the described actions and activities (or demonstrates by means of agreements or other documentation the steps the applicant will take to assure implementation); and (g) provide satisfactory civil rights assurances.

(2) A grant may be made to a State for the provision of assistance to APOs if the state, in the application submitted to the Secretary (a) specifies the manner in which the assistance will be distributed among APOs; (b) certifies that each APO has submitted or will submit an application meeting comment and citizen participation requirements and the application requirements pertaining to state and metro APO applicants; (c) certifies that a strategy statement for each APO has been approved by the Secretary prior to the provision of assistance; and (d) meets such other requirements of the Secretary.

(3) A grant may be made to a state for the provision of assistance to units of general local government, if the state, in the application submitted to the Secretary (a) specifies the manner in which the assistance will be distributed among such entities; (b) certifies that the actions and activities to be carried out by such entities address the major issues and problems of their jurisdictions, are clearly designed to carry out the national policy objectives, and are consistent with any existing approved strategy statement of the state and of the APO in which the entity is located; (c) provides satisfactory civil rights assurances; and (d) meets such other requirements of the Secretary.

(4) A grant may be made to an Indian tribe, or to a territory or possession of the U.S., if the application submitted to the Secretary (a) sets forth actions and activities which address the applicant's major issues and problems and are clearly designed to carry out the national policy objectives; (b) certifies that the applicant has authority to implement and execute the actions and activities (or demonstrates by means of implementation agreements or other documentation, specific steps the applicant will take to assure implementation); (c) provides satisfactory civil rights assurances; and (d) meets such other requirements of the Secretary.

Other requirements for grantees

The House amendment contained a provision which, with the exception of a citizen participation requirement applicable to all applicants, was not contained in the Senate bill. The House provision provided (with the exception of recipients whose sole function is to serve as an A–95 clearinghouse), the Secretary shall require that each recipient carry out an ongoing comprehensive planning process and develop strategies and action programs through a process which (1) makes provision for citizen participation; (2) involves development and subsequent modification of a comprehensive plan, an implementation strategy, and an action program which shall be reviewed at least triennially for necessary amendments; and (3) involves the development of a plan which shall include at least each of the following: (a) housing and land use elements which take into account factors, including those required to achieve the national policy objectives; (b) a detailed strategy statement designed to identify and describe the actions required to implement such plan in order to achieve the plan's goals and objectives to the maximum extent practicable; (c) a program which includes (i) an identification of specific actions necessary for implementing elements included in the strategy statement; (ii) identification of the governmental entity responsible for undertaking each action; (iii) a timetable specifying when each action may be expected to be carried out; and (iv) to the maximum extent practicable, agreements by the entities responsible for undertaking actions, that they will do so; and (d) procedures, including criteria set out in advance, for evaluating programs and activities undertaken pursuant to such plan, to determine whether such programs and activities are meeting the plan's goal and objectives.

The conference report contains the House provision amended to provide that (1) the Secretary shall require that each recipient develop strategies and action programs and, except as provided in paragraph (2), maintain and update a comprehensive plan and a planning process; (2) in the case of a recipient that is not covered by or does not have a comprehensive plan and a planning process, the Secretary shall require, with respect to such a plan and process, only that such recipient begin the phased development of such a plan and process in a manner designed to assure that such a plan and process will be completed in a reasonable period of time, taking into consideration the nature and scope of the recipient's reasonable planning needs and its financial resources; (3) in carrying out this subsection, the Secretary shall require (A) citizen participation pursuant to regulations of the Secretary, (B) the development and subsequent modifications of an implementation strategy and an action program and, to the extent necessary, a comprehensive plan and the review of such strategy, program, and plan, at least triennially for necessary or desirable amendments, and (C) procedures, including criteria set forth in advance, for evaluating programs and activities undertaken pursuant to this section to determine whether such programs and activities are meeting the goals and objectives set forth in the strategies.

In requiring that recipients maintain and update a comprehensive plan and a planning process, the conferees recognize that many communities already have or are covered by such a plan or planning process. The conferees are also aware that many communities do not have the necessary financial and staff resources to have a completed plan and a full planning process at the time they initially request planning assistance. The conferees intend that at the time a planning assistance grant is approved, the Secretary shall require such communities at least to begin to develop such a plan and planning process. Subsequently, the recipient community would only be required to show reasonable progress toward the completion of such plan and the implementation of such process. The conferees expect that the Secretary shall take into consideration such factors as the size and characteristics of the recipient and its financial ability in determining the extent of the community's plan and planning process. Based upon this consideration, the conferees expect the Secretary to permit a phasing of the development of such plan and process over a reasonable period of time. In this respect, the conferees expect that, in addition to providing funds for other eligible activities, the Secretary may, where necessary, provide funds to the recipient to begin and to continue the phased development of the plan and process. In addition, the conferees are aware that the complexity of a comprehensive plan and a planning process will vary according to the size, characteristics and the needs of a recipient and direct the Secretary, to the maximum extent practicable, to tailor the requirements so as to take such factors into consideration.

COMMENT

The Senate bill contained a provision that was not contained in the House amendment which provided that APOs applying for assistance directly from the Secretary or through the state must afford the same opportunity to units of government participating in the APO, and additionally, in the case of metro APO applicants seeking assistance directly from the Secretary, to the state or states in which the APO is located.

The conference report does not contain this provision. The Senate provision also required specific preapplication comment procedures for State and APO applicants. It provided that States seeking funding for statewide activities must afford a reasonable opportunity, as prescribed by the Secretary, to units of government and APOs located within the state to comment on the strategy statement and the action program proposed for funding, and on the consistency of the strategy and program with the plans and activities of such entities. The House amendment required the Secretary to encourage cooperation of all interest municipalities, political subdivisions, public agencies and other parties in preparation and carrying out of the programs developed under section 701; and also required recipients to afford such parties a reasonable opportunity to comment on such plans and programs.

The conference report contains the House provision amended to provide that the Secretary shall encourage the cooperation of all interested states. APOs, municipalities, political subdivisions, public agencies, and other parties in the preparation of and in the carrying out of programs developed pursuant to this section. Such parties shall be afforded by the recipient organization or government a reasonable opportunity to comment on such strategies, plans, and programs.

ADDITIONAL FUNDING

The House amendment contained a provision which provided that the Secretary may not approve a grant to a recipient for any year after the first year in which a grant is made unless the Secretary determines that additional funds are required to assist in the plan's development; and that substantial progress has been made in the development and implementation of the plan or components of the plan. It also provided that to assist in making such determinations, the applicant shall submit such information as the Secretary may require, including an annual performance report. It further provided that at least triennially, the applicant must submit a detailed evaluation of the progress made during the preceding 3-year period toward the development and implementation of its plan. The Senate bill contained a provision that was similar, except it also specified that contracts to make grants may include provision for periodic release of grant funds on the basis of progress of grantees in accomplishing the specific actions and activities for which grants were made. The conference report contains the House provision amended to provide that the Secretary may not approve a grant for any year after the first year a grant is made to a recipient unless the Secretary determines that (1) additional funds are required to assist in the development of the strategy, action program, and, to the extent necessary, the comprehensive plan or part thereof; and substantial progress has been made in the development and implementation of the strategy. To assist the Secretary in making such determinations, the applicant is required to submit to the Secretary such information as the Secretary may require, including the required performance report, except that at least triennially the Secretary shall require the applicant to submit a detailed evaluation of the progress it has made during the preceding three-year period toward the development of such strategy and its implementation.

APO ADMINISTRATION

The House amendment contained a provision that authorized, subject to Secretary's approval, states to delegate to APO's the administration of assistance provided to local governments, counties, or adjacent governments, with the proviso that the responsibility for meeting the section 701 requirements and other laws remains with the states. The Senate bill contained a similar provision, except that it did not specifically require Secretarial approval of such administration and limited APO administration of grants only to those provided to units of general local government through the state. The conference report contains the House provision.

TECHNICAL ASSISTANCE

The House amendment authorized the Secretary by grant, contract or otherwise to provide direct technical assistance to recipients to assist them to carry out purposes of section 701. The Senate bill contained a similar provision, except it also authorized the Secretary to make studies and publish information directly related to furthering the purposes of section 701. The conference report contains the House provision.

The House amendment required the Secretary (or the state in the case of assistance provided through the state) to give funding preference to APOs that provide for voting rights weighted in proportion to the population of the areas represented by their members; and permitted the Secretary to provide additional funds for APOs so organized. The Senate bill contained a similar provision except that it provided discretionary authority to the Secretary (or state) in giving such funding preference and in granting such additional funding. The conference report contains the House provision.

EVALUATION OF APPLICATIONS

The Senate bill contained a provision requiring that the Secretary shall establish criteria for evaluation and approval of strategy statements and of applications for grants (including grants to be administered through states) and for the awarding of grants. Among other things, such criteria had to take into account the degree to which a strategy statement submitted for approval furthers attainment of the national policy objectives and can be used in connection with decisionmaking by federal agencies, the states and local governments; the extent to which an action program will make significant progress in implementing the strategy statement and the national policy objectives; the extent to which the strategy statement and action program respond to concerns expressed in comments received by the recipient particularly from distressed communities; and the extent to which grantees have demonstrated progress in carrying out assisted activities. The House amendment required only that the Secretary by regulation establish criteria for the evaluation and approval of applications. The conference report contains the House provision.

PERFORMANCE REPORTS

The Senate bill contained a provision requiring the submission of a performance report for each year in which assisted activities (with the exception of technical assistance) are being carried out, by each recipient of direct assistance from the Secretary. The House amendment contained a similar provision but did not exclude technical assistance activities from the reporting requirement. The conference report contains the House provision.

Approval of strategy statements

The Senate bill contained a provision that was not contained in the House amendment which authorized the Secretary to approve a state or APO strategy statement without being subject to the application requirements. The Secretary was also authorized, with state or APO's consent, to approve a strategy statement submitted in connection with a funding application, notwithstanding disapproval of the funding request. In either instance, the strategy statement was required to meet applicable comment and citizen participation requirements and application and review requirements. The conference report does not contain this provision.

USE OF PLANS AND STRATEGIES

HUD

The House amendment contained a provision which required the Secretary to utilize, to the maximum extent practicable, the plans and strategies approved by the Secretary under section 701 to guide policy and funding decisions with respect to HUD program activities affecting the geographical areas covered by such plans. The Senate bill contained a provision that was similar, except that it required the Secretary to utilize to the maximum extent feasible only the strategy statements approved by the Secretary to guide policy and funding decisions which affect geographical areas covered by the strategy statements. The conference report contains the House provision.

Other Federal agencies

The House amendment contained a provision that required the Secretary to encourage other federal departments and agencies to make use of plans and strategy statements approved by the Secretary, to the maximum extent practicable, to guide policy and funding decisions with respect to their programs and activities affecting geographical areas covered by such statement. It further required the Secretary to encourage other departments and agencies, consistent with their program authority, to adopt approved plans as all or part of the planning requirements of such departments and agencies. The Senate bill contained a provision that was similar, except that it only encouraged the Secretary to work with other appropriate federal departments and agencies in order to develop standards and criteria for review and approval of only strategy statements for use on an interagency basis; to encourage use of such statements, consistent with such department's or agency's program authority, as all or part of their planning requirements; and to undertake cooperative efforts for the development of state and areawide strategy statements which can be utilized by other federal departments and agencies in their program decisionmaking. The conference report contains the House provision with an amendment deleting the term "strategy statements" and inserting the term "strategies" in its place.

Report to Congress

The House amendment contained a provision that was not contained in the Senate bill which required the Secretary to report to the Congress no later than January 15, 1984, and no later than January 15 of every third year thereafter, concerning the progress made in encouraging other federal departments and agencies to use approved plans and strategy statements. The conference report contains the House provision amended to refer to "strategies" in place of "strategy statements".

TERMS OF PLANS AND STRATEGIES

The House amendment contained a provision which stated that a plan and strategy statement approved by the Secretary shall remain in effect for a maximum of three years following the date of its approval. Any extension beyond three years, or any major modification during a statement's term, was required (1) to meet all the requirements of section 701, and (2) to have Secretarial approval. In addition, it required that modifications be submitted to the Secretary prior to incorporation into the plan or strategy statement. The Senate bill contained a similar provision, except that the term and requirements for modifications applied solely to the strategy statement and required that modifications meet the comment, citizen participation, application and review requirements applicable to strategy statements. The conference report contains the House provision amended to refer to strategies in place of strategy statements.

AUTHORIZATION

Level

The Senate bill contained a provision that included a three-year authorization for appropriation for each of the fiscal years 1981–1983 of not to exceed $40 million. The House amendment provided a one-year authorization for fiscal year 1981 of not to exceed $35 million. The conference report contains the Senate provision with an amendment which provides that there is authorized to be appropriated an amount not to exceed $40,000,000 for the fiscal year 1981, and not to exceed $40,000,000 for the fiscal year 1982 and that any amounts appropriate shall remain available until expended.

EFFECTIVE DATE

The Senate bill provided that amendments in title IV shall become effective on the effective date of regulations implementing such amendments, but in no case later than 270 days following the date of enactment of the Act. The House amendment provided that the effective date of title IV would be October 1, 1980, the same as that of the entire Act. The conference report contains the Senate provision with an amendment which provides that title IV of this Act shall become effective on the effective date of regulations implementing section 401 of this title, but in no event later than May 1, 1981.

TITLE V—RURAL HOUSING

INDIVIDUAL PROGRAM AUTHORIZATIONS

Guaranteed and insured loans

The Senate bill contained a provision to authorize, subject to limitation by appropriation Acts, the Secretary to insure or guarantee loans with an aggregate principal amount of not to exceed $3,772,600,000 for Fiscal Year 1981. The House amendment contained a provision to authorize, subject to limitation by appropriation Acts, the Secretary to insure or guarantee loans with an aggregate principal amount of not to exceed $3,797,600,000 for Fiscal Year 1981. The conference report adopts the House provision.

Sec. 504 repair loans and grants

The Senate bill contained a provision to authorize an appropriation of not to exceed $50,000,000 for Fiscal Year 1981, without stipulation as to loans or grants. The House amendment contained a provision to authorize an appropriation of not to exceed $49,000,000 for Fiscal Year 1981, of which not more than $25 million be available for grants. The conference report contains the House provision.

Technical assistance and counseling

The Senate bill contained a provision to authorize to be appropriated for Fiscal Year 1981 not to exceed $2 million for technical assistance and counseling pursuant to sec. 525(a). The House amendment contained a provision that authorized to be appropriated for Fiscal Year 1981 not to exceed $1.5 million, of which not less than $750,000 shall be for counseling purchasers and delinquent borrowers. The conferees are concerned about the high level of delinquent loans in the self-help land acquisition and site development loan program. The Secretary is directed to exercise the utmost caution in administering the loans made through this program to limit future delinquencies and to cure those that are outstanding. Clearly, in establishing these loans and subsequently revising FmHA's authority to create a revolving loan fund for this program, the Congress expects that these loans will be fully repaid except for unusual circumstances. In this respect, the conferees expect that the level of delinquencies in this program will be reduced to within more acceptable limits. The conference report contains the Senate provision with an amendment providing not to exceed $2 million for technical assistance and counseling, of which not less than $1 million must be used for counseling FmHA purchasers and delinquent borrowers.

Construction defects

The House amendment contained provisions not included in the Senate bill to authorize to be appropriated not to exceed $5 million for Fiscal Year 1981 for payments made to FmHA borrowers for correction of structural defects pursuant to sec. 509(c) of the Housing Act of 1949; and to delete the provision in existing law which permits construction defects payments to be drawn from RHIF to conform existing law with provision subjecting construction defects payments to the full appropriations process. The conference report does not include these provisions.

Self-help housing

Authorization—The Senate bill included a provision authorizing to be appropriated for Fiscal Year 1981 not to exceed $4 million for loans for land acquisition and development for self-help housing pursuant to sec. 523(g) of the Housing Act of 1949. The House amendment contained a similar provision, except that it authorized not to exceed $1 million for Fiscal Year 1981. The conference report contains the House provision with an amendment to provide an authorization level of not to exceed $2.5 million for fiscal year 1981.

Revolving loan fund—The House amendment but not the Senate bill included a provision to delete the provision in existing law which permits amounts authorized but not appropriated for the Self-Help Land Development Fund in any fiscal year to be appropriated in succeeding fiscal years; and provides that the amounts appropriated for Fiscal Year 1981, together with payments collected from loans made with prior appropriations shall be deposited in the revolving Self-Help Land Development Fund. The conference report contains this provision.

Rental assistance payments

The Senate bill contained a provision to provide that, to the extent approved in appropriation Acts, the Secretary may enter into rental assistance contracts in an aggregate amount of not more than $518 million for Fiscal Year 1981. The House amendment contained a similar provision, except that it provided that the amount of contracts may not exceed $493 million for Fiscal Year 1981. The conference report contains the House provision.

DEFINITIONS

The House amendment contained provisions not included in the Senate bill to define (1) the term "Indian tribe" to mean any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512); (2) the term "rural resident", for the purposes of title V of the Housing Act of 1949, to include a family or a person who is a renter of a dwelling unit in a rural area; and (3) the term "adequate dwelling", for the purposes of title V of the Housing Act of 1949, to mean a decent, safe and sanitary dwelling unit. The conference report contains these provisions.

The conferees have acted to clarify the term "rural resident" where it is contained in title V of the Housing Act of 1949, as amended. The conferees wish to make clear that the Congress intends that the term "rural resident" includes persons and families who are renters, in addition to homeowners, and tenants with long-term leases. This action is taken by the conferees to remove an ambiguity with respect to which rural residents may be eligible for Farmers Home Administration (FmHA) homeownership assistance pursuant to the eligibility requirements of section 502 of the Housing Act of 1949 as are presently set forth in regulations. The conferees are aware that there has been concern about such ambiguity and that legislation will clarify the Secretary's authority to assist renters who are otherwise eligible under such regulations.

ASSISTANCE TO INDIANS AND ALASKAN NATIVES: ELIGIBILITY

The House amendment included a provision not contained in the Senate bill to provide that (1) for the purpose of determmining eligibility for FmHA assistance the term "residents" also includes persons who reside in reservations or villages of Indian Tribes; (2) insured domestic farm labor loans may be made to Indian Tribes; (3) sec. 515 rural rental and cooperative loans may be made to Indian Tribes; (4) Indian Tribes may be eligible for domestic farm labor housing grants; (5) that Indian Tribes may be eligible for mutual and self-help housing assistance; (6) sec. 524 site loans for low and moderate income housing may be made to Indian Tribes; (7) that Indian Tribes are eligible for sec. 525 technical assistance and counseling grants; and (8) Indian Tribes be included under the general eligibility authority provisions in sec. 501(c). The conference report contains these provisions.

ENERGY CONSERVATION STANDARDS

Included in the House amendment but not in the Senate bill was a provision providing that properties which the Secretary may sell or otherwise dispose of shall meet, in addition to other standards as prescribed, cost effective energy conservation standards applicable to those included in the weatherization program pursuant to sec. 504(c). The conference report contains this provision with an amendment to delete the reference to sec. 504(c) and to insert in lieu thereof a reference to such standards as have been established pursuant to sec. 509(a). In implementing the requirement on the Secretary to apply FmHA's cost effective energy conservation standards on housing acquired and sold by FmHA, the conferees expect that the Secretary will not apply such standards to housing which will not be used for residential purposes after disposition.

CONDITIONS ON RENT INCREASES IN SECS. 514, 515 AND 517 PROJECTS

The House amendment contained a provision not contained in the Senate bill providing that the Secretary may not approve rental increases in rental projects under secs. 514, 515, and 517 for low and moderate income persons unless the project is receiving, or (within 180 days of the effective date of the requested increase) the project owner has applied for FmHA rental assistance or sec. 8 housing assistance. The conference report contains this provision with an amendment that restricts the limitation on rental increases only to units in which the tenants are paying in excess of 25 percent of income.

SUBSEQUENT LOANS IN ELIGIBLE AREAS

The House amendment contained a provision not contained in the Senate bill providing authority for the Secretary to make subsequent loans to permit necessary dwelling repairs and rehabilitation to properties that have FmHA loans but which are located in areas that no longer meet the rural area definition and therefore are no longer otherwise eligible for rural housing assistance. The conference report contains the House provision.

GUARANTEED LOANS

The House amendment included a provision not included in the Senate bill which provided that moderate (as well as above moderate) income persons are eligible for FmHA loan guarantees. The conference report contains the House provision. In providing that moderate income families are eligible for Farmers Home Administration loan guarantees, the conferees wish to make clear that the Congress intends that such guarantees be restricted solely to those units occupied by moderate income persons or families that are not receiving federal housing subsidies. The conferees also wish to make clear that they intend that the Secretary shall expeditiously implement the Farmers Home Administration loan guarantee program for both moderate and above-moderate income families in an effort to meet the housing finance needs of such families at a minimal cost to the federal government.

DISPLACEMENT

The Senate bill included a provision not contained in the House amendment which provided that FmHA housing assistance programs shall avoid the displacement of families and businesses; and where the Secretary determines that involuntary displacement is unavoidable, he shall take all reasonable steps to assure that adequate replacement housing and relocation services and assistance are available (as provided by law). The conference report contains the Senate provision with an amendment deleting the provision requiring the Secretary to assure that adequate replacement housing and relocation services and assistance are available.

STUDY

The House amendment but not the Senate bill provided that the Secretary shall study the legislative and administrative changes required (1) to conform FmHA reporting budget and accounting information with the Presidential Commission on Budget Concepts; (2) to reflect fully in the Federal Budget FmHA's budget authority and outlays; (3) to make FmHA debt transaction recording procedures consistent with current OMB policies; and (4) to simplify FmHA authorities pursuant to title V of the Housing Act of 1949. In carrying out the study, the Secretary is required to consult with the appropriate Congressional committees, the OMB and the Comptroller General and to report to the Congress prior to the date that the Fiscal Year 1982 Budget is submitted to the Congress. The conference report contains in the House provision.

The conferees are aware that the Comptroller General, Congressional committees and the Office of Management and Budget have been seriously concerned about the way that the Farmers Home Administration's revolving funds (financed largely through the sale of Certificate of Beneficial Ownership (CBO)) have been accounted for in the federal budget process. Essentially, the sales of CBOs have been treated as a sale of assets rather than as other federal borrowing transactions are treated for budgeting purposes. The conferees are also aware that existing law mandates the sale of CBOs by the Federal Financing Bank as asset sales instead of debt installments. The budgetary consequences of such practice are of serious concern to the conferees as it results in gross misrepresentations of aggregate federal government outlays. The conferees believe that FmHA loan transactions should be brought on-budget and, therefore, support the Report of the Comptroller General. The conferees, therefore, require a study of this issue.

The study should also include related elements that may be expected to be affected by changing the practices of recording CBO sale transactions, particularly with respect to the Rural Housing Insurance Fund (RHIF) and the housing assistance programs financed through the Fund. The conferees wish to make clear that they intend that the Secretary of Agriculture shall finance the cost of the study from sources other than from the RHIF or those appropriated and allocated to the FmHA for program activities and administration. FmHA is already overburdened and should not bear the responsibility of undertaking the cost of this study.

AUTHORITY TO ADMINISTER HUD INSURANCE PROGRAMS

The House amendment included a provision not included in the Senate bill which provided (1) authority to Secretary of Agriculture to administer FHA 203 (b) or (i) insurance programs in any rural area, subject to the HUD Secretary's delegation; and (2) authority to the HUD Secretary to delegate to the Secretary of Agriculture the authority to carry out any mortgage insurance program pursuant to sec. 203 (b) and (i). The conference report does not contain this provision.

REPEAL OF CONDITIONS ON THE PREPAYMENT OF SEC. 514 AND SEC. 515 LOANS

The House amendment contained a provision not contained in the Senate bill to repeal the limitations under existing law on the authority of the Secretary of Agriculture to accept prepayment offers from owners of secs. 514 and 515 rural rental projects for low and moderate income and elderly families financed by FmHA under contracts entered into prior to December 21, 1979.

The conference report contains the House provision with an amendment. The amendment provides (1) that in the case of loans prepaid or refinanced on or after the date of enactment of the 1980 Act and which loans were made or insured pursuant to a contract entered into before December 21, 1979, the Secretary shall provide any tenants displaced as a result of the prepayment or refinancing a priority for relocation in alternative FmHA assisted housing; and (2) that the Secretary shall conduct a study and report to the Congress, not later than six months after the date of enactment of the Act, any adverse effects that may result from the action repealing the prepayment and refinancing conditions on housing, particularly with respect to the elderly and the low-income persons.

The conferees are aware that the provision of alternate housing through the Farmers Home Administration may not be sufficient to insure that their intent will be carried out in cases where the Farmers Home rental project being prepaid is the only project in the area. The conferees, therefore, direct that in such cases the Secretary of the Department of Housing and Urban Development, can utilize his existing authority with respect to housing displaced persons, to give priority to persons displaced from a Farmers Home project that is prepaid in any HUD-assisted projects in such an area or in a nearby area. In any event, this should not delay the expeditious processing of the prepayment offer by the Farmers Home Administration.

In the report to the Congress concerning displacement that may occur as a result of prepayment, the conferees expect the Secretary to include, to the extent practicable, relevant information concerning the projected incidence of prepayment; the estimated costs of replacing the units in projects that are prepaid; the estimated number of persons and families that will be affected as a result of such prepayment; the estimated costs that would be involved in relocating households that might be displaced and their ability to afford all or part of the expense of relocation; and, to the extent that any problems are identified, the Secretary shall be expected to include alternative methods for their resolution including, where necessary, recommendations for appropriate legislation.

The conferees recognize that many states and localities have laws requiring prior notice to tenants occupying units that are subject to a change in tenancy. The conferees, however, intend that the Secretary will take reasonable measures to assure all tenants in sections 514 and 515 projects be reasonably notified at the time that the owner submits an offer to prepay or refinance the FmHA loan. Upon approval by FmHA of such an offer the conferees expect that owners will adequately notify all the tenants in the project of such approval and provide them with a reasonable indication of the future disposition of their units.

TITLE VI—CONDOMINIUMS AND COOPERATIVES

The Senate bill contained a title which was not included in the House amendment and which dealt primarily with condominium and cooperative conversions and with unconscionable leases associated with condominium and cooperative projects. The conference report contains the Senate provisions with several amendments.

TITLE

The Senate bill provided that this title shall be cited as the "Condominium and Cooperative Conversion Protection and Abuse Relief Act of 1980."

The conference report provides that the title shall be cited as the "Condominium and Cooperative Abuse Relief Act of 1980."

FINDINGS

The Senate bill established Congressional findings that there is a shortage of adequate and affordable multifamily housing throughout the Nation; the utilization of condominium and cooperative forms of ownership can preserve and increase the supply of such housing and expand opportunities for homeownership, particularly for low- and moderate-income and elderly persons and families; the number of conversions of rental housing to condominiums and cooperatives is accelerating, and is a significant contributing factor to the national shortage of such units, which is restricting the shelter options of low- and moderate-income and elderly persons and families, and can be subject to abuse in the context of this national shortage of adequate and affordable multifamily housing; there is a federal involvement with the multifamily and ownership housing markets through the operation of federal tax, housing, and community development laws, through the operation of federally chartered and insured financial institutions, and through other federal activities; that a portion of conversions of rental housing to condominiums and cooperatives is undertaken by business organizations operating on an interstate basis; and that it is a national priority to maintain adequate supplies of available and affordable rental and ownership housing; abuses have occurred in the cooperative and condominium industries through the use of unconscionable long-term leasing arrangements for recreation and other condominium or cooperative-related facilities; that state governments are unable to provide adequate relief; that these abuses have caused economic and social hardships for cooperative and condominium owners, which threaten the continued use and acceptability of these forms of ownership and which interfere with the interstate sale of cooperatives and condominiums; and that adequate relief from these abuses requires federal action.

The conference report includes those findings amended to (1) emphasize that a shortage of adequate and affordable housing particularly affects low- and moderate-income, elderly and handicapped persons; (2) delete the finding regarding the use of condominiums and cooperatives to expand homeownership activities; (3) modify the finding regarding the acceleration of condominium and cooperative conversions to clarify that this may restrict the shelter options of low- and moderate-income and elderly and handicapped persons in some communities; (4) modify the finding regarding federal involvement with housing markets through tax laws, federally chartered and insured financial institutions to focus on the cooperative and condominium housing market; (5) delete the finding regarding a national priority to maintain affordable housing, especially for low- and moderate-income and elderly and handicapped persons; (6) replace the finding regarding abuses in cooperative and condominium industries with a finding that certain long-term leases (including recreational leases) which have been used in the formation of the cooperatives and condominium may be unconscionable; state governments are unable to provide appropriate relief in certain situations; as a result of these leases, economic and social hardships may have been imposed upon cooperative and condominium owners which may threaten the use of these ownership forms and interfere with the interstate sale of such; and federal action is required to provide appropriate relief.

PURPOSE

The Senate bill established that the purposes of this title are to provide minimum rights and disclosure of information to the tenants of rental properties undergoing conversion to condominium or cooperative projects and to organizations representing such tenants, and to correct and prevent continuing abusive use of long-term leasing of recreation and other cooperative and condominium related facilities.

The conference report contains this provision amended to (1) state the purposes are to seek to minimize the adverse impacts of condominium and cooperative conversions, particularly on the housing opportunities of low- and moderate-income, elderly and handicapped persons, to assure fair and equitable principles are followed in the establishment of condominium and cooperative housing projects, and to provide appropriate relief where long-term leases are found to be unconscionable; and (2) add a new section which establishes a sense of the Congress that lending by federally insured institutions for the conversion of rental housing to condominium and cooperative housing should be discouraged where there are adverse impacts on the housing opportunities of the low- and moderate-income and elderly and handicapped tenants involved.

DEFINITIONS

The Senate bill contained definitions for the following terms: "affiliate of the developer," "agent," "automatic rent increase clause," "common elements," "condominium association," "condominium project," "condominium unit," "convey or conveyance," "cooperative association," "cooperative parcel," "cooperative project," "cooperative property," "cooperative unit," "'cooperative unit owner," "cooperative unit owners' association," "developer," "ground lease," "interstate commerce," "lease," "leasehold condominium," "leasehold cooperative project," "offer," "person," "purchaser," "real estate," "sale," "special developer control," "state," "conversion project," "tenant," "tenants' organization," "rental housing project," and "residential."

The conference report contains the Senate provision amended (1) to delete the definitions of the terms "agent," "conveyance," "cooperative parcel," "ground lease," "leasehold cooperative project," "leasehold condominium project," "offer," and "rental housing project," and (2) to modify several terms including: "affiliate of developer" to change "employee" to "employer" wherever it appears; "automatic rent increase clause" to clarify that the fee increases at the rate of an economic, commodity or consumer price index or at a percentage rate such that the actual increases over the lease term cannot be established with specificity at the time the lease is entered into; "common elements" to clarify that the units referred to are designated for separate ownership or for exclusive possession or use; "condominium project" and "cooperative project" to clarify that the real estate must have 5 or more residential units in each residential structure and the units (in the case of a condominium) or the interests (in the case of a cooperative) must be offered for sale in interstate commerce; "conversion project" to mean a project which has 5 or more residential units, which was used primarily for residential rental purposes immediately prior to being converted to a condominium or cooperative project; "cooperative parcel" to delete this definition and to include the principles of this definition in the definition of "cooperative project"; "cooperative project" to replace the words "lands, leaseholds" with the term "real estate"; "developer" to clarify that a successor of a developer who maintains sales offices, management offices and rental offices is a developer only if he also has the right to add, convert or withdraw real estate from the project; "lease" to clarify that a lease, in addition to rights to use or possess real estate or personal property, may include the right to receive services with respect to such real estate or property, but a lease does not include mortgages or other purchase agreements; "residential" means used as a dwelling; and "tenants organization" to mean a bona fide organization of individuals who represent a majority of the occupied rental units in a rental housing project.

EXEMPTIONS

The Senate bill provided that the provisions dealing with fraudulent acts by developer, standards for consumer protection, disclosure of certain information by the developer, and termination of self-dealing contracts shall apply only to conversion projects. It also exempted from the provisions of the title a cooperative or condominium unit sold or offered for sale by federal, state or local government, by any corporate instrumentality of the United States, or by any agency thereof, or a cooperative or condominium project in which all units are restricted to nonresidential purposes or uses.

The conference report includes the Senate provision amended to delete the references to conversion projects and to sections applicable to conversion projects and to add to those categories that are exempt from the act two kinds of leases or portions of leases: (1) a lease which establishes a leasehold or other estate in, over or under land on or in which one or more residential condominium or cooperative unit is located, the termination of which will terminate the condominium or cooperative project, or reduce the number of units in such projects, or (2) a lease which establishes a leasehold interest in, or other rights, to use, possess or gain access to condominium or cooperative unit.

PROHIBITIONS

Fraudulent acts

The Senate bill contained a provision making it unlawful for any developer or agent, in selling or offering to sell to a tenant any condominium or cooperative unit in any conversion project: (1) to employ any device, scheme or artifice to defraud, (2) to obtain money or property by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading; or (3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser. The conference report does not contain this provision.

Legal fees

The Senate bill also contained a provision establishing that any provision in a lease or management agreement, entered into after this title's enactment date, requiring unit owners or the owners' association in any conversion project subject to this title's provisions to reimburse, regardless of the outcome, the developer, his successor, or affiliate of the developer for attorney's fees or money judgments, in a suit between the unit owners or their association and the developer arising under the lease or agreement is against public policy and void. The conference report contains this provision amended to clarify that the provision applies to condominium or cooperative conversion projects created after the date of enactment of the title which involve self-dealing contracts meeting the requirement of the statute, and to condominium and cooperative projects meeting the requirements necessary to file suit under this title on the basis of unconscionable leases.

STANDARDS FOR CONSUMER PROTECTION IN CONVERSION PROJECTS: WARRANTIES, NOTIFICATION, RIGHT OF PURCHASE

The Senate bill contained several provisions establishing standards for a developer, with respect to tenants in a conversion project subject to this title. These included requirements that (1) the developer shall warrant and guarantee against defects any repair, addition, or improvement made by the developer or an affiliate of the developer to the plumbing, electrical, mechanical, structural or other components constituting any of the unit or common elements; the developer shall assure that subcontractors providing such components are also liable to fulfill warranties and guarantees under the terms of this section; and that the warranties and guarantees shall (A) with respect to a unit, have a duration of at least one year from date of conveyance of that unit by a developer to a bona fide purchaser, if such conveyance occurs within two years of the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, and (B) with respect to common elements, be for at least one year from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later and such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person or as otherwise provided by law.

The Senate bill provided that (2) the developer shall give to each of the tenants and any of the subtenants notice of intent to convert no later than 120 days before the developer will require them to vacate; the notice shall set forth clearly and conspicuously the rights of tenants and subtenants under this section, and must be hand-delivered or mailed prepaid to the tenant and subtenant at the address of the unit or other mailing address provided by a tenant; no tenant or subtenant may be required to vacate upon less than 120 days' notice, except for nonpayment of rent, waste, or conduct disturbing other tenants' peaceful enjoyment of premises, and the terms of the tenancy may be altered during that period, and failure to give notice as described above constitutes a defense to an action for possession; and nothing in this provision permits termination of a lease by a developer in violation of its terms.

(3) The Senate bill also provided that the developer shall, for 90 days after delivery or mailing of the required notice of intent to convert, offer to convey each unit or proposed unit occupied for residential use to the tenant who leases or occupies that unit; if a tenant fails to purchase the unit during that 90-day period, the developer may not offer to convey an interest in that unit during the following 30 days at a price or on terms more

favorable than the price or terms offered to the tenant, but that this provision does not apply to any unit in a conversion project if that unit will be restricted exclusively to non-residential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

The Senate bill also provided that this section shall not apply to a conversion project to which the developer has acquired legal title prior to the effective date of this title.

The Senate bill also contained a provision requiring that in the case of a conversion project (1) the developer shall provide information to the project tenants not later than 6 weeks after delivery or mailing a required notice of intent to convert, including a report, or a statement by the developer based on the report, prepared by an independent licensed architect or engineer, describing the present condition of all structural components and mechanical and utility installations material to the use and enjoyment of the conversion project; a statement by the developer of the expected useful life of such items or a statement that no representations are made in this regard; and a list of any outstanding notices of uncured violations of building codes with a good faith estimate of the cost of curing those violations; (2) a tenants' organization shall have the right to have the intended conversion project inspected by another licensed architect or engineer who would report on the present condition of all structural components and mechanical and utility installations which are material to the use and enjoyment of such project; (3) the developer, at the time of conveyance to a tenant, shall disclose to the tenant any material change in the information previously furnished; (4) provides that all information required by this section be in writing and fully, accurately, and simply stated. However, it provided that this section shall not apply to: (1) a conversion project to which the developer has acquired legal title prior to the effective date of this title; or (2) a condominium or cooperative unit restricted to commercial or industrial purposes.

The conference report does not include these provisions, but contains a substitute provision stating that it is the sense of the Congress, that when multifamily rental housing projects are converted to condominium or cooperative use, tenants in those projects are entitled to adequate notice of the pending conversion and to receive first opportunity to purchase units in the converted project and that States and local governments which have not already provided for such notice and opportunity for purchase should move towards that end. It provides that the Congress believes it is the responsibility of State and local governments to provide for such notice and opportunity to purchase in a prompt manner. It also provides that the Congress has decided not to intervene, and therefore leaves this responsibility to the State and local governments to be carried out.

By not including the Senate provision requiring that developers in a conversion project provide tenants with notice and an opportunity to purchase the unit, the conferees are not rejecting the principles of notice and opportunity to purchase. While the conferees are concerned that these opportunities be provided tenants, they believe this matter is more appropriately addressed at the State and local government level. The conferees do not intend that the expression of concern in this section be construed as authorizing any federal department, agency or other entity to take any action in this regard.

STATE AND LOCAL JURISDICTION

The Senate bill contained a provision stating that nothing in this title may be construed to prevent or limit the authority of any state or local government to enact and enforce any law, ordinance, or code with regard to any condominium, cooperative, or conversion project, if such law, ordinance, or code does not abridge, deny, or contravene any standard for consumer protection or disclosure established under this title. Notwithstanding the preceding sentence, the provisions of this title (except for the applicable provisions dealing with unconscionable leases entered into prior to the date of enactment of this title), shall not apply in the case of any state or local government which has the authority to enact and enforce such a law, ordinance, or code, if, during the three-year period following the date of enactment of this title, the state or local government enacts a law, ordinance, or code, or amendments thereto, stating in substance that such provisions of this title will not apply in that state or local government jurisdiction. The conference report contains the Senate provision amended to delete the references to disclosure and to leases entered into prior to the date of enactment. The provisions dealing with unconscionability only apply to leases entered into prior to June 4, 1975.

OPTIONAL TERMINATION OF SELF-DEALING CONTRACTS

The Senate bill provided that any contract which is entered into after the effective date of the title, and which (1) provides for operation, maintenance, or management of a condominium, or cooperative association in a conversion project, or of property serving the condominium or cooperative unit owners; (2) is between such unit owners or such association and the developer or an affiliate of the developer; (3) was entered into while such association was controlled by the developer through special developer control or because the developer holds a majority of the votes in such association; and (4) is for a period of more than two years, may be terminated without penalty by such unit owners or such association. It provided that the termination may occur at any time following termination of special developer control or when the developer ceases to hold a majority of the votes in such association; and a termination under this section shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer; and that following the unit owners' vote, the termination would be effective ninety days after hand delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

The conference report contains the Senate provision amended to clarify that this provision applies to contracts or portions of contracts relating to the operation, maintenance or management of a conversion project or of property serving the owners in such project, and such contract, including any automatic renewal provisions exercisable at the sole option of the developer or his affiliate, is for a period of more than 3 years. In addition, termination may occur at any time within the 2-year period beginning on the date on which special developer control is terminated or the developer owns 25 percent or less of the units in a conversion project, whichever occurs first.

CIVIL ACTIONS FOR UNCONSCIONABLE LEASES

Cause of action for unconscionability

The Senate bill provided that cooperative and condominum unit owners may bring an action seeking a judicial determination that a lease or leases, or portions thereof, whether or not the lease or leases are net or gross, are unconscionable if each lease has all the following characteristics: it was made in connection with a cooperative or condominium project; it was entered into while the cooperative or condominium owners' association is controlled by the developer through special developer control or because the developer holds a majority of the votes in the owners' association; it had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project; it is for a period of more than 21 years or is for a period of less than 21 years but contains automatic renewal provisions for a period of more than 21 years; and it contains an automatic rent increase clause. It provided that such action must be authorized by the cooperative or condominium unit owners through a vote of not less than two-thirds of the owners of the units other than units owned by the developer, or an affiliate of the developer, and may be brought by the cooperative or condominium unit owners as a group or through the unit owners' association.

The conference report contains the Senate provision amended to (1) delete the reference to "net or gross" lease; (2) clarify that the determination sought is whether the leases or the portions thereof were unconscionable at the time they were made; (3) add to the requirements necessary in order to bring an action, the requirement that the lease was entered into prior to June 4, 1975; (4) provide that the vote authorizing the suit must be a vote of not less than two-thirds of all the unit owners disregarding the units owned by the developer or an affiliate of the developer; (5) provide that the suit may only be brought through the condominium or cooperative owners' association; and (6) provide that prior to instituting such action, the cooperative or condominium owners, through a similar two-thirds vote, must agree to enter into negotiations with the lessor and must seek through such negotiations to eliminate or modify any lease terms that are alleged to be unconscionable; and if an agreement is not reached in 90 days from the date on which the authorizing vote was taken, the unit owners may authorize a suit as previously described. The conferees intend that even though the leaseholder has refused to enter into negotiations and no meetings have been held, the unit owners may vote to file suit after 90 days of attempting to reach a mutually acceptable resolution if a good faith effort has been made to engage the leaseholder in negotiations.

Considerations

The Senate bill contained a separate provision requiring that in making its determination in an action as to whether a lease is unconscionable, the court shall consider, but not be limited to: (1) any gross disparity between the obligation incurred and the value of the benefit derived by the lessees, including consideration of (A) the obligations to pay rent, taxes, and insurance, and to maintain, repair, and replace the property; (B) the value of the leased property; (C) the price at which comparable property could have been acquired; and (D) the developer's or lessor's rate of return on investment in the leased property and in the cooperative or condominium project as a whole including in particular, the degree to which the developer's or lessor's profit in the project as a whole is derived from such lease, the degree to which such financial design permitted the marketing of units in the project by the developer at substantially lower prices than would otherwise have been possible.

and the reasonableness of the total rate of return on such project as of the time of filing of a suit under this section; (2) the unequal bargaining position of the parties to the lease; (3) the adequacy of disclosure of the existence and terms of the lease to purchasers and the ability of purchasers to comprehend their rights and obligations thereunder; (4) the identity of interest, if any, of original parties to the lease; and (5) subsequent ratification or amendment to the lease agreed to by a majority of the unit owners other than the developer or an affiliate of the developer.

The conference report contains a substitute provision which provides that whenever it is claimed, or appears to the court, that a lease or any portion thereof is or may have been unconscionable at the time it was made, the parties shall be afforded a reasonable opportunity to present evidence at least as to: (1) the commercial setting of the negotiations; (2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests; (3) the effect and purpose of the lease or portion thereof, including its relationship to other contracts between the association, the unit owners and the developer or an affiliate of the developer; and (4) the disparity between the amount charged under the lease and the value of the real estate subject to the lease measured by the price at which similar real estate was readily obtainable in similar transactions.

Presumption of unconscionability

The Senate bill provided that if it is established that, in addition to the characteristics required for bringing suit under this section, the lease creates a lien subjecting any unit to foreclosure for failure to make payments and contains provisions requiring the lessees to assume all or substantially all the obligations and liabilities associated with maintenance and use of the leased property, then the court in making its finding, shall consider the lease to be unconscionable, unless proven otherwise by a preponderance of the evidence to the contrary under the standards described in the subsection dealing with what the court must consider.

The conference report contains the Senate provision amended to: (1) clarify that the presumption is rebuttable; (2) clarify that the lease requires either the cooperative or condominium owners or the association to assume all or substantially all obligations and liabilities associated with the maintenance, management and use of the leased property, in addition to the obligation to make lease payments; and (3) add to the requirements for the presumption that the lease (a) contains an automatic rent increase clause providing that rent shall increase automatically at the same percentage rate as any commodity, economic or consumer price index, without establishing a specific maximum lease payment amount that cannot be exceeded during the lease term, and (b) requires an annual rental which exceeds 25 percent of the appraised value of the leased property as improved, provided that, for purposes of this paragraph "annual rental" means the amount due during the first 12 months of the lease for all units, regardless of whether such units were occupied or sold during that period, and "appraised value" means the appraised value placed upon the leased property the first tax year after the sale of a unit in the condominium or after the sale of a membership or share interest in the cooperative association.

Legal fees or money judgments

The Senate bill provided that any provision in any lease or management agreement requiring unit owners or the owners' association in any condominium or cooperative project subject to cause of action on the basis of unconscionability to reimburse, regardless of the outcome, the developer, his successor, or affiliate of the developer for attorney's fees or money judgments, in a suit between the unit owners or the owners' association and the developer arising under the lease or agreement, is against public policy and void. The conference report contains this provision, incorporated in the section dealing with prohibitions as described above.

Exemption from cause of action for unconscionability

The Senate bill provided that it is the express intent of Congress that the provisions of the section dealing with unconscionability shall apply to leases regardless of execution date, except that the subsections concerning the presumption of unconscionability and the unenforceability of automatic rent increase clauses shall not apply to any ground lease entered into prior to the enactment of this title, or any ground lease which the lessor has entered into in an arms-length transaction with the developer, without there being an identity of interest between the lessor and the developer.

The conference report contains a substitute amendment to exempt from the provisions of the Act leases or portions of leases which (1) establish a leasehold or other estate in, over, or under land on or in which one or more residential condominium or cooperative unit is located, the termination of which will terminate the condominum or cooperative project, or reduce the number of units in such projects; or (2) establish a leasehold interest in, or other rights to use, possess or gain access to a condominium or cooperative unit.

Relief—The Senate bill contained a provision requiring upon finding any lease, or portion thereof, is unconscionable, the court shall exercise its authority to grant remedial relief as necessary to avoid an unconscionable result, taking into consideration the economic value of the lease. Such relief may include, but shall not be limited to rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the position taken by the plaintiff is not supported by this title or by a good faith argument for its extension, modification, or reversal, and is therefore frivolous, malicious, or lacking in substantial merit.

The conference report contains the Senate provision amended to clarify that a defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit. The conferees recognize that these transactions may be very complex and a determination of unconscionability will depend upon a review of the total transaction. The conferees have established four general areas of inquiry only to assist the court in examining these transactions and do not intend that it would be necessary for the court to find unconscionability existed in each of these areas in order to find that the lease or portion of the lease was unconscionable. The conferees expect that in fashioning an equitable remedy, taking into consideration the economic value of the lease, the court may vary the relief as appropriate to remedy inequities suffered by identifiable groups of unit owners, such as non-resident investor owners or owners who use their unit as a principal residence. It is also expected that if the court, pending the resolution of the case, permits the establishment of any escrow account, the court should assure that the arrangement is equitable to all parties.

Unenforceability of automatic rent increase clause

The Senate bill contained a provision stating that notwithstanding the provisions dealing with unconscionable leases, exercise of any automatic rent increase clause shall be unenforceable against cooperative or condominum unit owners or the respective owners' association as to future increases in rental payments occurring after the effective date of this title in a lease having all of the following characteristics: it contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property; it was entered into while the owners' association was controlled by the developer through special developer control or because the developer held a majority of votes in the owners' association; and it had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project. The conference report does not contain this provision.

Limitation on cause of action

The Senate bill contained a provision establishing that nothing in this section may be construed to authorize the bringing of an action by cooperative and condominium unit owners, seeking a judicial determination that a lease or leases, or portions thereof, are unconscionable, where such unit owners or a unit owners' association representing them has, prior to the date of enactment of this title, reached a binding legal agreement with a holder of such lease or leases setting forth the terms and conditions under which such lease or leases is or shall be purchased by such unit owners or association.

The conference report contains this provision amended to clarify that the restriction is applied to purchase or "buy-out" agreements that were reached after the termination of special developer control and to agreements relating to the lease which reform any clause containing an automatic rent increase clause, unless such agreement was entered into when the leaseholder or his affiliate held a majority of the votes in the owners' association. The term "agreement" refers to a legally enforceable, negotiated agreement.

CIVIL ACTIONS: ADDITIONAL REMEDIES

Right to bring suit

The Senate bill provided that a developer, or agent or successor thereto subject to this title, may be sued at law or in equity by any person aggrieved by a violation of this title, except that a successor to a developer through foreclosure shall have no liability under the sections dealing with fraudulent acts by developer, standards for consumer protection, or disclosure of certain information by developer, for any violation which occurred prior to his succession to the interest.

The conference report contains a substitute provision which provides that unless limited as in the section regarding unconscionability and the section regarding self-dealing contracts, any person aggrieved by a violation of this title may sue at law or in equity.

Class action

The Senate bill provided that unless otherwise specified, actions authorized under this title may be brought by one or more purchasers in a condominium or cooperative project, or by a tenants' organization or owners' association in its own right or as representing all or part of the members of such organization or association. In a class action under this title brought by one or more tenants or unit owners as representative of other tenants or unit owners in a condominium, cooperative, conversion, or rental housing project, the complaint shall be verified and shall allege with particularity the efforts the plaintiff has made to have the tenants' or owners' association bring such action on behalf of all the tenants or unit owners. The class action may not be maintained if the plaintiff has failed to notify the officers of the organization or association of the intention to file the suit, or if such organization or association is seeking in a pending suit to enforce the rights alleged in the plaintiff's action. The conference report does not contain this provision.

Relief

The Senate bill provided that in any action authorized by this section for a violation of the sections dealing with fraudulent acts by developer, standards for consumer protection, or disclosure of certain information by developer, where actual damages have been suffered, such damages may be awarded or such other relief granted as deemed fair, just, and equitable. The court in awarding relief shall consider, but not be limited to, the contract price of the unit, the amount paid by the purchaser on the contract, the cost of any improvements or necessary repairs paid by the purchaser, the fair market value at the time of sale to the purchaser, the fair market value of the unit at the time the action was brought, and the fair market value of the unit at the time of judgment, as well as all tangible and intangible losses suffered individually and collectively by tenants as a result of violations of this title.

The conference report contains this provision amended to (1) limit the recovery for damages to actions permitted under this title involving the termination of self-dealing contracts or involving a lease or contract provision requiring the unit owners or associations to reimburse the developer for attorneys' fees or money judgments, regardless of the outcome of a suit between these parties, and (2) delete the specific considerations required by the court in awarding relief.

Standard of proof

The Senate bill contained a provision requiring that in any action alleging misrepresentations or omissions of disclosure requirements in violation of the sections dealing with fraudulent acts by the developer or disclosure of certain information by the developer, the plaintiff must prove that such sections were violated, that the misrepresentations were material and that the defendant acted intentionally or with gross negligence. The conference report does not contain this provision.

Liability

The Senate bill provided that every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been able to make the same payment. The conference report contains this provision.

Amounts recoverable

The Senate bill also provided that (1) the amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs, and (2) a defendant may recover reasonable attorneys' fees if the court determines that the position taken by the plaintiff is not supported by this title or by a good faith argument for its extension, modificaion, or reversal, and is therefore frivolous, malicious, or lacking in substantial merit.

The conference report contains this provision amended to clarify that a defendant may recover reasonable attorneys' fees if the court determines the cause of action filed by the plaintiff is frivolous, malicious or lacking in substantial merit.

JURISDICTION

The Senate bill provided that the district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction under this title and, concurrent with state courts, of actions at law or in equity brought under this title without regard to the amount in controversy; that any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, and process in such cases may be served in other districts where the defendant is an inhabitant or where the defendant may be found; and that no case arising under this title and brought in any state court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party. The conference report contains this provision amended to delete the reference to the district where the offer took place.

LIMITATION OF ACTIONS, WAIVERS, AND ADDITIONAL REMEDIES

The Senate bill provided that: (1) no action shall be maintained to enforce any right or liability created by this title unless brought within six years after such cause of action accrued, except that an action asserting unconscionability involving a lease in existence at the time of enactment must be brought within four years of enactment of this title; (2) any condition, stipulation, or provision binding any person to waive compliance with any provisions of this title shall be void; and (3) the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist under federal or state law. The conference report contains these provisions.

CONSUMER INFORMATION

The Senate bill contained a provision authorizing the HUD Secretary, by contract or otherwise, to undertake research, education, and technical assistance activities designed to inform, assist, and protect tenants and consumers in the purchase of condominium and cooperative units and projects, and in the management of such projects. The conference report does not contain this provision.

SEPARABILITY, FHA INSURANCE, AND EFFECTIVE DATE

The Senate bill contained provisions requiring that (1) if any provisions of this title or the application thereof to any person or circumstances is held invalid, the remainder of this title shall not be affected thereby; (2) where an application for mortgage or loan insurance in connection with a conversion or purchase of a rental housing project being undertaken by a tenants' organization is submitted, the Secretary shall expedite the processing of the application in every way and shall make a final decision on such application at the earliest practicable time; and (3) the provisions of this title shall become effective upon enactment, except that certain subsections dealing with a cause of action for unconscionability and the prospective unenforceability of automatic rent increases clauses shall become effective one year after enactment.

The conference report contains these provisions with an amendment which deletes the reference to the section dealing with the unenforceability of automatic rent increase clauses, and clarifies that the section dealing with unconscionability and the related prohibition against contract provisions requiring the payment of attorneys' fees regardless of the outcome of a suit become effective one year after the date of enactment. The conferees have delayed the effective date of certain provisions to provide an opportunity for good faith negotiation to be undertaken by the parties during the interim year. During this time, an owners' association may undertake the negotiations process described in section 609 of the the conference report, but if these negotiations are fruitless, suit may not be filed until after the effective date of that section.

Henry Reuss,
Thomas L. Ashley,
Fernand St Germain,
Walter E. Fauntroy,
Jerry M. Patterson,
Les AuCoin,
Stanley N. Lundine,
Mary Rose Oakar,
Bruce F. Vento,
Bill Stanton,
Chalmers Wylie,
Stewart B. McKinney,
Tom Evans,
Bill Green,
Managers on the Part of the House.
William Proxmire,
Harrison Williams,
Alan Cranston,
Managers on the Part of the Senate.

SENATE—*Monday, September 29, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

We thank Thee, O Lord, that in Thy divine plan 1 day in 7 is appointed for worship and rest. We rejoice that Thou dost meet us in the sanctuary of prayer and praise but we do not leave Thee there. Thou art ever faithful to Thy promise never to leave us nor forsake us. So in this our place of daily toil we consecrate ourselves to the ministry of public service. Watch over us in our coming in and our going out, in our speaking and in our acting, that we may bear the marks of the Master and be guided by His mind and His spirit, to the end that this Nation may ever remain under Thy rulership and we may show forth Thy love forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 29, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT, CONTINUING APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, let me ask the distinguished minority leader if it is his understanding that no other business will be in order until the final action is taken on the continuing resolution with respect to which an order was reached on last Friday.

Mr. BAKER. Mr. President, if the majority leader will yield to me, that clearly was my understanding of the colloquy we had on the floor on Friday, which formed the basis for his unanimous-consent request.

I am not prepared to say what the effect of that request was. But I am prepared to say that was my intention.

Mr. ROBERT C. BYRD. I think, if the minority leader has no objection, I would like to get the consent so it would be nailed down that that was the intent on both sides of the aisle, now that it has been clearly expressed by the minority leader. I would like to nail that down by request.

Mr. BAKER. If the majority leader will yield to me further, I certainly will not object to that when the majority leader makes the request.

As I said on Friday, and have said previously, I think it is urgently necessary that we finish the continuing resolution, and that was the basis on which I cleared that agreement on Friday with the Members of this side.

So if that is necessary to reinforce that understanding, I certainly will have no objection to it.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. President, I ask unanimous consent that no other business be in order by way of unanimous consent or motion until the Senate has acted on the passage of the continuing resolution today.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the majority leader.

THE GENOCIDE CONVENTION IS IN ACCORD WITH THE FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, I hope today to dissolve one of the erroneous criticisms made concerning the Genocide Convention. Critics assert that the treaty infringes upon the right to free speech, a right so cherished in this country as to be embodied in the first amendment of the Constitution.

Article III, section (c) of the Genocide Convention provides "direct and public incitement to commit genocide" shall be punishable. Opponents say that this clause suppresses the freedom of expression. However, these individuals overlook the fact that our common law would dictate the same. The right to free expression is not absolute. There are certain categories of words beyond the realm of protection. Words which incite lawlessness are one such category.

The U.S. Supreme Court has consistently distinguished between speech which merely advocates lawless activity and speech which incites lawless activity. The former is protected while the latter is not. If the United States were to become a party to the Genocide Convention, genocide would become a "lawless activity." The treaty has merely incorporated our commen law into its text.

The 1969 decision, Bradenburg against Ohio, reiterated the principle that the constitutional guarantees of free speech and free press do not permit the State to forbid advocacy of, for example, the use of violence, unless the advocacy is directed to inciting or producing lawless action, and is likely to produce such action. The Brandenburg court drew a distinction between the abstract teaching of ideas and the preparation and direction of overt acts.

I would never support the ratification of treaty which compromised or negated any of the rights our political system values. Certainly, the American Civil Liberties Union would not support such a treaty either. But the ACLU does support the Genocide Convention. The treaty does not, in any way, affect the first amendment, or any other rights guaranteed to our citizens by the Constitution. There is no excuse for the Senate's failure to ratify this treaty. I urge my fellow Senators to examine the treaty, and the empty criticisms directed at it, and vote for its approval.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no other request for time on this side.

Does the minority leader wish to have any of my time?

Mr. BAKER. Mr. President, if the majority leader will yield to me. I have no need for my time under the standing order, and I know of no request for time, and I yield it back.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1981

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the pending business, House Joint Resolution 610, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes.

The Senate resumed consideration of the bill.

NOTE: COMMITTEE AMENDMENTS AGREED TO EN BLOC

In the Record of Friday, September 26, 1980, at page S13558, middle column, the committee amendments agreed to en bloc are incorrectly set forth in that they were not taken from the Star Print. In the permanent Record the committee amendments agreed to en bloc will be set forth as follows:

On page 2, strike line 8;

On page 3, strike line 20, through and including page 4, line 2, and insert in lieu thereof the following:

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

On page 5, line 6, beginning with "current" strike through and including "authority on line 8, and insert in lieu thereof the following:

rate which would have been provided under the terms of the conference report (House Report 96–787), and in accordance with associated agreements stated in the Joint Explanatory Statement of the Committee of Conference, accompanying H.R. 4473, except that for Operating Expenses of the Agency for International Development the rate for operations shall be at an annual rate of $280,000,000: *Provided*, That not more than $105,700,000 for this amount shall be for AID/Washington Operating Expenses.

On page 5, line 22, after "1980,", insert the following:

except that the amount provided therein for salaries and expenses of the General Accounting Office shall be $216,000,000 for the purposes of this joint resolution and that seciton 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office.

On page 6, after line 12, insert the following:

that for Operating Expenses of the Agency for International Development the rate for operations shall be at an annual rate of $280,000,000: *Provided*, That not more than

On page 6, strike line 22, through and including page 7, line 8;

On page 7, strike line 18, through and including line 20;

On page 8, line 2, strike "Act; and" and insert "Act;";

On page 8, line 3, after "3,", insert the following:

"title III, title VIII";

On page 8, line 5, strike "Act." and insert "Act; and";

On page 8, after line 5, insert the following:

"activities for support of State Medicaid Fraud Control Units at the matching rate specified in section 1903(a)(6) of the Social Security Act, notwithstanding the limitations on eligible quarters contained therein.

On page 9, line 9, strike "for fiscal year 1981";

On page 9, line 15, after "102" insert the following:

"(a) and (b) and section 127";

On page 9, line 25, strike "such amounts as may be necessary" and insert "$2,030,000,000 shall be available";

On page 10, line 2, strike "terms, conditions, and";

On page 10, line 5, after "96–1244", insert the following:

except that for the purpose of State allocations the ratio for residential energy expenditures and heating degree days shall be 50 per centum each in lieu of the 25 per centum and 75 per centum referred to in the House Report; and except that the sum of $30,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980 in volume 45, No. 106, Federal Register, pages 36810–36838, such payments to be the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty.

(i) Such amounts as may be necessary for projects and activities provided for in the Energy and Water Development Appropriation Act, 1981 (H.R. 7590), at a rate of operations, and to the extent and in the manner provided for in such Act as adopted by the House of Representatives and the Senate on September 24, 1980, notwithstanding section 102(c) and section 127 of this joint resolution: *Provided*, That appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(j) Funds available under the provisions of this section for child nutrition programs of the Department of Agriculture may be used to pay valid claims submitted in fiscal year 1981 regardless of the period in which the meals were served.

(k) Such amounts as may be necessary to continue activities of the National Health Service Corps under section 338(a) of the Public Health Service Act at a rate not to exceed the fiscal year 1981 budget estimate.

(l) Such amounts as provided in H.R. 8105, entitled the Department of Defense Appropriations Act, 1981, as passed the House of Representatives, September 18, 1980, and under the authority and conditions provided in the Department of Defense Appropriations Act, 1980.

On page 15, after line 6, insert the following:

Sec. 112. Notwithstanding any other provision of this joint resolution, appropriations made by section 101(a)(1) to carry out military construction projects may be used for the purpose of entering into contracts for the construction of new projects to the extent that such new projects have been included in identical form in the Military Construction Appropriation Act, 1981, as passed by the House and the Senate.

Sec. 113. Of the additional amount appropriated under Public Law 96–304, to the Department of Agriculture, Forest Service for "Forest Management, Protection and Utilization", $15,000,000 for emergency activities caused by the eruption of Mount St. Helens in Washington State shall remain available for obligation until expended.

Sec. 114. Notwithstanding any other provision of this joint resolution, the activities described in House document numbered 96–368 for the Environmental Protection Agency shall be continued at a rate not to exceed an annual rate contained in the Senate passed version of H.R. 7631.

Sec. 115. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to promulgate or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

Sec. 116. Notwithstanding section 101(a) of this joint resolution, the Administrator of the Small Business Administration, pursuant to section 4(c)(5)(a) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $174,000,000 for the purpose of providing disaster loans.

Sec. 117. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342 (a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment becomes effective, rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 50 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 96–74; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

SEC. 118. Notwithstanding the provisions of section 101, activities of the Department of Energy to initiate preimplementation of standby gasoline rationing plans, as authorized by the Emergency Energy Conservation Act of 1979, shall be funded at not to exceed an annual rate for obligations of $46,000,000.

SEC. 119. Notwithstanding any other provision of this joint resolution there is appropriated $1,383,000,000, to remain available until expended, for strategic petroleum reserve petroleum acquisition as authorized by the Energy Policy and Conservation Act of 1975 (Public Law 94–163) and the Energy Security Act (Public Law 96–294).

SEC. 120. Notwithstanding section 101(a) of this joint resolution, obligations for grants to States for the work incentive program authorized by title IV of the Social Security Act shall not exceed the rate of $251,615,000.

SEC. 121. Notwithstanding any other provision of this joint resolution, the amount available for the Postal Service shall not exceed the amount as reported in H.R. 7583 by the Senate Committee on Appropriations.

SEC. 122. Notwithstanding section 101(a) of this joint resolution, the following programs in the Department of Health and Human Services shall be continued at the following levels:

Health Care Financing Administration:

Professional Standards Review Organizations, at the level of the President's budget request for fiscal year 1981;

Research Demonstration and Evaluation, Federal Funds, at the level of $34,000,000;

Social Security Administration: Limitation on Research and Statistics, Survey of Income and Program Participation, $11,000,000.

SEC. 123. Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. Any such special census of revised estimate shall be conducted solely at Federal expense. Such special census or revised estimate shall be conducted no later than twelve months after the regular census date and shall be designated the official census statistics and may be used in the manner provided by applicable law.

SEC. 124. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which must be approved by the General Services Administration in coordination with the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

SEC. 125. Notwithstanding section 101(a) of this joint resolution, $280,000,000 for aging social services and centers, $38,100,000 for aging research, training, and special projects, and $3,000,000 for White House Conference on Aging shall be available under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981.

SEC. 126. Should it be necessary such amounts, as may be required for expenses, Presidential transition, notwithstanding any other provision of this joint resolution, but at a rate of operations not in excess of the amount as reported in H.R. 7583 by the Senate Committee on Appropriations.

SEC. 127. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1980.

Mr. MAGNUSON. Mr. President, the bill is open for further amendment under the unanimous-consent agreement. So I defer to the Senator from Connecticut.

AMENDMENT NO. 2413

Mr. WEICKER. Mr. President, I call up at this time amendment No. 2413 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 2413.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, starting with line 9, strike all through line 6 on page 15, and insert in lieu thereof the following:

SEC. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981", shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.".

Mr. WEICKER. Mr. President, I offer this amendment in an attempt to bring the discussion of Federal funding for abortions within the contours of the Constitution.

Specifically, the amendment would strike the abortion funding restriction contained in section 110 and section 111. It would replace these sections with existing law.

In its seminal decision of the abortion matter, Roe against Wade, the Supreme Court prefaced its discussion of the constitutional issues involved in the abortion question by acknowledging that:

> One's philosophy, one's experiences, one's exposure to the raw edges of human existence, one's religious training, one's attitude toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion. In addition, population growth, pollution, poverty and racial overtones tend to complicate and not to simplify the problem.

Yet, the Court recognized that these philosophical and emotional factors were extraneous to its consideration of the issue.

> Our task, of course, is to resolve the issue by constitutional measurement, free of emotion and of predilection.

As Senators, we too are entrusted with the responsibility of handling this issue in a rational manner, adhering to the strictures of the Constitution. We are called upon to decide this matter keeping the basic constitutional rights of all Americans in mind. We are not here to carry the water for any one group.

We in Congress, however, have whittled away the right of an indigent woman to decide whether to terminate her pregnancy. At the time of the 1976 Supreme Court decision in Maher against Roe, the medicaid statute provided reimbursement for all abortions medically necessary for the preservation of physical or mental health. The fiscal year 1979 medicaid abortion funding to: abortions necessary to preserve the life of the pregnant woman; abortions needed for rape and incest victims; and abortions necessary to prevent serious long-lasting damage to a woman's physical health. Thus, the fiscal year 1979 language excludes abortions necessary to preserve a woman's health but not required to prevent long-lasting physical health damage.

We went even further into interfering with the woman's right to abortion in the fiscal year 1980 appropriations bills. In the continuing appropriations bill and the District of Columbia appropriations bill, the provision for funding abortions is necessary to prevent serious long-lasting damage to the woman's physical health. We did this despite the clear statement by the Supreme Court in Roe against Wade that the State may not regulate, even during the third trimester, abortion "where it is necessary * * * for the preservation of the * * * health of the mother."

Mr. President, in Harris against McRae the Supreme Court held that the Hyde amendment language contained in the fiscal year 1980 appropriation bills violates neither the fifth amendment nor the establishment clause of the first amendment. My amendment would continue current law in this continuing appropriation bill.

My amendment would also strike the limitation of judicial review of legislative acts contained in section 111.

Mr. President, to be blunt, this section is insidious. It would put acts of Congress outside the Constitution.

One of the basic tenets of constitutional law was articulated by Justice

Marshall in *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 132, 2 L.Ed.60(1803):

> It is emphatically the province and duty of the judicial department to say what the law is. Thus, the particular phraseology of the Constitution of the United States confirms that a law repugnant to the Constitution is void; and that the courts, as well as other departments, are bound by that instrument.

The tripartite system upon which our Constitution is premised provides for a system of checks and balances over three equal branches of government. Article III of the Constitution very clearly states that an integral part of this system of checks and balances is judicial review of constitutionality. The Supreme Court explained this balance in United States against Nixon:

> In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution and the interpretation of its powers by any branch is due great respect from the others. . . . Our system of government requires that federal courts on occasion interpret the Constitution in a manner at variance with the construction given the document by another branch. (*Powell* v. *McCormack*). In *Baker* v. *Carr*, 369 U.S. at 211, the Court stated: "Deciding whether a matter has in any measure been committed by the Constitution to any other branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation and is a responsibility of this Court as ultimate interpreter of the Constitution." *U.S.* v. *Nixon*, 418 U.S. at 683, 684 (1973).

Alexander Hamilton, in Federalist No. 78, discussed the importance of judicial review of legislative acts:

> By a limited constitution I understand one which contains specified exceptions to the legislative authority. . . . Limitation of this kind can be preserved in practice no other way than through the medium of the *courts of justice; whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void.* Without this all the reservation of particular rights or privileges would amount to nothing. . . . *No legislative act therefore contrary to the Constitution can be valid.* . . . (Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of legislature declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter, rather than the former.

Mr. President, the attempt, in section 111, to remove the actions of Congress from judicial review would gut our constitutional system. It is imperative that we delete it.

It is not my intention, Mr. President, to engage in prolonged debate on the issue this morning. Suffice it to say, I do not feel that further substantive changes in the law are properly a matter of an appropriations bill.

I support the argument against that lies in the fact that this is exactly the vehicle in the past through which substantive changes have been enacted. But in this case we are not even talking about an appropriations bill. We are talking about a continuing resolution. We are talking about a continuing resolution which goes to December 15 of this year.

It would seem to me that on the very substantive changes which are involved in the House language on this matter that this is a situation deserving of our debate during the course of a new Congress and not in the last-minute rush to adjourn during the heat of a political campaign.

I do not see much point into going to all the reasons why I have opposed Hyde as to why I oppose this extension of Hyde. But, needless to say, I have very deeply felt reasons for not wanting to see such an extension take place.

I hope my colleagues will take the responsible course to continue the law now in effect, which is Hyde, and not go beyond it. Much damage has already been done to too many people in the sense of congressional action and to exacerbate a very unjust situation by compounding it with what I deem to be an unconstitutional provision, would stand to the discredit of this body. I urge the adoption of my amendment.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. WEICKER. Have the yeas and nays been ordered on the amendment?

The ACTING PRESIDENT pro tempore. The yeas and nays have not been ordered on the amendment.

Mr. WEICKER. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I join in support of the amendment of the Senator from Connecticut for very much the same reasons. Without casting any criticism on the majority or the minority party or the majority or minority leaders for this Senate's and this Congress inability to pass appropriations bills for the fiscal year, we must remember that what we are working on today is a continuing resolution, and by the very nature of the resolution it is to continue the present law until we can have sufficient time to decide whether or not we want to change it.

This is not the time to change. This is the time to pass these resolutions, get us through the recess and the elections, back into session, back into time to discuss the appropriation bills for the entire fiscal year.

Now, as to the three amendments that are in the appropriation bill as it has come from committee, I am in full accord with the Senator from Connecticut not only as to the arguments on the substance and the merits of that legislation but on the procedure. I think on the merits those three amendments are bad legislation, but certainly on procedure they are ill-timed and unjust.

Let us take a look at the substance, for a moment, of the three amendments. The first amendment prohibits the Department of Health and Human Services from providing abortion funding in cases of rape or incest. Or, to put it the other way around, it limits it solely to those cases involving the life of the woman.

Current law includes rape and incest. I find the current law too narrow. I have a hard enough time supporting the current law, which is the Hyde amendment. All I am saying is that at this time, this is not the appropriate measure to discuss whether or not we should further tighten and further restrict medicaid funding of abortions.

Second, the continuing appropriations resolution as we have it would permit States to refuse to participate in particular aspects of the medicaid program, contrary to current law and policy, or, put more specifically, Mr. President, it would allow States to decide for themselves, in a Federal program, whether they want to have lesser standards than the Federal standards.

This argument is not limited to funding abortions for rape, incest, or anything else. This goes to the very fundamental issue of Federal programs. One can argue whether or not we should have Federal programs, but there are very few Federal programs that, if we do have them, do not set down certain standards. We say that if the States or the local governments want to participate in those programs—and many of them are matching funds programs—they will participate on the standards as set in the Federal law.

If we start down this road on this resolution, which is the wrong vehicle on this subject, then there is no limit to the undercutting of Federal programs that we can undertake.

What about education programs? What about vocational rehabilitation programs? What about all the other programs that the Federal Government partially funds and the State matches? We simply say, by general consensus, that we have decided to have a Federal program, and by general consensus we think the following standards, one, two, three, four, and five are minimum standards that should be met and then say, "But if the States do not want to do one, two, and three, that is all right anyway."

Mr. President, if that is going to be the policy, we should not have any policy; we should not have any Federal program. This certainly is the wrong vehicle to be arguing that particular subject. As I say, that subject does not relate to just the funding of abortions. That is a very fundamental Federal-State question.

The third borders on or is probably unconstitutional because, by the very nature of the third amendment, we are trying to remove from the courts the power to say something is unconstitutional and to remedy it if the remedy is to continue funding while an issue is on appeal to the Supreme Court.

This particular language grew out of an abortion case in which the Federal district court found that a law passed by Congress limiting medicaid funding of abortions was unconstitutional in some respect. The district court ordered the continuing of the funding of abortions. The case was appealed. The case eventually got to the Supreme Court, but during the pendency of the appeal the funding of the abortions continued. The Supreme Court reversed the decision.

The issue is this, and this is the single issue in this particular amendment: Between the time that a Federal district court finds an act of Congress illegal, unconstitutional, between that time and final decision by an appellate court, if the district court finds that, in order to remedy the illegal or unconstitutional nature of the act, it must continue funding of the particular program and that is the only way to remedy the unconstitutionality of the act, shall we endeavor to take that power away from the courts during the pendency of the appeal?

First, on the merits, my answer would be no, we should not. On the substance, I think it is clearly constitutional—I am not sure, but I think so. Although we have the power to set the jurisdiction of Federal courts, I do not think we have the power to say to a Federal court: "You cannot pass upon the constitutionality of Acts of Congress." That does transcend the separation of powers.

Most importantly, Mr. President, it once more emphasizes the reason that we should not enact this on a continuing resolution. Here you have a constitutional question of the first order involving the very nature of separation of powers, involving the power of Federal courts to declare acts of Congress unconstitutional; involving the power of courts to declare remedies. And for us, on a bill that will be in effect for only a few months, to change the existing law is unwise.

Mr. President, for all of those reasons, substantively and procedurally, I hope that the amendment of the Senator from Connecticut will be adopted and that we will leave the law as it is in the continuing resolution. Then if we want to get on to debating this and fighting these issues—as I think we surely will—when we get into the appropriations for the full year, so be it. This is not the time and this is not the bill.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I listened with great interest to the observations of my friends from Connecticut and Oregon. It is significant to me that neither of them has addressed the only relevant point in this debate, and that point is: does this Congress have the right, moral or otherwise, to use taxpayers' funds to destroy innocent human life?

I have said over and over on this floor that if I can be persuaded that abortion is not the deliberate termination of innocent human life, I will say no more. But nobody can be persuasive on that point, because it simply is the deliberate termination of innocent human life.

The House position on this matter is exactly right. Regardless of any opinion about constitutionality, the fact remains that something like a million and a half babies are being killed deliberately each year in this country. And for what? Nobody is very clear. Some talk about a woman's right to make a decision as to her own body. I do not want to argue with that, except somebody has to stand up and talk about the rights of that innocent unborn child; the right to be born, the right to live, the right to breathe, play, and laugh.

I have been gratified that there seems to be a growing understanding of the horrendous nature of this issue. For a while, the Southern Baptist Convention, which is a body representing the church to which I belong, has appeared to be almost ambivalent on this question.

Back on June 12, in St. Louis, the Southern Baptist Convention no longer had even the appearance of any ambivalence whatsoever.

I will not take the time to read into the RECORD the Associated Press story relating to the action taken by the Southern Baptists Convention.

I do ask unanimous consent, Mr. President, that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUTHERN BAPTISTS CONDEMN ABORTION, URGE LAW

ST. LOUIS (AP).—The nation's largest Protestant body, the Southern Baptist Convention, strongly condemned abortion yesterday and called for a law to prohibit it "except to save the life of the mother."

The Southern Baptists, in one of the sharpest antiabortion stands taken by a major Protestant denomination, urged either legislation or a constitutional amendment to outlaw abortion.

"All medical evidence indicates that abortion ends life of a developing human being," declared a resolution approved after an hour's debate by the convention of 13,500 "messengers."

It asserted the "sacredness and dignity of all human life, born and unborn," and denounced all policies allowing "abortion on demand," claiming present national laws and policy permitted such abortions.

Dr. William D. Hillis, a faculty member at the Johns Hopkins School of Hygiene and Public Health and at Good Samaritan Hospital, opposed the position, arguing it did not allow for consideration of individuals who may need abortion in cases of rape or incest.

Southern Baptists in the United States number 13.4 million. Although the convention does not purport to speak for all of them, it is the denomination's most broadly representative organ, expressing its views and acting for it.

The decision put the convention into the struggle for revised law or constitutional change barring abortion except to save the mother's life. Similar stands have been taken by the Catholic Church and numerous Protestant antiabortion groups.

Most major Protestant denominations, however, have adopted positions in support of the 1973 U.S. Supreme Court decision allowing abortion.

Southern Baptists had earlier taken a less severe view of the issue, and several "messengers" argued for reaffirming those past qualified positions, but their efforts failed.

The Rev. Larry Lewis, of St. Lewis, led the campaign for the new resolution, saying past statements had been interpreted as supporting abortion.

"Something has to be done," he said. "It is intolerable that the lives of 1.5 million babies are being taken every year." Others cited abortion as the principal cause of death today.

Mr. HELMS. Mr. President, I ask unanimous consent that the resolution adopted by the Southern Baptist Convention be printed immediately following the previous article to which I referred.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 10—ON ABORTION

Whereas, Southern Baptists have historically affirmed the Biblical teaching of the sanctity of all human life, and

Whereas, All medical evidence indicates that abortion ends the life of a developing human being, and

Whereas, Our national laws permit a policy commonly referred to as "abortion on demand,"

Be it therefore resolved, That the Southern Baptist Convention reaffirm the view of the Scriptures of the sacredness and dignity of all human life, born and unborn, and

Be it further resolved, That opposition be expressed toward all policies that allow "abortion on demand," and

Be it further resolved, That we abhor the use of tax money or public, tax-supported medical facilities for selfish, non-therapeutic abortion, and

Be it finally resolved, That we favor appropriate legislation and/or a constitutional amendment prohibiting abortion except to save the life of the mother.

Mr. HELMS. Mr. President, all sorts of representations are made about complications that occur when an abortion is not permitted. Let me quote from the June 6, 1980, edition of a publication of the Center for Disease Control. It states:

In a large metropolitan area of Texas, a review was undertaken of 600 consecutive hospital charts of women with abortion-related complications that caused them to seek emergency medical care. The chart review revealed no increase after the restriction, compared to the time interval before the restriction, in either the number or proportion of Medicaid- or Title XX-eligible women admitted for abortion complications. If a large proportion of women were resorting to illegal abortion, such complications would be expected to increase.

Mr. President, I shall not have a great deal more to say. We have said it over and over again on this floor. But let me recite once more an incident that occurred to me 2 or 3 years ago in Durham, N.C. Durham, as the distinguished Presiding Officer knows, is the home of Duke University. The Duke University Medical Center is one of the world's outstanding teaching hospitals. Many of the people who administer that hospital and serve as medical experts are close friends of mine.

One Sunday morning just after church, I stopped by the Duke University Medical Center and I went to the intensive care division of the children's hospital there. They required me to put on a white gown, a mask, and all the other things that are customary, and they took me on a tour of this facility. I think I shall never forget the 40 or 50 tiny little beds lined up throughout that intensive care section. In most of them was a baby that could be held in the palm of my hand. Nurses and doctors were scurrying back and forth using the most highly developed technological equipment costing millions upon millions of dollars to save the lives of these little ones.

Then the director of that intensive care center took me across the hall to the lounge. There must have been a dozen young couples there, some of them down on their knees praying that the lives of the babies across the hall would be spared.

I caught a plane that afternoon to return to Washington, D.C. On the very next day I stood right in this spot and we had a rather strenuous debate on this very question of using Government funds to deliberately terminate innocent human life.

I remember stating that afternoon as the debate proceeded what a contradiction it was for our society to do so much to save human life and to also destroy it.

Mr. President, the House position on this question is right. I hope the amendment of the distinguished Senator from Connecticut will not be adopted. At the appropriate time, when all Senators have had their say, it is my intent to move to table the amendment. I thank the Chair.

Mr. MAGNUSON. Mr. President, the intent of the Weicker amendment is to take last year's conference language of which he is the author.

This is a continuing resolution. A continuing resolution should just continue current law, as the Senator from Oregon pointed out so well. The amendments added in the House make significant changes from the current law. The Department of Justice has said that some of these House amendments are probably unconstitutional.

For instance, if a State chooses, it could refuse to provide medicaid expenses for an abortion to save the life of a low-income woman who is pregnant. Also, a low-income woman who was the victim of rape or incest could not receive medicaid funding for an abortion.

In the committee, an attempt to go to last year's Senate-passed language failed by just one vote. The language offered by Senator WEICKER is just to take the current law, which is already more restrictive than last year's Senate-passed language.

Let me repeat that: The current law is much more restrictive than the language passed by the Senate last session.

We do not need to forge new ground. I recommend we stay with the current law. I support the amendment of the Senator from Connecticut.

I do not know why these fundamental policy questions should always occur on appropriations bills. We have argued the abortion question. I think we have voted on it in the Senate 90 times. These votes have been mainly on the HEW appropriations bill. It will come up again this year on that bill. But to put it on a continuing resolution which is only a money bill that will provide Federal funds for a short time and to go through all this fuss and feathers over the House amendments, which were mainly put in on the floor—I believe I am correct—is wrong. The fact is that two of them, I think, are unconstitutional to begin with.

Why should the constitutionally questionable amendment be placed on a continuing resolution?

BAUMAN AMENDMENT

The purpose of the Bauman amendment is to eliminate existing medicaid requirement that States cover all medically necessary abortions for which Federal funding is available. This provision would permit States to deny medicaid funding for abortions even when the life of the mother is in jeopardy. This restriction goes far beyond the Federal funding limitations contained in even the most restrictive version of the "Hyde amendment." The Supreme Court recently upheld the "Hyde amendment" on the grounds that encouraging child birth, except in the most urgent circumstances, is rationally related to the legitimate governmental objective of protecting potential life. Clearly, the most urgent circumstances are cases in which the woman's life is endangered, where protection of the life of the mother must also be taken into account. The Bauman amendment disregards this fundamental consideration, and thus raises serious constitutional questions not addressed in the recent Supreme Court ruling.

ASHBROOK AMENDMENT

The House bill also includes a provision in section 510, which would prevent the executive branch from complying with certain court orders. In particular, the provision would prohibit compliance with judicial orders where the court has concluded that the expenditure of Federal funds is necessary to eliminate what the court has found to be an unconstitutional or otherwise illegal restriction in a Federal program. If enacted, the provision would place the executive branch in an untenable position should a court, in overturning any of the appropriation act's restrictions, order the expenditure of Federal funds without the restriction. This effort to limit the role of the courts is counter to the fundamental constitutional concept of separation of powers and would create the potential for a constitutional confrontation among the three branches of Government.

Mr. President, it is a violation of all the rules of Congress to place that kind of amendment on a continuing resolution. I cannot understand it.

Mr. President, we are going to argue the abortion question, I suppose, on the HEW appropriations bill when it comes up, and it does not belong on that bill either. It is pure legislation on an appropriation bill. To put it on the continuing resolution is abhorrent to the legislative processes of Congress. I hope the Weicker amendment will be sustained.

Mr. WEICKER. Mr. President, I thank my distinguished colleague from Washington for his comments, with which I concur.

Very briefly, Mr. President, I should like to respond to some of the remarks made by the distinguished Senator from North Carolina. I do not intend, as indicated at the outset, to get into a complete debate on the substance of what is before us, but I noticed that in the comments of the Senator from North Carolina he chose to emphasize substance and not procedure, which, of course, is his right. As has been indicated, procedure is as much at fault as what is being proposed.

Mr. President, let me make some points. The Senator from North Carolina indicates that these are taxpayer moneys that are being used for the deliberate termination of innocent human life. I think a correct statement of fact and law is that taxpayer moneys are being used by Government to fund that which is legal. These are not collection plate moneys we are talking about. These are taxpayer moneys. This is a secular Government. These taxpayer moneys are used to fund that which is the law of the land and the law of the land, other people's philosophies and religions to the contrary notwithstanding, is that abortion is legal. Legal under certain very precise circumstances.

That is what the moneys are used for, Mr. President, and it is not the job of this body to take up the slack of what cannot be effectively argued to or believed by various congregations the width and breadth of this land. Rather, it is our function to legislate policies into laws, to have them go through the constitutional process—which, in the case of abortion, they have—and then see to it that the law of the land, not the tenets of any particular creed or faith, is obeyed and implemented.

I disagree, for example, with the Supreme Court decision which upholds the Hyde amendment. I disagree, but I accept it. It is the law of the land as we sit here today and argue this point. But those who are the advocates of the Hyde amendment would have it that though they agree with the Supreme Court in upholding Hyde they ignore the Supreme Court on the matter of Roe against Wade. They cannot have it both ways.

There is a total ignoring of the legality of abortion, in the choice of words, "The deliberate termination of innocent human life." Carried to its logical definition, that would be murder, and certainly would be illegal. Of course, it is not murder and it is not illegal. Abortion is legal by virtue of the same law of the land which says that the Hyde amendment is legal. So let us understand very clearly that I care not a whit what the Pope in Rome or the presiding bishop of any faith or rabbi or whomsoever has to say on this subject. Let them say it from their pulpits, let them convince their congregations. That, is uniquely their duty, their function, their purpose in life.

My only obligation vis-a-vis there is only to see that whatever they do and say is protected from any interference by this Nation. That is my only governmental obligation.

As to law, Mr. President, it is defined in only three places: The Congress of the United States, the President of the United States, and the Supreme Court of the United States. And that is it. Whether Senator WEICKER likes it or not, Hyde is legal. It is the law of the land, the law of the land. And, indeed, the same holds true of Roe against Wade whether Senator HELMS likes it or not. It is the law of the land. Mr. President, if that law is to be changed, then it has to be changed through the constitutional process. Congress is not a surrogate for the leaders and disciples of any faith.

Mr. President, I think it necessary that these very basic issues, which continue to reappear in debate be carefully defined on this floor. In the case at hand, we are not talking about a repeal of the substance of the Hyde amendment; we are talking about continuation of the Hyde amendment, which I find—as do many of my colleagues—repugnant in substance but which certainly does not deserve further extension as is being proposed here today.

Certainly, in the closing hours of legislature, in the feverish pitch of an election campaign, is no time to make the kind of determination being put before the body this morning.

In any event, it will always be this Senator's duty to do all within his power to assure that the laws of the United States of America are carried out both de facto and de jure.

Mr. EXON addressed the Chair.

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I emphasize once more that we are talking about three changes of law in the continuing resolution. The one that is the most debated is the first, changing the standards for the funding of medicaid abortions from rape, incest, or life of the woman to just life of the woman. The other two have far-reaching constitutional implications that the first may or may not. There is no question that the second two do. One is, can we deny to the Federal courts the power to declare an act of Congress unconstitutional and, in its remedy, to order continuation of funding? Is that constitutional for this Congress to take away from the Court? I do not know, but I think it is. But it is not for this bill to do it.

Second is the issue of whether or not, in the medicaid program as far as abortions are concerned, we can say to the State, no matter what we do, "no matter that this is a Federal program, you go ahead and set the standards you want, even though we are funding it."

It may or may not be constitutional. I think it is bad policy.

My distinguished colleague from North Carolina has indicated, and I am quoting, that abortion is the deliberate termination of innocent human life.

Mr. President, that is his opinion. It is the opinion of a number of people in this country. But the overwhelming number of people in this country do not think that abortion is the deliberate termination of innocent human life, or call it by the term that that definition is murder. They do not think so.

By any standard or measure by which public opinion can be gaged, the bulk of people in this country say that a woman, if she wants, ought to have the right to have an abortion. It does not say we have to fund it. It says she ought to have the right.

They cannot convince me the bulk of people in this country are saying that murder is good.

The difference is that the Senator from North Carolina thinks that the rest of us should think it is murder, as if it were heresy to have a difference of opinion.

Mr. President, we do have differences of opinion in this body and on this subject. The fact that we reach different conclusions is the one thing that distinguishes humans from other life on this planet.

The elephant is stronger, the horse is faster, the butterfly is more beautiful, the sponge is more durable. The difference is that God gave us the capacity to think and, on occasion, reach different conclusions.

Mr. President, I, again, am going to read a list of organizations that have endorsed a woman's right to decide for herself whether or not she wants an abortion. I have not reverified this list in the last few months, and if by chance I read the name of an organization here that has subsequently changed its position, I will be happy to clarify the record.

Let us take religious organizations first. These are organizations that have said it is all right for a woman to make a choice as to whether or not she wants an abortion:

Religious Organizations Which Have Endorsed Abortion Rights

National Federation of Temple Sisterhoods, 1965 (reaffirmed 1975).

Episcopal Church, 1976 (reaffirmed 1968).

American Baptist Church, 1968.

American Friends Service Committee, 1970.

National Council of Jewish Women, 1969 (reaffirmed 1979).

Presbyterian Church in the U.S. Committee on Women's Concerns and General Assembly, 1970 (reaffirmed 1978).

Lutheran Church in America, 1970 (reaffirmed 1978).

B'nai B'rith Women, 1970 (reaffirmed 1978).

Moravian Church in America, Northern Province, 1970.

United Church of Christ, General Synod, 1971 (reaffirmed 1977).

Women's League for Conservative Judaism, 1972 (reaffirmed 1974).

American Humanist Association, 1972 (reaffirmed 1977).

American Jewish Congress and Women's Division, 1972 (reaffirmed 1978).

Board of Church and Society, United Methodist Church, 1972.

United Presbyterian Church, USA, General Assembly, 1972 (reaffirmed 1979).

Church of the Brethren, 1972.

Baptist Joint Committee on Public Affairs, 1973.

Women of the Episcopal Church, 1970 (reaffirmed 1973).

National Association of Laity, 1973.

American Ethical Union, 1973 (reaffirmed 1979).

Young Women's Christian Association, 1973 (reaffirmed 1979).

American Lutheran Church, 1974.

Reorganized Church of Jesus Christ of Latter Day Saints, 1974.

Central Conference of American Rabbis, 1975.

Unitarian Universalist Women's Federation, 1975 (reaffirmed 1979).

Christian Church (Disciples of Christ), 1975. .

Friend Committee on National Legislation, 1975.

United Methodist Church, Women's Division and Board of Global Ministries, 1975.

Union of American Hebrew Congregrations. 1975.

American Ethical Union, National Women's Conference, 1975(reaffirmed 1979).

Reformed Church America, 1975.

Catholics for a Free Choice, 1975.

United Synagogue of America, 1975.

United Methodist Church, General Conference, 1976.

Episcopal Women's Caucus, 1978.

Mr. President, those are perfectly respectable religious organizations, organizations which at their very core are concerned with ethics and morality.

I do not think there is a Member of this body that would say those organizations condone the deliberate termination of innocent human life, that is, murder.

They condone the right of a woman to make the choice of whether or not she wants an abortion and they would not condone that choice if they thought it was murder. Let us look at some medical organizations that have endorsed a woman's right to make a decision of whether or not she wants an abortion:

Medical Organizations Which Have Endorsed Abortion Rights

American Public Health Association, 1968.

American Medical Women's Association, 1969.

American Psychiatric Association, 1969.

Group for the Advancement of Psychiatry, 1969.

American Protestant Hospital Association, 1970.

American Psychoanalytic Association, 1970.

American Medical Association, 1970.

American Medical Student Association, 1970.

American College of Obstetricians and Gynecologists, 1970.

Physicians Forum, 1973.

American Association of Planned Parenthood Physicians, 1973.

Physician's National Housestaff Association.

American Academy of Pediatrics.

Mr. President, those are organizations concerned with life. Those are organizations, medical organizations, whose principal dedication is to the preservation of human life. They would not condone a woman's right to make a choice of whether or not she wants to have an aborton if they thought it was the deliberate termination of innocent human life, that is, murder. They simply would not agree to it.

Lastly, Mr. President, let me read the names of some other organizations that have endorsed a woman's right to make a choice as to whether or not she wants an abortion:

OTHER ORGANIZATIONS WHICH HAVE ENDORSED ABORTION RIGHTS

National Abortion Rights Action League, 1968.
American Civil Liberties Union, 1968.
Planned Parenthood—World Population, 1969.
American Psychological Association, 1969.
National Organization for Women, 1970.
Urban League, 1970.
White House Conference on Children and Youth, 1970.
American Association of University Women, 1971.
American Home Economics Association, 1971.
National Association of Social Workers, 1971.
National Council on Family Relations, 1971.
National Emergency Civil Liberties Committee, 1972.
American Bar Association, 1972.
Child Welfare League of America, 1973.
American Veterans Committee, 1973.
Americans for Democratic Action, 1973.
Women's International League for Peace and Freedom, 1973.
Human Rights for Women, 1973.
National Association of Women Deans, Administrators and Counselors, 1973.
Intercolleagiate Association of Women Students, 1973.
Women's Legal Defense Fund, 1974.
Workmen's Circle, 1974.
Americans United for Separation of Church and State, 1974.
National Women's Political Caucus, 1974.
National Alliance for Optional Parenthood, 1975.
National Commission on the Observance of International Women's Year, 1975.
National Conference of Black Lawyers, Women's Task Force, 1976.
National Women's Conference, 1977.
Mexican American Women's National Association, National Training Conference, 1977.
Coalition of Labor Union Women, 1977.
Women's Equity Action League.
Zero Population Growth.
Sierra Club.
Friends of the Earth.
Environmental Action.
National Conference of Commissioners of Uniform State Laws.
American Parents' Committee.
President's Task Force on the Mentally Handicapped.
National Capital Tay-Sachs Foundation.

Mr. President, medical, legal, religious organizations reached a conclusion in their minds and their hearts different from that of the Senator from North Carolina.

They do not think that abortion is the deliberate termination of innocent human life. The bulk of Americans share that same view.

But apart from what the majority the minority in this country think, it is interesting that of all the major needs, as we call them, in this country, the major needs that are generally recognized as minimally essential only, the right of a woman to choose whether or not she wants an abortion is a constitutional right.

This Congress funds housing for the poor. We have appropriations for food, for educational assistance, for medical care—all for the poor; because we think it unfair that simply because you are poor, you are denied an adequate education, medical care, food, or housing. Yet, not one of those has risen to the level of a constitutional right.

There is no Supreme Court decision that says that, as a matter of constitutional right, you may have a house or an education or medical care. But the Supreme Court has said that, as a matter of constitutional right, you are entitled to make the choice as to whether or not you want to have an abortion.

We are perfectly willing to fund housing, food, education, and medical care for the poor, because we think it is decent, not because there is a constitutional right to do so. We think it is decent. But when it comes to abortion, the one issue where we have a constitutional right to make a decision, we say that if you are poor, tough luck. We are not going to let you exercise that right because we disagree with your choice to do so.

Mr. President, this is not the place nor the forum to attempt to write individual constitutional views into legislation because we are unable to change the Constitution.

I pray that one day this issue no longer will be with us, because I believe that what the bulk of Americans believe will finally set the law and we will fund an abortion in much the same way that we fund other programs for the indigent, because we think it is the right thing to do. Until that time, I suppose we will continue to have these debates.

Mr. President, I close by saying that for a variety of reasons—humane, constitutional, and procedural—not only is this not the bill and not the time, but also there is not now and there will not be an appropriate time to take away from poor women the effective exercise of a constitutional right simply because they are too poor to afford to exercise it themselves.

THE PRESIDING OFFICER (Mr. HEFLIN). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have listened with great interest to the debate on this subject. Once again, we have reached the position in which good men of good will have a difference of opinion on a very fundamental and moral issue.

I have addressed this matter previously in several debates we have had in this body on the matter of abortion. I suppose that what it comes down to finally is a moral question.

I am not sure that, simply because it is a continuing resolution or simply because it might be better to wait until after the election to consider this matter, we should necessarily put aside, once again, a very fundamental question. This is one of those questions, unlike many others we face from time to time in the U.S. Senate, in which personal conviction has to play a part.

I do not like to use the term "murder" in connection with abortion. I am not sure that that is very fair, because murder is the act of taking a life illegally. Those who oppose capital punishment say that the State should not murder. It is not murder, in the opinion of this nonlawyer, when the law allows it.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. HELMS. I should like the record to show that the Senator from North Carolina has not used the word "murder," not once in this debate nor in any other. I simply refer to the termination of an innocent human life.

Mr. EXON. I was fully aware that my friend from North Carolina had not used that term, but it has been used in the debate this morning.

Mr. HELMS. That is correct—and rather improperly, I believe.

Mr. EXON. Mr. President, while good men can differ on this very vital matter and members of families can disagree on this very vital matter, speaking personally of my convictions, I have to say that although my wife and I agree on this matter, our children do not necessarily agree with us.

It all goes back, of course, to the decision by the Supreme Court in the early 1970's, when the Supreme Court, for the first time, decided that it would take up the matter of the constitutional right of abortion, and that decision was made.

I am interested in the remarks and arguments made on the floor this morning with regard to the fact that abortion is the law of the land. Speaking as one who does not agree with the Supreme Court decision, I feel that the Supreme Court had a right to make that decision, but I happen to believe that the Supreme Court was wrong in its interpretation. Therefore, it seems to me that it is the responsibility of Congress—the House and the Senate—to take a stand on this issue if we want it to be corrected.

Frankly, I do not see the great unfairness of giving States and State laws some rights in the matter of funding abortions; because I believe that even those who agree completely with the Supreme Court decision would have to agree that with respect to taxes collected from taxpayers who do not agree on this fundamental question, some consideration should be given in recognition of their objections to their tax dollars being used for abortions.

My friend from Oregon cited many organizations which are on record for abortion—or some type of abortion. I was interested that he mentioned the Episcopal Church, women of the Episcopal Church, and the Episcopal Women's Caucus. Since I have been speaking in a personal vein, I hope my colleagues will not mind my saying that I happen to be an Episcopalian from birth, a practicing Episcopalian, and a contributor to Episcopal Church.

The fact that the Episcopal Church, rightly or wrongly, does not agree with me on this matter does not mean that I am going to leave the Episcopal Church. But I am standing on the floor of the U.S. Senate today, and I say that I do not agree with the majority of my church, if indeed they have made a decision that abortion is acceptable. Just because there is a strong feeling pro and con on a moral issue like this is no reason for the Senate not to take a position.

And that is why the Senate will be taking a position in a few moments when my friend from North Carolina makes the tabling motion that he is about to make.

Therefore, I hope when that motion is made, notwithstanding the recognition of the strong division on this basic moral issue, notwithstanding the fact that it might be that in the United States today the majority of the people favor abortion, notwithstanding all of that, we can realize and recognize as Senators involved in debate on what I think is a very fundamental matter, that there are those of us in the Senate who believe basically that the House of Representatives-passed version on this continuing resolution is the correct one.

Mr. MAGNUSON. Mr. President, there have been some powerful arguments made on both sides, but I still maintain that they are all irrelevant.

As to the argument of the Senator from Nebraska, I wonder if he thinks it belongs on a continuing resolution. It does not belong on this resolution. We have argued the policy of abortion, or the pros and cons of abortion, long before the Senator from Nebraska came to the Senate, and I think we voted 90 times on it in the Senate. But I still make the point that it does not belong on this continuing resolution. It does not belong on the HEW bill. It does not belong on any appropriations bill.

It belongs, actually, in a legislative committee, and this is carrying it too far to put it on a continuing resolution.

The Senator from Nebraska made a good argument on his viewpoint. This only runs until December 15, and we clutter the whole argument all up again and have to go at it all over again prior to December 15. As a matter of fact, we may have the HEW bill up here long before this resolution expires.

A continuing resolution should continue to tell the Federal Government they can spend money to keep people operating, and that is all.

A regular appropriations bill will probably be brought up long before December 15, and I just cannot understand why Senators continue to put policy matters on appropriations bills.

The Senator is a member of the Budget Committee. Does the Budget Committee consider abortions? No; that is a money committee. Why should the appropriations bill be saddled with legislation of this type?

The argument has been made pro and con. We are not going to change any votes here, I do not think, no matter what is said today. But I still maintain that all of this argument is irrelevant to this resolution, and I am hopeful that the argument of the Senator from Connecticut will prevail because, as he pointed out, and as the Senator from Oregon pointed out so well, we should stick to current law.

I have tried over and over again to get the proper legislative committees to address themselves to this problem of abortion. They will not do it. I do not think we will get them to do it before November 4 because it is too much of a political hot potato. But it is a legislative matter. It is a policy matter. And I do not buy this argument that Congress has not the right to overturn the court.

We do that very often. But it is a policy matter. It does not belong on this resolution at all.

I am hopeful that the amendment of the Senator from Connecticut will be adopted.

Mr. EXON. Mr. President, I certainly share the concern of the distinguished chairman of the Appropriations Committee. I have heard him stand on this floor on many occasions and make the point that he just made, and probably he has made a good point.

I hope that maybe somehow some day we will be able to change or streamline the rules of procedure in both the House of Representatives and the Senate some day to prevent what I recognize as a source of constant irritation to the able chairman of the Appropriations Committee.

Nevertheless, since it is allowed and since it is germane, then those of us who feel very strongly about this issue cannot be persuaded that we should not make whatever approach we think is possible to represent our point of view when these matters flow through the legitimate legislative processes.

The issue is germane. It might be that at some future time I would be in a position to join with the distinguished chairman of the Appropriations Committee and make some changes so that we would not have to have all of these measures come up time and time again on a whole series of issues.

Mr. MAGNUSON. Mr. President, the issue of germaneness cannot be brought up in the Senate because it is a House continuing resolution. It is part of the House continuing resolution, and we cannot bring up the issue of germaneness at all here.

I think the Bauman amendment can be subject to a point of order. I think it would be. But we are in a straitjacket because we have to take the House continuing resolution and we cannot bring up the question of germaneness.

We are also in a time jacket. If we do not get this resolution done in the next 36 hours, all Government is going to stop, and the Attorney General has so ruled that no one should go to work. I wish that would apply to Members of Congress also. It might be healthy, I think, for the country.

Mr. HELMS. Mr. President, I think we debated this issue long enough on this occasion. I will not prolong it.

I only observe, after hearing the long list of people who support abortion, that everyone who belongs to every one of the organizations my colleague from Oregon has mentioned has already been born.

I am concerned about the rights of the millions of unborn children who cannot speak for themselves in this debate.

I have heard a number of references this morning to the secular view on abortion.

In that connection, we might do well to think about de Tocqueville who came to this country in the middle of the 19th century trying to find the secret of the miracle of America. He said he went to the docks and the miracle was not there. He went in the big cities and the small towns and the miracle was not there. He went out on the great farms and the miracle was not there.

He returned to France. He said:

> Then I went into the churches of America and there I saw people who while certainly not perfect were at least trying to be good, and that was genius of America, the miracle of America.

He offered the judgment that America was becoming a great nation because America was trying to be a good nation.

For so long that America remains good, America will remain great. But when America stops being good, America will stop being great.

So let us not disdain the people who protest the termination of innocent human life on moral and religious grounds. They are the heart of America. And their understanding of the sanctity of all human life is at the heart of the miracle of this country.

I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, before the vote I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Oregon has 10 minutes if he chooses to use them.

Mr. PACKWOOD. Mr. President, I have already used the time that I need and I have no further need for the time and I will yield back the 10 minutes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAKER (after having voted in the negative). Mr. President, on this vote I have a live pair with the distinguished senior Senator from Pennsylvania (Mr. SCHWEIKER). If he were present and voting he would vote "yea." I have previously voted "nay." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the

Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from South Dakota (Mr. PRESSLER), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators desiring to vote?

The result was announced—yeas 34, nays 45, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—34

Armstrong
Biden
Boren
Boschwitz
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Hatch
Hatfield
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Lugar
McClure
Melcher
Mitchell
Proxmire
Randolph
Roth
Thurmond
Warner
Young
Zorinsky

NAYS—45

Baucus
Bellmon
Bentsen
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Glenn
Hart
Hayakawa
Hollings
Inouye
Jackson
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Metzenbaum
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stevens
Talmadge
Tsongas
Wallop
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Baker, against.

NOT VOTING—20

Bayh
Church
Culver
Eagleton
Goldwater
Gravel
Javits
Laxalt
Long
Matsunaga
McGovern
Morgan
Pressler
Schweiker
Stennis
Stevenson
Stewart
Stone
Tower
Williams

So Mr. HELMS' motion to lay on the table Mr. WEICKER'S amendment (No. 2413) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

UP AMENDMENT NO. 1694

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 1694 to amendment number 2413:

In lieu of the language proposed to be inserted by the Senator from Connecticut insert the following:

Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service: *Provided, however*, That the several states are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Mr. WEICKER. Mr. President——

The PRESIDING OFFICER. The Senator from Nebraska has the floor. Does the Senator yield?

Mr. EXON. I will not yield for a point of order at this time.

Mr. President, the amendment I have offered is a simple one. In deference to the managers of the bill and the other Senators, I am hopeful we could have a vote on this in very short order.

Let me explain briefly what this compromise amendment is. Basically, it is the same amendment that I offered to the continuing resolution when almost the same matter came up last year. What my amendment does, Mr. President, is simply to take the traditional position of the U.S. Senate majority on abortions, which is to say that abortions can be allowed only when the life of the mother is at stake, or in the case of reported rape or incest.

Mr. President, this differs—Mr. President, may we have order in the Senate, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. EXON. Mr. President, what my amendment does is it simply changes the bill as it came over from the House of Representatives, changing it only to include rape and incest, reported rape and incest, as one of the matters involving the criteria of when funds can be used.

Therefore, those who are supporting the House of Representatives' position with the stricter Hyde amendment, if they support the amendment offered by the Senator from Nebraska, would, in essence, be voting for the House position as it was reported to us, except that we are adding and allowing rape and incest to be covered with abortion funds. Otherwise, the amendment offered by the Senator from Nebraska is in line with the House-passed bill.

It so happens that the Senator from Nebraska has not generally——

The PRESIDING OFFICER. The Senator from Nebraska is entitled to the courtesy of being heard. The Senate will be in order.

Mr. EXON. The Senator from Nebraska has not generally supported the strict Hyde amendment because I feel very strongly that reported rape and incest should be included. It so happens that that generally has been the majority position of the U.S. Senate. Therefore, I think there is no need to repeat all of the arguments which have been made previously and in the Senate so far this morning.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I raise the point of order that this is legislation on an appropriation bill.

Mr. EXON. Mr. President, it seems to me that if the Senator from Connecticut is raising the germaneness question, the germaneness question is put to rest because of the language in the House-passed bill.

Mr. WEICKER. Mr. President, again I raise the point of order that this is legislation on an appropriation bill.

The PRESIDING OFFICER. The Chair is not clear on what the Senator from Nebraska has raised.

Mr. EXON. I would advise the Chair that I assume that the Senator from Connecticut was raising a germaneness issue. If he is not, then my request of the Chair would not be in order in the opinion of this Senator.

The PRESIDING OFFICER. Does the Senator from Connecticut raise the point that the amendment is legislation?

Mr. WEICKER. That is the point of order raised by the Senator from Connecticut.

The PRESIDING OFFICER. Has the Senator from Nebraska raised the defense that it is germane?

Mr. EXON. Yes, Mr. President, the Senator from Nebraska is raising the point that it is germane, as I said a few minutes ago, since it is included in House language.

The PRESIDING OFFICER. Under the precedents of the Senate, since the defense of germaneness has been raised and under rule XVI, the Chair submits the issue of germaneness to the Senate for its decision without debate.

The question is, Is the amendment of the Senator from Nebraska germane to House language?

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Does the Chair hold that the fact that the House had already approved the language in the amendment of the Senator from Nebraska does not indicate the germaneness of the amendment?

Mr. EXON. Will the Senator from North Carolina please use the mircrophone? The Senator from Nebraska cannot hear.

The PRESIDING OFFICER. The debate is now not in order. Is there objection to the Senator's parliamentary inquiry?

Without objection, the Senator from North Carolina may proceed.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, under circumstances that have developed, I have no need for a parliamentary inquiry. I thank the Chair.

Mr. WEICKER. Mr. President, I withdraw my point of order.

The PRESIDING OFFICER. The point of order is withdrawn.

Mr. EXON. Mr. President, the yeas and nays have been suggested—I believed ordered—on my amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. Is there any further debate on the amendment.

Mr. STEVENS, Mr. WEICKER, and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, this language is much more restrictive than the final language of the conference report last year. In the committee, I offered the Senate language from last year and it was voted down, although there were several Senators absent. The Senator from Connecticut has offered last year's conference report language, which is the current law.

One of the areas omitted from the amendment offered by the Senator from Nebraska concerns the subject of ectopic pregnancy. I cannot understand why we in this body should legislate against performing a kind of medical service designed to preserve the childbearing capacity of a woman. I do not understand this limitation, period. This is a continuing resolution and the decision to put in the language which was agreed upon in the conference report of last year on the continuing resolution seemed to me to be in the best interest of all concerned, so long as we understand that many of us will not permit further change to be made in conference and that this is, in effect, the bottom line.

Mr. President, I must oppose the amendment of the Senator from Nebraska because I think it is far too restrictive in terms of what must be permitted in the area of allowed abortions under this bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I oppose the amendment on the grounds of what it does. On its face, it appears to be a States rights amendment. But what it does, in effect, is to permit the State to go far beyond what the law is relative to the Federal funding of abortions; that is, a State could deny Federal funds even when the life of the mother is endangered.

That is what is involved here, Mr. President. Let nobody mistake the innocent-sounding words as to what could happen: A State could go further, even where the life of the mother is in danger, and nobody has suggested that funds should not be available for that—nobody. Not in the debate earlier today, not in Hyde, nowhere have I seen that. If this amendment passes, then medicaid funds could be denied in all situations. That is the fallacy in this amendment. Therefore, I urge its disapproval.

Mr. PACKWOOD. Mr. President, I want to make sure that I understand the amendment of the Senator from Nebraska. Is the Senator from Nebraska saying that the Federal medicaid program will fund abortions for life, rape or incest, but if the States choose not to fund for any of those purposes, the State can do that?

Mr. EXON. The Senator is asking a question of the Senator from Nebraska. I believe a fair answer to the question is yes.

Mr. PACKWOOD. I wanted to make sure I fully understand that this amendment goes beyond anything that Congress, the House or the Senate, has done, period—now, last month, last year, or any other time.

Mr. President, we are saying to a State, "We have a Federal program. Those Federal programs in medicaid have the following minimum standards for abortion: Money may be spent if the life of the woman is in danger, if the pregnancy is the result of rape, or if the pregnancy is the result of incest. It is a Federal program and you put up some matching funds. But, even though this is now a mixed Federal-State program, if you do not want to fund it for life, if you do not want to fund it for rape, or if you do not want to fund it for incest, that is fine, knock it out."

Mr. President, I know of no other Federal program, whether it be in the field of medicine or otherwise, where we say, "We think the following policies are good and we are willing to help the States fund some of these programs, but they must meet certain standards." No other programs do I know of where we say "But they have to be certain standards."

The Senator from Nebraska would not only say on the one hand, "We have a program which does A, B or C," but "The States do not have to fund A, B, and C."

Second, to go so far as to say that if the States want to take away funding for those indigent women who are pregnant if that pregnancy endangers their life, I hope, is beyond any limits that this Congress now or ever thinks of going.

Mr. MAGNUSON. Mr. President, this language, as was pointed out, would allow the States, if they choose, to refuse to fund abortions for the life of the mother.

Again I say, Mr. President, this is not the time nor the place to get into the so-called States rights amendment. I urge the rejection of the amendment.

This is legislation, purely and simply, to reenact the amendment we turned down, the Weicker motion, and I do not see any reason for it, to get into the argument of States' rights on a continuing resolution.

I do not understand what the Senator from Nebraska is thinking about.

Let us vote.

SEVERAL SENATORS. Vote!

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, there seems to be some confusion on this matter. It is true, generally, that the statements have been made that this is more restrictive law than we have at the present time. But it is not as restrictive. It is not as restrictive as the measure that was passed by the House of Representatives.

Putting it another way, the compromise Exon amendment would allow the States to increase coverage under abortion, to include provable rape and incest, or promptly reported rape or incest, which the House language does not do.

This is not totally a States' rights issue, as allegations have been made on the floor in debate.

What we are doing is not throwing the door wide open to the States, but we are making it more liberal than the House-passed language by allowing the States, at their option, to include rape and incest, but not mandating that they do so.

The PRESIDING OFFICER (Mr. LEVIN). The question is on agreeing to the amendment of the Senator from Nebraska. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. EXON). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 47, nays 37, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—47

Armstrong
Baker
Biden
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Hatch
Hatfield
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Lugar
McClure
Melcher
Mitchell
Nunn
Pressler
Proxmire
Pryor
Randolph
Roth
Sasser
Simpson
Stennis
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—37

Baucus
Bellmon
Bentsen
Bradley
Burdick
Byrd, Robert C.
Chafee
Cohen
Cranston
Glenn
Hart
Hayakawa
Hollings
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Moynihan
Packwood
Pell
Percy
Ribicoff
Riegle
Sarbanes
Schmitt
Stafford
Stevens
Tsongas
Weicker
Williams

NOT VOTING—16

Bayh
Church
Culver
Eagleton
Goldwater
Gravel
Laxalt
Long
McGovern
Morgan
Nelson
Schweiker
Stevenson
Stewart
Stone
Tower

So Mr. EXON's amendment (UP No. 1694) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment in the first degree as amended.

The yeas and nays have been ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the yeas and nays on the pending amendment be vitiated.

Mr. WEICKER. Mr. President, reserving the right to object. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the the quorum call be rescinded.

Mr. WEICKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the yeas and nays which are ordered on the Weicker amendment, as amended, be vitiated.

Mr. LEAHY. Reserving the right to object, Mr. President, I wish to make a parliamentary inquiry.

If the Senator from Connecticut wanted to speak, I will withhold.

Mr. HELMS. If the Senator will bear with me, I am going to yield to Senator WEICKER.

Mr. LEAHY. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

UP AMENDMENT NO. 1694, AS MODIFIED

Mr. WEICKER. Mr. President, I ask unanimous consent that prior to acting on the amendment of the Senator from Connecticut, as amended by the amendment of the Senator from Nebraska, already agreed to, that the following langauge be inserted at line 11, after the word "service": "Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy."

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

In lieu of the language proposed to be inserted by the Senator from Connecticut insert the following: Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however,* That the several states are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Connecticut, as amended.

The amendment (No. 2143), as amended, was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

The PRESIDING OFFICER. Under the agreement, no further amendments are in order.

The Senator from Washington.

UP AMENDMENT NO. 1695

(Purpose: Technical amendment, clarifying the intent of section 101(c) of this joint resolution)

Mr. MAGNUSON. Mr. President, I ask unanimous consent that I can submit a technical amendment which clarifies the intent of section 101(c) of the joint resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1695:

On page 6, line 2, strike the period and insert: ; and the provisions of section 306 of H.R. 7593 shall apply to any appropriation, fund or authority made available for the period October 1, 1980, through December 15, 1980, by this or any other act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1695) was agreed to.

BILINGUAL EDUCATION REGULATIONS

Mr. DANFORTH. Mr. President, section 115 of House Joint Resolution 610, as reported by the Senate Appropriations Committee, provides that the Department of Education shall not use its funds to promulgate final regulations, before June 1, 1981, concerning the scope of adequacy of services for students of limited English proficiency or for defining entry and exit criteria for such services. The section was authored by the Senator from Florida (Mr. CHILES).

I believe it is imperative that the Department of Education and the American people understand clearly the meaning and intent of section 115. For that reason, I would like to ask Mr. CHILES a few questions about section 115.

Section 115 makes reference to the so-called "Lau remedies." It is my understanding that reference is made simply to identify which regulations are being prohibited, and in no way is intended to give any kind of congressional "seal of approval" to the Lau remedies or any kind of congressional acquiescence in their use as guidelines or for any other purpose whatsoever. Is that correct?

Mr. CHILES. Yes, that is correct. The reference is for descriptive purposes only. It neither ratifies nor prohibits the current civil rights enforcement practices of the Department. We simply delayed any new regulations until June 1, 1981, as a compromise.

Mr. DANFORTH. Section 115 refers to the prohibited regulations as "regulations which replace the current 'Lau remedies' for use as a guideline." I, for one, think the proposed bilingual education regulations published on August 5, 1980, do not simply replace the "Lau remedies" but go well beyond them, by being regulations and not simply remedies. I take it that the use of the term "replace" is meant, again, only to identify the subject matter of the regulations we are talking about.

Mr. CHILES. Yes.

Mr. DANFORTH. It is my understanding that the purpose of section 115 is to buy Congress and the public some time. Section 115 enables Congress to review in a deliberate way the issues sparked by the publication of the proposed bilingual education regulations on August 5, 1980 without concern that those regulations or similar regulations will be promulgated in final form before Congress has time for a full review and discussion.

Mr. CHILES. That is correct. I have many serious concerns about the scope of services, and the exit and entry criteria of the proposed regulations. I have asked the Congressional Budget Office to do a full analysis of the cost implications and I intend to pursue the issue at hearings during the delay period. I believe that we need a strong bilingual program to promote English proficiency but not one that fosters bicultural separatism.

Mr. DANFORTH. Mr. President, I hope that section 115 is part of the continuing resolution when it becomes law. As I have said in previous statements on the floor of the Senate, I believe very serious and fundamental questions are raised by the proposed bilingual education regulations. Section 115 gives Congress an opportunity to examine the issues that have been raised.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. BRADLEY). Have all Senators in the Chamber desiring to vote done so?

The result was announced—yeas 58, nays 27, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—58

Baucus
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Cranston
Dole
Durkin
Exon
Ford
Glenn
Hart
Hatfield
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Talmadge
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—27

Armstrong
Baker
Boschwitz
Chafee
Danforth
DeConcini
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Lugar
McClure
Metzenbaum
Pressler
Proxmire
Roth
Schmitt
Simpson
Stevens
Thurmond
Wallop

NOT VOTING—15

Bayh
Church
Culver
Eagleton
Goldwater
Gravel
Johnston
Laxalt
Long
McGovern
Morgan
Schweiker
Stewart
Stone
Tower

So the joint resolution (H.J. Res. 610), as amended, was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer (Mr. BRADLEY) appointed Senators MAGNUSON, STENNIS, ROBERT C. BYRD, PROXMIRE, INOUYE, HOLLINGS, BAYH, EAGLETON, CHILES, JOHNSTON, HUDDLESTON, LEAHY, SASSER, YOUNG, HATFIELD, STEVENS, MATHIAS, SCHWEIKER, BELLMON, WEICKER, MCCLURE, and SCHMITT conferees on the part of the Senate.

● Mr. HAYAKAWA. Mr. President, I would like to take this opportunity to explain why I voted against this omnibus continuing resolution, House Joint Resolution 610.

While this kind of legislation has become routine of late, I object to last minute, temporary legislation which allows the leadership to postpone action on the appropriations bills, which should be finished before the beginning of the fiscal year. Similarly, I object to the leadership's action to prohibit the second concurrent budget resolution from being debated. The fiscal year ends tomorrow; if we had finished with the budget, and the pending appropriations bills, we would not need this legislation. However, because the leadership has failed to adequately schedule debate on the Senate floor, we have not finished the business which is our statutory responsibility.

My vote against this resolution is a statement of my objection to the procrastination and failure of the leadership.●

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 1:18 p.m., recessed until 2:18 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIEGLE).

RECESS UNTIL 2:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:45 p.m. today.

There being no objection at 2:18 p.m., the Senate recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIEGLE).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I shall not detain the Senate but a minute or two. I have a statement to make here about the retiring Chief of our Engineers.

LT. GEN. JOHN W. MORRIS

Mr. STENNIS. Mr. President, it is a privilege for me to pay tribute to the retiring Chief of Engineers, Lt. Gen. John W. Morris, who will retire on September 30.

I will not repeat the details of his exceptionally distinguished career since a colleague of ours has already done so in the RECORD.

General Morris is a superb leader and really a brilliant engineer and a gentleman with the highest standard of integrity. In these traits he is equalled by some, of course, but I do not believe he is exceeded by any. It has been my privilege to have known and received invaluable assistance and counsel from General Morris for over 10 years. As chairman of the Armed Services Committee and Defense Appropriations Subcommittee and as a member of the Energy and Water Development Subcommittee, I have depended on him repeatedly for advice and counsel in both military engineering and civil works functions. I could and did act on his counsel with confidence in many grave matters.

Perhaps General Morris' greatest accomplishment has been his dynamic leadership of the Corps of Engineers during the past 4 years, a period of tumultous change of this country's national water resource development policies. He has insured that the Corps of Engineers is superbly postured and prepared for the challenges and opportunities in the 1980's.

I congratulate General Morris, a most distinguished Chief of Engineers, who joins a long line of distinguished Chiefs of Engineers. I regret to see him leave the service but I know he will be highly useful elsewhere and I wish him great continued success and satisfaction.

Mr. President, one of the most concise and perceptive statements on where we have been, where we are now, and where we should be going in water development was made by General Morris in remarks to the water resource Congress last February and illustrates his tremendous grasp of this subject.

Mr. President, I ask unanimous consent to have printed in the RECORD the remarks to which I have made reference.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

LET'S GET BACK TO WORK

The time has come for the Water Resource Developers of this country to start rolling up their sleeves and getting back to work. We have been holding back long enough. In fact, we have been resting so long that we have gotten somewhat out of condition, and before we can truly get the machinery of water resource development into high gear I expect we will have to go through a training period. Two years ago—and even last year to some extent—I did not feel as optimistic—or confident—as I do now that there will be a major upturn in the development of our nation's water resources.

In looking back over the resource development program in our country there are several periods which seem to have clear identity and character and which we need to recognize and understand—"Understand" because each has taken a logical place in the process of adjustment associated with American Water Resource Development. These periods are relatively short and generally quite recent.

Some here might be surprised to learn that several major Corps of Engineers projects started as make-work projects in the depth of the Depression: Fort Peck in Montana, Bonneville Dam on the Columbia River, Lake Texoma on the Texas-Oklahoma border and Conchas Dam in New Mexico, to name a few.

The 1927 flood on the Lower Mississippi took over 300 lives and drowned thousands of miles from Cairo to the Gulf, and the hurricane-spawned flood at Lake Okeechobee in 1928 took 1,836 lives. In the 1930s there were floods in Kansas and Pennsylvania, California and Kentucky, New England and in the Ohio and Mississippi Valleys. The latter alone left a million people homeless. At almost the same time our prairies were stripped and dust filled the air and covered the earth over thousands of square miles.

Consequently, from the mid 1930s to mid 1960s there was a strong national movement to control the nation's waters to recover from drought and also to prevent loss of life and property from flooding. There was an equal enthusiasm to develop our waterways and hydroelectric power productivity after World War II. Admittedly, there were lulls during these periods such as the no-new-start policy of President Eisenhower and a very strong opposition to "Pork Barrel" development such as expressed by Harold Ickes and Justice Douglas.

ENVIRONMENTAL PERIOD

For a variety of reasons the steam began to go out of the development attitude in the early 1960s. Some of the reasons included the growing competition for monies in Southeast Asia, the national concern over the environment, the emerging preservationist attitudes, and, probably of more importance, the complications of economic analysis and overemphasis of the value of benefit-cost ratios. In any event, by the late 1960s the passage of the National Environmental Policy Act brought a leave-it-alone philosophy based on a belief that only nature can improve on nature.

We can relate to the 1970s as the decade of the environment for the water programs—a decade of diminishing investment, increased regulation and changing methods of doing business. In my opinion, we have emerged from the 1970s with a 10-year record of lesser growth than our national interest in natural resources deserved. On the positive side, we have accommodated the national environmental objectives in our planning and project development to the point that a return to a period of development could be accommodated with full and proper responsibility for the environmental effects of such development.

CONSERVATION PERIOD

So you may ask are we ready now to embark upon a major investment program in the water resources area? You and I may be, but I do not believe the Nation is ready. We could surely do it, but there seems to be yet another period through which we must work our way before we have exhausted the alternatives to development, and also learned how to develop our resources in a manner which truly best serves the national interest and future generations. That period, and the one we are entering as we start the decade of the 1980s is a period of conservation.

This new emphasis on conservation may turn out to be one of the most significant features of water resources management and development in the decade ahead. I believe we are going to see the conservation ethic dominate public policy in the eighties as strongly as the environmental ethic dominated the seventies.

The conservation period will involve new and modified activities including a complete review of operating procedures, emergency planning for drought, reuse of waste water, reevaluation of all consumptive uses of water, and others. Certainly, our experiences with energy shortages should be ample cause to manage our water efficiently.

Certainly, another water shortage is in the future. We should soon be able to demonstrate that reductions of the total national need for water by conservation measures, while quite valuable, will in themselves be insufficient to manage the Nation's water resources properly and prepare judiciously for times of shortage. We, as a Nation, will have to do more to assure a good supply of water to all our people. We will have to store during time of plenty, and to transport large quantities of water during times of shortage. But first we must demonstrate that the need surpasses the fruits of merely using less. Then the conservation period will be on its way into our history and in proper balance with the environmental objectives.

IMPEDIMENTS TO A DEVELOPMENT INVESTMENT PROGRAM

Besides needing to resolve the requirement that a good national conservation program must precede a new development program, there are several remnant procedural problems which also must be solved before we could proceed rapidly with a major investment program. Even if the green light came on tomorrow, we are not ready. These procedural problems include cost sharing and our national policy and review capability.

Cost Sharing: Most of the cost sharing decisions seem either to be behind us or are now being considered by the Congress. A few cost sharing issues do remain. Perhaps the most complicated and delaying is Section 221 which is presently causing 35 states difficulty in agreeing to formal cost sharing with the Federal Government on recreation and water supply. Until this is relieved, we will continue to have many investment opportunities beyond our reach.

National Policy and Review Capability: The Executive Branch of Government needs a national Water Resource Council under a strong, separately-appointed leader, comprised of agencies with principal interest in water resource development and which has the responsibility and authority to review policy matters and make decisions.

We must be careful to keep project review separated from policy review or the Water Resources Council, as I envision it, would become bogged down in detailed engineering matters at the expenst of policy decisions. Leave the engineering to the agencies that will ultimately be responsible for building the project.

PRIORITIZING INVESTMENTS

If we can remove cost sharing constraints and policy delays, then we are well on our way to starting up the water resource development machinery.

But there does remain one additional and critical matter . . . in many ways the most difficult to handle. It has to do with the credibility not only of the program but of the individual projects in the minds of the people of the country and, of course, the Congress.

Before I start this, I would like to make it clear than I am not against benefit-cost ratios, and I am certainly not advocating their abandonment.

In recent years I have gradually but surely reached the conclusion that as valuable as the benefit-cost ratio may be, it has become an over-used and misused tool.

Its value in establishing investment priorities has been weakened because few people really understand the details of deriving the benefit cost ratio. It is a target for attack by those who oppose the project . . . a target not only because of the arithmetic on which it is based, but also as the symbol of indifference to environmental and other non-computable costs and benefits.

Further, history has proven time and again that economic analyses are so ultraconservative that the costs are invariably on the high side and the benefits, without exception, on the low side.

What all of this adds up to is my belief that with the environmental objectives and the conservation objectives, economic analysis is only one part instead of the whole . . . and, I believe, a less important part than we have allowed it to appear.

Having developed our water resources to the extent that we have, I strongly advocate an approach which resolves problems based on national need rather than on pure economics.

Had this approach been used on the Missouri River, we would have one project from Gavins Point to the headwaters at Fort Peck. Thus the erosion problems which must now be addressed as individual problems would have been part of the total project and properly charged against total major project benefits.

Of immediate importance is the ongoing National Navigation Study. My hope is that that study will identify the best water transportation system which the natural features of this country can support. It should be a total system, and we should not require that each and every segment, addition or improvement meet some arbitrary, economic test. We need the entire system to be that which best serves the total national interest.

Similarly, in the hydropower study, we should never repeat the serious errors of the 1960s by failing to provide power because of an economic evaluation predicated on such volatile data as the cost of alternate sources of fuel. This Nation needs all the energy which can be reasonably obtained through competent engineering and design, and we should provide that energy in the national interest. We need not be constrained by economic evaluations other than to identify the least expensive investment to meet the Nation's needs.

In summary, I definitely believe and sense that there is an emerging national attitude which, in due course, will lead us to another period of development of natural resources and particularly water. However, before this attitude bears fruit, we must wring out all of the water to be gained by a well thought out and mature national conservation program. And equally important, we must get our act together on identifying projects which will be developed. These projects will be of a character which will be fully compatible with the environmental objectives which were clearly established in the 1970s and conservation objectives being developed in the 1980s.

There is important work to be done. And the way now, for the first time in years, seems to be clear. We will get there by keeping our eyes on selected targets and by working diligently within the mainstream of our national objectives. The logic of proper development of our Nation's water resources is now acceptable to most of America. Still, the credibility of the program needs attention. Basically, the likelihood of undertaking such a program will increase proportionately to its credibility . . . that is, a program which conforms to environmental and conservation objectives and follows an acceptable system for setting investment priorities.

Before concluding, I'd like to tell you about what Senator Bob Kerr of Oklahoma said in a speech to the people at Wichita, Kansas, who were interested in extending navigation on the Arkansas River from Tulsa to Wichita, Kansas. That was on 26 November 1962. At the conclusion of that speech he said something I will always remember. He said: "Be careful what you dream . . . it might come true."

In my judgment, it's dreaming time again . . . but you'd better be careful.

Thank you very much.

Mr. STENNIS. Mr. President, I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DeConcini). Without objection it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar under the judiciary, beginning with Mr. Richard L. Williams, of Virginia, and going through Mr. Norman P. Ramsey, of Maryland, en bloc.

Mr. BAKER. Mr. President, reserving the right to object, and I advise the majority leader that I will not object, I would like to take just a moment on this reservation to explain to the distinguished majority leader and to others, some of whom are in the Chamber and some who are not, why we reached this point, how we have reached this point, and something of the circumstances and detail that have led us to this point.

First of all, contrary to some rumors that I heard earlier, no member of this group of 10 nominees for the Federal judiciary was held by a particular Senator on this side. I call the attention of my colleagues particularly to the concern expressed by some that the distinguished Senator from North Carolina, Mr. Helms, had placed a hold on one nominee.

As I indicated earlier to some of our colleagues, the Senator from North Carolina did not place a hold on one nominee. On the contrary, he asked for permission to extend further his inquiry into all 10 of these nominees. I understand, as a matter of fact, that he dispatched some 60 letters to various people around the country inquiring independently of their qualifications and desirability of the confirmation of those nominees for the Federal judiciary.

I will also point out at this time that there are no remaining objections. The Senator from North Carolina, indeed, has not objected to any of the members on this list.

I am happy to say that, after a long and torturous clearing process on this side, we are prepared now to consider these nominees and to agree to their confirmation. I express my thanks to the majority leader for the time that he has afforded us so the Senator from North Carolina and others could be as diligent as they always are and produce the result that they have now produced in regard to the quality of the judiciary.

I know some Members still have reservations about some members of the judiciary who are being nominated. But I think it is a testimonial to the good faith and conscientious discharge of their senatorial duties that, notwithstanding that sort of concern in some cases, assent has been granted now for me to announce, which I now do announce, that there is no objection to the consideration of all 10 of these nominees nor to their confirmation in executive session.

Mr. HATFIELD. Mr. President, we reserve the right to object.

Mr. President, I would like to underscore the comments made by the minority leader.

Some months ago the minority leader appointed a three-member screening committee within the Republican Conference. I happened to be appointed to that screening committee, one of three, Mr. Ted Stevens, of Alaska, and John Tower, of Texas, being the other two. Of course, as is fairly well-known within the body, I have had various colleagues who have an interest in these judicial appointments contact me in behalf of the nominee from their State, I do not believe without exception from both sides of the aisle, indicating strong support and the qualifications they felt were embodied in the nominees.

We have discussed these matters very frankly from the premise that as the minority party we are trying to act responsibly in handling all nominations, not just judicial appointments but all nominations.

The Senator from North Carolina, as Senator Baker has already stated, at no time approached me in any way to try to hold up any of the nominations. The Senator from North Carolina is well-known for his perseverance in finding out all the facts. I suppose that is part of his background as a media man, as well as part of his character as a U.S. Senator. He wants to have all the facts before him. Perhaps more diligently than many of the rest of us does he pursues such responsibilities.

I must say that he did not come to me at any time and indicate any desire to hold up any nominee, particularly, Mr. Erwin of North Carolina.

So, in the effort to fulfill the assignment given to us by Senator Baker, our leader, we have carefully, this three-member screening committee, gone over all the nominations that have been sent up here for many posts besides the judiciary.

I think today is again strong evidence that we want to try to minimize what may have been a tradition in this body in years past of holding up nominations per se in an election year because our commitment is that all the functions of Government must perform to their utmost capacity and efficiency. If there is a failure to confirm, it is going to impinge upon that ability to perform in a judicial district or in an administrative post. We are not going to try to frustrate that ability because we want to facilitate that highest performance of duties and responsibilities of government.

I merely wanted to make that record as well as to underscore the statement of the minority leader in reference to the Senator from North Carolina. I will not object.

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, I thank the distinguished minority leader and my friend from Oregon (Mr. Hatfield) for their generous comments.

The nomination of Judge Richard C. Erwin has caused a great deal of controversy in my State. Questions were raised about the nomination and I made inquiries about them. I felt it my duty to do so. It took time. I have just talked with Judge Erwin and I must say, Mr. President, that at all times he has conducted himself as a gentleman and I have tried to do the same. I believe he has understood my feeling that I have a duty as a Senator to be satisfied with all nominees, and especially judges who hold lifetime appointments.

In the case of another nominee from North Carolina, the Honorable Gerald Arnold, I have sent dozens of letters of inquiry to distinguished judges and attorneys in North Carolina requesting an assessment of Judge Arnold's qualifications. Upon the receipt of responses from the majority of the judges and lawyers to whom I wrote, I promptly returned a blue slip. It is my expectation that Judge Arnold's nomination may be confirmed after the Senate's recess.

In the case of Judge Erwin, some newspaper editors in my State have been highly critical of me for presuming to ascertain the facts about several reports that came to me. I have done my constitutional duty as a Senator as I perceive that duty.

Mr. President, having said all that, I resent a contrived falsehood circulated by former U.N. Ambassador Andrew Young in a syndicated column published under Mr. Young's byline in newspapers all over this country. In North Carolina, this scurrilous, unfounded column appeared in at least two newspapers on September 16. It makes the charge that the Senator from North Carolina tried to make a deal with Judge Erwin.

That is typical of the falsehoods that Mr. Andrew Young so often distributes, orally and otherwise.

You might remember, Mr. President, that Mr. Young is the man who described the Ayatollah Khomeini as a saint. He was about as correct on that as he was when he stated in his column that Senator Helms "reportedly" tried to make a deal with Judge Erwin. Who "reported" such a falsehood? Nobody. But that didn't restrain Andrew Young from contriving an utter falsehood, which I shall demonstrate in just a moment. Mr. President, I ask unanimous consent that the article to which I referred be printed in this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Reaganites To Turn Back Clock on Justice?

(By Andrew Young)

Washington.—When Jimmy Carter stood before the NAACP convention in Miami last June and attempted to paint a picture of what a President Reagan would mean in terms of federal court appointments, my first reaction was that it was a bit too soon to conjure up "the Reagan scare."

Now, I've had second thoughts about the timeliness of that speech—particularly after the last two weeks of behind-the-scenes scheming by Reagan campaign manager Paul Laxalt and other Reagan surrogates in the Senate to thwart six pending nominations to the federal bench.

The six in question just so happened to be three black males, two women (one white, one black), one Hispanic, and one white liberal male, whose only fault seems to be that he is too liberal. Senate observers describe these candidates as "boy scouts and girl scouts" with "spotless credentials."

In contrast, there are seven additional pending nominations for federal judgeships. All are white males who happen to enjoy the backing of prominent Reagan supporters such as Sens. S. I. Hayakawa, John Danforth, Charles Percy and Harry F. Byrd, Jr. These nominees were praised last week by South Carolina's Strom Thurmond, the Judiciary Committee's ranking Republican, as "beyond scrutiny," Thurmond avowed that the committee could now move forward with the seven nominations supported by the Reaganites. He was not prepared to clear the way for the other six, on the ground that staff investigations of the six had not been completed, the implication being that some of them might not be fit to be judges.

Hence a Reaganite manuever designed to confirm the impeccable seven and scuttle the disparaged six.

Sen. Edward Kennedy, chairman of the Judiciary Committee, was not buying this deal. He wondered aloud if objections to the six had anything to do with color, sex or political background, and offered additional staff to help Thurmond in the arduous task of investigating the nominees. Kennedy also exercised his prerogative as chairman and said the impeccable seven would not be steamrollered through the committee while the disparaged six were held hostage, awaiting the outcome of the November election.

There are clear reasons why Laxalt, Thurmond and Co. are interested in halting these appointments. It has something to do with race and sex, but it goes beyond these familiar contentions to a question of philosophy, a desire to retard the role of the courts in the defense of basic human and social rights. Conservatives are eager in their anticipation of a Reagan victory which would enable them to pack the court system and reverse the march toward genuine equal justice under the law.

The worst case among the six smacks of extortion. Far-right North Carolina Sen. Jesse Helms has refused to return the "Blue Slip" on North Carolina nominee Richard Erwin. (The "Blue Slip" system, once supposedly dead, is still alive and well. It gives a senator an automatic veto of any judicial nominee from the senator's state.) Erwin's confirmation hearing in the Senate has been described as a "honeymoon."

However, in additon to being black, his record in the North Carolina state legislature confirms that he is also pro-labor. Helms reportedly has stated, "This man tried to gut our right-to-work laws . . . and is pro-union." Helms is further reported to have attempted a deal where he would sign off on the nomination if Erwin would admit publicly that he had made a "mistake" in introducing legislation to amend his state's right-to-work law in order to support the rights of workers to organize. Erwin, now a state judge and an honorable one at that, refused on the grounds of principle.

The philosophical design to disrupt and change the American judicial system goes beyond the courts. Reaganites in the Senate recently demanded further hearings on an obscure U.S. Parole Board nominee from Minnesota, Les Green, whose public and private record had already been thoroughly scrutinized. Democrats, trying to complete confirmation proceedings before adjournment, asked what more was there to hear with regard to the Green appointment. He was chosen for the board specifically because he is an ex-offender and is thought to bring a different point of view to the parole process. He is also black.

Much of the appointment-blocking strategy can be traced to the smoke-filled rooms of the Republican Convention in Detroit, where Strom Thurmond was given the go-ahead by the Reagan camp to do everything necessary to plow under the pending nominations. This maneuvering is political, pure and simple.

Since July, Republican senators have been busy ducking Judiciary Committee executive sessions. Kennedy, however, got smart and tied the fate of the six to that of the seven—a neat parliamentary move that ensures a final attempt at confirmation before the end of this session.

Thurmond and his allies insist that they have bent over backwards to be fair to blacks and women, but in Detroit Reagan and Laxalt sensed an opportunity to seize the initiative before the anticipated January inaurguration.

President Carter is right: they want to turn back the clock, and the courts and justice as well.

Mr. HELMS. Mr. President, I have in my hand an affidavit signed by Judge Richard C. Erwin. I shall read part of it and I am going to ask unanimous consent in a moment that all of the affidavit appear in the Record. It says:

Richard C. Erwin, being duly sworn, deposes and says:

1. That your affiant wishes to make this affidavit relating to a newspaper column entitled "Reaganites to Turn Back Clock on Justice" authored by Mr. Andrew Young which your affiant was advised was published in the Winston-Salem Sentinel and the Charlotte News on September 16, 1980.

2. Senator Helms has not attempted to make a deal with me on any matter whatsoever at any time.

3. Your affiant has not made any statement to any person whomsoever which would give the impression or the suggestion that Senator Helms had offered any type deal whatsoever.

4. Mr. Young nor any agents of Mr. Young contacted me with reference to the published article in question. The last time your affiant saw Mr. Young or had any contact with him was during the summer of 1976.

Mr. President, I ask unanimous consent that the entire affidavit be printed in the Record at this point.

There being no objection, the affidavit was ordered to be printed in the Record, as follows:

State of North Carolina, County of Wake, Affidavit

Richard C. Erwin, being duly sworn, deposes and says:

1. That your affiant wishes to make this affidavit relating to a newspaper column entitled "Reaganites to Turn Back Clock on Justice" authored by Mr. Andrew Young which your affiant was advised was published in the Winston-Salem Sentinel and the Charlotte News on September 16, 1980.

2. Senator Helms has not attempted to make a deal with me on any matter whatsoever at any time.

3. Your affiant has not made any statement to any person whomsoever which would give the impression or the suggestion that Senator Helms had offered any type deal whatsoever.

4. Mr. Young nor any agents of Mr. Young contacted me with reference to the published article in question. The last time your affiant saw Mr. Young or had any contact with him was during the summer of 1976.

5. Your affiant has not had any contact with Senator Helms since his meeting with him on August 20, 1980 except a letter which your affiant answered. The letter did not mention the term, "blue slip."

Executed in Raleigh, North Carolina, this 26th day of September, 1980.

Richard C. Erwin, Judge, North Carolina Court of Appeals; affiant.

R. J. Duke Short, Chief Minority Investigator, United States Senate Judiciary Committee, witness.

Sworn to and subscribed before me this 26th day of September, 1980, Zenobia A. Jefferson, Notary Public; My comission expires February 22, 1983.

Mr. HELMS. So, Mr. President, this affidavit speaks for itself. I find it deplorable that Mr. Young is going around this country making statements of that sort and, in fact, distributing such statements via his syndicated newspaper column. This was a falsehood—he is bound to know that it is a falsehood.

Mr. President, that is the story on the Erwin nomination. I did my best to explore the facts relating to Judge Erwin. I think the minority leader and others may affirm that at no time have I tried to do other than to ascertain the facts in the case of this nomination.

I might add in conclusion, Mr. President, that it is the policy of the Senator from North Carolina, when a nomination comes before a committee of which the Senator from North Carolina is a member, to make the same sort of careful inquiry. I do it on the Foreign Relations Committee, I do it on the Agriculture Committee, and in the case of judicial nominees from the State of North Carolina, I do it. And I will continue to do so. I thank my distinguished colleague from Tennessee and my distinguished colleague from Oregon for their thoughtful comments.

Mr. BAKER. Mr. President, reserving for a brief moment, I express my appreciation to the Senator from North Carolina, not only for his remarks but, once again, for his diligence and perseverence in a matter of utmost importance.

I see on the floor the distinguished senior Republican, the ranking member of the Judiciary Committee (Mr. Thurmond). It was under Senator Thurmond's leadership that the Judiciary Committee, on our side, has threaded its way through a very difficult time and brought to the floor a number of nominations that we are now about to confirm, I believe. There are a great number of other judicial nominations which are still in the Committee on the Judiciary.

I express my personal appreciation to the Senator from South Carolina for his good work in bringing this matter to this point, especially for his good work in sending a member of his staff to North Carolina to assist the Senator from North Carolina in trying to arrive at this point.

Mr. President, a final word. I express my appreciation to the distinguished assistant minority leader (Mr. STEVENS), to Senator HATFIELD of Oregon, who is on the floor, and to Senator TOWER of Texas, who have served as members of the informal screening committee who, daily, have been beseiged, sometimes almost beleaguered, by requests to consider the confirmation or absence of confirmation of particular nominees. I think they have served us well.

Mr. President, with that, I have nothing further to say except to reiterate my observation to the majority leader that I have no objection.

Mr. CRANSTON. Mr. President, reserving the right to object and I shall not, I thank the distinguished majority leader for bringing these nominations to this final stage. I have spoken to him innumerable times on the two nominees from our area, California, where we need more people on the bench, particularly in and around Los Angeles. There are two very fine nominees, those now before the Senate, Consuelo B. Marshall and David Vreeland Kenyon, one a Democrat, one a Republican. Both will make outstanding judges.

I also thank the members of the Judiciary Committee for their cooperation and I thank the distinguished minority leader for his cooperation in bringing this to this very fine point.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority whip for his words. He has indeed pressed for the confirmation of the two nominees from California. I am delighted that clearance is now being given for the other nominees.

Mr. BAUCUS. Mr. President, I want briefly to thank the Senator from South Carolina, the Senator from Tennessee, the Senator from North Carolina, and the Senator from Oregon for not pursuing the rights and privileges they have at this time. They obviously could hold up these nominations if they so desired. They chose not to do so, I am sure for reasons that the minority has to function, it has to continue, it has to operate in a nonpartisan and bipartisan way. I personally want to thank the Senators for taking a forthright and statesmanlike approach to this matter and not holding up these nominations at this time.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the nomination?

Mr. THURMOND. Mr. President, I thank the distinguished Republican leader (Mr. BAKER) for his kind words. I want to say just a word about the nomination of Judge Erwin of North Carolina.

Mr. President, I was not notified that these nominations were coming up today, as I usually am, but somebody called me and tipped me off about them. I am very glad to be here to make this point

The distinguished Senator from North Carolina (Mr. HELMS) was concerned about an article by Andrew Young that appeared in the Charlotte News on September 16, 1980. It is headed "Reaganites Block Vote on Key Judges." When the question was raised in the article that Senator HELMS was trying to get a deal out of this matter with this judge, I knew in my own heart that it was untrue.

Senator HELMS is one of the best men I have ever known. He would not try to strike such a deal. In order to clear the record, however, we did send the investigator from the Committee on the Judiciary down to see Judge Erwin, who, I understand, is a State judge, and he talked with him. The investigator obtained an affidavit, which refutes what Andrew Young said. It in effect stated that the statements by Andrew Young in his column are false. I wanted this record to show clearly today that Senator HELMS has taken no step in any way to try to prohibit this nomination except to get the truth.

The investigator went down and obtained his affidavit which completely exonerated—if that is the proper word—Senator HELMS in this matter. Judge Erwin, the black judge, whom Andrew Young seemed to want to help, repudiated the remarks of Andrew Young in his column.

Mr. President, I want the people of this Nation to know that when Andrew Young makes a false statement, he ought to have his hand called. That is exactly what we tried to do, to get the truth. Judge Erwin made an affidavit under oath that these statements by Andrew Young were false. Mr. President, that is where the truth was found.

Mr. President, I just wanted to explain that to the Senate.

(Mr. BAUCUS assumed the chair.)

Mr. DECONCINI. Will the Senator yield for just a comment?

Mr. THURMOND. I am pleased to yield.

Mr. DECONCINI. Mr. President, I want to commend the Senator from North Carolina on this matter, because when this arose, I do not know how many Senators he contacted, but he did write to me a long, lengthy letter, explaining his objection—his concern, really, not an objection at that point—regarding the nomination that was in question. As one Senator who sits on the Judiciary Committee, I thought it was totally objective, totally without bias on his part. Whatever the accusations are by former Ambassador Young, they certainly are not substantiated by the record that the Senator from North Carolina conveyed at least to this Senator.

I am appalled that those kinds of charges would be levied at the Senator. I compliment him for his willingness to proceed, because I could see how the Senator from North Carolina could be considerably upset with such charges. It only demonstrates the ability and the understanding of the processes of this body to function and to provide the confirmation of these judges, including the one from North Carolina.

Let me also add, if the Senator will indulge me for one more moment, Mr. President, that the Senator from South Carolina has demonstrated the same kind of leadership on the Committee on the Judiciary, a willingness to take case-by-case appointments, obviously from a different administration than he might prefer, but willing to proceed with the advancement of these appointments, because the need of the judiciary does come before party preference.

I commend the Senator and ranking member.

Mr. THURMOND. Mr. President, I thank the Senator from Arizona. I understand that Ambassador Young has been saying that Republicans are against black judges and women, which is another false statement. I want to say for the record that the Republicans on the Judiciary Committee have not voted against a single black judge that President Carter has nominated. He has nominated, he says, more than any President in history—more than all Presidents, I believe he said, in all of history. I want the record to show that I cannot recall a single Republican on the Judiciary Committee voting against a black judge who has come before that committee.

In closing, Mr. President, I want to say in my judgment, there is no finer man in the Senate than JESSE HELMS. He is a man of unquestioned character and integrity. When I saw this article, it just burned me up, because I knew there was something wrong. I am glad our investigator has obtained the truth and shown that Andrew Young, a former Ambassador to the United Nations appointed by President Carter, made false statements in this article.

(Mr. DECONCINI assumed the chair.)

Mr. HELMS. Mr. President, I am deeply grateful to the distinguished Senator from Arizona (Mr. DECONCINI) and my very able friend from South Carolina (Mr. THURMOND) for their comments.

FEDERAL JUDGES FOR VIRGINIA

Mr. WARNER. Mr. President. I rise in strong support of the confirmation of two respected Virginians who have been nominated to serve as U.S. district judges: James Harry Michael, Jr., for the western district of Virginia; and Richard Leroy Williams, for the eastern district. I have consistently advocated publicly and in conferences with my colleagues that Virginia is in need of additional U.S. district judges.

These two nominees have been carefully selected through the merit selection commission process initiated by my distinguished senior colleague, Senator HARRY F. BYRD, Jr., and then by the Senate Judiciary Committee. In giving them my full support, I am applying one standard of judgment and one standard only, irrespective of political or other considerations. That standard, in a single word, is "merit."

The citizens of the Commonwealth of Virginia, members of the Federal bench and bar, and my Senate colleagues as well, have my personal pledge: That, to whatever extent I am now, or may ever become, involved in the process of selecting Federal judges, I will faithfully adhere to that same standard. For positions of such high trust and responsibility, bearing so directly and intimately on the lives and property of free Americans, there can be no other standard.

Each of the two nominees whose names are now before us meets that standard. Each has distinguished himself in the legal profession and in public service. Each has been rated as "well-qualified"—the highest ranking awarded by the American Bar Association Standing Committee on the Federal Judiciary. Each is unequivocally deserving of support and confirmation by the Senate.

Harry Michael of Charlottesville has served continuously as a leading figure in the senate of the Commonwealth of Virginia since his first election to that body in 1967. In addition to his senate committee responsibilities, he is a member of the Virginia State Crime Commission and the Virginia Code Commission, and chairs the Virginia Commission on Coal and Energy.

Senator Michael previously served 12 years as an appointed member of the school board of the city of Charlottesville. For 13 years he also served as associate or assistant judge of Charlottesville's Juvenile and Domestic Relations Court. In addition, he has worked actively with the Legal Aid Society of Charlottesville, and has been a lecturer in the University of Virginia School of Law.

A 1940 graduate of the College of the University of Virginia, and of its law school in 1942, Harry Michael served on active duty in the U.S. Naval Reserve from 1943 through 1946. Since that time he has been engaged in the private practice of law in his native Charlottesville.

Senator Michael has been admitted to practice before the Virginia Supreme Court of Appeals and various lower courts of the Commonwealth, the U.S. district courts for the eastern and western districts of Virginia, the U.S. Court of Appeals for the fourth circuit, and the U.S. Supreme Court.

In addition to his many professional memberships, a simple listing of Harry Michael's civic and community activities fills more than a full, single-spaced typewritten page. He is married to the former Barbara Elizabeth Puryear and is the father of two daughters.

Richard L. Williams of Richmond is a leading member of one of that city's most prominent law firms, McGuire, Woods & Battle. Like Harry Michael, Dick Williams is a native Virginian and a graduate of the University of Virginia and its law school.

In World War II, from 1940 through 1945, Mr. Williams served as an Army corporal and later as an Air Force second lieutenant.

He began his professional practice in Richmond immediately after receiving his law degree in 1951.

In 1972, Dick Williams left his law firm to serve the city of Richmond as judge, first of the law and equity court and later of the circuit court. He returned to private practice in 1976. During this period he also served as a lecturer at the University of Virginia Law School.

He too is a member of numerous civic and professional organizations, and has been admitted to practice before the Supreme Court of Virginia, the U.S. District Court for the Eastern District of Virginia, the fourth circuit court of appeals, and the U.S. Supreme Court. He is married to the former Eugenia Kellogg and has two sons and two daughters.

Mr. President, I am confident that these two distinguished Virginians, if confirmed, will serve in the finest traditions of the Federal judiciary. Their confirmation will provide citizens of my State with needed judicial services of high quality.

I am very heartened today that the leadership and my colleagues have made it possible that this group may go forward and be of service to the citizens of not only my State, but elsewhere in the United States.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the distinguished majority leader and the distinguished minority leader for working this out, where these nominees will be brought before the Senate this afternoon.

Having recommended for appointment Richard L. Williams, of Richmond, Va., to be a U.S. district judge for the eastern district, and having recommended James Harry Michael, Jr., of Charlottesville, Va., to be a U.S. district judge for the western district of Virginia, I am delighted that the Senate today will have an opportunity to vote on these nominations.

I think each of these men will qualify for the very important position to which each has been nominated.

I hope that the Senate will act unanimously on these nominations.

NOMINATION OF NORMAN P. RAMSEY TO THE FEDERAL DISTRICT COURT, DISTRICT OF MARYLAND

Mr. SARBANES. Mr. President, I am very pleased to rise in support of the nomination of Norman P. Ramsey of Maryland to serve on the U.S. District Court for the District of Maryland. It is my firm conviction that Norman Ramsey will bring great strength and quality to the Federal bench. He is one of Maryland's preeminent lawyers with an outstanding record of professional practice and public service.

Norman Ramsey, 57 years old, attended Loyola College in Baltimore and graduated from the University of Maryland Law School where he was an editor of the law review. His law school education was interrupted by service in the U.S. Marine Corps during World War II. Following law school he served, 1947–48, as law clerk to the Honorable W. Calvin Chesnut, one of Maryland's most distinguished Federal district judges. Upon completing his clerkship he joined the office of the U.S. attorney for the District of Maryland serving from June 1948 until December 1950.

At the end of 1950 Norman Ramsey became an associate in the Baltimore law firms of Semmes, Bowen & Semmes and continued his practice there until January 1955. He spent the next 2 years in the office of the attorney general for Maryland, first as an assistant attorney general and then as the deputy attorney general.

In January 1957 he returned to the law firm of Semmes, Bowen & Semmes as a partner and has since practiced with that firm and now acts as its managing partner. During this period of private practice he has at various times been specially appointed as a Special Assistant City Solicitor for Baltimore City and as a Special Assistant Attorney General for the State of Maryland to handle unusually important and complex legal matters.

From 1951 until 1970 he was also a lecturer at the University of Maryland Law School in a wide range of courses. He has been a very active trial practitioner in the Federal courts with extensive experience in both civil and criminal and in jury and nonjury cases. Throughout this period of broad and varied practice, Norman Ramsey has consistently demonstrated outstanding ability and has established himself as one of Maryland's finest lawyers.

In addition to his distinguished record as a practicing attorney, both public and private, Norman Ramsey has been very active in bar activities. From 1963–75 he served on the Board of Governors of the Maryland State Bar Association and in 1973–74 was the president of the Maryland State Bar Association. For many years he has been Maryland's delegate to the American Bar Association and in 1975–78 he served on the Board of Governors of the ABA. From 1968–74, Norman Ramsey was a member of the ABA Standing Committee on the Federal Judiciary, and he is currently chairman of the ABA's Standing Committee on Communications. For a number of years he was president of the Legal Aid Board of Baltimore.

As demanding as his professional activities have been—both his practice and his bar activities—Norman Ramsey has also held a number of important public positions; in this respect he has demonstrated his deep commitment to the community and to carrying out his responsibilities as a citizen. He has served as president of the School Board and as president of the Civil Service Commission, two of the most important boards and commissions of the city of Baltimore. At present he serves as the president of the Baltimore City Fire Board and as a member of the city's Board of Ethics. Service on these boards and commissions demand an enormous amount of time and dedication and often requires dealing with some very difficult public issues. In these positions Norman Ramsey's leadership has been of the highest quality, and he stands as an example of dedicated and responsible citizenship.

Both as a lawyer and as a citizen Norman Ramsey has demonstrated a profound sense of the importance of the rule of law and a keen knowledge of the law. I have every confidence in his ability, integrity, character, judgment, and in his commitment to equal justice under the law. Maryland and the Nation will benefit from the great strength and quality he will bring to the Federal District Court for the District of Maryland.

NOMINATION OF THE HONORABLE GEORGE HOWARD, JR.

Mr. BUMPERS. Mr. President, I support George Howard, Jr., for the position of U.S. District Judge for the Eastern and Western Districts of Arkansas, without reservation or equivocation.

Judge Howard currently serves as a member of the newly created Arkansas Court of Appeals. Before being appointed to his present position by Governor Clinton, Judge Howard served as an associate justice of the Arkansas Supreme Court. He served as a member of the Arkansas State Claims Commission from 1969 to 1977, and was chairman of that commission during the time I was Governor of Arkansas. He received the distinguished jurist award in 1980 from the Federal Bar Association. He has performed in an exemplary manner on the bench and in the bar of Arkansas.

Although the committee has been supplied detailed biographical information about Julge Howard, I want to point out that he served on the Arkansas Advisory Committee to the U.S. Commission on Civil Rights from 1965 to 1969.

More important than his excellent judicial and legal background for this position, Judge Howard has the temperament and judgment to serve with distinction on the Federal bench. Married and the father of four children, he has a broad base of experience in his community which is required of any person selected for this sensitive position.

He is a member of the New Town Missionary Baptist Church in Pine Bluff, Ark., and he now serves as a member of the board of trustees and superintendent of the Sunday school. He is a veteran of World War II, having served in the U.S. Navy in the South Pacific.

He has been in the forefront of civil rights activities in Arkansas since he began practicing law in the early fifties. He has made a lasting contribution to the State and to our Nation in this capacity.

In his previous judicial assignments, he has been fair, and has demonstrated a knowledge of the law that will make him an outstanding addition to the Federal bench in Arkansas.

I do not believe the Judiciary Committee received a single negative comment on Judge Howard's nomination. I rare tribute indeed.

It is my firm belief that Judge Howard will serve with distinction, and will reflect credit on himself, his State, his Nation, and the American system of justice.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Richard L. Williams, of Virginia, to be a U.S. district judge for the eastern district of Virginia.

Hipolito Frank Garcia, of Texas, to be a U.S. district judge for the western district of Texas.

James Harry Michael, Jr., of Virginia, to be a U.S. district judge for the western district of Virginia.

George Howard, Jr., of Arkansas, to be a U.S. district judge for the eastern and western districts of Arkansas.

Charles P. Kocoras, of Illinois, to be a U.S. district judge for the northern district of Illinois.

Susan C. Getzendanner, of Illinois, to be a U.S. district judge for the northern district of Illinois.

Richard C. Erwin, of North Carolina, to be a U.S. district judge for the middle district of North Carolina.

David Vreeland Kenyon, of California, to be a U.S. district judge for the central district of California.

Consuelo B. Marshall, of California, to be a U.S. district judge for the central district of California.

Norman P. Ramsey, of Maryland, to be a U.S. district judge for the District of Maryland.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the nominations which were confirmed en bloc.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I rise in support of Judge George Howard, Jr., who has just been confirmed as the new U.S. district judge for the eastern and western districts of Arkansas.

His service to our State has been of the highest caliber, and I have the greatest confidence in his ability to serve as an outstanding Federal district judge.

In our State, his early career was distinguished by his dedicated service as a member of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights and his chairmanship of the advisory committee for 2 years.

Judge Howard is also a renowned legal scholar and a man deeply dedicated to the legal profession. It was my privilege to reappoint George Howard to the Arkansas State Claims Commission, where he rendered exemplary service as its chairman and appoint him to be a member of the Arkansas State Supreme Court. Judge Howard's judicial perceptiveness and knowledge of the law earned him the respect of his colleagues and fellow Arkansans and was further recognized in his recent appointment to the Arkansas Court of Appeals.

He has been an outstanding citizen of our State and has distinguished himself and our judicial system by providing fair and just application of the law. He will be an asset to the Federal district court.

It is with great pleasure I observe that the Senate has confirmed Judge Howard's nomination. I am able to say with certainty that this man will serve his State and country with great distinction. I am proud to know a man of his integrity and ability.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 1 hour, for the purpose only of the introduction of bills and resolutions, petitions and memorials, and statements by Senators into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR GARY HART

Mr. ROBERT C. BYRD. Mr. President, one of the most impressive legislative records in the Senate today is that of the senior Senator from Colorado, GARY HART. During his 5½ years in the Senate, he has introduced more than 180 bills and amendments. Of those 180 legislative items, the Senate acted on more than 160 either in committee or on the Senate floor; the Senate passed 115 in whole or in part; and more than 70 have been incorporated into public law either in concept or as originally drafted. Fewer than 20 received no Senate action at all. Moreover, Senator HART's successful initiatives were not minor issues. They dealt with critical problems of defense, tax cuts, restraints on Federal spending, clean air, and energy.

This is a remarkable record. Introducing bills and amendments is relatively easy, but seeing those legislative initiatives through is a difficult task, one that marks the effective Senator.

As a member of the Armed Services Committee, the Budget Committee, and the Environment and Public Works Committee, GARY HART has been an articulate advocate of the interests of the Nation and of Colorado.

Early in his Senate career, he staked out his own distinctive stand on defense issues as a member of the Armed Services Committee. He was among the first defense analysts to stress the importance of the quality of our military effort, as well as the quantity of our forces. Senator HART is concerned about what happens on the battlefield, not merely what happens on paper here in Washington.

A number of his proposals for a more effective defense are already underway. Six major ship and weapon system procurement items are included in the fiscal year 1981 defense procurement bill recently signed into law. Much of the equipment will go toward building the "new Navy" envisioned by Senator HART, a Navy that is based on smaller, less expensive ships that will work together in large numbers, providing a force with greater mobility and invulnerability.

On the Budget Committee, Senator HART has long been a proponent of a balanced Federal budget. During Budget Committee hearings, he offered his own version of a balanced budget, including suggested cuts in Federal spending. The

Hart proposal contributed to the balanced budget that was adopted by the Senate earlier this year. He also has been active in working to reduce the heavy burdens of taxes and inflation on the American people.

In the field of energy, GARY HART chaired a special Budget Committee task force that explored the budgetary implications of synfuel proposals. The work of this task force contributed to the eventual synfuel program that was signed into law.

GARY HART is one of the Senators who began working early on solar energy development. In 1975, he introduced legislation to require energy audits of Federal buildings, greater conservation, and use of solar technology where appropriate. His bill later became law. In 1976, he worked to develop a national solar energy program, which also was signed into law. In 1978, he secured the passage of a provision authorizing solar energy equipment in housing projects sponsored by the Agency for International Development.

In his capacity as chairman of the Military Construction Subcommittee of the Senate Armed Services Committee, GARY HART took the lead in urging our military installations to include solar heating and cooling systems in their facilities. He also successfully promoted legislation to authorize military contracts for the production of fuel derived from refuse.

In an editorial endorsing GARY HART, the Rocky Mountain News discusses his innovative approaches and impressive legislative record. This paper, of course, has followed Senator HART's career very closely, and I would like to share its views with my colleagues. I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HART OUTSHINES CANDIDATES IN GOP BATTLE

The calendar is creeping up on Sept. 9, primary day, a day when one of three, maybe four, Republicans will win an opportunity to try to undo a good thing. That good thing, of course, is the tenure in office of U.S. Sen. Gary Hart, a Democrat who has demonstrated rather extraordinary political talent.

The GOP candidates for the nomination don't exactly make one's heart go thumpety-thump. In their vision of America's future and their expressed insight into national and international affairs, they are about as exciting as a pinup of a sumo wrestler.

The slickest of the crew is Howard "Bo" Callaway. You have probably seen his television commercials. "Bo Callaway, Bo Callaway . . ., some folk singer croons. Its as if Callaway was the hero in a TV show. "Davy, Davy Crockett . . ."

Callaway has already been around the political track a couple of times. He was a Georgia congressman back when the nation was engaged in resolving one of the most significant social issues of the century, the question of discrimination against blacks. Callaway voted against all the major civil rights bills that came before Congress. Maybe he could be forgiven for that if he would say he was sorry. He won't.

Then there's Sam Zakhem, an interesting character of the wild-eyed variety who has driven even members of his own party crazy while serving in the Legislature. His brand of confused, know-nothing, far-right politics has no place in the U.S. Senate. He has his fans—so, probably, did Attila the Hun—but shouldn't be taken seriously for so important a job.

Next: John Cogswell, an Englewood lawyer and probably a very decent fellow. But what are his qualifications for the office? If he has said anything perceptive about any issue or given evidence of unusual leadership qualities, we have missed it.

The best of the Republican candidates was—is?—Mary Estill Buchanan. She is popular with the voters—the evidence being the huge margins by which she has been elected secretary of state—but not with the party of her choice. Her GOP comrades, treating her like a snake in a maternity ward, have apparently managed to keep her off the ballot, though there may still be time for a court reversal. Her sin? She is a moderate. Not a liberal, mind you, but a moderate, a woman of the center, someone who is against big government, for instance, but doesn't think enactment of the ERA would mark the end of home and hearth.

Contrast these candidates with Gary Hart.

Although the Republicans are trying to portray him as one of those Democrats who would tax us from womb to tomb, Hart has, in fact, eschewed New Deal liberalism, understanding that the solutions it offers are no longer solutions at all, but part of the problem. Instead of clinging to irrelevant and outmoded ideologies, he has sought a fresh approach to American politics, one that will provide answers to today's problems.

A big spender? The record doesn't support the charge. Unlike the Ted Kennedys of our polity, he has opposed national health insurance, explaining that the nation just can't afford it. He proposed $15 billion in budget cuts this year and detailed how it could be done—as one praise-worthy example, by lopping off 1,000 jobs at the Department of Energy. He opposed the Chrysler bailout and has fought other special interests, arguing, "If you want government off your back, get your hand out of the government's pocket."

The Republicans would have you believe Hart is anti-defense. It's not so. In this area, he is actually for increased spending—if it is also intelligent spending. He contends that a bigger military is not necessarily a better military unless it is bigger in the right spots. With ex-Sen. Robert Taft Jr. of Ohio, a conservative Republican, he published a much-applauded "white paper" calling for a large ship-building program. His detailed knowledge of defense issues has won him the respect of the Pentagon and even some of the old, super-hawk curmudgeons on the Senate Armed Services Committee, who originally regarded him with suspicion.

Concerning the economy, he worked out a scheme calling for a balanced budget and tax cuts for businesses and workers provided they stuck to voluntary wage-price guidelines. It was an admirable suggestion, embodying both liberal and conservative ideas. If Congress would adopt something of the sort, inflation could be whipped.

When you sit down and talk to Hart, what impresses you most is that he has done his homework, and then some. On almost any important issue, it seems he has a grasp of particulars that is little short of amazing. It is obvious that he doesn't just react to issues, he turns them this way and that, looks at them from the top, the bottom and every side he can find, collects facts and then collects more facts, brings a very fine mind to bear on the gathered information, and then proposes creative answers. This is rare in an age when legislators are mostly satisfied to let administrators do the thinking for them.

It was Gary Hart—by way of illustration—who came up with the idea of requiring the U.S. military to install solar devices on its new buildings when cost effective. That idea became a bill, that bill became a law, and the consequence has been a doubling of the solar energy industry and significant savings in nonrenewable fuels.

Largely because of his hard work and reputation as a careful thinker—but also because he is articulate and perhaps even charismatic—Hart has become a leader in the Senate. He has been credited with doing more than any other senator in attempting to secure passage of SALT II. Whatever one thinks of that proposed treaty, it remains almost unheard of for a first-term senator to lead the way on so major an issue.

Colorado needs that kind of clout in its congressional representation. With the rest of the nation hungry for the energy resources in the Rockies, the state could face virtual devastation unles its delegation knows how to fight for Colorado interests. Hart was a prime mover on legislation that secured some $6 million a year for Colorado counties unable to tax federal lands within their boundaries, and co-sponsored another bill providing government help in cleaning up uranium mine tailings in the state. He is now in the thick of the battle to save the state from overly anxious and potentially destructive synfuels development.

It goes without saying that, not just the state, but the country needs elected officials with Hart's qualities. It is a much different world today than it was just a decade ago, and it's essential that our political leadership include those whose minds are not locked into perceptions that have little connection with the new realities, chief among them our shriking resources.

So the News is not going to be coy. Although papers usually wait until much closer to Election Day to make their endorsements, we consider Hart so able and his possible opponents so weak that we are stating our position today. We endorse Hart.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

TENTH REPORT OF THE UNITED STATES SINAI SUPPORT MISSION—MESSAGE FROM THE PRESIDENT—PM 248

The Presiding Officer laid before the Senate the following message from the President of the United States. together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith the Tenth Report of the United States Sinai Support Mission. It covers the Mission's activities during the six-month period ending October 1, 1980. This report is provided to the Congress in conformity with Section 4 of Public Law 94–110 of October 13, 1975.

The Peace Treaty of Egypt and Israel signed in Washington on March 26, 1979, called for the United States to continue its monitoring responsibilities in the Sinai until January 25, 1980, when Israels armed forces withdrew from areas east of the Giddi and Mitla Passes. This mission was completed on schedule and to the satisfaction of all parties.

Trilateral talks in Washington in September of 1979 resulted in agreement that the United States would use the Sinai Field Mission to perform certain functions, among those specified in Annex I of the Treaty, relating to the verification of military constraints applicable to limited forces zones located in the western two-thirds of the Sinai. The Egyptian and Israeli Governments subsequently confirmed orally their acceptance of three articles on the operations of the Sinai Field Mission from an agreement still under negotiation which deals with arrangements in the Sinai up to the time of final Israeli withdrawal in April 1982. Administration officials have conveyed the text of these three articles to appropriate Congressional committees and have briefed them on the other aspects of the proposed agreement. They will continue to keep the Congress fully informed of progress in the negotiations on the remainder of the proposed agreement.

This year's funding of the Sinai Support Mission is authorized under Chapter 6, Part II of the Foreign Assistance Act, "Peacekeeping Operations." At my request, Congress restored 6 million dollars and approved an additional FY–1980 funding of 3.9 million dollars so that the Sinai Support Mission could perform verification functions entrusted to it.

The American peacekeeping effort in the Sinai has been a highly successful one. I know the Congress will continue its support of this mission as part of the larger U.S. effort to achieve our goal of permanent peace in the Middle East.

JIMMY CARTER.

The WHITE HOUSE, *September 29, 1980.*

PLANS FOR UNITED STATES PARTICIPATION AND SUPPORT OF SCIENTIFIC AND TECHNOLOGICAL ACTIVITIES INVOLVING EGYPT AND ISRAEL—MESSAGE FROM THE PRESIDENT—PM 249

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to Section 8 of Public Law 96–35, I am pleased to transmit the report outlining plans for United States' participation and support of scientific and technological activities involving Egypt and Israel.

It is clear that science and technology have played an important role in strengthening U.S. bilateral cooperation with these countries. Recognizing this, my Administration fully supports the view that encouraging trilateral cooperation on activities of a scientific and technological nature can contribute much to building a permanent structure of peace in the Middle East. We will continue to support the development and strengthening of scientific and technological activities that enhance relations between the peoples of Egypt, Israel and the United States.

JIMMY CARTER.

The WHITE HOUSE, *September 29, 1980.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that the President of the United States, on September 26, 1980, approved and signed the following acts:

S. 215. An act for the relief of Renuka Pavia.

S. 1650. An act to provide for the development of Aquaculture in the United States, and for other purposes.

S. 2223. An act to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4677. A communication from the Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, the Consolidated Defense Related Employment Program for fiscal year 1979; to the Committee on Armed Services.

EC–4678. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report of a proposed letter of offer to the Philippines for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4679. A communication from the Acting Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a secret report on contract award dates for the period of September 15 to December 15, 1980; to the Committee on Armed Services.

EC–4680. A communication from the Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Act of January 8, 1971, authorizing the establishment of the Voyageurs National Park, and for other purposes; to the Committee on Energy and Natural Resources.

EC–4681. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Senate Buildings Beauty Shop. For the Fiscal Year Ended February 29, 1980; to the Committee on Governmental Affairs.

EC–4682. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the fiscal year 1982 appropriations request of the Federal Election Commission; to the Committee on Rules and Administration.

EC–4683. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice that the Army intends to exercise the provision for exclusion of a clause concerning the examination of records by the Comptroller General; to the Committee on Armed Services.

EC–4684. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Navy's Computerized Pay System is Unreliable and Inefficient—What Went Wrong?"; to the Committee on Armed Services.

EC–4685. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to consolidate and simplify the mortgage credit and related authorities contained in the National Housing Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–4686. A communication from the Acting Assistant Secretary of the Interior, transmitting, notice of a project proposal from the Buffalo Rapids Project, Irrigation District No. 2, Montana, under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC–4687. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to obtain adequate law enforcement services at water resource development projects under his jurisdiction; to the Committee on Energy and Natural Resources.

EC–4688. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a Report of Building Project Survey proposing the acquisition of space in a building to be constructed under lease agreement; to the Committee on Environment and Public Works.

EC–4689. A communication from the Administrator, General Services Administration transmitting, pursuant to law, amended prospectuses which propose continued occupancy under succeeding leases for space located at 1701 North Fort Myer Drive, Arlington, Virginia; to the Committee on Environment and Public Works.

EC–4690. A communication from the Chairman, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the twentieth report on abnormal occurrences at licensed nuclear facilities; to the Committee on Environment and Public Works.

EC–4691. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Section 74 Seafood Processing Study"; to the Committee on Environment and Public Works.

EC–4692. A communication from the Chairman, United States Advisory Commission on Public Diplomacy, transmitting, for the information of the Senate, a report on the International Communications Agency; to the Committee on Foreign Relations.

EC–4693. A communication from the Acting Commissioner of the Immigration and Naturalization Service, U.S. Department of Justice, transmitting, pursuant to law, 665 reports concerning visa petitions which the Service has accorded third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–4694. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a technical adjustment to the deferral transmitted on August 27, 1980 in the President's twelfth special message for fiscal year 1980; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

PRIVACY PROTECTION ACT OF 1980—CONFERENCE REPORT

By Mr. ROBERT C. BYRD (for Mr. Bayh) from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1790) to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes (Rept. No. 96–1003).

By Mr. FORD, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute).

S. 2279. A bill to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

By Mr. PRYOR, from the Committee on Governmental Affairs, with an amendment:

H.R. 2510. An act to amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system (Rept. No. 96–1004).

By Mr. PRYOR, from the Committee on Governmental Affairs, without amendment:

H.R. 6065. An act to amend title 5, United States Code to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. CHAFEE:

S. 3165. A bill to amend the Trade Act of 1974 to improve the operation of the generalized system of preferences; to the Committee on Finance.

S. 3166. A bill to postpone the designation of certain recently subdivided articles under the Tariff Schedules of the United States as eligible articles under the generalized system of preferences established by the Trade Act of 1974 until the International Trade Commission has conducted a study of potential market disruption; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE:

S. 3165. A bill to amend the Trade Act of 1974 to improve the operation of the generalized system of preferences; to the Committee on Finance.

IMPROVEMENT IN OPERATION OF GENERALIZED SYSTEM OF PREFERENCES

• Mr. CHAFEE. Mr. President, today, I am introducing legislation designed to improve the generalized system of preferences (GSP) by providing increased protection for domestic manufacturers from growing duty-free imports, and by insuring that more of the poorer developing nations receive a greater share of the benefits of this program.

Under title V of the Trade Act of 1974, the generalized system of preferences was created to help lesser developed nations expand their industries by insuring them access to markets in the United States. The GSP program is an important and worthwhile foreign aid tool that benefits many nations. Yet, the program is not without problems.

During the first 5 years of operation, only the most advanced of the developing countries have benefited from the GSP program. In fact, the top five countries (Taiwan, Hong Kong, Brazil, Korea, and Mexico) accounted for more than 50 percent of all GSP duty-free imports from 1976 to 1978. The remaining benefits were divided between more than 100 poorer nations.

In addition, there is evidence that the safeguards originally intended to protect U.S. manufacturers from less expensive duty-free imports have not worked adequately. Domestic firms have discovered that it is most difficult to have a product removed from the list of GSP eligible imports. An industry or community must be so severely hurt in order to demonstrate that GSP imports have been the direct cause of such harm, that when relief finally comes, it is often too late.

An example of this problem occurred in the U.S. apparel manufacturing industry. In 1976 and 1977, Korea and Taiwan captured a large share of the U.S. leather apparel market as a result of the GSP program. When these two countries exceeded their allowable limits on duty-free imports, and the product was removed from the eligible list, damage had already been irreparable. Taiwan and Korea, already well-established sellers of leather products in the United States, simply continued to increase their share of the American market, even with the duty in effect. Consequently, the U.S. leather apparel industry is in shambles, today.

Certainly, the GSP program is a commendable endeavor. We should continue to assist our less deveoped trading partners. But we want the program to be equitabe to U.S. manufacturers as well as to poor nations. Does it make sense that the most developed of the developing countries—the countries with the more advanced and competitive industries—should receive most of the benefits of this program? Does it make sense for the U.S. taxpayer to be contributing billions of dollars every year in trade adjustment assistance to people who have lost their jobs, while at the same time allowing duty-free imports to increase? I think not.

Mr. President, in April, Senator Ribicoff, chairman of the International Trade Subcommittee of the Senate Finance Committee, asked me to review the GSP program, including the President's 5-year report to Congress on its operation, and to make specific recommendations to the subcommittee as to how the program could be improved.

The bill I introduced today embodies those recommendations and it is my hope that the Trade Subcommittee will begin debate on this legislation before the end of the year. My bill raises several issues and concerns about the operation of the GSP program that I believe deserve discussion and clarification.

A summary and explanation of my proposal follows:

Mr. President, I urge all my colleagues to study this bill carefully and to add their support. It is a moderate program, and I believe that it preserves the integrity and spirit of GSP, while providing increased protection for U.S. jobs.

I ask unanimous consent that the bill and an accompanying summary be printed in the Record.

There being no objection, the bill and the summary were ordered to be printed in the Record, as follows:

S. 3165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Authority to Extend Preferences.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended by striking out the second sentence and the period at the end of the first sentence and by inserting in lieu thereof the following: "if, after taking into consideration the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries, the President determines that—

"(1) the effects of such action will clearly and importantly further the economic development of developing nations, and

"(2) the action may not reasonably be expected to cause or threaten to cause such a decline in sales, production, or employment for United States producers of like or directly competitive products that there will be market disruption (within the meaning of section 406(e)(2)).".

Sec. 2. Definition of Beneficiary Developing Country.

(a) Limitations on Designation.—Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and "or", and

(3) by inserting immediately after paragraph (6) the following new paragraph:

"(7) if such country has a trade surplus in manufactured goods with the United States.".

(b) Factors To Be Considered by the President.—Subsection (c) of section 502 of such Act is amended—

(1) by inserting after "inhabitants," in paragraph (2) the following: the degree of growth and competitiveness of its industries,",

(2) by striking out "and" at the end of paragraph (3),

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and

(4) by adding at the end thereof the following new paragraphs:

"(5) the trade history and trends of such country, including both eligible duty-free articles and tariff articles exported to the United States;

"(6) the anticipated benefits to the economic development and trade activities of such country as a direct result of such designation; and

"(7) the tariff and nontariff barriers imposed by such country to the importation of United States products.".

Sec. 3. Designation of Eligible Articles.

(a) Procedure for Commission Consideration.—Subsection (a) of section 503 of the

Trade Act of 1974 (19 U.S.C. 2463) is amended to read as follows:

"(a) (1) On the first day of September each year the President shall publish, and furnish to the International Trade Commission, a list of articles and detailed product descriptions (identified by their item number under the Tariff Schedules of the United States) which may be considered for designation as eligible articles for purposes of this title.

"(2) Before any such list is furnished to the Commission, there shall be in effect an Executive order under section 502 designating beneficiary developing countries. The provisions of sections 131, 132, 133, and 134 of this Act shall be complied with as though action under section 501 were action under section 101 of this Act to carry out a trade agreement entered into under section 101.

"(3) In its consideration of such articles, the Commission—

"(A) shall conduct a study to determine the probable economic effect the elimination of duty for such articles will have upon United States industries producing like or directly competitive articles, and

"(B) shall consult with appropriate advisory groups from business and labor and shall hold public hearings after issuing notice thereof and allowing a reasonable period for public comment.

"(4) The Commission shall report to the President its findings and recommendation with respect to each such article, including a recommendation as to whether the article should be designated as an eligible article for purposes of this title. The report shall include any dissenting or separate views and shall be made available to the public, together with the records of any public hearings held with respect to such articles. The Commission shall cause a summary of the report and the hearings to be published in the Federal Register.

"(5) After receiving the advice of the Commission with respect to the listed articles, the President shall designate those articles he considers appropriate to be eligible articles for purposes of this title by Executive order. In making such designations the President shall include a detailed product description of each such article.".

(b) LIMITATIONS ON ELIGIBILITY AND SUBDIVISION.—Subsection (c) of section 503 of such Act is amended by adding at the end thereof the following new paragraphs:

"(3) If the value (as determined under section 301(b)(6) of title 13, United States Code) of all duty-free entries of an article designated under subsection (a) for the most recent 4 calendar quarter period for which data is available exceeds—

"(A) $250,000,000, or

"(B) 50 percent of the appraised value of all imports of such article (whether duty-free or dutiable),

then that article shall cease to be an eligible article for purposes of this title as of the first day of the first calendar quarter beginning after such data are available.

"(4) No article designated as eligible for the purposes of this title may be subdivided into 2 or more eligible subarticles unless—

"(A) such subdivision does not cause the duty-free import limitations of section 504 (c) to be exceeded,

"(B) notice of the intended reclassification is published and a public hearing is held with respect to such reclassification,

"(C) such subdivision does not cause or threaten to cause such a decrease in sales, production, or employment in the United States that there will be market disruption (within the meaning of section 406(e)(2)) (determined on the basis of a study by the President of the effects of such action on United States producers or like or directly competitive products and after consultation with appropriate advisory groups from business and labor), and

"(D) the President transmits to the Congress, on the day on which the President publicly announces his intention to take such action, a document setting forth an explanation of the action intended to be taken and the reasons for such action, in terms of the national economic interest and the purposes of this title.".

SEC. 4. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) LIMITATION BASED UPON GROWTH RATE OF DOMESTIC INDUSTRY.—Subsection (c) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out so much of such subsection as precedes "then" in paragraph (1) and inserting in lieu thereof the following:

"(c) (1) The quantity of an eligible article from any designated beneficiary developing country permitted to enter the United States duty-free under this title for any calendar year—

"(A) shall, if the annual growth rate for the United States industry (as determined by the Secretary of Labor) which produces a like or directly competitive product is less than the annual growth rate for the United States gross national product for the same period, remain at the level established for the preceding calendar year,

"(B) shall, if the annual growth rate for such industry (as so determined) is the same as or greater than the annual growth rate for the United States gross national product for the same period, be increased to an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year bears to the gross national product of the United States for calendar year 1974, but

"(C) may not exceed 50 percent of the appraised value of the total imports of such article (whether duty-free or dutiable) into the United States during the preceding calendar year.

"(2) Whenever the President determines that any country, except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article in excess of the limitations in paragraph (1)", and

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 504(c) of such Act (as amended by subsection (a) of this section) is amended—

(A) by striking out "(1)" and inserting in lieu thereof "(A)",

(B) by striking out "(ii)" and inserting in lieu thereof "(B)", and

(C) by striking out "(iii)" and inserting in lieu thereof "(C)".

(2) Subsection (d) of section 504 of such Act is amended by striking out "(c)(1)(B)" each place it appears and inserting in lieu thereof "(c)(1)(C)".

(c) PROCEDURE FOR REDESIGNATION.—Section 504 of such Act is amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding the provisions of subsection (c)(3), a country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of the limitations of subsection (c)(1) may not be redesignated as a beneficiary developing country with respect to that article unless—

"(1) imports of the article from such country for the calendar year immediately preceding the year for which the redesignation is to be made did not exceed the limitations of subsection (c)(1),

"(2) that country requests redesignation with respect to the article,

"(3) there is compliance with all of the provisions of section 502 with respect to designation of the country as a beneficiary developing country and with respect to designation of the article as an eligible article,

"(4) a review is made of the need and appropriateness of such redesignation in light of the country's trade performance and economic trends,

"(5) the President notifies the Congress of the intended redesignation and transmits an explanation of the reasons for redesignation, and

"(6) notice of the intended redesignation is published and a public hearing is held with respect to the redesignation.

"(g) A country which ceases to be treated as a beneficiary developing country with respect to eligible articles specified in any single 3-digit item classification of the Tariff Schedules of the United States by reason of the limitations of subsection (c) (1) in 3 calendar years may never be redesignated as a beneficiary developing country with respect to articles specified in that classification.".

SEC. 5. EMERGENCY PETITIONS FOR TERMINATION OF ELIGIBILITY.

(a) IN GENERAL.—Title V of the Trade Act of 1974 (relating to generalized system of preferences) is amended by redesignating section 505 as 506 and by inserting after section 504 the following new section:

"SEC. 505. EXPEDITED TERMINATION OF ELIGIBILITY.

"(a) (1) Within 10 days after the filing of a petition under this section by an entity described in section 201 (a) (1), the United States International Trade Commission shall commence an investigation to determine, with respect to an eligible article, or articles which are the product of a beneficiary developing country, whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the article or articles to which the petition relates.

"(b) (1) Within 30 days after commencing an investigation under subsection (a), the Commission shall make a preliminary determination with respect to whether there is a reasonable indication that such injury, threat of injury, or material retardation has occurred by reason of imports of such article or articles.

"(2) If the preliminary determination of the Commission is negative, the investigation shall be terminated. If the preliminary determination of the Commission is affirmative, then—

"(A) the designation of such article as an eligible article, or

"(B) the designation of such country as a beneficiary developing country,

shall be suspended with respect to articles entered, or withdrawn from warehouse, for consumption after the date of such preliminary determination.

"(c) Within 10 days after the date on which the Commission makes a positive determination under subsection (a) with respect to an article or a beneficiary developing country, the Commission shall commence a thorough investigation of the matters alleged in the petition. Within 180 days after the date on which it commences such investigation, the Commission shall make a final determination, based upon the best information available to it at the time of the determination, with respect to whether such injury, threat of injury, or retardation has occurred by reason of imports of such article or articles.

"(d)(1) If the final determination of the Commission is negative, the suspension of designation under subsection (b)(2) shall be terminated, and, upon request therefor filed with the customs officer concerned on or before the 90th day after the date of such final determination, the entry or withdrawal of any article to which the suspension applied, and—

"(A) that was made after the date of the preliminary affirmative determination and before the date of the final negative determination, and

"(B) with respect to which there would have been no duty if the suspension had not applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the final determination.

"(2) If the final determination of the Commission is affirmative then—

"(A) the designation of such article as an eligible article, or

"(B) the designation of the country as a beneficiary developing country,

shall be terminated, and such termination shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of the preliminary affirmative determination.

"(e) The President may not designate an article as an eligible article, or a country as a beneficiary developing country, under this title during the 12-month period which begins on the date of a final affirmative determination by the Commission under this section with respect to such article or country.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by striking out the item relating to section 505 and inserting in lieu thereof the following items:

"Sec. 505. Expedited termination of eligibility.

"Sec. 506. Time limit on title; comprehensive review.".

SUMMARY

Summary of the major provisions of the Chafee bill to amend and improve the Generalized System of Preferences.

Section I—Authority to extend preferences:

Specifically states that such preferential treatment may be granted by the President only if:

1. the effects of such beneficiary status "clearly and importantly" further the economic development of developing nations;

2. consideration is given to similar action being taken by other major developed countries; and

3. the action does not "cause or threaten to cause" a serious decline in sales, production, or employment of U.S. producers, (such that market disruption results).

Section II—Beneficiary developing country:

A. Adds additional requirement that prevents designating a country as a beneficiary developng country if:

such country has a trade surplus in manufactured goods with the United States;

B. Expands upon the conditions the President must take into account when considering any country for beneficiary developing country GSP status.

Conditions:

1. More in-depth study of the economic factors of a country beyond the per capita gross national product including the degree of growth and competitivenss of such country's industries;

2. The trade history and trends of such country;

3. The anticipated benefits to such country's economic development as a direct result of preferential status; and

4. Trade barriers of such country which hinder U.S. exports.

Section III—Eligible articles:

A. Requires the President to publish and furnish the International Trade Commission with a list of eligible articles (and product descriptions) under consideration on September 1, of each year.

B. A more extensive review will be required by the ITC when considering the listed articles. ITC report will be public information. Included in this review must be:

1. Public hearing;

2. Consultation with appropriate business and labor advisory groups; and

3. Adequate notice for comment period by the public.

C. Limitations of GSP imports of an article from all beneficiary countries: Sets a dollar limitation of:

1. $250,000,000 on duty-free imports, or

2. 50 percent of total imports of any one duty-free article that enters the United States from all GSP designated countries.

D. Conditions for subdividing GSP articles: Prevents the subdividing of GSP eligible articles into two or more GSP eligible subarticles unless:

1. The subdivision does not cause the duty-free import limitations to be exceeded;

2. The subdivision does not cause or threaten to cause a serious decline in sales, production or employment in the United States, (such that market disruption results) as determined after study and consultation with appropriate groups;

3. A public hearing is held and report to be released; and

4. The President must notify Congress of his intentions and reasons for such action.

Section IV.—Limitations on preferential treatment:

A. Links the growth or decline of individual U.S. industries to the dollar limitation of an eligible article entering the United States duty-free.

1. If the growth of a specific industry is equal to or greater than the growth rate of the U.S. gross national product (for the previous 12 month period), then the dollar limit on GSP eligible products shall be increased at the same rate that the U.S. gross national product has grown.

2. Hold-harmless provision: If the growth rate of a specific industry is less than the growth rate of the U.S. gross national product (for the previous 12 months), then the dollar limit on GSP eligible products shall remain at the amount set for the previous calendar year.

B. Redesignation Requirement: When a country loses its beneficiary status with respect to GSP eligible articles, such country may not be redesignated as a beneficiary country unless a public hearing is held and sufficient reason is presented to warrant such action.

C. If a country exceeds these limitations three times on articles within a single 3 digit T.S.U.S. category (i.e., for three years) then it loses GSP eligibility for all articles in the single 3 digit T.S.U.S. category.

Section V.—Emergency petitions for market disruption:

Injured parties may submit petition for removal of a product or country, upon which:

ITC shall conduct a 30-day "reasonable cause" investigation to determine whether there is reasonable indication that material injury has occurred or is threatened.

1. If 30-day determination is negative, further investigation is terminated.

2. If 30-day determination is positive, then:

(a) GSP eligibility is immediately suspended; and

(b) ITC commences a 180-day investigation to determine whether duty-free eligibility for such article or country should be repealed.

i. If 180-day determination is negative, further investigation is terminated and GSP status is reinstated.

ii. If 180-day determination is positive, then GSP is immediately terminated.

Petitions for redesignation for GSP eligibility may be made to the President after 12 months from date of final determination of injury.●

By Mr. CHAFEE:

S. 3166. A bill to postpone the designation of certain recently subdivided articles under the Tariff Schedules of the United States as eligible articles under the generalized system of preferences established by the Trade Act of 1974 until the International Trade Commission has conducted a study of potential market disruption; to the Committee on Finance.

PROPOSED CHANGES IN GENERALIZED SYSTEM OF PREFERENCE SYSTEM

● Mr. CHAFEE. Mr. President, today, I introduced a bill, S. 3165, to make several broad changes to the generalized system of preferences program. In addition, I am introducing S. 3166, a measure to correct a specific problem that has developed in the administration of the GSP.

In 1975, Congress established a special tariff arrangement known as the generalized system of preferences. The program's purpose was to grant certain "developing" countries preferential tariff treatment so that their products could enter the United States duty-free. The intent was to help these poorer nations diversify their economies, increase their export earnings, and purchase imports of basic necessities.

As part of this program, Congress established safeguard limitations to protect U.S. industries. Competitive-need limits were set so that only the least competitive producers would be eligible.

Under the formula, once a beneficiary country achieved a certain level of efficiency in a particular sector, the specified products imported from that country would be removed from this preferential status. Congress defined the standard for this level of achievement as either the shipment by that country of more than 50 percent of the total U.S. imports of that product for 1 calendar year or, the shipment by that country of more than a certain dollar value—$41.9 million for 1979—which is adjusted annually to reflect the growth in the U.S. gross national product (GNP).

This year, the President took action to circumvent this competitive-need limit in order to allow more duty-free imports to enter the United States. This was achieved by subdividing one duty-free eligible article into five GSP eligible articles.

This change will effectively raise the total duty-free ceiling on this particular article from $42 million worth of imports to $210 million.

The article in question is precious jewelry products, of particular importance to my State of Rhode Island, where 30 percent of the manufacturing work force is employed by the jewelry industry, and other States, like Massachusetts, New York, New Jersey, and California, where jewelry manufacturing is an important part of the economy.

While this subdivision is limited to jewelry products, it is important for every Senator to note that this action, taken by executive order, could occur on any GSP eligible article. This subdivision represents the first such action taken for the purpose of raising the dollar limit placed on GSP imports, and therefore has the potential of affecting all future GSP imports.

My concern is both for the equitable operation of a fair generalized system of preferences, and for my own State's economy. As a member of the International Trade Subcommittee, I question the appropriateness of this action by the President in administering the GSP. As the Senator from Rhode Island, I am concerned that a fivefold increase in duty-free jewelry imports will cause increased unemployment and force many small jewelry manufacturers out of business.

With more than 15 percent of the jewelry workers in my State out of work, an increase in inexpensive imports could mean disaster to Rhode Island. Because the entire domestic jewelry industry is under pressure due to fluctuating prices of precious metals, pollution control requirements, and increasing imports from developed and developing countries, a subdivision of this kind could devastate jewelry manufacturers throughout the Nation.

Today, I am introducing a bill that will simply postpone the effective date of the increase in GSP imports set for March 31, 1981, until the International Trade Commission has completed a 6-month study on the effects this action will have upon domestic producers. My proposal would preserve the status quo until all of the ramifications of the President's action have been learned and released to the public. No new restrictions would be placed on GSP imports, nor would jewelry imports from any country be limited.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary

This bill would simply postpone the effective date of the proposed subdivision of the G.S.P. eligible article 740.10 into five new G.S.P. eligible articles (740.11, 740.12, 740.13, 740.14, 714.15) scheduled to become effective on March 31, 1981, until the International Trade Commission has conducted a 180 day study of the effects of such action and makes the report public.

(If this measure is enacted before Congress adjourns, the ITC study could be completed prior to the March 31, 1981 date.)

The bill makes no changes to the current G.S.P. program or to the current level of duty-free jewelry imports entering the United States under the G.S.P. program.

ADDITIONAL COSPONSORS

S. 1873

At the request of Mr. Garn, his name was added as a cosponsor of S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

SENATE JOINT RESOLUTION 196

At the request of Mr. Proxmire, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of Senate Joint Resolution 196, a joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day."

SENATE JOINT RESOLUTION 207

At the request of Mr. Bentsen, the Senator from Alabama (Mr. Heflin) was added as a cosponsor of Senate Joint Resolution 207, a joint resolution to authorize and request the President to proclaim November 28, 1980 as "Salvation Army Day."

SENATE RESOLUTION 525

At the request of Mr. Hollings, the Senator from Pennsylvania (Mr. Heinz), the Senator from Rhode Island (Mr. Pell), and the Senator from Montana (Mr. Baucus) were added as cosponsors of Senate Resolution 525, a resolution expressing the sense of the Senate with respect to the anticipated vote in the United Nations regarding the seating of a permanent representative of Cambodia.

AMENDMENT NO. 2323

At the request of Mrs. Kassebaum, the Senator from North Carolina (Mr. Helms), the Senator from Wyoming (Mr. Simpson), the Senator from Texas (Mr. Tower), the Senator from Massachusetts (Mr. Tsongas), the Senator from Virginia (Mr. Warner), and the Senator from Texas (Mr. Bentsen) were added as cosponsors of amendment No. 2323 intended to be proposed to H.R. 2255, a bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

Mr. GARN. Mr. President, I have been a strong supporter of the concept of judicial discipline, and have cosponsored the major judicial tenure acts during my term of office. During the 94th Congress I cosponsored S. 1110 with Senator Nunn and Senator Allen; during the 95th Congress I cosponsored S. 1423, a bill which eventually passed the Senate. I have recently discovered that I am not listed as a cosponsor of S. 1873, the Senate version of a judicial tenure act which the Senate passed in October 1979. I wish now to correct this oversight, and ask unanimous consent that I be added as a cosponsor to S. 1873.

It is my understanding that House and Senate principals are now discussing the bill, and I join the majority of our colleagues in both Houses (the House passed its version on September 15, 1980) in an expectation that differences can be worked out and a bill enacted this year.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

Mr. ZORINSKY. Mr. President, the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture, Nutrition and Forestry will hold a field hearing on the Farmers Home Administration's biomass energy program. The hearing is scheduled for October 17 at 9:30 a.m. in the East Union, University of Nebraska, Lincoln. Further information may be obtained by contacting Reider Bennet-White, Committee on Agriculture, Nutrition and Forestry.

SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY

Mr. DeCONCINI. Mr. President, I wish to announce that the Subcommittee on Improvements in Judicial Machinery will hold hearings pursuant to the resolution of the Committee on the Judiciary regarding the investigation of contracts between Robert L. Vesco and officers and employees of the United States.

The hearings will be held on October 2, 1980, at 9 a.m. in room 2228 Dirksen Senate Office Building.

For further information, please contact Michael J. Altier, 224-3618.

ADDITIONAL STATEMENTS

BILINGUAL EDUCATION RULES

● Mr. HARRY F. BYRD, JR. Mr. President, the proposed U.S. Department of Education regulations on bilingual education are the latest illustration of bureaucratic arrogance in Washington.

An excellent analysis of these unwarranted, counterproductive and expensive regulations, by Marvin Stone, editor of U.S. News & World Report, appears in the September 22 edition of that magazine.

I have joined in sponsoring Senate legislation to prevent the education agency from enforcing the regulations, which would require many school districts to provide instruction in the native languages of children with poor skills in English.

As I see it, the Department of Education proposal would tend to keep children out of the mainstream of America. It flies in the face of one of the fundamental purposes of our Constitution—"to form a more perfect Union."

In addition, it would be very costly. Some school districts would have to furnish instruction in dozens of languages, and qualified teachers would be impossible to find. Officials in Fairfax County, Va., have pointed out that under the proposed rules, they would have to scrap their existing program of intensive instruction in English and substitute teaching in as many as 50 foreign languages.

Furthermore, as Marvin Stone points out in his editorial, a fundamental issue of local autonomy in education is involved. Mr. Stone poses this question:

> If Federal officials can direct the curriculum to the extent now proposed, what is to prevent them someday from telling your school all the things it must—or must not—teach?

The question is a good one.

I ask that the text of Mr. Stone's article, "Meddling in Bilingual Teaching," be printed in the Record.

The article follows:

Meddling in Bilingual Teaching

(By Marvin Stone)

Shirley Hufstedler's first major mistake as Secretary of Education is a 25-page set of regulations that tells local schools precisely what they must do—or else—to help 831,000 children of foreign origin who have not yet gotten a grasp of English.

School boards, superintendents and principals recognize the urgency, but they know that the way to deal with the so-called bilingual problem in any locality can be determined in detail only by local conditions—not by universal rules, distant bureaucrats, federal inspectors and government lawyers.

Uneasy educators thought they had a guarantee against just this sort of interference, in the act setting up the new Department of Education. It says: "No provision . . . shall be construed to authorize . . . control over the curriculum, program of instruction, administration, or personnel of any educational institution . . ."

But read further: ". . . except to the extent authorized by law."

In fact, ED's predecessor, a branch of the Department of Health, Education and Welfare, has assumed for several years that it possessed a legal mandate to harry and threaten school districts that did not follow the methods it dictated. For legal basis, Hufstedler cites the Civil Rights Act of 1964:

"Each federal department and agency . . . empowered to extend federal financial assistance . . . is authorized and directed to effectuate the provisions [forbidding discrimination in federally aided programs] by issuing rules, regulations or orders." The law authorizes HEW to use a cutoff of funds as a weapon.

Finally, Hufstedler refers to the Supreme Court's 1974 decision, in *Lau v. Nichols*, that failure to give special help to foreign-speaking children denied them their right to equal education. The Court also ruled, however, that the help could take a variety of forms.

So much for history, a classic story of how bureaucracy and the outreach for authority feed on each other to grow. Now educators stand alarmed by the proposed regulations, which, if put into effect, would box them in more rigidly than anything before. The rules call, in new detail, for repeated conferences with parents who may not speak a word of English; for recurrent special testing; for a whole added system of record keeping. Local costs are estimated at up to 360 million dollars a year in addition to aid now being contributed by state and federal governments.

Qualified teachers are impossible to find in the numbers demanded. Los Angeles needs 1,500 more bilingual instructors. Hartford is scouring Puerto Rico for help. Michigan falls 860 short, Fairfax County, Va., a bedroom community for Washington's diplomatic corps, despairs in its search for more teachers to meet ED specifications: "There aren't any."

Fairfax County's own schools, helping children native to some 50 languages, consistently produce students who score astronomically above federal criteria on standard tests. Such school systems as this are appalled at the prospect of dismantling their proven procedures for one that has never demonstrated the ability to improve student performance. And their experience with HEW convinces them that they do not have the money or endurance for the fight to win proffered "waivers" of ED rules.

A number of major associations representing schools are battling for a measure of local option. Their pleas are carried in letters to Hufstedler and in appeals at regional hearings now being conducted by the Department of Education.

If changes are not won by those routes, the battlers talk of seeking relief through the courts. On their reading of the laws, they believe they have a chance. And there is a feeling that this is the time to take a stand. For underneath the objections runs a chilling question: If federal officials can direct the curriculum to the extent now proposed, what is to prevent them someday from telling your school all the things it must—or must not—teach?●

DECLINING READINESS UNDERMINES DEFENSE AND FOREIGN POLICY COMMITMENTS

● Mr. JEPSEN. Mr. President, during the past 2 years, an increasing number of my colleagues have shared my growing unease over what is clearly a substantial gap between this country's commitments and its capability to back them up. As knowledge of this situation spreads among our allies—and it has in recent months—the credibility and reliability of the United States as a partner in the defense of the Western World is questioned.

The potential results of this situation are unacceptable. At a minimum, our allies may begin to have second thoughts about relations with us, and perhaps hedge their bets through accommodation to the Soviet Union and its allies.

In his state of the Union message earlier this year, the President made what he called a new commitment to "force if necessary" in the security of the Persian Gulf. He proposed to back up that commitment by developing the so-called "rapid deployment force." I agree with the President's intent, but for the plan to have any substance, we obviously must have the real capability to back it up.

However, the only solid progress toward a rapid deployment force is a new headquarters consisting of 250 men. No new divisions will be created, no additional aircraft will exist, and not one additional soldier will be available to carry out this new commitment. All the President has done is to ask an Army already stretched too thin to cover more territory. The politics of this hollow commitment must be as obvious to the Russians as it is to our friends in the Middle East.

A more fundamental problem is the readiness of our conventional forces. Because of the disturbing evidence presented to the Armed Services Committee, I recently visited with one of our Army divisions and had numerous conversations with soldiers at all levels. It is apparent to me—as it would be to anyone—that the readiness of our Armed Forces has deteriorated to dangerous levels.

The most glaring deficiency is the severe shortage of trained mid-level leaders, non-commissioned officers and petty officers. Our Armed Forces cannot operate efficiently with only half the authorized number of such officers.

I want to emphasize that these are not just Roger Jepsen's estimates. Both the Secretary of the Army and the Army Chief of Staff have publicly criticized the defense budget stating in a joint letter to the Secretary of Defense that the Army created by his actions would have "neither near-term readiness, modernization or sustainability." Data recently presented to members of the Armed Services Committee showed the trend in Army combat readiness since January, 1976. Specifically, the data shows an alarming decline since January, 1977 in Army divisions based in the continental United States.

Combat readiness has declined dramatically and now stands at an unacceptable level—but the administration has known this for almost 2 years.

Steps should have been taken long before now to reverse this trend. Those corrective congressional actions that were taken this year to improve and protect military benefits were passed in the face of vigorous opposition from the Carter administration.

As Commander-in-Chief of our Armed Forces, President Carter is entrusted with the responsibility for our national security. His failure to recognize and correct our readiness shortfall should be of grave concern to all Americans. The readiness of CONUS division cannot be treated in such a cavalier fashion. Many of these units are earmarked for short-notice deployment to Europe or for rapid deployment force contingencies.

This decline in the combat readiness of our active Army divsions is just one example of Jimmy Carter's "Myth of military might."

Today, I call upon the President to be honest with the American people and work with Congress to correct this dangerous situation. We must raise the combat readiness of our troops to the level of defense necessary to maintain the fact, not the myth, of true peace through strength.●

POLICEMAN OF THE YEAR

● Mr. HOLLINGS. Mr. President, although none of us can predict what exactly will happen during a day's work, the police officer can be assured that anything can happen to him or her including serious injury and death.

But, just as we expect more of those in authority, we expect our police to be above reproach. We expect them to be always calm and always reasoned. We expect them to face every danger without flinching, and yet not be overly aggressive. We expect them to be clean in filthy environs and composed in provocative situations. In short, we expect them to be inhuman.

The point is that all officers are human, and commit human errors from time to time. But the only time most people read about police officers is when they have erred in judgment. Certainly what happened in Miami several months ago has served as a dark cloud over the profession. The tragic exception to the stories of those who have erred is when an officer has sacrificed his life in the performance of duty while protecting the lives and property of our Nation's citizens.

Two Sundays ago, September 14, I ran across a refreshing article that did not link law enforcement officers to erred judgment or death in duty. The article by Pam Proctor in Parade Magazine documented the story of the International Association of Chiefs of Police's selection for policeman of the year and the ten honorable mentions for that award. All were real people—human and yet extremely dedicated. I ask to have the Parade Magazine article printed in today's Record.

The article follows:

The Lonely Vigil of Supernarc James Wolsch

(By Pam Proctor)

A lot of folks in the seamy Austin underworld of heroin and "speed" admit they're afraid of James Wolsch—an undercover cop who's been described by colleagues as a "supernarc." That's one reason he's been picked to receive the 15th annual Police Service Award given by PARADE and the International Association of Chiefs of Police (IACP).

The award, which will be presented to Wolsch this week in St. Louis at the IACP's annual convention, is a symbol of the achievements of the nation's 485,000 police officers who work largely without fanfare. The diversity of their jobs—from the risky bomb squad details to the critical crime-prevention units—which is exemplified by the 10 officers who have been cited for honorable mention.

One thing that sets 32-year-old Senior Patrolman Wolsch apart from other officers is that "he's so successful at what he does," says Austin Police Chief Frank Dyson. In a city which Dyson describes as "a major stockpile center" for drugs in the Southwest, Wolsch alone accounts for 50 percent of all the narcotics cases in the department, and 25 percent of the cases handled by the other seven narcotics officers.

He got his nickname, "Stoopdown," as a uniformed officer 10 years ago, when he worked the tough 11th street section of East Austin. Wolsch would hide his car and crouch behind the window of an abandoned motel to watch the dealings of the dope pushers and prostitutes in the area.

"There wasn't a whole lot going on in his district that he didn't know about," says Lt. Bobby F. Simpson, who a few years later picked Wolsch to do undercover narcotics work, as part of a newly formed Organized Crime Control Unit.

Wolsch is effective, says his commanding officer, Capt. Gilbert Miller, "because he can blend into any situation. He can go from the high to the low." One day he can be talking chemistry in a clandestine lab where methamphetamine, or "speed" is being produced; the next he can be slapping backs with junkies in the ghetto. He wears no wigs or makeup, but can change his appearance simply by changing his hairstyle, which he does three or four times a year. A measure of his talent, says Miller, is that he's been undercover six years—more than any other cop in the department—despite the fact that the drug traffic in Austin "moves in closed circles."

Much of his undercover work involves making "controlled buys" of drugs from dealers, in an effort to become familiar in the underworld and sniff out the big "fish" who run large-scale drug operations. Wolsch prepares for his role like an actor getting ready to step on stage. If it's cocaine he's buying, he'll snort antihistamine and twist the nozzle in his nose to make it red like a "coke freak." If it's heroin, he'll burn his arm with an acid stick to simulate needle tracks.

Wolsch has a reputation for honesty. "It's axiomatic in law enforcement that narcotics officers lie," says Travis County D.A. Ronald Earle. "But I've never known James to lie."

That reputation not only makes Wolsch a valuable witness in court; it also makes him credible to the informants who put their futures on the line with him in return for information. A good narcotics officer "doesn't ever promise an informant anything he can't legally deliver," says Lt. Simpson. "Wolsch has all this—he can communicate."

What's more, says Simpson, the underworld knows "he can't be bought." Typical is Wolsch's reaction to the $1 million bribe he was offered to lay off a clandestine "speed" lab. "It was an insult," says Wolsch.

Wolsch even has earned the respect of some of his criminal adversaries. "He doesn't despise the people he works with the way many cops do," says Capt. Miller. In fact, Wolsch has even helped rehabilitate some of the junkies he's arrested.

Danger is the name of the game in undercover narcotics work, perhaps more than in any other aspect of police work, says Capt. Miller, because of the high financial stakes and the use of weapons. But Wolsch seems blind to its terrors. "There are a lot of people in town who would like to buy James off—or have him killed," says Miller. Once someone almost succeeded. A ring of "pill pushers" hired an assassin to murder Wolsch during a drug buy. He was saved by an informant's call.

Wolsch, whose salary is $20,000 a year, says he was a mediocre high school student who became interested in police work at the age of 20 by riding in a squad car with a neighborhood cop. At the time, he was working as a TV repairman. "If there was a problem I couldn't solve, I'd stay on the job until 10 or 11 until I got it fixed," he recalls.

He approached narcotics work with the same dogged persistence. But on the way to becoming a top undercover cop, he has made a sacrifice. "We don't do much as a family," admits his wife, Peggy, who was his high school sweetheart.

But the bottom line, she says, is that James is happy. That's why she's willing to put up with the calls from informants at 2 a.m. and with a husband who's rarely home for her or their two adopted children, Johnny, 10, and Nicole, 7.

But he insists that the sacrifice is worth it, not because of any over-riding sense of public duty, but simply because "somebody has to do it."

THE 10 HONORABLE MENTIONS

Officer Warren C. Banks, Riverside, Cal. P.D. Answering a routine report of a car theft in progress at a shopping center, Banks found danger at high noon. The thief grabbed a woman hostage and held a knife to her throat. Banks clamly talked the man into releasing her, then chased him without drawing his gun. As the officer caught him, the thief stabbed him in the arm and leg. But again, Banks didn't draw. He finally subdued the man.

Sgt. Don Gene Blankenship, Maricopa County, Ariz., Sheriff's Office. A recognized national expert in crime prevention, he has created county and statewide training programs for police. In the spirit of the Old West, he heads eight citizen-volunteer crime prevention posses, who act as the eyes and ears of the sheriff's office in the community.

Det. Frank Prescott Dawson III, Howard County, Md. P.D. Kids and cops have always had a special relationship—but not always a positive one. Dawson decided to change all that. He created Camp Beartrax, an overnight camp for underprivileged and wayward youngsters staffed by police volunteers. This year 100 youths participated.

Officer Norman Day, Flint, Mich., P.D. When four robbers held up a bank, Day heroically deflected attention from the bank tellers and bystanders to himself. He shouted for everyone to get down, and then faced down two of the bandits armed with sawed-off shotguns. Wounded in the face and arm by a blast at point-blank range, Day continued the fight, ultimately rounding up all four assailants alone.

Det. Virginia Guzman, Brighton, Col., P.D. A former welfare recipient, Guzman has set a personal example, off duty and on, which has had a dramatic impact on the community, in her work as a Community Services Officer, she has developed creative outreach programs, including summer rap groups for teens and family-oriented treatment and prevention programs for runaways.

Special Agent Joseph F. King, U.S. Customs Service, N.Y. In one of the most celebrated criminal cases handled by the U.S. Department of Justice in recent years—the assassination of Chilean Ambassador Orlando Letelier—King's skills as an investigator helped convict three Cuban terrorists. The key to their prosecution was the evidence brought by a witness who put his trust—and his life—in King's hands.

Capt. Joseph R. Kozenczak, Des Plaines, Ill., P.D. The arrest and conviction of Wayne Gacy for the murder of 33 men and boys was largely the result of Kozenczak's zealous pursuit of the case. When a 15-year-old boy disappeared, Kozenczak didn't dismiss it as a runaway. Instead, he started digging—and his diligence finally ended the longest series of murders in our nation's history.

Officer Thomas R. Rodgers, Indianapolis, Ind., P.D. His personal crusade against child pornography as an investigator with the Vice Branch has had repercussions not only locally, but also at the state and national levels. His knowledge of the "underground network" of pornographers who prey on youths has helped open investigations in Israel, England, Canada and the Netherlands.

Deputy Ed Schieber, Los Angeles County, Cal., Sheriff's Department. His courage, sound judgment and unusual skill as a helicopter pilot were directly responsible for saving the lives of three Boy Scouts stranded on a snow-covered mountain in below-freezing temperature.

Det. William F. Schmitt, New York, N.Y., P.D. Much to the surprise of many people, bombs are disarmed by human beings—mostly policemen. One of the best in the business is Schmitt—a 30-year veteran of the Bomb Squad. He's credited with training almost every active bomb technician in the U.S., as well as with developing sophisticated techniques for deactivating explosives.●

THE CASE FOR A TAX CUT NOW

● Mr. JEPSEN. Mr. President, Governor Reagan's call for an across-the-board income tax rate reduction of 30 percent over 3 years has come under heavy attack from the administration and elsewhere. The principal argument has been that we cannot afford the revenue loss at a time of inflation and massive budget deficits. However, estimates of the future revenue loss from tax reduction assume that the economy can grow at the same brisk pace regardless of how rapidly tax rates increase. Yet not even the most drastic of proposed tax cuts would even keep the Federal Government's share of personal income as low as it was in 1976–78. And the idea that perpetual tax increases are an effective cure for inflation finds little support in theory or experience.

The July-August issue of the First Chicago World Report, published by the First National Bank of Chicago, contains an excellent discussion of the tax cut issue and presents a thorough case for why an across-the-board tax rate reduction is desirable now.

The article follows:

The Debate Over Cutting Taxes

The questions being raised about the feasibility of cutting tax rates, particularly on personal income, are as crucial as they are passionate:

Should the emphasis of tax reduction be placed on the individual income tax, Social Security tax or corporate income tax?

Wouldn't an across-the-board cut in tax rates lavish unfair benefits to the most affluent?

Do personal taxes really affect the supply of labor and personal savings, or should we instead target most or all tax incentives directly toward business investment?

Is tax reduction inherently inflationary, or are markets at least likely to assume that it is?

Can tax cuts really pay for themselves, to any significant extent, by increasing economic activity and the tax base?

The question of how much emphasis to put on corporate or personal taxes is complex. To some extent, the question itself is biased by assuming what needs to be demonstrated—namely, that tax cuts don't work. If real output were completely unaffected by tax rates, as official estimates of the revenue loss assume, then the question of how to divide some fixed sum of tax revenue losses would be more relevant. But if there are counterproductive or destructive elements in both corporate and individual taxes, then both can and should be fixed.

By the usual sort of static analysis, after all, the 1980 budget could apparently be balanced by simply doubling the corporate income tax or raising individual taxes by a fourth. Yet such a move would obviously weaken the economy, leaving smaller payrolls and profits to tax.

VICIOUS CIRCLE

If rising tax rates are not a fundamental contributor to this recession, they at least aren't making things any easier. With private profits and payrolls depressed, tax revenues dwindle as federal spending is increased to subsidize the unemployed. The result is a larger deficit that is used as an argument against reducing tax rates—a vicious circle.

A tax cut need not be 100 percent self-financing to be worthwhile, despite all the editorial ink spilled over the "Laffer Curve." Suppose a reduction of tax rates added $100 billion to real private output and incomes, but cut the government's revenue by, say, $20 billion. Would anyone suggest that such a trade-off is too costly, or that the added deficit would put inflationary strains against that added output?

The real questions are, first, how much added production can we get for how much federal revenue loss. Second, how much can the government save, on the spending side of the budget, in a stronger economy. Third, if the net effect of the above two factors is a larger deficit, can that added deficit be financed in a way that doesn't increase overall spending in the economy more rapidly than the tax incentives augment production.

A 1979 study by Canto, Joines and Webb, indicates that the Kennedy tax cuts of 1962 and 1964 caused only a small loss of revenues from the individual income tax by 1966, largely offset by a gain in corporate and state and local tax receipts from added growth. If lower tax rates reduce revenues more than they reduce spending for two or three years, but result in a stronger economy and greater tax revenues after that, that might well be a more sensible use of deficit financing than using deficits to subsidize the unemployed. Future taxpayers might inherit a large national debt, but they would inherit a more productive economy too.

The essential point here has lately become familiar as "supply-side" economics—the idea of using tax cuts to improve the incentives or rewards for productive efforts and investment.

A supply-side tax cut is intended to reduce the cost of saving relative to consumption, and to reduce the cost of work relative to leisure (or work in the untaxed economy). The emphasis is on *marginal* tax rates—that is, on the share of any added income the taxpayer gets to keep. Since added income comes from added production, it is marginal rates that matter most for growth. Not just any tax cut will do. In particular, temporary rebates or cuts confined to low income earners will not lower marginal tax rates or significantly improve incentives. Plans to increase potential future earnings, perhaps by saving or acquiring new skills, depend on expected future tax rates on added income.

A few years ago, the marginal tax rate from all taxes was estimated at 37 percent, on average, and it is doubtless higher today. But any such averaging of many different marginal rates obscures the rising numbers of households subjected to rates well above this average. Table 1 indicates how the proportion of taxpayers in higher brackets at the federal level alone soared from 1965 to 1976.

Table 1—Marginal Tax Rates

(Proportion of taxpayers)

[In percent]

Rate	1965	1976
Under 20	80.6	42.3
20 to 30	17.3	46.7
Over 30	2.1	11.0

A recent American Enterprise Institute study, *The Distribution of the Tax Burden* by Edgar Browning and William Johnson, estimates that marginal tax rates from all taxes in 1976 were around 25 percent to 32 percent for the bottom five-eighths of the income distribution, rising to over 47 percent for the top eighth (using a very broad definition of income). With taxes taking a third to half of added income from those capable of producing higher earnings, the incentive effects of marginal rates are more than a theoretical curiosity.

CAPITAL WITHOUT LABOR

A powerful case for reducing corporate tax disincentives for investment has been well-documented and publicized. The case for reducing marginal tax rates on individual incomes has received less attention. Yet it should be obvious that personal income taxes are also enormously important to capital formation, through their effect on the size and uses of personal savings. It is likewise clear that motivating human effort, including managerial skill, is a vital aspect of progress. Fixed capital is not the only factor of production, and improvements in technology and techniques always come from human ingenuity. Machines do not improve themselves, and computer hardware is useless without the brainpower behind computer software.

Supply-side economics is not entirely a matter of increasing saving and investment at the expense of current consumption. It is also very much a matter of personal effort, innovation, and entrepreneurship. If the economic "pie" grows larger, both consumption and investment can increase.

Nor are savings and investment simply synonymous with corporate tax relief. Economists are not even certain whether the corporate tax is borne by capital, labor or consumers. And the individual income tax falls quite heavily on dividends, interest, and capital gains.

Moreover, the sheer bulk of individual income and Social Security taxes demands attention. These taxes are more than seven times as large as the corporate income tax, and the individual income tax revenues are estimated to grow twice as fast as corporate taxes from 1979 through 1985.

It is much easier to measure the productive contribution of a new machine than to measure intangible qualities of human effort—the willingness to take risks, innovate, start new enterprises; the urge to accomplish something, to learn new skills, to excel. As a result, those who try to reduce progress to a set of numbers and equations are almost inherently biased toward emphasizing the role of physical capital.

There have been many brave efforts to estimate the effect of corporate, capital gains and other taxes on business fixed investment. By contrast, statistical work on the effect of taxation on personal motivation, including the incentive to save, remains in a comparatively rudimentary state.

Regarding the unquestionably vital role of capital formation, there is a need to strike a balance between previous neglect and currently fashionable exaggeration. People need good machines, but the machines also need good people—and would not exist without them. Acquiring skills and wisdom is a form of investment, not obviously less important than physical capital.

Edward Denison, in *Accounting for Slower Growth*, finds that 14 percent to 21 percent of the growth of potential business output from 1948 to 1973 resulted from more capital, 15 percent from more labor, 14 percent from more education, and 37 percent was mainly from "advances in technological, managerial and organizational knowledge as to how to produce at low cost."

CONSUME NOW OR LATER

There is nothing inherently wrong with consumers using their current or future incomes (debt) to buy goods and services; that is the whole purpose and motive force of an economic system. What we want to avoid is an increase in the number of dollars spent—by firms and governments as well as consumers—that exceeds the rate of increase in the available supply of goods and services offered for sale.

We had a "boom" in consumer spending despite a rapid increase in personal tax rates after 1976, and it is equally possible to avoid such excess spending (relative to production) while reducing marginal tax rates on added production and earnings. It is simply a matter of keeping the supply of money growing no faster than the supply of things money can buy.

In its immedite impact, a dollar spent on a worker's video recorder is no more inflationary than a dollar spent on a firm's lathe. Spending is spending. The lathe may help keep future production in balance with spending, thus eventually reducing inflation. The worker, however, also contributes to production, and may be motivated to produce more by the possibility of acquiring that video recorder.

There is no virtue in favoring future consumption (saving) over present consumption, except that the existing tax system is biased in the opposite direction. A dollar of income is taxed when it is earned and then taxed only lightly by sales and excise taxes when it is spent. A dollar devoted to saving, on the other hand, is also taxed when earned, then taxed again very heavily as it yields some mixture of corporate profits, dividends, interest and capital gains. Present consumption is thus made cheaper than providing for future consumption.

Reducing marginal tax rates would, however, greatly reduce the tax penalty on saving. Cutting the 70 percent maximum rate on so-called unearned income to 50 percent, for example, would cut the maximum capital gains tax from 28 percent to 20 percent and raise the net return on dividends and interest by two-thirds (from 30 percent to 50 percent).

LABOR INCENTIVES

Another argument for reducing marginal tax rates on individuals is to improve incentives to apply for and accept the best attainable job. This is important because labor will not be so abundant in the next decade as it was in the last.

Some of the most recent evidence on the effects of taxes on work effort is presented by Harvey Rosen in *The American Economic Re-*

view (May 1980). Michael Beenstock in *Lloyds Bank Review* (October 1979), and Jerry Hausman in a paper for a Brookings Institution conference last October. What such studies indicate is that hours of work and participation in the job market are not much affected by taxes among male household heads aged 25 to 55, but willingness to work *is* strongly affected by taxes among female secondary workers and among younger and older workers—groups that account for more than half of the labor force. Data Resources once argued that taxes do not affect the labor supply, but now figures that personal tax increases since 1965 have eliminated 1.9 million potential jobs.

Some indirect evidence on tax incentives comes from several estimates of the growing "underground economy" (at 11 percent to 27 percent of GNP), and of the effect of unemployment benefits in increasing the duration of unemployment.

But there is much more to personal effort than the number of people putting in hours at a job. Economists have seemed almost embarrassed to state the obvious—namely, that some of the most crucial aspects of economic progress are virtually impossible to measure:

"There is no good measure of innovation. . . . There is no good measure of labor-force quality." —Martin N. Baily, *Brookings Papers on Economic Activity* (1979 II).

"Higher tax rates cause people to substitute leisure and at-home production for market work . . . High tax rates may induce people to expend less effort on the job and to avoid positions with great burdens and responsibilities. There is little empirical evidence on this issue."—Paul Taubman, *Federal Tax Reform* (I.C.S., 1978).

"At least three important dimensions of labor supply, other than hours, may be influenced by taxes: (a) lifetime hours of work and timing of retirement; (b) intensity of work effort; and (c) quality of work effort. The theoretical and empirical evidence on these important issues is rather scanty."—Harvey S. Rosen, *American Economic Review* (May 1980).

"There is little in the model at this stage to represent the effects of taxes and Social Security on personal saving . . . In addition, investment in human resources is not yet modeled explicity. . . ."—Otto Eckstein, Joint Economic Committee, May 21, 1980.

The necessarily limited knowledge about all of these significant sources of growth is sometimes used to justify inaction. "The results of tax reduction," says Herbert Stein, "will depend on magnitudes that we don't know with confidence and about which economists disagree." The same could be said about virtually any change of policy. And, as Professor Stein has written elsewhere, "great inflations are not ended by the normal ways of doing business."

TAXING PROSPERITY

Looking at average taxes as a share of income obscures the rising marginal rates for those whose incomes are average or higher. Alleged tax cuts over the past decade have eliminated taxes at the lowest incomes, and even added a cash subsidy (earned income credit), thus shifting the tax burden to fewer taxpayers. One effect has been to levy almost confiscatory marginal tax rates on those who try to rise from a subsidized low income to a moderate (but taxed) income. The increasingly steep progression of tax rates thus greases the rungs on the ladder of opportunity.

The federal tax burden on families with average or higher incomes has already risen dramatically over the past few years. The Bureau of Labor Statistics estimates the annual cost of maintaining a lower, intermediate and higher budget for a hypothetical urban family of four. Between the autumn of 1974 and 1979, the share of the lower budget devoted to income and Social Security taxes fell from 15.9 percent to 14.4 percent; the tax share of the intermediate budget rose from 19.4 percent to 20.9 percent, and the tax share of the higher budget rose from 22.6 percent to 25.6 percent.

Taxes are not only part of the cost of living (namely, the price of government), they are by far the fastest rising part for middle and higher income households. To lower living costs by raising taxes is not only ineffective, it is a contradiction. And to again concentrate tax relief at lower incomes (by, for example, lowering Social Security tax rates) would not come to grips with where the levels and increases in taxes have been most onerous, and therefore most likely to deter productive activity.

High income people pay quite high taxes per household. Those with incomes above $50,000 accounted for only 2 percent of all taxpayers in 1978, and 12.6 percent of all taxable income, but they paid 25.7 percent of all federal income tax. The top 10 percent of income earners pay about half of all federal income tax, and (according to Browning and Johnson) almost 41 percent of all taxes at all levels of government.

According to the Joint Committee on Taxation, the Kemp-Roth bill would cut taxes in the first year by $2,190 for a hypothetical family of four with an income of $100,000, but by only $52 for such a family with a $10,000 income. That difference is simply because taxpayers with high incomes pay much higher taxes. The reduction is actually less than 8 percent of the taxes otherwise due from the $100,000 family, and 14 percent for the $10,000 family.

Marginal rates do not apply to total income, but only to that portion above some income level. A typical childless couple with a taxable income of $50,000 last year paid 33 percent of that income in federal income taxes, but paid 50 percent on any additional income. Cutting that 50 percent marginal rate by 30 percent would increase the after-tax reward for producing more earnings by 30 percent (from 50 percent to 65 percent). That is important, because Evans Economics finds the labor response to taxation to be more sensitive as incomes rise, and higher income households are, of course, potentially promising sources of savings and venture capital.

COST OF INACTION

It is important to realize that if tax rates are not reduced, federal taxes will continue to rise extremely rapidly—both absolutely, in real terms, and as a share of income. Individual income and Social Security taxes took 13.2 percent of personal income in 1965, 15.3 percent in 1976 and 18.7 percent last year. As the chart illustrates, the latest Budget shows this tax ratio rising to 19.9 percent next year, and to 23 percent by 1985 (actually, this understates the burden by at least 3 percent, because a rising share of personal income is from tax-exempt transfer payments). If federal personal taxes were instead held to the same share of personal income as they were in 1976 (assuming, unrealistically, that personal income was not enlarged by the lower tax burden), then those taxes alone would yield $545 billion in 1985 rather than the $820 billion currently planned. That $275 billion annual increase in the projected personal tax rate is one standard by which the static cost of tax reduction bills should be measured.

Most of the scheduled tax increases are in the individual income tax, largely because inflation is assumed to remain high and to continue pushing people into higher brackets. From 1979 to 1985, nominal personal income is projected to rise 85 percent, profits by about 67 percent (zero in real terms). But individual income tax collections rise 140 percent in that period, Social Security taxes by 110 percent, corporate profit taxes by 70 percent, and excise taxes (mostly on oil) by 344 percent.

The Budget assumes, and indeed requires, annual real growth of 4.2 percent a year from 1982 through 1985. Without such growth, unemployment and related federal outlays would be higher and revenues lower. But such brisk expansion is quite impossible to reconcile with the projected rise in tax burdens.

Table 2 shows what the Budget assumptions imply for personal income after adjusting for federal taxes, inflation and population growth. By this measure, the Budget's estimates show real personal income per capita, less federal taxes, falling from 1978 through 1981, and not getting back to the 1977–78 level even by 1985. Real GNP somehow rises 19 percent from 1978 to 1985, though real personal income, after federal taxes, rises only 5 percent (and falls on a per capita basis). Since the net profit share declines from 7.2 percent of GNP in 1979 to 6.4 percent by 1985 in the Budget projections, the source of the assumed real growth is hard to discover.

TABLE 2—Real After-Tax Income

(1967 Dollars)*

	Total Billions	Per Capita
1977	$697. 1	$3, 215
1978	723. 5	3, 313
1979	718. 7	3, 264
1980	691. 6	3, 113
1981	688. 4	3, 070
1982	703. 4	3, 108
1983	724. 0	3, 168
1984	742. 2	3, 217
1985	759. 7	3, 262

*Personal income less federal individual income and Social Security taxes, deflated by the CPI and divided by population. Figures for 1980–85 calculated from projections in the Mid-Session Review of the 1981 Budget.

The projected tax increases are incompatible with the assumed economic expansion yet cannot occur without it. Higher inflation and less real growth could raise nominal tax collections as much as planned, but that would raise spending too, so the elusive budget balance would once again fade into the distance.

In short, no theory or evidence suggests that we can have both the increases in the tax share of income and the real growth projected in the Budget. The $275 billion personal tax increase is a mirage, as are the estimates of the loss of those unattainable revenues from cutting tax rates.

There are many possible ways to undo the damage to incentives caused by past and prospective effects of inflation in pushing more and more people into tax brackets once reserved for the extremely affluent. The most familiar approach is embodied in the Kemp-Roth bill, which would cut marginal rates by 30 percent over three years, index the tax thereafter to keep real rates unaffected by inflation, and gradually limit federal spending to 18 percent of GNP (as in 1965).

The Joint Committee on Taxation and Congressional Budget Office estimate a loss of $175 billion from Kemp-Roth in fiscal 1985—about $20 billion net of the increases that would otherwise occur due to inflation after 1981 ($118 billion) and Social Security tax increases ($36 billion). Kemp-Roth would hold income and payroll taxes to 18.1 percent of personal income in 1985—still well above the 15.3 percent ratio of 1976, much less than the 13.2 percent ratio of 1965. Looked at another way, the supposed $175 billion revenue loss from Kemp-Roth must be subtracted from the $275 billion increase in the share of personal income that would otherwise be devoted to federal taxes, compared with 1976 tax rates.

Evans Economics estimates that the Kemp-Roth bill would lower projected revenues by $152 billion in 1985, but that added revenues from stronger growth would cut the net loss in that year to $87 billion. By assuming that government spending grows by 12 percent a year (rather than 9 percent rate estimated by Alan Greenspan or Norman Ture), Evans projects a deficit of $10 billion with Kemp-Roth even as late as 1985, in place of the projected surplus of $77 billion if taxes instead keep rising 15 percent a year. But the estimated unemployment rate ends up 2.4 percentage points lower with the tax cut, in the Evans model, and that surely means much less spending on various unemployment and welfare benefits, food stamps, aid to state and local governments, public works and public service jobs.

If federal spending therefore grew by 10 percent a year, rather than 12 percent in a stagnant economy, the net effect of Kemp-Roth on both sides of the budget could be a surplus of $78 billion. Alternatively, if the pledge of both major Presidential candidates to hold spending to 19 percent of GNP were actually implemented, the Evans revenue estimate implies a 1985 surplus of $127 billion with Kemp-Roth.

IS IT INFLATIONARY?

The simple assertion that tax cuts are inflationary is not so simple when the fairly well-documented effects of marginal tax rates on personal effort and savings are acknowledged.

To the extent that tax rate reductions fail to increase economic activity and to reduce recession-related federal spending sufficiently to offset the static revenue loss, there may be a somewhat larger budget deficit. The larger deficit, if financed by borrowing from the private sector, would tend to reduce private spending otherwise financed by borrowing. To the extent that this public-private competition for lendable funds is not offset by added private savings (resulting from the tax cut), it might induce the Federal Reserve to finance faster growth of total spending (nominal GNP) by increasing the growth of the money supply. If that added growth of nominal GNP were not offset by faster growth of real GNP, the net effect would be inflationary. But there are a lot of "ifs" and "maybes" on the road between a tax cut, a larger deficit, more money and more inflation. These links may be severed at any stage.

Money given to the tax collector, after all, does not disappear—it is still spent by the recipients of government salaries, subsidies, purchases and transfer payments. If the government finances more of its spending by borrowing and less by taxes, that need not increase the total amount of money spent in any month or year.

Unless there is an injection of new money, a cut in tax revenues matched by an increase in government borrowing does not increase the total of public and private funds available for spending. Some people have more spendable income because of the tax cut, others have less to spend because they bought more government securities. To the extent that government borrowing "crowds out" private borrowing, and the related private spending, it may injure housing and investment (as do taxes), but it need not add to the persistent growth of total spending and inflation.

Some research finds cyclical significance in the growth of federal spending per se, regardless of whether it is financed through taxes or borrowing. A reduction in tax rates that also reduced revenues should, however, help to limit the growth of federal spending due to the political embarrassment of deficits. If lower tax rates stimulated private production, government spending would decline, relatively, as a share of GNP. Government spending for unemployment benefits and other recession-related programs would also be lower than otherwise.

FISCAL FAILURE

Even if ever-increasing tax rates actually could reduce the budget deficit, there is nothing in recent history to suggest that this is an effective way to reduce inflation in the private sector, much less in the total cost of living (which includes taxes).

Federal taxes rose from 17.8 percent of GNP in fiscal 1965 to 20.8 percent in 1969, and a small deficit was turned into a surplus, but consumer inflation tripled. The tax share was cut to 18.5 percent in 1971, the deficit hit $23 billion, and inflation fell to 3.8 percent before the price freeze. By 1974, taxes were up to 19.5 percent of GNP, the deficit had been cut to a fourth of the 1971–72 level and inflation exceeded 12 percent. Taxes again fell to 18.5 percent of GNP in 1976 and the deficit was larger than ever before or since, but inflation came down to 4.8 percent. Federal taxes then rose steadily to over 20 percent of GNP last year, the deficit was reduced by 45 percent, and inflation soared. This year, the deficit is rising sharply, to an estimated $77 billion if off-budget financing is included, yet inflation is receding.

If high tax rates were a sure cure for inflation, Britain and Sweden should be doing much better against inflation than they are, Japan should be doing much worse, and the US should be doing better today than in the low-tax years of 1964–68.

A growing body of analysis indicates that far from being a cure for inflation, high tax rates can make inflation worse by holding down the incentive to meet demand with added supplies. Professor Robert Gordon's studies, for the National Bureau of Economic Research, yield the preliminary conclusion that "a substantial part of personal income tax changes are shifted forward in the form of higher prices; results for the impact of the Social Security tax are less emphatic." Professor Alan Blinder of Princeton has likewise shown that cutting income taxes may reduce inflation by allowing firms to reduce prices (and increase sales) without reducing after-tax wages or profits. In *The National Tax Journal*, John Beck recently presented a graphical demonstration that a tax cut could reduce inflation even if it does not reduce the deficit (which it could, in Beck's model).

A reduction of marginal rates increases savings and reduces the need for borrowing, thus lowering interest rates and aiding housing and business investment. Tax cuts also increase the quantity and quality of personal effort by workers, managers, inventors and entrepreneurs. The resulting increase in the quantity and productivity of labor and capital reduces costs per unit; it also raises capacity and incentives to repair shortages and increase exports. These effects reduce inflation directly as well as through the effect of a stronger dollar. There should also be some moderation of wage "demands"—that is, an increase in the supply of labor available for any given (before-tax) wage offer.

Taxes insert a "wedge" between the prices producers pay for labor and capital and what suppliers of labor and capital actually receive, after taxes. That reduces the demand for and supply of both labor and capital, thus holding down production. A reduction of the tax wedge can increase production, which (for any given increase in spending) reduces inflation. The concern of some "rational expectations" theorists that markets may nonetheless interpret any sort of tax relief as inflationary, and thus react perversely, is not consistent with the basic theme that markets are indeed rational.

Congress can only set tax rates, not the revenue they yield. The old dilemma of "killing the goose that laid the golden egg" is therefore crucial to realistic budgeting. The existing budget is not realistic because the assumed increases in real growth cannot and will not occur with the assumed increases in federal tax rates on personal income.

Steep marginal tax rates on personal income from productive activity and investment already foster malinvestment, premature retirement, welfare dependency, inefficient barter and "off-the-books" labor. Periodic relief from the effect of inflation in pushing people into higher tax brackets has been confined to the lowest and highest incomes, increasing the steepness of progressive tax rates for most taxpayers. Undoing some of that damage by adjusting tax rates, or the incomes to which they are applied, is merely a partial step toward retroactive indexing—that is, toward taxing real income rather than taxing cost-of-living adjustments.

The purpose of tax relief is not to stimulate the growth of spending or demand. It would do that only if it enlarges the deficit and the added deficit is financed with new money. The appropriate goal is instead to reduce the penalty on adding to earnings by producing more.

Ultimately, increasing the quantity and quality of labor and capital depends on the real, after-tax rewards from trying to do more and do it better. Without that incentive, there can be little growth. And a smaller economy means less for everybody—even the U.S. Treasury.●

PRAISE FOR THE SENATE SMALL BUSINESS TASK FORCE

● Mr. HOLLINGS. Mr. President, I want to take this opportunity to commend Senator NELSON and the staff of the Senate Small Business Task Force on their work to date. As evidenced by the agenda and status report being presented by the task force, we are moving in the proper direction in implementing the recommendations of the White House Conference on Small Business.

I share the belief with many others, Mr. President, that the 1980's will be a "small business decade," during which the small business community will reassert its historic role as the leader in providing new jobs, goods, and services for America. Small business can and will play the crucial role in providing a higher level of economic growth and activity in years to come. The quick and responsible work by the Small Business Task Force in promoting worthwhile legislation can only serve to make the small businessman of America more competitive and productive, which will provide a most beneficial impact on the Nation's economy.

I look forward to working further with other members of the Small Business Task Force in achieving the goals of America's small business.●

ACID RAIN PRESENT LONG AGO

● Mr. JEPSEN. Mr. President, the other day I heard a radio news reporter state, matter of factly, that acid rain is the result of chemicals blown into the air from burning coal. As a result of similar reports, a growing number of people think this theory must be true and the Environmental Protection Agency is working on regulations to curtail acid rain. However, a recent Wall Street Journal article entitled "Old Ice Indicates Acid Was Present in Rain Long Ago," counters this assumption. According to the article, scientists at the University of New Hampshire found that glacier ice core samples in Antarctica and the Himalayan Mountains were saturated with acid. The article also adds that "laboratory researchers long have believed that acid is a natural part of rain."

Such information is a good example of what business means when it protests the unnecessary and excessive environmental regulations that stifle their growth. Of course, most businesses want to insure clean air and water and a safe environment. But they also need to make a profit to survive. Businesses reasonably believe that environmental rules and regulations should not be enforced before valid scientific data is verified. I could not agree more.

Mr. President, I ask that the Wall Street Journal article be printed in the RECORD.

The article follows:

OLD ICE INDICATES ACID WAS PRESENT IN RAIN LONG AGO

(By Mitchell C. Lynch)

BOSTON.—Acid rain, a recent concern of environmentalists, has been pelting the earth for centuries, according to findings by two University of New Hampshire scientists.

The scientists pulled ice core samples from glaciers in Antarctica and the Himalayan mountains and found them laden with acid. One core dated back 350 years.

The findings bring into question the idea that acid rain is an industrial-age problem that is primarily a result of man-made pollutants, particularly chemicals blown into the air from burning coal. Scientists say the findings likely will have more political and economic impact than scientific impact because laboratory researchers long have believed that acid is a natural part of rain.

What still is in dispute, scientists say, is how much acid the chemicals that are sent aloft by man add to acidity of rain. "Man's contribution still is significant," says Jeremy Hales, director of a government-subsidized study of chemical fallout in rain.

These types of studies were prompted by the growing issue that acid rain is ruining lakes and streams in the U.S., Canada and Scandinavia. Representatives of major industrial nations met last November to find ways of easing the problem through mutual cooperation. And the U.S. and Canada have been bickering about chemical fallout raining on each other's waterways and forests.

The University of New Hampshire scientists, Paul Mayewski and W. Barry Lyons, extracted the ice core samples while on National Science Foundation studies of the relation between glaciers and the changing paths of monsoons. Last winter they collected 80 samples from Antarctic glaciers and last month 250 samples 16,000 feet up in the Indian Himalayas.

The ice hasn't melted in either place for thousands of years and volcanoes haven't occurred in that time, the scientists said. Mr. Mayewski is a glaciologist and Mr. Lyons a geochemist.

In determining the acid content, the scientists measured what is known as the pH factor. The lower the pH value, the less alkaline and the more acid. A pH value of 5.6 is considered acceptable, and a value of 7.0 is pure water.

The Himalayan samples, though, had readings as low as 4.8 and averaged 5.1. Even the freshly fallen snow, in an area far enough away from civilization to be considered pristine, showed readings of 5.1 on the pH scale. Further, some 30-year-old samples had the same reading from bottom to top, indicating that acid hadn't surged in recent years.

In Antarctica, some samples were 350 years old and had mean pH values of 4.8 to 5.0. The sulfate levels of the samples also were low. Sulfate is an indicator of pollution from fossil fuels such as coal and oil.●

GUS CAPILOS

● Mr. HOLLINGS. Mr. President, on August 9, 1980, the people of my State sustained an uncommonly heavy loss in the death of Gus Capilos. The life of Mr. Capilos was synonymous with hard work, humor, and a rare ability to blend business success with an exceptionally broad range of human concerns. He was self-educated, self-employed, and self-motivated; and yet, he was selfless. A Greek immigrant whose life in every way can be spelled s-u-c-c-e-s-s, he was the American dream and more. I am grateful to have known him. He has been an inspiration to many.

Mr. President, I submit for printing in the RECORD an article from the State of Columbia, S.C., reflecting on the life of this special man:

The article follows:

GUS CAPILOS: A SUCCESS STORY AND GOOD SAMARITAN IN ONE

(By Bill McDonald)

Constantine Demosthenes "Gus" Capilos, the Columbia restauranteur who died Saturday, was "the American success story and a Good Samaritan rolled into one super, super individual," one of his closest friends said Monday.

Leonard Price, president of Budweiser of Columbia Inc., also said the 67-year-old Greek immigrant was "the most remarkable person I've ever met in my life.

"Gus couldn't speak a word of English when he first went to school," recalls Price, a longtime hunting companion of Capilos.

"He once told me that his father, who operated a fruit cart in Charlotte, would give him the best looking apple each day to take to his teacher, hoping she would take a special interest in him.

"And sure enough, it worked; Gus said he soon became the teacher's pet!"

Locally, Capilos' rise in business began in 1937, when he founded the old Varsity Grill on North Main Street. Later, after a wartime stint in the U.S. Navy, he formed a partnership with brothers, Bill and John. The Market on Assembly Street—a restaurant destined to become the "in" place for politicians and local businessmen—came under Capilos' direction.

(The restaurant was dubbed The Market because it was located right beside the old State Farmer's Market on Assembly Street. It was founded by Nicholas Papadeas, a brother-in-law of the Capilos brothers.)

In his early days in Charlotte, Price recalls, Capilos earned a doctorate in hard knocks. But rather than embitter him, the experience molded him into a character who had a strong affinity for the underdog.

"I don't know how many people he has helped through school that nobody knows about," Price says. "He was too big a man to want credit for it, and race meant absolutely nothing to him.

"He was helping human beings."

The oldest son in a family of seven children, Capilos came to the U.S. at age two. The family settled first in Texas, then moved to Charlotte.

After finishing junior high school in Charlotte, where he was a member of the football and track teams, Capilos worked at a succession of soda shops and restaurants before founding The Varsity Grill, a drive-in that contributed greatly to the hamburger-and-french fry mania in Columbia.

Capilos' smile was his trademark. Even when the conversation was disagreeable, the lids puckered around his eyes, and he could be counted on to offer a bit of sage advice—oftentimes to a harried dishwasher or a frenzied cook.

Hunting was Capilos' passion, too. He read every book ever written by Havilar Babcock, the late English department chairman at the University of South Carolina and an avid outdoorsman. Biographies of famous men were also on his reading list.

"He absolutely believed in education," Price said. "He didn't finish high school, but he was a well-educated man."

Capilos and Price hunted together often: deer, quail, pheasants, rabbits. An outgrowth of their friendship was the Wild Game Dinner on the second Friday in March, an annual affair that attracted guests and VIPs from all over the state.

Capilos, who could turn a pig's ear into a gourmet meal at the drop of a butcher knife, did the cooking. He also prepared fancy hors d'oeuvres for the dinner, and, on occasion, he fixed "the best BBQ rabbit you've ever eaten," Price said.

"He was quite a genius in the kitchen."

Capilos' wife, Elizabeth, died a few months ago. They had only one child, Barbara, who now lives in Indiana and is married to Sam Reams.

After Mrs. Capilos died, he showed up one day at Price's office with an automatic Browning shotgun. He told Price he had to rewrite his will after Elizabeth's death, and "I'd like you to have this shotgun and put it to use."

"He was always doing things like that," said Price. "And what impressed me most about the man, if he couldn't say something nice about you, he wouldn't say anything at all."

Capilos retired from the restaurant business in 1960, leaving The Market in the capable hands of brothers Bill and John. He told friends he had worked hard all his life, and now it was to do a few things he loved to do—like hunt.

Two years ago, while on a hunt with Price, Capilos suffered a heart attack. It was Price's quick action—calling ahead to a hospital emergency room—that helped Capilos survive the attack. But it ended his life in the fields forever.

Capilos was a religious man and often, on Sundays he sat through two sermons. He was a member of the Greek Orthodox Church on Sumter Street and his wife's church, St. Mark's Methodist on Broad River Road.

"He was the type of guy you always enjoyed being with," Price said. "He was always giving. He was never one who looked for anything. I feel as if I've lost a brother, and I know Columbia has lost one of its truly great citizens.

"People like Gus Capilos don't come along every day."

CRIMES INVOLVING CONTROLLED SUBSTANCES

● Mr. JEPSEN. Mr. President, I recently introduced an amendment to the

Criminal Code Reform bill that would allow Federal jurisdiction in certain crimes involving controlled substances; specifically, where the offense consists of a pharmacy and is part of a pattern of such robberies in a locality. These crimes are often violent crimes.

A constituent of mine, Mr. G. David Novotny of Boone, Iowa, recently brought an article to my attention which I believe points out the seriousness of this situation. I ask that this article be printed in the Record and I direct it to the attention of my colleagues.

The article follows:

Pharmacy Crimes: New Laws

March 19, 1980 was a tragic day in the life of our brother pharmacist, John Regan of West Roxbury, Massachusetts.

Pharmacist Regan found himself facing what many of us have faced at one time or another—an armed robbery in his pharmacy. Common sense has taught us to remain as calm and cooperative as possible in such a situation. Standard procedure is to hand over the drugs and cash, and pray that no one gets hurt.

John Regan applied all these common sense rules during this armed robbery; but he made one "mistake": He had less narcotics on hand than the drug-crazed maniacs demanded. For this reason, John Regan was gunned down without warning. The bandits were apprehended shortly. The victim will live; but he lies in a hospital bed, paralyzed by his would-be assassin's bullet.

The point I am trying to make is one that concerns us all. Illicit drugs are increasingly difficult to obtain on the street. The result? A frightening increase in pharmacy robberies, accompanied by increased, senseless violence on the part of the desperate addicts.

Pharmacists need protection—federal protection through the courts. I find it incomprehensible that we are not federally protected by statute and that the robbery of a pharmacy at present is not a federal offense; or that we—the guardians of drugs which bear the statement: "Caution: Federal law prohibits dispensing without prescription"—are not protected by the same agency which governs our actions. Incredible!

Happily, there is something we can do about this. Currently, there are 3 bills pending before the Subcommittee on Crime of the House Judiciary Committee (H.R. 503, H.R. 1682, and H.R. 2739). If these laws are passed, robbery of a pharmacy will be a federal offense, and we can at least be assured of due process and punishment for these robbers and would-be assassins.

Letters to our U.S. congressmen and senators—in support of these 3 bills—are sorely needed. We must have legal deterrents and mandatory punishment for such pharmacy crimes. It will take only a few minutes for each of us to write the letters which Pharmacist Regan is unable to write.

Let's do something that, unfortunately, we are historically famous for not doing—Unite and Fight! It could save your life.●

ONLY 1 DAY LEFT

● Mr. CANNON. Mr. President, I am pleased to inform my distinguished colleagues that there is only 1 day left before air fares are reduced by 3 percent. For example, this means that Senator Cranston can save as much as $28 on his next trip to Los Angeles. In addition, this means that passengers, shippers, and general aviation pilots will save nearly $1 billion annually.●

ESC GUIDE TO ENERGY CONSERVATION

● Mr. CHAFEE. Mr. President, the 96th Congress has produced new initiatives to promote energy conservation. Natural gas and electric utilities have been given a mandate to help their customers with conservation.

Nevertheless, Mr. President, our job is not done. We must now work to get the work out on the programs we have established to help save energy and money.

One of the best tools I have found for helping my constituents is the Guide to Federal Energy Conservation Assistance prepared by the Environmental Study Conference, which I cochair with my distinguished colleague, Representative Joseph L. Fisher. The conference has also prepared a companion guide on solar energy.

The Conference staff has just updated this guide to help its more than 300 Senate and House Members in answering constituent requests for information and in preparing speeches and newsletters. Many Members have also distributed the guide in their States and districts.

I congratulate the ESC staff for another job well done and commend the guide to you.

Mr. President, I ask that the ESC energy conservation guide be printed in the Record.

The material follows:

ESC Guide to Federal Energy Conservation Assistance

This updated guide has been prepared by the Environmental Study Conference to help its Members help their constituents find out more about how to save energy—and money—and about the Federal conservation assistance programs that are available.

The 96th Congress enacted major new conservation incentives.

Topping the list is a new Solar Energy and Energy Conservation Bank that will subsidize loans for energy saving investments by homeowners, renters and small businessmen. Gas and electric utilities also will be required to give their customers help with conservation. And the list of investments eligible for the 15 percent residential energy tax credit has been expanded.

This guide lists Federal assistance by energy and program. An index at the end lists programs according to target audience. The guide was prepared by Grace Malakoff.

For copies, write your Senator or Congressman.

For solar information, see ESC's companion Guide to Solar Energy Programs.

INTERNAL REVENUE SERVICE

Residential Conservation Tax Credit: Homeowners and renters are eligible for a non-refundable tax credit of 15 percent of the first $2,000 spent on purchasing and installing conservation equipment, for a maximum $300 credit.

Qualifying equipment includes insulation, caulking and weatherstripping modified flue openings, storm doors and windows, automatic furnace ignition systems and clock thermostats and other measures as determined by the Secretary of the Treasury.

Property claimed for credit must be installed between April 20, 1977 and December 31, 1985, in the taxpayer's principal residence. Newly built homes do not qualify. Condominiums and cooperatives are eligible when they are principal residences. Vacation homes are not eligible.

If the authorized credit exceeds the tax owed, it may be carried forward on future tax returns through 1987.

For renewable energy equipment such as solar, wind or geothermal property a tax credit of up to $4,000 may be claimed, or 40 percent of expenditures to $10,000.

Final rules are being developed for these programs.

The appropriate form (No. 5695) and a booklet (No. 903) explaining the credits are available from local IRS offices. See also IRS "Tax Information" listings under U.S. Government in your local telephone white pages. Credit may not be claimed for improvements financed by other government energy programs.

IRS contact: Walter Woo, Legislation and Regulation Division, Office of the Chief Counsel, IRS, Rooms 4311, 1111 Constitution Ave. N.W., Washington, D.C. 20224. (202) 566-3299.

Business Energy Tax Credits: Businesses can qualify for an investment tax credit for new equipment that increases energy efficiency.

In general, this credit can be claimed in addition to the current 10 percent credit allowed for investments in business property.

The credit, in general, is not available to utilities.

The credits are non-refundable, but may be carried back and forward.

In addition to energy investments specified in the Windfall Profits Tax Act, the Treasury Secretary is authorized to add additional energy investments eligible for 10 percent credits.

Credits of at least 10 percent also can be claimed for increase of seating capacity on intercity buses, for biomass property; and solar, wind or geothermal energy equipment.

In some cases, credits of as much as 15 percent may be available.

A 10 percent credit applies to investment in cogeneration systems which use oil or natural gas for 20 percent or less of their fuel.

Qualified cogeneration equipment may be used for industrial, commercial or space heating purposes.

Regulations appear in the Federal Register, July 10, 1980, p. 46444.

For more information, obtain the free pamphlet, "Tax Information on Investment Credit" (No. 572) from local IRS offices, or call the IRS "Tax Information" listing under U.S. Government, Internal Revenue Service, in your local telephone white pages.

IRS contact: Mary Frances Pearson, Legislation and Regulation Division, Office of the Chief Counsel, Internal Revenue Service, Room 4108, 1111 Constitution Ave. N.W., Washington, D.C. 20224. (202) 566-3458.

State Energy Conservation: A major DOE conservation effort is the State Energy Conservation Program.

SECP makes grants to states for development of plans that will reduce energy consumption in 1980 by 5 percent. States are predicting an actual cut of 6.6 percent by 1980.

The program received a total of $159.5 million through fiscal year 1979 and $47 million is available in FY 1980.

States receive funds according to an allocation formula that awards 25 percent of available funds equally, 40 percent on the basis of population and 35 percent on the basis of a state's projected energy savings for a particular year.

The main eligibility requirements are preparation of a base plan and a supplemental plan.

The base plan must include:

Lighting efficiency standards for non-federal public buildings. The minimum standards are so-called 90–75 standards established by the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE).

Thermal efficiency standards for new and existing residential and non-residential buildings. They are based on the ASHRAE 90–75 levels.

Carpool Programs to promote the availability and use of carpools, van pools and public transportation.

Energy efficiency standards governing the procurement practices of a state and its political subdivisions.

Traffic regulations permitting, to the maximum extent consistent with safety, motor vehicles to turn right at a red light after stopping.

The supplemental plan must include procedure for:

Conducting public education program on energy conservation and renewable resource measures.

Ensuring effective intergovernmental coordination.

Encouraging and carrying out energy audits of buildings and industrial plants.

Optional elements of the state plan include:

Restrictions on the operating hours of non-federal public buildings.

Restrictions on non-essential lighting.

Transportation control.

Public education.

In addition, a state may initiate other appropriate measures to conserve energy, such as:

Oil and gas burner inspections.

Utility audits of homes.

Bans on master metering in new multiunit dwellings.

Comprehensive state/local government energy management plans.

Driver education programs.

Truck fleet efficiency programs.

Cogeneration, or the use of industrial waste heat to generate electricity or residential heat.

Program administration is largely decentralized, with plan review, approval and funding authority delegated to the 10 DOE regional offices (see p. 9 for addresses). These offices serve as primary liaison with state agencies. Responsibility for coordination, clearinghouse functions, preparation of technical assistance materials, workshops, etc. lies with national headquarters.

DOE contact: Mary Fowler, Director, Office of Energy Conservation Programs, Conservation and Solar Applications, DOE, Mail Stop 24–027, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2344.

Supplemental State Programs: Other programs to help state and local governments include assistance in developing purchasing strategies that will save energy. The Office of State Energy Conservation Programs provides information and technical help.

Another program encourages the recovery, refining and re-use or acceptable disposal of used oil. Technical assistance is provided to state and local governments and civil, community and public interest groups through such organizations as the National Association of Counties.

DOE contact: Doris Ellerbe, Office of State Energy Conservation Programs, Conservation and Solar Applications, DOE, Mail Stop 2H–027, 1000 Independence Ave., S.W., Washington, D.C. 20585. (202) 252–2360.

Energy Extension Service: This DOE program provides advice and information on saving energy and on the use of renewable resources to individuals, small private firms, local governments, architects, savings and loan officers, farmers, tenants and homeowners.

Ten states received pilot grants in 1978 of about $1.1 million each and started to provide services like building or irrigation pump audits and energy hot lines. Grants of about $48,000 were granted to each of the remaining states to prepare for participation in a nationwide program.

Congress approved an appropriation of $25 million for FY 1980, along with $4.7 million carried over from FY 1979, to extend this program to all 50 states. Fifty percent was divided equally among all states, and 50 percent allocated on the basis of population. Details are published in the Federal Register, November 21, 1979, p. 66780.

The states design and operate the program, while DOE provides guidance and technical assistance. No funding is available for an activity if it duplicates other state energy conservation programs.

EES grants are awarded to governors, who usually designate state energy offices or universities to execute the program.

DOE contact: Mary Fowler at address above.

Weatherization Grants: The weatherization grant program is designed to help low-income people, particularly the elderly and handicapped, make home repairs and energy conserving improvements. The maximum grant expenditure per dwelling is $1,600. A total of $199 million was appropriated for FY 1980.

States receive the grant funds and in turn make grants to community-based organizations, usually community action agencies, to carry out programs at the local level. Funding follows a state plan that receives prior approval from DOE. Interim rules appear in the Federal Register Part V, February 27, 1980.

DOE contact: Joseph P. Flynn Jr., Weatherization Assistance Program, Office of State Programs, DOE, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2204.

Schools, Hospitals, Local Public Buildings and Public Care Institutions: A total of $141.2 million was available in FY 1980 to help schools and hospitals pay for energy audits and installation of energy conservation and solar equipment. These grants can cover up to 50 percent costs (90 percent in hardship cases). Funds or in kind contributions from any source may make up the matching 50 percent. Eligible schools include public and non-profit, private elementary and secondary schools, colleges and universities.

A separate grant program ($17.5 million budgeted for FY 1980) finances energy audits and technical assistance only for public buildings owned by local governments and non-profit public care institutions such as nursing homes, community health centers, neighborhood health centers and orphanages. State energy offices recommend to the Department of Energy the grants to be funded in accordance with a state plan. A free fact sheet is available on request. Federal Register description of program rules in 1979: April 2, p. 19340, April 17, p. 22940–57 and Oct. 24, p. 61171 and 61317.

DOE contact: Rich Mining, Acting Director, Institutional Buildings Grants Program, DOE, Mail Stop 2H–027, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2335.

Residential Conservation Service: By early 1981, large electric and natural gas utilities will offer energy conservation "audits" to residential customers.

States will prescribe audit specifics in plans, now under review by DOE. Audit specifics will depend on local conditions. For example, evaluations of using waste heat from air conditioners to heat water will be included only in areas where the practice is economical.

Audits will list possible conservation and renewable energy resource improvements and estimates of dollar savings. Utilities may list possible lenders to finance improvements and arrange financing upon request, including repayment in monthly installments on utility bills. Utilities may also arrange installation and supply a list of suppliers and contractors who will offer one-year warranties on their supplies and services.

DOE is required by the Energy Security Act of 1980 (PL 96–294) to set minimum standards for certification and training of energy audiors by Oct. 27, 1981. States may obtain federal grants to train and certify energy auditors, including those who will conduct utility audits beginning in 1981. The training program is authorized funding of $10 million in FY 1981 and $15 million in FY 1982.

For additional information see the Federal Register, pp. 64602–64670, Nov. 7, 1979, or request a "Fact Sheet, Residential Conservation Service Program," from Jim Tanck, Residential Conservation Service, Office of Buildings and Community Systems, Conservation and Solar Energy, DOE, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–9161.

Appropriate Technology Grants and Inventions Support: This program encourages the development and demonstration of small-scale, decentralized energy systems that use local, renewable resources. It is administered by the 10 DOE regional offices.

Individuals, local non-profit organizations and institutions, state and local agencies, Indian tribes and small businesses are eligible for support.

Grants of up to $50,000 per project are available to develop a broad variety of technologies, including solar heating and cooling, energy conservation, biomass, wind and small hydroelectric power generation. The funding cycle is annual and begins on January 15. The FY 1979 budget was $8 million. The FY 1980 appropriation is $12 million. For grant application information, write the program manager for appropriate technology in your DOE regional office.

Inventions Support: This DOE office funds development of energy-saving inventions recommended by the National Bureau of Standards, helps locate financing and other assistance in promoting commercialization of energy-saving practices and assists in dissemination of DOE energy conservation research and development to business and industry. Funding of inventions ranges from $20,000 to $200,000.

Contracts: David Mello, Invention Support, (202) 252–9113; Ann Hegnauer Appropriate Technology, (202) 252–9104; Conservation and Solar Applications, Small-Scale

Technology Division, DOE Mail Stop 6G–040, 1000 Independence Ave. S.W., Washington, D.C. 20585.

Comprehensive Community Energy Management program: This program sponsors research in energy conservation aspects of community management strategies and site and neighborhood design.

DOE will award grants in FY 1981 to carry out management and design strategies. FY 1981 funding is expected to be $1.5 million.

In past years, DOE made grants for 16 communities' studies on energy conservation management planning. Reports are available on the studies and on five case studies of neighborhood and site designs.

Contact: Jacob Kaminsky, Office of Building and Community Systems, Conservation and Solar Energy, DOE, Mail Stop 1H–031, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–9393.

The Community Service Branch of DOE has hired a private contractor to operate a Clearinghouse on Community Energy Efficiency.

The clearinghouse provides information on local energy conservation activities of communities and on federal programs offering technical and financial assistance to state and local governments. Services are for state and local officials only. Requests should be addressed to The President's Clearinghouse for Community Energy Efficiency, DOE, Suite 801, 400 N. Capitol St. N.W., Washington, D.C. 20001, (202) 252–2855 or call toll-free (800) 424–9040; from Alaska or Hawaii, (800) 424–9081.

Energy Conservation in Transportation: DOE has several programs to improve transportation system efficiency and vehicle performance.

One promotes commuter ridesharing and vanpooling. Others are designed to improve the energy efficiency of intercity and urban passenger and freight transport and to provide technical assistance on various transportation alternatives to states implementing energy conservation plans. Vehicle performance programs distribute vehicle gas mileage ratings, promote improved fuel use by commercial trucks and buses and educate motorists on conservation techniques for automobiles.

The DOE regional office is the first point of contact for assistance.

DOE contact: Sydney Berwager, Acting Director, Division of Transportation Systems Utilization, DOE, Mail Stop 5H–063, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–8000.

Vehicle Performance Branch: This office has several programs which promote improved fuel efficiency in transportation by:

Providing information on voluntary technology and techniques to increase truck and bus fuel efficiency in cooperation with the Department of Transportation.

Improving driver awareness of how to save fuel through improved maintenance and driving techniques.

Publishing "The Gas Mileage Guide" for new cars. Each year, a first edition is issued in October, a second in March.

Evaluating inventions and new ideas for improving fuel efficiency.

DOE contact: Maurice D. Starr, Chief, Vehicle Performance Branch, Transportation Systems Utilization, DOE, Mail Stop 5H–063, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–8003. "The Gas Mileage Guide" is available free from any new car dealer. Bulk orders will be filled by the Technical Information Center, DOE, P.O. Box 62, Oak Ridge, Tenn. 37830.

Technology and Information Dissemination: DOE's Division of Buildings and Community Systems provides builders, architects, engineers, code officials and residential consumers with technical non-technical and "how-to" publications, exhibits and other visual material, educational programs and workshops and seminars on conservation.

DOE contact: Nancy Fanning, Program Liaison and Support, Division of Buildings and Community Systems, DOE, Mail Stop 1H–037, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–9452.

Industrial Conservation: DOE's industry energy conservation effort develops and demonstrates new, more energy-efficient industrial technologies, procedures and processes. Development work is both industry-specific and cross-industry in nature.

It also promotes commercialization of existing, underused conservation technologies and procedures through publications, technical assistance, workshops, energy audits and other means.

DOE contact: Douglas G. Harvey, Office of Industrial Programs, DOE, Mail Stop 2H–086, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2072.

Industrial Energy Reporting: Corporations report energy efficiency improvements to trade associations or directly to the federal government. Some are required to report by law, while others report on a voluntary basis. Annual reports to Congress are required and are available from DOE.

DOE contact: Tyler Williams, Office of Industrial Reporting Programs, DOE, Mail Stop 2H–085, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2371.

Technology Implementation Energy Analysis and Diagnostic Centers: This program primarily helps small- and medium-sized industrial firms improve energy efficiency through free audits and technical assistance.

Under contract with DOE, audits and analyses are provided by the Georgia Institute of Technology, University of Pittsburgh and University of Tennessee.

DOE contact: Dave Hoexter, Office of Industrial Programs, Conservation Technology Implementation Branch, DOE, Mail Stop 2H–086, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2392.

Small Business Energy Cost Reduction: This program provides technical assistance, primarily guidebooks, to help small businesses reduce energy costs and consumption.

Guidebooks have been completed for 13 sectors: laundry and dry cleaning, commercial printing, automobile dealers, apartment building operations, gasoline service stations, automotive repair, wholesaling, retailing, florists (both retail and greenhouse operations), furniture manufacturing, bakeries and dairies.

A slide/tape presentation will be included with guidebooks which are being prepared for other businesses, including plywood and veneer manufacturing, plastic, frozen foods, scrap iron and steel and health care facilities.

Trade associations, which co-sponsor the program, publish and distribute the guidebooks, and many have sponsored energy cost-reduction workshops through their state and local affiliates. State energy offices and DOE's Energy Extension Services also conduct programs.

DOE contact: Jane L. Miller, Program Manager, Office of Small Business, DOE, Mail Stop IE–267, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–9413.

Educational Resource Development: DOE's Education Programs Division produces energy education materials for schools and finances the National Science Teachers Association's energy education newsletter. FY 1980 program funding was $500,000.

A faculty development program makes grants to colleges and universities to conduct energy education workshops for teachers at all levels—elementary school through college. Typical grants are for $20,000 with total FY 1980 funds of $500,000. Deadline for applications is October 31. Guidelines for the program are available from the division.

Program materials are available from the DOE Technical Information Center, Post Office Box 62, Oak Ridge, Tenn. 37830. (615) 576–1308.

DOE contact: Don Duggan, Education Programs Division, DOE, Mail Stop 7E–054, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–6484.

Consumer Impact, Citizen Participation and Energy Education: These divisions in the Office of Consumer Affairs try to involve the public, particularly the poor and elderly, minority or handicapped persons, in federal energy programs.

The citizen participation division sponsors public meetings and briefings and publishes a consumer briefing summary on DOE activities. Contact: Bill Halmberg, Citizen Participation Division, (202) 252–5373.

The consumer division acts as a consumer advocate within the department. Located in the Office of the Secretary, the consumer impact division reviews such policies as gasoline rationing, natural gas price deregulation and low-income energy assistance. Contact: Eric West, Consumer Impact Division, (202) 252–5866.

The energy education division offers grants and contracts to educational institutions to develop curricula and conducts teacher training institutes particularly for elementary and secondary schools.

DOE contact: Jim Kellett, Energy Education Division, (202) 252–6488; Tina Hobson, Director, Office of Consumer Affairs, DOE, Mail Stop 8G–031, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–5598.

Industrial Workshops/Seminars: DOE cooperates with universities, trade associations and government agencies in presenting workshops, seminars and conferences on conservation for engineers and business managers. Contact: Ray Cilimberg, Office of Industrial Programs, Conservation Technology Implementation Branch, DOE, Mail Stop 2H–086, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–2392.

Publications Branch: This office produces for the general public non-technical publications on DOE programs and scientific concepts in the energy field. Contact: John Sullivan, (202) 252–6249, or Estelle Wiser, (202) 252–6173, DOE, Office of Public Affairs, Mail Stop 1E–218, 1000 Independence Ave. S.W., Washington, D.C. 20585.

Exhibits: This office coordinates development, design, construction and operation of energy exhibits. About 450 programs a year reach about 18 million people in local fairs, shopping centers, workshops, public meetings, service clubs, professional organizations, energy fairs, science museums and conferences. Contact: John Bradbourne, Jr., Chief of Public Presentation Branch, Office of Public Affairs, Mail Stop 1E–218, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–4670.

Audiovisual Branch: This program produces and distributes DOE audiovisual material to the public: Contact: Jack Moser or Jerry Ward, Office of Public Affairs, DOE, Mail Stop 1E–218, 1000 Independence Ave. S.W., Washington, D.C. 20585. (202) 252–5588.

Free Energy Periodicals: "Energy Insider," a biweekly look at DOE's internal operations. Request subscriptions from DOE, Consumer Affairs, Washington, D.C. 20585. (202) 252–5577.

The Energy Consumer, monthly information on new publications, workshops funding and legislation. Request from Consumer Affairs, DOE, Washington, D.C. 20585. (202) 252–5880.

DOE REGIONAL OFFICES

The following officials oversee the implementation of DOE programs in the regions and can direct requests to the appropriate program manager.

Region I: Harold Keohone, DOE, 150 Causeway St., Analex Building, Room 700, Boston, Mass. 02114. (617) 223-3701. Connecticut, Maine, New Hampshire, Massachusetts, Rhode Island, Vermont.

Region II: Robert Low, DOE, 26 Federal Plaza, Room 3206, New York, N.Y. 10007. (212) 264-4780. New York, New Jersey, Puerto Rico, Virgin Islands.

Region III: Obra S. Kernodle, DOE, 1421 Cherry St., 10th Floor, Philadelphia, Pa. 19102. (215) 597-3890. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV: Louis F. Centofenti, DOE, 1655 Peachtree St. N.E., Eighth Floor, Atlanta, Ga. 30309. (404) 257-2837. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V: Robert H. Bauer, DOE, 175 West Jackson Blvd., Room A-333, Chicago Ill. 60604. (312) 353-8420. Illinois, Indiana, Minnesota, Michigan, Wisconsin, Ohio.

Region VI: G. Dan Rambo, DOE, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Tex. 75235. (214) 767-7741. Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII: Mary O'Halloran, 324 East 11th St., Kansas City, Mo. 64106. (816) 374-2061. Iowa, Kansas, Missouri, Nebraska.

Region VIII: Charles Metzger, DOE, P.O. Box 26247 Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226. (303) 234-2420. Colorado, Montana, North Dakota, Utah, Wyoming.

Region IX: William Arntz, DOE, 333 Market St., San Francisco, Calif. 94111 (415) 556-7216. Arizona, California, Hawaii, Guam, American Samoa, Nevada.

Region X: Jack Robertson, DOE, 992 Federal Building, 915 Second Ave., Seattle, Wash. 98174. (206) 442-7285. Alaska, Idaho, Oregon, Washington.

DEPARTMENT OF TRANSPORTATION

The department provides technical support and transportation energy conservation analyses to public transportation offices and to elected officials and their staffs.

Printed materials are available to the general public, including: "Energy Conservation in Transportation," 120 pp. R.V. Grangrande, DOT Transportation Systems Center, Kendall Square, Code 151, Cambridge, Mass. 02142. (617) 494-2486; "Transportation Energy Contingency Planning: Local Experiences, Memphis, Seattle, Los Angeles, Washington, D.C., Dallas-Fort Worth, Minneapolis-St. Paul," 161 pp; and "Transportation Energy Activities of the DOT: A Technical Assistance Directory of Programs, Projects, Contacts, and Conferences," 110 pp.

DOT contact: Al Linhares or Judy Kaplan, Technology Sharing Division, (202) 426-4208.

Additional sources: Angus Duncan, energy policy, DOT (202) 426-4220; Robert Beasley, Public Affairs, for materials on ridesharing, speed limits, etc. (202) 426-4333; Bill Wilkinson, environment and safety, for bicycle programs, (202) 426-4414. All offices at U.S. Department of Transportation, 400 Seventh St. S.W., Washington, D.C. 20590.

Federal Highway Administration: Programs are underway to reduce traffic congestion, air pollution and energy consumption by cutting the number of one-to-a-car trips and by expanding the use of carpools, vanpools, buses and trains.

Van purchase loans and tax credits, road space and gasoline preference plans, insurance initiatives and demonstration projects are included. One program aids localities in making more efficient use of existing highways and parking facilities.

Brief pamphlets on the programs are free, including: "Ridershare and Save—A Cost Comparison," Office of Public Affairs, I-38, DOT, 400 Seventh St. S.W., Washington, D.C. 20590. In each state and many localities, FHWA divisional offices and ridesharing agencies provide information. Inquire toll-free at the National Ridesharing Information Center (800) 424-9184. Contact: Barbara Reichart, Ridersharing, HHP-33, Federal Highway Administration, Department of Transportation, 400 Seventh St. S.W., Washington, D.C. 20590. (202) 426-0210.

Bikeway Programs: A variety of grants are available to increase use of bicycles as an alternative to auto transportation.

Under the federal-aid highway program, states can obtain federal grants to cover 90 percent of the costs of bikeways constructed as part of interstate highway projects.

For urban systems and non-interstate highways, federal grants for bikeways are limited to 75 percent of costs, but the bikeways do not have to be an integral part of the systems.

Eligible facilities include bikeways, parking facilities and other physical improvements which promote bicycle use.

The Surface Transportation Act of 1978 established a supplemental bicycling grant program, with funds equally divided among the 10 federal regions. FY 1980 funds for this program totaled $4 million.

In addition, bicycle safety must receive full consideration in all federal-aid highway projects. DOT issued advanced notice of proposed rulemaking for new bikeway design standards in the Federal Register, Aug. 4, 1980, p. 51720.

The department provides information on the design, demonstration and funding of bikeways.

Copies of the secretary's report, "Bike Transportation for Energy Conservation," April 1980, are available through the Government Printing Office. A technical supplement is in preparation. Contact James Kirschensteiner, Engineering, FHWA, (202) 426-0314 or Maureen Craig, Office of the Secretary, Environment and Safety, (202) 426-4414, DOT, 400 Seventh St. S.W., Washington, D.C. 20590.

Systems Management Preferential lanes for high occupancy vehicles, parking policies and staggered work hours are part of energy saving efforts. Contact: Gary Manning, Transportation Systems Management, FHWA, DOT, 400 Seventh St. S.W., Washington, D.C. 20590. (202) 426-0210.

Fact Sheets are available to outline the use of the federal-aid highway program in energy conservation. Send request to FHWA, DOT, Washington, D.C. 20590.

National Highway Traffic Safety Administration: For NHTSA information on improving energy consumption of trucks, heavy equipment and commercial vehicles, contact: Henry Seiff, Heavy-Duty Vehicles Research, (202) 426-4553. On inspection, maintenance and repair programs for improving fuel economy, contact Dick Strombotne, Fuel Economy Standards, (202) 426-0846.

On driver education and related programs, contact: John Eberhard, Driver and Pedestrian Research, (202) 426-4892; and Larry Pavlinski, Driver Pedestrian Programs, National Highway Traffic Safety Administration, DOT, 400 Seventh St. S.W., Washington D.C. 20590. (202) 426-4910.

Urban Mass Transportation Administration: Energy planning research: Richard Steinmann, Planning Assistance, UMTA, DOT, 400 Seventh St. S.W., Washington, D.C. 20590. (202) 472-5140.

Advanced transit vehicles and concepts research: Henry Nejako, Technology Development, UMTA, DOT, 400 Seventh St. S.W., Washington, D.C. 20590. (202) 426-9261.

Reducing transit travel time, increasing transit area coverage, improving transit reliability and productivity and improving the mobility of those dependent on public transit: Donald J. Fisher, Service and Methods Demonstrations, UMTA, DOT, 400 Seventh St. S.W., Washington, D.C. 20590. (202) 4995.

Local, State and Regional Information Availability: Additional sources of information on energy conservation in transportation are regional offices of the Urban Mass Transportation Administration, National Highway Safety Administration and the Federal Highway Administration. State and local offices are maintained by the FHWA and DOT's Ridesharing program. Consult your local telephone white pages under U.S. Government or call the National Ridesharing Information Center toll free (800) 424-9184 (from Washington, D.C., call 426-2943).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Solar Energy and Energy Conservation Bank: The newest energy conservation program, established by the Energy Security Act of 1980 (PL 96-294), the Solar Energy and Energy Conservation Bank will provide grants or subsidize loans for energy conservation improvements on residential, commercial and agricultural buildings.

Regulations are due on Dec. 27, 1980, but administration by HUD will not be in place until 1981. A decision will be made this fall on whether the program will apply retroactively to energy conservation improvement loans taken out in 1980.

Low-income individuals may be eligible for grants directly from the federal bank.

Other homeowners, tenants, and businessmen may apply for loan assistance at conventional financial institutions such as banks, savings and loan institutions and credit unions and also city and state governments, non-profit credit institutions and utilities.

Not all banks or utilities will participate in the program.

To be eligible for a conservation loan, residential building owners and tenants can have incomes no greater than 150% of the area median income. Agricultural and commercial applicants must have annual sales of less than $3 million. No loan subsidy will be given on improvements for which tax credits have been claimed.

To receive a direct grant, residential owners or tenants must have incomes no greater than 80 percent of the area median, the total cost of improvements must be more than $250, and investments must be verified. Tenants must have written authorization from owners for proposed installations.

The maximum level of financial assistance available to a residential owner or tenant varies as shown in the chart below. The actual subsidy available may be less than these maximums.

RESIDENTIAL CONSERVATION LOAN SUBSIDIES

	Owner or tenant family income as percentage of area median[1]			
	80[2]	80 to 100	100 to 120	120 to 150[3]
Single family	50 percent of cost, up to $1,250.	35 percent, up to $875	30 percent, up to $750	20 percent, up to $500.
2 units	50 percent, up to $2,000	35 percent, up to $1,400	30 percent, up to $1,200	20 percent, up to $800.
3 units	50 percent, up to $2,750	35 percent, up to $1,925	30 percent, up to $1,650	20 percent, up to $1,100.
4 units	50 percent, up to $3,500	35 percent, up to $2,500	30 percent, up to $2,100	20 percent, up to $1,400.

[1] Median in most areas of the country is roughly $18,000.

[2] Available as a loan subsidy or grant. All others available only as interest or principal subsidies on loans.

[3] Subsidies cut off above 150 percent of median income.

Conservation subsidies are available only for work done on existing buildings, not for improvements built into new buildings.

Owners of apartment buildings with more than four units may get subsidies of 20 percent of the cost of their conservation investments up to a maximum of $400 per unit.

Commercial or agricultural building owners or tenants may be eligible for loan subsidies for 20 percent of improvement costs up to $5,000. HUD contact: Director, Solar Energy and Energy Conservation Bank, HUD, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-6900.

Community Development Block Grants: This program channels funds to units of local government for development activities, primarily for low- and moderate-income people.

Housing rehabilitation projects, including weatherization projects, are eligible. Energy audits, weatherization, solar retrofit and other renewable energy technologies have been financed. Eligible activities are listed in volume 24, Code of Federal Regulations, section 570.200.

Many urban areas are automatically entitled to funds. Smaller communities may apply to the HUD area offices for discretionary grants. FY 1980 appropriations were $3.8 billion, but only a small part goes to energy conservation. The community's chief executive or office of housing and community development is the contact for individuals or neighborhood groups.

Local officials contact: HUD Regional Offices listed under U.S. Gov't in telephone white pages or James Broughman, Entitlement Cities Division, Assistant Secretary for Community Planning and Development, HUD, Room 7282, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-9267; or James Forsberg, Director, Small Cities Program, same address. (202) 755-6322.

Urban Development Action Grants: Urban development action grants may be awarded for projects incorporating commercially feasible energy recycling or renewable energy technologies. To qualify, projects must provide new permanent jobs and increased revenues for a distressed city or urban county.

Credit is given to applications which promise reduced oil consumption. Technical assistance is provided directly through subcontractors. Projects may be residential, business or industrial, commercial or for local government.

HUD contact: David Cordish, Room 7232, Community Planning and Development, HUD, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 472-3947.

Section 312 Loans: Energy conservation improvements in residential and nonresidential buildings are eligible for direct federal rehabilitation loans under section 312 of the Housing Act of 1949.

Rehabilitation loans are available at low interest for 20 years or less, with a maximum of $27,000 per residential and $100,000 per non-residential loan.

The cost of insulation, storm doors and windows and heat pumps are some of the energy-saving items that can be financed.

Eligible applicants may be owners or nonresidential tenants in urban renewal areas, code enforcement areas, areas designated for rehabilitation under Community Development Block Grant Program or Urban Homesteading areas. Priority is mandated for low- and moderate-income applicants.

The local office administering community development programs is the first point of contact.

HUD contact: Robert I. Dodge III, Director, Office of Urban Rehabilitation and Community Reinvéstment, HUD, Room 7170, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-5685.

Product Dissemination and Transfer: This division disseminates results of HUD-sponsored energy conservation research to architects, planners, builders, homeowners, state and local government officials and the general public through publications, workshops, exhibits and other means. FY 1980 appropriation: $1.3 million.

Publications include: "In the Bank or Up the Chimney—a Dollars and Cents Guide to Energy Saving Home Improvements" (GPO No. 0023-000-00-411-9, $1.70) and "The Energy-Wise Home Buyer—A Guide to Selecting an Energy Efficient Home" (GPO No. 023-000-00518-2, $2.00), available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. (202) 783-3238. Additional publications are available by post card and walk-in request at the Publications Service Center, Room B-258, HUD, 451 Seventh St., S.W., Washington, D.C. 20410. An information center is at the same address, Room 1104, (202) 755-6420.

HUD contract: Heather Aveilhe, Program Analyst, Office of Policy Development and Research, HUD, Room 8126, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-5544.

Loan insurance for Multi-Family Housing: Under the National Energy Conservation Policy Act of 1978, HUD is authorized to insure Federal Housing Administration and conventional loans to owners of private multi-family housing to make energy saving improvements.

The loan insurance is available for loans to install energy conservation equipment or solar energy systems or to convert an apartment building from a master electric meter to meters for each apartment.

The interest rates on such loans are set by HUD at a level no higher than necessary to meet market demands.

HUD contact: Michael C. Wells, Program Analyst, Office of Housing, Room 9220, HUD, 451 Seventh St. S.W., Washington, D.C. 20410 (202) 755-6454.

Home Improvement Loan Insurance: HUD may insure home improvement loans covering energy conservation installations.

Borrowers must be credit worthy and tenants must have leases that run six months longer than the term of the loan.

The original mortgage is not usually affected by the program. Fifteen years is the repayment period. Maximum home loans are $15,000 at current Federal Housing Administration interest rates. For apartments the maximum is $7,500 per unit and $37,500 per building.

HUD contact: local HUD-approved lending institutions, or local HUD area offices or John Brady, Title I Insured Loan Division, HUD, Room 9172, 451 Seventh St., S.W., Washington, D.C. 20410. (202) 755-6880.

Basic Home Mortgage Insurance: Used primarily for one- to four-unit homes, basic home mortgage insurance is available to creditworthy applicants seeking to buy homes.

Energy conservation projects may be part of the insured property. Maximum loans range from $67,500 for single-family housing to $107,000 for a building with four or more units.

Hud contact: Local HUD-approved lending institutions, HUD area offices, or Single-Family Development Division, Office of Single-Family Housing, HUD, Room 9270, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-6720.

Neighborhoods, Voluntary Associations and Consumer Protection: This office attempts to reach consumers burdened by steep increases in fuel costs.

Tenants and landlords with energy inefficient structures are most frequently assisted through counseling services, forums and publications. The office's youth employment division aids the installation of solar systems and weatherization.

HUD contract: Call Wilson, NVACP, Room 4228, HUD, 451 Seventh St.. S.W. Washington, D.C. 20410. (202) 755-6920.

Energy Conservation Research: Research is underway in 21 areas of energy conservation, especially in building structures, including: residential energy efficiency, effects of moisture on thermal performance of walls, onsite performance of insulating glass, comparison of wood and masonry walls, mobile homes, public housing, and solar demonstrations for various purposes. Competitive awards are made.

HUD Contract: Joan E. Simons, Energy Building Technology and Standards, HUD, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-8154.

Public and Indian Housing: Energy conservation efforts are conducted through public housing agencies and in assistance to Indian housing. Maintenance engineers in HUD field offices advise owners and managers on energy conservation measures. HUD contract: Thomas Sherman, Low Rent Public Housing, Room 6254, 451 Seventh St. S.W., Washington, D.C. 20410. (202) 755-5380.

COMMUNITY SERVICES ADMINISTRATION

The Community Services Administration, formerly the Office of Economic Opportunity, administers several programs designed to help poverty-level households deal with increased fuel or electrical costs. CSA's energy conservation services include:

Crisis intervention assistance to prevent hardship or sickness caused by fuel shutoffs. The program may provide grants, loans, fuel vouchers or stamp programs, payment guarantees, mediation with utility companies or fuel suppliers, financial counseling, maintenance of emergency fuel supplies, warm clothing, blankets and temporary quarters. In FY 1980, CSA received $400 million for its Energy Crisis Assistance Program (ECAP)

Dissemination of energy conservation guidance and studies of the impact on the poor of rising energy costs as "Too Cold . . . Too Dark." Single copies are available from the agency without charge.

Support for energy conservation and advocacy education programs, such as assistance for the poor in public proceedings on rates, power cutoff policies and local energy planning.

The balance of CSA's conservation activities are training, technical assistance and research and demonstration programs in the following areas:

Energy and agriculture projects that include research and demonstration activities dsigned to lower the energy intensiveness of agriculture with special emphasis on helping low-income farmers stay in business.

Alternative energy resource development that emphasizes nonfossil fuels or renewable energy sources such as wind, solar and methane digesters and improved conservation equipment and practices.

As part of this effort, $3.7 million in FY 1980 CSA funds support the National Center for Appropriate Technology (NCAT). NCAT develops and supports locally oriented technologies geared to the needs and resources of low-income people and communities. Its research and small grants program supports community experiments and demonstration. Local community action agencies should be contacted for application assistance. Contact: Edwin Kepler, NCAT, P.O. Box 3838, Butte, Mont. 59701 or Scott Sklar, 815 15th St. N.W., Suite 624, Washington, D.C. 20005. (202) 347-9193.

CSA's field programs are administered by local community action agencies and other non-profit, community-based organizations. Research and development is administered by the CSA national office.

Contact: Richard Saul, Chief, Energy Programs, CSA, Room 339, 1200 19th St. N.W., Washington, D.C. 20506. (202) 633-6503.

VETERANS ADMINISTRATION

The Veterans Administration's direct and guaranteed home loan programs may be used to finance a variety of conservation improvements, including insulation, caulking, weatherstripping, storm doors and windows, furnace modifications and economical solar or wind power installations. Direct loans are available in housing credit shortage areas at an interest rate established by the administrator and an amortization period of 25 to 30 years.

The maximum amount for direct loans is currently $33,000.

VA contact: Albert W. Glass, Acting Director, Loan Guarantee Service, Department of Veterans Benefits, Washington, D.C. 20420. (202) 389-2249. Local or regional contact: Loan Guarantee Office at the nearest Veterans Administration Office.

DEPARTMENT OF COMMERCE

National Bureau of Standards

Energy Conservation: This program provides technical information on reducing energy waste to industry; federal, state and local governments; trade and standard-setting organizations; technical, engineering and professional societies; and consumer and public interest groups. The program, supported by agencies like CSA, DOE and HUD, publishes technical reports, data, laboratory and field demonstration evaluation guidelines, handbooks and general information publications. Contact: Jack Snell, Director, Office of Energy Programs, National Engineering Laboratories, NBS, Washington, D.C. 20234. (202) 921–3275. For general information, contact Norma Redstone, Administration Bldg., Room A617, National Bureau of Standards, Washington, D.C. (202) 921–2318.

Energy Related Inventions: A staff of five at NBS evaluates energy conservation inventions and recommends federal funding for the most promising proposals. About 2 percent of the 15,000-plus inventions submitted for evaluation between April 1975 and August 1980 have received grants from the Energy Department's inventions support program.

A brochure on the program, "The NBS/DOE Energy-Related Invention Evaluation Program," is available from the program office. To make applications for invention review, request NBS Form 1019. Contact: George Lewitt, Office of Energy-Related Inventions, NBS, Washington, D.C. 20234. (202) 921–3694.

Economic Development Administration

The Economic Development Administrations runs a professional services grant program that provides local governments with 75 percent of the costs of energy conservation program development, energy resource planning and use of alternative energy sources.

Local governments have used the grants to finance such things as energy audits of public buildings and assessments of the impact of energy availability on local economic development. Total budget for the program in FY 1980 is about $350,000. A typical grant is about $20,000.

EDA also maintains an energy information network for 300 economic development districts covering two-thirds of the United States.

Additionally, under new regulations issued last month, applicants for EDA public works funds will have to demonstrate that their proposed projects are energy efficient.

Contact: Patricia Keeler, Office of Development Organizations and Planning, Room 6113, EDA, 14th and Constitution Ave. N.W., Washington, D.C. 20230. (202) 377–2418.

SMALL BUSINESS ADMINISTRATION

Energy Loans: The Small Business Administration makes direct loans or guarantees bank loans for small energy-oriented businesses under the solar and renewable energy resources loan program.

The loans are available to designers, manufacturers, distributors, marketers, installers or services of energy conservation or renewable resources equipment, including solar energy, wind, biomass, hydroelectric or industrial cogeneration. Energy conservation equipment is defined by DOE and includes insulation, individual utility meters, storm windows and improved heating, ventilation and air conditioning controls. The loans are available through local SBA offices for plant construction, conversion, expansion or start ups as well as acquisition of equipment and facilities.

For FY 1980, appropriations include $15 million for direct loans and $30 million in guarantees. To stretch the funds, SBA stresses maximum bank participation in each loan under its guarantee program. The maximum loan available under the guarantee program is $500,000 at interest rates negotiated between the borrower and lender, subject to an SBA maximum. If unable to obtain a guaranteed loan, an applicant may apply for a direct loan which is limited to $350,000 at an interest rate based upon the cost of money to the federal government.

In FY 1979, most loans were made for solar applications and insulation, with a few issued for other alternative technologies such as gasohol production. A total of 141 loans worth $19 million were made in FY 1979.

Information on the program is available in 63 major cities from SBA district offices listed in the telephone white pages under U.S. Government. Regulations consist of part 130 of SBA rules, reprinted in the Federal Register, Jan. 5, 1979, pp. 1369 ff. Contact Evelyn Cherry, Chief, Special Projects Division, Office of Financing, SBA, 1441 L St. N.W., Washington, D.C. 20416. (202) 653-6696.

Small Business Training: This program assists small business owners and managers in reducing energy costs by providing training and counseling. Seminars and individual counseling by the Service Corps of Retired Executives are available through the SBA district field offices working with DOE. Free publications are available from the program office with conservation programs for apartment management, service stations, retail stores, florists and greenhouses, dry cleaners, printers and garages. Contact: Johnnie Albertson, Chief of Business Management Training, SBA, 1441 L St N.W., Washington, D.C. 20416. (202) 653–6768.

DEPARTMENT OF AGRICULTURE

Office of Energy: This office serves as a focal point for all USDA energy and energy-related matters. Contact: Weldon Barton, Director, Office of Energy, Office of the Secretary, USDA, Rooma 226-E, Administration Building, Washington, D.C. 20250. (202) 447-2455.

Farmers Home Administration: The Farmers Home Administration provides a variety of energy conservation-related loans and grants targeted for rural areas and also requires all homes or apartments constructed with FmHA financing to meet strict insulation standards.

FmHA provides loan subsidies, direct loans and grants for home weatherization. The amount and type of assistance available depends upon an applicant's income. Special provisions are made for weatherization assistance to elderly persons.

For 1980, the weatherization program had $48 million, half for loans and half for grants.

FmHA contact: Gordon Cavanaugh, Administrator, Farmers' Home Administration, USDA, Room 5014, South Agriculture Bldg., Washington, D.C. 20250. (202) 447–7967. For general information: Stanley Weston, (202) 447–6903.

Cooperative Extension Service: The Cooperative Extension Service works through the 71 land grant colleges in the U.S. to provide information and assistance emphasizing energy conservation and alternate energy choices for homes, farms and agribusinesses. Local information outlets are the land grant colleges or the cooperative service offices located in each of the 3,150 counties, usually in the county seat. Contact: Glenda Pifer, Extension Service, Science and Education Administration, USDA, Room 5412, S. Bldg., Independence Ave. Washington, D.C. 20250. (202) 447–2179.

Rural Electrification Administration: The Rural Electrification Administration requires certain energy conserving activities by its associated electric power companies as a condition for loans.

REA requires electric distribution cooperatives as a loan condition, to adopt official energy conservation policies. When submitting loan applications, co-ops must report on efforts to conserve energy in facility operations and to assist consumers in using electricity efficiently.

REA has an energy conservation manual to assist co-ops in planning and developing conservation programs. Rural electric cooperatives have received grants from the REA for projects involving alternative energy sources, electric peak load management and weatherization. REA contact: Harlan M. Severson, Assistant to the Administrator, Rural Electrification Administration, USDA, Room 4324 South Agriculture Building, Washington, D.C. 20250. (202) 447–5606. A brochure describing the REA projects, "Our Commitment to Energy Conservation," is available from Rural Electric Cooperative Association, 1800 Massachusetts Ave. N.W., Washington, D.C. 20036. Forest Service contact: Dick Pence, (202) 857–9550. Also available from the same source is a report of a November 1979 survey of energy conservation and alternative energy source activities of the rural electric co-ops.

Forest Service: Conservation activities of the Forest Service are aimed at improved construction and weatherization of wood-frame housing; substitution of wood for more energy-intensive material; use of wood for fuel or production of chemicals now derived from non-renewable petroleum; and cooperative programs to disseminate energy-related research findings and technology to users. Forest Service contact: R. Max Peterson, Chief, Forest Service, USDA (Room 3008, S. Bldg., Washington, D.C. 20250. (202) 447–6661.)

Agriculture Stabilization and Conservation Service: The Agriculture Stabilization and Conservation Service's agricultural conservation program helps finance farming practices which save energy.

ASCS also has a pilot energy-saving loan program in 35 counties in nine states to encourage wet storage and acid treatment for corn or sorghum and use of solar grain drying systems.

USDA contact: John Goodwin, Associate Administrator, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013. (202) 447–6215.

Soil Conservation Service: The Soil Conservation Service provides technical assistance on several soil and water conservation practices that contribute to energy conservation.

USDA contact: William M. Johnson, Deputy Administrator for Technical Services, USDA, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013. (202) 447–3905.

Food Safety and Quality Service: This office encourages industry to save energy through its regulatory programs and works to get industry to use more efficient food processing methods.

Sanitation guidelines for meat and poultry processing plants have been revised to permit energy saving processes. Major savings have resulted from allowing the use of cold water in operations previously using large quantities of hot water.

USDA contact: Dr. Donald Houston, Administrator, Food and Safety Quality Service, USDA, Room 332-E, Administration Building, Washington, D.C. 20250. (202) 447-7025.

DEPARTMENT OF LABOR

Under the Comprehensive Employment and Training Act (CETA), the Department of Labor provides funds to state and local governments to run training and employment programs for the low-income, long-term unemployed, and to pay their wages out of CETA funds.

CETA funds have been used for weatherization of homes of low income residents and installation of solar systems.

The appropriate contact at the local level is the CETA administering agency designated by the local government. Washington contacts: Robert Anderson, Administrator Comprehensive Employment, (202) 376-6254; Robert Colombo, Program Review, (202) 376-6560; Chris Richter, Weatherization, (202) 376-6390; Richard Campbell, Solar, (202) 376-7884; Timothy Barnicle, Youth, (202) 376-2646; Margaret Crosby, Migrants and Seasonal Farm Workers, (202) 376-7623; Peter Homer, Indians and Native Americans, (202) 376-6102; Paul Mayrand, Older Workers, (202) 376-6233; address: Administration on Employment and Training, DOL, 601 D St., N.W., Washington, D.C. 20210. (202) 523-6216.

The Office of the Secretary and the Bureau of Labor Statistics as part of broader research programs, have evaluated the workforce effects of energy trends. Results of the evaluation are found in the Dec. 1979 Monthly Labor Review: "The Influence of Energy on Industry Output and Employment," available from the Bureau of Labor Statistics.

DOL contacts: Bert Barnow, Director of Research, Employment and Training Administration, (202) 376-7335, at the address above; Ron Kutsiker, Bureau of Labor Statistics, (202) 523-1450, and Deputy Assistant Secretary for Policy, Nancy Barrett, (202) 523-6212, DOL, 200 Constitution Ave. N.W., Washington. D.C. 20210.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Energy Conservation in Health Care: The Public Health Service's Division of Energy Policy and Programs helps develop, stimulate and implement energy management principles in health care services delivery. Films, slides, pamphlets and reprints on energy conservation practices are available. Contact: Burt Kline, Director, Division of Energy Policy and Programs, Bureau of Health Facilities Financing, Compliance and Conversion, Health Resources Administration, Public Health Service DHHS, Hyattsville, Md. 20782. (301) 436-7263.

Information on Programs for the Elderly: This task force helps older low- and moderate-income consumers reduce their energy expenses by alerting them to grants, loans and technical information offered by HEW, CSA, DOE and other agencies.

Services are channeled through 56 state units on aging, 590 area agencies on aging and 1200 nutrition projects at the local level.

HHS contact: Dr. Willis Atwell, Chairman, Ad Hoc Interagency Energy Task Force, Administration on Aging, 330 Independence Ave. S.W., Room 4751, Washington, D.C. 20201. (202) 245-6809.

Publications: "Energy Fact Sheets," "Suggestions for Older Americans: Part I, Saving Energy in the Home: Part II, Finding Financial Assistance," "Directory: State Agencies on Aging and Regional Offices," available from Health and Human Services, Office of Human Development Services Administration on Aging, Washington, D.C. 20201; "Winter Survival: A Consumer's Guide to Winter Preparedness," available from DOE, Office of Consumer Affairs, Washington, D.C. 20585.

DEPARTMENT OF EDUCATION

Energy and Education Action Center: This program provides information about sources of federal education funds for energy-related activities, prepares data for conservation curricula and helps educators develop increased awareness of energy problems.

The center offers technical assistance, teacher and administrator in-service training, clearinghouse capacities and an information hotline. The office is sponsoring conferences and expositions in several cities. It has a summary publication: "A Selected Guide to Federal Energy and Education Assistance."

ED contact: Wilton Anderson, Director, Energy and Education Action Center, ED, Reporter Building, Room 514, 300 Seventh Street S.W., Washington, D.C. 20202. (202) 472-7777.

GENERAL SERVICES ADMINISTRATION

GSA administers several programs designed to reduce energy use in GSA buildings, vehicles and equipment and has issued regulations to encourage energy-efficient procurement practices.

GSA contact: John Holton, Director, Energy Conservation Division, Public Buildings Service, 18th and F Sts. N.W., Washington, D.C. 20405. (202) 566-1735; Motor Vehicles, Larry Frisbee, Director, Motor Equipment Services Division (FZM), Room 314, Crystal Mall, Arlington, Va. 20406. (202) 275-1021.

TENNESSEE VALLEY AUTHORITY

During the past four years, TVA has become a national leader among utilities in the promotion of solar energy.

Although TVA programs are available only in the Tennessee Valley service area, utilities in other parts of the county have begun to adopt some TVA innovations.

Home Insulation Loans and Audits: TVA offers free home energy surveys to any residential consumer upon request.

Customers using electric heating may obtain interest-free loans of up to $2,000 with a seven-year repayment for attic insulation, floor insulation, storm windows, weatherstripping and caulking and insulated doors. TVA inspects the work to insure that it meets installation standards for energy efficiency. It also offers inspections for work done without financing. A "warm room" loan program finances insulation of a single room in large, older homes where complete insulation is too expensive.

About 200,000 homes since 1978 have been surveyed by a staff of 356, who look at about 35 homes monthly. TVA contact: David B. Lamb, TVA, Power Service Center 6, Chattanooga, Tenn. 37401. (615) 755-3656.

After installing insulation and weatherization, TVA consumers may receive a low-interest loan for the purchase and installation of a heat pump, with a repayment period of up to 10 years. Contact: R. Lee Culpepper, TVA, Power Service Center 4, Chattanooga, Tenn. 37401. (615) 755-3901.

Commercial and Industrial Conservation: Free energy audits are offered to TVA's 300,000-plus commercial and industrial customers. Schools and hospitals receive priority and then may be eligible for federal grants-in-aid to finance needed improvements.

TVA loans may be available to other commercial and industrial customers for measures which will reduce electricity demand. TVA commercial customers are eligible for TVA equipment loans with payback periods of more than three years if they themselves finance measures with shorter payback periods.

Non-profit customers are eligible regardless of the payback period of the improvement.

Loans may range from $1,000 to $100.000 for a maximum of 10 years. Interest is TVA's borrowing cost plus 1 percent. Repayment is in equal monthly installments for a period based on estimated payback term, with no penalty for acceleration. Contact: L. Howard Usher, TVA, Power Service Center-5, Chattanooga, Tenn. 37401. (615) 755-2416.

Cogeneration: Cogeneration involves capturing the steam waste of a power generating plant for useful purposes such as warming greenhouses and providing residential heat or industrial process steam.

A TVA division contracts to purchase power and provide backup power to encourage use of cogeneration facilities. A "Summary of Energy Conservation Programs" is available free by written request from TVA, Information Office, 400 Commerce Ave., Knoxville, Tenn. 37902.

TVA contact: Robert F. Hemphill, Jr., Director, Division of Energy Conservation and Rates, Office of Power, TVA, Chattanooga, Tenn. 37401, (615) 755-2061; Ernest F. Seagle, TVA, 604 Power Building, Chattanooga, Tenn. 37401, (615) 755-3531. Additional rate research information contact: Roy R. Van Allen, TVA, 604 Power Building, Chattanooga, Tenn. 37401. (615) 755-3591.

ACTION

A small number of Volunteers in Service to America (VISTA) are assigned to communities to initiate weatherization and other conservation activities. Volunteers also are assigned to energy conservation projects, such as construction and maintenance of solar greenhouses and reform of utility rate structures.

Contact: Nora Manning, Legislative Research Specialist, Room M401, 806 Connecticut Ave. N.W., Washington, D.C. 20525. (202) 254-8070.

Action also has a program of helping local officials mobilize their communities to develop energy conservation plans.

Contact: Francis Luzzatto, Director, Community Energy Project, Room 204, 806 Connecticut Ave. N.W., Washington, D.C. 20525. (202) 653-7033.

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Commission is developing home insulation safety rules to protect against the dangers of fire, cancer, irritation and poisoning.

CPSC supplies publications containing consumer tips and hazard information. It also operates toll-free hotlines to receive and dispense pertinent hazard information as follows: Mainland USA (800) 638-8326, except for Maryland which is (800) 492-8363; outside mainland USA (800) 638-8333; hearing impaired teletype line (8:30 a.m.-8 p.m.) (800) 638-8270, except for Maryland which is (800) 492-8104. Contact: Mike Feinstein, Office of Communications, CPSC, Room 318, Washington, D.C. 20207. 492-6720.

FEDERAL TRADE COMMISSION

A Federal Trade Commission rule requires disclosure of the energy efficiency of insulation and appliances in promotional material and at point of sale. The rules are published in 44 Federal Register 50218 (insulation rules), Aug. 27, 1979, and 66466 (appliance rules), Nov. 20, 1979.

The rules are aimed at helping consumers make informed decisions with specific labeling and advertising requirements and with test requirements set by the American Society of Testing and Materials. FTC contact: Bill Rothbard, Deputy Director, Division of Energy Product Information, Room 7311, FTC, 1101 Pennsylvania Ave. N.W., Washington, D.C. 20580.

DEPARTMENT OF DEFENSE

Defense Department demonstration and information programs on energy conservation are directed at officials in the military services. Contact: Cpt. Robert E. Mumford Jr., Director, Office of Energy Conservation, Office of Energy Policy, Office of the Secretary, Room 1D760, Pentagon, Washington, D.C. 20301. (703) 697-1988.

ENVIRONMENTAL PROTECTION AGENCY

EPA provides research and development contracts and grants and information to community agencies, industry, and other government agencies on the environmental effects of optimum energy use in industry. FY 1980 budget: $250,000. Contact: Alden Christianson, Energy Systems and Environmental Control Division, Industrial Environmental Research Laboratory, EPA, 5555 Ridge Ave., Cincinnati, Ohio 45268. (513) 684-4207.

NATIONAL SCIENCE FOUNDATION

NSF's Science for Citizens program fosters opportunities for informed community debate on policy issues involving science and technology, including energy problems. It also provides public service science residencies. The residencies allow scientists or engineers to work for a year with organizations of citizens in need of their expertise. Contact: Rachele Hollander, Office of Science and Society, National Science Foundation, Washington, D.C. 20550. (202) 282-7770.

Note: ESC will update this Fact Sheet as appropriate. If you have any suggestions for improvements or know of other programs not mentioned here, please let us know.

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CARTER NO SPRO POLICY: BLATANT DISREGARD FOR NATIONAL SECURITY

● Mr. DOLE. Mr. President, it has been almost 1 year since the Senate expressed its intention through the Dole-Bradley amendment, that the strategic petroleum reserve be filled. Mr. Carter orginally said that he would have a half-billion barrels in the reserve by the end of this year. Nevertheless, 5 years after establishing it, the reserve contains only 91 million barrels of oil—the equivalent of 16 days of normal imports. What should comprise the country's first defense against any energy supply interruption is, in reality, no defense at all.

Now, even the President's supporters are questioning his refusal to insure that this country will have an energy supply as the current strife between two major oil producing nations demonstrates, we are extremely vulnerable to the threat of an embargo or other interruption of our oil supplies. Columnist Hobart Rowen summarizes the Carter administration's unsubstantiated refusal to provide this Nation with an energy insurance plan. I ask that his article, appearing in this past Sunday's Washington Post be printed in the RECORD.

The article follows:

A NEAR-EMPTY POLICY ON PETROLEUM RESERVE

Never has a nation had such a clear warning of danger—and ignored it so completely and stupidly. For almost two years, the Carter administration has been told publicly (by concerned members of Congress, among others) that one of the best defenses against a cutoff of oil imports would be to fill the strategic petroleum reserve (SPR) authorized after the 1973 embargo.

Now, as Iraq and Iran engage in a shooting war and oil shipments through the strategic Strait of Hormuz are threatened, the caves in Louisiana and Texas designated for the SPR are mostly empty, holding a mere 92 million barrels.

Even that much is significant in this crisis: If imports should drop by half—say to 3 million barrels a day—oil could be drawn out of the SPR to ease the pain. Thus, if the SPR had to be tapped for one million barrels a day, it would last for about three months.

The shame—even the crime—is that the SPR is not 10 to 20 times that size by now. Time after time, a bipartisan group that included Sens. Bennett Johnston (D-La.) Bill Bradley (D-N.J.), Robert Dole (R-Kan.) and Henry M. Jackson (D-Wash.) warned that the administration was jeopardizing U.S. security by bowing abjectly to Saudi reisistance to filling the SPR. Strategic stockpiling was suspended in November 1978 in the wake of the Iranian revolution.

Bradley put it this way last June: "The risks of carrying an inadequate reserve are simply not acceptable. We must build that stockpile, given the likelihood of a major supply interruption during the next decade and the magnitude of the expected economic losses to the United States."

It wasn't as if the Carter administration didn't know the score. On Dec. 12, 1979, in secret testimony (later declassified) before a Senate-energy subcommittee, Julius L. Katz, then an assistant secretary of State, said: "I wish we had filled (the SPR) three years ago . . . Again we are always going to be in this situation of wishing we had done something else."

And Undersecretary of Energy John M. Deutch added: "There is no question about it; we will be very sorry that we have not filled SPR."

At about the same time, a senior Carter administration energy official who favored boosting the supplies in the SPR said to me (when I promised not to identify him): "The president does not want to build the SPR because he fears it will jeopardize the Saudi production level, I believe the Saudis will interpret that as weakness, and we should go ahead on the SPR. We've got to start sometime."

But nothing did start until last summer, when token stockpiling at the rate of 100,000 barrels a day was mandated by congressional legislation requiring Carter to take that much out of naval oil production from Elk Hills. This was the price that Carter had to pay for his synthetic fuels legislation.

Now, nothing could be clearer than the need to boost that 100,000-barrel-a-day figure to a minimum of 300,000 barrels a day. Sen. Johnston says that the SPR caves can take in at least 500,000 barrels a day—and that, even with the lessening of the oil glut as a result of the Iranian-Iraqi situation, there would be no trouble in acquiring 300,000 barrels a day.

But will the administration change its

gutless attitude, even now, and build the SPR into something meaningful?

A discouraging hint is the testimony by Deputy Energy Secretary John Sawhill last Monday that the United States has a surplus of oil large enough to withstand an interruption of 164 days, a period longer than during the 1973 embargo.

This tricky formulation could induce a false sense of security. Sawhill had reference to private stockpiles owned by the oil companies which are at record levels. It's certainly fortunate that private stocks are that high. But short of war or national emergency legislation, that's not the same as having a government-owned emergency reserve.

"What Sawhill did on Monday was to hold up a fig leaf, nothing more," said a staff man on Capitol Hill.

What can be done now to retrieve the situation? Johnston and others on Capitol Hill have personally appealed to Carter through Energy Secretary Duncan and Sawhill to direct SPR officials to make commitments for oil over the present 100,000-barrel-a-day limit. Carter has that authority.

We are in a real crisis: Even without overt military action, the Strait of Hormuz is effectively blockaded because insurance companies have declared it a war-risk zone. With high premiums thus necessary for any tankers to go through, the traffic through the gulf will slow to a trickle, at best.

Careful observers will note that the present supply-line crisis did not take place because of Arab-Israeli tensions, usually cited as the basic reason for tip-toeing around the Saudis.

How long will it take before President Carter sets aside his misplaced fears of Saudi reaction, and moves to protect the interests of this country by giving a complete go-ahead to filling the strategic petroleum reserve?●

VISTA

● Mr. DeCONCINI. Mr. President, on August 24, 1964, the Economic Opportunity Act was signed into law and Volunteers in Service to America was created. In the 15 years since its inception, VISTA, as it is popularly called, has grown in size from 136 to over 4,000 volunteer men and women dedicated to the fight against poverty in the United States, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Through grass roots organizations, non-profit institutions, and social service agencies, VISTA volunteers provide the skills and inspiration needed to upgrade the quality of life among the underprivileged. VISTA volunteers are researching issues, writing pamphlets, setting up health clinics, organizing youth recreation programs, establishing rural transportation systems and much more. Whatever they do, VISTA volunteers and the organizations they work for share one major goal: to increase the voice of the poor in the decisionmaking process of the community.

In recognition of this noble goal and commendation of 15 years of dedicated service to communities throughout this hemisphere, I ask that the proclamation issued by Gov. Bruce Babbitt, and attested by Secretary of State Rose Mofford for the State of Arizona commemorating the 15th anniversary of VISTA be printed in the Record.

The proclamation follows:

Vista

Whereas, volunteers of all ages and backgrounds represent a vital resource to communities throughout the State of Arizona; and

Whereas, VISTA (Volunteers In Service To America) enables people living on low or fixed incomes to develop self-sufficiency through sponsoring grassroots organizations and community groups; and

Whereas, VISTA volunteers by living in the communities where they serve for one year become valued and contributing members of those communities; and

Whereas, older citizens of our state, refusing to shelve their considerable skills and knowledge, share their lives after retirement with young and old alike as volunteers; and

Whereas, over 2,500 of these senior volunteers are deeply involved in a variety of community service projects through such federal ACTION programs as the Retired Senior Volunteer Program (RSVP), the Senior Companion Program and the Foster Grandparent Program; and

Whereas, Arizona thrives with VISTA and older American volunteers of all ages, races and backgrounds giving of themselves to unselfishly help others.

Now, therefore, I, Bruce Babbitt, Governor of the State of Arizona, do hereby recognize the 15th anniversary of VISTA and the continuing contributions of VISTA and older American volunteers as we begin a new decade. I hereby exhort all citizens to join me in honoring these volunteers who work with such dedication.

TAXFLATION—THREAT TO THE FAMILY FARM

● Mr. DOLE. Mr. President, the opponents of tax reduction would do well to consider the implications of their position for the productive people who constitute the backbone of our society. A recent study by Oklahoma State University demonstrates the potentially devasting impact the escalating tax burden can have on the family farm.

The taxation of farm income is a matter of particular concern to me. For 3½ years I fought to repeal the inequitable carryover basis rules, which would have threatened the family farm by raising taxes on farm estates. Fortunately those inequitable rules were repealed by an amendment that Senator Harry Byrd and I sponsored to the windfall profit tax legislation. That problem has been solved, but the Treasury Department has yet to see the wisdom of equitable tax treatment for one of the most important and productive sectors of our economy—the farm community. The issues of fair valuation of farm estates and full availability of the investment tax credit for farmers are very much alive, and I hope that Congress will act soon on legislative initiatives that I and other Senators have proposed in those areas. But it is clear that the most important tax change that could be made on behalf of the farmer would be to index the Federal income tax to inflation.

A COMMON CONCERN

Mr President, this is one issue where it is clear that the interests of the American farmer are those of the American people as a whole. Each and every taxpayer pays a higher rate of tax in times of high inflation, because our Tax Code simply does not take account of the distinction between nominal income and real income. When income rises to match price increases, there is no real income gain—yet our progressive rate structure taxes the higher nominal income at a higher rate.

The result is that, over time, persistent inflation pushes taxpayers of modest means into higher and higher tax brackets. Unless this "bracket creep" is offset, the progressive goals of our income tax system—the notion that people should pay taxes in relation to their ability to pay—will be threatened. That is why, over the past 20 years, Congress has periodically reduced taxes, to keep the tax burden relatively stable. Unfortunately, Congress also tends to take credit for these "tax cuts," when in reality it is doing nothing more than stabilize taxes. Even then, the effective income tax rate for the average family has crept upward.

A REMEDY IS AVAILABLE

Mr. President, clearly the ultimate answer to this problem must be to bring inflation under control. We can all agree with that. But until we return to price stability, we cannot afford to let our tax system be undermined by the unchecked, automatic growth of the individual tax burden. For that reason we need immediate action to put a stop to taxflation, by indexing the individual income tax to the rise in inflation. Under my Tax Equalization Act, S. 12, taxflation would be stopped by mandating annual adjustments in tax rate brackets and the personal exemption and standard deductions. In this way tax rates would be kept stable, and Congress could raise or lower them as it saw fit.

FARMER BEARS THE BRUNT

As the Oklahoma State University study shows, the farmer would particularly benefit under this system. Inflated land prices and production costs have already forced the consolidation of smaller farms into larger units, and small, labor-intensive farms get fewer benefits under our Tax Code. Combined with these factors, the growing burden of taxflation threatens to accelerate the decline of the family farm.

Mr. President, this problem has become all the more urgent because we are dealing with an administration that has allowed inflation to drive the tax burden to record levels while refusing to recommend action to moderate taxes. The administration and the majority party in Congress have even refused to allow the Senate to consider a bipartisan effort to reduce taxes, in the form of the carefully drafted tax bill approved overwhelmingly by the Finance Committee. Once the prospect of an election ceases to be a factor, it may be even more difficult to expedite legislation to moderate the tax burden.

ABDICATION BY CONGRESS

For too long now Congress has acquiesced in the presumption that taxes should rise automatically unless Congress intervenes. The farmer has had to pay the price for that acquiescence, as has every taxpaying citizen. Clearly it is time to reverse the presumption, so that the burden lies with the Government to make the case for higher taxes. Nothing could benefit the farm community more than prompt action to index taxes to inflation. I am grateful that Farmland News published the Oklahoma State study in its August 15, 1980 edition, because the study confirms my belief that farm families urgently need relief from taxflation.

Mr. President, I ask that the Farmland News article, reporting the results of the Oklahoma State University study, be printed in the Record at this point.

The article follows:

Indexed Tax More Effective Than Parity in Saving Farms

INFLATION KILLING FAMILY FARMS, OSU STUDY SAYS

If farmers really want to help themselves, they should be pushing for indexed income taxes rather than for 100 percent parity.

That's the final word coming out of a study underway at Oklahoma State University, according to agricultural economist Charles Eginton. Eginton is not for or against parity, his primary concern was only to conduct a study examining the effects of inflation on farm size. But as the work progressed, he and his associates began to see data that supported what many of today's farmers already know and feel.

Things like the fact that a young would-be farmer, lacking large amounts of investment capital, would not be able to control a full-time farming operation.

And the fact that inflation has resulted in ever-increasing farm size that will eventually force the ideal of a working farm family out of existence, replacing them with "super farms."

And that current tax concessions given to farm firms encourage the substitution of capital for labor, also resulting in fewer and larger farms, since established farmers are more likely to have the working capital and thus are best able to benefit from those concessions.

Indexing would be a solution to the problem, but it would take the cooperation of the U.S. government and a major switch in our tax policies or a limiting of inflation to a 6 percent rate which would also remedy the problem. Admittedly, these goals are difficult to achieve, but they are not impossible and would benefit all taxpayers, not just farmers.

Eginton defines indexing simply as set rates of income taxes to be paid by various economical classes of taxpayers. For instance, a farmer (or plumber, businessman, etc.) making $15,000 several years ago was taxed at a specific rate—say, 20 percent as an example.

Today, in order to make ends meet at exactly the same living level of several years ago, this person will have to make $20,000 or more. But due to our present taxing methods, he will be paying a 25 percent income tax rate. Indexing would keep his rate at 20 percent, which is fair because his style of living hasn't increased, only the number of inflated dollars he handles to maintain that level.

"Where farmers get into financial hot water with our tax system is when they have to handle large volumes of capital just to make an average living," Eginton points out

Eginton's studies show that if farmers don't take advantage of available tax concessions, they will face tremendous tax burdens or very little to leave their heirs, or both.

To get a clearer picture of how modern tax policies are affecting today's farmers, Eginton turned to OSU agricultural economics professor Luther Tweeten for guidance. Tweeten has conducted several studies examining the economical standing of the modern family farm.

The researchers initiated an Oklahoma Agricultural Experiment Station study using a computer to create simulated models of six typical family farm situations operating over a 30-year period. The study employed data gathered by USDA from actual farm situations in different areas of the country.

The farms were defined as units requiring the full-time efforts of a man, his wife and two children—about 2,600 hours of labor per year. Allowing a tight $12,600 for living expenses, each model was started in year 1 (1979) with a zero cash flow situation. That is, they lived on the farm and broke even, with no income tax that year. They were kind to inflation in the model, setting it at only 6 percent per year.

"Early in the study we noted that inflation at 6 percent did not really affect farm size," Eginton says. "However, as inflation rates went over 6 percent, tax rates needed to be indexed to preserve the structure of family farms."

How much did indexing help a given farmer's income tax situation over a 30-year period? Ironically (though perhaps not accidentally), one of the farms studied was a Georgia peanut farm.

At the start and end of the period, this particular farmer was paying 48.1 percent income tax rate on an indexed tax payment system. But when the model was placed under our current non-indexed system his effective tax rate increased by 112 percent by the end of the 30-year period.

An important phase of the study was to learn what effect the withholding of current major tax concessions would have on the farm over the 30-year period.

"Tax concessions we examined were interest payments, depreciation allowances and investment tax credits. These are tax benefits that require high income and/or wealth available for investment before they can help the farmer. For this reason, full-owner or established farmers are more able to compete for land purchases, thus gradually increasing overall farm size," Eginton explains.

Because this was only an initial project, Eginton says he used major concessions, which served to cut down the bulk of material handled in the study.

Land-based farming operations, such as row-crop farming, benefit more from the interest write-off concessions than do high equipment type farms, such as confinement type hog operations. The latter type of farm firm benefits more from depreciation allowances and investment tax credits.●

OIL AND GAS LEASING: CAUTION ON S. 1637

● Mr. FORD. Mr. President, on June 3, I filed in the Senate a Comptroller General's report on S. 1637, a bill to establish competitive oil and gas leasing in favorable areas within producing geologic provinces.

This General Accounting Office report raised serious questions relative to the advisability of enacting S. 1637. I will not repeat GAO's negative appraisal of the legislation.

On June 3, I said:

> I would advise my colleagues to give close attention to the implications of such a drastic change at this time when we need to accelerate oil and gas production.

Today, I would like to repeat that admonition in light of a released September 25 letter from the Comptroller General to Cecil D. Andrus, Secretary of the Interior.

I would bring to my colleagues attention, four points on S. 1637 in the September 25, letter from which I quote:

> (1) We felt overall, however, that possible adverse effects of the bill outweighed the strong points. We endorsed the bill's objective of limiting assignments and excessive overriding royalties, encouraging diligence, and reducing potential lottery abuses. However, we were reluctant to endorse a bill that could be accomplishing these objectives at the expense of production.
>
> (2) A higher up-front cost will, on the other hand, make an operator more cautious about making the initial investment, and may limit the ability of the smaller firm to even make the investment. We therefore continue to believe that the most likely impacts on a high up-front cost are a reduction in acreage leased and a reduction in capital available for exploration and, as a result, a possible reduction in production.
>
> (3) Apparently a PGP will be as large as Interior wants it to be. This to us would defeat one of the main stated purposes of the PGP—to keep some promising wildcat areas on a noncompetitive basis as a protection of the small developer.
>
> (4) Your letter indicates that the independent producers should fare well if S. 1637 is enacted because they are doing well under present competitive situations. We disagree. The way the present competitive system is working is in no way indicative of what would happen in the kind of all-competitive system proposed. First of all, there are very few competitive leases now and most are very small tracts, presumably aimed at enhanced recovery of previously developed deposits. This is hardly a strong motivation for the majors. But, if the tracts are enlarged and most leases become available to the highest bidder rather than to the developer who is willing to assemble small tracts piecemeal, then both the ability of the majors to dominate and their inclination to do so would likely increase—particularly with the lifting of price controls.

Mr. President, I ask that the full text of the Comptroller General's September 25 letter be printed in the Record.

The letter follows:

Comptroller General
of the United States,
Washington, D.C., September 25, 1980.

Subject: GAO's Basis for Its Analysis of S. 1637 (EMD-80-116).

Hon. Cecil D. Andrus,
Secretary of the Interior.

Dear Mr. Secretary: This is in response to to your letter of June 16, 1980, taking issue with our March 14, 1980, report "Impact of Making the Onshore Oil and Gas Leasing System More Competitive" (EMD-80-60). Following is a point-by-point analysis of the issues raised in your letter, along with some restatement or amplification of the basis for the positions taken in our report.

CHANGE FROM PRIOR GAO POSITIONS

It is true that we did advocate competitive onshore oil and gas leasing in 1970 on the grounds that many tracts apparently could have generated greater revenues if leased competitively. We would reiterate, however, the point made in our report as well as in recent testimony before the House Interior Committee's Subcommittee on Mines and Mining—that changing world and national circumstances during the past decade call for some change in emphasis. Domestic energy production is much more vital now than then, and we were unable to satisfy ourselves—nor did Interior offer any evidence—that S. 1637 would not have a detrimental effect on production. Moreover, we did not find that it would even necessarily increase revenues to the Government or ensure receipt of "fair market value."

The point should also be made that we are not irrevocably committed to noncompetitive leasing; our position is only that major changes should not be made to the present system if the uncertainty of their effect is too great, and particularly if the problems cited can be solved through less drastic administrative or regulatory changes.

We cannot respond specifically to your statement that we endorsed competitive onshore oil and gas leasing in 1978, without knowing the particular report to which you refer. The only report we have issued on this subject since 1970, other than our March 1980 report, is an April 13, 1979, report "Onshore Oil and Gas Leasing—Who Wins the Lottery?" (EMD-79-41), which dealt with potential abuses of the lottery system. It did not advocate a particular leasing system.

OPPOSITION TO S. 1637 WHILE ENDORSING MANY OF ITS FEATURES

You feel that our opposition to S. 1637 is inconsistent with our endorsing many of its features. We agree with the Department of the Interior that there are many aspects of the present leasing system in need of modification; we had so stated in our 1979 report on the lottery system. GAO has always strived for impartiality and, accordingly, where we saw desirable features in S. 1637, we pointed them out. We felt overall, however, that possible adverse effects of the bill outweighed the strong points. We endorsed the bill's objective of limiting assignments and excessive overriding royalties, encouraging diligence, and reducing potential lottery abuses. However, we were reluctant to endorse a bill that could be accomplishing these objectives at the expense of production.

DIFFICULTY IN FORECASTING RESULTS WITHOUT COMPETITIVE EXPERIENCE

You stated that Interior is being unfairly criticized for not adequately analyzing the bill's effects, and that it is impossible to gather that type of data necessary to accurately forecast the effects of S. 1637. At least, then, we are in agreement that the impact of S. 1637 is difficult to predict. We assume from this statement that if S. 1637 were passed and found to have an adverse impact on independent oil companies or on production, that other alternatives would then be tried.

Interior had not attempted to predict the bill's impact on production, and since logical reasons have been offered from many sources as to why production might be adversely affected, we felt precluded from endorsing the bill. We would have felt far less apprehensive had there been some analysis of these issues, e.g., some indication that the areas outside the producing geologic provinces (PGPs) would be sufficient to sustain the independent oil producer, or an analysis of the significance of large up-front expenditures and increased rentals on that profitability of a typical oil well. We feel that some effort could have been made in these and other regards.

BILL'S LACK OF AN OBJECTIVE

We did not state, as you indicated, that the bill has no objective—only that the objectives are not clear. Certainly the bill has features directed specifically at such things as increased diligence and tighter control over assignments. We acknowledged this. But the central thrust of the bill seems directed toward reducing noncompetitive leasing and increasing competitive leasing. This could have been from a desire to price the speculator out of the market, and open up the land directly to the developer for production; it could be a means to eliminate abuse of the lottery system; it could be a means to increase Federal receipts; or a combination of the three. Our study suggested adverse effects on production, and since there are other less drastic measures to alleviate the other problems, we felt the dominant objective was not clear. Since these objectives tend to be incompatible to a degree, we suggested that a clear objective would be desirable both in formulating and evaluating any such legislation. We still feel that way.

EMPHASIS ON REVENUES

It is also true that our report dwelt heavily on revenues and much more lightly on production, but this is a reflection on Interior's analysis. Our objective was not to formulate our own onshore oil and gas leasing program. Our objective was to evaluate Interior's basis for the leasing system it was recommending, i.e., S. 1637.

Interior had made forecasts of revenue and expense which as you pointed out, we analyzed, but Interior had no projections of production impact. This left us nothing to analyze on the production side and further contributed to our conclusion that production was a subordinate issue to revenues from Interior's point of view. In fact, on July 20, during testimony before the House Mines and Mining Subcommittee, Assistant Secretary Martin acknowledged that Interior still has not forecasted the impact of the bill on production.

USE OF AN UP-FRONT BONUS AS AN INCENTIVE TO PRODUCE

We do not agree with your observation that an up-front bonus is a major incentive to produce and make the lease "pay off." An up-front cost is a "sunk" cost and while it may be a factor in a decision to develop a lease, we would think such a decision will be based primarily on seismic data and other physical evidence, and on the likelihood of the tract generating revenues above current operating costs to the lessee.

A higher up-front cost will, on the other hand, make an operator more cautious about making the initial investment, and may limit the ability of the smaller firm to even make the investment. We therefore continue to believe that the most likely impacts of a high up-front cost are a reduction in acreage leased and a reduction in capital available for exploration and, as a result, a possible reduction in production.

RELATIONSHIP OF ACREAGE TO PRODUCTION

You state that our report fallaciously equates acres leased to amounts of production. We do not see where our report does this, beyond a general statement (as on pages 32 and 38 of our report) that delays in making lands available for lease could reduce production. In fact we point out on page 25 (and on page 2 of your letter you apparently agree) that much of the currently leased land may well be of interest only to a pure speculator, and would simply lie unleased in a competitive situation, or draw only token bids at best.

We see an inconsistency in anyone's suggestion that production could be enhanced if "valueless" lands being held by speculators were made directly available to developers through competitive leasing. Conversely, of course, a reduction in acreage leased that might otherwise have been developed could reduce production, as discussed in the previous section.

RELATIONSHIP OF PGPS TO SEDIMENTARY BASINS

Our report stated that much high-interest land may lie outside PGPs and thus not be subject to competitive leasing under S. 1637. You disagree, saying that the competitive lease areas, i.e., the PGPs, will go beyond the sedimentary basins.

In an attempt to determine the definition of a PGP we were referred to a U.S. Geological Survey (USGS) official who said that although subject to considerable judgment, the PGPs should equate roughly to a sedimentary basin. The only possisble exception to this, we were told, was that it would not likely encompass an area as large as say, the Williston Basin, which covers most of North Dakota and large areas in South Dakota and Montana. We were provided maps of these basins by the USGS, and found that they do not cover the Overthrust Belt in Wyoming and other producing areas.

If we now have PGPs going beyond the basins, i.e., "expanded PGPs" to cover competitive interest areas (rather than areas with known production), that would certainly tend to refute our observation that some valuable areas may be overlooked. However, it would also alter our statement that PGPs are based on generally accepted geologic terminology. This only further emphasizes our observation as to the difficulty in knowing what will happen if this legislation is enacted. Apparently a PGP will be as large as Interior wants it to be. This to us would defeat one of the main stated purposes of the PGP—to keep some promising wildcat areas on a noncompetitive basis as a protection of the small developer.

FRAUDULENT ACTIVITIES

While we have little first-hand knowledge of the extent of the abuses that have been or may be uncovered in the current investigation of the noncompetitive system, we share your concern about the potential for widespread abuse. Both our 1979 report as well as the report which is the subject of this letter have advocated tighter controls—which we have believed can be instituted administratively—through regulations without a major overhaul of the leasing system itself. A competitive system, of course, can also be abused if not properly administered.

In addition, we do note that in suspending the lottery system, you announced that such suspension would remain in effect until changes could be made to correct the abuses or, if found necessary, to convert to an all-competitive system. Changes similar to those we recommend in our 1979 report or endorsed in our most recent report have been made and the suspension has been lifted—which would indicate that the potential for such abuses has been greatly reduced.

QUESTIONABLE DOMINANCE OF A COMPETITIVE SYSTEM BY MAJORS

Your letter indicates that the independent producers should fare well if S. 1637 is enacted because they are doing well under present competitive situations. We disagree. The way the present competitive system is working is in no way indicative of what would happen in the kind of all-competitive system proposed. First of all, there are very few competitive leases now and most are very small tracts, presumably aimed at enhanced recovery of previous developed deposits. This is hardly a strong motivation for the majors. But, if the tracts are enlarged and most leases become available to the highest bidder rather than to the developer who is willing to assemble small tracts piecemeal, then both the ability of the majors to dominate and their inclination to do so would likely increase—particularly with the lifting of price controls.

RELATIONSHIP OF S. 1637 AND REGULATORY AND ADMINISTRATIVE CHANGES

You also state that the regulatory proposals published on September 28, 1979, were not a companion action to S. 1637, and that of S. 1637 would require further regulatory changes. But in all our discussions with Interior personnel we were led to believe that S. 1637 and the proposed rules published in the Federal Register on September 28, 1979, went hand-in-hand, e.g., that S. 1637 would increase the competitive tract size while the regulatory changes would be used to increase the noncompetitive tract size.

Further, both S. 1637 and the proposed administrative and regulatory changes came from the same task force study and resulting Secretarial Issue Document. Your testimony on the leasing suspension, in fact, linked S. 1637 and the regulatory and administrative changes, certainly giving the impression that it was all one "package." In any event, we feel we would have been remiss in ignoring the regulatory changes since they are an integral part of the entire leasing system.

We agree with your observation that a close working relationship between Interior and GAO is desirable for all concerned, and we recognize your time for comment was limited. It is our policy to allow up to 30 days if possible for agencies to comment on our draft reports. There are, however, times when the needs of the Congress dictate that our report processing steps be expedited, and in some instances that little or no time be given for agency comments. This report was one such case. We did, however, obtain the requestor's concurrence in this case to allow us to provide a draft of this report to your Department for informal comment. Our draft was hand-carried to responsible program officials on February 29, six calendar days—not two as your letter indicated—before we sat down with them on March 6, to discuss its contents. In view of a deadline imposed by the requestor, we feel we did our best to work cooperatively with your Department—and we intend to continue to do so.

A copy of this letter is being sent at his request to the Chairman, Subcommittee on Mines and Mining, House Committee on Interior and Insular Affairs. We are also sending copies of this letter to other interested Members of Congress.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.●

MORE OPEN TRADE POLICY

● Mr. DOLE. Mr. President, in order to gain acceptance for a more open trade policy American industry and American workers have been told that they have to accept the burden of increased access to our domestic market in order to gain the benefit of increased access to foreign markets. All too frequently, however, we have shackled our domestic producers with the burdens but not taken adequate steps to insure that they receive the benefits promised. A recent development in our aircraft industry has once again highlighted this distressing pattern.

Over the past 2 years two domestic producers of general aviation aircraft were engaged in competition for the sale of 40 or more training aircraft worth over $60 million to the French armed services. These companies engaged in this lengthy and costly process because they believed that the contract would ultimately be awarded to the firm which produced the best aircraft.

They had every reason to hope that this was the case. The French Government—through the European community—signed the civil aircraft agreement, which was also acceded to by this country and implemented in the Trade Agreements Act of 1979. The preamble to that agreement sets forth among its aims the desire of the signatories:

First, to provide fair and equal competitive opportunities for their civil aircraft activities and for their producers to participate in the expansion of the world civil aircraft market and

Second, that civil aircraft activities operate on a commercially competitive basis.

While the procurement by French military authorities of general aviation aircraft may not technically be covered by the letter of this agreement it certainly is covered by the spirit of the agreement since the aircraft involved are "off the shelf" civil aircraft. More importantly the French were the beneficiaries of open and fair U.S. competitive practices when they competed for and were awarded two sginificant aviation contracts by the Coast Guard.

Unfortunately the French have apparently determined to take advantage of our rules when competing in this market but to observe a different set of rules when it suits their purposes elsewhere. After an exhaustive competition the French made a preliminary determination that an aircraft designed by the Beech Aircraft Co. of Wichita, Kan. most suited their needs. Before the contract could be finalized, however, the French determined to reevaluate the competing aircraft.

The French have now announced that a Brazilian aircraft has been selected, notwithstanding its inability to compete successfully with its American made competitor in the initial testing. No satisfactory explanation has been advanced by the French authorities for this change. The domestic civil aircraft industry, as well as people in the government, believe that commercial considerations not directly related to the aircraft at issue influenced the French decision.

Mr. President, at a time when there are thousands of aircraft workers unemployed and our aircraft industry is burdened with the effects of inflation and recession we cannot continue to provide open access to our market while being denied fair and open access to other markets. This failure to demand and enforce fair trading relationships has caused direct hardships on those employed in the aircraft industry and indirectly undermines the confidence of the American public in the benefits of a more open world trading system. Understandably, this failure will ultimately exacerbate protectionist pressures. The administration cannot continue to issue negative reports about the competitiveness of U.S. industry and the productivity of the American worker and at the same time fail to provide the opportunity for our domestic producers to compete on fair terms in world markets.

I have forwarded letters to the U.S. trade representative and the French Ambassador seeking further explanation of this unfortunate matter. I am hopeful that steps will immediately be taken to see that it is equitably resolved. If it is not, it may be necessary for this country to reexamine the basis upon which foreign competition is permitted in U.S. military procurement.●

ORDER FOR RECESS TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following unanimous-consent items: Calendar Orders Nos. 1065, 715, 739, 1075, 1083, 1090, 1099, 1121, 1122, 1123, 1124, 1126, and 1127.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I advise the majority leader that each item identified by him is cleared on our calendar, and we have no objection to their consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it it so ordered.

PRESERVATION OF CERTAIN PARTS OF MANASSAS NATIONAL BATTLEFIELD

The Senate proceeded to consider the bill (H.R. 5048) to amend the act entitled "An Act to preserve within Manassas National Battlefield Park, Va., the most important historic properties relating to the Battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b), which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 1, line 4, strike "1979" and insert in lieu thereof "1980";

On page 2, line 10, strike "four thousand seven hundred and fifteen" and insert in lieu thereof "three thousand eight hundred and eighty-two";

On page 2, line 14, strike "August 1979 and numbered 379/80,008", and insert in lieu thereof "September 1980, and numbered 379/80,008";

On page 3, line 14, strike "their present use" and insert in lieu thereof "a use which is the same as that in effect on September 1, 1980";

On page 6, line 8, strike "August 1, 1979" and insert in lieu thereof "September 1, 1980";

On page 6, line 14, strike "$20,018,000" and insert in lieu thereof "$8,210,000";

On page 6, line 21, strike "1979" and insert in lieu thereof "1980";

On page 6, line 25, strike "1980" and insert in lieu thereof "1981";

On page 7, after line 5, insert the following:

SEC. 3. (a) The Secretary of the Interior shall conduct a study to determine appropriate measures for the protection, interpretation, and public use of the natural wetlands and undeveloped uplands of that portion of the Hackensack Meadowlands District identified as the DeKorte State Park on the official zoning maps of that District. The Secretary shall, in the course of the study, consult with and seek the advice of, representatives of interested local, State, and other Federal agencies. As a part of the study, the Secretary shall determine the suitability and feasibility of establishing the area as a unit of the national park system, including its administration as a unit of Gateway National Recreation Area, together with alternative measures that may be undertaken to protect and interpret the resources of the area for the public. Not later than two complete fiscal years from the effective date of this Act, the Secretary shall transmit a report of the study, including the estimated development, operation, and maintenance costs of alternatives identified therein, to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives, together with his recommendations for such further legislation as may be appropriate.

(b) There is authorized to be appropriated from amounts previously authorized to study lands for possible inclusion in the national park system not to exceed $150,000 to carry out the provisions of this Act.

Mr. WARNER. Mr. President, the genesis of this bill was a bill submitted by me, and I thank my colleagues and the Senate for assisting me, particularly my senior colleague from Virginia, Senator HARRY F. BYRD, JR., who cosponsored it.

Mr. President, today marks an historic occasion, for today the Senate takes up, for the first time, the issue of expanding the Manassas National Battlefield Park.

Similar legislation has passed the House of Representatives in three consecutive Congresses, sponsored by Representative HARRIS. However, because that legislation was not acceptable by many of the local citizens of Prince William County, Va., it never gained pairage in the Senate. The bill on which we will vote today has been endorsed, on a unanimous vote in 1980, by the Prince William County Board of Supervisors, and enjoys the consponsorship of my distinguished senior colleague, Senator HARRY F. BYRD, JR.

The War Between the States remains a controversial chapter in American history. Not only did countrymen take up arms against each other, but families were split in their loyalties—each side fighting for a cause they believed noble. Nevertheless a knowledge of the war, tragic as it was, is essential to an understanding of the history of our Nation.

In 1861, after South Carolinians had placed a siege on the garrison at Fort Sumter in Charleston Harbor, battle lines were forming near the town of Manassas, Va. The first major land battle of the imminent war was to take place just south of the Nation's Capital at Washington, D.C. The ladies and gentlemen of Washington put on their finest clothes, packed a picnic lunch, and carriaged out to the country to witness what they believed would be the beginning and the end of the Southern Rebellion.

What they saw, however, was one of the bloodiest military engagements in history as the rebels routed the Federal troops back toward Washington, thus signaling that the Nation was in for many years of conflict and bloodshed.

A second battle, fought on this same field in 1862, was also declared a Southern victory, beginning General Lee's northern campaign which ended at the Battle of Gettysburg in Pennsylvania.

So, Mr. President, we are talking about historically significant and hallowed ground—land that needs to be preserved for future generations of Americans to visit and view in order to understand an important part of our heritage.

However, there are other considerations that must be taken when discussing land preservation. Local citizens—indeed all Americans—must bear a certain amount of the burdens of land preservation.

It would be preferable, of course, if we could financially afford the buffer zones and scenic easements which some would like to add. However, we must respect the integrity of local governments as they attempt to solve the problems for which they are responsible and be ever mindful of the Federal expenditures and taxpayer burdens as a consequence of this proposed legislation.

This legislation strives to do just that. It was at local town meetings where I learned the concerns of the local people; their views shaped this legislation.

Mr. President, this legislation represents what I believe is a fair and equitable balance of all concerned elements. It has been a long time coming, and much work has gone into it.

I would like to thank the Senator from Arkansas, Senator BUMPERS; the Senator from Washington, Senator JACKSON; the distinguished chairman of the Energy and Natural Resources Committee; and the Senator from Oregon, Senator HATFIELD, the ranking member, for their assistance. They have all become participants in what has become known as the Third Battle of Manassas and I would like to thank them for the role they have played in bringing this final battle to a close.

Mr. BUMPERS. Mr. President, I am very pleased to rise in support of H.R. 5048, a bill to expand the boundaries of the Manassas National Battlefield Park.

As reported from the Committee on Energy and Natural Resources, H.R. 5048 would add some 860 acres to the existing Manassas Battlefield Park. As reported, this measure includes within the park boundaries several historically important tracts including, among others, the Brawner Farm, the Wheeler Farm, and the Stone Bridge. While the committee bill includes some 900 acres less than the House-passed bill, I think there is general agreement that the 860 acres which will be added to the park by this legislation comprise the most important parcels from a historical perspective. These parcels are the most critical for the protection and interpretation of this area where the two battles of Manassas were fought.

I should point out that in other respects, the committee reported version of this measure is very similar to the bill that passed the House in October. I ask consent that a brief section-by-section analysis of H.R. 5048 appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—H.R. 5048, AS REPORTED

Section 1 states that this legislation may be cited as the "Manassas National Battlefield Park Amendments of 1980."

Section 2 consists of a completely revised text containing provisions as follows:

Section 1 incorporates a referenced map describing the expanded battlefield park, which is to be limited to not more than 3,882 acres. The map is to be available for public inspection, and the Secretary of the Interior is to publish a detailed description and map of the boundaries in the Federal Register within 1 year of the enactment of this legislation. The Secretary is to make no boundary adjustments in the battlefield park, notwithstanding the general authority within the Land and Water Conservation Fund Act. The area is to be administered in accordance with the applicable laws and regulations for the national park system.

Section 2 of the amended text authorizes the Secretary to acquire lands within the area, except that those lands owned by the Commonwealth of Virginia or any of the subdivisions may be acquired only by donation. Areas within the 1954 boundaries may be acquired in fee simple only with the consent of the owner, but this restriction shall apply only as long as such lands remain in their current use. The owner of such property may seek a review, and is entitled to a hearing on the matter, in the event that such an acquisition of fee simple title is proposed.

Provision is made for the Secretary to make available the land necessary for a relocation of Virginia Route 234 through a specified portion of the expanded park, if the State highway department determines that such a relocation is desirable.

The Secretary is to make any such land available subject to whatever terms and conditions, such as road alinement and other factors that will best preserve park values. The Secretary is also restrained from closing any State roads within the park without appropriate action permitting such closure being taken by the State.

Section 3 of the amended text permits the owner of improved residential property to retain a right of use and occupancy for noncommercial residential use for a life term or up to 25 years, at his or her option.

Fair market value, less the value of the retained right, is to be paid when acquiring such property, and the Secretary may terminate such a right for cause. The benefits of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are deemed to be waived for those property owners who retain a right of occupancy.

Section 4 of the text defines the terms "improved property", "park", "Secretary", and "owner" for the purposes of this legislation.

Section 5 permits the expenditure of up to $8,210,000 from the land and water conservation fund for the acquisition of property authorized to be acquired by this legislation in addition to any amounts previously expended. The intent of Congress that the necessary acquisitions shall be made within two complete fiscal years from the enactment of this legislation is also expressed.

Section 3 provides for a study of a portion of the Hackensack Meadowlands District to determine the feasibility and suitability of establishing the area as a unit of the National Park System.

Mr. BUMPERS. Mr. President, as most of my colleagues know, legislation to expand the Manassas Battlefield Park has passed the House several times in the last 6 years. Until now, the legislation has not been considered by the full Senate. This situation has created considerable uncertainty with regard to this area which benefits no one. Through the leadership and dedication of Senators WARNER and HARRY F. BYRD, JR., the Senate now has a chance to act on this measure, and I hope resolve this controversy once and for all.

The measure before us now reflects the views of my two colleagues from Virginia as expressed in their bill, S. 1857, and their testimony at the subcommittee's hearing on September 3, 1980. Senators BYRD and WARNER should be commended for their efforts in this regard, as should Representative HERB HARRIS who has worked diligently on this legislation for several years. I urge my colleagues to join me in supporting this legislation.

Mr. BRADLEY. Mr. President, I am delighted that Congress has finally commissioned, as part of this legislation, a study by the Department of the Interior to determine whether a Federal park can be created in the Hackensack Meadowlands District of New Jersey.

This is the first step in an effort to have the Federal Government approve the proposed DeKorte Park as part of the national park system. The Hackensack Meadowlands Development Commission has proposed an exciting recreational, cultural, and educational setting easily accessible to 10 million people and 10 times larger than New York City's Central Park. I believe a Federal study will show that for relatively little money—since most of the land is already in public ownership—the U.S. Government could create one of its most valuable national parks.

The Meadowlands is one of New Jersey's richest natural resources. A national park there would serve our urban communities and give focus to the remarkable developments taking place in the area of Hudson, Essex and Bergen Counties.

I hope that this study can be completed expeditiously so that we can have an attractive and exciting park available to millions as soon as possible.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. HARRY F. BYRD, JR. Mr. President. I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF THE JOHN SACK CABIN

The Senate proceeded to consider the bill (S. 924) to provide for the protection of the John Sack Cabin, Targhee National Forest in the State of Idaho, which had been reported from the Committee on Energy and Natural Resources with amendments as follow:

On page 2, line 3, strike "shall' and insert "is authorized to";

On page 2, beginning with line 12, strike through and including line 14.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That for the purpose of providing for the public use and enjoyment of the John Sack Cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Fremont County Historical Society and other interested organizations, is authorized to take such action as may be necessary in order to provide for the protection and maintenance of the John Sack Cabin and associated structures. In carrying out the requirements of this Act, the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

NORTH CAROLINA JUDICIAL DISTRICT REALINEMENT

The Senate proceeded to consider the bill (S. 2326) to amend section 113 of title 28, United States Code, to place the Federal correctional institution at Butner, N.C., entirely within the eastern district of North Carolina.

UP AMENDMENT NO. 1696

(Purpose: To relieve from liability the State of New Mexico from obligation or liability for reimbursement to the United States as a result of a prison disruption)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. DOMENICI, proposes an unprinted amendment numbered 1696.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place, add a new section:

RELIEF FROM LIABILITY

The State of New Mexico is relieved from any obligation or liability for reimbursement to the United States arising under section 5003(a) of title 18 of the United States Code, for the period described in paragraph (2) for any costs or expenses incurred by any Federal facility for the custody, care, subsistence, education, treatment, or training of those prisoners of the State of New Mexico required to be temporarily placed in Federal facilities as a result of the prison disruption in the New Mexico State Penitentiary on February 2 and 3, 1980.

(2) Paragraph (1) applies to the period beginning on the date any Federal facility acquired custody of any such prisoner and ending on the date of enactment of this Act.

(b) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amounts for which liability is relieved by this section.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 113(a) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"The Eastern District also includes that portion of Durham County encompassing the Federal property of the Federal correctional institution, Butner, North Carolina."

SEC. 2. Section 113(b) of title 28, United States Code, is amended by adding, after the word "Durham", the following: "(excluding that portion of Durham County encompassing the Federal correctional institution, Butner, North Carolina)".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL SERVICE REFORM ACT

The Senate proceeded to consider the bill (S. 2267) to amend the Civil Service Reform Act of 1978, which had been reported from the Committee on Governmental Affairs with an amendment to strike out all after the enacting clause and insert the following:

That sections 2302(a)(2)(C)(1), 3132(a)(1), and 4301(1)(1) of title 5, United States Code, are each amended by inserting "(other than the Export-Import Bank of the United States)" after "corporation".

SEC. 2. The amendments made by this Act shall take effect on the date of the enactment of this Act, except that—

(1) section 4302 of title 5, United States Code, shall be applied by substituting "October 1, 1982" for "October 1, 1981" in subsection (b)(2), and

(2) nothing in this Act shall be construed as authorizing the enactment of new budget authority for the fiscal year beginning October 1, 1980.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL INTERAGENCY MEDICAL RESOURCES SHARING AND COORDINATION ACT

The Senate proceeded to consider the bill (S. 2958) to insure the development and implementation of policies and procedures to encourage the Veterans' Administration and the Department of Defense to cooperate in the efficient and effective use of Federal medical resources, and for other purposes, which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 2, line 8, strike "facilities", and insert the following: "facilities, reduce costs, and enhance health care;"

On page 2, after line 9, insert the following:

(2) Optimum coordination between the Veterans' Administration and Department of Defense, the largest Federal providers of direct health care, would reduce health care costs and, in many cases, improve the quality of, and access to care available to Federal beneficiaries;

On page 2, line 16, strike "(2)" and insert "(3)";

On page 2, line 21, strike "(3)" and insert "(4)";

On page 3, line 1, strike "(4)" and insert "(5)";

On page 4, line 8, beginning with "There" strike through and including the period on line 12;

On page 4, line 15, strike "Committee shall," and insert the following:

"Secretary of Defense and Administrator of the Veterans' Administration shall jointly,";

On page 4, line 21, strike "health" and insert "medical";

On page 5, line 13, strike "facilities and services" and insert "resources";

On page 5, line 20, strike "Federal";

On page 5, after line 21, insert the following:

(6) With regard to the above duties, shall consult, when appropriate, with other Federal providers to encourage optimum coordination in the delivery of direct health care.

On page 6, line 1, strike "(6)" and insert "(7)";

On page 6, line 1, after "Prescribe" insert "uniform";

On page 6, line 6, after the period insert the following:

"The uniform guidelines prescribed shall be subject to ratification by each of the agency heads invloved.";

On page 6, line 18, strike "Federal";

On page 7, line 3, strike "hospital or medical care" and insert "direct health care";

On page 7, line 20, beginning with "Funds" strike through and including line 24;

On page 8, line 4, strike "agency headquarters" and insert "agency";

On page 8, strike line 15 through and including line 19;

On page 8, line 20, strike "(d)" and insert "(c)";

On page 8, line 21, beginning with "report" strike through and including "Representatives" on line 24 and insert "prepare a joint report to Congress";

On page 9, after line 7, insert the following:

"(2) the opportunities for interagency sharing as required in section 4(a)(1)";

On page 9, line 10, strike "(2)" and insert "(3)";

On page 9, line 13, strike "(3)" and insert "(4)";

On page 9, line 15, strike "(4)" and insert "(5)";

On page 9, line 18, strike "(5)" and insert "(6)";

On page 9, line 20, strike "(6)" and insert "(7)";

On page 9, line 22, strike "(7)" and insert "(8)";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Interagency Medical Resources Sharing and Coordination Act of 1980".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) coordination among Federal agencies in the use of Federal medical resources would minimize duplication and underutilization of Federal direct health care facilities, reduce costs, and enhance health care;

(2) Optimum coordination between the Veterans' Administration and Department of Defense, the largest Federal providers of direct health care, would reduce health care costs and, in many cases, improve the quality of, and access to care available to Federal beneficiaries;

(3) greater interagency sharing of medical resources between the Veteran's Administration and the Department of Defense may be achieved without a detrimental effect on each agency's primary beneficiaries;

(4) currently there are not adequate incentives in the various Federal direct health care delivery systems to encourage maximum interagency use of Federal medical resources; and

(5) the Veterans' Administration and the Department of Defense should, to the extent feasible within each agency's responsibilities, share medical resources and increase the coordination of medical care.

(b) It is the purpose of this Act to clarify and expand the authority of the Veterans' Administration and the Department of Defense as direct health care providers in order to facilitate Federal interagency sharing of medical care and medical care support resources.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "direct health care" means any health care provided to an eligible beneficiary in a facility operated by the United States Government, including inpatient care and any type of outpatient treatment, testing, or examination;

(2) "beneficiary" means any individual who is entitled by law to direct health care furnished by the Veterans' Administration or the Department of Defense;

(3) "providing agency" means the Veterans' Administration or the Department of Defense;

(4) "primary beneficiary" means an individual who is specifically entitled by law to direct health care in the facilities of a particular providing agency;

(5) "negotiated cost" means the cost determined by local hospital officials on a medical service-by-service, hospital-by-hospital basis to be an equitable and consistent charge for the services provided; and

(6) "medical resource" means medical care and medical care support resources.

INTERAGENCY FEDERAL MEDICAL CARE COORDINATION

SEC. 4. (a). In order to establish policies applicable to the Veterans' Administration and the Department of Defense as Federal direct health care providers with regard to interagency sharing of medical resources, the Secretary of Defense and Administrator of the Veterans' Administration shall jointly notwithstanding any other Federal law relating to interagency sharing of medical resources, undertake the following:

(1) Assess the opportunities for interagency sharing of existing medical resources between the Veterans' Administration and the Department of Defense.

(2) Remain continuously apprised of the planning of any additional Veterans' Administration or Deparment of Defense medical facilities, including the location of new facilities and the acquisition of major new medical equipment, with regard to the impact of such plans on opportunities for interagency sharing.

(3) Review existing Veterans' Administration and Department of Defense direct health care capabilities, including support and administrative services, to identify sharing opportunities that will not adversely affect the quality of, or the established priority of, care provided.

(4) Prescribe policies and procedures designed to maximize the interagency sharing of Veterans' Administration and the Department of Defense medical resources.

(5) Coordinate the establishment of uniform interagency health care policies and procedures for providing agencies and monitor the implementation of such policies and procedures, including policies and procedures for coordinated planning for future development of each agency's direct health care delivery system.

(6) With regard to the above duties, shall consult, when appropriate, with other Federal providers to encourage optimum coordination in the delivery of direct health care.

(7) Prescribe uniform guidelines, within 180 days after the date of the enactment of this Act, to directors and commanding officers of health care facilities within the Veterans' Administration and the Department of Defense for the sharing of medical resources by such health care facilities. The uniform guidelines prescribed shall be subject to ratification by each of the agency heads involved. Such guidelines shall provide, consistent with the policies and procedures developed under this Act, for the following:

(A) The director or commanding officer of each health care facility within the jurisdiction of the Veterans' Administration and the Department of Defense shall, whenever possible, enter into interagency cooperative sharing arrangements with other health care facilities of such providing agencies. Under such arrangements, a beneficiary eligible for direct health care in one agency's facility may receive medical care at a providing facility of the other agency.

(B) Services to be shared may include any medical resource.

(C) Medical resources to be shared shall be negotiated by the directors or commanding officers of the health care facilities entering into an arrangement.

(D) the availability of direct health care to beneficiaries of an agency other than the providing agency shall be on a referral basis, and shall not, as determined by the directors or commanding officers participating in such arrangements, adversely affect the quality of care and priority access for medical services of the providing agency's beneficiaries.

(E) Whenever a beneficiary receives medical services from a providing agency other than the particular providing agency for which such beneficiary is a primary beneficiary, such providing agency shall be reimbursed based on negotiated costs as agreed by the directors or commanding officers of the participating health care facilities.

(F) Reimbursement shall be credited when received by the providing agency to the specific facility that provided the medical service.

(G) Sharing arrangements shall be operative upon agreement of the directors or commanding officers entering into such arrangements unless disapproved upon submission to each agency.

(H) Nothing in this Act shall be construed to preclude sharing of medical resources pursuant to any other law among all Federal direct health care providers.

(b) The joint responsibilities of the Administrator of Veterans' Affairs and the Secretary of Defense under this Act with regard to uniform direct health care shall not be construed to alter any single agency's responsibilities with regard to the provision of medical services provided by law.

(c) The Veterans' Administration and the Department of Defense shall prepare a joint report to Congress on the date one year after the date of the enactment of this Act, and annually thereafter, and to the Committees on Appropriations of the Senate and the House of Representatives upon the presentation of such agency's appropriations request each fiscal year, with regard to—

(1) the guidelines prescribed pursuant to subsection (a)(6);

(2) the opportunities for interagency sharing as required in section 4(a)(1);

(3) the interagency sharing arrangements entered into by health care facilities of such providing agency;

(4) each providing agency's activities pursuant to cooperative interagency sharing arrangements;

(5) other interagency activities directed toward maximizing the efficient use of Federal health resources during the preceding fiscal year;

(6) the progress of Federal interagency medical resource sharing;

(7) the interagency coordination of Federal health resources planning; and

(8) other major Federal activities to increase interagency sharing of Federal medical resources. Legislative recommendations may be included in such reports.

Amend the title so as to read: "A bill to ensure the development and implementation of policies and procedures to encourage the Veterans' Administration, the Department of Defense, and other Federal health care providers to cooperate in the efficient and effective use of Federal medical resources, and for other purposes.".

Mr. PERCY. Mr. President, in recent years, increasing concern has been expressed in the Congress and elsewhere over the rapidly increasing costs of medical care in the Nation. As in the private sector, Federal agencies' costs to provide health care directly to eligible beneficiaries have continued to rise, and substantial efforts have been made to explore ways of reducing these costs without adversely affecting the quality of care.

This legislation, to which I am happy to have Senator PROXMIRE, Senator COHEN, and Senator DURENBERGER as cosponsors, is the result of more than 5 years of study by the GAO and others into the Federal Government's lack of interagency coordination in its $10 billion a year hospital system.

Their findings were revealed in a recent governmental affairs hearing on this matter. They leave no doubt that legislation is needed before tremendous opportunities for saving millions of dollars and improving the delivery of health care in the Veterans' Administration's, Defense Department's and other Federal agencies' 308 hospitals can be realized through greater interagency sharing.

Examples of waste and inefficiency are plentiful. For instance:

In North Chicago the VA and Navy operate hospitals less than a mile from each other. While the Navy's modern facility sits more than three-quarters empty because of a lack of doctors, forcing them to spend $3 million on private sector care, the VA nearby plans to spend millions in coming years on its crumbling 1905 era buildings. The VA enjoys a relative abundance of doctors. Current laws, regulations, and other problems have held up attempts to coordinate resources among the two Federal facilities.

For lack of a VA-Army agreement to share Boston VA orthopedic services, the Army flies dozens of patients from Boston to Walter Reed Hospital in Washington on its very expensive air evacuation system when more convenient and less costly treatment could be provided by the VA.

The Federal Government's Public Health Service Hospital in Seattle has a spinal cord injury center just 2 miles from a VA hospital that lacks such facilities. In 1 year, the VA transported 19 spinal cord injury patients to Long Beach, Calif., because regulations required patients to be treated within the same agency. The Seattle VA is now planning to construct its own $7 million spinal cord center just 2 miles from the other Federal facility. These are not isolated cases.

All of those testifying at our hearing gave the following reasons for these inefficiencies:

There are legal obstacles preventing efficient use of Federal medical resources, primarily, restrictions on what types of services may be shared among agencies and what beneficiaries may be treated.

There are clear disincentives mitigating against greater cross-agency coordination. For instance, when a local VA hospital agrees to provide a service to a Defense Department facility, the funds reimbursed for that service go to Washington rather than to the providing hospital. Whereas, if that same hospital buys that service from a private hospital, where costs may be four times higher to the taxpayer, they get reimbursed directly.

Finally, witnesses concluded that there is a need for a specific legislative policy for interagency sharing.

The purpose of S. 2958 is simple: Clear away the legal and administrative barriers to sharing, create incentives at the local level, and encourage the agencies to begin assessing money-saving opportunities for sharing and implement them expeditiously. The legislation also provides specific safeguards to prohibit sharing where it would adversely affect the quality of, or established priority access to, direct health care by Federal beneficiaries.

Reaction to the bill has been nearly unanimous—this legislation is needed. Perhaps the GAO put it best when they said, "the enactment of S. 2958 would represent a significant step forward in which Federal agencies could make the most cost-effective use of their medical resources while maintaining, or perhaps, enhancing, the quality of care provided to their many beneficiaries."

Mr. PROXMIRE. Mr. President, I am pleased to rise in support of S. 2958, a bill to encourage the development and implementation of policies which will encourage the sharing of Federal medical resources between the two largest health care providers in the Federal Government—the Veterans' Administration and the Department of Defense. I want to commend the distinguished Senator from Illinois, Senator PERCY for taking the initiative on this legislation and I am proud to be an original cosponsor of the bill.

Mr. President, this legislation is long overdue. As chairman of the Senate Appropriations Subcommittee on HUD-Independent Agencies, which funds the Veterans' Administration's programs, I have continually stressed to the Agency during budget hearings that the VA should vigorously pursue a program of sharing medical resources both among Federal agencies and with community health care providers. I believe that effective sharing programs can serve to enhance the VA's efforts to provide the highest quality of health care in the face of substantial increases in the cost of providing such care to our Nation's veterans.

Although there has been some movement by the VA to pursue administrative remedies to promoting sharing with the Defense Department and other health care providers, the committee has been receiving conflicting and confusing signals from the VA on steps it can take to promote the sharing of health care resources and services.

For example, in June 1978 the GAO, after a comprehensive study, indicated that legislation may be needed to encourage sharing of Federal medical resources and to remove some obstacles which currently impede sharing from occurring. However, the GAO also said that several additional obstacles to sharing could be removed by the administrative action of the VA and other Federal agencies.

In response to that GAO report, the VA stated that the GAO's call for legislative remedies was not needed and that administrative remedies could remove the obstacles to sharing. However, in testimony before the Congress in 1979 on the activities and progress of the interagency Federal Health Resources Sharing Committee, established in February 1978, the VA said that it had not reexamined its regulations on sharing because it believed that legislation was necessary to overcome one of the principal obstacles to sharing, that is, reimbursement among agencies for shared medical resources and services. These contradictory responses by the VA to the issue of sharing health care resources and services, coupled with the apparent failure of the Federal Health Resources Sharing Committee's efforts to work out problems of special interest to Federal direct health care providers and to explore ways to make better use of the Government's medical care resources, seem to be symptomatic of the stagnant state of the Federal effort to implement an effective interagency sharing program.

Therefore, it is clear that legislative relief is essential to clear the way for comprehensive sharing arrangements between DOD and the VA. S. 2958 will go a long way toward removing the last remaining obstacles to an effective Federal health care resources sharing program. At the same time, this bill will not only not cost the taxpayers any money, it has the potential for saving hundreds of millions of tax dollars, while actually improving the quality of care that veterans will receive.

As the distinguished Senator from Illinois has pointed out in his statements supporting this legislation, the General Accounting Office has found numerous examples of instances where an effective sharing program between the VA and the Defense Department could have saved the taxpayers literally millions of dollars without diminishing the availability or quality of care for our veterans.

For example, in the Senator's own State of Illinois, the Great Lakes Naval Hospital in north Chicago, remains virtually empty, while its next door neighbor the mammoth North Chicago VA Hospital plans to spend $25 million over the next few years to renovate patient bed sections. If the Percy-Proxmire bill is enacted, incentives would be set in place which could allow the Great Lakes Naval Hospital and the VA hospital to use the empty beds at Great Lakes for veteran patients. The savings could be substantial.

In my own subcommittee, the GAO has reported on several occasions regarding opportunities for the VA to increase sharing of both specialized medical capabilities, such as cardiac catheterization laboratories, computerized tomography scanners, radioactive therapy units, as well as more routine medical resources and services.

Mr. President, I am pleased to note that the VA and the other major Federal health care provider, the Department of Defense, appear to be supportive of this legislation, as are the important national veterans organizations whose constituent groups would stand to benefit the most from an effective, efficient health care resources sharing program. We owe our veterans the highest quality of medical care and I believe that this legislation will both enhance medical care for veterans and save the taxpayers from unnecessary or duplicative medical care expenditures. I enthusiastically support this bill and hope that my colleagues in the House will also support identical legislation.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to ensure the development and implementation of policies and procedures to encourage the Veterans' Administration, the Department of Defense, and other Federal health care providers to cooperate in the efficient and effective use of Federal medical resources, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PAY AND BENEFITS OF CERTAIN EMPLOYEES OF THE DRUG ENFORCEMENT ADMINISTRATION

The Senate proceeded to consider the bill (S. 2327) to provide that certain employees of the Drug Enforcement Administration be entitled to pay and benefits similar to pay and benefits granted to members of the Senior Executive Service under the Civil Service Reform Act of 1978, which had been reported from the Committee on Governmental Affairs with an amendment to strike out all after the enacting clause and insert the following:

That in accordance with regulations to be prescribed by the Attorney General, the Administrator of the Drug Enforcement Administration may establish a Drug Enforcement Administration Senior Executive Service (hereinafter referred to as the DEA Senior Executive Service) to ensure that the executive management of the Drug Enforcement Administration is responsive to the needs, policies, and goals of the Department and otherwise is of the highest quality. The DEA Senior Executive Service shall be administered so as to—

(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent senior executives;

(2) ensure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organizational performance (including such factors as improvements in efficiency, productivity, quality of work or service, cost efficiency, timeliness of performance, and success in meeting equal employment opportunity goals);

(3) assure that senior executives are accountable and responsible for the effectiveness and productivity of employees under them;

(4) recognize exceptional accomplishment;

(5) enable the Administrator to reassign senior executives to best accomplish the agency's mission;

(6) provide for early retirement for senior executives who are removed from the DEA Senior Executive Service for reasons of performance;

(7) provide for program continuity and policy advocacy in the management of public programs;

(8) maintain a senior executive personnel system free of prohibited personnel practices;

(9) ensure accountability for honest, economical and efficient Government;

(10) ensure compliance with all applicable civil service laws, rules, and regulations, including those related to equal employment opportunity, political activity, and conflicts of interest;

(11) provide for the initial and continuing systematic development of highly competent senior executives; and

(12) provide for an executive system which is guided by the public interest and free from improper political interference.

Sec. 2. (a) Notwithstanding the provisions of section 201 of the Crime Control Act of 1976 (5 U.S.C. 5108, note; 90 Stat. 2425), the Administrator of the Drug Enforcement Administration is authorized to—

(1) appoint, promote, demote, reassign, and remove an employee in connection with a DEA Senior Executive Service position, and

(2) remove an employee serving in such a position from the civil service.

(b) For purposes of this Act, the term "DEA Senior Executive Service position" means a position—

(1) in the Drug Enforcement Administration in GS–16, 17, or 18, or equivalent level, and

(2) which meets requirements consistent with the provisions of section 3132(a)(2) of title 5, United States Code.

(c)(1) Subject to the provisions of section 5108 of title 5, United States Code, the Attorney General shall establish positions as DEA Senior Executive Service positions.

(2) Section 5108(a) of such title is amended—

(A) by striking out "and" at the end of clause (i),

(B) by striking out the period at the end of clause (ii) and inserting a comma and "and",

(C) by inserting after clause (ii) the following new clause:

"(iii) the Drug Enforcement Administration Senior Executive Service.", and

(D) by inserting "or in the Drug Enforcement Administration Senior Executive Service" after "Federal Bureau of Investigation".

(d) Paragraph (1) of section 201(a) of the Crime Control Act of 1976 (5 U.S.C. 5108 note; 90 Stat. 2425) is amended to read as follows:

"(1) positions in the Drug Enforcement Administration Senior Executive Service, and".

Sec. 3. (a) The Administrator shall develop a performance appraisal system designed to—

(1) permit the accurate evaluation of performance in any DEA Senior Executive Service position on the basis of criteria which are related to the position and which specify the critical elements of the position;

(2) provide for systematic appraisal of performance of senior executives;

(3) encourage excellence in performance by senior executives; and

(4) provide a basis for retention and awards in the DEA Senior Executive Service.

(b) The performance appraisal system established under subsection (a) of this section shall provide that—

(1) written performance requirements for each DEA Senior Executive Service position are to be established and communicated to the senior executives prior to the rating period,

(2) written appraisals of performance are to be based upon individual and organizational requirements established for the rating period and the senior executive is to be provided a copy of the appraisal and rating, and

(3) a senior executive may not appeal any appraisal or rating under this section.

(c) The appraisals of performance in the DEA Senior Executive Service shall be based upon both individual and organizational performance, taking into account such factors as—

(1) improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

(2) cost efficiency;

(3) timeliness of performance;

(4) other indications of the effectiveness, productivity, and performance quality of the employees for whom the senior executive is responsible; and

(5) meeting affirmative action goals and achievement of equal employment opportunity requirements.

(d) The DEA Senior Executive Service performance appraisal system shall provide for annual summary rating levels of performance to be prescribed by the Administrator.

(e) Section 4301(2)(E) of title 5, United States Code, is amended by inserting "or the Drug Enforcement Administration Senior Executive Service" after "Service".

Sec. 4. (a) Development of employees in the DEA Senior Executive Service shall be consistent with the provisions of subsections (a) and (b) of section 3396 of title 5, United States Code, relating to career development.

(b) The Administrator of the Drug Enforcement Administration may grant a sabbatical to any individual serving in a DEA Senior Executive Service position for not to exceed 11 months in order to permit the executive to engage in study or uncompensated work experience which will contribute to the executive's development and effectiveness. A sabbatical shall not result in loss of, or reduction in. pay, leave, credit for time or service, or performance or efficiency rating. The Administrator may authorize such travel expenses (including per diem allowance) as may be determined to be essential for the duty or experience. A sabbatical under this subsection may not be granted to any such executive—

(1) more than once in any ten-year period;

(2) unless the executive has completed five years of Federal service, two of which must have been at a level equivalent to the DEA Senior Executive Service; or

(3) within 1 year of the executive's eligibility for retirement under subchapter III of chapter 83 of title 5, United States Code.

(c) The President is authorized to award ranks to members of the DEA Senior Executive Service recommended for such awards by the Attorney General in a manner consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of title 5, United States Code.

SEC. 5. (a) The Administrator is authorized to establish and adjust rates of pay for DEA Senior Executive Service positions in a manner consistent with the principles contained in section 5382 and 5383 of title 5, United States Code, and to grant performance awards in a manner consistent with section 5384(a) of title 5, United States Code.

(b) Annual leave accrued by an individual while serving in a DEA Senior Executive Service position shall not be subject to the limitation on accumulation otherwise imposed by section 6304 of title 5, United States Code.

(c) The Administrator is authorized to pay travel and per diem expenses of new appointees and candidates for DEA Senior Executive Service positions which are incurred in connection with preemployment interviews requested by the Administrator or in connection with moves of new appointees and their families to the first post of duty.

SEC. 6. Section 8336(h) of title 5, United States Code, is amended—

(1) by inserting "or Drug Enforcement Administration Senior Executive Service" after "Senior Executive Service" each place it appears; and

(2) by inserting "or comparable provision of law" after "title".

SEC. 7. The amendments made by this Act shall take effect on the date of the enactment of this Act, except that nothing in this Act shall be construed as authorizing the enactment of new budget authority for the fiscal year beginning October 1, 1980.

Amend the title so as to read: "A bill to authorize the establishment of a Drug Enforcement Administration Senior Executive Service, and for other purposes.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPLEMENTING OBJECTIVES OF THE INTERNATIONAL YEAR OF DISABLED PERSONS

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 73) expressing the sense of the Congress with respect to implementing the objectives of the "International Year of Disabled Persons."

RESOLUTION ON INTERNATIONAL YEAR OF DISABLED PERSONS

Mr. DOLE. Mr. President, in January of this year, the Senator from Kansas introduced Senate Concurrent Resolution 73, a concurrent resolution that was intended to underline the need for continued progress in the area of handicapped legislation. This resolution should complement the United Nations' proclamation of 1981 as the "International Year of Disabled Persons." We in Congress need to reinforrce and expand upon the progress made through legislation during the last decade under the provisions of the Rehabilitation Act of 1973, as well as certain tax incentives that we have put into effect. While Congress has played a significant role in the past in terms of promoting the human rights of the handicapped, there are many problems that continue to plague 35 million disabled Americans.

ELIMINATION OF BARRIERS

Through the Rehabilitation Act of 1973, progress has been made in the areas of education and employment for the handicapped. As current law now stands, this is the only form of civil rights that is outlined for handicapped Americans. During the last decade, we have witnessed the reduction of architectural and transportation barriers that had previously hindered the handicapped in coping with the physical nature of their environment. Because they are now better able to function in the world around them, increased numbers of handicapped individuals have progressed into the mainstream of our society. However, the handicapped continue to face large hurdles that must be overcome in order to insure their continued progress in the future.

Prejudice and discrimination have been somewhat alleviated by the growing public awareness that handicapped people are capable of being productive citizens, able to contribute and actively participate in the society around them, often with very little accommodation. However, some built-in attitudes in our society continue to cause difficulties for our Nation's disabled citizens. In fact, prejudice and outmoded employer attitudes constitute the most formidable barrier to employment opportunities.

DIVERSITY PRESENTS PROBLEMS

One of the major obstacles to implementing a comprehensive approach in assisting handicapped Americans is the inherent diversity within this category of individuals in terms of specific handicaps, as well as individual needs. There appears to be no comprehensive solution to their many problems. For example, accommodation on the part of an employer for one type of handicap may not necessarily address the needs of another disabled person. It is essential to realize that the needs of the handicapped arise from a variety of physical and psychological dysfunctions that are as unique as the types of accommodation they require. Outmoded employer attitudes exaggerating what these accommodations would entail have prohibited the entrance of many disabled citizens into certain areas of the private sector.

LEGISLATING AGAINST ATTITUDES

Mr. President, I realize that it is difficult to legislate against certain attitudes and misconceptions, but I feel that, through Senate Concurrent Resolution 73, more attention will be focused on the problems which continue to hinder the progress of the handicapped. This increased awareness of the needs of disabled individuals is being achieved through the United Nations proclamation of 1981 as the "International Year of Disabled Persons." In response the United States has created the "U.S. Council for the International Year of Disabled Persons," which will concentrate on our efforts in this area at home. The Senator from Kansas is privileged to serve as an honorary member of this U.S. Council.

Hopefully, by raising the awareness level of the public to the problems faced by disabled Americans, we will begin to foster a true understanding of their potential contribution to our society as we attempt to address these problems. There needs to be more emphasis on what handicapped people can do—not on what they cannot do. Once this level of understanding is reached, we can hope to more fully integrate handicapped individuals into the mainstream of our society.

CONGRESSIONAL INITIATIVES

We as Members of Congress can accelerate this integration into the mainstream of community life by promoting legislative initiatives that will enhance opportunities for handicapped individuals to participate as active members of our society. We should keep our eyes open to possibilities for creating new opportunities, while building on the foundation of progress that already exists.

There is no doubt that, when a person really believes that he or she can make a valuable contribution to society, that individual should be given every opportunity to develop and participate in a barrier-free world. During the remainder of this session of Congress, and especially during the year to follow, I urge my colleagues to focus their attention on further ways to improve programs for the handicapped, as well as to create new initiatives that will further aid the progress of the handicapped through open doors within our great American society. While pursuing these goals, we should always keep in mind that there are 35 million Americans out there who comprise a valuable national resource and have a lot to give our country.

The concurrent resolution was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, as agreed to, and the preamble, are as follows:

Whereas a new era in recognition of human rights and universal respect for these rights has begun;

Whereas the United Nations General Assembly has declared 1981 as the International Year for Disabled Persons;

Whereas the United States has made great strides during the last decade in improving the lives of thirty-five million American citizens with physical and mental disabilities;

Whereas there is still much to be done toward opening doors for disabled persons; and

Whereas the United States recognizes the need for further progress in strengthening public understanding and awareness of the needs and aspirations of disabled persons: Now, therefore. be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should take all steps within his authority to implement, within the United States, the objectives of the International Year of Disabled Persons (1981), as proclaimed by the United Nations General Assembly Resolution 31/123 of December 16, 1976.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

The Senate proceeded to consider the resolution (S. Res. 523) to designate the week of October 6 through October 12, 1980, as "National Productivity Improvement Week," which was considered and agreed to.

The accompanying preamble was agreed to.

The resolution and preamble are as follows:

Whereas inflation continues to present a serious threat to the economic fabric of the United States of America; and

Whereas the deterioration of the economic well-being of the United States brings with it a lessening of the standard of living and quality of life for all American citizens, and endangers the national security; and

Whereas increases in the rate of productivity in industry, business, and government have been shown to have a significant influence in reducing inflation; and

Whereas the United States continues to experience an alarming slowdown in productivity growth: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States by proclamation designate the week of October 6 through October 12, 1980, to be "National Productivity Improvement Week", for the purpose of providing for a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States, for an increased public awareness of the potential for significantly reduced inflation offered by productivity growth, and for encouraging the development of methods to improve individual and collective productivity in the public and private sectors.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FREEDOM OF INFORMATION DAY

The joint resolution (S.J. Res. 196) authorizing the President to proclaim March 16 of each year as "Freedom of Information Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

Whereas a free press exists to serve the American people whose daily decisions rest on their having information;

Whereas a fundamental principle of our Nation is that, given information, the people can make the decisions that determine their present and their future;

Whereas if these decisions are to be wise, they must be reached after weighing the facts and considering the alternatives and consequences;

Whereas the freedom we cherish in this land is rooted in information;

The title was amended so as to read:

Joint resolution authorizing the President to proclaim March 16, 1981, as "Freedom of Information Day".

Whereas this freedom of information deserves to be emphasized and celebrated annually;

Whereas many Americans, because they have never known any other way of life, take the freedom of information provided under the first amendment of the Constitution for granted;

Whereas many Americans do not recognize fully how this provision of the Bill of Rights affects their daily lives; and

Whereas March 16 is the birthday of James Madison who was the Founding Father who recognized and supported the need to guarantee individual rights through the first ten amendments to the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate March 16 of each year as "Freedom of Information Day", and to call upon Federal, State, and local government agencies, and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 199) designating the week of September 28–October 4, 1980, as "National High School Activities Week."

Mr. DOLE. Mr. President, on August 27, 1980, the Senator from Kansas introduced Senate Joint Resolution 199, a resolution designating National High School Activities Week as the week of September 28 to October 4, 1980. This resolution has as its cosponsors many distinguished Senators on both sides of the aisle: Senators BAUCUS, BAYH, BENTSEN, BRADLEY, BUMPERS, BURDICK, CANNON, CHAFEE, COCHRAN, DANFORTH, DECONCINI, DURENBERGER, HEFLIN, HELMS, HOLLINGS, JAVITS, KASSEBAUM, LAXALT, MCGOVERN, MELCHER, MORGAN, NELSON, PRYOR, ROTH, THURMOND, BIDEN, and YOUNG.

This resolution also has the support of the following education organizations: The National Federation of State High School Associations, the President's Council on Physical Fitness, the American Federation of Teachers, the National Education Association, the National School Boards Association, the National Association of Secondary School Principals, the National PTA, the National Catholic Education Association, the National Association of Independent Schools, the American Alliance of Health, Physical Education, Recreation and Dance, the National High School Coaches Association, the Chief Cities Council of Superintendents, the National Association of School Superintendents, and the AASA.

This widespread support indicates the important role high school activities have come to play in our communities, as well as in the schools themselves. We all recognize the value of an academic education. However, many of us fail to remember how essential extracurricular activities are in building a sense of responsibility, confidence, and leadership skills. Through directed, organized activities, students learn to participate in programs such as sports, debate, student government, honor societies, and theater which serve to develop their ability to work together—to cooperate in striving for a common goal.

These programs, regardless of their specific nature, are all designed to develop skills that enhance the knowledge achieved in the classroom. They provide evidence that, often, the most effective source of learning is active participation—actually doing something rather than memorizing how it should be done. By developing creative instincts and increasing the potential for self-confidence and achievement, young people can better prepare themselves for situations that will confront them later in life. It can also contribute to the overall socialization process by which young people become well-rounded individuals that are willing and able to become involved in their communities.

In highlighting the many rewards high school activities hold for young people, we must not overlook the dedicated teachers and other professionals who take the time and effort to make these programs possible. Their efforts often go unrewarded and scarcely recognized, yet they continue to offer their time and energies merely for the satisfaction of helping young people grow.

Mr. President, I believe there can be little argument that high school activities play a vital role in the lives of teenagers. Therefore, I think it is only fair that we take the time to publicly recognize their importance. We continue to hear about the shortcomings of our present education system. Perhaps it is time to give equal consideration to the positive aspects of our schools. I believe the best way to do this would be to generate public awareness in recognizing high school activities. I ask the support of my colleagues in approving this resolution.

The joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

Whereas more than half of the senior high school students in most high schools of this Nation are involved in at least one extracurricular activity program;

Whereas this "other half of education" plays a significant role in the total educational development of high school students;

Whereas activities in sports, speech, music, debate, theater, dance, journalism, and other areas provide a constructive outlet for the energies and creative talents of young people;

Whereas extracurricular activities extend opportunities for socialization and interaction among high school students;

Whereas high school activities directly benefit local communities by keeping young people busy and channeling their interests in a positive way;

Whereas high school activities contribute much toward developing more well-rounded individuals and expanding the awareness and capabilities of high school students beyond the academic world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall designate the week of September 28–October 4, 1980, as "National High School Activities Week", in recognition of the valuable contribution that such programs make in developing the interests and talents of young people at the community level.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LUPUS WEEK

The joint resolution (S.J. Res. 201) to provide for the designation of a week as "National Lupus Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 201

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of October 19 through 25, 1980, as "National Lupus Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SALVATION ARMY DAY

The joint resolution (S.J. Res. 207) to authorize and request the President to proclaim November 28, 1980, as "Salvation Army Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

Whereas the Salvation Army is celebrating its one hundredth year of dedicated service in the United States to people of all races and creeds;

Whereas the Salvation Army assisted over 30,000,000 people last year by providing dispensaries, clinics, hospitals, homes for children, homes for senior citizens, Evangeline residences for business women, summer camps, youth clubs, foster care services, employment services, counseling for unwed mothers, day care centers, refugee settlement centers, skid row centers, social service centers, emergency shelters, various services to individuals in the armed forces and in correctional institutions, and numerous other programs;

Whereas the Salvation Army has unselfishly collected donations each Christmas for food, clothing, and remembrances which are distributed to more than 2,000,000 needy and forgotten people;

Whereas the Salvation Army can be relied upon in a time of emergency, as individuals living in the Mount St. Helens area and the area damaged by Hurricane Allen know, to provide mobile canteens, food, lodging, clothing, blankets, medical supplies, and assistance in reuniting families and comforting victims;

Whereas the work of the Salvation Army is carried on by more than 414,000 members and 580,000 volunteers serving in more than 9,000 centers;

Whereas the Salvation Army is vigorously planning for the future with innovative programs for the elderly, for parent education, and for the treatment of drug and alcohol abuse;

Whereas the activities of the Salvation Army are carried on without any direct appropriations from the Federal government, and use methods which generally are more efficient than the methods used by Federal programs; and

Whereas the Salvation Army will begin another Christmas season of good works on November 28, 1980: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the President is authorized and requested to proclaim November 28, 1980, as "Salvation Army Day" and to call upon Federal, State, and local government agencies, interested groups and organizations, and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AGRICULTURE DAY

The joint resolution (H.J. Res. 560) to proclaim March 19, 1981, as "National Agriculture Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR SENATE JOINT RESOLUTION 205 TO BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 1125, Senate Joint Resolution 205, National Agriculture Day, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVACY PROTECTION ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAYH, I submit a report of the committee of conference on S. 1790 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1790) to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD).

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIFORMED SERVICES SURVIVOR BENEFITS AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NUNN, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 91.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 91) entitled "An Act to amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Uniformed Services Survivor Benefits Amendments of 1980".

SEC. 2. Section 1447(2) of title 10, United States Code, relating to definitions, is amended—

(1) in subparagraph (C)—

(A) by inserting "but which is not less than $300" after "under the Plan"; and

(B) by striking out ", but not less than $300;" and inserting in lieu thereof a period; and

(2) by striking out "as increased from time to time under section 1401a of this title.".

SEC. 3. (a) Subsection (a) of section 1451 of title 10, United States Code, relating to the amount of annuities under the Survivor Benefit Plan, is amended to read as follows:

"(a)(1) The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(A) 55 percent of the base amount, as adjusted from time to time under section 1401a of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title; or

"(B) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, as adjusted from time to time under section 1401a of this title on or after the date the person becomes entitled to retired pay under chapter 67 of this title, if the annuity is provided by virtue of eligibility under section 1448(a) (1) (B) of this title.

"(2) In the case of a widow who has one dependent child, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the mother's benefit, if any, to which the widow would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l) (1) of such Act (42 U.S.C. 410(l) (1)) and calculated assuming that the person concerned lived to age 65, or (B) an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1).

"(3) When the widow or widower reaches age 62, or there is no longer a dependent child, whichever occurs later, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the survivor benefit, if any, to which the widower would be entitled under their II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l) (1) of such Act (42 U.S.C. 410(l) (1) and calculated assuming that the person concerned lives to age 65, or (B) an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1). For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under title II of the Social Security Act (42 U.S.C. 401 et seq.) to the extent that such benefit has been offset by deductions under section 203 of such Act (42 U.S.C. 403) on account of work.

"(4) In the computation of any reduction made under paragraph (2) or (3), there shall be excluded any period of service described in section 210(l) (1) of the Social Security Act (42 U.S.C. 410(l) (1) which was performed after the effective date of the Uniformed Services Survivor Benefits Amendments of 1980 and which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1954 of the social security tax which he has paid.".

(b) Subsection (c) of such section is amended—

(1) by striking out "section, or section 1448(d) of this title, on the day before the effective day of that increase" in the first sentence and inserting in lieu thereof "section or under section 1448(d) of this title"; and

(2) by striking out "title, or" in the second sentence and inserting in lieu thereof "title or under".

(c) Subsection (d) of such section is amended by striking out "(a) (2) and inserting in lieu thereof "(a) (1) (B)".

Sec. 4 Section 1452 of title 10, United States Code, relating to reductions in retired and retainer pay, is amended by adding at the end thereof the following new subsections:

"(g) (1) Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), any person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Veterans' Administration as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan. Any such person's participation in the Plan shall be discontinued effective on the first day of the first month following the month in which a request under this paragraph is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired or retainer pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date. Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

"(2) A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficaries of such person under the Plan.

"(3) The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

"(4) Upon the death of any person described in paragraph (1) who has discontinued participation in the Plan in accordance with this subsection, any amounts deducted from the retired or retainer pay of the deceased under section 1452 of this title shall be refunded to the widow or widower.

"(5) Any person described in paragraph (1) who has discontinued participation in the Plan may again elect to participate in the Plan if (A) at any time after having discontinued participation in the Plan the Veteran's Administration reduces such person's service-connected disability rating to less than total, and (B) such person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require. Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned receives the application for resumption of participation in the Plan, and the Secretary concerned shall begin making reductions in such person's retired or retainer pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on such day.

"(h) Whenever retired and retainer pay is increased under section 1401a of this title, the amount of the reduction to be made under subsection (a) or (b) in the retired or retainer pay of any person shall be increased at the same time and by the same percentage as such retired or retainer pay is increased under section 1401a of this title.".

Sec. 5. (a) (1) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse of a member of the uniformed services who—

(A) died before September 21, 1972;

(B) was serving on active duty in the uniformed services at the time of his death and had served on active duty for a period of not less than 20 years; and

(C) was at the time of his death entitled to retired or retainer pay or would have been entitled to that pay except that he had not applied for or been granted that pay.

(2) An annuity under paragraph (1) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if such member had died on or after September 21, 1972.

(b) (1) The amount of retired or retainer pay to be used as the basis for the computation of an annuity under subsection (a) is the amount of the retired or retainer pay to which the member would have been entitled if the member had been entitled to that pay based upon his years of active service when he died, adjusted by the overall percentage increase in retired and retainer pay under section 1401a of title 10, United Sates Code (or any prior comparable provision of law), during the period beginning on the date of the member's death and ending on the day before the effective date of this section.

(2) In addition to any reduction required under the provisions of subchapter II of chapter 73 of title 10, United States Code, the annuity paid to any surviving spouse under this section shall be reduced by any amount such surviving spouse is entitled to receive as an annuity under subchapter I of such chapter.

(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

(d) As used in this section:

(1) The term "uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101 (8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

Sec. 6. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended—

(1) by striking out "section 9(b) of the Veterans' Pension act of 1959 (73 Stat. 436)" in subsection (a) (2) and inserting in lieu thereof "section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978";

(2) by striking out "in the limitation on annual income for purposes of eligibility for benefits under section 541(b) of title 38, United States Code" in the first sentence of subsection (c) and inserting in lieu thereof "under section 3112 of title 38, United States Code, in the maximum annual rate of pension under section 541(b) of such title"; and

(3) by striking out "limitation on annual income" in the second sentence of subsection (c) and inserting in lieu thereof "the maximum annual rate of pension".

Sec. 7. The amendments made by sections 2, 3, and 4 of this Act and the provisions of section 5 of this Act shall be effective on the first day of the second calendar month following the month in which this Act is enacted and shall apply to annuities payable by virtue of such amendments and provisions for months beginning or after such date. No benefits shall accrue to any person by virtue of the enactment of this Act for any period before the date of the enactment of this Act.

Mr. THURMOND. Mr. President, I rise to express my appreciation to my distinguished colleagues in the Senate and

House of Representatives for approving my survivor benefit plan (SBP) bill, S. 91, which will remove some of the inequities in the current SBP law.

Most of the inequities of the current survivor benefit plan have developed subsequent to the plan's original conception in 1972. It was intended by the Congress to provide the survivors of military retirees with benefits similar to those provided to the survivors of civil service retirees.

Mr. President, although my original bill contained some other provisions which were deleted by committee action, the bill as currently approved is another step forward to remove some of the inquities. I was disappointed that there were several other provisions in my original S. 91 which were not adopted by our committee.

These pertained to: First, social security offsets for a widow with one child, since there is no offset for a widow with two children; second, the elimination of the social security offset when that benefit is based on the widow's own earnings; third, an open participation period of 270 days to provide an opportunity for nonparticipating retirees to enroll in the survivor benefit plan; and fourth, an annuity for the "forgotten widows" whose husbands died in retirement before September 21, 1972, who were otherwise qualified before there was an SBP law. I plan to propose legislation in the next session of Congress to address the remaining inequities.

In the interest of reducing the adverse impact of inequities as much as possible, and because of our budgetary problems, I urge my distinguished colleagues to support the revised version of S. 91.

Mr. President, it must be the objective of the Congress to insure that the military survivor benefits are at least comparable to those provided the civilian Federal work force. I might point out to my colleagues that even if all the provisions of my bill (S. 91) were enacted into law, the programs would still not be comparable to the civil service program. This is a fact, even if the benefits of social security were added to the benefits of the survivor benefit plan.

I also know that in our efforts to balance the fiscal year 1981 budget, our desire to provide military retirees with a comparable plan is not completely obtainable at this time. Consequently, I commend this important measure to my colleagues for final approval by the Senate with the minor technical changes made by the House.

Mr. President, I strongly recommend final approval of S. 91 by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Nunn, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT TO CHAPTER 87 OF TITLE V, UNITED STATES CODE, INCREASING AMOUNTS OF LIFE INSURANCE AVAILABLE TO FEDERAL EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Pryor, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 7666.

The PRESIDING OFFICER (Mr. DeConcini) laid before the Senate H.R. 7666, an act to amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. PRYOR. Mr. President, H.R. 7666 is a bill to amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members. This legislation was passed by the House of Representatives, rules suspended, on September 8, 1980. The legislation was subsequently held at the desk in the Senate. On September 17, 1980, the Subcommittee on Civil Service and General Services, which I chair, conducted thorough hearings on the issue receiving extremely favorable testimony from Dr. Alan K. Campbell, Director of the Office of Personnel Management. According to Dr. Campbell, "We believe that H.R. 7666 embodies positive and needed improvements in the Federal Employees Group Life Insurance program and that it does so in a fiscally responsible way. For these reasons, we strongly support the bill and recommend favorable consideration by the Committee."

I urge my colleagues to join me in supporting this needed revision of civil service law.

I submit for the Record certain portions of the House committee report which further explains the provisions of H.R. 7666.

The portions follow:

Statement

THE PRESENT LIFE INSURANCE PROGRAM

The group life insurance available for almost all Federal employees was created by the Federal Employees' Group Life Insurance Act of 1954, Public Law 85–598. At the time the program was authorized, it represented a model of progressive fringe benefit legislation; many employers in the private sector of the economy at that time offered no life insurance protection. The new Federal program offered employees life insurance, plus an equal amount of accidental death or dismemberment insurance in an amount equal to their annual rate of pay, rounded off to the next higher thousand dollars, up to a maximum of $20,000. The cost of the insurance would be paid jointly: the employee paid two-thirds and his employing agency paid one-third.

An unusual feature of the 1954 act was the provision authorizing an employee to continue his insurance after retirement. Under most industry plans in effect at that time, insurance lapsed when an employee was separated from his position. Under the Federal program, however, an employee who retired on an immediate annuity could continue his insurance, without payment. Upon reaching age 65, the amount of the insurance began to decline each month at the rate of 2 percent of the original face value of the policy until 25 percent of the original value remained—38 months after the reduction began.

The life insurance program remained virtually unchanged until 1967 when in Public Law 90–206, Congress increased the maximum amount of insurance, increased the basic coverage, and created a new optional policy. The maximum was increased from $20,000 to an amount equal to the rate of pay for Level II of the Executive Salary Schedule, as that Schedule is periodically revised. The basic policy was revised to provide a minimum of $10,000 insurance and to add $2,000 to the otherwise applicable amount of insurance. The optional policy of $10,000, paid for entirely by the employee, could be carried into retirement along with the basic insurance, subject to the same reduction in value after age 65.

PROBLEMS IN THE INSURANCE PROGRAM

No other changes in the insurance program have been enacted. What was for its time a progressive and popular fringe benefit program has become less attractive as time has passed. This is particularly true in the case of younger employees, for whom the cost of the program is considered unduly expensive. When the life insurance program began in 1955, about 98 percent of all eligible employees enrolled in the program. Since that time, enrollment has gradually declined to 87 percent. For the optional policy, only 33 percent of employees select coverage.

The committee has identified two basic problems in the Federal employees' group life insurance program which cause many employees, particularly those under 35 years of age, to decline the insurance.

First, the amount of insurance is relatively small. Basic coverage, equal to annual salary, rounded, plus $2,000, is less than insurance generally available from major employers in the private sector of the economy. It is not unusual in the private sector for employers to offer an employee insurance equal to several times the amount of his annual pay. The Federal program is limited to salary, plus $2,000. The Federal who is a classfied employee, GS–7, step 4, is eligible for only a basic $18,000 insurance policy.

A second problem is that the insurance is relatively expensive compared to insurance available in the private sector. The only reason for this high cost is that the insurance may be continued after retirement without cost to the employee and a minimum death benefit is payable to the retired employee's beneficiary. This guaranteed payment causes the cost of the Federal insurance policy to be about twice the cost of ordinary term insurance. Although this costly feature makes the insurance attractive to older employees, younger employees, who are not considering retirement, frequently decline coverage and purchase term insurance in the private sector at lower cost. The Federal program suffers because of the actuarial experience which younger employees would contribute to the overall system.

COMMITTEE RECOMMENDATIONS

The committee recommends three basic changes in the Federal employees' group life insurance program:

First, the committee recommends that the amount of basic life insurance available for each eligible employee be increased. The increase would be graduated according to age. Employees less than 36 years of age would be eligible for a basic insurance policy equal to two times the amount of insurance available under existing law: that is, annual salary rounded to the next higher thousand dollars, plus $2,000, multiplied by 2. For each year of age between 36 and 45, the multiplication factor for the amount of insurance would decline by one tenth each year. The following table illustrates this increase in the basic coverage:

If the age of the employee is:	*The appropriate factor is:*
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 and over	1.0

The increase in cost incurred by this proposal would be borne entirely by the Government.

The second proposed change would permit employees to purchase additional life insurance, the full cost of which would be paid by the employee. This additional optional insurance, excluding accidental death and dismemberment, would be available in multiples of up to five times the annual pay of the employee, subject to the current limit of five times the rate in effect for level II of the Executive Schedule.

The combination of these two proposed changes in the life insurance program will very substantially enhance the appeal of the life insurance program to all employees, and particularly younger employees. For example, a Federal employee, at GS–7, step 4, currently earns $15,317, a salary which when rounded to the next higher thousand, plus $2,000, entitles him to $18,000 in life insurance. Under the committee amendment, this employee under age 36 would have his basic life insurance doubled to $36,000, would be permitted to purchase an optional life insurance policy (under existing law) of $10,000, and (under the committee amendment) an additional life insurance policy in multiples of $16,000 (his annual salary rounded to the next higher thousand), up to $80,000.

The committee amendment would also permit an employee to purchase a life insurance policy of $5,000 for a spouse and $2,500 for each child.

The third committee recommendation changes the reduction in life insurance which occurs after retirement. Under existing law, the face value of the policy continues in full effect until the retired employee reaches age 65. Thereafter, the value of the policy declines at the rate of 2% each month until 25% of the original face value remains. Under the committee amendment, a retired employee could elect to pay an additional amount in order to preserve the face value of his life insurance at the original amount, or to change the reduction factor from 2% each month to 1% each month.

Mr. STEVENS. Mr. President, I wish to join the distinguished chairman of the Civil Service and General Services Subcommittee, Senator PRYOR, in supporting H.R. 7666, the Federal Employees Group Life Insurance Act of 1980. During consideration of the President's proposed pay reform, we learned that except for retirement, the level of Federal employee benefits lagged behind those in the private sector, particularly life insurance benefits.

It is not rare to hear of life insurance coverage of $100,000 these days. However, employees under the Federal program are only eligible for basic coverage equal to one's annual salary plus $2,000, minimal coverage in today's standards. This bill increases basic life insurance available for each employee plus increasing the amount of optional insurance available. In addition, at a retiree's option, the reduction in life insurance which occurs after retirement can be mitigated or eliminated.

Mr. President, the changes embodied in this bill have been a long time in coming.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7666) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNITION OF SENATORS MATHIAS AND CHAFEE ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the two leaders or their designees have been recognized under the standing order, Mr. MATHIAS and Mr. CHAFEE be recognized each for not to exceed 15 minutes but not necessarily in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW, SEPTEMBER 30, 1980, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 11 a.m. tomorrow morning.

The motion was agreed to and at 3:54 p.m., the Senate recessed until Tuesday, September 30, 1980, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 1980:

IN THE NAVY

The following-named chief warrant officers, W–4 of the U.S. Navy for permanent promotion to the grade of chief warrant officer, W–4, pursuant to title 10, United States Code, sections 563 and 555(b), subject to qualifications therefor as provided by law:

Adams, George M.
Andrews, William F.
Armour, Warren T.
Bagley, Raymond C.
Barton, Hershel V.
Bauer, Edward A.
Beck, Allen E.
Becker, John D.
Boor, Leo J.
Boyd, Henry L.
Carter, Arthur E.
Catter, Peter B.
Duren, James R.
Edwards, Raymond L.
Enevoldsen, Jack
Flahiff, Daniel E.
Flynn, Kevin A.
Gardiner, John P.
Gilbert, James M.
Gochenaur, George E.
Goodrum, Daniel J.
Green, Marion W.
Gutteridge, William C.
Harris, Donald E.
Havner, Jerry G.
Henry, Joseph E.
Hodges, Byron W.
Holliday, Donald A.
Howell, Robert D., Sr.
Johnstone, Robert J.
Kleis, Louis P., Jr.
Lauerman, James D.
McDaniel, John O.
McKay, Roy C.
McKinzie, Joe E.
Miller, Kenneth R.
Normandin, Raymond H.
O'neal, Jim. F.
Parsons, Robert E.
Parsons, William G.
Piper, Leon T.
Pitzer, Richard L.
Prather, Luverne
Prothero, Glen, Jr.
Ragghianti, Charles F.
Rawls, Robert S.
Rhoden, Lawrence B.
Russell, Perry B.
Sauls, Herbert M.
Schmidt, Charles O.
Schwaeble, Harry M.
Shelton, George M.
Simmons, Norman R.
Spata, August
Stout, Arling G., Jr.
Turk, Joseph
Turnquist, Arnold C.
Tyler, Warner R.
Wales, Richard A.
Werling, Robert
Williams, David
Wilson, Millard J.
Wilson, Robert H.
Windell, Marion A.
Woods, Gerald B.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line officers), 5773 (staff corps officers), and 5791, subject to qualifications therefor as provided by law:

LINE

Henley, Van A.
O'Donnell, Joseph W

SUPPLY CORPS

Luster, Harry C.
Moore, Joseph D., II.

The following-named woman lieutenant (junior grade) of the U.S. Navy for permanent promotion to the grade of lieutenant in the Supply Corps, pursuant to title 10, United States Code, sections 5771 and 5791, subject to qualification therefor as provided by law:

Simon, Lynn P.

The following named lieutenant of the line of the U.S. Navy, for appointment in the Judge Advocate General's Corps as permanent lieutenant (junior grade) and temporary lieutenant, pursuant to title 10, United States Code, sections 5578a and 5572, subject to qualifications therefor as provided by law:

Stevens, Richard A.

The following-named lieutenant (junior grade) of the line of the U.S. Navy, for appointment in the Civil Engineer Corps as permanent ensign and temporary lieutenant (junior grade) pursuant to title 10, United States Code, sections 5582(b) and 5572, subject to qualifications therefor as provided by law:

Chapman, Craig.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1980:

THE JUDICIARY

Richard L. Williams, of Virginia, to be U.S. district judge for the eastern district of Virginia.

Hipolito Frank Garcia, of Texas, to be U.S. district judge for the western district of Texas.

James Harry Michael, Jr., of Virginia, to be U.S. district judge for the western district of Virginia.

George Howard, Jr., of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas.

Charles P. Kocoras, of Illinois, to be U.S. district judge for the northern district of Illinois.

Susan C. Getzendanner, of Illinois, to be U.S. district judge for the northern district of Illinois.

Richard C. Erwin, of North Carolina, to be U.S. district judge for the middle district of North Carolina.

David Vreeland Kenyon, of California, to be U.S. district judge for the central district of California.

Consuelo B. Marshall, of California, to be U.S. district judge for the central district of California.

Norman P. Ramsey, of Maryland, to be U.S. district judge for the district of Maryland.

HOUSE OF REPRESENTATIVES—*Monday, September 29, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, from whom comes every good and perfect gift, bless the people of our Nation and all those who labor in this place. Whatever our responsibility give us the realization that all tasks, great or small, done in response to the needs of others, are efforts worthy of our calling. Help us to see ourselves as part of Your divine plan to bring healing to those who hurt, comfort to those who are anxious, and peace to every troubled soul. May Your spirit encourage us to serve our neighbor each day and so honor Your word in our lives. This we pray in Your holy name. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following date the President approved and signed bills of the House of the following titles:

September 26, 1980:

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the act of August 27, 1954;

H.R. 6511. An act to designate the building known as the Federal Building in Morgantown, W. Va., as the "Harley O. Staggers Federal Building";

H.R. 6940. An act to amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that act to assure the safety and nutrition of infant formulas, and for other purposes; and

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5192) entitled "An act to amend and extend the Higher Education Act of 1965, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1159) entitled "An act to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2475) entitled "An act to amend title V of the Motor Vehicle Information and Cost Savings Act, 'Improving Automotive Efficiency,' to exempt very low volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the act, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the Senate of the following title:

H.R. 5288. An act to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes.

The message also announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4792. An act to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse;

H.R. 5732. An act to designate the Federal building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Federal Building";

H.R. 6531. An act to name a certain Federal building in Indianapolis, Ind., the Minton-Capehart Federal Building;

H.R. 6538. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955;

H.R. 7218. An act to establish the Martin Luther King, Jr., National Historic Site in the State of Georgia, and for other purposes;

H.R. 7414. An act to designate the building known as the Federal Building and U.S. Courthouse in Amarillo, Tex., as the "J. Marvin Jones Federal Building";

H.R. 7450. An act to designate the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Conn., as the "John S. Monagan Federal Building";

H.R. 7478. An act to facilitate the management of the public debt by permitting an increase in the investment yield on U.S. savings bonds above the existing 7 percent ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ percent which may be outstanding;

H.R. 7670. An act to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund;

H.R. 7770. An act to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center";

H.R. 7782. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the U.S. Secret Service Uniformed Division as are given to Federal employees under the general schedule;

H.R. 7939. An act to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission;

H.R. 8018. An act to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam"; and

H.R. 8024. An act to change the name of Aubrey Lakė, Tex., to Ray Roberts Lake.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4015. An act to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration;

H.R. 5487. An act to designate certain National Forest System lands in the States of Colorado and South Dakota for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 5612. An act to amend section 8(a) of the Small Business Act;

H.R. 6686. An act to discontinue or amend certain requirements for agency reports to Congress;

H.R. 7130. An act to designate the building known as U.S. Court House and Federal Building in Syracuse, N.Y., as the "James M. Hanley Federal Building";

H.R. 7544. An act to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building"; and

H.R. 7859. An act to provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, and to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1640. An act to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House numbered 1, 2, 3, 4, 5, 6, 7, 11, 12, 16, 17, 19 20, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 43, 44, 45, 46, 47, and 48 to a bill (S. 1250) of the Senate of the following title: "An Act to promote United States technological innovation for the achievement of national economic, environmental, and social goals, and for other

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

purposes"; that the Senate disagree to the amendments of the House of Representatives numbered 9, 10, 18, 22, 37, 38, 39, and 41 to the above-entitled bill; that the Senate agree to the amendment of the House numbered 8 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 13 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 14 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 15 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 21 to the above-entitled bill with an amendment; that the Senate agree to the amendment of the House numbered 30 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 35 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 36 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 40 to the above-entitled bill with an amendment; that the Senate agree to the House amendment numbered 42 to the above-entitled bill with an amendment.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 7203) entitled "An act to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such act for the education of health professions personnel, and for other purposes," disagreed to by the House; agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. CRANSTON, Mr. METZENBAUM, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. JAVITS, Mr. HATCH, and Mr. HUMPHREY be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5612) entitled "An act to amend section 8(a) of the Small Business Act," request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. MORGAN, Mr. LEVIN, Mr. WEICKER, and Mr. HATCH. Solely for consideration of title II of the Senate amendment: Mr. DECONCINI and Mr. DOLE be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1715. An act for the relief of Jerry L. Crow;

S. 1784. An act to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes;

S. 1910. An act to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir;

S. 2227. An act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas;

S. 2228. An act to grant the consent of the United States to the Caddo Lake Compact between the States of Louisiana and Texas;

S. 2364. An act to establish the Langmuir Research Site in the State of New Mexico, and for other purposes;

S. 2774. An act to authorize an accelerated research, development, and demonstration program to advance in situ technologies for energy production from underground coal deposits and unconventional gas resources;

S. 2961. An act for the relief of Viktor Ivanovich Belenko;

S. 3017. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments;

S. 3148. An act to name the Federal Building located at 444 Quincy, Topeka, Kans., the "Frank Carlson Federal Building";

S. 3152. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such Acts for 2 additional years; and

S. Con. Res. 130. Concurrent resolution authorizing corrections to be made in the enrollment of H.R. 5288.

The message also announced that Mr. BENTSEN be a conferee, on the part of the Senate, on the bill (S. 1156) entitled "An act to amend and reauthorize the Solid Waste Disposal Act," vice Mr. Muskie.

APPOINTMENT OF CONFEREES ON H.R. 5612, AMENDING SMALL BUSINESS ACT

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5612) to amend section 8(a) of the Small Business Act with the Senate amendment thereto, disagree to the Senate amendment, and agree to a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? The Chair hears none, and appoints the following conferees: Messrs. SMITH of Iowa, ST GERMAIN, LAFALCE, CORMAN, ADDABBO, MITCHELL of Maryland, IRELAND, SKELTON, MCDADE, BEREUTER, ERDAHL, and PORTER, and as additional conferees solely for consideration of title III of the Senate amendment: Messrs. ZABLOCKI, BINGHAM, and LAGOMARSINO.

REQUEST FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 441, DIRECTING THE CLERK TO MAKE CORRECTIONS IN THE ENROLLMENT OF H.R. 6331, RELATING TO BOUNDARIES OF U.S. CAPITOL GROUNDS

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 441), directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 6331.

The Clerk read the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. WEAVER. Mr. Speaker, reserving the right to object, Mr. Speaker, I do so to ask, Will there be bills under the Consent Calendar this morning?

The SPEAKER. The Chair will advise the gentleman that will occur after the unanimous-consent requests.

Mr. WEAVER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there further objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I assume the gentleman from Georgia can assure us the changes made were only the reflection of oversights and do not change the substance of the bill?

Mr. LEVITAS. If the gentleman will yield, what occurs is as follows: When this bill was passed by the House and by the other body, there was an amendment that I had offered on the floor during the consideration of the bill under suspension. That bill was previously printed in the RECORD. When the bill was enrolled, through inadvertence that amendment was not attached to it. The purpose of this concurrent resolution is to make that correction.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. WEAVER. Reserving the right to object, Mr. Speaker, are we about to vote on this bill?

The SPEAKER. If there is no objection to the request by the gentleman from Georgia.

Mr. WEAVER. Mr. Speaker, at that point I will make a point of order that a quorum is not present.

The SPEAKER. Is there objection to the request of the gentleman from Georgia for immediate consideration?

The Chair objects.

The matter will have to be taken up at a later time.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6790, FOREIGN SERVICE ACT OF 1980

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report and statement on the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

MAKING IN ORDER ON WEDNESDAY NEXT CONSIDERATION OF CONFERENCE REPORT ON H.R. 6790, FOREIGN SERVICE ACT OF 1980

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, October 1, 1980, to consider the conference report on the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

The SPEAKER. Is there object to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING CORRECTIONS IN ENROLLMENT OF H.R. 5288, VETERANS' REHABILITATION AND EDUCATION AMENDMENTS OF 1979

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 130) authorizing corrections to be made in the enrollment of the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veterans' educational assistance program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 130

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veterans' educational assistance program, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In clause (3) of section 103 of the bill, strike out "and inserting in lieu thereof a period".

(2) In subsection (b) of section 1774, as amended by section 203 of the bill, strike out "1,103" and "833" and insert in lieu thereof "$1,103" and "$833", respectively.

(3) In section 325 of the bill, strike out "1723" and insert in lieu thereof "1723(a)".

(4) In section 331 of the bill, strike out "striking out" and insert in lieu thereof "inserting".

(5) In subsection (c) of section 1788, as added by section 345(b) of the bill, strike out "means a study" and insert in lieu thereof "means study".

(6) In section 505 of the bill, after the quotation marks after "representative" insert "the first time such term appears".

(7) In subsection (g)(1) of section 1682, as added by section 602(a) of the bill, strike out "$311 per month for a full-time course" and insert in lieu thereof "the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title".

(8) In subsection (e) of section 1732, as added by section 602(b) of the bill, strike out "institutional".

□ 1210

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate concurrent resolution be dispensed ice of the United States, and for other purposes. with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

DIRECTING CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6331, RELATING TO BOUNDARIES OF U.S. CAPITOL GROUNDS

Mr. LEVITAS. Mr. Speaker, I renew my unanimous-consent request for the immediate consideration of the concurrent resolution (H. Con. Res. 411) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 6331.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 441

Resolved by the House of Representatives (the Senate concurring) That in the enrollment of the bill (H.R. 6331) to amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 7(a) of the bill insert after "all publicly or privately owned property contained in" the following: "lot 49 in square 582; lot 70 in square 640; and".

(2) In section 7(c) of the bill strike out "$3,500,000" and insert in lieu thereof "$11,500,000".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day.

Pursuant to the order of Thursday, September 25, the Clerk will call the first bill on the Consent Calendar.

OSCAR JOHNSON LAKE

The Clerk called the bill (H.R. 2545) to provide that the lake referred to as the Ririe Lake on Willow Creek, in Bonneville County, Idaho, shall hereafter be known as Oscar Johnson Lake.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WEAVER. Mr. Speaker, reserving the right to object, is this a vote now, Mr. Speaker, that we will be taking by unanimous consent?

The SPEAKER. It is a unanimous-consent request to consider the bill.

Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 2545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in honor of the late Oscar Johnson of Idaho, whose ranch formed much of Ririe Lake, the lake referred to as the Ririe Lake on Willow Creek, Bonneville County, Idaho, shall hereafter be known and designated as the "Oscar Johnson Lake". Any law, regulation, map, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake by the name of the "Oscar Johnson Lake".

PARLIAMENTARY INQUIRY

Mr. WEAVER. Mr. Speaker, when is the vote taken on this bill?

The SPEAKER. Immediately following the unanimous-consent request, unless there is debate. If there is debate, the vote would follow that.

● Mr. ROBERTS. Mr. Speaker, H.R. 2545 changes the name of the lake located on Willow Creek, in Bonneville County, Idaho, to Oscar Johnson Lake. The lake is located behind the Ririe Dam.

The name change would honor the founder of the Willow Creek Ranch which is located below where the dam now stands, and which was acquired for construction of that project. The name change is supported by the community and is a fitting tribute to the Johnson family which supported the project.

I urge passage of the bill.●

● Mr. JOHNSON of California. Mr. Speaker, H.R. 2545 will change the name of the lake behind Ririe Dam in Idaho to Oscar Johnson Lake.

It is a fitting tribute to name the reservoir in the memory of Oscar Johnson. Mr. Johnson is a fine example of the strong and honest character that settled this part of Idaho. Starting at the age of 16, Oscar Johnson began his pioneering venture by purchasing 35 acres and eventually acquired other homesteads to form the 500-acre Willow Creek Ranch. The Ririe Dam itself is named after another Idaho pioneering family whose ranch was located below where the dam now stands. In this manner, both families will be honored by this vital water resources project.

I urge passage of the bill.●

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 5(b), rule I, the Chair announces that he will postpone further proceedings today on each question of passing bills in the Consent Calendar on a recorded vote, or where the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV. Such rollcall votes, if postponed, will be taken at the end of the day.

Pursuant to clause 5, rule VI, the Chair announces that further proceedings on this question will be postponed. The point of no quorum is considered withdrawn.

The Clerk will call the next bill on the Consent Calendar.

S. W. TAYLOR MEMORIAL PARK

The Clerk called the bill (H.R. 4131) to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Alabama, to the "S. W. Taylor Memorial Park."

There being no objection, the Clerk read the bill as follows:

H.R. 4131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the China Bluff Access Area which is being constructed by the Army Corps of Engineers as part of the Gainesville lock and dam portion of the Tennessee-Tombigbee Waterway project and which is located near Warsaw in Sumter County, Alabama, shall hereafter be known as the S. W. Taylor Memorial Park. Any reference in any law, map, regulation, document, record, or other part of the United States to the China Bluff Access Area shall be held to be a reference to the S. W. Taylor Memorial Park.

● Mr. JOHNSON of California. Mr. Speaker, H.R. 4131 will change the name of the China Bluff access area of the Tennessee-Tombigbee Waterway, to S. W. Taylor Memorial Park.

The land for the S. W. Taylor Park was, prior to its sale to the Federal Government, part of the Old Taylor Plantation and now sits adjacent to the Taylor family cemetery which will be preserved and appropriately fenced. The naming of the park in the memory of S. W. Taylor has been urged by resolution of the Sumter County Board of Commissioners and will stand as a tribute to his important place in the community.

I urge passage of the bill.●

● Mr. ROBERTS. Mr. Speaker, the purpose of H.R. 4131 is to change the name of the China Bluff access area, being constructed as part of the Tennessee-Tombigbee Waterway, to S. W. Taylor Memorial Park.

The Tennessee-Tombigbee Waterway will extend from the Demopolis lock and dam on the Black Warrior-Tombigbee Waterway, 213 miles above Mobile, to the Pickwick Reservoir on the Tennessee River near the common boundary of Arkansas, Tennessee, and Mississippi, a distance of 232 miles. Construction was initiated at the Gainesville lock and dam, the lowermost structure on the Tombigbee River, in the fall of 1972 and completed in January 1977.

This bill would name land purchased for this part of the project in honor of a member of the family which resided there prior to the sale. In this way, the contribution of S. W. Taylor and his family to this vital project will be recognized.

I urge passage of the bill.●

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

SARDIS LAKE

The Clerk called the bill (H.R. 4645) to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, to Sardis Lake.

There being no objection, the Clerk read the bill as follows:

H.R. 4645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1187), shall hereafter be known as "Sardis Lake". Any law, regulation, map, document, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake as "Sardis Lake".

● Mr. ROBERTS. Mr. Speaker, H.R. 4645 would change the name of Clayton Lake in Oklahoma to Sardis Lake. The Clayton Lake project, authorized by the Flood Control Act of 1962, is a unit in the plan for the control of floods in the Kiamichi River basin. Construction of the project was commenced in August 1975 and is proceeding toward completion. The project will serve the purposes of flood control, water supply, and recreation. An optimum yield of 140 million gallons per day for municipal and industrial water supply will be developed by the project. In addition, it will provide 230,000 annual user days of recreation.

The name change will avoid confusion between this lake and a non-Corps of Engineers lake a few miles away. It would honor the town of Sardis, Okla., and is in accord with the desires of the residents of the area.

I urge passage of the bill.●

● Mr. JOHNSON of California. Mr. Speaker, the purpose of H.R. 4645 is to name Clayton Lake, which is part of the flood control project for the Clayton and Tuskahoma Reservoirs in Oklahoma, Sardis Lake. The present name for the lake causes confusion because of the presence of another Clayton Lake which is operated only 5 miles away by the State of Oklahoma. At a public meeting held in Clayton, Okla., the name of Sardis Lake was chosen as a new name for the lake. The choice is a particularly fitting one because the town of Sardis, Okla., was moved out of the lake area as part of the project relocation requirements. The name change would thus commemorate that town and would be in accord with local desires.

I urge passage of the bill.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN

The Clerk called the bill (H.R. 4941) to name a dam and reservoir on the San Gabriel River, Tex., as the "North San Gabriel Dam" and "Lake Georgetown," respectively.

There being no objection, the Clerk read the bill as follows:

H.R. 4941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the dam on the San Gabriel River near Georgetown, Texas, authorized by section 203 of the Flood Control Act of 1962, shall hereafter be known and designated as the "North San Gabriel Dam", and the reservoir to be created by such dam shall hereafter be known and designated as "Lake Georgetown". Any law, regulation, document, or record of the United States in which such dam or reservoir is referred to shall be held to refer to such dam as the "North San Gabriel Dam" and to such reservoir as "Lake Georgetown".

● Mr. JOHNSON of California. Mr. Speaker, H.R. 4941, will name the dam and reservoir located on the north fork of the San Gabriel River in Williamson County, Tex., the North San Gabriel Dam and Lake Georgetown, respectively.

The two names are supported by the residents of the area. designating the dam as North San Gabriel Dam will accurately identify it in reference to its location. Similarly, it is appropriate that the reservoir be named Lake Georgetown in honor of the city of Georgetown. Georgetown is the nearest town to the lake—approximately 3.5 miles—as well as being the seat of Williamson County.

I urge passage of the bill.●

● Mr. ROBERTS. Mr. Speaker, H.R. 4941 would name the dam and reservoir on the San Gabriel River, Tex., the North San Gabriel Dam and Lake Georgetown, respectively. The dam is part of a sytem of three reservoirs in the central portion of the Brazos River Basin, and was authorized by the Flood Control Act of 1965. Construction of the project began in October 1972 and was 91 percent complete as of January 1, 1980.

The names established by this bill will accurately identify the lake and the dam and are supported by the city council of the nearby city of Georgetown.

I urge passage of the bill.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

R. SHAEFER HEARD PARK

The Clerk called the bill (H.R. 6243) to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Ga., shall hereafter be known and designated as the "R. Shaefer Heard Park."

There being no objection, the clerk read the bill as follows:

H.R. 6243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the East Lake Park, located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafer be known and designated as the "R. Shaefer Heard Park".

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to such park shall be deemed to be a reference to such park as the "R. Shaefer Heard Park".

● Mr. ROBERTS. Mr. Speaker, H.R. 6243, as reported by the committee, provides that the park referred to as the East Lake Park, located within the West Point Lake project on the Chattahoochee River, Ga., shall be designated the R. Shaefer Heard Park.

It is fitting and suitable that this park located within the West Point project be named in honor of Mr. Heard. Mr. Heard was a tireless advocate and proponent of the West Point Dam and Reservoir. He was the first president of the middle Chattahoochee River Development Association, and throughout his tenure Mr. Heard endeavored to mobilize public support for the West Point Dam project, as well as bring to Federal attention the necessity for such a project.

I urge passage of the bill.●

● Mr. JOHNSON of California. Mr. Speaker, H.R. 6243 changes the name of the East Lake Park within the West Point Lake project on the Chattahoochee River, to the R. Shaefer Heard Park.

R. Shaefer Heard was instrumental in seeing West Point Dam and Lake become a reality through untold years of intensive effort. It was in large measure due to his drive and ceaseless determination that the project was conceived and brought to fruition. It is therefore fitting that the park be named in his honor. The name change is supported by the community and will stand as a tribute to a citizen who gave his best for the city and area which he loved.

I urge passage of the bill.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CLARKS HILL DAM AND LAKE

The Clerk called the Senate bill (S. 1895) to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake".

There being no objection, the Clerk read the Senate bill as follows:

S. 1895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Los Esteros Dam in New Mexico, authorized by Public Law 83–780, shall hereafter be identified and known as the Santa Rosa Dam and Lake.

SEC. 2. The Clark Hill Dam and Lake, Georgia and South Carolina, project, authorized by Public Law 534, Seventy-eighth Congress, approved December 22, 1944, shall hereafter be known and designated as "Clarks Hill Dam and Lake". Any reference in any law, regulation, map, document, record or other paper of the United States to such dam and lake, shall be held and considered to be a reference to "Clarks Hill Dam and Lake".

● Mr. JOHNSON of California. Mr. Speaker, S. 1895 will change the name of the Los Esteros Dam in New Mexico to the Santa Rosa Dam and Lake, and change the name of Clark Hill Dam and Lake to Clarks Hill Dam and Lake.

Mr. Speaker, the rationale for these two changes is quite simple and compelling. In both cases, the new names will give these dams and lakes accurate geographical identifications. As for the Los Esteros Dam, that name has no cultural, historical, or geographic significance. By changing the name to the Santa Rosa Dam and Lake, the project will be associated with the nearest town and thus be more easily identified. As for the Clark Hill Dam and Lake, the change would correct a long-standing error that resulted from the omission of an "s" from the word "Clarks" when Congress authorized this Corps of Engineers project over 35 years ago. The name of the lake will now conform to the name of Clarks Hill, S.C.

I urge passage of this bill.●

● Mr. ROBERTS. Mr. Speaker, S. 1895 would accomplish two purposes: First, it would change the name of the Los Esteros Dam, N. Mex., to the Santa Rosa Dam and Lake; and second, it would designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as the Clarks Hill Dam and Lake.

The Los Esteros Dam was authorized by Public Law 83–780 and the U.S. Army Corps of Engineers will complete it in the near future. Changing the name to Santa Rosa Dam and Lake will associate the project with the nearest town and thereby substitute a meaningful name for one which bears no relation to the project or the region.

The Clark Hill Dam and Lake was authorized by Public Law 78–534 and is located on the Savannah River between South Carolina and Georgia, near the community of Clarks Hill. The change will conform the name of the lake and dam to that of the community.

I urge passage of the bill.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENDING PROVISIONS OF GENERAL EXCHANGE ACT TO UMATILLA AND WALLOWA NATIONAL FORESTS

The Clerk called the Senate bill (S. 2398) to extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forests, and for other purposes.

There being no objection, the Clerk read the Senate bill as follows:

S. 2398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of March 20, 1922 (42 Stat. 465, as amended), are hereby extended to the following described lands: Willamette meridian—township 3 north, range 36 east, section 13, that part of the east half of the southeast quarter and of the south half of the southwest quarter of the southeast quarter lying south of the Umatilla River; section 21, that part of lot 3 lying south of the Umatilla River, lot 4 and southeast quarter of the southeast quarter; section 22, those parts of lots 9, 10, 11, and 12 lying south of the Umatilla River, lots 13, 14, 15 and 16; section 23, that part of the north half and the north half of the southwest quarter lying south of the Umatilla River, and southwest quarter of the southwest quarter, and the north half of the southeast quarter; section 24, that part of lots 3 and 4 lying south of the Umatilla River, lots 5 and 6; section 28, lots 1 and 2, east half of the northeast quarter.

Township 2 north, range 41 east,
section 26;
section 35, east half;
section 36.
Township 5 south, range 32 east,
section 29, southwest quarter of the southeast quarter.

SEC. 2. Lands conveyed to the United States under section 1 of this Act shall, upon acceptance of title, become parts of the Umatilla and Wallowa National Forests and shall be subject to the laws, rules, and regulations applicable thereto.

SEC. 3. The Act of March 4, 1925 (43 Stat. 1279), is hereby amended to exclude the following described lands:

Willamette Meridian

Township 4 north, range 41 east,
section 9, east half, northwest quarter of the northwest quarter, south half of the northwest quarter and the southwest quarter;
sections 10 to 17 inclusive;
sections 20 to 29 inclusive;
section 32, east half and east half of the west half;
sections 33, 34, 35, and 36.
Township 4 north, range 42 east,
sections 19 to 36 inclusive.
Township 3 north, range 40 east,
sections 13, 24, 25, and 36.
Township 3 north, range 41 east.
Township 3 north, range 42 east.
Township 2 north, range 40 east,
section 1, north half.
Township 2 north, range 41 east,
sections 1 to 17 inclusive.
Township 2 north, range 42 east,
sections 1 to 12 inclusive.
Township 3 south, range 37 east,
sections 28, 29, and 30.
Township 3 south, range 45 east,
sections 13, 14, and 15.
Township 3 south, range 46 east,
section 18.
Township 4 south, range 38 east,
section 26.

SEC. 4. The Act of June 19, 1936 (49 Stat. 1534), is hereby amended to exclude the following described lands:

Willamette Meridian

Township 3 south, range 37 east,
sections 1, 2, 3, 4, 5, the west half, the south half southeast quarter, the north half northeast quarter, and the southeast quarter northeast quarter section 7; the east half, the northwest quarter, the east half southwest quarter, and the southwest quarter southwest quarter section 8, sections 9 to 24 inclusive, and sections 29 and 30.

SEC. 5. The Act of June 17, 1940 (54 Stat. 402), is hereby amended to exclude the following described lands:

Willamette Meridian

Township 1 south, range 39 east,
section 12, south half.
Township 1 south, range 40 east,
sections 3, 4, and 5;
section 6, south half;
sections 7, 8, 9, and 10.
Township 4 south, range 38 east,
sections 11, 14, and 23.
Township 6 south, range 38 east,
sections 17, 20, 29, and 32.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING CONVEYANCE OF ANY RIGHT, TITLE, OR INTEREST WHICH UNITED STATES MAY HAVE IN CERTAIN REAL PROPERTY IN STATE OF UTAH

The Clerk called the bill (H.R. 6309) to provide for the conveyance of any right, title, or interest which the United States may have in certain real property in the State of Utah to the owners of the adjacent properties.

There being no objection, the Clerk read the bill as follows:

H.R. 6309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall convey by quitclaim deed, without consideration, to the owners of properties adajcent to the real property described in section 2 any right, title, or interest which the United States may have in and to such property.

SEC. 2. The real property referred to in the first section consists of 690 acres, more or less, in the State of Utah between Interstate 15 Freeway and Provo Airport, from the meander line of Utah Lake to the proposed University Avenue Interstate 15 airport access road, and is more particularly described as follows:

Commencing at a point on the west right-of-way line of Interstate 15 at Engineer Station 31 + 23.02 on curve H–2, said point being south 4,235.92 feet and east 6,641.79 feet from the north quarter corner of section 14, township 7 south, range 2 east, Salt Lake Base and meridian;

thence 505.84 feet along the arc of a 400-foot radius curve to the right (central angle 72 degrees 27 minutes 22 seconds chord bearing south 8 degrees 00 minutes 27 seconds west 472.80 feet);

thence south 44 degrees 14 minutes 08 seconds west 8.56 feet;

thence 514.52 feet along the arc of a 670-foot radius curve to the right (central angle 44 degrees chord bearing south 66 degrees 14 minutes 08 seconds west 501.97 feet):

thence south 88 degrees 14 minutes 08 seconds west 2,713.47 feet;

thence 289.46 feet along the arc of a 1,070-foot radius curve to the right (central angle 15 degrees 30 minutes chord bearing north 84 degrees 00 minutes 52 seconds west 288.58 feet);

thence north 76 degrees 15 minutes 52 seconds west 6,764.48 feet;

thence 391.84 feet along the arc of a 1,070-foot radius curve to the right (central angle 20 degrees 58 minutes 56 seconds chord bearing north 65 degrees 46 minutes 24 seconds west 389.66 feet);

thence north 55 degrees 16 minutes 56 seconds west 3,261.66 feet;

thence 172.04 feet along the arc of a 1,070-foot radius curve to the right (central angle 98 degrees 12 minutes 44 seconds chord bearing north 50 degrees 40 minutes 34 seconds west 171.85 feet);

thence north 64 degrees 04 minutes 12 seconds west 1,182.23 feet;

thence 876.47 feet along the arc of a 1,070-foot radius curve to the right (central angle 46 degrees 55 minutes 58 seconds chord bearing north 22 degrees 36 minutes 18 seconds west 852.17 feet);

thence north 0 degrees 51 minutes 46 seconds east 1,818.71 feet more or less to the meander line of Utah Lake;

thence south 68 degrees 15 minutes 00 seconds east 1,771.98 feet along said meander line;

thence south 57 degrees east 1,650 feet along said meander line;

thence south 41 degrees 30 minutes east 957 feet along said meander line more or less to the meander corner on the north line of section 15, township 7 south, range 2 east;

thence south 66 degrees 15 minutes east 1,485 feet along said meander line more or less to the meander corner on the east line of section 15, township 7 south, range 2 east;

thence south 41 degrees 30 minutes east 1,650 feet along said meander line;

thence south 35 degrees east 1,155 feet along said meander line;

thence south 68 degrees east 792 feet along said meander line;

thence south 82 degrees east 1,716 feet along said meander line;

thence north 88 degrees 30 minutes east 1,089 feet along said meander line more or less to the meander corner on the east line of section 14, township 7 south, range 2 east;

thence north 85 degrees east 1,386 feet along said meander line;

thence north 70 degrees east 2,310 feet along said meander line;

thence north 87 degrees 30 minutes east 214.61 feet along said meander line more or less to the west right-of-way line of Interstate 15;

thence south 31 degrees 42 minutes 12 seconds east 510.91 feet along the west line of Interstate 15;

thence south 27 degrees 57 minutes 34 seconds west 158.91 feet along the west line of Interstate 15;

thence 466.64 feet along this arc of a 1,317.24-foot radius curve to the left (central angle 19 degrees 23 minutes 57 seconds chord bearing south 18 degrees 35 minutes 50 seconds west 464.42 feet) along the west line of Interstate 15;

thence south 0 degrees 52 minutes east 233.94 feet along the west line of Interstate 15; and

thence 648.24 feet along the arc of a 1,358.24-foot radius curve to the left (central angle 27 degrees 20 minutes 43 seconds chord bearing south 14 degrees 32 minutes 53 seconds east 642.11 feet) along the west line of Interstate 15 to the point of beginning more or less.

With the following committee amendment:

Page 6, after line 3, insert the following:

SEC. 3. The lands described in section 2 shall be subject to the right of the Secretary of the Interior to establish without compensation to such owners of the lands after the conveyance required in the first section, such reasonable rights-of-way and easements as are necessary to construct, reconstruct, operate, and maintain dikes and appurtenant facilities necessary for the Central Utah Project.

SEC. 4. The City of Provo, or the new owners of the lands transferred by the first section of this bill, shall assume the responsibility for pumping surface or subsurface drainage waters over any dikes constructed as features of the Provo Bay land development of the Central Utah Project.

SEC. 5. There is reserved to the United States all oil, coal, other minerals, and geothermal resources in the lands described in section 2 of this Act, together with the right to prospect for, mine and remove such oil, coal, other minerals, or geothermal resources under such rules and regulations as the Secretary of the Interior may prescribe.

SEC. 6. As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall cause to be prepared a map and legal description of each change in landownership status effected by this Act, and shall publish such map and legal description in a newspaper of general circulation in the County of Utah or City of Provo, Utah: *Provided* that the Secretary may correct clerical and typographical errors in such legal description and map.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THREE AFFILIATED TRIBES OF FORT BERTHOLD RESERVATION TO FILE CLAIMS AGAINST UNITED STATES

The Clerk called the Senate bill (S. 341) to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes.

There being no objection, the Clerk read the Senate bill as follows:

S. 341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Three Affiliated Tribes of the Fort Berthold Reservation within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the nine million eight hundred and forty-six thousand one hundred eighty-six and ninety-three one-hundredths acres of land defined as the territory of the Three Affiliated Tribes in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Three Affiliated Tribes of the Fort Berthold Reservation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $4,923,093.47 in Fort Berthold Indians versus United States (71 Ct. Cl. 308) (1930) (hereinafter "prior case"): *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n–1–7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the

Commission shall be deemed to be to the Court of Claims.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING BLACKFEET AND GROS VENTRE TRIBES TO FILE CLAIMS AGAINST UNITED STATES

The Clerk called the Senate bill (S. 1795) to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes.

There being no objection, the Clerk

S. 1795

read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding section 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25, U.S.C 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Blackfeet and Gros Ventre Tribes within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the twelve million two hundred and sixty-one thousand seven hundred forty-nine and seventy-six one-hundredths acres of land defined as the territory of the Blackfeet and Gros Ventre Tribes in the Treaty of October 17, 1855 (11 Stat. 657) to which the Blackfeet and Gros Ventre Tribes and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $6,130,874.88 in Blackfeet and other Nations versus United States (81 Ct. Cl. 101) (1935) (hereinafter "prior case"): *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be the Court of Claims.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING ASSINIBOINE TRIBE TO FILE CLAIMS AGAINST UNITED STATES

The Clerk called the Senate bill (S. 1796) to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes.

There being no objection, the Clerk read the Senate bill as follows:

S. 1796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Not withstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Assiniboine Nation or Tribe within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the six million four hundred and seventy-seven thousand nine hundred and forty acres of land defined as the territory of the Assiniboine Nation in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Assiniboine Nation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $3,238,970 in Assiniboine Indian Tribe versus United States (77 Ct. Cl. 347) (1933), appeal dismissed and certiorari denied (292 U.S. 606) (1934) (hereinafter "prior case"): *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. In calculating any award due claimant, the Court shall treat the amount of $2,492,319, that portion of offsets in the prior case that represents the tribe's own funds, as if that sum had not been offset in the prior case. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

With the following committee amendment:

Page 3, line 5, strike "case." and insert "case: *Provided further*, That the court shall give appropriate credit to the United States for that portion of the $2,492,319, to wit the amount of $1,242,796 paid to the tribe by the Act of January 8, 1971, 84 Stat. 1981, in satisfaction of the judgment of the Indian Claims Commission in Assiniboine Tribes v. United States, No. 279A, affirmed 192 Ct. Cl. 679, 1970."

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELATING TO CERTAIN LEASES INVOLVING SECRETARY OF INTERIOR AND NORTHERN CHEYENNE INDIAN RESERVATION

The Clerk called the Senate bill (S. 2126) relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation.

There being no objection, the Clerk read the Senate bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) certain mineral leases and prospecting permits entered into between the Northern Cheyenne Tribal Council and private parties in 1969, 1970, and 1971, presently encumber approximately 56 per centum of the lands within the boundaries of the Northern Cheyenne Indian Reservation;

(2) due to the likelihood of permanent and large-scale physical and social disruption of their tribal community that would result from development under such leases and permits, the Northern Cheyenne Indian Tribe has been and continues to be opposed to any development under these leases and permits;

(3) although such leases and permits were approved by representatives of the Secretary of the Interior, there are serious questions whether such approval is lawful and consistent with the trust responsibility of the Secretary of the Interior to "act in the best interests" of Indian tribes and individuals;

(4) the present impasse with regard to such leases and permits, unless resolved, can only result in expensive and time-consuming litigation that does not hold out the likelihood of a satisfactory solution that would be fair to all parties; and

(5) cancellation of such leases and permits, and providing a fair remedy to any party or parties whose property interests, invested in good faith, would be adversely affected by such cancellation, appears to be the most direct and effective manner within which to resolve this impasse.

SEC. 2. For the purpose of entering into a cancellation agreement under section 3 of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to negotiate with the Northern Cheyenne Tribe and each party holding a lease, permit, or right to a lease issued under the provisions of the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a), as follows:

Name of companies	Document Nos.	Document dates
LEASES		
Peabody Coal Co	14-20-0257-897	Nov. 17, 1970
	14-20-0257-899	Do.
	14-20-0257-900	Do.
	14-20-0257-901	Do.
	14-20-0257-902	Do.
	14-20-0257-903	Do.
PERMITS		
Peabody Coal Co	C-57-P-30	Aug. 18, 1969
	C-57-P-31	Do.
	C-57-P-32	Do.
Bruce L. Ennis (now assigned to Chevron Oil).	C-57-P-42	May 21, 1971
Bruce L. Ennis	C-57-P-45	June 14, 1971
Norsworthy & Reger, Inc	C-57-P-46	Do.
	C-57-P-47	Do.
Consolidation Coal Co	C-57-P-43	May 21, 1971
Meadowlark Farms, Inc. (subsidiary of AMAX, Inc.).	C-57-P-40	Do.
	C-57-P-41	Do.
	C-57-P-44	Do.

SEC. 3. (a) With respect to any lease, permit, or right to a lease referred to in section 2 of this Act, the Secretary is authorized to execute a cancellation agreement under which the Secretary, the Northern Cheyenne Tribe, and the party holding such lease, permit, or right to a lease agree in writing that such lease, permit, or right to a lease is canceled and under which such party shall be issued:

(1) a noncompetitive lease or leases for such federally owned coal deposits which for the foreseeable future are unlikely to be separately mined efficiently or economically except by incorporation into an existing mining unit controlled by such party, and for the surface of public lands containing such deposits, as may be agreed upon by the Secretary and such party. Such lease or leases shall be issued at the fair market value provided for in subsection (c) of this section only after a determination by the Secretary that such deposits and lands are acceptable for further consideration for coal leasing: *Provided*, That such cancellation agreement shall also provide that if, after further consideration, the Secretary determines that all or any part of such deposits or lands are not acceptable for coal leasing, such party shall be issued a certificate of bidding rights that may be used to acquire Federal coal leases at competitive sales. Such bidding rights shall have a value equal to the amount of the actual cash investment, plus interest on such investment compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease to be canceled under such cancellation agreement, multipled by the percentage of the otherwise recoverable tonnage of any coal deposits for which the party does not, by reason of such determination by the Secretary, receive a lease under this subsection; or,

(2) a certificate of bidding rights that may be used to acquire Federal coal leases at competitive sales. Such bidding rights shall have a value equal to the amount of the actual cash investment, plus interest on such investment compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease to be canceled under such cancellation agreement.

(b) A determination by the Secretary under subsection (a)(1) of this section shall be final.

(c) Any noncompetitive lease issued under subsection (a)(1) of this section shall be valued at a sum equal to fair market value, as determined by the Secretary. Any bonus due may be reduced by an amount equal to so much of the investment and interest on such investment, compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease, to be canceled under this section as the Secretary may consider appropriate.

(d) Any lease issued under subsection (a)(1) of this section shall, except as provided in this Act, be issued under, and be subject to the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

SEC. 4 (a) With respect to any lease referred to in section 2 of this Act, any cancellation agreement entered into pursuant to section 3 of this Act shall be valid only if executed in writing, before November 1, 1980, by the Secretary, the Northern Cheyenne Tribe, and the party holding the lease. If such cancellation agreement is not so executed, such lease shall be canceled on November 1, 1980.

(b) With respect to any permit or right to a lease referred to in section 2 of this Act, any cancellation agreement entered into pursuant to section 3 of this Act shall be valid only if executed in writing, on or before January 1, 1982, by the Secretary, the Northern Cheyenne Tribe, and the party holding the permit or right to a lease. If such cancellation agreement is not so executed, such permit or right to a lease shall be canceled upon the expiration of a period ending ninety days after any date on which the Secretary, the Northern Cheyenne Tribe, and such party agree in writing that negotiations under section 2 of this Act are at an impasse, or on January 1, 1982, whichever occurs first.

(c) If any lease, permit, or right to a lease is canceled under subsection (a) or (b) of this section, the United States Court of Claims shall have jurisdiction to render judgment on any claim against the United States arising out of such cancellation.

SEC. 5. (a) Execution of any cancellation agreement under section 3 of this Act shall extinguish any claim or liability that may otherwise arise in connection with the lease, permit, or right to a lease canceled under such agreement.

(b) With respect to any lease, permit, or right to a lease canceled under section 4 of this Act, nothing in this Act shall establish or extinguish any claim or liability that may arise in connection with such lease, permit, or right to a lease so canceled.

SEC. 6. Not later than March 1, 1982, the Secretary shall report to the Congress on the implementation of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the eligible bills on the Consent Calendar.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bills just passed on the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to dispense with business in order under the Calendar Wednesday rule on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST TO MEET AT 10 A.M. ON TUESDAY, SEPTEMBER 30, 1980

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at 10 a.m. tomorrow, Tuesday, September 30, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WEAVER. Mr. Speaker, reserving the right to object, is that to meet at 10 a.m. tomorrow?

The SPEAKER. That is correct.

Mr. WEAVER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST TO MAKE IN ORDER THE CALL OF THE PRIVATE CALENDAR ON TUESDAY, SEPTEMBER 30, 1980

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that it may be in order to call the Private Calendar on Tuesday, September 30, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman could withhold that. Those of us who are private objectors have not discussed it at all. Usually, we do get the bills in advance.

The SPEAKER. The gentleman will withhold his request.

REQUEST TO MAKE IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 610, CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order tomorrow or any day thereafter to consider the conference report on the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year ending September 30, 1981.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I understand that if this joint resolution is not passed by midnight tomorrow night, the agencies will run out of legal authority. I am not going to object, but I would like a guarantee from the chairman that we could at least have some written copies to see what this continuing resolution may contain, because I understand the other body is seeking to attach a lot of extraneous amendments to it.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, may I say to my colleague that I may be optimistic in asking for the unanimous-consent request, but as the gentleman knows, I have hopes of getting this up. Certainly the membership would be entitled to have written whatever is available in the event we reach an agreement. I add to what the gentleman has said for the record, under the Attorney General's opinion not only would they run out of money tomorrow night, but it would be illegal to open Federal offices.

□ 1220

Mr. BAUMAN. There would be no Government if we do not act by midnight tomorrow night? That is a very tempting proposition the gentleman is laying before the gentleman from Maryland.

Mr. WHITTEN. Mr. Speaker, the main thing when we reach agreement is to provide the information in written form and make it available to the membership as soon as possible. At least we will have the consent in case we reach agreement.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Mississippi (Mr. WHITTEN), and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 26, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from The White House, received in the Office of the Clerk at 12:45 p.m. on Friday, September 26, 1980, and said to contain a message from the President wherein he transmits the report of the White House Conference on Libraries and Information Services and his recommendations on public access to information.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk,
House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

REPORT OF THE WHITE HOUSE CONFERENCE ON LIBRARIES AND INFORMATION SERVICES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of Friday, September 26, 1980.)

REPORT OUTLINING PLANS FOR UNITED STATES' PARTICIPATION AND SUPPORT OF SCIENTIFIC AND TECHNOLOGICAL ACTIVITIES INVOLVING EGYPT AND ISRAEL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, Monday, September 29, 1980.)

TENTH REPORT OF THE UNITED STATES SINAI SUPPORT MISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, Monday, September 29, 1980.)

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 610, CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, renewing my unanimous-consent request, I ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider the conference report on the House joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year ending September 30, 1981.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7592, MILITARY CONSTRUCTION APPROPRIATION, 1981

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 7592, MILITARY CONSTRUCTION APPROPRIATION, 1981

Mr. McKAY. Mr. Speaker, I ask unanimous consent that it be in order on today or any day thereafter to consider the conference report on the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

REPORT ON RESOLUTION AUTHORIZING PRINTING OF STATEMENTS IN TRIBUTE TO THE LATE MAMIE DOUD EISENHOWER

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–1421) on the resolution (H. Res. 759) authorizing the printing of a collection of statements made in tribute to the late Mamie Doud Eisenhower, which was referred to the House Calendar and ordered to be printed.

REPORT ON HOUSE CONCURRENT RESOLUTION AUTHORIZING PRINTING OF REVISED EDITION OF "THE CAPITOL"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–1422) on the House concurrent resolution (H. Con. Res. 413) to authorize the printing as a House document of a revised edition of "The Capitol," which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION AUTHORIZING PRINTING OF ADDITIONAL COPIES OF "THE SENATE CHAMBER, 1810–1859" AND "THE SUPREME COURT CHAMBER, 1810–1860"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–1423) on the Senate concurrent resolution (S. Con. Res. 123) authorizing the printing of additional copies of the booklets entitled "The Senate Chamber, 1810–1859" and "The Supreme Court Chamber, 1810–1860," which was referred to the House Calendar and ordered to be printed.

NATIONAL DAY OF PRAYER

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, I note with great pleasure that the President has proclaimed Monday, October 6, as a National Day of Prayer.

Although we may conduct our prayers in a variety of ways, on different days and in different times of need, I believe that we all need prayer; whether it is by quiet contemplation at home, or in the organized setting of a church, synagogue, mosque, or temple.

Our lives have become cluttered by so many different things, our time divided among so many competing claimants, our brains bombarded by so much rhetoric, that I welcome the opportunity for encouragement to commune with my Maker. The designation of a National Day of Prayer will provide this opportunity. As Americans, we have a great deal to be thankful for. Unfortunately, it is only on rare occasions that most of us thank our God for what He has given us.

This Day of Prayer should also be used to remember our fellow Americans still held hostage in Iran. We are rapidly approaching the first anniversary of their captivity. I hope that all of us will remember them in our prayers, especially this next Monday and ask for their speedy and safe return home.

STEALTH LEAK HELPS SOVIETS

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, Republican Members of Congress have repeatedly taken the well in this Chamber to warn the American public of the dangers inherent in reelecting a President who would leak secret military information in order to advance his own political future. Just as repeatedly, the Carter administration has claimed that we were the ones playing politics.

Well, Mr. Speaker, the question can be ended by quoting from Anatoly Fedoseyev, a Russian electronic engineer who defected to the United States after having won the Lenin Prize and other high Soviet decorations for his inventions and scientific work over the weekend. Dr. Fedoseyev said that Soviet scientists would undoubtedly be spurred to renewed efforts by official confirmation of press leaks regarding the Stealth program. He said, "It will shorten the time," of Soviet countermeasures.

So, Mr. Speaker, it is not Republicans, but rather the Carter administration that is playing politics with the security of the United States.

CARTER ADMINISTRATION POLICIES HAVE ENDANGERED WORLD PEACE

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the Carter administration's unstable and untrustworthy foreign policy is certainly demonstrated by events which led to war between Iraq and Iran.

It was the Carter administration's withdrawal of support from the Shah of Iran that allowed the revolutionary Khomeini regime to come to power.

It has been almost a full year since the Khomeini-sanctioned imprisonment of American diplomatic hostages in Iran, yet in that time the Carter administration has failed to accomplish any economic or other sanctions in concert with our allies that would result in the freeing of the hostages or respect for Western governments.

The Carter administration's untrustworthy foreign policy helped create instability in the region that contributed measurably to the eruption of open war between Iraq and Iran.

The result has been to enhance Soviet opportunities in the Middle East and Persian Gulf, to threaten massive disruption of oil supplies vital to the United States and our allies, and to endanger world peace.

DISASTERS IN DEFENSE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, there was more bleak news about the Nation's defenses today in the New York Times.

Just let me read you the opening paragraph of the story.

> Only six of the Navy's 13 aircraft carriers, the world's mightiest warships, were rated ready for combat this month, according to a confidential fleet readiness report dated September 15.

Bad news? The rest of the story made that sound good.

The story also said that 61 air squadrons; 82 tactical squadrons, and 12 squadrons of the Strategic Air Command were also unfit. Three surface ships now at sea were not ready to fight.

We already know that 6 out of 10 Army divisions in the continental United States are unfit for combat.

How does the administration respond to these facts? In desperation, they release secret information about Stealth that damages our own national security.

The Carter administration has become a threat to the national security of this country. We need a new system of civil defense to protect us from ourselves. And President Carter has the audacity to imply that Ronald Reagan is a warmonger. Let me tell you, there is no quicker way to get us into war than to completely destroy our ability to defend ourselves.

JIMMY CARTER IS THE BIG SPENDER

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I was amused to listen to a couple of speakers from California a few moments ago, telling about the increased spending in California during the tenure of Ronald Reagan as Governor.

You know, listening to their figures, even if they were true, I would have to say that he was sort of a piker, when you compare the spending during the last 3½ years of Jimmy Carter. We have seen the spending of this Government under Jimmy Carter increase by over $200 billion annually. When he took office, our spending was about $400 billion a year, and now we are looking at a budget of $636 billion for fiscal year 1981.

Now, I say that is real spending, an increase of over $200 billion from 1977 to 1980 and a projected increase to $636 billion in fiscal year 1981. When my Democrat colleagues look at this spending record, I think they will wish they had not mentioned Governor Reagan.

NATIONAL PATRIOTISM WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 82) to designate the week commencing with the third Monday in February of each year as "National Patriotism Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ANDERSON of California. Mr. Speaker, reserving the right to object, though I shall not, I would like to take this opportunity to thank the gentleman from New York (Mr. GARCIA), chairman of the subcommittee, for his expeditious handling of this legislation and to express my gratitude to the 228 other Members who have cosponsored this significant resolution.

Mr. Speaker, I rise in support of a similar House Joint Resolution 511, which would designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week."

Designation of National Patriotism Week was first suggested to me by a young Scottsdale, Ariz., woman, Lori Cox, when she observed that many of her peers in school could not write the words to the Pledge of Alligiance or our Nation's national anthem. Lori launched her own campaign and formed the National Patriotism Week Committee of Arizona. Through her efforts the State of Arizona enacted its own legislation for National Patriotism Week. I might add that for 3 consecutive years—1978, 1979, and 1980—the National Patriotism Week Committee of Arizona has presented youth seminars involving over 1,500 high school students from throughout the State. To describe these seminars as "successful" is not enough. Direct spinoffs of the seminars included patriotic school assemblies, flag ceremonies, community and campus cleanups, and fundraisers to assist the sick, elderly, and underprivileged.

While our Nation's patriotic history is currently focused only during Fourth of July ceremonies, the establishment of this resolution is unique in that it designates National Patriotism Week to occur during the school session. Young persons all across the country will now be afforded the opportunity to center their attention on American patriotism, and what it means to them, during the school year, with hopes of developing a new pride and respect for America.

Since 1776 Americans have sounded the plea for a patriotic bond of unity time and again. And, I feel that Americans from coast to coast are once again looking to revitalize such patriotic unity. I have been glad to see this recent resurgence of patriotism as a result of events abroad and at home. The establishment of National Patriotism Week would do much to encourage public demonstrations of such patriotic feelings and would give Americans an excellent chance to show just how proud they are of the United States and of what it represents.

● Mr. RHODES. Mr. Speaker, House Joint Resolution 511 designates the third week in February as National Patriotism Week. The purpose of this resolution is to provide our young citizens with a special opportunity to increase their understanding of the principles of freedom and democracy, and the love of country that all Americans should cherish and nurture.

The resolution would encourage, but not require, primary and secondary schools to use an appropriate curriculum for patriotism week and there are numerous private organizations which have already committed themselves to assist during this week. The programs encouraged by this resolution will be much more effective and can have greater impact during the school year when young people are gathered together in an academic atmosphere.

Designation of a National Patriotism Week was first suggested to me by Miss Lori Cox of Scottsdale, Ariz., when she was a high school student in my district. Lori has voiced the view that there is an absence of an organized, positive effort to nurture the budding patriotism of school children and that a National Patriotism Week would correct this situation.

I think you will agree that this measure provides for an excellent opportunity for young Americans to express publicly their pride and faith in our great country. I urge my colleagues to support this resolution.●

● Mr. DERWINSKI. Mr. Speaker, I rise in support of Senate Joint Resolution 82 to designate the third Monday in February 1981 as "National Patriotism Week."

It gives me a great deal of pleasure and a sincere sense of pride to support a resolution to set aside a week which would reestablish pride, understanding, appreciation, and patriotism for this great Nation.

This resolution would encourage our schools and numerous private organizations to promote and examine the true meaning of patriotism. It would allow time for young Americans to join in patriotic events as part of their total education, as well as a week that would serve as a rallying point for all Americans to reflect a renewed confidence in our country, its principles, and its future.

I ask my colleagues to join me in supporting a resolution which would encourage our schools in the study of the pledge of allegiance, national anthem, our symbols, mottos, heroes, and the accomplishments of this great country.●

Mr. ANDERSON of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 82

Whereas the freedom known in this country was won through great sacrifice and long tribulation; and

Whereas similar sacrifices have been made by the citizenry of the United States to extend liberty and well-being to other nations of the world; and

Whereas it is altogether fitting and proper to recognize such great freedoms, and to honor so great a nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week commencing with the third Monday in February of each year is hereby designated as "National Patriotism Week.

Sec. 2. The President is authorized and requested to issue annually a proclamation—

(1) calling upon the people of the United States to commemorate National Patriotism Week with appropriate celebrations and observances;

(2) encouraging primary and secondary schools to adopt an appropriate curriculum for that week including such elements as the study of the Pledge of Allegiance and the national anthem, national symbols, seals, and mottos, and national monuments, heroes, and accomplishments; and

(3) requesting each Federal agency to recognize such week by taking such action as it may deem appropriate.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Garcia: Page 1, line 4, strike out "each year" and insert "1981" in lieu thereof.

Page 1, line 7, strike out "annually".

The amendment was agreed to.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. Garcia: Amend the title to read as follows:

To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week".

The title amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar joint resolution (H.J. Res. 511) was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Kazen).

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 3, answered "present" 2, not voting 106, as follows:

[Roll No. 595]

YEAS—321

Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Bolling
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burton, John
Butler
Byron
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Dellums
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Hillis
Hinson
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, Md.
Lowry
Lujan
Luken
Lungren
McCormack
McDade

McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrener
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wolff
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—3

Mitchell, Md.
Weaver
Wilson, Bob

ANSWERED "PRESENT"—2

Bonker
Ottinger

NOT VOTING—106

Abdnor
Akaka
Albosta
Ambro
Anderson, Ill.
Applegate
Atkinson
Bafalis
Biaggi
Boggs
Boland
Brademas
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Campbell
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Daschle
Davis, S.C.
Deckard
Derrick
Dickinson
Dodd
Dornan
Dougherty
Downey
Eckhardt
Ferraro
Fish
Ford, Mich.
Frost
Fuqua
Gaydos
Giaimo
Goldwater
Grassley
Grisham
Harkin
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Hutto
Ichord
Jeffries
Jenrette
Johnson, Colo.
LaFalce
Leach, La.
Lewis
Lloyd
Long, La.
Lott
Lundine
McClory
McCloskey
McDonald
Marks
Mathis
Mattox
Miller, Calif.
Moffett
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nolan
Oakar
Paul
Pease
Pepper
Preyer
Quayle
Richmond
Roberts
Rodino
Rose
Roth
Rousselot
Russo
Santini
Satterfield
Seiberling
Shanon
Simon
Staggers
Stark
Thomas
Thompson
Traxler
Trible
Whitehurst
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolpe
Wright
Wydler

☐ 1250

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 885, with Mr. McHUGH in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 24, 1980, the first reading of the bill had been dispensed with.

The gentleman from Texas (Mr. KAZEN) will be recognized for 30 minutes; the gentleman from New Mexico (Mr. LUJAN) will be recognized for 30 minutes; the gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise on behalf of myself and the Committee on Interior and Insular Affairs in support of S. 885—the Pacific Northwest Electric Power Planning and Conservation Act—and urge its favorable consideration by this Committee and the House.

Mr. Chairman, the subject matter addressed by S. 885—the electrical energy problems of the Pacific Northwest—has been under consideration by the Congress for nearly 3 years. Beginning in December 1977 when the subcommittee I now chair—the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs—conducted 5 days of hearings in the Pacific Northwest on similar legislation. the committees of Congress with jurisdiction over this legislation have held a total of 26 hearings on this legislation. Through these hearings, the Congress has had the opportunity to hear the views of literally hundreds of individuals on this topic, including the views of representatives from every conceivable organization and group.

Based on the lengthy record developed pursuant to these hearings, the Senate Committee on Energy and Natural Resources reported an amended version of S. 885 in July of last year and on August 3, 1979, the bill passed the Senate. S. 885 was subsequently jointly referred to both the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce. The Committee on Interstate and Foreign Commerce reported S. 885 with an amendment in the nature of a substitute on March 19, 1980, and on September 4, 1980, the Committee on Interior and Insular Affairs also reported S. 885 with an amendment in the nature of a substitute.

Although the two versions of S. 885 reported by our committees were very similar, they were not identical. Consequently, our committees worked closely together for the past 2 weeks to reconcile the differences between the bills and came up with a proposed substitute which we feel represents a consensus between the two committees. This substitute, which was introduced as H.R. 8157, has been made in order as an amendment in the nature of a substitute to S. 885 and will be considered an original bill for the purpose of amendment.

Mr. Chairman, I will not at this time describe in detail the background and need for this legislation. I will leave this task to the many members of the Pacific Northwest delegation who have strongly supported this legislative effort over the past 3 years and who are much more familiar with the electrical energy problems facing the Pacific Northwest than I. However, I will say, in summary, that the Pacific Northwest is presently facing severe power planning uncertainties because of a pending legal battle among private and public utilities, direct-service industrial customers and the States of Washington, Oregon, Idaho, and Montana over which entities are to be allocated the federally produced hydroelectricity marketed by the Federal Bonneville Power Administration and that these uncertainties can only be resolved through enactment of Federal legislation.

Mr. Chairman, the proposed substitute—like the two versions of S. 885 reported by our committees—will solve the Pacific Northwest's pending allocation problem by granting BPA the authority to expand its existing supply of energy. This new authority will obviate the need for BPA to divide up the limited supply of Federal power, moot the need for a protracted legal battle, and will allow BPA to: First, meet the full requirements of the publicly owned or "preference" utilities in the region; second, continue to serve its direct-service industrial customers; third, meet the net load growth requirements of the region's investor-owned utilities; and, fourth, provide low-cost power to residential and small farm customers of the region's investor-owned utilities. In carrying out this authority, BPA is directed to first utilize resources saved by conservation programs, then renewable resources, and finally, conventional generating resources.

The proposed substitute also will promote conservation in the region since it calls for the implementation of a region-wide conservation program backed by a special $1¼ billion revolving fund account to be used for conservation and renewable resource loans and grants. In addition, the substitute requires the establishment of model conservation standards for the region and calls for the imposition of surcharges on power sold by BPA to those areas and customers who do not implement comparable standards.

Finally, to insure that utilities have an incentive to undertake independent conservation programs, the proposed substitute contains provisions requiring BPA to grant credits to conserving utilities and their customers equal in dollar amount to the full cost savings that result from BPA not having to acquire additional resources.

Mr. Chairman, the substitute we are recommending also provides a mechanism to solve the energy planning problems of the Pacific Northwest by providing for an eight-member State-appointed "regional council" similar to that which is contained in the Interior and powerplants. It does not create BPA as

S. 885. This council will prepare and periodically update a regional energy plan after extensive public consultation, input and hearings. This plan will contain the priorities and strategy necessary to overcome the energy problems facing the Pacific Northwest and will guide the actions of the Bonneville Power Administration.

Mr. Chairman, S. 885 and the proposed substitute our committees are recommending are certainly not without controversy. However, I believe that this legislation offers the only real solution to the Pacific Northwest's electrical energy problems, and consequently, I would hope that my colleagues could support it.

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Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I will be delighted to yield to my colleague from Oregon.

Mr. ULLMAN. Mr. Chairman, I want to commend the distinguished gentleman from Texas (Mr. KAZEN). He has spent unending hours, days, and weeks on this bill and has done it diligently.

I also want to commend the gentleman from Michigan (Mr. DINGELL) and the gentleman from Washington (Mr. SWIFT) from the Committee on Interstate and Foreign Commerce. This has been a two-committee operation, very tedious and very difficult.

I want to commend the statement of the gentleman in the well, Mr. KAZEN.

Mr. Chairman, for reasons which members of the Pacific Northwest's delegation have outlined on numerous occasions during committee deliberations on S. 885, enactment of this legislation is of paramount importance to our region. Passage of this bill would clear the way for an open, deliberate, and coordinated approach to planning a secure energy future for our States. Absent such a regional solution, the Northwest is certain to confront severe energy shortages, prolonged litigation, and economic chaos.

Moreover, it is crucial that the House act expeditiously on this bill, for the primary problem which it is meant to obviate—the administrative reallocation of Bonneville's low-cost hydropower—will commence next year when its contracts with its utility and industrial customers begin to expire. Without the grant of resource purchase authority which S. 885 would confer upon Bonneville, it will be powerless to sign the new contracts necessary to the coordinated planning and efficient use of regional energy resources; the insuing legal battles over rights to Federal-system power would make a legislative solution impossible. Congressional passage this year is, therefore, imperative.

I represent a State, Mr. Chairman, which prides itself on its progressive and innovative energy tradition. Oregonians have taken the national lead in exploring the potential of solar, geothermal, wind, and hydroelectric energy; in maximizing the role of individual and small-scale efforts to evolve energy applications appropriate for agriculture and industry; and in attempting to make energy development consistent with the preservation and enhancement of our valuable natural resources. It is an outlook which I share and which I have advocated in my legislative efforts in Congress.

The legislation now before this body is a major step toward these goals.

It would establish perhaps the strongest conservation and renewable resource provisions ever initiated by Congress, making the acquisition of nonthermal resources its top priority and setting up a regionally-financed multibillion dollar fund and an array of utility-based incentives to encourage their development.

It would create a representative public planning process enabling the Northwest to chart its energy future on a long-range basis, insuring that all interests are thoroughly considered and that our region's resources are utilized efficiently.

It would provide for a comprehensive program to protect the quality of the Columbia River system's fisheries and wildlife, and permits the use of Bonneville's revenues and bonding authority to put this plan into effect.

And, importantly, S. 885 would provide much-needed rate relief for the residential and small farm customers of private utilities. These ratepayers, now disproportionately burdened by the enormous costs incurred in adding new generating capability over the past decade, would be able to share equally with public utility customers in the benefits of the Northwest's low-cost Federal system power.

The need for this bill is real and immediate. Although I intend to rise in support for an amendment which my colleague from Oregon, LES AUCOIN, will offer on the issue of nuclear waste, I remain absolutely firm in my commitment to this solution to the pressing energy problems facing Oregon and the Pacific Northwest. I urge the House to approve this vitally necessary legislation.

Mr. Chairman, at this point in the RECORD I would like to insert additional remarks pertaining to the tax and other financial aspects of this bill.

Every Northwest member is well aware of how poorly understood this bill remains even among some of the citizens of the Northwest itself. For this reason, we are particularly fortunate to have had among our colleagues Mr. SWIFT of Washington, who has performed superbly under difficult conditions to rewrite this bill so that the bill does its job without creating risks of harm to the Northwest or to any other region. And we are indebted, as a region, for the constant hard work and attention that this bill has received from so many Members from other regions, who had made a determined effort to understand it and to improve it.

In particular, I want to thank Mr. DINGELL, Mr. BROWN of Ohio; and Mr. SHARP of the Committee on Interstate and Foreign Commerce; Mr. UDALL, Mr. CLAUSEN, Mr. KAZEN, and Mr. LUJAN of the Committee on Interior and Insular Affairs; and Mr. BOLLING and the other members of the Committee on Rules, as well as the leadership on both sides of the aisles and the many members of the two committees that favorably reported this bill by such overwhelming margins.

We are proud that the bill has been worked out in a manner that will bring hundreds of millions of dollars of needed rate relief to the people of Oregon and other Northwest States. We are even more pleased that this feat can be accomplished without any financial or other harm to other regions, and with the agreement of all classes of customers of the Bonneville Power Administration.

Our major disappointment is that this bill—which is basically simple in concept, but which has so many necessary details—has been so badly misunderstood, misinterpreted and misrepresented.

Mr. SWIFT and others will describe the conservation and power supply features of the bill. But it seems appropriate for me to say a few words about the financial aspects of the bill that deal with taxes, borrowing, and interest rates. These are some of the areas where confusion still seems to exist, whether by accident or by design. The members and staff of the Committee on Ways and Means have worked closely with both the Commerce Committee and the Interior Committee on the financial provisions of the bill. There is nothing in these provisions as a precedent for other legislation.

1. NO FEDERAL GUARANTEES, SUBSIDIES OR BAILOUTS

BPA is a self-financed agency under the terms of the Federal Columbia River Transmission System Act of 1974. This means that BPA receives no appropriations. It is required by law to cover its full costs through its own revenues derived from the sale of power and other services. These costs that must be covered include the amortization of the Federal investment in our region's hydroelectric facilities, and the repayment, with interest, of all BPA borrowing from the Treasury.

The United States of America does not stand behind BPA's obligations. No holder of any bond secured by an obligation of BPA has any recourse against the United States of America, the Treasury or the taxpayer. BPA alone must meet these obligations, and BPA's rates cannot be approved by FERC unless they are sufficient to meet these obligations. These requirements, and the lack of any Federal guarantees, are made explicit in sections 6(j) and 7(a) of S. 885, even though they are also explicit in the Federal Columbia River Transmission System Act.

To the extent that the ratepayers of the Northwest will receive financing benefits under this bill, they will do so only because the bill permits the region itself to create an effective financing arrangement at regional risk and expense. The pool of regional ratepayers who provide this security will still be smaller than the number of ratepayers served by single, large utilities or groups of utilities in other parts of the country.

This bill does not authorize BPA to become another TVA. It does not grant BPA the authority to own or to build powerplants. It does not create BPA as the monopoly supplier of power at the wholesale level for an entire region. The only bill that would have done this—the Columbia Valley Authority bill—has been dead for more than 30 years. No one seeks to revive it now, because the Northwest has since developed a highly pluralistic, although electrically integrated, regional power supply system, with more than 120 utilities, BPA and the unique direct-service industries.

2. BORROWING AUTHORITY

BPA is not permitted to sell its bonds in the open market. If it could, it might be able to obtain more favorable interest rates. But by law, BPA may borrow only by selling its bonds to the Treasury. Treasury in turn sells bonds to raise the needed funds, and charges BPA an interest rate equal to Treasury's own interest rate plus a markup to cover Treasury's costs. In effect, Treasury earns a "profit" on all BPA borrowings.

Under present law BPA may only borrow for the purpose of constructing transmission lines. Under this bill, these purposes remain limited. The only additional purposes for which BPA will now be able to borrow are: First, to finance conservation and direct-application renewable resources; second, to carry out its new fish and wildlife duties; and third, to purchase power from very small generating facilities, which, because of the small (50 megawatt) size limit, excludes conventional coal or nuclear plants.

The limitation on BPA's borrowing authority for power purchased under this act from a generating facility was added in order to satisfy a concern of the Treasury Department. Treasury said that if BPA could borrow for power purchases under this act, an implication of some sort of Federal guarantee or Federal financial support might result. In my opinion, this concern was not well founded—BPA ratepayers are still obligated to repay all BPA borrowing, so borrowing is really just another cost of BPA as a self-financed agency. But the provision was nonetheless amended to provide the limitation sought, with the exception that borrowing for conservation and very small resources is still permitted. This exception is necessary because, as a practical matter, there are resources that must be financed through direct borrowing and because BPA has no ability to borrow except by selling bonds to the Treasury.

The bill also increases BPA's borrowing limit, but $1.25 billion of this amount, the entire amount of the increase, is to be earmarked for a special revolving account within the BPA fund to finance conservation and certain renewable resources. This is not an increase in appropriated funds, since BPA receives no appropriated funds. It is simply a means for the ratepayers of the Northwest, at their own expense, to create the financing arrangement they need to give full effect to the provisions of this bill that require BPA and the region to rely first upon cost-effective conservation and renewable resources in meeting the region's future power needs. Without this account, that priority might be impossible to carry out. Until the new account becomes effective, starting with the next fiscal year, BPA will have to continue financing conservation and related efforts out of its limited existing borrowing authority.

3. INTEREST RATE

As explained above, the Treasury Department and not the bond market determines BPA's interest rate, since BPA is not permitted to sell its bonds on the open market. The Federal Columbia River Transmission System Act instructed Treasury to set BPA's rate at a level that covered Treasury's own costs and that was equal to the rate for "similar bonds." To BPA and some Members of Congress, the phrase "similar bonds" meant bonds issued by Government corporations. Treasury interpreted the phrase, and continues to interpret it, as meaning triple-A rate private utility bonds.

The House has before it an amendment, rejected in committee, to restore the Treasury interpretation. This amendment should be rejected. First, it produces a higher rate than that paid by any other self-financed agency that borrows from the Treasury. Other agencies, such as TVA and the REA, pay the lower Federal financing bank (FFB) rate. The other power marketing agencies, such as the Western Area Power Administration (WAPA), pay an even lower rate by relying on appropriated funds. Second, the triple-A private utility rate bears no relationship to the rate that BPA could enjoy if BPA were permitted to sell its bonds in the open market. The BPA rate would be close to the rate enjoyed by TVA, if not actually equal to it. Third, there are simply so few triple-A rate private utility bonds in existence that the present Treasury practice is basically arbitrary and unfair.

The Senate bill permitted BPA to borrow at the FFB rate. This would still return a profit to the Treasury, and yet still save the ratepayers of the Northwest millions of dollars each year over Treasury's present practice. But the present House version of the bill does not specify the FFB rate. It simply insures that the words "similar bonds" will now mean bonds issued by Government corporations. In my opinion, this interest rate is still too high—the lower FFB rate would be more proper. But this is a small price for the Northwest to pay in order to pass this legislation and avert a regional economic crisis.

Under no circumstances, however, can the triple-A utility rate be justified. I urge all Members to reject the amendment on this point. Once the facts are understood, the effect of the amendment would simply be a spiteful one.

4. INTEREST RATE PENALTY

The bill now contains a provision permitting Treasury, under certain circumstances, to charge BPA a 1-percent interest rate penalty if BPA's repayment of its obligations to Treasury are delayed and BPA had the means available of making repayment on a timely basis. There is before the House an amendment, which should be rejected, raising this penalty to 2.5 percent and requiring that Treasury ignore the reasons for the late payment.

At present, BPA is ahead of its total repayment obligations. But BPA has no ability to insure that its repayments will be on time in any particular year. BPA's revenues primarily come from sales of hydroelectric power. BPA's total revenues, therefore, fluctuate significantly from year to year, since power sales fluctuate depending on fluctuating streamflow conditions. BPA must base its rates on average water conditions to avoid an overcollection or an undercollection. And BPA must repay to Treasury all the money that remains each year after BPA's current costs are recovered. This means that BPA roughly half the time will pay Treasury more money, earlier, than repayment criteria require; in other years, BPA cannot help paying less. On average, however, BPA will pay just the right amount, since its rates are set to recover the right amount under average water conditions.

At present, FERC does not permit BPA to include in its rates any "allowance for contingencies," even in order to insure timely repayment to the Treasury. And Treasury does charge BPA added interest as a penalty for any late payment. Thus it would be totally unfair to adopt an amendment that penalizes BPA and its customers for conditions over which they have no control, and which fails to recognize that BPA is likely to make an early, advance repayment just as frequently as it makes a late payment.

The 2.5-percent interest rate penalty suggested by the amendment is purely punitive. It bears no relationship whatever to the interest rate penalty that would be imposed by the market for any delayed repayment, if BPA could sell its bonds in the market. By contrast, the interest rate penalty provisions in H.R. 8157 do attempt to duplicate what the open market would do under those circumstances.

It is a quite major concession for the Northwest to consent to an interest rate penalty at all, given the special circumstances that limit BPA's ability to control its annual payments to the Treasury. To impose a mechanical, punitive and purely arbitrary penalty on top of the one provided in H.R. 8157 would be a form of unfairness that no Member could ever accept for his or her own region, and one that cannot be accepted for the Pacific Northwest.

5. TAX-EXEMPT FINANCING

The provisions relating to "tax exempt" financing by public bodies are particularly important to my committee. Staff of my committee and the Joint Committee on Taxation and I have assisted in and monitored the development of the provisions of section 9(f).

This bill preserves, but does not extend, the tax-exempt financing privileges of State and local governments in the Northwest, including those of public-owned utilities. This provision happens to be essential to the working of the bill. It is expected that the total amount of tax-exempt bonds issued by Northwest entities under this legislation will actually be less than the amount that would occur without the bill. The reason for this is not only that the total costs of a less efficient, less integrated regional power system would be higher than the total costs of an efficient and well integrated system. The reason is also that this bill will spare the region a bitter and protracted public-private power war, during which literally hundreds of millions (if not billions) of dollars of tax-exempt bonds would be issued to finance the condemnation of private utility systems. This would increase the costs of the distribution system for Northwest ratepayers, as well as increasing total tax-exempt bond financing.

While some public takeovers of private power distribution systems will still occur in the Northwest in coming years, particularly because new public power systems will enjoy greater benefits with the bill than without it, the extent of such takeovers is likely to be more limited than without the bill for a simple reason: The ratepayers of IOU's will be able to enjoy the cost advantages of BPA power without having to incur the cost disadvantages of condemning and paying for private power distribution facilities.

The public and private utilities served by BPA will continue to have load growth after the effective date of this act. The provisions of the bill, particularly section 5(e), place upon each utility the fundamental responsibility of providing for its own load growth. The means available to each utility will be independent conservation and resource efforts, encouraged by section 6(h), and the development of resources, including conservation, for sale to BPA.

Only if each utility in the region provides to BPA enough resources to meet its net demand on BPA will BPA have sufficient power. If BPA has insufficient power, section 5(e) in effect allocates the available power BPA has purchased by requiring that it be returned to those who have sold it to the agency. Thus all load growth from the effective date of the act of the publicly-owned utilities, as well as any power needed to meet current deficits and bring BPA into load/resource balance, must be met by new resources, including conservation. It is these resources that may continue to be financed with tax-exempt financing. (The supply and rate protections afforded preference customers of BPA have no bearing on this point.)

Mr. KAZEN. Let me publicly thank the gentleman from Oregon (Mr. ULLMAN) for the tremendous support that he has given my committee and the advice and the consultations that he has given us. They have been very, very helpful and I am hoping that today is the day that the gentleman and all of the Northwest delegation in the Congress have been waiting for, and hopeful it will be a successful day.

Mr. ULLMAN. I thank the gentleman.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the bill reported by the Interior Committee and I will strongly support the substitute bill which we have worked out with the Interstate and Foreign Commerce Committee. My remarks apply to both bills.

It is important to remember that the bill addresses a regional problem that affects only the States of Washington, Oregon, and the western portions of Idaho and Montana, with very small peripheral effects on two or three other States that buy surplus power from the Northwest.

The job of both committees to whom the bill was referred was to bring out a bill that provides a regional answer to this regional problem, and to make certain that none of the other States will have to pay, in any way, for that regional solution.

We have done that. The bill before us—and the substitute which will be offered and which I will support—applies only to the Northwest. It provides a mechanism to resolve a critical power problem at no cost to the Treasury.

It establishes no precedents for any other State.

It fully protects and reaffirms all of the rights of the States in the management of their own resources.

It permits the orderly development of new energy sources in the Northwest, with heavy priority on conservation as the first major resource to be used.

It provides for the rebuilding of the salmon and steelhead runs that have been damaged by hydro development on the Columbia River, with the cost to be paid by the ratepayers in the Northwest, not by U.S. taxpayers.

While creating a mechanism for the acquisition and allocation of power by Bonneville Power Administration within the region, the bill carefully limits the authority of the BPA administrator. It does not create anything resembling an "energy czar."

We retained the restrictions in current law which prohibit BPA from building or owning power generating plants. BPA can contract for power from powerplants built by others; it can buy power from whatever sources it can find; it can transmit that power to where it is needed in the region, and it can sell that power to customers throughout the Northwest; but it cannot get into the business of generating its own power in competition with public and private utilities.

The bill fully protects the preference clause of the Bonneville Project Act of 1937, thus assuring the publicly owned utilities and other preference customers their full share of power.

It requires BPA to pay all of its bills from its revenues, as in the past. And that includes BPA's obligation to amortize on a timely basis the Federal investments in hydropower dams in the Northwest.

Every single thing that Bonneville is authorized to do in this act must be paid for by the power consumers of the Northwest, and by nobody else.

That, in a nutshell is the nature of this bill.

The need for such a bill has been made clear by the very able Member who has already spoken. It is clear that a bill is necessary if we are to avoid a chaotic situation in the Northwest. In our hearings in Portland 4 years ago, Gov. Dixie Lee Ray predicted a "civil war" between the Northwest States over the allocations of the federally produced power. This bill provides a mechanism for making those allocations in an orderly fashion according to priorities which place the preference customers at the head of the line.

Mr. Chairman, I will add only that this bill has followed a long and torturous path to get to this floor today. Because it affects so many widely-divergent interests in the Northwest, it was necessary to achieve some sort of consensus among those interests, including the four States involved.

Six or seven years ago such a consensus would have been unthinkable. Each of the interest groups involved—public utilities, private utilities, direct service industries, fishermen, Indian tribes, and various State and municipal governments—each of these interests was prepared to defend its own turf.

But the nature of the emergency that looms ahead, as the industrial power contracts begin to expire and the full impact of the power shortage hits the Northwest, has forced these divergent interests to cooperate and work together in a spirit of give and take. The result has been a consensus among these interests as to what is needed and how it will work. The bill reflects that consensus. As with any broad agreement reached between many competing interests, there are a few companies and individuals who disagree with the outcome. But the remarkable thing is that the vast majority of the people most directly affected agree with and support the bill of the 14 Members of the congressional delegations from those States, 2 oppose any bill, 2 support with amendments and 10 support this bill.

One of the touchiest problems involved in the bill is the problem of fish enhancement. How do we choose between using a given flow of water to produce badly-needed power and using the same flow to maintain adequate stream flow for fish runs. That question was a wedge dividing, on the one hand, the public and private power companies and their customers, and on the other hand the commercial and sport fishermen, the Indian tribes and environmental groups.

It would have taken the wisdom of Solomon for our committee to have worked out an answer that would be satisfactory to all. During our committee deliberations, I took personal responsibility to insure that the provisions in the bill for the protection, mitigation and enhancement of fish and wildlife were both effective and balanced. I was aided in this effort by an ad hoc committee of representatives from each of the affected groups in the Northwest. After weeks of discussion and negotiation this committee arrived at proposed language that was acceptable to nearly every power interest and nearly every fish and wildlife interest group in the region. It was very gratifying to me to be able to offer that language as amendments in committee markup and to have the committee adopt those amendments without opposition.

I am even further gratified to see that same language, with only a few modifications incorporated into H.R. 8157, which is a reconciliation between the Commerce and Interior reported bills. It is fortunate that the similarity of the provisions of H.R. 8157 will allow the explanations in the report of the Interior Committee (H. Rept. No. 96–976, part II) to be used to interpret and guide the implementation of these important provisions.

The changes incorporated into the reconciled bill generally represent improvements. These changes will, for instance, be likely to reduce the amount of litigation surrounding the fish and wildlife program.

Another important change raises the level at which the Administrator must show specific capital facilities as separate line items in his budgets submitted to Congress to capital facilities having a life of greater than 15 years and an estimated cost of at least $1,000,000. This will reduce the complexity of the Administrator's budget submittals. It has been mistakenly assumed by some that this change might influence electric power rates in the region. The Administrator must (under this language as well as the Interior version) to the extent practicable use bonding authority under section 13 of the Federal Columbia River Transmission System Act to insure that costs of such facilities are collected from ratepayers over the life of such facilities.

The issuance of bonds for such facilities is consistent both with the Administrator's existing directive to set rates as low as possible consisent with sound business principles and with the intent of subsection 4(h) of this act to protect, mitigate and enhance fish and wildlife while assuring an adequate, efficient, economical and reliable power supply.

The concept that protection, mitigation and enhancement of fish and wildlife while assuring an adequate, efficient, economical and reliable power supply is the most basic principle in developing the program. It is particularly important that this concept be recognized whenever a program is developed that is likely to be implemented before a plan is developed or amended. Important elements of achieving this balance are the principles for the council to consider in paragraph 4(h)(8) and the directive to the Administrator in subparagraph 4(h)(10)(A). These concepts are not mutually exclusive as they might initially appear, rather they are complementary considerations which will insure that the program will not call for duplication of measures already being implemented to protect, mitigate or enhance fish and wildlife.

Similarly, if in the development of the program the recommendations make clear that a certain measure should be revised or replaced, subparagraph 4(h)(10)(A) will not act to force retention of the existing measure. Rather, the funding for that measure should to the extent possible be transferred to the more effective measure recognized by the program.

Water management agencies and other Federal agencies with responsibility for managing, operating, or regulating Federal and non-Federal facilities which might affect fish and wildlife on the Columbia River and its tributaries carry out their responsibilities pursuant to other laws. To maximize the protection, mitigation and enhancement of fish and wildlife, the council will need to recognize constraints imposed by other laws applicable to such agencies when determining the relative effectiveness of adopting recommendations. The council, therefore, should encourage the participation and obtain the advice of these agencies in its adoption of the plan and program.

If the parties most directly concerned, and most directly affected by this bill are satisfied with those provisions, and if those provisions affect no one else outside the Northwest, I see no reason at all for this body to change the terms of the agreement that represents such a broad concensus. For that reason, I will strongly oppose any amendments that would erode or change the conditions that have been agreed upon and that are incorporated in the language of this bill.

Mr. Chairman, I remind my colleagues again that this is a regional solution to a regional problem, with no effect or cost whatsoever to the U.S. taxpayers. It is a solution that the vast majority of the people affected have asked for, and it has the support of the vast majority of the congressional delegation of the States affected.

I urge your support for the bill, and I urge you to join us in opposing the many amendments that will be offered here, just as they were offered in subcommittee and in full committee. Those amendments received a full hearing, full debate, careful consideration and many, many hours of committee deliberation. They were found wanting in subcommittee, they were found wanting in full committee, and they have not changed a bit since then.

This is a bill whose time has come, and we should pass it, intact, without further delay.

☐ 1310

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield to me?

Mr. LUJAN. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I rise to associate myself with the remarks that have been made by the gentleman in the well and to commend the gentleman, Mr. LUJAN, and the chairman, the gentleman from Texas (Mr. KAZEN), and all the members of the committee who worked long and diligently on this legislation.

Mr. Chairman, I rise in support of S. 885, the so-called Northwest power bill and also the bill that will be offered in the form of a substitute as amended by the text of H.R. 8157 which represents the combined efforts of the majority and minority members of both the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce to reconcile differences between reported versions of the bill.

The reconciled bill represents a legislative product which enjoys an extraordinary degree of support, not only among a broad bipartisan spectrum of Members (Messrs. STAGGERS, UDALL, CLAUSEN, DINGELL, KAZEN, BROWN, FOLEY, and ULLMAN) but also among widely varying interests in the region, including public and private utilities, industry, Indian tribes, fish and wildlife agencies, consumers, and local government.

This consensus has resulted from the recognition by the region that its unique problems in the planning and fulfillment of electric power needs for the future can best be resolved through a coordinated effort.

This legislation, which will come in the form of a reconciled bill, does provide a legislative framework which we believe was needed because of the involvement of the Federal Government, through the Bonneville Power Administration, in transmitting and selling electrical power in the region.

Unfortunately, the once abundant and cheap hydroelectrical power generated from Federal projects in the Northwest no longer meets the demands of the customers it is required to serve. BPA is therefore forced to decide how that cheap power is to be allocated. That could result in protracted litigation and chaos.

This legislation will avoid that result by a legislative allocation of the Federal power, while providing an orderly process for future planning which retains important local controls and the opportunity to participate.

In addition, the bill achieves an agreement on environmental, conservation and renewable resource objectives some of which would not have been possible without the bill.

Key features of the compromise bill include:

First. A fair method for allocating the Federal hydroelectric power available in the region;

Second. A formula for equalizing rates among customers utilizing Federal and non-Federal power;

Third. Protection of "preference" users of power;

Fourth. Assurance to existing direct service industries of a continued supply of power, although at much higher rates;

Fifth. Emphasis on conservative measures and renewable resources as priority methods to meet future needs;

Sixth. A State council consisting of two members from Washington, Oregon, Idaho, and Montana which will provide a plan for meeting the region's electrical power needs;

Seventh. A program to protect the fish and wildlife, particularly the salmon located on the Columbia River System; and

Eighth. Protections for water rights of State, Federal, Indians and other entities.

In summary, I support this legislation because it is necessary for the region, supported by the majority of the interests affected, and of long term benefit to the Nation. The bill provides a solution to the unique power problems of the Northwest which has been carefully worked out to balance and coordinate competing interests in a fair and equitable manner.

I urge my colleagues to join me in support of this bill.

Mr. LUJAN. I thank the gentleman for his support. The gentleman was very much involved in the deliberations and hearings on this bill. The gentleman knows what is in the bill and it is certainly gratifying that the gentleman has been such an interested participant in the legislation.

□ 1320

Mr. KAZEN. Mr. Chairman, at this time I want to yield some time to a member of the Northwest delegation, a member of my subcommittee, a man who has been very diligent in attending these hearings, and is of course very interested and has made a tremendous contribution my colleague from Oregon (Mr. WEAVER). I yield 7 minutes to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, first I would like to commend the subcommittee chairman, Mr. KAZEN, who has worked long and hard—as has been said—on this bill, and given it the attention that it required. We have held 27 hearings, I believe, on this bill many of them in the Northwest, at which time the public, the people of the Northwest, again and again and again protested this bill.

There are civic groups, peoples' groups, such as the League of Women Voters; such as the Oregon Grange, who came in and said that this bill will be the worst bill possible for the economy of the Northwest and for our livelihoods.

But continuing, Mr. Chairman, the bill is being pushed through by the powerful Bonneville Power lobby. This is an awesome power in the Northwest. Bonneville Power is and was the Federal marketing agency of the hydroelectricity from the dams built by the Corps of Engineers and numerous Federal agencies in the Columbia River system. That is all it has been, is a marketing agency. However, consolidated around Bonneville has been a corps of very powerful entities, and these entities now are bent on expanding the Bonneville from a marketing agency into a huge Federal bureaucracy; into nationalizing the utilities of the Northwest, and this, for the reasons I am about to describe, must be stopped.

Mr. Chairman, the Northwest regional energy bill is an issue I have anguished over long and hard. Virtually alone, for many, many years in opposition to certain fundamental provisions of the bill, I have asked myself again and again, is my course right, because on an issue of such fundamental importance I agonized over every step of the way to determine whether the course I took to oppose these fundamental provisions was correct. Again and again I have asked for studies from the GAO, from the BPA; I have constantly rechecked my facts, investigated my assumptions, and after these, Mr. Chairman, these studies have only served to deepen my suspicions.

Enactment of the bill would be disastrous for the economy, the livelihood, for jobs and business in the Northwest. Gradually, the consensus in the Northwest for this bill has come apart. Day by day, more groups, the ones that I have mentioned, such as the League of Women Voters, the Gray Panthers, the Elder Citizens Coalition of Washington—dozens and dozens of State legislators throughout the Northwest and many, many others have come out in opposition. They have been joined by several significant Northwest publicly owned utilities, including my own utility, the largest public utility in Oregon, the Eugene Water and Electric Board. I will have more to say on the Eugene Water and Electric Board later because their opposition is key to what is wrong with the bill; for this bill will destroy this vigorous, aggressive utility, and they know it.

I received a telegram this morning, and I quote:

EUGENE, OREG.,
September 26, 1980.

Hon. JIM WEAVER,
Longworth, HOB,
Capitol Hill, D.C.

DEAR CONGRESSMAN: This is to advise you that the Eugene Water and Electric Board is still very much opposed to HR 8157 and urges that any further House action cease.

This telegram have been sent to other congressmen including Congressman Foley.

KEITH PARKS,
General Manager, Eugene Water and Electric Board.

I would like to point out that Mr. Parks is an extremely conservative, lifelong Republican, and has always been involved in the development of nuclear power. He knows that this bill will destroy this aggressive, vigorous utility; destroy any initiative they have to develop resources simply because it makes the Federal Government the great father for us all, and as we know very clearly, what has happened to those public utilities that have not developed their own power, they want to continue to receive power from the Federal Government so that they do not have to do anything.

Now, we are going to take all the utilities of the Northwest, including the private utilities, including the stockholder-owned utilities, and make them subservient to the Federal Government. The Federal Government will provide, under the bill, all our power requirements and there will be socialization and centralization at a time when we need vigorous initiative in the grassroots.

It is particularly significant for those who say that the public utilities in the Northwest support this bill to know that the Public Power Council—that is, all the public utilities of the Northwest, and there are about 110 of them—they are on record for the bill.

But in fact they re-elected to their executive board the very members who are most opposed to this bill.

Mr. LOWRY. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. LOWRY. Mr. Speaker, I thank the gentleman for yielding. As a member of the Northwest delegation, I am going to ask for my own time, but I want to commend the gentleman from Oregon for the courage he has had on this bill.

I want to point out also that there are some things that I do not agree with him on in this bill—quite a few things—but the gentleman has had courage under a lot of fire, to pursue his convictions toward a better energy policy, and I want to commend him.

Mr. WEAVER. I want to thank the gentleman from Washington. May I point out to the committee that the gentleman from Washington far exceeds me in any courage, for he is from the State of Washington, and I am in awe of him and his courage. I thank him from the bottom of my heart for what his efforts have been on this bill.

But, I want to say that it is particularly significant that the Public Power Council, which is on record as being for the bill, some of us feel that they have been blackmailed into being for the bill. Some of us think that perhaps Bonneville in its awesome power of being able to deliver or not deliver power, Bonneville has gone into these public utilities and said, "If you don't support the bill we will cut you off."

I do not know that that is true. I know many public utility people have told me that that has happened to them.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. LUJAN. Mr. Chairman, I yield 5 minutes, to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I rise in strong support of this measure. S. 885 is the most important piece of legislation in the Northwest in my 8 years as a Member of this body. In fact, from a regional perspective, it may be the most important legislation for the next 20 years.

For decades, the electrical energy situation in the Northwest has been the envy of the Nation. Blessed with natural resources perfectly suited for hydroelectric development, the Federal Government teamed up with the region in the depression era to harness the power of the Columbia River—power that brought growth, development, and jobs.

But now, the region has entered a new era. Its energy needs have outgrown the supply of cheap hydroelectric power. Aggressive conservation as well as new resources will be necessary in order for the supply of electricity to meet the growing demand. Already, substantial power deficits are being forecasted if there are low water years in the 1980's. The region is being hamstrung in its efforts to avert the shortages by the terms of the existing relationships between the Bonneville Power Administration and the various classes of its customers—public utilities, private utilities, and direct service industrial customers. The terms under which BPA and their customers interrelate with the region's power supply are governed by contracts written back in the previous era of abundance.

Beginning next year, the first of these contracts will expire. BPA has already served notice that it will not be able to renew contracts on the preexisting terms—they simply will not have the power to meet the requirements of both the public utilities who are its preference customers, and its industrial customers, primarily the six aluminum companies who produce 30 percent of the Nation's aluminum needs. BPA is in the midst of developing a plan to allocate the existing power it has—a plan which, if implemented, will surely be challenged and tied up in the courts for years. Lengthy court battles over how much of the Federal resources each user group will receive will snarl up the region's cloudy energy picture even further.

The Pacific Northwest Electric Power Planning and Conservation Act is designed to resolve both the problems which I have mentioned—the allocation of the Federal resources as well as the restructuring of the relationship between BPA and its customers in a manner which will allow them to meet the region's future electrical needs.

The legislative allocation embodied in this bill represents an equitable distribution of resources to the various user groups. The fact that 107 of the region's 113 public utilities, all the private utilities, the direct service industries and BPA have agreed to the allocation provisions of the bill is evidence of its broad support.

The Northwest power bill will greatly expand the role of the region's citizens and public officials in determining their future electrical energy needs and how they should be met. The regional council established under the bill will not only draw up the plan detailing what the region's needs will be, it will have the authority to make sure Bonneville adheres to the plan.

The bill also sets as a matter of policy two important things: First, it treats energy conservation as a resource, making it the top priority in meeting the region's energy needs. I know of no other legislation which carries such a strong mandate for implementing conservation.

Second, the bill sets strict standards for protection and mitigation of the salmon resources in the Columbia River. As a member of the Merchant Marine and Fisheries Committee, I am keenly aware of the damage caused to the river's salmon fishery by past hydroelectric development. I strongly believe the fish and wildlife provisions of this bill will assure that in the future the river will be operated in a manner which produces a more equitable balance between fish and power interests.

It is important to keep in mind the fact that this bill will be the impetus for solving the region's power problems at no cost to the Federal Treasury. There are no appropriations, no guarantees, and no loans in this bill. Just as in the past, the region's ratepayers will pay the entire cost of present and future resources.

The Pacific Northwest is truly a region at the crossroads in regard to its electrical energy future. Without this bill, our future is an uncertain one—filled with the likelihood of a "civil war" over who gets how much of a pie that's too small. With this legislation, we can solve an allocation problem, chart our own course, meet our energy needs, pay our own way, grow as a region, and continue to contribute to the health of this Nation.

I urge your support for this legislation.

□ 1330

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, the Pacific Northwest Electric Power Planning and Conservation Act is vitally needed in order to solve an electric power planning problem that, absent such a solution, is virtually certain to cause disruption in that region. The committee has given this bill the most careful consideration. We have explored every issue in depth and shaped the provisions of the bill. We have held hearings in the region and here in Washington, D.C. Unlike earlier versions which I strongly opposed, it represents a sound and rational solution to the impending crisis facing that region. I strongly urge your support.

The bill grants expanded authority to the Bonneville Power Administrator to acquire additional power on a long-term basis, but with significant and important safeguards. This authority will enable the Administrator to sign new contracts with his customers. Absent this authority, a regional dispute over access to existing low-cost power under current law will leave electric power planning in chaos.

This bill does not establish the Administrator as an "energy czar" but, rather, by providing for a public planning council, it permits coordinated electric power planning with wide input by the public. The council has more than planning authority; it acts as a check on the Administrator.

The bill requires that cost-effective conservation and renewables be implemented or acquired as a priority over other resources. This does not preclude the acquisition of conventional resources, but assures that conservation, which is especially appropriate to this region will be adequately pursued.

At the same time, the bill is neutral on whether, and to what extent, conventional resources will be developed in the region. It does not encourage or discourage them.

The bill involves no Federal payments or guarantees. It leaves the region entirely responsible for financing its power needs. BPA does not receive appropriations, and the Treasury does not stand behind or guarantee any BPA obligations.

The rate provisions of this bill are fair and equitable. They protect the rights of preference customers to lower cost Federal-based resources. They provide that the Administrator's direct service industrial customers will pay substantially higher rates. These rates permit the residential customers of investor-owned utilities to share in the economic benefits of the Federal-based resource system. It provides for billing credits which do two things: First, they allow utilities to plan for their own needs; and second, they permit these utilities to receive correct signals as to the cost of power at the margin and thus precludes the need for any two-tiered rate system.

The bill contains provisions relative to fish and wildlife on the Columbia River and its tributaries. These provisions will assure that the power-planning decisions fish and wildlife concerns are adequately met. Fish and wildlife, for the first time in this region, will be treated on a par with power and other purposes.

The bill obliges the Administrator to offer full requirements contracts to the region's investor-owned utilities. However, only power that is surplus to the Administrator's existing responsibilities or power that is developed by these utilities may be provided pursuant to this obligation. These contracts will not disadvantage the Administrator's other customers and provide no special benefit to these companies' stockholders. In order to enable these customers to join together in a generating subsidy to develop the power needed for this purpose, a limited exemption from the Public Utility Holding Act is provided, an exemption endorsed by the Securities and Exchange Commission.

This bill does not represent a precedent for other regions of the country. It is a solution uniquely suitable to this region. Electric power rates in this area of the country are low and, in the near future, will probably remain lower than those rates paid by ratepayers elsewhere, but this should not obscure the serious problem facing this region. where the Federal Government markets over half of the electric power. The solution reflected in this legislation protects the existing authorities and privileges of the States, the utilities, the localities, and the rest of the nation while, at the same time, providing a mechanism through which this region can itself resolve its electric power crisis.

Before closing, I want to express my appreciation for the hard work and great assistance our committees received from many of our colleagues on both sides of the aisle, from both within and outside the region. Their help and expertise and that of their staff was essential to our consideration of this legislation. I particularly want to commend Congressman SWIFT, who is the chief sponsor of the Commerce-Interior compromise, and Congressmen FOLEY, BONKER, DUNCAN of Oregon, DICKS, ULLMAN, MCCORMACK, SYMMS, and PRITCHARD for their untiring efforts to bring this bill to the floor today. Chairmen STAGGERS and UDALL and Chairman KAZEN, as well as Congressman BROWN of Ohio, Congressmen SHARP, CLAUSEN, and LUJAN, all of whom have no constituents in the region, also provided significant assistance in shaping this legislation in a way that is helpful to the region, and not harmful to other parts of the Nation.

I want also to thank Senators JACKSON, HATFIELD, MAGNUSON, CHURCH, MCCLURE, and their staff for the cooperation we have received from the other body.

I want to thank the Administrator of the BPA for the technical assistance we have received from him and his staff, particularly, Mr. Larry Hittle, who has spent long hours on the technical aspects of this legislation for our committee. Dr. Terry Holubitz of Pacific Fisheries Commission and Mr. Bruce Miser, public power counsel, as well as others in the region have also been helpful to us.

Last, I also want to express the deep appreciation on behalf of myself and Chairman UDALL to the staff of our committee and that of the Interior Committee for the work that has been done in preparing this legislation, as well as the staff of the House legislative counsel. I particularly want to call attention not only to the professional staff of the committee, but also to the administrative staff of both committees and the administrative staff of the legislative counsel who worked long hours on the legislation.

Mr. MOORHEAD of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the Pacific Northwest Electric Power Planning and Conservation Act (H.R. 8157) as the necessary solution to the serious and complex electric power deficit in the Pacific Northwest. Mr. Chairman, this House bill should be adopted as our substitute to the Senate-passed bill, S. 885.

The Pacific Northwest Electric Power Planning and Conservation Act is intended to resolve the serious and unique electric power deficit in the Pacific Northwest. This bill is far from perfect. In fact, I support the bill with misgivings over some provisions. I recognize, however, that the bill is agreeable to the region and that, without this bill, the gravity of the problem would only increase. Unabated, the power deficit in the Northwest could well result in ruinous litigation and regional chaos. Without a certainty of power, one-third of the domestic production of aluminum may be endangered, undermining our attempts to improve our national economy.

For over 40 years, the States of Washington, Oregon, Idaho, and Montana have enjoyed abundant and inexpensive hydropower marketed by the Bonneville Power Administration. Now the growth of the region has surpassed its hydropower supply. The previous, nonlegislative attempts to meet the growing demand have failed.

The Bonneville Power Administration, created in 1937 to market the hydropower generated by dams built by other Federal agencies, serves three types of customers: public power agencies, investor-owned utilities, and direct service industries, largely aluminum plants.

The public agencies were granted a preference right to the hydropower in the original statutes, but never needed to exercise those rights against other Bonneville customers until recently. Because of the power deficit, Bonneville curtailed sales of hydropower to the investor-owned utilities in 1973, and has indefinitely interrupted sales to the direct-service industries over the past 3 years. Neither public nor private utilities are capable of independently building enough new supply to overcome the deficit. Moreover, without an equitable system of reallocation there is little hope that the two types of utilities would be able to construct new generation cooperatively. The very existence of some of the investor-owned utilities depends upon an orderly reallocation of power.

Because the residential rates of public agencies are 50 percent of those of the private utilities in Oregon, there is a movement toward creating a new public agency for the State of Oregon. While this may bring some temporary relief to the residential consumers of Oregon's private utilities, it would create such a huge strain on Bonneville's resources that the entire region's power supply would be thrown out of balance and into court.

It is clear that only a new system of allocating the hydropower can arrest the problem, and that only Congress can provide the solution. This bill would reallocate the hydropower into a regionwide power pool, administered by Bonneville but owned and operated by utilities, so that the cost and production of new thermal generation may be shared among the customers of the region. The bill protects the preference rights of the public agencies, allows the residential consumers of the private utilities to share hydropower rates, and allows a certainty of supply—at a greatly increased rate—to the direct-service industries.

The solution is not flawless. For example, the bill establishes a new regional planning agency to assist Bonneville in coordinating the solution to the power deficit. I am concerned that this council, mandated to consider conservation first and conventional generation last, may succumb to a no-growth philosophy. This would be most unwise, since the region's past inability to build new generation has been a major factor in the present shortage.

I can, however, support the bill, because it is the only way new generation will be built in the region and therefore the only way to remedy the deficit. Without this bill there is the clear and present danger that disruptive battles will erupt in the Northwest over Federal power allocations. Federal power accounts for 50 percent of the electricity generated in the Northwest. There is no need to subject consumers in the Northwest to a regional war over BPA hydropower. As H.R. 8157 is presently drafted, California consumers will also benefit from the bill. Californians will be protected from unreasonable, predatory BPA rates for surplus hydro. Additionally, Californians will be assured that interregional exchanges of power will help reduce California utility bills as a result of expensive oil-fired generation displaced by surplus hydropower.

H.R. 8157 has received widespread support in the Northwest, in part because the legislation is a well-crafted compromise that is accepted by public power, private power, and direct service industries. Any amendments that would have the effect of upsetting the balance of this legislation should be rejected if we want to pass H.R. 8157. There is no doubt in my mind that this legislation will have an impact on the entire West. I think it will have a positive impact. I think it will promote a reasonable degree of economic growth. I think it is a fair and just allocation of Federal hydropower. I urge an "aye" vote.

It is essential to me and the people of California that provisions that are now in this legislation remain in the bill:

First. Reaffirm that all rates or rate schedules proposed by the BPA Administrator for the sale of nonfirm energy outside of the region but within the United States shall become effective only after substantive review by the Federal Energy Regulatory Commission for conformance with the requirements of the Bonneville Project Act, the Flood Control Act of 1944 and the Federal Columbia River Transmission System Act. In performing its review, the Commission shall afford any party to the proceedings an opportunity for a hearing to be conducted in accordance with the procedure established by the Commission for ratemaking under the Federal Power Act. FERC acts not as an appellate court in reviewing these rates but as a forum with a mandate for a de novo review; and

Second. Authorize and direct the BPA Administrator to periodically investigate opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity, with emphasis upon reduction of oil-fired generation, in the Pacific Northwest and the regions with which such exchanges may occur, that is, California. The council is required to consider such investigations and interregional exchanges in formulating the regional conservation and electric power plan. The BPA Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of the bill.

Demands on hydropower, if we assume and anticipate a reasonable degree of economic growth, and we do, will steadily increase. Consequently, it seems necessary to permit BPA to acquire non-Federal sources of power in sufficient amounts for it to meet its customers' requirements and its obligations to areas outside of the region.

The Pacific Northwest has paid, and does pay, some of the lowest power rates in the Nation.

Cheap Federal hydropower is the reason for this special privilege that the Northwest enjoys. Unfortunately, like the ungrateful servant in the parable contained in Mathew 18:23–25, the Bonneville Power Administration has not been as charitable as it should be in the pricing of Federal surplus hydro to areas outside of the region like the Southwest. BPA has proposed a surplus hydro rate to FERC that would amount to a 500-percent increase in surplus rates for California consumers, many of which are customers of California public power companies. This outrageous, unconscionable, and predatory rate actually works to penalize utilities outside of the region as they attempt to displace oil fired generation.

I believe this rate structure violates national energy policy. The Bonneville Power Administration has attempted to justify its rate increase for surplus hydro on the grounds that OPEC has substantially increased its price for oil. I believe this method of operation to be highly objectionable as far as a Federal agency is concerned. We ask BPA to side with U.S. consumers, not OPEC. The California congressional delegation reacted to the increase in a unified voice of protest as the following letter to Energy Secretary Duncan demonstrates:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 24, 1979.

Hon. CHARLES W. DUNCAN, Jr.,
Secretary of the Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: The purpose of this letter is to express our concern relative to the Bonneville Power Administration (BPA) proposed 1979 wholesale power rate increase. We strongly object to the proposed schedule for surplus hydroelectric energy sold to California utilities (Schedule H-6 Wholesale Nonfirm Energy Rate).

BPA's proposal will result in a 90-percent increase in their revenues. The increase to California utilities purchasing surplus hydro energy, however, will be approximately 500 percent. This excessive rate increase for California utilities subsidizes rates for firm energy in the Pacific northwest where rates are among the lowest in the country. (Rates to California utilities for non-firm surplus energy will be approximately 300 percent higher than rates for firm energy in the Pacific northwest.)

Of particular concern to us is the fact that proposed rates for surplus hydro are not based on the cost of providing energy, but rather on the value of the energy to the purchasers. Furthermore, the proposed rate schedule for surplus hydro does not provide a rate but rather a flexible formula which will result in different rates to different customers for the same energy. The charges under the proposed schedule will rise automatically as fuel prices escalate without any increase in costs to BPA.

We are enclosing a copy of the comments of the cities of Burbank, Glendale, Los Angeles, and Pasadena, California; Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company, on the proposed H-6 rate. We believe that these comments clearly show that the proposed rate offered by this Federal agency will result in unjustified increases in prices to consumers in California and is entirely inconsistent with national energy policy.

We urge that the proposed rate schedule for surplus hydroelectric energy be disapproved.

Sincerely,

Carlos J. Moorhead, S. I. Hayakawa, William M. Thomas, Daniel E. Lungren, Robert E. Badham, Pete N. McCloskey, John H. Rousselot, Tony Coelho, Bill Royer, Bob Wilson, Charles Pashayan, Jr., R. K. Dornan, Robert J. Lagomarsino.

Jerry Lewis, William E. Dannemeyer, Don H. Clausen, Clair W. Burgener, George E. Danielson, Henry A. Waxman, Norman D. Shumway, James C. Corman, Wayne Grisham, Barry M. Goldwater, Jr., Augustus F. Hawkins, Julian C. Dixon, George E. Brown, Jr., Vic Fazio.

George Miller, Glenn M. Anderson, Edward R. Roybal, Pete Stark, Phillip Burton, Ronald V. Dellums, Charles H. Wilson, Jerry M. Patterson, Lionel Van Deerlin, Harold Johnson, John L. Burton, Norman Y. Mineta, Anthony C. Beilenson, Robert J. Matsui, Don Edwards.

As a result of this unjustifiable BPA surplus hydro rate increase, S. 885 contains provisions that I have previously described, the intent of which are not only to prevent the imposition of predatory and unreasonable rates but to provide for mutually beneficial interregional exchanges of power as well. Consequently, I believe S. 885, properly administered, can be a very constructive step forward for the West.

□ 1340

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman yielding.

Mr. Chairman, I understood the gentleman to say that without this bill and, more specifically, without "new generation capacity"—and I assume he meant coal and nuclear—the region's needs could not be met.

Mr. MOORHEAD of California. Yes.

Mr. AuCOIN. I wonder if the gentleman is familiar with the Department of Energy study released only a few weeks ago, which concluded that if we followed an alternative scenario, no new coal or nuclear plants would be needed through 1995 in order to meet the region's needs. Is the gentleman familiar with that study?

Mr. MOORHEAD of California. The testimony that we had was that, in the drier years, in the years in which there is not as much hydro power, there are serious problems that we may have long before that time; and representing the people of California, we are very much interested in the surplus that comes into the system, especially in those times of the year when such nonfirm power cannot be utilized in the Pacific Northwest. We need that nonfirm power in California to meet our present needs, to reduce California utility bills by displacing high cost oil fired generation of electricity. It is in the national interest to reduce oil imports.

I feel that this bill is good for the Northwest, and I also feel that it has some benefits to our State which has been using hydro power from Bonneville to help pay for that dam over a long number of years.

Mr. AuCOIN. Will the gentleman yield again?

Mr. MOORHEAD of California. I will be happy to yield to the gentleman.

Mr. AuCOIN. I appreciate the gentleman's yielding.

Mr. Chairman, I will take no more of the gentleman's time other than to say that the study I am citing, sponsored by the Department of Energy, which is not a "no-growth agency" indicates that generation of electricity ample for the region's needs and quite ample for California is available by means other than those provided for in this bill.

Mr. MOORHEAD of California. Right now it is not ample.

Mr. AuCOIN. I am not arguing about "volume," I am arguing about the "way" we produce needed energy. The kind of generation the gentleman spoke of and the kind of generation that I think the bill favors is not necessary.

Mr. MOORHEAD of California. I can assure the gentleman that right now it is not ample. The amount of energy that we have gotten throughout this year has been much reduced from what it has been in other years. There is a problem. It would not matter what the Department of Energy would say about it, they cannot wipe out by words a problem that is there. The problem is present.

Mr. SWIFT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to support passage of S. 885 (as amended by H.R. 8157). My remarks include a brief description of the purpose of the bill, its legislative history, its individual sections, and additional points of clarification.

NEED AND PURPOSE

This is not a bill to build powerplants. It is a bill to solve a power allocation problem. This problem is a Federal problem, and a Federal decision is unavoidable. The only choice is whether that Federal decision takes the form of Federal legislation, or whether it takes the form of a Federal administrative decision, which will be litigated in the Federal courts.

The Federal problem is this: All power marketed by the Bonneville Power Administration (BPA) must be reallocated next year. This power represents half the power in the Pacific Northwest. Under present law, reallocation is unavoidable because all of BPA's power sales contracts are beginning to expire. BPA's supply is far too small to meet the Northwest's total needs, but it is sufficiently large and sufficiently inexpensive that any BPA decision on reallocation will be contested in court for years. This is the bitter, disruptive "regional civil war" this bill seeks to avoid.

The bill avoids the administrative reallocation problem by authorizing BPA to add to its power supply so that it can meet the needs of all its customer classes. The bill does so under power supply and rate provisions that are acceptable to all classes of BPA customers, and that fully protect the preference rights of public bodies and cooperatives.

The method by which BPA will add to its supplies under this bill is twofold: Through conservation and through the purchase (acquisition) of power from non-Federal entities. The bill does not authorize BPA to build or to own power generating facilities; it does not make BPA another TVA. And since BPA is a wholly self-financed agency under the terms of the Federal Columbia River Transmission System Act, the costs of BPA's actions and the responsibility for BPA's obligations under this act will remain squarely on the shoulders of BPA's own customers, not on the U.S. Treasury or the U.S. taxpayers. BPA does not receive any appropriations. It is required by law to recover all its costs through its rates.

Most of the bill consists of provisions to insure that BPA does not and cannot abuse this new authority being granted to it. These protections are well-stated in the reports of both the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs (Rept. 96-976, parts I and II). They will also appear more clearly in my explanation of the bill's sections.

LEGISLATIVE HISTORY

H.R. 8157 is a reconciliation of the two somewhat different versions of S. 885 reported favorably by the Commerce and Interior Committees. Those versions were themselves based on H.R. 6677, a bill that I introduced earlier this year and that made very significant changes in S. 885 as passed by the Senate in August 1979. The Senate version was adopted unanimously by the Senate Energy Committee and passed by unanimous consent in the Senate. Those in the House who worked so hard to prepare H.R. 8157 believe that if S. 885 is now passed in this form, no conference with the Senate will be necessary.

The bill in its present form is far different from the Senate version and from earlier versions in both Houses in earlier Congresses. But it is also the result of an unprecedented number of days of hearings, both here and in the region, and of ceaseless efforts by the entire Northwest delegation and many, many Members from other regions. We are particularly indebted to Mr. DINGELL, Mr. UDALL, Mr. BROWN of Ohio, Mr. CLAUSEN, Mr KAZEN, Mr. LUJAN, and Mr. SHARP, to name only a very few of the Members who have contributed to the great improvement of this bill.

WHAT THE PACIFIC NORTHWEST POWER BILL DOES NOT DO

The basic concept of this bill is simple: It permits BPA to avoid the need for an administrative reallocation of power by giving BPA the means to reduce loads and to acquire resources so that it should be able to meet the needs of all classes of customers. But because the bill necessarily involves many details, primarily to insure that BPA's authorities cannot be abused, some confusion about the legislation persists. Therefore, before describing what the bill does, it may be helpful to indicate precisely what the bill does not do.

First. The bill does not involve Federal guarantees, subsidies or bailouts: All costs will be borne by BPA's customers. BPA does not receive appropriations. It is a wholly self-financed agency required by law to recover all its costs through its rates. The United States does not stand behind BPA's obligations, and those obligations are not secured by the full faith and credit of the United States. See section 6(j).

Second. The bill does not create another TVA: The bill does not authorize BPA to own or to build any powerplants. It does not authorize or contemplate that BPA will become the monopoly power supplier in the region. On the contrary, it specifically encourages continuation of the pluralistic nature of the Northwest power industry.

Third. The bill does not "federalize" the Northwest utility industry: Each BPA customer will remain responsible for providing (to BPA or independently) enough power to meet its load growth. No utility has any "guarantee" that its full requirements will be met if it fails to meet its own responsibility for its own load growth (see sections 5(b)(5) and 5(e)). Any utility may "go it alone" to the extent it wishes, and independent utility action on conservation and self-owned generation is directly encouraged with full marginal cost pricing signals (see section 6(h)).

Fourth. The bill does not create an "energy czar": The Senate version of the bill provoked strong reaction in the region because it granted the BPA Administrator so much authority, including authority to veto the region power plan developed by the State-appointed regional council. But the present version of the bill provides no such unfettered or dominant authority to BPA. Instead, it authorizes a State-appointed council to develop and adopt the regional power plan that will chart out the region's energy future, and it contains provisions that, as a practical matter, make it very difficult for the Administrator to take actions that are not consistent with the plan.

Fifth. The bill does not build powerplants of any kind: This is a bill to solve a power allocation problem, not a bill to build powerplants. All the State and local and Federal laws that apply to powerplant siting and licensing today—including all environmental laws, all zoning laws, and all local election laws—will continue to apply without modification, amendment or preemption. In addition, the States will retain all their existing authority to regulate the rates and profits of the utilities subject to their jurisdiction, as well as gaining a voice in the Federal review of utility matters that otherwise would be subject to Federal jurisdiction exclusively.

Sixth. The bill does not give the wrong "price signals": The criticism that this bill fails to give proper price signals is simply not supportable if one reads the actual provisions of the bill itself, instead of articles written about it. At the regional level, the level at which the BPA makes its choices about resources, the bill requires that all resources—including conservation—must be compared on a full marginal cost basis (see section 3(4)).

At the utility level, the bill provides a precise marginal cost price signal in the form of a billing credit under section 6(h)—the amount of the credit, which is available to utilities for independent conservation efforts and resource programs that reduce BPA's obligation to acquire power, is calculated directly on current marginal cost. The multitier rate proposals, by contrast, purport to correct the signal of "melded" rates only by substituting another rate that is a "meld", not true marginal cost. And at the consumer level—the only level where power is used, and the only level where it can be saved in response to price signals—the bill now, through one of my amendments, gives a marginal cost billing credit to utilities that voluntarily implement retail rate structures designed to encourage consumer conservation and the installation by consumers of direct-application renewable resources that reduce load.

The bill also requires, as part of BPA's mandated pursuit of all cost-effective conservation, that BPA must make available sufficient financial assistance to consumers to enable them to comply—on a financially cost-effective basis to themselves—with model conservation standards that the bill requires to be established at a level that is cost-effective for the region. The implementation of these standards is aided by provisions in the bill for rate surcharges, themselves based on true marginal cost, on BPA customers who fail to achieve the conservation savings available through the standards; each customer is free to achieve these savings in any way it wishes, but the savings to be obtained do reflect what is cost-effective under a true marginal cost test.

Seventh. The bill does not harm other regions: Mr. DINGELL, Mr. UDALL, Mr. CLAUSEN, Mr. BROWN of Ohio, Mr. KAZEN, Mr. LUJAN, Mr. SHARP, and all the other members from other regions on the two committees that overwhelmingly supported this bill would not have voted for it and worked for it if any other region could conceivably have been harmed by it. And as a result, the bill is filled with provisions to insure that no such harm can result, either as a financial impact felt in other regions or as an unwelcome precedent.

Eighth. The bill does not violate the preference clause: The bill has been heavily amended to insure full protection of the traditional preference rights of public bodies and cooperatives. The Public Power Council, the National Rural Electric Cooperative Association, and the American Public Power Association are in full agreement that the bill in its present form protects preference. And contrary to what some critics have alleged, the bill does not enlarge the class of preference customers to include investor-owned utilities or the consumers served by IOU's; neither the power supplies nor the power costs of the IOU's or their customers are protected in the manner provided for preference customers.

WHAT THE PACIFIC NORTHWEST POWER BILL DOES DO

First. The bill solves the Federal power allocation crisis: This crisis is a Federal crisis; a Federal decision cannot be avoided. A Federal legislative decision, instead of a Federal administrative decision, can prevent 10 years of disruptive lawsuits. The allocation provisions of this bill are acceptable to all classes of BPA customers, and they can be carried out without cost to anyone other than BPA customers. Failure to enact this "legislative peace treaty" could touch off a regional "war" whose adverse consequences would eventually be felt nationwide.

Second. The bill encourages conservation and renewable resources: These to me are its more important and most gratifying improvements. The bill sets forth a comprehensive regional power planning approach that gives priority to conservation and renewable resources, and also provides the regional financing mechanism necessary to assure their successful development. While all utilities are granted direct financial incentives to make independent conservation and renewable resource decisions, no utility need continue to be discouraged from such efforts by the "pioneer's penalty" for these currently unconventional resources. I feel safe in predicting that other regions will eventually choose to import from the Northwest new conservation and renewable resource technologies that would not have been developed, or developed as quickly and cheaply, if this bill had not been enacted.

Third. The bill lets the Northwest States guide BPA's actions: Rarely does the Congress step back from increased federalization, but in this bill it is the Northwest States that will, for the first time, be given an opportunity and a mechanism for guiding BPA's exercise of its new authorities. This is fitting, because a regional, integrated approach is clearly needed, and this is a field in which both the States and the Federal Government have traditionally operated, although not with the degree of full cooperation at all times that will now be possible. The regional power plan, drafted by the regional council, will be the map of the region's future energy path.

Fourth. The bill helps the Northwest solve its power shortage: So long as our power allocation problem remains unsolved, our regional power shortage will grow worse. This bill solves the allocation problem. It also lets the integrated electric power system of the region resume its coordinated, cooperative path of development, with continued high efficiency. Finally, the bill gives the region the tools it needs—and that it must use at its own expense—to solve the power shortage through reductions in load and, if needed, additional generation.

Fifth. The bill helps reduce consumption of imported oil in California and the Southwest: If the Northwest is in load/resource balance, it is able to sell to Southwestern utilities and their customers each year amounts of seasonally surplus nonfirm power that cannot be used or stored in the Pacific Northwest. This is not power that can or should be used to serve Northwest loads, because in many years it is not available at all, and in other years its availability fluctuates wildly. On average, however, it serves to displace some 15 to 20 million barrels a year of oil consumption in the Southwest, producing benefits to both regions and to national energy policy goals. The continued availability of this power is jeopardized as the Northwest slips into worse power deficits. Thanks to amendments by Mr. Clausen, Mr. Moorhead, and Mr. Lagomarsino, the bill now continues the possibility of mutually beneficial power transactions between our two regions, while at the same time assuring Northwesterners that BPA will not sell outside the region any power that is not temporarily surplus to Northwest needs. Neither region can be harmed; both can benefit.

Sixth. The bill balances power production and fish and wildlife protection: Mr. Dingell drafted the fish and wildlife provisions that prompted a historic series of meetings between fish agencies and power interests in the Pacific Northwest. The goal was to develop a mechanism for the drafting and implementation of a comprehensive program for the protection, mitigation, and enhancement of fish and wildlife affected by the hydroelectric facilities on the Columbia River and its tributaries. This was an extraordinarily difficult and delicate task, and one whose successful completion would not have been possible without the full-time effort of Mr. Dingell and his able staff. As a result, the bill now contains fish and wildlife provisions that meet the two key tests: First, the provisions are satisfactory to both fish and power interests in the Northwest; second, they are carefully written to avoid any cause for renewed concern by either fish or power interests in other regions. Because these provisions meet these two tests, they represent legislative craftsmanship at its very best, and our region owes a particular debt of gratitude not only to Mr. Dingell, but also to Mr. Lujan and other members of Interior Committee who succeeded in perfecting these provisions.

SUMMARY SECTION-BY-SECTION ANALYSIS

Most sections of H.R. 8157 are identical or nearly identical with the common provisions of S. 885 as reported by the Interior Committee and the Commerce Committee, respectively. The relevant legislative history in terms of section-by-section analysis can in most cases therefore be found in the reports of the two committees (Rept. No. 96-976, parts I and II). For this reason, I will here provide only a brief guide to what the bill's sections contain.

BRIEF SUMMARY OF S. 885 (H.R. 8157) BY PRINCIPAL SECTIONS

Section 1 (Short Title).

Section 2 (Purposes). The purposes of the Act include encouraging conservation and renewable resources, assuring the Northwest an adequate power supply, providing public and governmental participation in regional power planning, retaining local control over (and regional financial responsibility for) the region's power system and facilities, and protecting fish and wildlife affected by dams on the Columbia River system.

Section 3 (Definitions). The definition of statutory terms make clear, among other points, that the Bonneville Power Administration (BPA) will not be authorized to own or build any generating facilities, and that all power resources acquired by BPA from non-Federal sources must be evaluated on the basis of full marginal cost comparisons.

Section 4 (Regional Planning and Participation). The first subsections establish the regional planning and participation process to guide BPA's exercise of its conservation and power resource acquisition authorities. An eight-member regional council (two members from each Northwest state) will write and adopt both a regional conservation and power plan and a program for the protection, mitigation and enhancement of fish and wildlife on the Columbia River and its tributaries. If this state-appointed council fails for any reason, a "backup" council is to be appointed by the Secretary of Energy from names submitted by the Governors.

The regional council's principal duties are to draft the regional plan and the fish/wildlife program, to modify these from time to time (with full public participation), and to review BPA's conservation and resource acquisition decisions for consistency with the regional plan.

Section 5 (Sale of Power).

BPA is to offer new power sales contracts to all requesting utilities in the region and to BPA's existing direct-service industries (DSIs). Subsection (a) insures that all sales are subject to the preference clause of the Bonneville Project Act of 1937. Subsection (c) permits utilities to exchange with BPA an amount of power equal to their residential and small farm loads, and requires the cost benefits of such exchanges to be passed through directly to consumers. The minimum contractual entitlement to power of each BPA customer class during any period of insufficiency is also specified in this section.

Section 6 (Conservation and Resource Acquisition).

BPA is authorized to implement conservation and to acquire resources needed to meet its power sales obligations. Special procedures are established for major resource decisions. BPA is required by section 6(h) to grant billing credits to utilities that undertake independent conservation or resource programs, in order to encourage independence from BPA. Section 6(j) makes clear that all BPA costs must be paid by BPA's own customers, and that the United States of America does not provide any guarantee or security for BPA's obligations (BPA is already a self-financed agency, required by law to recover all its costs through its rates).

Section 7 (Rates).

Along with section 5, this section sets forth the basic power allocation system and "rate package" of the bill, which is common to all versions of the bill and represents a regional consensus on the division of future power supplies and power costs. The lowest BPA rate will remain available for public bodies and cooperatives and exchanges for the benefit of residential and small farm customers. Section 7(b) contains a "rate ceiling" for preference utilities, to insure that these entities continue to receive the cost benefits of their preference rights to federal power supplies.

Section 8 (Amendments to Existing Law).

This section contains technical amendments to the Federal Columbia River Transmission System Act of 1974 (BPA's self-financing statute) to permit this new Act to be implemented. In addition, it establishes BPA's borrowing rate and permits Treasury to penalize BPA under certain circumstances for any delayed repayment of BPA borrowing. (BPA is not permitted to borrow for resource acquisition purposes, except conservation and small renewables.) This section also creates, through an increase in the existing BPA fund, a conservation revolving fund of $1.25 billion (all recoverable from BPA's rates).

Section 9 (Administrative Provisions).

BPA may well sell outside the Northwest only power that is surplus, but individual utilities remain free to sell power as they wish. Tax-exempt financing by state and local governments (including publicly-owned utilities) is preserved but not extended. Terms and conditions are established for SEC and BPA approval of generating companies able to sell power to BPA without running afoul of the Public Utility Holding Company Act. Provisions for judicial review are also set forth in this section.

Section 10 (Savings Provisions).

All existing rights, authorities, jurisdictions and claims of state and local governments, Indian tribes and BPA customers are preserved. These include state control over facility siting and licensing. The reservation of power to Montana from certain dams is recognized, and appropriations of water under the authority of this Act are disclaimed.

Section 11 (Effective Date)—Section 12 (Severability).

ADDITIONAL POINTS ON SPECIFIC PROVISIONS OF THE BILL

There are some specific provisions of the bill that warrant additional comment, beyond the general descriptions given above and the material available through the Committee reports. I wish to touch briefly on a few of these.

1. The regional council. The eight-member state-appointed regional council set forth in the initial subsections of section 4 represents the culmination of literally years of discussion and debate in the region and in Congress. This is the only form of regional council ever discussed that proved acceptable to all of the diverse governmental interests that had to be accommodated, and to all classes of BPA customer as well. With this form of council now written into the bill, and by agreement, we have successfully navigated our way around the shoals that wrecked the Columbia Valley Authority legislation thirty years ago.

The reason for this particular form of regional power planning mechanism is that in the electric power field in the Pacific Northwest, the roles and jurisdictioins and traditional authorities of the states and the federal government are inextricably intertwined. Neither can take action without the cooperation of the other in matters of traditional concern and authority. Thus a system that integrates the state and federal authorities, while respecting constitutional boundaries, is the only one appropriate to this highly integrated state/federal/utility power system. For example, while BPA markets power from federal resources and owns most of the major transmission lines in the region, some of BPA's existing resources and virtually all of BPA's new resources are and will be non-federal resources, and large segments of the integrated transmission system are also non-federal. The states also regulate the energy facility siting decision process for the non-federal resources BPA will acquire, as well as regulating the investor-owned utilities who are BPA's customers and who, under the bill, will also sell power to BPA from existing as well as from new resources.

A year ago, evaluating a different Council in the Senate bill, and perhaps without a full understanding of the relationship of the states and the federal government in Northwest power matters, the Justice Department in a brief memorandum expressed the cautionary view that care should be taken to avoid violating the Appointments Clause of the U.S. Constitution in the design of this regional council. Heading this concern, the two Committees have carefully provided for a council that will not run afoul of this or other constitutional provisions. The interstate arrangement now contemplated by the bill is the type expressly permitted under the Constitution; it is a state-federal arrangement consented to by the Congress and perfectly appropriate for the tasks it will perform. The Appointments Clause may well regulate the separation of functions and powers assigned by the Constitution to different branches of the federal government, but it is not inconsistent with the very different area of federal-state arrangements agreed to by the Congress and dealing with areas of traditional state authority and competence, nor can the Appointments Clause be inconsistent with the interstate compact clause of the Constitution. Congress clearly may consent to the type of arrangement contemplated here, and that arrangement can function in the manner the bill sets forth.

The "backup" or "safety net" federally-appointed council also provided for in section 4 is primarily a safeguard against the failure of the states to make the requisite appointments to the Council, and against other actions or legal restrictions at the state level that might prevent formation or continuation of the Council. But these provisions work equally well to assure a smooth functioning of the regional planning mechanism in the unlikely event of a judicial decision that prevents the state-appointed council from performing substantially all of its functions.

2. Conservation and resource acquisition. Section 6 requires BPA to meet its contract obligations to its customers by acquiring sufficient resources, including conservation. The bill requires in section 6(a) that all cost-effective conservation and direct-application renewable resources be implemented or acquired by BPA; this obligation is a continuing one, regardless of other resource obligations. After planned savings from such measures and resources are taken into account, the remaining obligations are to be met through BPA's acquisition of resources. (The amount of these obligations may, of course, be reduced by independent customer action to achieve conservation or develop resources, as under section 6(h).)

The conservation directives of section 6(a) breathe real life into the model conservation standards to be established under section 4(f). These standards are required to be set at a level that is cost-effective for the region and economically feasible for consumers taking into account financial assistance made available under section 6(a). This means the standards themselves will be based on marginal cost, and that the Administrator will make available the financial assistance that will ensure these standards are attained. Without this provision, the economically feasible level of conservation for consumers would be less, and therefore not cost-effective for the region.

The resource acquisition scheme of the bill permits BPA to act with relatively little procedural difficulty on proposals that are consistent with the Council's regional plan. Since the plan must observe the criteria of section 4(e)(1) and the considerations of section 4(e)(2), including the cost-effectiveness test and the specified resource priorities—conservation first, renewable second, other resources last—this means, in effect, that a BPA proposal that is consistent with the plan is one that BPA and the Council agree is also consistent with the requirements of the Act. (Before a plan is in effect, and during the two years specified for the plan's development and adoption, the Council's normal ability to review certain BPA proposals for consistency with the plan is augmented by authority to review such proposals for consistency with the criteria and considerations of sections 4(e)(1) and (2).) Only if the Council or BPA finds a proposal to be inconsistent with the plan (or, in the initial two years, with sections 4(e)(1) and 4(e)(2) is there a need for additional Congressional review. This Congressional review does not in itself affect BPA's authorities under this Act, but it provides a means of scrutinizing the proposal and subjecting it to additional hearings, since in effect the Council and BPA will have disagreed about BPA's obligations or the requirements of the Act.

It is important to note that the Council's ability to review proposed BPA actions on consistency grounds does *not* mean that a state-appointed council will in itself control the existence or non-existence of statutory authority in a federal agency, BPA. Instead, BPA will remain authorized to act, but will not be permitted by the Congress to implement its proposed action until specific approval of expenditures for that action has been gained in an Act of Congress.

It is equally important to note that when the Appropriations Committees do grant this type statutory spending approval—and we do not contemplate that BPA will seek it, or need to seek it, very often—the Congressional action will not consist of "legislating on an appropriations bill", nor will it be subject to a point of order. This is the special type of budgetary review over BPA as a self-financed government agency and its major proposed actions practiced under the Federal Columbia River Transmission System Act and the Government Corporation Control Act procedures. Under this procedure major transmission system additions BPA cannot implement major transmission proposals until expenditures for that purpose are specifically proposed in an appropriations act. This is the procedure already authorized by Congress because BPA receives no appropriations and would otherwise be authorized to begin construction without formal expenditure authority.

3. Resource investigation and preconstruction funding. This provision, section 6(f), permits BPA to enter into agreements under which, following the investigation and preconstruction stages, BPA may later reimburse (and in some cases, initially fund) certain expenses of the resource sponsor in the event that the resource is later terminated. I want to emphasize that this provision is prospective in nature; it does not permit BPA to go back and enter into an agreement to "bail out" any terminated resource or resource whose termination is clearly imminent. The purpose of the provision is to reduce costs, remove pressures from state siting bodies, promote renewable resource development by non-utility sponsors, and ensure that resource proposals receive an early public airing when public opinion may still result in plans being changed without huge costs.

This authority may be exercised only in instances where the Administrator determines that failure to do so would result in "inequitable hardship" to consumers served by the resource sponsor. This would be the case, for example, if the resource is contemplated to be one sold to BPA to meet BPA's obligations to its customers, and hence a potential regional resource, rather than a resource that the sponsor is contemplating will be used independently of BPA and solely for its own needs or for sale outside the mechanisms of this bill. The ratepayers of a single utility should not be saddled with the cost of resource intended for regional availability and use, even though as a practical matter the preliminary site investigation and feasibility studies will often be carried out by a single utility acting, at that stage, alone.

I should note that this provision was narrowed considerably in the Commerce Committee through an amendment of Mr. GORE, and that the protections against retroactive agreements to "bail out" failed resources are fully retained in the present bill.

4. BPA oversight. As the bill has developed, BPA's oversight responsibilities under section 6(i) for resources acquired or granted billing credits has been broadened considerably. This is, in general, a very healthy development, because all parties recognize that BPA's past oversight authority for resources already being acquired has proven inadequate. These extensive new oversight provisions have prompted some concern that BPA may lose sight of its other responsibilities while attempting to fulfill its responsibilities under section 6(i), which is, of course, not the intent at all. BPA needs to develop the staff expertise to exercise its oversight, audit and review responsibilities without unnecessarily hindering or adding to the cost of resource development. And of course BPA's responsibility in this area does not displace the responsibility of the resource sponsor to properly schedule, construct and operate the resource. All contracts for resources acquisitions and billing credits should contain specific provisions, effective for the life of the resource, that achieve this balance, which necessarily will vary somewhat from case to case.

5. Interim rate approval. It will be im-

portant under the bill, as it is today, that BPA's final rates can become effective on an interim basis pending ultimate approval and confirmation by FERC. This is particularly true, given that the new rate provisions of the Act are different from past rates of BPA and must be implemented very rapidly, on a timetable that the Act will set forth. The bill now provided FERC reasonable options to assure that BPA rates can become effective on a timely basis. Section 7(i) permits interim rate approval by FERC, and, if interim rate procedures are required, mandates that FERC adopt such procedures within one year. (Such procedures are not required under the Administrative Procedures Act.) In the alternative, the Secretary of Energy may, as he does today, grant the interim approval for the period until July 1, 1982, pending interim or final approval of these rates by FERC. What matters, given the need for new rates and for BPA to meet its repayment obligations, is that interim approval be granted quickly.

6. Borrowing rate penalty. Section 8(c)(4) was added to the legislation to provide a reasonable incentive for BPA to maintain a rate structure adequate to meet all of its financial obligations including the timely repayment of the capital costs of the Federal Columbia River Power System. The provision recognizes that BPA's revenues and expenses are subject to wide variations due to conditions beyond its control (low streamflows, project breakdowns, etc.) by excluding repayment deficiencies caused by those conditions. The provision does give the Treasury Department the ability to add up to a 1 percent penalty if BPA is dilatory in taking action to adequately increase its rates to cover reasonably forecasted increases in operating costs. To extend this provision to cover interest penalties for unexpected conditions without giving BPA the right to establish a contingency fund would be unfair to BPA and its ratepayers.

It was for this purpose, incidentally, that the term "current basis" was added to section 2(3) of the current bill.

7. BPA contracting and expenditure authority. Section 9(a) extends Bonneville's existing special contracting authorities (and related expenditure authorities) contained in Section 2(f) of the Bonneville Project Act to include the new contract and expenditure responsibilities provided in this legislation. In 1945 Interior Secretary Ickes in supporting the inclusion of Section 2(f) in the Bonneville Project Act, recognized that Bonneville is not engaged in an "ordinary government . . . regulating enterprise." Rather Bonneville, then and even more so now, operates and functions as an integral part of the region's power system. When Congress amended Section 2(f) into the Bonneville Project Act in 1945, it recognized the need for Bonneville to have the ability to employ business principles and methods not ordinarily applicable to governmental agencies. The Comptroller General in reviewing this unique authority and its application summarized the intent of Congress as "enabling the (Bonneville Power) Administrator to conduct the business of Bonneville with a freedom similar to that which has been conferred on public corporations carrying on similar or comparable activities." The amendment to Section 9(a) applies this important legislative principle into Bonneville's future contracts (and related expenditures) under this Act as well as the Bonneville Project Act, the Federal Columbia River Transmission System Act and other related statutes, while continuing in effect the laws currently applicable to BPA contracting and expenditures.

8. Preservation of Bonneville's status as a "separate and distinct" entity within the Department of Energy. Section 9(b) has been amended to make clear that the statutory requirements and directives in Section 302 (a)(2) and (3) of the Department of Energy Organization Act, the Federal Columbia River Transmission System Act, and the Bonneville Project Act as well as the legislative history and background related to those Acts will continue to govern the relationship of BPA and the Department of Energy. Section 302(a)(2) of the Organization Act requires that "The Bonneville Power Administration . . . shall be preserved as a separate and distinct organizational entity within the Department" (of Energy). This section also requires that the functions of BPA transferred to the Department "shall be exercised by the Secretary acting by and through the Administrator."

Congress clearly intended then as it does now that BPA continue to function as an independent bureau within the Department of Energy as it previously operated when BPA was part of the Department of Interior. The Senate Committee on Governmental Affairs in reporting on this Act stated:

"It is the intent of the Committee that these relationships not be disturbed by this Act. As the responsibilities of BPA have grown over the years, the organization structure has been tailored to meet those responsibilities. The Administrator must continue to have the flexibility to manage the organization so as to be able to cope with future expression and directions in the public interest. The independent bureau status of BPA within the Department of Energy will preserve this flexibility."

When the Organization Act was considered by the House, Congressman Meeds offered an amendment to Section 302 (which was adopted and is part of the Act) to further strengthen the "separate and distinct nature of BPA and other PMA's within the Department. In his Floor statement, which is an important part of the legislative history in support of this amendment, Mr. Meeds states:

"The Bonneville Power Administration provides an excellent example of the extent of present regional administration. Since its creation in 1937, the Bonneville Power Administration has always exercised independent responsibility over such matters as the administration of its budget, local labor relations, the procurement of legal services, construction contracts, power supply contracts, claim settlements, selection of technical expertise and utilization of local administrative skills. As a result of such regional interaction, the Bonneville Power Administration has been able to meet the constantly changing power needs of the Pacific Northwest.

"Mr. Chairman, I would like to stress that it is absolutely imperative that Bonneville Power Administration, along with the other three Federal power marketing agencies and the Bureau of Reclamation, be allowed to continue to exercise independent responsibility over such matters. Without the authority to make independent decisions based on regional needs, the effectiveness of the regional entities is jeopardized. I believe this amendment will prevent this."

Other laws relating to Bonneville also demonstrated the intent of Congress that BPA be operated with the requisite autonomy to assure its programs are implemented successfully. Both the Federal Columbia Power Transmission System Act of 1974 and the Bonneville Project Act of 1937 assign the broad statutory responsibilities directly to the Bonneville Power Administrator. In Section 2(f) of the Bonneville Project Act and in the Transmission System Act Congress recognized the businesslike nature of BPA's responsibilities by giving BPA broad contracting authority and self-financing authority. Further BPA's budget and accounting procedures were made subject to the Government Corporation Control Act to give BPA the autonomy and flexibility of its day-to-day decisions and operations similar to a private corporation.

The executive branch indicated to the Congress its intent to provide Bonneville appropriate operating flexibility to effectively carry out the expanded responsibilities Bonneville received in the Transmission Act. Just prior to enactment of the Transmission Act, the executive branch assured the Congress Bonneville would be directly provided a separate annual planning allowance and personnel ceiling by the Office of Management and Budget. This assurance was first communicated to the Congress in the form of an exchange of letters between Frank G. Zarb, then Associate Director of the Office of Management and Budget, and John C. Whitaker, then Under Secretary of the Interior Department which were placed in the Congressional Record. These understandings were reaffirmed in an August 2, 1977, letter from James R. Schlesinger, then Assistant to the President, to Senator Henry M. Jackson which stated, "It is our intent to preserve existing arrangements regarding BPA, and we will consult you should major changes in such arrangements be proposed in the future."

If BPA is to successfully implement the Pacific Northwest Electric Power Planning and Conservation Act, it must continue to act as a "separate and distinct" organization within the DOE. It is our intent to preserve BPA's ability to efficiently manage and discharge its independent responsibility under law over matters such as procurement for materials, equipment, services and construction, power management activities, including conservation, preparation and administration of BPA's budget and management of BPA financial matters, rulemaking claims settlements, selection and utilization of administrative technical and legal expertise, the acquisition of real property and the management of environmental matters. We have amended Section 9(b) to leave no ambiguity as to the intent of Congress with regard to this matter.

9. Tax exempt financing provision. Section 9(f) was included in the legislation to assure regional publicly owned utilities that they can continue to sue "tax exempt" bonds to finance projects to meet the load growth of public bodies, cooperatives and Federal agencies in the region. The provision now included in the Act limits and does not extend the ability of regional publicly owned utilities to finance projects with "tax exempt" bonds. Further, I am convinced that the enactment of this legislation will result in less "tax exempt" securities being sold by Pacific Northwest publicly owned utilities than would otherwise occur without legislation.

Since the loads of publicly owned utility systems are projected to grow substantially in the next 2 decades, BPA is expected to purchase power capability from resources owned by these systems to avoid power shortages or "insufficiency" under the terms of new power sales contracts authorized by the Act. BPA is a non-exempt person under current IRS regulations. Therefore, the tax exempt status of publicly owned utility systems would have been jeopardized by such a sale to BPA without the provisions of Section 9(f) even though BPA's purchase was for the purpose of meeting the load growth of publicly owned utility systems after the date of enactment.

The Commerce Committee included provisions in this section that will keep this provision and the proceeds of the tax exempt bonds from being used to finance generation to meet the forecasted load growth of investory owned utilities, except in circumstances when the Administrator finds a needed project financed by publicly owned utilities cannot be acquired by BPA without a portion of the power being resold to meet the forecasted loads of investor owned utilities or direct industrial customers.

Since the arrangements for purchase by BPA are normally completed many years prior to the actual completion and operation of a resource, it is also probable that the loads actually served by BPA will vary from the estimates upon which the arrangements are based. The provisions of this section are not intended to limit the operation of resources financed with tax exempt bonds once they are constructed. Instead, if the loads of public bodies, cooperatives and Federal agencies are lower than forecast, BPA's future purchases of new resources for the benefit of the loads of public bodies, cooperatives, and Federal agencies should be modified accordingly.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho (Mr. SYMMS).

□ 1350

Mr. SYMMS. Mr. Chairman, I wish to join my colleagues from the Pacific Northwest and from both parties in support of S. 885, the Pacific Northwest regional power bill.

What we are witnessing today is a remarkable event: Not only are Members from both sides of the aisle rising in support of this vital legislation, this bill is also strongly supported by groups that for decades have opposed one another. Public power and private power both support this bill. All four Pacific Northwest States support this bill, despite a long and sometimes bitter history of interstate disputes over power, fish, and water. Business and labor together support this bill.

These diverse groups have joined together for a common purpose for one reason: Because this bill is needed. That this bill should enjoy such widespread support is even more remarkable considering that this is an election year, that energy is probably the most divisive issue in the Nation, and that the problem this bill is intended to avert occurs next year—Congress is averting a problem, rather than waiting to respond to it.

The problem this bill averts is a Federal problem. The Bonneville Power Administration is a Federal agency. It markets Federal power from the Federal Columbia River Power System. BPA's power sales contracts begin to expire next year. All this power must be reallocated by a Federal decision. This Federal decision will either be made by Congress, or it will be made by a Federal agency—the Bonneville Power Administration—and by Federal courts. The Northwest's problem definitely is not a problem that the States or private parties can resolve on their own.

If this inevitable Federal decision is made by BPA and by the Federal courts rather than by Congress the Pacific Northwest may well be paralyzed. The BPA power supply is large and relatively low-cost. Any administrative and judicial reallocation will set off what has aptly been described as a "regional civil war" over the BPA power supply. Regardless how this war turns out, the Pacific Northwest will be the big loser. While the battle over BPA power is being waged no utility or electricity consumer can plan its future. Future power development in the region—and the Nation's power problem—will be seriously harmed.

Some of my colleagues from other parts of the country have told me "But this is only a regional problem; Congress has more pressing national problems to deal with, especially at this late date in the session." I admit, it is primarily a regional problem—but it is a regional problem caused by the Federal Government that requires a Federal solution. And it is a regional problem with important national implications.

The Pacific Northwest exports significan amounts of seasonally surplus nonfirm power to the Pacific Southwest—enough power to displace an average of 10 to 15 million barrels of oil-fired generation a year. Unless this bill is enacted, the Northwest power problem may become so serious that the Northwest has no choice but to use this power in the region. This would significantly increase power costs in California and the Nation's dependence on imported oil.

One-third of the Nation's aluminum production is located in the Northwest. Unless this bill is enacted, continued operation of this vital industry is seriously jeopardized.

Most important, the Pacific Northwest currently is fortunate to have one of the healthiest economies in the country. Unless this bill is enacted, the future health of our region is in grave doubt. No segment of the national economy can be really healthy when an important region like the Pacific Northwest is ailing, as it almost certainly would be without this bill.

Some of my colleagues have expressed other concerns about this legislation. I have to admit that I too had serious reservations about earlier versions of this legislation. The bill before the House has been revised, however, to resolve these concerns:

First, there can be no question that there are absolutely no "Federal guarantees." The Bonneville Power Administration is an entirely self-financed agency. All costs are paid by BPA ratepayers—this bill involves absolutely no appropriations or cost to U.S. taxpayers.

Second, there can be no question about "federalizing" the Northwest utility industry. Northwest utilities certainly do not believe that this bill nationalizes them. These utilities have fully participated in the formation of this legislation and fully support it precisely because they believe that it protects local utility control and responsibility. It is true, however, that without this bill the continued survival of local utilities may be in jeopardy.

Finally, there can be no question but that the bill is needed. This legislation has taken more than 5 years to get to the House floor. During this period and before, our region attempted literally every method to arrive at a solution to the Northwest's power problem without coming back to Washington. All these attempts failed because the Northwest's problem is a Federal problem that demands a Federal solution. There literally are no solutions except this legislation.

I want to make it clear that this bill is not a panacea. With or without the bill there will be power shortages in the Northwest, unless streamflows are abnormally high. With or without the bill, power costs in the region will rise significantly. This bill does not solve all the Northwest's problems, but it does solve the fundamental problem of how to reallocate the existing supply of relatively low-cost BPA power. Unless and until this problem is solved, none of the other power problems facing our region can be solved. Certainly, until the region decides how to reallocate the existing supply of BPA power it cannot decide how to plan and develop the additional resources the region may need in the future.

Mr. Chairman, I would like to conclude my remarks by emphasizing to my colleagues why this bill is so important to the Northwest and to Idaho: S. 885 brings tens of millions of dollars of rate benefits to Idaho's residential consumers and farmers. It brings lower costs for new power resources for all Idaho electricity consumers. It protects Idaho's growing rural electric cooperatives from paying a disproportionate share of the region's power costs, while preserving their preference to the BPA power supply. And it gives Idaho an equal seat at the regional energy table and an equal voice in planning the Northwest's energy future.

Idahoans have long been known for their independence, their reluctance to take handouts from the Federal Government, and their staunch opposition to so-called "Government solutions" that call for more Federal money, more bureaucracy and more regulation from Washington without producing any more energy. But this bill does none of these things. The people of the Northwest and of Idaho will be significantly better off with this legislation than without it, because this legislation gives our region the tools it needs to solve its energy problems by itself.

I am pleased to join my colleagues on both sides of the aisle in support of S. 885. I urge you to join with us.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Washington.

Mr. DICKS. The gentleman, of course, has been a staunch supporter of the free enterprise system. It was said earlier that this bill would somehow nationalize the private energy utilities of the far Northwest. That is not the gentleman's understanding?

Mr. SYMMS. No; as a matter of fact, my opinion about this bill is that we have a problem of over half of the power or about half of it in the Pacific Northwest which is produced by BPA or is in the BPA network, and we have to come up with a system of how to allocate it out. That is really what this bill is about.

Then, as future growth comes, if we do not grow an apple you cannot divide it up. So we have to plan for the future. This will get this one step done.

Mr. DICKS. Private utilities, all of which support this legislation in the Pacific Northwest, they would not be supporting this bill if it nationalized them, would they?

Mr. SYMMS. No. I would not think so. In fact, some of the private utilities in the State of Washington and Oregon are concerned that without the bill, that they are in more jeopardy than they are with the bill because they may be gobbled up because of a differential that is too great in price and would cause more problems. I think it is essential for the preservation of our present system, and it is really an allocation bill to help solve this problem. We have got all parties together. I think we should move ahead with it.

Mr. DICKS. I thank the gentleman.

Mr. SYMMS. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Michigan (Mr. DINGELL).

The colloquy, Mr. Chairman, is on subsection k on page 67 relating to the billing credits.

Is it the gentleman's understanding that the language on lines 22 and 23 which seeks to insure that billing credits "are distributed equitably throughout the region." would not only include the concept of geographic equity but also the concept of equity between classes of customers?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

The gentleman is correct. He has raised a point that is of great importance, and I join the gentleman in that interpretation.

Mr. SYMMS. I thank the gentleman.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

As to the colloquy the gentleman just had with the gentleman from Washington (Mr. DICKS) about the free enterprise system, and nothing he said in this bill had anything to do with nationalization or private utilities getting their needs met, may I point out that on page 41 of the bill it says:

> Whenever requested the Administrator shall offer to sell to each requesting investor-owned utility electric power to meet the firm power load of such investor-owned utility in the region to the extent that such firm power load exceeds.

And so forth.

□ 1400

Mr. SYMMS. Mr. Chairman, I yield to the gentleman from New Mexico.

Mr. LUJAN. Did not the Bonneville Act of 1937 provide that? That is not a new section of this bill. I ask the gentleman, does the gentleman know, does he understand, that that provision has been there from the beginning of time? This is nothing new. This is just a reiteration of the policy that has existed since the 1930's. What is new about that?

Mr. SYMMS. Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield myself two minutes.

Mr. Chairman, over most of my years serving on the Interior Committee, the problems of Bonneville and the Great Northwest have come before us from time to time.

Frankly, when we began work in our committee 3 or 4 years ago on this subject of this present legislation, I had some concerns. I want to thank the gentleman from Texas who chairs our subcommittee who did a remarkable job in providing an extensive hearing base so that we could finally act on this legislation in this Congress.

Mr. Chairman, the Committee on Interior and Insular Affairs has been actively involved in the process of developing legislation to resolve the energy problems of the Pacific Northwest for over 3 years. This process began in late 1977 when our Subcommittee on Water and Power Resources held its first field hearings in the region. The committee's interest in this legislation has been continuous since then, and, as a result of numerous additional hearings both here and in the region, the committee has heard from hundreds of individuals, groups and representatives of the region on this topic.

The record developed by the committee demonstrates the difficulty of resolving the issues of resource allocation and regional planning. The issue of how best to allocate existing and future resources and the mechanisms proposed to accomplish this allocation have been the subject of lengthy and heated debate.

There are some people in the region and on the Interior Committee who feel that this legislation is not needed. There are many who believe that the methods authorized by this legislation are significant departures from established Federal policy and will serve as a precedent for Federal power marketing agencies in other parts of the country. The issue has been controversial from the beginning. Nevertheless, the Interior Committee and the Commerce Committee have come to grips with many of the hard questions presented by this bill and have produced bills that reflect considerable thought and legislative judgment.

As you are aware, the Interior Committee and the Commerce Committee reported bills that differed from each other in several significant areas. For the past week, both sides have worked long, hard hours to reconcile these two versions in a manner that would be acceptable to all. The resulting substitute preserves those sections that are the backbone of the bill: A strong emphasis on conservation and renewable resources as a means of dealing with the region's growing power demands. a State council that works hand-in-hand with the BPA Administrator to develop a comprehensive plan for resource acquisitions, a program for the reconciliation of the sometimes competing interests of fish and wildlife and power generation.

As is inevitable in the reconciliation process, compromises were made. Some of the amendments incorporated in the Interior reported bill were modified, as were some sections of the Commerce reported bill. I think however, that the efforts made to produce a substitute acceptable to all were successful. I congratulate my colleagues on the Interior Committee for the time and work they put into the consideration of this bill in committee and for their contributions to the reconciliation. I also congratulate the members of the Commerce Committee for their efforts to reach a middle ground.

I want to say, Mr. Chairman, that the fears and misgivings that I have had have been largely eliminated through the long process of hearings and markup.

I was concerned about the lack of unity in the Northwest for a long time. We had too many bitter public and private power fights in the West over the years.

I was concerned about whether this legislation would set a precedent for my own part of the Rocky Mountains.

I have come to the conclusion that this is good legislation in its broad outline. There may be an amendment or two that I would support if we have a large amount of amendments offered; but basically I am for the thrust of this legislation as developed by the Interior Committee and the Commerce Committee and the reconciliation vehicle we put together to take up and cover some of these points.

I think one of the things that finally occurred to me as we went through the process of working on this legislation was that we are a big and diverse country. Different regions need different solutions. The Northwest with its great Columbia River has an asset that many of us envy. We have envied it a little bit too much sometimes and made our friends nervous up in the Northwest; but a solution that might be appropriate in the Northwest might not be appropriate in the Southwest.

So this bill is kind of a hybrid. It creates sort of a hybrid. The kind of power arrangements we have in the Southwest are a hybrid. The great Tennessee Valley Authority which was put together in the thirties and forties was an unusual different kind of concept crafted to fit the needs, and the resources, and the assets of that part of our country.

So I intend to support the legislation. I hope we can act on it quickly and get a result for the Northwest that they can live with and build upon.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. UDALL. Mr. Chairman, I yield myself one more minute.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I appreciate the gentleman yielding, because both of us come from sections of the country outside the region affected by the bill and both of us have ended up supporting this legislation.

I just want to indicate that I think it is in the national interest for us to approve the efforts that are being made here by the people from the Northwest to solve their own problems. That is really what we are doing, giving approval to an arrangement that has been fought out by many different concerns in the Northwest.

I think it is very important to realize that we are doing this without creating an expense for the rest of us from other parts of the country. There are those who have tried to raise the allegation, I think it is a very false one, that somehow we are disadvantaging the other regions of the country by approving this arrangement. That is not the case and I am sure when we get into the amendments we will be able to make that clear to our colleagues.

I would urge our colleagues who have not had the same opportunity and pain that we had of going through this bill to be willing when amendments come up to try to understand the full nature of the arrangements of this bill, because it is kind of easy to pull out one little part and decide "well, maybe we don't like that part of the bill."

You have to understand how the parts fit together in this bill.

Mr. UDALL. Mr. Chairman, I thank the gentleman and I thank him for his great contribution in developing this legislation.

Mr. Chairman, I would yield 3 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I rise in support of the bill.

I want, first, to commend the gentleman from Texas (Mr. KAZEN), the subcommittee chairman of the Interior Committee, the gentleman from Michigan (Mr. DINGELL); the gentleman from Arizona (Mr. UDALL); the gentleman from California (Mr. CLAUSEN); the gentleman from California (Mr. MOORHEAD); the gentleman from California (Mr. BROWN); the gentleman from Ohio (Mr. BROWN); the gentleman from West Virginia (Mr. STAGGERS); the gentleman from Indiana (Mr. SHARP); the gentleman from New Mexico (Mr. LUJAN), and particularly the gentleman from Washington (Mr. SWIFT) and all the members of the Northwest delegation who worked so hard on this bill. It has been a team effort.

It is important to review several basic facts when thinking about the bill. The first is the question on why we have the bill before us at all.

This bill is here, not because we simply wished to change things. We did not go out of our way to make all this work for ourselves. We are forced by the circumstances of growth in the Northwest, and the differences among the various States, and between the private and public power systems, to make these changes in the existing law. The bill is here because the existing laws that govern the operations of the Bonneville Power Administration will, in the very near future, prevent the Bonneville Power Administration from serving its purpose: to distribute power to all its preference customers and to deliver surplus power to the investor-owned utilities and the direct service industries.

It has recently been suggested that we can get along with less power. The only way we can get along with less power in the Northwest is by dramatically lowering the standards of living of our citizens, and drastically raising the rate of unemployment. It is important to remember that fact. No responsible person would advocate that course of action. The growth and the changes in Washington, in Idaho and Oregon, and in western Montana, combined with the restraints under the existing law, make this bill inevitable.

Now, frankly, when I was first presented with the problems associated with this bill, I thought it could not be done. I repeatedly said, "If you put all the facts and all the needs into a computer and push the button, all the computer does is go 'tilt'." You cannot do it.

I think the bill is somewhat of a miracle. This compromise version takes the best of the Senate version, S. 885, and the best of the versions reported to this House by the Committees on the Interior and Commerce. It is a carefully crafted response to the energy problems of the Northwest and deserves the favorable consideration of this body.

The Northwest is an isolated region with respect to electric energy production. It produces mostly hydroelectricity from the Columbia River and Snake River systems, providing 40 percent of the Nation's hydroelectric potential. It is isolated in the sense that you do not deliver electric energy more than about 400 miles without having direct current tie lines, as we have from BPA down to California, but it is isolated. It is similar in that sense to TVA and the Missouri Valley Authority and others.

It is also important to recognize that no region of this country will be affected by this bill as far as its power laws are concerned. In fact, the rest of the country will be positively benefited by the bill as it permits the Northwest to continue to increase its production of important metals, such as aluminum, and to expand its exports, all of which contribute to a favorable balance of payments.

Remember that the Bonneville Power Administration does exist. The States do exist with their different systems. The PUD's and the investor-owned utilities do exist. Population and industrial growth, with predicted power shortages do exist. And unnecessary strains and chaos will inevitably result unless we pass the legislation.

This legislation is supported by the State governments, by all the private power companies, by almost all the public power utilities, by the direct service industries, and overwhelmingly by the people of the Northwest. It is a most conservative and carefully prepared bill.

I hope that the members of the committee and the House will support the bill overwhelmingly and oppose all amendments to it.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes for purposes of debate only to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, just to clarify the colloquy we had before, again this bill has something startlingly new and radical in which it mandates that the Bonneville Power Administration offer to any requesting investor-owned utility electric power to meet the firm power load of such investor-owned utility.

□ 1410

That is a real revolutionary, radical thing. It is brand new. It is not in the previous Bonneville legislation. If it is, I say to the gentleman, then he ought to back my amendment to make sure that it is not.

Mr. DICKS. The gentleman knows ever since 1937 and the enactment of the BPA Act, there are requirements contracts for private power companies only if the power was surplus to the public utilities' needs and requirements. So there is nothing new about this.

Mr. WEAVER. No. It is brand new.

Mr. DICKS. I would say if it is brand new, it is brand new only in the gentleman's view.

Mr. WEAVER. If the gentleman does not mind, I would take back my time to say that this is a brand new, radical provision of law.

To those who feel that there is not much opposition to the Northwest energy bill in the Northwest, may I read a list of entities that oppose the bill. First there are several national organizations that oppose it. Among them are the National Taxpayers Union. The National Taxpayers Union says, and this is a letter signed September 24, 1980, it says:

> Our organization is firmly opposed to any expansion of the use of Federal loan guarantees to deal with the problem.

Then it goes on to say that even though the Bonneville Power Administration's authorities are restrained, they feel that this is fundamentally a Federal guarantee. I will get into that later in the debate.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. LUJAN. I will yield the gentleman 2 additional minutes.

Mr. WEAVER. The local people in the Northwest opposing this are as follows:

ORGANIZATIONS WHICH ARE OPPOSED TO MAJOR PROVISIONS OF THE NORTHWEST POWER BILL

Washington State Democratic Party.
Oregon State Democratic Party.
Montana State Democratic Party.
Oregon State Grange.
International Communications Workers of America.
Retail Clerks Union.
Northern Plains Resource Council.
Greenpeace.
Environmental Information Center (MT).
Oregon Environmental Council.
Washington Environmental Council.
Idaho Conservation League.
Clearwater Conservation Council (ID).
Seattle Teachers' Association.
Interim Committee on Environment & Energy, Oregon House of Representatives.
Oregon International Longshoremen and Warehousemen's Union Pensioner's Association.
Elder Citizen Coalition of Washington.
People's Organization for Washington's Energy Resources.
Southwest Oregon Community Action Committee.
Idaho Citizens Coalition.
Oregon Fair Share.
Ratepayers Union (OR).
Oregonians for Utility Reform.
People for Public Power.
Keep Public Power Alive.
Solar Oregon Lobby.
Washington PIRG.
Oregon PIRG.
Citizens for a Solar Washington.
Gray Panthers.
Mid-West Electric Consumers Association.

Arizona Municipal Power Users Association.
Committee on Power for the Southwest.
Ohio Municipal Electric Users Association.
ElectriCities of North Carolina.
Northeast Public Power Association.
International Association of Machinists.
League of Women Voters.
Audubon Society.
Natural Resources Defense Council.
Environmental Policy Center.
Congresswatch.
Friends of the Earth.
Sierra Club.
Izaak Walton League.
Environmental Action.
Solar Lobby.
Western Organization of Resource Councils.
National Wildlife Federation.

I would like to comment on solving a problem. Remember, if we do have a problem in the Northwest, there is not one kilowatt of electricity in this bill, not one, until at least 1995, just 15 years, so it cannot solve, obviously, a single problem in the Northwest for 15 years. We know that. That is just a categorical absolute. We know that. To say that it solves our power problems is incorrect.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I am delighted to yield if the gentleman will give me more time.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. SWIFT. Mr. Chairman, I now yield 3 minutes to the gentleman from Oregon (Mr. AuCoin) for purposes of debate only.

Mr. AuCOIN. Mr. Chairman, I will be brief because I know we want to get on with the amending of the bill. I want to make but two or three points.

First, it has just been said that shortages are guaranteed in the Pacific Northwest Region unless this bill is passed—unamended. I disagree with that statement. I commend to my colleagues' attention the report I mentioned earlier, sponsored by the Department of Energy, contracted to the Natural Resources Defense Council of San Francisco, Calif., dated August of 1980, which indicates that that statement is not accurate. The report recognizes the region's energy needs, but provides an "alternative scenario" which would meet the region's energy needs at least through the year 1995 without requiring either coal or nuclear generation.

It was also stated on the floor by a colleague—and I want to say at this point that all of the proponents of the bill I know of, and I know of no exception, are Members with whom I have worked and for whom I have great respect, and with whom I feel sad to be standing in disagreement—it was stated by one of the proponents that the bill encourages no particular form of power generation. My reading of the bill leads me to a different conclusion. My reading of the bill suggests that a "guaranteed purchase authority" applied to the generation "capacity" of plants is not essential for conservation and renewable energy but is a clear invitation for easy financing for large, capital intensive thermal plants—nuclear plants in particular—which I think contradicts the statement that was made.

Mr. DINGELL. Mr. Chairman, will the gentleman from Oregon yield?

Mr. AuCOIN. I will yield when I have finished my statement. I have but 3 minutes.

Mr. DINGELL. The gentleman is making legislative history and, in my view, he is making very bad legislative history. I would like to disagree with the gentleman.

The CHAIRMAN. The gentleman from Oregon has the time.

Mr. AuCOIN. It has also been stated that the bill will not cost the Federal taxpayers a dime and that is clearly true. The same colleague who made that statement said it will be the region ratepayers who will foot the bill. I would not agree more.

The problem is that if we encourage the construction of large capital intensive plants, which this bill will, at the expense of less expensive energy from cogeneration, conservation, renewable sources of energy, we will inflict rates on the people of the region that are far greater than needs to be the case. And those rates will finance a technology—nuclear power—which has major unanswered safety questions, which means the people lose two ways.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. AuCOIN. I will expand my views under the 5-minute rule. I appreciate the gentleman yielding.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. Bonker) for purposes of debate only.

Mr. BONKER. Mr. Chairman, this bill is a culmination of years of work on the part of many people in the Northwest, particularly the Northwest delegation. I think the record should show that I opposed the first two attempts to introduce a bill on this subject; the so-called PNUCC bill in 1977 and the revised version of that bill in 1977 were unacceptable.

I supported this bill only if two sections were to become acceptable, to include a strong and independent public council and for strong fishery language.

I believe that this bill meets the test on both counts.

I would also like to take this opportunity to thank those Members outside of the region, the gentleman from Michigan (Mr. Dingell), the gentleman from Texas (Mr. Kazen), and the gentleman from Indiana (Mr. Sharp) for their efforts to help perfect this bill.

As my colleagues know and as we have heard from the sponsors, this legislation is needed to avert an immenent and possibly disruptive battle over power allocation in the Northwest. If this bill is not enacted this year the power sell contracts at the Bonneville Power Administration will begin to expire immediately and the BPA will be unable to renew them.

Now, I do not know if there will be something of a civil war in the Northwest if this Congress does nothing on allocation, but if we do not enact a bill then we are going to face uncertainties, problems, and suits. This bill clearly is intended to deal with some of those problems.

For the first time, the region has a chance to address these problems in a comprehensive manner and it permits our region to plan for its energy future rationally and cooperatively and with the full voice from the States and with an emphasis on conservation.

□ 1420

If I thought for one moment that this legislation would promote nuclear power or in any way slight conservation in any way, I would not support it.

Indeed, the bill contains the strongest conservation program and priority of any legislation that has ever received serious consideration by this Congress.

The bill treats conservation as a resource—and gives it top priority for the region's future. It provides for a special $1.25 billion revolving fund—paid for by BPA customers—to help achieve cost-effective conservation. And it gives utilities rate credits for their own independent conservation efforts.

In short, for the first time, we have a program that will look to save kilowatts as the No. 1 priority, rather than generate new ones. This bill is not a mandate for the building of nuclear plants, as its opponents have suggested. Just the opposite is true.

Throughout consideration of S. 885, I have been concerned principally about two issues. First of all, that we have in place a regional council, a public council, that will be involved in the development of an energy program and, secondly, a strong fisheries provision.

It establishes an eight-member regional planning council, which has authority to draw up a regional plan—the blueprint for our energy future.

Currently, the Northwest lacks any regional planning body in power matters; the States have no voice in BPA decisions and do not coordinate with one another in energy matters.

And finally, this legislation deals with the problem of the tremendous fish mortality that occurs at each of the hydroelectric facilities on the Columbia River.

Today, nearly 15 percent of each fish run is susceptible to loss at each dam, when water availability is not sufficient to generate power and facilitate fish passage. That translates into literally millions of salmon and steelhead losses each year.

The language in this bill—if interpreted according to the historical development and record of this legislation—will insure that power needs and fish needs are considered equally in the allocation of available water resources. That is the intent of Congress.

In closing, it should be emphasized that this bill is vital to our region. The legislation enjoys an exceptionally widespread backing from the diverse interests in the Pacific Northwest. I urge your support for this legislation.

Mr. KAZEN. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS) for purposes of debate only.

Mr. DICKS. Mr. Chairman, I rise in support of (S. 885), the Pacific Northwest Power Planning and Conservation Act. This piece of legislation is critical for the Pacific Northwest and I urge all of my esteemed colleagues to support it today.

Mr. Chairman, I cannot emphasize enough now vitally important this legislation is to the economy and welfare of the residents of the Pacific Northwest region. The entire region is tied to the electrical power output of the Bonneville Power Administration. All of this power is presently under contract. However, these contracts begin expiring in 1981, at which time a reallocation of this Federal power will ensure.

With this legislation, the potentially explosive reallocation problems can be resolved. This bill embodies a regionally negotiated and supported "peace treaty" by all of the affected parties. It insures a smooth reallocation of power by establishing a regional planning process permitting the BPA to expand its resource base, and thereby to sign the new utility and industry contracts necessary for the coordinated planning and efficient use of regional energy resources.

Without this legislation, the BPA will begin the administrative reallocation of its Federal-system power next year, which will result in complicated and prolonged litigation, as all Northwest power consumers vie for a portion of these lower-cost resources.

The Northwest power bill will prevent these problems from occurring. It will enable the Northwest to work together as a region to solve potential future energy shortages and to satisfy the energy requirements of our region.

Under the bill, the Northwest States would join into a regional planning council. The council would make a comprehensive plan for BPA to follow, including a 20-year forecast of regional needs, and develop a general scheme for meeting regional needs from conservation, as well as renewable resources.

This legislation makes conservation and renewable resources the top priorities for BPA acquisition, and includes the strongest conservation and renewable resources programs of any energy legislation that has been seriously considered by Congress.

All costs under this legislation will be borne entirely by the Bonneville Power Administration's customers. BPA is a totally self-financed agency. The legislation contains no Federal guarantees, no subsidies, and no increase in Federal spending. It also fully protects all other regions of the country, and permits the Northwest to continue the interregional power exchanges that help reduce consumption of imported oil in the Southwest.

This legislation is strongly supported by all four of the Northwest States, local government units, and virtually all of BPA's many utility and industrial customers.

Unfortunately, the days of inexpensive hydropower in the Northwest region are over. Our region faces critical energy shortages in the very near future. We need this legislation now so that an effective and coordinated plan can be put into effect to deal with these near-term energy problems.

This bill is not a panacea for all of the Northwest energy problems. However, it does provide the vehicle for establishing an open, coordinated, and comprehensive approach to future electrical power planning in the Northwest.

Enactment of this legislation is vital to our region and I urge my colleagues to support it today.

Thank you.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield to me?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I would not agree with the gentleman more. I long have advocated a financing mechanism for conservation and for alternative energy generation strategies. But the gentleman also knows within this bill there is an open invitation for using that selfsame financing mechanism for the construction of nuclear powerplants, without safeguards.

Mr. DICKS. Mr. Chairman, I will recleam my time at this point.

This is only if we have used all of the conservation alternatives available in the Pacific Northwest, even though they are 10 percent more expensive and, secondly, if we have used all of the alternative energy sources available in the Pacific Northwest. Those things have to be done first. Then I would say it would only be responsible debt.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the bill provides no money for Bonneville to construct anything. I want the legislative history on this point eminently clear: It provides no preference for nuclear over conventional power and no preference for any kind of power generation.

Mr. DICKS. Mr. Chairman, the gentleman from Michigan is absolutely correct. All this bill does is allow BPA to purchase the output, and only after this regional council we have established approves it as part of our original plant.

I think the point here that has to be made over and over again is that for the first time in the country we have a chance to test out the theory of conservation. We have the answer to test out those alternatives.

My friend, the gentleman from Washington (Mr. BONKER), I can think of no one in the Northwest who has been more diligent in their efforts to develop conservation and alternative energy resources. I think the gentleman's support of this legislation indicates that we have come a long, long way from the original versions of this bill in putting those priorities first. It is now time to come to the point of decision. This is not a perfect world. We cannot have every single thing we want. Sometimes legislation is the art of the possible. I think this bill today represents a good, solid compromise that is supported by all the private utilities, by 110 out of 116 public utilities, by most of the responsible business groups in the Pacific Northwest, and I urge my friends in the House to support this legislation with the broad coalition of people who have supported it. It is now time to pass this bill, and I hope that the House will do it in a prompt and expeditious fashion.

Mr. LOWRY. Mr. Chairman, I thank the gentleman for yielding.

I first want to sincerely compliment the dedicated efforts by the Members from our Northwest delegation on the legislation now before us. I know from many hours of personal discussion with those Members from the Northwest who support this legislation that they do so with the sincere belief that S. 885 is an improvement on our important energy problems. The problem is the bill as now written simply is not. The bill that we have before us, if not substantially amended, will result in less conservation than were we to have no bill at all.

At the same time the bill we have before us, if not amended, will result in additional procedural roadblocks to new energy resource development. The end result will be that with less conservation and more roadblocks to development we will have less energy. We will have exactly the energy shortfall that the well-meaning proponents of this bill want to avoid.

The gentleman from Oregon (Mr. WEAVER) mentioned many of the people in the Northwest region who are opposed to this bill. In addition, I think you will find by the time we come to vote on final passage that a third of the Members of the Northwest delegation will be voting against this bill.

You have been told that a consensus exists in the Northwest for this bill. If this is accurate then tell me why a third of the Members of this body from the Northwest are in opposition to this bill as it is now written. The reason why is because, despite the claims of its proponents, the bill does not represent a thoughtful, prudent solution to our energy problems. On the contrary the bill will extend and make more likely an energy shortage in the Northwest.

Mr. KAZEN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. LOWRY) for purposes of debate only.

There is an answer to the energy problems of the Northwest, Mr. Chairman. This body can and should amend those portions of this bill which would continue this Nation's past errors of discouraging energy conservation and renewable energy development. Let us remove from this bill the open ended contract authority known as "purchase guarantee." The "guarantee purchase" provisions in S. 885, and in the substitute text H.R. 8157, would allow the Bonneville Power Administration to make the same mistake it made when it agreed to underwrite the financing of three nuclear plants being built by the Washington Public Power Supply System, called WPPSS for short. The "net-billing" agreements between WPPSS and BPA have obligated the ratepayers for billions of dollars in cost overruns. Cost overruns which are in excess of 400 percent higher than the original estimated costs of the plants. Let us not repeat that mistake by allowing this legislation to go unamended.

Others have called for passage of this bill without amending its flaws. That would be a serious energy policy mistake. I urge my colleagues to give serious consideration to amendments offered in good faith to correct this controversial legislation.

Let us remove from this bill the open ended contract authority known as purchase guarantee. The guaranteed purchase provisions in S. 885 as now written is far too similar to present "net billing" language now in force between BPA and the Washington Public Power Supply System (WPPSS) that obligates ratepayers for billions of dollars of cost overruns in excess of 400 percent higher than original estimated costs. Let us not repeat that mistake.

Others have called for passage of this bill without amendment. That would be a serious energy mistake. I urge my colleagues to give serious consideration to these good faith amendments offered to correct this important legislation.

☐ 1430

Mr. WEAVER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 596]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Traxler
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont
Wilson, Bob
Wirth
Wolff
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1440

The CHAIRMAN. Three hundred and thirty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair recognizes the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

☐ 1450

Mr. WEAVER. Mr. Chairman, I take this 1 minute—and I thank the gentleman from California for that 1 minute—simply to tell the membership why I am so adamantly opposed to this bill.

Mr. Chairman, the Eugene Water and Electric Board, the largest public utility in Oregon, my home utility, is adamantly opposed to this bill. I have a telegram here this morning saying:

> DEAR CONGRESSMAN: This is to advise you that the Eugene Water and Electric Board is still very much opposed to H.R. 8157 and urges that any further House action cease.

This is a utility whose chairman is an arch Republican, pronuclear person, and the reason that they oppose it is because they believe it will destroy their utility and destroy local initiative. They are one of the most aggressive, vigorous local utilities in getting and developing their own energy sources.

Mr. LOWRY. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I yield 2 minute for the purpose of debate only to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, I would like to begin by complimenting my colleague, the gentleman from Washington (Mr. SWIFT), for the way that he has handled this legislation both in committee and here on the floor. It is virtually unbelievable that a new Member of this body could have done the job that he has done on this legislation, and he is to be congratulated for it.

I speak as a representative from the Tennessee Valley Authority region. I think you will find on the final vote, Mr. Chairman, that we from the TVA area are unanimous in support of this legislation. There has long been an historic alliance between the TVA region and the Northwest region on issues related to this topic. We treasure and respect that long alliance and we also respect the work that has been done on this particular legislation.

The situation which has led to this bill is very simple. Cheap hydroelectric power is gone. The new power is very expensive. And there is a venemous dispute that has been raging in the Northwest about how to allocate the cheaper power. This bill resolves that dispute in a way that the majority of the people in the region support. I think we ought to ratify the settlement that they have arrived at. It puts a priority on conservation, it protects the concerns associated with public power, it facilitates planning in the region by resolving this dispute and, Mr. Chairman, there is no alternative to this bill. It has received a lot of attention over a long period of time. It is a good bill. I urge every Member of this body to support the legislation.

Mr. SWIFT. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, if horses had feathers, we would be knee deep in them right now. We have heard that this is a deeply flawed bill. Horsefeathers. This bill has been worked on by the Senate committee which perfected an excellent basic mechanism. It was improved vastly by the House Commerce Committee, and it was improved even more by the House Interior Committee. This is one of the most carefully crafted bills that will come before this Congress.

We have heard that there will be inadequate conservation. Horsefeathers.

Conservation is given the primary emphasis in this legislation.

We have heard that there is broad opposition to the bill. I presume we could get into an ad hominem argument of supporters and opponents by the pound. But at the desk will be available for the rest of the day a list of all of the supporters of the legislation, and you can make your own judgments.

We have heard that this will nationalize private utilities. My friends, that is horsefeathers. Why would there be support from private utilities for legislation that would nationalize them? Well, that is not quite what the people who say that mean. What they really mean is that what it is going to do is mean that BPA will provide all of the energy that any private utility needs in excess of what it is using at the present time. Horsefeathers. The portion of the legislation that was read upon this floor a while ago, the suggestion—I believe I quote—"expanding BPA from a marketing agency to a huge Federal bureaucracy to nationalize the public utilities," is another example of the horsefeathers that are flying around this Chamber, because the bill clearly provides that Bonneville can only supply energy to a private utility in time of insufficiency in that amount that that utility has sold to Bonneville in the first place.

Any utility in the Pacific Northwest that simply goes to sleep upon passage of this bill and expects Bonneville to supply all of its energy is going to wake up in the morning very, very empty of electricity. The bill does not work that way.

We hear there are Federal guarantees. That is one of the oldest horsefeathers that we have heard on this bill from the beginning. There is no Federal guarantee in this legislation whatever.

We have heard that it will encourage the building of thermal plants. It will discourage the building of thermal plants until you have squeezed the waste out of the system in the Pacific Northwest, and that is the only way that is going to be able to happen.

We have heard that this is the creation of a new TVA. Horsefeathers. The TVA today has the power, the authority to go out and build generating facilities. BPA does not have that today; it will not have it under this bill. It only gets additional authority to go out and purchase electricity from the existing utilities in the Pacific Northwest.

We have heard that it is going to create an energy czar. Horsefeathers. It establishes a State-appointed council that will for the first time overview, have oversight and keep an eye on the Bonneville power administrator.

We have heard it is a violation of the preference clause. It is not. Horsefeathers. What the bill does is to let the people of the Pacific Northwest solve their own problems before that serious problem becomes an energy crisis. It encourages conservation. It provides real oversight of the BPA and a sound regionwide and coordinated planning process for the first time. It establishes a balance between power and fishery needs in the Columbia. It is a rational, balanced solution, one of the most carefully conceived and effective pieces of legislation to come before this Congress.

I urge my colleagues to support this bill, oppose the amendments that are clearly designed to destroy it.

As you walk on the floor, you will have to wade through the horsefeathers. But do not let them blow up in your face and cloud your vision. This is a sound bill supported by some of the most respected Members of this body: The gentleman from Oregon (Mr. ULLMAN), the gentleman from Oregon (Mr. DUNCAN), the gentleman from Washington (Mr. FOLEY), the gentleman from Washington (Mr. MCCORMACK), the gentleman from Washington (Mr. BONKER), the gentleman from Washington (Mr. DICKS), the gentleman from Washington (Mr. PRITCHARD), the gentleman from Idaho (Mr. SYMMS)—all from the region. And from outside of the region: The gentleman from Arizona (Mr UDALL), the gentleman from Michigan (Mr. DINGELL), the gentleman from Ohio (Mr. BROWN), the gentleman from California (Mr. CLAUSEN), the gentleman from New Mexico (Mr. LUJAN), the gentleman from Texas (Mr. KAZEN), the gentleman from Indiana (Mr. SHARP).

They have worked closely on this bill. They understand it and they support it. It was reported out of both subcommittees and both full committees with overwhelming support by the people who have had the opportunity to study it and understand it in detail.

I urge the Members to back these legislators and your committees in passing this bill and let the Pacific Northwest solve its own problem.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Washintgon.

Mr. FOLEY. Mr. Chairman, I want to rise in strong support of the bill and associate myself with the remarks of the gentleman. I urge my colleagues to support the bill.

The CHAIRMAN. The Chair advises that the gentleman from Washington (Mr. SWIFT) has 3 minutes remaining, the gentleman from California (Mr. MOORHEAD) has 20 minutes remaining, and the gentleman from New Mexico (Mr. LUJAN) has 5 minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, today, after nearly 5 years of consideration, the House of Representatives will vote on a very important piece of legislation to the Pacific Northwest, the Pacific Northwest Electric Power Planning and Conservation Act.

I commend my colleagues on the Interior and Insular Affairs Committee for their efforts to produce a bill which addresses the power problems facing the Pacific Northwest. I say with confidence that the bill before us proposes a workable solution to a problem unique to Pacific Northwest region.

The Pacific Northwest Electric Power Planning and Conservation Act clarifies the role, responsibility and activity of the Bonneville Power Administration (BPA). In addition, this bill provides a mechanism whereby State and local interests may be voiced. Finally, this legislation adequately protects the valuable fisheries resource in the Columbia River and its tributaries.

I must once again emphasize that this bill proposes a unique solution to a unique problem that in no way should be interpreted as setting a precedent for other geographic regions of the United States. I urge my colleagues to support passage of this measure.●

● Mr. OTTINGER. Mr. Chairman, I must rise to oppose this bill. I value the concept of regional power planning; I cannot, however, support a precedent which could erode the preference clause for federally financed power projects and encourage nuclear power over conservation by authorizing the melding of Federal hydropower and private nuclear plant rates. Furthermore, this legislation operates to the detriment of the conservation incentives, so deceptively touted as one of the redeeming features of this bill.

As chairman of the Subcommittee on Energy Development and Applications and ranking majority member of the Energy and Power Subcommittee, which have originated much of the legislation to encourage conservation of power resources, I can tell you that conservation is exactly what this bill does not achieve, despite its deceptive appearance.

The criteria set forth in the Pacific Northwest Electric Power Planning and Conservation Act are admirable. The legislation appears to give priority status to conservation, renewable resources, waste-to-energy resources and then conventional sources of power. But unfortunately, no more than lip service is paid to the priorities established in the legislation.

Conventional sources of power may be acquired without adherence to conservation objectives if the Bonneville Power Administration says that it needs new generation to fulfill contracts that it would not have undertaken in the first place—without the Northwest regional power bill.

The plan to be submitted by the council must include a demand forecast of at least 20 years and a forecast of needed power resources. Although this plan must include model conservation standards, the council is not required to project anticipated demand reduction achieved through conservation in hard numerical terms.

The council may recommend surcharges to BPA customers who fail to implement conservation measures. This should be mandatory.

Another major defect of this legislation is the provision for blending private nuclear power rates with low hydropower costs. An amendment supported by many Northwest members during consideration by the Interior Committee would have established two-tier rates for power purchases by utilities, a salutory provision. Under the present bill, however, the price of new generation which promises to be five or six times greater than Federal hydroelectric power in the region, will be blended together.

Thus, the incentive for conservation and innovative generation is greatly diminished because the cost of new generation is hidden. Were a utility forced to make the choice between implementing effective conservation measures or purchasing additional power at its true cost, it would choose conservation. This provision also gives an unwarranted subsidy to the nuclear power contemplated as the new regional power source.

Although the legislation sets forth mandatory billing credits to be awarded to utilities which have implemented effective conservation measures or alternative generation, we have to remember we are talking about some 116 publicly owned utilities which do not have the resources to prove that conservation measures have achieved savings. This will benefit Puget Power, and perhaps Seattle City Light, but will do nothing for the many small public utilities.

Perhaps the most deceptive section of this bill is that which promises public utilities will pay no more for their power with the legislation than they would have without it, thus apparently protecting the preference clause.

However, the Northwest hydropower pie, like any pie, is only going to go around the table so far. The 10,000 megawatts of Federal power in the region will no longer go in sole preference to the public utilities, but will go to direct service industries—in this case the aluminum industry, and to private utilities. We are talking about melding penny-hydroelectric power into the price of a pie which will now contain 12-cent nuclear power in much greater quantities so that BPA can meet the contracts it makes under this legislation.

This is a major preference abrogation that can be duplicated anywhere in the country by establishment of similar regional arrangements. The Federal Government will then be in the undesirable position of subsidizing investor-owned utilities everywhere.

Another problem with this legislation is that it will take power away from public utility districts and put it into the hands of the Federal Government. The many small public utilities in the Northwest now have the ability to band together and purchase new generating capacity, if needed.

Under this legislation, they will no longer have this ability. Instead, the public utilities which are entitled to federally generated power in the first place will only be allowed to use the Federal power if they accept every single action taken by the council and the BPA.

This legislation also provides an exemption to the Public Utility Holding Company Act of 1935 by exempting from the definition of "electric utility company" in the act any company which owns or operates facilities for the generation of electricity to be sold directly, or indirectly, to BPA. In effect, this is a repetition of the Price Anderson Act which limits the liability of nuclear plant owners. In this bill, we are not only providing the utilities an edge in the bond market, but we are in turn affording them exemption from liability for the performance of those plants. With the poor track record of the infamous Washington Public Power Supply System, it is highly unlikely that such an exemption is going to improve plant construction and ultimately, safety.

Let me assure you that defeat of this measure does not, as you have been told, spell imminent power blackouts for the Pacific Northwest. The BPA, which has demonstrated a flair for consistently miscalculating power demand, maintains that the region simply cannot survive without vast increases in generation capacity. A study commissioned recently by the Department of Energy states that the region can meet its electrical load through 1995—even without two of five nuclear power plants under construction, and without two 700-megawatt coal plants currently planned.

Let me also remind you that this is a region which consumes per capita twice the national average of electricity. These utilities, both public and private, therefore, have enormous opportunities to avoid the construction facilitated by this legislation with vast insulation programs to reduce electrical consumption. Seattle City Light is a living example of what can be done in this region to achieve conservation of resources.

Lastly, the Northwest already has the cheapest power rates in the United States because of the BPA hydropower. To extend these advantages, and, the advantages of BPA's low borrowing rates to all the region's private and public utilities will give the Northwest an unfair federally subsidized advantage in attracting business from every other section of the country—and this region least needs the help.

Just compare Washington State's average monthly utility bill, for use of 750 kilowatt hours of electricity which totals $11.46 to New York State's average monthly utility bill for residential consumers which totals $44.64. In my own district of Westchester County, the avermonthly utility bill is $63.19. Or, compare the average industrial bill for 300 kilowatts of demand and usage of 60,000 kilowatt hours.

In Washington State the average industrial monthly bill is $898, compared to an average of $4,758 for the same amount of electricity in New York State. The Northwest deserves a Federal power subsidy at the expense of the rest of the nation?

I strongly urge defeat of this legislation.●

● Mr. DUNCAN of Oregon. Mr. Chairman, I do not believe I exaggerate when I say that the legislation we are considering today is among the most important I have spoken for in my entire legislative career. The bill is not, as its opponents have charged, a Federal bailout of the Pacific Northwest. It is not a case of one part of the country being asked to subsidize the energy costs of another. It is a bill that enables a region to work together and to plan ahead to meet future energy needs. And if we had had the foresight to do this type of planning on a national basis in 1973, when we were first made painfully aware that our energy sources are not boundless, this country would not be faced with the skyrocketing energy prices confronting us today.

The facts are simply these: The Pacific Northwest will soon have a shortage of power. There is some dissension on how soon it will be, but the day is certainly coming—we have faced some shortages already. And there will be a tremendous struggle among public utilities, private utilities and industry for what hydroelectric power Bonneville has to sell—a struggle that will result in endless litigation. Without an assured source of energy, industries will be forced to close down or move elsewhere, and people will be without jobs. This has already happened. In the past year, a number of factories have been forced to cut back and lay off workers because of energy shortages.

This bill very simply provides legislative allocation of BPA power with full protection of the public preference clause. It allows the Bonneville Power Administration to buy whatever additional power it needs to meet the energy requirements of the region. It is required to give top priority to conservation and renewable sources. It is allowed to purchase thermal energy only as a last resort. The bill provides that public utilities will continue to get preferential treatment. BPA is allowed to spread the risks in developing new energy sources equitably among its customers as is common practice. The bill corrects the problem of rate disparities between public and private utilities. And the bill requires no Federal subsidies or funding of any kind.

The minority of groups and individuals who oppose the bill have been very vocal and they would have you believe that the Pacific Northwest is divided over the legislation. But most of you, I believe, have seen a list of organizations supporting the bill—groups as diverse as public and private utilities, labor unions, Common Cause, and industry. They say that politics makes strange bedfellows. I would contend that a potential energy crisis can lead to even more strange alliances.

My friends, I leave you with this thought. This is not some half-baked scheme concocted to bail out a careless region that has let its energy problems creep up. We have been working on this plan for more than 8 years and have had input from every sector of society that will be affected. For once, we have the opportunity not to react to a crisis that is out of hand, but to plan ahead to avoid a crisis that need not be.

It is a Northwest regional power bill, it is true, but it is a bill for all America. To the extent that the Northwest can generate additional energy, it helps to solve the energy problem of the United States, and so long as we are importing one barrel of oil from around the world we have a problem and we need additional sources of domestic energy. This bill gives us—the Northwest and the United States—an opportunity to do so.

I urge your support of this bill.●

● Mr. FOLEY. Mr. Chairman, I rise in support of H.R. 8157, the substitute Northwest power bill. This legislation is absolutely essential for the Pacific

Northwest. And it is absolutely essential that we enact it this year.

There may be some disagreement about the size and urgency of the power shortage in the Northwest today. But there is no disagreement—and there can be no disagreement—that if this bill is not enacted, the Bonneville Power Administration next year, in calendar year 1981, will have no choice but to reallocate its fixed supply of Federal power. This Federal decision—how to reallocate Federal power—cannot be postponed. It cannot be avoided. It cannot be made by anyone other than a Federal entity either the Congress or the Bonneville Power Administrator or a Federal judge.

In other words, the issue is whether an important region of the United States, and its economy, will be virtually paralyzed by electric power planning uncertainty for a decade or more. Only Congress can prevent this, and only by acting now.

Every Northwest Member is well aware of how difficult the bill is to explain and understand. For this reason, we are particularly fortunate to have had among our colleagues Mr. SWIFT of Washington, who has performed superbly under very difficult conditions to rewrite this bill so that the bill does its job without creating risks of harm to the Northwest or to any other region. And we are indebted, for the constant hard work and attention that this bill has received from so many Members from other regions. who had made a determined effort to understand it and to improve it. In particular, I want to thank Mr. DINGELL, Mr. BROWN of Ohio, and Mr. SHARP of the Committee on Interstate and Foreign Commerce; Mr. UDALL, Mr. CLAUSEN, Mr. KAZEN, and Mr. LUJAN of the Committee on Interior and Insular Affairs; and Mr. BOLLING and the other members of the Committee on Rules; as well as the leadership on both sides of the aisles and the many members of the two committees that favorably reported this bill by such overwhelming margins.

The gestation of this bill has been an arduous, occasionally contentious, process of reaching a broad-based regional consensus on each of its major components. Reaching such a consensus on the regional planning section has been one of the most difficult tasks in the 4 years of work on the bill. The energy planning provisions of section 4 adopted by the Interior Committee and refined in H.R. 8157 represent a carefully negotiated regional solution to a heated debate regarding size, composition, duties and method of appointment of the planning council which will guide the new authority granted BPA in the bill. The solution is the only one that can be accepted by all major Northwest interests, although it is not the solution preferred by any one of us.

Some sought a proportionally representative council with broad jurisdiction. The Governors of the four Northwest States and the Senate proposed a small council with narrow jurisdiction. But the version adopted by the Interior Committee at our mutual request is a solution we all can accept.

For the past year, we struggled to find this uniquely acceptable formula which would meet three common objectives: First, regional control over the Northwest's energy future; second, balance among contending forces on energy issues; and third, State involvement in regional energy planning. Regional control, particularly in the face of the greatly enhanced position this bill creates for BPA, has been the most important objective.

There is unanimous feeling in the region that the best planning effort is one which comes from within the region itself rather than being imposed from the outside. The task here has been to develop a council capable of exercising policy guidance over BPA, without having to create another Federal agency which would act as merely a bureaucratic counterweight to Bonneville.

The difficulty in reaching accord on this section of the bill dramatized the need to balance the many forces contending to influence regional energy issues.

Clearly, there are two many such forces for all to be directly represented on the regional council and the legislation itself could not even pretend to settle traditional regional contentions. We resolved to provide a forum for their resolution.

Finally, because the region is electrically integrated and interdependent, but geographically far-flung and politically balkanized at present, State involvement in regional energy planning has come to be viewed as key to its ultimate success.

We recognize that since we absolutely do not want to make BPA over into a TVA, the States must be pulled into a regional body with a regional perspective in order for a comprehensive regional planning effort to have any chance of success. The development of the regional planning provisions of this bill has been a learning process for all of us, regardless of how certain we may once have been on the particular proposals we favored originally. To all of us in the Northwest, the fact that we now agree is a major political development in the region, if not a minor miracle.

The heart of the regional planning provisions, the council's role relative to BPA has become much more clearly defined as the bill progressed. Instead of a mere planning body, or a mere advisory body, it now has a mix of mandatory and discretionary oversight functions and control. It has also become a nascent independent body, potentially an enormous force in the future of the region. As a result, despite the fears of those familiar with the bill only as originally introduced, the BPA administrator will not be a "czar" under this bill.

Unlike the Senate bill (State-appointed members, one from each State plus the BPA administrator), the Commerce Committee bill provided a larger, weighted and federally appointed council. But both bills, to varying degrees, embraced the new role for the council. The reconciliation has had to await constitutional research, and agreement on first, council size; second, representation; third, method of appointment; and fourth, acceptable "backup" or "safety net" provisions.

The council, in the bill before us today, retains the substantive role of the council contained in the Commerce bill. The compromise on size to an eight-member council accommodates the views on equal representation and the need for a larger, necessarily more diverse body.

Lengthy discussion and analysis convinced us that State appointments will make the council more responsive, and potentially more decisive. The region will not be able to lay blame on "outsiders."

Recognizing that the legislation cannot compel State appointments or prevent the possibility of State withdrawals, the bill contains a federally appointed "backup" council provision—perhaps the single most difficult provision negotiated.

This provision would also come into play if all our constitutional research proves wrong or unpersuasive. We are confident, however, that the State-appointed council will not fail for constitutional infirmity and I will take a moment to summarize the research which has been done on this subject.

The Senate-passed S. 885 establishing a council with four out of five State-appointed members which would develop a regional plan to guide BPA's authority under the bill. The Justice Department later reviewed the Senate bill and found a possible problem in the State appointment scheme. Pending the outcome of more detailed legal research on the problem, a federally appointed council was then proposed to and adopted by the House Commerce Committee. Federal appointment clearly preserved the council's substantive role without raising doubts about offending the appointments clause of the Constitution. When the research indicated that the appointments clause was not applicable to cooperative State-Federal schemes such as the present council, the region united behind a State-appointed council, which would be formed pursuant to an interstate agreement with the consent of the Congress.

This revised council scheme was included in the Interior Committee bill and is retained in the reconciled bill before the House. The bill, as I have noted, also provides for a federally appointed ("safety net") council to be formed if the States do not act to form the council, or in the event the scheme is found to be unconstitutional.

Basically, three legal principles bear on this issue:

First. The purpose of the Appointments Clause is to further the separation of powers and functions of branches of the Federal Government, as the most recent case on the subject makes clear. See *Buckley* v. *Valeo*, 424 U.S. 1 at 120–25 (1976). None of the many cases in which the appointments clause has been an issue has involved a State-Federal separation of powers issues. (By contrast, S. 885 involves both Federal and State authorities and presents no separation of functions issues.)

Second. Under the commerce clause, Congress has broad latitude to share authority with the States in a variety of ways (Clean Air Act); or to permit extensive State control (See, e.g., *California* v. *U.S.*, 438 U.S. 645 (1978) (California Water Board may prescribe controls for Federal project as condition of required State permit, or may refuse permit).

Third. Congress may specifically authorize interstate agreements which would otherwise encroach on Federal authority. *United States Steel* v. *Multi-State Tax Commission*, 434 U.S. 452 (1978).

In summary, the S. 885 council is constitutional because the electric power area is one in which Congress may share authority with the States. However, council members must be appointed and act pursuant to State authority, as the bill provides, for the scheme to be effective.

In conclusion, I want to thank the distinguished chairman and ranking minority members of the two committees for bearing with us while we resolved for ourselves the difficult issues addressed in the bill. These issues and what this bill does and does not do are addressed in the attached summary of the bill. I commend these provisions, as well as the bill as a whole, to my colleagues and urge your support. The committees and House generally have been gracious in allowing us to fashion these provisions in a manner which is uniquely acceptable to all of us. And for that patience and understanding, we are grateful.

THE NORTHWEST REGIONAL POWER BILL, S. 885

A. What the Bill Does Not Do:

1. The bill does not authorize a federal agency (the Bonneville Power Administration) to build or own any electric generating facilities. BPA is not like TVA.

2. The bill does not involve federal guarantees, subsidies or "ballouts". All costs will be borne by BPA's own customers, including the repayment, with interest, of all BPA borrowing. (BPA is not authorized to borrow for the purpose of buying power from generating facilities.) BPA is a wholly self-financed agency; it does not receive appropriations; the United States of America does not stand behind BPA's obligations. (See § 6(j).)

3. The bill does not "nationalize" or "federalize" the Northwest utility industry. Under the bill, each BPA customer remains responsible for providing sufficient power to meet its own needs; customers that fail to do so will not be able to meet their own loads if BPA experiences a period of insufficiency. (See § 5(e).)

4. The bill does not create the BPA Administrator as an "energy czar". Instead, it creates a state-appointed council to provide regional planning and regional oversight for BPA's new authorities. And it retains Congressional oversight that BPA must annually undergo, despite being a self-financed agency.

5. The bill is not a bill to build nuclear plants, or any other kind of power plants. It is a bill to solve an allocation problem—the unavoidable reallocation of federal power. And it gives top priority, effectively and enforceably, to conservation and renewable resources in meeting the Northwest's future power needs. (The bill preserves all environmental and siting laws.)

6. The bill does not give improper "price signals". On the contrary, its carefully designed provisions insure that marginal cost pricing will guide (a) BPA, (b) utilities and (c) consumers.

7. The bill does not harm other regions. It has been written specifically to avoid any adverse impacts on other regions. (If the bill is not passed, other regions may suffer the impacts of the disruption of the Northwest's economy.)

B. Why the Bill is Needed:

1. BPA supplys 50 percent of the Northwest's power. This power supply cannot be increased under existing law. The entire amount is already committed by contract to utilities and industries who are BPA customers. All these contracts expire between 1981 and 1994. All of BPA's limited power supply must therefore be reallocated. If the reallocation is made by BPA (beginning next year), it will be the object of a decade of divisive law suits. If the reallocation is instead made by Congress, through this bill, it cannot be litigated and the region's divisiveness on power matters will be combined to less disruptive disputes.

2. The Northwest already suffers a severe power planning shortage. This shortage will grow worse if the region is plunged into a battle over power allocations. Besides the direct impact of a worsened shortage on the Northwest economy, the shortage will also harm California and the Southwest and the nation's policy of reducing oil imports, since the shortage will "dry up" sales of seasonally surplus non-firm power to the Southwest. (Such sales traditionally save some 15–20 million barrels of imported oil each year.)

3. The Northwest currently lacks any mechanism for regionwide conservation or regional development of renewable resources. Both are needed to help reduce the region's power shortage. Both are uniquely suited to the region, because both can be integrated efficiently with the large hydroelectric system on the Columbia River. The bill makes possible for the first time, a regionwide mechanism for financing and developing these "unconventional" resources, and statutorily mandates that cost-effective conservation and renewable resources must be the top priority resources for the region's future. (Significantly, because of unique circumstances in the Northwest, this is supported by the region's utilities and industries.)

4. The Northwest lacks any regional planning body in power matters, even though it is completely integrated from an electrical standpoint. The states have no voice in BPA decisions, and do not coordinate with one another in energy matters. The bill sets up a regional power and conservation planning council, with members appointed by the four governors, to oversee and guide BPA's decisions and to draft a regional power and conservation plan.

5. The construction of more than 30 dams on the Columbia River was carried out in a manner that has harmed the region's salmon and steelhead. Under present law, there is no mechanism for developing or implementing a comprehensive program for the Columbia River fishery affected by power development, given the many power projects and many conflicting jurisdictions involved. The bill now contains fish provisions to restore a balance on the River; these provisions, originally offered by Rep. Dingell, were modified in the Interior Committee so that neither fisheries nor power interests in other regions will be adversely affected, either directly or by way of any precedent. Both fish and power interests in the Northwest now support these provisions.

C. How the Bill Meets These Needs:

1. The bill solves the BPA power reallocation problem by (a) authorizing BPA to acquire power from non-federal sources if needed to meet BPA customer loads, so that the need to reallocate is eliminated, and (b) specifying directly how much power each class of BPA customer is to receive, and at what cost. (The bulk of the bill consists of protections to insure that BPA's new authority is used first for conservation and renewables, and to insure effective regional and Congressional control to prevent any abuse of this new authority.) The bill's allocation system is the heart of the regionally-negotiated "peace" settlement, and is supported by all classes of BPA customers.

2. The bill does not solve the power shortage problem. It was never intended to do so. What it does is to help the region solve the power shortage problem itself, (a) by laying the allocation battle to rest, (b) by creating a regional mechanism for the region itself to finance and implement conservation and other power resources, and (c) by encouraging independent conservation and resource programs on the part of individual utilities, so that they will be able to meet their loads in the manner they wish.

3. The bill solves the regional planning problem by permitting the states to enter into a cooperative planning arrangement with BPA through formation of the 8-member regional council. This council will have sole responsibility for adopting a regional power and conservation program (section 4(e)) and a fish and wildlife program (section 4(h)) for the Columbia River system. In effect, though not in name, this is an interstate compact worked out in agreement with the federal government.

4. The bill deals with the current lack of mechanisms for achieving regional conservation with a thorough-going conservation system. The bill treats conservation as a resource, and requires BPA to implement it (and even "purchase" it) whenever it is less costly than other resources. BPA is to use a special revolving fund of $1.25 bill (paid for by BPA customers) to make available the financing needed to help consumers achieve a level of conservation that is cost-effective for the region. Special rate credits are provided to utilities for independent conservation efforts, including voluntary implementation of retail rate structures that encourage conservation, and model conservation, and model conservation standards are to be implemented region-wide (with wholesale surcharges on BPA's sales to utilities as an incentive to achieve compliance, if necessary). Finally, with the entire financial backing of the region behind conservation and "unconventional" renewable resources, these resources can be financed more easily and developed more quickly: there will be no "pioneer's penalty" for the innovating utility.

D. Floor Amendments:

The bill has benefited from numerous amendments made by the Commerce and Interior Committees. These include amendments to insure that public power's traditional preference to available federal power supplies is preserved, and that other regions cannot be harmed by the bill. But both Committee have rejected certain amendments whose effect would be not to improve the bill, but to kill it (or to force it to a House-Senate conference, with the hope that this will kill it).

Since these harmful amendments have been debated fully in both committees (some are explained in the committee reports), there are specific "issue papers" already available on each. These papers can be provided upon request.●

Mr. LUJAN. Mr. Chairman, I yield back the balance of my time.

Mr. MOORHEAD of California. Mr. Chairman, I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

☐ 1500

Pursuant to the rule, the text of H.R. 8157 shall be considered as an original bill for the purpose of amendment in lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce now printed in the bill and said substitute shall be considered as having been read.

The Clerk will designate the amendment.

The bill reads as follows:

H.R. 8157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act."

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
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Sec. 8. Amendments to existing law.
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Sec. 10. Savings provisions.
Sec. 11. Effective date.
Sec. 12. Severability.

PURPOSES

SEC. 2. The purposes of this Act, together with the provisions of other laws applicable to the Federal Columbia River Power System, are intended to be construed in a consistent manner. Such purposes are also intended to be construed in a manner consistent with applicable environmental laws. Such purposes are:

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System—

(A) conservation and efficiency in the use of electric power, and

(B) the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in—

(A) the development of regional plans and programs related to energy conservation, renewable resources, other resources, and protecting, mitigating, and enhancing fish and wildlife resources;

(B) facilitating the orderly planning of the region's power system, and

(C) providing environmental quality;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization on a current basis of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other facilities on the Columbia River and its tributaries.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Acquire" and " acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4) (A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 4.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B) of this paragraph.

(11) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years.

Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B) which will result in an increase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan (including any amendments thereto) adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred

horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a) (1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State, to undertake the functions and duties of members of the Council. The State may fill any vacancy occurring prior to the expiration of the term of any member. The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress. Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the States to make such appointments.

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years. The members of the Council shall select from among themselves a chairman. The members and officers and employees of the Council shall not be deemed to be officers or employees of the United States for any purpose. The Council shall appoint, fix compensation, and assign and delegate duties to such executive and additional personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. The compensation of the members shall be fixed by State law. The compensation of the members and officers shall not exceed the rate prescribed for Federal officers and positions at step 1 of level GS–18.

(4) For the purpose of providing a uniform system of laws, in addition to this Act, applicable to the Council relating to the making of contracts, conflicts-of-interest and financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this Act, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secured by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this Act relating to functions and responsibilities of the Council, notwithstanding any other provision of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b) (1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a),

(A) any provision of this Act relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 6(c) of this Act) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a) (2) (B).

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS–18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS–18 is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.) and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for GS–18 of the General Schedule. The executive director shall exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

(4) When a Council is established under this subsection after a Council was established pursuant to subsection (a) of this section, the Secretary shall provide, to the greatest extent feasible, for the transfer to the Council established by this subsection of all funds, books, papers, documents, equipment, and other matters in order to facilitate the Council's capability to achieve the requirements of subsections (d) and (h) of this section. In order to carry out its functions and responsibilities under this Act expeditiously, the Council shall take into consideration any actions of the Council under subsection (a) and may review, modify, or confirm such actions without further proceedings.

(5) (A) At any time beginning one year after the plan referred to in such subsection (d) and the program referred to in such subsection (h) of this section are both finally adopted in accordance with this Act, the Council established pursuant to this subsection shall be terminated by the Secretary 90 days after the Governors of three of the States referred to in this subsection jointly provide for any reason to the Secretary a written request for such termination. Except as provided in subparagraph (B), upon such termination all functions and responsibilities of the Council under this Act shall also terminate.

(B) Upon such termination of the Council, the functions and responsibilities of the Council set forth in subsection (h) of this section shall be transferred to, and continue to be funded and carried out, jointly, by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service, in the same manner and to the same extent as required by such subsection and in cooperation with the Federal and the region's State fish and wildlife agencies and Indian tribes referred to in subsection (h) of this section and the Secretary shall provide for the transfer to them of all records, books, documents, funds, and personnel of such Council that relate to subsection (h) matters. In the event the Council is terminated pursuant to this paragraph, whenever any action of the Administrator requires any approval or other action by the Council, the Administrator may take such action without such approval or action, except that the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits involving a major generating resource until the expenditure of funds for that purpose is specifically authorized by Act of Congress enacted after such termination.

(c) (1) The provisions of this subsection shall, except as specifically provided in this subsection, apply to the Council established pursuant to either subsection (a) or (b) of this section.

(2) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of—

(A) a majority of the members appointed to the Council, including the vote of at least one member from each State with members on the Council; or

(B) at least six members of the Council.

(3) The Council shall meet at the call of the Chairman or upon the request of any three members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(4) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions and responsibilities under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(5) Upon request of the Council established pursuant to subsection (b) of this section, the head of any Federal agency is authorized to detail or assign to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

(6) At the Council's request, the Administrator of the General Services shall furnish the Council established pursuant to subsection (b) of this section with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to any other Federal agency or instrumentality such offices, supplies, equipment, and services.

(7) Upon the request of the Congress or any committee thereof, the Council shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information which is in the possession of the Council.

(8) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out its functions and responsibilities pursuant to this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(9) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(10)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act, including the reimbursement of those States with members on the Council for services and personnel to assist in preparing a plan pursuant to subsection (d) or a program pursuant to subsection (h) of this section, as the Council determines are necessary or appropriate for the performance of its functions and responsibilities. Such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) of such Act. The records, reports, and other documents of the Council shall be available to the Comptroller General for review in connection with such audit or other review and examination by the Comptroller General pursuant to other provisions of law applicable to the Comptroller General. Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this Act the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

(11) The Council shall establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(12) The Council may establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities under this Act.

(13) The Council shall ensure that the membership for any advisory committee established or formed pursuant to this section shall, to the extent feasible, include representatives of, and seek the advice of, the Federal, and the various regional, State, local, and Indian Tribal Governments, consumer groups, and customers.

(d)(1) Within two years after the Council is established and the members are appointed pursuant to subsection (a) or (b) of this section, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedure as the Council shall adopt.

(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 of this Act shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this Act.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act, including, but not limited to, model conservation standards;

(B) recommendation for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) of this subsection which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect, if any, of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and may include, to the extent practicable, an estimate of the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f) of this section, a methodology for calculating such surcharges.

(4) The Council, taking into consideration the requirement that it devote its principal efforts to carrying out its responsibilities under subsections (d) and (h) of this section, shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall consult with such customers and consumers in the conduct of such studies.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g)(1) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(2) In carrying out the provisions of this section, the Council and the Administrator shall—

(A) consult with the Administrator's customer's;

(B) include the comments of such customers in the record of the Council's proceedings; and.

(C) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(3) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (A) investigate possible measures to be included in the plan, (B) provide public involvement and information regarding a proposed plan or amendment thereto, and (C) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council, may be incorporated as part of the plan.

(h)(1)(A) The Council shall promptly develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including relating spawning grounds and habitat, on the Columbia River and its tributarities. Because of the unique history, problems, and opportunities presented by the development and operation of hydroelectric facilities on the Columbia River and its tributaries, the program, to the greatest extent possible, shall be designed to deal with that river and its tributaries as a system.

(B) This subsection shall be applicable solely to fish and wildlife, including relating spawning grounds and habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(2) The Council shall request in writing, promptly after the Council is established under either section 4(a) or 4(b) of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal, and the region's State, fish and wildlife agencies and from the region's appropriate Indian tribes, recommendations for—

(A) measures which can be expected to be implemented by the Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries.

(B) objectives for the development and operation of such projects of the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife, and

(C) fish and wildlife management coordination and research and development (including funding) which among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

(3) Such agencies and tribes shall have 90 days to respond to such request, unless the Council extends the time for making such recommendations. The Federal, and the region's water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in paragraph (2) of this subsection. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(4)(A) The Council shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Administrator, to the Federal, and the region's, State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating, or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Notice shall also be given to the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Council and shall be available for reproduction at reasonable cost.

(B) The Council shall provide for public participation and comment regarding the recommendations and supporting documents, including an opportunity for written and oral comments, within such reasonable time as the Council deems appropriate.

(5) The Council shall develop a program on the basis of such recommendations, supporting documents, and views and information obtained through public comment and participation, and consultation with the agencies, tribes, and customers referred to in subparagraph (A) of paragraph (4). The program shall consist of measures to protect, mitigate, and enhance fish and wildlife affected by the development, operation, and management of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent such measures are designed to achieve improved protection and mitigation.

(6) The Council shall include in the program measures which it determines, on the basis set forth in paragraph (5), will—

(A) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost;

(D) be conisstent with the legal rights of appropriate Indian tribes in the region; and

(E) in the case of anadromous fish—

(i) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(ii) provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

(7) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entites, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation of the fish and wildlife agencies and Indian tribes as part of the program or any other recommendation, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(A) inconsistent with paragraph (5) of this subsection;

(B) inconsistent with paragraph (6) of this subsection; or

(C) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(8) The Council shall consider, in developing and adopting a program pursuant to this subsection, the following principles:

(A) Enhancement measures may be used, in appropriate circumstances, as a means of achieving off-site protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system.

(B) Consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only.

(C) To the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(D) Monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives of this subsection.

(9) The Council shall adopt such program or amendments thereto within one year after the time provided for receipt of the recommendations. Such program shall also be included in the plan adopted by the Council under subsection (d).

(10) (A) The Administrator shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this Act and other laws administered by the Administrator to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, if in existence, the program adopted by the Council under this subsection, and the purposes of this Act. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund which shall be included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than 15 years and an estimated cost of at least $1,000,000 shall be funded in the same manner and in accordance with the same procedures as major transmission facilities under the Federal Columbia River Transmission System Act.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(11) (A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions.

(12) (A) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Commitee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this Act, including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan when adopted. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall include as an appendix to such report such comments or a summary thereof.

(B) The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

(i) The Council may from time to time review the actions of the Administrator pursuant to sections 4 and 6 of this Act to determine whether such actions are consistent with the plan and programs, the extent to which the plan and programs is being implemented, and to assist the Council in preparing amendments to the plan and programs.

(j) (1) The Council may request the Administrator to take an action under section 6 to carry out the Administrator's responsibilities under the plan.

(2) To the greatest extent practicable, within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this Act, or other provisions of law, which the Administrator shall specifically identify.

(3) If the Administrator determines not to undertake the requested action, the Council, within sixty days after notice of the Administrator's determination, may request the Administrator to hold an informal hearing and make a final decision.

(k) (1) Not later than October 1, 1987, or six years after the Council is established under this Act, whichever is later, the Council shall complete a thorough analysis of conservation measures and conservation resources implemented pursuant to this Act during the five-year period beginning on the date the Council is established under this Act to determine if such measures or resources:

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources;

(B) have not been or are likely not to be generally equitable to all consumers in the region; or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this Act and other laws, consistent with sound business practices.

(2) The Administrator may determine that section 3(4) (D) shall not apply to any proposed conservation measure or resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource would have any result or effect described in subparagraph (A), (B) or (C) of paragraph (1).

SALE OF POWER

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

(b) (1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) of this subsection to be used to serve its firm load.

(c) (1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) of this subsection with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's Regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) of this subsection which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b) (3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1) of this subsection, the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d) (1) (A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power."

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines, after a plan has been adopted pursuant to section 4 of this Act, that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has determined such sale is consistent with the plan. After such determination by the Administrator and by the Council, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) of this subsection as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4) (A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(C) (i) Where a new contract is offered in accordance with subsection (g) to any existing direct service industrial customer which has not received electric power prior to the effective date of this Act from the Administrator pursuant to a contract with the Administrator existing on the date of the enactment of this Act, electric power delivered under such new contract shall be conditioned on the Administrator reasonably acquiring, in accordance with this Act and within such estimated period of time (as specified in the contract) as he deems reasonable, sufficient resources to meet, on a planning basis, the load requirement of such customer. Such contract shall also provide that the obligation of the Administrator to acquire such resources to meet such load requirement shall, except as provided in clause (ii) of this subparagraph, apply only to such customers and shall not be sold or exchanged by such customer to any other person.

(ii) Rights under a contract described in clause (i) of this subparagraph may be transferred by an existing direct service industrial customer referred to in clause (i) to a successor in interest in connection with a reorganization or other transfer of all major assets of such customer. Following such a transfer, such successor in interest (or any other subsequent successor in interest) may also transfer rights under such a contract only in connection with a reorganization or other transfer of all assets of such successor in interest.

(iii) The limitations of clause (ii) of this subparagraph shall not apply to any customer referred to in clause (ii) whenever the administrator determines that such customer is receiving electric power pursuant to a contract referred to in such clause (ii).

(e) (1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;
(B) Federal agencies;
(C) direct service industrial; and
(D) investor owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) of this section are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

(g) (1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b) of this section;

(B) Federal agency customers under subsection (b) of this section;

(C) electric utility customers under subsection (c) of this section; and

(D) direct service industrial customers under subsection (d) (1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) of this section shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) of this section shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d) (1), shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) of this section each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) (1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 4(e) (1) and the considerations of section 4(e) (2) and, in the case of major resources, in accordance with subsection (c) of this section. Such conservation measures and such resources may include, but are not limited to—

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application.

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(2) In addition to acquiring electric power pursuant to section 5(c), or on a short-term basis pursuant to section 11(b) (6) (i) of the Federal Columbia River Transmission System Act, the Administrator shall acquire, in accordance with this section, sufficient resources—

(A) to meet his contractual obligations that remain after taking into account planned savings from measures provided for in paragraph (1) of this subsection, and

(B) to assist in meeting the requirements of section 4(h) of this Act.

The Administrator shall acquire such resources without considering restrictions which may apply pursuant to section 5(b) of this Act.

(b) (1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator.

(2) The Administrator may acquire resources (other than major resources) under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e) (1) and the considerations of section 4(e) (2) of this Act.

(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e) (1) and the considerations of section 4(e) (2) of this Act.

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions which will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the considerations specified in section 4(e) (2) of this Act.

(5) Notwithstanding any acquistion of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to subsection (a) (1) of this section.

(c) (1) For each proposal under subsections (a), (b), (f), (h), or (l) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers:

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator, and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m) of this section, as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section (4) (e) (1) and the considerations of section 4(e) (2) of this Act or notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f) of this section, such decision shall be treated as satisfying the applicable requirements of this subsection and of subsection (f) of this section, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days of the receipt of the Administrator's decision pursuant to paragraph (1) (D) of this subsection, the Council may determine by a majority vote of all members of the Council, and notify the Administrator—

(A) that the proposal is either consistent or inconsistent with the plan, or

(B) if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e) (1) and the considerations of section 4(e) (2).

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined pursuant to paragraph (2) by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 4(e) (1) and the considerations of section 4(e) (2)—

(A) unless the Administrator finds that, nothwithstanding such inconsistency, such resource is needed to meet the Administrator's obligations under this Act, and

(B) until the expenditure of funds for that purpose has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1) of this subsection, the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

The Administrator may not implement any such proposal until ninety days after the date on which such proposal has been noted in such budget or after the date on which such decision has been published in the Federal Register, whichever is later.

(5) The authority of the Council to make a determination under paragraph (2) (B) if no plan is in effect shall expire on the date two years after the establishment of the Council.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e) (1) and the considerations of section 4(e) (2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e) (1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f) of this section).

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors. The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act.

(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customers, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act, by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activitity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to granting any credit or providing services pursuant to this subsection, the Administrator shall—

(A) comply with the notice provisions of subsection (c) of this section, and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j));

(C) require that resources in excess of customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m) of this section, except in the case of conservation, multi-purpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) require that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, and safety practices, and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractural and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the langauge contained in the second sentence of paragraph (1) of this subsection. The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and

directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan of such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5) of this subsection, the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but in excess of the amounts needed to meet such utility's Regional load.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act.

(2) Rates established under this section shall become effective only, except in the case of interior rules as provided in subsection (i)(6), upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any cost or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1) of this subsection, and

(B) an overrecovery underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term "general requirements" as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 5(b) of this Act, exclusive of any new large single load.

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c) of this Act, based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the Public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) of this subsection shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of tho loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts of increased rates pursuant to this Act on any direct service industrial customer using raw minerals indigenous to the region as its primary resource, the Administrator, upon request of such customer showing such impacts and after considering the effect of such request on his other obligations under this Act, is authorized, if the Administrator determines that such impacts will be significant, to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region. Such rate shall be established in accordance with this section and shall include such terms and conditions as the Administrator deems appropriate.

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c) of this Act and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Except to the extent that the allocation of cost and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a) of this section), the Administrator shall adjust power rates to include any surcharges arising under section 4(f) of this Act, and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f) of this Act.

(i) In establishing rates under this section, the Administrator shall use the following procedures:

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2) of this subsection.

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before, the close of hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) of this section. The Commission shall have the authority, in accordance with such procedures, if any, as the Commission shall promptly establish and make effective within one year after the enactment of this Act, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection. Pending the establishment of such procedures by the Commission, if such procedures are required, the Secretary is authorized to approve such interim rates during such one-year period in accordance with the applicable procedures followed by the Secretary prior to such enactment. Such interim rates, at the discretion of the Secretary, shall continue in effect until July 1, 1982.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) of this section. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

(m)(1) Beginning the first fiscal year after the plan and program required by sections 4(d) and (h) of this Act are finally adopted, the Administrator may, subject to the provisions of this section, make annual impact aid payments to the appropriate local governments within the region with respect to major transmission facilities of the Administrator, as defined in section 3(c) of the Federal Columbia River Transmission Act—

(A) which are located within the jurisdictional boundaries of such governments,

(B) which are determined by the Administrator to have a substantial impact on such governments, and

(C) where the construction of such facilities, or any modification thereof, is completed after the effective date of this Act, and, in the case of a modification of an existing facility, such modification substantially increases the capacity of such existing transmission faciltiy.

(2) Payments made under this subsection for any fiscal year shall be determined by the Administrator pursuant to a regionwide, uniform formula to be established by rule in accordance with the procedures set forth in subsection (i) of this section. Such rule shall become effective on its approval, after considering its effect on rates established pursuant to this section, by the Federal Energy Regulatory Commission. In developing such formula, the Administrator shall identify, and take into account, the local governmental services provided to the Administrator concerning such facilities and the associated costs to such governments as the result of such facilities.

(3) Payments made pursuant to this subsection shall be made solely from the fund established by section 11 of the Federal Columbia River Transmission System Act. The provisions of section 13 of such Act, and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.

(4) No payment may be made under this subsection with respect to any land or interests in land owned by the United States within the region and administered by any Federal agency (other than the Administrator), without regard to how the United States obtained ownership thereof, including lands or interests therein acquired or withdrawn by a Federal agency for purposes of such agency and subsequently made available to the Administrator for such facilities.

AMENDMENTS TO EXISTING LAW

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "or" before "(iii)" in paragraph (6), by striking out the semicolon at the end of such paragraph (6) and inserting in lieu thereof ", or (iv) on a short term basis to meet the Administrator's obligations under section 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act;'.

(b) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) making such payments, as shall be required to carry out the purposes and provisions of the Pacific Northwest Electric Power Planning and Conservation Act.".

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b) (11)" and inserting in lieu thereof ", 11(b) (11), and 11(b)(12)".

(d) The first sentence of subsection (a) of section 13 of such Act is amended by inserting after the word "system," the following: "to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (including his authority to provide financial assistance for conservation measures, renewable resources, and fish and wildlife, but not including the authority to acquire under section 6 of that Act electric power from a generating facility having a planned capability greater than 50 average megawatts).".

(2) The fourth sentence of such subsection (a) is amended by inserting the fol-

lowing before the period at the end thereof: "issued by Government corporations".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "prior to October 1, 1981. Such aggregate principal limitation shall be increased by an additional $1,250,000,000 after October 1, 1981, as provided in advance in annual appropriation Acts, and such increased amount shall be reserved for the purpose of providing funds for conservation and renewable resource loans and grants in a special revolving account created therefor in the Fund. The funds from such revolving account shall not be deemed State or local funds".

(4) Such subsection (a) is further amended by inserting the following after the fourth sentence thereof: "Beginning in fiscal year 1982, if the Administrator fails to repay by the end of any fiscal year all of the amounts projected immediately prior to such year to be repaid to the Treasury by the end of such year under the repayment criteria of the Secretary of Energy and if such failure is due to reasons other than (A) a decrease in power sale revenues due to fluctuating streamflows or (B) other reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by the Administrator during such fiscal year. Such increase shall be effective commencing with the fiscal year immediately following the fiscal year during which such failure occurred and shall not exceed 1 per centum for each such fiscal year during which such repayments are not in accord with such criteria. The Secretary of the Treasury shall take into account amounts that the Administrator has repaid in advance of any repayment criteria in determining whether to increase such rate. Before such rate is increased, the Secretary of the Treasury, in consultation with the Administrator and the Federal Energy Regulatory Commission, must be satisfied that the Administrator will have the ability to pay such increased rate, taking into account the Administrator's obligations. Such increase shall terminate with the fiscal year in which repayments (including repayments of the increased rate) are in accordance with the repayment criteria of the Secretary of Energy:"

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)). Other provisions of law applicable to such contracts on the effective date of this Act shall continue to be applicable.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), sections 302(a)(2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner. Nothing in this Act shall be construed by the Secretary, the Administrator, or any other official of the Department of energy to modify, alter, or otherwise affect the requirements and directives expressed by the Congress in sections 302(a)(2) and (3) of the Department of Energy Organization Act or the operations of such officials as they existed prior to enactment of this Act.

(c) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837(b)(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. In addition to the directives contained in subsections (i)(1)(B) and (i)(3) and subject to:

(1) any contractual obligations of the Administrator,

(2) any other obligations under existing law, and

(3) the availability of capacity in the Federal transmission system,

the Administrator shall provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and shall not discriminate against any utility or group thereof on the basis of independent development of such resource in providing such services.

(e)(1) for purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, adoption of the program by the Council, and any determination by the Council under section 4(h):

(B) sales, exchanges, and purchases of electric power under section 5,

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6,

(E) execution of contracts for assistance to sponsors under section 6(f),

(F) granting of credits under section 6(h);

(G) final rate determinations under section 7; and

(H) any rule prescribed by the Administrator under section (m)(2) of this Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code, except that final determinations regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge the constitutionality of this Act, or any action thereunder, final actions and decisions taken pursuant to this Act by the Administrator or the Council, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837–837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the United States court of appeals for the region. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice, or be barred. In the case of a challenge of the plan or programs or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such court shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan and program, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law. Suits challenging any other actions under this Act shall be filed in the appropriate court.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resources is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h),

(1) convene a joint State board and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost/effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) There is hereby established within the administration an executive position for conservation and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (f) or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Reregulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

(g) Nothing in this Act shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

(h) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act of any plan or program adopted pursuant to the Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. For purposes of this Act, the term "date of the enactment of this Act" means such date of enactment or October 1, 1980, whichever is later.

SEVERABILITY

SEC. 12. If any provision of section 4 (a) through (c) of this Act or any other provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 4 or of this Act, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

Mr. DINGELL. Mr. Chairman, reserving a point of order, I reserve the right to object to the reading of the amendment.

Mr. WEAVER. Mr. Chairman, I have a substitute at the desk.

The CHAIRMAN. The Clerk has simply designated the amendment provided for in the rule.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WEAVER

Mr. WEAVER. Mr Chairman, I offer an amendment in the nature of a substitute.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WEAVER: Page 1, strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Columbia Basin Energy Corporation Act of 1980".

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Purpose and creation.
Sec. 4. Directors.
Sec. 5. Officers and employees.
Sec. 6. Corporate powers.
Sec. 7. Board duties and powers.
Sec. 8. Distribution of electricity; preference to public bodies and cooperatives.
Sec. 9. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest.
Sec. 10. Contract terms and conditions for use of electric energy outside Pacific Northwest.
Sec. 11. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest.
Sec. 12. Exchange contracts.
Sec. 13. Transmission lines for other electric energy; rates.
Sec. 14. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions.
Sec. 15. Transmission lines between Pacific Northwest and Pacific Southwest.
Sec. 16. Provisions not applicable to Canyon Ferry project or benefits and exchanges under treaty between Canada and United States.
Sec. 17. Contracts for sale of electricity.
Sec. 18. Conservation; advance of funds, alternate energy resources.
Sec. 19. Purchase; pooling; sale.
Sec. 20. Rate schedules; progressive pricing to assure basic supply of energy and encourage energy conservation.
Sec. 21. Rates; elements of charges.
Sec. 22. Columbia Basin Energy Corporation Administration fund.
Sec. 23. Investment of excess funds.
Sec. 24. Bonds.
Sec. 25. Deposit of receipts; authorization of appropriations.
Sec. 26. Authority of Administrator.
Sec. 27. Purchase of supplies and services.
Sec. 28. Miscellaneous Administrative provisions.
Sec. 29. Participation by State and local government in the Pacific Northwest.
Sec. 30. Transitional and savings provisions.
Sec. 31. Incidental transfers.
Sec. 32. Repeal of other laws.
Sec. 33. Effective date.
Sec. 34. Separability of provisions.

DEFINITIONS

SEC. 2. As used in this Act:

(a) The term "Pacific Northwest" means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and the State of Idaho as the Board may determine to be within the marketing area of the Federal Columbia River power system, and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (A) no generating facilities, and (B) a distribution system from which it serves both within and without said region.

(b) The term "surplus energy" means electric energy generated at electric plants in the Pacific Northwest which would otherwise be wasted because of the lack of a market therefor in the Pacific Northwest at any established rates.

(c) The term "surplus peaking capacity" means electric peaking capacity at electric plants in the Pacific Northwest for which there is no demand in the Pacific Northwest at any established rate.

(d) The term "non-Federal utility" means any utility not owned by the United States, including any entity (1) which such a utility owns or controls, in whole or in part, or is controlled by, (2) which is controlled by those controlling such utility, or (3) of which such utility is a member.

(e) The term "energy requirements of any Pacific Northwest customer" means the full requirements for electric energy of (1) any purchaser from the United States for direct consumption in the Pacific Northwest, and (2) any non-Federal utility in that region in excess of (i) the electric energy available for its own use from its generating plants in the Pacific Northwest, and (ii) any additional energy available for use in the Pacific Northwest which, under a then existing contract, the utility (A) can obtain at no higher incremental cost than the rate charged by the United States, or (B) is required to accept.

(f) The term "public body", or "public bodies", means States, public power districts, counties, and municipalities, including agencies or subdivisions of any thereof.

(g) The term "cooperatve", or "cooperatives", means any form of non-profit-making organization or organizations of citizens supplying, or which may be created to supply, members with any kind of goods, commodities, or services, as nearly as possible at cost.

(h) The term "Secretary" means the Secretary of Energy.

(i) The term "Corporation" means the Columbia Basin Energy Corporation established under this Act.

(j) The term "cooperating utility" means any entity, public or private, that generates electric energy and sells all such energy and all energy acquired from sources other than the Corporation to the Corporation to the extent and for the purposes described in this Act.

(k) The term "cost-effective conservation" means producing energy savings at a cost which does not exceed the cost of building alternative new generation to otherwise serve the load and which produces a reliability of future energy savings comparable to the reliability of future energy production from new generation.

(l) Terms not defined herein shall, unless the context requires otherwise, have the meaning given them in the March 1949 Glossary of Important Power and Rate Terms prepared under the supervision of the Federal Power Commission.

PURPOSE AND CREATION

SEC. 3. For the purpose of—

(1) maintaining and operating the properties owned by the Unted States and used for the generation of electric energy in the Pacific Northwest;

(2) serving the national public interest by having the Columbia Basin water and power system perform the function of a regional pilot program for development of improved methods of energy conservation, marketing, generation, and transmission;

(3) maximizing the potential of the unique feature of the Pacific Northwest water and power system which provides massive and controllable storage of electric energy in the form of water behind its dams and in its reservoirs by storing excess power coming from the sun, the wind, nuclear and fossil fuels in the form of water to be used when demand is critical;

(4) maximizing the potential of energy conservation and energy cost effectiveness by balancing the demand for electric energy with the supply of electric energy;

(5) giving full recognition to the financial contribution made and being made by the energy consumer in the Pacific Northwest by paying for the cost of operation and amortization of the capital investment made by the United States; and

(6) providing the energy consumer of the Pacific Northwest a greater voice in the operation and management of the Columbia Basin electric energy system.

There is created a body corporate by the name of the "Columbia Basin Energy Corporation". The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from date of the first meeting of the Board.

DIRECTORS

SEC. 4. (a) The Board of Directors of the Corporation (hereinafter referred to as the "Board") shall be composed of five members, two to be appointed by the President and one each to be elected, in a manner to be determined by the laws of the respective States, by the people of Washington, the people of Oregon, and jointly by the people of Idaho and Montana.

(b) The first Board shall take office January 1, 1978. Members appointed by the President or elected by the various States shall serve until the dates set forth in subsection (c).

(c) Except for the first Board the term of office for each member shall be four years and begin as follows:

(1) first Presidential appointee, January 1, 1978;

(2) member elected by the people of Washington, January 1, 1979;

(3) member elected by the people of Oregon, January 1, 1979;

(4) second Presidential appointee, January 1, 1980; and

(5) member elected jointly by the people of Idaho and Montana, January 1, 1981.

(d) Any vacancy in the Board shall be filled by appointment made by the President. Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed or elected shall serve for the remainder of such term. Members of the first Board, appointed to fill vacancies occurring due to the various States failing to elect a member, shall serve until thirty days after a State or States have elected such a member.

(e) The President shall designate the Chairman. All other officials, agents, and employees shall be designated and selected subject to the authority of the Board.

(f) Vacancies in the Board, so long as there shall be three members in office, shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(g) Each of the members of the Board shall be a citizen of the United States. The compensation of each member of the Board shall be paid by the Corporation as current expenses. Each member of the Board in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of the duties vested in the Board by this Act.

(h) No director shall have financial interest in any public utility corporation engaged in the business of distributing and selling power to the public or in any business entity purchasing power directly from the Corporation.

(i) The Board shall direct the exercise of all the powers of the Corporation.

(j) All members of the Board shall be persons who profess a belief in the feasibility and wisdom of this Act.

(k) Any member of said Board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

OFFICERS AND EMPLOYEES

SEC. 5. (a) IN GENERAL.—(1) The Board shall without regard to the provisions of civil service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define their duties, require bonds of such of them as the Board may designate, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the Board may be removed in the discretion of the Board.

(2) All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects shall contain a provision that not less than the prevailing rate of wages for work of a similar nature prevailing in the vicinity shall be paid to such laborers or mechanics.

(3) In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees.

(4) Where such work as is described in the two preceeding paragraphs is done directly by the Corporation the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

(5) Insofar as applicable, the benefits of the Federal Employee's Compensation Act, shall extend to persons given employment under the provisions of this Act.

(b) NONPOLITICAL APPOINTMENT.—In the appointment of officials and the selection of employees for said Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of said Board who is found by the President of the United States to be guilty of a violation of this section shall be removed from office by the President of the United States, and any appointee of said Board who is found by the Board to be guilty of a violation of this section shall be removed from office by said Board.

CORPORATE POWERS

SEC. 6. Except as otherwise specifically provided in this Act, the Corporation:

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, as herein authorized.

(e) May adopt, amend, and repeal bylaws.

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

(h) Except for acquisition of generating facilities and retail distribution systems shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this Act.

(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, powerhouses, generating facilities, and such other structures and facilities authorized by this Act, and in the event that the owner or owners of such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the Board, then the Corporation may proceed to exercise the right of eminent domain, and except for generating facilities and retail distribution systems to condemn all property that it deems necessary for carrying out the purposes of this Act, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this Act shall be construed to deprive the Corporation of the rights conferred by sections 258a to 258c of title 40 of the United States Code.

(k) Subject to the provision of section 7, shall have power to acquire or construct electric generating facilities, power structures, transmission lines, facilities for pooling and storing electric energy, fish hatcheries, channels for fish migration, and incidental works including facilities for research and development of electric energy; to unite the various power installations into one or more systems by transmission lines; expend funds for recreational facilities compatible with the generation of electric energy and the environment.

(l) Shall have power to expend funds for conservation of energy including but not limited to insulation and weatherization of facilities owned by users of electric energy.

(m) Shall have power to expend funds for electric energy generating and energy conserving devices using, among others, solar, wind, geothermal, and tidal energy. Such devices may be installed with facilities or on the property owned by either the Corporation, cooperating utilities or retail consumers of electric energy.

(n) Shall have power in the name of the United States—

(1) to convey by deed, lease, or otherwise, any real property in the possession of or under the control of the Corporation to any person or persons, for the purpose of recreation or use as a summer residence, or for the operation on such premises of pleasure resorts for boating, fishing, bathing, or any similar purpose;

(2) to convey by deed, lease, or otherwise, the possession and control of any such real property to any corporation, partnership, person, or persons for the purpose of erecting thereon docks and buildings for shipping purposes or the manufacture or storage thereon of products for the purpose of trading or shipping in transportation: *Provided*, That no transfer authorized herein shall be made without the approval of Congress.

(3) to transfer any part of the possession and control of the real estate in possession of and under the control of said Corporation to any other department, agency, or instrumentality of the United States: *Provided, however*, That no land shall be conveyed, leased, or transferred, upon which is located any permanent dam or electric powerplant, heretofore or hereafter built by or for the United States or for the corporation: *And provided further*, That no transfer authorized herein in paragraph (1) or (2) except leases for terms of less than twenty years, shall be made without the approval of the President of the United States, if the property to be conveyed exceeds $500 in value; and

(4) to convey by warranty deed, or otherwise, lands, easements, and rights-of-way to States, counties, municipalities, school districts, railroad companies, telephone, telegraph, water, and power companies, where any such conveyance is necessary in order to replace any such lands, easements, or rights-of-way to be flooded or destroyed as the result of the construction of any dam or reservoir or electric generation facility now under construction by the Corporation, or subsequently authorized by Congress, and easements and rights-of-way upon which are located transmission or distribution lines.

(o) Shall have power to aid and assist in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights-of-way, and other necessary acquisitions of land, in order to effectuate the purposes of this Act; and may cooperate with Federal, State, and local agencies to that end.

(p) Shall have power to purchase and pool electric energy generated by any non-Federal facility.

BOARD DUTIES AND POWERS

SEC. 7. Except as otherwise specifically provided in this Act, the Board:

(a) Shall be held responsible for keeping the supply of electric energy in balance with the demand for such energy in the Pacific Northwest and where it is in the public interest, in terms of cost effectiveness and the ability of consumers to afford energy, to keep the demand for electric energy in balance with the supply. Reducing the demand for energy shall be given as much consideration as increasing the supply of energy. For every commitment of funds and every expenditure for new facilities the Board shall give full consideration to each of the following alternatives and the cost involved with each in accomplishing a balance between the supply of and demand for electric energy:

(1) insulation and weatherization;
(2) conservation devices;
(3) solar space and water heating;
(4) other energy saving activity;
(5) generation of electric energy through the use of—
  (A) hydro,
  (B) nuclear,
  (C) solar,
  (D) wind,
  (E) geothermal,
  (F) fossil fuels,
  (G) organic fuels,
  (H) tidal, and
  (I) other generating efforts.

The Board shall commit funds and make expenditures only for facilities which accomplish a balance between the supply of and demand for electric energy at the most economical cost.

(b) Shall agree to purchase electric energy generated by facilities whose construction began after the effective date of this Act only if the Board gave prior approval for the construction of such facility. Such approval for construction shall not be given unless the cost efficiency provisions of subsection (a) of this section have been met.

(c) Shall not require a cooperating utility to sell to the Corporation electric energy which is to be marketed within the service area of the utility and which is generated by facilities owned by it, which were constructed and become operable after the effective date of this Act and the production cost of such electric energy is less than the sale price of energy sold by the Corporation as defined in section 19(3)(B) and section 20 of this Act.

(d) Shall dispose of electric energy generated or purchased by the Corporation as provided in this Act. In order to use all electric energy that can be generated, purchased, and marketed and to provide reasonable outlets therefor, and to prevent the monopolization thereof by limited groups, the Board is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as to finds necessary, desirable, or appropriate for the purpose of—

(1) integrating and transmitting electric energy within the Pacific Northwest to existing and potential markets;

(2) providing service to utility and industrial customers of the Corporation;

(3) providing interregional transmission facilities for the interchange of electric energy between the Corporation sytem and other Federal and non-Federal systems;

(4) maintaining the electrical stability and electrical reliability of the Federal system: *Provided, however*, That the Corporation shall not construct any transmission facilities outside the Pacific Northwest, excepting customer service facilities within any continguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (A) no generating facilities, and (B) a distribution system from which it serves both within and without said region.

(c) The Board is authorized to, and at the request of the President or the Secretary shall, establish, maintain, and operate laboratories and experimental plants, and undertake experiments for the purpose of conserving electric energy and for developing and generating electric energy by methods and from sources in addition to hydroelectric, including, but not limited to solar, wind, and geothermal, so that energy may be supplied and used in the most economical manner and at the highest standard of efficiency.

(f) Subject to the provisions of section 8, the Board shall make available to all utilities on a fair and nondiscriminatory basis, any capacity in the Federal transmission system which it determines to be in excess of the capacity required to transmit electric power generated or acquired by the United States.

(g) The Board shall, as provided in this Act, set the policy for the acquisition, sale, and disposition of electric energy purchased and generated by the Corporation not required for the operation of dams and locks at Corporation facilities and navigation facilities employed in connection therewith. In establishing rates for the sale of electric energy the Board is directed, in addition to the provisions of sections 19 and 20, to incorporate into the rates, after making certain that sufficient electric energy at the lowest cost feasible has been provided for minimum life essential to all resident consumers, incentives for the conservation of electric energy.

(h) The Board may request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the Corporation the better to carry out its powers successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his opinion the public interest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the Board: *Provided*, That any invention or discovery made by virtue and incidental to such service by an employee of the Government of the United States serving under this section, or by any employee of the Corporation, together with any patents which may be granted thereon, shall be the sole and exclusive property of the Corporation, which is authorized to grant such licenses thereunder as shall be authorized by the Board: *Provided further*, That the Board may pay to such inventor such sum from the income from sale of licenses as it may deem proper.

(i) The administration of the Corporation's powers and responsibilities given to the Board by this Act shall be assigned to the Administrator. The Administrator shall be responsible to the Board and serves subject to removal by the Board. The principal office of the Corporation shall be established in the Columbia Basin area.

(j) The Board is directed to hold public hearings prior to making a Board decision regarding:

(1) The construction of generating facilities by the Corporation or approval of generating facilities to be constructed by a cooperating utility costing more than $100.000. Such hearings shall be held in the city of the central office of the Corporation and in the largest city of the county in which the facility is to be constructed.

(2) The conservation activity described in section 18.

(3) The conservation percentage described in section 20.

(4) Such other policy decisions pending before the Board deemed to affect substantially the public interest. The Board shall give notice of each public hearing in a newspaper of general circulation in the locality where the hearing is to be held at least one month prior to the scheduled hearing date. For the purpose of such hearing, the Board may administer oaths, subpena witnesses, or written or printed materials, compel attendance of witnesses, or production of materials, and take evidence including but not limited to site inspections of the land to be affected. A verbatim transcript and complete record of each public hearing shall be ordered by the Board.

(k) The Board shall make such policy, perform such acts and promulgate such rules and regulations as it may deem necessary to perform the provisions and intent of this Act.

DISTRIBUTION OF ELECTRICITY; PREFERENCE TO PUBLIC BODIES AND COOPERATIVES

SEC. 8. (a) In order to insure that the facilities for the generation of electric energy by the Corporation shall be operated for the benefit of the general public, and particularly of domestic and rural consumers, the Board shall at all times, in disposing of electric energy generated at said project, give preference and priority to public bodies and cooperatives.

(b) In the event there shall be conflicting or competing applications for an allocation of electric energy between any public body or cooperative primarily serving residential customers on the one hand and a private agency of any character on the other, the application of such public body or cooperative shall be granted.

(c) An application by any public body or cooperative established to primarily serve residential customers for an allocation of electric energy shall not be denied, or another application competing or in conflict therewith be granted, to any private corporation, company, agency, or person, on the ground that any proposed bond or other security issue of any such public body or cooperative, the sale of which is necessary to enable such prospective purchaser to enter into the public business of selling and distributing the electric energy proposed to be purchased, has not been authorized or marketed, until after a reasonable time, to be determined by the Board, has been afforded such public body or cooperative to have such bond or other security issue authorized or marketed.

(d) It is declared to be the policy of the Congress, as expressed in this Act, to preserve the said preferential status of the public bodies and cooperatives herein referred to, and to give the people of the States within economic transmission distance of the Corporation system reasonable opportunity and time to hold any election or elections or take any action necessary to create such public bodies and cooperatives as the laws of such States authorize and permit, and to afford such public bodies or cooperatives reasonable time and opportunity to take any action necessary to authorize the issuance of bonds or to arrange other financing necessary to construct or acquire necessary and desirable electric distribution facilities, and in all other respects legally to become qualified purchasers and distributors of electric energy available under this Act.

LIMITATIONS OF SALE, DELIVERY, AND EXCHANGE OF ELECTRIC ENERGY AND ELECTRIC PEAKING CAPACITY FOR USE OUTSIDE PACIFIC NORTHWEST

SEC. 9. Subject to the provisions of this Act, the sale, delivery, and exchange of electric energy generated at, and peaking capacity of, electric plants in the Pacific Northwest for use outside the Pacific Northwest shall be limited to surplus energy and surplus peaking capacity. At least thirty days prior to the execution of any contract for the sale, delivery, or exchange of surplus energy or surplus peaking capacity for use outside the Pacific Northwest, the Secretary shall give the then customers of the Corporation written notice that negotiations for such a contract are pending, and thereafter, at any customer's request, make available for its inspection current drafts of the proposed contract.

CONTRACT TERMS AND CONDITIONS FOR USE OF ELECTRIC ENERGY OUTSIDE PACIFIC NORTHWEST

SEC. 10. (a) Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest, or as replacement, directly or indirectly, within the Pacific Northwest for electric energy delivered for use outside that region by a non-Federal utility, shall provide that the Secretary, after giving the purchaser notice not in excess of sixty days, will not deliver electric energy under such contract whenever it can reasonably be foreseen that such delivery would impair his ability to meet, either at or after the time of such delivery, the energy requirements of any Pacific Northwest customer. The purchaser shall obligate himself not to take delivery of or use any such energy to supply any load under such conditions that discontinuance of deliveries from the Pacific Northwest in sixty days would cause undue hardship to the purchaser or in his territory, and, further, the purchaser shall acknowledge full responsibility if any such hardship occurs. Deliveries by a non-Federal utility from its generating plants in the Pacific Northwest for use on its own distribution system in an area outside but contiguous to the Pacific Northwest (not including any extension of its outside service area by merger or acquisition after August 31, 1964) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Electric energy generated at electric plants in the Pacific Northwest which can be conserved, for which there is no immediate demand in the Pacific Northwest at any established rate, but for which the Secretary determines there may be a demand in meeting the future requirements of the Pacific Northwest, may be delivered for use outside that region only on a provisional basis under contracts providing that if the Secretary determines at a subsequent time that, by virtue of prior deliveries under such contract, the Secretary is or will be unable to meet the energy requirements of any Pacific Northwest customer, the purchaser will return the full amount of energy delivered to him, or such portion or portions thereof as may be required, at such time or times as may be specified by the Secretary, except that the Secretary shall not require return during the purchaser's daily peak periods. The Secretary shall require the return of the energy provisionally delivered hereunder, to such extent and at such times, as may be necessary to meet demands at any established rate for use within the Pacific Northwest.

(c) Any contract for the disposition of surplus peaking capacity shall provide that (1) the Secretary may terminate the contract upon notice not in excess of sixty months, and (2) the purchaser shall advance or return the energy necessary to supply the peaking capacity, except that the Secretary shall not require such advance or return during the purchaser's daily peak periods. The Secretary may contract for the sale of such energy to the purchaser, in lieu of its return, under the conditions prescribed in subsection (a) of this section.

(d) The Secretray, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having electric generating facilities, shall exclude any amounts of electric energy generated in the Pacific Northwest and disposed of outside the Pacific Northwest by the utility which, through reasonable measures, could have been conserved or otherwise kept available for the utility's own needs in the Pacific Northwest. The Secretary may sell the utility as a replacement therefor only what would otherwise be surplus energy.

CONTRACT LIMITATIONS AND CONDITIONS FOR USE OF ELECTRIC ENERGY AND PEAKING CAPACITY OF PLANTS IN OTHER MARKETING AREAS FOR USE WITHIN PACIFIC NORTHWEST

SEC. 11. Any contract of the Secretary for the sale or exchange of electric energy generated at, or peaking capacity of, electric plants in marketing areas outside the Pacific Northwest for use within the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 9 and 10 of this Act for any contract for the sale or exchange of electric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest.

EXCHANGE CONTRACTS

SEC. 12. Without regard to the limitations specified in sections 9 and 10 of this Act, the Secretary may enter into contracts for the exchange with areas other than the Pacific Northwest of (1) surplus energy during the Pacific Northwest storage refill period, (2) any electric energy during the Pacific Northwest storage refill period which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest refill period or the succeeding storage drawdown period, (3) any electric energy which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest storage drawdown period, (4) electric peaking capacity, or (5) surplus peaking capacity for energy. All benefits from such exchanges, including resulting increases of firm power, shall be shared equitably by the areas involved, having regard to the secondary energy and other contributions made by each.

TRANSMISSION LINES FOR OTHER ELECTRIC ENERGY; RATES

SEC. 13. Any capacity in Federal transmission lines connecting, either by themselves or with non-Federal lines, a generating plant in the Pacific Northwest or Canada with the other area or with any other area outside the Pacific Northwest, which is not required for the transmission of Federal energy or the energy described in section 16 of this Act, may be made available as a carrier for transmission of other electric energy between such areas. The transmission of other electric energy shall be at equitable rates determined by the Secretary, but such rates shall be subject to equitable adjustment at appropriate intervals not less frequently than once in every five years as agreed to by the parties. No contract for the transmission of non-Federal energy on a firm basis shall be affected by any increase, subsequent to the execution of such contract, in the requirements for transmission of Federal energy, the energy described in section 16 of this Act, or other electric energy.

PURCHASER PRIORITY ON PACIFIC NORTHWEST POWER; AMENDMENT OF EXISTING CONTRACTS AND NEW CONTRACTS TO INCLUDE PRIORITY PROVISIONS

SEC. 14. The Secretary shall offer to amend, without imposing any other requirements as a condition to such amendment, all existing contracts for the sale or exchange of electric power generated at electric plants in the Pacific Northwest to include, and shall include new contracts, provisions giving the purchaser priority on electric power generated at such plants in conformity with the provisions of this Act.

TRANSMISSION LINES BETWEEN PACIFIC NORTHWEST AND PACIFIC SOUTHWEST

SEC. 15. No electric transmission lines or related facilities shall be constructed by any Federal agency outside the Pacific Northwest for the purpose of transmitting electric energy between the Pacific Northwest and Pacific Southwest, nor shall any arrangement for transmission capacity be executed by any Federal agency for the purpose of financing such lines and related facilities to be constructed by non-Federal entities, except those lines and facilities recommended for Federal construction in the Report of the Secretary of the Interior submitted to Congress on June 24, 1964, as supplemented on July 27, 1964, or as hereafter specifically authorized by Congress: *Provided*, That, except with respect to electric transmission lines and related facilities for the purpose of transmitting electric energy between the two regions above mentioned, nothing herein shall be construed as expanding or diminishing in any way the present authority of the Secretary to construct transmission lines to market power and energy.

PROVISIONS NOT APPLICABLE TO CANYON FERRY PROJECT OR BENEFITS AND EXCHANGES UNDER TREATY BETWEEN CANADA AND THE UNITED STATES

SEC. 16. The provisions of this Act shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 13 of this Act, downstream power benefits to which Canada is entitled under the treaty between Canada and the United States relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961, nor to energy or capacity disposed of to Canada in any exchange pursuant to paragraph 1 or 2 of article VIII thereof. Nothing in this Act shall be construed to modify the geographical preference of power users in the State of Montana which is established by the Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270).

CONTRACTS FOR SALE OF ELECTRICITY

SEC. 17. (a) Subject to the provisions of this Act and to such rate schedules as the Secretary may approve, as provided in this Act, the Board shall negotiate and enter into contracts for the sale at wholesale of electric energy, either for resale or direct consumption, to public bodies and cooperatives and to private agencies and persons and for the disposition of electric energy to Federal agencies. Contracts for the sale of electric energy to any private person or agency other than a privately owned public utility engaged in selling electric energy to the general public, shall contain a provision forbidding such private purchaser to resell any of such electric energy so purchased to any private utility or agency engaged in the sale of electric energy to the general public, and requiring the immediate canceling of such contract of sale in the event of violation of such provision. Contracts entered into under this subsection shall be binding in accordance with the terms thereof and shall be effective for such period or periods, including renewals or extensions, as may be provided therein, not exceeding in the aggregate   years from the respective dates from the making of such contracts.

(b) Contracts entered into with direct industrial customers of utilities or the Corporation for rate II power as defined in sections 19 and 20 of this Act shall be limited to one year so as to assure an adequate supply of such rate II power for the residential and nonresidential customers of any purchaser engaged in the business of selling electric energy to the public.

(c) Contracts entered into under this subsection shall contain—

(1) such provisions as the Board determines necessary for the equitable adjustment of rates at appropriate intervals, not less frequently than once in every five years;

(2) such provisions as the Board determines necessary for adjustment in the allocation of electric energy and the rates due to

acts of God, natural disaster, acts of war, severe climatic changes affecting the demand for and supply of electric energy, affecting the supply of water for the varied needs of such water, and such other events beyond the immediate control of the Board causing a severe shortage of the supply of electric energy to meet the normal demand for such energy. Upon determining that emergency measures are required the Board shall allocate the available supply of electric energy to all users throughout the Pacific Northwest on a reasonable and equitable basis consistent with the general public interest; and

(3) the provisions described in sections 18, 19, and 20 of this Act.

(d) Contracts entered into with any utility engaged in the sale of electric energy to the general public shall contain such terms and conditions, including among other things stipulations concerning resale and resale rates by any such utility, as the Board may deem necessary, desirable or appropriate to effectuate the purposes of this Act and to insure that resale by such utility to the ultimate consumer shall be at rates which are reasonable and nondiscriminatory. Such contracts shall also require such utility to keep on file in the office of the Corporation a schedule of all its rates and charges to the public for electric energy and such alterations and changes therein as may be put into effect by such utility.

(e) The Board is authorized to enter into contracts with public or private power systems for the mutual exchange of unused excess power upon suitable exchange terms for the purpose of economical operation or of providing emergency or breakdown relief.

CONSERVATION, ADVANCE OF FUNDS; ALTERNATE ENERGY RESOURCES

SEC. 18. (a) Any agreement for the purchase of electric energy from the Corporation and any agreement to transport energy over Corporation transmission lines signed after the effective date of this Act shall include a conservation clause to accomplish the provisions described in this section; and the Corporation shall initiate and seek amendment to every existing contract for the sale of energy or for the use of transmission lines to add a conservation clause to accomplish the provisions described herein:

(b) Within ten years of the date of the agreement or date of amendment to a contract every structure regularly accessible to the public and every residence within the service area of the purchaser is to be insulated, weatherized, and provided with conservation devices for the purpose of reducing the demand for electric energy to the extent deemed economically feasible.

(c) The Corporation shall encourage the use of alternate forms of energy, including but not limited to wind, solar, and geothermal, in neighborhood and individual residence facilities to relieve the requirement to transport electric energy over great distances, and reduce the demand for energy from central multimegawatt powerplants. Such neighborhood and individual residence energy facilities shall include those directly generating electric energy as well as those reducing the demand on electric energy such as space heating and water heating through the utilization of geothermal and solar energy.

(d) The purchaser will agree to administer such conservation activity within the service area by:

(1) Coordinating such activity with the appropriate units of State or local government.

(2) Forwarding funds advanced by the Corporation for grants for conservation activity to the appropriate units of State or local government.

(e) Expenditure of funds for the purposes described in this section shall be subjecetd to the criteria described in section 7 (a) of this Act.

(f) The Corporation will provide the funds for such energy conservation activity with 100 per centum of the installation cost available in direct grants. Additional costs accruing to the Corporation due to conservation activity shall not be reflected in the rate charge made to consumers of electric energy whose residence or structure did not require a conservation grant.

PURCHASE, POOLING, SALE

SEC. 19. For the purpose of providing relative uniformity of rates within classes of electric energy consumption the Corporation shall—

(1) except as provided in section 7 (b) and (c) of this Act, purchase all the energy generated or acquired by cooperating utilities; in determining the purchase price consideration shall be made for costs of development, operation, debt amortization, and a reasonable margin of profit for the generation, handling, and transmission of elctric energy sold to the Corporation;

(2) pool the energy produced and purchased by the Corporation;

(3) sell such energy to purchasers in the following three prices categories:

(A) Rate I Power—low cost, residential conservation power as described in section 20(b).

(B) Rate II Power—all the electric energy produced by facilities constructed and operable prior to January 1, , except for the energy allocated to rate I power.

(C) Rate III Power—all the electric energy produced by facilities constructed and operable after December 31, .

RATE SCHEDULES; PROGRESSIVE PRICING TO ASSURE BASIC SUPPLY OF ENERGY AND ENCOURAGE ENERGY CONSERVATION

SEC. 20. (a) Schedules of rates and charges for electric energy produced by the Corporation and sold to purchasers as in this Act provided shall be prepared by the Board and become effective upon confirmation and approval thereof by the Federal Energy Regulatory Commission, such rate schedules may be modified from time to time by the Board and shall be fixed and established with a view to encouraging the widest possible diversified use of electric energy and the conservation of energy.

(b) In establishing rate schedules for sale of electric energy, preferential (lower) rates shall be given to residents, including farm residents, of housing, whether owner occupied or rented, including nursing homes, hospitals, schools and school dormitories, and residential care facilities in order to provide each resident a minimal amount of energy having the lowest cost of production. In determining the preferential rate schedule the Board shall—

(1) determine the average annual consumption of electric energy for residential housing over the first three years of the last five years prior to a residential consumption determination by the Board sold by—

(A) all utilities to all resident users in the Pacific Northwest;

(B) each utility to all resident users within the service area of the utility;

(2) determine a "conservation percentage to be a percentage between 29 per centum and 81 per centum of the total annual average residential consumption determined in subsection (b)(1) of this section. In making this determination the Board shall select a per centum great enough to provide sufficient electric energy to meet the essential life needs of residents after strict conservation practices and improvements have been applied to residential housing and low enough to maximize the incentive to conserve electric energy by triggering a progressively higher rate to meet the demand for additional energy. Periodically, at least every two years, the Board shall review the conservation percentage and make changes to meet the criteria set forth in this subsection. The Board may determine a separate conservation percentage for each utility to give recognition for temporary or permanent extremes in the need for energy due to climate or to reward utilities whose consumers have demonstrated cost-effective conservation;

(3) apply the conservation percentage to the total annual average residential consumption in the Pacific Northwest to determine the amount of electric energy to be allocated for rate I power. Apply the amount allocated for rate I power to the costs of an equal amount of power generated or acquired by the Corporation with the lowest cost of acquisition or generation including operation and debt amortization to provide a unit cost per kilowatt hour for rate I power;

(4) provide each purchasing utility with its conservation percentage amount of residential energy as determined in this section, but, in any event, no less than per centum of the amount consumed for residential purposes in 1972 at a rate I power price determined by the provisions of this section;

(5) require the purchasing utility to resell such rate I power to resident users only and in accordance with regulations adopted by the Board. In promulgating regulations for this purpose the Board shall require allocating the same amount of rate I power to resident consumers—

(A) with similar basic housing structure to meet essential life needs,

(B) using the same type of energy to provide heating of the structure.

No consideration shall be given to historic individual user consumption of electric energy;

(6) allocate residential housing cosumption for a newly created entity through examination of the history of residential housing consumption in the service area taken over by the new entity;

(7) In setting the price for reselling rate I power to the resident consumer in addition to the Corporation selling price (including cost of transmission) additions may be made for operating costs and debt amortization for wheeling and distributing such energy to the residential consumer plus a reasonable allowance for profit as determined by the laws for rate setting enacted by the respective States in the Pacific Northwest.

(c) The remaining energy available from generation facilities constructed and operable before January 1, (rate II power), shall be sold at a price that includes all the remaining costs of energy production and transmission not included in establishing the price for rate I power. In allocating rate II power first priority shall be given to meet the remaining demand for residential housing. Second priority of such energy shall be given to meet electric energy needs of nonresidential consumers of utilities providing service to both residential and nonresidential consumers. The balance of such energy shall by made available to direct industrial consumers of the Corporation.

(d) The rate charged for electric energy produced from facilities constructed and operable after December 31, (rate III power), shall include all the cost of energy production from such facilities. Energy demands of consumers not met by rate II power shall be provided by rate III power.

(e) The said schedules of rates and charges for transmission, the said schedules of rates and charges for the sale of electric power, or both such schedules, may provide, among other things, for uniform rates or rates uniform throughout prescribed transmission areas. The recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system.

RATES; ELEMENTS OF CHARGES

SEC. 21. Rate schedules shall be drawn having full regard for the recovery of the costs of producing, pooling, and transmitting such electric energy, including amortization of capital and conservation investment over a reasonable period of years.

FUND

SEC. 22. (a) There is hereby established in the Treasury of the United States a Columbia Basin Energy Corporation Administration Fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Corporation in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Board, (3) any appropriations made by the Congress for the fund, and (4) the following which are hereby transferred to the Corporation: (A) all moneys in the Bonneville Power Administration Fund established by the Federal Columbia River Transmission System Act of October 18, 1974, (B) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Corporation, acting by and through the Board, as authorized in this Act and other Acts relating to the Columbia Basin Energy Corporation system, subject to such limitations as may be prescribed by any applicable appropriation Act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Corporation.

(b) The Board may make expenditures from the fund, which shall have been included in the annual budget submitted to Congress, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in appropriation acts, for any purpose necessary or approriate to carry out the duties imposed upon the Corporation pursuant to law, including but not limited to—

(1) construction, acquisition, and replacement of (A) the transmission system, generating facilities, conservation activity facilities including facilities and structures appurtenant thereto, and (B) additions and improvements thereto authorized by this Act;

(2) operation, maintenance, repair, and relocation, to the extent such relocation is not provided for under subsection (1) above;

(3) electrical research, development, experimentation test, and investigation related to construction, operation, and maintenance of systems and facilities;

(4) marketing of electric power;

(5) transmission over facilities of others and rental, lease or lease-purchase of facilities;

(6) purchase of electric power;

(7) defraying emergency expenses or insuring continuous operation;

(8) paying the interest on, premiums, discounts, and expenses, if any, in connection with the issuance of, and principal of all bonds issued under section 24 of this Act, including provision for and maintenance of reserve and other funds established in connection therewith;

(9) making such payments to the credit of the reclamation fund or other funds as are required by or pursuant to law to be made into such funds in connection with reclamation projects in the Pacific Northwest: *Provided*, That this clause shall not be construed as permitting the use of revenues for repayment of costs allocated to irrigation at any project except as otherwise expressly authorized by law;

(10) making payments to the credit of miscellaneous receipts of the Treasury for all unpaid costs required by or pursuant to law to be charged to and returned to the general fund of the Treasury for the repayment of the Federal investment in the Federal Columbia River Power System from electric power marketed by the Corporation; and

(11) acquiring such goods and services, and paying dues and membership fees in such professional, utility, industry, and other societies, associations, and institutes, together with expenses related to such membership.

(c) Moneys heretofore or hereafter appropriated shall be used only for the purposes for which appropriated, and moneys received by the Corporation in trust shall be used only for carrying out such trust. The provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be applicable to the Corporation in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846), but nothing in the proviso of section 850 of title 31, United States Code, shall be construed as affecting the powers granted in subsection (a) (11) of this section and in sections 2(f), 10(b), and 12(a) of the Bonneville Project Act (16 U.S.C. 832 et seq.).

(d) Notwithstanding the provisions of sections 105 and 106 of the Government Corporation Act, the financial transactions of the Corporation shall be audited by the Comptroller General at such times and to such extent as the Comptroller General deems necessary, and reports of the results of each such audit shall be made to the Congress within six and one-half months following the end of the fiscal year covered by the audit.

INVESTMENT OF EXCESS FUNDS

SEC. 23. (a) If the Administrator determines that moneys in the fund are in excess of current needs he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States of America.

(b) With the approval of the Secretary of the Treasury, the Administrator may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States of America, or in such other banks and financial institutions and under such terms and conditions as the Administrator and the Secretary of the Secretary of the Treasury may mutually agree.

BONDS

SEC. 24. (a) The Board is authorized to issue and sell to the Secretary of the Treasury from time to time in the name and for and on behalf of the Corporation bonds, notes, and other evidences of indebtedness (in the Act collectively referred to as "bonds") to assist in financing the construction, acquisition, and replacement of facilities, conservation activity, the transmission system, and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Board. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $2,500,000,000.

(b) The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Corporation's net proceeds as hereinafter defined. "Net proceeds" shall mean for the purposes of this section the remainder of the Corporation's gross receipts from all sources after first deducting trust funds and the costs listed in section 21(b) (2) through 21(b) (7) and 21(b) (11), and shall include reserve or other funds created from such receipts.

(c) The Secretary of the Treasury shall purchase forth with any bonds issued by the Corporation under this Act and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Corporation under this Act. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this Act. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

DEPOSIT OF RECEIPTS; AUTHORIZATION OF APPROPRIATIONS

SEC. 25. All receipts from transmission and sale of electric energy by the Corporation shall be covered into the Treasury of the United States to the credit of miscellaneous receipts, save and except that the Treasury shall set up and maintain from such receipts a continuing fund of $500,000, to the credit of the Corporation and subject to check by the Administrator to defray emergency expenses and to insure continuous operation. There is authorized to be appropriated from time to time, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act, including installation of equipment and machinery for the generation of electric energy and facilities for its transmission and sale.

AUTHORITY OF ADMINISTRATOR

SEC. 26. (a) The Administrator is authorized to determine, settle, compromise, and pay claims and demands against the United States which are not in excess of $1,000 and are presented to the Administrator in writing within one year from the date of accrual thereof, for any losses, injuries, or damages to persons or property, or for the death of persons, resulting from acts or omissions of employees acting within the scope of their employment pursuant to this Act. The Administrator is also authorized to determine, compromise, and settle any claims and demands of the United States for any losses, injuries, or damages to property under the Corporation's control, against other persons or public or private corporations. The Administrator's determination, compromise, settlement, or payment of any of the claims referred to in this subsection shall be final and conclusive upon all officers of the Government, notwithstanding the provisions of any other Act to the contrary. When claims presented to the Administrator under this subsection arise, in whole or in part, out of any damage done to private property, the Administrator may repair all or any part of such damage in lieu of making such payments.

(b) The Corporation may, in the name of the United States, under the supervision of the Attorney General, bring such suits at law or in equity as in his judgment may be necessary to carry out the purposes of this Act: and it shall be represented in the prosecution and defense of all litigation, affecting the status or operation of the Corporation by the United States attorneys for the districts, respectively, in which such litigation may arise, or by such attorney or attorneys as the Attorney General may designate as authorized by law, in conjunction with the regularly employed attorneys of the Corporation.

PURCHASE OF SUPPLIES AND SERVICES

Sec. 27. Notwithstanding any other provision of law, all purchases and contracts made by the Administrator for supplies or for services except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the Administrator shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $1,000,000; in which cases such purchases or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the Administrator may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Sec. 28. (a) The Administrator, subject to the requirements of the Federal Power Act, shall keep complete and accurate accounts of operations, including all funds expended and received in connection with transmission, conservation, purchase, and sale of electric energy by the Corporation, and in the maintenance of such accounts appropriate obligations shall be established for annual and sick leave of absence as earned. The Administrator shall, after the close of each fiscal year, obtain an independent commercial-type audit of such accounts. The forms, systems, and procedures prescribed by the Comptroller General for the Administrator's appropriation and fund accounting shall be in accordance with the requirements of the Federal Power Act with respect to accounts of electric operations of public utilities and the regulations of the Federal Energy Regulatory Commission pursuant thereto.

PARTICIPATION BY STATE AND LOCAL GOVERNMENT IN THE PACIFIC NORTHWEST

Sec. 29. Adoption of ordinances by units of local government and enactment of laws by States may be needed to fully implement the purposes and provisions of this Act. Ordinances may be required to provide sufficient local government administration to adequately provide residences and other structures with energy conservation activity described in section 18. Laws may be needed—

(1) to permit lower rates for residential consumers compared to nonresidential consumers;

(2) to provide incentives through the rates for less consumption rather than greater consumption of electric energy; and

(3) to provide for the election of the State's member on the Board.

Units of local government and the States may determine not to adopt such ordinances or enact such laws. The Board shall communicate the need for such ordinances and laws. The Board may determine not to provide rate I power to such areas whose laws or ordinances are not consistent with this Act.

TRANSITIONAL AND SAVINGS PROVISIONS

Sec. 30. (a) On the date of the first meeting of the Board of the Corporation the properties owned by the United States and used for the generation of electric energy in the Pacific Northwest are transferred to the Corporation.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Corporation, other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) This Act shall not affect any proceeding pending, at the time this Act takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions, and to the same extent, that such proceeding could have been discontinued if this Act had not been enacted.

(d) Except as provided in subsection (f) of this section—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the agency, functions of which are transferred by this Act shall abate by reason of the enactment of this Act. No cause of action by or against the agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Corporation, or any official, then such suit shall be continued as if this Act had not been enacted, with the Corporation or official as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this Act shall apply to the performance of those functions by the Corporation, or any officer, or component of the Corporation.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Corporation, Board, or other office or officers in which this Act invests such functions.

(i) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish or terminate his authority to delegate, redelegate, or terminate any delegations of function.

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

INCIDENTAL TRANSFERS

Sec. 31. The Director of the Office of Management and Budget is authorized and directed to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions which are transferred by or which revert under this Act as the Director deems necessary and appropriate to accomplish the intent and purpose of this Act.

EFFECTIVE DATE

Sec. 32. Except with respect to sections 3, 4, 5, and 6 the effective date of this Act is January 1, 1978. Sections 3, 4, 5, and 6 shall take effect on the date of the enactment of this Act.

SEPARABILITY OF PROVISIONS

Sec. 33. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Mr. LUJAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. WEAVER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk continued the reading of the amendment in the nature of a substitute.

□ 1600

Mr. DINGELL (during the reading). Mr. Chairman, in view of the time constraints on the Committee and the House, in view of the vast amount of business to be done before the House is able to recess to go home to campaign, in view of the fact that there are a very large number of bills pending, some 30 bills in number pending tomorrow and a large number of other pieces of legislation backed up behind this, and to help my good friend, the gentleman from Oregon (Mr. Weaver), and in order to expedite the business of the House and to dispense with further reading of this rather ponderous work, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WEAVER. Reserving the right to object, Mr. Chairman, I do so to stipulate that it is important that Members know this bill. Unfortunately, I was unable to get this substitute in the RECORD and, therefore, it is very important that Members have a chance to listen to it being read so that we know what we are voting on.

Therefore, Mr. Chairman, I object to the request of the gentleman from Michigan.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

Mr. KAZEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD, due to the fact that I am sure the gentleman from Oregon is anxious to vote on his substitute and the fact that the House may agree to take his substitute. I just want to save the gentleman some time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WEAVER. Reserving the right to object, Mr. Chairman, I would like to point out to my distinguished chairman that substitutes are not voted on until the rest of the bill is perfected and, therefore, it will be a while before we vote on it.

Mr. KAZEN. Under the gentleman's reservation of objection, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, is the gentleman really serious about getting a vote on this substitute?

Mr. WEAVER. We certainly will vote.

Mr. KAZEN. Is the gentleman really for his own substitute?

Mr. WEAVER. May I make a statement on that?

Mr. KAZEN. Yes, certainly.

Mr. WEAVER. I would be glad to.

Mr. Chairman, the original bill is a TVA but all of the bad aspects of TVA. It nationalizes our utilities in the Northwest but only in a half-backwards way. What this substitute does is to go whole hog and make it a TVA in the Northwest and, therefore, I support the substitute I have offered way before the bill that we have before us.

Mr. KAZEN. Let me suggest to the gentleman then that we can get along with it because he may have a good substitute here, and it is time for everybody to vote on it. But if we continue this way, the gentleman may not get a chance to vote on it. What we want to do is to accommodate the gentleman.

Mr. WEAVER. Mr. Chairman, I object.

Mr. KAZEN. Does the gentleman want to have it read or voted on? Which is it?

Mr. WEAVER. Mr. Chairman, I object.

Mr. KAZEN. The gentleman wants it read or not voted on.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

□ 1610

Mr. DINGELL (during the reading). Mr. Chairman, as I have observed, we have a vast amount of business pressing the House. We have 30 bills on suspension, 25 or 30 other bills remaining to be enacted, and in the next little bit we have to consider a continuing resolution so the business of the Government does not close down.

So, in order to save the time of the Committee, the time of the House, and, of course, the time of the gentleman from Oregon so we can get a vote on his amendment, I ask unanimous consent that further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WEAVER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

Mr. DINGELL (during the reading). Mr. Chairman, I have a unanimous-consent request.

Mr. Chairman, we have now been reading this amendment in excess of 45 minutes. I note that this is a bill that was first introduced by the gentleman from Oregon in 1977, and it has been laving around since. I am sure many Members are familiar with it.

So for that reason, I believe that we can dispense with the further reading of this.

I ask unanimous consent that further reading of the amendment be dispensed with and the gentleman be recognized in an orderly fashion.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WEAVER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

□ 1620

Mr. LUJAN (during the reading). Mr. Chairman, we only have about four or five more pages to read of this amendment. In view of the fact that it is 4:25 o'clock and we are in our last week before the recess, I would ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I have read this bill three or four times late at night in order to get to sleep. This is the best part we are getting to now. I think maybe we should read it all. This is really the good part.

Mr. LUJAN. Well, I can sympathize with the gentleman, if the gentleman would yield.

Mr. WEAVER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment in the nature of a substitute.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) continue to press his point of order?

Mr. DINGELL. Mr. Chairman, I am prepared to insist on the point of order at this time.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. DINGELL. Mr. Chairman, the bill before us is one which arranges to deal with the Pacific Northwest power problems through giving certain power to the administrator of BPA, by arranging for the backing of the funding of construction by use of the rate of all the facilities in the area. It sets up a council relating to the planning for energy and for commercial fisheries and it deals with the use of conservation as a mechanism for substituting for the production of new power.

□ 1630

The gentleman's amendment, on the other hand, is violative of the rule of germaneness because it sets up a mechanism which goes beyond and is not related to the fundamental purpose of the legislation and which, in going toward the fundamental purpose of the legislation, uses mechanisms not authorized and not contemplated and not of the some character as the functions of the basic legislation.

The amendment offered by the gentleman is different in a number of noteworthy sections. For one thing, it sets up a corporation which would be appointed with the board of directors, two to be appointed by the President and a number of others to be appointed by the several States. Apart from the constitutional questions that this raises, the proposal would have a board which would essentially be a corporate body, there being no corporation in the legislation which is before the Committee at this time but, rather, only an advisory council. This board would have sweeping powers roughly equivalent to those of the Tennessee Valley Authority and which are, therefore, much more sweeping in character. The board would be able to function without regard to the civil service laws at page 10 section 5.

Furthermore, the legislation confers upon the Secretary of Labor the power to determine wage rates and so forth, and compensation, something which is not included in the legislation before us, Mr. Chairman.

Furthermore, it provides for removal of board members by a prescribed mechanism and requires that the activities of the board be nonpolitical in character. It provides for the acquisition of generating facilities, retail distribution systems, and affords to the board the right of eminent domain, something which is not included in the legislation before us.

It also affords the board the power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, generating facilities and such other structures and facilities authorized by this act. It authorizes condemnation proceedings and so forth against existing generating facilities and, as I read, it and as against just the other facilities.

It also affords the board the power to construct generating facilities, power structures, transmission lines, facilities for pooling and storage of energy, fish hatcheries, channels for fish migration and, incidentally, works for including facilities for research on development of electrical energy to unite the reservoir power installations into one or more systems by transmission lines, to extend funds for recreational facilities compatible with the generation of electric energy and the environment, none of which are present in the legislation before the committee as reported by the Rules Committee.

Equally, Mr. Chairman, the proposal goes beyond this and deals with contracting authority. If you will read, it also has a lengthy section relating to transmission between the Pacific Northwest and the Pacific Southwest, none of which is in the basic legislation before the Committee.

Then it authorizes at page 33 the allocation of electric energy amongst the users throughout the Pacific Northwest, something which is not present in the basic legislation. And the corporation is empowered at page 35 to encourage the use of alternate forms of energy, including but not limited to solar and so forth, and which is not embodied in the basic legislation before you.

Mr. Chairman, if you will deal with it you will find that there is a lengthy section relating to claims and the settlement of claims at page 49 which is not embodied in the legislation before the body.

So since, Mr. Chairman, the legislation has gone in such a sweeping fashion, using mechanisms totally beyond the contemplation and totally different than the basic mechanisms afforded to the House, then I do insist on my point of order.

The CHAIRMAN. Does the gentleman from Texas (Mr. KAZEN) wish to be heard on the point of order?

Mr. KAZEN. Mr. Chairman, another point, let me also say the amendment is not germane to the bill in that it sets up a Government corporation, a Government corporation, and none is provided for in the basic legislation. Therefore, it is not germane to the main legislation.

The CHAIRMAN. Does the gentleman from Oregon wish to be heard?

Mr. WEAVER. I do, Mr. Chairman.

I want first to thank my dear friend from Michigan (Mr. DINGELL) for taking the time to explain the substitute and I appreciate that very much.

He said that my substitute sets up a corporation. Indeed it does. The bill before us sets up a council in which one provision is appointed by the Secretary of Energy, that is the so-called fallback provision, but, nevertheless, it is in the bill that the council, which, by the way, is not an advisory council, it has vast powers, vast powers, to approve the plan and projects, is nominated by the Secretary of Energy, and mine is nominated by the President. So the rule says that the fundamental purpose of the amendment must be the same. I maintain the fundamental purpose of the amendment is the same because both the bill and the substitute are trying to solve the energy problems by creating a mechanism, energy problems in the Northwest, by creating a mechanism.

Mine sets up the Columbia Basin Authority which is quite similar to the TVA. I think my substitute is very bad, you understand. It is just that the bill is much worse. It sets up a halfway TVA.

I support very strongly something else. But if you are going to have a TVA, I offer my substitute, Mr. Chairman, as a complete TVA.

The CHAIRMAN. The Chair is prepared to rule.

The Chair would cite section 798(b) of the House Rules and Manual relating to the fundamental purpose as a test of germaneness which says in part:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that the methods contemplated were closely related and that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill.

The Chair would further cite chapter 28, section 2.22 of Deschler's Procedure, and I quote:

> The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which, if offered separately, might not be germane to the portion of the bill to which offered.

Finally the Chair would note on page 209 in Cannon's Procedure in the 75th Congress, that to a proposal to create a bureau to administer a program a substitute was held germane which established a board rather than a bureau to administer program.

The bill under consideration utilizes the Bonneville Power Administration and a planning council, while the amendment creates a corporation.

Therefore, on the basis of the precedents cited, the Chair would overrule the point of order.

The gentleman from Oregon is recognized for 5 minutes in support of his amendment in the nature of a substitute.

□ 1640

Mr. WEAVER. Mr. Chairman, I offer this substitute because if we are going to create a TVA, let us go whole hog and really create a TVA. Why are all these provisions in a bill that has gotten to be 103 pages long? Because every time an interest group comes up and asks for something, they put another provision in the bill until this bill is riddled, just riddled, with special deals. That is why the sponsors of the bill only talk about a few of the provisions of the bill because this bill is so riddled on every page with special deals for special interests, they do not want anybody to know about those special deals. One said that the main reason for this bill was conservation.

I think my friends in the Congress know that I have been one of the strongest supporters of conservation programs that Congress has seen from my opening day here. The conservation provisions, by the way, in the original bill are taken from my other Northwest energy bill, and I appreciate that, but the core of this bill is still the kind of Government control that we cannot tolerate in the Northwest.

If conservation were the true purpose of the bill, if that were the case, the financing mechanisms, the purchase authority, are not needed. They are cost effective and can be done locally. Indeed, no bill is needed if you say conservation is the main purpose of the bill, because Bonneville Power Administration has all the authority for conservation it needs.

Indeed, they already have 12 public utilities in which they have been allowed to make any loan at no interest for conservation, so all the authority the Bonneville Power needs for conservation is there. You do not need this kind of financing for conservation. You do not need this kind of financing for small renewable projects. No, no, that is all, as I think one Member said, bull feathers. What we need in this country today is to enhance the efficiency with which we use energy. That is the core.

Obviously, we are not doing a very good job today, but what this bill does is continue the present kinds of energy productivity and efficiency that have got us into the inflation-unemployment situation that we face today. How does it do this? This bill distorts prices because it melds them and averages the various prices of energy and, therefore, does not reflect the true market costs of new energy forms. It separates management of construction projects with the agency that pays for them, a thing that has already got us into a great deal of trouble with the five plants being built now at cost overruns of 100 and 700 percent, by the way, $17.3 billion in costs, greater per capita debt in the Northwest than the national debt.

It provides a Federal agency to guarantee to buy the electricity capacity, whether a plant works or not, but a Federal agency guarantees the requirements of a private utility. If you were a private utility and the Federal Government said, we will take care of you, are they going to use initiative? Are they going to go out and produce and struggle to do the things necessary to be efficient and productive? No, they can go to the Bahamas and go to bed.

The Federal Government under this bill takes care of them. It says the Federal Government will meet all their energy needs, the private utilities. That is the main provision of the bill. I will be offering an amendment to take that provision out also. If somebody disagrees with that, they will want to vote for my amendment.

I was a builder for 20 years, and if I had this blank check for financing, good Lord, what would be the cost of the projects? But no, the people I built for were very cost-conscious and I was very cost-conscious and, therefore, I made sure we stayed in line.

Summing up, already the Bonneville Power Administration has announced a $92 million palace they are going to build for their new bureaucracy that is created under this bill. It was announced last week—a $92 million huge building in Portland, Oreg., for the bureaucracy that will be housed under this bill. This bill is one of the worst bills I have ever seen come to the Congress in my time here, and it should be defeated, and I hope it will be.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SYMMS: On page 4, line 22, insert between the words "other" and "facilities", the words "power generating".
>
> Page 102, following line 16, insert the following new subsection:
>
> "(i) Nothing in this Act shall be construed to affect the validity of any existing license, permit or certificate issued by any Federal agency pursuant to any other Federal law."

Mr. SYMMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho.

Mr. WEAVER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded reading the amendment.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry. This is an amendment to H.R. 8157; is that correct?

Mr. SYMMS. This is an amendment to H.R. 8157.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho (Mr. SYMMS) in support of his amendment.

Mr. DINGELL. Mr. Chairman, if the gentleman from Idaho will yield, I am very happy to accept the amendment. The distinguished gentleman from Idaho has discussed it with us over here. I find it acceptable.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman.

Mr. KAZEN. I thank the gentleman for yielding. As far as the Committee on Interior and Insular Affairs is concerned, we will accept the amendment. The gentleman has discussed it with us and we accept it.

Mr. SYMMS. I thank the gentleman very much.

Mr. WEAVER. Mr. Chairman, I rise in support of the amendment. I do so for the purpose of asking the gentleman from Idaho, my dear friend, to tell us what the amendment does.

Mr. SYMMS. If the gentleman will yield, the amendment is self-explanatory. I will say to the gentleman from Oregon it is simply an amendment to clarify, and it is a technical amendment just to clarify the intent of this language in the bill.

Mr. WEAVER. What language does it clarify?

Mr. SYMMS. As I said, at line 16 insert the following new subsection:

> Nothing in this Act shall be construed to affect the validity of any existing license, permit or certificate issued by any Federal agency pursuant to any other Federal law.

Mr. WEAVER. What is the gentleman trying to do with this amendment?

Mr. MOORHEAD of California. Mr. Chairman, if the gentleman will yield, on behalf of the Committee on Interstate and Foreign Commerce on the minority side, we will be happy to accept the amendment.

Mr. SYMMS. Mr. Chairman, I have cleared this with the minority members on the Committee on Interior and Insular Affairs. They also accept this amendment. Primarily it is a clarifying amendment to the intent of the bill.

I yield back the remainder of my time.

Mr. SYMMS. To clarify the language of the bill.

Mr. WEAVER. What is the existing language to do?

Mr. SYMMS. It adds language so it is clear that this bill does not affect the validity of any license, permit or certificate issued under any other Federal laws.

Mr. WEAVER. What is the meaning of the language that the gentleman is amending?

Mr. SYMMS. It just applies to H.R. 8157 on the clarification of the intent of the purposes section of the bill. The gentleman can read it.

Mr. WEAVER. Go ahead. I yield to the gentleman for the purpose of telling us what language he is amending and what does it mean.

Mr. SYMMS. I think it is self-explanatory. The gentleman can read it. It says:

> The Federal Columbia River power system and other power generating facilities on the Columbia River and its tributaries.

That is as clear as I can make the bill.

Mr. WEAVER. I am sorry, I am not able yet to understand the basis for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DINGELL: Page 13, line 8, strike out "and" and substitute a comma.
>
> Page 13, line 14, before the period insert: ", except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service.".

□ 1650

Mr. DINGELL. Mr. Chairman, I am happy to yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I am happy to tell the gentleman that as far as we on the Committee on Interior and Insular Affairs are concerned we accept the amendment.

Mr. DINGELL. I thank the gentleman. Mr. Chairman, I yield back the balance of my time.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the distinguished chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce to explain the amendment, what it does.

Mr. DINGELL. If the gentleman would yield, the amendment does two things. The amendment makes the laws that would apply to FERC with regard to open meetings, apply to the council to the fullest extent appropriate because this is a collegial body, and it also sees to it that the financial disclosure laws apply to the council. That is the purpose of it.

Mr. WEAVER. There are two provisions in the bill now. One has the Governors nominate the council. Then there is the so-called backup provision that, if that is shown or determined by the courts to be unconstitutional, that the backup says the Secretary of Energy will appoint members of the council.

Mr. DINGELL. This does not deal with the nature of the appointments. It simply deals with the responsibilities and it deals with the State council.

Mr. WEAVER. Does it affect that ability to amend further that part of the bill?

Mr. DINGELL. It does not.

Mr. WEAVER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

PERFECTING AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Perfecting amendment offered by Mr. WEAVER: Page 21, line 17, strike "0.02" and insert therefor "0.01".

Mr. LUJAN. Mr. Chairman, is that one of the amendments that was published? We are having difficulty finding it.

Mr. WEAVER. Mr. Chairman, that appeared in the CONGRESSIONAL RECORD of September 23, 1980.

Mr. DINGELL. Mr. Chairman, a parliamentary inquiry. Is this a serious amendment or is this amendment dilatory in character?

The CHAIRMAN. The Chair will advise the gentleman from Michigan that is not a parliamentary inquiry.

The gentleman from Oregon is recognized for 5 minutes in support of his amendment.

Mr. WEAVER. Mr. Chairman, I believe this to be a very, very important amendment as are every one of my 72 amendments.

Mr. Chairman, what this amendment does is cut in half the amount of money appropriated, in effect, for running the bureaucracy we are creating under this bill, something I would assume many Members would be interested in supporting.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I will be happy to yield to the gentleman from New Mexico.

Mr. LUJAN. The amendment refers to 0.02 to 0.019. That appears to me to be one-tenth of 1 percent. What are we talking about in terms of money?

Mr. WEAVER. The gentleman will forgive me, it is not printed in the RECORD in exactly this form. It is 0.01——

Mr. LUJAN. What does that mean in terms of dollars that the gentleman speaks of? It seems like a very minuscule amount that is offered for the purpose of taking up a little time. I am just wondering what does that mean?

Mr. WEAVER. I can tell the gentleman it is a difference of $10 million.

Now, in the Northwest—it may not be in New Mexico—in the Northwest about $10 million out of the ratepayers' pocket every year is considered quite a bit of money.

Mr. LUJAN. Does the gentleman refer to $10 million of taxpayers' money?

Mr. WEAVER. I refer to ratepayers' money. They pay for it out of the electric bills to set up this bureaucracy.

Mr. LUJAN. Does the gentleman mean it is costing 10,000 times a thousand; what is that, $1 billion, $100 million?

What is the original amount?

Mr. WEAVER. I am taking the figures from the report of the Committee on Interstate and Foreign Commerce. If the gentleman wishes to question the figures, the gentleman may refer to that committee.

Mr. LUJAN. The gentleman offered the amendment and that is why I was wondering. It is confusing to me what the gentleman is doing.

Mr. WEAVER. I am delighted to enlighten the gentleman. In the bill it says that they can take 0.02 percent of the revenues for administrative costs of the council. I am cutting that in half. I do not believe we should support that kind of bureaucracy in the Northwest if the bill's proponents want to have this huge bureaucracy.

Mr. SHARP. Will the gentleman yield?

Mr. WEAVER. I will be delighted to yield.

Mr. SHARP. Is the gentleman talking about .02 percent? Is the gentleman talking about 0.02 mils? Does the gentleman's amendment read 0.019 or is it 0.01? As the gentleman has suggested this is a tremendously important amendment. I presume the gentleman understands his own amendment because it is so serious. It goes to the heart of this bill.

Mr. WEAVER. May I read the language? I would be delighted to:

> Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mils multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

Mr. Chairman, I would be delighted to explain the bill to the chief sponsor of the bill.

The CHAIRMAN. Does the gentleman yield back the balance of his time?

Mr. WEAVER. I do, Mr. Chairman.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. It is obvious that the gentleman from Oregon says it is a serious amendment and yet the gentleman describes it as a $5 million to $10 million amendment, I believe. When 0.02 mils equates to only $2.5 million, how could one-half of that be $10 million?

Mr. Chairman, I submit the gentleman's amendment does not do what the gentleman indicates and I suggest that it be defeated.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon. All those in favor signify by saying aye; opposed, no.

In the opinion of the Chair, the noes have it.

Mr. WEAVER. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The CHAIRMAN. The gentleman's point of order is not in order in the Committee of the Whole.

Mr. DINGELL. Mr. Chairman, that is not an appropriate motion at this time.

The CHAIRMAN. The amendment is not agreed to.

Mr. DINGELL. Mr. Chairman, a regular order.

The CHAIRMAN. Are there further amendments?

The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER) in the nature of a substitute.

PERFECTING AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. No, Mr. Chairman, I have another amendment.

Mr. DINGELL. Regular order.

Mr. WEAVER. Mr. Chairman, I was on my feet with an amendment.

The CHAIRMAN. The Clerk will report the amendment.

Mr. WEAVER. Mr. Chairman, it is amendment No. 35.

Mr. DINGELL. Mr. Chairman, a point of order. We do not have a copy of that amendment at the desk.

The CHAIRMAN. The Chair will advise the gentleman from Michigan that he does not state a point of order under the rules.

The Clerk read as follows:

> Perfecting amendment offered by Mr. WEAVER: Page 41, line 12, strike "and to each requesting investor-owned utility";
>
> Page 41, line 13, strike the comma and insert in lieu thereof: "or";
>
> Page 41, line 14, strike "or investor-owned utility";
>
> Page 42, line 5, strike "(2) Contracts" and all that follows down through page 42, line 8, renumbering accordingly;
>
> Page 42, line 13, after "cooperative" strike the comma and insert in lieu thereof "or";
>
> Page 42, line 13–14, strike "or investor-owned utility".

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his perfecting amendment to the bill.

Mr. WEAVER. Mr. Chairman, I would first like to inquire why I did not get a vote on the last one. I made a point of order——

Mr. DINGELL. Regular order, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. DINGELL. Mr. Chairman, may we have regular order.

Mr. WEAVER. Mr. Chairman, I will speak on my amendment.

The CHAIRMAN. The gentleman from Oregon is recognized.

□ 1700

Mr. WEAVER. Mr. Chairman, this amendment strikes the provision in the bill which requires the Bonneville Power Administration, a Federal agency, to meet all the power needs of the private utilities in the Northwest. It specifically says, contrary to what we have heard earlier in debate, that this provision has been in the bill, in law before—it has not. This is a radical, revolutionary provision.

I will read it. It says:

> (b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, . . .

It also includes other agencies as well. My amendment goes only to and strikes the requirement that Bonneville serve the private utilities. Now, if they want to solve the energy problems in the Northwest—and this is what I am sure Mr. LOWRY meant when he said that this bill actually hurts and hinders in solving our energy problems in the Northwest. What we need, of course, is initiative, aggression, people willing to go out and aggressively develop new energy sources.

This is what will happen if a contractor says, "Well, the Federal Government under law is required to meet all our needs."

Now is that, in our knowledge of human behavior, the way to develop new energy? Have you ever seen somebody who is given all the money they want—in this instance all the power they want—from the Federal Government, have you ever seen someone actually go out and use initiative to develop something? I do not think so. I do not think so.

Many of the publics, the ones particularly that have never developed their own energy sources, have these requirements on track now. And, they have not developed their own energy sources. It is some of the very public utilities that have developed their own energy sources, such as Eugene Water and Electric Board, my home utility, that oppose this bill, that are so vastly and adamantly opposed to this bill.

So, we are going to put the private utilities right in the same situation as the other publics and say, "We are going to meet all your energy needs."

Now, let us not do that. Let us let them go out, as they should, put together consortiums, develop their own energy. They are doing it. They have announced, several privates have announced, that they are going to have a consortium to develop several plants at Hanford in Washington. Let them do it. That is the way to meet our energy needs, but do not have the Federal Government guarantee to meet all the power requirements of the private utilities in the Northwest. We have to meet our energy needs in the Northwest. This kind of Federal guarantee and Federal dole will mean that we will have a lack of initiative and a lack of interest in developing other energy needs.

This is one of the special deals I was talking about earlier that is in here. Sure, if you are a private utility and you would like to have the Federal Government guarantee your needs—and that is one of the reasons they support it—but I told the private utility executives, I said:

> Do you realize, you think you are getting a good deal now, having the Federal Government supply all your power on a guaranteed basis, but pretty soon the worm is going to turn. The bureaucracy is going to take you over, and when that happens the Federal Government will own you lock, stock, and barrel.

They laugh, the executives of the private utilities, when I tell them that. "No way; it will never happen," they say. "Of course not."

Oh? Oh? When a bureaucracy first gets its hooks into an industry, do you think they are going to let go? When a bureaucracy has to guarantee the private utilities all their energy needs, do you think they are not going to impose requirements, regulations, demands—in effect, take over the running of their industry?

I think, Mr. Chairman, that you would find that this will eventually result in a complete nationalization of the utility industry. Remeber what this amendment does. It strikes the provision that requires Bonneville to meet the power needs of the private utilities.

Mr. KAZEN. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, the gentleman offered this amendment in the subcommittee and he offered it in the full committee. It was turned down both in the subcommittee and in the full committee.

The gentleman's amendment would eliminate the authority in section 5(b) (1) which authorizes BPA to supply the net requirements of the utilities in the regions, including the I O U's. Since I O U's generally have enough resources to meet their present needs, this section means that BPA will supply the I O U's load growth.

Unfortunately, because the I O U's will not be able to use the regional financial backing and risk rating achieved through BPA purchase to meet these loads, their financing costs associated with these resources will be much higher. This increase in cost will drive up the I O U's average system cost for power sold to BPA through the section 5(c) exchange, and will eventually trigger the rate ceiling in section 7(b).

The triggering of the rate ceiling will force BPA to apply surcharges to the power sold to I O U's pursuant to section 5(c) exchange, and will destroy the wholesale rate equality that section is designed to provide. This, in turn, will probably mean withdrawal of support for the substitute by the States principally served by I O U's, and destruction of the substitute bill.

In other words, Mr. Chairman, the adoption of this amendment will effectively destroy the bill before this committee.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in support of the amendment.

Mr. Chairman, I would like to ask the author of the bill, whomever that may be—I understand there are dozens of authors of this bill—nobody wants to claim credit. I would like to ask a question, maybe of my good friend, Mr. SWIFT.

I am wondering if the hearings disclosed any precedent anywhere in the Nation where a public agency would write such a requirements contract on request by an investor-owner utility. Is there anywhere in the country where that is happening now?

Mr. SWIFT. Mr. Chairman, if the gentleman will yield, in the Pacific Northwest we have a situation that is unlike anything anywhere else in the country. The important point to remember here is that this bill does not require BPA to provide the full demand of a private utility. In fact, the bill specifically says that the contract itself will limit what BPA can give that agency in two major respects; and more importantly, in a time of insufficiency it can only sell to a private utility the amount of electricity that they have bought from the private utility. So, the charge that this is somehow a blank check on the Federal Government to supply the utilities is totally incorrect, a complete misreading of the bill.

Mr. CARR. Well, I would direct the gentleman to page 41, line 9, where it says, "Whenever requested, the Administrator shall offer to sell to each requesting public body * * *" in this case "* * * to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility * * *."

My question is, Is there anywhere in the country where that is now the case?

Mr. SWIFT. If the gentleman will yield further, he is reading it without reading subsection 5, which relates directly. If you take one section of this bill and read it without things that relate to it, you can make it read anything you want. The fact is, that is not what it does. Subsection (c) says that when Bonneville enters into that contract, it first of all cannot sell power to private utilities that would in any way take from the preference clause. Secondly, it says at a time of insufficiency it can only sell to a utility the amount that it purchased from the utility.

□ 1710

That is in the bill. If the gentleman will read what we are talking about in the totality of the bill, he will see that he is simply dead wrong. What this amendment is aimed at doing is based upon a profound misunderstanding of what the purchasing authority has to do with it.

Mr. CARR. Mr. Chairman, I would state to the gentleman that I may be wrong, but I have not stated a position here.

If I may ask a question within the context of what the gentleman has said, is there anyplace else in the country where such an arrangement is already in existence between a public agency and an investor-owned utility? That is my question.

Mr. SWIFT. Mr. Chairman, can the gentleman tell me if there is anyplace else in the country where exactly 50 percent of the power is provided through a Federal marketing agency and the rest comes directly out of the utilities?

In other words, we are in a unique situation, and the bill in a number of respects is unique in how it treats this matter.

Mr. CARR. Mr. Chairman, I understand the great debater's technique of answering a question with a question. But to restate my question, is there any other place in the country where such an arrangement exists?

Mr. SWIFT. Mr. Chairman, the answer to the gentleman's question, if he would yield, is that I am not familiar with all the other situations in the country.

Mr. CARR. Mr. Chairman, perhaps the chairman of the subcommittee of the Committee on Interstate and Foreign Commerce might know if there is another place in the country where we have a similar kind of arrangement.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, I am not familiar with any, but I happen to think the section referred to is good public policy.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CARR. I am pleased to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I do not know if I can answer the gentleman's question directly with respect to other provisions of law and other sections of the country, but unless the gentleman from Washington would correct me, I would say that this is not any different than what had been going on and actually transpiring in the Pacific Northwest for a long time. To the extent energy was available, the Bonneville Power Administration had the authority and did enter into contracts with investor-owned utilities to supply them energy. They had the power, and did exercise it, that when the supply became short, they gave notice—I think it was in about 1973—to the investor-owned utilities that this energy would no longer be available to them after the 5-year period, in 1978, and they did in fact terminate it.

That same power exists under the Bonneville Act with respect to any contract Bonneville would enter into pursuant to this section 5(b) provision.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

Mr. DUNCAN of Oregon. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan (Mr. CARR) may be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the perfecting amendment offered by the gentleman from Oregon (Mr. WEAVER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEAVER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1720

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Oregon (Mr. WEAVER) for a recorded vote.

Does the gentleman from Oregon insist upon his demand for a recorded vote?

Mr. WEAVER. I do, Mr. Chairman.

A recorded vote was refused.

So the perfecting amendment was rejected.

PERFECTING AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Perfecting amendment offered by Mr. WEAVER: Page 11, line 24, strike "two persons from each State" and insert "four persons from Washington, three persons from Oregon, and two persons each from Idaho and Montana".

Mr. WEAVER. Mr. Chairman, the original House bill—and I would like the chairman of the Commerce Subcommittee to correct me if I am wrong—as passed out by the Commerce Committee, had proportional representation on the council.

Let me explain the council. The council is set up under this bill to devise a plan for energy in the Northwest. Under the bill we have before us today in the Committee of the Whole, this has been changed; so that each State involved—Washington, Oregon, Idaho, and Montana—have two members apiece on this council.

Mr. Chairman, under the bill we have before us in the Committee, first there is a council appointed by the Governors of the States, two from each State of Montana, Idaho, Oregon, and Washington. Under the bill there is what is called a safety net or backup provision, in that if that is found unconstitutional, then the Secretary of Energy will appoint these councils. In other words, our utility structure in the Northwest will be directly administered by the Secretary of Energy—in other words, Washington, D.C., reaching its tentacles into the Eugene Water and Electric Board, my home utility, the largest public utility in Oregon, and a utility which is adamantly opposed to this bill because they know that they do not want to be run by Washington, D.C. But at least my amendment says that we should have, at the very least, if this is going to be done to us, proportional representation.

Oregon has a population of 2½ million, Washington has a population of 3½ million, while Idaho is more like 1 million, and that half of Montana that is affected is about one-half a million. And yet, with one-half million, they get two votes, and Washington, with 3½ million, they have two votes on the council, and Oregon, with 2½ million, they have two votes, under the bill. My amendment simply says:

> Let us have proportional representation in the bill, 4 persons from Washington, 3 persons from Oregon, and 2 persons each from Idaho and Montana.

□ 1730

As I say, the original Commerce Committee bill, the one passed out of the Commerce Committee, contained this proportional representation, and it certainly was, I felt, a very good idea, that we have more like, not completely, but more like one-man one-vote in a sense, and the population and the amount of the electricity used should determine roughly how many people from each State serve on the board.

So, if we are going to have the Secretary of Energy appoint members of the council and we are going to be run by Washington, D.C., then for goodness sakes, give us some kind of proportional representation even so because they do have to be appointed from each State.

Now I know and I realize that my dear friends from Idaho and my dear friends from Montana want equal representation. I do not blame them. I do not blame them a bit. But Montana, with 500,000 people affected in the Bonneville region and Washington, 3½ million, you would think there would be some differentiation on the representation on this council. The council, as I say, if it is found unconstitutional to be appointed by the Governors, will be appointed by the Secretary of Energy.

We have an unofficial letter from the Department of Justice advisory saying they believe that the appointment by the Governors is quite likely to be unconstitutional, so the likelihood—and the bill sponsors certainly must have felt so—because they put into the bill a provision saying if it is found unconstitutional the Secretary of Energy shall appoint for the next two Congresses the members of this council.

So, therefore, if the Secretary of Energy does appoint, or even if the Governors appoint, I am asking that there be more of a proportional representation on this council by population and the usage of energy. I would hope the amendment would pass.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment alters the amendment of the planning council as established under section 4 of the compromise bill.

As pointed out, the Commerce Committee reported out a bill with proportional representation. At that time we were acting on a Federal council, not on a State council. Now we have a State council which is regional in character, and this would permit two from each of the States involved.

Now, while there is disparity of population in the region, the States of the region, their members and those who have discussed the matter with us find this eminently successful and satisfactory. It should be pointed out that some States such as Washington have the population, but States like Montana and Idaho possess a large portion of the water and the coal and the other resources that are important to meeting the future needs of the region.

Since the Governors of the State and the officials of the State find this to be supportable, the Commerce Committee finds no objection to the compromise which lies before the committee at this particular time and happens to think that the two-member quality approach helps recognize the valid differences which exist in the region and differences which are accepted and recognized by all the Governors as justifying a two-member approach for each State.

I urge the rejection of the amendment, Mr. Chairman.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is interesting that such an amendment should be offered. I notice that if you look at the balance, there are four persons from Washington and then four persons from both States combined, Idaho and Montana, and of course Oregon maintains the balance. The percentage, according to these numbers, gives a little higher weight to Oregon. And the other one, as under the bill, it is 2 out of 8. Here it is 3 out of 11.

Let me just say this has been worked out. It is one of the things that we finally came to agreement on. The four Governors agreed. The Senators from the States agreed. Ten or 12 of the 14 Members of the congressional delegations from those States agreed, and I just have a suspicion that if it were 4, 3, 2, and 2, that an agreement would be offered today to make it 6 or 12 or whatever other number it is.

So, Mr. Chairman, I just think that the offering of this amendment does not make a lot of sense. The States each are even under the bill, and that may not be the same system, but that is what almost everybody else agreed to.

Thank you, Mr. Chairman.

Mr. BONKER. Mr. Chairman, I rise in opposition to the amendment. I do so reluctantly.

As the gentleman knows, for a long time I supported the amendment that provides for proportional representation, feeling very strongly that the council should be made up of members who would accurately reflect the populations of each of these States, but I also felt strongly that that council be independent and be broadly diversified. I feel that the compromise which has evolved through long and protracted debate on both committees, that we finally now have language that insures the council's independence, that it will be hopefully deliberative and allow for meaningful public input on regional energy decisions and also that it be a council that is broadly diverse in its makeup, representative of all of the States involved in the region.

It is an amendment or compromise that I was reluctant to support, but given the realities that exist of all of the States in the region and the Governors' strong support of an equally based public council, this is the only acceptable compromise that is before us.

To accept this amendment would, I think, defeat that compromise and thus defeat passage of the bill which I think is the author's intent.

I urge my colleagues to oppose this amendment and support the language that is in the bill.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman from Washington.

I appreciate the gentleman's statement and his support of the compromise. It was my amendment in the Committee on Interior and Insular Affairs which established the representation which we now have on the council, and I offered that amendment, as the gentleman knows, at the behest of the Governor of Montana, the Governor of Idaho and with the concurrence of the Governor of Oregon. I think this representation on this council is vitally important both to the bill and to the forward momentum and equal representation which the council will bring to the region.

Mr. BONKER. I thank the gentleman and commend him for his cooperative efforts.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Oregon (Mr. Weaver).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEAVER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. WEAVER. Mr. Chairman, I withdraw my point of order that a quorum is not present.

The CHAIRMAN. The pending business is the demand of the gentleman from Oregon (Mr. Weaver) for a recorded vote.

A recorded vote was refused.

So the perfecting amendment was rejected.

□ 1740

Mr. KAZEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. Sharp) having assumed the chair, Mr. McHugh, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through the use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 885, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 7554. An act to amend the Federal securities laws to provide incentives for small business investment, and for other purposes;

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy; and

H.J. Res. 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 610) entitled "Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes," request a conference with the House of Representatives on the disagreeing votes of two Houses thereon, and appoints Mr. Magnuson, Mr. Stennis, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Inouye, Mr. Hollings, Mr. Bayh, Mr. Eagleton, Mr. Chiles, Mr. Johnston, Mr. Huddleston, Mr. Leahy, Mr. Sasser, Mr. Young, Mr. Hatfield, Mr. Stevens, Mr. Mathias, Mr. Schweiker, Mr. Bellmon, Mr. Weicker, Mr. McClure, and Mr. Schmitt to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the Houses is requested:

S. 3027. An act to extend authorization for the Disaster Relief Act, and for other purposes.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 610, CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi? The Chair hears none and, without objection, appoints the following conferees: Messrs. Whitten, Boland, Natcher, Smith of Iowa, Addabbo, Long of Maryland, Yates, McKay, Bevill, Alexander, Duncan of Oregon, Benjamin, Dixon, Conte, Michel, McDade, Andrews of North Dakota, Edwards of Alabama, and Young of Florida.

There was no objection.

Mr. CONTE. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Chair will indicate to the gentleman that his motion comes too late.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on the passage of the bill, H.R. 2545, on which further proceedings were postponed earlier today.

OSCAR JOHNSON LAKE

The SPEAKER pro tempore. The unfinished business is the passage of the bill, H.R. 2545.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2728, INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2728) to amend the Indian Health Care Improvement Act and the Public Health

Service Act with respect to Indian health care, and for other purposes, with the House amendment thereto, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none and, without objection, appoints the following conferees: Messrs. UDALL, MILLER of California, GUDGER, KOGOVSEK, YOUNG of Alaska, and MARRIOTT.

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WEAVER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. MURTHA. Mr. Speaker, I move that when the House adjourns today it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURTHA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHULZE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 9, not voting 67, as follows:

[Roll No. 597]

YEAS—356

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti
Mathis
Mattox
Mavroules
Miller, Calif.
Moffett
Mottl
Myers, Pa.
Neal
Nedzi
Nolan
Pashayan
Pepper
Preyer
Quayle
Rhodes
Roberts
Rodino
Roth
Rousselot
Santini
Satterfield
Shannon
Stark
Steed
Thompson
Trible
Udall
Ullman
Whitehurst
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wolpe
Wright

NAYS—9

Burton, John
Carr
Edwards, Okla.
Frenzel
Kelly
Lederer
Pursell
Schulze
Weaver

NOT VOTING—67

Anderson, Ill.
Applegate
Biaggi
Brademas
Brown, Ohio
Chisholm
Clay
Collins, Ill.
Daschle
Davis, S.C.
Deckard
Derrick
Dodd
Dornan
Downey
Eckhardt
Edgar
Ford, Mich.
Frost
Fuqua
Goodling
Grassley
Harsha
Hefner
Holland
Holtzman
Huckaby
Jenkins
Jenrette
Kindness
Leach, La.
Lewis
Lloyd

☐ 1800

Mrs. FENWICK changed her vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERMISSION FOR COMMITTEE ON JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading under the 5-minute rule on Tuesday, September 30, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Reserving the right to object, what is the purpose of this request—for the Committee on the Judiciary to sit?

Mr. KASTENMEIER. If the gentleman from Maryland under his reservation will yield, I understand that the two bills to be taken up are H.R. 6121, the Telecommunications Act of 1980, and H.R. 2202, diversity jurisdiction and amount in controversy. Those are the two bills on tomorrow.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7854, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1981

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1427) on the resolution (H. Res. 796) waiving certain points of order against the bill, H.R. 7854, making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6520 RECLAMATION REFORM ACT OF 1980

Mr. BOLLING, from the Committee on Rules submitted a privileged report (Rept. No. 96–1428) on the resolution (H. Res. 797) providing for the consideration of the bill, H.R. 6520, to revise requirements under the Federal reclamation laws, relating to acreage limitations, equivalency, and residency, to provide for approval of repayments contracts and written representations, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8146, FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION PROGRAM

Mr. BOLLING, from the Committee on Rules, submitted the report (Rept. No. 96–1429) on the resolution (H. Res. 798) providing for the consideration of the bill, H.R. 8146, to provide a program of Federal supplemental unemployment compensation, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 1946, RAILROAD TRANSPORTATION POLICY ACT OF 1980

Mr. FLORIO submitted the following conference report and statement on the Senate bill (S. 1946) an act to reform the economic regulation of railroads, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96–1430)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Staggers Rail Act of 1980".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Goals

TITLE I—RAIL TRANSPORTATION POLICY

Sec. 101. Rail transportation policy.

TITLE II—RAILROAD RATES AND INTERCARRIER PRACTICES

Sec. 201. Regulations of railroad rates.
Sec. 202. Determination of market dominance.
Sec. 203. Bone of rate flexibility.
Sec. 204. Transportation of recyclable materials.
Sec. 205. Rate regulation proceedings; adequate revenues.
Sec. 206. Inflation-based rate increases.
Sec. 207. Investigation and suspension of rates.
Sec. 208. Contracts.
Sec. 209. Demand sensitive rates.
Sec. 210. Phaseout of capital incentive rates.
Sec. 211. Permissive limited liability rates.
Sec. 212. Rate discrimination.
Sec. 213. Exemption.
Sec. 214. Intrastate rates.
Sec. 215. Business entertainment expenses.
Sec. 216. Efficient marketing.
Sec. 217. Compensatory joint rate relief.
Sec. 218. Expedited division of revenues proceedings.
Sec. 219. Rate bureaus.
Sec. 220. Long and short haul transportation.
Sec. 221. Railroad entry.
Sec. 222. Service during periods of peak demand.
Sec. 223. Reciprocal switching.
Sec. 224. Car service compensation.
Sec. 225. Car utilization.
Sec. 226. Car service orders for exigent circumstances.
Sec. 227. Employee protection.
Sec. 228. Mergers and other transactions.
Sec. 229. Savings provisions.

TITLE III—RAILROAD COST DETERMINATIONS

Sec. 301. Uniform accounting system.
Sec. 302. Railroad cost accounting.
Sec. 303. Civil penalties for violations of accounting principles provisions.

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

Sec. 401. Feeder railroad development program.
Sec. 402. Abandonment.
Sec. 403. Conversion of abandoned railroad rights-of-way.
Sec. 404. Extension of redeemable preference share financing.
Sec. 405. Financing.
Sec. 406. Transaction assistance.
Sec. 407. Electrification loan guarantees.
Sec. 408. Amendment to the Regional Rail Reorganization Act of 1973.
Sec. 409. Federal assistance report.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

Sec. 501. Monthly displacement allowance.
Sec. 502. Duration of monthly displacement allowance.
Sec. 503. Training and transfer.
Sec. 504. Payment, audit, and report.
Sec. 505. Railroad hiring.
Sec. 506. Single collective-bargaining agreement.
Sec. 507. Employee protection payments.
Sec. 508. Technical amendments.

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Sec. 601. Expedited supplemental transaction proposals.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Rock Island and Milwaukee Railroads amendments.
Sec. 702. Loan guarantees.
Sec. 703. Conrail studies and emergency funding.
Sec. 704. USRA authorization of appropriations.
Sec. 705. Feeder line rehabilitation study.
Sec. 706. Effect on pending matters.
Sec. 707. Construction of amendments.
Sec. 708. Surplus property.
Sec. 709. Study of Alaska railroad rates.
Sec. 710. Effective dates.

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) historically, railroads were the essential factor in the national transportation system;

(2) the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to establish and maintain a national railroad network;

(3) today, most transportation within the United States is competitive;

(4) many of the Government regulations affecting railroads have become unnecessary and inefficient;

(5) nearly two-thirds of the Nation's intercity freight is transported by modes of transportation other than railroads;

(6) earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements;

(7) by 1985, there will be a capital shortfall within the railroad industry of between $16,000,000,000 and $20,000,000,000;

(8) failure to achieve increased earnings within the railroad industry will result in either further deterioration of the rail system or the necessity for additional Federal subsidy; and

(9) modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization of railroads to save energy and combat inflation.

GOALS

SEC. 3. The purpose of this Act is to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

(1) to assist the railroads of the Nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(5) to assist in the rehabilitation and financing of the rail system.

TITLE I—RAIL TRANSPORTATION POLICY

RAIL TRANSPORTATION POLICY

SEC. 101. (a) Chapter 101 of title 49, United States Code, is amended by inserting after section 10101 the following new section:

"§ 10101a. Rail transportation policy

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

"(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to reduce regulatory barriers to entry into and exit from the industry;

"(8) to operate transportation facilities and equipment without detriment to the public health and safety;

"(9) to cooperate with the States on transportation matters to assure that intrastate regulatory jurisdiction is exercised in accordance with the standards established in this subtitle;

"(10) to encourage honest and efficient

management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation;

"(11) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

"(12) to encourage fair wages and safe and suitable working conditions in the railroad industry;

"(13) to prohibit predatory pricing and practices, to avoid undue concentrations of market power and to prohibit unlawful discrimination;

"(14) to ensure the availability of accurate cost informaiton in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

"(15) to encourage and promote energy conservation.".

(b) Section 10101(a) of title 49, United States Code, is amended by striking out "To ensure" and inserting in lieu thereof "Except where policy has an impact on rail carriers, in which case the principles of section 10101a of this title shall govern, to ensure".

(c) The section analysis of chapter 101 of title 49, United States Code, is amended by inserting after the item relating to section 10101 the following new item:

"10101a. Rail transportation policy.".

TITLE II—RAILROAD RATES AND INTERCARRIER PRACTICES

REGULATION OF RAILROAD RATES

SEC. 201. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b)(1) If the Commission determines, under section 10709 of this title, that a rail carrier has market dominance over the transporation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection—

"(A) the shipper challenging such rate shall have the burden of proving that such rate is not reasonable if—

"(i) such rate (I) is authorized under section 10707a of this title, and (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is less than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; or

"(ii) such rate does not meet the description set forth in clause (i) of this subparagraph, but the Commission does not begin an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable; and

"(B) the rail carrier establishing the challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rate (I) is greater than that authorized under section 10707a of this title, or (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; and

"(ii) the Commission begins an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title.

"(c)(1) A rate for transportation or other service provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may not be established below a reasonable minimum. Any rate for transportation by such a rail carrier that does not contribute to the going concern value of such carrier is presumed to be not reasonable. A rate that contributes to the going concern value of such carrier is conclusively presumed not to be below a reasonable minimum.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission shall order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.

"(4)(A) For purposes of this subsection, variable costs shall be determined under formulas or procedures prescribed or certified by the Commission.

"(B) In the determination of variable costs for purposes of minimum rate regulation, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of such carrier and only those costs of the specific service in question unless the specific information is not available. The Commission may not include in such variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.".

(b)(1) Section 10701(a) of title 49, United States Code, is amended—

(A) by inserting "(other than a rail rate)" immediately after "A rate" in the first sentence;

(B) by inserting "(including a rail carrier)" immediately after "such a carrier" in the second sentence thereof; and

(C) by inserting "(including rail carriers)" immediately after "those carriers" in the third sentence thereof.

(2) Section 10701(b) of title 49, United States Code, is repealed.

(3) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF MARKET DOMINANCE

SEC. 202. Section 10709 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) In this subsection—

"(A) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(B)(i) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(ii) For purposes of determining the cost recovery percentage only, 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(2) In making a determination under this section, the Commission shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than—

"(A) 160 percent during the period beginning on the effective date of the Staggers Rail Act of 1980 and ending September 30, 1981;

"(B) 165 percent during the period beginning October 1, 1981, and ending September 30, 1982;

"(C) 170 percent during the period beginning October 1, 1982, and ending Septembeer 30, 1983;

"(D) 175 percent or the cost recovery percentage, whichever is less, during the period beginning October 1, 1983, and ending September 30, 1984; and

"(E) the cost recovery percentage, during each 12-month period beginning on or after October 1, 1984.

For purposes of subparagraphs (D) and (E) of this paragraph, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than a revenue-variable cost percentage of 180 percent.

"(3) For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined pursuant to section 10705a(m)(1) of this title, with adjustments specified by the Commission. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with such section 10705a(m)(1), but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Commission shall prescribe.

"(4) A finding by the Commission that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the applicable percentage under paragraph (2) of this subsection does not establish a presumption that (A) such rail carrier has or does not have market dominance over such transportation, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

"(5)(A) Within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage for the transportation of all traffic received by rail carriers. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(B) If, on the basis of calculations under subparagraph (A) of this paragraph, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(C) The Commission shall, in its annual report submitted to the Congress under section 10311 of this title, set forth the cost recovery percentage determined for that year under subparagraph (A) of this paragraph.".

ZONE OF RATE FLEXIBILITY

SEC. 203. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10707 the following new section:

"§ 10707a. Zone of rail carrier rate flexibility

"(a) In this section—

"(B) If no rate exists for the transportation of a particular commodity on October 1, 1980, the base rate for the transportation of such commodity shall be the rate established by the rail carrier (divided by the latest rail cost adjustment factor published by the Commission), unless such rate is found to be unreasonable by the Commission, in which case the base rate shall be the rate authorized by the Commission (divided by the latest rail cost adjustment factor published by the Commission).

"(1)(A) 'base rate' means, with respect to the transportation of a particular commodity (i) for the 24-month period beginning on October 1, 1980, the rate in effect on October 1, 1980, (ii) for the 24-month period beginning on October 1, 1982, the rate in effect on October 1, 1982, and (iii) for the 5-year period beginning on October 1, 1984, and for each subsequent 5-year period, the rate in effect on the first day of the applicable 5-year period.

"(2)(A) 'adjusted base rate' means the base rate for the transportation of a particular commodity multiplied by the latest rail cost adjustment factor published by the Commission pursuant to this paragraph.

"(B) Commencing with the fourth quarter of 1980, the Commission shall, as often as practicable but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Commission, with appropriate adjustments to reflect the changing composition of railroad costs, including the quality and mix of material and labor), and the denominator of which is the same index for the fourth quarter of 1980, or for the fourth quarter of 1982 or for the fourth quarter of every fifth year thereafter, as appropriate.

"(b)(1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may increase any rate over which the Commission has jurisdiction under section 10709 of this title so long as the increased rate is not greater than the adjusted base rate for the transportation involved, plus any rate increases implemented under subsection (c) or (d) of this section.

"(2) A rate increase authorized under this subsection may not be found to exceed a reasonable maximum for the transportation involved.

"(3) A rail carrier may not increase a rate under this subsection to the extent that the cost increases to such carrier due to inflation are recovered through (A) general rate increases pursuant to section 10706 of this title, or (B) inflation-based rate increases under section 10712 of this title applicable to that rate.

"(c)(1) During the 12-month period beginning on the effective date of the Staggers Rail Act of 1980 and during each of the 3 succeeding 12-month periods, a rail carrier may, in addition to rate increases authorized under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 6 percent of the adjusted base rate, except that in no event shall the total increase under this subsection result in a rate which is more than 118 percent of the adjusted base rate.

"(2)(A) If any portion of a rate increase under this subsection is not implemented in the year in which it is authorized, such portion may, except as provided in subparagraph (B) of this paragraph, be implemented only in the next succeeding year.

"(B) If any portion of the total rate increase authorized under this subsection is not implemented by the end of the 4-year period beginning on the effective date of the Staggers Rail Act of 1980, such portion may be implemented in the next 2 succeeding years, except that in no event may a rail carrier increase a rate under this subsection or under subsection (d) of this section in either of such 2 succeeding years by an annual amount of more than 10 percent of the adjusted base rate.

"(d)(1) Except as provided in paragraph (3) of this subsection, during the 12-month period beginning on October 1, 1984, and during each succeeding 12-month period, a rail carrier may, in addition to rate increases under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 4 percent of the adjusted base rate.

"(2) No portion of any rate increase under this subsection which is not implemented in the year in which it is authorized may be implemented in any other year.

"(3)(A) The provisions of this subsection shall not apply to a rail carrier proposing to increase a single line rate if such carrier earns adequate revenues, as determined by the Commission under section 10704(a)(2) of this title.

"(B) The Commission shall, after a hearing on the record, prescribe such rules with respect to joint rates as necessary to ensure that rail carriers which earn adequate revenues, as determined under section 10704(a)(2) this title, do not receive the rate increases authorized by this subsection unless the Commission determines that it is unable to prescribe such rules without precluding rail carriers not earning adequate revenues from receiving the rate increases authorized under this subsection.

"(e)(1) Notwithstanding the provisions of section 10707 of this title, in the case of any rate increase by a rail carrier that is authorized under subsection (c) or (d) of this section—

"(A)(i) the Commission may not suspend such rate increase pending final Commission action; and

"(ii) except as provided in paragraph (2) of this subsection, the Commission may not begin an investigation proceeding under section 10707 of this title with respect to the reasonableness of such rate increase; but

"(B) an interested party may file a complaint under section 11701(b) of this title alleging that such rate increase violates the provisions of this subtitle.

In considering any complaint challenging a rate increase that is authorized under subsection (c) of this section and that results in a revenue-variable cost percentage that is less than the lesser of the percentages described in clauses (i) and (ii) of paragraph (2)(A), the Commission shall, in determining the reasonableness of such rate increase, give due consideration to whether the carrier proposing the rate increase has attained adequate revenues, as determined by the Commission under section 10704(a)(2) of this title, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level.

"(2)(A) It a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than—

"(i) 20 percentage points above the revenue-variable cost percentage applicable in that year under section 10709(d) of this title; or

"(ii) a revenue-variable cost percentage of 190 percent,

whichever is less, the Commission may, on its own initiative, or on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.

"(C) In determining whether a rate is reasonable, the Commission shall consider, among other factors, evidence of the following:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.

"(f) In any proceeding under this section, evidence of the underlying rail carrier rate is admissible.

"(g) A finding by the Commission that a rate increase exceeds the increase authorized under this section does not establish a presumption that (1) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (2) the proposed rate exceeds or does not exceed a reasonable maximum.

"(h) The authority of the Commission to determine and prescribe reasonable rules, classifications, and practices may not be used, directly or indirectly, to limit the rates which rail carriers are otherwise authorized to establish under this subtitle.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10707 the following new item:

"10707a. Zone of rail carrier rate flexibility.".

(c)(1) Any rail carrier rate which increased over 70 percent between 1976 and 1979 inclusive for the transportation, in shipper owned equipment over a distance exceeding 1,550 miles between points within the United States, of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipally owned utility for the generation of electric power under a 20-year purchase agreement entered into by such utility in the year 1974 shall not be increased so long as coal is purchased under such original agreement, except that—

(A) during the period beginning October 1, 1980, and ending September 30, 1987, the Interstate Commerce Commission may permit increases in such rate which result in a revenue-variable cost percentage not more than 162 percent; and

(B) after October 1, 1987, such rate shall be subject to section 10701a of title 49, United States Code, and related to provisions of such title governing regulation of rail carrier rates, except that until such rate results in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable under section 10709(d) of such title, such rate may not be increased more than 4 percent, in addition to inflation, in any year.

(2) Neither the provisions of this subsection nor any rate subject to this subsection shall be admissible as evidence or considered in any way in any proceeding involving any other rail carrier rate that is commenced to determine market dominance under section 10709 of title 49, United States Code, or to determine reasonableness under section 10701a of such title.

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 204. Section 10731 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this title or any other law, within 90 days after the effective date of the Staggers Rail Act of 1980, all rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall take all actions necessary to reduce and thereafter maintain rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. As long as any such rate equals or exceeds such average revenue-to-variable cost ratio established by the Commission, such rate shall not be required to bear any further rate increase. The Commission shall have jurisdiction to issue all orders necessary to enforce the requirement of this subsection.".

RATE REGULATION PROCEEDINGS; ADEQUATE REVENUES

SEC. 205. (a)(1) The Interstate Commerce Commission shall commence a proceeding for purposes of determining whether, and to what extent, product competition should be considered in proceedings under subtitle IV of title 49, United States Code, to determine the reasonableness of rail carrier rates. The Commission shall complete its proceeding under this subsection within 230 days after the effective date of this Act.

(2)(A) For purposes of this subsection, the term "product competition" means the availability to a consignee, at a competitive delivered cost and in sufficient quantities, of products or commodities which are of the same type as the commodity or product to which the rate in question applies, without regard to whether such products or commodities are available from the same or a different origin as those to which the rate applies.

(B) In determining the availability of alternative sources of a particular commodity for purposes of this subsection, such commodity must be capable, by reason of similar specifications, of being effectively utilized by the consignee.

(C) In determining the availability of alternative sources of coal for purposes of this subsection, such coal must be capable, by reason of similar specifications such as Btu's, sulfur content, and ash content, of being effectively utilized by the consignee.

(D) For purposes of this subsection, any coal imported in the United States for the generation of electricity by utilities shall not be taken into account in the determination of whether coal is available to a consignee from another source.

(3)(A) Nothing in this subsection shall be construed as requiring the Commission to modify its standards for the determination of the reasonableness of rail carrier rates under existing law and procedures.

(B) Nothing in this subsection shall be construed as altering the meaning, use, or interpretation by the Commission, the courts, or any party of the term "market dominance", as defined in section 10709(a) of title 49, United States Code. The enactment of this subsection shall not be considered by the Commission in any proceeding, or by any court on an appeal from that or any other proceeding, to determine the proper scope of the term "market dominance" or whether there is market dominance over the transportation to which any particular rate applies.

(b)(1) Section 10704(a)(2) of title 49, United States Code, is amended by inserting "and revise as necessary" immediately after "shall maintain".

(2) Section 10704(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The Commission shall conclude a proceeding under paragraph (2) of this subsection within 180 days after the effective date of the Staggers Rail Act of 1980 and thereafter as necessary.

"(4) On the basis of the standards and procedures under paragraph (2) of this subsection, the Commission shall, within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, determine which rail carriers are earning adequate revenues.".

INFLATION-BASED RATE INCREASES

SEC. 206. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Inflation-based rate increases

"(a) The Commission may, on a quarterly basis and consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or rate index may be applicable on an industry-wide, territory-wide, or carrier-by-carrier basis.

"(b) Within 60 days after the date the Commission prescribes a percentage rate increase or rate index under subsection (a) of this section, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or rate index.

"(c) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Inflation-based rate increases.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 207. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 5th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 5th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice—

"(A) is effective at the end of that time period; or

"(B) if already in effect at the end of that time period, remains in effect.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1) (A), (B), and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and any portion of such rate is later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.

"(4) Notwithstanding the provisions of section 10741 or section 10761 of this title, the Commission shall, by rule, establish standards and procedures permitting a rail carrier to waive the collection of amounts due under this subsection if such amounts are not significant.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 208. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such a rail carrier may not enter into a contract with purchasers of rail services except as provided in this section.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall publish special tariff rules for such contracts in order to assure that the essential terms of the contract are available to the general public in tariff format.

"(c) A contract filed under this section shall be approved by the Commission, as provided in subsection (e) of this section, unless the Commission determines in a proceeding under subsection (d) of this section that such contract is in violation of this section.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may, on its own initiative or on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

"(2)(A) In the case of a contract other than a contract for the transportation of agricultural commodities (including forest products and paper), a complaint may be filed—

"(i) by a shipper only on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carriers or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

"(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

"(B) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), in addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper on the grounds that such shipper individually will be harmed because—

"(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

"(ii) the proposed contract constitutes a destructive competitive practice under this subtitle.

In making a determination under clause (ii) of this subparagraph, the Commission shall consider the difference between contract rates and published single car rates.

"(C) For purposes of this paragraph, the term 'unreasonable discrimination' has the same meaning as such term has under section 10741 of this title.

"(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section.

"(B) If the Commission determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a carrier, the Commission shall, subject to the provisions of this section, order such carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(e) Approval of a contract filed under this section shall be effective—

"(1) on the date the Commission expressly approves such contract, but in no event before the end of the 30-day period beginning on the date such contract is filed or after the end of the 60-day period beginning on such date; or

"(2) if the Commission has not disapproved such contract by the end of the 60-day period beginning on the date such contract is filed, at the end of such 60-day period.

"(f) The Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under section 11101 of this title.

"(g) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this tile.

"(h) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(i)(1) A contract that is approved by the Commission under this section, and transportation under such contract, shall not be subject to this subtitle, and may not be subsequently challenged before the Commission or in any court on the grounds that such contract violates a provision of this subtitle.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(i) The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Staggers Rail Act of 1980. Any such contract shall hereafter have the same force and effect as if it had been entered into in accordance with the provisions of this section. Nothing in this section shall affect the rights of the parties to challenge the existence of such a contract.

"(k)(1) Any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities (including forest products and paper) involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rack-cars, and flatbed equipment, including TOFC/COFC), except that in the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

"(2) The Commission may, on request of a rail carrier or other party or on its own initiative, grant such relief from the limitations of paragraph (1) of this subsection as the Commission considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.

"(l) Service under a contract approved under this section shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under sction 11123 of this title.

"(m) The Commission shall establish a railroad contract rate advisory service. The advisory service shall—

"(1) compile and disseminate to interested parties nonconfidential summaries of the provisions of individual contract information relating to the provisions of contracts entered into under this section with regard to various goods, items, and commodities covered by such contracts;

"(2) provide the Commission and interested parties with advice regarding contracts; and

"(3) assess the impact on competition among shippers of variations between contract rates for various shipments and the published single car rates, and submit a report on such impact to the Congress not later than 90 days after the effective date of the Staggers Rail Act of 1980.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Contracts.".

DEMAND SENSITIVE RATES

SEC. 209. Section 10727 of title 49, United States Code, and the item relating to such section in the section analysis for chapter 107 of such title, are repealed.

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 210. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the effective date of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 211. (a) Section 10730(a) of title 49, United States Code, is amended by inserting "and excluding any rail carrier" immediately after "motor common carrier of property".

(b) Section 10730 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

(c) Section 11707(d) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)";

(2) by inserting "(other than a rail carrier)" immediately after "delivering carrier"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) A civil action under this section may only be brought—

"(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

"(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

"(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) A civil action under this section may be brought in a United States district court or in a State court.

"(C) In this section, 'judicial district' means (i) in the case of the United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.".

(d) Within one year after the effective date of this Act, the Attorney General and the Interstate Commerce Commission shall independently investigate whether rail carriers should continue to be subject to section 11707 of title 49, United States Code, and submit a report to the Congress setting forth recommendations to Congress for appropriate legislative action. Each such investigation shall address the following issues:

(1) Whether, in the case of traffic with respect to which rail carriers do not have market dominance, such carriers should be subject to any higher level of liability for loss and damage than they are willing to agree to with the shippers of such traffic.

(2) Whether, in the case of traffic with respect to which rail carriers have market dominance, such carriers should be subject to any greater liability than would be imposed under a statutory comparative negligence standard.

(3) Whether liability for damage to rail traffic should be determined under a no-fault liability system and what shippers should bear the cost of such a system.

(4) Whether venue in cases arising from rail carrier liability for damages to traffic should be further limited.

(5) Whether rail carrier property damage cases should be subject to laws other than Federal law.

(6) Whether the right to claims should be limited to either the shipper or receiver of property.

(7) Whether maximum time limits should be imposed on the filing of claims with rail carriers and the courts.

(8) Whether the prevailing party in a claims proceeding should be awarded attorneys fees in order to limit needless litigation.

(9) Whether excessive attorneys fees are awarded in cases under section 11707 of title 49, United States Code.

(10) Whether claimants should be able to recover damages in excess of the market value of the commodity transported unless liability for special or consequential damages is agreed to by the carrier in unity.

RATE DISCRIMINATION

SEC. 212. Section 10741 of title 49, United States Code, is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to—

"(1) contracts approved under section 10713 of this title, other than as provided in subsection (d)(2)(A)(ii) and (d)(2)(B) of such section;

"(2) surcharges or cancellations under section 10705a of this title;

"(3) separate rates for distinct rail services under section 10728 of this title;

"(4) rail rates applicable to different routes; or

"(5) expenses authorized under section 10751 of this title,

except that with respect to rates described in paragraphs (2), (3), and (4), nothing in this subsection shall affect the authority of the Commission under this section with respect to rate relationships between ports or within the same port.".

EXEMPTION

SEC. 213. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection or section 11707 of this title shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title.

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

"(g) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

INTRASTATE RATES

SEC. 214. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "subchapter I or IV" and inserting in lieu thereof "subchapter IV"; and

(4) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) A State authority may only exercise jurisdiction over intrastate transportation provided by a rail carrier providing tansportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title if such State authority exercises such jurisdiction exclusively in accordance with the provisions of this subtitle.

"(2) Within 120 days after the effective date of the Staggers Rail Act of 1980, each State authority exercising jurisdiction over intrastate rates, classifications, rules, and practices for intrastate transportation described in paragraph (1) of this subsection shall submit to the Commission the standards and procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3)(A) Within 90 days after receipt of the intrastate regulatory rate standards and procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such standards and procedures are in accordance with the standards and procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such standards and procedures are not in such accordance, it shall deny certification to such State authority, and such State authority may resubmit new standards and procedures to the Commission for review in accordance with this subsection.

"(B) The standards and procedures existing in each State on the effective date of the Staggers Rail Act of 1980 for the exercise of jurisdiction over intrastate rail rates, classifications, rules, and practices shall be deemed to be certified by the Commission from that date until the date an initial determination is made by the Commission under subparagraph (A) of this paragraph.

"(4)(A) Any State authority which is certified by the Commission under this subsection may use its standards and procedures in exercising jurisdiction over intrastate rail rates, classifications, rules, and practices during the 5-year period commencing on the date of such certification. Any State authority which is denied certification or which does not seek certification may not exercise any jurisdiction over intrastate rates, classifications, rules, and practices until it receives certification under this subsection.

"(B) Any intrastate transportation provided by a rail carrier in a State which may not exercise jurisdiction over an intrastate rate, classification, rule, or practice of that carrier due to a denial of certification under this subsection shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

"(5)(A) Certification of a State authority under this subsection is valid for the 5-year period beginning on the date of such certification. Prior to the expiration of such 5-year period, the State authority shall resubmit its intrastate regulatory standards procedures to the Commission for subsequent certification in accordance with this subsection.

"(B) During any 5-year certification period, a State may not change its certified standards and procedures without notifying and receiving express approval from the Commission.

"(6) Notwithstanding any other provision of this subtitle, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title, inflation-based rate increases under section 10712 of this title, or fuel adjustment surcharges approved by the Commission.

"(c) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may petition the Commission to review the decision of any State authority, in any administrative proceeding in which the lawfulness of an intrastate rate, classification, rule, or practice is determined, on the grounds that the standards and procedures applied by the State were not in accordance with the provisions of this subtitle. The Commission shall take final action on any such petition within 30 days after the date it is received. If the Commission determines that the standards and procedures were not in accordance with the provisions of this subtitle, its order shall determine and authorize the carrier to establish the appropriate rate, classification, rule, or practice.".

(c)(1) Section 11502(d)(2) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "and chapter 107 of this title" immediately before the period at the end of the first sentence.

(2) Section 10103(a) of title 49, United State Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this subtitle, the".

(3) Section 10501(a)(2) of title 49, United States Code, is amended by inserting "such jurisdiction is not limited by subsection (b) of this section or the extent" immediately after "to the extent".

(4) Section 10501(c) of title 49, United States Code, is amended by inserting "(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)" immediately after "unless".

(5) Section 10501 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The jurisdiction of the Commission and of State authorities (to the extent such authorities are authorized to administer the standards and procedures of this title pursuant to this section and section 11501 (b) of this title) over transportation by rail carriers, and the remedies provided in this title with respect to the rates, classifications, rules, and practices of such carriers, is exclusive.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 215. Section 10751 of title 49, United States Code, is amended by striking out "(other than transportation by rail)" in subsections (a) and (b).

(b) The provisions of section 10751 of title 49, United States Code, as amended by subsection (a) of this section, shall apply to any expense of the type described in subsection (a) of such section 10751 that was incurred prior to the effective date of this Act (other than an expense with respect to which a penalty was paid pursuant to section 10761 of such title 49) or that is incurred on or after such effective date.

EFFICIENT MARKETING

SEC. 216. (a) Section 10762(c)(3) of title 49, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of a carrier other than a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 10 days after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.".

(b) Section 10762(d)(1) of title 49, United States Code, is amended by striking out "30-day" and inserting in lieu thereof "notice".

COMPENSATORY JOINT RATE RELIEF

SEC. 217. (a)(1) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

"§ 10705a. Joint rate surcharges and cancellations

"(a)(1)(A) Except as provided in subparagraph (B) of this paragraph, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party in such joint rate.

"(B) A carrier earning adequate revenues, as determined under section 10704(a)(2) of this title, may not apply such a surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year.

"(C) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points designated by the surcharging carrier which such carrier participates in under the joint rate involved, and when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2)(A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may cancel the application of such surcharge to any route participated in by such other carrier, if such carrier makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues, at the time the surcharge was filed with the Commission, from its participation in the movement over the route involved would have been equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier.

"(iii) a new higher lawful rate published by the canceling carrier; or

"(iv) a new, lesser surcharge which shall be prescribed by the Commission upon and in conformity with the request of the carrier proposing to cancel the surcharge. Any such prescribed surcharge shall, in conjunction with the surcharging carrier's division of the joint rate in effect on the date the original surcharge was filed with the Commission, provide the carrier proposing the original surcharge revenues equal to or greater than 110 percent of such surcharging carrier's variable cost of providing service over such route.

"(C)(i) The canceling tariff shall only become effective if the rail carrier proposing to cancel the application of the surcharge makes the demonstration described in subparagraph (B) of this paragraph.

"(ii) If the demonstration described in clause (i) of this subparagraph is made on the basis of the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge, the tariff shall become effective on one day's notice after such determination is made.

"(iii) If the demonstration described in clause (i) of this subparagraph is made on the basis of a new rate, division, or surcharge prescribed pursuant to subparagraph (B)(iv) of this paragraph, the tariff shall become effective on the date such new rate, division, or surcharge becomes effective.

"(D) The remedy available to a rail carrier canceling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3)(A) The Commission may cancel the application of a surcharge to a route to which such surcharge applies if a shipper moving traffic over such route demonstrates to the Commission that—

"(i) there is no competitive alternative to such route for the movement of the traffic involved that is not subject to such surcharge; and

"(ii) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate in effect at the time the surcharge was filed with the Commission, with the surcharge, would be greater than 110 percent of its variable cost of providing service over such route.

"(B) If the Commission cancels the application of a surcharge to a particular route pursuant to subparagraph (A) of this paragraph, the Commission shall determine the level of surcharge which, in conjunction with the surcharging carrier's division of the joint rate in effect at the time the surcharge was filed with the Commission, would equal 110 percent of the surcharging carrier's variable cost of providing service over such route, and shall authorize such carrier immediately to apply such a surcharge without any further proceedings under this subsection.

"(4) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

"(6) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge. Nothing in this paragraph shall be construed to limit the right of a carrier to reduce rates over routes not in direct competition between the same points with routes to which it has applied a surcharge.

"(b)(1) Notwithstanding subsection (a) of this section—

"(A) a rail carrier not earning adequate revenues, as determined under section 10704 (a)(2) of this title, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton miles of traffic per mile in the most recent calendar year for which traffic data is available; and

"(B) a rail carrier earning adequate revenues, as so determined, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 1,000,000 gross ton miles of traffic per mile in such most recent calendar year.

Such a surcharge may be applied without the concurrence of any rail carrier. Any such surcharge may be allocated, subject to the provisions of paragraph (4) of this subsection, in different amounts among different movements between different origins and destinations, and shall accrue solely to the surcharging carrier.

"(2) A rail carrier may apply a surcharge under this subsection if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line, which shall include all costs necessary to sustain service on the line.

The Commission shall, within 120 days after the effective date of the Staggers Rail Act of 1980, complete a proceeding to define the term 'reasonably expected costs' as used in subparagraph (B) of this paragraph. In the interim, the term shall be construed in accordance with Rail Services Planning Office subsidy standards.

"(3)(A) Upon petition of a shipper located upon a line to which a surcharge under this subsection is applied, the Commission may cancel the application of a surcharge under this subsection if such shipper demonstrates to the Commission that, after application of the surcharge, the surcharging carrier's revenues from all traffic originating or terminating upon the line to which the surcharge applies exceed 110 percent of such carrier's variable cost of transporting all traffic to or from such line plus such carrier's reasonably expected costs of continuing to operate such line.

"(B)(i) A rail carrier's revenue from all traffic originating or terminating upon a line shall be presumed to exceed 110 percent of its variable cost of transporting all traffic to or from such line plus its reasonably expected costs of continuing to operate such line if the complaining shipper demonstrates that the carrier is earning revenues from all traffic originating or terminating upon such line that result in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable in that year under section 10709(d) of this title.

"(ii) A surcharging carrier may rebut the presumption set forth in clause (i) of this subparagraph by demonstrating to the Commission that its reasonably expected costs for operating the line to which the surcharge applies exceed the percentage of variable cost set forth in such clause (i).

"(C) Upon a finding by the Commission that application of the surcharge will produce revenues in excess of 110 percent of the surcharging carriers' variable cost of transporting traffic to or from the line plus its reasonably expected costs for operating the line, the Commission shall determine the level of surcharge which would produce revenues equal to such figure and shall authorize such carrier immediately to apply such surcharges as will generate such revenue without any further proceedings, subject only to the right of a shipper to proceed under paragraph (4) of this subsection.

"(4)(A) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the reasonably expected costs of continuing to operate the line to which such surcharge applies.

"(B) Upon complaint of a shipper, the Commission shall determine whether the shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph.

"(C) If the Commission finds that a complaining shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph, the Commission may reallocate the surcharge among the traffic originating or terminating on the line to which the surcharge applies, but may not order relief which would result in the surcharging carrier earning revenues less than those which the carrier would have earned had the surcharge been applied as filed.

"(5) A shipper may, in a single complaint, seek relief under paragraphs (3) and (4) of this subsection. In any such complaint, the Commission shall first determine the right to relief under paragraph (3) and shall grant such relief as is appropriate under such paragraph.

"(6) In any proceeding brought before the Commission challenging the application or amount of a surcharge under this subsection, whether the surcharge is claimed to violate this subsection or some other provision of this chapter, the Commission shall not suspend the application of any such surcharge unless the person filing the verified statement required by section 10707(c) of this title, in addition to the matters required by such section, also makes the demonstration required by paragraph (3)(A) of this subsection. If the demonstration required by such paragraph (3)(A) is made, the Commission may susend the application of only so much of the surcharge as will produce revenues in excess of the amount so demonstrated.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Staggers Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that participates in such through route or a shipper that has no competitive alternative to such route makes the demonstration described in paragraph (2) of this subsection.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route or a shipper that has no competitive alternative to such route from an origin or destination served by such route demonstrates to the Commission that the canceling carrier's share of the revenues, under the joint rate in effect at the time the application of the joint rate is canceled, is equal to or greater than—

"(A) 110 percent of the canceling carrier's variable cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) When a complaining party is unable to make the demonstration required by paragraph (2) of this subsection, the Commission may suspend the tariff canceling the joint rate only if—

"(A) a complaining carrier publishes a new rate division or a new higher lawful rate which increases the canceling carrier's share of the revenues over such route to the amount calculated under paragraph (2)(A) or (2)(B) of this subsection, whichever is less; or

"(B) a complaining carrier or shipper petitions the Commission and the Commission imposes a surcharge, in conformity with such petition, upon the joint rate which will accrue solely to the canceling carrier and which, in conjunction with the canceling carrier's division of the joint rate in effect on the date the tariff canceling the joint rates was filed, will provide the canceling carrier revenues equal to or greater than 110 percent of its variable cost of providing service over such route.

Unless a new rate, division, or surcharge described in this paragraph becomes effective within 120 days after the proposed effective date of the rate cancellation, tariff shall, nevertheless, become effective.

"(4) If the demonstration described in paragraph (2) is made or a new rate, division, or surcharge described in paragraph (3) becomes effective, the tariff canceling the joint rate shall be considered by the Commission in accordance with section 10705 of this title. The existing joint rate or the new rate, division, or surcharge shall remain in effect during the pendency of the Commission's consideration.

"(5) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(6) Nothing in this subsection shall be construed to limit the authority of the Commission under section 10705(a) of this title to prescribe joint rates which provide a rail carrier participating in such joint rate revenues equal to or greater than 110 percent of its variable cost of providing service over each route to which such rate applies.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever a class III rail carrier which participates in a through route to which a surcharge has been applied under subsection (a) of this section by a carrier operating in the same rate territory as such class III carrier demonstrates to the Commission that the application of such surcharge to such route provides, in the absence of any increase in the joint rate in effect on the date the surcharge was filed with the Commission, revenues from traffic moving over such route to such surcharging carrier in excess of 110 percent of its variable costs over such route, such surcharging carrier shall, from the date of such demonstration, share those revenues from such route, from the surcharge and the applicable joint rate in effect on the date the surcharge was filed with the Commission, in excess of 110 percent of its variable costs with all class III rail carriers in the same rate territory participating in such route, on the basis of their existing divisions of the joint rate to which the surcharge applies.

"(e)(1) Except as provided in paragraph (2) of this subsection, whenever a rail carrier proposes to apply a surcharge under subsection (a) of this section or to cancel the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

"(2) A rail carrier shall not be required to agree under this subsection to any proposed new division or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs providing service over such route;

"(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movements over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed.

"(g)(1) Any rail rate to which a surcharge is applied under this section shall be subject to section 10701a and 10709 of this title, and any such surcharge shall constitute a rate increase for purposes of such sections.

"(2) For purposes of rate regulation under section 10701a of this title—

"(A) only the rail carrier proposing a surcharge under this section shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surcharge under the joint rate to which the surcharge applies shall be determined without regard to amount received and services performed by other rail carriers that are party to such joint rate.

"(3) Except as provided in subsections (i), (j), or (k) of this section, if the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a violation of any provision of this title, such violation shall not be ordered remedied in any manner which—

"(A) requires the carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to provide service over any route under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service; or

"(B) which requires the carrier applying a surcharge under subsection (b) of this section to provide service over the route to which such surcharge applies in a manner that provides revenues to such carrier that are less than 110 percent of such carrier's variable cost of transporting the traffic involved to or from the line to which the surcharge applies, plus such carrier's reasonably expected costs of providing service over such line.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or canceling the application of the joint rate.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section will have an adverse effect on competition, the Commission shall investigate such protest. If, on the basis of such investigation, the Commission finds that the protested surcharge or cancellation is or is intended to be anticompetitive, the Commission shall, within 30 days after the date such protest is filed, enter an order rescinding such surcharge or cancellation, and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

"(2) No order prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section may protest such surcharge or cancellation whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B)(i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of such surcharge or cancellation; or

"(ii) such surcharge or cancellation, alone or when considered in conjunction with other surcharges or cancellations affecting the carrier, is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2)(A) The Commission may, after an investigation on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division of the joint rate. The Commission shall grant the surcharging or canceling carrier revenues not less than 110 percent of its variable cost of the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved. Any action by the Commission based on a protest under this subsection shall be taken within 30 days after the date such protest is filed.

"(B) If the Commission prescribes a different division of a joint rate under this paragraph, the Commission shall, upon petition of the surcharging or canceling carrier or the protesting class II rail carrier, reopen the proceeding in which such division was prescribed to reconsider whether such prescribed division is reasonable. If, on the basis of such reconsideration, the Commission determines that such division is not reasonable, it shall prescribe a new, reasonable division of the joint rate to which the surcharge or cancellation applied.

"(k)(1) Upon the complaint of a class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section that such surcharge or cancellation will result in differences or greater differences in rates, including any surcharges, for the traffic to which the surcharge or cancellation applies over different routes in which the surcharging or canceling carrier participates—

"(A) from a single origin point to destination points within a 75 mile direct radius from the destination point on such class III rail carrier; or

"(B) to a single destination point from origin points within a 75 mile direct radius from the origin point on such class III rail carrier,

the Commission shall investigate such complaint and shall, within 30 days after the date such complaint is filed, take such actions, including rescinding surcharges or cancellations or prescribing new joint rates or surcharges, as it determines are required to eliminate such differences in rates, unless it finds that such actions are not warranted by the public interest in ensuring effective competition among rail carriers or in the preservation of rail service on the route involved.

"(2) No action taken by the Commission under this subsection shall require a carrier to provide service over any route under a rate which provides a revenue to variable cost ratio over such route less than that provided under the joint rate to which the surcharge or cancellation was applied or less than 110 percent, whichever is greater, unless the Commission determines that the public interest in ensuring effective competition among rail carriers or in preserving service over such route warrants requiring the surcharging or canceling carrier to provide sevice at a lesser revenue to variable cost ratio.

"(3) Notwithstanding subsection (m)(1) of this section, if, in a proceeding under this subsection or under subsection (i) or (j) of this section, the Commission considers whether to require the revenues of a carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to be less than 110 percent of its variable costs (as calculated using the Commission's Rail Form A cost finding methodology), such surcharging or canceling carrier may prove its actual variable costs on the basis of evidence other than unadjusted costs calculated using such Rail Form A cost finding methodology. Such evidence shall be prepared in accordance with generally accepted accounting principles.

"(l) Whenever the application of a joint rate to a through route is canceled under subsection (c) of this section, the Commission shall, upon petition by a class II or III rail carrier participating in such routes, prescribe a new compensatory through rate or rates over such route within 30 days after the date such petition is filed.

"(m) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(n) Surcharges applied under subsection (a) or (c) of this section and cancellations under subsection (c) of this section shall not be subject to the provisions of section 10726(a)(1)(B) of this title.

"(o) The Special Counsel of the Commission may, consistent with the rail transportation policy in section 10101a of this title, provide assistance to class III rail carriers and small businesses in preparing actions under this section.

"(p)(1) The authority to apply a surcharge under subsection (a) of this section, and (except as provided in paragraph (2)) the authority to cancel such a surcharge, shall expire 3 years after the effective date of the Staggers Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown.

"(2) Any surcharge lawfully applied under subsection (a) of this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section. Any such surcharge applied during the 45-day period immediately preceding the date of the expiration of the provisions of this section shall, notwithstanding such expiration, be subject to cancellation under subsection (a)(2) or (a)(3) of this section during the 45-day period beginning on the date such surcharge is applied.".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

(b) For purposes of section 10705a of title 49, United States Code, the Interstate Commerce Commission shall classify all rail carriers on the basis of revenues, shall from time to time review its regulations setting forth revenue-based classifications for rail carriers, and shall make appropriate changes in such regulations in order to reflect inflation. The Commission shall not reclassify switching and terminal carriers, or any other rail carriers not classified on the basis of revenues on the effective date of this Act, for any purpose other than for purposes of such section 10705a.

(c)(1) The Interstate Commerce Commission shall include in its annual report to the Congress under section 10311 of title 49, United States Code, a report with respect to the application of surcharges and the cancellation of the application of joint rates by the Consolidated Rail Corporation and other rail carriers, during the preceding year, under section 10705a of title 49, United States Code. Each such report shall include—

(A) an analysis of the effect of application of surcharges and the cancellation of the application of joint rates under such section 10705a on shippers, ports, class II and class III rail carriers, railroad employees, and other elements of the rail system;

(B)(i) the number of surcharges applied by the Consolidated Rail Corporation and all other rail carriers under such section 10705a and the amount of revenue received by the Corporation and all other rail carriers from the application of such surcharges, (ii) the number of surcharges applied by the Corporation and all other rail carriers that were canceled under the procedures of such section 10705a, and (iii) the number of cancellations of the application of a joint rate by the Corporation and all other rail carriers under such section 10705a; and

(C) an analysis of the operation of the remedies made available to class III rail carriers under subsections (i), (j), and (k) of such section 10705a and to class II and class III rail carriers under subsection (l) of such section 10705a.

(2) The Interstate Commerce Commission shall, within 2 years after the effective date of this Act, submit a report to the Congress with respect to whether the provisions of section 10705a of title 49, United States Code, have adequately addressed the joint rate problems of rail carriers. The report shall include such recommendations with respect to such joint rate problems as the Commission considers necessary and appropriate.

EXPEDITED DIVISION OF REVENUES PROCEEDINGS

SEC. 218. (a) Section 10705(f)(1) of title 49, United States Code, is amended to read as follows:

"(f)(1)(A) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(i) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(ii) in all cases other than those specified in clause (i) of this subparagraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this clause, it must report the reasons to Congress.

"(B) The provisions of this paragraph imposing time limitations upon Commission action shall not apply to any division proceeding involving a joint rate participated in by a class III rail carrier.".

(b) Section 10705(f)(1) of title 49, United States Code, as amended by subsection (a) of this section, is further amended—

(1) by striking out subparagraph (B);

(2) by striking out "(A)" immediately before "The Commission";

(3) by striking out "(i)" and inserting in lieu thereof "(A)";

(4) by striking out "(ii)" and inserting in lieu thereof "(B)"; and

(5) by striking out "clause (i) of this subparagraph" and inserting in lieu thereof "subparagraph (A) of this paragraph".

RATE BUREAUS

SEC. 219. (a) Section 10706(a)(1) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) 'practicably participates in that movement' shall have such meaning as the Commission shall by regulation prescribe.".

(b) Section 10706(a)(2)(A) of title 49, United States Code, is amended—

(1) by inserting "publication," immediately after "initiation," in the first sentence; and

(2) by striking out "section 10101" in the second sentence and inserting in lieu thereof "section 10101a".

(c)(1) Section 10706(a)(3)(A) of title 49, United States Code, is amended to read as follows:

"(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

"(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single line rates proposed by another rail carrier, except that for purposes of general rate increases and broad tariff changes only, if the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

"(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in that movement; or

"(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. This clause shall take effect on January 1, 1984, or on such earlier date as the Commission determines. If the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

(2) Section 10706(a)(3)(B) of title 49, United States Code, is amended to read as follows:

"(B) Until January 1, 1984, subparagraph (A)(ii) and (A)(iii) of this paragraph do not apply to—

"(i) general rate increases to cover inflationary cost increases, or general rate decreases, for joint rates if the agreement gives shippers, under specified procedures, at least 15 days notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or

"(ii) broad tariff changes that are of at least substantially general application throughout the area where the changes will apply, except single line rates where subparagraph (A)(i) of this paragraph prohibits the participation of carriers with single line rates.

If the Commission finds at any time that the implementation of this subparagraph is not feasible, it may delay or suspend such implementation in whole or in part.".

(3) Section 10706(a)(3)(C) of title 49, United States Code, is amended—

(A) by inserting "(i)" immediately after "(C)"; and

(B) by adding at the end thereof the following new clause:

"(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such carrier and one or more other carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

"(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

"(II) concerned an interline movement of the carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of clauses (I) or (II) are satisfied before allowing the introduction of any such evidence.".

(4) Section 10706(a)(3) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(D) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.".

(d) Section 10706(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Commission approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Commission may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Commission may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.".

(e) Section 10706(i)(1)(B) of title 49, United States Code, is amended by striking out "section 10101" and inserting in lieu thereof "section 10101a".

(f) The Interstate Commerce Commission may not take any action with respect to the elimination of general rate increases or decreases prior to April 1, 1982.

(g) The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employees of such rate bureau who are effected by the amendments made by this section with fair arrangements no less protective of the interests of such employees than those established pursuant to section 11347 of title 49, United States Code. For purposes of this subsection, the term "employees" does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions.

LONG AND SHORT HAUL TRANSPORTATION

SEC. 220. Section 10726(c) of title 49, United States Code, is repealed.

RAILROAD ENTRY

SEC. 221. (a) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(b) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(d)(1) Where a rail carrier has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other rail carrier may block such construction or extension by refusing to permit the carrier to cross its property if (A) the construction does not unreasonably interfere with the operation of the crossed line, (B) the operation does not materially interfere with the operation of the crossed line, and (C) the owner of the crossing line compensates the owner of the crossed line.

"(2) If the carriers are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Commission for determination.

"(e) The Commission may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.".

SERVICE DURING PERIODS OF PEAK DEMAND

SEC. 222. Section 11101(a) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "A rail carrier shall not be found to have violated this section because it fulfills its commitments under contracts approved under section 10713 of this title before responding to reasonable requests for service.".

RECIPROCAL SWITCHING

SEC. 223. Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Commission may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Commission may establish such conditions and compensation.

"(2) The Commission may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.".

CAR SERVICE COMPENSATION

SEC. 224. (a)(1) Section 11122(b)(2) of title 49, United States Code, is repealed.

(2) Section 11122(b)(1) of title 49, United States Code, is amended by striking out "(1)" immediately before "The rate".

(b) Section 10706(a) of title 40, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Commission for approval of that agreement under this paragraph. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the terms required by the Commission, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Commission shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

"(B) If the Commission approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.

"(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.".

CAR UTILIZATION

SEC. 225. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting at the end thereof the following new section:

"§ 10734. Car utilization

"In order to encourage more efficient use of freight cars, notwithstanding any other provision of this subtitle, rail carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of services not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10731 the following new item:

"10734. Car utilization.".

CAR SERVICE ORDERS FOR EXIGENT CIRCUMSTANCES

SEC. 226. Section 11123(a) of title 49, United States Code, is amended to read as follows:

"(a)(1) When the Interstate Commerce

Commission finds that a shortage of equipment, congestion of traffic, or other failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States, the Commission may, for a period not to exceed thirty days—

"(A) suspend any car service rule or practice;

"(B) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section;

"(C) require joint or common use of facilities, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest; and

"(D) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

"(2) The Commission may extend any action taken under paragraph (1) of this subsection beyond the thirty-day period provided in such paragraph only if the full Commission, after a hearing, certifies that a transportation emergency exists.

"(3) In carrying out the provisions of this subsection, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.".

EMPLOYEE PROTECTION

SEC. 227. (a) Section 1170 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In authorizing any abandonment of a railroad line under this section, the court shall require the rail carrier to provide a fair arrangement at least as protective of the interest of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

(b) Section 1172 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) In approving an application under subsection (b) of this section, the Commission shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

MERGERS AND OTHER TRANSACTIONS

SEC. 228. (a) Section 11344(b) of title 49, United States Code, is amended—

(1) by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new paragraph:

"(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region.".

(b) Section 11344 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Commission shall, with respect to any application that is a part of a plan or proposal developed under section 5(a)–(d) of the Department of Transportation Act (49 U.S.C. 1654(a)–(d)), accord substantial weight to any recommendations of the Secretary of Transportation.".

(c) Section 11344 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(e) A rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers, may apply for approval under this subsection of a transaction for the purpose of providing motor carrier transportation prior or subsequent to rail transportation to serve inadequately served shippers located on a railroad other than the applicant carrier. Such application shall be approved by the Commission if the applicants demonstrate presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or seriously to fail otherwise to provide adequate normal rail services required by shippers and which shippers would reasonably expect the rail carrier to provide. The Commission shall approve or disapprove applications under this subsection within 30 days after receipt of such application. The Commission shall approve applications which are not protested by interested parties within 30 days following receipt of such application.".

(d) Section 11345 of title 49, United States Code, is amended to read as follows:

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves—

"(1) The merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which it concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commision has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 60th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that acton is required for the timely execution of its function under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.".

(e) Any application filed or pending on the effective date of this Act under section 11343, 11344, or 11345 of title 49, United States Code, before the Secretary of Transportation, the Interstate Commerce Commission, or any court shall be adjudicated or determined as if this Act had not been enacted.

SAVINGS PROVISIONS

SEC. 229. (a) Any rate that is in effect on the effective date of this Act for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, may, during the 180-day period beginning on such effective date, be challenged in a complaint filed with the Interstate Commerce Commission by any interested party alleging that the rail carrier has market dominance over the transportation to which the rate applies, as determined under section 10709 of such title, and that the rate is not reasonable under section 10701a of such title.

(b) Any rate described in subsection (a) of this section—

(1) which is not challenged in a complaint filed within the 180-day period provided in such subsection; or

(2) which is challenged in such a complaint, but (A) the rail carrier is found not to have market dominance over the transportation to which the rate applies, or (B) the rate is found to be reasonable,

shall be declined to be lawful and may not thereafter be challenged in the Commission or in any court (other than on appeal from a decision of the Commission).

(c) The provisions of this section shall not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date of this Act did not exceed 500 net tons and has increased tenfold within the 3-year period immediately preceding the bringing of a challenge to the reasonableness of such rate.

(d) The burden of proof in any proceeding under this section shall be on the complainant.

TITLE III—RAILROAD COST DETERMINATIONS

UNIFORM ACCOUNTING SYSTEM

SEC. 301. Section 11142 of title 49, United States Code, is amended to read as follows:

"§ 11142. Uniform accounting system

"The Interstate Commerce Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.".

RAILROAD COST ACCOUNTING

SEC. 302. (a) Chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new chapter:

"Subchapter IV—Railroad cost accounting

"§ 11161. Railroad Accounting Principles Board

"(a)(1) There is established a Railroad Accounting Principles Board which shall be within and responsible to the legislative branch of the Federal Government.

"(2) The Board shall be composed of the Comptroller General of the United States, who shall serve as chairman, and six members to be appointed by the Comptroller General.

"(3) The Comptroller General shall appoint members of the Board from among persons who are well qualified for such position by virtue of experience in or knowledge of rate regulation, accounting, or cost determinations. Of the members of the Board so appointed—

"(A) one shall be from the accounting profession;

"(B) one shall be from the railroad industry;

"(C) one shall be a representative of major rail shippers;

"(D) one shall be from the Interstate Commerce Commission;

"(E) one shall be a representative of small rail shippers; and

"(F) one shall be from the economics profession.

"(4) The term of office of each appointed member of the Board shall be three years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed.

"(5) The Board shall not act in the absence of a quorum, which shall consist of three members.

"(b) Each appointed member of the Board shall receive compensation at a rate equal to 1/200 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

"(c)(1) The Board may utilize personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees or to provide the staff services necessary to assist the Board in carrying out its functions and responsibilites under this subchapter.

"(2) Individuals appointed by the Board under this subsection may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(d) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

"(e) Members and employees of the Board and all other individuals appointed under this subsection having or having had access to information in the possession of the Board shall be subject to the provisions of section 1905 of title 18.

"(f) The Board shall cease to exist three years after the effective date of the Staggers Rail Act of 1980.

"§ 11162. Cost accounting principles

"(a) Within two years after the effective date of the Staggers Rail Act of 1980, the Railroad Accounting Principles Board shall establish, for rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods, including the variable costs associated with particular movements of goods or such other costs as the Board believes most accurately represent the economic costs of such movements. Such principles shall govern the determination of all railroad costs for specific regulatory proceedings under this title.

"(b) In developing cost accounting principles under this section, the Board shall take into account the following considerations:

"(1) The specific regulatory purposes for which railroad costs are required.

"(2) The degree of accuracy of the cost information which is needed to meet regulatory purposes.

"(3) The existing capability and the probable future capability of rail carriers to provide such information and the relative benefits and costs of requiring development of additional capability.

"(4) The means by which the degree of economic accuracy required can be obtained at the least possible expense and with the least possible information reporting.

"(5) The means by which the confidentiality of such costs can best be maintained while meeting the need for such information in regulatory proceedings.

"(c) The cost accounting principles established by the Board shall require that cost information be reported or disclosed only for the essential regulatory purposes defined by the Board.

"§ 11163. Implementation of cost accounting principles

"Upon the establishment of cost accounting principles by the Railroad Accounting Principles Board under section 11162 of this title, the Interstate Commerce Commission shall promptly promulgate rules to implement and enforce such principles. Not less than once every five years after the promulgation of the original rules, the Commission shall review the principles of the Board and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this title and the goals of this subchapter. The Commission shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes.

"§ 11164. Certification of rail carrier cost accounting systems

"(a) Within 180 days after the effective date of the Staggers Rail Act of 1980, each rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a request for preliminary certification of its cost accounting system. The Commission shall grant such preliminary certification if it determines that the cost accounting system of such rail carrier is in compliance with the accounting standards of the Commission in effect on the day prior to the effective date of the Staggers Rail Act of 1980.

"(b)(1) As soon as practicable, but not later than 9 months, after the promulgation of rules by the Commission under section 11163 of this title, each rail carrier described in subsection (a) of this section shall file with the Commission a request for final certification of its cost accounting system developed to comply with this section.

"(2) Within 90 days, or such additional time as the Commission finds necessary, after a rail carrier files its request for final certification under paragraph (1) of this subsection, the Commission shall grant such final certification to such carrier if the Commission determines that the cost accounting system of such carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title. If the Commission denies such final certification, the rail carrier shall revise its cost accounting system and file a new request for certification within 90 days after the date of such denial. The Commission shall thereupon grant final certification if it determines that such cost accounting system, as revised, is in compliance with such rules. If the Commission again denies final certification to the rail carrier, the Commission shall prescribe a cost accounting system which such carrier shall adopt within a reasonable time and which shall be considered a finally certified cost accounting system for purposes of this section.

"(c) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Commission under section 11163 of this title.

"(d) (1) Certification under this section that the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title shall be valid until the promulgation of new rules by the Commission.

"(2) After the cost accounting system of a rail carrier is certified under this section, such rail carrier may, after notifying the commission, make modifications in such system unless, within 60 days after the date of notification, the Commission finds such modifications to be inconsistent with the rules promulgated by the Commission under section 11163 of this title.

"(e) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission, the Commission shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

"§ 11165. Cost availability

"As required by the rules of the Interstate Commerce Commission governing discovery in Commission proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Commission proceeding in which such data is required.

"§ 11166. Accounting and cost reporting

"(a) To obtain expense and revenue information for regulatory purposes, the Interstate Commerce Commission may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings pursuant to this title, such rules shall be promulgated in accordance with the cost accounting principles established by the Railroad Accounting Principles Board under section 11162 of this title.

"(b) Any reports required by the rules established by the Commission under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

"§ 11167. Report

"The Railroad Accounting Principles Board shall, within 2 years after the effective date of the Staggers Rail Act of 1980, submit to the Congress a report setting forth any recommendations of the Board for appropriate legislative or administrative action in order to integrate the cost accounting principles and the cost accounting system certification process under this subchapter into existing rail carrier rate regulation under this title, including determinations under section 10709 of this title.

"§ 11168. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter not to exceed $1,000,000 for the fiscal year ending September 30, 1981, not to exceed $1,000,000 for the fiscal year ending September 30, 1982, and not to exceed $1,000,000 for the fiscal year ending September 30, 1983.".

(b) The analysis of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"Subchapter IV—Railroad Cost Accounting
"11161. Railroad Accounting Principles Board.
"11162. Cost accounting principles.
"11163. Implementation of cost accounting principles.
"11164. Certification of rail carrier cost accounting systems.
"11165. Cost availability.
"11166. Accounting and cost reporting.
"11167. Report.
"11168. Authorization of appropriations.".

CIVIL PENALTIES FOR VIOLATIONS OF ACCOUNTING PRINCIPLES PROVISIONS

SEC. 303. (a) (1) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11913 the following new section:

"§ 11913a. Accounting principles violations

"Any rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that fails to obtain final certification of its cost accounting system under section 11164(b) of this title shall be fined not less than $50,000.".

(2) The section analysis of chapter 119 of title 49, United States Code, is amended by inserting immediately after the item relating to section 11913 the following new item:

"11913a. Accounting principles violations.".

(b) Section 11910 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A person that knowingly discloses confidential data made available to such person under section 11165 of this title by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall be fined not more than $50,000.".

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

FEEDER RAILROAD DEVELOPMENT PROGRAM

SEC. 401. (a) Subchapter I of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10910. Railroad development

"(a) In this section—

"(1) 'financially responsible person' means a person who (A) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (B) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a government authority but does not include a class I or a class II rail carrier.

"(2) 'railroad line' means (A) during the 3-year period beginning on the effective date of the Staggers Rail Act of 1980, a line of railroad which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, and (B) after the end of such 3-year period, any line of railroad.

"(b) (1) When the Interstate Commerce Commission finds that—

"(A) (i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line has been placed on a system diagram map as required under section 10904 of this title, but the rail carrier owning such line has not filed an application to abandon such line under sections 10903 and 10904 of this title; and

"(B) an application to purchase such line has been filed, in accordance with regulations required under subsection (k) of this section, by a financially responsible person, the Commission shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presented to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater, but shall not include the cost of providing a protective arrangement under subsection (j) of this section.

"(c) (1) For purposes of this section, the Commission may determine that the public convenience and necessity require or permit the sale of a railroad line if the Commission determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Commission finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Commission shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Commission shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Commission shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this title, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

"(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

"(j) In the case of any railroad line sold pursuant to this section, the Commission shall require the selling carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of this title.

"(k) The Commission shall, within 60 days after the effective date of the Staggers Rail Act of 1980, prescribe such regulations and procedures as may be necessary to carry out the provisions of this section.".

(b) The section analysis of chapter 109 of title 49, United States Code, is amended by adding immediately after the item relating to section 10909 the following new item:

"10910. Railroad development.".

ABANDONMENT

SEC. 402. (a)(1) Section 10903(b)(1) of title 49, United States Code, is amended by striking out the first sentence.

(2) Section 10903(c) of title 49, United States Code, is repealed.

(b)(1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking out "at least 60" and all that follows through "effective" in paragraph (1);

(B) by striking out "and" at the end of paragraph (2)(A);

(C) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and";

(D) by adding at the end of paragraph (2) the following new subparagraph:

"(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title, (ii) a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title, and (iii) the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier."; and

(E) by inserting immediately before the period at the end of paragraph (3)(E) the following: ", and certifying that clauses (A)–(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.".

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the rail carrier and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of application, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, after the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days after the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final decision, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

(4) Section 10904 of title 49, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting immediately after subsection (c) the following new subsection:

"(d)(1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)–(d) of the Department of Transportation Act (49 U.S.C. 1654(a)–(d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ", except that the requirement of such description or identification in such diagram may be waived by the Commission of the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)–(d) of the Department of Transportation Act (49 U.S.C. 1654(a)–(d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

"§ 10905. Offers of financial assistance to abandonment and discontinuance

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance of a particular railroad line, it shall, concurrently with service of the decision upon the parties, publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b)(1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement, is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during that same period, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance.

"(f)(1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a sale or subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 403. Section 809(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by inserting "(1)" immediately before the first sentence thereof; and

(2) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated, for the purposes of carrying out the provisions of subsection (b)(2) of this section, not to exceed an aggregate amount of $10,000,000 for the fiscal years 1981, 1982, and 1983. Such sums are authorized to remain available until expended. Notwithstanding the provisions of subsection (b)(2) of this section, the Federal share for each grant made from the funds authorized to be appropriated pursuant to this paragraph may not exceed 80 percent of the total cost of any project.".

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 404. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 (e), 827(a), 827(d), and 829) are each amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

FINANCING

SEC. 405. (a)(1) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3) is amended by striking out "$700,000,000" and inserting in lieu thereof "$1,400,000,000".

(2) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking out "$600,000,000" and inserting in lieu thereof "$1,400,000,000".

(b)(1) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by inserting "(a)" immediately after "SEC. 509." and by adding at the end thereof the following new subsection:

"(b)(1) Not more than $200,000,000 of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) of this section shall be transferred by the Secretary to the United States Railway Association for use by the Association in accordance with section 216(b)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)(3)). Such funds shall be transferred immediately upon the finding by the Finance Committee under such section 216(b)(3).

"(2) Not less than 5 percent of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) (excluding funds transferred under paragraph (1) of this subsection) shall be available for the purchase or rehabilitation of railroad lines acquired under section 10910 of title 49, United States Code, except that no such funds shall be available for the purchase or rehabilitation of such a railroad line unless such purchase or rehabilitation is consistent with the rail plan (as defined under section 5 of the Department of Transportation Act) of the State in which such line is located.

"(3) Of the funds authorized to be appropriated under this section (other than funds described in paragraphs (1) and (2) of this subsection) not more than $180,000,000 are authorized to be appropriated in fiscal year 1981."

(2) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(3) (A) Amounts transferred to the Association pursuant to section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 may be used to purchase series A preferred stock of the Corporation to provide for the implementation by the Corporation of a program to reduce the Corporation's work force, if the Finance Committee finds that the implementation of such program will result in substantial savings to the United States.

"(B) An employee who ceases to be an employee as a result of the reduction of work force under a program implemented pursuant to this paragraph shall not, by reason of so ceasing to be an employee, or by reason of any work or employment entered into after so ceasing to be an employee, lose such employee's current connection with the railroad industry for the purposes of the Railroad Retirement Act of 1974.".

(c)(1) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(a)) is amended—

(A) by inserting "(1)" immediately before "Any railroad"; and

(B) by adding at the end thereof the following new paragraph:

"(2) An employee or employee-shipper group may apply to the Secretary for financial assistance pursuant to subsection (b) (3) of this section.

"(3) A financially responsible person (as defined in section 10910 (a)(1) of title 49, United States Code) may apply to the Secretary for financial assistance from funds made available pursuant to section 509(b)(2) of this title.".

(2) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may approve applications to provide financial assistance to any employee or employee-shipper ownership group formed pursuant to a plan for the purchase or rehabilitation of a line or lines of railroad or of rail facilities which are considered to be in the public interest. The Secretary shall not use more than 20 percent of the total funds available under this section for such financial assistance. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership or rehabilitation by the eligible employee-shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(3) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

(A) inserting "employee or employer-shipper group" immediately after "railroad" wherever it appears;

(B) inserting "employee or employee-shipper groups" immediately after "railroads" wherever it appears; and

(C) inserting "employee or employee-shipper group's" immediately after "railroad's" wherever it appears.

(4) Section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of a Government authority that applies for financial assistance from funds made available pursuant to section 509 (b)(2) for the purchase or rehabilitation of railroad lines purchased under section 10910 of title 49, United States Code, financing pursuant to this section shall be in the form of purchase by the Secretary of bonds or other debt obligations issued for such purpose by such Government authority.".

(5) Paragraph (4) of section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(d)), as redesignated by this subsection, is amended by inserting ", bonds, and other debt obligations" immediately after "trustee certificates".

(d) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking out "and" at the end of paragraph (7);

(2) inserting "acquisition or sale of assets or securities," immediately after "merger," in paragraph (8);

(3) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that such term does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

(e) The first sentence of section 511(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately after "equipment" the following "(which includes but is not limited to computerized car management systems)".

TRANSACTION ASSISTANCE

Sec. 406. Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended by adding at the end thereof the following new paragraphs:

"(5) Financial assistance made available under paragraph (1)(B) of this subsection may be used to purchase, for purposes of rail banking, properties of the Milwaukee Railroad located in the State of Montana with respect to which an interest in future rail common carrier operations has been evidenced.

"(6) Applications for rail banking shall be treated equally with other applications for transaction assistance."

ELECTRIFICATION LOAN GUARANTEES

Sec. 407. Section 211(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(1)) is amended—

(1) by inserting "or any other railroad" immediately after "the Corporation" the first place it appears;

(2) by inserting "or such railroad" immediately after "the Corporation" the second and third places it appears; and

(3) by inserting immediately after the first sentence the following new sentences: "Upon application by the Corporation or by any railroad in reorganization in the region which receives a loan under section 211(a) of this Act, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 511 through 513 of such Act, guarantee obligations of the Corporation or such railroad for purposes of making capital improvements to coal export facilities.".

AMENDMENT TO THE REGIONAL REORGANIZATION ACT OF 1973

Sec. 408. (a) The second sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by inserting "is not required to make the findings with respect to subsections (e)(3) and (f) and" immediately after "the Association" the first place it appears.

(b) Section 211(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)(2)) is amended by striking out "$4,000,000" and inserting in lieu thereof "$7,500,000".

(c) The last sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out "1980" and inserting in lieu thereof "1981".

FEDERAL ASSISTANCE REPORT

Sec. 409. Within 90 days after the end of each fiscal year, the Secretary of Transportation shall submit a report to the Congress listing the specific Federal assistance provided the railroad industry during such fiscal year. Each such report shall set forth the reasons for each Federal loan or grant and explain the way in which such loan or grant contributed to the overall goal of providing a safe and efficient transportation system.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

MONTHLY DISPLACEMENT ALLOWANCE

Sec. 501. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) Monthly Displacement Allowance.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to such employee's compensation, in accordance with the following provisions:

"(1)(A) Effective on the effective date of the Staggers Rail Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the rate described in the preceding sentence, and will be (i) the actual hourly rate for hourly rated employees, (ii) the daily rate divided by 8 for daily rated employees, and (iii) the monthly rate divided by the working days in the claim month, further divided by 8, in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(B) In the event a protected employee's position is abolished or such employee is displaced and is thereby required to occupy a position paying an hourly rate that is less than such employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position such employee is occupying and his guaranteed hourly rate for all hours included in the straight time work schedule of such employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(C) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid such employee's guaranteed hourly rate for the number of hours such employee would have worked in the straight time work schedule of such employee's previously held position.

"(D) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become such employee's protected rate.

"(2) Notwithstanding paragraph (1) of this subsection, effective on the effective date of the Staggers Rail Act of 1980, a protected maintenance-of-way employee shall be afforded his average monthly compensation, which is defined as the total compensation received by such employee during the 12 months immediately preceding January 1, 1975, divided by his total time paid for during that period and multiplied by 174 or by his average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. If a protected employee is deprived of employment or if the employee's straight-time compensation in his current position is less in any month than the employee's average monthly compensation, the employee shall be paid the difference between his straight-time earnings, if any, and 80 percent of the average monthly compensation, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual straight-time compensation, monthly displacement allowance payments and offsets applicable pursuant to this title is less than the employee's average monthly compensation multiplied by 12, the employee shall receive an additional payment representing the difference. If in the previous calendar year an employee has received displacement allowance payments in excess of his annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(3) Effective on the effective date of the Staggers Rail Act of 1980 a protected operating employee (as defined in Interstate Commerce Commission classifications 107 through 128) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be afforded his average monthly compensation computed in accordance with this subsection as in effect prior to such effective date, but subject to a maximum amount equal to one-twelfth of the average annual earnings of all employees in the Interstate Commerce Commission classification, computed by cumulating the employee earnings reported to the Commission by the Corporation on a monthly basis for calendar year 1977 for the Interstate Commerce Commission classification of operating service in which such employee performed the preponderance of such employee's work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the Interstate Commerce Commission classification shall be determined by the preponderance of such employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum amount described in the first sentence of this paragraph, the average monthly compensation of the employee will be reduced to such maximum amount for purposes of computing such employee's monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than such maximum amount, the average monthly compensation of the employee will be used to compute such employee's monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his compensation such that the compensation in such employee's current position is less in any month than the average monthly compensation of the employee or such maximum amount, whichever is less, the employee shall be paid 75 per centum of the difference between such employee's earnings, if any, and the lesser figure, minus any time lost on account of voluntary absences other than vacations. If at the close of the calendar year the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than such employee's average monthly compensation subject to the maximum amount and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an Interstate Commerce Commission classification with a lesser maximum amount than the maximum amount applicable to such employee's 1974 Interstate Commerce Commission classification, such employee shall be paid the difference without credit being taken for compensation earned by virtue of actual working hours in the calendar year in excess of the number of hours paid for in such employee's average monthly compensation multiplied by 12 or such employee's annual 1977 maximum amount, whichever is less. An employee's compensation for purposes of this subsection shall not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If, in the previous calendar year, an employee has received displacement allowance payments in excess of such employee's annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by subsection (g) of this section.

"(4) Effective on the effective date of the Staggers Rail Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to such employee's compensation shall retain his average monthly compensation, and monthly displacement allowance computed in accordance with this subsection as in effect prior to such effective date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, such employee's entitlement to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of such employee to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be consistent with entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority rather than the rate of any position held on or prior to September 1, 1979.

"(5) Notwithstanding the preceding provisions of this subsection, employees who prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to subsection (d) of this section, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with this subsection prior to the effective date of the Staggers Rail Act of 1980.

"(6) In determining compensation in a protected employee's current employment, such employee shall be treated as occupying the position producing the highest rate of pay to which such employee's qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to such employee's average monthly compensation, subject to the maximum amount.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by (A) the full amount of any unemployment compensation benefits received by such employee, and (B) an amount equivalent to any outside earnings of such employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and his representative shall be furnished with such employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum amount, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment or his representative and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by such employee and the earnings of such employee in employment other than with such employer.

"(11) In the case of a supplemental transaction—

"(A) with respect to an employee described in paragraph (1) of this subsection who was not employed on September 1, 1979, the protected rate of pay of such employee shall be based on the rate of pay of the position held by such employee on the first day of the first month after September 1979 in which such employee was employed;

"(B) with respect to an employee described in paragraph (2) of this subsection who was not employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed; and

"(C) with respect to an employee described in paragraph (3) of this subsection—

"(i) if such employee was employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of such 12-month period; and

"(ii) if such employees was not employed during the 12 months immediately preceding January 1, 1975, the preponderance of work of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed.

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 502. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall, in the case of a protected employee with 5 or more years of service on the effective date of this Act, continue until the attainment of age 65 by such employee, and shall, in the case of a protected employee who has less than 5 years of service on such date, continue for a period equal to the employee's total prior years of service, except that such monthly displacement allowance—

"(1) shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause;

"(2) shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of such employee's seniority rights in accordance with the provisions of this section;

"(3) shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (but the payment of monthly displacement allowances shall be resumed upon termination of the emergency); and

"(4) shall not be paid with respect to any month that commences after the effective date of the Staggers Rail Act of 1980 for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee or his representative and the employer) after the last day of the month for which such allowance is sought, except that such 3-month limit shall not apply to any claim which is the subject of or is based upon an arbitration decision issued pursuant to section 507 of this title.

Unless otherwise agreed upon by the employee or his representative and the employer, the entitlement of an employee to an allowance shall be approved or denied within 150 days after the claim therefor is made if such claim is filed during the 12-month period beginning on the effective date of the Staggers Rail Act of 1980, and within 90 days after the claim therefor is made if such claim is filed after such 12-month period. Any claim not approved or denied at the expiration of the time limits described in the preceding sentence shall be deemed approved.".

TRAINING AND TRANSFER

SEC. 503. (a)(1) Section 505(d) (1) and (3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d) (1) and (3)) are each amended by inserting "or other employers with employees protected under this section" immediately after "Corporation" wherever it appears.

(2) Section 505(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(1)) is amended by inserting "or the system of other employers with employees protected under this section" immediately after "Corporation's system".

(3) Section 505(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(2)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this subsection, a protected employee of the National Railroad Passenger Corporation shall not be required to transfer to a location outside the seniority district of such protected employee.".

(b) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)) is amended by striking out "Transfers" and inserting in lieu thereof "Except as provided in paragraph (5) of this subsection, transfers".

(c) Section 505(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)), as amended, is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of a marine craft or class on the Corporation's system, or in the craft or class of a Penn Truck Lines, Incorporated, employee, transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employees deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in subparagraph (A) of this paragraph. Employees offered transfer pursuant to this paragraph will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in such craft or class, the Corporation may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation shall first attempt to locate a comparable position in a seniority district with encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to subparagraph (A) of this paragraph. If no such position exists, the Corporation may tender the employee a transfer notice involving a position elsewhere on the system pursuant to subparagraph (B) of this paragraph. In the event it is necessary to train an employee after such employee's acceptance of a position pursuant to this subparagraph, such training shall be provided by the Corporation at no cost to the employee.".

(d) Section 505(1)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(1)(1)) is amended by adding at the end thereof the following new sentences: "The Corporation may simultaneously offer a position to not more than 4 protected noncontract employees. The position shall be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer shall retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, AUDIT, AND REPORT

SEC. 504. Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

"PAYMENT, AUDIT, AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Staggers Rail Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacements operators, and acquiring railroads, of the amounts paid such employees, except that the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after the effective date of the Staggers Rail Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable under this title, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of its functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

"(b) AUDIT.—Beginning October 1, 1980, the Association shall conduct a program audit of the payment of benefits pursuant to this title and shall evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances. Such audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with, the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such audit and evaluation.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances.".

RAILROAD HIRING

SEC. 505. Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) is amended by adding at the end thereof the following new section:

"RAILROAD HIRING

"SEC. 510. Any protected employee of the Corporation and any employee of the Corporation who is separated or furloughed from his employment with the Corporation (other than for cause) shall, unless found to be less qualified than other applicants, have the first right of hire by any other railroad that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

SEC. 506. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) NEW COLLECTIVE-BARGAINING AGREEMENTS.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide".

EMPLOYEE PROTECTION PAYMENTS

SEC. 507. Notwithstanding any other provision of law, the Consolidated Rail Corporation and other employers with employees protected under the provisions of title V of the Regional Rail Reorganization Act of 1973 shall, until the effective date of this Act, continue to make payments for employee protection under such Act in accordance with the provisions of such Act which were in effect on January 1, 1979. Notwithstanding any other provision of law, such Corporation and employers shall be reimbursed for such payments in accordance with the provisions of section 509(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779(a)).

TECHNICAL AMENDMENTS

Sec. 508. (a)(1) The item relating to section 509 in the table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended to read as follows:

"Sec. 509. Payment, audit, and report.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by inserting immediately after the item relating to section 509 the following new item:

"Sec. 510. Railroad hiring.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702 (16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) by amending subsection (d)(2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and";

(2) striking out "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate"; and

(3) by striking out the first sentence of subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) in paragraph (6), by inserting immediately after "disability," the following: "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by inserting ", section 509(b), or section 509(c)" immediately after "section 504(d)".

(f) The first sentence of section 403(d)(1) of the Rail Passenger Service Act (45 U.S.C. 563(d)(1)) is amended by striking out "if such State" and all that follows through "service".

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Sec. 601. (a) Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) is amended by adding at the end thereof the following new subsection:

"(f) Expedited Proposals.—(1) Within 240 days after the effective date of Staggers Rail Act of 1980, the Secretary, after providing an opportunity for comments from interested parties, shall determine whether to initiate a proposal for a supplemental transaction under this section for the transfer of all rail properties of the Corporation in the States of Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that—

"(A) the proposed transferee railroad is financially and operationally capable of assuming the freight operations and freight service obligations of the Corporation on a financially self-sustaining basis;

"(B) the proposed transfer would promote the establishment and retention of a financially self-sustaining rail system in the States of Connecticut and Rhode Island adequate to meet the needs of such States; and

"(C) the proposed transfer is consistent with the goals set forth in section 206(a)(8) of this Act,

the Secretary shall develop such a proposal and may, after providing the Association, the Commission, and the States of Connecticut and Rhode Island an opportunity to review and comment on such proposal, petition the special court for an order to carry out such proposal.

"(2) The Secretary shall establish a fair and equitable price for any rail properties transferred pursuant to a proposal developed under this subsection.

"(3) If the special court determines that a proposal developed under this subsection is fair and equitable, meets the requirements of this subsection, and is in the public interest, it shall issue such orders as may be necessary to carry out such proposal. The provisions of paragraphs (2)–(6) of subsection (d) of this section shall apply to the determination of the special court under this subsection, except that the standards for such determination shall be those set forth in this paragraph.

"(4) In complying with the requirements of subsection (d)(7) of this section with respect to the application of the provisions of title V of this Act to supplemental transactions, the parties to an expedited supplemental transaction under this subsection and the representatives of the employees affected thereby shall enter into a new agreement pursuant to section 508 of this Act and shall not be bound by the terms of any agreement executed under such section 508 and in effect on the date of enactment of the Staggers Rail Act of 1980.".

(b) Section 102(19) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702 (19)) is amended by striking out ", within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation".

TITLE VII—MISCELLANEOUS PROVISIONS

ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

Sec. 701. (a)(1) The Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) is amended by redesignating section 124 as section 125 and by inserting immediately after section 123 the following new section:

"JUDICIAL REVIEW

"Sec. 124. (a) Notwithstanding any other provision of law, any appeal from—

"(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

"(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

"(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than 60 days after the date the last such appeal is filed.

"(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).".

(2) Section 110(e) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008(e)) is amended by inserting "to employees" immediately after "liability".

(3) Section 15(e) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(E)) is amended by inserting "to employees" immediately after "liability".

(b)(1) Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENTS

"Sec. 106. (a) No later than 5 days after the date of enactment of the Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances.

"(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 5 days after the date of enactment of the Staggers Rail Act of 1980, the matter shall be immediately submitted to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 15 days after the date of enactment of the Staggers Rail Act of 1980, unless the Rock Island Railroad, and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term 'fair and equitable' means no less protective of the interests of employees than protection established by and pursuant to section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

"(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

"(d) Any order of the Commission under subsection (b) of this section and any order of the bankruptcy court under subsection (c) of this section may be appealed only to the United States Court of Appeals for the Seventh Circuit. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

"(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

"(2) Benefits and allowances under such agreement or arrangement entered into this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

"(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act.".

(2) Section 108(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007(a)) is amended by inserting immediately before the period at the end thereof the following: "(other than as provided in the agreement entered into in Washington, District of Columbia, on March 4, 1980, entitled 'Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association')."

(3) Section 103(5) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1002(5)) is amended by inserting immediately before the period at the end thereof the following: ", the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding".

(c)(1) Section 7 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 906) is amended by adding at the end thereof the following new subsection:

"(h)(1) All obligations to the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and canceled when—

"(A) the Milwaukee Railroad is reorganized as an operating rail carrier; or

"(B) substantially all of the Milwaukee Railroad is purchased.

"(2) For purposes of this subsection, substantially all of the Milwaukee Railroad shall be considered as having been purchased when (A) more than 50 percent of the rail system operated by the Milwaukee Railroad on the date of enactment of the Staggers Rail Act of 1980 has been purchased, and (B) more than 50 percent of the employees employed by the Milwaukee Railroad on such date of enactment have obtained employment with other rail carriers.".

(2) Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated $15,000,000 for purposes of providing transaction assistance in accordance with section 505(h)(1) (A) and (B) of the Railroad Revitalization and Regulatory Reform Act of 1976.".

(d) Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended—

(1) in paragraph (1)(A), by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000";

(2) in paragraph (1)(B), by striking out "$18,000,000" and inserting in lieu thereof "$27,000,000"; and

(3) by amending paragraph (4) to read as follows:

"(4) This subsection shall apply to (A) purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate), and (B) purchase applications filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate) and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

LOAN GUARANTEES

SEC. 702. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 75 days after the date of the issuance of the final environmental impact statement with respect to the loan application, take final action on any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b)(1) The Secretary of Transportation shall review the proposed Chicago and North Western connector line route and shall not approve any route which requires the use of any agricultural land unless (A) there is no feasible and prudent alternative to the use of such land, and (B) the proposed route construction plan requires all possible planning to minimize harm to such agricultural land resulting from such use. The Secretary of Transportation may not otherwise disapprove a proposed route for the Chicago and North Western line under the authority of this subsection. This review of a proposed route shall be conducted within 90 days after the final action specified in subsection (a) of this section.

(2)(A) The Secretary shall review the use of any agricultural land used in any route for newly constructed line and shall require, to the maximum extent prudent and feasible, that such railroad provide a private grade crossing for the convenience of each landowner whose agricultural holdings are divided by such newly constructed line when the Secretary finds that such division of property will cause a substantial disruption to the agricultural use of such land. The owners of such property shall file a request for such grade crossing with the Secretary within 180 days of the final determination of the route. The finding of the Secretary under this subsection shall be final.

(B) The Secretary shall render a decision on each request for grade crossing under this paragraph within 180 days of its receipt. Such review shall not require the delay of construction of new line under subsection (a) of this section.

(c)(1) Notwithstanding any other provision of law, the actions of Secretary of Transportation taken pursuant to subsections (a) and (b) of this section shall not be subject to judicial review except as provided in this section.

(2) A claim alleging the invalidity of this section may be brought no later than the 60th day following the date a final action is taken pursuant to subsections (a) and (b) of this section.

(3) A claim challenging an action of the Secretary of Transportation under subsection (a) or (b) of this section may be brought only on the grounds that such action will deny rights under the Constitution of the United States, is arbitrary, capricious, or an abuse of discretion, exceeds statutory jurisdiction, authority, or limitations, or is short of statutory right. Such a claim may be brought not later than the 60th day following the date of such action.

(4) A claim under paragraph (2) or (3) shall be barred unless prior to the expiration of such time limits, a complaint is filed in the United States Court of Appeals for the District of Columbia acting as a special court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(5) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and to the greatest extent practical shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period is required to satisfy requirements of the Constitution of the United States.

(d) Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent, or lack thereof, of any Committee of the Congress.

CONRAIL STUDIES AND EMERGENCY FUNDING

SEC. 703. (a) For purposes of this section, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "rail properties" means assets or rights owned, leased, or otherwise controlled by the Corporation which are used or useful in rail transportation service;

(5) "region" has the meaning given such term in section 101(15) of the Regional Rail Reorganization Act of 1973; and

(6) "Secretary" means the Secretary of Transportation.

(b)(1) No later than April 1, 1980, the Association and the Corporation shall each submit a report to the Congress analyzing the impact, upon the Corporation, rail service in the region, railroad employees, the economy of the region, and other rail carriers in the region and elsewhere, and the Federal budget, of—

(A) no further Federal funding for the Corporation;

(B) continued Federal funding of the rail system of the Corporation as it is presently structured; and

(C) future Federal funding of the Corporation to the extent necessary to preserve rail service in the region which can be self-supporting, without undue interim disruption of operations which will be maintained.

(2) Each report submitted under paragraph (1) of this subsection shall contain a description, under each of the Federal funding alternatives set forth in subsection (a) of this section, of the lines of the Corporation which would be maintained, the lines of the Corporation which would be abandoned and the lines which would be transferred.

(3) Each report submitted under paragraph (1) of this subsection shall also include specific recommendations with respect to—

(A) future projected funding requirements of the Corporation;

(B) future structure and activities of the Corporation in the region;

(C) any legislative action needed with respect to the matters described in subparagraphs (A) and (B) of this paragraph; and

(D) any other matters which the Association or the Corporation considers appropriate.

The specific recommendations submitted under this paragraph shall set forth alternatives for the Congress to consider in the event it determines that modification of such recommendations is appropriate.

(3) In developing recommendations in accordance with this subsection the Association and the Corporation shall identify measures designed to ensure a financially self-sustaining rail system in the region. The recommendations shall be based on analyses of rail properties which might be proposed for abandonment or transfer to another railroad or qualified person and proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio.

(5) In developing recommendations under this subsection, the Association and the Corporation shall each analyze and consider—

(A) projections of the Corporation's future traffic, revenues, operating costs, and capital requirements;

(B) rail properties which might be proposed for abandonment or transfer to another railroad or qualified person, taking into account the potential impact of changes in the regulatory environment;

(C) the impact on communities served by lines proposed for abandonment or transfer;

(D) proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio;

(E) the impact on the Corporation of proposed mergers by connecting or competing railroads;

(F) employee motivation and labor productivity programs and a projection of labor protection costs which could result from the recommendations;

(G) the future capital structure of the Corporation; and

(H) any other factors identified by the Association as relevant to the recommendations required to be developed and submitted pursuant to this section.

(6)(A) The Association and the Corporation shall, on the date of submission of their recommendations to the Congress under this subsection, transmit copies of such recommendations to the Secretary, the Commission, and the Governor of each State that could be affected by such recommendations. Upon request, the Association and the Corporation shall furnish a copy of their recommendations to any interested person.

(2) As soon as practicable after submission of their recommendations to the Congress, the Association and the Corporation shall publish in the Federal Register a summary of such recommendations and invite interested parties to comment on such recommendations.

(7) The Commission shall, no later than May 1, 1981, submit to the Congress its comments on the reports of the Association, the Secretary, and the Corporation under this subsection.

(8) Not later than April 1, 1981, the Secretary shall submit to the Congress his recommendations with respect to the future structure and operations of the Corporation. Not later than May 1, 1981, the Secretary shall submit to the Congress his comments and recommendations with respect to the reports of the Association and the Corporation under this subsection, and shall make any changes in his recommendations that he determines are necessary.

(9) The antitrust laws, as defined in section 601(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(3)), shall not apply to any action taken by the Association or the Secretary prior to May 1, 1981, in accordance with and under the authority of the provisions of this subsection.

(c) The Corporation shall, no later than March 15, 1981, submit to the Congress an analysis of the effects upon the Corporation and its employees of alternative changes in labor agreements and related operational changes. Such report shall include an analysis of any Federal funding that will be required.

(d) The Corporation shall, no later than January 15, 1981, submit to the Association its projections of the benefits to the Corporation of the Staggers Rail Act of 1980, its projections of changes needed in the structure of the rail system of the Corporation, including properties which may be abandoned or transferred, and other projections of potential savings or increased revenues to the Corporation.

(e) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726 (b)), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(4) Purchases of up to $329,000,000 of a series A preferred stock shall be made by the Association, subject to the availability of appropriations, as required and requested by the Corporation, if the Finance Committee makes an affirmative finding that the Corporation has taken appropriate action to eliminate losses on light density lines and other lines which are unprofitable. Such action shall include the imposition of surcharges on such lines, the abandonment of such lines, and the transfer of such lines.".

(f)(1) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726 (a)) is amended by striking out "$2,300,000,000" and inserting in lieu thereof "$2,629,000,000".

(2) Section 216(g) of such Act (45 U.S.C. 726(g)) is amended by striking out "$3,300,000,000" and inserting in lieu thereof "$3,629,000,000".

(3) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720 (e)) is amended by inserting immediately after "section" in the first sentence thereof the following: "or under subsection (a) of section 306 of this Act".

USRA AUTHORIZATION OF APPROPRIATIONS

SEC. 704. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $30,000,000. Sums appropriated under this subsection are authorized to remain available until expended.".

FEEDER LINE REHABILITATION STUDY

SEC. 705. (a). The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status.

(b) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching, and signaling equipment, or any other rail equipment (other than rolling stock).

EFFECT ON PENDING MATTERS

SEC. 706. In the case of any proposal docketed with a rate bureau prior to the effective date of this Act which is or becomes the subject of an application or proceeding before the Interstate Commerce Commission, such application or proceeding shall be determined as if this Act had not been enacted, and the antitrust immunity provided in section 10706(b) of title 49, United States Code, resulting from approval of such agreement shall continue in effect.

CONSTRUCTION OF AMENDMENTS

SEC. 707. With respect to the relationship between water carriers and rail carriers, none of the amendments made by this Act shall be construed to make lawful (1) any competitive practice that is unfair, destructive, predatory, or otherwise undermines competition and that was unlawful on the effective date of this Act, or (2) any other competitive practice that is unfair, destructive, predatory, or otherwise undermines competition.

SURPLUS PROPERTY

SEC. 708. Notwithstanding any other provision of law, the Consolidated Rail Corporation shall be considered a Federal agency for the sole purpose of Department of the Army Regulations 735–5, paragraph 1–16. Such Corporation may enter into a contract under the authority granted by this section only when it determines that the safety of the public so requires.

STUDY OF ALASKA RAILROAD RATES

SEC. 709. Within 6 months after the effective date of this Act, the Interstate Commerce Commission shall commence and complete a study to determine whether the rates charged by the Alaska Railroad pursuant to ICC–ARR Freight Tariffs 4108 and 4109 (as supplemented by supplements 1–4) would, if such rates had been entered into after the effective date of this Act, have constituted a violation of section 10701a(c)(1) of title 49, United States Code, as amended by this Act. To the extent feasible, such study shall be coordinated with the study by the State of Alaska in progress on the effective date of this Act.

EFFECTIVE DATES

SEC. 710. (a) Except as provided in subsections (b), (c), and (d) of this section, the provisions of this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b) Section 206 of this Act shall take effect on January 1, 1981.

(c) Section 218(b) of this Act shall take effect on October 1, 1983.

(d) Section 701 of this Act shall take effect on the date of enactment of this Act.

And the Senate agree to the same.

Harley O. Staggers,
James J. Florio,
John M. Murphy,
Bob Eckhardt,
Jim Santini,
Barbara A. Mikulski,
Robert T. Matsui,
James T. Broyhill,
Edward R. Madigan,
Tom Loeffler,
Gary A. Lee,
Managers on the Part of the House.
Howard W. Cannon,
Russell B. Long,
J. James Exon,
Bob Packwood,
Nancy Landon Kassebaum,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY AND DESCRIPTION

Section I—Short title

Section 1 states that this bill may be cited as the "Staggers' Rail Act of 1980"

Section II—Findings

The Conferees find that historically the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to maintain a national railroad network as an essential part of the national transportation system. However, today, most transportation is competitive and many of the Government regulations affecting railroads have become unnecessary and inefficient. Nearly two-thirds of intercity freight is transported by modes of transportation other than railroads. Earnings by the railoard industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements. By 1985, the railroad industry will experience a capital shortfall of between $16 billion and $20 billion. The industry's failure to achieve increased earnings will result in either further deterioration of the rail system or the need for additional Federal subsidy. Modernization of economic regulation of railroads, with greater reliance on the marketplace, is essential to achieve maximum utilization of railroads, to save energy and to combat inflation.

Section III—Goals

The specific goals of this Act are to assist the industry in the rehabilitation and financing of the rail system; to reform Federal regulation to preserve a safe, adequate, economical, efficient and financially stable rail system, to assist the rail system to remain viable in the private sector of the economy; and to provide a regulatory process that balances the needs of carriers, shippers, and the public. The overall purpose of the Act is to provide, through financial assistance and freedom from unnecessary regulation, the opportunity for railroads to obtain adequate earnings to restore, maintain and improve their physical facilities while achieving the financial stability of the national rail system.

TITLE I—RAIL TRANSPORTATION POLICY

Title I of the Conference substitute sets forth the congressional declaration of policy for railroads by adding a new section 10101 (a) to the Interstate Commerce Act. The new section establishes a specific rail transportation policy to guide the Commission in its duties in regulation of the railroad industry. The Conferees intend that this policy include the encouragement and promotion of the transportation of coal by rail in accordance with the objective of energy independence at rates which do not exceed a reasonable maximum where there is an absence of effective competition.

TITLE II—RAILROAD RATES AND INTER-CARRIER PRACTICES

Title II is related to the key areas of the Interstate Commerce Act which involve railroad rates and inter-carrier practices. In general, the title assures railroads substantially more rate freedom than is afforded them under existing law. It continues the policy started under the Railroad Revitalization and Regulatory Reform Act of 1976 of substantially eliminating rate regulation of railroads where there is effective competition. The title also affirmatively encourages railroads to use new marketing practices by permitting contracts between carriers and shippers; permissive limited liability rates; business entertainment expenses; efficient marketing through factor implementation of rates; and premium charges to encourage better car utilization.

A number of provisions are included to foster greater competition by simplifying coordination, minor mergers procedures, entry and reciprocal switching agreements. Moreover, the Commission is given the mandate to place greater emphasis on the need for carriers to have adequate revenue levels. Among other tools given the Commission for this purpose is the ability to determine the effects of inflation and to assure carriers the opportunity to recover inflation.

Specifically, Title II provides the Interstate Commerce Commission with jurisdiction to determine rate reasonableness only when a rail carrier has market dominance and the rate exceeds the applicable revenue-variable cost percentage threshold. The revenue-variable cost percentage is a level below which the Commission has no jurisdiction over the reasonableness of maximum rates. This codifies and refines the practice followed by the Commission for determining market dominance on, among other matters, the relationship of revenue to variable cost.

For four years begining October 1, 1980 and until October 1, 1984, there is a rate flexibility zone of 6 percent, subject to a cumulative total of 18 percent, in addition to inflation. If any portion of the 6 percent rate increase is not implemented in a year in which it is authorized, it may be carried over to the succeeding year. However, within the four year period no carrier can take an increase within the flexibility zone in excess of 12 percent in any one year except that in the first year the zone is limited to 6 percent. If any portion of the 18 percent cumulative rate increase is not taken by October 1, 1984, it may be carried over to the next two succeeding years, with the limitation of an annual increase of 10 percent between October 1, 1984 and October 1, 1986.

Effective October 1, 1984, and in succeeding years thereafter, a carrier may annually implement a 4 percent increase, which may not be carried over in subsequent years.

The 4 percent zone is not available to increase single-line rates of carriers with adequate revenues. The Commission is to promulgate regulations in connection with joint-line movements involving both carriers with adequate revenues and carriers with inadequate revenues.

When determining the reasonableness of rates, the Commission is to recognize the policy that rail carriers shall earn adequate revenues. This title also authorizes carriers to increase a rate to cover cost increases due to inflation.

The rate of a carrier in effect upon enactment of this Act may be challenged before the Commission during the 180 day period following enactment on the basis that the carrier has market dominance over the transportation to which the rate applies. If the rate is not challenged during the 180 day period, or is found to be lawful, the rate may not be challenged thereafter. This provision does not apply to rates for volumes of traffic in the past year of under 500 net tons and which has increased tenfold in the three years prior to the challenge. The burden of proof under this section is with the complainant.

In order to encourage more effective marketing by railroads the notice period for rate increases is lowered from 30 days to 20 days and from 30 days to 10 days for rate decreases.

The Commission is required to maintain, and revise as necessary, standards and procedures for determining revenue adequacy. On the basis of the standards, the Commission is to determine within 180 days of the effective date of this Act and annually, thereafter, which carriers are earning adequate revenues.

The Commission may prescribe, on a quarterly basis, a percentage rate increase or rate index for rail carriers to compensate for inflationary cost increases. Within 60 days after the Commission prescribes such percentage rate increase or index, rail carriers intending to be excluded from such percentage rate increase or index, shall notify the Commission, and all carriers participating in a particular route must agree to be excluded for the exclusion to be effective. The percentage rate index may include percentage increases within a specified range to allow carriers to recover a total increase specified by the Commission as necessary to compensate for inflationary cost increases.

The Commission must complete an investigation or suspension proceeding concerning a rate, classification, rule or practice within 5 months, or 8 months if it reports to Congress. The Commission may not suspend a proposed rate, classification, rule or practice if a protestant is likely to prevail on the merits, substantial injury will result without the suspension, and because of the peculiar economic circumstances of the protestant preclude protection of the protestant by means of a refund if the rate is later found unreasonable by the Commission.

This title authorizes one or more carriers to enter into contracts with one or more shippers unless the Commission finds that the proposed contract unduly impairs the ability of the contract carrier(s) to meet their common carrier obligation or unreasonably discriminates against a port. In the case of agricultural commodities (including forest products and paper), a complaint may be filed on the grounds that a carrier has unreasonably discriminated by refusing to provide the complainant a similar contract under similar conditions or that the proposed contract constitutes a destructive competitive practice.

Once a contract has been approved, the

Commission cannot require a carrier to violate its terms except under the Commission's emergency powers. The exclusive remedy for a breach of contract is an action in a State or U.S. district court unless the parties otherwise agree.

Demand sensitive rates under Section 10724 of title 49 U.S.C. are repealed.

Capital incentive rates under Section 10729 of title 49 U.S.C. are repealed except that capital incentive rates prior to enactment of this Act shall remain in effect no longer than five years, unless the parties othwise agree.

To provide both shippers and railroads with greater rate-service options the Act permits the establishment of lesser liability requirements than presently assured by law. Such liability limitations are available only if the shipper agrees to them.

To permit use of the new provisions available to both shippers and railroads, Section 10741 of title 49 U.S.C. is amended by exempting certain services from the rate discrimination provision in current law. Exempted are certain contracts, surcharges and cancellations, separate rates for distinct services, rail rates applicable to different routes or business expenses authorized under section 10751 of this title. These exemptions do not affect existing prohibitions against discrimination between ports or within the same port.

The bill authorizes a carrier to surcharge or cancel a joint rate when the existing joint rate does not provide the carrier with 110 percent of its variable cost. Other carriers may prevent the surcharge or cancellation from becoming effective, however, by adjusting the division of revenues or proposing a new rate which brings the surcharging or cancelling carrier's revenues up to 110 percent. Alternatively, a shipper or carrier can reduce to the 110 percent level a surcharge which would provide the surcharging carrier with revenues greater than 110 percent of variable cost, and can prevent a joint rate from being cancelled by providing a surcharge in lieu of cancellation which would bring the revenues of the cancelling carrier to 110 percent of its variable cost. Such a reduced surcharge or surcharge in lieu of cancellation of a joint rate is to be imposed by the Commission in conformity with the petition of the protesting shipper or carrier.

In addition a class III railroad may obtain review by the Commission of either a surcharge or cancellation if the surcharge or cancellation will have an adverse effect on the ability of a class III railroad to compete effectively, or if it will affect the class III railroad's last available route for a particular movement and produce certain adverse results for the class III railroad, or if it will adversely affect the competitive position of a shipper or receiver located on the class III railroad. In making its review, the Commission shall act to prevent anticompetitive surcharges or cancellations which affect class III railroads, and the Commission is given authority to preserve service on the route participated in by the class III railroad. The Commission may rescind the surcharge or cancellation and may require the surcharging or cancelling carrier to carry the traffic at less than 110 percent of its variable costs if necessary to preserve competition or service by the class III railroad which is required by the public interest.

The conferees note that nothing in the bill's protections reduces the availability of the Federal antitrust laws to protect against improper use of the surcharge or cancellation provisions. A rail rate to which a surcharge is applied shall constitute a rate increase for the purpose of section 10701a and 10709 of title 49, United States Code. An expedited division of revenue procedure is also established.

A similar below cost service problem occurs with respect to light density lines. That problem, however, relates more to shippers on a particular line than to inter-carrier relationships. The bill institutes the use of branchline surcharges on any lines carrying less than 3,000,000 gross tons per year. (1,000,000 gross tons for carriers with adequate revenues).

State authority over intrastate transportation is limited to administering the provisions of the Interstate Commerce Act. Within 120 days of the effective date of this Act, State authorities must submit to the Commission standards and procedures to be used in exercising such jurisdiction. Within 90 days of the receipt of the State's filing, the Commission shall certify the State's compliance with the regulations and procedures of this Act. States are precluded from authority over general rate increases, inflation-based rate increases and fuel adjustment surcharges.

In order to encourage competitive pricing, no rail carrier is permitted to discuss single line rates proposed by another carrier, except for the purposes of general rate increases and broad tariff changes. No rail carrier may discuss a joint line rate unless it practicably participates in that movement. After January 1, 1984 (or earlier if the Commission decides), no carrier may discuss a joint line rate where there are two or more routes between the same end points, except with a carrier that forms part of a particular single route. If the Commission finds that implementation of the section is not feasible, it may delay or suspend implementation in whole or in part.

Transcripts or sound recordings and records of votes are to be available to the Commission and other Federal agencies.

The Commission shall require protective conditions for rate bureau employees.

Competition is encouraged by permitting entry by a rail carrier, through new construction, if public convenience and necessity permit or require it. Where the Commission has authorized construction or extension of a line, no other railroad may refuse to permit the carrier to cross its property if the construction or operation does not interfere with the operation of the crossed line and the owner of the crossing line compensates the owner of the crossed line. The Commission may require protective conditions for the employees affected by new construction.

The Commission may require reciprocal switching where practicable and in the public interest or where such agreements are necessary to provide competitive rail service. The Commission may establish conditions and compensation where carriers are unable to agree within a reasonable time. The Commission may require that reciprocal switching agreements include labor protection provisions.

This title repeals existing incentive per diem provisions. The Commission is authorized to grant shippers antitrust immunity to conduct negotiations with carriers regarding charges for rolling stock owned or leased by such shippers. The participants have the right to petition the Commission to set compensation at a reasonable level, if the parties cannot agree.

In order to encourage more efficient car utilization, carriers are permitted to charge for special services or special levels of service not otherwise included in any tariff applicable to the movement.

For transactions that do not involve the merger or control of at least two Class I railroads, the Commission is required to approve an application unless it finds there is a likelihood of substantially lessening competition, creation of a monopoly or restraint of trade and the anticompetitive effects of the transaction outweigh the public interest.

The application of the Elkins Act to business expenses by rail carriers and motor carriers is clarified by treating these businesses as all other businesses.

Finally the Commission is given exemption authority if regulation is not necessary to carry out the Railroad Transportation Policy and protect shippers from market abuse.

TITLE III—RAILROAD COST DETERMINATIONS

Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title III of this bill. There is established a Railroad Accounting Principles Board for the purpose of developing cost accounting principles which identify variable costs which accurately represent the most accurate costs of rail movements.

The Board shall exist for three years. Within two years, it shall issue cost determination principles necessary for regulatory purposes which shall identify accurate costs. The principles are to apply to the entire railroad industry to ensure consistency in railroad cost accounting practices.

Each rail carrier is to maintain a system that is in compliance with the rules promulgated under Section 11163 of this title and are required to make cost data available to shippers, states, ports, communities and other interested parties that are party to a Commission proceeding.

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

This title continues the existing redeemable preference share financing program.

The Secretary must report to Congress within 90 days after the end of each fiscal year specifying how each grant or loan contributes to the goal of providing a safe and efficient rail system.

A new feeder railroad development program is established which gives shippers the opportunity to acquire a rail line carrying less than 3,000,000 gross tons a year if the railroad is not providing adequate service. After the third year any rail line may be acquired under this provision. The Commission must make certain findings before any acquisition can take place and the rail carrier must be given compensation for selling the line.

New time limits are established for considering abandonment applications. Applications for abandonment which are not opposed would be granted within 45 days, and the abandonment would occur within 75 days. With respect to unopposed applications, this would basically codify existing ICC practice. For applications which are opposed, ICC decisions would be reached much more quickly than under present law, and the ICC would be required to process and decide such cases within 9 months. No changes are made in the substantive abandonment standards.

The low interest redeemable preference share program under section 505 of the 4R Act is extended for two years. An additional $700,000,000 is authorized for the program, and of that amount $200,000,000 shall be transferred to the United States Railway Association for use by Conrail in reducing the size of its workforce.

Section 211(1) the Regional Rail Reorganization Act is also amended to make available to railroads in addition to Conrail loan guarantees for the purpose of electrifying high density mainlines or for other capital improvements to achieve the goals to the national energy policy.

Finally, section 211(d) the Regional Rail Reorganization Act of 1973 is amended to extend the time period from December 31, 1980 to December 31, 1981 to permit the United States Railway Association to continue to act on loan modifications this provision and increases the principal amount of a loan made under Section 211(d) from $4 million to $7.5 million.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

Section 501 changes the formula for calculating monthly guarantees for non-operating employees, maintenance-of-way employees and operating employees. No change is proposed in the guarantee formula currently applicable to non-contract employees and employees who have been transferred.

Section 502 would restrict the payment of the MDA in two situations. First, a protected employee's entitlement to an MDA would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, floods, snowstorms, and similar occurrences. Second, the legislation would require a protected employee to claim an MDA within three months of entitlement and would require that entitlement to claims be resolved within 150 days after a claim is filed for the first year and 90 days thereafter. This provision will eliminate bookkeeping problems caused by procrastination in filing a claim for an MDA, and enable the Corporation to assess more accurately expected payments for labor protection.

In addition, this legislation would clarify that the period of protection for a protected employee with less than 5 years of service begins to run from the beginning of the first month for which the employee receives an MDA.

Subsection 505(d) of the current law sets out transfer procedures by which the Corporation may require a protected employee deprived of employment to transfer to a bona fide vacancy within the employee's class or craft.

Section 503 addresses restrictions on manpower utilization by including employees in the marine crafts and unemployed Penn Trucks Lines, Inc. truck drivers in the provisions permitting transfer of adversely affected employees to another class, and by offering retraining programs to make the interclass transfer provision meaningful. In addition, the Corporation can make use of an expedited multiple offer procedure to Penn Truck Line and marine craft employees.

Section 504 would redesignate section 509 of the 3-R Act as section 509(a) and increase the amount of funds authorized to be appropriated under title V by $235 million to a new authorization level of $485 million make training and retraining costs incurred by the Corporation under revised section 505(d)(4)(D) reimbursable costs, and confirm existing practice whereby title V funds are used to reimburse the Railroad Retirement Board's unemployment compensation paid to protected employees.

An additional $235 million is authorized to fund the substantially reduced level of benefits afforded by these amendments. This sum would fund the program during a transition period, after which the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that impose auditing and reporting responsibilities upon the Association. Section 509 (b) would direct the Association to conduct a program audit of the payment of benefits under title V and evaluate the effectiveness of the provisions of Title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in the workforce. The Association would be afforded access to pertinent documents for the purpose of facilitating its audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Section 505 gives Conrail employees the right of first hire on other railroads.

Section 506 requires the single collective bargaining agreements be negotiated with each class and craft and that such negotiations be conducted on a system wide basis.

Section 507 would make the new formulas provided by this title effective August 1, 1980, as already required by a recent Supplement Appropriations bill, P.L. 96-304.

Section 508 makes certain technical amendments.

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Section 305 of the Regional Rail Reorganization Act of 1973 is changed by requiring that within the 240 days after the effective date of this Act the Secretary shall determine whether to initiate a proposal for the transfer of all Conrail properties in Connecticut and Rhode Island to another rail carrier in the region. The Secretary shall develop such proposal if the proposed transferee railroad is financially and operationally capable of assuming freight obligations on a financially self-sustaining basis and the transfer would promote a financially self-sustaining rail system in Connecticut and Rhode Island.

The Secretary shall establish a fair and equitable price for proposed transfers. If the special court determines that the proposal is fair and equitable and meets the other requirements of this section, it shall issue order to carry out the proposal.

The parties to a supplemental transaction under this section and the representatives of the affected employees are to enter into a new agreement.

TITLE VII—MISCELLANEOUS PROVISIONS

Title VII of the Conference substitute includes provisions related to effective dates, status of pending matters and construction of amendments. In addition, the title provides the annual authorization for the United States Railway Association and funds for Conrail.

Specific provisions are also included to clarify or remedy legislation enacted early this year related to the Rock Island and Milwaukee Railroads.

SHORT TITLE

Senate bill. The Senate bill has as a short title "Railroad Transportation Policy Act of 1979".

House amendment. The House amendment has as a short title "Harley O. Staggers Rail Act of 1980".

Conference substitute. Adopts the "Staggers Rail Act of 1980" as the short title of the Act.

Findings

Senate bill. The Senate bill has no findings.

House amendment. The House amendment has findings which provide an overview of the need for legislation. Among other considerations stated are findings that today, most transportation within the United States is competitive, nearly two-thirds of intercity freight is transported by modes other than railroads, earnings of railroads are insufficient to generate funds for necessary capital improvements, by 1985 there will be a capital shortfall of between $16,000,000,000 and $20,000,000 and that modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization of railroads to save energy and combat inflation.

Conference substitute. The House amendment.

Goals

Senate bill. The Senate bill has no statement of goals except as included in the railroad transportation.

House amendment. The House amendment sets forth specific overall goals to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States.

Conference substitute. The House amendment.

TITLE I

Railroad transportation policy

Senate bill. The Senate bill adds an independent railroad transportation policy to the Interstate Commerce Act to guide the Commission in formulating its rules, regulation, and divisions arising from its administration of the Act.

House amendment. The House amendment is similar to the Senate provision but puts a greater emphasis on the need to minimize Federal regulatory control over railroads.

Conference substitute. Adopts the House amendment with additional policy considerations taken from the Senate bill.

TITLE II—RAILROAD RATES AND INTER-CARRIER PRACTICES

Section 201—Regulation of railroad rates

Senate bill. The Senate bill provides that a rail carrier may establish any rate which yields a revenue to variable cost ratio that is equal to or less than the average ratio of revenue to variable costs established by the Commission. It sets out standards to be used by the Commission in establishing the average ratio and establishes timeframes for action under this section.

House amendment. Section 203 of the House amendment provides that rail carriers may establish any rate for transportation or other services provided by rail carriers unless a rail carrier has market dominance over the traffic. It establishes which parties shall have the burden of proof in complaint and investigation proceedings to challenge the lawfulness of rates or rate increases. The House amendment requires the Commission in determining the reasonableness of rates, to recognize the policy that rail carriers must earn adequate revenues.

Conference substitute. The Conference substitute adopts the House amendment with various changes to conform it to the Senate bill. It allows a rail carrier to establish any rate for transportation unless a rail carrier has market dominance over the transportation, in which case the rate must be reasonable. The definition of market dominance under existing law has not been altered by the substitute, and it is not intended that there be any change in the meaning of the term, nor is any change intended in the Commission's authority to determine market dominance and reasonableness concurrently. However, since other parts of the Conference substitute provide additional rate freedom for rail carriers beyond those found in present law or under existing or proposed Commission regulations, the Commission must revise its market dominance regulations.

In maintaining the term market dominance, in addition to statutory changes designed to provide more rate freedom to rail carriers, the Conferees intend that whenever there is effective competition which will restrain rate increases by the railroads, such competition should continue to function as the regulator of the rate rather than the Commission. Maintenance of the "market dominance" standard is not intended in any way to restrict the ability of the Commission to apply this concept, both in its regulations and individual cases.

Consistent with the new rail transportation policy of this Act, the Conferees intend that competition be recognized as the best control on the ability of railroads to raise rates. The purpose of this legislation is to reverse the decline of the railroad industry, which has been caused, in part, by excessive government regulation. The Conferees believe that by allowing forces of the marketplace to regulate railroad rates wherever possible the financial health of the railroad industry will be improved and will benefit all parts of the economy, including shippers, consumers, and rail employees.

The Conference substitute establishes which party shall have the burden of proof in establishing that a rate is not reasonable and has the effect of maintaining the existing burden of proof in determining reasonableness, i.e. the carrier has the burden of proof in investigation and suspension proceedings and the shipper in complaint cases. The railroad bears the burden of proof when a rate increase is greater than the 6 percent zone for the first four years, or the 4 percent zone after the first four years. If the rate increase is within the 6 percent or 4 percent zones but is more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lesser the railroad will also bear the burden of proof if the Commission decides to investigate.

In complaint cases i.e. where the shipper is complaining about an existing rate the burden remains on the shipper to prove that the rate is unreasonable no matter what level the rate is. The Conference substitute does not alter the existing procedure which places such a burden on the shipper.

The shipper must bear the burden of proof when the rate increase is within the 6 percent or 4 percent zones and the rate is not more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lower. The shipper also bears the burden whenever a rate increase is within the 6 percent or 4 percent zone but the rate increase brings the rate more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lower and the Commission decides not to investigate.

The Conference substitute adopts the language from the House bill that in determining rate reasonableness to the Commission must recognize the policy of this Act that carriers must earn adequate revenues. The difficult economic situation of much of the railroad industry is one of the reasons for this legislation and the Commission is required to make efforts to ensure that rail carriers earn adequate revenues.

The Conference substitute maintains language similar to existing law which states that variable costs shall be determined by formulas or procedures prescribed or certified by the Commission.

The Conference substitute maintains the requirement that joint rates must be reasonable. The conferees intend that the rate standard for the reasonableness of joint rates shall be the same as for all rates. The establishment of the minimum compensatory joint rate relief in Section 217 of this Act is not intended to mean that such minimum levels relate to the maximum reasonable level for joint rates. A joint rate must be reasonable, as must the divisions of such a joint rate between carriers, and the Commission should not interfere to require joint rates or any carrier's division of a joint rate to be maintained below the rate levels permitted by this Act.

Rates may not be established below a reasonable minimum. Rates which contribute to going concern value shall be reasonable and rates which do not contribute to going concern value shall be presumed to be unreasonable. In essence, these provisions strengthen the minimum rate policies of the 4R Act by placing the burden of proof on the party challenging a rate as too low and by expediting the procedures whereby rates which are too low can be raised.

These modifications will ensure that carriers pricing in a manner that meets rational economic standards will not be prevented from improving their economic position by reducing rates. While the Conferees believe there may be circumstances in which rates which do not contribute to going concern value are reasonable, those circumstances are likely to be unusual and once a complainant has shown a rate does not contribute to going concern value, that rate shall be presumed to be unreasonable until the carrier charging the rate bears the burden of showing that the rate is reasonable.

These provisions will ensure that those shippers can protest that a rate is too low and that a carrier is worse off than it would be if the rate were raised. Upon finding this to be the case, the Commission may raise the rate to the minimum level at which the rate benefits the carrier. All shippers as well as the carrier are better off if traffic which makes a contribution moves than if it does not, because the carrier is made financially stronger and need not rely as much on revenue and other shippers.

The Conferees do not intend, however, that rates which are contributing to the going concern value of a carrier should be forced to be raised. The Commission should not restrict the carriage of this beneficial traffic, placing a greater burden on other shippers. This is a decision that is best made by the carrier as it judges the market. Since a carrier has no reason to keep a rate below the most beneficial level, the Conferees have no reason to believe rates will be held below the most beneficial level except by oversight. Accordingly, rates that contribute to going concern value shall be reasonable and the Commission may not require that those rates be raised.

Section 202—Determination of market dominance

Senate bill. The Senate bill establishes a level below which the Commission will have no jurisdiction over railroad rates. The jurisdictional level is equal to the average ratio of revenue to variable costs for all transportation. Until such level is determined by the Commission the jurisdictional level is set at 150% of revenue to variable cost. The Senate bill also repeals 49 U.S.C. 10709, which is the section establishing "market dominance" as a test for Commission jurisdiction over railroad rates.

House amendment. Section 204 of the House amendment retains 49 U.S.C. 10709 and adds a new subsection. The new subsection requires the Commission to find that a rail carrier does not have market dominance over the transportation to which a rate applies if that rate is below a revenue to variable cost ratio of:

160% from the effective date of the Act to September 30, 1981;

165% from September 30, 1981, to September 30, 1982;

170% from September 30, 1982, to September 30, 1983;

175% or the "cost recovery percentage", whichever is lower, from September 1, 1983 to September 30, 1984; and

the "cost recovery percentage" thereafter, except that the "CRP" may not exceed 180% nor be lower than 170%.

The House amendment establishes a "cost recovery percentage" which is the revenue to variable cost level at which the industry is covering its costs as defined in the House amendment. The Commission is required to establish the "cost recovery percentage" annually.

Conference substitute. The Conference substitute adopts the House provision establishing and defining the "cost recovery percentage". It also adopts the House language establishing a jurisdictional threshold of 160% increasing 5% each year through 1984, when the jurisdictional threshold is 175% or the cost recovery percentage, whichever is lower. After September 30, 1984, the jurisdictional threshold is the cost recovery percentage, but it may not be lower than 170% or higher than 180%.

The Conferees have adopted the concept of a jurisdictional level that varies according to the performance of the railroad industry. When the industry is earning revenues which are adequate, it is appropriate for the Commission to have the authority to review rate increases more carefully.

The Conference substitute incorporates a provision which allows a carrier to use present Rail Form A, with adjustments specified by the Commission as appropriate for the type of traffic involved, or its successor as the basis for determining the revenue to variable cost ratio of a rate. The burden is on the carrier to establish on such a basis that the rate is below the jurisdictional level, and the complainant may rebut the showing of the revenue to variable cost ratio according to the Commission formula by evidence of such type and under such burden of proof as the Commission shall prescribe. By such a showing the complainant or the railroad may demonstrate that the revenue to variable cost ratio is different than the one established under adjusted Rail Form A or its successor.

The Conferees do not intend that the Commission alter the jurisdictional threshold by reducing or increasing the items which will be considered as part of variable cost.

The Conferees have adopted a jurisdictional threshold which will deny the Commission jurisdiction over rates which the Commission reviews under present law. The reduction in Commission jurisdiction is adopted because the conferees believe that competition should be the determining factor in railroad rates wherever possible. The railroads' share of intercity freight traffic has decreased dramatically in the past three decades, to the point where most freight traffic can be transported by another mode and is subject to competition.

Section 203—Zone of rate flexibility

Senate bill. The Senate bill establishes procedures and standards for determining a "base rate" and an "adjusted base rate" for purposes of computing rate increases. Carriers are allowed to recover inflation quarterly on individual rates up to the level of the adjusted base rate without challenge.

To determine the adjusted base rate the Commission must publish quarterly a rail cost adjustment factor, which uses an Index of Railroad Costs to keep rates equal with inflation.

The Senate bill allows a rail carrier to increase a rate by an amount not exceeding 5% of the adjusted base rate, subject to the restriction that the increase over 5 years under this section not exceed 14%. The Commission is not allowed to suspend any rate increase within this 5% zone, and it may investigate such increase only if it exceeds a revenue to variable cost ratio established by the Commission or if the carrier or carriers proposing the rate increase have achieved an adequate revenue level. Even a rate increase within the 5% zone is subject to challenge on complaint, with the burden of proof on the shipper.

If the Commission decides not to investigate a rate within the 5% zone, it must set forth its reasons for not doing so, after giving consideration to three factors—the amount of traffic transported below variable cost, the amount of traffic which contributes only marginally to fixed cost and the extent to which such rates can be changed, and the impact of the proposed rate increase on national energy goals, taking into account the railroads' role as a primary source of transportation and the need for a sound rail transportation system.

The Commission shall consider, among other factors, when determining the reasonableness of a rate, the amount of traffic which is transported below variable costs, the amount of traffic which contributes only marginally to fixed costs and the extent to which such rates can be changed, and the carrier's mix of rail traffic to determine whether one commodity is paying a disproportionate share of the carrier's overall revenues.

The Senate bill allows the Commission to investigate a rate even if it is within the 5% zone if such a rate is proposed by a carrier or carriers with adequate revenues.

House amendment. The House amendment establishes a base rate for purposes of rate increases, and an adjusted base rate to account for inflation. It also provides for a 6% zone for each of the four years after the date of enactment, and a 4% zone for carriers without adequate revenue for each succeeding year.

The House amendment does not permit a suspension or investigation of rate increases within the 6 percent or 4 percent zones, if the resulting rate is less than 190 percent or revenue to variable cost of 20 percentage points above the jurisdictional threshold, which ever is lower. It also prohibits the Commission from using rules, classifications, or practice changes to limit rates. It includes a provision that limits the allowable rate on coal movements fitting a particular description.

Conference substitute. The conference substitute adopts parts of the Senate bill and parts of the House amendment. It establishes the base rate as the rate in effect on the effective date of the Act. The 'adjusted base rate' is computed quarterly by means of a 'rail cost adjustment factor,' as contained in the Senate bill.

A carrier is allowed to change a rate to conform to the 'adjusted base rate' at any time without challenge. A carrier may not receive a rate increase under the adjusted base rate method if the carrier has received an inflation increase through general rate increases or the inflation index thereby already assuring that the rates reflect inflation.

The language of subsection (b) makes it clear that rate increases which do not exceed the adjusted rate base may not be found by the Commission to exceed a maximum reasonable level. The reference to rate increases under subsections (c) and (d) of this section is not intended to suggest that increases under those subsections are presumed to be reasonable. The reasonableness of such rate increases shall be determined under the same standards of maximum reasonableness applicable to any other rate or rate increase.

The conference substitute adopts the 6 percent zone contained in the House amendment. A carrier is free to increase any rate by 6 percent of the adjusted base rate.

During the four year period after the effective date of the Act, the total increase allowed under this section is limited to 118 percent of the adjusted base rate. If a carrier does not take all or a portion of a rate increase in a year, the carrier may take that portion in the next succeeding year.

If a carrier chooses not to take some portion of the allowed 18 percent increase during the first four years, the carrier may take that portion in the next 2 succeeding years, except that the rate increase allowed under this section is limited to 10 percent for each of those years.

The 6% zone does not establish a limit for allowable rate increases by the Commission. If the Commission finds further rate increases do not exceed a reasonable maximum, it may allow such rate increases under the normal standards and procedures of the Act. The 6% zone is established as a procedural mechanism for carriers to change rates without undue regulatory interference. The Conferees believe that the best regulator is the marketplace, and the forces of competition will restrain railroad rates more effectively than federal regulation.

The Conference substitute requires the Commission, when considering a rate increase within the 6% zone and below the point 20 percentage points higher than the jurisdictional level or 190% of revenue to variable cost, whichever is lower, to give due consideration to whether a carrier proposing a rate increase has attained adequate revenues, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level. This provision is intended to apply only for the four years that the 6% zone applies, and only to those rate increases which are within the 6% zone and below the point 20 points higher than the jurisdictional level or 190% of revenue to variable cost, whichever is lower.

The Conferees intend that the Commission give due regard to two things, whether a rate increase would mean excessive profits, and the need for a rate increase in light of the carrier's revenue position taking into account the policy of this Act that inadequate revenue carriers make adequate revenues. This language is not intended to imply that excessive profits for inadequate revenue carriers are reasonable.

The Conferees understand that the Commission presently considers the adequacy of revenues in its determination of reasonableness, and the Conferees intend that the Commission continue to consider the adequacy of revenues in its determination of reasonableness. The Conferees intend that the Commission continue to look carefully at the adequacy of a rail carrier's revenues when considering whether a rate is reasonable and to consider all the other factors which it presently considers in determining reasonableness.

The Conference substitute adopts the 4% zone from the House amendment. A 4% zone is established free from suspension, and free from investigation if the resulting rate is below 190% or 20 percentage points above the jurisdictional threshold, whichever is lower. A carrier is allowed 4% of the existing rate as an increase without undue regulatory interference.

This zone is limited to carriers without adequate revenues. Carriers with adequate revenues are not allowed this 4% zone on single line rates, and are not allowed the zone on joint line rates unless the Commission determines in its rulemaking under this provision that it cannot establish rules preventing rail carriers with adequate revenues from taking advantage of the 4% zone without denying the zone to carriers without adequate revenues. The conferees expect the Commisson to establish the rules for determining how the 4% zone is to be applied in conformity with the policy of this Act, which is designed to provide increased regulatory freedom and to allow carriers to earn adequate revenues.

Neither the 4% or the 6% zone is intended to create any presumptions about the rate increases beyond the zone. The Conference substitute states unequivocally that a rate increase beyond the zone establishes no presumption of market dominance or reasonableness.

The Conference substitute adopts the House amendment which establishes the point at which the Commission may investigate a rate increase within the 6% or 4% zones. The point is 20 percentage points above the jurisdictional threshold or 190% of revenue to variable cost, whichever is lower. For example in the first year the jurisdictional threshold is 160%, and the point at which the Commission may investigate is 180%.

The Conference substitute adopts the Senate provision which requires the Commission to set forth its reason for not reviewing a rate increase or new rate. The Commission shall give due consideration, in its decision whether or not to investigate, to the following factors:

1. the amount of traffic which is transported below going concern value, and efforts made to minimize such traffic;

2. the amount of traffic which contributes only marginally to fixed costs; and

3. the impact of the proposed rate increase on the attainment of the national energy goals and the rail transportation policy of this Act, taking into account the railroads' role as a primary source of energy transportation and the need for adequate revenues to achieve a sound rail system.

The Conferees have used the term "going concern value" in the first consideration in place "variable cost" to eliminate any confusion about what is intended. Railroads should not be carrying traffic which is losing money but in a competitive environment railroads should be attracting whatever traffic they can at the lowest rates that will attract the traffic. There should be no incentive to prevent such pricing, which is to the advantage of the shipper and the consumer.

The Conferees have added to the third consideration the rail transportation policy of this Act. The national energy goals, which include a reduction of dependence on foreign energy sources and the encouragement of fuel efficient forms of transportation within the United States, are compatible with the transportation policy of this Act. To reduce dependence on foreign energy sources this country must stimulate utilization of its abundant, indigenous coal reserves. For coal to be a viable alternative, we must have a sound rail transportation system capable of handling such coal efficiently and economically. At a minimum the rail system will need to invest over $5 billion over the next 4 years to maintain a system adequate for increased coal use. Without such an investment the national energy policy of decreasing reliance on foreign energy sources will never be achieved.

Decisions whether to investigate a rate are not presently reviewable in court. The conferees intend, and the Act specifically states, that a decision whether or not to investigate remains not reviewable.

The Conference substitute adopts the language of the Senate bill specifying three factors among those already considered by the Commission which the Commission must consider in determining the reasonableness of a rate, with changes. As in the previous section the term "going concern value" is substituted for "variable costs." In the third consideration, the word "disproportionate" is changed to "unreasonable". It requires the Commission to consider evidence of the factors listed.

The Conference substitute adopts the House provision limiting coal rates which meet a specific description. This provision deals with the celebrated and extended dispute over the freight rate for rail transportation of coal to a municipally owned utility in San Antonio, Texas. This utility decided voluntarily in 1973, prior to the oil embargo, and prior to any legislative requirements concerning use of alternate fuels, to convert an oil/gas unit then on order to coal and to build this and an additional unit on an accelerated basis, resulting in the displacement of oil and gas equivalent to more than 50 billion cubic feet of gas on an annual basis. Unfortunately the appropriate rate for the transportation of coal to these new plants has been the subject of dispute and protracted litigation. Due to the unique circumstances of the San Antonio situation, this provision imposes certain short term limitations on the rate level for the San Antonio coal movement. The purpose of this provision is not punitive and the rate specified for such a coal movement shall have no effect on any decision of the Commission or a court, and evidence of the rate or this section shall be inadmissible in any proceeding.

The Conference substitute adopts the House provision. New section 10709(h) makes it clear that the Commission may not use any of its residual powers to regulate rates, rules, classifiactions, and practices as tools to interfere with the rate freedom provided by the Staggers Rail Act. The Conferees intend that a pratcical rule or classification which has the effect of resulting in an increased rate for transportation shall not be found unreasonable unless, in the absence of its effect on rate levels, it would itself be unreasonable.

Section 204—Transportaion of recyclable materials

Senate bill. The Senate bill requires that rates for recyclable or recycled materials be no higher than the average revenue to variable cost ratio of all rates for railroad transportation. Any rate which exceeds that threshold shall not be required to bear further rate increases.

House amendment. No provision.

Conference substitute. The Conference substitute adopts the Senate bill with certain changes. The substitute excludes recyclable or recycled iron and steel from this provision. Rates which are currently above the threshold would be prohibited from increases until such time as the rate falls below the average revenue to variable cost threshold. The standard for establishing the average revenue to variable cost threshold is the standard used in the Senate bill.

Section 205—Rate regulation proceedings; adequate revenues

Senate bill. The Senate bill required the Commission to submit to Congress, within one year after the enactmet of the Act, a study on the desirability of using return-on-investment as a threshold standard for jurisdiction over the reasonableness of rail carrier rates. The Commission was also required to submit a report to the Congress every three years which analyzed the revenue needs of carriers and made appropriate recommendations.

House amendment. The House amendment requires the Commission to commence and conclude within 230 days of enactment a proceeding to determine whether, and to what extent, product competition should be considered in determining the reasonableness of rail carrier rates. For purposes of only this proceeding product competition is defined in the amendment. This definition is not intended to be taken into account in any other Commission or court proceeding dealing with competition from alternative sources or types of commodities. The amendment provides that on the basis of the study the Commission may find that in determining the reasonableness of a rate, product competition should be given the same or greater weight than in current proceedings or proof of product competition should be given greater or conclusive weight.

The section is not to be construed as requiring any change in the Commission's present standards concerning reasonableness and is not to influence in any way the meaning of market dominance.

The House amendment also requires the Commission to submit to Congress within three years of the effective date of the Act recommendations as to the threshold level for Commission jurisdiction over the reasonableness of a proposed rail carrier rate.

The House amendment also requires that the Commission within 180 days after the effective date of the Act establish standards for determining what constitutes adequate revenues under section 10704 of the Act and to report to the Congress, within 180 days after the effective date and annually thereafter, which carriers were earning adequate revenues.

The House amendment makes the rail carrier rate level resulting from any case pending in any Federal court on July 22, 1980, the base rate for purposes of determining permissible rate increases.

Conference substitute. The Conference substitute adopts the provisions from the House amendment requiring the Commission to initiate a proceeding within 230 days of the effective date of the Act to determine whether and to what extent, product competition should be considered in determining the reasonableness of rail carrier rates. The substitute amends the House amendment to underscore the fact that the ICC proceeding shall not be evidence in a Commission or court proceeding regarding the scope of the market dominance concept.

The Conferees intend to exclude from any rule adopted under this subsection existing supply contracts, or for two years, whichever is less. The Conferees also intend that the Commission, in its rule-making, look at the existence of long-term contracts in determining how to apply product competition. Product competition means the availability to a consignee at a competitive delivered cost and in sufficient quantities of products or commodities which are of the same type as the commodity or product to which the rate applies without regard to whether such products or commodities are available from the same or a different origin as those to which a rate applies. An example of where product competition does not exist is a situation in which a particular automobile company manufactures bumpers at Plant A and ships them to its Plant B for assembly because it cannot use another automobile company's bumpers.

The Conference substitute amends existing Section 10704(a)(2) of Title 49 clarifying that the Commission has the authority to revise its standards and procedures for determining revenue adequacy as necessary; by directing the Commission to conclude a proceeding under Section 10704(a)(2) within 180 days after the effective date of the Act; and on the basis of standards and procedures under Section 10704(a)(2) to determine which rail carriers have adequate revenues within 180 days of the effective date of the Act and on an annual basis thereafter.

Section 206—Inflation-based increases

Senate bill. The Senate bill provides a free zone for the recovery of inflationary cost increases.

House amendment. The House amendment allows the Commission to establish a percentage rate increase or rate index for rail carriers in order to compensate for inflation. Such percentage increase or index may be applied carrier by carrier or industry wide. The percentage rate index allows Commission to establish a range within which carriers may increase rates differently for different commodities, but recovering no more than total inflation.

Conference substitute. The Conference substitute provides that the Commission may establish a percentage rate increase or index to allow carriers to cover inflation. Such an index or percentage may not be necessary, since carriers will be free to recover inflation on individual rates without challenge. In the event that carriers find they are unable to keep up with inflation, and the Commission believes that it must prescribe a general mechanism to allow carriers to cover inflation, this percentage increase or index is allowed. The provision make specific reference to the policy section of the Act which discourages the automatic pass-through of inflation through increases of general applicability.

Under this provision, the Commission is allowed to establish a range of permissible increases, and the carriers may take increases within that range. The total increase in revenue may not account for more than is necessary to cover the total of inflationary cost increases.

Section 207—Investigation and suspension of rates

Senate bill. The Senate bill requires the Commission to complete a proceeding when a suspension has occurred within five months, unless it reports to the Congress that it is unable to do so, in which case it may take an additional three months.

House amendment. The House amendment requires the Commission to act within five months if a suspension has occurred, and provides an additional 3 months if the Commission reports to the Congress that it is necessary. The House amendment also revises the standards under which the Commission may suspend a rate by adding the word "substantially" to the requirement that the Commission find that it is likely that the complainant will prevail on the merits and by adding a new standard which requires the Commission to find that because of the peculiar economic circumstances of the protestant, he is not protected by the refund provisions. The burden is on the protestant to prove that the standards are met.

The House amendment also provides for an accounting and refunds to shippers where a proposed rate increase is suspended, and to rail carriers if the proposed rate increase is suspended and later found to be reasonable.

Conference substitute. The Conference substitute adopts the House amendment with a modification with respect to refunds. The substitute makes suspension more difficult.

Section 208—Contracts

Senate bill.—The Senate provision clarifies the status of contract rate and service agreements in an effort to encourage carriers and purchasers of rail service to make widespread use of such agreements. In addressing concerns of small shippers the Senate provision also limited the percentage of equipment a rail carrier could dedicate to contract service. This limitation was designed to insure that the carriers always had sufficient equipment to meet common carrier obligations. The Senate bill limits the number of cars a carrier can dedicate to contract service to 35 percent of the carriers' capacity by major car type. A further limitation was imposed on large shippers, again to protect the small shippers' ability to obtain sufficient cars, with respect to contracts between Class I carriers and shippers which originate an average of 1,000 cars or more per year by major car type during any preceding three-year period, no more than 40 percent of that coverage could be used for contracts. The remainder of the shipper's car needs would be supplied by the carrier under the common carrier obligation as with all other non-contracting shippers. The smaller shippers, i.e. one who originates less than 1,000 cars per year (based on a 3 year average prior to the contracting period) could contract for 100 percent of the shipper's needs.

Further, the Commission may order a carrier to provide rates and services similar to those in any contract which it finds the carrier did not make available to a similarly situated shipper.

House amendment.—The House amendment permits carriers to enter into contracts with shippers. Once approved, a contract is not subject to challenge.

First, carriers may enter into contracts filed with the Commission (along with summaries to be made public) unless the Commission finds that the contract unduly impairs the ability of the carrier to fulfill its common carrier obligation to a complainant, unreasonably discriminates against a port or, in the case of agricultural commodities, the carrier has unreasonably discriminated the complainant a similar contract under similar conditions or the contract constitutes a destructive competitive practice.

Second, the Commission may begin an investigation within 30 days of the filing of a contract on its own motion or on complaint. The Commission has 30 days following the initiation of a proceeding to approve the contract. If the Commission fails to act, then the contract is approved.

Third, if the Commission determines that a carrier has refused to provide an agricultural shipper with a similar contract, the Commission may order the carrier to enter into such a contract with appropriate adjustments.

Fourth, once a contract has been approved by the Commission, the Commission may not require violation of the contract except to require compliance under the Commission or any court under the provisions of this subtitle. The exclusive remedy for breach of a contract entered into under this section is an action in a State or U.S. district court, unless the parties otherwise agree.

Fifth, during the first three years after passage of the Act, a carrier may enter into contracts for the transportation of agricultural commodities involving the utilization of carrier-owned or leased equipment not in excess of 40 percent of the capacity of such carriers' owned or leased equipment by major car type, except with respect to a contract with a shipper of over 1,000 cars or more per year for the prior three years in which case the carrier may contract for more than 40 percent of the average equipment utilized in the three year period. The Commission may raise these limits.

Conference substitute. The conference substitute adopts the Senate amendment with several changes. The percentage of limitation on cars for contracts for agricultural commodities, is expanded to include forest products and paper and is not limited to three years after passage of the Act. However, the Commission, as well as any other party, may initiate a proceeding to modify this percentage limitation. Unreasonable discrimination with respect to agricultural, forest product or paper shippers is defined for purposes of this section as that term is used in section 10741 of the Interstate Commerce Act. A similar provision with respect to ports from the House amendment is retained. The conferees stress that the establishment of contract rates is a significant aspect of the new freedom allowed to carriers to market rail transportation more effectively. Therefore, the grounds for disapproving contracts have been intentionally limited.

The provision establishes a separate class of rail service and thereby makes carriers entering into such contracts both common carriers and contract carriers. Once a contract is approved by the Commission or goes into effect because the Commission has not acted within the specified time limits, the service provided under the contract is exempt, subject to the specific limitation of section 11128, from all regulation and all of the requirements of the Interstate Commerce Act. However, the Commission is given the specific authority to limit the right of a rail carrier to enter into future contracts if it determines that such additional contracts will impair the ability of the rail carrier to fulfill its common carrier obligations under Section 11101 of the Act. Once contracts are approved under this section, they are to be enforced in the courts and not at the Commission.

Shippers who do not elect to enter into contracts, or are unable to do so, are assured that carriers will have the same common carrier obligations as in existing law. The percentage limitation on equipment for agricultural commodities, forest products and paper result from problems experienced in providing adequate numbers of cars for the shipment of these products and are intended to ensure that a carrier can meet its common carrier obligations. These limits are to be apply to any type of car which could practicably be used for shipping agricultural commodities, forest products or paper. However, they are not intended in any way to imply a limit on a carrier's ability to contract with respect to other types of equipment.

While the Conferees intend to encourage shippers to contract they recognize the difficulty that small shippers may have in negotiating contracts, and therefore, the Conference substitute adopts the Senate provision establishing a railroad contract rate advisory service. The Conference substitute also includes the Senate provision which gives the Commission the ability to order a carrier to provide rates and services similar to those in any contract which it finds the carriers did not make available to similarly situated agricultural shippers. Finally, the Conference substitute includes a provision which allows agricultural shippers to challenge a contract on the grounds that the proposed contract constitutes a destructive competitive practice. It should be noted that these provisions were included in recognition of the fact that smaller shippers are particularly concerned about the market power of their larger competitors once the contract rate provisions are put into effect. It is the intention of the Conferees that the Commission carefully review this aspect of the competitive situation in approving contracts.

The existing Federal antitrust laws apply to this section.

Section 209—Demand sensitive rates

Senate bill. The Senate bill amends 49 U.S.C. 10727 to provide for the filing of a demand-sensitive tariff in response to explicit or anticipated fluctuations in demand for rail services. The tariff would apply to a maximum and minimum rate regulation. The Senate bill specifically excluded grain from this provision.

House amendment. The House amendment repealed 49 U.S.C. 10727 because of the concerns raised by agriculture interest groups about the way demand-sensitive tariffs had been implemented. The provision was originally included in the 4R Act to provide greater car utilization by encouraging rail shippers to ship in off-peak, low demand periods. The repeal of the demand-sensitive tariff authority should not be construed by the Commission as a resolution of the car utilization problems. The Commission has other ways to abate the serious problem of the declining car utilization in the rail industry.

Conference substitute. The Conference substitute adopts the House provision. The conferees direct the Commission to explore alternative methods of improving car utilization and making railroad prices and services more responsive to market conditions instead of artificial regulatory restraints. However, the Commission is on specific notice not to contravene the policy set out by Congress which is clearly to prevent demand-sensitive rates by any means to apply to agricultural commodities.

A letter from Chairman Gaskins on the Commission's existing authority in this area is attached as an appendix.

Section 210—Phaseout of capital incentive rates

Senate bill. The Senate bill repealed 49 U.S.C. 10729, which provides that if a capital incentive rate is approved by the Commission, such rate not be found unreasonable or discriminatory for 5 years. A capital incentive rate is based on an investment by a shipper, railroad or interested third party of $1 million or more in rail-related equipment or facilities. The intent of this provision was to encourage the negotiation of rates reflecting individualized and innovative service and to create stability which would promote large investments. Regulatory complexities and ambiguities have frustrated the intent of this section. Moreover, the explicit authorization of contracts makes this section unnecessary. Capital-incentive rates filed not less than 90 days before the date of enactment would not become effective, but rates filed before that date remain effective subject to the 5-year limitation.

House amendment. The House amendment repeals the capital-incentive rate provision, but preserves all capital-incentive rates from challenge as unreasonable or discriminatory if filed prior to the effective date of this Act, subject to the 5-year limitation from the date the rate became effective, unless the parties otherwise agree. The Commission may, during the period the rate is in effect, order the rate revised to a level equal to the incremental cost of providing the transportation, if the Commission finds that the rate level in effect reduces the going concern value of the rail carrier.

Conference substitute. The Conference substitute adopts the House amendment.

Section 211—Permissive limited liability

Senate bill. The Senate bill amends 49 U.S.C. 10730 with respect to released rates. Under existing law the Commission is authorized to permit released rates in cases where rates based on a declared or released value would be just and reasonable under the circumstances surrounding the transportation. Under this section no carrier may publish rates based on the declared or agreed value without specific authority from the Commission.

Under the Senate bill, rail carriers may establish released value rates subject to the provisions and procedures set forth in chapter 107. The effect of this change is to authorize the filing of such rates without prior Commission authorization. In many instances, shippers have the resources to obtain insurance at a reasonable price and to bear at least a portion of the risk of lost damaged cargo. Carriers and shippers should be allowed to agree on a fair rate which explicitly takes into account the risk of loss or damage.

Rail carriers should be able to negotiate for the type of service required and the rate to be paid for that service. It is with that purpose in mind that this subsection has been added to section 10730—to permit the establishment of released rates as an additional option available to shippers and rail carriers. Full value rates will of course continue in effect for the use of those shippers and receivers which choose not to utilize released rates established and filed under this provision or agree to other terms as part of a contract for services.

House amendment. The House amendment provides that rail carriers may establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by a written declaration of the shippers or by a written agreement between the shipper and carrier, and such agreement may provide for a specified deductible for any claim against the carrier for loss or damage to the property or delay in the transportation of such property. The ability to use released rates including the deductible in an agreement, gives both the shipper and carrier greater flexibility with respect to negotiation of rates without harrassment and delay at the Commission.

The House amendment changes provisions of the Carmack Amendment, 49 U.S.C. 11707 concerning the availability of special damages, comparative negligence standards for liability and the time period when claims must be filed with the carrier and where actions must be instituted against a carrier under the Carmack Amendment.

Conference substitute. The Conference substitute adopts the House provision with respect to released rates, including deductibles, but drops the references to the Carmack Amendment, except for venue provisions. It adds a study with respect to the need for the Carmack Amendment. At the insistence of several shipper groups, explicit statutory language prohibiting special damages was eliminated because special damages are not permitted under the Carmack Amendment.

A provision regarding the changing of the existing case law that makes the railroad almost strictly liable, unless it can establish that it was neither negligent nor not liable under certain recognized absolute defenses, was dropped and has been included in the study. While the study is being completed, carriers are not prohibited from arguing to the courts that the Carmack Amendment was intended to codify common law standards and therefore, a comparative negligence standard ought to be adopted.

The Conference substitute adopts the House amendment with respect to changes in venue for Carmack Amendment cases. Hereafter, cases may only be brought in the court having jurisdiction over the originating carrier's point of origin, against the delivering carrier in a court at the principal place of business of the person entitled to recover against the carrier or having jurisdiction over the point of destination, or against an originating, intermediate or delivering carrier in a court having jurisdiction over the point where the loss or damage is alleged to have occurred. Because existing law permits an action wherever the carrier operates, venue is virtually uncontrollable and frequently, inconvenient.

The Carmack Amendment was enacted at a different time with different factors affecting rail carriers. Among other issues, the studies should examine whether special damages are being recovered from rail carriers, and, whether a rail carrier ought to be responsible for such damages in the absence of a clear showing, by written agreement, that the carrier was made aware of certain foreseeable risks and had an opportunity to make appropriate arrangements.

Similarly, the studies should consider whether it makes sense in 1980 to hold a carrier liable for 100 percent of the damages even if the carrier was only 10 percent at fault. Current law makes a carrier totally liable unless the carrier can show that it was completely free from fault and that the shipper's negligence was the sole cause of the damages. The study should consider whether it is appropriate to follow the recent trend among the states to adopt comparative negligence standards, requiring each party to bear the costs of its own negligence. More than a majority of states have departed from prior law making liability an all or nothing alternative. The study should determine whether similar policy goals would require similar legislation with respect to common carrier obligations.

The studies should also address other issues raised by the Carmack Act, including the recovery of attorneys' fees, appropriate time limits, the feasibility of a "no-fault" system, and proper venue requirements.

Section 212—Rate discrimination

Senate bill. No provision.

House amendment. The House amendment amends section 10741 to state that differences between rates, rules, or practices which result from different services do not constitute a violation of this section. The amendment specifically exempts surcharges, approved contracts, separate rates for distinct services under 10728, rail rates applicable to different routes and customer solicitation expenses from being challenged as discriminatory. The Commission retains its existing authority to regulate rate relationships between and within ports.

Conference substitute. The Conference substitute adopts the House amendment. The Conference substitute will help ensure that, with the exception of the right of ports to complain of unjust discrimination between and within ports and the special remedies provided for certain unjustly discriminatory contracts in new section 10713, claims of unjust discrimination may not be used to hamper the development of sound economic rate and service relationships. The conferees also expect the Commission, to exercise its remaining power under section 10741 only where it is needed to prevent abuses of market power where discrimination cannot be justified by differences in demand for services or costs.

The conferees intend that the reference to separate rates or distinct rail services in this section shall not affect the *Wichita* doctrine.

Section 213—Exemptions

Senate bill. The Senate bill amended section 10505 to provide that, where any provision of the Interstate Commerce Act is not needed to protect shippers from the abuse of market power, the "limited scope" restriction in the original section 10505 would not apply. The Senate bill also removed the requirement that a proceeding be held in all cases before an exemption is granted.

The Senate bill requires the Commission to provide an exemption from regulation when it finds that regulation is not necessary to carry out the transportation policy and the transportation or service is either of limited scope or regulation is not needed to protect shippers from the abuse of market power. The Commission may not issue an exemption which will substantially lessen competition and coordination between water and rail carriers. No exemption order shall operate to relieve railroads of their common carrier liability for claims under 49 U.S.C. 11707.

House amendment. The House amendment amends section 10505 of the Interstate Commerce Act and provides that the Commission shall exempt a person or transaction from one or more provisions of the Act where it is not necessary to carry out the rail transportation policy and where (1) the transportation or service is of a limited scope or (2) the application of a provision is not needed to protect shippers or receivers where there is an absence of effective competition or (3) where there is effective competition. The House bill, like the Senate bill, removed the requirement that a proceeding be held in all cases. The Commission is charged with the responsibility of actively pursuing exemptions for transportation and service that comply with the section's standards.

The amendment places certain limits on the Commission's authority to grant exemptions. First, section 10505(e) provides contractual terms for liability and claims consistent with section 11707. This limitation does not affect the ability of a carrier to offer alternative terms nor give the Commission the authority to require either any specific level of rates or services based on Section 11707, nor does it require the filing of those terms with the Commission. Second, the exemption authority may not be used to relieve a carrier of its obligation to protect the interests of employees. Third, under section 10505(f) the exemption authority may not be used to authorize intermodal ownership otherwise prohibited by this title.

Conference substitute. The Conference substitute combines the Senate and House provisions. The bill permits exemptions wherever regulation is not needed to prevent abuses of market power, regardless of the presence of effective competition. The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation. The conferees anticipate that through the exemption process the Commission will eventually reduce its exercise of authority to instances where regulation is necessary to protect against abuses of market power where other federal remedies are inadequate for this purpose. Particularly, the conferees expect that as many as possible of the Commission's restrictions on changes in prices and services by rail carriers will be removed and that the Commission will adopt a policy of reviewing carrier actions after the fact to correct abuses of market power.

For these reasons we also expect that except to the extent necessary to comply with subsections (e) and (g) of section 10505 of title 49 U.S.C. as amended by the Staggers Rail Act of 1980, an exemption order issued by the Commission prior to the effective date of the Staggers Rail Act of 1980 shall remain in full force and effect unless revoked pursuant to subsection (d) of section 10505 of title 49 U.S.C. as amended.

Section 214—Intrastate rates

Senate bill. The Senate bill amends section 11501 to reaffirm both that the Commission's power in this area is only as otherwise authorized by this title and that the States' power cannot conflict with the Federal regulatory scheme.

First, it amends section 11501 to limit the Commission's authority to prescribe a rate or effect other action which is inconsistent with its rate regulatory authority as limited by the act.

Second, it reaffirms that where the Commission has withdrawn its jurisdiction to regulate, the State could not assume such jurisdiction.

Third, it provides that to the extent States do have jurisdiction, they are to regulate in accordance with the transportation policies set forth in the act.

Finally, it shortens the time in which a failure by the State to act on an intrastate rate allows Commission action.

House amendment. The House amendment amends sections 11501, 10103 and 10501 of the Interstate Commerce Act by exempting rail carriers from the provisions of section 11501(a) and by adding provisions making the Commission's and certified States' jurisdiction over intrastate and interstate rail carrier rates, classifications, rules and practices and the remedies provided by the Act exclusive.

First, it amends section 11501(a) of the Interstate Commerce Act to exempt rail carriers from present provisions for Commission jurisdiction over intrastate carriers.

Second, it amends section 11501 by adding new provisions which provide that only State authorities whose standards and procedures have been certified by the Commission may exercise jurisdiction over intrastate rail rates, classifications, rules and practices. Intrastate rail transportation not subject to the jurisdiction of a certified State authority is subject to the jurisdiction of the Commission. In no event may a State authority exercise jurisdiction over general rate or inflation-based rate increases. Decisions of State authorities may be appealed to the Commission if not in accordance with this subtitle.

Third, it amends section 10103(a) to make explicit that where the Interstate Commerce

Act provides an exclusive remedy, such remedy is not in addition to remedies under another law or at common law.

Finally, it amends section 10501 by adding a new paragraph providing that the jurisdiction of the Commission and of certified State authorities over rail transportation, as well as the remedies provided with respect to rail rates, classifications, rules and practices are exclusive.

Conference substitute. The Conference substitute adopts the House amendment, except that the Commission's power to adjust intrastate rates is retained in the event that actions by certified states impose a burden on intrastate commerce. The conferees' intent is to ensure that the price and service flexibility and revenue adequacy goals of the Act are not undermined by state regulation of rates, practices, etc., which are not in accordance with these goals. Accordingly, the Act preempts state authority over rail rates, classifications, rules and practices. States may only regulate in these areas if they are certified under the procedures of this section.

The remedies available against rail carriers with respect to rail rates, classifications, rules and practices are exclusively those provided by the Interstate Commerce Act, as amended, and any other federal statutes which are not inconsistent with the Interstate Commerce Act. No state law or federal or state common law remedies are available.

Section 215—Business entertainment expenses

Senate bill. No provision.

House amendment. The House amendment adds a new section 10751 to subchapter 111 of chapter 107 of title 49 U.S.C. to provide that business solicitation or entertainment expenses incurred by rail carriers do not constitute illegal rebates or discrimination, if these expenses would be legal when incurred by a non-Commission regulated entity. The House amendment treats rail carriers in a similar manner as other businesses.

To discourage excessive solicitation or entertainment expenses, these expenses are not to be taken into account in determining the cost of service or the rate base for rate regulation purposes.

The Commission is directed to institute a rulemaking proceeding to establish standards and guidelines for authorized expenses under this section.

Conference substitute. The Conference substitute follows House amendment. It amends Section 10751 of Title 49 U.S.C., which was added by the Motor Carrier Act of 1980, by striking out "other than transportation by rail". In addition, Subsection (b) of Section 215 makes clear that Section 10751 should be construed so as to include any permissible business expense that was incurred prior to the effective date of this Act (other than expenses on which a penalty has been paid) or that is incurred on or after such date.

Section 216—Efficient marketing

Senate bill. The Senate bill amends 49 U.S.C. 10762(c)(3) to permit new or increased rates to become effective 20 days after the notice of such rate is published and filed, but delayed the effective date of this change for 60 days. The Senate bill also leaves contracts and demand-sensitive tariffs subject to the provisions of existing law that require that tariffs shall not become effective on less than 30 days notice.

House amendment. The House amendment reduced the period after which tariffs increasing rates can become effective to 10 days and the period after filing tariffs which reduce rates can become effective to 5 days after filing. The House amendment also permits the Commission to reduce the notice if cause exists. The House amendment establishes a separate filing procedure for contracts in the contract section.

Conference substitute. The Conference substitute permits tariffs increasing rates to become effective upon 20 days notice and tariffs reducing rates to become effective upon 10 days notice. The Conference substitute does not change existing law which permits the effective dates of tariffs to be reduced upon cause shown.

Section 217—Joint rates

Senate bill. The Senate bill authorizes a carrier to publish a surcharge without the concurrence of other carriers if the surcharge is applied in equal dollar amounts to all of the routes participated in by that carrier between the same points and, if an increase in joint rates, to all of its competing single-line routes between each such origin and destination. The change in revenues shall accrue solely to the carrier applying the surcharge.

The proposing carrier must give 45 days' notice to other carriers party to the joint rate.

A carrier which participates in any route subject to a surcharge may by tariff cancel the application of such surcharge to any route if such carrier demonstrates that, under the applicable joint rate without the surcharge or under a new lawful rate or division concurred in by the carrier, the surcharging carrier's revenues for its participation over such route are less than 110 percent of its variable costs.

A carrier may not apply a surcharge unless, for 1 year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by other parties to the rates.

Only the carrier proposing a surcharge shall be required to defend the surcharge, and the lawfulness of the surcharge shall be determined without regard to the amounts received and the services performed by other carriers party to the joint tariff to which the surcharge is applied.

A rail carrier may, without the concurrence of any connecting rail carrier, publish surcharges applicable to traffic originating or terminating upon any line of railroad originating and terminating less than 3 million gross ton miles of traffic per mile in the most recent calendar year for which traffic data are available if, prior to the application of any such surcharge, the through charges applicable to traffic to and from any such line do not provide the surcharging carrier revenues adequate to cover 100 percent of the reasonably expected costs (including the cost of capital) of continuing to operate the line involved. The change in revenues resulting from any such surcharge shall accrue solely to the carrier applying the surcharge.

A carrier may cancel the application of a joint rate to any through route without the concurrence of any connecting carrier unless another carrier party to the rate over that route demonstrates that the canceling carrier's share of revenue under the canceled rate is not less than 110 percent of the canceling carrier's variable cost of providing service over that route.

The carrier would be required to provide an estimate to class III carriers or other parties upon a showing of good cause in developing necessary data to challenge surcharges. The Commission's Special Counsel is authorized to assist Class III carriers in actions brought under this section.

House amendment. Consistent with the goal of preserving a financially stable, private sector rail system set forth in section 3 of the amendment, section 301 establishes procedures by which rail carriers which do not earn adequate revenues under existing joint rates and divisions can surcharge such rates or cancel their application to particular routes without the concurrence of other carriers. The purpose of this section is to insure that no rail carrier will be compelled to carry goods unless its share of the revenues from the joint rate, including any surcharges, is at least 110% of the carrier's variable cost of providing the particular services involved. In addition, for light density lines owned by a single carrier which carry less than 3,000,000 gross ton miles per mile of traffic, this section allows such a carrier to apply surcharges to recover in full its reasonably expected costs of providing services over such lines.

With respect to a particular route to which a surcharge has been applied under subsection (a) or to which the application of a joint rate has been cancelled, section 301 allows connecting carriers who participate in the route or shippers who demonstrate that they have no competitive alternative to the route to respond by demonstrating that the existing joint rate is sufficient to provide revenues to the surcharging or canceling carrier in excess of 110% of that carrier's variable cost. Alternatively, the connecting carrier may agree to a new division or new lawful rate or the carrier or a shipper in an affected route may petition the Commission to establish a new rate which is sufficient to produce revenues equal to 110% of the variable cost to the carrier proposing the surcharge or cancellation. Under either alternative, the surcharge would be cancelled or the application of the joint rate continued for that particular route. A surcharge to a light density line may be challenged by a shipper who has no competitive alternative to such line on the basis that the revenues generated exceed the surcharging carrier's reasonably expected costs of providing services over the particular line or that the shipper is bearing an unreasonable proportion of the reasonably expected costs. Special provisions are also included in section 301 to protect class III carriers from unfair competition as a result of action taken by another carrier under this section.

Section-by-Section Analysis

Section 301. This section amends chapter 107 of title 49 by adding a new section 10705a which provides standards and procedures for surcharging an existing joint rate for canceling the application of a joint rate to a particular route to increase revenues for rail carriers earning inadequate revenues from existing joint rates and divisions.

Subsection (a) authorizes a carrier to apply a surcharge increasing or decreasing the joint rate for a particular movement between two points without the concurrence of other parties to the joint rate provided the surcharge is applied in equal dollar amounts to all routes for the movement under the joint rate in which the surcharging carrier participates and, if the surcharge increases the rate, to all single line routes of that carrier between the same points. A connecting carrier may cancel the application of a surcharge to a route in which it participates by demonstrating that the surcharging carrier's revenues over that route without the surcharge exceed 110 percent of the surcharging carrier's viable cost or by putting into effect a new division or a new lawful rate which provides the surcharging carrier 110 percent of its variable cost. In addition, a shipper showing that it has no competitive alternative to that route and a carrier in the affected route, may petition the Commission to cancel the application of a surcharge to a particular route by showing that the surcharging carrier's revenues with the surcharge exceed 110 percent of variable cost. The Commission must then authorize the surcharging carrier to apply a surcharge sufficient to generate revenues equal to 110 percent of the surcharging carrier's variable cost. The right of surcharge may be exercised by a particular carrier only once a year for a particular movement and only if that carrier has participated in all generally applicable rate increases to that joint rate for one year prior to the surcharge.

Subsection (b) authorizes a surcharge applicable to traffic which originates or terminates upon a light density line, owned by a single carrier, which carries less than 3,000,000 gross ton miles of traffic per mile per year. The surcharge may be applied (in different amounts to different traffic in order to optimize market relationships if necessary) whenever the revenues under existing rates do not cover 110% of the carrier's variable cost of transporting traffic to or from the line plus 100% of the carrier's reasonably expected costs (including the cost of capital) of operating the line. A shipper located upon a light density line to which a surcharge is applied may petition the Commission for two kinds of relief: (1) if it is established that the revenues generated by the surcharge exceed 100% of the variable cost of transporting traffic to and from the line plus all the reasonably expected costs of continuing to operate the line (including normalized maintenance and the replacement cost of equipment), the Commission may reduce the surcharge to the level needed to generate such revenues; and (2) if it is established that the complaining shipper would, by virtue of the surcharge, bear an unreasonable proportion of the reasonably expected costs of operating the light density line, the Commission may reallocate the surcharge among the traffic originating or terminating upon the line.

Subsection (c) authorizes a carrier to cancel the application of a joint rate to a particular through route subject to that rate. Another carrier participating in that route or the Commission, upon petition of a shipper having no competitive alternative to the route, may prevent the cancellation upon the same demonstration or by putting into effect the same type of new rate or division necessary to cancel a surcharge under subsection (a). When a cancellation is prevented in this manner, the Commission shall consider the canceling tariff under the provisions of existing law relative to the cancellation of joint rates. If a cancellation becomes effective, the canceling carrier may establish a local or proportional rate for that movement. Any through rate of which that local or proportional rate is a part will divide as the separate factors of the through rate are made and not by prescribed divisions.

No matter when a surcharge or cancellation is challenged under this section, the issue to be decided by the Commission is whether the surcharge or cancellation met the standards of this section at the time it was filed and not at the time it is challenged.

Subsection (d) provides that revenue changes resulting from surcharges shall accrue to the surcharging carrier. Upon demonstration by an intraterritorial connecting class III carrier particularly in a surcharged route, and in the absence of any increase in the joint rate, revenues resulting from a surcharge under subsection (a) in excess of 110 percent of variable cost over that route will be divided with intraterritorial connecting class III carriers in that route on the basis of existing divisions. This section does not apply to revenues resulting from diversions to a line but only to revenue directly accruing from the surcharge.

Subsection (e) provides that, when a carrier puts into effect a new rate or division in order to prevent a surcharge or cancellation from taking effect over a particular route, other carriers can require similar concessions on other routes under the same joint rate in which they participate, subject to the limitations set forth in this subsection.

Subsections (f) through (h) set forth ancillary provisions with respect to surcharges and cancellations regarding notice, effect upon other sections of title 49, and access to information from the Commission regarding revenues and variable cost. In particular, subsection (g) provides that, except where specifically provided in this section, the Commission may not remedy a surcharge or cancellation found to violate another section of title 49 in a way which would require a carrier to provide service at less than 110 percent of variable cost (or reasonably expected costs in the case of a light density line).

Subsections (i) through (k) set forth special remedial provisions available to class III rail carriers relative to surcharges under subsection (a) or cancellations under subsection (c). These provisions allow aggrieved class III carriers to protest surcharges or cancellations which are alleged to be anticompetitive, which will unduly affect the complaining carrier's ability to earn an adequate rate of return or which create unreasonable differences in existing rates. In these limited circumstances the Commission may order relief which requires a surcharging or canceling carrier to carry traffic at less than 110 percent of variable cost if it determines that such relief is warranted by the public interest in preserving rail service or ensuring competition among rail carriers.

Subsection (l) requires the Commission, upon petition by a participating class II or III rail carrier, to prescribe a new compensatory through rate when the application of a joint rate to a through route is canceled under subsection (c)

Subsection (m) sets forth the method for determining variable cost for purposes of this section.

Subsection (n) provides that the authority to make surcharges under subsection (a) expires three years after the effective date of the Act (unless extended for one additional year by the Commission), but that surcharges made before that date will continue to be lawful.

Senate Amendment to House Amendment—No Provision

Conference substitute. The Conference substitute adopts the House substitute, with modifications. Today, most of the property transported by rail moves over through routes subject to joint rates, and the revenue derived from these movements is divided among the participating carriers according to divisions generally prescribed by the Commission. The existing joint rates and divisions do not allow some rail carriers to recover even the variable cost of providing transportation services on certain through routes. Under existing law, unless all carriers participating in the joint rate concur, these rates and divisions can be changed only by protracted proceedings before the Commission.

Two of the major problems caused by the existing joint rate system are too low rate divisions and a proliferation of uneconomic routes protected by the archaic "commercial closing" doctrine.

The Conferees intend that the conference substitute will alleviate these problems in part by assuring that a carrier, with a minimum of regulatory interference will be able, by applying surcharges or directly cancelling routes, to either earn revenues over all lines equal to or exceeding 110 percent of unadjusted ICC formula variable costs or to close routes not providing this level of earnings and, in the case of railroads earning less than adequate revenues with lines carrying less than 3,000,000 gross ton miles, to cover all the costs of operating those lines. The same holds for railroads earning adequate revenues, except only with respect to lines carrying less than 1,000,000 gross ton miles.

With regard to surcharges on light density lines, the conferees intend that such surcharges may not be imposed in a manner which would require shippers to pay for extraordinary occurrences (i.e. bridge washouts, landslides) in a short period of time. The Commission's proceeding should address this issue.

These provisions are intended to insure these results but they in no way imply an intent on the part of Conferees that a carrier's existing rights under the Act to secure improved earnings over specific routes should be limited. The Conferees recognize that a carrier cannot remain healthy only earning revenues at these levels, but believe that at this time the extraordinary provisions of this section are only needed to attain the revenue levels specified in this section and that existing remedies, assuming the Commission chooses to administer them in order to realize the revenue adequacy goals of the Act, should be adequate to remedy other joint route and division problems.

The key to the success of these provisions will be the ease with which they may be implemented by a surcharging or cancelling carrier. The Conferees intend that the revenue levels guaranteed by this section take precedence wherever possible to competing claims and that only where action is essential to protect vital public interests should the Commisssion or the Court act to frustrate the implementation of these provisions.

Administrative feasibility is also the reason the conferees have selected formula costs for use under all provisions except where otherwise specified; and the Conferees encourage the Commission not to permit cost debates to delay the policy of this Act that carriers earn the full and reasonably expected costs of providing service on lines carrying less than 3,000,000 gross ton miles for revenue inadequate carriers and 1,000,000 gross ton miles for revenue adequate carrier. Only if carriers are able to cover all these costs can they expect to begin to invest to provide the service on which our nation's commerce depends.

In determining which carriers qualify as class III carriers, the Commission shall exclude any revenues not earned from freight operations, specifically excluding revenues from passenger service.

All of the provisions as described in the House amendment are available for class III rail carriers.

Section 218—Expedited division of revenues proceedings

Senate bill. The Senate bill amended section 10705(e)(1) of the Interstate Commerce Act by requiring the Commission to complete all evidentiary proceedings to adjust the division of joint rail rates within nine months if the proceeding is brought on complaint or within 18 months if the proceeding is initiated by the Commission. The Commission is required to take final action by the 180th day after the completion of evidentiary proceedings unless the Commission requires more time in which case it must report its reasons to Congress.

However, when the divisions proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission must give the proceeding preference over all other proceedings and must take action within the earliest practicable time. In no event may the Commission fail to act more than 100 days after the completion of the evidentiary proceedings.

House amendment. The House amendment is the same as the Senate bill except it exempts division proceedings involving joint rates participated in by Class III carriers.

Conference substitute. The Conference substitute adopts the Senate provision, except that for a three-year period the expedited divisions provision shall not apply to class carriers.

The conferees intend that the Commission will modify its regulations governing divisions proceedings to insure that prefiling requirements do not frustrate the purpose of the Congress to expedite divisions proceedings as much as possible. The conferees also expect the Commission to examine closely alternative means of dividing revenues among carriers in a manner which might better reflect market conditions than the crude, across the board divisions which now apply regardless of the specific economic conditions of the carriers involved and the markets they serve.

Section 219—Rate bureaus

Senate bill. The Senate bill modified some of the activities which a rate bureau may permit its members to engage in if it is to be approved by the Commission.

First, intrastate rates affecting interstate commerce may be set collectively in the same manner as interstate rates.

Second, the extent of carrier discussion of single line rates and interline rates related to a particular interline movement is defined and limited.

Third, sound recordings or transcripts must be kept of bureau proceedings, submitted to the ICC and made available to any other federal agency with jurisdiction.

House amendment. The House amendment modified the activities which a rate bureau may permit its members to engage in if it is to be approved by the Commission and its members are to be immune from the application of the antitrust laws.

First, no carrier may discuss, vote or agree on single line rates proposed by another carrier. The Commission may allow such discussion for general rate increases only if it finds that the implementation of the limitation is not feasible.

Second, no carrier may discuss a joint line rate unless it practicably participates in the movement. The term "practicably participates" is to be defined by the Commission.

Third, after January 1, 1984, or earlier, if the Commission decides, unless the Commission finds it is not feasible, no carrier may discuss a joint line rate where there are two routes between the same end points except with a carrier that forms part of a particular single route.

Until January 1, 1983, such carriers may discuss general increases for joint rates and broad tariff charges, if the rate bureau has a special procedure allowing shippers to comment prior to the filing of the tariff with the Commission.

Fourth, employee protective provisions are provided for rate bureau employees affected by this section.

Fifth, in any proceeding in which an antitrust violation is alleged concerning a rail carrier the party making the allegation shall have the burden of proving the violation by clear and convincing evidence. Proof of the violation may not rest on or be inferred from evidence that two or more carriers acted together with respect to an interline movement and that one of the parties took similar action with respect to a competitive route.

Seventh, transcripts or sound recordings must be kept of bureau meetings and submitted to the ICC and made available to other federal agencies with jurisdiction.

Conference substitute. The Conference substitute adopts the House amendment with modifications. The Commission shall define "practicably participate" for determining when a carrier participates in a movement. The Conferees believe that railroads, shippers, and consumers will benefit from increased rail to rail competition, and expect that the Commission will interpret the term in a manner which encourages competition while maintaining a rail system which functions efficiently.

The Conference substitute extends the date by which the Commission must eliminate general rate increases by one year, to January 1, 1984. General rate increases are also limited to inflationary cost increases. Rate bureau discussions are limited to joint movements where carriers have an actual interline movement by January 1, 1984, unless the Commission acts sooner. Car compensation, demurrage, and car allowances are not considered single-line rates.

The Conferees wish to emphasize that nothing in the new law will prevent a carrier from publishing broad territorial rate changes in a tariff

Because of the requirement that carriers concur in changes to joint rates, carriers must talk to competitors about interline movements in which they interchange. That requirement could falsely lead to conclusions about rate agreements that were lawfully discussed. To prevent such a conclusion the Conference substitute provides procedural protections about lawful discussions and resulting rates. The Conferees intend that these protections be construed to insure that remedies for anti-competitive activities remain under existing laws.

Section 220—Long and short haul transportation

Senate bill. No provision.

House amendment. The House bill amended section 10726 by limiting the provisions of existing law to rates applicable to grains, soybeans, rice or cotton or to situations in which the Commission determines that competition exists between rail and water carriers and the provisions are necessary to prevent anti-competitive behavior. The House amendment also repealed 10726(c) which limited a rail carrier's ability to increase a rate which had been previously decreased to meet water carrier competition.

Conference substitute. The Conference substitute repeals 10726(c). The conferees repealed this subection in order to encourage flexible and innovative pricing by railroads. The conferees' decision to otherwise retain the existing section 10726 is not to be construed to indicate that the Commission is not to take steps consistent with the policy of this Act to reduce barriers to market-oriented pricing without the need for prior Commission approval.

Section 221—Railroad entry

Senate bill. The Senate bill changes existing law to permit easier entry, consistent with the policy of this Act to encourage greater reliance on marketplace forces than on government regulation.

Under present law, the Commission may authorize the construction of a railroad only if it finds that the public convenience and necessity "require or will be enhanced" by the construction. This is a more stringent test than that applied to either the abandonment of rail lines or mergers. There does not appear to be any reason why the Commission should apply a more difficult standard for the construction of new facilities than for the abandonment of old facilities. The Senate bill changes the test applied by the Commission from "require or will be enhanced" to "require or permit".

When a railroad has been issued a certificate of public convenience and necessity by the Commission and where the construction or extension of that line would cross another carrier, it is unclear whether the second railroad could block the construction by refusing to let the first railroad cross another carrier. The Senate bill provides that when a railroad has been issued a certificate of public convenience and necessity, no other railroad may block construction by refusing to let the first railroad cross its property, provided that the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line. If the railroads cannot agree on the terms of compensation, the Commission may establish the compensation.

House amendment. The House amendment changes the standard under 49 U.S.C. 10901 for the construction or extension of a rail line from requiring the Commission to find that the "public convenience and necessity require or will be enhanced" by the construction or acquisition (or both) and the operation of the railroad line to requiring the Commission to find that the "public convenience and necessity permit the construction or acquisition". The House amendment permits one railroad that has been issued a certificate of public convenience and necessity to cross the property of another carrier if the construction does not unreasonably interfere with the operation of the crossed line, the operation does not materially interfere with the operation of the crossed line and the owner of the crossing line compensates the owner of the crossed line. If the carriers are unable to agree to the terms of operation or compensation, either party may submit the matters in dispute to the Commission. The House amendment requires the Commission to impose employee protection under 49 U.S.C. 11347 upon any rail carrier proposing to both construct and operate a new railroad line. If a rail carrier rearranges or adjusts its work force in anticipation of a transaction with the purpose of depriving an employee of benefits under this title, the provisions of this title apply to such employee.

Conference Substitute

The Conference substitute adopts the House amendment, but makes employee protection discretionary and drops the provision regarding deprivation of employee benefits in anticipation of a transaction. The Commission does not have authority over the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team switching, or sidetracks, if the tracks are located, or intended to be located, entirely in one state (49 U.S.C. 10907). The Committee does not intend that new subsections added to 49 U.S.C. 10901 shall expand the Commission's jurisdiction. If the construction or extension of a line of railroad would be otherwise exempt under 49 U.S.C. 10901, there should be no reason to obtain a certificate of public convenience and necessity even if the constructing railroad reaches a voluntary agreement to cross another carrier's line. Only if a dispute is submitted to the Commission would there be a need to obtain a certificate of public convenience and necessity. This certificate could be sought at the same time as the dispute is submitted to the Commission. The Conferees wish to emphasize that if a certificate would not otherwise be required under section 10907, the certificate should be issued routinely and that its purpose is (1) to assure Commission jurisdiction under 10901 (d) and (2) to assure that the crossing carrier has its right to serve a shipper sanctioned by the Commission.

Section 222—Service during periods of peak demand

Senate bill. No provision.

House amendment. The House amendment provides that a rail carrier may not be found to have violated its common-carrier obligation under 49 U.S.C. 11101 to provide transportation or service on reasonable request if it fulfills its commitments under contracts for the shipment of goods before responding to reasonable requests for service.

Conference substitute. The Conference substitute adopts the House amendment. However, this provision does not abrogate the power of the Commission to refuse to approve contracts on the grounds that they will impair a carrier's ability to meet its common carrier obligation.

Section 223—Reciprocal switching

Senate bill. The Senate authorized the Commission to require railroads to enter into reciprocal switching where it finds such agreements to be practicable and in the public interest. In many parts of the country, reciprocal switching agreements are in effect where carriers pick up and deliver traffic for other railroads. In areas where reciprocal switching is feasible, it provides an avenue of relief for shippers where only one railroad provides service and it is inadequate. The standard "practicable and in the public interest" is the same standard the Commission has applied in considering whether to order the joint use of terminal facilities.

House amendment. The House amendment is the same as the Senate bill, but permits the Commission in its discretion to order protection for employees who are adversely affected by a grant of authority by the Commission under this section.

Conference substitute. The Conference substitute adopts the House provision. The Conferees note that the Commisison should use the "practicable and in the public interest" standard even though section 11123 has been expanded to include all facilities, not just the joint use of terminals. The Conferees note that the entry and reciprocal switching provisions should not be used to allow Class I carriers to force their way into traffic originating or terminating on a class III carrier.

Section 224—Car service compensation

Senate bill. No provision.

House amendment. The House amendment repeals section 11122(b)(2) which allowed the Commisison to impose incentive per diem rates.

The House amendment also provides that when shippers enter into an agreement to discuss what they will propose to charge rail carriers for the use by such rail carriers of rolling stock owned or leased by such shippers, they shall apply to the Commission for approval of the agreement. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the rail transportation policy in section 10101a of this title. The Commission may require compliance with conditions necessary to make the agreement further the rail transportation policy. If the Commission approves the agreement, and action by a party under its terms or the terms required by the Commission shall receive antitrust immunity under section 10706(a)(2).

The House amendments also provides that where the shippers who have entered into an agreement approved by the Commission and the rail carriers proposing to use the rolling stock owned or leased by the shippers cannot agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may settle the matter by submitting the issues in dispute to the Commission. The Commission shall render a binding decision on the issues based on a standard of reasonableness. The Commission's decision may consider any past precedents on the history of the negotiations and must be rendered within 90 days of the submission of the dispute to the Commission.

Conference substitute. The Conference substitute adopts the provisions of the House amendment and adds a provision which states that the law in effect prior to the effective date of this Act with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers shall remain in effect.

The conferees do not believe that the provision of an incentive element on freight equipment is the best means of attracting capital into the industry for the acquisition of rolling stock. Rather, the rental rate for such rolling stock should be sufficient to pay an adequate return on investment. The conferees do anticipate, however, that the Commission shall continue to examine means (such as flexible car hire) of making basic car hire more responsive to market forces where this is possible without subjecting carriers which are forced to use cars received in interchange to unreasonable rates.

The conferees intend that marketplace decisions govern the railroad industry and its relationship with shippers. Indeed this policy is ennunciated in the rail transportation policy. The conferees expect that antitrust immunity be granted under this section consistent with previous Commission decisions. The conferees are aware that shippers could have antitrust immunity to establish private car-hire when participating in a Commission proceeding and do not intend that this provision shall change existing law in that regard.

If the Commission allows per diem rates below basic per diem during periods of surplus car supply, the Commission should allow rates above basic per diem during periods of shortage.

Section 225—Car utilization

Senate bill. The Senate bill created a new section 10732 of the Interstate Commerce Act. This section provides that rail carriers are free to establish a special elective tariff which contains preminum freight rates for special services or levels of services that may be requested by a shipper. Throughout Senate hearings on rail regulatory reform, testimony was submitted by many shippers who advised that they were prepared to pay a higher rate for a higher level or more expeditious service. This amendment will give those shippers that option and, in turn, allow the rail carriers to increase the utilization of their cars.

Essentially, this subsection allows carriers to provide a more specialized service to shippers who choose to pay the premium rate, but the common carrier obligation is not abrogated in any way. This will insure that the shipper is still guaranteed the same level of service that he receives today. This subsection is simply another option for the shipper and the rail carrier.

House amendment. No provision.

Conference substitute. The Conference substitute adopts the Senate provision, with an amendment.

Section 226—Car service orders for exigent circumstances

Senate bill. The Senate bill limited the Commission's authority to issue car service orders under 49 U.S.C. 11123 in two ways. First, the Commission would be restricted to emergencies "of such magnitude as to have substantial adverse effects on rail service to the nation or a substantial region of the nation". Second, the Senate bill restricted emergency orders to 30 days, but permitted the Commission to extend the order another 60 days if the Commission had a proceeding to resolve the service problems which generated the need for the emergency order on a more permanent basis. The two restrictions were adopted based on the belief that only real emergencies should trigger such orders and that in the past, the Commission has been far too willing to issue car service orders in other than emergency situations. The Senate bill removed the limitation in existing law that the Commission may order only the joint or common use of terminals, including mainline tracks for a reasonable distance outside of those terminals. The Commission would be permitted to require the joint or common use of all facilities when it considers that a shortage of equipment, congestion of traffic, or qualifying emergency exists.

House amendment. The House amendment limited the Commission's authority to issue car service orders under 49 U.S.C. 11123 in instances where it finds a "shortage of equipment, congestion of traffic or other failure in traffic movement exists which creates an emergency situation resulting in substantial adverse effects of rail service in the United States or a substantial region of the United States." The House amendment requires the Commission to find a nationwide emergency or broad regional emergency that justify the extraordinary remedy of the imposition of car service orders. The House amendment permits the Commission to extend such orders beyond 30 days if the Secretary of Transportation certifies that a transportation emergency exists. The House amendment permits the Commission when it makes the prerequisite findings to require the joint use of all facilities, not just terminal and mainline tracks a reasonable distance outside those terminals. This provision will permit the Commission to effectively address genuine emergency situations in an expeditious manner without restrictions regarding the use of a railroad's facilities, including mainlines and equipment by another railroad or over that railroad. This provision specifically overrules the decision in *Atchison, Topeka and Santa Fe* v. *ICC*, 617 F. 2nd 485 (7th Cir., 1980). When the Commission does require one railroad to use or go over another railroad's facilities, the Commission shall require, to the maximum extent practicable, the use of employees who would have performed work in connection with the traffic subject to the action of the Commission.

Conference substitute. The Conference substitute adopts the House provision, but authorizes the full Commission after a hearing to determine that a transportation emergency exists if the original 30-day order is to be extended. The conferees emphasize that the Commission's powers under this section are extraordinary and should be exercised only in genuine emergencies. Some shipping interests have expressed concern as to the scope of this section. An important distinction must be borne in mind. Section 11123 of title 49 is being amended as to the required regional or national type emergency before the Commission can issue car service orders, as well as the duration and the scope of the car service orders.

The Conferees want to emphasize that the provisions of section 11122 of title 49 of the United States Code as to permanent rules and regulations on railroad car service are unaffected and remain intact. The importance of insuring on a day-to-day basis the efficient functioning of our unified national rail system and network remains. The Commission still retains its power to issue permanent mandatory car service rules such as those which are now in effect and which govern the movement of railroad cars throughout the country.

Section 227—Employee protection

Senate bill. No provision.

House amendment. The House amendment provided for employee protection, as described in 49 U.S.C. 11347, to be imposed in transactions involving transfers or the operation of or over a debtor's lines by another entity under section 1172(b) of the Bankruptcy Act of 1978. The provision puts employees of rail carriers which entered bankruptcy after the effective date of the Bankruptcy Act of 1978 in the same position as employees of rail carriers that entered bankruptcy prior to the Bankruptcy Act of 1978 with respect to employee protection. This provision is not intended to change existing law with respect to either the priority or the timing of payment of employee protection in a bankruptcy proceeding.

Conference substitute. The Conference substitute follows the House provision.

Section 228—Mergers and other transactions

Senate bill. The Senate bill would make no changes in the present law with respect to major rail mergers: the ICC would consider such proposals under existing standards and procedures, and the present time limit of about 31 months (which was established by the 4R Act) would be retained. However, this section makes two major changes in the present law under which the Commission is required to consider all other restructuring transactions among railroads (including the purchase or sale of assets, trackage rights, and the like). These changes are intended to encourage the rationalization and restructuring of the rail system through actions less than merger.

First, the Commission would have to decide on smaller transactions faster than under present law. Present law permits the Commission 15 months to decide all such cases regardless of their complexity or importance. For transactions having regional or national significance, this section would require the Commission to reach a decision within 10 months. For transactions which do not have regional or national transportation significance, this section would require the Commission to reach a decision within 6 months. These deadlines are, of course, maximum time limits and the Committee believes that many applications can and should be processed without taking the full amount of time allowed.

In order to meet the deadlines specified in this section, the number of factors the Commission must consider in ruling on transactions less than merger would be reduced. (The Commission now applies the same test to all transactions as to major mergers.) This section would require the Commission to balance the transportation benefits of the transaction against any anticompetitive effects. In addition, where the transaction is part of a restructuring project previously approved by the Secretary of Transportation under section 401 of the 4R Act, the Commission would be required to give substantial weight to the recommendations of the Secretary.

House amendment. The House bill contains a provision relating to the factors the Commission is required to consider when passing on major mergers. The House provision would require the Commission to consider whether the proposed transaction would have an adverse effect on competition among rail carriers.

Conference substitute. The Conference substitute includes a combination of the House and Senate provisions. The conferees note that many transactions for which Commission approval is required are minor in nature and routinely approved. The Committee believes that the Commission should focus its attention on more important issues and judiciously use its statutory authority to reduce the burden on all parties (including a reduction in paperwork) where approval is routinely and consistently granted.

Section 229—Savings provisions

Senate bill. The Senate bill provided that a rail rate in existence on the date of enactment of this Act could only be challenged as being not reasonable within 270 days after enactment. Such rate would not be found not reasonable if its revenue-to-variable cost ratios did not exceed the average ratio of revenue-to-variable cost established by the Commission.

House amendment. The House amendment provided that any rate for a carrier in effect on the effective date of this Act could be challenged within 180 days of the date in a complaint filed with the Commission alleging that the carrier had market dominance under section 10709 over the particular route to which the rate applied and that the rate was not reasonable under new section 10701 (a). If a rate in effect upon enactment has not been challenged within 180 days or was challenged and found to be reasonable, the rate could not again be challenged before the Commission or any court.

The savings provisions would not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date did not exceed 500 net tons where such rate has increased tenfold in the 3-year period immediately preceding the bringing of a challenge to the increase of such rate.

In all cases under this section, the burden of proof is on the complainant.

Conference substitute. The Conference substitute adopts the House bill. This conference substitute allows a 180-day period from the effective date of the bill in which existing rate may be challenged as unreasonably high under the procedures of 11701. The Conferees do not intend this right to be construed as creating any presumption as to the reasonableness of the rates subject to challenge. The purpose of this provision is to give affected parties a final opportunity to review the reasonableness of existing rates before their opportunity to challenge those rates is curtailed. Any challenges arising under this section shall be limited by the jurisdictional standards otherwise newly adopted in the Staggers Rail Act of 1980.

Section 301—Uniform accounting system

Senate bill. No provision.

House amendment. The House amendment makes section 11142, which requires the Commission to prescribe a uniform cost and revenue accounting and reporting system applicable only to non-rail carriers. Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title III of the amendment.

Conference substitute. The Conference substitute is the same as the House amendment.

Section 302—Railroad cost accounting

Senate bill. No provision.

House amendment. The House amendment establishes a Railroad Accounting Standards Board, consisting of seven members and chaired by the Comptroller General of the United States. The purpose of the Board is to develop cost accounting principles which identify—variable costs which accurately represent the economic costs of rail movements.

The Board, in developing principles, is to take into account several factors concerning the regulatory purpose, the costs and benefits for rail carriers, and the least expensive way of obtaining the cost information.

The Commission is to promulgate rules to implement the principles developed by the Board.

Within 180 days after enactment, each railroad must file a request with the ICC for preliminary certification, which is to be granted if the carriers cost accounting system is in compliance with the ICC accounting principles in effect on the date of enactment. The Conferees do not envision the requirements for preliminary certification to be any more than a simple affirmation that the carrier is meeting and will continue to meet the existing requirements of the Commission.

The Commission shall grant final certification if it finds that a carrier's accounting system is in compliance with the rules promulgated by the Commission, under the principles of the Board.

Each rail carrier is to maintain a system that is in compliance with rules promulgated by the Commission, under the principles of the Board.

Rail carriers are required to make cost data available to parties to a Commission proceeding.

In order to obtain expense and revenue information for regulatory purposes, the Commission may promulgate rules which prescribe expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to rail carriers. The Commission in promulgating rules for expense and revenue accounting and reporting requirements, shall ensure that such requirements are cost effective and not duplicative of the managerial and responsibility accounting requirements of carriers.

The Board shall file two reports with the Congress within 2 years after the effective date of this legislation. One report is to compare the cost of implementing the accounting standards to possible benefits. A second report is to recommend changes to the regulatory system, including maximum rate regulation, to integrate the new cost accounting standards and rules.

Conference substitute. The Conference adopted the House provision with the following changes: First, the Conference substitute makes it clear that the primary purpose of the Cost Accounting Principles Board is to promulgate sound principles to govern the determination of railroad costs rather than detailed standards. Second, the Conference substitute limits the availability of cost evidence to that which the Commission will allow under its discovery rules. Third, the Conference substitute authorizes the appropriation of $1 million per year to carry out the functions of the Cost Accounting Principles Board. Fourth, the Conference substitute limits the number of Board members to seven. Fifth, the Conference substitute requires that the Board conduct one study, recommending legislative or administrative action that may be necessary to integrate the cost accounting principles and certification process with the regulatory system, including maximum rate regulation. Sixth, the conference substitute makes certain technical changes to stress that the principles promulgated by the Board and the rules promulgated by the Commission are to emphasize the degree of economic accuracy needed for regulatory purposes and not merely the accumulation of more detailed, but not necessarily more accurate, accounting information.

The substitute clarifies the description of the type of principles to be determined in order to eliminate redundant language contained in the House bill. The Conferees intent is to provide for the most accurate possible statement of costs, both direct and indirect, associated with particular movements of goods, and the Board in developing its principles should consider the degree of reliability with which such costs can be attributed to specific movements.

The Conferees expect that while the Board develops its principles, the Commission will continue its efforts to complete the uniform revenue and cost systems which it commenced after the passage of the 4R Act so that the Board, as part of its task, will be able to evaluate that system as it is developing its principles.

The Conferees desire the Board's principles will be sufficiently sound that they will be generally applicable for both regulatory and management purposes. To this end, railroads are to be afforded maximum possible freedom consistent with the Commission's regulatory needs, to develop internal accounting and cost finding systems that are suited to the needs of the carriers themselves. The Conferees wish to emphasize, however, that the purpose of the Board's efforts is to develop a regulatory accounting system and that this section is not intended to limit the use of cost finding systems by railroads which railroads might find useful for management purposes.

The substitute allows, but does not require, the Commission to promulgate rules prescribing expense and revenue accounting and reporting requirements. In addition to other limitations in the bill designed to minimize the burden of such rules on carriers, the bill requires that to the extent they are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings, the rules must comply with the principles established by the Railroad Accounting Principles Board.

The Committee recognizes that the Commission has exempted Class III railroads from the Uniform System of Accounts. The Committee shares the view that elaborate accounting systems imposed upon smaller railroads could produce a much greater burden on the railroad than could be justified by offsetting public benefits. Thus, the Committee has left with the Commission the discretion to exempt carriers from the burdens of a Cost Accounting System if that seems desirable. We encourage the Commission to continue the practice of granting exemptions as needed to relieve unnecessary paperwork burdens and costs on small businesses.

Section 303—Civil penalties for violations of accounting principles provisions

Senate bill. No provision.

House amendment. A carrier failing to obtain final certification of its cost accounting system is to be fined not less than $50,000. Any party to a proceeding who knowingly discloses confidential data made available by a railroad pursuant to this title may be fined up to $50,000.

Conference substitute. The Conference is the same as the House amendment.

Section 401—Feeder railroad development program

Senate bill. No provision.

House amendment. To provide shipper groups and government agencies an alternative to inadequate rail service and to preserve feeder lines prior to the total downgrading of such lines, the House amendment provides for a feeder line development program which would require a rail carrier to sell a railroad line to a financially responsible person at a price not less than the constitutional minimum, if the Commission makes a finding that the present or future public convenience and necessity required or permitted the abandonment or discontinuance of a railroad line, or if the Commission makes a finding that the transportation provided over a particular line is inadequate. Inadequate transportation is defined by five criteria. The Commission must affirmatively determine the existence of the conditions set forth in all five criteria as a prerequisite to the sale of a railroad line under this section. The burden of proving inadequacy of service is on the person filing to acquire the rail line.

The Commission may require the selling carrier to provide the acquiring carrier trackage rights if the acquiring carrier compensates the selling carrier for such trackage rights. If an acquiring rail carrier petitions the Commission for a joint rate, the Commission is required to grant such acquiring carrier a reasonable compensatory joint rate.

The carrier is exempt from sections 10901 and 10903 of the Interstate Commerce Act, except if an acquiring carrier participates in a joint rate. The feeder line development program permits an acquiring carrier to conditions which shippers must meet as a prerequisite to using the line.

Conference substitute. The Conference substitute adopts the House provision with several modifications.

First, the program is limited for the first three years to lines carrying 3,000,000 gross ton miles per year or less. After the third year any line is eligible for acquisition under the program but joint rates cannot be mandated for lines acquired carrying more than 3,000,000 gross tons per mile per year.

Second, the feeder railroad program is not intended to supplant the branch line program under existing law. Where an application for abandonment has been actually filed with the Commission, existing provisions of the Interstate Commerce Act and of the Local Rail Service Assistance Act will be available.

Third, an opportunity is given for the Commission to allow a rail carrier a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over a line in question.

Fourth, it is made clear that the Commission may require trackage rights to the acquiring carrier in order to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between non-contiguous feeder lines operated by the acquiring carrier. The Conferees recognize that one operator may acquire a number of non-contiguous branch lines thereby requiring the allocation of trackage rights in order to permit movement of power equipment between the non-contiguous lines.

Fifth, normal labor protection is afforded employees of the selling carrier and the provision requires the acquiring carrier to hire, to the maximum extent practicable, the employees who would normally have performed work in connection with a line subject to sale under the program.

The Conferees believe that the feeder line program will give shippers and communities an opportunity to insist upon adequate rail service. Where such service is not forthcoming the provision provides, through acquisition, a viable alternative to poor service or total abandonment.

Section 402—Abandonment

Senate bill. Section 202 of the Senate bill alters the existing provisions of the Interstate Commerce Act relating to abandonments of railroad lines. This section expedites abandonment proceedings by specifically setting forth time periods within which the Commission must act upon abandonment applications, depending on the complexity of and the opposition to the abandoment proceeding. For example, under existing law, there is no time limit within which an investigation of an abandonment application must be concluded. Section 202(c)(3) places a time limit of 135 days upon such investigations.

Section 202 repeals existing 49 U.S.C. 10905. New section 10905 creates a mechanism that requires railroads to sell a railroad line approved for abandoment to a financially responsible party if the financially responsible party has offered to pay the acquisition cost of the line or the difference between the revenues attributable to providing that service plus a reasonable return on the value of the line. Section 202 also requires rail carriers petitioning for abandonment of a railroad line to provide interested parties an estimate of the subsidy or the minimum purchase price required to keep the line in operation, calculated in accordance with the new provisions in 49 U.S.C. 10905.

The provisions in section 202 assist shippers who are sincerely interested in improving rail service, while at the same time protecting carriers from protracted legal proceedings which are calculated merely to tediously extend the abandonment process.

House amendment. No provision.

Conference substitute. The Conference substitute adopts the Senate provision.

Section 403—Conversion of abandoned railroad rights-of-way

Senate bill. Section 305 of the Senate bill is an amendment to the original bill, S. 1946, the Railroad Transportation Policy Act of 1979. The section authorized $20 million over a 3-year period for acquisition of abandoned railroad rights-of-way for future use as bicycle paths, jogging and hiking trails and related transportation, recreation and conservation uses, as stated in section 809 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). This authorization includes matching Federal and State funds, with the Federal share being 80 percent and the State share being 20 percent.

The 4R Act authorized $20 million for fiscal year 1976, 1977 and 1978 to the Department of Interior for acquisition of abandoned railroad rights-of-way for conversion to trails related to transportation, recreation, and conservation. Based on this initial authorization $5 million was appropriated during the 95th Congress to Department of Interior Bureau of Recreation (now the Heritage and Recreational Services) for funding the Rail-to-Trail program.

The response to the Department of Interior's public notce of funding for the Rail-to-Trail program was very enthusiastic. The Department received 135 applications totaling $70 million. Because of the large response to the project, DOI felt they could be selective in the application approval. Top priority was given to applications for trails based or originating in metropolitan areas as well as trails used for commuter transportation.

Ten projects received funding from the $5 million appropriated. These 10 projects represent 111.62 miles of multiple-use trails from abandoned rail lines in 10 States. This is a small percentage of the 6,232 miles of nationwide abandonments suitable for conversion to transportation and recreational uses.

Funding authority for this project expired as of September 30, 1979. This authorization will allow for the continuation of the Rail-to-Trail program started in the 4R Act. Evidence from State governments has shown intense interest in preserving funding for this program.

House amendment. The House amendment has no provision.

Conference substitute. The Conference substitute adopts the Senate provision, but reduces the authorization to $10 million.

Section 404—Extension of redeemable preference share financing

Senate bill. The Senate bill continues the existing redeemable preference share program for two years, until September 30, 1982, and it authorizes an additional $400 million for this purpose. The Senate provision expands the scope of eligible participants under the program and provides a specific allocation of program funds for labor cost associated with improved manpower effectiveness.

House amendment. The House amendment extends the existing redeemable preference share program for two years.

Conference substitute. The Conference substitute extends the redeemable preference share program until September 30, 1982. The funding provisions are discussed in the following section.

Section 405—Financing

Senate bill. The Senate bill contains an amendment to section 511(a) of the 4–R Act. Section 511 of the 4–R Act is one of the financial assistance programs available to railroads for the acquisition, repair, or improvement of rolling stock and facilities associated with rolling stock. This amendment opens the doors of eligibility to this loan program to computerized car management systems which carriers desire to acquire, repair, or rehabilitate. Most railroads in this Nation operate sophisticated computer systems to follow their rolling stock throughout their rail network. These computers are essential to the efficient management of a railroad's car fleet. Unfortunately, as technology improves, many of the early computer systems have become obsolete. The new technology which is available would certainly pay for itself in a short period as a result of increased utilization of the car fleet. All loans under the 511 loan program are absolutely secured.

House amendment. The House amendment authorizes the Secretary to provide assistance (either alone or as a participant with other investors) to any railroad or its subsidiary to achieve significant restructuring. The assistance may be used for the purchase of securities or the rehabilitation, improvement, or acquisition of facilities (including track, maintenance, equipment and related labor protection costs) which the Secretary, based upon a restructuring plan provided to the Secretary or as part of a restructuring project supported by the Secretary under section 5(a)-(d) of the Department of Transportation Act, or both, determines will contribute to significant railroad restructuring that would not likely be achieved without Federal assistance. The assistance may also be used for purchase or rehabilitation of feeder lines. States, communities, or shippers groups that intend to purchase a feeder line are to be considered railroads for the purposes of this section.

Senate amendment. The Senate amendment extends the existing section 505 to September 30, 1982, and authorizes an additional $400 million.

A new paragraph is added to section 505 (b) to authorize the Secretary to provide a percentage not more than 20 percent of the total funds authorized for this program to employee or shipper groups formed pursuant to an employee and/or shipper stock ownership plan for purchase and/or rehabilitation of rail lines or facilities. In determining the priority by which such groups should receive funding under this program, the Secretary is directed to consider the availability of other feasible alternatives for providing rail service. It is specifically intended that those projects without a viable or feasible alternative would receive a priority in the allocation of available funds under this section.

The Senate amendment adds a new section 505(A) to the current law granting the Secretary of Transportation the authority to provide Class I rail carriers with financial assistance to cover labor costs associated with operational improvements.

The Senate bill clarifies what specific actions would be considered a form of restructuring for the purposes of the 505 program.

Conference substitute. The Conference substitute adopts the Senate provisions, but increases the authorization to $700,000,000, in section 505 funds. Conferees do not agree with any suggestion that a legitimate need for rehabilitation of track cannot exist outside a restructuring. Conferees have provided for restructuring under the Milwaukee Railroad Restructuring Act and are expanding that under this bill to include purchase of rail assets as elements of an eligible project—but not necessarily priority elements. The Congressional intent in establishing the Preference Share Program under section 505 was to provide a "bank of last resort" to put money quickly into railroads to address the deferred maintenance problem while solutions to the overall financial shortfall in the industry could be developed. Much deferred maintenance remains. This Conference does not believe that now is the time to scrap the existing program, thereby forcing the marginal carrier to seek Federal assistance on terms more appropriate for healthy railroads.

The Conference substitute earmarks in the section 505 authorization $200,000,000, originally authorized in the restructuring provisions of the House bill, for automatic transfer by the Secretary to the United States Railway Association for use by Conrail in establishing a voluntary annuity program to reduce the size of its workforce. The money is to be transferred to the account under Section 216 of the Regional Reorganization Act, notwithstanding the authorization limitation of that section.

The Conferees intend for the Finance Committee of the Association to determine if (1) any program proposed by the Corporation will in fact reduce the size of the Corporation's workforce, and (2) funding of the program will result in substantial savings to the United States as measured against the probable costs to the Government of not reducing the Corporation's workforce to the extent contemplated by the institution of a voluntary early retirement annuity program.

To facilitate the institution of such a program subsection (b)(1) of section 405 amends Section 216(b) of the Regional Rail Reorganization Act of 1973 by adding paragraph (B) which makes it clear that employees of the Corporation taking advantage of an early retirement program will be deemed to have a "current connection with the railroad industry" so as to avoid losing Railroad Retirement eligibility at the appropriate age.

Section 406—Transaction assistance

Senate bill. No provision.

House amendment. The House amendment creates a new category for financial assistance under section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210). Specifically, financial assistance would be available to purchase properties of the Milwaukee Railroad located in the State of Montana for rail banking.

Conference substitute. The Conference substitute adopts the House amendment.

Section 407—Electrification loan guarantees

Senate bill. No provision.

House amendment. The House amendment amends 211(1) of the Regional Rail Reorganization Act to make available to railroads in addition to Conrail loan guarantees for the purpose of electrifying high density mainlines. Loan guarantees for capital improvements for coal export facilities are provided for the Corporation and other railroads in the region receiving assistance under the 3-R Act.

Conference substitute. The Conference substitute is the same as the House amendment but the Secretary's authority to waive findings in 511(g) has been deleted. The Conferees expect that the loan guarantees for capital improvements for coal export facilities available under this section will be used to construct coal export facilities such as the proposed coal facility at the Port of Philadelphia.

Section 408—Amendment to the Regional Rail Reorganization Act of 1973

Senate bill. No provision.

House amendment. The House amendment raises the amount authorized to be loaned to any railroad in the region receiving assistance under section 211(d)(2) of the Regional Rail Reorganization Act of 1973, notwithstanding sections 211 (e)(3) and (f).

Conference substitute. The Conference substitute adopts the House provision.

Section 409—Federal assistance report

Senate bill. No provision.

House amendment. The House amendment provides direction to the Secretary of Transportation on the coordination of federal assistance and also requires the Secretary to file an annual report on federal assistance provided to the rail industry, the reasons for each loan or grant, and the results to be expected.

Conference substitute. The Conference substitute requires the study described above but does not include the directions for coordination to the Secretary.

Section 501—Monthly displacement allowance

Senate bill. No provision.

House amendment. The House amendment proposed four new formulas for monthly displacement allowance as follows:

1. *Non-operating employees:* Except for maintenance-of-way employees, non-operating employees (i.e., other than train and engine service employees) will receive an hourly guarantee, based upon the rate of pay of the position they held on September 1, 1979. This guarantee will be increased to reflect subsequent general wage increases, and will be increased whenever the employee, through the exercise of his or her seniority, becomes the qualified incumbent of a higher rated position. If, as a result of a reduction in the number of positions available, a protected employee is required to exercise seniority to a position with an hourly rate less than the guarantee, the employee will receive a monthly guarantee payment representing the hourly differential multiplied by the number of hours in the new position's straight-time work schedule for the claim month. If a protected employee is unable to retain any position, the employee will receive the guaranteed hourly rate for the number of hours the employee would have worked on a straight-time basis if he or she had retained his or her previous position.

2. *Maintenance-of-way employees:* The maintenance-of-way guarantee is based on average monthly compensation, which is total compensation received by an employee during 1974, divided by total time paid for, and multiplied by 174 or by average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. The protected employee's monthly displacement allowance is the difference between the straight-time earnings and 80 percent of the average monthly compensation, less time lost due to voluntary absences other than vacations.

If, at the close of a calendar year, the sum of the employee's annual straight-time compensation, monthly displacement allowance payments, and offsets under this title are less than the employee's average monthly compensation divided by 12, the employee would receive an additional payment for the difference. If, in the previous calendar year, an employee has received displacement allowances payments greater than his annual guarantee, the excess benefits would be recovered from current or future entitlements, exclusive of moving expense benefits.

The House amendment also conforms the guarantee formulas for employees affected by a supplemental transaction to the revised guarantee formulas for other protected employees.

3. *Operating employees:* It is proposed that operating employees (i.e., train and engine service employees) retain their current monthly guarantee subject to two important modifications. Average 1977 Conrail earnings will be calculated for each Commission classification of opearting employees. These values will be upgraded by subsequent general wage increases, and will constitute maxima. These protected employees whose current monthly guarantees exceed the applicable maximum will have their guarantees reduced to the maximum. The second modification is an annual calculation in accordance with the maintenance-of-way formula described above. If a protected employee's earnings are less than the guarantee in any month, 75% of the difference will be paid. At the end of the calendar year, a comparison of guarantee and earnings on the annual basis will determine whether an additional payment will be made or whether future payments will be withheld pending recovery.

4. *Non-contract employees and employees who have been transferred:* No change is proposed in the guarantee formula currently applicable to these employees. Non-contract employees receive salaries which do not include overtime compensation. Additionally, they receive merit increases rather than general wage increases, so that their guarantees have not changed since the formation of Conrail. Consequently, they have not been

the recipients of "windfall" payments as is the case with contract employees.

Transferred employees retain their current guarantee. They have frequently purchased new homes at a price reflecting the standard of living they were assured of on the basis of the current guarantee formula. A sudden reduction in their monthly income might place them in an untenable financial position. There are approximately 350 employees who have transferred.

There are two other changes made in this section. Under subsection (b)(7), in addition to all unemployment compensation benefits and railroad earnings being set off against the employee's monthly displacement allowance (as under existing law), all outside earnings of a protected employee deprived of employment must be setoff against employee's monthly displacement allowances. This change will ensure that the monthly displacement allowances of such protected employees are fully offset by other compensation.

An additional change is made by this section in proposed subsection (b)(10). It calls for employees deprived of employment, or the employees' class or craft representative, and the employer to agree on a procedure by which such employees will report their nonrailroad earnings in order that they may be setoff against monthly displacement allowances. It also calls for an agreed upon procedure by which the employer is kept apprised of the unemployment benefits currently paid to employees deprived of employment, also for the purpose of off-setting their monthly displacement allowances. These procedures are necessary to ensure that the reporting/investigative burdens are shared by the employer and the employees, rather than having the burden of investigation fall solely on the employer, as now exists.

Senate amendment. The Senate amendment is similar to the House amendment except for maintenance-of-way employee payments.

Maintenance-of-way employees often work as portable equipment operators in the summer when extensive track rehabilitation is undertaken, and as trackmen in the winter when only routing maintenance can be performed. As a result of this circumstance, maintenance-of-way employees frequently earn less than their average monthly compensation in the winter and more than their average monthly compensation in the summer. When monthly displacement allowances during the winter months are added to these earnings, the employee's actual annual compensation can well exceed his or her annual compensation guarantee.

In order to correct this situation, a separate calculation is proposed for maintenance-of-way employees. Each protected employee will be assigned a monthly guarantee equal to the employee's 1974 average hourly earnings on a straight-time basis, upgraded by subsequent general wage increases, and multiplied by 174 (i.e., the number of hours in a straight-time work schedule in the average month). If a protected employee's current monthly guarantee is less than this value, the current guarantee will be retained. If, in any month, a protected employee's earnings are less than the guarantee, a payment will be due equal to 75% of the difference. At the end of the calendar year the employee's annual guarantee will be compared to his or her annual earnings plus monthly guarantee payments and any offsets. If the annual guarantee is larger, the full difference will be paid. If the annual calculation demonstrates that all or a portion of the monthly guarantee payments represent an overpayment, the employee will be entitled to no further guarantee payments until the overpayment is recovered. In the calculation of guarantee payments on the monthly and annual basis, earnings include overtime rate on any given day.

Conference substitute. This follows the House provision. The conferees note that changes in the monthly displacement allowances formulas were necessary to eliminate expensive inequities in the current formulas. The conferees note that different formulas were provided for different classes and crafts of employees because of different procedures used to determine the basic wages of different classes and crafts of railroad employees and because the work schedules of certain employees (such as maintenance-of-way employees) are subject to irregular and seasonal fluctuations. The conferees believe the use of these different formulas is rationally related to such differences among the classes and crafts and to the need to conserve scarce government resources.

Section 502—Duration of monthly displacement allowance

Senate bill. No provision.

House amendment. The House amendment would restrict the payment of the monthly displacement allowance in two situations. First, a protected employee's entitlement to a monthly displacement allowance would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, flood, snowstorms, and similar natural occurrences. Second, the legislation would require a protected employee to claim a monthly displacement allowance within three months of entitlement unless the claim is the subject of or based upon an arbitration decision. It also would require that entitlement to claims be approved or denied within 150 days after a claim is filed for the first year following enactment and within 90 days thereafter, unless the employee and the employer agree upon other timeframes for filing and determining claims. This provision will eliminate bookkeeping problems caused by delay in filing a claim for a monthly displacement allowance, and enable the Corporation to assess more accurately expected payments for labor protection. The legislation further provides that unless denied within the timeframes by the carrier, the claim would be deemed approved.

Senate amendment. The Senate amendment contains a similar provision.

Conference substitute. The Conference substitute contains the provision in the House and Senate amendments.

Section 503—Training and transfer

Senate bill. No provision.

House amendment. The House amendment addresses restrictions on manpower utilization by permitting the Corporation and other employers with protected employees to transfer such employees in the marine crafts and unemployed Penn Truck Lines, Inc. workers to another class, and by offering retraining programs to make the inter-class transfer provisions meaningful.

The new training and transfer provisions would apply to unemployed protected employees in the marine crafts and unemployed Penn Truck Lines, Inc. employees. No bona fide vacancies exist for these employees in their class or craft. Consequently, their guarantee payments represent a considerable ongoing liability.

Training expenses would be paid for by the Corporation or other employer, which could then be reimbursed from the Regional Rail Transportation Protective Account. Moving expenses incident to transfers would be reimbursable under the provisions of section 505(g), as is the case under existing law.

Senate amendment. The Senate amendment is similar, with two exceptions. The power to transfer unemployed protected employees is extended to employers besides the Corporation, and the multiple offer provision was not adopted.

The "multiple offer" provision establishes procedures that permit the Corporation and other employers to expedite reassignments by making simultaneous offers of a vacancy to no more than 4 employees at a time (those contacted employees junior to the least senior employee who accepts the vacancy will be furloughed or served).

Conference substitute. The Conference substitute follows the Senate bill, but retains the restriction in the House bill which allows only Conrail to transfer protected employees. However, the substitute permits Amtrak to transfer employees within their seniority districts unless Amtrak and the affected unions agree to negotiate an appropriate collective-bargaining agreement in this area.

The substitute also restricts use of the multiple offer provision to unemployed protected employees of the marine crafts and protected employees of Penn Truck Lines. Other employees would not be subject to the multiple offer provision.

Section 504—Payment, audit and report

Senate bill. No provision.

House amendment. The House amendment would redesignate section 509 of the 3R Act as section 509(a) and increase the amount of funds authorized to be appropriated under Title V by $235 million (of which up to $180 million could be spent on MDA's) to a new authorization level of $485 million making training costs incurred by the Corporation under revised section 505(d)(4)(D) reimbursable costs, direct the Secretary of Transportation to be responsible for requesting needed appropriations for expenditure by the Railroad Retirement Board, and additionally authorize the appropriation of funds for administrative expenses incurred by the Railroad Retirement Board in performing their functions under section 509. The appropriations may be allocated by the Secretary to the Board and the Association.

It is proposed that an additional $235 million be authorized to fund the revised level of benefits afforded by these amendments. Conrail projects that this sum will fund the program. If in fact the cost of the program exceeds an additional $235 million, the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that improve program auditing and reporting responsibilities upon the Association. Section 509(b) would direct the Association to conduct a program audit of the payment of benefits under Title V and evaluate the effectiveness of the provisions of Title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in its workforce. In conducting the program audit, the Association should be particularly sensitive to the impact of Title V provisions upon management policies, so that the Association will be able to suggest corrective legislation quickly in the event inequities are uncovered in the program or the way that the Corporation administers the program.

The Association would be afforded access to pertinent documents for the purpose of facilitating its program audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic program audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Senate amendment.—The Senate amendment contains an identical provision to the House amendment.

Conference substitute. This provision is contained in the substitute.

Section 505—Railroad hiring

Senate bill. No provision.

House amendment. The House amendment provides for a right of first hire on other rail carriers for protected separated, or furloughed employees of Conrail. This right would not apply if an employee was separated for cause, or found to be less qualified than other applicants. The right would also not apply to any vacancy covered by a required or permissible voluntary affirmative action plan. This right is similar to that granted Milwaukee and Rock Island employees by recent legislation.

Conference substitute. This follows the House provision.

Section 506—Single collective-bargaining agreement

Senate bill. No provision.

House amendment. No provision.

Senate amendment. The Regional Rail Reorganization Act of 1973, as amended, was based on a recognition that Conrail could succeed only if the predecessor bankrupt roads' operations were combined into a unified system.

A major component of that integration was addressed by section 504(d) of the 3R Act which required representatives of the various classes or crafts of the bankrupt carriers and representatives of Conrail to enter into negotiations for a single collective bargaining agreement for each class and craft of employees. This section was motivated by a recognition that the near countless existing labor agreements had to be replaced by negotiated collective-bargaining agreements for each class and craft.

Such negotiations were commenced and substantial progress has been made toward the goals of the Act. As a significant example, the United Transportation Union and Conrail, after extensive bargaining, concluded an agreement having far-reaching effects on labor costs of train movements while allowing the United Transportation Union members to share in the resulting savings. However, continued implementation of this collectively bargained agreement is imperiled by the findings of a U.S. Magistrate in the case of *Malooj* v. *United Transportation Union and Conrail*, issued March 27, 1980.

As the result of a suit brought by minority members of the union who wish to block the agreement, the U. S. Magistrate has concluded, among other things, that section 504(d) of the 3R Act does not require the negotiation of a single agreement for each class or craft. As a finding of fact, this conclusion must be considered to have a substantial likelihood of adoption by the Federal District Court. Such an adoption would, in all likelihood, be accompanied by an order effectively terminating the United Transportation Union-Conrail agreement and allowing the continuation of regional distinctions in treatment among members of the same class or craft in opposition to the conclusions of the Final System Plan, and the clearly stated policy of Congress. Revocation of the detailed and comprehensive Crew Consist Agreement, on the strength of findings by a Magistrate, not only denies its benefits to a large number of United Transportation Union members but wipes out needed savings for Conrail.

Conference substitute. The Conference substitute follows the Senate bill, with a clarifying sentence added to ensure that such a single collective bargaining agreement is negotiated systemwide. This follows the historical policy of the National Mediation Board that crafts or classes are to be certified systemwide, and negotiations conducted on a similar basis.

This section will make it absolutely clear that the intent of Congress was in 1973, has remained, and is today that Conrail is entitled to a single collective bargaining agreement with each craft or class of workers. The Magistrate's opinion was premised on what he described as an ambiguous phrase in the existing statutory language. This section should make it clear that the intent of Congress is that Conrail is entitled to a single agreement for each class and craft.

Section 507—Employee protection payments

Senate bill. No provision.

House amendment. The House amendment provided an effective date for the new formulas of the first day of the month following enactment.

Senate amendment. The Senate bill provides that the new formulas are to be effective on the first day of the month following enactment. The Corporation and other employers with protected employees were to be reimbursed effective October 1 for any protective payments not previously reimbursed.

Conference substitute. The Conference substitute adopts October 1, 1980 as the effective date.

Section 508—Technical amendments

Senate bill. No provision.

House amendment. The House amendment makes technical changes to the Regional Rail Reorganization Act of 1973 and adds the Attorney General to the Board of Directors of the United States Railway Association.

The Secretary of Transportation and the Secretary of the Treasury are authorized to delegate their responsibilities under the 3R Act, including membership on the Board of Directors of the USRA and its committees, to the following designated representatives. The Secretary of Treasury may designate any officer of the Department whose position is confirmed by the Senate. The Secretary of Transportation is authorized to designate as his representative the Deputy Secretary, the General Counsel, the Federal Railroad Administrator, or the Deputy Federal Railroad Administrator.

Subsection (d) amends the definition of "deprived of employment" in subsection 501 (6) to exclude from the definition, and thereby excludes from coverage under the protection program consistent with changes made in section 4 of this legislation, failure to work due to Acts of God. Subsection (d) also adds a definition of "compensation" to section 501 so that it is clear the word means only earnings in employment subject to the Railroad Retirement Act rather than such earnings plus earnings from non-railroad employment and compensation for personal injury claims against the employer.

Finally, subsection (e) clarifies that the arbitration provisions that apply to disputes between the Corporation and its employees regarding the interpretation of Title V provisions do not restrict the newly-created audit and reporting responsibilities of the USRA.

Senate amendment. The Senate amendment is similar to the House amendment but does not add the Attorney General to the Association's Board of Directors.

Conference substitute. The Conference substitute follows the House amendment, but deletes the provision to include the Attorney General on the USRA Board of Directors.

Section 508(f) of the House amendment, alters section 403(d) of the Rail Passenger Service Act to enable Amtrak greater flexibility in contracting for compensation for providing commuter services with the states. At present, the level of compensation is fixed at the "avoidable cost" level. Conferees expect that this provision will enable Amtrak to have the flexibility to contract for the value of services rendered and not result in commuter revenues below avoidable cost.

Section 601—Expedited supplemental transaction proposals

Senate bill. No provision.

House amendment. The House bill amends section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) by providing that the Secretary of Transportation shall determine after comments from interested parties whether to propose a supplemental transaction under this section for the transfer of all rail properties of Conrail in Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that another rail carrier is financially and operationally capable of assuming Conrail's freight operations and freight service obligations in the area, that the transfer would promote the establishment and retention of a financially self-sustaining rail system in Connecticut and Rhode Island adequate to meet the needs of those states, and that the transfer would minimize job losses and associated increases in unemployment, should the Secretary develop such a proposal. After providing USRA and the ICC with an opportunity to review and comment on the proposal, the Secretary may petition the special court for an order to carry out the proposed transfer.

Notwithstanding any existing 508 agreements, a new employment agreement would be entered into between the parties to the transfer and affected employees pursuant to section 508. These agreements would involve the Corporation, but would not impose additional obligations on the Corporation, which is neither an acquiring nor a selling carrier for the purposes of section 508.

The bill would also allow further supplemental transactions under the normal procedures of section 305 to occur by deleting the six year time limit provided in section 102(19) of the Act.

Conference substitute. The Conference substitute adopts the House provision, but allows the States of Connecticut and Rhode Island to comment formally. The time period is also extended to 240 days.

If a proposal is sent to the Special Court, the Special Court shall use the procedures of existing section 305. If a transferee railroad is unwilling to accept the fair and equitable price established by the Secretary, the Secretary need not petition the Special Court. The Special Court may review the proposal to determine if it is in the public interest.

Section 701—Rock Island and Milwaukee Railroads amendments

Senate bill. No provision.

House amendment. The House amends the Rock Island Transition and Employee Assistance Act and the Milwaukee Railroad Restructuring Act in several instances. The amendment provides that any decision with respect to constitutionality of the Rock Island Transition Act or the Milwaukee Railroad Restructuring Act from the respective courts having jurisdiction over the respective railroads in bankruptcy shall be taken to the United States Court of Appeals for the Seventh Circuit. If a constitutional challenge is made to the procedure under this provision, the challenge shall be heard by the United States Court of Appeals for the Seventh Circuit because the procedure is part of the Rock Island Transition Act. Should the appeals on constitutionality involve section 106 or section 110 of the Rock Island Transition Act or section 9 or 15 of the Milwaukee Railroad Restructuring Act, regarding the claim of administration for employee protection claims, the court shall determine the appeals in a consolidated proceeding and render a final decision no later than 60 days after the last such appeal is filed.

The House amendment clarifies the Rock Island Transition and Milwaukee Railroad Restructuring Act to state affirmatively that nothing in these Acts shall limit the right of any person to bring an action under the Tucker Act. This provision was not in the original Acts on the grounds that there continued to exist a Tucker Act remedy where Congress has not explicitly waived such a remedy. See Regional Rail Reorganization Cases, 419 U.S.102;125 (1974). However, in reviewing Judge Garr's injunction of the Rock Island Transition Act, Justice Stevens expressed concern about the availability of such a remedy where the injunction to be lifted and were the Act subsequently to be held unconstitutional, ——— U.S. ——— (1980). This specific provision clearly establishes that the Tucker Act is available and nothing in these Acts limits the right of any person to seek redress under the Tucker Act.

The House amendment provides for a new schedule for the negotiation of an employee protection agreement between the Rock Island Railroad and the Labor organizations. If these parties are not able to come to an agreement within 5 days, the Commission is to impose a fair and equitable arrangement no less protective of the interests of employees than the protection established under section 9 of the Milwaukee Railroad Restructuring Act within 15 days after the enactment of the Staggers Rail Act. The bankruptcy court shall order the Rock Island Trustee and the Rock Island employee organizations to implement such arrangement immediately. Any order of the Commission or the bankruptcy court with respect to implementing such order shall be appealed only to the United States Court of Appeals for the Seventh Circuit within 5 days after the order of the Commission or the bankruptcy court, whichever is later, and shall be determined within 60 days after the appeal is filed. Benefits and allowances under this arrangement shall be paid by the Rock Island Railroad and shall be treated as administrative expenses of the estate of the Rock Island Railroad. By specifically stating that there is a Tucker Act remedy, the benefits and allowances will immediately become available to the qualifying Rock Island employees and the Trustee may pursue his allegations of unconstitutional action under the Tucker Act.

Under Section 7(d), (e), and (f) of the Milwaukee Railroad Restructuring Act, certain obligations to the United States were subordinated to the creditors, but not the stockholders. Hence, there is a gap between these two classes of interests. The House amendment eliminates this gap, by forgiving such subordinated obligations to the United States when the Milwaukee Railroad is either successfully reorganized as a rail carrier or when more than 50% of the railroad as it exists on the effective date of the Staggers Rail Act is purchased and 50% of its employees on that date have obtained employment with other carriers. By eliminating this gap in this way, the House amendment will encourage the Milwaukee Railroad's stockholders to seek a successful reorganization or purchase and not feel it necessary to seek liquidation at this time.

Additional funds for Transaction Assistance under the Rock Island Transition Act for the purchase of abandoned lines by non-rail carrier entities of the Rock Island Railroad and Milwaukee Railroad and for rail banking of lines of the Milwaukee Railroad in Montana are made available. The Secretary may determine if applications for purchase filed after September 15, 1980, are appropriate. Other than the funds specifically reserved for Montana. Transition assistance funds should be equitably distributed without State preference to non-carrier entities which have applied for funds.

Conference substitute. The Conference substitute adopts the House provision, with minor modifications and deletion of the new findings for the Rock Island Transition Act. The conferees believe that there is an obligation upon the Rock Island estate to provide employee protection as a claim of administration to its employees who were not covered by the March 4, 1980, agreement. Further, the conferees believe the Rock Island estate has benefitted from the Rock Island Transition Act by the reduction in its employee protection liability and through the Congressionally-supported March 4, 1980, agreements, the ability to lease its facilities and the use of funds to purchase its facilities, thus preserving its value as a going concern, and the expeditious consideration of Rock Island transactions at the Commission. The conferees reiterate that it is the intention of Congress that employee protection be imposed in bankruptcy proceedings involving major rail carriers, for to do otherwise would be to promote liquidations, to the detriment of the employees and the public interest.

Section 702—Loan guarantees

Senate bill. No provision.

House amendment. The House amendment provides that the Secretary of Transportation shall not later than 45 days after the effective date of this Act, take final action on any application for a section 511 loan guarantee under the Railroad Revitalization and Regulatory Reform Act to be used in connection with joint ownership, construction or rehabilitation of any facilities for a second rail carrier to serve the Powder River Basin in Wyoming and Montana. This provision is included to promote needed competition for transportation of the low-sulfur coal from the Powder River Basin that is used by a great number of utilities in many states.

The Secretary is authorized to waive findings under 511(g) with respect to such loan guarantees, and section 4(f) of the Department of Transportation Act is not applicable to such loan guarantees. However, the Secretary shall review the proposed Chicago and North Western connector and shall not approve any route which requires the use of agricultural land unless there is no feasible and prudent alternative to the use of such land and the proposed route construction plan requires all possible planning to minimize loans to such agricultural land. The Secretary shall review the use of any agricultural land in any new constructed line and shall require private land crossings for agricultural land owners whose land is divided by such line. When the Secretary requires the construction of a grade crossing, the Secretary shall require the land owner and the railroad to enter into agreements limiting the railroad's liability at such crossings.

Conference substitute. The Conference substitute adopts the House amendment, but substitutes provisions regarding standards and deadlines for judicial review instead of the Secretary's discretion to waive findings under section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94–210). It also makes clear that actions can be taken without prior approval of any Committee of Congress.

The standards and deadlines are borrowed from the Alaska Natural Gas Transportation Act, 15 U.S.C. 719h, and the Administrative Procedure Act, 5 U.S.C. 706. The reference to the phrase, "arbitrary, capricious, or an abuse of discretion" is an adaptation of 5 U.S.C. 706(2)(A). The reference to "in excess of statutory jurisdiction, authority or limitations, or short of statutory right" is an incorporation of the grounds for review provided in section 706 (2)(C). The Conferees wish to emphasize that the other grounds for review set forth in section 5 U.S.C. 706(2) not in this section are intentionally excluded. Judicial review is to be confined to considerations of whether the agency complied with the Constitution and acted within its authority.

Section 703—Conrail studies and emergency funding and USRA authorization

Senate bill. The Senate bill requires USRA to submit preliminary recommendations by November 15, 1980, with regard to Conrail's future structure, activities and funding. Following review by the Department of Transportation and the Commission, and comment by interested parties, USRA is required to submit to Congress by March 1, 1981, specific final recommendations with respect to (1) future projected funding requirements of Conrail; (2) future structure and activities of Conrail in the region; and (3) legislative proposals, if necessary, to implement such recommendations. The Senate provisions also require specific studies to be completed in developing preliminary and final recommendations. Conrail is required to submit recommendations to USRA by October 1, 1980; it is also free to comment on the Association's preliminary and final recommendations. The provision includes an USRA authorization of $31.5 million for fiscal year 1981 and $27.5 million for fiscal year 1982.

A separate title of the Senate bill provides emergency funding for Conrail of $329 million for fiscal year year 1981. This provision is intended to provide interim Federal funding for Conrail while Congress identifies alternative measures, including structural changes, based on the various studies and recommendations discussed above. The funding is conditioned upon a finding by the Finance Committee under section 216(b) of the Regional Rail Reorganization Act of 1963, as amended, that Conrail has taken appropriate action to eliminate losses on light density and unprofitable lines through negotiation of subsidy or trackage rights agreements, sale or lease, imposition of surcharges or abandonment of such lines. Expedited surcharge and abandonment procedures are provided for these light density and unprofitable lines. In addition, the Senate bill requires an economic analysis that will forecast the full effects upon Conrail and rail labor of alternative changes in labor agreements and related operational changes.

House amendment. The House amendment does not contain any provision on Conrail studies or emergency funding. It provides an authorization for USRA of $28.5 million for fiscal year 1981.

Conference substitute. The Conference substitute generally adopts the Senate provision with regard to Conrail studies. However, Conrail is given a larger role and will be required to submit a separate report and recommendations at the same time as USRA on the carrier's future funding requirements, future structure and activities, and legislative action which might be required. Conrail is to submit preliminary projections and recommendations to USRA by January 1, 1981. The report and recommendations of USRA and Conrail are to be submitted to Congress no later than April 1, 1981.

The Department of Transportation is to submit its recommendations by that same date, and there is a provision for comment by the Commission.

The Conference substitute adopts the Conrail emergency funding authorization of $329 million for fiscal year 1981. It retains the Senate provision for an affirmative finding by the Finance Committee that Conrail has taken appropriate action to eliminate losses on light density lines and other lines which are unprofitable. However, since the rail bill contains separate surcharge and abandonment provisions, the expedited Conrail surcharge and abandonment procedures have been deleted. The Conferees stress, however, that Congress intends, as a condition of the emergency funding, that Conrail proceed to eliminate or reduce its losses on unprofitable lines and implement such cost conservation measures as are feasible to minimize the needs for additional Federal funds.

Earlier this year, in the Passenger Railroad Rebuilding Act, Congress established the goal of eliminating congestion of rail freight and rail passenger traffic along the Northeast Corridor. At that time, Congress also authorized funds to begin the diversion of freight around Baltimore. It now appears that still more freight may be diverted off the corridor by cooperation between Conrail and the Delaware and Hudson Railroad and that no authorization of appropriations is required to divert additional traffic off the corridor by the negotiations of trackage rights between Conrail and the Delaware and Hudson. Accordingly, the Conferees express their hope that these negotiations will successfully divert additional freight off the corridor and direct the United States Railway Association to monitor these negotiations and to report on their progress to the respective committees.

Section 704—USRA authorization of appropriations

Senate bill. The Senate bill contained a 2 year authorization of $31.5 million in fiscal year 1981 and $25.5 million in 1982.

House amendment. The House amendment contained a 1 year authorization for $28.5 million.

Conference substitute. The Conference substitute provides a 1 year authorization of $30 million for fiscal year 1981.

Section 705—Feeder line rehabilitation study

Senate bill. No provision.

House bill. Section 231 of the House bill created a Rail Technology and Shippers Needs Board. This Board is to consist of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, the Chairman of the Interstate Commerce Commission, and two shipper representatives from national agricultural organizations appointed by the President. The Board is given authority to conduct studies of technological means to improve rail productivity and the continuing transportation needs of urban and rural shippers.

Section 231 of the House bill also provides for a study of the revenue impact and public benefits of exempting from taxation State or local government obligations incurred in connection with the rehabilitation of railroad feeder lines. The report must include criteria as may be necessary to prevent the abuse of the special tax status given under this section.

Conference substitute. The Conference Substitute deleted the Rail Technology and Shippers Needs Board but retained the study of the impact of exempting State or local government obligations incurred in connection with the railroad feeder lines. It is anticipated that this report will include recommendations regarding the types of railroad properties and services which ought to be eligible for State or local government obligations which are exempt from taxation; ways to narrow the applicability of this special issue to ensure that such obligations will be issued only for productive rail rehabilitation or acquisition projects; and ways to ensure coordination with Federal, State and local rail programs.

Section 706—Effect on pending matters

Senate bill. No provision.

House amendment. The House bill contains a provision which states that all applications or proceedings pending before the Commission or other agencies, or any court, shall be determined as if this law had not been enacted.

Conference substitute. The conference substitute deletes the House provision, but clarifies that existing rate bureau proceedings shall be conducted under the law prior to the enactment of this Act. The House bill, as passed, contains a section determining the effect of this legislation on pending matters. The fact that the Conference substitute does not contain a similar provision is not intended to create any implication that other cases now pending at the Commission, other affected agencies, or pending in the Federal courts are not to be adjudicated or determined under existing law or the new legislation in accordance with controlling case law. The deletion of these provisions means that existing cases at the Commission, other affected agencies, or pending in the Federal courts, shall be determined as present case law requires that they be determined.

If a case is pending in Federal Court or has been remanded to the Commission, the Conferees intend that the rate ultimately determined by the Commission shall be considered the rate in effect on the date of enactment for the purposes of this Act.

Section 707—Construction of amendments

Senate bill. Same as the House bill.

House amendment. The House amendment provided that the amendments made by this Act should not be construed to modify the existing law with respect to competition and coordination as it affected the relationship between water carriers and rail carriers.

Conference substitutes. The provision contained in this section, which qualifies each provision of each section of this Act, is designed to make clear that none of the provisions of the Act modifies existing law to make lawful a rate or practice that was unlawful on the day prior to enactment. Also the Conferees intend that this section allow water carriers to challenge practices that were unlawful as unfair, destructive, predatory, or otherwise undermined competition prior to enactment of this Act. In addition, of course, the Conferees do not intend to limit the right of water carriers to exercise their rights and remedies under the provision of the Interstate Commerce Act as amended by the Staggers Act of 1980 regardless of whether those rights and remedies are related to practices which are unfair, destructive, predatory or otherwise undermine competition.

The intent is that none of the amendment made by this Act is to be used to legitimize the undermining of rail-water competition. Railroad rates and practices that affect rail-water competition that are unfair, destructive, predatory, or otherwise undermine competition, and that were unlawful immediately prior to enactment of this Act shall continue to be prohibited. Similarly, no change made by this Act makes lawful any other railroad rate or competitive practice that is unfair, destructive, predatory or otherwise undermines competition.

Section 708—Surplus equipment

Senate bill. No provision.

House amendment. The House amendment makes Conrail eligible to borrow excess equipment from the Department of the Army. Now, the affected community must pay a rental fee of the fair market value, which is too high for most local communities. The amendment would set up a two-step process for obtaining the needed equipment (bridge for example). The first would be an application by Conrail to the Army for a contract to borrow the bridge; this would occur only after Conrail has determined that public safety required such action. After Conrail and the Army have concluded negotiations, Conrail would enter into a contract with the local community to pay for the transportation of the bridge to the site and for routine maintenance.

While the language of the amendment is general, it is specifically aimed at solving a problem in the city of Niles, Ohio, where the West Park Avenue Bridge going over Conrail tracks was damaged and traffic is now being rerouted through a public park. This creates a hazardous and dangerous condition for the many children in the area.

Conference substitute. Conference substitute adopts the House provision.

Section 709—Study of Alaska Railroad rates

Senate bill. No provision.

House amendment. The House amendment requires, within 6 months after the effective date of the legislation, the Commission to complete a study to determine whether certain rates charged by the Alaska Railroad would, if such rates were entered into after the enactment of the legislation, have violated Section 10701a(c)(1) of Title 49 U.S.C. as amended by the House amendment.

Conference substitute. The Conference substitutes follows the House amendment. Allegations have been made that the Alaska Railroad has been engaged in predatory pricing to the injury of its privately-owned competitors. It has also been alleged that the Alaska Railroad has the capacity to engage in such activity because it is Federally owned and subsidized, while its competitors are totally unsubsidized. Clearly, such conduct would be contrary to sound public policy.

Accordingly, an investigation by the Commission is ordered by this Act. It is expected that the Commission will conduct a careful, impartial analysis of the controversy, weighing all the facts and arguments of the interested parties, and making available its analysis and supporting data for public comment prior to rendering a final report to Congress. The Department of Transportation and other federal agencies are expected to cooperate fully with the Commission in the conduct of the investigation.

The Commission's study is to be coordinated with a study by the State of Alaska.

Section 710—Effective dates

Senate bill. No provision.

House amendment. The House amendment provides that the provisions of this Act and the amendments made by this Act shall take effect October 1, 1980, except certain sections dealing with the Conrail employee protection.

Conference substitute. The Conference substitute adopts the House amendment, but clarifies that the amendments to the Rock Island Transition and Employee Assistance Act in section 227 are effective upon enactment.

APPENDIX A

INTERSTATE COMMERCE COMMISSION,
Washington, D.C. September 16, 1980.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EXON: This is in reply to your letter of September 11 asking for my interpretation of the Commission's authority regarding demand-sensitive rates if Section 210 of H.R. 7235 (The Rail Act of 1980) were enacted. As your letter points out, Section 210 repeals the existing section of the Interstate Commerce Act which requires the Commission to maintain standards and procedures to permit the establishment of demand-sensitive rates. In my view, repeal of this section will lead the Commission to repeal its existing regulations regarding demand-sensitive rates and to refuse to initiate new rulemakings on this subject.

I hope this addresses your concerns about the Commission's interpretation of existing and pending legislation. I would, of course, be pleased to discuss this with you at any time. If legislation is enacted, I look forward to working closely with you and other members of Congress who have devoted so much effort to bringing a rail bill to fruition.

Sincerely yours,

Darius W. Gaskins, Jr.,
Chairman.

Appendix B

Chicago & Northwestern
Transportation Co.,
September 26, 1980.

Hon. J. J. Exon,
U.S. Senate,
Washington, D.C.

Dear Senator Exon: We know you are concerned wih our plans for the future of our east-west line between the Wyoming State line and the Mississippi River. Please be advised we have no intention of abandoning this line.

The construction of, and successful operation of, our proposed connector line to the Union Pacific near Joyce, Nebraska, not only will not endanger the east-west line, but will enhance its future. Revenues derived from the coal project will make this railroad stronger and better able to maintain this line, which performs a useful service for the citizens of Nebraska.

It is our purpose to maintain this line in condition to respond to service needed by your citizens. As we become stronger, we are better able to increase the quality of this line and our other lines in Nebraska. However, I would like to emphasize that we do have an ongoing program which has resulted in substantial investment. For the period from 1974 to 1979 we have invested $35,456,000 in maintenance and capital in this line. Obviously, it is our intention to continue mantenance and investment at this level or, hopefully, greater.

Sincerely,

Jerome Conlon,
Senior Vice President.

Harley O. Staggers,
James J. Florio,
John M. Murphy,
Bob Eckhardt,
Jim Santini,
Barbara A. Mikulski,
Robert T. Matsui,
James T. Broyhill,
Edward R. Madigan,
Tom Loeffler,
Gary A. Lee,
Managers on the Part of the House.

Howard W. Cannon,
Russell B. Long,
J. James Exon,
Bob Packwood,
Nancy Landon Kassebaum,
Managers on the Part of the Senate.

PERMISSION TO CONSIDER PRIVATE CALENDAR ON THURSDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the House be permitted to consider the Private Calendar on Thursday next.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5612, SMALL BUSINESS ADMINISTRATION PILOT PROGRAMS FOR BUSINESSES OWNED BY DISADVANTAGED PERSONS

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent the managers may have until midnight tonight to file a conference report on the bill (H.R. 5612) to amend section 8(a) of the Small Business Act.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. PICKLE. Mr. Speaker, reserving the right to object, will the gentleman state the conference bill number?

Mr. SMITH of Iowa. H.R. 5612.

Mr. PICKLE. Mr. Speaker, I regret very much I have to object to this request. There is a serious matter of jurisdiction between the Committee on Ways and Means and this bill on which a conference report is being asked to be filed, and I object.

The SPEAKER. Objection is heard.

COMMUNICATION FROM THE CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the Chairman of the Committee on Public Works and Transportation; which was read and referred to the Committee on Appropriations:

Washington, D.C.,
September 24, 1980.

Hon. Thomas P. O'Neill,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on September 23, 1980:

DIRECT FEDERAL CONSTRUCTION

Vancouver, Washington, Federal Building Extension.

Redding, California: Courthouse and Federal Office Building.

LEASES

East Point, Georgia: Federal Aviation Agency, 3400 Whipple Street.

Washington, D.C.: Environmental Protection Agency.

Portland, Oregon: Bonneville Power Administration/Other Agencies.

San Bernardino, California: Department of Defense, 1111 East Mill Street.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,

Harold T. (Bizz) Johnson,
Chairman.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communcation from the Clerk of the House of Representatives:

Washington, D.C.,
September 26, 1980.

Hon. Thomas P. O'Neill, Jr.,
Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: On September 25, 1980, I was served with a subpoena from the United States District Court for the District of Maryland for certain official records within my custody. The subpoena was issued upon application of the United States Attorney, signed by the Deputy Clerk of the Court.

Pursuant to the provisions of House Resolution 722, adopted on September 17, 1980, this is to notify you of the receipt of the subpoena. Also in accordance with House Resolution 722, I have this day sent a copy of the Resolution to the Court as required by Section 7 of the Resolution.

The subpoena is available for inspection by Members in my office.

Sincerely,

Edmund L. Henshaw, Jr.,
Clerk, House of Representatives.
By W. Raymond Colley,
Deputy Clerk.

☐ 1810

GENERAL REVENUE SHARING EXTENSION ACT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Conable) is recognized for 60 minutes.

Mr. CONABLE. Mr. Speaker, I do not intend to take my 60 minutes tonight. It is my understanding that the General Revenue Sharing Extension Act which was to be taken up tomorrow night, because of the heavy political schedule, will probably not be taken up now until after the election.

Tomorrow night the revenue sharing program will expire. I am deeply distressed at the decision to put this over. It amounts to, with respect to local government, a real estate tax increase of roughly $4.7 billion. Of course, the States' share which was roughly a third of the total program has already been permitted to go by the boards by the Committee on Government Operations, for fiscal year 1981. There was some hope that it could be reconstituted by fiscal years 1982 and 1983 although it would be subject to appropriation rather than entitlement for those 2 years.

This program which I think was one of the most vital programs in the Federal system, in contrasting to the categorical grant program totaling, rather than $7 billion, $92 billion, is a serious loss to our total complex of Federal programs, if it is permitted to expire.

I am convinced that after the election, very little is likely to be done on the Federal revenue sharing because we have lost the accountability imposed by the election season when local government officials and Governors will be able effectively to express their great concern over the transfer of this progressive tax money into an area previously nourished entirely by regressive taxation.

Mr. Speaker, I intend to speak about this at some length later on but at this point I wish to express only my great disappointment that because of the pressures of the political season, because of the obligations that we seem to have imposed on ourselves politically tomorrow night, because of the apparent preference that the leadership has for a very large number of suspensions, small special interest issues, because of the imminence of the political program of the President relating to unemployment insurance extension, this revenue sharing program is being permitted to languish and, I fear, ultimately to expire.

Mr. Speaker, I yield back the balance of my time.

EVENTS DEVELOPING IN THE PERSIAN GULF

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, with events developing as they are in the Persian Gulf, the importance of Turkey from the standpoint of its strategic location, military importance, and its economic stability grows daily.

We are all aware that authority in Turkey has changed hands in the last several weeks and last week, I received a letter from the Ambassador of Turkey with reference to this event. Ambassador Elekdag has forwarded me a statement of General Evren, chairman of the general staff and president of the National Security Council for the Republic of Turkey, outlining the reasons for the changes and that nation's plans for the future. I am impressed with those plans for the temporary governing of the country. The decision to continue as a viable NATO participant is especially encouraging.

I include this statement in the RECORD at this time along with Ambassador Elekdag's letter.

TURKISH EMBASSY,
Washington, D.C., September 15, 1980.

Hon. DAN DANIEL,
House of Representatives,
Washington, D.C.

DEAR MR. CONGRESSMAN: The truth of contemporary events in a foreign country, even under the best of circumstances, is often difficult to apprehend at great distance. This can be true even for the most astute, dispassionate observer trying to understand complex overseas developments. Under current conditions, this may be especially so with respect to my country, the Republic of Turkey, which is why I am writing you directly.

As you know, the military forces of my country have assumed control of the government during a period of acute domestic crisis. Excerpts from the new government's initial public statements, including those committing it to speedy restoration of the democratic process and to honor existing international commitments, are enclosed.

I am writing you now to caution against any hastily drawn parallels between events in Turkey and the pattern of armed forces intervention in the political process that seems to prevail in many other countries. Such parallels are wholly superficial.

The Turkish Armed Forces traditionally have been a steadfast supporter of the democratic process. They have proven this dedication to democracy twice in the past by intervening with the sole aim of restoring a viable parliamentary system. They have done this only when the democratic process was totally in deadlock, the country in jeopardy, and only as a last resort under the internal service statute which entrusts the Military Authorities with safeguarding the Republic.

The crisis in Turkey has been genuine: escalating political violence perpetrated by left- and right-wing extremists, government paralysis stemming from cumbersome, indeed frozen, constitutional machinery, threatened the degradation, perhaps the distintegration, of Turkish society.

The public domain had ceased to be secure territory, lives and livelihoods of ordinary citizens were in constant danger. Their growing cynicism, which fortunately does not extend to democratic principles per se, certainly extended to the constitutional machinery which has proven so inadequate to the task of producing needed change and reform.

Indeed, the political and social fabric of the nation was on the verge of destruction as the country was running an inflation rate of 80 percent, with unemployment around 20-25 percent. Worse, the daily toll of politically motivated murder reached 20-30 lives, including prominent statesmen. All the while parliament remained totally immobile.

In essence, the armed forces were compelled to choose between two fundamental options: to do nothing while the very basis for democratic governance was being destroyed by right- and left-wing fanatics, or to act.

Responsible human beings must act for democratic principles, and not, through passivity, effectively deny the possibility of their realization, either directly, or by default. The Turkish Armed Forces have acted.

It is under conditions which brought Turkey, both a member of the Western community of nations and a strategically vital member of NATO to the brink of disintegration that the Turkish Armed Forces have assumed power in order to bring back unity and national reconciliation based on human rights and freedoms within a democratic multiparty system.

I know you will watch developments in my country with friendly interest and concern—a concern which is most welcome. I hope that you will sympathize with the honest and altruistic effort that now is being made by our new government to confront the serious challenges that we in Turkey face. The aim is to nurture the emergence of a viable, progressive system of governance founded on genuinely democratic principles so that the people of Turkey may join together to bring to fulfillment the inherent potentialities of their country.

Sincerely,
SUKRU ELEKDAG, *Ambassador.*

STATEMENT OF GEN. KENAN EVREN, HEAD OF STATE, CHIEF OF GENERAL STAFF AND PRESIDENT OF THE NATIONAL SECURITY COUNCIL OF THE REPUBLIC OF TURKEY

On the occasion of the victory day on August 30, I had the opportunity to address you over the radio and television and in the limited time made available, I tried to explain very briefly the political and economic situation of our country, the anarchic and separatist activities that exist and the measures needed to be taken. As you will also recall, in the course of the last two years in all my declarations and in my speeches which I made over the radio and television on various occasions I had articulated these issues of vital importance.

My compatriots with a common sense whose hearts beat for our motherland and our nation will admit that the dimensions of political, economic and social problems of vital importance that our country confronts at present reached such proportions threatening the very existence of our state and our nation and this situation dragged our state into the most serious crisis in the history of the Republic.

As you also know and observe, anarchy. terrorism and separatism have been taking the lives of more than 20 of our compatriots every day. The Turkish citizens who share the same religion and identical national values, for reasons of political opportunism have been divided into various camps through the creation of artificial divisions and have been practically turned into enemies who lost all their senses to the extent to shed each other's blood unscrupulously.

Ten years ago, it would not have been possible even to imagine that our Republic founded on the principles of Ataturk would find itself in this present situation.

In spite of the promises of the various governments which came to power until now to take with top priority the measures necessary for the establishment of internal security against the inflation and subversion activities employed by special warfare which is spreading every year at an increasing scale in the world for which there are numerous examples in world history, the initiatives taken by them promising to produce results were lost in the turmoil of clashing political interests and simple partisan considerations, whims, illusions, unrealistic exigencies and of overt and covert designs running counter to the fundamentals of the Turkish State. While the nature of the goals and the methods of the enemy and the level which the anarchy, terrorism and separatism reached necessitated the taking of special legal measures, administrative re-arrangements, the improvement of social conditions, the reorganization of national education and labor conditions, the deputies and senators who carry the mandate of the nation have for months, without any sense of responsibility remained observers to this situation being motivated solely by partisan interests and by party discipline. Every measure taken by the Administration with the hope of success was undermined by the opposition parties even though they were in the interest of the country.

Even at those times when national unity and solidarity were utterly needed, political divisions and polarizations were almost encouraged, for the sake of political interest and gaining political power. oil was poured onto the fire instead of a joint effort to put it out.

Certain constitutional bodies interpreted and applied the concept of the rule of law, which they never ceased to pretend to cherish, only in the defense of individual interests, at times at the risk of the disintegration of the state, totally disregarding the defence of the interest of the state and the nation, the principle in the constitution regarding the separation of powers which carries with it the concept of collective responsibility was in practice turned into a conflict of powers.

It is indeed sad that while divisive and subversive activities originating from within and without were being deployed with all intensity, exploiting our religion and any other subject of national interest, certain people, as if unaware of the fact that they themselves would perish under the rubble of the collapsing state, defended an autonomy completely divorced from realities, and some narrow-minded so-called scientific concepts which only they themselves believed in and some abstract legal notions in total disregard of the conditions prevailing in the country.

The cries of those, who being aware of this bitter truth locked for a solution and called for national unity have fallen on deaf ears. Here I would like to acknowledge with gratitude the fact that some Turkish press have issued from time to time warnings in this respect.

The political parties, instead of taking the measures so eagerly expected by the nation in this critical period have opted to try to enhance their chances for elections by continuously increasing internal tension, by provoking subversive and divisive centers and by competing with each other in issuing declarations and engaging in activities which were bound to further encourage such centers.

The political parties coming to power, by filling all the governmental departments with their partisans have forced public servants and citizens to form into different camps. With these policies they paved the way for the emergence of some centers supporting anarchy and separatism. Furthermore, they have not abandoned their partisan policies and actions which led the public servants, police and teachers to organize themselves into hostile camps. Consequently, the people who were impartial were forced to knock at the party doors in order to obtain what they should normally get from the state. Thus, the authority of the state doomed to vanish and instead of the state safeguarding the rights and liberties of the citizens and providing impartially services for them the responsibility of the state eroded gradually, hence creating a vacuum of authority.

Some misguided individuals with perverted ideologies and deep fanaticism have openly displayed disrespect for our national anthem which represents the independence and unity of the Turkish Nation, by remaining seated or chanting the international instead, so as to demonstrate their protest. What is more, the responsibles tried to cover these actions and defended them by finding some pretexts.

As you may recall, the Turkish Armed Forces which have followed these extremely regrettable events for a long time have fulfilled its responsibilities vis-a-vis the great Turkish Nation by warning through the President of the Republic all the constitutional bodies which have failed to exercise the authority conferred upon them by the Turkish Nation and watched helplessly this catastrophic developments as well as indicating the measures to be taken.

In spite of the several warnings made by the Turkish Armed Forces within the last eight months, no satisfactory response in respect of any of these measures has been received or no constructive effort has been witnessed from the legislative and executive organs or from other constitutional bodies. The National Assembly which enacted some legislation, devoid of substance, following our letter of warning, since 22nd of March, due to the election of the President of the Republic which has been lead into an impasse because of partisan considerations, wasted so much time which was so precious for solving the crisis that we were in. In no country, the high office of the President and his election have been taken so lightly and so much time have been spent in vain.

Our constitutional bodies which were supposed to bring solutions to the problems of law and order as well as economic problems and enact legislation, have remained indifferent vis-a-vis the nightmare looming over the country. In spite of the fact that our constitution has stipulated clearly that no Turkish citizen could be discriminated against on account of his religious conviction, our political parties, running after even a single vote and seeing some advantages in provoking secterian divisions which were forgotten in the Ataturk era of our Republic, caused our citizens to kill each other for the sake of their political interest in the provinces of Erzincan, Sivas, Kahraman Maras, Tunceli and Corum.

It is forgotten that the Turkish Nation is constituted of individuals who live within the boundaries of the Turkish Republic and who consider themselves as Turks, and that it is indivisible. Nonetheless, those provocators who wanted to prevent the Turkish citizens belonging to different religious sects from coming closer, have received political support.

Some constitutional bodies under various influences, instead of adopting an impartial and just attitude towards anarchy, terror and separatism, have chosen to remain silent even in the face of the violation of the constitution.

Our constitutional bodies which have the responsibility of defending the basic principles of the rule of law in all circumstances, due to their inability to grasp the gravity of the danger created by the anarchy at the higher echelons of the state or as to their being inhibited by the centers of terror, tried to overlook the fact that the state was faced with the danger of disintegration, dynamite having been placed at its foundations.

It was forgotten that when the collapse of the state was brought about all the legal institutions which are under the wings of the constitution and the autonomous educational institutions, would perish under the rubble.

In the course of the last two years, terrorism has caused 5,241 loss of life, 14,152 wounded or disabled. Whereas, during the War of Independence, in the Battle of Sakarya, the total casualties were 5,713 death and 18,480 wounded. Even this simple comparison reveals clearly that a covered war is being waged in Turkey in utter disregard to any human consideration.

It is because of these and other similar reasons which are well-known by all of us that the Turkish Armed Forces have been obliged to take over the rule of the country in order to protect the unity of the nation and the country, to safeguard the fundamental rights of the people, to free the people from fear by ensuring the safety of life and property, to secure the prosperity and happiness of the people, to reinstitute and maintain in an impartial manner the rule of law, in other words, the authority of the state. As of today, until a new government and a legislative body are created, for a temporary period legislative and executive powers will be exercised by the National Security Council under my Presidency and composed of the commanders of the land, air and naval forces and the commander General of the Gendarmerie.

We believe in the necessity of realizing in the shortest possible period a rapid economic and social development oriented towards, to quote Ataturk, elevating our national culture to the level of contemporary civilization and providing our fatherland with the most advanced means and sources of the world. For the realization of this objective, we have no doubt that our great nation will have faith in the administration of the Turkish Armed Forces which stem from the nation herself and which, marching only in the direction of the principles laid by Ataturk, have not taken sides in the political polarization in our country. In order to get out of this crisis, we expect the Turkish Nation to enter an era of solidarity and a new life style, the characteristics of which would be self-discipline and self-sacrifice, which we believe is aspired by the nation. We also expect an intensification of efforts to demonstrate the strength of our nation. And for this, we believe in the Turkish Nation.

We are of the opinion that to secure internal peace and tranquillity, to unite our citizens in sorrow and happiness as well as in national consciousness and aspirations, is an indispensable factor. We believe that the threat erected against our country can be met by strengthening the consciousness that we should derive our inspiration and energy from the Ataturk Nationalism and in politics we should remain faithful to the principle of "peace at home, peace abroad" and we should keep alive the spirit that prevailed in the National War of Independence, and our guidance should be the principles and reforms of Ataturk.

The Republic of Turkey, remaining faithful to all its alliances and treaties including NATO, is determined to further develop its economic, social and cultural relations with all the countries, in particular with her neighbors, under equal conditions and on the basis of mutual respect to sovereignty and noninterference in internal affairs.

We will continue to pursue a foreign policy aiming at the solution of international disputes by peaceful means.

The Turkish Armed Forces which have repeatedly proven their loyalty to parliamentary democracy by various actions will constitute in the shortest possible time, a council of ministers and will hand over the executive power to it. And after having prepared a constitution, an electoral law and a law for political parties which will have all the safeguards against the degeneration and the blocking of the parliamentary system as has been the case, and would be worthy of the Turkish Nation and also, after having made the necessary arrangements, will transfer the ruling of the country to an administration which will have full respect for human rights and freedoms, and will recognize priority to national solidarity and will realize social justice and will attach prime importance to the peace, security and prosperity of the individual and the society. It will be based upon free democracy, securalism and social justice. Until such time that these preparations are completed all the political activities at all levels in our country are suspended. Political parties whose activities are hereby suspended, will be allowed, to resume their functions prior to the elections the date of which will be announced according to the new constitution and the new electoral and political party laws.

Members of the parliament will not be prosecuted because of their political activities, and as long as they are not involved in any activity against the new regime, no action will be taken against them. However, those members of the parliament who have in the past committed acts which according to the law are liable for punishment will be prosecuted. For the time being, the heads of the Justice Party, the Republican People's Party, the National Salvation Party and the National Action Party, with a view to ensuring their personal security will be staying in designated places under the protection and surveillance of the Turkish Armed Forces. When the situation allows they will be set free.

In the country, the administration will be at the service of the citizens in total impartiality. The government employees will be provided, by law, conditions to enable them to work free of political influences. At the time of the take-over of the administration by the Armed Forces, Public Servants who will perform their functions in an impartial and just manner will remain in service so long as they refrain from the political behavior of the past.

In enforcing the rule of law, legal and administrative measures will be taken so that the courts formed of experienced and competent persons will take speedy and just decisions and implement them without fear.

We will make all possible efforts in all fields with a view to improving the economic conditions of the country through our own means. All the rights of the hard working and patriotic Turkish workers will be protected under the existing economic conditions. Nonetheless, the activities of the labor bosses who exploit the innocent Turkish workers and who resort to all sorts of pressures on the workers in order to have them associated with their own ideological views and who put their own interest before that of the workers, will not be allowed.

All the necessary measures will be taken so that the employers will contribute to the increase of production and the promotion of exports without deviating from the conditions securing work-peace.

Special emphasis will be given to increasing production in the agricultural sector through the mobilization of resources in this area as well as through a price-control system, thus giving life to the maxim which says that the peasants are the true masters of our country. Solutions will be sought to solve those economic and social problems that force the migration of the rural population to urban areas.

Educational measures will be taken in the shortest possible time to disseminate once again Kemalist Nationalism throughout the country.

Steps will be taken to prevent our youth, the future of our motherland, from turning into anarchists as a result of being cultivated by foreign ideologies instead of the principles of Ataturk. To that end ideological divisions amongst our teachers for whom we have great respect, will be prevented. The primary goal of students at all levels will be to obtain a production-oriented education and qualifications in compliance with the principles and teachings of Ataturk.

All the members of the Turkish Armed Forces from the enlisted to the highest ranking officer, in the realization of these goals will remain outside the politics, as the protective force of the state against internal and external threats.

I repeat once again that the Armed Forces had to take over the administration of the country in order to secure for the Turkish Nation the prosperity and happiness which she rightfully deserves, to give a new strength and impetus to Ataturk principles that are being eroded, to ensure the unity of the motherland and the nation, to restore democracy which failed to control itself, on sounder foundations and to reinstate the vanishing authority of the state. As the privates, noncommissioned officers, officers and commanders, we all are ready to sacrifice everything, including our lives for the sake of the prosperity and happiness of our motherland and our nation. Ill-willed persons and organizations whose numbers have been greatly increasing may fabricate lies in order to contradict this and may resort to disruptive propaganda. Do not believe such persons or organizations. All our actions will take place before the eyes of the public.

Any resistance, demonstration and attitude against the Turkish Armed Forces who have always been and still is one and the same with the Turkish Nation, and the new administration, will be immediately dealt with in the severest possible manner.

In order to avoid bloodshed, I request my fellow countrymen to disregard all kinds of provocations and to act calmly in compliance with the official announcements and obey the curfew until further notice.

I expect the patriotic and noble Turkish Nation to respect each other's rights, to bury their differences in a spirit of affection and understanding and to assist the new administration with the awareness that we are all equal citizens on this sacred land.

I wish you all a very happy and bright future.

GEN. KENAN EVREN,
Chief of General Staff and President of the National Security Council.

REAGAN: PROMISE AND PERFORMANCE—STATE SPENDING

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, Ronald Reagan has made bloated bureaucracy and Government spending a rallying cry for his campaign. He claims that as Governor of California, he "cut the previous rate of budgetary growth by half" and lowered the State work force to a lean and austere level.

Unfortunately, Governor Reagan's memory does not serve him well. The State budget under his administration increased from $4.6 billion to nearly $10.4 billion—a 126-percent increase. In fact, the State operations budget—the part Reagan controlled most directly—increased from $2.2 billion to $3.5 billion. This hardly constitutes cutting the budget growth by half, by anyone's estimation.

Governor Reagan once said that his gubernatorial predecessor Edmund G. "Pat" Brown, "looted and drained" the State treasury during his term. Perhaps Mr. Reagan does not recall that the State operations budget actually grew faster under his leadership than under Brown's.

Mr. Reagan's memory seems to be not only fuzzy, but selective—he conveniently forgets certain parts of his administration as Governor. There are other cuts and austerity measures for which he claims responsibility that do not hold up under the close light of scrutiny. He has said, for instance, that the best indication of his success as a government-growth cutter is the freeze he placed on State public hiring. He has said that while State employment grew 75 percent under Gov. Pat Brown, he held the line at an almost constant level—only a 6.1-percent growth rate.

But Reagan jiggered the figures. He "forgot" to include in the employment total workers in mental health or education—people who comprise over half the total State work force. State records bear this out. What this means is that State employment per capita under Reagan was actually higher than under Governor Brown—the direct opposite of what Reagan claims. In fact, State employment increased 30 percent between the time Reagan entered the Governor's mansion and when he moved out. Translated into personal terms, this meant that there was 1 State employee for every 120 residents when Reagan was inaugurated, and 1 for every 103 residents when he left.

Even excusing for a selective memory that is a far, far cry from the "hiring freeze" which Reagan tries to sell the public. But it does show the difference between what Regan promises, and what he delivers.

☐ 1230

REAGAN: PROMISE AND PERFORMANCE—TAX CUTS

(Mr. ANTHONY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANTHONY. Mr. Speaker, Governor Reagan has repeatedly said that his future performance as President is not a campaign issue—but that President Carter's record is.

Well, it is time to examine Reagan's record. And to set the record straight.

Mr. Reagan bills himself as a tax slasher. He boasts often that while Governor of California, he returned $5.7 billion to the taxpayers in tax relief. He said this as recently as last week's debate in Baltimore.

Nothing could be further from the truth. Not only did taxes increase more rapidly under his administration than under his liberal predecessor, Edmund G. "Pat" Brown, but very little of this tax rebate of which he speaks so highly found its way back into the pockets of the taxpayers.

Reagan's claims are deceptive, and show a willingness to distort the facts. How can he expect us to believe his claims when the record shows that under his administration, California's per capita tax burden rose from $244.54 to $488.19? How can he gloss over the irrefutable fact that he increased the tax rates for income, sales, inheritance, estate, corporate and almost every other kind of State tax except for the insurance tax?

If Reagan does not know a tax increase from a tax cut, I am not sure he is prepared for the sophisticated arithmetic of the Oval Office.

State income taxes quadrupled under Reagan—from $627 million in 1967 to $2.5 billion in 1974. Property taxes also went through the ceiling—from an average per capita rate of $8.84 per $100 of assessed property value to $11.24 per $100. In fact, many people think that it was this skyrocketing increase in property taxes coupled with the $6 billion State surplus resulting from Reagan's policies and inflation that fueled the tax revolt called proposition 13.

In other words, Reagan sent California's taxpayers on a rollercoaster ride from which they have yet to recover.

The second part of Reagan's deception is his claim that $5.7 billion in tax rebates back to the people of California during his term. This too is misleading. The bulk of this give-back consisted of redistributing State tax revenues to local government, not to private individuals.

It is no wonder why, in 1976, six of Reagan's Republican colleagues signed an open letter saying that—

> As Republicans and as responsible elected officials, we cannot sit idly by and see and hear the Reagan record distorted by Governor Reagan.

Well, neither can I.

PAPER SHUFFLERS AGAINST TEACHERS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, anyone who works in public education can tell you that he is spending a lot of time on paperwork. This burden has grown in recent years as the Federal Government has intruded more and more into local educational decisions.

It is impossible to determine precisely how large the Federal burden is. The National Center for Education Statistics publishes man-hour figures for each Federal education form. But these figures are based mainly on estimates by the Federal program officials who design the forms rather than on estimates by the local educators who have to fill them out. Also, much of the Federal demand for information reaches local school districts indirectly. Washington requires State education departments to provide the Federal bureaucracy with data which the States can obtain only by repeating the process, that is, by sending forms of their own down to the local level.

Dr. Everett Mann, administrator of State and Federal programs for the Hamilton City School District in southwest Ohio, has conducted a lengthy study of direct and indirect Federal reporting requirements for the academic year 1978–79. His findings: The Federal paperwork burden in his medium-sized district came to 96,110 hours, at a dollar cost of $1,307,981.

Hamilton had an enrollment of 11,463 students that year, and an administrative and teaching staff of 688 full-time-equivalent employees. Thus, Federal paperwork costs more than $100 per student. It consumed 140 hours, or 3.5 weeks, of the average employee's schedule, and 7.5 percent of Hamilton's $17,377,923 budget.

In Dr. Mann's words:

> The data speaks for itself. The Federal paperwork requirements on the Hamilton City School District are excessive and burdensome.

These requirements exact a heavy toll not only in time and money, but in the morale of local educators. As Dr. Mann put it:

> I, like other administrators in the district, believe that I should visit schools, work on curriculum, plan, etc. I spent little time doing these tasks. I spent a large portion of my time completing or coordinating the completing of Federal paperwork. Almost all of the rest of my time was spent completing or coordinating the completing of state paperwork. At times these paperwork requirements seemed heavy, too great and difficult to bear as a long term professional career.

There is no corresponding gain that proponents of Federal activism in education can point to as a tradeoff for this burden on local educators. Academic achievement, discipline, public confidence in the schools, and teacher morale have all gone downhill as the Federal role has mushroomed.

Despite the glowing rhetoric of the Carters and the Hufstedlers, on net balance, Washington has acted as a force for mediocrity and despair.

I believe there is only one practical way to rescue local educators from the heavy hand of Washington. That is to streamline, consolidate, and simplify the dozens of Federal discretionary-grant programs into a few large programs. H.R. 7882, the Education Improvement Act of 1980, which I introduced on July 30, is designed to do exactly that.

Let local principals and teachers set their own priorities and make their own decisions, and we will see a renaissance of academic creativity that will make the bureaucrats' heads spin. We have enough papershufflers right here in Washington; let the teachers teach.

ANALYSIS OF THE PROPOSED LAU REGULATIONS INDICATE ITS DANGERS TO LOCAL SCHOOLS

The SPEAKER pro tempore (Mr. Kildee). Under a previous order of the House, the gentleman from Ohio (Mr. Ashbrook) is recognized for 20 minutes.

Mr. ASHBROOK. Mr. Speaker, I rise to address an issue of significant concern to every Member in this body—the publication by the Department of Education of proposed regulations which would affect every school district across the country in the method of teaching students of limited-English proficiency. These proposals are government interference in local school program and curriculum to an extent that is nothing short of arrogant.

I believe the following analysis will be important for both Members of Congress, who clearly want to evaluate the effect of the proposed Lau regulations, and to persons interested in the future of bilingual education.

On August 5, 1980, the Department of Education (ED) published in the Federal Register (34 CFR part 100, page 52052) proposed rules to implement provisions of title VI of the Civil Rights Act of 1964. The purpose of the proposed rules is to provide standards for teaching students whose primary language is not English and who have limited proficiency in the English language. When finalized, the proposed rules will apply to all public school districts receiving funds who are educating elementary and secondary school youth. Failure to comply with the prescribed rules would be a violation of title VI of the Civil Rights Act of 1964. Penalty for violation is the withholding of Federal funds.

COMMENT PERIOD

The comment period for the proposed Lau regulations was originally scheduled to close on October 6, 1980. The closing date has since been extended to October 20, 1980. In addition to the public comments being received by the Department of Education, public hearings were held in six cities across the country. Hearings in Chicago, Denver, New York, New Orleans, San Antonio, and San Francisco were completed on September 19, 1980.

HISTORY OF THE PROPOSED LAU REGULATIONS

In 1974, the U.S. Supreme Court decided in *Lau* v. *Nichols* (414 U.S. 563 (1974)) that 1,800 limited-English-speaking students of Chinese ancestry were denied equal educational opportunity in violation of title VI of the Civil Rights Act of 1964. Reversing the holdings of both a Federal district court and the U.S. Court of Appeals (9th Circuit), the U.S. Supreme Court held that 1,800 students were legally entitled to some form of supplementary educational assistance based on the prohibition against discrimination in federally funded programs contained in title VI of the Civil Rights Act of 1964. Title VI insures, in part, that—

> No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (42 U.S.C. 2000d)

The May 25, 1970, memorandum (35 Federal Register 11595), was published as the legal interpretation of the Department of Health, Education, and Welfare (HEW) on title VI and its implementing regulations which prohibited the denial of access to education programs because of a student's limited-English proficiency. This memorandum became the basis for HEW's policy document entitled "Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under Lau v. Nichols." The Lau remedies, which were issued in the summer of 1975, were developed after recommendations from experts were received on how the educational needs of limited-English-proficient students could be remedied. Although the remedies were never published in the Federal Register, they became the basis for enforcement activities by the Office of Civil Rights with some 400 local educational agencies.

OCR's authority to enforce the Lau remedies was challenged in the Federal District Court of Alaska in the suit, N.W. Arctic School District against Califano (1977). Only after suit was filed did HEW, and subsequently ED, begin to promulgate regulations which, when finalized, would be legally binding on school districts.

The proposed regulations, which were published in the Federal Register on August 5, 1980, will supersede the Lau remedies when they become finalized.

SUMMARY OF PROPOSED LAU REGULATIONS

The proposed rules for insuring nondiscrimination under programs receiving Federal financial assistance through the Education Department fall into four broad categories of services to students. These include identification, assessment, provision of services, and reassessment to determine termination of services eligible to students under the proposed Lau regulations.

IDENTIFICATION

The primary language of every limited-English-proficient student enrolled in an elementary or secondary school must be identified.

The identification of the primary language must be made either by an interview with the student's parent or guardian, or through a questionnaire completed by the parent or guardian. If the student is in grades 9 to 12, the student may be interviewed or asked to complete the questionnaire.

The interview or the questionnaire must be conducted or written in a language the parent or guardian fully understands.

If the parent or guardian is unable to read a questionnaire, or if the questionnaire is not available in an appropriate language, an interview must be conducted.

If it is impossible to identify the primary language through either the interview or the questionnaire, the school district must make every reasonable effort to contact the parent, the guardian or student to obtain the necessary information.

If, within 4 weeks of enrollment, the primary language of the student cannot be determined, the student is considered to be "unidentified." Unidentified students must also be assessed to determine whether they are of limited English proficiency.

ASSESSMENT

Each student who is identified as having a primary language other than English, or who is "unidentified," must be assessed to determine whether he is of limited-English proficiency. A proficiency test—for students in grades two and below—or a reading comprehension achievement test is to be used to determine whether the student is below the 40th percentile of a relevant student population.

The student population used to determine percentile ranking can be a comparison of students in the same grade—other than minority students—and same school as the student tested, students enrolled statewide in the same grade, or students enrolled nationwide in the same grade.

If the student ranks below the 40th percentile of that relevant student population, or if the student's ability in English is so limited that the assessment procedure cannot be administered, then the student is determined to be of limited-English proficiency.

Furthermore, each student is assessed to determine the student's relative language proficiency in both English and in the student's primary language. The purpose of the assessment in both languages is to provide a comparison which will show in which language the student is more proficient.

Experts in the field of assessment and analysis of language proficiency must deem the assessment measurement a valid test.

The relative proficiency measure will yield three categories of students—those whose skills in their primary language are stronger than their skills in English; those who are English superior; and those who are comparably limited in both languages. These categories will determine the kind of services that must be provided to the student.

SERVICES

Students who have English superior speaking skills will receive instruction in English.

Students who are primary language superior or comparably limited in English and the primary language shall receive assistance to develop full proficiency in speaking, understanding, reading, and writing English.

The proposed regulations provide for two alternatives for providing bilingual instruction. It is clear that only one of the two alternatives will be contained in the final regulations. Alternative A provides that bilingual instruction would be given in required subjects through both English and the primary language to primary language superior students. Alternative B is identical, except that it expands the service group to include students who are comparably limited in English and the primary language.

The proposed regulations require that the pupil-teacher ratio for classes taught bilingually must be at least comparable within two students per teacher to that of similar classes taught in English.

Bilingual instruction may be modified for small student populations (25 students or less) or students enrolled in grade 9 or above through the use of magnet schools, itinerate bilingual education teachers, or another method if a detailed written plan describing its content is submitted and reviewed annually for further modification.

A school district may discontinue bilingual instruction after a student has received instruction for 2 years, provided the student is English-language-proficient or the student's score is at or above the 30th percentile of the relevant student population.

TERMINATION OF SERVICES

Each student must be reassessed after 2 years of language instruction is provided, and every year thereafter. If a student is no longer limited-English-proficient, the school district is no longer required to provide instruction to improve English language skills under the Lau regulations. In any case, the school district may cease to provide instruction to improve English language skills after a 5-year period.

The school district is not required to provide instruction through two languages if, after 2 years in the program, the student is reassessed as English superior.

Students are no longer entitled to these services if they are reassessed and are found to be English proficient.

MISCELLANEOUS REQUIREMENTS

School districts must make reasonable effort to identify, recruit, and employ sufficient numbers of qualified bilingual education teachers as measured by the required pupil-teacher ratio.

If a school district is unable to hire a sufficient number of bilingual education teachers, it must develop a detailed written plan describing the steps it will take to obtain qualified bilingual education teachers and to outline the provisions to insure that services will continue on an emergency basis.

School districts must accurately, fully, and fairly inform parents or guardians within 5 days concerning the purpose and nature of the services to which their child is entitled and the reason for their child's placement in that class.

The Secretary may waive the requirements of the Lau regulations for a limited period of time if there is a substantial, rapid or unforeseen increase in the enrollment of limited English proficient students.

The school district may request from the Secretary a partial waiver of the requirements of the Lau regulations in order to conduct a limited pilot program. Such a request must be accompanied by assurances that the school district is in compliance with the requirements under the Lau regulations.

The school district may request a partial waiver of personnel and service requirements under the Lau regulations in order to operate an alternative program if it was in existence prior to the school year in which these regulations became effective. Supporting information must accompany such requests showing that, compared to students in nonbilingual programs, the achievement in reading and mathematics, the school dropout rate, the school attendance rate, and the average age in each grade, is comparable for both English proficient and deficient students.

If a school district is found in violation of the Lau regulations, it must submit a plan, describing in detail how it will eliminate the violation and overcome the affects of the violation on its students.

Each school district must maintain adequate records to show that it is in compliance with the Lau regulations. The records shall include the number, grade level, and relative language proficiency of limited English proficient students in each school; a summary description of the programs being offered; the number of qualified bilingual teachers and the number of qualified bilingual individuals, by language, in each school who are providing required bilingual instruction; the number of qualified bilingual education teachers, by language, necessary to provide required bilingual instruction; representative samples of information in a language other than English sent to parents or guardians; and a record of assessment procedures and results used to determine eligibility for services under these regulations.

DISAPPROVAL AUTHORITY OF THE CONGRESS

The General Education Provision Act (GEPA) provides for disapproval authority by the Congress for 45 days after the Secretary has published final regulations governing any education statute. A restriction in section 400(c)(2) exempts from the disapproval authority any titles of the Civil Rights Act of 1964. For this reason, the final rules which the Secretary publishes for complying with Lau will be those with which the school districts must comply, or be found in violation of title VI of the Civil Rights Act of 1964.

Congress could, if it found the final regulations unacceptable, enact a statute to overturn them. Alternatively, I have introduced legislation that would give Congress the authority to disapprove the proposed Lau regulations. H.R. 8167 would provide Congress limited authority to disapprove the proposed Lau regulations which were published on August 5, 1980. My bill would not affect the exception found in GEPA for other titles of the Civil Rights Act. Congress has given itself this authority one other time, in amending GEPA to provide for the disapproval of the regulations governing title IX of the Education Amendments of 1972.

SPECIFIC CONCERNS ABOUT THE PROPOSED LAU REGULATIONS

Mr. Speaker, there are several issues which have been raised in discussion about the proposed regulations which seem to indicate their deficiency. I suggest the following list which, although it is not inclusive, reflects many of the concerns raised by educators who have had opportunity to review the regulations.

The Lau regulations far exceed the requirement found in the holding of the Supreme Court. The Supreme Court decision in Lau against Nichols determined that there had been a denial of the equal educational opportunity of non-English speaking schoolchildren. No specific remedies were given in that decision. The proposed Lau regulations, which are based upon that holding, provide specific requirements which school districts all over the country must comply with in order to be held in compliance with title VI of the Civil Rights Act of 1964. For example, the proposed regulations specifically require that non-English instruction be provided to all students who are assessed to be below the 40th percentile in a reading comprehension test. Also, there is no assurance that the limited waiver provisions, which in themselves are of questionable value, will be included in the final regulations.

The proposed regulations far exceed the authority given the Education Department in the Department of Education Organization Act. Section 103(b) of that act states:

> No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system. . . .

Clearly, the long list of requirements and reporting instructions contained in the proposed regulations far exceeds the authority given the Department of Education to implement these regulations in final form.

Preliminary estimates for the cost of implementing the proposed Lau regs in the first year range from $180 million to $590 million. This cost estimate was required by Executive Order 12221, which requires such an analysis if the first year cost of implementation might reasonably exceed $100 million.

In explaining the assumptions upon which the cost estimates were based, the Department of Education noted that they were based on the costs of serving all students eligible under the proposed rules. The Department of Education further indicates "this estimation procedure could underestimate the additional costs of the proposed rules, since it is based on an assumption that all children currently reported as served are receiving services that would meet present legal requirements under the (*Lau* Remedies)." It is clear that the annual costs for implementing the proposed *Lau* regulations could far exceed $590 million.

The proposed Lau regulations are insensitive to the existing bilingual education statutes enacted in 22 States. The Education Commission of the States conducted a survey in September 1979 that showed that 22 States across the country already have enacted bilingual education statutes. No analysis has been done on the effect of the proposed Lau regulations on those existing State statutes to determine whether there would be any conflict. In addition, the proposed regulations preempt State and local control in the area of bilingual education in the remaining 28 States across the country that had no bilingual education statutes at the time of the survey.

In the Education Amendments of 1978, the Congress requested from the then-Department of Health, Education, and Welfare, several studies in the area of bilingual education. Three of these had Congressional reporting dates of September 30, 1980. Although the Education Department has indicated that they will not be able to meet that deadline, we will soon be receiving information that will: First, identify the approximate number of children of limited English proficiency in the Nation by language and State; second, demonstrate methods for identifying children of limited English proficiency who are in need of bilingual education programs; and third, provide various methods of data gathering with regard to bilingual education. On the eve of receiving such information, which may be helpful in making determinations under the proposed Lau regulations, ED is forging ahead without the benefit of that knowledge.

The hearings conducted by the Administration on the proposed regulations, which were held from September 8–19, 1980, were located in urban areas only. Sufficient opportunity was not given school administrators and superintendents from rural sections of the country to comment on the proposed regulations. The Lau regulations would apply to any of the 16,000 local educational agencies across the country which are enrolling students with limited English proficiencies. There simply has not been enough time or opportunity for all interested parties to respond to the proposed regulations. Prior to publishing final regulations, the Congress ought to be afforded the opportunity to conduct hearings with witnesses representing all segments and sectors of interest across the country.

HOUSE ACTION

Mr. Speaker, on August 27, 1980, the House adopted by a vote 213 to 194 the Ashbrook amendment to the fiscal year 1981 Labor-HHS-Education appropriations bill that prohibits the Secretary from enforcing the Lau regulations by withholding any Federal funds granted to any school district under that appropriations act. Similar amendments have been adopted to appropriations bills restricting the enforcement capacity of the Secretary in the areas of school desegregation. The Senate has not, as of yet, adopted a similar provision to their fiscal year 1981 appropriations bill.

Additionally, H.R. 8167 was introduced which would give Congress the authority to disapprove the proposed Lau regulations (See discussion above regarding this bill.)

SENATE ACTION

Adopted as an amendment to the fiscal year 1981 continuing resolution for Labor-HHS-Education Appropriations, was an amendment offered by Senator CHILES which would prohibit the proposed Lau regulations from being published in final form prior to June 1, 1981. The amendment passed the Senate Appropriations Committee by a vote of 17 to 6 and was retained in the continuing resolution passed by the Senate on September 29, 1980. No similar provision is contained in the House version of the fiscal year 1981 continuing resolution.

CONCLUSION

Mr. Speaker, I urge my colleagues to consider the full affect of these proposed regulations issued pursuant to the Lau against Nichols decision, and to support the efforts of this body to give Congress authority to conduct hearings and to disapprove, if necessary, the proposed Lau regulations.

THE FORTHCOMING RETIREMENT OF LT. GEN. JOHN W. MORRIS, CHIEF, U.S. ARMY CORPS OF ENGINEERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CLAUSEN) is recognized for 10 minutes.

● Mr. CLAUSEN. Mr. Speaker, this month Lt. Gen. John W. Morris, Chief of the U.S. Army Corps of Engineers since July 1976, will retire from active duty. While I am confident the corps will continue to perform superbly both their civil works and military construction missions, I must give tribute to the character of leadership that Jack Morris has displayed throughout his 37-year career in this Nation's service.

I have an article which I will submit for printing in this RECORD as I believe the American people should know more about the accomplishments of this amazing administrator, who for 4 years has led an agency which on a comparative basis would be in the top 50 of the Fortune 500 list. But I want to talk now about Jack Morris, the man, and of his unique blend of leadership qualities.

Jack Morris possesses two qualities that make him stand out as an example of the finest type of individual we could have in the public service; one is a sense of the future, the other is an overwhelming attitude of service to this country. Perhaps we have all been given a clue to these qualities through the mottoes he has selected for the corps during his tenure, "The Corps Cares" and "Building Tomorrow Today."

All executives must deal with daily problems. All must grapple with tough decisions, and certainly, all must attempt to answer the needs of the present. Jack Morris has done this—and more. He has had the imagination and vision to look to America's and the corps' horizon, the initiative to consider the challenges that may beset future Chiefs of Engineers, the commitment to stewardship of this Nation's water resource and military construction projects that is necessary to insure objective review of need and purpose and the moral integrity to pursue and support actions which he believed right for America despite widespread adversity.

Under General Morris' leadership the Corps of Engineers water resources program has weathered many difficult times. Yet the corps and the program have emerged and have responded to the challenges. The implementation of the National Environmental Policy Act and the responsive management of the section 404 dredge and fill regulatory program have won praise from all interest groups. And this respect is not only found on the domestic front but is international in scope as well.

When representatives of the Republic of China visited the United States what was one of the very first priorities? It was to visit the inland navigation facilities constructed by the U.S. Army Corps of Engineers. I can think of no higher tribute to the reputation of this agency than the fact that the Republic of China has asked the Corps of Engineers to visit their country and advise them on their water resource development program.

Also, when the agreement between Israel and Egypt was signed it was the Corps of Engineers that were called upon to build the facilities that the United States agreed to provide as part of that treaty. I think this is further recognition of the professional abilities and international respect which this Agency has won as a result of that uncompromising expertise.

The decade of the 1980's holds many challenges for our Nation and for the Corps of Engineers. I am confident that Jack Morris has prepared the corps to identify and overcome such obstacles by virtue of his dedication to intelligence flexibility and by his enlightened search for bridges to the future, to span the inevitable gulfs which seek to pull apart the development of a truly national water policy for the country.

I for one, hope public service has not seen the last of Lt. Gen. John W. Morris. There are too few with his vision and ability to translate that vision into action. As ranking minority member of the Subcommittee on Water Resources, I will personally miss the unmatched combination of professional expertise, personal sincerity and bipartisanship so characteristic of Jack Morris' testimony over the years. Jack has always been concerned about customer satisfaction. I just want him to know, here is one very satisfied customer.

The article follows:

MORRIS TO RETIRE IN SEPTEMBER

Lt. Gen. John W. Morris, Chief of Engineers since July 1976, will retire from active duty September 30.

In a career spanning more than 37 years, Morris has held increasingly responsible positions, both as a military commander and as a manager of far-ranging Corps programs and projects. He is the first Chief of Engineers to rise from director of civil works to deputy chief of engineers to Chief of Engineers in successive assignments.

A 1943 graduate of the U.S. Military Academy at West Point, Morris has commanded engineer troops at every level from platoon to separate brigade. Included among his assignments were deputy commandant of cadets at West Point, resident engineer at Goose Bay Air Base in Labrador, and deputy chief of legislative liaison for the Secretary of the Army at the Pentagon.

His extensive experience in water resources management began with his assignment as deputy district engineer of the Savannah district in 1952.

From 1963 to 1966, as Tulsa district engineer, he directed a multi-state program of water-related civil works, including the design and construction of major units of the Kerr-McClellan Arkansas River Navigation Project, which now brings waterborne commerce to Tulsa. While serving as district engineer, he received a presidential citation from President Lyndon Johnson for management improvements, making Tulsa the first Corps district and one of the first government agencies to receive such an award. He also pioneered value engineering for the Corps while in the district and developed a project beautification program three years before the President's Council on Recreation and National Beauty was established.

"General Morris was always very concerned about the public image of the Corps," recalls Locke Mouton, Morris' public affairs officer in Tulsa and former deputy chief of public affairs in the Office, Chief of Engineers (OCE). "He used to tell his staff at the district that he devoted 90 percent of his time to public relations. What really amazed the other members of the staff was how much he could get done in the remaining 10 percent!"

Following a tour in Vietnam as commander of the 18th Engineer Brigade, Morris directed the water resources and military construction programs of the Corps' Missouri River division, where he pioneered urban studies, regional planning and development of environmental guidelines for Corps projects. He also coined the familiar "The Corps Cares" slogan.

In 1972 he became director of civil works, just in time to head up one of the Corps' biggest emergency operations—the relief effort following Hurricane Agnes.

THE CORPS CHANGES

A number of important changes took place while Morris was director of civil works. The Corps greatly expanded its reputation as a defender of the nation's wetlands by stringently regulating the disposal of dredged and fill material in all waters of the United States and increasingly denying permits to land developers whose activities threatened to destroy natural resources. Morris initiated a five-year nationwide study of the environmental impact and productive uses of dredged material. He also took the initiative in recommending a federal policy on nonstructural solution to flood control problems. The "Building Tomorrow Today" motto, which began appearing on Corps projects worldwide, was his.

A personal goal of the general's during this period was to clean up the enormous backlog of old Corps projects languishing for lack of funding. He was involved in the passage of the public law which provides that projects that have been authorized for eight years but not funded must be reviewed for possible deauthorization. He called it "putting your money on the winners."

After a year as deputy chief of engineers, Morris was named Chief and the Corps continued to play an increasing role in the protection of the environment while it also carried out construction projects and resource development needed for national economic growth.

At the direction of President Carter, the Corps participated in a reappraisal of all federal water resource projects and came through the review with 98 percent of its projects meeting the new criteria. Also at the President's request, the Corps began a nationwide safety inspection program of some 8,000 non-federal dams. The study will not conclude until the end of fiscal 1981. Among its many other environment-related projects, the Corps of Engineers has agreed to help the Environmental Protection Agency manage its construction grants program for sewage treatment plants.

ENERGY OBJECTIVES

Morris has also led the Corps in demonstrating strong support for national energy objectives. The Corps currently provides technical management support to the Department of Energy in the Strategic Petroleum Reserve Program, which calls for the storage of oil in mines and caverns along the Gulf Coast.

The Chief was also joint sponsor with the Secretary of Energy at the nation's first international conference on small-scale hydropower in 1979. The three-day conference brought together 1,200 energy experts from around the world. The Corps is now conducting a National Hydropower Study to assess America's hydroelectric power resources and potential development. Also in progress is a comprehensive study of the country's waterways and their ability to meet current and future transportation needs. "This nation," says Morris, "needs and deserves a first-class water transportation system."

MILITARY MANNING

As Chief of Engineers, Morris established the Industry Capability Program under which the Corps has, with increasing success, encouraged private industry to compete with the Corps for dredging contracts. He has also actively supported the Army Chief of Staff's priority on manning the military force through intensified efforts in leasing recruiting facilities and increased contact and cooperation with recruiting command personnel.

The Chief has urged increased public use of the Corps' many recreation sites. In recent years there has been a dramatic increase in the number of visitors to Corps projects and in the number and quality of visitor centers which provide information on the projects to tourists.

Under General Morris' leadership, the Corps of Engineers has greatly expanded its international operations, which now reach into more than 25 countries. Especially significant among these foreign projects are the construction of two air bases in Israel in accordance with the Camp David treaty and a multibillion dollar "nation-building" program for Saudi Arabia. Morris was also part of an official American delegation to the People's Republic of China this year to look into the country's plans for development of hydroelectric power.

In June 1979 the Corps of Engineers became a major Army command (MACOM) with its own crest. A number of internal reorganizations have strengthened and streamlined the Corps. The military programs directorate was created to consolidate the facilities engineering and military directorates. The action consolidated the Real Property Management System to permit a One-Stop Engineering Services Program which uses Corps resources at the district level to provide a full scope of technical and engineering services to other MACOMS.

PROFESSIONALISM

Morris has fostered professionalism in the Corps by encouraging all engineers to obtain state registration and by establishing the Corps of Engineers Official Training Center in Huntsville, Ala.

He is a registered professional engineer in Oklahoma, a fellow in the American Society of Civil Engineers and a member of the National Academy of Engineering and many other professional organizations.

He has brought national and international recognition to the Corps through his numerous awards. In 1966 he was elected one of the first four international vice presidents of the Permanent International Association of Navigation Congresses, which includes official representatives from more than 50 countries. In 1977 he was honored as Construction's Man of the Year by the "Engineering News-Record." The same year he received both the first Master Builder Citation from the Carpenter's Company of Philadelphia, the nation's oldest organization of builders and architects, and the National Humanitarian Award from the National Recreation and Park Association.

He has also served as president of the Society of American Military Engineers and is an honorary member of the American Institute of Architects.●

ECONOMY REQUIRES URGENT ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SAWYER) is recognized for 10 minutes.

● Mr. SAWYER. Mr. Speaker, continuing inflation is the most serious economic problem facing our Nation.

With consumer prices rocketing at a 13-percent annual rate, it is no wonder American workers feel their standard of living is being seriously threatened.

Less spending, a balanced budget and lower tax rates are the keys to maintaining real growth and full employment as we battle inflation.

One of the biggest factors contributing to inflation is the chronic, large budget deficits run by the Federal Government. There can be no hope of curbing inflation until the Congress can force itself to control its spending habits.

I have strongly supported the balanced budget concept. In addition, I am the cosponsor of spending limitation legislation which would tie Federal expenditures to GNP. Under either approach the Congress would have to raise taxes to pay for new spending programs. From my experience, only the public's resistance to taxes will act as a sufficient counterweight to the political impulse to spend.

Despite a year of oratory, neither the fiscal year 1980 nor 1981 budget of the Federal Government will be in balance. Estimates are that the deficit for 1980 may be $63 billion and the deficit for 1981 may be $32 billion.

Ironically, balancing the budget should be easier in time of inflation since higher taxes are a natural result of an inflationary period. The reason is that even though wages fall behind the rise in the cost of living, taxpayers are constantly moving up into higher tax brackets. The economic facts of life are that the Federal Government collects tremendous sums in higher taxes by means of this bracket creep. Thus, these higher taxes for 1981 could reach a figure of over $100 billion through this bonus the Government receives via inflation.

I have been a strong and active supporter of legislation to index taxes to remove the present inflation penalty. I will continue to push for prompt consideration of this important bill which will provide critical relief to the working men and women who are hit by the double whammy of inflation and higher taxes.

It is frustrating to know that in addition to these windfall Government revenues, spending continues in an uncontrolled fashion. The hard task is to first limit and then reduce overall Federal spending, and in the process balance the budget, which is a key in controlling inflation.

Inflation and unemployment are the enemies we face. We can whip them by stimulating the economy through the nongovernmental route rather than by cranking up a costly, wasteful series of Government programs that would not solve the current problem and would set the stage for the next round of inflation.

GROWTH—PRODUCTIVITY

Basic Government policy must be changed now in order to keep alive the American dream of a job for everyone who wants to work. In the Fifth District we will need 80,000 new jobs during the next decade to reduce unemployment and keep up with our growing population.

To accomplish these goals a sweeping change in America's economic policy is needed. We need a bold economic strategy which will combat the Nation's fundamental economic malady: Inadequate capital investment.

Since 1973, the U.S. economy has grown in real terms at a rate of only 1.9 percent a year. This is barely half of the 3.7-percent annual growth rate we experienced between 1950 and 1973, and well below the 4.6-percent growth rate we enjoyed between 1961 and 1969.

Savings and investment are the keys to economic growth. Americans now save less than any other people in the Western world because of inflation and the high rates of taxation. Annual savings in the United States are below the 5-percent mark while Japan has a very high savings rate of 24.9 percent and Germany 5.2 percent. We must counter this trend and provide incentives to save and invest.

I have introduced legislation which was approved during this Congress known as the Small Savers Protection Act which would restore the incentive for individuals to maintain a savings account. This will exempt from taxation the interest earned on savings and help make personal savings attractive again.

I am also committed to a program to provide incentives for new capital formation. We must reduce tax rates on individuals and businesses to increase incentives for all Americans and to encourage investment, output and productivity. Such a plan would particularly assist the middle- and small-size companies that form the backbone of the American economy.

We need to develop a comprehensive economic program and stick to it. President Carter has proclaimed three distinct economic strategies in 8 months. We can no longer afford to have such strategies which shift with every wind.

CONCLUSION

Workers and consumers must not be forced to bear the double burden fighting inflation by sacrificing their jobs and their standards of living. All working men and women have much to gain from a healthy growing economic environment.●

NEEDED: A MONETARY POLICY THAT FIGHTS INFLATION AND RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

● Mr. REUSS. Mr. Speaker, the Nation truly needs a comprehensive monetary policy that fights both inflation and recession. In an article published this month in Working Papers for a New Society, James K. Galbraith of the House Banking Committee staff and I set out the case against the Federal Reserve's recent policy, and specify what needs to be done. The text follows:

> Every year Congress devotes eight months to debating the relative virtues of health care, school lunches, railroads, missiles, and tax incentives. Clearly, the pieces of the budgetary pie (and the bill—microeconomics—are every bit as important as its total size. The macroeconomic questions of total revenues, outlays, deficits, and surpluses are very important too, but fiscal policy, at least, gives macro and micro equal weight.
>
> Monetary policy is another story. In and out of government, most people concentrate only on the totals; macroeconomics dominates. Practitioners work with faceless aggregates—bank reserves, the money stock, public and private credit—with the policy implication that it does not matter to what uses reserves, money, and credit are put.
>
> But it does matter. Since January our economy has entered a steep slump. In the second quarter the economy declined more rapidly than at any time since the Second World War. Housing, steel, autos, and other basic industries are in crisis. Unemployment, already too high, is going higher.
>
> The misuse of monetary and credit resources early this year helped to deepen and lengthen the recession. And the Federal Reserve Board's purely macroeconomic policy, which manipulated the amount of credit while paying no attention to how it was used, must bear part of the responsibility.
>
> The overemphasis on the size of the money stock, and complete disregard for how it is used, are the peculiar contribution of the set of beliefs known as monetarism. Monetarists have argued that a slow deceleration of the rate of growth of money and credit would, over time, accomplish a deceleration of inflation without recession. This argument rested on a theory of expectations and on the inherent counter-cyclical properties of a stable money supply: in principle, interest rates rise when boom conditions threaten, and fall sharply in a slump. Monetarists believed that this counter-cyclical effect would keep the economy on an even keel, while at the same time a steadfast policy of decelerating money and credit growth would lower inflationary expectations and so bring a gradual winding-down of inflation inself. There need be no recession, and no other interventions in the free capital markets would be required.
>
> The promise of painless relief gave the argument considerable political appeal. Procedures were adopted in 1975 to require that the Federal Reserve inform the Congress of its plans and objectives, and these couched the reporting requirement in terms of the growth of money and credit. These procedures were made permanent under the Humphrey-Hawkins Act in 1978.
>
> In October 1979, the Federal Reserve announced a shift from the targeting of interest rates to the targeting of bank reserves. Monetarists claimed victory. The House Committee on Banking, Finance and Urban Affairs, in a nearly unanimous report on monetary policy issued in early 1980, approved the new emphasis on the monetary aggregates.
>
> Monetary aggregates remained within the Federal Reserve's target range until March 1980. Yet, instead of a slow deceleration of inflation with continued slow-but-steady growth, we got a severe recession, huge def-

icits, crises in industry, calls for protectionism, capital outflows and a falling dollar, and domestic social upheaval—plus continued inflation. The theories failed to work in practice.

The burr under the monetarist saddle is the structure of the U.S. financial system. This system, though perhaps the broadest capital market in the world, has three features that transmit monetary restrictions directly into a fall in output rather than in prices:

The propensity for commercial banks to embark on waves of unproductive speculative lending in times of high interest rates;

The vulnerability to tight money of the thrift institutions—savings and loans, mutual savings, banks and credit unions—and of other lenders to small borrowers;

The sensitivity of the international dollar to moves in domestic interest rates.

These together prevent achievement of the monetarist disinflation-without-recession.

The macroeconomic consequences of speculative explosions were better understood fifty years ago than they are today. In 1929, everyone understood that a speculative bubble could develop, drawing capital like a vortex into gold, land, stock pyramids, or even tulips, while at the same time high interest rates dried up loan demand for investment in less profitable, slow maturing but productive enterprise. Everyone understood, too, that such bubbles are followed invariably by a crash.

Today there is a widespread, erroneous belief that the U.S. economy is too large, too complicated, and too stable to be rocked by the financial shenanigans of small groups of high rollers.

This complacent assumption seems less plausible when one considers the Hunts. Bunker Hunt and his associates were able to command, from a handful of large banks, nearly 9 percent of all new lending at all 14,500 U.S. commercial banks in February and March of 1980. The $800 million that they borrowed in this period—some directly and some through their brokerage houses—went to meet margin payments on futures contracts for up to 200 million ounces of silver. The loans were collateralized with warehouse receipts for silver bars. Thus, if the price of silver fell, the lenders would be hit two ways: first, because the borrowers would need still more money for additional margin payments, and second, because the value of the collateral would fall and perhaps additional collateral would be required. There was sufficient risk involved to jeopardize some banks, several large brokerage houses, and even, up to a point, the mammoth fortune of the Hunts themselves.

Disregarding all other speculative endeavors, that $800 million to the Hunts drove up loan demand in general by nearly 10 percent in February and early March. Lending activity on this scale shows up in explosive growth of total bank loans and the monetary aggregates, and in interest rates, all of which occurred in this period. In February of 1980, total bank lending grew at an annual rate above 20 percent, the basic money stock grew at almost a 10 percent annual rate, and from February through early March key interest rates like the prime rate jumped from 14 to 20 percent. The previous speculative run-up in silver prices, as well as in gold, housing and commodity prices, had by as early as January 1980, contributed to an 18 percent inflation rate and a crisis atmosphere.

The Federal Reserve (having, as we shall presently see, deliberately adopted a see-no-evil attitude toward commodity speculation) did not consider the speculative origins of this surge in bank lending. They saw only the reflection of the bubble in the aggregate statistics. Their response—the draconian March 14 cutbacks in consumer credit and total bank lending—would have been appropriate to a genuinely overheated economy, which is what they thought they saw. This response was, as the deepening of the recession from March 1980 on has demonstrated, most inappropriate for a mere speculative geyser of bank credit against the backdrop of a recession which had started in January—the actual situation.

The Federal Open Market Committee record of policy actions of March 18, 1980, records their melancholy misapprehension.

"Expansion of total credit outstanding at U.S. commercial banks strengthened in January and accelerated further in February. Growth was especially pronounced in business loans, and available reports indicated a surge in demands for loan commitments in the latter part of February and early March. The issuance of commercial paper by nonfinancial corporations strengthened markedly in December and continued very large in January and February. . . .

"Interest rates rose sharply during the intermeeting period as inflationary expectations continued to worsen. . . .

"In contemplating policy for the period immediately ahead, the Committee took note of a staff analysis indicating that growth of M–1A and M–1B over the first two months of the year had substantially exceeded the pace consistent with the objectives for the December-March period established by the Committee at its preceding meeting. . . .

"Many members expressed concern about the possibility that a bulge in monetary growth in April, even if it followed little growth or a decline in March, would have an adverse impact on market psychology and on assessments of the likely success of the new program in helping to contain inflation. While favoring essentially an extension of the first-quarter objectives for monetary growth that had been established at the preceding meeting, they also advocated directing operations in the period immediately ahead toward working against any bulge that might be developing and assuring that excessive growth in April, should it occur, would be compensated for in succeeding months."

Obviously, the Federal Reserve was misreading the data as showing a highly expansionary and inflationary economy that required a strong macroeconomic putdown. This they delivered. The March 14–18 actions did not actually cause the recession, then in its third month, but they certainly made it worse—fast. Money growth was zero in March and negative 20 percent in April!

Unfettered speculation was one side of the disastrous credit equation in the winter and spring of 1980. On the other side were home buyers, car buyers, small businesses, and farmers who found that they could not get credit at all. Their plight proceeded in stages. First, mortgage loans dried up at mutual savings banks and at savings and loans. Consumer lending from all sources followed in the wake of the Federal Reserve's actions of March 14. And finally the squeeze came on small businesses who borrow at large commercial banks, including many auto dealers with desperate needs to finance inventory.

The vulnerability of the nation's housing-finance institutions is well known. The interest rates such institutions can pay to attract deposits are restricted by law, and their interest-earning portfolios contain many low interest mortgages extended decades ago that are still being paid off. Therefore, when interest rates rise, new deposit money flows away from these institutions, while their portfolio values decline. Although the first problem is somewhat mitigated by eliminating or circumventing interest rate ceiling requirements, this simply makes the general crunch worse. As a result, any effort by the Federal Reserve to meet a monetary growth target by sharply increasing interest rates carries with it the seeds of financial crisis for savings and loans and mutual savings banks. Before the crisis is reached, these institutions simply close up shop, extend no new mortgages, and so bring the housing industry to a crashing halt and the nation into a precipitous recession. This has now happened twice in this decade, in 1973–74 and in 1979–80.

Consumers were stretched thin by inflation and falling real incomes in March 1980. Many were relying on revolving and installment credit, and the outstanding volume of such lending had reached historic highs. When the Federal Reserve took action on March 14, this credit abruptly dried up. It may be that a consumer retrenchment was overdue and would have occurred in any case. But the Federal Reserve's actions ensured that the retrenchment would be sharp and that it would occur at just the steepest moment of the general slump.

The plight of the small borrower was made worse by the big bank practice of posting phony prime interest rates—the rates banks are supposed to charge their best customers but which in the spring of 1980 became instead the benchmark rates for small business and housing loans, while large corporate customers could get short term credit for substantially less. When the prime rate was 20 percent in March and April, and the average borrower was paying 20 percent plus, the big banks were giving under-the-table discounts to their large corporate customers of as much as 5 percentage points. Bank loans at below prime rates—mainly large loans of short maturities, rose from insignificant levels two years ago to an astounding 58.8 percent of all new loans made in May 1980 at forty-eight large banks surveyed by the Federal Reserve. The average size of loans below prime at these banks was $1.2 million; the average loan above prime was for only $208,000. The main effect was thus to squeeze borrowers who were not eligible for secret rebate prime loans. Had the railroads done that, their executives would have gone to jail.

Finally, the situation was compounded in May 1980, when another $1 billion was marshalled to bail out the Hunts and their bankers and brokers, thus substracting that $1 billion from the scarce credit available to consumers, homebuilders, small business, and farmers.

This credit crunch is compounded further by international factors. The dollar is the reserve currency for central banks of most nonsocialist countries. It is also the currency of account for oil. Its value is therefore a matter of strategic as well as economic concern. High interest rates shore up the dollar, which raises the relative prices of our exports, causes orders to be deferred, and contributes to the contraction of domestic production. And in the ensuing slump, "the defense of the dollar" prevents the rapid lowering of interest rates that would work to restore the expansion of domestic lending. If the United States alone pursues monetary expansion in a recession, as a counter-cyclical steady-growth rule dictates, U.S. interest rates fall. Short term capital flees abroad, and the dollar thus depreciates. The immediate consequence is an inflationary surge in the U.S. price of manufactured imports and raw materials. The later and more serious consequence is a retaliatory increase in the price of oil, and queasiness by foreign bankers about the United States.

In sum, the traditional prescription for monetary policy is inadequate on three counts. It fails to forestall destructive waves of speculation. It fails to keep credit flowing to vital small business, construction, capital investment, and agricultural uses. And it fails to prevent destructive instability of the international dollar. As a result, the application of an (otherwise sensible) stable monetary growth rule precipitates recession. And recession destroys, rather than helps, prospects for a return to steady non-inflationary growth, since it provokes a stampede toward inflationary tax reduction of the kind we are now observing.

What is to be done?

First, at the broadest macro-economic level, there is nothing wrong under most conditions with the rule that the Federal Reserve should set, and try to meet, a target for the growth of money. Such a rule quite properly causes the Federal Reserve to "lean against the wind": to restrain booms and to soften slumps. The provision of numerical monetary growth targets to the Congress also provides a valuable indication of Federal Reserve intentions. But monetary growth targets by themselves cannot cope with the economic instability of the present world. To rely on them alone is reckless.

Second, our national monetary policy must be coordinated internationally. The Federal Reserve and the Treasury should confer with the other industrial democracies so that interest rates can be lowered in tandem. If all of our major allies act in a coordinated way, interest rates can come down without destabilizing short term capital flows. This will help economic expansion in all countries without threatening anyone's currency or the value of anyone's financial assets.

Most important, monetary policy must recognize that for the indefinite future our national reserves of credit will be scarce. We therefore need urgently to address the micro-economic question: to whom should our scarce credit resources go?

Last October, the Federal Reserve and the administration took a first, halting step toward a policy on the uses of credit. The Fed announced a series of objectives, and it wrote to the banking system asking for cooperation in their attainment. The objectives were laudable: that banks should concentrate their lending on small businesses, consumers, home buyers, farmers, and productive capital investment, while avoiding loans for commodity, gold, and foreign exchange speculation and for purely financial activities such as stock buy-backs and corporate takeovers. But despite these good intentions, the Federal Reserve and the administration utterly failed to monitor and secure voluntary compliance with their request. Faced with declining loan demand at high interest rates after October 1979, the banking system simply disregarded the Federal Reserve's admonitions.

How else can one account for the fact that not a single bank involved in lending to the Hunts and their brokers from November to March checked the propriety of this activity with the Federal Reserve? How else can one interpret the fact that the Federal Reserve did not know of any bank lending against silver until March 26, when an executive of Bache Halsey Stuart Shields called Chairman Volcker to warn of impending collapse?

How else can one account for such loans as the $40 million credit from five large banks to Nortek, Inc., approved in late October, which had as its unvarnished purpose—"to acquire the equity securities of a . . . 'Target' Corporation"—written right into the loan application?

How else can one account for the duplicitous behavior of the large banks who raised their official prime rates, to which small business and housing loans were tied, thereby squeezing small borrowers right out of the market, while making three-fifths of their total loans—to big borrowers—at rates below the official prime?

On March 14 the Federal Reserve took steps that ostensibly stiffened surveillance and control over speculative lending. This was the Special Credit Restraint Program. On paper, this was just what was needed: new and stricter guidelines, and a requirement for regular reporting of any specultive or purely financial loans that were made. Did it work? We will never know, because, incredibly, the Federal Reserve did not ask the banks to report on how much speculative and purely financial lending they had been doing prior to the imposition of restraints. And in any case, the issue is now academic, since in early June the Federal Reserve withdrew its antispeculative admonitions and abolished its reporting requirements, allowing the blindfold to slip completely over its eyes.

The record of the Bubble and Crash of 1980 proves that the nation needs a better, more comprehensive monetary policy than we've got. On the macroeconomic side, the Federal Reserve already has the necessary tools. Its powers to set required reserve ratios and the discount rate and to conduct open market operations will not achieve monetary stability in the absence of other policies, but they are a necessary part of the package.

On the international side, what is needed is diplomacy. United States diplomats should be told to put our case to our allies firmly, and perhaps to trade their cooperation with us on this overriding issue for our cooperation with them on other matters.

On the microeconomic side, comprehensive examination and regulatory powers are already on the books. Moreover, the Federal Reserve is loaded with intelligent men and women who can write guidelines, answer questions, design and read reports, and conduct a vigorous program of oversight over bank lending. A microeconomic credit policy would step on the toes of high-rolling big banks, commodity speculators, takeover specialists, goldbugs, and silverfish—as well as the conceptual toes of their academic allies. the monetarists. But it is a necessary policy if we are to achieve sustained, non-inflationary growth and full employment.●

TRIBUTE TO JUDGE ABRAHAM LINCOLN MAROVITZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, Federal Judge Abraham Lincoln Marovitz has served his country as a Marine in World War II; as assistant State's attorney in Cook County, Ill.; as a judge on Cook County's Superior Court; as chief justice of the Cook County Criminal Court; and as a member of the Illinois State Senate. He is now on senior status after many years of service as a judge of the U.S. District Court for the Seventh Circuit.

It has been my good fortune to have known Judge Marovitz for 40 years and throughout these years he has been a good friend. He is a very compassionate human being and participates in every worthwhile community endeavor that will help his fellow man.

It is a pleasure for me to call to the attention of my colleagues the following poem written in honor of Judge Marovitz by Harry "the Horse" Lyons:

"THE JUSTICE GIVER"

Oh Who's the boy that dwelt behind
that tiny candy store
Who grew to know the ways of life
and law forevermore
And Who's the boy called "Little Abe"
the Buckeye Club once knew
Who carried all those telegrams
when bucks were mighty few
And who's the lad that went to Kent
and worked from sun to sun
To become a fledgling lawyer
at the age of twenty-one

Oh Who's that young attorney
from the county known as Cook
The senator that gave our state
a bright and shiny look
And Who's that Sergeant Major
of United States Marines
Who in his heart will always know
what love of country means
Oh Who's that man up on the bench
with kind and watchful eye
Appointed by a President
that was much too young to die

Oh Who walks with integrity
when roads would twist or bend
And who's the man that never shirks
if he can help a friend
And Who's the man beloved
by the people that he's served
Who has walked the path of courage
when others may have swerved
Oh what's the name we think of
with emotion all aquiver
Abraham Lincoln Marovitz
he is, the justice giver . . .

—HARRY LYONS, (*Harry the Horse*).●

FIGHTING FIRE SENSIBLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, late in 1978 furniture representatives told me that the Consumer Product Safety Commission (CPSC) was planning to impose mandatory furniture flammability standards upon their industry, and that achieving those standards would cost the industry—and thus American consumers—some $20 billion over the next 20 years. At the same time, the proposed regulations would severely limit consumer choices in fabric and decor, because the CPSC proposed to ban the use of untreated cotton, wool, linen, silk, and other natural fiber fabrics.

The plan seemed so ridiculous to me that I told the industry I would try in the next CPSC appropriations bill to cut off funding for this outrageous program. The industry representatives recommended, instead, another approach—one that would encourage CPSC to work with the industry as the industry developed and implemented its own program to eliminate or reduce furniture flammability. This could be done, the industry proclaimed, at about one-twentieth of the CPSC program cost, and without limiting consumer choices.

I took the industry's advice, Mr. Speaker, and late in the 95th Congress got an amendment passed which would permit and encourage development of the industry plan. The initial efforts of the industry met the approval of CPSC, and a period of 1 year was set aside for further development, testing, and monitoring of the industry plan. Now, Mr. Speaker, the Consumer Product Safety Commission is threatening once again to impose mandatory standards upon the industry. The absurdity of its proposal was expressed quite well last Saturday (September 27) in an editorial in the Washington Star. Without objection, I would like to include the editorial in the RECORD at this point:

FEAR OF FURNITURE

Other federal agencies may falter in carrying out the last obligation implied by their legally defined purposes. Not the Consumer Product Safety Commission. This is one watchdog of the public interest that never dozes.

They're after the furniture industry again. Fear of furniture is not very high on most people's anxiety agendas. With saccharin and nitrates and fallible automobiles to worry about, the average citizen is pretty calm about dangers lurking among the sofa cushions. However, it has been estimated that every year, one American in 440,000 dies in a fire caused by a cigarette setting upholstery ablaze and another three or four get hurt.

It's all right—the CPSC is concerned enough for all of us. It's almost a year now since these official guardians decided to get serious about protecting the people who don't notice when the cigarettes they drop on their chairs and settees burst into flame. The CPSC solution was to get rid of flammable upholstery fabrics.

No more cotton, no more wool, no more linen or silk, unless mixed with some flame-resistant synthetic. The furniture industry complained that it would cost $30 million to test the idea on a voluntary basis for a year, $1.3 billion to make it compulsory.

Consumers, of course, would have to pay more for their furniture because of the expense of retooling the factories. Those who like the look, feel and price of natural fiber textiles would be out of luck.

It brings to mind the story of the tribal wise ones who decided to cover the world with leather because so many of its walking surfaces were rough underfoot. But then they realized they didn't have to get at the problem that way, somebody had invented shoes.

Well, this is a case where shoes have been invented. The 218,978,000 Americans who, each year, avoid getting hurt in cigarette-ignited upholstery fires know a thing or two.

Furthermore, those of them who buy furniture don't like being reminded that they're paying more for it because it's covered in non-flammable fabric. The first result has been that retailers snip off the tags proclaiming compliance with the "voluntary" CPSC guidelines on safe upholstery material. The second result is that CPSC is talking about outlawing furniture coverings that cannot be proved non-flammable.

All the reasons such a stricture was a bad idea to begin with are still good. Measured against the verifiable hazards of traffic accidents, street crime and diseases brought on by smoking, the danger of the forgotten cigarette in the brocade chair is minuscule. Weighed opposite the public preference for choice and getting the feds off everybody's back, the justification for the CPSC action is minuscule indeed. All it really does for anybody is to provide one more slice of history demonstrating how much of a threat to American tradition and well-being the unregulated regulator can be.

Mr. Speaker, furniture does not cause fires. Cigarettes do not cause fires. People cause fires. Carelessly caused fires are the result of irresponsible behavior. They are, indeed, a serious problem and in the case of household fires, to which the furniture flammability question is addressed, they cause the loss of both lives and property. But there is only a limited and a reasonable degree to which the Government can go to protect us from ourselves. We cannot fireproof our entire environment, any more than we can completely santize or sterilize it. We can, nevertheless, reduce the loss from household fires in a sensible and practicable way, as is spelled out in my bill, H.R. 7193.

Mr. Speaker, every year about 6,000 Americans die in household fires, which often break out at night when families are asleep. As many as 4,000 of these fire deaths could be prevented if the homes were equipped with simple smoke alarms, which sell for as little as $15 each in most neighborhood drug and hardware stores.

Homeowners and renters have been quick to recognize the value of these new, inexpensive fire alarms. Fifty percent of the homes in the United States are now equipped with one or more fire alarms, compared with only 20 percent in 1977, according to the U.S. Fire Administration.

Nevertheless, that leaves 37.5 million homes without fire detection equipment. And it appears, unfortunately, that consumers recently have been losing interest in fire alarms. The Wall Street Journal reported on April 3 that smoke detector sales dropped suddenly in 1979 and have been declining this year.

I am concerned about this waning interest, Mr. Speaker. Home fire protection, which is now so easily available to every family, should be one of this country's highest priorities. For that reason, I have introduced H.R. 7193, which would allow each person buying home smoke or fire detectors to claim a Federal income tax credit for half the purchase price of these devices. The credit would be limited to $100 a year ($50 for a married taxpayer filing a separate return).

With this incentive, people whose homes now lack detectors might be encouraged to make this life-saving investment. Just as important, homeowners and renters who already have a detector might be persuaded to improve their protection by buying a few more. Recent studies indicate that many homes have only one detector, even though fire prevention experts often recommend that several be used.

Although the tax credit for smoke detector purchases would be small (and would not entail a serious loss to the Treasury), it could provide a stimulus to those who have procrastinated about buying fire alarms. It might also be a financial incentive to lower and middle income people in the inner cities and in the rural South, the two areas that have the highest fatality rates from fires.

There is no reason for any home to lack a fire detector. Anyone who can use a screwdriver can install a smoke alarm quickly and easily. More than 75 percent of the detectors sold are battery operated and require no special wiring or assembly. The average price of a detector today is $20.

Twenty-two States now require the installation of fire detectors in all newly constructed homes. Five States and the District of Columbia require—or soon will require—detectors in existing homes under certain conditions. The Department of Housing and Urban Development requires detectors in new homes financed under Federal assistance programs.

With this kind of recognition and emphasis by all levels of government, detectors eventually will become standard equipment in every dwelling. Right now, though, the effort is lagging.

Mr. Speaker, there is an undeniable need to reduce household fires, and the loss of lives and property connected with them. But we also need, Mr. Speaker, to approach these problems in sensible ways. Therefore, we need to make certain that the Consumer Product Safety Commission is not allowed to inflict upon the furniture industry—and upon the furniture buyers of America—a set of ridiculous standards which would add nothing but extravagant cost to our efforts to reduce hazards in the home.

There is a better way. It adds nothing to the cost of furniture; it requires no bureaucratic oversight; it does not tell the homeowner which fabrics he or she may buy; nor does it detract from the beauty and the comfort of the home. It has been tried and found true, and I believe it merits the full support of this House. I therefore urge my colleagues to cosponsor H.R. 7193, and to join me in working for its early passage.●

JEWISH EMIGRATION MOVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

○ Mr. WIRTH. Mr. Speaker, as Congress prepares to adjourn, I wanted to take this opportunity to once again focus attention on the long and difficult struggle of the Hess family to emigrate from the Soviet Union. Grigory Hess, his wife, and their two daughters first attempted to obtain an exit visa to Israel 7 years ago—today, they still wait in an atmosphere of hopefulness and fear.

They have suffered greatly at the hands of Soviet authorities, who have made their lives in Minsk, Russia, a nightmare of surveillance, harassment, and humiliation. However, the Hess family remains steadfast in their determination to emigrate, and the courage and dedication they show serves as an inspiration to all refuseniks in the Soviet Union.

Grigory Hess has been an active and outspoken proponent of the rights of Jews in the U.S.S.R. to emigrate, and he took part in compiling a survey at the end of 1979 which details the Jewish emigration movement in the Soviet Union. The following excerpt of this recent report stresses the importance of the interest of foreign leaders in the Soviet Jews' struggle and serves as a lesson to all of us who are in a position to publicize and gather support for these people.

CONTACTS WITH FOREIGN LEADERS

Contacts with foreign governmental, scientific, cultural and religious leaders as well as numerous tourists means much to the Jewish emigration movement. These contacts help refuseniks to preserve their intellectual potential, to feel the support of foreign friends and to clarify their situation to foreigners.

During the past 18 months there were two meetings; with American Senators, two with U.S. Congressmen, a meeting with six American Governors, one with a U.S. delegation for the memorial of the victims of fascism led by Elie Wiesel, a meeting with Senator E. Kennedy and with Australian Labor Party leader, Robert Hawke, and a meeting with young American government officials. It is important that meetings with Jewish activists become a tradition which shall not be broken by any foreign governmental delegations to Moscow.

At these meetings, government and social leaders have expressed deep compassion for the plight of the prisoners and refuseniks and also a readiness to cooperate in every way to resolve the problem of the Jewish emigration movement.

These meetings were organized so that Jewish activists from different aliyah groups took part: scientists, activists of the cultural and religious renaissance, the women's movement, and representatives of various cities.

The great positive significance was the visits of scientists to Moscow and other cities. Many of them gave reports at seminars and at international symposia organized by Jewish scientist-activists. Meetings with leaders of foreign Jewish organizations and rabbis were very warm and sincere. They took part in traditional Jewish holidays, which have been taking place regularly in the Soviet Union since the growth of the emigrant movement and the renaissance of Jewish national feeling.

Various visits to the refuseniks by activists of American, English and French organizations for the defense of Soviet Jews and of tourists of many countries led to the creation of personal and friendly ties between refusenik families and their foreign friends who "adopt" them. Especially noteworthy were the efforts of the Union of Councils for Soviet Jews, the National Conference on Soviet Jewry, the Student Struggle for Soviet Jewry, the 35's in England and the Comite des Quinze in France.

Contacts with many foreign correspondents have had an important, positive significance for informing the international community about the conditions and problems of the Jewish emigration movement. They have covered all the substantive events in this area with their reports from Moscow.

In November, a delegation from the United States will be participating in the Second Review Conference of the Helsinki Final Act in Madrid. I urge my colleagues to offer whatever support they can to the issue of declining emigration figures of Soviet Jews and to the need for a better understanding of the human rights issue.●

THE CAMPAIGN AGAINST NUCLEAR POWER AND AMERICA'S ECONOMIC SURVIVAL

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, In any election season campaigns for and against almost everything affecting our lives are to be expected. The campaign against nuclear power knows no seasonal limitation. Its ultimate goal appears to be nothing less than the destruction or total disruption of our economic way of life.

The most unfortunate consequence of this war is that many of those doing battle do not realize they have been duped into fighting to the detriment of their country. The hard core antinukes have used guilt, emotionalism, and outright fear to get converts. Many of them are the same people who laud every Soviet achievement, including nuclear energy for the masses. They are silent, however, on Soviet failures and invasions. In an article titled "The No-Nuke Wind Ensemble," Joseph Shattan makes this statement:

> The New Left is back together again, this time fighting nuclear power. But the binding energy hasn't changed: It's still anti-Americanism.

Shattan's article goes into great detail on those who compromise the New Left and how they operate. He names names. He points out that their hatred is directed at American society. These are the last paragraphs of his article:

> As recent events in Iran and Afghanistan have only underscored, the "energy crisis," at the very heart of which lies our dependence on oil from the Persian Gulf, is not so much economic as it is political in nature. At issue is the simple question: Can the West achieve a measure of energy self-sufficiency before the Soviet Union and its friends gain control of the Persian Gulf?
>
> The answer to that question depends very much on our willingness to exploit our vast coal and nuclear resources. It is, however, precisely against the utilization of these resources—and especially against the utilization of nuclear energy—that the detritus of the anti-war movement has mounted its determined, well-organized, and lavishly funded campaign. While this assault is conducted under the banner of "environmentalism," its fundamental animus is directed at American society—its values, its institutions, and above all, its power (which is why those who oppose nuclear power plants today so often oppose nuclear weapons as well). Anti-nuclear activists have long regarded the U.S. as the champion of reaction and the citadel of counterrevolution, and the current drive against nuclear energy is merely the latest in a series of efforts aimed at dealing American power a deathblow—this time, via the economic route. It seems scarcely credible that groups like the Clam, Mobe, MUSE, and DONT could accomplish the destruction of America, yet the concatenation of circumstances is such that they just might. Stranger things have happened.

Excerpts from the article, which was published in the March 1980 issue of the American Spectator, follow:

THE NO-NUKE WIND ENSEMBLE

(By Joseph Shattan)

On November 2, 1979, readers of *Pravda* were treated to yet another instance of capitalist brutality. Prominently displayed on page four of that proletarian periodical was a photograph of a young women, her body limp, being dragged across the pavement by two burly policemen of grim mien. More police hovered in the background, while behind them, blocked by barricades, protestors held a huge canvas banner aloft upon which, like some ancient escutcheon, was proudly emblazoned the name of their group: Dykes Opposed to Nuclear Technology. Explained the caption underneath: "U.S.A. A mass meeting protesting the growing arsenal of death was held in New York. Participants voiced their demand to reduce military expenditures and to give up the nuclear arms race. Photo shows police taking it out on one of the participants."

In the absence of further data, what Soviet readers made of this photo, and of the accompanying caption, must remain a matter of conjecture. Some, no doubt, leapt to the conclusion that dykes are an oppressed American nationality, distant cousins, perhaps, of Yakurs and Uzbeks. Others may have reasoned that dykes are merely one of many obscure religious cults which dot the American landscape. Few, however, could have divined the precise connotation of that sexual sobriquet, and none could have known that, organized in such associations as Lesbians for Love, The Dyke Brigade, and DONT, dykes play a not insignificant role in the burgeoning American antinuclear movement.

According to anti-nuclear feminist Laurie Holmes, this is as it should be. "Nuclear power is a feminist and lesbian issue," she explained at a protest sponsored by the Clamshell Alliance in 1978. "The struggle against the rape of the earth by rich, white males is the same struggle as the struggle against the rape of our bodies and the rape of our lives." More recently, Bella Abzug has pointed to the ineluctable ink between the anti-nuclear movement and the Equal Rights Amendment. "We don't want equal rights in a dead world," she told a crowd of some 70,000 gathered in Washington last May to protest nuclear power. "We want equal rights in a living world" Mrs. Abzug's remarks, it is reported, were greeted with: "wild applause"

* * * * *

To the demand for a community-owned and democratically operated energy system, Friends of the Earth official and "soft energy" proponent Amory Lovins couples a call for zero-growth. "It would be little short of disastrous for us to discover a source of clean, cheap, abundant energy because of what we might do with it," he admonishes. "We ought to be looking for energy sources . . . that don't give us the excesses of concentrated energy with which we could do mischief to each other." Professor Paul Ehrlich, the population control advocate, words the same thought even more strikingly: "Giving society cheap, abundant energy," he analogizes, "would be the equivalent of giving an idiot child a machine gun."

The campaign against nuclear energy, then, besides being inextricably connected to the struggle for sexual and racial liberation, is also, according to its votaries, part and parcel of the effort to reverse the maleficent momentum of industrial civilization. "We are going to rediscover smallness," predicts Ralph Nader. "If people get back to the earth, they can grow their own gardens, they can listen to the birds, they can feel the wind across their cheeks and they can watch the sun come up." Only the song of the lark, rising above the industrial din, can dispel the fog of false consciousness fostered by "corporate hype"; only smallness begets niceness.

But how can society cast off its corporate shackles, and how can Americans liberate themselves from their enslavement to a materialism at once insidious and insipid? "I can think of only one long-term alternative," confesses solar-energy crusader Tom Hayden, "and I still see it coming. What began in the sixties—a rising demand for a voice in the decisions controlling our lives—will spread to every sphere, particularly to the corporate world where so much life and death power is concentrated in so few hands." The demand for "participatory democracy," first broached by Hayden in 1962 when he drafted the "Port Huron Statement" for SDS (Students for a Democratic Society), remains his political cynosure to this day and has become perhaps the theme most often repeated in the anti-nuclear litany: "We the citizens of this great country can *take* the power to govern this country ourselves," claims biologist-cum-politico Barry Commoner. "That is our rightful power, our duty—let's do it!"

Clearly, the anti-nuclear struggle has united the various tribes of the Left, the feminists, pacifists, populists, socialists, zero-growthers, communards, and revolutionaries, who have all discovered that the "war against the atom" (Samuel McCracken's phrase) resonates perfectly with their other passionate obsessions. That events have taken this course seems, on the face of it, almost inevitable, hardly worth remarking. After all, is not the Left the party of Humanity? Has it not always rallied to the People's side in moments of peril? Why should it be otherwise today?

And yet—strange to report!—the Left was not always anti-nuclear. Indeed, during the fifties and early sixties it was among the staunchest supporters of peaceful nuclear power. Hayden's "Port Huron Statement," for example, was a veritable paean to the peaceful atom. "With nuclear energy," it declared, "whole cities can easily be powered, yet the dominant nation-states seem more likely to unleash destruction." Envisioning "the industrialization of the world," it said that "atomic power plants must spring up to make electrical energy available," and it lambasted the American political establishment for its short-sighted preoccupation with the military uses of atomic power.

During the mid-sixties and early seventies, the Left, preoccupied with more exigent concerns, permitted atomic energy to fend for itself. Returning to matters atomic in the mid-seventies, it discovered that nuclear plants were producing some 12.5 percent of America's electric power.

* * * * *

Judging by its earlier attitude, one might well have expected the Left to wax wroth. Only 12.5 percent? This from a technology capable of powering whole cities, of industrializing the world? But that, as we know, is not quite how the Left reacted. True, it did wax wroth, but instead of arguing, as it had in the past, that nuclear power was vastly underutilized, it argued that it was perilously overutilized. Pro-nuclear advocates like Hayden now took to the bustings to denounce nuclear power, pro-nuclear artistes like Seeger became fixtures at anti-nuclear rallies, and the American Communist Party quietly excised the atom from its sickle.

How to account for this strange reversal? Was it due, perhaps, to an accumulation of evidence disclosing the unacceptable health hazards associated with the operation of nuclear power plants? Not at all. In fact, all evidence indicates that the amount of radioactivity emitted by nuclear reactors is considerably smaller than the harmless doses everyone normally receives from uranium-bearing rocks on the surface of the earth or from medical x-rays. The health hazards posed by nuclear power plants are not nearly so great as, say, those posed by cigarette smokers to their neighbors.

If the Left's hostility to nuclear power does not stem from that technology's inherent risks, does it derive, then, from a sober evaluation of comparative risks, from a belated recognition that the operation of a nuclear power plant, however benign, is still more hazardous than coal- or oil-fired plants? Wrong again. Of the various health comparisons undertaken thus far, virtually all have been favorable to nuclear power. In fact, it turns out that since coal contains traces of the radioactive elements radium and thorium, a typical coal-fired plant actually releases more radioactivity than a nuclear plant does, in addition, of course, to the sulfur dioxide and other dangerous effluents normally associated with the combustion of coal and oil

But while nuclear power as a source of energy is less hazardous than existing alternative sources, how does it compare to *new* sources of power—to solar power, for example? Here, experts differ. Optimists believe that a photovoltaic system, generating as much electricity as a typical nuclear power plant, would occupy no more than 50 square miles of land, so that powering the entire country with solar energy would require little more than the surrender of the state of Oregon. Pessimists project much larger land usages. At present, however, the dispute is somewhat moot, inasmuch as the technology in question remains prohibitively expensive. That the pro-solar Left evinces such a touching faith in the ability of modern industry to solve the problems associated with solar power, while simultaneously advocating the destruction of modern industry in the name of smallness, seems not a little paradoxical.

Although it appears most unlikely that solar power will ever replace nuclear energy, solar collectors may well supplement nuclear or coal-fired power plants in the near future. Even here, though, problems abound. Not only does affixing a solar collector to one's roof involve the risk of serious accident, but it also requires a knowledge of elementary celestial science which even reasonably well-educated people seem to lack. The following account of Tom Hayden's tribulations with a solar collector, which first appeared in the Village Voice, does not inspire confidence in either the technology or its boosters:

"The man who proposes to lead California into the Solar Age proudly affixed a collector to the top of his and Jane's house. The mechanism instantly broke and flooded the premises with tepid water. Unabashed by the mishap, Tom then tried to equip his Santa Barbara ranch house with another bach of collectors. But the water stayed cold. Helpers clambered up on the roof, only to discover that the collectors had been clamped on back to front. For Tom, it seems, the sun rises in the north."

The Left's current hostility to nuclear power, then, does not stem from a serious evaluation of alternative energy sources, nor does it derive from the health hazards inherent in the technology. Rather, the hostility originates in the social dynamics of the Left itself, in its manifest need to maintain its cohesion and effectiveness in the face of adversity.

* * * * *

The history of the Mobilization for Survival—an "environmentalist" group which holds that "nuclear energy and nuclear weapons are merely different sides of the same coin"—illustrates the transformation of an entire section of the anti-war movement into an important component of the anti-nuclear movement. The origins of the "Mobe" are chronicled for posterity in the July 1977 issue of WIN magazine by two of its charter members, Clark University sociologist Sidney Peck and Harvard Employees Organizing Committee member Kathy Mathews. They credit Sidney Lens, radical gadfly and former member of the Troskyite Revolutionary Workers' League, with drafting the original call for an anti-nuclear organization after meeting with "a number of Cambridge academic peaceniks" on Tranksgiving Day, 1976. Soon afterwards, word arrived that British World Peace Council activist Peggy Duff planned to visit Boston and "wanted to meet with interested people." (The World Peace Council is a Soviet front.) As Peck and Mathews tell it, "The meeting with Peggy Duff turned out to be a good follow-up meeting to the one with Sidney Lens. It was Peggy Duff who impressed her listeners with the historic importance of the UN Special Assembly on Disarmament scheduled for late May, 1978. In her typically direct way, laced with a stiff dose of Scottish brogue, she asked, 'Well, what are you folks going to do about it?'[1] No one ever really answered her question at the time, but the rest of this current history details a series of responses."

The responses, a series of anti-nuclear demonstrations drawing on "the active political, network" of anti-war protestors across the country, have been favorably commented upon in the scholarly Soviet journal, USA: Economics, Politics, Ideology, published under the auspices of the Soviet Academy of Sciences in Moscow. Notes that periodical's August 1978 issue: "The Mobilization for Survival initiated a nationwide campaign against nuclear weapons in memory of the bombing of Hiroshima. More than 100 marches, demonstrations and sit-ins took place in 36 states—most of them at military bases connected with the Pentagon and nuclear power stations. At the same time, demonstrations were held in many U.S. cities to protest the development of the neutron bomb as part of International Action Week, designated by the World Peace Council. . . . More than 200 'teach-ins' were organized at universities and colleges throughout the nation."

Though USA is loath to admit it, being officially committed to the doctrine of atheism, many of the demononstrations involved the active participation of clerics.

The most recent Mobe protest was held in Washington on October 29, 1979, to coincide with the 50th anniversary of the stock market crash. Some 800 demonstrators assembled at noon by the Capitol, where they heard, among others, Werner Rumpel; Secretary-General of the East German Peace Council, who lauded Soviet party chief Leonid Brezhnev for offering to withdraw 1,000 tanks and 20,000 troops from East German. "Once again," said Rumpel, "it was the Soviet Union that made a new proposal of good will."

Enlightened by Rumpel and like-minded "international peace activists," the demonstrators then set off for the Forrestal Building, headquarters of the Department of Energy. En route, they were joined by a contingent of Grey Panthers, fierce oldsters who had just concluded their national convention. Arriving at the Forrestal Building, they attempted to block its numerous entrances. "A game of cat and mouse ensued," writes Mobe member John Miller in *WIN* magazine. "As the Federal Protective Service moved to open other doors, affinity groups * * * blocked them and the FPS tired to clear them. Many people spontaneously joined us, including a Grey Panther in a wheelchair. At one point ten entrances were blocked. Several times police radios reported that no doors were open. People trying to get in—including Pentagon officials and workers returning from lunch—went from door to door and finally gave up."

Among those taking part in the Washington protest were noted war-resisters Dave Dellinger[2] and Daniel Ellsberg, as well as American Indian spokesperson Madonna Thunderhawk of WARN (Women of All Red Nations).

* * * * *

The measure of the anti-nuclear movement's success may be gauged by the fact that the American nuclear industry currently hovers near the point of collapse. Unless there is a substantial influx of new orders for nuclear power plants by 1981, warns the former president of the nuclear division of the American Physical Society, Bernard L. Cohen, "there will be massive layoffs in the nuclear industry, and all the experts in various aspects of nuclear systems will find work in other acres. Once that happens, it would take a very long time to reassemble them." For the necessary influx of orders to occur, however, utilities must be convinced that nuclear power plants, once ordered, will come "on-stream" relatively soon—otherwise, they will hesitate to tie up the huge amounts of capital which the construction of a plant entails. In the absence of a national consensus on the need for nuclear power—an absence brought about in no small part by the industrious efforts of the anti-nuclear movement—utilities have no such assurances. Previous orders for reactors are therefore indefinitely deferred and new orders are not forthcoming—hence the crisis of the nuclear industry.

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[1] Affinity group is a common Movement phrase, used to designate any small group of protestors acting as a unit in a demonstration, sit-in, etc. The term was coined by the Iberian Anarchist Federation in pre-Civil War Spain. In the Clamshell Alliance, affinity groups appoint "spokes" who meet with other "spokes" in a "cluster" to decide policy. Clusters, in turn, appoint representatives to the Decision Making Body (DMB), the governing Clam council.

[2] Delliger had been in Washington just a months before to attend the Palestine Human Rights Conference where he declared. that he would take "personal responsibility" for seeing to it that a speaker for the PLO appeared at every anti-nuclear rally.

As recent events in Iran and Afghanistan have only underscored, the "energy crisis," at the very heart of which lies our dependence on oil from the Persian Gulf, is not so much economic as it is political in nature. At issue is the simple question: Can the West achieve a measure of energy self-sufficiency before the Soviet Union and its friends gain control of the Persian Gulf?

The answer to that question depends very much on our willingness to exploit our vast coal and nuclear resources. It is, however, precisely against the utilization of these resources—and especially against the utilization of nuclear energy—that the detritus of the anti-war movement has mounted its determined, well-organized, and lavishly funded campaign. While this assault is conducted under the banner of "environmentalism," its fundamental animus is directed at American society—its values, its institutions, and above all, its power (which is why those who oppose nuclear power plants today so often oppose nuclear weapons as well). Anti-nuclear activists have long regarded the U.S. as the champion of reaction and the citadel of counterrevolution, and the current drive against nuclear energy is merely the latest in a series of efforts aimed at dealing American power a deathblow—this time, via the economic route. It seems scarcely credible that groups like the Clam, Mobe, MUSE, and DONT could accomplish the destruction of America, yet the concatenation of circumstances is such that they just might. Stranger things have happened.

CONFERENCE REPORT ON H.R. 7592

Mr. McKAY submitted the following conference report and statement on the bill (H.R. 7592) making appropriations for the military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

Conference Report (H. Rept. No. 96–1433)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 12, 23, 24, 25, 26, 27, 28, 30, and 31.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 7, 15, 16, 17, and 18, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$857,834,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$245,600,000" ; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,007,893,000" ; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,651,326,000" ; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

"Sec. 115. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum."

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"Sec. 127. No part of the funds appropriated in this Act may be used for the purchase of foreign steel for the construction of the shelters or bases of the proposed MX missile system."

And the Senate agree to the same.

The committee of comference report in disagreement amendments numbered 2, 3, 4, 5, 8, 11, 13, 21, 22, 29, 32, and 33.

Gunn McKay,
Bo Ginn,
Tom Steed,
Joseph P. Addabbo,
Clarence D. Long,
Jamie L. Whitten,
Robert C. McEwen,
Ralph Regula,
Silvio O. Conte,
Managers on the Part of the House.

Walter D. Huddleston,
J. Bennett Johnston,
Daniel K. Inouye,
Jim Sasser,
Warren G. Magnuson,
Ted Stevens,
Milton R. Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

Indian Ocean/Persian Gulf: The House and the Senate both supported the need for proceeding with contingency facilities in the Indian Ocean/Persian Gulf area; however, each body proposed different approaches to funding and funding levels. The House provided a total of $259,177,000 for Indian Ocean/Persian Gulf projects on a project-by-project basis within the countries identified by the Department of Defense. The Senate established a separate fund in the amount of $245,000,000 for the Department to use in funding Indian Ocean/Persian Gulf projects.

The conferees agree that the Navy and Air Force projects for Diego Garcia and Lajes Field, Portugal, should be funded under the appropriate Department, as proposed by the House. However, the Senate language on the obligation of funds for projects located at Lajes is to be followed.

The conferees agree to the Senate approach for funding projects located in the Persian Gulf area. A contingency fund of $105,000,000 has been established under the Defense Agencies appropriations. The Department is to follow the stipulations on the use of this fund as reported by the Senate.

The conference agreement on Indian Ocean projects follows:

	Budget request	Conference agreement
Army staging facilities	$21,361,000	0
Diego Garcia:		
Phase I readiness	0	$16,000,000
Phase II readiness	104,000,000	74,200,000
Dredging	13,000,000	13,000,000
Ocean surveillance building addition	2,977,000	2,977,000
Utilities and facilities upgrade	2,000,000	2,000,000
Littoral countries (Navy projects)	35,000,000	0
Lajes Field, Azores, upgrade	27,800,000	22,300,000
Diego Garcia Air Force liquid fuel facilities	23,700,000	23,700,000
Littoral countries (Air Force projects)	85,700,000	0
Contingency fund	0	105,000,000
Total	315,538,000	259,177,000

Both the House and the Senate reports expressed concern over the need for substantive planning and definition of the Indian Ocean/Persian Gulf program. The conferees agree with the House language calling for the submission of a multi-year plan for the Persian Gulf. Specific requirements for that plan are listed in the House report.

The House and Senate approved a conference report in July, 1980 that directed the Department to prepare a detailed program for assuring that American firms be given preference for construction contracting in the Persian Gulf/Indian Ocean area. The conferees express their concern that to date no program has been formally proposed by the Department and, therefore, feel it is necessary to direct the Department to award Persian Gulf/Indian Ocean projects based on the following criteria: (1) The publication of a prebid notice in *Commerce Business Daily* 60 days prior to the completion of the final design of all projects with an estimated cost in excess of $5,000,000; (2) prequalification of U.S. firms prior to open international bidding; (3) development of tendering procedures that include participation of host nation construction firms as joint venture partners with U.S. firms or as principal subcontractors; (4) employment of U.S. personnel in key management and supervisory positions and a good faith effort to employ other available U.S. personnel and, to the extent appropriate, to use U.S. materials and equipment; and (5) quarterly reports to the Committees on all contracts awarded in the Indian Ocean/Persian Gulf area.

Further, the conferees agree to restore bill language requiring that American dredging firms be given a preference in bidding on dredging projects in the Indian Ocean. The conferees agree to reduce from 30 percent to 20 percent the percentage that U.S. contractors may exceed the lowest foreign bidder on dredging contracts in the Indian Ocean program.

Other Matters Addressed by Only One Committee: The reports of the House and Senate contain items addressed by only one committee. Unless otherwise indicated in this report, those items should be considered to be approved by the committee of conference.

MILITARY CONSTRUCTION, ARMY

Amendment No. 1: Appropriates $857,834,000 instead of $828,308,000 as proposed by the House and $870,020,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Fort Belvoir, Va.: Fuel oil storage tanks	+1,800,000
Fort Carson, Colo.: Hospital	+10,000,000
Fort Jackson, S.C.: Consolidated communications facility	+950,000
Fort Lewis, Wash.: Instrument landing system	+350,000
Fort Monmouth, N.J.: Alter building 286—TRITAC	+1,000,000
Fort Myer, Va.:	
Kennel detachment facility	−370,000
Outdoor athletic facility	−170,000
Fort Ord, Calif.: Troop medical center	−4,700,000
Fort Riley, Kans.: Aircraft maintenance hangar shop addition	+890,000
Fort Rucker, Ala.: Addition to Lyster Army Hospital	+14,500,000
Schofield Barracks, Hawaii: Aircraft maintenance hangar	+8,400,000
Fort Stewart, Ga.: Division logistics facilities	+5,200,000
Exigent minor construction	+1,900,000
Hardstands, various locations	+2,500,000
Solar projects	+5,676,000
Germany:	
Ansbach: Commissary warehouse	−1,350,000
Bad Kreuznach: Temperature control-heat recovery	−410,000
Fulda:	
Temperature control-heat recovery	−380,000
Upgrade Border Post Romeo facilities	−330,000
Garmisch: Fire/safety deficiencies	−310,000
Garlstedt: Barracks	−5,000,000
Grafenwoehr: Major training area upgrade	−1,200,000
Hohenfels:	
Pave roads	−770,000
Commercial power to range	−310,000
Upgrade TOW range	−340,000
Various Locations: Auto self-help garages	−3,800,000
Panama, Corozal: Exchange warehouse	−4,200,000
Total	+29,526,000

Exigent Minor Construction: The conferees agree to restore $2,500,000 of the House reduction only to cover the costs associated with fuel cell costs identified in the House report. The Army is directed to comply with the House direction to obligate all exigent minor construction funds in the year appropriated.

Fort Bragg, North Carolina, Barracks: The conferees agree to provide $1,750,000 for construction of new barracks instead of renovation of existing barracks.

Fort Carson, Colorado, Hospital: The conferees agree to provide $100,000,000 as the first increment of this hospital. This is consistent with the Committees' policy of providing incremental funding for major facilities costing $100 million or more. The current estimated cost of the facility is $105 million.

Host Nation Support: The Army is directed to comply with the House direction that the master restationing plan, as a new initiative, be funded as a host nation support program by the Federal Republic of Germany.

Fort Jackson, South Carolina, Electrical/Mechanical Upgrade: The Department of Defense is to prepare a report on all hospital accreditation deficiencies in all U.S. military medical facilities and the estimated cost to resolve them for consideration by the House and Senate Committees during hearings on the fiscal year 1982 budget request.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, which earmarks $4,700,000 for alternative fuels.

MILITARY CONSTRUCTION, NAVY

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $775,273,000 for military construction Navy, instead of $732,873,000 as proposed by the House and $684,673,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

NARF Alameda, Calif.: Hazardous materials storage and handling facility	+$900,000
NWS China Lake, Calif.: Land acquisition	+3,650,000
MCB Camp Pendleton, Calif.: Chapel	+1,100,000
NSY Mare Island, Calif.: Dry dock caisson	−2,400,000
NS Mayport, Fla.: Industrial berthing wharf	+6,000,000
NTC Orlando, Fla.: Academic instruction facility	−2,350,000
NAS Barbers Point, Hawaii: Kahoolawe Island study	+600,000
NAVCAMSEASTPAC Honolulu, Hawaii: Satellite control facility	+2,000,000
NSY Pearl Harbor, Hawaii: Pipe shop	+4,800,000
MCRD Parris Island, S.C.: Applied instruction building	+1,500,000
NNMC Bethesda, Md.: National naval medical center modernization	+20,000,000
NSC, Charleston, S.C.: Pier "A" restoration	+4,000,000
NWS Charleston, S.C.: Chapel	+1,000,000
NAS Norfolk, Va.: Trainer facility (H–530)	+900,000
NAVCAMSLANT Norfolk, Va.: Satellite control facility	+700,000
NSY Pugent Sound, Wash.:	
Ship support service center	+3,000,000
Water pit facility	+32,000,000
NS Keflavik, Iceland: Antenna tower and helix house	−3,600,000
Littoral projects, Oman, Somalia, Kenya	[1] −34,000,000
Solar Projects	+2,600,000
Total	+42,400,000

[1] Funded under Defense Agencies, Persian Gulf Fund.

NNMC Bethesda, Maryland, National Naval Medical Center Modernization: The conferees agree to add $20,000,000 for phase II of the program to upgrade the national medical center. The Navy has assured the conferees that the appropriate time to fund a joint Army-Navy dental research space at Bethesda is in the next phase of the hospital construction program. The conferees direct that design studies be initiated for this combined space. No funds in the phase II program are to be used to modernize space that would negate the later consolidation of these two similar dental programs.

NS Mayport, Florida, Industrial Berthing Wharf: The conferees have agreed to fund the industrial pier proposed at Mayport at a level of $24 million. This will allow for completion of this first phase of this $37 million project.

NWS China Lake, California, Land Acquisition: The conferees have restored the $3,650,000 requested for land acquisition. The conferees direct the Navy to report back to the Commitees on further efforts to provide additional and more equitable land exchanges prior to the obligation of these funds.

NS Keflavik, Iceland, Dual Purpose Terminal: The conferees agree to proceed with the U.S. contribution for the dual purpose terminal in Iceland. The conferees do not agree to the language proposed by the House.

NRMC San Diego, California, Hospital: The conferees agree that the Navy is to comply with the stipulations proposed in the House report concerning the construction of a new naval hospital in San Diego. Additionally, the conferees have restored the House provision requiring that the hospital be constructed on property that will be owned in fee simple by the Federal Government.

NAS Brunswick, Maine, Ordnance Handling Pad: The conferees feel that the Department should seek NATO infrastructure funding for this project.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, which earmarks $8,100,000 for alternative fuels.

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $861,125,000 for military construction, Air Force, instead of $783,797,000 as proposed by the House and $816,130,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Arnold Engineering Develop-Center, Tennessee: Coal conversion facility	+$11,500,000
Castle AFB, Calif.: Composite medical facility	−16,400,000
Ellsworth AFB, S. Dak.: Dining facility	+3,160,000
Fairchild AFB, Wash.: Flight simulator	+2,500,000
Kirtland AFB, N. Mex.: Aircraft fuel systems maintenance facility	+1,200,000
Keesler AFB, Miss.:	
Modify electrical distribution system	+900,000
Precision maintenance equipment laboratory (PMEL) facility	+1,400,000
Medical food inspection facility	+510,000
Lackland AFB, Tex.: Enlisted housing	−7,100,000
Loring AFB, Maine: Unaccompanied enlisted personnel housing	+4,350,000

McClellan AFB, Calif.: Energy conservation showcase	+1,000,000
Malmstrom AFB, Mont.: Small arms range	+740,000
Offutt AFB, Nebr.: Computer operations center	−1,530,000
Pease AFB, N.H.: Hot water mains	+6,000,000
Peterson AFB, Colo.: Heat plant oil backup	+600,000
Vandenberg AFB, Calif.: STS-Logistics support facility	+8,698,000
Clark AFB, Philippines: Upgrade power plant	+7,800,000
Persian Gulf	[1]−14,000,000
Lajes Field, Azores	−5,500,000
Planning and design	+5,000,000
Various locations overseas: Ground launched cruise missile (GLCM) support facility	+19,000,000
Solar projects	+7,500,000
Financing adjustment	+40,000,000
Total	+77,328,000

[1] Persian Gulf facilities funded in Defense Agencies Persian Gulf Contingency Fund.

McClellan AFB, California, Energy Conservation Showcase: The conferees agree to provide $1,000,000 only for the energy monitoring and control system expansion portion of this project but defer without prejudice funds for the proposed showcase facility. This should more appropriately be funded as a Department of Energy initiative.

Hill AFB, Utah, Aircraft Maintenance & Support Facility: The Air Force and Army should coordinate on the use of Michael Army Airfield.

Various Locations Overseas, Ground Launched Cruise Missile (GLCM) Support Facility: The Department of Defense and the Air Force are to obtain recoupment of the prefinanced $19,000,000 in the next NATO infrastructure slice.

Financing Adjustment: The Air Force shall consult with the Appropriations Committees of the House and the Senate concerning the obligation of these funds.

Amendment No. 6: Earmarks $139,400,000 for planning and design, Air Force, as proposed by the Senate instead of $134,400,000 as proposed by the House. The conferees agree that this additional $5,000,000 is to be used to design projects in the continental United States in accordance with House report language on planning and design activities.

Amendment No. 7: Provides $5,000,000 as proposed by the Senate instead of $4,000,000 as proposed by the House. The conferees agree that $2,500,000 of the funds provided shall be allocated to the State of Nevada and $1,500,000 shall be allocated to the State of Utah in accordance with the agreement of the Intergovernmental Working Group. The remaining $1,000,000 shall be available to such other areas as may be designated to receive portions of the MX missile system under the same conditions provided for the Nevada/Utah planning effort. These funds should be divided 60% to local governments and 40% to the State governments. The conferees agree that the Four Corners Regional Commission may become a participating member of the Intergovernmental Working Groups. In order to avoid duplication of effort, the existing Intergovernmental Working Groups membership shall include appropriate Federal representation. Funds provided in fiscal year 1981 shall be administered by the Air Force acting on behalf of the Secretary of Defense. After the first quarter of fiscal 1981, funds will be available upon submission to the Secretary of Defense of a comprehensive work program (approved by the Intergovernmental Working Groups) which will include quantifiable objectives, products, and a time schedule. The Committees should be notified quarterly on the status of these funds.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, to read as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That no part of the funds in this Act may be used to transfer or move chemical or gas weapons into MX impacted areas: and *Provided further*, That $6,000,000 of the funds available for planning and design shall be available only for planning and design for activities related to the conversion of facilities to alternative fuels.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

Amendment No. 9: Appropriates $245,600,000 instead of $136,100,000 as proposed by the House and $637,400,000 as proposed by the Senate. The conferees have agreed to the following additions to the amounts and line items as proposed by the House:

DMA — Hydrographic/Topographic Center, Brookmont, Md.: Facility modification	+$1,500,000
Indian Ocean/Persian Gulf contingency fund	+105,000,000
OSD—White Sands Missile Range, N. Mex.: High energy laser facility	+3,000,000
Total	+109,500,000

NATO Infrastructure: The conferees agree to follow the House position and fund the NATO infrastructure program as a separate appropriation.

Persian Gulf/Indian Ocean Projects: The conferees agree to provide $105,000,000 for a contingency fund for projects proposed in the litoral countries. This is discussed further under items of general interest.

White Sands Missile Range, New Mexico, High Energy Laser Facility: The conferees have agreed to provide additional funding in the amount of $3,000,000 for the high energy laser facility at White Sands Missile Range, New Mexico. Prior to proceeding with a construction contract on this facility, both the House and Senate Appropriations Committees are to review and concur in the revised cost and scope of work.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Amendment No. 10: Restores matter proposed by the House which was stricken by the Senate. The conferees have agreed to provide a separate appropriation for the NATO infrastructure program, as requested by the Department. The conferees also agree to fund the program at the House recommended level of $250,000,000.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $42,269,000 for military construction, Army National Guard, instead of $34,364,000 as proposed by the House and $34,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following additions to the amounts and line items as proposed by the House:

Kotzebue, Alaska: Aircraft hangar	+$1,635,000
Camp Beauregard, La.: Barracks and maintenance shelters	+575,000
Camp McCain, Miss.: Upgrade training ranges	+100,000
Camp Shelby, Miss.: Mobilization and training equipment site	+1,600,000
Corinth, Miss.: Armory	+600,000
Nettleton, Miss.: Armory	+488,000
Camp Grafton, N. Dak.: Armory	+907,000
General increase	+2,000,000
Total	+$7,905,000

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 12: Appropriates $33,000,000 as proposed by the House instead of $24,700,000 as proposed by the Senate.

MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, to read as follows: In lieu of the matter proposed by said amendment, insert the following:

"MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

"For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Armed Forces, $3,742,000, to be allocated by the Secretary of Defense for the Army Reserve."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the addition of the following amounts and line items to the bill proposed by the House:

Brookville, Pa.: Reserve center	+$1,167,000
Bluefield, W. Va.: Reserve center	+723,000
Fairmont, W. Va.: Reserve center	+852,000
General increase	+1,000,000
Total	+3,742,000

The conferees agree with the direction contained in the Senate report that the Secretary of Defense or his designee shall report quarterly on the status of deferred projects and that no new projects will be considered in fiscal year 1982 until all prior-year projects have been programmed or until the Committees are satisfied that such projects are no longer valid.

FAMILY HOUSING, DEFENSE

Amendment No. 14: Appropriates $2,007,893,000 instead of $1,981,593,000 as proposed by the House and $2,051,793,000 as proposed by the Senate. The conferees have agreed to the following additions to the amounts and line items as proposed by the House:

Construction	+$10,300,000
Furnishings	+6,000,000
Leasing	+10,000,000
Total	+26,300,000

The conferees feel that the Department is not doing an adequate job of either managing or justifying the family housing program. This is an area of great importance to the stability of our armed services and deserves additional attention by the Department. The Department should either allocate the resources necessary to manage this program centrally or return the responsibility to the individual services.

The conferees agree that the Department may use construction funds for family housing solar projects that meet the section 116 standards. The conferees also agree to allow for planning and design funds within the construction account at the $4,500,000 level recommended by the House.

Amendment No. 15: Appropriates $82,133,000 for Army family housing construction as proposed by the Senate instead of $82,118,000 as proposed by the House.

Amendment No. 16: Appropriates $86,786,000 for Navy and Marine Corps family housing construction as proposed by the Senate instead of $86,703,000 as proposed by the House.

Amendment No. 17: Appropriates $53,575,000 for Air Force family housing construction as proposed by the Senate instead of $43,348,000 as proposed by the House. The conferees agree that the Air Force should proceed with the new family housing construction for Fort MacArthur, California, as proposed by the Senate, and for Tinker Air Force Base, Oklahoma, as proposed by the House. The Air Force is to obtain concurrence from the Committees on Armed Services prior to proceeding with either of these projects.

Amendment No. 18: Appropriates $468,000 for Defense Agencies family housing construction as proposed by the Senate instead of $493,000 as proposed by the House.

Amendment No. 19: Provides $1,651,326,000 for operation and maintenance instead of $1,635,326,000 as proposed by the House and $1,693,726,000 as proposed by the Senate.

Utilities: The conferees have not restored the $17,400,000 deleted by the House for utilities. This reduction was not appealed by the Department, and the conferees feel that additional adjustments in this account can be made through a supplemental request.

Furnishings: The conferees agree to restore $6,000,000 in furnishings to allow for replacement of furnishings in areas not covered by the shipping of personal furniture and for additional repair of existing furniture.

Leasing: The conferees agree to restore $10,000,000 in leasing funds to cover leases that have prior commitments. The conferees believe that the variable cost of living allowance will reduce the required number of domestic leases and feel that this will provide increased flexibility in this account. The conferees also agree that the Department is directed not to proceed with any new or additional lease/construction overseas leases or agreements. The conferees agree that the Department needs to more thoroughly justify its leasing program. Justified lease costs not funded in this bill should be addressed through a supplemental request.

Miscellaneous account: The conferees reviewed the DOD position that permit housing is paid through the miscellaneous account because it is a lump sum payment. The conferees have no objection to the Department transferring existing funds to allow for this type of payment.

GENERAL PROVISIONS

Amendment No. 20: Restores the matter stricken by said amendment, amended to read as follows:

"SEC. 115. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum."

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 116. During the current fiscal year none of the funds available to the Department of Defense for military construction or family housing shall be available to furnish or install solar energy systems in new facilities (including family housing) unless such systems can be shown to be cost effective using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary of Defense and at a discount rate of 7 per centum per year."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the Department should proceed with an aggressive policy on the use of solar equipment. However, the conferees also agree that the Department should follow the criteria established in the Renewable Energy Resources Act of 1980 which establishes when solar energy should be applied. The Act uses life cycle costs as the basis for criteria to avoid the use of solar energy on projects that would not be economically viable. The conferees have restored in part the House reductions for solar projects but direct the Department to review the entire military construction program and apply the funds only for projects that meet the Renewable Energy Resources Act criteria for solar equipment.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 117. No part of the funds appropriated in this Act for construction of space transportation system facilities at Vandenberg Air Force Base, California, may be obligated until the rollout of the fully assembled orbiter from the orbiter processing facility has been accomplished."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that a milestone relating the first launch of the space shuttle to the continuation of construction of space transportation system facilities at Vandenberg Air Force Base, California, is necessary in order to avoid premature initiation of construction or wasteful expenditure of funds. The conferees agree that a significant milestone, which will be a determining factor in when and whether or not the shuttle first manned orbiting flight will occur, is the time of the rollout of the prepared and assembled orbiter from the orbiter processing facility at the Kennedy Space Center, Florida. This will be a solid indicator that the orbiter problems, particularly those associated with the thermal protection system "tiles", have been resolved. It is the conferees' intention that all items currently scheduled as part of the flight preparation checklist to prepare the orbiter for rollout occur before such rollout. The Air Force is to report to the Committee on Appropriations of the House and Senate on the status of events leading to the first flight and comply with the reporting requirements directed in committee reports.

Amendment No. 23: Restores section number changed by Senate amendment.

Amendment No. 24: Restores section number changed by Senate amendment.

Amendment No. 25: Restores House language regarding payment of foreign real property taxes. The Department may negotiate agreements for payment of charges for specific services provided to support U.S. forces stationed overseas but may not pay taxes.

Amendment No. 26: Restores House language regarding fee title ownership of land on which the San Diego naval hospital is to be constructed.

Amendment No. 27: Restores section number changed by Senate amendment.

Amendment No. 28: Restores section number changed by Senate amendment.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the forth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 30: Deletes provision proposed by the Senate limiting fourth quarter spending.

Amendment No. 31: Deletes provision proposed by the Senate requiring resolution of audits.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 125. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

"SEC. 126. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

"(b) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 34: Inserts language proposed by the Senate with an amendment to change the section number.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1981 recommended by the Committee of Conference, with comparisons to the fiscal year 1980 amount, the 1981 budget estimates, and the House and Senate bills for 1981 follow:

New budget (obligational) authority, fiscal year 1980	$3,795,152,000
Budget estimates of new (obligational) authority, fiscal year 1981	5,387,136,000
House bill, fiscal year 1981	4,801,979,000
Senate bill, fiscal year 1981	5,160,660,000
Conference agreement	5,098,680,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1980	+1,303,528,000
Budget estimates of new (obligational) authority fiscal year 1981	−288,456,000
House bill, fiscal year 1981	+296,701,000
Senate bill, fiscal year 1981	−61,980,000

GUNN MCKAY,
BO GINN,
TOM STEED,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
JAMIE L. WHITTEN,
ROBERT C. MCEWEN,
RALPH REGULA,
SILVIO O. CONTE,
Managers on the Part of the House.

WALTER D. HUDDLESTON,
J. BENNETT JOHNSTON,
DANIEL K. INOUYE,
JIM SASSER,
WARREN G. MAGNUSON,
TED STEVENS,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. SHANNON (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ASHBROOK, for 20 minutes, today.

(The following Members (at the request of Mr. PORTER), to revise and extend their remarks, and to include extraneous matter:)

Mr. DERWINSKI, for 60 minutes, on October 1, 1980.

Mr. CLAUSEN, for 10 minutes, today.

Mr. SAWYER, for 10 minutes, today.

Mr. CORCORAN, for 5 minutes, today.

Mr. COLLINS of Texas, for 30 minutes, tomorrow.

(The following Members (at the request of Mr. LOWRY) to revise and extend their remarks and include extraneous material:)

Mr. REUSS, for 30 minutes, today.

Mr. GONZALES, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. BENNETT, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAN DANIEL, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $982.50.

Mr. DAN DANIEL, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $884.25.

Mr. OTTINGER, to revise and extend his remarks during general debate on S. 885 in opposition to the bill and his remarks to appear at the end of general debate.

(The following Members (at the request of Mr. PORTER), and to include extraneous matter:)

Mr. GREEN.
Mr. BROOMFIELD.
Mr. GILMAN.
Mr. ROUSSELOT.
Mr. COUGHLIN.
Mr. RUDD.
Mr. HOLLENBECK in two instances.
Mr. BAUMAN.
Mr. SYMMS.
Mr. ASHBROOK.
Mr. LENT.
Mr. EVANS of Delaware.

(The following Members (at the request of Mr. LOWRY) and to include extraneous matter:)

Mr. EDWARDS of California in two instances.
Mr. MARKEY in five instances.
Mr. TAUZIN.
Mr. MUSTO.
Mr. BOLLING.
Mr. BRODHEAD.
Mr. WON PAT.
Mr. MCKAY.
Mr. SHANNON.
Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in five instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. FORD of Michigan.
Mr. FISHER in two instances.
Mr. PATTERSON.
Mr. ROBERTS.
Mr. SEIBERLING in 10 instances.
Mr. SOLARZ in two instances.
Mr. OBERSTAR.
Mr. DIXON.
Mr. BENNETT in two instances.
Mr. RODINO in two instances.
Mr. WAXMAN.
Mr. AUCOIN.
Mr. MCDONALD in two instances.
Mr. GARCIA.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1715. An act for the relief of Jerry L. Crow; to the Committee on Interior and Insular Affairs;

S. 1784. An act to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes; to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce.

S. 1910. An act to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interests of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; to the Committee on the Judiciary;

S. 2227. An act to grant the consent of the United States to the Red River compact among the States of Arkansas, Louisiana, Oklahoma, and Texas; to the Committee on the Judiciary;

S. 2228. An act to grant the consent of the United States to the Caddo Lake compact between the States of Louisiana and Texas; to the Committee on the Judiciary;

S. 2364. An act to establish the Langmuir Research Site in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs and the Committee on Science and Technology.

S. 2961. An act for the relief of Viktor Ivanovich Belenko; to the Committee on the Judiciary; and

S. 3017. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1464. An act to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; and

S. 2730. An act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4792. An act to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse;

H.R. 5192. An act to amend and extend the Higher Education Act of 1965, and for other purposes;

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes;

H.R. 5410. An act to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election;

H.R. 5732. An act to designate the Federal Building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Federal Building";

H.R. 6308. An act to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the 20th century to be carried out by the Department of Energy;

H.R. 6531. An act to name a certain Federal building in Indianapolis, Ind., the Minton-Capehart Federal Building;

H.R. 6538. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955;

H.R. 7414. An act to designate the building known as the Federal Building and U.S. Courthouse in Amarillo, Tex., as the "J. Marvin Jones Federal Building";

H.R. 7450. An act to designate the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Conn., as the "John S. Monagan Federal Building."

H.R. 7478. An act to facilitate the management of the public debt by permitting an increase in the investment yield on U.S. savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding;

H.R. 7670. An act to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund;

H.R. 7782. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the U.S. Secret Service Uniformed Division as are given to Federal employees under the general schedule;

H.R. 7919. An act to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes;

H.R. 7770. An act to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center";

H.R. 8018. An act to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam";

H.R. 8024. An act to change the name of Aubrey Lake, Tex., to Ray Roberts Lake; and

H.R. 8081. An act to establish the United States Holocaust Memorial Council.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on September 25, 1980 present to the President, for his approval, bills of the House of the following title:

H.R. 3748. An act to provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes;

H.R. 5164. An act to amend inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes;

H.R. 6242. An act to establish a Towing Safety Advisory Committee in the Department of Transportation;

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission;

H.R. 7511. An act to amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes; and

H.R. 7590. An act making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

ADJOURNMENT

Mr. LOWRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 30, 1980, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5386. A letter from the Comptroller General of the United States, transmitting his review of the deferral and revised deferral of budget authority contained in the message from the President dated August 27, 1980 (H. Doc. No. 96-363), pursuant to section 1014 (b) and (c) of Public Law 93-344 (H. Doc. No. 96-372); to the Committee on Appropriations and ordered to be printed.

5387. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of the Army's intention to omit the clause authorizing the Comptroller General to examine certain records which would otherwise be required to be included in the contract for supplies and services with the governments of host nations in support of REFORGER 80, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

5388. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting supplemental reports filed covering fiscal year 1979 by former military and civilian employees of the Defense Department employed by defense contractors, and by current Defense Department employees formerly employed by defense contractors, pursuant to section 410(b) of Public Law 91-121; to the Committee on Armed Services.

5389. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice of the proposed conversion to contractor performance of the refuse collection and disposal activity at Fort Campbell, Ky., pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

5390. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice of the proposed conversion to contractor performance of the laundry and dry cleaning activity at Fort Campbell, Ky., pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

5391. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Australia (Transmittal No. 80-122), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

5392. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5393. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Australia (Transmittal No. 80-122), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5394. A letter from the secretary, trust committee, ninth farm credit district retirement plan, transmitting the annual report on the retirement plan for the year ended February 29, 1980, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541); to the Committee on Government Operations.

5395. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to obtain adequate law enforcement services at water resource development projects under his jurisdiction; to the Committee on Interior and Insular Affairs.

5396. A letter from the Acting Assistant Secretary of the Interior, transmitting notice of the receipt of an application for a loan from the Buffalo Rapids project, Irrigation District No. 2, Montana, pursuant to section 10 of the Smalli Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

5397. Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Baltimore metropolitan streams, Maryland, in response to resolutions of the Senate and House Committees on Public Works adopted February 13, 1973, and April 11, 1974, respectively; to the Committee on Public Works and Transportation.

5398. A letter from the Administrator of General Services, transmitting a revised prospectus proposing alterations at the Old Post Office, Washington, D.C.; to the Committee on Public Works and Transportation.

5399. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 6525 Belcrest Road, Hyattsville, Md.; to the Committee on Public Works and Transportation.

5400. A letter from the Administrator of General Services, transmitting amended prospectuses proposing continued occupancy under succeeding leases for space located at 1701 North Fort Myer Drive and 4040 Fairfax Drive, Arlington Va.; to the Committee on Public Works and Transportation.

5401. A letter from the Administrator of General Services, transmitting a report on a building project survey of Brockton, Mass.; to the Committee on Public Works and Transportation.

5402. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the seafood processing study, pursuant to section 74 of Public Law 95–217; to the Committee on Public Works and Transportation.

5403. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1982 appropriation request, pursuant to section 310(d)(1) of the Federal Election Campaign Act of 1971, as amended; jointly, to the Committees on Appropriations and House Administration.

5404. A letter from the Comptroller General of the United States, transmitting a report on the Navy's computerized pay system (FGMSD-80-71, Sept. 26, 1980); jointly, to the Committees on Government Operations and Armed Services.

5405. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the 20th report on abnormal occurrences at licensed nuclear facilities, covering the first quarter of calendar year 1980, pursuant to section 209 of Public Law 93–438; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 25, 1980, the following reports were filed on September 26, 1980*]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6257. A bill to authorize the Secretary of Agriculture to convey certain national forest system lands, and for other purposes; with amendment (Rept. No. 96–1386, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Management Failures in Developing the Farmers Home Administration's Unified Management Information System (UMIS) (Rept. No. 96–1403). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3489. A bill to authorize the Secretary of the Interior to construct, operate, and maintain an enlarged Bumping Lake, Supplemental Storage Division, Yakima project, Washington; with amendment (Rept. No. 96–1404). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5108. A bill to provide for the disenrollment of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community; with amendments (Rept. No. 96–1405). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8112. A bill to require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development; with amendments (Rept. No. 96–1407). Referred to the Committee of the Whole House on the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1972. A bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.; with amendment (Rept. No. 96–1408). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7147. A bill to provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota; with amendment (Rept. No. 96–1409). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7745. A bill to amend the Black Lung Benefits Act to provide that certain amounts available for disbursements under section 424 of such act shall be available for the payment of benefits and reimbursements in the case of miners whose last coal mine employment occurred before July 1, 1973 (Rept. No. 96–1410). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee of conference. Conference report on S. 1790 (Rept. No. 96–1411). Ordered to be printed.

Mr. WHITE: Committee on Armed Services. H.R. 8188. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to revise the laws governing the U.S. Court of Military Appeals, to provide for review of decisions of such court by the Supreme Court, and for other purposes (Rept. No. 96–1412). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 8189. A bill to amend chapter 55 of title 10, United States Code, to authorize the provision of full dental care benefits to dependents of members of the uniformed services on active duty under the civilian health and medical program of the uniformed services and in facilities of the uniformed services (Rept. No. 96–1413). Referred to the Committee of the Whole House on the State of the Union).

Mr. BROOKS: Committee on Government Operations. H.R. 7893. A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments and agencies, and for other purposes; with amendment (Rept. No. 96–1414). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 2412. A bill to amend the Solid Waste Disposal Act to further encourage the use of recycled oil; with amendment (Rept. No. 96–1415). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Emergency Energy Conservation Programs; Department of Energy Oversight (Rept. No. 96–1416). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 8178. A bill to amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes (Rept. No. 96–1417). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. S. 265. A bill entitled "Equal Access to Justice Act" (Rept. 96–1418). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 4273. A bill to amend section 17 of the act of July 5, 1946, as amended, entitled "An act to provide for the registration and protection of trade marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"; with amendments (Rept. No. 96–1419). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee of conference. Conference report on S. 2719 (Rept. No. 96–1420). Ordered to be printed.

[*Submitted September 29, 1980*]

Mr. HAWKINS: Committee on House Administration. House Resolution 759. Resolution authorizing the printing of a collection of statements made in tribute to the late Mamie Doud Eisenhower (Rept. No. 96–1421). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 413. Concurrent resolution to authorize the printing as a House document of a revised edition of "The Capitol" (Rept. No. 96–1422). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 123. Concurrent resolution authorizing the printing of additional copies of the booklets entitled "The Senate Chamber, 1810–1859" and "The Supreme Court Chamber, 1810–1860" (Rept. No. 96–1423). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on the Continuing Need for Agency for International Development Regional Services and Audit Offices (Rept. No. 96–1424). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8146. A bill to provide a program of Federal supplemental unemployment compensation (Rept. No. 96–1425). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on High-level Emphasis on Accountability Needed in CETA. (Rept. No. 96–1426). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 796. Resolution waiving certain points of order against H.R. 7854. A bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1427). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 797. Resolution providing for the consideration of H.R. 6520. A bill to revise requirements under the Federal reclamation laws, relating to acreage limitations, equivalency, and residency, to provide for approval of repayments contracts and written representations, and for other purposes (Rept. No. 96–1428). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 798. Resolution providing for the consideration of H.R. 8146. A bill to provide a program of Federal supplemental unemployment compensation (Rept. No. 96–1429). Referred to the House Calendar.

Mr. STAGGERS: Committee of conference. Conference report on S. 1946 (Rept. No. 96–1430). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. S. 2185. A bill to authorize the acceptance and use of bequests and gifts for disaster relief (Rept. No. 96–1431). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee of conference. Conference report on H.R. 6790 (Rept. No. 96–1432). Ordered to be printed.

Mr. McKAY: Committee of conference. Conference report on H.R. 7592 (Rept. No. 96–1433). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 25, 1980, the following reports were filed on September 26, 1980*]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7960. A bill to provide for the setting aside in special trust lands and interests within the Winema National

Forest to Edison Chiloquin and for the transfer of moneys otherwise available to Mr. Chiloquin from the Klamath Indian Settlement to the Secretary of Agriculture for the acquisition of replacement lands or interests (Rept. No. 96-1406). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNES:

H.R. 8220. A bill to require electric utilities to comply with certain minimum standards concerning retail rates for the sale of electric energy and concerning certain other utility practices, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS:

H.R. 8221. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment for purposes of sections 219 and 220 of such code of certain individuals who separate from service with an employer during the taxable year; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 8222. A bill to amend title 37 of the United States Code to increase for members of the uniformed services incentive pay for aviators, special pay for sea duty, and special pay for enlistments, reenlistments, and extensions of enlistments, and to give enlisted members of the uniformed services basic allowances for subsistence when in travel status; to the Committee on Armed Services.

By Mr. MITCHELL of Maryland (for himself, Mr. Neal, and Mr. Cavanaugh):

H.R. 8223. A bill to amend the Federal Reserve Act to modernize the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURTHA:

H.R. 8224. A bill to apply for a 3-year period the quantitative limitations (formerly in effect as escape-clause actions) on the importation of specialty steel products; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 8225. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for certain expenses paid or incurred in connection with the adoption of a child; to the Committee on Ways and Means.

By Mr. STEED (for himself, Mr. Jones of Oklahoma, Mr. English, Mr. Synar, and Mr. Edwards of Oklahoma):

H.R. 8226. A bill to authorize funds for the Carl Albert Congressional Research and Studies Center; to the Committee on Education and Labor.

By Mr. STANGELAND:

H. Con. Res. 442. Concurrent resolution to proclaim February as "National Snowmobiling Month"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

539. The SPEAKER presented a memorial of the Legislature of the State of California, relative to diesel fuel for agriculture, which was referred to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PATTERSON presented a bill (H.R. 8227) for the relief of Mrs. Marianne E. Hellon and her two minor children, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. Maguire.

H.R. 2152: Mr. Coelho.

H.R. 3258: Mr. Nolan.

H.R. 4576: Mr. Hutto, Mr. Nichols, Mr. Hopkins, Mrs. Byron, Mr. Broyhill, Mr. Marriott, Mr. Santini, Mr. Neal, Mr. Gudger, Mr. Grisham, Mr. Whitten, Mr. Fowler, Mr. Lewis, Mr. Ford of Tennessee, Mr. Swift, Mr. Shumway, Mr. Dannemeyer, Mr. Kemp, Mr. Lagomarsino, Mr. Mathis, and Mr. Leach of Louisiana.

H.R. 5211: Mr. Brown of Ohio and Mr. Railsback.

H.R. 6722: Mr. Patterson.

H.R. 6735: Mr. Weiss, Mr. Conyers, Mr. Satterfield, Mr. Kemp, Mr. Murphy of Pennsylvania, Mr. Benjamin, Mr. Hughes, Mr. Rahall, Mr. Dougherty, Mrs. Chisholm, Mr. Corrada, Mr. Richmond, Mr. Green, Mr. Downey, Mr. Lowry, Mr. Fazio, Mr. Dixon, Mr. Stokes, Mrs. Collins of Illinois, Mrs. Spellman, and Mr. Stark.

H.R. 7023. Mr. Murphy of Pennsylvania, Mr. Danielson, Mr. Lagomarsino, Mr. Hinson, Mr. D'Amours, Mr. Corrada, Mr. Andrews of North Carolina, Mr. Winn, Mr. Montgomery, Mrs. Chisholm, Mr. Johnson of California, Mr. Guyer, Mrs. Boggs, Mr. Fazio, Mr. Edgar, Mr. Gibbons, and Mr. Ford of Tennessee.

H.R. 7334: Mrs. Spellman, Mr. Dornan, and Mr. Corcoran.

H.R. 7348. Mrs. Bouquard.

H.R. 7532: Mr. Lee and Mr. Mollohan.

H.R. 7545: Mr. Conyers, Mr. Gilman, and Mr. Roe.

H.R. 7707: Mr. Courter, Mr. Ertel, Mr. Goodling, Mr. Rinaldo, and Mr. Yatron.

H.R. 7744: Mr. Hughes, Mr. Whittaker, and Ms. Ferraro.

H.R. 7773: Mr. Anderson of California, Mr. Fuqua, and Mr. Williams of Montana.

H.R. 7793: Mr. Bereuter.

H.R. 7873: Mr. Rodino, Mr. Bedell, Mr. Daschle, Mr. Glickman, Mr. Benjamin, Mr. Carter, Mr. Conte, Mr. Dougherty, Mr. Edgar, Mr. Edwards of California, Mr. Emery, Mr. Fauntroy, Ms. Ferraro, Mrs. Fenwick, Mr. Findley, Mr. Fithian, Mr. Frost, Mr. Gray, Mr. Harkin, Mr. Harris, Mr. Heftel, Mr. Hollenbeck, Mr. Kildee, Mr. Leach of Iowa, Mr. Lederer, Mr. Long of Maryland, Mr. Lundine, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Roe, Mr. Skelton, Mrs. Spellman, Mr. Tauke, Mr. Van Deerlin, Mr. Walgren, Mr. Weaver, Mr. Williams of Montana, Mr. Wolpe, Mr. Yatron, and Mr. Railsback.

H.R. 7888: Mr. Jones of Oklahoma.

H.R. 7983: Mr. LaFalce, Mr. Lehman, Mr. Gingrich, Mr. Wolpe, Mr. Robert W. Daniel, Jr., and Mr. Cleveland.

H.R. 8027: Mr. LaFalce, Mr. Andrews of North Dakota, Mr. Murphy of Illinois, Mr. Reuss, and Mr. Benjamin.

H.R. 8046: Mr. Albosta, Mr. Anthony, Mr. Butler, Mr. Cleveland, Mr. Collins of Texas, Mr. Corcoran, Mr. D'Amours, Mr. Robert W. Daniel, Jr., Mr. Downey, Mr. Emery, Mr. Florio, Mr. Forsythe, Mr. Frenzel, Mr. Frost, Mr. Giaimo, Mr. Gingrich, Mr. Goldwater, Mr. Hance, Mr. Harris, Mr. Hughes, Mr. Hyde, Mr. Jeffries, Mr. Kemp, Mr. Kindness, Mr. Kogovsek, Mr. Kostmayer, Mr. LaFalce, Mr. Lagomarsino, Mr. Lloyd, Mr. Loeffler, Mr. Lott, Mr. Lungren, Mr. Madigan, Mr. Marlenee, Mr. Mineta, Mr. Ottinger, Mr. Petri, Mr. Regula, Mr. Ritter, Mr. Rose, Mr. Rousselot, Mr. Santini, Mr. Seiberling, Mr. Sensenbrenner, Mr. Shelby, Mr. Shumway, Mr. Swift, Mr. Symms, Mr. Whitehurst, Mr. Williams of Montana, Mr. Wolpe, and Mr. Wyatt.

H.R. 8146: Ms. Oakar.

H.R. 8192: Mr. Reuss.

H.J. Res. 139: Mr. Lungren.

H.J. Res. 161: Mr. Swift.

H.J. Res. 511: Mrs. Snowe, Mr. Frenzel, Mr. Butler, and Mr. Wylie.

H.J. Res. 516: Mr. Stump and Mr. Mineta.

H.J. Res. 580: Mr. Luken.

H.J. Res. 598: Mr. Pepper and Mrs. Spellman.

H.J. Res. 606: Ms. Mikulski and Mr. Wolpe.

H. Con. Res. 106: Mr. Bowen.

H. Con. Res. 435: Mr. Dixon.

H. Res. 706: Mr. Fish.

PETITIONS, ETC.

Under clause 1 of rule XXII,

437. The Speaker presented a petition of the Dutchess County Legislature, Poughkeepsie, N.Y., relative to the Legal Services Corporation, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5615

By Mr. BINGHAM:

—On page 5, line 12, insert immediately after "agency" the following: "other than the Peace Corps and the Agency for International Development, or their successor agencies,".

H.R. 6721

By Mr. SNYDER:

—Page 128, strike out lines 10 through 16 and insert in lieu thereof the following:

"(e) There are authorized to be appropriated from the Airport and Airway Trust Fund $25 million for each of the fiscal years 1981 through 1985 for making grants under subsection (c) of this section and section 103(b) of this Act."

—Page 132, after line 20, insert the following new section:

Sec. 25. Metropolitan Washington Airports Policy.

Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator shall implement any part of the Metropolitan Washington Airports Policy issued by the Secretary of Transportation on August 15, 1980 (45 F.R. 62398, September 18, 1980) or any regulation adopted pursuant to such policy (45 F.R. 62406, September 18, 1980) until sixty legislative days after the task force referred to in section 24 reports its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate. For purposes of this paragraph, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

H.R. 8146

By Mr. FRENZEL:

—Page 2, line 23, strike out "an extended" and insert in lieu thereof "a supplemental".

Page 3, after line 24, insert the following:

(3) (A) For purposes of subsection (b) (2) (A), in the case of any State, a supplemental benefit period—

(i) shall begin with the third week after a week for which there is a State "on" indicator (as determined under subsection (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970), and

(ii) shall end with the third week after the first week for which there is a State "off" indicator (as determined under subsection (e) of section 203 of the Federal State Extended Unemployment Compensation Act of 1970).

(B) When a determination has been made that a supplemental benefit period is beginning or ending with respect to any State, the Secretary shall cause notice of such determination to be published in the Federal Register.

—On page 10, line 12, add the following:

TAXATION OF UNEMPLOYMENT COMPENSATION

SEC. 7. (a) Subsection (b) of Section 85 of the Internal Revenue Code of 1954 is amended by striking out, "$20,000" and inserting in lieu thereof, "$7,500" and by striking out, "$25,000" and inserting in lieu thereof, "$15,000".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

H.R. 8157

By Mr. DINGELL:

—Page 13, line 8, strike out "and" and substitute a comma.

Page 13, line 14, before the period insert: ", except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service.".

CONFERENCE REPORT ON H.R. 6790

Mr. FASCELL submitted the following conference report and statement on the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-1432)

The committee of conference on the disagreeing votes of the two Houses on the amendment to the Senate to the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.—This Act may be cited as the "Foreign Service Act of 1980".

SEC. 2. Table of Contents.—The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.

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CHAPTER 1—GENERAL PROVISIONS

Sec. 101. Findings and objectives.
Sec. 102. Definitions.
Sec. 103. Members of the Service.
Sec. 104. Functions of the Service.
Sec. 105. Merit principles; protections of members of the Service; and minority recruitment.

CHAPTER 2—MANAGEMENT OF THE SERVICE

Sec. 201. The Secretary of State.
Sec. 202. Other agencies utilizing the Foreign Service personnel system.
Sec. 203. Compatibility among agencies utilizing the Foreign Service personnel system.
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Sec. 206. Regulations; delegation of functions.
Sec. 207. Chief of mission.
Sec. 208. Director General of the Foreign Service.
Sec. 209. Inspector General.
Sec. 210. Board of the Foreign Service.
Sec. 211. Board of Examiners for the Foreign Service.

CHAPTER 3—APPOINTMENTS

Sec. 301. General provisions relating to appointments.
Sec. 302. Appointments by the President.
Sec. 303. Appointments by the Secretary.
Sec. 304. Appointment of chiefs of mission.
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Sec. 306. Career appointments.
Sec. 307. Entry levels for Foreign Service officer candidates.
Sec. 308. Recall and reemployment of career members.
Sec. 309. Limited appointments.
Sec. 310. Reemployment rights following limited appointment.
Sec. 311. Employment of family members of Government employees.
Sec. 312. Diplomatic and consular commissions.

CHAPTER 4—COMPENSATION

Sec. 401. Salaries of chiefs of mission.
Sec. 402. Salaries of the Senior Foreign Service.
Sec. 403. Foreign Service Schedule.
Sec. 404. Assignment to a salary class.
Sec. 405. Performance pay.
Sec. 406. Within-class salary increases.
Sec. 407. Salaries for Foreign Service personnel abroad who perform routine duties.
Sec. 408. Local compensation plans.
Sec. 409. Salaries of consular agents.
Sec. 410. Compensation for imprisoned foreign national employees.
Sec. 411. Temporary service as principal officer.
Sec. 412. Special differentials.
Sec. 413. Death gratuity.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

Sec. 501. Classification of positions.
Sec. 502. Assignments to Foreign Service positions.
Sec. 503. Assignments to agencies, international organizations, and other bodies.
Sec. 504. Service in the United States and abroad.
Sec. 505. Temporary details.

CHAPTER 6—PROMOTION AND RETENTION

Sec. 601. Promotions.
Sec. 602. Selection boards.
Sec. 603. Basis for selection board review.
Sec. 604. Confidentiality of records.
Sec. 605. Implementation of selection board recommendations.
Sec. 606. Other bases for increasing pay.
Sec. 607. Retirement for expiration of time in class.
Sec. 608. Retirement based on relative performance.
Sec. 609. Retirement benefits.
Sec. 610. Separation for cause.
Sec. 611. Termination of limited appointments.
Sec. 612. Termination of appointments of consular agents and foreign national employees.
Sec. 613. Foreign Service awards.

CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

Sec. 701. Foreign Service Institute.
Sec. 702. Foreign language requirements.
Sec. 703. Career development.
Sec. 704. Training authorities.
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CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

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Sec. 811. Voluntary retirement.
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CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL OVERSIGHT, AND EFFECTIVE DATE

Sec. 2401. Saving provisions.
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TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Congress finds that—

(1) a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) the scope and complexity of the foreign affairs of the Nation have heightened the need for a professional foreign service that will serve the foreign affairs interests of the United States in an integrated fashion and that can provide a resource of qualified personnel for the President, the Secretary of State, and the agencies concerned with foreign affairs;

(3) the Foreign Service of the United States, established under the Act of May 24, 1924 (commonly known as the Rogers Act) and continued by the Foreign Service Act of 1946, must be preserved, strengthened, and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations;

(4) the members of the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of the affairs, cultures, and languages of other countries, and available to serve in assignments throughout the world; and

(5) the Foreign Service should be operated on the basis of merit principles.

(b) The objective of this Act is to strengthen and improve the Foreign Service of the United States by—

(1) assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) fostering the development and vigorous implementation of policies and procedures, including affirmative action programs, which will facilitate and encourage (A) entry into and advancement in the Foreign Service by persons from all segments of American society, and (B) equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition;

(3) providing for more efficient, economical, and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) establishing a statutory basis for participation by the members of the Foreign Service, through their elected representatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and maintaining a fair and effective system for the resolution of individual grievances that will ensure the fullest measure of due process for the members of the Foreign Service;

(5) minimizing the impact of the hardships, disruptions, and other unusual conditions of service abroad upon the members of the Foreign Service, and mitigating the special impact of such conditions upon their families;

(6) providing salaries, allowances, and benefits that will permit the Foreign Service to attract and retain qualified personnel as well as a system of incentive payments and awards to encourage and reward outstanding performance;

(7) establishing a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise;

(8) improving Foreign Service managerial flexibility and effectiveness;

(9) increasing efficiency and economy by promoting maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service personnel system and other personnel systems of the Government; and

(10) otherwise enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

SEC. 102. DEFINITIONS.—(a) As used in this Act, the term—

(1) "abroad" means all areas not included within the United States;

(2) "agency" means an agency as defined in section 552(e) of title 5, United States Code;

(3) "chief of mission" means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) to be temporarily in charge of such a mission or office;

(4) "Department" means the Department of State, except that with reference to the exercise of functions under this Act with respect to another agency authorized by law to utilize the Foreign Serivce personnel system, such term means that other agency;

(5) "employee" (except as provided in section 1002(8)) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) "Government" means the Government of the United States;

(8) "merit principles" means the principles set out in section 2301(b) of title 5, United States Code;

(9) "principal officer" means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) "Secretary" means the Secretary of State, except that (subject to section 201) with reference to the exercise of functions under this Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) "Service" or "Foreign Service" means the Foreign Service of the United States; and

(12) "United States", when used in a geographic sense, means the several States and the District of Columbia.

(b) References in this Act or any other law to "Foreign Service officers" shall, with respect to the International Communication Agency, be deemed to refer to Foreign Service information officers.

SEC. 103 MEMBERS OF THE SERVICE.—The following are the members of the Service:

(1) Chiefs of mission, appointed under section 302(a)(1) or assinged under section 502(c).

(2) Ambassadors at large, appointed under section 302(a)(1).

(3) Members of the Senior Foreign Service, appointed under section 302(a)(1) or 303, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 302(a)(1), who have general responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 303, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 303, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 303 by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

SEC. 104. FUNCTIONS OF THE SERVICE.—Members of the Service shall, under the direction of the Secretary—

(1) represent the interests of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assigments, including (as appropriate) functions under the Vienna Convention on Dip-

lomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States;

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

SEC. 105. MERIT PRINCIPLES; PROTECTIONS FOR MEMBERS OF THE SERVICE; AND MINORITY RECRUITMENT.—(a)(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

(2) For purposes of paragraph (1), the term "personnel action" means—

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this Act which relates to any action referred to in subparagraph (A).

(b) The Secretary shall administer the provisions of this Act and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, as prohibited under section 2302(b)(1) of title 5, United States Code;

(2) are free from reprisal for—

(A) a disclosure of information by a member or applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommendation through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5, United States Code.

(c) This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any action against a member of the Service who discloses information to the Congress.

(d)(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5, United States Code.

(2) Not later than January 31 of each year, the Secretary shall transmit to each House of the Congress, a report, signed by the Secretary, on the activities of the Secretary under paragraph (1). Such report shall include any affirmative action plans submitted by the Secretary under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000–16) and any data necessary to evaluate the effectiveness of the program under paragraph (1) for the preceding fiscal year, together with recommendations for administrative or legislative action the Secretary considers appropriate.

(e) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631), 633a), prohibiting discrimination on the basis of age;

(3) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), prohibiting discrimination on the basis of handicapping condition; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

CHAPTER 2—MANAGEMENT OF THE SERVICE

SEC. 201. THE SECRETARY OF STATE.—(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this Act.

SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a)(1) The Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this Act.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to personnel of the Foreign Agricultural Service, and

(B) with respect to other personnel of the Department of Agriculture to the extent the President determines to be necessary in order to enable the Department of Agriculture to carry out functions which require service abroad.

(3) The Secretary of Commerce may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and

(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

(b) Subject to section 201(b)—

(1) the agency heads referred to in subsection (a), and

(2) the head of any other agency (to the extent authority to utilize the Foreign Service personnel system is granted to such agency head under any other Act),

shall in the case of their respective agencies exercise the functions vested in the Secretary by this Act.

SEC. 203. COMPATIBILITY AMONG AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. To this end, the other heads of such agencies shall consult regularly with the Secretary of State.

(b) Nothing in this chapter shall be construed as diminishing the authority of the head of any agency authorized by law to utilize the Foreign Service personnel system.

SEC. 204. CONSOLIDATED AND UNIFORM ADMINISTRATION OF THE SERVICE.—The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and for consolidation (in accordance with section 23 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695)) of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary of State shall encourage (in consultation with the other heads of such agencies) the development of uniform policies and procedures and consolidated personnel functions.

SEC. 205. COMPATIBILITY BETWEEN THE FOREIGN SERVICE AND OTHER GOVERNMENT PERSONNEL SYSTEMS.—The Service shall be administered to the extent practicable in conformity with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and the heads of such other agencies as the President shall determine, in order to assure compatibility of the Foreign Service personnel system with other Government personnel systems to the extent practicable.

SEC. 206. REGULATIONS; DELEGATION OF FUNCTIONS.—(a) The Secretary may prescribe such regulations as the Secretary deems appropriate to carry out functions under this Act.

(b) The Secretary may delegate functions under this Act which are vested in the Secretary to any employee of the Department or any member of the Service.

SEC. 207. CHIEF OF MISSION.—(a) Under the direction of the President, the chief of mission to a foreign country—

(1) shall have full responsibility for the direction, coordination, and supervision of all Government employees in that country (except for employees under the command of a United States area military commander); and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Any agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe.

SEC. 209. INSPECTOR GENERAL.—(a)(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foregn affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation. The Inspector General shall periodically (at least every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

(2) The Inspector General may be removed from office by the President. The shall communicate the reasons for any such removal to both Houses of Congress.

(b) Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Servce posts and bureaus and other operating units of the Department of State, including an examination of—

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum decree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and, specifically, whether such administration is consistent with the requirements of section 105;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination and cooperation.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

(E) a listing of each audit report completed by the Inspector General during the reporting period.

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e)(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6 (b) and (c) of such Act.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

(f)(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(g) Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

SEC. 210. BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by a career member of the Senior Foreign Service designated by the Secretary of State and shall include one or more representatives of the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

SEC. 211. BOARD OF EXAMINERS FOR THE FOREIGN SERVICE.—(a) The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 301(b) to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

(b) The Board of Examiners shall periodically review the examinations prescribed under section 301(b) in order to determine—

(1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;

(2) methods of minimizing any such adverse impact;

(3) alternatives to any examinations which have such an adverse impact; and

(4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 301(b).

(c) Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

CHAPTER 3—APPOINTMENTS

SEC. 301. GENERAL PROVISIONS RELATING TO APPOINTMENTS.—(a) Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(c) The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term "veteran or disabled veteran" means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(d) (1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or noncareer members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment.

SEC. 302. APPOINTMENTS BY THE PRESIDENT.—(a) (1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2) (A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B) (i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2) (B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments) an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under chapter 5 and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under chapter 4, and to receive the leave to which such member is entitled under subchapter I of chapter 63 of title 5, United States Code, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President.

SEC. 303. APPOINTMENTS BY THE SECRETARY.—The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 302(a)) in accordance with this Act and such regulations as the Secretary may prescribe.

SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—(a) (1) An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve.

(b) (1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term "contribution" has the same meaning given such term by section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), and the term "immediate family" means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them.

(c) Within 6 months after assuming the position, the Chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country.

SEC. 305. APPOINTMENT TO THE SENIOR FOREIGN SERVICE.—(a) Appointment to the Senior Foreign Service shall be to a salary class established under section 402, and not to a position.

(b) An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

SEC. 306. CAREER APPOINTMENTS.—(a) Before receiving a career appointment in the Service, an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 303, or

(2) to recommend to the President that the candidate be given a career appointment under section 302.

(b) Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

SEC. 307. ENTRY LEVELS FOR FOREIGN SERVICE OFFICER CANDIDATES.—A career candidate for appointment as a Foreign Service officer may not be initially assigned under section

404 to a salary class higher than class 4 in the Foregin Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher salary class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

SEC. 308. RECALL AND REEMPLOYMENT OF CAREER MEMBERS.—(a) Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members of the Service may be reappointed under section 302(a)(1) or 303, without regard to section 306, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

SEC. 309. LIMITED APPOINTMENTS.—A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in section 311(a), may not be extended or renewed. A limited appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

SEC. 310. REEMPLOYMENT RIGHTS FOLLOWING LIMITED APPOINTMENT.—Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5, United States Code.

SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 408.

(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions.

SEC. 312. DIPLOMATIC AND CONSULAR COMMISSIONS.—(a) The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

(b) Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

(c) The Secretary of State shall define the limits of consular districts.

CHAPTER 4—COMPENSATION

SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a) Except as provided in section 302(b), each chief of mission shall receive a salary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, United States Code.

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed 50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

SEC. 402. SALARIES OF THE SENIOR FOREIGN SERVICE.—(a) The President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. Basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.

(b)(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under section 5382 of title 5, United States Code, and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid under section 5382 of title 5, United States Code, immediately prior to such appointment.

SEC. 403. FOREIGN SERVICE SCHEDULE.—The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS–15 of the General Schedule under section 5332 of title 5, United States Code. Salary rates established under this section shall be adjusted in accordance with subchapter I of chapter 53 of title 5, United States Code.

SEC. 404. ASSIGNMENT TO A SALARY CLASS.—(a) The Secretary shall assign all Foreign Service officers and Foreign Service personnel (other than Foreign Service personnel who are paid in accordance with section 407 or who are family members of Government employees paid in accordance with a local compensation plan established under section 408) to appropriate salary classes in the Foreign Service Schedule.

(b)(1) The salary class to which a member of the Service is assigned under this section shall not be affected by the assignment of the member to position classified under chapter 5.

(2) Except as authorized by subchapter I of chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance which chapter 6. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5, United States Code, and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

SEC. 405. PERFORMANCE PAY.—(a) Members of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments, or

(2) under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 402 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compensation of any other member of the Service shall not preclude the award or its payment.

(b) Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under section 5384 of title 5, United States Code, and rank awards under section 4507 of title 5, United States Code. Awards of performance pay under this section shall be subject to the following limitations:

(1) Not more than 50 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year.

(2) Except as provided in paragraph (3), performance pay for a member of the Senior Foreign Service may not exceed 20 percent of the annual rate of basic salary for that member.

(3) Not more than 6 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year in an amount which exceeds the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed $10,000 in any fiscal year, except that payments of up to $20,000 in any fiscal year may be made under this paragraph to up to 1 percent of the members of the Senior Foreign Service.

(4) The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect at the end of that fiscal year.

(c) The Secretary shall determine the

amount of performance pay available under subsection (b)(2) each year for distribution among the members of the Senior Foreign Service and shall distribute performance pay to particular individuals on the basis of recommendations by selection boards established under 602.

(d) The President may grant awards of performance pay under subsection (b)(3) on the basis of annual recommendations by the Secretary of State of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Recommendations by the Secretary of State under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary of State for the purpose of reviewing and evaluating the nominations of agencies.

Sec. 406. Within-Class Salary Increases.—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 602 to fall below the standards of performance for his or her salary class.

(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

Sec. 407. Salaries for Foreign Service Personnel Abroad Who Perform Routine Duties.—(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are generally performed by Foreign Service personnel assigned to class 9 in the Foreign Service Schedule, in accordance with the salary rates established under subsection (a).

Sec. 408. Local Compensation Plans.—(a)(1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, and for United States citizens employed in the Service abroad who are family members of Government employees. To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment, except that such compensation plans shall provide for payment of wages to those family members of Government employees who are paid in accordance with such plans at a rate which is no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)). Any compensation plan established under this section may include provision for leaves of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, United States Code.

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retired from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government.

(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this Act.

(c) The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments.

Sec. 409. Salaries of Consular Agents.—The Secretary of State shall establish the salary rate for each consular agent. Such salary rate shall be established after taking into account the workload of the consular agency and the prevailing wage rates in the locality where the agency is located, except that, in the case of a consular agent who is a citizen of the United States, the salary rate may not be less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

Sec. 410. Compensation for Imprisoned Foreign National Employees.—(a) The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, or any foreign national who is or was employed under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of a foreign national employed by the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the employment of the foreign national by the United States. Such compensation may not exceed the amount that the agency head determines approximates the salary and other benefits to which the foreign national would have been entitled had he or she been employed during the period of such imprisonment. Such compensation may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of this section, an agency head shall have the same powers with respect to imprisoned foreign nationals who are or were employed by the agency as an agency head has under subchapter VII of chapter 55 of title 5, United States Code, to the extent that such powers are consistent with this section.

(b) Any period of imprisonment of a current or former foreign national employee which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, execpt that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, United States Code, unless it is expressly creditable under that subchapter; or

(2) for purposes of subchapter I of chapter 81 of title 5, United States Code, unless the individual was employed by the Government at the time of his or her imprisonment.

(c) No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within 3 years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) The Secretary of State may prescribe regulations governing payments under this section by all agencies and other Government establishments.

Sec. 411. Temporary Service as Principal Officer.—For such time (in excess of such minimum period as the Secretary of State may establish) as any member of the Service is temporarily in charge of a Foreign Service post during the absence or incapacity of the principal officer, that member shall receive, in addition to the basic salary paid to the member and notwithstanding sections 5535 and 5536 of title 5, United States Code, an amount equal to that portion (which the Secretary of State may determine to be appropriate) of the difference between such salary and the basic salary provided for the principal officer, or, if there is no principal officer, for the former principal officer.

Sec. 412. Special Differentials.—(a) The Secretary may pay special differentials, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

(b) Before implementing any proposal to limit either the number of Foreign Service officers who may receive a special differential under subsection (a) or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(c) Nothing in this Act, or in subchapter V of chapter 55 of title 5, United States Code, shall preclude the granting of compensatory time off for Foreign Service officers.

Sec. 413. Death Gratuity.—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee, who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(c) A death gratuity payment under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the child, or children in equal shares, if there is no widow or widower.

(3) Third to the dependent parent, or dependent parents in equal shares, if there is no widow, widower or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

(d) As used in this section—

(1) the term "Foreign Service employee" means any member of the Service or United States representative to an international organization or commission; and

(2) each of the terms "widow", "widower", "child", and "parent" shall have the same meaning given each such term by section 8101 of title 5, United States Code.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

SEC. 501. CLASSIFICATION OF POSITIONS.—The Secretary shall designate and classify positions in the Department and at Foreign Service posts which are to be occupied by members of the Service (other than by chiefs of mission and ambassadors at large). Positions designated under this section are excepted from the competitive service. Position classifications under this section shall be established, without regard to chapter 51 of title 5, United States Code, in relation to the salaries established under chapter 4. In classifying positions at Foreign Service posts abroad, the Secretary shall give appropriate weight to job factors relating to service abroad and to the compensation practices applicable to United States citizens employed abroad by United States corporations.

SEC. 502. ASSIGNMENTS TO FOREIGN SERVICE POSITIONS.—(a) (1) The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 501 in which that member is eligible to serve (other than as chief of mission or ambassador at large), and may assign a member from one such position to another such position as the needs of the Service may require.

(2) In making assignments under paragraph (1), the Secretary shall assure that a member of the Service is not assigned to a position at a post in a particular geographic area exclusively on the basis of the race, ethnicity, or religion of that member.

(b) Positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by the assignment for specified tours of duty of employees of the Department and, under interagency agreements, employees of other agencies; and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) The President may assign a career member of the Service to serve as charge d'affaires or otherwise as the head of a mission (or as the head of a United States office abroad which is designated under section 102 (a)(3) by the Secretary of State as diplomatic in nature) for such period as the public interest may require.

SEC. 503. ASSIGNMENTS TO AGENCIES, INTERNATIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The Secretary may (with the concurrence of the agency, organization, or other body concerned) assign a member of the Service for duty—

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or with an international organization, international commission, or other international body.

(2) with a domestic or international trade, labor, agricultural, scientific, or other conference, congress, or gathering;

(3) for special instruction, training, or orientation at or with a public or private organization; and

(4) in the United States (or in any territory or possession of the United States or in the Commonwealth of Puerto Rico), with a State or local government, a public or private nonprofit organization (including an educational institution), or a Member or office of the Congress.

(b)(1) The salary of a member of the Service assigned under this section shall be the higher of the salary which that member would receive but for the assignment under this section or the salary of the position to which that member is assigned.

(2) The salary of a member of the Service assigned under this section shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the costs of salaries and other benefits for members assigned under this section.

(3) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

(c) Assignments under this section may not exceed four years of continuous service for any member of the Service unless the Secretary approves an extension of such period for that member because of special circumstances.

SEC. 504. SERVICE IN THE UNITED STATES AND ABROAD.—(a) Career members of the Service shall be obligated to serve abroad and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. A member of the Service may not be assigned to duty within the United States for any period of continuous service exceeding eight years unless the Secretary approves an extension of such period for that member because of special circumstances.

(b) Consistent with the needs of the Service, the Secretary shall seek to assign each career member of the Service who is a citizen of the United States to duty within the United States at least once during each period of fifteen years that the member is in the Service.

(c) The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the development and effectiveness of the member. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of section 3396(c) of title 5, United States Code, which apply to sabbaticals granted to members of the Senior Executive Service.

SEC. 505. TEMPORARY DETAILS.—A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail and shall not be considered an assignment within the meaning of this chapter.

CHAPTER 6—PROMOTION AND RETENTION

SEC. 601. PROMOTIONS.—(a) Career members of the Senior Foreign Service are promoted by appointment under section 302(a) to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 303 to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 302(a) as career members of the Senior Foreign Service or by assignment under section 404 to a higher salary class in the Foreign Service Schedule.

(b) Except as provided in section 606(a), promotions of—

(1) members of the Senior Foreign Service, and

(2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service),

shall be based upon the recommendations and rankings of selection boards established under section 602, except that the Secretary may by regulation specify categories of career members, and categories of career candidates, assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

(c) (1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 607(a)) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

(A) a regular, predictable flow of recruitment in the Service;

(B) effective career development patterns to meet the needs of the Service; and

(C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5, United States Code, shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

SEC. 602. SELECTION BOARDS.—(a) The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

(1) promotions in accordance with section 601;

(2) awards of performance pay under section 405(c);

(3) denials of within-class step increases under section 406(a);

(4) offer or renewal of limited career extensions under section 607(b); and

(5) such other actions as the Secretary may prescribe by regulation.

(b) All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

Sec. 603. Basis for Selection Board Review.—(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conducts, quality of work, industry, experience, dependability, usefulness, and general performance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the Foreign Service Institute, awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective asssignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and qualities, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilties, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service

Sec. 604. Confidentiality of Records.—The records described in section 603(a) shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secertary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

Sec. 605. Implementation of Selection Board Recommendations.—(a) Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove the name of an individual from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

Sec. 606. Other Bases for Increasing Pay.—(a) The Secretary may pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

(1) recommend to the President a promotion of a member of the Service under section 302(a);

(2) promote a member of the Service under section 303;

(3) grant performance pay to a member of the Senior Foreign Service under section 405(c); or

(4) grant a within-class salary increase under section 406 to a member of the Service who is assigned to a salary class in the Foreign Service Schedule.

(b) In implementing subsection (a) of this section and in cases in which the Secretary has exercised the authority of section 606(b), the Secretary may, in special circumstances set forth by regulation, make retroactive promotions, grant performance pay, make retroactive within-class salary increases, and recommend retroactive promotions by the President.

Sec. 607. Retirement for Expiration of Time in Class.—(a)(1) The Secretary shall, by regulation, establish maximum time in class limitations for—

(A) carere members of the Senior Foreign Service,

(B) Foreign Service officers, and

(C) other career members of the Service who are in such occupational categories as may be designated by the Secretary and who are assigned to salary classes in the Foreign Service Schedule to which Foreign Service officers may also be assigned.

(2) Maximum time in class limitations under this subsection (which may not be less than 3 years for career members of the Senior Foreign Service) may apply with respect to the time a member may remain in a single salary class or in a combination of salary classes.

(3) The Secretary may, by regulation, increase or decrease any maximum time in class established under this subsection as the needs of the Service may require. If maximum time in class is decreased, the Secretary shall provide any member of the Service who is in a category and salary class subject to the new time in class limitation an opportunity to remain in class (notwithstanding the new limitation) for a period which is at least as long as the shorter of—

(A) the period which the member would have been permitted to remain in class but for the decrease in maximum time in class, or.

(B) such minimum period as the Secretary determines is necessary to provide members of the Service who are in the same category and salary class as that member a reasonable opportunity to be promoted into the next high class or combination of classes, as the case may be.

(b) Members of the Service whose maximum time class under subsection (a) expires—

(1) after they have attained the highest salary class for their respective occupational categories, or

(2) in the case of members of the Senior Foreign Service, while they are in salary classes designated by the Secretary,

may continue to serve only under limited extensions of their career appointments. Such limited extensions may not exceed 5 years in duration and may be granted and renewed by the Secretary in accordance with the recommendations of selection boards established under section 602. Members of the Service serving under such limited career extensions shall continue to be career members of the Service.

(c) Any member of the Service—

(1) whose maximum time in class under subsection (a) expires and who is not promoted to a higher class or combination of classes, as the case may be, or

(2) whose limited career extension under subsection (b) expires and is not renewed,

shall be retired from the Service and receive benefits in accordance with section 609, subject to any career extension under subsection (d) of this section.

(d) Notwithstanding any other provision of this section—

(1) the career appointment of a member of the Service whose maximum time in class under subsection (a) expires, or whose limited career extension under subsection (b) expires, while that member is occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, shall be extended until the appointment to that position is terminated; and

(2) if the Secretary determines it to be in the public interest, the Secretary may extend temporarily the career appointment of a career member of the Service whose maximum time in class or limited career extension expires, but in no case may any extension under this paragraph exceed one year and such extensions may be granted only in special circumstances.

Sec. 608. Retirement Based on Relative Performance.—(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are citizens of the United States. Whenever a selection board review indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the performance of the member. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a career member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 609.

Sec. 609. Retirement Benefits.—(a) A member of the Service—

(1) who is retired under section 607(c)(2); or

(2) who is retired under section 607(c)(1) or 608(b)—

(A) after becoming eligible for voluntary retirement under section 811, or

(B) from the Senior Foreign Service or while assigned to class 1 in the Foreign Service Schedule,

shall receive retirement benefits in accordance with section 806.

(b) Any member of the Service (other than a member to whom subsection (a) applies) who is retired under section 607(c)(1) or 608(b) shall receive—

(1) one-twelfth of a year's salary at his or her then current salary rate for each each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund in 3 equal installments, such installments to be paid on January 1 of each of the first 3 calendar years beginning after the retirement of the member (except that in special cases, the Secretary of State may accelerate or combine such installments); and

(2) a refund as provided in section 815 of the contributions made by the member to the Foreign Service Retirement and Disability Fund, except that in lieu of such refund a member who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect to receive an annuity, computed under section 806, commencing at age 60.

In the event that a member of the service has elected to receive retirement benefits under paragraph (2) and dies before reaching age 60, his or her death shall be considered a death in service within the meaning of section 809.

Sec. 610. Separation for Cause.—(a)(1) The Secretary may separate any member from the Service for such cause as will promote the efficiency of the Service.

(2) A member of the Service who is a

member of the Senior Foreign Service or is assigned to a salary class in the Foreign Service Schedule and who either (A) is serving under a career appointment, or (B) if separation is to be by reason of misconduct, is serving under a limited appointment, shall not be separated from the Service under this section until the member has been granted a hearing before the Foreign Service Grievance Board and the cause for separation established at such hearing, unless the member waives in writing the right to a hearing. The hearing provided under this paragraph shall be in accordance with the hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other law.

(b) Any participant in the Foreign Service Retirement and Disability System who is separated under subsection (a) shall be entitled to receive a refund as provided in section 815 of the contributions made by the participant to the Foreign Service Retirement and Disability Fund. Except in cases where the Secretary determines that separation wase based in whole or in part on the ground of disloyalty to the United States, a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect, in lieu of such refund, to an annuity, computed under section 806, commencing at age 60.

SEC. 611. TERMINATION OF LIMITED APPOINTMENTS.—Except as provided in section 610 (a) (2), the Secretary may terminate at any time the appointment of any member of the Service serving under a limited appointment who is in the Senior Foreign Service, who is assigned to a salary class in the Foreign Service Schedule, or who is a family member of a Government employee serving under a local compensation plan established under section 408.

SEC. 612. TERMINATION OF APPOINTMENTS OF CONSULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—(a) The Secretary of State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances.

(b) The Secretary may terminate at any time the appointment of any foreign national employee in light of the criteria and procedures normally followed in the locality in similar circumstances.

SEC. 613. FOREIGN SERVICE AWARDS.—The President shall establish a system of awards to confer appropriate recognition of outstanding contributions to the Nation by members of the Service. The awards system established under this section shall provide for presentation by the President and by the Secretary of medals or other suitable commendations for performance in the course of or beyond the call of duty which involves distinguished, meritorious service to the Nation, including extraordinary valor in the face of danger to life or health.

CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The Secretary of State shall maintain and operate the Foreign Service Institute (hereinafter in this chapter referred to as the "Institute"), originally established under section 701 of the Foreign Service Act of 1946, in order to promote career development within the Service and to providde necessary training and instruction in the field of foreign relations to members of the Service and to employees of the Department and of other agencies. The Institute shall be headed by a Director, who shall be appointed by the Secretary of State.

(b) To the extent practicable, the Secretary of State shall provide training under this chapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary of State through the Institute and otherwise.

SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—(a) The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that Foreign Service posts abroad will be staffed by individuals having a useful knowledge of the language or dialect common to the country in which the post is located.

(b) The Secretary of State shall arrange for appropriate language training of members of the Service by the Institute or otherwise in order to assist in meeting the requirements established under subsection (a).

SEC. 703. CAREER DEVELOPMENT.—(a) The Secretary shall establish a professional development program to assure that members of the Service obtain the skills and knowledge required at the various stages of their careers. With regard to Foreign Service officers, primary attention shall be given to training for career candidate officers and for midcareer officers, both after achieving tenure and as they approach eligibility for entry to the Senior Foreign Service, to enhance and broaden their qualifications for more senior levels of responsibility in the Service. Training for other members of the Service shall emphasize programs designed to enhance their particular skills and expert knowledge, including development of the management skills appropriate to their occupational categories.

(b) Junior Foreign Service officer training shall be directed primarily toward providing expert knowledge in th basic functions of analysis and reporting as well as in consular, administrative, and linguistic skills relevant to the full range of future job assignments. Midcareer training shall be directed primarily toward development and perfection of management, functional, negotiating, and policy development skills to prepare officers progressively for more senior levels of responsibility.

(c) At each stage the program of professional development should be designed to provide members of the Service with the opportunity to acquire skills and knowledge relevant to clearly established professional standards of expected performance. Career candidates should satisfactorily complete candidate training prior to attainment of career status. Members of the Service should satisfactorily complete mid-career training before appointment to the Senior Foreign Service.

(d) In formulating programs under this section, the Secretary should establish a system to provide, insofar as possible, credit toward university degrees for successful completion of courses comparable to graduate-level, university courses.

(e) Training provided under this section shall be conducted by the Department and by other governmental and nongovernmental institutions as the Secretary may consider appropriate.

(f) The Secretary of State shall report annually to the Congress and the President on the status of the professional development program and the resources needed and made available to achieve it. The first such report, to be submitted 90 days after the effective date of this Act, shall set out the resources required to initiate successfully the program established pursuant to this section.

SEC. 704. TRAINING AUTHORITIES.—(a) In the exercise of functions under this chapter, the Secretary of State may—

(1) provide for the general nature of the training and instruction to be furnished by the Institute, including functional and geographic area specializations;

(2) correlate training and instruction furnished by the Institute with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those furnished by the Institute, including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this chapter;

(4) (A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this chapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by apointment or contract (subject to the availability of appropriations), the services of individuals to serve as language instructors, linguists, and other academic and training specialists (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citzens of the United States); and

(5) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance, and operation of the facilities necessary to carry out the provisions of this chapter without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

(b) In furtherance of the objectives of this Act, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 411) of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

(c) The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 311.

SEC. 705. TRAINING GRANTS.—(a) To facilitate training provided to members of families of Government employees under this chapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

(b) If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language training furnished by the Government through the Institute or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

SEC. 706. CAREER COUNSELING.—(a) In order to facilitate their transition from the Service, the Secretary may provide (by contract or otherwise, subject to the availability of appropriations) professional career counseling, advice, and placement assistance to members of the Service, and to former members of the Service who were assigned to receive counseling and assistance under this subsection before they were separated from the Service, other than those separated for cause.

(b)(1) The Secretary may facilitate the employment of spouses of members of the Service by—

(A) providing regular career counseling for such spouses;

(B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them; and

(C) otherwise assisting them in obtaining employment.

(2) The Secretary shall establish a family liaison office to carry out this subsection and such other functions as the Secretary may determine.

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 801. ADMINISTRATION OF THE SYSTEM.—In accordance with such regulations as the President may prescribe, the Secretary of State shall administer the Foreign Service Retirement and Disability System (hereinafter in this chapter referred to as the "system"), originally established pursuant to section 18 of the Act of May 24, 1924 (43 Stat. 144).

SEC. 802. MAINTENANCE OF THE FUND.—The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this chapter referred to as the "Fund"), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

SEC. 803.—PARTICIPANTS.—(a) The following members of the Service (hereinafter in this chapter referred to as "participants") shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 306—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 805.

(b) Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

(c) In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 805(d) or (f).

SEC. 804. DEFINITIONS.—As used in this chapter, unless otherwise specified, the term—

(1) "annuitant" means any individual, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this or any other Act and who has filed a claim for such annuity;

(2) "child" means an individual—

(A) who—

(i) is an offspring or adopted child of the participant,

(ii) is a stepchild or recognized natural child of the participant and who received more than one-half support from the participant, or

(iii) lived with the participant, for whom a petition of adoption was filed by the participant, and who is adopted by the surviving spouse of the participant after the death of the participant;

(B) who is unmarried; and

(C) who—

(i) is under the age of 18 years,

(ii) is a student under the age of 22 years (for purposes of this clause, an individual whose 22d birthday occurs before July 1 or after August 31 of the calendar year in which that birthday occurs, and while the individual is a student, is deemed to become 22 years of age on the first July 1 which occurs after that birthday), or

(iii) is incapable of self-support because of a physical or mental disability which was incurred before the individual reached the age of 18 years;

(3) "court" means any court of any State or of the District of Columbia;

(4) "court order" means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment;

(5) "Foreign Service normal cost" means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military and naval service;

(6) "former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under section 816;

(7) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value, plus

(B) the cash balance of the Fund on the books of the Treasury;

(8) "lump-sum credit" means the compulsory and special contributions to the credit of a participant or former participant in the Fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity);

(9) "military and naval service" means honorable active service—

(A) in the Armed Forces of the United States,

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or

(C) as a commissioned officer of the National Oceanic and Atmospheric Administration, or a predecessor organization, after June 30, 1961,

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(10) "pro rata share", in the case of any former spouse of any participant or former participant, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the creditable service of that participant is of (B) the total number of years of such creditable service;

(11) "spousal agreement" means any written agreement between—

(A) a participant or former participant; and

(B) his or her spouse or former spouse;

(12) "student" means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized eductional institution (for purposes of this paragraph, a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters, or terms if the period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Secretary of State that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester, or term immediately following such period);

(13) "surviving spouse" means the surviving wife or husband of a participant or annuitant who, in the case of a death in service or marriage after retirement, was married to the participant or annuitant for at least one year immediately preceding his or her death or is a parent of a child born of the marriage; and

(14) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund over the sum of—

(A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made on their behalf, plus.

(B) the present value of Government payments to the Fund under section 821, plus

(C) the Fund balance as of the date the unfunded liability is determined.

SEC. 805. CONTRIBUTIONS TO THE FUND.—(a) 7 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the Department.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c)(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods

of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d)(1) Any participant credited with civilian service after July 1, 1924—

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

may make a special contribution to the Fund equal to the following percentages of basic salary received for such service:

Time of service:	*Percent of basic salary*
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
On and after January 1, 1970	7

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 816.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter. No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State.

(e) Contributions shall not be required for any period of military and naval service or for any period for which credit is allowed to individuals of Japanese ancestry under section 816 for periods of internment during World War II.

(f) A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

SEC. 806. COMPUTATION OF ANNUITIES.—(a) The annuity of a participant shall be equal to 2 percent of his or her average basic salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 816 and 817, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 302(b), to which the participant was appointed by the President and whose continuity of service in that position is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 805(d) which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 814(b), or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 814(b) if the spouse later qualifies as a former spouse under section 804(6), or to reduce such survivor annuity under this section (or section 814(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 814(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 820(b)(1) to waive a survivor annuity under section 814(b) for that former spouse if the election is made (i) before the end of the 12-month period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement, whichever occurs first.

(D) The Secretary of State may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 814(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 814(a)(5).

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 814(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 814(b)(4)(B).

(C) An annuity payable from the Fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(c)(1) If an annuitant who was a participant dies and is survived by a spouse and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) $1,080, or

(B) $2,700 divided by the number of children.

(2) If an annuitant who was a participant dies and is not survived by a spouse but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) $1,080, or

(B) $3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost-of-living adjustments as specified under section 826(c)(3), and

(B) the minimum specified in subsection (1)(2) of this section.

(d) If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant. If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child becomes eligible. The annuity of a child shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(f) At the time of retirement an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b) may elect to receive a reduced annuity and to provide for an annuity equal to 55 percent of the reduced annuity payable after his or her death to a beneficiary whose name is designated in writing to the Secretary of State. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by 5 percent of an annuity so computed for each full 5 years the designated beneficiary is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant has satisfactorily passed a physical examination as prescribed by the Secretary of State. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the death of the beneficiary. An annuity which is reduced under this subsection (or any similar prior provision of law) shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

(g) A participant or former participant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing to receive a reduced annuity and to porvide a survivor annuity for the spouse (if such spouse qualifies as a surviving spouse under section 804(13)). Receipt by the Secretary of State of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined in accordance with subsections (b) (2) and (3). The annuity reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) A surviving spouse or surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marrigae to someone other than that participant.

(i) (1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 823 shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Secretary of State shall issue regulations to provide for the application of paragraph (1) of this subsection and of section 823 in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 814(b).

(j) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 814(b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Secretary within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 814(b) (5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(k) The Secretary of State shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (g) and (j); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 814.

(l) (1) The monthly rate of an annuity payable under this chapter to an annuitant, other than a child, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(2) The monthly rate of an annuity payable under this chapter to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.) or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) This subsection does not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(4) This subsection shall not apply to the extent provided in section 814(d).

SEC. 807. PAYMENT OF ANNUITY.—(a) Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for an annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under this Act shall become effective on the day he or she attains age 60.

(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Secretary of State may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to his or her estate.

(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

(d) Recovery of overpayments under this chapter may not be made from an individual when, in the judgment of the Secretary of State, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

SEC. 808. RETIREMENT FOR DISABILITY OR INCAPACITY.—(a) Any participant who has at least 5 years of service credit toward retirement under the System (excluding military and naval service) and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall, upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 806. If the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had 20 years of service, except that the additional service credit that may accrue to a participant under this sentence shall in no case exceed the difference between his or her age at the time of retirement and age 65.

(b) Before being retired under this section, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary of State to conduct examinations. Disability or incapacity shall be determined by the Secretary of State on the basis of the advice of such physicians or surgeons. Unless the disability or incapacity is permanent, like examinations shall be made annually until the annuitant has attained age 65. If the Secretary of State determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within 1 year from the date recovery is determined. Upon application, the Secretary shall reinstate such recovered annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date 6 months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this subsection, payment of the annuity shall be suspended until continuance of the disability or incapacity is satisfactorily established.

(c) If a recovered annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 810 as of the date of retirement for disability or incapacity and shall, after the discontinuance of the annuity, be entitled to the benefits of that section or of section 815, except that he or she may elect voluntary retirement if eligible under section 811.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, United States Code, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this subsection nor any provision of such subchapter shall be construed to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of death of any other individual.

(e) Notwithstanding any other law, the right of any individual entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, United States Code, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this Act, which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding.

(f) A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Scretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

SEC. 809. DEATH IN SERVICE.—(a) If a participant dies and no claim for annuity is payable under this Act, the lump-sum credit shall be paid in accordance with section 815.

(b) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 814(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 806(a) and any surviving former spouse shall be entitled to an annuity under section 814(b) as if the participant died after being entitled to an annuity under this chapter. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

(c) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 806.

(d) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is not survived by a spouse, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 806.

(e) If, at the time of his or her death, the participant had less than 20 years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 806 on the assumption he or she has had 20 years of service, except that the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age 65. In all cases arising under this subsection or subsection (b), (c), (d), or (g), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) If an annuitant entitled to a reduced annuity dies in service after being recalled under section 308 and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the annuity of the decreased had been resumed in accordance with section 823. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contribution made during the recall service, a supplemental survivor annuity computed and paid under section 806(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this chapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

(g) Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 814(b), the annuity of the spouse under this section shall be subject to the limitation of section 806(b)(3)(B).

(h) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 806, as appropriate.

SEC. 810. DISCONTINUED SERVICE RETIREMENT.—Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her conributions to the Fund returned in accordance with section 815, or to leave his or her contributions in the Fund and receive an annuity, computed under section 806, commencing at age 60.

SEC. 811. VOLUNTARY RETIREMENT.—Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 806.

SEC. 812. MANDATORY RETIREMENT.—(a) Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 806.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completes a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

SEC. 813. RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.—If a participant completes an assignment under section 302(b) in a position to which he or she was appointed by the President and has not been reassigned within 3 months after the termination of such assignment (plus any period of authorized leave), the participant shall be retired from the Service and receive retirement benefits in accordance with section 806.

SEC. 814. FORMER SPOUSES.—(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), a former spouse of a participant or former participant is entitled to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouses's pro rata share of 50 percent of such annuity.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this chapter on the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 820(b)(1) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this chapter, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 806(b)(3).

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 308, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 824, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 806(h) or any comparable provision of law.

(b)(1) Subject to any election under section 806(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 806(a); or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 806(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 806(a).

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 806(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 820(b)(1) may not adjust the amount of the annuity of any former spouse under this setcion.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to porvide a higher survivor annuity under section 806(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 820(b)(1) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Secretary of State.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 806, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 806(a).

(3)(A) In accordance with regulations which the Secretary of State shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Secretary of State.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Secretary of State.

(D) Under regulations prescribed by the Secretary of State, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this chapter.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 826 shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Secretary of State.

(d) Section 806(1) shall not apply—

(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 820(b)(1), or an election under section 806(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; and

(2) to any annuity payable under subsection (c).

SEC. 815. LUMP-SUM PAYMENTS.—(a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity under this chapter, a lump-sum credit shall be paid to the participant (and to any former spouse of the participant, in accordance with subsection (i)).

(b) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 823, the compulsory contributions of the annuitant to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned to the annuitant (and any former spouse of the annuitant who was married to the participant during the period of recall service, in accordance with subsection (i)).

(c) If all annuity rights under this chapter based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit to which the participant or annuitant is entitled, the difference shall be paid in accordance with subsection (f).

(d) If a participant or former participant dies and is not survived by an individual eligible for an annuity under this chapter or by such an individual or individuals all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit to which the participant or annuitant is entitled shall be paid in accordance with subsection (f).

(e) If an annuitant who was a former participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (f).

(f) Payments under subsections (c) through (e) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing filed with the Secretary of State prior to the death of the participant, for which purpose a designation, change, or cancellation of beneficiary in a will or other document which is not so executed and filed shall have no force or effect.

(2) If there is no such beneficiary, to the surviving wife or husband of the participant.

(3) If none of the above, to the child (without regard to the definition in section 804(2)) or children of the participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation.

(4) If none of the above, to the parents of the participant or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next of kin of the participant as may be determined in the judgment of the Secretary of State to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days after the death of the participant or annuitant.

(g) Annuity accured and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no such executor or administrator, to such person as may be determined by the Secretary of State (after the expiration of 30 days from the date of death of the survior annuitant) to be entitled under the laws of the domicile of the survivor annuitant at the time of death.

(h) Amounts deducted and withheld from basic salary of a participant under section 805 from the beginning of the first pay period after the participant has completed 35 years of service computed under section 816 (excluding service credit for unused sick leave under section 816(b)), together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 805(d), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

(i) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be—

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

Sec. 816. Creditable Service.—(a) Except as otherwise specified by law, all periods of civilian and military and naval service, and all other periods through the date of final separation of a participant from the Service that the Secretary of State determines would be creditable toward retirement under the Civil Service Retirement and Disability System (as determined in accordance with section 8332 of title 5, United States Code), shall be creditable for purposes of this chapter. Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this chapter under the same conditions.

(b) In computing any annuity under this chapter, the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes (without regard to the 35-year limitation imposed by section 806(a)) the days of unused sick leave to the credit of the participant, except that these days shall not be counted in determining average basic salary or annuity eligibility under this chapter. A contribution to the Fund shall not be required from a participant for this service credit.

(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within 60 days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate and shall be computed in accordance with section 805. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to 6 months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d) A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service under section 805. Credit may not be allowed for service covered by the refund unless the special contribution is made.

(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless—

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 805 covering such service.

(f) A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this chapter, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 815. However, the participant is deemed to be separated from the Service after the expiration of 5 years of such military service.

(g)(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under section 8332(1) of title 5, United States Code, for credit for civilian service for periods of internment during World War II shall, upon application to the Secretary of State, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary of State.

(2) The Secretary of State shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection of their entitlement to such credit or recomputation.

(3) The Secretary of State shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other Government establishment information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other Government establishment shall, upon request, furnish to the Secretary of State any information it possesses with respect to the internment or other detention, as described in section 8332 (1) of title 5, United States Code, of any participant.

(h) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this chapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(i)(1) Service of a participant shall be considered creditable service for purposes of applying provisions of this chapter relating to former spouses if such service would be creditable—

(A) under subsection (c)(1) or (2) but for the fact an election was not made under subsection (c)(1) or a special contribution was not made under subsection (c)(2), and

(B) under subsection (d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this chapter a portion of the lump sum (or a spousal agreement or court order provided otherwise).

(2) A former spouse shall not be considered as married to a participant—

(A) for periods assumed to be creditable service under section 808(a) or section 809 (e), or

(B) for any extra period of creditable service provided under section 817 for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period.

Sec. 817. Extra Credit for Service at Unhealthful Posts.—The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service.

Sec. 818. Estimate of Appropriations Needed.—The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding $5,000 per year for the incidental expenses necessary in administering the provisions of this chapter, including actuarial advice.

Sec. 819. Investment of the Fund.—The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

Sec. 820. Assignment and Attachment of Moneys.—(a)(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3477 of the Revised Statutes of the United States (31 U.S.C. 203) or any other law, a member of the Service who is entitled to receive benefits under section 609(b)(1) may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

(b)(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 814(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 814 (b) or (c), and the amount of any such annuity; and

(iii) any right of the former spouse to any payment of a lump-sum credit under section 815 (a) or (b);

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has not been an annuity reduction (or a salary reduction or payment under section 814(c)(3)); or

(ii) is otherwise inconsistent with the requirements of this chapter.

(2) Except with respect to obligations between participants and former spouses, payments under this chapter which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this chapter for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 804(b)(6), or any other provision of this chapter, shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this chapter.

(c) None of the moneys mentioned in this chapter shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

SEC. 821. PAYMENTS FOR FUTURE BENEFITS.—(a) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund, including annuity increases other than under section 825;

(2) extension of the benefits of the System to new groups of employees; or

(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of benefits, or increase in salary is effective.

(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 805(a).

SEC. 822. UNFUNDED LIABILITY OBLIGATIONS.—(a) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary of State estimates is attributable to credit allowed for military and naval service.

(b) Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

(c) Requests for appropriations to the Fund under section 821(b) shall include reports to the Congress on the sums credited to the Fund under this section.

SEC. 823. ANNUITY ADJUSTMENT FOR RECALL SERVICE.—(a) Any annuitant recalled to duty in the Service under section 308(a) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 805. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 825 that became effective during the recall period.

(b) If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 815. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 806 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 806 in lieu of any other benefits under this section. Any annuitant who is recalled under section 308 may upon written application count as recall service any prior service that is creditable under section 816 that was performed after the separation upon which his or her annuity is based.

SEC. 824. REEMPLOYMENT.—(a) Notwithstanding any other law, any member of the Service who has retired and is receiving an annuity under this chapter, and who is reemployed in the Government service in any part-time or full-time appointive position, shall be entitled to receive the salary of the position in which he or she is serving plus so much of the annuity payable under this chapter which when combined with such salary does not exceed during any calendar year the basic salary the member was entitled to receive under this Act on the date of retirement from the Service. Any such reemployed member of the Service who receives salary during any calendar year in excess of the maximum amount which he or she may be entitled to receive under this subsection shall be entitled to such salary in lieu of benefits under this chapter.

(b) When any such retired member of the Service is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such member the salary of the position in which he or she is serving.

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annuity payments, payable under this chapter.

SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) The voluntary contribution account shall be the sum of unrefunded amounts voluntarily contributed prior to the effective date of this Act by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

(1) returned in a lump sum;

(2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or

(4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) The benefits provided by subsection (a)(2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 815(f).

SEC. 826. COST-OF-LIVING ADJUSTMENTS OF ANNUITIES.—(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Each such increase shall be applied to each annuity payable from the Fund which has a commencing date not later than the effective date of the increase.

(b) Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

(1) An annuity (except a deferred annuity) payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse or former spouse of a deceased participant who dies in service or who dies after being separated with benefits under section 609(b)(2), which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase. In the administration of this paragraph, the number of days of unused sick leave to the credit of a participant or deceased participant on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

(2) Effective from its commencing date, an annuity payable from the Fund to the survivor of an annuitant, except a child en-

titled to an annuity under section 806(c) or 809 (c) or (d), shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 806 (c) or (d) or 809 (c) or (d), the items $900, $1,080, $2,700, and $3,240 appearing in section 806(c) shall be increased by the total percentage increases by which corresponding amounts are being increased under section 8340 of title 5, United States Code, on the date the annuity of the child becomes effective.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except such installment shall after adjustment reflect an increase of at least $1.

(f) Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

SEC. 827. COMPATIBILITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

(b) The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System. Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

(2) any prior provision of an Executive order issued under this section.

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

SEC. 901. TTRAVEL AND RELATED EXPENSES.—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

(1) proceeding to and returning from assigned posts of duty;

(2) authorized or required home leave;

(3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;

(4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;

(5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

(6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour unbroken by home leave and of 2 round trips during any continuous 3-year tour unbroken by home leave;

(7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

(8) trips by a member of the Service for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

(9) round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;

(10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status;

(11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Service post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters; and

(C) in connection with separation of the member from the Service, except that costs or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months;

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or part of the distance between points of origin and destination, but transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the member and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of Chapter 33 of title 5, United States Code (notwithstanding section 3375(a) of such title, if an agreement similar to that required by section 3375(b) of such title is executed by the member of the Service); and

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5, United States Code; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the port of entry in the contiguous 48 States which is nearest to that post.

SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personality owned or leased residences.

SEC. 903. REQUIRED LEAVE IN THE UNITED STATES.—(a) The Secretary may order a member of the Service who is a citizen of the United States to take a leave of absence under section 6305 of title 5, United States Code (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of 18 months of continuous service abroad. The Secretary shall order on such a leave of absence a member of the Service who is a citizen of the United States as soon as possible after completion by that member of 3 years of continuous service abroad.

(b) Leave ordered under this section may be taken in the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

(c) While on a leave of absence ordered under this section, the services of any member of the Service shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave.

SEC. 904. HEALTH CARE.—(a) The Secretary of State may establish a health care program of members of the Service, and (when incident to service abroad) other designated eligible Government employees, and members of the families of such members and employees.

(b) Any such health care program may include (1) medical examinations for applicants for employment, (2) medical examinations and inoculations or vaccinations for members of the Service and employees of the Department who are citizens of the United States and for members of their families and (3) examinations necessary in order to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System or to provide survivor benefits under chapter 8.

(c) The Secretary of State may establish health care facilities and provide for the services of physicians, nurses, or other health care personnel at Foreign Service posts abroad at which, in the opinion of the Secretary of State, a sufficient number of Government employees are assigned to warrant such facilities or services.

(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury, or medical condition clearly was caused or materially aggravated by the fact that the individual concerned is or has been located abroad.

(e) Health care may be provided under this section to a member of the Service or other designated eligible Government employee after the separation of such member or employee from Government service. Health care may be provided under this section to a member of the family of a member of the Service or of a designated eligible Government employee after the separation from Government service or the death of such member of the Service or employee or after dissolution of the marriage.

(f) The Secretary of State shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary of State determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary may, for such individuals, locations, and conditions as the Secretary of State deems appropriate, contract for health care pursuant to such arrangements as the Secretary deems appropriate.

SEC. 905. REPRESENTATION EXPENSES.—Notwithstanding section 5536 of title 5, United States Code, the Secretary may provide for official receptions and may pay entertainment and representational expenses (including expenses of family members) to enable the Department and the Service to provide for the proper representation of the United States and its interests. In carrying out this section, the Secretary shall, to the maximum extent practicable, provide for the use of United States products, including American wine.

CHAPTER 10—LABOR-MANAGEMENT RELATIONS

SEC. 1001. LABOR-MANAGEMENT POLICY.—The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of workers to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlement of disputes between workers and their employers involving conditions of employment;

(2) the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work practices to facilitate improved performance and efficiency; and

(3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this chapter should be interpreted in a maner consistent with the requirement of an effective and efficient Government.

SEC. 1002. DEFINITIONS.—As used in this chapter, the term—

(1) "Authority" means the Federal Labor Relations Authority, described in section 7104(a) of title 5, United States Code;

(2) "Board" means the Foreign Service Labor Relations Board, established by section 1006(a);

(3) "collective bargaining" means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining under the provisions of this chapter;

(5) "conditons of employment" means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practice, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5, United States Code;

(B) relating to the designation or classification of any position under section 501;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multiagency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

(6) "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(7) "dues" means dues, fees, and assessments;

(8) "employee" means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, or any individual who participates in a strike in violation of section 7311 of title 5, United States Code; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 1015 and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(9) "exclusive representative" means any labor organization which is certified as the exclusive representative of employees under section 1011;

(10) "General Counsel" means the General Counsel of the Authority;

(11) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 1101) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) "management official" means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 209; or

(F) is engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department;

(13) "Panel" means the Foreign Service Impasse Disputes Panel, established by section 1010(a); and

(14) "person" means an individual, a labor

organization, or an agency to which this chapter applies.

SEC. 1003. APPLICATION.—(a) This chapter applies only with respect to the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, and the Department of Commerce.

(b) The President may by Executive order exclude any subdivision of the Department from coverage under this chapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative or national security work, and

(2) the provisions of this chapter cannot be applied to that subdivision in a manner consistent with national security rerequirements and considerations.

(c) The President may by Executive order suspend any provision of this chapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

SEC. 1005. MANAGEMENT RIGHTS.—(a) Subject to subsection (b), nothing in this chapter shall affect the authority of any management official of the Department, in accordance with applicable law—

(1) to determine the mission, budget, organization, and international security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any members in accordance with regulations prescribed under section 605(b);

(3) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(4) to fill positions from any appropriate source;

(5) to determine the need for uniform personnel policies and procedures between or among the agencies to which this chapter applies; and

(6) to take whatever actions may be necessary to carry out the mission of the Department during emergencies.

(b) Nothing in this section shall preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the Department will observe in exercising any function under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section by such management officials.

SEC. 1006. FOREIGN SERVICE LABOR RELATIONS BOARD.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Labor Relations Board. The Board shall be composed of 3 members, 1 of whom shall be the Chairman of the Authority, who shall be the Chairperson of the Board. The remaining 2 members shall be appointed by the Chairperson of the Board from nominees approved in writing by the agencies to which this chapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, the Chairperson shall appoint the remaining 2 members from among indivduals the Chairperson considers knowledgeable in labor-management relations and the conduct of foreign affairs.

(b) The Chairperson shall serve on the Board while serving as Chairman of the Authority. Of the 2 original members of the Board other than the Chairperson, one shall be appointed for a 2-year term and one shall be appointed for a 3-year term. Thereafter, each member of the Board other than the Chairperson shall be appointed for a term of 3 years, except that an individual appointed to fill a vacancy occurring before the end of a term shall be appointed for the unexpired term of the member replaced. The Chairperson may at any time designate an alternate Chairperson from among the members of the Authority.

(c) A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(d) The members of the Board, other than the Chairperson, may not hold another office or position in the Government except as authorized by law, and shall receive compensation at the daily equivalent of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day they are performing their duties (including traveltime).

(e) The Chairperson may remove any other Board member, upon written notice, for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

SEC. 1007. FUNCTIONS OF THE BOARD.—(a) The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this chapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 1014; and

(5) take any action considered necessary to administer effectively the provisions of this chapter.

(b) Decisions of the Board under this chapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, United States Code, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this chapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5, United States Code.

(c) In order to carry out its functions under this chapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this chapter; and

(2) the Board may—

(A) adopt other regulations concerning its functions under this chapter;

(B) conduct appropriate inquiries wherever persons subject to this chapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas;

(E) require the Department or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action the Board considers appropriate to carry out this chapter; and

(F) consistent with the provisions of this chapter, exercise the functions the Authority has under chapter 71 of title 5, United States Code, to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

SEC. 1008. FUNCTIONS OF THE GENERAL COUNSEL.—The General Counsel may—

(1) investigate alleged unfair labor practices under this chapter,

(2) file and prosecute complaints under this chapter, and

(3) exercise such other powers of the Board as the Board may prescribe.

SEC. 1009. JUDICIAL REVIEW AND ENFORCEMENT.—(a) Except as provided in section 1014(d), any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia.

(b) The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this chapter and for any appropriate temporary relief or restraining order.

(c) Subsection (c) of section 7123 of title 5, United States Code, shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5, United States Code.

(d) The Board may, upon issuance of a complaint as provided in section 1016 charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed.

SEC. 1010. FOREIGN SERVICE IMPASSE DISPUTES PANEL.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this chapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows:

(1) 2 members of the Service (other than a management official, a confidential employee, or a labor organization official);

(2) one individual employed by the Department of Labor;

(3) one member of the Federal Service Impasses Panel; and

(4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Panel members refered to in subsection (a) (3) and (4) shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, except that the member who is also a member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) of title 5, United States Code. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5, United States Code.

(c)(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impassed and shall either—

(A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or

(B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

(A) hold hearings;

(B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas as provided in section 7132 of title 5, United States Code; and

(C) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

SEC. 1011. EXCLUSIVE RECOGNITION.—(a) The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

(c) A labor organization which—

(1) has been designed by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d)(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose—

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the regulations of the Board shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influence or influences opposed to democratic principles; or

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at least 30 percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Board.

SEC. 1012. EMPLOYEES REPRESENTED.—The employees of the Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded—

(1) employees engaged in personnel work in other than a purely clerical capacity; and

(2) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

SEC. 1013. REPRESENTATION RIGHTS AND DUTIES.—(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 1012. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(b)(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning any grievance (as defined in section 1101) or any personnel policy or practice or other general condition of employment; and

(B) any examination of an employee by a Department representative in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 1010, to assist in any negotiation.

(d) The rights of an exclusive representative under this section shall not preclude an employee from—

(1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any grievance proceeding under chapter 11; or

(2) exercising grievance or appeal rights established by law, rule, or regulation.

(e) The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;

(4) for the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data—

(A) which is normally maintained by the Department in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or confidential employees, relating to collective bargaining;

(5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and

(6) if agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

(f)(1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within 30 days after the date of the agreement unless the Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after 30 days from its execution and shall be

binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

(g) The Department shall consult with the exclusive representative with respect to Government-wide or multiagency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system. The exclusive representative shall be informed of any change proposed by the Department with respect to such matters, and shall be permitted reasonable time to present its views and recommendations regarding such change. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

SEC. 1014. RESOLUTION OF IMPLEMENTATION DISPUTES.—(a) Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall—

(1) to be fair and simple,

(2) provide for expeditious processing, and

(3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled.

(b) Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board in resolving the implementation dispute. If, upon review, the Board finds that the action is deficient—

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Board may take such action and make such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

(c) If no exception to a Foreign Service Grievance Board action is filed under subsection (b) within 30 days after such action is communicated to the parties, such action shall become final and binding and shall be implemented by the parties.

(d) Resolutions of disputes under this section shall not be subject to judicial review.

SEC. 1015. UNFAIR LABOR PRACTICES.—(a) It shall be an unfair labor practice for the Department—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit, or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of title 5, United States Code) which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to fail or refuse otherwise to comply with any provision of this chapter.

(b) It shall be an unfair labor practice for a labor organization—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause the Department to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;

(4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with the Department, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department in a labor-management dispute (except that any such picketing in the United States which does not interfere with the Department's operations shall not be an unfair labor practice); or

(B) to condone any unfair labor practice described in subparagraph (A) by failing to take action to prevent or stop such activity;

(8) to deny membership to any employee in the unit represented by the labor organization except—

(A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or

(B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this chapter; or

(9) to fail or refuse otherwise to comply with any provision of this chapter.

(c) The expression of any personal view, argument, or opinion, or the making of any statement, which—

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;

(2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation.

if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

(A) constitute an unfair labor practice under this chapter, or

(B) constitute grounds for the setting aside of any election conduced under this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 1109(b), an employee has an option of using the grievance procedure under chapter 11 or an appeals procedure, issues which can be raised under section 1014 or chapter 11 may, in the discretion of the aggrieved party, be raised either under such section or chapter or else raised as an unfair labor practice under this section, but may not be raised both under tihs section and under section 1014 or chapter 11.

SEC. 1016. PREVENTION OF UNFAIR LABOR PRACTICES.—(a) If the Department or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the Department or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to sate an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing acomplaint.

(b) Any complaint under subsection (a) shall contain a notice—

(1) of the charge;

(2) that a hearing will be held before the Board (or any member thereof or before an individual employed by the Board and designated for such purpose); and

(3) of the time and place fixed for the hearing.

(c) The labor organization or Department involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(d)(1) Except as provided in paragraph (2), no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Board.

(2) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in paragraph (1) by reason of—

(A) any failure of the Department or labor organization against which the charge is made to perform a duty owed to the person, or

(B) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(e) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(f) The Board (or any member thereof or any individual employed by the Board and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Board, in its discretion, may upon notice receive further evidence or hear argument.

(g) If the Board (or any member thereof or any individual employed by the Board and designated for such purpose) determines after any hearing on a complaint under subsection (f) that the preponderance of the evidence received demonstrates that the Department or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the Department or labor organization an order—

(1) to cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) requiring reinstatement of an employee with backpay in accordance with section 5596 of title 5, United States Code; or

(4) including any combination of the actions described in paragraphs (1) through (3) or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the Department (as provided in section 5596 of title 5, United States Code) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(h) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the Department or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

SEC. 1017. STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS.—(a) The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary or Labor for Labor Management Relations, provide for bonding of officials and others employed by the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such management official or such employee.

(f) If the Board finds that any labor organization has willfully and intentionally violated section 1015(b)(7) by omission or commission with regard to any strike, work stoppage, slowdown, the Board shall—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

SEC. 1018. ADMINISTRATIVE PROVISIONS.—(a) If the Department has received from any individual a written assignment which authorizes the Department to deduct from the salary of that individual amounts for the payment of regular and periodic dues of the exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) An assignment for deduction of dues shall terminate when—

(1) the labor organization ceases to be the exclusive representative;

(2) the individual ceases to receive a salary from the Department as a member of the Service; or

(3) the individual is suspended or expelled from membership in the exclusive representative.

(c) During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 1011(b)(1)(A) alleging that 10 percent of the employees in the Department have membership in the organization if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the salary of the individuals who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

(d) The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials, and collection of dues, shall be performed during the time the employee is in a nonduty status.

(3) Except as provided in paragraph (1), the Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2), and (3), any employee representing an exclusive representative, or engaged in any other matter covered by this chapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary, and in the public interest.

CHAPTER 11—GRIEVANCES

SEC. 1101. DEFINITION OF GRIEVANCE.—(a)(1) Except as provided in subsection (b), for purposes of this chapter, the term "grievance" means any act, omission, or condition subject to the control of the Secretary which is alleged to deprive a member of the Service who is a citizen of the United States of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including—

(A) separation of the member allegedly contrary to laws or regulations, or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial character of information in any part of the official personnel record of the member;

(B) other alleged violation, misinterpretation, or misapplication of applicable laws, regulations, or published policy affecting the terms and conditions of the employment or career status of the member;

(C) allegedly wrongful disciplinary action against the member;

(D) dissatisfaction with respect to the working environment of the member;

(E) alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(F) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by the member in procedures under this chapter; and

(G) alleged denial of an allowance, premium pay, or other financial benefit to which the member claims entitlement under applicable laws or regulations.

(2) The scope of grievances described in paragraph (1) may be modified by written agreement between the Department and the labor organization accorded recognition as

the exclusive representative under chapter 10 (hereinafter in this chapter referred to as the "exclusive representative").

(b) For purposes of this chapter, the term "grievance" does not include—

(1) an individuaul assignment of a member under chapter 5, other than an assignment alleged to be contrary to law or regulation;

(2) the judgment of a selection board established under section 602, a tenure board established under section 306(b), or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis;

(3) the expiration of a limited appointment, the termination of a liimted appointment under section 611, or the denial of a limited career extension or of a renewal of a limited career extension under section 607 (b); or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1109(b).

(c) This chapter applies only with respect to the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, and the Department of Commerce.

SEC. 1102. GRIEVANCES CONCERNING FORMER MEMBERS.—Within the time limitations of section 1104, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this chapter only with respect to allegations described in section 1101(a)(1)(G).

SEC. 1103. FREEDOM OF ACTION.—(a) Any individual filing a grievance under this chapter (hereinafter in this chapter referred to as the "grievant"), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them.

(b)(1) the grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this chapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not represented in the grievance by that exclusive representative, the exclusive representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this chapter.

(c) Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this chapter.

(d)(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant, or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance.

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

(e) The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

SEC. 1104. TIME LIMITATIONS.—(a) A grievance is forever barred unless it is filed with the Department within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative. There shall be excluded from the computation of any such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

SEC. 1105. FOREIGN SERVICE GRIEVANCE BOARD.—(a) There is established the Foreign Service Grievance Board (hereinafter in this chapter referred to as the "Board"). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

(b) The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this chapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be appointed for a term of 2 years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary of State in accordance with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each such agency and exclusive representative shall select 2 nominees and shall, in an order determined by lot, in turn strike a name from a list of such nominees until only one name remains. For purposes of this section, the nominee whose name remains shall be deemed to be approved in writing by each such agency head and exclusive representative.

(c) Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(d) The Secretary of State may, upon written notice, remove a Board member for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing (unless the right to a hearing is waived in writing by the Board member).

(e) The Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the travel and travel-related expenses of a grievant, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The individuals so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such individuals. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department of State under appropriate safeguards to preserve confidentiality.

SEC. 1106. BOARD PROCEDURES.—The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following:

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves—

(A) disciplinary action or the retirement of a grievant from the Service under section 607 or 608, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the representatives of the grievant, the exclusive representative (if the grievant is a member of the bargaining unit represented by the exclusive representative), and the representatives of the Department are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given under oath, which any Board member or individual designated by the Board shall have authority to administer.

(3) Each party (including an exclusive representative appearing in the proceedings) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial, or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received, but the Board shall exclude any irrelevant, immaterial, or unduly repetitious evidence, as determined under section 556 of title 5, United States Code.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board does not hold a hearing, the Board shall afford to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to the decision by the Board. The decision of the Board shall be based exclusively on the record of proceedings.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this chapter to the Board shall be considered to be references to a panel or member of the Board where appropriate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant, disciplinary action against the grievant, or recovery from

the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board and that such action should be suspended, the Department shall suspend such action until the Board has ruled upon the grievance. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned.

(9) The Board may reconsider any decision upon presentation of newly discovered or previously unavailable material evidence.

SEC. 1107. BOARD DECISIONS.—(a) Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the basis of the record of proceedings. In each case the decision of the Board shall be in writing, and shall include findings of fact and a statement of the reasons for the decision of the Board.

(b) If the Board finds that the grievance is meritorious, the Board shall have the authority to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate or erroneous, to have an omission, or to contain information of a falsely prejudicial character;

(2) to reverse a decision denying the grievant compensation or any other perquisite of employment authorized by laws or regulations when the Board finds that such decision was arbitrary, capricious, or contrary to laws or regulations;

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant, and to grant the grievant back pay in accordance with section 5596(b)(1) of title 5 United States Code;

(5) to pay reasonable attorney fees to the grievant to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under section 7701(g) of title 5 United States Code; and

(6) to take such other remedial action as may be appropriate under procedures agreed to by the Department and the exclusive representative if any).

(c) Except as provided in subsection (d), decisions of the Board under this chapter shall be final, subject only to judicial review as provided in section 1110.

(d) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion or assignment of the grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence before it warrants disciplinary action against any employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the recommendation of the Board within 30 days after receiving the recommendation. The Secretary shall implement the recommendation of the Board except to the extent that, in a decision made within that 30-day period, the Secretary rejects the recommendation in whole or in part on the basis of a determination that implementation of the recommendation would be contrary to law or would adversely affect the foreign policy or national security of the United States. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action. Pending the decision of the Secretary, there shall be no ex parte communication concerning the grievance between the Secretary and any person involved in the proceedings of the Board. The Secretary shall, however, have access to the entire record of the proceedings of the Board.

SEC. 1108. ACCESS TO RECORDS.—(a) If a grievant is denied access to any agency record prior to or during the consideration of the grievance by the Department the grievant may raise such denial before the Board in connection with the grievance.

(b) In considering a grievance the Board shall have access to any agency record as follows:

(1)(A) The Board shall request access to any agency record which the grievant requests to substantiate the grievance if the Board determines that such record may be relevant and material to the grievance.

(B) The Board may request access to any other agency record which the Board determines may be relevant and material to the grievance.

(2) Any agency shall make available to the Board any agency record requested under paragraph (1) unless the head or deputy head of such agency personally certifies in writing to the Board that disclosure of the record to the Board and the grievant would adversely affect the foreign policy or national security of the United States or that such disclosure is prohibited by law. If such a certification is made with respect to any record, the agency shall supply to the Board a summary or extract of such record unless the reasons specified in the preceding sentence preclude such a summary or extract.

(c) If the Board determines that an agency record, or a summary or extract of a record, made available to the Board under subsection (b) is relevant and material to the grievance, the agency concerned shall make such record, summary, or extract, as the case may be, available to the grievant.

(d) In considering a grievance, the Board may take into account the fact that the grievant or the Board was denied access to an agency record which the Board determines is or may be relevant and material to the grievance.

(e) The grievant in any case decided by the Board shall have access to the record of the proceedings and the decision of the Board.

SEC. 1109. RELATIONSHIP TO OTHER REMEDIES.—(a) A grievant may not file a grievance with the Board if the grievant has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided under another provision of law, regulation, or Executive order, other than under section 1206 of title 5, United States Code, and the matter has been carried to final decision under such provision on its merits or is still under consideration.

(b) If a grievant is not prohibited from filing a grievance under subsection (a), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5, United States Code, or a regulation or Executive order other than under this chapter. An election of remedies under this section shall be final upon the acceptance of jurisdiction by the Board.

SEC. 1110. JUDICIAL REVIEW.—Any aggrieved party may obtain judicial review of a final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, United States Code. Section 706 of title 5, United States Code, shall apply without limitation or exception.

TITLE III—TRANSITION, AMENDMENTS TO OTHER LAWS, AND MISCELLANEOUS PROVISIONS

CHAPTER 1—TRANSITION

SEC. 2101. PAY AND BENEFITS PENDING CONVERSION.—Until converted under the provisions of this chapter, any individual who is in the Foreign Service before the effective date of this Act and is serving under an appointment as a Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer with limited or unlimited tenure, or Foreign Service staff officer or employee, shall be treated for purposes of salary, allowances, and other matters as if such individual had been converted under section 2102 or 2103, as the case may be, on the effective date of this Act, except that any adjustment of salary under this section shall take effect—

(1) in the case of an individual who is in the Foreign Service on the date of enactment of this Act, on the first day of the first day of the first pay period which begins on or after October 1, 1980, and

(2) in the case of an individual who is appointed to the Foreign Service after the date of enactment of this Act, on the date such appointment becomes effective.

SEC. 2102. CONVERSION TO THE FOREIGN SERVICE SCHEDULE.—(a) Not later than 120 days after the effective date of this Act, the Secretary shall, in accordance with section 2106, convert to the appropriate class in the Foreign Service Schedule established under section 403 of this Act those individuals in the Foreign Service who are serving immediately before the effective date of this Act under appointments at or below class 3 of the Schedule established under section 412 or 414 of the Foreign Service Act of 1946, or at any class in the schedule established under section 415 of such Act, as—

(1) Foreign Service officers, or

(2) Foreign Service Reserve officers with limited or unlimited tenure, and Foreign Service officers or employees, who the Secretary determines are available for worldwide assignment.

(b) Not later than 3 years after the effective date of this Act, Foreign Service Reserve officers and staff officers and employees who the Secretary determines under subsection (a)(2) are not available for worldwide assignment shall also be converted, in accordance with section 2106, to the appropriate class in the Foreign Service Schedule established under section 403 if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they agree in writing to accept availability for worldwide assignment as a condition of continued employment.

SEC. 2103. CONVERSION TO THE SENIOR FOREIGN SERVICE.—(a) Foreign Service officers and Foreign Service Reserve officers with limited or unlimited tenure who, immediately before the effective date of this Act, are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 may at any time within 120 days after such date submit to the Secretary a written request for appointment to the Senior Foreign Service.

(b) Except as provided in subsection (d), if a request is submitted under subsection (a) by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant to such officer a limited appointment to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(c) If a request is submitted under subsection (a) by a Foreign Service officer or, except as provided in subsection (d), a Foreign Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(d) If the Secretary determines that a

Foreign Service Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for worldwide assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer agrees in writing to accept availability for worldwide assignment as a condition of continued employment.

(e) If a Foreign Service officer or a Foreign Service Reserve officer who is eligible to submit a request under subsection (a) submits a written request for appointment to the Senior Foreign Service to the Secretary more than 120 days after the effective date of this Act and before the end of the 3-year period beginning on such effective date, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment to, or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of, the requesting officer to the appropriate class established under section 402 of this Act, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe consistent with the provisions of chapter 6 of title I of this Act relating to promotion into the Senior Foreign Service.

(f) Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit a request under subsection (a), or

(2) who submits such a request more than 120 days after the effective date of this Act and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may not remain in the Foreign Service for more than 3 years after the effective date of this Act. During such period, the officer shall be subject to the provisions of title I of this Act applicable to members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 405, and shall not be eligible for a limited career extension as described in section 607(b). Upon separation from the Service, any such officer who is a participant in the Foreign Service Retirement and Disability System shall be entitled to retirement benefits determined in accordance with chapter 8 of title I of this Act.

SEC. 2104. CONVERSION FROM THE FOREIGN SERVICE.—(a) In the case of any individual in the Foreign Service who, immediately before the effective date of this Act, is serving under an appointment described in section 2102(a) or 2103(a) and who is not converted under section 2102 or section 2103 because such individual does not meet the conditions specified in section 2102(b) or 2103(d), the Secretary shall, not later than 3 years after the effective date of this Act, provide that—

(1) the position such individual holds shall be subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

(2) such individual shall be appointed to such position without competitive examination; and

(3) such position shall be considered to be in the competitive service so long as the individual continues to hold that position;

except that any such individual who meets the eligibility requirements for the Senior Executive Service and who elects to join that Service shall be converted by the Secretary to the Senior Executive Service in the appropriate rate of basic pay established under section 5382 of title 5, United States Code.

(b) In the case of individuals in the Foreign Service in the International Communication Agency who immediately before the date of enactment of this Act are covered by a collective bargaining agreement between the Agency and the exclusive representative of those individuals, the 3-year period referred to in subsection (a) shall begin on July 1, 1981.

SEC. 2105. CONVERSION OF CERTAIN PROVISIONS IN THE DEPARTMENT OF AGRICULTURE.—(a) Not later than 15 days after the effective date of this Act, the Secretary of Agriculture shall—

(1) designate and classify under section 501 of this Act those positions in the Foreign Agricultural Service under the General Schedule described in section 5332 of title 5, United States Code, which the Secretary of Agriculture determines are to be occupied by career members of the Foreign Service, and

(2) provide written notice to individuals holding those positions of such designation and classification of the personnel category under secton 103 which will apply to such individual.

(b) Each employee serving in a position at the time it is designated under subsection (a) shall, not later than 120 days after notice of such designation, elect—

(1) to accept conversion to the Foreign Service, in which case such employee shall be converted in accordance with the provisions of subsection (c); or

(2) to decline conversion to the Foreign Service and have the provisions of subsection (d) apply.

(c)(1) The Secretary of Agriculture shall recommend to the President for appointment to the appropriate class (as determined under paragraph (2)), by and with the advice and consent of the Senate, those employees who elect conversion under subsection (a)(1).

(2) The Secretary of Agriculture shall appoint as Foreign Service personnel those employees who elect to accept conversion and who are not eligible for appointment under paragraph (1).

(d) Any employee who declines conversion under subsection (b)(2) shall for so long as that employee continues to hold the designated position be deemed to be a member of the Foreign Service for purposes of allowances, differentials, and similar benefits (as determined by the Secretary of Agriculture).

SEC. 2106. PRESERVATION OF STATUS AND BENEFITS.—(a)(1) Every individual who is converted under this chapter shall be converted to the class or grade and pay rate that most closely corresponds to the class or grade and step at which the individual was serving immediately before conversion. No conversion under this chapter shall cause any individual to incur a reduction in his or her class, grade, or basic rate of salary.

(2) An individual converted under section 2104 to a position in the competitive service shall be entitled to have that position, or any other position to which the individual is subsequently assigned (other than at the request of the individual), be considered for all purposes as at the grade which corresponds to the class in which the individual served immediately before conversion so long as the individual continues to hold that position.

(b)(1) Any participant in the Foreign Service Retirement and Disability System who would, but for this paragraph, participate in the Civil Service Retirement and Disability System by virtue of conversion under this chapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in the Foreign Service Retirement and Disability System would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the Civil Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is not made, the individual shall then be covered by the Civil Service Retirement and Disability System and contributions made by the participant to the Foreign Service Retirement and Disability Fund shall be transferred to the Civil Service Retirement and Disability Fund.

(2) Any Foreign Service Reserve officer with limited tenure who has reemployment rights to a personnel category in the Foreign Service in which he or she would be a participant in the Foreign Service Retirement and Disability System and who would, but for this paragraph, continue to participate in the Civil Service Retirement and Disability System by virtue of conversion under section 2104 may elect, during the 120-day period beginning on the date of such conversion, to become a participant in the Foreign Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is made, the individual shall be transferred to the Foreign Service Retirement and Disability System and contributions made by that individual to the Civil Service Retirement and Disability Fund shall be transferred to the Foreign Service Retirement and Disability Fund.

(c) Individuals who are converted under this chapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion, except that this chapter shall not operate to extend the duration of any limited appointment or previously applicable time in class.

(d) Any individual who on the effective date of this Act is serving—

(1) under an appointment in the Foreign Service, or

(2) in any other office or position continued by this Act,

may continue to service under such appointment, subject to the provisions of this Act, and need not be reappointed by virtue of the enactment of this Act.

(e) Any individual in the Foreign Service—

(1) who is serving under a career appointment on the date of enactment of this Act, and

(2) who was not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately before the effective date of this Act,

may not be retired under section 608 of this Act until 10 years after the effective date of this Act or when such individual first becomes eligible for an immediate annuity under chapter 8 of title I of this Act, whichever occurs first.

SEC. 2107. REGULATIONS.—Under the direction of the President, the Secretary shall prescribe regulations for the implementation of this chapter.

SEC. 2108. AUTHORITY OF OTHER AGENCIES.—The heads of agencies other than the Department of State which utilize the Foreign Service personnel system shall perform functions under this chapter in accordance with regulations precribed by the Secretary of State under section 2107. Such agency heads shall consult with the Secretary of State in the exercise of such functions.

SEC. 2109. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any participant or former participant in the Foreign Service

Retirement and Disability System who on February 15, 1981, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 814(b).

(b) (1) If the participant or former participant has not retired under such system on or before February 15, 1981, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before February 15, 1981, an election under this section may be made within such period after February 15, 1981, as the Secretary of State may prescribe.

(3) For purposes of applying chapter 8 of title I, any such election shall be treated the same as if it were a spousal agreement under section 820(b)(1).

(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivors benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 806(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 806(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) February 15, 1981, in the case of an election under subsection (b)(2).

(e) For purposes of this section, the terms "former spouse", "participant", and "spousal agreement" have the meanings given such terms in sections 803 and 804.

CHAPTER 2—PROVISIONS RELATING TO FOREIGN AFFAIRS AGENCIES

SEC. 2201. BASIC AUTHORITIES OF THE DEPARTMENT OF STATE.—(a) The Act entitled "an Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by adding at the end thereof the following new sections:

"SEC. 25. (a) The Secretary may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress.

"(b) Any unconditional gift of money accepted under subsection (a), the income from any gift property held under subsection (c) or (d) except income made available for expenditure under subsection (d)(2)), the net proceeds from the liquidation of gift property under subsection (c) or (d), and the proceeds of insurance on any gift property which are not used for its restortation, shall be deposited in the Treasury of the United States. Such funds are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefits of the Department of State (including the Foreign Service). The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such funds and the income from such investments shall be available for expenditure in the operation of the Department of State (including the Foreign Service) and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by the Congress.

"(c) The evidences of any unconditional gift of intangible personal property (other than money) accepted under subsection (a), shall be deposited with the Secretary of the Treasury who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department of State (including the Foreign Service) or the performance of its functions.

"(d)(1) The Secretary of State shall hold any real property or any tangible personal property accepted unconditionally pursuant to subsection (a) and shall either use such property for the operation of the Department of State (including the Foreign Service) and the performance of its functions or lease or hire such property, except that any such property not required for the operation of the Department of State (including the Foreign Service) or the performance of its functions may be liquidated by the Secretary of State whenever in the judgment of the Secretatry of State the purposes of the gift will be served thereby. The Secretary of State may insure any property held under this subsection. Except as provided in paragraph (2), the Secretary shall deposit the income from any property held under this subsection with the Secretary of the Treasury as provided in subsection (b).

"(2) The income from any real property or tangible personal property held under this subsection shall be available for expenditure at the discretion of the Secretary of State for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured.

"(e) For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted under this section shall be deemed to be a gift, devise, or bequest to and for the use of the United States.

"(f) The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.

"SEC. 26. (a) The Secretary of State may, without regard to section 3106 of title 5, United States Code, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member's work efficiently.

"(b) The authority available to the Secretary of State under this section shall be available to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.

"SEC. 27. (a) In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies.

"(b) Any member of a family of a member of the Foreign Service may accept gainful employment in a foreign country unless such employment—

"(1) would violate any law of such country or of the United States; or

"(2) could, as certified in writing by the United States chief of mission to such country, damage the interests of the United States.

"SEC. 28. The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

"SEC. 29. Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secrtary may, in such manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926, and of paragraphs (h) and (l) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include hiring, transporting, and payment of teachers and other necessary personnel.

"SEC. 30. (a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections.

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

"(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as may be determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, the United States Code, and with the same effect.

"(e) for purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

"(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for such damage or injury.

"(g) For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States chief of mission or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.

"Sec. 31. (a) The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular, and other missions and posts abroad. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292–200) and section 13 of this Act may be utilized by the Secretary in providing such assistance.

"(b) The Secretary may establish and maintain emergency commissary or mess services in places abroad where, in the judgment of the Secretary, such services are necessary temporarily to insure the effective and efficient performance of official duties and responsibilities. Reimbursements incident to the maintenance and operation of commissary or mess service under this subsection shall be at not less than cost as determined by the Secretary and shall be used as working funds, except that an amount equal to the amount expended for such services shall be covered into the Treasury as miscellaneous receipts.

"(c) Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad. Such services and facilities shall not be established in localities where another agency operates similar services or facilities unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

"(d) Charges at any post abroad for a service or facility provided, authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.

"Sec. 32. The Secretary of State may pay, without regard to section 5702 of title 5, United States Code, subsistence expenses of (1) security officers of the Department of State who are on authorized protective missions, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status.

"Sec. 33. This Act may be cited as the 'State Department Basic Authorities Act of 1956'.".

(b) Section 13(a) of such Act (22 U.S.C. 2684(a)) is amended by striking out "Foreign Service Act of 1946, as amended" and inserting in lieu thereof "Foreign Service Act of 1980".

Sec. 2202. Peace Corps Act.—(a) Section 5 of the Peace Corps Act (22 U.S.C. 2504) is amended—

(1) in subsection (f)(1)—

(A) in subparagraph (A) by striking out "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092 (a)(1))," and inserting in lieu thereof "section 816(a) of the Foreign Service Act of 1980", and

(B) in subparagraph (B) by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980"; and

(2) in subsection (h)—

(A) by striking out "section 1091 of the Foreign Service Act of 1946" and inserting in lieu thereof "section 30 of the State Department Basic Authorities Act of 1956", and

(B) by striking out "Director of ACTION" and inserting in lieu thereof "President".

(b)(1) Section 7(a) of the Peace Corps Act (22 U.S.C. 2506(a)) is amended—

(A) in paragraph (1)—

(i) by striking out ", who shall receive compensation at any of the rates provided for persons appointed to the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980";

(ii) by striking out "section 528" and inserting in lieu thereof "section 310"; and

(iii) by striking out "Reserve" the last place it appears and all that follows and inserting in lieu thereof a period; and

(B) by amending paragraph (2) to read as follows:

"(2) The President may utilize such authority contained in the Foreign Service Act of 1980 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that—

"(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than five years unless the Director of the Peace Corps, under special circumstances, personally approves an extension of not more than one year on an individual basis; and

"(B) no individual whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to the preceding tour of duty of that individual.

Such provisions of the Foreign Service Act of 1980 as the President deems appropriate shall apply to individuals appointed or assigned under this paragraph, including in all cases, the provisions of section 310 of that Act, except that (i) the President may by regulation make exceptions to the application of section 310 in cases in which the period of the appointment or assignment exceeds thirty months, (ii) members of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases in accordance with such regulations as the President may prescribe, and (iii) under such regulations as the President may prescribe, individuals who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service assigned to class 9 in the Foreign Service Schedule may be appointed to an unenumerated class ranking below class 9 in the Foreign Service Schedule and be paid basic compensation at rates lower than those for class 9, except that such rates may be no less than the then applicable minium wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1).".

(2) Section 7(a)(4) of the Peace Corps Act (22 U.S.C. 2506(a)(4) is amended—

(A) by striking out "Until" and all that follows through "paragraph or" and inserting in lieu thereof "An individual who has received an appointment or assignment in the Foreign Service under this subsection may, not later than September 30, 1982, or three years";

(B) by striking out "such person" and inserting in lieu thereof "such individual"; and

(C) by striking out "substantially continuous basis" and inserting in lieu thereof "continuous basis without a break in service of more than three days".

(c) Section 13(b) of the Peace Corps Act (22 U.S.C. 2512(b)) is amended by striking out "section 872 of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "section 824 of the Foreign Service Act of 1980,".

(d) Section 14(b) of the Peace Corps Act (22 U.S.C. 2513(b)) is amended by striking out "section 901 of the Foreign Service Act of 1946 (22 U.S.C. 1131))" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980".

(e) Section 15(a) of the Peace Corps Act (22 U.S.C. 2514) is amended by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service".

Sec. 2203. Foreign Assistance Act.—(a) Section 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(d)) is amended to read as follows:

"(d) For the purpose of performing functions under this Act outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, together with allowances and benefits under that Act. Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service.".

(b) Section 629(b) of such Act (22 U.S.C. 2389(b)) is amended by striking out "section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980".

(c) Section 631(b) of such Act (22 U.S.C. 2391(b)) is amended by amending the second sentence to read as follows: "Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate.".

(d) Section 631(c) of such Act (22 U.S.C. 2391(c)) is amended by striking out the second sentence and inserting in lieu thereof the following: "Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate. Such person (if not a United States Government employee who is assigned to serve as Chairman) shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 87, and 89 of title 5, United States Code.".

SEC. 2204. ARMS CONTROL AND DISARMAMENT ACT.—(a) Section 42 of the Arms Control and Disarmament Act (22 U.S.C. 2582) is amended to read as follows:

"FOREIGN SERVICE PERSONNEL

"SEC. 42. (a) The Secretary of State may authorize the Director to exercise, with respect to members of the Foreign Service appointed or employed for the Agency—

"(1) the authority available to the Secretary under the Foreign Service Act of 1980, and

"(2) the authority available to the Secretary under any other provisions of law pertaining specifically or applicable generally to members of the Foreign Service.

"(b) Limited appointments of members of the Foreign Service for the Agency may be extended or renewed, notwithstanding section 309 of the Foreign Service Act of 1980, so long as the service of the individual under such appointment does not exceed ten consecutive years without a break in service of at least one year.".

(b) Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by striking out "Foreign Service Act of 1946. as amended" and inserting in lieu thereof "Foreign Service Act of 1980".

SEC. 2205. REPEALED PROVISIONS.—The following are repealed:

(1) The Act entitled "An Act to improve, strengthen. and expand the Foreign Service of the United States and to consolidate and revise the laws relating to its administration", approved August 13. 1946, titles I through X of such Act being the Foreign Service Act of 1946 (22 U.S.C. 801–810. 816, 817, 821, 826, 837, 841–843, 846, 861, 866–873, 876, 877, 881, 882, 886, 889, 890, 896, 900, 901, 902, 906–915, 921–924, 926–928, 936–939, 946, 947, 951, 961–966, 968, 981, 986, 987, 991–996, 1001–1009, 1016, 1017, 1021, 1022, 1026–1028, 1031, 1036, 1037–1037c, 1041–1048, 1061–1065, 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091, 1093, 1095, 1101, 1103–1106, 1111, 1112, 1116, 1121, 1131, 1136–1138a, 1139, 1148–1151, and 1156–1160).

(2) Sections 401 and 413 of the Foreign Relations Authorization Act. Fiscal Year 1979 (92 Stat. 981, 986).

(3) Section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857).

(4) Sections 117, 120, and 522 of the Foreign Relations Authorization Act, Fiscal Year 1977 (90 Stat. 827, 829, 846).

(5) Section 6 of the Department of State Appropriations Authorization Act of 1973 (87 Stat. 452).

(6) The Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968 (22 U.S.C. 929–932, 1221–1234).

(7) Section 104(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(c)).

(8) Subsections (e), (g), (j), and (k) of section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385 (e), (g), (j), and (k)).

(9) Section 7(b) of the Peace Corps Act (22 U.S.C. 2506(b)).

(10) Sections 14 and 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2679a, 1680a).

(11) Section 124(a)(2) of the International Development and Food Assistance Act of 1977 (91 Stat. 542).

(12) The Act entitled "An Act to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system", approved May 21, 1952 (22 U.S.C. 1077, 1078).

(13) The Act entitled "An Act to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system", approved May 1, 1956 (22 U.S.C. 1079–1079f).

(14) The Act entitled "An Act to provide for adjustments in the annuities under the Foreign Service retirement and disability system", approved September 2, 1958 (22 U.S.C. 1079g–1079j).

(15) The Act entitled "An Act to provide for adjustments in the annuities under the Foreign Service retirement and disability system", approved July 12, 1960 (22 U.S.C. 1079l).

(16) The Foreign Service Annuity Adjustment Act of 1965 (22 U.S.C. 1079m–1079s).

SEC. 2206. OTHER CONFORMING AMENDMENTS.—(a)(1) Section 3(b) of the Asian Development Bank Act (22 U.S.C. 285a(b)) is amended by striking out "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "a chief of mission under the Foreign Service Act of 1980".

(2) The United Nations Participation Act of 1945 is amended—

(A) in section 2(g) (22 U.S.C. 287(g)) by striking out "sections 411 and 412 of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress) for chiefs of mission" and inserting in lieu thereof "sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service,"; and

(B) in section 8 (22 U.S.C. 287e) by striking out "section 901(3) of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980".

(3) Section 2 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor", approved July 30, 1946 (22 U.S.C. 287n), is amended by striking out "Foreign Service officers in the schedule contained in section 412 of the Foreign Service Act of 1946, as amended," and inserting in lieu thereof "members of the Senior Foreign Service under section 402 of the Foreign Service Act of 1980, or provided for Foreign Service officers under section 403 of that Act,".

(4) Section 2 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the World Health Organization and authorizing an appropriation therefor", approved June 14, 1948 (22 U.S.C. 290a), is amended by striking out "provided by section 412 of the Foreign Service Act of 1946, as amended," and inserting in lieu thereof "established under section 402 or 403 of the Foreign Service Act of 1980".

(5) Section 203(b) of the African Development Fund Act (22 U.S.C. 290g–1(b)) is amended by striking out "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "a chief of mission under the Foreign Service Act of 1980".

(6) Section 408 of the Mutual Security Act of 1954 (22 U.S.C. 1928) is amended—

(A) in subsection (a) by striking out "Foreign Service Act of 1946, as amended (22 U.S.C. 801)," and inserting in lieu thereof "Foreign Service Act of 1980";

(B) in subsection (b) by striking out "chief of mission, class 1, within the meaning of the Foreign Service Act of 1946, as amended (22 U.S.C. 801)" and inserting in lieu thereof "chief of mission under the Foreign Service Act of 1980"; and

(C) in subsection (c) by striking out "section 529 of this Act who are appointed as Foreign Service Reserve officers may serve for periods of more than five years notwithstanding the limitation in section 522 of the Foreign Service Act of 1946, as amended (22 U.S.C. 922)" and inserting in lieu thereof "section 628 of the Foreign Assistance Act of 1961 who are members of the Foreign Service serving under limited appointments may serve for periods of more than five years notwithstanding the limitation in section 309 of the Foreign Service Act of 1980".

(7) The International Atomic Energy Agency Participation Act of 1957 is amended—

(A) in section 2(d) (22 U.S.C. 2021(d))—

(i) in the first sentence by striking out "sections 411 and 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 866, 867), for Chiefs of Mission" and inserting in lieu thereof "sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service,", and

(ii) in the second sentence by striking out "by Chiefs of Mission" and inserting in lieu thereof "under the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service,"; and

(B) in section 5 (22 U.S.C. 2024)—

(i) by striking out "Foreign Service Act of 1946, as amended," and inserting in lieu thereof "Foreign Service Act of 1980", and

(ii) by striking "Foreign Service Act of 1946, as amended;" and inserting in lieu thereof "Foreign Service Act of 1980;".

(8) Section 704(b) of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2056(b)) is amended by striking out "title X, part C of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "section 25 of the State Department Basic Authorities Act of 1956".

(9) Section 104(d) of the Mutual Educa-

tional and Cultural Exchange Act of 1961 (22 U.S.C. 2454(d)) is amended by striking out "section 528" and all that follows through "such persons" and inserting in lieu thereof "section 310 of the Foreign Service Act of 1980 for individuals appointed to the Foreign Service".

(10) Section 5(a) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2605 (a)) is amended—

(A) in paragraph (1) by striking out "Foreign Service personel" and inserting in lieu thereof "members of the Foreign Service";

(B) in paragraph (2) by striking out "Foreign Service Reserve officers" and inserting in lieu thereof "members of the Foreign Service serving under limited appointments"; and

(C) in paragraph (4) by striking out "Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "Foreign Service Act of 1980".

(11) Section 403(c) of the International Development Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980".

(b)(1) Section 605A(h) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes", approved August 28, 1954 (7 U.S.C. 1765a(h)), is amended by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service".

(2) Section 606D of such Act (7 U.S.C. 1766c) is amended by striking out "title IX of the Foreign Service Act of 1946" and inserting in lieu thereof "chapter 9 of title I of the Foreign Service Act of 1980".

(c)(1) Section 2002(a) of title 10, United States Code, is amended—

(A) in the text preceding paragraph (1) by striking out "section 1041 of title 22" and inserting in lieu thereof "section 701(b) of the Foreign Service Act of 1980"; and

(B) in paragraph (2) by striking out "section 1041 of title 22" and inserting in lieu thereof "section 701(a) of the Foreign Service Act of 1980".

(d) Section 8(a)(1) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 906(a)(1)) is amended by striking out "section 901(2) of the Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and inserting in lieu thereof "section 5924 of title 5, United States Code".

(e)(1) Section 104(a)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081)" and inserting in lieu thereof "section 808 of the Foreign Service Act of 1980".

(2) Section 170(i) of the Internal Revenue Code of 1954 (26 U.S.C. 170(i)) is amended by amending paragraph (6) to read as follows:

"(6) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.".

(3) Section 912(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

"(A) chapter 9 of title I of the Foreign Service Act of 1980,".

(4) Section 2055(f)((5) of the Internal Revenue Code of 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

"(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.".

(f) Section 10(d) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(d)) is amended by striking out "title IX of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "chapter 9 of title I of the Foreign Service Act of 1980".

(g) Section 235 of title 38, United States Code, is amended—

(1) in paragraph (1) by striking out "Section 1131 of title 22" and inserting in lieu thereof "Section 905 of the Foreign Service Act of 1980";

(2) in paragraph (2) by striking out "Section 1136 (1), (2), (3), (4), (5), (7), and (11) of title 22" and inserting in lieu thereof "Sections 901 (1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980";

(3) in paragraph (3) by striking out "Section 1138 of title 22" and inserting in lieu thereof "Section 901(13) of the Foreign Service Act of 1980";

(4) in paragraph (4) by striking out "Section 1148 of title 22" and inserting in lieu thereof "Section 903 of the Foreign Service Act of 1980"; and

(5) in paragraph (5) by striking out "Section 1156 of title 22" and inserting in lieu thereof "Section 904(d) of the Foreign Service Act of 1980".

(h) Section 415(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5055(c)) is amended—

(1) in paragraph (1) by striking out "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other" and inserting in lieu thereof "any"; and

(2) in paragraph (2) by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980".

SEC. 2207. MODEL FOREIGN LANGUAGE COMPETENCE POSTS.—(a) In order to carry out the purposes of section 702 and to help ascertain the relationship between foreign language competence and the effectiveness of representation of the United States abroad, the Secretary of State shall designate as model foreign language competence posts at least two Foreign Service posts in countries where English is not the common language. Such designation shall be made no later than October 1, 1981, and shall be implemented so that no later than October 1, 1983, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.

(b) The posts designated under subsection (a) shall continue as model foreign language competence posts at least until September 30, 1985. The Secretary of State shall submit no later than January 31, 1986, a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the operation of such posts and the costs, advantages and disadvantages associated with meeting the foreign language competence requirements of this section.

(c) The Secretary of State may authorize exceptions to the requirements of this section if he determines that unanticipated exigencies so require. Such exceptions shall be annually reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 2301. REEMPLOYMENT RIGHTS.—(a) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Reemployment Following Limited Appointment in the Foreign Service

"§ 3597. Reemployment following limited appointment in the Foreign Service

"An employee of any agency who accepts, with the consent of the head of that agency, a limited appointment in the Foreign Service under section 309 of the Foreign Service Act of 1980 is entitled, upon the expiration of that appointment, to be reemployed in that employee's former position or in a corresponding or higher position in that agency. Upon reemployment under this section, an employee shall be entitled to any within-grade increases in pay which the employee would have received if the employee had remained in the former position in the agency.".

(b) The analysis for chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following:

"Subchapter VI—Reemployment Following Limited Appointment in the Foreign Service

"3597. Reemployment following limited appointment in the Foreign Service.".

SEC. 2302. SALARY FOR AMBASSADORS AT LARGE.—Section 5313 of title 5, United States Code, is amended by adding the following at the end thereof:

"Ambassadors at Large.".

SEC. 2303. ADVANCES OF PAY INCIDENT TO DEPARTURES FROM POSTS ABROAD.—(a) Section 5522(a) of title 5, United States Code, is amended—

(1) by striking out "evacuation" and inserting in lieu thereof "departure"; and

(2) by striking out "is ordered for military or other reasons which create imminent danger to the life or lives of the employee or of his dependents or immediate family" and inserting in lieu thereof "is officially authorized or ordered—

"(1) from a place outside the United States from which the Secretary of State determines it is in the national interest to require the departure of some or all employees, their dependents, or both; or

"(2) from any place where there is imminent danger to the life of the employee or the lives of the dependents or immediate family of the employee".

(b) Section 5522(b) of title 5, United Code, is amended by striking out "evacuation" and inserting in lieu thereof "departure".

(c) Section 5523(a)(1) of title 5, United States Code, is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) whose departure is authorized or ordered under section 5522(a) of this title; and"; and

(2) in subparagraph (B) by striking out "evacuation" and inserting in lieu thereof "departure".

(d) Section 5523(b) of title 5, United States Code, is amended by striking out "evacuation" both places it appears and inserting in lieu thereof "departure".

(e) Section 405a(a) of title 37, United States Code, is amended by striking out "evacuated" and "evacuation" wherever they appear and inserting in lieu thereof "to depart" and "departure", respectively.

SEC. 2304. PREMIUM PAY.—Paragraph (2) of section 5541 of title 5, United States Code, is amended by striking out clauses (xiv) and (xv) and inserting in lieu thereof the following:

"(xiv) a Foreign Service officer;

"(xv) a member of the Senior Foreign Service; or".

SEC. 2305. SEVERANCE PAY.—Section 5595 (a)(2)(vi) of title 5, United States Code, is amended by inserting after "to receive" the following: "benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any".

SEC. 2306. ATTORNEYS FEES IN BACKPAY

CASES.—Section 5596(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A)(ii) by inserting "or under chapter 11 of title I of the Foreign Service Act of 1980," immediately after "chapter 71 of this title,"; and

(2) in paragraph (3)—

(A) by inserting "and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980" immediately after "section 7103 of this title"; and

(B) by inserting "and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980" immediately after "section 716 of this title".

SEC. 2307. SEPARATE MAINTENANCE ALLOWANCE.—Section 5924(3) of title 5, United States Code, is amended—

(1) by inserting "or authorized" immediately after "compelled"; and

(2) by inserting "or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents," immediately after "for the convenience of the Government,".

SEC. 2308. EDUCATION ALLOWANCE.—Section 5924(4)(B) of title 5, United States Code, is amended by striking out "(1)" and all that follows through "each type of education" and inserting in lieu thereof "one annual trip each way for each dependent".

SEC. 2309. POSTS REQUIRING SPECIAL INCENTIVES.—Section 5925 of title 5, United States Code, is amended—

(1) by striking out "A post" in the first sentence and inserting in lieu thereof "(a) A post";

(2) by inserting "under this subsection" immediately after "differential" in the last sentence; and

(3) by adding at the end thereof the following new subsection:

"(b) Any employee granted a differential under subsection (a) of this section may be granted an additional differential for an assignment to a post determined to have especially adverse conditions of environment which warrant additional pay as a recruitment and retention incentive for the filling of positions at that post. An additional differential for any employee under this subsection—

"(1) may be paid for each assignment to a post determined to have such conditions;

"(2) may be paid periodically or in a lump sum; and

"(3) may not exceed 15 percent of the rate of basic pay of that employee for the period served under that assignment.".

SEC. 2310. ADVANCES OF PAY.—(a) Subchapter III of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5927. Advances of pay

"Up to three months' pay may be paid in advance to an employee upon the assignment of the employee to a post in a foreign area.".

(b) The analysis of chapter 59 of title 5, United States Code, is amended by inserting after the item relating to section 5926 the following:

"5927. Advances of pay.".

SEC. 2311. DANGER PAY ALLOWANCE.—(a) Subchapter III of chapter 59 of title 5, United States Code, as amended by section 2310(a), is further amended by adding at the end thereof the following new section:

"§ 5928. Danger pay allowance

"An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 25 percent of the basic pay of the employee, except that if an employee is granted an additional differential under section 5925(b) of this title with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 25 percent of the basic pay of the employee.".

(b) The analysis for chapter 59 of title 5, United States Code, as amended by section 2310(b), is further amended by inserting after the item relating to section 5927 the following:

"5928. Danger pay allowance.".

SEC. 2312. LEAVE.—(a) Section 6301 of title 5, United States Code, is amended by adding at the end thereof the following new sentence:

"Notwithstanding clauses (x)-(xii) of paragraph (2), the term 'employee' includes any member of the Senior Foreign Service or any Foreign Service officer (other than a member or officer serving as chief of mission or in a position which requires appointment by and with the advice and consent of the Senate) and any member of the Foreign Service commissioned as a diplomatic or consular officer, or both, under section 312 of the Foreign Service Act of 1980.".

(b) Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "and (f)" and inserting in lieu thereof "(f), and (g)"; and

(2) by adding at the end thereof the following new subsection:

"(g) Annual leave accrued by a member of the Senior Foreign Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

(c) Section 6305(a) of title 5, United States Code, is amended by inserting immediately after "States" in the first sentence "(or after a shorter period of such service if the employee's assignment is terminated for the convenience of the Government)".

SEC. 2313. RETIREMENT CREDIT FOR IMPRISONED FOREIGN NATIONALS AND FOR SERVICE WITH CERTAIN OVERSEAS BROADCASTING ORGANIZATIONS.—(a) Section 8332(b) of title 5, United States Code, is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by inserting immediately after paragraph (9) the following new paragraphs:

"(10) periods of imprisonment of a foreign national for which compensation is provided under section 410 of the Foreign Service Act of 1980, if the individual (A) was subject to this subchapter during employment with the Government last preceding imprisonment, or (B) is qualified for an annuity under this subchapter on the basis of other service of the individual; and

"(11) subject to sections 8334(c) and 8339(1) of this title, service in any capacity of at least 130 days (or its equivalent) per calendar year performed after July 1, 1946, for the National Committee for a Free Europe; Free Europe Committee, Inc.; Free Europe, Inc.; Radio Liberation Committee; Radio Liberty Committee; subdivisions of any of those organizations; Radio Free Europe/Radio Liberty, Inc., Radio Free Asia; the Asia Foundation; or the Armed Forces Network, Europe (AFN–E), but only if such service is not credited for benefits under any other retirement system which is established for such entities and funded in whole or in part by the Government and only if the individual later becomes subject to this subchapter.".

(b) Such section 8332(b) is further amended by adding at the end thereof the following new sentence: "The Office of Personnel Management shall accept the certification of the Executive Director of the Board for International Broadcasting concerning services for the purposes of this subchapter of the type described in paragraph (11) of this subsection.".

SEC. 2314. CONFORMING AMENDMENTS TO TITLE 5.—(a) Section 3323(c) of title 5, United States Code, is amended by striking out "Foreign Service officer retired under section 1001 or 1002 of title 22 or a Foreign Service staff officer or employee retired under section 1063 of title 22" and inserting in lieu thereof "member of the Foreign Service retired under section 812 of the Foreign Service Act of 1980".

(b) Section 5102(c)(2) of title 5, United States Code, is amended by striking out "employees in the Foreign Service of the United States whose pay is fixed under chapter 14 of title 22" and insert in lieu thereof "members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980".

(c)(1) Section 5301(c)(2) of title 5, United States Code, is amended by striking out "subchapter IV of chapter 14 of title 22" and inserting in lieu thereof "section 403 of the Foreign Service Act of 1980".

(2) Section 5303(a)(4) of title 5, United States Code, is amended by striking out "sections 867 and 870 of title 22" and inserting in lieu thereof "section 403 of the Foreign Service Act of 1980".

(3) Section 5304 of title 5, United States Code, is amended by striking out "chapter 14 of title 22" and inserting in lieu thereof "the Foreign Service Act of 1980".

(d) Section 5724(g) of title 5, United States Code, is amended by striking out "chapter 14 of title 22" and inserting in lieu thereof "the Foreign Service Act of 1980".

(e) Section 5727(e)(2) of title 5, United States Code, is amended to read as follows:

"(2) This section, except subsection (a), does not affect section 403e(4) of title 50.".

(f)(1) Section 6301(2)(xii) of title 5, United States Code, is amended by striking out "an officer who receives pay under section 866 of title 22" and inserting in lieu thereof "a chief of mission (as defined in section 102(a)(3) of the Foreign Services Act of 1980)".

(2) Section 6305(b) of title 5, United States Code, is amended by striking out "an officer" and inserting in lieu thereof "a chief of mission".

(g) Section 7103(a)(2)(iv) of title 5, United States Code, is amended by striking out "the Agency for International Development, or" and inserting before the semicolon ", the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce".

(h) Section 8501(1)(c) of title 5, United States Code, is amended by striking out "Foreign Service personnel for whom special separation allowances are provided under section 609(b)(1) of the Foreign in lieu thereof "members of the Foreign Service for whom payments are provided under section 609(b)(1) of the Foreign Service Act of 1980".

CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL OVERSIGHT, AND EFFECTIVE DATE

SEC. 2401. SAVING PROVISIONS.—(a) All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into, or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified, or affected by this Act.

(b) This Act shall not affect any increase in annuity or other right to benefits, which was provided by any provision amended or repealed by this Act, with respect to any individual who became entitled to such benefit prior to the effective date of this Act.

(c) References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this Act shall be deemed to include reference to the corresponding provisions of this Act.

SEC. 2402. CONGRESSIONAL OVERSIGHT OF IMPLEMENTATION.—(a) Not later than February 1, 1982, the Secretary of State shall submit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate a report describing the implementation of this Act during the fiscal year 1981 by the agencies utilizing the Foreign Service personnel system. Such report shall—

(1) describe the steps taken and planned in furtherance of (A) maximum compatibility among such agencies, as provided for in section 203, and (B) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

(2) indicate the progress made by each such agency in the conversion of personnel and position classifications in accordance with chapter 1 of this title;

(3) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including with respect to each of the relevant promotion competition groups the projected ranges of rates of appointment, promotion, and attrition over each of the five fiscal years 1981 through 1985; and

(4) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member (except that the names and grades of such members shall be transmitted to the Congress in a confidential manner to assure privacy and to safeguard national security).

(b) Beginning in 1982, the Secretary of State shall submit each year to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate a supplemental report containing—

(1) a description of any relevant developments with respect to the matters reported on under paragraphs (1) and (2) of subsection (a);

(2) With respect to paragraph (3) of such subsection, a revised projection of the ranges of rates of appointment, promotion, and attrition over each of the next five years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

(3) the information specified in paragraph (4) of such subsection.

(c) The Secretary shall consult, in accordance with the procedures set out in section 1013(g), with the exclusive representative (if any) of members of the Foreign Service in each agency specified in section 1003(a) with respect to steps to be taken in implementing this Act and reported under this section. To that end, each such exclusive representative will have timely access to all relevant information at each stage. Each such report shall include the views of each such exclusive representative on any and all aspects of the report and the information contained in such report.

SEC. 2403. EFFECTIVE DATE.—(a) Except as otherwise provided, this Act shall take effect on February 15, 1981.

(b) Personnel actions may be taken on and after the effective date of this Act on the basis of any then current Foreign Service evaluation cycle as if this Act had been in effect at the beginning of that cycle.

(c) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in section 305(b) until October 1, 1985. Prior to that date, the number of members serving in the Senior Foreign Service under limited appointments by the Secretary of Commerce may not exceed 10 at any one time (excluding individuals with reemployment rights under section 310 as career reemployment rights under section 310 as career appointees in the Senior Executive Service).

(d)(1) Section 812 of this Act, and the repeal of sections 631 and 632 of the Foreign Service Act of 1946 and section 625(k) of the Foreign Assistance Act of 1961, shall be effective as of the date of enactment of this Act.

(2) For purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.

(e)(1) The provisions of chapter 8 of title I regarding the rights of former spouses to any annuity under section 814(a) shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of an individual who separates from the Service after such date.

(2) Except to the extent provided in section 2109, the provisions of such chapter regarding the rights of former spouses to receive survivor annuities under chapter 8 shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of a participant or former participant in the Foreign Service Retirement and Disability System.

And the Senate agree to the same.

From the Committee on Foreign Affairs:
DANTE B. FASCELL,
CLEMENT J. ZABLOCKI,
DAN MICA,
WILLIAM H. GRAY III,
JOHN BUCHANAN,
JOEL PRITCHARD,
From the Committee on Post Office and Civil Service:
JAMES M. HANLEY,
WILLIAM D. FORD,
PATRICIA SCHROEDER,
WILLIAM L CLAY,
GENE TAYLOR,
JIM LEACH,
Managers on the Part of the House.
FRANK CHURCH,
CLAIBORNE PELL,
JOSEPH R. BIDEN, Jr.
PAUL TSONGAS,
CHARLES H. PERCY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

OBJECTIVE OF GRIEVANCE SYSTEM

The House bill provided that an objective of the bill is to maintain a fair and effective system for the resolution of individual grievances.

The Senate amendment contained the same provision, and added that the grievance system should be one that will insure the fullest measure of due process for the members of the Foreign Service.

The conference substitute in section 101 (b) (4) incorporates the Senate amendment.

LANGUAGE COMPETENCE

The House bill contained provisions describing the following:

(1) The characteristics that should be found in the Senior Foreign Service;

(2) The types of examinations which may be presented for appointment to the Foreign Service;

(3) The criteria under which a career candidate can be initially appointed to a class higher than class 4; and

(4) The records of ability and performance which may be examined by selection boards.

The Senate amendment added an explicit reference to foreign language competence in each of the above-described provisions.

The conference substitute in sections 101(b)(7), 301(b), 307(1) and 603(a) incorporates the Senate amendment.

LANGUAGE COMPETENCE REPORT BY CHIEF OF MISSION

The Senate amendment added a new section requiring that each chief of mission report to Congress within 6 months after assuming his or her post on the foreign language competence of the chief of mission and the mission staff in the principal language or major dialect of the country where the post is situated.

The House bill contained no comparable provision.

The conference substitute is the same as the Senate amendment but the provision has been added as a new section 304 (b)(3) for organizational reasons. The committee of conference notes that thils requirement is intended to apply only to posts in countries in which English is not the principal language.

OPERATING RESPONSIBILITIES OF THE INSPECTOR GENERAL

The House bill prohibited the Secretary of State from assigning any program operating responsibilities to the Inspector General of the Department of State and the Foreign Service.

The Senate amendment added the word "general" before the term "program operating responsibilities".

The conference substitute in section 209 (a)(1) is the same as the Senate amendment.

ASSISTANT INSPECTORS GENERAL

The House bill required the Inspector General to appoint two assistants one responsible for supervising auditing activities and one responsible for supervising investigative activities.

The Senate amendment contained no comparable provisions.

The conference substitute is the same as the Senate position.

PERFORMANCE EVALUATION OF EMPLOYEES ASSIGNED TO THE INSPECTOR GENERAL

The House bill required that the Inspector General prepare the performance evaluation reports on State Department employees and members of the Foreign Service who are assigned to the Office of the Inspector General.

The Senate amendment permitted such reports to be prepared either by the Inspector General or by the Inspector General's designee.

The conference substitute in section 209 (e)(2) is the same as the Senate amendment.

PERSONAL RANK OF AMBASSADOR OR MINISTER

The House bill authorized the President to confer the personal rank of ambassador, for a period not exceeding 6 months, on an individual who is undertaking a special mission for the President. The bill requires the President to submit an advance report to the Senate Committee on Foreign Relations each time he intends to confer such a rank.

The Senate amendment contained a similar provision and added the following:

(1) A restatement of the Constitutional prohibition against any appointment of an ambassador or minister without the advice and consent of the Senate, other than by recess appointment; and

(2) A requirement that the President submit a report when conferring the personal rank of ambassador or minister at least 30 days in advance of the conferral.

The conference substitute in section 302 (a)(2)(B) is similar to the Senate amendment but adds language permitting exceptions to the 30-day advance notice requirement in urgent cases.

REPORTS ON DEMONSTRATED COMPETENCE OF CHIEF OF MISSION NOMINEES

The Senate amendment required the President to provide to the Senate Foreign Relations Committee a report on the demonstrated competence of each person nominated for appointment as a chief of mission.

The House bill contained no comparable provision.

The conference substitute in section 304 (a)(4) is identical to the Senate.

REGULATION OF EMPLOYMENT OF FAMILY MEMBERS AT FOREIGN SERVICE POSTS ABROAD

The Senate amendment required the Secretary of State to issue regulations governing all Federal agencies' employment at Foreign Service posts abroad of family members of all Government personnel.

The House bill contained no comparable provision.

The conference substitute contains no provision on this issue.

FOREIGN SERVICE SALARY SCHEDULE

The House bill established a 10-class Foreign Service salary schedule, with each class corresponding to a specified grade in the General Schedule. Each class was required to have 14 salary steps.

The Senate amendment authorized the President to establish a 9-class Foreign Service salary schedule with a maximum salary rate not exceeding the maximum rate for GS-15 of the General Schedule. However, the Senate amendment did not establish specific linkages between the Foreign Service Schedule and General Schedule for the various salary classes.

The conference substitute in section 403 adopts the Senate amendment. The committee of conference understands that the pay schedule reproduced below will be implemented by the President, effective the first day of the first pay period beginning on or after October 1, 1980 under the authority provided to the President under the Federal Pay Comparability Act of 1970 (5 U.S.C. 5301 et seq.). The new pay schedule represents a compromise between the pay option adopted by the House and that initially supported by the Administration. The $27.4 million proposal contains nine salary classes as do the present pay schedules for the Foreign Service. The September 24, 1980 letter from the Deputy Director of the Office of Management and Budget to the chairmen of the various committees follows, together with charts indicating the new linkages, comparative details among various pay options and the intergrade differentials between salary classes in the new option:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 24, 1980.

DEAR MR. CHAIRMAN: This letter is to advise you that the Administration strongly prefers the Senate provisions in Sections 403, 406 and 2101, regarding Foreign Service compensation, in H.R. 6790, the proposed Foreign Service Act of 1980. It also provides you with an up-dated Foreign Service pay schedule that the President would authorize in implementation of those Sections of H.R. 6790. As you can see, the attached up-dated schedule sets forth considerably higher linkages between the Foreign Service and the General Schedule than the one I provided you in my letter of April 1.

We believe that it is absolutely essential for the President to have authority to set the linkage between the FS and GS pay systems in order for him to carry out his responsibility for the management of the statutory pay systems in the executive branch. Duties and responsibilities for positions compensated under the FS and GS pay systems change from time to time, necessitating changes in linkage points. The Congress has recognized the need for continued attention to matters of this type in granting the President authority over linkages under the Federal Pay Comparability Act. We believe it inappropriate to take that authority from the President.

The higher linkages which the President would implement, under the provisions of the Senate-passed bill, take into consideration the critical concerns expressed both in the Senate and House. This proposal would make a one-time increase in FS pay that average $2,570 a year or 9.6 percent, effective in the first pay period and with conversion to the new schedule on a step for step basis, at a cost of approximately $27.4 million annually. Compounded with the forthcoming October 1 Federal pay increase of 9.1 percent, FS would go up an average of 19.6 percent this year. The Administration believes that this proposal provides for a sound compensation system for the Foreign Service. At the same time, it is the largest increase that can be provided under a fair assessment of comparability between the FS and the GS systems.

Accordingly we strongly urge enactment of Sections 403, 406 and 2101 of the Senate-passed bill instead of the House-passed version of those sections.

The Administration's positions on other differences between the Senate and House bills have been conveyed by staff of the State Department to staff of your Committee.

Sincerely,

JOHN P. WHITE,
Deputy Director.

LINKAGE PROVIDING COMPARABILITY BETWEEN THE FOREIGN SERVICE AND THE GENERAL SCHEDULE

Current grade	Current linkage	Current 1st step pay[1]	New grade	New linkage	New 1st step pay[1]
FSO/R/RU-3		GS-14.40	FS-1	GS-15	GS-15.00.
4	GS-13	GS-13.00	2		GS-13.71.
5		GS-11.76	3		GS-12.43.
6		GS-10.38	4		GS-11.28.
7		GS-8.54	5	GS-9/step 2	GS-9.34.
8	GS-7	GS-7.00	6		GS-8.20.
FSS- 1		GS-14.40	1	GS-15	GS-15.00.
2		GS-13.00	2		GS-13.71.
3		GS-11.76	3		GS-12.43.
4		GS-10.38	4		GS-11.28.
5		GS-9.22	5	GS-9/step 2	GS-9.34.
6		GS-8.10	6		GS-8.20.
7		GS-7.02	7		GS-7.10.
8		GS-5.98	8		GS-6.03.
9		GS-4.97	9	GS-5	GS-5.00.
10	GS-4	GS-4.00	9	GS-5	GS-5.00.

[1] Approximate.

OPTION AT $27.4 MILLION

Current	New	Step 1 rates	GS equivalents	Intergrade differentials, percent
SO/R/RU-3, FSS-1	FS-1	40832	GS-15.00	23.41
SO/R/RU-4, FSS-2	FS-2	33086	GS-13.71	23.41
SO/R/RU-5, FSS-3	FS-3	26810	GS-12.43	23.41
SO/R/RU-6, FSS-4	FS-4	21724	GS-11.28	23.41
SO/R/RU-7, FSS-5	FS-5	17603	GS-9.34	11.85
SO/R/RU-8, FSS-6	FS-6	15737	GS-8.20	11.85
SS-7	FS-7	14068	GS-7.10	11.85
SS-8	FS-8	12576	GS-6.03	11.85
SS-9, FSS-10	FS-9	11243	GS-5.00	

COMPARATIVE DETAILS AMONG VARIOUS PAY OPTIONS

Current class	New class	Current linkages	House bill	Pay options I	Pay options II	Compromise $27.4 option
O-3	FS-1	GS-14.40	GS-15	GS-15	GS-15	GS-15.
O-4	FS-2	GS-13	GS-14	GS-14	GS-14	GS-13.71.
O-5	FS-3	GS-11.76	GS-13	GS-13	GS-12.5	GS-12.43.
O-6	FS-4	GS-10.38	GS-12 GS-11	GS-12 GS-11	GS-11	GS-11.28.
O-7	FS-5	GS-8.54	GS-9	GS-9	GS-9	GS-9.34.
S-5		GS-9.22				
O-8	FS-6	GS-7	GS-8	GS-7	GS-7	GS-8.20.
S-6		GS-8.10				
S-7	FS-7	GS-7.02	GS-7	GS-6	GS-6	GS-7.10.
S-8	FS-8	GS-5.98	GS-6	GS-5	GS-5	GS-6.03.
S-9 and 10	FS-9	GS-4	GS-5	GS-4	GS-4	GS-5.
Cost in millions			$34.1	$33.8	$29	$27.4.

In adopting the Senate amendment, the committee of conference accepts, for the time being, the administration's September 24 proposal as an urgently needed first step in moving toward adequate pay for the Foreign Service. The Federal Pay Comparability Act of 1970 requires the President to establish appropriate linkages among the various Government pay schedules and between those schedules and the private sector. It is clear that recent administrations have failed to bring Foreign Service pay in line with other pay scales. The conferees are not convinced that this proposal achieves the statutory mandate of pay equality. It does, however, move in the right direction.

In setting pay levels for the Foreign Service, the President should take the following special characteristics of Foreign Service duty, among others, into account: (a) the requirement that any member of the Foreign Service serve in any country to which he or she is assigned; (b) the extraordinary threat to personal safety in peacetime as well as in war; (c) the continual scrutiny of Foreign Service members and their families by foreign audiences; and (d) the accountability of the Foreign Service for the actions of the United States abroad.

WITHIN-CLASS SALARY INCREASES

The House bill provided that members of the Foreign Service paid under the Foreign Service Schedule shall receive within-class step advances after 52 weeks of service in each of the first 9 steps of each class and after 104 weeks of service in steps 10 through 13. The provision also authorizes denial of within-class salary increases by selection boards based on inadequate performance and additional step increases by the agency head based on especially meritorious service.

The Senate amendment contained a similar provision, but did not specify the frequency of within-class salary increases. Instead, it authorized the increases to be granted at periodic intervals leaving the time period to be set by agency regulation.

The conference substitute in section 406 is the same as the House provision.

PREMIUM PAY FOR FOREIGN SERVICE OFFICERS

The House bill in section 412 authorized the Secretary to pay special differentials to Foreign Service officers required to perform additional work on a regular basis in substantial excess of normal requirements. However, such a differential would not be payable with respect to work for which additional compensation is payable under the premium pay provisions in Title 5, United States Code. Section 2304 of the House bill amended Title 5, United States Code, to authorize premium pay for Foreign Service officers other than members of the Senior Foreign Service, as was the practice prior to October 1, 1978.

The Senate amendment was designed to prevent junior FSO's from receiving premium pay. However, the amendment also continued special differentials for Foreign Service officers assigned additional work. Section 2304 of the Senate amendment continued the existing exclusion from premium pay of Foreign Service officers, but specified that compensatory time off could be provided.

The conference substitute in sections 412 and 2304 adopts the Senate amendment but adds language requiring reports to be made to the Committee on Foreign Affairs and the Committee on Foreign Relations should limitations be placed on the dollar amounts of special differentials or the number of people to whom they can be paid.

REPORTS TO CONGRESS ON ASSIGNMENTS ABOVE OR BELOW PERSONAL RANK

The conference substitute in sections 412 quired an anual report to Congress on Foreign Service personnel assigned to positions classified more than one grade higher or lower than the personal rank of the individuals assigned to those positions.

The House bill contained no comparable provision.

The conference substitute in section 2402 adopts the Senate amendment.

FOREIGN SERVICE AWARDS

The Senate amendment directed the President to establish a program of Foreign Service awards recognizing distinguished, meritorious service to the Nation by members of the Foreign Service, including extraordinary valor in the face of danger to life or health.

The House bill contained no comparable provision.

The conference substitute in section 613 is the same as the Senate amendment. The committee of conference notes that since current law provides for monetary awards, these new Foreign Service awards will not be monetary.

CAREER DEVELOPMENT

The House bill in section 703(c) directed the Secretary in general terms to design training programs to encourage and foster career development for members of the Foreign Service.

The Senate amendment in section 703(b) directed the Secretary in more specific terms to establish a professional development program for the members of the Foreign Service throughout their careers, and described the emphasis that should be given in this program at various career stages.

The conference substitute incorporates the Senate amendment as a new section 703 which deals exclusively with career development. The substitute also adds language emphasizing training in management skills.

MANDATORY RETIREMENT

The House bill raised the mandatory retirement age for participants in the Foreign Service and Disability system from 60 to 65.

The Senate amendment retained the existing law's mandatory retirement age of 60.

The conference substiute in section 812 is the same as the House provision. The committee of conference notes that this new requirement reflects the advances made since 1946 in such areas as life epectancy, availability of health care facilities, and transportation. The retention of a mandatory retirement age is deliberate and reflects the demonstrated correlation between advanced age and overseas assignability of members of the Service. In view of the strong reaffirmation of the requirement of worldwide availability for members of the Foreign Service, the problem of assignability will not lessen appreciably.

FORMER SPOUSE ANNUITY

The House bill authorized courts to divide retirement and survivor's benefits between participants and former spouses, thereby expanding existing law to allow court division of survivor's benefits.

The Senate amendment provided for a pro rata division of retirement and survivor benefits between a participant in the Foreign Service Retirement and Disability System and his or her former spouse, provided for court modification of any pro rata division, and mandated a joint election of the participant and his or her spouse or former spouse for any waiver of survivor's benefits.

The conference substitute adopts the Senate amendment with three modifications. First, the effective date provision (section 2403(e)(2)) is revised to provide that the provisions relating to the rights of former spouses to receive survivor annuities shall apply only in the case of individuals who become former spouses after the effective date of this bill (February 15, 1981). Second, a new provision is added to permit an individual who, prior to the effective date of the bill, had a former spouse, to elect to provide a survivor benefit for that former spouse (section 2109). Third, new provisions are added to permit the parties to enter into a spousal agreement with respect to their respective rights under chapter 8. Such an agreement will be given the same effect as a court order, and thus the parties may adjust their respective rights without the necessity of obtaining such an order.

LIMIT ON TOTAL COMPENSATION OF REEMPLOYED ANNUITANTS

The House bill continued existing law limiting the annuity payable to a reemployed Foreign Service annuitant to that portion which, when combined with the salary of the position in which reemployed does not exceed in any year the basic salary of the member on the date of retirement from the Foreign Service.

The Senate amendment permitted the reemployed annuitant to receive and retain so much of his or her annuity which when combined with the salary of the position in which reemployed, does not exceed in any year the current equivalent of the salary for the class from which the member retired.

The conference substitute in section 824 is the same as the House provision.

USE OF UNITED STATES PRODUCTS IN REPRESENTATION

The Senate amendment directed the Secretary, to the maximum extent practicable, to provide for the use of United States products, including American wines, in the exercise of representational functions.

The House bill contained no comparable provision.

The conference substitute in section 905 is the same as the Senate amendment.

ADMINISTRATIVE LEAVE IN GRIEVANCES

The House bill in section 1103(b) provided that the grievant and any representative of the grievant or witness in a grievance proceeding who is a member of the Service or employee of the Department shall be given reasonable periods of administrative leave.

The Senate amendment contained similar provisions, but also provided that any witness or representative who is under the control, supervision or responsibility of the Department shall be given administrative leave.

The conference substitute in section 1103(b)(3) and 1103(c) is the same as the House provision.

REPRESENTATION IN GRIEVANCE PROCEEDINGS

The House bill in section 1103(b)(1) required that a grievant who is a member of a bargaining unit represented by an exclusive representative be represented by that exclusive representative in grievances, other than those relating to separation from the Foreign Service.

The Senate amendment provided that every grievant has the right to a representative of his or her own choosing in every grievance.

The conference substitute incorporates the Senate amendment, with an amendment providing the exclusive representative with the right to appear at all grievances involving members of the bargaining unit.

The committee of conference notes that section 1014 of the bill provides for settlement of disputes between management and the exclusive representative over the implementation of collective bargaining agreements. These procedures include appeals to the Foreign Service Grievance Board of issues similar to those presented to the Grievance Board in individual cases.

The conferees note that the Senate and House versions of chapter 10 did not differ. The chapter 10 provisions resulted from an amendment adopted in subcommittee in the House which was modeled after title VII of the Civil Service Reform Act of 1978. The conferees wish to make clear that chapter 10 is to be interpreted consistent with the legislative history of the Reform Act, except where a specific departure is provided in the bill. As an example of a departure, the bill excepts from the duty to bargain multi-agency responsibilities (such as the Uniform Standardized Regulations issued under 5 U.S.C. 5921–25) *as well as* those meeting the strict definition of "Government-wide". On the other hand, with respect to negotiated procedures the bills are consistent and reflect the conference report to accompany the Civil Service Reform Act of 1978 (S. Rept. 95–1272, p. 158), which stated that the standard for determining whether a proposal is nonnegotiable is whether it "prevent[s] the agency from acting at all". Consistency with labor-management relations policy in the domestic Civil Service led the conferees to adopt generally the Senate approach on the issue of representation before the Grievance Board which is discussed above.

PAY AND BENEFITS PENDING CONVERSION

The House bill provided for interim conversion to the new Foreign Service salary schedule and Senior Foreign Service salary rates of Foreign Service personnel on the rolls immediately before the effective date of the act, including those likely to be converted to the Civil Service under section 2104. It also provided for an effective date for such pay conversion earlier than the effective date of the act.

The Senate amendment permitted the immediate pay conversion of all Foreign Service officers to the new pay system, as well as those reserve and staff personnel who are determined to be available for worldwide assignment. The amendment provided for salary conversion of those Foreign Service personnel in the domestic category to the appropriate grade and step in the General Schedule, subject to a retroactive salary adjustment if there was a subsequent determination of an erroneous designation.

The conference substitute in section 2101 incorporates the House provision with a conforming change.

CONVERSION OF DOMESTIC PERSONNEL IN ICA

The House bill in section 2104(b) provided that the beginning of the 3-year period for conversion to Civil Service status of individuals in the Foreign Service who are not available for worldwide assignment be deferred until July 1, 1981 with respect to individuals in ICA who are covered by a collective bargaining agreement. Prior to that date the affected personnel retain their current status.

The Senate amendment contained no mandatory conversion requirement applicable to domestic Foreign Service personnel in the International Communication Agency.

The conference substitute is the same as the House provision with a conforming change to provide for immediate pay conversion.

PEACE CORPS USE OF FOREIGN SERVICE AUTHORITIES

The House bill authorized the President to continue to utilize the Foreign Service personnel authorities for the Peace Corps.

The Senate amendment limited the President's authority ot utilize the Foreign Service authorities in the Peace Corps to individuals who performed duties which reasonably required availability for worldwide assignment.

The conference substitute in section 2202 (b)(2) is identical to the House provision.

STATUS OF CHAIRMAN OF THE OECD DEVELOPMENT ASSISTANCE COMMITTEE

The Senate amendment provided that the chairman of the OECD's Development Assistance Committee, who is appointed and paid under the Foreign Assistance Act of 1961, is to be considered an employee of the U.S. Government for the purpose of any benefit under any law administered by the Office of Personnel Management.

The House bill contained no comparable provision.

The conference substitute in section 2203 (d) is similar to the Senate amendment, but states that the chairman is to be treated as a Federal employee for purposes of workmen's compensation, retirement, and health and life insurance coverage only.

MODEL FOREIGN LANGUAGE COMPETENCE POSTS

The House bill in section 2207 directed the Secretary of State to designate at least two Foreign Service posts in non-English speaking countries at which all employees permanently assigned will be required to possess an appropriate level of language competence. Exceptional assignments of individuals not having such competence are authorized to meet unanticipated exigencies.

The Senate amendment contained no comparable provision.

The conference substitute in section 2207 is identical to the House provision.

RETIREMENT FOR BINATIONAL CENTER EMPLOYEES

The Senate amendment in section 2207 provided that any individual appointed as a Binational Center Grantee who completed 5 years satisfactory service as a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the Foreign Service Retirement and Disability System and make appropriate contributions, including reimbursements, to the fund under provisions of the act.

The House bill contained no comparable provision.

The conference substitute in section 803 (c) is identical to the Senate amendment with certain conforming changes.

RETIREMENT CREDIT FOR "RADIO" EMPLOYEES

The Senate amendment provided that Civil Service retirement credit be allowed Federal employees who served in Radio Free Europe, Radio Liberty, Radio Free Asia, the Asia Foundation, or the Armed Forces Network, for the period of such service.

The House bill contained no comparable provision.

The conference substitute in section 2315 is similar to the Senate amendment with certain technical and conforming changes. The committee of conference does not intend this provision or the previous provision concerning Binational Center Grantees, to set a precedent for Civil Service or Foreign Service retirement credit for any other non-Federal service.

EFFECTIVE DATE

The House bill provided that the act shall take effect 90 days after enactment, subject to certain exceptions with respect to personnel actions based on the current Foreign Service evaluation cycle, appointments to the Senior Foreign Service by the Secretary of Commerce, and mandatory retirement.

The Senate had agreed to an April 1, 1981 effective date, subject to the same exceptions regarding personnel actions and Commerce appointments.

The conference substitute in section 2403 adopts an effective date of February 15, 1981 for the bill in general, and retains the House provision's exception regarding mandatory retirement (effective on date of enactment), the current Foreign Service evaluation cycle, and Senior Foreign Service appointments by the Secretary of Commerce. It also reflects the agreement of the committee of conference concerning the prospective application of provisions regarding annuities for former spouses, and the effective date of pay conversion, described above.

From the Committee on Foreign Affairs:
Dante B. Fascell,
Clement J. Zablocki,
Dan Mica,
William H. Gray, III,
John Buchanan,
Joel Pritchard,
From the Committee on Post Office and Civil Service:
James M. Hanley,
William D. Ford,
Patricia Schroeder,
William L. Clay,
Gene Taylor,
Jim Leach,
Managers on the Part of the House.

Frank Church,
Claiborne Pell,
Joseph R. Biden, Jr.,
Paul Tsongas,
Charles H. Percy,
Managers on the Part of the Senate.

EXTENSIONS OF REMARKS

SENATOR BARRY GOLDWATER REMEMBERS THE EARLY YEARS OF YOUNG AMERICANS FOR FREEDOM

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. BAUMAN. Mr. Speaker, as one of the founders and the second national chairman of Young Americans for Freedom, I was pleased to join with a large group of friends of YAF last Saturday at their 20th anniversary dinner here in Washington.

As the national YAF chairman during the 1964 Presidential election, I can tell you the important role played by our colleague from Arizona, BARRY GOLDWATER, both as a fighter for the conservative cause and an inspiration to us all.

Without Senator GOLDWATER, there would have been no conservative movement, and I would like to share his thoughts on the early years of YAF which appear in the current issue of YAF's publication, the New Guard.

The article follows:

YAF AND THE EARLY YEARS

(By Barry Goldwater)

It doesn't seem possible that two decades have passed since Young Americans for Freedom came into being. I well remember that Autumn day twenty years ago when I first heard about the conference at the Buckley Estate in Sharon, Connecticut. If memory serves me, the first full report I received was from my friend Bill Buckley, and it was an enthusiastic account of some young activists who wanted to have a say in their generation's future.

There were a number of things about the Sharon conference I found highly encouraging. First there was the Sharon Statement itself, outlining the purposes of the new organization in what was developing into a nationwide crusade for freedom based on sound Constitutional principles and limited government. It spelled out unmistakably the need for individual liberty and national strength. It provided a platform which could be used to appeal to a broad spectrum of the nation's youth. In the second place I found the organization's insistence on political nonpartisanship to be healthy and appealing. Although the conservative tenets were largely being espoused by Republicans, I knew from experience in my own state of Arizona that a large number of young Democrats were being more and more drawn to the sound Constitutional arguments that we were beginning to set forth. In the third place, I was glad that the name Young Americans for Freedom was agreed upon at Sharon. At that time, too many organizations were springing up containing the word "conservative." It was my feeling that to be effective, a young activist organization would need a broader appeal and something with a patriotic ring. And, certainly, the word "freedom" was basic and fundamental to everything we were trying to accomplish.

Needless to say in those early days, I enthusiastically lent my name to YAF. I felt the start made at Sharon augured well for the future. In my travels throughout the country and especially in my appearances before high school and college groups, I had become fully aware that some kind of a unifying organization was needed to give expression to the rapidly growing enthusiasm for conservative principles among the young people of the nation. Indeed, a number of groups did exist, but it was obvious to me that some kind of catch-all organization was sorely needed and I hoped that YAF would fill that bill.

To say that YAF got off to a fast start is to put it mildly. I had hardly gotten used to the idea when I was invited to be the principal speaker at a public YAF gathering in New York City's Manhattan Center, scheduled for March of 1961. This was barely five months after the founding of the organization and, realizing that the Manhattan Center had the capacity of 3000, I frankly felt my young friends had bitten off more than they could chew. I recalled that less than 100 people had attended the Sharon Conference and naturally I wondered how they were going to turn out any kind of significant crowd. Well, the answer to that is now history. YAF's First Annual Awards Rally drew 6000 wildly screaming conservatives, only half of whom could actually get into the meeting hall. I remember that occasion very well because I shared the spotlight with some famous names, among them William F. Buckley, Jr., Taylor Caldwell, Russell Kirk, George Sokolsky, and Eugene C. Pulliam. If I remember correctly, I addressed my audience as "the nation's young leaders of tomorrow," and I must say that I didn't at that time realize how prophetic my words would turn out to be.

Actually, it was on that night in 1961 that Young Americans for Freedom became a recognized national institution. The rally attracted an enormous amount of media attention. An account of it was carried on page 1 of the New York Times and the television networks carried film clips of the proceedings. Perhaps my own attendance at a time of increasing public attention to conservative causes helped bring this about. If so, I count it as one of the major achievements of my public life.

A year later, when I learned that my young friends were planning their Second Annual Awards Rally in Madison Square Garden, I again experienced a degree of skepticism. I wondered if the YAF leaders actually realized what they were up against. It is one thing to fill an auditorium with 3000 people and quite another to put on a show in a hall with a capacity of 19,000. Again, I should have known better. The young conservatives filled the Garden and produced more enthusiasm for the conservative cause than anyone had ever seen before. I believe that was the night that I predicted that "a new wave of conservatism" would eventually triumph in America. As we all know, it did not triumph in 1964—but it is likely to triumph in 1980.

With that rally at Madison Square Garden, YAF really moved into high gear. From then on, every significant conservative action throughout the country bore some trace of YAF involvement. It was about this time that the "Draft Goldwater" movement began to take on some strength and this gave YAF people a constantly moving vehicle with which to work. Although I did not attend, I was well aware of the Draft Goldwater Rally which was staged in Washington in July 1963 and I was amazed at the job the YAFers did in this operation. Hundreds of them from all over the country poured into Washington and put on such a demonstration that even a reluctant media could not ignore it.

And, this was the beginning of intensive YAF activity throughout my entire campaign for the Presidency in 1964. YAF members were active everywhere. I saw them at airports, shopping centers, college campuses, and meeting halls in every primary state, and I found them swelling the crowds and the enthusiasm at every stop I made during my general election campaign. It is hard for me to estimate the kind of debt I owe to those early leaders of YAF who organized so actively and so well throughout the entire country.

And, if there is one thing I take satisfaction in, it is the amount of youth activity in the 1964 campaign. The cause was a losing one and most of my supporters knew it long before the votes were counted. But the young people in my campaign seemed to sense that they were laying the groundwork for future battles and victories in the conservative cause. And, I believe this has been the case. The seeds for conservative political activity which were laid in 1964—and in large part by the young people—are bearing fruit today. Those efforts established the conservative cause—and it is here to stay.

Everyone who reads this magazine knows that what began in Sharon, Connecticut 20 years ago today has become a major force to be reckoned with in the political life of this nation. I feel a great measure of pride every time I encounter a leader in politics, in business, or in the newsgathering profession who cut his teeth in YAF. And their numbers are growing. I am amazed at YAF's input into the leadership ranks of this nation, and I believe this is only the beginning.

In conclusion, let me say that I am proud to have played a role in the early days of Young Americans for Freedom. On this, the 20th Anniversary of its founding, I salute that organization and predict a great future for it.●

RONALD REAGAN'S COMMENTS ON YOUNG AMERICANS FOR FREEDOM

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. SYMMS. Mr. Speaker, this month is the 20th anniversary of the founding of Young Americans for Freedom, on whose national advisory board I have the honor to serve. This month's issue of YAF's magazine, New Guard, contains an article by my good friend, Ronald Reagan, looking back on YAF's history.

There is no doubt that Governor Reagan's leadership in the conservative movement has encouraged many thousands of young people to rally to the cause by joining YAF.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

At this point in my remarks I include Governor Reagan's thoughts on the 20th anniversary of YAF.

The article follows:

YAF: 20 Years of Conservative Leadership

(By Ronald Reagan)

Twenty years ago, the United States entered the tumultuous decade of the 1960s. It was a time of tension, of turmoil, of trial for many of America's most cherished beliefs and most venerated institutions.

We remember the Sixties for many things. But chief among them were the extent to which Americans came to regard political action as the pathway to fulfillment of virtually every desire of the human heart, and the obeisance America's opinionmakers paid to America's youth. Young people were seen not simply as a repository of energy, idealism and enthusiasm, but of political wisdom and virtue as well. A generation of parents nearly convinced itself it was their duty not so much to teach their children as to be instructed by them.

As could be expected with such notions rampant, the news media lionized the activities and the goals of the young people who believed constructive social change is accomplished through sit-in demonstrations and protest marches. The groups which advocated the most radical changes by the most drastic means—the Students for a Democratic Society, the Yippies, the Black Panthers, the Weathermen, the Student Non-Violent Coordinating Committee, the New Mobilization—became household words. Their leaders became overnight celebrities. Their agendas were treated with respect in high government and academic circles.

There was another group of young people who banded together in 1960 to form a political organization, but this group did not receive the attention the news media showered upon the left-wing activists. The 90 young men and women who gathered in Bill Buckley's backyard in Sharon, Connecticut in the autumn of 1960 were thought of—when they were thought of at all—as something of an anomaly, if not an anachronism:

While many of the more publicized youth organizations were demanding replacement of America's capitalist economy with one or another form of socialism, Young Americans for Freedom was saying the only thing wrong with our free enterprise system was that it wasn't free enough.

While many of the more publicized youth organizations insisted that the moral superiority of their cause overrode mere statutes, Young Americans for Freedom maintained that ours is a government of laws, not men, and that the liberty of one individual or group is secure only so long as all respect the rights of others who disagree with them.

While many of the more publicized youth organizations calumnized the United States as the greatest threat to peace in the world, Young Americans for Freedom resolutely declared that Communism was humanity's greatest enemy, and that the world will not know true peace until Communist expansion has been checked.

The Sixties and the early Seventies were a fiery cauldron from which came burnished steel. Many of our college campuses—and some of our high schools—were turned into ideological battlefields and Young Americans for Freedom usually were outnumbered, but rarely outfought.

During this trying period, YAF performed three invaluable services:

First, through its publications and speakers at everything from chapter meetings to national conventions, YAF provided conscientious young Americans with a sound education in the fundamental principles of American democracy, an education sadly lacking in the classrooms of too many of our colleges and universities.

Second, on many campuses where much of the faculty and the administration sympathized with the left-wing activists, and where "Establishment" spokesmen feared to tread, Young Americans for Freedom was often the only voice raised in defense of the traditional concept of academic freedom, and in support of the basic objectives of United States foreign policy.

Finally, through Young Americans for Freedom, a generation of young people received a priceless education in practical political action. Working in everything from campus elections to national political campaigns, YAFers have learned how to get things done in a democratic society.

Twenty years have passed since the Sixties began, and the left-wing activist groups that were hailed then as "the wave of the future" have faded, unlamented, into the footnotes of history.

But Young Americans for Freedom endures. The principles enumerated in the Sharon Statement, which seemed so anachronistic then, are being looked upon with new respect by many who once made fun of them. With 80,000 members in 500 chapters in virtually every state in the union, YAF has become the largest, and most effective, political youth organization in America. With an aggressive program of member education, activism, and outreach, YAF continues to prepare conscientious young Americans for leadership roles an earlier generation of YAFers already are assuming.

Representative Bob Bauman of Maryland, who in a few short years has earned the sobriquet "conscience of the House," is perhaps YAF's most famous alumnus. But he is by no means alone. Congressman Phil Crane, who impressed so many in his bid for the Republican nomination for President this year, was a YAF member in college. Stan Evans, who wrote so much of the stirring Sharon Statement, is a nationally syndicated columnist and a commentator for CBS radio. Many YAF alumni hold elective office in state and local governments, and many more hold key positions on the staffs of prominent state and federal officeholders. A number of former YAFers, headed by past Exective Director Frank Donatelli, are assisting me in my campaign. A former YAF National Chairman, David Keene, is the able political director for my running mate, George Bush.

I've enjoyed a special relationship with Young Americans for Freedom for many years. It's been my pleasure to serve on YAF's national advisory board, and to address YAF's biennial national convention and many state and regional YAF gatherings as well.

I look forward to my opportunities to exchange ideas with the members of Young Americans for Freedom. It's always an invigorating experience for me. Your energy, enthusiasm, and faith in the future of our country is the best possible tonic for an old warhorse. It is when I'm among young people like those in YAF that I am most forcefully reminded that what makes America different from other nations is that we're always looking forward, and never backward. For us, the glories of our past—and it's been a glorious past—are but a faint foretaste of the glories to come, a warm glow like the light of early morning that precedes the rising of the sun.

America, and Young Americans for Freedom, are entering a new decade together. It will be a decade of fearsome challenges. Twenty years of meddling from Washington have slowed our once vibrant economy to a virtual standstill. Our defenses, once second to none, have become second to the Soviet Union, and are falling further behind. Repairing all this damage will not be easy, and cannot be accomplished overnight. There are many long hours that need to be worked, many sacrifices that have to be made.

But Americans, and especially Young Americans for Freedom, have always had a clear understanding of the road America was destined to travel. Our land was not intended to be for ourselves alone, but to be a great beacon of hope to the poor and the downtrodden all over the globe. It is our God-given task to be a shining example to all the world of what free men, living in peace, can accomplish.

We have traveled far in 204 years, but not yet far enough. America's greatest opportunities and greatest challenges lie before us. We have promises to keep, and miles to go before we sleep. Americans, and especially Young Americans for Freedom, are eager to undertake the journey.●

BOB AND CAROL BAUMAN; FOUNDERS OF YOUNG AMERICANS FOR FREEDOM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. ASHBROOK. Mr. Speaker, 20 years ago this month, Young Americans for Freedom was founded by a small group of young conservatives at the estate of William F. Buckley, Jr., in Sharon, Conn., my good friend and editor of National Review. Today it has grown to include many thousands of members all across America.

Last Saturday evening in Washington a 20th anniversary dinner was held at the Mayflower Hotel and nearly 1,000 YAF leaders, members, advisers, and supporters turned out to celebrate this important milestone of American conservatism.

As part of a special 20th anniversary edition of YAF's publication, the New Guard, our colleague from Maryland, Bob Bauman, and his wife Carol, wrote an article reminiscing about the founding of YAF. Having read it, I suspect it is mostly Carol's work since it is such a well-balanced and reasonable account of that day in history.

As a salute to YAF and to Bob and Carol Bauman, leaders of the conservative movement, I include the article from the New Guard at this point in my remarks:

Our Twenty Years With YAF

Probably the high point for us at the July 1980 Republican National Convention was being greeted on arrival at Detroit's airport by 30 or 40 YAFers. Stepping off the plane from Baltimore, as part of the Maryland delegation, we were surprised to hear chants of "Bauman, Bauman" and then startled to see scores of youthful smiling faces, bright-eyed with enthusiasm, waving placards proclaiming "YAF Loves Bauman."

The thrill was not so much the flattery in the greeting, nor the satisfaction it gave as other members of our delegation took in the little scene. It was the recognition that, twenty years ago, that would have been us. We would have been there, too, carrying our signs, filled with excitement. To know that we have been part of that movement brought lumps to our throats.

Attending the Twentieth Anniversary Dinner of YAF can be compared to the shock parents face when that cute little toddler, so precocious and lovable, suddenly graduates from high school, becomes an adult, and even towers over you. Where did all those years go? Did we do a good job raising him, and can he cope with the world?

Such a shock can send a parent into fond reminiscences about those early years. So it is with YAF. We can hardly believe it's been so many years ago.

In 1959, College Young Republicans in the Washington, D.C. area were divided into two camps, much like their elders. The liberal camp talked party unity but systematically excluded conservatives. We conservatives, who considered ourselves intellectually superior, were backing Richard Nixon as the only realistic alternative to Nelson Rockefeller. We enjoyed the YR struggles, but only as a means to assert conservatism as the authentic philosophy of the party.

Some went in for single issue causes, like The Student Committee for the Loyalty Oath, or fighting the influence of the U.S. National Student Association.

Liberal domination of schools, media, government, and student institutions was so pervasive that to be an active conservative was to be a rebel—in truth, a radical.

Into that environment stepped a crew-cut Bob Bauman, Georgetown University student, and Carol Dawson, Dunbarton College student and ardent believer in principle. Both were presidents of their respective campus YR clubs. They met at the 1959 D.C. College YR convention held at the Georgetown campus. Along with a variety of other rebels, they began a long struggle to identify and assert their political views.

Bob worked on the minority staff of the House of Representatives, and was just entering Georgetown Law School. Carol held a part-time job in the office of Vice President Richard Nixon during her senior year, and that summer was elected College Service Committee national co-chairman (along with the late Bill Steiger of Wisconsin) of the Young Republicans.

Filled with zeal, they wanted to form a national Youth for Nixon to work in the 1960 Presidential campaign. This they accomplished, and Carol was hired by the Nixon campaign to run the project out of national headquarters.

The New Conservatism was already abuzz across the nation. Barry Goldwater's book The Conscience of a Conservative was being widely read, and conservatives had been succeeding in varying degrees in gaining control of the YRs.

One problem stymied them. Party regulars were constantly yapping at their heels, forcing them to "tone down" their comments in GOP publications, refusing them party positions if they were suspected of being too right wing. And would-be President Nixon lent little outward support to his conservative friends.

What we need, they and their cohorts decided, is a national conservative youth organization that is not merely a debating club, but an activist group, not held down by the constraints of Republican Party neutrality on the really crucial issues.

Into that circle stepped David Franke, just up from Houston, Texas, and interning at Human Events, Doug Caddy, a student at Georgetown who was also editor of The Foreign Service Courier, and Yale graduate and Human Events editor M. Stanton Evans. The idea took hold.

Carol was working full time with the Nixon clubs. Her contacts with the college YRs and Nixon activists on campus added up to a hefty mailing list.

Doug and Dave had their own list of members of the National Student Committee for a Loyalty Oath. And the Midwest Symphony Orchestra of college YRs, led by Chicago's Bob Croll, was a breeding ground for some real GOP rebels.

At the Chicago Republican National Convention, a little-publicized meeting was arranged, planned and chaired by Doug Caddy with the help of Marvin Liebman, publicist and friend of Bill Buckley and Bill Rusher. It was the first meeting of the National Committee for a Conservative Youth Organization. A major convocation was set for September, 1960, at the Buckley estate in Sharon, Connecticut.

It is a myth that Bob Bauman attended the Sharon Conference. He was too busy back in the First Congressional District of Maryland working for the reelection of his political mentor, Ted Miller, who was trying for a comeback after a 1958 defeat. It was Carol, who, though still part of the Nixon campaign, participated at Sharon, and, some say, had a part in the workshop which produced the Sharon Statement. (It was really written by Stan Evans, but out of respect for democratic procedure, was duly rewritten by a committee.)

Credit for the name Young Americans for Freedom, by the way must be given Lee Edwards, now of his own P. R. firm, Lee Edwards and Associates. The name itself softpedaled the term "conservative," which, it was felt, was not yet sufficiently acceptable. The term "freedom," it was decided, should not be allowed to be claimed exclusively by the left wing.

From then until now, the lives of Bob and Carol Bauman (we eventually married, November 19, 1960) have been closely tied to Young Americans for Freedom and the conservative movement.

To reminisce on YAF's twentieth anniversary is to recall both warm and painful memories. There were long, bitter fights at board meetings (yes, folks, those are nothing new!). There were pressures of trying to earn a living, start a family, continue in school, and maintain the struggle against liberalism all at the same time.

But they were also days of great excitement and challenge. How proud we were of New Guard! At those late night meetings at our house or at Lee Edwards' Capitol Hill apartment, we fought just as heatedly over page make-up and type styles as we did over editorial policy.

In New York City, YAF groups became so strong that the great Governor Nelson Rockefeller, still harboring hopes for the GOP presidential nomination, invited national YAF officials to a closed door meeting at this Fifth Avenue office. Carol recalls today how much fun it was to poke and probe at Rockefeller's views on welfarism, accommodation with the Soviets, and social issues.

There were rallies, perhaps the most memorable one being the 1962 Madison Square Garden Rally at which we had planned to honor Moise Tshombe, the anti-Communist leader of Katanga Province in the Congo. (The State Department refused him a visa, an action which we challenged in court, but lost.)

At that rally, there was an electrifying speech by L. Brent Bozell, a tumultuous response to Barry Goldwater, and a massive turnout of youthful conservatives that surprised even the New York Times.

Then there was the move of YAF headquarters to 514 C St. N.E. in Washington, and the addition of Richard Viguerie as Executive Director.

There was the very successful anti-National Students Association (NSA) campaign, which became STOP NSA, and the campaign against the Test Ban Treaty, and the boycott of U.S. companies trading with the Soviets.

Also memorable was the 1963 YAF convention at Fort Lauderdale, where Senator Strom Thurmond thrilled us with an hour-and-a-half speech on Constitutional government.

Along with all of this there was growth—even greater growth than we could have imagined, especially after the 1964 Goldwater defeat. Then there was the tragic death of young Bob Schuchman, our first national chairman. Schuchman, a New Yorker, was widely regarded as an intellectual giant. Some of his thoughts, written on the occasion of the second anniversary of YAF, still seem appropriate:

". . . a great awakening has occurred in our land, a new awareness that the pat solutions and overwrought cliches of the liberals who govern America do not come to grips with the crucial problems we face as a . . . [conservatives] are, at last, approaching the state of political maturity. We can now leave pettiness behind, and concentrate on effectuating our ideals: understanding them, promoting them, insuring that they gain political success. We must do this because the philosophy of conservatism is to survive; and only if the West and its institutions survive will freedom continue to exist on this earth."

Of course the more successful YAF became, the more it was attacked. Harvard Young Republicans founded Advance, a liberal counterpart of the New Guard, as well as the Ripon Society, a kind of elitist group to promote the likes of Rockefeller, Lindsay, and Javits.

Group Research, Inc., a far-left organization funded by labor union money, surfaced to document YAF and other "far-right" groups by proving that we all were either "dangerous" or really didn't exist except on paper.

When that didn't work, every attempt was made to smear YAF with the broad brush of guilt by association. The John Birch Society, which never enjoyed a respectable reputation, was said by some of our enemies to be closely allied with YAF. We were "hot eyed radicals," according to a Baltimore Sun columnist. Another termed us "well-heeled sons and daughters of the upper middle class."

It got so bad that we became a little paranoid. When the horrible news came out of Dallas that President John F. Kennedy had been shot, YAF officers rushed to the card file (we didn't have computers then) to see if by chance a Lee Harvey Oswald had ever been a YAF member. Absurd, of course, because Oswald was never identified as a conservative, but as a Communist sympathizer. But that's what unrelenting attacks by a biased media can do even to well-balanced young conservatives.

The amazing thing was that YAF groups really did exist on college campuses, in high schools, and in cities and towns throughout the nation.

There is a lot to be said for YAF after twenty years. It has enjoyed much success in the political wars, much growth (even staying afloat these days is a major miracle), and provided much valuable experience for the young men and women who first got their feet wet politically through YAF.

For us, one of the major benefits has been personal. Not just that Bob has succeeded in becoming a Congressman, and a national conservative spokesman. And not just that our cause grows and now we face the delicious prospect of winning the Presidency. But mainly that we have made so many friends.

Some of them, like Schuchman, are no longer with us. We are grateful to such men as the late Frank Meyer and Willmoore Kendall for enriching our minds and our hearts, and to brave leaders like Dean Clarence Manion and Gov. Charles Edison who carried on the fight before we were born. But most of all, we are grateful for our contemporaries, who are still in there fighting.

At the GOP national convention, recognizing old friends, many of whom were convention delegates, working in the media, or working for the candidates, suggests that this business of conservative politics isn't all mailing lists and board meetings. It is also people, good friends, trusted allies, comrades in the cause.

We are sure other old YAFers get the same nostalgic feeling when they encounter their peers. Helen and Alan MacKay, Dave and Carlyn Keene, Jameson and Carolyn Campaigne, Jim and Josie Linen, Diarmuid O'Scannlain, Bill and Lynn Schulz, Allan and Jamie Ryskind, Lee and Anne Edwards, Don and Ann Devine, Dave and Corinne Jones, and scores of others, are treasured friends.

Would things have been different today had YAF not been born twenty years ago this year? Decidedly so, in our opinion. There seems little probability that after the 1964 Goldwater defeat, youthful conservatism could have survived without the organizational and ideological strength provided by YAF. If YAF had not been founded in 1960, by those of us now in our forties, it most certainly would have to be founded today by those of you yet in your teens and twenties.

To quote William F. Buckley, Jr., writing on YAF's founding:

"A new organization was born last week and just possibly it will influence the political future of this country, as why should it not, considering that its membership is young, intelligent, articulate, and determined, its principles enduring, its aim to translate those principles into political action in a world which has lost its moorings and is looking about for them desperately?"●

COOPERATION IN IMPLEMENTATION OF SUPERFUND LEGISLATION

HON. W. J. "BILLY" TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. TAUZIN. Mr. Speaker, the Congress has acted favorably with regard to H.R. 7020, the Hazardous Waste Containment Act of 1980. I, too have voted for this legislation, but wish to express here certain reservations with regard to the manner in which this act may ultimately be implemented. In considering H.R. 7020, this body saw fit to reject an amendment offered to grant Congress veto power over any final rules promulgated by the EPA Administrator. We have, therefore, delegated all responsibility for interpretation of our intent to EPA. Many sections of H.R. 7020 require the EPA to coordinate with the States in applying the act's terms to the conditions which may exist within each such State, all according to abandoned site programs drawn up by States and approved by the EPA.

Louisiana has already established abandoned site legislation and State funding in the amount of $1.6 million to begin remedial efforts to clean up these sites. We have conducted surveys and we have instituted strict penalties and reporting requirements. It is my hope that the EPA, under the terms of H.R. 7020, will work cooperatively with Louisiana in order that both entities will be able to carry out their responsibilities in an efficient manner under their respective authorizations. It is not the intent of H.R. 7020 that the EPA should override State authority where a State has already acted responsibly to address the problem of abandoned hazardous waste sites. Rather, it is clear that this Congress intends to accord to each State the sovereign right to make those decisions with regard to this subject, which it determines are in the best interest of its citizens. Little good will be accomplished if the EPA requires a State such as Louisiana, which is already responding to the problem, to take two steps backward while EPA and many of the other States try to catch up. States with ongoing programs should be encouraged to maintain their leadership and initiative on this sensitive issue. I trust that the EPA will consider such a perspective in implementing H.R. 7020 as finally adopted.●

ENERGY AND THE POOR

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, for the poor and low-income residents of this Nation, the continuing energy crisis presents formidable burdens. These citizens' inability to take advantage of energy tax credits, coupled with their difficulties in meeting basic needs, make the energy burden unusually difficult. The Congress has responded to the unique needs of the poor in the face of an energy crisis by passing such measures as the Low Income Energy Assistance Act. However, much work remains in this area. I would like to share a very fine speech given recently by Maryland State Delegate Larry Young. Delegate Young is also president of the Center for Urban Environmental Studies (CUES). As a State legislator and the head of CUES, Delegate Young has worked arduously to bring attention to the energy needs of low-income citizens. He is among those energy experts who continue to be dedicated to moving our Nation toward energy independence. Delegate Young's speech entitled, "The Energy War and the Poor—One Year Later," was given on September 11, 1980, before the CUES National Teach-In II. The text follows:

THE ENERGY WAR AND THE POOR—ONE YEAR LATER

Good afternoon. I want you to know that it is a pleasure for me to speak to you today. The topic—"the impact of the energy crisis on minorities"—is near and dear to my heart. I have spent the better part of the last two years traveling throughout the Nation attempting to create a positive energy awareness within the minority, low-income community. We have been successful in some areas and unsuccessful in others. To illustrate a success, my colleague from Virginia, Delegate Bobby Scott, has embarked on a program in Newport News, Virginia to establish a Peninsula Energy Center that would serve as an information clearinghouse for minorities and energy. This is a good first step toward insuring positive, constructive interaction with energy policy-makers in Virginia. However, note that I said first step. Much more needs to be done to insure an equity principle in energy policy and I will talk about that later.

The condition of minorities and the low-income in relationship to the country's energy dilemma, is one of complete dependency. As our Nation is dependent on foreign oil, which will cost the U.S. $90 billion in 1980, minorities and the poor are dependent on government and energy companies for energy assistance, adequate energy supplies to their communities, and equitable credit arrangements.

Not surprisingly, the same groups that are dependent on help have little or no voice in energy policy decisions. Again and again we see that minorities and the low-income are the first and worst casualties in the "energy war." By the way, first and worst is a close relative of last hired, first fired.

These communities are being punished. They are the first to:

Feel the pinch of rising prices
Feel the impact of supply shortages
Experience economic dislocation

With prices, we all know the story. In 1977, the average cost of home heating oil was $.46 per gallon. The most recent figure available from the Labor Department was $1.02 for July of 1980. That means in three years the price of heating oil has increased 122 percent. How many individuals do you know whose income has kept up with this increase?

Next, let's look at the price increases of electricity and natural gas:

U.S. average price in July, 1980 for 500 KWH of electricity was $31.51, up $.58 from June.

U.S. average price in July, 1980 for 40 therms of natural gas was $17.18, up $.19 from June.

With supply, in many low-income areas, small businesses distribute home heating fuel to minority and low-income communities. As these businesses have trouble in getting supplies, the communities they serve also have trouble. Supply rationing occurs which forces individuals to stretch a tank of oil farther than expected. This often means doing without adequate warmth or turning the stove on to heat the house. Also, remember the gas shortage of last year. I know for a fact that minority and inner-city neighborhoods virtually stopped.

Economic dislocations occur by the scenario created by increasing prices and short supplies. The natural gas shortage of 1977 caused severe cutbacks in employment. When jobs were lost, who do you think suffered? And it is not just the poor who suffer individually. The institutions that serve them are suffering, too. Day care, senior citizen, municipal, educational and health institutions that the poor depend on for survival are being crippled by the high cost of energy. The result is that the institutions available for aiding minorities and the poor are suffering as much as the individuals needing the help.

When we look at the issues of price, supply and economic dislocation together, the thought is troubling. What we see are families that are paying as much as 40 to 50 percent of their income for energy compared to 10 percent for middle and upper income households. We see families that are told to conserve their way out of their energy problems when at the same time these same families consume less energy per capita than other households. Finally, we see families that do not receive enough energy assistance subsidy because a Federal aid program uses a new eligibility criteria.

In the words of Dick Saul of the Community Services Administration, "Nobody has really come to grips with the problem." Minorities and the low-income need help and they need it now. They are willing to help themselves and they do. But we still must insure that energy policy has a social policy intertwined with it. DOE's Office of Minority Economic Impact is now doing it with Federal energy policy. Baltimore Gas and Electric has exhibited a social consciousness by contributing $200,000 to a special group in Baltimore

To help the poor pay fuel bills. These are positive examples but a national effort is needed to insure that the poor are not caught in the middle of energy policy tradeoffs.

Let's take a look at some energy policy decisions made during the last year. There have been quite a few; most have attempted to make us free from the excessive use of Mideast oil. The thrust of these decisions have been supply and conservation oriented. And as I illustrated earlier, these energy decisions can be double-bladed sword for the poor. While they help the nation in a broad perspective, they hurt the poor in individual cases.

Decontrol of oil prices last year was initiated to blunt energy demand and to give producers the profit to search for domestic oil. On the surface, producers have made increased profits, some as much as 100 to 200 percent higher in one year, and demand has been cut. Gasoline sales are off 20 to 25 percent. But has the increased profit gone to develop new oil domestically? No. Oil companies have recognized that oil is a fossil fuel, therefore, finite. The oil companies have used their profits to buy into the energy industries of the future—solar, coal and nuclear.

For example, 7 of the fifteen largest coal companies are owned by oil companies. 13 oil companies control almost 50 percent of the uranium reserves. Oil companies are diversifying by buying into solar. Mobil owns an 80 percent interest in Tyco which is a solar company that has developed a new technology that could revolutionize the industry. The basic rationale for de-control—to spur domestic oil production—just hasn't happened. Prices have shot up for consumers and that's the bottom line. Domestic production has increased only about 1 percent in the last year.

The Windfall Profits Tax, recently enacted by Congress and signed into law, was originally proposed as a vehicle to establish an Energy Security Fund to pay for mass transit aid, low income energy assistance and synthetic fuels development. What came out of Congress was a general revenue measure. Of the $227 billion to be generated by the tax—15 percent of the funds are earmarked for synthetic fuels and mass transit; 25 percent of the funds are earmarked for low-income assistance; and 60 percent, the largest chunk, is earmarked for personal and corporate tax cuts.

How many minorities and low-income people do you know who will benefit from personal and business tax cuts? With low-income assistance, Congress had the opportunity this year to provide real relief to the poor by authorizing a multi-year program funded at an acceptable level. Instead of doing this, Congress appropriated only $1.8 for the low-income assistance program while increasing eligibility over last year. This was after $3.15 billion was authorized. You know what happens—the poor must fight among themselves for the crumbs.

Another measure we need to take a close look at from the equity standpoint is the gasoline rationing plan submitted on June 12, 1980. The plan, to be instituted during oil shortages of at least 20 percent, would make gasoline available with only ration coupons. Checks for coupons would be mailed to registered vehicle owners. Isn't it interesting that 47 percent of the poor don't own vehicles? That only 37 percent have one car and 15 percent have two cars or more? Aging automobiles that get terrible gas mileage further aggravate the problem for the low income.

Energy conservation, while a quite appropriate path to follow for the nation, really doesn't offer much hope to the poor, either. The weatherization program, while a tremendous concept in that it creates jobs and helps save energy, really hasn't made a dent in the 8 million low income homes that lack insulation. For purely economic reasons, the low-income undertook energy conservation a long time ago. Figures show the poor use 50 percent less electricity and 24 percent less natural gas than higher income customers. What has their "conservation incentive" gotten them? It has forced them to pay higher unit costs because of inverted pricing structures. Also, because of older appliances, homes and cars, the energy used by the poor does not go that far.

Energy conservation efforts need to consider the unique circumstances of the poor. Tax credits for insulation means nothing to an individual who rents. Individuals living in master metered buildings have no control over the temperature of their homes. A special effort needs to be made to involve these citizens in our national conservation effort.

As we can see, both supply and conservation strategies can have severe consequences on the low-income. Therefore, the core of our energy problem is to find an acceptable way of coordinating supply, demand and cost. Our nation has decided that it is good for America to become independent of foreign oil producers. And yet, energy as a separate category of life's necessities is relatively new and not yet fully accepted by our nation. We have struggled with the nation's energy need but have forgotten the energy needs of minorities and the poor.

Congress has yet to put in place a long term assistance effort with a multi-year authorization. This troubles me when Congress has invested $20 billion into synfuels and is considering legislation to give utilities $10 billion to convert to coal. I would urge Congress to establish a permanent energy stamp program.

Energy stamps, through a public subsidy, would maintain the integrity of poor families to manage their own resources and make their own economic decisions. Existing income guidelines for food stamps could apply to fuel stamps. The stamps would be for fuel only and could only be redeemed by fuel vendors. Conservation would be stressed because the low income would have to pay a portion of the cost of the stamps.

An energy stamp program would be advantageous because—

(A) It can benefit, rather than repeat, the mistakes of food stamp administration.

(B) Only income criteria not a new data base on energy consumption and expenditures is needed, simplifying administration.

(C) It will retain an element of low income families' integrity by enabling them to decide upon their own energy purchases.

(D) It maintains an incentive for energy conservation.

(E) It is acceptable to industry.

Next we need to pursue vigorous implementation of the Public Utilities Regulatory Policy Act of 1978. PURPA offers unique incentives to states and utilities to conserve energy through revisions in the rate making process. Some utilities have already seen merit in conservation. Companies such as the Potomac Electric Power Company and New England Power have been able to project savings of $2 to 3 billion which otherwise would have been paid by consumers. This should be applauded.

We need to make sure that our state utility commissions are moving ahead in considering the rate standards outlined by PURPA. The standards, if implemented, could have a dramatic impact on the cost of electricity and service interruptions. And yet, the progress being made nationwide is slow at best. As of 6/30/79: 19 of 52 state regulatory authorities had not yet begun to consider the standards; 65 percent of the covered electric utilities had not begun consideration of the cost of service standard, the most crucial for meeting the intent of PURPA; Concerning regulatory standards, 14 states and 48 of 69 non-regulated utilities had not yet begun consideration.

If we have to prod our states and utilities to move ahead with PURPA then so be it. This is an important area to stay involved in.

We need to work for passage of the Energy Management Partnership Act. EMPA would consolidate all state conservation grant programs under one administrative umbrella. The legislation requires that States consider the needs of the poor in developing and modifying state energy plans. This will insure that the existing Energy Extension Service, Residential Conservation Service and State Energy Conservation Plans reach all segments of the community. As I said before, many energy conservation programs are aimed to the middle and upper classes only. This needs to be turned around.

We need to beef up the institutional mechanisms within the Department of Energy to insure input from minorities and the low-income in policy deliberations. This includes the Office of Minority Economic Impact and the Office of Consumer Affairs. They do a tremendous job but need more resources to continue with their mandates.

Finally, we need to focus attention to the National Energy Plan III. NEP III is scheduled to be unveiled in April, 1981. This Plan will set our nation's energy future for the next two years.

How many of you know that federal law requires broad citizen participation. It does. We need to take advantage of this unique opportunity to influence government energy policy. CUES is preparing an extensive participation plan and we ask you to join with us. Let's learn from the lessons of NEP I and II when citizen participation was nil and the policy deliberation process was limited to only bureaucrats and company people.

To close my remarks, instead of looking for someone to blame, let's work for solutions. We must turn our energies to the problems I discussed and focus our attention on some of the solutions I outlined.

We at CUES are working with you to answer the questions and find the solutions. We are available to help you as you face the energy issues of your communities and constituencies. For information or technical assistance use the toll free number 1-800-424-9591. We can't do it alone, but we can do it together.●

H.R. 6959

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. DAVIS. Mr. Speaker, the other day, the House passed the bill, H.R. 6959, providing for assistance to the salmon and steelhead fishing industry in the Pacific Northwest. While I am pleased that the Members from the affected area have been able to work together so effectively to produce a bill that they feel resolves their problem, I would like to again bring to the attention of the House the very serious problems we are facing in my State of Michigan due to Indian fishing.

Earlier this summer, hearings were held by the Subcommittee on Fisheries and Wildlife on the situation in Michigan. I am appreciative of the efforts and concern of the Members that took part in that hearing, particularly the distinguished chairman, Mr. Breaux. At this time, however, we are no closer to resolving this issue than we were then. Unregulated fishing by members of some Indian tribes continues to threaten the survivability of valuable fish species in the Great Lakes. Tensions are still high. Litigation drags on. It is a problem that needs attention now.

During committee markup of H.R. 6959, I offered amendments which would have included Michigan within the scope of the legislation. At the request of the members of the committee representing the Pacific Northwest, I withdrew the amendments rather than raise additional issues that could have caused problems for them in their efforts to pass this bill. I would only ask for their help next year in developing a solution to the problem we have in Michigan.

It is my understanding that my distinguished colleague, Mr. Dingell, has received assurances that the Members that have developed this legislation will work closely with the Michigan delegation to resolve our problems in the 97th Congress. I am also aware of the continued interest and cooperation of Chairman Breaux and my ranking minority member on the committee, Mr. McCloskey. I appreciate their past efforts and look forward to working with them again. Together, I am confident that we can make great steps toward a reasonable solution to this issue.●

TO HAVE OR HAVE NOT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. EDWARDS of California. Mr. Speaker, the August 1980 issue of Law Enforcement Communications carried an excellent article written by the chairman of the House Judiciary Committee, Peter Rodino. I have been privileged to sit on the Judiciary Committee, under the leadership of the gentleman from New Jersey, since he was elected to the chairmanship in 1973.

His article makes clear the need for more effective gun control laws, and demonstrates the support of the American public for strong gun laws. This insightful essay is an excellent example of why we on the Judiciary Committee so greatly respect and admire our chairman.

I commend the article to the attention of my colleagues:

To Have or Have Not

(By Representative Peter W. Rodino, Jr.)

By this time tomorrow, 26 Americans will be murdered by handgun fire. By the next day, 26 more.

No one knows the magnitude of the problem better than the law enforcement officers who must risk their lives each day to protect innocent citizens. Last year, 77 local, county, state and federal law enforcement officers were killed by handguns. Overall, the murder rate of police officers was up 13 percent from 1978—and, in 1978, 72 percent of those officers killed were slain with handguns.

The Committee on the Judiciary of the U.S. House of Representatives is responsible for gun control legislation. As Chairman of that committee, I have long advocated stronger, more effective laws at the national, state and local levels, to reduce the handgun slaughter in our country. Information comes to my attention daily, indicating that violent crime, murder and aggravated assault are increasing—and, that the percentage of these crimes committed with handguns remains very high.

The scope of the problem of handgun violence—and its toll in human lives—is well documented. Here are a few of the details:

More Americans were murdered with handguns here at home during the years of the Vietnam War than American soldiers killed in combat in Vietnam . . . more than 50,000 handgun deaths.

Fifty percent of the murders reported throughout the nation in 1978 were committed with handguns.

Violent crime increased by ten percent during the first nine months of 1979, and handgun use has not slackened. In New York City, for instance, 4,000 persons were arrested for illegally carrying guns last year.

Handguns are used two and one-half times more than any other weapon to commit murders. Almost 10,000 Americans are murdered annually with handguns, according to FBI reports.

Sixty percent of murders involve family members or acquaintances rather than strangers. Statistics show that a handgun in the home is more likely to injure or kill someone in the family through an accident or act of passion, or be used against the resident, than to deter an intruder.

In 1977, alone, there were an estimated 300,000 crimes involving handguns.

According to a study conducted in 1974 by the Massachusetts Institute of Technology, a child born in Atlanta would have a 1 in 25 chance of being murdered during his or her lifetime. In my home city of Newark, this ratio is 1 in 33; in New York City, 1 in 60. The situation had deteriorated in many cities since then.

THE PEOPLE'S CHOICE

The easy availability of handguns is a major cause of the widespread violence and bloodshed in our nation—and, the American public appears to have realized this for years. In fact, since the 1930's, public opinion polls have shown that the majority of Americans favor handgun control.

For example, 12 surveys since 1959 have asked the question, "Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?" In these polls, the percentage of the public favoring such a law has never dropped below 68 percent, and has climbed as high as 78 percent.

A 1978 poll released by Cambridge Reports, Inc. revealed a high level of public support for specific controls on handguns. It showed that:

88 percent of Americans nationwide favor a waiting period before a handgun can be purchased, to allow for a criminal record check;

81 percent favor strengthening the rules for becoming a commercial handgun dealer;

82 percent of the general public and 71 percent of all handgun owners want to require prospective handgun purchasers to obtain a permit or a license to purchase a handgun;

84 percent of the general public and 74 percent of all handgun dealers advocate the mandatory registration of all handguns at the time of purchase or transfer; and

70 percent of the American public favors banning of the future manufacture, and sale of small, cheap, low-quality handguns.

In February, 1980, George Gallup released a new poll which stated that 59 percent of all Americans want stricter laws covering the sale of handguns.

Despite this broad approval by the American public, and considerable public support for more effective handgun control, current federal regulations too often frustrate efforts to quickly and accurately trace firearms associated with crimes. Until 1968, the two basic federal statutes regulating the manufacture and distribution of firearms were the National Firearms Act of 1934 and the Federal Firearms Act of 1938. Both were designed primarily to curb the activities of the underworld gangs of the 1920's and 1930's. It was not until 1968—following the assassinations of Dr. Martin Luther King, Jr. and Senator Robert Kennedy—that Congress enacted legislation with clear gun control provisions.

The Gun Control Act of 1968 requires all persons dealing in firearms or ammunition to be federally licensed. It prohibits the interstate sale of handguns generally and sets forth categories of persons to whom firearms may not be sold (such as minors and persons with criminal records). The current law also sets special penalties for the use of a firearm in the perpetration of a federal felony.

Despite these measures, the 1968 act has not achieved its goal: limitation of easy access to handguns for use in criminal activity. The ban on importing "easily concealable handguns" has been effectively undermined by the importation of handgun parts, which are then assembled domestically.

The rising violent crime statistics mentioned earlier clearly point toward the need for stronger controls on the handgun industry, to combat illegal handgun traffic.

THE LOYAL OPPOSITION

Those groups opposed to placing controls on the handgun industry argue a simple slogan: "Guns don't kill people—people kill people." In a more sophisticated form, this argument relies upon statistics from cities and states which have relatively strict gun control laws. These statistics seem to indicate that, in certain isolated areas, gun-related deaths are not reduced by strict controls. However, the real meaning of these figures lies in what they say about the widespread trafficking in handguns and the need for broader restrictions.

The federal government's General Accounting Office (GAO) prepared a study for the Judiciary Committee two years ago, which examined handgun-related crimes in various areas of the country, to determine the effects of local gun control laws. The study revealed that, in jurisdictions with strict gun control laws, a substantially higher percentage of the weapons seized in crimes had been purchased in other jurisdictions—jurisdictions with less restrictive laws. Furthermore, in those cities—such as Boston and New York—where neighboring states have relatively stringent gun laws, the distance from which out-of-state weapons traveled tended to increase, according to the study.

These figures document what was already obvious to many of us involved in criminal justice—that the effect and effectiveness of gun control laws in a given city or state cannot be evaluated in a vacuum, without regard to the availability of guns from other areas.

The GAO study showed convincingly that the ease with which handguns are transported from one state to another requires far more uniformity of gun control standards throughout the United States.

NEW ACTION

A bill which Senator Edward Kennedy (D-Mass.) has introduced in the Senate (S. 1936) and I have introduced in the House (H.R. 5823) demonstrates how the uniformity can be achieved, while preserving a primary role for state and local officials in the enforcement of the law.

The bill seeks to stop the proliferation of easily concealable handguns through a combined effort by handgun importers, manufacturers, dealers and owners to become more accountable for the distribution and use of these guns.

Police Chief Roy McLaren of Arlington County, Virginia told a House Judiciary Subcommittee in 1978, "If a case of botulism, as a result of a spoiled can of soup, is reported in Oregon, all soup canned in the same lot, wherever distributed in the nation, can quickly be identified on the grocers' shelves. But currently, a very deadly item in commerce—the gun—cannot be effectively traced in many instances, because the federal government does not demand that firearm manufacturers provide unique serialization and other methods, to give us foolproof tracing and the same minimum safeguards as it does on the companies which produce soap."

The International Association of Chiefs of Police and the Police Executive Research Forum both endorsed proposed federal regulations in 1978, to require better recordkeeping by handgun manufacturers, importers and dealers. Unfortunately, these regulations were never put into effect, but the concept has been included in the legislation I am offering.

The bill, which has been referred to the House and Senate Judiciary Committees, embodies the following provisions:

It bans the manufacturing, importing, assembling or selling of so-called "Saturday Night Specials" and other "easily concealable handguns," as determined by a special Handgun Criteria Commission. This would close the loophole in the 1968 Gun Control Act which banned handgun imports, but not the domestic assembly of foreign handgun parts.

In an effort designed to help law enforcement officials more effectively trace stolen handguns, licensed importers, manufacturers and dealers would be required to keep records of their handguns for ten years from the date originally shipped or transferred.

A 21-day waiting period for purchase of a handgun would be standard procedure. This would allow dealers time to verify that the buyer is over 21 years old and does not have a criminal record, a history of drug addiction or mental illness. The waiting period could be waived, if the purchaser had previously complied with a state procedure—such as license-to-carry laws, which are encouraged by the bill.

Persons who fail to report the theft or disappearance of a handgun would be subject to civil penalties on the first offense and possible criminal penalties on the second offense. More severe penalties would be imposed on those who failed to report theft, when that handgun subsequently was used in a felony.

If a person illegally sold a handgun to someone who used it to commit a violent crime, the seller would be civilly liable to the victim of that crime.

Federal support would be provided to state programs which compensate victims of crimes committed with handguns.

Pawnbrokers would be prohibited from selling handguns.

A handgun dealer would not be allowed to sell more than three handguns to a person in a single year without special approval by the Attorney General (for handgun collectors and other legitimate users).

The license fee for handgun dealers would increase from $10 to $500, and manufacturers' and importers' license fees, from $50 to $5,000.

The bill does not interfere with the right of American citizens to bear arms. Instead, it seeks to protect the right of all Americans to live in a peaceful society.

As violent crime continues to rise across America, I believe that Americans want Congress to take action to stop the proliferation of easily concealable handguns, which have no sporting purposes and are widely used by criminals.

While Congress, in the past, had been reluctant to approve handgun legislation, I am nonetheless hopeful that we are moving closer to a point at which effective gun control legislation can become a reality. I am encouraged that a record 50 members of the House have cosponsored my bill.●

INCENTIVES: THE HUMAN ELEMENT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. GINGRICH. Mr. Speaker, at every level of our society the Federal Government is the enemy of initiative. Much has been said and written about the need to reindustrialize America. However, in all this work we continue to ignore the human element. People working to make a better America need incentives also if our future is to be prosperous.

Unfortunately, the Government continues to ignore the human element. All the proposed plans and programs that ignore this factor will not enhance prosperity. I include this letter in the RECORD as an example of the despair that afflicts our people. We must learn to answer the question Patricia Holloway asks, and we must do it quickly and persuasively if we hold any hope for a brighter future.

The letter follows:

DEAR CONGRESSMAN GINGRICH: I realize there is nothing to be done about this situation, but I will feel better writing about it.

A neighbor divorced her husband. She has two boys. One is seven and one is six. The seven-year old is handicapped and receives a monthly check for $194.00. The mother is on welfare, medicare, food stamps.

After receiving all this her children receive free lunches in school. Why she cannot fix their lunches with her already free food I cannot understand. She informed me that since their lunches are free everyday she will send them to school with an extra quarter for ice cream. So far, everyday, her children have bought ice cream.

My husband works. We pay our rent. We buy our food. We take care of our own medical and dental expenses. None of this is free to us. We also pay a large sum in our income to state, federal, and social security taxes. Our son's lunches cost us 50 cents every day. We don't have enough left out of our income to afford him an ice cream a day.

Today he asked me why Michael can have one everyday and he cannot. What shall I say? Because Michael's parents don't work and his do? Would it not give Michael more incentive to work instead of my son the idea it's better not to if Stan received the ice cream instead of Michael?

Please, help me to understand the system, so I can explain to a six-year-old boy who doesn't receive ice cream every day why his poor friend does.

Thank you,

PATRICIA HOLLOWAY.●

HAPPY 80TH TO REPRESENTATIVE CLAUDE PEPPER

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. SHANNON. Mr. Speaker, I welcome this opportunity to share with my colleagues in the House an article by Wendell Coltin of the Boston Herald American honoring Congressman CLAUDE PEPPER on the occasion of his 80th birthday.

Representative PEPPER, who celebrated his birthday on September 8, was justly recognized in the Herald American article for his role as champion of the Nation's elderly.

CLAUDE PEPPER is the oldest member of the House and I am the youngest. We share a deep concern for the well-being of America's elderly citizens. I have had the good fortune to join with him in sponsoring the medigap insurance bill, which provides protection for the elderly from worthless insurance policies as well as a bill related to prevention of abuse to the elderly.

In continuing tribute to my distinguished colleague I am proud to submit this article and insert it in the RECORD.

HAPPY 80TH TO REPRESENTATIVE CLAUDE PEPPER

(By Wendell Coltin)

This Labor Day week, if you have a birthday card on hand—or would like to send a brief note of birthday greetings to someone who has labored for the elderly, you can address it to Rep. Claude Pepper, House of Representatives, Washington, D.C. 20515.

Pepper, chairman of the House Select Committee on Aging, and, appropriately, the oldest member of the House, will be 80 next Monday, Sept. 8. He has been a true friend of the elderly; loyal to their cause.

Under his leadership, the Committee on Aging has concerned itself with many problems of the elderly. Pepper has initiated numerous public hearings related to those problems, to unearth evidence that called for changes, improvements in certain public programs, and dignified treatment of elders. Hearings that he and fellow committeeman Rev. Robert F. Drinan held in Brookline and Waltham produced overwhelming testimony against mandatory retirement of workers because of age.

Pepper achieved fame for his crusade in behalf of the elderly. He played a major role in the enactment of legislation that led to abolition of mandatory retirement in the Federal Government and raising of the mandatory retirement age from 65 to 70 in the private sector. It is his aim—as it has been Drinan's too—that mandatory retirement be eliminated entirely.

Pepper's admirers point to his fighting leadership in getting a program of meals on wheels for persons too incapacitated to leave their homes; a $32 million program to combat crime in the elderly's public housing projects; and discounts for elderly riders on Amtrak trains.

The Brookline and Waltham hearings demonstrated the importance of a state having membership on a congressional committee. Those hearings were held in Massachusetts because of Drinan's membership on the committee and a mutual respect that he and Pepper have publicly proclaimed for each other. When Sen. Edward M. Kennedy and former Sen. Edward W. Brooke were on the Senate Committee on Aging, the then chairman, Sen. Frank Church, D.-Idaho, came to Boston to conduct a hearing in Gardner Auditorium, which was largely attended.

Val Halamandaris, an attorney on the staff of the House Committee on Aging, formerly on the Church-chaired Senate Committee on Aging, told me a few days ago, when I asked for a comment from him on Pepper:

"He is easily the most articulate and most able and most genteel member in the Congress.

"He has the greatest sensitivity, as far as understanding and appreciation of the problems of older Americans."

He recalled a meeting conducted by the leadership of the American Association of Retired Persons. He said, "Every major political figure came to address it. Pepper made the greatest impression. He has the ability to move a crowd. He loves people. He turns them on. Frank Church, a great orator, spoke; Kennedy, too. Pepper got the longest reception and a prolonged standing ovation."

Halamandaris revealed that the committee is soon to come out with a report on 15 years of Medicare. Asked what it would say, he disclosed, "It will state there is a need to expand the program, that Medicare is on the verge of becoming a broken promise; that fewer and fewer doctors are taking assignment (on Medicare claims) and it will urge more doctors to take assignment."●

HUMAN RIGHTS AND CAPTIVE NATIONS

HON. RAPHAEL MUSTO

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. MUSTO. Mr. Speaker, during one week in July of each year since 1959, the U.S. Congress, the Nation, and some of our allies dwell on the plight of the nations being held captive under Communist rule. Proclamations and public declarations are issued expressing determination to unswervingly uphold the principles of basic human rights, personal liberty, self-determination and national independence—the fundamental theme of Public Law 86-90. The participation in and responses to this concentration on captive nations have always been overwhelming; and in reviewing various CONGRESSIONAL RECORD inserts and "The Bicentennial Salute to the Captive Nations," it has become incumbent upon me to address this issue.

It is clear from much of what has been said about the captive nations that one must be able to appreciate the basic relationship of the captive nations to the strategic, moral, and other interests of our Nation. In other words:

> In the captive nations orientation, as it has applied to our national interests and security, human rights has consistently been its central theme—on all levels of human rights, the personal, the civil, and the national.

No area in the world can be compared with the totalitarian, Communist area in relation to the gravest deprivation of human rights; and this area of captive nations has no boundaries. It reaches from the Danube to the Pacific and into the Caribbean. Thirty-one nations of freedom-loving peoples have been subjugated to Russian communistic imperialism. It is alarming to note that during the 1970's, three nations were brought under the yoke of communism's enslavement; and, too quickly in the 1980's one more Communist, totalitarian domination—Afghanistan. Sadly noted here is that not only has there been a lack of focus by the West on this latest Soviet Russian savagery, but also no help was given the Afghan nationalists in their struggle for freedom.

Is it possible that our leaders and opinionmakers can successfully perceive events and developments behind the ever-existing iron, bamboo, and sugar curtains, and now an oil curtain, as well? The Kremlin's puppet, Castro, has been underscoring an island chain reaction in the Caribbean, having already completed the magnetization of Grenada and Jamaica. As an encore, is it possible he will produce Nicaragua, El Salvador, and Guatemala and raise the banana curtain? One must wonder on what new stage this old story will be repeated.

Make no mistake, Moscow will continue its underhanded operations to spread the communistic fungus by the same successful tactics of divide and conquer, subversion, terrorism, and cultivated disorder precipitating the coup. This historical experience is clearly evident from the captive nations list: Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and others.

The President has made a firm and solid commitment to human rights as a cornerstone of our foreign policy—something no other President had done. If we can have a clear understanding of the relationship of the captive nations and human rights, and if we can maintain a strong defense and be ever so vigilant, we need have no fear as the Russian Bear groans. The Soviet Union, which is made up of almost half of the captive nations under Communist domination in this world and is directed by its totalitarian clique in the Kremlin, is one of the last remaining empires of this century and is really one of the most insecure states in this world.

Today, tomorrow, every day thereafter, the role of all American people is to give evidence that we are relentless in our opposition to oppression, that we are steadfast in our pursuit of peace, freedom, and security for all peoples, that we are constant in our demand for and advancement of human rights globally, and that we have not forgotten the captive nations, which is our best hope for the future.●

WOMEN VETERANS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. BOLLING. Mr. Speaker, the following article by June Willenz, of the American Veterans Committee, makes a lot of sense to me. I hope my colleagues will read it. It appeared in the Stars and Stripes of September 18, 1980.

WOMEN VETERANS: A FORGOTTEN POPULATION?

Women Veterans. Almost 700,000 of them. So what! They're veterans aren't they? They are eligible for veterans programs—home loans, veterans preference, GI Bill, VA hospital care, and more. But there's something different. In the past, some women veterans were denied benefits for decades—i.e., the WASPS, the Signal Corps women. There was also a time when the dependents of a woman veteran were not treated the same as those of a male veteran.

Some of the inequities have been corrected. Others continue to exist. Women veterans as a population are not recognized as a separate group by government agencies collecting data on women. There is almost no historical data on women veterans. No substantive social science research has been done on women veterans. The 1980 Census is the first time that women have been queried as to their veteran status. Astonishingly, the VA, charged with administering veterans benefits, has little, it any, data on women veterans. To this day, the Department of Labor's Bureau of Labor Statistics compared unemployment figures for veterans against male non-veterans, ignoring women veterans entirely. A recent study of the National Academy of Sciences on the VA Hospital system only considered male veterans in their study "because the female veterans amount to less than 2 percent of the current total." But that is changing. The Department of Defense is projecting a participation rate of 12 percent by 1984 and there is a strong possibility that this figure may be low.

The American Veterans Committee (AVC) has been struck by the lack of information and concomitantly, lack of interest about women veterans. Last year, AVC began an exploratory investigation of women veterans in our society, under the auspices of the Ford Foundation. Not only did we find out that government agencies do not systematically collect data on women veterans but they have operated on the assumption that what is good for male veterans is good for female veterans. Since veterans benefits and programs have been designed for male veterans, this is an assumption that may or may not be correct.

There has never been an analysis of what veterans benefits programs women veterans have used, how many used them, and whether they were helpful to them. Furthermore, there has never been an inquiry of women veterans as to what veterans benefits other than the existing one would be of value to them. AVC is planning to conduct an indepth study of these important questions.

Women veterans may have needs that are not being met under the present system. AVC's initial review began to uncover these problem areas. Often, women veterans have assumed traditional roles as wives and mothers after leaving military service. These roles have meant that women veterans delayed use of many benefits programs until their children were grown, or sometimes under the adverse circumstances of either widowhood or divorce. These events often take place long after eligibility has run out; women find themselves high and dry when they need their veterans benefits most.

While it is true that often male veterans delay their use of benefits for equally good reasons, the traditional roles of women almost automatically become a barrier to using the veterans benefits rightfully theirs, because of the limited time frame.

Another instance where women veterans are shortchanged is in the VA hospital system which does not provide any of the specific services that women need, such as gynecological and obstetrical. Many women veterans are not even aware that they can obtain contract services through the VA. There are reports of insensitivity towards women veterans seeking medical or hospital care and little that we know of has been done to make the VA medical system responsive to the needs of women veterans.

AVC has called upon the VA to establish a Veterans Administration Advisory Panel of Women, structured along the Department of Defense's Defense Advisory Committee On Women In The Services (DACOWITS). This independent citizens' advisory body would provide a useful channel of advice, council, and suggestions to the Administrator on the problems of women beneficiaries of veterans programs. This would include the problems of survivors and dependents, as well as those women veterans themselves.

VA Administrator Max Cleland has turned down the AVC suggestion and stated that such a Panel "is not the best approach at this time." Administrator Cleland indicated that actions had been taken at the VA to expand the VA's capabilities in dealing with the concerns of women veterans.

AVC applauded the actions of the Administrator but pointed out that his actions would not preempt the desirability of setting up a VA Advisory Panel on Women. The AVC suggested Panel would be outside the institution of the VA itself and would therefore have more credibility in its recommendations. A parallel group to the DACOWITS would serve the VA well, AVC pointed out, and would also provide women veterans another channel of communication if VA avenues were closed or not responsive.

In its response to the Administrator's negative decision regarding the creation to this Panel, AVC asked Mr. Cleland to reconsider his decision. Women veterans have rendered unique service to this nation, and they are proud of it. But they have too often been treated like second-class veterans. AVC called upon the VA to take a courageous step forward and set up this Panel.

(EDITOR'S NOTE: Women veterans may respond to Willenz comments directly to the American Veterans Committee, 1346 Connecticut Avenue, N.W., Suite 930, Washington, D.C. 20036, or to The Stars and Stripes.)●

THE ALEINER FAMILY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. COUGHLIN. Mr. Speaker, I would like to bring to my colleagues' attention the case of Boris and Lisa Aleiner whose marriage spans 7,000 miles and the harsh reality of Soviet politics.

Lisa Aleiner resides in my district with her 10-month-old son, Sasha, who has yet to meet his father. Lisa and Boris met in March of 1976 when she and her family spent a week in Leningrad as part of a vacation tour. She returned with her sister the following summer for a 6-week visit and a romance took root. The next summer she returned to Leningrad to marry Boris on August 28, 1978. the following April she returned to her parents' home to await the birth of Sasha.

On March 12, 1979, Boris applied to leave the Soviet Union for the United States. He was refused on July 15 of that year. The reason given was "security" for a job he held 3 years previously. He waited the allotted time and reapplied. In May, again he was refused but no reason given this time. He must now wait 6 months before reapplying.

Boris Aleiner calls his wife every Sunday and sometimes Sasha makes baby sounds over the telephone. Lisa's mother has become an amateur photographer since the birth of her first grandchild and sends a stream of photographs to Leningrad charting Sasha's growth.

Lisa and Boris are now appealing to the Congress of the United States for assistance in contacting Soviet Ambassador Anatoly Dobrynin about their case.

I will be sending a dear colleague letter requesting signatures for a letter to Anatoly Dobrynin about the Aleiner family. I hope you will join me on this letter and urge that this family be reunited.●

TRIBUTE TO CONGRESSMAN ROBERT DUNCAN

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. WON PAT. Mr. Speaker, It is with great pride and pleasure that I rise to join my many colleagues here today as we salute one of the great members of this legislative body—Bob Duncan.

Bob and I have been friends now for many years. He is always affable, caring, hard working, and best of all, a dependable friend. I have lost count of the times Bob has gone that extra mile for my constituents in Guam. He knows of their problems and he cares about helping my people solve their problems.

As a member of the Appropriations Committee, Bob has spent more than a few hours listening to residents of Guam and other U.S. territories. I can never remember a time when he was not attentive and direct in his questions and his support. That he should take so much of his valuable time for people who do not even live in his district let alone his State, is typical of Bob. He did not care where you came from; only that he wanted to do all he could to resolve a problem if he honestly could. There never was a time when I did not feel free to pick up the phone and tell Bob Duncan that I needed his support. And my only regret is that I seldom had the opportunity to return the favor so popular is he in this body.

I am going to miss Bob Duncan and so will the people of Guam. We need all of the friends we can get and Bob Duncan was one of the best we ever knew on Capitol Hill.

I have no doubt that the future, however, holds great things in store for a man who has been a two-time Congressman, a gold miner, sailor, corn salesman, and who knows what else. He is a man who is willing to take any challenge, and a man like this is never going to sit still for long. Good luck, Bob. You leave behind countless friends including myself. We will be watching and cheering your future exploits.●

TRIBUTE TO CONGRESSMAN ROBERT DUNCAN

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. McKAY. Mr. Speaker, I appreciate this special order being brought in behalf of Congressman Bob Duncan. There are some of us who come on the scene and go and there is not much change but Bob Duncan is not one of those. The Congress and the United States will miss his able leadership and dedicated service.

I know of no one who has been more capable, more conscientious and who has followed through to meet the needs of the country rather than the politically expedient than Bob Duncan. Perhaps the reason he did not win the primary was because he stated it the way it was and that offended some.

Bob Duncan has always been concerned about those who have not and those who are imposed upon and those who are abused. He has been very athletic and is very inquisitive. He has a great sense of humor, sometimes a little rough, but nonetheless a great sense of humor; but he is not without artistic appreciation and does have a sense of the arts and of great music. He is a very deeply human individual once you get under his crust.

He has taken on some issues over the environment to make things more reasonable and responsible. He has done yeoman work on transportation appropriations as well as on interior in maintaining the viability of our natural resources and providing support for States which provide the timber for the houses and the construction industry of this country.

He has the foresight and vision to know what that means rather than the momentary expediency. We have too few who have that long-term vision as it relates to the natural resources of this country. Without it we will not long survive and we will use up our seed corn and one day be destitute. He is one who has had the vision to prepare for the future of those resources. He has been tenacious in his efforts to see that it happens and I have been delighted to support him in those efforts.

Bob Duncan is a very competent and capable attorney, a family man, and one who is capable of doing a lot of his own repairs. He also has a bit of the old country sage as it relates to "medical practice."

The name Duncan needless to say is of Scottish origin—a fellow Congressman who, true to the tradition, has been very concerned about the public purse and not willing to squander a nickel.

Bob Duncan is an example of what I would consider the solid bedrock American who operates from a base of commonsense not high theoretical unrealness. With people like him in goodly numbers the country will be secure for generations yet to come.

Mr. Speaker I trust that the future will hold still many good things and there will be those who will yet call on his services for the benefit of his fellow men and this country. He has served well not only here but in the Armed Forces, in his community, and heeded the call of his party and the country many times and we hope that will continue for many, many years.

It has been a personal delight for me to have been able to associate with him and have him as a personal friend in the time that we have been in this great deliberative body of the greatest democracy on Earth.●

JOHN STEVENS—TESTIMONIAL

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. PATTERSON. Mr. Speaker, it is with great pleasure that I ask my colleagues to rise with me in honoring Mr. John Stevens, an outstanding and dedicated public servant who is retiring from his position as director of public works for the city of Santa Ana.

John first came to the city of Santa Ana from the city of Hermosa Beach, in 1970. From 1970 until 1976 he served as assistant director of public works, and in 1976 was named director of public works.

Under John's leadership and direction the city of Santa Ana has constructed a new city hall, initiated a sidewalk improvement program, installed new street lighting, widened streets, and laid the groundwork for a new Amtrak station and Broadway overpass.

In addition to his outstanding accomplishments as director of public works, John has dedicated himself to the advancement of his profession through his participation in groups like the American Society of Civil Engineers, the California Society of Professional Engineers, the City and County Engineer's Association, and the American Public Works Association.

When not involved in professional activities John has been a dedicated father of five, and grandfather of three. He has participated in numerous civic and community activities, and is a member of the Board of Directors for Rotary International. As time has permitted he has traveled to many foreign countries, including: Egypt, Russia, Peru, and Micronesia.

I believe it fair to say that the lives of each and every resident of the city of Santa Ana have been made better because John Stevens has given so freely of his time and talents to our community. We are sorry to see John leave. We wish him the very best, and we shall always be grateful for the years of unselfish service he has given to our city.

Mr. Speaker, it is a privilege to ask my colleagues to join with me in commending an outstanding public servant and a man who has served as an inspiration to us all—John we thank you.●

TRIBUTE TO HON. ROBERT DUNCAN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. PANETTA. Mr. Speaker, we are all going to miss Bob Duncan a great deal. He has been a vital presence in this body over the past several years.

Bob has been best known recently for his work on the Appropriations Committee, where he has chaired the Subcommittee on Transportation. But he has contributed tremendously in numerous other areas, and when he leaves this body, his accomplishments will remain behind.

I want to take this opportunity to wish Bob the best of luck in all of his future endeavors. He has been a good friend and colleague, and we are very sorry that he will no longer be with us, but we all hope that he will return frequently.●

PERSIAN GULF SECURITY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. BROOMFIELD. Mr. Speaker, several days ago, I addressed the House in regard to the war between Iran and Iraq, and in particular the sale of gas turbine engines for the Iraqi Navy. Today, I would like to reiterate my concerns in regard to these matters.

As my colleagues know, in another abrupt change of course, the Carter administration recently decided to hold up the shipment of General Electric gas turbines ordered by the Iraqi Navy. I would like to emphasize that the administration's decision to delay this shipment is reportedly a temporary one. In view of the gravity of the current situation in the Persian Gulf, as well as Iraq's past record in relation to supporting international terrorism, I firmly believe that this turbine transaction should be permanently revoked. The sale of these engines can only exacerbate Persian Gulf tensions, and as a result, can only heighten the risks to our hostages and our oil supply.

It is regrettable that two of the eight engines have recently been sent and that two more were scheduled to be shipped in late September. Moreover, last week, conferees were scheduled to consider the foreign aid authorization including an amendment which would block the sale of the gas turbines. The conference meeting, however, was canceled and probably will not reconvene until after the election. As a result, there may be sufficient time for the remaining engines to be shipped to Italy where they are being installed on ships for Iraq.

In short, I believe that the United States should not be supplying equipment with a military use to Iraq, but instead pledging to peacefully resolve the tensions between Iraq and Iran. Moreover, we must not only continue to consult with our allies on this matter, but also to politically and diplomatically minimize Soviet opportunism in the gulf.

With the growing concern over the threat to Western oil resources which are especially posed by the Iran-Iraq war, it is important that the United States and its allies discuss contingency strategies on securing oil routes, including the Strait of Hormuz. The establishment of a sealane security system among allies and friends would greatly help in keeping the vital shipping lanes open to world trade. Equally important, we must continue to encourage Soviet neutrality in this matter. In this regard, I support current administration efforts, hoping that a major catastrophe can be averted by attempting to peacefully resolve the heated tensions in the Persian Gulf today.●

PRAISING FEDERAL EMPLOYEES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. BROWN of California. Mr. Speaker, over the weekend the Washington Post carried an excellent story about the recipients of distinguished Presidential rank awards, and the recipients of meritorious Presidential rank awards. While the coverage given to the 255 people named under this new recognition program was well deserved, and this type of good news about Federal employees should be widely shared, I think it is important to recognize that such exemplary service can be found all the way down the line in the Federal employee system.

One such example was recently brought to my attention concerning a postman in my congressional district. Since the Postal Service has been a particularly prominent target of those who insist on denigrating the Federal Government, I take some pride in pointing out a side of the Postal Service that most of us have had personal experience with, the concerned and dedicated postman.

In a news article which follows these remarks, the story of how letter carrier Charles "Chuck" Franks saved the life of an elderly woman who lived alone is described. This type of action is not uncommon, but when it is reported, it deserves to be recognized. And the U.S. Postal Service deserves credit for its participation in the nationwide postal alert program, which will make such acts of public service even more common.

The article follows:

[Riverside Press-Enterprise, July 18, 1980]

THE POSTMAN RINGS TWICE AND GETS AN AWARD FOR SAVINGS WOMAN'S LIFE

(By Sandy Pavicic)

The mail may be a little late in Magnolia Center today. That's because the letter carrier, Charles "Chuck" Franks has a breakfast date with the mayor.

It is unusual for Franks to be late for work, but today he has a good excuse.

The 44-year-old letter carrier is going to be honored at City Hall for helping save the life of Ann Mulhern, an elderly woman who lived on Emerson Street.

One day in May, Mulhern fell and broke her hip in her living room and no one noticed.

According to her neighbor several doors down, Elizabeth Emerson, the children in the neighborhood were frequently the brunt of Mulhern's wrath. But aside from that, no one really bothered with her.

"She didn't like people," Emerson said, "She just wanted to be left alone."

Still, Franks was used to a greeting from Mulhern as he dropped off her mail each day.

Two days after she fell, Franks began wondering what had happened to her. He queried a few neighbors but they could not remember when they had last seen her standing at her living room window or hollering at the neighborhood children.

According to Emerson, no one really thought anything of it, because Mulhern was generally a private person.

The next day, May 24, Franks was certain something was wrong. After he finished his route, he went back to Mulhern's home with his wife, Geraldine. The two of them began pounding on the door.

"I was able to raise her," Franks said. "I could hear her voice and I found out she wasn't all right."

He borrowed a screwdriver from one of the neighbors and broke into the house. "She was lying on the floor by the couch," Franks said.

Franks said Mulhern had lain on her living room floor three days with a broken hip.

Mulhern is recovering from her accident at Magnolia Convalescent Hospital. "She won't see visitors," Franks said, "but she sees me." He said he stops in to check on her every time he gets a chance.

Franks has been on a foot route in Magnolia Center for the last 12 of his 20 years at the Riverside Post Office. He knows almost everyone along the 15-mile route. He hasn't missed a day of work since he was off for five months recovering from open heart surgery last year.

"I started here with patrons who had little kids," he said. "Now their kids are grown and have families of their own."

He paused yesterday as he handed Elizabeth Emerson her mail and said, "I'm getting an award tomorrow morning." Then Franks invited Emerson to Mayor Ab Brown's breakfast in his honor.

Emerson has sent a letter to Postmaster Jack O. Starnes to inform him of, "the humane action of our mailman called Chuck."

Franks credits Emerson's letter with his receipt of a $250 Special Achievement Award from the U.S. Postal Service, the plaque he will receive from the mayor and a framed certificate of appreciation from the postal service.

Emerson said sending Starnes a letter, "was just something I had to do. I felt so guilty about what I didn't do.

"I don't know whether I wrote the letter out of appreciation or guilt. He wouldn't have had to get involved if we has done our job as a neighborhood. It makes us sick that we didn't do anything. From now on we will take care of our neighbors."

According to Starnes, the postal service in Riverside is just getting into full swing for participation in the national Postal Alert program for older persons.

Letter carriers will keep an eye on the elderly and infirm patrons on their route if the patron asks for the service.●

TROUBLE IN THE AUTO INDUSTRY

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. BRODHEAD. Mr. Speaker, on September 2, the Auto Task Force held its first public hearing in the city of Detroit. The purpose of this meeting was to assess the impact of the sharp drop in American auto sales on local communities. Among the witnesses who testified was Mayor Angelo Wedo of Brook Park, Ohio. I wish to share his testimony with my colleagues:

TESTIMONY OF MAYOR WEDO BEFORE THE AUTO TASK FORCE

Mr. Chairman, members of the United States Automobile Task Force, what is the overall effect of the unemployed auto workers?

Presently we have 300,000 unemployed auto workers in the United States. There is another 550,000 laid off in the auto-related industry and an additional 100,000 laid off by the closing of 900 auto dealers. This presents a very grave problem to our country. The decay to the economy of our nation by the above problem has reached a point of near insurmountable damage. The unemployment problem has had extreme effect to all governmental agencies, i.e. municipal governments, etc.

Example: Brook Park, Ohio, a community of approximately 30,000 residents with one major industry to carry the tax burden of our community has been extremely affected by the Auto Industry and Auto-Related industry layoffs.

In 1979 Brook Park, because of rising costs of government was forced to ask for a one-half percent increase in our municipal income tax. This tax was passed on November 5, 1979 and became effective November 6, 1979. For example, this increase was quickly wiped out by the layoffs in the auto industry and particularly in the City of Brook Park, Ford Motor Company. Our municipal tax collection through August 31, 1980 (with the one-half percent increase) was the same for the exact period of time through 1979 before the increase of municipal income tax.

A municipality needs a minimum increase of income of 10 percent per annum to remain status quo. Unless the additional income is derived, a municipality has two choices, increase taxes or cut the work force in all areas. Cutting of the work force could be disastrous due to the fact that in time of decreased employment crime rises and the public suffers.

The City of Brook Park was forced to make major downward revisions in expenditures totaling 1.8 million dollars, which represents over 10 percent of its appropriations. These reductions were made both in operating and capital funds.

The City of Brook Park has been earnestly seeking other types of industry to locate here to help alleviate the revenue loss of auto and auto-related jobs.

What impact have the layoffs had?

A loss of 7015 jobs in Brook Park's major auto industry, plus an additional 1500 employees directly related to the auto industry.

For example let me summarize how the layoffs reflect on revenue losses to the City of Brook Park.

Estimated annual earnings for 8,500 employees	$18,000
Number of employees	× 8,500
Dollar loss to economy	$153,000,000
Gross payroll loss	$153,000,000
Municipal tax rate	.015
Net tax loss Brook Park	$2,295,000

I realize that there is an offset to this loss in sub-pay benefits. However, as the attached chart (Exhibit A attached) indicates, during the time a person is unemployed our municipality receives only 34 percent of the tax it would have received if the person were still employed. We must also realize that once the benefits are exhausted the municipality receives no tax.

Besides the effect on Brook Park and other municipalities, a big loser is the Federal Government.

[In billions of dollars per year]

Estimated Federal income tax loss	
Auto industry	1.
Auto related	1.5
Auto dealership closing	.003

In addition, add the loss of corporate tax revenue which can be extremely high due to the 3 year carry back, 5 year carried forward section of the internal revenue code. (Dealing with corporate tax). The tremendous costs in increased welfare aid after unemployment benefits expires. Balance of Foreign Trade payments causing our country to fall further back and thus affecting the value of the American dollar.

What are the primary reasons for the depressed auto industry?

Flooding of the American markets with imports of Japanese-manufactured autos and trucks. Manufactured mostly on an overtime basis while our people are out of work.

Unrealistic demands of the United States Enviromental Protection Agency on automotive emission standards that are further crippling our already devastated auto industry.

Evasion of payment of the 25 percent truck tariff by shipping trucks into this country with truck beds missing, using the guise of parts shipments to avoid payment of tariff.

Possible Remedies: Passage of Resolutions SJ-193 and HR-598 allowing the administration to negotiate with the Japanese Government to limit the number of imports allowed to enter our country. Also forcing the International Trade Commission to invoke the section of S-201 dealing with injury to the American Auto Industry. If the unemployment problem is not significant enough to enact S-201 concerning overall injury to the American economy, then I am completely baffled as to what it takes to invoke the section of S-201 by the International Trade Commission.

Reduce the standards imposed by the U.S.E.P.A. on the auto industry to something realistic that it can live with. (Incidentally, this could also be a deterrent to continued run-away inflation.) Force foreign manufacturing firms to build their plants in the United States and provide jobs for Americans while still maintaining a strong tariff for parts manufactured abroad (3 percent tariff is ridiculous in light of other countries tariffs, as well as, quantity limitations). Why allow the United States to be a "Patsy" at the expense of the American people?

Impose or re-regulate the "Oil Industry" whose prices have reached as high as the world market retail prices and whose profits are completely unconscionable.

Rather than the windfall profit tax, let's reduce the price of oil products at the retail outlet giving Mr. and Mrs. John Doe the benefit of some dollar savings. In plain words, reduce the price of gasoline at the pumps.

In 1974, we had a severe shortage in auto fuel. American auto manufacturers began producing small cars. As soon as our fuel supplies increased the auto industry had to give rebates in order to sell their built up inventory of small cars.

In Conclusion: The Japanese now have approximately 32 percent of the auto market tied up. If and unless we do not negotiate some form of controls on Japanese imports, it is estimated by 1985, the Japanese Auto Industry will control 35-40 percent of the American auto market. It is needless to speak of the control on the auto parts market.

Passage of Resolutions SJ-193 and HR-598 will eliminate any questions the administration has on negotiating controls on imports. Thus helping to alleviate our unemployment problems in the auto industry.

The broad effect of reducing unemployment would cease the continued erosion of our economic condition, and aid in retarding inflation and, most of all, put people back to work.

Will eliminating the closing of manufacturing facilities that could be so vital to our national defense, restore the respectability of the men and women who pay the bulk of taxes to support this country?

Ladies and Gentlemen of Congress, how many more American Industries will we lose before we make laws to protect the interest of the American people? Let's use your legislative authority to put our men and women back to work.

Thank you.

EXHIBIT A.—FORD MOTOR CO.—UAW SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN

Hourly rate	Weekly straight pay	Tax deductions				Benefit after tax	Unemployment compensation and other compensation	Vacation holiday pay	Credit unit balance	Exemptions	Taxes			Union dues optional deduction	Benefit paid	Draft number
		Federal FICA	State	State unemployment compensation	City						Federal	State	City			
9.085	382.20	84.87				271.89	128.00		50.57	M DH M 000 0	12.92				115.67	0549T86
			5.40		5.73					DH M 030 0		0.83	1.97			

$5.73
−1.97

$3.76/per person loss as long as benefits last. ●

THOUSANDS LINE UP FOR 75 JOBS AT SSA

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, each day we are faced with the harsh realities of rampant unemployment throughout our Nation. My own district, the Seventh District of Maryland, is plagued with a 15-percent unemployment rate, with a 45-percent rate among the minority population.

The situation described in the article below is yet another painful reminder that the jobs are just not available. During the recent week of September 15, 1980, the Social Security Administration in Baltimore had to inform some 12,000 applicants that they had only 75 openings available for unskilled jobs. Undoubtedly, all 12,000 of these applicants were not unskilled laborers. However, the fact that these people have reached such a point of desperation reiterates the critical need for more employment opportunities.

Knowing of my colleagues' genuine concern for the current national unemployment dilemma, I am submitting a recent article from the Baltimore Sun entitled "Thousands line up for 75 jobs at SSA."

The article follows:

THOUSANDS LINE UP FOR 75 JOBS AT SSA

(By Allegra Bennett)

Divested of all but hope, at least 12,000 job applicants lined up around three federal buildings here yesterday, seeking applications for unskilled jobs with the Social Security Administration—but there were only 75 openings available.

Word had spread mostly by mouth that applications would be available this week at the three buildings for jobs in three categories at the Social Security Administration that require no written examination and no experience. Some job-seekers had been drawn by Social Security literature announcing jobs were available but failing to specify the limited number of current openings.

The rush of applicants took federal administrators at the three offices by surprise yesterday.

The applicants were vying for positions paying from $7,210 a year for clerks and clerk-typists to $11,564.80 for warehouse workers.

"These applications will help relieve the turnover at these level jobs," according to John B. Trollinger, deputy press aide for the Social Security Administration. He added that the applications will remain on file for one year and additional jobs in those three categories could materialize in that time, but he would not speculate on how many.

Toni Winchester—who had been waiting in a line at Social Security's Metro West office on Greene street but had walked over to one at the federal courthouse that was shorter—did not care which job she might get as long as she got one of them.

"I have been looking [for work] for two years, since my daughter was old enough to go to school. Everyone turned me down because I don't have a job," the 28-year-old mother of two school-age children said.

Explaining what she saw as an irony, Ms. Winchester observed that during two years of job-hunting, employers had appeared more interested in applicants who are already employed and who were seeking better jobs than in those who were without jobs.

"Those with jobs seem to get the jobs," she concluded.

Standing next to her, Linda Cureton, 19, who had been job hunting since graduating from high school earlier this year, agreed. With no work experience to offer, however, Ms. Cureton had been learning first-hand the meaning of the recent increases in unemployment.

According to the Department of Labor, unemployment in the Baltimore metropolitan area—which includes the city and five adjacent counties—for the month of July was 8.1 percent. For the city alone, the figure was 9.9 percent.

"I applied at Social Security last April for a temporary position but was not called," said Ms. Cureton. "I'm still waiting. I'll take anything."

Nineteen-year-old Cameron Franklin thought he wouldn't have a problem finding work when he graduated from high school this year with a diploma in commercial art. What he found on the job market, however, was an oversupply of "people with more experience than high school."

"More experience means college," the Walbrook high graduate said. "I don't want to go to college. I would be in the same situation I was in high school. I would still need money."

The Social Security Administration did not advertise the available positions, according to Mr. Trollinger.

However, the word appeared to spread like wildfire, from church pastors alerted by job committees in their churches that the positions were becoming available and from friends and relatives employed at the Social Security complex.

The federal agency did place a job order with the state employment service, Mr. Trollinger said. He added that such jobs previously had been filled through applications to the federal Office of Personnel Management but that procedure was changed recently, as an efficiency move, to allow Social Security to fill those jobs directly.

As early as 6 a.m. yesterday, a crowd began building and spilling out into the intersection of Lombard street and Hopkins place and encircling the U.S. District Courthouse, where a few thousand applications were available at the Federal Job Information Center.

Several blocks away on Greene street and a few miles away in Woodlawn, there were similar scenes at the Social Security Administration offices there.

The doors at the federal courthouse were opened to the applicants at 7:45 a.m., but an hour and 45 minutes later, officials had run through the 2,200 applications on hand.

An additional supply of 2,500 applications was exhausted within two hours, and officials used a copying machine to make 700 impromptu forms while awaiting the arrival of 2,500 more applications.

The distribution centers combined to hand out more than 12,000 applications yesterday, according to Mr. Trollinger.

Those who are hired, he said, will be temporary employees who may become permanent at the end of three years.

Looking around her, Ms. Winchester assessed the crowd and thought about the stream of application forms she had completed at fast food restaurants and with other employers.

"It's not that they are not looking," she said. "You may get up Monday and look [for a job] but by Thursday [you] get so discouraged."●

BILL GREEN DEPLORES HOUSE ACTION ON ABORTION

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. GREEN. Mr. Speaker, this year, the House has placed greater restrictions on the availability of Federal funds for abortions than last year. Greater and greater segments of the population have been touched by the current House restrictions. I would like to take this opportunity, as we move into the final phase of the appropriations process, to express my deep concern over the action taken by the Congress with respect to the abortion issue.

This year, again, we have, as a practical matter, usurped the right of many women to decide whether or not they should have an abortion—a right granted to all women by the Supreme Court in 1973. Language which restricts the availability of abortions has been included in, or offered as amendments to, many of the appropriations bills considered by the House this fall. The Labor-HEW appropriations bill passed on August 27 contained language stating that medicaid may not fund abortions except in cases where the woman's life is endangered by the pregnancy. You will recall that last year's so-called compromise on the medicaid funding language, finally reached in November, permitted abortions only in cases of rape, incest, and life endangerment. I felt then, and I still feel now, that any of these criteria is too restrictive. The Congress has set a moral standard by telling women in which cases they can, and in which cases they cannot, have an abortion. I do not believe this is, or should be, the role of a legislature.

While last year's defense appropriations bill included a provision which permitted federally funded abortions in cases of rape, incest, and endangerment of life, this September the House passed a defense appropriations bill which allows abortion services for military personnel and their families only in cases of life endangerment. This, again, is more restrictive than last year's language. It forces a woman covered by the Defense Department's health plan to have the child, or to find some other means of having an abortion, which could be detrimental to her health. Undoubtedly any alternative creates an extraordinary expense for individuals who are living on the salaries provided by the Defense Department, which I believe are too low.

An amendment was offered to the Treasury/Postal Service appropriations bill which would prohibit the Federal Government from offering its employees any health plans which include abortion services; the amendment was passed by the House by the very large margin of 228-170. While this large majority was very distressing to me, I understand that the Senate Appropriations Committee, to which the bill was referred after House passage, struck the language pertaining to health plans for Federal employees. This Senate committee action is a very positive sign, and I hope this position will be maintained when the bill reaches the Senate floor.

Time and time again, we have considered the abortion issue. However, it seems that we continually neglect the most basic questions associated with this issue: Whether or not a woman has a right to determine her own destiny, whether or not the Federal Government has a responsibility to aid her in doing this, and whether we should choose to provide adequate health care for all women, or to force them, in some cases, to find some other means of providing for their needs. I can only restate my belief that Federal funds should be used to provide this service, the alternatives to this are dangerous and irresponsible on the part of the Government.

I recognize that many oppose abortions on religious or moral grounds. I know that those who oppose abortions hold these convictions deeply and for reasons of which I am well aware. Nevertheless, as Representatives of 220 million people, we cannot ignore the fact that there are many who do not share these views. I personally concluded that each individual should be afforded the opportunity to make this important decision on the basis of individual conviction, regardless of economic circumstance.

I understand that those who oppose abortions believe that a portion of their tax dollars is going to pay for something which they find morally objectionable. Nonetheless, this situation is not unique. Pacifists have also found defense appropriations to be contrary to their convictions.

I appeal to my colleagues today to consider the abortion issue carefully and to consider the effect of these and future amendments on our citizens. I continue to hope that prochoice Members will eventually prevail, as I feel it is imperative to provide adequate health care, which includes abortion services, to all women.●

SCIENCE AND THE PUBLIC

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. BROWN of California. Mr. Speaker, as chairman of the Subcommittee on Science, Research, and Technology, I have long been involved with the interface between science and society and the inevitable conflicts that are involved with this interaction. Isaac Asimov, a renowned science writer, scientist, and commentator on the history and development of science can offer unique insight into the responsibility of scientists to view their work within the context of society and on the impact to society of their work. Society's obligation to understand the scientific process—with the help of scientists—if it is to share and participate in the decisions of the scientific community, is a view I share strongly with Dr. Asimov. I commend to my colleagues the following article on this subject by Dr. Asimov appearing in the August 28, 1980, edition of the Los Angeles Times:

Science, Public Must Be Friends if the World Is To Survive

(By Isaac Asimov)

Until 1752, science had been a pursuit for gentlemen, a staid inspection of the universe out of intellectual curiosity, a motivation quite divorced from the practical things of life. Then came that eminently practical man, Benjamin Franklin.

He investigated electrical phenomena, as 50 other learned savants were doing, and it reminded him of phenomena in a thunderstorm, differing only in a matter of scale. In 1752, then, he flew a kite in a thunderstorm and use the heavens as a source of electricity for charging a down-to-earth Leyden jar. He then used that theoretical knowledge to design a lightning rod.

Franklin used science to defeat a natural calamity. Against the pointed metal rod (properly grounded), the dreaded lightning stroke fell back harmless. The public learned, for the first time, that science worked for it, not merely for the academics.

From that time on, science moved from strength to strength. As scientists learned more and more about the rules that governed the universe and everything in it, those rules were applied to the business of humanity. At every step, science, in all its branches, became more intimately concerned with everyday life.

Now we see electronics, medicinals, solid-state devices, engines, computers in every direction and at all times. Scientists have come a long way in a little over 200 years.

In a sense, scientists have succeeded to the role of the ancient priesthood. In days when the universe seemed ruled by gods and demons, the priests knew the spells, incantations and prayers needed to keep the universe on its rails, and to make sure it would remain in harmony with human needs. Now, when the universe seems to be run by invariable relationships called "laws of nature," it is the scientists who know the equations, symbols and instruments required to keep the universe in line.

The difference is that there was no way of keeping tabs on the priests. Their universe did not run on a reasonable basis because the motivations of supernatural entities were inscrutable by definition. "Have faith" was the watchword. If the priests failed to keep the universe convenient for humanity, the failure was not theirs but that of the population itself for "sinning" or for "lacking faith." Or perhaps it was not failure at all but the inscrutable "will of the gods."

But scientists deal with a universe built on strict, rational principles that can be expressed in firm mathematical form and that—in theory, at least—is accessible to all. If, as a result of science, an element of inconvenience and danger is introduced into the universe, there can be no question in anyone's mind but that science and scientists are at fault. There is no one else to blame.

Science and scientists produced poison gas in World War I and the nuclear bomb in World War II. The dangers of modern war weapons and of peaceful nuclear technology are universally perceived to have been grounded in the work of scientists. Even the dangerous side-effects of processes intended solely for useful and constructive purposes are seen as the product of scientists. Good intentions count for nothing. The carcinogenic properties of new compounds intended for industrial applications, for dyes, for medicinals; the poisonous wastes inevitably produced by many useful chemical processes; the exhausts of autos; the energy waste of our gadgetry—all are put down as black marks against science and scientists.

As a result, there is a growing ambivalence toward science in the contemporary world. More and more people are entertaining the view of science-as-destroyer, and dream of returning to a never-never pastoral world that exists only in their romantic longings. Even those who cling to the older view of science-as-savior find it increasingly difficult to deny the darker side of scientific progress, and are lost in confusion as to what to do. Well, then, what do we do?

To begin with, we must understand that we can't abandon scientific advance. Whether we'd be better off had we never started is not worth arguing, for we did start. World population is now four or five times as large as can be supported without advanced technology, so we cannot simply let go unless we are willing to see some 3 billion people die in misery and our social structure collapse. And, if we wish to support the world by means of a smaller, cleverer, more people-oriented technology, we have to develop it first by means of scientific and technological advances, spawned and applied by scientists and engineers.

The knowledge that scientific advance cannot be abandoned must not give scientists false confidence. They must not feel that they are too necessary to be assailed, that they can be rigidly indifferent to public clamor. They dare not assume the role of an invulnerable priesthood, for they have no supernatural beings to hide behind. If they are perceived as being aloof and unreachable, that could so inflame the passions of the multitude that scientists, science and ultimately the multitudes themselves will be destroyed in a passion of suidical rebellion. Scientists must therefore—for everyone's sake, including their own—concern themselves intimately with the possible consequences, both practical and moral, of the work that they do. They must welcome public concern and share it; after all, they, too, are part of the public. It is the public purse that supports most of their work and the public from which they recruit the cadre for future generations of scientists. As for the public, its concern and its reactions must not be based on ignorant emotion alone. Of the millions who watch sports events, a vanishingly small percentage can play any of the games that they watch with anything approaching professional skill, yet virtually all understand the rules well enough to appreciate what they see. The public must then, in the same way, understand science if it is to react intelligently.

The conclusion, then, is that every scientist must be a publicist for science and a teacher of science every moment possible. And every member of the public who wishes to participate in the decision that might save or destroy the world must learn all he can about science in order to have a reasonable chance of placing the weight of his opinions on the side of salvation.●

A TRIBUTE TO REG MANNING—PULITZER PRIZE-WINNING CARTOONIST

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. RUDD. Mr. Speaker, after more than 56 years of editorial cartooning and publication of more than 15,000 of his drawings from coast to coast, the Arizona Republic's Pulitzer Prize-winning cartoonist Reg Manning has announced a reduced work schedule.

To those of us who are privileged to know and love Reg Manning, it is perfectly in character for him not to retire completely. He will continue to draw occasional cartoons, and to do his incomparable copper wheel crystal engraving, which is recognized as among the best throughout the world. At 75 years of age, Reg still exudes tremendous energy and his famous warm smile, which have always been his hallmark. Age has not slowed Reg down one bit. As he once said with characteristic wit:

> Being 75 doesn't make me feel old. What makes me feel old is when some old guy comes up and says he used to go to school with my son.

Reg Manning's first newspaper cartoons appeared in the Phoenix Gazette in 1924. At the height of his cartooning career, Reg was syndicated by McNaught Syndicate, and his cartoons appeared in more than 175 newspapers nationwide. He won the Pulitzer Prize in 1951 for his memorable cartoon, "Hats," which showed a bullet-pierced helmet atop a cross in Korea in contrast to the silk top hats of United Nations diplomats at Lake Success. Manning cartoons have also won 16 awards from the Freedoms Foundation at Valley Forge, Pa., including two Abraham Lincoln awards, the Freedoms Foundation's highest award.

Syracuse University in New York has established a Reg Manning collection in its library in recognition of his outstanding past and future accomplishments, for which Reg has donated more than 5,000 original cartoons valued at more than $150,000. Other Manning cartoons have been donated upon request to Huntington Library, Huntington, Calif.; the Peter Mayo collection at the University of Missouri; the National Center of the Cartoon and Graphic Works in Washington; the estate of Bernard M. Baruch; the Pulitzer Prize trustees collection at Columbia University; the late President Lyndon B. Johnson; and Senator BARRY GOLDWATER, who has one of the largest collections of Reg Manning cartoons.

Mr. Speaker, numerous laudatory newspaper and magazine articles have been published about Reg Manning's outstanding career as an editorial cartoonist. One which marked his 50th anniversary as cartoonist for The Arizona Republic in Phoenix was especially good, and I would like to include it in tribute to this great American at this point in the RECORD:

[From the Arizona Republic, May 1, 1976]

Reg Manning Marks 50 Years on Job

(By Earl Zarbin)

Cartoonist Reg Manning marks the 50th anniversary today of his employment at The Arizona Republic.

But, if he is running any slower than he was when he joined the newspaper as a 21-year-old aspiring comic strip creator, that is difficult to detect.

The ideas, the drive, the energy, the sense of humor, which have made him one of the nation's foremost political cartoonists are still apparent.

His readiness to laugh, to smile, to share his joy and happiness, express better than words what has been involved in the art he has created in many forms—cartoons, fabrics, stationery, postcards, Christmas cards, jewelry, books, comic strips, watercolors and glass engravings.

There are other arts, those of living, of being husband, father, parent, helpmate, which are happily attested to by Ruth, his wife of almost 60 years, their son, Dave, and Dave's family.

Manning is a public man. Six days each week, excepting Sundays, some of what it is that makes him tick appears in his editorial cartoon on Page 6 of The Republic.

To the right of his signature is his trademark—a cactus with a face. The cactus-face expression often provides a further comment on the cartoon subject.

Since his first editorial cartoon appeared on the front page of The Republic in June, 1926, Manning has produced about 14,000 cartoons.

One, "Hats," printed Dec. 14, 1950, brought him a Pulitzer Prize in 1951. Pulitzer Prizes are awarded annually for the best work in fields such as poetry, cartooning, editorial writing, foreign reporting, local reporting, photography and music.

Gerald W. Johnson, writing in the book, "The Lines Are Drawn," about life in the United States since World War I as reflected in Pulitzer Prize cartoons, said that "Hats has a strong claim to be called the most characteristically American cartoon in the series, for it reflects the very strong American prejudices against both war and diplomacy. . . ."

At the time of the Pulitzer award, Manning's six-a-week political cartoons appeared in 116 newspapers, including three foreign publications, through the McNaught-Syndicate. He also drew two cartoons each week specifically for The Republic.

Before he retired from syndication in 1971, ending a 23-year association with McNaught, his cartoons appeared in 170 American newspapers and in a dozen foreign countries.

Manning arises about 6 or 6:30 a.m., showers, prepares his own breakfast, reads the newspapers and then thinks of a cartoon. He said he plays the radio and television constantly so that he can be aware of any spot news.

Sometimes he gets two or three ideas at once, saving some for use on succeeding days.

When he has an idea, he said, he tries "to draw it on the basis that I was debating with a friend who disagreed with me and we could still be friends afterwards."

"There are two or three things I try to do in . . . an editorial cartoon." he said. "I try to visualize my reader as someobody who has had to work like heck all day and didn't have a chance to read the story or hear the radio.

"So in my editorial cartoon, I try to tell him what happened, who it was it happened to and my opinion of whether it was right or wrong."

"I once suggested to a group of publishers that it was the cartoon that pulled readers to the editorial page instead of the editorials to the cartoon," Manning recalled. "They didn't like that idea very much."

When he drew "Hats," he said he had in mind "that they were doing a heck of a lot of talking in the United Nations without accomplishing very much, and they weren't doing any talking in Korea where this guy was getting bullet holes through his helmet."

He said he also had in mind Will Rogers' comment that "We never lost a war or won a conference." (Rogers died in a plane crash in Alaska, Aug. 16, 1935.)

Manning will work two or three hours on a cartoon. When he completes it, he turns to his second occupation, copper-wheel engraving on crystal.

He has become so engrossed with this art form, which he calls sculpture in reverse, that it has "ruined my golf game."

In fact, when he gave up his syndicated cartooning "because it wasn't profitable enough," he was prepared to quit cartooning entirely.

He said, "If I had quit, I could do writing and would have no trouble at all with my glass. I have so many things to do I'll never get them done."

Manning said he derives half of his income from his crystal etching. He said he has received as much as $8,500 for two of his etchings. The minimum price for his work is $400.

Hundreds of hours can go into a single piece of work, he said.

But instead of devoting himself exclusively to etching and writing, he returned to The Republic's payroll as its political cartoonist.

Manning had gone off the payroll in 1948, because the late Eugene C. Pulliam, who bought The Republic and The Phoenix Gazette in 1946, didn't want to continue the Phoenix Republic and Gazette Syndicate.

Manning's cartoons were the only thing marketed by the syndicate, which was started in 1935 for that purpose. When Manning ended his formal status at The Republic to join the McNaught Syndicate, it also meant the end of "the Big Parade," a full-page cartoon feature published every Sunday by the newspaper from October 1926 to April 1948.

The Big Parade was "a cheery folksy hodgepodge of cartoons about local affairs," and it "had considerable power," This description of the page was provided in later years by Bill Mauldin, a two-time Pulitzer Prize-winning cartoonist, who was then a high school student living in Phoenix. Mauldin's career subsequently was followed in The Big Parade.

In his book, "The Brass Ring, A Sort of a Memoir," Mauldin credited Manning with giving him a hand. He wrote:

"Phoenix had an editorial cartoonist named Reg Manning who had established a national reputation. I began visiting Reg shortly after my arrival in Phoenix. He was kind and encouraging. His own eminence in the city gave me a clue that some of the fringe rewards of this profession might be as much fun as money."

Manning, two years out of Phoenix Union High School, was working as a free-lance artist when Temple Emery, manager of an engraving company, encouraged him to seek a job as artist on The Arizona Republican (as The Republic was then named.)

After four months of campaigning for the job, Manning was hired as a combination artist and staff photographer. The newspaper had never had a staff photographer before, and in Manning's view it still didn't.

But he took pictures and embarked on an eight-column cartoon strip that developed into "The Big Parade."

He also pursued his dream of drawing a syndicated comic strip, which never quite materialized.

Meantime, Manning was involved in many other pursuits among them the creation of cartoon fabrics and the writing of books. The cartoon fabrics were started at the suggestion of a retail merchant named Barry Goldwater.

"The year I graduated from high school, Goldwater was president of the freshman class, so I've always thought of him as President Goldwater," Manning said.

Manning's books include "What Kinda Cactus Izzat?," first published in 1941 and now in its 27th printing; "What Is Arizona Really Like?" a revision of his "Cartoon Guide of Arizona," first printed in 1938; "From Tee to Cup," a book on golf with a hole through every page, published in 1954; and "Little Itchy Itchy," which consists mainly of World War II cartoons.

Little Itchy Itchy was a small character who followed the Japanese emperor around with a sharp knife suggesting that the time had come for the latter to commit hara-kari.

Manning was born Reginald West Manning April 8, 1905, in Kansas City, and arrived in Phoenix with his widowed mother and older brother, Everett, in 1919.

His only art training came in high school, where he made drawings for the school annuals and the weekly "Coyote Journal."

Manning began The Big Parade a few months after joining the newspaper. Publisher Wesley Knorpp agreed it was a good idea to have a news strip based on cartoons and the first one filled about a third of a page across eight columns.

Although his first political cartoon appeared within the first two months after he joined the newspaper, he only did an occasional one until 1934.

In the spring of that year, Manning, the late E. D. Newcomer, the paper's first full-time photographer, and the late Harvey Mott, a reporter and subsequent managing editor, made what was termed "The Friendly Survey of Arizona."

They made four separate trips, spending 42 days gathering stories, photographs and cartoon ideas. They camped out at night. On one of these occasions while in northern Arizona, Manning and Mott got into a campfire discussion about editorial cartooning.

Mott contended that someone without a college background couldn't be a political cartoonist. Manning disagreed, and took Mott's words as a challenge.

Manning drew a cartoon dealing with a San Francisco labor strike and called it, "I Cover The Waterfront." The spectral figure of death haunting the docks was printed on The Republic's front page.

The cartoon was reproduced in many newspapers and in Editor and Publisher, a publishing industry journal. Manning started drawing one cartoon per week, but his production was soon up to three weekly, then daily. In 1935, the Phoenix Republic and Gazette Syndicate started. When it ended in 1948, Manning's cartoons were appearing in 70 newspapers.

To maintain that type of production, seven cartoons plus The Big Parade, he worked long hours. He recalls that The Big Parade took about 24 hours to produce.

Cartoon ideas have come rapidly to Manning—"If I couldn't think of ideas rapidly I would have been out of business a long time ago"—but he couldn't think of anything to draw the day Will Rogers and Wiley Post were killed in the 1935 plane crash in Alaska.

But Manning came up with another thought. The Republic, as it does today, was publishing the "Will Rogers Says" feature. Manning wrote some words in the style of Rogers and added the caption, "As He'd Have Said It." He placed a black border around it and the paper published it the size of a normal editorial cartoon.

Manning said this effort drew more mail than any cartoon he has drawn.

He has received requests for the original cartoon from many of the people portrayed in his work. President Lyndon B. Johnson had more than 60. The largest collection is owned by Sen. Barry Goldwater, R-Ariz.

The walls in Manning's studio are covered with autographed photographs of a number of political figures and original cartoons from some of the greats in his profession.

He also has preserved every Big Parade and editorial cartoon that has been published. They are in bound volumes. His wife is responsible for maintaining this record of his work.

Three thousand of his original cartoons were donated to Syracuse University.

Manning has received many awards, including 16 from the Freedoms Foundation at Valley Forge, Pa. They include Abraham Lincoln awards for 1970 and 1971, the highest award presented by the Freedoms Foundation.

He said the most useful award he has received is the silver T-square presented to him in 1951 by the National Cartoonists Society at a dinner in New York.

In accepting the T-square, Manning said, "I'd rather receive a nod from this particular group than from any university in the world, because these men are people I've admired all my life."

Strangely, no university has seen fit to give him "a nod" in the form of an honorary degree.●

BERNARD S. JEFFERSON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. DIXON. Mr. Speaker, I would like today to pay tribute to a most distinguished American jurist on the occasion of his retirement from the bench.

Presiding Justice Bernard S. Jefferson has devoted himself steadfastly to improving the quality of the legal profession. His career records a steady succession of achievements in support of this aim and his numerous, significant contributions in the fields of law have earned him wide recognition and high praise from professional colleagues. I wish today to add my respect to theirs for his nearly 50 years of service and leadership.

Justice Jefferson took his A.B. from the University of California at Los Angeles in 1931. He earned his LL.B. cum laude at Harvard in 1934 and a S.J.D.—doctor of juridical science—degree there in 1943. He was professor of law at Howard University Law School in Washington, D.C. from 1934 to 1946. From 1947 to 1959 he served as Assistant General Counsel, Office of Price Administration. He has been a member of the California bar since 1934. He is also a member of the American Bar Association, the Los Angeles County Bar Association and Langston Bar Association.

Justice Jefferson was appointed by Governor Edmund G. Brown, Sr., as judge of the municipal court in December 1959, as judge of the superior court in May 1960, and was elevated to the court of appeal by Gov. Edmund G. Brown, Jr., in September 1975.

He has written articles published in various legal journals and is author of California Evidence Benchbook, published in December 1972 by the Continuing Education of the Bar, for which Justice Jefferson prepared two later supplements, and is in wide use in educational programs on the law of evidence and is a popular reference volume among trial judges and lawyers in the State of California.

The recipient of numerous awards for his contributions as legal author, scholar, judge, and teacher of judges, Justice Jefferson has also found time to render civic service in various capacities for organizations in California and at the national level. A partial listing includes: a 6-year presidency of the board of directors of the Los Angeles Urban League, district commissioner of the Boy Scouts of America for 8 years, member of the board of directors of the National Conference of Christians and Jews, member of the board of directors of the Welfare Planning Council of the Los Angeles Region, and member of the national board of directors and its executive committee of the National Council of YMCA's.

Justice Jefferson's distinguished legal career and civic service together constitute a most remarkable contribution by a citizen to his State and Nation.

It is for this contribution that I wish to accord him my sincere respect and honor.●

DR. DONALD L. CUSTIS

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. ROBERTS. Mr. Speaker, many of my colleagues are aware that a hearing was held on agent orange last Thursday by the Oversight and Investigation Subcommittee of the Committee on Interstate and Foreign Commerce. I was appalled to learn that it was suggested at that hearing that the Veterans' Administration's Chief Medical Director, Dr. Donald L. Custis, should be forced to resign.

That such an ill-advised action should even be suggested reflects one's total lack of knowledge about VA's efforts on the agent orange question, and one's total unfamiliarity with Dr. Custis as a person. I wish now to set the record straight about Dr. Custis by relating my own experience with this gentleman in my capacity as chairman of the House Committee on Veterans' Affairs.

Dr. Custis has appeared many times before the committee as the spokesman for the VA's Department of Medicine and Surgery. His testimony has always been of the very highest quality, and his responses to the committee's questions were forthright, knowledgeable, and complete. Dr. Custis' executive abilities, as well as his consummate medical knowledge was clearly in evidence when he appeared before us. In addition, in many informal meetings with Members and the professional staff, Dr. Custis has always maintained an open dialog and conducted himself in a thoroughly cooperative manner.

There is no doubt in the mind of any informed and fair-minded person that Dr. Custis has wholeheartedly involved himself and his staff in getting at the truth about agent orange. He has established a single point of contact on this issue in the person of Dr. Barclay Shepherd, who reports solely and directly to him. In May of this year, he convened a 3-day meeting in Silver Spring, Md., attended by more than 200 VA executives from throughout the country. The sole subject of this meeting was agent orange and how to respond compassionately and effectively to veterans' concerns.

Dr. Custis was commanding officer of one of the busiest hospitals in Vietnam—the U.S. Naval Hospital at Da Nang. He, himself, may have been exposed to defoliants and other chemicals. To impute to him insensitivity and lack of concern for Vietnam veterans is the height of insensibility.

I think that this current attempt to discredit Dr. Custis is indicative of much of the controversy surrounding agent orange. Reason and scientific inquiry have been subordinated to emotional charges of bureaucratic bungling and coverups. And now, we have apparently come to a demand for the discharge of a decent, honorable, and effective chief medical director.

I am delighted that the Administrator of the VA, Max Cleland, intends to ignore this ridiculous demand for Dr. Custis' resignation. That it was ever made reflects more unfavorably on the knowledge of the proposer—not Dr. Custis.

There follows a copy of the Administrator's letter to the chairman of the Subcommittee on Oversight and Investigations, Committee on Interstate and Foreign Commerce, informing the chairman that he will not seek Dr. Custis' resignation. It is the correct, quick response which we all expected:

VETERANS ADMINISTRATION,
Washington, D.C., September 25, 1980.

Hon. BOB ECKHARDT,
Chairman, Subcommittee on Oversight and Investigations, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearing this morning before your Subcommittee concerning American servicemen's exposure to Agent Orange while in Vietnam, serious criticisms were directed toward Dr. Donald L. Custis, my Chief Medical Director, followed by a request that I seek his resignation. I believe these attacks were totally uncalled for. Moreover, I cannot comply with the request to seek Dr. Custis' resignation.

Don Custis has demonstrated during a long career of service to this Nation a commitment to the highest quality of medical care. He had a distinguished career in the Navy culminating in his selection as Surgeon General in 1973, in which capacity he served until his retirement in 1976. He is as decent and sensitive a human being as I have ever met. He is concerned about the good of all mankind as well as this Nation's veterans. He is committed to trying to find a fair and just solution to the Agent Orange controversy—a controversy which, unfortunately, has some of the same stigma, conflict and emotion that was associated with that whole chapter in American history related to Vietnam.

I wish the answer to some of the questions that we have all raised with respect to the Agent Orange controversy could have been resolved long before now. I wish the scientific community could resolve their differences with respect to the effect of Agent Orange on human beings. More importantly, I hope and pray that if those answers can be found, and if it is determined that this Nation has additional responsibilities to meet because of past actions, we do so as soon as possible and with total justice for all involved.

You can be assured that Don Custis and I will work together to see this issue to its end. I do not believe, however, that personal attacks such as occurred this morning help our efforts.

I request that this letter be placed in the official hearing record.

Sincerely,

MAX CLELAND,
Administrator.●

LOIS AND DICK GUNTHER—BRANDEIS-BARDIN INSTITUTE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. WAXMAN. Mr. Speaker, on November 16, 1980, the Brandeis-Bardin Institute will present its prestigious Shlomo Bardin Award to Lois and Dick Gunther, a unique couple whose association with the institute dates back more than 20 years.

Lois and Dick Gunther share a life of commitment both to Judaism and to the community at large. Their collective achievements over the years and their contributions to both Jewish and secular life are matched by few.

Lois Gunther is currently on the steering committee of the Catholic-Jewish Women's Dialogue; is immediate past chairwoman and is on the executive board of the interreligious committee, Los Angeles chapter of the American Jewish Committee, as well as a member of the board of directors of Brandeis-Bardin. She also serves on the advisory committee of the Hebrew Union College School of Jewish Communal Service; is enrolled in the pararabbinic program at Congregation Valley Beth Shalom in Encino, and is active in three important committees of the Jewish Federation Council of Los Angeles.

Dick Gunther is on the board of trustees of the California School of Professional Psychology; is a member of the California Governor's Council on Wellness and Physical Fitness; and is chairman of the Los Angeles Jewish Federation Council Study Group—a "think tank" activity focused on the future of the Los Angeles Jewish community. He is vice chairman of the board of Brandeis-Bardin and served as the institute's president in 1978. Dick was founding chairman of the Council on Jewish Life; a past member of the board of directors of public television station, KCET, and a past member of the Los Angeles County's Economy and Efficiency Commission.

Both Lois and Dick Gunther are very much involved in the Jewish Federation Council's Project Renewal in Israel. Dick serves as Los Angeles committee chairman in this international program which matches diaspora communities throughout the world with deprived neighborhoods in Israel. Lois also serves on this committee which works toward achieving a combination of physical and social renewal.

Lois and Dick Gunther through their years of dedication to humanitarian causes and promoting understanding based on ethical principles are most deserving recipients of the Shlomo Bardin Award. I ask the Members to join me in congratulating Lois and Dick Gunther on their achievements and to wish them and their sons Mark, Andy, and Danny, many years of future success and fulfillment.●

PROMOTION OF FILBERTS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. AUCOIN. Mr. Speaker, on September 18, I introduced legislation to aid the promotion of filberts. I want to take this opportunity to explain the purpose of this bill.

H.R. 8158 amends the Agricultural Adjustment Act to authorize marketing research and promotion projects including paid advertising for filberts. H.R. 8158 gives the Filbert Marketing Order Committee the authority it needs to amend the marketing order so it is then permitted to levy an assessment on handlers to generate funds for research, promotion, and advertising.

This legislation provides an excellent opportunity for the promotion of filberts as there is a need to strengthen our domestic markets for this commodity. U.S. filberts are produced on 25,000 acres in Oregon and Washington and only account for 55 percent of the filberts the United States consumes. By furthering the promotion of filberts, H.R. 8158 would help increase domestic consumption.●

"RAGE"

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. RODINO. Mr. Speaker, I would like to call my colleagues' attention to a unique film that was aired last week on the NBC television network. The movie, "Rage," explored the sensitive subject of sex offenders and how a correctional institution deals with them.

I am especially proud that the movie reflects the leadership taken by the State of New Jersey's Parole Board and Department of Corrections in this area. "Rage" is based on the treatment efforts at the Adult Diagnostic and Treatment Center in Avenal, N.J. It tells the story of the inmates and the professional corrections and parole personnel, in what critics have judged to be an amazingly accurate account of the sex offender and the treatment he receives.

Mr. Speaker, the center at Avenal is worth noting, and I am encouraged that NBC made the effort so successfully. Opened in February 1976, the center treats repetitive-compulsive sex offenders who fall within the purview of New Jersey's special sex offender law. The 191 inmates at the facility have been convicted of offenses that range from rape to lewdness, and have sentences which range from 3 to 30 years. Before ADTC opened, sex offenders were housed in prisons and mental hospitals. In fact, this facility is the only correctional institution in the Nation devoted solely to the treatment of sex offenders.

"Rage" was truly a cooperative effort, with ADTC's superintendent, Dr. Ira Mintz and Assistant Superintendent Thomas Farrell and others offering technical advice to the producers. David Soul, the principal actor in the film, spent several days with the inmates in Avenal last spring, and George Rubino, the writer, spent 6 weeks at the institution.

Mr. Speaker, I believe it is instructive that this film focuses on one of society's most serious problems while providing a candid look at the dedicated professionals in New Jersey who are addressing the problem of the sex offender.●

TRIBUTE TO REPRESENTATIVE DUNCAN

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. RUSSO. Mr. Speaker, you hate to see a good man with the talents of Representative DUNCAN leaving the House of Representatives. It is not often you find someone who is an expert in all phases of transportation, including base running.

BOB has served his State and his Nation with distinction. The folks of Oregon's Third District have been ably represented and those of us who have been privileged to work with this multifaceted guy have enjoyed his good nature and friendship and the range of his interests as well as have benefited from his legislative skills.

Of course, I have to close by commenting on BOB's grace under fire—on the playing field as well as in the committee hearing room and on the floor of Congress. I must admit that the phrase "faster than greased lightning" is not the description that springs to mind. There is, however, some phrase, about "molasses," but let us just leave it at that.

I'm going to miss my good friend BOB. I know a lot of us are because he is a great guy. I wish him the very best in the future—it is no less than he deserves.●

REAUTHORIZE THE COMMITTEE ON WAGE AND PRICE STABILITY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. FISHER. Mr. Speaker, on Thursday of last week, the House passed legislation to reauthorize the Council on Wage and Price Stability. I voted for this bill because I believe that it can be the focal point for coordinated action on the crucial wage-price front in the battle against inflation.

Certainly, there are many factors which contribute to inflation. Government spending plays a part, high priced energy plays a part and slow productivity growth plays a part. However, if we are going to make serious progress against the underlying rate of inflation, which is estimated at between 8 and 10 percent, then we must also prevent the wage-price spiral from twisting upward further. The Council has had an important role in this effort by virtue of its establishing and overseeing wage-price guidelines for the past 2 years.

It would be easy for someone to look at the record of the economy and conclude that since inflation has increased while the guidelines have been in effect, then they must have been ineffective in controlling inflation. However, I believe that this is too simplistic an analysis. First of all, to say that inflation increased while the guidelines were in effect begs the question of whether it would have increased even more without the guidelines. Second, and more important, the fact that these guidelines have been less than totally successful does not discredit the guideline concept itself. Rather it points out areas which can be improved in the development and implementation of the guidelines.

The Council has recently announced that it has postponed issuing the wage-price guidelines for the third year of the program until January. I would hope that during this time the Council will look for ways to put teeth into the guidelines. In an effort to do that, I would recommend that it look to legislation which I have introduced, H.R. 4752. This bill provides, among other things, for an anti-inflation factor to be used in determining the level of the guidelines. The purpose of this factor would be to make sure that the guidelines do not permit wage and price increases which merely accept the level of inflation instead of trying to make inroads against it. By having the guidelines set at substantially less than the increase in the cost of living, they will set a standard aimed at reducing inflation instead of just staying even with it. I would like to see guidelines set to reduce inflation by 20 percent or so a year until it has been eliminated.

H.R. 4752 would also give the President the power to achieve compliance with the guidelines by giving him the authority to cut off Government contracts to businesses which exceed the guidelines in either their prices or their wage arrangements with their workers. This bill would also allow for the termination or suspension of Federal benefits to businesses or governmental entities which exceed the guidelines. In addition, a tax incentives policy might be tried to reward firms and work forces which stay within the wage and price guidelines. All of this is strong medicine, but I believe necessary if we are to restore credibility to the guidelines.

So, Mr. Speaker, I was pleased to support the reauthorization of the Council on Wage and Price Stability. I urge the Council to act administratively in a way that effectuates the spirit behind H.R. 4752.●

IRISH AFFAIRS COMMITTEE'S THIRD ANNIVERSARY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. GARCIA. Mr. Speaker, September 27 marked the third anniversary of the founding of the ad hoc Committee for Irish Affairs.

I believe that the problems that exist in Northern Ireland cannot be eliminated until they are fully recognized and understood.

The statistics concerning the desperate poverty that pervades the six Ulster counties may not be well known, but they are nonetheless alarming. The present jobless rate among Catholics is two and one-half times that of Protestants. The level of unemployment is up to 35 percent in the Catholic ghetto of West Belfast. The Fair Employment Agency of Northern Ireland reported last year that the economic situation of the Catholics is getting worse; that is, the chances for a Catholic worker to be unemployed are now greater than they were a year ago.

In an August 1977 speech, President Carter called for peace in Ireland. He also tentatively offered economic aid if the hostilities ceased. But the policy of the U.S. Government regarding Northern Ireland has been one of benign neglect. For example, no definite proposals have been made on how peace can be achieved.

I do not mean to imply that the United States has the solution to Northern Irish difficulties. The final solution must come from Ireland because it is an Irish problem. But Irish Americans are the largest ethnic group in this country, and I believe it would be a disservice to them for the United States to lightly pass over the dilemma of Northern Ireland. One Congressman and one congressional group has been working very hard to make sure that does not happen—MARIO BIAGGI and the ad hoc Committee on Irish Affairs.

For the past 3 years the committee, of which I am a member, has been trying to call attention to the severity of the problems afflicting Northern Ireland. The committee has steadily grown in size and influence. But the committee has never overlooked the objectives outlined by Congressman BIAGGI: To hold congressional hearings on the Irish question with particular attention placed on human rights violations; to try and reverse a State Department policy of denying visas for leading political figures from Ireland; and to try to give the President a broader perspective on the Irish question. Congressman BIAGGI and other committee members have tirelessly worked to achieve these goals.

Two of the committee's many accomplishments are the stopping of arms sales to the Royal Ulster Constabulary and the inclusion of a plank promoting peace, justice, and human rights for Northern Ireland in the 1980 Democratic Party platform.

But the committee's greatest contribution has been in making the U.S. Government and the American people aware of the gravity of the troubles in Northern Ireland.●

FRIEND OF THE WEST

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. McDONALD. Mr. Speaker, the recent assassination of former President Somoza of Nicaragua was dismissed with a shrug at our State Department. Spokesmen there could barely bring themselves to deplore his murder. However, not everyone has been fooled by what took place in Nicaragua as votes on the floor have shown. Our Department of State has an infamous record of destabilizing friendly governments only to replace them with anti-American governments as in the cases of Nicaragua and Iran. The consequences of such things are disastrous for the position of the United States and the free world. The editorial writer of the Augusta (Ga.) Chronicle is among those not confused by the situation and has published a very cogent editorial in the Thursday, September 18, 1980, issue. The editorial follows:

FRIEND OF THE WEST

The arm of international communism stretches a long way.

It sadly caught up with Anastasio Somoza, the pro-Western president of Nicaragua, who was deposed by a Marxist-backed revolution last year. He fled his Central American country, first to Miami and later to a sanctuary in Paraguay.

Yesterday, he was the victim of assassins. His family ruled Nicaragua for years, and he had many American friends. A graduate of the U.S. Military Academy, he was a classmate of Rep. John Murphy, D-N.Y.

Somoza was betrayed by a Carter administration that denied his troops arms and equipment because he violated the President's strange "human rights" criteria. When he came to Miami, the Nicaraguan leader was welcomed by Murphy and another congressional supporter, Georgia 2nd District Rep. Dawson Mathis.

"Tacho," as he was known by his American friends, was an implacable foe of communism who let his country be used as a U.S. base for the ill-fated 1961 Cuban Bay of Pigs invasion designed to topple Fidel Castro. He was no Thomas Jefferson, and he ruled his country with a firm hand. But he properly warned that the Marxist beachhead established in his native land could be a tragic turning point in the war against Red subversion in the western hemisphere.

In the world's present critical struggle against the Communists, more leaders are needed like Somoza who will oppose them consistently to the end.●

PROPOSALS TO CONTROL WASTEFUL SPENDING

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. EVANS of Delaware. Mr. Speaker, in the last year the General Accounting Office has listed 107 specific examples of unnecessary Federal expenditures resulting from waste, fraud, abuse, or mismanagement. The total level of unnecessary spending resulting from just these 107 findings and recommendations is nearly $34.5 billion. In addition, studies conducted for the House Government Operations Committee have revealed that billions of the taxpayers' dollars are being pushed out in the final weeks of the fiscal year on questionable contracts, ill-considered grants, and other types of wasteful spending. Former Treasury Secretary Blumenthal has stated that yearend spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

The magnitude of this problem requires constructive legislative action to insure that the Federal Government operates in a more prudent and responsible manner. First, direct congressional action must be taken to halt the yearend spending sprees by the Federal bureaucrats. The administration has clearly been unable to deal with this major problem on its own. I have repeatedly supported a number of successful amendments to the fiscal year 1981 appropriations bills which would limit total agency spending in the last 2 months of the fiscal year to 20 percent of its annual budget. These amendments will effectively limit the ability of the Federal agencies to give away any remaining funds at yearend so that the Congress will not trim their budgets the following year.

The General Accounting Office has also repeatedly stated that there is a pressing need to strengthen the budget execution and procurement process since poor internal spending controls are the No. 1 problem in Federal agencies. I have cosponsored an important proposal designed to significantly strengthen the internal accounting and administrative controls maintained by every Federal agency. These systems would have to be evaluated on an ongoing basis and any identified weakness, would have to be promptly corrected. Every level of management in the agencies would be forced to participate in the process of assessing and strengthening the systems of internal accounting and administrative control. Each agency would be forced to take major steps to minimize fraud, errors, abuse, and Government waste. The Financial Integrity Act will focus additional pressure on those individuals in the agencies who are responsible for the accountability of every single tax dollar appropriated by the Congress.

Since most of the GAO recommendations are related to regular operational procedures within the Federal agencies, implementation of the Financial Integrity Act and the yearend spending limitations will produce substantial and continuing annual savings for the U.S. taxpayers. I am hopeful the Congress will move forward with these innovative proposals. By enacting these two measures, the Congress can really demonstrate its commitment to tightening the reigns on Government spending and making federally funded programs more responsive to the needs of the people they are intended to serve.●

LIBERALS WOULD HAVE POLITICS SILENCE RELIGION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. ASHBROOK. Mr. Speaker, Patricia Harris is now the official hit person of the Carter campaign. Her first assignment was to accuse Governor Reagan of Ku Klux Klan sympathies. This was no accidental, offhand remark. It was a prepared statement with a planned purpose. The purpose was to draw attention away from Mr. Carter's dismal record in relieving black unemployment by outdated big Government programs.

In her second assignment as the administration's official hit person, Mrs. Harris compared fundamental evangelical Christians to the Ayatollah Khomeni. Strange because Andy Young likened him to a saint. Once again, this was no offhand remark, but a prepared statement with a planned purpose. As before, the purpose was to draw attention away from the real issue.

We should not waste time by discussing Patricia Harris' vicious Khomeni comparison. The devotion of America's evangelical Christian community to freedom is beyond question.

But we must address the real issue this latest hit person tactic was intended to obscure. That is the fact that President Carter has been the instrument of the liberal establishment in its drive to replace America's traditional values with a humanistic philosophy. It seeks to replace parental and religious guidance with bureaucratic and judicial authority. That is what has brought on the present political activity by conservative religious bodies.

I agree with Mrs. Harris that there is a powerful movement underway in this country to make us a kind of theocracy. There is indeed a powerful minority which seeks to impose its moral views on all of us. But that militant minority is not the Moral Majority. It is the liberal establishment, and the religion it seeks to impose on America is the secular religion of humanism. The Moral Majority wants freedom for our churches, homes, schools. The liberals seek bureaucratic and judicial control. The issues are clear.

Under this secular religion, there are no absolute values of truth, beauty, and goodness: There are only the shifting goals of the liberal political agenda. The individual is not a responsible moral agent, striving to subdue his own sins, but a social activist whose duty is to wallow in collectivist guilt for the alleged sins of his neighbors, his ancestors, and his entire civilization. The age-old virtues or personal morality—humility, diligence, and self-discipline—are replaced by the narcissistic urge to do my own thing. Every traditional source of moral authority—parents, churches, the Bible, the classics of Western literature—is ignored or downgraded, while gossiping talk-show hosts and pompous Naderites are regarded as inspired prophets. It is no wonder that an observer like Aleksandr Solzhenitsyn, whose knowledge of America comes mainly from television and journalism, sees our culture as profoundly decadent.

In order to impose these upside-down values on us, the liberal establishment must silence those who speak out in favor of our traditional Judeo-Christian morality. To do this, it has resorted to a campaign of shameless hypocrisy.

One slogan used by humanists to silence traditonalists is, "We must keep religion out of politics!" But when Pope Paul recently ordered two liberal Catholic priests, including a Member of this House, to abandon professional politics, that same establishment was outraged. This year we have watched the liberal establishment violently attacking conservative religious leaders for daring to discuss politics, while at the same time they were equally violent in attacking the Pope for directing priests to leave full-time politics.

Another theme of the humanistic attack is that, "The clergy should not try to impose its morality on our political system." Ten years ago, this same liberal establishment was equally unanimous in declaring that the Fathers Berrigan were doing their duty as men of the cloth by trying to impose their moral views on our policy in Vietnam. Liberals have once again demonstrated that they believe in freedom of speech only if the speech is liberal. The Riverside Church in New York City and other liberal church forums have been used by leftist minorities like Martin Luther King and William Sloane Coffin to spew anti-American hate. But that was all right.

But the main thrust of the liberal attack against the right of conservative religious leaders to speak out is to insist that: "Religious leaders should not discuss political issues." This means that the moral judgment of government is final.

Liberals tell us that abortion has ceased to be a proper subject for religious discussion. This is because the Supreme Court decided the question on January 22, 1973. They tell us that conservative religious leaders lost the right to discuss the traditional role of women when Congress submitted the Equal Rights Amendment (ERA) to the States for ratification. By the same token, once a bureaucratic regulation is issued, it becomes a political matter, not to be questioned by any conservative clergyman.

We have here nothing less than a wholly new religious doctrine: Not only must we render unto Caesar what is Caesar's, but Caesar must make all the decisions as to what belongs to him.

The doctrine that Caesar's authority over religion is absolute is one which, in its purest form, rules almost half of the world today in the form of international communism. America is the bulwark against that deadly enemy of all religions. Many religious leaders are deeply worried about our Nation's power to defend religious freedom from that international threat. Liberals insist they have no right to express that concern, because it is a political matter. Yet these same liberals cheer when a group like Network organizes Catholic nuns to lobby against the B-1 bomber or a Catholic nun chastizes the Pope for his traditionalist views on the family.

The Founding Fathers did not want a country ruled by organized religion. But they would be equally horrified by an America in which organized religion had no voice whatever. Liberals are engaged in a campaign to silence the Moral Majority in the name of the first amendment. If there is one thing that the first amendment was never intended to do, it was to silence anyone.

When traditional values are attacked in the political arena, proponents of traditional values have no choice but to fight back in the political arena. As columnist George Will puts it:

> Now evangelical Christian groups, one calling itself the Moral Majority, are plunging into politics * * *. More important than the question of who gets what is the question of why so many people are aroused. The answer is: They have been provoked.

If one looks at each area where the Moral Majority is defending traditional values in the political sphere, one discovers that it is an area where secular humanists have been imposing their will for years. Columnist Meg Greenfield makes this point clear in her discussion of the Moral Majority:

> Certainly there is a component of the growing right-wing reaction on social issues—I don't know how big—that fits this description. But there are also vast numbers of people sympathizing with the trend who are merely reacting in predictable, normal, and valid ways to various terrible features of modern life. And what interests me most is that, in a way, we asked for it. By "we" I mean that mild, moderate, liberalish majority that has been roosting near the center of the Nation's politics for years. Our first contribution to the phenomenon was the promiscuity and mindlessness with which we have made private-values questions Federal Government Business. The second was our flight from moral judgment in the face of some of our most gross handiwork.

Columnist Greenfield is well aware that not even her liberal credentials will protect her from the sort of hysterical ravings hit-person Harris resorts to:

> We are even afraid sometimes to render negative judgments, knowing the illogical leap will at once be made by our listeners who suppose we are recommending repression of the deviates, illiberality and—it is always mentioned next—genocide.

In plain English, what we have here is a campaign of intellectual terrorism, conducted by the liberal establishment. The fact that this administration has thrown its weight behind that campaign shows not only its desperation in trying to hide the real issue, but its complete unconcern with common decency in doing so.●

300TH ANNIVERSARY, FAIRFIELD PRESBYTERIAN CHURCH

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to pay tribute to the Fairfield Presbyterian Church of Fairton, N.J., upon the 300th anniversary of its establishment.

The Fairfield Church, organized by a group of Connecticut Puritans who settled in Cumberland County around 1660, has served the community since 1680. In 1706, at a meeting in Philadelphia, the church became a member of America's first Presbyterian district ruling body known as a Presbytery.

Today, the Fairfield Church maintains a congregation of approximately 100 members. Its numerous activities ranging from a Bible study group to a youth group are evidence that the Fairfield Church has remained a guiding light in the Fairton area for 300 years.

It is with great honor that I bring to your attention the rich American heritage of the Fairfield Church, a true American landmark.●

FREEDOM FOR VICTOR AND BATSHEVA YELISTRATOV

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. LENT. Mr. Speaker, I wish to call to the attention of my colleagues a most deplorable violation of human rights in the Soviet Union. The Soviet rulers appear to be intensifying their campaign of persecution and oppression against the courageous Soviet Jews who express a desire to leave the U.S.S.R. in order to enjoy religious freedom. We who have constitutional guarantees of such freedom must do all we can to expose the harsh and cruel efforts of the Soviet rulers to suppress freedom of religion and religious beliefs and practices.

What we are witnessing is Soviet violation of human rights on a massive scale in the U.S.S.R.; violation of the Helsinki accords on human rights which the Soviets signed in solemn ceremony in 1975. We cannot permit these horrendous violations of human rights to continue unchallenged.

With that thought in mind, I ask my colleagues to consider the unfortunate history of Victor and Batsheva Yelistratov. In 1972, the Yelistratovs reached a critical decision. They would leave the U.S.S.R. because they were not permitted to practice their religion in freedom. They could not live as Jews in the Soviet Union. The Yelistratovs were refused permission to leave with no explanation. They have reapplied time after time, but each time permission was denied. If any explanation was given, and it was always given orally, not in writing, it was that Victor possessed military secrets.

Mr. Speaker, that is a clear fabrication. Victor's closest approach to military secrets was in his 2 years' service as a radio engineer in the U.S.S.R. Army. But that was more than 10 years ago. Denying permission to leave the U.S.S.R. on the grounds of possessing military secrets is—after so many years—a violation of Soviet law. And, of course, it is the most blatant violation of the Helsinki accords. All of this is bad enough, but the Soviet rulers are also pursuing a campaign of harassment and persecution of the most evil sort against the unhappy Yelistratovs. Their home is watched and bugged. Parcels sent to them rarely are received. Both Victor and Batsheva have been thrown into jail and beaten. Last year, Victor was summoned by the Soviets' notorious secret police—the KGB—for a talk. Two weeks later their apartment was searched and everything with the slightest Jewish content was confiscated. Recently, the Soviet regime has started to interrogate people about Victor, and it is feared he may meet the fate of Anatoly Shcharansky, who received similar treatment before his arrest and imprisonment.

Despite this ugly campaign of harassment and persecution, Victor and Batsheva continue to struggle for their right to live as free individuals and to speak out for their religious beliefs. They risk their lives daily to help others, and regularly visit and send packages to the prisoners of conscience.

Mr. Speaker, this tragic story of two Soviet Jews is not unique. Thousands of Soviet Jews are experiencing this same denial of their rights to religious freedom. We must protest these terrible violations of human rights. We must let the Soviet rulers know that we are aware of these violations, and make clear our determination to marshal world opinion against this persecution.

I invite my colleagues to join me in writing to Chairman Brezhnev on behalf of the Yelistratovs, demanding that they be granted the freedom they seek so courageously. The Soviet Union must respect the Helsinki accords on human rights. Until that goal is achieved, we must never rest in our efforts to end this cruel persecution of Soviet Jews.●

GAO REPORT DISPUTES ADMINISTRATION CONTENTIONS REGARDING NUCLEAR NONPROLIFERATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. CORCORAN. Mr. Speaker, the General Accounting Office, in its September 22 report entitled "U.S. Fast Breeder Reactor Program Needs Direction"—report No. EMD-80-81—says that "recent studies as well as continued pursuit of breeder technology by other countries raise questions about the credibility * * *" of the administration's strategy of pursuing our nonproliferation goals.

There is ample evidence to support the GAO's statement on this issue.

Mr. Speaker, for the benefit of our colleagues, I insert in the RECORD the section of the GAO report entitled "Current Strategy Not Achieving U.S. Nonproliferation Goals," as printed on pages 10 to 13 of the report. NASAP stands for nonproliferation alternative systems assessment program, INFCE stands for international nuclear fuel cycle evaluation, LMFBR stands for liquid metal fast breeder reactor, and GCFR stands for gas-cooled fast breeder reactor:

CURRENT STRATEGY NOT ACHIEVING U.S. NONPROLIFERATION GOALS

While the administration recognizes the need for nuclear power to supply domestic energy needs, it also recognizes serious nuclear proliferation dangers inherent in handling, processing, and transporting nuclear fuels. Moreover, the administration contends that these dangers will be unnecessarily increased by the premature introduction of nuclear technologies that involve the recycling of weapons-usable nuclear materials, as do all breeder reactors. In an effort to discourage the further spread of nuclear weapons to other nations or subnational groups, the U.S. policy is to delay the development of the breeder and its supporting reprocessing technologies.

However, recent studies as well as continued pursuit of breeder technology by other countries raise questions about the credibility of the approach being taken by the United States. Since 1977 several studies have been done by various groups and organizations, including us, on the effects of breeder reactor development on U.S. nonproliferation goals. At least five of these studies—those done by the Congressional Research Service,[1] the NASAP study group, the INFCE study group, the Office of Technology Assessment,[2] and us[3]—concluded that no single path among known nuclear fuel cycles involving reprocessing is substantially less proliferation prone than another. Moreover, a highly influential report by the Ford Foundation issued in 1977[4] concluded that research on small production reactors would be a much more suitable and likely means for producing weapons-usable material than would reprocessing plants associated with a commercial power reactor fuel cycle. The Ford Foundation study noted that research on small production reactors would cost substantially less and take less time to construct; involve relatively simple rather than complex reprocessing technology; can yield a comparable number of explosive devices per year; and have much lower detectability of clandestine facilities. Indeed, it is a historical fact that all plutonium used for weapons to date has been produced in research reactors or special military production reactors; not from commercial powerplants. Furthermore, DOE officials told us that the information available to them suggests that this practice will probably continue.

Both the NASAP and INFCE studies concluded that no technical solution exists to the proliferation dilemma because all nuclear fuel cycles entail some proliferation risks. In addition, the reports pointed out that, with the exception of the conventional light water reactor without fuel reprocessing, other fuel cycles do not offer inherent proliferation advantages over the LMFBR. The INFCE study group went further than this by concluding that the nuclear material diversion risks encountered in the breeder reactor fuel cycle present no greater difficulties than the light water reactor with reprocessing or even the once-through or throwaway cycle over the long term. Further, the NASAP and INFCE groups concluded that institutional controls and multinational safeguards efforts are the best means for reducing worldwide nuclear proliferation risks.

While the administration had hoped its actions on the LMFBR program and CRBR would influence other nations to delay breeder reactors until more proliferation resistant breeder technologies and more institutional arrangements could be developed, it does not appear to be working. Despite the urgings of the U.S. Government, breeder programs are proceeding in other nations. Great Britain, France, and the Soviet Union are now operating LMFBR industrial-size plants and more are planned. Also, there are experimental breeder reactors operating in Germany and Japan. To be sure, substantial public dissent against breeder technology exists in these countries, but their governments appear convinced that expeditious development of the breeder reactor is necessary to meet their future energy needs.

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[1] "Alternative Breeding Cycles for Nuclear Power: An Analysis," Congressional Research Service, Library of Congress, Oct. 1978.

[2] "Nuclear Proliferation and Safeguards," Office of Technology Assessment, June 30, 1977.

[3] "Nuclear Reactor Options To Reduce the Risk of Proliferation and To Succeed Current Light Water Reactor Technology," U.S. General Accounting Office, May 23, 1979.

[4] "Nuclear Power Issues and Choices," Ford Foundation, Mar. 1977.

Our earlier report[5] cited conversations with European nuclear program officials who believe that rather than discouraging others from entering the nuclear arena, the U.S. nonproliferation posture may have given other nations additional incentives to accelerate development of indigenous nuclear industries and to launch vigorous research and development programs and export promotions. This view has been validated in a February 1980 report[6] prepared by the minority staff of the House Committee on Interior and Insular Affairs based on recent discussions with the energy officials in several European countries.

According to this report, the European view of the U.S. nuclear energy policy is that our failure to develop a breeder will put great pressure on the world uranium supply. Consequently, some of these countries are pursuing breeder development more vigorously than before because of the additional uncertainty in uranium availability. In addition, foreign officials have pointed out that U.S. withdrawal from a mission-oriented LMFBR program will leave the United States with little influence on international safeguards and controls over the sale and use of breeder reactors. The history of the U.S. involvement in the worldwide light water reactor industry industry seems to demonstrate the soundness of this premise. According to NRC officials, the heavy U.S. activity in light water reactor development over the past two decades enabled this country to lead the way in establishing more stringent safety and licensing practices for conventional nuclear reactors than might otherwise have resulted. These practices have since been adopted by many countries throughout the world.●

NAT INFURNA HONORED FOR KIWANIS SERVICE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. HOLLENBECK. Mr. Speaker, on October 4, I will join the Kiwanis Club of Fort Lee, N.J., in honoring their outgoing president, Mr. Nat Infurna.

Mr. Infurna has served this active club with distinction. Under his leadership, club membership has risen by 23 percent, and the Kiwanis have continued in their fine tradition of community service. Needy and deserving citizens of all ages and backgrounds—from students in need of scholarships for higher education to low-income elderly persons in need of a helping hand—have benefited from the endeavors of Mr. Infurna and the Fort Lee Kiwanis.

Also a leader in the Lions Club, the Republican Party, and in several aviation professional groups, Mr. Infurna is one of those rare individuals whose busy schedule can always be expanded, somehow, to include yet another public interest undertaking. For this, he has earned our gratitude and affection.

I am proud to offer Nat Infurna my congratulations on this well-deserved recognition of his achievements and to express my sincere appreciation for his continued efforts to make our communities a better place in which to live.●

ADOPTION EXPENSES TAX DEDUCTION BILL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. OBERSTAR. Mr. Speaker, I am introducing today a bill to amend the Internal Revenue Code to allow individuals a deduction for certain expenses incurred in connection with the adoption of a child. Deductible adoption expenses include necessary adoption agency fees, court costs, attorney fees, and related expenses.

Similar bills have been introduced in this Congress to provide for adoption expenses tax deductions but my bill differs from them in that it provides for such deductions only when the adoption has been arranged by a public welfare department or similar State or local public social service agency with the legal responsibility for child placement or by a not-for-profit voluntary adoption agency authorized or licensed by the State or local government to place children for adoption.

This stipulation on placements is an important step forward in the protection of the welfare of the child. The child's welfare should always be the primary consideration in placements. Independent adoption placements may be made by physicians, ministers, or attorneys in States which have not yet enacted authorization or licensing requirements. Yet, in these States, the child may also be placed by someone thoroughly unqualified to do so. These lax State laws allow for abuses by black-market operators. The victims of these placements are not only the children, but the birth parents and adoptive parents whose emotional and financial welfare may be traumatized.

Hearings during the 95th Congress examined the growth of blackmarket adoptions in the wake of drastic reductions in the number of adoptable children. Those hearings spotlighted the need for more carefully crafted legislation to prevent abuses by unscrupulous interests. My bill, an outgrowth of those hearings, precisely defines those adoptions which will be eligible for tax deductions; it does so by prohibiting adoptions through nonlicensed entities or individuals. It is my intention that, through this incentive, some States will be encouraged to enact legislation prohibiting adoptions through individuals or entities not licensed by the State. The result of such combined Federal-State action will be adoptions made with the best interest of the child in mind and a more positive, constructive climate for adoption.

The adoption process is lengthy, time consuming and often expensive. Technical procedures and high costs are disincentives to parents hoping to adopt a child. This bill would encourage prospective parents hoping to adopt a child. This bill would encourage prospective parents in the adoption process. It will also aid in the placement of foster children into permanent homes and the placement of children with special needs.

The cost of foster care under aid to families with dependent children is estimated to exceed $400 million this year. These costs could be considerably reduced if children could be placed in adoptive homes. In addition, many special needs children are hard to place; the search for qualified and caring adoptive parents for these children is both costly and lengthy. This bill would provide an incentive for the adoption of these children whose chances for placement are less than average.

I have drafted this bill after lengthy discussions with public welfare agencies, the National Committee for Adoption, the Child Welfare League in New York, and other groups interested in the welfare of children. I recognize that time is short in this session of the 96th Congress, and I have no illusions about prospects for action on the bill during the balance of this Congress. I do hope that a good number of my colleagues will join me as cosponsors of the bill and hereby set the stage for committee action early in the 97th Congress, when I shall reintroduce this bill.●

HONORING JOHN BATES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. FORD of Michigan. Mr. Speaker, I would like to pay public tribute to John Bates, one of the most active citizens in my congressional district, who is being honored on October 25 by his fellow citizens.

A "Bash for Bates" will be sponsored at UAW Local 157 by the Inkster Democratic Club, which John has served as president for the past 6 years.

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[5] "The United States and International Energy Issues," U.S. General Accounting Office, EMD-78-105, December 1978.

[6] Report by the Minority Staff of the House Committee on Interior and Insular Affairs on a Trip to Several European Countries, February 1980.

John Bates was born 59 years ago in Leighton, Ala., the only son of Homer and Berdia Bates. He married Lula Pruitt in 1940 at Sheffield, Ala., where he worked for several years for the Reynolds Metal Co.

During World War II, John served in the U.S. Army for 2 years, then worked in a freight depot while attending night classes to finish his high school education.

In 1953, the Bates family moved to Inkster, Mich., where they have lived ever since. He began working that year for the Ford Motor Co., and became an early and active member of the United Auto Workers, serving 14 years as shop steward and committeeman. In recent years, he has been a vice president and assistant coordinator of the UAW CAP organization.

In 1968, John was elected a democratic precinct delegate, and has served continuously since that time. As a precinct delegate, he has earned a reputation as hard working and reliable. Voters throughout his precinct depend upon him for advice and guidance.

Six years ago, the Inkster Democratic Club was reorganized, and its members elected John Bates as president. He was also named vice president of the 15th Congressional District Democratic Organization.

Under his leadership, the Inkster Democratic Club became the leading political organization of the Inkster community, attracting new membership among all racial, ethnic, and age groups.

Through successful fundraising and social programs, the club has grown, acquired a clubhouse, and become a model for other clubs in the area.

Recently, due to ill health, John tendered his resignation as the club's president, but the members unanimously rejected it, insisting he remain as their leader.

Despite his total commitment and involvement with the club, his job and other activities, John Bates has maintained a close relationship with his wife, their five children and nine grandchildren.

Mr. Speaker, I am proud of John Bates and his accomplishments, and I am pleased to bring them to the attention of you and our colleagues here in the Congress.●

SOVIET AGGRESSION IN SOUTHERN AFRICA—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. McDONALD. Mr. Speaker, the question of Soviet involvement in southern Africa is always difficult to assess. However, a Soviet defector, Mr. Igor Glagoler, who has firsthand knowledge of their activities and aims in southern Africa has written a paper on this subject containing some very new information showing the extent of Soviet interference. It appeared in volumn I, No. 1, of the monthly bulletin of the Association for Cooperation of Democratic Countries entitled: "Democracy Against Socialism." I commend it to the attention of my colleagues:

DEMOCRACY AGAINST SOCIALISM

SOVIET AGGRESSION IN SOUTHERN AFRICA

The author of this study had a unique access to the decision making process in the Union of Soviet Socialist Republics. Dr. Igor S. Glagolev was a senior research member of the Soviet Academy of Science—until October 1976, when he was granted political asylum in the United States. Working at the prestigious Institute of World Economy and International Relations and later at the Department of Foreign Policy of the Institute of History of the U.S.S.R. in Moscow, he was simultaneously a part-time consultant of the Politburo of the Communist Party of the Soviet Union (which is the real government of the U.S.S.R.). Dr. Glagolev is the author of several books and numerous articles on the Soviet foreign policy published in many countries of Europe, America, Africa and Asia. He participated in hundreds of secret discussions at the Central Committee of the CPSU, Ministry of Foreign Affairs and the General Staff of the Soviet Union. He authored dozens of confidential and open documents of the Soviet government.

Dr. Glagolev left the Union of Soviet Socialist Republics because of his strong opposition to the growing aggressiveness of the Soviet foreign policy and the persecutions of the participants of the movement for peace and democracy in the U.S.S.R. In the United States he founded the Association for Cooperation of Democratic Countries and organized several international conferences on Soviet aggression, Western response and freedom movement in the communist-dominated countries. His studies on SALT, the Soviet policy in Southern Africa and other international subjects have been published in Congressional Record (U.S.) and other periodicals in many countries, including South Africa. Prime Minister P. W. Botha and several members of the U.S. Congress quoted these studies during parliamentary debates.

SOUTHERN AFRICA—A VITAL PART OF THE FREE WORLD

Southern Africa is the most dynamic part of the free world. Important measures securing elected governments, human rights, economic progress and independent development are taken in this region almost every year. It is necessary to note the recent creation of new states with elected governments and free enterprise—Bophuthatswana, Venda and Namibia. We must also point out the suggested organization of councils representing the non-white population in the South African Republic, development of economy, education and science, as well as the higher standard of living in South Africa, compared to other African countries.

In contrast to the dictatorial and aggressive regimes of the so-called front-line state, which are subservient to Soviet imperialism, the above mentioned Southern African countries are truly independent and ready for cooperation with other countries. The social system of the South African Republic and other Southern African countries is not ideal, but it is incomparably better than the social system of the Soviet Union, the front-line states and the whole Soviet bloc.

It is interesting to compare the situation in South Africa with the situation in the Soviet Union. The Soviet leadership has executed, starved to death or incarcerated more than one hundred million innocent people in Russia and other countries since the communist coup d'etat in 1917. South Africa, on the contrary, raised the standard of living of its population and secured many human rights for millions of its citizens.

The Soviet Union is an actual jail for its population; the country is surrounded by Soviet border troops, and nobody is allowed to leave it without special permission of the dictatorial regime. South African citizens, as a contrast, are free to leave the country, if they wish.

In fact, many citizens of the neighboring states come to work in the South African Republic because of the higher wages and better life there. Millions of citizens of the Soviet bloc, on the contrary, escaped from their countries to the free world because of the persecutions and the general low standard of living in the Soviet bloc. I am one of them.

Free enterprise, which is the basis of economic development in Southern Africa and the whole free world, is strictly forbidden in the Soviet Union. Many people, who tried to organize free enterprise and to raise the standard of living, were executed in the U.S.S.R.; in addition, millions of such people were sent to concentration camps there. At the same time, the Soviet dictators, the chiefs of the secret police and of the aggressive armed forces live in luxury, exploiting the working people of Russia and other countries.

While there are several political parties and several candidates for each elected office in Southern Africa, there is only one (communist) party in the Soviet Union, and there is only one candidate for each elected office there. It means that there is no choice, no free elections in the Soviet Union and other countries of the Soviet empire, including the front-line states.

The Soviet leaders openly or clandestinely are waging wars against the population of at least 17 countries: Afghanistan, Iran, Cambodia, Laos, Burma, Israel, Ethiopia, Chad, Morocco, Angola, Mozambique, Namibia, South Africa, Nicaragua, El Salvador, and Guatemala. They use not only Soviet troops—as in Afghanistan—but also local communist or pro-communist governments and armed forces. They use foreign communist parties, and pro-communist terrorist organizations (SWAPO, African National Congress, Polisario, Palestine Liberation Organization and other organizations).

I personally met in Moscow the leader of the South African Communist Party John Marks and representatives of the terrorists who afterwards came to power in Zimbabwe. These people came to Moscow asking for money, arms and instructions. Afterwards they organized the killing or mutilation with Soviet arms of many thousands of innocent men, women and children—black and white—in Southern Africa.

In contrast, to the aggressive Soviet policy, the democratic leaders of Southern Africa have a defensive policy. They try to resist systematic armed invasions from the front-line states, most of all from Angola.

Southern African countries, however, are in a very difficult situation, because Soviet agressors use not only pro-Soviet governments or other dictatorial states, but also leftist Western politicians, the United Nations Organization and the Organization of African Unity.

Having established pro-Soviet dictators in many countries, the Soviet leaders are trying to do the same in Southern Africa: to topple the present elected governments and to install Soviet puppets.

Soviet policy makers, like the Gromyko family, openly describe the riches of Southern Africa which they want to acquire. Here are some tables of the enormous mineral resources of Southern Africa published in the book "Conflict in the South of Africa," which was written by Anatoliy Gromyko, director of the Institute of Africa in Moscow, the son of the Soviet Foreign Minister Andrey Gromyko.

SHARE OF SOUTHERN AFRICA IN WORLD PRODUCTION [1]

Mineral	Percent
Gold	68.8
Diamonds	64.3
Cobalt	56.7
Chromium	31.5
Vanadium	29.4
Platinum	28.4
Antimony	27.9
Copper	22.0
Uranium	17.0
Manganese	14.4
Berillium	10.4

[1] Anatoliy Gromyko. Conflict in the South of Africa. International Aspect. Academy of Sciences of the U.S.S.R. Institute of Africa. Moscow, 1979. p. 30. (In Russian).

The South African Republic is especially important. It is in first place in the world's production of gold, jewelry diamonds, platinum, manganese, chromium, vanadium, zirconium and antimony oxides. Fifty-four minerals are mined in the Republic. At present, when South Africa is still free, this country is vital for the whole free world.

SHARES OF IMPORTS FROM THE SOUTH AFRICAN REPUBLIC [1]

[In percent]

	U.S.A.	West Germany	Japan
Chromium	25.2	40.7	31.6
Manganese	3.0	65.6	25.8
Antimony	16.3		n.a.
Nickel	1.7	10.8	.1
Diamonds	11.9	6.2	1.6
Uranium	8.3		
Mica		26.6	
Asbestos	6.3	14.5	30.9

[1] Ibid., p. 32.

If the South African Republic is included in the Soviet sphere of influence, the U.S.S.R. will be able to deny all these strategic resources to the West.

It is ironic that Anatoliy Gromyko recognizes (unwillingly) the great industrial and technological successes of South Africa, when he writes that the South African Republic, with only 6% of the population of Africa, produces 50% of all the minerals and electric energy produced in the whole African continent. Usually Soviet propaganda writes only about "shortcomings" and "crimes" in South Africa.

In recent years Southern Africa has become one of the main targets of the Soviet military-political offensive.

WORLD DOMINATION—LONG-RANGE SOVIET GOAL

The present program of the Communist Party of the Soviet Union was adopted in 1961. The Institute of World Economy and International Relations, where I worked at that time, prepared several important parts of this program. There were two main groups of the Soviet establishment then: an aggressive one and a moderate one. The moderate group, to which I belonged, stressed the rise of the standard of living and reduction of arms as the goals of the party. Several such points were included in the program. The second group, however, which was powerful in the Central Committee of the party, suggested different goals, first of all—world domination of "socialism", that is of the Soviet dictatorship. This group, to which Brezhnev, Suslov and other present Soviet leaders belong, included the following in the program: "Socialism unavoidably will succeed capitalism everywhere".[1] Soviet propaganda uses the word "capitalism" when it mentions democratic countries. The Soviet leadership openly announced its goal to establish world Marxist dictatorship by means of force. "Dictatorship of the proletariat and leadership of the Marxist-Leninist Party are the necessary conditions of the socialist revolution and the creation of socialism," is written in the program.[2] The word "proletariat" is added for propaganda purposes; the working people have no rights in the Soviet bloc, which is governed by party bureaucrats.

The goal of world domination is obviously a long-range one. It is planned to achieve this goal in several decades. Now, two decades after the adoption of the program of the CPSU, about one-third of the world population is under domination or strong influence of the Soviet dictators. This domination has been achieved by force. Tens of millions of people were killed, starved to death or mutilated as a result of communist wars against the population or Russia, China, Indochina, Africa and other regions of the world.

Active preparation for the future conquest of Africa were made in the U.S.S.R. during the time that the program of the CPSU was written. The University of Friendship of Peoples was founded in Moscow in 1960. Eight thousand foreigners from the Third World (mainly from Africa) have already graduated from this "university" and have gone to Africa, Asia and Latin America to promote Soviet influence there. Seven thousand people are studying at the "university." They will go to 105 countries.[3] The present dictator of Angola, J. E. dos Santos, for instance, was educated in the U.S.S.R. in 1963-70. No wonder that he is now a Soviet agent of influence, who plays an important role in the organization of the cruel war not only against the population of Angola itself, but also against the population of South Africa.

The creation of the Institute of Africa in Moscow was another important step for the preparation of the Soviet conquest of Africa. Vassiliy Solodovnikov and Anatoliy Gromyko—successive directors of the Institute—took an active part not only in writing plans of this conquest, but also in practical aggressive actions in Africa. V. Solodovnikov was appointed Soviet ambassador in Zambia, where he masterminded and organized the takeover of Zimbabwe by the pro-Soviet terrorists of the Patriotic Front of Zimbabwe. Previously Solodovnikov, who is a high-ranking agent of the KGB (Soviet secret police), worked as an assistant of the Secretary General of the United Nations in New York. I was present at a secret meeting in Moscow in the middle of the 1960s when Solodovnikov described how he established Soviet control over the staff of the United Nations.

The staff and activities of the Organization of African Unity are also strongly influenced by the Soviet leadership through the local pro-Soviet dictators. The Soviet leaders installed such dictators in the majority of the African states, which are now members of the United Nations, too, and help to promote Soviet influence there.●

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[1] Program of the Communist Part of the Soviet Union. Moscow, 1976. (In Russian) p. 5.

[2] Ibid., p. 9.

[3] International Affairs. February 1980. Pp. 149-150. (In Russian.)

IN SUPPORT OF THE CONABLE-MITCHELL-WYDLER-RODINO-WEISS AMENDMENT TO H.R. 7112

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, I am pleased to extend my cosponsorship of the Conable-Mitchell-Wydler-Rodino-Weiss amendment, which will authorize State government participation in the general revenue-sharing program. Our amendment eliminates the entitlement, which currently exists for State governments, and directs participation in fiscal year 1982 and fiscal year 1983 through the normal congressional budget procedure. The amendment does nothing more than provide the Budget and Appropriations Committees with the option to fund the State government portion of general revenue sharing.

I support the effort to include State share because trend data suggest a continuing decline in the fiscal portion of State and local sectors. According to the Bureau of Economic Analysis, the fiscal year 1980 fiscal position of the State and local sector will continue to be in deficit. The 1980 deficit is expected to be larger than the 1979 deficit because expenditures are expected to grow about 9 percent while receipts increase by only 7 percent. The latest Data Resources, Inc. (DRI) forecast supports that trend with a projection of fiscal year 1980 State and local sector expenditures increasing by 8.5 percent while receipts increase by only 6.1 percent. The effect of H.R. 7112, as reported, would exacerbate this fiscal condition in cities. The proposed distribution changes would dictate that 12 percent of the cities receive from 10 percent to 50 percent increases in their current payments while 48 percent of the cities receive 10 percent to 50 percent decreases in their current payment. Providing an option for State participation will offer potential alternative or fiscal relief for cities in the outyears.

The issue of equity also surfaces when discussing the State participation in general revenue sharing. If that portion is not funded and acknowledging the project increases in expenditures, it becomes clear that States must make up, in many cases by law, the gap. If the election were to general additional revenue the most likely mode would be additional sales tax collections. The median State accounts for 56 percent of its generated revenue through the highly regressive sales tax mode. Poor people consume more than their average income through credit, consequently are taxed 100 percent of their income. To increase the rate of sales taxes would be to further burden the poor while the upper income shelter their earnings through tax expenditures.

It is also important to note that while State and local governments will receive $91 billion in Federal aid in fiscal year 1980, accounting for nearly one-quarter of their general revenues, local governments also receive State passthrough money. States pass money, both Federal and State generated revenue, through the localities. The combined Federal and State intergovernmental transfers to localities accounted for over 40 percent of local government general revenues in fiscal year 1978. The typical large city generates 60 percent of the remainder with local property taxes and over 31 percent with sales taxes. Again, to avoid the regressive nature of sales taxes while providing large central cities with the opportunity to attract business growth with comparable property taxes, the State must be prepared to assist the large central city.

For the reasons I have outlined, it is imperative that this bipartisan amendment be considered on its merits by my colleagues.●

NORMAN BLESHMAN—A LEADER IN SERVING THE CAUSE OF THE HANDICAPPED CHILD

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. HOLLENBECK. Mr. Speaker, the handicapped children of New Jersey are indeed fortunate to have in Mr. Norman Bleshman an outspoken advocate of their special needs and interests. Through his steady dedication and commitment, Mr. Bleshman is proud testimony to the accomplishments one man acting in the public interest can achieve. He has touched the lives of thousands upon thousands of handicapped children and their families, and his record of service, as outlined by the Special Services School District of Bergen County in grateful recognition of his leadership, is an inspiration I am proud to share with my colleagues—

Norman A. Bleshman, a lay leader in the founding of Special Services School Districts, assisted in the writing of the legislation, worked for its passage, and then was involved in the implementation and establishment of the Special Services School Districts.

He served as the first, third, fifth, seventh and now eighth president of the Board of Education of the Bergen County Special Services School District. Of all those involved in the founding, he is the only person who has continued his service throughout the eight years the Bergen County Special Services School District has been in existence and has continually served in a leadership position.

Norman A. Bleshman, an engineer by profession, was initiated into his career in public education when he was elected to the Bergenfield Board of Education in 1962 for a three-year term. He was next elected for a three-year term in 1968. In these six years, he served as president once and vice-president twice.

In 1964, during his first term, he was appointed by Ruth Mancuso, of the State Board of Education, to serve on a New Jersey Federation of District Boards of Education committee, which studied the facilities available in New Jersey to serve its special education needs. This committee reported a severe lack of programs and facilities for special education and so, Norman A. Bleshman spent the next fourteen years untiringly trying to rectify this situation.

In 1965, he joined the New Jersey Association for Brain Injured Children and was appointed education chairman for the Northern section. As chairman, he convened a meeting with Rocco Montesano, the Assistant Superintendent of Schools of Bergenfield, and Dr. Archie F. Hay, Bergen County Superintendent of Schools to provide for nonexistent programs for the handicapped in Bergen County. They identified two of the most important needs as being vocational training which will lead to job placement and maintenance for the minimally handicapped, and a meaningful education for the severely handicapped. With the advice and counsel of the professional educators, Norman A. Bleshman proceeded to organize the community to work together to obtain a vocational training program and facility to serve the minimally handicapped. The need for this program was clear. The Brain Injured Children's Association was easily convinced to spearhead the drive for this program. They appointed a study group and he was elected chairman. The group first defined the specific needs and then sought the support of the Board of Chosen Freeholders. After the Board of Chosen Freeholders were apprised of these needs, they sought a broader base of interest and lay leaders concerned with the retarded, autistic and emotionally disturbed were added to an enlarged committee.

In preparing a report for the county government, Norman A. Bleshman researched all existing programs throughout the country. In Syosset, New York, he found an outstanding program that would meet the needs of Bergen County. He also contacted the State employment services in an effort to determine what occupations were in short supply in Bergen County and toward which training should be aimed. Bergen County industry was enlisted, and they supported this effort. Finally, the findings of this committee were submitted to the Freeholders, who then appointed a feasibility committee, which was made up of county professional leaders and the original lay committee. Norman A. Bleshman was elected chairman of this committee, which prepared a proposed program, curriculum, and budget and made a number of recommendations for operating a vocational program for children with special needs.

One recommendation—"to have this program administered by a County Board of Special Education" was withdrawn when it was realized that it would take 4 or 5 years to enact legislation to permit the creation of such a board. In March 1967, Norman A. Bleshman presented the final report of the feasibility committee to the Freeholders. Two months later, the report was officially acted upon when the Freeholders authorized Freeholder Eugene Francis and Norman A. Bleshman to present, on their behalf, a request that this program be established and operated by the existing Bergen County Board of Vocational Education. After lengthy discussion, the program was accepted and an advisory committee was established by the Board of Vocational Education. Mr. Bleshman was elected to lead that committee, whose first assignment was to help select and screen candidates to administer the program. Their second assignment was to find a suitable building. A suitable building was purchased in November 1967. A director was hired and the program begun by April of 1968. Mr. Bleshman, today, continues his interest in this particular project by serving as chairman of the advisory committee for special needs schools of the Bergen County Vocational School District.

During the late 1960's, the New Jersey Association for Brain Injured Children became an affiliate of the Association for Children with Learning Disabilities. In 1970, Mr. Bleshman was elected chairman of the Northern Section, serving Bergen, Passaic and parts of Morris County. In that same period, he represented the N.J.A.C.L.D. at the New Jersey Interagency Council (for the Handicapped). In 1971, he took the lead in forming and chairing the Bergen County Interagency Council for the Handicapped. This group was composed of representatives of school districts and parent groups. They worked together to coordinate efforts to improve the position of the handicapped children, both in school and in the community.

While this was going on during the late 1960's, Norman A. Bleshman was leading an organized effort to form the "County Board of Special Education" which was recommended by the original county feasibility committee. This effort began the night that the Freeholders voted to issue bonds to purchase a building to house the first vocational program for children with special needs. With Freeholder encouragement, some of the dedicated lay and professional members of the earlier feasibility committee were joined by a representative of the County Cerebral Palsy Center to provide for the needs of the severely handicapped. Mr. Bleshman assumed the role of chairman of this group. Senator Matthew Feldman reacted quickly and introduced a bill to create a Board of Special Education for Counties just before he completed his term of office in 1968.

In 1969, the committee induced Senator Fairleigh Dickinson to sponsor the much needed legislation. Norman A. Bleshman developed the basic language for this bill which would establish county special services school districts. In addition, he and this committee worked to gain unified acceptance from county, state, parent and professional groups and legislators. These efforts were interrupted for almost a year when the then Commissioner of Education, Carl Marburger, was asked to have another study of the situation made. When Commissioner Marburger was convinced that there was no better means of providing for the severely handicapped, the Commissioner approved the committee's proposal.

The final efforts to obtain legislative approval resulted in the passage and signing of the bill to establish special services school districts on May 27, 1971. The committee continued to work for the establishment of a special services school district in Bergen County. On December 29, 1971, Norman A. Bleshman joined other committee members: Herbert Kahn, Dr. Archie F. Hay, Dorothy Webb, Dr. Phoebe Hudson as part of the first board of education of the Bergen County Special Services School District.

In 1972, Norman A. Bleshman was invited again to participate as an active member of the New Jersey School Boards Association Special Education Committee. That year, he was also asked to be a reactor on a panel concerned with special education at the National School Board Association convention.

He remains an active member of the New Jersey School Boards Association Special Education Committee. In 1975, he was elected to the Executive Committee of the Bergen County School Boards Association for a three-year term and initiated the County's Special Education Committee. In 1975, he was instrumental in creating the Council of Special Services School Districts, which consisted of members of the three Special Services School District Boards of Education in Cape May, Burlington and Bergen County. He is now serving his second term as president of that council which now includes Mercer County.

In 1970, the parents of the students at the Maplebrook School (a private residential school in Amenia, New York for learning disabled children) became concerned about the future of the children who completed the program at the school. In 1971, Norman A. Bleshman became president of the Maplebrook Parents Association, and during his term, the Association initiated what is now a well-known living facility in New Haven, Connecticut, which trains the students to live and work independently after graduation from this private school. The goal for these young adults will be the ultimate ability to live totally independent. In 1974, he joined those creating a similar Bergen County facility (Independent Living for Adults) as a member of their board of directors. He provided them with the benefit of his experiences at Chapel Haven in New Haven, Conn.

In December 1970, he was elected as a member of the Board of Directors of the Community Center for Mental Health, which serves 15 communities in New Jersey's mental health catchment area No. 47. He served during a period of heavy growth in both client and facility services. Because of the greater responsibilities of the Board of Education, Special Services School District, he resigned in August 1973.

In his community from 1957-1960, he served as member, secretary and chairman of the Bergenfield Zoning Board of Adjustment. In 1957, he founded and served as the charter president of the Greater Bergenfield Jaycees. Successively, he served the N.J. Jaycees as State Vice President, Chairman of the State Community Planning Committee and State Government Affairs Committee. From 1959 to 1964, he served as the founder and president of the Bergenfield Historical Association, during which time the History of Bergenfield was compiled. During the period of 1962 to 1966, he served the Bergenfield Police Athletic League; one year as Chairman of the Citizens' Committee. In 1963, he served as an active member of the Bergenfield Planning Board's Brook Survey Committee, and in 1967, he worked as a member of the Friends of the Library's special gifts committee. Since 1975, he has served as an alumni ambassador (advisor), encouraging Bergen and Hudson Counties high school students, capable of achieving, to attend Drexel University. Since 1972, he has been a member of the Bergenfield Lions Club, serving as director, treasurer and secretary. Currently, he serves as a member of the Lions District 16-A Hearing and Speech Action and Works with the Deaf Committee.

In his professional activities, from 1949 to 1970, he served the Power and Industrial Division of the New York Section of what is now the Institute of Electrical and Electronic Engineers in all offices, including the Division Chairman. From 1972 to the present, he served the North Jersey Section of the IEEE in positions, including Section Secretary and Chairman. On an international level of IEEE, he has served on the Substation Committee since 1962. He has served as Committee secretary and has been elected vice-chairman. From 1973 to 1978, he served as a member of the American National Standards Institute Committee C-29 Power Line Insulators and as chairman of a subcommittee on indoor insulators. A licensed professional engineer in New Jersey and formerly in New York and Pennsylvania, he was a member of the New York Chapter of the New York Society of Professional Engineers from 1950 to 1953 during which period he served one year as Financial Secretary. In 1953, he served as a member of the Young Engineers Committee of the National Society of Professional Engineers.

Norman A. Bleshman was born, raised and educated in Philadelphia, Pennsylvania. He received a B.S. in Electrical Engineering from Drexel University in 1947, and a MBA from Fairleigh Dickinson University in 1960.

From July 1947 to December 1947, he was employed by Birdsboro Steel Foundry & Machine Company in Birdsboro, Pa. From December 1947 to December 1955, he was employed by Ebasco Services, Inc. in New York, N.Y. Since December 1955, he has been employed by Public Service Electric and Gas Company and is currently Principal Staff Engineer.

He and his wife, Harriette resided in New Milford from August 1950 to August 1952 when they moved to their current home at 165 Ames Avenue in Bergenfield, N.J. They have two daughters Andree B. Rolfe of Ridgewood and Patricia of Bergenfield.

I am sure that my colleagues will join with me in extending our congratulations and appreciation to Mr. Bleshman for his outstanding achievements and in offering our best wishes for many more successes in serving the cause of our handicapped children.●

AMERICAN HANDGUN WAR DEAD

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. DRINAN. Mr. Speaker, an additional 724 American lives were lost during the month of August as a result of the misuses of handguns. These deaths bring the total number of victims of the handgun war in 1980 to 5,238.

The handgun body count, which I have been inserting in the RECORD each month, is a listing of media-reported handgun deaths compiled by Handgun Control, Inc.

These disturbing figures indicate the necessity of an investigation by this body into the problem of the misuse of handguns. I hope that before the end of the 96th Congress, the Judiciary Committee will hold hearings on the legislation now pending that would work to curb the availability of handguns.

The handgun body count for August 1980 follows:

AMERICAN HANDGUN WAR DEAD—AUGUST 1980

ALABAMA (15)

I. Bentley, B. Bush, M. Gissendanner, B. Glover, L. Grizzard, J. Holmes, R. Jones, W. Kelly, C. Lowery, C. Mills, F. Pace, D. Pickens, M. Ricketts, F. Seldon, and B. Williams.

ARIZONA (16)

T. Conner, J. Cordova, N. Gannon, D. Garcia, D. Hilden, H. Howell, J. Howell, S. Jennings, M. Loney, A. Manfra, C. McNaughton, J. Triste, M. Turner, L. Wills, U. Wills, and R. Zigoures.

ARKANSAS (9)

R. Bearden, M. Carter, T. Christopher, J. Davis, O. Gatchell, Jr., T. Henry, R. Kight, P. Nash, Jr., and D. Piccirilo.

CALIFORNIA (94)

J. Aguirre, G. Ahulau, H. Alexander, S. Alvarez, G. Andrews, R. Avalon, I. Bishop, M. Booher, J. Campbell, S. Chavez, T. Chen, M. Corpis, V. Davis, D. Diaz, H. Dickey, S. Dickey, M. Earnshaw, J. Erke, M. Evans, A. Fiedler, M. Ford, and N. Garcia.

R. Garcia, C. Gearhart, W. George, A. Gonzales, F. Gonzalez, M. Grace, T. Hadley, M. Hatcher, D. Heard, R. Hendrix, L. Hernandez, S. Hernandez, L. Johnson, T. Jones, M. Kilgore, A. Lewis, D. Masters, T. Masters, T. Matsuda, and T. McKinney.

A. Medrano, A. Meza, B. Mitchell, D. Mitchell, H. Mitchell, O. Mondragon, M. Montealegre, U. Moon, R. Moreno, L. Ocon, G. Pearl, C. Punsalang, J. Ramos, F. Reynoza, J. Rios, B. Roberts, L. Rogers, W. Rogers, A. Rosa, and D. Rudnick.

R. Saunders, D. Seybert, M. Sherman, W. Simon, R. Soto, V. Southall, S. Spunar, P. Stewart, J. Stott, R. Urzua, I. Vega, J. Velasquez, V. Ventura, J. Vernin, R. Watkins, E. Watson, D. Westbury, B. Wheat, and B. White.

L. Wilson, M. Yu, unid. male, unid. female, unid. male, unid. male, unid. male, unid. female, unid. male, unid. male, unid. male, unid. female, and unid. female.

COLORADO (10)

G. Allison, B. Carlis, K. Chase, S. Fedak, B. Karr, J. Peterson, O. Petigo, J. Reed, and unid. male.

CONNECTICUT (4)

A. Goodrow, J. Koss, D. Tallon, and unid. male.

DELAWARE (1)

A. Skinner.

DISTRICT OF COLUMBIA (4)

A. McKay, C. Smith, J. Strini, and N. White.

FLORIDA (35)

R. Bishop, G. Bullock, T. Castle, H. Copeland, Jr., K, Duggan, E. Dumois, J. Dumois, M. Dumois, C. Evans, J. Evans, O. Garcia, P. Gliedman, B. Gross, R. Hitolito, E. Huntoon, C. Jones, R. Kates, D. Keel, D. Keller, C. Matanis, R. Matzke, L. Morales, M. Nowell, O. Ortega, R. Reyenger, F. Stanovitch, C. Stopford, L. Townsend, J. White, K. Woodard, P. Zingaro, unid. male, unid. male, unid. male, unid. male, and unid. male.

GEORGIA (15)

R. Hill, C. Marks, R. McClain, C. Postell, J. Prater, B. Price, C. Price, M. Redd, W. Ruffin, J. Smith, V. Smith, L. Wallin, A. Weaver, K. Welch, and H. Whitfield.

HAWAII (2)

W. Fergerstrom and D. Northway.

ILLINOIS (107)

G. Allen, R. Amaro, K. Anderson, R. Anderson, R. Andino, J. Baran, B. Bender, B. Bernat, R. Bradley, E. Branch, R. Brickman, A. Brown, N. Brown, R. Brown, M. Browning, S. Buode, W. Burns, D. Burroughs III, J. Butler, A. Carrillo.

R. Casillas, L. Cole, M. Cole, E. Collazo, P. Corbett, S. Cundiff, J. Dominguez, N. Drish, R. Drist, C. Ferrara, M. Figueroa, C. Florez, F. Foys, Jr., D. Fuller, A. Garcia, J. Garcia, K. Ghebemendhin, D. Goodman, O. Goodman, J. Green.

J. Haggains, F. Hernandez, E. Hills, C. Holzner, W. Hunt, P. Jackson, L. Jay, R. Jones, C. Kimborough, J. Lobb, L. Loeb, R. Loggins, E. Macon, N. Maffei, R. Magoon, M. Martin, A. Massey, M. McDonough, F. McDuffie, M. McGee, P. McGee.

E. McKinney, A. McNeal, A. Mellins, J. Mitchell, E. Morris, B. Murphy, L. Newson, J. Ortiz, R. Ortiz, W. Pass, K. Patterson, N. Perez, H. Pickett, E. Redic, S. Richards, J. Riley, J. Robinson, J. Rogers, D. Rudd, K. Rybski.

R. Salinas, C. Santy, S. Santy, J. Shrieve, J. Sierra, M. Sims, C. Smith, J. Smith, M. Smith, C. Stohn, Jr., D. Sweigart, I. Tarastuk, T. Tenort, E. Tolliver, V. Urquar, S. Vallejos, F. Vivar, D. Walker, K. Ward, M. Washington, W. Watkins, C. Weideman, R. Wilson, R. Yates, unid. male, and unid. male.

INDIANA (13)

N. Alford, W. Eakins, C. Hankins, A. Jones, L. Lewallen, D. Quarles, D. Reynolds, W. Sieg, F. Sommerville, R. Strodtman, J. Teasett, J. Winslow, and unid. male.

IOWA (2)

R. Brown and E. Toney.

KANSAS (6)

E. Gasper, D. Heckert, G. Mayfield, K. Mebane, A. Watson, and unid. female.

KENTUCKY (11)

E. Bell, A. Cox, T. Hatfield, L. Helphenstine, J. Hudson, J. Huff, J. McKnight, R. Pennington, R. Smith, T. Smith, and D. York.

LOUISIANA (36)

B. Adams, G. Adams, C. Bacque, E. Bloomer, C. Cottingham, K. Fruge, J. George, A. Hill, L. Holmes, C. Huntington, A. Irving, C. Lundy, H. Patterson, D. Peterson, O. Prieur, V. Purpera, Jr., J. Reliford, Z. Richardson, L. Rousseau, P. Schlitz, R. Sebble, E. Shaffer, G. Shoemaker, D. Simpson, B. Soingnet, H. Steele, Jr., J. Thibodeaux, C. Thrash, R. Tucker, G. Waites, B. Wetmore, P. Wetmore, K. White, unid. male, unid. male, and unid. male.

MAINE (2)

L. Pelletier and D. Pinette.

MARYLAND (14)

J. Brimfield, J. Fetter, H. Floyd, Jr., V. Little, J. Mackie, W. Moore, E. Murphy, K. Paragis, S. Patton, N. Resnick, J. Stewart, J. Turner, J. Washington, and P. Watkins.

MASSACHUSETTS (4)

S. Manigault, J. Pedro, W. Smith, and G. White, Jr.

MICHIGAN (9)

C. Beavers, J. Blanks, M. Joshua, J. Keys, R. May, J. Perry, Jr., G. Smith, J. Steslicki, and P. Thelen.

MINNESOTA (2)

H. Benedict and L. McPhee.

MISSISSIPPI (2)

W. Cannon and J. Ethridge, Jr.

MISSOURI (29)

E. Bolden, S. Boles, R. Brandenburg, T. Brummett, C. Bufford, J. Caudill, E. Collins, D. Danforth, D. Foulk, W. Franklin, S. Freeman, M. Harger, L. Hill, R. Jackson, R. Johnson, M. Kotsonis R. Lewis, E. McCain, J. Myers, Jr., E. Richardson, B. Rodrian, B. Rose, T. Sanders, M. Stevens, J. Stewart, C. Timmerman, unid. male, unid. male, and unid. male.

MONTANA (1)

D. Peterson.

NEBRASKA (1)

L. Highley.

NEVADA (3)

R. Kittle, B. Smick, and unid. male.

NEW JERSEY (13)

T. Decesari, J. Diaz, C. Jefferies, C. Jones, A. Kennon, L. Mascalo, E. Moate, Jr., N. Pillaro, H. Sprague, T. Tomlinson, W. Tomlinson, H. Wilson, and unid. male.

NEW MEXICO (6)

L. Bates, D. Chavez, M. McCoy, P. Montoya, L. Morrocco, and B. Stellato.

NEW YORK (27)

V. Abril, A. Attianese, J. Consilio, L. DeJesus, C. Faust, S. Forbes, R. Foster, A. Fulton, E. Golston, L. Gonzalez, T. Hampton, G. Herrera, C. Lewis, L. Payce, D. Powell, J. Rivera, H. Rodriguez, J. Rodriguez, H. Ryman, M. Singh, A. Skinner, J. Smith, F. Stuhler, A. Vera, unid. male, unid. male, and unid. male.

NORTH CAROLINA (26)

D. Adcock, D. Bundy, W. Coffey, J. Coles, Jr., K. Covington, T. Covington, C. Davis, W. Dixon, L. Dover, M. Dowdy, D. Eanes, S. Githens, B. King, K. Lee, T. Lomick, W. Mabe, G. Monroe, D. Murphy, K. Philbeck, M. Proffitt, S. Stewart, J. Taylor, L. Triplette, C. Wallace, C. Watkins, and J. Zavala.

OHIO (21)

D. Barbee, P. Charles, J. Egbert, III, J. Green, Jr., B. Harris, P. Hayhurst, W. Holland, Z. Keffer, J. Malone, Jr., M. Levorn, C. Milo, D. Mitchell, R. Murphy, K. Neiger, C. Rosenberger, O. Simms, L. Stroud, D. Taylor, D. Williams, A. Witcher, and A. Young.

OKLAHOMA (12)

C. Berry, J. Carnes, C. Davis, L. Guzmon, T. Hardman, W. Holmes, C. Jones, R. Kennedy, J. Smith, M. Smith, W. Stevenson, and unid. male.

OREGON (5)

J. Ballance, D. Brunson, D. Coleman, E. Coleman, and M. Mock.

PENNSYLVANIA (20)

R. Anderson, L. Berris, R. Cilas, F. Colon, G. Cragle, N. Fellman, G. Ferry, A. Fetrow, R. Hairston, S. Huetter, W. Kling, R. MacDonald, R. Marenholtz, L. Mascolo, A. McKinney, S. Paul, J. Puerile, W. Rice, Jr., D. Rodriguez, and K. Simmons.

RHODE ISLAND (1)

L. Soto.

SOUTH CAROLINA (6)

W. Dixon, L. Dover, T. Graham, D. McGill, L. Setzer, and J. Sullivan.

TENNESSEE (27)

W. Binkley, J. Chaviers, L. Clemons, S. Dorsey, L. Duncan, W. Fiddler, A. Hamilton, M. Kinzer, A. Lowe, C. Lyle, D. Massa, J. Massa, J. Massa. Jr., D. Popovich, G. Pratcher, J. Price R. Richardson, R. Seelye, W. Wallace, R. Westmoreland, A. Williams, R. Winfrey, C. Wooldley, P. Woodson, W. York, unid. male, and unid. male.

TEXAS (87)

E. Acosta, F. Aranda, J. Avila, V. Barnett, J. Batchelor, R. Benavides, D. Bennett, K. Benton, T. Bradley, J. Brock, M. Brown, B. Burns, R. Camp, E. Castillo, C. Crawnover, B. Crisp, S. Crisp, R. Cruz, K. Davis, J. Dewbre.

B. Ellis, S. Francis, M. Garay, A. Gattison, W. Gibson, G. Gomez, J. Gonzales, S. Hall, R. Hatfield, J. Hayley, A. Hernadez, M. Herrera, J. Hicks, Jr., S. Iberra, M. Jackson, O. Jones, E. Junious, J. Keen, J. Lewis, W. Lockhart.

J. Lovic, R. Lovic, J. Lynch, T. Martin, E. Mascorro, J. McGowan, R. Mesa, G. Morris, N. Morris, F. Muniz, S. Nuss, A. Olivares, F. Orona, Jr., A. Pacheco, Y. Pacheco, N. Perry, P. Poole, D. Porter, R. Prichard, J. Pritchard.

M. Quintanilla, M. Rainey, M. Reaves, A. Reinoso, J. Rios, N. Robertson, V. Rocha, Jr., D. Rogers, C. Rosales, D. Rubalcaba, C. Sauls, G. Schulte, S. Shackelford, B. Shaw, J. Solis, Jr., B. Staley, J. Tanton, R. Taylor, A. Tello, C. Trevino, H. Tyner, H. Tyner, Jr., P. Tyner, C. Vela, J. Voss, W. Wade, and K. Williams.

UTAH (5)

M. Garcia, A. Magnuson, E. Sprinkle, unid. female, and unid. male.

VIRGINIA (4)

C. Dodd, G. Housman, H. Labove, and J. Ponder.

WASHINGTON (6)

A. Badillo, B. Ballard, W. Cleary, P. Collier, D. Fraley, and W. Touchstone.

WEST VIRGINIA (4)

J. Conley, J. Fridley, J. Mace, and S. Mace.

WISCONSIN (4)

S. Elerson, L. Roberts, T. Stublaski, and S. Walley.

WYOMING (3)

D. Frank, S. Frank, and W. Judd.

DEATHS PREVIOUSLY UNRECORDED

January

LOUISIANA

C. Boxley.

MASSACHUSETTS

R. Valentine.

NEW YORK

F. Rivera and M. Rivera.

NORTH CAROLINA

R. Burrow.

RHODE ISLAND

V. Dechristopher

February

ARKANSAS

C. Sargent.

LOUISIANA

R. Griffin.

NEW YORK

F. Almonte, and A. Morales.

OHIO

W. Scott.

TEXAS

D. Thomas.

March

ILLINOIS

R. Ivanov, M. Riordan.

MASSACHUSETTS

C. Boucher.

NORTH CAROLINA

W. Alexander.

OREGON

R. Davenport.

April

IOWA

J. Van Haaften.

MISSISSIPPI

B. McDonald.

OKLAHOMA

Unid. female.

TEXAS

M. Hannalla.

May

FLORIDA

H. Sims.

KENTUCKY

F. Dewitt.

MAINE

C. Ledger.

OHIO

L. Walker.

TEXAS

E. Thompson, Sr.

June

ALABAMA

C. Sudduth.

ARIZONA

D. Patton.

ARKANSAS

R. McClung.

CALIFORNIA

R. Chew, M. Comer, R. Horick, and J. Secor.

COLORADO

J. Lutzow.

FLORIDA

C. Dorsey, O. Ortiz, J. Rauley, and Unid. male.

IDAHO

D. Hanes, B. Norton, and T. Schultz.

INDIANA

E. Dodsen.

KANSAS

C. Finley.

LOUISIANA

W. Borne and S. Neal.

MICHIGAN

G. Glass.

MISSOURI

J. Reding.

NORTH CAROLINA

R. McCauley.

NEW YORK

D. Nemeroff and R. Steinberg.

OHIO

J. Smith.

OKLAHOMA

R. Jenkins.

PENNSYLVANIA

A. McCutcheon and E. Parker.

TEXAS

H. Allen, J. Alvarez, S. Barranco, B. Banks, E. Brown, P. Brown, W. Campell, D. Carr, B. Choate, G. Corona, A. Curry, L. Dickey, W. Edwards, C. Ferguson, N. Gill, J. Guajardo, R. Harrison, F. Johnson, L. Keaton, S. Moreno, A. Quiller, F. Roberts, H. Robinson, M. Shehata, A. Templeton, C. Villafuerte, J. Villanueva, R. Villanueve, and Unid. male.●

H.R. 8117—SAFE DRINKING WATER AMENDMENTS

HON. PHIL GRAMM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. GRAMM. Mr. Speaker, I would like to thank Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, and Mr. BROYHILL, ranking minority member of the Committee on Interstate and Foreign Commerce, for their strong roles in the formulation of H.R. 8117, as amended.

It would serve no purpose for me to present a recapitulation of the various provisions of the bill. Other Members have addressed themselves to that. To the extent that they have not, House Report No. 96-1348, in the main, provides a valuable supplement. Nevertheless, I propose to make some specific observations about the principal sections of the bill.

Section 1, by extending the compliance deadlines under the exemption section of the Safe Drinking Water Act, lifts from communities the immediate anxiety flowing from the unbridled prosecutorial discretion which would have been reposed in EPA. At the same time it provides temporary protection from the increased threat of private suits which might have been filed upon the imminent demise of the existing deadlines.

Further, the exemption scheme of stretched-out compliance is available to systems without regard to whether they are large or small, public or private, so long as the States exercise their broad authority under the statutory requirements in good faith.

Regarding sections 2 and 3, I was the prime proponent—see section 1 of H.R. 6090—of different regulatory treatment for underground injections relating to oil and natural gas in recognition of the good record exhibited in the recent history of such operations in the major producing States.

The Administrator of EPA has maintained that all forms of underground injection must be regulated in some way under the Safe Drinking Water Act. Acting pursuant to that premise he has attempted to regulate oil- and natural-gas-related injections. I do not agree with his policy for two reasons. First, the overriding consideration for promulgation of minimum requirements is not that it be a form of underground injection, but rather that it be to prevent underground injection which endangers drinking water sources. Second, there are special limitations in any event on the promulgation of requirements for oil and gas operations. With respect to the latter objection, the historical record is itself a repudiation of the threshold essentiality of such requirements. Additionally, in light of the varying geologic, hydrological, and historical conditions in different States and in different areas within various States, the EPA requirements unnecessarily disrupt State underground injection-control programs. In short, the question is not merely whether the Federal regulations are reasonable in this area, but whether there should be Federal regulations at all. I believe that the answer is no on both counts.

After these regulations were promulgated, issue was joined by States and private parties under section 1448. There is nothing in section 2 or 3 of H.R. 8117 which would, in any way, jeopardize the appropriateness of a decision by a reviewing court that EPA's actions, findings, and conclusions respecting oil and gas operations, or any other classes of underground injections for that matter, were unlawful and should be set aside. Similarly, the likelihood that a reviewing court may postpone the effective date of an agency action or preserve status or rights pending conclusions of the review proceedings to prevent irreparable injury, is not designed to be undercut at all by section 2 or 3.

Section 2 sets up a new section 1425, which merely allows an optional demonstration by States relating to oil and natural gas in lieu of that embodied by EPA promulgated regulations. It allows a State to be freed from EPA regulations so long as the State can demonstrate that its program meets certain existing statutory requirements set out for regulated underground injections. There is no guarantee that a State will choose to exercise its options under section 2 or that it will be able to make the requisite demonstrations. Of course, by prescribing an alternative discretionary course of action in section 2, it is not intended to sanction the course promulgated by the Administrator of EPA as being bottomed on a sustainable basis.

Section 2 is self-executing and as such requires no guidance documents or EPA regulations. The demonstration is an objective one in all cases, rather than a showing—or notice—satisfactory to the Administrator. As stated in the committee report, judicial review of a determination concerning an attempted demonstration is in accord with section 1448(a). Because review would not involve any regulations for States underground injection-control programs under section 1421, it would seem evident that review would be in accordance with paragraph (2) of 1448(a).

Under section 1425(b), if further demonstration is required, it is only with respect to an aspect of oil- and gas-related regulations which a revision or amendment addresses. In other words, the States do not have to constantly reargue points previously demonstrated unless it is necessary to the aspect at issue. Even then the aspect does not have to mirror EPA requirements either substantively or procedurally. The other aspects would have continued validity.

I believe that, based upon the testimony presented at hearings before the Subcommittee on Health and the Environment, the major producing States, at a minimum, would have no difficulty making a sufficient demonstration under section 1425.

Section 3, which excludes injection of underground natural gas storage from the definition of underground injection, is not intended by its specific exemption to include, by implication, all other forms of underground injection except to the extent authorized by the statute. Also, the exclusion is not meant to suggest that it was proper to so regulate natural gas storage absent the exclusionary language.

Last, I wish to emphasize that I do not intend to slacken my efforts to press forward for comprehensive changes in the Safe Drinking Water Act when it comes up for reauthorization in 1982.●

A TRIBUTE TO FRANK W. "PANCHITO" RAMIREZ, OF SAN GABRIEL, CALIF.

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1980

● Mr. ROUSSELOT. Mr. Speaker, celebrations of thanksgiving in honor of a fruitful harvest have been a California—and American—tradition since the days of the earliest settlers. As we enter the harvest season, I am especially honored to have been invited to the annual Grape Festival at Panchito's Restaurant in San Gabriel, Calif. I would like to take this opportunity to express appreciation to the owner of Panchito's, Frank W. "Panchito" Ramirez, a constituent of the 26th District of California. The community of San Gabriel has harvested the fruits of Frank's talent and generosity for more than a quarter of a century. In recognition of his leadership and service to the community, I wish to bring to the attention of my colleagues in the U.S. House of Representatives a brief summary of his background and accomplishments.

Frank Ramirez's father, Francisco Ramirez, worked in the copper mines of Arizona until he died of lung consumption at the age of 50. Left with nine children to raise, his wife Margarita, Maggie, moved to the barrio in East Los Angeles, where, against tremendous odds, she was successful in keeping the family together.

Maggie Ramirez taught each of her children that a person can survive under the most adverse conditions if they have the love of God, family, and country. Frank's mother strongly believed in the free enterprise system—a system that enables a person to work, save, and provide an education for the next generation. Throughout the years Mrs. Ramirez has continued to believe in these principles and has successfully instilled them in all of her children. She consistently repeated that "only in this wonderful country of the United States can a minority person succeed if the effort is made." Today, at age 90, Maggie continues to believe that to be an American of Mexican heritage is an asset, not a drawback.

Frank Ramirez is fifth in line in a family of four boys and five girls, eight of whom are still living. Frank's oldest brother, Jorgé, a designer and builder of patios with an Hispanic flavor, is also a constituent of my congressional district, California's 26th. Demonstrating the spirit of Maggie Ramirez' children, Jorgé's reputation for quality work has kept him at the same location in Alhambra, Calif., for 41 years. On October 3, 1980, Jorgé will celebrate his 70th birthday. Even so, he still works 6 days a week and is always looking for new projects to enrich the Hispanic community.

With the examples set for him by his mother and older brother, Frank has continued the family tradition of hard work, community service and belief in the free enterprise system. He worked as a masonry contractor until 1956 when he decided that it was high time to stop building restaurants for other people and build one of his own. Frank's restaurant, "Panchito's," opened its doors later that same year.

During the opening ceremonies for Panchito's, the Rev. Father Montoya of the San Gabriel Mission Archangel blessed the establishment and gave Frank a slip of the Mission's Mother grapevine, which was planted in 1861. Frank planted the vine and over the years it has taken root and flourished until it now covers the entire patio area of the restaurant. The grapes from this vine, now ripe and ready for picking, will be harvested during Panchito's annual Grape Festival on October 5 of this year, 1980. By tradition the event is held on the second Monday in October.

Over the years, Frank and his wife Margie have worked tirelessly, giving of both time and money, to enhance and enrich the community of San Gabriel. He is a life member of the San Gabriel American Legion Post 748, where he was instrumental in the construction of the clubhouse. He is an active member of the San Gabriel Chamber of Commerce, the Kiwanis Club, the Southern California Restaurant Association and the Southern California Visitors Council. Frank also supports junior American baseball.

Frank Ramirez has supported and raised funds for the City of Hope, poor families of Baja California, La Casa de San Gabriel, Retarded Children's Association, Women's Club, Muscular Dystrophy, Salision High School, little league, and the Boys Club of San Gabriel.

He also supports the Sister City program of Celaya, Mexico, and, in addition to the Grape Festival, sponsors the annual Panchito's Golf Tournament to benefit the San Gabriel Boys Club.

Frank has served as a commissioner of dangerous drugs, as the president of El Adobe de Los Angeles State Historical Park Commission, as the president of the San Gabriel Fiesta Parade Association and as a member of the advisory council for the Los Angeles district attorney. He also served on the ad hoc committee for Los Angeles to establish the Plaza de Dolores, commemorating Mexican Independence Day, and has hosted the Mexican-American Businessmen's Luncheon for then Governor Ronald Reagan.

Frank has been as busy—and successful—with his restaurant as he has been in the community. Panchito's has expanded from 1,600 square feet to over 8,000 square feet. His staff has increased from 8 employees to more than 50, and the restaurant has grown from a single room seating 40 diners to a full-sized restaurant that accommodates more than 300. It is a real family operation—Frank's son Robert serves as the executive chef for Panchito's and his son Richard is supervisor of the three Panchito Jr. quick-food restaurants.

Frank started his restaurant with recipes handed down through his family. His culinary creativity has expanded right along with the restaurant, and he now concocts his own award-winning dishes. He created a special dish for the famous radio/television chef Mike Roy called "Palomitas," and his "Steak Picado a la Panchito" is famous all over southern California. Panchito's has received the Pasadena Wine and Food Society Crown City Award, the Jerry Dicus Mr. Gourmet Award, and the Restaurant Writers' Association Award. The restaurant has also attained the coveted Holiday Magazine recommendation for 6 years. As Frank points out, "At Panchito's we are originators, not imitators. We dare to be different." Yet, Mr. Speaker, I would bring to the attention of my colleagues that Frank Ramirez has carried on the best tradition of the people of Mexican heritage. He has added immeasurably to the richness of our community, he has carried on the devotions of the Fathers of California's missions, ministering everywhere with his goodness and deep-rooted attachment to the State of California and the American way of life. I ask that my fellow Members in the U.S. House of Representatives join in this expression of thanks and extend with me every good wish as Frank W. "Panchito" Ramirez begins his 25th year in the restaurant business in San Gabriel, Calif.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 30, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 1

10:00 a.m.

Government Affairs

Federal Spending Practices and Open Government Subcommittee

To oversight hearings on the implementation of certain programs of the General Services Administration.

3302 Dirksen Building

OCTOBER 2

9:00 a.m.

Judiciary

Improvements in Judicial Machinery Subcommittee

To hold hearings to investigate alleged contacts between Robert L. Vesco and officers and employees of the United States as contained in Judiciary Committee resolution agreed to July 23, 1980

2228 Dirksen Building

9:30 a.m.

Judiciary

Limitations of Contracted and Delegated Authority Subcommittee

To resume oversight hearings on the contracting-out procedures of consultants by the Federal Government.

5110 Dirksen Building

10:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To continue oversight hearings on the implementation of certain programs of the General Services Administration.

3302 Dirksen Building

Judiciary

Subcommittee to hold an open business meeting on matters relating to its investigation of individuals representing the interest of foreign governments.

6226 Dirksen Building

OCTOBER 8

10:00 a.m.

Select on Small Business

To hold hearings to review a proposal by the American Agricultural Investment Management Company on the investment of certain pension funds in farmland.

424 Russell Building

OCTOBER 20

10:00 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings to review volunteer organization participation in Federal programs.

3302 Dirksen Building

SENATE—*Tuesday, September 30, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, from age to age the same, amid all the changes of this turbulent world, keep us firm in the faith of our fathers, faithful in upholding. Thy law, resolute in the things that matter, compassionate and brotherly in human relations, and powerful in the things of the Spirit.

"Standing in the living present,
  memory and hope between
Lord, we would with deep thanksgiving.
  Praise Thee most for things unseen."
    —Rev. WILLIAM P. MERRILL.

May Thy Kingdom begin in each of us.

Grant Thy grace and wisdom that we may know and do Thy will, for Thine is the kingdom, the power, and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 30, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE ACHIEVEMENTS—96TH CONGRESS, 2D SESSION THROUGH SEPTEMBER 29, 1980

Mr. ROBERT C. BYRD. Mr. President, as the Senate approaches the October recess, I would like to take this opportunity to assess some of the more important achievements made this session.

Unlike some election years, this has been a productive year that has seen enactment of landmark legislation, such as the windfall profit tax and the comprehensive Synthetic Fuels Act.

These two acts provide the basis for reducing American dependence on foreign oil. The windfall profit tax will encourage energy conservation, alternate fuel development, and exploration of new sources of domestic oil, while providing assistance to low-income families to meet increasing costs for heating and cooling.

The omnibus synthetic fuels measure makes the financial commitment necessary for more rapid development of our own plentiful energy resources. It sets up a series of programs for attaining production of the equivalent of 2 million barrels of oil per day from alternate energy sources by 1992.

Coupled with congressional initiative to achieve energy security was congressional resolve to restrain Federal spending. Persistent inflation and high interest rates which were especially onerous early this year spurred determination to control the budget. For the first time in the history of the congressional budget process, Congress voted for a balanced budget, and if the economy had not taken a downturn, a balanced budget would have been achieved. The restraint shown by Congress in its budget decisions deserves much credit for the lower interest rates which prevailed in June.

Congress gave further proof of its deep commitment to keep spending down and fight inflation by invoking, for the first time, the reconciliation process. Seventeen committees of the Senate and the House were required to reduce total budget authority by $4.95 billion and outlays by $6.4 billion. This process will result in a reduction in the 1981 deficit by approximately $10 billion. The Democratic-led Congress also resisted strong pressure by the minority to enact a preelection tax cut—which would have negative economic effects.

The other major area of achievement involved improving our national defense capability in terms of manpower and equipment. Concerted effort this year has brought about a real increase in the defense budget to offset the years of declining defense budget allocations. Increased military pay and benefits were targeted toward retaining and recruiting the technically skilled personnel needed for our defense system. Military registration was reinstituted to provide an inventory of available manpower that could be called upon in the event of a crisis.

A more complete account of the legislative achievements of the Senate this session is contained in a report prepared by the Democratic Policy Committee staff. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

LEGISLATIVE ACHIEVEMENTS

(96th Congress, 2d Session)

AGRICULTURE

Agricultural commodity marketing: Requests the Secretary of Agriculture to: (1) emphasize the use of all marketing tools available to farmers including, but not limited to, futures markets and forward contracting; (2) appoint a task force of individuals representing the futures industry, the Department of Agriculture, and the land-grant colleges to develop educational programs for farmers on the availability of futures markets and forward contracting as a means of hedging against future risks; and (3) submit a plan of implementation within 120 days. S. Res. 225—Senate agreed to January 25, 1980. (VV)

Agricultural subterminal storage facilities: Amends the Consolidated Farm and Rural Development Act to authorize loans for the construction and improvement of subterminal storage and transportation facilities for agricultural commodities that can be transported in bulk from the farm and temporarily stored in bulk quantities without undergoing processing or packaging, and commodities used by producers in the production of agricultural commodities that can be stored or shipped in bulk; authorizes $3.3 million for fiscal 1981, 1982, and 1983 to provide cost-sharing planning grants (up to 80 percent of the cost of developing the plan) to States and groups of States for the development of State and regional subterminal facilities plans; provides that no State or region can apply for a planning grant unless a plan review commission consisting of local producers, local elevator operators, representatives of the affected motor and rail carriers, and other interested parties concur in the need for such a plan; and authorizes the Secretary to insure and guarantee loans for the construction and improvement of subterminal facilities to applicants within States or regions that have developed subterminal facilities plans which have been approved by the local plan review commission and gives preference to existing agricultural elevator operators and local producers in the area to be served by the subterminal facility. S. 261—Public Law 96–358, approved September 25, 1980. (VV)

Aquaculture policy: Establishes an interagency coordinating group within the Office of Science and Technology Policy that will operate as a Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science for Engineering and Technology which will be responsible for coordinating aquaculture activities among Federal agencies; requires the Secretaries of Agriculture, Commerce, and the Interior, through the Joint Committee to undertake an ongoing assessment of the U.S. aquaculture industry, to maintain an information service, conduct appropriate surveys, and arrange for information exchanges with foreign countries; authorizes the Secretaries to conduct tests and construct and operate developmental aquaculture facilities to test laboratory results; calls for biennial reports to Congress on the status of U.S. aquaculture; requires the Secretaries, within 12 months, to conduct and submit to Congress studies of the capital requirements of the U.S. aquaculture industry and State and Federal regulatory restrictions on aquaculture development, and within six months of the completion of these studies, to formulate and submit plans containing specific steps to remove unnecessary burdensome regulatory barriers; authorizes the Secretaries to enter into or make grants to implement the plan at no more than one-half of the estimated cost of the project; and authorizes therefor $7 million, $10 million and $12 million for fiscal 1981, 1982, and 1983, respectively, each to the Departments of Agriculture and Commerce, and $3 million, $4 million, and $5 million for fiscal 1981, 1982, and 1983, respectively to the Department of Interior. S. 1650—Public Law 96-362, approved September 26, 1980. (VV)

Consolidated farm and rural development loans: Amends the Consolidated Farm and Rural Development Act, which authorizes rural development loan programs, to set overall lending limits for fiscal 1980, 1981, and 1982 (pursuant to section 346 of that act which requires that lending limits for the loan programs be set every three years); sets loans under the Agricultural Credit Insurance Fund for: real estate loans—$1.615 billion (including $1.5 billion for farm ownership loans of which $1.4 billion is for insured loans), $100 million for guaranteed loans and $100 million for water development, use and conservation loans of which $90 million is for insured loans and $10 million for guaranteed loans), for operating loans—$1.2 billion (of which $1.15 billion is for insured loans and $50 million for guaranteed loans), and for emergency disaster loans—such amounts as necessary to meet needs resulting from natural disasters; sets loans under the Rural Development Insurance Fund for: insured water and sewer loans—$1 billion, for business and industrial development loans—$1.5 billion (of which $100 million is for insured loans and $1.4 billion for guaranteed loans), and for insured community facility loans—$500 million; requires that the emergency loan program be administered in a manner that will foster and encourage the family farm system of agriculture; establishes a $500,000 ceiling per disaster on the amount of an emergency loan for actual losses and an outstanding indebtedness ceiling of $1.5 million for any one borrower for emergency loans for purposes other than to cover actual losses; authorizes actual loss loans, with a limit of $500,000 per disaster, to applicants who can obtain credit elsewhere at a rate of interest to be determined by the Secretary but not to exceed the cost of money to the government plus an additional charge of not more than one percent per year; sets the rate of interest on such loans at 5 percent for applicants who cannot obtain credit elsewhere; authorizes subsequent emergency loans for annual operating purposes for two additional years after the disaster; repeals section 323 of the Act to remove the requirement that Farmers Home Administration county committees certify the loan amount for emergency loans; and provides that persons who farm land in Hawaii under lease arrangements may be considered as owner-operators of the land for the purposes of the loan programs. S. 985—Passed Senate May 23, 1979; Passed House amended October 24, 1979; Conference report filed. (VV)

Crop insurance: Revises the Federal Crop Insurance program for farmers and provides for expansion of the program to all crops and all farmers; requires the Federal government to pay 30 percent of the premiums covering 65 percent or less of the yield in order to encourage the broadest possible participation in the program;

Increases the authorized capital stock of the Federal Crop Insurance Corporation from $200 to $500 million; increases membership of the Board of Directors of the Corporation from 5 to 7 members, and specifies the make-up of the Board which shall include three members who are active farmers and policy holders;

Authorizes the Corporation, in administering the Federal Crop Insurance Act, to (1) establish or use committees or associations of producers, (2) contract with private insurance companies, and (3) encourage the sale of Federal Crop insurance through licensed private insurance agents and brokers; requires the Corporation to provide reasonable indemnification to private insurance agents and brokers for errors or omissions of the Corporation; removes, beginning with the 1981 crop year, the existing 150-county and 3-community annual limits on expansion of the Federal crop insurance program and the 20-county limit on the program to provide Federal reinsurance to private crop insurers;

Establishes coverage under the new Federal crop insurance program as follows: (1) makes insurance available for up to 75 percent of the recorded or appraised average yield, (2) retains existing law which requires that yield coverage be based on the producer's yield for a representative period, subject to such adjustments as the Board may prescribe to insure that the average yields fixed for farms in an area are fair. (3) makes price coverage available, per unit of production, at the highest target price (if any), loan rate (if any), or the projected market prices, and (4) makes lower levels of yield coverage and other price selections available;

Authorizes the Corporation to reinsure State and local crop insurance programs; requires the Corporation to subsidize crop insurance premium costs as determined by the Board of Directors; provides that a producer may have coverage from hail and fire risks deleted from his Federal crop insurance policy if he obtains equivalent coverage from non-Federal sources; authorizes the Corporation to offer Federal crop insurance and provide for reinsurance in Puerto Rico and other U.S. commonwealths and territories;

Effective October 1, 1980, deletes the $12 million limit on annual appropriations to cover the Corporation's operating and administrative expenses; authorizes annual appropriations to the Corporation to cover agents' commissions, payments of premiums by the Corporation, direct cost of crop inspections and loss adjustments, and interest on Treasury notes, and authorizes the Corporation to use insurance premium funds to cover expenses of agents' commissions, loss adjustment, and crop inspection and authorize restoration of premium funds used for these purposes by appropriations in following years; authorizes the Secretary of Agriculture to use the funds of the Commodity Credit Corporation or borrow from the U.S. Treasury whenever funds otherwise available to the Corporation are insufficient to enable it to cover program expenses or pay indemnity claims; and

Extends the disaster and prevented planting disaster payments programs to the 1981 crops of wheat, feed grains, upland cotton, and rice and gives producers the option in 1981 of choosing between such disaster payments on the respective commodity or participating in the share-cost crop insurance program. S. 1125—Public Law 96- , approved 1980. (*268)

Economic emergency loan program: Extends, through September 30, 1981, the Secretary of Agriculture's authority under the Emergency Agricultural Adjustment Act of 1978, to make insured or guaranteed economic emergency loans to farmers and ranchers who are unable to obtain sufficient credit elsewhere due to national or areawide economic stress; increases from $4 billion to $6 billion the total principal balance that may be outstanding on these loans at any time; requires that, for purposes of determining if applicants for economic emergency loans cannot obtain credit elsewhere, the applicant must submit proof of one refusal for credit under $300,000 and proof of two refusals for credit over $300,000; requires an applicant to have purchased a home or farm at least one year prior to applying for refinancing the property; requires the Secretary to review insured loans three years after they are initially granted and every two years thereafter to determine if the borrower is able to obtain financing from cooperative or private sources; disallows insured loans of more than $300,000 unless it is determined that the applicant is unable to obtain a guaranteed loan sufficient to finance his or her actual needs within a reasonable time; requires, effective October 1, 1980, as a condition of eligibility for receiving economic emergency loans, that borrowers meet the same "credit elsewhere" test required under the other farm loan programs administered by the Farmers Home Administration; and requires the Secretary to submit to Congress, by March 31, 1981, a comprehensive study of the operation and effectiveness of the economic emergency loan program, including any need for extending the authority to insure and guarantee loans by September 30, 1981. S. 2269—Public Law 96-220, approved March 30, 1980. (VV)

Egg research and consumer information—Silver commodities: Amends the Egg Research and Consumer Information Act of 1974 to: increase from 18 to 20 the maximum allowable number of American Egg Board members with the requirement that two members be consumers or representatives of consumers; authorizes the Secretary of Agriculture to increase the producer assessment rate for fiscal 1981 from not more than five cents per case of 30-dozen eggs to not more than 7½ cents, and each fiscal year thereafter by not more than three-quarters of a cent per case up to a maximum total assessment of ten cents per case, subject to approval in a referendum; provide that failure of producers to approve an amendment to the egg research and promotion order will result in maintaining the order existing at the time of the referendum; authorizes the Secretary to assess civil penalties of not less than $500 nor more than $5,000 and issue cease and desist orders for violations of orders and regulations and assess civil penalties of $500 per offense for failure to abide by a duly issued final cease and desist order; authorizes action by the Attorney General in the U.S. district court to restrain violations of orders and regulations and to collect civil penalties assessed under the Act; and provides for appeal of the Secretary's order in a contested case to the U.S. Court of Appeals; and

Requires the Commodity Futures Trade Commission to establish an international study group composed of individuals from the Federal Reserve Board, the Department of Treasury, and the Securities and Exchange Commission to analyze the various aspects of events in the silver cash and futures markets during the period of September 1979 through March 1980 and report to Congress, by October 1, 1980, their findings and legislative recommendations. H.R. 6285—Public Law 96-276, approved June 17, 1980. (VV)

Farm credit system: Amends the Farm Credit Act of 1971 to update and improve the operation of the Farm Credit System; reduces from 80 percent (70 percent in the case of rural utility cooperatives) to 60 percent the minimum voting control of a cooperative that must be held by farmers, aquatic producers, or harvesters, or eligible cooperatives in order for the cooperative to be eligible for loans from a bank for cooperatives; authorizes Federal land banks to make loans in excess of 85 percent, but not in excess of 100 percent, of the appraised value of the real estate security if the loan is guaranteed by Federal or other governmental agencies; authorizes Federal land banks and production credit associations to make loans to finance basic processing and marketing directly related to an applicant's farm, ranch, or aquatic operation and those of other eligible farmers, ranchers, or producers if the applicant's operation supplied at least 20 percent of the amount of the commodity to be processed or marketed; authorizes the banks for cooperatives to finance transactions for the exportation of agricultural and aquatic products by U.S. cooperatives that are borrowers from the banks; and provides the cooperatives with other financial services to enable them to participate effectively in foreign markets for agricultural and aquatic products; authorizes Federal land banks to make real estate mortgage loans to producers or harvesters of aquatic products and Farm Credit System institutions to provide to borrowers, members, and applicants financial-related services appropriate to their aquatic operations; permits Federal intermediate credit banks to discount aquatic loans of lending institutions outside the Farm Credit System; specifies that cooperatives engaged in furnishing aquatic business services are eligible to borrow from the bank for cooperatives; authorizes Farm Credit System institutions to extend credit and other services to persons in the U.S. Virgin Islands and to invest or participate in loans with other System institutions, and Federal land banks to sell loans to, and participate in loans with, lending institutions outside the System; authorizes production credit associations to issue participation certificates to lending institutions outside the Farm Credit System; authorizes any Farm Credit System institution to enter into general loss-sharing agreements with other System institutions; authorizes Federal intermediate credit banks and banks for cooperatives to transfer more than 25 percent of net annual earnings to reserve or allocated surplus accounts; authorizes Federal land banks and Federal land bank associations to pay patronage refunds and dividends to stock and participation certificate holders; authorizes Federal land bank associations to contribute to the capital of Federal lands banks, and authorizes the banks to issue equities to evidence such contributions to capital; provides that State truth-in-lending laws that impose duties that are no longer required under the Federal truth-in-lending statute not be applicable to credit transactions of Farm Credit System institutions and livestock credit corporations organized in conjunction with cooperatives and eligible to discount with the Federal intermediate credit banks; clarifies the authority of the Farm Credit System institutions to set interest rates without limitation by State law and extend a similar exemption to livestock credit corporations organized in conjunction with cooperatives and eligible to discount with Federal intermediate credit banks; authorizes Farm Credit System institutions to sell to their members, on an optional basis, credit or term life and credit disability insurance appropriate to protect the loan commitment, and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers; authorizes Farm Credit System banks to organize federally-chartered corporations to perform services and functions (other than the extension of credit or the provision of insurance services for borrowers) that the banks are authorized to perform under the Farm Credit Act of 1971; requires the Farm Credit Administration to adopt a policy statement pursuant to which it would be required to consult with the Secretary of the Treasury and the Federal Reserve on the issuance of debt obligations; authorizes the Federal Farm Credit Board, with certain limitations, to set the salaries of the Governor and deputy governors of the Farm Credit Administration and to fix allowances for travel, relocation, and subsistence for any newly appointed Governor of the Farm Credit Administration; authorizes the Governor to establish a salary and classification system, and job position qualification requirements, for Farm Credit Administration employees; and authorizes presidents of Farm Credit System banks to designate persons to represent them on interbank finance committees. S. 1465—Passed Senate July 24, 1980. (VV)

FIFRA: Extends and increases the authorization to support the Federal pesticide program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for fiscal 1981 at a level of $77.5 million which includes $9,435,000 for pesticide research, $1.5 million for the integrated pest management program, and $2 million for the disposal of the herbicide Silvex which use was suspended by EPA in 1979; requires the Administrator of EPA, upon suspending registration of a pesticide due to an imminent hazard, to promptly submit the action taken for comment by the Scientific Advisory Panel; and requires EPA to set up formal written peer review procedures for independent scientific review of the design and results of major scientific studies used as the basis of EPA regulatory actions. H.R. 7018—Passed House June 24, 1980; Passed Senate amended July 24, 1980; In conference. (VV)

Grain reserves: Amends the Agricultural Act of 1949 to assist farmers with their excess 1979 crops of corn and wheat as a result of the President's embargo of grain to the Soviet Union during the recent Soviet aggression in Afghanistan; authorizes the Secretary of Agriculture to make long-term price support loans under the farmer-held reserve program on the 1979 crops of corn and wheat to any producer who did not participate in the 1979 set-aside program; authorizes the Secretary to sell corn owned by the Commodity Credit Corporation for conversion into alcohol fuel, at not less than the grain reserve release price, to those alcohol producing facilities which begin operation after Janurary 4, 1980, and which also have the capability for producing alcohol from agricultural or forestry biomass feedstocks, provided corn supplies are not available; increases from $50,000 to $100,000 the loan ceiling under the farm storage facility loan program for the construction of storage facilities; and eliminates the current limitation on loans to the space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period. S 2427—Public Law 96-234, approved April 11, 1980. (VV)

Hay transportation: Directs the Secretary of Agriculture to adjust or cancel certain claims, under the Hay Transportation Assistance Program, that arose from a discrepancy in the method of calculating the rate of reimbursement to farmers for transporting roughage purchased from points beyond their normal trade area to the location of their livestock in a designated drought-stricken county. S. 1625—Public Law 96-356, approved September 24, 1980. (VV)

Rural development policy: Directs the Secretary of Agriculture to assume a leadership role in coordinating a nationwide rural development program through formulation of a rural development policy and preparation and implementation of a rural development strategy; establishes a new position of Under Secretary of Agriculture for Small Community and Rural Development; extends until October 1, 1981, rural development and small farm research and extension programs under Title V of the Rural Development Act of 1972; requires the Secretary to expand research and development efforts related to technologies which are appropriate for small and moderate size family farm applications; replaces the five annual reports to Congress on various aspects of rural development with one comprehensive rural development strategy and annual updates; increases from $10 to $15 million the annual authorization for FmHA planning grants and permits, and authorizes up to $1 million annually for establishment of a system for dissemination of information on federally-sponsored programs; authorizes $1.9 million in fiscal 1981 for initial planning and construction of the WEB Rural Water Development Project in South Dakota, and an additional $68.1 million for the project in 1982 and subsequent years, if legislation is enacted prior to September 10, 1981, deauthorizing of the Oahe water project in South Dakota. S. 670—Public Law 96-355, approved September 24, 1980. (VV)

Target prices for wheat and corn: Amends the Food and Agricultural Act of 1977 to establish the target price for the 1980 crop of corn at $2.35 per bushel and wheat at $3.63 per bushel; provides that the target price for the 1981 crops of corn or wheat be not less than the target prices for the 1980 crops adjusted upward to reflect any change in the cost of production that the Secretary finds necessary to establish and maintain a fair and equitable relationship between loan rates, established prices, and production costs of competing products;

Extends through the 1980 crop year the authority under which disaster payments are made to producers of wheat, feed grains, upland cotton, and rice; places a $10,000 per individual or producer per year limitation on disaster payments;

Authorizes the Secretary of Agriculture to require as a condition of eligibility for price support loans and payments for the 1980 and 1981 crops of wheat, feed grains, upland cotton and rice that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, whether or not a set-aside is in effect, but makes loans and payments available to producers of the 1980 crops who exceed their normal acreage based on rates determined under current law; authorizes the Secretary, whenever he requires compliance with the normal crop acreage, to increase the target price for any of these commodities above what it would otherwise be by the amount he determines appropriate to compensate producers for participating in the program and complying with any required set-aside; and provides that if a target for any commodity is required, the Secretary may increase the target price for any of the other commodities by an amount determined necessary for the effective operation of the program. H.R. 3398—Public Law 96-213, approved March 18, 1980. (VV)

Wheat and feed grains: States the sense of the Senate that the Secretary of Agriculture should promptly announce his decision on whether there will be an acreage diversion program in effect for the 1980 crops of wheat and feed grains. S. Res. 366—Senate agreed to February 8, 1980. (VV)

APPROPRIATIONS—FISCAL 1980

Export-Import Bank funds extension: Increases by $525,750,000 the direct loan authority of the Export-Import Bank for fiscal 1980, of which $251 million would be available for direct loans and $274,750,000 for guaranteed loans. H.J. Res. 589—Public Law 96-334, approved August 29, 1980. (VV)

Foreign aid: Appropriates a total of $8,140,502,888 in new budget authority for fiscal 1980 for foreign assistance and related programs;

Contains $3,429,861,018 for multilateral economic assistance which includes funds for the U.S. share to the various international financial institutions and earmarks $8 million for the U.N. Environment Program and $120 million for the U.N. Development Program;

Prohibits funds for the Palestinian Liberation Organization, the Southwest Africa People's Organization, the Zimbabwe African People's Union, the Zimbabwe African National's Union, or Cuba; prohibits payments to the Inter-American Development Bank, International Bank for Reconstruction and Development, International Development Association, and the Asian Development Bank if the compensations of the U.S. director or alternate exceed executive schedule levels IV and V respectively;

Contains $4,146,910,000 for bilateral economic assistance which includes $619,938,000 for agriculture, rural development, and nutrition; $183.6 million for population development; $134.91 million for health development; $40 million for international disaster assistance; $85 million for the Sahel Development Program; $25,676,000 for payment to the Foreign Service retirement and disability fund; $1,882,500,000 for economic support funds of which $785 million is earmarked for Israel and $750 million for Egypt; $5 million for refugee assistance through International Relief Organizations in Rhodesia, and $53.5 million for programs in southern Africa; $21.1 million for peacekeeping operations; $261 million for operating expenses of AID; $48,758,000 for international narcotics control with $16 million earmarked for Colombia for the interdiction of drug traffic; $103 million for the Peace Corps; $456,241,000 for migration and refugee assistance (74 percent of which is for assistance to Boat people fleeing Southeast Asia); and $25 million for the U.S. emergency refugee and migration assistance fund; prohibits the availability of funds to plan for the establishment of the Institute for Scientific and Technological Cooperation; sets a $2.5 million ceiling on administrative funds for the International Development Cooperation Agency;

Contains $815.5 million for military assistance which includes $110.1 million for military grant assistance for the Philippines, Jordan, Spain, and Portugal and to pay administrative costs of the program and the costs of delivering previously MAP-funded material in the pipeline to an additional fifteen friendly countries; earmarks $1.7 million to Sudan, $31.8 million for international military education and training, and $673.5 million for Foreign Military Credit Sales; provides that no less than $1 billion of the yearly aggregate shall be allocated to Israel;

Places a $7,458,241,000 limit on program activity for the Export-Import Bank for fiscal 1980, of which no more than $6 billion shall be for direct loans; limits administrative expenses to $14,129,000;

Prohibits the use of appropriations for international organizations and programs to finance the construction of any new flood control, reclamation, or other related water resource project or program which does not meet certain U.S. standards and criteria; sets a $19 million ceiling on the use of unobligated fiscal 1979 funds for the Maqarin Dam and $5 million for programs in Middle East regional cooperation development; prohibits the use of funds: (1) to pay any assessments, arrearages, or dues cf any U.N. member; (2) to finance the export of nuclear equipment, fuel, or technology or to provide assistance for the training of foreign nationals in nuclear fields; (3) to assist any country which represses the legitimate rights of its people in a manner that is contrary to the Universal Declaration of Human Rights; (4) for direct assistance to Mozambique (unless determined advisable by the President), Angola, Cambodia, Laos, Vietnam, or Cuba; (5) to furnish assistance to any country that is in default, for more than one year, in its payment to the U.S. of principal or interest on any loan made under a program funded under this Act; and (6) to any international financial institution whose U.S. representative cannot obtain the amounts and names of borrowers for all loans of that institution or the compensation and related employee benefits, or obtain documents developed by the management of the institution; prohibits the obligation of funds by the Export-Import Bank to any government which grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, and provides that the President may waive this requirement for national security purposes; states the sense of Congress that the U.S. should generously support relief efforts in Cambodia through the Red Cross, UNICEF, and other international organizations; sets a ceiling on international expenses, representation allowances and official residence expenses for agencies administering programs under this Act; and makes $20 million available for development aid to Uganda. H.R. 4473—Passed House September 6, 1979; Passed Senate amended October 12, 1979; Conference report filed. (352)

FTC: Appropriates $49.7 million for the remainder of fiscal 1980 for the Federal Trade Commission (which, combined with $15.6 million made available by transfer under Public Laws 96-219 and 96-240, provides a total of $65.3 million) and restricts expenses for official reception and representation to $1,500. H.J. Res. 554—Public Law 96-261, approved June 4, 1980. (*171)

FTC funding transfers: Makes available to the Federal Trade Commission, through April 30, 1980, $12.65 million transferred from unobligated funds already appropriated to the salaries and expenses account of the International Communication Agency to continue FTC activities at the 1979 level; directs that obligations of the FTC under this authority shall no exceed $9.8 million to assure that the overall amount of outlays provided for in the existing budget resolution is not increased; provides that these funds shall be available from March 15, 1980, until April 30, 1980, only for Commission expenses occurring during the 45-day period; and maintains the three restrictions on Commission activities included in the previous continuing resolution which: (1) prohibit final promulgation of any trade regulation rules authorized by section 18 of the Federal Trade Commission act, as amended, (2) prohibit the initiation of any new Commission activities, and (3) prohibit any new trade regulation rules promulgated under section 18 of the Federal Trade Commission Act, as amended, after August 30, from becoming effective during 45-day period, unless authorizing legislation is enacted. H.J. Res. 514—Public Law 96-219, approved March 28, 1980. (*65)

Transfers $7.6 million (already appropriated to the Department of State for contribution to international organizations) to the Federal Trade Commission for salaries and expenses through May 31, 1980, with the proviso that obligations may not exceed $5.8 million during this period; provides that these funds shall be available from May 1, 1980, until May 31, 1980, only for Commission expenses occurring during that period; and maintains the three restrictions on Commission activities included in the previous continuing resolution which (1) prohibit final promulgation of any trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, (2) prohibit the initiation of any new Commission activities, and (3) prohibit any new trade regulation rules promulgated under section 18 of the Federal Trade Commission Act, as amended, after August 30, from becoming effective during the 31-day period, unless authorizing legislation is enacted. H.J. Res. 541—Public Law 96-240, approved May 1, 1980. (*91)

Military registration funding transfer: Makes $13,285,000 available by transfer to fiscal 1980 for the Selective Service System to support the reinstitution of peacetime premobilization military draft registration for men. H.J. Res. 521—Public Law 96-282, approved June 27, 1980. (*200)

Supplemental: Makes supplemental appropriations for fiscal 1980 for almost every department and agency of the Federal Government in the amount of $19,444,104,918 comprised in new budget authority with $3,183,572,142 in rescissions for a net appropriation of $16,260,532,776; contains deferrals in the total amount of $522 million; includes $100 million in agricultural credit insurance, $143 million for P.L. 480, $3.580 billion for defense items, $150 million for GNMA tandem plan, $870 million for disaster relief, $951 million for Mount Saint Helens relief, $285 million for the space shuttle, $362 million for education programs, $1.5 billion for Chrysler loan guarantees, $1.77 billion for SBA disaster loans, $330 million for urban mass discretionary grants, and $3.730 billion for increased pay for military and civilian personnel; transfers $18.792 billion from the Energy Security Reserve for synfuel and biomass programs and $1 billion for the Solar Energy Bank; and rescinds $143 million for revenue sharing, $2 billion for the Strategic Petroleum Reserve, and $220 million for GSA furniture; and provides an advance fiscal 1981 appropriation of $591.6 million for rail labor assistance. H.R. 7542—Public Law 96-304, approved July 8, 1980. (*277, *303)

Urgent food stamp supplemental: Appropriates $2,556,174,000 for fiscal 1980 for the Food Stamp Program; requires the Secretary of Agriculture to study and report to Congress by January 15, 1981, on the effects of limiting benefits to food stamp participants based on the value of their assets and on the impact and advisability of counting as income all educational deferred loans, grants, fellowships, veterans' educational benefits and housing subsidies in determining food stamp eligibility; and stipulates a total 1980 appropriation of not more than $9.191 billion.

H.J. Res. 545—Public Law 96–243, approved May 16, 1980. (*142, *148)

Urgent VA and Census Bureau supplementals: Appropriates an additional $40 million for fiscal 1980 to the Veterans Administration to cover a shortfall in the readjustment benefit program due to higher than anticipated enrollments of Vietnam-era veterans under the GI bill, thus bringing the total 1980 readjustment benefit appropriation to $2,318,535,000 for the current fiscal year; and appropriates an additional $27 million to the Secretary of Commerce to cover additional expenses under the Census Bureau's "periodic censuses and programs" due to the counting of more households than anticipated in the 1980 Decennial Census and the litigation protesting undercounts that is forcing the Bureau to keep their field offices open longer than anticipated. H.J. Res. 607—Public Law 96–352, approved September 17, 1980. (VV)

APPROPRIATIONS—FISCAL 1981

Continuing: Makes continuing appropriations to remain available until December 15, 1980, or enactment of the applicable appropriation bill, whichever occurs first, for programs and activities funded under the 13 major appropriations bill as follows: Agriculture, District of Columbia, HUD, Interior, Labor-HEW, Military Construction, State-Justice-Commerce, Transportation, Treasury-Postal Service, Foreign Assistance, Legislative, Energy-Water, and Defense;

Contains such amounts as mandated by law for: activities under the Federal Mine Health and Safety Act of 1977; the Social Security Act; retirement pay and medical benefits for officers of the Public Health Service; certain activities under the Higher Education Act; activities of the Department of Labor for Federal unemployment benefits, advances to the unemployment trust fund, special benefits, and Black Lung Disability Trust Fund; Veterans' Administration compensation, pensions, and readjustment benefits; and the breeder reactor demonstration project of DOE;

Contains $2.03 billion for the low income energy assistance program; includes, as an eligible household, any single person household at or below 125 percent of the poverty level; makes changes in the allocation formula; eliminates the $500 limitation on assistance to a single household;

Provides that none of the funds available under H.R. 7998, the Labor, Health and Human Services, Education, and Related Agencies Appropriation Act, 1981, as passed by the House on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in public schools, or to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or except for the victims of rape or incest which have been promptly reported; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary to terminate an ectopic pregnancy; provides that States shall remain free not to fund abortions to the extent they deem appropriate;

Freezes the rate of pay of senior executive personnel in the judicial, executive, and legislative branches; provides that the cost-of-living adjustment provided for blue collar workers not exceed the cost-of-living adjustment provided to white collar workers; authorizes payment of one-half of the 9.1 percent cost of living adjustment to Federal blue collar workers on October 1, with the remaining half, plus the normal adjustment subject to the pay cap, to be provided on the worker's anniversary date;

Contains $15 million for emergency activities caused by the Mount St. Helens eruption; $46 million for preimplementation of standby gasoline rationing plans; $1.383 billion for the Strategic Petroleum Reserve; $251.615 million for grants to States for the work incentive program; $280 million for social services and centers for the aging; $38.1 million for aging research, training, and special projects; and $3 million for the White House Conference on Aging; authorizes SBA to issue $174 million in notes to the Treasury for disaster loans;

Authorizes the President to order a special census or revised estimate of population of State, county, or local government units which are significantly affected by a major population change due to legal immigrants within six months of a regular census; provides for maintenance of McNeil Island, Washington, by the Bureau of Prisons; and provides funds for a Presidential transition, if necessary. H.J. Res. 610—Passed House September 18, 1980; Passed Senate amended September 29, 1980; In conference. (*458)

Energy-water: Appropriates a total of $12,064,270,163 in new budget authority for energy and water development for fiscal 1981 of which $7,220,572,500 is for energy related programs; $2,984,134,000 for the Corps of Engineers—Civil programs including $212,000,000 for the Tennessee-Tombigbee Project with a completion date of September 1986; $771,461,000 for the Department of Interior, Bureau of Reclamation; and $1,104,000,000 for independent agencies including $329,300,000 for Appalachian Regional Development programs; $447,520,000 for the Nuclear Regulatory Commission; $269,563,000 for the Tennessee Valley Authority Fund; $18,000,000 for Columbia Dam and Reservoir; $24,777,000 for Water Resources Planning; includes the fraud and waste provisions that were in the fiscal 1980 Supplemental Appropriation bill, P.L. 96–304, and adds to these, provisions placing limitations on last-quarter spending and on expenditures for consultants; and provide $60,663 for payments to the widow of a deceased member of Congress. H.R. 7590—Public Law 96– , approved 1980. (*398)

HUD: Appropriates a total of $73,884,088,000 in new budget authority for the Department of Housing and Urban Development ($36,874,130,000), Environmental Protection Agency, National Aeronautics and Space Administration, National Science Foundation, Veterans' Administration, and 16 other agencies, commissions, boards, corporations, institutes and offices ($38,033,380,000) for fiscal 1981; reduces by two percent funding for each department or agency included in this bill except for the Veterans' Administration (which, along with a comparable reduction for general revenue sharing funds, is not reflected in the above figures); decreases by ten percent appropriations available to departments and agencies funded under this Act for advertising or public relations activities; prohibits the use of funds by the Environmental Protection Agency to enforce retroactively any regulation issued under the construction grants program, or any project requirements or conditions not in effect at the time the grant is awarded; prohibits the Office of Consumer Affairs from using appropriated funds to intervene in Federal agency adjudicatory or regulatory proceedings; and includes credit control language as requested by the Administration for Federal credit programs with specific dollar limitations in some instances. H.R. 7631—Passed House July 28, 1980; Passed Senate amended September 23, 1980; Conference report filed. (*438)

Military construction: Appropriates $5,160,660,000 in new budget authority for fiscal 1981 for military construction functions administered by the Department of Defense as follows: $870.02 million for the Army, $684.673 million for the Navy, $816.13 million for the Air Force, $637.4 million for the Defense Agencies, $34 million for the Army National Guard, $83.2 million for the Air National Guard, $43.2 million for the Army Reserve, $24.7 million for the Naval Reserve, $21.6 million for the Air Force Reserve, and $1,925,737,000 for defense family housing; contains $300 million for the U.S. share of the NATO infrastructure program in the Defense Agencies account; includes $17 million for MX test facilities at Vandenberg Air Force Base and requires compliance with the National Environmental Policy Act prior to obligation of funds for the design of site-specific facilities; includes $88.1 million for the Space Shuttle at Vandenburg Air Force Base; and provides $3.15 million start construction of a binary chemical munitions production facility at Pine Bluff Arsenal, Arkansas. H.R. 7592—Passed House June 27, 1980; Passed Senate amended September 17, 1980; In conference. (*420)

Transportation: Appropriates a total of $11,808,136,764 in new budget authority for fiscal 1981 for the Department of Transportation and related agencies; includes $1,192,878,000 for operating expenses of the Coast Guard, $2,233,520,000 for operations of the FAA, $900 million for Amtrak, $2.14 billion for the urban discretionary grant program of the Urban Mass Transportation Administration (UMTA), $1.4 billion for the urban formula grant program and UMTA, $800 million for interstate transfer grants, $350 million for the Northeast Corridor improvement project, and $185 million for the purchase of securities of Conrail; provides for obligations of not to exceed $700 million for grants-in-aid for airports, $400 million for aircraft loan guarantees, and $8.4 billion for Federal-aid Highways; limits loan guarantees to $770 million for railroad rehabilitation and improvement; contains new limitations including for the FAA aircraft purchase loan guarantee program, $100 million for commuter air carriers serving smaller communities; for the Federal Railroad Administration, $100 million for railroad restructuring assistance and $20 million for programs making commitments to guarantee new loans; for reimbursement to the Treasury from the Panama Canal Commission Fund, all outlays from the Commission Operating Expense Account and Capital Outlay Account, but not less than $350 million; for investment in fund anticipation notes, $100 million; prohibits use of funds for buildings or furnishings for State, local, or private structures under State and Community Highway Safety; for payment of expenses of non-Federal parties intervening in proceedings funded by this Act; and for imposing State inspection fees or sticker requirements on vehicles lawfully registered in another State; prohibits the obligation from the total budget authority available to any department, agency, establishment, or major administrative subdivision, of funds exceeding 30 percent for the last quarter of fiscal 1981, or 15 percent in any month in the last quarter; requires the resolution of all pending audits by September 30, 1981, and of subsequent audits within six months of completion of the initial audit report; requires each agency to improve collection of overdue debts; requires the reduction by $3,894,000 of amounts for consultant services of the Department of Transportation; requires, for fiscal 1982 and thereafter, that each department submit a description of its need for consulting services and an evaluation of its programs in initiating controls and providing accurate data to the Federal Procurement Data Systems regarding consultant arrangements; prohibits the use of funds to compel local transit authorities to purchase wheelchair lifts; and prohibits the use of funds to create paperwork in excess of paperwork requirements for the previous fiscal year. H.R. 7831—Passed House July 31, 1980; Passed Senate amended September 18, 1980; Conference report filed. (*425)

BUDGET DEFERRALS

Cumberland Gap tunnel project: Disapproves the proposed deferral of $15.5 million for construction of the Cumberland Gap Tunnel Project as recommended by the President in his message of April 16, 1980. S. Res. 464—Senate agreed to August 1, 1980. (VV)

Environmental Protection Agency: Disapproves the proposed deferral of $3,247,948,114 for EPA waste water treatment grants as recommended by the President in his message of April 16, 1980, and in his revision of May 20, 1980. S. Res. 470—Senate agreed to August 1, 1980. (VV)

Young Adult Conservation Corps: Disapproves the $27.5 million deferral recommended by the President in his message of April 16, 1980, for the Young Adult Conservation Corps thereby preventing a 40-percent cutback in enrollees in favor of a more gradual reduction. S. Res. 449—Senate agreed to June 30, 1980. (VV)

BUDGET RESOLUTION

First budget resolution, 1981; revised second budget resolution 1980: Contains total budget authority for fiscal 1981 of $697.2 billion, outlays of $613.6 billion, and revenues of $613.8 billion, with a surplus of $200 million, and a public debt level of $935.1 billion;

Invokes the reconciliation process, under which eight House and nine Senate authorizing committees are instructed to reduce total spending authority within their jurisdictions, in order for each house to achieve a savings of $4.95 billion in budget authority and $6.4 billion in outlays in fiscal 1981; instructs the specified committees to make the following reductions and submit their recommendations to their respective budget committees (Senate committees must submit spending reductions by June 25 and revenue reductions by July 2; House committees must submit both spending and revenue reductions by July 2) which shall report to their respective houses a reconciliation bill or resolution, or both, carrying out all the recommendations, without any substantive revision:

The Senate Governmental Affairs Committee would reduce budget authority and outlays by $500 million each;

The Armed Services Commitees would reduce budget authority and outlays by $400 million each;

The Senate Environment Committee would reduce budget authority by $300 million and the House Public Works Committee would reduce budget authority by $600 million and outlays by $750 million;

The Senate Labor Committee would reduce budget authority by $350 million and outlays by $450 million and the House Education and Labor Committee would reduce budget authority and outlays by $850 million each;

The Senate Commerce Committee would reduce budget authority by $300 million and outlays by $150 million and the House Interstate and Foreign Commerce Committee would reduce budget authority by $200 million and outlays by $400 million;

The Senate Agriculture Committee would reduce budget authority and outlays by $500 million each;

The Senate Veterans' Affairs Committee would reduce budget authority by $200 million and outlays by $400 million and the House Veterans' Affairs Committee would reduce budget authority and outlays by $400 million each:

The Senate Finance Committee would reduce budget authority by $900 million and outlays by $2.2 billion and the House Ways and Means Committee would reduce budget authority by $700 million and outlays by $2 billion; both committees are instructed to increase revenues by $4.2 billion each;

The Senate Select Committee on Small Business and the House Committee on Small Business would each reduce budget authority by $800 million and outlays by $600 million;

The House Post Office Committee would reduce budget authority and outlays by $1 billion each;

States the sense of the Congress that the President should direct agencies not to increase the rate of obligation of fiscal 1980 budget authority in advance of anticipated rescission actions;

Includes a reconciliation directive in fiscal 1980 to the House and Senate Appropriations Committees each to report savings of $3 billion in budget authority and $1 billion in outlays;

Prohibits enrollment of any spending legislation in fiscal 1981 (appropriations and entitlement) which exceeds a committee's crosswalk allocation or subcommittee subdivision under the 1st Budget Resolution or which would reduce revenues in excess of $100 million until Congress has adopted the Second Budget Resolution and any required reconciliation legislation; requires, for this year only, completion of the Second Budget Resolution by August 28 instead of September 15;

Establishes a Congressional Federal Credit Budget to limit total new Federal credit programs in fiscal 1981 for new direct loan obligations to a level of $63.9 billion (a $25.8 billion limitation on Federal off-budget lending activity and a $38.1 billion limitation on Federal on-budget lending activity) and for new primary loan guarantee commitments to $79.6 billion; includes sense of the Congress language which encourages the President and the Congress, through the appropriations process, to maintain these limits on lending and new primary loan guarantees in fiscal 1981;

Calls on the President to implement a "zero net inflation impact" policy which requires the Congressional Budget Office to monitor the inflationary impact of new Federal regulations; prohibits new regulations which increase costs or prices unless corresponding reductions are made by modifying or eliminating regulations; and requires development of an exemption procedure for regulations necessary to avert any imminent threat to health and safety; calls upon the President to review current inflation measures used for indexing Federal programs, as well as other indexing alternatives. and report to Congress by November 30, 1980, his conclusions and recommendations and to reflect those conclusions in his budget and legislative proposals for 1982;

Makes the following recommendations for budget authority (BA) and Outlays (O) by function for fiscal 1981:

National Defense—BA, $170.5 billion; O, $153.7;

International Affairs—BA, $23.6 billion , O, $9.5 billion;

General science, space, and technology—BA, $6.6 billion; O, $6.1 billion;

Energy—BA, $6.7 billion; O, $6.8 billion;

Natural Resources and Environment—BA, $11.7 billion; O, $12.1 billion;

Agriculture—BA, $5.5 billion; O, $2.3 billion;

Commerce and Housing Credit—BA, $5.1 billion;

Transportation—BA, $22.1 billion; O, $18.75 billion;

Community and Regional Development—BA, $8.8 billion; O, $9.2 billion;

Education, Training, Employment, and Social Services—BA, $31.7 billion; O, $29.5 billion;

Health—BA, $71.2 billion; O, $61.7;

Income Security—BA, $249.5 billion; O, $219.55 billion;

Veterans' Benefits and Services—BA, $21.7 billion; O, $21.2 billion;

Administration of Justice—BA, $4.2 billion; O, $4.6 billion;

General Purpose Fiscal Assistance—BA, $6.2 billion; O, $6.8 billion;

Undistributed Offsetting Receipts—BA, $24.7 billion; O, −24.7 billion.

Modifies the fiscal 1980 Second Concurrent Budget Resolution to provide for budget authority of $658.85 billion, outlays of $572.65 billion, and revenues of $525.7 billion, with a deficit of $46.95 billion and a public debt level of $903.6 billion;

Includes Senate projected estimates for fiscal 1982 and 1983, respectively, as follows: Budget Authority—$775.0 billion and $851.6 billion, Outlays—$695.6 billion and $765.5 billion, Revenues—$701.4 billion and $783 billion, and a surplus of $5.8 billion and $17.5 billion, with a Public Debt Limit of $965.6 billion and $991.1 billion. H. Con. Res. 307—Action completed June 12, 1980. (*134)

Reconciliation—Revenue: Recommends raising fiscal 1981 revenues by $4.2 billion, as required by the Fiscal 1981 First Budget Resolution, by: (1) a tax on gains from U.S. real estate realized by foreign investors; (2) imposition of social security and unemployment taxes on the employee social security tax paid by employers; (3) a one-year delay in the phaseout of the telephone excise tax; (4) extension of estimated tax requirements for individuals and corporations to the minimum tax; (5) an increase in the proportion of the corporate income tax to be covered by estimated tax payments from 80 percent to 85 percent; (6) a requirement that large corporations cover at least 50 percent of their current year's tax liability with estimated tax payments if they elect the exception to the general estimated tax rules allowing them to base their estimates on the prior year's tax liability; and (7) a 40-cent increase in the tariff on alcohol imported for use as fuel; grants a $1,000 tax credit for royalty owners against their 1980 windfall profit tax liability; and provides a two-barrel-a-day stripper oil exemption for fiscal 1981 from the windfall profit tax and a decrease in the adjusted base price for determining that tax by 10.1 percent for fiscal 1981, in order to offset any revenue loss. S. 2929—Passed Senate July 23, 1980.

Note: (These Provisions are contained in H.R. 7765 which is in conference.) (VV)

Reconciliation—Spending: Recommends savings totaling approximately $4.8 billion in budget authority and $6.4 billion in outlays which, when added to the approximate $500 million savings in budget authority and outlays for the Postal Service expected to be achieved through the appropriations process, totals approximately $5.3 billion in budget authority and $6.9 billion in outlays;

Agriculture Committee: Recommends reductions and other changes in the child nutrition programs estimated at savings over $520 million in budget authority and outlays;

Armed Services Committee: Recommends providing a once yearly cost-of-living increase in military retired pay contingent on a similar change in current law for Federal civilian retirees estimated at saving $408 million in fiscal 1981;

Commerce, Science, and Transportation Committee: Recommends legislation estimated at saving $300 million in budget authority and between $255 million and $260 million in outlays by: (1) amending Public Law 96-254 to delete authority for advance quarterly payments for Amtrak capital programs; (2) amending S. 1648 (which passed the Senate on February 5, 1980) in conference to reduce airport development and planning grant authority; (2) amending S. 2530 (which is on the Senate Calendar) to limit funds available in fiscal 1981 from the redeemable preference share program in title V of the Railroad Revitalization and Regulatory Reform Act; (4) amending Public Law 95-599 to reduce the authorization of funds from the highway trust fund for the highway safety grant program; and (5) amending S. 1159 in conference to reduce the National Highway Traffic Safety Administration's authorization;

Environment and Public Works Committee: Recommends saving $300 million in budget authority by rescinding authority for the interstate construction program under the 1978 Federal-Aid Highway Act;

Finance Committee: Recommends legislation estimated at saving $943 million in budget authority and $2.397 billion in outlays in fiscal 1981 primarily through changes in various social services programs including, unemployment compensation, SSI, and medicare and medicaid;

Governmental Affairs Committee: Recommends elimination of the September, 1980, cost-of-living increase in the civil service retirement benefits, estimated at saving $523 million;

Labor and Human Resources Committee: Fulfills its reconciliation directive by the Senate-passed revisions and reforms in the student loan programs in S. 1839, the total savings of which are estimated by CBO to meet the reconciliation directive of a $350 million reduction in budget authority and $450 million reduction in outlays contained in the budget resolution;

Select Committee on Small Business: Fulfills its reconciliation directive by provisions of S. 2698 which has been cleared for the President, which contains a section 119 that would eliminate the duplicative jurisdiction of SBA and the Farmers Home Administration with respect to disaster actual loss emergency loan assistance for agricultural enterprises which CBO estimates would meet the entire reconciliation directive of reducing budget authority by $800 million and outlays by $600 million; and

Veterans' Affairs Committee: Recommends legislation to achieve its required savings by (1) changing the Senate approved provisions of H.R. 5288, the GI Bill Amendments to: reduce to 10 percent the 15 percent increase and postpone from September 1, 1980, to January 1, 1981, the effective date for the increase, modify flight and correspondence training provisions, repeal the authority for pre-discharge education program (PREP) training, and modify vocational-objective course approval criteria, (2) improving the VA's ability to collect delinquent debts owed to the Federal Government by participants in VA benefits programs; and (3) making it out of order for the Senate to appropriate certain construction funds. S. 2885—Passed Senate June 30, 1980. NOTE: (These provisions are contained in H.R. 7765 which is in conference.) (*283)

Reconciliation—Spending and revenue: Contains the provisions of S. 2885 and S. 2829 the Spending and Revenue Reconciliation bills as passed by the Senate. H.R. 7765—Passed House September 4, 1980; Passed Senate amended September 17, 1980; In Conference. (VV)

Roth budget resolution: Expresses the sense of the Senate that the Budget Committee shall report a Federal budget for fiscal 1981 which is balanced and which reserves any surplus for a tax reduction (one-half to increase productivity and one-half to offset social security tax increases), and that the Budget Committee shall also report such additional specific reductions, if any, necessary to reduce Federal outlays for fiscal 1931 to 21 percent of the gross national product. S. Res. 380—Senate agreed to March 25, 1930. (*64)

CONGRESS

Capitol Grounds: Includes within the definition of the U.S. Capitol Grounds, certain streets, sidewalks and other areas which are either within or contiguous to the Capitol Grounds; assigns responsibility for maintenance and repair of such streets between the Architect of the Capitol and the Government of the District of Columbia; and authorizes $3.5 million for the acquisition of approximately 62,544 square feet of land bounded by Ivy, Canal and E Streets, and New Jersey Avenue, S.E., to prevent the development of these parcels for unsuitable and inconsistent commercial uses. H.R. 6331—Public Law 96- , approved 1980. (VV)

Library of Congress buildings: Repeals Public Law 94-264 in order to rename the building known as the Library of Congress Main Building as the "Library of Congress Thomas Jefferson Building" and to rename the Library of Congress Annex, which is currently known as the Library of Congress Thomas Jefferson Building, as the "Library of Congress John Adams Building". S. 2517—Public Law 96-269, approved June 13, 1980. (VV)

Mother Joseph Statue: Authorizes Congress to accept, from the State of Washington, a statue of Mother Joseph of the Sisters of Providence for the National Statuary Hall collection, with ceremonies to be held on May 1, 1980, in the rotunda of the Capitol. S. Con. Res. 48—Action completed April 1, 1980. (VV)

National Symphony concerts: Permits the National Park Service to sponsor a series of four free National Symphony Orchestra concerts on the Capitol Grounds during 1980 arranged so as not to interfere with the needs of Congress. H. Con. Res. 330—Action completed May 13, 1980. (VV)

Sine die adjournment: Provides that the Senate and the House of Representatives shall not adjourn for more than three days, or adjourn side die, until both Houses of Congress have adopted a concurrent resolution providing for an adjournment, in excess of three days, to a day certain or for adjournment sine die. S. Con. Res. 112—Action completed July 31, 1980. (VV)

DEFENSE-NATIONAL SECURITY

Armed Forces enlistments of citizens of northern Marianas. Permits citizens of the northern Mariana Islands, who indicate in writing an intent to become a U.S. citizen, to enlist in the Armed Forces of the United States. H.R. 4627—Public Law 96-351, approved September 15, 1980. (VV)

Armed Forces personnel management: Extends for two years, through fiscal 1982, the authorization of an increase in the number of Air Force colonels and lieutenant colonels currently authorized by Public Law 95-377, which expired on September 30, 1979; authorizes reserve enlisted members of the Army and Air Force to retire on completion of 20 years of active service with an immediate annuity; removes the Office of the Chief of Chaplains from the cognizance of the Chief of Naval Personnel and establishes a statutory office of Deputy Chief of Chaplains; authorizes advance pay on establishment of an allotment for dependents if the allotment is made within 60 days before a unit deploys; authorizes reserve officers of the Army and Air Force who served on active duty in positions designated by the President to carry the grade of lieutenant general and general to be retired in such grade; increases aviation career incentive flight pay by 25 percent; makes effective immediately the increase in the rates of sea pay that would have become effective October 1, 1981, and increases those rates by 15 percent; removes the current statutory limit of ten cents per mile for reimbursement for travel in connection with a permanent change of station; increases the Basic Allowance for Subsistence by ten percent; provides the authority to pay a variable Housing Allowance for members living in any high cost area of the U.S., except Hawaii and Alaska, equal to the difference between 115 percent of a member's Basic Allowance for Quarters and the average cost of housing in the area in which the member was assigned; contains a "save pay" provision for enlisted members appointed as warrant officers or as commissioned officers and for warrant officers appointed as commissioned officers to insure they would receive at least as much pay as they would have received if not so appointed; and establishes in states the Office of Deputy Judge Advocate General of the Air Force. H.R. 5168—Public Law 96-343, approved September 8, 1980. (VV)

Coast Guard authority to establish lines of demarcation: Provides the Coast Guard with clear authority to establish two separate sets of boundary lines dividing the high seas and inland waters: the first dividing those waters where the international rules of the road and the inland rules apply and the second dividing those areas governed by various marine safety statutes; places a 12-mile limit on the distance from shore that the boundary lines may be established so that the intent of Congress in enacting more stringent safety standards for vessels on the high seas cannot be defeated by drawing the lines too far out to sea; and contains a conforming amendment to the Seagoing Barge Act, changing the definition of "seagoing barge" to mean one that proceeds outside the boundary line authorized by this bill so that drilling and dredging barges that normally operate within safe and reasonable distances offshore will not be subject to the requirements for seagoing barges. H.R. 1198—Public Law 96-324, approved August 8, 1980. (VV)

Coast Guard authorization: Authorizes $763,887,000 for fiscal 1981 for the operation and maintenance of the Coast Guard of which $1,248,367,000 is for operating expenses including expenses related to the Capehart housing debt reduction: $469,320,000 for acquisition, construction, and improvement of vessels, aircraft, shore units and aids to navigation; $16,200,000 for alteration or removal of bridges; and $30,000,000 for research, development, test, and evaluation; sets the end-of-year strength for active duty personnel at 39,600; authorizes the average military training loads; authorizes advance payment of housing leases in foreign countries when required to obtain a lease; authorizes the Coast Guard Supply Fund to accept transfers of spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft; ensures that Coast Guard members who accept appointments to temporary commissioned or warrant grades do not receive less pay or allowances; authorizes the Secretary of Transportation to pay Coast Guard personnel a monetary allowance in lieu of furnishing transportation of household effects in kind; authorizes the Coast Guard to recover expenses on a reimbursable basis for certain marine safety inspections requested in foreign ports; changes the date of "National Safe Boating Week" to the week beginning on the first Sunday in June; authorizes the transport, by water, of Coast Guard personnel to and from their place of employment when necessary; requires the Coast Guard to submit to Congress with its annual budget request the current copy of its Capital Investment, Cutter, Aviation, and Shore Facilities Plans to allow Congress to evaluate the adequacy of the budget requests; and contains a supplemental authorization of $33 million for fiscal 1980 of which $15 million is for operating expenses to cover increased fuel costs and $18 million is for the Cuban refugee operation. S. 2489—Public Law 96– approved 1980. (VV)

Coast Guard enforcement of drug laws: Broadens certain prohibitions regarding the importation of controlled substances to facilitate Coast Guard enforcement of laws relating to the importation of illegal drugs; prohibits the manufacture, distribution, or possession (with intent to manufacture or distribute) of a controlled substance by (1) any person on board a U.S. vessel, (2) any U.S. citizen on board a vessel, (3) any person on board any vessel within U.S. customs waters, or (4) any person who knowingly or intentionally imports such a substance into the U.S. unlawfully; exempts from the prohibition those persons on a contract or common carrier or U.S. government vessel who possess or distribute controlled substances as part of their lawful duties; makes clear that the bill is intended to address acts committed outside the territorial jurisdiction of the U.S.; imposes penalties for violations of up to 15 years imprisonment and/or a fine of up to $25,000 for a first offense and up to 30 years imprisonment and/or a fine of up to $50,000 for a second or subsequent offense; imposes lesser penalties in cases where narcotic drugs are not involved; provides that any person who violates the act will be tried in a U.S. district court where he or she entered the United States or in the United States District Court for the District of Columbia; and makes certain property used or intended for use in distribution of a controlled substance subject to seizure and forfeiture. H.R. 2538—Public Law 96–350, approved September 15, 1980. (VV)

Coast Guard Reserve: Revises Chapter 21, U.S.C., governing the organization and administration of the Coast Guard Reserve, by eliminating inconsistencies and defects in present law, rearranging the sections in a more logical order, simplifying the language, eliminating outdated provisions, and correcting statutory references; and makes several minor substantive changes in existing law regarding Coast Guard Reserve officer promotion and retention. H.R. 6666—Public Law 96–322, approved August 4, 1980. (VV)

Defense production extensions: Extends for 60 days, until March 28, 1980, the Defense Production Authorization Act of 1950 which expires on January 28, 1980, in order to give Congress sufficient time to complete action on S. 932, the authorization for fiscal 1980 and 1981. H.J. Res. 478—Public Law 96–188, approved January 28, 1980. (NOTE: Provisions extending the Defense Production Act through fiscal 1981 are contained in S. 932, the Synfuels—Energy Conservation and Development Act, which became Public Law 96–294.) (VV)

Extends for 60 days, until May 27, 1980, the Defense Production Authorization Act of 1950 which expires on March 28, 1980, in order to give Congress sufficient time to complete action on S. 932, the authorization for fiscal 1980 and 1981. H.J. Res. 520—Public Law 96–225, approved April 3, 1980. (VV)

Extends for three months, until August 27, 1980, the Defense Production Authorization Act of 1950 which expires on May 27, 1980, in order to give Congress sufficient time to complete action on S. 932, the authorization for fiscal 1980 and 1981. S.J. Res. 175—Public Law 96–250, approved May 26, 1980. (VV)?

Intelligence activities authorization—Intelligence oversight: Authorizes such amounts as specified in a classified report for fiscal 1981 for intelligence activities of the United States Government, including specific amounts for the Central Intelligence Agency (CIA), DOD, Defense Intelligence Agency, National Security Agency (NSA), military services, Departments of State, Treasury, and Energy, Federal Bureau of Investigation, and the Drug Enforcement Administration; authorizes an additional amount of $11.4 million for the FBI to counter terrorism in the U.S.; authorizes $17.8 million for the Intelligence Community Staff which provides support and assistance to the Director of Central Intelligence in fulfilling his responsibilities for management and direction of the intelligence community; sets at 245 the end strength of full-time employees for the intelligence community staff and provides that any employee detailed to the staff from another entity shall be on a reimbursable basis except for those temporarily detailed on a non-reimbursable basis for a period of not less than one year as required by the Director of Intelligence; authorizes $55.3 million for the CIA Retirement and Disability Fund; authorizes the use of funds appropriated to the Department of Defense (DOD) to pay expenses of arrangements with foreign countries for cryptologic support; provides certain NSA administrative authorities including the authority for the director to rent or lease facilities overseas for special cryptologic activities and for housing personnel; authorizes the GSA Administrator to provide police protection for certain NSA installations in the same manner as Federal Protective service police protect Federal buildings under GSA control; authorizes payment of a death gratuity to survivors of CIA and NSA employees who die as a result of injuries sustained outside the U.S. when the death was a direct result of a hostile or terrorist act or occurred in connection with an intelligence activity having a substantial element of risk, and to survivors of DOD officers or employees or members of the Armed Forces serving undercover in an intelligence component of DOD or in clandestine activities involving an element of risk; authorizes the Director of Central Intelligence to accept gifts, bequests, and property on behalf of the agency whenever he determines it to be in the U.S. interest; authorizes the Director to grant monetary or other relief to current or former CIA employees whenever he determines that the individual's career had suffered due to unjustified personnel or administrative action and limits this authority to those cases resulting from allegations of the individual's loyalty to the United States; authorizes a new degree of Master of Science in Strategic Intelligence (MSSI) by the Defense Intelligence School.

Requires the Director of Central Intelligence and the heads of all departments, agencies, and other entities involved in intelligence activities to inform the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (instead of the eight committees presently responsible for oversight) of all current U.S. intelligence activities including any significant anticipated intelligence activities; specifies that such notification shall not be construed as to require the approval of the intelligence committees prior to the initiation of an intelligence activity; allows the President to limit notice to the chairmen and ranking minority members of the Select Committees, the speaker and minority leaders of the House, and the majority and minority leaders of the Senate if he determines that this is necessary to meet extraordinary circumstances affecting vital interest; requires the various intelligence groups to furnish any information or material requested by the committees; requires intelligence groups to report in a timely fashion to the Select Committees any legal intelligence activity or significant intelligence failure and any corrective action that has been planned or taken; requires the President to inform the Select Committees fully of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given, and to provide a statement of the reasons for not giving prior notice; and requires the House and Senate, in consultation with the Director of Central Intelligence, to establish by rule or resolution, procedures to protect against unauthorized disclosure of classified information provided to Congress. S. 2597—Passed Senate June 28, 1980; Passed House amended July 28, 1980; Senate agreed to conference report September 19, 1980. (*172)

Michigan land transfer: Lance Army Missile plant: Authorizes the Secretary of the Army to convey to the Michigan Job Development Authority (a public corporation of the State of Michigan) in order that they may transfer ownership to Volkswagen of America for conversion to a car manufacturing plant the lands and improvements comprising the Michigan Army Missile Plant at Sterling Heights, Michigan, in return for: (1) two new office buildings at the Detroit Arsenal in Warren, Michigan, and (2) reimbursement for all costs associated with the conveyance; requires the Authority, if the appraised value of the plant is greater than that of the two new office buildings, to pay the difference in cash for deposit in the U.S. Treasury; and requires that a report on the details of the proposed exchange agreement be submitted to the appropriate congressional committee before the conveyance is made. H.R. 6464—Public Law 96–238, approved April 24, 1980 (VV)

Military construction authorization: Authorizes $5,460,028,000 for fiscal 1980 construction and related authority for the military departments and the Office of the Secretary of Defense, within and outside the United States; includes $921,980,000 for the Army, $866,785,000 for the Navy, $644,540,000 for the Air Force, $2,198,113,000 for military family housing, $200,000,000 for the reserve forces, and $637,610,000 for the defense agencies, including $300 million for the NATO infrastructure program; and $200,000,000 for basing facilities to expand the U.S. military presence in the Mideast and the Indian Ocean area; continues emphasis on efforts to seek alternative energy sources to oil and gas including solar and coal; restates the provision contained in the fiscal 1979 Military Construction bill regarding solar energy to make clear Congressional intent that DOD consider solar systems under cost-effectiveness criteria and that DOE's life cycle cost and procedures as outlined in the Federal Register for January 23, 1980, do not apply to solar systems considered for defense projects; requires DOD to study and report on converting oil and gas-fired power plants to some alternate fuel on military installations; puts into law a standing DOD requirement that all large boilers or heating units (greater than 50 MBTU heat output) be fueled with something other than oil or gas; urges DOD to foster cooperative efforts with DOE to demonstrate new technology; and requires the removal of all chemical munitions from the Rocky Mountain Arsenal in Colorado and provides that they may be detoxified at the arsenal if the Secretary chooses. H.R. 7301—Passed House September 10, 1980; Passed Senate amended September 16, 1980; Conference report filed. (*407)

Military procurement authorization: Authorizes a total of $52,853,324,000 for fiscal 1981 for military procurement, research and development, civil defense, and educational benefits;

Procurement: Authorizes $35,769,885,000 for procurement of aircraft, missiles, naval vessels and weapons including tracked combat vehicles, torpedoes and related support equipment of which $5,304,900,000 is for the Army, $17,401,790,000 is for the Navy (including Marine Corps) and $12,541,327,000 is for the Air Force, which represents, by weapons systems, $16,592,143,000 for aircraft, $7,087,127,000 for missiles, $8,363,200,000 for Naval vessels, $2,359,325,000 for tracked combat vehicles, $386,600,000 for torpedoes, and related support equipment of which $5,304,900,000 is for the Army, $17,401,790,000 is for the Navy (including Marine Corps) and $12,541,327,000 is for the Air Force, which represents, by weapons systems, $16,592,143,000 for aircraft, $7,087,127,000 for missiles, $8,363,200,000 for Naval vessels, $2,359,325,000 for tracked combat vehicles, $386,600,000 for torpedoes, and $599,490,000 for other weapons;

Includes $352.3 million for 88 UH–60A Army helicopters, $1.5915 billion for 60 Navy Hornet F/A–18 fighter aircraft, $701.6 million for 30 Navy F–14A fighters, $254.8 million for 12 P–3C Navy patrol aircraft, $75 million for advanced procurement for a strategic cruise missile launcher using B–1 bomber technology, $112.6 million for 6 Air Force A–7K aircraft, $845 million for 42 F–15A/B/C/D aircraft, $1.017 billion for 569 Army XM–1 tanks, $1.199 billion for the ninth nuclear powered Trident ballistic missile submarine, $1.1053 billion for two SSN–688 nuclear attack submarines, $526.6 million for the Service Life Extension Program (SLEP) for the aircraft carrier Forrestal, $305 million to reactivate the aircraft carrier Oriskany, $255 million to reactivate the battleship New Jersey, $1.51 billion for six FFG guided missile frigates, $285 million for eight SL–7 cargo ships for the rapid deployment force, and $1.6285 billion for two Aegis cruisers;

Research and Development: Authorizes $16,888,439,000 for research and development of which $3,248,005,000 is for the Army, $5,112,775,000 is for the Navy including the Marine Corps, $7,159,857,000 is for the Air Force, $1,325,702,000 is for defense agencies, and $42,100,000 is for test and evaluation:

Provides $1.55 billion for R&D on the M–X missile, and limits the initial phase of construction of the M–X system to 2,300 protective shelters in the initial deployment area while starting a commitment to a 200 missile system with 4600 shelters; requires the Secretary to report on the environmental and social impact of the project; and calls for a study of alternative locations for the remaining protective structures;

Limits spending on the C–X aircraft to $35 million, contingent on certification that requirements are sufficiently well defined to warrant full-scale engineering development; and prohibits expenditure of more than $15 million until 60 days after the Secretary submits to Congress a study of overall military mobility requirements;

Provides $94 million to the Defense Advance Research Projects Agency (DARPA) for basic technology work leading to space laser weapons; provides funding to accelerate a program that could lead to deployment of a blue/green strategic laser communication system in the late 1980's; provides $2.5 million for resumption of development of the Extremely Low Frequency (ELF) communication system; $98 million to accelerate the development of a new submarine ballistic missile to achieve an initial operational capability (IOC) by 1989; $300 million for full-scale development of a new strategic bomber to achieve an IOC of 1987 and to be capable of performing the mission of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system; $243 million to continue development of the AV–8B Harrier V/STOL aircraft for the Navy; and $150 million to deploy the NAVSTAR program as soon as possible;

Active Forces: Authorizes an overall active duty end strength of 2,065,356 as follows: 775,300 for the Army, 537,456 for the Navy, 188,100 for the Marine Corps, and 564,500 for the Air Force; restricts the proportion of male Army recruits in any one year who are not high school graduates to 35 percent; restricts the proportion of new recruits of each service that are rated mental ability group category IV (i.e. those whose mental ability falls between the 10th and 31st percentile of the base population) to 25 percent or less of all recruits;

Reserve Forces: Authorizes an average strength of 861,700 in the Reserve Forces as follows: 371,300 for the Army National Guard, 204,500 for the Army Reserve, 87,400 for the Naval Reserve, 33,700 for the Marine Corps Reserve, 94,300 for the Air National Guard, 58,800 for the Air Force Reserve, and 11,700 for the Coast Guard Reserve; authorizes increased enlistment and reenlistment bonuses for the Individual Ready Reserve;

Civilian personnel and military training student loads: Authorizes an end strength of 986,000 for civilian personnel in DOD; authorizes an average student load of 234,724 and includes a separate authorization of 28,197 for the Army One Station Unit Training;

Attack related civil defense: Authorizes $20 million for the war-related civil defense activities of the Federal Emergency Management Act; limits Federal contributions for construction of emergency operating centers or similar facilities in any State to 50 percent of the cost; authorizes a blast slanting design and construction research program;

Compensatory and related benefits: Suspends, for one year, the current military pay raise mechanism in law and requires the President to report on recommendations for a new procedure by April 1, 1981; provides instead an 11.7 percent increase in basic pay, subsistence, and quarterly allowances effective October 1, 1980; authorizes the President to reallocate up to 25 percent of the basic pay increase by grade and years of service, as well as into allowances for quarters and subsistence, with a provision that such a realloaction cannot be used to increase basic pay above 11.7 percent for personnel with 4 years or less of service; increases certain enlistment and reenlistment bonus and benefits; bases the calculation of military retired pay on the highest average pay over 3 years of service; increases per diem reimbursement rates for military personnel on temporary duty travel; increases the reimbursement paid for moving a mobile home or trailer; provides a family separation allowance for junior enlisted personel with 4 years or less of service; provides coverage under CHAMPUS for routine infant medical care and increases from $350 to $1,000 per month the maximum coverage for handicapped dependents of military personnel; eliminates benefits attributable to military service for individuals who fail to complete 24 months of service; and provides a once-yearly cost-of-living increase in military retired pay contingent upon a similar change in current law for Federal civilian retirees;

Educational assistance test programs: Authorizes $75 million for a one year test of certain increased and new educational assistance benefits for military personnel including loan forgiveness and government contributions to the veterans educational assistance program;

General Provisions: Requires a report from the Secretary on certain operation and maintenance activity levels; postpones the date by which the number of generals and admirals is restricted to 1,073 from September 30, 1980, to September 30, 1981;

Exempts from the Vinson-Trammell Act (which limits the allowable profit on a contract for all or part of a military ship or aircraft to 10 percent and 12 percent, respectively) contracts and subcontracts entered into before or after October 1, 1976, if they are completed before October 1, 1981, and continues the application of the Act on contracts and subcontracts entered into after October 1, 1976, and not completed until after October 1, 1981, with no reporting requirement until after October 1, 1981;

Expresses the sense of Congress that NATO allies and Japan should increase their contributions to common defense to levels more commensurate with their economic resources and that the President should seek from those allies greater acceptance of international security responsibilities and greater contributions to the common defense including, where appropriate, greater contribution to host nation support; and requires the Secretary of Defense to submit a report by March 1, 1981, addressing the issues of burden-sharing, real growth in defense spending, and implementation of common defense commitments by NATO member nations and Japan; and

Expresses the sense of Congress that the provisions of the War Powers Resolution be strictly adhered to. H.R. 6974—Public Law 96–342, approved September 8, 1980. (*295, *384)

National Guard accountability standards: Amends title 32, U.S.C., to give the Secretaries of the Army and the Air Force the authority to regulate property accountability standards for the Army National Guard and Air National Guard, respectively: and allows the Secretaries to cancel liability for damaged property when there is good cause for such remission. H.R. 5748—Public Law 96–328, approved August 8, 1980. (VV)

ROTC scholarships: Increases from 6,500 to 12,000 the authorized number of Army Reserve Officers' Training Corps (ROTC) scholarships for individuals in four-year programs; raises from 25 years to 29 years the age limit for commissioning students with prior enlisted service for ROTC scholarships; repeals the limitation on the proportion of two-year ROTC scholarships that may be awarded; requires that ROTC scholarship recipients reimburse the Defense Department for the cost of education when such recipient voluntarily terminates involvement in the program; authorizes a quarters allowance as reimbursement for expenses incurred in obtaining quarters by military personnel on sea duty who are deprived of the quarters aboard ship; and provides additional income for the United States Soldiers and Airmen's Home by providing non-judicial forfeitures for the support of the home. H.R. 5766—Public Law 96– , approved 1980, (VV)

Uniformed services health professionals special pay: Restructures the special pay system for physicians, dentists, optometrists, and veterinarians, and for the first time authorizes a special pay for podiatrists, in the Armed Forces and Public Health Service by replacing the current temporary program with a long term program that provides incentive pay as follows: a maximum bonus of $16,000 for a general practitioner dentist with 12 to 14 years of service and up to $19,000 beginning at 12 years of service for a board-certified dental officer, $2,000 to $4,000 for optometrists, $1,200 for podiatrists, $1,200 for veterinarians, and contains the following types of pay for military physicians: (1) a primary special pay which varies from $1,200 to $10,000 per year, based on years of creditable service, for physicians called or ordered to active duty for a period of at least one year; (2) a variable special pay to physicians who are not in internship or initial residency training and agree to remain on active duty for at least one year of $9,000 per year to those with less than ten years of creditable service and a $10,000 payment to those with ten or more years of creditable service; (3) an additional special pay of up to $5,000, based on years of creditable service, to physicians who are board certified; and (4) a special incentive pay of up to $8,000 for physicians in selected specialties who agree to remain on active duty for at least one year; makes permanent the current authority for the payment of special pay for veterinarians; limits the maximum total outlays for the special incentive for physicians to six percent of the total amount of special pay expended for physicians; and gives the Secretary of State authority, for a period of one year, to designate private individuals to speak on behalf of the U.S. for all telecommunications conferences and meetings. H.R. 5235—Vetoed March 11, 1980. (VV)

Restructures the special pay system for physicians in the Armed Forces and Public Health Service by replacing the current temporary program with a long term program that provides incentive pay as follows: (1) a special pay to physicians who are not in internship or initial residency training and agree to remain on active duty for at least one year of $9,000 per year to those with less than ten years of creditable service and a $10,000 payment to those with ten or more years of creditable service; (2) a variable special pay which varies from $1,200 to $10,000 per year, based on years of creditable service, for physicians called or ordered to active duty for a period of at least one year; (3) an additional special pay which varies from $2,000 to $5,000 per year based on years of creditable service, to physicians who are board certified; and (4) a special incentive pay of up to $8,000 for physicians in selected specialties who agree to remain on active duty; provides that, for the purpose of establishing the amount of special pay, creditable service for a military physician is computed by adding all periods spent in medical internship and residency status while not on active duty plus all periods of active service as a military physician; freezes all regulations in effect on April 1, 1980, governing the number of months of basic pay authorized for the various categories of military dentists; and makes permanent current law regarding special pay for dentists, optometrists, and veterinarians in the armed forces, and for dentists in the Public Health Service. S. 2460—Public Law 96-284, approved June 28, 1980. (VV)

War risk insurance: Extends, until September 30, 1984, the authority of the Secretary of Commerce under title XII of the Merchant Marine Act of 1936 to provide insurance and reinsurance against the loss or damage by war to American vessels and foreign-flag vessels owned by U.S. citizens or engaged in waterborne commerce of the United States or in such other services deemed by the Secretary to be in the interest of national defense or the national economy. S. 1452—Public Law 96-195, approved February 25, 1980. (VV)

DISTRICT OF COLUMBIA

Housing revenue bonds: Amends the District of Columbia Self-Government and Governmental Reorganization Act to: (1) authorize the D.C. Council to delegate to a housing finance agency (HFA) the authority to issue revenue bonds, notes, and other obligations in the area of primarily low- and moderate-income housing which the D.C. Council is directed to define, and (2) provide that the expenditure of funds derived from the sale of bonds and the payments of principal and interest on such bonds as well as the creation by the HFA of a security interest in the revenues or assets of the agency may be made without further Congressional approval. H.R. 3824—Public Law 96-235, approved April 12, 1980. (VV)

ECONOMY-FINANCE

Antirecession and targeted fiscal assistance: Extends through fiscal 1980, with an authorization for 1980 only, the antirecession assistance program for State and local governments under title II of the Public Works Employment Act of 1976, which expired on July 1, 1979, and establishes a targeted fiscal assistance program for local governments that are continuing to experience high unemployment; provides for the distribution of funds and raises the minimum quarterly allocations to $2,500 and annual allocations to $10,000 to assure that governments have sufficient funds to maintain services; provides that the antirecession assistance program will be in effect if the average rate of unemployment equals or exceeds 6.5 percent for one calendar quarter and makes $125 million available for distribution under this program plus an additional $30 million for each one-tenth of one percent which exceeds 6.5 percent; provides that the targeted fiscal assistance program will be in effect when the national unemployment rate has been less than 6.5 percent in any calendar quarter and makes $85 million per quarter available for distribution to local governments having unemployment rates of six percent or more; places a $1 billion ceiling on the total funds which may be authorized; limits eligibility under both programs to governments where per capita income does not exceed 150 percent of the national average; and makes special provisions for Alaska and Hawaii because of noncomparable per capita income levels. S. 566—Passed Senate August 3, 1979; Passed House amended January 31, 1980; House requested conference January 31, 1980. (251)

Automobile industry competition: States the sense of Congress that the American automobile and truck industry is essential to the economic stability of the country; urges the Administration, foreign governments, foreign and domestic manufacturers, and affected labor unions to take steps which substantially reduce unemployment in the industry; calls for fiscal import and regulatory policies which create a climate conducive to the industry's conversion to small car production; and calls for a comprehensive strategy to achieve and maintain technological superiority in the world automobile industry. S. Con. Res. 101—Action completed June 24, 1980. (*220)

Bank acquisition of nonbank depository institutions—Gold medals: Prohibits acquisitions of nonbank depository institutions (mutual savings banks, savings and loan associations, or savings and loan holding companies) by banks or bank holding companies except in certain cases where the Federal Home Loan Bank Board (FHLBB) and Federal Reserve both determine that the acquisition is necessary to prevent the insolvency, or to restore the solvency, of the institution; requires the Federal Reserve System, the FHLBB, and the Federal Deposit Insurance Corporation each to submit to Congress, by September 30, 1981, a study analyzing the potential competitive, supervisory, legal, and other effects of permitting bank acquisitions of nonbank depository institutions, including the impact on the availability of residential mortgage lending; and provides that both new and existing payment services offered by Federal Home Loan Banks to savings and loan associations are to be priced at full cost on a for-profit basis; and authorizes the President to present, on behalf of the Congress, a gold medal to the A. Philip Randolph Institute in recognition of S. Philip Randolph's life-long advocacy of peaceful change on behalf of workers and minorities. H.R. 5625—Passed House March 18, 1980; Passed Senate amended September 16, 1980. (VV)

Banking institutions—"NOW" accounts: Phases out, over six years, interest rate ceilings on deposits; authorizes the equivalent of interest-bearing checking accounts at banks, thrift institutions, and credit unions; gives the Federal Reserve Board greater control over monetary supply by requiring broader reserves; repeals State usury ceilings; and simplifies truth-in-lending requirements;

Federal Reserve requirements: Provides certain Federal Reserve requirements for all depository institutions, but retains voluntary membership in the Federal Reserve; provides a range on reserve requirements on transaction (checking type) accounts of 8 to 14 percent with an initial rate of 12 percent applicable to all transaction accounts over $25 million and 3 percent on accounts below $25 million indexed to the change in total transaction deposits; provides that the initial rate of required reserves on all non-personal time deposits regardless of maturity is 3 percent with a range of 0-9 percent applicable to all depository institutions; authorizes depository institutions to use balances maintained in the Federal Reserve banks to satisfy depository institutions liquidity requirements under the Federal Home Loan Bank Act, and the National Credit Union Act; phases in reserve requirements over 8 years for non-member institutions and 4 years for member banks; provides no phase-in period for any new types of deposits or accounts authorized after the reserve requirement provisions become effective, which is applicable to NOW accounts except for those currently authorized by law; permits the Federal Reserve Board to impose reserve requirements outside the statutory limits in extraordinary circumstances for a period of 180 days; permits the Federal Reserve Board to impose a supplemental reserve on transaction accounts within a range of 0-4 percent if the Board finds that monetary policy cannot be effectively implemented with the reserve balances required under all other provisions of the legislation after an affirmative vote of 5 or more members of the Board; requires the Federal Reserve to pay interest on the reserves imposed by this authority at a rate up to the average rate earned on the securities portfolio of the Federal Reserve System; allows the supplemental reserve provision to be used only if the basic reserves provided for under this Act equal, in dollar amounts, the reserves that would be produced if the reserve ratios were maintained at 3 percent on non-personal time deposits and 12 percent on transaction accounts; gives depository institutions holding transactions accounts access under the same terms and conditions as member banks to the Federal Reserve discount window; gives open access to price services provided by the Federal Reserve Banks to all depository institutions on the same terms and conditions as member banks within 18 months; expands the types of Federal Reserve assets that can be used to collateralize the Federal Reserve notes and removes the requirement that they be collateralized;

Interest rate ceilings: Transfers the authority to set interest rates on all types of deposits from the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), and the Federal Home Loan Bank Board (FHLBB) to a six-member Depository Institutions Deregulation Committee made up of the heads of those agencies plus the Secretary of the Treasury, and the Chairman of the National Credit Union Administration (NCUA), with the Comptroller of the Currency as a nonvoting member; requires the Committee to meet quarterly in public session and make its decisions by majority vote of the voting members; directs the committee to provide for a 6-year phase-out of Regulation Q just as soon as possible by increasing the permissible rates paid to depositors on all accounts to market rates, by a phased elimination of all interest ceilings on particular classes of deposits by the creation of new types of deposits, not subject to ceilings or with ceilings linked to market rates, or by any combination of those approaches; provides that the Committee will, by majority vote, increase permissible deposit rates ceilings to market rates just as soon as possible by setting a targeted increase of ¼ percent in the permissible passbook rate within 18 months after enactment; provides for additional targeted increases of ½ percent on all classes of accounts; does not bind the Committee to any target; gives the Committee authority to increase or decrease rates at any time during the six-year period; provides that the Committee's authority will expire after six years and the Committee will go out of existence; retains those provisions of the law that permit the Federal Reserve Board, the FDIC, and the FHLBB to regulate depository institutions' advertising of interest rates; allows the authority of NCUA to set interest rate ceilings for credit unions to expire six years after enactment while continuing its authority to regulate credit unions' advertising of interest rates;

Interest on checking accounts: Permits Federally-insured commercial banks, savings and loan associations, mutual savings banks, and savings banks to offer the equivalent of interest-bearing checking accounts, NOW accounts, nationwide as of December 31, 1980; makes permanent, effective March 31, 1980, the authority of: (1) commercial banks to offer automatic transfer services between savings and checking accounts, and (2) Federally-chartered savings and loan associations to operate remote service units; permits Federal Home Loan Banks to process NOW account drafts and other instruments issued by their members or those eligible for membership priced in accordance with the pricing principles applicable to Federal Reserve Banks; permits Federally- and State-chartered Federally-insured credit unions to offer share draft accounts as of March 31, 1980; permits the Central Liquidity Facility (CLF) to process share drafts and other instruments issued by CLF members, credit unions represented in the CLF by agent members, and those eligible for CLF membership priced in accordance with the pricing principles applicable to Federal Reserve banks which shall be available to all eligible institutions on a non-discriminatory basis; extends for 2 years the termination date of the Alaska USA Federal Credit Union;

Thrift institutions: Allows savings and loans to invest up to 20 percent of their assets in unsecured or secured consumer loans, commercial paper, and corporate debt securities; allows savings and loans to permit associations to invest in, redeem, or hold shares or certificates of open-end investment companies; remove the geographical lending restriction from the Home Owners Loan Act; removes the first lien restriction on residential real estate loans; authorizes second trust loans; expands the authority to make acquisition, development, and construction loans, and substitutes a 90 percent loan to value ratio requirement in place of the dollar limit (now $75,000) on residential real estate loans; allows Federal savings and loans to exercise trust and fiduciary powers and to offer credit card services;

Permits Federally-chartered mutual savings banks (MSB's) to hold up to 5 percent of their assets in commercial, corporate, or business loans provided such loans are made within the State in which it is located or within 75 miles of the MSB home office and to take corporate and business demand deposits; permits Federal credit unions to make loans on individual cooperative housing units; allows Federal credit unions to raise their loan rates up to an annual rate of 15 percent subject to rules issued by the National Credit Union Administration (NCUA); permits the NCUA to raise the loan ceiling above 15 percent for periods not to exceed 18 months, after consultation with appropriate Congressional committees, the Department of Treasury, and other Federal financial regulatory agencies after the Board determines money market interest rates had risen over the preceding 6-month period and prevailing interest rate levels threatened the safety and soundness of individual credit unions;

Raises the limits on all Federal deposit insurance from $40,000 to $100,000 and permits the FDIC to change its assessments;

State usury laws: Permanently preempts State usury ceilings on first mortgage loans made by banks, savings and loans, credit unions, mutual savings banks, mortgage bankers, and HUD-approved lenders under the National Housing Act, subject to a State override within three years; preempts for three years State usury ceilings on business and agricultural loans above $25,000 made by any person subject to a State override; applies a ceiling of five percent above the discount rate (including any surcharge) in the Federal Reserve district where the institution is located; permanently preempts State usury ceilings on all loans made by Federally-insured depository institutions (except national banks) and small business investment companies subject to a State override at any time and applies a ceiling of one percent above the appropriate Federal Reserve discount except to transactions subject to the preemptions of usury ceilings on mortgage loans and on business and agricultural loans above $25,000; applies separate usury limits to SBA loans;

Truth-in-Lending simplification: Permits an agency not to order restitution if it would have a significantly adverse impact upon the safety and soundness of the creditor and permits partial restitution in an amount which would not have such an impact: provides a detailed formula for restitution payment relating to specific types of disclosure violations; allows the Federal Reserve Board to establish tolerances for numerical disclosures if a creditor makes a minor mistake in quoting the monthly payment; removes the three-day cooling off period for open-end credit which is secured by real estate only for a three-year trial period to determine if beneficial for consumers and businesses; requires disclosure of the itemization of the amount financed upon request by the borrower; provides the Federal Reserve Board with the authority to permit a greater tolerance for the disclosure of the annual percentage rate where irregular payments are involved for a period of one year at a tolerance no greater than ½ of one percent between the disclosed rate and the actual rate;

National banks: Gives the Comptroller the authority to extend the current five-year period during which a national bank is permitted to hold real estate for an additional five years subject to the bank having made a good faith effort to dispose of the real estate within five years or a showing that disposal of the real estate within the five-year period would be detrimental to the bank; provides that a bank may expend funds for the development and improvement of such real estate, subject to such conditions and limits as the Comptroller shall prescribe, if needed to enable the bank to recover its total investment; amends 12 U.S.C. 72 to allow directors of national banks to own bank holding company stock instead of bank stock if the national bank is controlled by a holding company; allow national banks to invest in the stock of a bank, insured by the FDIC, owned exclusively by other banks (except for directors' qualifying shares required by State law) and engaged exclusively in serving other banks or their officers, directors, or employees; provides that the total amount of stock owned may not exceed ten percent of a national bank's capital account and prohibits a national bank from owning more than five percent of the voting securities of such bank; places a moratorium on the direct or indirect establishment, acquisition, and operation of a trust company across State lines until October 1, 1981, unless the trust company was acquired and in operation on or before March 5, 1980;

Regulatory simplification: Requires Federal financial institution regulatory agencies, to the maximum extent practicable, to insure that their regulations are needed; that the public and interested parties are given an opportunity to air their views; that alternatives to the regulations are considered; that costs and burdens are minimized; that regulations are written clearly and simply; and that conflicts, inconsistencies, and duplications are avoided;

Foreign control of United States financial institutions: Provides for a moratorium until July 1, 1980, on foreign acquisitions of United States depository institutions with exemptions for acquisitions of under $100 million, corporate reorganizations and transfers of ownership interests already under foreign control. H.R. 4986—Public Law 96–221, approved March 31, 1980. (385)

Council on Wage and Price Stability: Extends the Council on Wage and Price Stability (COWPS) for one additional year and authorizes therefor $990,000 in additional funds for fiscal 1980 (bringing the total 1980 authorization to $9,473,000) and $9,770,000 for fiscal 1981; requires that the Chairperson of COWPS be appointed by the President and confirmed by the Senate; requires COWPS to review proposals for reducing inflation through tax-based income policies and anti-inflation supply-side tax reductions and report its findings to Congress by September 1, 1980, and requires an annual, rather than the present quarterly, report to the President and the Congress; directs COWPS, in calculating allowable price increases, to use an annual average figure for the increase in production for nonfarm output in the private sector, as measured by the Bureau of Labor Statistics since 1973, instead of 1967, (0.5 percent rather than the current 1.75 percent) thereby increasing the allowable price increase limit of the price guidelines by 1.25 percent; establishes the Office of Productivity to evaluate the impact of government regulations on productivity, to evaluate Federal programs designed to improve productivity, and to issue an annual report to Congress recommending new Federal programs and policies to increase private-sector productivity growth; terminates the Credit Control Act of 1969 on July 1, 1981; directs COWPS, in fiscal 1981, to increase the number of positions which involve the review of proposed and existing regulations, by 50 percent over the number alloted for fiscal 1980; and requires that fiscal 1981 expenditures of the Senate not exceed 90 percent of fiscal 1980 expenditures. S. 2352—Passed Senate July 2, 1980. (*169)

Disaster relief programs: Extends the authorization for the Federal Disaster Assistance Programs of the Federal Disaster Assistance Administration through fiscal 1981; and relieves six privately-owned libraries from repayment of disaster relief funds which were erroneously granted to them by the Office of Disaster Response and Recovery for Damages caused by Hurricane Agnes in 1972. S. 3027—Passed Senate September 26, 1980. (VV)

Employee Retirement Income Security (ERISA): Amends the Employment Retirement Income Security Act of 1974 by postponing for two months, from May 1, 1980, to July 1, 1980, the date on which the Pension Benefit Corporation (which administers the termination insurance program that guarantees benefits to retirees and workers in pension plans terminated with insufficient assets) may pay benefits under terminated multi-employer plans in order to give Congress additional time to complete action on legislation revising the multi-employer pension benefit guarantee program. H.R. 7140—Public Law 96-239, approved April 30, 1980. (VV)

Postpones for an additional month, from July 1, 1980, until August 1, 1980, the date on which the Pension Benefit Corporation may pay benefits under terminated multiemployer plans in order to give Congress additional time to complete action on legislation revising the multi-employer pension benefit guarantee program. H.R. 7685—Public Law 96-293, approved June 30, 1980. (VV)

Amends title IV of the Employee Retirement Income Security Act of 1974 (ERISA) and makes parallel changes in title I of ERISA and the Internal Revenue Code of 1954, as amended, to: (1) foster and facilitate interstate commerce, (2) alleviate certain problems which tend to discourage the maintenance and growth of multiemployer plans, (3) provide reasonable protection for the interests of participants and beneficiaries under financially distressed multiemployer plans, and (4) provide a finacially self-sufficient program for the guarantee of benefits under multiemployer plans;

Definition of multiemployer plans: Deletes the test relating to proportionate employer contribution (the 50 percent test) and the test relating to continuity of benefits in the event of a cessation of employer contribution; provides that all trades and businesses under common control are to be considered a single employer for purposes of counting the number of employers maintaining a plan, and for other purposes; provides that a plan continues to be a multiemployer plan after its termination if it was a multiemployer plan for the plan year ending before its termination; permits certain single employer plans under present law which would otherwise be multiemployed plans under the bill to elect to continue as single employer plans;

Employer withdrawal liability, mergers, reorganization, financial assistance, etc.: Makes an employer who totally or partially withdraws from a multiemployer pension plan after April 28, 1980, liable for a portion of the plan's unfunded vested benefits determined as of the year preceding the year of withdrawal; provides a special definition of withdrawal for certain industries; provides a basic method for computing withdrawal liability as well as several alternative methods; provides a total exemption for any employers with a liability of up to $50,000, and a phased, partial exemption for an employer with a liability between $50,000 and $100,000; requires that a merger involving a multiemployer plan meet certain standards designed to protect participants' benefits and the Pension Benefit Guarantee Corporation (PBGC); provides that certain financially troubled multiemployer pension plans enter a state of "reorganization" under which contributions generally must be increased and recent benefit increases may be reduced by plan trustees; requires the PBGC to provide financial assistance to insolvent multiemployer plans to enable the plans to pay basic benefits; includes provisions for appropriate legal remedies, equitable relief, or both;

Termination of multiemployer plans: Provides new rules for determining whether, and when, a multiemployer plan terminates; authorizes the PBGC to prescribe reporting requirements and rules for the administration of terminated multiemployer plans to protect the interests of plan participants or to protect the PBGC against unreasonable losses;

Premiums: Provides that the annual per participant premium for the termination insurance program is to increase from the present $.50 rate to $2.60 over a 9-year period or more rapidly if certain conditions are met;

Multiemployer guarantees: Fully guarantees the first $5, and 75 percent of the next $15, of monthly basic benefits earned per year of a participant's service; reduces the 75 percent guarantee to 65 percent under plans which have not met specified funding requirements; provides payments under the guarantees only in the event of the insolvency of a multiemployer plan; provides for periodic Congressional review of premium and guarantee levels; requires the PBGC to guarantee non-basic benefits subject to terms and conditions if the plan elects such coverage; limits the aggregate benefit provided by the PBGC with respect to any participant to the same level provided by present law; adds requirements to the annual report for enforcement purposes;

Contingent employer liability insurance: Repeals the contingent employer liability insurance provisions of ERISA for multiemployer plans and single-employer plans;

Miscellaneous multiemployer plan provisions: Requires the PBGC to study the subject of union-mandated withdrawals from multiemployer plans to determine whether special rules are necessary and to make recommendations with respect to such rules; requires the Department of Labor to study the feasibility and desirability of requiring employers and unions to bargain over both benefits and contributions and to provide Congress with recommendations within 3 years; requires GAO to conduct a study and report to Congress no later than June 30, 1985, on the effects of the bill on participants, employers, and unions and the self-sufficiency of the PBGC insurance fund; requires faster funding of certain benefits under multiemployer plans; provides multiemployer plans a Federal right of action and remedies in collection of delinquent contributions; removes certain restrictions on return of contributions made to a multiempoyer plan by mistake;

Miscellaneous ERISA provisions: Authorizes the Secretary of Labor to treat certain severance pay plans and supplemental income plans as welfare plans rather than as pension plans under ERISA; places the PBGC "on budget"; permits plans maintained by churches to provide benefits for employees of church-related organizations;

General provisions: Amends the Federal Unemployment Act to require the reduction of unemployment benefits for an unemployed pensioner only if the pension comes from an employer in the base period, and to allow the States to take into account the pensioner's own contribution to the unemployment fund in determining the unemployment benefits offset; and provides for the offset for social security and railroad retirement benefits even when the employer is not in the base period. H.R. 3904—Public Law 96-364, approved September 26, 1980. (*327)

Federal Reserve Board nominees: Expresses the sense of the Senate that nominations to the Board of Governors of the Federal Reserve System should reflect careful consideration of the requirements for regional and economic interest representation contained in the Federal Reserve Act. S. Res. 434—Senate agreed to May 15, 1980. (VV)

Public debt limit extensions: Extends the present temporary public debt limit of $479 billion for five days, from May 31, 1980, through June 5, 1980, so that the statutory limit will not revert to the permanent $400 billion level at midnight on May 31, 1980. H.R. 7471—Public Law 96-256, approved May 30, 1980. (*159)

Extends the public limit through February 28, 1981, at an increased amount of $525 billion which combined with the $400 billion permanent level, makes a total public debt level of $925 billion. H.J. Res. 569—Public Law 96-286, approved June 28, 1980. (*257)

Public debt limit extension—Oil import fee disapproval: Extends from June 5, 1980, through June 30, 1980, the present temporary public debt limit of $479 billion which, combined with the $400 billion permanent level, makes a total public debt level of $879 billion; and disapproves the oil import fee proposed by the President on April 2, 1980, that would result in a ten cent per gallon tax on gasoline. H.R. 7428—Vetoed June 5, 1980; House overrode veto June 5, 1980; Senate overrode veto June 6, 1980; Became Public Law 96-264, without approval June 6, 1980. (*174, *175)

Public debt management: Authorizes the Secretary of the Treasury to increase the interest rate on U.S. Savings Bonds above the current statutory 5½ percent if the increase does not exceed one percent a year compounded semiannually; and increases the authority of the Treasury Department to issue an additional $4 billion in long-term bonds through September 30, 1980, making a total of $54 billion available for fiscal 1980 and increases this amount to $70 billion beginning on October 1, 1980. H.R. 7478—Public Law 95- , approved 1980. (VV)

Public Works—EDA: Extends through fiscal 1981, all existing programs of the Economic Development Administration (EDA), including the activities of the title V Regional Commissions, and the Appalachian Regional Commission and authorizes there for approximately $1.32 billion annually for EDA and $198 annually for the Appalachian Regional Commission. S. 3152—Passed Senate September 26, 1980. (VV)

Securities investor protection: Amends the Securities Investor Protection Act to increase the amount of protection available to customers of brokers and dealers—from $100,000 to $500,000 for securities and from $40,000 to $100,000 for cash investments; and makes the provisions of the Right to Financial Privacy Act of 1978 apply to the Securities and Exchange Commission. H.R. 7939—Public Law 96- , approved 1980. (VV)

Small Business Administration authorizations: Authorizes $952 million for fiscal 1980 and $1.187 billion for fiscal 1981 for programs administered by the Small Business Administration (SBA); includes an open-ended authorization for the disaster loan program; provides program authorizations for SBA's loan and other financial and guaranteed assistance programs, for capital appropriations for the various revolving funds, and for salaries and expenses;

Provides that energy shortage loans may be made available to small businesses injured by an energy source shortage unless the shortage is caused by a strike, boycott or embargo directed against the business; provides a three percent rate of interest on the first $55,000 on SBA disaster loans to homeowners; provides a five percent rate of interest on disaster loans to concerns that cannot obtain credit elsewhere; for business concerns that can obtain credit elsewhere, and sets the interest rate at the cost of money to the Federal Government plus not more than one percent; amends the Consolidated Farm and Rural Development Act to provide the same terms for emergency loans under that act; provides that farmers must seek assistance from FmHA before applying to SBA; disallows SBA authority to invest excess monies from the surety-bond guarantee fund in bonds or guarantees, but allows investment of excess monies from the pollution control bond fund; authorizes SBA to guarantee debentures of certain State and local development companies; authorizes the transfer of loan processing functions to qualified banks; authorizes organizations and individuals eligible for handicapped assistance loans to participate in the procurement set-aside program up to a total of $100 million for each of fiscal years

1980 through 1982; provides priorities for the placement of government procurement contracts in labor surplus areas; revises the duplication of benefits provisions applicable to SBA disaster loans;

Provides for the establishment of a small business development center (SBDC) program to provide a single local source to aid small businesses in such areas as management, marketing and government regulations; authorizes SBA to make grants to States to defray up to 50 percent of the cost of developing and operating the program; and limits Federal funding for any single SBDC to $300,000;

Establishes a national small business economic policy to assist the development and expansion of small and medium-sized businesses and requires certain means of addressing and implementing the policy; authorizes a Special Assistant to the President for Small Business;

Requires SBA to establish a data base of economic information pertaining to small business, and to regularly publish indices of that data; establishes the Office of the Chief Counsel for Advocacy at Executive Level IV; requires a study of small business credit needs;

Provides for enabling legislation and funding authorization for the White House Conference on Small Business; outlines the purposes of the conference; requires annual reports on the status and implementation of the Commission's findings and recommendations for a three-year period following submission of the final report; and

Authorizes SBA to make loan guarantees of up to $500,000 available under the regular business and loan guarantee program to employee organizations seeking to buy their companies and to firms or employee organizations using Employee Stock Ownership Plans who meet specified qualifications for such loans. S. 918—Passed Senate May 16, 1979; Passed House amended May 22, 1979; House agreed to conference report December 20, 1979; Senate rejected conference report January 24, 1980, and agreed to House amendment with an amendment; House agreed to Senate amendment with an amendment February 6, 1980. (*10, *12)

Authorizes $1.187 billion for fiscal 1981 and $1.375 billion for 1982 for the small Business Administration and such funds as necessary to carry out programs for which appropriations are not specifically authorized; provides program authorizations for SBA's loan and other financial and guaranteed assistance programs, for capital appropriations for the various revolving funds, and for salaries and expenses;

Provides a five percent rate of interest on disaster loans to concerns that cannot obtain credit elsewhere; sets the interest rate for business concerns that can obtain credit elsewhere at the cost of money to the Federal Government plus not more than one percent; amends the Consolidated Farm and Rural Development Act to provide the same terms for emergency loans under that act; provides that farmers must seek assistance from FmHA before applying to SBA; provides SBA with borrowing authority for its disaster assistance loans, subject to prior appropriations;

Disallows SBA authority to invest excess monies from the surety-bond guarantee fund in bonds or guarantees, but allows investment of excess monies in the pollution control bond fund; authorizes SBA to guarantee debentures of certain State and local development companies on loans of up to $500,000 per small business; authorizes the transfer of loan processing functions to qualified banks; authorizes organizations and individuals eligible for handicapped assistance loans to participate in the procurement set-aside program up to a total of $100 million each for FY 1981 through 1983; provides priorities for the placement of goverment procurment contracts in labor surplus areas;

Small Business Development Centers Act of 1980: Authorizes SBA to make grants to States to defray 50 percent of the cost of developing and operating a small business development center program to assist small businesses in such areas as management, marketing, product development, manufacturing, technology development, finance and government regulations; provides that no more than 50 percent of non-Federal contributions can be in-kind contributions; requires that the program be administered by a Deputy Associate Administrator with this sole responsibility; establishes a National Small Business Development Center Board with 6 members from small businesses and 3 from the academic community to advise SBA; provides that each center shall have a full time staff director and access to certain specialists to be provided by qualified small business vendors; requires that the program evaluation be submitted to Congress by January 31, 1983; and provides for repeal of the program on October 1, 1984;

Small Business Economic Policy Act of 1980: Establishes a national small business economic policy to assist the development and expansion of small and medium-sized businesses and requires certain means of addressing and implementing the policy; requires the President to submit to Congress an annual report on small business and competition; and commits the Federal government to provide private sector incentives to capital formation;

Small Business Economic Research and Analyses: Requires SBA to establish a data base of economic information pertaining to small business, and to regularly publish indices of that data; establishes the Office of the Chief Counsel for Advocacy at Executive Level IV; and requires a study of small business credit needs;

Small Business Employee Ownership Act of 1980: Authorizes SBA to make loan guarantees of up to $500,000 available under the regular business and loan guarantee program to employee organizations seeking to buy their companies and to firms or employee organizations using Employee Stock Ownership Plans who meet specified qualifications for such loans. S. 2698—Public Law 96-302, approved July 2, 1980. (*158)

Small Business Administration minority business expansion: Amends the Small Business Act to extend for an additional year the SBA minority business Army procurement pilot program due to expire on September 30, 1980; retains the position of Associate Administrator for Minority Business but makes administrative changes to place accountability of the program with the Administrator of SBA; makes several changes to the Capital Ownership Development Program with regard to program plans and analysis of the success of approved programs; adds a prohibition on any small business concern receiving a contract unless the plan is approved by the Administrator; prohibits SBA from implementing any change in the current regulations governing size standards for determining which concerns are small business before March 31, 1981; contains the provisions of S. 2620, the Small Business Export Expansion Act, as it passed the Senate on September 3, 1980; and adds the provisions of S. 265, the Equal Access to Justice Act (Attorney's Fees), as approved by the House Judiciary Committee. H.R. 5612—Passed House September 10, 1980; Passed Senate amended September 26, 1980. (VV)

Small Business investment incentives—SEC authorization: Amends the Federal securities laws to facilitate the activities of business development companies, encourage the mobilization of capital for new, small, and medium-sized and independent business, and maintain the system of investor protection; amends the Investment Company Act of 1940 to recognize the unique "business development company" functions of venture capital investment companies, by placing them under a different, more relaxed set of regulations; exempts business development companies, with certain exceptions, from SEC registration; allows advisors presently registered under this act to earn incentive compensation; increases to $5 million the amount of debt capital that could be raised without a trust indenture; increases to $10 million the amount of debt which could be raised without meeting the detailed qualifications of the Trust Indenture Act of 1939; increases from $2 million to $5 million the regulation A simplified offering procedure exemption ceiling for small equity issues; extends the Securities and Exchange Commission for three years, until fiscal 1983, and authorizes therefor $85.5 million for fiscal 1981, $96.64 million for 1982, and $106.61 million for 1983; requires Federal and State securities authorities to meet at least annually with the investment community and small business representatives to resolve small business capital formation problems; exempts stock issues of less than $5 million from registration if sold to institutional and "accredited" investors—those individuals who are willing to invest a substantial amount; and simplifies the regulatory treatment of life insurance accounts relating to pension plans. H.R. 7554—Passed House September 23, 1980; Passed Senate amended September 25, 1980. (VV)

EDUCATION

Arts in education: States Congressional disapproval of the final regulations by the Commissioner of Education submitted to the Congress on April 3, 1980, pertaining to the arts in education program authorized under the Elementary and Secondary Education Act of 1965, on the grounds that they are inconsistent with the Act and returns the regulations to the Commissioner for modification or disposal, as provided for under the General Provisions Act. H. Con. Res. 319—Action completed May 15, 1980 (VV)

Educational program regulations: Disapproves the final regulations submitted to the Congress in 1980 pertaining to grants to State educational agencies for educational improvement, resources, and support authorized under title IV of the Elementary and Secondary Education Act of 1965, on the grounds that the regulation allowing for the purchase of physical education equipment (which the Congress considers nonacademic and therefore not eligible for funding) is inconsistent with the Act and in clear violation of Congressional intent; and returns the regulations to the Commissioner for modification or disposal, as provided for under the General Education Provisions Act. S. Con. Res. 91—Action completed May 21, 1980. (VV)

Disapproves the final regulations submitted to the Congress on April 3, 1980, pertaining to the Education Appeal Board authorized under the General Education Provisions Act, on the grounds that authority to grant the provision giving the Education Appeal Board Chairperson the extension of the 30-day limit in the statute for submission of an application for Board review of an audit determination is inconsistent with the Act and in clear violation of Congressional intent and returns the regulations to the Commissioner of Education for modification or disposal, as provided for under the General Education Provisions Act. H. Con. Res. 318—Action completed May 15, 1980. (VV)

Disapproves the final regulations submitted to the Congress on April 24, 1980, with respect to the law-related education program authorized under the Elementary and Secondary

Education Act of 1965, on the grounds that certain of the program's provisions (1) create a complex schedule of matching requirements for different categories of grants; (2) limit the length of time an individual grantee can continue to receive funds, and (3) create four categories of grants; and returns the regulations to the Commissioner for modification or disposal, as provided for under the General Education Provisions Act. H. Con. Res. 332—Action completed May 20, 1980. (VV)

Higher education programs: Authorizes $49.7 billion to extend, for five years, through fiscal 1985 the provisions of the Higher Education Act (HEA), the authorizations for the Fund for the Improvement of Postsecondary Education and Title VI of the National Defense Education Act which are brought within the ambit of the Higher Education Act, and the authorization of the National Institute of Education;

Establishes a Commission on National Development in Postsecondary Education to review the effectiveness of Federal policies in the area of higher education; authorizes under educational outreach programs grants to States for planning and for continuing education with special focus of services on outreach to adults who have not been adequately served by postsecondary education; guarantees a minimum grant to each State of $187,500;

Extends existing college library and research programs, which includes grants of up to $10,000 for college libraries, to assist in training librarians, and to strengthen research library resources; authorizes a study of the advisability of a national periodical system;

Provides short-term Federal assistance to institutions to improve their academic quality and strengthen their fiscal stability and to institutions with special needs; places emphasis on strengthening institutions which enroll large numbers of disadvantaged students, lack resources, and are taking steps to improve their chance of survival; establishes a challenge grant program for institutions to seek alternative sources of funding for their development needs; provides that institutions that historically have enrolled a large numbers of blacks shall receive not less than 50 percent of their 1979 amount; specifies that from 24 to 30 percent of funding be awarded to community and junior colleges;

Student Assistance: Increases the maximum Basic Educational Opportunity Grant, which is renamed a Pell Grant, from $1,800 to $1,900 for academic year 1981–1982 phased up to $2,600 for 1985–1986 to cover 50 percent of educational costs which rises to 70 percent of costs in 1985–85; increases the maximum Guaranteed Student Loan from $2,500 to $3,000 for independent students with an aggregate limit of $15,000 for independent students, $12,500 for dependent undergraduates, and $25,000 for graduate students; increases the rate of interest from seven to nine percent for new borrowers with no interest charged while the student is in school; allows this interest rate to drop to eight percent if the interest on Treasury bills fall to nine percent of loan; establishes a parent undergraduate loan program that allows parents to borrow up to $3,000 per dependent student at nine percent with repayment to begin within 60 days of borrowing; provides for loan consolidation and extended income-sensitive repayment through the Student Loan Marketing Association (Sallie Mae); increases the maximum Supplemental Educational Opportunity Grant from $1,500 to $2,000 and authorizes $400 million per year through 1985 and such sums as necessary for continuing year authorizations; increases the maximum State Student Incentive Grant to $2,000; extends eligibility to graduates and less-than-half-time students; authorizes $100 million each in fiscal years 1981 and 1982, rising $50 million per year thereafter; increases the maximum aggregate National Direct Student Loan which can be borrowed from $10,000 to $12,000 for graduate or professional students, from $5,000 to $6,000 for those who have completed the first two years of undergraudate study, and from $2,500 to $3,000 for all other students; sets the Federal contribution to institutional loan funds at $400 million for fiscal 1981 and 1982, rising to $625 million for fiscal 1985; raises the interest from three to four percent for new loans and creates an alternative mechanism for financing whereby the Secretary can provide loan capital through borrowing from the Federal Finance Bank and requires that when the Secretary borrows enough to provide $1 billion in loans on campus the institutional revolving fund for that year will revert to the treasury; requires a single application for all aid programs, a single needs analysis system, and more equitable standards for determining need and costs;

Rewrites and reforms existing Federal international education programs; authorizes the Secretary to make grants to or enter into contracts with institutions of higher education to establish foreign language centers and programs which focus on the teaching of modern foreign languages and the cultures where the language is spoken, to make grants to carry out certain research projects, and to improve undergraduate instruction in foreign languages; authorizes grants or contracts with institutions of higher education to develop international business education and training programs; authorizes the establishment of a national advisory board on these programs; authorizes contracts or grants to public or private institutions to develop programs to increase the understanding of students and the public about foreign cultures;

Reorders the existing Construction, Reconstruction, and Renovation of Academic Facilities Title to focus Federal assistance on energy conservation, meeting Federal requirements relating to the handicapped and to health and safety mandates, development of research and library facilities, asbestos detection and removal, and on institutions experiencing unusual increases in enrollment; increases the interest rate for academic facilities loans from three to four percent;

Retargets and extends Federal cooperative education programs; increases the maximum grant for planning, establishing, expanding, or carrying out programs of cooperative education from $175,000 to $325,000 per institution or from $120,000 to $250,000 for each member of a consortium; sets at five years the maximum length of time that any one institution can participate in the program; specifies the amount of grant funds that may be used for administrative costs; and makes such grants available for training, research, and demonstration projects;

Consolidates several existing authorities providing graduate fellowship assistance and extends for five years existing graduate programs for grants of up to $4,500 per year for three years to graduate and professional students based on financial need with special emphasis on individuals pursuing a public service career or advanced study in energy resources, energy conservation or development and who are from disadvantaged backgrounds; establishes a new National Graduate Fellows Program for 450 competitive fellowships per year to be awarded to eligible students for graduate studies in the arts, humanities, and social sciences; continues grant assistance for Training in the Legal Professions to assist disadvantaged students pursuing training in the legal profession; authorizes funds for the Law School Clinical Assistance program;

Moves the Fund for the Improvement of Postsecondary Education into the HEA and gives its board statutory authority;

Authorizes a new program of grants to urban universities to assist in solving urban area problems;

Extends several existing sections of the Higher Education Act, while at the same time refocusing the Federal planning requirement on the planning process itself and not on the planning structure;

Extends and reauthorizes programs of the National Institute of Education;

Authorizes matching funds to establish the Robert A. Taft Institute of Government in New York City;

Authorizes several changes in the General Education Provisions Act to increase from one year to two years the period of automatic extension of the authorization or duration of expiring programs for programs that are forward funded; authorizes Congress to reject, in whole or part, final regulations submitted by the Department of Education; extends through fiscal 1981 the Pre-College Science Teacher Training Program and the Minority Institution Science Program; authorizes memorials to Daniel "Chapple" James and William Levi Dawson; mandates the creation of an information clearinghouse for the handicapped within the Department of Education; provides for a study of the educational needs of Hawaiian natives and assistance for the Navajo Community College; amends the impact aid law to provide a special authorization for the educational costs of Cuban, Haitian, and Indo-Chinese refugee children; and gives land grant status to colleges in American Samoa and Micronesia. H.R. 5192—Public Law 96– , approved 1980. (*246, *390, *447)

ENERGY

Alaska federal-civilian energy efficiency: Authorizes the sale of surplus Federally-generated coal-fired electric power in the State of Alaska if the sale would result in reduced electric power costs and consumption of oil or natural gas; and authorizes Federal purchase of civilian generated power provided it would result in a savings to either civilian or federal consumers and not increase the cost to the other. S. 1784—Passed Senate September 25, 1980. (VV)

Alaska natural gas transportation system: Expresses the sense of the Congress that the Alaska Natural Gas Transportation System remains an essential part of securing this Nation's energy future, and, as such, enjoys the highest level of congressional support for its expeditious construction and completion by the end of 1985. S. Con. Res. 104—Action

Coal conversion: Requires 80 electric generating power plants to convert from their present use of petroleum to coal or another alternative energy source and authorizes $3.6 billion for direct financial assistance for conversion; requires the Secretary to grant an exemption upon finding that a utility has demonstrated that it is not feasible to finance the conversion or if the powerplant does not have, or has not had, the technical ability to use coal or an alternate fuel, or that it could not have such capability without substantial physical modification or substantial reduction in the related capacity of the powerplant; entitles each utility with a powerplant which is required to convert to a grant covering 25 percent of the qualified capital costs of converting; requires a utility to show financial need to qualify; authorizes the Secretary to provide up to an additional 25 percent in grants, an additional 50 percent in loans, or a combination thereof, thus allowing financial assistance of up to 75 percent of the cost of converting a powerplant; entitles powerplants that have already converted to the basic 25 percent grant assistance; allows the Secretary to exclude as an alternative fuel coal tar having a significant commercial value as other than a powerplant fuel;

Voluntary scrubber program: Provides grants for a voluntary program for installation of advanced sulfur removal systems for nonconverting existing electric powerplants to reduce emissions and authorizes $450 million therefor in fiscal 1981, to remain available until expended;

Coal washing program: Provides grants to pay up to 20 percent of qualifying costs to construct a coal preparation facility capable of reducing the sulfur content of coal, allows allocation of up to 25 percent of appropriated funds within a single State; authorizes $150 million therefor in fiscal 1982 to remain available until expended;

Off-gas provision: Amends the prohibition of present law against continued use of natural gas as a primary energy source in electric powerplants after January 1, 1990, to allow the use of natural gas for the duration of a powerplant's book service life; allows electric powerplants which are required to convert from petroleum to use natural gas in conjunction with coal in such quantities as necessary to meet applicable environmental requirements; revokes the prohibition order or proposed prohibition order for certain listed powerplants; retains the Secretary's existing discretionary authority to issue new prohibition orders to powerplants or major fuel-burning installations; exempts from any 1990 cut-off synthetic gas derived from tar sands; requires each utility planning to burn natural gas after 1990 to report to the Secretary concerning construction of new coal-fired generating capacity;

Cogeneration: Amends present law to encourage additional cogeneration of electricity by non-utility cogenerators by removing the 50 percent limitation on sales of cogenerated power sold or exchanged for resale by qualifying cogenerators; and makes the cogeneration exemption mandatory rather than discretionary. S. 2470—Passed Senate June 24, 1980. (*251)

Deep seabed mining: Establishes an interim program, pending ratification of a Law of the Sea Treaty, to encourage and regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by U.S. citizens in an environmentally-responsible manner; requires the Secretary to report annually to Congress on the progress of the Law of the Sea Treaty and seeks to encourage the successful negotiation of the Treaty which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure nondiscriminatory access to such resources for all nations; requires U.S. nationals to obtain a license or permit, except for specified activities, from the Administrator of the National Oceanic and Atmospheric Administration before they engage in exploration for or commercial recovery of manganese nodules from the deep seabed; prohibits the Administrator from issuing any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1988; establishes specific guidelines for the issuance of licenses and permits including terms, conditions, and restrictions as set forth by the Administrator; seeks to stabilize the presently uncertain investment climate in the ocean mining industry caused by indication of U.S. willingness to change the present international law which permits unrestricted seabed mineral development; urges the U.S. negotiators of the treaty to obtain economically sound "grandfather rights" for miners who conduct activities under the authority of this act; authorizes the President to designate any foreign nation as a reciprocating state for the purpose of recognizing the licenses and permits issued by those countries: imposes, effective January 1, 1980, an excise tax of 3.75 percent of the value of resources removed from the deep seabed to be held in escrow and be available for appropriation by Congress for U.S. contribution to a future international revenue sharing fund created by any future international agreement ratified by the U.S.; makes the holder of a permit issued under the act liable for the payment of the tax: requires that all vessels used for mining or processing, and at least one out of the two-to-four vessels used for transporting minerals from each mining site, be a U.S. flag vessel; and establishes in the U.S. Treasury a "Deep Seabed Fund" from which expenditures can later be made to meet U.S. financial obligations pursuant to an international deep seabed treaty. H.R. 2759—Public Law 96–283, approved June 28, 1980. (VV)

Department of Energy authorization—civilian: Authorizes $9,565,058,000 for fiscal 1981 for the civilian programs of the Department of Energy, and $400 million each year for 1982 through 1985 for energy impact assistance; establishes appropriations accounts for operating expenses and plant and capital equipment, including construction projects and acquisition of capital equipment not related to construction, for DOE civilian programs at the fiscal 1980 level using those accounts delineated in title I of the fiscal 1980 Energy and Water Development Appropriations Act (Public Law 96–69) and in title II of the fiscal 1980 Department of Interior and Related Agencies Appropriations Act (Public Law 96–126), plus an additional ten percent for each such account; limits appropriations for construction or acquisition of away-from-reactor (AFR) nuclear waste storage facilities, except for research, until authorizing legislation is enacted establishing public policy regarding title transfer, user fees and other operating procedures, and providing that actions preliminary to construction or acquisition may proceed; continues authorizations for construction projects authorized in prior years and establishes a ceiling on the total appropriation for each project; authorizes additional amounts for major new program initiatives and construction projects in fiscal 1981 and establishes total cost limits for each project; terminates, effective October 1, 1981, 1,000 DOE positions currently allocated to carry out programs established under the Emergency Petroleum Allocation Act of 1973, and prohibits funds to carry out programs established under the Act after September 30, 1981, except to complete matters and claims previously initiated; approves the revised budget request for the Naval Petroleum Reserve Development Program and the Commercial Nuclear Waste Remedial Action Programs; authorizes the reappropriation of operating expenses for the Geothermal Resources Development Fund ($41,982,000) and for the Strategic Petroleum Reserve ($2,403,978,000); authorizes the use of up to $12 million available for fossil energy operating expenses to continue design work on the coal gasification project which is not yet selected for construction; authorizes funds for fiscal 1982 and beyond for each account at the actual appropriation which was made in the prior year plus ten percent; amends the Powerplants and Industrial Fuel Use Act of 1978 to authorize broader financial and technical assistance to States, regions, and local governments to prevent and mitigate potentially adverse economic, social, and environmental impacts resulting from major energy development; authorizes for 1982 through 1985, $400 million each year for loan guarantees, loans, and grants, with not more than 40 percent available for grants; and authorizes not to exceed $1.5 billion in loans to be guaranteed, subject to subsequent appropriations. S. 2332—Passed Senate July 31, 1980. (*337)

Energy management: Provides for the consolidation of State applications for financial assistance for existing DOE programs authorized under Part D of title III of the Energy Policy and Conservation Act (including amendments to this part contained in the Energy Conservation and Production Act) and the Energy Extension Service Act; mandates the development of State energy plans, within nine months after the Secretary has promulgated regulations, which must contain a description of the State's energy supply and demand, goals, and proposed measures to encourage conservation and the use of renewable sources of energy; requires the State to hold public hearings during the planning process and take account of the needs of the poor, handicapped, and elderly citizens in developing the plan; provides that the Secretary allocate funds for such programs to qualifying States under a formula with a 75 percent weight for resident population and a 25 percent weight for uniform distribution among States; provides financial and technical assistance for Indian tribes; requires the Secretary to monitor and evaluate the success of programs that receive Federal assistance; authorizes the Secretary to use, during fiscal 1981 such sums as may be provided for these purposes in appropriation acts pursuant to the authority in the DOE authorization bill, S. 2332, and authorizes $100 million for fiscal 1982 and 1983;

Calls on the Secretary, within 90 days of enactment, to enter into an interagency agreement with the Secretary of HUD, to provide for distribution of funds and approval of grants to encourage units of local government to adopt and implement community plans and programs designed to achieve significant energy savings and encourage the use of renewable energy resources within their jurisdictions; authorizes the Secretary, if such agreement cannot be reached within the 90 days, to proceed with the program; makes this financial assistance available to qualifying metropolitan cities and urban counties and units of local government within metropolitan areas on an entitlement basis and to other communities on the basis of competition; provides for allocation of funds under a formula having equal weight factors for population and indices of distress (poverty, housing overcrowding, or age of housing); provides that no State could be allocated less than one-half of one percent of available funds; permits a consortium of cities representing a population of at least 200,000 to apply for an entitlement grant; provides for the allocation of funds within a State on a basis of resident population; and authorizes the Secretary to use, during fiscal 1981, such sums as may be provided for such purposes in appropriations acts pursuant to the authority in the DOE authorization bill, S. 2332, and authorizes $80 million for fiscal 1982 and 1983. S. 1280—Passed Senate July 25, 1980. (VV)

Energy Mobilization Board: Provides an expedited and coordinated "fast track" process for decisions by Federal, State, and local governments on proposed non-nuclear energy facilities which are designated as priority energy projects;

Creates an Energy Mobilization Board (EMB) to implement the fast track process with the authority to designate projects as priority energy projects if it determines that they would reduce the Nation's dependence on imported energy; provides that the Board shall consist of a Chairman (who would have exclusive decisionmaking authority except in the selection of priority energy projects) and three members appointed by the President and confirmed by the Senate of which not more than two shall be of the same political party; requires the Board to meet at least once a month;

Prohibits designation of a priority energy project unless EMB finds that the project is likely to reduce, directly or indirectly, the Nation's dependence upon insecure foreign petroleum products; provides that EMB shall designate any fossil fuel electric generating plant which involves the conversion from oil or natural gas to coal or which replaces an oil or gas fired plant with a coal fired facility; requires designation of any hydroelectric project located at the site of an existing dam with a capacity of not more than 30,000 kilowatts; designates oil and gas drilling activities on onshore Federal lands and, instead of a Project Decision Schedule, requires that Federal agencies issue a decision on applications within 100 days and provide for a goal of 30 days for the issuing of permits; requires that an applicant for priority status must have applied for all necessary approvals from State and local agencies and submitted the designation request to the Governor of the affected State; requires EMB, upon designation, to notify the Governor and other appropriate officials of affected areas; requires Federal agencies having jurisdiction over the development of Federal land for energy, coal, oil, or gas production to expedite consideration of applications and make the necessary decisions within 12 months of receipt of the application;

Gives EMB the power to set reasonable deadlines for decisionmaking by Federal, State, and local agencies which may be shorter than the time required for agency decisions under existing law; requires the Board, where possible, to negotiate written cooperative agreements with affected State and local governments regarding deadlines; subjects the reasonableness of the deadlines to judicial review in the Temporary Emergency Court of Appeals (TECA); authorizes Federal and State agencies to adopt special, expedited procedures for meeting EMB deadlines which could include: substitution of legislative-type hearings for trial-type hearings, shorter time periods than those allowed under existing statutory law, and consolidated agency proceedings; authorizes EMB to prescribe special expedited procedures for Federal agencies; requires the Secretary of Energy to provide financial assistance to State and local agencies for the purpose of meeting deadlines if EMB so recommends; requires EMB, in the event a Federal, State, or local agency fails to meet a deadline, to make the decision within 60 days in lieu of the agency (applying the same decision criteria that the agency would have been required to apply) or to seek a court order enforcing the deadline; requires EMB to notify any agency failing to meet a deadline; affirms the authority of any agency to disapprove any application;

Empowers EMB, with the concurrence of the President, to waive Federal, State, or local law as it applies to a priority energy project if the law were adopted after construction of the project had commenced, with the exception of laws relating to labor-management relations, discrimination, crimes and antitrust, provided the Administrator of EPA and the Secretary of Interior have not disapproved such waiver; requires EMB, as a precondition to granting a waiver, to find that the waiver is necessary for timely completion of the project and that it would not unduly endanger public health or safety; allows TECA exclusive jurisdiction to review such waivers; exempts water law from any waiver provisions in the bill; explicitly provides that all priority energy projects must obtain water pursuant to State law and provides that terms and conditions on State water law permits for priority energy projects shall not be deemed to constitute a burden on interstate commerce;

Authorizes EMB to: (1) require that only one environmental impact statement be prepared on a priority energy project and that the statement be used by all Federal, State, and local agencies subject to a National Environmental Policy Act-type requirement; (2) designate the lead Federal agency for preparation of the impact statement; and (3) assign responsibilities to other Federal agencies for cooperating in preparing the environmental impact statement;

Provides for review of all Federal, State, and local agency actions involving priority energy projects in TECA which shall only have appellate jurisdiction but with authority to remand issues of fact to agencies for further proceedings; makes an EMB decision granting priority status to a project exempt from judicial review and a decision denying priority status reviewable; requires that challenges to the resonableness of EMB deadlines be filed within 30 days after promulgation of the deadlines; prohibits TECA from enjoining operation of the deadline but permits it to extend the time period for decisionmaking; authorizes the court on review to grant injunctive relief lasting longer than 90 days except in conjunction with a final judgment;

Requires GAO to transmit a report to Congress on the number of years and dollars saved on energy projects as a result of this bill, and the amount by which imported oil use was reduced; exempts the transportation system authorized by the Alaska Natural Gas Transportation Act of 1976 from EMB jurisdiction except as may expedite the construction of the Alaska Natural Gas Pipeline; requires, where practicable, the use of a single application form by all Federal agencies; and requires EMB to report annually to Congress concerning laws and regulations which significantly hinder the completion of energy projects. S. 1308—Passed Senate October 4, 1979; Passed House amended November 1, 1979; House recommitted conference report June 27, 1980. (336)

Gasohol credit: Amends the Clayton Act to prohibit those engaged in petroleum refining and marketing from placing restrictions on the use of credit instruments in the purchase of gasohol or in any other way discriminating against or unreasonably limiting the sale of gasohol or other synthetic motor fuels. S. 2251—Passed Senate June 20, 1980. (VV)

Geothermal steam production: Revises the Geothermal Steam Act of 1970, as amended, to facilitate and require accelerated exploration and development of geothermal resources; expedites government action in leasing and permits decisionmaking by: setting time goals for decisions on permits and lease applications; establishing a new category of "conditioned leases" to permit early access to lands for exploration purposes without an environmental review; establishing a nomination system for competitive leases to concentrate agency effort on those tracts of greatest interest to industry; directing surface managing agencies to take account of geothermal resources when making land use and other decisions; providing for cooperation and coordination between Federal, State, and local government entities in planning and permit issuance; directing that, to the maximum extent practicable, existing environmental information be used in land use plans; directing that regional environmental standards be established and used in reviewing permit applications; and establishing a system of review and reporting on leasing regulations and agency performance;

Requires that the Secretary develop rules and regulations for diligent development and exploration of Federal leases, including a requirement that lessees submit within three years of receipt of a lease exploration plans and commence drilling within two years of approval of such a plan or drilling permit;

Removes exploration disincentives by: expanding the acreage holding limit per State, thus permitting companies to enable the formation of a sizeable exploration skilled nucleus of employees, to assemble an adequate number of drillable prospects, providing that lease applicants who drill and generate information which leads to known geothermal resources area (KGRA) designation of lands for which they applied prior to drilling are to be given leases on a noncompetitive basis, if a lease is issued at all; and setting an 18 month time limit after which an application for a non-competitive lease is no longer in jeopardy of being invalidated by KGRA designation;

Assures that nationally significant thermal features in national parks and monuments are protected;

Provides additional financial incentives to develop geothermal resources on Federal lands by: narrowing the definition of KGRA's to reduce the amount of land to be bid on a competitive basis; authorizing the Secretary to require a royalty of only five percent on nonelectric geothermal resources; permitting the delayed payment of royalties by municipalities, cooperatives and other political subdivisions in instances where royalty payment would discourage development; permitting free use of geothermal resources by surface owners in certain cases; and providing for a system of declassifying lands from KGRA status if no bids are received when the lands are offered for lease;

Promotes competition in the geothermal industry by: authorizing the Secretary to use alternative bidding systems and establishing a target of 10 percent of the leases offered in a given year for which he is to use such systems, thereby permitting those with less frontend capital to compete with larger companies; and

Establishes a special offering procedure for public power and rural electric cooperatives; and promotes geothermal development by permitting Federal agencies to use resources located on their lands. S. 1388—Passed Senate June 24, 1980. (VV)

Heat crisis program: Authorizes the Community Services Administration (CSA) to borrow $21 million from the Rural Development Loan Fund to assist low-income persons during the heat crisis; assures that the Fund will be paid back with the unused grant funds that CSA has already distributed to the States which cannot be spent because of a June 30 cutoff, and consequently will be returned to the Federal Government; and insures that any funds expended under this Act will be extended to States or areas which have experienced extreme heat conditions for a significant period of time and contain significant numbers of low-income individuals whose health is menaced by heat. S. 2995—Public Law 96–321, approved August 4, 1980. (VV)

Low-income energy assistance: Revises and rewrites the existing authority under the Economic Opportunity Act authorizing low-income emergency energy conservation services administered by the Community Services Administration and reestablishes this authority in a new Title XI, entitled "Comprehensive Energy Conservation Services Program" having three major components: a weatherization program, a crisis intervention program and outreach services, and a supplemental energy conservation services program which includes energy conservation education, alternative energy development, energy audit activities, and energy conservation, demonstration, and pilot projects;

Weatherization program: Authorizes $500 million for 1981, $750 million for 1982, and $950 million for 1983 to provide grants to States for weatherization of low-income homes; requires each State to submit a three-year weatherization plan and, once approved, an annual report updating the plan; requires a State to establish a weatherization council in order to receive financial assistance; specifies the council's responsibilities, including assistance in the preparation of the State plan, and review of local projects;

State allocations: Requires that 95 percent of the States' appropriation for weatherization be allotted according to the following formula: (1) 50 percent distributed according to each State's relative share of aggregate residential energy expenditures, and (2) 50 percent distributed according to each State's relative share of aggregate residential energy expenditures, and (2) 50 percent according to each State's relative share of heating degree days squared, weighted by households below the Bureau of Labor Statistics lower living standard of the State; establishes a minimum allotment for any State whose allotment under the formula is less than $17 million; requires that the CSA Director reserve any remaining sums for: national and regional office training costs, training and technical asisstance, evaluation, demonstration, research, and pilot projects, and incentive grants which will provide a 25 percent Federal match to any State which establishes a weatherization program; provides that up to $2 million from the reserve shall be available for national and regional office administrative costs; places a 3/10ths of one percent limit on the amount of funds to be allocated to the territories; provides for reallocation to be made in proportion to the original State allotments for any portion of a State's allotment which will not be expended during the period for which it is available; authorizes the Director to make direct grants to migrant and seasonal farmers and members of Indian tribes;

Local weatherization projects: Authorizes a State, upon approval of its plan, to designate as a local weatherization project any of the following that have demonstrated effectiveness in supervising or carrying out weatherization services; community action agencies, Indian tribal organizations, community development corporations, public or private nonprofit agencies, community organizations, political subdivisions of a State, or any combination thereof; requires that, in designating local projects, funds be allocated on the basis of the relative need for weatherization assistance, taking into account climate, the energy efficiency of dwellings, energy usage and cost, type of work to be performed and other factors, as determined by the Director; gives priority to community action agencies to conduct local projects under the current DOE and CSA weatherization programs; continues the current practice of establishing local advisory councils; allows weatherization funds to be used to pay labor costs and gives priority for these jobs to youths aged 16 to 24 who have completed a CETA training course, and to the hard core unemployed; provides that wages be paid in accordance with maximum wage limitations, and the minimum wage requirements applicable under CETA;

Eligibility: Makes low-income and near-poor families and individuals eligible for assistance if (1) their incomes are equal to or less than 85 percent of the Bureau of Labor Statistics' lower living standard income level ($9,814 for a family of four), and (2) their residence is in need of weatherization services under criteria established by the CSA Director; requires equitable treatment of owners and renters; requires that the State plan include goals and timetables on the number of rental properties to be weatherized; requires the State to establish criteria for avoiding undue enhancement of the market value of rental property;

Evaluation and monitoring: Requires funds to be reserved to insure that adequate staff and management resources are available; requires the Director to provide for the continuing evaluation of the program;

Crisis intervention program: Authorizes such sums as are necessary for fiscal 1981 through 1983 for crisis intervention, using the same allocation formula for distributing crisis intervention funds as for weatherization funds; requires the Director and the State receiving financial assistance for weatherization or crisis intervention to conduct outreach programs with a particular focus on the elderly, the handicapped, migrant and seasonal farm workers, individuals and families with children, and those residing in remote areas; specifies that community action agencies, State welfare agencies, and ACTION be utilized in implementing outreach activities; requires the Director to submit an annual report on crisis intervention;

Supplemental energy conservation services: Authorized $10 million annually for fiscal 1981 through 1983; and requires the President to establish procedures to coordinate all energy conservation and assistance programs carried out by any Federal department or agency that affect low-income and near-poor individuals and families. S. 1725—Passed Senate February 28, 1980. (*52)

Magnetic fusion: Authorizes the Secretary of Energy to establish an accelerated research, development, and demonstration program in the field of magnetic fusion to achieve demonstration of the engineering feasibility of magnetic fusion by the early 1990's, operation of a magnetic fusion engineering device at the earliest practicable time, but not later than 1990, and operation of a magnetic fusion demonstration plant at the turn of the twenty-first century; requires the Secretary to prepare a comprehensive program management plan which measures the progress in the program; directs the Secretary to develop a plan for a National Magnetic Fusion Engineering Center; provides the Secretary with discretionary authority to require the establishment of an advisory committee at each laboratory where a major magnetic fusion facility is located to foster a broader participation in the magnetic fusion program; requires the Secretary to maintain equitable exchanges in the conduct of cooperative programs with technically advanced nations so that the current U.S. leadership in magnetic fusion is not dissipated; and authorizes for fiscal 1981 such sums as are provided in the Department of Energy Act and authorizes the Secretary to enter into contracts only to the extent or in the amounts as may be provided in advance in appropriations Acts. S. 2926—Public Law 96– , approved 1980. (VV)

Ocean thermal energy conversion: Accelerates ocean thermal energy conversion (OTEC) technology development to provide a technical base for meeting the following goals: (1) to demonstrate by 1986 at least 100 megawatts of electrical capacity or energy product equivalent from OTEC systems and at least 500 megawatts by 1989, (2) to achieve in the mid-1990's for the gulf coast region of the continental United States, an average cost of electricity or energy product equivalent produced by installed OTEC systems that is competitive with conventional energy sources, and (3) to establish 10,000 megawatts of electrical capacity or energy product equivalent from OTEC systems by 1999; directs the Secretary to prepare and transmit to Congress, within nine months of enactment, a comprehensive program management plan for the conduct of research, development, and demonstration activities which meet the established goals in the Act; authorizes the Secretary to initiate and operate a demonstration program utilizing various forms of ocean thermal energy conversion to displace nonrenewable fuels; directs the Secretary to prepare a comprehensive technology application and market development plan that will permit realization of the 10,000 megawatt national goal by 1999 and identify the efforts necessary to establish a sufficient industrial infrastructure and an analysis of necessary Government actions; establishes a seven-member Technical Advisory Panel to prepare and submit annually to the Secretary a report containing an assessment and evaluation of the status of the various programs along with its comments and recommendations for improvements in the comprehensive program management plan; and authorizes, in addition to any amounts authorized in the Department of Energy Authorization Act, $20 million for operating expenses and $5 million for OTEC pilot plants for fiscal 1981 and $60 million for operating expenses and $25 million for OTEC pilot plants for 1982. H.R. 7474—Public Law 96-310, approved July 17, 1980. (VV)

Establishes a licensing and permitting system for ocean thermal energy conversion (OTEC) facilities and plantships (defined as a structure or vessel, respectively, which use temperature differences in ocean water while moving to produce electricity or another form of energy to perform work) with the National Oceanic and Atmospheric Administration (NOAA); requires that OTEC facilities and plantships be documented as U.S. vessels, even if they are not built in the U.S., and that vessels delivering materials and supplies to and from OTEC facilities be U.S. flag vessels; amends the Merchant Marine Act of 1936 to make OTEC facilities and plantships eligible for Federal mortgage guarantees under title XI of that Act; establishes, effective October 1, 1981, an OTEC Demonstration Fund as a subfund of the Federal Ship Financing Fund to provide mortgage guarantees on demonstration projects that would not otherwise meet the requirements of title XI and increases the Fund from $10 billion to $12 billion; makes OTEC facilities eligible for capital construction funds and construction and operating differential subsidies; exempts demonstration projects from the licensing provisions contained in the bill; requires the Secretary of Energy, in making a loan guarantee for the construction of a proposed OTEC demonstration project, to certify to the Secretary of Commerce that there is sufficient guarantee of performance and payment for such project; and authorizes $3 million for fiscal 1981 and $3.5 million each for 1982 and 1983. S. 2492—Public Law 96–320, approved August 3, 1980. (VV)

Small business energy conservation loans: Expands the Small Business Administration's (SBA's) pollution control bond guarantee program to include guarantees to small business concerns for acquisition of energy conservation facilities including: solar energy equipment, equipment which conserves energy by improving the efficiency of existing equipment or systems that utilize fossil fuels, equipment which produces energy or fuels from wood, coal, waste products, grain, or other biomass sources of energy, cogeneration equipment, hydroelectric power equipment, and equipment to convert wind, geothermal, or tidal energy into electricity or other useful forms of energy; provides guarantee authority of $250 million for fiscal 1981 and $300 million for 1982 to meet the increased needs under the pollution control program and to provide the additional energy conservation program; directs SBA to fix a uniform fee for any guarantee issued to a small business, payable under such conditions as the Administrator provides; clarifies the respective rights of SBA and the holder of a guarantee in the event of a default by a participating small business concern; and restores the provision authorizing SBA to invest nonappropriated idle revolving funds in excess of $15 million in bonds or obligations guaranteed by the Federal Government. S. 2635—Passed Senate May 22, 1980. (VV)

Small business solar energy loans: Extends, through fiscal 1981, the solar energy direct loan program (section 7(1) of the Small Business Act), which is the only source of government financing for small solar companies; authorizes therefor $45 million in direct and immediate participation loans and $33 million in guaranteed loans; and directs SBA to consult with regional solar energy centers of DOE in evaluating applications for assistance under the program. S. 2224—Passed Senate May 20, 1980. (VV)

Southwest Power Administration: Directs the Department of Energy to defer, until January 1, 2027, repayment to the Treasury and waive interest costs associated with deficits incurred by the Southwest Power Administration (SWPA) due to the 30-year contract entered into in 1952 between SWPA and Arkansas Power and Light Company and Reynolds Aluminum under which SWPA was required to furnish, with a limitation on rate increases, 150 megawatts of power to the power company for resale to the aluminum company; directs SWPA to adjust the power system average rate schedule in accordance with the repayment deferral; and amends the Flood Control Act of 1944 to extend, from 50 to 60 years, the repayment period for power investments for SWPA. S. 1519—Passed Senate September 9, 1980. (VV)

Synfuels—Energy security: Creates an independent, wholly Federally-owned corporation called the United States Synthetic Fuels Corporation, and establishes national goals for the production of synthetic fuels in the United States of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992; provides that the Corporation shall make available financial assistance to foster commercial production, by private industry, or synthetic fuel which is obtained from coal (including lignite and peat), shale, tar sands (including heavy oil), and hydrogen which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products and chemical feedstocks); also makes eligible for financial assistance those facilities used solely to produce mixtures of coal and petroleum for direct fuel use, facilities used solely for commercial production of hydrogen from water, and any MHD (magnetohydrodynamic) topping cycle used solely for the commercial production of electricity;

Sets the financial resources available to the Corporation over its 12-year lifetime at a maximum of $88 billion, subject to appropriation, which shall be deposited in the Energy Security Reserve (established by the Interior Appropriations Act, 1980) in at least two installments; authorizes the first $20 billion installment upon enactment, subject to appropriation; and provides that subsequent installments shall be authorized by joint resolution, subject to appropriation;

Places the initial emphasis of the Corporation's activities on developing experience with differing fuel technologies for domestic production of synfuels while developing the industrial base to undertake achievement of the production goals; requires the Corporation, precedent to subsequent authorizations and appropriations, to submit to Congress within four years a comprehensive production strategy on which Congress must act under expedited procedures; empowers the Corporation to provide financial assistance for commercial synthetic fuel projects in a specified order of priority; provides that before construction of any government-owned contractor-operated (GOCO) synfuel plant, the Corporation must offer right of first refusal to private industry to construct such plant, giving 30 days notice; limits authority for building GOCO's to no more than three projects, prior to approval of the comprehensive strategy; makes Corporation construction porjects subject to the environmental impact statement requirements of the National Environmental Policy Act: makes loans and guarantees subject to the Davis-Bacon Act; terminates corporation authority to obligate funds after December 30, 1992; and terminates the Corporation by December 30, 1997;

Biomass and alcohol fuels urban waste: Establishes a comprehensive biomass and alcohol fuels program and authorizes $1.2 billion for fiscal 1981 and 1982 therefor; requires the Department of Agriculture (USDA) and the Department of Energy (DOE) to prepare an overall Federal plan for biomass energy development to achieve an alcohol production level of 60,000 barrels per day by the end of 1982, and to submit, by January 1, 1982, a comprehensive strategy to achieve an alcohol production level of at least 10 percent of estimated gasoline consumption in 1990; gives the USDA jurisdiction over all projects involving agricultural and forestry resources normally producing less than 15 million gallons of synfuel and gives DOE and the USDA concurrent jurisdiction over agricultural projects producing over 15 million gallons of synfuel; directs the Federal Government, where feasible, to use gasohol in its motor vehicles, and directs the Secretary of Energy, in consultation with the Secretary of Transportation, to submit to Congress a study on whether legislation is needed to require that any new motor vehicle be capable of operating on gasohol or on pure alcohol; establishes a new Office of Energy from Municipal Waste in DOE with responsibility for continuing the existing urban waste program with minimal disruption and reorganization and authorizes $250 million therefor; gives priority funding to commercialization of technologies which can displace oil and gas and which are both technically and economically feasible; provides for financial assistance for construction in the form of loans and loan guarantees not to exceed 75 percent of total capital costs and authorizes the Secretary to provide price supports with no repayment of principal and interest for new facilities;

Energy targets: Requires the President to submit annual energy targets (non-binding goals) for net imports, domestic production, and end-use consumption for 1985, 1990, 1995, and 2000; establishes a process for Congress to debate and vote on, and the President to approve, a comprehensive and internally consistent set of energy targets during the first sessions of the 97th and 98th Congresses under expedited procedures during the 97th Congress only;

Omnibus Solar Commercialization Act of 1980: Establishes incentives for the use of renewable energy resources by: (1) directing the Secretary of Energy to coordinate solar and conservation information dissemination activities funded by the DOE and submit annual reports to the Congress on their status, (2) requiring DOE to use a seven percent discount rate and marginal fuel costs in calculating the life cycle costs of conservation and solar investments in Federal buildings, and (3) establishing a three-year pilot program to promote local energy self-sufficiency through the use of renewable energy resources, with a $10 million authorization in fiscal 1981; allows the Federal Energy Regulatory Commission under the Federal Power Act to exempt projects below five megawatts from certain licensing requirements on a case-by-case basis; requires DOE to promulgate regulations to implement the financial assistance programs for small-scale hydro commercialization programs within six months; extends through 1982 the $110 million authorized in the National Energy Act for this purpose;

Solar energy and energy conservation: Establishes, until September 30, 1987, a Solar Energy and Energy Conservation Bank in HUD to make payments to local financial institutions willing to provide below-market rate loans or a principal reduction on loans to borrowers for solar and conservation improvements; gives the Bank the same corporate powers as the GNMA, and provides that it be governed by a Board of Directors, composed of the Secretaries of HUD, Energy, Treasury, Agriculture and Commerce, and establishes Advisory Commitees on Solar Energy and Energy Conservation to assist it; authorizes $2.5 million for fiscal 1981 through 1984 for conservation purposes and $525 million for 1981 through 1983 for solar purposes of which up to $10 million in fiscal 1981 and $7.5 million in 1982 and thereafter would be available annually out of each appropriation to promote the solar and conservation loan programs:

Residential energy conservation grants; Establishes a Residential Conservation Office in DOE to supervise a State-run grant program in which the Federal government would share the cost of residential energy conservation measures and reserves up to 15 percent of the funds authorized for conservation under the Solar Energy and Energy Conservation Bank;

Residential energy efficiency program: Authorizes DOE to establish a program to ascertain the conservation effectiveness of contracting with private companies to conduct systematic residential audits and install energy conservation measures throughout defined geographic areas; and authorizes $10 million for fiscal 1981 and 1982 for demonstration projects;

Energy auditor training and certification: Authorizes $10 million in fiscal 1981 and $15 million in 1982 to the Secretary of Energy for grants to States to support training and certification of energy auditors of residential and commercial buildings;

Industrial energy conservation: Authorizes not to exceed $40 million each for fiscal 1981 and 1982 (which is in addition to funds authorized in other measures) to the Secretary of Energy to accelerate research, development, and demonstration of energy productivity for high pay-off Industrial Conservation Demonstration projects under the existing DOE program;

Weatherization grant program: Limits administrative expenses of the low-income weatherization assistance program already authorized to not more than 10 percent of any weatherization grant and provides that not more than one-half of this amount may be used by any State for this purpose; authorizes DOE to increase the $800-per-dwelling-unit-limit to not more than $1,600 to secure installation of weatherization materials where the Secretary determines that an insufficient number of volunteers, training participants, and public service employment workers are available; increases from $100 to $150 the limit on the cost of making incidental repairs necessary to installation of weatherization materials; gives the Community Action Agency preference to continue managing a weatherization program where it has demonstrated the program is effective but otherwise repeals their authority in this area;

Geothermal Act of 1980: Establishes financial assistance programs in DOE to: (1) promote exploration and confirmation of geothermal reservoirs for which a total of $85 million is authorized in Federal loans and loan guarantees for fiscal 1981 through 1985; (2) provide for feasibility studies for which $5 million is authorized in fiscal 1981; and (3) construct specific geothermal projects for which authorization is deferred until fiscal 1982; directs DOE to conduct a reservoir insurance study in cooperation with the insurance and reinsurance industry;

Acid Precipitation Act of 1980: Authorizes $5 million to establish an Interagency Task Force (chaired jointly by the Administrators of the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency and the Secretary of Agriculture) to conduct a comprehensive ten-year research program to identify the causes and effects of acid precipitation; sets an overall ceiling of $45 million on the program;

Carbon dioxide study: Authorizes $3 million for a comprehensive study on the projected impact of fossil fuel combustion, coal conversion, and related synfuels activities on the level of carbon dioxide in the atmosphere and report thereon to Congress within three years;

Strategic petroleum reserve: Requires the Federal Government to commence filling the Strategic Petroleum Reserve (SPR) at a minimum average rate of 100,000 barrels per day; requires, with certain exceptions, that, if this fill rate is not achieved, any production from Elk Hills and Teapot Dome Naval Petroleum Reserves must be sold or exchanged so as to be stored in the SPR. S. 932—Public Law 96-294, approved June 30, 1980. (*228)

Underground coal gasification and unconventional gas: Establishes several national goals for underground coal gasification and unconventional natural gas production, as follows: (1) the demonstration of a production capacity equivalent to at least 15 million cubic feet per day of synthetic natural gas or energy product equivalent from underground coal gasification by 1987, (2) the construction and operation of at least one commercial underground coal gasification plant by 1992, (3) the establishment of a production capacity equivalent to 2 trillion cubic feet per year of natural gas from underground coal gasification by the year 2000; and (4) the production of three trillion cubic feet per year of unconventional natural gas by 1990 and six trillion cubic feet per year by 2000; requires the Secretary to prepare and transmit to Congress by January 30, 1981, a comprehensive program management plan to achieve the introduction of underground coal gasification and unconventional natural gas recovery activities in time to achieve the national production goals; authorizes the Secretary to undertake the necessary research and development activities to develop applicable technologies for commercialization in the industry; and authorizes for fiscal 1981, funds appropriated pursuant to the authority of the Department of Energy authorization for civilian programs, and, for fiscal 1982, an additional $100 million for underground coal gasification activities. S. 2774—Passed Senate September 24, 1980. (VV)

Vessel tonnage—strip mining: Extends to small commercial vessels (under 24 meters) the option of using the simplified tonnage procedures now used by pleasure vessels; removes the requirement that States comply with Office of Surface Mining regulations except with regard to prime farm land and alluvial valleys, but leaves intact the requirement that States comply with the Surface Mining Act of 1977; extends until October 3, 1981, the deadline for approval or disapproval of a State plan, and until June 3, 1982, the deadline for industry compliance with the State plan; requires the Secretary of Interior to act on a State's reclamation plan for non-Federal land before a reclamation policy for Federally-owned lands in any State may be finalized; and gives State officials primary responsibility for mine inspection but provides that Federal inspectors would assume this responsibility where a State reclamation plan has been disapproved by the Secretary of the Interior. H.R. 1197—Passed House September 17, 1980; Passed Senate amended August 22, 1980; In conference. (*378)

Waste oil recycling: Amends the Solid Waste Disposal Act to encourage the use of recycled oil; requires that fresh oil be labeled to encourage its return and reuse and re-refined oil be labeled to apprise the consumer of its suitability for its intended use; prohibits use of the term "previously used" in the label; requires the Federal Government to assign the highest priority to the development of quality control and procurement standards for re-refined oil; encourages States to develop programs for the collection and recycling of used oil and authorizes therefor $25 million annually for fiscal 1982 through 1987, in Federal grant assistance; authorizes the Administrator of EPA to delegate the authorities of the Resource Conservation and Recovery Act to assist States in developing their programs; authorizes EPA to regulate the collection, disposal, or processing of used oil as a hazardous waste; prohibits contracts or agreements intended to discourage the use of recycled oil if such use is consistent with the required labeling for recycled oil; and allows injured parties to recover up to three times the damage suffered. S. 2412—Passed Senate August 18, 1980. (VV)

Wind energy conversion: Authorizes $100 million to the Secretary of Energy for fiscal 1981 to promote the development and commercialization of wind energy systems which would provide up to 800 megawatts of electric power by 1989 of which at least 100 megawatts are provided by small wind energy systems; directs the Secretary to prepare and transmit to Congress, within nine months of enactment, a comprehensive management plan for the conduct of research, development, demonstration, and technology applications activities; directs the Secretary, in preparing the plan, to utilize the conference committee estimates of costs and the number of wind energy systems units to be provided for in formulating the eight-year program and requires that the plan be updated annually as part of the President's budget to Congress; directs the Secretary to initiate or accelerate ongoing research and development in areas in which the lack of knowledge limits the widespead utilization of wind energy systems and to provide Federal funds for activities leading to the testing of prototypes of advanced wind energy systems; directs the Secretary to establish a technology application program to achieve cost reductions for wind energy systems through mass production and determine the operation and maintenance costs through operational system experience; authorizes the Secretary to provide financial assistance to public or private entities wishing to utilize wind energy systems; directs the Secretary, within six months, to establish a cost sharing grant program whereby a public or private entity can apply and receive a loan for up to 75 percent of the total purchase and installation cost of a wind energy system; authorizes the Secretary to provide funds for the accelerated procurement and installation of wind energy systems by Federal agencies; authorizes the Secretary to initiate a three-year national wind resource assessment program which will validate existing assessments of known wind resources, initiate the wind site prospecting program and establish a wind data center with the assistance of NOAA and EPA; establishes priorities for program selection; requires the Secretary to monitor the performance, collect and evaluate data from, and carryout studies and evaluation of wind energy systems installed under this legislation and to maintain liaison with industry and the technical community; directs the Secretary to initiate studies on the Federal applications of wind energy systems at Federal facilities, and to evaluate the actual performance of such system in various applications; requires DOE to encourage small business participation in the program and directs the Secretary to assure compliance with the antitrust laws and provide a competitive wind energy systems manufacturing industry; and permits the Secretary to carry out wind energy projects and activities in addition to those specified. H.R. 5892—Public Law 96-345, approved September 8, 1980. (VV)

Windfall profit tax: Imposes a $227.7 billion windfall profit tax, a temporary excise or severance tax, on taxable crude oil produced in the United States according to its classification in one of three tiers; derives the tax by multiplying the appropriate tier tax rate times the windfall profit which is defined as the difference between the actual selling price of the oil and its base price (with a deduction for State severence taxes on the windfall profit); taxes tier 1 (oil discovered prior to 1979 that would have been controlled as lower or upper tier oil had price controls remained in effect) at 70 percent with a base price at the May 1979 upper tier ceiling price (which averaged $13.02 per barrel) less $.21, adjusted for inflation; includes production from the Sadlerochit Reservoir on the Alaskan north slope in this tier; taxes tier 2 (oil from stripper wells and a national petroleum reserve) at 60 percent with a base price of $15.20 per barrel adjusted for inflation and differences in quality and location; taxes tier 3 (newly discovered oil, certain heavy oil, or incremental tertiary oil) at 30 percent with a base price of $16.55 per barrel adjusted for inflation plus two percent and for differences in quality and location; allows independent producers a reduced tax rate on up to 1,000 barrels per day of qualifying tier 1 oil at 50 percent and tier 2 oil at 30 percent; exempts from the tax State and local governments, certain charitable medical facilities and educational institutions, and Indian tribes; exempts new oil produced in most of Alaska and front-end tertiary oil; limits the windfall profit subject to tax to 90 percent of net income from property with qualified tertiary injectant expenses being capitalized; makes the windfall profit tax deductible as a business expense; for purposes of computing percentage depletion, gross income from the property is not reduced by the windfall profit; phases out the entire windfall profit tax over a 33-month period after December 31, 1987, (but no later than December 31, 1990), or when cumulative revenues raised by the tax reach $227.3 billion, whichever is later; and makes the tax effective for production after February 29, 1980;

Residential energy tax credits: (Estimated cost of $600 million for 1980–1990) Increases the existing tax credit for residential solar energy property to 40 percent of the first $10,000 of expenditures and makes additional kinds of property eligible for that credit; adds specific standards for the Secretary of the Treasury to use when exercising the existing authority to add items to the list of property eligible for the home insulation and solar energy tax credits;

Business energy tax incentives: (Estimated cost of $8.086 billion for 1979–1990) Increases to 15 percent and extends through 1985 the energy investment credit for solar, wind, and geothermal equipment, as well as the solar credit to equipment used to provide process heat; provides a 15 percent energy credit for certain ocean thermal equipment; provides an 11 percent energy credit for small-scale hydroelectric equipment; provides a 10 percent energy credit through 1982 for cogeneration equipment not fueled by oil or gas; sets specific standards for the Secretary of the Treasury to use in exercising the existing authority to add items to the list of property eligible for the business energy credits; restores the regular investment credit and accelerated depreciation to boilers using petroleum coke and pitch; contains a 10 percent energy credit through 1982 for coke ovens; extends through 1985 the energy credit for certain biomass and gasohol equipment: contains a 10 percent energy credit through 1985 for certain intercity buses with increased seating capacity; contains a transition rule for energy credits expiring in 1982 to allow those credits through 1990 where affirmative commitments have been made; provides a $3 per barrel credit for the production of various alternative energy sources; extends through 1992 the excise tax exemption for gasohol, along with various other tax incentives for gasohol; exempts industrial development bonds used to finance small-scale hydroelectric equipment, certain solid waste disposal facilities, and certain renewable energy programs; and allows expensing of injectants used in tertiary oil recovery;

Low-income energy assistance: Authorizes $3.115 billion for fiscal 1981 for a program of block grants to the States to provide assistance to lower-income families for heating and cooling costs; restricts eligibility to households which have incomes less than the Bureau of Labor Statistics (BLS) lower living standard which in 1979 was $11,600 on a national average for a family of four; allows States to give assistance, regardless of income, to households which receive food stamps, AFDC, needs-tested veterans' pensions, or SSI with certain exceptions; allots by formula 95 percent of the total amount appropriated to the 50 States and the District of Columbia, and reserves five percent for the territories, the Community Service Administration's crisis intervention program ($100 million), and matching incentive grants for State initiatives under this program; provides that the basic formula will allot half of the funds according to a State's aggregate residential energy expenditure (relative to the total for all States) and half according to heating degree days squared, weighted by the number of households below the BLS lower living standard; provides that a State allotment shall be large enough to provide at least $120 per year to each AFDC, SSI, and food stamp household in the State; provides further that no State shall receive less than the lower of the amounts it would have received under either of two alternatives formulas; authorizes $25 million to meet the additional costs resulting from the application of the minimum benefit provision to certain States requires each State to submit an energy assistance plan, which would be subject to approval by the Secretary of Health, Education and Welfare; and provides that any assistance provided under this Act could not be counted as income or resources under any Federal, State, or local program of assistance or taxation;

Disposition of windfall profit tax revenue: Provides that the net revenues from the windfall profit tax be allocated only for the following specific purpose to a separate account at the Treasury: (a) Aid to Lower-Income Households—25 percent of net revenues; provides that for fiscal 1982 and subsequent years these funds shall be divided equally between the program to assist AFDC and SSI recipients and a program of Emergency Energy Assistance; (b) Individual and Corporate Income Tax Reductions—60 percent of net revenues for tax cuts to help taxpayers cope with higher energy prices; and (c) Energy and Transportation Spending Programs—15 percent of net revenues;

Other income tax provisions: Repeals the carryover basis provisions enacted in 1976 regarding estate tax law under which the taxable base for appreciation on an inherited asset is valued at the time of its acquisition by the decedent rather than at the time it is inherited; allows a $200 exclusion for interest and dividends ($400 for married couples) effective for tax years 1981 and 1982; and modifies the LIFO inventory accounting rules; and

Oil imports: Denies the President the authority to impose oil import quotas if Congress passes a joint resolution disapproving such a quota, with a right of veto which could be overridden by a two-thirds vote of both Houses. H.R. 3919—Public Law 96-223, approved April 2, 1980. (496, *67)

Wood utilization: Authorizes the Secretary of Agriculture, in order to utilize available forest resources for the production of energy and other wood products, to establish and operate pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues which may include development and operation of wood utilization and demonstration areas where wood residues have accumulated, development and establishment of fuelwood concentration and distribution centers, and construction of access roads; authorizes therefor $50,000 annually for fiscal 1982 through 1986; authorizes the Secretary to establish a pilot wood utilization program using "residue removal incentives" to pay purchasers of national forest system timber for their costs in removing wood residues from timber sale areas to points of prospective use; and requires the Secretary to submit annual reports to Congress on the pilot wood utilization program. S. 1996—Passed Senate March 25, 1980; Passed House amended August 18, 1980. (VV)

ENERGY—NUCLEAR

High level nuclear waste management project, New York: Authorizes $5 million for fiscal 1981 for the Secretary of Energy to establish a project to solidify the high-level liquid nuclear waste currently stored in tanks at the Western New York Service Center in West Valley, New York, and to transport the waste to a long-term Federal repository; requires decontamination of the facilities used in the project; directs the Secretary to enter into contracts and cooperative agreements with the State of New York for joint conduct of the project; requires the Secretary to consult with the Nuclear Regulatory Commission and other agencies in developing a plan to carry out this project, prepare required environmental impact statements, and hold public hearings to keep residents in the vicinity of the project informed of activities; insures that the Federal Government does not take title to the West Valley nuclear wastes until they have been processed for final disposal; and requires the Secretary to submit annual reports to Congress including a detailed description of activities. S. 2443—Public Law 96- , approved 1980. (VV)

International Atomic Energy Commission agreement: Approves the submission of the President of the Second Amendment to the Agreement for Cooperation Between the International Atomic Energy Agency and the United States of May 11, 1959, in Vienna, Austria, on January 14, 1980, and transmitted to Congress on February 1, 1980, which brings the Agreement into conformity with the requirements of the 1978 Nuclear Nonproliferation Act. S. Con. Res. 88—Senate agreed to April 28, 1980. (VV)

Low-enricher uranium exports: Authorizes the administration to waive an existing ceiling established in any bilateral agreement on the U.S. export or transfer of low-enriched uranium fuel to states party to the Treaty on the Non-Proliferation of Nuclear Weapons. S.J. Res. 89—Public Law 96-280, approved June 18, 1980. (VV)

Nuclear cooperation agreement with the United Kingdom: Approves the submission of the President containing the text of the amendment to the Agreement Between the United States and the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes of July 3, 1958, signed on December 5, 1979, and transmitted to the Congress on November 28, 1979, which extends for an additional five years, until December 31, 1984, the authority of the United States to transfer nonnuclear parts, source, byproduct, special nuclear material and other material for nuclear weapons, and special nuclear material for fueling military propulsion reactors to the United Kingdom. S. Con. Res. 77—Senate agreed to February 27, 1980. (VV)

Nuclear Reactor Safety: Provides for an accelerated program of light water nuclear reactor safety research and development, to be carried out by the Department of Energy. H.R. 7865—Passed House August 25, 1980; Passed Senate amended September 26, 1980. (VV)

Authorizes $426.51 million for fiscal 1980 for the Nuclear Regulatory Commission (NRC) which includes $66.51 million for nuclear reactor regulation; $42.44 million for inspection and enforcement, $15.953 million for standards development; $32.38 million for nuclear material safety and safeguards, $213.005 million for nuclear regulatory research, $18.125 million for program technical support, and $33.408 million for program direction and administration; provides a reprogramming mechanism applying to any reallocation resulting in increasing or decreasing the amount allowed for an office by more than $500,000 which requires prior notification to the appropriate Congressional committees; includes $9,675,000 for the nuclear waste management program including funds to support five additional positions to implement the Uranium Mill Tailing Radiation Control Act of 1978 (Public Law 95-604); $6.7 million for nuclear waste activities within the Office of Nuclear Regulatory Research; $4.4 million to continue the program of research into improved safety systems for nuclear power plants; and $3.7 million for acceleration of gas-cooled thermal reactor safety research; adds $400,000 for eight additional positions in the Division of Contracts, Office of Administration, to address contract monitoring and close out deficiencies at NRC; requires the establishment of a Senior Contracts Review Board to review and approve all arrangements with other Federal agencies, all contracts for research services, and modifications to existing contracts and arrangements, in amounts greater than $500,000 and requires NRC approval for amounts greater than $1 million;

Direct NRC to expand its resident inspector program to require one inspector at each operating reactor unit and at each unit undergoing pre-operational testing in addition to an inspector assigned at each facility site; calls for a GAO study of the advantages of expanding the resident inspector program and/or of expanding the regional inspection program; requires NRC to promulgate demographic requirements within 180 days for the siting of nuclear facilities; prohibits issuing of any construction permit that does not comply with the siting regulations and

Amends the Atomic Energy Act of 1954 to increase from $5,000 to $10,000 the amount of civil penalty which may be imposed for a single violation and to eliminate the $25,000 ceiling on the amount of penalty which may be assessed for continuing violations; extends criminal penalties to any individual who knowingly and willfully violates NRC safety standards that govern construction or operation of a nuclear plant;

Unless NRC is satisfied that the State emergency response plan for that facility adequately protects the public health and safety; requires NRC approval of State emergency plans of existing nuclear facilities or face an order directing the shut-down of plants; directs NRC to promulgate minimum requirements for State plans and, pending promulgation of these requirements, to rely on the guidelines employed in the voluntary concurrence program in assessing the adequacy of State plans; requires NRC to implement measures to safeguard the public health for facilities without approved State plans; directs NRC, within six months, to promulgate by rule a plan for responding to an "extraordinary nuclear occurrence", as defined in the Atomic Energy Act; requires the President to prepare, publish, and periodically revise, a national contingency plan to protect the public health and safety in case of extraordinary nuclear occurrence; provides that implementation of the plan be triggered by an NRC determination of a possible or actual extraordinary nuclear occurrence which would also trigger its own plan to be regarded as conclusive; requires incorporation of NRC's emergency response plan into the national plan;

Amends the licensing requirements of the

Atomic Energy Act to require immediate NRC notification by a plant operator in the event or likelihood of an extraordinary nuclear occurrence and provides that failure to give such notification could result in revocation of an operating license; directs NRC to establish a means for instant communication with a nuclear power plant during an emergency and, within 90 days, to prepare and transmit to Congress a plan for remote and instantaneous NRC monitoring of the principal safety instruments and radiation monitors at all nuclear power plants;

Mandates a comprehensive study to explore the deficiencies in communications encountered by the various NRC officials, licensee officers and personnel, and the Governor and other State officials in the 30-day period following the March 28, 1979, accident at the Three Mile Island unit 2 nuclear generating facility in Pennsylvania which shall include a determination of the need for improved procedures and for advanced technology; requires submission of a report by January 1, 1980, on the findings of the investigation and study including recommendations of any measures necessary to provide for expeditious and reliable communications in the event of a future accident at a nuclear generating facility; provides that each recommendation not requiring new legislation be implemented as soon as practicable as well as included in NRC's emergency response plan;

Directs NRC to submit to Congress: (1) a plan including criteria for improved training, retraining, and licensing programs for reactor operators which emphasizes emergency response training and direct attention to assure that the plant is operating in accordance with the requirements of its license, and (2) a feasibility study of licensing plant managers and other utility personel who have authority to make operating decision affecting the plant;

Amends Public Law 95–601, the fiscal 1979 NRC Authorization Act, to require NRC and EPA, in consultation with the Secretary of HEW, to expand the feasibility study of epidemiological research to include populations exposed to low levels of radiation during and after the Three Mile Island accident and individuals exposed during ultimate decontamination, decommissioning, or repair of the facility; extends the final reporting date from September 30, 1979, to September 30, 1980;

Requires NRC to promulgate regulations proving State notification prior to transport of nuclear waste within its borders; provides the NRC with certain authority for temporary suspension of agreements in emergency situations; and prohibits the use of funds for disposing nuclear wastes in the oceans. S. 562—Public Law 96–295, approved June 30, 1980. (178)

Authorizes $445.1 million for salaries and expenses of the Nuclear Regulatory Commission (NRC) for fiscal 1981 which includes: $68,775,000 for the nuclear reactor regulation program; $53,049,000 for inspection and enforcement activities; $15,730,000 for standards development; $41,930,000 for nuclear materials safety and safeguards; $210,208,000 for nuclear regulatory research; $18,511,000 for program technical support; and $36,897,000 for program direction and administration; provides a reprogramming mechanism which applies to any reallocation of funds between program offices by more than $500,000; requires NRC to develop a safety goal for nuclear reactor regulation to assure protection of public health and safety and to conduct a study on the ability of strategic analysis techniques to enhance the safeguarding of nuclear materials; earmarks $500,000 for NRC to coordinate and conduct a monitoring engineering assessment and remedial action program for the management of uranium mill tailings in the area surrounding the Edgemont, South Dakota, uranium mill site; requires the Administrator of EPA to propose, within 60 days of enactment, standards of general application for the protection of the public health, safety, and the environment all hazards associated with uranium mill tailings; calls for a report on the preliminary planning which includes a detailed description of the remedial action required for each location and a cost estimate cost, within 120 days of enactment; requires NRC to report on the progress of the monitoring, engineering assessment, and remedial action program in its annual report; directs NRC to allocate $2.8 million in the research program for gas-cooled reactor safety research in fiscal 1981 and $19.7 million for fast breeder reactor safety research if legislation is enacted appropriating funds in fiscal 1981 for a Department of Energy demonstration breeder reactor project; amends the Atomic Energy Act of 1954 to extend criminal penalties to any individual who willfully and intentionally causes or attempts to cause a mechanical interruption of normal operation of a nuclear powerplant or nuclear waste storage facility; and directs the Comptroller General, in cooperation with NRC, to carry out a detailed study of the fiscal conditions of the General Public Utilities Corporation (which owns and is responsible for the operation of the nuclear powerplant at Three Mile Island) and its future role as a provider of electrical power in Pennsylvania and New Jersey. S. 2358—Passed Senate July 31, 1980. (VV)

Nuclear waste policy: Establishes a Federal program for the interim storage of spent nuclear fuel away from the reactor; authorizes the Secretary to enter into contracts to take title to and transport spent fuel to interim away-from-reactor storage facilities and to dispose of waste products associated with the spent fuel; requires the Secretary to publish in the Federal Register, within 180 days of enactment, notice of intent to enter into contracts; requires the Secretary to establish a one-time charge for spent fuel storage on an annual basis and publish the charge and the calculation upon which it is based in the Federal Register; directs the Secretary to acquire the storage facility which is licensed and has sufficient capacity to accommodate all spent fuel contracted for; authorizes, for the construction of the storage facility, the use of funds authorized for a similar facility under the fiscal 1980 Department of Energy authorization legislation and funds authorized or appropriated to the Secretary of Energy for such facilities under previously enacted laws;

Requires the Secretary to submit to Congress, within one year of enactment, a site-specific proposal for the disposal of spent fuel and high-level radioactive waste in repositories permitting continuous monitoring and retrieval of the waste; requires an environmental assessment to be prepared to accompany the proposal;

Provides the States with statutory rights to participate in the Federal (DOE) nuclear waste repository development program; requires DOE to file three key reports with Congress for review; provides a mechanism for a one-House veto if either House disapproves by concurrent resolution a repository proposal or a two-House veto with regard to military nuclear waste facilities; requires DOE, in consultation with other Federal agencies, to prepare an annual nuclear waste management plan for fiscal 1982–86; establishes by statute an Advisory State Planning Council on Nuclear Waste Management as a means of participation by States, localities and Indians in all major facets of Federal nuclear waste policymaking and planning activities;

Directs the continuation and acceleration of a vigorous program of research and development on a broad range of radioactive waste disposal technologies;

Establishes a separate account in the Treasury to receive all funds for the administration of the interim and long-term storage facility, including transportation, and provides that the appropriations for the facility, borrowings for the subsequent operation of the program, as well as receipts and charges collected pursuant to the program, shall be covered in the account;

Directs the Secretary to submit a report to the Congress within four months evaluating several specific matters and making recommendations with respect to low-level radioactive waste; and authorizes DOE to provide financial and technical assistance to States to carry out a Federal policy under which each State is responsible for disposal of low-life radioactive waste generated by non-Federal related activities within its borders and authorizes States to enter into agreements for regional management and disposal of such waste. S. 2189—Passed Senate July 30, 1979. (*329)

ENVIRONMENT

Alaska lands: Provides for the designation of 104.1 million acres of Federal land in Alaska for protection of their resource values under permanent Federal ownership and management (compared to 128 million acres in the House-passed bill), of which 56 million acres are designated as wilderness (compared to 67 million in the House bill);

National Park System: Designates 24.6 million acres as new parks and 19 million acres as preserves, including: Gates of the Arctic, 7 million acres of park and one million acres of preserve; Noatak, 6.4 million acres of preserve; Wrangell-St. Elias, 8.1 million acres of park and 4.2 million acres of preserve; Katmai, 1 million acres of park and 308,000 acres of preserve; Denali, 2.4 million acres of park and 1.3 million acres of preserve.

National Wildlife Refuge System: Establishes or expands 14 management units from the National Wildlife Refuge System totaling 54 million acres (compared to 80 million acres in the House bill) and sets out specific rules for management and use of these areas; includes: Yukon Flats, 8.6 million acres; Arctic Refuge, 9.2 million acres; Togiak Refuge, 500,000 additional acres; Yukon Delta, 13.4 million acres; Nowitna, redesignated as a wildlife refuge; contains provisions for a possible trade between the State and the Federal Government for lands within the Tetlin Refuge;

National Conservation Areas: Establishes 2 national conservation areas totaling 2.2 million acres and 1 national recreation area of 1 million acres, to be administered by the Secretary of the Interior through the Bureau of Land Management; sets out specific rules for management and use of these areas;

National Forest System: Designates a 2.3 million acre Misty Fjords National Forest Monument in the Tongass National Forest, and a 920,000 acre Admiralty Island National Monument, with the Green Creek mineral deposit inside the Monument but excluded from wilderness; permits the use of the land for navigation aids and docking and transfer facilities with regard to U.S. Borax mining operations in the Quartz Hill molybdenum deposit; sets out specific rules for management and use of these areas, and makes provisions for specific mining operations;

National Wild and Scenic Rivers System: Designates 25 rivers or river segments as components of the Wild and Scenic Rivers System and designates 12 rivers for study for possible inclusion in the system; provides a one-half mile corridor for the component rivers, and a two-mile corridor withdrawal for rivers designated for study (compared to a two-mile corridor for both in the House bill);

National Wilderness Preservation System: Designates 56 million acres as part of the National Wilderness Preservation System:

Subsistence management and use: Recognizes the importance of subsistence use of fish, wildlife, and other resources by many Alaskans; establishes a statutory preference for subsistence resource use over other uses including sport hunting and fishing; establishes a specific statutory program to assure that the preference is implemented under State regulation and management; opens several new parks for subsistence purposes, including Wrangell, Lake Clark, McKinley additions, and Aniakchak;

Alaska Native Claim Settlement Act and Alaska Statehood Act: Provides for conveyance of Federal lands to Alaska Natives and the State of Alaska so as to fulfill the land grants made under the Alaska Native Claims Settlement Act and the Alaska Statehood Act; amends the Native Claims Act to simplify its administration and assure that Native Alaskans receive full benefits which the Congress intended in the original law; authorizes a number of specific selections which will benefit both the natives and the Federal Government;

Federal North Slope lands study program: Recognizes the unique combination of wilderness, wildlife, and oil and gas values on the Alaska North Slope by directing a special study of all Federal lands in the area, except the National Petroleum Reserve-Alaska, to assure that all elements of resource use and preservation will be presented to Congress at the same time; includes a special oil and gas exploration program for the Arctic National Wildlife Range, an oil and gas leasing program for non-North Slope Federal lands and a mineral resource assessment program; and prohibits seismic testing within 2 years of enactment;

Access for transportation and utility systems: Establishes a special procedure for allowing access for transportation and other purposes across and into conservation system units; recognizes the need to balance protection of the resources and the need for access to permit development of Federal, State, and private lands not included in such units;

Federal-State cooperation: Establishes an Alaska Land Use Council as an innovative vehicle for Federal and State cooperation in the management of Federal and State lands; authorizes special cooperative agreements for wildlife refuges and designates the Bristol Bay Cooperative Region as a unique experiment in Federal-State cooperation;

National need mineral activity recommendation process: Establishes a special procedure under which the President, with Congressional approval, can permit mineral exploration, development and extraction which is prohibited under existing law, but may be needed to meet future national needs. H.R. 39—Passed House May 16, 1979; Passed Senate amended August 19, 1980. (*359)

Clean water: Authorizes $320.884 million in fiscal 1981 and $297.794 million in fiscal 1982 for programs under the Clean Water Act including: (1) research, investigations, and training including the Great Lakes and Chesapeake Bay programs, (2) grants for pollution control programs, (3) areawide waste treatment management planning process grants, (4) rural nonpoint source pollution control, (5) clean lakes grants to States, and (6) projects not specifically authorized; allows the Administrator of the Environmental Protection Agency (EPA) to exempt from reallocation any construction grant funds which remain unobligated more than two years for court ordered projects, and funds for innovative and alternative technologies; authorizes EPA to allocate construction grant funds of the State of New York to carry out a project to demonstrate methods for selective removal by dredging of polychlorinated biphenyls (PCBs) contaminating bottom sediments of the Hudson River, treatment, burial in secure landfills, and installation of landfill monitoring systems; and authorizes grants for 75 percent of the cost of the PCB reclamation project from New York's state allotment, unless such funds are made available under the in-place toxic pollutants program or by a comprehensive hazardous substance clean up fund; repeals the industrial cost recovery provisions for grants for the construction of treatment works which required that: (1) industrial users repay the portion of the Federal share of the construction cost of treatment works allocable to industrial wastes treatment, (2) the grantee retain a specified portion of such revenues, and (3) the Administrator of EPA be authorized to exempt certain industrial users from such payments; allows a grantee to retain revenues derived from the payment of costs by industrial users of waste treatment service collected prior to December 27, 1977; requires that retained revenues be used for operation, debt reduction, expansion, or reconstruction; prohibits the use of grants made under the Clean Water Act after September 30, 1980, to enable a publicly owned treatment works, to treat, store, or convey the flow of any industrial user in excess of a 50,000 gallons per day equivalent of sanitary waste; and permits States to reduce the Federal share of water projects statewide below 75 percent; requires the Secretary of Transportation to notify Congress whenever the unobligated balance of the fund is less than $12 million; and prohibits EPA from conducting any study regarding the interbasin transfer of water outside the Columbia River basin. S. 2725—Passed Senate June 25, 1980. (*254)

Climate program: Extends, through fiscal 1983, the National Climate Program Act to continue the climate-related activities of the National Climate Program Office within the Department of Commerce; and authorizes therefor $25.5 million for fiscal 1981, $39.1 million for 1982, and $43.7 million for 1983. S. 1391—Passed Senate August 27, 1980. (VV)

Earthquake hazard reduction: Extends, through fiscal 1983, the Earthquake Hazard Reduction Act of 1977 and authorizes therefor $5 million, $10 million, and $10 million to the Federal Emergency Management Agency; $32.5 million, $40.9 million, and $45.6 million to the United States Geological Survey; and $26.6 million, $35.2 million, and $37 million to the National Science Foundation for fiscal 1981 through 1983, respectively, so that the agencies may continue their ongoing programs aimed at reducing the risks to life and property from earthquakes through means of prevention and preparedness. S. 1383—Passed Senate May 21, 1980; Passed House amended June 30, 1980. (VV)

Endangered species: Extends through fiscal 1982 and authorizes a total of $12 million for the section 6 State grant-in-aid program under the Endangered Species Act of 1973 which includes the remaining $4 million of the $16 million previously authorized under Public Law 96–212. H.R. 6839—Public Law 96–246, approved May 23, 1980. (VV)

EPA authorizations: Authorizes a total of $379,492,000 for the environmental research and development programs conducted by the Environmental Protection Agency for fiscal 1980 as follows: $66,659,000 for water quality research, $9,638,000 for pesticide research and demonstration, $26,919,000 for drinking water research and demonstration of which $4 million is for a new program for groundwater research and development, $30,977,000 for toxic substances research, $2,930,000 for radiation research, $103.461,000 for energy related research, $71,963,000 for air quality programs of which $46,624,000 is for the health and ecological effects program, $10,243,000 for research and development on solid waste, $500,000 for noise control, and $25,449,000 for intermedia activities; requires an annual report on EPA's budget request and other activities; and authorizes EPA to be reimbursed for costs incurred when it allows its facilities to be used by an outside organization. H.R. 2676—Public Law 96–229, approved April 7, 1980. (VV)

Authorizes a total of $368,702,000 for the environmental research and development programs conducted by the Environmental Protection Agency for fiscal 1981 as follows: $70,167,000 for air quality and research; $62,522,000 for water quality research which includes funding for a joint project by EPA and the Department of Agriculture to evaluate methods of reducing agricultural runoff and consequent pollution and soil losses and for cold climate research to continue activities formerly conducted by the Arctic Laboratory in Fairbanks, Alaska; $27,447,000 for drinking water research and demonstration which includes a new initiative for development of cost-effective processes for small drinking water systems; $9,435,000 for research and development activities under the Federal Insecticide, Fungicide and Rodenticide Act; $3,181,000 for radiation research; $26,446,000 for solid waste research and development which reflects new emphasis on research to support efforts to clean up hazardous waste disposal sites; $36,895,000 for toxic substances research; $22,844,000 for interdisciplinary research; $105,099,000 for energy research and development and recommends a level of $500,000 for the first half of a study of the adverse health and ecological effects of uranium mining wastes and control measures for uranium mining wastes; and directs EPA to issue regulations providing for access by EPA officials or contractors to privately-operated oil shale projects on Federally-owned land for the purpose of conducting reasonable and legitimate research on the environmental effects of oil shale operations. S. 2726—Passed Senate May 22, 1980. (VV)

Marine protection: Extends for one year, through fiscal 1981, title III of the Marine Protection, Research and Sanctuaries Act of 1972 which provides for the designation of marine sanctuaries to preserve or restore specific areas of ocean, coastal, and Great Lakes waters chosen on the basis of conservation, recreational, ecological, scientific, or esthetic values; adds the term "scientific" to the list of criteria for which a marine sanctuary can be established; defines the term "State" when used in title III to mean any of the several states or any U.S. territory or possession which has a popularly elected Governor; specifies what must be included in the documentation comprising the terms of the marine sanctuary designation; requires the Secretary to issue necessary and reasonable regulations to implement the terms of and to control the activities described in the designation; makes permits, licenses, and other authorizations issued pursuant to any other authority valid unless the sanctuary regulations provide otherwise; restricts to scope of sanctuary regulations to those types of activities specifically mentioned in the designation document; provides for more sophisticated techniques, including multiple-use management, dominant-use management, and partial management; requires the Secretary to conduct research and, together with the Secretary of the Department in which the Coast Guard is operating, enforcement activities as necessary and reasonable to carry out the purposes of title III; provides that a designation of a marine sanctuary shall become effective unless part or all of its terms are disapproved by concurrent resolution adopted by both Houses of Congress within

60 days of continuous session and in accordance with specified procedures or if the Governor of a State whose waters are included on the designated sanctuary certifies, within 60 days of publication, that the designation or specific terms of it are unacceptable to his State; and authorizes therefor $2.25 million for 1981 to the National Oceanic and Atmospheric Administration which is charged with administering the program. S. 1140—Public Law 96-332, approved August 29, 1980. (VV)

National Commission on Air Quality: Amends the Clean Air Act of 1977 to extend until May 1, 1981, the National Commission on Air Quality in order to provide additional time for the Commission to complete and submit a final report containing its recommendations on the implementation of the Clean Air Act. S.J. Res. 188—Public Law 96-300, approved July 2, 1980. (VV)

Ocean pollution: Extends for three years, through fiscal 1982, title I of the Marine Protection, Research and Sancturaries Act under which the Environmental Protection Agency has the authority to regulate the transportation of materials for ocean dumping and prevent ocean dumping of any material which would adversely affect human health or welfare, the marine environment, an ecological system, or economic potentialities; authorizes therefore $1,232,000 each for 1980 through 1982; and authorizes EPA to conduct a study evaluating the technological options available for the removal of heavy metals and other toxic organic materials from the sewage sludge of New York City which is to be completed by July 1, 1980. S. 1148—Passed Senate June 6, 1979; Passed House amended May 13, 1980. (VV)

Amends the Marine Protection, Research and Sanctuaries Act of 1972 to transfer from the National Oceanic and Atmospheric Administration (NOAA) to the Environmental Protection Agency the authority to conduct research into developing disposal methods as alternatives to ocean dumping; authorizes $11,396,000 in fiscal 1981 and $12,000,000 in 1982 for NOAA to monitor ocean dumping and to carry out research on marine pollution under title II of the Act; and includes as part of the research project currently being conducted by the Secretary of Commerce into the long term effects of pollution over fishing and the marine ecosystem, a scientific assessment of damages caused from oil spills. S. 1123—Public Law 96- , approved 1980. (VV)

Ocean pollution (Marpol): Implements those portions of the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (Marpol Protocol) applicable to vessel inspection and certification and to reception facilities for oil and chemical wastes; authorizes the Secretary to issue "Marpol Protocol" certificates to vessels complying with pollution standards and authorizes the detention of vessels that have no certificate or are not in compliance with their certificate; provides compensation for any loss or damage suffered to ships which are unreasonably detained or delayed; requires the Secretary to issue regulations to ensure that the vessels of member nations are treated more favorable than vessels of non-members; requires the Secretaries to issue regulations for determining the adequacy of waste reception facilities at U.S. ports and terminals; calls for issuance of a certificate whenever a port's facilities are adequate for receiving waste liquids from seagoing vessels; requires the Secretary to bar entry, with certain exceptions, to any U.S. port, that has not been issured the necessary certificate; and imposes civil and criminal penalties for violations of the act, the protocol, or its implementing regulations. H.R. 6665—Public Law 96- , approved 1980. (VV)

Ocean pollution research and development: Amends section 10 of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize $3 million for fiscal year 1981, $4 million for fiscal 1982, and $5 million for 1983 to the National Oceanic and Atmospheric Administration to provide continued financial assistance in the form of grants and contracts for projects needed to meet the priorities set forth in a five-year plan (mandated under the act) for Federal efficiency and coordination of the Nation's ocean pollution research, development, and monitoring activities; and changes from February 15 to April 30 the date for submission of the biannual report to Congress containing revisions of the five-year plan. H.R. 6615—Passed House May 5, 1980; Passed Senate amended May 15, 1980. (VV)

Quiet communities: Amends the title of the Noise Control Act of 1972 to read the "Quiet Communities Act" and conforms all references in law to the new name; authorizes $15 million annually for fiscal 1980 and 1981 to carry out the provisions of the act; requires the Administrator of the Environmental Protection Agency to develop a five-year plan, to be submitted to Congress by March 1, 1980, setting forth a detailed description of the objectives of each program and activity which the Administrator will carry out in fiscal 1981 through 1985, and to prepare and submit to Congress a revision of the plan by January 31, 1981, and each two years thereafter; requires that the plan contain a separate discussion of the Administrator's research objectives with respect to the health aspects of noise and that the research portion of the plan (1) set forth the relative priorities assigned to various categories of noise research activities to be performed by EPA or other Federal agencies, a detailed statement of the annual levels of funding to be allocated to each category, and a schedule or timetable of activities proposed to attain the noise research objectives, and (2) contain an analysis of the relationship between the research elements and the other activities for programs described elsewhere in the plan; requires that the plan contain a separate portion on aircraft and airport noise studies; allows local governments to petition EPA requesting a change in Federal Noise regulations which affect fixed railroad facilities; and extends for one year the life of the National Commission on Air Quality in order that it may complete its study on the implementation of the act. S. 1144—Passed Senate June 14, 1979; Passed House amended February 12, 1980; Senate agreed to House amendment with an amendment and requested conference March 25, 1980. (VV)

Solid waste disposal: Extends the Solid Waste Disposal Act for three years through fiscal 1982; authorizes therefor $158.95 million for 1980, $170 million for 1981, and $180 million for 1982 for the Environmental Protection Agency and $5 million for each of these years for the Department of Commerce to carry out the purposes of the act; allows the Administrator to delegate the power to enforce Solid Waste Disposal Act regulations to other agencies in order to avoid duplication of compliance efforts; provides greater administrative flexibility in allocating funds while retaining an emphasis on technical assistance to States and local governments on funding for hazardous waste control; requires that a minimum of 25 percent of appropriated funds be used to support State and local solid waste planning and management activities; suspends subtitle C of the Resource Conservation and Recovery Act with respect to drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas for a 24-month period to enable EPA to conduct and submit to Congress a study to determine the degree of hazard associated with these wastes, the adequacy of existing State and Federal regulatory programs, potential changes to regulatory programs, and the cost and impact of those changes of the exploration, development, and production of crude oil and natural gas; establishes a procedure for congressional approval of any hazardous waste regulations; codifies the existing common law concept that the generator of waste is responsible for assuring its arrival at an appropriate facility; authorizes the Administrator to distinguish in establishing performances standards for hazardous waste treatment storage and disposal facilities and those for existing facilities; permits the Administrator to authorize EPA contractors to obtain samples, perform inspections, and examine records at facilities which handle hazardous wastes; specifies that EPA's access, entry, and inspection authority applies to persons or sites which have handled hazardous wastes in the past but are no longer doing so; gives EPA the option of requesting that persons handling such wastes either provide records or furnish information in the form of a summary; adds provisions to assure appropriate confidentiality of data in the hands of private contractors; amends the enforcement provisions to bring them into line with those in the Clean Air and Clean Water Acts; imposes a civil penalty of up to $25,000 per day for dumping of hazardous wastes regardless of whether the dumping party has been served with a stop order; authorizes the Administrator to act against violations before a 30-day period has elapsed; clarifies the Administrator's authority to issue an order suspending or revoking an operating permit and, if necessary, seek court enforcement; specifies that grant funds for State hazardous waste activities may be used for inactive site response planning and control and that both States and local governments may not be prohibited from entering into long-term contracts for operation of hazardous waste disposal facilities or long-term contracts to secure markets for these materials; prohibits open dumping after publication of criteria to define this practice; gives EPA the flexibility to choose which products would be purchased for recycled materials and to set timetables for issuance of new specifications; extends the deadline for changing specification to allow use of recycled materials from 18 months to 5 years; directs the Administrator to issue final guidelines by specified times for use by Federal agencies in procuring products containing recovered materials; allows EPA to take enforcement action against any practice which is presenting a substantial endangerment to health or the environment; modifies the judicial review provisions of the act to follow comparable provisions in the Clean Air and Clean Water Acts; requires that all court actions challenging regulations under this act, including petitions to modify regulations, be heard in the Appeals Court for the District of Columbia; gives the Administrator authority to subpena records and compel testimony of witnesses in enforcement actions; and calls for a special study of the degree of hazard and adequacy of existing regulatory programs associated with drilling fluids, produced waters, and other oil and gas exploration and production wastes. S. 1156—Passed the Senate June 4, 1979; passed House amended February 20, 1980; In conference. (VV)

Trinity River fish habitat: Authorizes the Secretary of the Interior, acting through the Water and Power Resources Service, to undertake construction, operation, and maintenance of the debris dam on the Grass Valley Creek and the sand dredging program on the Trinity River in Trinity County, California, in conformity with the development plan prepared by the Trinity River Basin Fish and Wildlife Task Force which was formed to examine the fish and wildlife problems on the Trinity River caused by construction of the dam and to recommend corrective actions; authorizes for fiscal 1982 $3.5 million to remain available until expended for construction costs plus such additional amounts as may be required for the Federal share of operation and maintenance; and makes appropriation of all such funds contingent upon the Board of Supervisors of Trinity County adopting adequate timber road and subdivision standards to protect the Grass Valley Creek Watershed and an agreement between the State and the Water and Power Resources Service to share the cost of the sand dredging system. H.R. 507—Public Law 96-335, approved September 4, 1980. (VV)

Weather Modification: Establishes a National Weather Modification Management Program to: (1) develop a better scientific base for understanding the atmospheric processes that will allow the development of reliable weather modification technologies, (2) provide more effective coordination and stable funding for Federal research efforts in weather modification, (3) improve public involvement and environmental consideration in weather modification, and (4) encourage international cooperation; directs the Secretary of Commerce to appoint a director responsible for planning and administering the program; directs the President to maintain an interagency coordinating committee responsible for coordination of the Federal agencies involved in the program; directs the Secretary and the Director to seek independent advice on the goals, priorities, and activities of the program; requires the director with the assistance of the interagency coordinating committee to prepare and revise biennially a five year plan for managing the Federal research effort in weather modification; directs OMB to review each agency's annual appropriations request for the program as an integrated, coherent, multiagency request; requires submission of reports by all persons responsible for conducting weather modification activities in the United States; directs the Secretary to publish a summary of activities in an annual report to the President and the Congress; and includes a five-year authorization increasing from $25 million in fiscal 1981 by $5 million per year to $45 million in fiscal 1985. S. 1644—Passed Senate May 19, 1980. (VV)

FISHERIES

Atlantic Tuna Conservation Commission: Amends section 10 of the Atlantic Tunas Convention Act of 1975, to authorize, through fiscal 1983, such sums as necessary for the United States' share of travel and other expenses of the International Commission for the Conservation of Atlantic Tunas (ICCAT) which was established under the International Convention for the Conservation of Atlantic Tuna (Ex. H. 89th-2d) and is responsible for the management and conservation of Atlantic Tuna; adds five new positions to the existing advisory committee to the U.S. ICCAT Commissioners which would consist of the Chairman of certain fishery management councils; directs the Secretary to establish a program under which a U.S. observer will be stationed aboard a foreign fishing vessel that is operating within the defined convention zone to carry out such scientific or other functions as the Secretary deems appropriate; imposes a fee sufficient to cover the cost of placing an observer on a foreign vessel intending to fish within the U.S. convention zone when it is determined that such fishing would result in the incidental taking of billfish; and requires biennial reports on the taking of blue-fin tuna by U.S. fishermen in the convention area, the status of bluefin stocks within the area, trends in their population and related information resulting from implementation of the observer program. S. 2549—Public Law 96-339, approved September 4, 1980. (VV)

Commercial fisheries: Extends the Commercial Fisheries Research and Development Act for three years, through fiscal 1983, and authorizes therefor $10 million for the section 4(a) general programs, $5 million for section 4(b) which provides funds on an emergency basis if there is a commercial fishery disaster or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes, and $500,000 for the section 4(c) program of grants to develop new commercial fisheries. H.R. 4890—Public Law 96-262, approved June 5, 1980. (VV)

National Fishery Development: Provides for a national program of fisheries research and development; reaffirms the Congressional commitment expressed in the Saltonstall-Kennedy Act (established in 1954 and maintained through the transfer of 30 percent of the duties on imported fish products) to provide a source of funding for both industry and governmental fishery development and research and projects by expanding the definition of persons eligible to apply for funding, which shall also include residents of the U.S. territories and possessions, and earmarking 50 percent annually to private fisheries development projects; authorizes the Secretary of Commerce to appoint at least six foreign fishery attachés, who shall serve abroad in U.S. embassies, to locate new markets for American fisheries products; transfers, as of September 30, 1980, approximately $6 million in unobligated funds from the Federal Fisheries Loan Fund, established by the Fish and Wildlife Act of 1956, to the Federal Ship Financing Fund, created by title XI of the Merchant Marine Act of 1936 to guarantee obligations incurred by purchasers of new fishing vessels; extends, subject to conditions and requirements imposed by the Secretary of Commerce, the capitol construction and vessel loan guarantee programs under section 607 of the Merchant Marine Act of 1936, to onshore fishery facilities for construction and renovation of processing facilities; authorizes the open, competitive bidding sale of those vessels in the Federal Government's obsolete fleet which are capable of conversion for use in the U.S. fisheries; and waives until January 24, 1980, the 60-day filing requirement under the compensation program of the Fishermen's Protective Act. S. 1656—Passed Senate December 5, 1979; Passed House amended September 23, 1980. (VV)

Salmon and steelhead resources conservation: Provides the Federal response to the consequences of a number of Federal court decisions interpreting treaties entered into between the U.S. and Indian tribes of the Washington territory in the 1850's that have resulted in: (1) economic dislocation for the non-Indian commercial fishing industry and the sport fishermen of the State, (2) resistance to the decisions implemented, and (3) difficulty in securing proper management of the salmon and steelhead resources; authorizes $5 million for fiscal 1981 and such sums as necessary thereafter to the Secretary of Commerce to establish, in cooperation with the Secretary of Interior, a grant program for the States of Washington and Oregon, the Northwest Indian Fisheries Commission, the Columbia River Inter-Tribal Fish Commission and any joint governmental entity for programs designed to promote coordinated research, enforcement, enhancement, and management of the area's salmon and steelhead resources; establishes an advisory committee to develop and recommend effective procedures to coordinate research, enhancement, management, and enforcement policies for Pacific Northwest salmon and steelhead, and to resolve disputes between management entities concerned with stocks of common interest; requires the Secretary, within one year of enactment, to transmit to Congress the conclusions of the advisory committee along with its recommendations; authorizes $42 million, over an eight-year period beginning fiscal 1982 for a grant program for enhancement projects of the salmon and steelhead resources of the conservation area in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington and the Northwest Indian Fisheries Commission; provides that the plan "minimize significant adverse interaction between naturally spawning and artifically propagated stocks"; provides for State matching of 50 percent of the total amount spent on enhancement projects for all projects submitted by the State minus amounts expended on similar projects after July 1, 1977; requires the Secretaries to establish a system to monitor and evaluate all enhancement projects for which funds have been distributed; authorizes an additional $30.5 million for operation, maintenance, and monitoring of the projects to be available over an eight-year period following the completion of each project, with not less than $2 million to be used for monitoring enhancement projects; authorizes the establishment of an identical grant program for projects for the enhancement of salmon and steelhead resources of the Columbia River drainage basin, in accordance with a comprehensive plan that is developed and agreed to by the States of Washington and Oregon and the Columbia River Inter-Tribal Fish Commission, providing that the Federal share not exceed 75 percent of the total amount expended for the projects; authorizes $20 million to be available for an eight-year period beginning in fiscal 1982 for the projects and $10 million for their operation, maintenance, and monitoring; authorizes $50 million over a five-year period beginning fiscal 1981 for a fleet adjustment program under which funds may be distributed to the State to implement and administer a voluntary commercial fishing and charter vessel buy-back program which will provide an opportunity for commercial and charter salmon fishermen, who have been economically dislocated, to sell their licenses, vessels, and gear and leave the fishery; authorizes $5 million for fisheries port development in Oregon; and contains miscellaneous provisions authorizing the Secretary to promulgate regulations as necessary and providing for annual reports by the States and tribal commissions on the status of the progress of this legislation. S. 2163—Passed Senate May 5, 1980; Passed House amended September 23, 1980. (VV)

Vessels sale: Authorizes the open, competitive bidding sale of seven specified vessels in the Federal Government's obsolete fleet which are capable of conversion for use in the U.S. fisheries; contains provisions to insure that: conversion work is performed in the U.S., the vessels are documented and operated under the laws of the U.S., scrapping of the vessels is done in the U.S., and the purchasers are U.S. citizens; and extends for two years the provisions of Public Law 94-150 to permit foreign citizens with special technical expertise aboard the vessel until such time that this special expertise can be transferred to U.S. citizens. H.R. 4088—Public Law 96-260, approved June 3, 1980. (VV)

GENERAL GOVERNMENT

Afro-American History and Culture Commission: Establishes a 15-member National Afro-American History and Culture Commission which shall develop and submit to the President and Congress within two years, a definitive plan for the construction and operation of the National center for the study of Afro-American History and Culture in Wilberforce, Ohio; and authorizes the Commission to solicit funds from private and public sources to defray costs associated with the establishment and operation of the Center. S. 1814—Passed Senate September 26, 1980. (VV)

Agency reporting requirements: Discontinues or amends certain agency reporting requirements by eliminating those reports considered no longer necessary and modifying others through simplification, less frequent reporting time frames, and consolidation. H.R. 6686—Passed House September 15, 1980; Passed Senate amended September 25, 1980. (VV)

Archeological resources: Authorizes not to exceed four percent of the total funds appropriated for the Animas-LaPlanta and Dolores projects within the Colorado River Basin for the survey, recovery, protection, preservation, and display of archeological resources in the area. H.R. 5751—Public Law 96– , approved 1980. (VV)

1980 census: States the sense of the Senate that all members of Congress should request their States, the citizens of their Congressional Districts, and the Bureau of the Census to encourage older people to participate as census workers in the 1980 Decennial Census. S. Res. 395—Senate agreed to March 27, 1980. (VV)

Civil defense property transfer: Authorizes the Administrator of GSA to donate to State and local governments certain Federal personal property loaned to them for civil defense use under the Federal Emergency Management Agency. S. 2566—passed Senate August 27, 1980. (VV)

Federal buildings: Authorizes $2,361,399,099 to the General Services Administration for various building projects and to carry out the general policies established for locating, designing, furnishing, and maintaining Federal buildings; and sets a goal of increasing the percentage of Federal employees working in Federally-owned buildings, as opposed to leased buildings, to 60 percent in ten years and 75 percent in 20 years. S. 2080—Passed Senate June 20, 1980; Passed House amended August 25, 1980; In conference. (*234)

Federal Election Commission authorization: Authorizes $9.4 million for the Federal Election Commission for fiscal 1981 of which not more than $400,000 is to be used for the Commission's clearinghouse activities. S. 2648—Public Law 96–253, approved May 29, 1980. (VV)

Federal fire prevention and control: Authorizes $20,804,000 for the United States Fire Administration (USFA) and $4,255,000 for the Center for Fire Research within the Department of Commerce for fiscal 1981 for a total authorization of $25,059,000; includes funds to strengthen programs of firefighter protection, Federal arson, firefighter emergency response training, and concentrated demonstration in fire prevention and control, including a directive for USFA to carry out a rural firefighting demonstration project in the Southeast region of the United States in response to the high rate of deaths due to fires in that region; and includes funds to expand fire research programs under the Center for Fire Research. S. 2709—Passed Senate May 22, 1980. (VV)

Federal Trade Commission: Amends the Federal Trade Commission Act to change procedures for agency investigations and rulemaking; authorizes $70 million for fiscal 1980, $75 million for 1981, and $80 million for 1982 for programs administered by the Federal Trade Commission; and provides for a two-house legislative veto of trade rules promulgated by the FTC; requires the FTC, within 120 days of the filing date, to reopen any FTC order if a person, partnership, or corporation subject to that order makes a "satisfactory showing" at the changed conditions of law or fact since the order was issued; prohibits the FTC from making public trade secrets, commercial, and financial information which it obtains confidentially from private sources; requires the FTC to establish a plan to reduce the burdens on small businesses of the quarterly financial report and to reduce the number of small businesses required to file the report; makes permanent the protection against disclosure of line-of-business data in such a way that an individual company could be identified; makes the FTC's investigative and reporting powers inapplicable to the business of insurance, except to the extent authorized with regard to antitrust investigations or unless requested by a majority vote of the Senate or House Commerce Committees; eliminates the threat of criminal sanctions applied to those recipients of a subpoena who in good faith resist investigations by making such sanctions inapplicable prior to a judicial order of enforcement; terminates FTC's rulemaking authority to issue a trade regulation rule under section 18 regarding industry standards and certification of products but leaves unaffected whatever authority the FTC may have under other provisions of the Act; requires the FTC to notify the relevant Senate and House committees 30 days prior to publishing a notice in the Federal Register of a proposed rulemaking; limits to $75,000 per proceeding and to $50,000 per year the amount that any person may receive under the public participation program; restricts the total authorization for this program to $750,000 annually, and calls for establishment of a small business outreach program to solicit public comment and encourage participation; suspends the present rulemaking proceedings regarding children's television advertising until the Commission votes to publish the text of the proposed rule and conducts its investigations under a "false or deceptive", rather than an "unfair or deceptive" standard; requires the FTC to promulgate rules providing that ex parte contacts between Commissioners and outside parties be "on-the-record", and that contacts between the Commissioners and the rulemaking staff be "on-the-record" when discussing facts relevant to the rulemaking but which are not in the rulemaking record; applies the civil investigative demand procedure utilized by the Justice Department under the Antitrust Civil Process Act to certain FTC investigations, and allows information sharing with other Federal agencies as long as they abide by the same standards of confidentiality; exempts from disclosure under the Freedom of Information Act any material the FTC receives in an investigation of a violation of a law within the jurisdiction of the FTC; requires the FTC to publish the text of any rule, or alternative, at the commencement of a rulemaking proceeding; provides that the provision requiring the publication of a rule is applicable to any rulemaking proceeding in which all hearings have not been completed; requires publication of a semiannual regulatory agenda listing the rules which the FTC expects to propose or promulgate in the next 12 months; requires an analysis of a proposed action as to its benefits and adverse effects at the initial notice stage and upon promulgation; prohibits the FTC for three years from petitioning the Commissioner of Patents to cancel a trademark on the grounds that it had become the "common or descriptive name of an article or substance" under the Lanham Trademark Act, which would prevent the FTC's intended action on the word "formica"; authorizes FTC rulemaking on the funeral industry with regard to mandating price disclosures, banning deceptive or coercive practices, and prohibiting unlawful practices such as boycotts or threats; prohibits funds for study, investigation, or prosecution of any agricultural cooperative, such as Sunkist, which is exempt from antitrust laws under the Capper-Volstead Act; provides for a two-house legislative veto of FTC rules, under expedited procedures, by the passage within 90 days of promulgation of a rule of a concurrent resolution of disapproval; and requires the Senate Commerce Committee's Subcommittee for Consumers to hold oversight hearings every six months regarding the FTC. H.R. 2313—Public Law 96–252, approved May 28, 1980. (*40, *152)

Federal use of bequests: Authorizes the Federal Government to accept and use bequests and gifts for the relief of human suffering caused by natural disasters and establishes, within the Treasury, a separate Fund into which such donations shall be credited and remain available for expenditure upon the certification of the President. July 21, 1980. (VV)

Foreign claims settlement commission: Commission to the Department of Justice, as a separate agency, without altering its adjudicatory independence; changes the service of two of the three full-time Commissioners to part-time; authorizes the Department of Justice to provide certain administrative support services to the Commission; changes the terms of office and method of appointment of the members of the Commission; abolishes the Annual Assay Commission and transfers its functions to the Secretary of the Treasury; abolishes the United States Marine Corps Memorial Commission whose functions are now obsolete; and abolishes the Low Emission Vehicle Certification Board whose functions are now carried out by the Department of Energy. H.R. 4337—Public Law 96–209, approved March 14, 1980. (VV)

General Accounting Office audit of unvouchered expenses: Amends the Accounting and Auditing Act of 1950 to authorize the Comptroller General to audit unvouchered expenditures which are accounted for solely by the President or agency official involved (except for certain expenditures dealing with sensitive foreign intelligence or counterintelligence) for the purpose of verifying to Congress that funds were legitimately expended; requires the Director of OMB, within 60 days after the beginning of each fiscal year beginning with 1981, to provide the Comptroller General and certain congressional committees with a list identifying each vouchered account subject to audit; prohibits GAO from releasing information obtained from its audit to anyone except the President or agency head concerned or, in the case of unresolved discrepancies, to certain congressional committees; amends the Budget and Accounting Act of 1921 to authorize the Comptroller General to institute judicial enforcement actions to compel production of documents in cases where an executive department or establishment fails to comply with a request for information and to issue and enforce subpoenas to non-Federal entities for materials and documents to which it now has a legal right of access; permits the Comptroller General to be represented by attorneys of his own selection in order to avoid a potential conflict of interest caused by the Attorney General representing both respondents in a judicial action involving the GAO and a Federal agency; provides that any failure to obey an order of the court shall be treated by the court as contempt; precludes GAO from bringing an enforcement action against a Federal agency, or issuing a subpoena against a non-Federal party, to obtain access to materials in three specified situations; requires that any materials obtained by the Comptroller General from a Federal agency be subject to the same level of confidentiality required by the Federal agency; regulates procedures for the release of GAO draft reports to Federal agencies for longer than 30 days unless the Comptroller General makes an exception for specified reasons: by requiring that congressionally initiated draft reports be submitted to appropriate members or committee, upon request, when they are submitted to agencies for comments and requiring that the Comptroller General include in the final version of a GAO report a statement of changes made in its preparation as a result of agency comments and the reason for such changes; amends the Budget and Accounting Act of 1921 to establish a ten-member Congressional Commission to recommend, for the President's consideration, the names of at least three individuals for appointment to the Office of Comptroller General and Deputy Comptroller General; states, with the exception of the current Deputy Comptroller General, that the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General and permits the Deputy Comptroller General to hold office until his successor is appointed; and extends the requirements of the Inspector General Act of 1978, dealing with complying with GAO audit standards, to the Inspectors General of the Departments of Energy and Health, Education, and Welfare. H.R. 24—Public Law 96-226, approved April 3, 1980. (VV)

International affairs of Treasury: Authorizes $23,671,000 for fiscal 1981 to carry out international affairs functions of the Department of the Treasury, including sums for official functions and reception and representation expenses and for payments for a program to equalize the after-tax salaries of U.S. nationals employed by the Asian Development Bank (ADB) to those of other ADB employees; authorizes an additional $1.1 million for fiscal 1981 to cover cost of living increases, overseas allowances, and benefits for U.S. nationals employed by ADB; and calls on the administration to initiate, in the Organization for Economic Cooperation and Development Steel Committee, discussions leading to a multilateral agreement halting predatory, Government subsidized export credits for steel plants and equipment. S. 2514—Passed Senate September 3, 1980: House defeated September 6, 1980. (VV)

Kennedy Center authorization: Authorizes $4,287,000 for fiscal 1980 and $4.4 million for 1981 to the Secretary of the Interior, acting through the National Park Service, to provide maintenance, security, information, interpretation, janitorial, and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts; and authorizes the Secretary to place in the center a plaque or other device honoring the service of Ralph E. Becker as a founding trustee and general counsel for the center. S. 1142—Passed Senate September 6, 1979; Passed House amended January 24, 1980; Senate agreed to House amendment with amendment August 22, 1980. (VV)

Museum services: Extends for two years, through fiscal 1982, the Institute of Museum Services through which general operating support grants are made to qualifying museums to maintain and improve their services; authorizes therefor $21.5 million for 1981 and $28 million for 1982; authorizes the Institute to hire a limited number of experts in the museum field as excepted personnel; allows the Institute to use up to five percent of its appropriations to make contracts and cooperative agreements with professional museum organizations, for one year periods, to be used for specific projects rather than for general operating support; authorizes the Institute to establish its own grant review procedures; and extends, through fiscal 1982, the authorization of funds to match gifts received by the Institute. S. 1429—Passed Senate February 7, 1980. (VV)

NASA authorization: Authorizes $5,587,904,000 for the National Aeronautics and Space Administration for fiscal 1981 of which $4,436,750,000 is for research and development including $1,873,000,000 for continuing development of the Space Shuttle and the production of a fourth orbiter to support civil and military space operations with an advanced, reusable space transportation system; $118,000,000 for construction of facilities including the Space Shuttle, and $1,033,154,000 for research and program management; contains support for two new initiatives; the Gamma Ray Observatory and the National Oceanic Satellite System; authorizes NASA to initiate procurement of long lead materials for production of a fifth orbiter utilizing funds approved for the Space Shuttle program in fiscal 1981; authorizes cost variations up to ten percent of the sums authorized for the construction of facilities or up to 25 percent with Congressional notification; provides that not more than one-half of one percent of the funds appropriated for "Research and Development" may be transferred to the "Construction of Facilities" appropriation which, together with $10 million of the construction funds appropriated, shall be available for the construciton of facilities and land acquisition at any location if the Administrator so determines; and expresses the sense of Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds when feasible and that NASA should explore such distribution of its research and development funds. S. 2240—Public Law 96-316, approved July 30, 1980. (VV)

NASA supplemental authorization: Authorizes $300 million in fiscal 1980 supplemental funds to NASA for research and development in connection with the space shuttle program which, when added to the $1.586 billion appropriated, would provide a total authorization of $1.886 billion for the program. S. 2238—Passed Senate May 30, 1980. (VV)

National Bureau of Standards: Authorizes $104.6 million for fiscal 1981 and $142.3 million for fiscal year 1982 to the Department of Commerce for the programs of the National Bureau of Standards, including certain statutory programs, and to assist the Bureau in carrying out its responsibilities including development of national standards of measurement for use in scientific investigations, engineering, manufacturing, and commerce. S. 2320—Passed Senate May 9, 1980; Passed House amended July 21, 1980. (VV)

National Foundation on the Arts and Humanities: Amends and extends for five years, through fiscal 1985, the National Foundation on the Arts and Humanities Act of 1965 and authorizes therefor $175 million for fiscal 1981, $201 million for 1982, $231 million for 1983, $266 million for 1984, and $306 million for 1985 for the National Endowment of the Arts and $170 million for fiscal 1981, $196 million for 1982, $226 million for 1983, $260 million for 1984, and $299 million for 1985 for the National Endowment for the Humanities; directs the Chairman of the Arts Endowment to support programs for the arts at the local level; redefines "State", for the purpose of allocating funds in excess of the $200,000 minimum grants, to include specified jurisdictions having a population of 200,000 or more; authorizes each Chairman to enter into interagency agreements to coordinate the programs of the endowments with the arts and humanities-related activities of other Federal agencies and authorizes the use of program funds for such purpose; encourages the Arts Endowment to expand the Challenge Grant Program to include a greater diversity of cultural institutions; repeals the authorization of the Bicentennial Film Project which was never funded; provides that the terms of office of all members of the National Council on the Arts will expire on September 3rd of the year in which their respective six-year terms expire; repeals the authority of the National Endowment for the Humanities to make loans; strengthens the humanities programs at the Federal, State and local levels by giving a State the option of (1) designating the existing humanities organization as a State Humanities Council and matching 50 percent of the minimum State grant or 25 percent of the total amount of Federal financial assistance, whichever is higher, or (2) continuing the existing humanities organization but requiring that four instead of two members be appointed by the Governor if they do constitute more than 20 percent of a council's membership; increases from $17,500 to $30,000 the ceiling on grants that the Chairman of the Humanities Endowment can make without a recommendation from the National Council on the Humanities; changes from January 15 to April 15 the date on which the two Endowment Chairmen are required to submit their annual reports to Congress; simplifies the operation of the Challenge and Treasury grant programs by allowing a grantee who receives a gift for which Federal matching funds are available to certify to the Endowments that they have the funds in hand rather than, as at present, forwarding these funds to the Federal Government for reallocation; and limits to $35,000 the funds available to each Endowment for official reception and representation expenses. S. 1386—Passed Senate February 7, 1980. (VV)

National Science Foundation and women in science authorization: Continues present authorities of the National Science Foundation (NSF) for fiscal 1981 and 1982 and authorizes therefor $1,074,000,000 for fiscal 1981 and $1,235,500,000 for fiscal 1982; distributes the amounts authorized to 11 line item program categories, and provides for specific set-asides of funds for the following programs: Education in Appropriate Technology, Ethics and Values in Science and Technology, and Minorities and the Handicapped in Science; authorizes $5,000 for fiscal 1981 and such sums as may be necessary for 1982 for official consultation, representation, and other extraordinary expenses at the discretion of the Director; authorizes not to exceed $5.5 million for fiscal 1981 and such sums as may be necessary for fiscal 1982 for expenses incurred outside the United States, to be drawn from excess foreign currencies; directs the President, in making nominations to the NSF Board, provide equitable representation of minority and women scientists; requires the Board to submit two reports every other January, beginning in 1982, one dealing with major policy issues confronting the Foundation, the second to be a continuation of the Science Indicators' report;

Establishes a comprehensive program to increase the potential contribution and advancement of women in scientific, professional, and technical careers and authorizes therefor not less than 2.1 percent of the sums appropriated for the NSF for fiscal 1981 and 1982; declares as National policy to encourage women to acquire skills in science and mathematics so that equal opportunities in education, training, and employment in scientific and technical fields will be assured; requires NSF to make full use of existing Federal programs, funds, and methods of reporting and to use the expertise of women scientists and women involved in scientific activities in implementing the Act; authorizes NSF to create a visiting women scientists program under which women scientists will visit secondary schools and institutions of higher education in all regions of the country in order to encourage girls and women to obtain scientific and mathematical skills and to consider scientific and technical careers; authorizes the Director of NSF to make three-year National Research Opportunity Grants to women scientists who received their Ph.D. five years before the date of the award or who are reentering the work force within five years after interruption of their careers; authorizes NSF to award grants to institutions for visiting professorships for women scientists; advises the Office of Personnel Management to include information regarding the recruitment of qualified women scientists in training programs for Federal agencies; establishes within NSF a 13-member Committee on Women in Science; and establishes the position of Special Assistant for Women as principal advisor to the Director regarding the advancement of women in science and technology. S. 568—Passed Senate June 23, 1980; Passed House amended September 4, 1980; In conference. (VV)

Office of Industrial Technology: Establishes within the Department of Commerce, an Office of Industrial Technology, whose Director shall be appointed by the President and confirmed by the Senate, to administer a new industrial innovation program through the establishment of Centers for Industrial Technology funded jointly by industry and government that would conduct cooperative research programs between universities and industry for the purpose of producing new technological ideas of economic significance; requires each Federal laboratory to establish an Office of Research and Technology Applications to facilitate the transfer of Federally-developed technology to State and local governments and to the private sector; authorizes therefor $22 million, $45 million, $60 million, $70 million, and $70 million for fiscal 1981 through 1985, respectively, with Federal matching not to exceed 75 percent; and establishes a 15-member National Industrial Technology Board which shall review the activities of the Office on an annual basis. S. 1250—Passed Senate May 28, 1980; Passed House amended September 8, 1980; Senate agreed to House amendment with amendment September 26, 1980. (VV)

Postal Service dispute resolution: Provides for improved consultation and establishes new procedures for resolving disputes on matters concerning pay and benefits between the Postal Service and an organization of postal supervisors; and provides for convening a factfinding panel to consider and make recommendations to the Postal Service with respect to disputes over Postal workers pay and benefits. H.R. 827—Public Law 96-326, approved August 8, 1980. (VV)

Refugee assistance and admission: Amends the Immigration and Nationality Act to: (1) provide a new definition of refugee which eliminates current geographical and ideological restrictions and conforms to the United Nations Convention and Protocol Relating to the Status of Refugees; (2) raise the annual limitation on regular refugee admissions from 17,400 to 50,000 for fiscal 1980 through 1982 with a limitation thereafter to be determined as a result of consultation with Congress; (3) provide procedures for meeting emergency refugee and other situations of special concern to the United States if the resettlement needs of the homeless people involved exceed the 50,000 ceiling and specify the procedures for hearings and consultations with Congress on numbers and allocations of refugees in these situations; (4) provide for withholding deportation of aliens to countries where they would face persecution, unless four specific conditions are met which are set forth in the U.N. Convention; (5) limit the use of parole to individual refugees and require that in utilizing parole, the Attorney General, must determine "that compelling reasons in the public interest . . . require that the alien be paroled into the United States rather than be admitted as a refugee"; (6) admit all refugees as refugees with retroactive adjustment of status to lawful permanent residents after one year; (7) establish the statutory position of U.S. Coordinator for Refugee Affairs with the rank of Ambassador at Large, to be appointed by the President and confirmed by the Senate, to develop and coordinate U.S. refugee admission and resettlement policy; (8) establish an Office of Refugee Resettlement in the Department of Health, Education, and Welfare to administer present domestic assistance programs; (9) require coordination between HEW and the Department of State in providing resettlement and placement grants during fiscal 1981 and 1982 and transfer this authority to HHS (Health and Human Services) in 1982 unless the President determines, from the results of a required study of which agency is best able to administer the program, that the Director should not administer the program; (10) authorize $200 million annually for supportive services to be funded through discretionary grants and contracts; (11) provide 100 percent reimbursement for cash and medical assistance provided to refugees for three years following the refugees' arrival and specify that this limitation does not apply for fiscal 1980 and the first six months of 1981; (12) provide for the continued phasedown of the Cuban refugee program through 1982; (13) provide a three-year authorization of domestic assistance funding; and (14) authorize reimbursement of State and local public agencies for assistance provided to aliens who applied for asylum before November 1, 1979, and who are awaiting determinations of their claims. S. 643—Public Law 96-212, approved March 17, 1980. (262)

Refugee education assistance (Cubans and Haitians): Authorizes two new three-year grant programs for State educational agencies to assist local educational agencies in meeting the educational needs of (1) Cuban and Haitian refuge children in the amount of $450 per refugee child who entered the U.S. on or after November 1, 1979, based on enrollees in public elementary and secondary schools, and (2) Cuban, Haitian, and Indochinese children where enrollments equal at least 500 children or five percent of total enrollment, in the amount of $750 per child for the first year of attendance, $500 for the second year, and $300 for the third year, based on numbers of enrollees in public and private elementary and secondary schools; authorizes a new two-year grant program to State and local educational agencies, public or private non-profit agencies, organizations, and institutions for operating adult education programs for Cuban and Haitian refugees in the amount of $300 per enrolled adult; offsets funds available under this act by any other Federal formula refugee educational assistance program funds; and authorizes the use of funds from the Federal Emergency Management Agency to any State or local government agency providing assistance for the processing, care, maintenance, security, transportation, and initial reception and placement in the U.S. of Cuban and Haitian entrants. H.R. 7859—Passed House August 18, 1980; Passed Senate amended September 25, 1980. (VV)

Reorganization authority extension: Extends for one year, until April 6, 1981, the President's current authority under chapter 9, title 5, U.S.C. to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch. H.R. 6585—Public Law 96-230, approved April 8, 1980. (VV)

Sangre De Cristo Development Corporation: Authorizes, effective October 1, 1981, such sums as may be necessary to the Secretary of the Interior to reimburse those persons determined by the Secretary to be bona fide purchasers of subdivision lots on the Pueblo of Tesuque Indian Reservation near Santa Fe, New Mexico, sold by the Sangre de Cristo Development Corporation whose master lease was approved by the Bureau of Indian Affairs in May 1970, and later contested and disapproved by the Secretary of Interior on August 24, 1977, based on the environmental effects of the project. S. 1972—Passed Senate June 20, 1980. (VV)

Secret Service protection of candidates spouses: Extends, from 60 days to 120 days, the period preceding the general election within which spouses or major, including third party, Presidential and Vice Presidential candidates, upon request, are awarded Secret Service protection. H.R. 7786—Public Law 96-329, approved August 11, 1980. (VV)

Secretary of State salary: Provides that the salary of the Secretary of State shall be $63,000 (the level in effect for the Secretary of State on January 1, 1977) instead of $69,630 as at present, until noon, January 3, 1983 (the date Senator Muskie's term of office in the Senate expires thereby seeking to remove the constitutional barrier against his nomination which prohibits a Senator or Congressman from being appointed to a Federal office for which the salary has been increased during his or her Congressional term of office), and provides that any person aggrieved by any action of the Secretary of State may challenge the constitutionality of his appointment in a three-judge Federal district court with direct appeal to the Supreme Court. S. 2637—Public Law 96-241, approved May 3, 1980. (VV)

Smithsonian Institution—Museum Services: Authorizes $803,000 for fiscal 1981 and $1 million for 1982 to the Smithsonian Institution for carrying out the purposes of the National Museum Act of 1966 through which the Smithsonian assists museums with specific reference to the continuing study of museum problems and opportunities, training in museum practices, preparation of museum publications, research in museum techniques, and cooperation with agencies of the government concerned with museums. S. 1786—Public Law 96-268, approved June 13, 1980. (VV)

Space flight policy: Establishes as United States policy that no astronaut or participant to a space flight mission shall be unjustly enriched through the sale of items carried on a spacevehicle; states as U.S. policy that items carried on Apollo missions and now in the possession of the U.S. be retained by the U.S. in order to avoid unjust commercialization of these missions; and expresses the sense of the Congress that the Attorney General should defend the U.S., NASA, or any official thereof in civil actions brought by or on behalf of astronauts to recover items carried on Apollo missions that are in the possession of the U.S. S.J. Res. 141—Passed Senate February 19, 1980. (VV)

United States Travel Service: Authorizes, through fiscal 1981, $8 million to the United States Travel Service (USTS), pending enactment of S. 1097, the National Tourism Policy Act, to enable the agency to continue its existing programs to encourage foreign tourism to the U.S.; and prohibits the Secretary of Commerce from reducing the number of employees or the level of obligations for USTS below the fiscal 1979 level. S. 2248—Passed Senate May 22, 1980. (VV)

Wool products labeling: Amends, effective 60 days following enactment, the Wool Products Labeling Act of 1939 by substituting the term "recycled wool" for the terms "reprocessed wool" and "reused wool", thus combining the terms into one definition for the term "recycled wool". H.R. 4197—Public Law 96-242, approved May 5, 1980. (VV)

GOVERNMENT EMPLOYEES

Civil service survivors benefits—Secret Service retirement: Amends title 5, U.S.C., to require that notification be given to the spouse of a retiring employee or Member who, at the time of retirement, elects not to provide a full survivor annuity to the spouse; and permits those members of the Secret Service who were appointed from the D.C. police force to credit periods of prior service with the Park Police, District Police, or Executive Protection Service towards the 10 years service requirement needed to elect coverage under the D.C. retirement system, thus providing them with the same option which is now available to Secret Service personnel appointed from the Executive Protection Service. H.R. 5410—Public Law 96- , approved 1980. (VV)

Civilian air traffic controllers retirement: Amends title 5, U.S.C., to extend to Department of Defense civilian air traffic controllers the same early retirement and second career training benefits presently applicable to Department of Transportation air controllers. H.R. 1781—Public Law 96-347, approved September 12, 1980. (VV)

Drug Enforcement Administration Senior Executive Service: Establishes a Drug Enforcement Administration (DEA) Senior Executive Service to provide top DEA officials with the same incentives for excellence as enjoyed by those employees covered under the government-wide Senior executive Service (including merit bonuses, performance rank awards, high mobility, opportunities for sabbatical leave, and flexible pay structures) while retaining the managerial prerogatives granted the DEA Administrator under the Crime Control Act of 1976. S. 2327—Passed Senate September 29, 1980. (VV)

Export-Import Bank employees: Amends the Civil Service Reform Act of 1978 to make the following provisions of that Act applicable to the Export-Import Bank: participation in the Senior Executive Service established to provide top government officials with incentives for excellence; the ban on prohibited personnel practices to make employees eligible for all of the protections which apply to others in the competitive service; and establishment, within one year, of performance appraisal and standards systems. S. 2267—Passed Senate September 29, 1980. (VV)

Federal employees life insurance: Amends the Federal Employees Group Life Insurance program to: increase the amount of life insurance paid for by the Government to an employee's annual salary plus $2000 multiplied by two for employees under 35, and by two minus one-tenth for each year of age above 35 and below 45; provide for the purchase of additional life insurance up to five times the annual pay, with the cost to be borne by the employee; and permit an employee to purchase a life insurance policy of $5,000 for a spouse and $2,500 for each child; and allow a retired employee to elect to pay to preserve the face value of his insurance or have it reduced by one percent each month after age 65.

H.R. 7666, Public Law 96- , approved 1980. (VV)

Federal employees travel expenses: Increases the per diem allowance (from $35 to a maximum of $50) and the actual daily expense reimbursement, applicable only to travel to certain designated high cost areas (from $50 to a maximum of $75), which may be paid to regular employees of the Federal Government, and to consultants and experts employed intermittently, who are traveling on official business within the continental United States; increases the maximum per diem rate (from $21 to $33 per day plus the prescribed locality per diem rate) for travel outside the continental United States; increases the mileage rates for the use of privately owned vehicles used while traveling on official business (automobile—from 20 cents to 25 cents, airplane—from 25 cents to 45 cents, and motorcycles—from 11 cents to 20 cents); and requires the Administrator of General Services to collect and report, with respect to agencies spending over $5 million annually transporting persons, information concerning travel costs, purposes, and inefficient practices H.R. 7072—Public Law 96-346, approved September 10, 1980. (VV)

GAO personnel system: Establishes, within the General Accounting Office (GAO) under the authority of the Comptroller General, a personnel system for GAO employees that is independent from regulation by executive branch agencies; contains a number of safeguards to protect the rights of employees including the same merit systems principles established for the executive branch and coverage of title VII of the Civil Rights Act of 1964 forbidding employment discrimination; establishes a five-member GAO Personnal Appeals Board to perform those functions with respect to GAO personnel matters which are currently handled by the Office of Personnel Management and other executive agencies; establishes a General Counsel to the GAO Appeals Board to investigate and prosecute allegations of prohibited personnel practices and to investigate labor management and employment discrimination cases; grants the Comptroller General discretionary authority to establish a GAO Senior Executive Service and a system of merit pay following certain basic requirements parallel to those existing in the executive branch Senior Executive Service and merit pay system; and authorizes such sums as necessary for each fiscal year beginning with 1981. H.R. 5176—Public Law 96-191, approved February 15, 1980. (VV)

NOAA Corps status equalization: Amends various acts to bring the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration (NOAA) into closer parity with other divisions of the armed and uniformed services by: (1) permitting the voluntary interservice transfer of commissioned officers between NOAA and the military; (2) providing for advance payments to NOAA officers to meet expenses incident to a change in permanent duty station, when on duty at a distant duty station where pay is not regularly disbursed, or when his or her dependents are ordered evacuated; and (3) extending to NOAA officers the same benefits as members of the armed services with regard to filing for unemployment compensation. S. 1454—Public Law 96-215, approved March 25, 1980. (VV)

Political contribution by Federal employees: Amends title 18, U.S.C., to specify that voluntary contributions made by Federal employees to candidates for Federal office are unlawful only if they are made to the employee's "immediate employer". H.R. 6702—Passed House March 10, 1980; Passed Senate amended September 9, 1980. (VV)

Secret Service pay: Amends the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule. H.R. 7782—Public Law 96- , approved , 1980. (VV)

HEALTH

Animal cancer research: Authorizes $25 million for fiscal 1981 and for each year thereafter to the Secretary of Agriculture to conduct, at appropriate facilities of the Department of Agriculture or by grants to other qualified research facilities, a program of basic research in the diagnosis, prevention, and control of cancer in domestic animals and birds; and requires an annual review of the program by the Secretary and the Director of the National Institutes of Health in order to coordinate the program with that of the National Cancer Institute. S. 2043—Passed Senate May 22, 1980. (VV)

Asbestos hazard detection: Makes Federal financial assistance available for the detection and treatment of hazards asbestos materials in school buildings by providing a two-tiered program of Federal assistance: (1) a grant program available to State and local education agencies and private schools to detect potential hazards, and (2) an interest free loan program available to school districts and private schools to contain or remove detected hazards; makes the programs retroactively available for activities carried out prior to enactment if they conform to the requirements established by the Secretary and were completed before January 1, 1976; provides an authorization through fiscal 1982 of $22.5 million for the grant program and $75 million for the loan program and contains a provision for establishing funding criteria in case of insufficient appropriations; permits the use of grant and loan funds to pay up to 50 percent of the costs of a particular project; gives the Secretary of Education responsibility for developing procedures to carry out the detection and control programs and the safety and control standards to conduct the containment and removal work; establishes a task force at the Federal level to compile and distribute scientific and technical information concerning the hazards associated with asbestos and the means of identifying suspected emission of asbestos fibers and to review applications for financial assistance; specifies the contents of applications for grants and loan under the act; requires grant recipients to permit the U.S. to sue any person whom the Attorney General determines to be liable for the costs of corrective activities and provides that the proceeds of any favorable judgment be used to repay the U.S. for the costs of these programs; forbids discharging or discriminating against an employee who brings to public attention any asbestos problem in a school building; and amends the Education of the Handicapped Act to increase from $200,000 to $300,000 the minimum amount for administrative costs to those States whose allotments under the program are less than the amounts which would allow them to use the program's five percent administrative set-aside. S. 1658—Public Law 96-270, approved June 14, 1980. (VV)

Health professions training: Extends titles VII and VIII of the Public Health Service Act for fiscal 1982, 1983, and 1984, with modification to the construction assistance authorities, the student loan and scholarship programs, institution support, and special projects; amends the National Health Service Corps program authorized in title III of the Public Health Service Act; extends the permissible length of stay of exchange visitor physicians for graduate education and training, and extends, through 1985, the limited authority to waive the 1976 requirements for entry of exchange visitor physicians, with a plan to phase-out dependence on such physicians; and requires the promulgation of Federal minimum standards for certification of persons who administer radiologic procedures and for the accreditation of programs for their training. H.R. 7203—Passed House September 3, 1980; Passed Senate amended September 19, 1980; In conference. (VV)

Health sciences promotion: Authorizes $33.7 million in fiscal 1981, $39.7 million in 1982, and $45.7 million in 1983 for health scientific research programs of the National Institutes of Health and the Department of Health and Human Resources; establishes the President's Council for the Health Sciences, a 16-member council appointed by the President and confirmed by the Senate, to oversee health research efforts within DHHS, to provide the Congress and the President with one- and five-year recommendations each year for the funding of health sciences research throughout the department, and to make recommendations regarding areas needing increased research attention and fiscal support; establishes by statute, for the first time, the National Institutes of Health (NIH) which has previously existed under general authority of the Public Health Service Act and provides three year authorizations therefor; revises the present statutory councils and makes other substantive changes; mandates DHHS to conduct experiments with the present peer review system for selecting grant proposals for funding, including an appeals process for rejected grant applicants and alternative systems; and provides for the development of new ways to identify innovative and unconventional research. S. 988—Passed Senate June 18, 1980; Passed House amended August 28, 1980; In conference. (*230)

Infant formula: Adds a new section to Chapter IV of the Federal Food, Drug and Cosmetic Act to create a separate category of food designated "infant formula" and requires that such formulas meet specified standards of quality and safety; provides authority for the Secretary of the Department of Health and Human Services to establish nutritional, quality control, record keeping, notification, and recall requirements necessary to ensure that infant formula is safe and will promote healthy growth; gives the Secretary authority to inspect records and factory facilities necessary to monitor and effect formula recalls and to determine compliance with formula quality requirements; requires the Secretary to conduct a comprehensive scientific study to ascertain the long term health effect on infants of hypochloremic metabolic alkalosis (an illness which affected infants who consumed a formula dangerously deficient in chloride); requires the Secretary to conduct a review of infant formula labeling practices and their effect on infant nutrition and proper use and to conduct a review of Federal export policies as they apply to infant formulas; amends the Controlled Substances Act to require the Attorney General to provide State regulatory, licensing and law enforcement agencies annual descriptive and analytic reports on the distribution of schedule II controlled substances; amends the Psychotropic Substances Act of 1978 to continue indefinitely the distribution and reporting requirements for the PCP precursor piperidine; and amends the Controlled Substances Act to increase criminal penalties for trafficking in over 1,000 pounds of marihuana to a maximum of 15 years in prison and/or a $125,000 fine for first offenses and up to 30 years in prison and/or a $250,000 for second and subsequent offenses. H.R. 6940—Public Law 96–359, approved September 26, 1980. (VV)

Mental health systems: Establishes a partnership between local entities and agencies, State governments, and the Federal Government with regard to funding mental health programs; requires that each State designate a mental health administrative agency responsible for mental health programs; requires preparation of a State Health Plan, including provisions relating to the State's need for mental health service, special needs of certain groups, the overall adequacy of facilities and services, and State mental health priorities; directs each State agency to prepare a detailed mental health operations program, outlining the need for services of the chronically mentally ill, emotionally disturbed children and adolescents, the elderly, and other priority groups; includes provisions for the termination of payments to State entities, after notice and an opportunity for a hearing, if there is substantial and persistent failure of a State to comply with these requirements; authorizes, for various mental health services, $169 million for fiscal 1982, $195.5 million for 1983, and $228 mililon for 1984 plus such sums as necessary for each of these years to continue programs at existing Community Mental Health Centers;

Replaces the existing community mental health centers grant program with a broader, more flexible program under which local private nonprofit entities, local public agencies, or State agencies can apply for Federal funds to provide mental health services in one or more of eight specified categories of services; requires that programs specifically designed for chronically mentally ill patients must receive certain allocations of available Federal funds; requires that the Department of Health and Human Services negotiate performance contracts with local entities or State agencies prior to disbursement of funds; repeals certain planning and formula grant requirements contained in the Public Health Service Act and the Community Mental Health Centers Act, substituting a similar formula grant program;

Directs NIMH to establish an administrative unit to promote mental health and establish national prevention goals; requires the Director of the NIMH to designate an Associate Director for Minority Concerns; states and sense of Congress that each State should review and revise, if necessary, its laws to insure that mental health patients receive the protection and services they require, taking into account the recommendations of the President's Commission on Mental Health (the mental health Bill of Rights) and 15 specified rights, including the right to assert grievances; authorizes a voluntary advocacy program to be run by individual States provides that mental health records may be disclosed to qualified personnel in order to determine program eligibility; authorizes $6 million for 1981 and $1.5 million each for 1982 and 1983 for a continuing study of rape and for development and maintenance of a rape information clearinghouse; authorizes $6 mililon for fiscal 1981, $9 million for 1982, and $12 million for 1983 for the establishment of demonstration, treatment and training programs to assist rape victims; and

Amends title XX of the Social Security Act to strengthen the capabilities of States and the Federal Government to detect Medicaid fraud, waste, and abuse by requiring all States, unless waived, to install computerized medicaid management systems to administer the medicaid program and requiring that procedures be implemented to ensure that States administering the program continually utilize the most cost effective management techniques are continually utilized by all States which administer a medicaid program. S. 1177—Passed Senate July 24, 1980: Passed House amended August 22, 1980: Senate agreed to conference report September 24, 1980. (*311)

Saccharin ban extension: Extends from May 23, 1979, to June 30, 1981, the ban on actions by the Secretary of Health and Human Services to restrict or prohibit the sale or distribution of saccharin, including any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin. H.R. 4453—Public Law 96–273, approved June 17, 1980. (VV)

HOUSING

Home purchase assistance: Amends the Emergency Home Purchase Assistance Act to impose the following two additional conditions on the activation of the program: (1) requires the Secretary to determine that the implementation of the section will not significantly worsen inflationary conditions, and (2) prohibits activation of the program unless the most recent four-month average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as calculated by the Director of the Bureau of the Census, is less than 1.6 million and automatically deactivates the program once this figure is exceeded; broadens the Secretary's authority to include the purchase of loans in addition to mortgages; includes mobile homes among the kinds of housing eligible for the program; increases mortgage limits for more than four family residences to the per unit amounts permitted under that section of the National Housing Act under which the project is insured and makes loan limits for mobile homes the same as those contained in section 2(b) of the National Housing Act; deletes the existing 7½ percent maximum on interest rates under the program, and provides instead that the interest rate be set by the Secretary but should not exceed the maximum rate applicable to mortgages insured under section 203(b) of the National Housing Act and shall not be lower than three percentage points below the average contract commitment rate maintained by the Federal Home Loan Bank Board for single family home mortgages or lower than 4½ percentage points for a multifamily mortgage; increases the sales price under the program as follows: for a one-family residence, 90 percent of the average new one-family house price in the area, as determined by the Secretary; for a two-family residence, 100 percent of such average; for a three-family residence, 120 percent of such average; and for a four-family residence, 140 percent of such average; gives the Secretary discretion to direct a portion of assistance to promote construction of multifamily housing; extends the program to existing housing constructed more than one year prior to the date of the issuance of the commitment to purcshase the mortgage; increases the mortgage amounts for multifamily dwellings to the limits specified in section 207 of the National Housing Act in the case of rental projects, section 213 for a cooperative project, or section 234 for condominium projects; prohibits the purchase of mortgages to finance the conversion of an existing rental housing project into a cooperative or condominium, or to finance the purchase of an individual unit in a converted cooperative or condominium;

Section 235 home ownership: Creates a special section 235 home ownership assistance program that would authorize below market interest rate mortgages; reduces effective subsidized mortgage rates to as low as 11 percent, rather than as low as four percent, under the present program; authorizes the Secretary of HUD to add a graduated payment mortgage feature to the program to reduce the homebuyer's effective interest rates to as low as eight percent; makes available assistance payments for persons buying dwellings that sell for up to 80 percent of the average new house price for their area, or $60,000, whichever is higher; authorizes the Secretary to set income levels by area, but directs that moderate income persons be served to the maximum extent feasible; limits recapture of the Federal subsidy to 50 percent rather than 75 percent of net appreciation upon sale of the home; authorizes HUD to use $135 million of its remaining $165 million already appropriated to support the revised section 235 provisions; provides that the program shall remain in effect only through March 1, 1981, unless the Secretary of HUD determines that there is no longer a need for emergency stimulation of the housing market; requires homebuyers to contribute at least 20 percent of their income toward mortgage principal, interest and property taxes; adds technical provisions overriding the limit that no more than 40 percent of the homes in a subdivision can be assisted by the present 235 program and the requirement for local government review for consistency with housing assistance plans of projects with more than 12 houses; and amends the Depository Institutions Deregulation Act of 1980 to make clear that the highest rate allowed either under State or Federal law can be charged on floating rate loans made prior to April 1, 1980, upon written consent. S. 2177—Passed Senate April 22, 1980. (*82)

Housing and community development: Amends and extends certain Federal housing and community development programs and authorizes approximately $46 billion for housing, flood mapping, and rural housing programs in fiscal 1981 and for community development programs in fiscal 1981 through 1983;

Community and neighborhood development and conservation: Reauthorizes the community development block grant program at $3.95 billion for fiscal 1981, $4.1 billion for 1982, and $4.25 billion for 1983; increases loan limits for the section 312 rehabilitation loan program to a maximum of $35,000 per dwelling unit for residential properties, except for congregate housing and single room occupancy structures, which receive loan limits of $25,000 and $15,000 respectively; reauthorizes the neighborhood self-help development program at $10 million for fiscal 1981;

Housing and assistance programs: Authorizes $29.99 billion to fund 286,000 units of public housing and section 8 subsidized private rental housing, at a mix of new to existing units of 60–40; reduces the eligibility ceiling for section 8 assistance to 65 percent of median area income from 80 percent of median area income; authorizes public housing operating subsidies totaling $852 million for fiscal 1981; reauthorizes operating assistance for troubled multifamily housing projects for fiscal 1981 at $31.1 million; extends the public housing anti-crime demonstration programs; and allows public housing agencies to use public housing funds as the non-Federal match to secure funds for Federal grant-in-aid programs;

Extends all basic FHA authorities for single family and multifamily housing programs, and title I property improvement loans and mobile home loans, with a requirement that the FHA interest rate be adjusted with sufficient frequency to minimize discount points; revises FHA mortgage limits for one-family units from the current nationwide limit of $67,500 to an area differential that calls for a limit of $67,500 or 95 percent of the median house sales price for the given area as determined by the Secretary, whichever is higher; increases 2- to 4-family dwelling limits proportionally; increases mortgage limits under multifamily and institutional FHA insurance programs by 20 percent to cover the cost of energy conservation measures; delays implementation of building energy performance standards for up to two years and transfers the responsibility for implementation from HUD to DOE; permanently extends the disposition of HUD-owned multifamily rental housing projects; reauthorizes the Neighborhood Reinvestment Corporation at $13,426,000 for fiscal 1981; revises the FHA section 233(f) refinancing program to permit an interest subsidy on loans through the Government National Mortgage Association (GNMA), and to curtail the use of the program for cooperative conversions; reauthorizes targeted tandem projects to the comparable FHA limits;

Planning assistance: Revises and reauthorizes the comprehensive planning program of the Housing Act of 1954 at $40 million annually for fiscal 1981 through 1983:

Condominium and cooperative conversion protection: Establishes national standards for condominium and cooperative conversion including a right of first refusal by individual tenants to purchase their units within 90 days of notice of conversion, warrantees on units and common elements, anti-fraud provisions and optional termination by unit owners of operating contracts with developers; allows enforcement of standards through civil action in State or Federal court; allows States and localities, three years following enactment, to exempt themselves from these standards; establishes rights if civil action with respect to certain long term condominium leases with automatic escalation clauses; and makes void certain provisions of those leases;

National flood insurance studies: Authorizes $61.6 million for fiscal 1981 and such sums as necessary for fiscal 1982 to carry out mapping studies of flood-prone communities in order to establish premium rates for the regular flood insurance program on a sound actuarial basis;

Rural housing: Extends, amends and authorizes $524 million for fiscal 1981 for housing and related programs administered by the Farmers Home Administration of the Department of Agriculture; limits FmHA's capacity to insure and guarantee loans to a maximum of $3.77 billion; and requires that no less than $3.12 billion be used to assist low income persons, whose incomes are 80 percent or less of the median area income. S. 2719—Passed Senate June 21, 1980; Passed House amended August 22, 1980; Conference report filed.

INDIANS

Cheyenne Indian Reservation coal leases: Authorizes the Secretary of the Interior to negotiate and execute cancellation agreements between the Northern Cheyenne Indian Tribe and certain companies holding coal leases and coal exploration permits on the Reservation; provides that the companies, in return for giving up all rights to such land, may receive an award of noncompetitive coal leases on Federal bypass coal deposits and/or bidding credits for use at competitive sales; exempts leases to lands held in trust for Indians or Indian tribes and lands subject to land use planning and environmental analysis; reduces the amount of bidding rights by whatever percentage of coal deposits are not recoverable; subjects all leases to the Mineral Leasing Act of 1920 and the Surface Mining Control and Reclamation Act; sets November 1, 1980, and January 1, 1982, as the dates on which agreements to cancel leases or permits or rights to a lease, respectively, must be signed; provides that, if no agreement is signed, leases shall be automatically cancelled on November 1, 1980, and permits or rights to leases 90 days after the parties agree in writing that negotiations are at an impassee or on January 1, 1982, whichever is earlier; and grants the U.S. Court of Claims jurisdiction over any claim arising out of such cancellation. S. 2126—Public Law 96–
approved 1980.

Cow Creek Bank of Umpqua Indians: Waives the statute of limitations in the Indian Claims Commission Act of 1946 to permit the Cow Creek Band of the Umpqua Indians of Oregon to file a claim, within five years of enactment, against the United States for alleged failures to uphold treaty obligations; states that the Court of Claims shall make deductions for offsets that would have been permitted under the Indian Claims Commission Act, which provided that "expenditures for food rations, or provisions shall be deemed payment on the claim"; allows for costs and attorney's fees not to exceed 10 percent of the award; and provides that loans from a revolving fund may be made by the Secretary of Interior to the band to finance expert assistance other than that of counsel. S. 668—Public Law 96–251, approved May 26, 1980. (VV)

Delaware Indian judgment funds: Lists and incorporates all of the Indian Claims Commission dockets which have been reduced to final judgment and appropriated for the Delaware tribes; directs the Secretary of the Interior to prepare a roll which includes the Kansas and Idaho Delawares who, by legislative oversight, were excluded from a 1972 distribution of an Indian Claims Commission judgment; directs the Secretary to establish a special fund from appropriated but undistributed judgments for the Delawares out of which the payment for the Kansas and Idaho tribes shall be made up; establishes a limit on the amount that may be paid in make up which is premised on 1,000 eligible distributees regardless of the number of eligible persons and provides that each person receive an initial distribution of $1,488.22; allocates ten percent of this special fund for attorney fees; provides, following establishment of the make up fund, that 17 percent of the remaining balance of the undistributed judgment funds be appropriated to the Delaware Tribe of Western Oklahoma (Absentee Delawares) with no more than 60 percent distributed on a per captia basis and the remainder programmed for tribal social and economic purposes; provides for the preparation of rolls for the Cherokee, Kansas, and Idaho Delawares and directs that the funds remaining after the special distributions be allocated on a per capita basis among these three groups; safeguards funds paid to legal incompetents and beneficiaries of deceased eligible persons; establishes an escrow fund for possible enrollment appeals and provides for the distribution of funds from unsuccessful appeals to the tribe in which the claimant claimed membership; exempts distributions from Federal or State income tax; makes clear that this Act shall not be construed as extending Federal recognition to the Kansas or Idaho groups; and establishes deadlines for enrollment procedures. S. 1466—Public Law 96–318, approved August 1, 1980. (VV)

Gila River Pima-Maricopa Indian Judgment distribution: Provides for the use and disposition of the judgment funds awarded the Gila River Pima-Maricopa Indian Community by the Indian Claims Commission in dockets 236–A and 236–B comprising in excess of $1.5 million and in docket 236–E comprising approximately $5 million. S. 2508—Public Law 96–319, approved August 1, 1980. (VV)

Indian claims settlement—Maine: Implements and ratifies the terms of the settlement negotiated among the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, the State of Maine, the private owners of large tracts of land, and the United States; authorizes $27 million for the establishment of a Maine Indian Claims Settlement Fund of which $13 million each will be held for the benefit of the Tribe and the Nation and administered in accordance with terms set by the respective Tribe or Nation and agreed to by the Secretary of Interior; requires the Tribe and the Nation to retain as reservations those lands and natural resources reserved for them in their treaties with Massachusetts and not subsequently transferred by them; entitles the tribes to all Federal Indian services and benefits awarded other federally-recognized tribes; includes various guarantees concerning jurisdictional matters and entitlement to State services; authorizes $54.5 million for the establishment of the Maine Indian Lands Acquisition Fund which will be used to acquire 150,000 acres of privately owned land each for the Tribe and the Nation, and 5,000 acres for the Band to be held in trust; defers acquisition of lands for the Band pending negotiation with the State on their location and other matters of concern to the parties; adopts and ratifies the Maine Implementing Act which sets forth terms of agreement with respect to the jurisdiction of the Tribe, the Nation, and the State and the legal status of these tribes under State law; authorizes the State to amend provisions of that Act only upon prior consent of the Tribe and the Nation; provides in order to facilitate implementation of the Maine Act, that the Tribe, Nation, and Band, and their members may, subject to the limitation on internal affairs contained in the Maine Act, sue and be sued in State and Federal courts to the same extent as any other person or entity, provided that principles of the immunity applicable to municipalities in the State are equally applicable to the Tribe and the Nation and their offices when acting in their governmental capacities; authorizes payment by the Secretary of income from the Trust Settlement Fund in satisfaction of valid, final orders of the courts; exempts the trust and restricted lands and trust fund of the Tribe, Nation, and Band from levy, attachment or alienation; authorizes the State and the Band, following enactment, to enter into negotiations to seek a method by which the Band may satisfy any obligations it incurs; authorizes the Tribe, Nation, and Band to adopt and file organizational documents with the Secretary; provides for the implementation of the Indian Child Welfare Act of 1978 by the Tribes; prohibits the availability or distribution of funds from the Settlement Fund to be considered as income or resources for purposes of denying or reducing Federal financial assistance or other Federal benefits to which the Tribe or Nation or their members would otherwise be entitled; provides for a deferral of capital gains for private property owners transferring lands to the United States under this Act; provides for the transfer of tribal trust funds from the State to the Secretary; discharges the State from existing or further claims; provides that this Act shall govern in the event of a conflict between this Act and the Maine Implementing Act; provides that Federal statutes subsequently enacted that are designed for the benefit of Indians or Indian tribes and which materially affect or preempt State laws, including the Maine Implementing Act, shall not apply within the State unless specifically made applicable to the State. H.R. 7919—Public Law 96– approved , 1980. (VV)

Indian claims under Fort Laramie and 1855 treaties: Authorizes the U.S. Court of Claims to hear and render judgment, without regard to the technical defense of res judicata (a matter once decided is finally decided) or collateral estoppel (precludes litigation of an issue which has been effectively and conclusively determined in a previous judgment by a court), on any fifth amendment claim filed against the United States by the following tribes seeking an award of interest for land taken by the U.S.

Assiniboine Tribe: For 6,477,490 acres of land taken under the 1851 Treaty of Fort Laramie for which the Tribe was awarded 50 cents per acre under a 1933 Court of Claims settlement but denied its interest request with instructions that the Court disregard the $2,492.319 of the tribe's own money that in the 1933 decision was used to offset the award of $3,238,970. S. 1796—Passed Senate July 21, 1980; Passed House amended September 29, 1980. (VV)

Blackfeet and Gros Ventre Tribes: For 12,261,749 acres of land taken under the 1855 Treaty for which the tribe was awarded 50 cents per acre under a 1933 Court of Claims settlement but denied its interest request with a prohibition on the deduction of offsets or gratuities after the date of the accounting in the prior case from any award that may be made under this Act. S. 1795—Public Law 96– , approved 1980.

Fort Berthold Reservation: For 9,846,186 acres of land taken under the 1851 Fort Laramie Treaty for which the tribe was awarded 50 cents per acre under a 1930 Court of Claims of settlement but denied its interest request with a prohibition against the deduction of offsets and gratuities subsequent to the date of the accounting in the prior case from any award that may be made in this Act. S. 341—Public Law 96— , approved , 1980, (VV)

Indian health care: Amends and extends for four years, through fiscal 1984, various programs under the Indian Health Care Improvement Act (Indian health manpower, Indian health services, Indian health facilities, and health services for urban and other nonreservation Indians) and the Public Health Service Act (Health professions scholarship program) with respect to Indian health care; establishes, in addition to the two-year compensatory preprofessional scholarship program, a four-year pregraduate scholarship program in order to provide Indians with a complete scholarship program for the health professions; imposes a requirement that the Indian Health Service (IHS) process scholarship applications for the health professions in sufficient time to get funds to grantees at least 15 days prior to registration for classes; provides a grant and contract program for tribal organizations on Federal reservations, trust areas, and Alaskan Native villages to assist individual Indians to enroll in and pay for Medicare coverage; gives the Secretary the authority to provide assistance in order to make health services more accessible to Indians not currently receiving IHS services and requires submission of a report reviewing the health services afforded urban and nonreservation Indians; authorizes renovations of facilities leased by the Secretary from an Indian tribe; requires submission of a resource allocation plan within one year; requires the Secretary to conduct a study of the health hazards of nuclear resource development on Indian miners and Indians on or near reservations; provides for the development of a plan which addresses the health problems identified in the study and provides for the recovery of certain costs for the diagnosis and treatment of problems resulting from nuclear resource development; and requires IHS to designate the State of Arizona as a contract health care service delivery area for the purpose of providing contract health care services to Indians of that State. S. 2728—Passed Senate June 20, 1980; Passed House amended September 9, 1980. In conference. (VV)

Indian interstate compacts: Authorizes States and Indian tribes to enter into mutual agreements and compacts, for periods of up to five years, respecting jurisdiction and governmental operations in Indian country on matters relating to: (1) the enforcement or application of civil, criminal, and regulatory laws of each within their respective jurisdictions; (2) allocation of determination of governmental responsibility over specified subject matters and/or geographical areas; and (3) agreements or compacts which provide for the transfer of jurisdiction of individual cases from tribal courts to State courts or State courts to tribal courts in accordance with procedures established by the laws of the tribes and States; authorizes $10 million for fiscal 1981 and such sums as may be necessary thereafter to the Secretary of the Interior to provide financial assistance for personnel and administrative costs incurred in implementing these agreements and contracts; directs the Secretary to encourage the establishment of joint tribal-State organizations to confer on jurisdictional questions existing between the parties; and enforce agreements and compacts authorized by the bill. S. 1181—Passed Senate May 30, 1980. (VV)

Indian judgment funds validates a number of Indian judgment fund distribution plans which were not submitted to Congress by the Secretary of Interior within the specified time frame required under the Distribution of Judgment Funds Act (Public Law 93-134), in order to avoid any legal challenge which could arise with respect to timely submission. S.J. Res. 108—Public Law 96-194, approved February 21, 1980. (VV)

Indian land inheritance: Amends certain laws to authorize an Indian to transfer, by will, his or her interest in trust or restricted real property to a lineal descendant or to another Indian for whom the Secretary of the Interior is authorized to hold land in trust. S. 2223—Public Law 96-363, approved September 26, 1980. (VV)

Indian trade: Repeals and amends specified laws regulating trade between Indians and certain Federal employees in order to permit such trade under regulations prescribed by the President; maintains the ban against trade between Indians and persons employed by the Bureau of Indian Affairs or the Indian Health Service; permits the Secretary of the Interior to ratify any transaction which occurred prior to enactment of this bill that would otherwise be in violation under existing law but would be legal under this act; and directs the Secretary to hold approximately ten acres of Federally owned land near Olympia, Washington, for the Wah-He-Lute Indian School to be used as an Indian school and community center for educational or cultural purposes. H.R. 3979—Public Law 96-277, approved June 17, 1980. (VV)

Indian tribal claims: Extends from April 1, 1980, to December 31, 1982, the period of time in which the United States may bring an action for damages arising from a contract or a tort claim on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or in restricted status where the claim accrued prior to July 18, 1966, and is filed and identified by December 31, 1981; and requires the Secretary of Interior, after consultation with the Attorney General, to submit to Congress by June 30, 1981, a report which details legislative proposals to resolve those Indian claims that they feel are not appropriate to resolve by litigation. S. 2222—Public Law 96-217, approved March 27, 1980. (VV)

Moapa Indian Reservation. Transfers 70,500 acres of land to the Moapa Band of Paiutes to be held in trust for the Tribe by the United States and subject to valid existing rights, including mining claims. S. 1135—Passed Senate September 23, 1980. (VV)

Mille Lacs Band of Minnesota Chippewa Indians: Directs the Secretary of Interior to acquire and hold in trust certain privately-owned lands located in Mille Lacs County, Minnesota, to be used as a burial ground for the Mille Lacs Band of the Minnesota Chippewa Indians. S. 1464—Public Law 96– , approved 1980. (VV)

Navajo and Pueblo de Jemez Indian lands: Repeals section 211 of the Act of May 25, 1918, which prohibits the creation of or addition to a reservation within New Mexico and Arizona except by Act of Congress, in order to permit the Navajo and Pueblo de Jemez tribes of New Mexico and Arizona to add any lands they acquire to their reservations; makes applicable to both tribes, sections 5 and 7 of the Indian Reorganization Act of 1934 (25 U.S.C. 461 et seq.) which authorizes the Secretary to acquire lands in trust and proclaim new or add to existing reservations for Indian tribes, respectively, thereby putting all tribes in Arizona and New Mexico in the same status as those tribes in other States to which the Act applies, as well as those tribes in their States for which special jurisdictional acts have been enacted. S. 1832—Passed Senate January 25, 1980. (VV)

Navajo-Hopi relocation: Provides for the enlargement of the existing Navajo Reservation in Arizona by authorizing the transfer of 250,000 acres of Bureau of Land Management (BLM) lands to the tribe at no cost; specifies that private lands to be acquired must be within 18 miles of the existing boundaries of the reservation and requires that BLM lands not within the 18-mile limit may be used only to trade for private lands within the area; provides that, for the first three years, the Navajo tribe in consultation with the Navajo and Hopi Relocation Commission, will select the lands to be acquired or transferred; calls for the submission of progress reports during the three-year period; authorizes the continuation of payments under the Payments-in-Lieu of Taxes Act of 1976 (which does not include Indian lands as lands eligible for such payments) on public lands transferred to the tribe as if the transfer had not occurred; prohibits the Secretary of Interior from taking private lands in trust for a period of three years unless both the surface and subsurface have been acquired by the tribe or unless the subsurface owner consents to transfer the surface estate to trust status; makes clear that subsurface owners have access to the surface of lands transferred to the tribe to develop their mineral interests as they had prior to the transfer; provides that lands acquired for relocation puposes must be used solely for that purpose and administered by the Commission until relocation under the Commission's plan is complete or the Commission is terminated;

Repeals that section of the Navajo-Hopi Land Settlement Act of 1974 which authorizes the district court of Arizona to award limited life estates and instead authorizes the Commission to award up to 120 life estates, made up of 90 acres each, to those Navajo and Hopi Indians meeting certain criteria; requires that priority in awarding life estates be given to the disabled, elderly and residents of the Mig Mountain area; requires that the physical area of each estate be fenced in; provides for an additional ten estates to Hopi families living on Navajo partitioned lands which would be governed by the same criteria as the Navajo estates; requires the Secretary to protect the rights and benefits of life tenants and persons awaiting relocation; and provides for the complete assumption of jurisdiction over the lands by the tribe to whom partitioned no later than April 18, 1981. S. 751—Public Law 96-305, approved July 8, 1980. (VV)

Paiute Indian Tribe restoration: Restores all rights and privileges, other than hunting, fishing, and trapping, under any Federal treaty, Executive Order, agreement, or statute, to the Shivwits, Kanosh, Koorsharem, and Indian Peaks Bands of Utah Paiute Indians which was terminated on September 1, 1954, and confirms these rights and privileges with respect to the Cedar City Band of Paiute Indians, which was never officially terminated; specifies a procedure by which membership in the tribe is to be established; provides for an election to adopt a constitution and bylaws; provides for an interim council to represent the tribe and be its governing body pending election of tribal officials; directs the Secretary of Interior to develop a plan to enlarge the reservation up to a maximum of 15,000 additional acres and to submit the plan, in the form of proposed legislation, to the appropriate Congressional committees within two years of enactment; bars any legal claim for land owned by the tribe and lost through tax or other sales since September 1, 1954; and authorizes the Secretary to promulgate such rules and regulations as necessary to carry out the act. H.R. 4996—Public Law 96-227, approved April 3, 1980. (VV)

Siletz Indians: Provides, pursuant to the Siletz Indian Tribe Restoration Act of 1977, that 3,630 acres of Bureau of Land Management land, located in Lincoln County, Oregon and a 36.55 acre tract owned by the city of Siletz (known as Government Hill) be held in trust for the establishment of a reservation for the Confederated Tribes of the Siletz Tribes of Oregon; reextends all rights and privileges to the tribes, except for hunting, fishing, and trapping unless declared and set forth in the final judgment and decree of the U.S. District Court for the district of Oregon, in an action entitled Confederated Tribes of Siletz Indians of Oregon Against State of Oregon, entered May 2, 1980; provides that the State of Oregon shall continue to have civil and criminal jurisdiction on the Siletz Reservation; and authorizes the Secretary of Interior to pay to the city of Siletz up to $5,000 for the transfer of Government Hill. S. 2055—Public Law 96-340, approved September 4, 1980. (VV)

Standing Rock Sioux land inheritance: Establishes, at the request of the Standing Rock Sioux Tribe of North and South Dakota, a code of laws to govern inheritance of trust or restricted lands on the Standing Rock Sioux Indian Reservation which contains specific provisions designed to limit the right to such inheritance to persons meeting certain specific requirements; provides uniform descent laws for property of an Indian who dies intestate; and provides that the Act apply only to estates of decedents whose death occurs after enactment. H.R. 2102—Public Law 96-274, approved June 17, 1980. (VV)

Tribal distribution of trust fund per capita payments: Authorizes Indian tribes, upon development of an approved plan, to issue per capita checks from tribal trust funds to individual members of their tribes; maintains that funds distributed under the act will not be liable to pay any previous tribal obligations or affect the requirements of the Judgment Funds Distribution Act of 1973; and repeals the two statutes prohibtiing tribes from making per capita payments to their members. S. 2767—Passed Senate July 21, 1980. (VV)

Tribally-controlled community colleges: Amends the Tribally-Controlled Community Colleges Act of 1978 (Public Law 95-471) by enabling an Indian who is eligible for Bureau of Indian Affairs services to enroll in a tribal college even though he or she is not a tribal member; broadens the term "tribally-controlled community college" to encompass vocational-technical and adult education programs, by substituting the term "post-secondary institution" for "institute of higher education" and redefining it in order to make such colleges eligible for technical assistance grants from the Secretary, whether or not they satisfy the accreditation requirements of a post-secondary institution; and increases the annual authorization for technical assistance grants from $3.2 million to $10 million for fiscal 1981 and 1982. S. 1855—Passed Senate January 25, 1980. (VV)

Tule River Indian Tribe: Restores to and holds in trust for the Tule River Indian Tribe, Porterville, California, approximately 1,200 acres of land which are presently within the boundaries of the Sequoia National Forest; provides for the maintenance of valid existing rights-of-way, permits, and leases on the land to be transferred; and provides a right-of-way to the Forest Service for access through such lands. S. 1998—Public Law 96-338, approved September 4, 1980. (VV)

Ute Indians: Conveys approximately 3,100 acres of Bureau of Land Management land in Colorado, including mineral rights, to the Ute Mountain Ute Indian Tribe as compensation for 15,000 acres of land in New Mexico that were erroneously given by Congress to both the Ute Tribe and the Navajo Tribe; provides that the land be subject to State and local jurisdiction and not be considered "Indian Country" for any purpose; and authorizes $5,840,000 to the Tribe to be used for economic development purposes in accordance with a plan developed by the Tribe and approved by the Secretary as compensation for the loss of revenues derived from the disputed land with the proviso that the Tribe give up all legal and equitable claims to the 15,000 acres that is now part of the Navajo Reservation. H.R. 5036—Vetoed June 6, 1980. (VV)

INTERNATIONAL

Azores earthquake assistance: Amends the Foreign Assistance Act of 1961 to authorize $10 million in international disaster assistance funds for fiscal 1980 for disaster relief and reconstruction efforts in the Azores Islands of Portugal in order to alleviate the human suffering caused by a major earthquake on January 1, 1980. S. 2194—Passed Senate February 28, 1980. (VV)

Canada commendation: Commends, on behalf of all Americans, the Government of Canada for its actions in protecting certain United States citizens and arranging for their departure from Iran. S. Res. 344—Senate agreed to January 30, 1980. (VV)

China trade: Approves the extension of nondiscriminatory (most-favored-nation) treatment with respect to products which the U.S. imports from the People's Republic of China which was transmitted by the President on October 23, 1979. H. Con. Res. 204—Action completed January 24, 1980. (*13)

Foreign Service reform: Revises and consolidates, effective April 1, 1981, legislation relating to the Foreign Service, restructures personnel categories and pay schedules, establishes labor dispute procedures, reemphasizes the merit principles of the Service, and expands the equal employment opportunity program; establishes a new Senior Foreign Service, comparable to the Senior Executive Service, and provides for entry into the Senior Foreign Service via special threshold performance evaluation boards which would apply higher standards than those now applied to persons considered for promotion to the senior ranks; permits members of the Senior Foreign Service to serve for a limited period of time in each of its three grades, and failure to achieve promotion to the next within that period would lead to retirement; restricts the use of authority for career extensions, thus preventing the removal of senior officers for political reasons; allows limited extension of career appointments on the basis of outstanding performance; provides for annual review of the performance of all personnel in the Senior Foreign Service and for the separation of those whose performance fails to meet the standard of their class; reduces the number of personnel categories from more than a dozen to two—with a single pay scale for both; provides a statutory basis for labor-management relations by creating a new Foreign Service Lebor Relations Board and a Foreign Service Impasse Disputes Panel; provides requirements for granting career tenure, performance evaluation promotions based on merit principles, and selection out for substandard performance for all members of the Foreign Service from top to bottom; provides a clear distinction between Foreign Service and Civil Service employment; prevents a windfall salary increase for those individuals who convert from Foreign Service to the Civil Service; prohibits mandatory conversion to the Civil Service of domestic specialists in the International Communications Agency; eliminates the "domestic" Foreign Service personnel category and limits Foreign Service career status only to those people who accept the discipline of overseas service; improves interagency coordination in the interests of maximum compatibility among agencies employing Foreign service personnel and compatibility between the Foreign Service and the Civil Service; recodifies and consolidates the various laws relating to Foreign Service officers based on outstanding performance; and establishes a clear and precise linkage between the Foreign Service Schedule and the General Schedule to rectify the present salary discrepancies between the two schedules. H.R. 6790—Passed House September 8, 1980; Passed Senate amended September 15, 1980; Conference report filed. (VV)

Helsinki accords: Reaffirms congressional support for full implementation of all provisions of the Helsinki Final Act by all signatories; states the sense of the Congress that human rights concerns be given serious and prominent attention at the Madrid Conference on November 11, 1980; specifically urges the U.S. delegation to Madrid to raise violations of human rights, especially those involving members of Helsinki monitoring groups, in a firm forthright and specific manner; and directs the delegation to seek a continuation of the review process and thus maintain a forum in which to influence the Soviets and others to implement the agreement by setting the time and place of the next review meeting within two years. H. Con. Res. 391—Action completed August 1, 1980. (VV)

International development and security assistance: Authorizes $4,785,931,000 for international security and development assistance and Peace Corps programs in fiscal 1981; authorizes $638.6 million for military aid programs in fiscal 1981, and provides program authority for an additional $2.575 billion in foreign military sales financing; includes military aid in the amount of $1.4 billion to

Israel with $500 million grant, $551 million to Egypt, $252 million to Turkey, $183 million to Greece, and $175 million to the Republic of Korea;

Authorizes $2,049,500,000 for fiscal 1981 Economic Support Fund programs, including $785 million for Israel, $750 million for Egypt, and $200 million for Turkey;

Authorizes $25 million in fiscal year 1981 for ongoing international peacekeeping operations in the Sinai and in Cyprus; authorizes $38.6 million in fiscal 1981 for International Narcotics Control programs; removes the $35 million ceiling on commercial arms exports and makes corresponding changes such as adding a concurrent resolution veto for commercial arms exports; removes the ten percent reserve requirement for the foreign military sales guarantee fund and replaces it with a floor of $750 million; directs that the costs of the grant military training programs be calculated on an incremental rather than full cost basis; provides the President with expanded emergency powers to waive restrictions in the Arms Export Control Act and draw down up to $50 million in U.S. Defense Department stocks; defines more carefully the term "duties of a combat nature" related to the security assistance program and provides for reports to Congress in the event of significant hostilities in countries receiving U.S. defense services;

Requires Presidential reports on Soviet troops in Cuba and on leases of U.S. military property to foreign governments;

Authorizes $233,250,000 in fiscal 1981 for voluntary contributions to international organizations and programs; and $114,656,000 for the Peace Corps;

Authorizes $1.282 billion for AID's functional development assistance programs; authorizes operating expenses for fiscal 1981 for AID as well as 1981 authorizations for the Sahel Development Programs, American Schools and Hospitals Abroad and the International Disaster Assistance; requires the expenditure of $2.5 million of AID funds to prepare environmental profiles of developing countries and to support programs to assist in the protection and improve management of their environment and natural resources; and changes the name of AID's Auditor General to Inspector General and provides the Inspector General with authorities similar to those of Inspectors General of other agencies; makes available aircraft, communications equipment and operational support as are essential to Colombian narcotics enforcement programs; urges the President to consider a foreign Government's position on participation in the Olympic Games boycott when determining levels of assistance for that country;

Requires the President to provide an annual report on official development assistance flows of other donor nations, particularly OPEC and OECD nations, which shows a percentage breakdown of such assistance in terms of both GNP and annual government budget for each donor; approves classifying all Cubans entering the U.S. between January 1, 1980, and June 16, 1980 as refugees for the sole purpose of providing Federal aid to State and local governments pursuant to the Refugee Act of 1980; exempts exports of depleted uranium to be used for defense, unrelated to its radioactive properties, from provisions of the Atomic Energy Act of 1954 and the Nuclear Nonproliferation Act of 1978 when such exports are already subject to controls provided in the AECA or the Export Administration Act of 1979; amends the Export Administration Act by requiring the President to notify the Senate Foreign Relations Committee prior to commercial sales of military items and broadening the category of items considered potentially useful to terrorists;

Authorizes the President to permit certain least developed countries to pay a sum equivalent to principal and interest on loans owed to the U.S. into local currency accounts to fund development activities agreed upon by the recipient country and AID administrator and authorizes therefor $10,845,000; authorizes use of up to 15 percent of funds for any title of PL 480 for any other title;

Directs the President to report to the Foreign Relations Committees of both Houses every 60 days after the obligation of funds to Zimbabwe, particularly on the implementation of the Lancaster House Declaration of Rights; empowers the President to provide direct or indirect assistance to military, paramilitary or guerilla operations in Angola only after determining that such assistance is in the interest of U.S. national security and requires that he submit a description of categories and amounts of assistance and a certification of national security determination; prohibits military aid to Nicaragua; restricts funds available to El Salvador; authorizes use of up to $50 million in economic support funds for emergency purposes if required by national interests; authorizes the President, at his discretion, to transfer repayment obligations from the Caribbean Development Bank to recipient members;

States the sense of Congress that the President make efforts to resolve the Iran and Afghanistan crises the highest of priorities at the Venice Summit and report to Congress by August 1, 1980; and

States the sense of Congress urging the President to seek international cooperation on the Cuban refugee problem, and specifically urges discussions thereon at the United Nations and the Organization of American States. H.R. 6942—Passed House June 5, 1980; Passed Senate amended June 17, 1980; In conference. (*218)

International Monetary Fund (Bretton Woods): Amends the Bretton Woods Agreements Act to authorize the U.S. Governor to consent to a permanent increase in the quota of the United States in the International Monetary Fund (IMF) equivalent to 4,202,500,000 Special Drawing Rights (SDR's) (approximately $5.4 billion) as provided in appropriations acts; extends the requirement from the Witteveen Facility to the entire IMF operation that the Secretary of Treasury seek to assure that IMF actions are consistent with current U.S. policy that public and private creditors are comparably treated in cases of debt rescheduling; states that the policy of the U.S. is to oppose the granting of any official status to the PLO at the upcoming IMF/IBRD (International Bank for Reconstruction and Development) meeting and requires the President, if the PLO is granted official status, to submit a report to Congress, with recommendations, on what he intends to do; states the sense of the Congress that the IMF and World Bank in making loans should encourage those programs that assist the private sector; instructs the U.S. executive director to monitor IMF staff salaries to ensure that they are in compliance with levels recommended by an internal Fund/Bank Committee Report on salaries which drew up specific guidelines to bring them more into line with other civil service salaries; states the sense of the Congress that Taiwan be granted appropriate membership in the IMF; states the sense of the Congress regarding the problems for the world economy caused by the current petro dollar recycling requirements and urges IMF to actively encourage direct recycling by OPEC through new and innovative methods; calls upon the Secretary of Treasury to submit a report to Congress by May 15, 1981, on the adequacy of IMF resources, the feasibility of direct borrowing, and the possibility of IMF playing a role in direct government-to-government lending for balance of payments purposes; states the sense of the Congress that the U.S. and other IMF members should negotiate a Substitution Account within IMF to assist in the removal of unwanted dollars from the world financial system in an orderly way; encourages IMF to be more sensitive to basic human needs when formulating its stabilization programs and contains a number of recommendations as to how this might be accomplished; reaffirms the Congressional commitment to a balanced budget in 1981; and provides for a commission to study and report to Congress with regard to U.S. policy concerning the role of gold in the domestic and international monetary system, S. 2271—Public Law 96– approved 1980. (*211)

International sugar agreement implementation: Provides for the implementation of the International Sugar Agreement of 1977 (ISA) to which the Senate gave its advice and consent to ratification on November 30, 1979, and which was ratified by the President on January 2, 1980; authorizes the President, in order to carry out and enforce the provisions of the Agreement, to: (1) regulate the entry of sugar by appropriate means, including, but not limited to the imposition of limitations on the entry of sugar from nonmembers of the International Sugar Organization and the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the ISA; (2) require appropriate persons to keep records, statistics, and other information, and submit reports relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as may be prescribed; and (3) take other action, including issuing and enforcing rules or regulations, as may be necessary to implement the rights and obligations of the U.S. under the ISA; makes it a crime, punishable by a fine of not more than $1,000, to fail to keep any required information or to submit a required report, to knowingly submit a false report, or to violate a rule or regulation promulgated pursuant to this Act; requires biannual (May 1 and November 1) reports to Congress on the operation and effect of the ISA which must, at a minimum, contain information on and projections of world and domestic sugar demand, supplies and prices, and a summary of international and domestic actions under the ISA and U.S. law to protect the interests of U.S. consumers and producers of sugar; provides that the President is to exercise his authorities as he considers appropriate to protect U.S. consumer interests; directs the President, if he determines that there has been an unwarranted price increase due in whole or in part to the ISA or to market manipulation by ISA members, to request the various governing bodies to take off-setting actions to increase sugar supplies; directs the President, if the International Sugar Council (the highest authority of the International Sugar Organization) fails to take corrective action within a reasonable period of time following the request, to submit to Congress his recommendations on ways to correct the situation; and provides for the suspension of the President's implementation authority as contained in this Act if the situation is not remedied within a reasonable period of time and until such time as the President determines that manipulations have ceased. H.R. 6029—Public Law 96–236, approved April 22, 1980. (VV)

Iranian hostage release: States the sense of the Congress that the people of the United States should observe March 18, 1980, as a national day of prayer and meditation for the hostages in Iran. S. Con. Res. 79—Action completed March 17, 1980. (VV)

Expresses the deep sympathy of the Senate to the families of the eight servicemen who lost their lives in the attempted rescue of the Americans being held hostage in Iran: and states the sense of the Senate that the President shall order the U.S. flag to be flown at half-mast on all Federal buildings and grounds for sunset on May 6, until sunset on May 9, 1980, in honor and remembrance of these men. S. Res. 417—Senate agreed to May 6, 1980. (VV)

Japan-U.S. Mutual Defense Treaty (Tokyo conference): States the sense of the Senate that the 20th anniversary of the Mutual Defense Treaty with Japan be commemorated and observed; that it is in the best interest of both countries to discuss, and evaluate, in private and government forums, the achievements of the Treaty and how best to perpetuate and augment them; and that reports on any such discussions and evaluations be sent to the Senate. S. Res. 484—Senate agreed to August 26, 1980. (VV)

Liberian Government overthrow: States the sense of Congress that the President should communicate this concern to the government of Liberia, specifically indicating that a continued disregard for internationally recognized standards of justice is bound to have a serious effect on the traditionally close relations between the United States and Liberia; condemns the summary nature of the military trials being conducted in Liberia, the number of executions resulting from these trials, and other actions which offend basic principles of justice and humanity and due process of law; and expresses concern about the extent to which the new government of Liberia intends to adhere in the future to internationally recognized standards of justice, and welcomes a recent statement by the government of Liberia that there will be no more executions. S. Con. Res. 89—Senate agreed to June 11, 1980. (VV)

Mid-decade Women's Conference: States the sense of the Senate that the inclusion and acceptance of a separate biased political agenda item on "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories" into the apolitical Mid-Decade Women's Conference scheduled for July 14–20, 1980, in Copenhagen, is deplored by the Senate and instructs the U.S. delegation to the conference to oppose any resolutions or amendments introduced at the Conference on issues which do not relate directly to the goals of the Conference and actively work with other delegations to ensure that they voice similar opposition. S. Res. 473—Senate agreed to June 26, 1980. (VV)

Multilateral Development Banks: Authorizes the U.S. Governor of the Inter-American Development Bank (IADB) to vote for two resolutions proposed at a special meeting in December, 1978 and pending before the Board of Governors which (1) increase the authorized capital stock of the Bank and additional subscriptions thereto, and (2) increase the Fund for Special Operations; authorizes $2,474,287,189 as the U.S. subscription for the newly authorized capital stock (of which 92.5 percent is callable and 7.5 percent is paid-in) and a contribution of $630 million to the Fund for Special Operations;

Authorizes a contribution of $378.25 million as the U.S. share of the Asian Development Fund (which is the soft loan window of the Asian Development Bank); states the sense of the Congress that it is U.S. policy that Taiwan should be permitted to retain its membership in the Bank and that the U.S. Executive Director of the Bank should notify the Bank that a serious review of future U.S. participation, including payments to the Fund, would ensue if Taiwan were expelled from the Bank;

Authorizes a contribution of $125 mililon as the U.S. share of the African Development Fund;

Provides that all authorized funds shall be available without fiscal year limitation and that they be provided for in advance of appropriations acts; provides, for the purpose of keeping the U.S. cost of participating in the various institutions at a minimum, that the Secretary of Treasury should pay the U.S. contributions to IADB's Fund for Special Operations and the Asian Development Bank in four equal installments and the contribution to the African Development Fund in three equal installments; instructs the Secretary of Treasury to obtain a certification from the Banks that drawdowns of the letters of credit will be deferred until the funds are needed by the respective institutions;

Requires the Secretary of the Treasury to instruct the U.S. executive directors of the IADB, the Asian Development Bank, and the African Development Fund to assure that information relative to export opportunities is communicated to the Secretaries of State and Commerce and requires that the information be broadly disseminated to large and small businesses;

Requires detailed quarterly reports by the Secretary of the Treasury on all loans considered by the Boards of Executive Directors of the various institutions and on all loans opposed by the U.S.; directs the U.S. Governors of the various international banks to consult with the other governors of these institutions concerning adoption of an amendment to the articles of agreement of each institution which establishes human rights standards to be considered in connection with each application for assistance; and

Requires the U.S. to encourage the IADB, the African Development Fund, and the Asian Development Bank to promote the development of renewable energy resources. S. 662—Public Law 96–259, approved June 3, 1980. (101)

Authorizes $3.24 billion as the U.S. contribution to the sixth replenishment of the resources of the International Development Association which will be paid in three annual installments beginning in fiscal 1981, and limits the first payment to $939.6 million; authorizes the President to accept membership for the U.S. in the African Development Bank (AFDB) and to appoint a Governor and Alternative Governor of the Bank who must be confirmed by the Senate; authorizes therefor $359,733,570 for the initial U.S. subscription of 29,820 shares of the capital stock of the Bank of which $89.9 million would be paid in five annual installments beginning in fiscal 1981 and $269.8 million is callable, requiring no budget outlays; and amends the Bretton Woods Agreements Act (International Bank for Reconstruction and Development) and the Asian Development Bank Act to allow program limitations, rather than budget authority, to be established for callable capital subscriptions which are used by MDB's to back up paid-in capital and reserves in the event that the Bank's resources are insufficient to meet its obligations. S. 2422—Passed Senate June 16, 1980. (*212)

NATO mutual support: Authorizes the Secretary of Defense to enter into certain agreements with the North Atlantic Treaty Organization (NATO) countries to facilitate host-nation support and cross servicing arrangements between U.S. and NATO military forces deployed in Europe by: authorizing the Secretary to waive certain provisions of the Arms Export Control Act and other U.S. laws relating to the acquisition and transfer of goods and services by the Department of Defense; establishing reciprocal pricing and reimbursement procedures for the acquisition and transfer of logistical support, supplies, and services provided in host nation support and cross-servicing agreements; establishing a $100 million annual ceiling on such U.S. acquisitions and transfers, and a $25 million ceiling on the acquisition of supplies other than petroleum, oils, and lubricants; establishing an annual reporting requirement detailing the nature, quantity, and value of all transactions made under this authority; prohibiting any increase in inventories and supplies for U.S. forces in Europe for the purpose of transferring such services and supplies under this authority; and providing for prior Congressional consideration of implementing regulations issued by the Secretary. H.R. 5580—Public Law 96–323, approved August 4, 1980. (VV)

Nicaragua and Honduras economic assistance: Authorizes additional disaster relief and reconstruction assistance in the amount of $80 million in Economic Support Funds for fiscal 1980 of which $75 million is for Nicaragua and $5 million is for Honduras; authorizes $2 million to guarantee the financing of credit sales of defense articles and services and $1 million for International Military Education and Training to help meet the security needs of nations in Central America and the Caribbean; and requires quarterly reports from the Executive Branch accounting for the expenditure of funds authorized in this and other bills for Nicaragua and outlining the status of private industry and freedom of the press in Nicaragua. S. 2012—Passed Senate January 29, 1980. (*17)

Authorizes $80 million in Economic Support Funds for fiscal 1980, to remain available until expended ($75 million for Nicaragua and $5 million for Honduras):

Directs the President, in furnishing assistance to Nicaragua, to take into account the extent to which that Government has engaged in human rights violations (including the right to organize and operate labor unions and the right of freedom of the press and religion) and to encourage that government to respect these rights;

Reaffirms the requirement that a principle goal of U.S. foreign policy is to promote the increased observance of internationally recognized human rights by all countries; states that, in furtherance of that goal, assistance to Nicaragua will be terminated if that Government engages in a consistent pattern of gross violations of internationally recognized human rights;

Requires the Secretary of State to submit a report for each six-month period in which funds are expended for Nicaragua discussing the status of these various rights;

Directs the President to terminate aid to Nicaragua if he determines that Nicaragua is cooperating with or harboring international terrorist organizations or aiding, abetting, or supporting acts of violence or terrorism in other countries and provides that if such a determination is made, the outstanding balance of any ESF loan provided to Nicaragua shall become due and payable;

States the sense of the Congress that the U.S. should support its traditional Latin American allies, including Guatemala, El Salvador, Costa Rica, Panama, Nicaragua, and Honduras against external subversion;

Provides that funds made available for the National School of Agriculture in Nicaragua be used under an understanding with the Autonomous National University of Nicaragua that the National School of Agriculture will cooperate in programs with U.S. institutions of higher education;

Requires that any agreements with Nicaragua regarding the use of funds made available under this act in the form of loans shall specifically require that at least 60 percent be used to assist the private sector as shall any local money generated therewith; provides that local currency shall be used in ways which will strengthen private financial institutions in Nicaragua and that local currency programs be monitored and audited in accordance with the Foreign Assistance Act;

Requires termination of aid to Nicaragua if the President determines that: (1) Soviet, Cuban, or other foreign combat military forces are stationed in Nicaragua and that their presence constitutes a threat to the U.S. national security or that of any of its Latin American allies; (2) Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression; or (3) Nicaragua engages in systematic violations of free speech and press;

Directs the President to encourage Nicaragua to hold free, open elections within a reasonable period of time and, when providing any additional assistance to Nicaragua, to take into consideration the progress being made toward holding such elections;

Prohibits the use of funds for assistance to any school or other educational institution that would house, employ, or be made available to Cuban personnel;

Requires that any agreement with Nicaragua on the use of funds under this act specifically require that such funds be used for the purchase of U.S. originated goods or services; and

Requires that up to one percent of the funds made available to Nicaragua be used to make publicly known to the people of Nicaragua the extent of U.S. aid programs to them. H.R. 6081—Public Law 96-257, approved May 31, 1980. (*151)

Nuclear fuel shipments to India: Approves the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station. H. Con. Res. 432—Action completed September 24, 1980. (*440)

OPIC authorization—China: Adds the People's Republic of China to the two countries exempted from the general prohibition contained in the Foreign Assistance Act of 1961 against Overseas Private Investment Corporation (OPIC) operations in communist countries in order that OPIC may provide insurance and guarantees to American businessmen interested in investing in China. S. 1916—Public Law 96-327, approved August 8, 1980. (VV)

Pakistanian attack on international school of Islamabad: Expresses the gratitude and appreciation of the Senate for the efforts of Colonel Ismail Kahn and Mr. Bill Hamidullah in protecting the lives of approximately 40 American students at the International School of Islamabad which was under attack at the same time that Pakistanian riotors seized and subsequently burned the American Embassy in Islamabad. S. Res. 343—Senate agreed to February 18, 1980. (VV)

Rubber agreement implementation legislation: Authorizes $88 million in fiscal 1981 to serve as the United States' share of the direct government contributions to finance the buffer stock transaction of the International Natural Rubber Agreement (Ex. D, 96th-2d), a five year commodity agreement which seeks to stabilize short term natural rubber price fluctuations and at the same time encourage the expansion of natural rubber supplies over the longer term through the use of buffer stocks which will be bought or sold at various times, triggered by movements of natural rubber prices around an agreed reference price. S. 2666—Public Law 96-271, approved June 16, 1980. (VV)

Soviet emigration of Irina Astakhova McClellan: Urges the President, acting directly or through the Secretary of State or appropriate executive branch official, to continue to express U.S. support of Irina Astakhova McClellan's efforts to emigrate from the Soviet Union in order to join her husband in the U.S. and to inform the Soviet Union that the U.S., in evaluating its relations with other countries, will take into account the extent to which those countries honor their commitments under international law, particularly with respect to the protection and promotion of human rights. S. Con. Res. 62—Senate agreed to September 24, 1980. (VV)

Soviet exile of Andrei Sakharov: States the sense of Congress, that in acordance with the Helsinki Final Act, the Soviet Union should immediately release Andrei Sakharov from internal exile; and urges the President to: (1) protest, in the strongest possible terms and at the highest levels, the exile of Andrei Sakharov and the continued suppression of human rights in the Soviet Union, (2) call upon signatory nations of the Helsinki Final Act to join in such protests and to take appropriate actions against the Soviet Union, including refusal to participate in the 1980 Summer Olympics in Moscow and suspension of appropriate commercial activities, and (3) inform all signatory nations of the U.S. intent to raise the issue of Soviet violations at the 1980 Helsinki review meeting. H. Con. Res. 272—Action completed February 19, 1980. (*42)

Soviet occupation of Afghanistan: Calls for the withdrawal of Soviet troops from Afghanistan; expresses Senate support for boycotting the Summer Olympics, restricting trade in high technology, and limiting other commercial relations with the Soviet Union; urges the Administration to continue to bring Soviet violation of norms of international conduct and basic rights of individuals to the attention of the United Nations; and urges the Administration to work with European and Asian allies and nations in the region to prevent further Soviet incursions. S. Res. 472—Senate agreed to June 24, 1980. (*247)

Soviet use of biological warfare: States the sense of the Senate that the President should urge and request the Soviet Government promptly to exchange such scientific data as may be necessary to resolve any dispute regarding the nature of the outbreak of purmonary anthrax near the city of Sverdlovsk in the Soviet Union, as provided for by article V of the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction; and undertake consultative and cooperative measures through appropriate international procedures, as provided by article V of the convention, or if necessary, lodge a complaint with the Security Council of the United Nations, as provided by article VI of the convention, if the Soviet Government fails to make such data available. S. Res. 405—Senate agreed to May 14, 1980. (VV)

State Department supplemental: Authorizes $14,514,000 in additional funds for fiscal 1980, and $125,411,000 for fiscal 1981 for certain programs of the Department of State, the International Communication Agency, and the Board for International Broadcasting; authorizes $6,532,000 for fiscal 1981 for the American Institute in Taiwan; provides authorization in fiscal 1981 of $69 million appropriated for several refugee activities and establishes the position of Assistant Secretary for Refugees Affairs; earmarks $1.7 million for the continued operation of the following 7 consular posts intended to be closed in fiscal 1980: Turin, Italy; Salsburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia; provides for the appointment of a U.S. Representative to the Vienna U.N. office; provides for a coal export office in each U.S. diplomatic mission; authorizes the use of State Department funds for ceremonial gifts to international organizations; removes the limitation on funds for U.N. peacekeeping forces; extends to 10 years the period of validity of a passport; provides for the Secretary of State to pay travel and relocation expenses of employees assigned to State or local governments; improves the administrative provisions of the ICA basic enabling authorities; increases the fiscal 1981 authorization for the Board for International Broadcasting by $12,048,000, for a total of $86,787,000; designates U.S. Government radio broadcasts to Cuba as "Radio Free Cuba"; and authorizes $50,605,000 for fiscal 1981 for the U.S. share of contributions to the International Labor Organization. S. 2727—Passed Senate June 16, 1980. (*210)

Summer Olympics, 1980: Urges the International Olympic Committee (IOC) to move, postpone, or cancel the summer Olympic games in Moscow; urging that the U.S. Olympic Committee and the athletes competing for positions on the U.S. team receive the continuing support, commendations, and contributions of the American people; urges that, if the IOC fails to adopt the U.S. Olympic Committee proposal, or a comparable proposal, no American team participate in those games and no American attend them in any capacity; urges the Secretary of State to inform other nations of the U.S. policy and intensify efforts to gain support for that policy; and calls on the IOC to consider the creation of permanent homes for the summer and winter Olympic games, including one in Greece, the country of their origin. H. Con. Res. 249—House agreed to January 24, 1980; Senate agreed to amended January 29, 1980. (*15)

Thailand-Cambodia refugee camp: States the sense of the Congress that the President, acting through the Permanent U.S. Representative to the United Nations, should request the U.N. to establish under its auspices an international presence in the encampments of Khmer refugees along the border between Thailand and Kampuchea to: (1) promote security and stability for the refugees in these encampments; (2) oversee the distribution of food and water to insure that they are distributed to those refugees for whom they are intended; (3) demonstrate that the assistance which is being provided is solely for humanitarian purposes; and (4) encourage all nations in the region to respect the use of the border area as a sanctuary for those Khmer who are in need of humanitarian assistance. S. Con. Res. 72—Action completed February 26, 1980. (VV)

Tunisian assistance: States the sense of the Congress that recent foreign-inspired attempts to undermine the stability of Tunisia constitutes a serious threat to international peace and security to and the national security interest of the United States, NATO nations, and all nations in the Mediterranean area; and further states that the U.S. should take steps to help Tunisia meet this unprovoked threat to its freedom and security by furnishing appropirate levels of economic and security assistance. H. Con. Res. 282—Action completed March 18, 1980. (VV)

JUDICIARY AND ADMINISTRATION OF JUSTICE

Age of nominees for Federal Judgeships: Expresses the sense of the Senate that the American Bar Association and the Department of Justice should immediately end discrimination against potential lifetime Federal judges who do not qualify solely as a result of arbitrary age barriers. S. Res. 374—Senate agreed to April 1, 1980. (*69).

Antitrust procedural improvements: Implements the following four recommendations of the National Commission for the Review of Antitrust Laws and Procedures for statutory changes to the Antitrust Civil Process Act in order to expedite and reduce the cost of antitrust litigation: (1) clarifies the authority of the Antitrust Division to use agents in connection with the enforcement of the antitrust laws and to process, analyze, and evalaute materials produced pursuant to civil investigative demands (CID's); subjects independent contractors to the same criminal penalties for unauthorized disclosure of material obtained pursuant to CID's as now apply to officials or employees of the U.S.; (2) expands the category of expenses a judge might require an attorney who engages in dilatory practices to satisfy personally to include "excess costs, expenses and attorneys' fees reasonably incurred because of such conduct"; (3) authorizes the award of prejudgment interest on successful antitrust plaintiffs, including the U.S. actual damages computed from the date the complaint was served to the date of judgment; and (4) makes collateral estoppel available in antitrust litigation to the same extent it is now available in other litigation and in limited situations to findings of the Federal Trade Commission; makes the collateral estoppel provisions prospective with respect to any criminal or civil proceeding brought by or on behalf of the United States; and amends section 7 of the Clayton Act to allow the Department of Justice and private parties to challenge anticompetitive acquisitions involving business entities engaged in any activity affecting interstates commerce. S. 390—Public Law 96–349, approved September 15, 1980. (VV)

Circuit court division: Amends, effective October 1, 1980, title 28, U.S.C., to divide the existing U.S. Court of Appeals for the Fifth Circuit into two independent circuits, one to be composed of the States of Louisiana, Mississippi, and Texas with headquarters in New Orleans, Louisiana, to be known as the new Fifth Circuit, and the other to be composed of the States of Alabama, Florida, Georgia, and the Canal Zone, with headquarters in Atlanta, Georgia, to be known as the Eleventh Circuit. S. 2830—Passed Senate June 18, 1980. (VV)

Civil Rights Commission authorization· Authorizes $12,600,000 (reduced from the $14 million currently authorized) for the activities of the Civil Rights Commission for fiscal 1981. S. 2511—Passed Senate May 22, 1980; Passed House amended June 4, 1980; House requested conference June 4, 1980; Senate agreed to House Amendment with amendment September 22, 1980. (*155)

Civil rights of institutionalized persons: Authorizes the Attorney General to initiate a civil suit for equitable relief in any appropriate district court when there is reasonable cause to believe that any State or political subdivision thereof is subjecting persons residing in an institution to egregious or flagrant conditions which deprive them of any rights, privileges, or immunities secured or protected by the Constitution of the United States; requires the Attorney General, before initiating a suit, to have reasonable cause to believe that such deprivation of rights is part of a "pattern or practice of denial rather than an isolated or accidental incident";

Requires the Attorney General to certify to the court that at least 56 days prior to initiating action, he has notified the Governor, Attorney General, and the Director of the institution of the alleged conditions, including dates, times, and the identity of those responsible; that at least seven days prior to investigation, he has given written notice to the Governor and the State Attorney General; that he has informed the Governor and the director of the institution of the kinds of assistance available from the Federal Government; and that he has carried out informal methods of conference, conciliation, and persuasion with appropriate State officials and is satisfied that they have had a reasonable time to take corrective actions; and that intervention by the U.S. is of general public importance and will materially further the vindication of constitutional or Federal rights;

Requires the Attorney General to wait 90 days after the commencement of a civil action before filing a motion to intervene, unless this period is shortened or waived by the court; permits the Attorney General to certify to the court that 15 days written notice has been given to the Governor, and the director of the institution informing them of existing conditions and the minimum measures he believes may remedy them;

Requires the Attorney General, before filing or intervening in any suit, to notify the Secretaries of Health and Social Services and Education and to proceed with the proposed suit if he is satisfied such action is consistent with the policies and goals of the executive branch;

Allows the court to award to the prevailing party, other than the United States, a reasonable attorneys' fee; provides protection from retaliation to persons reporting violations;

Requires the Attorney General, after consulting with State and local agencies and others, to promulgate minimum standards within 180 days, for developing and implementing a grievance system for adults confined in any jail or correctional facility; makes the standards effective 30 legislative days after publication, unless disapproved by either House of Congress; provides that, in any action brought by an adult confined in a jail or other correctional facility, the court may continue the case for not to exceed 90 days in order to exhaust available administrative remedies;

Specifies that the standards shall include: (1) an advisory role for employees and inmates in implementing the system, (2) specific time limits for written replies to grievances, (3) priority processing for emergency grievances, (4) safeguards against reprisals to grievants, and (5) independent review of the disposition of grievances by an individual or group not under the institution's direct supervision;

Requires the Attorney General to develop a system for review and certification of grievance procedures in correctional facilities to determine whether they are in compliance with the minimum standards; provides that certification may be withdrawn at any time the Attorney General determines that grievance procedures no longer comply with minimum standards;

Requires the Attorney General to submit to Congress a report which includes: (1) a statement of all actions instituted pursuant to the Act, (2) an explanation of procedures used to review and evaluate petitions or complaints, (3) an analysis of the impact of actions instituted, including an estimate of the costs incurred by States, (4) a statement of the Federal financial, technical, or other assistance to the State for correction of conditions, and (5) the progress made in each Federal institution toward meeting promulgated standards:

States the sense of the Congress that, where possible and without redirecting funds or in any way creating hardship for institutionalized citizens, priority be given to funding programs that correct unconstitutional conditions. H.R. 10—Public Law 96–247, approved May 23, 1980. (*51, *93)

Classified information procedures: Provides pretrial procedures that will permit trial judges to rule on questions of admissibility involving classified information before introduction of the evidence in open court, thus enabling the government to ascertain the potential damage to national security of proceeding with a given prosecution before trial; and specifically outlines the trial procedures to be followed in the event the U.S. appeals a court decision to disclose classified information. S. 1482—Passed Senate June 25, 1980; Passed House amended September 22, 1980; In conference. (VV)

Commission on Wartime Relocation and Internment of Civilians: Establishes a one-year, seven-member, National Commission on Wartime Relocation and Internment of Civilians to review the facts and circumstances surrounding, and the impact on the persons affected by: (1) Executive Order 9066 (issued by President Roosevelt in 1942) under which approximately 120,000 American citizens and resident aliens of Japanese ancestry were interned in relocation camps, and (2) the military directives issued during World War II under which certain Aleut Indians were moved from the outer Aleutian Islands to the mainland because of the military threat to the islands on which they resided; directs the Commission to recommend to Congress and the President appropriate remedies that should be available to those persons; and authorizes therefor $1.5 million. S. 1647—Public Law 96–317, approved July 31, 1980. (VV)

Consumer controversies: Provides for the establishment of a dispute resolution program in the Department of Justice which shall include the creation of a Dispute Resolution Resource Center to serve as a national clearinghouse for the exchange of information concerning the improvement of existing and of new dispute resolution mechanisms, provided technical assistance to State and local governments, conduct research and development, identify those dispute resolutions that are most effective, and make grants and contracts for research, demonstrations, or special projects; establishes a nine-member Dispute Advisory Board to advise the Attorney General as to the types of projects that should be funded under the act and the criteria to be used in awarding grants; specifies the purposes for which funds authorized under the act may be used and the distribution of such funds to the various States; provides that the Attorney General may suspend payments, after the opportunity of a hearing, if he finds that the project for which the grant was received no longer complies with the provisions of the act or the application as approved by the Attorney General; requires recipients to keep such records as the Attorney General may prescribe; gives the Attorney General access to any records or books of recipients for audit purposes and gives the Comptroller General such access for financial and performance audits; requires submission of a report by February 1 of each year which shall include a list of grants awarded and the results of financial and performance audits; and authorizes for fiscal 1981 through 1984 $1 million annually for the Resource Center and the Advisory Council and $10 million annually for the grant program. S. 423—Public Law 96–190, approved February 12, 1980. (VV)

Consumer Product Safety Commission postemployment rules: Eliminates certain unnecessary, ineffective, and inequitable post-employment restrictions contained in the Consumer Product Safety Act which prohibit Commission employees and officers above GS–14 from accepting employment from any manufacturer subject to CPSC regulation for a period of one year. H.R. 6395—Public Law 96– , approved 1980. (VV)

Counsel for Jurors Claims: Amends title 28 U.S.C. to authorize courts to tax employers for funds expended by the Government for court-appointed counsel where an employee prevails in a case brought against an employer on grounds of harassment, intimidation, or other interference with his or her right to serve as a juror; and specifies that the prevailing employer may collect a reasonable attorney's fee only if the court finds that the employee's action is frivolous, vexatious, or brought in bad faith. S. 1187—Passed Senate March 29, 1980. (VV)

Customs Court: Expands the jurisdiction of the United States Customs Court, which is renamed the United States Court of International Trade, to assure judicial review of civil actions arising from controversies over import transactions, and a statute, constitutional provision, treaty, executive agreement, or order substantially concerned with international trade; grants the Court the plenary powers possessed by other Federal courts established under Article III of the Constitution; provides that the Court consist of nine judges appointed by the President, and confirmed by the Senate, and requires that no more than five of the judges may be of the same political party; provides that the five judges presently serving on the Customs Court shall continue to serve on the new Court and that the present chief judge serve as chief judge of the new Court until age 70; permits a judge of the new Court to serve as a district judge, a judge of the Court of Customs and Patent Appeals or a judge of a circuit court of appeals; and makes necessary changes to the current statutes relating to the jurisdiction of the new Court. S. 1654—Public Law 96– , approved 1980. (VV)

District court relocation: Amends title 28, U.S.C. to realign the judicial districts of Missouri by transferring Audrain and Montgomery Counties from the Eastern Division of the Eastern division of the Eastern District to the Northern Division of the Eastern District in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to court. S. 2432—Passed Senate May 14, 1980. (VV)

Federal question jurisdiction: Amends title 28, U.S.C. 1331 to provide that Federal district courts have original jurisdiction of all civil actions that without regard to the amount in controversy by eliminating the $10,000 amount in controversy requirement in all Federal question cases except for cases brought against defendants other than the U.S. under section 23 of the recently enacted Consumer Product Safety Act which authorizes action by any person who sustains injury by reason of a knowing violation of a consumer product safety rule, or other rule or order issued by the Commission and ties Federal Court jurisdiction to the $10,000 amount contained in 28, U.S.C. 1331. S. 2357—Passed Senate June 28, 1980. (VV)

Federal rule making: Encourages Federal agencies to utilize innovative administrative procedures in dealing with small businesses, small organizations, and small governmental bodies that would otherwise be adversely affected by Federal regulations; requires the preparation of regulatory flexibility analyses of proposed agency rules which estimate the impact of a proposed rule and its alternatives upon small institutions; requires agencies to publish a regulatory flexibility agenda every six months to facilitate the preparation of comments by interested persons on any rules which the agency expects to consider, propose, or issue during the following year likely to have a significant economic impact on a substantial number of small entities; requires agency heads to ensure that small institutions are given ample opportunity to participate in rule-making proceedings through public hearings, open conferences, or other outreach techniques; establishes a procedure for a ten-year review of all existing regulations which have a significant effect upon small entities; and requires a periodic review of new rules to minimize needless burdens on small businesses, organizations and governments. S. 299—Public Law 96–354, approved September 19, 1980. (VV)

Judicial district realignment—North Carolina: Amends the boundaries of the Eastern District of North Carolina by including within its jurisdiction the Federal Correctional Institution at Butner, North Carolina, in its entirety and by excluding that portion of the Institution which now lies within the jurisdiction of the Middle District of North Carolina; and relieves the State of New Mexico of any obligations for the care of prisoners placed temporarily in Federal Facilities because of the disruption at the prison on February 2 and 3, 1980. S. 2326—Passed Senate September 29, 1980. (VV)

Justice Department authorization: Authorizes a total of $2,097,617,000 for the Department of Justice for fiscal 1981; authorizes the FBI to undertake certain activities connected with its undercover operations, such as leasing space, upon certification by the Director or the Attorney General; requires a detailed fiscal audit of any undercover operation having gross receipts or income in excess of $50,000 and submission of a report thereon to the Attorney General with similar reports to Congress annually; requires the submission of an annual report to Congress on parental kidnapping and authorizes $1 million for an FBI investigation of such cases; modifies the requirement that the Department of Justice inform the appropriate Congressional committees of impending reprogrammings to require 15 day prior Committee notification; amends the Controlled Substances Act to provide that informants who are entitled to compensation for furnishing information leading to the seizue and forfeiture of goods under customs laws may be paid from proceeds of the sale of seized property; authorizes the Attorney General to set fees based on costs for U.S. markets serving papers in private civil litigation; directs the Attorney General to complete evaluations on the efficiency and effectiveness of Justice Department programs at the request of the Judiciary Committees and requires submission to the requesting Committee within 30 working days of a design and timetable for making the evaluation; requires submission to the Congress of a copy of each written agreement between the Department of Justice and another agency affecting the litigation authority of the Department; requires the Attorney General to prepare and submit to the Senate and House Judiciary Committees by January 1, 1980, a plan for the activation and coordination of comprehensive case management information and tracking systems for each judicial district and authorizes therefor $300,000; directs the Attorney General to report to the Committees on the extent to which the Department has collected all judgments owed to the United States and calls for a report on the backlog and status of civil and criminal fraud cases; directs the Attorney General to make arrangements for an independent study on th extent to which the Federal Government should provide communication systems, networks, and data bases for distribution of criminal records to Federal, State, local, or foreign agencies, or private entities; authorizes an additional 30 senior trial attorney positions; directs the Attorney General to report to Congress on any case where he establishes a policy of refraining from enforcement of any law on the grounds that it is unconstitutional; requires the Attorney General to inform the Chairman and ranking members of the Judiciary Committees whenever an investigation is commenced into allegations of violations of the Ethnics in Government Act; expresses the sense of the Senate that the U.S. should not admit more than an additional 100,000 immigrants, exclusive of the immediate families of American citizens, for the remainder of the fiscal year; expresses the sense of Congress that the Khmer people in holding camps in Thailand be processed and resettled as refugees under U.N. auspices; states that Congress oppose efforts by private citizens to engage in negotiations concerning the hostages held in Iran; establishes an Office of Professional Responsibility (OPR) headed by a Counsel appointed by the President and confirmed by the Senate; sets forth a charter which grants the OPR cousel the power to undertake investigations and to develop uniform sanctions for employee misconduct; sets priorities for funding of programs, depending on the amount of appropriations, whereby the public safety officers benefits program is to be supported, with any remaining funds up to $100 million to be used for a discretionary program to support State and local projects of proven effectiveness; permits funding of research and statistics programs should appropriations exceed $100 million; and includes the language of the Equal Access to Justice Act, as passed the Senate, which permits a court, in its discretion, to award attorney fees and other expenses to prevailing parties in civil litigation involving the U.S. to the same extent it may award fees in cases involving private parties. S. 2377—Passed Senate June 19, 1980. (*229)

Juvenile justice and delinquency prevention: Extends for five years the program established by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; authorizes therefor $150 million each for fiscal 1981 and 1982, $175 million for 1983, and $200 million each for 1984 and 1985 for juvenile justice programs, and $25 million each year for the same period for the runaway and homeless youth program; specifically delegates authority regarding all administrative, managerial, operational, and policy responsibilities for the Juvenile Justice and Delinquency Prevention Act to the Administrator of the Office of Juvenile Justice and Delinquency Prevention; reestablishes the legal advisor unit in that Office in order to insure effective implementation of this provision; requires that unobligated funds at the end of each fiscal year be allocated to States on the basis of relative population of people under 18 years of age for the purpose of implementing section 223(a) (13), which is intended to keep juveniles separate from adults in institutions; retains current law that requires at least 19.15 percent of the total appropriations under title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, be spent for juvenile delinquency programs, with emphasis on programs aimed at curbing violent crimes committed by juveniles; waives the maintenance of effort provision when the total appropriations under title I does not exceed $150 million during any fiscal year; seeks to improve citizen participation by providing for State Advisory Groups to work more closely with the State agency's perspective applicants and others interested in the Juvenile Justice program; requires the Administrator to provide a detailed evaluation of the scared-straight type programs for juveniles to the Congress by June 30, 1981, and requires a study of juvenile justice and delinquency prevention policies, programs, and practices affecting Native Americans be completed and submitted to Congress by December 31, 1981; renames title III of the 1974 Act as the Runaway and Homeless Youth Act to reflect the 1977 Act's homeless youth focus; makes statutory the authority for the Secretary of HEW to continue to fund national telephone networks to link runaway, homeless, neglected, and abused youth with their families and service providers; and expands the client population eligible for service and strengthens governmental and private sector programs for youth and families in need of service. S. 2441—Passed Senate May 20, 1980. (VV)

National Guard tort claims: Amends title 28, U.S.C., to extend coverage under the Federal Tort Claims Act to National Guard members, including medical personnel, engaged in training or duty thereby giving the U.S. exclusive jurisdiction in actions arising out of alleged medical malpractice and proceedings resulting from federally authorized National Guard training activities. S. 1858—Passed Senate May 30, 1980. (VV)

Patent procedure: Amends title 35, U.S.C., to promote the marketing of inventions developed under Federally-supported research and development projects by nonprofit organizations and small business firms; permits any such organization or firm to elect, within a reasonable amount of time, to retain title to such inventions; permits Federal agencies which have supported such projects to retain title to inventions through their funding agreements in specified circumstances, including when necessary to conduct foreign intelligence or counterintelligence activities; requires review of agency determinations for such exceptions by the Comptroller General and the Chief Counsel for Advocacy of the Small Business Administration; directs the Comptroller General to report to Congress on the implementation of this Act by Federal agencies; enumerates provisions which must be included in funding agreements between Federal agencies and small business firms or nonprofit organizations including provisions insuring disclosure to the Federal Government of any inventions, allowing a contractor to elect, within a reasonable time period to retain title to an invention, providing that the agency shall have a nonexclusive, nontransferable, irrevocable and paid-up license to use the invention, requiring reports on the utilization of the invention, and prohibiting a nonprofit organization from assigning rights to the invention without the approval of the Federal agency; authorizes a Federal agency to transfer or assign its rights, acquired from an agency employee as coinventor, to an inventor electing to acquire title to an invention;

Empowers any Federal agency to require inventors or their assigns to grant licenses in order to: (1) achieve practical application of the invention in its field of uses; (2) alleviate health or safety needs; (3) meet requirements for public use specified by Federal regulations; or (4) achieve participation by United States industry in the manufacturing of an invention; entitles the government to 15 percent of all net income in excess of $70,000 gross income received by a contractor after a patent application is filed on a subject invention; provides that the government shall receive five percent of all income in excess of $1 million; limits the government share of any such excesses to its contributions under the funding agreement; directs the Director of the Office of Federal Procurement Policy to revise the government entitlements in light of changes to the Consumer Price Index or other indices at least every three years; and declares that the government entitlements shall cease when: (1) the patent application is rejected, (2) the patent expires, or (3) the patent is found to be invalid;

Restricts the assignment and licensing of rights by patent holders to foreign-owned or controlled firms unless such persons agree that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States where commercially feasible; authorizes Federal agencies to withhold information on inventions from public disclosure; specifies the authority of Federal agencies with respect to obtaining patents, granting licenses, and transferring custody of patents; authorizes the Administrator of General Services to promulgate regulations specifying the terms upon which any Federally-owned inventions may be licensed; sets forth the procedure whereby Federal agencies may grant exclusive or partially exclusive licenses in any invention by a Federally-owned domestic patent or patent application: exempts the Tennessee Valley Authority from these provisions; prohibits licensing which lessens competition; directs that small business firms be given preference in exclusive or partially exclusive licensing; and enumerates provisions which must be contained in any grant of a license by a Federal agency; declares that nothing in this Act shall be construed to require the disclosure of intelligence sources or methods or otherwise affect the authority of the Director of Central Intelligence; and declares that this Act shall take precedence over any other Act in the disposition of inventions, and shall take effect 180 days after enactment, except that implementing regulations may be issued prior to that time. S. 414—Passed Senate April 23, 1980. (*84)

Patent reexamination: Amends title 35, U.S.C. to authorize the Commissioner of Patents and Trademarks, effective October 1, 1980, to establish rules and regulations necessary to implement a new procedure whereby the Patent and Trademark Office could, at the request of patent holders, challengers, or the Commissioner of Patents, reexamine prior uncited patents or publications and issue certificates as to their status or validity. S. 2446—Passed Senate March 20, 1980. (VV)

Privacy protection: Limits Federal, State, and local governments in their ability to procure search warrants to obtain work product and other documentary materials in the possession of a person engaged in the dissemination of information to the public; requires that guidelines be established by the Attorney General to govern Federal access to documentary evidence in the hands of all other nonsuspect third parties; and requires the Federal government to obtain such materials through means less intrusive than a search warrant where the person is not implicated in the offense under investigation, especially when a confidential privileged relationship is involved. S. 1790—Passed Senate August 4, 1980; Passed House amended September 22, 1980; Senate agreed to conference report September 29, 1980. (VV)

Soft drink interbrand: Restates existing antitrust laws applicable to licensing agreements granting a licensee exclusive rights to manufacture, distribute, and sell trademarked soft drink products in a defined geographic area; provides protection against treble damages for antitrust violations for members of the soft drink industry prior to any final determination that exclusive territorial provisions in soft drink franchise contracts are unlawful; and defines the words "antitrust laws" to include the Sherman, Clayton, and FTC Acts. S. 598—Public Law 96–308, approved July 9, 1980. (*147)

State of the Judiciary: Requests the Chief Justice of the United States to give, at such time as may be mutually agreed on by the Chief Justice and the leadership of Congress, an annual address to a joint session of Congress on the state of the Federal judiciary and any legislative recommendations he deems necessary; and directs the Chief Justice, in those years in which he does not personally appear, to submit by March 15, a written report which shall be printed in the Record and made available to each Member of Congress. S. 2483—Passed Senate August 26, 1980. (VV)

State Justice Institute: Establishes, in the District of Columbia, a private non-profit State Justice Institute consisting of an 11-member Board and an executive Director, appointed by the President and confirmed by the Senate, to promote improvements in State court systems in a manner consistent with the doctrines of federalism and the separation-of-power; directs the Board to make recommendations on matters in need of special study and to coordinate activities of the Institute with those of other governmental agencies; authorizes such sums as necessary for fiscal 1982 to the Institute to administer a system of grants and contracts, which will be available on a 25 percent matching basis, to aid State and local governments and other non-profit judicial organizations for programs designed to strengthen and improve their judicial system; assigns the Institute a liaison role with the Federal judiciary, particularly as to jurisdictional issues; prohibits the Institute from duplicating functions being performed adequately by existing nonprofit organizations; provides that the Institute shall not be considered an instrumentality of the Federal government but permits the Office of Management and Budget to review and comment on its annual budget request; and provides that its officers and employees not be considered employees of the United States except to determine fringe benefits and for Freedom of Information requirements; requires each State's supreme court, or its designated agency or council, to approve all applications for funding by individual courts of the State and to be responsible for project funds awarded; requires the Institute to provide for monitoring and evaluation of its operations and programs funded by it; prohibits funds to support partisan political activities or to influence executive or legislative policy making unless responding to a specific request or the measure under consideration would directly affect a recipient or the Institute; bars the Institute from participating in any litigation except in narrowly defined situations; prohibits the Institute from interferring with the independent nature of State judicial systems and from allowing funds to be used for regular judicial and administrative activities of any State judicial system other than under the terms of any grant, cooperative agreement, or contract with the Institute; requires that procedures for notice and review of any decision to suspend or terminate funding of a project be established; authorizes the Institute to require that recipients maintain certain records; requires that nonfederal funds be accounted for separately from Federal funds; and requires an annual audit of Institute accounts by the General Accounting Office. S. 2387—Passed Senate July 21, 1980. (VV)

Supreme Court grounds: Authorizes the Architect of the Capitol to acquire, as an addition to the grounds of the U.S. Supreme Court Building, certain privately owned property located at the Northwest Corner of Third and A Streets, N.E., to be used as a parking lot for employees of the Supreme Court; and authorizes therefor $645,000 which includes funds for administrative costs and for paving and landscaping the property. S. 2134—Passed Senate May 16, 1980. (VV)

Wire tap: Amends title III of the Omnibus Crime Control and Safe Streets Act of 1968 to establish uniform statutory procedures relating to court-ordered "surreptitious entries" (defined as physical entries upon a private place or premise to install, repair, reposition, replace, or remove any electronic, mechanical, or other device) to install court-authorized electronic eavesdropping devices; requires that, when a "surreptitious entry" is necessary for the installation of a court-authorized electronic intercept device, the applicant for the order must state in the application that such an entry will be required to effect the interception and why other means of accomplishing the same objectives are not feasible; requires that the issuing judge determine whether the use of "surreptitious entry" is justified; requires that the intercept order itself specifically state whether a "surreptitious entry" is authorized; provides that the interception order shall identify the agency authorized to make the entry, and that the order shall require the government attorney supervising the interception to notify the issuing court in writing of any subsequent reentry and its purpose; and permits the authorization of an emergency interception of wire or oral communications without a prior court order if a situation exists which involves an immediate danger or death or serious physical injury. S. 1717—Passed Senate June 9, 1980. (VV)

NATURAL RESOURCES MANAGEMENT—HISTORIC SITES

Bear River compact: Grants Congressional approval to the amended Bear River Compact, as ratified in 1979 by Idaho, Utah, and Wyoming concerning the distribution and use of the waters of the Bear River; establishes an equitable apportionment of the waters among the compacting States and allows additional development of the water resources; and retains the provision requiring a review at intervals not exceeding 20 years to allow future revisions to be made as necessary. H.R. 4320—Public Law 96–189, approved February 8, 1980. (VV)

Biscayne and Valley Forge National Parks—Fort Jefferson National Monument: Expands by 71,000 acres the existing Biscayne National Monument in Florida and redesignates the area as a National Park; authorizes an additional $8.5 million to the Secretary for land acquisition and such sums as may be necessary for administration of the park; calls for a wilderness suitability study to be submitted within three years; specifically prohibits acquisition of State owned lands by any means other than donation; confirms the designation of the Fort Jefferson National Monument by Presidential Proclamation and establishes a more identifiable boundary; gives the Secretary express authority to accept donations of funds for the monument; provides for the preparation and submission of a management plan; calls for a wildness suitability study to be submitted within three years; increases by approximately 682 acres the Valley Forge Historic Park and authorizes therefor $5.3 million; and provides such sums as may be necessary for the development of a management plan for the natural environmental area surrounding Fort Jefferson National Monument. H.R. 5926—Public Law 96–287, approved June 28, 1980. (VV)

Bogue Chitto National Wildlife Refuge: Establishes the Bogue Chitto National Wildlife Refuge consisting of approximately 40,000 acres of bottomland hardwood in southern Louisiana and Mississippi; and authorizes, for fiscal 1981 through 1985, $13 million for acquisition of the refuge and $1 million for construction of the refuge headquarters, boat launching facilities, and the accomplishment of boundary surveys. H.R. 6169—Public Law 96–288, approved June 28, 1980. (VV)

Bon Secour National Wildlife Refuge: Authorizes the Secretary of the Interior to acquire approximately 10.000 acres of land and water along the Alabama Gulf Coast for the establishment of the Bon Secour National Wildlife Refuge which will serve as a laboratory for scientists and students and provide wildlife-oriented recreation for the public; authorizes therefor $6 million in fiscal 1981; $8 million each for 1982 and 1983, and $9.5 million each for 1984 and 1985; and includes an additional $1.5 million for fiscal 1981, to remain available until expended, for the development of the proposed refuge area which contains highly significant and varied habitat which support important nurseries, is a critical resting and feeding site for migratory birds, and contains endangered and threatened species. H.R. 6727—Public Law 96–267, approved June 9, 1980. (VV)

Central Valley project, California: Provides for the inclusion of the Yolo-Zaora, Dunnigan, and Colusa County Water Districts within the authorized service area of the Tehama-Colusa Canal, a feature of the Central Valley Project in California. H.R. 2111—Passed House November 27, 1979; Passed Senate amended September 4, 1980. (VV)

Channel Islands: Establishes the Channel Islands National Park in California which includes the islands of San Miguel, Prince, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara; authorizes therefor $30.1 million for land acquisition; directs the Secretary, in consultation with the Secretary of Commerce, the State of California, and other Federal and private entities, to develop a natural resources study report for the park and to enter into cooperative agreements regarding enforcement of Federal and State laws within the park;

Amends the National Parks and Recreation Act (Public Law 95–625) to authorize funds for the addition of 2,133 acres to the Point Reyes National Seashore in California, approximately 5,000 acres to the Golden Gate National Recreation Area, and 475 acres for the Harpers Ferry National Historic Park; increases from $425,000 to $2.5 million the funding for the Ice Age National Scientific Reserve in Wisconsin; increases the land acquisition ceiling for the Olympic National Park in Washington from $13 million to $23.7 million; and authorizes $2.813 million to the Secretary to provide assistance to Louisiana for reconstruction of Fort St. Jean Baptiste de Natchitoches;

Makes minor boundary adjustments to the Carl Sandburg Home National Historic Site, the Chickamauga and Chattanooga National Military Park, the Fredericksburg and Spotsylvania County National Military Park, the Saratoga National Historic Park, and the S&O Canal National Historic Park; and provides for the continued protection of Palmer's Chapel in the Great Smoky Mountains National Park.

Designates the David Berger Memorial in Cleveland Heights, Ohio, as a National memorial for the 11 Israeli athletes assassinated at the 1972 Olympic games in Munich, Germany; authorizes the purchase of land in the harbour at Charleston, South Carolina for a tour boat facility providing access to Fort Sumter National Monument; establishes the Yaquina Head Outstanding Natural Area in Oregon; and provides for the establishment of a suitable memorial in the National Park System to commemorate each former President of the United States. H.R. 3757—Public Law 96–199, approved March 5, 1980. (*41)

Chesapeake Bay research: Establishes, within the Department of Commerce, a 15-member Chesapeake Bay Research Coordination Board which shall develop a Chesapeake Bay Research Plan to: (1) coordinate federally conducted and supported research to increase fundamental knowledge in support of wise management of the Chesapeake Bay area, (2) identify key management information needs and specify a coherent program of research that will respond to those needs, (3) identify the needs and priorities for additional research required for the improvement of fundamental knowledge about the Bay area, (4) assure a comprehensive and balanced approach to federally conducted and supported research on the area, (5) encourage utilization of the results and findings of the research, and other relevant information, in the management decisionmaking processes which have an impact on the Bay, and (6) foster public understanding of the role of the Bay as a unique national resource; requires the Board to submit, to Congress and the Governors of Maryland and Virginia, an annual report on current and planned research programs pertaining to the Bay area and their relationship to the Chesapeake Bay Research Plan, together with any recommendations; and authorizes therefore $500,000 for each fiscal 1982 through 1984. H.R. 4417—Passed House May 19, 1980; Passed Senate amended September 24, 1980. (VV)

Cibola National Forest: Increases from $12 million to $20 million the authorization for acquisition of lands to be added to the Cibola National Forest under the Endangered American Wilderness Act of 1978 (Public Law 95–614) in order that the Secretary of Interior may acquire, as an extension of the Sandia Mountain Wilderness in New Mexico, an additional 6,423 acres of land, contingent upon a determination by the Secretary that the city of Albuquerque has acquired an option to purchase approximately 640-acres near the tract for open space or city park use, and withdraws such lands from mineral entry. H.R. 3928—Public Law 96–248, approved May 23, 1980. (VV)

Expands the boundary of the Cibola National Forest in New Mexico to include an adjacent area of approximately 14,476 acres; amends Public Law 95–244 to extend for an additional five years, through September 30, 1985, the authority of the Secretary of Interior to make payments to appropriate school districts to assist them in providing educational benefits to students living on non-taxable lands at or near the Grand Canyon National Park and authorizes therefor $1.5 million each for fiscal 1981 and 1982; and allows funds authorized to remain available until appropriated through 1985. S. 1803—Passed Senate June 6, 1980. (VV)

Coastal Zone management: Extends for five years, through fiscal 1985, the Coastal Zone Management Act of 1972; provides a new finding which recognizes the need for greater emphasis on managing coastal waters within the coastal zone to provide a better conflict resolution between competing uses; authorizes $45 million for administrative expenses of the National Oceanic and Atmospheric Administration (NOAA) in implementing State coastal management programs; permits the Secretary to make grants covering 80 percent of the cost of implementing each State's program and to use up to 30 percent of the funds to place greater emphasis on coastal zone management and competitive uses; requires the Secretary to issue regulations regarding implementation grants within one year; authorizes $5 million for a new resource management improvement grant program which addresses the need for revitalization of deteriorating urban waterfronts and areas of historic and cultural value; places an 80 percent ceiling on each State project with each State allotted 10 percent of the total amount appropriated in a given year; authorizes $5 million for the interstate cooperation grant program and contains language to make it clear that only States meeting the basic eligibility requirements may be eligible for these grants; authorizes $6 million for grants governing estuarine sanctuaries, $4 million for grants governing island preservation, and $6 million for administrative expenses incurred in carrying out the national program; makes more explicit the performance evaluation requirements for both coastal States and territories and the administrative agency; gives the Secretary additional flexibility to permit more dynamic remedial action to correct weaknesses; requires the Secretary of Commerce to submit a biennial, in lieu of annual, report to Congress which includes an evaluation of the national program and actions taken thereto; requires that the results of the review of Federal coastal programs currently being conducted by NOAA, at the direction of the President, be reported promptly to Congress and the Council on Environmental Quality, with recommendations for resolving conflicts which are identified in the review; deletes the beach access provisions; and raises, from $2 million to $3 million, the ceiling on Federal expenditures for acquisition of estuarine sanctuaries. S. 2622—Passed Senate June 3, 1980. (VV)

Colorado River Basin salinity control: Increases from $155,500,000 to $356,400,000 the appropriations ceiling for the construction of a large desalting plant near Yuma, Arizona (pursuant to an agreement with Mexico dated August 30, 1973), to cover increases in construction costs and certain project changes and makes the amount subject to construction cost indexing; authorizes the Secretary of Interior to use power and energy from the Navajo Generating Station at Page, Arizona, to meet the power requirements of the program after he has completed an analysis of alternative sources of power supply including the possibility of contracting with Mexico for the additional power; authorizes the Secretary to enter into contracts for the delivery of certain water within the United States for irrigation, municipal, and industrial uses; authorizes the Secretary to provide measures to mitigate fish and wildlife habitat losses resulting from construction; increases from $400 million to $600 million the authorization under the Small Reclamation Projects Act; and exempts from interest charges that portion of project loans attributable to furnishing benefits to facilities operated by U.S. agencies. S. 496—Public Law 96-336, approved September 4, 1980. (VV)

Authorizes the Secretary of Interior to conduct feasibility studies of ten salinity control projects along the Colorado River Basin. S. 3017—Passed Senate September 25, 1980. (VV)

Feasibility investigations: Authorizes the Secretary of Interior to undertake feasibility investigations of 25 water resource related developments; authorizes the Secretary to enter into new contract with present concessionaires on Lake Berryessa in California and contains provisions to protect the investments made by concessionaires in permanent facilities; increases, from $18,246,000 to $57,139,000, the authorization ceiling for the Closed Basin Water Project, a division of San Luis Valley Project, Colorado, to conform with recent Water and Power Resources Service design changes; designates the Curecanti Storage Unit of the Colorado River Storage Project as the Wayne N. Aspinall Storage Unit; expands the options available to the Secretary of Interior in requiring advance payment for water delivered from Federal reclamation projects to permit bimonthly and monthly payments in addition to annual and semiannual payments; authorizes the Secretary to conduct a three year feasibility study of integrating solar and hydroelectric power in the lower Colorado River Basin; broadens the scope of the statutory ban prohibiting the Secretary from undertaking studies of any plan to import water into the Colorado Basin to include all Federal officials; increases to $172,728,000 the authorization ceiling for construction of the Brantley Dam Project, New Mexico; and authorizes the Secretary to conduct feasibility studies for ten salinity control projects which will assist the seven Colorado River Basin States in meeting their commitments to reduce the salt concentration in the Colorado River Basin. H.R. 5278—Public Law 96- , approved 1980. (VV)

Federal land policy and management: Amends the law enforcement provisions of the Federal Land Policy and Management Act of 1976 to provide a fine of no more than $500 and/or six months imprisonment for petty offenses in violation of the Act's regulations; and permits the Secretary of Interior to authorize designated Federal personnel and local officials who are not authorized to carry firearms to enforce regulations dealing with petty offenses and to prescribe training standards, equipment requirements, and procedures for such personnel to follow. S. 2209—Passed Senate May 7, 1980. (VV)

Fish and wildlife conservation: Authorizes $5 million each for fiscal 1981 through 1984 to the Secretary of the Interior to establish for the first time a comprehensive wildlife conservation grant program, whereby States would receive Federal matching funds for the development, revision, and maintenance of approved plans and programs established for conservation of both game and nongame wildlife; specifically lists those items which a plan must contain including an inventory of all nongame fish and wildlife within the State; requires the Secretary to either approve or disapprove a plan within 180 days following submission; outlines specific requirements and limitations with respect to reimbursement; authorizes partial reimbursement for plan development costs, for nongame fish and wildlife activities included in approved plan, and for certain other nongame fish and wildlife activities not contained in an approved plan; establishes a formula, based on land area and population ratios, for distribution of funds among States and territories; allocates up to eight percent of the authorized funds for administration; and requires the Director of Fish and Wildlife Service to conduct a study to determine the most equitable and effective way to fund the projects under the Act and to report to Congress, within 30 months, the results of the study, and any recommendations. S. 2181—Passed Senate May 22, 1980. (VV)

Contains essentially the same provisions as S. 2181 which passed the Senate on May 22, 1980, but limits assistance to management programs for vertebrate species only. H.R. 3292—Public Law 96- , approved 1980. (VV)

Great Dismal Swamp National Wildlife Refuge: Extends for three years, until September 30, 1983, the authorization period for land acquisition and development of the Great Dismal Swamp National Wildlife Refuge located in the States of Virginia and North Carolina, and increases the ceiling on the uniform allowance for Fish and Wildlife Service employees from $125 to $400 per year. H.R. 4889—Public Law 96-291, approved June 28, 1980. (VV)

Great Plains conservation: Amends the Soil Conservation and Domestic Allotment Act to: (1) extend through September 30, 1991, the Great Plains Conservation Program, due to expire December 31, 1981, under which the Secretary of Agriculture is authorized to enter into cost-sharing conservation contracts with farmers and ranchers; (2) expand the scope of the contracts to include farms, ranches, and other lands susceptible to serious water, as well as wind, erosion; (3) increase from $300 million to $600 million the overall limitation on program costs, exclusive of administrative costs; and (4) increase from $25 million to $50 million the annual program payment limitation; and makes October 1, 1980, the effective date of this bill. H.R. 3789—Public Law 96-263, approved June 6, 1980. (VV)

Historic sites: Authorizes the Secretary of the Interior to provide financial assistance for maintenance and security of the Folger Shakespeare Library and the Corcoran Gallery of Art in Washington, D.C., and to make funds available to the Accokeek Foundation for the operation and maintenance of the National Colonial Farm at Piscataway Park in Maryland; authorizes the Secretary to accept, by donation, the home and studio of artist Georgia O'Keeffe at Abiquiu, New Mexico, and to acquire a one-acre off-site support facility and authorizes therefor $40,000 for acquisition and $100,000 for development; adds three parcels of land to the Golden Gate National Recreation Area; increases from 17 to 18 the Advisory Commission membership and from three to five years the terms of the existing members; adds approximately 2.5 acres, acquired by donation, to the Boston National Historical Park; modifies the boundaries of the Pinnacles National Historic Site which would result in a net addition of about 32 acres to the monument and the Golden Spike National Historic Site which would add approximately 534.93 acres; amends section 8 of the 1970 General Authorities Act to require that reports on areas which appear to have potential for establishment as units of the National Park System include reference to the theme represented in the National Park System Plan and that annual listings of the areas include an update on the conditions of areas previously listed;

Amends the Land and Water Conservation Fund to: (1) authorize the Secretary to designate for each entrance fee area the number of consecutive days that would constitute a single visit, (2) authorize the Secretaries of Interior and Agriculture to establish procedures for the issuance of a lifetime admission permit to any citizen or person residing in the U.S. who is blind or disabled for purposes of Federal aid, and (3) provide that those blind or disabled persons who qualify for the waiver of entrance fees also receive a 50 percent reduction in the established user fee within Federal areas;

Permits the Lowell Historic Preservation Commission to retain any revenues or other assets it receives without regard to fiscal year limitation and requires annual audits of these funds; directs the Secretary to inform the public of the contribution of Representative Ryan in the creation of the Gateway National Recreational Area; increases from seven to 11 the membership of the San Antonio Missions National Historical Park Advisory Commission; designates the Over Mountain Victory Trail as a National Historic Trail and a component of the National Trail System; directs the Secretary to study and determine measures to protect the Falls of the Ohio between Kentucky and Indiana; and directs the Secretary to investigate (1) sites associated with the former President of the AFL-CIO, George Meany, for a suitable memorial and to submit a report thereon to the Congress within two years and (2) locations and events associated with the historical theme of Man in Space. S. 2680—Public Law 96-344, approved September 8, 1980. (VV)

Ice Age National Scenic Trail: Designates the 1,000 mile Ice Age Trail in Wisconsin as a national scenic trail within the National Trails system under the administration of the Department of Interior; permits Wisconsin, upon the Secretary's approval, to prepare a comprehensive management plan for the trail; permits the use of snowmobiles on certain sections of the trail; and authorizes therefor such funds as necessary and specifies that no direct Federal acquisition will take place outside the exterior boundaries of the existing Federal areas of the trail. H.R. 7825—Public Law 96- approved 1980. (VV)

Interstate compacts

Caddo Lake: Grants Congressional consent to the Caddo Lake Compact between the States of Louisiana and Texas which addresses issues regarding the use of Caddo Lake water that are not adequately dealt with in the Red River Compact; outlines the provisions of the compact as ratified by the two States in 1979; promotes interstate comity and allows utilization of Caddo Lake water for the needs of adjacent portions of Louisiana and Texas; preserves and protects Caddo Lake as a valuable environmental, cultural, and natural resource; and enhances recreational potentials. S. 2228—Passed Senate September 24, 1980. (VV)

Red River: Grants Congressional consent to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas which promotes interstate comity and removes causes of controversy between each of the affected States by governing the use, control, and distribution of the interstate water; outlines the provisions of the compact, as ratified by the respective States on May 12, 1978; promotes an active program for the control and alleviation of natural deterioration and pollution of the Red River Basin and provides for enactment of the laws related thereto; provides the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation, and regulation of flows; and provides a basis for State or joint State planning and action by ascertaining and identifying each State's share in interstate water and its apportionment. S. 2227—Passed Senate September 24, 1980. (VV)

John Sack Cabin: Authorizes the Secretary of Agriculture, in consultation with the Fremont County Historical Society and other interested organizations, to take such action as may be necessary to protect and maintain the John Sack Cabin, within the Targhee National Forest, Idaho. S. 924—Passed Senate September 29, 1980. (VV)

Langmuir research area, New Mexico: Expands the existing research area of the Langmuir Laboratory for Atmospheric Research by establishing, within the Cibola National Forest, New Mexico, a 31,000 acre Langmuir Research Site to preserve conditions necessary for continued scientific research into atmospheric processes and astronomical phenomena; and directs the Secretary of Agriculture to enter into a land use agreement with the New Mexico Institute of Mining and Technology for use of the site and to incorporate a comprehensive management plan into the initial Cibola National Forest Land and Resource Management Plan. S. 2364—Passed Senate September 25, 1980. (VV)

Law enforcement assistance at Corps of Engineers projects—Urban water front projects: Extends for two years through fiscal 1982, authority for the Corps of Engineers to contract with State and local law enforcement officials to provide protection for visitors at Corps of Engineers recreation areas and authorizes therefor $6 million annually; and removes the authority of the Federal Government to reclaim land once considered to be navigable waters in order to permit the continued development of certain specified urban waterfront projects. S. 2724—Passed Senate September 22, 1980. (VV)

Manassas National Battlefield Park: Increases by 882 acres, the boundaries of the Manassas National Battlefield Park, Virginia, making a total acreage of 3,882 and authorizes therefor $8.21 million for land acquisition and $150,000 for a study of a portion of the Hackensack Meadowlands District to determine the feasibility of establishing the area as a unit of the National Park System. H.R. 5048—Passed House October 9, 1979; Passed Senate amended September 29, 1980. (VV)

Martin Luther King Jr., historic site: Establishes, within Georgia, the Martin Luther King, Jr., National Historic Site and Preservation District; establishes a 13-member, 10-year Commission to prepare an overall development plan; and authorizes therefor, for fiscal 1980, not to exceed $1 million for development, $100,000 for local planning, and $3.5 million for land acquisition. H.R. 7218—Public Law 96– , approved 1980. (VV)

National Park Service funds: Authorizes the Secretary of the Interior to accept and expend privately donated funds in order to assist in the acquisition, restoration, or preservation of those properties listed on the National Register of Historic Places which are owned by local government and nonprofit corporations; permits the Secretary to transfer for this purpose unobligated funds previously donated to the National Park Service upon the donor's consent; and extends for three years, through fiscal 1983, the Advisory Council on Historic Preservation. H.R. 126—Public Law 96–244, approved May 19, 1980. (VV)

National Sea Grant program: Extends for three years, through fiscal 1983, the national sea grant college program and authorizes therefor $50 million for fiscal 1981, $58 million for 1982, and $65 million for 1983; reauthorizes the national sea grant projects program at $5 million, $6 million, and $7 million for the three-year period and the international cooperation assistance program at $5 million annually; includes the Great Lakes as a specific reference in the definition of "marine environment"; permits the use of Sea Grant funds for short term use of buildings or facilities for meetings which are in direct support of sea grant programs or projects; allows members of the Sea Grant review panel to serve more than one term; and temporarily waives the 60-day period during which fishermen must file their claims under the Fisherman's Protective Act in order to be compensated for damages caused by foreign or U.S. fishing activity within the 200-mile zone and permanently changes the filing deadline to 90-days for programs or projects. H.R. 6614—Public Law 96–289, approved June 28, 1980. (VV)

New Melones Dam—Water resources projects: Authorizes, in addition to any funds otherwise authorized, $2 million for archeological research and recovery operation for the New Melones Dam and Reservoir project, located approximately 35 miles northeast of Modesto, California, on the Stanislaus River; and authorizes the Secretary of the Army, acting through the Chief of Engineers, to design and construct (1) a project for navigational improvements and expansion of the Kodiak Harbor, Alaska, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in his report dated September 7, 1976, at an estimated cost of $8,597,000, and (2) a project, at full Federal expense, to alleviate major flooding in communities along the Tug and Levisa Forks and Cumberland Rivers in West Virginia and Kentucky, at an estimated cost of $200 million. H.R. 5872—Passed House November 15, 1979; Passed Senate amended January 29, 1980. (VV)

San Francisco Bay National Wildlife Refuge: Extends for three years, until September 30, 1983, the authority of the Secretary of Interior (under Public Law 92–330) to acquire lands for inclusion in the San Francisco Bay National Wildlife Refuge and authorizes therefor $4.2 million; provides that the funds presently authorized for development remain available until expended; and authorizes the Secretary to acquire tidelands, subject to the interests of California, for inclusion in both the San Francisco Bay and Humboldt Bay National Wildlife Refuges. H.R. 4887—Public Law 96–290, approved June 28, 1980. (VV)

Tensas River National Wildlife Refuge: Authorizes $10 million to the Department of the Interior and $40 million to the Department of the Army for acquisition of some 50,000 acres of privately owned bottomland hardwoods in the Tensas, Madison, and Franklin Parishes in northeast Louisiana for establishment of the Tensas River National Wildlife Refuge; provides that the land to be acquired by the Department of the Army would satisfy the mitigation requirements of six specified Corps of Engineers water resource development projects, pursuant to the Fish and Wildlife Conservation Act, which mandates that fish and wildlife resources receive equal consideration with other project features in planning and implementing water resource development programs; permits the Secretary of the Army, in the event such projects are not authorized or implemented, to substitute additional projects which are in the vicinity of the refuge and have similar mitigation requirements; directs the Secretary of Interior to manage the refuge as part of an overall Federal management plan for the use of water and related land resources of the area, including conservation of the diversity of fish and wildlife and their habitat and development of outdoor recreation and interpretive educational opportunities; and calls for a modification of the Tensas River flood control project which would be more environmentally acceptable but still provide effective flood control. H.R. 6022—Public Law 96–285, approved June 28, 1980. (VV)

Tinicum National Environment Center. Increases from $11.1 million to $19.5 million, of which $8.4 million shall be available effective October 1, 1980, the authorization for acquisition, construction, and development projects at the Tinicum National Environmental Center, Philadelphia, Pennsylvania, to remain available until September 30, 1985, in order to allow continued development of Tinicum as a national environmental education center and to preserve it as an urban refuge; directs the Environmental Protection Agency, in consultation and cooperation with the Fish and Wildlife Service, to investigate potential environmental health hazards posed by the Folcroft landfill, within the boundaries of the center, and to recommend ways of addressing such hazards; allows 13 families, residing permanently at Corolla, North Carolina, to cross the Black Bay Wildlife Refuge at restricted times daily in order to get to and from their places of employment and shopping areas; and authorizes Federal assistance to provide for the management of Sailors' Snug Harbor on Staten Island, New York, as a Wildlife Refuge Center. S. 2382—Public Law 96–315, approved July 25, 1980. (VV)

Umatilla and Wallowa National Forests: Allows acquisition by land exchange of up to 900 acres adjacent to the Umatilla National Forest and 1,600 acres adjacent to the Wallowa-Whitman National Forest in northeastern Oregon by extending the authority of the General Exchange Act of 1922 to those areas; and removes about 122,967 acres that lie outside the boundary of these National Forests from the authority of three existing acts in order to eliminate the possibility of future Forest Service acquisition of these lands. S. 2398—Public Law 96– , approved , 1980. (VV)

Water resources research—Saline water conversion: Extends for two years, through fiscal 1982, the basic activities of the Office of Water Research and Technology (OWRT) under the Water Research and Development Act; provides specific authorizations for the various categories of funding for 1982 and 1983, respectively, as follows: Water Research Institutes Matching Grant Program—up to $150,000 per institute and up to $160,000 per institute; State Institutes Technology Transfer Programs—$1.5 million annually; Research Grants—$8 million and $9 million; National Research Program—$5.2 million and $8 million; Water Resources Demonstration Program—$1 million annually; Saline Water Research and Development Program—$14.4 million and $17.4 million; and National Technology Transfer Program—$6.5 million and $8.5 million; authorizes the Secretary to require any or all of the State Water Institutes to review OWRT research and grant contract proposals originating within their respective States; broadens the water research institute's program to permit participation by local governmental or academic institutes;

Makes a number of changes to the Saline Water Demonstration Program as follows: alters the formulas for calculating the Federal share of costs associated with saline water demonstration projects conducted by local sponsors by requiring that the local entity pay, in cash or kind, at least 15 but not more than 35 per cent of a project; clarifies Congressional intent in present law that each Saline Water Demonstration project should be significantly different from others constructed under the demonstration program; limits Congressional review of rules, regulations, and other requirements promulgated by the Secretary to formally promulgated rules and regulations only; and removes the limit on the number of plants that can be built and places a $50 million ceiling on the entire demonstration program which is in addition to the basic funding authorized for the program. S. 1640—Passed Senate June 3, 1980; Passed House amended September 23, 1980; Senate agreed to House amendment with an amendment September 24, 1980. (VV)

White River National Forest: Increases the boundary of the White River National Forest in Colorado, by approximately 36,148 acres consisting of Bureau of Land Management (BLM) lands, privately owned lands, and 371 lands currently administered by the Forest Service; and extends for one year existing grazing permits under BLM administration after which time new grazing permits could be issued by the Forest Service. H.R. 1967—Public Law 96– approved 1980. (VV)

Wilderness areas

Colorado Wilderness: Designates, as components of the National Wilderness Preservation System, approximately 1,420,900 acres of roadless national forest lands in Colorado (15 new wilderness areas and additions to six existing areas), 27,821 acres in Missouri (four new wilderness areas) 10,700 acres in South Dakota (one new area), 8,700 acres in Louisiana (one new area), and 13,720 acres in South Carolina (four new areas); changes the boundaries of Rocky Mountain National Park, the Arapaho National Forest, and the Roosevelt National Forest; establishes a 10,000 acre Wheeler Geologic Study Area within the Gunnison National Forest, Colorado; designates nine areas in Colorado totaling 477,000 acres as wilderess study areas; makes such designations as a result of the Administration's second Roadless Area Review and Evaluation (RARE II) and provides that national forest lands in Colorado which have been studied as a part of RARE II, except those lands designated as wilderness or given other protection, shall be available for uses other than wilderness under existing Forest Service plans; includes language to preclude administrative appeals and lawsuits regarding land use on the grounds that there has not been sufficient wilderness review; ensures that private landowners within the boundaries of National Forest Wilderness areas in Colorado have access to their property consistent with rules and regulations governing access across the National Forest System; and directs the Secretary to review policies and practices related to the control of disease, insect outbreaks, or fire within the wilderness areas. H.R. 5487—Passed House December 10, 1979; Passed Senate amended September 25, 1980. (VV)

Idaho Wilderness: Designates a new 2,234,000-acre River of No Return Wilderness in Idaho consisting of the Old Idaho and Salmon River Breaks Primitive Areas and certain contiguous lands in central Idaho and adds approximately 105,600 acres in the Bitterroot National Forest to the existing Selway-Bitterroot Wilderness; requires the Secretary of Agriculture to prepare, within three years of enactment, a wilderness management plan for the River of No Return Wilderness which specifically addresses ways in which the region can be accessed for public use and enjoyment and contains a cultural resource management plan to encourage scientific research into the past use of the area; includes the Clean Creek Area (West Panther Creek) within the wilderness area in order to protect the big horn sheep but insures that the area can be thoroughly explored to determine if cobalt is located there and, if so, guarantees that it can be mined; specifically allows the Blackbird Cobalt mine in Lemhi County to reopen; reiterates several provisions of the Wilderness Act which allow for the continued use of the areas for grazing and commercial services such as outfitter and guide operations and underscores the jurisdiction over water resources and fish and game within the areas; prohibits the Forest Service from closing airstrips except for reasons of safety; designates 125 miles (a specified 46-mile segment is designated as recreational and a 79-mile segment as wild) of the main Salmon River as a component of the National Wild and Scenic Rivers Systems to be administered by the Secretary of Agriculture; insures existing jetboat use of these segments at the 1978 level; contains a prohibition on dams and other improvements on a specified 53-mile segment; bans dredge and placer mining; and established a procedure whereby existing administrative and future litigation surrounding the Warren and Landmark Unit Land Management Plans and their respective final environmental statements would be expeditiously handled by the Forest Service and the Federal Courts. S. 2009—Public Law 96–312, approved July 23, 1980. (423)

SENATE

Billy Carter tax investigation: Authorizes the Senate Judiciary Subcommitte, established on July 24, 1980, to inspect any tax return or related material for tax years 1975 through 1980 relating to William E. (Billy) Carter III, including any trusts or other business entities in which he or his wife have a beneficial interest, in order that the subcommittee may conduct its investigation of charges that Billy Carter received financial assistance, reimbursements, or payments from Libyan sources because of his preexisting financial condition, S. Res. 496—Senate agreed to August 1, 1980. (VV)

Committee funds: Simplifies the committee budgetary process, by providing, effective February 28, 1981, that all expenditures of each Senate committee, staff, and the expenses related to all operations, including inquiries and investigations, be allocated in a single annual resolution, originating in each committee; deletes that portion of paragraph 1 of standing rule XXVI which authorizes, on a permanent basis, $10,000 for routine expenses for each standing committee and provides instead that such expenditures be disbursed from the contingent fund of the Senate through resolutions submitted by each committee; repeals paragraph 1 of standing rule XXXI which provides each committee with six professional and six clerical positions; repeals the authority for the Appropriations Committee to hire such staff as it deems necessary without annual Senate authorization; requires that staff members appointed to assist minority members of committees be treated equitably with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records; authorizes the Foreign Relations Committee, effective March 1, 1981, to expend, from the contingent fund of the Senate, not to exceed $25,000 each fiscal year for expenses incurred in the interchange and reception in the United States of prominent officials of foreign governments and intergovernmental organizations; and directs each committee to report an authorization resolution each year and to report a supplemental resolution for any additional funds which may be required. S. Res. 281—Senate agreed to March 11, 1980. (VV)

Makes the following statutory changes necessitated by the adoption of S. Res. 281: provides for the preservation of and transfers at the end of the 1980 investigative year the funds which will become available to committees on January 2, 1981; repeals, effective February 28, 1981, the provisions of the Legislative Appropriation Act which establishes salary levels for certain committee staff positions and authorizes the Rules Committee to hire an additional staff member; and eliminates the $300 annual stationery allowance for all standing committees while preserving it for the Majority and Minority conference committees and officers of the Senate. S. 2018—Passed Senate March 11, 1980. (VV)

Contributions for legal expenses: Waives certain Standing Rules of the Senate to enable Members, officers, or employees of the Senate, and their spouses to accept contributions, subject to regulations, promulgated by the Select Commitee on Ethics, in order to defray certain legal expenses directly resulting from their official duties. S. Res. 508—Senate agreed to September 4, 1980. (VV)

Per diem and subsistence allowance: Eliminates, with respect to reimbursement of travel expenses of Senators and Senate employees within the U.S., the present requirement that travel days be fractionalized and payments apportioned accordingly, thus permitting per diem and subsistence expenses to be made on the basis of actual expenses incurred, but not to exceed $50 per day. S. Res. 311—Senate agreed to January 25, 1980. (VV)

Select Committee on Presidential Campaign Activities records: Provides for the transfer of the permanent records of the Senate Select Committee on Presidential Campaign Activities to the National Archives, subject to such terms and conditions relating to their access and use as the Senate Rules Committee may prescribe; and provides for the disposal of the nonpermanent records of the Committee which were transferred to the Library of Congress subject to the direction of the Rules Committee. S. Res. 393—Senate agreed to April 1, 1980. (VV)

Senate Bicentennial Commemoration: Establishes a Senate Study Group on the Commemoration of the United States Senate Bicentennary to plan the commemoration of the 200th anniversary of the establishment of the United States Senate under the Constitution. S. Res. 381—Senate agreed to August 1, 1980. (VV)

Senate Ethics Committee review of ethics code: Directs the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct, and the provisions for its enforcement and implementation, and for investigation of allegations of improper conduct by Senators, officers, and employees of the Senate; and to submit a report of its findings to the Senate by February 1, 1981, together with its recommendations for changes in the Code and such provisions. S. Res. 109—Senate agreed to Feruary 1, 1980. (VV)

Senate Rules codification: Reorganizes the Standing Rules of the Senate by reducing, without substantive change, the total number of Standing Rules by 8 in order to bring together all like subject matter, in accordance with the procedure by which the Senate conducts its business; and contains one technical change in Rule XXXIII which allows members of the European Parliament Senate floor privileges. S. Res. 389—Senate agreed to March 25, 1980. (*62)

Senate Sales: Authorizes the Secretary of the Senate to accept moneys from the Sergeant at Arms for the sale of certain Senate equipment (particularly FM receiver units for floor proceedings and voice page devices) and deposit these moneys in the appropriation account from which that equipment was purchased, in order to allow him to replenish the inventory. S. 2225—Public Law 96–214, approved March 24, 1980. (VV)

Senators' office expense accounts: Authorizes the Secretary of the Senate, effective October 1, 1979, to make payment out of a Senator's official expense account to a Senator or a member of his staff as soon as an expense has been incurred and invoices, bills, or statements for those expenses have been received, thereby eliminating the need for a Senator to initially make the payment out of his or her personal funds before being reimbursed. S. Res. 305—Senate agreed to January 25, 1980. (VV)

Defines "official expenses" for purposes of the ten percent account and the home office expense accounts of Senators as "those ordinary and necessary business expenses incurred by a Senator and his staff in the discharge of their official duties"; spells out nine specific kinds of expenditures for which reimbursements or payments from the contingent fund of the Senate shall not be made; and allows continuance of the practice of making gifts of flags which have flown over the Capitol and copies of the book "We the People". S. 294—Senate agreed to April 29, 1980. (VV)

Senators' official expenses—mailing and delivery: Broadens the range of delivery services which are reimbursable from a Senator's official expense account by permitting Senators and their staffs to select the most effective, economical, and reasonable means of transmitting official business matters, including the use of first class postage stamps if warranted. S. Res. 319—Senate agreed to January 25, 1980. (VV)

Social services—Welfare

Child adoption assistance and welfare—social services: Amends the Social Security Act to make improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support, and to encourage adoption of children with special needs;

Subsidized adoptions: Provides for an extension of the current foster care program for children from families eligible for AFDC with permanently authorized Federal matching funds and requires States to establish a program of adoption assistance for "special needs" children who are eligible for SSI, AFDC, or AFDC foster care; provides that Federal matching would be permanent and based on the medicaid formula; limits adoption assistance to an amount not exceeding the foster care maintenance payment that would be paid if the child were in a foster family home; provides that adoption assistance payments would cease (1) after the child has attained the age of 18 (21 in the case of a child with a mental or physical handicap), or (2) after State determination that the parents are no longer legally responsible for supporting the child; provides adoption eligibility for SSI recipients; provides for adoption assistance without a means test; provides full medicaid coverages for children receiving adoption assistance payments;

Foster care grants: Provides for a ceiling on the State allocation Federal matching funds for AFDC foster care equal to (1) 133⅓ percent of the State's fiscal 1978 Federal foster care funds for fiscal 1981, increased by 10 percent each year thereafter; (2) the State's share of $100 million relative to its population under 18; or (3) for States whose AFDC foster care caseload in 1978 was below the national average, the amount the State received in 1978 increased by the State's percentage increase in AFDC foster care caseload since 1978 (not to exceed 10 percent) further increased by 33⅓ percent in fiscal 1981 and 10 percent per year thereafter; provides that ceilings would not take effect if child welfare services are less than $163.5 million for fiscal 1981, $220 million for 1982, and $266 million for 1983 and 1984; broadens the provision for Federal funding of foster care maintenance payments to cover children in small public as well as private facilities; requires States to establish goals as to the maximum number of children who will remain in foster care after more than 24 months and to try to prevent the removal of a child from his or her home or to make it possible for the child to be returned home; adjusts the base year for foster care maintenance payment allotments to States to include otherwise eligible children who were placed in homes with relatives;

Child welfare service grants: Sets at 75 percent the Federal matching rate for the costs of State child welfare services programs; prohibits Federal grants to a State for child welfare services above the State's share of $141 million unless the State institutes tracking and information, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children, and foster parents; modifies the child welfare services program so that it will operate on a "forward funding" basis to increase State planning ability; authorizes the Secretary of HHS; to deal directly with Indian government entities in making child welfare service grants;

Social services (Title XX) changes: Indexes the permanent ceiling on Federal matching for State social services programs under which it will rise from the current $2.5 billion annually to $2.7 billion in fiscal 1980, $2.9 billion in 1981, and thereafter in annual increments of $100 million to a level of $3.3 billion in 1985; requires reallocation of any unused funds in fiscal 1980; extends the authority making $200 million of the funds provided to States in fiscal 1980 and 1981 available for child care services, with no State matching requirement; establishes for fiscal 1980 and 1981 a limit on the amount of Federal matching funds available to States for social services training which would be equal to four percent of a State's 1980 allotment under the title XX funding ceiling or the actual amount spent by the State in fiscal 1979, whichever is higher and for fiscal 1982 and thereafter authorizes reimbursement to States only for those expenditures included in an HHS approved State training plan; permits a State to accept restricted private matching funds for training purposes in fiscal 1980 and 1981; requires HHS to monitor the State's use of these funds and prohibits their use for training in proprietary facilities; exempts certain States from the proposed cap on social services training programs, provided they had already appropriated funds for such programs prior to October 1, 1979, and authorizes therefor not to exceed $6 million; permits States to use either a one, two, or three year title XX program period, which may coincide with the local government fiscal year; provides a special 100 percent tax credit for employers with respect to wages paid to workers whose wages are reimbursed in whole or in part by funds available for grants to hire welfare recipients as child care workers;

Emergency shelter for adults: Allows funds to be used for providing emergency shelter to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation for no more than 30 days in any six-month period:

Social services funding for territories: Establishes a separate title XX entitlement amount for Puerto Rico at $15 million, Guam and the Virgin Islands at $500,000, and the Northern Marianas at $100,000;

Permanent extension of certain expired provisions: Makes permanent retroactively to April 1, 1980, the authority to provide child support enforcement services for non-welfare families; extends and makes permanent, retroactive to April 1, 1980, the authority to use title XX funds to reimburse the costs of hiring welfare recipients in child care jobs; increases the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000 and makes it available for part-time as well as full-time employment in child care jobs: reinstates and makes permanent, retroactive to April 1, 1980, temporary provisions for certain services to alcoholics and drug addicts;

Other Social Security Act provisions: Requires States to disregard the first $70 earned monthly by an individual plus 40 percent of additional earnings in determining the need for AFDC payments; deducts child care expenses, subject to limitations prescribed by the Secretary, before computing an individual's earned income; prohibits disregard of any earned income which the recipient has not reported to the State agency; permits States, in computing the shelter cost component of the AFDC grant, to assume in effect that an ineligible relative in the AFDC household bears his proportionate share of the shelter expense; extends for an additional three years the special referral and services program for disabled children who are receiving SSI benefits; extends permanently Federal matching for costs of cash assistance, administration, and social services provided under the AFDC program and the program of aid to the aged, blind, and disabled for Puerto Rico, Guam, and the Virgin Islands; limits, effective October 1, 1981, the period of retroactivity for submission of State claims under the welfare, medicaid, and social services programs to a full two years under the various titles of the Act; permits States to be reimbursed for claims, regardless of how old, submitted prior to enactment; directs States to submit claims for expenditures made prior to October 1, 1979, by January 1, 1981; authorizes from Federal funds an incentive payment to States of 15 percent of child support payments collected on behalf of other States; waives the statutory rule requiring SSI/AFDC recipients to switch to the new higher pension plan established under the Veterans' and Survivors' Improvement Act (Public Law 95-588), if such a switch would result in VA pensioners losing eligibility for medicaid. H.R. 3434—Public Law 96-272, approved June 17, 1980. (VV)

Child nutrition programs: Extends all non-permanently authorized child nutrition programs, including those expiring at the end of fiscal 1980, through fiscal 1984 and contains provisions designed to improve the effectiveness and operation of the programs; permits up to six States, on a pilot basis, to consolidate and reorganize certain food programs administered by the Department of Agriculture for the benefit of needy persons; eliminates, effective October 1, 1983, the option of States to transfer the responsibility of administering summer child feeding programs and day care feeding programs to the Department of Agriculture; reduces the general cash reimbursement rate for all categories of school lunches (free, reduced price, and paid) by 2½ cents, except in school districts where 60 percent or more of the lunches served were served free or at a reduced price during the second preceding school year; allows States to refuse to accept more than 20 percent of offered commodities and replace them with other commodities if available; prohibits the Secretary from making a three-cent reimbursement for commodities for school breakfast in the 1980-1981 school year; reduces the rate of commodity entitlements under the school lunch program by two cents: provides that commodity entitlements under the school lunch and child food programs shall be based on the number of meals served in each State during the prior school year; removes the offered versus served option in the school lunch program in junior high and middle schools:

Authorizes the Secretary to require, as a condition of eligibility for free and reduced price school meals, a listing of each household member's social security numbers on program applications: eliminates the current statutory requirement that verification of a household's income be performed only if school officials are notified that a household has income which exceeds the permitted eligibility levels; clarifies Congressional intent regarding administration of the Act so as to protect migrant farm workers from serious abuses by labor crew leaders and farm labor contractors; requires the Secretary to conduct a pilot study to verify the accuracy of information furnished by households receiving free and reduced price meals under the School Lunch Program; clarifies the means for implementing the eligibility guidelines for free and reduced price meals for school children by offering school districts three options to deal with guidelines and distribution of applications:

Changes the eligibility standards for free and reduced-price school meals to 125 percent of the poverty level plus a standard deduction and 185 percent of the poverty level plus a standard deduction, respectively; lowers the income poverty guideline used in the child nutrition programs; removes the incentive for schools to offer reduced-price lunches at less than 20 cents per lunch; provides for adjustments in school lunch and breakfast reimbursement rates on an annual rather than semiannual basis; excludes Job Corps Centers funded by the Department of Labor from participation in the school lunch and breakfast programs; limits the eligibility of certain private nonprofit institutions in the summer program that acquire meals from vendors to those that daily serve no more than 2,000 children at no more than 20 sites; limits meal service in the summer program to two meals daily, except in camps and service institutions serving migrant children;

Establishes a five-year loan and reserve program whereby embargoed grain would be sold to alcohol producers by the Commodity Credit Corporation for alcohol fuel production;

Extends the commodity distribution program through fiscal 1984; provides for adjustments in the child care program reimbursement rates for supplements on an annual rather than semiannual basis; reduces the reimbursement rate for supplements served in the child care food program by three cents and reduces equipment assistance from $6 million to $4 million annually; directs the Secretary to conduct two-year pilot projects whereby 50 school districts would receive cash assistance in lieu of commodities for the school lunch program and to submit a report on the impact and effect of such projects; provides for a two-House congressional veto of child nutrition regulations; requires that whole milk be offered in the school lunch program if unflavored, fluid lowfat milk, skim milk, or buttermilk is required by regulation; authorizes the Secretary to withhold funds from any State improperly administering child feeding programs; reduces and freezes the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to five cents per half pint; provides, beginning with the 1981–82 school year, especially needy funding for the breakfast program for all schools in a school district if (a) during the second most recent preceding school year, 40 percent or more of the lunches served in the district were served free at a reduced price; (b) the regular school breakfast reimbursement is inadequate to cover the costs of the program and (c) all of the schools in the district that provide 25 percent or more of their lunches free or at reduced price participate in the breakfast program; reduces the fiscal 1981 authorization for food service equipment assistance to $15 million and authorizes food service equipment assistance for 1982, 1983, and subsequent years at $30 million, $35 million, and $40 million, respectively; extends the food service equipment reserve through fiscal 1984;

Extends the authorization for the WIC program through fiscal 1984; improves the opportunities for migrant farmworkers to participate in the WIC program; removes the authority for the Secretary to make noncommercially available products, such as infant formula, available to WIC program participants; provides local communities and agencies with an option to abstain from the supplemental food program;

Limits fiscal 1981 funding for the nutrition education and training program to $15 million and extends it through fiscal 1984;

Changes from August 15 to August 1, the date by which the Secretary is required to announce any set-aside of cropland under the wheat program; increases the loan rates of the farmer held reserve from $2.50 to $3.30 a bushel for wheat and from $2.10 to $2.40 a bushel for corn; increase the regular loan rate from $2.50 to $3.00 for wheat, from $2.10 to $2.25 for corn, and from $4.50 to $5.28 for soybeans; establishes a four million metric ton food security reserve to be used as a backup to the P.L. 480 program; changes from August 15 and November 15 to August 1 and November 1 respectively, the dates whereby the Secretary is required to announce the cropland set aside for the wheat and feed grain programs; and authorizes the Department of Agriculture to test whether surplus Federal commodities might be provided, on a small scale, to supplement the privately donated foods already being packaged and distributed by food banks. H.R. 7664—Passed House July 21, 1980; Passed Senate amended July 25, 1980; In conference. (VV)

Disability insurance: Amends title II of the Social Security Act to provide better work incentives and improve accountability in the disability insurance programs;

Disability insurance: Limits total future disability family benefits to 85 percent of the workers' average indexed monthly earnings or 150 percent of the worker's primary insurance amount, whichever is lower effective only with respect to individuals who first became entitled to benefits on or after July 1, 1980; and requires a report to Congress, by January 1, 1985, on the effect of the limitation on benefits; changes the number of years (which is presently five years no matter what the age of the recipient) that may be excluded in calculating past earnings so that all workers are allowed to exclude about the same percentage of years of low or no earnings; allows a maximum of three additional years to be included if a child (of a worker or his or her spouse) under age three lives in the same household substantially throughout each year and the disabled worker did not engage in any employment each year; eliminates the requirement that persons becoming disabled again must undergo another 24-month waiting period to become eligible for medicare coverage; provides that if a disabled indivdual were initially on the cash benefit rolls for a period of less than 24 months, the months during which he or she received cash benefits would count towards their qualification for medicare coverage if a subsequent disability occurred within those time periods; extends medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in a substantial gainful activity but has not medically recovered;

Supplemental security income (SSI): Provides that disabled individuals who lose their eligibility for regular SSI benefits because of engaging in a substantial gainful activity would become eligible for a special benefit status which would entitle him or her to cash benefits equivalent to those under the regular SSI program; terminates, for medicaid and social services purposes, the special benefit status when an individual's monthly earnings exceed the amount which would cause the cash benefits to be reduced to zero ($481 at the present time) unless the Secretary determines otherwise; establishes a pilot program whereby the Secretary of HHS would pay each State 75 percent of the costs associated with an approved plan to provide medical and social services to certain severely handicapped persons whose earnings exceed the substantial gainful activity limits and who are not receiving SSI, special benefits, or medicaid; authorizes therefor $6 million each year for fiscal 1982 through 1984 to be allocated among States in proportion to the number of disabled SSI recipients aged 18 to 65; and requires the Secretary to submit a report thereon by October 1, 1983;

Title II and title XVI disability programs: Provides that disability benefits will not be terminated due to medical recovery if the beneficiary is participating in a vocational rehabilitation program which will increase the likelihood of permanent removal from the disability rolls; permits the deduction of impairment-related work and medical expenses paid by the individual;

Extends to 24 months the present nine-month trial work period under the DI and SSI programs and provides that in the last twelve months of this period the individual will not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails;

Requires that disability determinations be made by State agencies according to guidelines and regulations issued by the Secretary; requires the Secretary, upon a finding that a State agency is substantially failing to make disability determinations consistent with the regulations, to terminate State administration not earlier than 180 days following this finding and to make the determinations himself; allows a State to terminate its administration after giving the Secretary 180 days notice; reinstitutes a review procedure used by the Social Security Administration until 1972 under which most State disability allowances were reviewed prior to the payment of benefits; provides for preadjudicative Federal review of at least 15 percent of allowances and continuances in FY 1981, 35 percent in 1982, and 65 percent thereafter; mandates, unless there has been a finding that an individual's disability is permanent, a review of each disability case at least once every three years to determine continuing eligibility;

Aid to families with dependent children (AFDC) and child support programs: Requires AFDC recipients, as a condition of continuing eligibility for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program; limits an individual's job search period to eight weeks in one year; requires timely reimbursement of any individual's employment search expenses; requires the provision of social and supportive services as necessary to enable the individual actively to find employment, and for periods thereafter, as necessary to enable him to retain employment; allows States to match the Federal share for social and supportive services with in kind goods and services; eliminates the requirement for a 60-day counseling period before assistance can be terminated; authorizes the Secretaries of Labor and HEW to establish the period of time during which an individual will continue to be ineligible for assistance in the case of a refusal without good cause to participate in a WIN program; clarifies the treatment of earned income derived from public service employment;

Modifies current law safeguards, which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or legislative body, to exempt any governmental agency (including any legislative body) authorized by law to conduct an audit or similar activity in connection with administration; makes similar changes with regard to audits under title XX of the Social Security Act;

Allows Federal matching for administrative expenses of the IV–D program, incurred before January 1, 1980, which would cover expenditures for administrative or support personnel;

Extends IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements now applicable to families receiving AFDC;

Increases from 75 to 90 percent the rate of Federal matching for the costs of developing and implementing computerized information systems in the management of State child support programs, but retains the 75 percent rate for the cost of operating the systems; requires the Office of Child Support Enforcement on a continuing basis to provide technical assistance to the States and to approve the State system as a condition of Federal matching; requires review of the State systems; increases from 50 to 90 percent the rate of Federal matching for the costs of developing and implementing computerized information systems in the management of State AFDC programs but retains the 50 percent rate for their operation, provided the system meets specified requirements; prohibits advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the preceding calendar quarter; allows HEW to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State; provides authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies for purposes of the child support program; authorizes the Departments of Labor and HEW to establish necessary safeguards against improper disclosure of the information;

Amendments of the Social Security Act: Provides that an individual's disability entitlement under title II shall be considered as total so that if its payment is delayed and results in higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment;

Extends to April 1, 1981, the expiration date of the National Commission on Social Security and the terms of its members; requires that FICA deposits from State and local governments be due 30 days after the end of each month; includes the amount of any employer payment of the employee share of social security taxes (FICA) in the employee's taxable income for purposes of social security taxation except for domestics, small businesses, State and local governments, and nonprofit organizations; requires an alien to reside in the U.S. for three years before becoming eligible for SSI; makes an affidavit sponsoring an alien an enforceable agreement; authorizes $2 million annually to the Social Security Administration for the purpose of participating in an HHS demonstration project to determine how best to provide services needed by the terminally ill; and allows demonstration projects by the Social Security Administration to test ways to stimulate a return to work by disability beneficiaries as well as other areas of the DI program. H.R. 3236—Public Law 96-265, approved June 9, 1980. (*27)

Disabled children—Unemployment compensation: Extends for an additional three years the current program of Federal payments to States for costs incurred in carrying out a State plan of preventive services, referral, and case management for disabled children receiving Social Security Income (SSI) benefits and amending the Federal-State Extended Unemployment Compensation Act of 1970;

Amends title XVI of the Social Security Act to extend until October 1, 1982, the program of Federal payments to States for costs incurred in carrying out a State plan which requires referral by the Social Security Administration of disabled children under 16 who receive SSI benefits to a State agency which is responsible for counseling disabled children and their families, for establishing an individual service plan for each child and for monitoring the program to assure adherence to service plans;

Unemployment compensation provisions: Amends the Federal-State Extended Unemployment Compensation Act of 1970 to eliminate the "national trigger" which makes all States eligible for the extended benefits program whenever the national insured unemployment rate reaches 4.5 percent; prohibits matching payments to a State for extended benefits payable for the first week after an individual exhausts regular unemployment benefits; allows States additional flexibility to come into the extended benefits program at any rate of insured unemployment which is 5 percent or higher;

Amends the Internal Revenue Code of 1954 to provide for a reduction in unemployment benefits for recipients who also receive pension payments, retirement pay, annuities, or other similar periodic payments, but limits such reduction to the proportion of the payments attributable to the base period of the individual or to an employer chargeable under State law, and provides that States may limit the amount of any such reduction after taking into account contributions made by the individual for the pension payment;

Extends from 90 days to one year the minimum length of Federal service generally required to qualify ex-servicemen for Federally-funded unemployment compensation payments; and

Establishes a Federal Employees Compensation Account in the Unemployment Trust Fund as a revolving account with each Federal agency required to reimburse the account out of its own appropriation for the actual amount of the unemployment benefits which have been paid to its employees and former employees. H.R. 4612—Passed House September 27, 1979; Passed Senate amended March 4, 1980; In conference. (*54)

Domestic violence prevention—National service commission—Parental kidnapping: Authorizes $15 million for fiscal 1981, $20 million for 1982, and $30 million for 1983 for State and local programs and projects providing emergency shelter and related services to victims of domestic violence and their dependents, for programs and projects to prevent incidents of domestic violence, and for training and technical assistance programs; authorizes two different types of domestic violence grants from the Secretary of Health and Human Services (HHS): Federal grants to States and direct Federal grants to local programs and projects; restricts grants to any local program to $50,000 and prohibits funding of any local program for more than four years; specifies State grant application requirements which are necessary for approval; provides that 10 percent of the total amount appropriated be distributed to States for developing and implementing the State plan and for administrative costs: requires the Secretary to allot funds on the basis of population and to reallot excess grant and supplemental grant funds if a State does not have an approved plan; establishes in the Office of the Secretary an identifiable administrative unit to serve as the National Center headed by a Director appointed by the Secretary; requires the annual submission of State and national reports; allows the Secretary and the Comptroller General access to information under confidentiality provisions for purposes of audit and examination of grants or contracts; requires the Director to establish and operate an information and resource clearinghouse for matters dealing with domestic violence and to develop a public media campaign to increase public awareness of the problem; requires the Secretary to apply, from funds otherwise available, adequate monies for research activities and demonstration projects closely associated with the provision of shelter and other assistance to victims of domestic violence and their dependents; requires the Secretary to evaluate and report to Congress on the effectiveness of the programs operated by the National Center; and establishes a Federal Interagency Council to coordinate Federal domestic violence programs and promote the use of volunteers serving under the Domestic Volunteer Service Act of 1973 in domestic violence programs;

National service commission: Establishes a 25-member Presidential Commission on National Service to study the need for and desirability and feasibility of establishing a national service program to meet a broad range of human and societal needs and to submit a report thereon within 15 months of enactment; provides for followup activities after the Commission's report is submitted, including the setting of timetables and the requirement that the President take steps to ascertain how each affected department or agency reviews the report; and authorizes therefor $750,000 each for fiscal 1981 and 1982;

Parental kidnapping: States that the purposes of this act are to: (1) promote cooperation between State courts so that a determination of custody and visitation is rendered in the State which can best decide in the interest of the child; (2) promote and expand exchange of information and mutual assistance between States concerned with the same child; (3) facilitate enforcement of custody and visitation decrees of sister States; (4) discourage continuing interstate controversies over child custody; (5) avoid jurisdictional competition between State courts in matters of child custody and visitation; and (6) deter interstate abductions and other unilateral removals of children; requires State courts to enforce, and not modify the custody and visitation decrees of the States that have adopted the jurisdictional guidelines of the Uniform Child Custody Jurisdiction Act;

Allows States to enter into agreements with the Secretary of HHS for use of the Federal Parent Locator Service in civil or criminal cases arising under Federal law; limits access to this service to courts and public officials responsible for making or enforcing child custody determinations or prosecuting cases under criminal child snatching laws; provides that a reasonable fee may be assessed for processing location requests; makes the privacy protections in current child support enforcement law applicable to child custody and child abduction cases;

Adds a new section 1203 to title 18 U.S.C., making it a Federal misdemeanor for a parent, relative, or his or her agent to restrain or conceal a child in violation of a custody or visitation decree entitled to enforcement under the full faith and credit section of the bill; provides that restraint of a child in violation of the statute would be punishable fine of up to $10,000 and/or up to six months imprisonment; provides that if restraint continues for more than 30 days or concealment for more than seven days, the abductor-parent could be subject to prosecution; and provides that no Federal investigation may be commenced until 30 days after the offense has been reported to local enforcement authorities unless the child's physical or emotional safety is threatened or other appropriate circumstances demanding immediate action. H.R. 2977—Passed House December 12, 1980; Passed Senate amended September 4, 1980; (*391) Conference report filed.

Food stamp program: Increases specific dollar limitations on the program from $6,188,600,000 to $9.491 billion for fiscal 1980 and from $6.235,900,000 to $9,739,276,000 for fiscal 1981; permits States the option to determine program eligibility and benefits by using income received in a previous month, following standards prescribed by the Secretary; requires that, if a State elects to use the retrospective accounting system, certain categories of households, those experiencing sudden, significant loss of income, those with new members, those requiring immediate expedited services, and migrant farmworker households must file periodic reports of household circumstances, following standards prescribed by the Secretary;

Attributes the income (less a pro rata share) and the resources of an ineligible alien to the remaining household members in determining that household's eligibility benefits; expands States agencies' authority to verify, prior to certification, any household's size as well as any factor of eligibility related to "error-prone household profiles" approved by the Secretary for State-wide use; requires photo identification cards to be presented with authorization cards as a condition of receiving food stamps in areas where the Secretary (after consultation with the Inspector General) finds that it would be useful in protecting the program's integrity; requires food stamp certification personnel to report illegal aliens to the Immigration and Naturalization Service; permits women and children temporarily living in public or private nonprofit shelters for battered women to use food stamps to purchase meals at shelters; excludes any Federal, State, or local energy assistance payments from household income when calculating benefits;

Permits the Secretary to require forfeiture of any valuable property illegally furnished in exchange for food stamps or authorization cards; establishes an error rate sanction system, under which a State that fails to meet established standards would have its Federal share of State administrative costs reduced, or if no matching funds were due, be subject to a Federal claim for recovery;

Requires the disclosure of certain income tax information in the files of the Social Security Administration and certain wage and unemployment insurance information in the records of State unemployment insurance agencies to the Department of Agriculture and State food stamp agencies to the extent necessary to determine eligibility for food stamps;

Extends workfare pilot projects for a full year, until September 30, 1981; provides that cost-of-living adjustments in the thrifty food plan, the standard deduction, and the excess shelter expense deduction be made on an annual, instead of semiannual basis; deletes the requirement that income poverty guidelines be adjusted yearly to reflect the Consumer Price Index as of March of each year, over and above the regular OMB annual inflation adjustment; reduces the ceiling on assets for an eligible household other than a household consisting of two or more persons, one of whom is age 60 or over, from $1,700 to $1,500; and substantially restricts the eligibility of students for participation in the program. S. 1309—Public Law 96-249, approved May 26, 1980. (213, *136)

Legal services corporation: Authorizes $321.3 million for fiscal 1981 and such sums as necessary for 1982 for activities of the Legal Services Corporation; allows the Corporation to provide assistance in 1981 and 1982 within one State for a demonstration program under which 65 percent of funds for any county with a population of 150,000 or less would be available for assistance provided by the private bar, and 15 percent of funds would be similarly available for counties with greater populations; prohibits the use of funds for providing any legal service which seeks to invalidate any law enacted by Congress on the subject of abortions; directs the Corporation to reduce assistance to any funding recipient it finds to be engaged in illegal lobbying, outreach community education, or client solicitation; directs the Corporation to encourage programs designed to provide voluntary legal services by private attorneys; and prohibits legal assistance for action under the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act, or other laws or regulations dealing with environmental conditions unless an eligible client has a financial interest of not less than $500 in the action. S. 2337—Passed Senate June 13, 1980. (*209)

Taxation

Leather industry tariffs: Disapproves the President's determination transmitted to the Congress on March 26, 1980, not to impose increased tariffs on imports of leather coats and jackets as recommended by the U.S. International Trade Commission. S. Con. Res. 108—Senate agreed to September 16, 1980. (VV)

Social security benefits taxation: States the Social Security Advisory Council's recommendation that one-half of social security benefits should be subject to taxation would adversely affect social security recipients and undermine the confidence of American workers in the social security programs; that social security benefits are and should remain exempt from Federal taxation; and that the 96th Congress will not enact legislation to implement the Advisory Council's recommendation. S. Res. 432—Senate agreed to August 4, 1980. (VV)

Social security tax adjustments: Amends title II of the Social Security Act to provide, for two years only a reallocation of social security tax receipts from the Federal Disability Insurance Trust Fund to the Federal Old-Age and Survivors Insurance Fund (OASI) in order to maintain sufficient reserves in the OASI fund to pay benefits through the end of 1981. H.R. 7670—Public Law 96- , approved 1980. (VV)

Technical corrections—targeted jobs credit: Contains technical, clerical, conforming and clarifying amendments to provisions enacted by the Revenue Act of 1978, the Foreign Earned Income Act of 1978, the Black Lung Benefits Revenue Act, and the Energy Tax Act of 1978; and expands eligibility under the targeted jobs tax credit for hiring youths under a qualified cooperative education program to include 19-year-olds. H.R. 2797—Public Law 96-222, approved April 1, 1980. (VV)

Trade

Export trading companies: Requires the Secretary of Commerce to promote and encourage formation and operation of export trading companies by providing information in advance to interested persons and by facilitating contact between producers and firms offering export trade services;

Authorizes banking organizations to invest not more than 5 percent of their consolidated capital and surplus in export trading companies, and requires 60 days advance notification of the appropriate Federal banking agency before making an additional investment;

Requires the appropriate Federal banking agency, in disapproving or placing conditions on investments, to consider the resources, competitive situation, and future prospects of the banking organization and export trading company concerned in any application, and the effect on U.S. competitiveness in world markets; provides an opportunity to appeal orders of Federal banking agencies to the Federal Court of Appeals and requires cases of procedural and substantive error to be remanded to the agency;

Directs the Economic Development Administration and the Small Business Administration to encourage exporting by small and medium-size businesses or agricultural concerns and authorizes therefor $20 million for each of the next 5 fiscal years;

Directs the Export-Import Bank to establish, subject to limits in annual appropriation Acts, a guarantee program for commercial loans secured by export accounts receivable or inventories when its Board finds that inadequate private financing exists for creditworthy exporters;

Authorizes the Secretary to make grants to subsidize the employment of export managers by small businesses which have not previously been importers in substantial amounts; provides that such grants may not exceed the lesser of 50 percent of the salary of a full-time export manager for a period of one year, or $40,000, and sets forth eligibility criteria for such grants;

Directs the Secretary to determine the feasibility of this approach to export promotion in each of the Department of Commerce regions in relation to products and services which have export value; authorizes not to exceed $2 million for fiscal 1981 through 1983 to carry out this program;

Directs the Secretary to develop and submit to Congress, prior to October 1, 1982, a plan for evaluating the cost-effectiveness of the export promotion program, and make recommendations for its continuation, expansion and/or improvement.

Revises the Webb-Pomerene Act (Export Trade Act of 1918) to make its provisions explicitly applicable to the exportation of services, and provides a certification procedure enabling export trade associations and trading companies to receive antitrust clearance for specified export trade activities;

Transfers administration of the Act from the Federal Trade Commission to the Department of Commerce, and creates within the Department of Commerce an office to promote the formation of export trade associations and trading companies;

Requires that antitrust immunity be made contingent upon certification by the Department of Commerce, after consultation with the Justice Department and the Federal Trade Commission, and in conformance with existing standards of antitrust law;

Requires that export trade not constitute trade or commerce in the licensing of patents, technology, trademarks or know-how, and that export activities must serve to preserve or promote export trade;

Provides for the establishment of a task force to evaluate the effectiveness of the Webb-Pomerene Act in increasing U.S. imports and make recommendations regarding its future to the President;

Requires that fiscal 1980 funds made available to the Senate shall not exceed 90 percent of funds made available in fiscal 1979. S. 2718—Passed Senate September 3, 1980. (*386)

International Trade Commission; Customs Service; and U.S. Trade Representative Authorization: Authorizes $16.981 million to the U.S. International Trade Commission for fiscal 1981; prohibits the use of funds to initiate special studies, investigations, or reports requested by any executive branch agency unless it is reimbursed;

Authorizes $477 million to the U.S. Customs Service for fiscal 1981; prohibits the use of funds to implement any procedure that reduces the ten-day deferment for collection of customs duties; authorizes the President to enter into agreements, to the extent feasible and appropriate, with other countries to provide for the establishment of preclearance immigration and customs facilities in foreign airports and transportation facilities frequently used by persons entering the U.S.; and

Authorizes such sums as may be necessary to the Office of the U.S. Trade Representative for fiscal 1981 through 1983; authorizes the U.S. Trade Representative to expend funds for travel expenses without regard to standardized Government travel regulation and per diem allowances; delegate and redelegate functions, powers, and duties to such officers and employees as he or she may designate; accept, hold, administer, and utilize gifts, devices, bequests of property (both real and personal), and money, for the purpose of aiding in facilitating the work of the USTR; acquire by purchase or exchange not more than two automobiles for use by the USTR delegation in Geneva and elsewhere, as required, at a cost of not more than $6,500 for each car; and issue rules and regulations as may be necessary to carry out his or her functions, powers, and duties. S. 2697—Passed Senate May 28, 1980. (VV)

Shipper's export declarations: Permanently exempts Shipper's Export Declarations (SED's) from public disclosure under the Freedom of Information Act but assures their continued multi-agency use; provides standardized export data submissions and disclosure requirements for the U.S. Customs Service; requires shippers to attach private commercial bills of lading, or equivalent commercial documents, to the Outward Foreign Manifest (OFM) which Customs requires filed prior to a carrier departure with a specified cargo, or to complete a new OFM and submit the required information to Customs at the port of exit; lists six items of information that are required to be submitted to Customs on either the OFM or on attached bill or documents and permits disclosure of this information; codifies existing Customs regulations which prohibit public disclosure of a shipper's name on a manifest if the shipper has filed a written application requesting confidential treatment and requires that such applications be submitted every two years to be effective; requires only the disclosure of the general character of the cargo rather than a description of the cargo itself; authorizes the Secretary to withhold export data collected pursuant to this bill if he determines on a shipment-by-shipment basis that disclosure would pose an imminent and serious threat to the vessel and its cargo or would endanger the safety of the crew abroad; and provides the trade press with expedited access to the OFM and attached documents at the ports. H.R. 6842—Public Law 96–275, approved June 17, 1980. (VV)

Small business export expansion: Amends the Small Business Act by directing SBA to increase its support for small business exporters; expands SBA's existing authority to transfer certain eligiblity and credit decisions with respect to guaranteed loans to a participating commercial financial institution; empowers SBA to make or guarantee, for up to 18 months, a revolving line of credit to enable small businesses to develop foreign markets and for preexport financing; permits a total of $750,000 in loans to be outstanding and committed to any one borrower for export purposes only; establishes an Office of International Trade within SBA and specifies its functions which include the coordination of SBA export promotion efforts with those of other Federal agencies; directs the Secretary of Commerce, in consultation with the Administrator of SBA, the President of the Export-Import Bank, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revnue Service, to establish two one-stop export promotion centers in each of two district offices of the International Trade Administration of the Department of Commerce which are located in metropolitan areas where district offices of the SBA and IRS exist to determine if locating all of these agencies under one roof will substantially assist small businesses wanting to be involved in overseas trade; authorizes the Secretary of Commerce to make grants of not to exceed $150,000 annually for three years to each qualified applicant to encourage the development and implementation of a small business international marketing program; specifies the information required to be submitted in an application; requires that each small business international marketing program have a full-time director and a nine-member advisory board; requires that the applicant match the Federal share on a one for one basis; provides for the establishment of at least one program in each region of the Department and authorizes therefor $1.5 million each for fiscal 1981 through 1983; directs the Secretary, through the International Trade Administration, to maintain a central clearinghouse to provide for the exchange of information between programs, and other interested concerns; creates a National Export Council, to replace the current President's Export Council which will serve as a national advisory body on matters relating to U.S. export trade, and provide a forum for discussion on current and emerging problems and issues in the field of export promotion and development; requires submission to the President and Congress of an annual report on the Council's activities by March 31; and authorizes the Secretary of Commerce to appoint commercial ministers, counselors, and attaches as employees of the Department and to assign these personnel to service abroad with the same diplomatic privileges and immunities enjoyed by Foreign Service personnel of comparable rank. S. 2620—Passed Senate September 3, 1980. *Note:* (Provisions are contained in H.R. 5612 (in Economy section) which is in conference.) (VV)

United States tourism policy: Establishes a national tourism policy and the principal mechanisms for coordinating and implementing that policy; creates a cabinet-level Policy Council to deal with issues of duplication, contradiction, and lack of coordination among Federal agencies having tourism and tourism-related programs and policies; and creates a Federally-chartered, nonprofit corporation as an implementing mechanism for the national policy to (1) develop and administer a comprehensive program to stimulate and encourage travel to the United States, (2) monitor Federal programs for compliance with the national tourism policy, (3) act as the tourism industry's advocate within the several government agencies impacting tourism, and (4) develop and administer programs to assist the industry and consumer. S. 1097—Passed Senate May 14, 1979; Passed House amended July 1, 1980; In conference. (VV)

United States Travel Service: Authorizes, through fiscal 1981, $8 million to the United States Travel Service (USTS), pending enactment of S. 1097, the National Tourism Policy Act, to enable the agency to continue its existing programs to encourage foreign tourism to the U.S.; and prohibits the Secretary of Commerce from reducing the number of employees or the level of obligations for USTS below the fiscal 1979 level. S. 2248—Passed Senate May 22, 1980. (VV)

Transportation and communications

Airport and airway development: Eliminates, based on 1978 enplane over 1.4 million and overment figures, large and medium hub airports (those which annually enplane over 1.4 million and 700,000 passengers respectively) from the Airport Development Aid Program (ADAP), with the 40 largest airports to become ineligible for the program after September 30, 1981, and the next 32 largest airports to become ineligible after September 30, 1982; provides that the airline passenger tax shall remain at eight percent, or at a level adequate to fully fund the ADAP program for all enplanements at airports participating in ADAP but reduces the tax to two percent at airports which voluntarily elect to defederalize; authorizes $825 million in grants for airport planning and development for fiscal 1981; expands the Federal Aviation Administration's discretionary fund program, which calls for minimum five-year funding commitments, to small carrier and general aviation airports to assure that small communities, which are often unable to generate adequate local sources of revenue for major construction or renovation projects at municipal airports, will have access to Federal funds so that multi-year projects can be planned and built; combines the grant and planning programs for airport development at air carrier, air commuter service, reliever, and general aviation airports into a single grant program for airport development planning in order to give sponsors access to larger funding pools and allow funds to be used to meet a wide range of priority needs; permits the Secretary to continue the current mechanism for apportioning Federal assistance among the smaller airports in the State of Alaska; eliminates funding eligibility for those airports which do not require Federal assistance; requires sponsors of federally assisted commercial airports that are part of an air traffic hub to document to the Comptroller, no later than 90 days after the expiration of any fiscal year in which assistance was received, that adequate funding was not available through any other source; requires the Comptroller to transmit on an annual basis to Congress and the Secretary, a copy of such documentation along with a report containing comments and recommendations; permits any airport, notwithstanding an existing contract that restricts the airport sponsors ability to raise or impose charges on any air carriers, to renegotiate rates and charges with any carriers for the purpose of replacing revenues that otherwise would have been available to such airport from the Trust Fund, with such revenues to be utilized for capital and operating expenses only; directs the Secretary and the Comptroller General to each conduct and transmit to Congress, no later than nine months following enactment, a study of those airports that would become ineligible for Federal assistance under the Act, and the ability of such airports to replace Federal moneys they would otherwise receive, along with any recommendations for legislative or other action; and clarifies antitrust immunity. S. 1648—Passed Senate February 5, 1980. (VV)

Automobile efficiency—Fuel economy: Amends title V of the Motor Vehicle Information and Cost Savings Act, which established the present automotive fuel economy program to: (1) exempt manufacturers of fewer than 10,000 automobiles annually, worldwide, from mandatory fuel economy standards and certain reporting requirements; (2) permit manufacturers commencing U.S. production after enactment, whose vehicles have attained U.S. or Canadian value added content in labor and materials equal to or in excess of 75 percent of total production cost, to continue to combine such vehicles with imported vehicles into a single fleet to meet the mandatory corporate average fuel economy (CAFE) standards unless the Secretary finds that such combination would reduce U.S. auto manufacture employment; (3) provide for a three year in lieu of one year carry forward/carry back of credits earned in any model year for CAFE performance in excess of standard to offset civil penalties incurred in any model year for failure to meet the CAFE standard unless the Secretary finds that such combination would reduce U.S. auto manufacturers employment; and (4) permit any U.S. manufacturer who initiates U.S. production of foreign automobiles to include up to 150,000 of these automobiles annually in his domestic fleet in order to meet any year's CAFE standard, if at least 50 percent of their production cost consists of domestic value added content in labor and materials and the manufacturer has submitted a plan acceptable to the Secretary of Transportation to increase the domestic value added content to 75 percent within three years thereafter and if the manufacturer does in fact achieve the 75 percent ratio within four years. S. 2475—Passed Senate April 16, 1980; Passed House amended June 30, 1980; Senate agreed to conference report September 26, 1980. (VV)

Aviation excise taxes extension: Amends the Internal Revenue Code of 1954 to extend for three months, from July 1 until September 30, 1980, the present aviation excise taxes that go into the Airport and Airway

Trust Fund which are scheduled to either expire or be reduced on July 1; and provides that the due date for filing a return for payment of the aircraft use tax for the three month period will not be earlier that October 31, 1980. H.R. 7477—Public Law 96–298, approved July 1, 1980. (VV)

Aviation safety and noise abatement: Authorizes a new program to assist airports and surrounding communities in the development and implementation of noise abatement programs, to reduce existing noncompatible land uses, and to prevent future noncompatible land uses around airports; directs the Secretary of Transportation to establish, within 12 months, single systems for measuring noise at airports and surrounding areas and for determining the impact of noise upon individuals and to identify land uses which are normally compatible with various impacts of noise on individuals; permits airport operators to submit noise impact maps setting forth the noncompatible land uses within the vicinity of the airport; authorizes $25 million for the Secretary to make grants to sponsors of air carriers airports for noise compatibility planning; authorizes the Secretary to make grants to airport operators to implement an approved noise compatibility program; requires the Secretary to prepare and publish a noise exposure map and a noise compatibility program for National and Dulles Airports in the Washington, D.C. vicinity within 12 months of enactment; provides that no part of any noise impact map or related information submitted to or prepared by the Secretary shall be used as evidence in any suit or action seeking damages or other relief for the noise that results from the operation of an airport; requires the Secretary to study and submit to Congress a report on the achievements of the grant programs; authorizes and makes available from the Airport and Airway Trust Fund an increase for airport construction and development of $44 million for air carrier airports and $13 million for general aviation and reliever airports; increases by $5 million the authorized funds in fiscal 1980 for expenditure at reliever airports; restores the Federal matching for smaller airports; authorizes the Secretary of Transportation to provide waivers from noise regulations on a case-by-case basis when the aircraft operator has made a good faith effort to comply, but external circumstances prevent compliance; prohibits approval of any project involving the construction or extension of a runway at a general aviation airport on a line separating two counties in a State that is not first approved by local governing bodies;

Authorizes the Secretary to promulgate noise regulations for foreign air carriers operating in the U.S. that are compatible with those for U.S. carriers; authorizes the Secretary to grant a waiver from noise regulation compliance deadlines to permit noncomplying aircraft to be operated for a reasonable period beyond a deadline if the operator is making a good faith effort to comply and there is good cause for his failure to comply; sets guidelines for the Civil Aeronautics Board to use its existing authority to impose a surcharge to ensure that noise compliance is met even if industry profits dip drastically; directs Secretary to submit status reports on the development of collision avoidance systems and proposed timetables for implementation of such systems; makes an air carrier employee who performs his regular duties in more than one State subject to the income tax of the State of residence; requires the Administrator of FAA to promulgate regulations relating to access to public areas at National and Dulles Airports by individuals and organizations who seek to solicit funds or distribute materials; imposes a fine of $1,000 and/or one year imprisonment for concealing a dangerous weapon by a person boarding an aircraft or attempting to place on board a loaded firearm or bomb; and permits limited commercial passenger service in interstate transportation at Love Field in Dallas, Texas. H.R. 2440—Public Law 96–193, approved February 18, 1980. (73)

Boating safety: Amends the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities by encouraging greater State participation through the establishment of two separate grant programs—one for recreational boating safety and one for recreational boating facilities improvement; authorizes $10 million annually for each program for fiscal 1981 through 1983; gives States the option of participating in one or both programs; directs the Secretary to establish guidelines and standards for the program and to distribute funds to States having an approved program; establishes a National Recreational Boating Safety and Facilities Fund into which will be deposited up to $20 million annually to be derived from the excise taxes on motorboat fuel; directs the Secretary of the Treasury to conduct a study to determine the portion of the taxes attributable to fuel used in recreational motorboats; provides Federal initiatives to promote reforestation on both private and public timberlands through a seven-year amortization and the regular ten percent investment tax credit for a limited amount of qualifying reforestation expenditures annually; and establishes, within the Treasury, a Reforestation Trust Fund to fund reforestation activities in order to eliminate a replanting backlog in the National Forest System. H.R. 4310—Public Law 96–   , approved   , 1980. (VV)

Independent safety board: Extends the authority of the Independent Safety Board to establish regulations on reporting requirements for aviation incidents as well as accidents; gives the Board priority over other Federal agencies in the investigation of surface transportation accidents and affirms its exclusive role in the determination of probable cause of an accident; directs the Board to include all other appropriate agencies in the conduct of the investigation and to provide for timely dissemination of all relevant information with the participating agencies which are expected to defer to the Board's investigation but retain their statutory rights to obtain information directly from parties involved in the accident; authorizes Board employees to enter property on which either a transportation accident has occured or wreckage from an accident exists; specifies the employee's right to take appropriate measures for investigation, including assuming custody of certain kinds of physical evidence for the purposes of examination or testing and the inspection of various other kinds of evidence; and authorizes $18.9 million for fiscal 1981, $22 million for 1982, and $24 million for 1983 for programs of the Independent Safety Board. S. 2459—Passed Senate June 3, 1980. (VV)

International air fares: Amends the Federal Aviation Act of 1958 to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, and establish goals for developing U.S. international aviation negotiating policy; permits the Civil Aeronautics Board (CAB) to suspend or revoke, without a hearing, a U.S. carrier's certificate to serve a point in foreign air transportation after notice and a reasonable opportunity to respond, if the carrier has served notice that it intends to suspend all services to a specified point or where it has not provided any regular service for a 90-day period; prohibits CAB from approving any agreement affecting foreign air transportation that reduces or eliminates competition except in special circumstances; gives the Secretary of Transportation the authority to permit foreign-registered aircraft to operate between points in the U.S. under a lease to a U.S. carrier and special regulations prescribed by the Secretary; permits CAB to exempt foreign air carriers from the provisions of this act as necessary to enable them to carry traffic in interstate or overseas transportation under certain circumstances; requires the Secretaries of State and Transportation and the CAB, in developing international air transportation policy, to consider: (1) the strengthening of the competitive position of U.S. air carriers to at least assure equality with foreign air carriers to maintain and increase their profitability in foreign air transportation, and (2) the elimination of marketing restrictions to the greatest extent possible; requires the President to grant observer status at international aviation negotiations to at least one representative of each House of Congress if requested in advance; allows the use of foreign carriers for official U.S. government air travel if U.S. flag carrier services are not reasonably available between two foreign points; authorizes the U.S. to negotiate the right to carry U.S. Government-financed passengers and property with foreign governments in return for liberal bilateral agreements benefiting the traveling public and U.S. air carriers; creates a non-suspension zone for fares for foreign transportation which would provide for five percent upward and 50 percent downward pricing flexibility within which CAB is prevented from exercising its suspension powers; establishes the "standard foreign fare level" as the fare level filed for and permitted by the CAB to go into effect on or after October 1, 1979 (with seasonable adjustments), or the fare level determined by CAB in any case in which it determines the fare limit on October 1, 1979, was unjust or unreasonable, under specified procedures; permits CAB to revise and make appropriate adjustment on a one-time basis, to the standard fare levels in markets accounting for no more than 25 percent of the U.S. flag international passengers if it is determined that some of them are too high or too low; prohibits CAB from authorizing part charters by U.S. air carriers prior to December 31, 1980; provides that when CAB approves an agreement under the modified Bank Merger Act test, it shall grant an exemption from the antitrust laws for actions necessary to carry out the approved agreement; and permits turnabout passenger service between Love Field in Dallas, Texas, and points in the four States contiguous to Texas. S. 1300—Public Law 96–192, approved February 15, 1980. (VV)

Maritime authorization: Authorizes $571,174,000 for fiscal 1981 for the Maritime Administration as follows: $135 million for ship construction differential subsidies; $347,697,000 for operating differential subsidies; $18,750,000 for research and development; $30,863,000 for the maritime education and training expenses, including $18,201,000 for maritime training at the U.S. Merchant Marine Academy at Kings Point, N.Y., $10,780,000 for assistance to State marine schools, and $1,882,000 for supplementary training authorized under section 216(c) of the Merchant Marine Act, 1936; $38,864,000 for maritime administration operating expenses including $7,208,000 for the National Defense Reserve Fleet and $31,656,000 for operating expenses related to the waterborne transportation systems and to general administration; requires that a vessel built with a construction differential subsidy must be offered for enrollment in a sealift readiness program; provides $44,307,000 in supplemental funds for the operating differential subsidy program to cover increased costs for settlement of amounts due for prior year operations, unbudgeted activity in the Soviet grain trade, cost increases and changes in the rate of payment for current year operations; temporarily waives for 90 days following enactment, the 60-day period during which fishermen must file their claims under the Fishermens Protective Act for damages caused by foreign or U.S. fishing activity within the 200-mile Fisheries Zone and permanently changes the filing deadline to 90 days; and authorizes documentation of the vessel *Fundy Pride* as a vessel of the United States so that she may engage in the American fisheries for nonprofit, educational purposes. H.R. 6554—Passed House April 15, 1980; Passed Senate amended June 3, 1980. (VV)

Maritime labor agreements: Exempts, from Federal Maritime Commission jurisdiction, all collective bargaining and related agreements under both the Shipping Act and the Intercoastal Shipping Act, except for agreements or arrangements for the funding of collectively bargained fringe benefits or other than a uniform full man-hour basis arrived at without regard to the cargo handled. H.R. 6613—Public Law 96-325, approved August 8, 1980. (VV)

Maritime tort claims: Establishes a uniform three year statute of limitations for a suit to recover damages for personal injury or death arising out of a maritime tort. H.R. 3748—Public Law 96 , approved 1980. (VV).

Motor vehicle safety standards: Authorizes $48.5 million for fiscal 1980, $53.35 million for 1981, and $61.3 million for 1982 to the National Highway Traffic Safety Administration to continue vehicle safety research, develop existing, and, when necessary, promulgate new vehicle safety standards, conduct defect and noncompliance testing, and enforce existing provisions under the National Traffic and Motor Vehicle Safety Act of 1966; amends the Motor Vehicle Information and Cost Savings Act as follows: in Title I—Bumper Standards, authorizes $400,000 for fiscal 1980, $425,000 for 1981, and $450,000 for 1982 to provide for monitoring of bumper standards; in Title II—Automobile Consumer Information, authorizes $2.4 million for fiscal 1980, $1.5 million for 1981, and $1.65 million for 1982 for continued study and investigation of the methods for determining damage susceptibility, crash-worthiness, ease of diagnosis, and repair of certain automotive systems; in Title III—Authorizes $300,000 each for 1980 and 1981 to allow completion of reports on the diagnostic inspection/maintenance program; and in Title IV—Odometers, authorizes $300,000 each for fiscal 1980 through 1982 to allow DOT to add additional investigators to combat odometer tampering; reduces the current five miles per hour impact test velocity specified in the Federal bumper standard to 2.5 miles per hour applicable for model years 1981 and 1982 only; incorporates the annual required report on bumper standards as a part of the annual report of the National Traffic and Motor Vehicle Safety Act; allows the Secretary of Transportation to promulgate exemptions from the odometer disclosure requirements for motor vehicles when odometer readings have no meaningful relationship to the value or performance of an automobile; amends the National Traffic and Motor Vehicle Safety Act to relieve tire dealers of certain mandatory recordkeeping and reporting requirements and requires public notice of a recall of defective tires; limits the regulatory burden the Secretary can impose upon the States to enforce the 55 mile per hour speed limit; accelerates the date by which passive occupant restraint provisions apply to small cars with high volume sales in the U.S.; requires these domestic and imported car manufacturers to make available to consumers a variety of passive occupant protection systems and establishes a new civil penalty for lack of compliance; and provides that any DOT rule may be vetoed within 90 days by adoption by a vote in both houses of a disapproval resolution. S. 1159—Public Law 96– , approved 1980. (VV)

NS "Savannah": Authorizes the Secretary of Commerce to charter, under specified terms and conditions, the Nuclear Ship (NS) *Savannah* to a naval and maritime museum within Patriots Point Development Authority, Charleston, South Carolina for a minimum of five years and a maximum of 30 years with options to renew for five-year periods thereafter; requires that the Authority possess an NRC license but prohibits it from operating the nuclear utilization facility; places financial responsibility for the disposal of the reactor and other nuclear systems and radioactive contaminated components in the vessel with the Secretary of Commerce; requires NRC approval of any disposal plan; makes the Authority responsible for monitoring and security of the reactor and all nuclear systems and radioactive components and for licensee reporting requirements; authorizes the expenditure of funds previously authorized to preserve the vessel in the National Defense Reserve Fleet; and authorizes previously appropriated funds for fiscal 1980 to tow the NS *Savannah* to Patriot's Point, and to inspect and maintain her hull below the water line and such funds as may be necessary for such purpose during the term of the charter and any renewals thereof. S. 1863—Public Law 96– , approved 1980. (VV)

Ocean shipping: Revises and codifies the Shipping Act, 1916, and related laws, to create effective, unified, current, and consistent policies and laws to regulate our international ocean liner trades; sets forth a declaration of policy that clearly outlines nine objectives of ocean transportation regulation in the foreign commerce of the United States which are intended to serve as the substantive standards for the Federal Maritime Commission (FMC) evaluation of agreements involving concerted activity in international ocean shipping and patronage contracts between carriers, shippers, and consignees; clarifies and reaffirms the complete exemption of concerted activities in ocean shipping from the operation of the antitrust laws; establishes clear procedures for FMC approval of agreements and places statutory time limits on Commission action; provides for temporary approval of agreements; establishes certain categories of presumptively approvable agreements (including intermodal); permits the establishment and operation of shippers' councils within the United States; allows greater flexibility in the type of patronage contracts offered by carriers and conferences; authorizes the approval and implementation of international agreements; directs the U.S. Government to negotiate intergovernmental maritime agreements as a matter of U.S. policy whenever conditions in foreign commerce warrant their use and prescribes guidelines for their development; subjects all carriers to independent, neutral body self-policing in order to ensure compliance with the requirements of the Act; clarifies and reaffirms the independence of the FMC from OMB clearance of legislative recommendations, testimony, or comments; and provides for annual authorizations for the FMC, giving congressional committees with substantive jurisdiction over its activities the opportunity to ensure that sufficient funds are allocated to implement FMC-administered laws. S. 2585—Passed Senate April 24, 1980. (VV)

Railroads

Conrail: Authorizes $31.5 million for fiscal 1981 and $25.5 million for 1982 for administrative expenses of the United States Railway Association (USRA) including litigation and the monitoring of Conrail's operations; and requires USRA to make recommendations to Congress by November 15, 1980, and March 1, 1981, focusing on means to ensure a self-sustaining rail system in the Northeast and providing the necessary information needed for Congress to decide on the future funding and structuring requirements of Conrail. S. 2527—Passed Senate May 21, 1980. Note: (Provisions are contained in S. 1946.) (VV)

Northeast Corridor: Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize an additional $750 million for fiscal 1981 through 1985 to complete the Northeast Corridor Improvement Project, of which $37 million will be set aside for improvements to the Baltimore-Washington Tunnel and costs associated with the rerouting freight service along the Corridor while such improvements are being made; places a firm funding limit on the program and makes it clear that, in the event of a conflict between the goals of improved passenger service and the amount of funding provided, the funding limitations will prevail; requires the Comptroller General to study and report to Congress within 12 months on the costs, benefits, and operational feasibility of similar services in other corridors and authorizes therefor $5 million out of existing funds authorized to GAO; and contains provisions to achieve greater efficiency on the part of Amtrak by requiring that Amtrak recover all operating costs by fiscal 1986, and by eliminating the special budgetary treatment currently afforded Amtrak's capital grants. S. 2156—Passed Senate May 8, 1980. (VV)

Railroad deregulation: Provides substantial regulatory reform of the railroad industry by allowing railroads greater pricing flexibility while retaining protection for captive shippers, imposing more stringent deadlines for abandonments and merger proceedings and other restructuring transactions, and clarifying the ICC's power to exempt rail transportation from regulation;

Ratemaking: Simplifies the ratemaking provisions of 49 U.S.C. in order to provide the appropriate mix between regulation and the marketplace; provides a free zone for rate increases which do not exceed the railroads increased costs, based on a rail index to be compiled or verified by the ICC, which includes appropriate adjustments to reflect the quality and mix of material and labor; provides a five percent rate flexibility zone above cost increases, subject to a five-year maximum of 14 percent; requires the ICC within 180 days to set a revenue-to-variable-cost-ratio with regard to rates and permits ICC investigation within the rate flexibility bone for rate proposals above the "trigger point" set by the ICC; preserves existing law under which the burden of proof is on the carrier in investigation proceedings and on the shipper on complaint proceedings; mandates a phase-down of general rate bureau consideration of interstate rates that affect interstate commerce; requires tape recordings or transcripts of rate bureau meetings and a record of all votes; includes a saving provision to permit challenge of existing rates in an orderly fashion during the transition period to the new ratemaking provisions and procedures; provides specific joint rate provisions, which are effective for three years unless extended by the ICC for an additional year, which allow a railroad to impose a surcharge on a joint rate without the concurrence of other carriers and keep the revenue generated by the surcharge; mandates demand-sensitive rates in response to expected or actual fluctuations in demand for rail service; excludes rates involving the movement of grain from the demand-sensitive authority;

Industry structure: Requires that the ICC decide smaller restructuring transactions, other than mergers, having regional or national significance within ten months and those which do not have regional or national significance within six months, and simplifies the standards under which the ICC judges such actions; substantially improves and speeds up the process by which abandonment decisions are reached by requiring an ICC decision within nine months; provides that a railroad or a potential subsidizer or purchaser of a rail line which has been approved for abandonment may request that the ICC establish the amount of subsidy or the purchase price if an agreement cannot be reached; permits the potential subsidizer to accept the ICC price or withdraw his offer but requires the railroad to accept the amount as established by the ICC; requires the ICC to apply the same standards to entry applications as to abandonment applications and provides that, when a railroad has been issued a certificate of public convenience and necessity, no other railroad may block construction by refusing to let the first railroad cross its property if the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed lane; permits the ICC to establish compensation if the railroads cannot agree; gives the ICC the power to require railroads to enter into reciprocal switching agreements (where carriers pick up and deliver traffic for other railroads) when it finds that such agreements are practical and in the public interest;

General provisions: Clarifies the ICC's power to exempt rail transportation from regulation; restricts the ICC's car service powers to emergency situations and encourages State authorities to exercise their regulatory jurisdiction in a manner consistent with standards established in the railroad transportation policy; authorizes $20 million over a three-year period for the Department of Interior's Federal grant program to convert abandoned railroad property to conservation or recreation use; and gives the Federal Railroad Administration discretionary authority to grant exemptions from the Safety Appliances Act's requirements when they preclude development or implementation of new technology.

Includes unchanged the provisions of S. 2527, Conrail Authorization, which passed the Senate on May 21, 1980; includes the provisions of S. 2530, the Railroad Financing Improvement Act, which passed the Senate on June 28, 1980, with a technical amendment to clarify that the intent of Congress in amending section 305(d) of the Regional Rail Reorganization Act is to grant to all railroad employers the same rights with regard to the transfer of surplus employees as is not afforded to Conrail; adds a provision which specifies that not more than $180 million of the funds authorized pursuant to title V of the Railroad Revitalization and Regulatory Reform Act, which concern railroad rehabilitation and improvement financing is authorized to be appropriated in fiscal 1981; and

Authorizes the U.S. Railway Association to purchase an additional $329 million of Conrail series A preferred stock to assure the continuation of Conrail operations through fiscal 1981. S. 1946—Passed Senate April 1, 1980; Passed House amended September 9, 1980; Senate agreed to House amendment with an amendment September 18, 1980, and requested conference; Conference report filed. (*72)

Railroad financing improvement: Improves the labor protection program under title V of the Regional Rail Reorganization Act of 1973 which provides benefits to the former employees of the bankrupt Northeast and Midwest railroads by: (1) reducing the opportunity for protected employees to receive excessive compensation guarantees, (2) allowing the Consolidated Rail Corporation (Conrail) and other employers with employees protected under the provisions of the Regional Rail Reorganization Act, to retain and transfer some protected employees, (3) increasing by $235 million the authorization to pay revised benefits, and (4) directing the United States Railway Association (USRA) to monitor the program; extends for two years, until September 30, 1982, the Railroad Rehabilitation and Improvement Financing Program established under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 and increases its authorizations from $700 million to $1.1 billion; makes any group that wishes to purchase or rehabilitate a line of a railroad to ensure continued rail service eligible for low-interest loans under the Redeemable Preference Share program; and provides a specific allocation of program funds for labor costs associated with improved manpower effectiveness. S. 2530—Passed Senate June 28, 1980. *Note:* (Provisions are contained in S. 1946.) (VV)

Railroad safety: Amends the Federal Railroad Safety Act of 1970 to authorize $38 million for fiscal 1981 and $40 million for 1982 to the Secretary of Transportation to cover administrative expenses of the Federal Railroad Administration's (FRA's) rail safety program, inspection and enforcement activities and grants-in-aid for State inspection programs; specifies that $10 million be used for safety, research, and development of which $500,000 is for alcohol and drug abuse treatment programs; expands the Secretary's emergency order authority to facilitate a more effective enforcement of rail safety laws and provide appropriate protection for the carriers; mandates that the Secretary complete studies and reports on State participation in rail safety program, railroad employee training, the retrofitting of DOT Specification 105 tank cars, and the reevaluation by FRA of its safety goals and programs; makes certain statutory changes to clarify and consolidate the administrative and enforcement powers of the Secretary, including expansion of venue for actions brought under the rail safety laws to allow an action to be brought where the defendant has his principal executive office, and as under present law, where the violation occurred; gives a rail employee the right to bring an action to compel the Secretary to issue an emergency order if it can be shown that failure to do so would expose the employee to imminent physical injury; broadens State participation in rail safety inspection programs and expands the enforcement authority of States participating in investigative and surveillance activities; reduces from 90 to 15 days the period in which a participating State must await action by the Secretary before going into Federal court for injunctive relief from critically unsafe rail conditions and reduces from 90 days to 60 days the period in current law that a State must wait before bringing an action for civil penalties; forbids a carrier from discharging or discriminating against an employee for filing a complaint, instituting a proceeding, or testifying in a proceeding relating to safety violations or for refusing to work under hazardous conditions; codifies the protection currently granted rail employees, who are not covered by OSHA, under which they may seek similar protection through normal grievance procedures established under section 3 of the Railway Labor Act; provides that safety specialist inspectors employed by DOT receives a GS-13 rating and regular safety inspectors a GS-12 rating; requires DOT to issue, within two years, regulations insuring the safe construction, maintenance, and operation of passenger equipment; and authorizes the Secretary to enter into agreements with States for investigation and surveillance activities under the Safety Appliance, Locomotive Inspection, Signal Inspection, Hours of Service, and Accident Reports Acts to provide the FRA with the ability to assure that State agencies make maximum contribution to the railroad safety effort. S. 2730—Public Law 96- , approved 1980. (VV)

Rock Island bankruptcy: Makes available $25 million from the fiscal 1980 Department of Transportation Appropriations Act (Public Law 96-131) to the Interstate Commerce Commission (ICC) to continue service for 45 days from the date of enactment over those lines of the Rock Island Railroad which were in operation on March 1, 1980, and for 30 days on those lines of the Milwaukee Railroad that are (1) included in a reorganization plan approved by the ICC, or (2) included in initial bids for purchase of lines outside of such a reorganization plan, in order to avoid excess disruption in transportation services provided by the railroads during their reorganization; permits the ICC to provide directed service on the Milwaukee only in the event that the Secretary of Transportation determines that such service cannot be continued under the Emergency Rail Service Assistance Act; provides, under specified conditions, for a first-hire status by all other railcarriers to those persons who were employed by the Rock Island Railroad on March 1, 1980, and who are separated prior to September 30, 1980, due to reduction in force; provides guaranteed obligations of not to exceed $50 million to provide employee protection of which $30 million is to be an administrative expense of the estate of the Rock Island Railroad and $20 million to take priority below claims of general unsecured creditors of the railroad but above claims of common stockholders; authorizes $750,000 for fiscal 1981 to cover administrative expenses of the Railroad Retirement Board; makes available not less than $25 million in funds previously authorized under the Railroad Revitalization and Regulatory Reform Act of 1976 to encourage the purchase of Rock Island lines by non-carrier entities including associations of railway labor, employee coalitions, and shippers, pursuant to a feasible employee or employee-shipper ownership plan; directs ICC to give preference to proceedings involving Rock Island and imposes time limits on applications for interim emergency service and for sale and transfer; gives the Federal Railroad Administration discretionary authority to grant exemptions from the Safety Appliances Act to encourage the development or implementation of new rail technology; and encourages the implementation of an employee stock ownership plan (ESOP) for ConRail by providing indemnification for liabilities incurred in the establishment of the plan. S. 2253—Public Law 96-254, approved May 30, 1980. (VV)

Shipbuilding contracts: Makes permanent the authority of the Secretary of Commerce, under section 502(a) of the Merchant Marine Act, 1936, as amended, to accept negotiated contracts for Government-subsidized vessel construction. H.R. 5913—Public Law 94-210, approved March 17, 1976. (VV)

Towing safety advisory committee: Establishes, within the Department of Transportation, a five-year, 16-member Towing Safety Advisory Committee to consult with, advise, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety; provides that the advisory committee's proceedings shall be open to the public; and authorizes therefor such sums as necessary for administrative services provided by the Coast Guard in support of the committee's business. H.R. 6242—Public Law 96- , approved 1980. (VV)

Transportation laws codification: Amends subtitle IV of title 49, U.S.C. (Transportation Laws) to codify recent law and improve the Code without substantive change. H.R. 3807—Public Law 96-258, approved June 3, 1980. (VV)

Truck safety: Seeks to combat the increasing number of deaths, injuries, and property damage due to commercial motor vehicle accidents by promoting highway safety, encouraging safe operation and maintenance of commercial motor vehicles, and protecting the health and safety of commercial motor vehicle operators;

Develops new regulatory authority and enforcement tools to promote commercial motor vehicle safety; provides for coverage of specified commercial motor vehicles in or affecting commerce including any weighing at least 10,000 pounds, any transporting hazardous materials and any which carry ten or more persons; exempts any vehicle engaged in farming activities or logging operations;

Increases civil and criminal penalties for violations of commercial motor vehicle health and safety requirements; imposes a fine of up to $500 per violation for failure to fulfill recordkeeping requirements with each day counted as a separate offense, and an overall ceiling of $10,000 on any single violation; directs the Secretary of Transportation to investigate any nonfrivolous complaint concerning a material violation which is occurring or has occurred within the preceding 60 days of the complaint;

Contains provisions to protect any employee from discharge, discipline, or discrimination if he or she refuses to operate a vehicle due to the employee's apprehension of serious injury to their person or to the public due to the unsafe condition of the equipment; directs the Department of Labor to investigate employee complaints when discrimination is alleged and if a violation is discovered, to order affirmative action to abate the violation including such remedies as reinstatement and specified compensation and damages;

Establishes uniform maximum national standards for trucks using the interstate system of 80,000 pounds weight and 102 inches wide;

Authorizes $50 million in fiscal 1981, $100 million in 1982, and $100 million in 1983 to carry out a program of matching grants (80 percent Federal 20/percent State) for State development or implementation of programs to enforce commercial motor vehicle safety laws and regulations; requires formulation of procedures for submission of State enforcement plans; allows a State to adopt additional or more stringent safety rules if they do not create a burden on commerce or are not inconsistent with Federal rules;

Establishes a Commercial Motor Vehicle Safety Advisory Committee composed of the Secretary of Transportation and 15 members appointed by the Secretary who are experienced in the safety regulation of commercial motor vehicles or technically qualified by training, experience, or knowledge, to evaluate commercial motor vehicle safety requirements to advise, consult with, and make recommendations on matters relating to DOT activities and functions in the field of commercial motor vehicle safety;

Requires the Secretary to report to Congress within one year on the advisability of establishing a national commercial driver register; requires a study of health hazards facing truck drivers;

Gives the Department of Transportation, instead of the Interstate Commerce Commission, sole authority to make determinations of the safety aspects of the "fit, willing, and able" requirement that specified carriers must meet to operate commercial motor vehicles; and contains a savings provision to provide for the continuation of all present rules, regulations, standards, orders, or determinations relating to commercial motor vehicle safety until modified by the Secretary. S. 1390—Passed Senate February 20, 1980. (*43)

Trucking deregulation: Amends title 40, U.S.C., to eliminate unnecessary Federal regulation of motor carriers and to encourage competition as a means of maintaining and improving a sound, privately-owned motor carrier system;

Entry policy: Eases entry by new firms into the industry and expansion of operations by existing firms: shifts the burden of proof to companies opposing the entry which must show that the service is not in the public interest; eliminates the entry test of meeting public necessity for: points not regularly served by a regulated carrier; transportation as a substitute for abandoned rail service; transportation of food by owner-operators, small shipments, and for some service for the Federal government; specifically prohibits the issuing of "master certificates" based on general findings; limits protests to an application to those who are already licensed to perform the service, or who have applied previously for the authority, or those to whom the ICC grants leave to intervene; limits protests to an application to serve as a common carrier to those who already are authorized to perform the service or who applied previously for the authority, or those to whom the ICC grants leave to intervene; prohibits any contract motor carrier from protesting any application;

Removal of restrictions: Directs the ICC to process individual applications to remove restrictions from certificates and permits; and directs the ICC, within 180 days of enactment, to eliminate all rules requiring truckers to stop at specific gateway points or take circuitous routes;

Exemptions: Exempts from ICC regulation the transportation of animal feed, agricultural seeds, and plants; specified transportation by a subsidiary of a corporation for another unit of the corporation for a fee if the subsidiary is wholly owned and notice given to the ICC, including a list of subsidiaries involved; transportation by motor vehicle incidental to U.S. air transport, and to the extent approved by the CAB by a foreign air carrier; used pallets and containers and other used shipping devices; and transport of crushed volcanic rock for decorative purposes, and wood chips;

Food transportation savings: Makes it clear that subtracting transportation savings from the delivered price of goods is not a violation of the Robinson-Patman Act; and states the sense of Congress that these savings should be passed on to the ultimate consumer;

Rate making flexibility: Prohibits the ICC from interfering with rate changes proposed by a motor carrier if they are not ten percent higher than the rate in use one year prior to the effective date of the proposed change, or ten percent lower than the charge in effect July 1, 1980; allows the ICC to increase the flexibility zone maximum by an additional five percent per year if it determines that competition warrants the change; limits the scope of collective ratemaking and restricts rate bureaus; and eliminates collective ratemaking on single-line rates beginning January 1, 1984;

Antitrust immunity: Authorizes the continuation of motor carrier rate bureaus but phases out after three years the antitrust immunity now granted to truckers discussing or voting on single line rates; authorizes a study commission to review the need for continued antitrust immunity and report to the President and the Congress by July 31, 1982;

Miscellaneous: Prohibits "lumping", the practice of requiring that persons who own or operate motor vehicles be assisted in loading or unloading their vehicles; and establishes civil and criminal penalties for violations; allows a food seller to compensate a customer for picking up commodities at the seller's dock;

Directs the ICC to license an applicant to be a broker for transportation of property if the applicant is "fit, willing and able"; directs the Secretary of Agriculture to develop regulations for the use of written contracts governing the interstate movement by motor vehicle of exempt agricultural commodities;

Increases the total value of outstanding securities and other obligations of motor carriers exempt from ICC regulation from $1 million to $5 million and of notes of less than two years maturity from $200,000 to $1 million; and increases the aggregate gross operating level below which a carrier is exempt from regular merger requirements from $300,000 to $2 million;

Directs the Secretary of Transportation and the ICC, in consultation with State agencies and the motor carrier industry, to develop recommendations to be made to Congress to provide a more efficient and equitable system of State regulations for interstate motor carriers; directs the ICC to make an investigation and study of motor carrier service to small communities;

Permits common carriers to enter into pooling agreements, which the ICC shall approve without a hearing unless it determines that it is of major transportation importance and there is a substantial likelihood that the agreement will unduly restrain competition;

Authorizes the ICC to require establishment of through routes (with more than one carrier performing the haul) and joint rates between motor carriers and water and rail carriers; prohibits the ICC from requiring a carrier to reduce any "through" route to substantially less than the entire length of its route except as specified;

Authorizes the ICC to grant a carrier, for up to 270 days, temporary or emergency temporary authority to provide transportation to a place having no current service capable of meeting its immediate needs.

Amends the nonrail hearing and appellate process for reaching an initial decision and deciding an application for rehearing, reargument, or reconsideration; sets specific time deadlines for processing applications; permits the ICC to prescribe specified record keeping and filing requirements and to conduct inspections of agricultural cooperatives engaged in motor carrier transportation; directs the Secretary of Transportation to set minimum levels of insurance for both regulated and nonregulated carriers; establishes minimum levels of financial responsibility; prohibits taxation of motor carrier property different from other commercial and industrial property; permits common and contract carriers to deliver or receive piggyback trailers from rail carrier routes; and directs the Secretary of Labor to publish comprehensive lists of jobs available with regulated carriers and to assist jobless former employees of regulated carriers to find other employment. S. 2245—Public Law 96-296, approved July 1, 1980. (*78)

Urban mass transportation: Authorizes a total of $25.1 billion for fiscal 1981 through 1985 for the Urban Mass Transit Administration (UMTA) of the Department of Transportation, plus such sums as may be necessary for administrative expenses; adds a supplemental 1980 authorization of $400 million; provides five-year total authorizations of $13.9 billion for urban discretionary capital grants, including $9.5 billion for urban formula grants, $650 million for section 18 small urban and rural grants, and approximately $980 million for research, development, and demonstration projects;

Requires the Secretary of Transportation to develop an allocation plan to use as the basis for the distribution of grant funds for rail modernization and rehabilitation projects; reserves 75 percent of these funds for distribution according to this plan: requires the Secretary to submit a proposed final allocation plan to the Senate and House authorizing committees by January 1, 1982; provides that the allocation plan would become final when approved by both Houses of Congress by concurrent resolution;

Gives the Secretary the authority to use up to $150 million annually to purchase transit vehicles and related equipment directly and then grant ownership of these vehicles and equipment to States and local public bodies in urbanized and non-urbanized areas;

Requires the Secretary to give the House and Senate authorization committees written notice 30 days in advance of the issuance of a formal letter of intent to obligate additional funds for large multi-year capital projects from future available budget authority;

Amends Section 4 of the Urban Mass Transit Act to authorize for fiscal years 1981 through 1985, $2.490 billion, $2.625 billion, $2.775 billion, $2.930 billion, and $3.090 billion respectively for Discretionary Grants; $100 million, $85 million, $90 million, $95 million, and $100 million respectively for research and development and university research; $10 million each year for transportation centers; and $110 million, $120 million, $130 million, $140 million, and $150 million respectively for nonurbanized areas;

Extends authorizations for the formula grant program through fiscal 1985 to provide $1.665 billion in 1981, $1.805 billion in 1982, $1.925 billion in 1983, $2.025 billion in 1984, and $2.125 billion in 1985; deletes the formula grant authorization for fiscal year 1981 and 1982, which was designed to allow distribution of funds among several tiers; substitutes a single dollar authorization in 1981 for the whole program and funds each tier as a percentage of that total authorization to closely approximate the amounts of the prior authorization;

Makes a permanent change in the basic mechanism for distribution of funds under the formula grant program, except for cities with populations between 50,000 and 200,000, effective in fiscal 1982 by establishing rail and bus revenue vehicle miles as the sole element of the distribution formula; provides that 80 percent of these funds be appropriated on the basis of each area's ratio of bus and rail revenue vehicle miles to the total in all areas; allocates the remaining 20 percent proportionately according to the ratio of bus revenue miles only, and provides that the funds shall be available only for the purchase of buses or related equipment; permits funds to be appropriated a year in advance of the fiscal year in which they will be obligated by UMTA to give State and local governments advance notice of the formula apportionment that they can expect the following year; adds a new incentive formula grant program to Section 5 starting in fiscal year 1983 to help increase transit ridership and encourage stable and reliable sources of non-Federal funds by rewarding urbanized areas based on increases in ridership and on the ratio of operating revenues and dedicated tax sources to total eligible operating costs;

Requires that the Secretary not approve any program after July 1, 1982, unless he or she finds that energy conservation has been adequately considered in the development of capital and operating expense projects; revises the definition of fixed guideway to specify that rails used exclusively for transit are to be included in the formula grant apportionment; strengthen and clarifies the existing authority of the Secretary to investigate safety conditions; makes the Buy American Program apply to all projects costing more than $500,000;

Restricts fiscal 1982 spending to the 1980 level if the amount of paperwork which UMTA requires of business, private persons, and State and local governments in 1981 exceeds the 1980 level;

Permits the State of Maryland to use revenues from existing transportation facilities to guarantee bonds for a new Baltimore Harbor Tunnel;

Creates a public transportation planning process for non-urban areas to be carried on in cooperation and consultation with appropriate local officials and substate planning agencies; and provided that each State shall receive no less than one percent of the funds for non-urban transportation programs;

Establishes a formula for bus capital funds for 1981 for cities with population over 200,000 based on each city's ratio of bus revenue vehicle miles to the total for all cities; allows use of medicare cards as proof of eligibility for reduced fare ridership for elderly or handicapped persons; establishes a program for transportation of handicapped persons which would allow localities under 50,000 to present a plan for the Secretary's approval for special transportation services; requires cities from 50,000 to 750,000 to equip 50 percent of new buses for access by the handicapped; and requires cities over 750,000 to equip all new buses for access by the handicapped;

Federal-aid highway amendments of 1980: Limits obligations for Federal-aid highways and highway safety construction programs for fiscal 1981 to $8.45 billion; provides that 80 percent of these funds shall be distributed to the States according to the current State ratio, and the remaining 20 percent shall be allocated by the Secretary after August 1, 1980, for projects in States which have obligated all their funds; and

Emergency impacted rail and highway transportation: Authorizes $250 million in fiscal 1981, increasing by $50 million each year through 1985, for roads affected by the transportation of heavy bulk energy material. S. 2720—Passed Senate June 25, 1980. (*235)

Vessel documentation: Authorizes the documentation of the privately-owned vessel, *Kailua*, as a vessel of the United States with the privileges of engaging in domestic coastwise trade. S. 2476—Passed Senate June 20, 1980. (VV)

Authorizes the documentation of the privately owned vessel, *Scuba King* as a vessel of the United States with the privileges of engaging in the fisheries and coastwise trade so long as the vessel is owned by a U.S. citizen. S. 762—Passed Senate August 18, 1980. (VV)

Authorizes the documentation of the vessels *Sara*, *Aurelia Four*, *Alice*, *Albatross*, *Hillbilly I*, and *Kailua* as vessels of the United States with the privileges of engaging in coastwide trade as long as each vessel is owned by a U.S. citizen requires, with respect to the vessel *Sara*, that it be operated for a nonprofit purpose; directs the Secretary of Commerce, acting with the Secretary of Navy, to prepare specifications for national defense features to be installed on vessels of the national defense reserve fleet, vessels requisitioned, chartered or purchased by the Maritime Administration, vessels which are security for government guaranteed loans under the 1936 act, and vessels subject to an agreement between the owners and Secretary of Commerce; and provides for priority treatment of a vessel at a coal pier for the purpose of loading coal when the coal designated for that vessel is present at the terminal and available for loading. S. 1442—Passed Senate December 18, 1979; Passed House amended August 26, 1980. (VV)

Vessel inspection and manning laws: Amends current law to update the manning and inspection statutes for small commercial and special purpose industrial vessels under 1,600 gross tons to provide uniform inspection standards and encourage the development of career patterns in the maritime industry; provides that vessels less than 100 gross tons, carrying passengers or freight for hire would be inspected and manned under the Small Vessel Manning Act; gives the Coast Guard the flexibility to prescribe the manning it deems necessary for vessels between 100 and 300 gross tons; retains current requirement that vessels 200 tons or over navigating in the high seas would have to have masters, mates, and engineers licensed by the Coast Guard and those 300 gross tons or over must be navigated with a licensed deck officer and a licensed engineer; retains the existing able seaman requirement under present law but adds two new types of less qualified able seamen to provide the necessary flexibility in meeting able seamen manning requirements for all classes of commercial vessels: and reduces, from 19 to 18 years, the minimum age requirement for able seamen to be consistent with international standards. H.R. 5164—Public Law 96- , approved 1980. (VV)

Treaties

Atomic Energy Agency safeguards agreements: Provides for enforcement in the U.S. of safeguards in all nuclear facilities, except those of direct national security significance, in accordance with international standards. Ex. B, 95th-2d—Resolution of Ratification agreed to July 2, 1980. (*302)

East German Consular Convention: Establishes consular relationships between the U.S. and the German Democratic Republic that are modeled after those contained in the most recent series of consular conventions negotiated with various countries particularly those of Eastern Europe; clearly delineates such obligations as free communication between a citizen and his or her consul, notification to consul officers of the arrest and detention of their citizens, and permission for consuls to visit those detained; and authorizes the consuls of both countries to perform the customary wide variety of other consular services which contribute to the improvement of both governmental and commercial interaction between countries. Ex. F, 96th-2d—Resolution of ratification agreed to July 2, 1980. (*301)

Endangered Species International Trade Convention Amendment: Establishes an explicit legal basis for parties to the Convention on International Trade in Endangered Species to provide financial support necessary to carry out the work of the Convention. Ex. C, 96th-2d—Resolution of Ratification agreed to September 17, 1980. (*411)

Food Aid Convention: Supersedes the provisions of the 1971 Food Aid Convention as one of two conventions composing the 1971 International Wheat Agreement; raises the minimum annual food aid commitments of the 12 donor countries which are members from 4.3 million metric tons to 7.6 million metric tons of cereal grains or their cash equivalent, thereby raising the U.S. minimum annual food aid commitment from 1.89 million metric tons to 4.47 million metric tons; includes rice as an acceptable form of food aid, though it will not be equivalent on a ton-for-ton basis to other grains in meeting a member's annual obligation; and changes the method of valuing contributions of members which choose to contribute in cash to more accurately reflect prevailing prices and therefore maintain the real value of these contributions. Ex. G, 96th-2d—Resolution of Ratification agreed to September 17, 1980. (*408)

Halibut Fishery Convention with Canada: Brings the 1953 Convention Between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea into conformity with the terms of the U.S. Fishery Conservation and Management Act of 1975 (FMCA) and a Canadian Proclamation of 1977 which extended the exclusive fisheries jurisdictions of each country to a point 200 miles off their coasts; limits Canadian fishing in U.S. controlled waters to 1.2 million pounds of halibut in 1980; allows U.S. trawling in Canadian waters for 3,250 metric tons of groundfish in 1980 and none thereafter; provides, for both the U.S. and Canada, power to apply and enforce penalties for violations of the Convention in their respective areas of exclusive jurisdiction; reduces the period of notice either party must give before termination from two years to one year; and continues the joint management of transboundary halibut through the International Pacific Halibut Commission. Ex. DD, 96th-1st—Resolution of ratification agreed to March 20, 1980. (*57)

IMCO Convention Amendments: Streamlines the structure and functions of the Intergovernmental Maritime Consultative Organization (IMCO) whose name when the amendments enter into force will be changed to the International Maritime Organization, to accommodate its increased size and workload and to formalize the status of the Legal Committee, the Marine Environment Protection Committee, and the Committee on Technical Cooperation in order to place these bodies on the same footing as the Maritime Safety Committee. Ex. S. 96th-1st—Resolution of ratification agreed to July 2, 1980. (*298)

Inter-American Institute for Cooperation on Agriculture Convention: Strengthens and expands the mandate of the Inter-American Institute for agricultural science which will be renamed as the Inter-American Institute for Cooperation on Agriculture (IICA); provides that the Institute will consist of three principal organs the Inter-American Board of Agriculture, the Executive Committee, and the General Directorate and that the Board will be the highest authority and will be comprised of one representative from each member state. Ex. HH. 96th-1st—Resolution of Ratification agreed to September 17, 1980. (*413)

International carriage of perishable foodstuffs: Establishes uniform inspection requirements for transportation equipment which moves perishable foodstuffs across national borders; requires that all "insulated, refrigerated, or heated" equipment utilized to ship perishable foodstuffs into contracting States meet certain minimum standards set forth in the Annex to the Agreement; requires contracting States to inspect and test such equipment, issue certificates of compliance, and recognize the validity of certificates issued by other Contracting States; applies the terms of the Agreement to all transport equipment except that used in sea voyages of more than 150 kilometers; sets forth a procedure whereby this Agreement can be amended; and provides each contracting Nation with a veto over any proposed amendment. Ex. B. 96th-1st—Resolution of ratification agreed to March 20, 1980. (*60)

International Natural Rubber Agreement: Seeks to stabilize short-term natural rubber price fluctuations and at the same time encourage the expansion of natural rubber supplies over the long term; provides for the use of buffer stocks which will be bought or sold at various times, triggered by movements of natural rubber prices around an agreed reference price; provides for an initial purchase for the buffer stocks of 550,000 metric tons, to be held in both exporting and importing member countries; sets an initial reference price of 45 cents per pound; allows market forces to operate if the price fluctuates no more than 15 percent from the reference price; provides that the buffer stock managers may sell stocks if the price exceeds the reference by 15 to 20 percent, and buy rubber if the price is 15 to 20 percent below the reference; requires the manager to sell or buy if the price rises more than 20 percent above or falls more than 20 percent below the reference, respectively; and sets upper and lower indicative prices of 58 and 32 cents per pound respectively beyond which the price stabilization bands may not be adjusted. Ex. D, 96th-2d—Resolution of ratification agreed to May 22, 1980. (*156)

International Wheat Agreement extension protocols: Continues U.S. participation in the 1971 Wheat Trade and Food Aid Conventions, which together constitute the International Wheat Agreement (IWA), until June 30, 1981; permits the U.S. to make good on its share (14 percent) of the annual administration expenses of the IWC, in fiscal 1980 and 1981; and provides that, if the Wheat Council determines that maximum and minimum prices or purchases and supply obligations are capable of successful negotiation, it shall request the Secretary General of the United Nations Conference on Trade and Development to convene a negotiating conference. Ex. FF. 96th-1st—Resolution of Ratification agreed to September 17, 1980. (*409)

Load Lines Convention Amendment: Expedites the procedure for amending the technical annexes to the 1966 International Convention on Load Lines by providing for their tacit acceptance after two years unless objections are deposited by more than a third of the contracting parties or by parties whose combined merchant fleet is at least 50 percent of the gross tonnage of all the contracting parties. Ex. GG, 96th-1st—Resolution of ratification agreed to July 2, 1980. (*299)

Maritime Search and Rescue Convention: Establishes a multilateral framework for rescuing persons at sea and provides a comprehensive approach to international search and rescue for world shipping; reemphasizes the longstanding maritime tradition that assistance be provided to any person in distress at sea, regardless of the person's nationality or status, or the circumstances in which that person is found; directs parties to the Convention to reach agreement on the boundaries of "search and rescue regions" and the division of responsibilities for overall coordination of search and rescue services in these regions; sets forth procedures for search and rescue services with regard to cooperation among states; preparatory measures to ensure readiness; what operating procedures to be followed during a search and rescue operation, and ship reporting systems to be instituted to provide timely information on the location of ships in the various search and rescue regions; and provides that technical amendments shall automatically become effective one year after communicated to the parties, unless more than one-third of the parties object. Ex. J. 96th-2d—Resolution of ratification agreed to July 2, 1980. (*300)

Ocean Dumping Convention Amendments: Provides a system for arbitration and settlement of disputes arising in the interpretation and the application of the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes. Ex. I, 96th-1st—Resolution of Ratification agreed to September 17, 1980. (*412)

Pollution from Ships Prevention Convention protocol: Incorporates the 1973 Convention for the Prevention of Pollution from Ships (the acceptance of which has been delayed as a result of Annex II of that agreement which details measures for the control of 250 noxious chemical liquids carried in bulk); provides that parties to the protocol will not be bound by the provisions of the Annex II for a period of three years from the date the protocol enters into force; requires new crude carriers of 20,000 dead weight tons (dwt) and above, and new product carriers above 30,000 dwt to be fitted with protectively-placed segregated ballast tanks; requires existing crude carriers of 40,000 dwt and above to be fitted with segregated ballast tanks, clean ballast tanks or crude oil washing and provides that the crude oil washing option will lapse after two years for crude carriers of 70,000 dwt and above and after four years for crude carriers of 40,000 to 70,000 dwt; and requires existing produce carriers of 40,000 dwt and above to be fitted with clean or segregated ballast tanks. Ex. C, 96th-1st—Resolution of ratification agreed to July 2, 1980. (*296)

Psychotropic Substances Convention: Places psychotropic (mind altering) drugs under international controls which (1) ban the use of hallucinogens except under direct governmental supervision for research purposes in medical or scientific institutions; and (2) require nations to limit by measures they consider appropriate the manufacture, export, import, distribution, use, and possession of all psychotropic substances to medical and scientific purposes. Ex. G. 92d-1st—Resolution of ratification agreed to March 20, 1980. (*59)

Radio regulation revision: Updates the International Radio Regulations as they apply to aeronautical communication to take into account the present technological state of the art and the increasing demands on these frequencies. Ex. B, 96th-2d—Resolution of Ratification agreed to September 17, 1980. (*410)

Safety of Life at Sea Convention protocol: Improves the international safety standards of ships, beyond the level provided for in the 1974 Safety of Life at Sea Convention, by strengthening the standards governing radar equipment and the inspection and certification for all ships, and the steering mechanism and fire safety systems for tankers in particular; restricts the validity of cargo ship construction certificates to 5 years without possibility of extension, and increases the frequency of inspection of vessels; requires new and existing tankers to have independently operable remote steering gear control systems; requires all ships to be fitted with at least two radars, each capable of being operated independently of the other; establishes a timetable for fitting the cargo holds of tankers with inert gas systems to minimize the dangers of fire and explosion; and requires that parties apply the requirements of both the Convention and the Protocol to the ships of non-parties to the extent necessary to insure that no more favorable treatment is given to such ships. Ex. D. 96th-1st—Resolution of ratification agreed to July 2, 1980. (*297)

Salmon fisheries protocol with Canada: Amends the Convention between the United States and Canada to increase the size of the Advisory Committee to the International Pacific Salmon Fisheries Commission from 6 to 7 members from each country, to enable the United States to provide for a native Indian adviser. Ex. G, 95th-1st—Resolution of ratification agreed to March 20, 1980. (*58)

Treaty with Peru on penal sentences: Permits citizens of either country who have been convicted in the courts of the other nation to serve their sentences in their home country provided the consent of the prisoner and the approval of both governments are obtained; applies these provisions to prisoners who have been convicted and sentenced for an offense which both parties recognize as a crime provided that the prisoner is a national of the receiving state, the sentence is final and all appeal procedures complete, and that the provision of the sentence, excluding the period of confinement, has already been complied with; and makes the treaty not applicable when a prisoner has received the death sentence, been convicted of a purely military offense, or has less than six months remaining to serve at the time the petition for transfer is made. Ex. II, 96th-1st—Resolution of Ratification agreed to March 25, 1980. (*61)

Venezuelan Maritime Boundary Treaty: Establishes permanent maritime boundaries and eliminates overlapping jurisdictional claims between the United States and Venezuela and; provides that: the parties to the agreements will not claim or exercise for any purposes sovereign rights or jurisdiction over the waters or seabed or subsoil delimited to the other party; the martime boundaries established shall not affect or prejudice in any manner the position of any Party with respect to the extent of internal waters of the territorial sea, of the high seas or of the sovereign rights or jurisdiction for any other purpose; the maritime boundaries are geodetic lines which connect various points depicted in the treaty and that the coordinates are determined with reference to internationally accepted data and standards; and disputes arising from the interpretation of the treaty will be resolved by negotiations between the two governments.

Ex. G, 96th-1st—Resolution of Ratification agreed to September 17, 1980. (*414)

U.S. territories

Omnibus territories: Provides for fiscal 1981 and beyond an open ended authorization for the operation of the civil government of the Trust Territory, which includes funds for completion of the capital improvement program, a basic communications system, and a feasibility study and construction of a hydroelectric facility on Ponape; requires the Secretary of the Interior, using existing authorities, to submit to Congress, no later than January 1, 1981, a plan for a comprehensive health care and environmental monitoring program, which is in addition to the existing program under Public Law 95–134, taking into consideration the different needs of Bikini, Enewetak, Rongelap, and Utirik Atolls in the Northern Marshall Islands which were affected by radiation as a result of U.S. nuclear weapons testing between 1946 and 1958 and authorizes, effective October 1, 1980, from funds authorized to the Department of Energy, such sums as may be necessary to implement the program; amends current law to provide additional warranted compensation for a limited number of persons who were victims of radioactive fallout from the March 1, 1954, thermonuclear detonation at Bikini Atoll in the Marshall Islands; provides for continuance of Federal health and education programs in the Trust territory and their successor governments until terminated by Congress; authorizes $24.4 million to establish a grant program for health care needs of the residents of the Northern Mariana Islands; authorizes the Secretary of Treasury to enter into a contract with the Northern Mariana Islands for the purpose of establishing a local tax code; sets January 1, 1982, as the date of implementation of the new tax code; repeals the prohibition on the award of interest under the Guam Land Claims provisions of Public Law 95–134; forgives the interest on loans made to Guam to assist in the rehabilitation of the island due to damage caused by World War II and Typhoon Karen and credits the interest paid against the outstanding principle; modifies, and extends for ten years, the loan guarantee program for the Guam Power Authority; transfers to the Virgin Islands, certain lands which the U.S. acquired from Denmark and did not reserve or retain in accordance with provisions of Public Law 93–435; and releases the Virgin Islands, upon payment of the outstanding principle, from the mortgage on approximately ten acres of land for construction of the proposed St. Croix Armory; prohibits any change in the existing lease on Water Island before 1992 without Congressional approval; authorizes the U.S. to retain the funds attributable to the cost of collecting customs, duties, and fees on petroleum products between August 18, 1978, and January 1, 1982, with all other deductions remitted pursuant to the Virgin Islands Revised Organic Act; repeals the deficit authorization contained in Public Law 95–348; authorizes the Virgin Islands to levy excise taxes on articles as soon as they are brought into the Islands; directs the Administrator of GSA to transfer to the Virgin Islands, within two years of enactment, title of the former District Building located on Norre Gade; extends the guaranteed bonding authority for the Virgin Islands for five years with a provision that any funds guaranteed but not obligated at the expiration of that period would be returned to the Federal Government; authorizes the Secretary of the Treasury, effective October 1, 1980, to assist the Governor of American Samoa in collecting all customs duties derived from American Samoa; requires the Department of Interior to waive matching requirements on Federal grant programs to the territories; directs Federal agencies to waive any requirement for local matching funds under $100,000 from American Samoa or the Northern Mariana Islands; authorizes the territories to use Federal services on a reimbursable basis; requires the Secretary of the Interior to notify Congress prior to any storage of spent nuclear fuel or radioactive waste in any territory; clarifies Puerto Rico's jurisdiction over its submerged lands; and transfers to Guam, the Virgin Islands, and American Samoa the mineral rights reserved to the Federal Government under the Territorial Submerged Lands Act. H.R. 3656—Public Law 96-205, approved March 12, 1980. (VV)

Veterans

Interagency medical resources: Clarifies and expands the authority of the Veterans' Administration and the Department of Defense as direct health care providers in order to facilitate Federal interagency sharing of medical care and medical care support resources. S. 2958—Passed Senate September 29, 1980 (VV)

Survivors benefits: Amends title 10, U.S.C., to remove certain inequities in the Survivor Benefit Plan (SBP) as follows: provides that the SBP annuity not be offset by more than 40 percent by social security; conforms the method of calculating the cost to the military member under the SBP to that of the civil service system; provides an annuity to widows or widowers whose spouses died on active duty before September 21, 1972, and who were eligible for retirement at the time of their death; allows totally disabled veterans to suspend payments into the SBP (from which they would receive no benefits in that their dependency and indemnity compensation (DIC) benefits from the VA cancel out their SBP benefits), and eliminates the social security offset for the survivor of a reservist whose combined reserve and civilian earnings exceed the maximum wages subject to social security taxes during all of their military service. S. 91—Public Law 96- , approved , 1980. (VV)

Veterans disability compensation and housing benefits: Provides, effective October 1, 1980, a (1) 14.3 percent increase in the basic compensation rates for veterans rated 50 percent or more disabled and, for veterans more severely disabled, the annual clothing and dependents allowances, and DIC benefits payable to the surviving spouses and children of veterans whose deaths were service connected, and (2) 13 percent increase in the rates for veterans rated from 10 through 40 percent disabled; provides for limited specially adapted housing grants, up to $5,000, and eligibility for direct home loans, to certain veterans who, as a result of a service-connected disability, are totally blind or have lost the use of both upper extremities; permits veterans who have used their VA loan-guaranty entitlement in obtaining a loan for the purchase of a conventional home, condominium, or mobile home to refinance the loan, at a lower interest rate with a VA loan guaranty; increases from $25,000 to $27,500 the maximum VA loan guaranty for a conventional home or condominimum and from $17,500 to $20,000 the maximum amount for a mobile home, mobile home lot, or both; extends from September 30, 1981, to September 30, 1985, the VA's authority to maintain a regional office in the Philippines; provides that headstones or markers may be furnished for the grave of a veterans or member of the veterans' immediate family who is buried in a State veterans cemetery; removes, effective October 1, 1980, the prohibition on the concurrent receipt of military retired pay and VA need-based pension benefits; limits DIC benefits payable to a service-connected disabled veteran convicted of a felony and sentenced to prison; makes records and documents created by the VA as part of the agency's medical quality assurance program privileged and confidential and bars their disclosure except in specified circumstances; amends the American Battle Monuments Commission to provide personnel for the care and maintenance of cemeteries overseas where American Servicemen are buried; authorizes the VA to convey to the city of Cheyenne, Wyoming, certain land for the expansion and improvement of a roadway. H.R. 7511—Public Law 96- , approved 1980. (VV)

Veterans' health care: Maintains and improves the quality, scope, and efficiency of health-care services provided veterans under the Veterans Administration health care system;

Health-care personnel amendments: Revises, extends, and improves various VA health-care programs designed to recruit and retain sufficient qualified capable health-care personnel, including physicians, dentists, nursing personnel, allied health personnel, and other employees in the Department of Medicine and Surgery (DM&S) and makes needed improvements in various aspects of the VA's health-care personnel system; increases the rates of special pay for eligible DM&S physicians and dentists by restructuring the computation of such pay, and making the program permanent; allows amounts of special pay received by full-time and part-time dentists to be used for determining amounts of life insurance coverage and for computing an annuity under the civil service personnel system; requires the Administrator to monitor the impact of the special pay authority on the VA's ability to recruit and retain physicians and dentists and to report annually to Congress; removes top DM&S personnel who are hired under the authority of title 38 from coverage by the Senior Executive Service under title 5, U.S.C.; allows the Administrator to assign nurses and other specified personnel to on-call duty on a Federal holiday that falls within a regular workweek; authorizes title 38 premium and overtime pay benefits as now provided to registered nurses and other specified personnel, to be provided to other DM&S personnel determined to be providing either direct patient-care services or services incident to such direct-care services; authorizes the Administrator to adjust the rates of premium and overtime pay for service outside of the normal workday or week paid to nurses and other specified personnel at individual VA health-care facilities when necessary to provide rates competitive with those being paid similar personnel in non-Federal health-care facilities in the same area; authorizes the Administrator to adjust minimum and maximum rates of pay for DM&S personnel providing either direct patient-care services or services incident to such direct-care services on a nationwide, local, or other geographical basis when necessary; mandates a study to be submitted to the Veterans' Affairs Committees within 18 months of enactment on the need and impact of converting various direct patient-care employees presently employed under title 5, U.S.C., to the title 38 pay and personnel system indicating which, if any, of those personnel should be so coverted; requires the VA Chief of Staff to serve on a full-time basis; provides that following enactment, employees serving in the DM&S would accumulate civil service retirement credit for such employment at a rate equal to the percentage of their part-time employment for the VA rather than accumulating, as at present, a full month's retirement credit for each month of part-time service; mandates a pilot program and study of the impact on recruitment and retention of sufficient qualified nursing personnel and requires that a report on the results of the pilot program and study be submitted to Congress 42 months after enactment:

VA health professional scholarship program: Authorizes the VA to provide scholarships to students enrolled in physician, nursing, or other professional health training, as necessary to meet staffing needs in exchange for the student's obligation to serve as a full-time employee in the DM&S for a specified period of time; allows a participant to defer serving his or her obligated service while receiving graduate medical education; establishes an amount for monthly stipend and a basis to adjust the stipend as required to meet cost-of-living increases; specifies that any program participant may not be obligated for service to the Federal Government under any other program; limits the amount of special pay a program graduate would be eligible to receive during the period of obligated employment; requires the Administrator to report, within 180 days, on the status of steps taken to implement the scholarship program and annually on the program;

Geriatric Research and Care Amendments: Authorizes, subject to appropriation, the establishment of up to 15 geriatric research, education, and clinical centers at VA health-care facilities and specifically outlines the requirements and proposed geographic distribution of these facilities; mandates the establishment of a geriatrics and gerontology advisory committee (GGAC) to advise the Chief Medical Director on all geriatrics and gerontology matters and to report to the administrator its findings, conclusions, and recommendations regarding the geriatric program and VA health care for older veterans; requires the Administrator to transmit the report along with his comments and recommendations to the appropriate congressional committees with 90 days of its receipt; authorizes $10 million for fiscal 1981 and $25 million each for 1982 through 1984 for the basic support of the research and education activities of geriatric centers excluding the clinical component which would continue to be funded from general medical care appropriations; directs the Chief Medical Director to allocate from funds appropriated generally for VA medical care and medical and prosthetics research to the geriatric centers such amounts as he or she determines appropriate and, with respect to fiscal 1984, as determined in light of the GGAC report; makes geriatric clincial and scientific investigation activities eligible for priority funding from the VA's medical and prosthetics research account; requires that one of the eight Assistant Chief Medical Director positions be filled by a physician trained, or having suitable, extensive experience, in geriatrics, who would be responsible to the Chief Medical Director for all geriatric research, education, and clinical health-care policy and evaluation in the DM&S;

VA health-care cost recovery provisions: Strengthens and clarifies VA authority to recover the costs of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for the costs of health care provided to victims of crimes of personal violence; requires an in-depth study by the VA of the extent, scope, and duration of the health-plan coverage of veterans admitted to VA facilities for treatment of non-service-connected disabilities, as well as an analysis by the Library of Congress and CBO of the effect on health insurance premiums and VA and non-Federal administrative costs if legislation to require veterans' private health plan insurance carriers to reimburse the VA for the costs of non-service-connected health care provided to their insureds in VA facilities is enacted; and

Miscellaneous amendments: Limits the presumptive validity of an individual's oath of inability to defray the cost of VA medical care to those individuals eligible to receive medical assistance pursuant to title XIX of the Social Security Act, service-connected disabled veterans, or those receiving a VA pension; permits the VA to enter into long-term leases of up to 50 years with affiliated medical schools; requires notification to the Veterans Affairs Committees 30 days prior to a transfer of real property valued in excess of $50,000 from the VA to another Federal agency; removes the limit on the number of nursing home beds that may be supported in a State under the VA's State veterans' home program; allows VA revolving supply fund reimbursements to be based on the cost of recent significant purchases of the items involved and provides for return to the Treasury at the end of each fiscal year of only such amounts as the Administrator determines to be in excess of supply fund needs; deletes the requirement that grants for the training of nonphysician health care personnel must result in the expansion of the number of health care personnel being trained by the grant recipient; excludes the VA's beneficiary travel funds from the general executive branch travel and transportation funds; and extends, for one year, until February 1, 1981, the study currently being conducted on hospital and medical care in Puerto Rico and the Virgin Islands. H.R. 7102—vetoed August 22, 1980. House and Senate overrode veto August 26, 1980. Became Public Law 96–330, without approval August 26, 1980. (*382)

Veterans' health care services: Extends the period of availability of funds committed under the Veterans' Administration program of assistance to new State medical schools;

Health care cost recovery: Authorizes the U.S. to recover reasonable costs of care and services for nonservice connected disabilities (1) incurred incident to employment and reimbursable under a workers' compensation plan, (2) resulting from a motor vehicle accident where the owner or operator is insured, or (3) resulting from a crime of personal violence occurring in a State in which injured parties are entitled to receive State-provided services for injuries;

Agent orange: Authorizes expansion of the scope of an epidemiological study of the long-term health effects on veterans exposed to Agent Orange to include other herbicides, chemicals, medications, environmental hazards or conditions, and directs the Administrator to develop and publish standards and criteria for resolving benefit claims based on exposure to Agent Orange. H.R. 4015—Passed House June 5, 1979; Passed Senate September 26, 1980. (VV)

Vocational rehabilitation—GI Bill Amendments: Comprehensively restructures the VA rehabilitation programs under chapter 31 of title 38, U.S.C., generally as passed by the Senate in S. 1188 but provides for a 17 percent rather than a ten percent cost-of-living increase in the subsistence allowance rate and a 12-year rather than ten-year basic period of eligibility;

GI bill: Provides for a ten-percent cost-of-living increase in GI benefits during fiscal 1981—half to be effective on October 1, 1980, and the remainder on January 1, 1981; limits the time during which a veteran may apply for an extension of the ten-year delimiting period for educational benefits on the grounds of a disability by requiring that an application be made within one year after (a) the last date of the otherwise applicable delimiting period, (b) the termination of the disability, or (c) the effective date of this bill, which ever is latest; codifies the current suspension of the inclusion of students who receive Federal, non-VA assistance in the computations of compliance with the so-called "85–15" rule, under which enrollment of GI Bill trainees is prohibited in courses where more than 85 percent of the enrollees receive assistance from the educational institution, the VA, or any other Federal agency; repeals the provision linking "satisfactory progress" with the time it takes to complete an educational program; clarifies and codifies current practices related to receipt of GI Bill benefits for enrollment in an institution of higher learning in a foreign country and for computation of GI Bill benefits and charges to a veteran's entitlement for less than half-time training and training while on active duty, courses pursued by open circuit television, and independent study; establishes a new Department of Labor-supported, State-operated veterans employment and training outreach program (VETOP); strengthens debt collection provisions and authorizes disclosure of certain information to consumer reporting agencies for the purpose of VA debt collection and program study; requires the VA to offset indebtedness against future benefit payments; reduces from 90 to 60 percent that portion of the cost of a flight training course that the VA will pay; makes veterans pursuing flight training courses eligible for VA educational loans up to $2,500 per year; and provides for reimbursing a veteran at 70 percent instead of 90 percent the cost of correspondence course training; H.R. 5228—Public Law 96–

WW II U.S. Submarine Veterans, Inc: Grants a Federal charter to a nonprofit national service organization founded in 1955, comprised of American veterans who served in submarines in World War II, and whose primary objective is to keep alive the spirit that existed during the war when such a great impact was made by their actions, and to erect memorials to those who served aboard U.S. submarines and gave their lives in submarine warfare during the war. S. 2623—Passed Senate August 18, 1980. (VV)

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to reserve the remainder of my time for just a brief period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

TOWARD ONE CHINA

Mr. BAKER. Mr. President, this morning I read with great interest the thoughtful column on the op-ed page of today's editions of the Washington Post, which was authored by the distinguished majority leader, Senator Byrd.

While I must take issue with the more partisan references and asides of the column, it is obvious that Senator Byrd has had most frank and fruitful discussions with the leaders of China during his recent mission there. It is equally obvious by reading his column, Mr. President, that the majority leader has given this matter much thought, and, in his customary manner known so well to all of us in this Chamber, is attempting to motivate both factions to a mutually acceptable and beneficial middle ground.

Although I am not prepared to adopt Senator Byrd's proposed outcome to future negotiations between Peking and Taipei, he does offer a solution that might well be considered by both parties. Moreover, I infer from the article that the distinguished majority leader might consider future arms sales to Taiwan detrimental to the process of negotiations. We have explicitly rejected that principle with respect to Israel; I would reject it here.

As my colleagues know, Mr. President, I have frequently expressed my disappointment with the methods employed by the Carter administration to achieve diplomatic recognition of the People's Republic of China by the United States. But, I agree with the majority leader that little is to be gained by protracting that argument. It is now a problem to be resolved between Peking and Taipei. So long as it is resolved peacefully, we should remain hopeful that negotiations will prove successful.

As the distinguished majority leader noted in his column, the question now is how best to encourage a settlement that satisfies the interests of both parties.

I commend the majority leader's efforts in this regard and would invite the attention of my colleagues to his column. To that end, I ask unanimous consent that the column be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Toward One China

Returning from a trip to Peking, I was disappointed to find the debate on China in the United States being misdirected into the unproductive and retrogressive paths suggested by Ronald Reagan. It was clear to me, having had a firsthand look at the remarkable progress normalization has made possible, that this is not the way to go. There is a better way.

Taiwan and China should begin direct negotiations on their future relationship. East Asia is relatively stable; Taiwan is secure enough to bargain with Peking; and the current political changes in China afford Prime Minister Zhao Ziyang a chance to seek resolution of the Taiwan issue.

The U.S. declaration in the Shanghai Communique of February 1972 suggests a point of departure: "The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China, and that Taiwan is a part of China. The U.S. government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves."

What kind of "one China" do the Chinese on both sides of the strait envisage? The official Taiwan position that its government is the legitimate government of all China is anachronistic in 1980. But even if that position were used as a bargaining opener, what do Taiwan's leaders really want? What would they settle for as an acceptable relationship with China? Taiwan's leadership is now secure enough to negotiate. A weaker future government might not be able to risk such an initiative.

I met with Zhao Ziyang and with other senior members of the Chinese government as a guest of the National People's Congress. The recent meeting of the NPC and its substantial political announcements confirm my impression of a serious effort to effect constructive change. Granted that China's history during the past 15 years makes an outside observer cautious in judgment. But the sincerity and extent of China's endeavors to promote modernization demonstrate a willingness to tackle difficult problems.

Chinese officials told me that the key to peaceful settlement of the Taiwan issue is to start negotiations soon. In their view, the "one China" acceptance by both sides means that the two essentials of sovereignty—defense and foreign policy—be set by the Peking government. The rest is negotiable. Chinese officials suggested that it is quite possible for China to accept the existence of a different social system, of a capitalist economy and of different laws in Taiwan. China's fear is that a recalcitrant Taiwan will be tempted to ignore the future by the receipt of arms from the United States and others.

In light of the economic and political liberties that have allowed Taiwan to prosper, Taiwan has reason to fear the terms of federation or confederation with China. But it has much to gain from negotiating, including confirmation of the right to continue the system that has brought prosperity. It is possible—even likely, as of now—that an agreement would allow Taiwan to continue as a thriving and special part of China.

It is also reasonable to ask what Taiwan has to lose by negotiations. The current leadership on Taiwan may be committed to a posture of recalcitrant and beleaguered resistance to a presumed ill fate. But even that position would have greater credibility and legitimacy if good faith bargaining with China produced unacceptable demands.

The National People's Congress recently conveyed a movement in China under way for the past few years. The message of the new leadership is pragmatism. Incentives—not ideology—are the current focus. Problem-solvers are promoted. The cult of Mao with its burden of bitter memories has been repudiated. China is experimenting with some remarkable innovations: private farm plots, open markets, work incentives, membership in the World Bank and the International Monetary Fund, and cooperation with the West.

The National People's Congress signals a slight opening of the political system. There is discussion of open candidacies and less controlled elections. In Tibet, the possible return of the Dalai Lama is tied to a relaxed official view of Buddhism and increased talk of freedom of religion. Across a broad spectrum, China's interest in progress and its receptivity to change have been demonstrated.

Taiwan faces an opportunity now to negotiate its future. Talks could well serve to strengthen Taiwan's security and preserve its way of life.

The United States and other nations should encourage China and Taiwan to approach the bargaining table. The political season in the United States is no excuse for recriminations or retrospective rhetoric. Rather, the challenge is to seize an opportunity despite the foreign policy constraints of an election year.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for his kindness and consideration.

Mr. BAKER. Mr. President, I thank the majority leader for taking time to produce the article which will be of such great use to all of us in our future consideration of our foreign policy.

OUR 10 BEST FRIENDS IN CONGRESS

Mr. BAKER. Mr. President, recently I was reading one of this country's leading sportsman's magazines, Outdoor Life, and came across an article entitled, "Our 10 Best Friends In Congress." Listed among the "10 best" was my good friend and colleague from Rhode Island, John H. Chafee.

The article praised Senator Chafee for his efforts last year in authorizing a 3-year $4.7 million study to save one of the country's most magnificent sport fish, the striped bass.

Just last week, Senator Chafee again proved his commitment to the striped bass program. The Commerce Department, which shares responsibility for the striped bass study with the Interior Department, did not request funds for its share of the study in fiscal year 1981. Realizing that this lack of funding would severely disrupt the progress of the striped bass program, Senator Chafee offered an amendment, which I was pleased to cosponsor, to the Commerce appropriations bill that restored $750,000 to continue the study. Because the amendment received the unanimous support of the Senate, we are hopeful that the funding level will be kept intact by the Senate and House appropriations conferees.

Mr. President, I ask unanimous consent that the Outdoor Life article referencing Senator Chafee be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Our 10 Best Friends in Congress

(By Richard Starnes)

Of the 535 Senators and Representatives we send to Washington, who does the most for the outdoorsman?

SEN. JOHN H. CHAFEE, R-RHODE ISLAND

One fish and one issue and four years in the Senate may not qualify a lawgiver for the "best friends" honor roll, but there is a lurking suspicion that a decade or two hence John Chafee's attempt to save the striped bass may rank as one of the preeminently constructive conservation acts of our times.

For, as Chafee himself points out, the bass has become a symbol for all that is wrong with America's husbandry of its anadromous fish resources, and if the stripers can be saved, then, perhaps, so can dozens of other species, thousands of miles of shoreline and infinite recreational values on our waterways.

Chafee is quick to share credit with John Cole, whose book Striper first brought the mortal peril facing the striped bass to Chafee's attention.

"The striper has not had a good reproductive year since 1970," Chafee says. "Atlantic coastal striped bass stocks began declining in 1974 and reached a 21-year low by 1978."

Chafee wrote and ramrodded passage of an amendment to the Anadromous Fish Conservation Act providing $1 million to start a three-year study of the decline of the striper. The study, to be carried out jointly by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, will undertake to isolate the causes of the plight of the species, and to devise a management plan to reverse it.

Ultimately, of course, the program will cost many times the original seed money, and Chafee already is at work on plans for financing the long-range rescue mission. He has suggested changes in the Dingell-Johnson Act, which lays a 10 percent excise tax on fishing tackle to fund sport fish restoration and management projects, but he has also warned that the cost of saving the striped bass may mean a $5 saltwater fishing license.

"The mere mention of a saltwater angling license stirs ire in the hearts of fishermen," Chafee concedes, "but (such) licenses would identify saltwater anglers and figure them into federal allocation formulas (as well as) raise additional funds for fishing research and management, including the striped bass."

Mr. BAKER. Mr. President, John Chafee's work to save the striped bass is only one example of his tireless efforts on behalf of wildlife conservation and environmental protection. As a member of the Environment and Public Works Committee on which he serves, I have had the opportunity to work with him on a broad range of environmental legislation in which he has shown outstanding leadership. In his 4 years in the U.S. Senate he has launched a number of important conservation initiatives.

Just 2 weeks ago the House gave final approval to his landmark "nongame" wildlife conservation bill. This first-of-its-kind legislation will provide Federal assistance to State conservation agencies to maintain and protect many nongame wildlife species such as songbirds, shorebirds, and turtles. The President is expected to sign this bill into law soon.

Earlier this summer, Senator CHAFEE offered an amendment to the Alaska lands bill which would have placed about 57 million acres of that State's most important wildlife habitat under the protection of the national wildlife refuge system. Although the Alaska bill was temporarily pulled from the Senate floor before the amendment was voted on—and there was every indication that it would be adopted—Mr. CHAFEE's efforts figured prominently in decisions shaping the compromise Alaska bill that was subsequently adopted. Had he not offered his refuge amendment at all, thousands of acres of land would have been excluded from refuge protection in the compromise bill.

The Senator from Rhode Island has been recognized by many of his colleagues as the chief defender of section 404 of the Clean Water Act. Section 404 affords protection to the Nation's wetlands—acre for acre America's most productive wildlife habitat. During hearings on the 404 program last July, Senator CHAFEE successfully fended off what was an apparent effort to weaken the law. The program, however, remains intact and that means continued protection of a multitude of wildlife species.

Mr. President, when the Congress returns next November, the Environment and Public Works Committee will begin marking up another landmark piece of legislation proposed by Senator CHAFEE—the International Wildlife Resource Conservation Act. That bill would establish an international conservation corps system whereby experts from our country can assist other nations in developing their capability to manage their living natural resources. This group of resource attachés will be stationed abroad in key regions to offer guidance and assistance on conservation problems. I am hopeful that this important bill will be approved by the Environment Committee and passed by the Senate by the end of the year.

In the area of hazardous wastes. Senator CHAFEE has shown wisdom and foresight by proposing legislation that would provide for a damage assessment of natural resources that are destroyed by toxic chemicals that have spilled or leaked from waste dumps.

Mr. President, although I have the deepest respect and admiration for my colleague's strong environmental record, we do not necessarily see eye-to-eye on all the issues. Two particular instances that come to mind are the Tellico Dam and the Tennessee-Tombigbee Waterway.

Senator CHAFEE lead the opposition to these projects on the ground that they were environmentally damaging and costly to the taxpayers. I disagreed with my colleague's efforts to stop these projects because in my opinion they are environmentally sound and cost-effective. Although my good friend from Rhode Island was defeated on these issues, and I strongly opposed him, I respected his strong convictions about the merits of these projects.

Mr. President, there are examples too numerous to mention here that demonstrate Senator CHAFEE's dedication to conserving the Nation's natural resources. All of us in the Senate, and indeed the American people are indebted to him for his untiring work toward a better environment.

Next year Mr. President, we will look to Senator CHAFEE for his continued leadership when Congress begins to reexamine key portions of the Clean Air and Clean Water Acts. I for one know that Senator CHAFEE will be in the forefront of these legislative initiatives, working for sound environmental policies which will enhance the quality of life for all Americans.

THE ATHENIAN VIEW OF JUSTICE IN THE WORLD

Mr. PROXMIRE. Mr. President, the Athenian historian Thucydides brought to life the history of the Peloponnesian War. In his great history, Thucydides recounts the growing tensions and the ultimate confrontations between Sparta and Athens. He reveals the ideological debates at the heart of the war, and so makes his history relevant to all times. In one such ideological debate, the Athenians disclose to the Melians their view of justice in the world. The Athenian view deserves our interest because it is a view which humanitarian nations today strive to disprove.

In 431 B.C. Athens and Sparta officially engaged in a war that would last 27 years. Through a mixture of compulsion and choice, many minor Greek cities and colonies alined themselves with one side or the other. In this bipolar world, a loss for one side constituted a gain for the other. Thus the war became a strugle for the alliance of neutrals, and particularly for those in strategic locations. Melos, a strategic island, claimed a desire to be neutral. The powerful Athenians confronted the leaders of Melos with an order to join the Athenian allies. The Melians, however, argued for and won the privilege of debating the Athenians over the future of Melos.

Clearly the leaders of Melos argued from a position of weakness, yet they spoke in lofty language. These leaders held in their hands the lives of all Melians yet they recklessly based their position on tenuous hopes. They asserted that surely Sparta or the Gods would save them if they resisted an Athenian alliance, and they spoke freely of a just world. Then the Athenians reminded the Melians:

> You know as well as we know that what is just as arrived at in human arguments only when the necessity on both sides is equal, and that the powerful exact what they can, while the weak yield what they must.

The necessity for the Athenians was either to win over the Melians or prevent their alliance with Sparta. When their offer of an alliance was refused, the Athenians slaughtered the Melian males.

Mr. President, a humanitarian nation such as ours aims to limit what the powerful can exact and what the weak must yield. Those whom the law binds are not free to take all they can. Those whom the law protects suffer less than they otherwise would. The Genocide Convention seeks to limit what the powerful in this world can take or attempt to take, and thus limits what the weak must suffer. It says the powerful cannot destroy or intend to destroy in whole or in part a religious, ethnic, racial, or national group. The Genocide Convention makes the humanitarian attempt to distinguish between might and right. The Athenians believed that this distinction was futile. Mr. President, this body can help build that distinction by the immediate ratification of the Genocide Convention.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I yield now to the distinguished assistant minority leader.

Mr. STEVENS. I thank the distinguished minority leader.

THE ADMINISTRATION AND THE FEDERAL EMPLOYEES

Mr. STEVENS. Mr. President, I was pleased to see last Thursday's decision of the Federal district court in ruling that the President's imposition of parking fees for Federal employees was illegal. The court found that the law required such a plan be submitted to Congress for approval which the President failed to do. My hope is, however, that Federal employees will not allow their justified outrage at this administration be assuaged by this decision. As the Book of Proverb states: "To the thirsty soul every bitter thing seems sweet." Federal employees should recall that this uncompensated for tax was just an example of this administration's relationship to Federal employees.

In 1976, this administration campaigned for the White House on an anti-Government plank. However, that anti-Government plank transformed into an anti-Federal employee administration. This administration has done nothing to reduce the burden of Government on the private sector. Instead, it claims great achievements by pilfering the pocketbooks of those who operate the Government day to day. The administration now is trying to woo the vote of the Federal employees by pointing to its accomplishment. But let us review the administration's Federal employee record.

Every year, this administration issued an alternative pay plan capping Federal pay at an arbitrarily low rate. Notwithstanding the court decision, the administration instituted pay parking for almost all Federal employees. This year, the administration supported the elimination of the twice-a-year cost-of-living adjustments on Federal retirement. This year, the administration supported the move to freeze top Federal employee salaries. Many people in this country do not realize that four levels of authority in the Federal bureaucracy are receiving the same pay.

This Congress, the administration had a bill introduced requiring the civil service retirement trust fund to pay for retirement appeals. This trust fund holds the contributions of the employees to their own retirement. And, yet, civil service reform, which granted the payment of attorney fees in certain appeals, would require, through the retirement bill as introduced, the trust fund to pick up the tab for those fees. A couple of substantial court rulings could begin to deplete this significantly underfunded trust fund.

In my State, this administration for the first time ever cut the cost of living allowance which supplements the basic salaries of those Federal employees who reside outside the continental United States in high cost areas. This cut took place despite an inflation rate in excess of 10 percent.

This administration initiated civil service reform and continually lauds its own efforts at its successful implementation. It does not tell you, however, about the condition of the Office of Special Counsel. This Office was heralded by this administration as the bulwark of Federal employees. Whistleblowers rooting out corruption within the Government will be protected like never before, they said. Right now, the Office is effectively closed down. It has never been properly staffed, funded or given the space necessary to be effective in the least. The Special Counsel Office is an unmitigated failure.

Then there was pay reform. The administration claimed this price of art would save the taxpayers $3 billion in the first year of implementation. Its premise was that Federal employees were grossly overpaid in comparison to the private sector and that when pay and benefits were combined to achieve comparability with the private sector, pay or benefits to the Federal employee would be necessarily reduced.

In May of this year, however, the Congressional Budget Office issued a background paper on the administration's pay reform and other options. To put it bluntly, it blew holes into the administration's proposal. It said, depending upon what benefits were included, Federal employees were either overpaid or underpaid. The more benefits included in comparability which are unique to the private sector, the worse off Federal employees looked. After the issuance of that paper, pay reform was never heard of again.

Then, just the other day, this administration attempted to eliminate the October adjustment for most Federal blue collar workers. We had to fight in the Appropriations Committee to get them one-half of their increase. This was the latest attempt to strip the Federal employee of his adjustment under the guise of saving taxpayers' money and is just another example of this administration's commitment to the Federal employees. I think it is fair to say that morale in the executive branch, especially among the higher grades, is at one of its lowest points. The court's "tax relief" decision will provide a temporary rejuvenation. But something needs to be done.

SENATE REPUBLICANS CALL FOR ADMINISTRATION AUDIT

Mr. STEVENS. Mr. President, I call to the attention of the Senate that the Senate Republicans on the Appropriations Committee have written to the General Accounting Office and asked for an investigation to assure that public funds are not being spent in the reelection campaign of the President.

We have done this because press reports indicate that appropriated funds are being spent to advance the political candidacy of the incumbent President.

As I have pointed out here previously, Mr. President, of the $500 million that was cut from travel on a rider that was placed on the appropriations bill last year, $375 million of that cut was allocated to the Department of Defense and the political appointees of the administration were allowed to maintain a very high level of travel allowances. Those allowances should not be used for political purposes.

We have asked that the GAO insure that no political expenditures are paid with appropriated funds, charges for personnel costs relating to holding political receptions and meetings at the White House, and payroll expenditures for 90 persons temporarily detailed to the White House to relieve permanent employees now on political duty be audited.

Mr. President, I ask unanimous consent that our letter to the GAO be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Appropriations,
Washington, D.C., September 22, 1980.

Hon. Elmer B. Staats,
Comptroller General of the United States,
Washington, D.C.

Dear Mr. Staats: As members of the Appropriations Committee, we are concerned that all expenditures of appropriated funds be in strict and full compliance with the requirements imposed thereon by Congress. Recent press reports concerning travel and other expenditures by the White House Office and various Executive Branch agencies indicate that appropriated funds are being spent to advance the political candidacy of the incumbent President.

We, therefore, request that you conduct an investigation and audit of these ongoing expenditures by the White House Office and any other Federal agency or establishment that you deem appropriate based on information developed in the course of this investigation. The investigation and audit are of the utmost importance to us in carrying out our responsibilities as members of the Appropriations Committee, as well as to the American public in assuring them that official funds are being expended only for their intended purposes. We trust that officials at the White House will welcome this opportunity to assure the public that the Administration has fulfilled its responsibilties in a proper manner.

This investigation and audit are not only within the realm of the normal oversight functions the General Accounting Office is expected to perform over the expenditure of public funds, but also the particular oversight responsibility for the White House Office that was assigned to you by Congress in P.L. 95-570, the White House Personnel Authorization Act (3 U.S.C. 105(d)), which provides that the Comptroller General may inspect all necessary books, documents and papers for the purpose of verifying designated categories of official expenditures, including travel and entertainment. Furthermore, this statute mandates that "the Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose."

Moreover, an audit of expenditures made by the White House Office is not without recent precedent. Shortly after President Ford assumed the Presidency in 1974, he requested that GAO complete a total audit of the accounts of the White House Office. The GAO is the only Federal agency with the authority necessary to conduct such an investigation and audit. As you are undoubtedly aware, the Federal Election Commission has concluded that the Federal Election Campaign Act does not provide it jurisdiction over the expenditure of legislatively appropriated funds.

While we believe it is unnecessary to suggest how such an audit should be conducted, we have several questions which we hope will be answered in your audit report:

(1) Do the procedures on allocating the costs of political travel by the President and Vice President, as set forth in the enclosed letter from then Counsel to the President Lipshutz to the FEC General Counsel, sufficiently limit the expenditure of appropriated funds to official purposes? Is the White House currently following these procedures? Are funds appropriated to the White House being used for travel and related expenditures which are political in nature?

(2) Are adequate accounting reviews and procedures presently used by the White House Office and the Executive Departments and Agencies to assure that no political expenditures are paid with appropriated funds?

(3) Have overtime and related personnel costs relative to the holding of political receptions and meetings at the White House Residence or other government owned facilities been improperly charged to public funds?

(4) Recent testimony before the Appropriations Committees by officials of the White House Office indicates that nearly 90 persons have been temporarily detailed to the White House by their employing agency. This is the largest number of detailees at any time during this Administration and suggests that they may be needed to relieve persons on the regular White House roles who are working on political activities rather than their official duties. Is this a proper exercise of the detailing authority? Is it proper in such instances to pay White House aides with funds appropriated for official purposes to carry on political activities?

We very much look forward to having the benefit of your investigation and audit report on these very important questions and trust you will be able to handle this request in a prompt and timely manner.

Sincerely,

Jake Garn.
James A. McClure.
Lowell Weicker.
Henry Bellmon.
Mark Hatfield.
Ted Stevens.
Dick Schweiker.
Harrison Schmitt.
Charles McC. Mathias, Jr.
Paul Laxalt.

ORDER OF PROCEDURE—ROUTINE MORNING BUSINESS

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I am advised that the Senator from Maryland (Mr. MATHIAS) will not need the 15-minute special order allocated to him for this morning. Before I ask unanimous consent to rescind that order, I inquire of the majority leader if he has any need for that time.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader. We might be able to utilize a little time for morning business. If it is agreeable with the minority leader, I ask unanimous consent that the time that was to be under the control of Senator MATHIAS be utilized for routine morning business and that Senators may be allowed to speak therein.

Mr. BAKER. Mr. President, I think that is a good arrangement. I certainly have no objection to the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

REQUEST FOR AUTHORIZATION FOR THE COMMITTEE ON ENERGY AND NATURAL RESOURCES TO MEET DURING THE SESSION OF THE SENATE TODAY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on S. 1495 to acquire certain lands to assure protection of the Potomac River shoreline, H.R. 5769, legislation relating to oil and gas leases, H.R. 7380, legislation on the Big Sur coast area, and other pending calendar business covering specifically items 1 through 12 and item 18 on today's printed agenda for the committee.

Mr. BAKER. Mr. President, it is with regret that I inform the assistant majority leader that I am instructed on behalf of another Senator to object to his request.

The ACTING PRESIDENT pro tempore. The objection is heard.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMISSION ON INTERNATIONAL APPLICATION OF ANTITRUST LAWS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 820.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, I would advise the majority leader that in due course I will have an amendment to offer on behalf of the Senator from Maryland (Mr. MATHIAS).

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1010) to establish a commission on international application of antitrust laws.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on the International Application of the United States Antitrust Laws Act".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established the Commission on the International Application of the United States Antitrust Laws (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of eighteen members who shall be appointed by the President as follows:

(1) four members from the executive branch of the government;

(2) four members from the Senate upon the recommendations of the majority and minority leaders acting individually;

(3) four members from the House of Representatives, upon the recommendation of the Speaker of the House of Representatives; and

(4) six members from the private sector.

(c) The Chairman of the Commission shall be designated by the President.

(d) The majority and minority leaders and the Speaker of the House shall make recommendations for the appointments to be made pursuant to subsection (b) within the first thirty days of the first session of the Ninety-seventh Congress.

(e) The President shall make all of the appointments in accordance with subsections (b) and (c) after receiving the recommendations set forth in paragraphs (2) and (3) of subsection (b) but such appointments shall be made no later than sixty days after the first session of the Ninety-seventh Congress has convened.

(f) The first meeting of the Commission shall be called by the President within thirty days following the date such appointments to the Commission are made.

(g) Not more than one-half of the members of each class of members set forth in paragraphs (2), (3), and (4) of subsection (b) shall be from the same political party.

(h) The term of office for members shall be for the term of the Commission.

(i) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(j) Ten members of the Commission shall constitute a quorum (but a lesser number may hold hearings).

(k) The Commission shall select a Vice Chairman from among its members.

(l) The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the international aspects of the United States antitrust laws.

PURPOSES OF THE COMMISSION

SEC. 3. (a) The Commission shall—

(1) conduct a comprehensive study of and make recommendations concerning the international aspects of the antitrust laws of the United States, the applicable rules of court, related statutes, administrative procedures, and their applications, their consequences, and their interpretation by the courts and Federal agencies (hereinafter referred to as "the United States antitrust laws"); and

(2) make periodic reports to the President and to the Congress concerning its activities and make a final report to the President and the Congress concerning such comprehensive study.

(b) Such comprehensive study shall specifically address—

(1) the application of the United States antitrust laws in foreign commerce, and their effect on—

(A) the ability of United States enterprises to compete effectively abroad; and

(B) the ability of United States enterprises to compete or deal effectively with foreign controlled or assisted enterprises in market and nonmarket economies;

(2) the effect of the application of the United States antitrust laws on United States relations with other countries;

(3) the jurisdiction and scope of the application of the antitrust laws to foreign conduct and foreign parties;

(4) the issue of reciprocity between nations with respect to mutual access to markets, equal opportunities for foreign investment, and enforcement of antitrust laws;

(5) the proper scope and effect of the following on the application of the United States antitrust laws:

(A) the rules governing sovereign immunity;

(B) the act of state doctrine;

(C) the defense of "foreign sovereign compulsion"; and

(D) the doctrine of comity;

(6) the application of United States rules of court relating to the enforcement of antitrust laws in the context of international transactions (for example, the "per se" and "rule of reason" doctrines); and

(7) the application of the United States antitrust laws to joint ventures, mergers, acquisitions, and distribution and licensing arrangements between and among the United States and foreign or foreign-based enterprises.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall reecive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregaate salary not in excess of the highest rate for employees compensated at the rate of GS–18 of the General Schedule under section 5332 of title 5, United States Code, and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) Members from the private sector shall each receive compensation not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 5. (a)(1) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member. In the case of the failure of any witness to comply with any subpena or to testify when summoned under authority of this section, the provisions of sections 102 through 104, inclusive, of the Revised Statutes (2 U.S.C. 192–194), shall apply to the Commission to the same extent as such provisions apply to Congress.

(2) For purposes of section 552(e) of title 5, United States Code, the Commission shall not be considered to be an agency.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services in accordance with the provisions of section 3109 of title 5, United States Code, but at rates not to exceed $200 per day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

FINAL REPORT

SEC. 6. The Commission shall transmit to the President and to the Congress not later than one year after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative, judicial, and legislative action which it deems advisable. Any formal recommendation made by the Commission to the President and to the Congress must have the majority vote of the Commission as present and voting.

EXPIRATION OF THE COMMISSION

SEC. 7. Sixty days after the submission to Congress of the final report provided for in section 6, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATION

SEC. 8. There is hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

EFFECTIVE DATE

SEC. 9. The provisions of this Act shall take effect upon the date of enactment of this Act.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1697

(Purpose: To set forth the composition of the Commission)

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the Senator from Maryland (Mr. MATHIAS) and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. MATHIAS proposes an unprinted amendment numbered 1697.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 8, line 24, strike the language through line 9, page 9 and insert in lieu thereof:

"(1) four members from the executive branch of the Government:

"(A) the Vice President of the United States;

"(B) the Assistant Attorney General for the Antitrust Division;

"(C) the Chairman of the Federal Trade Commission; and

"(D) the Legal Advisor of the Department of State;

"(2) four members from the Senate:

"(A) the Chairman of the Antitrust, Monopoly and Business Rights Subcommittee of the Judiciary Committee;

"(B) one member to be named upon the recommendation of the majority leader; and

"(C) two members to be named upon the recommendation of the minority leader;

"(3) four members from the House of Representatives:

"(A) the Chairman of the Subcommittee on Monopolies and Commercial Law of the Judiciary Committee;

"(B) three members to be named upon the recommendation of the Speaker of the House of Representatives; and

"(4) six members from the private sector.

"(c) The Chairman of the Commission shall be the Vice President of the United States.".

On page 10, lines 11 through 12, strike all after "(k)" and insert in lieu thereof: "The President shall designate the Assistant Attorney General for the Antitrust Division and the Legal Advisor of the Department of State as the Vice Chairmen of the Commission.".

On page 15, line 17, after "duties" insert "to such extent and in such amounts as are provided in appropriations Acts".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1697) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–770), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

This bill would establish a Commission to Study the International Application of U.S. Antitrust Laws.

The Commission would consist of eighteen members appointed by the President, with four members from the executive branch, four from the Senate, four from the House of Representatives, and six from the private sector.

In the Committee's view, increased competition from abroad and our deteriorating trade balance make absolutely imperative a reassessment of traditional ideas underlying the international application of our antitrust laws.

The ACTING PRESIDENT pro tempore. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on the International Application of the United States Antitrust Laws Act".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established the Commission on the International Application of the United States Antitrust Laws (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of eighteen members who shall be appointed by the President as follows:

(1) four members from the executive branch of the Government:

(A) the Vice President of the United States;

(B) the Assistant Attorney General for the Antitrust Division;

(C) the Chairman of the Federal Trade Commission; and

(D) the Legal Advisor of the Department of State;

(2) four members from the Senate:

(A) the Chairman of the Antitrust, Monopoly and Business Rights Subcommittee of the Judiciary Committee;

(B) one member to be named upon the recommendation of the majority leader; and

(C) two members to be named upon the recommendation of the minority leader;

(3) four members from the House of Representatives:

(A) the Chairman of the Subcommittee on Monopolies and Commercial Law of the Judiciary Committee;

(B) three members to be named upon the recommendation of the Speaker of the House of Representatives; and

(4) six members from the private sector.

(c) The Chairman of the Commission shall be the Vice President of the United States.

(d) The majority and minority leaders and the Speaker of the House shall make recommendations for the appointments to be made pursuant to subsection (b) within the first thirty days of the first session of the Ninety-seventh Congress.

(e) The President shall make all of the appointments in accordance with subsections (b) and (c) after receiving the recommendations set forth in paragraphs (2) and (3) of subsection (b) but such appointments shall be made no later than sixty days after the first session of the Ninety-seventh Congress has convened.

(f) The first meeting of the Commission shall be called by the President within thirty days following the date such appointments to the Commission are made.

(g) Not more than one-half of the members of each class of members set forth in paragraphs (2), (3), and (4) of subsection (b) shall be from the same political party.

(h) The term of office for members shall be for the term of the Commission.

(i) A vacancy in the Commission shall not affect its powers, and shall be filed in the same manner in which the original appointment was made.

(j) Ten members of the Commission shall constitute a quorum (but a lesser number may hold hearings).

(k) The President shall designate the Assistant Attorney General for the Antitrust Division and the Legal Advisor of the Department of State as the Vice Chairmen of the Commission.

(l) The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the international aspects of the United States antitrust laws.

PURPOSES OF THE COMMISSION

SEC. 3. (a) The Commission shall—

(1) conduct a comprehensive study of and make recommendations concerning the international aspects of the antitrust laws of the United States, the applicable rules of court, related statutes, administrative procedures, and their applications, their consequences, and their interpretation by the courts and Federal agencies (hereinafter referred to as "the United States antitrust laws"); and

(2) make periodic reports to the President and to the Congress concerning its activities and make a final report to the President and the Congress concerning such comprehensive study.

(b) Such comprehensive study shall specifically address—

(1) the application of the United States antitrust laws in foreign commerce, and their effect on—

(A) the ability of United States enterprises to compete effectively abroad; and

(B) the ability of United States enterprises to compete or deal effectively with foreign controlled or assisted enterprises in market and nonmarket economies;

(2) the effect of the application of the United States antitrust laws on United States relations with other countries;

(3) the jurisdiction and scope of the application of the antitrust laws to foreign conduct and foreign parties;

(4) the issue of reciprocity between nations with respect to mutual access to markets, equal opportunities for foreign investment, and enforcement of antitrust laws;

(5) the proper scope and effect of the following on the application of the United States antitrust laws:

(A) the rules governing sovereign immunity;

(B) the act of state doctrine;

(C) the defense of "foreign sovereign compulsion"; and

(D) the doctrine of comity;

(6) the application of United States rules of court relating to the enforcement of antitrust laws in the context of international transactions (for example, the "per se" and "rule of reason" doctrines); and

(7) the application of the United States antitrust laws to joint ventures, mergers, acquisitions, and distribution and licensing arrangements between and among the United States and foreign or foreign-based enterprises.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not in excess of the highest rate for employees compensated at the rate of GS–18 of the General Schedule under section 5332 of title 5, United States Code, and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) Members from the private sector shall each receive compensation not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 5. (a)(1) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member. In the case of the failure of any witness to comply with any subpena or to testify when summoned under authority of this section, the provisions of sections 102 through 104, inclusive, of the Revised Statutes (2 U.S.C. 192–194), shall apply to the Commission to the same extent as such provisions apply to Congress.

(2) For purposes of section 552(e) of title 5, United States Code, the Commission shall not be considered to be an agency.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services in accordance with the provisions of section 3109 of title 5, United States Code, but at rates not to exceed $200 per day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties to such extent and in such as are provided in appropriations Acts.

FINAL REPORT

SEC. 6. The Commission shall transmit to the President and to the Congress not later than one year after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative, judicial, and legislative action which it deems advisable. Any formal recommendation made by the Commission to the President and to the Congress must have the majority vote of the Commission as present and voting.

EXPIRATION OF THE COMMISSION

SEC. 7. Sixty days after the submission to Congress of the final report provided for in section 6, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATION

SEC. 8. There is hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

EFFECTIVE DATE

SEC. 9. The provisions of this Act shall take effect upon the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRETRIAL SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1091.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2705) to amend chapter 207 of title 18, United States Code, relating to pretrial services.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert the following:

TITLE I—PRETRIAL SERVICES ACT OF 1980

SEC. 101. This title may be cited as the "Pretrial Services Act of 1980".

SEC. 102. Section 3152 of title 18, United States Code, is amended to read as follows:

"§ 3152. Establishment of pretrial services

"The Director of the Administrative Office of the United States Courts (hereinafter in this chapter referred to as the 'Director') shall, under the supervision and direction of the Judicial Conference of the United States, provide directly, or by contract or otherwise, to such extent and in such amounts as are provided in appropriation Acts, for the establishment of pretrial services in each judicial district (other than the District of Columbia). Pretrial services established under this section shall be supervised by a chief probation officer appointed under section 3654 of this title or by another appropriate individual appointed by the district court.".

SEC. 103. Section 3153 of title 18, United States Code, is amended to read as follows:

"§ 3153. Organization and administration of pretrial services

"(a) If an appropriate United States district court and the circuit judicial council jointly recommended the establishment of pretrial services in a particular district, pretrial services shall be established under the general authority of the Administrative Office of the United States Courts.

"(b) The pretrial services established under subsection (a) shall be supervised by a chief pretrial services officer selected by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district or their designees. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3654 of this title.

"(c) (1) With the approval of the district court, the chief pretrial services officer shall appoint such other personnel as may be required. The position requirements and rate of compensation of the chief pretrial services officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS-16 of the General Schdule under section 5332 of title 5, United States Code.

"(2) The chief pretrial services officer is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

"(d) An individual who is a probation officer appointed under section 3654 of this title may perform pretrial services functions and duties, except a function or duty of the chief pretrial services officer.

"(e) (1) Except as provided in paragraph (2) of this subsection, information contained in pretrial services files, presented in any pretrial services report, or divulged by a pretrial services officer or staff member during the course of any hearing, shall be used only for the purposes of a bail determination and shall otherwise be confidential. The report shall be made available to the attorney for the accused and the attorney for the Government.

"(2) The Director shall issue regulations establishing the policy for release of information contained in pretrial services files. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

"(A) by qualified persons for purposes of research related to the administration of criminal justice;

"(B) by persons under contract under section 3154(4) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information contained in pretrial services files, presented in any pretrial services report, or divulged by a pretrial services officer or staff member during the course of any hearing, shall not be admissible on the issue of guilt in any judicial proceeding, except that such information may be used in proceedings to determine guilt or penalties for failure to appear or a violation of the conditions of release, in perjury proceedings, and for the purpose of impeachment in any subsequent proceeding.".

Sec. 104. Section 3154 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "such of the following" and all that follows through "specify" and inserting in lieu thereof "the following functions";

(2) so that paragraph (1) reads as follows:

"(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, and recommend appropriate release conditions of such individual.";

(3) in paragraph (4), by striking out "With the cooperation of the Administrative Office of the United States Courts, and with the approval of the Attorney General, operate or contract for the operation of" and inserting "Provide for" in lieu thereof;

(4) in paragraph (5), by inserting "and the United States attorney" after "court";

(5) so that paragraph (9) reads as follows:

"(9) Perform other functions as specified under this chapter."; and

(6) by adding at the end the following:

"(10) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

"(11) To the extent provided for in an agreement between a pretrial services officer or staff member in his or her official capacity and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

"(12) Make contracts, to such extent and in such amounts as are provided in appropriation Act, for the carrying out of any pretrial services functions.".

Sec. 105. Section 3155 of title 18, United States Code, is amended to read as follows:

"§ 3155. Annual reports

"Each chief pretrial services officer shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrial services. The Director shall be required to include in the Director's annual report to the Judicial Conference under section 604 of title 28, United States Code, a report on the administration and operation of the pretrial services for the previous year.".

Sec. 106. The table of sections for chapter 207 of title 18, United States Code, is amended—

(1) in the item relating to section 3153, by inserting "and administration" after "organization"; and

(2) so that the item relating to section 3155 reads as follows:

"3155. Annual reports."

Sec. 107. (a) (1) Except as provided in paragraph (2), this title and the amendments made by this title shall take effect on the date of enactment of this title.

(2) The amendment made by section 103 of this title shall take effect eighteen months after the date of enactment of this title.

(b) During the period beginning on the date of enactment of this title and ending on the effective date specified in subsection (a) (2), the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this title may continue to operate, employ staff, provide pretrial services, and perform such functions and powers as are authorized under the provisions of chapter 207 of title 18 of the United States Code.

Sec. 108. (a) There are authorized to be appropriated, for fiscal year 1982 and each succeeding fiscal year thereafter, such sums as may be necessary to carry out the provisions of chapter 207 of title 18 of the United States Code, as amended by sections 103, 104, and 105 of this title.

(b) There are authorized to be appropriated for the period beginning after September 30, 1981, and ending on the effective date specified in section 107(a) (2) of this title, such sums as may be necessary to carry out the activities of the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this title.

TITLE II—FEDERAL DIVERSION ACT OF 1980

Sec. 201. This title may be cited as the "Federal Diversion Act of 1980".

Sec. 202. The Congress finds and declares that—

(1) in the interest of operating the Federal criminal justice system efficiently, protecting society, and deterring individuals charged with violating criminal laws from future criminal acts can be served by creating alternatives to prosecution; and

(2) such alternatives can be accomplished in appropriate cases without losing the general deterrent effect of the criminal justice system.

Sec. 203. (a) Title 18 of the United States Code is amended by adding immediately after chapter 209 the following new chapter:

"CHAPTER 210—DIVERSON

"Sec.
"3201. Definitions.
"3202. Admission to diversion program.
"3203. Voluntariness of waiver of rights.
"3204. Inadmissibility of diversion information.
"3205. Continuation and dismissal of charges.
"3206. Termination; review; completion; withdrawal.
"3207. District panel.
"3208. Authority of the Attorney General.

"§ 3201. Definitions

"As used in this chapter, the term—

"(1) 'eligible individual' means any person against whom a prosecutable case exists for an offense against the United States where—

"(A) the alleged offense did not involve the threat or infliction of serious bodily injury to other persons;

"(B) it is reasonably foreseeable that the person will not commit violent acts if admitted to a diversion program;

"(C) the person has not exhibited a continuing pattern of criminal behavior;

"(D) the person meets the criteria established by regulations issued by the Attorney General and guidelines established by the attorney for the Government in the district where the indictment, information, or complaint is filed; and

"(E) the person is admitted to participation in a diversion program by the attorney for the Government in the district in which the indictment information, or complaint is filed.

"(2) 'diversion program' may include, but is not limited to, medical, educational, vocational, social, and psychological services; corrective and preventative guidance, training, and counseling; provision for residence in a halfway house or other suitable place; other services designed to protect the public and benefit the individual; restitution to victims of the offense or offenses charged; and uncompensated service to the community;

"(3) 'diversion plan' means a written agreement, signed by the eligible individual, defense counsel, diversion administrator, and the attorney for the Government, that states those elements of a diversion program in which the eligible individual will participate to assure that he will lead a lawful life, and states the length of time required to complete the plan; but in no event shall a diversion plan exceed twelve months except to allow the person admitted sufficient time to make restitution; and

"(4) 'diversion administrator' means a person designated by the Attorney General, after consultation with the district planning group, as administrator of the diversion program; except that in those districts in which a chief pretrial services officer has been appointed by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district (or their respective designees), the chief pretrial services officer shall also serve as the diversion administrator.

"§ 3202. Admission to diversion program

"(a) The diversion administrator or his assistants shall, to the extent possible, upon arrest or the issuance of a summons or as soon thereafter as possible, review the allegations against each person charged with a criminal offense against the United States and interview each person who he believes may be eligible for diversion. The diversion administrator shall then make a report to the attorney for the Government on the eligibility of each person charged. A person who has not had the allgations against him reviewed may request to be considered for admission by application to the diversion administrator. The attorney for the Government may require further investigation by the diversion administrator of a person being considerd for admission with the consent of that person. If the attorney for the Government determines that a person is suitable, the diversion administrator shall prepare a diversion plan. Upon agreement of the attorney for the Government, diversion administrator, eligible person, and defense counsel about the elements of the plan, the attorney for the Government shall assign supervision of the plan to the diversion administrator. A determination of eligibility or suitability by the attorney for the Government shall not be subject to review except as otherwise provided by law.

"(b) The diversion administrator shall report to the attorney for the Government on the progress of the person in carrying out his plan in a manner and at times the attorney for the Government and diversion administrator deem appropriate and shall at the same time provide a copy of each such report to the person and defense counsel.

"§ 3203. Voluntariness or waiver of rights

"No person shall be admitted to a diversion program unless he has voluntarily agreed to participate and has received a copy of his diversion plan, and has voluntarily waived, in the presence of a judge or magistrate and with the advice of counsel (except in a case where counsel has been voluntarily waived). all applicable statutes of limitations and his right to speedy trial for the period of diversion.

"§ 3204. Inadmissibility of diversion information

"Whenever a person is admitted to a diversion program and his diversion plan is later terminated or the person withdraws and prosecution is resumed, any statement made or other information given by the person in connection with the determination of his eligibility or suitability for the program, any statement made by the person while participating in an activity of the program, and any statement, report, or other information concerning his participation in the program shall not be admissible against the person on the issue of his guilt of the offense that was the basis for diversion in any judicial proceeding in which he is accused of the offense. This section shall not be construed to limit the admissibility of any information for purposes of impeachment.

"§ 3205. Continuation and dismissal of charges

"In each case involving a person who is admitted to a diversion program under this chapter, the criminal charges against the person shall be continued without final disposition for the period agreed upon in the diversion plan, unless the admission is terminated, completed earlier, or the person withdraws pursuant to section 3206 of this chapter. Upon the expiration of the diversion period, the attorney for the Government shall file a dismissal with prejudice as provided in section 3206(c). Nothing in this paragraph shall be construed to limit further investigation of the offense charged or presentation of evidence to a grand jury during the diversion period.

"§ 3206. Termination; review; completion; withdrawal

"(a) If the attorney for the Government finds the person is not fulfilling his obligations under the plan, or has discovered facts previously unknown to him demonstrating that the person is not suitable for diversion, the attorney for the Government may resume prosecution. The attorney for the Government shall make a written statement of the factual basis for his determination to resume prosecution and transmit copies to the person and to defense counsel. The person and defense counsel shall thereafter be notified of their opportunity to appear before the attorney for the Government and the diversion administrator to contest the determination within a reasonable time as established by the Attorney General.

"(b) If the person fails to contest the determination of the attorney for the Government within the time specified, no further review of the determination shall be granted. If, on the appearance of the person and defense counsel before the attorney for the Government and the diversion administrator, the attorney for the Government determines that prosecution shall be resumed, the person may petition the court for review. If the court finds that no fact exists upon which the attorney for the Government could base a determination to resume prosecution, the court shall order that the person be allowed to fulfill his obligations under the plan or shall dismiss the charges if the court finds that all such obligations have been fulfilled. In a proceeding under the provisions of this subsection, evidence shall be admissible regardless of its admissibility in a trial on the offense.

"(c) If the diversion administrator certifies to the attorney for the Government at any time during the period of diversion that the person has fulfilled his obligations and successfully completed the plan, and if the attorney for the Government concurs, the attorney for the Government shall file, by leave of court, a dismissal with prejudice of the indictment, information, or complaint against the person.

"(d) A person participating in a diversion plan may withdraw at any time, and the attorney for the Government may resume prosecution.

"(e) Whenever a diversion plan is terminated or the person withdraws before completion of the plan and the prosecution is resumed resulting in a conviction, the court shall consider the length and nature of the defendant's participation in the plan and may credit such participation as time served toward any sentence of probation or incarceration.

"§ 3207. District panel

"(a) The panel established by section 3153(b) of this title, together with the diversion administrator and such other individuals as the panel may appoint, shall constitute a diversion advisory committee. The panel may appoint individuals representing agencies to which persons are referred under a diversion program pursuant to this chapter. The group shall plan the implementation of the diversion program for the district and review on a regular basis the administration and progress of such program. The group shall report to the Attorney General at times and in a manner as the Attorney General shall prescribe.

"(b) Members of the group shall not be compensated, but may be reimbursed pursuant to section 3208 for reasonable expenses incurred by them in carrying out their duties as members of the committee.

"§ 3208. Authority of the Attorney General

"(a) In carrying out the provisions of this chapter, the Attorney General shall—

"(1) reimburse agencies of the judicial branch of the Government for the cost of services of United States probation officers, pretrial service officers, and employees other than judges, magistrates, or Federal public defenders, necessary to carry out the purposes of this chapter;

"(2) employ and fix the compensation of such persons as he determines necessary to carry out the purposes of this chapter, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive services and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(3) acquire such facilities, services, and materials as he determines necessary to carry out the purposes of this chapter; and

"(4) enter into contracts and other agreements without regard to advertising requirements for the acquisition of such personnel, facilities, services, and materials which he determines necessary to carry out the purposes of this chapter.

"(b) In addition to the responsibilities described in subsection (a), the Attorney General shall—

"(1) issue, within one hundred and eighty days after the effective date of this section, regulations for use by United States attorneys governing recommendations of persons to diversion programs;

"(2) conduct research and prepare concise annual reports for the President, the Congress, and the Judicial Conference showing the progress of all diversion programs in fulfilling the purposes set forth in this chapter;

"(3) provide for the audit of any funds expended under the provisions of this chapter other than funds expended to provide for defense counsel;

"(4) be authorized to accept voluntary and uncompensated services; and

"(5) promote the cooperation of the Department of Justice, local diversion programs, and all agencies which provide education, training, counseling, legal, employment or other social services under any Act of Congress to assure that eligible individuals admitted to diversion programs can benefit to the extent possible.".

(b) The table of chapters for title 18, United States Code, and for part II of title 18, United States Code, are each amended by inserting immediately after the item relating to chapter 209 the following:

"210. Diversion.................. 3201.".

SEC. 204. For the purposes of carrying out the provisions of this title, there is authorized to be appropriated for each of the fiscal years ending September 30, 1982, 1983, 1984, and 1985 the sum of $3,000,000.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1698

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BIDEN, I call up a technical amendment.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. BIDEN, proposes an unprinted amendment numbered 1698.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection. it is so ordered.

The amendment is as follows:

On page 23, at the end of line 1 insert the following: to such extent or in such amounts as are provided in appropriation acts.

Mr. ROBERT C. BYRD. Mr. President, I understand that the technical amendment would make the measure conform with the Budget Act.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1698) was agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PRETRIAL SERVICES ACT OF 1980

SEC. 101. This title may be cited as the "Pretrial Services Act of 1980".

SEC. 102. Section 3152 of title 18, United States Code, is amended to read as follows:

"§ 3152. Establishment of pretrial services

"The Director of the Administrative Office of the United States Court (hereinafter in this chapter referred to as the 'Director') shall, under the supervision and direction of the Judicial Conference of the United States, provide directly, or by contract or otherwise, to such extent and in such amounts as are provided in appropriation Acts, for the establishment of pretrial services in each judicial district (other than the District of Columbia). Pretrial services established under this section shall be supervised by a chief probation officer appointed under section 3654 of this title or by another appropriate individual appointed by the district court.".

SEC. 103. Section 3153 of title 18, United States Code, is amended to read as follows:

"§ 3153. Organization and administration of pretrial services

"(a) If an appropriate United States district court and the circuit judicial council jointly recommend the establishment of pretrial services in a particular district, pretrial services shall be established under the general authority of the Administrative Office of the United States Courts.

"(b) The pretrial services established under subsection (a) shall be supervised by a chief pretrial services officer selected by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district or their designees. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3654 of this title.

"(c) (1) With the approval of the district court, the chief pretrial services officer shall appoint such other personnel as may be required. The position requirements and rate of compensation of the chief pretrial services officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

"(2) The chief pretrial services officer is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

"(d) An individual who is a probation officer appointed under section 3654 of this title may perform pretrial services functions and duties, except a function or duty of the chief pretrial services officer.

"(e) (1) Except as provided in paragraph (2) of this subsection, information contained in pretrial services files, presented in any pretrial services report, or divulged by a pretrial services officer or staff member during the course of any hearing, shall be used only for the purposes of a bail determination and shall otherwise be confidential. The report shall be made available to the attorney for the accused and the attorney for the Government.

"(2) The Director shall issue regulations establishing the policy for release of information contained in pretrial services files. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

"(A) by qualified persons for purposes of research related to the administration of criminal justice;

"(B) by persons under contract under section 3154(4) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information contained in pretrial services files, presented in any pretrial services report, or divulged by a pretrial services officer or staff member during the course of any hearing, shall not be admissible on the issue of guilt in any judicial proceeding, except that such information may be used in proceedings to determine guilt or penalties for failure to appear or a violation of the conditions of release, in perjury proceedings, and for the purpose of impeachment in any subsequent proceeding.".

SEC. 104. Section 3154 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "such of the following" and all that follows through "specify" and inserting in lieu thereof "the following functions";

(2) so that paragraph (1) reads as follows:

"(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, and recommend appropriate release conditions for such individual.";

(3) in paragraph (4), by striking out "With the cooperation of the Administrative Office of the United States Courts, and with the approval of the Attorney General, operate or contract for the operation of" and inserting "Provide for" in lieu thereof;

(4) in paragraph (5), by inserting "and the United States attorney" after "court";

(5) so that paragraph (9) reads as follows:

"(9) Perform other functions as specified under this chapter."; and

(6) by adding at the end the following:

"(10) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

"(11) To the extent provided for in an agreement between a pretrial services officer or staff member in his or her official capacity and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

"(12) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.".

SEC. 105. Section 3155 of title 18, United States Code, is amended to read as follows:

"§ 3155. Annual reports

"Each chief pretrial services officer shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrail services. The Director shall be required to include in the Director's annual report to the Judicial Conference under section 604 of title 28, United States Code, a report on the administration and operation of the pretrial services for the previous year.".

SEC. 106. The table of sections for chapter 207 of title 18, United States Code, is amended—

(1) in the item relating to section 3153 by inserting "and administration" after "organization"; and

(2) so that the item relating to section 3155 reads as follows:

"3155. Annual reports.".

SEC. 107. (a) (1) Except as provided in paragraph (2), this title and the amendments made by this title shall take effect on the date of enactment of this title.

(2) The amendment made by section 103 of this title shall take effect eighteen months after the date of enactment of this title.

(b) During the period beginning on the date of enactment of this title and ending on the effective date specified in subsection (a) (2), the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this title may continue to operate, employ staff, provide pretrial services, and perform such functions and powers as are authorized under the provisions of chapter 207 of title 18 of the United States Code.

SEC. 108. (a) There are authorized to be appropriated, for fiscal year 1982 and each succeeding fiscal year thereafter, such sums as may be necessary to carry out the provisions of chapter 207 of title 18 of the United States Code, as amended by sections 103, 104, and 105 of this title.

(b) There are authorized to be appropriated for the period beginning after September 30, 1981, and ending on the effective date specified in section 107(a) (2) of this title, such sums as may be necessary to carry out the activities of the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this title.

TITLE II—FEDERAL DIVERSION ACT OF 1980

SEC. 201. This title may be cited as the "Federal Diversion Act of 1980".

SEC. 202. The Congress finds and declares that—

(1) in the interest of operating the Federal criminal justice system efficiently, protecting society, and deterring individuals charged with violating criminal laws from future criminal acts can be served by creating alternatives to prosecution; and

(2) such alternatives can be accomplished in appropriate cases without losing the general deterrent effect of the criminal justice system.

SEC. 203. (a) Title 18 of the United States Code is amended by adding immediately after chapter 209 the following new chapter:

"CHAPTER 210—DIVERSION

"Sec.
"3201. Definitions.
"3202. Admission to diversion program.
"3203. Voluntariness of waiver of rights.
"3204. Inadmissibility of diversion information.
"3205. Continuation and dismissal of charges.
"3206. Termination; review; completion; withdrawal.
"3207. District panel.
"3208. Authority of the Attorney General.

"§ 3201. Definitions

"As used in this chapter, the term—

"(1) 'eligible individual' means any person against whom a prosecutable case exists for an offense against the United States where—

"(A) the alleged offense did not involve the threat or infliction of serious bodily injury to other persons;

"(B) it is reasonably foreseeable that the person will not commit violent acts if admitted to a diversion program;

"(C) the person has not exhibited a continuing pattern of criminal behavior;

"(D) the person meets the criteria established by regulations issued by the Attorney General and guidelines established by the attorney for the Government in the district where the indictment, information, or complaint is filed; and

"(E) the person is admitted to participation in a diversion program by the attorney for the Government in the district in which the indictment, information, or complaint is filed;

"(2) 'diversion program' may include, but is not limited to, medical, educational, vocational, social, and psychological services; corrective and preventative guidance, training, and counseling; provision for residence in a halfway house or other suitable place; other services designed to protect the public and benefit the individual; restitution to victims of the offense or offenses charged; and uncompensated service to the community;

"(3) 'diversion plan' means a written agreement, signed by the eligible individual, defense counsel, diversion administrator, and the attorney for the Government, that states those elements of a diversion program in which the eligible individual will participate to assure that he will lead a lawful life, and states the length of time required to complete the plan; but in no event shall a diversion plan exceed twelve months except to allow the person admitted sufficient time to make restitution; and

"(4) 'diversion administrator' means a person designated by the Attorney General, after consultation with the district planning group, as administrator of the diversion program; except that in those districts in which a chief pretrial services officer has been appointed by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district (or their respective designees), the chief pretrial services officer shall also serve as the diversion administrator.

"§ 3202. Admission to diversion program

"(a) The diversion administrator or his assistants shall, to the extent possible, upon arrest or the issuance of a summons or as soon thereafter as possible, review the allegations against each person charged with a criminal offense against the United States and interview each person who he believes maybe eligible for diversion. The diversion administrator shall then make a report to the attorney for the Government on the eligibility of each person charged. A person who has not had the allegations against him reviewed may request to be considered for admission by application to the diversion administrator. The attorney for the Government may require further investigation by the diversion administrator of a person being considered for admission with the consent of that person. If the attorney for the Government determines that a person is suitable, the diversion administrator shall prepare a diversion plan. Upon agreement of the attorney for the Government, diversion administrator, eligible person, and defense counsel about the elements of the plan, the attorney for the Government shall assign supervision of the plan to the diversion administrator. A determination of eligibility or suitability by the attorney for the Government shall not be subject to review except as otherwise provided by law.

"(b) The diversion administrator shall report to the attorney for the Government on the progress of the person in carrying out his plan in a manner and at times the attorney for the Government and diversion administrator deem appropriate and shall at the same time provide a copy of each such report to the person and defense counsel.

"§ 3203. Voluntariness or waiver of rights

"No person shall be admitted to a diversion program unless he has voluntarily agreed to participate and has received a copy of his diversion plan, and has voluntarily waived, in the presence of a judge or magistrate and with the advice of counsel (except in a case where counsel has been voluntarily waived), all applicable statutes of limitations and his right to speedy trial for the period of diversion.

"§ 3204. Inadmissibility of diversion information.

"Whenever a person is admitted to a diversion program and his diversion plan is later terminated or the person withdraws and prosecution is resumed, any statement made or other information given by the person in connection with the determination of his eligibility or suitability for the program, any statement made by the person while participating in an activity of the program, and any statement, report, or other information concerning his participation in the program shall not be admissible against the person on the issue of his guilt of the offense that was the basis for diversion in any judicial proceeding in which he is accused of the offense. This section shall not be construed to limit the admissibility of any information for purposes of impeachment.

"§ 3205. Continuation and dismissal of charges

"In each case invloving a person who is admitted to a diversion program under this chapter, the criminal charges against the person shall be continued without final disposition for the period agreed upon in the diversion plan, unless the admission is terminated, completed earlier, or the person withdraws pursuant to section 3206 of this chapter. Upon the expiration of the diversion period, the attorney for the Government shall file a dismissal with prejudice as provided in section 3206(c). Nothing in this paragraph shall be construed to limit further investigation of the offense charge or presentation of evidence to a grand jury during the diversion period.

"§ 3206. Termination; review; completion; withdrawal

"(a) If the attorney for the Government finds the person is not fulfilling his obligations under the plan, or has discovered facts previously unknown to him demonstrating that the person is not suitable for diversion, the attorney for the Government may resume prosecution. The attorney for the Government shall make a written statement of the factual basis for his determination to resume prosecution and transmit copies to the person and to defense counsel. The person and defense counsel shall thereafter be notified of their opportunity to appear before the attorney for the Government and the diversion administrator to contest the determination within a reasonable time as established by the Attorney General.

"(b) If the person fails to contest the determination of the attorney for the Government within the time specified, no further review of the determination shall be granted. If, on the appearances of the person and defense counsel before the attorney for the Government and the diversion administrator, the attorney for the Government determines that prosecution shall be resumed, the person may petition the court for review. If the court finds that no fact exists upon which the attorney for the Government could base a determination to resume prosecution, the court shall order that the person be allowed to fulfill his obligations under the plan or shall dismiss the charges if the court finds that all such obligations have been fulfilled. In a proceeding under the provisions of this subsection, evidence shall be admissible regardless of its admissibility in a trial on the offense.

"(c) If the diversion administrator certifies to the attorney for the Government at any time during the period of diversion that the person has fulfilled his obligations and successfully completed the plan, and if the attorney for the Government concurs, the attorney for the Government shall file, by lease of court, a dismissal with prejudice of the indictment, information, or complaint against the person.

"(d) A person participating in a diversion plan may withdraw at any time, and the attorney for the Government may resume prosecution.

"(e) Whenever a diversion plan is terminated or the person withdraws before completion of the plan and the prosecution is resumed resulting in a conviction, the court shall consider the length and nature of the defendant's participation in the plan and may credit such participation as time served toward any sentence of probation or incarceration.

"§ 3207. District panel

"(a) The panel established by section 3153 (b) of this title, together with the diversion administrator and such other individuals as the panel may appoint, shall constitute a diversion advisory committee. The panel may appoint individuals representing agencies to which persons are referred under a diversion program pursuant to this chapter. The group shall plan the implementation of the diversion program for the district and review on a regular basis the administration and progress of such program. The group shall report to the Attorney General at times and in a manner as the Attorney General shall prescribe.

"(b) Members of the group shall not be compensated, but may be reimbursed pursuant to section 3208 for reasonable expenses incurred by them in carrying out their duties as members of the committee.

"§ 3208. Authority of the attorney general

"(a) In carrying out the provisions of this chapter, the Attorney General shall—

"(1) reimburse agencies of the judicial branch of the Government for the cost of services of United States probation officers, pretrial service officers, and employees other than judges, magistrates, or Federal public defenders, necessary to carry out the purposes of this chapter;

"(2) employ and fix the compensation of such persons as he determines necessary to carry out the purposes of this chapter, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive services and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(3) acquire such facilities, services, and materials as he determines necessary to carry out the purposes of this chapter; and

"(4) enter into contracts and other agreements to such extent or in such amounts as are provided in appropriation Acts without regard to advertising requirements for the acquisition of such personnel, facilities, services, and materials which he determines necessary to carry out the purposes of this chapter.

"(b) In addition to the responsibilities described in subsection (a), the Attorney General shall—

"(1) issue, within one hundred and eighty days after the effective date of this section, regulations for use by United States attorneys governing recommendations of persons to diversion programs;

"(2) conduct research and prepare concise annual reports for the President, the Congress, and the Judicial Conference showing the progress of all diversion programs in fulfilling the purposes set forth in this chapter;

"(3) provide for the audit of any funds expended under the provisions of this chapter other than funds expended to provide for defense counsel;

"(4) be authorized to accept voluntary and uncompensated services; and

"(5) promote the cooperation of the Department of Justice, local diversion programs, and all agencies which provide education, training, counseling, legal, employment, or other social services under any Act of Congress to assure that eligible individuals admitted to diversion programs can benefit to the extent possible.".

(b) The table of chapters for title 18, United States Code, and for part II of title 18, United States Code, are each amended by inserting immediately after the item relating to chapter 209 the following:

"210. Diversion .... 3201.".

SEC. 204. For the purposes of carrying out the provisions of this title, there is authorized to be appropriated for each of the fiscal years ending September 30, 1982, 1983, 1984 and 1985 the sum of $3,000,000.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. BIDEN. Mr. President, I wish to congratulate my colleagues for their favorable consideration of S. 2705, the Pretrial Services Act of 1980.

This legislation establishes pretrial services in each Federal judicial district to assist judges in making informed bail decisions and supervise persons released before trial. The purpose of pretrial services is to reduce the number of crimes committed by persons released pretrial. Demonstration agencies established in 10 Federal judicial districts have proved that pretrial services can meet that goal.

Title II of the Speedy Trial Act of 1974 established pretrial services agencies in 10 demonstration districts. The demonstration agencies were directed to, first, collect, verify, and report promptly to the judicial officer all information pertaining to the pretrial release of persons charged with an offense and recommend appropriate release conditions; second, review and modify the reports and recommendations; third, supervise and provide supportive services to persons released in their custody; and fourth, inform the court of violations of conditions of release.

The Director of the Administration Office of the U.S. Courts released the fourth annual report on the implementation of title II of the Speedy Trial Act on June 29, 1979. That report provided statistical evidence that the 10 demonstration pretrial services programs meet the objectives of reducing the volume and cost of unnecessary pretrial confinement; reducing the number of new crimes committed by persons released on bail; increasing the use of nonfinancial release; and reducing the number of defendants who fail to appear for trial.

Based upon the analysis contained in the fourth annual report, the Administrative Office of the U.S. Courts made the following recommendation concerning the expansion and administration of pretrial services agencies:

> On the basis of the favorable observations of judges, magistrates, and others, and the overall favorable statistical results of the program, it is recommended that statutory authority be granted to continue the pretrial services agencies permanently in the 10 demonstration districts, and further, that statutory authority be given for the expansion of the program to other district courts when the need for such services is shown.
>
> It is further recommended that the district courts be authorized to appoint pretrial services officers under standards to be prescribed by the judicial conference of the United States and that the judicial conference authorize, upon the recommendations of the district courts and judicial councils concerned which district courts should have pretrial service units. These units would be independent of the probation service, except in those districts in which the caseload would not warrant a separate unit.

The General Accounting Office also reviewed the performance of the demonstration pretrial services agencies in a report issued in October 1978, "The Federal Bail Process Fosters Inequities", according to the report, "GAO supports the continuation and expansion of the pretrial services agency function of providing verified defendant related information. Better information is needed to improve bail decisions, and pretrial services agencies can provide this information."

As chairman of the Subcommittee on Criminal Justice I am frustrated, as I know all of my colleagues are, by the staggering crime rate. The Pretrial Services Act of 1980 offers us the rare opportunity to fully implement a program which has already clearly proven to be very effective in reducing pretrial crime. I introduced S. 2705, cosponsored by Senators MATHIAS, KENNEDY, THURMOND, and BAYH because the 10 demonstration pretrial services agencies have proven so successful that the services should be available in every district.

The bill has been carefully drafted to insure that districts receive new personnel or facilities only if existing personnel are inadequate or inappropriate to perform the necessary pretrial services. The district court will make the initial determination of the most economical, effective, and efficient means of providing pretrial services in its own judicial district.

A decision that new personnel are necessary must be justified before the circuit judicial council, which will evaluate the question in accordance with standards approved by the judicial conference. If the district court and the circuit judicial council then jointly recommend pretrial services independent of existing personnel, S. 2705 requires that a chief pretrial services officer be hired in that district and that other personnel be hired as needed.

Title II of S. 2705 establishes Federal diversion programs. A diversion program consists of a written agreement signed by the individual, his defense counsel, the diversion administrator, and the attorney for the Government. The agreement, which may last for up to 1 year may include medical, educational, vocational, social, and psychological services, corrective and preventive guidance, training, counseling, provisions for residence in a halfway house or other suitable places, other rehabilitative services, restitution, community services, and other similar programs. Diversion is available only if the alleged offense does not involve the threat or infliction of serious bodily harm and it is reasonably foreseeable that the person will not commit violent acts in the future.

Pretrial diversion has existed formally and informally for many years. The formalized diversion established in title II of S. 2705 is similar to legislation which passed the Senate in this Congress and in the 95th Congress. Approval of pretrial diversion once again affirms our commitment to provide fair and flexible alternatives to traditional methods of prosecution while at the same time providing adequate protection for society and deterring individuals charged with violating criminal laws from future criminal acts.●

THE JAMES C. CLEVELAND BUILDING

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 7588 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 7588) to designate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Building."

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and the passage of the bill.

The bill (H.R. 7588) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD H.R. 7665 AND H.R. 6721 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 7665 and H.R. 6721 are received in the Chamber, they be held at the desk pending further disposition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSEHOLD GOODS TRANSPORTATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1798.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1798) entitled "An Act to reduce regulation of and increase competition in the household goods moving industry, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Household Goods Transportation Act of 1980".

DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds—

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carriers is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum flexibility on the part of the carriers in the pricing of their services best serves the shippers of household goods and allows a variety of quality and price options to meet market demands; and

(4) that the interest of individual shippers can be best protected by allowing carriers of household goods maximum flexibility in serving the needs of their shippers, by providing accurate and complete information concerning carriers' performance and individual shippers' rights and remedies, by reducing the amount of unnecessary regulations, and by strengthening remedies for violations of those regulations that are necessary for protection of individual shippers.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

DEFINITIONS

SEC. 3. (a) Section 10102 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) the following new paragraph:

"(10) 'household goods' means—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and such other similar articles as the Commission may provide by regulation; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods."; and

(2) by redesignating paragraphs (10) through (28) of such section, and any references thereto, as paragraphs (11) through (29), respectively.

(b)(1) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(17)" and inserting in lieu thereof "10102(18)".

(2) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(11)" and inserting in lieu thereof "10102(12)".

RATES

SEC. 4. (a) Chapter 107 of title 49, United States Code, is amended by inserting after section 10733 the following new section:

"§ 10734. Household goods rates—estimates; guarantees of service

"(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

"(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs but must be contained in the tariff the carrier publishes for such service under this title.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.".

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting

"10734. Household goods rates—estimates; guarantees of service."

after

"10733. Rates for transportation of recyclable materials.".

AGENTS

SEC. 5. (a)(1) Chapter 109 of title 49, United States Code, is amended by inserting after section 10933 the following new section:

"§ 10934. Household goods agents

"(a) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this subtitle and by such carrier.

"(c)(1) Whenever the Commission has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor common carrier providing transportation of household goods subect to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) If such person does not appear at the hearing or if the Commission finds that the agent has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Commission may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title if, after notice and an opportunity for a hearing, it finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) Upon filing of a petition with the Commission by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

"(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title by an agent or membership on the board of directors of any such motor common carrier by an agent.".

(2) The analysis for chapter 109 of title 49, United States Code, is amended by inserting

"10934. Household goods agents."

after

"10933. Authorizing abandonment of freight forwarder service.".

(b) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting ", or section 10934" before the period at the end of the first sentence; and

(2) by inserting "10934(c)," after "10928,".

(c) Subsection (b) of section 11342 of title 49, United States Code, is amended by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraphs:

"(2) In the case of an application for Commission approval of an agreement or combination between a motor common carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor common carriers providing transportation of household goods to pool or divide traffic or services or any part of their earnings approved by the Commission before the date of enactment of this paragraph.

"(3) The Commission shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor common carriers providing transportation of household goods and their agents.".

RULES AND REGULATIONS

SEC. 6. (a)(1) Chapter 111 of title 49, United States Code, is amended by inserting after section 11109 the following new section:

"§ 11110. Household goods carrier operations

"(a)(1) The regulations and paperwork required of motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

"(2) The Interstate Commerce Commission may issue regulations, including regulations protecting individual shippers, in order to carry out this subtitle with respect to the transportation of household goods by motor common carrier.

"(3) Regulations of the Commission protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. In establishing performance standards under this paragraph, the Commission shall take into account at least the following:

"(A) the level of performance that can be achieved by a well-managed motor common carrier transporting household goods;

"(B) the degree of harm to individual shippers which could result from a violation of the regulation;

"(C) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

"(D) service requirements of the carriers;

"(E) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

"(F) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(4) Nothing in this section shall be construed to limit the Commission's authority to require reports from motor common carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b)(1) Every motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate. The Commission shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services, nor shall the Commission require the final charges to a shipper to be based on an estimate.

"(2) Any charge for an estimate of charges provided by a motor common carrier to a shipper for transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) The Commission shall issue regulations that provide motor carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shippers observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.".

(2) The analysis for chapter 111 of title 49, United States Code, is amended by inserting

"11110. Household goods carrier operations."

after

"11109. Loading and unloading motor vehicles.".

(b)(1) Not later than sixty days after the date of enactment of this Act, the Interstate Commerce Commission shall institute a rulemaking proceeding in which it shall review and revise all of its operational regulations pertaining to transportation of household goods to carry out the purposes of section 11110(a) of title 49 United States Code.

(2) The Interstate Commerce Commission shall conclude the rulemaking proceeding required by this subsection within two hundred and seventy days after the date of enactment of this Act.

(3) To the maximum extent feasible, the provisions of this section, including the amendments made by this section, shall apply to rules and regulations pertaining to transportation of household goods for the United States Government issued by departments, agencies, and instrumentalities of the United States (other than the Interstate Commerce Commission), including rules and regulations established for the distribution of such traffic, to the same extent as such provisions apply to rules and regulations issued by the Interstate Commerce Commission.

DISPUTE SETTLEMENT

SEC. 7. (a)(1) Chapter 117 of title 49, United States Code, is amended by inserting after section 11710 the following new section:

"§ 11711. Dispute settlement program for household goods carriers

"(a)(1) One or more motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title who want to establish a program to settle disputes between such carriers and shippers of household goods concerning the transportation of household goods may submit an application for establishing such program to the Commission. Such application shall be in such form and contain such information as the Commission may, by regulation, require. The Commission shall review and approve, in accordance with the provisions of this section, each application submitted under this subsection.

"(2) The Commission shall approve, at least within 45 days of its filing, any application to establish a program for settling disputes concerning the transportation of household goods which meets the requirements of subsection (b) of this section.

"(3) The Commission may investigate at any time the functioning of any program approved under this section and, after notice and an opportunity for a hearing, may suspend or revoke its approval for failure to meet the requirements of this section and such regulations as the Commission may issue to carry out the provisions of this section.

"(b) No program for settling disputes concerning the transportation of household goods may be approved under this section unless the program is a fair and expeditious method for settling such disputes and complies with each of the following requirements and such regulations as the Commission may issue:

"(1) The program is designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

"(2) The program provides for adequate notice of the availability of such program, including a concise easy-to-read, accurate summary of the program and disclosure of the legal effects of election to utilize the program. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

"(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action under the program to resolve a dispute.

"(4) Each person, authorized pursuant to the program to arbitrate or otherwise settle disputes, must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Commission may issue, to resolve such disputes fairly and expeditiously. The program must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

"(5) No fee for instituting a proceeding under the program may be charged the shipper; except that, if the program is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting a proceeding under the program. In any case in which a shipper is charged a fee under this paragraph for instituting a proceeding under the program and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

"(6) The program must not require the shipper to agree to utilize the dispute settlement program prior to the time that a dispute arises.

"(7) The program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

"(8) Any person settling a dispute concerning transportation of household goods under the program must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the dispute settler may extend such 60-day period for a reasonable perior of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

"(c) Materials and information obtained in the course of a decisionmaking process to settle a dispute under a dispute settlement program approved under this section may not be used to bring an action under section 11910 of this title.

"(d) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) no dispute settlement program approved under this section was available for use by the shipper to resolve the dispute; or

"(B) a decision resolving the dispute was not rendered under a dispute settlement program approved under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(C) the court proceeding is to enforce a decision rendered under a dispute settlement program approved under this section and is instituted after the period for performance under such decision has elapsed.

"(e) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute under a dispute settlement program approved under this section; or

"(2) after institution of a proceeding by the shipper to resolve such dispute under a dispute settlement program approved under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends, and (B) a decision resolving such dispute is rendered under such program.

"(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 10102(10)(A) of this title.".

(2) The analysis for chapter 117 of title 49, United States Code, is amended by inserting

"11711. Dispute settlement program for household goods carriers."

after

"11710. Liability when property is delivered in violation of routing instructions.".

(b) The amendments made by this section shall take effect on the date of enactment of this Act, except that subsections (d) and (e) of section 11711 of title 49, United States Code, as inserted in chapter 117 of such title by subsection (a)(1) of this section, shall take effect on the two hundred and fortieth day following such date of enactment.

PENALTIES

SEC. 8. (a) Section 11901 of title 49, United States Code, is amended—

(1) by adding at the end of subsection (g) the following new sentence: "After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to such date of enactment shall be collected only in accordance with the provisions of subsection (h) of this section.";

(2) by redesignating subsection (h) of such section, and any references thereto, as subsection (k) and inserting ", (h), (i)(1), or (j)" after "subsection (g)" in paragraph (2) of such subsection; and

(3) by inserting after subsection (g) the following new subsections:

"(h)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of such person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than $500 for each violation and of not more than $250 for each additional day during which the violation continues. No penalty shall be imposed under this paragraph for any failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission unless the shipper or shippers have suffered harm as a result of such failure.

"(2) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(i)(1) Subject to the provisions of paragraph (3) this subsection, if a common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Commission relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not more than $1,000 for each violation and of not more than $500 for each additional day during which the violatiôn continues.

"(2)(A) If the Commission determines—

"(i) that a common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier has failed or refused to comply with a regulation issued by the Commission relating to protection of individual shippers in excess of any performance standard established in such regulation; and

"(ii) with respect to each such failure or refusal, that the shipper or shippers have suffered harm as a result of such failure or refusal;

the Commission may, in writing, notify the carrier, receiver, or trustee of its determinations and may elect to assess civil penalties under this paragraph for such failures and refusals in lieu of proceeding under paragraph (1) of this subsection with respect to such failures and refusals. If the Commission elects to assess civil penalties under this paragraph, such civil penalties may only be assessed after notice and opportunity for a hearing.

"(B) Subject to the provisions of paragraph (3) of this subsection, the amount of a civil penalty which may be assessed under this paragraph for a failure or refusal shall not be more than $1,000 for such failure or refusal and $500 for each additional day during which such failure or refusal continues.

"(C) Notwithstanding the provisions of section 1336 of title 28, United States Code, a proceeding to enjoin or suspend, in whole or part, an order issued by the Commission assessing one or more civil penalties under this paragraph may only be brought in the United States court of appeals as provided by and in the manner prescribed in chapter 158 of such title.

"(3) The amount of a civil penalty which may be assessed under paragraph (1) or (2) of this subsection for a failure or refusal shall not be more than $500 for such failure or refusal and $250 for each additional day during which such failure or refusal continues if, between the time the carrier, receiver, or trustee receives notice from the Commission of such failure or refusal and the commencement of the assessment hearing or trial, as the case may be, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal.

"(4) (A) No civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers unless the shipper or shippers have suffered harm as a result of such failure or refusal.

"(B) In addition, no civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers—

"(i) if, before receiving notice from the Commission of such failure or refusal, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal; or

"(ii) in the case of a carrier, receiver, or trustee that does not know or have reason to know that the shipper or shippers have suffered harm as a result of such failure or refusal before receiving notice from the Commission of such failure or refusal, if such carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for such harm before commencement under this subsection of the assessment hearing or trial, as the case may be.

"(5) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require shall be taken into account.

"(j) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not more than $2,000 for each violation and of not more than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.".

(b) (1) Section 11348(a) of title 49, United States Code, is amended by striking out "(h)(1)" and inserting in lieu thereof "(k)(1)".

(2) Section 2342(5) of title 28, United States Code, is amended by inserting "and all final orders of such Commission made reviewable under section 11901(i)(2) of title 49, United States Code" after "section 2321 of this title".

WEIGHT BUMPING

SEC. 9. (a) Chapter 119 of title 49, United States Code, is amended by inserting after section 11916 the following new section:

"§ 11917. Weight-bumping in household goods transportation

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.".

(b) The analysis for chapter 119 of title 49, United States Code, is amended by inserting

"11917. Weight-bumping in household goods transportation."

after

"11916. Conclusiveness of rates in certain prosecutions.".

GOVERNMENT TRAFFIC

SEC. 10. (a) Section 10922(b) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) Notwithstanding the provisions of paragraph (4) of this subsection, the provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide transportation for the United States Government of used household goods which transportation is incidental to a pack and crate service on behalf of the Department of Defense.".

(b) Subsection (b) of section 10721 of title 49, United States Code, is amended—

(1) by inserting before the period at the end of paragraph (1) of such subsection the following: "; except that any rates for the transportation of household goods for the United States Government shall not be predatory".

(2) by adding at the end of such subsection the following new paragraph:

"(3) Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates for the transportation of household goods for the United States Government on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title. However, pending final Commission action in a proceeding under section 10708 of this title to determine whether a proposed rate for the transportation of household goods for the United States Government under this subsection is predatory or not, the Commission may suspend the proposed rate under subsection (b) of such section 10708 only if it appears from specific facts shown by the verified complaint of a person that—

"(A) without suspension, the proposed rate will cause substantial injury to the complainant; and

"(B) it is likely that the complainant will prevail on the merits.".

TECHNICAL AMENDMENTS

SEC. 11. (a) Section 10526(a) of title 49, United States Code, is amended by striking out "or" at the end of paragraph (9) and by redesignating the last three paragraphs (the second paragraph (10) and paragraphs (11) and (12)) of such section as paragraphs (11), (12), and (13), respectively.

(b) Section 10528 of title 49, United States Code, is amended by striking out "(10), (11), or (12)" and inserting in lieu thereof "(11), (12), or (13)".

Attest:

• **Mr. SCHMITT.** Mr. President, I support S. 1798, as it passed the House and urge the Senate to adopt it. The House substitute supports the objectives of the original Senate bill which were to increase competition in the household goods moving industry, to remove unnecessary and burdensome regulations currently imposed on the industry by the Interstate Commerce Commission (ICC) and to encourage better service and a speedier settlement of disputes for consumers.

I am particularly pleased that the House included a provision in the Senate bill that I sponsored which will authorize the ICC to investigate and suspend rates for the transportation of household goods for the U.S. Government if such rates are likely to be predatory. Currently a household goods carrier is permitted to file reduced rates for transporting household goods for the U.S. Government. In the case of household goods, the Department of Defense is by far the largest single shipper, occupying 20 percent or more of the entire market.

Because of its dominant position and through arbitrary regulations and rate tender procedures, it has coerced the industry into providing service at rates well below the applicable level for the same service for civilian shippers. In a recent case before the ICC, the Commission found that Government household goods traffic is being subsidized by COD shippers.

While my provision will certainly reinforce the procompetition policy proposed in S. 1798, I recognize that it does not solve all of the problems with respect to the program established by the military for distributing tonnage to carriers. The emphasis of the military system is on low rates—at the expense of the local moving industry, the COD shipper and the military family. The Department of Defense is insensitive to the financial stability of the industry. Instability and low rates often times result in a lower quality of service. I am concerned with such a Government policy.

The moving companies in New Mexico have experienced many problems with regard to this military system and have focused my attention on the inadequacies of the DOD program. In addition to sponsoring the Government traffic rates provision in S. 1798, I asked the General Accounting Office (GAO) to evaluate the Department of Defense program as it works in New Mexico. The GAO, after an initial investigation, determined that the review should be expanded to include Colorado, Texas, and Arizona. The preliminary indications are:

DOD's emphasis on awarding shipments by cost over quality of service limits the program's usefulness;

The current evaluation process is unreliable;

The program's scores and rankings do not reflect quality of service;

The program's complexity causes confusion and diverse implementation; and

The program does not appear workable in the peak shipping season.

The final report is due shortly. I intend to focus congressional attention on the problem early next year and, I will continue to encourage the Department of Defense to scrap their current program and begin anew.

While S. 1798 does not specifically address the problems of the DOD program for transporting household goods it does provide the balanced approach to Government regulation that this country needs to stimulate industry to provide better quality service at reasonable costs to consumers. It has my support.●

Mr. CANNON. Mr. President, last December, the Senate unanimously passed this bill and sent it to the House. It has been amended to reflect changes made in the Motor Carrier Act of 1980. The bill that comes back from the House is, in my view, an even better one than the Senate version. Its support by the various interested parties is greater than before. To the best of my knowledge, there is no opposition to the legislation. I am particularly delighted to learn of the new enthusiasm of various consumer representatives for this legislation.

What we have before us is a bill that will greatly reduce unnecessary regulation of the household moving industry while at the same time provide new remedies and alternatives for consumers who have difficulties in making household moves. It introduces the same degree of competition into the moving industry as now exists in the rest of the trucking industry. It reduces paperwork substantially. It restricts ICC enforcement activities to cases in which consumers have suffered actual harm. And in those cases where there is harm, the ICC will have even greater power than today.

One of the most progressive parts of this bill is the establishment of a dispute settlement program that will give consumers an inexpensive and speedy remedy to solve disputes with household movers. This one provision alone should have enormous benefits for individual consumers.

I believe that this bill will lead to a stronger household moving industry that will provide better service to shippers. We should soon begin new service and price competition that will provide many new options to consumers.

I am proud that this legislation originated in the Senate Commerce Committee and consider it one of the most outstanding pieces of legislation that we have passed this year.

I most sincerely want to commend the House Public Works and Transportation Committee and its staff for its extraordinary endurance in fashioning this bill so carefully. Of the many agencies and interest groups that have participated in this process both in the Senate and the House, the following have been exceptionally helpful and constructive: Congress Watch, Consumers Union, Transportation Consumer Action project, and the National Furniture Warehousemen's Association. In particular, however, I would strongly commend the White House Office of Consumer Affairs, the Interstate Commerce Commission, and the American Movers Conference for their tireless efforts to perfect this bill.

Thus, Mr. President, I take great pleasure in urging the Senate to support S. 1498 as amended by the House, and I move its passage.

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. CANNON, that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL BUREAU OF STANDARDS AUTHORIZATIONS ACT, 1981

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2320.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2320) entitled "An Act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1981".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Director of the National Bureau of Standards, hereinafter referred to as the Director, to carry out activities performed by the National Bureau of Standards for the fiscal year 1981, the sums set forth in the following line items:

(1) Measurement Reesarch and Standards, $44,161,000;

(2) Engineering Measurements and Standards, $21,516,000;

(3) Computer Science and Technology, $11,603,000;

(4) Core Research Program for Innovation and Productivity, $12,800,000;

(5) Technical Competence Fund, $6,176,000;

(6) Research Competence Program, $2,000,000;

(7) Fire Research Center, $1,253,000; and

(8) Central Technical Support, $10,112,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the total amount authorized under subsection (a)(1), not less than $245,000 shall be available for the "Environmental Measurements Program";

(2) of the total amount authorized under subsection (a)(2), not less than $425,000 shall be available for the purpose of "Earthquake Hazards Engineering";

(3) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than $2,000,000 shall be available for "Measurement Standards for the Handicapped";

(4) of the total amount authorized under subsection (a)(4), not less than $2,500,000 shall be available for the purpose of "Automated Manufacturing Research Facility"; and

(5) of the total of the amounts authorized under subsections (a)(4) and (a)(8), not more than $6,123,000 shall be available for "Transfer to Working Capital Fund".

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, not more than $400,000 is authorized to be appropriated for fiscal year 1981 for expenses for the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, the sum of $8,140,000 is authorized to be appropriated to the Assistant Secretary of Commerce for Productivity, Technology, and Innovation for fiscal year 1981 to carry out activities performed by the National Technical Information Service.

OFFICE OF ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 5. In addition to the sums authorized in section 2, the sum of $7,200,000 is authorized to be appropriated to the Assistant Secretary of Commerce for Productivity, Technology, and Innovation for fiscal year 1981 for the purpose of research, development, and related activities in the field of innovation and productivity.

SALARY ADJUSTMENTS

SEC. 6. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal year 1981, and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from sections 4 and 5 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line then in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

APPORTIONMENT OF APPROPRIATED FUNDS

SEC. 8. If the total amount of the appropriations made by any Act for program activities included in section 2(a) is less than the total amount authorized to be appropriated for those activities by section 2(a), the amount available from such appropriations for any particular line item, prior to any transfer in section 9 shall bear the same ratio to the amount authorized to be appropriated for that activity by section 2(a) as the total amount of the appropriations made by such appropriation Acts for all included program activities bears to the total amount authorized to be appropriated for all such activities by section 2(a), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

TRANSFER OF FUNDS

SEC. 9. Funds may be transferred among the line items listed in section 2(a), following the application of section 8, but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in section 2(a), following the application of section 8, unless:

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days the chairman of both the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have writ-

ten to the Director to the effect that they have no objection to the proposed transfer.

ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 10. The Director shall charge for any service performed by the Bureau, at the request of another Government agency, in compliance with any statute enacted before, on, or after the date of the enactment of this Act which means the Secretary of Commerce, hereinafter referred to as the Secretary, or the Director and/or the National Bureau of Standards as a consultant to another Government agency, or calls upon the Secretary or the National Bureau of Standards to support or perform any activity for or on behalf of another Government agency or to cooperate with any Government agency in the performance by that agency of any activity regardless of whether the statute specifically requires reimbursement to the Secretary, the Director, or the National Bureau of Standards by such other Government agency for such service, unless funds are specifically appropriated to the Secretary, the Director, or the National Bureau of Standards to perform such service. The Director may, however, waive any charge where the service rendered by the Bureau is such that the National Bureau of Standards will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

FACILITIES IMPROVEMENT

SEC. 11. Section 14 of the Act of March 3, 1901 (15 U.S.C. 278(d)) as amended, is further amended by striking out "$75,000" and inserting in lieu thereof "$250,000".

INTERNATIONAL ACTIVITIES

SEC. 12. In order to develop and strengthen the expertise of the National Bureau of Standards in science and engineering, to enhance the Director's ability to maintain the Bureau's programs at the forefront of worldwide developments in science and engineering, and to cooperate in international scientific activities, the Act of March 3, 1901 (15 U.S.C. 271–278h), as amended, is further amended by inserting immediately after section 16 the following new section:

"SEC. 17. (a) The Director is authorized, notwithstanding any other provision of law, to expend such sums, within the limit of appropriated funds, as the Director may deem desirable, through the grant of fellowships or any other form of financial assistance, to defray the expenses of foreign nationals not in service to the Government of the United States while they are performing scientific or engineering work at the National Bureau of Standards or participating in the exchange of scientific or technical information at the National Bureau of Standards.

"(b) The Congress consents to the acceptance by employees of the National Bureau of Standards of fellowships, lectureships, or other positions for the performance of scientific or engineering activities or for the exchange of scientific or technical information, offered by a foreign government, and to the acceptance and retention by an employee of the National Bureau of Standards of any form of financial or other assistance provided by a foreign government as compensation for or as a means of defraying expenses associated with the performance of scientific or engineering activities or the exchange of scientific or technical information, in any case where the acceptance of such fellowship, lectureship, or position or the acceptance and retention of such assistance is determined by the Director to be appropriate and consistent with the interests of the United States. For the purposes of this subsection, the definitions appearing in section 7342(a) of title 5 of the United States Code apply. Civil actions may be brought and penalties assessed against any employee who knowingly accepts and retains assistance from a foreign government not consented to by this subsection in the same manner as is prescribed by section 7342(h) of title 5 of the United States Code.

"(c) Provisions of law prohibiting the use of any part of any appropriation for the payment of compensation to any employee or officer of the Government of the United States who is not a citizen of the United States shall not apply to the payment of compensation to scientific or engineering personnel of the National Bureau of Standards."

REPEAL OF LIMITED AUTHORIZATION

SEC. 13. Section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278h), is further amended by: (1) repealing subsection (b); and (2) removing the designation "(a)" from the remaining paragraph.

SEC. 14. The effective date of section 11 and section 12 of this Act shall be October 1, 1980.

Amend the title so as to read: "An Act to authorize appropriations to the Director of the National Bureau of Standards for fiscal year 1981, and for other purposes.".

UP AMENDMENT NO. 1699

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate concur in the amendments of the House with further amendments, which I send to the desk.

The **ACTING PRESIDENT** pro tempore. The amendments will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CANNON, proposes an unprinted amendment numbered 1699.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the House of Representatives, substitute the following:

That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982."

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce, hereinafter referred to as the Secretary, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, for fiscal year 1981, $44,161,000, and for fiscal year 1982, $52,577,000;

(2) Engineering Measurements and Standards, for fiscal year 1981 $21,516,000, and for fiscal year 1982, $24,667,000;

(3) Computer Science and Technology, for fiscal year 1981, $11,603,000, and for fiscal year 1982, $12,263,000;

(4) Core Research Program for Innovation and Productivity, for fiscal year 1981, $12,800,000, and for fiscal year 1982, $18,080,000;

(5) Technical Competence Fund, for fiscal year 1981, $6,176,000, and for fiscal year 1982, $8,794,000;

(6) Fire Research Center, for fiscal year 1981, $1,253,000, and for fiscal year 1982, $1,378,000;

(7) Central Technical Support, for fiscal year 1981, $10,112,000, and for fiscal year 1982, $24,623,000.

(b) Notwithstanding any other provision of this or any other Act, for fiscal years 1981 and 1982:

(1) of the total amount authorized under subsection (a)(1), not less than $245,000 shall be available for the "Environmental Measurements Program" for fiscal year 1981 and $270,000 for fiscal year 1982;

(2) of the total amount authorized under subsection (a)(2), not less than $425,000 shall be available for the purpose of "Earthquake Hazards Engineering" for fiscal year 1981 and $475,000 for fiscal year 1982;

(3) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than $1,000,000 shall be available for "Measurement Standards for the Handicapped" for fiscal year 1981 and $1,100,000 for fiscal year 1982;

(4) of the total amount authorized under subsection (a)(4), $2,000,000 is authorized for the purpose of "Automated Manufacturing Research Facility" for fiscal year 1981 and $4,000,000 for fiscal year 1982; and

(5) of the total of the amounts authorized under subsections (a)(4) and (a)(7), not more than $6,123,000 shall be available for "Transfer to Working Capital Fund" for fiscal year 1981, and of the total of the amounts authorized under subsections (a)(1), (a)(2), a(4), and (a)(7), not more than $11,245,000 shall be available for "Transfer to Working Capital Fund" for fiscal year 1982.

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, there is authorized to be appropriated not more than $400,000 for fiscal year 1981, and not more than $500,000 for fiscal year 1982, for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, there is authorized to be appropriated the sum of $8,140,000 for fiscal year 1981, and the sum of $9,920,000 for fiscal year 1982, for the Assistant Secretary of Commerce for Productivity, Technology, and Innovation to carry out activities performed by the National Technical Information Service.

SALARY ADJUSTMENTS

SEC. 5. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal years 1981 and 1982, and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from section 4 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 6. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

TRANSFER OF FUNDS

SEC. 7. Funds may be transferred among the line items listed in section 2(a), but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in section 2(a), unless:

(1) thirty calendar days have passed after the Secretary or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explana-

tion of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days the chairmen of both the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have written to the Secretary to the effect that they have no objection to the proposed transfer.

FACILITIES IMPROVEMENT

SEC. 8. Section 14 of the Act of March 3, 1901 (15 U.S.C. 278(d)) as amended, is further amended by striking out "$75,000" and inserting in lieu thereof "$250,000".

INTERNATIONAL ACTIVITIES

SEC. 9. In order to develop and strengthen the expertise of the National Bureau of Standards in science and engineering, to enhance the Secretary's ability to maintain the Bureau's programs at the forefront of worldwide developments in science and engineering, and to cooperate in international scientific activities, the Act of March 3, 1901 (15 U.S.C. 271–278h), as amended, is further amended by inserting immediately after section 16 the following new section:

"SEC. 17. (a) The Secretary is authorized, notwithstanding any other provision of law, to expend such sums, within the limit of appropriated funds, as the Secretary may deem desirable, through the grant of fellowships or any other form of financial assistance, to defray the expenses of foreign nationals not in service to the Government of the United States while they are performing scientific or engineering work at the National Bureau of Standards or participating in the exchange of scientific or technical information at the National Bureau of Standards.

"(b) The Congress consents to the acceptance by employees of the National Bureau of Standards of fellowships, lectureships, or other positions for the performance of scientific or engineering activities or for the exchange of scientific or technical information, offered by a foreign government, and to the acceptance and retention by an employee of the National Bureau of Standards of any form of financial or other assistance provided by a foreign government as compensation for or as a means of defraying expenses associated with the performance of scientific or engineering activities or the exchange of scientific or technical information, in any case where the acceptance of such fellowship, lectureship, or position or the acceptance and retention of such assistance is determined by the Secretary to be appropriate and consistent with the interests of the United States. For the purposes of this subsection, the definitions appearing in section 7342(a) of title 5 of the United States Code apply. Civil actions may be brought and penalties assessed against any employee who knowingly accepts and retains assistance from a foreign government not consented to by this subsection in the same manner as is prescribed by section 7342(h) of title 5 of the United States Code.

"(c) Provisions of law prohibiting the use of any part of any appropriation for the payment of compensation to any employee or officer of the Government of the United States shall not apply to the payment of compensation to scientific or engineering personnel of the National Bureau of Standards.".

REPEAL OF LIMITED AUTHORIZATION

SEC. 10. Section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278h), is further amended by: (1) repealing subsection (b); and (2) removing the designation "(a)" from the remaining paragraph.

EFFECTIVE DATE OF ORGANIC ACT AMENDMENTS

SEC. 11. The effective date of sections 8 and 9 of this Act shall be October 1, 1980.

Amend the title so as to read: "An Act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1981 and 1982, and for other purposes.

● Mr. CANNON. Mr. President, the Senate has before it today S. 2320, a bill to authorize appropriations for the National Bureau of Standards for fiscal years 1981 and 1982.

S. 2320 originally passed the Senate on May 9, 1980, and the House passed a somewhat different version on July 21, 1980. The differences are not major, and the amendments to S. 2320 under consideration today represent a compromise between the two versions. By accepting these amendments, it will be unnecessary to establish a formal conference committee since the House should concur.

As an effort to maintain the technical excellence of the U.S. oldest national laboratory, the Committee on Commerce, Science, and Transportation seeks systematic oversight of the National Bureau of Standards. S. 2320 will support this effort, and I appreciate the House indication that they are willing to agree to a 2-year rather than a 1-year reauthorization.

The House also is willing to defer consideration of a provision in their bill dealing with "proportionality." The version of S. 2320 passed by the House contained a provision for a proportional allocation of appropriated funds among authorized programs in the event that a difference exists between authorizations and appropriations. Specifically, the provision would have required that unless otherwise explicitly stated in the text of an appropriations bill, any line item within an authorization would be funded at a level proportional to the ratio of total program appropriations to total program authorizations.

The House provision addresses an important issue; namely, the problem of apportioning appropriated funds among authorized programs, which I believe should be considered in future authorizing legislation. The problem is twofold. First, it is necessary to define the functions of authorizations and appropriations to the mutual satisfaction of both legislative and appropriating committees. A second aspect of the problem concerns how the Executive is to allocate funds among authorized programs in the absence of a specific appropriation. This provision is explained in detail in House Report No. 96–949.

The Senate did not have the opportunity to consider the implications of this House proposal. Hence the compromise amendment which we consider today omits that specific provision. However, the omission of that provision should not be interpreted to suggest that there is no problem in reconciling the funding levels contained in authorizing legislation with the appropriated levels.

Neither the House nor the Senate Committees have had a problem in this regard in considering the budget of the National Bureau of Standards. The House Committee on Science and Technology has had difficulties with the budgets of other agencies and, therefore, is making an effort to avoid problems involving all other programs under their jurisdiction. I appreciate their alerting us to the possibility of such problems and plan to work with them in future authorization legislation in addressing questions of budget reconciliation.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment (UP No. 1699) was agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WILLIAM S. MOORHEAD BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 8161 and that the Senate proceed to its immediate consideration. I make this request on behalf of Mr. RANDOLPH.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8161) to designate the United States Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Building."

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 8161) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

LAX U.S. ACCOUNTING METHODS

Mr. SASSER. Mr. President, billions of Federal dollars are lost annually through fraud, abuse, waste, and error.

GAO FINDINGS

Repeatedly, the General Accounting Office finds weaknesses over virtually all aspects of accounting operations—accounts receivable, collections, disbursements, obligations, and imprest funds—that allow monetary losses to occur. These losses occur because many of the 2,000 fiscal offices throughout the Federal Government disregard basic fiscal control procedures prescribed in manuals published by the General Accounting Office, Treasury, and their own agencies which are designed to safeguard their financial resources.

EPA EXAMPLE

Sometimes, agencies are not even using sound judgment in making disbursements. For example, several Environmental Protection Agency offices had routinely made disbursements without determining if the amount of payment and name of payee were correct.

LABOR DEPARTMENT EXAMPLE

In another case, GAO auditors found that in May 1978, Department of Labor fiscal offices had not recorded $218 million as accounts receivable due the Government. Consequently, no efforts were being made to collect that amount.

NAVY DEPARTMENT EXAMPLE

In other cases, agencies failed to check the accuracy of vouchers before issuing checks for such elementary items as the amount of the payment; the name of the payee; whether the payment duplicates another; and the quantities, prices, and amounts on the vouchers. For example, GAO auditors found that employees of the Pacific Fleet averaged a 13-percent error rate when processing vouchers during a 2-month test in 1978, resulting in $710,300 in overpayments and $17,600 in underpayments.

EXAMPLES OF DELINQUENT DEBTS

GAO auditors found that most agencies were not following up on delinquent debts. At one fiscal office at the Health Services Administration, only one bill had been sent to each debtor. When partial payments were received, no second billing was made for the balance due. In fact, no action was taken even when the debtor paid nothing. The amounts owed were not rebilled, nor was any demand letter or other followup communication sent.

At the American Embassy in Paris, employees owed over $11,500 for personal telephone calls. Some amounts had been outstanding for over 9 months and a few individuals owed a large portion of the amount. One employee owed over $1,700. An April 1978 State Department inspection report called attention to this and recommended that the Embassy collect for personal phone calls within 5 working days. Embassy officials agreed. However, when the GAO later reviewed the matter, the Embassy had not yet enforced the collection procedure.

OMB EFFORTS

Last year, the Federal Office of Management and Budget launched a financial priorities program designed to resolve major weaknesses in agency systems of financial management and control. In a report dated April 18, 1980, the Director of the Office of Management and Budget noted that 20 such fund control systems had been upgraded and approved by OMB. However, much more needs to be accomplished.

COSPONSOR S. 3026

All of this, Mr. President, leads me to believe that a legislative solution is necessary. Incident after incident of ineptitude is being followed on by monumental indifference by the Federal agencies involved. Consequently, I am joining Senators EAGLETON, PERCY, and MATHIAS in sponsoring S. 3026, the Financial Integrity Act of 1980. This legislation has bipartisan support and would place greater responsibilities on heads of Federal agencies for improving their agencies' financial control systems. I urge my colleagues to join in this effort.

THE FRAUD HOTLINE

Mr. SASSER. Mr. President, I take this opportunity to report to my colleagues on the progress of the fraud hotline established January 1979.

My colleagues will recall that this hotline was established at my request, and with the strong support of the former ranking member of our Legislative Appropriations Subcommittee, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER).

The hotline was installed at the General Accounting Office with the cooperation of Comptroller General Elmer Staats.

I first made the suggestion for the hotline at a December 4, 1978, hearing which we conducted on fraud in Government.

The hotline allows any concerned citizen with knowledge of fraud and abuse—in any Federal program—to report that knowledge to a General Accounting Office Special Task Force for the Prevention of Fraud. The anonymity of any caller will be respected; the name of the caller need not be given to the task force. In 67 percent of the cases, the caller has chosen to remain anonymous.

Mr. President, I ask unanimous consent that the fraud hotline number be printed in the RECORD.

There being no objection, the number was ordered to be printed in the RECORD, as follows:

FRAUD HOTLINE

The national toll free hotline is 800-424-5454. In the Washington, D.C., metropolitan area the number is 633-6987.

WIDESPREAD REPORTS OF WRONGDOING

Mr. SASSER. Mr. President, the instances of alleged intentional wrongdoing is widespread throughout the Federal Government. Intentional wrongdoing has been reported involving the funds of every one of the 13 Cabinet departments of the Federal Government. These cases involve activity in all 50 States and the District of Columbia.

REFERRAL OF CASES TO AGENCY INSPECTORS GENERAL

Mr. President, we are now getting close to the bottom line. I hope my colleagues will be encouraged to hear that the General Accounting Office has already referred 4,984 of these cases to agency Inspectors General or directly to the Justice Department for their action.

What this means is that there are 4,984 cases of intentional wrongdoing now in the hands of the Inspectors General—cases that probably would never have been investigated had it not been for the establishment of the fraud hotline in January 1979.

LIST OF REFERRALS

I ask unanimous consent that an agency-by-agency list of the 4,984 cases that have been referred to agency Inspectors General or their equivalents be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Department or agency and cases referred	
Health, Education, and Welfare	1,200
Labor	440
Housing, Urban Development	350
Defense	709
IRS	544
Veterans Administration	230
General Services Administration	195
Agriculture	239
Post Office	115
Interior	133
Environmental Protection Agency	71
Transportation	120
Energy	58
Commerce	61
Justice	135
Treasury	83
Small Business Administration	48
NASA	21
Law Enforcement Assistance Administration	22
GAO	34
Community Services Administration	57
Tennessee Valley Authority	22
Other	97
Total referrals	4,984

ALLEGATIONS SUBSTANTIATED

Mr. SASSER. So far, Mr. President, 317 of the allegations have been substantiated. This has resulted in recoveries of approximately $9.4 million to the Federal Government, with several criminal prosecutions currently in progress. Administrative actions have been taken in many other cases.

HOTLINE CASE EXAMPLES

Mr. President, I wish to call to the attention of my colleagues some hotline case examples. These examples show that the efforts of the Fraud Task Force are beginning to bear fruit in terms of eliminating waste, abuse, fraud, error and restoring integrity to the operations of Government.

Mr. President, I ask unanimous consent that 14 case examples be printed in the RECORD at this point.

There being no objection, the examples were ordered to be printed in the RECORD, as follows:

EXAMPLES

DEPARTMENT OF LABOR EXAMPLE

Allegation: The caller alleged misappropriation of CETA grant funds by a State Consortium. Approximately $600,000 was alleged to have been spent illegally without any approval by the prime sponsor.

Result: This allegation was substantiated by the Department of Labor, and they are now in the process of obtaining restitution from the prime sponsor.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT EXAMPLE

Allegation: The caller alleged that individuals who had moved out of the Pumpkin Hill Apartment project in Laurel, Maryland, which is a HUD rent subsidized apartment complex, were continuing to use their old address in order to receive the rent subsidy. The informant stated that part of the rent subsidy was being kicked back to the apartment management.

Result: Although unable to substantiate the specific allegation, while HUD-IG was conducting this inquiry, they found the books at the apartment project to be in poor order. Because of this, a HUD Inspector General's internal audit was conducted. This report found widespread misappropriation of funds and mismanagement at the complex. The audit report disallowed about $20,000 in expenditures and question over $450,000 in costs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE EXAMPLE

Allegation: The caller alleged that a fellow construction worker in Oklahoma and a member of the local union was receiving welfare even though he was employed. The caller alleged that the individual was able to do this because he used his brother's social security number for employment purposes and collects welfare under his own social security number.

Result: Upon investigation, these allegations were substantiated and charges will be filed in the near future.

VETERANS ADMINISTRATION EXAMPLE

Allegation: A VA physician assigned to a VA medical center in Pennsylvania, was operating an afternoon private practice when he should have been on duty at the center.

Result: The physician has been reprimanded by his director, charged for annual leave for all the unauthorized time off, and is now required to report his time in and out of the center.

VETERANS ADMINISTRATION EXAMPLE

Allegation: A disabled veteran collecting 100 percent disability and considered by the VA to be unemployable due to his handicap, was actually employed in Texas as a private park manager. He showed his wife on the payroll as being the park manager, (when in fact she was not working) to "cover up" to the Government that he was employed.

Result: The VA has suspended all benefits to the veteran after their investigation based upon the GAO Hotline referral.

BUREAU OF PRISONS EXAMPLE

Allegation: The caller alleged various fraudulent activities at a State Penintentiary by the Superintendent and his associates. These included misappropriation of funds from education vouchers, buying of paroles and personal use of Government property. These people were also alleged to have ties with organized crime.

Result: This allegation was referred by the U.S. Department of Justice to the State Division of Criminal Justice which was then investigating similar State violations. The investigation did not uncover sufficient evidence to warrant prosecution but the results were referred to the State Ethical Standards Commisison. As a result, the Superintendent and other officials have been removed or forced to resign.

GENERAL SERVICES ADMINISTRATION EXAMPLE

Allegation: The caller alleged that half of the 19th floor (a space 60'x300' or 18,000 sq. ft.) in a New York City commercial building which the General Services Administration (GSA) rented for a Federal Agency, has remained vacant and unused for the past year and a half. The caller believed that this was an example of Government mismanagement and waste.

Result: The General Services Administration, Inspector General's Office, inspected the commercial building and found there was unused or underutilized space in excess of 20,000 square feet. The inspection found that this situation has existed 15 months. Based on the rental rate the Inspector General believes approximately $300,000 was spent on the space in question. This matter is currently under review by the GSA administration.

DEPARTMENT OF JUSTICE EXAMPLE

Allegation: The caller alleged that the manager of a garment factory in Los Angeles, California, is employing illegal aliens. The caller also alleged one of the aliens used his American born son's name and social security card.

Result: Because of the hotline allegation, the Immigration and Naturalization Service was able to obtain a search warrant and subsequently apprehended six illegal aliens. In addition, the man who used his son's social security card was arrested and admitted using the card.

DEPARTMENT OF TREASURY EXAMPLE

Allegation: The caller alleged that a secretary in the Office of the Secretary of Treasury was falsifying her time cards as to hours worked, sick leave and annual leave.

Result: The allegation was substantiated after investigation by the Treasury Inspector General's Office and the case referred to the local United States Attorney for prosecution. The individual was prosecuted and the total amount of the restitution is being discussed. The individual is no longer employed by the Federal Government.

COMMUNITY SERVICES ADMINISTRATION EXAMPLE

Allegation: The caller alleged that a CSA funded project was using Federal funds received for program operations to purchase land and equipment worth over $600,000, then liquidating the items for their personal use.

Results: Investigation by CSA substantiated the allegations and the project has been defunded. The FBI and IRS have assumed control of the case under the direction of the local United States Attorneys Office.

DEPARTMENT OF THE NAVY EXAMPLE

Allegation: The caller alleged that a Navy Data Automation Center was wasting Government funds by not processing Maintenance Credits for processing time which is lost due to mechanical breakdown or other causes which preclude use of leader computers. According to the caller, Maintenance Credits have not been submitted in 5 years although the computers have been down for longer periods than the contract allows.

Result: Naval auditors substantiated these allegations and have recommended that the Data Center identify all hardware and software downtime credit due and submit that total to contractors for recoupment. To date, a total of $12,969 has been recouped at this installation. The center has implemented auditor's recommendation to ensure accurate records to support downtime credits. Audit being expanded to other Navy Data Processing installations.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE EXAMPLES

Allegation: The caller alleged that a recipient of welfare assistance for the past 6 years has been working full time but not reporting this income.

Result: The investigation substantiated the allegations. The recipient was receiving welfare payments of $431 per month while earning an additional $800 per month. The case has been referred to the local prosecutor's office for action.

GENERAL SERVICES ADMINISTRATION EXAMPLE

Allegation: The caller alleged that work currently underway to modify a GSA controlled facility to make it accessible to handicapped persons, was probably unnecessary because the building in question was a warehouse not open to the public, and none of the employees were handicapped. It was estimated the modifications to the building to install a special elevator and toilet facility was $70,000.

Result: Upon investigation, since the building was a warehouse not open to the public, the Regional Administrator stopped the project.

DEPARTMENT OF THE ARMY EXAMPLE

Allegation: The caller alleged that a civilian foreman in the Maintenance Department at a Corps of Engineers installation was stealing supplies and equipment to operate a private business which he ran from his Government office.

Result: Preliminary investigation by the Army found probable cause to believe that the individual was involved in the theft of Government equipment and the investigation has been assumed by the FBI.

CONCLUSION

Mr. SASSER. Mr. President, the examples I have cited are but a few of the many hotline calls that have been followed up so far. Many more are being investigated and some cases have already been referred to the Justice Department for possible prosecution.

Mr. President, I join with the distinguished and able chairman of the Senate Committee on Appropriations (Mr. MAGNUSON) and ranking minority member, our distinguished friend (Mr. YOUNG) in urging the various agency Inspectors General to actively follow these cases to their conclusion.

The Comptroller General, Mr. Elmer Staats, the head of the fraud task force, George Egan, and the staff of the hotline unit under Bob Meyer are to be commended for their very fine efforts to reinstill a sense of integrity in Federal Government operations.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

RECOGNITION OF SENATOR CHAFEE

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for not to exceed 15 minutes.

THE INTELLIGENCE IDENTITIES PROTECTION ACT OF 1980

Mr. CHAFEE. Mr. President, from the time George Washington dispatched Benjamin Franklin to France in 1776, the Government of the United States has sent American citizens abroad on difficult and dangerous missions in pursuit of the goals of our Nation. Franklin's secret mission to France was instrumental in securing European support for the fledgling American Revolution, and he risked being hanged for treason by the British if captured.

It was fortunate for our Nation that Franklin was not apprehended on his way to France by the two British warships sent to intercept him at the mouth of the Delaware River. It was also fortunate for our Nation that the treachery of another American, Dr. Edward Bancroft, who served both as Franklin's principal secretary and as a double agent for the British, was unable to destroy his vital mission for America. For Franklin would eventually secure the treaties of amity and commerce, and of alliance, with France which provided sustenance and support to our new-born Nation.

Mr. President, the growth of this great Republic over the course of 2 centuries has not diminished our need for clandestine operatives and operations abroad. Now, more than ever, we need to know what is going on in the world so that our leaders can make informed decisions. That is why, in 1947, the assignment of clandestine agents abroad was institutionalized by President Truman with the formation of the Central Intelligence Agency, and a permanent cadre of covert agents was created. Intelligence collection and the assignment of American agents—our fellow citizens—to posts abroad have had the support of every administration and every Congress, including this one that is in session, since 1947.

In the last 5 years, however, certain Americans have made a profession of ferreting out the identities and publishing the names of our agents, with the result that their lives and the lives of their families and friends are placed in jeopardy. Richard S. Welch, the CIA station chief in Athens, a resident of Providence, R.I. was murdered as a result of this "naming names." The lives of others have been threatened, the most recent being on July 4 of this year, when, in Jamaica, one of those named as an agent was Mr. Richard Kinsman. His home was shot up, a bomb was placed outside his house, and it was only, fortunately, because of the absence of his family that no one was killed or wounded. Yet there is no law on the books today under which this activity of "naming names" can be prevented.

Mr. President, this is an intolerable situation. The Congress has a responsibility to place criminal penalties on those who are in the business if exposing our agents without, at the same time, threatening the critic of intelligence policy or the journalist who might reveal the name of an agent in the course of a news report.

We in no way want to threaten a critic of our foreign policy or our intelligence policy. We in no way want to inhibit journalists who might reveal the name of an agent in the course of a news report. Those are not the people we are trying to get at. In the judgment of the administration and the intelligence committees of this Congress, the Intelligence Identities Protection Act of 1980 meets this dual standard of protecting freedom of the press and freedom of speech and, at the same time, protecting the lives of our agents.

Mr. President, the opponents of this bill claim that its passage would threaten any journalist or editor who decides to publish "lawfully obtained information about intelligence agencies." This is blatantly false and misleading. The Intelligence Identities Protection Act would criminalize, under very limited circumstances, only the authorized disclosure of information identifying certain individuals engaged or assisting in the foreign intelligence activities of the United States. The legislation does not assault the first amendment. It does not threaten public discussion. It will not stifle debate about our country's foreign policy or intelligence activities, and it would not prevent the exposure of allegedly illegal activities or abuses of authority.

Disclosures of intelligence identities by persons who have not had authorized access to classified information would be punishable only under specified conditions, which have been carefully crafted and narrowly drawn so as to make the act only applicable to those engaged in an effort or pattern of activities designed to identify and expose intelligence personnel.

Not only has the crime been narrowly drawn in the Senate bill, but a series of elaborate defenses against prosecution have been erected to protect the journalist and intelligence critic. For example, in a prosecution, the Government would have to prove each of the following elements beyond a reasonable doubt:

First, that there was an intentional disclosure of information which did in fact identify a "covert agent;"

Second, that the disclosure was made to an individual not authorized to receive classified information;

Third, that the person who made the disclosure knew that the information disclosed did in fact identify a covert agent;

Fourth, that the person who made the disclosure knew that the United States was taking affirmative measures to conceal the covert agent's classified intelligence affiliation;

Fifth, that the disclosure was made in the course of a pattern of activities that was intended to identify and expose covert agents; and

Sixth, that the person making the disclosure had reason to believe that his activities would impair or impede the foreign intelligence activities of the United States.

Mr. President, what further defenses against prosecution could be asked for by those who claim they have first amendment concerns? What more can be done to protect the legitimate journalist and critic of intelligence policy than to provide this long and detailed sequence of specific defenses?

A careful examination of the issues and a weighing of the clear and present danger to our Nation's intelligence capabilities resulting from unauthorized disclosures of intelligence identities against the carefully and narrowly drawn prohibition in the Intelligence Identities Protection Act has resulted in overwhelming approval of this legislation by the Senate Intelligence Committee. Members of this committee have closely examined the contending arguments and have concluded that this legislation can help prevent damage to our crucial intelligence sources and methods of collection without impairing civil or constitutional rights.

Furthermore, this bill has the strong support of the Justice Department and of the administration.

I believe that the vast majority of the American people know that an effective intelligence service is essential to national survival in an increasingly unstable world. Passage of the Intelligence Identities Protection Act will be an important protection for our intelligence officers in the field who daily sacrifice the comforts of home to serve their country under difficult and dangerous circumstances, and to those around the world who risk liberty and life itself to cooperate with our country in keeping our leaders, and those of the free world, well informed.

Mr. President, I urge my colleagues to act on this vital piece of legislation before more names are named, before more lives are threatened and before more missions are destroyed. I find it ironic that those who oppose this legislation for constitutional reasons, feeling it impinges upon the rights of free speech or a free press, will not let us, the elected representatives of the people, at least debate the legislation on the floor and take a vote. Let us have a discussion on the free marketplace. Let us have the competition of ideas and arrive at a decision.

I know the exigencies which the majority leader and the minority leader are working under. I know the press of business to complete activity so we can adjourn, or at least recess, for the election.

But, Mr. President, it would be my hope, if we cannot get to this bill before we recess on October 3, or whenever it is, that we can take it up when we return.

I see the distinguished majority leader is here. I wonder if he has any help he might give me on this, any illumination, because I think it is important. I know he has given consideration to it. I know that as a member of the Intelligence Committee, he has given a lot of thought to these problems.

All I wish to say, Mr. President, is that if there are holds on the bill, I hope they will not prevail forever and, if we cannot do it now, we should take it up when we return. If it takes some time, so be it. I think it is an important measure. Let us debate it out.

If there are problems with the first amendment, all right. Let us hear them set forth, and then finally go to a vote on it.

That would be my hope, Mr. President.

I wonder if the majority leader could help me on this at all while he is here. I wonder if he can give us any predictions on what might possibly happen.

Mr. ROBERT C. BYRD. I can only say to the distinguished Senator, I very much favor legislation in this field.

There are problems, as I understand it, between the Intelligence Committee and the Judiciary Committee, and they have been trying to work those problems out. At the moment, they have not resolved them. But I would hope such problems could be resolved and that the Senate could, in due time, take up the legislation.

Mr. CHAFEE. I thank the majority leader.

I certainly hope we can. This is important. It is true, as he so rightly points out, that the Judiciary Committee has had problems. They have considered the legislation now on the floor.

What will transpire is that the bill, as it emerged from the Intelligence Committee, will be the bill we consider, and then the Judiciary Committee will have amendments.

That is all right. All I hope is we can get to it and vote on the amendments, debate them and vote them.

I hope these amendments will not pass and that the bill, as it emerged from the Intelligence Committee, will be the bill that passes here on the floor. But we must get to it.

Mr. BAKER. Will the Senator yield briefly?

Mr. CHAFEE. Yes.

Mr. BAKER. I, too, hope a bill passes addressing this subject. While it does not appear likely it will be done today or tomorrow, when I hope we will be able to adjourn in accordance with the resolution passed by the Senate, I assure the Senator from Rhode Island that I agree with the need for this legislation and I will do my best, at the earliest moment, to see it comes to a vote so that the Senate can work its will.

Mr. CHAFEE. I thank the distinguished minority leader for that assistance.

I know both leaders are concerned about this issue. I had an opportunity to discuss it in some detail with them. It is my hope if, as appears unlikely, we cannot handle it before we leave, then when we return it will be possible.

Let us discuss the merits or demerits of the bill here on the floor—in a free trade of ideas. Let there be the competition of the market. Let us arrive at what is best. Above all, let this bill—S. 2216—come to the floor so we might vote on it.

Mr. President, I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I think that few argue with our colleague from Rhode Island or can match his depth of intensity with regard to this issue. We understand what he is telling us, and it is a critical issue that we must address.

Mr. President, I wish to add to what my colleagues have already stated concerning S. 2216, the Intelligence Identities Protection Act of 1980, by briefly outlining for the Senate the effect of the four amendments adopted by a narrow majority of the Judiciary Committee. In essence these amendments effectively gut the bill by creating loopholes which permit a continuation of the flagrant and intentional exposure of covert intelligence employees and agents by individuals whose purpose in so doing may well be to destroy our Nation's capability of collecting foreign intelligence from clandestine sources.

I realize that perhaps there are certain of my colleagues who really believe in their hearts that it is inappropriate for this Nation to engage in undercover intelligence activities. I admire them for their idealism, and I only wish that the United States could exist in a world of reason, devoid of hostility and dedicated to the fair resolution of differences.

Unfortunately, we do not live in such a world: indeed, the world we find about us abounds with those who would, if it were in their power, see that our Nation and our very way of life is destroyed. These hostile elements in the world are more than willing to avail themselves of any means in seeking their ends, and we would be hard pressed to withstand their efforts were it not for our ability to collect clandestine intelligence information.

I ask those who may oppose in principle the existence of a clandestine intelligence collection service to accept that a significant majority of the people of this country and of their colleagues are committed to the preservation of a clandestine intelligence service and to its protection from those who wish to render it ineffective.

Unfortunately, those outside this Chamber who would destroy our ability to conduct clandestine intelligence collection activities are swift to justify that these actions are protected by the first amendment. But the first amendment only protects those who exercise their legitimate rights of commentary and criticism and not those whose pattern of activities inevitably leads to the publication of list after list against identities—the naming of names. The line had been well drawn in the bill as reported by the Intelligence Committee, and I might add, with sufficient clarity to give fair and full warning of what actions are beyond the protection of the first amendment.

To those of my colleagues who exhibit concern that this bill transcends the limits of the first amendment, I ask how can that be? The first amendment exists—it is there—and no legislation that Congress passes can effect the valuable protections that it affords. Let us then prohibit the flagrant and intentional identifying of agents that so greatly damages this Nation's ability to collect foreign intelligence and that so clearly endangers the lives and safety of the agents themselves and their families. Such actions are clearly outside the scope of the first amendment and should be prosecuted.

In an attempt to crater this bill and to render its operative provisions ineffective, a narrow majority on the Judiciary Committee has adopted four amendments. The total effect of these four amendments is to create enough loopholes and impediments to prosecution in order to insure that the activities originally prohibited may continue unabated with only minor changes in form.

Section 501(c) of the bill was carefully crafted to protect legitimate publishing activities and to prosecute the obvious and flagrant exposures of intelligence identities—the "naming of names"—that is intended solely to cripple the ability of our intelligence agencies to undertake the essential clandestine collection of intelligence information. As amended by the Judiciary Committee, section 501 (c) now precludes any possibility of prosecution for flagrant exposures as long as the individual or organization publishing such information can effectively claim that a prior publication—no matter how obscure the source or where published—took place.

Consequently, those irresponsible publishers who would violate the spirit of this legislation have only to enlist the cooperation of a foreign periodical in order to continue their exposures of the identities of this Nation's covert intelligence employees and agents. Although such cooperative efforts may arguably be an illegal conspiratorial activity, it would be an extremely difficult task to discover and prove the existence of such a conspiracy.

The committee has also adopted by amendment a new subsection (e) to section 502 that makes it a defense to prosecution if even the flagrant exposures are:

> An integral part of another activity such as news reporting of intelligence failures or abuses, academic study of government policies and programs, enforcement by a private organization of its internal rules and regulations, or other activities protected by the first amendment to the Constitution.

Arguments were made that the amendment was intended only to guarantee first amendment rights for the specific activities noted—news reporting, academic studies and private organization activities—and any other activity construed to be protected by the first amendment. As my colleague on the Judiciary Committee, former judge and now Senator HOWELL HEFLIN, now presiding, stated, "How do you legislate what is included in considerations of the first amendment?" That is a good question. and it should give one serious reservations. Joined by my colleagues, I offered a modification to the amendment which would simply have eliminated the specific enumerations and given a broad protection under the first amendment as follows; "(e) It shall not be an offense under subsection (c) of section 501 if the disclosure of the information described in such subsection is protected by the first amendment to the Constitution".

Why make any specific exceptions? Activities are either covered by the first amendment to the Constitution or they are not. That is for the courts to decide—not for the Congress. This committee amendment is a total distortion of any previous concept of first amendment considerations.

These amendments are apparently the creation of the fertile minds of overzealous staff members of the American Civil Liberties Union. They lost unnecessary sleep in their efforts. The amendments serve no purpose other than to undermine this legislation under the guise of an expressed concern for first amendment rights. Such rights are already guaranteed, and absolutely no legislative efforts we undertake in that regard will have—or ever should have—any effect on those clear rights.

The committee also adopted an amendment that would exclude the Peace Corps and the Agency for International Development from those agencies of Federal Government that are available to provide "official cover" to undercover employees of our intelligence agencies. Traditionally, the Peace Corps has never provided—and should not provide—such cover and it is effectively precluded from doing so by statute. The Agency for International Development has not provided cover in the past few years but is not precluded by statute from doing so.

I object to the specific statutory exemption of any Federal agency from being able to provide cover for intelligence agency employees for two reasons: First, it makes it easier for unauthorized personnel to determine which overseas United States employees are intelligence employees, thus making their cover almost transparent; and second, it unnecessarily reduces the flexibility which must be available to the President in the conduct of foreign intelligence information gathering.

In certain circumstances the use of cover within a specific agency may well be essential to the collection of some type of foreign intelligence information, and the President should always have the power to authorize the use of such cover when necessary. I do not wish to revoke the Peace Corps statutory exemption, since the number of Peace Corps volunteers and employees are so few and their access to foreign sources of worthwhile intelligence information is so very limited. But I do not wish to establish any further exemptions that will only make the problems associated with adequate intelligence cover that much more difficult to overcome.

Additionally, the "Judicial Review" amendment adopted by the committee is far too broadly written and it can only result in an endless flurry of court cases. All manner of individuals or institutions, regardless of standing, will be able to initiate "such actions as may be appropriate" in construing the constitutionality of any provision in this bill.

I believe that such an expedited review procedure can and should be accomplished within the context of each actual case in controversy and it is not a necessary nor advisable provision to have in this legislation.

In summary, Mr. President, the amendments adopted by the narrow majority on the Judiciary Committee serve only to cloud and distort the purpose of this very necessary legislation. I ask my colleagues to immediately request the Senate's consideration of this bill and reject the amendments proposed by the Judiciary Committee.

Mr. CHAFEE. I thank the distinguished Senator from Wyoming.

Mr. President, I wish to make it clear that I am confident that those in the Judiciary Committee who voted for the amendments had a concern about our intelligence services abroad; but I believe that the reason they voted against our bill or for their amendments was their concern that it impinged upon the first amendment. In other words, I would not want the impression to go out that those who voted for the amendments were opposed to clandestine activities of the United States abroad, and I do not believe that the Senator meant to imply that.

There are in our Nation those who believe that there should not be any covert activities by the United States abroad. However, I do not believe that our fellow Senators are of that view. In their decision, I believe that their concern was primarily about the first amendment.

The distinguished Senator from Wyoming was there, and I believe he will bear me out in that appraisal of the votes against the bill or, as it were, votes for the amendments in the Judiciary Committee.

Mr. SIMPSON. Mr. President, I concur in my colleagues observation, yet it is entirely possible that there may be one or two of our colleagues who do not believe that clandestine intelligence activities should be conducted by a democratic or republican form of government—depending on which side one might be. That is true. Nevertheless, the number of such Senators would be very few.

The concern of the first amendment was very real. It was felt that there was no need to limit it legislatively. You cannot limit the first amendment legislatively. There is no way to do that.

Mr. CHAFEE. I thank the Senator.

Mr. President, I yield back the remainder of my time.

● Mr. KENNEDY. Mr. President, in light of the remarks of Senator CHAFEE and Senator SIMPSON this morning, I should like to explain briefly the action taken by the Judiciary Committee when it considered S. 2216, the Intelligence Identities Protection Act. The committee sought not to interfere with the bill's basic purpose—the protection of covert intelligence agents from disclosure. The committee introduced language designed to clarify the bill's intent, namely protecting the identity of such agents without interfering with legitimate press activity or rights protected by the first amendment to the Constitution.

The purpose of the bill is to protect CIA and other covert agents from injury caused by disclosing their names. The bill has two basic parts. The first part would make it a crime for people with access to classified information to disclose the names of covert agents. The second part would make it a crime to disclose the names of covert agents, even if the information comes from nonclassified sources.

It is this second part of the bill, as reported by the Intelligence Committee, that aroused the committee's concern. We felt that, as written, it risked unwarranted interference with press freedom. It risked chilling political debate which the Constitution requires to remain "uninhibited, robust, and wide-open." It did so, in our view, because it was drafted more broadly than needed to achieve its purposes. The Intelligence Committee's language might prevent the press from bringing to the attention of the public activity which may constitute a serious abuse of the CIA's authority—a coup d'etat, unlawful violence, or other wrongful acts. Yet, it is the very object of the first amendment to allow public debate about just such activities.

I am aware that the Intelligence Committee has tried to deal with this problem by limiting the second part of the bill to disclosures which are made "in the course of a pattern of activities" and made "with reason to believe" that they will "impair or impede the foreign intelligence activities of the United States." The problem with this language is that it is too broad and too vague. A newspaper would always have reason to believe that any disclosure, no matter how legitimate, could, in some way or other, interfere with intelligence activities. But, sometimes such disclosure is desirable, indeed necessary, when it is part of legitimate newsgathering activity. The public ought to be able to learn about unlawful or highly improper activity, even of the CIA similarly, the language of "pattern of activities" offers the press little protection. It is far too vague to give the press comfort.

It is hardly surprising, then, that the Judiciary Committee received numerous letters from constitutional authorities and other experts stating that this section of the bill was unconstitutional. The most recent letter, signed by 51 law professors, states that section 501(c) of the Intelligence Committee's bill, in their opinion, violates the first amendment. The Association of the Bar of the City of New York agrees. I am fully aware that other experts defend the provision as constitutional. Nonetheless, the Judiciary Committee believed it unwise to enact a bill with such serious constitutional problems.

In an effort to eliminate these problems, the Judiciary Committee sought to find language that would narrow section 501(c). We tried to avoid interfering with the bill's legitimate purposes. Rather, we sought to find language that would provide a basis for consensus among the two committees. We, therefore, took language from the Intelligence Committee's report on the bill and paced that language in the statute. The Judiciary Committee's main amendment states:

> It shall not be an offense under subsection (c) of section 501 if the disclosure of the information described in such subsection is an integral part of another activity such as news reporting of intelligence failures or abuses, academic study of Government policies and programs, enforcement by a private organization of its internal rules and regulations, or other activity protected by the first amendment to the constitution.

We also adopted three other important amendments.

Mr. President, the Judiciary Committee acted expeditiously. It reported the bill to the floor without delay. And, since it reported the bill, the committee's staff has been meeting with the staff of the Intelligence Committee, as well as with representatives of the Justice Department and the CIA in an effort to work out language that would constitute an acceptable substitute for our amendments—language which could provide the basis for an agreed upon floor amendment. I believe that several satisfactory alternatives have been suggested. I have urged the administration to examine them seriously. I believe it will be possible, with good faith on all sides, to reach agreement before Congress comes back into session. We shall then be able to enact a law which protects, not only CIA agents, but the first amendment, as well.

Mr. President, I submit for the RECORD letters from various scholars and news organizations regarding the constitutional issue raised by this legislation as well as my recent proposal which the Department of Justice is now considering.

SEPTEMBER 10, 1980.

MEMBERS OF THE JUDICIARY COMMITTEE,
U.S. Senate,
Washington, D.C.

DEAR SENATORS KENNEDY, BAYH, BYRD, BIDEN, CULVER, METZENBAUM, DECONCINI, LEAHY, BAUCUS, HEFLIN, THURMOND, MATHIAS, LAXALT, HATCH, DOLE, COCHRAN AND SIMPSON: We believe that Section 501(c) of S. 2216 and H.R. 5615, which would punish disclosure of the identity of covert CIA and FBI agents derived solely from unclassified information, violates the First Amendment and urge that it be deleted as recommended by the House Judiciary Subcommittee on Civil and Constitutional Rights.

Chuck Abernathy, Professor of Law, Georgetown University Law School.

George Alexander, Professor of Law, University of Santa Clara Law School.

David Anderson, Professor of Law, University of Texas Law School.

Judith Areen, Professor of Law, Georgetown University Law School.

Charles E. Ares, Professor of Law, University of Arizona, College of Law.

Frank Askin, Professor of Law, Rutgers University School of Law.

Barbara Babcock, Professor of Law, Stanford University School of Law.

Elizabeth Bartholet, Professor of Law, Harvard University Law School.

Paul Bender, Professor of Law, University of Pennsylvania Law School.

Ralph S. Brown, Jr., Professor of Law, Yale University Law School.

Vern Countryman, Professor of Law, Harvard University Law School.

Alan Dershowitz, Professor of Law, Harvard University Law School.

Norman Dorsen, Professor of Law, New York University School of Law.

Steven Duke, Professor of Law, Yale University Law School.

Thomas I. Emerson, Professor of Law, Yale University Law School.

David B. Filvarff, Professor of Law, University of Texas Law School.

Jack Getman, Professor of Law, Yale University Law School.

Steve Gillers, Professor of Law, New York University School of Law.

Carole E. Goldberg-Ambrose, Professor of Law, University of California at Los Angeles Law School.

David Goldberger, Professor of Law, Ohio State University College of Law.

Morton J. Horwitz, Professor of Law, Harvard University Law School.

Louis A. Jacobs, Professor of Law, Ohio State University College of Law.

Arthur Kinoy, Professor of Law, Rutgers University School of Law.

John R. Kramer, Professor of Law, Georgetown University Law School.

Sanford Levinson, Professor of Law, University of Texas Law School.

Lance Liebman, Professor of Law, Harvard University Law School.

Jeffrey Meldman, Professor of Law, Massachusetts Institute of Technology.

Louis Menand, Professor of Law, Massachusetts Institute of Technology.

Frank Michelman, Professor of Law, Harvard University Law School.

Arvil Morris, Professor of Law, University of Washington-Seattle Law School.

Charles Nesson, Professor of Law, Harvard University Law School.

Richard Parker, Professor of Law, Harvard University Law School.

Daniel Partan, Professor of Law, Boston University Law School.

Willard H. Pedrick, Professor of Law, Arizona.

Leroy Pernell, Professor of Law, Ohio State University College of Law.

Michael Perry, Professor of Law, Ohio State University College of Law.

Daniel H. Pollitt, Professor of Law, University of North Carolina Law School.

Scot Powe, Professor of Law, University of Texas Law School.

John Quigley, Professor of Law, Ohio State University College of Law.

Douglas Rendleman, Professor of Law, College of William and Mary, Marshall-Wythe School of Law.

Rhonda R. Rivera, Professor of Law, Ohio State University College of Law.

Lawrence Sager, Professor of Law, New York University School of Law.

Louis Michael Seidman, Professor of Law, Georgetown University Law School.

Ed. Sherman, Professor of Law, University of Texas Law School.

Ed Sparer, Professor of Law, University of Pennsylvania Law School.

Charles Thompson, Professor of Law, Ohio State University College of Law.

Lawrence Tribe, Professor of Law, Harvard University Law School.

Pete Wales, Professor of Law, Georgetown University Law School.

Burton D. Wechsler, Professor of Law, American University Law School.

Bernard Wolfman, Professor of Law, Harvard University Law School.

HARVARD UNIVERSITY LAW SCHOOL,
Cambridge, Mass., September 8, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for inviting me to offer my views on § 501(c) of the Intelligence Identities Protection Act of 1980, S. 2216.[1] I believe that this provision, if made law, would violate the First Amendment.

There is no doubt, of course, that "the Executive [may] . . . promulgat[e] and enforc[e] . . . executive regulations[ ] to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense." *New York Times Co.* v. *United States,* 403 U.S. 713, 729–30 (1971) (Stewart, J., joined by White, J., concurring). Nor is there any doubt that "Congress [may] . . . enact . . . criminal laws to protect government property and preserve government secrets." Id. at 730. But the First Amendment severely circumscribes the Government's power to achieve such ends by punishing journalists and other private citizens for repeating or publishing truthful information either (1) lawfully derived or deduced from information that has already found its way into "the public domain," *Cox Broadcasting Co.* v. *Cohn,* 420 U.S. 469, 495 (1975), or (2) innocently received as a "leak" from someone with access to classified, or otherwise confidential, government materials. *Landmark Communications, Inc.* v. *Virginia,* 435 U.S. 829, 837–46 (1978).

The need for secrecy in the foreign intelligence sphere is among the most pressing of governmental interests. *Cf. id.* at 849 n.* (Stewart, J., concurring in judgment). But this cannot obscure either the priority given by the First Amendment to "public scrutiny and discussion of governmental affairs," *id.* at 839 (majority opinion); *New York Times Co.* v. *Sullivan,* 376 U.S. 254, 269–70 (1964), or the correlative principle that no governmental restriction on "uninhibited, robust, and wide-open" political debate, *id.* at 270, is constitutionally acceptable *unless*—

(a) the restriction is designed to achieve a compelling governmental objective, and is narrowly drawn to achieve neither more nor less; and

(b) the restriction's enforcement in a given case is shown to be truly essential to achieve that compelling governmental interest.

See First National Bank v. *Bellotti,* 435 U.S. 765, 787 (1978); *In re Primus,* 436 U.S. 412 (1978); *Buckley* v. *Valeo,* 424 U.S. 1, 25 (1976) (per curiam).[2] Section 501(c) quite clearly fails to meet these tests.

The provision's proscriptions—which apply even when lawfully obtained, and even "disclosed" was lawfully obtained, and even when the only result of its suppression would be to stifle criticism or exposure of alleged governmental ineptitude or wrongdoing—are not limited to cases in which a judge or jury finds that "disclosure" of the information in question has harmed, or is likely to harm, the safety or security of any individual or the success of any specific lawful governmental undertaking. *Cf. Bridges* v. *California,* 314 U.S. 252, 263 (1941); *Pennekamp* v. *Florida,* 328 U.S. 331, 347 (1946); *Craig* v. *Harney,* 331 U.S. 367, 376 (1947); *Wood* v. *Georgia,* 370 U.S. 375 (1962). The provision at issue would impermissibly penalize unauthorized disclosures without requiring any such showing of actual or probable harm.

It is no answer that the disclosures for which § 501(c) prescribes punishment without requiring such a showing of injury are limited to disclosures made "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States." Indeed, the vague "pattern of activities" requirement demonstrates that the proposed law would be anything but closely fitted with the restriction's ostensible purposes. For disclosures of the identities of our covert agents and operatives abroad, however harmful or threatening, would not be forbidden under § 501(c) unless made "in the course of a [specified] pattern of activities," while revelations that do not imperil any individuals or operations would be punished under § 501(c) whenever made by persons tainted by their association with the forbidden "pattern of activities"—activities that, standing alone, might otherwise be wholly lawful and, in fact, themselves entitled to First Amendment protection. Thus it is also no answer that punishment is limited to disclosures made "in the course of [such] a pattern of activities" with knowledge "that the United States is taking affirmative measures to conceal [an] individual's classified intelligence relationship to the United States." Even under such circumstances—and assuming that any matter so vaguely defined can be "known"—§ 501(c) would not require the Government to prove any casual link between the culpable disclosure and a harm that would justify punishing it.

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[1] The provision reads as follows:

"(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information so disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than $15,000 or imprisoned not more than three years or both."

[2] Thus, for example, despite the undisputed importance of preserving the confidentiality of a state's judicial disciplinary proceedings, *Landmark Communications, Inc., supra,* 435 U.S. at 834–36, not even the state's "interest in protecting the reputation of its judges, nor its interest in maintaining the institutional integrity of its courts is sufficient to justify . . . punishment of [unauthorized disclosure]," *id.* at 841, when such disclosure is made by "third parties" and consists of "truthful information regarding [the] confidential [judicial] proceedings." *Id.* at 837. The Supreme Court so held "even on the assumption that criminal sanctions do in fact enhance the guarantee of confidentiality," *id.* at 841, and even when the information at issue had been withheld by law from the public domain." *Id.* at 840.

This mismatch between the Government's chosen means and its professed ends not only dooms § 501(c) on its face but also underscores doubts, independently generated by the provision's history, about its true aims, and, about those of § 501 as a whole. *Cf. First National Bank* v. *Bellotti*, 435 U.S. 765, 793 (1978). Needless to say, protecting the image and reputation of governmental officials and agencies, or the smooth operation of governmental programs immunized from public examination and critique, is insufficient justification "for repressing speech that would otherwise be free." *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 272–73 (1964). Thus, for example, the provision's restrictions on disclosure cannot be justified by the Government's wish to preserve the CIA's " 'plausible deniability,' " or to avoid " 'political outcry' " over American covert operations in foreign countries, or otherwise to preserve, among other things, access " 'to appropriate targets' " of recruitment abroad. *New York Times*, September 6, 1980, at 22, col. 1 (quoting testimony of Frank C. Carlucci, Deputy Director, CIA, before Senate Judiciary Committee on September 5, 1980). Such justifications bespeak purely political purposes beyond the Government's power to accomplish by stifling protected speech. Moreover, such congressional action, frankly targetting for special restrictions on First Amendment activities a readily identifiable group of private citizens—in this case, apparently a group of journalists associated with the *Covert Action Information Bulletin*—bears a distressing resemblance to past legislation whose purpose to punish dissenters or penalize partisans of defeated enemy causes was evident from the legislation's face or history—and which was hence invalidated by the Supreme Court as a forbidden *ex post facto* law or bill of attainder.[a]

For the reasons I have sought to articulate above, I believe that § 501(c) would violate the First Amendment if enacted. Accordingly, I recommend that at least this provision of § 501 be deleted from S. 2216.

Sincerely,

Laurence H. Tribe.

Yale University Law School,
New Haven, Conn., September 5, 1980.

Hon. Edward M. Kennedy,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

Dear Senator Kennedy: This is in reply to your letter of August 26 asking me to comment on section 501(c) of S. 2216, now pending before your committee.

In my judgment Section 501(c) would seriously curtail freedom of expression in the United States and violates the constitutional right to freedom of speech and of the press as embodied in the First Amendment.

The essence of Section 501(c) is that it establishes a criminal penalty for the * * * of any information that identifies an individual as an undercover agent or informant of an intelligence agency. The prohibition applies not only to a government employee or former employee or to a person who has entered into a trust relationship with the government, but of any person, regardless of any connection with the government. The information which is forbidden to be disseminated is not only classified information, but information that is not classified, information readily available from non-governmental sources, and information already in the public domain. The provision extends not only to information that reveals the name of an undercover agent or informer but to any information that might tend to identify such a person in any way. It is rare that an account of a particular intelligence operation can be described or discussed without including information that may point to the identity of participants in that operation.

It is true that Section 501(c) contains limitations that narrow the application of the provision upon analysis, however, these limitations are themselves limited:

(1) Section 501(c) applies only where there is "a pattern of activities" intended to identify and expose covert agents. This is proposed as a major limitation, designed to exclude isolated, incidental, or unintended disclosures. But clearly it affords very little protection to persons wishing to criticize, expose, or discuss the operations of intelligence agencies. Literally, the phrase "pattern of activities" does not even require that there be an exposure of more than a single agent or informant; the process of discovering a secret agent or informant in itself would involve a set of "activities" that could constitute a "pattern." And usually the "pattern of activities" would be intended or found by a jury to be intended, to identify agents or informants. In other words a journalist, scholar, or political figure could hardly take much comfort from the "pattern of activities" requirement.

The fact is that a distinction between those who engage in exposure of intelligence operations as a major occupation, and an investigator who writes a single article, cannot be formulated. Nor would such a distinction avoid First Amendment problems.

(2) Section 501(c) is also limited to situations where the person charged with crime has "reason to believe that such activities would impair or impede the foreign intelligence activities of the United States." Yet this condition would virtually always be met where a journalist or scholar is undertaking a critical investigation of the workings of an intelligence agency. In every case where the government seeks to withhold information and that information escapes its grasp it can be said that the disclosure "impairs or impedes" the government operation.

(3) The provision is limited to the identification and disclosure of "covert agents." However, the definition of covert agent includes not only undercover agents and informants of the CIA, Department of Defense and FBI serving outside the United States or who have so served within the last 5 years.* It also includes all United States citizens who are undercover agents or informants in connection with the counterintelligence or counterterrorism operations in the United States of the FBI; and all aliens, inside or outside the United States, who are present or former undercover agents or informants of the intelligence agencies named. Thus all areas of "foreign intelligence" are covered. This includes all those domestic operations of the FBI which are classified by that agency as counterintelligence or counterterrorism. Since many individuals, associations, political parties, and other groups have some connection with foreign countries, or some information pertaining to foreign countries, the application of Section 501(c) to FBI operations in the United States is extensive.

(4) Section 501(c) also provides that disclosure be made by a person "knowing that the information disclosed . . . identifies an individual as a covert agent and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationships to the United States." Again, this condition could easily be met in any prosecution where the government is seeking to punish a person for publishing an account of an intelligence activity.

It is plain that Section 501(c) would impose substantial and widespread restrictions upon discussion of the operations of the intelligence agencies in the United States and abroad. Journalists, editors, and all members of the media would be subject to criminal penalties, up to 3 years in prison, for reporting any information about the "foreign intelligence" activities of the CIA, DOD or FBI which might lead anyone to identify a particular individual concerned. This would be true even if the individual in question had been guilty of the most heinous crimes. Scholars, research institutions, and other centers of learning would be subject to the same restraints. Ordinary citizens could not even engage in conversation where names were mentioned or identifying facts disclosed. A political organization infiltrated by undercover agents or informers could not even discuss the problem, publicly or privately. Moreover, even where the statute did not strictly apply, no one would know how far it would be extended, when a prosecution might be brought, or what a jury might decide. When one cannot say anything that might be construed to identify a particular government official, the right of citizens to investigate what their government is doing, to criticize its actions, and to seek democratic change becomes virtually impossible.

Most important of all, the restrictions in Section 501(c) apply to information that is unclassified, available to all, and already in the public domain. They apply regardless of whether the person charged has even been a government agent or employee, or had any relation of trust with the government. And they apply regardless of how many times, or under what earlier circumstances, the information has been previously revealed. In this latter respect, since a criminal penalty follows each dissemination of a particular piece of information, the provisions of Section 501(c) constitute a classic example of an official secrets act.

Under these circumstances it is plain that Section 501(c) violates both the letter and the spirit of the First Amendment. Free and open discussion of public issues lies at the heart of that constitutional guarantee. The fact that such discussion may "impair or impede" the operations of government is no justification for imposing restrictions upon the right of expression. The government may protect itself by penalizing interference with its functions through violent or coercive means. It can seek to safeguard legitimate government secrets by controlling its own officials, employees and agents. But it cannot forbid, curtail or interfere with the discussion of government affairs by private citizens.

More specifically, the Supreme Court has consistently held that the government cannot prohibit the dissemination of information that is publicly available or that has escaped its efforts to keep secret. Thus in *Cox Broadcasting Co.* v. *Cohn*, 420 U.S. 469 (1975), the Supreme Court dealt with a Georgia statute which prohibited the publication of the name of a victim of rape. The broadcasting station charged with violating this law had obtained the name from public records in the case. The Court held that the First Amendment precluded any liability on the part of the broadcasting station. The Court explained:

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[a] *See United States* v. *Brown*, 381 U.S. 437, 453, 455–56 (1965) (invalidating law prohibiting members or supporters of Communist Party from holding union office); *United States* v. *Lovett*, 328 U.S. 303, 315 (1946) (invalidating law barring those named as subversives in HUAC investigations from federal employment); *Ex parte Garland*, 71 U.S. (4 Wall.) 333 (1867) (invalidating law forbidding supporters of Confederate cause to practice law in federal courts); *Cummings* v. *Missouri*, 71 U.S. (4 Wall.) 277, 323 (1867) (invalidating law banning such persons from practice of any profession).

* The 5 year provision is not applicable to "informants" who are United States citizens.

"The freedom of the press to publish that information appears to us to be of critical importance to our type of government in which the citizenry is the final judge of the proper conduct of public business. . . . At the very least, the First and Fourteenth Amendments will not allow exposing the press to liability for truthfully publishing information released to the public in official court records. If there are privacy interests to be protected in judicial proceedings, the States must respond by means which avoid public documentation or other exposure of private information." (pp. 495–496).

In accord, with respect to the publication of the names of juvenile delinquents, where the information was obtained from monitoring police band radios and from interviewing witnesses, is *Smith* v. *Daily Mail Publishing Co.*, 443 U.S. 97 (1979).

Likewise, in *Landmark Communications, Inc.* v. *Virginia*, 435 U.S. 829 (1978), the Supreme Court had under consideration a Virginia statute which imposed a criminal penalty upon any person who divulged information concerning the proceedings of the Virginia Judicial Inquiry and Review Commission, a state tribunal empowered to hear complaints about the disability or misconduct of judges. A Virginia newspaper, which had obtained its information by lawful means, was convicted under the statute for publishing material about an inquiry pending before the Commission and identifying the judge under investigation. The Court reversed the conviction as a violation of the First Amendment.

"The operation of the Virginia Commission, no less than the operation of the judicial system itself, is a matter of public interest, necessarily engaging the attention of the news media. The article published by Landmark provided accurate factual information about a legislatively authorized inquiry pending before the Judicial Inquiry and Review Commission, and in so doing clearly served those interests in public scrutiny and discussion of governmental affairs which the First Amendment was adopted to protect." (p. 839).

Again, a similar situation was presented in *Linmark Associates, Inc.* v. *Willingboro*, 431 U.S. 85 (1977). Here the prohibition against dissemination of public information consisted of a town ordinance forbidding the display of "For Sale" or "Sold" signs on residential property. The aim of the ordinance was to prevent panic selling and white flight to the suburbs. The Supreme Court, in striking down the ordinance, analyzed the "constitutional defect" in the following terms:

"The Township Council here . . . acted to prevent its residents from obtaining certain information. That information, which pertains to sales activity in Willingboro, is of vital interest to Willingboro residents, since it may bear on one of the most important decisions they have a right to make: where to live and raise their families. The Council has sought to restrict the free flow of this data because it fears that otherwise, homeowners will make decisions inimical to what the Council views as the homeowners' self-interest and the corporate interest of the township: they will choose to leave town. . . . If dissemination of this information can be restricted, then every locality in the country can suppress any facts that reflect poorly on the locality, so long as a plausible claim can be made that disclosure would cause the recipients of the information to act 'irrationally.'" (p. 96).

Quoting an earlier case the Court concluded:

"There is . . . an alternative to this highly paternalistic approach. That alternative is to assume that information is not in itself harmful, that people will perceive their own best interest if only they are well enough informed, and that the best means to that end is to open the channels of communication rather than to close them. . . . But the choice among these alternative approaches is not ours to make or the Virginia General Assembly's. It is precisely this kind of choice, between the dangers of suppressing information, and the dangers of its misuse if it is freely available, that the First Amendment makes for us."

It is argued that Section 501(c) can be reconciled with the First Amendment on the theory that the government's interest in national security outweighs the admitted invasion of First Amendment rights. It is by no means clear that the Supreme Court should, or would, apply a balancing test in a case where the statute undertakes to penalize the publication of information that is in the public domain. See, e.g., *Linmark Associates, Inc.* v. *Willingboro*, supra, *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241 (1974). Even if it were to do so, however, the Court would uphold Section 501(c) only if it determined that national security interests "overwhelmed" the First Amendment interests, *and* only if no other method was available for the government to protect its foreign intelligence operations. It would appear doubtful that the government could make either showing, much less both. The impact on First Amendment rights is drastic and extensive, whereas the interference with intelligence activities has been occasional and not decisive. The intelligence agencies have managed to function until now without benefit of the criminal sanctions here requested. Moreover, as S. 2216 itself recognizes in Section 503, there are other methods, including arrangements for more effective cover, to deal with the problem.

My conclusion is that, both as a matter of constitutional mandate and as a matter of policy, Section 501(c) should be rejected. Once our nation accepts the proposition that the First Amendment can be overriden by the routine demands of national security there is no end in sight. The whole system of freedom of expression would be endangered.

You also have requested me to comment on the proposal of Senator Bayh to narrow the provisions of Section 501(c). This amendment would require an intention to impair and impede foreign intelligence activities by identifying and exposing covert agents, rather than merely requiring "reason to believe" that disclosure would have that effect. While Senator Bayh's proposal would demand some additional proof by the government it would not, in my judgement, appreciably lessen the infringement upon First Amendment rights. Citizens have the right to criticize and expose government activities whether or not they intend to impair or impede them.

Your third question concerns the constitutionality of the "born classified" concept. For reasons already stated, such an approach seems to be an unprecedented violation of First Amendment principles.

Sincerely,

Thomas Emerson.

The University of Chicago,
The Law School,
Chicago, Ill., September 4, 1980.
Senator Edward M. Kennedy,
Committee on the Judiciary,
U.S. Senate, Washington, D.C.

Dear Senator: I am more than happy to offer my thoughts on S. 2216, uncertain though they may be. S. 2216 is a carefully drafted, thoughtfully considered attempt to deal with an unquestionably serious problem. It is not, however, free of constitutional doubt. Although the bill certainly seems "reasonable" on its face, this is not dispositive, for the Supreme Court long ago abandoned the use of *ad hoc* inquiries as to mere "reasonableness" as an appropriate means of first amendment interpretation.

Moreover, any effort of government to suppress the publication or disclosure of *truthful* information about governmental affairs must be approached with extreme skepticism. Indeed, in the entire history of our nation, there is not a single instance in which the Supreme Court has actually upheld such a prohibition, and one is tempted to conclude that such suppression is *per se* inconsistent with the premises underlying the first amendment. At the same time, however, the Court has indicated in *dictum* on several occasions that such restraints might, in extraordinary circumstances, be permissible. See, *e.g., Near* v. *Minnesota,* 283 U.S. 697 (1931) (statement in *dictum* that prior restraint on disclosure of troop movements in wartime might be constitutional).

The bottom line, then, is that there is no direct precedent governing the constitutionality of this legislation, and there is no simple formula or set of formulae that one can mechanistically apply to obtain an easy answer. It is clear, though, that such suppression, if ever constitutional, is valid in only the most carefully defined, narrowly circumscribed, and most compelling of circumstances.

In assessing the constitutionality of S. 2216, then, it will be useful to focus on three separate, but not unrelated, considerations. First, there is the "value" of the speech suppressed. Any inquiry into the "value" of expression is of necessity problematic, but the Court has in the past undertaken such inquiries (*e.g.,* obscenity, libel, fighting words) and a case can be made for their legitimacy. From that perspective, S. 2216 can at least arguably be said to focus on speech that is of only "marginal" first amendment value. So long as the bill applies only to the exposure of agent identities, and so long as the agents whose identities are disclosed are not themselves alleged to have engaged in any especially newsworthy activities so as to make their identities of special public concern, there seems little public need for the information. Although the public may have an interest in learning about the *types* of persons who serve in these capacities and about their general activities, there would seem ordinarily to be no appreciable interest in learning the specific identities of the agents. As in the invasion of privacy context, where lower courts have tended to permit restrictions on speech involving non-newsworthy individuals, the mere identities of the agents seems ordinarily of relatively slight first amendment value. This is, of course, a tricky judgment as applied to *governmental* officials, but the analogy is not unhelpful.

This does not end the matter, however, for the question remains whether S. 2216 is sufficiently limited to take advantage of this analogy. Suppose, for example, Congress enacted a law prohibiting the disclosure of agent identities *even when* the "speaker" believed the agent to have acted unconstitutionally or otherwise unlawfully. Such a law would, in my view, violate the first amendment. As a general proposition, government may not. consonant with established principles of free expression, prevent disclosure of its own wrongdoing, except *perhaps* in the most extraordinary circumstances. This seems also to be the view of the Committee. (See Report at pp. 16, 18). How, then, does S. 2216 fit into all this. The Report maintains that the bill is not designed to "affect the First Aemndment rights of those who disclose the identities of agents as an integral part of another enterprise such as news media reporting of intelligence failures or abuses, academic studies of U.S. government policies and programs, or a private organization's enforcement of its internal rules." (Report at p. 18).

Unfortunately, S. 2216 does not explicitly embrace such a limitation. Rather, as drafted, it relies solely upon the "pattern of activities" clause to limit the bill's scope. This is inadequate. The clause is ambiguous and is subject to easy manipulation. Moreover, it might (and probably would) cover a newspaper or other publication that made a regular practice of investigating undercover activities in order to expose abuse. In short, S. 2216 seems to me insufficiently precise in this regard to satisfy the demands of the first amendment.

The Bayh substitute, by requiring an intent "to impair or impede the foreign intelligence activities of the United States," is preferable. Although the intent requirement may in operation generate some unwanted loopholes, it also provides at least *some* assurance that the law will be applied only to those who are the intended targets of the legislation—"those who make it their business to ferret out and publish the identities of agents" with an eye toward frustrating legitimate governmental activity. (Report at p. 18). In this light, the Bayh substitute seems not only preferable, but constitutionally essential if the legislation is to comport with the first amendment.

The second consideration that should be taken into account is the strength and nature of the government's interest. According to the Report, disclosures of the sort prohibited by S. 2216 have the potential (1) to place intelligence personnel and their families in physical danger; (2) to undermine the effectiveness of trained agents by "blowing" their cover; and (3) to create a sense of distrust on the part of foreign sources, thus chilling their willingness to cooperate with American agents. (See Report at pp. 8–9). No doubt all of those effects *do* occur. But surely they do not occur *every* time an agent's identity is disclosed. And although the bill is apparently drafted with an eye towards limiting its overbreadth in this regard, the overbreadth remains. There will, in other words, be some circumstances in which the bill would authorize conviction even though no substantial harm actually resulted from the disclosure.

By analogy, in the "incitement" context, the Court has held that even express incitement to crime may not constitutionally be punished unless, on the facts of the case, there was a likely and imminent danger that the speech would bring about some actual harm to the State. See *Brandenburg* v *Ohio*, 395 U.S. 444 (1969). Similarly, in this context, it may be necessary that prosecution be limited to only those instances in which disclosure is likely to bring about an imminent harm of the sort identified above. Although proof would no doubt be difficult, it should not be easy for government to suppress truthful information about its affairs.

Third, there is the question whether the suppression is "necessary" to achieve the government's underlying goals. Put another way, is the legislation the "least restrictive means" of reaching the desired end? In *Nebraska Press Association* v. *Stuart*, 427 U.S. 539 (1976), the Court held that government could not suppress the revelation of "confidential" information unless it had first exhausted all less restrictive means of preventing disclosure. Although *Stuart* involved a prior restraint, the same principle is applicable here as well.

By prohibiting anyone with authorized access to classified information to disclose agent identities, S. 2216 goes a long way toward meeting this requirement. As the Report notes, however, in at least some instances the information is obtained through surveillance and investigative techniques that do not involve access to classified information. To the extent this is true, it may be that the bill should make *those* activities criminal *before* it attempts to prevent publication, on the theory that criminalizing the information-gathering techniques is a less restrictive pay of dealing with the underlying problem. This seems, however, a rather minor objection.

Finally, it does not seem to me that the bill must constitutionally be limited to only those disclosures that derived from classified documents. So long as the harm to the government is demonstrated and the information cannot be said to have entered the "public domain," I see no constitutional objection to the "born classified" concept.

In sum, then, legislation directed against these sorts of abuses can at least conceivably be constitutional, but S. 2216 clearly needs further refinement and narrowing if it is to come even closer to passing constitutional muster.

Although you have not solicited my opinion as to the wisdom, as opposed to the constitutionality, of such legislation, I feel constrained to state simply that the constitutionality of suppression does not establish that it is good policy. The enactment of S. 2216 can lead to the adoption of similar laws by state and local governments concerned about protecting the confidentiality of their undercover operatives. And this can in turn lead to further efforts to suppress disclosure of "confidential" governmental information. There is always a risk in letting the cat out of the bag, and in this area, perhaps more than in any other, a sense of caution and self-restraint, even beyond that called for by the Constitution, is always good policy.

Due to the shortness of time, many of the views expressed herein are tentative, at best. I hope they are nonetheless of some assistance. Should you have any further desire for my advice on this matter, please feel free to call on me at any time.

Sincerely yours,

GEOFFREY R. STONE,
Professor of Law.

PHILIP B. KURLAND,
Chicago, Ill., September 25, 1980.

Hon. EDWARD KENNEDY,
Chairman, U.S. Senate Committee on the Judiciary, Washington, D.C.

DEAR SENATOR KENNEDY: In response to your request, I can frame my opinion on the constitutionality of § 501(c) very precisely. I have little doubt that it is unconstitutional. I cannot see how a law that inhibits the publication, without malicious intent, of information that is in the public domain and previously published can be valid. Although I recognize the inconstancy and inconsistency in Supreme Court decisions, I should be very much surprised if that Court, not to speak of the lower federal courts, were to legitimize what is, for me, the clearest violation of the First Amendment attempted by Congress in this era.

With all good wishes,

Sincerely yours,

PHILIP B. KURLAND.

AMERICAN SOCIETY
OF NEWSPAPER EDITORS,
September 16, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I write to you in my capacity as President of the American Society of Newspaper Editors. The Society represents more than 850 directing editors of daily newspapers throughout the United States.

ASNE is committed to the proposition that the press has an obligation, flowing from its privileged position under the First Amendment to the United States Constitution, to provide complete and accurate reports on the performance of all branches of government—reports upon which citizens may base reasoned and informed decisions on public affairs. We believe history makes clear that reporting on activities of intelligence agencies has in many cases been essential to important public-policy decisions.

In this regard we are concerned about the reach of S. 2016, the Intelligence Identities Protection Act. We have no quarrel with the intent of the bill, but we believe it casts too wide a net.

In particular, Section 501(c) of S. 2216 is fatally flawed from a constitutional standpoint because it appears to allow prosecution and punishment of those who publish unclassified information that is in the public domain. We believe that this bill must be revised to make clear that it does not apply to the distribution of news and other constitutionally protected forms of speech, including books.

We believe that unless both the language of the bill and its legislative history make absolutely clear that it is not intended to punish those who publish unclassified information that is in the public domain, it will be of doubtful constitutionality.

ASNE and its members appreciate the difficulty of constructing legislation that gives the government adequate tools to halt purposeful disclosure of agents and informers names without infringing the constitutional guarantees of free speech and press. One possible approach, as we and other groups suggested earlier, would be to limit any criminal liability to those who have or have had access to classified information.

Sincerely,

THOMAS WINSHIP,
President.

NATIONAL NEWSPAPER ASSOCIATION,
September 9, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to you as representatives of several media organizations which are seriously concerned with section 501(c) of S. 2216, the Intelligence Identities Protection Act. In our opinion, section 501(c) is fatally flawed from a constitutional standpoint, impinging upon First Amendment rights in a manner which may be unprecedented.

Our organizations are committed to the proposition that the media have an obligation, flowing from their privileged position under the First Amendment, to provide complete and accurate reports on the performance of all branches of government—reports upon which citizens may base reasoned and informed decisions on public affairs. We believe history makes clear that reporting on activities of intelligence agencies has in many cases been essential to important public policy decisions.

The members of the media have no quarrel with the aims of securing American intelligence gathering and protecting the lives of American intelligence agents and their families, but we believe that the constitutional principles upon which our commitment is founded cannot be sacrificed to their achievement. Hence, while we recognize that many Members and staff of both Houses of Congerss have attempted to reconcile these legislative imperatives, in our opinion, it has not been accomplished, and perhaps cannot be.

The overriding deficiencies of substantial concern to our organizations are that section 501(c) may well reach the dissemination of news and other constitutionally protected forms of speech, and that it fails to distinguish between classified and unclassified information as a source for exposing agents' identities.

Potential foreseeable consequences stemming from the wording of this section include the prosecution and punishment of members of the media and others who identify an intelligence agent—including Federal Bureau of Investigation agents involved in foreign counterintelligence and counterterrorism and who, in the course of official duties, has committed an unconstitutional or unlawful act, or has clandestinely violated a presidential foreign policy. Moreover, it may be that an intelligence agent could not even identify him—or herself when discussing any matter, classified or not, with members of the media, historians or anyone else without authorization.

One specific troubling aspect of section 501(c)'s wording is the adoption of a "pattern of activities" standard. A "pattern of activities," when applied to a journalistic endeavor, could be discerned from several stories critical of an intelligence agency, or, indeed, within the confines of preparing for one story. The intent standard appended to it does not ease the situation for, on many occasions, the intent of the story is to expose agents who have abridged law or presidential policy. "Reason to believe" must be interpreted as a far lesser standard than intent, and can be demonstrated on a far lesser display of proof. In our view, these standards would undermine and chill—perhaps to the point of freezing—surely criticism of, and possibly any informed and robust public debate about an intelligence agency's programs, objectives or directions.

Further, there is no standard included in section 501(c) requiring a showing of "direct, immediate and irreparable harm" to national security or a "clear and present danger" thereto, or a similar test. Absent some such standard, it is difficult to see any consistency with prior limitations on First Amendment rights found to be constitutional.

With these thoughts in mind, we must ask what would have been the impact on the public's right to know had this section been enacted at the time of the release of the Pentagon Papers, or inquiries into the Watergate burglary or the CIA's activities within the United States? Certainly, it would have raised a formidable barrier to the type of effective reporting which was the hallmark of these cases and the conduit of necessary information to the public.

We strongly believe that rushing to judgment on this bill in the emotional aftermath of the recent Jamaica incident will only obscure the implications for the equally compelling constitutional interest. Therefore, we respectfully urge you to deliberate on this measure thoroughly and carefully, and accord appropriate weight to the preservation of full First Amendment rights.

Thank you.

Sincerely,

WILLIAM C. ROGERS, Sr.,
President,
National Newspaper Association.

RICHARD P. KLEEMAN,
Vice President, Washington Association of American Publishers.

CHARLES W. BAILEY,
Chairman, Freedom of Information Committee, American Society of Newspaper Publishers.

CURTIS J. BECKMANN,
President, Radio Television News Directors Association.

CLEMENS P. WORK,
Staff Attorney, The Reporters Committee for Freedom of the Press.

ROBERT D. G. LEWIS,
Chairman, Freedom of Information Committee, Society of Professional Journalists, Sigma Delta Chi.

THE ASSOCIATION OF THE BAR,
OF THE CITY OF NEW YORK,
New York, September 10, 1980.

Re S. 2216
Senator EDWARD F. KENNEDY,
Chairman, Senate Judiciary Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Earlier this year, this Committee studied the various proposed intelligence charters and prepared a detailed report which will shortly be distributed to the Congress. Pending that distribution, I am writing to you concerning S. 2216, which is currently before your Committee.

S. 2216 would make it a crime to disclose publicly the identity of former or present undercover intelligence agents. While we support such legislation in principle, it is our Committees' view, after careful and extensive study, that S. 2216 in its present form is not consistent with the First Amendment to the United States Constitution. Any such criminal prohibition should be limited to the disclosure of classified information and criminal penalties should be imposed only upon persons having authorized access to such classified information.

S. 2216 (§ 501(c) does not limit criminal liability to disclosure of classified information and would subject a broad range of persons, particularly members of the press, to prosecution. In addition, it is quite broadly drafted, using language that is incapable of being clearly interpreted, as any criminal prohibition must be. In our considered view, such a broad sweep to the statute would render it unconstitutional under both the First Amendment and the Due Process clause of the Fifth Amendment, and undesirable as a matter of sound public policy. As the Supreme Court has repeatedly recognized, the media have the right to publish "whatever information the media acquires" (*Houchins* v. *KQED, Inc.*, 438 U.S. 1, 13–14 (1978) (Burger, C.J.)). We do not think that this exercise of constitutional rights should be chilled by uncertainty as to whether a publication, even if motivated by the very best and purest ideals of American journalism, might later be found to have been published in violation of an overbroad and imprecise criminal statute which is capable of being interpreted far beyond the sponsor's intentions.

In our Committee's view, § 701 of S. 2284 as originally drafted, and § 202 of H.R. 6820 contain preferable formulations of legislation in this area. I enclose an excerpt from our report which discusses these alternatives and S. 2216 in greater detail.

If you or members of the Judiciary Committee would like any additional information on this matter, please feel free to call upon me.

Respectfully,

STEVEN B. ROSENFELD.

EXCERPT FROM "THE NATIONAL INTELLIGENCE ACT OF 1980: AN EVALUATION AND AN EPITAPH"

D. Prohibiting Disclosure of Identities of Undercover Intelligence Agents.—

We fully understand, and support, a provision which attaches criminal penalties to the public disclosure of the identities of present and former undercover intelligence agents, informants and operatives. We think that both § 701 of § 2284, as originally drafted, and § 202 of the Aspin bill properly met this need, unlike the Moynihan bill, which we think went much too far.

We do have one substantial area of disagreement with § 701 of the original S. 2284. That section would have permitted prosecution (for publicly disclosing the identities of intelligence agents) of anyone "knowing or having reason to know that the information disclosed so identifies such individual . . ." (emphasis added). In our view, the "having reason to know" standard was far too vague and broad, and should have no place in a criminal statute. We prefer the formulation contained in § 202 of the Aspin bill, which permitted prosecution only when the individual made the disclosure "knowing" that the information revealed the identity of an intelligence operative.

In general, we believe that the criminal prohibition should be limited to the disclosure of classified information and that criminal penalties should be imposed only upon persons having authorized access to such classified information, and not to others (such as news media and publishers) who might exercise their First Amendment rights to publish information revealed to them. Section 701(c) of original S. 2884 made clear, we think, that there was no intent that any such persons be prosecuted for the exercise of their First Amendment rights under theories such as aiding and abetting, conspiracy or misprision of felony.

By contrast, the Moynihan bill (S. 2216) as introduced, was objectionable because (1) it did not limit criminal liability to disclosure of classified information and (2) it would have subjected persons to prosecution for aiding and abetting, conspiracy and misprision of felony, if it could be shown that they "acted with the intent to impair or impede the foreign intelligence activities of the United States."[39] We do not think that an exercise of First Amendment rights should be chilled by uncertainty as to whether the publication might later be found to have been committed with such intent.[40]

Finally, we approve of the additional defense in § 701(d) of original S. 2284 that "it shall not be an offense" under this section "to transmit information directly to the House Permanent Select Committee on Intelligence or to the Senate Select Committee on Intelligence." That safeguard provided not only a brake upon overzealous prosecution, but would have added yet another stone to Senator Huddleston's "foundation" of congressional oversight.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 29, 1980.

Hon. CHARLES RENFREW,
Deputy Attorney General,
U.S. Department of Justice,
Washington, D.C.

DEAR JUDGE RENFREW: As you know, the Judiciary Committee recently reported a bill to protect CIA agents from unauthorized disclosure of their identities. The Judiciary Committee amended the Intelligence Committee's version of that bill because it feared that the bill as written threatened unnecessarily to interfere with Freedom of the Press. The Judiciary Committee sought to avoid a serious First Amendment problem.

During the past week the staffs of the Judiciary Committee and the Intelligence Committee have met and tried to resolve the differences between the two versions. They have tried to find language that would help to protect the bill from Constitutional attack without interfering with the bill's basic purpose—the protection of covert agents. Any such agreed upon language could be offered as a floor amendment as a substitute for the Judiciary Committee's amendments; it would help to secure speedy enactment of the bill into law.

In an effort to break the impasse over language, my staff has provided your staff with a proposal. For your convenience, a copy is attached.

I believe that agreement on language of this sort or acceptance of a modified version of Judiciary Amendment No. 3 would resolve the controversy surrounding the bill and would lead to its speedy enactment. Because of the time problem produced by the end of the session, I should appreciate a response setting forth the Administration's views at the soonest possible time.

Thank you very much for your help.

With best wishes,

EDWARD M. KENNEDY.

Staff Proposal

1. The version of "c" attached.
2. The report language attached.
3. Section 503 dropped.
4. "Covert agent" redefined for purposes of "c" to include only persons working for the United States abroad.
5. The following sentence added:

"The provisions of this title shall be construed so as not to inhibit the exercise of any right protected by the First Amendment to the Constitution."

6. The Judiciary amendments dropped with the possible exception of an "expedited court test" amendment (though no expansion of "standing.")

"Impair or Impede"—Jeopardy

(c) Whoever, in the course of a pattern of activities undertaken for the purpose of uncovering the identities of covert agents and exposing such identities (1) *in order to impair or impede the effectiveness of covert agents or the activities in which they are engaged by the fact of such uncovering and exposure, or* (2) *with reckless disregard for the safety of covert agents* discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than $15,000 or imprisoned not more than three years, or both.

Report Language

In agreeing to strike section 502(e) and to amend section 501(c) we are acting with a common understanding on the scope of section 501(c) among the sponsors of the bill and the Administration.

Taken as a whole the section requires a series of acts having a common purpose or objective and designed, first, to make a systematic effort at uncovering covert agents and, second, to expose such agents publicly with the intent that the disclosure itself directly impairs the effectiveness of the agents identified or their activities or that the disclosure is made with reckless disregard for their safety. The gratuitous listing of agents' names in certain publications goes far beyond information that might contribute to informed public debate on foreign policy or foreign militarv intelligence activities. That effort to uncover the identities of covert agents by overcoming government efforts to conceal the identities of U.S. intelligence officers and agents in countries throughout the world and to expose their identities repeatedly, time and time again, serves no legitimate purpose.

The standard adopted in section 501(c) applies criminal penalties only in very limited circumstances to deter those who make it their business to ferret out and publish the identities of agents. At the same time, it does not affect the First Amendment rights of those who act for another purpose such as news media reporting of intelligence failures or abuses, academic studies of U.S. government policies and programs, or a private organization's enforcement of its internal rules, which are protected by the First Amendment.

We share the objectives expressed by the Attorney General when he wrote to the Intelligence Committee to emphasize "the great importance" of this legislation.

While we must welcome public debate about the role of the intelligence community as well as other components of our government, the wanton and indiscriminate disclosure of the names and cover identities of covert agents serves no salutary purpose whatsoever.

The language makes clear what was the stated intent of the drafters of the versions of 501(c) reported by the Intelligence and Judiciary Committees, i.e., that the bill reach only those who are in the business of naming names and not those engaged in protected First Amendment activity. It is our common purpose to preclude the possibility that casual political debate, the journalistic pursuit of a story on intelligence, or the disclosure of illegality or impropriety in government will be chilled by enactment of the bill.

The language has been carefully drafted to make criminal disclosures which clearly represent a conscious and pernicious effort to expose agents with the intent that the disclosure itself will directly hinder the activities of the agents whose identities are exposed. If the pattern of activities were engaged in for another purpose the statute would not reach the individual even if he knew that his conduct would have the effect of directly impairing the activities of the agents whose identities are exposed or their effectiveness. On the other hand, if one had the intent to impair or impede the effectiveness of covert agents or the activities in which they are engaged directly by the fact of such uncovering or was acting in reckless disregard for the safety of covert agents, it would not matter if one also had another purpose.

One would be covered by the statute.

The pattern of activities in which the individuals are engaged must have as its purpose the impairing of the activities of the agents who are exposed or of their identities through the very act of exposure. The individual must be taking the law into his own hands by posing a direct and immediate obstruction to the exposed agents effectiveness. The necessary pattern of activities coupled with the necessary intent to impair or impede would not be demonstrated by one who discloses identities of undercover employees as an integral part of another enterprise such as news media reporting of intelligence failure or abuses, academic studies of U.S. government policies and programs or a private organization's enforcement of its internal rules.

The description of the meaning of the phrase "undertaken for the purpose of uncovering the identities of covert agents and exposing such identities" has the meaning ascribed to it in the Report of the Senate Judiciary Committee on pp. ———. This portion of the report reads as follows:

The Committee substituted the phrase "undertaken for the purpose of uncovering the identities of covert agents and exposing such identities" for the phrase "to identify and expose covert agents."[1] This was done to make clear the intended meaning of the language. The person must be engaged in an enterprise whose purpose he or she knows and intends to be the uncovering of the identities of covert agents for its own sake. The uncovering cannot be part of another activity and incidental to that activity.

Moreover the individual must ferret out the names by a process of deliberate and systematic search. If the individual's pattern of disclosures involves the republication or the disclosure of information readily available to the person, then the individual is not engaged in the necessary pattern of activities whose purpose is to uncover identities which the government is seeking to conceal. The pattern of activities must amount to an effort to ferret out information which the government is making efforts to conceal by employing techniques such as surveillance of American officials, unauthorized access to classified information, or the piecing together of clues from multiple published sources. In some cases, a name might be "uncovered" by being read in a journal of limited circulation or being revealed in a private conversation. However, an individual would not be engaged in the necessary "pattern of activities" unless he read the journal or engaged in the conversation as part of a systematic effort to uncover identities which the government is seeking to conceal.

The process of "uncovering" covert agents must involve a substantial effort to ferret out names which the government is seeking to keep secret. This process of uncovering names must involve much more than merely restating that which is in the public domain. The process of uncovering names must include techniques like: (1) seeking unauthorized access to classified information, (2) a comprehensive counterintelligence effort by engaging in physical surveillance, electronic surveillance abroad and other techniques of espionage directed at undercover intelligence employees, or (3) collating information from multiple documentary sources. CIA Deputy Director Carlucci in describing the activities of a particular group illustrated what the Committee intends by the term "uncover";

"[T]hey are engaged in an elaborate and sophisticated operation involving the collating of information from multiple documentary sources and the penetration of U.S. official establishments. There is no reason why, in addition to cultivating sources in the State Department, embassies and consulates, they cannot engage in physical surveillance, electronic surveillance abroad or any other form of investigative technique. Unlike the intelligence agencies, they have no legal constraints on the use of physical surveillance and no constraints on any investigation they may conduct of U.S. persons abroad. Basically what is described in Dirty Work II is very little different from the kind of counterintelligence operations that one might expect a hostile intelligence service to mount against us.

". . . the activities that these bills attempt to deal with are a systematic, purposeful job of uncovering identities."[2]

The language of the phrase to be added to the bill by the floor amendment, i.e., "in order to impair or impede the effectiveness of covert agents or the activities in which they engage by the fact of such uncovering and exposure, or (2) with reckless disregard for the safety of covert agents," has been carefully crafted with the full agreement of the Administration and members of the Senate Select Committee on Intelligence and the Senate Judiciary Committee and has a meaning agreed to by the sponsors of the bill and the Administration.

The phrase "in order to" has the same meaning as the phrase "for the purpose of" i.e., the pattern of activities must be for the purpose of impairing or impeding in the manner described. It is not enough that one knows or is willing to have the injury described take place. The individual must will that a particular act take place. The distinction is that described in the report of the Judiciary Committee on the criminal code and quoted on p. 22 of the Select Committee Report.

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[1] The Administration indicated in a letter to the Committee that it had no objections to the substitution. Letter from Deputy Attorney General Charles B. Renfrew to Senator Edward M. Kennedy, September 17, 1980.

[2] Statement of Frank C. Carlucci, Deputy Director of Central Intelligence, on S. 2216, before the Senate Committee on the Judiciary, September 5, 1980, p. 8.

The phrase "impair or impede the effectiveness of covert agents or the activities in which they are engaged" is a significant change in the language from that which appears in the section as reported by the two committees which is "impair or impede the effectiveness of the foreign intelligence activities of the United States." The change was made to make clear that the pattern of activities must be intended to directly impair the effectiveness of the particular agents whose identities the individual is seeking to uncover and expose or the specific activities in which the particular agents are engaged. If one's intent is to impair the effectiveness of intelligence activities in general he would not be covered by the statute. Thus one could have the requisite intent only if he disclosed the identity of a covert agent who was actively engaged in specific intelligence activities at the time of the disclosure or who had so recently engaged in such activity that the exposure of his identity exposed operations in which he had recently been engaged.

The entirely new phrase "by the fact of such uncovering and exposure" was added for the purpose of incorporating into the statute itself the fundamental distinction between those who the statute intends to reach and those who would be beyond its coverage.

The revised section 501(c) as a whole and in particular the phrase "by the fact of such uncovering and exposure" should be read to make it clear that:

"... § 501(c) does not seek to prohibit discussion generally, but is directed at the individual who takes it upon himself to bring intelligence activity to a halt and who does this, not by urging a change in public law or policy, but by ferreting out the identities of individuals who are involved in intelligence activities and by disclosing those identities with the intent the intelligence functions will be disrupted by the disclosure itself."[3]

An individual who intends by the fact of disclosure itself to impair or impede does not offer information or ideas for "uninhibited, robust and wide-open" public debate or discussion. *New York Times Co.* v. *Sullivan*, 377 U.S. 255, 270(1964). Instead, he deliberately used the disclosure of names, the intentional "blowing of cover," to engage in guerilla warfare in order to prevent or disrupt activities of which he disapproves. He is, in effect, a counter-intelligence agent who uses the disclosure of names as an act of sabotage.

One must intend that the impairing or impeding be the direct result of the disclosure and affect the activities of the agent in the country in which he is operating through actions which occur directly in that country, for example the expulsion of the agent by the foreign government, his arrest, or the refusal of his "assets" to work with him. One is not covered if he seeks to impair or impede indirectly for example through changes in public opinion, directives issued by the President or agency director, or congressional action. One who seeks to influence the activities of covert agents only by influencing public debate in the United States is beyond the reach of this section unless he acts with reckless disregard for the safety of the agents whose identities he seeks to expose.

The government would be required to present independent evidence of the necessary intent independent of proof of the pattern of activities and of the disclosure. The evidence would have to show specifically that the individual intended to impair by the fact of disclosure.

Section 501(c) is fully consistent with the following comments of the chief sponsor of the bill, Senator Chafee, when testifying before the Judiciary Committee:

"This is an intolerable situation. As legislators, I believe that we have a responsibility to draft a bill which places criminal penalties on those who are in the business of exposing our agents, and, which, at the same time, does not threaten the critic of intelligence policy or the journalist who might reveal the name of an agent in the course of a news report."

* * * * *

"We have carefully differentiated between the journalist who may reveal the name of an agent in a news article and the person who has made it his purpose and business to reveal the names of agents, and has engaged in a pattern of activities intended to do so. Clearly, the legitimate journalist would not be engaged in such a pattern of activities."[4]

To meet the standard of the bill, a discloser must be engaged in a purposeful enterprise of revealing names—he must, in short, be in the business of "naming names."

The following are illustrations of activities which would not be covered even if identities are disclosed.

An effort by a newspaper to uncover CIA connections with it, including learning the names of its employees who worked for the CIA.

An effort by a university or a church to learn if any of its employees had worked for the CIA. (These are activities intended to enforce the internal rules of the organization and not identify and expose CIA agents.)

An investigation by a newspaper of possible CIA connections with the Watergate burglaries. (This would be an activity undertaken to learn about the agency's connections with the burglaries and not to identify and expose CIA agents.)

An investigation by a scholar or a reporter of the Phoenix program in Vietnam. (This would be an activity intended to investigate a controversial program, not to reveal names.)

The phrase "reckless disregard" is intended to have the meaning adopted in the revised Federal criminal code. See Judiciary Committee Report, P.——.

The individual whose identity is disclosed must be one whose identity was learned in the course of the necessary pattern of activities. On the other hand it would not be sufficient nor necessary to demonstrate that the disclosure itself was made with the intent to impair or impede or with reckless disregard. It is the pattern of activities which must be shown to have the stated purposes of uncovering and exposing and impairing or impeding or the purpose of uncovering and exposing with a reckless disregard for the safety of the agents.

Several illustrations will help to clarify the meaning of the phrase "by the fact of such uncovering and exposing". In each it is assumed that all of the other requirements of the statute have been met.

An individual is opposed to an on-going CIA operation in country Y. He knows that if he lists the names of the CIA agents in the country they will be forced to return home. He discloses their names in order to force them to return home and hence to impair the operation in which they are engaged. He is covered by the language even if he has another or larger purposes of persuading the Congress to end certain types of covert operation.

Another individual equally opposed to the same CIA operations in country Y exposes the names of CIA agents in order to force the intelligence committees of the Congress to enact legislation which would end such operations or to lead the President to order a halt to the operation. He is not covered by the statute even if he knows that the disclosure would require that some of the agents be sent home and the operation would be impaired if they were sent home. He lacks the necessary intent to impair by the fact of disclosure itself.

An individual learns of activities of covert agents which the reasonably believes to be in violation of applicable laws, executive orders and agency regulations. He revals a name with the intent that the President of the head of the intelligence agency will order the activity to end or that the individual will be indicted for a violation of law or that a congressional committee pursues an investigation of the matter. He would be beyond the statute.

On the other hand an individual who exposed agents identities for the purpose of impairing the effectiveness by the act of exposing itself would be within the statute even if he believed that the individual whose identity he exposed was engaged in activities which are in violation of applicable laws or executive order or agency regulation.●

● Mr. BAYH. Mr. President, on August 13 of this year the Select Committee on Intelligence reported the bill, S. 2216, the Intelligence Identities Protection Act. This bill addresses a serious problem that confronts the U.S. intelligence community. In recent years a small number of Americans have made concerted efforts to destroy the effectiveness of lawfully authorized U.S. intelligence activities by systematically identifying and exposing the names of individuals who serve our country as intelligence agents sometimes at great risk and sacrifice. They have uncovered and exposed the identities of U.S. intelligence agents without regard for the physical dangers that such men and women confront in countries around the world. I am convinced that legislation must be passed to deter and punish such activities, and that such legislation can achieve its intended result without violating first amendment rights. I supported S. 2216 when it was reported by the Select Committee, and I continue to support its passage by the Senate.

At the request of the chairman of the Committee on the Judiciary under the provisions of Senate Resolution 400, the bill was sequentially referred to that committee. The Judiciary Committee reported S. 2216, with amendments, on September 24 and it is presently on the calendar for Senate action.

Several issues were raised in the Judiciary Committee that had not been specifically addressed in such formulation in the Select Committee. They reflected concerns of Members that, in my judgment, had to be taken into account if there were to be the broad support necessary for passage of the bill in this session. Therefore, along with other Members of the Judiciary Committee, I supported certain amendments for the purpose of carrying forward this urgent process of achieving a consensus to facilitate prompt enactment of the bill.

There was a clear understanding, set forth by the chairman of the Judiciary Committee before the amendments were offered, that further efforts would be made to work out various differences between the versions of the bill reported by the Select Committee and the Judiciary Committee. During the past week intensive discussions have taken place between representatives of the two committees. Unfortunately, it has not yet been possible to reach an agreement that would satisfy all concerns. Nevertheless, I strongly urge my colleagues on both committees not to give up the effort to pass this legislation which is so important to the effectiveness and safety of our Nation's intelligence officers as they carry out their duties in the national interest.

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[3] Statement of Robert L. Keuch. Associate Deputy Attorney General, on S. 2216, before the Senate Committee on the Judiciary, September 5, 1980, p. 7.

[4] Statement of Senator John H. Chafee on S. 2216, before the Senate Committee on the Judiciary, September 5, 1980, pp. 2 and 7.

As chairman of the Select Committee on Intelligence and as a member of the Judiciary Committee, I have no hesitation in supporting S. 2216 as reported by the Select Committee. Even if compromise language cannot be found, the Select Committee's report makes clear that the bill is not to be used to prosecute activities protected by the first amendment to the Constitution. S. 2216 should be quickly passed by the Senate and expeditiously enacted into law.●

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a resumption of routine morning business, for not to exceed 15 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, when the 96th Congress closes, our Nation's 30 million veterans and the Fourth District of Texas will lose a great friend and advocate in Washington with the retirement of Congressman RAY ROBERTS, chairman of the House Committee on Veterans' Affairs.

Mr. President, as the senior Republican member of the Senate Committee on Veterans' Affairs, I have had the pleasure of working closely with RAY ROBERTS on veterans legislation. I can attest to his hard work and strong stand on behalf of programs and benefits for the men and women who served this country in the armed services.

RAY ROBERTS has served as chairman of the House Veterans' Affairs Committee since January 1975 and has been a committee member since his election to Congress in 1962. During his tenure as chairman, the current administration initiated much legislation that would adversely affect veterans and veterans programs. Under his leadership and direction, many of these legislative initiatives were altered or defeated. I remember well how RAY ROBERTS and I worked together to modify an administration recommendation that provided for the upgrading of bad discharges for many veterans and which, in turn, would have granted automatic entitlement for veterns benefits to a select group of veterans at the expense of those who served honorably.

Next, RAY ROBERTS led the fight in defeating administration-sponsored legislation that would have transferred veterans compensation and pension programs to the Department of Health, Education, and Welfare and GI bill programs to the newly created Department of Education. Also, when the administration attempted to eliminate long-standing veterans preference laws, RAY ROBERTS guided this proposal to its ultimate defeat in the House.

Mr. President, these are only a few examples of the strong and effective stands that RAY ROBERTS has taken on legislation that would have detrimentally affected veterans and veterans programs. Congress will miss the character, integrity and capacity of RAY ROBERTS of McKinney, Tex.

Mr. President, on this occasion I want to convey to him my sincere appreciation for his friendship and the limitless cooperation RAY ROBERTS has extended to me. I wish him well in his much earned retirement.

QUORUM CALL

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. BAKER. Mr. President, if the Senator from Colorado will withhold for one brief moment I think it might expedite the proceedings.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SARBANES). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE AND LOCAL GOVERNMENT FISCAL NOTE ACT

Mr. HEFLIN. Mr. President, I rise to give my enthusiastic support to S. 3087, the State and Local Government Fiscal Note Act of 1980—perhaps the most fiscally sound piece of legislation to be considered by the full Senate this session.

I wish to compliment Senators SASSER and ROTH for their leadership in drafting this important legislation. When this bill is passed by both Houses and signed into law, every elected official in this Nation, and particularly those at the State and local level, will be forever grateful to the Senator from Tennessee and the Senator from Delaware for their fine work.

Mr. President, our Nation's small towns and cities are struggling under the weight of excessive Government regulation. If there be any doubt of this fiscal struggle at the State and local level brought on by the myriad Federal requirements and regulations, that doubt could be easily erased by talking to any one of the hundreds and thousands of local officials who have been crying out for this kind of legislation for years. Indeed, numerous representatives of State and local governments testified for this bill during the committee process.

The cost to State and local governments of complying with Federal mandates and requirements has risen so dramatically in recent years that if we do not take action—and soon—the Federal Government will literally bankrupt this Nation's cities and small communities.

The State and Local Government Fiscal Note Act of 1980 will require the Congressional Budget Office to prepare and submit to Congress the cost to State and local governments of all significant legislation—before Congress votes on the proposed legislation.

The CBO already prepares a fiscal note—or fiscal impact statement on a proposed bill's estimated cost to the Federal Government itself. By extending this fiscal note process to the effect on State and local governments, the Congress will know before it passes expensive legislation what the ultimate effect of the bill will be.

These fiscal notes would serve as a desperately needed yellow caution light to Congress before it goes ahead unthinkingly, or ignorantly, with legislation whose cost and negative effect far outweigh the intended good.

The Subcommittee on Intergovernmental Relations estimates that the cost of implementing this legislation will be at least $800,000 for the first year alone. However, this amount is literally dwarfed by the countless billions of dollars spent by local governments in carrying out current Federal requirements.

Mr. President, a full 15 percent of the 1980 Federal budget went to pay for grant programs administered by State and local governments. While saying it is "helping" State and local governments, Washington has placed so many costly, confusing and often contradictory Federal requirements on local governments that local officials spend much of their time and money doing nothing but complying with the maze of Government paperwork.

Mr. President, the passage of the State and Local Government Fiscal Note Act of 1980 would send a strong and clear signal to State and local governments that Congress is finally beginning in earnest to grapple with the serious economic problems that plague our Nation. If we are to restore fiscal sanity in the signal to State and local governments must act responsibly and stop wasting the American taxpayers' hard-earned tax dollars.

Mr. President, in closing, I was very pleased to learn that the Senate Budget Committee approved S. 3087 by a unanimous 16 to 0 vote. I urge all of my colleagues to support this very important bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION AUTHORIZATION ACT—CONFERENCE REPORT

Mr. HART. Mr. President, I submit a report of the committee of conference on H.R. 7301 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7301) to authorize certain construction at military installations for fiscal year 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of September 25, 1980.)

Mr. PRYOR. Mr. President, as we consider the Military Construction Authorization Conference Report, I would like to clarify the action taken by the Conference Committee with regard to an amendment which I offered in the Senate. The amendment provided for the acquisition and installation of a general alarm siren system at each Titan II missile site with a surrounding population of significant size.

Because of the accidents which have occurred at Titan II missile sites in the past, and more recently, the serious explosion at the Titan II site near Damascus, Ark., I continue to be deeply concerned about the welfare and safety of the civilians living in the vicinity of these missile sites, who could be exposed to accidentally released toxic and even lethal vapor. While we cannot prevent all accidents, we can take steps to lessen their likelihood and protect the people living in the immediate area. We have a responsibility to make every effort to develop and implement the most rapid and efficient notification procedures in case of an accident to provide for swift and orderly evacuation. We have seen all too clearly from the events which occurred near Damascus that notification and evacuation procedures are necessary.

Last year the Senate adopted an amendment which I offered to the Department of Defense appropriations bill authorizing the installation of an appropriate civilian early warning system at Titan II sites. The Air Force, however, following the completion of a study of the Titan II system and its safety, chose not to proceed with the installation of a civilian early warning siren but to expand its system of telephone calls and/or personal visits instead.

The Air Force study and recommendations which were submitted to Congress in May of this year raised serious doubts among those who are familiar with the Titan II system and its past problems. Just 2 weeks ago, prior to the Titan II accident in my State of Arkansas, I offered an amendment to the military construction authorization bill mandating the installation of civilian early warning sirens at Titan II missile sites. My amendment was cosponsored by Senators representing the three States in which Titan II's are located, Mr. BUMPERS, Mr. DOLE, and Mr. DECONCINI.

The amendment which was adopted by the Senate provided for the acquisition and installation of "a general alarm siren system" at each Titan II missile site which has a significant size population in the surrounding area. The language which was adopted by the conference committee provides for the acquisition and installation of "an appropriate warning system" at each Titan II missile site which has a significant size population in the surrounding area.

It was the intent of my amendment to provide for a civilian warning siren to act as an immediate signal to individuals that an accident had occurred and that they should return to their homes for information from appropriate officials.

The civilian siren would serve as an immediate warning system to supplement the Air Force plan to notify individuals in surrounding towns and on farms by telephone calls and/or personal visits.

I would like to inquire of the distinguished Senator from Colorado (Mr. HART) as to the intent of the modification of my amendment by the conference committee. It is my understanding that the conference committee agreed on the need for a warning system; and while not wanting to limit the Air Force to a siren system, did intend by the compromise language to mandate that the Air Force acquire and install an appropriate warning system, including a siren system if it is determined to be the most effective warning system. I also understand that the conference committee intended that the Air Force must go beyond the present system and could not disregard the mandate of Congress by continuing what I have termed the "Paul Revere" method of notification.

Mr. HART. The Senator from Arkansas is correct. The conferees gave this matter a great deal of consideration. In modifying the language of the amendment adopted by the Senate, the conference committee fully intended that the Air Force must select and install an appropriate civilian warning system as rapidly as possible. In providing for "an appropriate warning system" the conferees intended to allow the Air Force the latitude needed to select the most efficient and effective warning system, without limitation on the available options. The language would allow the Air Force to acquire and install warning sirens if this system is determined to be the most effective and was not intended to in any way preclude their selection. Any system selected by the Air Force is to take the form of a warning device intended to supplement the present system of telephone calls and/or personal visits. The conference committee further expressed in its report language that the Air Force is to act rapidly in implementing the system which is selected.

Mr. PRYOR. I thank the Senator from Colorado for this clarification of the conference committee's action on this provision. I understand that he was steadfast in his support of the language which the Senate adopted and played an important role in the compromise language which was accepted by the Conference Committee. I would like to express my deep gratitude to him for his efforts and his diligence. His concern and support are greatly appreciated by me and by those who are seeking to provide for the well-being of the citizens living in the vicinity of Titan II missile sites.

Mr. HART. Mr. President, I move the adoption of the conference committee report.

The motion was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the conference committee report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER DESIGNATING SENATOR MITCHELL AS ACTING PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. MITCHELL be designated Acting President pro tempore for the purpose of signing the enrollment of H.R. 7919.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTIONS IN ENROLLMENT OF H.R. 6331

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 441 which makes corrections in the enrollment of H.R. 6331.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I will not—there are four items on my list which have been cleared, and the items just identified by the majority leader is one of them, and we have no objection to its consideration.

There being no objection, the Senate proceeded to consider House Concurrent Resolution 441.

The resolution (H. Con. Res. 441) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF JAMES R. THORNWELL

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1615.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1615) entitled "An Act for the relief of James R. Thornwell", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, $250,000 to the trustee designated pursuant to section 2 of this Act for the benefit of James R. Thornwell, originally of South Carolina and now of Oakland, California. Such sum shall be in full satisfaction for the severe physical, psychological, and economic damage, including pain, suffering, emotional distress, trauma, and permanent injuries, inflicted upon James R. Thornwell as a result of the administration by Army personnel of LSD to him in 1961 without his knowledge or consent after subjecting him for six preceding weeks to extreme physical and emotional stress, as part of an Army drug testing program in which he was the only American subject, and as a result of the concealment by the Army of the use of LSD from James R. Thornwell for seventeen years thereafter, during which time he suffered from severe psychological disorientation, and of the Army's failure to provide him any followup care. The payment of such sum shall be in full satisfaction of all claims of James R. Thornwell, his heirs, executors, personal representatives, or assigns, of any nature whatsoever against the United States and its agencies, or against any past or present employee, agent, officer, or person of or associated with the United States, including those asserted in the United States District Court for the District of Columbia in Civil Action Numberd 78-1845 in connection with the circumstances of his injuries compensated hereunder, including injuries incurred subsequent to his discharge from the Armed Forces. Further James R. Thornwell shall not be eligible for any compensation or benefits from the Veterans Administration or the Department of Defense.

Sec. 2. The sum to be paid pursuant to this bill shall be paid to a California bank as trustee, under a trust agreement to be entered into by said bank and James R. Thornwell (and to be approved as to form by a representative of the Department of Justice of the United States). The trust agreement shall provide that the trustee shall initially pay James R. Thornwell's outstanding debts and obligations, including legal fees and reimbursable expenses in connection with legal services (as limited by section 3 of this Act), shall invest the remaining amounts and hold them in trust, shall during the lifetime of James R. Thornwell pay to him all of the net income of the trust on a monthly basis, and also pay or apply such amounts of the principal as the trustee deems necessary for the health, welfare, comfort, and maintenance of James R. Thornwell, and upon his death, shall pay all assets then held in trust to his estate.

Sec. 3. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provision of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy I move that the Senate disagree to the amendment of the House and request a conference with the House on the disagreeing votes of the two houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Sarbanes) appointed Mr. Kennedy, Mr. Heflin, Mr. Metzenbaum, Mr. Cochran, and Mr. Simpson conferees on the part of the Senate.

COUNCIL ON WAGE AND PRICE STABILITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6777.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6777) to increase the authorization for the Council on Wage and Price Stability to extend the duration of such council, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time by title, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that in lieu thereof the language of S. 2352, a Senate-passed bill, be inserted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill as amended, was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Proxmire, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Sarbanes) appointed Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Stevenson, Mr. Garn, Mr. Heinz, and Mr. Armstrong conferees on the part of the Senate.

NATIONAL PATRIOTISM WEEK

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy, I ask that the Chair lay before the Senate a message from the House of Representatives on S.J. Res. 82.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the joint resolution from the Senate (S.J. Res. 82) entitled "Joint resolution to designate the week commencing with the third Monday in February of each year as 'National Patriotism Week' ", do pass with the following amendments: (1) Page 1, line 4, strike out [each year], and insert: *1981*.

(2) Page 1, line 7, strike out [annually].

Amend the title so as to read: "Joint resolution to designate the week commencing with the third Monday in February of 1981 as 'National Patriotism Week'.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

DEPARTMENT OF ENERGY NATIONAL DEFENSE PROGRAMS AUTHORIZATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1002.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3074) to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1981, and for other purposes.

The Senate proceeded to consider the bill.

Mr. JACKSON. Mr. President, the bill before the Senate, S. 3074, authorizes appropriations for the research, development, production, maintenance, and retirement of our nuclear arsenal. Allied programs, involving inertial confinement fusion, naval reactors development, security and safeguards, and defense nuclear waste management are also included.

In the development and production of nuclear weapons, the Department of Energy acts as a contractor for the Department of Defense. The Defense Department defines its nuclear weapons requirements—to include the necessary delivery schedule as well as the weapon characteristics—and the Energy Department produces the nuclear weapons to meet those requirements. The bill before us authorizes the appropriations necessary for the Department of Energy to meet those production schedules.

The budget request, which was amended twice after the original February 1980 submittal, was for new authorization totaling $3,788,378,000. The Armed Services Committee recommends new authorization in the amount of $4.024,582,000—an increase of $236,204,000. A program-by-program breakout is included on page 15 of the committee report.

Mr. President, I think it is important for the Senate to understand why the Armed Services Committee is recommending an increase—about a 6 percent increase—in this bill. There are two principle reasons. First, we have recommended an increase of $53,000,000 in the defense nuclear waste management program. This increase is primarily to keep the Waste Isolation Pilot Plant (WIPP) project going. Over $100 million has already been spent on this WIPP project and it offers the only real hope of having a "hands on" facility that can be built in this decade to provide information about the long-term storage of nuclear waste.

In addition, the committee has recommended proceeding with the design of a new facility that would be used to process transuranic nuclear waste to get it into a glass form suitable for long-term storage. Second, we have recommended increases of nearly $157,000,000 in nuclear materials production. There is pending within the administration, another budget amendment totaling over $250,000,000 in increases to the nuclear materials production program. The committee received extensive testimony on the need for this budget amendment, and rather than waiting for the budget amendment to be formally transmitted to the Congress, the committee has recommended authorization in this bill of the high priority additions anticipated in that budget amendment.

Mr. President, I would like to make a few comments about section 211. The Secretary of Energy is to develop a plan for assisting at 12 operating sites and one licensed, but currently inactive, site at Edgemont, S. Dak. While section 211 does not impose or recognize any legal liability on the Federal Government, it does in effect acknowledge a Federal moral responsibility to share in the costs which will be imposed over a protracted period in the future on the owners and operators of these sites. For instance, at some operating sites it may be that an interim stabilization program may be necessary prior to inactivation of the site, followed by a more stringent stabilization requirement when the site is shut down permanently. This program is not intended to address problems in stabilization and management of tailings which have been removed from the site for other uses, such as landfills.

Mr. President, this is an extremely important bill. It is the cornerstone of our strategic nuclear deterrent. We must have the best and safest nuclear weapons that technology can produce.

I want to especially thank the Senator from Maine, Mr. COHEN, for all his help and support in getting this bill before the Senate. I must commend him for the way he did his homework on these programs. He has made himself a nuclear weapons expert.

Mr. President, I also want to express my appreciation to Jim Smith of the staff for the majority who did yeoman work not only on this bill but throughout the year. Jim Smith has rendered an outstanding service to the committee. On the minority side, Ron Lehman has played a very important role in assisting the minority side as well as the majority side.

Mr. President, this has been indeed a bipartisan effort—absolutely no partisanship—and the result is a very good bill with which we are in unanimous agreement.

Mr. COHEN. Mr. President, today I wish to commend to my colleagues S. 3074, an original bill constituting the Department of Energy National Defense Programs Authorization Act of 1981 as recommended by the Senate Armed Services Committee.

In addition to the Department of Defense procurement and military construction authorization bills, the Senate Armed Services Committee also has oversight and authorization responsibility for Department of Energy defense programs such as nuclear weapons production, nuclear materials production and security, naval reactor development, inertial confinement fusion, defense nuclear waste management, and arms control verification technologies. Although the almost $3.8 billion request this year for such programs is but a small part of the approximately $164 billion in budget authority which the President requested this year for the national defense budget function, some of the most important defense programs are involved including items necessary for maintaining our strategic nuclear deterrent.

S. 3704, as reported by the Senate Armed Services Committee, recommends over $4 billion for Department of Energy defense programs with a net authorization of $236 million above the President's amended budget request and $368 million above the President's original January request. The bill, as reported, includes significant initiatives made necessary as a result of inadequate funding of defense nuclear programs.

The large increase in authority recommended by the Senate Armed Services Committee is the addition of $156.9 million for nuclear-materials production. This would begin the process of the conversion of the N-reactor at Richland, Wash. to the production of nuclear weapons grade plutonium. It would also provide for the upgrading of the Purex fuel processing plant also at Richland and the L-reactor at Savannah River, S.C. The committee took this action as a result of its findings that "shortages in nuclear weapons grade nuclear materials could force undesirable trade-offs in America's nuclear weapons programs." The committee found that in the competition for resources within the Department of Energy necessary steps to maintain our ability to produce special nuclear materials were not being funded and that inflation was badly eroding existing efforts. The committee is aware that if corrective action is not taken soon, militarily significant shortfalls in weapons grade nuclear materials could appear in the next decade and could interfere with strategic and tactical nuclear force modernization.

The committee is also aware that existing production facilities will reach the end of their expected life cycles in the early 1990's and that new, more advanced production reactors must be available at that time. Although the committee did not add additional funds to begin new advanced production reactors, the committee has recommended that the Department of Energy formulate a program which would provide for the selection of the most desirable reactor concepts from the numerous ones available so as to begin construction no later than 1985 for initial operations in 1990. This planning for replacement production reactors must begin immediately in order to insure that the United States will not experience a crisis in nuclear materials production in the long run even worse than the near-term shortages which are now cause for concern.

Because the consequences of a shortage of nuclear material for our weapons programs can be so severe, the committee has felt compelled to address this problem, and frankly, cannot understand why the administration itself has not acted more decisively to address this nuclear materials shortage. Funding for the conversion of the N-reactor and for upgrading of the Purex facility was not included in the President's fiscal year 1981 request even though such funding was requested by both the Defense and Energy Departments and has been called for in the House/Senate conference report the previous year.

Last year, in order to gain greater understanding of problems related to the availability of special nuclear materials, the conferees considering the DOE national security bill requested a report, due February 1, 1980, which would have contained the data used by the President in his annual stockpile memorandum and which would have provided an assessment which demonstrates how sufficient nuclear materials might be made available to support requirements on ongoing nuclear weapon systems. Not only was the report 3 months late, but its halcyon projections conflicted with testimony then being received from all witnesses and were at odds with information being used within the administration itself even as amendments designed to address the problems which concern the committee were being coordinated within the executive branch. Subsequent to committee action, a less ambitious series of amendments were received from the administration designed to address the shortage of special nuclar materials. The committee has, once again, requested a report on the President's stockpile memorandum and has urged that the requirement for a reserve of special nuclear materials be retained in that memorandum as a hedge against unanticipated developments.

Inflation and shortages in nonnuclear materials have also taken their toll on defense nuclear programs. The committee, in its recommendations, has attempted to give critical nuclear weapons programs greater protection against the effects of inflation and recommendations that the Department of Energy continue its discussions with the Treausry Department to reach an agreement which would reduce the necessity for large purchases of gold on the open market.

On April 7, 1978 President Carter an- and deployment of enhanced radiation weapons noting:

> The ultimate decision regarding incorporation of enhanced radiation features into our modernized battlefield weapons will be made later and will be influenced by the degree to which the Soviet Union shows restraint in its arms programs and force deployment affecting the security of the United States and Western Europe.

The United States continues to produce new warheads for the 8-inch artillery and Lance missile, both of which are intended as delivery systems for enhanced radiation warheads. President Carter has directed that certain components necessary to convert warheads for these weapons into enhanced radiation warheads be produced and stockpiled in order to permit rapid conversion and deployment of enhanced radiation warheads if that decision should be reached.

The Senate Armed Services Committee has long maintained that all components necessary for the rapid deployment of enhanced radiation capability on the Lance missile and an 8-inch artillery round should be made ready for deployment rapidly should such a decision be reached. Last year the committee learned and confirmed again this year that under current plans the United States is approaching a situation in which enhanced radiation capability could not be deployed for months or even years after such a decision were made. Once again the committee must conclude that "the current situation is tantamount to having no enhanced radiation weapons capability at all." This year the committee recommendation would mandate in law that all necessary components of enhanced radiation weapons be produced and stockpiled in such a way that would permit the rapid conversion and deployment should such a decision be made. Given President Carter's decision to link a deferral of enhanced radiation deployment to a parallel show of restraint by the Soviet Union, the recent Soviet invasion of Afghanistan, I believe, should result in a reconsideration of the deployment question.

Since the nuclear test moratorium and the Limited Test Ban Treaty of the early 1960's, the United States and the Soviet Union have been involved in negotiations aimed at placing greater and greater restrictions on the testing of nuclear weapons and other nuclear explosive devices. In recent years as a comprehensive test ban treaty has appeared more and more likely the Soviet Union has stepped up significantly the magnitude and variety of its tests. The United States on the other hand has cut back. It seems that each nation has taken a different approach as to how one best prepares for living under a comprehensive test ban.

The committee recognizes that Department of Energy defense programs face severe budgetary constraints. Nevertheless, the committee believes that an enhanced testing program such as that now under consideration with the executive branch should be pursued. For that reason the committee has added $94 million for a test program more consistent with national requirements.

Testimony before the Armed Services Committee indicates that Department of Energy defense nuclear facilities are in extremely poor physical condition and are technologically obsolete. The committee has monitored this situation closely and in fiscal year 1979 directed the Department of Energy to develop a plan for rehabilitation existing facilities. The administration has identified a current restoration backlog of $674 million in the nuclear weapons complex. This backlog is growing at a rate of $70 million per year. For nuclear materials production, facilities restoration would require another $414.2 million over the next 5 years. The committee recognizes that the restoration of facilities will take time but believes that the effort being proposed by the administration is "seriously deficient."

Inevitably defense nuclear programs produce nuclear wastes which must be processed or stored. The committee believes strongly that nuclear waste storage problems must be successfully managed so that essential defense nuclear programs will not be delayed. The waste isolation pilot plant (WIPP) was a research project to demonstrate techniques for storage of radioactive waste produced by the defense nuclear weapons complex. Success in this program offered technical answers to questions now existing about long term and eventually permanent storage of nuclear waste. Last year the committee rejected as unmanageable an administration proposal to ference, directed that the waste isolation pilot plant to include storage of spent fuel from civilian reactors. The committee, as well as the House/Senate conference, directed that the waste isolation pilot plant project take into account the legitimate concerns of the State of New Mexico with respect to siting, safety and operations.

For fiscal year 1981 the administration requested no funding for WIPP despite the clear expression of Congress that the WIPP project should continue. Earlier this year Congress refused to enact a rescission bill terminating fiscal year 1980 funding for WIPP and this year the two Armed Services Committees have again expressed their desire that this project continue. Our committee has added $38 million for continued operation and construction of the WIPP.

In summary, Mr. President, I believe that S. 3074 constitutes a significant milestone and a major effort to get American defense nuclear programs back on track. For too long these essential programs have suffered from neglect to the point that vital military programs of the Department of Defense could be adversely impacted if corrective action is not taken in the Department of Energy national defense programs.

As I said, the committee addressed the issues of safety—and certainly that is a matter which is on the minds of a good many people across this country as well as in this Congress—and also addressed the issue of a need to proceed with the development and the capability to produce enhanced radiation weapons, a decision which will be made by the President sometime in the near future, but at least to give us the full capability of doing so should the President decide that is in the country's best interests.

I commend the Senator from Washington for his able assistance in securing the very detailed hearings on this matter and to face up to the consequences of what a shortage of nuclear materials for our weapons program can pose for the country and for the free world.

I urge my colleagues to support S. 3074.

Mr. THURMOND. Mr. President, I rise in support of S. 3074, the Department of Energy National Defense Programs Authorization Act of 1981.

This important bill provides for the research, operation and production of our nuclear weapons programs. The seven programs in the Energy Department involving national defense matters include naval reactors development, inertial confinement fusion, weapons activities, verification and control technology, materials production, defense nuclear waste management, and nuclear materials safeguards and security.

Mr. President, this bill barely funds the necessary nuclear weapons program sufficient to meet our national security interests. The bill sent to Congress by the administration was decidedly inadequate and did not follow many key recommendations of the Secretary of Defense and the Joint Chiefs of Staff.

However, our committee has recognized many of these shortcomings and some adjustments in the bill do provide for various minimum initiatives to meet these shortfalls.

In this regard, the committee has increased this bill by about $236 million. This increase boosts the total authorization to $4.024 billion as opposed to the $3.788 billion requested by the administration.

This represents an increase of about 6 percent and provides for higher spending in the areas of nuclear materials production, waste management and research activities.

Mr. President, our committee was very concerned that the administration viewed this budget as just another category subject to artificial budget ceilings imposed by the Office of Management and Budget. It appears little consideration was given to our real weapons needs, to the need for plant modernizations, to the need for increased amounts of nuclear weapon materials, to the need for more nuclear weapon testing, research and so on.

Some of the concerns of the committee are too sensitive for discussion on the Senate floor. However, a careful reading of our committee report should enable those interested to realize that the administration is taking the country along a high risk policy by not adequately funding these nuclear weapon programs.

When nuclear material production facilities lack modernization, when insufficient amounts of nuclear weapon materials are being produced, when nuclear weapons testing is cut to the bone, when new weapon development is slowed or stopped, then someone had better sound the alarm. Our committee is attempting to sound that alarm.

Mr. President, the policy of the Carter administration in the nuclear weapons program is bordering on unilateral disarmament. It may be necessary for the Congress to once again take the initiative in this vital matter as Congress has already done in increasing defense spending. In any event, such a step should be considered and considered promptly.

Before closing, I would like to commend the capable junior Senator from Washington, Mr. Jackson, who skillfully handled this bill in committee. He was ably assisted by the ranking minority member, the senior Senator from Maine, Mr. Cohen. In addition, an outstanding job was done by Mr. Jim Smith, the committee counsel.

Mr. DOMENICI. Mr. President, I would like to ask the distinguished Senator from Washington (Mr. Jackson) a question about the legislative intent in Public Law 96-164 regarding the provision providing for an agreement for consultation and cooperation between DOE and the State of New Mexico in the conduct of the waste isolation pilot plant project. Was the intent of the conferees that this agreement not alter any other applicable law and judicial review available to either party?

Mr. JACKSON. I can only speak for myself and not for all of the conferees. I can assure the Senator that his characterization is my understanding of the legislative intent.

Mr. DOMENICI. Mr. President, I thank my good friend from Washington for his cooperation in this matter.

Mr. HART. May I raise a point of inquiry with the Senator from Washington State?

Mr. JACKSON. Certainly.

Mr. HART. Am I correct in my understanding that the version of this bill reported by the House Armed Services Committee contains a provision that transfers jurisdiction to the Assistant Secretary of Energy for Defense programs for managing DOE defense nuclear waste?

Mr. JACKSON. The Senator from Colorado is correct. In authorizing $62.5 million for research and development on defense nuclear wastes as well as $149 million for the actual management of existing defense nuclear wastes, the House bill transfers the responsibility for these programs from the Assistant Secretary for Nuclear Energy, where it now resides, to the Assistant Secretary for Defense Programs.

Mr. HART. Am I also right in my understanding that the bill reported by the Senate Armed Services Committee is silent on the issue of jurisdiction of defense nuclear wastes?

Mr. JACKSON. The Senator is again correct.

Mr. HART. I am concerned that the House Committee provision represents an attempt on the part of Congress to inject itself into an organizational decision that should in my opinion remain exclusively within an Executive agency's discretion. Does the Senator from Washington share my concern that this legislation should not dictate to the Secretary of Energy the organizational structure that will best enable DOE to carry out its responsibilities in the area of nuclear waste management and disposal?

Mr. JACKSON. I share the concerns of the Senator from Colorado. Indeed, the committee discussed the issue of separating the DOE defense and civilian nuclear waste programs, but elected not to inject itself into the decision of the Secretary of Energy on how to allocate responsibilities for conducting the program.

Mr. HART. I believe this approach of noninterference is particularly important in this case where both the Secretary of Energy and the administration have raised some serious concerns regarding the transfer of responsibilities for defense wastes to the Assistant Secretary for Defense Programs. Those concerns, which I share, are detailed in a September 17, 1980, letter to me from Secretary Duncan, and a September 23, 1980, letter to me from Stuart Eizenstat, the President's Assistant for Domestic Affairs, and Frank Press, the Director of the Office of Science and Technology Policy. Mr. President, I ask unanimous consent that those letters be included in the Record at the end of this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. In light of our mutual interest in preventing excessive congressional interference in the organizational scheme for DOE's nuclear waste management program, I would urge the Senator from Washington to strongly resist in conference this House provision transferring responsibility for defense waste activities to the Assistant Secretary for Defense Programs.

Mr. JACKSON. I will do what I can to resist the House provision.

Mr. HART. I thank the Senator from Washington for his support on this issue. I am confident that his efforts will insure a conference report that does not interfere with the Secretary's discretion to organize his agency in the best way suited to carry out its responsibilities.

Exhibit 1

The White House,
Washington, D.C., September 23, 1980.
Hon. Gary Hart,
Chairman, Subcommittee on Nuclear Regulation, U.S. Senate, Washington, D.C.

Dear Gary: The charge to the Secretary of Energy to take the lead role in non-regulatory aspects of radioactive waste management is a key feature of the President's plan for a comprehensive national radioactive waste management program, which was announced on February 12, 1980. The Secretary will continue to be the focal point for planning and executing a unified and coordinated action program which ties together, into a National program, scientific, technical and institutional aspects of radioactive waste management. Secretary Duncan's organizational approach to implementation of the program has brought together, under a single Assistant Secretary, radioactive waste management functions previously dispersed in the Department. This consolidation was long overdue.

In view of the efforts that are being made by Secretary Duncan to fulfill the President's objectives, we are very concerned over the disruptive nature of certain provisions (Title I, Section 101, Subpart 5) of the proposed fiscal year 1981 Armed Services Authorization Bill (H.R. 7265) approved by the House. H.R. 7265 redefines defense wastes as "by-products material" and specifically calls for a dissolution of our current management structure by transferring responsibilities for defense waste to the Assistant Secretary for Defense Programs. In our judgment, such a change would set back our efforts to plan and carry out a unified program. It would undermine our ability to work successfully with the States and local governments and erode the consistency and logic of any overall program.

We believe that you share our concern with proposed actions that could turn back the clock to past ineffective arrangements. We ask your assistance in passage of legislation by the Senate that resists attempts to weaken and to fragment the existing management structure for radioactive waste management and the development of a comprehensive national radioactive waste management plan.

Sincerely,

Stuart E. Eizenstat,
Assistant to the President for Domestic Affairs and Policy.
Frank Press,
Director Office of Science and Technology Policy.

Secretary of Energy,
Washington, D.C., September 17, 1980.
Hon. Gary Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: As you know, the President has assigned the lead role in the management of nuclear wastes to the Department of Energy. In carrying out this assignment, the Department determined that the best manner in which to conduct its activities in this vital area was to centralize the previously dispersed activities under the Assistant Secretary for Nuclear Energy.

Title I, Section 101, subpart 5 of the proposed fiscal year 1981 Armed Services Authorization Bill H.R. 7265 recently approved by the full Committee redefines defense waste as defense by-products material and calls for a program ". . . to be administered by the Assistant Secretary for Defense Programs. . . ." Naturally I am very concerned over the Committee's intent to redisperse the Department's management structure for nuclear wastes.

In your capacity as a member of the Senate Committee on Armed Services, and in view of your known interests and responsibilities concerning nuclear waste management, I urge you to oppose this provision which would severely hamper our ability to carry out this most vital and difficult program.

Sincerely,

Charles W. Duncan, Jr.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Defense Programs Authorization Act of 1981".

TITLE I—NATIONAL DEFENSE PROGRAMS

OPERATING EXPENSES

Sec. 101. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1981 for operating expenses incurred in carrying out national defense programs as follows:

(1) For inertial confinement fusion, $159,500,000.

(2) For naval reactors development, $250,350,000.

(3) For weapons activities, $1,816,692,000.

(4) For verification and control technology, $40,591,000.

(5) For materials production, $481,935,000.

(6) For defense nuclear waste management, $265,655,000.

(7) For nuclear materials security and safeguards development, $47,004,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1981 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities; land acquisition related thereto; and acquisition and fabrication of capital equipment not related to construction) necessary for national defense programs, as follows:

(1) For inertial confinement fusion:

Project 81–D–101, particle beam fusion accelerator-II, Sandia National Laboratories, New Mexico, $36,750,000.

Project 80–AE–11, target fabrication facility, Los Alamos National Scientific Laboratory, New Mexico, $14,300,000.

Project 80–AE–12, target fabrication facility, Ernest Orlando Lawrence Livermore National Laboratory, California, $6,600,000.

Project 75–3–b, high energy laser facility, Los Alamos National Scientific Laboratory, New Mexico, an additional sum of $8,000,000 for a total project authorization of $62,500,000.

(2) For naval reactors development:

Project 81–T–111, general plant projects, $3,300,000.

Project 81–T–112, modifications and additions to prototype facilities, various locations, $103,000,000.

Project 81–T–113, fuel materials examination area upgrading, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $2,700,000.

(3) For weapons activities:

Project 81–D–102, general plant projects, $28,900,000.

Project 81–D–103, plant engineering and design, $10,000,000.

Project 81–D–104, heavy duty drill repair facility, Nevada Test Site, Nevada, $1,700,000.

Project 81–D–105, engineering office building, Nevada Test Site, Nevada, $1,800,000.

Project 81–D–106, weaponization facilities, Ernest Orlando Lawrence Livermore National Laboratory, California, $6,600,000.

Project 81–D–107, utilities and equipment restoration, replacement, and upgrade, Phase I, RDTE complex, various locations, $31,000,000.

Project 81–D–108, reactor support facility, Sandia National Laboratory, New Mexico, $9,000,000.

Project 81–D–110, upgrade industrial liquid waste treatment plants, Los Alamos National Scientific Laboratory, New Mexico, $8,000,000.

Project 81–D–111, water system upgrade, Los Alamos National Scientific Laboratory, New Mexico, $9,000,000.

Project 81–D–112, tritium handling facility, Los Alamos National Scientific Laboratory, New Mexico, $4,100,000.

Project 81–D–114, exhaust plenum modifications, Rocky Flats Plant, Golden, Colorado, $10,500,000.

Project 81–D–115, M–X warhead production facilities, various locations, $10,000,000.

Project 81–D–116, utilities and equipment restoration, replacement, and upgrade, Phase II, production complex, various locations, $115,000,000.

Project 81–D–119, reclamation facility improvements, Savannah River Plant, Aiken, South Carolina, $1,200,000.

Project 81–D–120, control of effluents and pollutants, Y–12 Plant, Oak Ridge, Tennessee, $6,400,000.

Project 81–D–121, upgrade weapons staging area roads, Pantex Plant, Amarillo, Texas, $1,600,000.

Project 80–AE–5, ground launched cruise missile (GLMC) warhead production facilities, various locations, an additional sum of $3,000,000, for a total project authorization of $7,000,000.

Project 79–7–e, production and assembly facilities, Pantex Plant, Amarillo, Texas, an additional sum of $13,000,000 for a total project authorization of $23,000,000.

Project 79–7–p, facilities for new modern strategic bomb, various locations, an additional sum of $7,000,000 for a total project authorization of $35,000,000.

(4) For materials production:

Project 81–D–123, general plant projects, $14,600,000.

Project 81–D–124, plant engineering and design, $4,200,000.

Project 81–D–125, N-reactor safety and environmental improvements, Richland, Washington, $5,100,000.

Project 81–D–126, pollution abatement facilities, Richland, Washington, $1,000,000.

Project 81–D–128, restoration of production capabilities, various locations, $68,400,000.

Project 81–D–131, remote analytical facility upgrade and expansion, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,500,000.

Project 81–D–141, hangars for N-reactor irradiated fuel storage, Richland, Washington, $5,000,000.

Project 81–D–142, steam transfer header, Savannah River, South Carolina, $7,000,000.

Project 81–D–143, L-reactor upgrade, Savannah River, South Carolina, $18,000,000.

Project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $34,000,000 for a total project authorization of $149,400,000.

(5) For defense nuclear waste management:

Project 81–T–101, general plant projects, $9,140,000.

Project 81–T–102, plant engineering and design, $9,865,000.

Project 81–T–103, sixth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $15,000,000.

Project 81–T–104, radioactive waste facilities improvements, Oak Ridge National Laboratory, Tennessee, $20,000,000.

Project 81–T–106, transuranic waste treatment facility, Idaho National Engineering Laboratory, Idaho, $10,000,000 (AE only).

Project 77–13–f, waste isolation pilot plant, Delaware Basin, southeast New Mexico, an additional sum of $29,000,000, for a total project authorization of $119,000,000.

(6) For capital equipment not related to construction—

(A) for inertial confinement fusion, $11,000,000;

(B) for naval reactors development, $39,000,000;

(C) for weapons activities, $113,700,000;

(D) for verification and control technology, $800,000;

(E) for materials production, $38,700,000;

(F) for defense nuclear waste management, $25,000,000; and

(G) for nuclear materials security and safeguards developmnt, $3,400,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title refered to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obilgated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary is authorized to carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of such construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of such project is revised due to unforeseen cost variations and the revised cost of such project exceeds $1,000,000 the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

(c) In no event may the total amount of funds obilgated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of any construction project which is authorized by section 102 of this Act, or which is in support of the national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent (1) the amount authorized for such project, or (2) the amount of the total estimated cost for such project as shown in the most recent budget justification data submitted to Congress, such project may not be started or additional obligations incurred in connection with such project, as the case may be, unless a period of 30 days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or unless each such committee before the expiration of such period has notified the Secretary that such committee has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUND TRANSFER AUTHORITY

SEC. 204. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and such funds so transferred may be merged with the appropriations of the agency to which such funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 205. (a) (1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

Sec. 206. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform such planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that such design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Sec. 207. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

Sec. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

Sec. 209. When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

ENHANCED RADIATION WARHEADS

Sec. 210. The Secretary of Energy shall produce and stockpile the nuclear materials and the warhead components necessary to enable the rapid conversion of the W70–3 and the W79–1 warheads to an enhanced radiation capability.

URANIUM MILL TAILINGS PLAN

Sec. 211. The Secretary of Energy shall develop a plan for a cooperative program to provide assistance in the stabilization and management of uranium mill tailings which have resulted from ore processing to extract uranium under contract with the United States for use primarily in defense programs and which are now comingled with other tailings. In developing the plan, the Secretary shall establish the amount and condition of the tailings resulting from such Federal contracts at each currently operating or currently licensed extraction site in order to permit calculation of the federally contracted share of the total tailings which must be stabilized and managed over time. The plan shall include a methodology for establishing the extent of Federal assistance appropriate to meet the costs for stabilizing and managing such tailings at each such site in order to comply with a requirement of Federal law or regulation imposed after termination of such Federal contracts. The Secretary shall consult with the owners and operators of each such site and shall submit the plan and his recommendations to the Congress not later than October 1, 1981.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COHEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:47 p.m., recessed for 30 minutes; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Mitchell).

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended for an additional 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTONIO POMERLEAU

Mr. LEAHY. Mr. President, recently my hometown newspaper, the Burlington Free Press, carried an editorial entitled "World Needs More Antonio Pomerleaus."

I have known Tony Pomerleau for over 20 years. Not only is he a member of my wife's family, but he is also a close personal friend.

His work as one of Burlington's leading citizens is well known, ranging from commitment to downtown preservation to historic restoration.

It is with great personal pleasure that I ask unanimous consent to have printed in the Record the editorial entitled "World Needs More Antonio Pomerleaus," from the Burlington Free Press, Monday, September 8, 1980.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

World Needs More Antonio Pomerleaus

Antonio Pomerleau is one of our favorite people.

Not only is the silver-haired Pomerleau one of Vermont's most successful native sons—he ranks as Burlington's fourth largest individual taxpayer—but more importantly he's not afraid to be involved in the community he loves.

When fire destroyed the historic Follet House in May 1979, he acquired the building from the Veterans of Foreign Wars Post No. 782 and restored it at a cost of $280,000. Like a proud father, he opened the building to public inspection when the restoration work was completed.

Since 1971 Pomerleau has served as chairman of the Burlington Police Commission. His occasional battles with Mayor Gordon Paquette over the police budget are regarded as classics. If they ever build a hall of fame for political skirmishes, remnants from the Pomerleau-Paquette confrontations will be in there.

Ask Pomerleau why he puts up with the aggravation of running an understaffed police department on a limited budget and he's likely to respond by telling you what he tells persons who complain about the way the city is run. Those people get no sympathy from Pomerleau. "I ask them why they don't run for office," Pomerleau explains. "I tell them if they aren't willing to serve, they've got no business complaining about the job others are doing."

We don't always agree with Pomerleau on what he sees as the top priorities in a city tha lacks the financial resources to provide all the services its residents expect.

What every Vermonter should applaud is Pomerleau's willingness to get involved. Too many of us would rather sit on the sidelines while others seek solutions to difficult problems. Unfortunately, there just aren't enough Antonio Pomerleaus in this world.

FINDINGS OF THE RURAL DEVELOPMENT SUBCOMMITTEE HEARING ON THE EFFECTS OF NUCLEAR WASTE STORAGE ON RURAL AREAS

Mr. LEAHY. Mr. President, current stockpiles of America's nuclear wastes are staggering. There are 80 million gallons of high-level wastes, nearly 20,000 highly radioactive spent fuel rods, 15 million cubic feet of low-level wastes, and 150 million tons of uranium mine tailings now spread across this Nation, and these volumes continue to grow at an alarming rate.

America's increasing reliance on nuclear energy has brought the issue of how nuclear wastes are managed into sharp focus recently, although the problem of disposing of this waste has been with us since its early accumulation from military programs in the 1940's. And while debate over the future of nuclear energy continues, regardless of its outcome the fact is that we will continue to confront the problems of waste disposal for centuries.

If we are to resolve the critical problems of nuclear waste management, it is important that all aspects of it be openly explored and fully understood early on. While the issue of health safety is paramount, it is imperative that questions of what happens to host communities of nuclear waste sites be addressed now. Although the Senate recently voted to make some initial decisions on nuclear waste management, we do not know exactly where or how these wastes will be disposed. One thing seems certain, however, nuclear wastes will be stored in the rural areas of this country whether in permanent geologic repositories, away from reactor facilities, or low-level waste burial trenches.

As a Senator and resident of the most rural State in this country and as chairman of the Committee on Agriculture's Subcommittee on Rural Development, I am concerned that rural America not become the indiscriminate dumping ground of nuclear waste. There is the danger that because fewer people live in rural areas and their political clout is dispersed, the full ramifications of nuclear waste management will not be addressed, and that cold calculations of technical feasibility will overshadow the severe socioeconomic impacts that will be borne by rural communities chosen to host a storage site.

Mr. President, with this in mind, on August 26, 1980, I chaired a hearing of the Rural Development Subcommittee to examine the anticipated impacts of nuclear waste storage sites on nearby small towns and rural communities. The hearing record will be printed in a few weeks.

In the interim I felt it important to briefly highlight the findings of the hearing for consideration by my Senate colleagues before we recess. I believe the hearing offered an important perspective to the nuclear waste debate which has received only scant attention and minimal study by the Federal Government.

At the August hearing, State and local elected officials, respected academicians and several administration witnesses testified to the importance and consequences of this long ignored issue. Unfortunately, we found a classic case of Federal departments esconced in the city of Washington, D.C., and out of touch with the fears and realities of the life in rural America.

Mr. President, I was not surprised to learn that rural people have little faith or trust in the Federal Government's commitment to protect the interests of their communities when disposing of nuclear waste. I share their concern. This attitude is pervasive and emanates from previous Federal relationships with State and local governments that were misleading and did not appreciate and consider the full consequences of Federal actions and policy.

To overcome this long festering barrier to sound nuclear waste management, rural people must be told specifically what the Federal Government is up to when their area is being considered as a potential disposal site. They are tired of brief summaries and form letters requesting their opinions after the decisions have already been made.

The people of nonmetropolitan America are demanding straight talk from the Government on this issue, prenotification of any Federal actions in nuclear waste management that will affect their communities, and a meaningful partnership with the Federal Government in addressing this national dilemma which is apt to be buried in their backyards.

Mr. President, the hearing documented drastic and severe social and economic consequences for the small communities that will ultimately host nuclear waste disposal sites. These will not be unlike those impacts felt by energy boomtowns of the West and Appalachia which are suffering from the strains of unplanned, rapid development.

Like an energy boom town, the dramatic rise and fall of a small community's population from the construction and operation of a nuclear waste repository will mean shortages in housing and health care, increased demand for already strained social services, loss of farmland, and severe stress on a community's social cohesion as indicated by rising rates of divorce, child abuse, suicide, crime and alcoholism, and, as social history teaches, these burdens will again fall heaviest on the poor, a population disproportionately found in rural America.

Unlike energy boom towns, waste site communities may suffer the double jeopardy of public fear of radioactive leaks, a fear that can translate into depressed real estate values, a failing tourist business, and a national image as an energy doom town.

The hearing clearly showed that these important issues have received little or no Federal attention to date. And while the Department of Energy acknowledged the serious nature of the subcommittee's concerns and the important role they should play in the site selection process, along with issues of health safety and technical reliability, neither the Department of Energy nor the Nuclear Regulatory Commission is willing to require the identification and mitigation of social and economic impacts as a prerequisite to the licensing of a nuclear waste storage facility. Without this licensing requirement, Federal assurances to the public remain suspect. To quote one Vermonter, "If they mean it, why don't they do it?"

Mr. President, nuclear waste storage facilities are unlike other dangerous Federal construction projects. They will place immense social, economic, physical, and mental health burdens on the rural host communities, burdens that could well become stagnant and entrenched, eventually destroying a good part of rural America.

As a nation, we have the responsibility to be fair and equitable with the rural areas that will store our nuclear garbage. Equity here demands a public commitment to the full and fair mitigation of these impacts, the costs of which should be borne by the users of the sites, not the local communities.

Who pays for these social and economic costs is a central question. Yet, it is often clouded by ignorance and masked from the public because these costs may not become evident until years after a waste site is completed. I believe they should be paid for, in full, by the users of a waste site. If a site stores military nuclear wastes, then a proportion of the socioeconomic costs should be paid by the Federal Government. If it stores spent fuel rods or other radioactive wastes from nuclear energy production, then that industry should pay their share as well.

To an extent, the Senate has recognized some of the social and economic impacts of nuclear waste sites by approving the energy impact assistance bill. The legislation could provide limited assistance to a few impacted communities. However, that bill was enfeebled because no provisions were made to recoup these Federal expenditures from users of nuclear waste sites.

To illustrate how secluded from public awareness these issues are, one has only to point to President Carter's policy on nuclear waste management. That policy was restated at the August hearing. It rightly requires that all costs of nuclear waste storage be paid by a site's users. However, the administration has testified in support of the energy impact assistance bill which gives the hidden subsidy described above.

Such a subsidy does not just mean that someone is profiting from social misery behind a Federal shield, although that alone should discredit it. At the most basic level it means that we cannot accurately weigh and assess the costs of various energy alternatives. Hidden subsidies only serve to skew and warp the critical energy decisions that we face as a nation.

I hope the Nuclear Regulatory Commission will not repeat this mistake by extending limited liability coverage under the Price-Anderson Act to nuclear waste storage sites. Moreover, the Nuclear Regulatory Commission could restore much public trust in Government if it were willing to follow through on the words of the President by requiring that all costs of a waste site, be they on physical health or community integrity, must be paid by a site's users or lose its operating license.

The Commission again sidestepped such a licensing requirement at the hearing. No wonder rural people are skeptical of Federal intent and promises.

Mr. President, the Department of Energy will soon expand its study of potential nuclear waste storage sites to include granite formations in 13 States. They are Vermont, Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Virginia, Pennsylvania, North Carolina, South Carolina, and Georgia. My understanding is that these will be paper studies focusing strictly on the technical feasibility of using this geologic median for the permanent storage of nuclear wastes.

This is troubling because neither the Department of Energy nor the Nuclear Regulatory Commission has even begun to study and are certainly not prepared to address the consequences to be laid on the small towns and villages that will eventually host nuclear waste repositories. The problem and my concern here is compounded, as the hearing clearly showed, because the socioeconomic impacts of granite sites and other hard rock medians will be significantly greater than salt, shale or similar medians due to the higher manpower requirements necessary to construct and operate them.

Mr. President, there are serious social and economic questions to nuclear waste management which we have not begun to address. Due to this, I submit for the RECORD a letter I have sent to Secretary Duncan stating my opposition to the construction of nuclear waste repositories in Vermont or other rural areas until these important questions are answered. To move ahead with the site selection process before these issues are resolved would serve a gross injustice to the 60 million people of rural America.

Mr. President. I hope all Senators will study and realize what nuclear waste sites portend for rural America if we continue to ignore their human and community costs. Questions of health safety and technical feasibility remain, but we have just begun to discern the equally important issue of social and economic impacts. We must not make the fatal mistake of affirming nuclear waste storage sites until all of these issues are resolved. Rural equity demands no less attention to these problems than the fracas that would arise if tons of nuclear garbage were to be buried in downtown metropolitan America.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I sent to Secretary Duncan.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 25, 1980.

Hon. CHARLES W. DUNCAN, Jr.,
Secretary,
Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: As you know, on August 26, the Rural Development Subcommittee of the Senate Committee on Agriculture held a hearing on the socio-economic impact of nuclear waste repositories on nearby rural areas and small communities.

Your Department is to be commended for your careful attention to the critical health and safety considerations involved with the management of nuclear wastes. In testimony before my Subcommittee, however, Mr. George Cunningham, Assistant Secretary for Nuclear Energy, and other witnesses made it clear that socio-economic effects have been virtually ignored in studies of potential waste storage sites. While health and safety questions remain paramount, the socio-economic effects of proposed waste sites must not be overlooked.

If nuclear waste sites are to be located in rural areas, this in no way lessens the responsibility of the Federal Government to ensure that the sites are safe and cause minimal harm to nearby communities. I expect the Department to give the same level of care and attention to questions of health, safety and socio-economic effects as it would if a waste site were to be constructed in a major urban area.

Although Assistant Secretary Cunningham testified to the importance of assessing and mitigating socio-economic impacts from nuclear waste sites, this vital issue has received scant study and attention to date. Essential physical safeguards, and sufficient understanding of, and preparations for, the boom and bust effects of a waste site on nearby communities are sorely lacking.

Reports have recently come to my attention that DOE will be expanding its studies of potential geologic waste repositories to include granite formations in at least 13 states, including Vermont. As Mr. Cunningham testified, a granite repository will have a greater socio-economic impact on surrounding towns due to the increased manpower required to construct and operate a hard rock, as compared to a salt or shale, site.

As you know, there is significant and ardent local opposition to storing nuclear wastes in Vermont. I strongly share that opposition, and expect the Department to provide advance notification to states or local governments which come under preliminary consideration as hosts for potential waste sites. I expect that your Department will recognize and honor the important role of state and local governments in this process, and will include them in any future studies in a meaningful way. They should be involved in technical feasibility studies as well as efforts to identify and mitigate potential socio-economic impacts.

I look forward to working with you and the Department in an effort to address the important issues involved with nuclear waste management. Until these issues are resolved to my satisfaction, however, I will continue to do all I can to guarantee that no permanent waste site is constructed in Vermont or in other rural locations against their will.

Sincerely,

PATRICK J. LEAHY,
U.S. Senator.

Mr. LEAHY. Mr. President, I yield back to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont.

NFIB SMALL BUSINESS VOTING INDEX MISLEADING

Mr. LONG. Mr. President, the National Federation of Independent Business recently published their ratings on a series of votes selected by that organization.

I have closely examined the NFIB mandate 429, which explains the basis for these ratings, and in my opinion these ratings are a flagrant misrepresentation of the work we have done in this Congress to help small business.

In fact, I would characterize these NFIB ratings as an extremely unfair and slanted voting index. Any index that reflects the lowest rating in the Senate for the chairman of the Senate Small Business Committee, the Senator from Wisconsin (Mr. NELSON), would be ridiculous. A close look at NFIB's so-called small business issues merely adds additional evidence to my conclusion.

For example, the very first issue listed by the NFIB deals with a moratorium on nuclear plant construction. Not once in the years I spent as a member of the Small Business Committee did a small businessman come to a hearing to express his concern over nuclear powerplant construction.

Another issue that the NFIB declared to be of vital interest to the small business community was a vote on the size of the appropriation for synthetic fuels development.

Certainly we are all concerned about the development of synthetic fuels, and one may disagree about the amount of money that should be appropriated. But for an organization that purports to be a voice for the small business community to focus on nuclear power and synthetic fuels, and at the same time ignore such issues as corporate and estate tax reform, regulatory reform, paperwork reduction, strengthening the Small Business Administration advocacy program, and the many other small business issues before the Congress this year, makes the rating a joke.

In addition, the NFIB—no doubt out of its own concept of "fairness"—managed to rate an individual twice or three times on virtually identical issues in order to score individuals heavily on issues they considered to be important. Particularly distressing was that the NFIB scored Senators twice each on the issue of establishing small business development centers, standing alone among business organizations in this Nation opposing the bill. More than 200 other business organizations, representing over 4,500,000 small business people, supported the position on small business development centers that NFIB opposed.

In other words, here was the NFIB purporting to speak for small business and opposing the small business centers which were supported by 200 other organizations of business people interested in small business, which clearly tags NFIB as not really being the best small business organization but, perhaps, the worst.

Here is NFIB wanting to count that vote twice, where they are the only organization in America purporting to speak for small business which takes the view that we should not have small business development centers.

Mr. President, this pattern of selection adds up to a stacked deck and serves only to discredit NFIB and to mislead and ill-inform its own membership.

As a former senior member of the Senate Small Business Committee—as a matter of fact, as one who was appointed to the committee when it was first created—and as chairman of the Senate Finance Committee today and since 1966, I have watched small business development very closely.

Since Senator NELSON became chairman of the Small Business Committee in 1975, that committee has held over 300 days of public hearings and has designed and developed more small business legislation than ever before in its history.

And because of his stature, Senator NELSON has succeeded in getting more of these bills enacted than anyone believed was possible.

In the last several years, we have witnessed fundamental changes in the tax structure as it applies to small business. The impressive list of changes include the following:

Since 1975, the surtax exemption was moved from $25,000 to $100,000, and we enacted the most progressive corporate tax rates since this tax first appeared in 1909. The new schedules mean an annual saving of up to $14,750 in Federal taxes for smaller companies. In the Revenue Act of 1975, the used machinery investment credit was doubled and we increased permissible accumulated earnings by 50 percent, from $100,000 to $150,000.

In 1976, we tripled the Federal estate and gift tax exemptions, raised the marital deduction to a maximum of $250,000, and provided 15 years for the deferred payment of estate taxes due on a business.

In 1977, we enacted an employment tax credit.

In 1978, we reduced Federal capital gains taxes from a maximum rate of 49 percent to 28 percent, virtually eliminated the so-called "widow's tax," and provided a $100,000 homestead capital gains exemption for individuals over age 55.

Senator NELSON's hearings developed these issues, and developed the legislation to make these tax cuts responsibly. It was his advocacy that greatly contributed to the approval of these measures in the Finance Committee and ultimately by Congress.

It was Senator NELSON who first raised the need for depreciation simplification and reform in 1975, in testimony to the

House Ways and Means Committee. He and the Senator from Texas (Mr. BENTSEN) are the acknowledged Senate leaders in bringing depreciation reform to the threshold of enactment.

Senator NELSON got the President to call the White House Conference on Small Business, which has given small business issues national prominence. There is an independent business organization in my own State of Louisiana now because of the momentum of this movement.

Senator NELSON was named by the Senate majority leader as chairman of the Senate-wide Task Force on Small Business to implement the delegate recommendations of the White House Conference. Because of his outstanding dedication and efforts this year, a whole range of small business bills on paperwork reduction, 2-tier regulation, regulatory reform, securities issues, capital formation, judicial access, innovation, exports, small business procurement, product liability insurance, and a nine-item tax bill, most of which he originated, has either been enacted by law, or is very close to being enacted.

It is my feeling that Senator NELSON has done more for small business since the Small Business Committee was established than any person in public or private life in this country.

In my judgment, the country and the small business community are ill served by any biased, superficial, and deceiving poll, especially the one NFIB has published.

Mr. President, I suggest the absence of a quorum.

Mr. EXON. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. BOREN.) Without objection, it is so ordered.

Mr. EXON. Mr. President, I thank the Senator from Louisiana for the excellent statement he has just made on the floor of the U.S. Senate. This Senator from Nebraska has been a small businessman all his life and I think I know something about small business and what makes small business operate.

If there is a champion of small business in the U.S. Senate—I think of such individuals as the Senator from Louisiana himself, the Senator from Texas (Mr. BENTSEN) and others—but in my opinion, for the short time I have been in the Senate, the Senator from Wisconsin (Mr. NELSON) is Mr. Small Business of the U.S. Senate. He is conscious of the small businessman. He is the one who takes on and carries the ball for the small businessman. Frankly, I was shocked, indeed, to learn from the Senator's talk on the floor today that anyone who associates himself with small business would not recognize and salute the distinguished Senator from Wisconsin for his record in that area.

Mr. President, possibly, I say to my friend from Louisiana, it is just one of the things that we, as Members of the Senate, have to put up with, because, at least when we went to school, the teachers were fair in both instances in giving us a report card; that is not so of many of the special interest groups that rate us these days.

I thank my friend from Louisiana for bringing this matter to the attention of the Senate. I think when these things come up, it is well that we get onto the floor and speak our piece and not be afraid of the special interest groups who want, from time to time, to influence improperly the decisions of those of us who serve the public. Certainly, this is a clear case where, intentionally or otherwise, the record of the distinguished Senator from Wisconsin, Mr. Small Businessman of the United States, has been distorted.

Mr. LONG. Will the Senator yield at that point.

Mr. EXON. I am happy to yield.

Mr. LONG. Mr. President, let me make this statement: I have served in the Senate now for almost 32 years. I was appointed a member of the Small Business Committee when it was first created. That was about 30 years ago—somewhere between 30 and 32 years ago.

I served on that committee for many years. Had it not been for the fact that I gave up the opportunity to serve on the Armed Services Committee in order to move over to the Finance Committee, I would, today, be the chairman of the Committee on Small Business, because I served for many years as the ranking member on the Small Business Committee. So I have served on that committee for many years.

I have served as the chairman of many of the significant subcommittees of the Committee on Small Business, long before I ever became chairman of the Senate Committee on Finance. I have watched and observed the performance of the Small Business Committee ever since the committee was organized and I was appointed a member.

Mr. President, during that 30-odd years, I have never seen any Senator as vigorous, as effective, or as dedicated to the cause of small business as GAYLORD NELSON of Wisconsin.

During that time, from time to time, I felt that he and his followers went too far in trying to help small business.

On occasion, I tackled them here—and actually was defeated by Senator NELSON and his supporters who were trying to help small business—feeling they had gone too far.

Sometimes, I took them on with the support of the Secretary of the Treasury and the administration in feeling they had gone too far in trying to benefit small business. I was defeated when I did that.

Now, having seen a Senator perform for small business as no Senator has performed for small businesses in the last 32 years, to me, it does not bring any credentials of Senator NELSON into doubt, that the National Federation of Independent Business puts out a fraudulent voting record that gives him a very poor grade. It brings into question the credentials and the integrity of the NFIB, because when we look for one who has tried, as Mr. NELSON would have tried in this Chamber, and when they put out a deceitful and dishonest voting record, in my judgment, that brings their credentials as leaders of small business into question. That brings themselves into challenge, not the Senator.

It would be as though someone were here to challenge the credentials of Jesus Christ as a moral leader to us Christians. If, at that point, he undertook to find fault with the Master, we would feel that person himself, obviously, was of doubtful credentials to attempt to lead anybody in the area of morality.

So those of us who have watched Senator NELSON perform in the area of small business feel that no one, no Member of this body, can put a record against him that would stand thoughtful comparison by Senators interested in small business.

But then for some to go and pick out some votes, like that on the nuclear reactors, or something of that sort, with the size of the nuclear program, where a man who is known to be very interested in environmental issues, like Senator NELSON, might feel we are spending enough on them the way it is now, that was a vote against small business, but it does not bring Senator NELSON into doubt, but the NFIB into question, and their leadership into question.

I have other things more important to do than investigate the National Federation of Independent Business. I suppose the same thing would be true of Senator NELSON and the Senator from Nebraska.

But I do think the people of Nebraska ought to take a look at Senator NELSON's record now that the NFIB brought it up, look at what he has done for small business, the charges he led for small business, and take that phony record the NFIB issued and look at those items on which they hold Senator NELSON to be in error and see if those are items that are of genuine concern to small business—which they are not.

I do think, Mr. President, that when any group that claims to speak for someone, so very improperly, misrepresents the interest of those for whom they claim to speak, people should take a look and decide for themselves.

I would challenge anyone to take the issues he thinks important, and no one, I think, can better select what the tests ought to be than Senator NELSON on the different items he thinks important to small business. Let the chairman of the Small Business Committee (Mr. NELSON) tell us what he thinks is important to small business, and look at what his position has been on those issues.

Once one does that, I think he would conclude that small business has no better friend, and has had no better friend, than the junior Senator from Wisconsin (Mr. NELSON).

I thank the Senator for his contribution.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President and upon the recommendation of the minority leader, appoints the Senator from Illinois (Mr. PERCY) to the 1980 Annual Meetings of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development and its Affiliates, to be held in Washington, D.C., September 30–October 3, 1980.

SENATOR HERMAN TALMADGE

Mr. ROBERT C. BYRD. Mr. President, Senator HERMAN TALMADGE is completing his fourth term of office this year, and is looking forward with energy and enthusiasm to a fifth term. For nearly two and one-half decades, this champion of American agriculture has provided leadership and vision to the cause of the average farmer and to the people who consume this country's bounteous agricultural production.

Nearly every major piece of agricultural, forestry, or food legislation passed by the Congress since the Eisenhower administration bears the mark of the Senator from Georgia. As the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE has presided over the formation of many laws which touch every American.

His record in agricultural policy is unparalleled. Among the major laws which his committee has produced are the Emergency Agricultural Act of 1978, the comprehensive Food and Agriculture Act of 1977, and the Agriculture and Consumer Protection Act of 1973.

The Food and Agriculture Act is the blueprint for the entire structure of our agricultural, rural development, and nutrition policies. Its passage in 1977 was a legislative achievement of major proportions. During the Senate debate on that landmark law, Senator TALMADGE repeatedly demonstrated his knowledge of the plethora of programs in that bill. He moved from title to title of that bill with the greatest of ease, answering questions on various aspects of one program after another. It was an impressive performance by a tried and true veteran of the U.S. Senate.

Senator TALMADGE is interested in all rural Americans. When he became chairman of the Agriculture Committee in 1971, he created the Rural Development Subcommittee. That subcommittee reported the Rural Development Act of 1972, which was enacted by the 92d Congress. That law set our country on a bold course to revitalize rural America, and to improve the life of rural and small town residents.

A key part of the Rural Development Act is the program providing low interest rate loans to local governments for sewers, water treatment plants, and health facilities. My State has benefited from such loans made by the Farmers Home Administration. As we have seen this year, tight credit and high interest rates hit rural communities particularly hard. Their sources of credit are more limited than in urban communities. A loan program to alleviate such credit crunches for rural communities is evidence of the wisdom and compassion of the Senator from Georgia.

Another important part of the rural development policy articulated by Senator TALMADGE is the industrial development loan program. These loans to local governments are "seed money" for industrial projects such as a gasohol production facility or a small factory.

Loans made under the Rural Development Act programs, as well as those under the major agricultural programs, have been promptly paid back to the Federal Government. It is a tribute to the skill of Senator TALMADGE and his committee that these large programs work so well.

Senator TALMADGE has been very active in rural energy initiatives. He introduced S. 1775, the Agricultural, Forestry, and Rural Energy Act in 1979. The major provisions of that bill were enacted as part of the synthetics fuels legislation. Up to $1.4 billion per year in loans, loan guarantees, and grants for on-farm and small-scale commercial energy projects can be made by the Energy Department and the Agriculture Department under the new law. The program will spur the infant gasohol industry and encourage increased use of American energy resources.

The Senate adopted an amendment sponsored by Senator TALMADGE and others during consideration of the windfall profits tax bill which dovetails with the gasohol and biomass policies set forth in the synthetic fuels legislation. The amendment provides tax credits to encourage the production of alternative fuels made from biomass and coal. Gasohol receives an extension of its exemption from Federal excise taxes in the windfall profits tax bill. Senator TALMADGE was a leader in the effort to insure that our energy policy encouraged rural energy initiatives, and he has done this well.

Senator TALMADGE has long had a deep interest in improving America's forestland, and in reforesting private woodlands. He strongly supported the forestry incentives program as part of the Agricultural and Consumer Protection Act of 1973. This program provides cost-sharing arrangements for private woodlot owners to improve their land. Again, my State has benefited from this program, as have many States with large wooded areas.

Preserving and improving woodland is an important part of our natural resources policy. Preserving our soil and water are equally important. The Senator from Georgia has worked hard to provide sound conservation planning in the Soil and Water Resources Conservation Act of 1977. Under this law, the conservation agencies of the Department of Agriculture are able to apply their resources where they are most needed and where they will be of greatest value.

Senator TALMADGE is an important leader in health-related legislation. As chairman of the Health Subcommittee of the Committee on Finance, the Senator from Georgia has pushed for legislation to eliminate fraud and abuse in the Federal medicare and medicaid programs, which will save the taxpayers of this country millions of dollars.

It is obvious that Senator HERMAN TALMADGE is one of the most influential Members of this body. His work on the Agriculture Committee, on the Finance Committee, and as a Senator from the State of Georgia are exemplary. I look forward to working with my friend HERMAN TALMADGE for many years to come.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, every year in this Chamber we appropriate billions of dollars to fund domestic, military, and international programs of vast consequence to the people of this nation and of the world. But we realize that the act of legislating or appropriating does not automatically solve a social, or economic, or political problem; nor does it absolve the Senate of further responsibilities over those problems. We must have legislative oversight of the administration of the laws we pass; and we must have strict accountability for the funds we appropriate. Accountability goes to the heart of the democratic system, and the scholar E. L. Normanton reminds us that "government and administration are not activities intended solely for the benefit of those who practice them—a simple fact, but one which, Heaven knows, it is easy to forget."

When we consider the magnitude of the federal government and its annual budget today, we realize how difficult a task we would face in demanding such accountability if it were not for the assistance and vigilance of the United States General Accounting Office. It is our largest and, in many respects, perhaps our most important congressional support agency, and I should like to speak now about its origins and sixty years of financial detective work, which has resulted over the past fifteen years alone in extensive savings for the taxpayers.

Until 1921, the Congress maintained its surveillance over government spending primarily through the language of the appropriations acts—a system which dated back to British Parliament's legislative appropriations in 1688—and through the Comptrollers and Auditors of the Treasury. But on May 26, 1921, Congress enacted the Budget and Accounting Act, one of the most significant statutes in our national financial history. Not only did this act require presidents to submit to Congress estimates of expenditures and receipts in an annual budget message, at the beginning of each session, but it also established the Bureau of the Budget (now the Office of Management and Budget) and the General Accounting Office.

The Budget and Accounting Act had a controversial history behind it. Back in 1912, a Commission of Economy and Efficiency had recommended that a consolidated federal budget be submitted annually to Congress. President William Howard Taft presented the first such budget in 1913, but the change in administrations that year delayed further efforts toward budgetary reform.

America's entry into World War I, with the massive expenditures that effort entailed, brought new demands for a national budget system. In 1919, both the House and Senate established select committees on the Budget, and reported legislation calling for an independent

Comptroller General and an accounting agency under his direction. The House proposed that this be called the "accounting department," but the Senate committee insisted that it bear the title of "general accounting office" to emphasize its independence from the executive agencies.

In 1920, President Woodrow Wilson, then locked in a struggle with the Republican controlled Congress, vetoed the Budget Act on the grounds that while it had given the president authority to appoint the Comptroller General, only Congress was empowered therein to remove him. Wilson argued that "Congress is without power to limit the appointing office and its incident, the power of removal." (Constitutional scholars will recognize that this difference between the president and the Congress was not limited to the Budget Act, but was part of a long-running dispute over the power of removal which dated back to the Tenure of Office Act during Reconstruction. A few years later, in 1924, the Supreme Court settled the issue in Myers against U.S. when it decided that the president did indeed possess the power to remove officials he had appointed.)

Congress failed to override President Wilson's veto, but reenacted the measure the following year, and it was signed by his successor, Warren G. Harding. In deference to President Wilson's objections, however, the new version of the bill provided that the Comptroller General could be removed only by joint—rather than concurrent—resolution, thus requiring presidential approval.

Although, at the time, the press devoted most of its attention to Title II of the Budget and Accounting Act, the section which required presidents to submit annual budgets to Congress, it was Title III that has proved most beneficial to Congress over the years. For this was the section that established the General Accounting Office, independent of the Executive Branch, to "investigate, at the seat of government and elsewhere, all matters relating to the receipt, disbursement, and application of public funds."

The Comptroller General and his assistant were to be appointed by the president for fifteen year terms—the longest in the government except for federal judges—and made ineligible for reappointment. This was designed to give the Comptroller sufficient independence to keep the GAO above partisan politics.

The Budget Act also gave the Comptroller two hats to wear. He could initiate investigations on his own, as the government's independent auditor. And, in addition, he was required to "make such investigations and reports as shall be ordered by either House of Congress or by any committee of either House having jurisdiction over revenue, appropriations, or expenditures." Today, the GAO serves all members of Congress, and more than one-third of its work is congressionally requested. In effect, all of its work is directed toward assisting Congress, since GAO staff try to ascertain congressional information needs in advance of any formal request, through their frequent discussions with committees and individual members.

President Harding appointed J. Raymond McCarl as the first Comptroller General in 1921. McCarl was a Nebraska lawyer who had served as secretary to Senator George Norris and as executive secretary to the Republican Congressional Campaign Committee, so he had been closely associated with Congress before his appointment. Beginning with a staff of about 1,700 which he inherited from the Treasury Department, Comptroller General McCarl built the GAO into an agency that concentrated primarily on centralized voucher audits and on rendering decisions concerning the legality of federal disbursements. The GAO's early goals were to assure strict compliance with the laws, accuracy, and honesty of executive agency employees, and conformance with the accounting forms and procedures it prescribed.

Succeeding McCarl as Comptroller General was former Democratic Senator Fred H. Brown of New Hampshire, who served just a little over a year before resigning due to ill health. North Carolina Congressman Lindsay C. Warren then took over the post. Warren had been highly respected by his colleagues in the House and worked hard to foster closer ties between the GAO and Congress. Thus, by the 1950's, a tradition of providing direct assistance to Congress had become firmly established in the agency.

Government growth during the New Deal and World War II had made it impractical for the GAO to continue auditing every government voucher from a central location in Washington. Two important new laws were then enacted which changed the General Accounting Office's mission dramatically. The first was the Government Corporation Control Act of 1945 which directed the GAO annually to audit government corporations, using commercial auditing techniques. This necessitated the hiring of professional accountants and eventually replacing the existing GAO staff of clerks, investigators, and attorneys. In addition to these personnel changes, the law required on-site audits, a practice which led to the formation of a large field staff.

The second law was the Budget and Accounting Procedures Act of 1950, a result of common concern by the Comptroller General, Secretary of the Treasury, Bureau of the Budget, and Hoover Commission for improving federal financial management. This law relieved the GAO of the need to check all of the ledger books of the various federal agencies, as well as the responsibility for prescribing detailed accounting forms for the agencies. Instead, the GAO was assigned to review agency accounting procedures and to set "principles and standards" for them.

Out of these changes grew the GAO's interest in the "comprehensive audit," which developed during the 1940's and '50's. The essence of the comprehensive audit was to determine how well each federal agency was carrying out its financial responsibilities—meaning whether or not it was spending funds only for clearly authorized programs and conducting those programs in an efficient and economical manner. All important deficiencies that the GAO encountered during these audits were to be fully explored and reported with appropriate recommendations for corrective action.

Implementing the comprehensive audit system required several changes in the GAO's method of operation. Instead of the annual reports which the 1921 Budget Act had envisioned, the GAO began to report the results of each agency audit as it was completed. To facilitate the audits, the GAO also established site audit staffs at federal agency headquarters and, increasingly, at locations outside of Washington. In 1952, a formal system of regional offices was established.

In switching from a voucher auditing system to one of comprehensive audits, the GAO actually set a worthy model for other federal agencies to consider. Its staff shrunk from a total of more than 15,000 in 1946 to a low point of 4,100 in 1966. This was accomplished by phasing out most of the clerical staff who had performed the voucher audits. In the meantime, the GAO was building a professional staff of highly-trained accountants and auditors, and was developing the competence to perform effective audits in any agency of the federal government. From 1953 to 1965, under Comptroller General Joseph Campbell, a certified public accountant, the GAO modeled itself more and more on the pattern of a large accounting firm.

In 1966, our current Comptroller General, Elmer B. Staats, was appointed. Over the years since then, Mr. Staats has worked to improve the management and effectiveness of the government and the whole scope of federal programs. Mr. Staats broadened the role of auditors within the GAO and established links between his office and other audit organizations.

The Staats years will surely be remembered as a time when the GAO expanded its ties with Congress. In some ways, this growth has been spectacular. For instance, during the 1960's GAO officials testified before congressional committees on an average of thirty times a year. In fiscal year 1979, by contrast, they testified over two hundred times. The amount of time that the professional staff of the GAO has spent working directly with congressional requests has also increased dramatically, and the number of reports and other communications with committees and individual members grew similarly.

Over the years, the GAO has figured prominently in congressional investigations, particularly into military spending. During the 1960's, the office performed much of the investigating for Congress into the C5A military transport plane, which was resulting in huge cost overruns, and contributed to the Pentagon's decision not to make additional purchases of the cargo transports. In 1967, the GAO uncovered bribery, collusion, and government laxity behind the loss of over five million gallons of fuel requisitioned for combat missions over Vietnam. For years, the GAO also worked closely with the Senate Committee on Government Operations (now Governmental Affairs) in its probe into the controversial F-111 or (TFX) fighter plane.

In domestic issues, the GAO has produced valuable studies on problems within the Medicare, pollution, and anti-poverty programs; they have provided analyses of energy legislation, federal regulatory reform, and scandals within the General Services Administration's contracting system. The list is almost endless.

Congress has also given the GAO broad new statutory power in recent years. Among the more important of these have been the 1968 Senate rules change which required senators and candidates for the Senate, as well as certain Senate staff, to file annual income reports with the Comptroller General. The Legislative Reorganization Act of 1970 required the GAO to act as the Congress' agent in establishing standardized information and data processing systems. In 1974—as a direct result of the Watergate crisis and President Nixon's impoundment of appropriated funds—Congress passed the Congressional Budget and Impoundment Control Act. This law, which established the congressional budget committees, enlarged the GAO's program evaluation role and involved the Comptroller General in the congressional control over the President's authority to impound funds.

This legislative activity culminated in the General Accounting Act of 1980 which established procedures allowing GAO access to documents and records of federal agencies, contractors and grantees. It also provides for judicial enforcement of the GAO's written requests and subpoenas. Another major feature of the act establishes a formal procedure for congressional leadership to recommend individuals to the president for positions of Comptroller General and deputy.

Most recently, in the Chrysler Loan Guarantee, Congress provided up to $3.5 billion in federal loan guarantees to prevent the Chrysler Corporation, the nation's third largest automobile manufacturer, from going bankrupt. Final approval of the guarantees and their administration was vested in a board with three voting members—the Secretary of the Treasury, Chairman of the Federal Reserve Board, and the Comptroller General. The law also authorized the GAO to audit the implementation of the guarantees.

To summarize the activities of the General Accounting Office today, it audits and evaluates federal programs; testifies at authorization, appropriation, and oversight hearings; assists in congressional investigations, assigning GAO staff to congressional committees for periods of up to one year; assists in developing statements of legislative objectives and goals; and makes legislative recommendations based on its audits and evaluations.

The GAO makes available to the Senate a multidisciplinary staff of accountants, attorneys, actuaries and other mathematical scientists, claims adjustors and examiners, engineers, computer and information specialists, economists and other social scientists, personnel management specialists, and many others. They are supplemented, as needed, by consultants and experts from all academic and professional disciplines.

Since its creation, the General Accounting Office has evolved most admirably to provide Congress with the kind of professionalism, non-partisanship, and objectivity in its reports and recommendations that we need to perform our appropriation and oversight responsibilities. The GAO has become an integral part of the legislative process, and a support agency which makes possible a vigorous and independent Congress.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 1:41 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. The Senator from West Virginia, in his capacity as a U.S. Senator, suggests the absence of a quorum, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

The majority leader is recognized.

BENEFITS TO INDIVIDUALS HELD HOSTAGE IN IRAN AND TO SIMILARLY SITUATED INDIVIDUALS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 7085.

The PRESIDING OFFICER. The clerk will state the message.

The assistant legislative clerk read as follows:

> An act (H.R. 7085) to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HOSTAGE RELIEF ACT

● Mr. CHURCH. Mr. President, prior to the current outbreak of hostilities between Iran and Iraq, reports have indicated that some progress may have been forthcoming in the release of the Americans held hostage in Iran. It is certain, however, that these past months have been a great personal and financial strain for the hostages and their families. With these burdens in mind, on April 17, I introduced S. 2581 and S. 2582 as a package of legislation designed to provide tax, medical, educational, and legal relief for the hostages and the members of their families.

The first bill, S. 2582, and its House companion, H.R. 6086, have both been favorably reported by the Senate Judiciary Committee. Senators PELL, SARBANES, BAYH, COHEN, DURENBERGER, JAVITS, BAUCUS, LEVIN, MCGOVERN, and BIDEN have become cosponsors.

The purpose of this bill is straightforward. It would raise from $15,000 to $40,000 the amount of compensation for both military and civilian personnel who suffer losses resulting from violence against U.S. personnel abroad or who are evacuated from hostile territory overseas.

Americans overseas are generally unable to obtain insurance to cover the risks of evacuation. Insurance for damages arising from riots or acts of war is not readily available. Coverage for personal property abandoned by evacuees is virtually unobtainable.

For example, in the evacuation of Iran, while some Americans were able to get some or most of their belongings shipped out of the country, many were forced to leave with only one suitcase per evacuee.

The second bill, S. 2581, is the companion bill of H.R. 7085, now before the Senate. Senators PELL, SARBANES, BAYH, COHEN, THURMOND, DURENBERGER, JAVITS, BAUCUS, LEVIN, MCGOVERN, BIDEN, DURKIN, and BUMPERS have joined as cosponsors.

As passed by the House, this legislation would provide American hostages in Iran benefits essentially the same as those which were available to U.S. prisoners of war in Vietnam. The bill would apply to civilian employees of the U.S. Government, and, as appropriate, to other U.S. citizens. Benefits for military personnel in hostage situations are provided for by existing statutes.

Relief available under authority of H.R. 7085:

First. Establishes a savings program into which salaries of government personnel being held hostage can be paid.

Second. Provides certain medical care not covered by insurance and limited education benefits for the hostages and their families.

Third. Extends the provisions of the Civil Relief Act now applicable to the members of the Armed Forces which would defer civil actions until the hostages are released.

Fourth. Exempts from income taxes compensation received for any month during which a Government employee is a hostage and provides total income tax exemption for an employee who dies as a result of his captivity.

Fifth. Clarifies the authority to allow the spouse of a hostage to file a joint income tax return and permits payment of taxes to be deferred until 180 days after the return of a hostage.

Sixth. Adds a sense of the Congress resolution urging regular visits be permitted to the hostages by the International Red Cross.

Mr. President, although these two bills will not make the hostages and their families whole, they will bring a measure of relief. Much credit for the successful passage of the Hostage Relief Act should be given to the members of FLAG, the Family Liaison Action Group, who have worked diligently and intelligently on this legislation. All of us in the Senate, I am certain, fervently hope and pray that the hostages may soon be returned to their families.

Mr. President, I urge the passage of H.R. 6086 and H.R. 7085.●

Mr. DOLE. Mr. President, as ranking Republican on the Senate Finance Committee, I would like to express my full support for the tax provisions contained in the Hostage Relief Act. Under the bill, the American hostages could exclude from gross income any compensation from the Federal Government as long as they are held captive or subsequently hospitalized. The bill also would permit wives of hostages to elect to file a joint income tax return rather than a separate return. Finally, the bill would generally extend tax filing deadlines for individuals held hostage.

Mr. President, the proposed tax relief is the same as provided to POW's held during the Vietnam war and to crew members of the U.S.S. *Pueblo* who were seized by North Korea in 1968.

This relief seems singularly appropriate in view of the hardships that these individuals and their families have suffered as a result of the illegal actions of foreign terrorists.

In view of the need to enact this relief so that many hostage families can file their returns before their filing extensions expire on October 15, I favor the expedited passage of this measure without referral to the Senate Finance Committee.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 7085) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROCEDURES FOR CRIMINAL CASES INVOLVING CLASSIFIED INFORMATION—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BIDEN, I submit a report of the committee of conference on S. 1482 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1482) to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified material, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAKER and myself, I send to the desk a Senate resolution and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Tennessee (Mr. BAKER), for themselves and Mr. DECONCINI and Mr. HATCH, propose a resolution (S. Res. 533), as follows:

Whereas, the Committee on the Judiciary, which has delegated its authority to the Subcommittee on Improvements in Judicial Machinery, is charged with the responsibility of seeing that the functions of the Department of Justice are properly discharged, and

Whereas, the Subcommittee on Improvements in Judicial Machinery, by resolution of the Committee on the Judiciary of the United States Senate, has been authorized to investigate allegations regarding Robert L. Vesco and officers and employees of the United States, and

Whereas, the Subcommittee finds that the fulfillment of its responsibilities requires that certain documents from the Department of Justice be provided to it, and

Whereas, it appears that these documents may have been obtained or prepared in relation to a grand jury proceeding in the United States District Court for the District of Columbia, and

Whereas, the Subcommittee has requested these documents from the Department of Justice which has agreed to bring the Subcommittee's request to the attention of the District Court and present to the court the Department's views with respect to their release, and has suggested that the Subcommittee follow by presenting its views to the court as well, and

Whereas, section 706(a) of the Ethics in Government Act of 1978, 2 U.S.C. § 288e(a) (Supp. II 1978), provides that the Senate may direct the Senate Legal Counsel to appear as amicus curiae in the name of a subcommittee of the Senate in any legal proceeding in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue, and

Whereas, the opportunity of a committee of the Congress to obtain the information it deems necessary for the performance of its legislative and oversight functions places in issue the powers and responsibilities of the Congress under the Constitution, now therefore be it

Resolved, that the Senate Legal Counsel be authorized pursuant to section 706(a) of the Ethics in Government Act of 1978, 2 U.S.C. section 288e(a) (Supp. II 1978), to appear as amicus curiae in the United States District Court for the District of Columbia, in the name of the Subcommittee on Improvements in the Judiciary, to present the Subcommittee's views in support of release by the Department of Justice of documents relating to Robert L. Vesco, and to appear as amicus curiae in the name of the Subcommittee in any appeal from an order of the United States District Court with respect to the release of such documents.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution (S. Res. 533) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUDICIAL COUNCILS REFORM AND JUDICIAL CONDUCT AND DISABILITY ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1873.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1873) entitled "An Act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TIITLE

SECTION 1. This Act may be cited as the "Judicial Councils Reform and Judicial Conduct and Disability Act of 1980".

JUDICIAL COUNCILS OF THE CIRCUITS

SEC. 2. (a) Section 332(a) of title 28, United States Code, is amended to read as follows:

"(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he may designate, a meeting of the judicial council of the circuit, consisting of—

"(A) the chief judge of the circuit, who shall preside;

"(B) that number of circuit judges fixed by majority vote of all such judges in regular active service; and

"(C) that number of district judges of the circuit fixed by majority vote of all circuit judges in regular active service, except that—

"(i) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is less than six, the number of district judges fixed in accordance with this subparagraph shall be no less than two; and

"(ii) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is six or more, the number of district judges fixed in accordance with this subparagraph shall be no less than three.

"(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

"(3) The number of circuit and district judges fixed in accordance with paragraphs (1)(B) and (1)(C) of this subsection shall be set by order of the court of appeals for the circuit no less than six months prior to a scheduled meeting of the council so constituted.

"(4) Only circuit and district judges in regular active service shall serve as members of the council.

"(5) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

"(6) In the event of the death, resignation, retirement, or disability of a member of the council, a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

"(7) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.".

(b) Section 332(c) of title 28, United States Code, is amended by striking out "quarterly" and inserting in lieu thereof "semiannually".

(c) Section 332(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit. Each council is authorized to hold hearings, to take sworn testimony, and to issue subpoenas and subpoenas duces tecum. Subpoenas shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas issued on behalf of the United States or an officer or agency thereof.

"(2) All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council.

"(3) Unless an impediment to the administration of justice is involved, regular business of the courts need not be referred to the council.".

(d)(1) The section heading for section 332 of title 28, United States Code, is amended to read as follows:

"§ 332: Judicial councils of circuits".

(2) The item relating to section 332 in the section analysis for chapter 15 of title 28, United States Code, is amended to read as follows:

"332. Judicial councils of circuits.".

PROCEDURES WITHIN JUDICIAL COUNCILS

SEC. 3. (a) Section 372 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Any person alleging that a circuit, district, or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expeditious administration of business of the courts, or alleging that such a judge or magistrate is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(2) Upon receipt of a complaint filed under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to the circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this subsection only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge or magistrate whose conduct is the subject of the complaint.

"(3) After reviewing a complaint, the chief judge, by written order stating his reasons, may—

"(A) dismiss the complaint, if he finds it to be (i) not in conformity with paragraph (1) of this subsection, (ii) related to the merits of a decision or procedural ruling, or (iii) frivolous; or

"(B) conclude the proceeding if he finds that appropriate corrective action has been taken.

The chief judge shall transmit copies of his written order to the complainant and to the judge or magistrate whose conduct is the subject of the complaint.

"(4) If the chief judge does not enter an order under paragraph (3) of this subsection, such judge shall promptly—

"(A) appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

"(B) certify the complaint and any other documents pertaining thereto to each member of such committee; and

"(C) provide written notice to the complainant and the judge or magistrate whose conduct is the subject of the complaint of the action taken under this paragraph.

"(5) Each committee appointed under paragraph (4) of this subsection shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

"(6) Upon receipt of a report filed under paragraph (5) of this subsection, the judicial council—

"(A) may conduct any additional investigation which it considers to be necessary;

"(B) shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit, including, but not limited to, any of the following actions;

"(i) directing the chief judge of the district of the magistrate whose conduct is the subject of the complaint to take such action as the judicial council considers appropriate;

"(ii) certifying disability of a judge appointed to hold office during good behavior whose conduct is the subject of the complaint, pursuant to the procedures and standards provided under subsection (b) of this subsection;

"(iii) requesting that any such judge appointed to hold office during good behavior voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply;

"(iv) ordering that, on a temporary basis for a time certain, no further cases be assigned to any judge or magistrate whose conduct is the subject of a complaint;

"(v) censuring or reprimanding such judge or magistrate by means of private communication;

"(vi) censuring or reprimanding such judge or magistrate by means of public announcement; or

"(vii) ordering such other action as it considerers appropriate under the circumstances, except that (I) in no circumstances may the council order removal from office of any judge appointed to hold office during good behavior, and (II) any removal of a magistrate shall be in accordance with section 631 of this title and any removal of a bankruptcy judge shall be in accordance with section 153 of this title; and

"(C) shall immediately provide written notice to the complainant and to such judge or magistrate of the action taken under this paragraph.

"(7)(A) In addition to the authority granted under paragraph (6) of this subsection, the judicial council may, in its discretion, refer any complaint under this subsection, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

"(B) In any case in which the judicial council determines, on the basis of a complaint and an investigation under this subsection, or on the basis of information otherwise available to the council, that a judge appointed to hold office during good behavior has engaged in conduct—

"(i) which might constitute one or more grounds for impeachment under article I of the Constitution; or

"(ii) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

"(C) A judicial council acting under authority of this paragraph shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge or magistrate whose conduct is the subject of the action taken under this paragraph.

"(8) Upon referral or certification of any matter under paragraph (7) of this subsection, the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in paragraph (6)(B) of this subsection, as it considers appropriate. If the Judicial Conference concurs in the determination of the council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary.

"(9)(A) In conducting any investigation under this subsection, the judicial council, or a special committee appointed under paragraph (4) of this subsection, shall have full subpoena powers as provided in section 332(d) of this title.

"(B) In conducting any investigation under this subsection, the Judicial Conference, or a special committee appointed by the Presiding Officer of the Judicial Conference, shall have full subpoena powers as provided in section 331 of this title.

"(10) A complainant aggrieved by a final order of the chief judge under paragraph (3) of this subsection may petition the judicial council for review thereof. A judge or magistrate aggrieved by an action of the judicial council under paragraph (6) of this subsection may petition the Judicial Conference of the United States for review thereof. Except as expressly provided in this paragraph, all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be reviewable on appeal or otherwise.

"(11) Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this subsection, including the processing of petitions for review, as each considers to be appropriate. Such rules shall contain provisions requiring that—

"(A) adequate prior notice of any investigation be given in writing to the judge or magistrate whose conduct is the subject of the complaint; and

"(B) the judge or magistrate whose conduct is the subject of the complaint be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing.

Any rule promulgated under this subsection shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference.

"(12) No judge or magistrate whose conduct is the subject of an investigation under this subsection shall serve upon a special committee appointed under paragraph (4) of this subsection, upon a judicial council, or upon the Judicial Conference until all related proceedings under this subsection have been finally terminated.

"(13) No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this subsection.

"(14) All papers, documents, and records of proceedings related to investigations conducted under this subsection shall be confidential and privileged against disclosure by any person in any proceeding, except that the judicial council of the circuit, the Judicial Conference of the United States, or the Congress may release any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution.

"(15) Except as expressly provided in this subsection, nothing in this subsection shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

"(16) The Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall each prescribe rules, consistent with the foregoing provisions of this subsection, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this subsection.".

(b) The section heading for section 372 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

(c) The item relating to section 372 in the section analysis for chapter 17 of title 28, United States Code, is amended to read as follows:

"372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

AUTHORITY OF THE JUDICIAL CONFERENCE

SEC. 4. The fourth undesignated paragraph of section 331 of title 28, United States Code, is amended to read as follows:

"The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. In its discretion, the Conference may make necessary and appropriate orders in the exercise of its authority under section 372 of this title, and in the performance of its authority under such section may, as a Conference or through a special committee appointed by the Presiding Officer, hold hearings, take sworn testimony, and issue subpoenas and subpoenas duces tecum. Subpoenas shall be issued by the clerk of the Supreme Court of the United States or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the Court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas issued on behalf of the United States or an officer or agency thereof. All judicial officers and employees of the United States shall promptly carry into effect all such orders of the Judicial Conference. The Conference may also prescribe and modify rules for the exercise of authority conferred by section 372 of this title in accordance with subsection (c) of such section.".

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

SEC. 5. Section 604 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) The Director shall, out of funds appropriated for the operation and maintenance of the courts, provide facilities and pay necessary expenses incurred by the judicial councils of the circuits and the Judicial Conference under section 372 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821 of this title. Administrative and professional assistance from the Administrative Office of the United States Courts may be requested by each judicial council and the Judicial Conference for purposes of discharging their duties under section 372 of this title.

"(2) The Director of the Administrative Office of the United States Courts shall include in his annual report filed with the Congress under this section a summary of the number of complaints filed with each judicial council under section 372(c) of this title, indicating the general nature of such complaints and the disposition of those complaints in which action has been taken.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 7. This Act shall become effective on October 1, 1981.

Amend the title so as to read: "An Act to revise the composition of the judicial councils of the Federal judicial circuits, to establish a procedure for the processing of complaints against Federal judges, and for other purposes.".

UP AMENDMENT NO. 1700

Mr. DECONCINI. Mr. President, I move that the Senate concur in the amendments of the House with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1700.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Judicial Councils Reform and Judicial Conduct and Disability Act of 1980".

JUDICIAL COUNCILS OF THE CIRCUITS

SEC. 2. (a) Section 332(a) of title 28, United States Code, is amended to read as follows:

"(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he may designate, a meeting of the judicial council of the circuit, consisting of—

"(A) the chief judge of the circuit, who shall preside;

"(B) that number of circuit judges fixed by majority vote of all such judges in regular active service; and

"(C) that number of district judges of the circuit fixed by majority vote of all circuit judges in regular active service, except that—

"(i) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is less than six, the number of district judges fixed in accordance with this subparagraph shall be no less than two; and

"(ii) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is six or more, the number of district judges fixed in accordance with this subparagraph shall be no less than three.

"(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

"(3) The number of circuit and district judges fixed in accordance with paragraphs (1)(B) and (1)(C) of this subsection shall be set by order of the court of appeals for the circuit no less than six months prior to a scheduled meeting of the council so constituted.

"(4) Only circuit and district judges in regular active service shall serve as members of the council.

"(5) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

"(6) In the event of the death, resignation, retirement, or disability of a member of the council, a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

"(7) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.".

(b) Section 332(c) of title 28, United States Code, is amended by striking out "quarterly" and inserting in lieu thereof "semiannually".

(c) Section 332(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit. Each council is authorized to hold hearings, to take sworn testimony, and to issue subpoenas and subpoenas duces tecum. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or agency thereof.

"(2) All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council.

"(3) Unless an impediment to the administration of justice is involved, regular business of the courts need not be referred to the council.".

(d)(1) The section heading for section 332 of title 28, United States Code, is amended to read as follows:

"§ 332. Judicial councils of circuits".

(2) The item relating to section 332 in the section analysis for chapter 15 of title 28. United States Code, is amended to read as follows:

"332. Judicial councils of circuits.".

PROCEDURES WITHIN JUDICIAL COUNCILS

SEC. 3. (a) Section 372 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Any person alleging that a circuit, district, or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such a judge or magistrate is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(2) Upon receipt of a complaint filed under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this subsection only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge or magistrate whose conduct is the subject of the complaint.

"(3) After expeditiously reviewing a complaint, the chief judge, by written order stating his reasons, may—

"(A) dismiss the complaint, if he finds it to be (i) not in conformity with paragraph (1) of this subsection, (ii) directly related to the merits of a decision or procedural ruling, or (iii) frivolous; or

"(B) conclude the proceeding if he finds that appropriate corrective action has been taken.

The chief judge shall transmit copies of his written order to the complaint and to the judge or magistrate whose conduct is the subject of the complaint.

"(4) If the chief judge does not enter an order under paragraph (3) of this subsection, such judge shall promptly—

"(A) appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

"(B) certify the complaint and any other documents pertaining thereto to each member of such committee; and

"(C) provide written notice to the complainant and the judge or magistrate whose conduct is the subject of the complaint of the action taken under this paragraph.

"(5) Each committee appointed under paragraph (4) of this subsection shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

"(6) Upon receipt of a report filed under paragraph (5) of this subsection, the judicial council—

"(A) may conduct any additional investigation which it considers to be necessary;

"(B) shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit, including, but not limited to, any of the following actions:

"(i) directing the chief judge of the district of the magistrate whose conduct is the subject of the complaint to take such action as the judicial council considers appropriate;

"(ii) certifying disability of a judge appointed to hold office during good behavior whose conduct is the subject of the complaint, pursuant to the procedures and standards provided under subsection (b) of this section;

"(iii) requesting that any such judge appointed to hold office during good behavior voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply;

"(iv) ordering that, on a temporary basis for a time certain, no further cases be assigned to any judge or magistrate whose conduct is the subject of a complaint;

"(v) censuring or reprimanding such judge or magistrate by means of private communication;

"(vi) censuring or reprimanding such judge or magistrate by means of public announcement; or

"(vii) ordering such other action as it considers appropriate under the circumstances, except that (I) in no circumstances may the council order removal from office of any judge appointed to hold office during good behavior, and (II) any removal of a magistrate shall be in accordance with section 631 of this title and any removal of a bankruptcy judge shall be in accordance with section 153 of this title; and

"(C) shall immediately provide written notice to the complainant and to such judge or magistrate of the action taken under this paragraph.

"(7) (A) In addition to the authority granted under paragraph (6) of this subsection, the judicial council may, in its discretion, refer any complaint under this subsection, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

"(B) In any case in which the judicial council determines, on the basis of a complaint and an investigation under this subsection, or on the basis of information otherwise available to the council, that a judge appointed to hold office during good behavior has engaged in conduct—

"(i) which might constitute one or more grounds for impeachment under article I of the Constitution; or

"(ii) which, in the interest of justice, is not amendable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings to the Judicial Conference of the United States.

"(C) A judicial council acting under authority of this paragraph shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge or magistrate whose conduct is the subject of the action taken under this paragraph.

"(8) Upon referral or certification of any matter under paragraph (7) of this subsection, the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in paragraph (6) (B) of this subsection, as it considers appropriate. If the Judicial Conference concurs in the determination of the council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary.

"(9) (A) In conducting any investigation under this subsection, the judicial council, or a special committee appointed under paragraph (4) of this subsection, shall have full subpoena powers as provided in section 332 (d) of this title.

"(B) In conducting any investigation under this subsection, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331 of this title, shall have full subpoena powers as provided in that section.

"(10) A complainant, judge, or magistrate aggrieved by a final order of the chief judge under paragraph (3) of this subsection may petition the judicial council for review thereof. A complainant, judge, or magistrate aggrieved by an action of the judicial council under paragraph (6) of this subsection may petition the Judicial Conference of the United States for review thereof. The Judicial Conference, or the standing committee established under section 331 of this title, may grant a petition filed by a complainant, judge, or magistrate under this paragraph. Except as expressly provided in this paragraph, all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

"(11) Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this subsection, including the processing of petitions for review, as each considers to be appropriate. Such rules shall contain provisions requiring that—

"(A) adequate prior notice of any investigation be given in writing to the judge or magistrate whose conduct is the subject of the complaint;

"(B) the judge or magistrate whose conduct is the subject of the complaint be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

"(C) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

Any rule promulgated under this subsection shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference.

"(12) No judge or magistrate whose conduct is the subject of an investigation under this subsection shall serve upon a special committee appointed under paragraph (4) of this subsection, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331 of this title, until all related proceedings under this subsection have been finally terminated.

"(13) No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this subsection.

"(14) All papers, documents, and records of proceedings related to investigations conducted under this subsection shall be confidential and shall not be disclosed by any person in any proceeding unless—

"(A) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

"(B) authorized in writing by the judge or magistrate who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 531 of this title.

"(15) Each written order to implement any action under paragraph (6) (B) of this subsection, which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331 of this title, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order issued under this paragraph shall be accompanied by written reasons therefor.

"(16) Except as expressly provided in this subsection, nothing in this subsection shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

"(17) The Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall each prescribe rules, consistent with the foregoing provisions of this subsection, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this subsection.".

(b) The section heading for section 372 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

(c) The item relating to section 372 in the section analysis for Chapter 17 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

AUTHORITY OF THE CONFERENCE

SEC. 4. The fourth undesignated paragraph of section 331 of title 28, United States Code, is amended to read as follows:

"The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendation to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference is authorized to exercise the authority provided in section 372(c) of this title as the Conference, or through a standing committee. If the Conference elects to establish a standing committee, it shall be appointed by the Chief Justice of all petitions for review shall be reviewed by that committee. The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoena duces tecum issued on behalf of the United States or an officer or any agency thereof. The conference may also prescribe and modify rules for the exercise of the authority provided in section 372(c) of this title. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference or the standing committee established pursuant to this section.".

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

SEC. 5. Section 604 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) The Director shall, out of funds appropriated for the operation and maintenance of the courts, provide facilities and pay necessary expenses incurred by the judicial councils of the circuits and the Judicial Conference under section 372 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821 of this title. Administrative and professional assistance from the Administrative Office of the United States Courts may be requested by each judicial council and the Judicial Conference for purposes of discharging their duties under section 372 of this title.

"(2) The Director of the Administrative Office of the United States Courts shall include in his annual report filed with the Congress under this section a summary of the number of complaints filed with each judicial council under section 372(c) of this title, indicating the general nature of such complaints and the disposition of those complaints in which action has been taken.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 7. This Act shall become effective on October 1, 1981.

Amend the title so as to read: "An Act to revise the composition of the judicial councils of the Federal judicial circuits, to establish a procedure for the processing of complaints against Federal judges, and for other purposes.".

Mr. **DECONCINI**. Mr. President, this amendment is in the nature of a substitute.

It is with great pleasure that I initiate discussion of this amendment to S. 1873, the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980. On October 30, 1979, the U.S. Senate passed S. 1873, the Judicial Conduct and Disability Act of 1979. Approximately 2 weeks ago on September 15, 1980, the House of Representatives passed a similar bill, H.R. 7974, the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.

At the outset, I should like to emphasize, however, that I have always preferred passage of a much stronger judicial discipline bill, such as the Judicial Tenure Act as passed during the 95th Congress and subsequently reintroduced by Senator NUNN and myself in the early days of the 96th Congress. As I am sure many Members will remember, this proposal was a great deal more controversial than the language we have before us today. That proposal was more in line with my own views.

I favor the removal sanction of the Judicial Tenure Act, which I believe to be both constitutional and appropriate. I also believe that there should be an independent court composed of sitting article III judges to review determinations which are initially reviewed by the circuit judicial councils. Unfortunately, the former would not have survived in the Senate this Congress and the latter was not found to be acceptable by the House of Representatives.

Today's compromise substitute amendment is at least close to what was originally envisioned by the Senate this Congress, in that a permanent, independent standing committee of the judicial conference is authorized to be established. Such a body, while not an independent review court, will provide for uniformity of decisions and the building of precedents. The Judicial Conference, the circuits and the special courts should have ample opportunity to demonstrate adherence to the provisions under this legislation. As part of a vigorous oversight responsibility, I plan to monitor implementation of the Judicial Conduct and Disability Act. I particularly expect to examine the way in which specific sanctions are imposed, as well as the method of appellate review of judicial council decisions, in order to see if statutory or other perfecting changes are necessary in the future.

The purpose of the proposed legislation is to establish a procedure for investigating and resolving allegations that a member of the Federal judiciary has been unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability or has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.

The goals of the proposed legislation are to improve judicial accountability and ethics, to promote respect for the principle that the appearance of justice is an integral element of this country's system of justice, and, at the same time, to maintain the independence and autonomy of the judicial branch of Government.

During the last 15 years, much attention has been focused on whether Congress should enact a statutory process as a complement to the existing impeachment process that would enable the judicial branch to consider and act on complaints of unfitness lodged against Federal judges. Discussion of this matter has occurred during a period when the judges of this country are being called upon to decide an increasing number of sensitive issues involving the basic functions of our society and fundamental relationships between people. It is a time, in other words, when judges most need to be free to make the decisions they believe to be correct. But it is also a time when the public most needs to retain its faith in the judiciary and the legal system.

This judicial involvement in controversial issues has coincided in recent years with a growing disenchantment concerning the trustworthiness of all public officials. Thus it is not surprising that during this period sentiment in certain quarters of Congress emphasized the need for assuring judicial ethics and accountability.

Legislation on this subject is not new to the Senate. Similar bills have been introduced periodically since the 1940's. More recently, efforts were commenced in the 90th and 91st Congresses by Senator Tydings, while Senator NUNN subsequently renewed these efforts in the 93d, 94th, and 95th Congresses. Last Congress, the Senate for the first time ever passed a bill on this subject which was entitled the Judicial Tenure Act. Unfortunately this bill died a quiet death in the House of Representatives when no further action was taken by that body. An identical judicial tenure proposal, S. 295, was introduced this Congress by Senator NUNN and myself. Two other proposals, S. 522 and a part of S. 678, have also been introduced on this subject earlier this Congress.

Since 1966, the Subcommittee on Improvements in Judicial Machinery has heard from approximately 60 witnesses gleaning valuable information and insightful comments in the development of this legislation. Legislation on this subject has attracted a significant amount of attention and thought-provoking analysis. These efforts have resulted in a greatly improved and more arguably constitutional procedure which the committee views as more operationally feasible than the existing method of impeachment.

Also, in the last year and a half, all 11 judicial councils have implemented rules for the processing of complaints against Federal judges in response to a resolution issued by the Judicial Conference on March 9, 1979. However, an examination of the various sets of rules adopted by the respective judicial councils indicates that they lack uniformity and, in many instances, are silent on important issues.

S. 1873 would, I believe, go a long way toward remedying the existing deficiencies in the various sets of rules now in use by the 11 judicial councils by strengthening and clarifying their power to handle complaints against members of the Federal judiciary.

Although, on the whole, the general caliber of the Federal judiciary has been extremely high, the problem of the unfit judge is a serious challenge to our judicial system. The Federal courts must remain free from doubt in order to be effective. Recent incidents and publicity regarding several Federal judges have created an unhealthy atmosphere that is threatening the integrity of the judicial branch.

Testimony received by the Judiciary Committee indicates that problems do exist and have existed in the past. These difficulties that have not been adequately resolved have created the need for this type of legislation.

Currently, a judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability or whose conduct is prejudicial to the effective and expeditious administration of justice may remain on the bench for a lengthy period of time before his or her peers eventually convince the judge to retire.

If this peer influence is not effective, the only resolution may rest with the eventual passing away of the judge. This is the current situation because there is no statutory authority which provides that complaints may be filed and matters resolved with adequate due process safeguards.

The public should be provided with a means to allege judicial disability or misconduct that is contrary to the maintenance of an effective and efficient governmental system.

There has been some concern expressed regarding the filing of frivolous complaints by dissatisfied litigants for the sole purpose of harassing judges. This proposed legislation will stop complaints in the first stages of the proceedings not only if they are frivolous, but also if they are inconsistent with the standard prescribed in the statute, or are related to the merits of a decision or procedural ruling. Furthermore, it is not expected that the filing of a complaint will always result in formal procedures. In those rare cases where there is a need for a disciplinary proceeding, confidentiality is assured in most instances.

In a very real sense, however, the problem addressed in this legislation is more one of perception than actuality—the need to assure the public that formal procedures are in place to deal with the rare instance justifying a disciplinary inquiry.

Today's public demands that all branches of Government be made accountable for their actions, including the Federal judiciary.

In the introduction to the "Standards Relating to Judicial Discipline and Disability Retirement," adopted by the American Bar Association's house of delegates in 1978, it is stated that:

> The major purpose of judicial discipline is not to punish judges, but to protect the public, preserve the integrity of the judicial process, maintain public confidence in the judiciary, and create a greater awareness of proper judicial behavior on the part of judges themselves.

In light of this fact, it would be unwise to ignore this general national concern for accountability since the success of the system depends on the support of the public.

It has been stated that the only existing method for dealing with an unfit judge is removal by impeachment pursuant to the U.S. Constitution.

I think we all recognize that impeachment is a cumbersome and unwieldly process, as evidenced by the fact that in nearly 200 years only 54 judges have been impeached. Furthermore, only four judges have been removed from office. It seems unreasonable to assert that only four Federal judges in our history have misbehaved. An even more significant indicator is that the last impeachment was in 1936, more than 40 years ago.

When the Founding Fathers created the impeachment provision they were envisioning a nation comprised of a handful of States and a Congress with a limited workload. This is no longer the situation. For many years Congress has been too absorbed in ever increasing and relatively more important legislative matters and as a result the impeachment process has fallen into disuse. Because it is not used, impeachment has ceased to be a real deterrent to misconduct on the bench.

To further complicate the problem, the recently enacted Federal Omnibus Judgeship Act will, when fully implemented, increase the number of court of appeal and district court judges to approximately 850. The projections of the Federal Judicial Center estimate that there will be a need for 1,000 district judges and 250 circuit judges by 1990. If Congress has not been able to effectively utilize the impeachment process to date, these additional factors prove that future dependence on impeachment to discipline Federal judges is no longer viable.

The judiciary, as well as the public, should also be provided with a less drastic means of discipline than impeachment. In addition, we also owe Federal judges an alternative to the stigma attached to impeachment proceedings, in those cases where aberrant behavior is the innocent product of a poor mental or physical condition.

In the long run, we think this will actually strengthen the judicial branch.

The Judicial Councils Reform and Conduct and Disability Act of 1980 helps to fill the gap between impeachment and doing nothing at all by establishing a procedure for disciplining members which is designed to be totally within the judicial branch—that is, judges will be judging judges.

Although legislation of this type is greatly needed, S. 1873 is not without its opponents. Some believe that this bill is unconstitutional on several grounds. Most of the doubts have arisen from the view that impeachment is the only method of investigating and remedying judicial misconduct that is expressly authorized under the Constitution. It is argued that since the Constitution refers only to impeachment, it has, by implication, excluded all other modes of judicial discipline. In analyzing the constitutional arguments both for and against the bill, however, an overwhelming majority of the members of the Judiciary Committee have concluded that the language of the Constitution does not prohibit enactment of this act.

Opponents who take the exclusivist view believe that the inclusion of one thing is the exclusion of another, that is, that the impeachment provisions found in the Constitution exclude all other forms of judicial discipline. The Supreme Court, however, applies a commonsense approach to constitutional construction. This method results in strict construction in accordance with the exclusivist view in some cases and the finding of an implicit grant of authority in other instances.

Taking the commonsense approach, it is very unlikely that the intent of the Constitution was to leave Federal judges unaccountable for their behavior. Furthermore, the First Congress, whose Members included many of the Constitution's framers, enacted a law which provided for the fining and imprisonment, at the court's discretion, of any judge convicted of accepting bribes. This statute is clearly inconsistent with the views of the exclusivists.

Appellate courts do have the power to overrule the illegal decisions of lower courts and judges. However, this type of review is an inappropriate remedy in the event of aberrant judicial behavior, as well as problems caused by a mental or physical disability.

It should be noted that there are two statutes which currently authorize the judiciary to apply some very general disciplinary measures. Section 332(d) and 372(b) of title 28 of the United States Code are similar to the two-part standard found in S. 1873. Neither of these statutes has been alleged as being a threat to the independence of the judiciary.

Further, Congress has been granted the power to enact appropriate legislation by the necessary and proper clause of the Constitution. This clause gives Congress the power to enact legislation to enable it to effectively carry out the spirit and letter of the Constitution.

Opponents of the nonimpeachment methods for judicial discipline argue that some forms of discipline are tantamount to removal and, thus, unconstitutional if not conducted by impeachment.

Although the question has never been finally settled, the committee has respected the position that removal of Federal judges by any means other than impeachment is arguably unconstitutional. Therefore, the proposed legislation is designed to avoid this important issue by not providing for removal of Federal judges short of impeachment. Nor is any effort made to alter or modify the constitutional impeachment process with this legislation.

If consideration of impeachment appears to be warranted the Judicial Conference merely makes a report to the House of Representatives to that effect. Clearly, this bill is not unconstitutional since it leaves removal to be instituted by the House of Representatives, followed by a trial in the Senate.

The committee emphasizes that the purpose and goal of these new provisions is to establish a mechanism which deals with matters which for the most part fall short of being subject to impeachment. Where impeachment may be appropriate, traditional constitutional procedures continue to govern.

It has also been argued that the utilization of any other method short of impeachment to discipline judges, even within the judicial branch itself, would ignore the concerns of the framers of the Constitution that members of the judiciary should be unconstrained from public pressures or threats from the other branches of Government.

This legislation protects the fragile independence of the judiciary since the creation of a measure to investigate and discipline judges does not interfere with the doctrine of separation of powers, nor the theory of judicial independence, if the judicial branch has sole control over the proceedings.

In addition, under the provisions of the act, judges are shielded from the influence of public disapproval with the substance of the law itself and judicial interpretations of it. It is made clear that with this legislation judges need not feel threatened by frivolous complaints or those growing out of dissatisfaction with one of their decisions or procedural rulings. These insufficient complaints will be screened out and dismissed. Federal judges are tenured for life, and should not be harassed in the legitimate exercise of their duty to interpret and apply the law.

The purpose of this legislation is to remedy matters relating to a judge's condition or conduct which interfere with his performance and responsibilities. And although the complainant, rightfully, may ask for review of a dismissal, the judicial council may exercise its discretion in granting that review. It is to be expected that it is only in those rare cases where the chief judge has not recognized the merit of a complaint, that the council will reexamine a dismissed complaint about the conduct of a judge.

In conclusion, the committee wishes to emphasize the overriding principles governing the act; first, the recognition that the informal, collegial resolution of the great majority of meritorious disability or disciplinary matters is to be the rule rather than the exception. Only in the rare case will it be deemed necessary to invoke the formal statutory procedures and sanctions provided for in the act. Second, under this legislation, circuit council resolution of complaints remains paramount. The committee views local consideration and disposition of the great bulk of complaints as the preferable course to take.

Nevertheless, the authorization for the establishment of a standing committee of the Judicial Conference of the United States, which we expect will in fact come into existence, will assure the public and the judge of a forum to review those cases where review is deemed advisable.

The proposed legislation will establish a procedure for investigating and resolving allegations against members of the Federal judiciary. Any person can file a complaint with the chief judge of the circuit alleging that a judge is unable to discharge efficiently his or her duties by reason of mental or physical disability or that the judge is engaging in conduct prejudicial to the effective and expeditious administration of justice.

In brief, the legislation uses the existing circuit councils as the primary mechanism for the resolution of complaints against Federal judicial officers. A complaint can be filed with the circuit's clerk of the court; it then is referred to the chief judge of the circuit who is granted broad discretion to solve the perceived problem or to dismiss the complaint if it is frivolous. The chief judge's decision is rendered in writing. If the chief judge is unable to solve the complaint or dismiss it, he must create a special committee to investigate the facts and allegations in the complaint.

The special committee conducts an investigation as extensive as it considers necessary and then files a comprehensive written report with the full judicial council of the circuit. The judicial council then may conduct an additional investigation, and then must take such action "as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit" including actions specifically delineated in the legislation.

In addition, the circuit council may refer any complaint to the Judicial Conference of the United States. The council is required to do so if a judge has engaged in conduct which might constitute grounds for impeachment or activity which, in the interest of justice, is not amenable to resolution by the judicial council.

Any complainant who is not satisfied with a decision of a chief judge may petition the judicial council for review thereof. In addition, nothing in the legislation precludes a complainant from bringing any matter to the attention of the House of Representatives for an impeachment inquiry or to the U.S. Department of Justice for a criminal investigation.

This legislation also calls for the Director of the Administrative Office of the U.S. Courts to annually report to Congress on the number of complaints filed, the nature thereof, and the disposition of them.

And lastly, the proposed legislation provides for consistency in circuit rules and it improves the functioning of the judicial councils by providing for district judge representation.

The Senate substitute amendment under consideration today makes four major substantive changes in the House of Representatives amendments regarding the judicial discipline provisions to S. 1873. All of these modifications strengthen the House provisions by codifying certain procedural rights regarding complainants and implicated judicial officers and by requiring the procedures and institutions involved to be more open to public scrutiny.

First, by amending paragraph (10) of the House provisions, a procedure is set forth which provides for equality of appeal rights between complainants and judges or magistrates. Briefly stated, a complainant, judge or magistrate who is not satisfied with a final order of a chief judge under paragraph (3) of the same subsection may petition the appropriate judicial council for review of the chief judge's decision. It is unlikely that judges or magistrates will exercise their right to petition for review because the powers of the chief judge under paragraph (3) are limited to dismissing the complaint or concluding the proceeding if corrective action has been taken.

Nonetheless, to preserve equal treatment between the parties in the process, the right to petition for review of the chief judge's actions to the circuit council is provided to all the individuals involved in the proceedings.

In a similar vein, the right to petition the Judicial Conference of the United States for review of a decision of a judicial council is provided to complainants and judges or magistrates. Paragraph (10), as modified by the Senate amendment, further provides the Judicial Conference, or the standing committee established under amended section 331 of title 28, United States Code, with discretionary authority to grant or deny a petition for review. It is envisioned that over the long term these petitions will develop into something like petitions for writs of certiorari to the Supreme Court of the United States.

As guidance to the Judicial Conference on how to implement procedures regarding the petitions, it is the view of the House and Senate Judiciary Committees that petitions should be reviewed by all the members of the decisionmaking body, whether it be the Judicial Conference itself or the standing committee authorized under section 331 of title 28, United States Code.

In addition, either a majority or a number equaling one less than that needed for a majority should be required for the granting of a petition, and consequently, for review on the substance of the petition. To preserve flexibility, however, the committees felt it unnecessary to set forth every procedure that might be required to process a complaint. It is expected that the Judicial Conference will exercise its authority to draft rules in this regard, and that these rules will be available for public scrutiny.

Second, and similarly, a change is made to paragraph (11) of the House-passed legislation. By adding a new subparagraph (C), the Senate amendment provides complainants with the possibility of appearing at proceedings conducted by an investigating panel, if the panel concludes that the complainant could offer substantial information. The investigating panel referred to here is likely to be one appointed by a circuit council pursuant to paragraph (4) of the proposed legislation. However, it may also be one utilized by the Judicial Conference, or the standing committee authorized to be established under section 4 of the legislation. The investigating panel additionally may, if the circumstances so require, allow the complainant to be accompanied by legal counsel.

Third, the Senate amendment substantially improves the House bill's action relating to the confidentiality of papers, documents, and records of proceedings related to investigations. At the outset, the House language "privileged against disclosure" is stricken and alternative language "shall not be disclosed" is inserted. Although assurances were given that the House bill did not create an evidentiary privilege, it was thought advisable to strike the ambiguous language.

In addition, the Senate amendment adds a new paragraph which provides that the confidentiality right can be waived in writing by a judge or magistrate who is the subject of a complaint. This waiver must be accompanied by an authorization of the presiding judge of the investigating panel (be it the chief judge of the circuit, the Chief Justice of the United States or the chairman of the standing committee established under section 331 of the title 28, United States Code).

Finally, the Senate amendment adds an entirely new paragraph to the House-passed bill. New paragraph (15) requires that each written order to implement a sanctioning action under paragraph (6) (B) shall be made available to the public through the appropriate clerk's office of the circuit court of appeals. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons explaining the action. This new paragraph applies to sanctioning orders of the judicial councils, the Judicial Conference of the United States, and the standing committee which can be established under section 331 of title 28, United States Code. The exception allowing a sanction to be imposed without giving reasons therefor is meant to be a narrow one and should not subsume the broader goal of insuring public access to the process created by this legislation.

The fourth substantive change made to the House-passed bill is found in section 4 of the substitute amendment. The House bill's reference to the possible creation of a special committee of the Judicial Conference is stricken. In lieu thereof, the Senate amendment authorizes the conference to exercise the authority provided in newly created 28 U.S.C. 372(c) as a conference or through a standing committee. If the conference chooses to establish a standing committee, the members shall be appointed by the Chief Justice of the United States, and all petitions for review shall be reviewed by that committee. Presumably, the committee would have a chairman and would be composed of an odd number of members.

In addition, it is the intent of both the House and Senate Judiciary Committees that the Chief Justice carefully consider not appointing any chief judges to such a standing committee. This is in light of the fact that the chief judges sit at the lowest tier of this procedure and also serve as the presiding officers of each circuit council, which are the next level of review. Both the Conference and the standing committee are empowered to hold hearings, take sworn testimony, issue subpenas and subpenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. All judicial officers and employees of the United States are required to promptly carry into effect all orders of the Judicial Conference or the standing committee. The Conference may additionally prescribe and modify rules for the exercise of authority contained in the proposed legislation.

The Senate amendment places the entire legislative package on a firmer foundation. If the Judicial Conference finds it desirable or necessary to delegate its responsibility under the proposed legislation, it only has one choice. It must create a standing committee which will consider all petitions for review. The membership of this committee will be open to public scrutiny. Undoubtedly, only judges with untarnished ethical reputations will be appointed by the Chief Justice, thus insuring fair, consistent and high quality decisionmaking.

In addition to those four substantive changes included in the Senate amendment, both the House and Senate Judiciary Committees believe that there should be a continuing dialog between the legislative and judicial branches, and vigorous oversight by Congress. Section 5 of the proposal requires that the Director of the Administrative Office of the United States Courts shall include in his annual report filed with the Congress a summary of the number of complaints filed with each judicial council under section 372(c) of title 28, United States Code, indicating their general nature and the disposition of those upon which action has been taken.

In order to better perform its oversight responsibilities, the committee will give serious consideration to making requests for other reports on the implementation of the act, as well as possible oversight hearings and subsequent perfecting amendments to the statute.

Before concluding I thank Senator KENNEDY, as committee chairman, and Senator THURMOND, as the ranking minority member, for their support and assistance. I also thank Senator NUNN for his sustained interest in this legislation and without whom we would not be here today. Senator BAYH also deserves mention for his support.

In addition, I thank Michael Altier, counsel for my Subcommittee on Improvements in Judicial Machinery, for the many hours he put in drafting, researching, and negotiating for the passage of this proposal. My staff director, Romano Romani, also deserves credit for his work on this bill. Finally, I thank Ann Woodley for her recent technical assistance.

In conclusion, I urge adoption of this amendment to this much-needed and long overdue piece of legislation.

● Mr. NUNN. Mr. President, I rise in support of the substitute compromise amendment now offered by Senator DECONCINI to S. 1873, the Judicial Conduct and Disability Act. I regret, as he does, that the stronger, progressive provisions of judicial discipline legislation incorporated in S. 1423, the Judicial Tenure Act of 1978 which passed this body on September 7, 1978 and which were incorporated in our bill S. 295 are not now included in this legislation.

I regret that it does not provide for a practical and effective alternative to impeachment to enforce the constitutional standard of "good behavior" on the Federal judiciary. I will continue to try to establish a removal process to assure judicial accountability.

However, I do believe that this compromise substitute enables Congress to take a strong step in the right direction by providing our Federal judges with a mechanism within the Judiciary branch whereby they can judge their colleagues on the bench. This legislation represents a decade's struggle for this much needed judicial improvement, and I am gratified that the Senate has taken this major step for establishing a degree of accountability on the Federal bench.

Mr. President, let me thank my colleague from Arizona for the diligent work and tremendous job he has done in bringing this legislation to the floor. This bill is a product of his leadership and the direct result of his diligent work on this issue over the last several years. I support and applaud his planned vigorous oversight of the review mechanism established in this legislation.●

Mr. MATHIAS. Mr. President, I oppose the amendment in the nature of a substitute to the House-passed version of S. 1873, the Judicial Councils Reform and Judicial Disability Act of 1980, and I shall vote against it.

I am not unmindful of the diligent and good faith efforts by Senator DECONCINI, Representative KASTENMEIER, and others to achieve a compromise on this important issue. Certainly, the proposed amendment is a marked improvement over the Senate passed version of S. 1873, as well as S. 1423, the Judicial Tenure Act, which passed the Senate in 1978 but was not acted upon by the House of Representatives before the close of the 95th Congress.

Unlike S. 1423, the proposal now before us does not allow for unsanctioned, alternative methods of removal of a judge whose conduct does not conform with the good behavior requirement of article III, section I of the Constitution. Also, in contrast to the Senate passed version of S. 1873, the amendment has eliminated the proposed "Court on Judicial Conduct and Disability" which was designed to hear appeals from decisions of the judicial councils.

These are important changes, but they are not enough. They do not remove my fundamental objections to judicial discipline legislation that impinges on the principle of judicial independence.

Above all, I am convinced that any legislatively devised scheme to discipline Federal judges by means other than impeachment contravenes the Constitution and its guarantee of fearless and impartial judges. For me, impeachment is not only the sole constitutional means for removing miscreant judges; it is the only constitutionally permissible means of discipling Federal judges. If Congress must supplement the impeachment process, it should not resort to the legislative route with its obvious constitutional obstacles. Rather it should follow the Constitution explicitly and employ the amendment process so meticulously devised by our Founding Fathers. To me that is not merely the preferable way to proceed, it is the only way.

Second, I do not believe that the proponents of the amendment have met their heavy burden of demonstrating the need for the proposal. I made this very point last year when the Senate debated S. 1873. At that time, I noted the virtual absence of documented examples of serious judicial misconduct necessary to justify the radical alteration of our judicial system contemplated by S. 1873. I have reviewed the extensive hearing record compiled by the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, and, I have found nothing in this record to alter my opinion that a judicial discipline bill is unnecessary.

The importance of this issue cannot be overestimated. It does not touch upon some passing matter of public interest or some ripple in the current of daily events. This is basic stuff. It is part and parcel of the fabric of the Republic.

The place of Federal judges in our lives and in our constitutional system was objectively described by that observant French visitor, Alexis de Tocqueville in 1841. After noting that "the American Judge is brought into the political arena independent of his own will," Tocqueville went on to comment on the importance of the Federal judiciary as one of the three equal, separate, coordinate branches of Government:

> The peace, the prosperity and the very existence of the Union, are invested in the hands of the . . . judges. Without their active co-operation the constitution would be a dead letter: the executive appeals to them for assistance against the encroachments of the legislative powers; the legislature demands their protection from the designs of the executive; they defend the Union from the disobedience of the states, the states from the exaggerated claims of the Union, the public interest against the interests of private citizens . . .

Mr. President, I ask unanimous consent to have printed in the RECORD an article that I wrote some time ago entitled "Judicial Independence: A Principle Worth Preserving," which was published in the summer of 1980 in the Maryland Bar Journal.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUDICIAL INDEPENDENCE: A PRINCIPLE WORTH PRESERVING

(By Senator CHARLES McC. MATHIAS, JR.)

Last year, in an article in this Journal,[1] I examined the Federal judicial selection process, especially with regard to the dual responsibility placed upon the United States Senate by the Constitution:[2] (1) to advise the President in his judicial selection process, and (2) to consent to or withhold consent from Presidential nominees. I noted then the increased importance of this constitutionally-mandated selection and confirmation process as a result of legislation enacted in the 95th Congress calling for the addition of 152 new members to the Federal bench.[3] Since that time, the Senate Judiciary Committee not unexpectedly has been busy reviewing this unprecedented number of nominees for these new judicial positions. Great care has been taken to insure that the Committee's review procedures are adequate to the demands posed by this expansion of the Federal judiciary.[4]

But, the nomination and confirmation process has not been the only issue regarding the operation and integrity of the Federal judiciary that Congress has concentrated on recently. Over the past few years, the idea that we need a statutory scheme for disciplining Federal judges to supplement the constitutionally-prescribed impeachment process has gained momentum. In fact, in 1978, the Senate approved S. 1423, the Judicial Tenure Act. This proposal, which was not acted on by the House of Representatives before the close of the 95th Congress, would have allowed for the non-Congressional removal of judges whose conduct did not conform with the good behavior requirement of Article III, section 1.[5] Its passage by the Senate was a significant—not to say, ominous development.

The House's failure at act on S. 1423, in the 95th Congress, left proponents of judicial discipline legislation at square one. They had to start the legislative process all over again when the 96th Congress convened. And, they did. Subsequently, on October 30, 1979, by a vote of 56–33, the Senate passed S. 1873.[6] The bill is pending before the House Judiciary Committee and now. more than any time in the past, the possibility exists that Congress will enact legislation to deal with allegations of judicial misconduct.

For the past several years, I monitored the progress of legislative proposals to supplement the impeachment process. I have poured over the hearing records compiled by the Senate Judiciary Committee. I have studied the views expressed by the Founding Fathers and noted constitutional scholars. Based on this review, I concluded that the Judicial Conduct and Disability Act of 1979 is of dubious constitutionality, unnecessary and unwise as a matter of public policy. As a result, I voted against S. 1873 both in the Senate Judiciary Committee and on the floor of the United States Senate.

HOW THE JUDICIAL CONDUCT AND DISABILITY ACT WOULD OPERATE

If enacted, S. 1873, would create procedures within all eleven judicial councils[7] to deal with complaints filed by any person alleging that a judge is mentally or physically unable to discharge efficiently his or her judicial duties or that the judge is engaging in conduct inconsistent with the effective and expeditious administration of the court. The bill provides that complaints which relate to the merits of any decision of a judge or any matter reviewable on appeal are beyond the jurisdiction of the councils. If the Council finds that the allegations conform to the standards prescribed for a complaint, it may order remedial action, such as temporarily precluding a judge from being assigned additional cases.[8] Under no circumstances may the Council order the judge's removal from office.

The bill would also establish a Court on Judicial Conduct and Disability to hear appeals from decisions by the councils. The Court would be composed of five Article III judges designated by the Chief Justice of the United States. The Court may either dismiss the complaint, affirm or modify the action of the Council or reverse or remand the matter to the Council. If the Court decides that the interests of justice warrant such action, it may hold its own de novo hearing. Following such a hearing, the Court could take certain prescribed actions, but could not order the removal of the judge from office.[9] Decisions rendered by the Court would not be subject to judicial review.

IS THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1979 CONSTITUTIONAL?

Acknowledging the serious constitutional questions surrounding any legislatively-devised scheme to remove federal judges by means other than impeachment, the Senate wisely excluded from the Judicial Conduct and Disability Act of 1979, the authority to remove federal jurists from office. I supported this exclusion. It is not an insignificant decision. But, it is not enough. It should not and must not end the inquiry into the bill's constitutionality.

In my view, the bill still fails to pass constitutional muster. For me, impeachment is not only the sole constitutional means of removing miscreant judges, it is the sole constitutionally permissible means of discipling federal judges. Alexander Hamilton, in Federalist 79, underlined this point:

"They (federal judges) are liable to be impeached for malconduct by the House of Representatives and tried by the Senate; and if convicted, may be dismissed from holding any other. This is the only provision on the point which is consistent with the necessary independence of the judicial character; and is the only one which we find in our own Constitution with respect to judges."

The Founding Fathers were deeply concerned over the conflict between judicial independence and judicial accountability. They were well aware, as Justice Black noted in his dissent in *Chandler* v. *Judicial Council*, 398 U.S. 74, 143 (1970), "that the judges of the past—good patriotic judges—had occasionally lost their freedom and their heads because of the actions and decrease of other judges. They were determined that no such thing should happen here."

Our Founding Fathers were well aware of the abuses associated with a dependent judiciary. Their own colonial experience, as well as related events in Great Britain, were fresh in their minds when they convened in Philadelphia in 1787. Of particular concern to them were the questions of judicial tenure

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Footnotes at end of article.

and the tying of judicial salaries to tax revenues of the Crown generated in the colonies.[10]

The authors of the Constitution knew that during much of British history, judges served at the King's pleasure and that the jurist's office ended with the death of the monarch. They were aware that frequently the King exercised this prerogative and ordered the removal of a jurist who displeased him. The best known example of this type of judicial dependence was when King James I in 1616 removed Sir Edward Coke who had angered the monarch with his stand in favor of judicial independence. To end such abuses, the British Parliament in 1701 passed the Act of Settlement which provided that "judges" commissions be made *quamdiu se bene gesserint* (during good behavior) and their salaries ascertained and established but upon address of both Houses of Parliament, it may be lawful to remove them."

While the Act of Settlement was a step toward judicial independence, it did not provide for a truly independent judiciary. Although the judges were safe from the whim of the monarch, they were now subject to the power of address and thus removable by the Parliament for any reason.

Significantly, although the British themselves opted for judicial tenure during good behavior, they did not extend this measure of judicial independence to the colonial judiciary. On the contrary, for the most part, the Royal Governors were instructed to avoid issuing "good behavior" commissions, thus making colonial jurists dependent on the governors' pleasure. Equally distressing to the colonists was a provision in the Townshend Revenue Act of 1767 which provided for the payment of judicial salaries out of taxes imposed on the colonists by the Crown.[11]

These restraints of judicial independence enraged the colonists. They helped fuel the call for rebellion. One of the chief grievances against the British, catalogued in the Declaration of Independence, was the King's making the colonial judges "dependent on his Will alone, for the Tenure of their Offices, and the Amount and Payment of their Salaries."

The impact of this British and colonial precedent was reflected in the early state constitutions. Much time, effort and thought was invested by the authors of the state constitutions in crafting procedures governing judicial independence and judicial accountability. Most state documents provide for judicial tenure during good behavior; a few limited the length of office to a set term of years. Virtually all provided for removal by impeachment. Several incorporated the British system of address into their Constitutions. And, a number allowed for impeachment on grounds of maladministration. Although the texts of the documents varied, the concern was constant.[12]

It was against this background that the Founding Fathers met in Philadelphia in the summer of 1787 to revise the Articles of Confederation and ultimately to draft a Constitution. As the record indicates, they had learned their history lessons well.

The Founding Fathers debated the issue of judicial independence versus judicial accountability at length. They provided us with an unusually detailed legislative record of their efforts. Their actions reflected a keen understanding of English and colonial precedent. They were determined to go beyond historical precedent and to confer upon federal judges a degree of independence unparalleled in the annals of history.

Specifically, the authors of the Constitution knew that the grant of judicial independence contained in the Act of Settlement was limited. Judges could still be removed through address by the Parliament. They consciously chose not to adopt such a procedure here.[13] And, the Founding Fathers rejected "maladministration" as a basis for impeachment, although that ground was found in some State Constitutions.[14] As James Madison stated: "so vague a term will be equivalent to a term during the pleasure of the Senate."

[The Founding Fathers concluded that the form of Republican government they envisioned required a truly independent judiciary and that neither address nor maladministration conformed with their conception.]

What they could and did accept was a system of judicial tenure during good behavior coupled with a carefully crafted and specific procedure for dealing with judicial misconduct. They specified in the Constitution that federal judges would be held accountable for their actions through a single process. That process was impeachment. The noted Constitutional scholar and former Senator, Sam Ervin, has written "(t)hey (the Founding Fathers) very carefully provided for a federal judiciary that operates completely independent of everything but the Constitution."[15] I too am convinced that the Founding Fathers considered impeachment the sole constitutionally acceptable means of disciplining federal judges, not merely of removing them. This view is confirmed by their familiarity with history, their actions at the Constitutional Convention, and the record of their deliberations. Their refusal to incorporate into our organic law address and maladministration was especially significant. Their failure to adopt an internal system of judicial discipline similar to that contained in Article 1, Section 5, clauses 1 and 2, regarding Congressional self-discipline is also important.

Finally, the members of the Constitutional Convention rejected legislative control of the judiciary. They specifically refused to create "a national judiciary . . . to consist of one or more Supreme tribunals, and of inferior tribunals to be chosen by the National Legislature to hold office during good behavior."[16] As Martha Ziskind wrote in her article, entitled "Judicial Tenure in the American Constitution: English and American Precedents", "They (the Founding Fathers) hoped to make the Judges free from popular pressure and from legislative control. Their purpose was to create a truly independent Judiciary limited only by the cumbersome process of impeachment."[17]

This view of the exclusivity of the impeachment clause has the ringing endorsements of the late Justices Douglas and Black. In his dissent in *Chandler* v. *Judicial Council, supra*, Justice Douglas writing for himself and Justice Black, provided us with a very explicit statement of this view of the Constitution:

"*An independent judiciary is one of this Nation's outstanding characteristics. Once a federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge.* He commonly works with other federal judges who are likewise sovereign. But, neither one alone nor any number banded together can act as censor and place sanctions on him. Under the Constitution the only leverage that can be asserted against him is impeachment, where pursuant to a resolution passed by the House, he is tried by the Senate, sitting as a jury. (Emphasis supplied).[18]

It has been argued that one of the primary reasons for this legislation is that the impeachment process is cumbersome, unwieldly, and time-consuming. Certainly, it is difficult to impeach a federal judge. That was the intent of the Founding Fathers; that was the way they sculpted the Constitution and that is the way it is. It is inconceivable to me that our Founding Fathers, who took such care to develop the impeachment process and to otherwise safeguard judicial independence, would have endorsed the types of sanctions and disciplinary procedures contained within the Judicial Conduct and Disability Act. Concern over the difficulty of employing the impeachment process should not blind our judgment; it should not, in the name of efficiency and expediency, lead us to adopt unconstitutional proposals.

But, if Congress should conclude that some mechanism is necessary to supplement the impeachment process, it is not without a remedy. It need not resort to the legislative route with its obvious constitutional obstacles. Rather, it can follow the Constitution explicitly and employ the amendment process so meticulously devised by our Founding Fathers. That to me is not only the preferable way to proceed, it is the only way.

All too often in the past Congress has enacted legislation of questionable validity, assuming that the determination of a bill's constitutionality is within the sole province of the Judiciary. In effect, we have said "we don't know about the constitutionality of this bill, so let us pass it and let the courts decide on it."

We must not succumb to this temptation. We have a responsibility—independent of that of the Judiciary—to consider carefully questions of a bill's constitutionality. We cannot ignore this duty. We can be wrong; we can be in error just as the Court is on occasion; but we have sworn an oath to discharge our duties as members of Congress in accordance with the Constitution. I do not believe that we can perform those duties responsibly without coming to a conclusion about whether our contemplated actions are constitutional. As Chief Justice Burger has reminded us:

"In the performance of assigned constitutional duties, each branch of government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others."[19]

I concur wholeheartedly. Every member of Congress has a solemn duty to assess the constitutionality of the Judicial Conduct and Disability Act of 1979. I have done so. And I have concluded that the bill is unconstitutional.

IS THE JUDIDIAL CONDUCT AND DISABILITY ACT OF 1979 NECESSARY?

The most striking aspect of the hearing record on S. 1873 is the virtual absence of documented examples of serious judicial misconduct necessary to justify the radical alteration of our judicial system contemplated by the Judicial Conduct and Disability Act of 1979. The most that can be said of the hearing record is that it shows that throughout our history at any given time perhaps a handful of judges has engaged in seriously objectionable behavior. In this bill, a spector is raised which does not exist. A remedy is provided where none is needed. Significantly, the Senate Judiciary Committee Report on S. 1873 appears to concede this crucial point:

"This Committee recognized that the great majority of our existing federal judges perform their duties in a dedicated and capable manner. In a very real sense the problem addressed in the Act is more one of perception than actuality—the need to assure the public that procedures are in place to deal with the rare instance justifying an inquiry related to the condition or conduct of a member of the Judiciary. Stated another way, the growing public demand for the accountability of public officials should extend to the judicial branch. (Emphasis supplied.)"[20] Certainly there is a kind of tide moving in the direction of making every element of our society—both public and private—accountable today. In the Congress, we see this trend in the enactment of Sunshine legislation and

Footnotes at end of article.

increased financial disclosure requirements. But, simply because such a trend exists does not make it necessarily right to carry it over into the federal judiciary.

Federal judges have been given a special status. They have been constitutionally granted judicial independence. Throughout our history, this grant of independence has been debated back and forth. But, interestingly, the final conclusion has always been that the independence of the judiciary was more important than the ability to discipline judges and call into question the integrity of their decisions or the purity of their motives.

If Congress is to break with tradition and enact legislation such as the Judicial Conduct and Disability Act of 1979, it must clearly demonstrate the overwhelming need for such legislation. It must not pass such far-reaching legislation when it admits that the problem it addresses is "more one of perception than actuality." The burden of proving the need for this bill is on its proponents. By their own admission, the bill's proponents have not made their case. To legislate on such a thin basis would be a grave error.

In addition, it would be premature for Congress to adopt the Judicial Conduct and Disability Act at the very time the Judicial Conference and every Judicial Council have taken concrete action to clarify and strengthen the authority of the Councils to deal with instances of judicial misconduct.

On March 9, 1979, the Judicial Conference adopted a resolution calling for the promulgation by the eleven Judicial Councils of procedural rules to process complaints alleging judicial conduct inconsistent with the effective administration of the business of the courts within the circuit.[21] In response to the Conference's March 9 resolution, virtually all eleven Councils have adopted rules to implement the Conference's recommendations. For example, on June 6, 1979, the Fourth Circuit Court of Appeals adopted a rule creating a process to deal with complaints filed against federal judges. This new system took effect on August 1, 1979.

I think it is fair to say that the actions taken by both the Conference and the various Councils are in large measure attributable to Congressional concern regarding judicial discipline, especially the Senate's passage in 1978 of S. 1423, the Judicial Tenure Act. The proponents of the Judicial Tenure Act sent a message that was heard across the land and received a reasonable and rational response from the Judges themselves. In view of this response, Congress should avoid precipitous action now. It should monitor the progress of these newly implemented Council procedures, rather than embarking on the uncharted course promised by the Judicial Conduct and Disability Act of 1979. It is entirely possible that these new procedures will satisfy the call for a Congressionally devised mechanism to supplement the impeachment process. Let us tread slowly. Let us recognize that we are treading on historic ground, constitutional ground, ground on which the Founding Fathers preceded us. Let us give the Judiciary a sufficient opportunity to deal with the issue of judicial misbehavior on its own.[22]

IS IT WISE FOR CONGRESS TO ENACT THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1979?

Finally, I believe that it would be unwise public policy to enact the Judicial Conduct and Disability Act of 1979. It would pose a direct and serious threat to the time-honored and constitutionally enshrined principle of judicial independence. This principle is worth preserving. It is not a new principle. It is an ancient one. Its origin can be traced back long before the Constitution of the United States was written.

Herodotus, the Greek Historian, in describing ancient Persia, wrote:

"The Royal judges are men chosen from among Persians, who continue in office until they die or they are convicted of some injustice. They determine causes between the Persians and are the interpreters of the ancient Constitutions and all questions referred to them."

Our Founding Fathers were worldly men. They were scholars. They knew Herodotus and they were aware that by grafting judicial independence into the Constitution, they were embodying the wisdom of the ages into our organic law. In this area, they were not creating a new experiment in government.

Another very disturbing feature of the Judicial Conduct and Disability Act of 1979 from the standpoint of judicial independence is its failure to deal with clearly frivolous and non-meritorious complaints with expediency and finality. Unlike the proposal of the Judicial Conference, the bill does not provide the Chief Judge of the Circuit with the authority to dismiss frivolous complaints, thus putting a quick end to non-meritorious allegations. Rather, under the Committee's bill, a complainant is not only assured that the full Council will review his allegations, however frivolous, but also that if he appeals the Council's actions, he can compel the Court on Judicial Conduct and Disability to decide whether to hear the appeal—a decision which requires the Court to review the complaint and the record compiled by the Council.

This system insures that the disgruntled litigant, whose primary purpose is to harass federal judges, will have an unnecessarily extended opportunity to work his mischief. This process can only have a chilling effect on federal judges. Will they be deterred from taking courageous stands on unpopular issues by the fear that a dissatisfied litigant will seek vengeance through the complaint process established under this bill? Is it worth the risk, especially when we are addressing what the Senate Judiciary Committee calls a perception rather than an actuality? I think not.

The members of Congress would do well to keep in mind the warning of Professor Gerald Gunther of the Stanford Law School:

"Federal judges are inevitably in the business of rendering controversial decisions. Important issues and interests are at stake in the cases before them; and the losing side frequently and understandably feels aggrieved. With the proliferation of federal statutes and regulations, the federal judges' involvement in controversy is bound to grow. Setting up an unnecessary new channel which may lend itself to the harassment of those judges is a profoundly disturbing departure from one of the most cherished values of the American constitutional scheme, that of judicial independence. I recognize that the bill is not intended to offer a channel for losing litigants and interests to challenge the merits of a judicial decision. Yet, over the years, and particularly in recent months, I have been increasingly troubled by remarks I have heard that there are people who look forward to the enactment of the judicial discipline legislation as a way of getting at judges whom they consider to be too much to the right or too much to the left or unpalatable in their viewpoint in some other respect. It would not require great imagination for an aggrieved litigant to formulate complaints formally consistent with the limited scope of the proposed Act, yet in substance motivated by disagreements on the merits—complaints which, even though they are dismissed as frivolous, may be appealed; procedures which even though they did not result in sanctions against the judge as they presumably would not, would surely serve as harassment and would open the way for one more crack in the fragile framework of judicial independence."[23]

CONCLUSION

I am not insensitive to the concern that has prompted the sponsors to push for enactment of the Judicial Conduct and Disability Act of 1979. Both its proponents and its opponents share a common goal: that the federal judiciary be free of corrupt, misbehaving judges. Where I differ is over the scope of the problem and the constitutionally-permissible means of addressing it—if it warrants Congressional action at all.

FOOTNOTES

[1] Mathias "Advice and Consent: The Role of the Senate in the Judicial Nomination and Confirmation Process", 12 Md. Bar Journal 26 (1979).

[2] "(H)e (the President) shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States . . ."

[3] The Omnibus Judgeship Act, Pub. L. No. 95–486 created 117 district judgeships and 35 on the appellate level. It is anticipated that by the end of the 96th Congress, the Senate Judiciary Committee will have also processed the nominations of approximately 45 individuals who were chosen to fill vacancies created through death or resignation.

[4] As I indicated last year in this Journal, *supra* note 1 at 27, I prepared 14 detailed questions which were submitted to every judicial nominee during the second session of the 95th Congress. These questions were designed to elicit responses concerning possible conflicts of interest—both substantive and financial—which might suggest the appearance of impropriety. Since that time the Senate Judiciary Committee has adopted an extensive questionnnaire which incorporates many of the questions that I had originally propounded. Every nominee must complete this questionnaire before his nomination will be considered by the Committee.

[5] "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour. . . ."

[6] During the course of the Senate's consideration of S. 1873, an amendment to the bill was offered which would have provided for the removal of federal judges by means other than impeachment. The proposal was defeated by a vote of 60–30. 125 Cong. Rec. S. 15415 (daily ed Oct. 30, 1979).

[7] The judicial councils were established by the Administrative Office Act of 1939, 53 Stat. 1223, 28 U.S.C. 1223, 28 U.S.C. § 332. § 332(d) of this law authorizes each council to "make all necessary orders for the effective and expeditious administration of the business of the courts within the circuit. The district court shall promptly carry into effect all orders of the judicial council." S. 1873 is intended to supplement the provisions now contained in § 332(d). For a detailed history of the judicial councils, *see*, Fish, "The Politics of Federal Judicial Administration" (1973).

[8] In addition, the Council could (1) certify that the judge is disabled and trigger the appointment of a new judge pursuant to 28 U.S.C. 372(b); (2) request that the judge voluntarily retire; (3) censure or reprimand the judge either publicly or privately; or (4) order such other action as the Council deems appropriate.

[9] Specifically, the Court could (1) dismiss the action; (2) certify that the judge is disabled and trigger the appointment of a new judge pursuant to 28 U.S.C. 372(b); (3) order that, on a temporary basis for a time certain, no further cases be assigned to the

judge; (4) censure the judge publicly or (5) order such other action as the Council deems appropriate.

[10] *See generally*, Smith, "An Independent Judiciary: The Colonial Background", 124 U. Pa. L. Rev. 1104 (1976).

[11] The depth of this concern is revealed dramatically in the words of the inhabitants of Boston in the "List of the Infringements and Violations of the Rights of the Colonists":

> This will if accomplished compleat our slavery. For if taxes are raised from us by the Parliament of Great Britain without our consent, and the men on whose opinions and decisions our properties, liberties and lives in a great measure depend, receive their support from the Revenues arising from these taxes, we cannot, when we think on the depravity of mankind, avoid looking with horror on the danger to which we are exposed? The British Parliament have shewn their wisdom in making the Judges there as independent as possible both of the Prince and People, both for place and support: But our Judges hold their Commissions only during pleasure; the granting them salaries out of this Revenue is rendering them dependent on the Crown for their support. . . . How alarming it must then be to the Inhabitants of this Province, to find so wide a difference made between the Subjects in Britain and America, as the rendering the Judges here altogether dependent on the Crown for their support.

Reprinted in Smith, *supra*, note 10 at 1145.

[12] *See generally*, Ferrick, "Impeaching Federal Judges: A Study of the Constitutional Provisions", 39 Ford. L. Rev. 1 (1970).

[13] Specifically, on August 27, 1787, Mr. Dickinson proposed that federal judges be removable by the Executive on the application of the Senate and House of Representatives. The motion was defeated by a vote of seven States to one. 2 M. Farrand, "The Records of the Federal Convention of 1787" at 428–29.

[14] 2 Farrand, *supra* note 13 at 550.

[15] Ervin, "Separation of Powers: Judicial Independence", 35 Law and Contemp. Prob. 108, 121.

[16] 1 Farrand, *supra* note 13 at 550.

[17] 1969 Sup. Ct. Rev. 135, 153.

[18] 398 U.S. at 136.

[19] *United States* v. *Nixon*, 418 U.S. 683, 704 (1974).

[20] Senate Rept. 96–362, "The Judicial Conduct and Disability Act of 1979", at 5.

[21] Judicial Conference resolution of Mar. 9, 1979 (Report of the Judicial Conference of the United States, 1979 at 4–7).

[22] My comments regarding the actions of the judicial councils should not be read necessarily as an endorsement of the constitutionality of such procedures; rather they are merely in recognition of the fact that these procedures are in effect and should not be curtailed by the enactment of legislation of dubious constitutionality.

[23] Letter by Gerald Gunther to Charles McC. Mathias, Jr., October 25, 1979.

Mr. MATHIAS. Mr. President, although the article dealt with the Senate-passed version of S. 1873, many of the arguments set forth are equally applicable to the amendment now before us.

Mr. President, I think that the case is clear. I hope that the Senate will reject this measure overwhelmingly.

Mr. DeCONCINI. Mr. President, I appreciate the concern of the Senator from Maryland in this matter and I know from his constitutional experience and his legal ability that it comes from a strong feeling in the preservation of the constitutional points raised.

Although I disagree with his conclusions here, I respect his judgment, and I thank him for permitting the Senate to work its will on this substitute.

At this time I yield to the Senator from Utah.

Mr. HATCH. I thank my dear friend from Arizona.

Mr. President, this particular act, entitled Judicial Conduct and Disability Act of 1979, is an excellent, moderate approach toward solving some of the major problems we have in our judicial system in our country today.

I compliment the distinguished Senator from Arizona for the work he has put forth with regard to this bill.

I also have great respect for the opinions of the Senator from Maryland who has fought very much against this bill during the time that it has been before our committee. He has raised many, many provocative and worthwhile thoughts to the extent that this bill is an outgrowth from the prior bill which may have gone too far.

Perhaps coming from Utah and having lived in a State and having practiced law before a judge who many thought was so powerful that he just could not be corrected, who did do a number of things that were biased and prejudiced, partial, and who did treat attorneys with disdain in his courtroom, gave out sentences which were in many cases inadequate and in other cases more than adequate, who did not show equal treatment before the law but yet was able to control the Federal judiciary for years, perhaps I have a little more feeling about this particular bill than most.

I believe that this bill is a moderate and reasonable approach toward solving some of the problems that arise on the Federal bench. It is said that the closest thing to Godhood in this life is becoming a Federal judge, district, circuit, or otherwise, and in that particular case and in those particular contexts many people have justified that particular statement.

I believe that if we are going to have some reasonable way short of convening Congress to discipline judges this is as reasonable and moderate an approach as we can have.

I endorse it, I support it, and I hope that it will lead to a better Federal judiciary with very few complaints not being satisfied by the judicial council of the circuit in which the judge serves rather than through the process of impeachment before Congress.

I am grateful for the efforts of all those who have worked hard on this legislation, particularly the Senator from Arizona.

Mr. DeCONCINI. Mr. President, I thank the distinguished Senator from Utah for his support of this action and also the ranking minority member, the Senator from South Carolina, on the Judiciary Committee, along with the chairman, and the chairman's staff person who has worked and labored in this, Mr. Ken Feinberg deserves thanks, along with Mike Altier and Ann Woodley of my staff.

I must mention that Congressman KASTENMEIER, the chairman of the subcommittee of the House of Representatives, put in a great deal of effort trying to find a compromise, and Mike Remmington of his staff has been extremely helpful.

Mr. President, I also point out at this time that this is indeed a compromise that I believe has widespread support now. The American Bar Association supports it. The Department of Justice now supports it wholeheartedly. The Judicial Conference of the United States supports this. It was passed unanimously by the House of Representatives.

Mr. President, if there be no further discussion, I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, the Senator from Utah has given us a classic example of the old adage in law that hard cases make bad law.

I do not dispute any of the statements that he has made about a particular situation and a specific judge, but I only comment that to alter a very basic principle of the constitutional system of this Republic for that reason is inadequate reason and I hope the Senate will not do it.

For this reason, I shall vote against this measure.

Mr. DeCONCINI. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I would like to express my support for S. 1873, the Judicial Conduct and Disability Act of 1979. I am a cosponsor of this piece of legislation along with a number of my colleagues from the Judiciary Committee.

S. 1873 establishes a simple, yet effective procedure for the processing of allegations that members of the Federal Judiciary are not efficiently performing their duties by reason of physical or mental disability or that they have engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts.

S. 1873 would, I believe, be effective in two ways. First of all, as the committee report points out, there are situations where the disability or misconduct involved does not rise to the level of an impeachable offense. S. 1873 provides clear statutory authority for a number of other intermediate sanctions which will give needed flexibility to the judicial council to find solutions in these instances. Second, while impeachment is admittedly a cumbersome and time-consuming process, S. 1873 would serve to isolate the most serious instances of misconduct and to actually set before the House of Representatives a record of proceedings revealing misconduct which might constitute an impeachable offense. I think it is likely that the existence of such procedures would provide an incentive for Congress to take appropriate action where no such incentive has previously existed.

I urge my colleagues in the Senate to support the conference report on S. 1873, the Judicial Conduct and Disability Act. I believe that S. 1873 is constitutional, that it is necessary, and that it will not compromise the independence of the Federal judiciary. This legislation takes a reasonable, moderate approach to the problem of dealing with that occasional judge who suffers from a physical or mental disability or whose conduct has been interfering with the effective and expeditious administration of the business of the courts. I would like to thank the able Senator from Arizona (Mr. DECONCINI) for the fine work which he has done in enacting compromise legislation into law.

Mr. President, I wholeheartedly support the amendment offered by my able colleague from Arkansas. This amendment would have the salutary effect of requiring the federal courts to undertake a more careful and thorough review of agency rulemaking. One of the major changes which this provision will make is to remove the presumption of regular or validity which courts have traditionally accorded agency decisionmaking.

I urge my colleagues to support this provision which makes several excellent changes in the judicial review section of the Administrative Procedures Act.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from Arizona.

(Putting the question.)

The motion was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN SERVICE ACT OF 1980—CONFERENCE REPORT

Mr. PELL. Mr. President, I submit a report of the committee of conference on H.R. 6790 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, we have no objecton to proceeding to the consideration of this conference report. I need to be assured that there will be a few moments for debate. I have one Senator on his way to the Chamber who wishes to speak on this subject.

But, with that reservation, I advise my friend from Rhode Island that we have no objection to the consideration of this conference report.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 29, 1980.)

Mr. PELL. Mr. President, in 1976, Congress enacted my amendment (section 117) to the Foreign Relations Act of 1976 (Public Law 94–350) which called on the Secretary of State to "transmit to Congress a comprehensive plan for the improvement and simplification of the Foreign Service personnel system * * *." In response to this provision, the administration submitted in 1979 a draft bill reflecting the results of a 3-year executive branch study initiated under the Ford administration.

This bipartisan effort which has been endorsed by three Secretaries of State (Kissinger, Vance, and Muskie) represents a major rewrite of the Foreign Service Act of 1946. This legislation (H.R. 6790) is necessary:

To provide a clear distinction between Foreign Service and civil service employment, and to convert to civil service status without loss those Foreign Service personnel who are obligated and needed only for domestic service;

To improve efficiency and economy by simplifying and rationalizing the various categories of Foreign Service personnel and by establishing a single Foreign Service personnel salary schedule;

To establish a Senior Foreign Service (SFS) with rigorous entry, promotion, and retention standards based on performance;

To make more uniform the statutory terms and conditions of Foreign Service employment based on merit principles;

To provide a statutory basis for labor-management relations in the Foreign Service;

To consolidate and codify the various laws relating to Foreign Service personnel which have been enacted both within and outside the framework of the existing Foreign Service Act;

To improve interagency coordination by promoting compatibility among the personnel systems of the agencies employing Foreign Service personnel and with those of other departments and agencies.

This bill will strengthen the professional character of the Foreign Service by:

First, limiting Service status to those who accept its discipline including the obligation to serve anywhere in the world often under dangerous or unhealthy circumstances;

Second, requiring that all persons seeking career status pass successfully obligation to serve anywhere in the world through a strict but fair tenuring process; and

Third, establishing closer links between performance and promotion, compensation and retention in Service.

The bill will also improve the management of the Foreign Service and promote economy and efficiency by reducing the number of personnel categories under a single pay schedule, establishing a Senior Foreign Service comparable to the Senior Executive Service of the Civil Service, and by encouraging interchange and maximum compatibility of personnel systems among the foreign affairs agencies.

This legislation has been the subject of extensive consultations. Its provisions reflect comments and suggestions which have been received from the members of the Foreign Service and the employee organizations which represent them, from interested agencies within the executive branch and from three separate committees of Congress.

All in all, the conference report represents a fair accommodation on all of the controversial issues. I ask unanimous consent that the statement of managers be printed in the RECORD.

Mr. President, I urge my colleagues to support the conference substitute.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

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OBJECTIVE OF GRIEVANCE SYSTEM

The House bill provided that an objective of the bill is to maintain a fair and effective system for the resolution of individual grievances.

The Senate amendment contained the same provision, and added that the grievance system should be one that will insure the fullest measure of due process for the members of the Foreign Service.

The conference substitute in section 101 (b)(4) incorporates the Senate amendment.

LANGUAGE COMPETENCE

The House bill contained provisions describing the following:

(1) The characteristics that should be found in the Senior Foreign Service;

(2) The types of examinations which may be presented for appointment to the Foreign Service;

(3) The criteria under which a career candidate can be initially appointed to a class higher than class 4; and

(4) The records of ability and performance which may be examined by selection boards.

The Senate amendment added an explicit reference to foreign language competence in each of the above-described provisions.

The conference substitute in sections 101 (b)(7), 301(b), 307(1), and 603(a) incorporates the Senate amendment.

LANGUAGE COMPETENCE REPORT BY CHIEF OF MISSION

The Senate amendment added a new section requiring that each chief of mission report to Congress, within 6 months after assuming his or her post, on the foreign language competence of the chief of mission and the mission staff in the principal language or other major dialect of the country where the post is situated.

The House bill contained no comparable provision.

The conference substitute is the same as the Senate amendment, but the provision has been added as a new section 304(b)(3 for organizational reasons. The committee of conference notes that this requirement is intended to apply only to posts in countries in which English is not the principal language.

OPERATING RESPONSIBILITIES OF THE INSPECTOR GENERAL

The House bill prohibited the Secretary of State from assigning any program operating responsibilities to the Inspector General of the Department of State and the Foreign Service.

The Senate amendment added the word "general" before the term "program operating responsibilities."

The conference substitute in section 209 (a)(1) is the same as the Senate amendment.

ASSISTANT INSPECTORS GENERAL

The House bill required the Inspector General to appoint two assistants, one responsible for supervising auditing activities and one responsible for supervising investigative activities.

The Senate amendment contained no comparable provision.

The conference substitute is the same as the Senate position.

PERFORMANCE EVALUATION OF EMPLOYEES ASSIGNED TO THE INSPECTOR GENERAL

The House bill required that the Inspector General prepare the performance evaluation reports on State Department employees and members of the Foreign Service who are assigned to the Office of the Inspector General.

The Senate amendment permitted such reports to be prepared either by the Inspector General or by the Inspector General's designee.

The conference substitute in section 209 (e)(2) is the same as the Senate amendment.

PERSONAL RANK OF AMBASSADOR OR MINISTER

The House bill authorized the President to confer the personal rank of ambassador, for a period not exceeding 6 months, on an individual who is undertaking a special mission for the President. The bill requires the President to submit an advance report to the Senate Committee on Foreign Relations each time he intends to confer such a rank.

The Senate amendment contained a similar provision and added the following:

(1) A restatement of the Constitutional prohibition against any appointment of an ambassador or minister without the advice and consent of the Senate, other than by recess appointment; and

(2) A requirement that the President submit a report when conferring the personal rank of ambassador or minister at least 30 days in advance of the conferral.

The conference substitute in section 302(a)(2)(B) is similar to the Senate amendment but adds language permitting exceptions to the 30-day advance notice requirement in urgent cases.

REPORTS ON DEMONSTRATED COMPETENCE OF CHIEF OF MISSION NOMINEES

The Senate amendment required the President to provide to the Senate Foreign Relations Committee a report on the demonstrated competence of each person nominated for appointment as a chief of mission.

The House bill contained no comparable provision.

The conference substitute in section 304(a)(4) is identical to the Senate amendment.

REGULATION OF EMPLOYMENT OF FAMILY MEMBERS AT FOREIGN SERVICE POSTS ABROAD

The Senate amendment required the Secretary of State to issue regulations governing all Federal agencies' employment at Foreign Service posts abroad of family members of all Government personnel.

The House bill contained no comparable provision.

The conference substitute contains no provision on this issue.

FOREIGN SERVICE SALARY SCHEDULE

The House bill established a 10-class Foreign Service salary schedule, with each class corresponding to a specified grade in the General Schedule. Each class was required to have 14 salary steps.

The Senate amendment authorized the President to establish a 9-class Foreign Service salary schedule with a maximum salary rate not exceeding the maximum rate for GS-15 of the General Schedule. However, the Senate amendment did not establish specific linkages between the Foreign Service Schedule and General Schedule for the various salary classes.

The conference substitute in section 403 adopts the Senate amendment. The committee of conference understands that the pay schedule reproduced below will be implemented by the President, effective the first day of the first pay period beginning on or after October 1, 1980, under the authority provided to the President under the Federal Pay Comparability Act of 1970 (5 U.S.C. 5301 et seq.). The new pay schedule represents a compromise between the pay option adopted by the House and that initially supported by the Administration. The $27.4 million proposal contains nine salary classes as do the present pay schedules for the Foreign Service. The September 24, 1980 letter from the Deputy Director of the Office of Management and Budget to the chairmen of the various committees follows, together with charts indicating the new linkages, comparative details among various pay options and the intergrade differentials between salary classes in the new option:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 24, 1980.

DEAR MR. CHAIRMAN: This letter is to advise you that the Administration strongly prefers the Senate provisions in Sections 403, 406 and 2101, regarding Foreign Service compensation, in H.R. 6790, the proposed Foreign Service Act of 1980. It also provides you with an up-dated Foreign Service pay schedule that the President would authorize in implementation of those Sections of H.R. 6790. As you can see, the attached up-dated schedule sets forth considerably higher linkages between the Foreign Service and the General Schedule than the one I provided you in my letter of April 1.

We believe that it is absolutely essential for the President to have authority to set the linkage between the FS and GS pay systems in order for him to carry out his responsibility for the management of the statutory pay systems in the executive branch. Duties and responsibilities for positions compensated under the FS and GS pay systems change from time to time, necessitating changes in linkage points. The Congress has recognized the need for continued attention to matters of this type in granting the President authority over linkages under the Federal Pay Comparability Act. We believe it inappropriate to take that authority from the President.

The higher linkages which the President would implement, under the provisions of the Senate-passed bill, take into consideration the critical concerns expressed both in the Senate and House. This proposal would make a one-time increase in FS pay that averages $2,570 a year or 9.6 percent, effective in the first pay period and with conversion to the new schedule on a step for step basis, at a cost of approximately $27.4 million annually. Compounded with the forthcoming October 1 Federal pay increase of 9.1 percent, FS pay would go up an average of 19.6 percent this year. The Administration believes that this proposal provides for a sound compensation system for the Foreign Service. At the same time, it is the largest increase that can be provided under a fair assessment of comparability between the FS and the GS systems.

Accordingly, we strongly urge enactment of Sections 403, 406 and 2101 of the Senate-passed bill instead of the House-passed version of those sections.

The Administration's positions on other differences between the Senate and House bills have been conveyed by staff of the State Department to staff of your Committee.

Sincerely,

JOHN P. WHITE,
Deputy Director.

LINKAGE PROVIDING COMPARABILITY BETWEEN THE FOREIGN SERVICE AND THE GENERAL SCHEDULE

Current grade	Current linkage	Current 1st step pay [1]	New grade	New linkage	New 1st step pay [1]
FSO/R/RU-3		GS-14.40	FS-1	GS-15	GS-15.00.
4	GS-13	GS-13.00	2		GS-13.71.
5		GS-11.76	3		GS-12.43.
6		GS-10.38	4		GS-11.28.
7		GS-8.54	5	GS-9/step 2	GS-9.34.
8	GS-7	GS-7.00	6		GS-8.20.
FSS-1		GS-14.40	1	GS-15	GS-15.00.
2		GS-13.00	2		GS-13.71.
3		GS-11.76	3		GS-12.43.
4		GS-10.38	4		GS-11.28.
5		GS-9.22	5	GS-9/step 2	GS-9 34.
6		GS-8.10	6		GS-8.20.
7		GS-7.02	7		GS-7.10.
8		GS-5.98	8		GS-6.03.
9		GS-1.97	9	GS-5	GS-5.00.
10	GS-4	GS-4.00	9	GS-5	GS-5.00.

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[1] Approximate.

COMPARATIVE DETAILS AMONG VARIOUS PAY OPTIONS

Current class	New class	Current linkages	House bill	Pay options I	Pay options II	Compromise $27.4 option
O-3	FS-1	GS-14.40	GS-15	GS-15	GS-15	GS-15.
O-4	FS-2	GS-13	GS-14	GS-14	GS-14	GS-13.71.
O-5	FS-3	GS-11.76	GS-13	GS-13	GS-12.5	GS-12.43.
O-6	FS-4	GS-10.38	GS-12 GS-11	GS-12 GS-11	GS-11	GS-11.28.
O-7	FS-5	GS-8.54	GS-9	GS-9	GS-9	GS-9.34.
S-5		GS-9.22				
O-8	FS-6	GS-7	GS-8	GS-7	GS-7	GS-8.20.
S-6		GS-8.10				
S-7	FS-7	GS-7.02	GS-7	GS-6	GS-6	GS-7.10.
S-8	FS-8	GS-5.98	GS-6	GS-5	GS-5	GS-6.03.
S-9 and 10	FS-9	GS-4	GS-5	GS-4	GS-4	GS-5.
Cost in millions			$34.1	$33.8	$29	$27.4.

OPTION AT $27,400,000

Current	New	Step 1 rates	GS equivalents	Intergrade differentials (percent)
SO/R/RU-3, FSS-1	FS-1	40832	GS-15.00	23.4
SO/R/RU-4, FSS-2	FS-2	33086	GS-13.71	23.4'
SO/R/RU-5, FSS-3	FS-3	26810	GS-12.43	23.41
SO/R/RU-6, FSS-4	FS-4	21724	GS-11.28	23.41
SO/R/RU-7, FSS-5	FS-5	17603	GS-9.34	11.81 5
SO/R/RU-8, FSS-6	FS-6	15737	GS-8.20	11.85
SS-7	FS-7	14068	GS-7.10	11.85
SS-8	FS-8	12576	GS-6.03	11.85
SS-9, FSS-10	FS-9	11243	GS-5.00	

In adopting the Senate amendment, the committee of conference accepts, for the time being, the administration's September 24 proposal as an urgently needed first step in moving toward adequate pay for the Foreign Service. The Federal Pay Comparability Act of 1970 requires the President to establish appropriate linkages among the various Government pay schedules and between those schedules and the private sector. It is clear that recent administrations have failed to bring Foreign Service pay in line with other pay scales. The conferees are not convinced that this proposal achieves the statutory mandate of pay equality. It does, however, move in the right direction.

In setting pay levels for the Foreign Service, the President should take the following special characteristics of Foreign Service duty, among others, into account: (a) the requirement that any member of the Foreign Service serve in any country to which he or she is assigned; (b) the extraordinary threat to personal safety in peacetime as well as in war; (c) the continual scrutiny of Foreign Service members and their families by foreign audiences; and (d) the accountability of the Foreign Service for the actions of the United States abroad.

WITHIN-CLASS SALARY INCREASES

The House bill provided that members of the Foreign Service paid under the Foreign Service Schedule shall receive within-class step advances after 52 weeks of service in each of the first 9 steps of each class and after 104 weeks of service in steps 10 through 13. The provision also authorizes denial of within-class salary increases by selection boards based on inadequate performance and additional step increases by the agency head based on especially meritorious service.

The Senate amendment contained a similar provision, but did not specify the frequency of within-class salary increases. Instead, it authorized the increases to be granted at periodic intervals leaving the time period to be set by agency regulation.

The conference substitute in section 406 is the same as the House provision.

PREMIUM PAY FOR FOREIGN SERVICE OFFICERS

The House bill in section 412 authorized the Secretary to pay special differentials to Foreign Service officers required to perform additional work on a regular basis in substantial excess of normal requirements. However, such a differential would not be payable with respect to work for which additional compensation is payable under the premium pay provisions in title 5, United States Code. Section 2304 of the House bill amended title 5, United States Code, to authorize premium pay for Foreign Service officers other than members of the Senior Foreign Service, as was the practice prior to October 1, 1978.

The Senate amendment was designed to prevent junior FSO's from receiving premium pay. However, the amendment also continued special differentials for Foreign Service officers assigned additional work. Section 2304 of the Senate amendment continued the existing exclusion from premium pay of Foreign Service officers, but specified that compensatory time off could be provided.

The conference substitute in sections 412 and 2304 adopts the Senate amendment but adds language requiring reports to be made to the Committee on Foreign Affairs and the Committee on Foreign Relations should limitations be placed on the dollar amounts of special differentials or the number of people to whom they can be paid.

REPORTS TO CONGRESS ON ASSIGNMENTS ABOVE OR BELOW PERSONAL RANK

The Senate amendment in section 502 required an annual report to Congress on Foreign Service personnel assigned to positions classified more than one grade higher or lower than the personal rank of the individuals assigned to those positions.

The House bill contained no comparable provision.

The conference substitute in section 2402 adopts the Senate amendment.

FOREIGN SERVICE AWARDS

The Senate amendment directed the President to establish a program of Foreign Service awards recognizing distinguished, meritorious service to the Nation by members of the Foreign Service, including extraordinary valor in the face of danger to life or health.

The House bill contained no comparable provision.

The conference substitute in section 613 is the same as the Senate amendment. The committee of conference notes that since current law provides for monetary awards, these new Foreign Service awards will not be monetary.

CAREER DEVELOPMENT

The House bill in selection 703(c) directed the Secretary in general terms to design training programs to encourage and foster career development for members of the Foreign Service.

The Senate amendment in section 703(b) directed the Secretary in more specific terms to establish a professional development program for the members of the Foreign Service throughout their careers, and described the emphasis that should be given in this program at various career stages.

The conference substitute incorporates the Senate amendment as a new section 703 which deals exclusively with career development. The substitute also adds language emphasizing training in management skills.

MANDATORY RETIREMENT

The House bill raised the mandatory retirement age for participants in the Foreign Service and Disability system from 60 to 65.

The Senate amendment retained the existing law's mandatory retirement age of 60.

The conference substitute in section 812 is the same as the House provision. The committee of conference notes that this new requirement reflects the advances made since 1946 in such areas as life expectancy, availability of health care facilities, and transportation. The retention of a mandatory retirement age is deliberate and reflects the demonstrated correlation between advanced age and overseas assignability of members of the Service. In view of the strong reaffirmation of the requirement of worldwide availability for members of the Foreign Service, the problem of assignability will not lessen appreciably.

FORMER SPOUSE ANNUITY

The House bill authorized courts to divide retirement and survivor's benefits between participants and former spouses, thereby expanding existing law to allow court division of survivor's benefits.

The Senate amendment provided for a pro rata division of retirement and survivor benefits between a participant in the Foreign Service Retirement and Disability System and his or her former spouse, provided for court modification of any pro rata division, and mandated a joint election of the participant and his or her spouse or former spouse for any waiver of survivor's benefits.

The conference substitute adopts the Senate amendment with three modifications. First, the effective date provision (section 2403(e)(2)) is revised to provide that the provisions relating to the rights of former spouses to receive survivor annuities shall apply only in the case of individuals who become former spouses after the effective date of this bill (February 15, 1981). Second, a new provision is added to permit an individual who, prior to the effective date of the bill, had a former spouse, to elect to provide a survivor benefit for that former spouse (section 2109). Third, new provisions are added to permit the parties to enter into a spousal agreement with respect to their respective rights under chapter 8. Such an agreement will be given the same effect as a court order, and thus the parties may adjust their respective rights without the necessity of obtaining such an order.

LIMIT ON TOTAL COMPENSATION OF REEMPLOYED ANNUITANTS

The House bill continued existing law limiting the annuity payable to a reemployed Foreign Service annuitant to that portion which, when combined with the salary of the position in which reemployed, does not exceed in any year the basic salary of the member on the date of retirement from the Foreign Service.

The Senate amendment permitted the reemployed annuitant to receive and retain so much of his or her annuity which when combined with the salary of the position in which reemployed, does not exceed in any year the current equivalent of the salary for the class from which the member retired.

The conference substitute in section 824 is the same as the House provision.

USE OF UNITED STATES PRODUCTS IN REPRESENTATION

The Senate amendment directed the Secretary, to the maximum extent practicable, to provide for the use of United States products, including American wines, in the exercise of representational functions.

The House bill contained no comparable provision.

The conference substitute in section 905 is the same as the Senate amendment.

ADMINISTRATIVE LEAVE IN GRIEVANCES

The House bill in section 1103(b) provided that the grievant and any representative of the grievant or witness in a grievance proceeding who is a member of the Service or employee of the Department shall be given reasonable periods of administrative leave.

The Senate amendment contained similar provisions, but also provided that any witness or representative who is under the control, supervision or responsibility of the Department shall be given administrative leave.

The conference substitute in section 1103 (b)(3) and 1103(c) is the same as the House provision.

REPRESENTATION IN GRIEVANCE PROCEEDINGS

The House bill in section 1103(b)(1) required that a grievant who is a member of a bargaining unit represented by an exclusive representative be represented by that exclusive representative in grievances, other than those relating to separation from the Foreign Service.

The Senate amendment provided that every grievant has the right to a representative of his or her own choosing in every grievance.

The conference substitute incorporates the Senate amendment, with an amendment providing the exclusive representative with the right to appear at all grievances involving members of the bargaining unit.

The committee of conference notes that section 1014 of the bill provides for settlement of disputes between management and the exclusive representative over the implementation of collective bargaining agreements. These procedures include appeals to the Foreign Service Grievance Board of issues similar to those presented to the Grievance Board in individual cases.

The conferees note that the Senate and House versions of chapter 10 did not differ. The chapter 10 provisions resulted from an amendment adopted in subcommittee in the House which was modeled after title VII of the Civil Service Reform Act of 1978. The conferees wish to make clear that chapter 10 is to be interpreted consistent with the legislative history of the Reform Act, except where a specific departure is provided in the bill. As an example of a departure, the bill excepts from the duty to bargain multi-agency responsibilities (such as the Uniform Standardized Regulations issued under 5 U.S.C. 5921–25) as well as those meeting the strict definition of "Government-wide". On the other hand, with respect to negotiated procedures the bills are consistent and reflect the conference report to accompany the Civil Service Reform Act of 1978 (S. Rept. 95–1272, p. 158), which stated that the standard for determining whether a proposal is nonnegotiable is whether it "prevents the agency from acting at all". Consistency with labor-management relations policy in the domestic Civil Service led the conferees to adopt generally the Senate approach on the issue of representation before the Grievance Board which is discussed above.

PAY AND BENEFITS PENDING CONVERSION

The House bill provided for interim conversion to the new Foreign Service salary schedule and Senior Foreign Service salary rates of Foreign Service personnel on the rolls immediately before the effective date of the act, including those likely to be converted to the Civil Service under section 2104. It also provided for an effective date for such pay conversion earlier than the effective date of the act.

The Senate amendment permitted the immediate pay conversion of all Foreign Service officers to the new pay system, as well as those reserve and staff personnel who are determined to be available for worldwide assignment. The amendment provided for salary conversion of those Foreign Service personnel in the domestic category to the appropriate grade and step in the General Schedule, subject to a retroactive salary adjustment if there was a subsequent determination of an erroneous designation.

The conference substitute in section 2101 incorporates the House provision with a conforming change.

CONVERSION OF DOMESTIC PERSONNEL IN ICA

The House bill in section 2104(b) provided that the beginning of the 3-year period for conversion to Civil Service status of individuals in the Foreign Service who are not available for worldwide assignment be deferred until July 1, 1981 with respect to individuals in ICA who are covered by a collective bargaining agreement. Prior to that date the affected personnel retain their current status.

The Senate amendment contained no mandatory conversion requirement applicable to domestic Foreign Service personnel in the International Communication Agency.

The conference substitute is the same as the House provision with a conforming change to provide for immediate pay conversion.

PEACE CORPS USE OF FOREIGN SERVICE AUTHORITIES

The House bill authorized the President to continue to utilize the Foreign Service personnel authorities for the Peace Corps.

The Senate amendment limited the President's authority to utilize the Foreign Service authorities in the Peace Corps to individuals who performed duties which reasonably required availability for worldwide assignment.

The conference substitute in section 2202 (b)(2) is identical to the House provision.

STATUS OF CHAIRMAN OF THE OECD DEVELOPMENT ASSISTANCE COMMITTEE

The Senate amendment provided that the chairman of the OECD's Development Assistance Committee, who is appointed and paid under the Foreign Assistance Act of 1961, is to be considered an employee of the U.S. Government for the purpose of any benefit under any law administered by the Office of Personnel Management.

The House bill contained no comparable provision.

The conference substitute in section 2203 (d) is similar to the Senate amendment, but states that the chairman is to be treated as a Federal employee for purposes of workmen's compensation, retirement, and health and life insurance coverage only.

MODEL FOREIGN LANGUAGE COMPETENCE POSTS

The House bill in section 2207 directed the Secretary of State to designate at least two Foreign Service posts in non-English speaking countries at which all employees permanently assigned will be required to possess an appropriate level of language competence. Exceptional assignments of individuals not having such competence are authorized to meet unanticipated exigencies.

The Senate amendment contained no comparable provision.

The conference substitute in section 2207 is identical to the House provision.

RETIREMENT FOR BINATIONAL CENTER EMPLOYEES

The Senate amendment in section 2207 provided that any individual appointed as a Binational Center Grantee who completed 5 years satisfactory service as a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the Foreign Service Retirement and Disability System and make appropriate contributions, including reimbursements, to the fund under provisions of the act.

The House bill contained no comparable provision.

The conference substitute in section 803 (c) is identical to the Senate amendment with certain conforming changes.

RETIREMENT CREDIT FOR "RADIO" EMPLOYEES

The Senate amendment provided that Civil Service retirement credit be allowed Federal employees who served in Radio Free Europe, Radio Liberty, Radio Free Asia, the Asia Foundation, or the Armed Forces Network, for the period of such service.

The House bill contained no comparable provision.

The conference substitute in section 2315 is similar to the Senate amendment with certain technical and conforming changes. The committee of conference does not intend this provision or the previous provision concerning Binational Center Grantees to set a precedent for Civil Service or Foreign Service retirement credit for any other non-Federal service.

EFFECTIVE DATE

The House bill provided that the act shall take effect 90 days after enactment, subject to certain exceptions with respect to personnel actions based on the current Foreign Service evaluation cycle, appointments to the Senior Foreign Service by the Secretary of Commerce, and mandatory retirement.

The conference substitute in section 803(c) is identical to the Senate amendment with certain conforming changes.

The conference substitute in section 2403 adopts an effective date of February 15, 1981 for the bill in general, and retains the House provision's exception regarding mandatory retirement (effective on date of enactment), the current Foreign Service evaluation cycle, and Senior Foreign Service appointments by the Secretary of Commerce. It also reflects the agreement of the committee of conference concerning the prospective application of provisions regarding annuities for former spouses, and the effective date of pay conversion, described above.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, even though I participated in the deliberations of the conference I cannot support the adoption of its report. While the conference expeditiously resolved the disagreements between the Senate and the House versions of the legislation, the issues available for resolution were not sufficient, even when resolved, to constitute equitable reform of the Foreign Service system. Consequently, as I say, I cannot support the final proposal.

The fundamental flaw of the proposed legislation is the creation of the Senior Foreign Service. A rank-in-person system for the higher grades basically is incompatible with the traditional career-consistent rank-in-person concept which has applied heretofore. The traditional system, modeled on the Navy's career system terminating in flag officer command, had produced some of the most outstanding foreign service officers in the past.

The new Senior Foreign Service officer system is borrowed from the Civil Service Senior Executive Service. While the concept may have some possible utility in the Civil Service, with its largely rank-in-job categories, the new Senior Foreign Service system produces a harmful breech in the traditional service with its eclectic and derivative standards. For this reason, it is likely to lead to an unfortunate politicization of the Service, not only in the partisan political party sense, but also more importantly in its establishing an eclectic corps, looking to its own constituency and power, rather than the service of the United States.

This danger is made administratively more likely by the layering through this provision of a new bureaucratic organization on top of, and different from, the remainder of the Foreign Service. Indeed, a careful analysis of this new Senior Foreign Service reveals it to be a new insulated so-called elite group, able to perpetuate itself at will by devices it can employ to negotiate with the Secretary of State. These devices can lead to rewarding conformists to the group and punishing innovative and creative critics.

The reason for this new Senior Foreign Service can be found in the distortions in selection-out in the traditional foreign service introduced by the Department of State. While the selection out and promotion system worked extremely well at the International Comunications Agency, acting under the 1946 Foreign Service Act, it was bogged down in the State Department, particularly in the higher grades. In the State Department Foreign Service classes 1 and 2, for example, there is an overcomplement of 314 officers out of 1,550 in the corps—that is to say, there are, by the Department's own reckoning, only 1,236 jobs that require the services of the two top classes of officers.

The solution of the administration was to continue to disregard the 1946 statute and, instead, to create a new bureaucratic layer by this act on top of the Foregin Service, modeled on the Civil Service's Senior Executive Service. Its real intent, I am afraid, is to be a device to speed up the retirement of selected officers in the overcomplement in the higher officer levels, eliminating the most experienced officers who have resisted the ideological politicization of the service. The additional safeguards which were added to protect these officers have the effect, however, only of guaranteeing tenure and, for the first time, giving foreign service officers a virtual contract of 3 to 5 years. This guarantee was reinforced by raising the mandatory retirement age to 65, an act most beneficial to the senior grades. Nothing could be more contrary to the idea of "up or out." On the one hand it rationalizes past disregard of the will of Congress, and on the other, it simply duplicates the problem which already exists, most significantly at the new supergrade levels. The Foreign Service Act of 1980 will not cure personnel management problems; indeed, it will double their magnitude.

While the bill was being considered in committee, I introduced reform legislation which attempted to go to basic issues, reinvigorate the morale of the Foreign Service by increasing rewards in recognition of its elite character, and restore the original concept of the Foreign Service by giving the Secretary and the Congress the tools to make the selection up or out process work. These reforms were proposed on the Senate floor as well as additional proposals to insure that every employee in the Foreign Service had due process in labor/management and in the grievance procedures.

Indeed, it is particularly important that certain provisions in the act relating to the handling of grievances do not remove from the Foreign Service Corps any of the protections they now have under current law.

I speak particularly of the right of any member of the Foreign Service to appear as a grievant before an independent and impartial third party. Present law and regulation provide that members of the grievance board be appointed by mutual consent of the foreign affairs agencies and their counterpart exclusive representatives. Section 1105 of the conferees bill creates, in the case of a disagreement between the agencies and the exclusive representatives over the choice of a board member, a so-called striking procedure to choose nominees—rather than the automatic veto authority of any party, as is the present situation.

This provision could be manipulated so that the management of the agencies could effectively appoint an entire grievance board solely of their own choosing, rather than a board balanced by the meaningful participation of the exclusive representatives. This danger has been carefully analyzed by the Thomas Legal Defense Fund, an organization known throughout the Foreign Service to protect the rights of the Foreign Service through the judicial process. It is unfortunate that the State Department never identified this provision as a change from current law; the burden, heretofore will be upon the Department to insure that the provision was intended, and will in actuality, operate in a balanced manner.

Similarly, another portion of the text of the bill is also open to manipulation because of an unfortunate ambiguity.

It is noteworthy that the bill states, in section 610, that—

> The hearing provided under this paragraph shall be in accordance with the hearing procedures applicable to grievances under section 1106, and shall be in lieu of any other administrative procedure authorized or required by this or any other law.

This language may be open to an interpretation that may seriously limit a grievant's rights. For example, the language raises doubt as to whether an individual grievant in a separation-for-cause case is entitled to have the decision of the grievance board reviewed by the Equal Employment Opportunity Commission, and, where necessary, to obtain a trial de novo for the discrimination claim in district court. Both private industry and all Government agencies are subject to these statutorily based procedures. It is to be presumed that the State Department has not been seeking congressional approval to prevent implementation of the full effect of the equal employment statutes. My proposed amendment to the grievance chapter, rejected by the Senate, would have erased any of these ambiguities.

The lack of sufficient grievance safeguards in the present bill, the duplication of a redundant labor/management bureaucracy, the failure to provide a mechanism to make the selection process work, and the complication of the Foreign Service system by the addition of the civil service-based concept of a senior Foreign Service make this legislation a step backward. I must vote against the report in the hope that these issues may be raised again in the not-too-distant future.

Mr. PERCY. Mr. President, I urge my colleagues to support this conference report on the Foreign Service Act of 1980, H.R. 6790. It represents the culmination of several years of careful discussions within the administration and the Foreign Service, and between both of them and the Congress as a whole. Though it differs in some important respects from the civil service reform legislation approved 2 years ago, it reflects the same objective of modernizing and rationalizing the administration of the Foreign Service.

The act provides the basis for a long-overdue upgrading of pay scales within the Foreign Service, the institution of a senior Foreign Service and an incentive pay plan, the consolidation of carefully negotiated grievance and labor-management systems and numerous other changes in the administration of the Service. It also provides new protections for the families of Foreign Service members, including survivor and retirement provisions for those former spouses who served with an officer for 10 years or more.

Mr. President, as with any measure of this kind, there are some features of the legislation which some Members of the

Senate or the House might have wished had come out differently. We in the Foreign Relations Committee will continue to monitor the implementation of this legislation carefully and will not hesitate to recommend changes as they become necessary. But on balance, I think all the parties involved in the drafting of this legislation can be proud of the result, and I strongly recommend this conference report to the Senate.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. EXON). The Chair, on behalf of the Vice President and upon the recommendation of the majority and minority leaders, appoints the following Senators to the 1980 Annual Meetings of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development and its Affiliates, to be held in Washington, D.C., September 30–October 3, 1980: The Senator from Illinois (Mr. STEVENSON), the Senator from North Carolina (Mr. HELMS), and the Senator from Pennsylvania (Mr. HEINZ).

SMALL BUSINESS ACT AMENDMENTS—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I submit a report of the committee of conference on H.R. 5612 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5612) to amend section 8(a) of the Small Business Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. LEVIN. Mr. President, I ask unanimous consent that a statement by Mr. MORGAN on the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MORGAN

I believe that a very positive step has just been taken today with the House and Senate agreement on H.R. 5612.

After extensive Senate hearings, several productive meetings with members of the minority business community, a hard-working markup session and cooperation with the House of Representatives, we have come up with a bill to improve the performance of the minority small business contracting program, the 8(a) program.

While other matters have been attached to this legislation, let me comment on the section with which I have been most intimately associated.

It had been brought to my attention by several minority businessmen in my State that while they had become eligible for 8(a) contracts, they were unable to receive any. On further inquiry it became clear that continued participation by a few firms, who continued to receive a high proportion of the contracts, was keeping the new firms out.

In seeking to address this situation, hearings demonstrated that the Small Business Administration maintains no figures on the status of its 8(a) firms, on what happens to those that do leave the program, on how many firms are already viable and should be graduated, and a host of other pertinent factors.

The bill which I introduced to address this problem, S. 2972, would have set a fixed-term for graduation. While several members of the Small Business Committee continue to endorse this approach, and I appreciate their support, I was convinced that this action would be too much at this time in the absence of sufficient data.

I was impressed by the arguments of minority businessmen and members of the House that at this time we should work for a graduation date set by the Small Business Administration tailored to the needs of each businessman. I agree with this added flexibility and, with reports from the SBA, the Congress will be able to determine if the discretion being granted the agency under this revised bill is being used properly.

I shared the concerns of my colleague from Michigan, Senator Levin, that we should address the difficult question of treatment of firms already in the program. We have provided that after June 1, 1981, no new contract will be awarded any of these firms unless they submit a revised business plan setting a graduation date. After 18 months, every firm must have a graduation date.

I want to commend Senator Carl Levin for his work on the section of this bill which will assist small businesses in developing overseas markets. His amendment, which was added during the Small Business Committee consideration of the bill, will establish two "one stop" export promotion centers. It is an excellent idea and one which should aid small business. This amendment provides that the Secretary of Commerce, in consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish two export promotion centers.

This is essentially a pilot program to determine if locating all these agencies under one roof will substantially assist small business wanting to be involved in overseas trade. A number of witnesses who testified before the Small Business Committee during hearings on export policy testified in support of this concept and it was one of the recommendations of the White House Conference on Small Business. We will be able to test this concept for several years under this amendment and the Congress and the business community will have an opportunity to see if it is the workable and sensible program it appears to be. Small business now accounts for about 10% of our annual exports. Most authorities believe the potential for small firms is much greater than that 20,000–50,000 small businesses could be exporting.

Additional exporting by small business will not only be good for small business. It will also benefit the entire economy by reducing our trade deficit. Senator Levin's amendment and the provisions contained in H.R. 5612 are important to the development of more opportunities for small business.

Throughout this process, I have believed that a graduation program will benefit everyone. For firms in the 8(a) program, it should mean that better service will be provided by SBA during the term of their eligibility. For new firms, it means increased opportunity. For the SBA, it provides them with the legislative guidance which they requested in the Senate hearings. For the Congress and the people, it provides greater accountability and the preservation and improvement of a valuable program.

I want to thank the staff of both the Senate and House Small Business Committees for their efforts to bring H.R. 5612 to a vote at this time. I would note in particular, Alan Chvotkin and Bob Wilson of the Senate Small Business Committee who assisted me throughout the proceedings. I would note as well the work of Alfred Pollard of my staff during the consideration of H.R. 5612.

Mr. DECONCINI. Mr. President, I am pleased to rise in support of the conference report on H.R. 5612. This legislation has a provision with which we are all familiar, the Equal Access to Justice Act (S. 265). S. 265 will provide for the payment of attorney fees and other expenses for prevailing parties when involved in either an adversarial agency adjudication or a civil action with the Federal Government.

Mr. President, with passage today of this conference report we will hopefully have turned the corner on enactment of this major piece of legislation. Although we have addressed this item in the past, the opportunity to reaffirm our previous vote of 94 to 3 has never meant as much. For the first time we have a specific response from the House on S. 265, namely the version of this provision as reported by the House Judiciary Committee on September 4, 1980 by a vote of 25 to 3. Because the Senate potentially will enter the recess before the House and because of the logistics associated with enactment of S. 265 independently of this conference report, it is imperative that we not let the good work of both Chambers be undone by the passage of unproductive time. This is far too significant an item to be allowed to unravel because of a paperwork impasse caused by the impending recess.

Therefore, Mr. President, this amendment is not merely the repassage of S. 265 as initially passed by the Senate on July 31, 1979. Rather it represents an assimilation of both the Senate version of S. 265 and the version of S. 265 as reported by the House Judiciary Committee. I trust that the House will look closely at this conference report so that they will fully appreciate that their own version of S. 265 is virtually identical—and in most instances, precisely identical—to the Senate version as reflected in this report. Yet nothing in this provision of the conference report is at variance with the concept and premise of S. 265 as originally passed by the Senate. At this point, Mr. President, I would like to congratulate two members of my staff who have worked diligently, effectively, and professionally toward the end of putting the provisions S. 265 into law. They are Pamela Eldred and Jonathon Tepodas.

Mr. President, it would serve our purposes to provide some detail with respect to the operation of this provision. The S. 265 provision has three basic components: It provides for attorney fees and expenses to a prevailing party at the agency adjudication level; it removes the statutory prohibition against the availability of the common law exceptions to the "American Rule" for private litigants in litigation with the Federal Government; and it provides for attorney fees and expenses to a prevailing party at the court level.

AWARD OF FEES AND OTHER EXPENSES IN AGENCY ADJUDICATIONS

The conference report directs the United States to pay attorney fees and other expenses to a prevailing party other than the United States in an agency adversarial adjudication unless the position of the Government is found to be not substantially justified or where special circumstances make the award unjust. An adversarial adjudication is one in which the agency position is represented by counsel or otherwise. The phrase "prevailing party" is not to be limited to a victor only after entry of a final judgment following a full trial on the merits; its interpretation is to be consistent with the law that has developed under existing statutes.

A party may be deemed prevailing if the party obtains a favorable settlement of his case, *Foster* v. *Boorstin*, 561 F. 2d 340 (D.C. Cir. 1977); if the plaintiff has sought a voluntary dismissal of a groundless complaint, *Corcoran* v. *Columbia Broadcasting System, Inc.*, 121 F. 2d 575 (9th Cir. 1941); or even if the party does not ultimately prevail on all issues, *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 696 (1974).

In cases that are litigated to conclusion, a party may be deemed "prevailing" for purposes of a fee award in a civil action prior to the losing party having exhausted its final appeal. An award may thus be appropriate where the party has prevailed on an interim order which was central to the case, *Parker* v. *Matthews*, 411 F. Supp. 1059, 1064 (D.D.C. 1976), or where an interlocutory appeal is "sufficiently significant and discrete to be treated as a separate unit", *Van Hoomissen* v. *Xerox Corp.*, 503 F. 2d 1131, 1133 (9th Cir. 1974).

After a prevailing party has submitted an application for an award, the burden of proving that a fee award should not be made rests with the Government. The test of whether the Government position is substantially justified is essentially one of reasonableness in law and fact.

Certain types of case dispositions may indicate that the Government action was not substantially justified. A court should look closely at cases, for example, where there has been a judgment on the pleadings or where there is a directed verdict, where a prior suit on the same claim had been dismissed or where there is a substantial difference between the amount or content of the Government's original pleadings and the settlement agreed to. Such cases clearly raise the possibility that the Government was not substantially justified in pursuing the litigation. The amount of this award may be reduced or denied by the adjudicative officer if the party unduly and unreasonably delayed the proceeding.

ELIGIBLE FEES AND OTHER EXPENSES

The conference report makes eligible for award to prevailing parties the reasonable fees and other expenses of expert witnesses, costs of any study, preparation of the party's case and the attorney or agent fees generally less than $75 per hour.

THOSE ELIGIBLE TO CLAIM

In addition, the report defines prevailing parties in an agency adversary adjudication eligible for award to include business individuals and entities with certain exceptions. In the case of individuals, those whose net worth at the initiation of the adversarial proceeding exceeded $1 million are not eligible for an award; in the case of business entities, those whose net worth at the initiation of the adversarial proceeding exceeded $5 million are not eligible for an award. Charitable tax exempt organizations so designated under 501(c)(3) of the Internal Revenue Code and agricultural co-ops defined in the Agricultural Marketing Act are exempt from the monetary ceiling. All parties with more than 500 employees are ineligible for an award.

ADVERSARY ADJUDICATION

It also defines adversary adjudication as an agency adjudication defined under the Administrative Procedures Act where the agency takes a position through representation by counsel or otherwise. It is intended that this definition precludes an award in a situation where an agency for example, the Social Security Administration, does not take a position in the adjudication. If, however, the agency does take a position at some point in the adjudication, the adjudication would then become adversarial.

The report defines an adjudicative officer as the deciding individual, or board whether an administrative law judge, hearing officer, examiner or otherwise.

SUNSET

The report repeals the award of fees and other expenses in an agency adjudication 3 years after it becomes effective except for any action pending at that time.

COST AND ATTORNEY FEES IN A JUDICIAL ACTION

The report restates the current law that provides that certain specific costs—for example court reporter—but not attorney fees, may be awarded against the United States unless otherwise specifically provided.

Further, it specifically allows for the payment of attorney fees—in addition to costs as previously listed—to the prevailing party in any civil action with the United States. Current law allows for the payment of such attorney fees pursuant to limited statutory exceptions such as the Freedom of Information Act, the Privacy Act or Civil Rights Acts that expressly make the United States, liable, and not to the common law exceptions or to other statutory exceptions which do not expressly make the United States liable. Such statutory exceptions are exceptions to the "American Rule," which makes each party responsible for the payment of his or her own attorney fees. In addition, under current law, the few nonstatutory exceptions to the "American Rule" available for private litigants are not available to private litigants in cases brought by or against the United States.

The Senate provision simply removes this statutory prohibition against the few nonstatutory exceptions—that is, the common law—to the "American Rule." Thus, the United States would be liable for attorney fees under the "bad faith" or "common fund" exceptions and under the terms of any Federal statute which authorizes awards against private parties unless the statute expressly provides otherwise. The conference report reflects the belief that, at a minimum, the United States should be held to the same standards in litigating as private parties. As such, it is consistent with the history of section 2412 which reflects a strong movement by Congress toward placing the Federal Government and civil litigants on a completely equal footing. (See generally, *Natural Resources Defense Council or E.P.A.*, 484 F. 2d 1331 1st Cir. 1973.)

APPLICATIONS AND REVIEW PROCEDURES

The report directs that uniform procedures for fee applications by prevailing parties for an award shall be established by each agency after consultation with the chairman of the administrative conference. If a court reviews the merits of an adjudication, the award is postponed for consideration by such court in addition to any fees the court may award relating to the court action. A prevailing party dissatisfied with a fee award or a denial of the award may appeal to the competent court which may modify the award.

SOURCE OF FUNDS FOR AWARD

The report directs that funds for an award for fees and other expenses to come first from any funds appropriated to any agency; if not paid by the agency the award shall be paid in the same manner as judgments under section 2414 of title 28, United States Code except that no awards shall be paid from social security trust funds, as created under section 201 of the Social Security Act. The report further authorizes such sums as may be necessary for fees and other expenses for fiscal years 1982, 1983 and 1984.

REPORTS

The report also requires the chairman of the administrative conference, in consultation with the Chief Counsel for Advocacy of the Small Business Administration to report annually to the Congress the number, nature and amount of such awards. By this measure, the Congress will be able to evaluate the conduct of the agencies.

FEES AND OTHER EXPENSES FOR A JUDICIAL ACTION

The report provides for an award of fees and other expenses to an otherwise party in a judicial proceeding with the United States unless the position of the Government is substantially justified or special circumstances make an award unjust. It authorizes the court to reduce or deny the award if the prevailing party unduly and unreasonably delays the proceeding. The scope and intent of this section are analogous to the payment of fees and other expenses section relating to the agency level as previously discussed.

AWARDS OF COSTS AND FEES OTHERWISE PROHIBITED

The conference report allows the court, upon review of the merits of an agency adversarial adjudication to award fess and other expenses to an otherwise eligible prevailing party. Specifically, this section authorizes an award from the court to prevailing parties who are otherwise entitled to fees and other expenses pursuant to section 504(a) but who are precluded from actual receipt pursuant to section 504(c)(1) until completion of a court review of the merits. Additionally, the award of fees and other expenses, as previously described, is authorized to an otherwise eligible prevailing party that appeals to the court under the Contracts Disputes Act of 1978, in which case the fees and other expenses eligible shall be those incurred during both the adversary adjudication—as described under this section—and the court proceedings—as described under the section entitled "Fees and Other Expenses in Judicial Actions."

EFFECTIVE DATE

The conference report makes the legislation effective as of October 1, 1981 and applicable to adversary adjudications or civil actions pending as of such date.

Mr. President, in closing I cannot overstate the significance of this title of the conference report. It is essential to our judicial system that we enact the provisions of S. 265.

● Mr. WEICKER. Mr. President, I rise to urge the passage of the conference report on H.R. 5612. Title I of this bill extends until September 30, 1981, the authority of two minority business development programs, both of which are due to expire today. In order to continue these programs, it is crucial that we act positively to approve this conference report before the Congress recesses. Title II of this bill deals with reimbursement for attorney fees and is substantially the same as provisions included in S. 265 which the Senate passed in July 1979 by a vote of 94 to 3. Title III deals with small business exports.

The first pilot program authorizes the Small Business Administration to select Federal procurement needs from an agency designated by the President for inclusion in the SBA's section 8(a) program. The second pilot program allows the SBA to waive surety bonds for certain 8(a) contractors.

Mr. President, the bill as passed by the Senate extended the pilot procurement program for 1 year, and did not extend the surety bond waiver program. The House bill extended both programs for 2 years. The conference agreement extends both programs for 1 year, until September 30, 1981. This extension will allow the Congress further time to examine both programs' utility in meeting the goals of developing minority businesses.

The conference report further adopts provisions from the House bill requiring the GAO to report to Congress on both programs. In addition, SBA and the pilot agency are required to independently provide quarterly reports to the House and Senate Small Business Committees. These quarterly reports will be useful to the oversight committees in monitoring the continued implementation of the procurement program.

Furthermore, title I includes basically the same provisions as passed by the Senate mandating the SBA to set fixed periods for graduation of firms from the 8(a) program, and clarifying the SBA internal lines of authority and responsibility.

Mr. President, H.R. 5612 includes provisions in titles I and III which will provide substantial support to small businesses developing overseas markets. We have heard much rhetoric lately concerning the U.S. position in world trade. While the dollar sales of U.S. products overseas continues to climb, the important fact to remember is that the U.S. share of overseas sales is steadily declining while other industrialized nations, most notably Germany and Japan, are accounting for an increasingly large portion of world sales.

This country has failed to provide an atmosphere conducive to export of U.S products abroad. Government policies, in the areas of export promotion, controls, and tax treatment have acted to curb U.S. companies' participation in overseas markets.

Mr. President, a large contributing factor to our poor export performance in recent years is our failure to increase participation by small- and medium-sized firms in export. Commerce Department estimates indicate that 20,000 small firms have the capability to export, but do not.

It is this lack of overseas involvement by small firms which provisions included in H.R. 5612 are designed to address.

Mr. President, the export provisions which are included in this conference report originally were a part of S. 2620, the Small Business Export Expansion Act introduced by Senator NELSON and myself which the Senate passed unanimously on September 3. Similiar legislation was introduced in the House, but no actions have been taken on the House bills. Therefore, the Senate attached these provisions to H.R. 5612 and I am happy to report that the House accepted these provisions in conference in substantially the same form as they were passed by the Senate.

Part B of title I of H.R. 5612 outlines export responsibilities for the Small Business Administration. The Small Business Administration, whose statutory mission is to assist small business, is unfortunately of little use to those small firms endeavoring to market their products and services internationally. In fiscal year 1979. SBA employed only two full-time experts and spent less than $200,000 or approximately one-tenth of 1 percent of its total salary and expense budget to promote small business exports.

Because of these inadequacies a small business person who today goes to SBA for export information usually gets no answers to his questions and, more often than not, is simply referred to another agency—referred and put off and given useless pamphlets and made a victim of our Government's inability to place an appropriate emphasis on export promotion.

Section 112 provides explicit authority to SBA to make or guarantee loans to small businesses to enable them to develop foreign markets and finance "preexport" operations.

Section 113 establishes within the SBA an Office of International Trade. I am particularly pleased that these provisions, which I originally introduced as part of S. 2104, the Small Business Export Development Act, and which were incorporated in S. 2620 by the Small Business Committee, are included in this conference report.

Under this bill, the Office of International Trade at SBA will coordinate the delivery of export information and assistance to small business through the agency's extensive network of field offices. A regional export development specialist will be assigned to each SBA regional office and one person in all SBA's district offices will be assigned primary responsibility for export development programs.

Funding is currently available for the agency to hire export specialists for each of the 10 Federal regions. These specialists will counsel small businesses on exporting procedures and problems, assist them in their dealings with other Federal agencies, and advise them concerning available export programs and resources. With these personnel in the field, SBA's network of offices can be used effectively for the delivery of export information.

Title III of H.R. 5612 also deals with small business exports.

Under this title, grants would be made available to States and other entities to establish small business export development programs. These programs would provide much needed indepth assistance in all aspects of export financing, marketing, and operations. During committee consideration of this legislation, a number of successful export assistance programs were examined including the Massachusetts Port Authority's small business export program developed in cooperation with the Smaller Business Association of New England, and programs at the Universities of Georgia and Wisconsin. These programs, in a very short period of time, have resulted in large increases in the export sales of participating companies.

Through this grant program, requiring a matching contribution by the sponsor equal to the Government's share, a partnership will be created with State governments and private sector entities. By providing a financial incentive through the grant, States will be encouraged to promote exports and will have the flexibility to design a program that effectively meets the needs of their individual regional economies.

The provisions included in title III of H.R. 5612 are similar to those included in S. 2104 which I introduced in December 1979.

Mr. President, small business can account for a large part of U.S. exports and play a major role in improving economic conditions in this country. The contributions of small business to productivity, employment, and new technologies is well documented. We must not continue to rely on a few large firms to carry American products to the world.

The export provisions included in this conference report on H.R. 5612 provide the impetus for new more positive and responsive Government programs to aid the small exporter.

Mr. President, title II of the conference agreement basically incorporates the provisions of S. 265, the Equal Access to Justice Act which the Senate passed in July 1979 by an overwhelming vote of 94 to 3.

These provisions are of extreme importance to small businesses, and others, that are deterred from bringing legal actions against the United States or defending themselves in actions brought against them by the United States, because of the extreme cost involved in securing their rights in such proceedings.

Because of the expense associated with such actions small businesses regularly cave-in to the Government, pay their fine, or comply with the Government's request rather than pursue actions, even if the Government is not justified in its position. The Equal Access to Justice provisions simply would allow small businesses and individuals to recover atterney fees and other costs when they prevail in agency adjudications or civil actions unless the Government can show that its action was substantially justified.

Mr. President, there is no question that small businesses have been denied equal access to the courts and administrative proceedings as a function of their size and inability to have large in-house legal staffs. Through the provisions included in this conference report this inequity will largely be erased.

Mr. President, the provisions included in H.R. 5612, as approved by the committee of conference are of great importance to the small business community as demonstrated by the actions endorsed by the White House Conference on Small Business. Continuation of the minority business programs was one of the top priority recommendations. The White House conference also endorsed recommendations to improve Government structures and policies with regard to international trade. Provisions of title II, providing for reimbursement of attorney fees and other costs in certain Government actions was also one of the top 15 priority recommendations.

I am pleased that these conference recomendations will be implemented when this bill is signed into law.

Mr. President, I urge my colleagues to adopt this conference report on H.R. 5612.●

Mr. THURMOND. Mr. President, I would like to express my strong support for S. 265, the Equal Access to Justice Act, of which I am a cosponsor and which we are about to pass as a part of the conference report H.R. 5612. This legislation makes an excellent beginning toward correcting what I believe to be one of the most serious problems of our governmental system today—that of excessive regulation of both individual citizens and businesses. Mr. President, the Federal Government for years has been steadily increasing its control in almost every facet of American life. Federal law has, therefore, become exceedingly complex and confusing, particularly to private citizens and small businesses who may not have the funds to hire an attorney to interpret it. Too often, because of the excessive costs involved, individuals and businesses capitulate to the Federal Government's unjust enforcement of a particular statute or regulation rather than litigate against an entity of greater financial resources and legal expertise in the area.

This legislation would serve two basic purposes. The first is to assure that certain individuals and organizations are not deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved. It seeks to remove economic deterrents by providing that the prevailing party in agency adjudications or court actions will be able to recover attorneys' fees and other costs unless the Government action was substantially justified or special circumstances make such an award unjust. The burden is on the Government to prove the substantial justification of its position. The award of attorneys' fees, if no such justification is found, will be taken directly from the operating budget of the offending agency.

The second purpose of this legislation is to encourage the agency to be as careful as possible in the exercise of its regulatory powers and to be more responsive to citizen needs. The implicit assumption in the approach taken by this legislation is that affecting the "pocketbook" of the agency is the most direct way to assure more responsible bureaucratic behavior.

I believe this piece of legislation is a good one and is necessary to stem the tide of increasing governmental overregulation.

Mr. LEVIN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank the majority and minority leaders.

COURT OF APPEALS FOR THE FEDERAL CIRCUIT ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 3806 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3806) to establish a United States Court of Appeals for the Federal Circuit, to establish a United States Claim Court, and for other purposes.

Mr. DeCONCINI. Mr. President, today the Senate will complete its work on one of the most important court reform bills in our country's history, the Federal Court Improvements Act of 1980. This landmark legislation originated last year in the Senate as S. 677 and S. 678. After extensive hearings, Chairman KENNEDY and I took the best portions of those two bills and combined them to become S. 1477, which subsequently passed out of the Improvements in Judicial Machinery Subcommittee which I am privileged to chair, and later the full Committee on the Judiciary, by unanimous votes. The Senate approved S. 1477 in October of 1979, again, without dissent.

The House of Representatives took a slightly different approach to the court reform package as passed by the Senate, deciding to concentrate on those portions of S. 1477 that created the new court of the Federal circuit, found in title III of the Senate bill. The House passed its bill 2 weeks ago and invited the Senate to add many of the technical changes to title 28 of the United States Code that had made up much of titles one and two of the Senate bill. The amendment in the nature of a substitute that I am proposing today does add a number of provisions that H.R. 3806 did not include, but it is my understanding that the House will accept these changes and we will obviate the need for a conference. I want to particularly thank Senator KENNEDY and Senator DOLE for their outstanding contribution in this effort, along with Bob Feidler, Ken Feinberg, and Frank Cihlar of the Judiciary Committee for their extraordinary efforts in processing this substantial legislation. It was created in the spirit of bipartisanship and represents the legislative process, in my judgment, at its best.

I also want to thank our colleagues on the House side, particularly Congressman KASTENMEIER for his outstanding efforts in guiding the bill through the House. One further special word of appreciation should go to Prof. Daniel Meador of the University of Virginia whose work when he headed the Improvements in the Administration of Justice Division of the Department of Justice got this bill going and without whose help it could not have been completed.

There was discussion in the House report accompanying H.R. 3806 that may be interpreted to imply that the present standard used by the Court of Customs and Patent Appeals in reviewing decisions of the Patent Office Board of Appeals is different from the "clearly erroneous" standard used by circuit courts of appeal in reviewing district court decisions. Questions were also raised whether the CCPA can now use a de novo standard of review.

These interpretations would be wrong. The House report language should not be interpreted as conveying the impression that the present standard of review at the CCPA is different from a "clearly erroneous" standard or that the CCPA can presently undertake a de novo review. The House discussion, in my opinion, was not intended to offer an opinion in this area, one way or the other.

Mr. President, I have nothing further on the bill. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I support the actions of the able Senator from Arizona and feel that this bill would be very helpful. I agree with the statement of the Senator from Arizona about certain modifications to the bill. On that basis, I have no objection.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 1701

(Purpose: An amendment to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by their elected representatives in Congress)

Mr. BUMPERS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1701.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

That portion of Public Law 89-554 (80 Stat. 393), now codified as Section 706 of title 5, United States Code, is amended to read as follows:

§ 706. Scope or Review.

(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a proceeding subject to section 554 of this title or otherwise reviewed on the record of an agency hearing provided by statute;

(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis of a rule adopted in a proceeding subject to section 553 of this title; or

(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(c) In making determinations under clause (2)(C) of subsection (a) of this section, the court shall require that action by the agency is within the scope of agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, as distinguished from questions of fact or discretion, under this section, the court shall not accord any presumption in favor of or against agency action.

Mr. BUMPERS. Mr. President, I am not going to burden the RECORD with a long drawn-out history of this proposal. It is similar to a bill I introduced in the 94th Congress, the 95th Congress, and again in this Congress, now numbered S. 111. This proposal has come to be known as the Bumpers amendment, and it is a regulatory reform proposal which has been widely discussed and debated.

Mr. President, current doctrines of administrative law insure that almost every rule or regulation adopted by a Federal agency is upheld by the court. Mr. President, that is not the way Congress intended the system to work. A fundamental premise of our system of government is that the courts interpret and apply the law: They are the ultimate authority on all legal questions. Courts have the power, and indeed the duty when the issue is presented, to tell Congress that it has passed a law which is unconstitutional. Courts have the power even to order the President of the United States to take action. It is said that no one is above the law, unless, of course, we count some of our Federal agencies. I can find no justification in logic or commonsense for the existence of the currently applied presumption that agency action is within the authority granted by Congress or by Executive order, and I find no justification for deference to an agency's interpretation on other questions of law, either. Congress created our system of Federal courts to interpret the law, and we have a duty to the people of this great country to make sure that they are doing it.

Mr. President, I do not propose to dismantle the entire administrative apparatus, much of which is necessary for the government of a complex and diverse society. But regulatory agencies have become, in essence, a fourth branch of government over which no one is exercising effective control, and this means that many of our laws are being written by people who are not elected and not subject to the will of the people.

Some control is necessary. Many agency regulations are unreasonably onerous. For every law Congress passes there are 18 regulations promulgated by different Federal agencies. Although several measures have been discussed as solutions to this problem, I believe that my amendment offers the most workable solution.

Mr. President, I am sure that Members of the Senate recall that they adopted essentially this same proposal as an amendment to S. 1477, the Federal Courts Improvement Act, on September 7, 1979. The motion to table my amendment was defeated 21 to 57, and then the amendment was adopted by a voice vote. Some of the words of the amendment have been revised since that time in an effort to clarify its intent and meaning. The clarifications have been made, to some extent, by Professor Clark Byse, administrative law professor at the Harvard Law School, who was an original opponent of this and who is now a supporter of it. I believe that the changes that have been made are good ones. The version of the Bumpers amendment which I propose today has the endorsement of many groups, including the Business Roundtable and the American Bar Association. Further, and most importantly, the House Judiciary Committee on September 17 adopted this exact proposal with only one dissenting vote as part of its comprehensive regulatory reform package. I could not make this statement when I introduced the first version of the Bumpers amendment in 1975, but I can now say that this proposal is widely supported, and it is an idea for which the time has now come.

For those of you who might harbor the misapprehension that this amendment will stand fundamental concepts of administrative law on their heads, let me briefly explain what it will and will not do.

POLICY

My amendments to section 706 of the Administrative Procedure Act are premised on the basic constitutional principle that in a representative democracy, legislative power shall be exercised by elected representatives and not by unelected officials who are not directly responsible to the electorate. The delegation doctrine requires that there be mechanisms for controlling the exercise of delegated regulatory power.

These mechanisms are the requirements that when the legislature delegates power it must establish an "intelligible principle" to govern the delegate, and that the judiciary will hold invalid actions which are not authorized by the statutory delegation. In the words of Mr. Justice Reed, "An agency may not finally determine the limits of its statutory power. That is a judicial function." *Social Security Board* v. *Nierotko*, 327 U.S. 358, 369 (1946). The insertion of the word "independently" in the introductory sentence of section 706 reemphasizes this primary role in the courts.

SCOPE OF AGENCY JURISDICTION

The first sentence of new subsection (c) of section 706 directs the courts to exercise their traditional review function to prevent an agency from acting beyond its regulatory authority. This provision directs the courts to play a more active role in policing regulatory power by closely construing statutes which transfer regulatory authority to administrators. See Stewart, The Reformation of American Administrative Law, 88 Harv. L. Rev. 1667 (1975). The Supreme Court has followed this approach in two recent decisions. See *FCC* v. *Midwest Video Corp.*, 99 S. Ct. 824 (1979); *NLRB* v. *Catholic Bishops of Chicago*. 99 S. Ct. 1313 (1979). See also *Kent* v. *Dulles*, 357 U.S. 116 (1958); *National Cable Television Assn. Inc.* v. *United States*, 415 U.S. 336 (1974); Schwartz, Administrative Law Cases During 1979, 32 Ad. L. Rev. 411, 413–415 (1980).

Under subsection (c), a court must determine that the agency's authority to act has been granted expressly in the language of its organic statute or, in the event of ambiguity, by reference to the statute's legislative history or other materials relevant to ascertaining legislative intent. This provision is intended to underscore the duty of the courts to insure that agencies do not transgress the outer boundaries of their authority. Indeed, for a court to allow an agency to go beyond these boundaries would be "an unwarranted judicial intrusion upon the legislative sphere wholly at odds with the democratic processes of lawmaking contemplated by the Constitution." *Lubrisol Corp.* v. *EPA*, 562 F. 2d 807, 820 (D.C. Cir. 1977). See *City of Palestine* v. *United States*, 559 F. 2d 408, 414 (5th Cir. 1977); *Nat'l Nutritional Foods Ass'n* v. *Matthews*, 557 F. 2d 325, 326 (2d Cir. 1976).

Subsection (c), then, does not seek to impose any new, strange, or radical duty on the judiciary. Instead, it simply directs the reviewing court to take a hard look at an agency's assertions of regulatory jurisdiction or authority. It will allow the reviewing courts to make use of all appropriate materials for ascertaining the legislative will, but it is not intended to allow abuses of post-hoc legislative history. *Consumer Product Safety Commission* v. *GTE Sylvania*, —— U.S. —— 64 L. Ed. 2d 766 (1980). Performance of this duty often will be difficult, but I am confident that the good sense and resourcefulness of the Federal judiciary will be equal to the task.

In making such determinations, the court will be influenced not only by the statute's legislative history but also by the nature of the asserted power. If, for example, the agency is asserting a basic or significant extension of authority, especially one which bears on personal liberties or heralds significant involvement of the agency in a new area or imposes significant costs, the reviewing court should not uphold the extension unless it is convinced that the statute and relevant legal materials demonstrate that Congress specifically or generally addressed the issue, and that the statute does contain the authority asserted by the agency. On the other hand, if the asserted authority at issue relates to an interstitial or minor matter, the reviewing court might well conclude that although Congress had not really addressed the issue, the matter is of such a character that sensible administration necessarily requires exercise of such an implementing authority.

From the perspective of the agencies, it is true that some statutes are imperfectly drafted, or are silent or even conflicting. In these circumstances, agencies must use their discretion soundly to formulate the most appropriate means of carrying out their basic statutory mandates, filling in what are interstices of the statutory framework by which they they are bound but adhering scrupulously to express or implied limitations on their authority.

It should be emphasized that the primary thrust of this portion of the amendment is to curb attempts by agencies to exercise positive jurisdiction in areas beyond the boundaries spelled out in their organic statutes. It is not intended to prevent an agency from exempting from regulation activities or persons under the traditional de minimis rationale where such exemptions are consistent with the basic purposes of the statute. Nor is this amendment intended to preclude rational interpretation and application of statutory criteria in ways that lessen the costs and other burdens of regulation. The intent is to exclude those cases where the agency exercises its permissible discretion and declines to take affirmative action. Such a declaration is consonant with the policy to encourage agencies to refrain from taking unnecessary or inappropriate regulatory measures.

Nor is the amendment intended to nullify broad grants of administrative discretion where Congress knowingly intends that. When the statute and legislative history are clear that Congress intended a broad delegation, and the grant is not so unconfined as to violate the delegation doctrine, courts should give effect to such an intended broad grant. But the reviewer—the court, not the agency—is to determine independently whether the asserted power has in fact been conferred, either expressly or by implication.

THE "NO PRESUMPTION" CRITERION

The second sentence of new subsection (c) of section 706, together with the insertion of the word "independently" in subsection (a), is intended to make clear that Congress intends the courts to perform, and to perform diligently, their traditional role as the ultimate and impartial interpreters of the law. It is designed to insure that as to decisions of law, the agency and the appellant stand on equal footing before the law without bias, preference, or deference to either and without any presumption in support of or against agency action, except as to questions of jurisdiction, where the first section of subsection (c) imposes the burden upon the agency.

In providing that the "no presumption" criterion will apply only to questions of law, the intent is to preserve the existing "arbitrary, capricious, an abuse of discretion" standard of section 706 with respect to policy determinations within the permissible limits of agency discretion. The intent is also to make it clear that the reviewing court will apply the new "substantial support" standard in clause 2(F) only to agency factual determinations. Thus, ample room is left for proper reliance on agency expertise where it actually exists. It is recognized that some issues will involve mixed legal and policy, or mixed legal and fact, aspects. Regardless of the agency's characterization of the issues, the courts must independently define the issues and reexamine independently the questions of law involved: at the same time, the courts should recognize the primary role of the agency with respect to choice of policy, official notice of legislative facts, and factual findings.

It is not the intent of the "no presumption" criterion to preclude consideration of an agency legal interpretation. This interpretation will be one element of the process of independent judicial reexamination. The effect of any agency interpretative judgment, whether contained in a rule or order, on the court's own interpretation should not, however, depend on some general rule or deference. Rather the court, in examining the agency interpretation, should evaluate "the thoroughness in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all these factors which give it power to persuade if lacking power to control. *Skidmore* v. *Swift & Co.*, 323 U.S. 134, 140 (1944). The court should also weigh any countervailing factors bearing on the validity of the agency's legal position.

Thus the court may not regard the agency's reading of the statute as controlling or entitled to a deference that would avoid the court's reaching its own independent judgment. Accordingly, under this amendment, a reviewing court may not proceed on the assumption that that it should uphold an agency's statutory construction so long as that construction is "not unreasonable" or "not irrational." Instead, the court shall regard the interpretation of the statute as a judicial question.

"SUBSTANTIAL SUPPORT" FOR FACTUAL DETERMINATIONS

The "substantial support" standard of new clause 2(F) of paragraph (a) relates to review of factual determinations in informal rulemakings. The standard recognizes that in such proceedings there is a distinction between an exercise of discretion (policy choice) by the agency, which remains subject to the "arbitrary, capricious, an abuse of discretion" standard of clause 2(A), and the factual foundation for such a choice.

Relying on the analysis in administrative Conference Recommendation 74 to 4, 1 C.F.R. sections 305.74-4, the new clause 2(F) requires substantial support for factual determinations in informal rulemaking in two cases:

First. Where the finding of fact is "necessary" to the rule, that is to say, where the policy choice would fail to satisfy the "arbitrary, capricious, an abuse of discretion" criterion absent such a finding of fact.

Second. Where the finding of fact is an "asserted" basis for the rule, that is to say, where the agency relies on the finding as part of its rationale for the policy choice reflected in the rule.

Under the terms of clause 2(F) the "substantial support" must be found in "the rulemaking file, viewed as a whole." This provision meshes with other provisions of the act amending section 553 calling for the organized and systematic development of a file on which the rulemaking action is to be based. Pedersen, Formal Records and Informal Rulemaking, 85 Yale L.J. 38 (1975). The amendment does not preclude an agency in an appropriate case from taking official notice of legislative facts that underpin policy choice.

Earlier versions of this amendment used the words "substantial evidence" rather than "substantial support."

The change in language is meant to negate any implication that the intent of the amendment is to require indirectly the use of trial type procedures in informal rulemaking. Procedural requirements for such rulemaking will be found in other provisions of the Administrative Procedure Act, as amended, and in constitutional and common law considerations of fairness.

On the other hand, the words "substantial support" are intended to require that the data or materials on which the agency bases its factual determinations must be reliable and credible even though they have not been generated through trial type procedures, and even though they do not necessarily satisfy the rules of evidence applied in judicial proceedings.

Enactment of these three changes in section 706 will not require all Federal courts to alter their decisional process. As Mr. Justice Frankfurter said with respect to a similar congressional endeavor some years ago.

> Some—perhaps a majority—have always applied the attitude reflected in this legislation. To explore whether a particular court should or should not alter its practice would only divert attention from the application of the standard now prescribed to a futile inquiry into the nature of the test formerly used by a particular court. *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474, 490 (1951).

The ultimate objective of this amendment is to make sure that the pace and scope of regulation conform to the timetable and map established by elected representatives rather than by an unelected bureaucracy.

TECHNICAL

First. The changes in section 706 are not intended to affect any applicable rule of law which provides that in a civil or criminal action reliance on an agency rule or order is a defense. Thus, a defendant who has acted in compliance with an agency rule or order would continue to have any protection the law now provides even if the rule or order is subsequently found to be invalid.

Second. The Congress expects that whenever an agency rule or order is challenged in a civil action where a private party is suing under an express or implied right of action for violation of an agency rule (arguably not a "proceeding for judicial enforcement" within the meaning of section 703 to which the section 706 scope of review applies), the court will apply the same standards of review as set forth in section 706. In stating this expectation there is no intention to imply any new standing or right of a defendant to challenge the validity of an agency rule or order. Thus, only if and to the extent that a rule can be reviewed by the court in the action would the reviewing court be expected to apply the same section 706 tests of lawfulness of agency action.

Third. While this amendment applies to the judicial review of questions arising under the existing and future organic acts of Congress where the general standards for judicial review as previously articulated in section 706 have been applicable, it is not intended either to change any settled judicial interpretation existing at the date of enactment as to the boundaries of a particular agency's jurisdiction or authority determined by a Federal appellate court. or to unsettle any res judicata or collateral estoppel effects of prior court decisions that have become final.

Mr. President, this amendment has passed the Senate Judiciary Committee and it has passed the Senate. This amendment with this precise language was reported out of the Judiciary Committee in the House with one dissenting vote. So I would urge the distinguished floor manager to accept the amendment.

I think with these statements to refresh his memory he will recall this amendment being debated in the Judiciary Committee and on the floor of the Senate.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate at the moment?

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The pending business is the amendment of the Senator from Arkansas, Mr. BUMPERS, to H.R. 3806.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wish to make a record on this. I will be very brief.

This country is faced with a hostile electorate because people feel that Government is intruding in their lives through the regulatory process. That is a legitimate complaint. There may be other things that get swept up along with it which are not so legitimate.

Last September, the U.S. Senate refused to table this amendment by a vote of 27 to 51, and the Senate adopted the amendment by a voice vote.

If this amendment came to a vote of the Senate today, I feel confident it would pass on the order of 3 to 1. It has been reported out of the Senate Judiciary Committee. The House Judiciary Committee has approved it, with one dissenting vote. It is, in my opinion, a giant first step toward bringing the regulation writers under control.

There are those who still object to it. But I have worked hard on this amendment and modified it to meet many of the objections.

Some of the stoutest original opponents, such as Clark Byse, professor of administrative law at Harvard, now support this amendment.

I think it is one of the finest regulatory reform steps this body could adopt. But we are in the declining hours and there are obviously those who would keep us here in order to keep this thing from coming to a vote. I recognize that.

I would object to a unanimous-consent request that pulls the bill down, but I will not ask for a vote if the majority leader wishes to go ahead and proceed to the consideration of some other bill.

Mr. ROBERT C. BYRD. Mr. President, has the Senator concluded his statement?

Mr. BUMPERS. I have.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I appreciate the Senator's willingness to cooperate with the leadership. It is my desire to move on to other business at this time. I do so reluctantly. I hope that the Senator will allow the leadership to proceed in this fashion. I have discussed the matter with the Senator privately. I appreciate his statement, and I understand the reluctance on his part to set aside the measure. But I think I am constrained to urge that he allow the leadership to proceed with other matters I would like to see us proceed with at the moment, hoping that at a later time, if not today, the Senate will be able to resume action on this measure.

So it is with that understanding between the majority leader and the Senator that I shall now move to set this aside.

Mr. President, I ask for regular order.

The PRESIDING OFFICER. Regular order having been called for, the committee having been discharged, by unanimous consent the bill will be entered on the calendar.

AMERICAN FISHERIES PROMOTION ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1656.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1656) entitled "An Act to provide for a national program of fisheries research and development, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "American Fisheries Promotion Act".

TITLE I—RESEARCH AND DEVELOPMENT REGARDING UNITED STATES FISHERIES

SEC. 101. RESEARCH AND DEVELOPMENT PROJECTS AND PROGRAMS.

(a) AMENDMENTS TO SALTONSTALL-KENNEDY ACT.—Section 2 of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c–3), is amended—

(1) by striking out subsections (b), (c), (d), and (e);

(2) by redesignating subsection (a) as subsection (b);

(3) by inserting immediately before subsection (b) (as so redesignated) the following new subsection:

"SEC. 2. (a) DEFINITIONS.—As used in this section—

"(1) The term 'person' means—

"(A) any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands; and

"(B) any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation), nonprofit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State referred to in paragraph (3),

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity or, in the case of a nonprofit entity, exercise control in the entity that is determined by the Secretary to be the equivalent of such ownership, and

"(iii) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting the ownership and control requirements referred to in clause (ii).

"(2) The term 'Secretary' means the Secretary of Commerce.

"(3) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

"(4) The term 'United States fishery' means—

"(A) any fishery subject to the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.);

"(B) any tuna fishery within the fishery conservation zone established by section 101 of such Act of 1976 (16 U.S.C. 1811); and

"(C) any fishery, other than one described in subparagraph (A) or (B), that is, or may be, engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

"(5) The term 'citizen of the Northern Mariana Islands' means—

"(A) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).";

(4) by amending subsection (b) (as so redesignated)—

(i) by inserting "FUND.—" immediately after "(b)" and before the first word of such subsection,

(ii) by striking out "Secretary of the Interior' the first place it appears therein and inserting in lieu thereof "Secretary",

(iii) by striking out "and used by the Secretary of the Interior" and inserting in lieu thereof "only for use by the Secretary", and

(iv) by striking out clauses (1), (2), and (3) and inserting in lieu thereof the following: "(1) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and (2) to implement the national fisheries research and development program provided for under subsection (d)."; and

(5) by adding immediately after subsection (b) (as so redesignated) the following:

"(c) FISHERIES RESEARCH AND DEVELOPMENT PROJECTS.—(1) The Secretary shall make grants from the fund established under subsection (b) to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

"(2) The Secretary shall—

"(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

"(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

"(C) approve or disapprove each such application before the close of the 120th day after the last day of the 60-day period (specified under subparagraph (A)) in which the application was received.

"(3) No application for a grant under this subsection may be approved unless the Secretary—

"(A) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

"(B) evaluates the proposed project as to—

"(i) soundness of design,

"(ii) the possibilities of securing productive results,

"(iii) minimization of duplication with other fisheries research and development projects,

"(iv) the organization and management of the project,

"(v) methods proposed for monitoring and evaluating the success or failure of the project, and

"(vi) such other criteria as the Secretary may require.

"(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following:

"(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination.

"(B) The amount of a grant may not be less than 50 percent of the estimated cost of the project.

(C) The recipient of the grant must submit to the Secretary periodic project status reports.

"(5)(A) If the cost of a project will be shared by the grant recipient, the Secretary shall accept, as a part or all of that share, the value of in-kind contributions made by the recipient, or made available to, and applied by, the recipient, with respect to the project.

"(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out, the project. The Secretary shall establish (i) the training, experience, and other qualifications which shall be required in order for services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions for purposes of subparagraph (A).

"(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be conclusive.

"(d) NATIONAL FISHERIES RESEARCH AND DEVELOPMENT PROGRAM.—(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (c), as the Secretary deems appropriate.

"(2) The Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, an annual report, that must be submitted not later than 60 days before the close of each fiscal year, containing—

"(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year;

(B) a description of all pending projects assisted under subsection (c) or carried out under paragraph (1), in addition to—

"(i) a list of those applications approved and those disapproved under subsection (c), and the total amount of grants made, for the current fiscal year, and "(ii) a statement of the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) during the current fiscal year; and

"(C) an assessment of each project assisted under subsection (c) or carried out under paragraph (1) that was completed in the preceding fiscal year regarding the extent to which (i) the objectives of the project were attained, and (ii) the project contributed to fishery development.

"(e) Allocation of Fund Moneys.—(1) With respect to any fiscal year, not less than 50 percent of—

"(A) the moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year; and

"(B) such existing fund moneys carried over into that fiscal year;

shall be used by the Secretary during that fiscal year to provide financial assistance for projects under subsection (c); and the remainder of such moneys in the fund shall be used to implement the national fisheries research and development program established under subsection (d) during that fiscal year.

"(2) Moneys accruing to the fund established under subsection (b) for any fiscal year and not expended with respect to that year shall remain available for expenditure under this section without fiscal year limitation.".

(b) National Priority Projects.—(1) In the administration of section 2 of the Act of August 11, 1939 (as amended by subsection (a)), the Secretary of Commerce shall, if an application is received during fiscal year 1981 or 1982 for a grant under subsection (c) of such section 2 to carry out—

(A) a project to enhance the opportunities for the marketing of United States fish products, either domestically or abroad, or both;

(B) a project to establish and operate a system (in which participation must be voluntary) to grade the quality of fish landed at a United States port; or

(C) a project to improve fuel efficiency in carrying out fishing operations within one or more United States fisheries;

award the grant if the Secretary finds that the applicant and the proposed project meet the requirements in paragraph (3) of such subsection.

(2) If an application for a project described in paragraph (1) (A), (B), or (C) is not received during fiscal year 1981 or 1982 (or, if received, the applicant or the proposed project does not meet the requirements in subsection (c)(3) of such section (2), the Secretary of Commerce may carry out, pursuant to the national fisheries research and development program under subsection (d) of such section 2, such a project.

Sec. 102. United States Fishery Trade Officers.

(a) Appointment.—For the purposes of carrying out export promotion and other fishery development responsibilities, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") shall appoint not fewer than six officers who shall serve abroad to promote United States fishing interests. These officers shall be knowledgeable about the United States fishing industry, preferably with experience derived from the harvesting, processing, or marketing sectors of the industry or from the administration of fisheries programs. Such officers, who shall be employees of the Department of Commerce, shall have the designation of fishery trade officers.

(b) Assignment.—Upon the request of the Secretary, the Secrtary of State shall officially assign fishery trade officers to such diplomatic missions of the United States as the Secretary designates (three of which shall be those in Brussels, Belgium; Rome, Italy; and Tokyo, Japan) and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) Functions of Fishery Trade Officers.—The functions of fishery trade officers appointed under subsection (a) shall be—

(1) to increase the effectiveness of United States fishery export promotion efforts through such activities as the coordination of market development efforts and the provision of services and facilities for exporters of United States fishery products.

(2) to develop, maintain, and make available to interested persons listings of (A) trade, government, and other organizations that are concerned with, or have an interest in, international trade in United States fishery products, and (B) United States fishery products available for such trade;

(3) to prepare quarterly reports regarding (A) the supply, demand, and prices of each United States fishery product exported, or for which there may be export potential, to the foreign nation or area concerned, and (B) the trade barriers or incentives of such nation or area that affect imports of such products; and

(4) to carry out such other functions as the Secretary may require.

(d) Administration.—The Secretary of State and the Secretary shall enter into cooperative arrangements concerning the provision of office space, equipment, facilities, clerical services, and such other administrative support as may be required for fishery trade officers and their families.

TITLE II—FINANCIAL ASSISTANCE WITH RESPECT TO FISHING VESSELS

Sec. 201. Guarantee of Obligations for Fishing Vessels.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280) is amended as follows:

(1) Section 1101 is amended by adding at the end thereof the following new subsections:

"(i) The term 'citizen of the Northern Mariana Islands' means—

"(1) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(2) a corporation, partnership, association, or other entity formed under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in paragraph (1) or citizens on nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

"(j) The term 'fishing vessel' has the meaning given such term by section 3(11) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(11)); and any reference in this title to a vessel designed principally for commercial use in the fishing trade or industry shall be treated as a reference to a fishing vessel.".

(2) Section 1103(f) is amended by inserting immediately before the period the following: "; except that—

"(1) not less than 3 percent, nor more than 7 percent of such sum shall be reserved for the guarantee of obligations for fishing vessels that meet the economic soundness criteria set forth in section 1104(d)(1), and

"(2) not less than 3 percent, nor more than 7 percent, of such sum shall be reserved for the guarantee of obligations for fishing vessels that meet the economic soundness criteria set forth in section 1104(d)(2),

but the aggregate amount reserved for the purposes set forth in paragraphs (1) and (2) may not exceed 10 percent of such sum.".

(3) Section 1104 is amended—

(A) in subsection (a)—

(i) by striking out "(D) in the fishing trade or industry; or (E)" in paragraph (1) and inserting in lieu thereof "; or (D)";

(ii) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph;

"(2) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, reconditioning, or purchase of a vessel or vessels owned by citizens or nationals of the United States or citizens of the Northern Mariana Islands which are designed principally for research, or for commercial use in the fishing trade or industry;";

(iii) by striking out "or" at the end of paragraph (4) (as redesignated by clause (ii));

(iv) by striking out "or (3)" in paragraph (5) (as so redesignated) and inserting in lieu thereof "(3), or (4)", and by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(v) by adding immediately after paragraph (5) the following:

"(6) financing the purchase of fishing vessels, the construction, reconstruction, reconditioning, or purchase of which was guaranteed under this title, that are sold at foreclosure, instituted by the Secretary, to third party purchasers, and the reconstruction or reconditioning thereof.";

(B) by adding at the end of subsection (b) the following:

"The Secretary may not establish, as a condition of eligibility for guarantee under this title, a minimum principal amount for any obligation covering the reconstruction or reconditioning of a fishing vessel. For purposes of this title, the reconstruction or reconditioning of a fishing vessel does not include the routine minor repair or maintenance of the vessel.";

(C) in subsection (d)—

(i) by striking out "No" and inserting in lieu thereof "(1) Except as provided in paragraph (2), no "; and

(ii) by adding at the end thereof the following:

"(2) In applying paragraph (1) with respect to commitments to guarantee, and the guarantee of, obligations for fishing vessels, the Secretary of Commerce may apply an economic soundness test that is less stringent than that which would apply but for this paragraph.

"(3) No commitment to guarantee, or guarantee, of an obligation may be made by the Secretary of Commerce under this title for the purchase of a used fishing vessel unless—

"(A) the vessel will be reconstructed or reconditioned and will contribute to the development of the United States fishing industry; or

"(B) the vessel will be used in the harvesting of fish from an underutilized fishery."; and

(D) in subsection (g)—

(i) by inserting "(1)" immediately after "(g)"; and

(ii) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Commerce shall establish within the Fund the following subfunds:

"(A) The standard fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels to which the economic soundness criteria set forth in section 1104(d)(1) apply.

"(B) The high-risk fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels to which the economic soundness criteria set forth in section 1104(d)(2) apply.

"(C) The general subfund which shall contain all moneys received for, and incident to, the guarantee of obligations for vessels other than fishing vessels.".

(4) The first sentence of section 1105(d) is amended by inserting immediately before the period at the end thereof the following: ", and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)".

Sec. 202. Loans Under the Fish and Wildlife Act of 1956.

(a) Loan Authority Until October 1, 1982.—During the period beginning on the date of the enactment of this Act and ending at the close of September 30, 1982, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") may make loans from the fisheries loan fund established under subsection (c) of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) only for the purposes set forth in subsections (b) and (c) of this section. Except to the extent that they are inconsistent with, or contrary to, this section, the provisions of such section 4 shall apply with respect to loans made for such purposes.

(b) Loans To Avoid Default on Obligations Covering Fishing Vessels.—(1) The Secretary may make loans for the purpose of assisting obligors to avoid default on obligations that are issued with respect to the construction, reconstruction, reconditioning or purchase of fishing vessels and that—

(A) are guaranteed by the United States under title XI of the Merchant Marine Act 1936 (46 U.S.C. 1271–1280, relating to Federal ship mortgage insurance); or

(B) are not guaranteed under such title XI, but the fishing vessels concerned meet the use and documentation requirements, and the obligors meet the citizenship requirements, that would apply if the obligations were guaranteed under that title.

(2)(A) Within the 90-day period beginning on the date of the enactment of this Act in the case of fiscal year 1981, and before the beginning of fiscal year 1982, the Secretary shall estimate the number, and the aggregate amount, of loans described in paragraph (1)(A) for which application will likely be made during each of such fiscal years and shall reserve that amount in the fisheries loan fund for the purpose of making such loans during such year (or if such amount is larger than the fund balance, the Secretary shall reserve the whole fund for such purpose).

(B) If any moneys are available in the fisheries loan fund for each such fiscal year after subparagraph (A) is complied with for that year, the Secretary shall use such moneys for the purpose of making loans described in paragraph (1)(B) during that year.

(C) At an appropriate time during each of fiscal years 1981 and 1982, the Secretary shall compare the actual loan experience during that year with the estimate made for that year under subparagraph (A) and if the Secretary determines, on the basis of such comparison, that the demand for loans described in paragraph (1)(A) will be less than estimated, the Secretary shall, for the fiscal year concerned, apply moneys reserved for such loans for the purpose of making loans described in paragraph (1)(B) and, to the extent not utilized for loans described in paragraph (1)(B), for the purpose of making loans under subsection (c).

(3) The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. Each such loan shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purpose of this subsection. In establishing such terms and conditions, the Secretary shall take into account, among such other factors he deems pertinent, the extent to which the obligations concerned have been retired, and the overall financial condition of the obligors. The interest rate on loans made under the authority of this subsection shall not exceed that rate determined by the Secretary to be sufficient to cover the costs incurred in processing and servicing of such loans.

(c) Loans To Cover Operating Losses.—(1) If the Secretary determines that moneys will be available in such fisheries loan fund for fiscal year 1981 or 1982, or both, after loans under subsection (b) are provided for for that year, the Secretary may make loans for the purpose of assisting owners and operators of fishing vessels to cover vessel operating expenses in cases where an owner or operator incurs, or may incur, a net operating loss within such fiscal year.

(2) Each loan made by the Secretary under this subsection shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purposes of this subsection. The Secretary may make loans under this subsection only to owners or operators who, in the judgement of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. The interest rate on loans made under this subsection shall be the rate prevailing for loans made under the Emergency Agricultural Credit Act of 1978 (7 U.S.C. preceding 1961 note).

(d)(1) Subsection (c) of section 4 of such Act of 1956 (16 U.S.C. 742c(c)) is amended—

(A) by striking out "September 30, 1980," each place it appears therein and inserting in lieu thereof "September 30, 1982,"; and

(B) by striking out the third, fourth, and fifth sentences thereof.

(2) The amendments made by paragraph (1) shall take effect on September 1, 1980.

TITLE III—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Chapter 1—Phase-Out of Foreign Fishing in Fisheries Subject to the Exclusive Fishery Management Authority of the United States

Sec. 301. Phase-Out of Foreign Fishing.

Section 201(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(d)) is amended to read as follows:

"(d) Total Allowable Level of Foreign Fishing.—(1) As used in this subsection—

"(A) The term 'base harvest' means, with respect to any United States fishery, the total allowable level of foreign fishing during the 1979 harvesting season.

"(B) The term 'harvesting season' means the period established under this Act by the Secretary during which foreign fishing is permitted within a United States fishery. For purposes of this subsection, a harvesting season is designated by the calendar year in which the last day of the harvesting season occurs, regardless whether fishing is not permitted on that day due to emergency or other closure of the fishery.

"(C) The term 'phase-out calculation factor' means, with respect to each United States fishery, 15 percent of the base harvest.

"(D) The term 'phase-out reduction factor amount' means with respect to each United States fishery, for any harvesting season after the 1980 harvesting season—

"(i) an amount equal to 15 percent of the base harvest for that fishery, if, in addition to the level of harvest by vessels of the United States in the designated preceding harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 75 percent of the phase-out calculation factor;

"(ii) an amount equal to 10 percent of the base harvest for the fishery, if, in addition to the level of harvest by vessels of the United States in the designated preceding harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 50 percent, but less than 75 percent, of the phase-out calculation factor; or

"(iii) an amount equal to 5 percent of the base harvest for the fishery, if, in addition to the level of harvest by vessels of the United States in the designated previous harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 25 percent, but less than 50 percent, of the phase-out calculation factor.

For purposes of this paragraph, the term 'designated preceding harvest season' means—

"(I) until a phase-out reduction factor amount is first achieved under this paragraph with respect to the fishery concerned, in 1979 harvesting season, and

"(II) after such amount is first achieved, the most recent harvesting season in which a phase-out reduction factor amount was achieved.

"(E) The term 'phase-out fishing level' for any United States fishery during any harvesting season after the 1980 harvesting season is the base harvest for the fishery reduced by—

"(i) an amount equal to the phase-out reduction factor amount for that harvesting season; and

"(ii) an amount equal to the increased level of harvest by vessels of the United States over the level achieved by such vessels in the 1979 harvesting season for the fishery.

"(F) The term 'United States fishery' means a fishery subject to the exclusive fishery management authority of the United States.

"(2) The total allowable level of foreign fishing, if any, with respect to any United States fishery for each harvesting season after the 1980 harvesting season shall be—

"(A) the level representing that portion of the optimum yield of such fishery that will not be harvested by vessels of the United States as determined in accordance with the provisions of this Act (other than those relating to the determination of phase-out fishing levels), or

"(B) the phase-out fishing level determined pursuant to paragraph (3) for the harvesting season.

"(3) For each United States fishery, the appropriate fishery management council, on a timely basis, may determine and certify to the Secretary of State and the Secretary the phase-out fishing level for that fishery for each harvesting season after the 1980 harvesting season.

"(4) If with respect to any harvesting season for any United States fishery for which the total allowable level of foreign fishing is determined under paragraph (2)(B), the Secretary, in consultation with the Secretary of State and taking into account any recommendation of any appropriate fishery management council, determines that any portion of the optimum yield for that harvesting season will not be harvested by vessels of the United States, the Secretary of State, in accordance with subsection (e), shall allocate such portion for use during that harvesting season by foreign fishing vessels; except that if—

"(A) the making available of such portion (or any part thereof) during that harvesting season is determined to be detrimental to the development of the United States fishing industry; and

"(B) such portion or part will be available for harvest in the immediately succeeding harvesting season, as determined on the basis of the best available scientific information;

then such portion or part shall be allocated for use by foreign fishing vessels in such succeeding harvesting season. The determinations required to be made under subparagraphs (A) and (B) of the preceding sentence shall be made by the Secretary in consultation with the Secretary of State and taking into account any recommendation of any appropriate fishery management council.".

SEC. 302. ALLOCATION OF ALLOWABLE LEVELS OF FOREIGN FISHING.

(a) AMENDMENTS—The last sentence of section 201(e)(1) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(1)) is amended to read as follows: "All such determinations shall be made by the Secretary of State and the Secretary on the basis of—

"(A) whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish products;

"(B) whether, and to what extent, such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fisheries products from United States processors or from United States fishermen;

"(C) whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

"(D) whether, and to what extent, such nations require the fish harvested from the fishery conservation zone of their domestic consumption;

"(E) whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and providing harvesting or processing technology which will benefit the United States fishing industry;

"(F) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

"(G) whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions, to fishery research and the identification of fishery resources; and

"(H) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.".

(b) TAKING EFFECT OF AMENDMENTS—The amendments made by subsection (a) shall apply with respect to the 1981 harvesting season and harvesting seasons thereafter (as defined in section 201(d)(1) of the Fishery Conservation and Management Act of 1976, as amended by section 301).

SEC. 303. PERMIT FEES.

(a) INTERIM FEES.—(1) Effective with respect to permits issued under section 204(b) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) for 1981, paragraph (10) of such section is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "Such fees shall be formulated so as to ensure that the total receipts resulting from the payment of the fees for permits issued for 1981 are not less than an amount equal to 7 percent of the ex vessel value of the total harvest by foreign fishing vessels in the fishery conservation zone during 1979; except that the fees imposed with respect to any fishery may not be set at a level that—

"(A) would render foreign fishing therein uneconomic; or

"(B) is lower than the level of fees imposed with respect to that fishery for 1979.

Whenever the exception in the preceding sentence is applied with respect to a fishery, the Secretary shall publish in the Federal Register a statement that sets forth the reasons therefor and identifies the supporting data. The fees collected by the Secretary under this paragraph for permits issued for 1981 shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.".

(b) PERMANENT FEES.—Effective with respect to permits issued under section 204(b) of such Act of 1976 after 1981, paragraph (10) of such section is amended to read as follows—

"(10) FEES.—Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. The fees imposed under this paragraph shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act (including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement) during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year; except that the fees imposed with respect to any fishery may not be set at a level that—

"(A) would render foreign fishing therein uneconomic; or

"(B) is lower than the level of fees imposed with respect to that fishery for 1979.

Whenever the exception in the preceding sentence is applied with respect to a fishery, the Secretary shall publish in the Federal Register a statement that sets forth the reasons therefor and identifies the supporting data. The amount collected by the Secretary under this paragraph shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.".

SEC. 304. FISHERY DEVELOPMENT OBJECTIVES.

Section 2(b)(6) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(b)(6)) is amended by inserting immediately before the period at the end thereof the following: ", and to that end, to ensure that optimum yield determinations promote such development".

SEC. 305. FISHERY MANAGEMENT COUNCIL TRAVEL FUNDS.

The second sentence of section 302(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(d)) is amended by striking out "(c)(1)(C)," and inserting in lieu thereof ", (c)(1)(C) and (D),".

SEC. 306. NOTICE OF AVAILABILITY OF MANAGEMENT PLANS.

Section 305(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1855(a)) is amended by inserting "a notice of availability of" immediately after "Federal Register (A)".

CHAPTER 2—FULL OBSERVER COVERAGE PROGRAM UNTIL FOREIGN FISHING PHASE-OUT COMPLETED

SEC. 311. ESTABLISHMENT OF FULL OBSERVER COVERAGE PROGRAM.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(i) FULL OBSERVER COVERAGE PROGRAM.—(1) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the fishery conservation zone.

"(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that—

"(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the fishery conservation zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being observed;

"(B) with respect to any foreign fishing vessel while it is engaged in fishing within the fishery conservation zone—

"(i) the time during which the vessel engages in such fishing will be of such short duration that the placing of a United States observer aboard the vessel would be impractical, or

"(ii) the facilities of the vessel for the quartering of a United States observer, or for the carrying out of observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(3) United States observers, while aboard foreign fishing vessels, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act.

"(4) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204 (b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

"(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only in the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States."

Sec. 312. Effective Date.

The amendment made by section 311 shall take effect October 1, 1981, and shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 after December 31, 1981.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Congressional Review of Regulations.

(a) In General.—No regulation promulgated by the Secretary of Commerce to implement—

(1) section 2 of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c–3) as amended by section 101 of this Act;

(2) the amendments made by title II of this Act relating to the guarantee of obligations under title XI of the Merchant Marine Act, 1936 covering fishing vessels; or

(3) the amendments made by title III of this Act as they apply to the establishment of fees for foreign fishing permits issued after 1981, the establishment of a full observer coverage program, and the allocation of allowable levels of foreign fishing under the Fishery Conservation and Management Act of 1976;

shall have force and effect—

(A) unless a copy of the regulation is submitted to each House of Congress on the same day and while each House is in session; and

(B) before the close of the period of 60 days following the day in which the regulation is submitted to Congress in accordance with subparagraph (A).

(b) Procedural Provision.—In computing the 60-day period referred to in subsection (a)(B), any day on which either House of Congress is not in session because of an adjournment of more than 5 days to a day certain, or an adjournment of the Congress sine die, shall be excluded.

Sec. 402. Applications and Filings for Compensation for Certain Fishing Vessel and Gear Damage.

(a) In General.—If—

(1) any owner or operator of a fishing vessel who suffered, after September 17, 1978, and before the date of enactment of this Act, damage to, or loss or destruction of, such vessel or fishing gear used with such vessel, but did not apply for compensation therefor under section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) within the 60-day period prescribed in subsection (c)(1) of such section; or

(2) any commercial fisherman who suffered, after September 17, 1978, and before the date of the enactment of this Act, damages compensable under title IV of the Outer Continental Shelf Lands Act of 1978 (43 U.S.C. 1841 et seq.), but who did not timely file a claim therefor within the 60-day period prescribed in section 405(a) of such Act;

such owner or operator may make application for compensation with respect to such damage, loss or destruction under such section 10, and such commercial fisherman may file a claim for compensation for such damages under such title IV, to the Secretary of Commerce, within the 60-day period beginning on the date of the enactment of this Act.

(b) Special Provisions.—(1) Notwithstanding any other provision of law—

(A) any application or filing timely made under subsection (a) shall be treated by the Secretary of Commerce as an application timely made under such section 10(c)(1), or as a filing timely made under such section 405(a), as the case may be, with respect to the damage, loss, or destruction claimed; and

(B) any claim for fishing gear loss that was pending on June 1, 1980, before the United States-Union of Soviet Socialist Republics Fisheries Claim Board or the American-Spanish Fisheries Board shall be treated by the Secretary of Commerce as a timely application made, on the date of the enactment of this Act, under such section 10 (c)(1) for compensation for such loss.

Section 403(c)(2)(A) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1843(c)(2)(A)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof "and the party admits responsibility;".

Amend the title so as to read: "An Act to provide for the comprehensive research and development regarding United States fisheries, to expand the fishing vessel and fish processing capacity of the United States, and for other purposes.".

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, that item has been cleared on our side and we have no objection to its present consideration.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I move that the Senate concur in the amendments of the House with further amendments, which I send to the desk on behalf of Mr. Cannon, and ask for their immediate consideration.

UP AMENDMENT NO. 1702

(Purpose: Substitute text for House amendment)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for Mr. Cannon, proposes an unprinted amendment numbered 1702.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter to be inserted by the following:

That this Act may be cited as the American Fisheries Promotion Act.

"TITLE I—RESEARCH AND DEVELOPMENT REGARDING UNITED STATES FISHERIES

"Sec. 101. Research and Development Projects and Programs.

Amendments to Saltonstall-Kennedy Act.—Section 2 of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c–3), is amended—

"(1) by striking out subsections (b), (c), (d), and (e);

"(2) by redesignating subsection (a) as subsection (b);

"(3) by inserting immediately before subsection (b) (as so redesignated) the following new subsection:

"Sec. 2. (a) Definitions.—As used in this section—

"(1) The term 'person' means—

"(A) any individual who is a citizen or national of the United States, a citizen of the Northern Mariana Islands, or a fishery development foundation; and

"(B) any corporation, partnership, association, or other entity, nonprofit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State referred to in paragraph (3),

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity or, in the case of a nonprofit entity, exercise control in the entity that is determined by the Secretary to be the equivalent of such ownership, and

"(iii) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting the ownership and control requirements referred to in clause (ii).

"(2) The term 'Secretary' means the Secretary of Commerce.

"(3) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

"(4) The term 'United States fishery' means any fishery that is, or may be, engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

"(5) The term 'citizen of the Northern Mariana Islands' means—

"(A) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).;

"(4) by amending subsection (b) (as so redesignated)—

"(i) by inserting 'Fund.—' immediately after '(b)' and before the first word of such subsection,

"(ii) by striking out 'Secretary of the Interior' the first place it appears therein and inserting in lieu thereof 'Secretary',

"(iii) by striking out 'and used by the Secretary of the Interior' and inserting in lieu thereof 'only for use by the Secretary', and

"(iv) by striking out clauses (1), (2), and (3) and inserting in lieu thereof the following: '(1) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and (2) to implement the national fisheries research and development program provided for under subsection (d).; and

"(5) by adding immediately after subsection (b) (as so redesignated) the following:

"(c) Fisheries Research and Development Projects.—(1) The Secretary shall make grants from the fund established under subsection (b) to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

"(2) The Secretary shall—

"(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

'(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

'(C) approve or disapprove each such application before the close of the 120th day after the last day of the 60-day period (specified under subparagraph (A)) in which the application was received.

'(3) No application for a grant under this subsection may be approved unless the Secretary—

'(A) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

'(B) evaluates the proposed project as to—

'(i) soundness of design,

'(ii) the possibilities of securing productive results,

'(iii) minimization of duplication with other fisheries research and development projects,

'(iv) the organization and management of the project,

'(v) methods proposed for monitoring and evaluating the success or failure of the project, and

'(vi) such other criteria as the Secretary may require.

'(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following:

'(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination.

'(B) The amount of a grant may not be less than 50 percent of the estimated cost of the project.

"(C) The recipient of the grant must submit to the Secretary periodic project status reports.

'(5)(A) If the cost of a project will be shared by the grant recipient, the Secretary shall accept, as a part or all of that share, the value of in-kind contributions made by the recipient, or made available to, and applied by, the recipient, with respect to the project.

"(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out, the project. The Secretary shall establish (i) the training, experience, and other qualifications which shall be required in order for services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions for purposes of subparagraph (A).

"(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be conclusive.

"(d) NATIONAL FISHERIES RESEARCH AND DEVELOPMENT PROGRAM.—(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (c), as the Secretary deems appropriate.

"(2) The Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, an annual report, that must be submitted not later than 60 days before the close of each fiscal year, containing—

"(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year;

"(B) a description of all pending projects assisted under subsection (c) or carried out under paragraph (1), in addition to—

"(i) a list of those applications approved and those disapproved under subsection (c), and the total amount of grants made, for the current fiscal year, and

"(ii) a statement of the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) during the current fiscal year; and

"(C) an assessment of each project assisted under subsection (c) or carried out under paragraph (1) that was completed in the preceding fiscal year regarding the extent to which (i) the objectives of the project were attained, and (ii) the project contributed to fishery development.

"(e) ALLOCATION OF FUND MONEYS.—(1) With respect to any fiscal year, not less than 50 percent of—

"(A) the moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year; and

"(B) such existing fund moneys carried over into that fiscal year;

shall be used by the Secretary during that fiscal year to provide financial assistance for projects under subsection (c); and the remainder of such moneys in the fund shall be used to implement the national fisheries research and development program established under subsection (d) during that fiscal year.

"(2) Moneys accruing to the fund established under subsection (b) for any fiscal year and not expended with respect to that year shall remain available for expenditure under this section without fiscal year limitation.".

"SEC. 102. UNITED STATES FISHERY TRADE OFFICERS.

"(a) APPOINTMENT.—For the purposes of carrying out export promotion and other fishery development responsibilities, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") shall appoint not fewer than six officers who shall serve abroad to promote United States fishing interests. These officers shall be knowledgeable about the United States fishing industry, preferably with experience derived from the harvesting, processing, or marketing sectors of the industry or from the administration of fisheries programs. Such officers, who shall be employees of the Department of Commerce, shall have the designation of fishery trade officers.

"(b) ASSIGNMENT.—Upon the request of the Secretary, the Secretary of State shall officially assign fishery trade officers to such diplomatic missions of the United States as the Secretary designates (three of which shall be those in Brussels, Belgium; Rome, Italy; and Tokyo, Japan) and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

"(c) FUNCTIONS OF FISHERY TRADE OFFICERS.—The functions of fishery trade officers appointed under subsection (a) shall be—

"(1) to increase the effectiveness of United States fishery export promotion efforts through such activities as the coordination of market development efforts and the provision of services and facilities for exporters of United States fishery products.

"(2) to develop, maintain, and make available to interested persons listings of (A) trade, government, and other organizations that are concerned with, or have in interest in, international trade in United States fishery products. and (B) United States fishery products available for such trade;

"(3) to prepare monthly reports and an annual summary regarding (A) the supply, demand, and prices of each United States fishery product exported, or for which there may be export potential, to the foreign nation or area concerned, and (B) the trade barriers or incentives of such nation or area that affect imports of such products; and

"(4) to carry out such other functions as the Secretary may require.

"(d) ADMINISTRATION.—The Secretary of State and the Secretary shall enter into cooperative arrangements concerning the provision of office space, equipment, facilities, clerical services, and such other administrative support as may be required for fishery trade officers and their families.

"TITLE II—FINANCIAL ASSISTANCE WITH RESPECT TO FISHING VESSELS

"SEC. 201. GUARANTEE OF OBLIGATIONS FOR FISHING VESSELS

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280) is amended as follows:

"(1) Section 1101 is amended by adding at the end thereof the following new subsections:

'(i) The term 'citizen of the Northern Mariana Islands' means—

'(1) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

'(2) a corporation, partnership, association, or other entity formed under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in paragraph (1) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

'(j) The term 'fishery facility' means—

'(1) any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries,

'(2) the land necessary for any such structure or appurtenance described in paragraph (1), and

"(3) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in paragraph (1);

but only if such structure, appurtenance, land, equipment, or vessel is owned by an individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands or by a corporation, partnership, association, or other entity that is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802), and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States; and

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity and individuals who are nationals of the United States or citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting such ownership requirement.

"(k) The term 'fishing vessel' means any vessel, constructed in the United States, which is used for, equipped to be used for, or of a type which is normally used for—

"(1) fishing, or

"(2) aiding or assisting one or more vessels in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

and any reference in this title to a vessel designed principally for commercial use in the fishing trade or industry shall be treated as a reference to a fishing vessel.".

"(2) Section 1103(f) is amended by inserting immediately before the period the following: "; except that the amount reserved for the guarantee of obligations for fishing vessels and fishery facilities may not be less than 6 percent nor exceed 10 percent of such sum.".

"(3) Section 1104 is amended—

"(A) in subsection (a)—

"(i) by striking out (D) in the fishing trade or industry; or (E) in paragraph (1) and inserting in lieu thereof; or (D);

"(ii) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph:

"(2) financing, including reimbursement of an obligor for expenditures previously made for construction, reconstruction, reconditioning, or purchase of a vessel or vessels owned by citizens or nationals of the United States or citizens of the Northern Mariana Islands which are designed principally for research, or for commercial use in the fishing trade or industry;";

"(iii) by striking out 'or' at the end of paragraph (4) (as redesignated by clause (ii));

"(iv) by striking out 'or (3)' in paragraph (5) (as so redesignated) and inserting in lieu thereof '(3), or (4)', and by striking out the period at the end thereof and inserting in lieu thereof '; or', and

"(v) by adding immediately after paragraph (5) the following:

"(6) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made for the construction, reconstruction, reconditioning, or purchase of fishery facilities; or

"(7) financing the purchase of fishing vessels or fishery facilities, the construction, reconstruction, reconditioning, or purchase of which was guaranteed under this title, that are sold at foreclosure, instituted by the Secretary, or are sold by the Secretary following purchase at foreclosure, and the reconstruction of reconditioning thereof.

Any obligation guaranteed under paragraph (6) shall be treated, for purposes of this title, in the same manner and to the same extent as an obligation guaranteed under this title while aids in the construction, reconstruction, reconditioning, or purchase of a vessel; except with respect to provisions of this title that by their nature can only be applied to vessel.";

"(B) by adding at the end of subsection (b) the following:

"The Secretary may not establish, as a condition of eligibility for guarantee under this title, a minimum principal amount for any obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this title, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.";

"(C) in subsection (d)—

"(i) by striking out "No" and inserting in lieu thereof "(1) No"; and

"(ii) by adding at the end thereof the following:

"(2) No commitment to guarantee, nor guarantee, of an obligation may be made by the Secretary of Commerce under this title for the purchase of a used fishing vessel or used fishery facility unless—

"(A) the vessel or facility will be reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

"(B) the vessel or facility will be used in the harvesting of fish from, or for a purpose described in section 1101(j) with respect to, an underutilized fishery."; and

"(D) in subsection (g)—

"(i) by inserting '(1)' immediately after '(g)', and

"(ii) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Commerce shall establish within the Fund the following subfunds:

"(A) The fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities.

"(B) The general subfund which shall contain all moneys received for, and incident to, the guarantee of obligations for vessels other than fishing vessels.".

"(4) The first sentence of section 1105(d) is amended by inserting immediately before the period at the end thereof the following: ', and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)'.

"Sec. 202. Loans Under the Fish and Wildlife Act of 1956.

"(a) Loan Authority Until October 1, 1982.—During the period beginning on the date of the enactment of this Act and ending at the close of September 30, 1982, the Secretary of Commerce (hereinafter in this section referred to as the 'Secretary') may make loans from the fisheries loan fund established under subsection (c) of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) only for the purposes set forth in subsections (b) and (c) of this section. Except to the extent that they are inconsistent with, or contrary to, this section, the provisions of such section 4 shall apply with respect to loans made for such purposes.

"(b) Loans To Avoid Default on Obligations Covering Fishing Vessels.—(1) The Secretary may make loans for the purpose of assisting obligors to avoid default on obligations that are issued with respect to the construction, reconstruction, reconditioning or purchase of fishing vessels and that—

"(A) are guaranteed by the United States under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280, relating to Federal ship mortgage guaranteed); or

"(B) are not guaranteed under such title XI, but the fishing vessels concerned meet the use and documentation requirements, and the obligors meet the citizenship requirements, that would apply if the obligations were guaranteed under that title.

"(2)(A) Within the 90-day period beginning on the date of the enactment of this Act in the case of fiscal year 1981, and before the beginning of fiscal year 1982, the Secretary shall estimate the number, and the aggregate amount, of loans described in paragraph (1)(A) for which application will likely be made during each of such fiscal years and shall reserve that amount in the fisheries loan fund for the purpose of making such loans during such year (or if such amount is larger than the fund balance, the Secretary shall reserve the whole fund for such purpose).

"(B) If any moneys are available in the fisheries loan fund for each such fiscal year after subparagraph (A) is complied with for that year, the Secretary shall use such moneys for the purpose of making loans described in paragraph (1)(B) during that year.

"(C) At an appropriate time during each of fiscal years 1981 and 1982, the Secretary shall compare the actual loan experience during that year with the estimate made for that year under subparagraph (A) and if the Secretary determines, on the basis of such comparison, that the demand for loans described in paragraph (1)(A) will be less than estimated, the Secretary shall, for the fiscal year concerned, apply moneys reserved for such loans for the purpose of making loans described in paragraph (1)(B) and, to the extent not utilized for loans described in paragraph (1)(B), for the purpose of making loans under subsection (c).

"(3) The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. Each such loan shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purposes of this subsection. In establishing such terms and conditions, the Secretary shall take into account, among such other factors he deems pertinent, the extent to which the obligations concerned have been retired, and the overall financial condition of the obligors. The interest rate on loans made under the authority of this subsection shall not exceed that rate determined by the Secretary to be sufficient to cover costs incurred in processing and servicing of such loans.

"(c) Loans To Cover Operating Losses.—(1) If the Secretary determines that moneys will be available in such fisheries loan fund for fiscal year 1981 or 1982, or both, after loans under subsection (b) are provided for for that year, the Secretary may make loans for the purpose of assisting owners and operators of fishing vessels to cover vessel operating expenses in cases where an owner or operator incurs, or may incur, a net operating loss within such fiscal year.

"(2) Each loan made by the Secretary under this subsection shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purposes of this subsection. The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. The interest rate on loans made under this subsection shall be the rate prevailing for loans made under the Emergency Agricultural Credit Act of 1978 (7 U.S.C. preceding 1961 note).

"(d)(1) Subsection (c) of section 4 of such Act of 1956 (16 U.S.C. 742c(c)) is amended—

"(A) by striking out 'September 30, 1980,' each place it appears therein and inserting in lieu thereof 'September 30, 1982,'; and

"(B) by striking out the third, fourth and fifth sentences thereof.

"(2) The amendments made by paragraph (1) shall take effect on September 1, 1980.

"TITLE III—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

"Chapter 1—Foreign Fishing in Fisheries Subject to the Exclusive Fishery Management Authority of the United States

"Sec. 301. Allocation of Allowable Levels of Foreign Fishing.

"Amendments.—The last sentence of section 201(e)(1) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(1)) is amended to read as follows: 'All such determinations shall be made by the Secretary of State and the Secretary on the basis of—

'(A) whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish products;

'(B) whether, and to what extent, such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fisheries products from United States processors or from United States fishermen;

'(C) whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

'(D) whether, and to what extent, such nations require the fish harvested from the fishery conservation zone for their domestic consumption;

'(E) whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and providing harvesting or processing technology which will benefit the United States fishing industry;

'(F) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

'(G) whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

'(H) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.'.

"SEC. 302. PERMIT FEES.

"(a) INTERIM FEES.—(1) Effective with respect to permits issued under section 204(b) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) for 1981, paragraph (10) of such section is amended by striking out the last sentence thereof and inserting in lieu thereof the following: 'Such fees shall be formulated so as to ensure that the receipts resulting from the payment of the fees under this paragraph for permits issued for 1981 are not less than an amount equal to 7 percent of the ex vessel value of the total harvest by foreign fishing vessels in the fishery conservation zone during 1979; except that the fees imposed with respect to any fishery may not be set at a level that is lower than the level of fees imposed with respect to that fishery for 1979. The fees collected by the Secretary under this paragraph for permits issued for 1981 shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.'.

"(b) PERMANENT FEES.—Effective with respect to permits issued under section 204(b) of such Act of 1976 after 1981, paragraph (10) of such section is amended to read as follows—

'(10) FEES.—Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. The fees imposed under this paragraph shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act (including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excluding costs for observers covered by surcharges under section 204(i)(4)) during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year. The fees collected by the Secretary under this paragraph for permits issued for 1982 shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.'.

"SEC. 303. FISHERY DEVELOPMENT OBJECTIVES.

Section 2(b)(6) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(b)(6)) is amended by inserting immediately before the period at the end thereof the following: ', and to that end, to ensure that optimum yield determinations promote such development'.

"SEC. 304. FISHERY MANAGEMENT COUNCIL TRAVEL FUNDS.

The second sentence of section 302(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(d)) is amended by striking out '(c)(1)(C), and inserting in lieu thereof ', (c)(1)(C) and (D),.

"SEC. 305. NOTICE OF AVAILABILITY OF MANAGEMENT PLANS.

Section 305(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1855(a)) is amended by inserting 'a notice of availability of" immediately after "Federal Register (A)'.

"CHAPTER 2—FULL OBSERVER COVERAGE PROGRAM

"SEC. 311. ESTABLISHMENT OF FULL OBSERVER COVERAGE PROGRAM.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(1) FULL OBSERVER COVERAGE PROGRAM.—(1) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the fishery conservation zone.

"(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that—

"(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the fishery conservation zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch are being observed;

"(B) with respect to any foreign fishing vessel while it is engaged in fishing within the fishery conservation zone—

"(i) the time during which the vessel engages in such fishing will be of such short duration that the placing of a United States observer aboard the vessel would be impractical, or

"(ii) the facilities of the vessel for the quartering of a United States observer, or for the carrying out of observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(3) United States observers, while aboard foreign fishing vessels, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act.

"(4) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

"(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

SEC. 312. EFFECTIVE DATE.

The amendment made by section 311 shall take effect October 1, 1981, and shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 after December 31, 1981.

"TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. APPLICATIONS AND FILINGS FOR COMPENSATION FOR CERTAIN FISHING VESSEL, AND GEAR DAMAGE.

"(a) IN GENERAL.—If—

"(1) any owner or operator of a fishing vessel who suffered, after September 17, 1978, and before the date of the enactment of this Act, damage to, or loss or destruction of, such vessel or fishing gear used with such vessel, but did not apply for compensation therefor under section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) within the 60-day period prescribed in subsection (c)(1) of such section: or

"(2) any commercial fisherman who suffered after September 17, 1978, and before the date of the enactment of this Act, damages compensable under title IV of the Outer Continental Shelf Lands Act of 1978 (43 U.S.C. 1841 et seq.), but who did not timely file a claim therefor within the 60-day period prescribed in section 405(a) of such Act;

such owner or operator may make application for compensation with respect to such damage, loss or destruction under such section 10, and such commercial fisherman may file a claim for compensation for such damages under such title IV, to the Secretary of Commerce, within the 60-day period beginning on the date of the enactment of this Act.

"(b) SPECIAL PROVISIONS.—(1) Notwithstanding any other provision of law—

"(A) any application or filing timely made under subsection (a) shall be treated by the Secretary of Commerce as an application timely made under such section 10(c)(1), or as a filing timely made under such section 405(a), as the case may be, with respect to the damages, loss, or destruction claimed; and

"(B) any claim for fishing gear loss that was pending on June 1, 1980, before the United States-Union of Soviet Socialist Republics Fisheries Claims Board or the American-Spanish Fisheries Board shall be treated by the Secretary of Commerce as a timely application made, on the date of the enactment of this Act, under such section 10(c)(1) for compensation for such loss.

"(2) Section 403(c)(2)(A) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1843(c)(2)(A)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof "and the party admits responsibility;".

"SEC. 402. AMENDMENTS TO FISHERMEN'S PROTECTIVE ACT.

Section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended—

"(1) in subsection (b) by striking 'under this section for' and substituting 'under this section for actual damages and any resulting economic losses which occur as the result of';

"(2) by amending subsection (b)(2)(B) to read as follows:

"(B) is attributable to any other vessel, whether or not such vessel is a vessel of the United States. For the purposes of this paragraph, it shall be assumed that any damage, loss, or destruction of fishing gear is attributable to another vessel if such damage, loss or destruction did not occur as a result of negligence on the part of the vessel owner or as a result of an act of God.";

"(3) in subsection (c) by striking 'with respect to fishing' and substituting 'for actual damages or resulting economic losses arising from fishing';

"(4) in subsection (d)(1) by striking 'or destruction' and substituting 'destruction, or resulting economic loss'; and

"(5) by amending subsection (d)(2) to read as follows:

"(2) The amount of compensation awarded to any vessel owner under this section shall be—

"(A) in the case of actual damages, the depreciated replacement cost, or the repair cost, whichever cost is less, of the fishing vessel or the fishing gear concerned; and

"(B) in the case of resulting economic losses, 25 percent of the amount of gross income that is lost as a direct result of the damage, loss or destruction of the fishing vessel or the fishing gear concerned.

Any amount determined pursuant to clause (A) or (B) of this paragraph shall be reduced to the extent that evidence indicates that negligence by the vessel owner contributed to the cause or extent of the damage, loss, or destruction and shall be further reduced by the amount of compensation, if any, that the vessel owner has received or will receive with respect to the damage, loss, destruction or resulting economic loss through insurance, pursuant to any other provision of law, or otherwise.".

TITLE V.—AMENDMENTS TO TITLE VI OF THE MERCHANT MARINE ACT, 1936

SEC. 501. EXTENSION OF CAPITAL CONSTRUCTION FUND TO FISHERY FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

(a) AGREEMENT RULES.—(1) Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more eligible fishery facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fishery facilities. Any agreement entered into under this section—

"(A) shall be for the purpose of providing—

"(i) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade.

"(ii) replacement fishing vessels, additional fishing vessels, or reconstructed fishing vessels, built in the United States, American Samoa, the Virgin Islands of the United States, or Guam, any other Commonwealth, territory, or possession of the United States and documented under the laws of the United States for operation in the fisheries of the United States, or

"(iii) replacement fishery facilities, additional fishery facilities, or reconstructed fishery facilities, located in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, and

"(B) shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f).

"(2) For purposes of paragraph (1)(A) (ii) and (iii)—

"(A) a previously used fishing vessel or fishery facility that meets the requirements under this section as an eligible vessel or facility may be covered by an agreement for any reconstruction purpose, but if for a replacement or addition purpose then only if the vessel or facility will be used in the harvesting of fish from, or for a purpose described in subsection (k)(12) with respect to, an underutilized fishery;

"(B) nothing in this section shall be construed as prohibiting the establishment of a capital construction fund (i) with respect to fishing vessel for purposes of acquiring fishery facilities, or (ii) with respect to fishery facilities for purposes of acquiring fishing vessels; and

"(C) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States.

"(3) The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulation prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of (A) that portion of such person's taxable income for such year which is attributable to the operation of the agreement vessels, or (B) that portion of such person's taxable income for such year which is attributable to the operation of agreement fishery facilities. For purposes of the preceding sentence, taxable income shall be computed in the manner provided in subsection (b)(1)(A).

"(4) Notwithstanding any other provision of law, any agreement entered into for any of the purposes set forth in paragraph (1) (A) (ii) or (iii) may be later amended in order to—

"(A) allow for the withdrawal of moneys from the fund established by that agreement and the subsequent deposit of those moneys in a fund established, whether by the same or different persons, under another existing agreement, or a new agreement, entered into for any such purpose; or

"(B) provide that one or more other persons may be permitted to become parties thereto and deposit moneys into the fund established by such agreement; whether or not any of the moneys for deposit are withdrawn pursuant to an agreement amended under subparagraph (A).

"(5) The Secretary may not require, in the case of any agreement entered into for the purpose of reconstructing a fishing vessel or fishery facility, that a minimum withdrawal be made from the fund. For purposes of this section, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.".

"(b) DEFINITIONS.—Subsection (k) of section 607 of the Merchant Marine Act, 1936, is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'eligible fishery facility' means any fishery facility which is located in the United States.

"(10) The term 'qualified fishery facility' means any fishery facility—

"(A) which is located in the United States, and

"(B) which the person maintaining the fund agrees with the Secretary of Commerce will be used for one or more of the functions described in paragraph (12).

For purposes of this paragraph, paragraphs (1), (2), and (3) insofar as they relate to a fishing vessel, and paragraph (9), the term 'United States' includes American Samoa, the Virgin Islands of the United States, the Northern Mariana Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and, when applied with respect to a fishery facility described in paragraph (12)(B), includes the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).

"(11) The term 'agreement fishery facility' means any eligible fishery facility or qualified fishery facility which is subject to an agreement entered into under this section.

"(12) The term 'fishery facility' means—

"(A) any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries,

"(B) the land necessary for any such structure or appurtenance described in paragraph (A), and

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in paragraph (A);

but only if such structure, appurtenance, land, and equipment is owned by an individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands or by a corporation, partnership, association, or other entity that is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802), and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States; and

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity and individuals who are nationals of the United States or citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting such ownership requirement.

"(13) The term 'fishing vessel' means any vessel, constructed in the United States, which is used for, equipped to be used for, or of a type which is normally used for—

"(1) fishing; or

"(2) aiding or assisting one or more vessels in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

"(14) The term 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

'(15) The term 'citizen of the Northern Mariana Islands' means—

'(A) an individual who qualifies under section 8 of the Schedule on Transitional Matters attached to the Constitution of Northern Mariana Islands; or

'(B) a corporation, partnership, association, or other entity formed under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, where 'owned' is used in the same sense as in section 802 of title 46, United States Code.'.

"(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) (A) Subparagraph (A) of section 607(b) (1) of such Act is amended by inserting '(i)' after '(A)', and by inserting ', or (ii) that portion of the taxable income of the owner or lessee for such year (as so computed) which is attributable to the operation of the agreement fishery facilities' after 'the fisheries of the United States'.

"(B) Subparagraph (B) of such section 607(b) (1) is amended by inserting 'or the agreement fishery facilities' after 'the agreement vessels'.

"(C) Subparagraph (C) of such section 607(b) (1) is amended by inserting 'or agreement fishery facility' after 'any agreement vessel' each place it appears.

"(D) Paragraph (2) of section 607(b) of such Act is amended by inserting 'or an agreement fishery facility' after 'an agreement vessel' and by inserting 'or such facility (as the case may be)' after 'such vessel'.

"(2) (A) Subparagraph (A) of section 607 (f) (1) of such Act is amended by inserting 'or a qualified fishery facility' after 'a qualified vessel'.

"(B) Subparagraph (C) of section 607(f) (1) of such Act is amended to read as follows:

'(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of—

'(i) qualified vessel,

'(ii) a qualified fishery facility, or

'(iii) a barge or container which is part of the complement of the qualified vessel.'.

"(3) (A) Paragraphs (2) and (3) of section 607(g) of such Act is amended by inserting 'fishery facility,' after 'vessel,' each place it appears.

"(B) Paragraph (4) of section 607(g) of such Act is amended by inserting 'fishery facilities,' after 'vessels,'.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.".

Amend the title so as to read: "An Act to provide for comprehensive research and development regarding United States fisheries, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

● Mr. CANNON. Mr. President, I am pleased to rise in support of my colleague's proposed amendments to S. 1656. The development of the U.S. fishing industry is a matter of continuing concern for the Commerce Committee. S. 1656 represents a solid effort by the Senate and our colleagues in the House to assist this development.

The provisions related to the Saltonstall-Kennedy Act are especially important. These provisions are intended to intensify fisheries research and development, both by the U.S. Government and by the various segments of the U.S. fishing industry. The work is expected to address a number of problems, from the fuel efficiency of fishing operations to the enhancement of marketing opportunities for U.S. fish products.

As the senior Senator from Washington has pointed out, this bill will bolster "Fish and Chips" diplomacy, the administration's effort to negotiate foreign market access for U.S. fishery products. Under the amended criteria for allocating foreign fishing rights in the U.S. fishery zone, the administration will have increased leverage to gain such access to foreign markets. Access for a foreign country's fishermen can be restricted or expanded in light of the degree of cooperation exhibited by that country in opening up its markets for U.S. fishery products. The market access criterion is one of a range of new allocation criteria which will give the Secretaries of State and Commerce considerable flexibility in fitting their foreign fishing allocation decisions to particular circumstances.

The original Senate version of S. 1656 did not contain any amendments to the Fishery Conservation and Management Act. However, the House version contains a number of such amendments, most of which we have accepted. In addition to the revised allocation criteria for foreign fishery, the bill includes provisions for observer coverage of nearly all foreign vessels fishing in the U.S. zone, increased foreign fishing fees, and the use of the optimum yield concept to stimulate the development of the U.S. fishing industry. The new language on the use of optimum yield in fishery development is particularly important in our view. It will give the regional fishery management councils additional encouragement to take foreign competition into account in setting optimum yield levels for individual fisheries.

Mr. President, I urge the prompt passage of this bill as amended.●

● Mr. MAGNUSON. Mr. President, S. 1656 is a needed and worthwhile piece of legislation, and I urge my colleagues to support its prompt passage. The amendment I am offering as a substitute to S. 1656, along with Senators PACKWOOD and STEVENS, represents a well-studied response to many of the difficulties facing our American fisheries.

The Fishery Conservation and Management Act gave the United States exclusive fishery management authority over more than 2 million square miles of marine fishery resources. The act also gives U.S. fishermen and processors a preferential right to all fishery resources in that area. Even though our fishing industry contributes $7 billion to our gross national product and creates direct employment for more than one-quarter million Americans, we still have a balance-of-payments deficit in fishery products of over $2.1 billion, and foreign fishermen are still taking between one-third and one-half of the fish out of our waters. For example, the United States still lands an insignificant percentage of the estimated 1.5 million tons of available Alaska bottomfish. Some of the fish we import is caught by foreigners in our waters, processed abroad, and then sent back to us.

The bill before us, S. 1656, contains a number of objectives. First, it reaffirms the commitment Congress expressed in the Saltonstall-Kennedy Act to provide for projects designed to facilitate the development of the U.S. fisheries. The wide range of development projects that take place pursuant to the Saltonstall-Kennedy Act can have a major impact in assisting our industry realize the full benefits of the FCMA. These projects require no new appropriations—the S-K Act provides a permanent transfer of 30 percent of the duties on imported fish products into the S-K fund in order to help finance this coordinated approach to fisheries development.

Second, the bill provides that the Secretary of Commerce shall appoint not fewer than six foreign fishery attachés in U.S. Embassies abroad. These officers will be instrumental in our efforts to promote fishery exports and assist the industry in being able to fully utilize foreign-market opportunities. In this regard, the breaking down of foreign tariff and nontariff trade barriers must be a top priority.

Third, section 301 amends the criteria in the FCMA governing allocations of surplus fish from our 200-mile zone. Earlier this year, the administration agreed with the points I have been making for a year now—that allocations of surplus yields should be preferentially allocated to nations who, among other things, are willing to open their markets to U.S. fish products. Imports of fish products presently constitute roughly 10 percent of this Nation's overall balance-of-payments trade deficit.

In order for the U.S. fishing industry to take full advantage of the resources within our 200-mile zone, foreign markets which are currently of limited access must be opened to U.S. products. In other words, before we can mitigate this balance-of-payments deficit with greater utilization of our own resources, existing artificially restricted foreign markets should be opened for U.S. fish products. One of the most effective means to accomplish this is to tie foreign nations' allocations of surplus fish from our fisheries zone to their treatment of the importation of U.S. fish products.

The amendment in this bill does precisely that—it implements the so-called "Fish and Chips diplomacy." It also provides that criteria for allocations shall include whether foreign nations' fishing fleets have complied with U.S. regulations and law, whether foreign nations minimize gear conflicts with U.S. fishermen, and whether the foreign nation needs the fish taken from our zone for its own domestic consumption needs. This last mentioned criteria means that no priority should be given to any foreign allocation if the fish harvested by that nation's vessels are not going to feed its domestic populace, but rather will be involved in utilizing, usurping, or adversely affecting market opportunities that might otherwise exist for the U.S. fishing industry.

All of the criteria governing allocations must be considered for each allocation made under the act; however, the weight to be accorded each of these criteria will obviously be dependent upon the specific circumstances of each case.

Mr. President, the Fishery Conservation and Management Act provides that the yield figure for a fishery—the optimum yield—is to be prescribed on the basis of the maximum sustainable yield (a biological parameter), as modified by any relevant economic, social, or ecological factor. There is no question either domestically or internationally about the competence of the United States to modify MSY in light of what it determines to be relevant economic factors.

Because the implementation of the FCMA is still in its early stages, the regional fishery management councils, the Secretary of Commerce, and the affected members of the fishing industry have not yet become adequately familiar or proficient with such modifications. However, there are a number of relevant economic factors which can and should be used to benefit the U.S. fishing industry and reduce the OY figure. For example, the North Pacific Council has successfully used this procedure to reduce foreign harvest of tanner crab and thereby stimulate the U.S. crab industry. While it is necessary and appropriate that such economic modifications of MSY be both reasonable and justified, the range of such factors, including marketing considerations, should be closely examined and taken into account in the OY determinations.

Because there has been a hesitancy and lack of familiarity with such economic modifications of MSY, section 303 of this bill is intended to reaffirm congressional support that such factors be effectively utilized and considered as a reasonable recognition of and stimulus to the growth of the American fishing industry.

Section 302 of the bill amends the FCMA to insure that the fees charged to foreigners for access to our zone should, at a minimum, recover the direct costs to the United States of their presence. This change in the fee system is not intended to be punitive as to foreign fisheries in our zone, but rather is intended to reflect an equitable recovery of costs to our Government.

Section 311 of the bill calls for a full observer program for foreign vessels in the U.S. zone. These observers will be able to more effectively insure compliance with U.S. fishing regulations. During this post-fishing season, we witnessed a number of gross and flagrant violations of our regulations by Japanese vessels off Alaska, including gross underreporting and retention of prohibited species. The mandated observer coverage should stop this unlawful decimation of our fishery resources.

The bill also provides for the extension of existing merchant marine programs regarding fishing-vessel construction to on-shore fishery-facility construction. The two programs that are extended by this bill are the title XI loan guarantee program and the capital construction fund program.

Under the title XI program, economic viability of the proposed project is a vital control factor in determining whether a guarantee will be granted. One of the main reasons this extension is necessary is a general reluctance on the part of private financial institutions to loan money to such enterprises because these enterprises are still on the forefront of developing the yet untapped potential of our 200-mile zone. The Secretary should report to the Congress whenever he determines that private capital is available to adequately address the investment requirements of the industry; at such time as Congress receives such a report, we should promptly consider terminating the title XI program.

The capital construction fund extension has been long sought, and the need for this incentive has been well documented. It will certainly be an important incentive to the U.S. industry.

Section 305 of the bill addresses a paperwork problem in the FCMA; section 305(a) presently requires the Secretary to publish in the Federal Register an entire fishery management plan or any amendment thereto prepared and approved under the provisions of the act. Printing the entire plan or amendment in the Federal Register is far more costly than merely publishing a notice of availability and separately printing copies of the document. Roughly speaking, publishing an entire plan in the Federal Register costs about $21,000, whereas publishing a notice of availability and printing 500 copies of the plan separately costs approximately $1,600 per plan.

The notice of availability must contain a detailed summary of the plan or amendment, thus, the interested public will be able to respond to the proposal and will not be deprived of any rights to participate in the rulemaking. Furthermore, the amendment does not eliminate the requirement to publish in the Federal Register the regulations proposed to implement the management plan or amendment.

Mr. President, unless we develop our capacity and intent to utilize our fisheries for our industry, the foreign fleets will stay off our shores harvesting and processing our fish, and we will be letting a golden opportunity for major industry expansion lie dormant.

We are beginning to see signals of the beginning of the end for these foreign fleets in our 200-mile zone. It is an appropriate time to provide encouragement and incentives needed to facilitate expeditious development of our American industry. The provisions of this bill provide this encouragement and incentive. I strongly urge my colleagues to join me in strong support of this legislation.●

Mr. STEVENS. Mr. President, it is a pleasure for me to rise with my good friend, Senator MAGNUSON of the great State of Washington in support of the Senate amendments to the House amendments to S. 1656, a bill to develop the U.S. fishing industry to its full potential. This bill is of particular importance to the State of Alaska where the commercial fishing industry not only is already a substantial force in the economy but has potential to expand unmatched anywhere else in the Nation.

In 1975, Senator MAGNUSON and I culminated a 4-year effort with the passage of the Fishery Conservation and Management Act of 1976, similar to a bill I first introduced in the Senate. It was through that legislation this Nation obtained jurisdiction over its fishery resources within our 200-nautical-mile zone and in the case of salmon through its entire migratory range. Since the passage of this legislation, foreign fishing activity off the coast of the United States has been substantially reduced. Past reductions, however, have resulted from biological need rather than economic domestic development. Put quite simply, prior to the passage of the Fishery Conservation and Management Act, foreign fishing activity took place at such a high level that our stocks were being destroyed. This act allowed us to curtail these foreign abuses of an American resource.

Now the time has come for American fishermen and fish processors to expand their activities and displace foreign fishermen from our shores. Under the 200-mile bill, domestic fishermen received priority to catch stocks over foreign fishermen. When this act was passed, Senator MAGNUSON and I assumed that this priority would result in a phase-down of foreign activities. With few exceptions, that phase-down has not taken place. The amendments presently before this body are designed to expedite the phase-down of foreign fishing through the legitimate expansion of domestic activity.

Of particular importance in the Pacific Northwest is the capital construction fund provision. A capital construction fund is a tax deferral account in which fishermen may place earnings from their vessels to buy new vessels. This program has resulted in a marked fleet expansion in the Pacific Northwest. Our crab fleet has now become the most modern and up-to-date fishery in the Nation.

The Pacific Northwest bears the burden of 80 percent of the foreign fishing activity off the coast of the United States. As a result of the capital construction fund program, we now have enough fishing vessels to displace most, if not all, of the foreign activity. We lack the shoreside processing facilities to handle the some 2½ billion pounds of fish presently harvested by the foreign fleet off my State. The Senate amendments would allow the capital construction fund program to be expanded to include shoreside facilities.

When the shoreside facilities in Alaska and the Pacific Northwest are complete and foreign fishing activity is phased out, tens of thousands of jobs throughout all of the Pacific Northwest and Alaska will be created. Mr. President, I would point out to this body that we will be producing primarily an export product. Many experts believe that the value of fishery exports from this Nation could rival the export value of U.S. agricultural commodities. What a tremendous change this could help make in our balance-of-trade deficit.

Mr. President, again let me say how pleased I am to stand here with my good friend from the State of Washington, Senator MAGNUSON, and urge passage of these amendments. For many years now, Senator MAGNUSON and I have worked together for the betterment of the U.S. fishing industry. The legislation we have worked on which has been signed into law represents the best of bipartisan lawmaking.

● Mr. PACKWOOD. Mr. President, the Senate has an opportunity to provide the U.S. fishing industry with a means to reach its potential despite foreign fishing in our waters. This bill, which I have coauthored with Senators MAGNUSON, LONG, and STEVENS, will provide new markets for American harvesters and processors. It will provide all sectors of the fishing industry with the tools they need to meet the increased demand for U.S. caught and processed seafood. I strongly urge both the Senate and the House of Representatives to support this bill and send it to the White House. The fishing industry needs this bill.

Four years ago, when we passed the Fisheries Conservation Management Act, we suddenly gave the U.S. management authority over 2 million square miles of fishery resources. While U.S. harvesters and processors were given a preferential right to fish in the 200-mile zone, and while gains have been made, Oregon fishermen up and down the coast have told me that we could and should be doing much better.

Time after time, Oregon fishermen and processors told me that the main reason that they are so frustrated is their feeling that foreign countries are preventing the act from working. Five complaints are heard especially often: First, U.S. processors cannot compete with subsidized foreign floating processors. Second, processors note that some of the countries given access to our waters have raised trade barriers which cut off U.S. access to major foreign markets. Third, both fishermen and National Marine Fisheries Services observers agree that foreign fishing vessels often do not report their catches accurately. In addition, they are taking more than their allowable share as well as species expressly reserved for U.S. fishermen. Fourth, meanwhile, as all too many Oregon fishermen have learned, the foreign fishing operations continue to destroy American fishing gear. Fifth, finally, American taxpayers are wondering why they have to pay the cost of administering foreign fishing activities within the U.S. 200-mile zone. All of these concerns are directly answered in the legislation we are offering today.

INVESTMENT INCENTIVES FOR PROCESSING

S. 1656, the National Fisheries Development Act, originally passed the Senate almost a year ago, in December of 1979. Senators MAGNUSON, LONG and myself were able to gain unanimous approval by the Senate for new incentives to encourage private investment in American shoreside processing facilities. I strongly believe that if the U.S. fishing industry is to compete with foreign fishing operations, our processors must have new, efficient, high gas volume capacity. This is particularly true in the so-called "under-utilized species such as Pacific whiting, black cod and pollock. Improved processing capabilities will result in increased competitiveness of the U.S. industry in world market. American harvesters will enjoy greater demand for their catches.

Even though numerous studies have repeatedly emphasized that the major impediment to the U.S. fishing industry is the lack of sufficient sophisticated processing capacity, the House of Representatives sent S. 1656 back to us without the capital construction fund and obligational loan guarantee incentives which the processing sector must have. While the House version of S. 1656 contains numerous desirable provisions—many of which were contained in the original bill which we passed last December—my Senate colleagues and I are sticking to our guns. Capital construction fund and loan guarantees are the foundation of any fisheries development legislation, and today we are putting them back into S. 1656.

FREE TRADE MARKET ACCESS

From now on the Departments of State and Commerce will be directed to allocate surplus fish within the 200-mile zone to those nations who, among other things, are willing to provide market access for U.S. fish products. Existing artificially restricted foreign markets should be open for U.S. fish products. By using the foreign nation's allocation of fish from our water as leverage to force them to open their markets, we will spur new demands for U.S. seafood products. Foreign countries which apply for fish to be taken from our zone will be asked to supply information as to their own domestic consumption needs. This is another form of market information which is vital to the U.S. industry. We will be able to tell how much fish will be going to feed the foreign country's own population, and how much is going back on to the world market and competing with the U.S. products. From now on, the criteria for determining which countries will be allowed to harvest in U.S. waters will include:

First, whether the nations impose tariffs or other barriers, or otherwise restrict market access of U.S. fish products;

Second, whether the nations purchase fisheries products from U.S. processors or fishermen;

Third, whether these countries cooperate with the United States in enforcement of U.S. fishing regulations, including accurate reporting of their catches;

Fourth, whether these countries need the fish harvested from our zone for their own consumption;

Fifth, whether these countries minimize gear conflict with U.S. fishermen;

Sixth, do they provide harvesting and processing technology to the U.S. industry?

Seventh, are they willing to contribute to the U.S. fishery research and location of new fish resources within our 200-mile zone?

RELIEVING THE U.S. TAXPAYERS OF THE BURDEN OF 100-PERCENT OBSERVATION

As to charges that the foreigners do not accurately report their catches within our zone, S. 1656 calls for a full observer program for foreign boats while in U.S. zones. By requiring an observer on every vessel we will stop flagrant violations of our regulations. For example, when Polish ships fish for Pacific whiting we will be sure that they are taking only Pacific whiting and nothing else.

Obviously, placing observers on all foreign fishing vessels will increase the high cost of enforcing the Fisheries Conservation Management Act. For this reason the fees charged to foreigners for access to our 200-mile zone will be raised to insure that they cover the cost of administering their presence. The fees charged by the United States for the privilege of fishing in our zone are among the lowest in the world. By raising these fees we will remove from U.S. taxpayers the burden if implementing and enforcing the provisions of this bill. It is the intent of myself and the other sponsors of this legislation that the fee imposed under section 302 of this bill does not include the surcharges necessary to fund the observer program, as well as the Fishermen's Protective Act compensation program. Additional surcharges on foreign fishing fees will continue to be assessed for these vital programs.

GEAR DAMAGE

For a number of years now, I have been incensed by the continuous and often flagrant disregard by foreign fishing operations for the preferential rights of U.S. fishermen in our own waters.

When Polish or Russian trawlers plow through an Oregonian's black cod gear, for example, he is generally helpless to recover the cost of replacing his gear. For this reason, several years ago I developed the Fishermen's Protective Act. I feel that it is my personal obligation to be sure that this act is working as I intended. Last summer it became evident that, due to redtape, several dozen valid compensation claims by Oregonians were being rejected. At that time, I introduced legislation to take care of the problem and get them the compensation they deserved. In June, I was pleased to go down the coast to meet those fishermen and personally deliver their compensation checks for gear destroyed by the foreigners. All of these individuals had proof that a foreign fishing vessel was responsible for the damages. In no case has any Oregonian received compensation without evidence that foreign fishing activity was taking place in the precise area where the gear was damaged or lost. Since the Fishermen's Protective Act program requires a nonrefundable downpayment by fishermen who are applying for compensation, it appears that only legitimate claims are made.

When one actually meets the individuals who have suffered the gear damage, and have received reimbursement for their gear, as I have, there can be little doubt that the compensation was more than deserved. In fact, while discussing the problem of gear damage, it became evident that the foreign fishing operations should be responsible not only for the replacement costs of the damaged gear, but also for the downtime which their actions caused. For example, if a fisherman's crab pots are destroyed, he loses more than the cost of those pots. He loses a good part of the season, and has no chance to make up this loss until the next season. For these reasons, I am proposing that we amend the Fishermen's Protective Act so that when a fisherman suffers gear damage, he may recover his entire economic loss. This includes the cost of replacing his gear as well as the income he lost as a result of being deprived of his gear. Stringent standards are set up which tie the economic loss compensation to documented income in previous season.

There is substantial precedent under current law for compensating fishermen for economic loss in addition to replacement cost of the gear damaged. Section XI of the Fishermen's Protective Act deals with gear damage resulting from offshore oil and gas drilling activity. Under that program fishermen receive compensation for the lost income during the time their gear is being replaced. Oil companies and independent drillers bear the burden of this compensation. If we can hold the American energy companies to an obligation to pay for damages inflicted on U.S. fishermen, we should have absolutely no qualms about making foreign countries pay for similar damages which they inflict.

In an effort to keep redtape to a minimum and provide for expedited review of gear damage claims, my proposal creates a presumption that the net income to be compensated is equal to 25 percent of gross income. This formula is a result of input by both fishermen and National Marine Fisheries Service officials who are currently charged with administering the program. Under section 7 of the Fishermen's Protective Act, which compensates American fishing vessel owners for income lost when their boats have been seized by foreign countries, it is presumed that that compensable net income is 50 percent of gross income.

While I agree that that gross income is the most easily proven and therefore the logical starting point for determining compensation, my conversations with fishermen suggest that the 50-percent figure is much too high. Realistically speaking, with higher fuel costs, few fishermen are fortunate enough to earn a profit of 50 percent of their gross income. My proposal is not designed to create a giveaway program for fishermen. The 25-percent figure is a realistic appraisal of what most fishermen are making. It reflects a not overly generous quite realistic basis for compensation.

By providing for recovery of all economic loss, the U.S. fisherman is gaining no more privileges than any other U.S. citizen already has when he goes to a court of law to seek recovery for destruction of his property. The foreign fishing operators may complain about the surcharge on foreign fishing fees that may be required to pay for this program. However, their solution is simple: Stay out of American gear.

Mr. President, these are some of the highlights of S. 1656. Other provisions deal with the Saltonstall-Kennedy fisheries development program. In this bill, we seek to insure that these custom duties on fisheries imports will be used by American-owned companies and American fishing groups in the private sector, rather than foreign-dominated companies or the Federal Government.

The bill also provides that six fisheries experts will be stationed in the U.S. Embassies abroad in order to promote U.S. fishery exports, assist the U.S. industry being able to utilize foreign-market opportunities, and beneficially negotiate international fishing treaties.

In summary, it is our intent that the U.S. industry be given the tools and the opportunity by which it can ease the current balance-of-payment deficit fishery product of over $2.1 billion. Over one quarter of a million Americans are directly employed in the U.S. fishing industry, which contributes $7 billion to our gross national product. If the House of Representatives will follow our lead, and adopt this bill in its entirety, then I am confident the U.S. industry will have the tools it needs to compete on an equal footing. I believe that all the U.S. fishing industry wants is a fair chance. This bill provides it. I urge my Senate colleagues, the House of Representatives and the President to support this bill.●

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EARTHQUAKE HAZARDS REDUCTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1393.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1393) entitled "An Act to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

Sec. 101. (a) Paragraphs (1) through (3) of section 5(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(a)) are amended to read as follows:

"(1) be designed and administered to achieve the objectives set forth in subsection (c);

"(2) involve, where appropriate, each of the agencies listed in subsection (d) and the non-Federal participation specified in subsection (h); and

"(3) include each of the elements described in subsections (e) and (f) and the assistance to the States specified in subsection (g).".

(b) Section 5(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704 (b)) is amended to read as follows:

"(b) Duties.—

"(1) The President shall—

"(A) assign and specify the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program; and

"(B) establish goals, priorities, budgets, and target dates for implementation of the program.

"(2) The Federal Emergency Management Agency (hereinafter referred to as the 'Agency') is designated as the agency with the primary responsibilities to conduct and coordinate the National Earthquake Hazards Reduction Program. The Director of the Agency (hereinafter referred to as the 'Director') shall—

"(A) recommend to the President the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

"(B) recommend to the President goals, priorities, budgets, and target dates for implementation of the program;

"(C) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk;

"(D) provide for qualified and sufficient staffing for the program and its components;

"(E) compile and maintain a written program plan for the program specified in subsections (a), (e), (f), and (g), which plan will recommend base and incremental budget options for the agencies to carry out the elements and programs specified through at least 1985, and which plan shall be completed by September 30, 1981, and transmitted to the Congress and shall be updated annually; and

"(F) recommend appropriate roles for State and local units of government, individuals, and private organizations.".

(c) Section 5(d) of such Act is amended by striking out "(3)(B)" and inserting in lieu thereof "(1)(A)", by striking out "National Bureau of Standards" and inserting in lieu thereof "Department of Commerce", and by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "Federal Emergency Management Agency".

(d) Section 5(e)(6) of such Act is amended by striking out "political" and by inserting in lieu thereof "potential".

(e)(1) That portion of section 5(f) of such Act which precedes paragraph (1) thereof is amended to read as follows:

"(f) Mitigation Elements.—The mitigation elements of the program shall provide for—".

(2) Paragraph (1) of section 5(f) of such Act is amended to read as follows:

"(1) Issuance of earthquake predictions.—The Director of the United States Geological Survey is hereby given the authority, after notification of the Director, to issue an earthquake prediction or other earthquake advisory as he deems necessary. For the purposes of evaluating a prediction, the National Earthquake Prediction Evaluation Council shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act. The Director shall have responsibility to provide State and local officials and residents of an area for which a prediction has been made with recommendations of actions to be taken;".

(3)(A) Section 5(f) of such Act is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by inserting after paragraph (6) the following:

"(7) transmittal to Congress by the Director of an intraagency coordination plan for earthquake hazard mitigation and response within thirty days after enactment of this paragraph, which plan shall coordinate all of the directorates of the Agency; and

"(8) the development and implementation by the Director of a preparedness plan for response to earthquake predictions which includes the following items:

"(A) A prototype plan to be in place in one major metropolitan area by September 30, 1981.

"(B) An action plan to be completed for specific adaptations of the prototype plan to other high risk metropolitan areas by September 30, 1981.

"(C) These prediction response plans are to be integrated with preparedness response plans.

"(D) The plans shall include coordination with State and local governmental companion efforts.

"(E) The plans shall be updated as new, relevant information becomes available.".

(B) The last sentence of section 5(f) of such Act is repealed.

(f) Section 5 of such Act is amended by inserting at the end thereof the following:

"(i) Study.—Within one year after the date of enactment of this subsection, the Director shall conduct a study and prepare and transmit recommendations to Congress to amend the Disaster Relief Act of 1974 (42 U.S.C. 5121, et seq.) to include provisions for funding for the period of time following a validated earthquake prediction.".

Sec. 102. (a) Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended to read as follows:

"Sec. 6. Annual Report.

"The President shall, within ninety days after the end of each fiscal year, submit an annual report to the appropriate authorizing committees in the Congress describing the status of the program, and describing and evaluating progress achieved during the preceding fiscal year in reducing the risks of earthquake hazards. Each such report shall include a copy of the program plan described in section 5(b)(2)(E) and any recommendations for legislation and other action the President deems necessary and appropriate.".

Sec. 103. (a) Section 7(a) of such Act is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There are authorized to be appropriated to the Director to carry out the provisions of sections 5 and 6 of this Act for the fiscal year ending September 30, 1981—

"(A) $1,000,000 for continuation of the Interagency Committee on Seismic Safety in Construction and the Building Seismic Safety Council programs.

"(B) $1,500,000 for plans and preparedness for earthquake disasters,

"(C) $500,000 for prediction response planning,

"(D) $600,000 for architectural and engineering planning and practice programs,

"(E) $1,000,000 for development and application of a public education program,

"(F) $3,000,000 for use by the National Science Foundation in addition to the amount authorized to be appropriated under subsection (c), which amount includes $2,400,000 for earthquake policy research and $600,000 for the strong ground motion element of the siting program, and

"(G) $1,000,000 for use by the Center for Building Technology, National Bureau of Standards in addition to the amount authorized to be appropriated under subsection (d) for earthquake activities in the Center.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $32,484,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $26,600,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(d) Section 7 of such Act is amended by inserting at the end thereof the following:

"(d) National Bureau of Standards.—To enable the Bureau to carry out responsibilities that may be assigned to it under this Act, there are authorized to be appropriated $425,000 for the fiscal year ending September 30, 1981.".

Sec. 104. Funds may be transferred among the line items listed in the amendment made by section 103(a), but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in the amendment made by section 103(a) unless—

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days both chairmen of the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transporation of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

TITLE II—FIRE PREVENTION AND CONTROL

Sec. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by inserting at the end thereof the following:

"(c) There are authorized to be appropriated to carry out this Act, except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, an amount not to exceed $23,814,000 for the fiscal year ending September 30, 1981, which amount includes—

"(1) not less than $1,100,000 for the first year of a three-year concentrated demonstration program of fire prevention and control in two States with high fire death rates;

"(2) not less than $2,575,000 for rural fire prevention and control; and

"(3) not less than $4,255,000 for research and development for the activities under section 18 of this Act at the Fire Research Center of the National Bureau of Standards, of which not less than $250,000 shall be available for adjustments required by law in salaries, pay, retirement, and employee benefits.

The funds authorized in paragraph (3) shall be in addition to funds authorized in any other law for research and development at the Fire Research Center.".

Sec. 202. Section 16 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2215) is amended by deleting the words: "June 30 of the year following the date of enactment of this Act and each year thereafter" from the first sentence and inserting in lieu thereof; "ninety calendar days following the year ending September 30, 1980, and similarly each year thereafter".

TITLE III—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

Sec. 301. It is recognized that natural and manmade hazards may not be independent of one another in any given disaster. Furthermore, planning for and responding to different hazards have certain common elements. To make maximum use of these commonalities, the Director of the Federal Emergency Management Agency (hereinafter referred to as the "Director") is authorized and directed to:

(1) initiate, within one year after the date of enactment of this Act, studies with the objective of defining and developing a multihazard research, planning, and implementation process within the Agency;

(2) develop, within one year after the date of enactment of this Act, in cooperation with State and local governments, prototypical multihazard mitigation projects which can be used to evaluate several approaches to the varying hazard mitigation needs of State and local governments and to assess the applicability of these prototypes to other jurisdictions with similar needs;

(3) investigate and evaluate, within one year after the date of enactment of this Act, the effectiveness of a range of incentives for hazard reductions that can be applied at the State and local government levels;

(4) prepare recommendations as to the need for legislation that will limit the legal liability of those third party persons or groups which are called upon to provide technical assistance and advice to public employees, including policemen, firemen, and transportation employees, who are generally the first to respond to a hazardous incident; which recommendations shall be provided to the appropriate committees of Congress within one hundred and eighty days after the date of enactment of this Act;

(5) prepare, within one hundred and eighty days after the date of enactment of this Act, a report on the status of the Agency's emergency information and communications systems which will provide recommendations on—

(A) the advisability of developing a single, unified emergency information and communication system for use by the Agency in carrying out its emergency management activities;

(B) the potential for using communication and remote sensing satellites as part of the Agency's emergency information and communication system; and

(C) the type of system to be developed, if needed, including the relationship of the proposed system and its needs to the existing and emerging information and communication systems in other Federal agencies; and

(6) conduct a program of multihazard research, planning, and mitigation in coordination with those studies and evaluations authorized in paragraphs (1) through (5), as well as other hazard research, planning, and mitigation deemed necessary by the Director.

Sec. 302. For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Director $1,000,000 to carry out paragraphs (1) through (5) of section 301 and such sums as may be necessary to carry out paragraph (6) of such section.

TITLE IV—GENERAL PROVISIONS

Sec. 401. If the total amount of the appropriations made by any Act for program activities included section 103(a) of title I and titles II and III is less than the total amount authorized to be appropriated for those activities by section 103(a) of title I and titles II and III, the amount available from such appropriations for any particular program activity shall bear the same ratio to the amount authorized to be appropriated for that activity by section 103(a) of title I and titles II and III as the total amount of the appropriations made by such appropriation Act for all included program activities bears to the total amount authorized to be appropriated for those activities by section 103(a) of title I and titles II and III (with each ceiling and floor set forth in section 103 (a) of title I and titles II and III being reduced in the same ratio for purposes of determining the amounts so available), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

Amend the title so as to read: "An Act to amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.".

● Mr. CANNON. Mr. President, the Senate has before it today S. 1393, a bill to authorize appropriations for the National Earthquake Hazards Reduction Act, the Federal Fire Prevention and Control Act, and for other purposes, for fiscal year 1981.

S. 1393 originally passed the Senate on May 22, 1980, and the House passed a somewhat different version on June 30, 1980. The differences are not major, and the amendments to S. 1393 under consideration today represent a compromise between the two versions. The compromise reached would authorize a total of $9,600,000 for the Federal Emergency Management Agency, $32,484,000 for the U.S. Geological Survey, and $26,600,000 for the National Science Foundation. It would also provide an authorization not to exceed $23,814,000 to carry out the purposes of the Federal Fire Prevention and Control Act. Fire continues to be one of the major causes of death and injury in this country, and this authorization level will allow for accelerated fire prevention and control programs to be instituted. By accepting these amendments, it will be unnecessary to establish a formal conference committee since the House should concur.

The compromise reached would provide a 1-year authorization, primarily because FEMA is a new agency, and it is important for the Congress to insure that it has the resources to implement the act. In an effort to strengthen further the ability of FEMA to deal with multiple hazards, not just earthquakes, the House added a separate title on multihazard research. I recommend that the Senate concur in that provision.

The item of greatest concern was a House provision dealing with "proportionality." The version of S. 1393 passed by the House contained a provision for a proportional allocation of appropriated funds among authorized programs in the event that a difference exists between authorizations and appropriations. Specifically, the provision would have required that unless otherwise explicitly stated in the text of an appropriations bill, any line item within an authorization would be funded at a level proportional to the ratio of total program appropriations to total program authorizations.

The House provision addresses an important issue, namely the problem of apportioning appropriated funds among authorized programs, which I believe should be considered in future authorizing legislation. The problem is twofold. First, it is necessary to define the functions of authorizations and appropriations to the mutual satisfaction of both legislative and appropriating committees. A second aspect of the problem concerns how the Executive is to allocate funds among authorized programs in the absence of a specific appropriation. This provision is explained in detail in House Report No. 96-949.

The Senate did not have the opportunity to consider the implications of this House proposal. Hence the compromise amendment which we consider today omits that specific provision. However, the omission of that provision should not be interpreted to suggest that there is no problem in reconciling the funding levels contained in authorizing legislation with the appropriated levels.

Neither the House nor the Senate committees have had a problem in this regard in considering the budget for the National Earthquake Hazards Reduction Act. The House Committee on Science and Technology has had difficulties with the budgets of other agencies and therefore is making an effort to avoid problems involving all other programs under their jurisdiction. I appreciate their alerting us to the possibility of such problems and plan to work with them in future authorization legislation in addressing questions of budget reconciliation.●

Mr. ROBERT C. BYRD. On behalf of Mr. CANNON, I move that the Senate concur in the amendments of the House with a further amendment which I, on behalf of Mr. CANNON, send to the desk.

UP AMENDMENT NO. 1703

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. CANNON, proposes an unprinted amendment numbered 1703.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendments of the House of Representatives to S. 1393, substitute the following:

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 101. (a) Paragraphs (1) through (3) of section 5(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(a)) are amended to read as follows:

"(1) be designed and administered to achieve the objectives set forth in subsection (c);

"(2) involve, where appropriate, each of the agencies listed in subsection (d) and the non-Federal participation specified in subsection (h); and

"(3) include each of the elements described in subsections (e) and (f) and the assistance to the States specified in subsection (g).".

(b) Section 5(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704 (b)) is amended to read as follows:

"(b) DUTIES.—

"(1) The President shall—

"(A) assign and specify the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program; and

"(B) establish goals, priorities, budgets, and target dates for implementation of the program.

"(2) The Federal Emergency Management Agency (hereinafter referred to as the 'Agency') is designated as the agency with the primary responsibilities to plan and coordinate the National Earthquake Hazards Reduction Program. The Director of the Agency (hereinafter referred to as the 'Director') shall—

"(A) recommend to the President the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

"(B) recommend to the President goals, priorities, budgets, and target dates for implementation of the program;

"(C) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk;

"(D) provide for qualified and sufficient staffing for the program and its components;

"(E) compile and maintain a written program plan for the program specified in subsections (a), (e), (f), and (g), which plan will recommend base and incremental budget options for the agencies to carry out the elements and programs specified through at least 1985, and which plan shall be completed by September 30, 1981, and transmitted to the Congress and shall be updated annually; and

"(F) recommend appropriate roles for State and local units of government, individuals, and private organizations.".

(c) Section 5(d) of such Act is amended by striking out "(3)(B)" and inserting in lieu thereof "(1)(A)", by striking out "National Bureau of Standards" and inserting in lieu thereof "Department of Commerce", and by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "Federal Emergency Management Agency".

(d) Section 5(e)(6) of such Act is amended by striking out "political" and by inserting in lieu thereof "potential".

(e)(1) That portion of section 5(f) of such Act which precedes paragraph (1) thereof is amended to read as follows:

"(f) MITIGATION ELEMENTS.—The mitigation elements of the program shall provide for—".

(2) Paragraph (1) of section 5(f) of such Act is amended to read as follows:

"(1) ISSUANCE OF EARTHQUAKE PREDICTIONS.—The Director of the United States Geological Survey is hereby given the authority, after notification of the Director, to issue an earthquake prediction or other earthquake advisory as he deems necessary. For the purposes of evaluating a prediction, the National Earthquake Prediction Evaluation Council shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act. The Director shall have responsibility to provide State and local officials and residents of an area for which a prediction has been made with recommendations of actions to be taken;".

(3)(A) Section 5(f) of such Act is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by inserting after paragraph (6) the following:

"(7) transitional to Congress by the Director of an intraagency coordination plan for earthquake hazard mitigation and response within thirty days after enactment of this paragraph, which plan shall coordinate all of the directorates of the Agency; and

"(8) the development and implementation by the Director of a preparedness plan for response to earthquake predictions which includes the following items:

"(A) A prototype plan to be in place in one major metropolitan area by September 30, 1981.

"(B) An action plan to be completed for specific adaptations of the prototype plan to other high risk metropolitan areas by September 30, 1981.

"(C) These prediction response plans are to be integrated with preparedness response plans.

"(D) The plans shall include coordination with State and local governmental companion efforts.

"(E) The plans shall be updated as new, relevant information becomes available.".

(B) The last sentence of section 5(f) of such Act is repealed.

(f) Section 5 of such Act is amended by inserting at the end thereof the following:

"(i) Study.—Within one year after the date of enactment of this subsection the Director shall conduct a study and prepare and transmit recommendations to Congress to amend the Disaster Relief Act of 1974 (42 U.S.C. 5121, et seq.) to include provisions for funding for the period of time following a validated earthquake prediction.".

Sec. 102. (a) Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended to read as follows:

"Sec. 6. Annual Report.

"The President shall, within ninety days after the end of each fiscal year, submit an annual report to the appropriate authorizing committees in the Congress describing the status of the program, and describing and evaluating progress achieved during the preceding fiscal year in reducing the risks of earthquake hazards. Each such report shall include a copy of the program plan described in section 5(b) (2) (E) and any recommendations for legislation and other action the President deems necessary and appropriate.".

Sec. 103. (a) Section 7(a) of such Act is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There are authorized to be appropriated to the Director to carry out the provisions of sections 5 and 6 of this Act for the fiscal year ending September 30, 1981—

"(A) $1,000,000 for continuation of the Interagency Committee on Seismic Safety in Construction and the Building Seismic Safety Council programs,

"(B) $1,500,000 for plans and preparedness for earthquake disasters,

"(C) $500,000 for prediction response planning,

"(D) $600,000 for architectural and engineering planning and practice programs,

"(E) $1,000,000 for development and application of a public education program,

"(F) $3,000,000 for use by the National Science Foundation in addition to the amount authorized to be appropriated under subsection (c), which amount includes $2,400,000 for earthquake policy research and $600,000 for the strong ground motion element of the siting program, and

"(G) $1,000,000 for use by the Center for Building Technology, National Bureau of Standards in addition to the amount authorized to be appropriated under subsection (d) for earthquake activities in the Center.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $32,484,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1979," and by inserting "; and $26,600,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(d) Section 7 of such Act is amended by inserting at the end thereof the following:

"(d) National Bureau of Standards.—To enable the Bureau to carry out responsibilities that may be assigned to it under this Act, there are authorized to be appropriated $425,000 for the fiscal year ending September 30, 1981.".

Sec. 104. Funds may be transferred among the line items listed in the amendment made by section 103(a), but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in the amendment made by section 103(a) unless—

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days both chairmen of the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

TITLE II—FIRE PREVENTION AND CONTROL

Sec. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by inserting at the end thereof the following:

"(c) There are authorized to be appropriated to carry out this Act, except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, an amount not to exceed $23,814,000 for the fiscal year ending September 30, 1981, which amount includes—

"(1) not less than $1,100,000 for the first year of a three-year concentrated demonstration program of fire prevention and control in two States with high fire death rates;

"(2) not less than $2,575,000 for rural fire prevention and control; and

"(3) not less than $4,255,000 for research and development for the activities under section 18 of this Act at the Fire Research Center of the National Bureau of Standards, of which not less than $250,000 shall be available for adjustments required by law in salaries, pay, retirement, and employee benefits.

The funds authorized in paragraph (3) shall be in addition to funds authorized in any other law for research and development at the Fire Research Center.".

Sec. 202. Section 16 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2215) is amended by deleting the words: "June 30 of the year following the date of enactment of this Act and each year thereafter" from the first sentence and inserting in lieu thereof; "ninety calendar days following the year ending September 30, 1980 and similarly each year thereafter".

TITLE III—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

Sec. 301. It is recognized that natural and manmade hazards may not be independent of one another in any given disaster. Furthermore, planning for and responding to different hazards have certain common elements. To make maximum use of these commonalities, the Director of the Federal Emergency Management Agency (hereinafter referred to as the "Director") is authorized and directed to:

(1) initiate, within one year after the date of enactment of this Act, studies with the objective of defining and developing a multihazard research, planning, and implementation process within the Agency;

(2) develop, within one year after the date of enactment of this Act, in cooperation with State and local governments, prototypical multihazard mitigation projects which can be used to evaluate several approaches to the varying hazard mitigation needs of State and local governments and to assess the applicability of these prototypes to other jurisdictions with similar needs;

(3) investigate and evaluate, within one year after the date of enactment of this Act, the effectiveness of a range of incentives for hazard reductions that can be applied at the State and local government levels;

(4) prepare recommendations as to the need for legislation that will limit the legal liability of those third party persons or groups which are called upon to provide technical assistance and advice to public employees, including policemen, firemen, and transportation employees, who are generally the first to respond to a hazardous incident; which recommendations shall be provided to the appropriate committees of Congress within one hundred and eighty days after the date of enactment of this Act;

(5) prepare, within one hundred and eighty days after the date of enactment of this Act, a report on the status of the Agency's emergency information and communications systems which will provide recommendations on—

(A) the advisability of developing a single, unified emergency information and communication system for use by the Agency in carrying out its emergency management activities;

(B) the potential for using communication and remote sensing satellites as part of the Agency's emergency information and communication system; and

(C) the type of system to be developed, if needed, including the relationship of the proposed system and its needs to the existing and emerging information and communication systems in other Federal agencies; and

(6) conduct a program of multihazard research, planning, and mitigation in coordination with those studies and evaluations authorized in paragraphs (1) through (5), as well as other hazard research, planning, and mitigation deemed necessary by the Director.

Sec. 302. For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Director $1,000,000 to carry out paragraphs (1) through (5) of section 301 and such sums as may be necessary to carry out paragraph (6) of such section.

Amend the title so as to read: "An Act to amend the Earthquake Hazard Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.".

The PRESIDING OFFICER (Mr. Levin). The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask that the Chair lay before the Senate a message from the House of Representatives of S. 1141.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1141) entitled "An Act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1980", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking out "and" after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", not to exceed $5,000,000 for the fiscal year ending September 30, 1980, and not to exceed $5,500,000 for the fiscal year ending September 30, 1981".

SEC. 2. (a) The Secretary of Transportation shall prepare and submit to the Congress a comprehensive safety report regarding the transportation of hazardous materials. Such report shall be submitted to the Congress not later than one year after the date of enactment of this Act and shall include, but not be limited to—

(1) a review of the progress that has been made in implementing the provisions of the Hazardous Materials Transportation Act;

(2) a review of the progress that has been made in responding to the recommendations of the National Transportation Safety Board regarding the transportation of hazardous materials;

(3) an analysis and evaluation of the manpower and funding needs of the Department of Transportation, especially the Materials Transportation Bureau, to fully implement the provisions of the Hazardous Materials Transportation Act;

(4) an analysis and evaluation of the relationship between the Federal Government and nongovernmental organizations in performing certain regulatory functions, including an estimate of the costs that would be incurred by the Federal Government if it assumed such functions;

(5) an analysis and evaluation of the adequacy and effectiveness of the inspection and compliance program of the Department of Transportation for hazardous materials;

(6) an analysis and evaluation of the existing system of compensation for incidents involving the shipping, handling, or transportation of hazardous materials, including an evaluation of the merits of establishing a Federal Hazardous Materials Compensation Fund;

(7) An analysis and evaluation of the desirability of establishing a Federal grant program to encourage State and local governments to participate in such inspection and compliance program;

(8) a survey and summary of Federal, State, and local laws and regulations, in such detail as the Secretary deems appropriate, relating to (A) the safety and health of persons engaged in the handling or transportation of hazardous materials and other persons who might be affected by an accident involving hazardous materials, and (B) plans and procedures for handling accidents involving hazardous materials;

(9) an analysis and evaluation of the effects of the hazardous materials transportation regulatory program on farming and ranching operations;

(10) a survey and summary of Federal, State, and local programs, in such detail as the Secretary deems appropriate, that regulate the shipping, handling, or transportation (including routing) of hazardous materials;

(11) an analysis and evaluation of the uniformity of Federal, State, and local laws and regulations regarding the transportation of hazardous materials;

(12) an analysis and evaluation of all training and education programs regarding the shipping, handling, or transportation of hazardous materials, including an evaluation of training programs for responding to hazardous materials incidents;

(13) an analysis and evaluation of all existing regulations that establish criteria and standards with respect to the type of route over which nuclear materials may be transported;

(14) an analysis and evaluation of whether the existing regulations relating to the transportation of hazardous materials are understandable to employees of shippers and carriers who handle such materials; and

(15) recommendations for any changes in existing laws and regulations that the Secretary deems necessary to carry out the policy set forth in section 102 of the Hazardous Materials Transportation Act.

(b) The report required by subsection (a) of this section shall be prepared by the Secretary of Transportation in consultation with the Nuclear Regulatory Commission, the Environmental Protection Agency, the National Transportation Safety Board, the National Academy of Sciences, appropriate officials of State and local governments, and other interested organizations and persons. Such report shall include, in an appendix, a statement of the views of all Federal, State, and local agencies and other interested organizations and persons consulted by the Secretary with respect to the content of such report in its final form.

SEC. 3. (a) The Secretary of Transportation, in consultation with the Nuclear Regulatory Commission, shall conduct a study of the regulation of the transportation of nuclear materials by rail carrier. The matters to be considered and evaluated by the Secretary in conducting such study shall include—

(1) the adequacy of the existing scheme of regulation of the transportation of nuclear materials by rail carrier;

(2) appropriate criteria and standards with respect to the type of route over which nuclear materials may be transported by rail carrier, giving due consideration to factors such as the demographical and geographical characteristics of areas through which such nuclear materials can be safely transported;

(3) the advantages and disadvantages of transporting nuclear materials by carriers of other modes in certain circumstances;

(4) appropriate means for avoiding the transportation of nuclear materials over lines of railroad that have a high level of deferred maintenance;

(5) the possibility of acts of terrorism, sabotage, or vandalism involving rail carriers transporting nuclear materials;

(6) the need to preempt relevant provisions of State and local law, taking into account the need to assure an adequate level of public safety;

(7) the advantages and disadvantages of licensing each movement of nuclear materials by rail carrier on a case-by-case basis;

(8) the advantages and disadvantages of dedicating specific trains solely to the transportation of nuclear materials;

(9)(A) the need to provide advance notice to State and local government officials through whose jurisdiction nuclear materials are to be transported by rail carrier, (B) appropriate methods for providing such notice, (C) the appropriate amount of time in advance of the transportation that such notice should be provided, and (D) the appropriate information (such as the safety measures to be employed and the route to be used) that should be included in such notice;

(10) the adequacy of measures employed by State and local government officials to deal with any incident involving the transportation of nuclear materials by rail carrier which may pose a risk to health and safety or property; and

(11) such other matters relating to the safe and efficient transportation of nuclear materials by rail carrier as the Secretary considers appropriate.

(b) The Secretary of Transportation shall, no later than June 30, 1980, submit a report to the Congress setting forth the results of the study conducted under subsection (a) of this section, together with any recommendations for legislation or other action which the Secretary considers appropriate.

(c) As used in this section, the term "nuclear materials" means materials or combinations of materials which spontaneously emit ionized radiation in a quantity and form which may pose a risk to health and safety or property.

Amend the title so as to read: "An Act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1980 and 1981.".

● Mr. SCHMITT. Mr. President, the safe management of nuclear waste is one of the most difficult and emotional policy issues facing our Nation today. Over 2 million packages of radioactive materials including spent fuel, low and high level radioactive waste, Government and private research materials and pharmaceuticals, are presently shipped within the United States each year. The Nuclear Regulatory Commission (NRC) estimates that shipments will more than double to about 5.5 million annually by 1985.

Up until now, the safety record for transportation of radioactive materials has been very good. Nevertheless, hearings held on nuclear waste management and transportation revealed gaps and overlaps of responsibility for regulating the safe transport of radioactive materials. These inadequacies could cause serious problems as the volume of shipments increase in the future. The time to address these problems is now, regardless of what decisions are reached on the ultimate disposal of nuclear waste.

Once we establish a comprehensive nuclear waste management plan, transportation will be the link in the waste management plan that will have the highest public visibility as well as the highest public perception of risk. The President's recently announced nuclear waste policy and the Energy Committee's Nuclear Waste Policy Act, S. 2189, fails to address the transportation aspects of nuclear waste management. S. 535 anticipates problems that could occur and provides the mechanism for responding to them.

S. 535, the Radioactive Materials Transportation Act of 1980 was introduced on March 5, 1979 by myself, and cosponsored by Senators CANNON, FORD, PRESSLER, THURMOND, DANFORTH, STEVENSON, DOLE, DURENBERGER, KASSEBAUM, TOWER, and WARNER. The Commerce Committee held 5 days of hearings on nuclear waste management and transport during 1978 and 3 days of hearings after the introduction of S. 535. Several areas of deficiency come to light during the Commerce Committee's waste transportation hearings, including the confusing jurisdictional overlap between Department of Transportation (DOT) and the NRC, which is presently resolved through a memorandum of understanding. It is questionable that this arrangement will be able to work under the pressure of future increases in the volume of transported wastes and increases in public concern over the safety of shipments.

To address this issue, S. 535 would remove the confusing jurisdictional overlap between the DOT and the NRC by designating the DOT to be the lead agency for overseeing transportation safety of shipping casks and packages.

In addition, S. 535 charges the Secretary of Transportation with the responsibility of formulating a plan to react to shipping accidents or malevolent acts directed toward the transportation of nuclear materials. The Secretary is also instructed to prepare an annual report which includes a compilation of radioactive materials transportation data that will be useful in making changes in package designs and shipping procedures which could improve safety.

S. 535 authorizes State grants which would provide funds for the governments of impacted States to prepare an independent analysis of the transportation aspects of any plan to develop a spent fuel or nuclear waste repository.

Finally, S. 535 requires prior notification and assurances that any spent fuel or nuclear waste which is imported into the United States will be transported in packages and using procedures that are consistent with those used for domestic shipments.

Mr. President, I believe S. 535 is a workable pragmatic approach to the complex problem of nuclear waste transportation confronting our nation today. The need is real, the time for action is now. I urge my colleagues to lend their support to this legislation.●

● Mr. CANNON. Mr. President, as chairman of the Senate Committee on Commerce, Science, and Transportation, I have worked to assure that the safe transportation of hazardous materials receives priority attention by the 96th Congress.

The amount of hazardous materials transported each year continues to increase. In 1979, more than 4 billion tons of hazardous materials were shipped throughout the United States. The National Transportation Safety Board, in fact, estimates that there are more than 250,000 hazardous materials shipments every day. These shipments travel through highly populated areas, creating the ever-present danger of a catastrophic accident.

Regulation of these often explosive, flammable, corrosive, toxic, or radioactive materials is extremely difficult. These materials are carried by every major mode of transportation. At least 20 Federal agencies play an important role in the regulation of these products.

The importance of these products to our economy cannot be overestimated. We must therefore act decisively to insure adequate protection of the public. We must concurrently insure that these products can be shipped quickly and economically. These goals are not antithetical. However, they require rapid and comprehensive action by the Federal Government and the Congress.

A number of serious hazardous materials transportation accidents in the last few years caused numerous deaths, injuries, and the evacuation of literally hundreds of thousands of people. These accidents warn us of the need for forceful and constructive action. We must not wait for the next tragedy before deciding to act.

During the 96th Congress, the Senate Commerce Committee, at my direction, has worked at meeting this challenge and recommending to the Congress appropriate legislative action to address this critical hazardous materials issue. By necessity, our actions have been wide ranging and encompass a number of disparate though interrelated measures. Tonight, we are asking the Senate, by supporting S. 1141, to act on two of the most important of these bills: The Hazardous Materials Transportation Act and the Nuclear Waste Transportation Act, which we are melding into a single legislative vehicle.

I would like to underline some of the important steps taken in this legislation to provide greater protection to the public.

The Hazardous Materials Transportation Act authorizes an increased level of appropriations for the Department of Transportation's Materials Transportation Bureau to significantly upgrade training of Federal, State, and local hazardous materials inspection personnel. This part of the bill is essentially the same as H.R. 7103, expected to be acted on by the House today.

The MTB also is directed to carry out a detailed survey and evaluate existing hazardous materials emergency response programs in order to identify the various needs of the State and local jurisdictions regarding emergency response assistance.

This bill will also accelerate the expansion of the national response center. The center provides 24-hour a day hazardous materials emergency response information and assistance communications services to fire, police, and public and private emergency response personnel. In order to utilize all private sector resources as efficiently and effectively as possible, the bill requires that the Federal communications system must coordinate with and utilize the excellent communications and information systems available in the private sector.

The Nuclear Waste Transportation Safety Act, which was reported by the committee as S. 535, complements these efforts. This legislation is designed to assure that a disturbing trend of inadequate inspection, monitoring, and enforcement in the nuclear transportation area is replaced by a vigorous enforcement effort. The Nuclear Waste Transportation Act clarifies that DOT is the lead agency responsible for regulation of all radioactive materials transportation other than that directly associated with national defense activities. This legislation creates new grant authority to aid States in their monitoring and enforcement of Federal regulations applicable to radioactive materials. The legislation also provides for the development of a comprehensive emergency response plan to quickly react to any potential nuclear transportation accident.

This legislation will reinforce the programs recently passed by the Congress in the Federal Railroad Safety Authorization, which clarified and strengthened the Federal Railroad Administration's safety authority. Since 70 percent of all hazardous materials shipments travel by rail, railroad safety is a critical aspect of hazardous materials transportation regulation.

Also, in passing S. 1141, we will be providing a 2-year authorization for the National Transportation Safety Board, and the Congress will shortly act on the Federal Fire Prevention and Control Act. Both of these actions will also strengthen the Federal Government's ability to react to hazardous materials transportation issues.

Mr. President, I hope that this summary provides some sense of the extent of the activities of the Commerce Committee and the Congress during the 96th Congress related to the transportation of hazardous materials. I now urge my colleagues to support passage of S. 1141 as a major step in coming to grips with the growing hazardous materials transportation problems of this Nation.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate concur in the amendments of the House with a further amendment in the nature of a substitute, which I send to the desk on behalf of Mr. CANNON.

UP AMENDMENT NO. 1704

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. CANNON, proposes an unprinted amendment numbered 1704.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the House of Representatives to S. 1141, substitute the following:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Hazardous Materials Transportation and Independent Safety Board Amendments of 1980".

HAZARDOUS MATERIALS AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking out "and" after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", not to exceed $9,100,000 for the fiscal year ending September 30, 1981, not to exceed $9,800,000 for the fiscal year ending September 30, 1982, and not to exceed $10,500,000 for the fiscal year ending September 30, 1983".

REPORTING SYSTEM AND DATA CENTER

SEC. 103. Section 109(d) of the Hazardous Materials Transportation Act (49 U.S.C. 1808 (d)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.".

INDEPENDENT SAFETY BOARD AUTHORIZATION OF APPROPRIATIONS

SEC. 104. Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. 1907) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated for the purpose of this Act not to exceed $18,900,000 for the fiscal year ending September 30, 1981, $20,800,000 for the fiscal year ending September 30 1982, and $23,100,000 for the fiscal year ending September 30, 1983, such sums to remain available until expended.".

PRIORITY OF BOARD INVESTIGATIONS

SEC. 105. Section 304(a)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(1)) is amended by inserting before "The Board may request" the following new sentences: "Any investigation of an accident conducted by the Board under this paragraph (other than subparagraph (E)) shall have priority over all other investigations of such accident conducted by other Federal agencies. The Board shall provide for the appropriate participation by other Federal agencies in its investigation, except that such agencies may not participate in the Board's determination of the cause or probable cause of the accident. Nothing in this section impairs the authority of other Federal agencies to conduct investigations of an accident under applicable provisions of law, obtaining information directly from parties involved in, and witnesses to, the transportation accident. The Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner."

REPORTING OF AVIATION INCIDENTS

SEC. 106. Section 304(a)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(6)) is amended by inserting "and aviation incidents" immediately after "accidents".

EXAMINATION AND TESTING OF PHYSICAL EVIDENCE

SEC. 107. Section 304(b)(2) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(b)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence the following: ", including examining or testing any vehicle, rolling stock, truck, or pipeline component (or any part thereof) which is determined to be required for purposes of such investigation, except that any such examination or testing (A) shall be conducted in such a manner so as not to interfere with or obstruct, unnecessarily, the continued flow of goods or services in interstate commerce by the owner or operator of such vehicle, rolling stock, truck, or pipeline component, and (B) shall be conducted in such a manner so as to preserve, to the maximum extent feasible, any evidence relating to the transportation accident, consistent with the needs of the investigation, and with the cooperation of such owner or operator"; and

(2) in the last sentence, by inserting ", examination, or test" immediately after "inspection" each place it appears.

PROHIBITION ON IMPLEMENTATION OF CERTAIN REGULATIONS

SEC. 108. The Secretary of Transportation shall not promulgate or implement, before August 1, 1981, the proposed regulations appearing in the Federal Register, volume 45, number 22, page 7140 et seq., dated January 31, 1980, relating to highway routing of radioactive materials, or any other regulation containing substantially the same subject matter as such proposed regulations.

LIMITATIONS ON VEHICLES

SEC. 109. Section 127 of title 23, United States Code, is amended by adding the following new paragraph at the end thereof:

"Notwithstanding any limitation relating to vehicle widths contained in this section a State may permit trucks or combinations thereof having a width up to 102" to operate over interstate highways with traffic lanes designed to be of a width of 12' or more under special permit authority if the State undertakes and implements the results of traffic engineering studies at locations where such vehicles will operate. Such studies shall consider remedial responses required to enhance safety such as the need for advisory speed and other signing, reduced speed limits, and warning of potential hazards due to high winds. States shall issue such special permit authority for a period of one year and only upon a finding, that such width is necessary for fuel efficient movement of freight and that the granting of such permit will not negatively impact highway safety.".

TITLE II

SEC. 201. This title may be cited as the "Radioactive Materials Transportation Safety Act of 1980".

SEC. 202. FINDINGS.—The Congress of the United States hereby makes the following findings concerning the transportation of radioactive materials—

(1) The current risk associated with any single shipment of radioactive material is small, but the growing volume of radioactive material shipments within the United States creates an increasing public exposure to this risk.

(2) There is a need for improved Federal regulation of the preparation and interstate transportation of radioactive materials and the preparation of such materials for international transportation originating in or entering the United States.

(3) The several States must participate in the monitoring and enforcement of applicable Federal regulations governing the transportation of radioactive materials into or within their jurisdictions.

(4) The existing Federal regulatory authority over radioactive materials transportation has resulted in an inadequately coordinated overlap of responsibility between several Federal agencies involved and ineffective enforcement of safety regulations.

(5) The regulation of radioactive materials transportation would be simplified and made more effective if responsibility for such regulation were centralized under a single Federal agency with clearly and completely defined responsibilities and sufficient resources to carry out those responsibilities.

(6) Increasing public concern over the safety of shipments of radioactive materials has resulted in an uncoordinated growth of State and local governmental restrictions regarding such shipments.

(7) Uncoordinated and unnecessary State and local governmental restrictions on shipments of radioactive materials could become a substantial burden on interstate commerce.

(8) Federal leadership is needed to establish routing requirements or guidelines, in a timely fashion, for hazardous levels of radioactive materials in order to alleviate the need for State and local governments to place additional restrictions on such shipments.

(9) The Secretary of Transportation should designate all radioactive materials as hazardous materials pursuant to the provisions of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) when hazardous quantities of such materials are in transit.

(10) For purposes of reliable scheduling of future transportation of nuclear spent fuel, and to assure timely procurement of licensed highway or rail casks, trailers or rail cars, and other specialized handling equipment that may be specified by the Secretary of Transportation for such carriage and to assure efficient utilization and maintenance of such equipment, it is essential that sufficient funds and lead time to procure such equipment be provided. The current estimate of manufacturing lead time for procurement is approximately 5 years.

SEC. 203. POLICY.—.n order to enhance the safety and simplify the regulation of the transportation of radioactive materials, the Department of Transportation shall have the principal responsibility for regulating, monitoring, and enhancing the safety and security of such transportation within the provisions of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) as amended by this title. The Congress further declares that in fulfilling this responsibility the Department of Transportation shall consult with the Nuclear Regulatory Commission, the Department of Energy, and the Governors of the affected States.

SEC. 204. Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1802) is amended to read as follows:

"DEFINITIONS

"SEC. 103. As used in this title, the term—

"(1) 'Associate Director' means the Associate Director for Radioactive Materials Transportation of the Materials Transportation Bureau of the Department of Transportation;

"(2) 'commerce' means trade, traffic, commerce, or transportation, within the jurisdiction of the United States, (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

"(3) 'Director' means the Director of the Federal Emergency Management Agency;

"(4) 'hazardous material' means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce;

"(5) 'nuclear spent fuel' means any reactor fuel which has been irradiated in and recovered from a civilian nuclear reactor;

"(6) 'Office' means the Office of the Associate Director for Radioactive Materials Transportation of the Materials Transportation Bureau of the Department of Transportation;

"(7) 'radioactive material' means any material or combination of materials other than those involved in defense activities which spontaneously emits ionizing radiation; except that it does not include low specific activity material as defined in 49 CFR 173.389(c);

"(8) 'radioactive waste' means any radioactive material, or combination of materials, other than nuclear spent fuel, which is deemed to have no foreseeable commercial value or useful application;

"(9) 'Secretary' means the Secretary of Transportation, or his designated representative;

"(10) 'serious harm' means death, serious illness, or severe personal injury;

"(11) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam;

"(12) 'transports' or 'transportation' means any movement of property by any mode, and any loading, unloading, or storage incidental thereto, except that related to possession, use, or transfer of radioactive materials within the boundaries of a facility licensed by the Nuclear Regulatory Commission; and

"(13) 'United States' means all of the States.".

SEC. 205. The Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), as amended, is further amended by—

(1) redesigating section 115 thereof as section 119; and

(2) inserting immediately after section 114 thereof the following new sections:

"RADIOACTIVE MATERIALS TRANSPORTATION OFFICE

"SEC. 115. (a) RESPONSIBILITIES.—Notwithstanding any other provision of law, the

Secretary shall have the principal responsibility for regulating, monitoring, and enhancing the safety and security of transportation of radioactive materials.

"(b) Establishment.—In order to carry out the responsibilities of the Secretary under subsection (a) of this section there is hereby established within the Materials Transportation Bureau of the Department of Transportation an Office of Radioactive Materials Transportation.

"(c) Associate Director.—There shall be at the head of the Office, an Associate Director for Radioactive Materials Transportation, who shall be appointed by the Secretary within 120 days of the date of enactment of this Radioactive Materials Transportation Safety Act of 1980. The Associate Director shall be compensated at the rate prescribed for the Senior Executive Level determined by the Secretary to be most appropriate to the duties of the Office. The Office shall have such additional staff as the Secretary deems necessary in order to carry out its functions.

"STATE GRANTS RELATING TO RADIOACTIVE MATERIALS TRANSPORTATION

"Sec. 116. (a) Facilities Planning Grants.—(1) The Secretary is authorized to provide grants to any State to assist it in conducting an independent State review of the impact of transportation associated with any operating or proposed long-term storage or disposal facility, including interim away-from-reactor storage facilities or test disposal facilities, which would result in high-level radioactive waste or nuclear spent fuel being transported within, or in close proximity to the borders of that State. Such reviews shall include among other considerations emergency response, safety, security, and logistics requirements.

"(2) Any person or Federal, State, or local government entity operating or proposing to develop or operate long-term or interim away-from-reactor storage or disposal facilities, including test disposal facilities, which would result in high-level radioactive waste or nuclear spent fuel being transported within a State, shall notify the Secretary within 60 days of the enactment of this section of such present operation, or within 60 days of the selection of a site for such a future facility. Such notification shall list the States within which high-level radioactive waste or nuclear spent fuel will be shipped during transport to the facility. The Secretary shall notify the Governors of the States so listed within 10 days after he has received such notification.

"(3) Upon receipt of notification pursuant to this subsection, a State may apply to the Secretary, in such form as the Secretary may by regulation prescribe, for a grant which shall be issued in accordance with the provisions of this subsection. Each application shall include a written statement of the State's review objectives, a preliminary plan for implementing the State's review, an estimate of the total cost of such a review and other information specified by the Secretary.

"(4) Within 6 months after the date of enactment of this section the Secretary shall promulgate regulations for the issuance of grants under this subsection. Such regulations shall include provisions governing the amount of any such grants, except that no single grant approved pursuant to this section may exceed $150,000.

"(b) Inspection and Enforcement Grants.—

"(1) In addition to the grant authority specified in subsection (a), the Secretary is authorized to provide grants to any State to fund State programs of inspection and enforcement of Department of Transportation regulations covering the present and future transportation of radioactive materials.

"(2) A State may apply to the Secretary, in such form as the Secretary may by regulation prescribe for a grant which shall be issued at the discretion of the Secretary in accordance with the provisions of this subsection. Each application shall include a written statement of the State's program objectives, a preliminary plan for implementing the State's program, an estimate of the total cost of such a program and other information specified by the Secretary.

"(3) Within 6 months after the date of enactment of this section the Secretary shall promulgate regulations for the issuance of grants under this subsection. Such regulations shall include provisions governing the amount of any such grants, except that no single grant approved pursuant to this section may exceed $100,000.

"EMERGENCY RESPONSE PLAN

"Sec. 117. (a) Responsibility.—Within 24 months after the date of enactment of this section the Director of the Federal Emergency Management Agency, in consultation with the Secretary, shall formulate and send to the Congress a national emergency response plan to deal with emergency situations that may occur during the transportation of radioactive materials. Such a plan shall include provisions for a program of informing State and local officials with respect to the possible hazards associated with the various types of such shipments, and the steps that should be taken in case of an accident or emergency situation which occurs during transportation of any particular type of shipment. The emergency response plan shall clearly define the role of Federal, State, and local governments in responding to each category of emergency situation. Such plan shall include estimates of the cost of the equipment and the training of emergency response personnel that the Director determines necessary in order to prepare local officials to deal promptly with the immediate problems associated with an emergency situation. The plan shall include the recommendation of the Director for the allocation of financial responsibility for decontamination of the accident scene in case of a release of radioactive material. The Director shall make recommendations to the Congress concerning funding or other assistance which the Federal Government might supply to local governments in order to improve their ability to respond to an emergency situation.

"(b) Consultation.—In developing the emergency response plan, the Director shall consult with those State and local governments which he believes will be significantly affected by the transportation of radioactive materials.

"FOREIGN SHIPMENTS OF NUCLEAR SPENT FUEL

"Sec. 118. (a) Notification.—Any person, or Federal, State, or local government which proposes to accept nuclear spent fuel from any source outside of the United States shall be required to notify the Secretary, at least 90 days before arrival of any such shipment—

"(1) the amount, form, and quantity of nuclear spent fuel that will be imported into the United States;

"(2) the mode of transportation, origin, destination, and routing of the shipment; and

"(3) a detailed technical description of the characteristics of the proposed shipping containers.

"(b) Report.—The Secretary is directed to analyze and report to the Congress within 45 days of any notification made pursuant to subsection (a) of this section on the adequacy of the safety considerations involved in the shipment of nuclear spent fuel from any source outside of the United States.

"(c) Safety.—The Secretary is directed to ensure that any nuclear spent fuel that is shipped to the United States from a source outside of the United States is packaged in containers that are determined by the Secretary to be safe for shipment within the United States. The Secretary shall also ensure that the transportation safety and security provisions for such shipments within the territorial waters of the United States are consistent with those for such shipments within the United States.

"(d) Subsections (a), (b), and (c) of this section shall not apply to the transportation of limited quantities of foreign nuclear spent fuel if the President determines that (1) a commitment, under section 54 or 55 of the Atomic Energy Act of 1954 (42 U.S.C. 2074 and 2075) of the United States for storage or other disposition of such limited quantities in the United States is required by a critical situation, (2) it is in the national interest to take such immediate action, and (3) he first notifies the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Interstate and Foreign Commerce and Public Works and Transportation of the House of Representatives in a timely fashion of his determination and the basis therefore.".

Sec. 206. Section 109(e) of the Hazardous Materials Transportation Act (49 U.S.C. 1808 (e)) is amended by—

(1) striking "and" at the end of paragraph (5) thereof;

(2) redesignating paragraph (6) as paragraph (9) thereof and inserting after paragraph (5) thereof the following new paragraphs:

"(6) a review of the safety requirements associated with the transportation of radioactive materials, and recommended action which might significantly enhance the safety and security of such shipments;

"(7) a compilation of updated radioactive materials shipments and transportation accident data and other relevant information that can aid risk assessment, can be used for improved container and vehicle design, or can indicate changes in procedures and practices which would make significant improvements in the safety or security of radioactive materials transportation;

"(8) recommendations for Federal routing guidelines or requirements for radioactive materials transportation which might alleviate the need for State and local governments to place additional restrictions on shipments of radioactive materials; and

Sec. 207. Section 119 of the Hazardous Materials Transportation Act, as redesignated by section 205 of this title and as amended by section 102 of this Act, is further amended by—

(1) inserting "(a)" immediately before the first sentence thereof; and

(2) adding at the end thereof the following new subsections:

"(b) There are authorized to be appropriated to the Secretary not to exceed $3,500,000 for each of the fiscal years 1981, 1982, and 1983 for the purposes of sections 115 and 118 of this title.

"(c) There are authorized to be appropriated to the Secretary not to exceed $2,500,000 for each of the fiscal years 1981, 1982, and 1983 for the purposes of section 116 of this title.".

Amend the title to read as follows: "An Act to authorize additional appropriations for the Hazardous Materials Transportation Act and the Independent Safety Board Act of 1974, to regulate commerce by providing for the safe transportation of radioactive materials, and for other purposes.".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Without objection, the amendments are agreed to en bloc.

The amendment (UP No. 1704) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendments with the amendment of the Senate.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES AUTHORIZATIONS—TITLE I

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1148.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1148) entitled "An Act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "fiscal year 1977," and

(2) by adding immediately after "fiscal year 1978," the following: "and not to exceed $3,039,000 for fiscal year 1981,".

SEC. 2. Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by amending subsection (a)—

(A) by inserting "and industrial waste" immediately after "sewage sludge",

(B) by striking out "Public Law 92-532"' and inserting in lieu thereof "the Marine Protection, Research, and Sanctuaries Act of 1972",

(C) by inserting ", except as provided in subsections (b) and (c)," immediately before "in no case", and

(D) by striking out "the Marine Protection, Research, and Sanctuaries" and inserting in lieu thereof "such"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) After December 31, 1981, the Administrator may issue permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

"(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than six consecutive months.

"(c) After December 31, 1981, the Administrator may issue emergency permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines that there has been demonstrated to exist an emergency, requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, 'emergency' refers to situations requiring action with a marked degree of urgency.

"(d) For purposes of this section—

"(1) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment ecological systems, or economic potentialities; and

"(2) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.".

SEC. 3. Section 102(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412(e)) is further amended—

(1) by inserting after "transportation of material," the words "by an agency or instrumentality of the United States or", and

(2) by striking out "section." and inserting "section: *Provided*, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application.".

SEC. 4. Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by adding at the end thereof a new subsection to read as follows:

"(f) Notwithstanding any other provision of law, dumping of dredged materials in the Long Island Sound shall comply with the provisions of section 103 of this Act, in addition to other applicable Federal and State requirements.".

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. RANDOLPH, that the Senate concur in the amendment of the House with a further amendment, which I, on behalf of Mr. RANDOLPH, send to the desk and ask that it be stated.

UP AMENDMENT NO. 1705

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. RANDOLPH, proposes an unprinted amendment numbered 1705.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. Section 111 of the Marine Protection, Research, and Sanctuaries Act is amended by striking "and" following "1977," and inserting "not to exceed $2,000,000 for each of fiscal year 1980, fiscal year 1981, and fiscal year 1982," immediately after "1978,".

SEC. 2. Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by amending subsection (a)—

(A) by inserting "and industrial waste" immediately after "sewage sludge",

(B) by striking out "Public Law 92-532" and inserting in lieu thereof "the Marine Protection, Research, and Sanctuaries Act of 1972",

(C) by inserting ", except as provided in subsections (b) and (c)," immediately before "in no case", and

(D) by striking out "the Marine Protection, Research, and Sanctuaries" and inserting in lieu thereof "such"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) After December 31, 1981, the Administrator may issue permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

"(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than six consecutive months.

"(c) After December 31, 1981, the Administrator may issue emergency permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines that there has been demonstrated to exist an emergency, requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, 'emergency' refers to situations requiring action with a marked degree of urgency.

"(d) For purposes of this section—

"(1) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities; and

"(2) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.".

SEC. 3. Section 102(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412(e)) is further amended—

(1) by inserting after "transportation of material," the words "by an agency or instrumentality of the United States of", and

(2) by striking out "section." and inserting "section: *Provided*, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application.".

SEC. 4. Title II of the Marine Protection, Research, and Sanctuaries Act is amended by adding at the end thereof the following new section:

"SEC. 205. The Administrator of the Environmental Protection Agency is authorized to conduct a study to assist the city of New York in evaluating the technological options available for the removal of heavy metals and other toxic organic materials from the sewage sludge of the city of New York. The study shall also examine options available to reduce the amount of such pollutants entering the sewage system. The study is to be completed by July 1, 1981.".

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED FIRST PARISH CHURCH HISTORIC SITE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1051.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, that item is cleared on this side and we have no objection to its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7411) to authorize the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Mass., and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes.

There being no obligation, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendent to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 7411) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF CERTAIN EMPLOYEES TO THE SERGEANT AT ARMS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PELL and Mr. HATFIELD, I send a bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3177) to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and, without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3177) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) those employees engaged by the Architect of the Capitol pursuant to section 1 of the Act of June 30, 1932, as amended (40 U.S.C. 185a), for the primary purpose of servicing official motor vehicles, together with the functions performed by such employees, shall, on October 1, 1980, be deemed transferred to the jurisdiction of the Sergeant at Arms of the Senate.

(b) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred by this Act shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e) and (o) of such section.

(c) In the case of days of annual leave to the credit of any such employee as of the date such employee is transferred by this Act, the Architect of the Capitol is authorized to make a lump sum payment to each such employee in order to compensate such employee for that annual leave. Such payments shall not be considered a payment or compensation within the meaning of any law relating to dual compensation.

(d) As used in this Act, the term "servicing" includes, with respect to an official motor vehicle, the washing and fueling of such vehicle, the checking of its tires and battery, and checking and adding oil.

(e)(1) Effective October 1, 1980, the Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint and fix the compensation of four garage attendants at not to exceed $14,100 per annum each.

(2) If, and to the extent that, any of the garage attendant positions established by paragraph (1) is first filled by one or more individuals who were deemed to be transferred pursuant to subsection (a), the Sergeant at Arms and Doorkeeper of the Senate is authorized to fix, in lieu of the compensation rates prescribed in paragraph (1), the compensation of not more than two of such positions so filled at not to exceed $16,560 per annum each, of one of such positions so filled at not to exceed $15,485 per annum, and of one of such positions so filled at not to exceed $14,390 per annum. Compensation fixed under authority of this paragraph for a position first filled by an individual who is deemed to be transferred pursuant to subsection (a) shall cease to be applicable with respect to such position on the date that such individual first ceases to occupy such position.

(3) During any period with respect to which the provisions of paragraph (2) are applicable to a position occupied by an individual described in such paragraph, such individual shall be credited, for purposes of longevity compensation, as authorized by section 106 of the Legislative Branch Appropriations Act, 1963 (2 U.S.C. 60j), for service performed by him, in the position of a garage attendant, as an employee of the Architect of the Capitol, as certified to the Secretary of the Senate by the Architect of the Capitol.

RECESS FOR 20 MINUTES

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate at 4:10 p.m., recessed for 20 minutes; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTION ON THE CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, it is the intention of the leadership to keep the Senate in session for several hours, hoping that action can be completed on the continuing resolution before the Senate completes its work today.

The conferees have been meeting during the day and will meet again this evening, early; so Senators may wish to determine their schedules accordingly.

It is very important that action be completed on the continuing resolution before midnight, and that is the intention of the Senate leadership, in the event the House acts on the conference report and gets it over to the Senate.

ORDER FOR CONSIDERATION OF CERTAIN MEASURES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House

Joint Resolution 472 and House Joint Resolution 568.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAY OF NATIONAL OBSERVANCE OF THE 200TH ANNIVERSARY OF THE SURRENDER OF LORD CORNWALLIS TO GENERAL GEORGE WASHINGTON AT YORKTOWN, VA.

The Senate proceeded to consider the joint resolution (H.J. Res. 472) designating October 19, 1981, as a "Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Va."

Mr. WARNER. Mr. President, I support this joint resolution, designating October 19, 1981 as a "Day of National Celebration."

Identical resolutions were introduced in the House, by Representative TRIBLE, and in this body by myself. The House has passed the resolution, and I wish to express my appreciation to the 23 of our Senate colleagues who have joined with me and the distinguished senior Senator from Virginia, HARRY F. BYRD, JR., in cosponsoring the Senate resolution.

October 19, 1981, will mark the 200th anniversary of the American victory at Yorktown, Va., which sealed the success of our Nation's struggle for independence.

That momentous victory, Mr. President, should be marked in a manner consistent with its unique place in our history. The celebration should be an event of national scope. For this is not Yorktown's celebration, nor is it Virginia's. Just as the Fourth of July belongs to the Nation, so does the victory at Yorktown.

The American republic was proclaimed to the world on the Fourth of July 1776, in the stirring words of the Declaration of Independence. It was one thing, however, to declare the creation of a republic; still another to make the declaration good. American independence had to be won on the battlefield, and our infant republic appeared to be lost more than once during the years of the prolonged struggle.

The evident significance of Yorktown is that the issue of our independence and the birth of our Republic was decided once and for all by the victory at Yorktown. Less evident, but of equal significance, Yorktown also decided for America that ultimate political power would rest, not in the hands of governments, but in the people.

This celebration has served in the past and will serve again in 1981 as a tangible pledge to America's future. It will serve as a time of rededication to those enduring principles upon which the Republic was founded and which have served us so well these 200 years.

Mr. President, I commend this joint resolution to my colleagues, and I ask unanimous consent that the joint resolution and the list of Senate cosponsors be printed in the RECORD.

There being no objection, the joint resolution and the list were ordered to be printed in the RECORD, as follows:

Whereas October 19, 1981, is the two hundredth anniversary of the victory of General George Washington at Yorktown, Virginia;

Whereas such date marks the anniversary of the end of the heroic struggle by our forefathers for political freedom and the ideals of liberty upon which our institutions are founded; and

Whereas it is fitting that this historic event be commemorated in such a manner as to rekindle love of country and devotion to its principles by recalling to this generation the trials and triumphs of the past: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1981, is proclaimed a Day of National Celebration of the Two Hundredth Anniversary of the victory of General George Washington at Yorktown, Virginia, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

CO-SPONSORS OF SENATE JOINT RESOLUTION 186

Senator Harry F. Byrd, Jr.
Senator John H. Chafee.
Senator William S. Cohen.
Senator Alan Cranston.
Senator David Durenberger.
Senator Barry Goldwater.
Senator S. I. Hayakawa.
Senator Howell Heflin.
Senator Roger W. Jepsen.
Senator Nancy Kassebaum.
Senator Paul Laxalt.
Senator Daniel P. Moynihan.
Senator Sam Nunn.
Senator Jennings Randolph.
Senator William V. Roth.
Senator Paul S. Sarbanes.
Senator Harrison Schmitt.
Senator Claiborne Pell.
Senator Richard Stone.
Senator Strom Thurmond.
Senator Paul T. Tsongas.
Senator John W. Warner.
Senator Harrison A. Williams, Jr.
Senator Milton R. Young.
Senator Richard S. Schweiker.

The PRESIDING OFFICER. The question is on the third reading and passing of the joint resolution.

The joint resolution (H.J. Res. 472) was ordered to a third reading, was read the third time, and passed.

ITALIAN-AMERICAN HERITAGE WEEK

The Senate proceeded to consider the joint resolution (H.J. Res. 568) to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week."

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 568) was ordered to a third reading, was read the third time, and passed.

SENATE JOINT RESOLUTION 186 AND SENATE JOINT RESOLUTION 202 INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 186 and Senate Joint Resolution 202 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUATION OF AUTHORITY UNDER DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 8202 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8202) to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1980, for a certain period.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

● Mr. KENNEDY. Mr. President, this bill continues in effect any authority or any limitation on the authority provided under the Department of Justice Appropriation Authorization Act for fiscal year 1980 for 180 days or until the fiscal year 1981 authorization act is enacted, whichever is earlier. I am advised that this request is supported by Mr. THURMOND, and that it will impact solely on the Department's substantive authority. This temporary limited authority is necessary to give the House of Representatives a chance to consider, in due course, the fiscal year 1981 authorization bill which we passed last June.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIXTY-SEVENTH CONFERENCE OF THE INTERPARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, I shall report briefly to my colleagues in the Senate on the 67th Conference of the Interparliamentary Union which was recently held in East Berlin.

I had the honor to serve as chairman of the American Senate delegation to that Conference and I am happy to say that the results of the meeting were extremely favorable to the interests of the United States. I underscore this fact because in this day and age, the United States often finds itself on the losing side at large international gatherings, whether at the United Nations or some other multilateral forum.

The Interparliamentary Union—or IPU—is the oldest and most broadly representative interparliamentary association in the world. It dates its existence from 1889 and its official membership now includes 89 national groups.

The outstanding achievements of the IPU in the past have included the following: It was instrumental in promoting international arbitration and initiated the creation of the Permanent Court of International Justice; it has played an important role in European integration; and it initiated discussions on security and cooperation in Europe and facilitated the signing of the Helsinki accords. The IPU has also served as a forum for debate on strategic and conventional arms issues, on the Mideast conflict, international terrorism, and southern Africa.

The purpose of the IPU is to promote personal contacts between members of all parliaments and to unite them in common action to secure and maintain representative institutions, and to advance international peace and cooperation, particularly by supporting the objectives of the United Nations.

The IPU convenes regular meetings each spring and fall usually in the capital of one of its members. Other special sessions are occasionally convened to deal with issues of special regional or topical concern.

The spring meeting is primarily devoted to the work of five standing study committees. The fall conference meets in plenary session for debate on issues presented by the study committees and on supplementary items. Study committees are also reconvened to reconsider resolutions and any amendments and to make final recommendations for adoption by the fall conference. These then become the official IPU positions for the year.

To determine and guide activities of the IPU there is an IPU Council where each national group is represented by two delegates. There is also an IPU Executive Committee, consisting of 10 members, which acts primarily as a steering committee and to oversee the work of the IPU Secretary General and his staff.

I was honored to serve as a delegate on both the Council and the Executive Committee and pleased to see U.S. positions prevail in both these bodies. There was a concerted effort by other national groups to have Turkey suspended from the IPU at the start of the East Berlin session because of the recent coup in that country and the closing of the Turkish parliament. I moved in both the Executive Committee and the Council that decisions be deferred on the suspension of Turkey, Bolivia, and Surinam until more information was available about the status of these countries' Parliaments. Although ultimately suspended at the close of the conference, Turkey was not barred from participating in the 67th IPU meeting.

In an effort to bring the budget of the IPU secretariat under control, I joined with other delegates in a successful effort to cut annual expenditures for the coming year by about $154,000. The funds had been earmarked in part to pay for a special IPU meeting on energy in 1981—a subject that I felt could better be dealt with at the regular semiannual gatherings.

Apart from these important administrative matters, I was pleased to lead the successful U.S. efforts to place the question of the American hostages in Iran on the Conference agenda and to see a strong resolution condemning their continued detention win overwhelming support. Only Algeria voted against the resolution, while 13 other national groups abstained.

The United States view prevailed in most important respects in a resolution dealing with a broad range of political questions. For example, the resolution calls on the Soviet Union to withdraw its forces from Afghanistan, it urges all Parliaments and governments to call upon Iranian authorities to release the American hostages immediately, and it urges the United Nations to call for an international investigation into present and past use of chemical weapons.

We made a forceful statement of the U.S. position on colonialism with a strong defense of our efforts to help the people of Puerto Rico and Micronesia determine their own futures. At the same time, we were successful in our efforts to delete from the final resolution adopted by the Conference comments that could be construed as critical of U.S. policies.

The Middle East question and the problem of Palestinian autonomy, always an extremely contentious item at IPU meetings, was relegated to a separate resolution which we felt obliged to oppose.

There were other political issues debated at the Conference but I will not attempt to discuss them all now. The entire meeting had serious political overtones and implications for the United States and I wish to give public credit to the entire American delegation for their effective work in representing both the Congress and the country.

The United States has been represented at IPU meetings ever since the first session was held in Paris in 1889. It is inconceivable that we should ever fail to send a delegation—and yet, it is difficult for Members of the House and Senate to get away, especially for the fall IPU sessions which come at a busy legislative period.

Our friends and allies around the world would simply never understand if the U.S. national group sent word that the Congress was too occupied with other matters. The spring meeting of the IPU next year will be held in Manila in April, followed by a fall session in Havana.

I urge my colleagues in the Senate to read the full report of the East Berlin meeting when it is printed and to interest themselves directly in the ongoing work of the IPU. We need to send a strong delegation—one that is prepared to do battle for the national interests of the United States and to provide leadership for our many friends and allies around the world.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the International Parliamentary Union's 67th Conference in East Berlin, September 16 through September 24, 1980.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY: INTERPARLIAMENTARY UNION 67TH CONFERENCE, EAST BERLIN, SEPTEMBER 16–24, 1980

The 67th Conference of the Interparliamentary Union was held in East Berlin between September 16 and 24, 1980. Attending were members of Parliament from 81 countries, as well as international observers from UN organizations and other international bodies.

The established agenda for Berlin included consideration of detente, arms control and disarmament, the problem of refugees, the third UN Development Decade, and progress towards the achievement of decolonization. These issues had earlier been debated during the spring meeting of the IPU in Oslo; draft resolutions on them were then adopted for consideration by all national groups before final adoption at the fall conference. Supplementary agenda items were also discussed in Berlin concerning the Mideast and concerning the Gulf Region and Indian Ocean. The U.S. again asked for special consideration of the American hostages in Iran. Altogether the conference adopted ten final resolutions on the various issues before it.

The U.S. Group submitted amendments to the four draft resolutions adopted at the spring meeting. In addition, it presented draft resolutions on the Mideast and on American hostages in Iran. Members of the U.S. delegation spoke formally on five occasions during the plenary debate and participated in activities of the Executive Committee, the Interparliamentary Council and the study committee (including two drafting committees).

Some highlights of the Berlin conference are as follows:

Iran: By a vote of 715 to 208 with 66 abstentions, the U.S. request for inclusion of a supplementary agenda item on American hostages in Iran was passed. The conference at its last session adopted a resolution condemning the continued detention of American hostages in Iran and inviting the new Assembly elected by the Iranian people to put an end to this regrettable incident. This resolution, originally submitted by the U.S. Group and modified slightly by an Italian amendment, passed by a vote of 655 to 13 with 194 abstentions. Only Algeria cast votes in opposition.

Afghanistan: Despite heavy pressure from USSR and other Eastern Europe delegates, specific reference to the Soviet invasion of Afghanistan was maintained in the final resolution adopted on the subject of arms control and disarmament. A motion to delete the paragraph that calls upon the Soviet Union to withdraw its forces from Afghan soil at the earliest possible date was defeated by a vote of 680 to 181 with 54 abstentions.

Chemical weapons: A U.S. amendment urging the UN to call for an impartial international investigation into reports of chemical weapon use was adopted by the conference.

Micronesia and Puerto Rico: Biased references that might have implied criticism of U.S. policy toward Micronesia and Puerto Rico were eliminated from resolutions adopted by the conference.

Mideast: The special mideast resolution adopted by the conference was completely unacceptable to the U.S. delegation. It was heavily weighted against Israel and in favor of Palestinian self-determination and the PLO. However, the resolution did not call for expulsion of Israel from international bodies including the IPU, as the original Arab draft proposed. An Egyptian proposal to acknowledge efforts at peace in the Mideast which could be taken to refer indirectly to Camp David was adopted. A Dutch attempt to affirm explicitly Israel's right to exist was defeated. A U.S. attempt to add reference to UN Security Council resolutions 242 and 338 was also defeated.

Iraq-Iran: The outbreak of extensive military actions between Iraq and Iran occurred during the Berlin meeting. Through the efforts primarily of the Australian delegation, the conference adopted language appealing to Iran and Iraq as a first step towards a solution of the conflict to desist from all armed activity and all acts which may worsen the present dangerous situation and to settle the dispute by peaceful means.

Refugees: The conference unanimously adopted a constructive, if too general, resolution on the subject of refugees.

Third Development Decade: The U.S. explained it could not support the final resolution on this issue because it called for implied funding commitments which Congress is unlikely to fulfill.

The IPU is the oldest and most broadly representative interparliamentary association in the world. It dates its existence from 1889; official membership now includes 89 national groups. The U.S. Congress has been active in the IPU since the first meeting in 1889.

Outstanding achievements of the IPU in the past have included the following: It was key in the establishment of international arbitration early in this century; it has had an important role in European integration; and it began discussion on security and cooperation in Europe and facilitated the Helsinki Agreement. The IPU has also served as a forum for debate and resolution on strategic and conventional arms issues, on the Mideast conflict, on international terrorism and on southern Africa.

The IPU also provides modest technical assistance and facilitates informational exchange to improve parliamentary institutions throughout the world.

The purpose of the IPU, according to its statutes, is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective states in the firm establishment and development of representative institutions and in the advancement of the work of international peace and cooperation, particularly by supporting the objectives of the United Nations.

U.S. participation in the IPU and delegations to meetings are in accordance with 22 U.S.C. 276, as amended by PL 95–45. In accordance with these provisions, delegations are appointed by the Speaker of the House and the President of the Senate. So designated, the delegation that attended the Berlin meeting included the following Members of Congress: Representatives Derwinski, Nedzi, de la Garza, Ichord, Bowen, Wilson, McClory, Erlenborn, Tim Lee Carter and Butler; and Senator Stafford. Representatives Richardson Preyer and Edward J. Derwinski were designated by the Speaker of the House as House Chairman and Vice Chairman respectively, and Senator Robert T. Stafford was designated by the President of the Senate as Senate Chairman.

Mr. BAKER. Mr. President, the 67th Conference of the Interparliamentary Union met recently in East Berlin between the 16th and the 24th of September. I would like briefly to recognize the participation and service of my friend and distinguished colleague, the Senator from Vermont (Mr. STAFFORD) who served as the chairman of the U.S. delegation.

Mr. President, I want to commend Senator STAFFORD for his service because I believe it extremely important that the United States continue its participation in such fora as the IPU to the fullest extent possible. There were 81 countries represented at this conference and we must make a concerted and continued effort to support and defend the United States and its policies wherever the opportunity is presented.

The agenda of this IPU conference was filled with items fundamental to the interests of the United States: the holding of American hostages in Iran; the Soviet invasion of Afghanistan; the use of chemical weapons in Afghanistan and other countries; the Middle East; and even the outbreak of war between Iraq and Iran. From the report of the conference that the Senator just delivered here in this Chamber, it would seem that the delegation of the United States experienced a most challenging several days in East Berlin and that we were well-served by their efforts on our behalf.

I know that my colleagues on both sides of the aisle share my gratitude and appreciation for the efforts of the delegation in general and particularly those of Senator STAFFORD. Few of us are ever enthusiastic about taking the time to attend these conferences but it is a necessary element of our service, and I commend the Senator for his willingness to undertake this most important endeavor.

WORLD BOXING CHAMPION—MARVIN HAGLER

Mr. TSONGAS. Mr. President, I do not often rise to do this but having been involved with one of the problems that Marvin Hagler had a few months ago, I wish to take the time of the Senate to bring my colleagues up to date on what this constituent of mine has accomplished in the last couple days.

Mr. President, not since Rocky Marciano of Brockton has Massachusetts had a world boxing champion. But on Saturday, Marvelous Marvin Hagler brought the world boxing championship back to Massachusetts in a decisive three-round victory over Alan Minter. His victory was particularly sweet because the road to the title was rough—filled with unmet promises of challenge bouts culminating in the controversial Vito Antuofermo fight. In gaining the world boxing championship title in London this past weekend, Marvelous Marvin beat not only Alan Minter but the boxing authorities who said he could never win the title without big time promoters and trainers. Marvin's victory showed that hard work, conviction, and the basic talent which he has shown all along can win the title despite the apparent opposition of the boxing world. Marvin Hagler is the undisputed world boxing champion and though the road was long and hard, the title is his and he's going to keep it.

Despite a sad show of fan violence in the London arena, Marvelous Marvin took the title appearing to be a different class of fighter than his opponent. His strong left in combination with his ability to lead with either hand totally confused Minter. From the second round it was clear that Hagler would dominate the fight and vindicate his claim to the title. As Marvin said after the fight, it was a credit to the referee that he stopped the fight after the third round because Minter was in no shape to continue. Despite the violent reaction of the London fans who threw any available objects at the man that had dethroned their hero, the victory was sweet for Marvin. His years of hard work and patience paid off and the fans' disappointment with the defeat of their champion did not tarnish Marvin's victory.

Marvelous Marvin Hagler has shown the sports world that he is a true champion. His conduct in pursuit of the title has shed new light on the boxing world. He ennobles the profession and is a hero to the people of Brockton and Massachusetts. He truly is Marvelous Marvin.

Mr. President, I ask unanimous consent to have printed in the RECORD an article in this morning's Boston Globe detailing the reception that Marvin Hagler received in Massachusetts.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WELCOME HOME, CHAMP: FORGET LONDON—THEY LOVE HAGLER IN BROCKTON

(By Ray Fitzgerald)

The last time, it hadn't been like this. The last time, almost a year ago, had been an empty-handed return from Las Vegas, a town where dreams have a habit of falling apart.

There'd been only a handful of the faithful at the airport, and though he'd smiled and told them that in his heart he felt he'd won, the record book said, "No you didn't, Marvin. You aren't the champ."

He'd left the airport in an ordinary car, he and the Petronellis, his trainers, and they'd drive to Brockton without fanfare. They'd just . . . well . . . gone on home.

Ah, but yesterday. Yesterday was different. Yesterday afternoon and evening was the last wild loop on the roller coaster, an exclamation point to the most exciting, productive, unforgettable weekend of Marvin Hagler's life.

Hagler came home yesterday as the middleweight champion of the world. He'd cut Alan Minter, the Englishman, into scarlet ribbons in Wembley Arena, London. He'd beaten the incumbent and survived the ugly aftermath, the bottles and other nastiness thrown into the ring by the cultured prizefighting fans of merrie olde England.

And this time, the reception was different. This time, he got the royal treatment. At Logan, the crowd, though not big, was almost violent and frightening. The well-wishers, frustrated by an hour's wait while Hagler went through customs, mobbed the Brockton fighter when he finally came through the swinging doors.

Several people stumbled and fell as state police cleared the way for Hagler to enter a huge black limousine for the "Hey, look me over" motorcade to Brockton.

The motorcade, sirens screeching, plunged into the rush-hour traffic of 5 o'clock Boston and flung itself down the Southeast Expressway to Rte. 24.

"The whole thing was like a dream," Hagler said later. "I've never had anything like that happen to me before. We got to Brockton in a hurry."

Along the route, drivers recognized Hagler and tooted the horn or flung a fist skyward in congratulations. On bridges over the Southeast Expressway and Rte. 24, an occasional citizen would applaud as the motorcade passed underneath.

At Rte. 123, Boston squad cars turned the champion over to the Brockton police. Marvin switched cars, riding into Brockton along Belmont street astride an antique car, a gray Ford Model A convertible with the license plate HAGLER. As he rode, he waved to the onlookers with one hand and waved a small American flag with the other.

Not many people were along Rte. 123, but as the motorcade approached Brockton center, the crowds increased. An estimated 3500 well-wishers were gathered at the 80-year-old Brockton City Hall.

The ceremonies might have come right off a Hollywood set. The Brockton High band played the National Anthem. Marvin began with "Hello, Brockton, it feels good to be home and it also feels good to be an American."

He said that Rocky Marciano had put Brockton on the map and he, Marvin, was going to keep it there. He kissed Rocky Marciano's mother and thanked everyone in her family for being so supportive of him. He also thanked his wife, his mother and father, his trainers and God.

He told the young people in the crowd to go after their dream, the way he had.

"It won't be easy," he said, "but your dream will come true if you want it bad enough."

Placards and signs—"Welcome Home, Champ," "Hail to the Middleweight Majesty"—were everywhere.

When the crowd chanted, "Marvin, Marvin," he moved his muscular arms in rhythm to the beat. He threw kisses to the crowd. He also removed his blue jacket, which said on the back, "Marvelous Marvin Hagler, Middleweight Champion of the World," and threw it to the crowd.

This was a mistake. Several youngsters fought over the jacket, tugging and pulling and getting nowhere. Five Brockton policemen had to break up the brawl, and the jacket ended up back in Marvin's possession.

Gov. King's name was mentioned publicly and was booed only slightly less than that of Alan Minter.

Marvin received the keys to the city and also a new automobile. Finally, Steve Wainwright, Hagler's lawyer, who had shaved his head to pay off a bet with the champ, led the crowd in a chorus of "God Bless America," and the celebration was over.

Hagler, beginning to look tired, returned to the office of Brockton Mayor David Crosby and talked about his feelings and his future.

"This is all even sweeter than I thought it would be," he said. "To have all the pieces come together the way they have, it is really everything I dreamed it would be and more.

"I'm the champion, and I didn't get here as a cheese champ. I fought my way. I earned it."

The future, Marvin?

"That's up to my managers, but I know this. I want to go down as a legend in my sport."

One dream realized, another to go.

NICARAGUA

Mr. DECONCINI. Mr. President, in the time that this body has spent debating the aid to Nicaragua there has been a great concern to many of us in the Senate of the nature of that Government and the influence of the Cubans and Fidel Castro.

I ask unanimous consent that a statement by Mr. Michael Meyer be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MR. MICHAEL MEYER

I deeply appreciate the opportunity to address this distinguished group today.

I only hope, that what I'm about to relate, will be taken in the spirit in which it is presented.

To begin, I wish to state that neither I nor my family have any political ties, affiliations, or special interests in the government of the United States, Nicaragua, or any other country.

We are simply United States citizens, natural born, free born, and, by the grace of God, hope to die in freedom.

In the summer of 1976 my wife Jayne, my two sons, Patrick and Robbie and myself, began to develop a farm in Puerto Cabezas, Nicaragua. The land was more affordable than it was here. I would be able to exercise and investigate my theories about tropical agriculture in lands classified as waste lands, and grow with my family. This Central American country had not only proven to have a stable government, but was closely aligned with the United States. After a period of time, proving and sharing of life's experiences, mutual respect was born, and we lived together with the Nicarguans as friends and neighbors, in particular, the Miskito Indians who composed the bulk of the population in the district of Zelaya. We grew vegetables and planted cacao trees during our 3-year stay and taught the people how to cultivate their land and make it productive. We later learned that we had accomplished the impossible; nothing is supposed to grow in that area except hemp and savannah grass. The people were now expressing interest in growing their own vegetables and introduced to a healthier diet with which they were quite happy. Because of this and our genuine love for the people they loved us and we loved them.

Our nickname was "pobre gringo" (poor gringo), in the beginning assigned to us because of the peoples' imagery that all farmers were poor. Later it became a term of affection. We were part of their individual families, and, for that reason, my family and I are alive today.

Attention was drawn to the agricultural successes and American, Nicaraguan, and Canadian funded organizations sought my agricultural advice. Organizations such as "casim", a Moravian health and community development group and the Moravian school. Both were funded through U.S. and Canadian Moravian churches.

"Cenders" office and "amigos de America" organized and funded through the "University of Wisconsin". Both utilized North American administrations and Peace Corps workers.

"Cepad" office, another organization of the same functions but funded through the "Universal Counsel of Churches" with heavy ties to the "Church of God" in the area, and the Catholic Church, in this instance the "Franciscan" order. North American priests from Wisconsin.

All were eager. I thought, what a triumph for the people living in the area. A time for progress! Later I would sicken at the involvements into subversive activities.

We had some confrontations from time to time. I believed in freedom of enterprise for everyone. It was not found offensive governmentally at the time, but these groups seemed to have strong combined efforts towards co-operatives. Although separate organizations, there was always a type of constant interlocking.

The results? Inspired projects, made very appealing for funding. Double and triple funding for the same projects * * * projects that for no good reason never fully got off the paper they were written on, but the monies were carefully filtered to fund a Communist movement * * * U.S. and Canadian monies! Let me give you some examples: (chicken and cashews).

Early last summer, the news came to Puerto Cabezas by radio * * * the government is changing hands * * * there is nothing to fear * * * the blacks were promised supremacy * * * the Miskito Indians were promised equality * * * and, all were promised running water, electricity and paved roads. On July 19, 1979 at 8 o'clock in the morning the forces of the new government arrived in Puerto Cabezas. There were about 130 of them, in five trucks.

These armed soldiers were not Nicaraguan, they were not Sandinistas, nor were they American or British; they were in fact Cuban. Dressed in Khakis, with Sandinista black and red scarves, armed with automatic rifles, this armed band were led by a guerrilla veteran, Commander Rufus.

On their way into town, a section of these Cubans moved onto our land and our farm was taken from us. We—Americans—well-known throughout Zelaya, were put under house arrest. Our crime—simply that we were Americans.

What evidence do I have that these men were Cubans? Their dialect, their appearance, their boasting to the Miskito Indians, and their repeated statements that they were Cuban to me and my family as we were being hustled into confinement, and beaten by these men. We were held in captivity for five days in a small restaurant we owned in Puerto Cabezas. During this time the Miskito Indians gathered around shouting "this is our mama, this is our papa", and it was their efforts that saved us from immediate execution. While in captivity, our Cuban guards taunted us, not only by pointing riflles at our heads and pulling triggers with the chambers empty, but by boasting of how they would soon take over all of Central America and then the United States. Why did they make these boasts? Because they believed that we would never leave Puerto Cabezas alive.

On the morning of July 24, 1979, a friend of ours who cooked for the people next door came to see us. She embraced my son, Patrick, and started crying. She said we would be shot at midnight * * * About an hour later, a Church of God minister, a Miskito, came in and explained to us that life is like a candle * * * when it is lit, the flame emits democracy and socialism. But when the flame burns down, at its base is Communism. This is the way it is and the way it must be, for it is written in the Bible. About 2 hours later, another friend who had crossed over from the Somoza Government, who must of course remain nameless, to the new government came by. He approached my wife and most sincerely offered her the hospitality of his home for the night, explaining that it might be best if she were not with us that evening. At that point, there was no doubt * * * my sons, my wife and myself would be shot to death at midnight.

In the heat of the day, with temperatures around 110, a flat bed truck loaded with people pulled up between the guard house and our restaurant. We were beckoned to quickly leave through the window and board the truck. These people were our friends * * * The Miskito Indians. Well outside the town, we left the truck and crossed through the jungles of Nicaragua into Honduras and to safety. Our journey was not a pleasant one. We were hunted every step of the way. During our trek to safety, my oldest son and I did things which we did not want to do, but our family's survival depended on it * * * and we did what we had to do.

Finally, we were out of the Communist hell which we had left behind. We lost everything. We had nothing except the clothes on our back. We went to work farming for a Baptist mission in order to work our way back to the United States. During this time, we learned of 5 "schools," each one containing some 2,000 children ranging in age from 8 to 16 in Nicaragua. These children are not being taught the three r's, but how to use Russian-made weapons and to kill. They are fed two meals a day of rice and beans, while at these schools. If they do not perform, they do not eat.

While in Honduras, and since our return to the U.S., we met and talked with scores of men and women who have escaped from Nicaragua. Many of these people held positions of authority under the government of General Somoza. We learned from them of hundreds of Cuban troops in Nicaragua, of Nicaraguans and Cubans being sent to El Salvador; of two jet air strips made operational by Russians, one near Bonanza and one near Rosita. There were also countless reports of killings, without trial, without any recourse to justice, of former Guardia National officers and men, including many reports of a brutal massacre in Estile in July 1979, when, we were told, five hundred guardsmen and their families were murdered.

And there is much evidence that the Sandinistas, with their Cuban allies, now have the ability to infiltrate into all parts of Central America, and even into the United States.

On Saturday, July 26, 1980, I was convinced that instead of keeping quiet, I must relate what has happened and what is happening now, to further assure the safety of my family. At the encouragement of friends, we met with Congressman Larry McDonald and related the whole story in detail. The Congressman then had made a request of us. We presently are here in Washington at his request and relating this story to you.

The basis for his concern is that the Administration has told Congress that Nicaragua is enjoying a Democracy, with few problems, and we can expect to have a close ally in that part of the world. For that reason, we are told that the Congress has appropriated several million dollars to help that country develop. I have capsulized our story because of the time element involved. At the same time, I hope that everything has been put into proper perspective. I am not comfortable doing this of course, but I have been assured that by making this information public, the chances of my family's survival will be greater than it is now. I love my country * * * I love my freedom more than ever because, for a short period of time, my family experienced the horror of losing it.

Thank you for your hospitality.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE ASSINIBOINE TRIBE TO FILE CLAIMS IN THE COURT OF CLAIMS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MELCHER, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1796.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1796) entitled "An Act to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes", do pass with the following amendment:

Page 3, line 1, strike out [case.], and insert: case; *Provided further*, That the court shall give appropriate credit to the United States for that portion of the $2,492,319, to wit the amount of $1,242,796 paid to the tribe by the Act of January 8, 1971 (84 Stat. 1981), in satisfaction of the judgment of the Indian Claims Commission in Assiniboine Tribes against United States, Numbered 279A, affirmed 192 Ct. Cl. 679 (1970).

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1093 and 1098.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the reservation is for the purpose of advising the majority leader that those two items are cleared on our side and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF UNITED STATES GRAIN STANDARDS ACT

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5546) to amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of convevance other than barge to be transferred into such export elevators without official weighing, and for other purposes.

The Senate proceeded to consider the bill.

● Mr. DOLE. Mr. President, I rise to speak in favor of H.R. 5546. H.R. 5546 amends section 5(A) of the United States Grain Standards Act, which requires that all grain transferred into and out of an export elevator at an export port location be officially weighed (except that the Administrator may waive this requirement in emergency or other circumstances that do not impair the objectives of the act).

Under the amendment to section 5(A), the following types of shipments would be exempted from the official weighing requirement unless the shipper or receiver requests official weighing:

First, inbound shipments:

All intracompany shipments (including any shipment of grain owned by a cooperative from the cooperative's inland facility to an export elevator that the cooperative jointly owns with other cooperatives); and

All intercompany shipments in carriers other than barges.

Second, outbound shipments:

All shipments to destinations within the United States.

On June 26, 1980, I introduced S. 2886, a bill that contained similar provisions to those of H.R. 5546.

This legislation is supported by the American Farm Bureau Federation, the National Association of Wheat Growers, the U.S. Chamber of Commerce, the National Grain and Feed Association, the National Council of Farmer Cooperatives, the North American Export Grain Association, the National Grain Trade Council, and other farm groups.

UNITED STATES GRAIN STANDARDS ACT

It is generally conceded that, as a result of the enactment of the United States Grain Standards Act of 1976, the grain weighing process has been greatly improved. According to a 1979 report by the General Accounting Office, most foreign buyers believe that the accuracy of weights of U.S. grain shipments has improved since Federal weighing supervision was initiated.

Despite agreement that export weights are more accurate since enactment of the 1976 legislation, there is significant controversy about the amount of supervision necessary to maintain the reliability and integrity of U.S. grain exports. It is apparent that the requirement that all grain be officially weighed at the time that it is transferred into an export elevator is an "overkill" requirement for which the cost to shippers greatly exceeds the benefits derived from the requirement.

In 1979 the Office of Inspector General of the Department of Agriculture and the General Accounting Office investigated the operation of the Federal Grain Inspection Service and reported to Congress on their findings. Both reports indicate that there is widespread dissatisfaction in the grain trade with the requirement that grain be weighed as it enters export elevators, as well as when it is shipped to other countries. This view has been supported by testimony of grain companies, farmer cooperatives, and farm groups during public hearings on S. 2886, a companion bill to H.R. 5546.

According to the Department of Agriculture, the national average cost for officially weighing inbound grain at export port locations is one-fifth of 1 cent per bushel. It is estimated that, based on an average cost of one-fifth of 1 cent per bushel, the cost for official weighing of inbound shipments of grain in 1978 was over $8 million and in 1979 was over $9 million. These costs are billed to the export elevators and generally passed on to the shippers.

H.R. 5546 responds to the need to eliminate costly official weighing where it is not needed to protect the reliability and integrity of U.S. grain exports. H.R. 5546 establishes several statutory exemptions to the requirements for official weighing at export port locations.

H.R. 5546 does not change the requirement of law that all grain discharged from an export elevator for a destination outside the United States must be officially weighed by State or Federal inspection personnel. This official weighing should provide sufficient protection to assure accurate weights of U.S. grain exports.

The modifications proposed by H.R. 5546 to the other weighing requirements of the U.S. Grain Standards Act will result in a more reasonable weighing program that will continue to assure the integrity of U.S. grain exports.

I urge passage of H.R. 5546.●

● Mr. HELMS. Mr. President, I would like to voice my strong support of H.R. 5546.

As an original cosponsor of similar legislation introduced by my good friend, the senior Senator from Kansas (Mr. DOLE), I have long been convinced that inbound weighing provisions of the United States Grain Standards Act impose unnecessary costs on grain companies. Because those increased posts are passed back, it is the farmer who eventually must bear the burden of this excessive regulation.

By doing away with the inbound weighing requirements for intracompany shipments of grain and intercompany shipments of grain via truck and rail, this legislation will cut the costs associated with official monitoring of inbound weighing by almost one-half.

Furthermore, the integrity of the Federal Government's weighing program will not be compromised by enactment of this legislation. The Federal Grain Inspection Service will retain its authority to officially weigh and inspect all grain leaving an export elevator for foreign destinations and, thus, will be able to continue to serve its vital function of assuring foreign buyers of the quantity and quality of the grain they purchase.

The House has already passed the measure that is now before the Senate. I trust that my colleagues will approve this very reasonable bill so that it may become law during this Congress.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-983), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

H.R. 5546 amends section 5(a) of the United States Grain Standards Act, which requires that all grain transferred into and out of an export elevator at an export port location be officially weighed (except that the Administrator may waive this requirement in emergency or other circumstances that do not impair the objectives of the Act).

Under the amendment to section 5(a), the following types of shipments would be exempted from the official weighing requirement unless the shipper or receiver requests official weighing:

(1) Inbound shipments:

(*a*) All intracompany shipments (including any shipment of grain owned by a cooperative from the cooperative's inland facility to an export elevator that the cooperative jointly owns with other cooperatives); and

(*b*) All intercompany shipments in carriers other than barges;

(2) Outbound shipments: All shipments to destinations within the United States.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5546) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HONORARY CONSUL OF HONDURAS

The bill (H.R. 3956) granting the consent of Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD and excerpt from the report (No. 96-988), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

This private bill would permit Professor Hewson Ryan of Massachusetts to accept the office and title of Honorary Consul of Honduras at Boston, Massachusetts. Although this office carries no remuneration, the bill is required because Mr. Ryan is a retired foreign service officer who also served as Ambassador to Honduras from 1969-73. As a career foreign service minister, the U.S. Constitution (Article I, Section 9, Clause 8) prohibits him from accepting "* * * without the consent of Congress * * * any office or title, of any kind whatever, from any foreign state."

Favorable Senate action on the bill, which was passed by the House on July 16, 1979, would provide Mr. Ryan with the necessary Congressional dispensation.

TOWARD A NEW AMERICAN FOREIGN POLICY

Mr. MATHIAS. Mr. President, we have all been following closely the war taking place between Iraq and Iran. All of us recognize that although only two nations are directly involved, at present, in the fighting, the global implications of their conflict could be very grave indeed. The potential for serious energy shortages in the West, escalating regional violence, and superpower friction arising out of the current Iraq/Iran confrontation cannot be ignored.

We need desperately to set a prudent course through these troubled waters. Our foreign policy must be one which is responsive to the full range of threats affecting our national security and yet guides us in pursuit of clearly defined priorities. I should like to explore this subject in detail with other Senators and with the American people.

PART I—THE CHALLENGES OF THE 1980'S

Americans, with good reason, look back on much of the post-World War II era with some degree of nostalgia. The many international crises we faced during the period prior to our Vietnam engagement were very real. Some, such as the Cuban missile crisis, were potentially catastrophic. But, in retrospect, we never had it so good. We were, in fact and in the perceptions of our friends and foes, the strongest nation on Earth.

Our majority adversary, the Soviet Union, could operate with impunity only within its relatively narrow sphere of influence. Its ability to project its power beyond the territory it overran during World War II was restricted. Its global role was largely that of a spoiler, not of a shaper, of events.

Economically, we had no rival. We were active participants in a global economy, the framework of which was largely shaped to our specifications. But we were not directly dependent on that world economy for our ultimate security. Foreign trade was in no sense critical to our survival as a free and functioning society.

Finally, and critically, there was a high level of popular support in the United States for an activist American foreign policy along the lines of that pursued by the administrations in office in the 1950's and much of the 1960's. The "containment" of Soviet power was a goal acceptable to the American people. The strong American domestic economy made the pursuit of that goal all the easier.

The Vietnam war helped to erode both the economic and popular underpinnings of American foreign policy. Americans came out of that experience with an altered view of the world and, most particularly, with an altered view of our role in it. The domestic base for an activist U.S. foreign policy seemed to have dissipated by the early 1970's. (The Nixon doctrine, with its stress on giving others the tools to pursue our interests, was the policy consequence of this shift in popular sentiment.)

But what became clear only in the latter half of the 1970's was that the world, and our relative position in it, had shifted fundamentally. What is less clear is whether or not Americans appreciate the extent of the changes and are prepared to deal with their implications for U.S. interests.

As we embark on the 1980's, it is vital to understand what sort of a world we are operating in and what sort of forces will impact on our interests in the years ahead. The following points are worth emphasizing:

First. In the early 1960's, the Soviet

Union embarked on a major effort to build up its capabilities in the strategic nuclear, tactical nuclear and conventional military fields. This effort has been sustained up to the present with annual military expenditures amounting to from 11 to 14 percent of Soviet GNP (as against our approximately 5 percent of a larger GNP).

The result of this effort is a Soviet military establishment very substantially larger and far more capable than it was 15 or 20 years ago.

It is, of course, difficult to compare U.S./Soviet military capabilities with any precision. The two countries have emphasized different aspects of their force structures. (We do not match the Soviet Union in numbers of tanks, but they have no equivalent to our carrier task forces.) Nonetheleses, across a wide range of indicators of military strength, the Soviet Union is now challenging the United States.

It goes without saying that other factors must be considered in making the comparison. For example, a substantial portion (roughly a quarter) of the Soviet Union's military assets are directed against the People's Republic of China, whereas the PRC is not, at present, considered by us to be a significant threat to the United States.

But even granting the more varied nature of Soviet security concerns, one is still left with a fundamental conclusion. One major reason the world will be different for the United States in the 1980's than it was in preceding decades is that the other superpower is now our military equal.

Second. There is an unfortunate tendency on the part of some Americans to believe that expanding Soviet power is the only major threat to U.S. security in the 1980's. This perception, unfortunately, is far from accurate. Economic, demographic, political, and other forces at work in the world today are reshaping the very environment in which we will have to operate in the 1980's. These forces could ultimately have far greater impact on our Nation's security than will the Soviet Union.

We are, for example, witnessing a tremendous transfer of wealth to the oil producing nations of the world. The implications of this transfer are still only clear in outline, but the emerging picture is not a reassuring one.

It is estimated that OPEC's net financial assets will reach $380 billion by the end of 1981, up from $8 billion in 1973. In 1980 alone, thanks to the precipitous price rise in 1979, OPEC's current account surplus will top $100 billion, up from about $7 billion in 1978.

Indeed, the World Bank estimates that "the real price of oil is likely to be at least 80 percent higher in 1980 than in 1978."

The impact of higher energy prices is felt everywhere. In 1978, the U.S. oil import bill was $42 billion. This year, it may well top $90 billion. In the nonoil producing developing countries, the situation is particularly grim. The Economist estimates that "Every time the price of oil rises by $1 a barrel, the nonoil LDC's (Lesser Developed Countries) have to find nearly $2 billion more a year to pay for their imports." It is estimated that the LDC's must come up with $65 billion to pay for their imported oil this year alone.

In the past, adding to debt as well as increasing exports have helped to fund LDC oil purchases. These funding avenues are in question.

The Third World is already heavily burdened with debt. It is estimated that the debt of nonOPEC developing countries was approximately $250 billion at the end of 1979, up from $73 billion in 1973. It is not clear how much more financing is available. On the export side, with the deepening economic troubles of Europe and the United States, it is questionable that these markets for LDC exports will remain stable (much less grow). At present, the United States and Europe take over 60 percent of LDC exports.

Nor is the West immune from this cycle. More than 30 percent of the total annual exports of the United States, Europe, and Japan go to the developing countries. Whole industries in the West could be adversely affected by the LDCs' inability to import.

As if this were not enough, the world goes on adding people at a fantastic rate. The population of this globe is now over 4.5 billion and is expected to reach 6 billion within 20 years. "Unless current trends are reversed," according to a State Department report, "the growth of the world's population in the last quarter of this century will equal the growth in world population from the birth of Christ to 1950; 90 percent of that growth will occur in developing countries."

From Cairo to Calcutta, Mexico City to Bangkok, young people are making demands impossible for any government to meet and impossible for any government to ignore without incurring grave risks to its own future. They are asking for food, shelter, and work. They are straining the earth's resources to the breaking point.

These many and varied pressures undermine the political stability of nations all over the globe. Governments are are being replaced with regularity. Authoritarian solutions to governance problems are becoming more common. Leaders are driven to desperate measures to divert public attention from the economic ills which plague them. The 1980's promise to be a decade of great political instability.

Third. Some Americans still believe that we can isolate ourselves from the misery of the rest of the world. The third major reason that the 1980's will be different than preceding decades is that it is now very clear that such isolation is no longer an option for us. After World War II, we took on global responsibilities voluntarily; today we have no choice.

The United States provides the ultimate counter weight to expanding Soviet power. No other country, or group of countries, can realistically expect to withstand Soviet military pressure without the credible backing of the United States.

This basic fact imposes great risks and responsibilities on us. The dangers of a regional conflict escalating and drawing in the superpowers is all too real. The balance of nuclear terror is so delicate that the risks of miscalculation must never be minimized. At the time of the Cuban missile crisis, one side backed down. The next time, the world may not be so lucky.

The problem that we will face in the 1980's—as the example of Iran graphically illustrates—is that the internal resources and cohesion of many countries are being sapped by the forces discussed above. In Korea, Thailand, Pakistan, Turkey, Saudi Arabia, and other countries important to the United States, internal processes at work are weakening the ability of these countries to control their own destinies.

We are also experiencing divergences in interests with our most valued allies in Europe and the Far East. These could become fundamental and unbridgeable. For example, the United States only imports from 40 to 50 percent of its oil and relies on its sizable domestic production for the balance. Europe and Japan have no such cushion. (Japan imports over 90 percent of its oil consumption.) As one observer puts it, these countries live "closer to the edge of catastrophe." This basic fact has conditioned very different European/Japanese responses to Middle Eastern problems in general and the Palestinian issue in particular than those of the United States. In addition, our attitudes on East/West relations have been diverging more and more recently.

But more than strategic necessity and political reality bind us to the rest of the world. Like it or not, the United States is no longer economically independent, a bald fact which by itself dictates our active role on the world scene.

The United States relies increasingly on the rest of the world for its raw materials. In 1950 we imported only about 15 percent of our raw mineral needs. We now import close to 35 percent. For example, we import over 90 percent of the maganese, cobalt, bauxite, and chromium we use. But imported energy is our most critical dependency. In September 1973, we imported 3.4 million barrels of oil per day. On August 1979, we imported 6.7 million barrels of oil per day, almost double the 1973 figure. This amounts to over 40 percent of our daily consumption. Approximately 25 percent of our oil imports come from the Persian Gulf. During the same period, our domestic production, even with Alaska coming on line, stayed essentially flat.

There is every prospect that in the 1980's U.S. dependence on imported raw materials will increase. In fact, the U.S. Bureau of Mines estimates that by the year 2000 only 20 percent of our primary materials will come solely from domestic sources.

This dependence on imported raw materials is only one aspect of an increasing U.S. involvement in a global economy. In 1960 exports provide 5 percent of our GNP; by 1979 this figure had risen to 10 percent. Today, every third acre of farmland in the United States and every eighth manufacturing job produces for export.

Those who say that we can ignore the Third World should ponder the fact that the bulk of our imports of raw materials comes from developing countries. Today, we export more to LDC's than to Western Europe and Japan combined. The twelve fastest growing markets for American exports today are in developing countries.

The impact of all this on the U.S. domestic economy is profound. The U.S. dollar is the currency of the world. Its declining value relative to other currencies pushes up the price of U.S. imports, fueling American inflation. The U.S. Government is unable to exert adequate control over the dollar assets held by foreigners, thus restricting our ability to resolve our inflation difficulties.

We cannot retreat from the problems which face us, but neither can we give in to the pressures which confront us. The challenge to American foreign policy is to understand that we are broadly involved and our responses must be broad. We must not be lulled into believing that we can escape our problems or goaded into thinking they can be resolved by military solutions alone. We face two vital imperatives, in Harvard Prof. Stanley Hoffmann's words, "the imperative to evaluate correctly our own predicament and the imperative to think in the long term."

PART II—THE DOMESTIC BASE OF AMERICAN FOREIGN POLICY

These are the challenges Americans will face in the 1980's. We must ask ourselves whether we are philosophically and institutionally ready and able to meet them. The answer is no.

PHILOSOPHICAL CONSTRAINTS

Americans' view of the world has been conditioned by our country's geographic isolation and its historic material self-sufficiency. We have never had to get along with other peoples. We have never had to understand perspectives other than our own. And we find it difficult to do so.

The world, for us, is divided into good and evil. We are, by definition, on the side of the angels. We do battle with the forces of evil and are surprised when even our friends do not see the global challenges the same way we do. Because we fail to understand what concerns or motivates others, our global policies too often appear irrelevant or dangerous to others.

Because we are used to having our own way within our own geographic sphere, we find it difficult to apply our power subtly and effectively in other spheres. We favor quick, technological solutions to problems. We are prone to believe that the global influence of a nation is only or largely a function of its military strength, and that global problems are amenable to military solutions. We are uncomfortable with nuance or compromise.

INSTITUTIONAL CONSTRAINTS

Many of our foreign policy problems have institutional roots, both in the executive branch and in the Congress.

One overriding problem is that American foreign policy originating from the executive branch has, in recent years, lacked continuity of purpose and direction. The extensive personnel changes with every new administration have undermined the purposeful conduct of foreign affairs. President Carter, for example, put his own people into 16 of the top 22 positions in the State Department. We are reinventing the wheel every 4 years or less.

Moreover, every department of government seems to be actively engaged in foreign policy related activities. For example, our relations with Mexico are conducted through State (diplomacy), Energy (oil), Commerce (trade), Justice (illegal immigrants), and so on. Try as it does, the bureaucracy cannot seem to weave these different strands into a serviceable fabric. The National Security Council should do so, but since McGeorge Bundy it—or at least the senior adviser—has too often operated as an advocate of its own point of view rather than a distiller of other bureaucratic viewpoints.

The complexity and unwieldly nature of the U.S. foreign policy process has been further complicated by the entry onto the scene of a new participant—Congress. In the early 1970's, Congress reasserted itself in the foreign policy arena after a period of some passivity. Its effect on the process has been influenced by recent changes in the nature of the Congress itself.

The dispersal of power among Members of Congress reached a new peak in the 1970's. Today, party leaders cannot deliver their members' votes. Chairmen cannot deliver their committees. The Members joining Congress in the 1970's are a less disciplined lot than their predecessors. Moreover, Congress as an institution has dispersed foreign policy issues across a range of committees. It has no coordinating mechanism analogous to the NSC in the executive branch.

Despite these shortcomings, Congress has injected itself into the foreign policy process with a vengence. Its primary impact in recent years has been to restrict executive branch initiatives, not to formulate policy. The congressional review process has often been constructive. It has also been pernicious at times.

Members of Congress often find it difficult to fit individual foreign policy issues into a larger framework. Aid issues, military sales issues, and even major treaties are too often examined in narrow and parochial terms. There is too little real understanding of the need to sustain foreign policy initiatives with the effective use of foreign policy tools (military, assistance, trade).

RECOMMENDATIONS

A successful foreign policy is dependent on successful domestic policies. To a large extent our foreign policy problems have domestic roots. There are a number of actions we could take at home to make our efforts abroad more fruitful. For example:

First. We put great stock in the image of military might which we project abroad, but nothing has so undermined our credibility in recent years as our inability to get our own economic house in order. Americans traditionally have paid little attention to the position of the U.S. dollar abroad. For foreigners however, this is a prime indicator of the strength of the American economy. The dollar's precipitous drop in value deeply troubles our friends as has our continuing failure to gain control over our excessive use of energy, our inflation rate, our declining productivity, and our low national rate of savings.

These all suggest to foreigners that we cannot manage our affairs, that we are weak and unreliable. For many foreigners, these economic weaknesses are more important than whether or not we can deploy the 82d Airborne rapidly to the Persian Gulf. We must get our economic house in order if for no other reason than that it is a vital underpinning to an effective foreign policy.

Second. The NSC and the job of the National Security Adviser should be returned to what it was most recently under Brent Scowcroft and before that under McGeorge Bundy. The NSC should bring the bureaucratic strands together. It should not be one more competing agency in the Government.

Ideally, power in the foreign affairs field should be restored to the one department of the U.S. Government designed to manage it—the State Department. At the same time, there has to be greater expertise and more continuity of leadership in that organization. The periodic house cleaning that takes place, in the Department itself and in our ambassadorial ranks, does much to reduce the effectiveness of our diplomacy. Our professionals have a great deal to contribute; they should be better utilized.

Third. If Congress is to be constructive in its foreign policy interventions in the future, not only attitudes but institutions will have to change. Perhaps the single most effective action that could be taken would be to establish some sort of coordinating mechanism to bring together the work of the several committees with jurisdiction into a unified foreign policy framework.

More generally, members of Congress will have to develop greater sensitivity to the serious and far-reaching implications their actions have for both foreign and domestic policy. A cut in U.S. contributions to the World Bank, for example, can show up as an increase in American energy bills or in decreased exports of American companies.

The Congress is inherently subject to the force of public opinion in both domestic and foreign policy. It is therefore important that foreign policy issues be framed so that public perceptions are not polarized along narrow and emotional lines. Otherwise the Congress will only intensify its own problems and its own pain while helping to mislead the country.

To make a start at solving our problems, all Americans must learn to appreciate the complex interdependencies of the world we live in. If we do not help Mexico with its employment and population problems, there will be serious consequences for us further down the road. If a Khomeini comes to power in Saudi Arabia, we will feel the effects of that change at the gas pumps. If the Soviet Union does not find our military capabilities credible, we will have to confront increased Soviet global probing.

The purpose of a strong military establishment is not to invite war but to deter it. Those who seek only military answers to our foreign policy problems, however, fail to understand that many of these problems do not lend themselves to military solutions.

We must, in short, begin to pull together, if we are not to pull apart. To do that, we need a strategic policy abroad which can promote American interests and command the support of the American people.

PART III—A STRATEGIC FOREIGN POLICY FOR THE 1980'S

America sits astride a crossroads without a map. A troubling agenda of international problems faces us, but we lack the conceptual framework to address it.

We could, of course, conduct our international relations on a piecemeal, reactive basis, jumping from issue to issue. But every administration since World War II has recognized that this approach is not in our best interests. Without some sense of direction and purpose, our foreign policy is ultimately doomed to flounder.

We live today in a world of radical change. Whether we become victims or beneficiaries of this change depends on the measures we take in cooperation with our friends to meet the challenges of a complex and changing world. If we are to master the future, we must be strong—militarily, economically, and politically. But above all, we must be wise.

Our priority must be to manage the changes we face skillfully enough to prevent the tide of world affairs from going against us. Specifically, our interests lie in insuring that:

The Soviet Union does not so shift the balance of power against the West that it can dictate to us from a position of military supremacy or geographic control of vital resources.

A regional conflict does not so escalate that the superpowers are drawn into a direct confrontation neither wants nor can survive.

The proliferation of conventional arms and nuclear weaponry does not get out of hand to the point that conflicts of ever-increasing intensity become a permanent feature of the world scene.

The alliance system on which Western security rests does not succumb to narrow economic protectionism and diverging political imperatives.

The socio/political ideals of the Western democracies continue to find free expression around the globe.

The fragile balance between man and his environment not be overturned by a world population that outstrips the resources that sustain it.

The United States and her allies retain access to vital raw materials.

To come to grips with these imperatives, we are left with a fundamental and continuing task—to persuade others to join us in building a more stable world.

The tangible tools of persuasion available to us are diplomatic, economic, and military. But they are also perceptual—the confidence others have in our strength, resolve, reliability and the soundness of our approach to world affairs.

What is called for now is not a Pax Americana but a system of cooperative relationships which binds responsible members of the world community in a common approach to the challenges facing all of us. Our problems are all shared problems, the solutions must be shared as well.

For such a system to work, Americans must begin by setting a course designed to bring others aboard. What then should our direction be? Where do our priorities lie?

PART IV—GLOBAL PRIORITIES

ALLIES

At no time since the 1940's has the need to coordinate our responses to global problems with our allies been so great.

All the evidence suggests that the 1980's will expose the United States to an unprecedented range of threats to its security. Soviet power will be relatively greater than ever before. Global economic interdependence will be dramatically accentuated. Indeed, if left to fester, the problems facing the Third World—determining political legitimacy, curbing population growth, or finding the economic resources to maintain life itself—could doom us all.

We simply can no longer avoid the imperative of seeking coordinated Western responses to the common global challenges facing us. The United States cannot, and indeed should not, "go it alone." Our most fundamental priority is the preservation of Western unity in word and deed.

Every U.S. administration since Truman's has supported allied coordination and cooperation but, too often, the practical application of this support has been lacking. When Henry Kissinger went to China and when we ultimately normalized our relations with the People's Republic of China, Japan was among the last to know. Fortunately, Japan favored the policy—but its execution left much to be desired.

Only when our allies participate in the shaping of policy can we be confident they will participate in its execution.

Structuring a foreign policy grounded on cooperation is not easy. Consensus can be difficult to obtain. Many bases have to be touched. Moreover, our immediate interests may not be compatible with those of our allies. All parties have to keep firmly in mind the greater risks of a complete breakdown in alliance cooperation and coordination.

The rewards of a cooperative allied approach to problems can be great. The military, political, and economic strength of the West simply cannot be matched by the Soviet Union and its unreliable client states. This strength, when applied in a coordinated way, can have enormous impact.

Another advantage to this approach is that there are problems for which there may be no American solution, but there could well be a French or British one. The recent settlement in Rhodesia is a case in point.

In sum, our fundamental priority is to maintain the strength and cohesion of the Western alliance. It is the sine qua non in our pursuit of every other interest of concern to us.

ECONOMICS

To a remarkable degree, our foreign policy must be developed with global economic realities in mind.

If Western democracies are going to continue to function as free societies, effective control over global inflation must be achieved and assured access to raw materials guaranteed. If political chaos is not to engulf the Third World, economic progress must be continuous and significant. In an interdependent world economy, all countries have a stake in the smooth flow of goods and services between nations. All nations—to varying degrees—are vulnerable to any interruption of this flow.

Economic imperatives increasingly dictate our geographic interests and those of our allies. Oil is a crucial factor in our approach to Middle East issues. It is a growing factor in our relations with Mexico.

Inflation has become a global phenomenon and requires a global response. The burgeoning debt of the Third World is a Western dilemma as well. The continued role of the dollar as the premier world currency remains a common problem in search of a common solution.

Perhaps because we have such difficulty in dealing with our domestic economy, we shy away from these vastly more complex international economic issues. But, this is a luxury we cannot afford. The health of our domestic economy is tied to that of the world economy. A major priority of the United States must be to pursue a strengthened global economy.

SOVIET UNION

I have delayed examining the U.S./Soviet relationship not because it is not critical, but to underline two points. First, for relations with the U.S.S.R. to be constructive, from our point of view, we must first reestablish good relations between the United States and its allies. Second, although the Soviet Union and the United States can destroy each other militarily, our vulnerability to economic catastrophe is a clear and present danger and would persist even were the Soviet threat to disappear miraculously overnight.

Nonetheless, our competition with the other superpower will continue to be of vital U.S. national concern.

This being the case, it is all the more remarkable that we lack any sort of national consensus on answers to basic questions concerning the Soviet Union and our relations with it. Consider the following list:

What are the fundamental interests of the Soviet Union and what are merely peripheral?

What is the nature of the Soviet threat

to us? Is it primarily military or primarily political or potentially economic?

Are there incentives or disincentives that influence Soviet behavior? What are they?

Is it in our interest to deny to the Soviet Union grain or oil field technology in order to undermine the Soviet economy? Or, by doing so, do we merely support those in Moscow calling for more vigorous confrontation with the West?

In our dealings with countries on the Soviet border, should we be promoting an anti-Soviet alliance or should our approach be more balanced (i.e. What is the role of the "China card"?)

Finally, in our competition with the Soviet Union, should we be primarily concerned with the "lessons" of 1939 when compromise was seen to whet the appetite of an implacable aggressor? Or should we be recalling the events of 1914 when the superpowers of the day were sucked into a catastrophic war by the requirements of mobilization schedules and by the needs of lesser states embroiled in secondary concerns?

Without having resolved fundamental questions such as these, we blithely continue to make tactical decisions of potentially enormous impact on the direction of Soviet strategic thinking. Playing the China Card and approving the introduction of nuclear armed cruise missiles onto German soil are two examples which come to mind.

This is not to argue the merits of these decisions, but only to point out that decisions of such import as these should only be taken within a much larger strategic context. Tactical decisions on issues affecting the U.S.S.R. should only flow from a strategic view of Soviet intentions.

What, then, is the threat that the Soviet poses for U.S. interests? It is obviously military. Soviet strategic nuclear, theater nuclear and conventional military capabilities are sizable and expanding rapidly. Soviet defense expenditures are estimated to be running as much as 30 percent ahead of ours.

Moreover, the Soviet Union has been demonstrating an increasing propensity to project its military presence internationally. Military equipment in vast quantities has been transferred to the Third World. Soviet, Cuban, and East German advisers have been active around the globe. Cuban combat troops have been a significant force in such countries as Ethiopia. The Soviet invasion of Afghanistan represents only the latest escalation in Soviet activity.

The Soviet threat to U.S. interests is also political. Soviet leaders pursue policies designed to separate us from our allies. Soviet agents seek to undermine regimes friendly to the West.

It is quite possibly economic. The Soviet Union may soon be a bidder in world oil markets and a competitor for other natural resources.

Here again, Stanley Hoffmann articulates our dilemma. "Geopolitically," says Hoffmann, "as the main status quo power in a world of change, the United States is on a kind of universal defensive, while its rival can pick and choose the points for attack from among the many ferments of trouble." We sit, today, waiting for blowups in Yugoslavia, Pakistan, and elsewhere.

In structuring a response to the Soviet challenge, we must, however, guard against being one dimensional. Our policies must be for the long term.

Clearly, the U.S./Soviet military balance must be maintained. We cannot permit either the fact or the perception of U.S. military weakness vis-a-vis our major competitor to arise. But neither should our force buildup be mindless. Instead of debating percentage increases in the defense budget, we should be talking about military missions and the force structures necessary to carry them out. What should a Rapid Deployment Force be able to do? The answer to that question should determine how we begin to structure the force.

If only because perceptions matter, we should soft-pedal what has become our excessive public denigration of our own strengths, military and otherwise. The world is far more unfriendly to Soviet interests than many would have us believe. The Soviet Union faces a Western alliance with formidable military capabilities. It is ringed by unfriendly neighbors. It cannot rely on its closest allies. It has little to offer beyond military hardware to Third World countries concerned with economic progress and political stability.

Beyond maintaining our military strength, we must be clear about our objectives. The Soviet Union must understand clearly what we consider our vital interests to be and what penalties attach to threatening them.

Much of our response to the Soviet challenge must be political as well as military in nature. The real threat to the Western alliance is not a Warsaw Pact attack (though we must be prepared for this) but the corrosive effects of diverging interests among the allies being exploited by Moscow. The primary threat in the Third World is not Cuban troops and Soviet advisers but political instability arising from economic and social roots. The Shah, even with his vast military arsenal, could not withstand the revolutionary forces at work in Iranian society.

In our anxiety to respond to the challenges posed by the Soviet Union, we must not overlook what we have in common. Each superpower fears and expects the worst from the other. We each retain the capability of annihilating the other. With the steady increase in and diversification of our respective nuclear arsenals, the underpinnings of deterrence may be eroding. Nuclear war may become a greater possibility in the years ahead.

We tend to forget that accommodation with the Soviet Union, if managed prudently, can be in our mutual interests. The air we breathe is less deadly because both nations are abiding by the 1963 Test Ban Treaty. We share a need to control nuclear arms and reduce the possibility of conflict.

In short, we need a decathlon policy for dealing with the Soviet Union. No single strength or skill will suffice. We must have the capacity to take the initiative in the economic sphere, in political cooperation, in military power, in technological transfer, in cultural exchange, et cetera.

We must evolve a policy toward the Soviet Union which employs both the stick and the carrot. We must, on the one hand, be clear about our vital interests and our ability and willingness to defend them. But, on the other hand, we must also understand that the Soviet Union has vital interests of its own. "The worst possible situation," writes Seweryn Bialer of Columbia University, "is when the U.S.S.R. feels that it has nothing to fear from the U.S. and nothing to gain."

In the final analysis, we should seek stability and predictability in our relations with our major competitor.

GLOBAL ISSUES

Our relations with our allies, our international economic concerns, and our competition with the Soviet Union are, of necessity, priority concerns for U.S. policymakers. But these issues cannot be permitted to dominate our thinking to the extent that we ignore the host of "global" issues that ultimately could have a far greater impact on our Nation's security and well-being.

It is increasingly clear that we must devote more attention to the Third World and Third World issues—political legitimacy, population, hunger, debt, trade, and security. We have to concern ourselves with the question of nuclear proliferation. Finally, we must deal with the continuing deterioration of the global environment.

It is vital to stress that these global issues require our consideration quite apart from our pursuit of our other interests.

No sensible animal fouls its own nest. Yet man is progressively destroying his environment. Unless we actively move to repair the damage, we will have to share in the consequences.

Dramatic population growth and hopeless poverty in the Third World will increase the incidence of waves of refugees cast upon our shores and pressures for more immigration.

Six nations have exploded nuclear devices. But a number of others are believed to be capable of doing so. The day may not be far off when Libyans, Iraqis, and Pakistanis have nuclear bombs. That should be of concern to us.

Finally, and specifically, we should not let our competition with the Soviet Union so dominate our thinking that we are unable to respond to Third World needs except in terms of that competition.

One of our greatest challenges—and worst failings—has been our inability to frame a constructive framework for responding to Third World challenges. Our security is at stake in the future stability of Saudi Arabia and Nigeria. Yet we understand little about the forces at work in these and other Third World countries.

PART V—REGIONAL POLICIES

Our conceptual priorities—centrality of alliances, economic imperatives, et cetera—have regional implications which are important to consider. A sound U.S. foreign policy must be grounded in active and sensible policies in Western Europe, the Middle East, Japan, and the Western Hemisphere. These regions must receive the focus of U.S. policy initiatives.

WESTERN EUROPE

Our relations with the major nations of Western Europe are fundamental to the United States. These relations are, however, currently under strain for the following reasons:

The credibility of American strength, reliability, and commitment is widely questioned in Europe. The European responsiveness to global challenges is doubted in Washington.

Europe and the United States appear to have divergent interests on Middle East and East-West issues in particular.

Economic problems on both sides of the Atlantic inevitably promote talk of regional or national rather than Western responses to these problems.

Nonetheless, there remains widespread understanding of the overriding commonality of certain Western interests.

Only the Soviets can gain from a split in the Western alliance, a split they are actively attempting to promote. Moreover, the augmentation of Soviet military power has direct implications for the European balance. This is particularly the case given the weakening of the Southern flank of NATO in recent years. Turbulence in the Third World poses a general threat to the West and a particular threat to European nations dependent on raw materials for their economic survival. Yet institutionally, in the military sphere in particular, we are not prepared to deal with conflicts outside of Europe. NATO was set up to respond to European not Middle Eastern crises.

The United States, and her key European allies, must begin by stepping back from the tactical discussions—Afghanistan, trade, Iran, and so forth—which occupy so much of our time, and try to reach a consensus on the strategic challenges which face our alliance. Only then can cooperative programs be devised to meet these challenges.

The strategic framework for our East-West and North-South relations must be constructed so that crises, such as are occurring now in Afghanistan and Iran, can be dealt within the context of larger realities.

Only in this way can we mitigate the inevitable tactical disagreements which are today splitting the alliance.

But if these programs are going to obtain the necessary consensus support, there will have to be accommodation by all parties. Specifically, the United States must:

First: Begin to negotiate with her allies. The era of simple notification after decisions is over. Our European friends, if they are to be expected to lend their power to policies, must have a hand in the formulations of those policies in genuine consultation.

Second: This means that the European component of our foreign policies must increase. This is difficult for us to accept and understand, but it is this very departure that could determine the success or failure of these policies.

Europe must:

First. Understand that with power comes responsibility. Germany, France, and Britain must reorient their thinking to the global challenges which can undermine their regional security. The battle for Bonn may be lost in Kabul or Riyadh.

Second. The European component in the global "burden sharing" must become more significant. Americans must not be left with the feeling that they are alone on the front line while Europeans reap the benefits of détente.

THE MIDDLE EAST

The United States has longstanding ties to certain nations in this region. We are, for example, committed for a variety of good reasons to the security and well-being of the State of Israel.

A primary interest in the Middle East of the United States and her allies is continued access to adequate supplies of energy at "acceptable" prices. We get one-quarter, Western Europe two-thirds, and Japan three-quarters of its imported oil from the Persian Gulf.

Access to this oil is threatened by political instability in the region, Soviet activity, and by the continuation of the Arab-Israeli conflict.

Ever since World War II, the Middle East has been a region of political instability. The continuing search for national identity and political legitimacy in that part of the world has not been an easy one. The experience of Iran provides only the latest example of just how difficult this process can be. It is quite possible that abrupt shifts in the ruling elites, such as took place in Tehran, will occur in other countries in the region.

Soviet activity in the Middle East must also be viewed as threatening to us. In recent years, as has been noted earlier, there has been a particularly determined effort by Moscow to expand its influence in that part of the world. This effort has not always met with success, but it continues. The Soviet use of surrogates such as the Cubans and East Germans is a particularly worrisome phenomenon.

The Arab-Israeli conflict represents a dangerous situation for the United States. There is always the possibility that this conflict could expand into a direct superpower confrontation. Moreover, the continued absence of an acceptable solution to the Palestinian issue affects our other relations in the Middle East. Quite obviously, our problems in the region would not disappear if this and other issues were resolved. However, our ability to concentrate on our pursuit of our other interests in the region would be enhanced by an enduring resolution—that is, acceptable to Israel and the Arabs—of these issues.

We have not been very adept at constructing policies responsive to these challenges. We have yet to determine the proper balance between maintaining the status quo and recognition that inevitable change in the region will leave us behind unless we are nimble. Moreover, our tendency has been to "go it alone" in the Middle East in the last decade. We abandoned the Five Power talks for one-man shuttle diplomacy. We are now developing a Rapid Deployment Force for the region that could send us hurtling into the Middle East alone and unaided.

We must begin by recognizing that there are severe limitations on our ability to maneuver in that part of the world. There is a tendency in some quarters in the United States to want to believe that our only problem in the Middle East is that we are no longer respected. Our "power" is no longer feared and our "will" is in question.

There is an element of truth in these assertions, but to the extent that their adherents believe we can restore American influence through the use of military force alone, it is a dangerous misconception.

We have to recognize that the nations of the Middle East suspect us of having ulterior designs in the region. For us to use our own military forces to resolve what is seen as an internal Middle East issue would be to confirm their worst fears. It would not lead to greater respect. It would lead to a far greater regional coalescence against an external American threat.

We must, in short, walk a fine line in which we make clear our ability to defend our interests without exercising that ability indiscriminately in a misguided effort to demonstrate our will. This suggests, of course, that we must begin to involve our allies—regional and external—far more than we have in the past in cooperative approaches to regional challenges.

We must have priorities. Recent administrations have been right to focus on resolution of the Arab-Israeli conflict. Our ability to work constructively with both Israel and Egypt will be enhanced when these countries are no longer isolated in the region. Quite clearly, we must provide more effective responses to Soviet challenges. Augmenting our naval capabilities in the Indian Ocean is certainly necessary.

We must not, however, permit Soviet activity in the Middle East to blind us to the underlying political/economic problems in the region. These countries will develop their own antibodies to Soviet expansion if we assist, not threaten, them.

FAR EAST

The United States has vital strategic interests in the Far East. They affect both our security and our economic well-being.

These interests include: insuring the safety of U.S. allies in the region; maintaining regional stability particularly with respect to possible conflict situations in Korea, Taiwan or Southeast Asia; and promoting stable economic relationships between the United States and the countries of the region.

The cornerstone of our Asian relations is, and must continue to be, Japan, our strongest and most reliable ally in the area. Japan has the second or third largest economy in the world. It is strategically located and is tied to the United States by mutually binding treaty commitments.

U.S. relations with the Japanese have not always been easy. Our refusal for many years to normalize relations with the PRC and our involvement in Vietnam strained our ties with Tokyo. Economic differences remain an ever present source of potential friction.

Nonetheless, there is a general understanding on both sides of the Pacific that what binds us is far greater than what separates us. It is important, therefore, that our commitment to the relationship be strengthened. The Japanese are understandably concerned by our talk of troop withdrawals from Korea and a "swing" defense strategy that would send U.S. Pacific-based military assets to Europe in the event of a crisis there. Sending our 7th Fleet carrier task force to the Indian Ocean did nothing to dampen these concerns.

Our relations with Korea are of a different sort. We have a historical commitment to that country's security, which is vital to maintain if for no other reason than that Korean security has great significance for Japanese security.

Our most difficult regional policy dilemmas are with the Peoples' Republic of China. Few disagree that cooperative relations between the PRC and the United States are in the mutual interest of both countries. It is much less clear how close these relations should be.

We have tended to display great enthusiasm for the PRC connection without, perhaps, sufficiently considering the pitfalls of overplaying the China card.

Chinese leaders have attempted to draw the United States into a more confrontational stance vis-a-vis the Soviet Union. These efforts have, of course, provoked considerable concern in Moscow. A little bit of Soviet uncertainty regarding the extent and purpose of United States-PRC ties is not unhealthy. Henry Kissinger understood this well. But too much uncertainty could be catastrophic.

The point is a relatively simple one. The Soviet Union has the military capability—and may also have the necessary paranoia about Chinese intentions—to wipe out the People's Republic as a functioning society. It is in our interest to improve our relations with Beijing but not at the expense of creating major tensions in Moscow. Our relations with the Soviet Union and our interest in avoiding a major Sino/Soviet military confrontation must temper our hot pursuit of improved ties with China.

We should certainly proceed with the improvement in our economic and cultural interaction but stay away from military ties with Beijing.

Whatever improvement in United States-People's Republic of China relations occurs will have to take place despite the internal political instabilities in China and the nonresolution of the Taiwan issue. We cannot hope to have much effect on the first and must remain resolute in our insistence that the second be resolved by peaceful means.

In the rest of the region, we must continue in the closest relationship with Australia and New Zealand. We should seek to understand and respond sympathetically to the economic aspirations of the people of Asia. But, we cannot expect to exert great influence on their security arrangements. The response, for example, to Vietnamese expansion must come largely from local forces not American.

WESTERN HEMISPHERE

We have historically neglected our relations with our neighbors. Key bilateral relations have not been properly nurtured and regional priorities have traditionally been overshadowed by other foreign policy concerns.

Three countries, in particular, are of critical importance to the United States in this hemisphere—Canada, Brazil, and Mexico.

The United States has traditionally devoted insufficient attention to its relations with its northern neighbor. We have assumed too much. It is not too late to rectify this mistake, but considerable effort will be required on our part. Canada's interests do not necessarily converge with ours and managing our differences in the decade ahead will be of vital importance to both of us.

Brazil has traditionally had close relations with the United States. In the economic field, 19 percent of Brazil's exports go to the United States, we supply 16 percent of Brazil's imports, and our banks supply close to a third of Brazil's foreign debt. In each of these categories, we are Brazil's largest partner.

However, Brazil is determined to chart a course independent of the United States. It is determined to play a role on the world scene commensurate with its size—fifth largest country in the world—population—sixth most populous with 125 million inhabitants—and economic clout—eighth largest Western economy with a 1979 GNP of $200 billion.

For the United States to deal with Brazil constructively, we must be willing to address ourselves to the issues—largely economic—which concern her. Brazilians recognize that their fate is, in part, tied to ours. An economic recession in our country inevitably has negative repercussions in Brazil. What Brazilians want and need is U.S. movement on commodity, trade, and technology transfer issues. If Brazil's economy is to maintain its impressive growth rate, her commodities must be traded in a more predictable pricing environment. She must have access to our markets and to our technology.

By the mid-1980's, Mexico could be our largest single trading partner. At present, Mexico sends over 70 percent of its oil exports to the United States. It could become a growing source of energy for us in the future.

There are, however, severe strains in our bilateral relations. These are, in part, inevitable. Mexico is seeking a separate role in the region and the world. Inevitably, this involves distancing itself from the United States on certain issues. We, on the other hand, have not been sufficiently sensitive to Mexico's special concerns. We have not accorded that country the respect it deserves.

We can no longer avoid the problems and the opportunities that exist with regard to United States-Mexican relations.

Mexico has a population of 65 million which could double by the year 2000. Today 30 million Mexicans are under the age of 14. Mexico is our largest single source of undocumented aliens. Unless this problem is dealt with, it will plague our relations for years to come. Part of the solution may be in the fact that 8 of Mexico's 32 states account for 80 percent of all Mexican migration to the United States. If we could help solve the economic problems in those states, the issue of illegal immigration could become more manageable.

But the United States needs not only good bilateral relations in the Western Hemisphere, it needs good regional policies as well. This is particularly the case with respect to the Caribbean area.

We have unwisely neglected the Caribbean region. It should be a vital regional priority of the United States to remedy this neglect quickly.

The Caribbean, and the countries in and around it, form the strategic underbelly of the United States. Through the Caribbean flows more than 50 percent of our annual oil imports. It commands the entrance to the Panama Canal. It—in particular Jamaica—is the source of much of our bauxite. Last, but not least, the Soviet Union has established a presence there which is potentially threatening to us.

These are all sound security reasons for paying more attention to the countries of the Caribbean, but there are domestic American reasons as well.

The United States is now the fifth largest Spanish-speaking country in the world. The 17 to 22 million Hispanic Americans may shortly be our largest minority. Moreover, the Caribbean is now our second largest source of undocumented aliens—after Mexico.

The barriers to effective U.S. policies in the Caribbean are enormous. Political instability is endemic to the region. It arises out of the failure of nations in the region to reach internal agreements on issues of political legitimacy. Who should hold power and how should power be transferred? These political problems are exacerbated by severe economic and demographic strains.

The combination of economic mismanagement, high oil prices, and low commodity prices has created a regional economic depression. High unemployment is rampant. High emigration saps the regional talent pool. All these problems are made worse by a dangerous demographic situation. The median age in the Caribbean is 16, as compared to 29 in the United States. The young people in the Caribbean, collectively, constitute a time bomb set to explode.

We will have to live with the inevitability of change—sometimes violent—in the region.

We must awaken to these challenges. Certainly we must not neglect the possible military implications of joint Soviet-Cuban activity in the region. But real problems also lie elsewhere. We cannot deal with them by blaming Cuba for all the unrest in the area. The Soviet Union would like nothing better than to have the Caribbean polarized between those who are "with us" and those who are "against us."

I can, therefore, think of no region of the world for which it is more important to have sound aid and trade policies. We will want to achieve the proper balance between bilateral and multilateral assistance. But there must be no question that the United States is not ready to assist in the economic rehabilitation of the region. We must also be more receptive to exports from the Caribbean. Exports mean jobs for these countries and until unemployment is reduced political instability will be a fact of life.

In the final analysis, however, we can only assist the countries of the region to assist themselves.

PART VI—CONCLUSION

The world is daily becoming a more dangerous and difficult place for Americans. We are becoming more dependent on a global economy for our welfare. The problems arising—for us—out of our dependencies are exacerbated by worldwide regional instabilities and by an increasingly powerful and aggressive adversary. Our ability to apply our still considerable political, economic, and military power to confront these challenges to our interests is circumscribed by the very nature of the problems.

Our reaction to these challenges has been halting and, too often, ineffective. We have sadly failed, as a nation, to develop a consensus around prudent foreign and defense policies. The executive branch of our Government appears incapable of articulating a larger vision of our future. Congress is unable to rise above parochial concerns to meet the national challenges and, where possible, avoids decision. Americans generally are refusing to consider fresh approaches to the serious problems we face at home and abroad. We remain mired, as a people, in the past.

Our foreign policy must, of necessity, continue to be predicated on the bipolar superpower confrontation but more is demanded of us. The challenges we must deal with are too multifaceted to make such a single approach relevant. Instead, our foreign policy must be grounded in an alliance system which is cooperative and positive, while also capable of the negative function of restraining the Soviet Union.

It can, of course, be argued that such a policy—because it impinges on the centrality of United States-Soviet relations—will not prove adequate to meet the Soviet challenge. I would argue just the opposite. By emphasizing the priority of cooperation with our allies, we will be responding to that challenge. By confronting our economic problems, we strengthen the Western alliance. By responding to the legitimate needs and concerns of the Third World, we help shore up defenses against Soviet expansionism. We are, if you will, practicing former British Ambassador Peter Jay's dictum that "good regionalism (is) good geopolitics."

But we should take these measures not just because of the Soviet threat but because it is the best way to survive the other threats which will beset our nation in the 1980's and beyond.

There is an apprehension that the American people will not support a foreign policy which is not one dimensional—that is, antisomeone. I disagree. I believe that Americans are capable of great understanding and resolve if they are shown what we are up against.

We have an urgent agenda. Delay in acting could spell disaster.

VIEWS ON THE ECONOMY: AN ILLINOIS PERSPECTIVE

Mr. PERCY. Mr. President, the economy is one of the foremost issues in this year's election. There are good reasons for this. Inflation is still running along in double digits, the jobless rate is still above 7½ percent, and GNP plunged in the second quarter of this year.

The economy is in a recession yet inflation has hardly abated. It seems to be a case once again of "stagflation," slow economic growth and rapidly rising prices. From the workers' and consumers' point of view, this is the worst possible world, with the price of essential products steadily rising and jobs vanishing. We need strong leadership and targeted policies to get the Nation's economy back on track. Even when the recovery begins—some economists say it already has—we will need to take stock of the U.S. infrastructure to restore the vitality that we knew in the 1950's and 1960's.

What is the best near-term route to a sustained recovery? There are many options that have been discussed this year. We are fortunate that there is a fairly strong consensus for a new industrial policy. All major Presidential candidates, for example, have espoused views on this during the campaigns this year. A number of proposals have been put forward in Congress to increase jobs, spur corporate investment, retard regulatory growth, and build domestic energy reserves. All of these are elements of a sound and sustained recovery and I expect them to be prominent in congressional deliberations over the next several years.

The U.S. Chamber of Commerce put its finger on the pulse of the public when it commissioned a poll by the Gallup survey this summer. The nationwide survey, based on a scientific sampling of over 1,500 consumers, found the following:

The sum of 54 percent favor a 10-percent tax cut this year; 30 percent felt it would be better to wait and the remainder were undecided;

Only 24 percent thought tax reduction would be inflationary while 47 percent thought it would increase investment and 30 percent said it would spur job creation;

On the question of whether it was more important to cut individual income taxes—and speed consumer spending—or increase business investment—through targeted tax cuts—the respondents were equally divided at 38 percent each;

More than 75 percent favored a personal income tax cut over a reduction in social security taxes.

At about the same time the Gallup poll was interviewing consumers across the country about inflation, I was sending out my own questionnaire, touching on similar questions, to my business, labor, agriculture and congressional district advisory committees in Illinois.

Mr. President, I ask unanimous consent that the results of this questionnaire be included in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, the groups I questioned are diverse, including small business, organized labor, local officials, consumers, and farmers. They did not agree on all aspects of an economic program, but I found their responses to be most helpful in gaining a wider understanding of just what these various groups feel about these important issues.

Let me just highlight the responses from the various groups:

BUSINESS

There was complete unanimity on the need for a change in the depreciation tax laws—100 percent. There was also more than 80 percent support for a further cut in the capital gains tax, a higher level of exclusion for interest and dividend income and passage of comprehensive regulatory reform legislation. On the question of timing of a tax cut, the business respondents were equally divided between a cut now and one next year. I was surprised to see the extent of support for a 50 cents gasoline tax in this group—42 percent.

LABOR

Of the respondents in this group, 42 percent support an immediate tax cut, but 25 percent advise that we wait until next year. A third of the group do not support a tax cut at all. There was over 80 percent support for two proposals: indexation of individual income taxes and creation of a $12 billion antirecession jobs program. Three-fourths of the labor respondents opposed a 50 cents a gallon gasoline tax.

AGRICULTURE

Two-thirds of the respondents favor an immediate tax cut, the remainder recommend a cut in 1981. There was strong unanimity in this group for business and individual tax cuts. Only on the question of indexing individual rates did the respondents drop below 80 percent approval; in this case to 69 percent support for indexing. Strong sentiment was voiced against the $12 billion jobs program—88 percent opposed—and, like the labor group, against a gasoline tax—75 percent.

CONGRESSIONAL DISTRICTS

In a response almost identical to the agriculture group, 67 percent support a tax cut this year. A difference between these two groups is that 10 percent of the congressional district respondents urged no tax cut at all. Again like the agriculture group, there was well over 80 percent support for business and individual tax reductions. The only exception to this was on the question pertaining to a 10 percent across-the-board individual tax cut, where support was limited to 68 percent of respondents. Strong opposition was expressed to a multibillion dollar jobs program and a gasoline tax. Interestingly, the congressional district respondents agreed most closely with the labor group on the question of the gasoline tax.

Mr. President, I am most grateful to the respondents for taking the time to fill out my questionnaire on the economy. We can see from the results that there is unusually strong support for tax cuts that will generate investment and, ultimately, more jobs. Strong sentiment exists for immediate passage of regulatory reform legislation as part of an anti-inflation program. Labor is the only group that lends its support to a $12 billion jobs program and none of the groups could muster a majority for support of the gasoline tax.

These are all important public issues and I commend the results of this poll to my colleagues.

EXHIBIT 1

ILLINOIS QUESTIONNAIRE ON THE ECONOMY

(Figures may not total 100 percent because of rounding)

1. Congress is now considering tax cut proposals for both individuals and business. Do you favor a tax cut?

[In percent]

Business:	
Now	47
Next year	47
Not at all	6
Labor:	
Now	42
Next year	25
Not at all	33
Agriculture:	
Now	67
Next year	33
Not at all	---
Congressional:	
Now	67
Next year	23
Not at all	10

2. If Congress does take action on tax cut legislation, in your opinion a package of tax reduction proposals should include:

A. more rapid write-offs for business investment in plant and equipment such as the 10–5–3 year write-off periods for structures, equipment and rolling stock contained in the Capital Cost Recovery Act.

[In percent]

Business:	
Agree	100
Disagree	---
No opinion	---
Labor:	
Agree	67
Disagree	17
No opinion	17
Agriculture:	
Agree	88
Disagree	13
No opinion	---
Congressional:	
Agree	85
Disagree	5
No opinion	10

B. an across-the-board cut of 10 percent in individual income taxes to help offset a $40 billion tax hike next year (due to social security rate increases and inflation).

[In percent]

Business:	
Agree	60
Disagree	31
No opinion	9
Labor:	
Agree	50
Disagree	50
No opinion	--
Agriculture:	
Agree	81
Disagree	19
No opinion	--
Congressional:	
Agree	68
Disagree	20
No opinion	13

C. indexation of individual income taxes to prevent inflated salaries from pushing taxpayers into higher income tax brackets.

[In percent]

Business:	
Agree	58
Disagree	33
No opinion	8
Labor:	
Agree	82
Disagree	18
No opinion	--
Agriculture:	
Agree	69
Disagree	13
No opinion	19
Congressional:	
Agree	85
Disagree	10
No opinion	5

D. further reduction in the tax rate on capital gains, from 28 to 21 percent for both business and individuals as embodied in the Cranston-Percy bill.

[In percent]

Business:	
Agree	97
Disagree	3
No opinion	—
Labor:	
Agree	58
Disagree	33
No opinion	8
Agriculture:	
Agree	94
Disagree	—
No opinion	6
Congressional:	
Agree	90
Disagree	8
No opinion	3

E. Higher levels of exclusion for both interest and dividend income on top of the new $200 exclusion per taxpayer ($400 on a joint return) for interest and dividends which Congress enacted earlier this year for 1981 and 1982 (Percy-Bentsen bill).

[In percent]

Business:	
Agree	83
Disagree	14
No opinion	3
Labor:	
Agree	75
Disagree	25
No opinion	—
Agriculture:	
Agree	94
Disagree	6
No opinion	—
Congressional:	
Agree	93
Disagree	8
No opinion	—

3. A proposal has been made recently to establish a $12 billion anti-recession program that would create some 800,000 new jobs. Regarding this measure, do you

[In percent]

Business:	
Agree	11
Disagree	78
No opinion	11
Labor:	
Agree	92
Disagree	8
No opinion	—
Agriculture:	
Agree	6
Disagree	88
No opinion	6
Congressional:	
Agree	3
Disagree	85
No opinion	13

4. Congress has been working for two years on reform of the federal regulatory process which would require federal regulators to look at costs of new regulations and evaluate their impact on productivity. This should

[In percent]

Business:

be passed immediately as part of an anti-inflation program.

Agree	89
Disagree	9
No opinion	3
Labor:	
Agree	50
Disagree	33
No opinion	17
Agriculture:	
Agree	100
Disagree	—
No opinion	—
Congressional:	
Agree	90
Disagree	8
No opinion	3

5. Energy conservation is vital to the future of our economy. A 50¢ per gallon gasoline tax has been proposed to help conserve energy and reduce dependency on foreign oil.

[In percent]

Business:	
Agree	42
Disagree	53
No opinion	6
Labor:	
Agree	25
Disagree	75
No opinion	—
Agriculture:	
Agree	13
Disagree	75
No opinion	13
Congressional:	
Agree	28
Disagree	70
No opinion	3

SHOULD THERE BE PEACETIME REGISTRATION?

Mr. PERCY. Mr. President, the Pioneer Press of Wilmette, Ill., recently published the opinions of two distinguished community leaders on the issue of draft registration. The arguments are succinct and, I believe, represent the best points on either side.

Mrs. Marjorie Craig Benton argues the case against registration. She has had a longtime interest and involvement in issues of national and international importance. She has served as a U.S. delegate to the U.N. Special Session on Disarmament as well as to the 32d session of the United Nations General Assembly. She is now serving as the U.S. Representative to the executive board of UNICEF.

Gen. John D. Lawlor, a retired Army brigadier general, makes the argument in favor of registration and also supports eventual return to the draft. General Lawlor is a graduate of West Point, has a masters degree in international relations, and served for 34 years in the Army, much of the time spent in Washington as a political-military planner.

Mr. President, I ask unanimous consent that the article from the September 4, 1980, edition of the Pioneer Press be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHOULD THERE BE PEACETIME REGISTRATION? No!

(By Marjorie Craig Benton)

Many people who support peacetime registration and the draft are under the assumption that this is the "patriotic" position to take. In fact, history is clearly on the side of those of us who stand opposed to such actions. During the 204 years of American history, the draft has been in effect for only 36 of those years—less than 18 percent of the time of that period, two-thirds of the years were war years.

One of the major abuses of power that led to the Declaration of Independence was the stationing of large numbers of British troops in Colonial America. This fear of large standing armies prevented the enactment of a draft prior to the Civil War. In 1917 and in 1940, long before the advent of computers, this country was perfectly capable, after an emergency was declared, to register people in a single day. It was not until the eve of World War II that the first peacetime draft was passed after a bitter debate. Sen. Vandenburg (R-Mich) argued that "Peacetime conscription is repugnant to the spirit of democracy. . . ."

Beyond the historical case, I stand opposed to peacetime registration for the following three reasons:

1. It is unnecessary for our national defense:

The Carter Administration has attempted to portray registration as speeding up our ability to mobilize troops in the event of a crisis. According to the Department of Defense, the first inductees must be delivered within 30 days after mobilization. This is as fast as the military can process new inductees.

Prior to his State of the Union Message in which President Carter reversed his position and called for peacetime registration, the Selective Service prepared a report on mobilization options. A previously classified report recommended against pre-mobilization registration stating that, "The post-mobilization option is by far the most cost-effective * * * and is the option chosen by the Selective Service."

It seems clear to me that the registration plan was not done for military reasons but rather to satisfy some domestic political opponents.

2. Peacetime registration will lead to social division and polarization:

Predictions that large numbers of young men would fail to register were prophetic. According to Ron Freund, midwest director. for Clergy and Laity Concerned, over 30 percent of the eligible registrants in the Chicago area were not registered. If this trend prevailed nationwide, it would mean that over 1.2 million men were in violation of the law!

Could—would—the nation want to prosecute 1.2 million men? Not only is the law impossible to enforce, it can only produce the opposite signal for which it was intended. As a Department of Defense study done in 1978 concluded, "Signs of public hostility to the U.S. military could seriously degrade the deterrant value of our forces and invite adventurism by our political adversaries."

Add to this, the problem of registration of women. The President has requested that the Military Selective Service Act (M.S.S.A.) be amended to include authority to register and induct women. Should Congress fail to follow this, and males-only registration goes forward, the M.S.S.A. would probably be declared unconstitutional. A male-only registration violates constitutional guarantees of equality under the law.

This issue is bound to be devisive—and is already causing anguish among women who will feel torn between a desire for equality and their traditional pacificism. Rep. Pat Schroeder (D-Colo.), a member of the House Armed Services Committee has said, "If equal rights is all about insisting that women should be as warmongering as men, then we've blown it." I agree!

3. Military and social expenditures are competitive:

Ruth Sivard, author of "World Military and Social Expenditures, 1979" says, "In rich and poor nations alike, governments neglect elementary social needs in order to expand military power." And a stunning specific example is that on a global basis, society now invests $16,000 a year per soldier, $260 a year in the education of a school-aged child. Yes, where are our priorities and what kind of example do we set for the rest of the world?

Our history shows that when we are truly threatened, we have had successful one-day registration—even prior to today's advanced computer technology. On June 4, 1917, 10 million men were registered. On Oct. 16, 1940, 16 million men were registered. In the two months following Pearl Harbor, 290,000 persons volunteered. Under genuine national security emergencies, people do sign up and are proud to serve their country.

I believe that today we are not in genuine national emergency; that is why I oppose—strongly—peacetime registration and draft.

YES!

(By John D. Lawlor)

Why is registration necessary?

Civilian and military planners currently think that registration will save a significant amount of time in the event this country is required to mobilize to meet an external threat. The time saved, estimated at about two months, could prevent a catastrophic defeat with the loss of many lives.

Moreover, it is highly significant that this view was recognized in the report of the Gates Commission, a group of prominent civilian and military thinkers appointed by President Nixon whose 1970 report laid the framework for the formation of the all-volunteer force. The Gates Commission envisaged that the volunteer force would exist side by side with a system providing for ongoing registration of young people who did not choose to volunteer for the military. Then, as now, it was felt that registration was needed to speed up mobilization.

Finally, it is worth noting that planners have traditionally looked to three groups to meet the defense needs of the country: the Active Force, the Reserve Force and all other citizens.

Registration may be necessary, but it may lead to a draft, and a draft takes away personal freedoms, doesn't it?

John Stuart Mill wrote in his classic "On Liberty"—"everyone who receives the protection of society owes a return for the benefit," and each person is responsible for "bearing his share (to be fixed on some equitable principle) of the labours and sacrifices incurred for defending society."

There is no doubt that if the Selective Service System is put back into full operation it would act to abridge some personal freedoms. There are many laws that do that, however. The proper question, therefore, is whether it is done unnecessarily or in an unfair manner.

What's wrong with the volunteer force? Why can't it satisfy the needs?

In the first place, the burden is not shared evenly. It is unconscionable that a nation with our standard of living should have an Army so heavily representative of the poor. While blacks make up only about 12 percent of our population, black soldiers comprise about 30 percent of the Army. Other minorities have a similar, abnormally high representation. In the combat arms the percentages are even higher. This imbalance may have a particularly pernicious effect in wartime. This effect was evident in Vietnam when from 1961–66 most of the G.I.'s were volunteers, and black casualties were over 20 percent. In 1967–8 when our forces were more heavily draftee, the rate was 13 percent.

Second, the quality of our soldiers is not what it should be. A modern army requires trainable, disciplined soldiers who possess a will to fight. But, fully 37 percent of the recruits in the Army as of March 1980 could read only at Grade 7 level, two grades below the level required for Army manuals.

Further, in 1979 possibly 45 percent of the Army enlistees were Category IV—the score achieved by persons in the 10th to 30th percentile of World War II individuals who were tested. Those who are closest to the Army operating units will admit that trainability of the enlisted men has lessened greatly over the past ten years.

As for discipline, the Marine Corps faced serious discipline problems until its manpower goals were reduced to ease the pressure on recruiters. After the ceiling was lowered by 6,000 the number of discipline problems plummeted. The Army cannot reduce its strength because of a lack of reserves. Instead, many enlisted men are released from service before the end of their first enlistment. Three years ago the early release figure was about 42 percent. There has been some improvement and the goal for this year is 34 percent, but this is only a goal. This still represents considerable waste in training, travel and pay.

Equally damaging is the reputation our soldiers have as our representatives overseas. A recent dispatch in the New York Times told of the poor opinion our Allies have of our military personnel below the commissioned level.

A recent study in a professional journal concluded that many soldiers are actually alienated from the society they are supposed to defend; many do not have faith in the fairness of the American system nor faith in their fellow soldiers. Serious question is thus raised as to their will to fight.

But in time of war won't there be thousands of volunteers? That's what happened after Pearl Harbor.

If we do not have forces in being we invite aggression. The objective is to deter war, not to have one. Wars are not scheduled to begin on a certain date at a certain time. We certainly cannot count on a declaration of war should the Soviets decide to launch an attack. The element of surprise is an important tenet of the military doctrine. It may be that by the time people volunteer for any future war the war's outcome will already have been decided.

But the next war will be nuclear, so few soldiers will be needed.

With the superpowers about at equivalence in strategic nuclear weapons, a conventional or non-nuclear war is more likely since strategic nuclear war would result in the destruction of both sides. Therefore, we still need fairly large numbers of readily available personnel armed with non-nuclear weapons to deter war.

In the event of attack, if reserves aren't available at once to replace early casualties our only recourse is to surrender or to initiate nuclear war. The current shortage in the Army Immediate Ready Reserve is estimated at 200,000 or more.

I would fight if America was directly attacked, but this idea of fighting on foreign soil is nonsense.

If the continental United States was directly attacked by land forces, the odds of our winning the war would be almost nil. For one thing, to defend ourselves we need many raw materials which are not available domestically.

I would like to contribute to the national good in some other way than by bearing arms. How can I do this?

This would normally require Conscientious Objector status. Some C.O.'s have served with great valor as medics. Others performed non-military jobs. As to the desirability of some other sort of substitution for military service, I have difficulty equating the alternatives I know of with spending one year as a soldier in combat.

Suppose I object on the basis of a particular war?

This option was denied by the Supreme Court in 1971.

I still say all wars are immoral.

They certainly don't make any sense. The real issue is whether war is justified under certain conditions. The majority of our fellow citizens think that it is. Even though the majority may be in error it is within the rights of our democracy to take the necessary steps to prepare for war. The moral issue then becomes whether the burden and risk should be shared in some sort of an equitable basis.

Well, we all know the selective service system didn't operate equitably in Viet Nam. Why can't that be corrected?

If the Selective Service System is permitted to operate without political or emotional interference it won't function inequitably. The order of liability to serve will be established by completely random selection of birthdays and, barring a major war, that liability will expire after just one year. In this way young men wil be able to make their plans for education, marriage, or a civilian career with the assurance that the possibility of military service will quickly evaporate. Our armed forces will fairly reflect every segment of the society they defend.

Are you for the draft then?

Yes. I think the time has come to return to military conscription, but it can't be done without public support, which is now lacking. In a dangerous and explosive world our armed forces are presently too isolated from the people they are presumed to protect. Under such conditions, military defense is too important a task not to be shared on as broad a basis as possible. Public support can only be won by presenting all the facts to the American people. I believe that when the facts are known citizens will support a draft.

YOUR VIEWS COUNT

Mr. PERCY. Mr. President, in exactly 5 weeks the American people will exercise one of our most treasured liberties, the right to vote.

Since 1960, the number of Americans voting in Presidential elections has declined steadily. In 1976, only 54 percent of the eligible voters went to the polls.

Mr. President, numerous close elections should be evidence enough against the old and tired claim that one vote does not count. Every vote counts and should be cast as a precious American freedom.

The Mobil Corp., made this point clear in a timely message that appeared in the Washington Post, September 28. I ask unanimous consent that the message be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

YOUR VIEWS COUNT

Ever since voters elected John Winthrop governor of Massachusetts in the nation's first accredited election in 1631, Americans have been making their political choices at the polls.

Voters this November are selecting not only a president and vice president, but also 34 U.S. senators, an entire House of Representatives, 13 governors, and some 6,000 state legislators.

An estimated 160 million Americans are old enough to vote—more than ever before in history. Yet if current trends continue, the nation will see the smallest percentage turnout in 20 years.

In the 1960 presidential election, according to figures compiled by the League of Women Voters, nearly 64 percent of all eligible Americans spoke out with their ballots. In each presidential election since the percentage has been dropping. In the last presidential election it was about 54 percent. In the 1978 elections it plunged to 35 percent.

Surveys have shown that many individuals ignore the election process because they feel their vote doesn't matter. But in a number of cases entire elections have been swayed by just a handful of votes. In the 1960 presidential race, President Kennedy carried the crucial state of Illinois by a margin of less than one vote per precinct. In 1964, incumbent Howard Cannon of Nevada was returned to his seat in the U.S. Senate with a 48-vote victory. In 1978, Tom Daschle won a congressional seat in South Dakota by a mere 14 votes.

Free elections are the keystone of the democratic process. But it takes an informed and active citizenry to make the system work. Election Day is the time for every individual to stand up for what he or she believes in, and to support belief with the most powerful political weapon a free society has: the secret ballot.

Remember, most states require people to register in order to be admitted to the polls. Some areas permit registration right up to Election Day. In other parts of the country, registration will soon close. Check with local officials or The League of Women Voters for the rules governing your locality.

By refusing to vote, you aren't really expressing your disapproval of the candidates or the electoral system. You're merely giving added weight to somebody else's vote.

Your views do count. Make them heard November 4.

FDA SLOW TO APPROVE IMPORTANT CONSUMER PRODUCTS—ASPARTAME

Mr. PERCY. Mr. President, on May 28, 1980, the Comptroller General of the United States submitted a report to the Subcommittee on Science, Research and Technology of the House Committee on Science and Technology. The report, "FDA Drug Approval—A Lengthy Process That Delays the Availability of Important New Drugs," found that the average time required by the Food and Drug Administration to approve drugs is 20 months. But my subject is not the delay of a new drug, but the delay of a new consumer product that has been denied to the public—a product that could meet the needs of millions of calorie-conscious consumers and diabetics.

That new product is aspartame, G. D. Searle & Co.'s new low-calorie sweetener. The history of the attempt by Searle to gain approval of this product is an example of FDA's inability to render a prompt decision in accordance with the law and attendant regulations. The delay might be defensible if it were a result of scientifically legitimate concerns about the safety of aspartame. This is not the case. Aspartame continues to be unavailable, not for identifiable safety reasons, but because the FDA appears unable to administer the laws and regulations in a reasonable and expeditious manner. It is time the FDA untangle the administrative redtape and provide the American people with a decision on aspartame.

I ask unanimous consent that an article from the National Journal, "Hurry Up and Wait," which gives a history of the troubled aspartame approval process be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HURRY UP AND WAIT

The Food and Drug Administration (FDA), which is often chastised by the drug industry and Congress for taking too long to allow new products to reach the marketplace, may be inadvertently handling its critics more ammunition with which to carry on their assault.

The case involves the artificial sweetener aspartame, a potential substitute for the suspected carcinogen saccharin.

In March 1977, the FDA attempted to ban saccharin after tests linked it to cancer in laboratory animals. An outraged public protested, Congress stepped in to block the ban and the agency settled for labels warning users of possible dangers. Clearly, part of the reason for the negative reaction to the proposal was that by outlawing saccharin—the only artificial sweetener available since 1969, when the FDA ordered sodium cyclamate off the shelves—the agency would leave 10 million diabetics and countless others without a sugar substitute.

With aspartame waiting in the wings, the FDA proceeded in the summer of 1979 to convene a board of inquiry—a tool available for several years but never before used—to review conflicting claims about the substance's safety and recommend to the commissioner, who would make the final decision, whether to approve it. The idea behind the board is to use the scientific expertise of a panel of specialists in place of the legal deliberations of an administrative law judge to try to reach a sounder medical decision and, secondarily, to expedite the approval process by reducing the amount of testimony presented at hearings.

But today, more than a year after the FDA announced its intention to name the board, and nearly seven months after the board concluded its hearings, the issue remains unresolved—even though, according to Walle J. H. Nauta, its chairman and a physician at the Massachusetts Institute of Technology, the board finished its work and handed over a draft of its recommendations to the FDA's general counsel's office at the end of May.

The unexplained delay has officials of G. D. Searle & Co., aspartame's manufacturer, frustrated and angry. "It's one thing to say it's a complex issue and takes a long time," said William I. Greener, Jr., Searle's vice president for corporate relations. "But the job of government is to make decisions and so far, the FDA has shown an inability to do that job."

Aspartame has had a history of trouble, and much of it has to be laid at the company's feet, not the FDA's. Searle applied for approval of the product in February 1973; in July 1974—in relatively quick time, even by industry standards—the FDA gave the go-ahead to begin marketing it as a dry-base sweetener. (The chemical composition of aspartame is such that it isn't suitable, at the present time, to sweeten soft drinks, by far the biggest commercial use for sugar substitutes.) Almost immediately, however, a question was raised about a possible connection between the substance and brain lesions, and the FDA prepared to appoint a board of inquiry to resolve the dispute.

But then the company ran into trouble elsewhere, when the quality of its test data on several pending drug applications was called into question. The questions were unrelated to aspartame, but the FDA decided in December 1975 to stay its approval. The plans for a board of inquiry came to a halt.

In 1976, the FDA asked an independent panel of medical school pathologists to review the company's test data on aspartame. In December 1978, it accepted the panel's findings, which cleared the company and recommended aspartame for marketing. Soon after, the FDA's Bureau of Foods concurred and approved the product.

The issue of the link to brain lesions had not been resolved, however, and in June 1979, picking up where it had left off nearly five years earlier, the FDA again moved to appoint a board of inquiry. It took until Jan. 30 of this year for the panel actually to meet. According to Wayne Pines, FDA's public information chief, the division of management services has already reviewed the appointments procedure to avoid such delays if future boards are convened.

But the agency has not yet addressed how, if at all, it can speed the process once the board has been impaneled. The board is independent of the FDA and, except for ties to the agency's legal office, there seem to be no clear lines of accountability, no interim reporting timetables and no way for the FDA to keep tabs on the progress being made.

As Pines points out, the board is a new procedure and it will take some time "to work the bugs out." Further, explained Jeffrey Springer, the FDA deputy chief counsel who is the agency's liaison with the board, "A court does not issue status reports. The same situation exists here." But that explanation won't do much to quiet skeptics who argue that the FDA is constantly dragging its feet.

For Searle, there's a lot of money at stake. According to Greener, the company has invested $10,000 a day in the product, for six and a half years. Furthermore, its patent on aspartame expires in 1987 and so, even if the FDA approves the substance this year, the company would have only seven years left on the 17-year patent life to recoup its investment. The patent issue is a concern shared by the rest of the drug industry.

There is also the public to consider. The FDA has never backed off from its belief that saccharin is a mild carcinogen in humans. By allowing the review to drag on, is it denying the American public a safe—although perhaps limited—substitute for a substance that it seeks to keep off the market?

It may well be that the issues are sufficiently complex so that the time taken so far is entirely justified. Speed clearly takes a back seat to sound data and safety. At this point, the general counsel's office is going over the draft report, in order to advise the board of any legal problems. But it's anybody's guess when a final report will be turned over to the commissioner.

Meanwhile, the agency's failure to keep the company, Congress and the public apprised of the progress on the search for a safe sugar substitute gives the appearance, at least, of having let another one slip through the cracks. It's a slip that the FDA's image can hardly afford.

OIL

Mr. PERCY. Mr. President, I wish to speak very briefly in support of Senator JAVITS' resolution. It is no secret that the United States—and indeed all the Western World—is dangerously vulnerable to a cutoff of imported oil. The risk is not that remote, as recent events in Iraq and Iran should remind us. The consequences could be extremely grave if we are caught unprepared.

If a shortage occurred today, perhaps caused by an expansion of the war between Iraq and Iran, I think we would in fact be caught unprepared. For the 7 years since the 1973 embargo, we have let time slip away without developing effective countermeasures. What do we have on the cupboard shelf today?

A gasoline rationing plan that would cost a fortune to implement, would confuse and confound the public, and could not be put in effect fast enough to make much difference.

A strategic petroleum reserve barely one-third the size originally projected by President Carter for this year, and probably too small to prevent crippling runups in the price of crude oil in time of emergency.

State and Federal emergency conservation programs so mired in redtape that I cannot imagine them ever being of much service if we had to call upon them.

Mr. President, I shudder to think what we in the Senate would say and do if we were this badly prepared from a military standpoint. Yet our very vulnerability to a supply disruption could be the spark that causes a war whose dimensions I would hesitate to predict. Surely we do not want to draft young men to fight to preserve our flow of oil, but that is what might happen if we fail to improve our energy security programs.

Like Senator JAVITS, I am concerned that the individual who has lead responsibility for this vital matter does not have the rank or the resources to get the job done. And like Senator JAVITS, I am astonished that energy security is receiving as modest a priority as it now is within DOE and throughout this administration. This has to change, and I would rather see it change now—before a shortage—than after we find ourselves caught so terribly unprepared.

I urge my colleagues to support this resolution and call upon Secretary Duncan to give energy security the priority it deserves.

DIDC DECIDES AGAINST UNWISE PREMIUM BAN

Mr. PERCY. Mr. President, the Depository Institutions Deregulation Act passed by Congress earlier this year established the Depository Institutions Deregulation Committee (DIDC) to administer the orderly phase out of Federal controls on the interest rates paid by financial institutions. This law was passed in the spirit of deregulation which has moved Congress to pass airline deregulation and to consider the deregulation of other major industries, as well as comprehensive regulatory reform. Congress has re-awakened to the realization that economic decisions are best made in the marketplace, not in the offices of Federal agencies.

It was very disappointing to me, therefore, to learn that at its very first meeting in May, the DIDC proposed to increase, not decrease, the amount of Federal control over some activities by financial institutions. In particular, the DIDC proposed a complete ban on premiums and gifts from an institution to a depositor upon the opening of a new account or an addition to an existing account.

By this action, the DIDC threatened the owners and employees of countless small businesses in Illinois and all across the country whose operations were based solely on the handling of gifts and premiums for the financial industry. It also jeopardized the larger companies whose business was based in part on this enterprise, and took freedom of choice away from the financial institutions.

Naturally, these business people and their employees were not about to stand idly by while their livelihood was faced with extinction by the stroke of a pen. Many in Illinois who were affected by this proposal contacted me and, as a direct result of the compelling arguments they raised in their correspondence and visits, I notified the DIDC of my total opposition to this ban.

I ask unanimous consent that a copy of my letter to Federal Reserve Chairman Paul Volcker on this subject, and his reply, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Needless to say, Mr. President, I was delighted to learn that, at its September 9 meeting, the DIDC responded by deciding against its original proposal for a complete ban on gifts and premiums. It adopted a final rule, effective December 31 of this year, which raises the stated value dollar limits on premiums from $5 to $10 for deposits under $5,000 and from $10 to $20 for deposits of $5,000 or more. The rule also requires that the stated cost of premiums must include shipping, handling and advertising expenses directly related to the merchandise and that depositors be limited to two premiums per year at a single institution.

Although the DIDC could have allowed considerably more freedom to financial institutions to make their own decisions on gift and premiums, it is nonetheless very good news that a complete prohibition has been avoided. I hope this puts all Federal agencies on notice that arbitrary proposals which injure employers and workers, who are otherwise operating within the law and in good faith, will not be tolerated.

EXHIBIT 1

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, D.C., July 2, 1980.

Hon. PAUL VOLCKER,
Chairman, Board of Governors of the Federal Reserve, Washington, D.C.

DEAR PAUL: I am writing about the pending proposal by the Depository Institutions Deregulation Committee to ban the use of gifts and premiums by financial institutions.

Such a proposal seems to me to be completely at variance with the spirit of H.R. 4986, whose purpose was to reduce the regulation of the financial industry, not increase it. In addition, the proposed ban would virtually eliminate an entire industry consisting of many small businesses and substantially damage many large companies who handle gifts and premiums along with their other business. With all the emphasis in the Administration and in the Congress on deregulation and letting market forces prevail, it is ironic that we may witness the elmination of an industry not through market forces but by the stroke of a pen by a government committee.

I oppose this ban and support free choice for financial institutions in this matter. I also request that the time for public comment on this proposal be extended and that a public hearing be held in order to open up this matter to the fullest public discussion.

I would appreciate anything you can do.

Warm personal regards,
CHARLES H. PERCY,
U.S. Senator.

DEPOSITORY INSTITUTIONS
DEREGULATION COMMITTEE,
August 6, 1980.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: I greatly regret the delay in responding to your letter expressing concern about the proposed ban on the use of premiums by depository institutions. I had not been aware of the letter, and I can assure you procedures have been changed so that communications directed to me as Chairman of the DIDC receive the same attention as does, I hope, the rest of my mail.

On the substance, the proposed ban was issued for comment in response to enforcement problems being encountered by the several regulatory agencies. The comment period on this proposal was then extended until July 16 in order to provide interested parties more time to respond. Many thousands of responses were received, and the DIDC staff is now in the process of analyzing them. These comments will be among the materials that will be carefully considered by the Committee in undertaking final action on the proposal. The proposed ban is scheduled for Committee consideration at its meeting on September 9.

I appreciate your thoughts on this matter, and I want to assure you they will be given careful attention before a decision is reached on this issue. I am sending copies of your letter to the other members of the Committee.

Sincerely,

PAUL A. VOLCKER,
Chairman.

FREE ENTERPRISE AWARD TO SENATOR HARRY F. BYRD, JR.

Mr. DECONCINI. Mr. President, on the evening of Saturday, September 27, 1980, the Virginia Independent Automobile Dealers Association presented its Free Enterprise Award to Senator HARRY F. BYRD, JR.

The presentation was made by William D. Parrish, Sr. at the annual banquet at Virginia Beach, Virginia.

I ask unanimous consent that the presentation remarks of Mr. Parrish and the inscription on the award to Senator BYRD be printed at this point in the RECORD.

There being no objection, the presentation remarks were ordered to be printed in the RECORD, as follows:

PRESENTATION OF FREE ENTERPRISE AWARD

Senator Byrd, it is a great personal pleasure for me to represent our association for this presentation—we feel no one in America is more deserving than you to receive this award, and we are honored that you are with us for this special occasion. The preamble to this award reads as follows:

"The free enterprise system is unique to America alone. Its premise is based upon the philosophy: A free born individual can get personal reward for personal effort. The key to making it work is the individual has the privilege of disbursing that reward as the individual sees fit.

This system is the apex from which has grown the most powerful and productive nation in the history of mankind. The future of our country and system depends upon individuals who are endowed with an understanding of this system which is so deeply embedded in their conscience that their actions will be those which characterize belief.

In keeping with the code of ethics incorporated in our national and state by-laws to encourage our free enterprise system, the board of directors of VIADA established the 'free enterprise award' in 1975.

The purpose of this award is to recognize those individuals whose accomplishments reaffirm their dedication to the precepts of free enterprise."

This award is inscribed:

To the Honorable Harry F. Byrd, Jr., a native American molded in the image of our founding fathers—your understanding of and dedication to the principles of free enterprise has caused your contemporaries to hold you in high esteem, and will be long remembered by your fellow Americans by order of the board of directors V.I.A.D.A.

THE POLITY OF DISCUSSION

Mr. MOYNIHAN. Mr. President, the open procedures and endless discussions of free government are a nuisance to politicians in a hurry. They are often tedious, sometimes exasperating. Oscar Wilde had this in mind when he remarked of socialism that the problem with it was that it would take too many evenings.

Yet the tedious, slow pace of democracy protects us, as McGeorge Bundy has recently pointed out. In a commencement address at the Rand Graduate Institute, he took as his text Walter Bagehot's description of England as a "polity of discussion." For Bagehot, free discussion was "the greatest hindrance to the inherited mistake of human nature—to the desire to act promptly, which in a simple age is so excellent, but which in a later and complex time leads to so much evil."

Mr. Bundy's address makes the most penetrating use of this formula. He points out that the value of openness is to be seen not merely in the better decisions that result, but in the way we come to them and in the legitimacy they command. Open deliberations are a moderating force in politics; they free us from the polarized positions that secrecy can stimulate.

We have seen this lesson stunningly demonstrated this summer by the adoption and subsequent leak of Presidential Directive 59, a document that, though of utmost importance, had not been widely discussed within the administration. In seeking acceptance for a new strategic doctrine, the President may yet pay a real price if those who have not been consulted now contest ideas that would otherwise have enjoyed broad support.

For all their slowness, open deliberations on public policy offer an additional benefit that I would append to my friend McGeorge Bundy's brilliant treatment: they settle matters. Indeed I believe that those in the administration who preferred to make Presidential Directive 59 a narrow, in-house affair misunderstand the policy process. For what is the test of success in this government? It is not the power to write or to sign a Presidential directive. Any directive, however seriously meant, can be superseded. As my former colleague Richard Neustadt has been telling his students at Harvard for decades, Presidential power is the power to persuade. This means that policy is not truly in effect until other are persuaded, it is not irreversible until it takes shape as an idea in men's minds. After all, the force of mutual assured destruction, the doctrine that ruled for so many years, was not based on a Presidential directive.

The strongest and most secure policies in our Government are those that can stand the light of day. They are those to which all responsible officials have given their public assent, are those that leaders do not, once they have won their case, have to defend at every turn.

We desire that the Soviet Union take us at our word about this new policy. But we can hardly expect to plant this perception in the Soviet leaders' minds, unless we show better than we have that this is a policy on which our Government stands united. Whatever else a President ought to know, he ought to know this.

McGeorge Bundy knows it, and this is why Presidents have consulted him.

I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF MCGEORGE BUNDY

In 1867 Walter Bagehot published a small book that he called "Physics and Politics." This summer I turned back to this volume, driven initially by my envy of its title. I am currently engaged in a study of the way political decisions have been made in the age of nuclear fission (and fusion), and Bagehot had preempted the best and most direct of titles for what interests me. I had read his book with admiration in the 1950s, but I did not remember it well. To read it again was a revelation, and it is that revelation that I venture to share with you today.

It turns out, in the first place, that Bagehot's title really does not fit his book at all; he could have left it for me and lost nothing. Unless you read physics to mean all of natural science, and politics to mean all of social organization, you would never guess Bagehot's subject, which was nothing less than to apply the findings of Charles Darwin on the anthropological question of Descent of Man to the sociological question of the Rise of Britain. He confessed it in his subtitle: "Thoughts on the Application of the Principles of 'Natural Selection' and 'Inheritance' to Political Society."

If Bagehot were not one of the most engaging of essayists I might have left it there. But I began reading, and persevered through several chapters not germane to my purpose, or altogether agreeable in their argument: the need of primitive society for rigid and definite law; that "in early times the quantity of government is much more important than its quality," and that you want plenty of it: "a good rule is better than none;" that the winners in war are not only stronger but in some serious sense better. It is all quite Darwinian—engaging indeed, but neither quite persuasive nor more than marginally relevant to my business.

But the fifth chapter of the book is called "The Age of Discussion," and here, in effect, Bagehot begins to be himself again; the liberal-tempered mid-Victorian publicist begins to explain not how Rome and Sparta rose and flourished, but why and wherein the English "excel all other nations." This is more like it—and much more to my purpose. Because it turns out that the quality which Bagehot singles out for praise is one that is very much needed today in the world of nuclear physics and politics, and the condition for its flourishing is for us exactly what it was for Bagehot. The quality is one that he named "animated moderation" and the condition prerequisite he called "a polity of discussion." Let me put animated moderation to one side for a moment and focus on the polity of discussion.

While Bagehot's treatment is uncommonly

subtle, the general theme is a familiar one, and we are all brought up to believe in it: free and open discussion is good; secret action by unchallenged authority is bad—acceptable, even necessary, in war, but not in politics. Whether in religion, or in learning, or in politics we need what Charles Eliot called "the winnowing breeze of freedom" if we are to find and follow the truth. For Bagehot the emergence of discussion in the Age of Elizabeth, "though not wholly free," is the true starting point of English greatness. Not only did it lead to vigorous and elevated thinking—from Shakespeare on and out, but over time and through much turmoil to the process of Parliamentary government which was reaching its height precisely when Bagehot was writing—at the juncture between the age of Palmerston and that of Gladstone.

One particular merit that Bagehot found in parliamentary government was its deliberativeness, its requirement of "elaborate consideration." And the more the champions of heroic action complained of "an age of committees" the better he liked it. Let me share with you a few pungent sentences:

"All these invectives are perpetual and many-sided;

"And they all are distinct admissions that a polity of discussion is the greatest hindrance to the inherited mistake of human nature—to the desire to act promptly, which in a simple age is so excellent, but which in a later and complex time leads to so much evil.

"I wish that those who complain of it were far more right than I much fear they are. Still, certainly, eager and violent action is somewhat diminished, though only by a small fraction of what it ought to be. And I believe that this trend is in great part due, in England at least, to our government by discussion, which has fostered a general intellectual tone, a diffused disposition to weigh evidence, a conviction that much may be said on every side of everything which the elder and more fanatic ages of the world lacked."

Now let me turn from Bagehot to my kind of Physics and Politics and suggest to you that whether or not Bagehot's polity of discussion was good for Victorian England, it is a sovereign prescription for thought and action—or inaction—in the age of nuclear fission. And yet by a combination of accidents and attitudes that we very feebly understand, I would argue that we have so far failed to develop a true polity of discussion. We have not done it internationally—and there the difficulties are very great indeed, especially when we recognize what has been true from the beginning, that whatever else the Soviet Union may or may not be, it is hardly a polity of discussion in Bagehot's sense—not in its internal life and still less in its dealings with outsiders. But for my present purpose the more searching and troubling point is that we have not had a polity of discussion among ourselves.

To illustrate this proposition—but not at all to exhaust it—let me invite your attention to two of the many hard decisions our government has faced with the respect to nuclear weapons in the last forty years, one in 1945 and the other in 1980. I am not primarily concerned here with the merits of these decisions—but rather with the quality of the deliberative process in each case.

The greatest problem of 1945—if we except the decision to use the bomb, which did not seem a close call to those who made it—was that of the relation between the emerging reality of nuclear weapons and the stubborn persistence of separately governed "sovereign states" as the primary building blocks of international society. As we have learned over and over since then, this is not a simple relation; even among the closest of allies the question of nuclear policy have generated sharp differences, and the multiple divisions among states of all sorts are a constant nightmare today for those who seek consistency in a policy of nonproliferation. But in 1945 it was reasonably clear, even before Franklin Roosevelt died in April, that the dominant relationship was triangular—a relation between the United States, the USSR, and "the riven atom." What should be our approach? There was a choice to be made, as Henry Stimson put it to Franklin Roosevelt in their last meeting, between "secret, close-in attempted control of the object by those who control it now," and "international control based upon freedom both of science and of access." There was also the question, very much alive in Stimson's mind both then and later, but unstated in this particular diary entry, whether *either* of these two possible courses could be expected to succeed. Neither of these two enormously weary and determined men tried to resolve the matter on that March 15. Less than a month later it was Harry Truman's problem.

Historians are still struggling with the way decisions were made in the twenty months that pass between the death of Franklin Roosevelt and the death of the Baruch Plan in the United Nations at the end of 1946. In the coming year Gregg Herkin of Yale will publish his ironically titled book "The Winning Weapon" and we shall all have a much better record from which to argue—and even to argue with Herkin. But we need not wait for this major contribution to take note of the enormous fact that nothing we can fairly call a polity of discussion surrounded this process.

Partly the problem lies in the way Harry Truman, like most presidents, made his decisions. Our government is neither parliamentary nor cabinet; neither in public nor in private is there a tradition of open deliberation in advance of great decisions or in their defense, once made. No one contributed more to the tradition of this style than Truman's predecessor, and indeed by contrast with Roosevelt Harry Truman was an uncommonly open and direct man. But he was also quick to make decisions, and little disposed to the give and take of extensive and reflective discourse. During these twenty months he was pulled this way and that, both by his own feelings and by the conflicting counsels of men who saw him more often separately than together—there is not much inner harmony in the ways of approaching this great question that marked Stimson, Byrne, Baruch, and General Leslie Groves.

A special and powerful constraint on this particular problem was the mystique of secrecy with which it was surrounded. Thus nearly all the men who worked on the UN Charter were ignorant of the coming bomb, and among those who were privy to the nuclear secret before Hiroshima I have been unable to find even one who could be called a professional student of the Soviet Union. Even when the bomb became explosively public, in August, the mystique of secrecy persisted—indeed, paradoxically, public and official infatuation with the secrecy of the secret continued to inhibit both internal and external deliberations. Access to "inside information" on the nature of and prospects for nuclear fission continued to be sharply restricted, and only too often careful and responsible men without such access assumed that their ignorance was at least a partial disqualification from the right to an opinion on the hard question of policy toward Soviet Russia—it made a great difference, after all, whether the Russians could be expected to catch up in 5 years or 20, and how could an outsider say? But diffidence among outsiders may have been less constraining than constriction among insiders. Some from self-confidence, some from caution, and a few from awe, found it hard to talk easily with those not "in the know."

These constraints would have made it hard to deal with even an easy question—and the question before the government was very hard indeed. Neither its physics nor its politics was easy, and the fusion of the two made it harder by at least one order of magnitude. It is no denigration of either the scientists or the politicians to suggest that many of them were innocent of respect and concern for one another's problems; there was here a great need for a polity of discussion of a quite special sort. The classic failure may have been the disastrous conversation between Niels Bohr and Winston Churchill in 1944—but only in an appallingly constricted atmosphere could anyone have suggested that it was a good idea to launch these two giants at each other with no advance understanding, in either man, of where the other was coming from. And one does not have to agree with the conclusions of the more vociferous of the scientists in the Manhattan Project to have sympathy with their sense of frustration in a situation in which, from the very first, there was a determined command decision to exclude them from questions of policy.

But perhaps the most interesting indication of the effect that a better deliberative process might have had is what happened to the thinking of those who had some opportunity to engage in it. Niels Bohr may have been naive about the likelihood of opening up Stalinist Russia, but he was not wrong about the nature of the nuclear revolution, or about the impossibility of successful long-term one-sided secrecy or about the fear that such a stance would generate. He had a running start, of course, but he also had time to think about it very hard indeed, and to talk about it with men who were bound by their unbounded admiration to follow his agenda of discussion. Henry Stimson, old as he was, and wearing out, knew how to put first things first and worked his way painfully from simple and impractical notions of what the bomb might mean in foreign policy toward a level of understanding that, in my view, is not often outmatched with all our retrospective wisdom today; he did it by hammering at it, often alone but often also with younger associates who paid him the respect of talking back. A similiar if less clear-cut progression is observable in others, from Mr. Truman on down, as they grappled with the matter—and the most dramatic instance of all may be the astonishing process of collective immersion that produced the Acheson-Lilienthal Report in early 1946. Isolated as they are, and frustrated as each of them was by stronger forces, these efforts do encourage me to the conclusion that a genuine polity of discussion would have helped us do better.

There is another lesson to be drawn from this early history, but first let me draw your attention to a more recent problem—the question of targeting policy that has been so much in the news this summer. There is a new Presidential Directive, P. D. 59, which appears to give new emphasis to selective retaliatory attacks that could "exact an unacceptably high price in the things the Soviet leaders appear to value most—political and military control, military force . . . and the industrial capacity to sustain a war." Here we have a decision which appears to have a considerable body of analysis and deliberation behind it, and which, for all I wish to argue today, may be right. The moderate and careful explanation of it offered by Secretary Brown on August 20 (from which I have drawn the description above) leaves me no disposition to quarrel—he is entirely right when he argues that there is no doctrinal revolution here. Yet the disturbance caused by this new directive is real, and public concern is justified. It is not merely a matter of bureaucratic bad manners that the revisions were made without consulting the Secretary of State.

The very argument advanced by Mr. Brown in defense of the new policy—namely that it will have an effect on the way Soviet leaders think that will decrease the danger that deterrence might fail—that argument turns precisely on how Soviet leaders will in fact understand and react to a public modification of U.S. target policy—and on that exact issue the President is entitled to the careful and deliberate advice of the Secretary of State.

But Bagehot's notion of a polity of discussion is not limited to the process of discussion inside an administration; his concern was with the larger public life of the England he knew, in which not only members of Parliament but publicists like himself were full participants. So we must suppose that in testing the origins of this modified targeting doctrine he would ask whether in its broad principles, at least, it was subjected to the polity of discussion before it was decided. And I will pronounce the verdict on my own: it was not. Ideas of this general species have been floating around for years—intermittently, indeed, ever since the '40s. Scholastic exchanges have occurred in circles and journals that many of you know better than I; annual posture statements from Secretaries of Defense have shown some evolution, and also some deliberate opaqueness. But a serious, general, open, and sustained public discussion we have not had. If much of the initial public reaction is unsympathetic, it is because in this quite fundamental sense the government, and in particular the President, has neglected something quite basic to the democratic process. And the argument that all these things are secret is silly—of course it is a secret which weapon is aimed at what, and just how we would get it there. But we and the Russians both know the horrifying numbers, the monstrous yields, and even the impenetrable uncertainties that are the elements of general targeting policy. The plea of secrecy here is a sham, especially when it is accompanied by the practice of speedy leaks to sympathetic and well placed journalists.

And what happens when you deliberately bypass the polity of discussion is that you generate something quite different and very much worse—a *polarity of discussion*. We have done this to ourselves over and over, in the nuclear years, sometimes even when we were trying to do the opposite. Right back near the beginning there is a frightening example. When Henry Stimson attended his last Cabinet meeting on September 21, 1945 the President asked him to explain his parting view: that we should promptly open serious, direct, bilateral discussions on atomic questions with the Soviet Union. The ensuing discussion was not only deflected by division over the value of secrecy (as Herkin has observed) but promptly polarized by the strong and strongly opposed reactions of such men as James Forrestal and Henry Wallace. The meeting was not repeated; Mr. Truman's effort to encourage a serious process of deliberation at the Cabinet meeting failed—and the nails were driven in the coffin containing his good intentions by inspired leaks from one side and then the other in the immediately following days.

These cautionary tales could be dispiriting if this were not a graduation ceremony and if we had not taken our text from Walter Bagehot. But both the occasion and the man call for optimism. So let me tell you—and not just because it is a suitable sentiment—that there is nothing in this enormous nuclear problem which *requires* these kinds of failures. There is not and never was an intrinsic requirement of secrecy on decisions that are truly political. There is sensitive territory on some technological issues, but there are also ways to deal with those quite special matters, and in most important questions, as in those I have used as examples, such problems are essentially trivial. We can and should insist on a policy of discussion here, not just because it is our only remedy against the inescapable alternative of raucous polarization, but because that way we will get both better policies and better support for them.

And it is not pessimistic—only necessary—to recognize that the achievement of a true polity of discussion on these difficult and tremendously dangerous matters is hard. The intersection between modern physics and modern politics is full of hazards: neither subject has become simple since 1867, or even 1945. But what you have surely learned from your years in this great institution is that difficulty is no excuse for failing to try, and perhaps even that when you use both your skills and your judgment on hard questions of this sort, they are not always impenetrable. You have also learned, in an admittedly favoring environment, the advantages of open argument. Bagehot's policy of discussion is only the same thing writ larger, and brought into the arena of political action. But in its way, and yours, that is where RAND and you as its graduates are too.

And as you live and work in that wider polity, let me remind you that what Bagehot praised in the England of his day was "animated moderation." He does not explain fully what he meant—but he does it better than I can do it for him:

"Lastly, a polity of discussion not only tends to diminish our inherited defects, but also * * * to strengthen and increase a subtle quality or combination of qualities singularly useful in practical life—a quality which it is not easy to describe exactly * * * This quality I call 'animated moderation.'

"If anyone were asked to describe what it is which distinguishes the writings of a man of genius who is also a great man of the world from all other writings, I think he would use these same words, 'animated moderation.' He would say that such writings are never slow, are never excessive, are never exaggerated; that they are always instinct with judgment, and yet that the judgment is never a dull judgment; that they have as much spirit in them as would go to make a wild writer, and yet that every line of them is the product of a sane and sound writer * * *

"It is plain that this is a quality which as much as, if not more than, any other multiplies good results in practical life. It enables men to see what is good; it gives them intellect enough for sufficient perception; but it does not make men all intellect; it does not 'sickly them o'er with the pale cast of thought'; it enables them to do the good things they see to be good, as well as to see that they are good. And it is plain that a government by popular discussion tends to produce this quality. A strongly idiosyncratic mind, violently disposed to extremes of opinion, is soon weeded out of political life, and a bodiless thinker, an ineffectual scholar, cannot even live there for a day. A vigorous moderateness in mind and body is the rule of a polity which works by discussion; and, upon the whole, it is the kind of temper most suited to the active life of such a being as man in such a world as the present one."

You should change what you think needs changing in this passage, but I hope you may find that it offers cheer as to what the graduates of RGI can offer to their country and the world.

RECOGNITION OF THE NEW GOVERNMENT IN BOLIVIA

Mr. HELMS. Mr. President, I am disturbed by the continuing failure of the U.S. Government to recognize the new government in Bolivia which took office on July 17. The failure of the United States to take action in this matter is leaving us isolated and alone in this hemisphere, and out of step with our allies abroad. Moreover, this failure of the United States to act represents a narrow and ideological politicization of the human rights issue—a development which is going to work to the detriment of the Bolivian people and of the citizens of the United States.

The new Bolivian Government has already been recognized by 29 countries. In the Eastern Hemisphere, these include such countries as West Germany, Japan, Egypt, Israel, the Soviet Union, Switzerland, Poland, Hungary, Spain, South Korea, Thailand, Surinam, Republic of China, Malaysia, Indonesia, and Yugoslavia. In the Western Hemisphere, they include Argentina, Brazil, El Salvador, Guatemala, Paraguay, Uruguay, and Honduras. Even Mexico has extended acit recognition to the new government, and Chile, which broke relations with Bolivia 2 years ago over a historic border dispute, is reportedly holding informal, but friendly conversations. These countries by far represent the most influential countries of Latin America, and contain the greatest part of Latin America's territory, population, and gross national product.

Clearly, the U.S. attitude is divisive and symptomatic of our continuing breakdown of relations with the Latin countries. Moreover, our punitive attitude toward the new Bolivian Government is generating resentment at our continuing arrogance.

It is noteworthy that when the United States recalled the U.S. Ambassador, Marvin Weissman, and froze a proposed $200 million in financial assistance scheduled for Bolivia, Argentina immediately offered to provide $200 million in aid itself. Furthermore, the recall of Ambassador Weissman was scarcely taken as a punitive sanction by the Bolivians, since leading Bolivians had been demanding for weeks that he be declared persona non grata for his open intervention in their electoral process. Indeed, it was widely believed among many responsible Bolivians that Ambassador Weissman was not just interested in the democratic process, but was openly throwing the prestige of the U.S. Embassy behind the candidacy of Herman Siles Suazo, the candidate of the coalition of Marxist and Marxist-Leninist parties.

The reasons given for the refusal to cooperate with the new government have been two; namely, that the military coup was an abrogation of democracy in Bolivia, and that certain members of the new government were accused of having connections with the international drug trade. These are both serious accusations, and they should be examined carefully. Furthermore, it should be asked whether, if true, it is more in the interests of the United States to work with the new government than against it.

Let us examine the drug issue first. It is an indubitable fact that Bolivia has been a prime source of the drug trade because of the historic cultivation of the coca plant in that region. The coca plant's leaves, of course, are the raw material for the production of cocaine. The coca plant grows freely, both cultivated and in the raw, in the highlands of Bolivia; it has been in common use as a high-altitude stimulant by the population for centuries. It has only become a problem with the growth of the international illegal market for the coca plant in its refined form.

Illegal traffic breeds corruption, especially in the midst of political and economic instability. It is not surprising that allegations of illegal activities have been brought against certain Bolivians in powerful positions. It is important to note that these allegations were brought against the preceding government of Lydia Gueiler, and against the running mate of Siles Suazo, Jaime Paz, as well as against the present government. These allegations are difficult to prove, even though most observers believe they contain a fair amount of truth. At the same time, in the midst of political uncertainty, it may be assumed that such charges may just as well originate in political calumny as in truth.

The sad result is that the withdrawal of diplomatic representation and the withdrawal of foreign assistance has also meant the withdrawal of U.S. drug control experts and the withdrawal of international narcotics control funds from Bolivia. By this act, we have cut ourselves off from firsthand knowledge of the situation, from continuing contacts with information sources, and from a working relationship with Bolivian drug control officials. Bolivian officials have been moving to crack down on the drug trade since the new government has taken office. We would be making a grave mistake to assume that these moves are not sincere.

In short, whatever the real situation with regard to narcotics corruption, we are better off working with the present government than opposing it.

The second charge is that the present government came to power by a military coup with abrogated democratic procedures, and thereby denied Siles Suazo as the free choice of the Bolivian people.

The facts, however, appear to be something quite different. They bear much more objective examination than they have been given hitherto. I think that such an examination will demonstrate that supposed victory of Siles Suazo, an Allende-style Marxist, was in no sense an abrogation of democracy. Rather, it was a necessary step to prevent a Marxist power grab that had no relation to the expressed will of the people. This Senator is not a one-man factfinding committee with the facilities to investigate the situation in detail; but the facts which have been presented to me are convincing enough to argue that the burden of proof is on the other side.

When the results of the June 29 election apparently showed that Siles Suazo had the largest number of votes, it was loudly proclaimed that "democracy had triumphed" in Bolivia.

But Siles Suazo did not have a majority of votes; he only had a plurality, throwing the election into the Bolivian Congress. Thus the juridical status of the new Congress was a key element, since the new Congress was to pick a President on August 4.

But on July 17, the military forces under Gen. Garcia Meza declared that the new Congress, which would elect the President, had been unconstitutionally elected by reason of massive vote fraud. It was at this point that the U.S. Government recalled Ambassador Weissman and cut off aid. The automatic assumption was made that the allegations of vote fraud had no merit, and that it was just another case of a so-called right-wing military coup thwarting the will of the people.

But the information which has reached me suggests very strongly that there was, indeed, electoral fraud of massive proportions, as well as convincing evidence that Siles Suazo was not the democratic choice of the people of Bolivia. This evidence should be examined very carefully by our policymakers in the administration before we get totally isolated by our rigid posture with regard to Bolivia. As a U.S. Senator, I do not have the authority to verify information which has come to me from another country. But the internal evidence of consistency is evidence that I for one, find satisfactory.

I believe that the U.S. State Department has an obligation to examine the Bolivian case of electoral fraud on its merits, and not on the basis of preconceived attitudes that democracy is thwarted if the extreme left does not come to power by any means.

The evidence of electoral fraud consists of computer analysis of the voting patterns of the election, as well as the cynical rejection of the electoral process by the majority of eligible voters.

In short, if the so-called democratic process urged by our State Department had continued to the point where Siles Suazo had been elected by the Bolivian Congress, he would have assumed power with a popular vote representing less than 25 percent of the registered voters according to the official tallies. But his actual support was far less than the official tallies purported to show because of massive fraud. And of course, the fraud extended to the election of the Congress, so that 30 to 40 percent of the members of that body would have been fraudulently elected.

That is why the military declared the new Congress unconstitutional. Moreover, the military itself, as an institution, is the unwritten, but ultimate authority for deciding the constitutionality of the state. Just as Great Britain has an "unwritten constitution" based on history and precedent, the Bolivian military is regarded as having the responsibility and duty to uphold the constitutionality or unconstitutionality of the government. The military has exercised that duty 189 times in the past 200 years.

The evidence for electoral fraud is all the more convincing since it was established on the basis of mechanisms set up by the government that was overthrown, that of the appointed interim President Lydia Geiler. This election was the third election in 2 years, none of which has had a natural outcome. The government of President Geiler was determined to come up with unassailable results, and sought to set up a system that was foolproof. For the first time, Bolivia turned to a computer tally system.

The low bidder on the system was a Bolivian company named Dematec International, whose managing director is Julio Pacheco, a U.S.-trained physicist and mathematician. Pacheco, a nonpolitical technocrat, is the La Paz distributor for the TRS-80 series II microprocessors, manufactured in the United States by Radio Shack. These computers are the widest selling system in the United States for medium and small businesses. The Series II provided just the right level of sophistication for a country such as Bolivia, which ranges from primitive Indian communities to mining centers to modern cities.

Pacheco designed a unique system. Instead of a large, central computer to tally results brought from remote, mountain districts, he put a microprocessor in the chief city or town of each of the electoral districts. These results were fed into his central headquarters in La Paz, where another Series II, with augmented memory bank, was to compile the nationwide results.

Moreover, he wrote a computer program that had a special loop to double check all of the results received. Under Bolivian law, each voter places his ballot in an envelope to insure a secret ballot, before depositing it in the voting box. As in many Latin countries, voters frequently cast black ballots to protest the slate of candidates offered—the Latin version of "none of the above." Thus the number of envelopes placed in the ballot boxes becomes the control number for voter activity, rather than the total number of votes cast.

To make matters more complicated, there are some 79 political parties in Bolivia, although through coalition support, there were only 13 Presidential candidates. Nevertheless these same parties were striving to elect candidates to Congress under their own labels. The number of spoiled or invalid ballots, therefore, is frequently high. Moreover, some voters deliberately spoil ballots as a sign of protest, voting for everybody, or covering the ballot with earthy language.

Pacheco carefully set up his tally system so that there would be a maximum amount of information tallied. For every ballot box—there were about 3,800, in all—the computer was preprogramed with the number of registered voters for that box—including the number affilated with each party, as well as the names of the officials who had to certify the count for each box. On voting day, these officials had to certify not only the votes cast for each candidate, but the number of envelopes placed in the box by voters, the number of blank ballots, the number of invalid ballots, and the number of votes for each party. Each box had an average of about 300 registered voters.

All this information had to be present for the computer to accept the results as valid, including the names of the correct officials certifying the count. Moreover, the program, as mentioned before, had an independent checking loop, so that the sums were made independently, and then checked with the sums submitted by local officials.

Pacheco was proud of his system as results began rolling in on election night. But then something seemed to be going wrong. The results from ballot box after ballot box were flagged by the computer as invalid, particularly from the large cities and from the mining districts. A quick analysis began to show why: The results reported frequently exceeded the number of registered voters, or the number of votes cast exceeded the number of envelopes submitted by voters. Nor did the combined totals for blank, invalid, and valid ballots tally. In the rejected tallies, the Marxist parties showed lopsided, swollen results, far in excess of their registered strength.

In La Paz, 25 percent of the ballot box counts were rejected by the computer for such inconsistencies. In Santa Cruz, 30 percent were rejected. In Cochabamba, 40 percent were rejected. In all over 1,000 of the 3,800 ballot box tallies were not valid, based upon the computer evidence.

It was clear to Pacheco from these results that a pattern of massive, organized fraud had been organized by the Marxists, who had counted upon the computer system to certify their results. But the Marxists had not counted upon the capabilities of the computer program to cross-check and to make independent sums of the various kinds of data. According to Pacheco's rough calculations, if the fraud were discounted, the real winner would have been the moderate former President Hugo Banzer, who would either have had a clear majority, or tied with Siles Suazo.

Yet, in any case, there was grave doubt whether the election represented a democratic mandate no matter who won, however honest. Of those who were eligible to vote, only 70 percent were actually registered. Of those who were registered, only about two-thirds actually went to the polls. Thus, of those eligible, registered and nonregistered, only about 45 percent actually went to the polls. And of those who went to the polls, hundreds of thousands cast blank ballots. Pacheco calculated that the combination of, first, those who were eligible, but did not register; second, those who registered, but did not go to the polls; and third, those who cast blank ballots comprised 65 percent of the electorate.

The votes actually cast for candidates, therefore, represented only 35 percent of the electorate. But of the votes actually cast, over one-third were fraudulent. That means that only 21 to 23 percent of the electorate cast acceptable ballots, distributed among 13 candidates.

Even without considering the fraud, the combination of those who registered, but abstained; those who cast invalid ballots; and those who cast blank ballots amounted to 41 percent of those who registered. Siles Suazo, by this account and including the fraudulent votes, got only 24.4 percent of the registered electorate.

This analysis makes it very difficult to assert, as does the U.S. State Department, that the action of Gen. Garcia Meza was thwarting the progress of democracy in Bolivia. Whatever the hopes of the Bolivians, and the hopes of their friends in the hemisphere, the progress of democracy was thwarted not by the military action, but by the electoral climate in Bolivia.

Moreover, when Pacheco reported what was happening to the National Electoral Court, which was supposed to certify the election, he found that his problems were just beginning. The court, heavily infiltrated by Marxists, was determined that Siles Suazo would win in any case. Pacheco was ordered by the court to certify his tallies just as they stood; but he refused, pointing out that his checking program rejected the tallies based upon objective criteria.

Next the electoral court came to him and told him to alter the numbers in his checking program so that they would agree with the fraudulent results. Pacheco pointed out the stern penalties under Bolivian law for any citizen falsifying the election returns. Finally, the judges on the court said that they would change the figures themselves; but having no understanding of how a computer operates, they merely erased numbers on the printout, or, in some cases, simply wrote over the printed numbers in ink. Pacheco agreed to these changes only on the condition that each change be accompanied with the judges' signatures and seals. Incredibly, the court agreed to these terms.

Meanwhile, as the days dragged on, the tension was rising. During a Bolivian election, everything comes to a standstill until the citizens see who ultimately has the power. Pacheco began to fear that his computers, with the unimpeachable evidence stored in their memory banks, would be bombed by terrorists, or that he and his family would be kidnaped or assassinated. At this point, he took his evidence to the military authorities.

By now 17 days had passed since the election, and the military had taken no action. However, the day after Pacheco took the evidence of his computer analysis and the signed and sealed changes dictated by the electoral court, Gen. Garcia Meza took his troops into the Quemado Palace, where they met no resistance.

The reaction of the United States was immediate. Acting upon cables sent by U.S. Ambassador Marvin Weissman, the State Department suspended military and economic aid, and recalled Weissman himself. The United States even cut off assistance to the international drug enforcement programs, with the probable result that more drugs will flow into the United States.

Mr. President, in the light of these and other facts, I think it is time for the United States to join with the major nations of both hemispheres and extend correct and proper recognition to the Government of Bolivia. Indeed, in the Western Hemisphere, we are isolated with a bloc of Socialist nations—Cuba, Nicaragua, Jamaica, Grenada, Guyana—with which we have little in common, as well as with Costa Rica, Panama, and Venezuela which have taken a perverse role in promoting leftist revolution in the hemisphere.

If the United States is to regain its leadership and respect, it will have to take the lead in supporting the security interests of the United States and of the people of the Western Hemisphere. The prospect of another Allende-style regime in the midst of South America—particularly one which would have seized power through fraud and corruption—would have convinced our friends in this hemisphere that we no longer had any interest in the human rights of the majority of the population south of our border. Fortunately, that prospect has been averted; but now we must move to regain the respect we have lost.

COOPERATIVE EFFORT UNDERWAY TO REVITALIZE THE AMERICAN STEEL INDUSTRY

● Mr. RANDOLPH. Mr. President, today President Carter announced his program for the American steel industry, its workers and communities. His leadership in addressing the critical problems of this vital industry is to be commended. I am supportive of this administration's program to revitalize the steel industry and I believe the policies outlined are reasoned and meritorious. I am also confident that the Congress will pass the necessary implementing legislation to activate an all-out recovery effort by the steel industry, the administration, labor, and a concerned public.

The reinstatement of an improved trigger-price program and a strengthened mechanism for immediate initiation of antidumping actions, if there is a surge in steel imports, is a principal component of the plan. This is a policy I have vigorously supported since the TPM was suspended last spring, and I am gratified that our President has included this essential element.

A second principal provision is to allow selective stretch-out of 3 years for compliance with air quality regulations, providing that no further degradation of the environment occurs during the period and that the dollars saved by the steel industry wil be invested in modernization. I understand the President intends to submit legislation in January to accomplish this proposal. If the situation is as critical as we believe it to be for the steel sector, I believe the legislation should be submitted in November, and the Congress can begin initial work on the multifaceted proposal immediately.

The adjustment assistance components of the President's steel package must not be overlooked. Economic strengthening of the steel sector is translated to job and people and communities.

I am also gratified with the administration's strengthened commitment to increased support for research and development in steelmaking technologies, particularly for coal-based technologies.

We have a Senate Steel Caucus organized in 1977 composed of 39 Senators. It is a bipartisan group intensely involved and committed in solving steel problems. Colleagues who work with me in the Steel Caucus, in particular, BIRCH BAYH of Indiana, JOHN GLENN of Ohio, and JOHN HEINZ of Pennsylvania, are dedicated in their work to design programs and policies to assist the steel industry and steel communities. The Senate Steel Caucus has been involved over many, many months in working sometimes outside the Tripartite process, but with the administration, the industry, labor and steel communities on our suggestions and recommendations. And I must state that not every member of the Senate Steel Caucus agrees on policy recommendations, but we do agree that priority must be given to strengthening this basic industry.

Mr. President I ask that the "President's Program for the American Steel Industry, Its Workers and Communities," the "Report to the President by the Steel Tripartite Advisory Committee on the United States Steel Industry," and a "Fact Sheet on the Steel Trigger Price Mechanism (TPM)" be inserted in the RECORD.

The material follows:

THE WHITE HOUSE,
Washington, September 30, 1980.

A PROGRAM FOR THE AMERICAN STEEL INDUSTRY ITS WORKERS AND COMMUNITIES

Almost two years ago, I formed a Steel Tripartite Advisory Committee, to advise me and my Administration on problems within the U.S. steel industry. Since that time, the Committee has served as the forum for constructive talks among government, management and labor. Last week, the Committee completed a review of industry conditions and recommended to me a series of measures by which the government can assist the American steel industry in its efforts to modernize and regain competitive strength.

I have already acted, in my Economic Revitalization Program, to introduce measures that will help steel, as well as other industries, to accelerate the technological innovation and capital investment that are necessary to our economic growth, in ways that do not rekindle inflation.

Based on the proposals in by Economic Revitalization Program, the recommendations of the Steel Tripartite Advisory Committee, and recent developments in the trade area, I have initiated a new steel industry program consisting of:

Measures to assist the steel industry in making the investments necessary to modernize its plants and equipment.

Initiatives to encourage research and development of new steelmaking technologies.

Reinstatement of an improved trigger price mechanism (TPM) that will provide expeditious investigation of unfair trade practices. The United States Steel Corporation has indicated its intention to withdraw its antidumping complaints. These decisions will help ensure a fair environment for trade in steel products during the transition period that both domestic and foreign steelmakers have begun.

A program for industry compliance with environmental requirements that will, at last, ensure that the steel industry can and will attain our goals of a cleaner environment and a healthier workplace.

Programs to help workers, their families and communities heavily affected by changes in the industry.

A renewed commitment to address the problems of the steel industry through the tripartite process.

The challenge of revitalizing this essential industry must be met primarily by the industry itself. The government will develop policies that provide the climate for accelerated modernization, enhanced productivity, lasting and stable employment, and the protection of the environment. If the goals that all share for this industry are to be realized, however, the industry—management, stockholders and labor—must look beyond short-term interests. Attractive short-term investment or diversifying activities should not be permitted to delay or interfere with investment for modernization, a task that will require the full financial resources of the industry. Wage demands must be moderate and consistent with productivity gains, to ensure improved longer-term employment prospects. Once the industry, both labor and management, and government have demonstrated to the financial community and the public their commitment to each of these efforts and to continued cooperation, the industry will be able to meet its capital requirements.

My steel program will help improve the condition of the steel industry. The immediate effects will be a pickup in production, improved job opportunities for steelworkers, increased revenues for steel producers, and a new sense of certainty and stability for international trade in steel products. Over the longer term the program will lead to substantial increases in investment and the introduction of advanced technologies into the steel industry. Those steps will improve productivity, hold down costs and make the industry more competitive at home and in the international marketplace. The end result will be more secure jobs and more prosperous communities.

Principles and objectives

In announcing this steel program, I agree with the general conclusions of the Steel Tripartite Advisory Committee. The program is guided by the following principles and objectives, which set both its goals and its limits.

Steelmaking is a basic industry within our economy. With annual sales reaching $57 billion in 1979, the steel industry is larger than any other U.S. industry except for petroleum and autos. Steel remains an essential ingredient in a vast array of the goods that we require. Its size, and the major role it plays in our industrial base, makes an efficient steel industry a prerequisite for a revitalized domestic economy.

The size of the industry will ultimately be determined by market forces, by the demand for steel products and by competition in the U.S. market and in international trade. American consumers and steelworkers will benefit from the efficient, modern steelmaking that will result.

But trade in steel must be conducted according to the established rules of fairness. Unfairly priced imports disrupt our home market for steel products, making it difficult for domestic producers to plan and invest for the future. The American steel industry must be prepared to meet fair international competition, but it is the government's responsibility to take action when injury is the result of competition violating established rules of fairness. Prompt and effective enforcement of our trade laws will help establish conditions in which industry modernization can go forward rapidly.

The industry has exceptional capital needs. Modernization of the American steel industry will call for high levels of investment in new plant and equipment for a number of years. Compliance with environmental laws will require the industry to invest even more. Combined, these expenditures will be very large, much larger than the investment requirements for many other American industries. While estimates differ substantially, almost all studies agree that the industry faces a substantial capital shortfall.

In the past the industry has not been sufficiently profitable to finance its capital requirements. Under current and anticipated business conditions, without changes in Federal policies, it is questionable whether over the next few years the industry would be able to do so.

The government does have a responsibility, working with the private sector, to ease the burden of adjustment for workers and communities that are heavily affected by economic change. Where jobs and communities are adversely affected, new jobs must be created, workers retrained, and economic development encouraged.

Prompt and full industry compliance with our pollution laws is critical to meet our environmental goals. Although the steel industry has spent substantial sums and made considerable progress in the past few years on pollution control, it continues to lag far behind other industries in achieving compliance with air and water pollution control requirements. Since steelmaking is an inherently dirty process, further progress in compliance will contribute substantially to overall attainment of our national environmental goals. Modernization and the use of new, cleaner technologies will result in a more competitive and cleaner steel industry in the years ahead.

For all these reasons, the situation of the steel industry is unique. The magnitude of the effort necessary to modernize and regain competitiveness will require the full cooperation of the industry and government. Modernizing the steel industry will also take time. A coordinated and integrated set of initiatives, maintained for a substantial period, will be necessary to set the industry on a new path. Our aim must be to have a steel industry that is as productive and efficient as possible, one that is completely competitive by world standards.

Working together, we will do so.

THE PRESIDENT'S PROGRAM

MODERNIZATION AND INVESTMENT

Modernization of the domestic steel industry will require sustained investment at high levels, as well as research, development and use of advanced steelmaking technologies. The proposals contained in my economic revitalization program will help the industry in this effort.

My proposals to liberalize and simplify the current depreciation system will help the steel industry finance its long-term modernization program. Under the new system of constant rate depreciation, the rate of depreciation for equipment (which accounts for 85–90 percent of the steel industry's fixed capital) would be about 40 percent greater than is permitted under current law.

In addition, the full 10 percent regular investment tax credit (ITC) will be made available for all new equipment with a useful life of more than one year. (Current law provides for a reduced credit in the case of short-lived assets.) Furthermore, an extra 10 percent credit will be allowed for up to $10 billion of capital investments which provide job opportunities and contribute to the economic base in distressed regions; this credit should be of particular benefit to steelmakers, in light of the location of many of their existing facilities.

Another important measure for the steel industry is my proposal to make the regular investment tax credit partially refundable and the special credit fully refundable. This proposal, which represents a major innovation in Federal tax policy, will extend the benefits of the ITC to firms that have no current tax liability. It provides the bulk of immediate tax relief for steel industry modernization.

These proposals will improve the outlook for investment in steel in several ways. In addition to their substantial direct benefits to steel companies, the new capital recovery provisions will yield important indirect benefits in the near term as a result of new investment and increased steel demand in other industries. In addition, diversified steel firms may realize direct short-term benefits by reducing tax liabilities in profitable non-steel areas.

DEVELOPMENT AND USE OF NEW TECHNOLOGY

Increased use of new technology is essential to make the United States steel industry more efficient, productive and competitive. Some U.S. firms are world leaders in the development and use of advanced steelmaking technologies. Others, however, have lagged considerably. For the most part, firms will modernize if the industry's ability to generate the funds for investment in new technology improves; my tax proposals will help in this regard. However, programs to develop and test important technical advances, under actual steelmaking conditions, will also be required.

Many promising technical opportunities have been identified. After extensive review, the Steel Tripartite Advisory Committee concluded that both existing and prospective steel technology is moving toward continuous, closed operations, which offer significant progress in manufacturing productivity, energy utilization, environmental protection, and worker health and safety. The Committee also concluded there were promising opportunities in broader application of continuous steel casting, formed-coke technology, dynamic control systems for steelmaking, recycling and recovery technologies, and a range of advanced process technologies.

Examples of additional possible areas of cooperation to be explored include coal-based direct reduction of iron ore and basic research on high performance steel alloys, plasma technology, and the physical chemistry of steel and steelmaking.

As announced in my recent Economic Revitalization Program, I am committed to providing an additional $600 million over the fiscal years 1981 and 1982 for the support of basic research and other scientific programs to improve the performance of the U.S. economy. These funds will be used to maintain a real annual growth rate of 3 percent in Federal funding of basic research and also to support increased collaborative research among government, industry, and universities. The steel industry, among others, will benefit from these steps.

I believe industry and government should cooperate to ensure full consideration of the opportunities that can put domestic producers back at the forefront of steelmaking technology. I have therefore instructed the Director of the White House Office of Science and Technology Policy, the Secretary of Commerce, and other senior officials to review carefully the technical proposals outlined by the Steel Tripartite Advisory Committee and others. I am further directing these officials to explore promptly, in collaboration with industry, the feasibility of establishing a cooperative basic and applied research program.

EFFECTIVE ENFORCEMENT OF TRADE LAWS

Under the United States trade laws, the Federal government is responsible for ensuring that domestic producers are subject to fair competition in the international marketplace. Our trade laws are fully consistent with the obligations we have accepted under the Multilateral Trade Agreements. My Administration has often stated our insistence on vigorous and prompt enforcement of these laws.

My administration has continued to work towards an environment in which international trade in steel products is free of government obstruction, is determined by competitive conditions, and is conducted without injurious dumping or subsidization. The steps announced today advance these goals.

Today, the Commerce Department is announcing that the trigger price mechanism (TPM), which was suspended in March 1980, will be reinstated. The TPM, which has been improved in several respects, will help achieve prompt and effective enforcement of the trade laws during the transition period in which the industry—both here and abroad—will modernize and restructure, for a period of not more than five years.

At the same time, the United States Steel Corporation is announcing immediate withdrawal of its anti-dumping complaints against steel producers in seven European countries.

Administration of the TPM, particularly monitoring efforts, is being improved. In addition, a change will be introduced in the method of calculating trigger prices in order to reduce the distortions from short-term exchange rate fluctuations. Furthermore, a procedure is being established to review imports surges which may be the result of dumping or subsidies. (Details are being announced today by the Commerce Department.) As before, the TPM will impose no quantitative restrictions, will guarantee no market share, and will not impede fair international trade.

Reinstatement of the TPM will help ensure that unfair import competition does not disrupt the steel industry's modernization program. Indeed, the reinstatement of the TPM is premised on the industry's readiness to undertake such a program. The new TPM system will be reviewed after three years; continued operation of the TPM beyond three years is specifically conditioned on the industry's undertaking the investments necessary to ensure its long-term competitiveness.

The new TPM is thus designed to cover only a transitional period for domestic and foreign steel producers. The United States Government has received assurances from European Community authorities that they will press forward with their efforts to restructure the European steel industry during the period when the TPM is in operation.

In no longer than 5 years, the TPM will be terminated, and there will be no special administrative procedures for steel imports. Should trade complaints arise, they will be handled through the normal enforcement of our antidumping or countervailing duty laws.

As the Committee suggested, I am directing the United States Trade Representative and the Secretary of Commerce to review the other trade issues identified in the Committee's report. Also, the Secretary of Commerce will follow closely the situation in specialty steel trade, and advise me if inclusion of specialty steels is necessary and feasible.

ENSURING COMPLIANCE WITH ENVIRONMENTAL LAWS

I believe that prompt compliance with the Clean Air and Water Acts is absolutely essential for the health and quality of life of the American people. The steel industry is, by the nature of its operations, one of the country's largest sources of air and water pollution. It is particularly important, therefore, that the steel industry comply with the environmental laws. This package is intended to get that job done.

The problems of environmental compliance are unique to steelmaking. Because steel production is an inherently dirty process, the clean-up costs are very great. Although the industry has spent substantial sums, during a period of declining profits, and made considerable progress in the past few years on pollution control, it continues to lag far behind other industries. Full compliance will require large additional expenditures at the very time that the industry must also make major investments for modernization.

Modernization of the industry is critically important to the well-being of the steel workers, their families, steelmaking communities, and the economy generally. But modernization is equally important to environmental objectives, since modern facilities are inherently much cleaner, and all parties (including the industry) have agreed they will use the most modern technology available.

For these reasons, I agree with the Committee report that, for this industry uniquely, flexibility is needed to assure that the goals of modernization and environmental protection will both be met.

The program announced today is designed to make sure that the steel industry can and will, at last, comply with the environmental statutes. It will encourage and enable the industry to raise the capital necessary for compliance by fostering modernization and technological development and providing tax incentives. It will allow companies the time necessary to secure capital for achieving compliance by providing flexibility on deadlines in those individual cases where it is necessary. And it will ensure that there will be environmental compliance by requiring strict schedules spelled out in compliance orders and enforced by the courts.

I am firmly committed to the reauthorization of a strong Clean Air Act next year. I do not intend to endorse an across-the-board relaxation of deadlines for this industry or others. I recognize, however, that the unique conditions of the steel industry identified in the Tripartite report may require some modification of compliance deadlines for a limited number of steel facilities. So that these special needs can be addressed without distorting the general debate on the Clean Air Act, I will recommend legislation to deal separately with the unique situation of the steel industry immediately after the Congress convenes in January. I will not recommend an automatic deferral of compliance deadlines—there are steel facilities that can comply without further delays—but rather, a discretionary, case-by-case stretch-out of required action.

In preparing the amendment, the Administration will consult with the Congress, the Committee (which will be expanded to include public members with respect to its work on environmental matters), with representatives of environmental organizations, and with the National Commission on Air Quality. The amendment would allow the EPA Administrator to grant an individual steel source an extension for up to three years of the deadline for compliance with the requirements of the Clean Air Act. The Administrator could grant the extension only where the following conditions are met:

1. The extension is no longer than necessary to allow the company to make modernization expenditures on iron and steel facilities; and
2. Funds which would have been spent to comply with the deadline will be expended in the same time period for modernization and in existing steelmaking communities; and
3. The company will have sufficient capital to meet all air pollution control requirements in a timely manner; and
4. The company is under a company-wide judicial order which establishes a schedule for each violating source to comply with as expeditiously as practical, consistent with any extensions granted; and provides means to assure no degradation of air quality during the deferral period.

Existing consent decrees will remain in force until, in particular cases the Administrator is granted by legislation, and uses, this extension authority.

In the Committee report, all parties—including the industry—agreed that effective implementation of their recommendations would resolve the major health-related environmental regulatory issues concerning the steel industry. It will make an important contribution to the modernization of the industry. I am accepting this and the Committee's other proposals because doing so will remove the need for further amendments to the Clean Air Act as it affects the steel industry during reauthorization by the next Congress. My decision is also premised on my understanding that the steel industry has committed to comply with the Clean Air

Act. The conditions for obtaining extensions of deadlines will be strict, and I have been assured by the industry that when a source obtains a deadline deferral, efforts to improve air quality will continue. The amendment would only allow a stretchout—not a postponement—of investments on controls.

The amendment recommended by the Tripartite Committee would allow the Administrator to extend the deadline for a facility to permit investment in modernization of other steel facilities owned by the company. I believe it is appropriate to require that the investments made possible by the deadline extension should be for facilities located in existing steel communities.

The Committee also recommended that "to the extent substantial additional expenditures will be required" by forthcoming EPA regulations to meet water pollution control requirements, the Clean Water Act should be amended in the same manner. The regulations will be proposed in December and the level of expenditures required by new regulations is not now known. My Administration will then take appropriate action in light of the Committee's recommendation, taking into account whether substantial additional expenditures will be required by the forthcoming regulations and whether the overall capital requirements of the industry are as high as projected. Before my Administration forwards any amendment, we will consult with all interested parties.

EPA has already begun work to effect the Committee's recommendations that it explore ways to increase the availability of the "bubble concept" to the industry, and that discharge permits under the water act not be modified until EPA's revised regulations take effect next year. I accept both recommendations as important to the modernization of the steel industry.

WORKER AND COMMUNITY ASSISTANCE

The modernizing and restructuring of the steel industry will result in the competitive industry that is necessary to insure the stability of steelworkers' jobs. As the modernization process takes hold over a period of years, productivity will improve. Nonetheless, job losses can be reduced or avoided, especially since the modernization will take place in steelmaking communities. However, some dislocation must be anticipated. Both government and industry can and will take steps to help relieve the anguish and uncertainty that accompany these changes, but change cannot be avoided entirely. Failure to modernize the steel industry would lead to still greater economic and personal distress, with permanent shutdowns of major plants.

Trade adjustment and other current efforts

The Federal government has in recent years provided substantial financial assistance through trade adjustment programs for workers and communities harmed by temporary layoffs or permanent plant closings. From 1975 to the present, for example, over 100,000 steelworkers have received nearly $200 million in trade adjustment assistance (TAA) benefits to supplement unemployment payments from other sources. Similarly, over $30 million had been disbursed since 1977 in adjustment assistance to communities affected by steel plant closings. Earlier this year I requested and Congress approved an additional $1.5 billion for trade adjustment benefits in fiscal 1980 and 1981, part of which will go to steelworkers. My Administration has also supported legislation that would extend TAA benefits to workers in supplier industries.

Over the past year, guided by the deliberations of the Steel Tripartite Advisory Committee, the government has begun a number of important steps to channel Federal aid to workers and communities more effectively. In 1979, my administration, in cooperation with the companies and the United Steelworkers of America, established a task force to respond to the problems posed by steel shutdowns on an individual plant basis. This task force has served as a useful vehicle for improving the flow of unemployment benefits and employability service information to the site of plant closings, for speeding up the application and payment of TAA benefits to unemployed workers, and for developing action plans specifically geared to the needs of individual groups of workers and communities. A joint Commerce-Labor Adjustment Action Committee has worked in eleven of the communities most severely hurt by steel layoffs and shutdowns, helping to organize and expedite financial, training and job finding help for workers and, in six communities, helping secure Economic Development Administration funds. The Committee also recommended that Federal officials be assigned to work full-time with local governments, labor and managements to ensure that available Federal assistance programs be delivered as quickly as possible; this program, too, has begun.

New initiatives

My proposals for worker and community adjustment assistance, as announced in my Economic Revitalization Program, draw upon the adjustment experience gained from the steel industry and indicate my commitment to expand these efforts. The proposals include the following:

Supplemental Unemployment Benefits: As a temporary measure my proposal to authorize 13 additional weeks of unemployment compensation will provide immediate and direct financial assistance to steelworkers and workers in related industries who have lost their jobs.

Job Training/Assistance: I have proposed a $300 million expansion of current job training programs under CETA, some of which will help retrain skilled workers. In addition, the Department of Labor will establish in 1981 about a dozen pilot programs to test innovative new ways to assist in retraining and relocation of workers affected by industrial change. I have instructed the Department of Labor to conduct some of these pilot programs in steelmaking communities. If the demonstrations prove successful, I will propose a full-scale program offering dislocated workers throughout the Nation similar training and assistance.

Targeted Investment Tax Credit: My proposed targeted investment tax credit will be of special benefit to steel communities. Many steel communities are older cities and towns suffering not only from temporary or permanent shudowns of steel plants but also from general declines in economic activity. Many would qualify as eligible sites for the targeted investment tax credit. For these communities the modernization of the steel industry, in combination with the targeted investment tax credit, should be an important step towards revitalizing their economic bases.

Programs Assisting Communities: The Federal government, through agencies such as the Economic Development Administration (EDA) of the Department of Commerce and the Department of Housing and Urban Development (HUD), provides a wide variety of programs aiding the development of businesses in steelmaking communities, including loan guarantees, development grants, direct loans, and interest subsidies.

My proposal for increased program levels for economic development of $1 billion in 1981 and $2 billion in 1982 will allow a significant expansion of these programs benefiting steel communities.

CONTINUING PARTNERSHIP

In large part, my Administration's program is a result of the continued discussion and collaboration within the Steel Tripartite Advisory Committee. The Committee's deliberations have shown the value to Government decisionmaking of close cooperation and discourse with business and labor. In recognition of this contribution, I decided to create an Economic Revitalization Board to advise on matters of economic policy affecting all industry.

To obtain additional guidance, and help in monitoring the progress of the program being announced today, I have directed Secretaries Marshall and Klutznick to renew the Committee's charter, which expires next January. I have also directed them to modify the Committee's charter to include representatives of the public with respect to its work on environmental matters.

REPORT TO THE PRESIDENT BY THE STEEL TRIPARTITE ADVISORY COMMITTEE ON THE UNITED STATES STEEL INDUSTRY

SEPTEMBER 25, 1980.

DEAR MR. PRESIDENT: In our capacity as joint chairmen of the Steel Tripartitie Advisory Committee we herein summarize the findings and recommendations of the Committee and transmit its working papers for your review and consideration.

The Steel Tripartite Advisory Committee was established on July 26, 1978, in conjunction with the Administration's acceptance of the recomendations of the Solomon Report. The purpose of the Committee is to serve as a mechanism to ensure a continuing cooperative approach to the problems and prospects of the American steel industry. Its current membership includes:

GOVERNMENT

Secretary of Labor Ray Marshall.

Secretary of Commerce Philip M. Klutznick.

Unitied States Trade Representative Reubin O'D. Askew.

Environmental Protection Agency Administrator Douglas M. Costle.

Assistant Secretary of Treasury for Economic Policy Curtis A. Hessler.

UNITED STEELWORKERS OF AMERICA

President Lloyd McBride.
Vice President Joseph Odorcich.
Director Paul Lewis.
Director Edgar L. Ball.
Director Buddy W. Davis.
Director Frank J. Valenta.
Director Howard Strevel.
Assistant to the President John Sheehan.

STEEL INDUSTRY

William J. DeLancey, Chairman, Republic Steel Corp.; Chairman, American Iron and Steel Institute.

Harry Holiday, Chief Executive Officer, Armco Steel Corp.

Edgar F. Kaiser, Jr., Chairman, Kaiser Steel Corp.

William H. Knoell, President, Cyclops Corp.

Robert B. Peabody, President, American Iron and Steel Institute.

David M. Roderick, Chairman, U.S. Steel Corp.

George A. Stinson, Chairman, National Steel Corp.

Donald H. Trautlein, Chairman, Bethlehem Steel Corp.

Shortly after it was established, the Committee concluded that the fundamental problems of the industry could best be addressed by focusing on five areas: capital formation, trade, environmental and regulatory matters, worker and community adjustment, and technology. Working groups were established in each area and assigned the task of developing findings and recommendations. The results of the working groups were then reviewed by the full Committee members. Our report is based upon this process.

On behalf of the Committee we have endeavored to summarize the condition of the industry, its basic problems, objectives to guide action, and the major findings and recommendations Committee members believe are necessary to revitalize the steel industry. All represent tripartite views. The summary of the findings and recommendations is organized according to the five working groups mentioned above. Although there has not been agreement on all matters, we have been impressed by the substantial consensus that has emerged among labor, business, and government members of the Committee.

At the outset we wish to emphasize four points that we believe are central to understanding how to improve the performance of the domestic steel industry.

First, steelmaking constitutes a foundation for a substantial portion of our industrial base. Metals continue to be essential to industrial production, and steel represents about 90 percent of all metals consumed.

Second, the problems of the steel industry, although varying from firm to firm, are fundamental. At the same time, the inherent strength of the industry as a whole provides major opportunities for long-term progress.

Third, the problems of the industry reflect failings on the part of government, management, and labor. None has been sufficiently responsive to the changes affecting the industry. All share responsibility for contributing to a more vital industry.

And fourth, remedying the problems of steel will require a substantial period of time. A coordinated and integrated set of initiatives, maintained for a 3 to 5 year period, or longer, will be necesary to set the industry on a new path.

We believe that the conclusions of the Steel Tripartite Advisory Committee provide useful guidance towards developing policies and programs that will foster modernization of the American steel industry.

Ray Marshall,
Secretary of Labor.
Philip M. Klutznick,
Secretary of Commerce.

Part I: Condition of the Steel Industry

The United States steel industry, once one of the strongest segments in our economy, is now in difficulty. That is especially the case for that part of the industry composed of the large integrated carbon steel producers, which account for about 85 percent of domestic steel output. The problems of the industry are fundamental in nature. The recent recession has exacerbated these problems and made them more obvious.

Shipments in 1980 are expected to be 20 percent below their 1979 level. From second quarter 1979 to second quarter 1980 the major integrated steel producers recorded a 63 percent decline in corporate profits, with outright losses on steelmaking operations as a result of the low level of capacity utilization. June 1980's output of raw steel was the lowest monthly total since 1962. Capacity utilization in July declined to just above the 50 percent level. Mid-summer employment of steelworkers fell 22 percent from the best employment month in 1979. Imports as a share of domestic consumption reached the 21 percent level in May, a near record, though the import share headed back down toward lower levels in subsequent months. July did see an increase in domestic orders for steel, and by the end of August, according to industry statistics, its major producers were operating at a capacity utilization rate of 59 percent—an encouraging sign but still not relief for an industry that becomes profitable only when its capacity utilization rate gets into the 80 perecnt range.

The industry's current situation is the result of problems that have been building for several decades. These problems have not, however, affected all steelmakers in the same way. Not all steel companies make the same line of products; some make basic carbon steel while others make a wide variety of specialized steels. Not all operate in the same way. Some are integrated producers; some are not. Some use one steelmaking technology, some another. The steel companies differ widely with respect to where they have located their plants. Some depend largely on raw materials from the United States; some import significant shares of their raw materials. Some steel companies have been better managed than others. The result of all these differences among steel companies, and the decisions made by their managements over the last several decades, means that the current efficiency, profitability, and competitiveness of all American steel companies is by no means identical.

Despite the differences, the core of American steelmaking still takes place within the large integrated carbon steel producers. Better than a dozen companies fall into this category, and they are referred to as the industry in the discussion that follows.

The industry's problems have centered around insufficient financial resources. To begin with, demand for steel products has not grown rapidly in recent decades. Moreover, during the same period, but especially since the mid 1970s, excessive steelmaking capacity has characterized the world steel industry.

In the 1965–1979 period United States domestic consumption of steel products increased at a rate of about 0.9 percent per year. Slow growth in demand is typical for mature products in mature economies; in the case of steel it can also be accounted for by some substitution of other materials for steel. Compounding the problem of slow growth in domestic demand has been the fact that imports have been capturing an increasing share of the Nation's steel purchases. As a result, in the last two decades domestic output of steel has increased slowly, at a rate only about one-third of that for total U.S. industral output. Sluggish volume gains in domestic sales of steel products, over a long period, have limited profits, giving the industry as a whole insufficient ability and incentive to adopt new steelmaking technology.

As evidence, in the 1950s steel companies around the world began to turn to the basic oxygen steelmaking process. At the beginning of the 1960s only a few of the smaller European steelmaking countries had adopted this innovation to any notable extent. Neither United States producers nor those in most of our major foreign competitor countries had made substantial commitments to basic oxygen steelmaking. By 1978 all European steelmaking countries (except for the United Kingdom, Italy, and Sweden) and Japan had higher proportions of their steel output produced in basic oxygen furnaces than in the United States.

In the early 1960s, a second major technical innovation, continuous casting, was introduced into the steelmaking industry. By the late 1970s about 50 percent of Japanese steelmaking used continuous casting; for the European Community the figure was 29 percent; for American steelmakers it was only 15 percent. In the international arena this reduced the competitiveness of our steel producers; at home it lessened their opportunities for efficiency gains.

Lack of investment in new facilities has left the industry with an aged capital stock, a condition accentuated in the last decade by the fact that allowable depreciation for the industry has failed to parallel the rapidly rising cost of modernizing investment. Although all major domestic steelmakers have engaged in some modernizing investment, average figures confirm that the industry contains many old facilities. For example, about 15 percent of basic steel production still occurs in open hearth furnaces; of these over 40 percent are more than 30 years old. Similarly, about 40 percent of all U.S. plate mills are over 30 years old.

Aggressive investment by foreign producers, in contrast, provided some countries not only more modern plants but also larger plants, with the accompanying economies of scale. By 1976 the average annual raw steel capacity of the ten largest plants in Japan was 12.7 million tons, in the European Community 7.1 million tons, and in the United States 6.5 million tons. Again, the consequences were twofold: declining competitiveness relative to the larger foreign producers and diminishing chances to hold down costs in the home market.

One additional consequence was declining industry employment. At the beginning of the 1960s steel companies employed about 450,000 production workers. At the close of the 1970s they employed only about 354,000 production workers.

Thus, within the U.S. economy the problems of the industry were rooted in eroding productivity and efficiency, plus obsolescence. These factors made it increasingly difficult for U.S. steel producers to compete with foreign producers. During the last several decades three other factors were also at work.

First, during the 1960s increases in the world supply of raw materials for steelmaking eliminated some of the U.S. industry's previous advantage of low-cost domestic supplies. Second, declining ocean shipping costs also contributed to the fall in raw material prices and, as they picked up in quantity, the price competitiveness of imports into the United States market. And finally, the rapid worldwide diffusion of new steelmaking technology made it possible for foreign producers to surpass the efficiencies of the older, established facilities in the United States. To these international trends an additional domestic one must be added: wage rate increases tended to outrun productivity gains during certain periods. As as result, during most of the last two decades Japanese (and some European) costs of steel production tended to decline relative to those of U.S. steel producers.

In part, imports have risen during the period that the domestic steel industry's relative cost advantage has withered. In part, however, there have been other factors accounting for the gain in foreign steel exports to the United States.

For a number of reasons many foreign governments have accorded their home steel industries privileged status. Furthermore, foreign governments have taken measures to protect home producers from import competition. The undeniable fact, therefore, is that some not inconsequential share, though nobody can be certain how much, of international trade in steel products occurs under conditions other than those dictated by market forces, for example where subsidization or dumping occur.

The sum of all the factors identified above has had a two-edged effect on the domestic steel industry. On the one hand, declining efficiency, rising costs, and increasing international competition, whether fair or unfair, have driven down the profitability of the industry. The poor financial performance of most domestic steelmakers has constrained reinvestment to levels that have not been sufficient to maintain a competitive capital stock on an industry-wide basis. Internal cash flows from profits and depreciation have not been adequate for modernization needs, and some firms have reached the limits of funds available from external sources. Over the long-term, and judged against general business standards, the major steel companies have not paid out an abnormal share of their cash flows in dividends, and their value has declined in real terms, although it is true that on average the level of the industry's dividends have held reasonably steady even during cyclical periods when industry profits were at low levels. Whatever the case for individual firms, the industry in general has lacked the capital to modernize sufficiently.

On the other hand, for the same reasons, the return on capital invested in steelmaking projects has frequently failed to justify reinvestment for modernization or for the building of entirely new plants. That is, given the market conditions facing the industry in the last decade or so, the buildup of foreign capacity, aggressive foreign exporting, and the problems posed by blending new investments into old plants, industry members have not always had clear economic signals to engage in all out modernization. Thus, a substantial part of the industry became trapped with both a declining capability and incentive to keep its facilities up to date.

All parties who have influenced the long course of events within the U.S. steel industry—management, labor, and government—share some responsibility for the developments outlined above. At times management has been shortsighted. At times wages have exceeded productivity gains. At times government policies towards the industry, particularly in the areas of capital formation, trade, and regulation, have been unrealistic given the industry's condition. There is, however, no way to rewrite the past. The basic problems of the industry now exist. The national challenge is to create a new environment for the American steel industry, to change policies and practices so that the industry's problems can be remedied in the future.

PART II: OBJECTIVES FOR A STEEL INDUSTRY PROGRAM

The deliberations of the Steel Tripartite Advisory Committee make it clear that modernization of the industry will require changes in the policies, practices, and attitudes of all parties who shape the direction of American steelmaking. Taken altogether the changes can constitute a program for revitalizing the industry. The changes require a shared sense of purpose. The work of the Steel Tripartite Advisory Committee emphasizes the need for a steel industry program aimed at achieving the following objectives.

1. Modernizing our economic base. Modernization of the American steel industry must be regarded as a key part of a larger effort to revitalize our overall industrial base and to increase productivity within our economy. Government policies should be oriented toward helpng the steel industry modernize itself so that our entire economy can benefit by having a more productive and efficient steel sector. Modernizing the steel industry will require large investments in new facilities and new technologies. However, because the morernization of steel must proceed in parallel with the revitalization of other core industries, Government assistance for steel will be most effective if it is part of a program aimed at stimulating business investment in general.

2. Reducing the burdens of adjustment. Inevitably, the modernization of the steel industry will lead to the closure of some outdated steelmaking facilities or to their replacement by new facilities. New jobs may replace older ones. Of course, many workers and communities will benefit from the modernization of the industry. More efficient and competitive plants will provide more stable employment and more certain tax bases. Better plants should be cleaner plants. Still, some economic adjustment is unavoidable.

Government, management, and labor share an obligation to assist workers and communities to adjust to the dislocations associated with these changes. Steelworkers and steel communities cannot be expected to bear the burden of modernization unassisted. A central element in a steel program must, therefore, be aggressive programs to assist workers to retrain for new jobs or to relocate to areas where jobs are more plentiful. The programs must also attract new employers to those communities where steelmaking jobs have declined. Fostering the revitalization of industry carries with it the matching responsibility of fostering the revitalization of those communities hurt by the process of change.

3. Responding to unfair import competition. A steel industry program should, consistent with our overall trade policy objectives, work toward a situation in which trade in steel products is free of barriers, determined by economic costs—not government inducements—and conducted without injury attributable to dumping or subsidization. Our import competition laws are fully consistent with the obligations we have undertaken under the Multilateral Trade Agreements. The government must enforce these laws rigorously. The government should be prepared to administer them expeditiously.

4. Environmental and safety and health improvement. Steelmaking is an inherently dirty process. Steelworkers face occupational hazards most workers do not. The industry, therefore, must comply with environmental and safety and health regulations. But such compliance by this industry will require, as it has in the past, extremely large capital expenditures, at a time when capital is vitally needed for modernization and the industry is facing a severe capital shortfall. As a result, to achieve compliance with environmental goals as well as to encourage modernization, government should find ways to allow the industry to make the investments in steel production which will assure that both objectives can be attained. Government reexamination of the reasonableness of its regulatory procedures may be required, too. But government action alone will not do the job. We should expect that industry, for its part, will use any funds that are saved through changes in regulatory requirements for investment in modernization and commit firmly to full and timely compliance with all environmental and occupational safety and health requirements.

5. Adopting the best technology. As regards the latest in steelmaking technology, the problem of the domestic industry lies not in the fact that it has ignored the technology but rather in the fact that, for lack of ability or incentives, it has adopted too little of it. Improved capital formation will permit the industry to expand its use of the technical advances that are now immediately available. New steelmaking technologies, however, are on the horizon. It is not sufficient, therefore, for a steel program to aim at helping domestic producers match the extent to which foreign producers use the latest of available technology. Rather, the aim must be to assist our industry in the development and testing of the possibilities so that they are positioned to incorporate new technologies into their operations as soon as they are proven. The great share of research and development should properly be carried out and financed by the steel companies themselves. But, as is the case with many evolving technologies, there are common scientific and engineering problems, which, if solved, could remove roadblocks to the widespread use of technical advances. A steel industry program should set into motion multi-firm collaboration and industry-government cooperation in R&D to find solutions in these common problem areas.

6. Competition should set capacity. The size of the industry should be determined by market forces. Trends in demand for steel products and competition in the U.S. market and in international trade must be the determinants of the industry's capacity. Government's role is to do all it can to assure open and fair competition at home and in the international marketplace. American consumers will not benefit if Government actions shield inefficient U.S. steel producers from competition. On the other hand, the industry and its workers will not benefit if, particularly through trade, they are exposed to economic pressures which are the result of foreign government measures and support rather than the forces of open industry competition.

7. An integrated long-term approach. A piecemeal approach to the steel industry will accomplish little. The problems of the industry cover a number of areas including capital formation, trade, environmental regulation, technology, and the adjustment of workers and communities to changing industry conditions. Programs in any one of these areas depend upon progress in others. With or without Government assistance, measures directed only at one of these areas cannot set the industry on a new path. A coordinated and integrated set of initiatives, maintained for a 3 to 5 year period, or longer, is required to remedy the industry's situation.

8. *A partnership commitment*. A commitment by management, labor and Government to support and contribute to a steel industry program will be an absolute prerequisite for its success. Changes in Government policies alone cannot make the industry modern and competitive. Indeed, the future succes of the industry depends essentially upon the efforts of its managers and workers. Government, in collaboration with management and labor, can examine its policies and programs to make them as supportive as feasible for industry modernization, but true progress will depend upon the readines of management and labor to do the same.

PART III: SUMMARY OF THE REPORTS OF THE STEEL TRIPARTITE ADVISORY COMMITTEE

A. Modernization and capital formation: Tripartite Findings:

(1) The working group estimate for modernization expenditures was based on 1979 raw steel capacity of 155 million tons, a 4 percent annual replacement rate for steelmaking equipment, replacement costs of $1,130 per ton of finished steel, shipments of 85 million tons in 1980 (76% capacity utilization), and an average of 90 percent capacity utilization thereafter.

Given these assumptions, the average annual capital requirements for the steelmaking segments of the domestic steel industry over the 1980–84 period were estimated to be:

[Billions of 1980 dollars]

Modernization	$4.70
Environment, Health and Safety	.87
Increased Working Capital	.10
Dividends	.45
Total	6.12

The modernization expenditures, because of the higher yields possible, would enable the industry to increase its shipped ton capacity each year by approximately one million tons. The group made no judgment as to the appropriate size of the industry, although a majority of the full Commitee members felt that market forces should resolve the question.

(2) Total average annual capital sources were estimated to be $4.1–4.4 billion. To calculate the industry's capital sources, it was assumed that the above expenditures would be made; the industry could be divided into steel and non-steel segments; and the industry is a single company consisting of that steel segment and an agreed level of non-steel cash flows as a capital source. Other capital sources included net new debt, stock sales, retained earnings, depreciation and deferred taxes, and asset sales.

(3) On the basis of their assessments of projected sources and uses of funds in the steel industry, the working group estimates the average annual capital shortfall to be

$1.7 to $2.0 billion. The annual shortfall peaks in 1980 at a level of $3.4 to $3.6 billion, and then declines to $0.4 to $0.7 billion by 1984.

Steel industry members of the working group believe that the estimated capital shortfall may be understated as a result of the following:

A 90 percent capacity utilization is assumed after 1980, a level that has rarely been achieved for sustained periods in the past.

The capital needs estimates do not provide for the domestic capacity expansion which industry assumes it will require to satisfy growth in domestic demand.

Current forecasts of industry shipments for 1980 and 1981 could be lower than those used in the analysis.

The government members of the working group believe the estimated capital shortfall may be overstated for the following reasons:

Dividend payout ratios could be reduced.

Working capital provisions could be reduced.

Further facility closings would reduce modernization requirements.

The proposed modernization rate is significantly higher than rates (annual modernizing investment outlays) previously achieved by the industry.

The rate of labor cost increase could be moderated through productivity gains.

(4) The working group also analyzed the effects of various tax options with respect to the projected capital shortfall.

The effects of various *tax options* are as follows:

Elimination of the "minimum" tax would reduce the average annual shortfall by $50 million.

Other tax reduction options, such as "10–5–3," would have little effect on the shortfall during the early years of a modernization program because of the expected low profitability in the steel industry over the next several years. A fully refundable 10 percent investment tax credit would reduce the shortfall by an average of $0.7 billion per year over the 1980–84 period.

Accelerated capital recovery (in any of a number of variations) would provide significant benefits toward the end (1985–89) of a modernization period. For example, in the later years the industry would experience a $1.5 billion increase in capital availability under "10–5–3" provisions, versus a $0.7 billion surplus under current tax law.

(5) The working group agrees that accelerated captial recovery for all industry would have the following immediate beneficial effects for the steel industry:

The demand for steel would increase as a result of the general stimulus to capital spending.

Diversified steel firms could use the liberalized tax provisions to offset taxes on profitable non-steel operations.

Tripartite Recommendations:

In the area of capital formation, while the working group, given its assumptions, reached consensus on the dimensions of the industry's financial needs for modernization, it did not reach consensus on proposals for government measures to address these needs, save for agreement that acceleration in capital recovery, applicable across all industry, constitutes a cornerstone in a moderization program for the domestic steel industry. The industry and government positions on the specific options to aid capital formation for industry modernization were as follows:

(1) The steel industry favors enactment of accelerated capital recovery legislation as soon as possible, particularly "10–5–3." In addition, in testimony before the House Ways and Means Committee on July 30, the industry proposed a refundable investment tax credit.

(2) The Administration stated its opposition to the enactment of tax legislation before the election. It has since stated that it would support tax reduction next year and that any tax cut should include accelerated capital cost recovery, and a refundability provision for the investment tax credit.

In summary, the full Tripartite Committee agreed on the need to enhance capital formation in the steel industry, but disagreed on the precise measures to accomplish the goal. The Committee, however, endorsed tax changes that would encourage more rapid capital recovery.

B. International Trade:

Tripartite findings:

(1) Since 1950 the United States has moved from a position of being the world's leading exporter of steel to its largest importer of steel.

(2) The deterioration in the industry's financial health during this period was accomplished by a marked changed in the U.S. position in international steel trade. It is recognized that while imports have not been the sole cause of declining profitability, there is a historic connection between the growth of imports and the low profitability of the industry, which in turn has hampered the industry's modernization efforts over time.

(3) The reasons for the change in the industry's net trade and financial situations are obviously complex, with many factors, both domestic and international, accounting for the change.

(4) Internationally, several factors help explain the growth in U.S. imports, including:

(a) the development of export-oriented steel industries in Japan, Europe, and a number of developing countries;

(b) the development, at least since 1974, of a considerable imbalance in world supply and demand, even including non-economic capacity additions in some countries;

(c) the propensity of some foreign producers to view exports as the adjustment mechanism in times of slack domestic demand, a propensity reflecting the sensitivity of profitability in the capital-intensive steel industry to high rates of capacity utilization and the desire to maintain employment regardless of demand conditions;

(d) the reliance on protectionist measures in major foreign markets, a policy which, when applied, enables steel exporters to compete aggressively on world markets without undermining their home market prices;

(e) the decline, in decades past of ocean shipping rates, which lowered raw material costs to resource-poor producers and minimized transportation barriers to exports;

(f) the reduction in several stages, during recent decades, of steel tariffs; and

(g) in the view of the industry and labor members of the working group, the exposure of the domestic industry to a substantial amount of unfair import competition.

(5) Having observed that recent initiatives such as the Multilateral Trade Agreements, the Trade Agreements Act of 1979, and the establishment of the OECD Steel Committee together represent a promising framework for resolving the steel import problem, working group members noted that the test of their value will be their effectiveness in ending injurious dumping and subsidization.

Tripartite recommendations:

(1) Working group members agreed that the future agenda for steel trade policy discussions should include:

Close monitoring of the promptness and effectiveness of U.S. trade law enforcement;

Consideration of the special problems posed by non-market economies—including government-controlled steel sectors in market economies—in calculations of foreign market value and subsidization;

Effective implementation of the Subsidy Code, including bringing developing countries into full compliance with Code obligations.

Negotiation of an international safeguards code not specific to the steel sector but which would require greater transparency regarding import and export restraints that can divert steel trade to the U.S.;

The problems of worker adjustment;

More effective use of the OECD Steel Committee to monitor trends and developments in international steel trade so that potentially disruptive changes in trade flows may be identified at an early stage;

Maximization of the Steel Committee's analytical and consultative capabilities in order to foster government policies that will maintain profitable and economically viable industries throughout the OECD area; and

Development of more effective rules to curb subsidized export credits for steel plant and equipment.

(2) Working group members, emphasizing that steel trade policy measures alone cannot restore the health of the industry, agreed that the following matters warrant urgent attention in view of the crisis now confronting the industry:

(a) Full, prompt enforcement of U.S. trade laws, in accordance with Congress's legislative intent.

(b) The OECD Steel Committee must be energized in order to complete promptly the basic items already on its agenda, and to provide the consultative and liaison mechanism necessary while revitalization/restructuring programs in major steel producing regions are being completed.

(c) Worker adjustment problems may increase during the revitalization period and will be grossly distorted by import-related unemployment. Hence, a continued and more flexible trade adjustment program is needed as a complement to a steel trade policy.

(3) Industry members of the working group, while agreeing as to the urgency of point (a) above, also urged that, as an adjunct to full trade law enforcement, the TPM should be reinstated in a restructured form that would remedy the defects, asserted by industry, in the previous TPM and that, during the period of industry modernization, the U.S. market should not be disrupted by excess volumes of imports.

(4) Labor members of the working group additionally urged that there be instituted government-to-government discussions to implement a trade arrangement in which there would be sensitivity to fluctating volumes of imports during a definitive and assured period of accelerated investments in the modernization of the steel industry.

(5) Government members of the working group noted that the government does not accept the contention that import relief beyond the full and prompt enforcement of the trade laws is necessary to permit the revitalization of the industry. In the full Committee discussions, the view was advanced and generally accepted that the trigger price mechanism (TPM) was within the existing trade laws because it was designed to facilitate the prompt implementation of the laws. Government spokesmen further noted that the TPM remained a viable option and that under appropriate conditions it could be reinstituted.

(6) During working group deliberations industry members also raised the possibility of extending TPM-type coverage to trade in specialty steel products. Government spokesmen, noting that it would be extremely difficult to administer such a program because it would entail monitoring a great number of product categories, emphasized that a necessary first step would be for the industry to suggest a practical means to carry out such a program. Spokesmen for the Department of Commerce indicated that they were prepared to review such recommendations on an expedited basis.

C. Environmental Protection:

Tripartite findings:

(1) The steel industry's capital position relative to environmental requirements is

unique. No other industry is so capital intensive and so in need of capital intensive modernization. Because of the nature and quantity of uncontrolled steel wastes and the physical magnitude of corrective actions needed, no industry has made or continues to face capital expenditures of such a magnitude and representing so great a percentage of its capital needs.

(2) The industry's ability to invest in environmental controls and other forms of modernization is closely related to its capital position. The industry anticipates a 4 percent annual replacement rate and expenditures of $4.7 billion a year for modernization and is now facing one of the most severe capital shortfalls in its history.

(3) For the above reasons, across the board adherence to the current Clean Air Act of 1982 compliance deadline has the potential for delaying modernization plans.

(4) Resolution of the major environmental regulatory issues potentially impeding steel industry modernization will not in isolation achieve the goals of the Tripartite effort. The agreements reached by the working group on environmental protection must be part of a broader industrial revitalization policy designed to promote modernization of the industry.

Tripartite recommendations:

(1) Because of the problems discussed above, all working group members endorse an amendment to the Clean Air Act which would grant authority to the Administrator of EPA, in his discretion, to delay the December 31, 1982 deadline for compliance by a steel facility of an individual company with Clean Air pollution control requirements for a period of up to three years, provided that the amendment is structured so as to assure that 1) the delay results in accelerated capital investment for modernization of steel-producing facilities within the company; 2) the company's steel facilities will come into compliance between now and the end of the deferral period; 3) means are established by the company to prevent degradation of air quality in the meantime; and 4) the delay is necessary to carry out the purposes of the amendment.

(2) The working group members also agree that, for reasons similar to those given under the discussion of the Clean Air Act deadline, to the extent substantial additional expenditures will be required to meet new Clean Water Act requirements, an amendment to the Clean Water Act authorizing the Administrator of EPA to grant steel operations an extension of the compliance deadline for up to three years (from July 1, 1984 to no later than July 1, 1987) is warranted. The amendment would be similar to the Clean Air Act amendment described above.

(3) Members further agree that the current water discharge permits for steel facilities should be extended, or "rolled-over," until the middle of next year so that, to the maximum extent possible, determinations of new levels of pollution control under the Clean Water Act can be based on national regulations which are now being developed. or at least reflect the information obtained in the rulemaking proceeding.

(4) Finally, members agree that EPA should explore ways to make the important regulatory initiative represented by the bubble policy (which allows sources the flexibility to meet Clean Air Act requirements in more cost effective ways) more available to the industry. Every effort will be made to remove unnecessary obstacles to the use of this promising techniques by steel companies, and to do so as quickly as possible.

D. Community and Labor Adjustment Assistance:

Tripartite findings:

(1) The working group found that the establishment of a company-specific steel task force under the Commerce-Labor Adjustment Action Committee (CLAAC) proved to be an effective tool for responding to the late 1979 U.S. Steel and J&L plant closings, when coupled with the significant efforts of the companies and union.

(2) Specifically, the CLAAC coordinated task force has accomplished the following:

Improved the flow of unemployment benefit and employability service information to the field;

Speeded up the application for, and payment of, benefits under the Trade Adjustment Assistance (TAA) program;

In New Haven, Dolton, and Waukegan, helped to draw CETA prime sponsors into the effort to provide training and other services;

Developed a step-by-step specific action plan to:

a. provide local coordination;

b. provide access to available public programs for laid-off workers;

c. develop job opportunities;

d. develop training; and

e. provide community economic diversification.

(3) The need for temporarily assigning a Federally-funded official to work full-time with local government, labor, and management was tentatively established by the "Four-City Steel Adjustment Federal Advisor Demonstration Project," which responded to steel-related dislocations in Youngstown, Ohio; Torrance, California; Joliet, Illinois; and New Haven, Connecticut. These officials are responsible for assessing the dimensions of the problem at each identified location and for implementing available assistance programs as quickly as possible. These officials are intended to act as catalysts to coordinate with state and local officials, companies, the union, and other appropriate public and private organizations.

(4) In the context of developing a steel industry program, and given the industry's current cyclical downturn, there is need for a continuing evaluation of existing community and labor adjustment assistance programs—to ensure the meeting of readjustment needs. It should be noted that the vast majority of both actual and anticipated steel plant closures are geographically concentrated in the older industrial areas of the midwest.

(5) Earlier Labor Department certifications of steelworkers have largely expired, leaving most without TAA coverage. In general, worker petitions filed in late 1979 and early 1980 have been denied. The Vanik Bill (revising TAA)—which might have afforded some steelworkers coverage because their firms were suppliers to companies with certified auto workers—is having a difficult time in this session of Congress.

(6) Even if some steelworkers were certified for TAA, there will likely be little training money available under Title III of CETA—the regular funding source for training import-impacted workers. With auto and other certifications, thousands of worker applications for training are pending going into the new fiscal year. If only $10 million remains allocated for these purposes in FY 1981, there will clearly be little available for certified steelworker training.

(7) To help meet some of these needs, the Department of Labor has announced that it will develop experimental assistance projects to improve the effectiveness of the Government's efforts to help dislocated workers, including training, job search and relocation assistance. One or more of these pilot projects will be launched in communities affected by steel related layoffs.

(8) Federal community adjustment assistance has been effective in partially mitigating the economic impacts resulting from steel plant closures and in generating permanent reemployment opportunities for some unemployed steelworkers. However, additional community adjustment assistance resources may be needed to meet the adjustment needs of communities that may be impacted by future steel plant closures.

Tripartite recommendations:

(1) The company-specific steel task force approach, coordinated under CLAAC, should be utilized to respond to any future major plant closings. The task force has uncovered and addressed some previously unrecognized problems among affected workers and communities, including the need for a fulltime Federal presence for at least a limited period in heavily impacted communities.

(2) Although the action plans submitted by the CLAAC steel task force may need modification in details to respond most effectively to subsequent closings, at the moment this appears to be a sound approach for dealing with major shutdowns, one worthy of continued support by all interested parties. The 90-day advance notice provision in the new industry collective bargaining contract should permit even more effective, timely action.

(3) The designation of Federally-funded officials to communities heavily impacted by steel closings to coordinate adjustment efforts is just now getting underway. This undertaking should be fully analyzed, and, if found to be an effective tool, routinely used in responding to future major plant closings.

(4) There should be continuing evaluation to ensure that the various adjustment programs, including Trade Adjustment Assistance, be maintained or modified so as to most effectively address the needs of impacted communities and workers. The Vanik Bill, properly modified, should be passed as soon as possible.

E. Technological Research and Development:

Tripartite findings:

(1) The working group finds that a number of modern steelmaking technologies are moving from traditional batch operations towards continuous, closed operations. Progress on existing technologies is moving in the same direction.

(2) The working group believes that any progress in current continuous operations delivers benefits in the near term while also contributing technology, knowledge, and experience toward long-term development of integrated, continuous, closed operations. Such progress promises significant improvements in manufacturing productivity, energy utilization, environmental protection, and worker health and safety. Accordingly, the working group, noting the need to draw upon individuals with industry expertise, advocates tripartite planning and support for research and development and technology utilization in this area.

(3) The working group concludes, however, that such a tripartite commitment will be effective only if there is cooperative tripartite action on capital formation within the steel industry. The working group notes that if R&D is pursued without assuring the capability for implementation, the program will succeed in generating only knowledge and experience for overseas producers to use for their competitive advantage.

(4) The working group, which was specifically charged to study the adequacy of Federal funding for R&D in steel technology, examined the magnitude, content, and policies of the two major mission agency programs, those at the Environmental Protection Agency and the Department of Energy, finding:

Agency programs, though professionally managed and administered by dedicated staffs, have very limited resources for demonstration projects for new technologies. This lack of demonstration funding is a serious weakness, and it is in the national interest to support such efforts.

A need for increased cooperation on a tripartite basis in planning the technology programs of the Federal Government, confirmed by the fact that the mere existence of the R&D working group resulted in significantly improved coordination among agencies and improved access to important information.

Tripartite recommendations:

(1) Continuous Steel Casting. The working group, convinced that the widespread adoption of continuous steel casting is the single most important step that industry can take to modernize steel technology, recommends a tripartite effort to identify government action which can encourage industry investment and R&D in this area.

(2) Formed-coke technology. Given that the technology for producing high-strength coke in uniform shapes is important to progress in continuous, closed processing, the working group recommend cooperative industry-government support of this technology, including rapid demonstration of formcoke technology, under Department of Commerce leadership of an interagency-industry group to financially support and plan coordinated technology development in this area.

(3) Sensors for dynamic control. Given that a key factor in obtaining the full benefits of continuous operation is the use of dynamic control systems, but that the full range of sensors needed for such systems is not available to the steel industry, the working group recommends that the Department of Commerce organize a national workshop in Dynamic Control Systems to define (1) the pattern of progress in the art, and (2) the areas in which government may effectively cooperate to aid in the development of needed generic knowledge.

(4) Coal based, continuous operations. New coal-based direct reduction processes to produce a solid iron product are under development. Also, new processes that reduce iron ore to liquid, pig iron using coal (rather than coke) and electricity, such as the plasma arc process, are emerging. Given the potential for a competitive advantage to the U.S. in coal-based technology, we recommend Department of Commerce funding for process development and demonstration of new, coal-based processes.

(5) Recycling and recovery technology. Noting that an important step towards closed operations will be the development of technologies and plant practices for recycling the at times hazardous wastes produced in steel manufacturing, the working group recommends (1) Department of Commerce action to stimulate tripartite support for a national center, focused on solid waste R&D and technology utilization, stressing resource recovery of electric furnace dust, a feasible target of major importance to the industry, and (2) Federal agency (DOE and EPA) actions to encourage formation of unversity centers to perform the research and develop the skilled manpower pool needed by the industry.

(6) Advanced process technology. Noting the long-term potential of innovative steel technologies (e.g., plasma technology) yet observing the serious decline in process engineering capability in our universities and in the number of students graduating in these fields, the working group recommends that the National Science Foundation support basic and applied research on advanced topics such as plasma technology and encourage the generation of cooperative industry /university research activity in such advanced technologies.

(7) The working group recommends that R&D activity in the area of worker and environmental health and safety in existing steel plants should be increased.

(8) Finally, in view of the lack of existing resources devoted to demonstration projects, the working group recommends increased demonstration plant funding for such mission agencies as the Departments of Commerce, Energy, Interior, the Environmental Protection Agency and the National Institute for Occupational Safety and Health.

(9) In its review of the working group's report, the full Committee stressed that:

The recommendations focused primarily on the technologies that were necessary for developing the next round of steel technology and should be viewed as a long-term development effort;

Improved technological development would only be successful if it fit into an overall program to revitalize the industry, with enhanced capital formation an essential component of such an effort; and

The next step would require the development of appropriate criteria for deciding which concrete projects should be undertaken, by the industry, or on a collaborative basis.

THE STEEL TRIGGER PRICE MECHANISM (TPM)

1. Background:

A. Description of the TPM:

The TPM is a system under which the Department of Commerce monitors imports of basic steel mill products and identifies those imports most likely to be "dumped" in the U.S. market.

The TPM is designed to moderate the adverse effects that can result from unfair import competition. It does not affect access to the U.S. market for fairly traded steel nor does it guarantee a market share to either domestic or foreign steel producers.

Under the TPM the Department of Commerce compares the price at which steel imports enter the United States (or are sold to the first unrelated purchaser in the United States) with the estimated production costs plus shipping costs of the world's most efficient producers—presently the Japanese.

When imports enter below trigger prices, the Department of Commerce examines the situation to determine whether an antidumping investigation should be initiated.

B. History of the TPM:

The TPM was first introduced by President Carter in January 1978; it became fully operational on May 1 of that year.

The TPM continued in effect until March 21, 1980, when it was suspended in response to the filing by U.S. Steel Corporation of major antidumping cases against approximately $1.3 billion dollars of steel imports annually from Europe. When these cases were filed, the TPM was suspended because it had been designed to substitute for—not to supplement—major antidumping cases by the domestic industry. The staff that had been monitoring imports under TPM immediately went to work investigating the allegations in U.S. Steel's complaints.

The Department of Commerce suspended, rather than terminated, the TPM. At the time of suspension, the Department announced that the TPM could be reinstated if U.S. Steel Corporation were to withdraw its antidumping petitions.

2. Reinstitution of TPM:

A. Basis for reinstitution:

The withdrawal by U.S. Steel of its major antidumping cases has made reintroduction of the TPM possible.

The TPM is being reintroduced for a transition period (three or five years) during which the U.S. industry is expected to modernize and the European Community will press ahead with restructuring.

Before the end of three years, the Secretary of Commerce will review the progress made by the industry toward modernization. If the progress made is not deemed adequate, the TPM will be terminated after three years. Otherwise it will continue for five years.

After this transition period, there will be no special procedures for enforcement of the U.S. import laws with respect to steel, and the Europeans would not contest the application of the antidumping and countervailing duty laws to their steel imports.

B. Changes to the TPM:

The TPM is being reintroduced in a somewhat modified form and with a number of administrative improvements.

The major change is the addition of a surge provision to the TPM. If certain conditions are met, Commerce will, upon request, examine surges in imports of specific steel products. If there is a surge at a time when import penetration is greater than 13.7 percent the Department will examine TPM enforcement. If the surge is found when import penetration is greater than 15.2 percent, Commerce will examine whether there is information that the surge results from injurious dumping or subsidization. If such information is found Commerce may (after appropriate consultation with the foreign government involved) initiate a narrow product-specific antidumping or countervailing duty case or, alternatively, the domestic industry may bring such a case without risking suspension of TPM.

No action will be taken in any case where a surge in imports appears to be the result of fair competition. None of the surge procedures will be utilized at times when the domestic industry is operating at or above 87 perecnt capability utilization.

The other substantive change in the TPM is the method for reflecting movements in the yen/dollar exchange ratio. Trigger prices will now be based on a 36 month average of the yen/dollar exchange rate instead of a 60 day average. This will prevent sharp changes in trigger prices caused by short term swings in exchange rates.

Except for this change in the basis for calculating exchange rates, the TPM will be calculated in the same way as it was before.

There will be a number of improvements in the administration of TPM. Certain recommendations made by GAO for improvements in auditing and monitoring procedures will be adopted. In addition, there will be greater transparency in the manner in which trigger prices are calculated.

C. New trigger price levels:

The TPM will be reinstated on or before October 21. The new trigger prices will average approximately 12 percent higher than they were when TPM was suspended in March.

The increase is due entirely to increases in Japanese production costs and the strengthening of the yen relative to the dollar. The increase is not the result of any change in the manner of calculating TPM levels. In fact, the new method of calculating exchange rates has resulted in trigger prices being approximately 2 percent lower than they would otherwise have been under the original method.

The reinstated TPM will apply to imports which enter the U.S. after the date of reinstatement, except for steel imports contracted on or before September 5, with a fixed price to an unrelated purchaser, which are exported to the U.S. on or before November 5.●

STATEMENT OF SENATOR McGOVERN ON CONFERENCE REPORT ON THE RAILROAD TRANSPORTATION POLICY ACT

Mr. BURDICK. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from South Dakota (Mr. McGovern) on the conference report on the Railroad Transportation Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR McGOVERN

Having reviewed the conference report of the Railroad Transportation Policy Act, I find that the report continues to contain several provisions objectionable to American agriculture and rural rail service across the country. Despite assurances from the conferees that these issues would be resolved, certain provisions remain in the report which will generate serious economic consequences for farmers and shippers in South Dakota and numerous other states.

I am deeply concerned about section 217 of the bill pertaining to surcharges on branchlines. This provision is clearly discriminatory and anti-competitive. It will clearly perpetuate the railroads' ability to discriminate in favor of certain markets and commodities and against others.

This is particularly true with regard to agricultural commodities where the surcharges would work directly against the interests of individual agricultural communities.

Moreover, because surcharges must be applied to all routes in which an inefficient carrier participates it will detract from competitive pricing and encouraging the efficient carriers to likewise raise rates because of the action of the inefficient carrier.

Of equal concern is the provision (section 702) pertaining to expedited action on the Union Pacific/Chicago and Northwestern application for nearly $300 million in loan guarantees for a connector line in the Powder River Basin. This provision raises serious public policy questions regarding not only the use of federal funds for this purpose but the probable resulting western coal transportation monopoly as well.

Although this provision purports to help the Chicago Northwestern, the true benefactor is the Union Pacific.

First, the Union Pacific will obtain the long haul on millions of tons of coal that would never have moved over its lines had the project not been constructed. Consider also its proposed merger with the Missouri Pacific and we'll have the UP dominating both the sale and transportation of coal in the West.

Chicago and Northwestern on the other hand, will receive minimal revenues from its shorthaul coal operation. It will lose the long haul on coal to the east and probably become a darkhorse candidate for acquisition.

Secondly, the UP stands to make a good deal of money on an investment, meager by its standards, of $60 million. The UP will receive an annual rental of 9.5 per cent, plus a contingent rental of 15 per cent of net revenues up to a maximum of 7.5 per cent of pre tax revenues from the project. In addition, the Union Pacific will receive all of the investment tax credit and accelerated depreciation benefits associated with the entire project—more than $150 million over 20 years.

The question we must decide in considering the Rail Transportation Policy Act conference report is whether it is the role of the Federal Government and the American Taxpayer to provide such massive subsidies to the country's richest railroad, while ailing and bankrupt carriers in our agricultural heartland go largely unattended and unassisted.

In addition, while there has been substantial discussion regarding the need to create competition in the West, I firmly believe that we should be concerned with preserving competition in the West.

At this time, coal from the Powder River Basin in Wyoming competes with coal produced in Colorado and southern Wyoming. It also competes with coal from Utah and New Mexico. The Union Pacific now either serves exclusively, or controls, the shipment of coal from three of these regions and by the very clear scheme under discussion today, they hope to gain control of the fourth region.

Coal shipped from Wyoming's Hanna Basin must move over tracks on the Union Pacific—the same company that controls Rocky Mountain Energy, which owns the coal.

The Denver and Rio Grande Western carries coal from Utah and Colorado. However, their primary connection on coal moving East is the Missouri Pacific—UP's merger partner. The Missouri Pacific moves coal to southern Illinois in direct competition with the Burlington Northern. The Missouri Pacific also receives 70 percent of the Burlington Northern's coal traffic that is now interchanged at Kansas City for power plants in the south central United States. The reason for this dominance is that the Missouri Pacific lines reach the greatest number of sites having access to water—a prerequisite for electrical generation. To the east, coal going from BN going to Wisconsin and Iowa frequently is turned over to the Chicago Northwestern—UP's pawn in this venture. The North Western also carries coal from the UP to Illinois and Indiana.

So, with access to the Powder River Basin, Colorado, Utah and southern Wyoming—the Union Pacific, its merger partners, and the Chicago and North Western—soon would effectively control transportation of coal from four of the five producing areas in the West.

Therefore, I contend that the Union Pacific's proposal to gain access to the Powder River Basin, utilizing $300 million in taxpayer financed loan guarantees may not represent healthy competition but is instead a clever scheme to stifle competition and force consumers to deal with the Union Pacific on their terms if we are to obtain coal from the West.

Mr. President, there has been substantial correspondence regarding this particular issue as well as news analyses regarding the Powder River Basin application. I submit the following materials for the Record.

The materials follow:

ENVIRONMENTAL POLICY CENTER,
Washington, D.C., September 30, 1980.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: As you are aware, the Conference Report of the "Stagggers Rail Act of 1980" will be considered by the Senate later this week. In anticipation of that motion, the Center would like to call your attention to several provisions in that Report which are unacceptable as they continue to undermine the National Environmental Policy Act.

The House version, as reported to the Senate, contained authorization of the Secretary of Transportation to take final action of any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of facilities or support facilities for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

In conversation with your Committee staff last week, it was our understanding that provisions waiving the requirements of section 511(g) of the 4-R Act, and 4(f) of the Department of Transportation Act were dropped from the final version of the Conference Report. Furthermore, reference to the waiver of due process provided in the National Environmental Policy Act had been deleted as well. All of the above provisions were previously written into section 702 of the Conference Report draft.

However, the language of section 702 of the Conference Report explicitly limits the grounds for judicial review of the decision made by the Secretary, (Section 702(c)(3)). In addition, Report language pertaining to section 702 states explicitly that "* * * the other grounds for review set forth in section 5 U.S.C. 706(2) not in this section are intentionally excluded." The inclusion of that language would have the effect of precluding a citizen's opportunity to sue the Secretary under important provisions of the Administrative Procedures Act such as 706(2)(a) "* * * or otherwise not in accordance with law;" section 706(2)(d) "* * * without observance of procedures required by law;" or, section 706(2)(e) "* * * unsupported by substantial evidence." The net effect of the exclusion of these provisions as grounds for review will seriously hamper or deny the citizens of Montana, Wyoming, or Nebraska the right to file suit against the Secretary's decision if they feel he has violated the National Environmental Policy Act.

In summary, the staff has dropped the waiver of N.E.P.A. as regards the bill's reference to that law, but the limits of the scope of judicial review under section 702 has accomplished the same end nonetheless. This last minute attempt to circumvent the purpose and intent of N.E.P.A. is not acceptable. We urge you to oppose the Conference Report on the rail deregulation bill and recommit it to the Conference Committee.

Respectfully,

LOUISE C. DUNLAP,
Executive Vice President.
JOHN L. McCORMICK,
Washington Representative.

NATIONAL FARMERS UNION,
September 29, 1980.

URGENT LEGISLATIVE MEMORANDUM

To All Members of the United States Senate.
From George W. Stone, President and Ben Radcliffe, Chairman, Executive Committee, and Chairman, Transportation Committee.

As you may know, the rail deregulation conference report is scheduled for final House and Senate action within the next 48 hours. It is our understanding that Senators McGovern and Burdick and others will lead a filibuster if necessary in order to eliminate those provisions of the bill which would have serious adverse impacts for American agriculture.

We are particularly concerned about the surcharge and cancellation provisions of this conference report. Our basic objection to a wholesale grant to the railroad industry to apply surcharges is that it will clearly perpetuate the railroads' ability to discriminate in favor of certain traffic and commodities against others.

This is especially true for agricultural commodities. Surcharges could for example, be applied against flour moving from a particular northern agricultural shipping point to the East and no surcharges would apply against flour moving from another agricultural shipping point, thus, working directly against the interests of a particular agricultural community.

A further discrimination would occur with respect to branchlines. A surcharge would be applied to one branchline but not another—the movements distinguishable by an arbitrary standard of one million tons. Moreover, if a carrier does not have adequate revenues, there is no restriction on the ability to surcharge. A carrier could thus selectively choose the branchlines on which it seeks to impose a surcharge.

We are also concerned about provisions of the conference report relating to expedited action of the processing of nearly $300 million in federal loan guarantees for the construction of a connector coal line in the Powder River Basin. The primary beneficiary of these funds would be the Union Pacific, the richest railroad in the Nation. This provision is contrary to Congressional intent in establishing rail federal assistance programs which were originally designed to assist ailing and bankrupt railroads continue essential service. The allocation of these funds to the Union Pacific will further reduce the availability of federal assistance for the Milwaukee, the Rock Island, and other ailing carriers in the agricultural heartland.

We strongly urge you to oppose the rail deregulation conference report and support any motions to recommit.

SEPTEMBER 26, 1980.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR HOWARD: Your letter stating that the waivers contained in Section 228 (new 702) have been deleted is appreciated. Without question, that improves the legislation for the reasons I have discussed with you and your staff.

It appears, however, that the conferees added another objectionable provision, which reads as follows:

(6) The decision of the Secretary of Transportation pursuant to subsections (a) and (b) of this section shall be conclusive as to the sufficiency of any finding pursuant to the National Environmental Policy Act and Section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976, or any other finding pursuant to such application, and no court shall have jurisdiction to consider questions respecting the sufficiency of such finding.

The denial of process presents a very serious question. I am mindful of the Committee's wish to speed administrative decisions, but to require acceptance of the findings of the Secretary as conclusive appears to be a denial of process. I suggest in lieu thereof, the following language, which would provide process and at the same time prevent undue delays:

"(1) Notwithstanding other provision of law, the actions of federal officers or agencies taken pursuant to subsection (a) of this section shall not be subject to judicial review except as provided in this section.

"(2) Claims alleging the invalidity of this section or challenging or seeking the review of any action taken under this section may be brought no later than the 60th day following the date of final action is taken pursuant to this section.

"(3) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and to the greatest extent practical shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period is required to satisfy requirements of the Constitution of the United States."

In addition, the words in the opening of Section 702(a), "To promote competition" should be deleted for the reason that they represent a judgment by the Congress, which should be left to the Secretary and the Interstate Commerce Committee.

I sincerely hope that the conferees would look favorably upon these clarifications.

With kind regards, I am

Sincerely,

QUENTIN N. BURDICK,

U.S. SENATE,
Washington, D.C., September 23, 1980.

DEAR COLLEAGUE: Several months ago the Senate passed S. 1946—the Rail Transportation Policy Act of 1980. By a slim controlling margin of four votes (52–44) an unprinted floor amendment was included, giving the railroads the power to surcharge and cancel joint rates. Due to a realization by several Senators that the railroads had been given unprecedented and unwarranted authority, this provision was deleted through an uncontested amendment by Senator Zorinsky this past Thursday.

However when the revised bill was printed in the record, it contained an entirely new section which permitted Conrail to surcharge certain light density, unprofitable lines and to abandon the surcharged lines after a 60 day proceeding before the Interstate Commerce Commission. The impact of this new provision is uncertain but it is considerably better than the original Senate version.

The alternative is the House version of surcharges and cancellations of joint rates—an involved, confusing morass of concessions and countermeasures designed solely to scatter opponents and then mollify supporters of this concept. The end result does not even remotely approach a harmonious program to remove regulatory restrictions while protecting those who are exposed to abuses by the admittedly monopolistic powers that will be created.

It now appears that the Senate conferees will accede to the House version with only very minor changes.

We believe that a patchwork proposal, pressured through the Congress with the promise of remedial action in the next Congress would be disastrous for our communities and the transportation which assures their survival.

Recognizing the need for a thoughtful piece of legislation upon which we can build a dependable rail system, we urge our colleagues to examine closely the final proposal to be sure that it does not permit the elimination of service to hundreds of communities before the next Congress even convenes.

Sincerely,

Edward Zorinsky, Patrick Leahy, Quentin Burdick, Carl Levin, Gaylord Nelson, Milton Young, Richard Stone, David Pryor, George McGovern, Bob Dole, Don Riegle, John Melcher, John Tower, David Durenberger, Rudy Boschwitz.

[From the Washington Star, Sept. 26, 1980]

UNION PACIFIC CHAIRMAN INVITED RAIL CHIEFS TO DEMOCRATS' FUND-RAISER

(By Stephen M. Aug)

The chairman of the Union Pacific Railroad—whose company may benefit substantially by a little-known clause in pending rail legislation—invited fellow railroad chief executives to attend a small, private fund-raising breakfast for the Democratic National Committee.

The breakfast was canceled yesterday after a reporter began making inquiries about it at the Department of Transportation. But the matter became an issue on Capital Hill, threatening the rail deregulation compromise approved Wednesday by a conference committee.

Slated to attend the breakfast with the railroad officials were Transportation Secretary Neil Goldschmidt and the chairman of the Democratic National Committee, Robert Strauss.

The invitation came from James H. Evans, chairman of one of the nation's richest railroads. It also came at a time when Congress is putting the finishing touches on a highly controversial bill that would sharply cut regulation of the nation's railroads.

Several Republican congressman familiar with the legislation charged yesterday that the fund-raiser was improper under the circumstances. Rep. Edward R. Madigan, R-Ill., ranking minority member on the House Commerce transportation subcommittee, termed the fund-raiser "a corrupt practice."

He told a reporter he felt Evans had been asked to host the fund-raiser "by the administration, and that these railroad executives would be called in for the purpose of putting the bite on them while the railroad deregulation bill was pending for signature down at the White House."

At issue is a letter sent by Evans last Thursday to chief executives of most of the nation's major railroads, inviting them to a breakfast at the Madison Hotel here next Thursday. The breakfast was to end in time to allow them to attend the monthly board of directors meeting of the Association of American Railroads, the industry trade association.

The letter—on Evans' personal stationery—was clear as to the session's purpose. It said Goldschmidt and Strauss "will be with us then, and I know they would like to speak to you and other leaders of the railroad industry about the needs of the Democratic National Committee."

It was unclear just whose idea the fund-raiser was. Evans said in a telephone interview the idea for the breakfast arose this summer when he met with Goldschmidt and Strauss in New York during the Democratic convention. UP's corporate offices are in New York.

Evans said the timing of the breakfast was purely by chance. The aim, he said, was to hold it at the same time as the rail association's board meeting.

Both Strauss and Goldschmidt were out of town yesterday and could not be reached for comment.

Goldschmidt, however, issued a statement, pointing out that the rail deregulation bill has had the support of leaders of both parties and its passage "is not connected to the political activities of either party."

Nevertheless, he said, "to avoid any implication that the railroad legislation is tied to the political efforts of either party, Mr. Evans has decided to cancel his proposed breakfast."

Worth noting is how Union Pacific would benefit specifically from the railroad deregulation bill. The measure contains a section designed to speed up consideration of about $325 million worth of federal financing so the Chicago & North Western Railroad can build a line into Wyoming's coal-rich Powder River Basin.

After the line is built, C&NW would load the coal at the mines and carry it to Nebraska where vast quantities of it would be switched onto the Union Pacific.

Evans said that clause in the legislation was introduced by Texas congressmen interested in fostering competition in rail transportation of Wyoming coal which now is dominated by the Burlington Northern Railroad. It "had nothing to do with us whatsoever," he said.

Rep. Gene Taylor, R-Mo., contended the specific clause "is a very cleverly concocted piece of legislation using the (Chicago and) North Western railroad as an intermediary * * * This will never * * * show up on Union Pacific's balance sheet, but it certainly will benefit them as a channel through the North Western."

Taylor was critical that Union Pacific will benefit in this case from government aid, while its competitor, Burlington Northern, is spending its own money to build coal lines in the Powder River Basin. Taylor's district includes the St. Louis-San Francisco Railroad, which is to be merged into the Burlington Northern.

The federal aid has been opposed by Burlington Northern. In fact, the entire question of building the line and finding financing has been before government agencies since 1972.

James R. Wolfe, president of the C&NW, and a Republican, said yesterday he had intended to go to Evans' breakfast. "Whenever I get an invitation to meet with a cabinet-level officer I go," Wolfe said. He added, "I did not regard the letter as anything out of the ordinary * * * It's an election year and this (the invitation) did not seem out of the ordinary to me."

But one railroad executive who didn't feel it was right to attend was Harold H. Hall, president of the Washington-based Southern Railway. Hall, who had other commitments on the morning of the breakfast, said he was aware only of plans for the breakfast and didn't know the subject.

"I didn't realize it had political overtones," Hall said, adding he would not have gone "under the circumstances. We try not to take sides in those type of situations. We don't make political contributions as a company."

[From The New York Times, Sept. 29, 1980]

RAIL BILL LIKELY TO BE RATIFIED

(By Ernest Holsendolph)

WASHINGTON, September 28—Congress appears headed for final ratification of the House-Senate conference report on railroad deregulation this week, despite a last-ditch effort by the Burlington Northern Railroad to delete at least one controversial provision.

The provision would permit the Transportation Secretary to expedite procedures to provide loan guarantees to the Chicago and Northwestern Railroad that would enable it to build a rail line eastward from the Powder River Basin coal fields in Wyoming.

The line would connect with rail heads in Nebraska, from which the Union Pacific Railroad and others could begin to provide competition in the southward movement of coal, a market now monopolized by the Burlington Northern. The promise of new competition for the Burlington Northern was held out by the Administration and proponents of the rail bill as an enticement to Texas and other Southwest Congressmen who fear high coal costs.

The loan guarantee, if the Transportation Department approves it, will trigger financing for the new line, which is projected to cost $350 million. Even though the Chicago and Northwestern would build the new short line, the biggest beneficiary of the project is acknowledged to be the Union Pacific, the prosperous railroad that is well positioned to provide the long haul for coal.

"I don't mind the competition," said Richard M. Bressler, president and chief executive of the Burlington Northern, "but if the Union Pacific wants to build this road, let them do it with their own money and not the public's."

The Burlington Northern says that it has spent $1 billion to establish its strong position in the Wyoming and Montana coal fields—and, from all indications in its strong lobbying effort here this week, strongly intends to protect it.

A conference report was adopted late last week, but final language was still being worked out. While the industry favors the bill, industry experts would not rule out the possibility that the Burlington Northern might press for delays in the Senate that could jeopardize the bill. The regular Congressional term is to end Thursday; a lame-duck session is scheduled after the Presidential election.

The issue of a new Chicago and Northwestern line became politically charged late last week, when it was disclosed that Transportation Secretary Neil E. Goldschmidt and Robert S. Strauss, chairman of the National Democratic Committee, planned to attend a fund-raising breakfast with top rail executives at the invitation of James H. Evans, chairman of the Union Pacific.

Republicans, sensing a possible political payoff, became incensed. However, the meeting, set for next Thursday, was canceled, and Mr. Goldschmidt issued a statement saying the timing of the breakfast was coincidental. No campaign funds would be solicited from the rail industry, he said.

NEW FLEXIBILITY ON RATES

The bill constitutes a triumph for the Carter Administration, which rescued it when it was sidetracked several weeks ago. With the signing of the bill President Carter will be able to boast of new broadly competitive policies in railroading, trucking and airlines—all developed in the last four years.

The major provision of the rail legislation is that it permits new flexibility for the railroads to set rates free of Interstate Commerce Commission review, including increases, so long as rates initially do not exceed out-of-pocket costs by more than 160 percent. This threshold would rise gradually to 180 percent by 1984.

The bill calls for the railroads to be free to compete in prices and the offering of distinctive services to the maximum extent possible.

The original House bill would have permitted broader authority to raise prices, but Congressmen from the Southwest, led principally by Representative Bob Eckhardt, Democrat of Texas, negotiated a more gradual deregulation of rates to head off sharp increases in coal rates that could have spurred much higher utility service costs.

[From the Alliance (Nebr.) Times-Herald, Sept. 11, 1980]

UP DOESN'T NEED HELP

Another obstacle to the plan for a bypass of the BN in hauling coal from Powder River is being worked on in Congress.

Wyoming's Rep. Dick Cheney has sponsored an amendment to the Railroad Deregulation Bill and it was passed Tuesday in the House of Representatives.

According to Cheney, construction of the 56-mile-line across Goshen County from Crandall, Wyo. to Joyce, Neb. could proceed only if there were no "prudent and feasible" alternative routes.

The amendment is aimed at the Chicago and North Western Railroad proposal to build the line to connect with the Union Pacific.

Certainly there is one alternative route that is in full use. This is via Burlington Northern.

A recent report from the Burlington Northern shows a 16.1 percent rise in coal traffic during the second quarter of 1980. At present the BN is able to handle all the coal tonnage its customers require.

From reports it appears that the main benefactor of the new line would be the Union Pacific, not the Chicago and North Western.

The C&NW could certainly use added revenues to pick up its long deferred track maintenance. But high-rolling UP needs help about like Big Red would playing Chadron State.

We hope that DOT and whoever else has a say in this matter acts soon to turn it down, so something more practical can be worked out for the C&NW.

Pending branchline bandonments, September, 8, 1980

State	Number	Miles
California	2	5.44
Florida	3	15.17
Iowa	8	289.90
Idaho	1	0.10
Illinois	8	215.25
Indiana	3	102.75
Kentucky	8	141.89
Louisiana	1	30.20
Massachusetts	1	26.42
Maryland	1	0.56
Michigan	2	31.08
Minnesota	1	50.70
Missouri	4	251.33
Mississippi	5	172.39
North Carolina	2	42.86
New Jersey	1	5.99
New York	2	33.63
Ohio	3	100.11
Oklahoma	2	148.46
Pennsylvania	4	31.47
South Carolina	1	42.00
South Dakota	1	29.50
Tennessee	3	177.79
Texas	3	232.00
Virginia	1	1.00
Washington	1	0.39
Wisconsin	1	50.00
Total	73	--------

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 5:12 p.m., recessed until 5.42 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRYOR).

CONSIDERATION OF CERTAIN MEASURES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calender Orders Nos. 1085 and 1088.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—those two items are cleared on our calendar, and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF LAWS PERTAINING TO MERCHANT MARINE ACADEMIES

The bill (H.R. 5451) to amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the U.S. Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes, was considered, ordered to a third reading, read the third time, and passed.

● Mr. CANNON. Mr. President, the purpose of this bill is to consolidate nine separate acts relating to maritime education into a single recodified title, clarify and improve the Federal laws pertaining to maritime education and training, and define the obligations of students who attend the U.S. Merchant Marine Academy and State merchant marine academies.

The United States has sadly declined as a world merchant marine power, and at the present time less than 5 percent of our total cargo is carried on U.S.-flagships. This downward trend, however, has been the deep concern of both the Senate Commerce Committee's Subcommittee on Merchant Marine and Tourism and the House Merchant Marine and Fisheries Committee. Legislation to revitalize the U.S. merchant fleet has been produced by both committees, and both committees are seriously considering new and innovative proposals to restore the competitiveness of our fleets.

To man these ships, however, will take additional manpower that we do not have. In 1978, House Committee Chairman JOHN MURPHY appointed a special committee headed by Representative GERRY STUDDS to examine the problem of maritime education, and he was succeeded in this position by Representative LES AUCOIN. The present measure is a result of these two investigations.

PROVISIONS OF THE BILL

The bill would do the following: First, define the primary function of the U.S. Merchant Marine Academy and the State maritime academies; second, establish a policy of maritime and training in section 1301 to insure that graduates are competent to perform their functions; third, establish a new naval reserve program to enable Merchant Marine officers to cooperate with the Navy in times of national emergency; fourth, legally require Merchant Marine graduates to perform uniform obligations; fifth, replace a varying program of student assistance with a student incentive program to students who agree to undertake certain obligations.

Students at the U.S. Merchant Marine Academy and the State academies who accept the student incentive program assistance would be obligated to: First, complete the course of instruction; second, fulfill the requirements for a merchant marine officer's license; third, maintain such license for at least 6 years following graduation; fourth, upon entering, to apply for and maintain service in the Naval Reserve; fifth, to serve in one of three optional programs for 5 years if an Academy graduate or 3 years if from a State academy; and sixth, to report to the Secretary of Commerce with respect to compliance.

With respect to the operation of the U.S. Merchant Marine Academy and State schools, the bill recognizes that existing legislation is archaic and has tried to modernize it by improving the method of selection of students. It would continue to give the Secretary of Commerce authorization to select 40 additional qualified individuals possessing qualities of special value to the Academy; and authorizes the attendance of 30 foreign students on a reimbursable basis.

RECOMMENDATION

The House passed the bill by voice vote on June 30, 1980. There was no House Committee on floor opposition to the bill. Moreover, Chairman AUCOIN of the House Maritime Education Subcommittee indicated that in the next session, he would look into any issues that remained unresolved by this legislation and consider changes that would improve this new act.

The bill as passed by the House is a necessity codification of several laws relating to maritime education. It makes more consistent treatment between the U.S. Merchant Marine Academy and State maritime academies. One of its most important features is the institution of a service obligation for Academy and State academy graduates to insure that graduates will go to sea and help relieve the manpower shortage of our merchant fleet. I believe that it is an important step in improving maritime education programs, and I urge that it be passed by the Senate.●

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREVENTING COLLISIONS ON THE INLAND WATERWAY

The Senate proceeded to consider the bill (H.R. 6671) to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments, as follows:

On page 2, line 19, strike "or whistles";

On page 2, line 22, after "light,", insert "shape";

On page 5, line 21, after "but", insert "are";

On page 5, line 21, strike "be";

On page 7, line 2, strike "River." and insert "River;";

On page 7, line 9, strike "Lock." and insert "Lock;";

On page 7, line 17, strike "Boundary." and insert "Boundary;";

On page 7, line 21, after the semicolon, insert "and";

On page 7, line 24, strike "States;" and insert "States.";

On page 9, line 22, after "radar;", insert "and";

On page 10, line 17, after "change;", insert "and";

On page 12, line 9, strike "effect safe passage" and insert in lieu thereof "permit safe passing";

On page 14, line 11, after "leeward;" insert "and";

On page 18, line 2, after "fishing;" insert "and";

On page 18, line 12, after "command;" insert "and";

On page 19, line 16, after "taken;" insert "and";

On page 22, strike line 5 through and including line 12, and insert in lieu thereof the following:

(g) "Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

On page 24, line 16, after "sidelights;" insert "and";

On page 24, line 17, strike "sternlight;" and insert "sternlight.";

On page 25, line 19, after "sternlight;" insert "and";

On page 26, line 7, after "sidelights;" insert "and";

On page 26, line 15, after "sternlights;" insert "and";

On page 26, line 22, strike "light" and insert in lieu thereof "light; and";

On page 28, line 3, after "sidelights;" insert "and";

On page 28, line 17, after "sidelights" insert "and";

On page 29, line 5, strike "seven" and insert "7";

On page 30, line 13, after the semicolon, insert "and";

On page 31, line 2, after the semicolon, insert "and";

On page 31, line 19, after the semicolon, insert "and";

On page 32, line 9, after the semicolon, insert "and";

On page 33, line 3, after the semicolon, insert "and";

On page 34, line 16, after the semicolon, insert "and";

On page 35, line 6, after the semicolon, insert "and";

On page 36, line 6, strike "signals" and insert "lights and shapes";

On page 36, line 24, strike "four" and insert "4";

On page 36, line 24, strike "six" and insert "6";

On page 38, line 19, strike "one" and insert "1";

On page 38, line 20, after the semicolon, insert "and";

On page 39, line 1, strike "another in a narrow channel or fairway:" and insert "another:";

On page 39, line 4, strike "shall in compliance with Rule 9(e)" and insert "power-driven vessel shall";

On page 39, line 9, after the semicolon, insert "and";

On page 39, line 11, strike "when acting in accordance with Rule 9(e)";

On page 40, line 12, strike "need not" and insert "is not obliged to";

On page 40, line 14, strike "Rule." and insert "Rule, but may do so.";

On page 40, line 23, strike "two" and insert "2";

On page 41, line 3, strike "two" and insert "2";

On page 41, line 4, strike "two" and insert "2";

On page 41, line 11, strike "two" and insert "2";

On page 41, line 15, strike "two" and insert "2";

On page 41, line 24, strike "one" and insert "1";

On page 41, line 24, strike "five" and insert "5";

On page 42, line 3, strike "five" and insert "5";

On page 42, line 17, strike "two" and insert "2";

On page 44, line 13, strike "four" and insert "4";

On page 44, line 18, strike "four" and insert "4";

On page 44, line 23, after the semicolon, insert "and";

On page 45, line 4, strike "nine" and insert "9";

On page 45, strike line 6 through and including line 24, and insert in lieu thereof the following:

(v) the restructuring or repositioning of all lights to meet the prescriptions of Annex I to these Rules, until 9 years after the effective date of these Rules;

(vi) Power-driven vessels of 12 meters or more but less than 20 meters in length are permanently exempt from the provisions of Rule 23(a)(i) and 23(a)(iv) provided that, in place of these lights, the vessel exhibits a white light aft visible all round the horizon; and

(vii) the requirements for sound signal appliances prescribed in Annex III to these Rules, until 9 years after the effective date of these Rules.

On page 48, line 10, strike "twenty one" and insert "21";

On page 50, line 2, strike "five" and insert "5";

On page 50, line 22, strike "twelve" and insert "12";

On page 52, in the table following line 2, strike the second line, and insert in lieu thereof the following:

1928:

May 17-------	600-------	45	592
May 17-------	601-------	45	593

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

UP AMENDMENT NO. 1706

(PURPOSE: TO MAKE A TECHNICAL AMENDMENT)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON. I send a technical amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. CANNON, proposes an unprinted amendment numbered 1706.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 9. Section 2(c) of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151), is amended by striking the words "the Canal Zone,".

Mr. CANNON. Mr. President, we offer today an amendment to H.R. 6671 which would correct a technical error contained in Public Law 96-324. This error has been called to our attention by the State Department.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1707

(Purpose: To amend the Longshoremen's and Harbor Worker's Compensation Act)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Missouri (Mr. DANFORTH), for himself and Mr. EXON.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. DANFORTH and Mr. EXON, proposes an unprinted amendment numbered 1707.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add as an additional section the following: Section 2(3) of the Act of March 4, 1927 (44 Stat. 1424) is amended as follows:

"(3) The term 'Employee' means any person engaged in maritime employment, including any longshoremen or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include (A) any ship repairman, shipbuilder, or ship breaker engaged in construction, repair, or dismantling of any barge or other vessel which is not self-propelled, or any small vessel under sixteen hundred tons gross, while upon any pier, wharf, building way, marine railway, graving dock, shop, or any other facility or area over land customarily used in ship repairing, shipbuilding, or ship-breaking if such ship repairman, shipbuilder, or ship-breaker is subject to coverage under a state workers' compensation law, (B) a master or member of a crew of any vessel, or (C) any person engaged by the master to load or unload or repair any small vessel under eighteen tons net."

Mr. DANFORTH. Mr. President, land-based shipyard workers were traditionally compensated for job-related injuries and disability pursuant to the provisions of their State workers' compensation laws. After the Longshoremen's and Harbor Workers' Compensation Act was amended in 1972, small- and medium-sized shipyards landward of the "water's edge" were inadvertently swept under the coverage of this Federal act.

The 1972 amendments have been disastrous for small to medium-sized shipyards. Employers and employees have been unable to determine which shipyard workers are included, much less which injuries and illnesses are covered. Because it has become virtually impossible to predict the degree of risk exposure, the number of insurance companies willing to write this coverage has dropped from over 100 to 3. Those still willing to write such coverage are extremely selective, and their deductibles are often in six figures. Those shipyards that cannot purchase insurance from a private company are forced to turn to their States assigned risk pool, if that is available.

Another alternative is "self-insurance," but this is not a feasible possibility for most medium-sized companies and certainly not for small companies. Further, Mr. President, shipyards are no longer able to compete for nonmaritime work and since 1972 about 100 companies have gone out of the shipbuilding business, either through bankruptcy or by terminating their shipyard business.

Mr. President, the amendment I am submitting revises the definition of "employee" as it applies in the LHWC Act. My amendment will not alter in any way the scope of coverage for longshoremen and harbor workers. Nor will it leave workers in small to medium-sized shipyards unprotected. The amendment will simply return jurisdiction and coverage in small shipyards to what it was prior to 1972. It was the Congress in large part which created the current confusion and inequity regarding the issue of jurisdiction and coverage; I believe it is the responsibility of the Congress to provide the remedy.

In effect, the amendment would remove from coverage the land-based commercial "boat" builders and repairers who work on barges, tugboats, towboats, supply boats, fishing boats and so forth. Incidentally, this amendment would also exclude the recreational boat manufacturers working on land who, according to the Department of Labor's interpretation, are covered by the act, but who are often located great distances from the navigable waters.

The amendment also contains a gross tonnage jurisdictional measurement. This measurement refers to the act of May 6, 1864, as amended. It is the intent of this amendment that whatever the formula for measurement, as recommended by the International Conference on Tonnage Measurement, 1969, the vessel size for jurisdictional cutoff purposes should be equivalent to the 1,600 gross tons as measured by the present formula contained in the act of May 6, 1864, as amended through 1974 (46 USCA sec. 77).

This amendment would exclude from LHWC Act coverage those shipyard workers employed on land who build and repair all types and sizes of nonself-propelled vessels and it would also exclude workers on land who build and repair all other types of vessels which are under 1,600 gross tons as measured by current law (act May 6, 1864, c. 83, sec. 3, 13 stat. 70, 72, as amended through 1974).

This amendment will provide equity to both the workers and the industry which, despite its small size, contributes enormously to our economy by providing the vessels for low-cost fuel efficient transportation, the specialized vessels needed to extract the oil and minerals in our continental shelf and the vessels for our reviving fishing fleet.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPEAL OF A PROVISION OF REFUGEE EDUCATION ASSISTANCE ACT OF 1980

Mr. WILLIAMS. Mr. President, I introduce a bill, for myself, Senator Chiles, and Senator Stone, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I shall not object—the distinguished Senator from New Jersey has cleared this measure with the leadership on this side of the aisle, and I have had discussions with both the Senator from New Jersey and the Senator from Florida. So there is no objection on this side of the aisle.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I advise the distinguished majority leader and the Senator from New Jersey that the measure the latter has asked to be considered is cleared on this side, and we have no objection to proceeding in this manner.

There being no objection, the Senate proceeded to consider the bill (S. 3180) to repeal a provision of the Refugee Education Assistance Act of 1980, which was read the first time by title and the second time at length.

Mr. WILLIAMS. I thank the majority leader and the minority leader for those statements.

Mr. President, this is a technical correction to the refugee assistance bill we passed last week. That bill allowed the President to shift responsibility for refugee resettlement from the Federal Emergency Management Administration (FEMA) to another agency. We had included language allowing funds in the supplemental appropriation to move with the responsibility. The administration informs us that this is unnecessary, since FEMA will remain the paying agent.

Therefore, we need to drop that language in order not to interfere with FEMA's appropriation.

That, briefly, is the need for this technical change in deleting that provision from the bill.

The repeal of the transfer authority is made effective in this bill on the day after the date of enactment of the Refugee Education Act, on the advice of legislative counsel. It is the intent that section 501(c)(5) be repealed prior to any administrative action to implement the Refugee Education Act.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective on the day after the date of enactment of the Refugee Education Assistance Act of 1980, section 501(c)(5) of the Refugee Education Assistance Act of 1980 is repealed.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE McDADE AMENDMENT

Mr. HUDDLESTON. Mr. President, last week the Washington Post editorialized against the McDade amendment which has been adopted by the House and by the Senate Appropriations Committee. I have received a reply to this editorial by Roger Conner, the executive director of the Federation for American Immigration Reform (FAIR), which I would like to share with my colleagues. I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Census Should Be for Something

(By Roger Conner)

On September 25, 1980, the Washington Post ran an editorial about the McDade Amendment which would postpone reporting of the results of the 1980 Census until after serious questions which have been raised about it have been discussed and settled by Congress. The Post, in a panic, assumes that the effect of the amendment would be to nullify all the benefits of having taken a Census, and insinuates that Congressional support for the Amendment results from the fear members have that their seats will "be wiped out if automatic reapportionment occurs." The Post, therefore, opposed the Amendment.

The editorial, "Was the Census for Nothing?", reminds me that those who do not remember history are condemned to repeat it—and, when they repeat it, to get it wrong. Its errors result from one basically wrong assumption: that apportionment of seats in the House of Representatives is the prerogative of the bureaucracy of the Census Bureau, rather than of Congress.

The Post's history of Congressional reapportionment is wrong. The Post supports automatic reapportionment on the basis of Census Bureau figures. But such reapportionment has been the exception in American history, not the rule. The rule has been that Congress, the people's elected representatives, have determined what apportionment to make. The first automatic reapportionment was in 1930. In 1940 Congress adjusted this "automatic" reapportionment. And in 1920 no reapportionment was made at all, and the 1911 apportionment stood until 1931.

There have been serious questions raised about this year's Census, about its accuracy and its Constitutionality. Allegations of serious undercounts, especially of urban and minority population, have been made. Five cities have filed suit against the Bureau demanding adjustments for undercounting, and seven other cities have filed supporting briefs in these suits. The federal District Court in Detroit has ordered the Bureau not to report its findings until adjustments have been made to remedy the undercount.

In addition, the Census Bureau decided without Congressional direction to afford representation in Congress to illegal immigrants by making a concerted effort to include illegal aliens in the apportionment base. Some experts believe that there could be as many as 12 million illegal immigrants in the United States; Census Bureau experts have estimated there were up to six million here in 1977. If these millions of illegal immigrants are included in final census figures, it will distort reapportionment and divert scarce federal funds to those areas with large numbers of illegal immigrants.

The Washington Post recommends that Congress and the American public swallow their misapprehensions about Census Bureau procedures and results, and accept whatever figures the Bureau wants to give them. The Post alleges that not to do so, to postpone the Bureau's official final report, will mean all the work the Bureau has done to date will be lost.

Anyone who is familiar with the census process would know that this is nonsense. The most expensive part of the census, data collection, has already been accomplished. The data will not disappear from Bureau computers while it is studied. The decision that is now before Congress is the extent to which the data should be further refined and improved. Without doubt, it *can* be refined; it can be improved. The Census Bureau is doing so now, and will continue to do so throughout the next several years. Congress must decide at what point the data is accurate enough to be Constitutionally satisfactory for reapportionment. It is its duty and prerogative to do so.

A billion dollars of taxpayers' money will be spent on this Census. The taxpayers should get their money's worth. We should have the best Census we can. That's why I believe the McDade Amendment, which would give Congress the time to study and approve of the methods the Bureau used to arrive at its results, is a reasonable and moderate measure to take in the face of so much controversy.

The Post irresponsibly slurs the 222 members of the House who supported postponement of apportionment by insinuating they are only protecting their seats from reapportionment. FAIR, on the other hand, is happy that Congress has shouldered the responsibility to examine the 1980 Census critically and determine whether it were conducted accurately, Constitutionally, and fairly.

CIVIL RIGHTS ISSUES IN IMMIGRATION

Mr. HUDDLESTON. Mr. President, this month the U.S. Commission on Civil Rights issued a report on immigration issues: "The Tarnished Golden Door: Civil Rights Issues in Immigration." I have found it valuable and useful in my study of immigration, and I commend it to my colleagues.

There is only one issue on which the five Commissioners were not unanimous: employer sanctions laws. The Commission divided, in a 3-to-2 vote, and recommended against enacting employer sanctions laws by this slight majority. I would recommend that the thoughtful dissents of Vice Chairman Stephen Horn and Commissioner Frankie M. Freeman on this vitally necessary part of immigration law be read.

Commissioner Freeman, in a strong dissent that calls recommendations against employer sanctions laws "unfortunate in that they are fashioned on false premises and totally ignore certain fundamental facts," writes:

> In following this approach the majority would ignore the fact that employers who knowingly hire undocumented aliens do so not out of compassion for the oppressed, but out of simple greed. The majority would ignore the fact that their exploitation is made possible because the fear of detection and deportation prohibits undocumented aliens from protesting unsafe working conditions or wages below the minimum required by Federal law. Perhaps the most distressing aspect of the majority's opinion is it ignores the reality that undocumented aliens tend to be concentrated in the lowest paying jobs and displace American racial and ethnic minorities who traditionally have been employed in those fields, Hispanic and black Americans. . . . While the plight of the oppressed throughout the world is central to the principles of any supporter of civil and human rights, it does not follow at all that the plight of the poor and oppressed of our own country should be ignored by the one agency that has traditionally championed their cause. [Page 147]

Vice Chairman Horn, in calling both for employer sanctions and a secure social security card for employment purposes, writes:

> This Nation should be particularly concerned with the distressing working conditions in the low-skill, low-wage industries in which illegal aliens are employed and with the resultant denial of job experiences for our own citizens. It is a serious problem when entry level job experiences are denied to inner-city youth because these jobs are increasingly occupied by illegal aliens subject to the exploitation and fear created by unscrupulous employers and sometimes connived in by labor unions. Some have argued that Americans will not fill low-status, low-wage jobs and therefore illegal aliens are necessary if the work is to be done. That is simply untrue. Such "we need them and they are happy here" arguments were last heard to justify plantation slavery before the Civil War. [Pages 144–145]

The conditions described by Commissioner Freeman and Vice Chairman Horn are those that my Fair Hiring Amendment to the Immigration and Nationality Efficiency Act of 1980 are designed to remedy.

Unfortunately, all press coverage of this report has focused on this one issue. The many sections of the report for which there was unanimous approval have not been given as much attention. Many recommendations of the report speak, in essence, to extension of all the legal rights and privileges of American citizens to all legal and illegal aliens in the United States. As Vice Chairman Horn comments:

> At times I have felt that some of our proposals, if enacted, should be best described as "the Immigration Attorney's Relief Act of 1980." [Page 146]

But, aside from extending all legal privileges of Americans to all foreign nationals, there are many valuable recommendations made by the Commission. Some of them are controversial, and some of them are simple commonsense. I would like to present here a few of the highlights of the Commission's report, without necessarily endorsing all of the recommendations made, to give some indication of the breadth of the contribution made by the Commission on Civil Rights to the debate over immigration policy:

> [Page 18] Recommendation 2.1: Congress should amend the Immigration and Nationality Act to eliminate the per-country numerical limitations and the colonial quotas and provide for admission within the annual worldwide ceiling of 270,000 on a first-come, first-served basis in accord with the existing six preference categories.
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> [Page 44] Recommendation 3.6: a. Congress should create a Border Management Agency within the Department of Treasury and then transfer the INS enforcement function to that agency. Such legislation would enable INS to concentrate all its resources on its service activities and thereby provide the public with improved service. b. INS should also totally separate its service functions from its remaining enforcement activities, preferably by establishing more satellite offices.
>
> [Page 59] The Commission concludes, on balance, that it should be recognized that the presence of undocumented workers in the labor market does have an adverse impact on the opportunities for employment of a number of citizens and legal residents. The Federal Government, in the judgment of this Commission, should do everything possible to reduce significantly the number of undocumented workers in our domestic labor market, particularly in those areas where they have an adverse impact on the employment opportunities of citizens and legal residents.
>
> [Page 59] This Commission believes that our nation has the capacity of initiating a program of stepped-up law enforcement in the immigration area and at the same time conducting it in such a manner as to protect the civil rights of all persons who may be the targets of such a program.
>
> [Page 73] Finding 5.2: The number of undocumented workers can be reduced by more effective immigration law enforcement, through the hiring of additional personnel and through the use of more modern law enforcement technology, such as computerized arrival-departure records. The Commission believes that such an improved law enforcement effort can be accomplished without the dilution of individual civil rights. Recommendation 5.2: The Congress should appropriate additional funds to the Department of Justice in order that the Immigration and Naturalization Service can more effectively enforce the immigration laws by expanding its work force and having available more modern law enforcement technology.

Mr. President, the Civil Rights Commission is rightly concerned about possible discrimination under employer sanctions laws. However, it is possible to devise legislation which prevents this type of activity. My fair hiring amendment is simply an expansion of existing law that has been enforced by the Department of Labor in the agriculture sector without any serious problems of discrimination. If this fair hiring procedure has worked for 6 years without any serious charges of discrimination or without any successful court challenges, I am confident that it could also work in other sectors of the economy.

Further, there is more than one kind of discrimination which we must be concerned about. When an employer hires an illegal alien instead of a U.S. citizen in an effort to maximize his profits, that too is discrimination. It is the type of discrimination we should be just as concerned about because the effect is the same—unjustified unemployment. If those who claim to be worried about discrimination are sincerely worried about it, they should take the time to talk to some of the millions of U.S. citizens who are now standing in the long unemployment lines. Especially those in the inner cities.

SUPERFUND—RUNNING OUT OF TIME, NOT PROBLEMS

Mr. WILLIAMS. Mr. President, even though the problems associated with hazardous chemicals are well known and the release of these wastes into the environment continues to grow in this country, it has become apparent that the Senate may not act on resolving this threat to the health and safety of our citizens.

I believe such nonaction on the "superfund" legislation would be a real tragedy and a blemish on the record of the 96th Congress. The Environment and Public Works Committee has labored long and hard to develop a realistic and workable approach to the problems associated with the chemical contamination in this country. The committee produced an approach I support, and a bill, S. 1480, which I cosponsor.

I am gratified by the overwhelming support shown this last week on the two superfund bills supported in the House and hope that the Senate will be prompted to move its legislation forward. But, I must also note that I am disappointed with some of the major omissions in the House bills—especially the lack of any provisions to compensate the actual victims of contamination incidents. It is ironic that this is the case since the main impetus for movement of the superfund bills in Congress has come from the concern of our citizens that their health, safety and economic livelihoods might very well be affected by toxic chemicals; that the health of the people of Love Canal might be affected; that the citizens of Elizabeth, N.J., were confronted with a massive fire and rocked by a series of tremendous explosions as the chemical waste dump on their waterfront erupted; and that the people of Jackson Township, N.J., and numerous others have had their sole source of water supply contaminated perhaps beyond reclamation.

Now, however, we have two bills from the House which would make no provisions for such health or economic suffering, and we also have pressure for the Senate to accept these incomplete legislative solutions to the problem.

I am well aware of the orchestrated attempt to prevent the Senate's consideration of S. 1480. Opponents of this measure have managed to prevent floor action to date even in light of the substantial support that has been expressed for the legislation reported by the Committee on Environment and Public Works on July 11 of this year.

Last week's cover story in Time magazine captured the concern that all Americans should have about the toxic threat in this country, and a Washington Post editorial entitled "Running Out the Clock" zeroes in on the biggest constraint that Congress now has toward resolving the toxic threat this year.

Mr. President, I ask unanimous consent that the Time article entitled "The Poisoning of America," and the September 15 Washington Post editorial be printed in the Record at the conclusion of my remarks, and I encourage the Senate to move ahead with the consideration of S. 1480 and to maintain the important victim compensation provisions.

There being no objection, the material was ordered to be printed in the Record, as follows:

Running Out the Clock

Time is running out on one of the more important pieces of legislation before Congress this year. The legislation would create a fund—nicknamed Superfund—for dealing with emergencies caused by spills and leaks of oil and hazardous chemicals. Though no one publicly disputes the need for such a fund, it is being delayed to death by a massive lobbying campaign waged by the oil and chemical industries.

The idea behind Superfund is to have a sufficient amount of money on hand for the government to be able to move immediately to contain and clean up a hazardous spill if the responsible party either cannot be identified or is not equipped to deal with the emergency. *After* the danger to public health and the environment is removed, the responsible parties will be identified (this can sometimes take years) and held liable for whatever the government spent on the cleanup. Only when no owner can be traced—as, for example, in the case of some abandoned waste dumps—will the fund not be reimbursed.

After Love Canal and Valley of the Drums and the Campeche oil spill and dozens of other incidents, nearly everyone is aware that such a fund is needed. Each year there are an average of 11,000 oil spills, some of them catastrophic. About 3,000 annual spills of other hazardous substances are voluntarily reported to the Environmental Protection Agency; but now that reporting is mandatory, EPA expects a "dramatic increase" in that number. As for chemical waste sites, one year ago EPA estimated that there are between 1,200 and 2,000 dumps that pose significant environmental or health hazards, and new sites have been turning up at a steady rate of about 200 a month.

Superfund would do more than create a pot of money large enough to meet emergencies. By establishing strict standards of liability, the new legislation would encourage companies to take greater care that accidents and careless handling do not happen in the first place. The law would also enable those whose health or livelihood is harmed by chemical spills to recover damages in court.

Although Superfund would fill a need, and although it would not create a new bureaucracy or broad new regulatory burdens, its passage is in serious doubt. Enactment has been frustrated by splintered congressional jurisdictions—three or more different committees on each side of the Capitol—and by a determined lobbying campaign against any but the weakest versions of the bill. With so many different committees in the act, there are almost endless opportunities to kill the legislation through inaction without anyone's having to come out and vote against it, and this is precisely the chemical and oil lobbyists' strategy.

The present arena is the Senate Finance Committee, which finally held hearings last week after two months of delay. Senators outdid each other in extolling the importance of the bill but then solemnly noted the complexity and momentousness of its precise administrative details and funding mechanisms. These matters can be worked out on the floor and in House-Senate conference, however: the committee's job is to take prompt enough action so that final passage is possible in the remaining few days of the session. If this committee and other key members of the leadership continue to vacillate, no amount of rhetoric will hide the fact that the Senate let the chemical industry pressure it into running out the clock on a bill that would serve everyone's best interest.

The Poisoning of American's Belatedly, the Campaign Begins to Control Hazardous Chemical Wastes

Of all of man's interventions in the natural order, none is accelerating quite so alarmingly as the creation of chemical compounds. Through their genius, modern alchemists brew as many as 1,000 new concoctions each year in the U.S. alone. At last count, nearly 50,000 chemicals were on the market. Many have been an undeniable boon to mankind, mitigating pain and disease, prolonging life for millions and expanding the economy in myriad ways by stimulating the creation of new products. There is, however, a price to pay for an industrial society that has come to rely so heavily on chemicals: almost 35,000 of those used in the U.S. are classified by the federal Environmental Protection Agency (EPA) as being either definitely or potentially hazardous to human health. Although cause-and-effect relationships between many chemicals and specific illnesses are still difficult to prove, the danger is clearly growing. Long concerned about the more familiar pollution problems of nuclear wastes, dirty air and befouled lakes and rivers, the nation has only belatedly begun to recognize the threat of chemical wastes poisoning America's earth and—more ominously—its underground reservoirs.

Last week, sounding the most authoritative warning yet, Julius Richmond, the Surgeon General of the U.S., declared that throughout the 1980s the nation will "confront a series of environmental emergencies" posed by toxic chemicals that "are adding to the disease burden in a significant, although as yet not precisely defined, way." Said the Surgeon General's report to the Senate: "The public health risk associated with toxic chemicals is increasing, and will continue to do so until we are successful in identifying chemicals which are highly toxic and controlling the introduction of these chemicals into our environment." His report was supported by a study of 32 major chemical-contamination incidents that was conducted by the Library of Congress. The library's survey said these cases "represent the tip of an iceberg of truly unknown dimensions" and concluded that toxic chemicals "are so long lasting and pervasive in the environment that virtually the entire population of the nation, and indeed the world, carries some body burden of one or several of them."

Experts may debate just how bad the problem is. Robert A. Roland, president of the Chemical Manufacturers Association, attacked the Surgeon General's report for exaggerating the threat of toxic wastes. But one thing is certain: the rapid accumulation of chemical-waste products poses one of the most complex and expensive environmental control and cleanup tasks in history. Says Douglas M. Costle, administrator of the EPA: "We didn't understand that every barrel stuck into the ground was a ticking time bomb, primed to go off." Predicts Dr. Irving Selikoff, director of the Environmental Sciences Laboratory of New York City's Mount Sinai Medical School: "Toxic waste will be the major environmental and public health problem facing the U.S. in the '80s." The EPA estimates that the U.S. is generating more than 77 billion lbs. of hazardous chemical wastes a year and that only 10 percent are being handled in a safe manner. At least half of the wastes, says Gary N. Dietrich, an EPA official, "are just being dumped indiscriminately."

There may be no greater threat than the steady rise in the number of wells found to be contaminated by chemicals. Fully 50 percent of all Americans depend on ground rather than surface water for their drinking supply. Water that may have fallen to earth as long as a century ago has percolated slowly down through soil and porous rock to collect in vast underground aquifers that were virtually void of chemical and bacteriological impurities. Now substances, mostly petrochemicals thought to have been harmlessly disposed of years ago, are beginning to show up even in the deeper U.S. wells. This contamination will grow as those forgotten chemicals of the past steadily reach more of the underground reservoirs from which Americans will drink in the future.

After two years of investigation, the New York Public Interest Research Group, Inc., a respected private organization, charges that 66 companies dump nearly 10 million gal. of contaminated waste water each day into eleven municipal sewerage systems on Long Island. Since none of these systems can treat toxic wastes, claims the report, the drinking water for some 3 million residents is "in danger of deteriorating into a severely contaminated industrial sewer."

In a lovely wooded area of New Jersey known as the Pine Barrens, more than 100 wells have been poisoned by chemicals leaching from the 135-acre Jackson Township dump. James McCarthy, who had drunk well water for ten years, had one kidney removed in 1977, and now has trouble with the other. Tara, his daughter, died in 1975 of a kidney cancer when she was nine months old. A 16-year-old neighbor lost a kidney to cancer; another neighbor is on dialysis for kidney problems; a third also has a kidney ailment. No scientific link has been established between the chemicals and the illnesses, but, McCarthy says, "You can't tell me that all our kidney problems and the poisons in our water aren't connected."

Water supplies in 22 Massachusetts towns have been contaminated by chemicals. In Michigan, inspectors have found 300 sites where wastes have polluted ground water. Residents of some 90 homes near Muskegon now use bottled water supplied by the county. The polluted water there, says Tom Spencer, a county health official, "looks just like bock beer. It even has a head on it."

Coal-tar residues have drained into an aquifer under the metropolitan area of Minneapolis and St. Paul. While the Twin Cities draw water from the Mississippi River, many of their suburbs depend on the threatened underground supply. Near Charles City, Iowa, some deep wells 30 to 40 miles downstream from a chemical dump have shown traces of contamination. At the waste heap, state analysts have found some 6 million lbs. of arsenic, as well as large quantities of other dangerous chemicals. Says Larry Crane, director of the Iowa department of environmental quality: "It's an organic chemist's cauldron."

Growing recognition of the menace of chemicals has produced a series of state laws that make the casual disposal of wastes a criminal offense. Under a 1979 New Jersey statute, for example, offenders can be fined up to $50,000 a day for every day they leave wastes unprotected and may get jail sentences of up to ten years. As a result of such new rules, careless dumping has been declining—until recently. The reason for the upsurge: a tough set of federal regulations that will go into effect on Nov. 19 requiring dangerous chemical wastes to be tracked "from cradle to grave"; each person or company receiving any chemical wastes on the list will have to account for what happens to them and will be held responsible if the substances are not properly handled. To beat the deadline, some companies have been taking chemical refuse they have stored on their property for months or even years and simply getting rid of the stuff as swiftly and as surreptitiously as they can, often dumping by night and running.

One day a field in Illinois was empty; a week or so later, it contained 20,000 bbl. of dumped wastes. Kentucky state police staked out a site outside Daniel Boone National Forest, where some 200 containers loaded with dangeorus solvents had been discarded. They arrested three Ohio truck drivers. Hundreds of toxic drums were found on three sites near historic Plymouth, Mass. State troopers and other authorities set up roadblocks to stop illegal dumping operations in New Hampshire, which, like the other New England states, has no legal disposal site. Declared New Hampshire acting Attorney General Gregory Smith: "We know toxic waste is being hauled through the state. We have to find out where and when."

The upcoming federal regulations and new state laws will surely help, but what haunts the EPA's Costle and other environmentalists is the scope of the problem. In 1941 the American petrochemical industry produced 1 billion lbs. of synthetic chemicals. By 1977 that rate had soared to 350 billion lbs.

In evolutionary terms, the rapidity and scale of this chemical creativity are frightening. Through the ages, most of the earth's varied organisms, from single cells to plants, animals and early humans, usually had ample time to adapt to the pace of natural change. They evolved protective mutations to meet the gradual shifts in the earth's vital balance between acids and alkalines, in the salinity of water, in levels of oxygen in the atmosphere. But man cannot patiently wait through the centuries for his body to develop a genetic defense against these chemicals if, indeed, such a defense is possible.

Not only is the pace quickening, there is also a basic difference in the quality of change that modern chemicals make in the air, earth and water. Petrochemists have assembled the molecules contained in coal, oil and gas in new ways, producing compounds that do not exist in a natural state. These compounds are essential to such products as pharmaceuticals, plastics, insulation, textiles and food additives. But unlike many natural chemicals, most petrochemicals do not decay rapidly under the assault of such natural forces as bacteria, sun, wind and water. That puny plastic bottle once full of household bleach may well outlast the mighty pyramids.

So far as is now known, bleach bottles pose no threat to health. But to an alarming degree, petrochemicals that are far less benign but just as durable have for years been discarded as casually as household garbage. Many bear mystifying names: trichloroethylene, tetrachloroethylene, dichloroethylene, dibromochloromethane, polychlorinated biphenyls (PCBs). These, and many more, are suspected of contributing to the rising incidence of cancer in the U.S. But experts in the field are quick to admit the difficulty of proving the harm caused by chemical wastes. Says Mount Sinai's Selikoff: "When it comes to chemicals and illness, it's hard to prove cause and effect, though we certainly have our suspicions."

The most sinister side of the chemical-waste threat may be the very uncertainty of its ultimate impact. Adding to the dilemma is the fact that past disposal practices have been so haphazard that no one knows just how much chemical garbage must be cleared up—or even where it is. The producers, the users and the ultimate disposers of the chemicals have not been required to keep records on what they did with waste material. Most companies stack it in barrels on back lots. Some pay haulers to cart it to reprocessing plants, high-temperature incinerators or landfills where thick clay linings prevent chemicals from leaching into the earth.

But all too many waste handlers have merely tossed the refuse into leaky burial pits, or carted it off to municipal dumps to mix with household garbage, or paid farmers small fees to let them hide 55-gal. drums on unused land, often by dark of night. Some haulers have pumped liquid wastes into tank trucks and driven down rural roads with the pet cocks open, releasing the chemicals into ditches. Some of the companies that paid middlemen or haulers to get rid of the refuse asked no questions about—and did not want to know—where the chemicals went.

As a result, the poisons have turned up in surprising places. Not far from home plate at New York City's Shea Stadium, a festering pond containing PCB, toluene, benzene and DDT turns red, blue or green as the mixture of the waste changes. The mess is so flammable that the pool has caught fire twice in the past year. In the marshes around New Jersey's Meadowlands sports complex, home of the pro football Giants, some 200 tons of mercury residues have contaminated Berry's Creek, causing Selikoff to declare, "On a bad day, breathing in the Meadowlands may be as dangerous as driving at Indianapolis." The abandoned shafts and tunnels in the hills above Pennsylvania's Susquehanna River lure illegal chemical dumpers. So much poison has been poured for so long into one deep hole near Pittston that Republican Senator John Heinz insists, "This is more dangerous than Three Mile Island because we don't really know what's down there." Six New Jersey men, including Russell Mahler, president of Hudson Oil Refining Corp., have been indicted in Pennsylvania on charges of illegally tossing chemicals into the shaft, thereby polluting the river.

No accurate count of all the toxic-waste dumps is possible. Many reveal themselves only when a flash flood or gradual erosion exposes rusting and cracking drums. Searching for clandestine sites, some 100 EPA agents are tracking down reports of midnight dumping, or seeking out acrid odors permeating wooded acres or strange colors staining rivers and streams. So far, the EPA estimates that there are some 50,000 sites where chemicals have been dumped. The EPA believes that 2,000 of these dumps may pose serious health hazards.

The public got an inkling of the seriousness of the problem last year with the revelation of the horror that had occurred in New York's Love Canal. Contamination from a landfill laced with chemicals seeped into the area on the outskirts of Niagara Falls. A total of 1,200 houses and a school had been built near the site. Alarmed by studies of damage to the residents' health, the Federal Government finally paid for the temporary evacuation of families. At present, 710 families have been declared eligible to move, and about half have left the area. Researchers are continuing to probe the residents' high incidence of cancer, birth defects and respiratory and neurological problems.

The Love Canal story emerged gradually, but three vents this year in the New York City region demonstrated suddenly and spectacularly just how heedlessly the chemical compounds have been stored. In April, residents of Elizabeth, N.J., and nearby Staten Island, N.Y., were jolted by explosions from a dump containing at least 50,000 chemical-filled barrels. The blasts rattled windows in Manhattan skyscrapers ten miles away. On July 4, an industrial-paint-manufacturing company that stored chemical wastes in its backyard flamed into a four-alarm blaze that spread toxic fumes over the city of Carlstadt, N.J. Three days later, storage drums at a chemical disposal plant in Perth Amboy, N.J., erupted in a barrage of explosions and a roaring fire that wiped out seven buildings and 16 businesses in an industrial park. Nearby residences were evacuated for several hours because no one knew how toxic the spreading smoke might be.

After the Love Canal and New Jersey headlines, an ABC News-Harris poll found that 76 percent of those surveyed consider the dumping of toxic chemicals "a very serious problem," and despite a growing antagonism toward Government regulation, 93.6 percent wanted "federal standards prohibiting such dumping made much more strict than they are now." Is the public unduly alarmed? Federal officials charged with enforcing the long-inadequate laws against unsafe disposal practices do not think so. Declares Dale Bryson, an EPA deputy Chief in the Midwest: "Every time we go into these cases, we find it's worse than we thought." Some Dantesque examples:

ELIZABETH, N.J.

On a small peninsula between New Jersey and Staten Island, the charred remains of what had been a collection of about 50,000 drums, some stacked four high, adjoin a brick-and-steel building once owned by the now bankrupt Chemical Control Corp. The containers had been left to rot for nearly a decade. Many of the drums had never been properly labeled; others were so seared by the explosive fire in April that neither the manufacturer nor the nature of the chemicals they contain can be determined from outside markings. Some barrels are leaking unidentified chemicals into the ground. Unknown wastes seep into an adjacent stream called the Arthur Kill and eventually ooze into the Hudson River. A huge tank holds a fluid laced with 4,000 parts per million of PCB, a chemical that has been linked to birth defects and nervous disorders. Explains George Weiss, coordinator of the cleanup from New Jersey's department of environmental protection: "No one knows what to do with that. No one even knows if we can touch it."

Wearing a respirator and a suit like an astronaut's to seal out fumes, the operator of a front-loader cautiously picks up one drum at a time. He is well aware of the fate of a bulldozer driver who hit a container of flammable phosphorus at a landfill in nearby Edison, N.J.: the man was incinerated so quickly that he died with his hand on his gearshift. State officials have identified a horrific arsenal of chemicals at the site, including two containers of nitroglycerine; two canisters of a chemical similar in effect to mustard gas; barrels full of biological agents; cylinders of phosgene and pyrophoric gases, which are so volatile they ignite when exposed to air; wastes contaminated by lead, mercury and arsenic; plus a variety of solvents, pesticides, plasticizers, including dangerous vinyl chloride and even picric acid, which has more explosive power than TNT.

Toxic wastes are trucked to New Jersey's single licensed toxic-waste incinerator in Logan Township, where the chemicals are burned at more than 5000° F. After months of work, an 80-man crew has removed all but 700 drums from the site. Once the barrels are all gone, metal detectors and aerial photography will be used to uncover evidence of any additional buried wastes. The contaminated topsoil must be hauled away. Probing for possible poisoning of the underlying water will come later.

How was the mess created? Chemical Control Corp. had signed contracts with some of the state's chemical companies and factories to dispose of their wastes. The company was supposed to solidify nontoxic materials for safe burial in landfills and detoxify the poisonous chemicals for similar disposal. Instead, the corporation just stacked the drums out back. Reacting to the fears of Elizabeth residents, state officials seized the site in March 1978 and began the slow cleanup. The companies, whose barrels were clearly labeled, included the 3M Co. and Union Carbide; the firms had no legal obligation to retrieve their drums but promptly did so when notified by the state.

"We don't have any choice about cleaning this place up," says Jerry English, a lawyer who heads New Jersey's department of environmental protection. "We simply cannot allow a situation like this to continue." Wearing a white vinyl coverall over her fashionable suit, yellow plastic bootees over her high-heeled shoes, a respirator and protective gloves, English recently climbed on a rooftop and looked out over the sea of barrels. She broke into a wry laugh, grandly swept an arm toward the rubble and declared, "Some day, my son, this will all be yours."

SEYMOUR, IND.

A neat stone wall graces the entrance to Freeman Field Industrial Park in the otherwise rustic small town of Seymour (pop. 13,100), about 70 miles southeast of Indianapolis. But in the park, there is a dry, mud-caked ditch, and the trees along its banks are dead. Inside a wire fence, an acrid scent brings tears to visitors' eyes. Some of the tidily stacked barrels bear household names: General Electric, Dow Chemical, Shell Oil, Monsanto. Paint sludges collect in sticky red and green pools on the porous ground, and such chemicals as arsenic, benzene, toluene, trichloroethylene and naphthalene ooze from rusty barrels. Nearby, two former dairy trucks, one still bearing the faded invitation DRINK REFRESHING MILK, contain dangerous chemical wastes.

Over a period of twelve years, some 60,000 drums of waste were heaped on this site by Seymour Recycling Corp., which, like Chemical Control Corp., contracted with its corporate clients to get rid of their wastes safely. After the company failed to comply with a state order to dispose of the chemicals, a court appointed a custodian: William Vance, an easygoing small-town lawyer and president of the Jackson County Bar Association. He inherited the mess in February. Says he: "Like most of the citizenry, I wasn't that concerned before—but I am now."

In March, hydrogen gas began rising from a shed on the property where 25 badly corroded drums of chlorosilane had been stored next to 100 bbl. of flammable solvents. Rain soaking the chlorosilane created a smoky chemical reaction. Fear of an explosion caused city officials to order the area vacated for several hours. Says Vance: "We had a 13-acre keg of dynamite." Firemen rushed to separate the drums. Now, Vance frets, "every time we have a thunderstorm I think, 'My God, don't let lightning hit out there!' "

Vance is even more concerned about the future. He fears that the ground water beneath the sandy soil has been polluted, and this will show up later in wells. "It's a perfect setup," he says. "We think what they did with some of the chemicals was just pour 'em out on the ground. Glub, glub, glub." When state and local officials failed to get results, the federal EPA declared a water emergency and took over the cleanup chore. So far, it has spent nearly $1 million and estimates that complete removal of all hazardous wastes at the site could cost more than $12 million. "They couldn't have located that dump in a worse place," says Roland Kasting, a farmer who lives near by. "There's a vast underground reservoir right underneath us. There have to be laws on this chemical waste. It's going to get worse and worse—it's going to be everywhere."

MONTAGUE, MICH.

It took years of local agitation and a lawsuit filed by the State of Michigan, but something now is being done by Hooker Chemical Corp. (which also left contamination at Love Canal) to help dispose of some 1.2 million cu. yds. of chemical waste, drums and contaminated soil in its 880 acres of property on the edge of Montague. The cleanup may be too late to satisfy many residents in the community, a small town (pop. 2,396) of gracious, shaded houses along the shores of White Lake. State water officials estimate that some 20 billion gal. of ground water have been laced with deadly chemical wastes in an underground flow of contamination that is half a mile wide and more than a mile long. Moreover, each heavy rainfall propels some 800 lbs. of chemical residues daily into the lake, which, in turn, drains into Lake Michigan.

Children used to play in the dump behind the Hooker plant, where rusting drums sometimes leaked a tarry substance as sticky as soft asphalt. The site still contains at least 100 different compounds, many produced by spontaneous reactions among the discarded chemicals. They include hexachlorocyclopentadiene, more conveniently known as C–56. Toxicologists have found a C–56 derivative in the flesh of White Lake fish.

As a result of a lawsuit filed by the state, Hooker agreed to build a huge vault to contain its wastes. It has dug a hole 18 ft. deep and 300 yds. long. The bottom and sides of the excavation were formed of coarse beach sand, which would have allowed chemicals to filter down to the aquifer lying 80 ft. or less below the surface. Therefore, Hooker is lining the vault with 10-ft.-thick walls of compacted clay. The vault will rise five stories into the air. "A monument to stupidity," snorts Marion Dawson, a leader in the long fight to force Hooker to clean up its act.

Hooker officials do not deny their mistakes, though they rightly point out that they were made before the hazards were fully understood. The company is spending some $15 million to correct the problems, including sinking a series of "purge" wells designed to draw water from the aquifer, decontaminate it and pipe it back into the ground. Hooker has also built a $100,000 pipeline to carry uncontaminated city water to houses on Blueberry Ridge, where wells are threatened. In addition, the company is paying the monthly water bills of these residents.

Says Ken Hall, the Hooker official handling the cleanup: "You have to be careful about judging the 1950s by 1980s standards. I grew up thinking that if you put something in the ground it was safe. But that thinking was in error. If you don't do something about it now, you'll have an eternal problem." Indeed, much of the unsafe dumping occurred before the companies had a firm idea of how serious the waste problem was, and many disposed of material in ways they thought were safe at the time.

The chemical industry generally approves the new federal regulations that will require the tracking of all toxic chemicals to the point of final disposal. Violators can be fined up to $25,000 a day and jailed for a year for a first offense. Says Robert A. Roland, president of the Chemical Manufacturers Association: "We don't want irresponsible disposal. This is a perfectly reasonable thing for the Federal Government to do."

The industry is more worried about the EPA's new rules requiring that only sites meeting federal standards be used. The companies are fearful that EPA standards will be so strict that an insufficient number of sites will be created. If that happens, predicts Roland, "companies will have two choices: they will either have nowhere to dump and they will close down, or they will go out and break the law." Conceding that "the EPA is between a rock and a hard place, with an enormous task to confront," Roland contends that the agency too often acts on the basis of insufficient information. The industry, for example, insists that the EPA has not carefully evaluated the hazards of various chemicals and that its regulations are needlessly complex and burdensome. Up to a point, the EPA's Costle agrees. "I know that things aren't perfect with us," he says. "But just imagine how they would be without us."

On its own, the chemical industry has set up a hazardous-waste response center in Washington, where state and local officials who are worried about an abandoned disposal site can get expert advice about how serious the threat may be and how the dump could be cleaned up. The industry has also written a model waste-disposal-siting law for the guidance of state legislatures.

Irving S. Shapiro, chairman of Du Pont, reports that his company is recycling waste material to reduce the disposal problem and keeps a watchful eye on the contractors it uses for disposal. The most critical problem, as he sees it, is to clean up widely scattered "orphan waste sites" that no one has supervised. Says he: "Let's start with today, not worry about who did what in the past. Government and industry should work together rather than get emotional. We've got to get going rather than sitting around trying to figure out who's wearing the black hat and who's wearing the white hat."

Right now there are enough safe disposal facilities in the U.S., including incinerators and detoxification plants, to handle the toxic wastes, if the companies would go to the trouble and expense of using them. But as federal regulations governing the dumps become more stringent, and as the volume of wastes increases, the nation will need additional sites. Where to put them? "Everybody is in favor of safe disposal," says Costle. "They say, sure, let's have a safe landfill, but not in my town." Howard Tanner, chief of Michigan's Department of Natural Resources, goes even further. "We have technical solutions for these wastes," he says, "but we don't have social solutions. You don't want them anywhere near where you live—nor do I."

Looking for new waste sites, a private company has purchased obsolete Titan I missile silos in an Idaho desert. Near Grandview, three 160-ft.-deep holes, lined with 6-ft.-thick concrete walls and 13-ft.-thick concrete floors, are each being used to store some 1.5 million cu. ft. of wastes. Several European companies are using incinerator ships to burn chemical wastes at sea. Costle feels that U.S. private industry, rather than Government, should devise safe disposal techniques. Says he: "It's smarter and can do the job more efficiently than the Government."

If the future remains a problem, so does the past. The immense task of cleaning up the accumulated wastes still remains. A bill is slowly working its way through Congress to create a "superfund" to be used by the EPA to neutralize hazardous waste spills and dumps as they occur or are discovered. The legislation, now in various forms, could create a fund of up to $4 billion in the next six years. But there are bitter fights under way over just how to split the costs between the general taxpayer and the various industries that generate the wastes. The Carter Administration expects a compromise will be reached on the bill this year, possibly before Congress recesses for the November election. Even if passed, this act would be only a start. The EPA estimates the eventual cost of a national cleanup would be as much as $22 billion.

Insists Costle: "We can't afford not to clean up. All we'd be doing would be pushing the cost over to the next generation." He notes that when the Life Science Products Co., a chemical plant in Hopewell, Va., was found to be contaminating the James River with Kepone in 1975, the source of pollution could have been cleaned up at a cost of $250,000. The company delayed and since has paid out $13 million in damage claims. Now, experts estimate, it will cost at least $2 billion to purify the river. Contends Costle: "In a misguided sense of thrift, we can save ourselves broke."

Some officials charged with protecting water supplies fear that much of the chemical damage already done to underground reservoirs is irreparable. Says New Jersey's English: "What's in the ground is there. It's too late to do anything about it." Perhaps so. Yet the growing public concern, the increasingly cooperative attitude of the chemical industry and the toughening resolve of federal and state governments reflect a new willingness of the nation to grapple with one of modern technology's least understood and potentially most insidious threats to health.

The circle must be made complete. The society that created the plethora of new chemicals that so enhanced human life must now use its scientific genius to make sure that those creations work safely for mankind.

ROBERT W. KEAN

Mr. WILLIAMS. Mr. President, I wish to take this opportunity to say a few words about a most distinguished resident of my State who died last week.

Robert W. Kean, who died at the age of 86, served his State and the Nation in Congress of the United States for 20 years. He became one of the major forces in Congress, and, among so many things, was one of the architects of our current social security program.

This service would have been achievement enough for anyone, but it does not begin to reflect the full measure of the man. Bob Kean was descended from the founders of this Nation. He was enormously successful in business and could have chosen to devote his life to those pursuits. But, in the fullest possible measure, he took onto himself the task which his forefathers began of making this a better country for all of the people.

Public service, for the benefit of the people, was the controlling criterion of his life. Ironically, I came to know him well during my first campaign for the U.S. Senate when he was my opponent. The campaign proved to be one of the most satisfying experiences of my life. He and I were able to discuss fully the problems facing our land; to make clear to the people our two philosophies. He was a gentleman. And, in the finest traditions of our Nation, he believed that elections should be decided solely on issues.

As a result of that campaign with Bob Kean, I can only say that I took office in this great body with an even fuller understanding of the nobility of our purpose.

His dedication to helping people did not end with that campaign. Subsequently, he was active in a wide variety of civic and charitable enterprises and served as chairman of the advisory committee to the White House Conference on the Aging.

So that everyone may have some idea of the breadth of Bob Kean's achievements—war hero, businessman, public servant—I ask unanimous consent that the obituary, which appeared in the Star Ledger of Newark, N.J., on September 23, 1980, be printed in the RECORD.

> Robert Winthrop Kean of Livingston, who served 20 years as a congressman from New Jersey and was the elder statesman of one of the wealthiest and most prominent old-line Republican families in the state, died Sunday in St. Barnabas Medical Center in Livingston, it was announced yesterday. He was 86.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

ROBERT W. KEAN DIES; LAWMAKER AND LEADER

(By Robert Misseck)

> Mr. Kean was taken to the hospital after suffering a heart attack in his home, which is on a 300-acre estate off Mt. Pleasant Avenue.
>
> Mr. Kean was born in Elberon on Sept. 28, 1893.
>
> His father, the late Hamilton Fish Kean, was a U.S. senator from New Jersey from 1929 to 1935. His great-great-grandfather, John Kean, was a member of the Continental Congress, and his uncle, another John Kean, was both a U.S. senator and representative from New Jersey.
>
> His great-great-great uncle was William Livingston, New Jersey's first governor.
>
> Mr. Kean's mother, Katharine Winthrop Kean, was a direct descendant of John Winthrop, the first governor of Massachusetts.
>
> A graduate of St. Marks School and, in 1915, of Harvard College, Mr. Kean served as a first lieutenant in World War I with the Second Division in France. He was awarded a Distinguished Service Cross and the Silver Star for gallantry in action.
>
> After the war, Mr. Kean became a partner in the Wall Street investment firm of Kean, Taylor and Co.
>
> He organized the Livingston National Bank in 1927 and served as its president for 25 years.
>
> In 1938, he was elected to Congress from the 12th District. He served first on the House Banking and Currency Committee and then as a ranking Republican on the powerful Ways and Means Committee, in which all tax legislation originates.
>
> While on the Ways and Means Committee, Mr. Kean introduced the first comprehensive bills dealing with the extension of Social Security. His expertise on the subject soon earned him the nickname "Mr. Social Security."
>
> Mr. Kean also served as chairman of a special subcommittee set up during President Harry Truman's administration to investigate the Internal Revenue System.
>
> The Kean committee investigation resulted in changes in the structure and policies of the Bureau of Internal Revenue, the removal of the top echelon of that bureau and the conviction of prominent administration officials.
>
> In 1958, Rep. Kean won the GOP nomination for U.S. senator, but was defeated by Sen. Harrison A. Williams Jr. (D-N.J.).
>
> In 1960, Mr. Kean was appointed by President Dwight D. Eisenhower to the chairmanship of the White House Conference on Aging.
>
> Mr. Kean was a director and former chairman of the board of St. Barnabas Medical Center, the Livingston National Bank and National Utilities and Industries Corp., the parent company of Elizabethtown Gas Co.
>
> He also was a director of Elizabethtown Water Co. and former director of the Hackensack Water Co.
>
> National Utilities and Industries and Elizabethtown Water Co. were founded and are owned by the Kean family.
>
> Mr. Kean is survived by his wife of 60 years, the former Elizabeth Stuyvesant Howard, and 35 descendants including six children: Former Assembly Speaker Thomas H. Kean of Livingston, a possible candidate for the Republican gubernatorial nomination in 1981; Robert W. Kean Jr. of Livingston, chairman of the board of Elizabethtown Water Co.; Hamilton F. Kean of New York; Mrs. Elizabeth L. Hicks of Greenwich, Conn.; Mrs. Edgar G. Lansbury of New York, and Katharine Kean of Florence, Italy.

COST ACCOUNTING STANDARDS BOARD DEMISE

Mr. PROXMIRE. Mr. President, today marks an unusual day. A Government agency, the Cost Accounting Standards Board, goes out of business today. This is truly remarkable when one thinks of the remarkable number of useless, do-nothing Federal commissions, boards, bureaus, and agencies, many of which never served any useful purpose, others of which have outlived their usefulness, which go on and on forever. Surely, to merit death by denial of appropriation, the Cost Accounting Standards Board must indeed be a wasteful and useless agency.

Actually, nothing could be further from the truth. The Cost Accounting Standards Board was created in 1971, and has performed its assigned responsibility in a diligent and efficient manner. It was given the responsibility to develop cost acounting standards which would apply to all negotiated national defense contracts. This was and is an important mission, because of the need for, as it were, "Truth in Bookkeeping." Without cost accounting standards, Government contract negotiators, evaluators, and administrators are defenseless against "creative bookkeeping" tactics which can mask hidden profits, artificially inflate costs and otherwise prevent the Government from getting a true picture of actual contractor financial records.

As an indication of the sorts of shenanigans that contractors have attempted, I would like to insert a passage from the recent book by former defense official Dr. Jacques Gansler, the defense industry:

> An extreme example of this was the case of McDonnell Douglas, which in 1975–6 asked the government for a $2 billion increase on its F–15 contract due to "overhead adjustments" resulting from a corporate decision to pool various divisions' overheads at the corporation level and then allocate the total back to its divisions on the basis of divisional sales. The case was a clear example of cross-subsidization (McDonnell's defense divisions in St. Louis supporting the old Douglas Aircraft division in California). The increase was to yield no more aircraft for the DOD. In such a case, the government is largely powerless, because of its dependency on the contractor.

It can readily be seen that the stakes in cost accounting are enormous, and the CASB has stepped on a lot of toes. Many contractors, including some of the ones with the most to lose if the CASB did its work properly, have argued that the CASB did not perform any useful service.

I disagree. I believe that the CASB has performed admirably. Under the capable chairmanship of the Comptroller General, Elmer Staats, the CASB has done a magnificent job. Its staff, led for many years by Art Schoenhaut and during the last year by Nelson Shapiro, has been top notch.

The work that the CASB has done will stand forever. While its work is obscure, and difficult for the average citizen—or the average Senator, for that matter—to understand, every taxpayer owes the CASB and its staff a debt of gratitude for the magnificent work that they have done.

At some later time, I may wish to explain my views as to the reasons for the Board's demise, but today is not the day for that. Instead, I would just like to thank the members of the CASB: Comptroller General Staats, Gordon Shillinglaw, John Walker, and Herman Bevis;

The former members of the CASB, who served so well: Robert Moot, Robert Mautz, Terence McClary, and Charles Dana;

The CASB staff who have stuck with it until the bitter end: Executive Secretary Nelson Shapiro, Clark Adams, Rein Abel, Albert Fukuda, Harry Yocum, Betty Oberson, Karla Herrara, and Crystal Goodwin; and

Some of the notable former CASB members: former General Counsel Harry van Cleve and Noah Minkin, longtime Executive Secretary Art Schoenhaut, Bernie Sacks, and Bert Bodenheimer.

The CASB has performed magnificently under pressure. Many of the staff members continued to work diligently on CAS-related matters right up to the end, paying no heed to the fact that they might shortly be unemployed. During the course of the summer, efforts to salvage the function in some form waxed and waned. It was not until a week ago that the final attempt to transfer the authority elsewhere collapsed. If other Federal agencies could perform so well under such pressure, the Government would be in much better shape than it is today.

The budget of the CASB never exceeded $2 million annually. Its share of the Federal budget was insignificant, but its work has had a tremendous effect. Fortunately, the Board's demise will not mean the end for the work which it has performed. Its standards, rules and regulations will remain in effect. I hope that the CASB staff members can take some consolation from this. I would like to state for the record that I, for one, appreciate their efforts.

ALFRED KAHN

Mr. PROXMIRE. Mr. President, Alfred Kahn leaves our city. He, as we know, has been head of the President's anti-inflation effort and he was also the man who was in charge of deregulating the airlines and did an outstanding job.

Mr. President, what I think we will miss more than anything else is his attack on gobbledygook and jargon. The Washington Star yesterday had a fine editorial with respect to Alfred Kahn. It said:

> We will be losing one of our best defenses against the swamping of the English language in Federal gobbledygook.
>
> Here is a man whose credentials as a national benefactor in this department rest upon a public refusal to "communicate." He'd rather talk to people or write to them. Needless to say, he'd rather go to the headsman's block than to interface with them.
>
> He has always scorned to impact, and no support group facilitator could ever have made him include inputs in his output or an outreach in his overview. He never effectuated anything if he could simply do it.

Mr. President, I think Alfred Kahn has contributed humor, good sense, and, as I say, above all, an understanding of the great importance of the speaking plainly, clearly, and simply, and I think he will be long missed.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial from the Washington Star to which I have made reference.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

> FAREWELL TO A JARGON-HUNTER
>
> There are any number of reasons for being sorry to see Alfred Kahn leave our city, which he plans to do as soon as the election is over. Brains, charm, public spirit—we can never have enough of that sort of thing.
>
> But we will be losing more than merely a gifted and endearing economist when the president's top anti-inflation warrior takes off for his natural habitat behind a professor's lectern at Cornell. We will be losing one of our best defenses against the swamping of the English language in federal gobbledygook.
>
> Here is a man whose credentials as a national benefactor in this department rest upon a public refusal to "communicate." He'd rather talk to people or write to them. Needless to say, he'd rather go to the headman's block than to interface with them.
>
> He has always scorned to impact, and no support group facilitator could ever have made him include inputs in his output or an outreach in his overview. He never effectuated anything if he could simply do it.
>
> It wasn't that he was afraid of big words. How many other Washington officials would know an oxymoron if it bit them? Fred Kahn instantly identified one of these self-contradicting verbalisms when he heard the term "anti-inflation czar" applied to himself and his job in the Carter administration. It said something about the way he saw the power the title gave and didn't give him.
>
> Professor Kahn launched the Washington phase of his service to the English language when he came here as head of the Civil Aeronautics Board in 1977. Although the president, a year earlier, had come into office promising to get rid of bureaucratic jargon, there were still plenty of parameters and pursuants and hereins infesting the outbaskets of government. The new CAB chairman gave his staff specific instructions about what not to say.
>
> He himself showed great resilience about forbidden words. As the man who brought bananas into the vocabulary of economics, he was a reminder that there's always a way to tell people what you want them to know.
>
> Influencing what they do is, of course, something else. But, because this man has been among us, there are at least a few people around town who now watch the leanness of their prose with the kind of attention they give their waistlines. And who favor excommunicating communicators.

HOUSING AND COMMUNITY DEVELOPMENT ACT—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on S. 2719 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. WILLIAMS. Mr. President, this is the conference report on S. 2719, the Housing and Community Development Act of 1980. This measure spans the range of the Federal Government's efforts to assure low-income citizens the opportunity for a decent, sanitary place to live, to bring homeownership within the reach of a larger number of American families, and to build a more sound economic and social foundation for distressed communities, both large and small.

This conference report is the end product of a process that began last March, with the introduction of S. 2383, the administration's housing and community development authorization bill, numerous hearings, followed by a markup in May, and passage in the latter part of June led to the conference committee convening September 10, 1980.

I extend my sincere congratulations to the chairman of the Banking Committee, the distinguished Senator from Wisconsin (Mr. PROXMIRE) on the successful and timely completion of the conference, and to express my admiration for the outstanding work he did. I also express my appreciation for the fine participation by the distinguished ranking member of the Banking Committee, the Senator from Utah.

We have been backed up by excellent staff work on both sides of the aisle. It has been long, it has been arduous, it has been difficult, but a pleasure to work through the long processes of making this a possibility.

S. 2719 is one of the most complex and comprehensive housing and community development bills to come before the Congress over the last 10 years. Its total cost is some $47 billion, of which $31.2 billion involves 15 to 30 year contracts under the section 8 and public housing programs, and it reaches into virtually all areas of housing and community development concerns. Before I proceed to describe the contents of the legislation, I would like to denote briefly some of the bill's major features. This landmark bill:

First. Extends for 3 years at a total authorization of $13.9 billion, the community development block grant and urban development action grant programs, makes the block grant program more attuned to energy conservation, and expands eligibility for the UDAG program;

Second. Extends for 2 years the section 312 rehabilitation loan program at a total amount of $273 million, and expands its use to congregate housing and single room occupancy structures;

Third. Authorizes annual contract contributions for as many as 282,000 units of section 8 and public housing in the amount of $1.4 billion in contract authority and $31.2 million in budget authority;

Fourth. Inaugurates a far-reaching new program aimed at the comprehensive modernization of the Nation's public housing stock;

Fifth. Seeks to protect the rental character of multifamily projects owned by HUD, and to respond to the needs of low income tenants of such projects;

Sixth. Revises the manner in which FHA mortgage limits for single family dwellings are determined in order to reflect the special characteristics of high cost markets;

Seventh. Increases mobile home loan limitations;

Eighth. Revises the section 223(f) refinancing program to make it more useful with smaller, older rental properties;

Ninth. Extends on a permanent basis the Home Mortgage Disclosure Act, and strengthens the act to make it a more useful tool in combating redlining;

Tenth. Provides for an experimental program of negotiated interest rates under FHA;

Eleventh. Launches a new mechanism for stimulating depressed housing markets based on the section 235 homeownership assistance program;

Twelth. Revises and extends rural housing authorities and programs under the Department of Agriculture at a total cost of $3.8 billion;

Thirteenth. Updates and extends for 2 years the section 701 comprehensive planning program;

Fourteenth. Revamps the Brooke-Cranston housing stimulus program;

Fifteenth. Provides $900 million in new authority for the GNMA Tandem programs, which are so vital to the reduction of interest rates for section 8 structures, and for multifamly projects to be located in UDAG-eligible cities;

Sixteenth. Encourages secondary mortgage market activity for home improvement loans and cooperative housing refinancing and rehabilitation loans;

Seventeenth. Allows section 202 loans for the development of small group homes for the handicapped to be used for the acquisition and moderate rehabilitation of such housing in order to make better use of the existing housing stock and stretch program dollars further;

Eighteenth. Brings a measure of relief through court action for owners of condominium units who are burdened by escalating monthly payments for recreational facilities under unconscionable leases;

Nineteenth. Encourages State and local adoption of adequate notice and first right of purchase for tenants in projects slated for condominium or cooperative conversion, while clearly indicating that Federal forebearance in this area extends only so long as States and localities demonstrate prompt action to protect those who face the conversion of their units; and

Twentieth. Establishes a program of temporary mortgage assistance payments for insured homeowners who find themselves in default for reasons not of their own making.

Mr. President, title I of the conference report reauthorizes the community development block grant program and urban development action grant program for 3 years. The CDBG program is a vital component of many communities' long-term planning and development. Over the next 3 years, grants under this title will be essential to the revitalization of older communities, and the orderly development of newer ones. The reauthorization marks our commitment to a better quality of life within our cities and towns. The CDBG program would be authorized at $3.81 billion for fiscal year 1981, $3.96 billion for fiscal year 1982, and $4.11 billion for fiscal year 1983, while the UDAG program would be reauthorized at $675 million for each year of the authorization.

In reauthorizing the CDBG program, we approved a number of amendments to assure that the program would work more effectively to assist those in need.

The program was amended to permit a joint application by an urban county and a metropolitan city located in whole or in part within that urban county. This would permit smaller administrative costs to local governments and more coordinated, combined community development efforts.

The conference report amends the CD program to permit communities to use block grant funds for the planning, development, and implementation of either individual energy conservation activities, or a comprehensive energy conservation strategy. I recognize that many communities, especially those most afflicted with energy problems, already use their block grant funds for energy conservation purposes. The intent of this provision was not to restrict these efforts in any way, nor to require such efforts where a community feels it has other, more pressing community development needs.

I believe that increasing energy costs, however, are undercutting the primary objective of the community development block grant program—the development of healthy communities through the provision of decent housing and a suitable living environment, and economic opportunities—especially for low- and moderate-income persons. In the case of many, if not most communities, it is inconceivable to me that community development can proceed without careful and full attention to energy conservation. There is no question but that escalating fuel costs pose one of the most serious challenges confronting America's communities today. These costs offset individual members of a community in prohibitive utility bills. They force the abandonment of multifamily dwellings in unprecedented numbers. And, they force local governments to reduce essential services and defer necessary maintenance in order to pay transportation and utility costs. As evidence of the costs of this maintenance neglect, I would ask that an article from last week's Washington Post be printed in the Record at this point.

The article follows:

D.C. IS LEAKING, CRUMBLING, IN NEED OF REPAIRS

(By Thomas W. Lippman)

The financial crisis that has forced the District of Columbia government to lay off workers and cut services is also taking its toll on and beneath the city's bumpy streets.

Cutting corners on maintenance to save money, the District is setting the stage for above-ground and subterranean nightmares by allowing water pipes, sewer lines, roads and bridges to deteriorate faster than they can be repaired, according to a new study. Century-old pipes and bridges eroded by salt have been neglected instead of repaired and the cost of catching up is rising far faster than the available resources.

Some of the city's 1,436 miles of cast-iron water pipe is 160 years old; a third of the 27,500 valves in the water distribution system have outlived their life expectancy of 75 years and some date back to 1852; nearly a third of the fire hydrants were installed in the last century and should be replaced, according to the report by the Federal City Council, a private organization of city business leaders, lawyers and political leaders.

Old and neglected as it is, the District's network of roads, bridges and pipes is still in better condition than those in some other old cities, but it will not be in another decade unless action is taken now, the report said. But the council concluded that "to overcome the existing backlog of deferred repairs and to sustain a regular program of preventive maintenance more than $100 million a year in 1980 dollars is needed during each of the next 10 years."

The report, called "Local Public Infrastructure in the District of Columbia," is intended as a warning to the District that it must recognize that shaving small amounts from maintenance and replacement budgets today guarantees more costly problems tomorow.

City officials cooperated with the council in preparation of the study and do not dispute its conclusions. There is "no question" about the deterioration of the water and sewer pipes, said Larry Bailey, deputy administrator of the water resources management division of the Department of Environmental Services. Mayor Marion Barry was warned by his team of transition advisers before he took office that half the catch basins in the city's storm sewer system were clogged with debris. Department of Transportation officials had acknowledged earlier that bridge and road maintenance have lagged as funds dried up and the cost of materials rose.

Bailey said the water system is "definitely having problems" because of layoffs of technicians in his department.

The expenditure of $100 million a year in new funds on maintenance of the city's infrastructure would place a staggering burden on a District government scrambling to save dollars and on a community that is already the most highly taxed in the region. The authors of the report acknowledged the financial problems but said that the cost of postponing work that must be done would only be greater in the future.

They recommended that the city consider increasing its water and sewer user fees, seek more federal funds to pay for the upkeep of facilities built to meet federal standards and consider asking the suburban jurisdictions that use the Blue Plains sewage treatment plant to pay a higher share of its costs.

The report makes clear that the practice of cutting back on necessary maintenance and replacements to save money did not begin with the Barry administration. Neglect of the streets is traced back to 1964, nearly 150 miles of streets that should have been resurfaced since then have gone unpaved. More than 50 of the city's bridges need work but only four are undergoing major repairs at this time and three more are scheduled for redecking.

Calculating that the city's water and sewer lines and their valves and filters have a book or replacement value of nearly $6 billion, the report notes that the amount of money spent on maintaining them annually is less than 1 percent of that figure—a finding that reportedly astounded utility corporation executives on the council committee that prepared the report. Private utilities routinely spend 6 to 10 percent of their facilities' book value on annual maintenance.,

The 20 council members who signed the report said it was "not intended to be a definitive technical analysis or a comprehensive prescription; rather we hope that it will serve a warning, a statement of encouragement and an offer to help."

Mr. WILLIAMS. Mr. President, local governments are uniquely positioned to develop comprehensive energy conservation strategies as a part of community planning and development. Local governments are central decision makers for zoning and building codes, for economic development, for public and private transportation patterns, for infrastructure maintenance, rehabilitation, and new construction, and for services to their low income, handicapped, and elderly citizens. Much as the CD block grant program recognizes the key role of local governments in responding to local problems and needs in a flexible manner, we recognize that energy needs and appropriate local government responses vary immensely from one community to the next. Consequently, the block grant program has the flexibility to assist communities in addressing energy problems.

The conference report also amends the I to require applicants to consider the impact of title I and non-title I resources on displacement. While we are aware that revitalization activities such as site clearance and housing rehabilitation can necessarily lead to the displacement of citizens, we intend that applicants consider alternatives as the prepare applications so as to arrange for those activities which would have the least disproportionate displacement—especially from the immediate neighborhood. Many communities have already designed innovative programs to revitalize neighborhoods without the usual trauma of displacement. We think that applicants can and should be more sensitive to this problem.

The conference report contains an amendment on economic development activities funded through the block grant program. This provision was initiated in this body. In our subcommittee hearings last spring, the committee learned that communities have often provided insufficient information about local economic development activities. Thus, it has been difficult to determine exactly what activities are likely to be undertaken, and what public benefits will be realized. Because we have an Economic Development Administration with its own grant programs, and because we have limited funding available for community block grant activities, we were concerned that a specific description of planned economic development program be given—particularly where the applicants claim these endeavors will benefit low- and moderate-income persons. This will permit the Department to determine whether such a proposed activity is feasible and could reasonably be expected to provide the claimed public benefits. Moreover, it will permit much improved monitoring of economic development CD projects, so that we can learn from these programs which are successful, and can improve on those programs which are unworkable. We are especially concerned that where an application for economic development activities is claimed to have a primary benefit for low- and moderate-income persons, that such benefit be direct—such as in employment or training opportunities, or in services to low- and moderate-income neighborhoods. It is our hope that these changes in the law will improve the quality and measurable public benefits of CD economic development projects.

Title I of the conference report includes a 2-year reauthorization of the section 312 rehabilitation loan program. The section increased the loan limits for residential dwelling units to meet increased costs and to insure that rehabilation efforts under the program are sufficient to meet cost-effective energy conservation standards. The 312 program was also amended to clarify that section 312 loans may be used with congregate housing projects and single room occupancy buildings. It has not been clear that these rehabilitation needs could be served. The 2-year authorization, a departure from past practices, would permit better long-term planning and coordination with other title I funded activities, especially those which involve rehabilitation.

Title II of the bill continues and revises housing assistance programs. Under the bill, approximately 283,000 units of new rehabilitated and existing housing could be assisted under the section 8 and public housing programs. Of the amount allocated for section 8 housing, about 82,000 units would be newly constructed, 17,000 would be substantially rehabilitated, 40,000 would be for moderately rehabilitated, and 101,000 would be existing. Public housing units would total 43,000 units, of which 6,000 would be for Indian and Alaskan natives. The total cost of this effort would be $1.4 billion in contract authority, and $31.2 billion in budget authority.

Through set funding maximums for the various categories of assisted housing, a nationwide unit mix of 50 percent for new and substantially rehabilitated housing, and 50 percent for moderately rehabilitated and existing housing would be established. A greater emphasis is thus placed on the use of the existing housing stock, in the hope that we can assist a greater number of people for the same subsidy dollar, because families in existing units are far cheaper to subsidize. However, it must be understood that this increased reliance on existing housing comes at a time when the existing multifamily stock is shrinking at a faster pace than units can be built to replace what is lost. We must understand that today's new construction is tomorrow's existing housing, and that too heavy an emphasis on the existing stock now may lead us into trouble in the future when new construction costs will be far higher.

Moreover, the bill does damage to the concept of local responsibility for determining and meeting local housing needs. Up until now, the local housing assistance plans determined what the national mix of new to existing units would be. Each year's Federal dollars were allocated based on the previous year's HAP mix, and on the best determination of what the next year's HAP mix would be. To the extent that the national allocation of funds did not match the HAP mix, adjustments could be easily made. Under the conference report, set dollar maximums for each category of housing (new, rehabilitated, and existing) will make it much more difficult for localities to receive allocations of housing assistance funds that proportionately match the need they describe in their HAP's. The 50-50 national unit mix interferes with local discretion, discouraging communities with dire housing shortages from asking for a large proportion of funds to assist newly constructed units unless there is an equal balance on the other side by communities asking for a large proportion of funds to assist families in existing units. I think this is a serious mistake that we will be obligated to rectify.

The conference report takes a major step toward bringing thousands of public housing units up to standard. At least $100 million in contract authority would be used for a variety of capital improvements including major energy conserving renovations to protect this most important national resource. The program established by the bill would place emphasis on orderly, timely modernization within the context of a sound management plan.

I believe that this comprehensive modernization program will prove to be one of the most productive efforts authorized by this legislation. It is our intent that this program be used to make important progress toward returning presently uninhabitable units to production use.

The title II also contains a new program to stimulate the depressed housing industry modeled on the current section 235 homeownership assistance program. Under this stimulus program, persons earning up to 130 percent of median area income would be able to receive interest subsidies, down to 9½ percent on mortgages toward which they pay at least 25 percent of their income. Sales price limits on the housing available for purchase under this program would be set at 82 percent of the applicable FHA mortgage limit for the area in question. The legislation also provides that upon sale or disposition of the home, the entire subsidy or at least 50 percent of the net appreciation, whichever is less, would be recaptured.

It is the conferees' intent that the amount recaptured would exceed 50 percent of net appreciation only in circumstances where it is clearly demonstrated that the homeowner receiving subsidy had not properly maintained his dwelling. That this program has been included in the conference report results from the failure of the House to pass S. 2177, an emergency measure which the Senate passed last April. Over the months since the Senate adopted its version of the stimulus program, the funds of which the stimulus program was to rely, which amount to some $135 million in previously appropriated yet uncommitted funds under the basic section 235 program, have been depleted rapidly and unexpectedly by the basic program. Approximately $40 million remain uncommitted, sufficient to fund only about 18,000 units of section 235 housing under the stimulus program. The basic program, however, operates in only a few areas of the country, and so the national stimulus which we have promised and which is still needed especially as a new round of rising interest rates take their toll on production, has not occurred. Unless additional funds are provided, the intolerable instability to which the industry has been subjected in recent months will continue, exerting inflationary pressures on the housing sector, and homebuilders, construction workers, and homebuyers will all suffer needlessly.

I intend to seek these additional funds in order to insure that the Congress keeps faith with those who depended upon the adoption of a stimulus program that would reach depressed markets across the Nation.

The conference report broadens coverage under many of the provisions to include projects insured, but unassisted, not just those that are assisted. Moreover, it establishes as a major goal of the management and disposition program—the maintenance of the rental character of all the projects in HUD's inventory for the longest feasible period. In adopting this provision, the conferees recognized that the HUD-owned multifamily inventory represents an important rental housing resource that must be protected. To reduce the extent to which properties that may not house significant low-income populations are disposed of for conversion to condominium or cooperatives, the Secretary is obliged to look at not just a low-income character but also the number of units in the projects in setting the terms and conditions of the sale. The conferees also felt that low-income tenants of unassisted projects deserved the same protections against the effects of displacement as those provided residents of assisted projects.

The conference report does not contain a House passed new program to encourage the production of multifamily rental housing through a direct interest subsidy. The Senate Banking Committee had adopted a similar program, capable of producing 124,000 units, but this program was deleted on the Senate floor. Under the House provision, persons with incomes ranging up to 150 percent of area median would have been eligible to occupy units built under the program; 20 to 30 percent of the units were to be assisted under the section 8 program.

Given the cost of section 8 new construction, it was hoped that this new production program would provide a less expensive means of expanding the rental housing supply, and at the same time would free up existing units for use by persons eligible for section 8. This would have allowed more assistance for low-income persons at a reduced level of section 8 funds, without sacrificing the new construction of rental units which the country so badly needs.

The conference committee acted to remove the House program, which would have operated as a demonstration involving only about 40,000 units. A majority of the Senate conferees questioned the wisdom of launching a new housing program at this time, especially one that would serve persons whose incomes rose above the area median. While I was reluctant initially to endorse the new production program, I came to believe that it represented the best course for the future. We cannot turn our backs on the millions of low-income persons who depend on rental housing, nor, can we abandon the rental housing sector to continued decline and ultimate collapse. But, neither can we ignore the escalating costs of the section 8 program that threaten the program's support in the Congress and among the public at large. The new production program, combined with the greater use of section 8 existing housing would have provided the opportunity to meet those concerns. I very much regret that at the very least a pilot or demonstration program was not approved.

Mr. President, there are several provisions of title III which I believe should be discussed.

The bill provides a major change in determining FHA mortgage limits. In lieu of an across the board increase as proposed in the House bill, or the area differential proposed in the Senate bill, the final legislation will allow a high cost area variation of up to 133 percent (but not more than 95 percent of area median house price) of the basic mortgage limits, currently $67,500 for a one-family home. I believe this is a positive step in the direction of making FHA an active force in many communities where high costs have traditionally prevented home buyers from using FHA.

Another major change is a provision to allow the mortgagor and mortgagee to "negotiate" the interest rate in up to 10 percent (but at least 50,000) of the FHA insured mortgages written each year. The purpose of this departure from the current method, under which the Secretary establishes a maximum interest rate, is to experiment with a market rate process in an attempt to try to reduce the number of discount points associated with FHA transactions, particularly when the maximum FHA rate trails the market rate.

While I continue to have concerns about whether a negotiated interest rate is in the best interests of the consumer, I believe that the strong disclosure requirements and other protections built into the final version of the program at the Senate's insistance will make this experiment more workable and less risky for the unwary consumer.

Under this final version, the purchaser will be offered a 30 day commitment on both the interest rate and the number of discount points. This commitment is not required under the regular FHA program. Additionally, the lender would be obligated to give the purchaser a full statement of what the maximum rate is under the regular FHA program and what is the prevailing level of discount points. I expect the Secretary both to implement and monitor this provision in ways which assure that home buyers are fully aware of the choices available, as well as the long-term cost implications of each choice. In other words, if there is a choice between a lower sales price with a higher interest rate under this provision, or a higher sales price with a lower interest rate under the regular FHA program, the Secretary should assure that the disclosure process will fully inform the purchaser of the actual costs involved. Since this legislation also contains a provision requiring the Secretary to track the market more closely in setting the FHA rate, I will be monitoring that experience to determine the necessity for continuing the demonstration program for negotiated interest rates.

Another important provision of this bill is the updating of the Emergency Home Purchase Assistance Act of 1974 (Brooke-Cranston).

While budgetary considerations have prevented use of this standby countercyclical housing assistance program during the current housing downturn, Congress has wisely acted to make this program workable if and when activated.

Among the major changes to the program are, first an increase in sales price limits from $48,000 (under current law) to 92 percent of the maximum mortgage limits authorized under section 203(b). Thus, in an area where a high cost variation for FHA loans of 133 percent of the basic FHA mortgage limit is in effect (as provided in this year's bill) Brooke-Cranston could cover a house with a sales price of up to $82,000. Second, this legislation deletes the current 7½ percent maximum on the interest rate for mortgages under the program, and imposes a floor on the subsidized interest rate of 3 percent below market rate for single-family mortgages and 4½ percent for multifamily mortgages.

Also, under this legislation as adopted by the conferees, it is clear that Brooke-Cranston is available for multifamily housing. However, to carry out its countercyclical purpose, use of Brooke-Cranston for multifamily projects should be targeted to those projects that can be moved to start relatively quickly.

The program is also amended to broaden the prohibitions against subsidizing mortgages on loans which finance condominium or cooperative conversions.

The final legislation contains a new program to provide temporary mortgage assistance payments for homeowners who are in default through no fault of their own. This program, known as TMAP, will be in addition to the existing assignment program. Under assignment, the Secretary takes over the mortgage from the lender, and becomes the mortgagee after paying off the FHA insurance claim. The new program, by avoiding payment of the insurance claim, leaving the lender as mortgagee, and making assistance payments on behalf of the homeowner, could reduce the overall cost to the Government of homeowner assistance. It is the clear purpose of this program not to impose more difficult criteria for eligibility than currently apply under the assignment program. It is intended that the assignment program remain available both as an alternative when TMAP is inappropriate, and as a primary source of assistance. In some situations TMAP could be clearly inappropriate, such as when an extension of majority date on a mortgage is necessary for an otherwise eligible homeowner to receive assistance, and the mortgagee refuses to consent to such extension.

In such case TMAP would be unworkable, and the Secretary would have to acquire the mortgage in order to provide the extended maturity date. This is only one example of how assignment should be flexibly used as an alternative to TMAP to promote the basic purpose of section 230, which is to give necessary help to deserving homeowners to prevent foreclosures. I believe it is necessary to underscore the point that the scheme of assistance available under section 230 would be broadened, but assistance would be no more difficult to obtain than under the current program. While the purpose of TMAP is to reduce cost to the Government, this purpose must not be achieved at the price of making it more difficult to get assistance.

Title III also revises the section 223 (f) refinancing program to attune it more to the special needs of older, smaller apartment projects in urban areas. These projects which tend to carry low-interest rate conventional financing often face balloon payments or need to undergo renovation to maintain them as decent, financially secure rental properties. However, the program most suitable for them, section 223(f), is not serving them. The program tends to be used for larger, newer projects in the suburbs. To a large extent, this problem results from the large gap that exists between the interest rates on the original loans, and the interest rate that would be charged under section 223(f). Section 223(f) interest rates are too high to allow a restructuring of debt and a meassure of modernization without substantial rent hikes.

The conference report would allow GNMA to purchase up to $30 million in section 223(f) mortgages made at below market interest rates in order to make the program more workable. The conference report also focuses this feature on projects of less than 100 units. In order to assure that projects receive refinancing loans consistent with their current value, the statement of managers makes it clear that GNMA purchases of loans are conditioned on the original lender's willingness to forgive a substantial portion of the difference between a project's current value and a loan's face amount.

It is expected that this refinancing opportunity will be made available for use by projects in neighborhoods selected for HUD's targeted areas preservation program, which has been in preparation for a number of months.

To help insure that section 223(f) is not used for condominium conversion, the conference report would not permit projects receiving such loans to prepay them, except under certain specified circumstances, for a period of 20 years if a GNMA purchase is involved, and for a period of 5 years, if a section 223(f) loan is made without a GNMA purchase. The preservation of our existing rental housing stock must go hand in hand with new construction if we are to bring the decline of our rental housing sector to a halt. The current section 223(f) is not properly contributing to this goal, and it is the conferees' hope that these revisions will allow the program to fulfill its original purpose, especially insofar as smaller projects in older urban communities are concerned.

Another provision to make better use of the existing stock involves use of the section 202 loans by sponsors of housing for nonelderly handicapped citizens. Typically, these persons are served in small group homes, for about 12 persons. Under current law, sponsors are encouraged to construct new dwellings, when an existing house needing only moderate rehabilitation to make it suitable for the needs of nonelderly handicapped residents would serve just as well. The conference report makes clear that section 202 loans for small group homes for the handicapped may be used for the acquisition and moderate rehabilitation of existing structures. It is hoped that through this provision the per units costs can be reduced, and thus more people can be served for the same amount of money.

In the conference report, there is a provision deferring the promulgation of the building energy performance standards (BEPS). Our intent is to assure that such standards be reasonable and designed to achieve maximum practical and yet affordable improvements in building energy efficiency.

Therefore, the conference report provides for a commercial and residential building demonstration project upon the promulgation of interim BEPS standards. It is expected, moreover, that there will be maximum participation by both public and private sectors of the entire building community through the National Institute of Building Sciences in the promulgation of interim and final performance standards, in the demonstration projects, and in preparing the required report to Congress. If the standards are to be effective, we need to take advantage of the best skills and experience available in developing the final standards.

The conference report would retain the implementation authority for BEPS with HUD. We expect, however, that the administration will coordinate participation by all Federal agencies and make appropriate recommendations to Congress. Moreover, I am aware that certain States already implement State building energy codes through State and local building code inspectors. These State programs are a resource with which we expect the administration to work, especially with regard to the development of suggestions of alternatives to the mandatory implementation scheme described in existing law.

The conference report contains the Senate amendments reauthorizing the Home Mortgage Disclosure Act and making the act permanent.

In acting on this provision, we clarified that the disclosure of lending patterns by financial institutions is a critical tool in the determination by Federal financial regulatory agencies with regard to the enforcement of the Fair Housing Act and implementation of the Community Reinvestment Act. Discrimination in housing and in urban lending patterns is, unfortunately, not subject to any legislated sunset provision. Minimum disclosure provisions, however, offer an opportunity to local elected officials and neighborhoods, in addition to Federal agencies, to have information basic to urban and community planning and development. Our intent was not to impose a severe, regulatory burden on these financial institutions, but rather to be sure that the public has adequate information on which to make future decisions with regard to housing, and community development needs.

Other highlights of title III include:

An increase in FHA multifamily mortgages of up to 20 percent to cover costs necesary for installation of energy conservation measures which are in addition to HUD minimum property standards and are cost effective;

A high cost area adjustment for mobile homes and lots;

Authorizations of $13,426 million for the Neighborhood Reinvestment Corporation, $51 million for research, and $61.6 million for flood insurance studies;

A provision allowing FNMA to create a program to purchase home improvement and mobile home loans, subject to HUD approval which should be done on a timely basis; and

A revision to the legislative review provision enacted 2 years ago which would extend from 20 to 30 days the period during which committees have an opportunity to review a proposed regulation. This was adopted in lieu of the legislative veto provision contained in the House bill, which I believe is clearly unnecessary in light of the existing legislative review process.

The conference report contains a revision of the section 701 comprehensive planning assistance authority of the Housing Act of 1954. Under this new section, the program is directed toward joint planning efforts by States and local governments. In addition, it aims at the development of strategies which, in turn, would lead to implementation activities by States, area-wide planning organizations, and local governments based upon these plans.

We recognized, in adopting this revised section, that comprehensive planning needs are enormous. For example, with the development of alternative, synthetic fuels in some parts of the Nation, and with the need for energy conservation in all parts of the Nation were presented with planning needs not fully contemplated when the program was originally enacted.

Consequently, we established broad

national policy objectives as part of the new program to give better direction to HUD in administering this program. These objectives call for the conservation and improvement of existing communities, particularly those characterized by fiscal, economic or social distress; and call for an increase in housing and employment opportunities and choices for lower income and minority persons, and those with special needs such as the elderly, women, and handicapped.

It is expected that under the revised program, planning will merely be an initial step. We expect planning to lead to strategies and action programs consistent with the national policy objectives. We strongly feel that planning should lead to some direct action and not be an end in itself.

The conference report extends, reauthorizes and revises rural housing programs administered by the Farmers' Home Administration. This title authorizes the Farmers' Home Administration to insure and guarantee loans in an aggregate amount of not to exceed $3,793,600,000 for fiscal year 1981. Among the changes authorized by this title are: An increased authorization level for technical assistance and counseling, of which at least half must be used for counseling for FmHA purchasers and deliquent borrowers; and increased authorization for self-help housing; a requirement that the Secretary apply cost effective energy conservation standards to housing acquired and sold by FmHA for residential purposes; and a limitation on rental increases above 25 percent of a tenant's income, unless the project is receiving or has applied for FmHA rental assistance or section 8 assistance.

The conference report does contain an amendment of special concern to me. The House acted this year to repeal the conditions set in last year's conference report with regard to the prepayment of section 514 and section 515 loans. The Federal Government has contributed considerable funds toward these rural housing projects to provide for shelter for low income, elderly, and handicapped persons. The cost of replacing projects prepayed and converted would be high in human and fiscal terms, and I regret that the provision was adopted. In reaching agreement on this issue, we were able to provide, however, a priority for other FmHA housing assistance persons displaced as a result of a prepayment on refinancing of either type of loan. The fiscal statutory language also requires the Secretary of Agriculture to report to the Congress with regard to adverse displacement effects which could result from the repeal of the conditions set in existing law. I expect that this report will provide specific legislative recommendations about actions the Congress could take to preserve rural low- and moderate-income housing. More importantly, I expect recommendations with regard to legislation which could either serve as an incentive for retention of units for rural tenants under these programs, especially the elderly and handicapped, or serve as a disincentive toward displacement of low income, elderly, or handicapped persons.

While I understand concerns about altering a Federal contract retroactively, I believe that these two sections, 514 and 515, have implicit contractual obligations whereby the Federal Government will provide shelter in rural areas. This Federal obligation has been backed by millions of dollars of interest subsidies and rental assistance. These are programs to help individuals. I believe that we leave a very special obligation now to take action to insure that no person be forced out of previously federally assisted housing and left without any affordable shelter. This belief is especially strong with regard to the handicapped—for whom the provision of reasonable shelter in rural areas can be particular difficult—and for the elderly, for whom displacement can assume the traumatic vision of rejection by both their community and, now, the Federal Government. Consequently, I very much hope the study will provide a recommendation for an equitable remedy which will lead to prompt action by the Congress.

Mr. President, I would now like to turn my attention to the conference's disposition of the Senate title concerning condominium and cooperative conversion protection and abuse relief.

The Senate-passed bill would have established a nationwide safety net of basic notice, disclosure, and antifraud protections for the tenants of rental housing projects undergoing conversion to condominiums and cooperatives. It would not have preempted the prerogative of any State or locality to take whatever course it wished to in this area. But it would have put essential safeguards in place, responding to the continuing high level of such conversions, their dispersal over an ever-widening geographic area, and the well-documented national rental housing crisis.

The recent HUD report on conversions confirmed these developments, finding that more than 1 million rental units would be converted during the first half of the 1980's, and that these conversions would spread increasingly from a few large metropolitan areas to many medium and small communities. It also indicated that States and localities are not now prepared for this situation. Only 18 States currently provide tenants with a right to a minimum notice period when a conversion takes place, and only 14 provide tenants with a first right to purchase their unit. Further, only 1 in 5 localities with significant levels of conversions has enacted any form of basic protections or other appropriate regulations.

HUD further found that, in today's tight housing market, tenants required an average of 2 to 3 months to find suitable replacement shelter when forced to relocate by a conversion. And, given that an average of two-thirds of a rental property's tenants are displaced by its conversion, and that the elderly are most severely affected, the Senate decision to establish these protections was, in my opinion, most prudent and humane. I must also note that both the National Retired Teachers Association/American Association of Retired Persons, as well as the National Council of Senior Citizens, strongly backed the Senate provisions because they have first-hand knowledge of the severe physical and psychological consequences which can afflict older Americans as a result of forced uprooting from their homes and neighborhoods.

Mr. President, despite this compelling evidence, and the carefully crafted and circumspect manner in which the Senate provision achieved its goals without imposing paperwork burdens on developers or new costs on the taxpayers, our House counterparts were simply unwilling to accept a Federal entry into this area. I am most disappointed that this was the case. Nonetheless, the conference report is not silent on this issue.

Specifically, an amended version of the Senate's findings and purposes has been retained which explicitly recognizes the adverse consequences which may flow from conversions of rental housing, and the clear Federal involvement in this area. The language substituted for the Senate's substantive rights and protections expresses the clear sense of the Congress that the financing of conversions of federally insured lending institutions should be discouraged where tenant will suffer adverse consequences.

The report further expresses the sense of the Congress that all tenants are entitled to adequate notice of conversions and an opportunity for purchase, and that States and localities should proceed expeditiously toward guaranteeing these protections. While the conferees decided to leave the bulk of this area to States and localities, it can be readily seen that the report language does not preclude Federal involvement at some future point.

I can assure my colleagues that the Subcommittee on Housing and Urban Affairs, which I chair, shall continue to monitor the pace and location of conversion activity, and the response of States and localities. I also intend to devote greater attention to the financing involvement of federally insured lenders vis-a-vis conversions in situations where such conversions are having an adverse impact on the rental housing stock.

Finally, I am pleased to note that the conferees did retain a provision of the Senate bill which provides a federally-sanctioned, simple and nonjudicial method by which the residents of a conversion project may void a long-term, self-dealing leasing arrangement. Also, a congressional directive to the HUD Secretary mandating the expedited handling of applications from tenants' organizations for FHA mortgage or loan insurance financing, in connection with the purchase or conversion of rental housing project, was retained. Effective implementation of this charge by HUD can do much to facilitate the development of one of the most promising responses to the current problems of the rental housing market; the limited-equity tenant-sponsored cooperative conversion.

Mr. President, the Senate-passed bill also contained a section conferring a right of action in regard to condominium- and cooperative-related leasing arrangements designed in a way indicative of possible unconscionability; and barring any future automatic escalations in the fees under such leases where they contained particularly objectionable features. Although this provision was developed primarily in an attempt to grant relief to several hundred thousand Florida residents who are burdened by such arrangements for recreation facilities, and who cannot be aided by retroactive State relief due to constitutional bars, I believe it would have been prudent to make the possibility of relief prospective also. The residents of other areas should not have to run the risk of similar abuses before remedial steps are enacted within their locales. However, here again the Senate conferees met stiff resistance from our House counterparts, and the conference report contains a substantially weakened section concerning civil actions on unconscionable leases. The possibility of relief is limited to those leases entered into prior to the date on which the State of Florida banned such long-term, escalating arrangements. Also, there is no automatic bar to further increases in particularly abusive situations, an omission which I feel will lessen the probability of successful negotiated resolutions of the disputes concerning these leases, and increase the likelihood of protracted litigation. Nonetheless, at least a way has been provided for the many, many victims of these arrangements residing in the State of Florida, primarily retirees on fixed incomes, to have their day in court.

The provision reported from conference requires that a court seek to determine whether a lease was unconscionable at the time it was made by examining its effect over its full term. When a plaintiff establishes that, in addition to the elements required to confer standing to sue, a lease also contains additional provisions which are particularly indicative of abuse, the lease shall be presumed to be unconscionable unless this presumption is rebutted. Even in those cases where this presumption is not available, a plaintiff will nonetheless be entitled to present evidence on a wide variety of questions concerning unconscionability.

Both the commercial setting and the inability of a party reasonably to protect his interests may be examined, and in this regard it is our intent that the court permit evidence on such matters as the relative bargaining position of the parties, the adequacy of disclosure of the lease's terms, and the complexity or novelty of the condominium or cooperative documents in which the lease is contained or described. The court may also examine the disparity between the lease fee and the value of the realty, in comparison to the sale or lease of comparable realty within the same timeframe and geographic locale.

A wide variety of remedies are available if unconscionability is demonstrated by the plaintiff. A potential defendant is also protected by permitting the award of attorneys' fees where the court finds that the suit has not been brought in a good faith manner but is motivated by a desire to harass. Also, suits are barred where a legally binding "buy-out" agreement has been concluded between lessor and lessees, or where the automatic rent increase clause has been permanently and substantially modified by mutual agreement. In this latter regard, it is not our intent that a suit be barred where a lessor has merely agreed to forgo, mitigate, or defer the enforcement of an increase in the least fee.

Mr. President, in concluding my remarks relating to this title of the Senate bill, I must again express my feeling that the Congress has missed an opportunity to address a potential crisis in advance by refusing to provide the most basic national rights for tenants in rental properties undergoing conversion. It would also have been prudent to provide prospective as well as retroactive relief in situations involving unconscionable leasing arrangements such as those which were prevalent in Florida in the late 1960's and first half of the 1970's. Nonetheless, I believe the Senate can take satisfaction in the fact that the Congress has now explicitly recognized the strong Federal ties to conversions, the need for sensitive policies by the Federal financial overseers, and the responsibilities of States and local governments to act expeditiously to provide basic rights to the potential victims of conversions. I am also sure that our colleagues from Florida, Senators STONE and CHILES, are most grateful to the entire Senate for our insistence that an opportunity to be heard in a judicial setting be made available to the many residents of their States burdened by abusive leasing arrangements.

Mr. President, this conference report is vital to the continuance of the Nation's housing and community development programs, and I urge its adoption.

Mr. GARN. Mr. President, today we have before us the conference report on the Housing and Community Development Act of 1980, S. 2719. The bill's title is very misleading because it contains much more than just authority for the traditional HUD housing and community development programs. I did not sign the conference report because I feel so strongly about several of the extraneous provisions and the report's inflexible approach to housing assistance.

First let me review the positive aspects of this legislation which I wholeheartedly support. The conference report contains a 3-year reauthorization of the community development block grant program, 2-year reauthorizations for both the section 312 rehabilitation loan program and section 701 planning assistance program; the basic FHA insuring authorities; a 25-percent increase in the mortgage limits for the section 235 low-income homeownership program; provisions to minimize discount points and provide for a free-floating FHA interest rate demonstration program; a study of housing block grant program; and an extension until April 1st, 1983 for the final promulgation of the building energy performance standards. These are areas of legitimate Federal activity. Finally, I am pleased to note that the conferees have rejected a proposed new middle-income apartment subsidy program, just as we in the Senate did last June.

There are four other areas about which I feel so strongly that I could not in good conscience sign the conference report. These provisions in my opinion overstep the proper role of the federal government in the areas of assisted housing, condominium conversions and the Home Mortgage Disclosure Act.

First, with regard to assisted housing, the Senate bill provided 60 percent of assisted housing units through new construction and 40 percent through existing housing based on locally prepared housing assistance plans (HAPS). The conference report drastically changes that mix to 50 percent new/50 percent existing housing and provides no flexibility to reflect the local goals developed in the HAP process. This very important process is the main input that communities have in the allocation of housing assistance funds. By this conference report, we are saying that the local communities are not capable to assess their housing needs and that Uncle Sam knows best. As a former mayor, this bothers me very much because I know differently.

Second, the Senate has gone on record for the last 2 years in support of targeting our limited housing assistance to those most in need. This matter was discussed at great length, and we had a very decisive vote this year of 60 to 6 to limit eligibility for housing assistance to families with income below 65 percent of area median income. Despite this strong vote, the conference report maintains the present eligibility standard of 80 percent of area median income, thus leaving the inequity that many poor families receive no assistance while others with income over $18,000 are eligible in many areas.

We are all aware of the fact that Federal regulatory legislation has become far too costly and excessive. While I did not oppose the reauthorization of the Home Mortgage Disclosure Act, the costs and regulatory burdens it imposes achieve only questionable benefits, and thus I am particularly encouraged to note that we have amended this conference report to sunset HMDA after 5 years. I believe firmly that any statute with a regulatory impact should be reauthorized only for a stated period and subject to careful reexamination at the end of that time.

Finally, I have not been persuaded that even minimal Federal legislation in the area of condominium controls is necessary or warranted. Although the condominium provisions found in the conference report have been considerably weakened from the Senate bill, my overall concern against Federal action of any kind in this area remains. The proponents of this provision will state that this Federal legislative action is limited to the problems created by recreation leases in Flordia which were entered into prior to June 4, 1975.

I am sure, though, that this legislation is in fact opening the door for further Federal controls over condominiums—an area that is clearly the responsibility of State and local governments. Even minimal Federal protective legislation is warranted only where abuses exist that become national in scope and nature, and where State or local governments have proven unwilling or unable to address those abuses. These circumstances just do not exist now. The "findings and purpose" contained in this provision are not even substantiated by HUD's extensive report recently published on condominium conversions.

In summary, my objections to S. 2719 are centered around what is the proper role of the Federal Government in providing housing assistance and regulating mortgage lending activities and condominium conversions. Clearly in this legislation we have overstepped our legitimate responsibility and once again said "Uncle Sam knows best." I am not in the least bit convinced that is the case.

Finally, I must add the comment that several of my colleagues have inserted statements in this floor debate regarding many provisions in the conference report. Neither I nor others in this body have seen these statements and so they cannot be said to represent the intentions of the conferees.

Mr. PROXMIRE. Mr. President, I strongly urge the Senate to support the conference report on S. 2719, the Housing and Community Development Act of 1980. As reported by the conference committee, this is, in my view, excellent legislation, with a number of very important provisions.

First, I am pleased to report that the conference report contains the Senate provisions on the Home Mortgage Disclosure Act amendments in their entirety. The Senate bill extended the Home Mortgage Disclosure Act and included a number of amendments to the act designed to facilitate more efficient and effective use of the data. The Senate provisions represent critical legislation to insure continued progress in facilitating and promoting reinvestment efforts.

The Senate passed the Housing and Community Development Act, containing the extension and amendments to the Home Mortgage Disclosure Act, prior to the expiration of the sunset period contained in the original 1975 disclosure legislation. However, the delay this summer in House floor action on the bill, combined with the time needed for the conference committee to conduct its business, has meant that there will have been a period of several months between the expiration of the sunset period in the original legislation and the date of enactment of legislation extending the Home Mortgage Disclosure Act.

During this period, no new disclosures have been required. Since most institutions are already reporting on a calendar year basis, disruption in the availability of new disclosures has been minimal. In addition, the Home Mortgage Disclosure Act requires that any information required to be disclosed must be maintained and be made publicly available for a period of 5 years after the close of the first year during which such information is required to be disclosed.

Thus, during the interim period between June 28, 1980, and the date of enactment of the Housing and Community Development Act of 1980, disclosures required to be made prior to June 28, 1980, have continued to be required to be publicly disclosed pursuant to this 5-year rule. It is our intent that the gap in time between June 28, 1980, and the date of enactment of the Housing and Community Development Act of 1980 shall not affect the applicability of this 5-year rule to all disclosures made since the enactment of the original legislation in 1975.

In general, the amendments made by this act should be able to be smoothly implemented. However, it is possible that the delay in enacting this legislation may create some minor transitional problems in implementing some of the amendments to the act. The Board of Governors has authority under section 305 of the Home Mortgage Disclosure Act to provide for adjustments or exceptions to disclosure requirements under section 304 as in the judgment of the Board are necessary and proper to effectuate the purposes of the act or to facilitate compliance with the act.

This authority is sufficient for the board to address any minor transitional problems that may arise. However, such adjustments or exceptions should be the minimum necessary. In addition, under current regulations, reports for calendar year 1980 would be disclosed by the end of March 1981. Depending on the timing of promulgation of regulations to implement the amendments made by this conference report, it is possible that a short delay from the schedule may become advisable.

The provisions in the conference report for a standardized reporting period and a standard format should prove helpful in facilitating aggregation and comparisons among institutions. In this connection, a recent report contracted for by the Federal Home Loan Bank Board and the FDIC recomended that in deciding whether State depository institutions should be exempt under section 306(b) of the Home Mortgage Disclosure Act, the Board of Governors should only grant such exemptions after a careful review of State law, including regulations and instructions, to insure that the disclosure statements produced will be comparable in form, context and data quality with Home Mortgage Disclosure Act statements.

This would maximally facilitate aggregation of data and comparisons among institutions. The Board of Governors should follow this recommendation when implementing section 306(b). After the new standard format has been prescribed, exemptions previously granted should be reviewed with this recommendation in mind. However, it must be emphasized that this in no way would limit the ability of States to provide for additional disclosures beyond what is required under the Home Mortgage Disclosure Act. For example, data such as is required under the Home Mortgage Disclosure Act could be disclosed in form and content comparable to what is required under the act, and additional disclosures could be made as a separate item.

The provision for a central depository of data in each SMSA should be extremely helpful in facilitating access to disclosure data. The provision requiring HUD to disclose data in its possession for FHA loans made by mortgagees not otherwise covered under the act should also be extremely helpful in providing additional information, without imposing any new burden on lenders.

Mr. President, in the long run, perhaps the most important improvement to the Home Mortgage Disclosure Act contained in the conference report is the provision requiring the Federal Financial Institutions Examination Council to compile each year, for each SMSA, aggregate data by census tract. The council would also be required to produce tables indicating, for each SMSA, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

Compilation of aggregate data will provide a broad picture of lending patterns in each SMSA. It will provide an overall context to assist in understanding and evaluating the performance of individual institutions. It will provide a capacity for measuring changes and progress over time. It will provide an important source of information for local officials, to assist in developing programs involving a wide range of housing and community development initiatives.

Based on a study conducted by resource consultants for the Federal Home Loan Bank Board and the FDIC, we have been estimating the costs of compiling aggregate data and producing tables for each SMSA to be approximately $1 million a year. I understand that an independent estimate by the Board of Governors of the Federal Reserve System also was that the cost would be about $1 million a year. Based on a more careful review of the resource consultants study, I believe these estimates may be somewhat optimistic. For example, the resource consultants study was based on 1978 dollars. Under the provision in the conference report, the aggregation would first be done in calendar year 1981, using calendar year 1980 data.

Thus 3 years of inflation should be added to the estimate. However even after converting the estimate to 1981 dollars, and even assuming a substantial margin of error in the estimate. I think it is fair to estimate that the cost will be well below $2 million a year. Compared to the amount we are authorizing in this bill for assisted housing. community development and other initiatives. this is a minuscule amount, particularly given the enormous benefits that can be expected from compiling aggregate data.

Finally, I would like to comment on two reports provided for in the conference report. One provision calls upon the examination council to conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. Small business lending by banks is especially important not only for its job creation potential but also because of its role in neighborhood preservation and revitalization. Healthy small businesses are a critical component of the infrastructure of a healthy neighborhood. Whereas some small business loans may be especially important for job creation purposes, others may be especially important for neighborhood preservation and revitalization. Some small business loans may be important in advancing both objectives.

If compilation and disclosure of information on small business loans by banks can be efficiently accomplished, it has enormous potential in assisting regulators and the public in evaluating the small business lending performance of each bank. Such evaluation is critical to the proper implementation of the Community Reinvestment Act.

With respect to neighborhood preservation and revitalization, of particular interest is the performance of the bank in meeting small business credit needs of low and moderate income neighborhoods.

Among the items that the examination council should address in its study are: First, the appropriate definition of small businesses for the purpose of compiling data, including analysis of whether small businesses should be separated into different types for reporting purposes; second, the appropriate definition of a small business loan; third, whether various categories of small business loans should be defined and separately reported, for example, the purpose of the loan, long-term versus short-term, and whether or not SBA guaranteed; and fourth, the appropriate level of geographic detail, for example, the census tract where the small business is or will be located.

The other provision requires the examination council to transmit a report to the Congress on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act. Currently, three agencies, the Federal Home Loan Bank Board, the Office of the Comptroller of the Currency, and the FDIC, are in various stages of implementing somewhat differing systems requiring financial institutions, under certain circumstances, to submit reports to the agencies for fair lending enforcement purposes. While one option that the study should definitely explore is the feasibility and desirability of one unified system which would apply to all of the agencies to accomplish fair lending, CRA, and disclosure purposes, the examination council would also be free to explore the possibility of each agency having its own separate unified system for the particular agency. Under this approach, the unified system for one agency might differ somewhat from the unified system for another agency.

Mr. President, to summarize, I believe that the provisions in the conference report relating to the Home Mortgage Disclosure Act will make a vital contribution to increasing the effectiveness of the Act in facilitating and promoting reinvestment efforts.

A second important section of the conference report deals with new authority for the Federal National Mortgage Association (FNMA), to purchase home improvement loans and mobile home loans. Both the Senate and House bills authorized FNMA to purchase home improvement loans, with the critical difference being that the Senate bill retained the traditional principle of HUD approval of FNMA's programs, whereas the House bill did not. I am pleased to report that the conference report retains the key principle of HUD approval.

FNMA is a congressionally created entity clearly created and designed to implement public policy. FNMA receives numerous Federal benefits, including, among others: First, Federal agency status for its securities; second, status for its obligations as lawful investments for fiduciary trusts and public funds; third, $2¼ billion Treasury backstop borrowing authority; fourth, exemption from SEC requirements; and fifth, exemption from State taxation. When GNMA was split off from HUD in 1968, FNMA retained all of its assets built up in 30 years as a wholly government corporation.

Although FNMA is clearly an instrument of public policy, there has been a problem of public accountability because under the law, two-thirds of its board of directors, 10 out of 15, are elected by private stockholders, whereas only one-third, 5 out of 15, are appointed by the President. By contrast, the Federal Home Loan Mortgage Corporation performs essentially the same functions as FNMA but has greater public accountability because the Mortgage Corporation Board of Directors consists of the members of the Federal Home Loan Bank Board, all of whom are appointed by the President. It is not surprising that in many respects, the mortgage corporation's policies over the years have been more responsive to the public interest than have been FNMA's policies.

A key provision in current law which has ameliorated to some extent the problem of public accountability in FNMA's structure has been HUD's traditional review and approval authority over FNMA's conventional mortgage purchase programs. Fortunately, the conference report retains this traditional approval authority with respect to FNMA's new authority to purchase home improvement loans and mobile home loans. In utilizing its approval authority over FNMA's conventional mortgage purchase programs, HUD has been criticized for delaying approval of FNMA's programs.

While HUD must bear some of the blame for these delays, it is only fair to point out that much of the blame must be borne by FNMA for its lack of cooperation with HUD in many instances. To respond to concerns about the delays, the conference report provides that when FNMA submits its proposal to HUD to implement the new home improvement authority, HUD shall within 75 days, approve the proposal or transmit a report to Congress explaining why the proposal has not been approved.

The conference report also authorizes FNMA to purchase mobile home loans, and contains the same 75 day language. In the case of both the new home improvement authority and the mobile home authority, the 75-day rule applies to the initial implementation of these new authorities. Of course, as with the HUD approval provision under the conventional mortgage authority, the HUD approval provisions for these new authorities are permanent provisions. HUD has complete authority to refrain from approving to withdraw approval, subject of course to any action that Congress may wish to take overtaking a HUD decision.

The statement of managers to the conference report states: "The conferees wish to make clear that a conditional approval of a proposal shall not be considered an approval for the purposes of this section." This sentence in the statement of managers specifically refers to the requirement of a report to Congress. It does not limit HUD's authority to conditionally approve a FNMA proposal. It merely means that if HUD places conditions on FNMA's proposal to implement the new home improvement authority or on FNMA's proposal to implement the new mobile home authority, and if FNMA does not agree to these conditions, then HUD must report to Congress explaining the reasons why it has placed conditions on the approval.

In some cases in the past FNMA has submitted proposals lacking in proper documentation. If such a situation develops with the home improvement proposal or the mobile home proposal, it would be proper for HUD to transmit a report to Congress indicating that the reason the proposal has not been approved is that it has not been properly documented.

Finally, it is important to stress that if the proposal has not been approved within 75 days because either it is not appropriately responsive to the public interest or because of improper documentation, or for whatever reason, this should not end the process. If such a situation should arise, FNMA and HUD should continue to work together beyond the 75-day period to design a program that addresses the concerns that have been raised.

Mr. President, a critical element of any housing and community development bill is how it deals with assisted housing programs, and this year's housing legislation certainly has been no exception. Earlier this year, I sponsored legislation which included as one element a new mixed income rental production program. However this new program was defeated on the Senate floor by a 47-to-23 vote. The House, in its bill, included a similar version of this new program. In conference I supported the Senate position against this new program and we were successful in getting the House to recede to the Senate on this issue. Unfortunately, in order to achieve this result, the Senate, as part of a package, had to recede to the House on an important provision in the Senate bill, which would have lowered the income eligibility ceiling for section 8 to 65 percent of area median income. There was a unanimous position of the House conferees against this Senate position, and there had been a very strong vote on the House floor against a similar proposal.

In my view, an important breakthrough was achieved in this year's conference report by the conferees agreeing to a mandated shift in the mix, on a national basis, for lower income housing assistance. Percentage setasides of contract authority have been established based on the Congressional Budget Office's estimates of what percentages are necessary to produce a 50-50 mix—50 percent for new construction and substantial rehabilitation, and 50 percent for existing housing.

Under existing law, the national mix is, in effect, determined by adding up the proportionate mixes specified in local housing assistance plans. This has resulted in an undue emphasis on the high cost section 8 new construction program. If we are to assist more families with a given level of resources, we have got to move toward more reliance on the section 8 existing program, both the regular existing housing program and the moderate rehabilitation program.

The result of the 50-50 mix contained in the conference report is that we will be able to make reservations for an estimated 282,000 units, approximately the same number as provided for in the administration's original request, while at the same time saving $2 billion in budget authority from the administration's original request

I wish to emphasize that in determining the dollars and percentages necessary to produce a 50-50 mix, we assumed that the administration's planned program of permanent financing of public housing bonds through the Federal Financing Bank would be implemented, with approximately $1.3 billion in budget authority being used to finance the difference between the cost of tax exempt financing and taxable financing. These assumptions are consistent with assumptions made throughout the legislative history of both the Senate and House authorization bills. I am aware that there is some contrary legislative history in the Senate Appropriations Committee report. However, unless the assumption of financing public housing through taxable financing is carried out, the decision of the conferees on the authorization bill to provide a 50-50 mix will be violated. Moreover, use of taxable financing for public housing development and modernization is a long term reform with considerable merit. Thus, I am hopeful that the administration will follow the legislative history in the authorization bill when implementing the program for fiscal year 1981.

Mr. President, the conference report also contains two important provisions dealing with the maximum rent under section 8. Existing law allows the contract rent to exceed the fair market rent by up to 20 percent. The House bill would have narrowed this leeway to only 10 percent for the section 8 new construction and substantial rehabilitation programs. Rather than achieving its intended effect of keeping contract rents and resulting costs down, the effect of this provision might have been to put upward pressure on the fair market rent. In order to avoid this danger the conferees agreed on a provision to keep the 20-percent leeway in existing law, but provide that for new construction and substantial rehabilitation, no more than 20 percent of the assistance in any area allocated to new construction and substantial rehabilitation may be for units where the contract rent exceeds the fair market rent by more than 10 percent. This provision should provide a necessary discipline on HUD and developers, while at the same time retaining flexibility to address local circumstances.

With respect to the section 8 moderate rehabilitation program, the conferees accepted a House provision increasing the 20-percent leeway to 30 percent. This should promote more use of the moderate rehabilitation program, which is substantially less costly than the section 8 new construction and substantial rehabilitation programs.

In sum, both of these amendments to the section 8 program go in the right direction, tightening up on standards to promote more discipline in the high cost section 8 new construction program, and providing greater flexibility to facilitate more use of the less costly section 8 moderate rehabilitation program.

Another House provision which was accepted with only a few modifications is the public housing comprehensive improvement assistance program. This important initiative consolidates public housing modernization efforts into a comprehensive and systematic new approach. One hundred million dollars in contract authority, which comes out of the contract authority in Section 5(c) of the U.S. Housing Act of 1937, is authorized for this initiative.

The conference report also includes a House provision on site selection criteria for assisted housing. The House provision provides that HUD shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. While I believe the language of this amendment is unnecessary, if the words are read literally it does not cause a significant problem since I know of no instance where assistance has been denied "solely" because a project is located in an impacted area.

There are other considerations which come into play. For example, HUD's regulations provide that a site shall not be located in an area of minority concentration unless sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or if the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area.

HUD's regulations also provide that the site shall not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to nonminority residents in the area. In addition, the regulations provide that the site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low income persons.

What was troubling about the House provision was not the legislative language, assuming it is read narrowly and literally. The difficulty was with the legislative history associated with it on the House floor. Thus while in conference we accepted the statutory language, we included a discussion in the statement of managers to provide new legislative history and to guard against misinterpretation of the provision.

I want to stress that our acceptance of this provision was based on acceptance of this new legislative history. The statement of managers stresses that this provision in no way diminishes HUD's data to promote equal opportunity and to administer its programs in a manner affirmatively to further fair housing. Most importantly, the statement of managers emphasizes that current HUD regulations covering site selection are not inconsistent with the provision included in the conference report. The statement of managers acknowledges that there have been claims that, in some instances, HUD has implemented the regulations in a manner which has arbitrarily denied assistance to areas of minority concentration. However, I want to emphasize that at this point, these are indeed only "claims," and these claims are hotly denied by a number of civil rights groups.

An important provision in the Senate bill which is included in the conference report is a provision deleting all references to the term "remaining economic life" in the National Housing Act. Several sections of the National Housing Act currently provide that the term to maturity shall not exceed three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

The legislative history behind this Senate provision makes clear that the deletion of examining council life is being made because its use is unnecessary and potentially discriminatory.

In 1978 the Banking Committee held hearings which provided powerful evidence that use of remaining economic life is inappropriate as a home loan underwriting tool. Not only is it virtually impossible to predict remaining economic life, but even if it were possible to predict, it would still be irrelevant because the expiration of remaining economic life does not necessarily mean that the value of the property is declining. Indeed, expiration of remaining economic life generallly is accompanied by an increase in value because the value of the land for its new use is appreciating rapidly.

Subsequent to the hearings, FHA revised its policies so that in practice, the estimate of remaining economic life was set in a way which would only rarely affect the loan term. But use of this concept is still prevalent in the conventional market. Because the estimate of remaining economic life is so subjective, it allows biases against older neighborhoods to come into play and inappropriately affect the loan underwriting decision. Now that the Congress has spoken by deleting references to remaining economic life from the National Housing Act, it is incumbent upon FNMA and conventional lenders to reevaluate their own practices.

The Senate bill had extensive provisions relating to condominium conversions. The House conferees strongly resisted these provisions, and in order to resolve the conference, the Senate confereees were forced to compromise and recede on many of these provisions. One provision included in the conference report was suggested by the House conferees and provides a sense of the Congress statement that lending by federally insured lending institutions for the conversion of rental housing to condominiums and cooperative housing should be discouraged where there are adverse impacts on housing opportunities of the low and moderate income and elderly and handicapped tenants involved.

This new sense of the Congress statement has important implications in connection with the Community Reinvestment Act. The Community Reinvestment Act requires financial regulatory agencies to encourage regulated financial institutions to help meet community credit needs, to assess the record of each institution, and to take such record into account in evaluating branch and other applications. Given this new sense of the Congress statement on conversion, if a lender acted contrary to this sense of the Congress, clearly this would have to be taken into account in assessing such lender's record for Community Reinvestment Act purposes.

Mr. President, the conference report contains a major change in the approach to setting FHA single family mortgage limits under section 203(b). Current law establishes a maximum mortgage amount for the FHA single family insurance program of $67,500. With this limit, in most areas a substantial majority of the mortgage market is open to FHA eligibility. In many areas it covers an overwhelming percentage of the mortgage market, with the effect that many homes that could be considered luxury homes are open to FHA eligibility. Thus, for many areas of the country, even the $67,500 limit in current law is already too high.

On the other hand, in some areas of the country, the $67,500 limit covers only a small fraction of the mortgage market, and is therefore clearly too low. Thus we have constant pressure to raise the limits each year.

The Senate bill will provide that the $67,500 limit in current law would be left as a base, but would provide that the limit would be $67,500 or 95 percent of the median one family sales price in the area, as determined by the Secretary, whichever is greater. Assuming a 5-percent downpayment, a limit of 95 percent of area median would mean that the FHA market in such areas would be open to about half of the mortgage market.

The approach adopted by the conference report is very similar in many respects to what the Senate adopted, and it includes use of the 95 percent of the median one-family sales price in the area. There are three main differences between the provision in the conference report and the provision in the Senate bill.

First, under the conference report, the limit in any area cannot exceed the base limit by more than 33⅓ percent. With a $67,500 base limit, this means the maximum ceiling in any area is $90,000. The effect of this is that a relatively small number of areas will have a ceiling below 95 percent of area median.

Second, because the upper ceiling is not automatically indexed each year, further congressional action will be required in subsequent years.

Third, the increase in any area above the base limit of $67,500 is discretionary with the Secretary, with the 95 percent of median sales price merely providing a ceiling. I suspect, however, that in practice, the mortgage limit generally will be set at the 95 percent of area median sales price level.

As discussed in the Senate Banking Committee report, the Secretary would have flexibility in defining the area and selecting the data base and methodology for determining the median price for each area. However, there is a strong expectation that the data base that will be used is the bank board data base. There are some generally small metropolitan areas where the bank board data base is currently not adequate to produce a meaningful result, although these tend to be in low-cost areas which would be at the base limit. Nevertheless, steps should be taken immediately to improve this data base.

The conference report includes a study which, among other things, will examine the desirability and feasibility of moving further toward a system based solely on sales price data.

With respect to mortgage limits for condominiums under section 234(c), the conference report contains a similar formulation as is contained in section 203(b), except that the maximum is limited to 11 percent above the base limit. In addition, the 95 percent of median one-family sales price ceiling is used, in order to assure that the mortgage limit under section 234(c) will not exceed the limit under section 203(b). However, this is not meant to imply the mortgage limit under section 234(c) should be set at the 95 percent level or that it should be equal to the 203(b) limit for the area.

The conference report includes provisions adopting a temporary section 235 stimulus program and an update of the Brooke-Cranston program. With respect to the section 235 stimulus program, it is important to point out that conditions are different now than they were when the Senate first passed this legislation last April, and the Secretary should move with caution before deciding whether to activate this stimulus program, keeping in mind that the funds would be taken from an existing program serving people with less income.

With respect to the update of the Brooke-Cranston program, I am pleased that the conferees adopted the Senate provision limiting the depth of the subsidy. Because of the structure of the program, this provision is necessary to control the costs of the program. I want to emphasize that we do not expect the Brooke-Cranston program to be activated in the foreseeable future.

Title I of the conference report includes a 3-year authorization of the community development block grant and UDAG programs, and makes several significant amendments in the community development block grant program, including provisions explicitly making energy conservation an eligible activity, a provision on involuntary displacement, and a provision tightening up documentation requirements for economic development projects. The provision on economic development is much weakened from the Senate provision. Hopefully, however, it will be administered in a manner to provide better accountability for economic development activities, particularly where it is claimed that the activity is designed to benefit low- and moderate-income persons.

Mr. President, in conclusion, this conference report incorporates 1 year's worth of legislative effort involving housing and community development. It is vital legislation, and I strongly urge its adoption by the Senate.

Mr. President, I do commend the distinguished chairman of the Housing Subcommittee, Senator Williams, who did a superlative job on this. It took a great deal of time and effort, and it is an extremely complicated bill, but I think it advances the interests of our country substantially, efficiently, and economically.

I also congratulate my good friend from Utah who did such a conscientious and good job in working with us in developing what I think is a very good bill.

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from New York (Mr. Javits).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Javits

The conference report on the Housing and Community Development Act of 1980, just agreed to, is overall a balanced accommodation between the Senate and House versions. I wish to commend the conferees for their fine work in this regard.

The conference report contains extensions and improvements of a number of community development and housing programs so vital, now more than ever.

I am gratified that the Senate recedes from its amendment further limiting Section 8 eligibility and that the conference has seen fit to accept two amendments which are of special importance to New York. One, which exempts refinancing loans for cooperative apartments from state usury laws, eliminates an anomaly in the Depository Institutions and Monetary Control Act of 1980 which fully exempts usury ceilings for refinancing of other residential structures, but only partially exempts co-ops from such ceilings. This amendment will generate critically needed funds to develop or rehabilitate urban housing. The second qualifies highly rated commercial paper as liquidity investments for purposes of the Federal Home Loan Bank System reserve requirements and also includes as qualified liquidity, unpledged deposits of FHLB members in the Savings Bond Trust Company of New York.

Regrettably, however, the report does not contain any version of the new moderate income multi-family housing program which, although defeated by the Senate, had been a part of the House-passed bill.

I viewed the Section 8/Moderate income initiative as an innovative approach to housing assistance. By more efficient use of our housing subsidy funds, the package could have provided more units of low income housing assistance at less cost. While it may be argued that the package was a dilution of Section 8 dollars, it could have brought about an increase in the number of Section 8 units—and isn't this the purpose of our federal housing assistance programs?

Additional savings could then have been applied to a new program of moderate income rental housing construction. This could have provided assistance to moderate income persons, while helping ease the overall shortage of multi-family rental housing.

While there were many problems with the Senate and House versions of the program, the concept of the Section 8/Moderate income package is vitally important, and one which I am confident will be before the Congress again. I intend to work toward its greater success in the future.

● Mr. CRANSTON. Mr. President, the conference report on the Housing and Community Development Act of 1980, S. 2719, is a well balanced approach that will help the Federal Government, States and local governments try to ease the burden of the effects of poverty and blight within their respective jurisdictions. Titles I and IV, community development and planning assistance, respectively, give States and local governments the tools to fight deterioration and decay in their communities. Although new construction is authorized, our proposals on assisted and rural housing encourage the preservation of existing units. The overall effect is that housing opportunities for low and moderate income people are increased over existing levels using less funds than the President requested.

This is an austere bill. The emphasis in this conference report is on conservation and preservation of our limited funds and housing stock.

This bill should have an excellent effect on the housing industry generally, and in California in particular. Now that the FHA mortgage insurance and manufactured housing loan limits allow for a high cost area exception, more residents of the State of California will be able to benefit from the advantages of FHA financing. Although the bill's approach to assisted housing is not totally adequate, it should nonetheless provide more assisted housing opportunities for low and moderate income Californians than ever before. Also, the many provisions that authorize rehabilitation and preservation of existing units will definitely benefit California cities that are suffering from blight and decay.

COMMUNITY DEVELOPMENT

This conference report takes great steps in the area of community development. I'm pleased that the conferees adopted my amendment that makes Indian tribal governments eligible for UDAG assistance. Many tribal governments are located on reservations that are severely distressed and a UDAG will attract private development to an economically depressed reservation. Rehabilitation loan limits under section 312 of the National Housing Act have been increased to $33,500. This will enable much more preservation of our housing stock as an increased number of buildings will be made habitable for low and moderate income people. Also of significance is the fact that residential properties known as single room occupancy housing (SRO) are eligible for rehabilitation under the 312 program. Many of our western States have SRO's in which the majority of residents are elderly people. These units will be renovated, if need be, to assure decent and safe housing opportunities for low and moderate income people who cannot afford housing that includes private kitchens and individual bathrooms.

ASSISTED AND RENTAL HOUSING

In S. 2719, we have provided for numerous mechanisms to preserve and rehabilitate multifamily rental housing. I compliment the House on bringing to the conference the public housing comprehensive improvement program. For too long our public housing projects have been neglected. This program should improve the physical condition of existing public housing projects and upgrade the management of these projects. This is an excellent investment of our scarce resources to improve the conditions in our deteriorating publically assisted multifamily housing projects. Likewise, I believe that my anticrime amendment, which allows for the continuance of the public housing security demonstration program, will help make life better for those who live in public housing. We must continue to explore ways to make public housing projects secure against crime and the fear of crime.

Deterioration and abandonment of multifamily rental housing constitute a real threat to our Nation's rental housing stock. The lack of availability of multifamily rental housing will haunt all of us in coming years. The use of section 223(f) to purchase or refinance a mortgage for multifamily projects in older, declining urban areas is an extremely significant provision. It will allow an owner of a multifamily property that has 200 units or less to recast the mortgage to allow the units to be rehabilitated. This is one way in which we are trying to address the crisis in multifamily housing.

Mr. President, there is one small disappointment that I have with this legislation. The manner in which we patched up our proposal for assisted housing is extremely precarious. Our approach to assisted housing this year is nothing more than a quick solution which may prove to be ineffective if considered as a final answer. I am speaking about our proposal on section 8 assisted housing. To change the mix for assistance in section 8 from 60 percent new construction and 40 percent existing to a 50 to 50 mix in order to create more units is fine for some areas of the country. In the West, however, this type of mix cannot be a permanent solution because we do not have many existing units available. In California the vacancy rate is 3.2 percent for multifamily rental housing. Obviously there is not enough of a surplus of existing units in the market to sustain this mix. We need to encourage new construction while at the same time we must be conscious of the amount of dollars that we spend on assisted housing programs.

I supported the middle income program which was to be the new approach to assisted housing because the program would have allowed us to assist more low and moderate income people than any other proposal we have considered this year.

At the same time, new housing units would have been built at less cost to the Federal Government than the President recommended. The conference report does not adopt the middle income program; however, it does direct HUD to consider the possibilities of new directions in housing assistance. I strongly urge HUD to develop several proposals that will assist as many low and moderate income people as possible while keeping costs down. I know that we have the creativity to come up with other proposals that will encourage the construction of multifamily rental housing for low and moderate income people.

FHA

I am most pleased that the conferees agreed with me that FHA mortgage insurance should be made available in areas that suffer from high land and land development costs. Last year only 7,800 single family homes were insured under section 203(b) in California because the mortgage limits for the program were too low. This conference report provides that the limit for FHA 203(b) mortgage insurance be $67,500 or 95 percent of the median area sales price up to a ceiling of $90,000. This should bring FHA activity to much of California while at the same time be anti-inflationary. It is anti-inflationary because there will not be a huge increase for available mortgage insurance which in the past has had the effect of driving up the cost of homes in some areas.

I am also pleased that the FHA loan limits for manufactured homes has been increased by 11 percent and for the first time we have included a high cost area exception. Here, again, California will benefit because in many areas of the State FHA activity is negligible. I expect that the increase of loan limits—to $32,500 for a single module manufactured home (or $43,000 for a manufactured home with two or more modules) in the case of a manufactured home and undeveloped lot; to $38,100 for a single module manufactured home (or $49,000 for a manufactured home with two or more modules) in the case of a manufactured home and developed lot—will bring more activity to California.

Many people in California are turning to manufactured homes as an alternative to the traditional single-family home. After enactment of this conference report these people should find financing much easier to come by.

In adopting these higher levels, LUD ASHLEY, the distinguished chairman of the House Housing Subcommittee, agreed with me that we should hold extensive hearings in order to determine the future of the FHA mortgage insurance system. He is concerned that we may be expanding the role of FHA mortgage insurance to a constituency that does not need the insurance.

I am concerned that the FHA system is inequitable in many areas of the country while being overly generous to other sections. I believe that Chairman Ashley genuinely shares my concern as I do his. I am going to do everything I can to push for hearings on this subject in the near future and I hope that my good friend, Mr. ASHLEY, will do the same.

STIMULUS PROGRAMS

The housing construction industry has been waiting for a long time for Congress to react to the depression in its industry. Contained in this conference report are proposals which I cosponsored that should help this industry. Cranston-Brooke is revised so that if implemented the program will be responsive to current market conditions.

The program is designed to stabilize the housing market against cyclical downturns by increasing the supply of reasonably priced credit to stimulate the purchase of new and existing single family and multifamily units. Cranston-Brooke provides mortgage assistance by allowing GNMA to issue commitment to purchase below market interest rate mortgages. Also we are providing for a new 235 stimulus program that provides a shallow interest subsidy in order to promote the construction of more single-family homes.

The program is targeted to people who have incomes not greater than 130 percent of the median, in their area, and the sales price limitation is 82 percent of the FHA 203(b) rate that is applicable in that area. Mr. President, this program could greatly assist the homebuilding industry as well as prospective homebuyers; however, there is very little money left in the pool of money that is set aside for the 235 program. Recently, I cosponsored a bill along with Senator WILLIAMS that would release $125 million of previously recaptured funds from the old 235 program. I hope that this bill, S. 3145, will be addressed by the Senate shortly.

Mr. President, these are but a few of the many creative provisions contained in this bill. I believe that it is a good bill, on the whole, and I hope that it is enacted into law shortly. However, I must reemphasize the need for all of us to consider the crisis of multifamily rental housing and to come up with more solutions not only to this crisis but also to the problem of developing a less expensive but more effective assisted housing program.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING A CHANGE IN ENROLLMENT OF S. 2719

Mr. PROXMIRE. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 131) authorizing a change to be made in the enrollment of S. 2719.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the concurrent resolution.

Mr. PROXMIRE. Mr. President, the bill has encountered some difficulties in recent days—I might almost say in recent hours—and in order to assure the passage of this bill in Congress we find it necessary to modify one provision of the bill. We have discussed this at great length with Senator WILLIAMS, and Senator GARN is fully informed of it. We have decided that under the circumstances, although the Senate did provide for a permanent extension of the Home Mortgage Disclosure Act, it would not be practical to insist on that, and there would be no way we could get housing legislation enacted this session if we did. Consequently, we have agreed that we would modify the legislation, and that is what this concurrent resolution does.

We have discussed this at some length also with the Parliamentarian to make sure this resolution would be in order. What the resolution does simply is to add to the conference report a modification in the Home Mortgage Disclosure Act provisions. The Home Mortgage Disclosure Act provisions, as we passed them, would be permanent law. We modified that in the resolution to provide that it will sunset in 5 years, that is, as of October 1, 1985, and I regret very much it is not permanent law. But I understand the practicalities involved and, perhaps, we can improve the legislation over that period of time.

Mr. GARN. Mr. President, I support this concurrent resolution, but I would like to ask the chairman of the Banking Committee a question to make sure that I am confident of the procedure.

In passing this concurrent resolution is my understanding correct that it will be made part of the conference report so that the President is only faced with signing one bill? I want to make sure it is not separate, and that this would go to him separately from the major bill, so that he could possibly veto this separately. I would like to make sure it is part of the conference report.

Mr. PROXMIRE. Yes. I am glad the Senator from Utah has made that point. It was a point I should have made, and it is absolutely critical.

This will be part of the bill. This would amend the conference report so that the President will sign one single bill. He will not be able to sign one separately and be able to veto the other.

Mr. GARN. I thank the distinguished chairman, and I have no objection to the resolution.

The PRESIDING OFFICER. The question is on agreeing to the Senate concurrent resolution.

The resolution (S. Con. Res. 131) was agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, shall make the following change:

At the end of the proposed section 311 of the Home Mortgage Disclosure Act of 1975 (which is contained in section 340(c) of the bill), strike out the close quotation marks and the period, and add the following:

"TERMINATION OF AUTHORITY

"SEC. 312. The authority granted by this title shall expire on October 1, 1985.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from New Jersey (Mr. WILLIAMS).

TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION AUTHORITIES

Mr. WILLIAMS. Mr. President, I send to the desk a joint resolution and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Senate Joint Resolution 209 providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, this request has been cleared with the majority leader.

Mr. BAKER. Mr. President, reserving the right to object, I might say that I have been advised by the ranking member of the committee with jurisdictional authority that we have no objection to its consideration and passage.

The Senate proceeded to consider the resolution.

Mr. WILLIAMS. This resolution is necessary to prevent the expiration of a number of vital housing authorities of the Departments of Housing and Urban Development and Agriculture. The resolution would extend these authorities to October 15, 1980, to allow final action on S. 2719, the Housing and Community Development Act of 1980 conference report.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time. The resolution (S.J. Res. 209) was read the third time and passed as follows:

S.J. RES. 209

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1980" in the first sentence and inserting in lieu thereof "October 16, 1980".

(b) Section 217 of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1980" in the fifth sentence and inserting in lieu thereof "October 15, 1980".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(f) Section 244(d) of such Act is amended by—

(1) striking out "September 30, 1980" in the first sentence an inserting in lieu thereof "October 15, 1980"; and

(2) striking out "October 1, 1980" in the second sentence and inserting in lieu thereof "October 16, 1980".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1980" where it appears and inserting in lieu thereof "October 15, 1980".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

EXTENSION OF PERIOD DURING WHICH AMOUNTS IN THE RENTAL HOUSING ASSISTANCE FUND MAY BE APPROVED FOR USE IN THE TROUBLED PROJECTS PROGRAM

Sec. 2. Section 236(f)(3)(B) of the National Housing Act is amended by striking out "September 30, 1980" in the third sentence and inserting in lieu thereof "October 15, 1980".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

Sec. 3. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

Sec. 4. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

REHABILITATION LOANS

Sec. 5. Section 312(h) of the Housing Act of 1964 is amended by—

(1) striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

EXTENSION OF RURAL HOUSING AUTHORITIES

Sec. 6. (a) Section 513 of the Housing Act of 1949 is amended by—

(1) striking out "September 30, 1980" where it appears in subsection (a) and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "September 30, 1980" wherever it appears in subsection (b) and inserting in lieu thereof "October 15, 1980".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(d) Section 521(a)(1)(C) of such Act is amended by—

(1) striking out "with respect to fiscal year 1980" in the penultimate sentence and inserting in lieu thereof "through October 15, 1980"; and

(2) striking out "with respect to any fiscal year after fiscal year 1980" and inserting in lieu thereof "after October 15, 1980".

(e) Section 523(f) of such Act is amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "October 15, 1980".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONFORMING CORRECTIONS IN THE ENROLLMENT OF S. 2719

Mr. WILLIAMS. Mr. President, I send to the desk a concurrent resolution and I ask unanimous consent that it be considered at this time.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Senate Concurrent Resolution 132 authorizing conforming corrections in the enrollment of S. 2719.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, this request has been cleared on the majority side, and I have no objection.

Mr. BAKER. Mr. President, reserving the right to object, this has been cleared on the minority side as well.

The Senate proceeded to consider the resolution.

Mr. WILLIAMS. This concurrent resolution is necessary to assure that in the enrollment of S. 2719, the Housing and Community Development Act of 1980, the Secretary of the Senate could make appropriate technical corrections reflecting the adoption of the joint resolution the Senate has just passed to continue certain insurance authorities through October 15, 1980.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The resolution (Senate Concurrent Resolution 132) was agreed to as follows:

S. Con. Res. 132

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in enrolling the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, shall make the following corrections:

(1) In section 301 of the bill—

(A) strike out "October 1, 1980" each place it appears and insert in lieu therof "October 16, 1980"; and

(B) strike out "September 30, 1980" each place it appears and insert in lieu thereof "October 15, 1980".

(2) In section 204(b)(1) of the bill, strike out "September 30, 1980" and insert in lieu thereof "October 15, 1980".

(3) In section 302(a) of the bill, strike out "October 1, 1980" and insert in lieu thereof "October 16, 1980".

(4) In section 337(a) of the bill, strike out "October 1, 1980" and insert in lieu thereof "October 16, 1980."

(5) In section 114 of the bill, strike out subsection (d) and insert in lieu thereof the following:

(d) Section 312 (h) of such Act is amended—

(1) by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "October 16, 1980" and inserting in lieu thereof "October 1, 1982".

(6) In section 501 (a) of the bill, strike out 'September 30, 1980" each place it appears and insert in lieu thereof "October 15, 1980".

(7) In section 501, strike out subsections (b), (c) and (d) (1) and insert in lieu thereof the following:

(b) Section 515 (b)(5) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof 'September 30, 1981".

(c) Section 517 (a)(1) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

(d) Section 523 of such Act is amended—

(b) by striking out "October 15, 1980" wherever it appears in subsection (f) and inserting in lieu thereof "September 30, 1981"; and

(8) In section 501 (f) strike out paragraph (2) and insert in lieu thereof the following:

(2) by striking out "after October 15, 1980" in the third sentence and inserting in lieu thereof "with respect to any fiscal year beginning on or after October 1, 1981".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. I thank the majority leader for the splendid cooperation in moving these measures.

Mr. ROBERT C. BYRD. I thank the Senator.

THE PANAMA CANAL TREATIES: FIRST ANNIVERSARY

Mr. ROBERT C. BYRD. Mr. President, today marks the first anniversary of the entry into force of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

This is an occasion which should not go unnoticed.

Senators will recall that for 38 days the Senate debated, discussed, considered and reconsidered the merits and demerits of the two treaties. When it was all over, when the final vote was taken in the early evening of April 18, 1978, the Senate gave its advice and consent to these landmark agreements and brought to a close the second longest debate in the history of the Senate.

As my colleagues know, I was proud of that debate; I was proud of the Senate's conduct throughout that debate; and I was particularly proud of the outcome of it. The Senate made its mark on the treaties and they were improved as a result.

I do not intend to go back and rehash the pros and the cons of the Panama Canal issue. There were honest differences of opinion. There were valid arguments on both sides. The record speaks for itself.

And in examining the record over the past year, I think it is clear that the decision rendered by the Senate was the right decision. By all accounts, the treaties have worked and worked well. And because they have, they have brought added credit both to the United States and to Panama. In addition, there is considerable evidence to suggest that a large measure of goodwill has developed in Panama as a result of the United States willingness to work out a just, fair, and equitable Panama Canal arrangement.

Evidence of this goodwill can be seen by citing just a few examples, such as Panama's decision last December to open its doors to the Shah of Iran at a time when others refused to do so. Or, Panama's ringing denunciation of the Soviet invasion of Afghanistan earlier this year, followed by the Panamanian decision to join the United States call for a boycott of the Olympic games. More recently, there was Panama's determination to act in consonance with the U.S. effort to control the influx of Cuban refugees by prohibiting vessels registered under the Panamanian flag from participating in the boatlift from Mariel Harbor.

It is obvious that these are not insignificant developments. And it should be understood by all Americans that the Panama Canal agreements have been beneficial not only in terms of providing for the smooth, ongoing operation, maintenance and defense of the canal itself, but also in terms of providing some considerable diplomatic dividends. Here again the record speaks for itself. And it speaks loudly and clearly.

In looking back over the past year, the United States and Panama can be justifiably proud of the canal treaties, of the joint determination to implement them efficiently and effectively, and of the goodwill that has been created as a consequence. Indeed, in this regard it has been a good year—a very good year.

RECESS FOR 20 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand recessed for 20 minutes.

There being no objection, the Senate, at 6:11 p.m., recessed until 6:31 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I remind my colleagues on both sides of the aisle that rollcall votes could occur in the evening. The Senate is continuing to transact business. Throughout the day, it has transacted a considerable amount of business, all of which has been done without any rollcall vote. It has been done by unanimous consent and voice vote. The leadership is hoping and expecting that the conference report on the continuing resolution will be coming over from the other body yet this evening. I think it will be probably 9 o'clock or later. That conference report, if and when it comes, could necessitate a rollcall vote. I do not know that it will, but it could.

In the meantime, there may be other matters that will necessitate rollcall votes. The leadership will endeavor to protect Members by giving them notice if any other matters should require a rollcall vote between this moment and the time that the Senate takes up the conference report on the conference resolution. I expect a late, late evening. If Senators do have engagements, I hope they will not get too far away, that they will be prepared to return to vote and that they will return, in fact, until this matter is settled, the matter being the conference report on the continuing resolution.

The conferees are now meeting, Mr. President. They have been meeting throughout the day. They have made good progress throughout the day. They met during the afternoon and had recessed until 6 p.m. They went back in at 6; they are meeting now and continuing to make progress, as far as I know. So I urge Senators not to leave for the evening with any expectation that there will not be rollcall votes today, because there may very well be. As a matter of fact, I hesitate to say there will likely be, but I shall not say that they will not occur.

THE AMERICAN SOVEREIGNTY PROTECTION ACT

Mr. HAYAKAWA. Mr. President, I have added a new word to my vocabulary, and I should like to suggest that it be added to yours, too. The word is "Khomeiniacs." Yesterday, several hundred Iranians marched by the White House demanding the United States stop "supporting" Iraq in its war with Iran. And, once again, the police were called upon to keep a number of angry Americans away from the demonstrating Iranians.

Nevertheless, several bystanders made their feelings known, including a janitor on his lunch hour who ran alongside the demonstrators demanding the "Khomeiniacs" release the hostages. I must say that I agree with his sentiments.

What puzzles me is that these pro-Khomeini students remain here to agitate and propagandize against the United States, thus jeopardizing the safety of our hostages in Iran.

I realize that the American people are concerned about the undeclared war between Iraq and Iran—what effect it will have on our oil supply and what effect it will have on the fate of our hostages. Mr. President, I believe that the Iranians will not release the hostages as long as they are involved in the conflict with Iraq. The American hostages, therefore, will be held because they enhance the power of the Iranians' position. And, in fact, the special committee established by the Iranian Parliament to consider the fate of the hostages has suspended its activity. No progress, therefore, is being made whatsoever.

In the meantime, S. 2437, the American Sovereignty Protection Act continues to languish in the Judiciary Committee. This legislation, which I introduced on March 19, would give the President the necessary authority to deport the Iranian agitators.

The Judiciary Committee forwarded my legislation to the executive branch for comment. The Department of Justice finally responded 1 month ago. I ask unanimous consent that my letter to Senator KENNEDY, chairman of the Judiciary Committee, responding to the views of the Department of Justice be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 5, 1980.
Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You have recently received from the Department of Justice the Administration's reaction to my bill, S. 2437, which has ten cosponsors and is presently before the Judiciary Committee. You may have noticed that S. 2437 has bipartisan support. A companion bill has been introduced in the House by Congressman William Whitehurst from Virginia. It has 30 cosponsors.

As you know, S. 2437 would amend the Alien Enemy Act by including the seizure or holding of the premises of an American diplomatic mission and the taking of an American diplomatic agent as a hostage by a foreign government as actions that could trigger the President's power to restrain and remove nationals of the foreign country. As amended, the Act would grant authority to the President to detain at his discretion Iranian nationals in the United States, including permanent resident aliens for eventual deportation.

The pertinent section of the Alien Enemy Act which currently provides extraordinary presidential power with respect to foreign nationals residing in this country reads as follows:

"Whenever there is a declared war between the United States or any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen and upward, who shall be liable to be apprehended, restrained, secured, and removed as alien enemies."

The law says that such "alien enemies" may be detained and eventually deported. This law spells out very clearly that aliens, and not naturalized U.S. citizens, may be subject to its provisions.

In order to invoke the alien enemy provisions of the law, for instance in the case of Iran, we must clarify U.S. territory to include our embassies abroad. The legislation I am proposing does exactly that. It would spell out that the phrase now in the law "any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States by a foreign nation or government" includes:

First, the seizure or holding by a foreign nation or government of, or the aiding or abetting by a foreign nation or government of any individual or group in seizing or holding, the premises of a diplomatic mission of the United States; or

Second, the seizing or holding under paragraph (1) of such premises which also involves the taking of any diplomatic agent of the United States as a hostage.

In other words, although S. 2437 broadens the definition of who may be proclaimed as alien enemies, it does not in any way change the discretionary aspects of the law.

The position of the Department of Justice with regard to S. 2437 can be easily summarized. It believes that the Alien Enemy Act as it stands contemplates use of its provisions by the President in situations where war is imminent and the President intends to request a declaration of war from Congress.

According to the Department of Justice, unless there is a contemplated or declared war, the constitutionality of an Alien Enemy Act, as amended by S. 2437, may be challenged in court because due process of law has been denied.

I have carefully considered the views of the Department and at this time would only like to make three points. First, the Alien Enemy Act as it is written pertains not only to an actual war in the traditional sense but also to any "predatory incursion perpetuated, attempted or threatened against the territory of the United States by any foreign nation or government." In other words, the essential precondition of "war or contemplated war" which the Department of Justice alleges is not part of the present law.

Second, the Department of Justice is admittedly uncertain as to the constitutionality of the proposed amendment. By not acting on S. 2437, Congress would seem to preempt the issue and actually make a decision that properly should be left to the courts.

My third point, however, is the most important. As I see it, the question arises as to what in this day and age constitutes a "war." On the basis of what all of us have been witnessing in the last thirty years on the international scene, I respectfully submit to you and my other colleagues in the Senate that the concept of "war" in this nuclear age has changed. The incidents of international terrorism, of taking and killing diplomatic personnel, of seizing diplomatic property, of invading foreign territory, of prolonged fighting without declaration of war are too numerous to be listed here. In a less "enlightened" period of history most of these events would have been followed by miscellaneous declarations of war but today the situation is different. The nuclear stalemate that exists necessitates extreme caution and prevents the principal actors in the international arena from formalizing warlike actions which de facto amount to the conduct of war. Accordingly, we have invented such terms as "police actions," "liberation movements," "protection of some particular doctrine," and "humanitarian rescue missions."

In view of this legislative dilemma and as a life-long semanticist, I have turned to the dictionary. Here is what Webster has to say:

"WAR: 1 a (1): a state of usually open and declared armed hostile conflict between states or nations (2): a period of such armed conflict (3): state of war b: the art or science of warfare c (1) obs: weapons and equipment for war (2) archaic: soldiers armed and equipped for war 2a: a state of hostility, conflict, or antagonism b: a struggle between opposing forces or for a particular end."

Mr. Chairman, I believe that not a single member of the Senate would deny that in the last decades there were innumerable cases of a "state of antagonism" and/or of "struggle between opposing forces" which were tantamount to a de facto war although war was not declared. Obviously, the taking of our hostages in Iran has something to do with introducing S. 2437.

But this is not my only consideration. Projecting the experiences of the last 30 years into the future it seemed to me of paramount importance to give the President authority to deal with situations which would have seemed unthinkable in 1978 when the Alien Enemy Act was written.

I will be happy to go into more details on the subject either by personal testimony or by a formal statement when your Committee takes up the consideration of S. 2437, the American Sovereignty Protection Act.

Sincerely,

S. I. HAYAKAWA.

Mr. HAYAKAWA. Mr. President, the additional Presidential power that my bill provides is necessary and continues to be a timely matter. Speaking for 10 cosponsors of my bill and myself, I again express the hope that the Judiciary Committee will proceed with the consideration of my bill.

THE PROBLEMS OF SOUTHERN AFRICA

Mr. HAYAKAWA. Mr. President, I was very disturbed by a news article which appeared on the front page of last evening's Washington Star, "A Wave of Lawlessness, Violence Is Sweeping Through Zimbabwe." During the past few months there have been numerous accounts of violence throughout Zimbabwe, and although I have been concerned about it, I have been hesitant to speak out on the issue.

Even prior to my coming to the Senate almost 4 years ago, I was deeply interested in Africa, particularly southern Africa. This area, torn by conflict, possesses great economic potential not only for the people living there, but also for the rest of the world. I have known for a long time that a new approach would be needed to solve the problems of the African continent, especially those affecting the relations between blacks and whites.

It seemed to me that our Government was inclined to view the racial problems in Africa in the same light as some of the related issues in our country. In my judgment, this was a mistake.

Many, many people, including leading blacks in this country, saw the situation in Africa as a kind of repetition of the civil rights movement in the United States and applied that model to the study of African problems. That is what I mean by a great mistake.

Accordingly, the Carter administration has been eager to lend its support to the revolutionary activities of black leaders without considering the economic and human necessity for ensuring the protection of the white minorities, without considering the destruction of the economies that could result from illiterate masses taking over a country. That is very, very different from the situation in the United States, where the vast majority of blacks are not illiterate. We have many, many well-trained blacks. So, even if they took over entirely, the situation in this country would not change very much.

But in Africa, we are dealing with an entirely different kind of situation.

My colleagues may recall my arranging the visit of Ian Smith to this country so that he could demonstrate to the Congress, the administration, and the American people what I perceived to be a change of heart on his part—his willingness to give up some of the reins of power and to involve responsible black leaders in the Rhodesian governmental process. When the Salisbury government called for elections with the participation of the blacks I introduced a resolution, cosponsored by Senator McGovern, calling for congressional observers in order to judge the fairness of the elections. The Carter administration as well as the other body chose to ignore this request.

Subsequently, Mrs. Thatcher, Prime Minister of Great Britain, courageously and cleverly arranged for the Lancaster House Conference in an effort to resolve the deepening crisis in Rhodesia. These talks resulted in new elections and what appeared to be an orderly transition of government under the newly elected Prime Minister Robert Mugabe.

Although the initial actions of Mr. Mugabe were encouraging, many of us remained concerned about the potential for the continued tribal conflicts that have plagued the country throughout its entire history.

But, nevertheless, we were encouraged by the first actions, the first remarks made, and announcements made by Prime Minister Mugabe. Things have changed since then.

As I see it, Mugabe is now standing at the crossroads. The policies he will follow in the coming months are likely to decide the future of not only his country but that of all of southeast Africa. On one hand there is the latent tribal conflict between his own followers and those of his former associate in the Patriotic Front, Soviet-backed Joshua Nkomo. Moreover, there is the partly open and partly hidden opposition of Mugabe's radical supporters to any moderate course he may wish to take. Practically all the members of the now defunct Patriotic Front remain well armed and although they are still confined to camps, their very existence creates an explosive atmosphere. On the other hand, Mugabe knows that there is a positive solution to Zimbabwe's future.

The region of southern Africa, excluding the Republic of South Africa, covers an area almost equal in size to all of Europe. It includes Botswana, Lesotho, Swaziland, Zambia, Malawi, Zimbabwe, Mozambique, Angola, and Namibia. Only the last three have direct outlets to the sea. The climate ranges from the almost total aridity of great areas of Namibia and Botswana to the tropical rain forests of Angola and Mozambique. Seventy percent of the region consists of marginally arable grassland, which ranges in use from animal husbandry in central Malawi to crop production in Zimbabwe, Zambia, and Lesotho.

The agricultural production of Zimbabwe, especially in corn and tobacco, is famous throughout the world. The region is characterized by a small number of large rivers, so that there is a great unexploited potential for power and irrigation in the major basins. The natural resources of the region suggest the possibility of self-financed, rapid, socioeconomic growth and development.

Angola, Botswana, Mozambique, Namibia, Zimbabwe, and Zambia are known to have deposits of petroleum, coal, diamonds, copper, iron ore, chrome, bauxite, tungsten, and uranium.

In fact, Namibia has an enormous amount of uranium unexploited, unmined.

At the present time these resources produce little or no income because of political turmoil, transportation difficulties, energy shortages and the lack of investment capital. Zimbabwe, Angola, Lesotho, and Mozambique have the potential to develop low-cost hydroelectric power in excess of their present installations. Reduction of energy costs in the region would encourage overall development, improve the quality of life, and provide thousands and thousands of jobs for everybody.

Mugabe knows very well that if a regional pattern of peaceful economic cooperation can be developed as independent and thoroughly pacified Zimbabwe would give the entire region a forward push in which growth in one country will generate growth in others, because Zimbabwe, formerly Rhodesia, was the most advanced of this group of nations in technology and agriculture, the most advanced that could have helped all the others become prosperous while becoming prosperous themselves.

Mugabe also knows that if tribes and political factions in his country can bury the hatchet there is a shining future ahead for Zimbabwe and all her neighbor nations.

The fate of one important part of the African continent is now clearly in Mugabe's hands. He should know that the American people and its elected representatives are watching his future policies.

If his actions are in line with his public statements as Prime Minister, he can count on our continued support. If not, economic aid from abroad will not be able to stave off the tragic developments which are bound to engulf Zimbabwe and its neighbors in southeast Africa.

Mr. President, I am happy to share my grave concern about this part of Africa with my colleagues in the U.S. Senate.

I thank the Chair for permission to speak.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Arkansas, suggests the absence of a quorum, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASCS AND ACP: A JOB WELL DONE

Mr. EAGLETON. Mr. President, I rise today to bring to the attention of my colleagues the hard work and dedication of the men and women who implement the Federal farm programs across America, the employees and the County Committees of the Agricultural Stabilization and Conservation Service.

In this year of severe drought throughout the Midwest, and at a time when the spirit of our Nation's farmers has been tested by both the embargo on the sale of grain to the Soviet Union and by unreasonably high interest rates, the individuals who comprise the ASCS have worked tirelessly to insure that the Federal programs aimed at relieving some of the pain of these disasters have worked efficiently and effectively.

Through the efforts of ASCS, farmers have available to them the disaster payments program and the emergency livestock feed program which provide some measure of economic assistance to those who have seen their crops and pasture wither this past summer. And, through their efforts the farmer-held grain reserve program is in place. As a result, when agricultural prices started to move up due to the drought, farmers are the ones holding the reserves, not the private grain companies, and not the Federal Government. Farmers, therefore, are the ones who will benefit from this price movement, as well they should.

This summer's drought has also brought home once again the important message of just how delicate the balance between supply and demand can be if we allow our production capacity to decline or even remain static in a world whose population will reach 8 billion within the next 30 years.

Herein lies the importance of the other mission of ASCS, to join with farmers in conserving and increasing the productivity of our Nation's farmland.

I would venture to say that most Americans view our topsoil and farmland as a boundless resource capable of producing surplus crops year after year after year. Little do they realize that the land suitable for farming and the topsoil which is the lifeblood of agricultural land are, in fact, finite substances. Little do they realize how quickly we will exhaust these resources if we continue to use and abuse them as we do today. The pressure to produce more per acre and to expand farming operations to spread costs over more acreage has left conservation as a low priority.

It is time we woke up to what we are doing and to what a crucial national problem we are facing. We must work to develop a new attitude toward this resource—an attitude which reflects the fact that our topsoil is at least as precious a commodity as gold, silver, and oil.

We must develop an attitude which allows us to compute the true value of conservation in pounds of soil saved as well as dollars spent. We must recognize that our soil is, in some ways, more valuable than gold, because its value increases with age while it produces new wealth through food. None of us wants to see our soil become so rare a commodity that its value is determined in ounces instead of acres.

Through the ASCS-administered agricultural conservation program, the Federal Government becomes a partner with farmers in their efforts to protect our Nation from the depletion of agricultural lands. With ACP, the individual working with his county committee, decides what needs to be done. No one is coerced into a program they do not want. Herein lies the success of ACP and of all future conservation efforts. No Washington bureaucrat can determine what practice is best for each farm.

I share in the commitment of ASCS to the goal of conservation and I commend to my colleagues the fine work of ASCS and of our Nation's farmers in moving towards that goal. I urge my colleagues to join me in continued support of this fine effort.

RECESS UNTIL 8 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 8 p.m.

There being no objection, the Senate, at 6:54 p.m., recessed until 8 p.m.; whereupon, the Senate reassembled, when called to order by the Presiding Officer (Mr. EAGLETON).

FIFTEEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 8 p.m., recessed until 8:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MELCHER).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, this is the end of the fiscal year and an appropriate time for the Senate to reflect on fiscal policy and the impact on fiscal policy of the budget process. Fiscal 1980 has not been a particularly successful year for the budget process nor for congressional efforts to achieve meaningful fiscal restraint.

We began the year with agreement that the fiscal year 1980 deficit would not exceed $30 billion. Now we face a deficit in excess of $60 billion. Is it any wonder that American taxpayers are increasingly convinced that Federal spending is out of control?

We began the year adopting a policy of fiscal restraint that on the Senate side included $5.6 billion in program cuts through the reconciliation process in the second concurrent resolution. Now we see that fiscal year 1980 spending exceeded our original projections by almost 10 times that amount—$50 billion. This spending increase made a mockery the serious efforts we made earlier to restrain spending.

Mr. President, I do not view the 1980 experience as a failure of the budget process. The congressional budget necessarily embodies the actual spending intentions of the Congress, while attempting to set a ceiling that bars capricious or ill-timed spending proposals. However, during fiscal 1980 the Federal Government was beset by large spending increases due to changes in the economy, rising interest rates, and large increases in our defense operations. But I do note, Mr. President, that we accommodated these spending measures without adequate attention to their effect on fiscal policy, on the economy, or on the inflation rate. I do not believe that a government as large as ours can function effectively by such an ad hoc approach. This evening as our fiscal year comes to a close, I would like to share some of my thoughts on the need for a fiscal plan to guide our actions toward a longer run perspective. I ask my colleagues' indulgence even though the hour is late.

Mr. President, during the past 2 weeks the Government has reported several economic indicators, all of which suggest that the economy is now beginning to recover. Industrial production turned up in August for the first time since January. Housing starts have reached an annual rate of 1.4 million units compared to a rate of less than 900,000 units in May. Capacity utilization is up, personal income is rising and the index of leading indicators appears to point in the direction of economic recovery.

In fact, the Chief Economist of the Commerce Department has indicated that we might see some growth in the economy in the current quarter and that the economy probably ended its decline in July or August. If this recession, which many expected to be deep and prolonged ends after only 7 months, it will be the shortest downturn since 1920. In my view, such a swift recovery indicates an inherent stability in the economy which economists and policymakers have underestimated and which, in my opinion, has distorted the entire focus on economic policy in recent years.

Mr. President, I believe that the emerging strength in the economy provides the Congress an important opportunity to chart a new course for fiscal policy. In fact, the recent change in the operating procedures of the Federal Reserve and the commitment of the Fed to slowing the growth in the money supply require a fundamental shift in the focus of fiscal policy—away from short-term stimulus and toward longer run objectives.

If we in the Congress fail to change the way we do business, we are inevitably going to have fiscal and monetary policy working at cross purposes to the detriment of the economy. Today I would like to discuss an approach that I believe will provide the stability and the predictability in fiscal policy that are so desperately needed.

During the past decade, fiscal policy has been heavily influenced by the Keynesian notion that the Government needed to stimulate the economy in order to avoid recession. However, I note that there have been four recessions since 1960; three of which have occurred since 1970. In fact, for all our efforts, the evidence of successively higher unemployment rates, even during periods of economic expansion suggests that the attempt to stimulate the economy to higher rates of economic growth and lower unemployment has actually had a perverse result.

Indeed, I believe that in attempting to subdue a demon we have created a monster, namely inflation. The coexistence of inflation and high unemployment produces a fiscal policy which is aimed toward "fine tuning" the economy in a proverbial "no win" situation. Any of my colleagues who are duck hunters will agree that you can rarely hit two targets flying in opposite directions with a single shot. Yet this is precisely the challenge we impose on fiscal policy. After 6 years on the Budget Committee, I am convinced that persisting in this ill conceived effort will have very unfortunate consequences for the economy and for the Nation.

Let us look for a minute at our experience with fiscal and monetary policy stimulus since 1970. 1970 was a year of recession. In that year, the Federal deficit was trimmed to $2.8 billion and money supply (M-2) grew only 3.8 percent. However, the economy recovered in early 1971 and, in that year and again in 1972, the federal deficit was $23 billion in each year, or well over 2 percent of the gross national product in those years. These deficits, which occurred during a period of rapid economic expansion, were as large relative to the economy at that time, as is the $63.3 billion defiicit we now expect in fiscal year 1980. What happened to money supply growth during these years? Simply put, it exploded. M-2 grew at an annual rate of more than 10 percent a year from 1971 to 1973.

The consequences of these highly expansionary policies are well documented. Inflation doubled between 1972 and 1973, and the Federal Reserve doubled interest rates in an attempt to slow the economy and the inflationary surge. Federal spending, in real terms, was also curtailed after an explosion in 1972, and the economy was thrown into the worst recession since the Great Depression. On a scorecard of economic policymaking, I believe this episode would receive failing marks. In effect, we had two hunters, Congress and the Fed, shooting at the same duck, both scored hits and the duck was torn to shreds.

So, what have we done during the recent economic recovery, given stark experience of the early 1970's as our guide? The pattern is discouragingly similar. In fiscal 1976, the Federal deficit was $66.3 billion or 4.1 percent of GNP, and in 1977 and 1978, the deficit was $45 billion and $48.3 billion, respectively, or 2.4 percent of GNP. This is to say, during the recent expansion the deficit was higher, not lower, both in absolute terms and relative to the economy than it had been in the early 1970's.

Correspondingly, the Federal Reserve accommodated this highly stimulative fiscal policy, allowing the money supply to grow 13 percent a year in both 1976 and 1977. Even at what, in retrospect, was the most restrictive stage of the recent expansion, fiscal year 1979, the deficit was $27.7 billion and money supply was growing at 9 percent. Again, both fiscal and monetary policy managers scored a hit, but, the economy suffered from policy overkill.

The result was almost "runaway" inflation accelerating to 18 percent in the first quarter of 1980. A frustrated and apprehensive Federal Reserve felt compelled last March to allow interest rates to rise to unprecedented heights and to impose controls on bank and consumer credit. I ask unanimous consent to submit for the Record at this point a table which shows the Federal deficit, the deficit as a percent of GNP, the growth in M-2, inflation rates, and unemployment rates for the fiscal years 1970 through 1980.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—RECENT TRENDS IN FISCAL AND MONETARY POLICY AND THE ECONOMY

	Deficit (billions)	Percent of GNP	Percent change in M (2)	Unemployment rate	Change in CPI
1970	−$2.8	0.3	3.8	4.0	5.9
1971	−23.0	2.3	7.9	5.7	5.2
1972	−23.4	2.1	12.9	5.9	3.6
1973	−14.8	1.2	12.1	5.2	4.0
1974	−4.7	.3	7.4	4.9	9.0
1975	−45.2	3.1	6.6	7.3	11.1
1976	−66.4	4.1	12.6	8.0	7.1
1977	−45.0	2.4	13.3	7.3	6.0
1978	−48.8	2.4	9.6	6.2	7.1
1979	−27.6	1.2	8.8	5.8	10.3
1980[1] estimate	−63.3	2.5	NA	6.9	13.7

[1] Estimate.

Mr. BELLMON. Up to now, the Congress and the Fed have been operating economic policy like two farmers operating tractors. Each has an accelerator and a brake, in the form of fiscal and monetary policy. In the early 1970's both stepped hard on the accelerators, and this economy went roaring ahead until they hit a barrier marked "inflation." Both then stepped on the fiscal and monetary policy brakes. Overcorrection followed throwing the economic policy machine and the economy into reverse.

During the last expansion, we repeated our mistakes with startling precision except that when it came time to apply the brakes, we, in the Congress, placed the full burden on the Federal Reserve. I can tell my colleagues who have never driven a tractor before that if you suddenly slam on only one of the two wheel brakes, the tractor will likely flip the driver who will be found upside down in the ditch.

I believe I can safely say that, by stepping hard on the monetary brake in March, the Federal Reserve succeeded in flipping the economy over. We should be thankful that recent data suggest it appears to have righted itself again. As an aside, I should note that these economic derailments seem to take place about every 4 years, and the resulting economic stress does not well serve incumbents from either political party.

Clearly, our recent experience demonstrates that we have to establish some budgetary guidelines which will curb the tendency to add stimulus, increase the stability and restraint in fiscal policy and reduce the general uncertainty about the course of fiscal policy. A stable fiscal policy would enable Congress to concentrate its resources on long term problems like defense, energy, general health and social welfare, and would leave to the Federal Reserve the task of stabilizing the cyclical forces in the economy.

The time has come when we in Congress must incorporate into our budget process a reasonable and highly visible limitation on the growth in Federal spending. An effective limitation on spending would enhance both the stability and the predictability of fiscal policy, would limit the Federal role in the economy which tends to be inflationary and would reduce the upward pressure on interest rates from Federal borrowing.

For example, we could set as an upward limit on the growth in Federal spending, the average anual growth in GNP over the last 5 years. This is similar to an approach that Chancellor Adenauer adopted in post-World War II Germany, which was guided by the past year's growth in the real economy. This restraint in spending growth, though simple to understand, was not politically easy to implement. However, it can be credited with setting German fiscal policy on the noninflationary path that has contributed directly to the strong economy and the stable currency Germany enjoys today.

Currently, the average growth in the U.S. economy during the past 5 fiscal years is 11.2 percent. While this might sound to some like too high a growth rate for limiting Federal spending, it is actually lower than the 13 percent average spending growth of the past 3 years. Moreover, because of the high inflation rates projected over the next few years, a guideline such as this would reduce Federal spending as a percent of GNP. Over time, as inflation slows, the growth rate implied by such a guideline would decline to the point that we could limit the Federal spending to the real growth in the economy.

I ask unanimous consent to enter into the RECORD at this point a table that compares the levels of Federal spending implied by this rule to the spending totals recommended by the Senate Budget Committee in the first concurrent resolution and in the recently reported second resolution for fiscal year 1981.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—COMPARISON OF SPENDING LIMIT TO OUTLAY CEILINGS RECOMMENDED IN FCR FISCAL YEAR 1981 AND SCR FISCAL YEAR 1981 (AS REPORTED)

	Fiscal year—				
	1979	1980	1981	1982	1983
Spending limited by GNP growth	493.7	549.0	610.6	678.9	754.9
First Concurrent Resolution fiscal year 1981		572.6	613.6	695.6	765.5
Second Concurrent Resolution (as reported)		580.3	633.0	709.9	777.7

Mr. BELLMON. If we had adopted a guideline like this during 1980, the Congress might have made greater efforts to limit spending to the $549 billion ceiling implied by this rule instead of allowing spending to rise to the $580.3 billion actual level that is now expected. Spending in both the first and second budget Resolution for fiscal year 1981 also would have been limited under this approach to $610.5 billion. Given the real prospect of continuing and accelerating inflation, I believe that a $610.5-billion spending level—which incidentally would give us a balanced budget—is far preferable to the $633-billion spending ceiling in the reported resolution.

No rule is a substitute for reason and good judgment. A general spending guideline such as this does not replace the congressional budget process, but in fact buttresses the discipline that the process itself implies. However, I do note that had this rule been applied and rigorously followed during the past economic cycle, the Congress would have engaged in substantially less fiscal mischief and the budget today would be in balance.

I hope my colleagues do not regard such rules as a challenge to congressional authority. Congress is not precluded from stimulating the economy; it is only limited in its use of increased spending and deficit financing to achieve its fiscal objectives. Congress would, however, be required to set priorities among the many worthwhile claims on our fiscal resources. Given that under our present tax structure, revenues are expected to grow between $100 and $150 billion per year for the next 5 years, I find it difficult to believe that spending cannot be confined within these very generous limits.

The Keynesian principles that have led to deficit financing and excessive stimulus in recent years are clearly dead. In my view, we must acknowledge honestly the failure of these policies to bring prosperity and move ahead into a new era of economic policymaking, that relies more heavily on the Federal Reserve to provide cyclical stability through adjustments in monetary policy.

Already, the Federal Reserve has made sweeping changes in its operating procedures that may leave the Congress little choice but to revise the way it conducts its fiscal business. Last October, the Federal Reserve adopted a "fixed money supply growth target," under which the Fed attempts to control and to limit the rate of growth in the money supply to a rate that is considered consistent with the slowing of inflation in the economy. Under this policy, when demand for credit slows as it did in the second quarter of 1980, interest rates decline correspondingly. When demand for credit picks up, as it has in recent weeks, interest rates will tend to rise. These new operating procedures provide the Fed with a very responsive policy vehicle that reacts immediately to changes in the economy and particularly to changes in inflation. The relative ability of the Fed to react quickly to changes in the economy compared to our cumbersome fiscal policy machinery suggest that the Fed is likely to be far more effective than the Congress in stabilizing economic cycles. Too often, the Congress undertakes a policy that I would like to call "too much too late" under which countercyclical programs begin to take effect at precisely the point when inflation is rising. The Fed, because of its flexibility, can avoid this problem.

The change in the Fed's approach to monetary policy also strongly suggests that congressional attempts at fiscal stimulus will not be accommodated as they have in the past and will tend to be offset by higher interest rates. This point was underscored by Chairman Volcker in his recent testimony before the House Budget Committee and I quote:

> But at the same time, tax reduction (or spending increases)—whether to assist productivity or to support purchasing power—have effects on revenues and budgetary position that we cannot ignore. If we try to do so, the adverse effects may more than offset the good. I am frankly concerned about the size of the expenditure increases projected in the latest official estimates. Indeed, programs and policies interpreted as exacerbating and prolonging the inflationary process can be counterproductive.

At an underlying inflation rate of 10 percent, in an economy already brittle after 3 years of declining real income, I encourage my colleagues to exercise caution when considering either substantial new spending increases or tax reductions. It appears to me that the Federal Reserve has exhibited a clear willingness to allow interest rates to fluctuate in response to the changes in the economy. If the Congress can restrain itself from excessive spending and deficits as I have suggested today, I would hope that these changes in interest rates would never again occur with the stunning volatility that we witnessed this spring.

I urge my colleagues, particularly those in the budget process, to adopt a guideline limiting the growth in federal spending prior to the next budget debate. Such a guideline is not vastly different from most of the proposals to limit Federal spending. However, although I share the desire to reduce the Federal Government's share of the economy, stability in the economy, which I believe can be best achieved by stability in fiscal policy, is my primary goal. The existence and persistence of the federal deficit has nurtured the illusion that our Nation's resources are limitless. They are not. Attempts to spend beyond our means are only turned back upon us in the form of inflation which in the short term further concentrates wealth and in the long term erodes it.

Mr. President, at the beginning of the postelection session, I intend to introduce legislation that would require the Budget Committees of both Houses to include, in their reported resolutions, a guideline for the maximum growth in Federal spending appropriate during the next 5 years. This statement of objectives would be included in both the first and the second concurrent budget resolutions. Such a statement of objectives is similar to the semiannual reports that the Federal Reserve now sends to the Congress announcing both short and long-term goals for the growth in the monetary aggregates. The effectiveness of the Federal Reserve Board's operating procedures is judged in the basis of the goals the Fed sets out in these reports and the Federal Reserve is held accountable by the Congress and by the public for large deviations. A public statement in a joint budget resolution on congressional intent to control the growth in spending and the accountability that necessarily suggests would augment the existing discipline in the budget process.

If actual spending or the aggregate spending target in either the first budget resolution or the spending ceiling set in the second resolution exceed the statement of objectives, my legislation would require that the Budget Committee of each House cite the reasons why these guidelines are not met by the committee's recommendation and that the reported resolution contain an alternative budget that would satisfy the spending limit. My proposal would pertain to spending recommendations that exceeded the statement of objectives in any one of the 3 years set in the budget resolution.

I hope that the Senate will consider seriously this recommendation when I propose it formally in November, and that it will be adopted in time for the next budget debate. I urge that a new policy of consistency based on long-term spending objectives replace the old policies of short-term convenience and that budgetary guidelines, such as I have discussed here, today, will play an important role in encouraging and sustaining the transition.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSTON AFRICAN AMERICAN NATIONAL HISTORIC SITE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1025.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, that item is cleared on this side, and we have no objection to the request or the consideration and passage of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 7434), to provide for the establishment of the Boston African-American National Historic Site in the Commonwealth of Massachusetts, and for other purposes, reported without amendment.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1708

(Purpose: To establish the National Center for the study of Afro-American History and Culture)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. GLENN I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of Mr. GLENN proposes an unprinted amendment numbered 1708.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

"TITLE I—BOSTON AFRICAN AMERICAN NATIONAL HISTORIC SITE

On page 1, line 3, strike out "That, in" and insert in lieu thereof "Sec. 101. In".

On page 2, line 10, strike "Sec. 2." and insert in lieu thereof "Sec. 102.".

On page 2, line 12, strike "3" and insert in lieu thereof "103".

On page 2, line 21, strike "Sec. 3." and insert in lieu thereof "Sec. 103.".

On page 4, line 8, strike "Sec. 4." and insert in lieu thereof "Sec. 104.".

On page 4, line 15, strike "Sec. 5." and insert in lieu thereof "Sec. 105.".

On page 4, line 23, strike "Sec. 6." and insert in lieu thereof "Sec. 106.".

On page 5, after line 4, insert the following new title:

TITLE II—NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

SEC. 201. This title may be cited as the "National Center for the Study of Afro-American History and Culture Act".

SEC. 202. (a) There is established a commission to be known as the National Afro-American History and Culture Commission (hereinafter in this title referred to as the "Commission") which shall be composed of fifteen members, as specified in section 203 of this title.

(b) The Commission shall have the following duties:

(1) The Commission shall be responsible for the development of a definitive plan for the construction and operation of the National Center for the Study of Afro-American History and Culture and shall submit the plan, together with any recommendations for additional legislation, to the President of the United States and the Congress not later than twenty-four months after the date of the enactment of this title. The plan shall include, but not be limited to, identification of—

(A) the main objectives to be achieved by the establishment, development, and operation of the National Center for the Study of Afro-American History and Culture;

(B) the types of uses, both public and private, to be accommodated by such a center;

(C) the criteria and recommendations for the design and appearance of such a center;

(D) the proposed ownership and operation of the center;

(E) the criteria and recommendations for interpretive, cultural, and educational programs and uses of the center;

(F) the areas where cooperative agreements might be developed between the center and Afro-American institutions, organizations, and universities to enhance their programs and projects relating to the knowledge, preservation, and presentation of the history and culture of Afro-Americans;

(G) the estimates of costs, both public and private, for implementing the plan; and

(H) the procedures to be used in implementing the plan.

(2)(A) The Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government services are allowed expenses under section 5703 of title 5, United States Code. Any funds so received by the Commission shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Commission only to meet the costs specified in this subparagraph.

(B) The General Services Administration, the Smithsonian Institution, and other agencies of the Government may donate or loan to the Commission for the purposes of the center any works of art, artifacts, or other materials under their control.

(c) For the purpose of carrying out this title, the Commission may—

(1) acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), transfer from any Federal or State agency, exchange, or otherwise, suitable land (together with any buildings or other improvements thereon) and interest in land in the vicinity of Wilberforce, Ohio, for the location of the headquarters of the center;

(2) borrow or acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), or otherwise, any other real or personal property necessary for the establishment and operation of the center; and

(3) sell, exchange, or otherwise dispose of any property acquired under this subsection and designate any proceeds from such disposal for the benefit of the center.

SEC. 203. (a) The Commission shall be composed of fifteen members as follows:

(1) The Secretary of the Interior (or his designee).

(2) The Secretary of Education (or his designee).

(3) The Librarian of Congress (or his designee).

(4) The President of the Association for the Study of Afro-American Life and History.

(5) The presidents of Wilberforce University and Central State University in Ohio.

(6) Nine members appointed by the President, who are especially qualified to serve on the Commission by reason of their background and experience. No more than two members appointed under this paragraph shall be from any one State.

(b) Subject to subsection (c), the members of the Commission specified in paragraphs (1) through (5) of subsection (a) shall serve for the life of the Commission. The members of the Commission appointed under paragraph (6) of such subsection shall serve for terms of four years, except that of the members first appointed—

(1) three shall be appointed for terms of one year;

(2) three shall be appointed for terms of two years; and

(3) three shall be appointed for terms of four years; as designated by the President at the time of appointment.

(c) If any member of the Commission who was appointed to the Commission under paragraphs (1) through (5) as an officer designated under such paragraphs leaves such office, such member may continue as a member of the Commission for not longer than the thirty-day period beginning on the date he leaves that office.

(d)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(e) Six members of the Commission shall constitute a quorum.

(f) The Commission shall act by affirmative majority vote.

(g) The Commission shall elect a chairman and other officers from among its members to serve for terms established by the Commission.

(h) The Commission shall meet at the call of the chairman or a majority of its members, but not less than two times each year. The headquarters of the Commission shall be at Wilberforce, Ohio, and the Commission shall conduct its meetings in such city unless circumstances otherwise require.

(i) The Commission may adopt an official seal which shall be judicially noticed and may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this title.

(j) Members of the Commission shall serve without pay.

(k) The Commission may procure, subject to the availability of funds, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(l) Upon request of the Commission, and subject to the availability of funds, the head of any Federal agency may detail to the Commission on a reimbursable basis any of the personnel of such agency to assist the Commission in carrying out its duties under this title.

(m) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this title.

SEC. 204. On the first January 1 occurring after the date of the enactment of this title, and on each subsequent January 1, the Commission shall submit to appropriate committees of the Congress a report which contains a detailed statement of the financial transactions of the Commission and the activities undertaken by the Commission during the previous year. The report shall contain such other appropriate information as the committees to whom the report is submitted may from time to time request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. GLENN be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. GLENN. Mr. President, this amendment, which incorporates the text of S. 1814 as it passed the Senate on Friday, had its genesis at the grassroots level in the village of Wilberforce, Ohio, a small but historically and currently significant community in Ohio.

Wilberforce was an important stop on the Underground Railway and, since 1865, has had a key role in the education of black Americans. Wilberforce University, in that year, became the first private university in the United States organized by and for black Americans. It continues today in a leadership role among traditionally black institutions of higher education. Wilberforce University has given life, along with the State of Ohio in one instance and the African Methodist Episcopal Church in the other, to Central State University and Payne Theological Seminary, respectively.

It is now more than a decade since the effort to establish at Wilberforce a National Museum of Afro-American History and Culture. Those efforts, which have led to action at the State level, including the appropriation of $3.5 million to date, have been widely endorsed. In 1977, Congress enacted legislation directing a study of the feasibility and suitability of Wilberforce as the site of such a facility. The conclusion of the Park Service was that Wilberforce was, indeed, a suitable and feasible site.

The amendment I am proposing, which the Senate has already adopted, responds, however, to policy considerations and conclusions stemming from the NPS report by shifting the emphasis away from the repository function of a museum. The amendment would instead establish a 15-member Commission tasked with establishment of the National Center for the Study of Afro-American History and Culture at Wilberforce. The Commission would not be authorized direct appropriations, but rather would be empowered to solicit funding, both public and private, toward its goal.

S. 1814 was introduced on September 25, 1979, concurrently with a House companion measure, H.R. 5401, which now has the cosponsorship of nearly all members of the Congressional Black Caucus. Hearings were held by the Committee on Governmental Affairs, which reported the measure unanimously on September 10, 1980, after adopting my amendments to tighten up the bill and remove from it a provision—similar to the purpose of H.R. 7434—which would have established a national historic site at Wilberforce. S. 1814, as I have noted, passed the Senate without opposition last Friday.

Wilberforce has been a focus of Afro-American settlement and higher education since at least the middle of the 19th century. It was closely tied to the Underground Railroad and retains to this day several significant physical resources, such as the home of Col. Charles Young, one of the earliest black graduates of the U.S. Military Academy, who was but one of the important figures in Afro-American history to be associated with this community in Greene County, Ohio.

Mr. President, I strongly commend this amendment to my colleagues and hope that it will be adopted and that H.R. 7434 will be enacted so that both of these historic black communities will be appropriately recognized.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD's amendment (UP No. 1708) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS TO SOCIAL SECURITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1097.

Mr. BAKER. Mr. President, reserving the right to object, the item just identified by the majority leader is cleared on this side as well, and we have no objection to the request or to the consideration and passage of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5295) to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, and so forth, reported with an amendment.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert the following:

PROVISION RELATING TO AVAILABILITY OF MONTHLY EARNINGS TEST

SECTION 1. (a)(1) Section 203(f)(1) of the Social Security Act is amended—

(A) by striking out "or" immediately before clause (E), and

(B) by inserting before the period at the end thereof the following: ", or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202 (b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection) or under section 202(d) or (g), if such month is in a year in which such entitlement ends for a reason other than the death of such individual, and such individual is not entitled to any benefits under this title for the month following the month during which such entitlement under section 202 (b), (d), or (g) ended".

(2) Section 203(f)(2) of such Act is amended by striking out "(D), and (E)" and inserting in lieu thereof "(D), (E), and (F)".

(b) The amendments made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

MEDICARE ENTITLEMENT

SEC. 2. (a) Section 226(a)(2) of the Social Security Act is amended by inserting after "section 202" the following: ", or would be entitled to those benefits except that he has not filed an application therefore (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor) and, in conformity with regulations of the Secretary, files an application for hospital insurance benefits under part A of title XVIII,".

(b) Section 1811(1) of such Act is amended by striking out "are entitled to" and inserting in lieu thereof "are eligible for".

(c) For purposes of section 226 of such Act as amended by subsection (a) of this section, an individual who filed an application for monthly insurance benefits under section 202 of such Act prior to the effective date of the amendment made by subsection (a) shall be deemed to have filed an application for hospital insurance benefits under part A of title XVIII of such Act, at the time he applied for such benefits under section 202 regardless of the continuing status or effect of the application for benefits under section 202, if he would have been entitled to benefits under that section had such application remained in effect.

(d) The amendments made by subsections (a) and (b) shall be effective after the second month beginning after the date on which this Act is enacted.

INCOME NOT ATTRIBUTABLE TO SERVICES PERFORMED AFTER ENTITLEMENT

SEC. 3. (a) Section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of—

"(i) an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or

"(ii) an individual who has become entitled to insurance benefits under this title, other than benefits under section 223 or benefits payable under section 202(d) by reason of being under a disability, and who shows to the satisfaction of the Secretary that he or she is receiving, in a year after his or her initial year of entitlement to such benefits, any other income not attributable to services performed after the month in which he or she initially became entitled to such benefits, there shall be excluded from gross income any such royalties or other income.".

(b) The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1977, but only with respect to benefits payable for months after December 1977.

RETROSPECTIVE EFFECT OF ELIMINATION OF MONTHLY EARNINGS TEST

SEC. 4. (a) Section 203(f)(1) of the Social Security Act is amended by striking out "the first month" in clause (E) and inserting in lieu thereof "the first month after December 1977".

(b) The amendment made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

REALLOCATION OF OASDI TAXES

SEC. 5. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) through (K) and inserting in lieu thereof the following: "(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

LIMIT ON RETROACTIVE BENEFITS

SEC. 6. (a)(1) Section 202(j)(1) of the Social Security Act is amended by striking out "twelfth" and inserting in lieu thereof "third".

(2) Section 223(b) of such Act is amended by striking out "12th" and inserting in lieu thereof "third".

(b) The amendment made by subsection (a) shall be effective with respect to applications filed on or after the date of the enactment of this Act.

BENEFITS FOR CERTAIN PRISONERS

SEC. 7. (a)(1) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with the commission of a crime by an individual (committed after the date of enactment of this paragraph) for which such individual is subsequently convicted, or which is aggravated in connection with such a crime (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.

"(B) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with an individual's confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of an offense (committed after the date of the enactment of this paragraph) constituting a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.".

(2) The third sentence of section 216(i)(1) of such Act is amended by striking out "and (5)" and inserting in lieu thereof "(5), and (6)".

(b) Section 202(d)(7)(A) of such Act is amended by adding at the end thereof the following: "An individual shall not be considered a 'full-time student' for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the date of the enactment of this paragraph) which constituted a felony under applicable law.".

(c) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"SUSPENSION OF BENEFITS FOR INMATES OF PENAL INSTITUTIONS

"(f)(1) Notwithstanding any other provision of the title, no monthly benefits shall be paid under this section, or under section 202(d) by reason of being under a disability, to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

"(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.".

(d) The amendments made by this section shall be effective with respect to benefits payable for months beginning on or after October 1, 1980.

TECHNICAL CORRECTIONS

SEC. 8. (a) Section 202(e)(2)(B)(i) of such Act is amended by striking out the second comma following "where applicable".

(b)(1) Section 203(a)(3)(A) of such Act is amended by striking out "bases" and inserting in lieu thereof "basis".

(2) Section 203(a)(7) of such Act is amended by striking out "benefits base" and inserting in lieu thereof "benefit base".

(c) Section 213(a)(2)(A) of such Act is amended by striking out "quarters of coverage" and inserting in lieu thereof "quarter of coverage".

(d) Section 215(a)(4)(B) of such Act is amended by striking out "computation or recommendation" and inserting in lieu thereof "computation or recomputation".

(e)(1) Section 303 of such Act is amended by redesignating the second subsection (d) as subsection (e).

(2) Section 304(a)(2) of such Act is amended to read as follows:

"(2) makes a finding with respect to a State under subsection (b), (c), (d), or (e) of section 303,".

(f)(1) Section 402(a)(27) of such Act is amended by striking out "provide, that the State" and inserting in lieu thereof "provide that the State".

(2) Section 402(a)(29) of such Act is amended by striking out "provided" and inserting in lieu thereof "provide".

(3) Section 402 of such Act is amended by redesignating the second subsection (d) as subsection (e).

(g)(1) Section 1612(a)(1)(B) of such Act is amended by striking out "following subsection (a)(10)" and inserting in lieu thereof "following subsection (a)(11)".

(2) Section 1612(a)(1) of such Act is further amended—

(A) by striking out "and" at the end of subparagraph (B); and

(B) by redesignating the second subparagraph (C) as subparagraph (D).

(3) Section 1612(b)(2)(B) of such Act is amended—

(A) by striking out "Monthly" and inserting in lieu thereof "monthly"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof a semicolon.

(h) Section 1631(b) of such Act is amended—

(1) by striking out "(b)(1)(1)" and inserting in lieu thereof "(b)(1)"; and

(2) by redesignating the second paragraph (2) as paragraph (3).

(i) Section 1815(c) of such Act is amended by striking out "for on in connection with" and inserting in lieu thereof "for or in connection with".

(j) Section 1833 of such Act is amended by redesignating the second subsection (g) as subsection (h).

(k) Section 1905(c) of such Act is amended by striking out "under clauses (1)" and inserting in lieu thereof "under clause (1)".

(l) Section 2003(e)(1) of such Act is amended by striking out "under subsection (g)" and inserting in lieu thereof "under subsection (d)".

Mr. BAKER. Mr. President, I ask unanimous consent that a statement in connection with the consideration of this measure by the Senator from South Carolina (Mr. THURMOND) be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. THURMOND. Mr. President, today I wish to express my strong support for H.R. 5295.

This legislation, which passed the House of Representatives unanimously (383 to zero) on December 19, 1979, includes a provision which I introduced, with the cosponsorship of Senator DOLE, as a separate bill (S. 2083) on December 6, 1979, to remedy a problem that has arisen with the 1977 amendments to the Social Security Act in regard to the application of the "earnings test" to recipients of social security retirement benefits. This legislation would provide relief to certain retired, formerly self-employed persons who are having their social security retirement benefits reduced because of the receipt of deferred payments for services rendered prior to retirement.

Some examples of the types of deferred income received by various categories of retired self-employed persons are as follows: Many insurance agents depend on renewal commissions on insurance policies which they originally sold for a substantial portion of their retirement income. Inventors and authors frequently receive deferred income after retirement from patents and copyrights. Lawyers, doctors, accountants, and other professionals receive deferred income from work in progress at retirement and return of capital invested in a business partnership. Farmers often sell crops in the year they begin receiving social security which were raised during or prior to their retirement year.

Essentially what the 1977 amendments did was to substitute an "annual earnings" test for a combined "annual-monthly earnings" and "substantial services" test. Under pre-1978 law, this type of deferred income earned prior to entitlement to retirement benefits was not counted, because the recipients generally would not be deemed to have engaged in "substantial services", defined principally as working over 45 hours per month in self-employment.

As long as this substantial services test was not breached, self-employed beneficiaries receiving deferred income for services performed prior to retirement could receive the full amount of their social security benefits each month. However, with the elimination of the monthly, substantial services test in the 1977 amendments, the unintended result was that these deferred payments were treated by the Social Security Administration as earned income and counted against the maximum that can be received without suffering a reduction in social security benefits.

The unfortunate result, Mr. President, is that many of these formerly self-employed, now retired persons are suffering a severe reduction in their retirement income. It is also my understanding that some insurance agents, and perhaps other persons, are postponing retirement, hoping that Congress will change the law. These persons have planned their retirement on the expectation that they would receive the full amount of their social security benefits plus renewal commissions on insurance policies sold by them.

As my colleagues will recall, the Senate approved remedial legislation addressing this particular problem near the end of the 95th Congress. However, time did not permit the House of Representatives to act during 1978. I am pleased that the Senate is acting before the 96th Congress adjourns to remedy this grave injustice. I especially wish to commend Senators LONG, NELSON, and DOLE for their actions in the Senate Finance Committee in having this legislation reported.

Mr. President, out of a sense of simple fairness to self-employed persons who were counting on both deferred income payments and their full social security benefits, and in order to alleviate the unintended harsh effects of the 1977 amendments to the Social Security Act, I hope that my colleagues will approve H.R. 5295.●

● Mr. DOLE. Mr. President, the Senator from Kansas is very pleased to rise in support of H.R. 5295 which corrects certain inequities created by the elimination of the monthly social security retirement test in the 1977 Social Security Amendments.

This bill is designed to reinstate benefits to individuals who were inadvertently harmed by the elimination of the retirement test. It is a good bill, and my colleagues should be proud to enact such legislation which will insure that individuals will receive the full amount of social security benefits to which they are entitled.

There are essentially four categories of innocent beneficiaries who have been adversely affected by the repeal of the monthly earnings test:

First. Individuals who leave the benefit rolls in midyear and then earn more than the annual limit, such as surviving children who turn 18 or graduate from school. Such persons have to repay benefits received in the first part of the year.

Second. Individuals who apply for medicare prior to actual retirement and whose income drops below the earnings test level in 1 month. Such persons use up their right to the one-time monthly earnings test if their income is low in 1 month even though they have not actually retired, but they cannot apply for medicare without also applying for cash benefits.

Third. Self-employed insurance agents, farmers, lawyers, accountants and other partners who receive income after retirement that is attributable to services performed before they first became entitled to old-age insurance. They have generally planned to use the deferred income as a supplement to social security for retirement, but now they are being precluded from receiving social security.

Fourth. Individuals who have worked only part of a year after they reach age 62 but before they fully retire; for example, teachers who work for 9 or 10 months after they turn age 62. The retroactive application of the one-time right to use a monthly earnings test affects about 265,000 people who used up their right without knowing that they would be precluded from using it again.

The bill, H.R. 5295, as reported by the Senate Finance Committee, contains the following provisions concerning the retirement test:

First. Provides a monthly earnings test for individuals who leave the social security benefit rolls in midyear, other than on account of death or eligibility for another type of social security benefit.

Second. Allows persons to make a separate application for medicare without applying for cash benefits.

Third. Provides that only income attributable to services performed after a person first became entitled to old-age insurance, dependent's benefits or survivor's benefits would be taken into account in determining his or her gross income for purposes of the earnings test, except in the first year of entitlement when the monthly earnings test applies.

Fourth. Guarantees that everyone will get 1 year to use the monthly earnings test after January 1, 1978.

Because these provisions carry a first-year cost of $90 million, the Finance Committee also included social security savings provisions in the bill to offset the cost. These provisions have already passed the Senate in the budget reconciliation bill. One provision limits retroactive benefit payments to 3 months, and the other denies benefits to prisoners.

There has been a great deal of interest in this bill, and rightly so, because it simply corrects some unintended effects of an earlier change in the law. I support the bill and am extremely pleased that the leadership has allowed it to come up tonight.●

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

> "An Act to amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes".

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. On behalf of Mr. ZORINSKY, I submit a report of the committee of conference on S. 985 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 985) to amend the Consolidated Farm and Rural Develop-

ment Act having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1980.)

● Mr. ZORINSKY. Mr. President, S. 985 was first introduced in the Senate in April 1979 as an administration request bill to satisfy the budgetary requirements under section 346 of the Consolidated Farm and Rural Development Act. Section 346 requires Congress, every 3 years, to set overall spending limits for the loan programs authorized under the act.

Since S. 985 has been introduced, however, its scope has been expanded substantially. Amendments have been added to clarify and define the role of the Farmers Home Administration in aiding farmers faced with disaster situations and to make other improvements in the loan programs under the Consolidated Farm and Rural Development Act.

ROLE OF THE FMHA AND SBA

Since 1977, there has been much debate both in Congress and within the Administration about the appropriate roles of the Farmers Home Administration and the Small Business Administration in agricultural disaster lending. After extensive negotiations between the Small Business Administration and the Farmers Home Administration, legislative proposals were developed that were submitted to Congress in 1979.

The first of these proposals became law as part of Public Law 96-302, an act relating primarily to programs under the Small Business Act. This legislation, enacted July 2, 1980, provides that an agricultural enterprise will not be eligible for SBA physical disaster loan assistance to repair or replace property other than a residence unless the enterprise is first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration at substantially similar interest rates.

Additionally, Public Law 96-302 and provisions added to S. 985 make changes in the FmHA and SBA disaster loan programs for farmers in order to eliminate differences between the programs.

Among the conforming changes made by Public Law 96-302 and S. 985, the Secretary of Agriculture would be given the authority to provide emergency loan assistance to borrowers who can obtain credit from other sources. Under existing law, such borrowers may receive SBA disaster loans.

Loans to creditworthy borrowers would carry interest rates set by the Secretary, but not to exceed the cost of money to the Government plus an administrative charge of up to 1 percent. These loans would be limited to actual losses and could not exceed $500,000 per disaster for any one borrower.

Public Law 96-302 and S. 985 also provide that insured emergency loans to creditworthy borrowers shall be reviewed for graduation 3 years after the loan is made and every 2 years thereafter.

IMPROVEMENTS IN THE FMHA EMERGENCY LOAN PROGRAM

Severe criticism was leveled against the FmHA emergency loan program late last year on the television program, 60 Minutes. In addition, abuses of the FmHA emergency loan program were reported to Congress by the Office of the Inspector General of the Department of Agriculture and the General Accounting Office.

S. 985 contains a number of provisions related to loan eligibility and borrowing limits that are designed to eliminate the reported abuses of the program.

One of the criticisms of the FmHA loan program aired last year was that borrowers who had extensive nonagricultural assets were eligible for low-interest emergency loans notwithstanding the requirement that applicants show that they could not get credit elsewhere. This loophole existed because the Farmers Home Administration did not require an applicant to report his assets from nonagricultural enterprises.

To correct this situation, S. 985 requires the Secretary, in determining whether to make an emergency loan, to take into consideration the overall net worth of the applicant, including all of the applicant's assets and liabilities.

S. 985 also provides that in determining whether an applicant for a low-interest loan is unable to obtain credit elsewhere, the Secretary must require the applicant to submit at least one written declination of credit that specifies the reasons for refusal. If the emergency loan does not exceed $300,000, the Secretary could waive this requirement if it was determined that it would impose an undue burden on the applicant. For loans in excess of $300.000, the applicant must submit two written declinations. No waiver of this requirement would be authorized.

Under S. 985, there would be a limit of $500,000 per disaster for emergency loans covering actual disaster losses. Limits would also be imposed on emergency loans in excess of actual losses through 1982. The limits would be gradually smaller each year, so that by 1983, this type of loan would be phased out entirely. The limits for loans in excess of actual loss to any one borrower would be as follows: $1,500,000 in fiscal year 1980, $1,000.000 in fiscal year 1981. and $500,000 in fiscal year 1982. These limits would apply to new emergency loan borrowers. Persons in the emergency loan program prior to December 16, 1979, would not be subject to these limits.

Additionally, no insured emergency loan to cover more than actual losses that exceeds $300.000 could be made unless a determination is made that the applicant cannot obtain from a private or cooperative lender a loan guaranteed by the Farmers Home Administration sufficient to finance the applicant's needs.

S. 985 reduces from 5 years to 2 years the time during which any emergency loan borrower may receive subsequent annual loans to continue the farm operation. Of course, as a result of the phase-out of loans in excess of actual loss under S. 985, there will be no new subsequent loans made after fiscal year 1982.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT LENDING LIMITS

As required by section 346 of the Consolidated Farm and Rural Development Act, the following loan program lending limits would be established by S. 985 for each of the fiscal years 1980, 1981, and 1982: Real estate loans, $1,615,000,000; operating loans, $1,200,000,000; emergency loans, amounts necessary to meet needs resulting from natural disasters; water and sewer facility loans, $1,000,000,000; industrial development loans, $1,500,000,000; and community facility loans, $500,000,000.

For farm operating and farm ownership loans, the Secretary would be required to use at least 25 percent of the authorized amounts to assist low income, limited resource borrowers. The conference report notes that the 25 percent specified is only a minimum and that this percentage will be exceeded in many States.

FMHA LOAN PROGRAM IMPROVEMENTS

S. 985 authorizes the Secretary of Agriculture to make available farm ownership and operating loans and rural business and industrial development loans for the installation of solar energy systems.

S. 985 increases from 10,000 to 20,000 inhabitants the population of cities and towns eligible for community facility loans.

S. 985 would allow farmers who lease land in Hawaii to obtain FmHA real estate loans. Many farmers in Hawaii cannot obtain fee simple ownership of the land they farm. S. 985 would permit a lessee of a Hawaiian farm to obtain an FmHA loan to improve the farm, if he provides adequate security for the loan.

CONCLUSION

Mr. President, S. 985, as reported by the conference committee, contains needed changes in the FmHA emergency loan program and makes other improvements in the loan programs under the Consolidated Farm and Rural Development Act.

Mr. President. I ask that a summary of the major provisions of the conference report on S. 985 be printed in the RECORD.

The summary follows:

Summary of the Major Provisions of the Conference Report S. 985

SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

S. 985, as reported by the House-Senate Conference Committee, would amend the Consolidated Farm and Rural Development Act to—

(1) Require the Secretary of Agriculture to conduct the emergency loan program under the Act in a manner that will foster and encourage the family farm system of agriculture;

(2) Authorize the Secretary to make emergency loans under the Act to persons who can obtain credit elsewhere (under existing law, all applicants for loans under the Act are required to certify in writing that they cannot obtain credit elsewhere);

(3) With respect to interest charges for emergency loans under the Act—

(a) Provide that the annual interest rate for actual loss loans to persons who can obtain credit elsewhere would be not to exceed the cost of money to the Government plus up to one percent (the interest rate on such loans to persons who cannot obtain credit elsewhere remains, as under existing law, at not to exceed 5 percent annually); and

(b) Authorize the Secretary to pay interest subsidies to lenders on guaranteed actual loss loans, in amounts not to exceed the difference between the interest rate being charged for the loan and the maximum authorized interest rate for guaranteed loans in excess of actual loss;

(4) Require the Secretary—

(a) In determining whether to make an emergency loan under the Act, to take into consideration the net worth of the applicant, including all assets and liabilities; and

(b) In determining whether an applicant for an emergency loan under the Act can obtain credit elsewhere, to have the applicant submit at least one written indication of declination of credit. For loans of $300,000 or less, this requirement could be waived. For loans in excess of $300,000, two written declinations would be required and the requirement could not be waived;

(5) Repeal the provision of law prohibiting the Secretary from making any emergency loan under the Act in excess of the amount certified by the county committee, and impose specific limits for emergency loans as follows:

(a) After September 30, 1982, no emergency loan could be made in excess of the amount of actual loss incurred due to the disaster or emergency, or $500,000, whichever is less;

(b) Before October 1, 1982, emergency loans could be made in amounts that exceed the amount of the actual loss or $500,000 (whichever is less), but only to applicants who cannot obtain credit elsewhere. Emergency loans in excess of actual loss could not be made in amounts that would cause the total unpaid indebtedness of the borrower for such loans to exceed—

(i) In fiscal year 1980, $1,500,000;

(ii) In fiscal year 1981, $1,000,000; and

(iii) In fiscal year 1982, $500,000; and

(c) No direct emergency loan or portion of a loan in excess of the amount of actual loss that is for more than $300,000 could be made unless the Secretary determines that the applicant cannot obtain a guaranteed loan sufficient to finance his needs;

(6) Reduce—from five years to two years—the time during which any borrower of an emergency loan under the Act is eligible for subsequent annual loans to continue the farm operation (as a result of the limitations on loans in excess of the amount of actual loss noted in item (5)(b), subsequent loans will be phased out after 1982);

(7) Establish overall lending limits for the loan programs under the Act for fiscal years 1980, 1981, and 1982, as follows:

(a) For loans for each of the fiscal years 1980, 1981, and 1982 under the Agricultural Credit Insurance Fund:

(i) Real estate loans—$1.615 billion (including $1.5 billion for farm ownership loans, of which $1.4 billion would be for insured loans and $100 million for guaranteed loans, and $100 million for water development, use, and conservation loans, of which $90 million would be for insured loans and $10 million for guaranteed loans);

(ii) Operating loans—$1.2 billion (of which $1.15 billion would be for insured loans and $50 million for guaranteed loans); and

(iii) Emergency loans—amounts necessary to meet needs resulting from natural disasters; and

(b) For loans for each of the fiscal years 1980, 1981, 1982 under the Rural Development Insurance Fund;

(i) Insured water and sewer facility loans—$1 billion;

(ii) Business and industrial development loans—$1.5 billion (of which $100 million would be for insured loans and $1.4 billion for guaranteed loans); and

(iii) Insured community facility loans—$500 million.

The Secretary would be authorized to tranfer 25 percent of the amounts authorized for farm ownership loans, water development, use, and conservation loans, and operating loans between categories of insured and guaranteed loans. The Secretary would be required to use at least 25 percent of the amounts allocated for insured farm ownership and operating loans exclusively for low income, limited resource applicants;

(8) Require the Secretary to develop long-term projections of the costs for—

(a) The levels of loans authorized under the bill and as may be requested by the Secretary for future three-year periods, and

(b) Increases in such lending levels beyond those requested to be authorized (based on $10,000,000 increments or such other levels as the Secretary determines appropriate).

Such projections for fiscal years 1981 and 1982 would be submitted to the House and Senate agriculture and appropriations committees not later than 15 days after the date of enactment of the bill. For each three-year period thereafter, such projections would be submitted to the committees at the time that the Secretary submits to Congress a request for authorization for the period;

(9) Authorize the Secretary to provide farm real estate and operating loans and rural development loans under the Act for renewable resource energy facilities;

(10) Increase—from 10,000 to 20,000 inhabitants—the population of cities and towns eligible for community facility loans under the Act;

(11) Make eligible for real estate loans under the Act farmers in Hawaii who lease farmland if the land being farmed cannot be acquired in fee simple and there is adequate security for the loans; and

(12) Authorize the Secretary to issue regulations to make aliens lawfully admitted for permanent residence eligible for loans under the Act, subject to the same terms and conditions that apply to citizens.

The amendments to the Consolidated Farm and Rural Development Act relating to the emergency loan program would become effective with respect to loans approved after the date of enactment of the bill, except that for borrowers with emergency loans outstanding as of December 15, 1979—

(a) the limits on emergency loans and

(b) the reduction in the time limit on subsequent emergency loans provided under the bill would not apply to subsequent emergency loans made to such borrowers for the disasters for which they obtained emergency loans prior to December 16, 1979.●

● Mr. TALMADGE. Mr. President, S. 985, as reported by the conference committee, will make needed amendments to the Consolidated Farm and Rural Development Act to eliminate abuses in the emergency loan program under the act.

I introduced S. 985 on April 23, 1979, at the request of the administration. As introduced, the bill only contained provisions to satisfy the budgetary requirements of section 346 of the Consolidated Farm and Rural Development Act. Section 346 requires that overall lending limits for the loan programs authorized under the act be set by Congress every 3 years.

S. 985, as reported by the conference committee, retains these provisions and establishes appropriate lending limits through fiscal year 1982.

EMERGENCY LOAN PROGRAM IMPROVEMENTS

S. 985 also includes provisions, added by Congress, that address deficiencies in the emergency loan program under the Consolidated Farm and Rural Development Act. The Farmers Home Administration was severely criticized late last year for making emergency loans under the act in excess of the actual needs of farmers adversely affected by disaster. The provisions added to S. 985 will curtail the abuses by toughening emergency loan eligibility criteria and setting limits on the amount of emergency loan funds any farmer may receive.

These provisions of the conference report do not impose unfair restrictions on family farmers who are truly in need of assistance following droughts, floods, and other catastrophes, but merely close the loopholes that some large agribusiness concerns have taken advantage of.

Also, it should be realized that, even though there may have been instances of abuses of the FmHA emergency loan program, the program has, for years, been of great assistance to thousands of U.S. family farmers hard pressed by disaster. The FmHA emergency loan program is an essential program for our Nation's farmers.

Further, the Farmers Home Administration has already taken steps to eliminate the abuses in the emergency loan program by implementing administratively some of the provisions of S. 985.

I would note in this regard that the filing of the conference report on S. 985 has been deferred since last December, pending approval by Congress of small business legislation that also amended the Consolidated Farm and Rural Development Act. This SBA bill, S. 2698, passed Congress and was enacted into law as Public Law 96-302 on July 2, 1980.

The Farmers Home Administration has acted wisely over the last several months, while S. 985 has been pending, to begin the necessary tightening up of the emergency loan program. Gordon Cavanaugh, the Administrator of the Farmers Home Administration, wrote to me on June 27, 1980, describing the revisions in FmHA regulations on emergency loans that already have been adopted. I shall submit Mr. Cavanaugh's description of these changes at the conclusion of my remarks.

FmHA AND SBA DISASTER ASSISTANCE

S. 985, as reported by the conference committee, also makes changes in the FmHA emergency loan program under the Consolidated Farm and Rural Development Act to eliminate needless differences between the FmHA program and the disaster program of the Small Business Administration. In 1977, the Small Business Administration joined the Farmers Home Administration in making loan assistance available to farmers suffering crop and property losses due to disasters. However, because the two programs have been developed separately over the years, farmers seeking assistance are at times faced with conflicting SBA and FmHA eligibility requirements and loan limitations. There is simply no justification for this confusing situation.

S. 985 and Public Law 96-302 make

changes in the FmHA emergency loan program under the consolidated Farm and Rural Development Act, and Public Law 96–302 makes changes in the SBA disaster program, to insure that the two programs have essentially the same requirements for, and provide equivalent benefits to, farmers.

One of the amendments to the Consolidated Farm and Rural Development Act to conform the FmHA and SBA emergency loan programs concerns review of FmHA emergency loans by the Secretary of Agriculture. Public Law 96–302 requires the Secretary to review insured emergency loans made to persons who can obtain credit elsewhere 3 years after the loan is made and every 2 years thereafter. If, based on his review, the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms, he can require the borrower to obtain a non-Federal loan and repay the FmHA loan. This provision is retained in the amendments to the Consolidated Farm and Rural Development Act made by S. 985.

The Farmers Home Administration already follows a policy of reviewing emergency loans for graduation, and the initial review is made 2 years, not 3 years, after the loan is made. I encourage the Farmers Home Administration to continue its policy of making initial reviews 2 years after the loan is made. I do not believe that the provisions of Public Law 96–302 or S. 985 would bar this closer supervision of emergency loans.

I would like to note that S. 985 provides for a gradual phase out of the authority in section 330 of the Consolidated Farm and Rural Development Act for making emergency loans in excess of the actual loss suffered by a producer. Section 330 currently authorizes subsequent annual emergency loans for up to 5 years to eligible borrowers at prevailing market rates of interest when the financial situation of the farming operation has not improved sufficiently to permit the borrower to obtain such financing from other sources.

Under the conference substitute, the time during which any emergency loan borrower is eligible for subsequent annual loans to continue the farm operation is reduced to 2 years.

For emergency loans other than to cover actual losses, the conference substitute provides that the total unpaid principal indebtedness of any borrower for such loans may not exceed at any time $1,500,000 in fiscal year 1980, $1,000,000 in fiscal year 1981, and $500,000 in fiscal year 1982. No such subsequent loans could be made after fiscal year 1982.

However, for borrowers with emergency loans outstanding on December 15, 1979, the loan limitation established under the conference substitute and the reduced time period for subsequent loans would not apply to any subsequent loans made for disasters for which the borrowers obtained emergency loans prior to December 16, 1979.

The Committee on Agriculture, Nutrition, and Forestry will carefully monitor the change in the emergency loan program phasing out the general authority for making subsequent emergency loans. The regular FmHA farm ownership and farm operating loans will remain available for eligible farmers, and the expanded all-risk crop insurance program established by the Federal Crop Insurance Act of 1980 will afford farmers added protection against the perils of weather. However, we shall not hesitate to reinstate the authority for making subsequent emergency loans if that step proves to be necessary to aid farmers suffering losses due to a natural disaster.

Mr. President, S. 985 makes important improvements in the FmHA emergency loan program that will benefit family farmers. I urge the Senate to adopt the conference report.

The statement follows:

EXCERPT FROM THE LETTER TO SENATOR HERMAN TALMADGE FROM GORDON CAVANAUGH

Based on your expressions and those of your Committee, for specific changes in the emergency loan program regulations, FmHA implemented revised regulations, FmHA Instruction 1945–B, on February 13, 1980, which incorporated the desired changes. The FmHA National Office Emergency Loan Division held training sessions on the revised instructions with FmHA State Office staffs during March 1980, and followup training is being provided for County Office personnel.

Those changes implemented by the revised regulations include the following, which will:

1. Require EM applicants to apply at not less than 3 conventional credit sources when applying for loans of $300,000 or more. Form FmHA 1940–38 will be completed by all credit sources for loans of $300,000 or more.

2. Require EM loan applicants to pledge all of their assets when seeking credit from other lenders.

3. Provide added emphasis on the need to adhere to the "Loan Disbursement System" and "Supervised Bank Account System."

4. Provide added emphasis on existing documentation requirements relating to the use of EM loan funds when conducting farm and home planning, supervision, and servicing of emergency loans.

5. Administratively establish EM loan ceilings. (Also support reinforcements of these changes in law.) The ceilings for additional EM loans are:

a. Actual loss loans—$500,000 per disaster designation for disasters occurring on or after October 1, 1978.

b. Annual production and major adjustment loans—$1,500,000 principal balance authorization regardless of the number of disasters. A further sublimitation setting a $300,000 maximum amount principal balance outstanding on major adjustment loans for refinancing debts on real estate is established within the above $1,500,000 ceiling.

6. Require a graduation review for all insured emergency loans during the second full year following the initial loan and every other year thereafter, until graduation is achieved.

7. Require that the amount of EM loss loans be limited to the actual dollar loss or the actual amount of essential family farm, and nonfarm credit that the applicant needs to carry on normal operations, whichever is less.

8. Revise the eligibility requirements and purposes for which emergency loan funds can be used.

9. Impose maximum loan ceilings on applicants involved in more than one operation.

10. Prohibit applicants who own or control 50 percent or more of another farm operation from exceeding any limitations set forth in the instruction for their combined operations. Applicants who own or control less than 50 percent of another farming operation may receive separate loans not exceeding the loan limitations set forth in the regulations for each separate operation.●

● Mr. HUDDLESTON. Mr. President, one important part of the conference report on S. 985, the Consolidated Farm and Rural Development Act amendments, deals with the Farmers Home Administration emergency loan program. This program, like its counterpart program administered by the Small Business Administration, provides needed assistance to farmers who suffer a loss as a result of a disaster.

I want to compliment the chairman of the Senate Agriculture Committee (Mr. TALMADGE) for his diligent efforts over the past several months in working on this important farm legislation.

I also want to acknowledge the outstanding work of the chairman of the House Agriculture Committee (Mr. FOLEY). He was intimately involved and extremely cooperative, during the final negotiations prior to the congressional adoption of the conference report on S. 2698, the predecessor to Public Law 96–302. His efforts there are carried through to this legislation as well.

As my colleagues recall, it was only on July 2, 1980 that the President signed into law the amendments to the Small Business Act, Public Law 96–302. After many months of negotiations between the House and Senate Small Business Committees, the House and Senate Agriculture Committees, and the Administration—including the White House, Office of Management and Budget, the Farmers Home Administration, and the Small Business Administration—a restructuring of the Federal Government's disaster assistance program for businesses was adopted.

That congressional effort has already created some problems, particularly associated with the drought that has plagued the United States during the entire summer. But most of those problems, I believe, are administrative, not statutory, and the necessary steps are being taken to address and correct them.

In addition, in order to fully carry out the congressional direction and intent established in Public Law 96–302, some technical and conforming changes to the basic statutory authority for the Farmers Home Administration are required. The amendments made to the Consolidated Farm and Rural Development Act by S. 985 are among those necessary technical actions.

The conference substitute incorporates the amendments made by section 120 of Public Law 96–302 into S. 985. In my view, the relationship established between the Small Business Administration and the Farmers Home Administration established in that public law will not be changed by the adoption of this conference report.

The implementation of these amendments, like the amendments made to the Consolidated Farm Act by Public Law 96–302, falls primarily on the Secretary of Agriculture specifically, and on the administration generally.

Mr. President, the joint congressional/

executive effort over the past several months was successful in insuring that businesses, regardless of whether they are farm or nonfarm, will receive the same treatment from the Federal Government. I am confident that there will not be any haphazard administrative action which would undo these efforts.●

● Mr. HELMS. Mr. President, I rise in support of the conference report on S. 985, the Consolidated Farm and Rural Development Act Amendments of 1980.

This legislation will provide needed statutory changes that will enable the Farmers Home Administration to better operate and administer the emergency loan program authorized by this act. Many of you will remember the attention given this loan program after the CBS News program "60 Minutes" focused on how the program had been abused, and millions of dollars extended in low-interest loans to farmers who perhaps could have obtained financing elsewhere. Final Senate approval of this conference report will move us one step closer to improving FmHA's emergency loan authority, and structuring a program of Government assistance that is fair and responsive to the needs of farmers suffering from natural disasters.

The major provisions of S. 985 have already been noted by the manager of the conference report, but I would like to mention several of the more important ones for additional emphasis. The bill does provide specific lending limits for loan programs administered by Farmers Home for fiscal years 1980, 1981, and 1982. I feel this is important and contributes to the interrelationship of these programs and our budget and appropriations processes.

The legislation also attempts to coordinate the loan programs of the Farmers Home Administration and the Small Business Administration. Coupled with the Small Business Development Act of 1980—Public Law 96-302—enacted earlier this year, S. 985 will establish equality between the disaster loan programs of both agencies and will help eliminate duplication of program benefits and services. The appropriate sections of both measures will promote once more the Farmers Home Administration as the primary farm lender of the two agencies, and the one to which farmers should turn first for loan assistance when disaster strikes. This is how it should be, in my opinion, because FmHA has an extensive network for handling these situations in rural areas, and has the personnel trained to understand the needs of farmers and ranchers.

Another significant aspect of this conference report concerns necessary modifications made by the conferees to existing law to define which farmers are eligible for what types of disaster assistance, and in what amounts. The failure of existing law and regulations to properly note these limitations has caused many of the problems in the past, which should now hopefully be corrected by Farmers Home once this bill becomes law.

However, as restrictive as the conference compromise is, it may still not be as narrowly structured as it should. The $500,000 maximum for actual loss loans may yet prove to be too extensive, even considering the impact of inflation on modern agriculture and the monetary loss an average farmer might experience. Likewise, we may soon find that any Federal Government loan at an interest rate of 5 percent is just too much of a subsidy at a time when the Federal Government is experiencing massive deficits.

I hope the Committee on Agriculture, Nutrition, and Forestry will continue its oversight of the Farmers Home Administration in the coming months, and that consideration be given to further modification of its loan authorities if necessary. Ultimately, I believe that such responsible action will be in the best interest of U.S. agriculture and the country in general.

I urge adoption of the conference report.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALBERT AND EULIA RODRIGUEZ

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2261.

Mr. BAKER. Mr. President, once again, reserving the right to object, this item is cleared on our side and we have no objection to its consideration and passage.

Mr. DOMENICI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. Mr. President, I have no objection, so long as it is understood that the Senator from New Mexico has an amendment with reference to the wilderness in the State of New Mexico. I understand it has been cleared on both sides and by the chairman and ranking member of the appropriate committee and subcommittee of the Senate. With that understanding, I have no objection.

The PRESIDING OFFICER. The Chair hears no objection. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2261) to quiet title of property in Albert and Eulia Rodriguez.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

On page 1, line 4, strike "Eulia" and insert "Eulalia".

On page 1, after line 7, insert the following:

"Beginning October 1, 1981 there is hereby authorized to be appropriated not more than $20,000 for the purpose of this Act".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENT NO. 1709

(Purpose: To designate certain National of New Mexico for inclusion in the System, and for other purposes)

Mr. DOMENICI. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) for himself and Mr. SCHMITT proposes an unprinted amendment numbered 1709.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add a new title and number accordingly:

This Title may be cited as the "New Mexico Wilderness Act of 1980".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped public lands in New Mexico possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have identified those areas which, on the basis of their landform, ecosystem,, associated wildlife, and location will help to fulfill the National Forest System's share of the National Wilderness Preservation System;

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have also identified those areas which should be available for multiple uses other than wilderness; and

(4) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have also identified those areas which should be designated for further study.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in New Mexico for inclusion in the National Wilderness Preservation System in order to promote, perpetuate, and preserve the wilderness character of the land, to protect watersheds and wildlife habitat, preserve scenic and historic resources, and to promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people;

(2) insure that certain other National Forest System lands in New Mexico be promptly available for nonwilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, mineral development, and watershed and vegetation manipulation; and

(3) designate certain other National Forest System land in New Mexico for further study in furtherance of the purpose of the Wilderness Act.

Section 3. (a) In accordance with subsection 3(c) of the Wilderness Act of 1964 (78 Stat. 892), the following National Forest System lands in the State of New Mexico are designated as additions to the National Wilderness Preservation System:

(1) the Aldo Leopold Wilderness, consisting of approximately two hundred eleven thousand three hundred acres in the Gila National Forest, as generally depicted on a map entitled "Aldo Leopold Wilderness Proposal", dated August 1980;

(2) the Apache Kid Wilderness, consisting

of approximately forty thousand acres in the Cibola National Forest, as generally depicted on a map entitled "Apache Kid Wilderness Proposal", dated August 1980;

(3) the Blue Range Wilderness, consisting of approximately thirty thousand acres in the Apache-Sitgreaves and Gila National Forests, as generally depicted on a map entitled "Blue Range Wilderness Proposal", dated August 1980;

(4) the Capitan Mountains Wilderness, consisting of approximately thirty-four thousand acres in the Apache-Sitgreaves and Gila National Forests, as generally depicted on a map entitled "Capitan Mountains Wilderness Proposal", dated August 1980;

(5) the Dome Wilderness, consisting of approximately five thousand two hundred acres in the Santa Fe National Forest, as generally depicted on a map entitled "Dome Wilderness Proposal", dated August 1980;

(6) the Gila Wilderness Additions, consisting of approximately one hundred thirty thousand three hundred acres in the Gila National Forest, as generally depicted on a map entitled "Gila Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Gila Wilderness as designated by Public Law 88-577;

(7) the Latir Peak Wilderness, consisting of approximately fifteen thousand six hundred acres in the Carson National Forest, as generally depicted on a map entitled "Latir Peak Wilderness Proposal", dated August 1980;

(8) the Pecos Wilderness Additions, consisting of approximately seventy thousand seven hundred thirty acres in the Carson and Santa Fe National Forests, as generally depicted on a map entitled "Pecos Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Pecos Wilderness as designated by Public Law 88-577;

(9) the Wheeler Peak Wilderness Additions, consisting of approximately nine thousand one hundred acres in the Carson National Forest, as generally depicted on a map entitled "Wheeler Peak Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Wheeler Peak Wilderness as designated by Public Law 88-577;

(10) the White Mountain Wilderness Additions, consisting of approximately sixteen thousand eight hundred sixty acres in the Lincoln National Forest, as generally depicted on a map entitled "White Mountain Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the White Mountain Wilderness as designated by Public Law 88-557; and

(11) the Withington Wilderness, consisting of approximately nineteen thousand acres in the Cibola National Forest, as generally depicted on a map entitled "Withington Wilderness Proposal", dated August 1980.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this Act and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

(d) The previous classifications of the Black Range Primitive Area, the Blue Range Primitive Area and the Gila Primitive Area are repealed.

SEC. 4. (a) The Secretary of Agriculture shall review in accord with the requirements of section 6 of the National Forest Management Act of 1976 (Public Law 94-588), and no later than January 1, 1986, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

(1) the San Francisco Wilderness Study Area, consisting of approximately twenty-five thousand six hundred acres in the Apache and Gila National Forests, as generally depicted on a map entitled "San Francisco Wilderness Study Area Proposal", dated August 1980.

(b) These lands may continue to be available for uses other than wilderness during the conduct of the study under the existing Forest Service plans applicable to the National Forests within which such lands are located.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Mexico and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than New Mexico such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Mexico;

(2) with respect to the National Forest System lands in the State of New Mexico which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those areas designated for further planning by Section 4 of this Act, or areas listed in section 3 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans, and in no case prior to the date established by law for completion of the initial planning cycle.

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act are not intended by Congress to be designated for inclusion in the National Wilderness Preservation System, and need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the land management plans;

(c) Unless expressly authorized by Congress, the Secretary shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of New Mexico for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(d) Nothing in the land management planning process required by Section 6 of the National Forest Management Act of 1976 (PL 94-588) shall be deemed to preclude multiple use management for uses other than wilderness on any land subject to such planning process except those areas designated for further study in section 4 of this Act.

SEC. 6 (a). Subject to valid existing rights, each wilderness area and wilderness addition designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 7. Congress does not intend that designation of wilderness areas in the State of New Mexico lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Mr. DOMENICI. Mr. President, I ask unanimous consent that an area-by-area discussion be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW MEXICO RARE II AMENDMENT

AREA-BY-AREA DISCUSSION

1. Aldo Leopold Wilderness:

Administration proposal: The Forest Service and the Administration recommend the following areas for wilderness designation: The Black Range Primitive Area, A3-162, and P3-168 (a total of 251,000 acres).

Amendment: The amendment proposes an Aldo Leopold Wilderness totaling approximately 211,320 acres in the Gila National Forest. The proposal consists of the Black Range Primitive Area, A-3-162, and P3-168. (For a complete delineation of the adjustments, refer to the map.)

Several exclusions from the Administration Rare II recommendations totaling approximately 39,780 acres were made in this area for mining and grazing purposes. In the northern half of the Aldo Leopold, an exclusion was made as a result of testimony on S. 2583. It was found that part of A3-162 did not qualify for wilderness classification during the Forest Service's initial Rare inventory in 1971 and it is excluded by the Amendment. In the southern section of the Aldo Leopold, the Amendment excludes an area of land southwest of the Grant-Sierra county line. A recent United States Geological Survey found this area of the Black Range and A3-162 to contain a high potential for hardrock minerals. Therefore, the area was excluded in the Amendment.

2. Apache Kid Wilderness:

Administration proposal: The Forest Service and the Administration recommend this area for wilderness designation (a total of 133,000 acres).

Amendment: The Amendment proposes an Apache Kid Wilderness totaling approximately 40,000 acres in the Cibola National Forest. (For a complete delineation of the adjustments, refer to the map.)

Approximately 93,000 acres of land recommended by the Administration for wilderness are excluded by the Amendment from wilderness designation. During the hearings on S. 2583, many cattle permittees objected to the classification of this land as wilderness for fear they would not be able to adequately care for their livestock. The Amendment excludes this area to permit continued intensive management of the grazing and livestock resources using mechanized equipment and necessary improvements.

3. Blue Range Wilderness:

Administration proposal: The Forest Service and the Administration recommend the following areas for wilderness designation: NF 3900, P3–169, and 3–166 (a total of 40,000 acres).

Amendment: The Amendment proposes a Blue Range Wilderness totaling approximately 30,000 acres in the Gila National Forest. The proposal consists of NF 3900 and P3–169. (For a complete delineation of the adjustments, refer to the map.)

The Amendment excludes 10,000 acres from the Administration's proposal because it was found that power lines and roads exist in the area known as 3–166. The Amendment excludes this area to permit continued intensive management of the grazing and livestock resources using mechanized equipment and necessary improvements.

4. Capitan Mountain Wilderness:

Administration proposal: The Forest Service and the Administration recommend the area for wilderness designation (a total of 36,400 acres).

Amendment: The Amendment proposes a Capitan Mountain Wilderness totaling approximately 34,000 acres in the Lincoln National Forest. (For a complete delineation of the adjustments, refer to the map.)

The Amendment excludes 2,000 acres that would be less than a quarter of a mile wide in the southeast quadrant. The access road to the fire tower lies within the proposed wilderness area and would prohibit access to the tower by motorized vehicles. In addition, the 2,000 acres excluded contain several other roads and it would be more appropriate to not include this area in the proposed wilderness.

5. Dome Wilderness:

Administration proposal: The Forest Service and the Administration recommend this area for wilderness designation (a total of 5,200 acres).

Amendment: The amendment proposes a Dome Wilderness totaling approximately 5,200 acres in the Santa Fe National Forest. The amendment is exactly the same as the Administration recommendations for this area.

6. Gila Additions Wilderness:

Administration proposal: The Forest Service and the Administration recommend the following areas for wilderness designation: NF 3925 and P3–167 (a total of 166,000 acres).

Amendment: The Amendment adds approximately 130,320 acres in the Gila National Forest to the Gila Wilderness. This includes the following areas: NF 3925 and P3–167. (For a complete delineation of the adjustments, refer to the map.)

7. Latir Wilderness:

Administration proposal: The Forest Service and the Administration recommend this area for wilderness designation (a total of 24,600 acres).

Amendment: The Amendment proposes a Latir Wilderness totaling approximately 15,600 acres in the Carson National Forest.

The Amendment excludes approximately 9,000 acres from wilderness designation. During the hearing on S. 2583, the Committee received testimony to the effect that timber harvesting in the area would be reduced substantially should the area be designated as wilderness. Therefore, 9,000 acres were excluded from the eastern portion of the Latir Wilderness.

8. Lower San Francisco:

Administration proposal: The Administration proposes that 8,800 acres of this area be designated as wilderness and that 11,740 acres be designated as a further planning area (a total of 20,540 acres).

The Forest Service Endorsement: In the Forest Service's final EIS, no recommendation was made for either wilderness designation or further study.

Amendment: The Amendment includes a Lower San Francisco Further Study Area totaling approximately 25,560 acres in the Gila National Forest. (For a complete delineation of this recommendation, refer to the map.)

9. Pecos Additions Wilderness:

Administration proposal: The Forest Service and the Administration recommend the following area for wilderness designation: A3–038 (a total of 71,000 acres).

Amendment: The Amendment adds approximately 70,730 acres in the Sante Fe National Forest to the Pecos Wilderness. The proposal includes A3–038 for wilderness designation. (For a complete delineation of the minor exclusion, refer to the map.)

The Amendment excludes approximately 270 acres from wilderness designation in this area. Several mining claims along the eastern side of the existing wilderness were discussed during the hearing on S. 2583, and it was determined that only one of those claims lie within the proposed RARE II boundaries. As a result, a minor boundary adjustment was made to allow development of the prospective mine.

10. Wheeler Peak Wilderness:

Administration proposal: The Forest Service and the Administration recommend this area for wilderness (a total of 14,700 acres).

Amendment: The Amendment proposes a Wheeler Peak Wilderness totaling approximately 9,100 acres in the Carson National Forest. (For a complete delineation of this adjustment, refer to the map).

The Amendment excludes approximately 5,600 acres from wilderness designation. During the hearing on S. 2583, the Committee received testimony to the effect that timber harvesting in the area would be reduced substantially should the area be designated as wilderness. Therefore, 5,600 acres are excluded along the eastern portion of the Wheeler Peak proposed area.

11. White Mountain Wilderness:

Administration proposal: The Forest Service and the Administration recommend this area for wilderness designation (a total of 19,600 acres).

Amendment: The Amendment proposes a White Mountain Wilderness totaling approximately 16,860 acres in the Lincoln National Forest. The proposal recommends B3–070 for wilderness designation. (For a complete delineation of all exclusions, refer to the map.)

The Amendment proposes to exclude 2,740 acres for mining and staging purposes. The Great Western mine is situated in the center portion of this area which makes that particular portion unsuitable for wilderness designation. The small exclusions were made for staging areas into the proposed wilderness. Lastly, approximately 100 acres are excluded in the southern portion near the Mescalero Indian tribe's ski resort for future expansion.

12. Withington Wilderness:

Administration proposal: The Forest Service and the Administration recommend this area for wilderness designation (a total of 19,000 acres).

Amendment: The Amendment proposes a Withington Wilderness totaling approximately 19,000 acres in the Cibola National Forest, exactly the same as the Administration recommendation.

AREA DESCRIPTION

Aldo Leopold

Aldo Leopold, also known as the Black Range, is located within the Gila National Forest, approximately 50 miles northeast of Silver City.

The Crest of the Black Range Mountains runs north and south through the approximate center of the wilderness area. The highest point is McKnight Mountain with an elevation of 10,165 feet. Other high points in the range are Reed's, Diamond, and Hillsboro Peaks, and Sheep and Aspen Mountains. At the higher elevations along the divide, Engelmann spruce, blue spruce, Douglas-fir, white fir, southwestern white pine, and ponderosa pine predominate. The minimum elevation is about 6,300 feet. Most of the area is rugged country with many box canyons, volcanic rock escarpments, and talus slopes. There are some exceptions such as the high gentle country near Mimbres Lake, timbered benches, and some mesa type country at lower elevations.

In 1951 the McKnight fire burned approximately 26,000 acres. Thick underbrush of pioneer species associated with recovery such as New Mexico locust, squawbush, aspen and fire willows now cover much of the burn.

Main drainage patterns of the area are into the Rio Grande River east of the Black Range Crest, into the Mimbres River between the crest and the Continental Divide on the southwest, and into the Gila River west of the Continental Divide. The area east of the Black Range Crest contains deep canyons and spectacular rock formations and extremely steep slopes.

The area provides habitat for mule deer, white-tailed deer, elk, turkey, mountain lion, bear, bobcat, and coyote. A great variety of smaller game, mammals, and birds live within the area. Gila trout, an endangered species of fish, live in the headwaters of Diamond Creek at the northern end of the area.

Apache Kid

Apache Kid is located within the Cibola National Forest, approximately 50 miles north of Truth or Consequences.

The vegetation is varied throughout the area. Pinyon-juniper woodland vegetation type covers about half the area and ponderosa pine and mixed conifers make up the rest. About five percent is nonforested.

There are numerous range improvements located primarily in the eastern part of the area. A few of the wildlife species found in the area include black bear, cougar, elk, antelope, mule deer, and turkey.

Blue Range Wilderness

The Blue Range is located within the Gila National Forest in Catron county adjacent to the Arizona-New Mexico border.

The eastern end of the Mogollon Rim is contained within this rugged mountainous area. The rim is geologically and ecologically unique and is cut by the Blue River and its canyon. Elevations range from 4,500 to 9,100 feet.

Scenic features include coniferous forests and rock formations. Ecological zones range from semi-desert pinyon-juniper in the rough country below the Rim, to typical high mountain conditions with ponderosa pine, Douglas-fir and aspen above.

Deer, elk, bear, turkey, mountain lion, javelina and a great variety of smaller animals occupy the habitat. The Apache native trout now classed as endangered, has been re-established in Grant and K. P. Creeks.

Capitan Mountain

Capitan Mountain is located in the Lincoln National Forest approximately 20 miles east of the Lincoln National Monument.

This area is an extremely rugged area rising abruptly from the surrounding grasslands to a knife-like ridge with elevations over 10,000 feet. The east-west orientation of this range makes the area unique in New Mexico where most mountain ranges are oriented on a north-south axis. The north-south slopes of this ridge are dissected by many deep and rugged canyons and tributary gullies.

The most spectacular features exhibited by these mountains are the numerous rock glaciers which "flow" downward from the crest. These glaciers consist of angular blocks and slabs of granite in tongues and furrows down the slopes. The visual effect is quite spectacular as these rock glaciers are nearly barren of vegetation except for splotches of lichen and an occasional tree.

The upper portions of this area are dominated by mature stands of Engelmann spruce and corkbark fir. These gradually give way to ponderosa pine and pinyon-juniper as the elevation decreases. Stands of aspen occur on the northern slopes. The area contains good habitat for both mule deer and black bear plus numerous birds, including the bald eagle, and smaller animals.

Dome

Dome Wilderness is located in The Lincoln National Forest approximately 10 miles east of Bandelier National Monument and 20 miles south of Los Alamos.

The land fans out from St. Peters Dome, on the northern periphery, dropping across Bandelier benchlands south and southeastward toward the Rio Grande. Two major canyon systems, Capulin on the north side, and Sanchez reaching up from the southeast, almost touch at their extremities on either side of the ridge of St. Peters Dome. Both canyons are steep walled, characterized by escarpments throughout their lengths. Intervening mesas are populated by ponderosa pine and pinyon-juniper vegetation. The area consists of rough terrain, deep canyons, and a variety of vegetation. The area contains eagles and other raptors, bat colonies in scattered caves, tent rocks and lava escarpments, Indian ruins and petroglyphs, wild burros, and variety in color and form of the topography.

Gila Additions

The Gila Additions are located in the Gila National Forest adjacent to the Gila wilderness approximately 20 miles north of Silver City in Catron and Grant Counties.

The rugged and steep mountainous country of the Gila Wilderness proposed additions includes Black mountain at 9,287 feet, Haystack Mountain at 8,445 feet and Sheridan Mountain at 8,285 feet. Included are the lower reaches of the Mogollon Mountains which cross the western portion of the area. The low point is 4,800 feet where the Gila River leaves the area. Somewhat unique are the volcanic rock escarpments, pinnacles and spires along the major drainages and vast stands of virgin ponderosa pine.

Vegetation types are varied, ranging from the Upper Sonoran Life Zone at lower elevation up through the Canadian Life zone along the mountain Crests. Pinyon pine, alligator juniper, ponderosa pine, white fir, Douglas-fir and aspen are among the many species represented.

Evidence of prehistoric occupation exists in scattered pueblo ruins, cliff dwellings and pit houses. Pictographs are abundant.

Notable among the list of wild life species inhabiting the area are the Rocky Mountain bighorn sheep, elk, mule deer, mountain lion, pronghorn antelope, peccary and bobcat. Ringtail cat, Gila Monster, raccoon, and many reptile and amphibian species live along the drainages throughout the foothill country.

Latir Peak

Latir Peak is located in the Carson National Forest approximately 50 miles south of the Colorado-New Mexico border in Rio Arriba county.

It lies along the top of the Sangre de Cristo mountain range and varies in elevation from 8,500 to 12,500 feet.

Game species include: Mule deer, elk, bear, mountain lion, and blue grouse. Rocky Mountain bighorn sheep were reintroduced in 1978. Marmots, pika, marten and many song birds are also present.

The vegetative cover is generally classified as sub-alpine, which varies from sub-alpine tundra downward through Engelmann spruce and a mixture of corkbark fir and bristlecone pine, through Douglas and white firs.

Pecos Additions

The Pecos Additions are located in the Santa Fe National Forest adjacent to the Pecos Wilderness approximately 50 miles east of Santa Fe.

Elevations within the area range from 9,000 to 12,500 feet in the Sangre de Cristo Mountains. It includes steep, rugged high elevation land consisting of sub-alpine tundra through spruce and mixed conifer vegetative types to lower elevation ponderosa pine, pinyon-juniper vegetative types.

Numerous small streams, a small lake, rock slides, high elevations such as Thompson Peak and Pyramid Peak, aspen stands, meadows, granite formations, and great variety in land form, vegetation, and seasonal color characterize this area.

This area includes the headwaters of the San Leonardo, Rio Frijoles, Rio Medio, Las Trampas, and Santa Barbara drainages.

The area provides habitat for deer, elk, bighorn sheep, bear, grouse and squirrel, with native cutthroat trout in some streams.

Wheeler Peak

Wheeler Peak is located in the Carson National Forest approximately 10 miles north of the Taos Indian Reservation.

This area is in the headwaters of the South Fork of the Rio Hondo and the Red River drainages. It lies along the top of the Sangre de Cristo mountain range and varies in elevation from 8,000 to 12,000 feet. It is adjacent to the Wheeler Peak Wilderness named after the highest point in New Mexico.

Game species include mule deer, elk, bear, mountain lion, and blue grouse. Rocky Mountain bighorn sheep were reintroduced just outside the Wilderness in early 1968. The status of the herd is unknown, although there have been confirmed sightings. Marmots, pika, marten and many song birds are also present.

Most of the area is forested with species including Engelmann spruce, corkbark fir, Douglas-fir, and white fir.

White Mountain

White Mountain is located in the Lincoln National Forest adjacent on the south side to the Mescalero Apache Indian Reservation.

This area is composed of four small tracts, all of which are adjacent to the existing White Mountain Wilderness area. Elevations vary from 6,800 feet to 10,600 feet. Vegetation within this area ranges from brush and pinyon-juniper at the lowest elevations to spruce and mountain meadows at the higher elevations.

Contained within the areas are the headwaters of both Eagle and Bonito Creeks, which are major streams in this portion of New Mexico, there are several small perennial drainages which feed into these two creeks.

Principal game species within the area are the Rocky Mountain mule deer and the black bear. Smaller numbers of elk are also present along with numerous birds and small animals.

Withington

Withington is located in the Cibola National Forest approximately 100 miles southwest of Socorro.

This area contains steep and rugged lands within the San Mateo Mountains with elevations ranging from 6,500 feet to 10,000 feet near Mt. Withington. The majority of the area is forested with ponderosa pine and mixed conifer vegetation. Pinyon-juniper vegetation is found on a lesser amount of the area, mostly in eastern portion.

Some of the wildlife species found include mule deer, black bear, elk, cougar, and turkey.

Mr. DOMENICI. Mr. President, the concept of wilderness goes back to the early 1920's. Initially, the concept of declaring wilderness areas was intriguing but not readily accepted. In 1924, the district forester in charge of Arizona and New Mexico utilized his administrative authority to classify a part of the Gila National Forest in New Mexico as the Nation's first wilderness area. With this designation, the wilderness idea was born resulting in the beginning of the National Wilderness Preservation System as it exists today.

Additions to the system brought the acreage administratively set aside as "wild" and "wilderness" to more than 9 million acres by the time the Wilderness Act became law in 1964. That act gives only the Congress authority to add areas to the National Wilderness Preservation System.

In addition, the Wilderness Act of 1964 required the Forest Service to study the suitability of 34 existing primitive areas and roadless areas for wilderness designation. The first roadless area review and evaluation (RARE) effort was initiated in 1972 to accomplish this congressionally mandated review. RARE I ended, however, without any definite administrative wilderness recommendations to Congress.

When RARE II began in 1974, those areas being considered by the Forest Service for wilderness classification became, in fact, de facto wilderness from the moment of their consideration until the time Congress acts to either designate them as such or to release them for multiple use management.

Failure of the Congress to act to classify these areas will result in our further condoning these de facto wilderness areas. It will place the administration in the position of abrogating congressional authority for an indeterminate period of time. To preclude this eventuality in New Mexico. I introduce today an amendment to the Colorado wilderness bill which will add over one half million acres to the National Wilderness Preservation System in the State of New Mexico.

Mr. President, in November 1979, we began consideration of the administration's RARE II recommendation for the State of New Mexico. In December 1979, the New Mexico delegation, including: Congressman MANUEL LUJAN, the late Congressman Harold Runnels, my colleague Senator SCHMITT, and myself, published an open letter to the people of New Mexico in the States major newspapers soliciting public comment on the administration's RARE II recommendations.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> The New Mexico Congressional delegation has completed a draft proposal designating certain U.S. forest lands as additions to the Wilderness system.
>
> This bill is based on the solicited responses the delegation received from New Mexicans and from the recommendations made by the Forest Service. All told, we heard from the Governor, the Secretary of the Department of Agriculture, Livestock representatives, Mining Companies, the Environmental Community, Indian tribes, Timber interests and concerned individual citizens.
>
> We as the representatives of the citizens of

New Mexico in the Congress feel that this proposal is in the best interest of all New Mexicans. We, however, remain open-minded to any additional comments prior to introduction of this legislation. Comments will be accepted until May 15, 1980. Congressional Hearings on the bill will be held shortly thereafter.

We promised that New Mexicans would decide the use of land in New Mexico. This legislation is the embodiment of that promise.

PETE V. DOMENICI,
HARRISON H. SCHMITT,
U.S. Senators.
MANUEL LUJAN, Jr.,
HAROLD RUNNELS,
U.S. Representatives.

Mr. DOMENICI. Mr. President, responses to this letter were received and evaluated by the New Mexico delegation. I hasten to add at this point, that the majority of responses received from the people of New Mexico expressed a proclivity against adding the large acreages proposed by the administration to the National Wilderness Preservation System in the State of New Mexico.

A draft, New Mexico wilderness bill was prepared by the New Mexico delegation based on the administration's recommendation and the public responses. On April 15, 1980, the draft bill was sent to the original respondents and others who had expressed an interest requesting their comments.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was order to be printed in the RECORD, as follows:

DECEMBER 4, 1979.

PUBLIC NOTICE

The New Mexico Congressional delegation hereby notifies all concerned citizens that it is considering a bill designating certain U.S. forest lands as additions to the wilderness system in response to recommendations made by the Forest Service (RARE II). Comments are solicited and will be accepted until January 20, 1980 with the following guidelines:

(1) Comments shall be based on the final designation of roadless areas for addition to the National Wilderness Preservation System as announced in the final environmental impact statement by the Secretary of Agriculture January 3, 1979.

(2) Individual suggestions for addition or deletion of tracts should specify reasons for designating an area as wilderness or nonwilderness and the criteria which the delegation should use in making final determinations.

(3) Individual suggestions for wilderness or multiple use designations should specify the tract and reasoning for the recommendation. When tracts are recommended for multiple use, specific uses and their value should be indicated.

(4) If you feel that specific tracts may need special management techniques to protect them either as wilderness or under multiple use provisions, please describe and discuss such techniques.

Additional information on the designated RARE II wilderness areas and the selection criteria are available at all U.S. Forest Service offices.

New Mexicans should decide the use of land in New Mexico. We as the representatives of the citizens of New Mexico in the Congress intend to allow you to make that choice.

PETE V. DOMENICI,
HARRISON SCHMITT,
U.S. Senators.
MANUEL LUJAN, Jr.
HAROLD RUNNELS,
U.S. Representatives.

Mr. DOMENICI. Mr. President, hearings on the New Mexico wilderness bill S. 2583 were held on May 29, 1980 by the Subcommittee on Parks, Recreation, and Renewable Resources of the Committee on Energy and Natural Resources. Testimony was received from the administration, the office of the Governor of New Mexico, and industry and wilderness proponents. Positions both pro and con with adjustment proposals were heard.

Based on this hearing testimony I have redrafted this legislation in consultation with the New Mexico delegation. This legislation is before you today in the form of an amendment. This amendment adds 582,130 acres to the National Wilderness Preservation System in the State of New Mexico.

The study of wilderness additions in the State of New Mexico has been proceeding for the last 9 years. This amendment culminates these 9 years of study and provides a valid, quality addition to wilderness in New Mexico and to the National Wilderness Preservation System.

Existing wilderness on National Forest lands in New Mexico account for 794,744 acres or 8.7 percent of these lands. This amendment adds 582,130 acres, almost doubling the National Forest acreage in wilderness in my State. Total area in National Forest wilderness in New Mexico will become 1,376,874 acres or 15.1 percent of National Forest System lands.

This amendment is a strong, meaningful addition to the National Wilderness Preservation System with minimal negative impact on livestock producers, mineral, energy, and timber producers, and the general public in the State of New Mexico. This amendment adds the New Mexico wilderness addition to the Colorada wilderness bill, H.R. 5487 and makes no changes in the policy language of that bill.

Mr. President, I move the adoption of the Domenici amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico (Mr. DOMENICI).

The amendment (UP No. 1709) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I say to the minority leader that I have been waiting so long that I kind of got excited that this might really be happening.

Mr. BAKER. Mr. President, I think the excitement of the Senator from New Mexico is amply justified. I commend him on the good work he has just accomplished.

NEW MEXICO RARE II

● Mr. SCHMITT. Mr. President, today, the Senate has wisely decided to pass the New Mexico Wilderness Act (RARE II). It is heartening to see this much-needed legislation accepted by the Senate. My distinguished colleague, Mr. DOMENICI, is to be complimented for his successful efforts in getting this bill to the floor.

This bill was the product of a detailed examination of the Forest Service's proposal by the New Mexico congressional delegation and was concurred in by all members of the delegation. This bill is also acceptable to the State government. The Subcommittee on Parks, Recreation and Renewable Resources of the Senate Energy and Natural Resource Committee held hearings on this bill on May 29, 1980, receiving testimony from a wide number of interested parties.

This legislation was needed to quickly end the uncertainty in the status of the lands which have been recommended for wilderness by the Forest Service as a result of the Roadless Area Review and Eavluation, No. 2, or RARE II. It was imperative that this legislation be passed during the 96th Congress so that those lands which the Congress considers and deems unsuitable for inclusion in the National Wilderness System can be quickly released from a protective status and put under multiple-use plans which will benefit the economy of the State. It is unfortunate, in this regard, that current law does not permit flexible multiple-use of public land so that preservation and economic benefit can go hand in hand, taking advantage of new knowledge and technology as well as new national needs.

Mr. President, this legislation reflects the input from many New Mexicans with widely divergent viewpoints and the best compromise which we, as a delegation, could work between those viewpoints under the constraints of current law. The hearing held on May 29 and the comments we have received since the introduction of S. 2583 provided information which resulted in changes in the original bill. It now represents as closely and as fairly as possible all New Mexican concerns and future New Mexico needs. Many comments were received by all four offices of the New Mexico delegation which have brought additional facts to our attention and consideration.

I do not support the contention that all lands recommended by the Forest Service for wilderness or further study should be designated for wilderness, or future generations of New Mexicans will be deprived of their heritage. Nor do I support the reverse contention that no lands should be designated as wilderness or the economy of New Mexico will fall into shambles and new growth halted. I do support a compromise between these two positions which can be reached if each interest group will consider what its highest priorities are and where it is possible to compromise. A compromise which preserves some appropriate lands as wilderness for future generations to enjoy and allows other lands to return to multiple-use under Forest Service management to facilitate economic growth will provide the maximum benefit for New Mexicans now and in the future. It is that compromise which this legislation attempts to strike within the limits of current law. I believe that New Mexicans and others reviewing this measure will agree.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

TITLE I

Sec. 101. The Secretary of the Interior is authorized and directed to reimburse Albert and Eulalia Rodriquez for improvements to land situated in section 5, township 25 north, range 13 east of the New Mexico principal meridian within the Taos Pueblo Grant, State of New Mexico.

Sec. 102. Beginning October 1, 1981, there is hereby authorized to be appropriated not more than $20,000 for the purposes of this Act.

TITLE II

Sec. 201. (a) The Congress finds that—

(1) many areas of undeveloped public lands in New Mexico possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of the National Wilderness Preservation System;

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have also identified those areas which should be available for multiple uses other than wilderness; and

(4) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have also identified those areas which should be designated for further study.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in New Mexico for inclusion in the National Wilderness Preservation System in order to promote, perpetuate, and preserve the wilderness character of the land to protect watersheds and wildlife habitat, preserve scenic and historic resources, and to promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people;

(2) insure that certain other National Forest System lands in New Mexico be promptly available for nonwilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, mineral development, and watershed and vegetation manipulation; and

(3) designate certain other National Forest System land in New Mexico for further study in furtherance of the purpose of the Wilderness Act.

Sec. 202. (a) In accordance with subsection 3(c) of the Wilderness Act of 1964. (78 Stat. 892), the following National Forest System lands in the State of New Mexico are designated as additions to the National Wilderness Preservation System:

(1) the Aldo Leopold Wilderness, consisting of approximately two hundred eleven thousand three hundred acres in the Gila National Forest, as generally depicted on a map entitled "Aldo Leopold Wilderness Proposal", dated August 1980;

(2) the Apache Kid Wilderness, consisting of approximately forty thousand acres in the Cibola National Forest, as generally depicted on a map entitled "Apache Kid Wilderness Proposal", dated August 1980;

(3) the Blue Range Wilderness, consisting of approximately thirty thousand acres in the Apache-Sitgreaves and Gila National Forests, as generally depicted on a map entitled "Blue Range Wilderness Proposal," dated August 1980;

(4) the Capitan Mountains Wilderness, consisting of approximately thirty-four thousand acres in the Apache-Sitgreaves and Gila National Forests, as generally depicted on a map entitled "Capitan Mountains Wilderness Proposal", dated August 1980;

(5) the Dome Wilderness, consisting of approximately five thousand two hundred acres in the Santa Fe National Forest, as generally depicted on a map entitled "Dome Wilderness Proposal", dated August 1980;

(6) the Gila Wilderness Additions, consisting of approximately one hundred and thirty thousand three hundred acres in the Gila National Forest, as generally depicted on a map entitled "Gila Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Gila Wilderness as designated by Public Law 88-577;

(7) the Latir Peak Wilderness, consisting of approximately fifteen thousand six hundred acres in the Carson National Forest, as generally depicted on a map entitled "Latir Peak Wilderness Proposal", dated August 1980;

(8) the Pecos Wilderness Additions, consisting of approximately seventy thousand seven hundred and thirty acres in the Carson and Santa Fe National Forests, as generally depicted on a map entitled "Pecos Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Pecos Wilderness as designated by Public Law 88-577;

(9) the Wheeler Peak Wilderness Additions, consisting of approximately nine thousand one hundred acres in the Carson National Forest, as generally depicted on a map entitled "Wheeler Peak Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Wheeler Peak Wilderness as designated by Public Law 88-577;

(10) the White Mountain Wilderness Additions, consisting of approximately sixteen thousand eight hundred and sixty acres in the Lincoln National Forest, as generally depicted on a map entitled "White Mountain Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the White Mountain Wilderness as designated by Public Law 88-557; and

(11) the Withington Wilderness, consisting of approximately nineteen thousand acres in the Cibola National Forest, as generally depicted on a map entitled "Withington Wilderness Proposal", dated August 1980.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this Act and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

(d) The previous classifications of the Black Range Primitive Area, the Blue Range Primitive Area and the Gila Primitive Area are repealed.

Sec. 203. (a) The Secretary of Agriculture shall review in accord with the requirements of section 6 of the National Forest Management Act of 1976 (Public Law 94-588), and no later than January 1, 1986, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

(1) the San Francisco Wilderness Study Area, consisting of approximately twenty-five thousand six hundred acres in the Apache and Gila National Forests, as generally depicted on a map entitled "San Francisco Wilderness Study Area Proposal," dated August 1980.

(b) These lands may continue to be available for uses other than wilderness during the conduct of the study under the existing Forest Service plans applicable to the National Forests within which such lands are located.

Sec. 204. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Mexico and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency on the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than New Mexico such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Mexico;

(2) with respect to the National Forest System lands in the State of New Mexico which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those areas designated for further planning by section 4 of this Act, or areas listed in section 3 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans, and in no case prior to the date established by law for completion of the initial planning cycle.

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act are not intended by Congress to be designated for

inclusion in the National Wilderness Preservation System, and need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the land management plans.

(c) Unless expressly authorized by Congress, the Secretary shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of New Mexico for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(d) Nothing in the land management planning process required by section 6 of the National Forest Management Act of 1976 (Public Law 94-588) shall be deemed to preclude multiple use management for uses other than wilderness on any land subject to such planning process except those areas designated for further study in section 4 of this Act.

SEC. 205. (a) Subject to valid existing rights, each wilderness area and wilderness addition designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 206. Congress does not intend that designation of wilderness areas in the State of New Mexico lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

The title was amended so as to read: "A bill for the relief of Albert and Eulalia Rodriguez."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGISTRATION AND PROTECTION OF TRADEMARKS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4273.

The Presiding Officer laid before the Senate H.R. 4273, an act to amend section 17 of the act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEACHER BURNOUT

Mr. DURENBERGER. Mr. President, "teacher burnout" is a phrase gaining popularity and opprobrium at the same time. Appropriately the word "burnout" was available in the classroom already and made a more catchy characterization of a problem which might otherwise have been characterized as "tired teacher".

Earlier in this 96th Congress we created a new Department of Education and during the past week we finally approved a conference report providing substantial funding for the consumers and providers of higher education. We have debated tuition tax credits and provoked some of the year's better oratory on the floor of this body.

But we have avoided committing our time and our energy to the smoldering problem of preparing our young to take over our society. Elementary and secondary education is in turmoil. It is not the fault of "teacher burnout" or of teachers. A provocative article on the subject written by Dennis Schapiro appeared in the September issue of the Minneapolis-St. Paul magazine and I think it is must reading for my colleagues. Another view—albeit generational—is provided in Colman McCarthy's column in the Washington Post of September 20, 1980, "Teachers Who Don't Burn Out". I ask unanimous consent that both of these articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHY CAN'T JOHNNY'S TEACHER TAKE IT ANYMORE?

(By Dennis Schapiro)

School days again. 11 a.m. Do you know where your children are?

Chances are they're with a teacher who believes he or she is underpaid, used, misunderstood and a sitting duck for something called "teacher burnout."

There are teachers who don't like the word "burnout," but most have been gnawed at by the disease that undermines any good ol' days notion of teaching as a secure, satisfying and honored calling.

Teachers have always grumbled. It's part of the package. They are no less cranky than the rest of us. Studies even show that people in other occupations may feel more stress than do teachers. In one report, doctors, secretaries and garment workers all registered higher levels of stress.

But still there is this thing called teacher burnout. And it has hit a special nerve.

For teachers, the term draws together a broad, sometimes contradictory, set of complaints. It gives a name to the disease. The frustration teachers feel is finally seen as something more than a sign of personal failure.

For the rest of us, teacher burnout stirs fears about the prospects for our children. While the passing of the good gray schoolmarm is fully recorded, it's not so easy to swallow the news that she is being replaced by a band of smoldering zombies.

First, some background.

TEACHERS ARE QUITTING

In Minnesota in 1978-79, 978 teachers voluntarily quit. That is the largest number since records have been kept. To help Minneapolis teachers find new jobs, the Minneapolis Chamber of Commerce has coordinated a "New Careers for Educators" program for three years. For last March's session, coordinator Kathy Maloney expected as many as 400 registrants. More than 900 showed up.

Asked how many attended even though their jobs were secure, fully two-thirds of the participants raised their hands. An insurance company recruiter at the program noted a change. "In other sessions," he said, "the teachers seemed bitter, as if the schools had betrayed them. This time they look like they are happy for the chance to get out."

TEACHERS ARE UNDER STRESS

At Group Health's St. Paul Center, Dr. Barbara Berggren says she treats 10 to 15 teachers each week for stress-related ailments. "It is," she says, "practically an epidemic. You name it—headaches, dizziness, weight loss, sleeplessness, vomiting."

In a Chicago survey, one-half of all public school teachers responding reported physical illness related to stress at work. One in four reported mental illness related to stress. A national study reported that in a given month, 12 percent of all secondary school teachers have something worth more than $1 stolen from them. More than 5,000 teachers are assaulted in a given month.

Teacher absenteeism nationally is growing. Louis Haak, supervisor of administrative research for the St. Paul schools, says that there are about 1,200 teaching positions in St. Paul for which substitutes are called in cases of absence. That number has been declining annually, but the $550,000 budget has not. In Minneapolis, more than $1 million is spent on substitutes annually.

TEACHERS ARE FEARFUL ABOUT JOB SECURITY

Richard Needle, an associate professor of public health at the University of Minnesota, has surveyed 2,100 teachers in the state. One in every four fears job termination in the next few years. According to projections by the Minnesota State Planning Agency, the teaching force will be 25 percent smaller in 1985 than it was in 1970—a reduction of 14,195 positions.

The cuts have hit Twin Cities and first-ring suburban schools the hardest. Minneapolis has cut well over 500 positions. Robbinsdale has gone from 1,464 certified staff to 1,070. Bloomington employed 1,338 professional staff members in 1972. This fall the number will be below 850, and a larger percentage of those will be part time. St. Louis Park begins this school year with a staff half the size of its 1972 staff. Younger teachers are especially vulnerable. The last hired are the first fired. But few are safe. Last spring, St. Louis Park sent a termination notice to a teacher with 17 years' experience.

TEACHERS ARE EXPRESSING UNHAPPINESS WITH THEIR CAREERS

According to a National Education Association survey, 32 percent of current teachers wish they had chosen another occupation. In 1966 the figure was 9 percent. Needle found that 25 percent of Minnesota teachers would have second thoughts about taking the same position and another 13 percent definitely would have chosen another position.

TEACHERS ARE UNDER FIRE

Public sentiment toward teachers has soured. Once the best educated citizens in their communities, teachers now work with parents who are as well educated and better paid. Often parents are not convinced that the teachers are up to the task.

In the 1979 Gallup Poll on education, 34 percent gave schools an A or B grade, a drop of 15 percent in five years. The single most common suggestion for improving the schools was to get better teachers. When Donna Knight, currently the executive director of the Governor's Task Force on Educational Policy, was heading a project to help laid-off teachers, she received critical mail daily. "Why use tax money to help teachers?" one letter read. "They are already getting too much."

TEACHERS ARE FEELING THE FINANCIAL PINCH

The idea that teaching is a career sufficient to support a family is a relatively new one. Before the late 1950s, the head of a household who remained a teacher for life was rare. That person may be rare again. In one of her studies, Knight found that 30 percent of Minnesota teachers hold second jobs.

One Apple Valley teacher at the New Careers workshop described her situation: She loved teaching. She had four years' experience. She supports two growing boys. But her salary qualified her for food stamps.

Although salaries for experienced teachers with advanced degrees often look attractive, the problems of beginning teachers, starting at about $10,000 with little job security, are real. Even among the best-paid teachers, salaries can be a cause of discontent.

On one hand, at the top of the salary scale, salary increases consistently fall behind the rate of inflation. In Chaska, for instance, teachers at the top of their scale will receive an increase of only 4 percent over two years. Thus their standards of living go down. On the other hand, many people earning substantial salaries feel trapped. "I would love to leave," says one counselor. "But what else can I do to earn this kind of money this late in my career? I stick it out a couple more years and then I get my pension."

POTENTIAL TEACHERS ARE CHOOSING THEIR CAREERS

Not long ago there were distress cries of teacher surpluses. Now officials are talking of shortages.

Shortages have already been reported in mathematics, science and industrial education. More general shortages may be developing.

One explanation lies in the numbers of teachers coming from the state's colleges. In 1972, according to the Minnesota Institutional Teacher Placement Association, 7,809 teachers were graduated from Minnesota colleges. The last report—for 1978–79—showed that 3,360 had graduated, a drop of 56.9 percent.

W. Timothy Weaver, a researcher from Boston University, offers statistics showing that the current crop of education students may be less competent in the basic skills. Also, he argues, new teachers tend to come from the bottom third of their classes.

Pieced together, the jigsaw is the picture of an unhappy teacher. But something is missing within this pattern of distress. There is no clear indication of cause.

Needle offered the teachers in his survey a list of 54 possible sources of stress in their work. No item was rated as a great or sizeable problem by more than half. The most stressful, according to the survey, was contract negotiations.

Needle, among other observers, is skeptical of much of the rhetoric of burnout. By his definition of burnout—a physical, mental and emotional breakdown coupled with personal and teaching problems—there are few who suffer.

Nelson Otto, director of a regional program for continuing education in vocational rehabilitation, has studied burnout. He argues that some stress is healthy, and that burnout may be misunderstood. "It implies that competent teachers are somehow destroyed," he says. "Often those who burn out are the younger teachers who lack the skills to survive in the classroom."

The extent of burnout is clearly open to debate. But Needle, Otto and nearly everyone else involved agree: A new mood has set in. Teachers' complaints may differ. They may or may not be on the edge of an abyss. But they agree that the job of teaching has become more difficult and no one—not parents, not administrations, not school boards—has shown much appreciation of teachers' successes under duress.

A survey of Hopkins teachers by Diane Hedin of the University of Minnesota Center for Youth Development and Research found that 75 percent of secondary school teachers and 60 percent of elementary school teachers thought teacher morale was a serious problem. One teacher described it as "worse than Vietnam."

Hopkins is not unique.

"A few years ago," says one Minneapolis teacher, "you had the feeling that the school board respected you as a professional, even during the strike. Now you get the feeling that they want you to quit so they can hire someone at a lower salary."

Robert Rose, president of the Minneapolis Federation of Teachers, looks at it this way: "Every day I think that morale has gotten as low as it can get. Then the next day it gets worse."

In Mounds View, teachers and the school board carried on a bitter 10½-month battle over the 1979–80 contract. Before settlement, the teachers refused to work beyond the seven-hour, 45-minute workday specified in the contract. They also refused to coach or teach in summer school.

"It was devastating," says Dick Miller, president of the Mounds View Education Association. "And it is indicative of what society is telling teachers. It is saying, 'We don't care.' "

Miller's brother-in-law, who dropped out of high school, makes more money sawing boards than Miller does as a teacher with a master's degree and 13 years of teaching experience.

Teachers are an individualistic lot. Their unions have spoken out on financial issues, but they have not yet come together on the gut issues of teaching. The burnout talk may mean things are changing. It seems to send a message about the classroom. It says that the whole context for educating young people is confused and unhealthy and out of control.

Schools have always held a special place in American mythology. They were thought to be better than the society that supported them. Then something happened. Beginning with the school desegregation decisions of the 1950s, it was decided that schools in actuality should be better than the society.

If society is segregated, desegregate the schools. If the society is racist or sexist, create liberating curricula. If drivers are reckless, train better drivers in school. If people with physical handicaps are isolated in society, mainstream them in the schools. The list could include drug education, sex education, screening for child abuse, health services and so on.

The changes all seemed right. But however praiseworthy, they have built a bureaucracy of teacher-watchers and paper-pushers. They have multiplied the nonteaching work of teachers. They have created more difficult teaching situations. They have left teachers more vulnerable to bureaucrats, students and the community.

But even these changes do not fully explain the changes in teacher attitude.

As Donna Knight says, "Most teachers are suckers for kids." If things go well in the classroom, teachers can cope. In many classrooms, however, things are not going well.

Some blame television. By the time young people graduate today, they have spent 15,000 hours watching TV—compared to 11,000 hours spent in school. Whether it is the razzmatazz of "Seasame Street," the juvenile tyranny of "Diff'rent Strokes" or the sex or violence, it's hardly the stuff to prepare young people for the form or pace of most classrooms.

Many people cite family changes. The family with two workers or a single parent—or the family in trouble—may not be able to tend to the child's need.

Anita Stoffel has spent much of the last year attempting to establish a Teacher Stress Center in St. Paul. She has heard fellow teachers' problems—inadequate preparation time, lack of support, a feeling of being used, the tension around labor-management divisions in the schools. But stress invariably touches on the problems of children. "We have kids," she says, "who come to school for breakfast and stay late. We may be walking them home soon. Parents feed them dinner and put them to bed. The schools are expected to do almost everything."

Jim Andress saw that and saw teachers suffering through it. He also saw teachers losing their jobs, and it was too much for him. He quit his position as director of personnel in the Robbinsdale school system. He still thinks about the children.

"A lot of kids are suffering," he says, "They're hurt. And they take it out in the classroom. The teacher is the one person they can direct their anger toward."

No one blames families. The pressures are familiar to teachers too. But, as one Minneapolis resource teacher says, "Schools depend on middle-class values—discipline, respect for authority, delayed gratification, interest in learning. The problem is that we don't have middle-class values anymore, even in middle-class families."

In the early grades the problems may not be so great.

Kathleen Adix has taught in Robbinsdale for 10 years. With declining enrollments, she and other teachers have been shuffled between buildings and grade levels. "Teachers would rather teach first or second grade," she says. "The kids come in knowing more than they used to. But by fifth or sixth grade, you are already getting into the abusive language and hearing how boring school is."

In Hedin's survey, elementary and secondary teachers agreed that today's students are more assertive and more demanding of immediate gratification than those of 10 years ago. But there was a difference of opinion as to how knowledgeable the students are. Elementary teachers agreed that students todays know more. None of the secondary teachers said so.

"The big difference is that kids hate school", one counselor says. "And you can underline hate." Others said students simply didn't care.

Students sounded as if they agreed with the counselor. In a companion survey, students repeatedly described their schools as "boring."

School, Hedin concludes, is no longer a priority in the lives of most students. For most older students, she says, work is the priority. In another study, she found that in both urban and rural districts in Minnesota, 80 percent of juniors and seniors hold jobs. On a national level, the percentage of working students has risen dramatically. The percentage of boys working is six times greater than it was in 1950. The percentage of girls is 16 times greater.

After reviewing the comments of students, Hedin concluded: "School is not as 'real' as work, which means that one can be less responsible and adultlike in school because 'school is not the point of life,'—work is.

There is irony. As students find more satisfaction in work, teachers may find less.

William Edson, director of the Education Career Development Center at the University of Minnesota, has been watching the changes and what they have done to the choices of prospective teachers. "A lot depends on a person's value system," he says. "If a person is interested in cognitive and academic achievement, he might find teaching stressful. But if a person is interested in affective development, it could be a good challenge."

Translated, it means that if you want to teach facts, concepts or ideas, teaching is a tough business. If you want to help young people sort out jumbled lives, the opportunity is there.

One teacher looking for a way out sees it from a different angle.

"It's babysitting now," she says. "Five years ago you had maybe one or two troublemakers in your class. There were a few who didn't care, but most were willing. Now, I'd say you have 50 percent troublemakers and the rest don't care."

Betty Olson and Marian Michael have heard plenty of stories of troubled students. Olson is the director of the Community Career Center in Robbinsdale. Michael has worked most directly with teachers looking for help.

"Some teachers have a name for those kids," Olson says. "They call them 'vampires of the spirit.' Once you had one or two in a class and it was like dodging rifle shots. Now teachers dodge machine-gun fire."

Michael has worked with more than a thousand teachers in either group or individual sessions. "Don't deny it," she says. "Educators are in pain. Most of the survivors are getting their strokes outside the school—from families, friends or other jobs . . . or they aren't really looking at themselves."

Morale problems apparently are not universal. In St. Louis Park, for instance, a recent survey indicated that morale was quite high despite cutbacks. But St. Louis Park's situation is unique. The teachers there are always among the state's best paid and the administration has worked hard to find positions for terminated teachers. And the staff is older. Among younger teachers, more concerned about the trade-offs of work and personal life, the decision to persevere may be less attractive.

Such is the picture. A raft of problems and, more important, a rising sense of shared frustration among teachers. Burnout is a rallying cry.

From this point you can construct two scenarios.

Stoffel sees a teacher revolt within five years. "We have students' rights and parents' rights. If there is going to be any education, you have to have teachers' rights. The only way things are going to get better is through people taking responsibility for their work and working together," she says.

There are some promising signs. There are workshops designed to help teachers cope with stress. Legislation has been drafted that would allow teachers to remove students who disrupt class. There are moves afoot to reduce class size—at least at the elementary school level—and bolster teaching salaries.

Perhaps they will not work. But they are the positive steps.

Now for the negative scenario:

As school performances appear to worsen, beleaguered teachers are faced with additional outside control, such as mandatory competency testing.

Teacher demands for tangible rewards—salaries and fringe benefits—escalate as the less tangible rewards, such as job satisfaction and sense of control, seem beyond reach.

Political moves for educational vouchers to provide parents with funds to move their children outside public schools to more "manageable" settings increase.

Many teachers willing to take risks test the job market. Many of those who stay may not be burned out, but they stay with resentment, and, perhaps, a sense of being trapped.

The tension between teachers and administrators grows, with principals increasingly caught in the middle.

No one is predicting the disapperance of the public schools. But with problems of external pressure and internal disillusionment, there is cause for concern.

"I don't want to see public education disappear," says Fred Hayen, director of the Minneapolis Teacher Center. "But I fear for it. In 10 years we may see the end of public education as we know it."

Marian Michael is less delicate. "Unless we make some changes, unless we make schools less unhealthy places for teachers, administrators and students," she says, "the whole system may be down the tubes in 10 years."

[From the Washington Post, Sept. 20, 1980]

TEACHERS WHO DON'T BURN OUT

(By Colman McCarthy)

People who love their jobs—really love them and think of their paychecks as the least of the rewards—are as rare as they are valuable. But the other afternoon, when I was visiting Long Island for some reunions with old friends and haunts, I had two of them before me. They were teachers—my teachers, when I was in grammar school some 30 years ago.

At first, talking with Edna Ashley—who is now 80 and retired and who was my first-grade teacher—and Marye Picone, who taught me in the third, fourth, seventh and eighth grades, was like looking out of a bay window into the past. A panorama of three decades spread out before us.

We hadn't seen each other all these years, though I have remembered both women in the enduring image I formed of them as a child.

At the front of the class, Mrs. Ashley was a maternal presence. She had children of her own, she told us on the opening day of school, and I remember feeling good about that. She would be as much a mother as a teacher with the roles not being much different. She believed that each child had gifts of the mind and spirit waiting to be discovered in the schoolhouse. It was her calling to help this discovery happen.

Mrs. Picone shared this view, though 33 years ago, when I was in the first class she taught, she was not much more than a schoolgirl herself. She was out of college only a few months.

Her idea of an exciting Saturday afternoon was to marshal her bouncing energies and gather about five or six neighborhood children to go into New York City to a museum in the morning and an afternoon at Madison Square Garden for a Knicks game. She was telling us, like Mentor urging on Telemachus, that a world was out there: learn to tie your shoelaces and leap into it.

After a sharing of stories and updates the other day, we began talking about the art of teaching. As one who believes that teachers are among the earth's most undervalued and over-extended citizens, I tried to learn from both Mrs. Ashley and Mrs. Picone how they had avoided teacher burnout all this time.

It was a topical question. Every September—and no exception this year—when teachers take to the picket lines in one city after another, I find myself wondering how they can absorb the foul treatment heaped on them. Instead of honoring teachers and freeing them from school board hassling about salaries, curriculums and paper work, we seem driven to give them as little support as possible—and then wonder why our children aren't learning.

Mrs. Picone, who currently teaches in a junior high school, confessed that teaching was becoming harder of late. A few times, she has come close to burning out. She couldn't point to one lone pressure and say that everything came from that. Perhaps it isn't even pressures at all, she seemed to be saying, but rather evaporations. She would try to touch a student's mind, only to find less and less to grip.

The formlessness means that students show little interest not only about the traditional subjects like history and English, but even in learning about their own culture. Some of this, Mrs. Picone believed, was merely a reflection of the children's coming from homes where books and learning aren't valued. Except that that has always been the case. What's alarming now is that large numbers of the young are confident that they can wing it. They think they can forget learning how to tie their shoelaces. Just leap, the world can be bluffed.

It was too pleasant and breezy a summer day to get into the heaviness of student passivity. Besides, burnout was the question. Mrs. Picone's method of resistance was to keep her spirit of independence intact. A couple of days a year, when the bell of the last period rings, she bolts for the door and tells everyone that the workday is over: no afternoon faculty conferences, no meetings with the principal, no cleaning out her desk. It's time now to go to a museum or to see how the Knicks are doing.

Mrs. Ashley never burned out because she was too busy being fascinated by children. "I have always been an advocate of an individualized approach to learning," she told me, "both in the classroom and at home. I tried to have each child read to me alone for a few minutes each day, just as I spend a little part of the day with each of my own children at home."

As the current teacher strikes plague the country and as teachers find themselves out of jobs because of budget cutbacks, the life and times of women like Edna Ashley and Marye Picone may seem too peaceful to be real. But if we looked closely, we would find that every school has two or three teachers like them—exceptional educators whose kindly ways with the young are making all the difference.

Mr. DURENBERGER. If you are willing to read on, dear colleague, let me give you an added observation. The pressure for alternative and additional financing of education is real and cannot be ignored. This is true for both public and private systems under our current definition of delivery systems.

Some people thought the Department of Education was a necessary creation of a categorical grant system which needs a Federal father or mother. Let me suggest that for all the good the Federal categorical system has done to federalize or nationalize our sensitivity to unique educational needs, its task is completed and Federal aid more appropriately channeled through block grants. I ask unanimous consent that a Minnesota school superintendent's thoughts on the subject which I ask be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

EDINA PUBLIC SCHOOLS,
Edina, Minn., August 19, 1980.

HON. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR DAVE: It has been too long since I have written to you, and because of this huge respite the idea I am about to propose will be a significantly larger change with all the corresponding political obstacles than in the past.

I would like to suggest that we eliminate all categorical aids, take the same dollars currently allocated and give them to school systems in one large block grant. Congress should continue to identify the goals and objectives of these grants but leave to the local districts the form and degree of implementation. Constituents would be aware that such grants have been given and would meet with local Boards to make certain that these monies were allocated appropriately. A la grass roots democracy.

Local Boards would be happy with local control, pressure groups would once again return to the grass roots thereby making programs more responsive to the uniqueness of that particular community or group. Congress, I believe, would be happy in reducing the number of lobbyists and people knocking at its door for special interest money. The taxpayer would be happy in that the number of federal agencies needed to create all the paper work and local public personnel that must be hired to fill out the paper work would be substantially reduced thereby reducing to some degree the federal budget. A single agency would then be established to work in the field (not ask for obese reports) to make certain that the purposes of the grant were in fact being enacted. Districts concerned about the possibility of a federal audit plus a vocal constituency, I believe, would adhere to the intent of Congress.

When do you want to start, Dave?

Sincerely,

RALPH H. LIEBER,
Superintendent of Schools.

Mr. DURENBERGER. On the other hand this election will provide added impetus to concepts that have been round the back burner for a long time like tax credit and vouchers. I ask unanimous consent that the Washington Post article of September 12, 1980, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN, OPPONENTS DIFFER SHARPLY ON EDUCATIONAL POLICY

(By Dan Morgan)

In the emotionally charged field of educational policy, Ronald Reagan has staked out a position that puts him squarely at odds with his two major opponents.

Only Reagan wants to help private and parochial schools, and to provide aid to families who send their children to them.

And only Reagan speaks and writes about ending the public school "monopoly," a theme that fits in with his broad philosophical belief that the private sector can do most jobs better than the government.

"Right now in public education we are very close to a monopoly," wrote Reagan in his 1976 book, "Call to Action." "Every year thousands of parochial and private schools close down because they can't compete against the public schools, which drain off more and more in taxes. Most of us are left with no choice but the public schools, good or bad."

Reagan supports a limited program of tax credits to families paying private school tuition—assistance long sought by Catholics.

Catholic backing was a key factor in Congress' near approval of such aid in 1978. The fight for it in the Senate was led by Sen. Daniel Patrick Moynihan (D-N.Y.), who warned of "fearsome" pressure toward state monopoly over education. The measure passed the House but died in conference, under the cloud of a threatened veto by President Carter.

Reagan also supports experimentation with a controversial plan to issue vouchers entitling children to attend private or public schools of their choice.

Public school forces, led by the National Education Association, charge that tuition aid and a voucher system could lead to the destruction of public education in the United States.

The positions that candidates for the presidency take on educational issues are mainly symbolic. The federal government has only a limited role in financing secondary and elementary education, and in guiding the decisions of the nation's 107,000 local public schools.

Nevertheless, the views of a presidential candidate on education tend to reflect his thinking on social issues generally.

And in this election campaign, with many of the distinctions between liberals and conservatives blurrier than they were a few years ago, some of Reagan's educational positions may appeal to more than conservatives.

Conservatives such as economist Milton Friedman support voucher plans that would have the effect of substituting a private school "market" for parents to replace public schools. But a voucher plan that would preserve the public schools is also supported by California liberals who are now pressing for a statewide referendum on the issue.

Tuition tax credits for private schools appeal not only to Catholics but also to some non-Catholic middle-class families who have become dissatisfied with local public schools. And the credits also are supported by various advocates of more freedom of educational choice for parents, including members of the Libertarian Party.

A few years ago, the stand of Reagan and of the Republican Party platform against mandatory busing to achieve school desegregation would have been branded by liberals as racist. But in 1980, some black leaders, and many black families, are questioning the effectiveness of busing—especially within school districts with overwhelmingly black student enrollments.

Reagan and the Republicans also have pledged to abolish the Department of Education, a creation of the Carter administration. The symbolism of this position reached beyond education to American voters concerned about the growth of government bureaucracy.

None of these issues is more embroiled in politics, or more laden with emotion than the proposal for tuition tax credits for private school enrollees.

The leading Senate opponent of the credits, Sen. Ernest F. Hollings (D-S.C.), has warned that they would "turn our education on its head, benefit the few at the expense of the many, proliferate substandard segregated academies, add to the federal deficit, violate the First Amendment and destroy the diversity and genius of our public schools."

Given the numbers of children attending private and parochial schools, this threat seems to proponents to be vastly exaggerated.

An estimated one out of five pre-college educational facilities in the United States is funded by private or church contributions. But only 4.5 million children attend these facilities, compared with about 41 million children attending the $95-billion-a-year public school system. About half of the nonpublic schools are Catholic.

Nevertheless, public school proponents fear that such programs as tuition tax credits would set a bad precedent and would add to the already extensive problems of these schools.

Public school supporters acknowledge that parental disaffection is dangerously high and has led to renewed interest in private schools.

Scott Thomson, executive director of the National Association of Secondary School Principals, told a House committee this year that there has been a "rather significant flight to private schools in the last five or six years," and added that newly founded private schools "are not just segregation academies located in urban areas or the South."

According to the U.S. Census Bureau's Survey of Income and Education, 82 percent of children attending private school come from families with income under $30,000 a year.

Thomson said that parental concern with public schools is "a broad, nationwide phenomenon based upon, among other factors, 15 years of federal policy."

Mary McCreath, who served on the San Jose, Calif., Unified School District Board for 15 years, warned in an article in the San Jose Mercury last October:

"The tax revolt and the demand for austerity in the schools has led many parents to find a more enriched and acceptable private school for their children . . . We are close to crossing the fail-safe point as America hurtles toward a new and very changed social order."

Mr. DURENBERGER. Actually we are only going to come to a resolution of the problem facing elementary and secondary education when we come together on a definition of the problem rather than debating the solutions; when we stop debating the medicines like tax credit and categorical grants administered by a Department of Education and get to a redefinition of the words "public education." When we define it as a societal responsibility to meet a public need. And recognize that in this country we have responded to that need for public education with both governmental and private delivery systems and among the private delivery systems we have used both for profit and not for profit.

So today the fight is on to save the governmental delivery system from the pressures on education that come from an unwillingness to adequately finance that system. Problems that come about because "teachers can't teach." Problems that come from the dependence upon the property tax and the educational distortion that comes from the willingness of young suburbanites to finance education, but an unwillingness to property tax an older city on the part of a majority of taxpayers no longer benefiting from the system.

As Dennis Schapiro's article points out time is running out as good teachers run out on a profession they love and good potential teachers turn their vocational goals to other pursuits. I ask my colleagues to take the time before the convening of a new Congress to define the problem of public education in America and to come to this process with a commitment to new solutions.

THE BEST CONSUMER POLICY IS A STRONG PRO-FARM POLICY

Mr. DURENBERGER. Mr. President, it is small wonder that the American farmer is losing faith in the Federal Government. The last 18 months have been disastrous for many farmers, and much of the blame can be traced directly to Government action or inaction.

Now, adding insult to injury, the administration has announced that among the 49 Government workers who will receive $20,000 bonuses is Howard Hjort, the Director of Economics, Policy Analysis, and Budget, for the U.S. Department of Agriculture. Mr. Hjort, who earns a regular salary of about $50,000, is in charge of USDA decisions on the farm commodity program, including loan rates, target prices, interest rates, set-asides, acreage diversions, farm reserves, release prices, and call levels. In other words, he directs the Government's policies that are most critical to farmers.

Yet, when President Carter awarded Mr. Hjort his bonus, the President said:

> Mr. Hjort has successfully made the shift in USDA policy from producer-oriented to consumer-oriented in policy and budgetary matters.

To paraphrase the President, Mr. Hjort is receiving a bonus equal to 40 percent of his salary because he has successfully moved the Department of Agriculture even farther from the farmer.

It should come as a surprise to no one that while bureaucrats like this are receiving 40-percent bonuses, farm income, according to many experts, is expected to drop 40 percent.

Even more outrageous in this $20,000 payout is that the administration would be hard pressed to justify what it calls a consumer-orientation of the USDA. Last month, food prices were up almost 2 percent. Consumers do not need that kind of orientation.

The maddening thing about the higher prices of food is that the profit is not going to the farmer. It seems that the only person who is benefiting is the bureaucrat who will make about $70,000 this year at the expense of farmers and consumers.

If the USDA is rewarding anyone, it should be the people who recognize that the best consumer policy is a strong pro-farm policy.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENDA FOR U.S. ENERGY POLICY IN THE 1980's

Mr. BRADLEY. Mr. President, the war between Iraq and Iran is a compelling reminder that the United States, along with other industrialized as well as developing countries, depends on a politically volatile and militarily insecure source of imported oil—the Middle East. Our dependence, which long continued to grow despite recurrent threats to our energy security, means that we are highly vulnerable to foreign disruption or manipulation of our crude oil supplies. Reducing that vulnerability is the most urgent task on our energy policy agenda.

CAUSES OF INSTABILITY IN THE MIDDLE EAST

For decades, the Middle East has been one of the most volatile regions in the world. In recent years, economic development, ideological fragmentation, interaction of diverse ethnic groups, quests for political legitimacy by competing forces, and great power competition have heightened tensions in and between countries around the Persian Gulf. Great wealth and modern technology has offered many of these countries unprecedented opportunities for social and economic progress. But it has also unleashed powerful new forces for cultural change that often seem to be at odds with the cultural sentiments of the population at large.

Ethnic, religious, or territorial conflicts whether among Arabs or between Arabs and non-Arabs, are almost certain to flare up again during the coming decade. Because many countries in the region have acquired large arsenals of sophisticated arms and some are apparently acquiring the capability to produce nuclear weapons, future conflicts are likely to be even more intensive and potentially much more destructive than the current war.

Moreover, as the present hostilities make quite clear, instability and conflict in the Middle East are not due solely, or even primarily, to the Arab-Israeli dispute. This is but one factor whose solution might temporarily reduce the level of tension but would not eliminate its source.

Persistent instability and recurrent violence also create opportunities that we should expect the Soviet Union to exploit. The Soviets have long sought to extend their influence in, if not to exercise control over, various countries in the region. For example, in 1903, the then British Viceroy of India visited the Sultanate of Muscat, known today as Oman. Keenly aware, so the story goes, of the potential danger to British communications with India were the gulf ports to fall into unfriendly hands, he ordered three flag poles to be erected near the top of the Musandam Peninsula, which juts northward into the Straits of Hormuz, as a warning against encroachment by another outside power. In particular, the warning was intended for czarist Russia.

In recent months, it has been possible on almost any day to see at least one Soviet naval vessel lying at anchor just beyond the territorial waters of that same Peninsula. On a visit to Oman last April, for the Senate Energy Committee I indeed saw such a ship.

Its presence is clear proof that the Soviet Navy, conscious of its strength, is prepared to loiter watchfully in the straits that are aptly termed "the West's jugular vein." This narrow artery carries tankers with the oil that supplies over 60 percent of the West's petroleum needs at an average rate of about one every minute.

Nor was the anchored Russian vessel alone in the region. Approximately 750 miles to the south of the Straits of Hormuz is the Peoples Democratic Republic of Yemen. That country is known to harbor a considerable number of Soviet, East German, as well as Cuban military personnel. The strength of its indigenous forces has been reinforced by the provision of generous amounts of sophisticated military equipment from the Soviet bloc. This Marxist State has been tightly tied to the U.S.S.R. by a friendship treaty of the same type that the Soviet Union has signed with Ethiopia, Afghanistan, and Iraq.

These are merely specific examples of the new strategic reality—namely, the Soviet Union's enhanced capacity to project its power in the Persian Gulf region. In the past, it has been difficult for the U.S.S.R. to take full advantage of its geographical proximity to assert its influence in this part of the Middle East. It suffered from poor transport capabilities and communications facilities. It faced obstacles in the form of pro-Western or neutral governments along its natural air and ground paths to the region. And the United States, with its more powerful Air Force and Navy, established air bases in or around the gulf, and with large deployments elsewhere overseas had superior access to most of the Middle East.

Today, that balance has shifted. The Soviets have improved air power and new bases. Nations in their overflight path have been increasingly reluctant to deny the U.S.S.R. air routes. Better roads, often built with U.S. cooperation, have facilitated ground transportation. And the Soviet naval presence in the Indian Ocean has quite often been larger than our own.

Moreover, in recent years, the Soviet Union has begun to encircle the Persian Gulf through its influence in Afghanistan, South Yemen, Ethiopia, Syria, Iraq, and Iran. Given their buildup on Iran's borders, the Soviets are in a unique position to capitalize on present hostilities between Iraq and Iran to the clear and possibly permanent disadvantage of the West.

Soviet stakes in the Persian Gulf could intensify over the next several years if, as many believe, their own oil production were to fall off quite steeply in the mid-1980's. But regardless of whether Soviet oil production expands or declines, the U.S.S.R.'s interests in the Persian Gulf are well established, broadly based and steadily growing. This is because Soviet economic growth rates have been waning and may drop even more sharply in the 1980's.

Control over the highly profitable oil producers would give the Soviets a source of enormous new wealth—in the neighborhood of $200 billion a year. This would enable them both to reverse adverse domestic economic trends and greatly improve the terms of trade in their economic competition with the west. More ominous, however, is the fact that such control would give the U.S.S.R. the ability to destroy the economies of the West and the Third World merely by shutting off the flow of oil.

In addition to its economic value, the Persian Gulf region is strategically important to the Soviets. Bases in the area could be used to: First, expand Soviet power and influence in the Indian Ocean; second, outflank China on their southern borders; third, build up intervention capabilities in the Horn of Africa; and fourth, establish warm water bases for their Pacific fleet near the Straits of Hormuz. The strength and persistence of these interests mean that we must anticipate Soviet instigation and exploitation of conflict in the region and prepare for the possibility that they will seek to convert economic and political leverage into military force.

In the present Iran-Iraq crisis, this means that the Soviets will try to insinuate themselves into any discussion of oil security. With the Soviets as coguarantors of the oil supply for the industrial world, strategic advantage will have shifted dramatically in the Soviets' favor. That is why we must preempt a Soviet-sponsored peace initiative, for even if such a peace comes, we lose. Since we have no other ties to either beligerant, our hope for peace must be with our allies and with the countries of the Islamic Conference.

THE COSTS OF OIL DISRUPTIONS

The potential for conflict in the Middle East exposes us to the threat of recurrent and drastic interruptions of our oil supply. The damage from large, protracted production cuts could be enormous. For example, if escalation of the war between Iraq and Iran were to initiate a nearly total loss of Persian Gulf oil for a year or more, GNP would be depressed by about 15 to 20 percent in the United States, 20 to 25 percent in Western Europe, and 25 to 30 percent in Japan. The total for all OECD countries would exceed $1½ trillion in the first year alone. For the United States, such losses would lead to unemployment rates comparable to the worst period of the Great Depression. For Europe and Japan, the consequences would be even more severe, with dangerous political repercussions surely to follow.

More likely, and perhaps more frequent, threats to only a third or a half of the production in the Persian Gulf region could still be more costly than the worst recessions we have yet experienced. Moreover, while our relatively abundant domestic petroleum, coal, and other resources will enable the United States to become progressively less dependent on insecure foreign oil, a supply cut that sends Japan and Europe into a deep depression would inflict large losses on our own prosperity and security, given that one in five jobs in America are export related.

THE HIGH COSTS AND LIMITED BENEFITS OF ENERGY INDEPENDENCE

Mr. President, in view of this clear and present danger to our national and economic security, why have we made such slow progress in reducing our vulnerability to supply disruptions? The answer is simple. Instead of focusing on the emergency preparedness measures that would anticipate and minimize the risks of a major interruption in our crude oil supply, we have committed our limited resources to more expensive programs aimed at the more remote objective of energy independence. So long as we ignore the differences between dependence and vulnerability and discount the more immediate imperative to reduce the latter, we will also ignore some of the gravest threats to our national security and the future of the Western alliance.

If we are serious about dealing effectively with our energy security problems, we must recognize at the outset the high price and limited benefits of achieving energy independence. In the short and medium term, at least, the massive, accelerated import-substitution that would be required to eliminate foreign oil would be highly inflationary, economically depressing, and environmentally destructive. Thus, while our economy and national security might benefit from the substantial import-reduction that will be induced by efficient adjustment to higher prices, the costs of energy self-sufficiency would almost certainly outweigh the benefits of reduced dependence on oil imports.

Equally important is the fact that even a very low level of dependence on imported oil may not reduce our vulnerability to supply cuts. The reason is that the United States, Western Europe and Japan are integral parts of an international economic and common defense system. This interdependence means that were the United States to become energy self-sufficient, we would nonetheless remain strategically vulnerable because of our economic and military interdependence with Japan and Western Europe, which will remain heavily dependent on foreign oil. Thus, even if we were willing to bear the costs of substantial near-term reduction in our oil imports, the vulnerabilities of our allies and trading partners should make us as concerned about instability in the Persian Gulf as when we import several million barrels a day.

Finally, we should recognize that not all foreign sources are equally insecure. Venezuela, Nigeria, Mexico clearly are more secure than Arab OPEC. A high level of imports from diverse, relatively secure regions outside the Persian Gulf would mean substantial dependence on imported crude. But because it would be unlikely that all of these sources would cease production at the same time, our dependence would not imply a correspondingly high level of vulnerability.

AN AGENDA FOR THE 1980'S

We can no longer afford to allow planning for the remote and costly goal of energy independence to dominate our energy policy. Even if the United States and other industrialized and developing countries are unexpectedly successful in their efforts to first, reduce oil consumption, second, spur domestic petroleum production, and third, accelerate substitution of alternate fuels, many of these nations will remain heavily dependent on insecure sources of foreign oil for at least the next 10 years.

This dependence, combined with the high probability of disruptions and the Middle East producers' willingness to use oil as a political instrument, is likely to aggravate the importing countries' energy security problems over the coming decade. But narrowly conceived national policies aimed at energy self-sufficiency or securing privileged access to certain foreign oil supplies will only make the United States and our allies more vulnerable to the divisive tactics or coercive pressure of potential adversaries.

On the other hand, a more common and realistic understanding of shared energy security problems on the part of diverse importing countries could facilitate the adoption and implementation of stronger collective energy security measures.

From the U.S. standpoint, an effective response to the energy security problem requires us to focus less on planning for the long term, but not ignoring it, and concentrate instead on the more immediate and more urgent problem of reducing vulnerability to disruption or manipulation of our imported oil supply. We have recently begun to make progress in this area but much remains to be done.

The United States and the other major importing countries have greatly enlarged their oil stocks during the last 12 months. Strategic, industrial, or private stockpiles now provide substantial insurance against limited disruptions such as the present war between Iran and Iraq seems to be. Unless this war drags on, spreads across the gulf, or "invites" another Soviet intervention, we can all weather this storm and continue to improve our emergency preparedness for future disruptions.

The strategic petroleum reserve program—which is critical to our ability to manage supply interruptions and to deter "the oil weapon"—has now been successfully revived at a fill rate of 100,000 barrels per day. I would like to see us filling the reserve at a greatly accelerated rate of 400,000 to 500,000 barrels a day once there is no longer reason to be concerned about price increases from the cutoff of Iranian and Iraqi exports. And I would like to see us develop a more flexible and more consistent policy for managing the SPR. A nation without an SPR when a cutoff occurs is similar to a worker who has no savings or unemployment insurance when he loses his job. Both the Nation and the man quickly become destitute. We must also put much greater effort into coordinating stockpile management—both acquisition and drawndowns—among the members of the International Energy Agency (IEA) and France so as to preclude panic buying and avoid a run-up in spot market oil prices.

In addition, we must rapidly develop alternatives to rationing for allocating scarce supplies during an emergency. Even more important, we need to figure out how to stop the enormous flow of wealth from consumers to producers that occurs when oil is cut off and prices skyrocket. This transfer to wealth, which represents a potentially enormous and permanent economic loss to the United States and other importers, is one of the most damaging, yet so far largely overlooked, consequences of oil supply disruptions our ability to deal with the wealth transfer problem will also be significantly enhanced if we act in concert with other key importing nations.

Once we feel confident that we are making progress in building up our national petroleum reserves and putting other emergency preparedness programs in place, our next priority should be energy efficiency. Oil price decontrol and the conservation measures enacted over the past year or two are a good start toward more efficient utilization of liquid fuels in the United States. But we need both more emphasis on, and more innovative approaches to, conserving oil in the residential, industrial and transportation sectors. Cogeneration, electric and methane powered vehicles, and improving the delivery of residential and commercial conservation seem to hold promise for significantly reducing the demand for oil in the mid- to late-1980's.

In the long run we will turn increasingly to solar and synthetic fuels, but natural gas, coal, both for domestic use and for export, new foreign sources of petroleum, and other oil supplements and substitutes need to be explored, developed and utilized during the late 1980's and 1990's.

There will be no single or simple solution. We are not facing a problem that can be solved by another Manhattan project. America is too diverse, our economy too complex and American ingenuity too rich for one answer. In short we need innovation on a large scale in the production, distribution and utilization of energy. An efficient mix will depend on Government's facilitating the efforts of American industry to find new and better means of energy generation, conversion and transmission.

In saying all this, I think it is worth emphasizing that we are first and foremost a market economy—and I hope we remain one. There is only so much the Government can do without distorting choices that the private sector is uniquely competent to make. In the past, I think we have been guilty of a false sense of certainty about how much oil and gas remains to be discovered in the United States and elsewhere, and which alternate fuels and technologies will be most economic or environmentally benign. In planning for the future, it is essential to acknowledge the large uncertainties involved and to be forthright about the assumptions that underlie our projections.

For example, our energy policy has discounted the possibility of substantial petroleum production increases in the oil-importing LDC's. But according to a recent authoritative study by the World Bank, additional investment in exploration and development in the LDC's could yield an extra 3 million barrels a day, from 2 million in 1980 to almost 5 million in 1990.

In order to insure the investment is made, the World Bank has proposed an ambitious expansion of its developing country energy program. The industrialized countries have a real interest in seeing this program work. The oil crises of 1973–74 and 1979 have driven up the LDC's already huge foreign debt at a time when inflation and recession make it difficult for the industrialized nations to increase their aid.

In 1975, the aggregate non-OPEC debt was about $150 billion. By the end of this year, it is expected to reach about $380 billion and by 1981 it could grow to well over $400 billion. The projected magnitude of this debt raises serious concerns about the ability of the international financial system to survive another oil disruption. This, in turn, inceases the LDCs' difficulty in borrowing at the levels required to import oil to sustain their economic growth. Even if credit is available, it means that money these countries should be spending on strengthening their economic base will be used to pay for imported oil.

Economic stagnation in the developing countries is almost certain to foster political and social instability. This will create potentially serious problems for the U.S. foreign policy. In addition, lagging LDC growth rates could have an adverse effect on the U.S. balance of trade because many of the developing countries are major importers of U.S. goods.

Increasing petroleum production in the developing countries could greatly alleviate their financial burdens while reducing demand on the world oil market. For these reasons, the United States should take the lead in mobilizing support for programs to expand petroleum production in the LDC's.

CONCLUSION

In closing, I want to return to the energy security issue and to the geopolitical dimension of our energy problem. Economic policy, national security and foreign policy are the proper and peculiar responsibility of the Federal Government. In the final analysis, whether we discharge these responsibilities successfully depends on demonstrating consistent U.S. leadership in a sound international energy security policy. This, in turn, means persuading our allies and our friends in the Middle East and the Third World that we have the political will to reduce our own vulnerability so that we can assist them should the need arise.

Finally, it means demonstrating to our potential enemies that we are capable of effective action, and not merely of rhetoric which angers but does not deter them from further expansion.

(During the preceding remarks, Senator ZORINSKY assumed the chair.)

IMPLEMENTATION OF WHITE HOUSE CONFERENCE RECOMMENDATION FAR ADVANCED

Mr. NELSON. Mr. President, on April 2, the majority leader's Senate task force on small business placed its agenda for action on the delegate recommendations of the White House Conference on Small Business before this body (CONGRESSIONAL RECORD, April 2, 1980, page 7603 et seq.). The task force thought it would be appropriate to render an interim report as the Senate prepares for the forthcoming recess.

As chairman of the task force, I am pleased to report that the following substantial action has been taken on the top 15 priority recommendations of the delegates:

LEGISLATIVE PROGRESS OF TOP 15 DELEGATE RECOMMENDATIONS OF THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS

A box score on the top 15 White House Conference delegate and Task Force recommendations shows that two were already enacted, and follow-up on these has resulted in additional significant action. Of the remaining 13, 3 were enacted in 1980; 5 have passed the Senate; 8 have been reported from committee; 11 have been subject to hearings; and bills have been introduced on 12, that is all but wage freeze. I ask unanimous consent to have this information printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

INFORMATION

Already Enacted (Require administrative action)	2
Both minority procurement and women in business follow-up by Senate hearings resulting in substantial action:	
To be enacted as legislation	13
Enacted in 1980	3
(Budget, Regulatory Flexibility, Advocacy)	
Passed Senate (above plus Innovation, in part (Patent Reform) and Estate Tax relief, in part (elimination of carry-over basis) and Judicial access)	5
Reported from Senate Committee	8
(above plus tax reduction, depreciation, and regulatory reform—as well as general innovation bill, tabulated above)	
Bill introduced and hearings held	11
(above plus estate tax revision, new issues/rollover incentives and Small Business Participating Debenture)	
Bill introduced (above plus Social Security)	12
Remaining bill on which no action: Wage freeze.	

Additional Task Force Items:

Carry over basis elimination, enacted April 2, 1980.

Capital formation (securities) enacted imminent.

Product liability relief enactment imminent.

Export assistance enactment possible in 1980.

Paperwork reduction, enactment possible in 1980.

Mr. NELSON. Mr. President, to summarize, one-third of the delegate recommendations and one-third of the task force agenda items have either been enacted into law or are on the threshold of enactment. It is quite likely that by the end of 1980, or the beginning of 1981, half of the top 15 recommendations of the 2,000 delegates will be written into the law of the land in substantial part. An outline of responses to the delegate recommendations is as follows, and I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATUS OF THE 15 TOP PRIORITY RECOMMENDATIONS OF THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS

PRIORITY RANKING AND DELEGATE RECOMMENDATION	CURRENT STATUS
(1) (1,129 votes) Replace the present corporate and individual income tax schedules with more graduated rate scales, specifying the graduated corporate tax scale up to $500,000.	Further graduation of corporate tax to $150,000 in 1981 and $200,000 in 1982 provided for in H.R. 5829, the "Tax Reduction Act of 1980", approved by the Senate Finance Committee and reported for consideration by full Senate. Task Force Chairman testified before Ways and Means Subcommittee to urge action this year.
SIMPLIFIED & ACCELERATED DEPRECIATION (2) (818 votes) Adopt a simplified accelerated capital cost recovery system to replace the present complex Asset Depreciation Range (ADR) regulations, with provisions such as (A) immediately expensing capital costs less than a specified amount, (B) immediately expensing government mandated capital costs, and (C) the creation of a maximum annual benefit that may be derived from the system.	H.R. 5829 would also replace the Asset Depreciation Range (ADR) regulations with "Simplified Cost Recovery" providing: (a) immediate expensing for the first $25,000 in annual equipment purchases; (b) substantially shortened "recovery periods" of 2, 4, 7 and 10 years for machinery and equipment; and (c) 20 years for structures (15 if owner occupied).
BALANCED FEDERAL BUDGET (3) (807 votes) Balance the Federal Budget by statute in Fiscal Year 1981 by limiting total Federal spending to a percentage of the GNP, commencing with 20% and declining to 15%.	Agreed to by Senate and House in First Concurrent Budget Resolution, June 12, 1980. Reconciliation bills pending as part of continuing effort to maintain balance.
SUNSET OF ALL LAWS, REGS & AGENCIES, REGULATORY REVIEW BOARD, ONE HOUSE VETO (4) (757 votes) Congress shall exercise its oversight function with the assistance of the General Accounting Office, instituting sunset reviews of all laws, regulations, and agencies, to ensure that none exceeds original congressional intent. Sunset reviews, in an appropriate time frame (not less than every five years), should include economic impact analysis and proposed agency budget reductions, leading to re-enactment of each agency's enabling legislation to permit its continued existence, or to reduce its size and cost. (a) Establish a Regulatory Review Board composed of representatives from the Executive Branch, Congress and small business owners, with responsibility for impact statements and cost controls. (b) Congress shall exercise line-item veto over regulations within a specified time through congressional oversight committees, with one-house floor vote.	The Regulatory Flexibility Act (S. 299) providing for less onerous regulatory compliance and reporting for smaller firms was signed into law by the President on September 19, 1980 (P.L. 96–354). S. 262, the Omnibus Regulatory Reform bill which would meet additional small business' concerns has been reported from Committee and is pending on the Senate and House calendars. Still may be enacted this year.
REVISE ESTATE TAX LAWS (5) (799 votes) Revise estate tax laws to ease the tax burden on family-owned businesses and encourage the continuity of family ownership.	Increase of estate tax exemption to $500,000 and many other relief provisions included in S. 2967. Public hearings held and currently pending mark-up in the Senate Finance Committee.
PASS S. 1860—THE SMALL BUSINESS INNOVATION ACT (6) (746 votes) Support and urge passage of S. 1860, the Small Business Innovation Act of 1979, and companion bill H.R. 5607, as presently drafted with flexibility for minor future amendments, covering: small business research and development set-asides; small business innovation and research programs (as already encompassed by H.R. 5126 and S. 1074); patents; retention; amendments to the Internal Revenue Code; and regulatory flexibility.	Provisions of this Four Title bill, are moving through Congress as separate bills; Title I; provides for mandatory 1% increase of federal R&D funds going to small business each year for 10 years. Reported by the House and Senate Small Business Committees. Senate floor consideration held up because of opposition from Defense Department, universities and others. Title II; Patent Reform has passed the Senate as S. 414. Now in House Judiciary. Passage this session still possible. Title III; dealing with tax provisions and investment incentives for R&D is before the Senate Finance and House Ways and Means Committees. Some provisions including SubChapter S expansion have been approved by the Finance Committee bill and included in H.R. 5829. Title IV; as above, Regulatory Flexibility, was signed into law by the President on September 19. (P.L. 96–354)
TAX CREDIT FOR INVESTMENT IN SMALL BUSINESS, TAX DEFERRAL FOR INVESTMENT ROLL-OVER (7) (681 votes) Provide for a tax credit for initial investment in a small business, and permit deferral of taxes for roll-overs of investments affecting small businesses.	Two Senate bills on tax-free roll-over (S. 653 and S. 655) and bill on new issues credit (S. 487) were introduced and made the subject of public hearings but are not included in the Finance Committee bill. However, the Finance Committee bill does include a reduction in the capital gains tax from 28% to 20% as an incentive to invest in new small firms.
REFORM SOCIAL SECURITY (8) (675 votes) Reform the Social Security System by including, where constitutionally possible, all public and private sector employees as contributors and more closely tie the benefits to contributions to move the system toward actuarial soundness. Limit benefits to the original old-age and survivors benefits. Freeze the tax base and tax rate at the January, 1980 level. Eliminate double dipping.	Nelson-Roth bill (S. 2804) would freeze Social Security tax rates at 1980 levels and allow base to rise in 1981 only enough to adjust for inflation. Pending before Senate Finance Committee.

SMALL BUSINESS PARTICIPATING DEBENTURES	
(9) (646 votes) Provide tax incentives in the form of a new security called a Small Business Participating Debenture (SBPD) to provide a source of capital for small businesses.	Bill introduced in Senate and House (S. 1481) to authorize the creation of SBPDs. Subject of hearings in Finance Committee, but not included in the Finance Committee bill.
SBA OFFICE OF ADVOCACY	
(10) (597 votes) The Office of Advocacy must be maintained, reinforced and expanded so that activity be not less than 5% of the SBA salary and expense budget. The legislative mission of Advocacy must be considered the number one priority of SBA and the Office of Advocacy. The independence of that function of the Office of Advocacy must be protected so that it may continue to have the confidence of the small business community. SBA's Advocacy budget should be devoted to economic research and analysis, as well as small business advocacy. Small business advocates, under the direct supervision of the SBA Office of Advocacy, shall be assigned to OMB, Federal Reserve Board, Treasury, International Trade Policy Committee and other regulatory agencies.	P.L. 96-302, signed July 1, 1980, strengthens the role of the Office of Advocacy at SBA, moving budget closer to goal of 5%. Title III of S. 2620 mandates the membership of five small business exporters on the National Export Council, in line with this recommendation's desire to increase small business participation in International Trade policy making. Small Business Securities Act amendments of 1980 mandate annual conference on capital formation to include Treasury Department and Federal Reserve representatives.
WOMEN IN BUSINESS	
(11) (578 votes) Private lending institutions should be required to provide equal access to commercial credit for women in business. The Federal Reserve Board should establish record keeping requirements for commercial loans to women which will permit effective monitoring of performance under the Equal Credit Opportunity Act. The Small Business Administration should make bank certification available to as many commercial banks and other lenders as possible and establish targets for increasing the dollar volume of loans made to minority-owned and women-owned businesses, as one of the criteria for recertification.	Senate Small Business Com. has held public hearings to follow up on Equal Credit Opportunity Act of 1974, already on the books. SBA has requested large increase in resource to aid women entrepreneurs, and appointed Assistant Administrator for Women's Programs. Congress will provide substantial increased funding to make such government programs more responsive to the needs of women entrepreneurs.
EQUAL ACCESS TO JUSTICE	
(12) (564 votes) Small business should be eligible for magistrate review of agency civil penalties, and reimbursed for court costs, reasonable attorney's fees, and damages from administrative action, if successful in civil disputes with the Federal Government, including IRS. (a) Such costs and fees to come from the operating budget of the agency. (b) Magistrates will be appointed and be responsible to the judges in each Federal Judicial District. (c) With burden of proof on the agency to defend its action.	The Equal Access to Justice Act (S. 265), passed the Senate three times, and was reported by the House Judiciary Committee. Bill would allow prevailing parties to collect attorneys fees and costs in actions against the U.S. government, unless the government's action was substantially justified. Major effort to gain enactment this year.
FREEZE MINIMUM WAGE	
(13) (553 votes) Revise minimum wage standards by freezing standards at January, 1980 levels and establishing a two-tier minimum wage by exempting teenagers, seasonal workers and part-time workers.	No action this session.
MANDATORY PROCUREMENT GOALS	
(14) (472 votes) The President, by Executive Order, and Congress, by legislation, shall establish mandatory goals for all Federal procurements and Federal funds or grants to states, localities, and public and private institutions, on a contract-by-contract or agency-wide basis for small businesses (35%); minority-owned (Black, Hispanic, Native American, Asian Pacific American, and other racial minorities) businesses (15%); and women in business (10%).	Prior to the White House Conference, Congress enacted Public Law 95-507 declaring a policy of "maximum feasible participation" in government procurement for disadvantaged small businesses. Pursuant to a pilot program of implementation by the Small Business Administration section 8(a) contracts grew from $564 million in FY '77 to over $1 billion in FY '79. Legislation to extend pilot program (H.R. 5612) has passed both Senate and House. Conference imminent: Passage in 1980 likely.
ECONOMIC IMPACT OF REGULATION (Similar to Rec. No. 5)	
(15) (471 votes) Require that all government agencies which develop fiscal, monetary, legislative and regulatory policies/practices shall submit small business "economic impact" statements that require the regulatory agencies to identify the anticipated benefits and to justify the costs of Federal regulatory requirements to small business. In addition, all regulatory policies shall be subject to sunset provisions to be reviewed every 5 years in order to ensure that only cost effective regulations shall be maintained and retained in the future.	The "Regulatory-Flexibility" bill (S. 299) was signed into law by the President September 19. Provides for lesser compliance and reporting requirements for smaller firms and economic impact analysis. S. 262, Omnibus Regulatory Reform bill, which would accomplish most of these recommendations' objectives has been reported from Committees in both the Senate and House. Still a possibility of enactment this session.

Mr. NELSON. In addition to responding directly to the work of the conference delegates, the Senate task force also listed five further items which is considered of great importance to entrepreneurship in this country. As shown in the chart above, every one of these five bills has either been enacted into law or is very close to enactment.

It is also important that virtually every priority recommendation of that conference has received serious congressional consideration. With a single exception, the top 15 recommendations and many of the other 45 recommendations have been translated into Senate bills. Those bills have not only been introduced, but have been the subject of public hearings. This kind of groundwork is a necessary prelude to formulating responsible legislation and persuading Members of Congress, the executive branch, the press, and the public that its enactment is vital to our economy and our free private enterprise system.

It should be observed that the conference occurred only 9 months ago, and its final report was published only 4 months ago, on May 15.

So, in my view, the legislative response during this period has been extraordinary, and the record of success has been even more extraordinary.

People who say that the White House conference recommendations have been "put on the shelf" just do not know what has been happening on Capital Hill during the past year. Others who say "It could have been done better (or faster)" are welcome to join with us in finalizing and perfecting the legislation to implement the most important recommendations, which we are now doing, and moving on to do the same with the second echelon proposals. While some people have expressed disappointment that all the recommendations have not been acted upon in full before now, most Members of the Senate, the small business community, and the public are amazed that so much has happened so quickly.

It is encouraging to see that the 14 million small businesses of this country are now more visible and more organized; 25,000 owners of small firms participated in the conference. There were 57 preliminary local and regional meetings in every State of the Union; 2,000 came to Washington as conference delegates.

Their conference recommendations were not lightly made. Questions of budget balance, reducing taxation of enterprise and investment, cutting back paperwork and regulation, promoting capital formation, and international trade are central to the operation of our economy and our society. Making law for future years on these subjects must be done soundly, responsibly, and with deliberation. I am pleased to say that these standards have been met and will continue to be met as this remarkable advance of small business legislation continues.

In my view, this record is a tribute to the majority leader of the Senate, who appointed the task force. He set the process in motion, and has supported its work at every stage. His wisdom in recruiting the leading committee and subcommittee chairmen to serve, has assured that the range of complex and multifaceted small business proposals would receive the expert consideration that is necessary to start them toward enactment into law. He has committed the Senate power structure to a broad program of helping new, small, family, local and independent business all along the line.

In my experience, it was Earth Day, 1970 that launched the decade of activity in environmental matters. That event resulted in a series of laws to improve the Nation's air, water, and other aspects of our environment. In the same way, the White House conference, and the prompt commitment of Congress to its thorough implementation, have built up a momentum for small business. Because of this, it is possible to think of a decade of small business and entrepreneurial activity, with comparable legislative results as well.

We will be doing all we can to bring about these results. For the information of the Senate and the small business community, a full status report of the task force agenda, as of September 30, is as follows:

SENATE SMALL BUSINESS TASK FORCE—AGENDA AND STATUS REPORT

[In response to the recommendations of the White House Conference delegates, the Senate Small Business Task Force, on Apr. 2, 1980, listed the following agenda of hearings, related actions, and expected results. This is a report on developments through Sept. 20, 1980]

Subject	Specific actions to be taken	Eventual goals	Current status
1. Taxes and Capital Formation (H. Byrd—Finance Committee, Bradley—Finance, Nelson—Finance).	Hearings to begin March 28 and April 1 on the entire range of Small Business Capital Formation proposals by the Taxation Subcommittee of the Senate Finance Committee, including the following bills: 1. S. 653 "roll-over" of capital gains from sale of business; 2. S. 487 tax credit for purchasing the first stock offering of a small business; 3. S. 1481 creation of new security called "Participating Debenture"; 4. S. 2136 corporate rate reduction up to $150,000; 5. S. 1435/S. 110 depreciation simplification and reform; 6. S. 2171 elimination of mid-year W–2 forms; 7. S. 2168, to increase the number of Subchapter S. shareholders to 100; 8. S. 2239 to restore tax favored options; 9. S. 1967 to allow creation of a broker-dealer profit reserve for supporting securities of smaller companies; 10. S. 2152, to double eligibility for Used Machinery Investment Credit to $200,000; 11. S. 2480, to increase permissable accumulated earnings to $250,000; 12. S. 2805 eliminate retroactivity of Thor inventory decision.	Consideration in 1980 by Finance Committee and passage by full Senate in 1980 of tax legislation to improve capital formation, recovery and retention, which does not involve significant revenue loss. (These hearings respond to delegate recommendations Nos. 1, 2, 7, and 9.)	Composite bill introduced July 30, 1980 (S. 2998) Hearings held July 31. Finance Committee approved 9 of 11 sections of S. 2998 plus depreciation reform provisions of S. 3040 on August 21. Package on calendar for Senate action as H.R. 5829. Task Force Chairmen testified before House Ways and Means Subcommittee urging House adoption of small business tax package, including H.R. 8123—a composite of 11 of the Senate Small Business tax bills. (1) Rollover (3) Small Business Participating Debenture (4) Rate reductions up to $100,000 (6) Elimination of mid-year W–2 (7) Subchapter S expansion (8) Incentive Stock Options (10) Used Machinery Credit (11) Accumulated Earnings (12) Inventory ruling (*) Excise Tax on Diesel Fuel. *In Finance Committee Small Business section: H.R. 8127—rate reductions up to $200,000 as in Finance Committee bill. H.R. 7618—Incentive Stock Options (identical to S. 2239).
2. Capital Formation—Estate Taxes (H. Byrd—Finance, Bradley—Finance, Nelson—Finance).	Hearings underway on March 24 in the Senate Finance Subcommittee on Taxation on Estate Tax Revisions (S. 1825, S. 1984, S. 2201); also, the Task Force advocates final action on elimination of "carry-over basis" of 1976 estate tax law.	Enactment of legislation to improve prospects for continuity of businesses and Farms; including provisions of H.R. 3919 which would eliminate carry-over basis provisions. (Delegate recommendation No. 4.)	Carry-over basis eliminated by Windfall Profits Tax Act (Public Law 96-223). Composite estate tax bill (S. 2967) introduced July 24, 1980. Finance Committee hearings held August 4. Pending full Finance Committee consideration.
3. Budget Policy—Inflation (Hollings, Hart—Budget Committee).	Endorse balanced budget.	Achieve balanced budget for fiscal year (1981) to combat inflation. (Delegate recommendation No. 13.)	Congress agreed on balanced budget in First Concurrent Budget Resolution; June 12, 1980. Continued effort to maintain this balance through Budget Reconciilation bills.
4. Capital Formation—Credit and securities (Cranston—Banking Committee, Stewart—Banking and Small Business, Nelson—Small Business).	Joint hearings underway by Senate Banking and Small Business Committees, March 3, 5, and April 24, 29, and May 16, and June 2, S. 1940—1940 Act Deregulation, S. 2699—Accredited Investor, S. 2764—Omnibus Capital Formation.	Possible legislative action on credit and securities matters. (Delegate recommendations Nos. 7, 9, and 11.)	Composite Senate bill (S. 2990) containing seven titles passes Senate Sept. 25. House passed counterpart H.R. 7554 Sept. 23. Enactment expected in 1980.
5. Regulatory Flexibility (Culver—Judiciary Committee).	Mark-up of S. 299 scheduled for early April in Senate Judiciary Committee.	Enactment in 1980 of legislation to empower and encourage agencies to scale regulations and paperwork requirements to the size and resources of the businesses regulated. (Delegate recommendations Nos. 5 and 15.)	S. 299 passed by the Senate August 6th and passed by the House of Representatives, September 9. Signed by the President September 19 (Public Law 96-354).
6. Comprehensive Regulatory Reform (Culver—Judiciary Committee, Eagleton—Government Affairs Committee).	Completion of mark-up to be scheduled on S. 262 in Governmental Affairs Committee; also S. 2147 in Judiciary Committee, on which mark-up is scheduled for early April.	Enactment in 1980 of omnibus legislation including: (a) detailed analysis of anticipated costs and proposed benefits of major regulations; (b) strengthened oversight and management of the regulatory process; (c) specific provisions addressed to small business problems. (Delegate recommendations Nos. 5 and 15.)	Regulatory Reform bill with sunset review provisions reported by the Governmental Affairs Committee on May 29, 1980, includes provisions of both S. 262 and 2147. Language being reconciled prior to Senate consideration. House Judiciary Committee ordered a similar comprehensive bill (H.R. 3263) to be reported, Sept. 18.
7. Paperwork Reduction (Eagleton—Governmental Affairs Committee).	The Task Force urges mark-up of legislation such as S. 1411 in full Governmental Affairs Committee following presently contemplated mark-up by Subcommittee on Federal Spending; also endorses as a target a 25 percent reduction in paperwork burdens within 18 months.	Enactment of legislation in 1980 to reduce paperwork burdens by: (1) eliminating present loopholes in clearance procedures for new reports; and (2) requiring comprehensive periodic reviews of existing forms. (Delegate recommends Nos. 5 and 15.)	S. 1411 mandating 25 percent reduction over 3 years. Reported to Senate for action on September 8th (S. Rept. 90-930.) House passed counterpart measure (H.R. 6410) on March 24, 1980.

Subject	Specific actions to be taken	Eventual goals	Current status
8. Access to Courts and Magistrate Review of Penalties (Culver—Judiciary Committee).	The Task Force urges House passage of S. 265, covering these matters, which has passed the Senate.	Enactment of legislation in 1980 along the lines of S. 265. (Delegate recommends No. 12.)	After testimony by Task Force Chairman, House Judiciary Committee reported bill September 24. Senate added as amendment to H.R. 5612 and approved by House-Senate Conference, September 29.
9. Small Business Advocacy (Hollings—Appropriations Committee, Nelson—Small Business).	Consideration by mid-June on the part of the Senate Appropriations Committee on SBA advocacy function; also strengthen statutory authority for advocacy activities.	Legislative action in 1980 to preserve and strengthen SBA Advocacy program. (Delegate recommends No. 10.)	Enacted in Public Law 96-302 for 1981 and future years; moving Advocacy closer to recommended 5 percent budget.
10. Innovation (Nelson—Small Business Committee, Hollings—Appropriations, Ford—Commerce).	Hearings underway on Omnibus Small Business Innovation bill (S. 1860) in Small Business Committee, beginning March 18, 1980.	Consideration on Senate floor in 1980 of increasing small business share of research and development as well as other provisions of the bill. (Delegate recomments Nos. 6 and 14.)	Title I of S. 1860 reported to the Senate as S. 2749. House counterpart (H.R. 5607) reported by Small Business on Mary 16 (House Report 1006). Nontax provisions referred to House Judiciary; tax provisions to Ways and Means Committee.
11. Patent Reform (Culver—Judiciary Committee, Hollings—Appropriations).	The Task Force urges action on small business patent reform along the lines of S. 414 and/or S. 1679 which are now on the calendar; and also urges sufficient appropriations to strengthen patent office to reduce backlog.	Enactment in 1980 of small business related patent reform bills, including stronger patent office.	S. 414 and S. 2446 (making up Title II of S. 1860) passed the Senate 91-4 on April 23. House Judiciary Subcommittee reported S. 414 to full Judiciary Committee on Sept. 23, Judiciary Committee reported broader bill (H.R. 6933).
12. Procurement—Small Business Share (various Senators).	The Task Force urges various committees having jurisdiction to explore the potential benefits to the economy of increasing small business share of government research and other contracts.	Progressive increase in small business share in major procurement programs. (Delegate recommends No. 14.)	Under Public Law 95-507 (1978) procurement from disadvantaged small business doubled to over $1 billion between fiscal years 1977 and 1979. Renewal of "8(a)" contracting program expected via passage of H.R. 5612. Additional oversight hearings held by Senate on increasing minority procurement and small business research and development.
	Hearings scheduled for March 26 in the energy are in Appropriations Committee by Robert Byrd. The Task Force also advocates similar hearings in such other areas as Defense, the Space Agency, National Science Foundation and the Departments of Commerce, Transportation and Housing.	Consideration of small business share of Department of Energy R. & D. in connection with 1981 appropriations.	Department of Energy agreed administratively to double small business share of solar energy budget from $50 to $100 million.
13. Stimulate Small Business Exports (Nelson—Small Business Committee, Stewart—Banking Committee, Cranston—Banking Committee).	Hearings held on S. 2040 in the Small Business Committee on March 12 and 13, to be followed by hearings in Banking Committee, the dates of which have not been announced.	Clean bill for Senate floor consideration on financial aid for small business exporters. (Responds to five recommendations in the area of International Trade by delegates.)	Major small business export assistance bill, S. 2620 (broadening S. 2010) and the Export Trading Company Act, (S. 2718) passed the Senate Sept. 3, 1980. House hearing on S. 2718 expected in late September.
14. Product Liability (Hollings—Commerce Committee, Ford—Commerce Committee).	Hearings to be held in mid-1980, to include small business testimony.	Eventual enactment of product liability relief legislation which would aid small business.	Product Liability Risk Retention Act (S. 1789) introduced September 21, 1979. Hearings held April, 1980. House, on March 10, passed Risk Retention Act (H.R. 6152) which was companion bill of original S. 1789. Clean bill developed in Senate and passed September 30. Enactment imminent.

SENATOR NELSON AND SMALL BUSINESS

Mr. ROBERT C. BYRD. Mr. President, Senator GAYLORD NELSON, the distinguished chairman of the Senate Small Business Committee, has just submitted a statement summarizing the remarkable achievements of the Senate Small Business Task Force.

Organized in February of this year, the task force swiftly adopted a strategy to implement the major proposals of the White House Conference on Small Business. The task force agenda was placed before the Senate on April 2. Since then, the task force has been exceptionally effective in moving a whole range of small business legislation through the Senate and the Congress.

Of the 15 task force priorities. most have either been enacted into law or have been passed by the Senate at least once.

Regulatory flexibility, carryover basis repeal, a balanced budget resolution, and expansion of the SBA Office of Advocacy have all been enacted.

I understand that a product liability bill and a major small business securities revision—both of which have passed the Senate—may be acted upon in the House and may soon become law.

Patent reform has passed the Senate. The Equal Access to Justice Act—paying attorney's fees for small businesses when they prevail in a court case against the Federal Government—has passed the Senate three times. Small Business export assistance legislation has passed the Senate twice.

This is a tremendous record for one session of one Congress. GAYLORD NELSON has played the major role in forging this record.

Many other task force priorities have progressed as well. Paperwork reduction legislation is on the calendar. The Finance Committee adopted nine Nelson small business tax provisions. Small businesses' share of solar energy procurement has been doubled.

This progress does not happen by itself. It does not come as a result of hollow rhetoric or politically biased, meaningless polls. It happens because certain legislators like GAYLORD NELSON, are truly dedicated to promoting small business interests in the U.S. Congress.

This record of achievement during 1980, is merely a continuation of the efforts of Senator NELSON over the last 5 years—the "Nelson years" as chairman of the Senate Small Business Committee. I ask unanimous consent that a summary of the committees' activities be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROBERT C. BYRD. Mr. President, In light of this record, which I consider outstanding, a recent poll by the National Federation of Independent Business showing that Senator Nelson had the "worst" small business voting record in the Senate is truly an outrage. This poll is utter nonsense. Several issues have little or nothing to do with small business, while other issues are counted twice in two cases, and three times in another.

The fact is that Senator NELSON is, by far and away, the most active and effective small business advocate in the Senate. In my opinion, he has put the Senate Small Business Committee, and the small business community on the map nationally. No one else has so clearly established the need for a policy for small business. No one else has so persistently insisted that Congress pay particular and special attention to the needs of small business. And no one else has ever been so successful in convincing the Senate, and the Congress, to pass small business legislation.

I am told that 26 other small business groups have written to protest the NFIB poll. These groups represent over 1,000,000 small business people. I am also told that one national small business group, the National Small Business Association, has reported that its preliminary poll data show Senator NELSON with a 100 percent rating on small business issues.

The NFIB poll, in short, should be ignored. Instead the real record of this outstanding Senator should be consulted.

Let me say something else about polls like this one, Mr. President. They measure a few votes—this one measured 18—of the hundreds of issues that come before the Senate. They cannot avoid reflecting particular, idiosyncratic views. For instance, this poll had two votes on the Small Business Development Center bill, a bill which the NFIB opposed, but which over 200 other small business groups representing 4.5 million members supported. There were votes on nuclear powerplants and synfuels, and three votes on the same OSHA amendment.

Even if these polls were more representative, however, they provide but one measure of a Senator. Voting is very, very important, but a constituent should also ask "how did my Senator spend his time?" "What issues did he or she really fight for, and was that fight successful?" Well, Senator NELSON's "score" on this would go off the charts. The record of achievement I have just outlined clearly shows just how much time and effort the man has devoted to Small Business. This clearly bespeaks a deep commitment to the issue.

It is a pleasure and an honor to work with the Senator from Wisconsin, and once again, I commend his outstanding record for Small Business.

EXHIBIT 1

Small, independent businesses are, in the words of Senator Gaylord Nelson, "the heart and soul of the American free enterprise system." These entrepreneurs employ over half the U.S. labor force, generate the great majority of all new jobs, have produced half of all major industrial inventions and innovations since World War II, and account for 43 percent of the Gross National Product.

During the six years he has served as chairman of the Select Committee on Small Business, Senator Nelson has transformed the committee into an effective mechanism for the development of legislation responding to the needs of smaller firms and for the advocacy of entrepreneurship. His work has been widely praised.

Wilson S. Johnson, president of the National Federation of Independent Business, commenting on Senator Nelson's corporate tax relief initiatives, said:

"Adoption . . . of the Nelson plan for progressive corporate income taxes for smaller businesses is the most significant tax reform in the past forty years."

In September of this year, Nelson was honored by the National Association of Wholesaler-Distributors (NAW), which represents the interests of 250,000 businesses, and by the National Small Business Association (NSBA).

Herb Liebenson, president of the NSBA, said in a letter accompanying his organization's award:

"In our opinion, your actions on small business legislative issues as expressed in the White House Conference on Small Business without question place you at the very top so far as small business legislative leadership is concerned. During the past 20 years, we can honestly say that the Senate Select Committee on Small Business has never been more responsive to small business needs than during the period of your chairmanship."

Dirk Van Dongen, executive vice president of the National Association of Wholesaler-Distributors, said in a letter accompanying NOW's "Citation of Esteem":

"Senator Nelson is clearly the single most effective advocate for small business interests in the Congress."

Bruno J. Mauer, former president of the Independent Business Association of Wisconsin, remarked:

"We in the small/independent business community here in Wisconsin are indebted to you (Nelson) for your outstanding work and leadership in your efforts and accomplishments for small business."

And Don Pfarrer, writing in the Milwaukee Journal, noted:

". . . As chairman of the Senate Select Committee on Small Business, he (Nelson) is able to do, and has been doing, more for small business than any Wisconsin member of Congress in memory."

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Nelson has conducted over those six years of his chairmanship wide-ranging hearings on the problems of the small business owner—among them, taxes and capital formation, paperwork and regulation, innovation and advocacy—and in each of those areas he has designed legislation and made specific proposals to improve the climate for small business.

Perhaps the one Nelson achievement that will have the most enduring effect on entrepreneurship in this country is the convening of the White House Conference on Small Business in January of this year, culminating state and regional meetings that involved over 25,000 business owners throughout the nation.

Nelson initiated the conference in a memorandum to Carter four years ago.

The 15 priority recommendations set forth by the conference delegates have become an agenda for action in Congress. Nelson is now chairing the Senate Task Force on Small Business, appointed by Senate Majority Leader Robert Byrd to oversea the rapid implementation of the recommendations.

Senator Nelson told the conference delegates earlier this year:

"As Earth Day 1970 initiated the environmental decade, I trust this conference will launch a decade of new and vigorous entrepreneurship."

Here is a brief overview of Nelson accomplishments for small business and a look at some of the crucial legislation he is now sponsoring:

TAX RELIEF

Since he became chairman, Nelson has succeeded in getting major tax reduction measures for small business enacted into law, including corporate tax reductions, estate tax improvements, tax credits for added employees and capital gains relief.

Nelson authored amendments to the tax bills in 1975 and 1978 changing corporate tax laws so that smaller firms with annual earnings of $100,000 a year or less save up to $14,750 a year.

TAX SAVINGS RESULTING FROM NELSON SMALL BUSINESS TAX AMENDMENTS, 1975-79

Corporate income	1974 tax rate (percent)	New tax rate (percent)	Maximum yearly dollar saving	Total saved in 1979[1] (millions)
Up to $25,000	22	17	$1,250	$371
$25 000 to $50,000 ..	48	20	8,250	616
$50,000 to $75 000 ..	48	30	12,750	592
$75,000 to $100,000 .	48	40	14,750	449
Total				[2] 2,028

[1] Compared to taxes in 1974.

[2] Savings are expected to increase by about 10 percent per year.

Nelson's 1980 legislative proposal for tax relief and capital formation for small business was adopted by the Senate Finance Committee on August 21.

A major feature of this package would double the surtax exemption for corporate taxes to $200,000 by 1982, bringing total small businesses tax savings under Nelson legislation up to $29,500 a year.

PROJECTED TAX SAVINGS UNDER 1980 NELSON SMALL BUSINESS PROPOSALS[1]

Corporate income	Current Rate (percent)	Proposed rate (percent)	Maximum annual savings: Current annual saving	Maximum annual savings: Proposed
Up to $25,000........	17	15	$1,250	$1,750
$25,000 to $50,000....	20	20	8,250	8,570
$50,000 to $75,000....	30	25	2,750	14,500
$75,000 to $100,000...	40	30	14,750	19,000
$100,000 to $150,000..	46	35	(2)	25,500
$150,000 to $200,000..	46	40	(2)	29,500

[1] Compared to 1974

[2] These 2 brackets are new levels proposed by Nelson

Other features of the 1980 Nelson package, which represents a $1.5 billion transfusion of capital for the small business sector, would:

Slash $300 million a year in paperwork by eliminating the often duplicated mid-year W-2 forms for employees leaving a job;

Increase the amount of accumulated earning a firm may retain from the current $150,000 to $250,000;

Increase from 15 to 25 the number of shareholders permitted for Subchapter S corporations, stimulating more community support;

Permit employees to take stock options in lieu of salary, taxable only at capital gains rates when the stock is sold;

Increase from $100,000 to $150,000 the amount of used equipment eligible for investment tax credit, stimulating upgrading of equipment and saving up to $5,000 more each year in taxes;

Prevent the Internal Revenue Service from retroactively applying a ruling dealing with income tax deductions for inventory markdowns;

Allow broker-dealers to establish a tax-deferred profit reserve to provide protection against losses for small business securities transactions, thus encouraging expanded market-making activities;

Simplify refunds of the federal excise tax on fuel for intercity, charter, local and special bus operations.

The package, resulting from dozens of hearings by the Senate Small Business Committee, focuses on specific issues overwhelmingly supported by the small business community and by the White House Conference on Small Business.

Depreciation reform: Nelson has been a strong, consistent voice for simplified, accelerated depreciation. Nelson introduced the 10-5-3 depreciation reform bill as a result of hearings which began in 1975 after he took over as chairman of the committee.

ESTATE TAX REFORM

Nelson authored the first and only reform of estate and gift tax laws since 1942, increasing the estate tax exemptions for surviving spouses and other heirs and providing for up to 15 years for payment of estate taxes for farms or small businesses.

Here is what the 1976 Nelson legislation accomplished:

Established an exemption for spouses of one-half the value of the estate or $250,000, whichever is greater.

Tripled the exemption for other heirs from $60,000 to $175,000.

Established a gift tax exemption for spouses at up to $100,000 tax free.

Allowed 15 years for payment of estate taxes for farms and small businesses, with interest payments only during the first six years, to help ensure that remaining estate taxes will not force the sale of a family operation.

In 1978, Nelson won passage of legislation eliminating the "widow's tax." This law credits a spouse at the rate of two percent per year for each year worked in a family enterprise, up to 50 percent of the value of the enterprise. That half would go tax free to the surviving spouse, with only the remaining half subject to the lower estate taxes set under the earlier Nelson reforms.

REGULATORY REFORM

Easing the unfair regulatory burden on smaller enterprises is a top priority. Nelson has won approval from both the Senate and the House for legislation he sponsored with Senator John Culver to authorize government agencies to tailor regulations to the size of the business being regulated. Agencies will also be required to analyze the impact of proposed regulations so that smaller firms are not asked to comply with unnecessary or arbitrary rules.

The president signed the Nelson legislation, S. 299, into law September 19.

PAPERWORK REDUCTION

The Senate Governmental Affairs Committee has endorsed Nelson's proposal to slash government paperwork by 25 percent over two years, a first step toward Nelson's ultimate goal of a 75 percent reduction.

During his 18 years in the Senate, and in particular as chairman of the Small Business Committee, Nelson has been a champion of government paperwork reduction. As a result of extensive committee hearings, many specific reforms have been instituted. For example:

Seven pages of instructions, irrelevant questions and legalese required of employers to qualify to hire a student at 85 percent of minimum wage were reduced to a single postcard form containing four simple questions. Since the change, more than 5,000 additional businesses are utilizing the law.

The mid-year W-2 form required by the IRS to be filed when an employee leaves a job. Because of lost forms having to be replaced, employers were being required to file 25 million unnecessary forms at a total cost of some $300 million. Following a review by the Small Business Committee, the IRS agreed to drop the form, and Nelson has introduced legislation to eliminate it statutorily.

ADVOCACY AND MANAGEMENT ASSISTANCE

S. 2698, which was signed into law on July 2 of this year, greatly strengthens the role of the Office of Advocacy in the Small Business Administration, assuring small business a strong voice in formulation of government policy and providing a solid base of economic information for small business.

The measure also established by statute the Small Business Development Center program in Wisconsin. Some 20,000 Wisconsin business owners have already profited from management and technical assistance at 11 centers across the state operating under the auspices of the University of Wisconsin.

Those centers are in Eau Claire, Green Bay, La Crosse, Madison, Milwaukee, Oshkosh, Parkside, Platteville, Stevens Point, Superior and Whitewater.

EQUAL ACCESS TO JUSTCE

Small enterprises have often been at the mercy of the federal bureaucracy because they lack the financial resources to take a case to court. Nelson joined with Senator Pete Domenici in sponsoring S. 265. The measure is designed to remove this unfair burden on small firms by providing for reimbursement of civil costs for any small businessman successfully contesting the federal regulations. The measure has already passed the Senate twice and is now under consideration in the House.

INNOVATION

Given the enormous contribution of small business to innovation and invention, Nelson has authored legislation designed to stimulate innovation.

S. 1860, the only bill specifically endorsed by number by the White House Conference on Small Business, would increase the small business share of federal government research contracts every year for the next 10 years, boosting small business' share of government R&D contracts by $300 million a year.

A provision of that bill extending stronger patent rights to small enterprise inventions developed under contract with federal agencies has already passed the Senate as S. 414.

SMALL BUSINESS TASK FORCE ACHIEVING ITS GOALS

Mr. FORD. Mr. President, as a member of the Senate Small Business Task Force, I am pleased to see the continued accomplishment of the goals set earlier this year.

The delegates to the White House Conference on Small Business agreed upon a number of specific recommendations. Therefore, we in the task force did not wish to respond by simply holding hearings. Rather we concentrated on several pieces of legislation which, by design, implement the goals specifically established by the conference delegates. The results have been very favorable as can be seen by the status report in the RECORD today.

From the outset we in the task force have been very conscious not to raise false expectations. We established a realistic legislative agenda and projected specific action.

In the remaining days of the 96th Congress, I look forward to making more progress in implementing the goals of the White House Conference. The Conference has provided a higher visability for the issues of concern to small business, and I hope to see this trend continue in the 97th Congress.

The Chairman of our task force, Senator GAYLORD NELSON, deserves much credit for focusing the direction of the group on the particular concerns of the delegates of the conference. I look forward to working with him in a continued response to the needs of small business.

LEADERSHIP OF SENATOR NELSON HAS MADE SMALL BUSINESS TASK FORCE A WINNING TEAM

Mr. BRADLEY. Mr. President, I should like to associate myself with the remarks of the majority leader, Senator ROBERT C. BYRD, in praise of the Chairman of the Senate Task Force on Small Business.

It has been my privilege to serve as a member of the task force and a member of the Senate Finance Committee with the Senator from Wisconsin (Mr. NELSON).

It is true, as the Senator states in his report, that the majority leader recruited exceptional talent for the task force, including the assistant majority leader (Mr. CRANSTON) the chairman of the Budget Committee (Mr. HOLLINGS) and the chairman of the Tax Subcommittee of the Senate Finance Committee (Mr. HARRY F. BYRD, JR.).

However, it is also true that the group was as effective as it was because Senator NELSON provided splendid leadership. He made us realize the vital importance of having a program of help and encouragement to private enterprise in the many fields which touch the daily routine and long range plans of the average and the gifted entrepreneur.

He educated us to the significance of the 14 million small firms that provide half of existing employment, half of all industrial innovations and a great majority of the new jobs in our economy, in addition to their traditional role in keeping the door of opportunity open to all of our citizens.

The task force has kept the channels of communication open between Members of the Senate, and also some Members of the House, for purposes of advancing small business legislation. I am personally aware of hearings that have been held and bills which have been approved—in such vital areas as capital formation, corporate tax reduction, estate tax reform, product liability relief, judicial review, and payment of attorneys fees for small business—that would never have happened if it had not been for the encouragement and work of the Nelson task force.

The Senator from Wisconsin went before committees of the House of Representatives as a witness on two occasions to urge enactment of the judicial review and access bill (S. 265) and the broad spectrum of tax reductions for small firms that he steered through the Senate Financial Committee. To illustrate the value of this effort, I ask unanimous consent that the Senator's recent testimony before the House Subcommittee on Select Revenue Measures be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BRADLEY. Mr. President, in my opinion, the impressive string of legislative accomplishments for small business during this session stems, in large measure, from the work of the majority leader's task force and its chairman. I hope that we can do even more next year. Senator NELSON has made the task force a winning team, and that can only benefit the Nation's small business community and the entire economy.

EXHIBIT 1

STATEMENT OF SENATOR GAYLORD NELSON

Mr. Chairman and Members of the Subcommittee, we appreciate being able to appear before this body, as it considers minor but very important tax bills.

Among the measures pending before the Subcommittee and the full Committee are

H.R. 7618 on stock options (introduced by Representatives Smith, Corman, and Shannon) which is identical to S. 2239 introduced by Senator Packwood and myself; and H.R. 8123, an omnibus bill introduced by Representative Fisher of Virginia, which is substantially similar to the composite small business tax bill (S. 2998) which I and other Senators introduced on July 30 of this year. These proposals provide a welcome opportunity for me to provide a brief review of Senate legislative efforts in behalf of tax reform and improved capital formation for new and small businesses.

As you know, the Senate Small Business Committee has been holding public hearings continuously over the past five years on the tax needs of the small business community. That inquiry has been coupled with three years of hearings on the securities and other capital formation problems of independent enterprise. As a result, there have been the following legislative developments during this 96th Congress:

Twelve bills on various corporate income tax matters were formulated by the Committee, and after hearings by the Senate Finance Committee, were amalgamated into a combined bill (S. 2998). On August 21, the Senate Finance Committee approved nine of the eleven sections of that bill, as well as a depreciation provision which went a long way toward the objectives of depreciation simplification and reform embodied in the original series of bills;

Three bills on estate tax assistance for the continuity of family farms and businesses were combined into S. 2967 which is presently being considered by the Finance Committee; and

Three bills on the securities aspects of capital formation which were united in a broad-gauge Small Business Securities Act measure (S. 2990) which has been reported from the Senate Banking Committee and is awaiting Senate action.

The fundamental effort to up-date, coordinate, and re-cast the nation's small business capital formation policies was encouraged and stimulated by the White House Conference on Small Business of January 1980. More than 25,000 business owners participated in the 57 state and regional meetings which preceded that Conference, and elected 2000 delegates to represent them in Washington. The delegates made 15 top priority recommendations, a list of which is attached for your information. Five of the first ten recommendations were on capital formation.

To illustrate, the electronic industry is one of the glamour industries in this country. Our Committee hearings in 1978 found that start-up electronics companies in the 1960's raised over $1 million in initial capital, but those established between 1970 and 1975 could raise an average of only half that amount ($522,000). We found this capital shortage resulted in foreign investors assuming influential positions in promising U.S. technology with the deployment of relatively small amounts of funds.

An article in the May, 1980 issue of Electronics magazine reported that foreign investments exceeding 10 percent in U.S. electronics companies for the first half of 1979 were six times the total amount for the full year of 1978.

An American Association of Engineering Societies memorandum on that article concluded that this surge reflected a *"lack of capital available at reasonable terms."* (Emphasis original) The commentary reads, in part:

"We lack a policy which channels credit and capital at lower rates to growth industries. Our semiconductor industry is an example of capital starvation. In contrast, capital is more readily available to some of our foreign friends who in turn buy into our capital-starved, high technology industries at bargain costs to them. . . .

"This makes some of our leading technology available to future competitors since the most efficient way to transfer technology is through people. Buying a company facilitates this efficient transfer. This will not enhance our future trade position."

If small electronics companies have difficulties raising capital, how much more difficult it must be for small firms in more prosaic fields to do so.

The answer to the threat of foreign investment, and many other problems, is to make it easier for emerging ventures to raise capital in this country. Some headway toward a solution to the capital formation problem will also go a long way toward solving many of the fundamental economic difficulties of the American economy, such as inflation, and flagging productivity, and international competitiveness.

CONTRIBUTIONS OF SMALL BUSINESS

Small firms are the heart of the U.S. economy and our free-enterprise system.

They spark innovation, productivity, and growth. One-half of all commercial innovations have consistently originated with small firms and individual investors. Since economists estimate that 40 to 50 percent of economic growth is based on innovation, small firms are the source of 20–25 percent of national growth. Furthermore, the National Science Foundation has found that small firms produce innovation very efficiently. The smallest category (less than 1,000 employees) incurs one-fourth the cost per innovation of medium-sized firms (1,000 to 10,000 employees) and one-twenty-fourth the cost of large firms (over 10,000 employees). Moreover, their natural competitiveness helps to hold down prices, improve services, and make U.S. products more appealing to both foreign and domestic markets.

Small businesses sustain existing jobs. Fifty-five percent of all existing jobs in the private sector are in small business as defined by the Small Business Administration (59 percent of farming is included.)

Small businesses generate a good majority of the new jobs. Fifty-two percent of the new jobs generated between 1960 and 1976 were by independent businesses with less than 20 employees, while more than 95 percent of the net new jobs between 1967 and 1976 came from other than the 1,000 largest companies.

Small business enhances quality of community life. Numerous studies established that local businesses are a prime source of strength for their neighborhoods and communities, and are the repository of many of the most deeply held American values such as independence, individuality, and economic opportunity. The craftsmanship, dedication, and human scale of small enterprise make a very real difference in the quality of American life. This kind of proven performance by small and independent enterprise in the past shows that it can similarly play a leading role in revitalizing the entire economy in the future—if federal policies are changed to give them fair access to capital.

In my opinion, the most cost-effective thing government can do to improve our economy, is to unleash the dynamism of the nation's 14 million small businesses. Over the past several decades, Statutes and administrative rulings governing taxes and capital formation have gotten out of date and a tide of paperwork and regulation has drained the time, energy, and initiative of America's entrepreneurs. The policy balance must be re-adjusted.

Our Committee has concluded that in order to have meaningful turnaround in small business capital formation, simultaneous improvements are needed on many fronts: tax laws effecting corporate and individual saving and investment, the availability of institutional funds, the structure of venture capital institutions, the applicable securities laws and regulations, and sound fiscal and monetary policies.

We believe that because we are dealing with sensitive private financial commitments, tax policy is absolutely critical.

CONTENTS OF THE TAX BILLS

The Senate package, as now embodied in H.R. 5829 and the House counterpart bills, including H.R. 7618, H.R. 8123, and others, feature a continuation of the corporate tax reductions of the past five years.

As you know, between 1975 and 1979, Congress substantially restructured the corporate income tax. It quadrupled the surtax all tax rates below $100,000. The new rates, the most progressive in our history, are saving smaller companies more than $2 billion a year in Federal taxes, and individual companies as much as $14,750 annually, as shown in the following table.

TAX SAVINGS RESULTING FROM SMALL BUSINESS TAX AMENDMENTS, 1975–1979

Corporate income	1974 tax rate (percent)	New tax rate (percent)	Maximum yearly dollar saving	Total saved in 1979 [1] (millions)
Up to $25,000	22	17	$1,250	$371
$25,000 to $50,000	48	20	8,250	616
$50,000 to $75,000	48	30	12,750	592
$75,000 to $100,000	48	40	14,750	449
Total				[2] 2,028

[1] Compared to taxes at pre-1975 rates.

[2] Savings are expected to increase by about 10 percent per year.

The Finance Committee, in H.R. 5829 approved a further reduction of the bottom rate from 17% to 15% and an increase in progressivity of the lower rates to $150,000 in 1981 and $200,000 in 1982.

Another important provision is a sizable increase in the used machinery credit to improve recovery of invested capital, which we had raised from $50,000 to $100,000 in 1975. Both the Senate and House bills proposed a doubling, to $200,000 and the Finance Committee, in H.R. 5829, approved a 50% increase to $1500,000.

Our bills propose a saving of $300 million by eliminating the duplicative paperwork of the mid-year issuance of W–2 forms. Subchapter S Corporations would be permitted to expand to 25 shareholders, from 15, to which the limit had been raised in 1976. This would allow these companies to seek fresh capital.

The remaining provisions have negligible revenue costs as illustrated by a table prepared by the Joint Tax Committee, also attached.

The options bills (H.R. 7618 and S. 2239) would make the tax payable on a stock option at the time the stock is sold, rather than at the time it is purchased, which is the present law.

The National Venture Capital Association testified before our committee that next to investment capital, the greatest need of new and small businesses, is talented management.

Capable individuals are likely to be well placed already, and disinclined to assume the additional risks to their finances and families that are involved in building a new enterprise.

These option bills provide a medium for attracting that kind of talent. Although a small firm cannot match the current salary and bonuses of the established corporation, it can offer the executive, or manager, or worker, a share in the ownership of the venture that could become quite valuable as a direct result of the holders' performance.

This type of provision is very much needed as an equalizer between new and established companies.

It is more equitable for the tax to be payable when the executive actually receives the proceeds of sale of the stock, rather than when he must scrape up funds to buy the stock. And, the Treasury would also benefit because the present corporate deduction for options as compensation would be eliminated. That makes the bill a revenue raiser.

The other provisions of our bills, as approved by the Senate Finance Committee, include elimination of the retroactive effect of the Thor Power decision on inventory procedures; creation of a profit reserve for securities brokers willing to commit their capital to make trading markets in the stocks of lesser known companies; and an exemption from excise taxes on diesel fuel for fuel efficient bus transportation. We believe these proposals merit acceptance as part of the package.

SUMMARY

In summary, the Senate and House small business bills represent a carefully drafted down-payment in response to the recommendations of the White House Conference on Small Business, and to the vital needs of the national economy. Our composite provisions, which were in S. 2998, and are now part of H.R. 5829 as reported by the Finance Committee, are a balanced program, designed to strengthen many of the critical points in the capital-formation process. The very modest cost will be quickly repaid as a result of increased economic activity.

Approval of these measures by your Committee and the House of Representatives now appears to be the key to the enactment of these measures, since the Finance Committee has already acted. Accordingly, I urge the Subcommittee to consider and act favorably on this legislation.

THE TOP 15

Below is a summary of the 15 issue options which received the most votes from the delegates:

1. Graduate the corporate and individual income tax schedules; set the corporate surtax threshold at $500,000.

2. Simplify and accelerate the capital cost recovery system.

3. Balance the federal budget by statute in Fiscal Year 1981 by limiting total federal spending to a percentage of the GNP, commencing with 20 percent and declining to 15 percent.

4. Lower estate taxes for family-owned businesses.

5. Institute sunset reviews of all laws, regulations, and agencies, to ensure that none exceeds original congressional intent. Cost benefit analyses of the impact of each regulation and agency should be undertaken by a Regulatory Review Board composed of representatives from the Executive Branch, Congress and small business owners. Congress may line-item veto regulations, with only a one-house floor vote.

6. Support and urge passage of the Small Business Innovation Act, which proposes revisions in the tax, patent, regulatory and procurement codes to foster greater small business innovation and subsequent commercialization.

7. Provide for a tax credit for initial investment in a small business, and permit deferral of taxes for roll-overs of investments affecting small business.

8. Move the Social Security System toward actuarial soundness by: (1) including all constitutionally eligible public and private sector employees as contributors; (2) limiting benefits to the original old-age and survivor benefits; (3) freezing the tax base and rate at the January, 1980 level; and (4) eliminating double dipping.

9. Create a new security called a Small Business Participating Debenture to provide another source of capital for small businesses.

10. Preserve the independence of the Office of Advocacy, making its mission the top priority at the Small Business Administration (SBA), by ensuring its budget to be not less than 5 percent of the SBA salary and expense budget.

11. Private lending institutions should be required to provide equal access to commercial credit for women in business.

12. Small businesses who win civil disputes with the federal government should be reimbursed for court costs, reasonable attorney's fees, and damages from administrative action.

13. Freeze minimum wage standards at January, 1980 levels, and establish a two-tier minimum wage by exempting teenagers, seasonal workers and part-time workers.

14. Mandatory procurement goals should be set for federal contracts to reach the following percentages (on a contract-by-contract or agency-wide basis): 35 percent—small businesses; minority-owned businesses—15 percent; and women in business—10 percent.

15. Similar to number 5, excluding the line-item Congressional veto and the Regulatory Review Board.

By subject area, this is where the top 15 vote-getters fall: Capital Formation, 5; Women in Business, 1; Minority Business Development, 1; Government Regulations and Paperwork, 2; Innovation and Technology, 1; Economic Policy and Government Programs, 2; Inflation, 3.

II. REVENUE EFFECTS

ESTIMATED REVENUE EFFECTS OF TAX CUT DECISIONS AS REPORTED BY SENATE FINANCE COMMITTEE, FISCAL YEARS 1981–1985 AND CALENDAR YEAR 1981 (PRELIMINARY)

[Billions of dollars]

Item	Fiscal year— 1981	1982	1983	1984	1985	Calendar year 1981
A. Individual tax cut provisions:						
1. Increase in personal exemption	−1.7	−4.9	−5.1	−5.4	−5.6	−4.8
2. Increase in zero bracket amount	−1.0	−1.6	−1.6	−1.7	−1.8	−1.5
3. Increase in earned income credit[1]	−.1	−.6	−.5	−.5	−.5	−.6
4. Deduction for 2-earner couples	−.3	−3.4	−6.8	−8.3	−9.7	−2.7
5. Rate reductions	−.9	−14.3	−17.2	−20.9	−25.0	−12.8
Total, individual tax cuts	−11.0	−24.6	−31.3	−36.8	−42.6	−22.3
B. Capital formation and productivity tax reductions:						
1. Depreciation—investment credit revisions	−4.3	−13.3	−18.0	−18.7	−19.6	−9.9
2. Corporate rate reduction and small business provisions:						
a. Corporate rate reductions from 46 percent to 45 percent in 1981 and to 44 percent in later years	−.7	−2.4	−3.7	−4.2	−4.8	−1.5
b. Corporate rate reductions on income below $150,000 in 1981 and below $200,000 in 1982 and later years	−.3	−1.1	−1.8	−2.1	−2.3	−.7
c. Increase in accumulated earnings credit	(2)	(2)	(2)	(2)	(2)	(2)
d. Increase in used equipment eligible for investment credit to $150,000	−.1	−.2	−.2	−.2	−.2	−.2
e. Elimination of certain W–2 filing requirements						
f. Deferral of application of revenue ruling on inventory writedowns	(3)	(3)	(3)	(3)	(3)	(3)
g. Increase in number of subchapter S shareholders to 25	(4)	(4)	(4)	(4)	(4)	(4)
h. Refund of excise tax on certain fuels used in intercity, local and school buses	(3)	(3)	(3)	(3)	(3)	(3)
i. Reserves for market making activities	(5)	−.1	−.1	(5)	(5)	−.1
j. Incentive stock options	(4)	(4)	(4)	(4)	(6)	(4)
Subtotal, small business (b. through J.)	−.4	−1.4	−2.0	−2.3	−2.5	−.9
3. Research and development tax credit	−.2	−.5	−.6	−.7	−.8	−.5
4. Savings incentives (LERA's and IRA's)	−.3	−.7	−.9	−1.1	−1.2	−.6
5. Payroll-based ESOP credit	−.3	−1.0	−2.0	−1.6	−.3	−.6
6. Capital gains tax cut	−.8	−2.7	−3.0	−3.2	−3.6	−2.7
7. Foreign earned income exclusion	−.2	−.4	−.4	−.4	−.5	−.3
Total, capital formation and productivity tax reductions	−7.2	−22.3	−30.6	−32.3	−33.2	−17.0
Grand total	−18.2	−46.9	−61.9	−69.1	−75.8	−39.4

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[1] These figures include both the reduction in revenues and the increase in outlays from the changes in the earned income credit.

[2] Indeterminate with respect to both amount and timing but could be substantial.

[3] Negligible loss.

[4] Loss of less than $5,000,000.

[5] Loss of less than $50,000,000.

[6] Gain of less than $50,000,000.

Note: Detail may not add to total because of rounding.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MELCHER. I object.

The PRESIDING OFFICER (Mr. SASSER). Objection is heard.

The legislative clerk continued with call of the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS — CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 7831 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7831) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending Setepmber 30, 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1980, pages H9757 to H9763.)

Mr. EAGLETON. Mr. President, the conference report now before the Senate contains a total of $11,991,261,764 in new budget authority. This represents a reduction of $979,873,301 below the President's budget requests for fiscal 1981 for the Department of Transportation and related agencies. That also puts the conference agreement $41,522,301 below the House-passed bill and only $21,019,000 above the Senate bill. So, we did better than an even split with the House in holding to the Senate-passed bill, which was some $62 million below the House bill.

Mr. President, when all appropriations are considered, including appropriations to liquidate contract authorizations, the conference agreement appropriates $21.8 billion, a reduction below the President's requests of some $982 million, and $142 million below the House bill. So, I feel this is a good compromise between the two bills. We did not succeed in holding the Senate position in every case, but I think we did a good job of meeting the transportation needs of the country while, at the same time, doing our part to stay within the guidelines set for us under the budget resolution. I certainly would urge my colleagues to vote to adopt this conference agreement on H.R. 7831.

Mr. BAYH. Mr. President, this was the second year that I have had the privilege of working with Congressman ROBERT DUNCAN, who led the House conferees. As last year, we found Mr. DUNCAN to be a most effective negotiator. We had several areas which required lengthy discussion between our conferees and those of the House, but were able to work out those disagreements in satisfactory ways. Also, Mr. SILVIO CONTE, the ranking Republican member of the House DOT Subcommittee, who has attended every conference of the DOT bill since I have been the chairman of the Senate subcommittee—over 6 years—did his usual masterful job of expressing his views on the various issues in conference and he contributed a great deal to the success of the conference. The House staff is also very experienced and performed their function very effectively, as did our own subcommittee staff, Jim English, Tim Leeth, Craig Potter, Nancy Lee, and Day Howard.

Mr. President, the entire conference report and statement of the managers appears in the CONGRESSIONAL RECORD of September 26, 1980, on pages H9757 to H9763. So, I will not ask that it be reprinted here but will summarize key items for my colleagues. For the FAA, we included language in the bill which would prohibit use of funds to mandate any reduction in the number of hourly slots by certificated air carriers at National Airport until April 26, 1981. That is coupled with language in the statement of the managers indicating that the conferees feel that the rest of the policy regarding National should be implemented as planned by the Secretary of Transportation We also yielded to the House on the funding for the extension of the Dulles access highway.

For the Federal Highway Administration, we yielded to the House obligation level for Federal-aid highways—$8.75 billion versus $8.4 billion in the Senate bill. But, we left the language in the bill on the manner in which these funds are to be obligated. That language was adopted by the Bentsen amendment during Senate floor debate on the bill.

For the National Highway Traffic Safety Administration, we were successful in convincing the House that the language in their bill relative to airbags should be deleted from the bill. So NHTSA can now implement the passive restraint standard worked out in the authorizing conference.

For rail rehabilitation grants, we provided $100 million in the Senate bill, but had to cut that figure to $25 million in conference. The House felt that we should have more information on what will be done with these funds before providing any more for the program. We did succeed in keeping the limit on section 511 loans at the Senate figure of $770 million rather than going to the House figure of only $600 million. Here again, the House was concerned that we should not provide funds for loans on projects that we had not reviewed. So, the conference agreement includes on page 14 of the statement of the managers, a directive that DOT should not proceed with final approval of the application to purchase, rehabilitate, or construct trackage to the Powder River basin, without the consent of the House and Senate Appropriations Committees. We further direct the Secretary to submit his plans for this project, along with any alternatives he considered, to the committees by October 31, 1980. We will act promptly on that information once we receive the necessary data. We also intend and expect that the Secretary will consider each application on its particular merits in accordance with the provisions of section 511 and the Department's regulations thereunder. To clarify any misunderstanding on this, I want to emphasize that the Secretary's authority to guarantee loans for the construction of new lines of railroad or other new transportation facilities is not limited solely to projects involving the acquisition or rehabilitation of existing railroad lines.

For the cooperative automotive research program, we retained the Senate language in the bill, but also added the words "applied research" to the listing of the kinds of options that should be sent to Congress within 6 months of enactment of this act.

Although the conference report does not address the directive contained in the Senate report relative to the need for a comparative testing program to determine whether the highest level of safety can be achieved with a minimum cockpit crew complement of less than three members, that should in no way indicate that there is any less interest in having that study initiated and completed as quickly as possible, and I am certain the conferees would agree with me that testing should include the use of simulators and other state of the art techniques and should be completed as quickly as possible.

Mr. President, I ask unanimous consent that a comparative table setting forth the various figures be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBILGATIONAL) AUTHORITY

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1980	Estimates, fiscal year 1981	House, fiscal year 1981	Senate, fiscal year 1981	Conference, fiscal year 1981	Fiscal year 1980 enacted	Fiscal year 1981 estimate	House bill	Senate bill
TITLE I									
DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	$36,088,000	$36,300,000	$35,680,000	$35,740,000	$35,680,000	−$408,000	−$620,000		−$60,000
Transportation planning, research, and development	9,425,000	12,000,000	11,100,000	10,788,699	10,788,699	+1,363,699	−1,211,301	−$311,301	
Limitation on working capital fund	(65,033,000)		(60,253,000)	(56,843,000)	(56,843,000)	(−8,190,000)	(+56,843,000)	(−3,410,000)	
Total, Office of the Secretary	45,513,000	48,300,000	46,780,000	46,528,699	46,468,699	+955,699	−1,831,301	−311,301	−60,000
Coast Guard									
Operating expenses	1,117,585,000	1,193,112,000	1,206,967,000	1,193,112,000	1,193,112,000	+75,527,000		−13,855,000	
Appropriation for debt reduction	−224,218	−233,935	−233,935	−233,935	−233,935	−9,717			
Total, operating expenses	1,117,360,782	1,192,878,065	1,206,733,065	1,192,878,065	1,192,878,065	+75,517,283		−13,855,000	
Acquisition, construction, and improvements	286,011,000	324,392,000	339,585,000	324,392,000	333,985,000	+47,974,000	+9,593,000	−5,600,000	+9,593,000
Alteration of bridges	7,650,000	16,200,000	15,850,000	15,850,000	15,850,000	+8,200,000	−350,000		
Retired pay	206,000,000	232,000,000	232,000,000	232,000,000	232,000,000	+26,000,000			
By transfer	(1,500,000)					(−1,500,000)			
Reserve training	42,855,000	45,007,000	45,007,000	45,007,000	45,007,000	+2,152,000			
Research, development, test, and evaluation	22,000,000	25,000,000	25,100,000	25,000,000	25,000,000	+3,000,000		−100,000	
Offshore oil pollution compensation fund:									
Appropriation	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Authority to borrow	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Pollution fund	30,500,000					−30,500,000			
Coast Guard supply fund		1,500,000	1,500,000	1,500,000	1,500,000	+1,500,000			
Total, Coast Guard	1,726,376,782	1,850,977,065	1,879,775,.065	1,850,627,065	1,860,220,065	+133,843,283	+9,243,000	−19,555,000	+9,593,000
Federal Aviation Administration									
Operations	2,173,520,000	2,243,666,000	2,233,520 000	2,233,520,000	2,233,520,000	+60,000,000	−10,146,000		
By transfer	(5,000,000)					(−5,000,000)			
Facilities, engineering, and development	20,500,000	24,500,000	22,310,000	20,000,000	21,155,000	+655,000	−3,345,000	−1,155,000	+1,155,000
Facilities and equipment (airport and airway trust fund)	250,000,000	350,000,000	359,000,000	350,000,000	350,000,000	+100,000,000		−9,000,000	
Reappropriation	43,000,000					−43,000,000			
Research, engineering and development (airport and airway trust fund)	75,000,000	85,000,000	85,000,000	75,000,000	85,000,000	+10,000,000			+10,000,000
Grants-in-aid for airports (airport and airway trust fund):									
Planning grants	10,000,000					−10,000,000			
Development grants (appropriation to liquidate contract authorization)	(610,000,000)	(595,000,000)	(595,000,000)	(595,000,000)	(595,000,000)	(−15,000,000)			
Operation and maintenance, Metropolitan Washington airports	27,327,000	28,585,000	28,585,000	28,585,000	28,585,000	+1,258,000			
Construction, Metropolitan Washington airports	6,785,000	18,350,000	16,200,000	5,350,000	16,200,000	+9,415,000	−2,150,000		+10,850,000
Aircraft purchase loan guarantee program:									
Limitation on new loan guarantees	(650,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(−250,000,000)			
Total, Federal Aviation Administration	2,606,132,000	2,750,101,000	2,744,615,000	2,712,455,000	2,734,460,000	+128,328,000	−15,641,000	−10,155,000	+22,005,000
Federal Highway Administration									
Limitation on general operating expenses	(193,300,000)	(194,002,000)	(190,705,000)	(191,882,000)	(191,282,000)	(−2,018,000)	(−2,720,000)	(+577,000)	(−600,000)
Motor carrier safety	14,100,000	15,100,000	14,350,000	14,350,000	14,350,000	+250,000	−750,000		
Highway safety research and development	9,500,000	9,000,000	9,000,000	9,000,000	9,000,000	−500,000			
Highway beautification:									
Appropriation	8,500,000	7,200,000	6,100,000	7,200,000	6,600,000	−1,900,000	−600,000	+500,000	−600,000
Appropriation to liquidate contract authorization	(25,283,000)					(−25,283,000)			
Highway-related safety grants (trust fund—appropriation to liquidate contract authorization)	(26,500,000)	(17,500,000)	(17,500,000)	(17,500,000)	(17,500,000)	(−9,000,000)			
Railroad-highway crossings demonstration projects	20,000,000					−20,000,000			
Territorial highways:									
Appropriation	6,600,000	6,600,000	6,600,000	6,600,000	6,600,000				
Appropriation to liquidate contract authorization	(4,168,000)					(−4,168,000)			

COMPARATIVE STATEMENT OF NEW BUDGET (OBILGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1980	Estimates, fiscal year 1981	House, fiscal year 1981	Senate, fiscal year 1981	Conference, fiscal year 1981	Fiscal year 1980 enacted	Fiscal year 1981 estimate	House bill	Senate bill
Off-system roads (appropriation to liquidate contract authorization)	($10, 000, 000)					(−$10, 000, 000)			
Safer off-system roads	55, 000, 000					−55, 000, 000			
National Scenic and Recreational Highway:									
Appropriation to liquidate contract authorization	(25, 800, 000)	($16, 500, 000)	($14, 000, 000)	($14, 000, 000)	($14, 000, 000)	(−11, 800, 000)	(−$2, 500, 000)		
Access highways to public recreation areas on certain lakes	9, 650, 000		1, 875, 000	6, 525, 000	6, 525, 000	−3, 125, 000	+6, 525, 000	+$4, 650, 000	
Federal-aid highways (trust fund-appropriation to liquidate contract authorization)	(8, 200, 000, 000)	(7, 500, 000, 000)	(7, 600, 000, 000)	(7, 500, 000, 000)	(7, 500, 000, 000)	(−700, 000, 000)		(−100, 000, 000)	
Emergency relief	250, 000, 000					−250, 000, 000			
Highways crossing federal projects	14, 000, 000					−14, 000, 000			
Carpool and vanpool projects	7, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	−6, 000, 000			
Bicycle program	4, 000, 000					−4, 000, 000			
Alaska Highway	2, 500, 000					−2, 500, 000			
Baltimore-Washington Parkway		1, 000, 000					−1, 000, 000		
Auto-use management		250, 000, 000					−250, 000, 000		
Total. Federal Highway Administration	400, 850, 000	289, 900, 000	38, 925, 000	44, 675, 000	44, 075, 000	−356, 775, 000	−245, 825, 000	+5, 150, 000	−$600, 000
National Highway Traffic Safety Administration									
Operations and research	83, 728, 000	93, 353, 000	82, 253, 000	99, 500, 000	85, 876, 000	+2, 148, 000	−7, 477, 000	+3, 623, 000	−13, 624, 000
State and community highway safety:									
Appropriation	22, 297, 000	61, 593, 000	23, 593, 000	43, 593, 000	38, 593, 000	+16, 296, 000	−23, 000, 000	+15, 000, 000	−5, 000, 000
Appropriation to liquidate contract authorization	(171, 000, 000)	(163, 080, 000)	(163, 800, 000)	(163, 800, 000)	(163, 800, 000)	(−7, 200, 000)			
Total, National Highway Traffic Safety Administration	106, 025, 000	154, 946, 000	105, 846, 000	143, 093, 000	124, 469, 000	+18, 444, 000	−30, 477, 000	+18, 623, 000	−18, 624, 000
Federal Railroad Administration									
Office of the Administrator	7, 973, 000	8, 000, 000	7, 970, 000	7, 970, 000	7, 970, 000	−3, 000	−30, 000		
Railroad safety	28, 000, 000	27, 500, 000	27, 250, 000	27, 250, 000	27, 250, 000	−750, 000	−250, 000		
Railroad research and development	54, 750, 000	52, 500, 000	52, 000, 000	50, 000, 000	50, 000, 000	−4, 750, 000	−2, 500, 000	−2, 000, 000	
Rail Service Assistance	97, 198, 000	103, 840, 000	96, 023, 000	100, 000, 000	99, 423, 000	+2, 225, 000	−4, 417, 000	+3, 400, 000	−577, 000
Railroad restructuring		250, 000, 000		100, 000, 000	25, 000, 000	+25, 000, 000	−225, 000, 000	+25, 000, 000	−75, 000, 000
Limitation on new loan guarantees under Emergency Rail Services Act		(20, 000, 000)	(20, 000, 000)	(20, 000, 000)	(20, 000, 000)	(+20, 000, 000)			
Limitation on direct loans for Minority Business Resource Center		(3, 000, 000)					(−3, 000, 000)		
Northeast corridor improvement program	381, 000, 000	400, 000, 000	350, 000, 000	350, 000, 000	350, 000, 000	−31, 000, 000	−50, 000, 000		
Grants to National Railroad Passenger Corporation	873, 400, 000	925, 000, 000	886, 900, 000	900, 000, 000	881, 000, 000	+7, 600, 000	−44, 000, 000	−5, 900, 000	−19, 000, 000
Advance appropriation for 1982		198, 100, 000	166, 000, 000	166, 000, 000	166, 000, 000	+166, 000, 000	−32, 100, 000		
Limitation on new loan guarantees		(7, 300, 000)					(−7, 300, 000)		
Payments to the Alaska railroad revolving fund	6, 500, 000	10, 640, 000	8, 600, 000	10, 640, 000	10, 640, 000	+4, 140, 000		+2, 040, 000	
Railroad Rehabilitation and Improvement Financing Funds	100, 000, 000					−100, 000, 000			
Rescission	−60, 000, 000					+60, 000, 000			
Limitation on total loan guarantee program	(600, 000, 000)	(770, 000, 000)	(600, 000, 000)	(770, 000, 000)	(770, 000, 000)	(+170, 000, 000)		(+170, 000, 000)	
Limitation on new loan guarantees		(270, 000, 000)					(−270, 000, 000)		
Rail labor assistance	6, 500, 000	9, 000, 000	7, 500, 000	9, 000, 000	9, 000, 000	+2, 500, 000		+1, 500, 000	
Advance appropriation for 1981	61, 600, 000					−61, 600, 000			
Total Federal Railroad Administration	1, 556, 921, 000	1, 984, 580, 000	1, 602, 243, 000	1, 720, 860, 000	1, 626, 283, 000	+69, 362, 000	−358, 297, 000	+24, 040, 000	−94, 577, 000
Advance appropriation for 1981	(61, 600, 000)					(−61, 600, 000)			
Advance appropriation for 1982		(198, 100, 000)	(166, 000, 000)	(166, 000, 000)	(166, 000, 000)	(+166, 000, 000)	(−32, 100, 000)		
Urban Mass Transportation Administration									
Administrative expenses	20, 000, 000	22, 600, 000	22, 200, 000	22, 200, 000	22, 200, 000	+2, 200, 000	−400, 000		
Research development and demonstrations and university research and training	69, 300, 000	58, 275, 000	57, 820, 000	68, 000, 000	65, 500, 000	−3, 800, 000	+7, 225, 000	+7, 680, 000	−2, 500, 000
Urban discretionary grants	1, 700, 075, 000	2, 402, 000, 000	2, 220, 000, 000	2, 140, 000, 000	2, 190, 000, 000	+489, 925, 000	−212, 000, 000	−30, 000, 000	+50, 000, 000
By transfer	(9, 925, 000)					(−9, 925, 000)			
Nonurban formula grants	85, 000, 000	91, 000, 000	65, 000, 000	80, 000, 000	72, 500, 000	−12, 500, 000	−18, 500, 000	+7, 500, 000	−7, 500, 000
Urban formula grants	630, 000, 000	1, 570, 000, 000	1, 500, 000, 000	1, 400, 000, 000	1, 455, 000, 000	+825, 000, 000	−115, 000, 000	−45, 000, 000	+55, 000, 000
Appropriation to liquidate contract authorization	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)				
Waterborne Transportation Demonstration Projects	10, 000, 000		20, 000, 000		10, 000, 000		+10, 000, 000	−10, 000, 000	+10, 000, 000
Interstate transfer grants	700, 000, 000	800, 000, 000	800, 000, 000	800, 000, 000	800, 000, 000	+100, 000, 000			
Rescission of contract authority	−713, 100, 000					+713, 100, 000			
Total Urban Mass Transportation Administration	2, 501, 275, 000	4, 943, 875, 000	4, 685, 020, 000	4, 510, 200, 000	4, 615, 200, 000	+2, 113, 925, 000	−328, 675, 000	−69, 820, 000	+105, 000, 000
St. Lawrence Seaway Development Corporation									
Limitation on administrative expenses	(1, 402, 000)	(1, 473, 000)	(1, 460, 000)	(1, 460, 000)	(1, 460, 000)	(+58, 000)	(−13, 000)		

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1980	Estimates, fiscal year 1981	House, fiscal year 1981	Senate, fiscal year 1981	Conference fiscal year 1981	Fiscal year 1980 enacted	Fiscal year 1981 estimate	House bill	Senate bill
Research and Special Programs Administration									
Research and special programs	$26,046,000	$31,558,000	$29,820,000	$32,558,000	$31,420,000	+$5,374,000	−$138,000	+$1,600,000	−$1,138,000
Cooperative automotive research		12,000,000		12,000,000	12,000,000	+12,000,000		+12,000,000	
Subtotal	26,046,000	43,558,000	29,820,000	44,558,000	43,420,000	+17,374,000	−138,000	+13,600,000	−1,138,000
Office of Inspector General									
Salaries and expenses	1,300,000	13,657,000	13,657,000	13,657,000	13,657,000	+12,357,000			
By transfer	(18,753,000)	(8,085,000)	(8,085,000)	(8,085,000)	(8,085,000)	(−10,668,000)			
Total, title I, Department of Transportation:									
New budget (obligational) authority	8,970,438,782	12,079,894,065	11,146,681,065	11,086,653,764	11,108,252,764	+2,137,813,982	−971,641,301	−38,428,201	+21,599,000
Advance appropriation for 1981	(61,600,000)					(−61,600,000)			
Advance appropriation for 1982		(198,100,000)	(166,000,000)	(166,000,000)	(166,000,000)	(+166,000,000)	(−32,100,000)		
Reappropriations, by transfer	(43,000,000)					(−43,000,000)			
By transfer	(33,678,000)	(8,085,000)	(8,085,000)	(8,085,000)	(8,085,000)	(−25,593,000)			
Limitations	(194,702,000)	(195,475,000)	(192,165,000)	(193,342,000)	(192,742,000)	(−1,960,000)	(−2,733,000)	(+577,000)	(−600,000)
Limitations on direct loans		(3,000,000)					(−3,000,000)		
Limitations on loan guarantees	(600,000,000)	(770,000,000)	(600,000,000)	(770,000,000)	(770,000,000)	(+170,000,000)		(+170,000,000)	
Limitations on new loan guarantees	(650,000,000)	(697,300,000)	(420,000,000)	(420,000,000)	(420,000,000)	(−230,000,000)	(−277,300,000)		
Limitation on working capital fund	(65,033,000)		(60,253,000)	(56,843,000)	(56,843,000)	(−8,190,000)	(+56,843,000)	(−3,410,000)	
Appropriations to liquidate contract authorizations	(10,572,751,000)	(9,792,800,000)	(9,890,300,000)	(9,790,300,000)	(9,790,300,000)	(−782,451,000)	(−2,500,000)	(−100,000,000)	
Appropriations for debt reduction	(224,218)	(233,935)	(233,935)	(233,935)	(233,935)	(+9,717)			
TITLE II									
RELATED AGENCIES									
National Transportation Safety Board									
Salaries and expenses	17,322,500	17,979,000	17,900,000	18,500,000	18,200,000	+877,500	+221,000	+300,000	−300,000
Civil Aeronautics Board									
Salaries and expenses	29,554,000	28,419,000	28,419,000	28,419,000	28,419,000	−1,125,000			
Payments to air carriers	95,769,000	86,300,000	86,300,000	86,300,000	86,300,000	−9,469,000			
Total, Civil Aeronautics Board	125,323,000	114,719,000	114,719,000	114,719,000	114,719,000	−10,604,000			
Interstate Commerce Commission									
Salaries and expenses	79,399,000	83,900,000	82,400,000	82,400,000	82,400,000	+3,001,000	−1,500,000		
Payments for directed rail service	76,000,000					−76,000,000			
Limitation on obligations	(80,000,000)		(10,000,000)	(10,000,000)	(10,000,000)	(−70,000,000)	5+10,000,000.		
Total, Interstate Commerce Commission	155,399,000	83,900,000	82,400,000	82,400,000	82,400,000	−72,999,000	−1,500,000		
Panama Canal Commission									
Operating expenses	427,262,000	371,453,000	370,324,000	370,324,000	370,324,000	−56,938,000	−1,129,000		
Capital outlay	36,625,000	23,000,000	21,350,000	21,350,000	21,350,000	−15,275,000	−1,650,000		
Reimbursement of general fund				(−350,000,000)	(−350,000,000)	(−350,000,000)	(−350,000,000)	(−350,000,000)	
Total Panama Canal Commission	463,887,000	394,453,000	391,674,000	391,674,000	391,674,000	−72,213,000	−2,779,000		
Department of the Treasury									
Office of the Secretary: Investment in fund anticipation notes	(100,000,000)			(100,000,000)	(25,000,000)	(−75,000,000)	(+25,000,000)	(+25,000,000)	(−75,000,000)
U.S. Railway Association									
Administrative expenses	28,000,000	29,280,000	28,500,000	29,280,000	29,000,000	+1,000,000	−280,000	+500,000	−280,000
Payments for purchase of Conrail securities	559,000,000	185,000,000	185,000,000	185,000,000	185,000,000	−365,000,000			
Total, U.S. Railway Association	578,000,000	214,280,000	213,500,000	214,280,000	214,000,000	−364,000,000	−289,000	+500,000	−280,000
Washington Metropolitan Area Transit Authority									
Interest payments	65,774,000	65,910,000	65,410,000	65,910,000	65,910,000	+136,000			
National Alcohol Fuels Commission									
Salaries and expenses	1,500,000					−1,500,000			
National Transportation Policy Study Commission									
Salaries and expenses	66,157					−66,157			
Total, title II, related agencies:									
New budget (obligational) authority	1,407,271,657	891,241,000	886,103,000	887,483,000	886,903,000	−520,368,657	−4,338,000	+800,000	−580,000
Limitations on obligations	(80,000,000)		(10,000,000)	(10,000,000)	(10,000,000)	(−70,000,000)	(+10,000,000)		

COMPARATIVE STATEMENT OF NEW BUDGET (OBILGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1980	Estimates, fiscal year 1981	House, fiscal year 1981	Senate, fiscal year 1981	Conference, fiscal year 1981	Fiscal year 1980 enacted	Fiscal year 1981 estimate	House bill	Senate bill
TITLE III									
GENERAL PROVISIONS									
Coast Guard:									
Offshore oil pollution compensation fund (limitation on obligation)	($60, 000, 000)	($60, 000, 000)	($60, 000, 000)	($60, 000, 000)	($60, 000, 000)				
Federal Aviation Administration:									
Grants-in-aid for airport development (limitation on obligations)	(640, 000, 000)	(650, 000, 000)	(725, 000, 000)	(700, 000, 000)	(700, 000, 000)	(+$60, 000, 000)	(+$50, 000, 000)	(−$25, 000, 000)	
Federal Highway Administration:									
Highway related safety grants (limitation on obligations)	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)				
Federal-aid highways	2, 000, 000					−2, 000, 000			
Federal-aid highways (limitation on obligations)	(7, 800, 000, 000)	(8, 400, 000, 000)	(8, 750, 000, 000)	(8, 400, 000, 000)	(8, 750, 000, 000)	(+950, 000, 000)	(+350, 000, 000)		(+$350, 000, 000)
Great River Road (limitation on obligations)	(39, 500, 000)	(37, 500, 000)	(37, 000, 000)	(37, 500, 000)	(37, 500, 000)	(−2, 000, 000)			
National Highway Traffic Safety Administration: State and community highway safety (limitation on obligations)	(175, 000, 000)	(150, 000, 000)	(150, 405, 000)	(150, 405, 000)	(150, 405, 000)	(−24, 595, 000)			
Consultant services				−3, 894, 000	−3, 894, 000	−3, 894, 000	−3, 894, 000	−3, 894, 000	
Total, title III, general provisions	(8, 742, 500, 000)	(9, 325, 905, 000)	(9, 750, 905, 000)	(9, 375, 905, 000)	(9, 725, 905, 000)	(+983, 405, 000)	(+400, 000, 000)	(−25, 000, 000)	(+350, 000, 000)
New budget (obligational) authority	2, 000, 000			−3, 894, 000	−3, 894, 000	−5, 894, 000	−3, 894, 000	−3, 894, 000	
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	10, 379, 710, 439	12, 971, 135, 065	12, 032, 784, 065	11, 970, 242, 764	11, 991, 261, 764	+1,611,551,325	−979, 873, 301	−41, 522, 301	+21, 019, 000
Appropriations for 1981	(10, 318, 110, 439)	(12, 773, 035, 065)	(11, 866, 784, 065)	(11, 804, 242, 764)	(11, 825, 261, 764)	(+ 1,507,151,325)	(−947, 773, 301)	(−41, 522, 301)	(+21, 019, 000)
Advance appropriation for 1981	(61, 600, 000)					(−61, 600, 000)			
Advance appropriation for 1982		(198, 000, 000)	(166, 000, 000)	(166, 000, 000)	(166, 000, 000)	(+166, 000, 000)	(−32, 100, 000)		
Reappropriations, by transfer	(43, 000, 000)					(−43, 000, 000)			
By transfer	(33, 678, 000)	(8, 085, 000)	(8, 085, 000)	(8, 085, 000)	(8, 035, 000)	(−25, 593, 000)			
Limitations	(194, 702, 000)	(195, 475, 000)	(192, 165, 000)	(193, 342, 000)	(192, 742, 000)	(−1, 960, 000)	(−2, 733, 000)	(+577, 000)	(−600, 000)
Limitations on obligations	(8, 822, 500, 000)	(9, 325, 905, 000)	(9, 760, 905, 000)	(9, 385, 905, 000)	(9, 735, 905, 000)	(+913, 405, 000)	(+410, 000, 000)	(−25, 000, 000)	(+350, 000, 000)
Limitations on direct loans		(3, 000, 000)					(−3, 000, 000)		
Limitations on loan guarantees	(600, 000, 000)	(770, 000, 000)	(600, 000, 000)	(770, 000, 000)	(770, 000, 000)	(+170, 000, 000)		(+170, 000, 000)	
Limitations on new loan guarantees	(650, 000, 000)	(697, 030, 000)	(420, 000, 000)	(420, 000, 000)	(420, 000, 000)	(−230, 000, 000)	(−277, 300, 000)		
Limitation on working capital fund	565, 033, 000)		(50, 253, 000)	(56, 843, 000)	(56, 843, 000)	(−8, 190, 0000)	(+56, 843, 000	(−3, 410, 000)	
Memoranda:									
Appropriations to liquidate contract authorizations	(10, 572, 751, 000)	(9, 792, 800, 000)	(9, 890, 300, 000)	(9, 790, 300, 000)	(9, 790, 300, 000)	(−782, 451, 000)	(−2, 500, 000)	(−100, 000, 000)	
Appropriations for debt reduction	(224, 218)	(233, 935)	(233, 935)	(233, 935)	(233, 935)	(+9, 717)			
Total, appropriations including appropriations to liquidate contract authorization and appropriations for debt reduction	(20, 952, 685, 657)	(22, 764, 169, 000)	(21, 923, 318, 000)	(21, 760, 776, 699)	(21, 781, 795, 699)	(+829, 110, 042)	(−982, 373, 301)	(−141, 522, 301)	(+21, 019. 000)

Mr. MAGNUSON. Mr. President, I am pleased to point out that the conference report for the Department of Transportation appropriations for fiscal year 1981 is under the President's budget by almost $1 billion. I compliment Senator BAYH and Senator MCCLURE for being able to accomplish this saving while, at the same time, providing adequate funds to deal with our transportation problems. No doubt there are programs that we wish could have been funded at a higher level, however, recognizing the need to act in a fiscally responsible manner, the programs have been trimmed to lean levels.

This conference report includes a Senate package of general provisions which I sponsored to deal with the problems of fraud, abuse, waste and error in our Government. It is primarily aimed at reducing the problems or last quarter spending and abuses in the use of consultants.

There are several other matters in the conference report that are of particular interest to me. I am pleased to see that the research, development, and demonstrations and university research and training account under the Urban Mass Transportation Administration has been funded at a level of $65.5 million. The funding is adequate to allow UMTA to fund a demonstration project for the urban transportation program at the University of Washington. This is a fine project and the only one on the West coast.

Another matter of interest to me is the language added in the Senate, at my request, to exempt certain Federal-aid highway projects from obligation constraints. The intent of the Senate language, agreed to by the House conferees, is that obligation limitations shall not apply to ongoing emergency projects funded in combination with the emergency relief fund and the discretionary bridge replacement fund. This language will allow projects such as the West Seattle Bridge in the State of Washington to proceed as scheduled.

Mr. EAGLETON. I yield to my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. MCCLURE. Mr. President, the chairman of the Transportation Subcommittee, Senator BAYH, has outlined the contents of the conference report currently before this body. I would first of all like to compliment the chairman for his excellent work on this bill and for the way in which he and his staff have cooperated with me and my staff as well as with all other members of this subcommittee. In that connection, I must begin the statement on this conference report by saying that I wholeheartedly support the report of the conference on H.R. 7831, as the ranking minority member of this subcommittee. I also think it would be inappropriate to go any further without stating my deep appreciation for the long hours of effort put into this bill by the chairman and ranking minority member of the House Subcommittee, Mr. ROBERT DUNCAN and Mr. SILVIO CONTE and their staff.

We have worked long and arduously to come back to the floor of the Senate with a bill that remains not only more than $950 million below the President's original budget submissions but is also nearly $150 million below the House. Perhaps more important than all of this is the fact that this bill is also below our budget allocation under the first concurrent resolution by somewhat over $100 million. I can assure my colleagues in the Senate that it was not easy to maintain this level of spending for the Transportation bill this year.

Many accounts which would normally have seen increases were cut. In addition, I think we have significantly improved accountability in several areas and there have been a number of language changes in this bill and report which, in my opinion, tighten up our oversight in the transportation area. I have already stated my views a number of times on the floor of the Senate concerning the need for improvement in prioritizing transportation needs. I was very pleased, this year, to see the committee address this need and am doubly pleased to see language in the conference report which highlights the need in the future to maintain detailed justifications for all future earmarkings that circumvent previously established priorities.

As Senator Bayh has already pointed out, the entire conference report along with the statement of the managers has already appeared in the Congressional Record of September 26, 1980. In addition, the chairman summarized in some detail his feelings about the key items in the conference report and I will, therefore, not comment upon all aspects of that report. Nevertheless, I would like to address a few areas which are, in my opinion, of some significance:

I was pleased to see the conference adopt a higher funding level of $8.75 billion for the highway trust fund. This committee has made rather extensive comments in a number of forums concerning the upcoming problems regarding the allocation of highway trust funds and I, for one, am painfully aware of the need to generate adequate revenues so that the trust fund may be utilized by the States as it was intended to be in the original authorizing legislation. In the future, I am confident that those of my colleagues interested in this major effort will work with me to address the needs in this area.

As some members are no doubt well aware, we included in this bill for the first time a section on cooperative automotive research. This was done in the absence of any significant authorization. I anticipate that an authorization will be forthcoming and with that in mind, the committee did provide that no additional funds shall be expended until such an authorization occurs.

Under the Amtrak account, we cut capital grants by $19 million and total budget authority for Amtrak was, therefore, reduced to a level of $881 million. This was below the original requested amount but we have indications from Amtrak and others in the administration that this will be adequate. I have previously mentioned my feelings about the need to reduce the indebtedness of Amtrak and remain hopeful that an authorizing effort in that regard will be forthcoming.

I continue to be frustrated about the failure of the administration to adequately address our needs in the safer off-system roads area. I have commented upon this problem extensively in the past and will not say anything further except to reiterate my feelings concerning the need to address this problem in the future, also.

As many of you may know, we also provided language in the conference report requiring the approval of the House and Senate Appropriations Committees concerning any effort by the Department of Transportation to approve any application to purchase, rehabilitate or construct trackage in the Powder River Basin in Wyoming. The account under which this language occurs within this bill is the railroad rehabilitation and improvement fund account which makes available under section 511 of Public Law 94-210 $770 million in fiscal year 1981.

Our decision concerning the review of the Appropriations Committees over any decision in the Powder River Basin was merely an attempt to protect congressional prerogatives and there is no intention on the part of this committee or the House Committee to delay action in providing additional service in the Powder River Basin. In recognition of that fact, we included a specific proviso in the conference report directing the Secretary of Transportation to provide us with material to be reviewed no later than October 31, 1980. As Senators are well aware, this may actually predate the passage of any conference report on the pending authorization dealing with this matter in the Conference Committee. I must say that I think the committees' actions in this area, particularly, were responsible and necessary under the circumstances.

I will not further summarize the contents of this bill and conference report other than to say that we have put many hours of work into its preparation and that I would urge your support in its adoption since I believe it represents a balanced and responsible effort in meeting our transportation needs in fiscal year 1981.

Mr. MATHIAS. I would like to thank the distinguished Senator from Idaho for his great diligence in bringing this measure through the Congress so expeditiously and I would like to ask the Senator a question with regard to an item in the conference report.

The Senate Appropriations Committee report on H.R. 7831 contained the following language:

> The Secretary is directed to immediately initiate with WMATA a comprehensive feasibility study, of possible extensions of rail routes beyond the adopted regional system to include: from the proposed Addison Road station to the vicinity of Bowie, Md., including access to the Capital Centre in Largo, Md.; from the proposed Shady Grove station to the vicinity of Gaithersburg and Germantown, Md., from the vicinity of Virginia Route 7 on I-66 to Dulles International Airport; from the vicinity of Virginia Interstate 95 and the proposed Springfield station to the vicinity of Virginia Route 645 near Burke, Va.; within the District of Columbia on routes to be determined by the WMATA in consultation with the Mayor and City Council of the District of Columbia; and such other routes as deemed appropriate by the WMATA Board of Directors.
>
> The projected costs and timetable for accomplishing such route extensions, along with projected cost sharing burdens for the Federal, State, and local governments shall be included in such study. The WMATA is directed to submit such feasibility study to the Secretary and the appropriate Committees not later than 12 months after the study has been initiated.

Would the Senator agree that it was clearly the intention of the committee that a study be conducted by WMATA of certain specific extensions of the Metro system?

Mr. McCLURE. The Senator from Maryland is correct. The committee directed that WMATA study certain specific routes. The committee does wish to be assured, however, that all appropriate local governments and that the Metropolitan Washington Council of Governments be closely consulted with on the matter.

Mr. MATHIAS. I am in complete accord with the Senator on that point. Is it not true that section 8 of the Urban Mass Transportation Act provides that grants can be made to local public bodies, including, according to UMTA circular C 8100.1, "publicly-owned transit operator" for the purpose of making feasibility studies of this nature?

Mr. McCLURE. The Senator is correct.

Mr. MATHIAS. Would the Senator further agree that it was the intent of the committee that the Secretary of Transportation is to fund this study under section 8, UMTA's technical studies program?

Mr. McCLURE. Again, the Senator is correct.

Mr. MATHIAS. Would the Senator agree that it remains the intent of the committee that the Secretary of Transportation should "immediately initiate with WMATA a comprehensive feasibility study of rail routes beyond the adopted regional ssytem," as specified by the Senate report and that the study can and should be funded under UMTA's technical studies program?

Mr. McCLURE. The committee's intention and position is as the Senator states. The report of the Committee of Conference on the measure does contain some language on the matter which could be misleading. The committee's intent was to insure that any studies which are done are funded within the appropriations for UMTA section 8 technical studies and not from new or additional funding. A misunderstanding may have occurred as to what constitutes an agency eligible to receive those section 8 funds. It is this Senator's view that WMATA is an eligible agency and therefore that the language contained in the Senate's report on H.R. 7831 stands.

Mr. MATHIAS. I wish to thank my good friend, the Senator from Idaho, for helping to clarify this point.

Mr. President, I ask unanimous consent that section 8(d) be printed in the Record; together with application procedures for technical studies grants.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

DEPARTMENT OF TRANSPORTATION,
URBAN MASS TRANSPORTATION
ADMINISTRATION,
Washington, D.C., May 11, 1978.

Subject: Application Procedures for Technical Studies Grants.

1. Purpose. This circular provides external guidance for the preparation of Technical Studies Grant applications for funds made available under Section 9 of the UMT Act of 1964, as amended.

2. Cancellation. UMTA Order 1000.2, "External Operating Manual," Chapter II–E, "Technical Studies," dated August, 1972.

3. References.

a. Section 9, Urban Mass Transportation Act of 1964, as amended.

b. UMTA/FHWA Joint Planning Regulations, 23 CFR 450; Subpart A.

c. UMTA Guidelines for Project Administration (External Operating Manual) dated August, 1972.

d. OMB Circular A–102, Revised August 23, 1977; "Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments."

e. Federal Management Circular (FMC) 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," dated July 18, 1974.

f. UMTA C 1155.1, "UMTA Interim Equal Employment Opportunity Policy and Requirements for Grant Recipients," dated December 30, 1977.

g. UMTA C 1160.1, "Interim Guidelines for Title VI Information Specific to UMTA Programs," dated December 30, 1977; and

h. UMTA C 1165.1, "UMTA Interim Minority Business Enterprise Policy and Grant Requirements for Grant Recipients," dated December 30, 1977.

ROBERT H. MCMANUS,
*Associate Administrator for Planning,
Management and Demonstrations.*

Mr. KENNEDY. Is there any provision of this bill or any amendment to it, which in any way whatsoever, would inhibit or discourage the authorities at National Airport from allocating slots to new airlines, which wish to supply new low fare service in the Northeast?

Mr. EAGLETON. No, there is no such provision or amendment. To the contrary, under the Airline Deregulation Act the public policy of this country is to encourage competition—particularly new low fare competition. Though an amendment to this bill seeks to limit any reduction in the overall number of slots at National Airport, it is not designed to protect the share of any individual airline. In fact, I believe, new competitors should be treated fairly along with existing firms in determining appropriate slot allocations.

Mr. President there is one other additional matter with respect to this bill I would like to attempt to clarify. S. 1946, commonly known as the rail deregulation bill, may be considered later this evening.

It appears there may be some inconsistency between section 702(d) of that bill and amendment No. 37 and the conference report language related thereto of this Department of Transportation appropriation bill.

It is my understanding that it is not the intent of the managers of S. 1946 that section 702(d) obviate amendment No. 37 in this bill. Further, it is my understanding that the Department of Transportation will in all ways honor amendment No. 37.

Mr. President, I yield back the remainder of my time.

Mr. McCLURE. I wonder if the Senator from Missouri will yield for a question.

Mr. EAGLETON. Yes.

Mr. McCLURE. I understood the Senator from Missouri was having reference to a provision in the authorization conference report. That authorization conference report language contains this provision—I think it is the one he is referring to:

> Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent or lack thereof of any committee of the Congress.

Is that the language to which the Senator had reference?

Mr. EAGLETON. Yes. If I could clarify it though based on the Senator's question, the language he just quoted to me is not merely report language in the rail deregulation bill. It is legislative language in the bill itself. It constitutes section 702(d) of the rail deregulation bill.

Mr. McCLURE. Did I understand the Senator from Missouri to indicate that the managers of the rail deregulation bill have indicated that that language does not mean what it says?

Mr. EAGLETON. We are awaiting the arrival of Senator CANNON in a few moments, I am told.

Mr. McCLURE. Because I do not want any ambiguity remaining in this, and I do not think the Senator from Missouri wants any ambiguity on this portion of the bill.

Mr. EAGLETON. The Senator's question is quite appropriate. We are awaiting Senator CANNON momentarily. In conversations I have had with his staff, who worked with him very closely on the rail deregulation bill, I was advised that Senator CANNON would be comfortable with the interpretive statement I have just mentioned.

Mr. McCLURE. I am a little concerned about an interpretive statement that says black is not black, it is really kind of white.

Mr. EAGLETON. I admit we are walking a pretty fine line, but I do understand it was not Senator CANNON's intent to eliminate the mandate carried in amendment No. 37. It is further my understanding that the Department of Transportation will in all ways honor amendment No. 37 and the conference report language in connection therewith.

Mr. McCLURE. Amendment No. 37 provides that certain actions will not be taken until a report is filed with the Appropriations Committees; is that not correct? The inference of that language——

Mr. EAGLETON. The conference report language is clear as can be, and I read it as follows:

> The conferees direct that the Department shall not approve the applicatioin to purchase, rehabilitate, and/or construct trackage to the Powder River Basin, Wyoming, without the consent of the House and Senate Committees on Appropriations.

Then it goes on to say other things.

Mr. McCLURE. That is more than just in casual conflict with the language in the other conference report which is pending and not yet adopted.

Mr. EAGLETON. At first blush there would appear to be some inconsistency.

The point I am trying to make with respect to this (d) in the appropriation bill is that I think this language in the conference report is abundantly clear. It is my understanding that the Department of Transportation will in all ways honor that amendment and abide by it.

Mr. McCLURE. The Senator from Missouri was the Attorney General of his State before his later incarnation as a Member of this body.

The Senator from Idaho was only a country lawyer from a small county in Idaho, so I recognize the disparity in legal background. But, as I recall from my practice of law in those country courts out there in Idaho, the later expression of law is the one which the courts apply.

If the legislative body adopts two inconsistent provisions of the law, the courts looking at the law will say that the last one is the one that controls. Is that correct?

Mr. EAGLETON. That is a customary and traditional rule of law. However, in this instance, the Department of Transportation, which gets its funding under the bill that we are considering at this moment, would be bound to at least read the language which we have put in this report.

I suspect that they would honor this language, because there is nothing in the rail deregulation bill which, per se, would tell them to dishonor the manager's report of the DOT appropriations bill.

Mr. McCLURE. Mr. President, we have two difficulties, as I see it. The only reason I take this time is not to dispute with my friend from Missouri, but to make certain that we are doing what we want to do and that there is no later argument about what it was that is binding. Remember, in our language the bill contains only a figure. It is the report language that establishes the proviso.

Mr. EAGLETON. Correct.

Mr. McCLURE. In the conference report on the rail deregulation, the language referred to is statutory language and not report language.

Mr. EAGLETON. The Senator is correct.

Mr. McCLURE. Again, as a rule of statutory construction, the legislative language, the language of the statute, would control over the language of the report.

Mr. EAGLETON. If push came to shove and if we were to take a case to the U.S. Supreme Court, I think the Senator's construction, at first blush, would have some merit.

However, nothing prohibits the Secretary of Transportation from honoring the directive contained in the manager's report on amendment No. 37. The Secretary of Transportation could consider the matter and could hold up his decision until such time as it was cleared through the respective Appropriations Committees.

Mr. McCLURE. Well, he might do that, because I have known Secretaries who have violated provisions of law in the past. But it seems to me that the provision of the conference report on the rail deregulation bill is very clear. It says, "Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section."

I think the Senator would agree with me that that action is the action that we refer to in our report language.

It goes on to say, "Without regard to the consent or lack thereof of any committee of the Congress."

We are trying to say in our report language that they have to have consent or lack thereof by the Appropriations Committee. It seems to me it falls directly and squarely within the terms of the language in the conference report on the Rail Deregulation Act.

Mr. EAGLETON. Mr. President, here is what I think Secretary Goldschmidt will do, having found himself in a dilemma between two enactments of Congress. I think he will notify the House and Senate Appropriations Subcommittees on Transportation and say as follows:

> As Secretary, I am about to take final action on the Powder River Basin matter. I am hereby notifying these two respective subcommittees that I am about to so do. I ask for their consent in compliance with the manager's report.

Nothing in the rail deregulation bill would prohibit him from seeking the advice of the two appropriations subcommittees if he phrased it in such a way.

Mr. McCLURE. And if, as a matter of fact, he desires to ask for that consent pursuant to the provisions of the report language in the conference report upon which we are now acting.

Mr. EAGLETON. Yes, that would be correct.

Mr. McCLURE. He would not be compelled to take that final action irrespective of the language in the Rail Deregulation Act. Is that the opinion of the Senator from Missouri?

Mr. EAGLETON. I presume a Secretary of Transportation might see fit, if he were a very bold person, to try to totally ignore the language in the conference report now before us. I am not saying that Secretary Goldschmidt lacks in boldness. But I think, faced with the language that will become law, apparently, under the rail deregulation bill and the language in the conference report, he will exercise prudent caution and, before taking irrevocable, final, penultimate action, will notify the two appropriations subcommittees that he is about to take final action and ask for their concurrence as described in the conference report.

Mr. McCLURE. And if, as a matter of fact, the Appropriations Committees, pursuant to the language of the pending conference report, were to give that consent in a reasonable period of time, he would be faced with no problem.

Mr. EAGLETON. Correct.

Mr. McCLURE. If, on the other hand, the Appropriations Committees withheld the consent, then he might be somewhat in a dilemma as to how long it would take him to make up his mind to take final action.

Mr. EAGLETON. He might be in a dilemma. But having informed the two committees that he was about to take final action and then having either one or both of those committees rejecting said action——

Mr. McCLURE. Refusing to consent.

Mr. EAGLETON. I think the better part of caution would be that the Secretary then would not go forward with his announced intended final decision.

Mr. McCLURE. The Senator from Missouri indicated earlier that the Senator from Nevada would make a statement concerning this matter for the record. Am I correct?

Mr. EAGLETON. That is what I had been informed by a member of Senator CANNON's staff.

Mr. McCLURE. Is it the understanding of the Senator from Missouri that, as a matter of fact, that statement will indicate that it is his expectation that the Secretary of Transportation will act in that manner, as well?

Mr. EAGLETON. It is my understanding that Senator CANNON will acknowledge that it is his understanding that the Department of Transportation will, in all ways, honor amendment No. 37 and the conference report language related thereto.

Mr. McCLURE. Do we have anything from the Secretary with respect to that issue that indicates that the Secretary feels—I was going to say "so bound"——

Mr. EAGLETON. We have the oral word of a high-level spokesman from the Department of Transportation that that is the intention of Secretary Goldschmidt and that he will follow up that oral word by written communication.

Mr. McCLURE. Will the Senator from Missouri agree with the Senator from Idaho that that written communication should be made a part of the legislative record in this matter, when received?

Mr. EAGLETON. Absolutely, if Congress is still in session by the time we receive the letter. But, whenever it is received, at the earliest practical opportunity, it should be made a part of the CONGRESSIONAL RECORD.

Mr. McCLURE. I thank the Senator from Missouri.

Is it our intention at this time to withhold final passage of the conference report until the Senator from Nevada has made his statement for the RECORD?

Mr. BELLMON. Will the Senator from Idaho yield to me for a question?

Mr. EAGLETON. Mr. President, Senator CANNON will be here at 10 o'clock. It is 11 minutes until 10.

Mr. McCLURE. Mr. President, I ask the Senator from Missouri if it would be all right if we yielded to the Senator from Oklahoma?

Mr. EAGLETON. Yes.

Mr. BELLMON. Mr. President, I would like to ask the minority floor leader of the bill a question about an amendment which I offered, which the Senate adopted by a vote of 63 to 17 on this bill and which, I understand, was dropped in conference.

My amendment would have required the administration to file with the Appropriations Committees of the House and Senate a plan detailing the rate in which it is anticipated that outlays would occur under this act over the next fiscal year. I put that amendment on several bills, and it has been accepted on a voice vote, except this one time when we voted 63 to 17 in favor of the amendment.

The amendment would have established a process and put an end to this business of dumping a lot of money in the last month of the fiscal year. Also, it would give the Congress a way of knowing when a program began to spend out much faster than anticipated and stop the business of having the agencies come in here in the last 2 months of the fiscal year saying, "You have to give us another amount of money or we will shut off our programs." It seems to me that the amendment makes a lot of good sense so far as the Federal Government is concerned. I am curious to know why the amendment did not survive the conference.

Mr. McCLURE. I might say to the Senator from Oklahoma that there is an amendment that covers the final quarter of the fiscal year. That language is contained in this bill. That language overlaps the language in the amendment offered by the Senator from Oklahoma. The Members of the other body in the conference refused to accept the language of the Bellmon amendment. After looking at it in that conference, the Members of the Senate were unable to persuade the Members of the other body to accept the Bellmon amendment, and I guess it would be fair to say that in spite of the fact that some of us support the Bellmon amendment, some of the Members of the Senate did not do so in the conference, that the balance of opinion was that the other three-fourths of the Bellmon amendment, the other three-fourths of the year which would be covered by it, were of insufficient weight to require the Members of the Senate conference to further delay the conference.

Mr. BELLMON. I wonder if the Senator realizes that our outlays for fiscal 1981 are running $14 billion higher than we expected only a couple of months ago. That amendment dealing only with the last quarter does not help with that problem.

Mr. McCLURE. The language dealing with the last quarter would apply to fiscal year 1980 as well as fiscal 1981 which would help us now and also help us in the final quarter of next year. Let me say to the Senator from Oklahoma that the language of the Bellmon amendment would not help us with the current situation either.

Mr. BELLMON. That is correct. It would help in 1981. It seems to me if it was a good idea for the last quarter it would be an equally good idea for the other three quarters.

Mr. McCLURE. I would say to the Senator that we heard arguments from Members in the other body that this increases the reporting requirements and paper requirements of the agency, and there are those who are not as concerned about it as the Senator from Oklahoma. They think that is a sufficiently weighty reason to reject the amendment.

Mr. BELLMON. The fact is that the people in the agencies at the present time would be trying to get this information to share with the Congress so that we could take appropriate action if outlays begin to run away.

Mr. McCLURE. The Senator has sat in conferences before as has the Senator from Idaho. Sometimes you can win on these issues and sometimes you cannot. This is one of those instances where, in the judgment of the Senate conferees, it did not appear likely that the Members of the other body were readily going to accept the amendment.

Mr. BELLMON. Mr. President, let me thank my friend from Idaho. I hope other Senate conferees will be more successful in retaining the language. I believe one policy has been established which will be found to be a major improvement in the way we manage our fiscal affairs. I think many Members who have worked in appropriations and in budget matters realize there is a great weakness in our present system since we in the Congress have virtually no control over outlays. Once we provide the budget authority, then the executive branch spends the money at whatever rate they seem to prefer. This often in the past has produced some very undesirable results, which the amendment which the Senate approved on this transportation bill would have stopped. We want to save the opportunity to push the amendment and I hope we will get it approved in another bill.

Mr. McCLURE. Might I say to the Senator that there was expressed by Members of the other body a concern about the 1-percent variation requiring a revised schedule. That provision of the Bellmon amendment caused them a great deal of distress and they thought that was too narrow a range.

They argued strongly on that point.

I might also say to the Senator that there are some programs that do not spend out evenly. You may, as a matter of fact, have a backlog of requests for allocations under various programs and at the beginning of the fiscal year with that backlog, they may well put out in the first quarter, or first half, of the fiscal year more than they will in the second, third or fourth quarter.

Mr. BELLMON. Might I say there is nothing in the amendment that would keep the departments from making such a schedule. They would come to the Congress and say they intended to spend more rapidly in the first quarter than in the second quarter. The Congress would have no reason to reject that once the reasoning was shown. But once the schedule is set, they should stay with it.

Mr. President, I intend to vote for this conference report. I am disappointed that the amendment is not part of the conference report. I believe the managers have done a responsible job in trying to stay within the budget. I hope this responsibility will continue into the spring when there will undoubtedly be pressure to provide additional appropriations which at that time could be in excess of our budgetary allowances.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the conference report.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, during Senate consideration of the Department of Transportation Appropriation Act, the Senator from North Carolina offered an amendment stipulating that all meetings of the Panama Canal Commission were subject to the Sunshine Act and, therefore, would be required to hold the meeting in public.

This amendment was deleted by the conferees. This judgment by the conferees, and I say this respectfully, Mr. President, will probably come back to haunt the Congress because I anticipate that there may be a suit filed to require such open meetings.

I have at hand, Mr. President, a letter dated September 23 from the Honorable Michael Blumenfeld, Assistant Secretary of the Army, in which he attempts, quite unsuccessfully I think, to defend the decision of the conferees not to require open meetings of the Panama Canal Commission.

Mr. President, the Board cannot have it both ways, either the Board is head of the agency, that is say, the Panama Canal Commission, or it is not.

If it is, then it must comply with the Sunshine Act. If it is not the head of the agency, when the Board lacks the authority to issue the regulations setting itself up as a Board of Directors and providing for the closed meetings, as is being attempted.

Now, the Panama Canal implementing legislation calls the board a supervisory board, not a board of directors, and it is the understanding of the Senator from North Carolina that all of this was adjusted to satisfy Mr. Torrijos and his colleagues in Panama.

I will read a paragraph, Mr. President, from Mr. Blumenfeld's letter, a paragraph which I believe to be nonsensical. He says:

> I firmly believe that having all meetings totally open is not in the best interest of either the Commission or the United States.

Mr. President, that is the same argument made for closed meetings every time any public body wants to obscure the facts from the public.

Then Mr. Blumenfeld goes on to say:

> The Commission is subject to the supervision of a Board with binational membership, operates in a foreign country, and has a largely local-national workforce.

That is, at best, a non sequitur.

Then he goes on:

> At least half of the Board meetings are in Panama. It is extremely important that the Board deliberate in confidence and with candor.

Here again, Mr. President, that is the same argument that has been made since time immemorial by those who wanted to conduct the public business in private.

Then Mr. Blumenfeld says: "It would not do so"—meaning the Board would not deliberate in confidence and with candor:

> It would not do so if all meetings were totally open to the public, especially in Panama. There would be too strong an incentive for political posturing instead of reasoned discussion.

Mr. President, nowhere in the implementing legislation is there any requirement that any meetings be held in Panama. If the Panamanians cannot control the decorum of the meetings of this Board, then hold the meetings somewhere else.

All of Mr. Blumenfeld's suggestions that Congress will be provided full information on the judgment made by the Board, this is just so much hot air.

The public, the press, everybody, ought to be able to hear every syllable that is spoken in these meetings.

This is no small point, Mr. President. This Senator happens to be 1 of 32 who strongly opposed the giveaway of the Panama Canal. But even if I had favored it, I would still favor open meetings of this Commission because I think the American people have a right to know what judgments are being made, and how they are being made, and by whom they are being made, inasmuch as an enormous amount of American taxpayers' money is involved.

So I cannot support this conference report with the application of the Sunshine Act having been deleted by the conferees.

I say again that it was a mistake I believe this Congress will reflect upon with regret in the months to come because there is certain to be a challenge in the courts to this Commission meeting in secret. No other face can be put upon it. The public business in this instance will be conducted in private. The Sunshine Act does not allow that, and by deleting the amendment of the Senator from North Carolina, the conferees have elected to put the Commission in the position of violating the law.

Mr. President, I ask unanimous consent to have Mr. Blumenfeld's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY, OFFICE
OF THE ASSISTANT SECRETARY,
Washington, D.C., September 23, 1980.

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: The Senate on September 18, 1980 amended Section 314 of H.R. 7831, the Department of Transportation Appropriations Act for 1981, to provide that the Panama Canal Commission hold meetings in accordance with the Government in the Sunshine Act.

It is my opinion that the actions of the Panama Canal Commission are already consistent with the Government in the Sunshine Act because the Commission is not headed by a collegial body as defined in the Act. The attached Congressional Research Service report of August 22 concedes there is merit to this position.

I firmly believe that having all meetings totally open is not in the best interest of either the Commission or the United States. The Commission is subject to the supervision of a Board with binational membership, operates in a foreign country, and has a largely local-national workforce. At least half of the Board meetings are in Panama. It is extremely important that the Board deliberate in confidence and with candor. It would not do so if all meetings were totally open to the public, especially in Panama. There would be too strong an incentive for political posturing instead of reasoned discussion.

The present Board regulations permit officials and staff of the Commission, and others, to attend meetings upon invitation. Additionally, as Chairman of the Board (and the designee of the Secretary of Defense to oversee Commission operations). I have offered to fully disclose all proceedings, and to provide copies of all approved Board minutes (which report Board proceedings in great detail) to the oversight committees of both Houses of Congress. I will also honor the request of any member of Congress to attend any meeting.

I believe the actions I outline above fully protect the interests of the public and afford ample opportunity for evaluating the actions of the Board.

For the foregoing reasons, I recommend in joint conference the Senate recede to the House on Section 314 of H.R. 7831.

Sincerely,

MICHAEL BLUMENFELD,
Assistant Secretary of the Army (Civil Works).

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. BURDICK. I yield.

Mr. CANNON. Mr. President, I wish to discuss an issue in the conference report dealing with appropriations for the Department of Transportation (DOT) related to restructuring assistance for our Nation's railroads. Pursuant to section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act), DOT currently administers a preference-share program established to provide assistance for railroad rehabilitation. The conference committee on appropriations has provided $25 million for this program. I am concerned that this appropriation is insufficient to fund important and legitimate projects which are intended to be covered by this program.

Early this year the administration proposed massive changes to the present preference share program. The House passed legislation as part of its rail reform bill which provided for a 5-year program, similar to the administration's proposal, with an authorization level of $1.475 billion. In contrast, the Senate basically extended the existing section 505 program for 2 years through September 30, 1982, at an authorization level of $400 million over the 2-year period.

As part of the conference on S. 1946, the Staggers Rail Act of 1980, the House and Senate conferees agreed last week to a compromise on the section 505 program. This compromise provides for a continuation of the current 505 program for a 2-year period through September 30, 1982, with an authorization level of $500 million, plus an additional $200 million to be made available to Conrail for an early retirement program in the event that the finance committee of the U.S. Railway Association determines that such a program would result in substantial savings to the Federal Government.

The appropriations conferees were considering their conference report while conferees were meeting on the rail bill and specifically the section 505 program. Thus when the appropriations conference report was filed last Thursday, September 25, the appropriations conferees had not had an opportunity to consider the final conference report on the Rail Act. In this regard, the appropriations conference report notes that "the conferees will consider additional request for funds late this fiscal year when the structure of this program is defined by the pending authorizing legislation and the magnitude of the need is better known."

I am heartened by this commitment to consider additional funding. Once the Rail Act conference report is acted upon, the structure of and need for the section 505 program will certainly be defined for the next year. I look forward to the Department of Transportation's submission in the near future of a request for supplemental appropriations, and hope for favorable consideration of this request by the Appropriations Committee and Congress in light of the financial assistance program agreed to by the Senate and House conferees as part of the Staggers Rail Act of 1980.

Mr. BURDICK. Mr. President, it is our understanding that some Members believe that there is a potential conflict between amendment 37 of the Department of Transportation appropriations conference report which we are now engaged upon and section 702(d) of the Staggers bill which is S. 1946, which is also in the conference report.

Amendment No. 37 in the present bill reads as follows:

Amendment No. 37: Limits principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94-210, as amended, to $770,000,000 as proposed by the Senate instead of $600,000,000 as proposed by the House. The confrees direct that the Department shall not approve the application to purchase, rehabilitate, and/or construct trackage to the Powder River Basin, Wyoming, without the consent of the House and Senate Committees on Appropriations. The conferees believe a timely decision on this matter is essential and, therefore, direct the Secretary to provide the Committees on Appropriations with his recommendation along with supporting data which fully discusses all viable alternatives as soon as is feasible, but no later than October 31, 1980.

It is our intent in the conference report on S. 1946 that 702(d) does not obviate the provisions of amendment 37 just referred to in the Department of Transportation appropriation.

We recognize the need and inherent right of the Appropriations Committees of the House and Senate to review any application before the Department of Transportation for the purchase, rehabilitation, or to construct trackage out of the Powder River basin in Wyoming.

I wish to ask Senator CANNON, who is in the Chamber, and is chairman of the Commerce Committee, what he thinks of the apparent conflict between the two sections.

Mr. CANNON. Mr. President, if I may, I call my colleagues' attention to the provision that says, "Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent or lack thereof of any committee of Congress," and I think that is quite clear. It is my understanding that the Department of Transportation will in all ways honor amendment No. 37 that the Senator is concerned about in the appropriations bill.

Mr. BURDICK. In the appropriations bill?

Mr. CANNON. That is correct, in the appropriations bill.

Mr. BURDICK. I thank the Senator for his clarification.

Mr. EAGLETON. Mr. President, if the Senator will yield for one follow question, may the RECORD show that Senator CANNON will be floor manager of S. 1946, the rail deregulation bill. And may I ask the Senator if in his answer he means that the Department of Transportation will honor not only amendment 37 as an amendment but the committee report language attending to amendment No. 37?

Mr. CANNON. The Senator is exactly correct. I say that in the event lightning does not strike I shall be the manager of that part of the bill, and I assure the Senator that we will honor that particular provision of the amendment to which he has referred.

Mr. EAGLETON. I thank my colleague.

Mr. McCLURE. Mr. President, if the Senator will yield, I point out that the provision of the rail deregulation bill in section 702(a) has a 75-day limit for the actions and it should not be implied that the consent of the Appropriations Committee provided in amendment No. 37 must be obtained and affirmatively so within the 75-day period.

I would not want anyone coming in and arguing since there was a time limit that implied that there was a limit on the actions under amendment No. 37 and the report language.

Mr. BURDICK. In other words, amendment No. 37 prevails.

Mr. CANNON. Mr. President, we hope that the committee will act within the 75-day period, but there is not any penalty provision. In other words, they do not get put in jail if they do not act. But we hope that they will act within that 75-day period.

Mr. McCLURE. Mr. President, might I say to the Senator from Nevada, I certainly do not intend to imply that they will not. I would not want the fact that there is a 75-day period specified in section 702(a) to indicate that the Appropriations Committees must act within that time and must act affirmatively within that time or the Secretary of Transportation would be bound to act affirmatively in the absence of that action by the Appropriations Committee.

Mr. CANNON. Certainly, there is no requirement that they act affirmatively within that period of time, I say to my colleague.

Mr. McCLURE. I thank the Senator.

Mr. BURDICK. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BAKER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes.

Mr. BAKER. Mr. President, I think there is some possibility that the Senator from North Carolina may wish to vitiate that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

The PRESIDING OFFICER (Mr. TSONGAS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 55, nays 10, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—55

Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Danforth
DeConcini
Durenberger
Eagleton
Exon
Ford
Glenn
Hatfield
Hayakawa
Heflin
Huddleston
Inouye
Jackson
Jepsen
Kassebaum
Leahy
Levin
Magnuson
Matsunaga
McClure
Melcher
Mitchell
Morgan
Nunn
Packwood
Pell
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stevens
Tower
Tsongas
Weicker
Young
Zorinsky

NAYS—10

Armstrong
Domenici
Garn
Hart
Helms
Humphrey
Proxmire
Roth
Thurmond
Warner

NOT VOTING—35

Bayh
Biden
Byrd,
Harry F., Jr.
Cochran
Culver
Dole
Durkin
Goldwater
Gravel
Hatch
Heinz
Hollings
Javits
Johnston
Kennedy
Laxalt
Long
Lugar
Mathias
McGovern
Metzenbaum
Moynihan
Nelson
Percy
Pressler
Ribicoff
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Wallop
Williams

So the conference report on H.R. 7831 was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered twelve to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ":*Provided*, That this limitation shall not apply to any guarantee of an aircraft purchase loan where (1) the loan guarantee applicant has submitted a loan guarantee application before October 1, 1980; (2) the Federal Aviation Administration has indicated prior to October 1, 1980, that the applicant was conditionally eligible for a guarantee; (3) the aircraft are financed and delivered in fiscal year 1981 for reasons beyond the purchaser's control; and (4) the aggregate of all guarantees which meet the preceding three conditions when combined with guarantees issued during fiscal year 1980 shall not exceed $650,000,000 in principal amount.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered twenty-four to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert "$38,593,000, of which $10,000,000 shall be available for transportation systems management", and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered twenty-eight to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$25,000,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$881,000,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of a cooperatinve automotive research program for conducting basic automotive research, $12,000,000 to remain available until expended: *Provided*, That no additional funds shall be expended there after, unless authorized by Congress: *Provided further*, That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000: *Provided further*, That the Department of Transportation, in cooperation with the Department of Commerce, Department of Defense, National Science Foundation, National Aeronautics and Space Administration, Environmental Protection Agency, and Department of Energy, report to the Congress within 6 months of enactment of this Act its assessment of current Federal automotive and other surface transportation research and development and its analysis of options for the Federal management structure, areas of research, including applied research, detailed objectives and funding requirements for a cooperative automotive research program: *Provided further*, That it is also the intention of the Congress that an authorization bill with positive or negative recommendations be reported out by the appropriate committees within said period.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert "$25,000,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "*Provided further*, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than 60 days after date of enactment of this Act, designate under 23 U.S.C. 103(e)(1) as a route on the National System of Interstate and Defense Highways 3.03 miles in the State of Missouri extending I–170 southward from I–70 to tie into U.S. 40 and 6.25 miles in the State of Alabama connecting I–10 and I–65 in the vicinity of Mobile-Prichard.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

(a) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by the above allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(b) Notwithstanding subsection (a), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (a) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 324. None of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1973, except—

(1) to the extent which would be required under the amendment contained in section 118 of S. 2720 (96th Congress, Federal Public Transportation Act of 1980), as passed by the Senate on June 25, 1980, or

(2) where such authorities have elected to purchase such lifts.

This section shall be effective only until modified by subsequent legislation.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate numbered 12, 24, 28, 30, 49, 54, 61, 63, and 75.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I voted in opposition to the passage of this bill, H.R. 7831, Department of Transportation Appropriation as an indication of my continuing protest against that part of the bill which delays the implementation of the Federal Aviation Administration regulations with respect to National Airport.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered. The Senator from Nevada is recognized.

DEREGULATION OF RAILROADS CONFERENCE REPORT

Mr. CANNON. Mr. President, I send to the desk a conference report on S. 1946 and ask for its immediate consideration. I understand this request has been cleared on both sides of the aisle.

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CANNON. Mr. President, I move that the Senate proceed to the consideration of a conference report on S. 1946.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I further announce that if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The result was announced—yeas 66, nays 2, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—66

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatfield
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Kassebaum
Leahy
Levin
Long
Magnuson
Matsunaga
McClure
Mitchell
Morgan
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—2

Baucus
Melcher

NOT VOTING—32

Bayh
Biden
Byrd,
Harry F., Jr.
Cochran
Culver
Dole
Durkin
Goldwater
Gravel
Hatch
Heinz
Hollings
Javits
Johnston
Kennedy
Laxalt
Lugar
Mathias
McGovern
Metzenbaum
Moynihan
Nelson
Percy
Pressler
Ribicoff
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Williams

So the motion to proceed to the consideration of the conference report on S. 1946 was agreed to.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 29, 1980.)

Mr. CANNON. Mr. President, I am extremely pleased that the conferees have been able to resolve the differences between the Senate and House, so that this extremely important rail legislation can be sent to the President before the recess.

The emphasis in both bills is the elimination of needless regulation and greater reliance on the market place where there is effective competition. Under the compromise which has been reached, the ICC will determine rate reasonableness when rail carriers have market dominance (defined as in existing law) and when the rate exceeds specified percentages of revenue-variable cost. Initially, this threshold is set at 160 percent, rising by 5 percent per year until 1984, when the threshold is 175 percent or the cost recovery percentage whichever is lower. After September 30, 1984, the jurisdictional threshold is the cost recovery percentage, but it is subject to a floor of 170 percent and a ceiling of 180 percent. This I believe, represents an appropriate accommodation of the conflicting views which have been presented in recent months.

As in the Senate bill, a free zone is provided for inflation-based increases, and a rate flexibility zone is established: 6 percent for 4 years after enactment and 4 percent thereafter. As the bill passed the House, the 4-percent zone was subject to the limitation that the zone was not available on single-line movements for use by carriers having adequate revenues. A similar limitation has now been added in that zone for joint-line movements unless the Commission is unable to prescribe rules of that nature without precluding rail carriers not earning adequate revenues from receiving the rate increases authorized in the 4-percent rate flexibility zone. The 6-percent zone is not subject to a "revenue adequacy" limitation, but the statute contains language making it clear this rate flexibility provision is intended to bring to an adequate revenue level those carriers without adequate revenues rather than to permit "adequate revenue" carriers to realize excessive profits. This of course is consistent with the new railroad transportation policy in the rail bill.

The compromise we have agreed upon incorporates the Cannon-Long language in the bill, with the trigger point established 20 percentage points above the jurisdictional threshold, subject, however, to a cap of 190 percent. This means that, should the threshold eventually rise to the 180 percent revenue-variable cost ceiling, the Cannon-Long trigger point still would not rise above 190 percent.

The legislation mandates an ICC rulemaking proceeding on the weight, if any, to be given to product competition in rate reasonableness determinations. The conference report describes situations in which the conferees consider that product competition does not exist because the commodity is transported between facilities owned by the same shipper. One example is the statement in the conference report that product competition does not exist in the case of an automobile manufacturing company which ships bumpers from its plant A to its plant B. The underlying rationale is that for these movements there is little price elasticity for demand for rail transportation. This rationale is applicable to other transportation between facilities owned by the same shipper, including the movement of raw materials or manufactured commodities between a shipper's mine, quarry, or plant and to another of the same shipper's facilities.

Other areas of controversy have also been resolved. The notice period is shortened from the Senate bill—to 10 days for rate decreases. On the other hand, the Senate provision changing the notice period from the present 30 to 20 days has been retained for rate increases, thus providing a balance between the carriers' need for greater flexibility and the shippers' need to have sufficient time to prepare for rate changes.

As I promised on the floor last week, the Senate conferees have carefully reexamined the surcharge provision. We have made changes to provide additional protection to shippers and small railroads. The branch-line provision, which concerned many of our members, has been revised so that it cannot be used by carriers having adequate revenues except on very light-density lines that carried less than 1 million gross ton miles of traffic per mile in the most recent calendar year.

The legislation has been modified to provide that, within 120 days, the ICC must complete a proceeding to define "reasonably expected costs" as used in the light-density branch line provision. The conference report also makes it clear that surcharges under the section may not be imposed in a manner which would require shippers to pay for extraordinary occurrences (that is, bridge washouts, landslides) in a short period of time.

We have also adopted the Senate provision authorizing the Commission's Special Counsel to assist class III railroads in preparing actions under the surcharge provisions. In addition, that section has been broadened to include small businesses.

Concerns have been expressed by some members about the impact of surcharges and cancellations on grain movements. It is not our intent that the provision be used in a way which would disrupt the marketing of grain.

Section 215 provides that business solicitation or entertainment expenses incurred by rail carriers do not constitute illegal rebates or discrimination if these expenses would be legal when incurred by a non-Commission regulated entity. This provision applies to expenses whether incurred prior to or after the effective date of the act. The only exception is for expenses heretofore incurred with respect to specific acts charged in an indictment or information and with respect to which the carrier has heretofore paid a penalty.

With regard to section 219, the rate bureau section, I understand that both the Canadian Government and the Canadian railroads have raised questions about the possible extraterritorial impact of the provision. The section imposes additional restrictions on rate bureau voting and discussions, thus putting U.S. policy on these issues at variance with Canadian antitrust policy in this area. Because of this, the conferees believe it not only appropriate but extremely important that the ICC, in implementing the rate bureau provisions, ask for comments on and take into account international comity and foreign policy considerations. I note that the CAB, under section 412 of the Federal Aviation Act, as amended by the International Air Transportation Competition Act of 1979 is required to respond to these concerns in approving agreements affecting interstate or overseas air transportation.

Some concern has also been expressed about the bill's car compensation provision. The Conference substitute repeals the specific authority of the Commission to impose what has been known as incentive per diem, that is, an additional incentive element of compensation beyond basic freight car rental charges. On this matter, I wish to make it clear that, in agreeing to elimination of the Commission's authority to impose incentive per diem, the conferees were cognizant of the continued power of the Commission under 49 U.S.C. 11122 to increase basic freight car rental rates to levels high enough to attract new and additional investment into the railroad industry as necessary to assure a national freight car supply adequate to meet the needs of commerce and the national defense.

Title II, in addition to the provisions dealing with rates I have just summarized, contains a number of provisions on such issues as entry, reciprocal switching, car service orders, and exemptions from regulation where the House and Senate bills were quite similar. For the thousands of transactions other than major merger which the ICC is required to approve, the provisions of this title should eliminate a vast amount of paperwork and delay.

Title III, dealing with railroad cost determination and accounting, is a major House provision which the Senate accepted.

Title IV deals with railroad modernization and restructuring assistance. The abandonment provisions, taken from the Senate bill, should eliminate much of the cost, delay, and uncertainty involved in abandonment proceedings. At the same time, the measures to improve the process for offering financial assistance taken from the Senate bill should actually reduce the likelihood of loss of service. In addition, the feeder railroad concept developed by the House has been incorporated and this too should mean that, on balance, more rail service will be provided to branch lines than would be available under existing law.

We have also struck a balance in restructuring assistance, adopting the Senate approach of extending existing programs rather than creating a brand new program. At the same time, the Senate has agreed to increasing the amount of authorization, making some of these funds available for feeder lines, and also making some of these funds available for an early retirement program at Conrail where substantial savings may be expected.

Title V improves the Conrail labor protection program and adopts new monthly displacement allowance formulas which eliminate inequities in existing formulas. The provision allows certain employers to retain and transfer some protected employees, revises certain benefits, and directs the U.S. Railway Association to monitor the program.

Title VI is a House provision which has been accepted by the Senate which would direct the Secretary of Transportation to decide whether or not to undertake a supplemental transaction to transfer certain Conrail lines in the States of Connecticut and Rhode Island to another carrier. While it expedites the decisionmaking process, it does not influence the decision in one way or the other.

Title VII contains a number of miscellaneous provisions dealing with the Rock Island and Milwaukee Railroads, the authorization of appropriations for the United States Railway Association, and a study of feeder line rehabilitation. It contains an emergency authorization for Conrail of $329 million. It also requires Conrail, DOT and USRA to provide reports and recommendations on Conrail's future and directs the ICC to review and comment on the reports.

Finally, one of the more controversial provisions in this title dealt with the Powder River Basin, where the House provision would have originally waived a number of findings otherwise required by law with respect to restructuring assistance. As revised, this provision should expedite DOT's decisionmaking process and any subsequent judicial review.

Mr. LONG. Mr. President, while I support the conference report now being considered, I want to impress upon my colleagues the distance this final conference bill has come from the original administration proposal of near-total rail deregulation.

My concern all along has been that total deregulation of rail rates would result in excessive increases in the delivered price of coal, thereby discouraging the expanded use of domestic coal and the voluntary conversion of existing gas and oil units to coal.

It has been my thought that the national transportation policy and the Interstate Commerce Commission's regulatory scheme should not be inconsistent with the attainment of national energy goals.

Therefore, the question which I have attempted to address since the Senate first took up legislation to deregulate the rail industry has been the extent to which coal, or any other captive commodity or shipment, should be required to contribute to the financial needs of the rail industry.

We all know that certain segments of the rail industry are in financial ill health. We also know, however, that there are certain railroads that are "blue chip" investments.

The question I have maintained throughout the examination of this legislative proposal has been whether railroads that have already achieved revenue adequacy should be free to extract monopoly profits without proper justification, without Interstate Commerce Commission scrutiny and without attempts to maximize the revenues from noncaptive traffic.

Mr. President, this conference report has been agreed upon only after tedious negotiations to reconcile diverse viewpoints. While the compromise reached does not illustrate what in my view would be the best of all worlds, it does provide a degree of protection to shippers captive to the rail industry from abusive monopolistic practices.

The bill and report clearly express the congressional intent that the Interstate Commerce Commission should continue to exercise with diligence, its statutory duty to protect the public interest from instances of monopolistic pricing behavior. Such behavior cannot and should not be condoned in isolated instances under a justification of overall system need.

The conference bill does not allow such blanket justification but in fact requires the Interstate Commerce Commission to give appropriate consideration to whether excessive profits will be extracted from the specific traffic involved.

In other words, Mr. President, the bill instructs the ICC to require, upon challenge, sufficient justification for rates which impose a significant differential over and above rate levels sufficient to cover the full costs of the specific service involved.

Of primary concern to me has been the need to insure that carriers which have already attained revenue adequacy are not allowed to bootstrap their request for rate increases on captive traffic to the obvious needs of inadequate revenue carriers like Conrail or the Milwaukee. As long as inflationary cost increases can be recouped, there can be no rational justification in my view for a "revenue need" rate increase for any railroad that has been found to have achieved revenue adequacy.

The conference bill would deny such revenue adequate carriers from taking advantage of the 4-percent rate flexibility zone of the bill. Also, for the 6-percent rate flexibility zone the ICC is to give due consideration, with the view to preventing excessive profits on the traffic involved, to whether the carrier proposing the rate has adequate revenues.

I am also pleased, Mr. President, to note that the conference bill requires the ICC to consider the extent to which imposing cross subsidies on particular commodities is justified in view of the carrier's overall mix, and requires the ICC to consider and balance the national energy policy with transportation policy in determining whether it should investigate the reasonableness of a proposed rate increase or new rate.

In addition, the ICC may investigate a rate increase anytime the revenue-to-variable cost ratio of the rate would exceed 190%. There would appear to be little justification for not instituting an investigation of a rate at that level, since the average ratio to return full costs plus a reasonable return is between 145 and 155 percent. It is my firm expectation that the ICC will not abrogate its responsibilities in this regard.

Finally, Mr. President, I would point out that the ICC's determination of revenue adequacy is crucial to certain provisions under this bill. The bill does not, however, require the ICC to develop new standards for determining revenue adequacy. It only requires the ICC to conclude such a proceeding which it started some time ago.

In conclusion, Mr. President, the conference bill provides for greater rate flexibility for railroads without adequate revenues. It also provides the statutory guideline for the ICC to develop regulations which recognize the untenable position of allowing rate increases on captive traffic for profitable railroads which does not justify an increase. With the understanding of this distinction between profitable and unprofitable railroads being maintained, I support the adoption of the conference report.

Several Senators addressed the Chair.

Mr. CANNON. Mr. President, we had a very difficult problem in this area. It was only through the insistence of the Senator from Louisiana that we were able to work out a reasonable compromise that I believe strikes a proper balance so that we can have a rail deregulation bill that will be meaningful and that will, at the same time, protect the captive shippers and provide some incentives for the railroads that are having such a difficult time.

I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, this is not the best bill that could be passed. It is far from the worst bill. It is better than anything I thought we would get 6 months ago.

I encourage the adoption of this conference report.

Mr. MELCHER. Mr. President, we just heard described what might be the best bill that could be passed. We just heard described what could possibly help the captive rail freight customers.

But this is, really, in truth, a pretty lousy bill.

Mr. President, this bill would have the railroad carriers expanding their freight rates, as is needed to cover their costs.

That sounds very reasonable. I am all for that. Who could argue with that? But who is to judge what their real costs are, what their true costs are—how do we know the right amount?

Mr. LONG. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will not proceed until there is order. The Chair requests that the conferees in the rear of the Chamber will retire to the cloakroom.

Mr. MELCHER. Mr. President, when you give to a carrier which is under Government control the right to structure their price to suit the marketplace, and when you give the right to that carrier to expand their price to cover all the costs that they wish to charge to an operation, I do not know where you get control.

If we want a railroad system anywhere in the country which has the right to expand their charges to cover the costs as they complete this, I believe we work toward that in this bill. If we want to have some restraint over a railroad carrier under the ICC as to what are legitimate costs, I believe we should amend and change this bill.

We have a big area in the Northwest that is pretty much under the control of one railroad; and under the terms of this bill, I believe they can almost expand their costs and expand their charges to whatever they think is proper. That is going a little too far for congressional control, congressional restraint, and what we want for a transportation system in this country.

For that reason, I encourage the rejection of this conference report. I realize that that comes pretty late, with all the momentum that is behind this bill: Congressional committees and the Carter administration being for it, the railroad operators being for it, and all the shippers siding in with the idea that a reduction in the restraints that have been available for the ICC will somehow help them.

However, I caution the Senate to review the facts as they are and to recognize what we are giving away under the terms of this bill—what I believe is too much. We are giving away too much restriction to provide and assure competition. It will hurt us in the long run, and I believe we will find shippers paying a greater bill.

Mr. ZORINSKY. Mr. President, S. 1946, the railroad deregulation bill is a much beleaguered and often delayed piece of legislation. More than 2 years ago the administration first introduced its version of legislation to deregulate our Nation's railroads. The bill which has finally emerged is the battle-scarred survivor of many skirmishes.

I wish, Mr. President, that I could say that the surviving bill is the better for having undergone such rigorous treatment. But I cannot. Instead of a strong and carefully crafted compromise, the legislation which is offered to us today is a twisted and tortured mockery of reasonable deregulation. I cannot believe, Mr. President, that this is the best we can expect from the U.S. Congress.

I know that many individuals have worked diligently on this proposal, and that many long and sleepless nights have been devoted to the effort. I know, too, that many compromises—particularly in the areas which would most affect the agricultural community—have been achieved. I compliment those who have striven to improve this bill and to make it an acceptable piece of legislation, among them Senator CANNON and the other members of the Senate Commerce Committee and their staffs.

Deregulation of America's rail system is imperative. I do not deny this. I do deny that it must be achieved at the expense of our Nation's shippers. And I greatly fear, Mr. President, that the bill we have before us now would leave open so many possibilities for abuse that agricultural shippers will come to rue the day this bill is passed. I am particularly concerned with the joint rate surcharge and cancellation provisions.

Five months ago, the Senate considered S. 1946. When the bill was brought to the floor, it contained no provision for joint rate surcharges. Senator CANNON unexpectedly raised a floor amendment which gave rail carriers broad authority to levy surcharges on their portions of joint rates and to cancel any joint rate on which their return was less than 110 percent of variable costs.

That unanticipated and little debated amendment was adopted by a slim margin.

Two weeks ago, in an unusual move, Senator CANNON chose to amend S. 1946—already passed by both Houses of Congress—by attaching the provisions of several other rail bills before proceeding to conference with the House of Representatives. At that time, I offered an amendment on the floor to delete the controversial joint rate surcharge section, in order to allow the Senate conferees sufficient flexibility to devise an adequate compromise. It appears my efforts, and those of many of my colleagues who shared my goal, were in vain.

The conference report contains virtually every major provision of the House joint rate surcharge section. A single concession was made by the House conferees—to lower from 3 million gross ton miles per year to 1 million gross ton miles per year definition of a light density line subject to an extraordinary surcharge sufficient to cover all variable and capital costs. The lower figure of 1 million gross tons applies only to adequate revenue carriers. Railroads earning less than adequate returns may surcharge lines carrying up to 3 million gross tons per mile.

I appreciate the reasonable attitude our colleagues in the House took on this one issue, but it is not enough. They acted responsibly in this sole regard, but left unchanged the other provisions which provide absolutely no protection for shippers. Challenges by shippers—or by shortline railroads—for that matter, can be made only on the basis that the surcharge exceeds 110 percent of variable costs. In the case of cancellations, challenges can be made only on the basis that another competing line is earning less.

The section allows no shipper challenges on the basis of rate discrimination. It offers our Nation's largest railroads the ability to manipulate joint rates, and thus the availability of many vital through routes. It would allow a rail carrier to surcharge one joint rate and not another serving the same general area. It would allow an unscrupulous carrier unilaterally to cancel a joint rate forcing traffic over other lines.

In the case of our agricultural communities, Mr. President, such unprecedented and unwarranted license could be devastating. A grain farmer, unlike the producer of most manufactured goods, has no control over the price he receives. The return of his labor and his investment is determined solely by the market. Since his costs cannot be passed on to the consumer, an increase in transportation must be absorbed by the producer himself.

The cancellation of a joint rate or the discriminatory use of a surcharge on a joint rate could mean a farmer must truck his grain an additional 50 miles to a different elevator. The additional cost could add up to several pennies a bushel. And in grain, Mr. President, just a few pennies is the difference betwen profit and bankruptcy.

The shift from one line to another will have another effect. It is very likely to put dozens of small country elevators out of business. Hundreds of rural communities only have a few sources of economic life—the feed and seed store, perhaps a small general store and the grain elevator. The loss of that elevator does not mean just one more of America's small private businesses has gone down the tubes. It means that yet another of our country's small communities has died.

Proponents of this bill have argued that such broad freedom to surcharge lines or to cancel joint rates is necessary to the survival of some of our country's railroads. I submit that these provisions were written solely for the benefit of a single railroad—the most inefficient, mismanaged railroad in the country, and quite possibly in the world: Conrail.

In order to give Conrail the right to surcharge and to cancel with impunity any line on which it cannot manage to scrape together sufficient revenues to meet its exorbitant costs, this bill has sacrificed any reasonable recognition of the rights of shippers. This is not a railroad deregulation bill—it is a Conrail bailout.

Nearly every section of this bill is designed with one specific goal—to salvage from the junkheap that is known as Conrail some semblance of a railroad.

I do not argue with the goal, Mr. President. Conrail desperately needs a major overhaul. But the price is just plainly too high. In attempting to save Conrail, we are risking the economic life of countless Midwest and Plains States communities. In order to give Conrail the transfusion its managers claim it needs, we are willing to drain the blood from our Nation's agricultural producers and from efficient, well-managed railroads.

When I offered the amendment 2 weeks ago to strike the surcharge provision from the Senate bill, Senator CANNON agreed to accept my amendment and to try, in conference, to work out a compromise. At the same time—unbeknownst to me—a new section was added to S. 1946. That section added a new surcharge provision—directed solely at Conrail. It gave Conrail—and Conrail alone—the right to surcharge and cancel joint rates.

Mr. President, I do not approve of the way that section was added to the bill. But I can not say I would have been unhappy had that provision been the one which ended up in this conference report. If Conrail is the sole reason we need this surcharge authority—as the proponents of the bill have argued—then let Conrail alone have the authority to surcharge.

In summary, Mr. President, I am just not convinced that this is the best solution we can devise for our Nation's rail crisis. This process has been going on for 2 years already. All of a sudden, we are in a big hurry to pass a deregulation bill.

Throughout this evening—indeed, throughout the past week—I and other Senators who share my concern about the ramifications of this bill have met with representatives of the administration and with Commerce Committee.

Agreements have been reached on some key issues, which would allow S. 1946 to be enacted, and yet offer some minimal assurances that shipper concerns will be promptly addressed through both administrative and legislative hearings. Senator CANNON has promised me that if necessary he will hold hearings on the surcharge issue within 6 months.

I am not satisfied, Mr. President. But I reluctantly agree not to press the issue further, since I have the gentleman's agreement to deal with my concerns as soon as possible.

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. EXON. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. EXON. I support the conference agreement on S. 1946. As a member of the conference committee, I can attest to the diligent work in an environment of honesty and good faith within which this conference agreement was reached. Both the Senate and House conferees spent a great deal of time and effort to reach a reasonable compromise on this most important and complex legislation. I believe we have a good bill, not a perfect bill, but a piece of legislation which will assist our ailing railroad industry with new rate flexibility heretofore unavailable due to the regulatory structure under which the carriers were forced to operate. This legislation will provide this Nation's rail industry with the ability to rebuild in a free regulatory atmosphere which should enable the railroads to provide better service to the shipping public.

Much concern has been expressed from the outset of this legislation as to the need for protection of shippers, particularly captive shippers, from potentially excessive rates imposed by the railroads under this legislation. There is no question that this concern has been upper most in my mind as a member of the Senate Commerce Committee and a conferee during our lengthy deliberations on S. 1946. I believe that the final product does indeed provide shippers the protection they need and deserve without forcing the railroad industry to continue to attempt to operate in the stranglehold environment of regulatory inflexibility.

During July 1979, I chaired field hearings in both South Dakota and my State of Nebraska on this legislation. We gained a wealth of knowledge from this great agricultural area of the Nation with regard to the effects this legislation may have on the grain shippers. Of primary concern at that time was the issue of demand sensitive rates. I am very pleased to say that this conference agreement solves the potentially damaging effects such demand sensitive rates may have on the movement of grain to market by rail. We have, in this conference agreement, repealed the authority given the Interstate Commerce Commission under the 4R Act to implement demand sensitive rates. In addition we have very strong language in the report accompanying the conference agreement specifically forbidding the Commission from initiating demand sensitive rates for agricultural products. Mr. President, I have also received written assurances from the Chairman of the Commission that the ICC would not attempt to promulgate demand sensitive rates under other authority and I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, another area of great concern to the agricultural shippers of this Nation has been the notice period within which a carrier may raise or lower rates. Our shippers have been troubled that this notice period, if too short, would have a similar effect as demand sensitive rates. As a result, the provisions in this bill provide a 20-day notice for rate increases and a 10-day period for decreases in rates. Our agriculture shippers, for the most part, are pleased with this compromise which I might add is less restrictive for the railroads but provides adequate protection for our shippers.

A very important provision of this bill is the contract rates section which clarifies any doubts as to the legality of contract rates. This provision also allows carriers and shippers to enter into long-term contracts for the movement of all types of commodities. I would point out to my colleagues, however, that it was necessary to once again build in protective provisions to insure our smaller shipper, particularly those in the agricultural regions, would continue to be provided with service. All of the protections in the Senate bill as passed on April 1 of this year are contained in the conference agreement. These include discrimination protection, the common carrier obligation, car limitation provision, and the contract rate advisory service for shippers of agricultural, forest, and paper products. Also contained in the agreement is the provision mandating the full publication of the essential terms of contracts which has been of major concern to our shippers. Mr. President, I want to assure my colleagues from agricultural producing States that this contract rate section will provide our small grain shippers with protection from harmful discrimination which could have resulted without the above mentioned protective language.

Mr. President, a source of much concern of late has been the provision dealing with surcharges on joint line rates. As many of my colleagues may recall, the Senate Commerce Committee reported S. 1946 to the floor of the Senate without a provision dealing with the joint rate issue. The principal factor in this decision not to include such a provision was the failure to obtain agreement on language which was suitable to all sides of this issue. However, Senator CANNON did have printed in the RECORD a proposed compromise which was later adopted by the Senate in an effort to encourage the continuation of debate on this most complex issue in the hope that a final compromise could be achieved. While this issue continues to simmer, the conferees went ahead and attempted to work out a surcharge provision which addresses the many concerns expressed on the language in the two respective bills. Under the conference agreement, revenue-adequate carriers cannot surcharge on light-density lines in excess of 1 million gross ton miles of traffic. In addition, a provision was added making the office of the Commission's special counsel available to assist small shippers who want to challenge surcharge rates. I have been informed that in a continuing effort to resolve the problems in this complex area, Senator CANNON has agreed to hold hearings on the surcharge matter next year.

Finally, Mr. President, I should like to address a provision of this agreement which had its origins in the House of Representatives and was brought before the conference as a part of the House-passed bill. I speak of section 702, the Powder River Basin project.

Mr. President, after reviewing this provision in the conference it became clear that section 702 was unworkable as passed by the House and was in need of corrective action. While the intention of the proponents to protect the farmers and ranchers over whose property this connector line is to be constructed, the actual result of this original language would have had the reverse effect. Several changes were made to provide additional time for concerned citizens to review the Secretary of Transportation's final decision on this project. In addition, the section limiting liability and forcing landowner maintenance of the fences along the grade crossings was deleted as it violated provisions of the Wyoming State Constitution. Furthermore, in an effort to expedite this entire matter, guidelines for review were set forth in this legislation. I do want to emphasize that it was not the intention of the conferees to exempt the project from the National Environmental Policy Act and the waiver provisions were excluded from the conference agreement for this reason.

Of particular concern in consideration of the Powder River Basin provision is its potential effect on the east-west line of the Chicago & North Western Railway in northern Nebraska. Of utmost concern to this area of my State is the possible abandonment of this C. & N. W. line if the Power River Basin project is approved. I have assurances from the Chicago & North Western Railway that it has no intention of abandoning this line which is vitally important to agricultural shippers in this area of Nebraska. Mr. President, I ask unanimous consent that the letter from the Chicago & North Western detailing these assurances be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. Mr. President, in closing, I say to my colleagues that this legislation has the support of an overwhelming number of groups. Except for a few special interests whose desire it is to see this legislation defeated, the conference agreement on S. 1946 has the support of a majority of carriers and shippers. As a Member of this body representing a State with an economy totally dependent on agriculture, I can say in all good faith that I believe this legislation, although not a panacea, is sound and responsible and will offer both the rail industry and the shipping public an environment in which the rail carriers may overcome their economic problems and our shippers may realize reliable service at competitive rates.

Mr. President, the only alternative to no railroad deregulation bill is further and never-ending taxpayers' subsidy to the ailing railroad industry. The safe vote is against this bill. Then, those who play the never-ending game of "negative politics" can say, "But I did not vote for it."

Some of the "aginners" are the same spokesmen for "free enterprise" and getting the Government, its bureaucracy, and its regulations off the backs of business.

A warning should also go forward to the railroad industry with the passage of this bill. That warning must be that if the railroad industry abuses the intent of Congress on this bill, they do so at their own peril. Congress expects fairness to all, and Congress can reinstate its more strict controls if any and all sectors are not treated fairly.

I thank the Senator from Nevada for yielding me time to make these remarks.

Exhibit 1

Interstate Commerce Commission,
Washington, D.C., September 16, 1980.

Hon. J. James Exon,
U.S. Senate,
Washington, D.C.

Dear Senator Exon. This is in reply to your letter of September 11 asking for my interpretation of the Commission's authority regarding demand-sensitive rates if Section 210 of H.R. 7235 (The Rail Act of 1980) were enacted. As your letter points out, Section 210 repeals the existing section of the Interstate Commerce Act which requires the Commission to maintain standards and procedures to permit the establishment of demand-sensitive rates. In my view, repeal of this section will lead the Commission to repeal its existing regulations regarding demand-sensitive rates and to refuse to initiate new rulemakings on this subject.

I hope this addresses your concerns about the Commission's interpretation of existing and pending legislation. I would, of course, be pleased to discuss this with you at any time. If legislation is enacted, I look forward to working closely with you and other members of Congress who have devoted so much effort to bringing a rail bill to fruition.

Sincerely yours,

Darius W. Gaskins, Jr.,
Chairman.

Exhibit 2

Chicago & North Western
Transportation Co.,
September 26, 1980.

Hon. J. J. Exon,
U.S. Senate,
Washington, D.C.

Dear Senator Exon: We know you are concerned with our plans for the future of our east-west line between the Wyoming State line and the Mississippi River. Please be advised we have no intention of abandoning this line.

The construction of, and successful operation of, our proposed connector line to the Union Pacific near Joyce, Nebraska, not only will not endanger the east-west line, but will enhance its future. Revenues derived from the coal project will make this railroad stronger and better able to maintain this line, which performs a useful service for the citizens of Nebraska.

It is our purpose to maintain this line in condition to respond to service needed by your citizens. As we become stronger, we are better able to increase the quality of this line and our other lines in Nebraska. However, I would like to emphasize that we do have an ongoing program which has resulted in substantial investment. For the period from 1974 to 1979 we have invested $35.456,000 in maintenance and capital in this line. Obviously, it is our intention to continue maintenance and investment at this level or, hopefully, greater.

Sincerely,

Jerome Conlon.
Senior Vice President

Mr. CANNON. Mr. President, I agree 100 percent with what the distinguished Senator has said.

We have had a very difficult time working out the legislation. We believe we have worked out a fair bill.

The concern that the committee had was whether or not we were going to go along the road of subsidization by the Federal Government for the railroad industry or permit the railroad industry to try to get itself in a healthy condition. We elected to go along the latter route.

I yield now to the Senator from North Dakota.

Mr. MELCHER. Mr. President, will the Senator yield to me first?

Mr. CANNON. I have yielded to the Senator from North Dakota.

Mr. MELCHER. Mr. President. will the Senator from North Dakota yield to me, so that I may ask a question of the Senator from Nevada?

Mr. BURDICK. I yield.

Mr. MELCHER. Mr. President. will the chairman of the committee yield?

Mr. CANNON. Certainly I yield. I have yielded.

Mr. MELCHER. Mr. President, after all this discussion, can I tell any wheat shipper from Montana that this is a better deal on shipping wheat out of Montana than it was before?

Mr. CANNON. No, the Senator cannot tell the wheat shippers of Montana that it will be a better deal because the Federal Government or the railroads, one or the other, may have been subsidizing the wheat shipments. If the Senator is going to require that kind of a situation, then we should vote on it.

Mr. MELCHER. I say to my friend from Nevada it has been a long time since we——

Mr. CANNON. I yielded for the Senator's question and I wish to answer his question.

Mr. MELCHER. Mr. President, will the Senator yield further for my response?

Mr. CANNON. No, I will not at this time.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. CANNON. Mr. President, we had the alternative of deciding whether the railroads are going to subsidize a lot of these shipments or whether the Federal Government is going to. We decided in the committee, after the hearings, that neither one of them should subsidize the shipment.

Now we have tried to be fair. We have provided jurisdictional thresholds. Regulation is retained were necessary to be fair to the shippers and be sure that they are not gouged, that they are being treated fairly, but we cannot ask the railroads, nor the Federal Government, to subsidize the wheat growers in Montana or any place else, or any other shipper for shipping goods throughout this country today.

I yield to the Senator from North Dakota.

Mr. MELCHER. Mr. President, may I just say I thank the Senator for yielding to me.

Mr. BURDICK. Mr. President, the conference report to S. 1946 has been a subject of great concern to me, my colleague from South Dakota, Senator McGovern and others.

We found section 702 of the report particularly objectionable. This provision provided for facilitating Department of Transportation approval of a $300 million loan guarantee application involving the Union Pacific and Chicago Northwestern railroads to construct a connector line in the Powder River Basin in Wyoming.

This provision would have dramatically limited the right of other parties, including landowners, environmental organizations, and other railroads to appeal any decision made by the Department on this application.

Furthermore, section 702(d) of the bill attempted to obviate amendment No. 37 to the Department of Transportation appropriations conference report which was just considered earlier this evening and passed.

I am pleased to announce that tonight we have reached agreements with the Department of Transportation and the manager of this bill acknowledging the supremacy of the language in the Department of Transportation appropriations conference report over that in S. 1946.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Neil Goldschmidt, Secretary of Transportation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 30, 1980.

Hon. GEORGE MCGOVERN,
Hon. QUENTIN N. BURDICK,
U.S. Senate, Washington, D.C.

DEAR SENATORS: I would like to state the Department of Transportation's construction of a provision in the pending Staggers Rail Act of 1980 that specifies the judicial review available from the Secretary of Transportation's decision on a loan application to finance new rail carrier service to the Powder River Coal Region in Montana and Wyoming.

Section 702(c)(3) provides that judicial review of the Secretary's final action is available on the grounds that the action will (1) "deny rights under the Constitution" (2) "is arbitrary, capricious, or an abuse of discretion", or (3) "exceeds statutory jurisdiction, authority, or limitations, or is short of statutory right." This standard of review is essentially equivalent to the review otherwise available from such an action under section 706 of the Administrative Procedure Act (the APA) (5 U.S.C. § 706).

The decision in question involves the grant or denial of a loan application under section 511 of the Railroad Revitalization and Regulatory Reform Act (the 4R Act). To make these decisions, the 4R Act does not require a hearing, the compilation of a formal record, or the observance of formal rulemaking procedures under sections 556 and 557 of the APA. Accordingly, only three of the six grounds for review contained in section 706 of the APA are appropriate for any loan application such as the Powder River Basin decision. The fifth ground for review only applies to cases subject to formal rulemaking under sections 556 and 557 of the APA, or a specific statutory requirement that is not the case here. The sixth ground applies only to facts subject to a trial de novo and no such right is specified under the 4R Act. The fourth ground for review requires "observance of procedure required by law" which is clearly subsumed already under the grounds that the Secretary's action not be "short of statutory right" or an abuse of discretion.

The Department of Transportation intends to follow the spirit and intent of the law in making any decisions under title V and will keep you and other interested Members of Congress fully informed as this matter progresses.

Sincerely,

NEIL GOLDSCHMIDT.
Secretary of Transportation.

Mr. BURDICK. Mr. President, this letter clarifies section 702 of the bill, making clear that judicial review is protected.

Mr. President, many Members have joined in colloquies over the past several months regarding the congressional intent in establishing the title V assistance programs under the Railroad Revitalization and Regulatory Reform Act of 1976.

The latest colloquies occurred last week on September 18 during consideration of the Senate appropriations bill for the Department of Transportation. Both the floor managers, Senators BAYH and MCCLURE, agreed with Senator MELCHER that the 511 loan guarantee financing program "continues to be limited to rehabilitation and improvement of existing rail facilities and can be used for limited new construction only as a necessary part of rehabilitation and improvements projects and will not be used for projects not directly incidental and related to rehabilitation and improvement of the existing railroad system."

Mr. President, I emphasize that the last paragraph of the letter we have received from Secretary Neil Goldschmidt states that the Department of Transportation intends to follow the spirit and intent of this law.

I thank the Chair very much.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I shall appreciate the chairman of the conference committee entertaining a couple of questions on clarifying points if he will.

As we know, rail service in over a dozen States has been drastically curtailed or has ceased altogether because of the bankruptcies of the Milwaukee and Rock Island Railroads. This has placed intense economic pressure on public and private resources needed for the acquisition and rehabilitation of these properties. Many provisions of the rail deregulation bill are designed to assist and relieve this problem.

My concern is whether any provisions of this bill disadvantage any potential purchasers of these properties.

Specifically, I am concerned about the scope and intent of section 401, the feeder railroad development program. Its provisions suggest to me that the program is not intended to apply to, or to benefit in any way, a class I or II carrier which is presently operating under ICC service orders or by lease from the trustees on any properties of the Milwaukee or Rock Island. Am I correct that a class I or II carrier presently operating such properties is given no advantage under section 401 against a class I or II carrier which is competing for the ownership of that property?

Mr. CANNON. Mr. President, may I say to my colleague that the answer is yes, he is correct, the feeder-line provision does not include class I or class II carriers.

Mr. DANFORTH. Second, am I also correct that no other provisions of the bill give advantage to the temporary operating carrier against another railroad seeking to offer a competing bid on the property?

Mr. CANNON. That is my understanding.

Mr. DANFORTH. I thank the chairman.

Mr. MELCHER. Mr. President, I ask the chairman of the conference what the meaning of this wheat-subsidy provision is in the bill?

Mr. CANNON. Mr. President, I do not know quite what the Senator is inquiring about. There is no wheat subsidy in the bill. There are maximum note provisions.

Mr. MELCHER. I did not think there was.

Mr. CANNON. There are maximum rate provisions in the bill, and the maximum rate is governing as to what the increases can be.

Mr. MELCHER. I did not think there was anything in the bill as a wheat subsidy, and I wonder what the reference by the chairman of the committee and the chairman of the conference committee was to a so-called wheat subsidy.

Mr. CANNON. The reference was not in the bill. The reference was that the railroads in this country cannot be expected to subsidize any type of carriage that they are carrying. That is whether it is wheat or whatever it may happen to be.

We are trying to provide that no subsidy would be necessary, but there would be a limit on what the carriers can charge without ICC jurisdiction.

I think we have adopted a very fair compromise. I am sorry that the Senator apparently does not see it that way. But I may say that this compromise that we have worked out has the support of a very broad base of people who are shippers, and the rail carriers. The bill provides jurisdictional threshold at which point the ICC can move in and make a determination and they make the determination after hearing the facts.

Mr. MELCHER. Mr. President, there are a lot of wheat growers in the United States who think that the rates charged on transporting of wheat by rail is a subsidy for rail. They have all sorts of figures that indicate that the cost of transporting wheat, whether it is to the gulf, the Great Lakes, or the Pacific ports, wherever it is to be delivered, is a pretty great rate.

So I find it a little bit pathetic that in discussion of this particular bill we are told about some sort of a wheat subsidy. I do not know when the wheat producers of this country have had a wheat subsidy on freight rates on railroads. They paid plenty. If one looks at all the freight rates and all the various States where there is a freight rate established by rail for the transport of wheat, one will find it is plenty and it is higher than most other rates.

My problem with this bill is simply that in an area where you have a captured area that has to move something by rail freight, and believe me a lot of that area is wheat, it is a pretty tough bill.

I yield to the Senator from North Dakota.

Mr. YOUNG. The Senator from Montana is making a very good point. The freight rate for wheat from Minot, N. Dak., to the west coast is almost four times the rate where they have competition from water. Where the rails have competition, water rates, they lower the rates.

When you get out to our area, where there is no competition at all, the rates go up. I see nothing that helps us in this kind of legislation. We will be worse off than we were before.

Mr. MELCHER. I thank my friend from North Dakota, who has been identified in the Senate as Mr. Wheat.

I want to warn this Senate that at this late hour, on this date, with a pretty loud voice, the merits of this bill are lacking, that there are wheat and other commodities, that are going to be affected by this bill, that are going to be hurt.

I do not suppose we have the votes. We do not have the votes no matter how we work it. We do have the votes to delay this bill. But I want to say loud and clear that on wheat and other commodities out of the Northwest that this bill is most damaging, that it allows an increase in freight rates by railroads that cannot be controlled or constricted.

I think deregulation has gone too far. If you like what we have got on airline deregulation, fine. I do not happen to like it. It has not served my area, and it will not serve my area very well. I do not like it.

If you happen to like what we have on truck deregulation, fine. I do not happen to like it. It will not serve my area very well.

But on this bill on railroad deregulation it is the worst of the three because it will allow in too many areas an increase in freight rates without constriction, without advantages to the shippers.

You can say it is good to increase the rates, that somehow there are advantages to the shippers so it helps commerce. I do not think that will happen on this bill, and it will not happen on wheat in the Northwest. It will not happen on other commodities in the Northwest with which I am familiar where it is a captive market.

This bill in that regard is an absolute disaster.

I have spoken of my dissatisfaction. I have given you my view and that is all I can do. I wish the bill would not pass. I thank the Chair and the Senate for its consideration. I ask the rejection of the bill.

Mr. **McCLURE** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Idaho.

Mr. **McCLURE**. Mr. President, on the conference report that was just adopted before the consideration of this, we had a colloquy with respect to the interplay between the language of amendment No. 37 of the Appropriations Act and section 702 of this act, and the colloquy established that the timeframe permitted for the decision on the Powder River route is not determinative of the action that must be taken under amendment No. 37 of the report language in the appropriations act that requires the Secretary to file a report with the Appropriations Committees before final action is taken affirmatively on that rebuilding or the building of a new spur line in the Powder River Basin.

I am satisfied with that colloquy. I am satisfied with that discussion we have had that we have nailed that down about as well as you can under the circumstances that confront us tonight in dealing with two conference reports and not just talking about legislation. It is much more difficult for us to deal with conference report changes than it is changes in legislative language.

But I am concerned, too, about another section of this bill. I am not at all satisfied that we should get into the business of building a new spur line. That decision will be deferred, there will be several judgments made. But here we are in this act now reversing a decision that we made earlier with respect to the financial arrangements on the restructuring of the Milwaukee, and if I read the provision of this bill—and I understand it was a provision that was put in in the other body, not put in here, and the Members of the other body insisted upon that in the conference and their demands were acceded to by the Senate conferees—but looking at page 161, section 701(c)(1) which deals with the Emergency Rail Services Act loans made to the Milwaukee, it provides in this section:

> That all obligations of the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and cancelled.

Then it states under what circumstances they would be waived and cancelled.

That is an issue that we went into at great length as we went through the Milwaukee Railroad Restructuring Act.

After a great deal of debate it was determined that these loans would have a certain priority, that they would be subject to the priority of creditors. Ordinarily a Federal obligation has first priority, but we decided in that instance that all the creditors would come ahead of the Federal Government, the taxpayers' money, that was being put in through the Emergency Rail Services Act, and now a short time later we come out with this bill that says "Those loans thus made will be forgiven." We have converted the loan into a grant.

Mr. President, I do not believe that is correct. I do not think it is proper. I think the taxpayers are entitled to a better stewardship of their money than to give the money away to the Milwaukee Railroad particularly when there is no provision in either the Milwaukee Railroad Services Act or the restructuring act or in the Emergency Rail Services Act that says anywhere that the Federal taxpayers' investment in that restructuring will be recaptured before there is a payout to the shareholders.

As a matter of fact, I believe exactly the opposite is the case, that the money we are putting up through this provision will not be repaid. It will not come ahead of any other creditors. It will not even come ahead of distributions to shareholders, and the result is what is or may be a $200 million grant is a $200 million grant to the people who own the shares of the Milwaukee.

I have asked, as a matter of fact, how much money is involved. I might ask the Senator from Nevada if he can tell me how much money is involved in this provision. Can the Senator from Nevada enlighten the Senator from Idaho in that respect?

Mr. **CANNON**. May I say the House would not recede on this provision and it will prevent liquidation of the Milwaukee. It is my understanding that it is under $50 million in amount.

Mr. **McCLURE**. Well, the current loan is less than $50 million. I think the Senator is correct. I think that amount is $30 million, if my information is correct.

But can the Senator indicate to me whether or not that is the total amount that could be granted or is it an open-ended guarantee that whatever is loaned or guaranteed will be forgiven?

Mr. **CANNON**. Well, it is not an open-ended loan and other loans would not be subordinated in that manner.

Mr. **McCLURE**. Mr. President, let me read to the Senator what the language says. "All obligations to the United States"—remember that this is an amendment to section 7 of the Milwaukee Railroad Restructuring Act by adding this proviso at the end.

Can the Senator tell me how much money is authorized to be loaned under section 7 of the Milwaukee Railroad Restructuring Act? Perhaps I should say more accurately, how much is the dollar amount of loans that might be guaranteed under section 7?

Mr. **CANNON**. Mr. President, I say to the Senator, as far as we understand, it is not intended to cover additional amounts.

Mr. **McCLURE**. As a matter of fact, it does not say it does not. Section 7 of the Milwaukee Railroad Restructuring Act was an amendment to section 3(e) of the Emergency Rail Services Act. As a matter of fact, the Emergency Rail Services Act had a ceiling of $125 million which the Milwaukee Railroad Restructuring Act increased to $200 million.

At the bottom of that section, in subsection (g), we granted $10 million under the directed rail services provision, so that they got $10 million at the start which was never intended to be a loan. It was simply a matter of certifying the expenses they get paid. We added to that a provision that we could guarantee loans up to $200 million. I think I am correct that the amount that has so far been guaranteed is $30 million.

As I read the provisions of this conference report, there could be another $170 million given to them which would not be repayable. That would make a total, under this one provision, of $210 million of taxpayers' money granted to the Milwaukee Railroad with no provision for recapture, no provision at all that if there is an enhancement of value for the shareholders that the Federal Government would recover anything at all and that the shareholders would.

Mr. **CANNON**. Mr. President, let me read this to my colleague:

> Under Section 7(d), (e), and (f) of the Milwaukee Railroad Restructuring Act, certain obligations to the United States were subordinated to the creditors, but not the stockholders. Hence, there is a gap between these two classes of interests. The House amendment eliminates this gap, by forgiving such subordinated obligations to the United States when the Milwaukee Railroad is either successfully reorganized as a rail carrier or when more than 50% of the railroad as it exists on the effective date of the Staggers Rail Act is purchased and 50% of its employees on that date have obtained employment with other carriers. By eliminating this gap in this way, the House amendment will encourage the Milwaukee Railroad's stockholders to seek a successful reorganization or purchase and not feel it necessary to seek liquidation at this time.

Mr. **McCLURE**. Mr. President, will the Senator yield? I think the Senator is right, except I think it is a little misleading to talk about a gap, because the original Milwaukee Railroad Restructuring Act says that its loan is subordinate to the creditors. So the creditors are going to be held harmless and the Federal Government will waive its right to recover the money as against the creditors.

But we very wisely in that act said that we are not going to enhance the value to the shareholders. We will let the creditors get their money, but we are not going to enhance the value to the shareholders at the expense of the taxpayers. That is the gap the Senator is talking about.

Now we are not only going to say that not only the creditors are ahead of the Federal Government, we are going to say that the shareholders are ahead of the Federal Government, the taxpayers of this country, and the shareholders can have up to $210 million worth of enhancement of value with no recovery to the Federal Government, no recovery on behalf of the taxpayers.

Mr. CANNON. Mr. President, let me say that there is no money (or very little money) for the shareholders. The House would not recede on this revision, so the Senator can vote against it if he does not like it.

Mr. McCLURE. Mr. President, let me say, very little money? Two hundred and ten million dollars, at least to this country lawyer, is quite a little money. No enhancement to the shareholders? The shareholders are enhanced to the full value of the $210 million that might be paid to them out of the Treasury of the United States as a result of this provision.

I would also say to the Senator, and I see the Senator from Oklahoma——

Mr. CANNON. Mr. President, the Senator is not correct. It is not $210 million. It is limited to the loans that are very significantly less than $210 million. I am advised by staff that the figure is slightly more than $30 million.

Mr. McCLURE. Mr. President, will the Senator point to the language that limits it to the loans that have already been made? The language very clearly says "all obligations pursuant to this section."

Mr. CANNON. Mr. President, it is up to DOT to make the loans. They would not make it without a congressional act. They would not make it without authorization from the Congress.

Mr. McCLURE. They have the authorization up to $200 million, in addition to the $10 million of directed service.

Mr. CANNON. Mr. President, I ask the Senator to show me where that is.

Mr. McCLURE. If the Senator will look at section 7 of the Milwaukee Railroad Restructuring Act, Public Law 96-101, passed November 4, 1979, and look at the section dealing with this, which is an amendment to section 3(e) of the Emergency Rail Services Act. It authorizes that this amount can go up to $200 million. It is right there.

Mr. President, right there it authorizes that these obligations may be up to $200 million. The ceiling was raised from $125 million to $200 million under the provisions of the Milwaukee Railroad Restructuring Act. The provisions of this bill that we are considering tonight says "All obligations incurred pursuant to this section"—this is an amendment to the earlier bill—shall be forgiven, shall be waived and cancelled. So there was $10 million under directed rail services that was directed to be given to them, $200 million authorized to be loaned, now given, and in excess of $30 million which has already been guaranteed which will now be given to them.

Mr. CANNON. Mr. President, let me say to my colleague that we will get a clarification from DOT for the RECORD, if he desires that, to the effect that it will not be beyond amounts already authorized. That is the intent, that it not be beyond that amount. We will certainly provide that clarification for the RECORD from DOT.

Mr. McCLURE. Will the Senator entertain an amendment to amend the conference report?

Mr. CANNON. No, the Senator would not attempt or accept any amendment to the conference report. This would send it back to a conference with the House and the Senator is not about to do that.

Mr. McCLURE. Mr. President, if it is the intention of the conferees to limit it to the amounts already incurred, there is only one way to do that and that is to write into this law such a limitation.

(Mr. BRADLEY assumed the chair.)

Mr. CANNON. Mr. President, I have given the Senator my assurance that I would provide for the RECORD an understanding from DOT as to that limitation. If the Senator is not satisfied with that, I would just say that the Senator ought to make a motion and we will vote on it up or down. We are prepared to vote on it. But I will not accept any amendment to the conference report. We are going to vote on this this way and we are going to vote it up or down.

Mr. McCLURE. The Senator's position is very clear, and I understand that. I appreciate the intent on his part to satisfy the concern that I have by limiting it to the $30 million.

Mr. President, let me say to the Senator that even if the Department should now give him a letter that says they do not intend to make any further loans under this section, even though they have the legal authority to do so, that is as good as the word of the person who signs the letter. Now, without any attempt to indicate that I do not trust the people who would sign that letter, but they do change their minds and sometimes there is a change of personnel.

Mr. CANNON. No question about that.

Mr. McCLURE. And if they desired tomorrow to make a further loan, they could say: "I am sorry, Senator. We find a change in circumstances and now we believe that we ought to use further the authority that is granted here." And we will go up to another $30 million or $40 million or $50 million or $170 million.

Mr. CANNON. I have tried to give the Senator an assurance to the best of my ability. The report is not amendable. I am prepared to vote on it up or down. I will simply say that the Senator can vote against it or he can secure enough of his colleagues to vote against it.

Mr. McCLURE. Mr. President, I recognize that it is difficult to amend the language of a conference report. It is not impossible, however. If there is a determination to make a change in the language of a conference report, that can be done. If there is no desire to do so, I certainly accept the word of the Senator from Nevada that he does not intend to do so. That leaves me with only one option, which is to suggest to my colleagues to do other than support the conference report, with the assurance the Senator from Nevada has given, which he admits does not mean anything if people downtown want to change their mind about it. I guess others will vote for it. The Senator from Idaho will vote against it.

It is not my intention, however, to try to delay the consideration of the conference report. It is a serious consideration in the mind of the Senator from Idaho when the Senator from Nevada is suggesting to us, or when it is suggested to us by Members of the other body, that we have to expose the taxpayers to a $210 million gift to the Milwaukee Railroad with no hope of reimbursement, with no hint that what started out as a loan guarantee should now be anything other than an absolute grant.

I know my colleague from Oklahoma is concerned about what we have done in the budget process here as we went around the budget, the appropriation, and the limits on obligation in the first concurrent resolution by setting up a loan guarantee which is outside of the budget, and then converted into an expenditure by forgiving the loan.

I would say to my friend from Oklahoma that is not even just limited to the $30 million already; there is in this language the possibility hanging over the budget at any time of an additional $170 million which will be completely outside the budget, completely unrestrained by obligation or outlay restrictions.

Mr. BELLMON. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. BELLMON. Mr. President, I join the distinguished Senator from Idaho in expressing concern about this practice. This seems to me to be a maneuver and a very, very questionable practice that sets an enormously disturbing precedent that could cause us great problems in the future.

As the Senator from Idaho has said, the loan guarantee approach was used last year to get around the budget limitations. Now we come along and see these guaranteed loans being converted into a direct grant.

If this loan had been proposed as a grant last year, we could have raised objections to it on budgetary grounds. But since it was made as a loan, we were not able to do that. Now just 1 year later we come along and convert a loan into a grant. This is a back door way of getting money out of the U.S. Treasury without the Congress having to vote up or down on an appropriation.

I think Senator McCLURE is entirely right to raise this issue so that the Senate can understand what is going on here.

I believe experience shows that it is extremely important that the Senate get an effective budget control over credit programs of various kinds, particularly including these loan guarantees that can be abused in this way.

So, Mr. President, it is my intention to oppose this report when we vote.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on adopting the conference report.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, before we proceed to a vote, I would like to make a few brief remarks to allay some of the fears of some of the agricultural interests, particularly the wheat growers, which have been expressed very eloquently on the floor of the Senate this evening or this morning, whichever the case may be.

As a Senator from a main grain-producing State and a big wheat-producing State, I have been very sensitive to the needs of the wheat growers. In fact, concerning the legislation that we are about to vote upon, I have worked very closely for the past several weeks with the National Wheat Growers Association, and they endorse this proposal.

They do not think it is perfect, but they think it is a meaningful step in the right direction to attempt to get the railroad industry of the United States of America back on track.

Furthermore, I have been working very closely with other agriculturally related organizations, namely, organizations representing the co-ops of the United States of America. The co-ops are concerned not only about the movement of grain from the farms to the ports and other places where the grain was ordered, but also the transportation of vital chemicals and other products necessary in the production of food to the farmers.

I am pleased to report that we are satisfied, with the amendments we have put in this bill, with what we have worked out in the conference report and the conference report language. We have their endorsements also.

We also have been working very closely with the American Farm Bureau Federation, and they endorse the railroad deregulation bill that is now before us.

Mr. President, I ask unanimous consent that a letter from the American Farm Bureau Federation addressed jointly to the Honorable HOWARD CANNON and the Honorable ROBERT PACKWOOD be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FARM
BUREAU FEDERATION,
Washington, D.C., September 29, 1980.

Hon. HOWARD W. CANNON, *Chairman,*
Hon. BOB PACKWOOD, *Ranking Republican, Commerce, Science and Transportation Committee, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN CANNON AND SENATOR PACKWOOD: The American Farm Bureau Federation supports the Conference Report on S. 1946, the "Harley O. Staggers Rail Act of 1980." Farm Bureau is the largest general farm organization in the United States, representing more than 3.2 million member families in 2800 counties in 49 states and Puerto Rico.

We believe the conference report is in the best interest of both shippers and railroads and should be approved expeditiously. Farm Bureau believes that it is essential for Congress to give the Interstate Commerce Commission proper direction in providing regulatory reform of the nation's railroads. The conference report provides several needed reforms for the railroad industry and, at the same time, addresses concerns of shippers.

First, the maximum rate section allowing railroads more ratemaking flexibility will be phased in over a period of four years. Shippers will have the right to challenge rates over the maximum threshold level which they consider unreasonable. The conference report contains clarifying language which encourages railroads not to raise rates to the maximum allowable threshold.

Second, a good contract rate section is included in the report. Farm Bureau believes contracting between railroads and shippers will proliferate under the new rail regulatory reform environment, thus providing improved service and agreed upon rates. The conference report does not allow railroads to neglect their common carrier obligation as a result of contracts. Farm Bureau is especially pleased with this section of the bill and believes it is a major benefit for farm commodity shippers.

Third, rail abandonments to local communities are of great concern to Farm Bureau. The conference report contains a section dealing with abandonments and another section allowing shippers and local concerns to have the first right to buy abandoned rail lines after other rail lines express distinterest. We believe this to be especially important because numerous shippers throughout the country have expressed an interest in, and are, in fact, buying and operating rail lines.

Fourth, a merger section is included which precludes the approval of rail mergers in the event a substantial lessening of competition or monopoly situation is likely to be created. With the proliferation of rail mergers throughout the country, Farm Bureau believes it is important that the ICC be given this type of direction by Congress.

Fifth, the report contains language which directs the ICC to take action to promote use of railroad equipment during times of shortages or emergencies. Rail car shortages do occur for agricultural shippers, especially during harvest months. Farm Bureau believes it is necessary for the ICC to have this type of flexibility.

Sixth, proper rail/water competition is maintained in the conference report. The agricultural community depends greatly on rail and water carriers for movement of bulk commodities and believes proper pricing flexibility for the two modes should be maintained as in the conference report.

Farm Bureau appreciates your serious consideration of our views. Farm Bureau believes it absolutely essential for Congress to pass this legislation, thereby giving the ICC proper direction in reforming regulation of the nation's railroads. We urge your immediate approval of the conference report to S. 1946.

Sincerely,

VERNIE R. GLASSON, *Director.*

Mr. EXON. Mr. President, I would simply like to close by saying, and emphasizing once again, that this is not a perfect bill. It is a tremendously complicated bill. The Commerce Committee of the Senate has worked very hard. We have tried to listen to all of the objections and then put together a workable bill. All that I can say is that I think the message has been sent very loud and very clear, that should the railroad industry wish to take advantage of certain segments of our economy, then they do so at their own peril because the Congress can and will, if that be the case, come back with further rules and regulations.

I yield the floor.

Mr. CULVER. Mr. President, I would like to indicate to the distinguished chairman of the Commerce Committee (Mr. CANNON) my support for the provision of the conference report on S. 1946 which increases available funds for noncarrier acquisition of the Rock Island and Milwaukee Railroads.

As the chairman knows, several shippers associations have been formed in Iowa to purchase segments of the Rock and Milwaukee systems. The maintenance of these lines is essential to the economy of my own, as well as other Midwestern States, and sufficient funds should be made available to help accomplish these purposes.

Recently, I introduced legislation to double the amount of funds available for noncarrier acquisition. The legislation would have used funds from the windfall profit tax revenue on decontrolled oil for this purpose.

The conference report increases funding for noncarrier acquisition of the Rock Island Railroad from $25 million to $38 million and for the Milwaukee Railroad from $18 million to $27 million. I am pleased that the conferees followed the lead of my earlier legislation by adding additional funds so that essential rail services may be preserved.

I would like to ask the chairman if he believes additional revenues may be authorized for noncarrier acquisition in the future once the Federal Railroad Administration has had the opportunity to evaluate all proposals currently pending, and whether windfall profit tax revenues may be one possible or feasible source of any additional funds that may be necessary?

Mr. CANNON. I thank the Senator. I am pleased that the conference substitute included the authorization for increased transaction assistance for both the Rock Island and Milwaukee Railroads. Certainly the provision is very similar to the legislation the Senator from Iowa introduced earlier this year. The Commerce Committee will continue to evaluate the situation in the Midwest, and if additional funding is needed for noncarrier acquisitions, I would anticipate that we would consider any sources of revenues that are available. Windfall profits may well be one of those sources.

Mr. LEVIN. Mr. President, on September 18, 1980, I cosponsored Senator ZORINSKY's amendment to strike the joint-rate sections of the Senate railroad deregulation bill because of my concern that the section did not provide adequate protection to the small railroads against discriminatory pricing practices. I believe that our deletion of section 120 would provide the conferees with the flexibility needed to design a joint-rate provision which would grant more adequate protections to these railroads.

Mr. President, I would like to take this opportunity to restate my concern that the railroad deregulation bill, as agreed to by the House and Senate conferees, still does not provide adequate protections to the small railroads. Only minor changes in the House surcharge and cancellation provisions were made in conference and as a result Michigan's small railroads have informed me that they believe the railroad deregulation bill will have a severe negative impact upon them.

While I have been supportive of the deregulation effort, I am convinced that problems with the joint-rate provision have not been adequately addressed. I would ask that the distinguished chairman of the Senate Committee on Commerce, Science, and Transportation agree to hold hearings and report to the Congress in a year—or sooner if the small railroads are in trouble as a result of this section—to determine the impact of the joint-rate provision upon the Nation's small railroads and the small communities which they serve.

Mr. CANNON. I believe that the changes in the surcharge provision which we made in conference were substantial. Nevertheless, I understand the Senator's concerns and those of other Members. Under the circumstances, and in view of concerns also expressed by Senator Zorinsky, with regards to the impact on shippers, I agree that the Committee on Commerce, Science and Transportation will hold hearings a year from now when the first ICC report on the matter is received. As has been suggested, I will schedule hearings sooner in the event smaller railroads or shippers encounter serious problems as a result of enactment of this section.

● Mr. PELL. Mr. President, I would like to offer my congratulations to the managers of the bill for their exceptionally skillful handling of the railroad deregulation conference report. There were significant differences between the House and Senate bills, and the conference was an arduous one. Senator Cannon and Senator Packwood have done a fine job on this important legislation, and I think their labors should be commended by their colleagues.

I particularly want to acknowledge the work of the conference committee in one area which is of great importance to my own State of Rhode Island. Title VII of the bill provides a streamlined process for the transfer of Conrail properties to other carriers in the States of Connecticut and Rhode Island. This provision was sought by local officials, eager to find alternatives to existing Conrail service. Title VII is very similar to a bill I introduced last April, S. 2156, in its effort to provide these two States with a more open mechanism for alternative rail freight service. Congressman Dodd of Connecticut introduced this legislation simultaneously in the House, and was instrumental in its inclusion in the railroad deregulation bill.

Under the provisions of title VII, the Secretary of Transportation is directed to consider proposals for rail transfers in Connecticut and Rhode Island on an expedited basis, with opportunity afforded the State governments to participate in the decisionmaking process. In drafting this section, great care has been given to the interests of the Conrail workers who would be affected by a transfer to a private carrier, and I believe the final result insures fair treatment and protection for the Conrail employees.

Additionally, we have been concerned that the taxpayers receive a fair return for their investment in Conrail for the past 4 years, and again, I think the final result insures that an equitable price will be paid for the lines involved—one that is not a "giveaway" of the taxpayer dollars that have been poured into Conrail. Lastly, we have been concerned that any new carrier have the financial wherewithal to sustain operations and maintain jobs over an extended period. Title VII requires the Secretary of Transportation to certify, before any transfer takes place, that the new carrier is financially capable of assuming the freight operations (and service obligations to shippers) on a self-sustaining basis.

Mr. President, the railroad deregulation bill, soon to be known officially as the Staggers Rail Act of 1980, is a welcome breath of fresh air to an industry which has been literally suffocated by outdated Government regulation. This legislation provides the flexibility which the railroad industry needs to regain the considerable ground it has lost to other transportation modes. It is very much in keeping with the open, flexible approach of this bill that we include a provision allowing the States, on a limited basis, to experiment with alternatives to the Conrail system. I strongly support this section of the conference report, and I express my gratitude to the conferees for their responsiveness to a serious rail problem in my region.

Mr. President, I urge adoption of the conference report.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to rise in support of the conference report on the Staggers Rail Act of 1980. I believe Chairman Cannon has done an admirable job of setting out the compromise reached by the conferees and nothing would be gained by my reiterating his description of the conference substitute. However, I would like to highlight several areas of the bill which were of special concern to me.

First of all, I want to indicate my strong support for the contract rate provisions of the conference substitute. This provision retains many of the protections built into the Senate bill which I believe are extremely important to the interests of agricultural shippers. The conference substitute will mandate limitations on the number of cars which carriers can dedicate to contract carriage, thereby insuring that carriers can still meet their common carrier obligations. The substitute also makes clear that unreasonable discrimination with respect to agricultural, forest and paper products will continue to be defined for purposes of this section as currently defined in section 10741 of the Interstate Commerce Act. Furthermore, the Commission is given the specific authority to order a carrier to provide rates and services similar to those in any contract which it finds the carriers did not make available to similarly situated agricultural shippers.

The substitute also includes the Senate provision establishing a railroad contract rate advisory service to assist shippers in taking advantage of the ability to contract. I also want to underscore the conference report language which draws special attention to the provision of the substitute which allows agricultural shippers to challenge a contract on the grounds that the proposed contract constitutes a destructive competitive practice. As stated in the report:

> These provisions were included in recognition of the fact that smaller shippers are particularly concerned about the market power of their large competitors once the contract rate provisions are put into effect. It is the intention of the conferees that the Commission carefully review this aspect of the competitive situation in approving contracts.

Demand sensitive rates are specifically repealed in the conference substitute, and strong conference report language is included making it crystal clear that it is the intent of Congress that the ICC is not to try to impose a "demand sensitive" rate on agricultural shipments. The conferees included this language in recognition of the fact that such rates are totally inappropriate in the sort of market which is the driving factor in shipments of grain and other agricultural commodities.

With regard to incentive per diem rates, I want to heartily endorse the chairman's comments on this section, that is, that the repeal of the specific incentive per diem rate authority of the Commission was agreed to in recognition of the fact that continuing authority under section 11122 of the act will serve to preserve necessary flexibility to the Commission in addressing car shortages.

All in all, Mr. President, I am quite pleased with the conference substitute. I believe it reflects a responsible attempt to carefully balance the revenue needs of our ailing railroads against the necessity of protecting shippers captive to rail service. I commend the chairman for his leadership in bringing this legislation to a successful conclusion. I thank my colleague from Nebraska, Senator Exon, for his able assistance in addressing the particular concerns which we share regarding agricultural shippers, and I salute Senator Long for his tenacity and persistance in helping to fashion a responsible provision regarding maximum rate regulation. Also, Mr. President, I want to give special thanks to Senator Packwood, who, as ranking minority member, has been an able leader and provided me with invaluable assistance in shepherding this bill through the legislative process.●

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Not on my own behalf, but on behalf of the Senator from Montana (Mr. Melcher), at his request, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the adoption of the conference report on S. 1946. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Iowa (Mr.

Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), the Senator from Wisconsin (Mr. Nelson), the Senator from Connecticut (Mr. Ribicoff), the Senator from Vermont (Mr. Leahy), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), the Senator from Alabama (Mr. Stewart), the Senator from Washington (Mr. Magnuson), the Senator from Florida (Mr. Stone), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from New Hampshire (Mr. Humphrey), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Indiana (Mr. Lugar), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Hatch) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 61, nays 8, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—61

Armstrong
Baker
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatfield
Heflin
Heinz
Helms
Huddleston
Inouye
Jackson
Jepsen
Kassebaum
Levin
Long
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—8

Baucus
Bellmon
Burdick
Cohen
Hayakawa
McClure
Mitchell
Young

NOT VOTING—31

Bayh
Biden
Byrd, Harry F., Jr.
Cochran
Culver
Dole
Durkin
Goldwater
Gravel
Hatch
Hollings
Humphrey
Javits
Johnston
Kennedy
Laxalt
Leahy
Lugar
Magnuson
McGovern
Moynihan
Nelson
Percy
Pressler
Ribicoff
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge

So the conference report was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CANNON. I move to lay that motion on the table.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the vote by which the conference report was agreed to. Debate is not in order.

The motion was agreed to.

Mr. CANNON. Mr. President, I thank Senators Packwood, Kassebaum, Long, and Exon, who worked hard in committee and in conference to develop this legislation.

I also thank my other colleagues, on both sides of the many difficult issues in this bill, whose cooperation made it possible for the Senate to complete final action on this important legislation this evening.

I also thank the staff of the committee—majority and minority—who assisted in making this legislation possible, particularly Jan Rosenak, Bill Johnson, Peyton Wynns, and Bill Diefenderfer and Matt Socozza of the minority staff, as well as the able assistance of Kevin Curtin, the committee legislative counsel.

ORDER OF BUSINESS

Mr. DECONCINI obtained the floor.

Mr. DECONCINI. Mr. President, I yield to the Senator from Kentucky, and I reserve my right to the floor.

MILITARY CONSTRUCTION APPROPRIATIONS, 1981—CONFERENCE REPORT

Mr. HUDDLESTON. Mr. President, I submit a report of the committee of conference on H.R. 7592 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, **signed** by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the Record.)

Mr. HUDDLESTON. Mr. President, I am pleased to bring before the Senate today the conference report on H.R. 7592, the military construction appropriation bill for fiscal year 1981.

The conference version of the bill contains a total appropriation of $5,098,680,000. This is $296,701,000 more than the $4,801,979,000 contained in the House bill and $61,980,000 less than the $5,160,660,000 included in the Senate version. It is $288,456,000 less than the budget estimate of $5,387,136,000.

While we were able to fund a number of important projects, the budget restraint imposed by the first concurrent resolution (FCR) forced the denial or deferral of a number of other projects which were also worthy and desirable. Specifically, under the first concurrent resolution, the conference version had to be within $5.1 billion, which is substantially below both the budget request and the authorization bill.

The conference version provides for major new initiatives related to the Indian Ocean/Persian Gulf area. The total amount of that funding is $259,177,000. Specific projects have been funded for the Navy and Air Force at Diego Garcia and for the Air Force at Lajes Field, Azores. These projects were funded on an individual basis because they are well along in terms of planning and design and because they are in areas where the United States is already operating. For Lajes, the conferees do expect the Department to follow the stipulations in the Senate report which seek to insure that the United States will have ready access and use of the facilities after the funds are spent.

For other facilities relating to the Indian Ocean/Persian Gulf area, the conferees agreed to a contingency fund at a level of $105 million. This was done because there is still lack of program definition and because priorities appear to be shifting in the area.

In order to retain control and exercise oversight over use of the contingency fund, however, the conferees agreed to the following procedures which were included in the Senate report:

> Prior to the obligation of any funds, the Department shall notify the Committee in writing of: (a) the amount involved in the project, (b) the country involved, (c) the date the country-to-country agreement and legal interpretation were submitted to the Committee, (d) the site or sites within the country involved, (e) the type of facilities to be constructed, including provision of a 1391 form on each, (f) the impact construction or modification of the proposed facility will have on operational capabilities and readiness, (g) other similar or related facilities being constructed under the fund, (h) other similar or related facilities within the area, and (i) alternatives, if the proposed facilities do not become available. The Department may proceed with the project if it receives no objection from the Committee within 15 days of the Committee's receipt of the notification.

As I noted in my Senate floor statement on H.R. 7592, the original March request for Indian Ocean/Persian Gulf facilities focused on Diego Garcia, Kenya, Somalia, and Oman. Even then, however, there was discussion in Government circles of other potential sites, and observers both within and outside Government were suggesting alternative locations which might be more operationally feasible, more politically acceptable, and more economical than those selected initially. Recent reports regarding possible sites in Egypt as well as other nearby countries would seem to confirm that a larger, more extensive network of facilities is under consideration. For this reason, there is need for a concept plan for the entire area. The Department of Defense needs to prepare and justify a comprehensive program so that the committees can judge the parameters of the entire program. The House report language regarding such a report was also agreed to by the conferees.

While funding levels for the MX missile basing mode were not in question during the conference—both the House and Senate provided $17 million for test facilities at Vandenberg Air Force Base, Calif., and up to $97 million for planning and design—the conferees agreed to report language clarifying the means by which impact assistance is to be made available to affected areas and to bill language specifying that no funds in H.R. 7592 are to be used to transport chemical munitions into potential MX basing areas.

The conference agreement includes $13.7 million for construction of Space Shuttle facilities at Vandenberg Air Force Base, Calif. The conferees were also able to reach a compromise on language relating to the obligation of funds. The House bill included a provision prohibiting obligation until after the first manned orbiting flight, now scheduled for March 1981. The Senate version contained no comparable provision. The compromise ties the obligation to the orbiter rollout from the orbiter processing facility, now scheduled for December 1980 at Cape Kennedy.

I have always viewed the Space Shuttle as a program of extreme national importance and believe it should proceed as rapidly as possible. At the same time, however, I am not unaware of the problems it has encountered. The conference agreement is designed to insure that construction continues at a pace which will allow Vandenberg to be ready at its scheduled initial operating capability (IOC) unless problems with the Shuttle itself—particularly the thermal protection system or the engines—render the Vandenberg IOC impossible. Should that be the case, then construction at Vandenberg could be stretched out.

The conference bill contains $250 million for the United States contribution to the NATO infrastructure program. This represents agreements with the House reduction of $50 million in the $300 million request. The conferees believe that much of this $50 million can be covered by recoupment from NATO for projects which the United States prefinanced in previous years but which either were or were expected to become eligible for infrastructure financing.

The conferees agreed to report language regarding preferences for United States contractors and dredgers on projects in the Indian Ocean/Persian Gulf area. This language builds upon directives in the conference report on the fiscal 1980 supplemental appropriations bill, Public Law 96-304. For the dredging projects at Diego Garcia, there is a specific preference of 20 percent.

The conferees also agreed to earmark $18.8 million in planning and design funds for projects dealing with conversion from oil to alternate fuels. This earmark was also included in the Senate version of the bill.

The $19 million requested to prefinance the deployment of the ground-launched cruise missile in Great Britain has been included in the conference version of the bill, together with language indicating that early recoupment through the NATO infrastructure program is expected.

The House provision prohibiting the payment of property taxes abroad was retained by the conferees.

The fraud, abuse, waste and error provisions relating to debts overdue to the Government and use of consultants were included. These were first proposed by Senator Magnuson, chairman of the Appropriations Committee.

The conferees reached a compromise on funding of solar energy projects, basically by splitting the money differences between the House and Senate versions and adopting language comparable to that in the Energy Security Act.

Mr. President, I believe this is a good conference agreement. I urge the Senate to adopt it.

Mr. President, unfortunately there were some errors made in the printed version of the conference report in the statement of the managers. I ask unanimous consent that the corrections to these errors be printed in the Record after my statement.

There being no objection, the corrections were ordered to be printed in the Record, as follows:

House Report 96–1433, Military Construction Appropriations for Fiscal Year 1981

Page 4: Amendment No. 1, delete "$857,934,000" and insert "$857,834,000".

Page 5: Exigent minor construction, delete "$2,500,000" and insert "$1,900,000".

Page 8: Amendment No. 8, delete "$600,000" and insert "$6,000,000".

Page 10: Amendment No. 13, delete "$3,724,000" and insert "$3,742,000".

Mr. MELCHER. Mr. President, I wish to commend my friend from Kentucky.

Mr. HUDDLESTON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I will yield in just a moment. Let me finish a statement here and then I will be glad to yield.

Mr. President, I wish to say to the Members of the Senate that it has been a pleasure working on this bill with our ranking minority member, the distinguished Senator from Nevada (Mr. Laxalt) who is necessarily absent this evening and to point out that the conference report has not been signed by Senator Laxalt due again to the fact that the conference concluded its work late in the day and the report was not ready until later and he necessarily had to be away. He does indicate that he wholeheartedly supports the conference report as it is finalized and presented here today.

His assistance from the very beginning of this legislation has been extreme and been very helpful in the development of the bill that is before us now.

I at this point yield to the distinguished acting minority leader, the Senator from Alaska.

Mr. STEVENS. Mr. President, the distinguished chairman of our subcommittee has already provided the Senate with the details of the conference agreement on this military construction appropriations bill for 1981.

On behalf of the Senate from Nevada, I wish to state that he does concur in this conference report and has asked me to commend the Senator from Kentucky for his diligent work on this bill and for his strong support of the Senate position.

Senator Laxalt wishes particularly to note his appreciation of the support from the distinguished Senator from Kentucky on the MX missile issue which is and continues to be of utmost importance to Nevada and to Utah, and he has asked me to report to the Senate in behalf of the minority that he urges the adoption of this conference report.

I thank the Senator from Kentucky.

Mr. HUDDLESTON. I thank the Senator from Alaska, and I yield to the distinguished Senator from Montana for whatever time he wishes.

Mr. MELCHER. Mr. President, I simply wish to thank the Senator from Kentucky for his proper handling of the bill and his sensitive response to the needs of the people.

I thank him very much.

Mr. HUDDLESTON. I thank the distinguished Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The Clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

The House recedes from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill and concurs therein with an amendment.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that it be in order to consider the amendments in disagreement reported en bloc and that it be in order to concur in the amendments of the House and the amendments of the Senate en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert "$775,273,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert "$861,125,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert ": *Provided further*, That no part of the funds in this Act may be used to transfer or move chemical or gas weapons into MX impacted areas: and *Provided further*, That $6,000,000 of the funds available for planning and design shall be available only for planning and design for activities related to the conversion of facilities to alternative fuels.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert "$42,269,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert:

MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Armed Forces, $3,742,000, to be allocated by the Secretary of Defense for the Army Reserve."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 116. During the current fiscal year none of the funds available to the Department of Defense for military construction or family housing shall be available to furnish or install solar energy systems in new facilities (including family housing) unless such systems can be shown to be cost effective using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary of Defense and at a discount rate of 7 per centum per year.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 117. No part of the funds appropriated in this Act for construction of space transportation system facilities at Vandenberg Air Force Base, California, may be obligated until the first rollout of the Space Shuttle has been accomplished.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert:

SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert:

SEC. 125. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owned to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert:

SEC. 126. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

(b) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Mr. HUDDLESTON. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 3, 5, 8, 11, 13, 21, 22, 29, 32, and 33.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD H.R. 8146 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8146 be held at the desk pending further disposition on tomorrow.

Mr. BAKER. Mr. President, reserving the right to object, I inquire of the majority leader if he will be kind enough to restate the request.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that H.R. 8146 be held temporarily at the desk pending further disposition on tomorrow, Wednesday.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, there is no objection to that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTIONS IN ENROLLMENT OF H.R. 5612

Mr. DECONCINI. Mr. President, it has recently come to my attention that a technicality in the House consideration of H.R. 5612 and S. 265 could undo all the work on S. 265, the Equal Access to Justice Act. To overcome this impasse, I am submitting today and send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 134) authorizing corrections in the enrollment of H.R. 5612.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. DECONCINI. Mr. President, this handles a technicality that has been raised by the Parliamentarian regarding H.R. 5612 and an amendment to it which is the same bill as S. 265 passed by the Senate. This has been cleared both by the majority and minority on the Judiciary Committee and the Small Business Committee.

Mr. President, I ask that the concurrent resolution be adopted.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, the distinguished Senator has cleared this with the majority side.

Mr. BAKER. Mr. President, I understand it is cleared on our side, and we have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to as follows:

S. CON. RES. 134

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is authorized and directed, in the enrollment of H.R. 5612, An Act to amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes, to make the following changes:

(1) in section 504(d)(1) of title 5 of the United States Code, as added by section 203(a), insert immediately after "United States Code" the following: ", but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act";

(2) in section 2412(c)(1) of title 28 of the United States Code, as added by section 204(a), insert immediately after "2517 of this title" the following: ", but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act,";

(3) in section 2412(c)(2) of title 28 of the United States Code, as added by section 204(a), insert immediately after "subsection (b) shall be paid" the following: "but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act,";

(4) in section 2412(d)(4)(A) of title 28 of the United States Code, as added by section 204(a), insert immediately after "2517 of

this title" the following: ", but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act";

(5) in section 207, by striking out "This title" and inserting in lieu thereof "(a) Except as provided in subsection (b), this title"; and by adding at the end thereof the following:

"(b) This title, and the amendments made by this title, shall not apply to any proceeding described in subsection (a) to determine whether, under the terms of the Social Security Act, any individual is eligible to receive any benefit provided in such Act, or is exempt from any requirement imposed under such Act.".

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL AGENCY ADJUDICATION FEES AND COSTS

Mr. DeCONCINI. Mr. President, likewise for the same technical reason raised by the Parliamentarian in the House of Representatives, I ask unanimous consent on behalf of myself, Senator Domenici, and Senator Nelson, that the Senate proceed to the consideration of S. 265.

Mr. ROBERT C. BYRD. Mr. President, will the Senator repeat the request please?

Mr. DeCONCINI. Yes. Mr. President, I send to the desk a new bill and ask for its immediate consideration. This bill is identical to S. 265. It is just being introduced tonight.

Mr. ROBERT C. BYRD. Mr President, is the Senator requesting that the bill be read and considered as having been read the first and second time and the Senate proceed to its immediate consideration?

Mr DeCONCINI. That is correct.

Mr. ROBERT C. BYRD. Mr. President, the Senator has cleared this with the majority so I have no objection.

Mr. BAKER. Mr. President, there is no objection on this side to the request. There is no objection to the request.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3186), to provide for the payment by the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States.

There being no objections, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Access to Justice Act".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the United States the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this title—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

Sec. 3(a) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) (1) An agency that conducts an adversary adjudication shall award to a prevailing party other than the United States, fees and other expenses incurred by the party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency as a party to the proceeding was substantially justified or that special circumstances make an award unjust.

"(2) A party seeking an award of fees and other expenses shall, within thirty days of a final disposition in the adjudication submit to the agency an application which shows that the party is a prevailing party and is eligible to receive an award under this section, and the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing on behalf of the party stating the actual time so expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the agency was not substantially justified.

"(3) The adjudicative officer of the agency may reduce the amount to be awarded, or deny an award, to the extent that the party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the adjudicative officer of the agency under this section shall be made a part of the record containing the final decision of the agency and shall include written findings and conclusions and the reasons, or basis therefor.

"(b) (1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. (The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the agency involved, and (ii) attorney or agent fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee);

"(B) 'party' means a party, as defined in section 551(3) of this title, which is an individual, partnership, corporation, association, or public or private organization other than an agency, but excludes (i) any individual whose net worth exceeded $1,000,000 at the time the adversary adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adversary adjudication was initiated, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of the Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, and (ii) any sole owner of an unincorporated business, or any partnership, corporation, association, or organization, having more than 500 employees at the time the adversary adjudication was initiated;

"(C) 'adversary adjudication' means an adjudication under section 554 of this title in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

"(D) 'adjudicative officer' means the deciding official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c)(1) After consultation with the Chairman of the Administrative Conference of the United States, each agency shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28, United States Code.

"(2) A party dissatisfied with the fee determination made under subsection (a) may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d)(1) Fees and other expenses awarded under this section may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made pursuant to section 2414 of title 28, United States Code, but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act.

"(2) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984, such sums as may be necessary to pay fees and other expenses awarded under this section in such fiscal years.

"(e) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective October 1, 1984, section 504, and the item relating to section 504 in the table of sections, of title 5, United States Code, as added by subsections (a) and (b) of this section, are repealed, except that the provisions of such section shall continue to apply through final disposition of any adversary adjudication as defined in subsection (b)(1)(C) of such section, initiated before the date of repeal.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 4. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including the fees and expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his or her official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the United States shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by the party in the litigation.

"(b) Unless expressly prohibited by statute, a court may award reasonable fees and expenses of attorneys, in addition to the costs which may be awarded pursuant to subsection (a), to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his or her official capacity in any court having jurisdiction of such action. The United States shall be liable for such fees and expenses to the same extent that any other party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c)(1) Any judgment against the United States or any agency or official of the United States acting in his or her official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title, but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act, and shall be in addition to any relief provided in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his or her official capacity for fees and expenses of attorneys pursuant to subsection (b) shall be paid, but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act, as provided in sections 2414 and 2517 of this title, except that if the basis for the award is a finding that the United States acted in bad faith, then the award shall be paid by any agency found to have acted in bad faith and shall be in addition to any relief provided in the judgment.

"(d)(1)(A) Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by the party in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

"(B) A party seeking an award of fees and other expenses shall, within thirty days of final jurgment in the action, submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this subsection, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time so expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the United States was not substantially justified.

"(C) The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees (The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.)

"(B) 'party' means (i) an individual whose net worth did not exceed $1,000,000 at the time the civil action was filed, (ii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed $5,000,000 at the time the civil action was filed, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of the Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, or (iii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization, having not more than 500 employees at the time the civil action was filed; and

"(C) 'United States' includes any agency and any official of the United States acting in his or her official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, United States Code, or an adversary adjudication subject to the Contract Disputes Act of 1978 the court shall include in that award fees and other expenses to the same extent authorized in subsection (a) of such section, unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4)(A) Fees and other expenses awarded under this subsection may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made in accordance with sections 2414 and 2517 of this title, but only to the extent and only in such amounts as are provided in advance in any appropriation Act which is enacted after the date of enactment of the Equal Access to Justice Act.

"(B) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984, such sums as may be necessary to pay fees and other expenses awarded pursuant to this subsection in such fiscal years.

"(5) The Director of the Administrative Office of the United States Courts shall include in the annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2142 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective October 1, 1984, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 5. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

EFFECT ON OTHER LAWS

SEC. 6. Nothing in section 2412(d) of title 28, United States Code, as added by section 4(a) of this title, alters, modifies, repeals, invalidates, or supersedes any other provision of Federal law which authorizes an award of such fees and other expenses to any party other than the United States that prevails in any civil action brought by or against the United States.

EFFECTIVE DATE AND APPLICATION

SEC. 7. (a) Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on October 1, 1981, and shall apply to any adversary adjudication, as defined in section 504(b)(1)(C) of title 5, United States Code, and any civil action or adversary adjudication described in section 2412 of title 28, United States Code, which is pending on, or commenced on or after, such date.

(b) This Act, and the amendments made by this Act, shall not apply to any proceeding described in subsection (a), to determine whether, under the terms of the Social Security Act, any individual is eligible to receive any benefit provided in such Act, or is exempt from any requirement imposed under such Act.".

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I thank the Chair.

ORDER OF BUSINESS

Mr. MELCHER. Mr. President, is there any objection to S. 3072, Calendar Order No. 1112?

Mr. ROBERT C. BYRD. Mr. President, that measure has not yet been cleared all the way around for action.

Mr. MELCHER. All right. There is no way of calling that up tonight?

Mr. ROBERT C. BYRD. Not tonight.

Mr. MELCHER. Mr. President, may I ask has the minority objection to that bill?

Mr. BAKER. Mr. President, is the distinguished Senator speaking of the bill dealing with the wilderness area in his State that we spoke of earlier in the day?

Mr. MELCHER. Called the rattlesnake.

Mr. BAKER. Called the rattlesnake bill. I remember it distinctly, and I am proud to say there is no objection at this time on this side to the consideration of that measure.

Mr. MELCHER. Mr. President, am I led to understand that the objection is from the majority leader?

Mr. ROBERT C. BYRD. The Senator and I have discussed this on numerous instances this day and into the evening. The objection is not on my part. But I am constrained to have to object tonight and I will be glad to talk to the Senator on tomorrow about the matter but as he very well knows I have to object tonight.

Mr. MELCHER. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECLARING A CERTAIN PORTION OF LAKE ERIE NONNAVIGABLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8228.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, this item is cleared on our calendar. I would advise the majority leader that there is an amendment I understand to be offered on behalf of Mr. MOYNIHAN and Mr. DOMENICI, and we have no objection to proceeding on this matter at this time.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8228) to provide that a certain portion of Lake Erie shall be declared nonnavigable.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time by title.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1710

(Purpose: To establish the size of a flood control project in New Mexico and to declare a portion of the Trent River, North Carolina to be non-navigable)

Mr. ROBERT C. BYRD. I send an amendment to the desk on behalf of Mr. MOYNIHAN and Mr. DOMENICI.

The PRESIDING OFFICER (Mr. BAUCUS). The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. MOYNIHAN proposes an unprinted amendment numbered 1710.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof, add the following and number accordingly:

"SEC. Any Federal project submitted for authorization for construction of new levees or modification of existing levees for the control of floods within the Rio Grande from Bernalillo, New Mexico, to Belen, New Mexico, shall not require raising or modification of existing bridge structures within the project area to pass river flows in excess of that the bridges can now accommodate and estimated to be 42,000 cubic feet per second.

"SEC. Those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described in Committee Print 95-56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be non-navigable waters of the United States within the meaning of the laws of the United States."

Mr. BAKER. Mr. President, may I inquire is the distinguished Senator from New Mexico (Mr. DOMENICI) also listed as a cosponsor of the amendment?

The PRESIDING OFFICER. The Senator from New Mexico is not listed.

Mr. BAKER. Mr. President, I ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD's amendment (UP No. 1710) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WOOD RESIDUE UTILIZATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1996.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1996) entitled "An Act to authorize the Secretary of Agriculture to encourage the efficient use of wood and wood residues through pilot projects and demonstrations and a pilot wood utilization program", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Wood Residue Utilization Act of 1980".

SEC. 2. The purpose of this Act is to develop, demonstrate, and make available information on feasible methods that have potential for commercial application to increase and improve utilization, in residential, commercial, and industrial, or powerplant applications, of wood residues resulting from timber harvesting and forest protection and management activities occurring on public and private forest lands, and from the manufacture of forest products, including woodpulp.

SEC. 3. (a) The Secretary is authorized to establish pilot projects and demonstrations to carry out the purposes of this Act. The pilot projects and demonstrations established under this section (1) may be operated by the Secretary, or (2) may be carried out through contracts or agreements with owners of private forest lands or other persons, or in conjunction with projects, contracts or agreements entered into under any other authority which the Secretary may possess: *Provided*, That nothing contained in this Act shall abrogate or modify provisions of existing contracts or agreements, including contracts or agreements for the sale of national forest timber, except to the extent such changes are mutually agreed to by the parties to such contracts or agreements.

(b) Pilot projects and demonstrations carried out under this section may include, but are not limited to (1) establishment and operation of utilization demonstration areas; (2) establishment and operation of fuel wood concentration and distribution centers; and (3) construction of access roads needed to facilitate wood residue utilization: *Provided*, That residue removal credits may be utilized by the Secretary only as provided in section 4.

SEC. 4. The Secretary is authorized to carry out pilot wood residue utilization projects under which purchasers of National Forest System timber under contracts awarded prior to October 1, 1985, may, except as otherwise provided in this section, be required to remove wood residues not purchased by them to points of prospective use in return for compensation in the form of "residue removal credits." Such projects may be carried out where the Secretary identifies situations in which pilot wood residue utilization projects on the National Forest System can provide important information on various methods and approaches to increasing the utilization, in residential, commercial and industrial, or power-plant applications, of wood residues and where such information cannot reasonably be obtained unless the pilot projects are done in conjunction with normal National Forest timber sale activities. The residue removal credits shall be applied against the amount payable for the timber purchased and shall represent the anticipated cost of removal of wood residues. The following guidelines shall apply to projects carried out under this section:

(1) Except in cases where wood residue removal is determined to be necessary for fire prevention, site preparation for regeneration, wildlife habitat improvement, or other land management purposes, the Secretary may not provide for removal of wood residues in instances where the anticipated cost of removal would exceed the anticipated value.

(2) The residue removal credits authorized by this section shall not exceed the amount payable by the purchaser for timber after the application of all other designated charges and credits.

(3) The Secretary is authorized to sell the wood residues removed to points of prospective use for not less than their appraised value.

(4) Pilot projects, demonstrations, and other programs established pursuant to this Act shall be carried out in a manner which does not result in an adverse effect on the furnishing of timber, free of charge, under any other provision of law.

(5) Wood residues shall be collected from a site so as to avoid soil depletion or erosion giving full consideration to the protection of wildlife habitat.

(6) For the purposes of the sixth undesignated paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500), (A) any residue removal credit applied under this section shall be considered as "money received", or "moneys received", respectively, and (B) the "money received" or "moneys received", respectively, from the sales of wood residues removed to points of prospective use shall be the proceeds of the sales less the sum of any residue removal credit applied with respect to such residues plus any costs incurred by the Forest Service in processing and storing such residues.

SEC. 5. The Secretary shall make annual reports to the Congress on the pilot wood utilization program authorized by this Act. These reports shall be submitted with the reports required in section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)). In the first report, the Secretary shall recommend necessary and desirable amendments to existing authorities, including but not limited to, the Act of August 11, 1916 (16 U.S.C. 490).

SEC. 6. The Secretary shall issue such regulations as the Secretary deems necessary to implement the provisions of this Act.

SEC. 7. For purposes of this Act, the term:

(1) "Anticipated cost of removal" means the projected cost of removal of wood residues from timber sales areas to points of prospective use, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(2) "Anticipated value" means the projected value of wood residues as fuel or other merchantable wood products, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(3) "Points of prospective use" means the locations where the wood residues are sold or otherwise put to use, as determined by the Secretary in accordance with appropriate appraisal and sale procedures.

(4) "Person" means an individual, partnership, joint-stock company, corporation, association, trust, estate, or any other legal entity, or any agency of Federal or State government or of a political subdivision of a State.

(5) "Secretary" means the Secretary of Agriculture.

(6) "Wood residues" includes, but is not limited to, logging slash, down timber material, woody plants, and standing live or dead trees which do not meet utilization standards because of size, species, merchantable volume, or economic selection criteria and which, in the case of live trees, are surplus to growing stock needs.

SEC. 8. There is hereby authorized to be appropriated (1) such sums as may be necessary to carry out the pilot projects and demonstrations authorized by section 3 of this Act and the residue removal credits authorized by section 4 of this Act for fiscal years 1981, 1982, 1983, 1984, and 1985, which sums shall be in addition to those provided under other provisions of law and shall remain available until expended: *Provided*, That the total cost of such projects, demonstrations and credits shall not exceed $35,000,000; and (2) such sums as may be necessary to carry out other provisions of this Act, including administrative expenses, but not to exceed $2,500,000, for the period beginning October 1, 1980, and ending September 30, 1985.

SEC. 9. This Act shall become effective October 1, 1980.

Amend the title so as to read: "An Act to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. BAUCUS) appointed Mr. TALMADGE, Mr. HUDDLESTON, Mr. STONE, Mr. MELCHER, Mr. STEWART, Mr. JEPSEN, Mr. HAYAKAWA, and Mr. COCHRAN conferees on the part of the Senate.

THE 75TH ANNIVERSARY OF THE FOUNDING OF THE FOREST SERVICE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of House Concurrent Resolution 393, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

House Concurrent Resolution 393, extending to the Forest Service, U.S. Department of Agriculture, the appreciation of the Congress on the 75th anniversary of the founding of the agency.

The Senate proceeded to consider the concurrent resolution.

The concurrent resolution (H. Con. Res. 393) was agreed to.

The preamble was agreed to.

COASTAL ZONE MANAGEMENT IMPROVEMENT ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HOLLINGS I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2622.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2622) entitled "An Act to improve coastal zone management in the United States, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Coastal Zone Management Improvement Act of 1980".

SEC. 2. AMENDMENT TO CONGRESSIONAL FINDINGS.

Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

(1) by inserting immediately after subsection (e) the following:

"(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;"; and

(2) by redesignating subsection (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively.

SEC. 3. AMENDMENT TO DECLARATION OF POLICY.

Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452) is amended to read as follows:

"CONGRESSIONAL DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy—

"(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

"(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, which programs should at least provide for—

"(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

"(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

"(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

"(D) public access to the coasts for recreation purposes,

"(E) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and aesthetic coastal features;

"(F) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources;

"(G) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies; and

"(H) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

"(I) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State fish and wildlife agencies; and

"(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, and improved predictability in governmental decisionmaking; and

"(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.".

SEC. 4. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (3) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) the term 'coastal resource of national significance' means any coastal wetland, beach, dune, barrier island reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective rule."; and

(3) by striking out "Guam," in paragraph (4) (as redesignated by paragraph (1) of this section) and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands,"; and

(4) by inserting immediately after paragraph (16) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(17) The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone."; and

(5) by redesignating paragraph (17) (as redesignated by paragraph (1) of this section) as paragraph (18).".

SEC. 5. ADMINISTRATIVE GRANTS.

(a) Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—

"(1) finds that such program meets the requirements of section 305(b);

"(2) approves such program in accordance with subsections (c), (d), and (e); and

"(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend an increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) an activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2)(A) through (I).

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c)(2)) that are necessary or appropriate to the implementation of the management program.";

(2) by striking out the first proviso to subsection (b) and by striking out "further" in the second proviso to such subsection; and

(3) by adding at the end thereof the following new subsection:

"(i) The coastal states are encouraged to provide in their management programs for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

If the Secretary determines that a coastal state has failed to make satisfactory progress in the activities described in this subsection by September 30, 1984, the Secretary shall not make any grants to such state provided under section 306A after such date.".

(b) The amendments made by subsection (a) (1) and (2) of this section apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1)).

SEC. 6. COASTAL RESOURCE IMPROVEMENT PROGRAM.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 306 the following new section:

"RESOURCE MANAGEMENT IMPROVEMENTS GRANTS

"SEC. 306A. (a) For purposes of this section—

"(1) The term 'eligible coastal state' means a coastal state that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I).

"(2) The term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

"(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

"(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306(c)(9) because of their conservation, recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance.

"(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305 (b)(3) in the state's management program as areas of particular concern.

"(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b)(7).

"(c)(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) Grants made under this section may be used for—

"(A) the acquisition of fee simple and other interests in land;

"(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;"

"(C) in the case of grants made for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

"(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

"(d)(1) No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.

"(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

"(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

"(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

"(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section."

SEC. 7. COASTAL ENERGY IMPACT PROGRAM.

Section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a) is amended—

(1) by adding after subsection (c)(2), the following new paragraph:

"(3)(A) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from the transportation, transfer, or storage of coal or from alternative ocean energy activities.

"(B) Such grants shall be allocated to any such state based on rules and regulations promulgated by the Secretary which shall take into account the number of coal or alternative ocean energy facilities, the nature of their impacts, and such other relevant factors deemed appropriate by the Secretary.", and

(2) by striking out subsection (d)(4).

SEC. 8. INTERSTATE COASTAL ZONE MANAGEMENT COORDINATION.

Section 309 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b) is amended to read as follows:

"INTERSTATE GRANTS

"SEC. 309.(a) The coastal States are encouraged to give high priority—

"(1) to coordinating State coastal zone planning, policies, and programs with respect to contiguous areas of such States;

"(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas; and

"(3) to establishing an effective mechanism, and adopting a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The coastal zone activities described in paragraphs (1), (2), and (3) of this subsection may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 percent of the cost of such activities, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

"(b) The consent of the Congress is hereby given to two or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.

"(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to give high priority to the coastal zone activities described in subsection (a). The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Energy, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

"(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal States to create and maintain a temporary planning and coordinating entity to carry out such activities. The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity for a Federal-State consultation.

"(e) A coastal State is eligible to receive financial assistance under this section if such State meets the criteria established under section 308(g)(1).".

SEC. 9. REVIEW OF PERFORMANCE.

(a) Section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

"REVIEW OF PERFORMANCE

"SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through (I), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

"(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I).

"(d) The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

"(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary".

"(f) The Secretary shall carry out research on, and offer technical assistance of the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management."

(b) Within two hundred and seventy days after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section).

SEC. 10. ANNUAL REPORT.

Section 316 of the Coastal Zone Management Act (16 U.S.C. 1462) is amended—

(1) by amending the section heading to read as follows: "COASTAL ZONE MANAGEMENT REPORT";

(2) by amending subsection (a)—

(A) by amending the matter appearing before clause (1) to read as follows: "(a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to",

(B) by striking out "or with respect to which grants have been terminated under this title" in clause (4),

(C) by redesignating clauses (5) through (12) as clauses (6) through (13), respectively; and

(D) by inserting immediately after clause (4) the following new clause: "(5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of this section;"; and

(3) by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.

"(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.".

SEC. 11. ESTUARINE SANCTUARIES.

Section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) is amended—

(1) by striking out "BEACH ACCESS" in the section heading and inserting in lieu thereof "ISLAND PRESERVATION";

(2) by amending paragraph (2) to read as follows:

"(2) acquiring lands to provide for the preservation of islands, or portions thereof."; and

(3) in the last sentence by deleting "$2,000,000." and substituting in lieu thereof "$3,000,000."; and

(4) by adding the following new sentence at the end of the section:

"No grant for acquisition of land may be made under this section without the approval of the governor of the state in which is located the land proposed to be acquired."

SEC. 12. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a)(1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House, respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of sixty calendar days of continuous session, after the date such final rule is submitted to the Congress,

both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise in the rulemaking power of the House of Representatives and as such they are deemed a part of the rules of the House of Representatives but applicable only with respect to the procedure to be followed in the House of Representatives in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or recipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(3)(A) When a committee has reported a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged in the House of Representatives, and shall not be debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate in the House of Representatives on the concurrent resolution shall be limited to not more than ten hours which shall be divided equally between those favoring and those opposing such concurrent resolution and a motion further to limit debate shall not be debatable. In the House of Representatives, an amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithhstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(C)(1) If a final rule of the Secretary is disapproved by the Congress under subsection (a)(2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than twenty days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(f)(1) For the purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which the House of Representatives is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a)(1). but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(g) For purposes of this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of ----------, which final rule was submitted to the Congress on ----------.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Secretary pursuant to the Coastal Zone Management Act (16 U.S.C. 1450 et. seq.).

(h) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1985."

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary—

"(1) such sums, not to exceed $48,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985; as may be necessary for grants under section 306, to remain available until expended:

"(2) such sums, not to exceed $20,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 306A, to remain available until expended;

"(3) such sums, not to exceed $75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(b);

"(4) such sums, not to exceed $3,000,000 for each of the fiscal years occurring during the period beginning Ocotber 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 309, to remain available until expended;

"(5) such sums, not to exceed $9,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 315 to remain available until expended;

"(6) such sums, not to exceed $6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985 as may be necessary for administrative expenses incident to the administration of this title.";

(2) by amending subsection (b) by striking after the phrase "provisions of section 308," all that follows and substituting in lieu thereof "other than subsection (b), of which not to exceed $150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section."; and

(3) by amending subsection (c) by striking out "section 305, 306, 309, or 310." and inserting in lieu thereof "section 306 or 309.".

Amend the title so as to read: "A bill to improve coastal zone management in the United States, and for other purposes.".

● Mr. HOLLINGS. Mr. President, the bill in its present form constitutes a compromise between the Senate version of this bill and the House bill, H.R. 6979. The two bills were very similar in their basic design, having many provisions in common. The differences, while few in number, however, required intensive discussion to resolve. Had we had the time, I would have preferred to go to conference to resolve some of them. The compromise we have reached, however, is a good one, and one which will certainly strengthen the coastal zone management program while keeping in mind that major budgetary concessions had to be made.

The major differences which we resolved are these.

SECTION 306A—RESOURCE MANAGEMENT IMPROVEMENT GRANTS

This provision provides grants for deteriorating urban waterfronts and areas of historic and cultural value. These grants are intended to be used as seed money as opposed to providing major capitalization funds. Both the Senate and House bills contained similar provisions. The primary difference was in the amount of funding authorized: The Senate bill contained $5 million while the House bill authorized $35 million. The bill before us today contains a compromise authorization of $20 million.

While this common provision attracted the concern of the Office of Management and Budget, it should be pointed out that it by no means contains automatic grants to States with approved coastal zone management programs. This is an extremely important point, which may never have been clearly understood by OMB when concerns were raised about it. States with approved programs can have access to these funds only if significant improvements are being made in the new policy areas delineated in both the House and Senate bills. So it is neither automatic money which will swell the Federal budget, nor is it for large construction projects. In this the House adopted the Senate language and identified such projects as having to be "low-cost." In addition, the House struck from their bill language which would permit such funds to go for bridges and roads. While these were clearly cited in the House report as pertaining only to foot bridges and minor roads, nonetheless the House was responsive to our request to delete the offending language.

Thus we have a compromise provision which is much more responsive to both the administration's and my own concerns for fiscal responsibility.

COASTAL ENERGY IMPACTS

Expanded coastal energy impacts from the increased transportation and storage of coal were brought to the attention of our committee during hearings on S. 2622. A combination of the President's mandatory coal conversion program, the U.S. Environmental Protection Agency's clean air standards which necessitates increased use of western coal, and the U.S. policy to decrease our dependence substantially on foreign oil sources, requires significant increases in the amount of coal utilization and movement. Impacts from the increased use of coal, especially transportation and storage, is particularly being experienced by the Great Lakes and Atlantic coast States. In the Great Lakes States alone, a 300-percent increase in coal transshipment over 1977 figures is anticipated by the year 2000.

While our committee recognized the problem of increasing energy impacts from sources other than oil and gas, we asked that these problems be given priority within the existing framework of the coastal energy impact provisions.

The House bill, however, created a separate provision for coal impacts and a separate authorization within existing authorization ceilings. In addition it specifically permitted duplicate funding under the existing alternative energy impact provision.

The compromise which has been reached is an acceptable one. We have deleted the provision which permitted duplicate funding and rewritten the coal provision to make certain that this will be the only provision under which impacts from alternative energy systems will be funded. The separate authorization has been deleted as well and an overall reduction achieved in the funding level. This compromise was acceptable to Congressman David Bonior of Michigan, Congressman Gerry Studds of Massachusetts, the House manager, and numerous others actively supporting the original provision who represent States which are beginning to feel the impact of our new energy policies. Impacts from such sources as ocean thermal energy conversion projects, and other legitimate alternative energy sources would be covered as well, just as they were under the existing program.

It should be pointed out, however, that until such time as legitimate impacts can be demonstrated, no funds would be obligated under the rewritten provision.

AUTHORIZATION LEVELS

The Senate bill contained a total authorization for the basic coastal zone management program of $71 million. This was also the exact figure contained in the administration proposal. The House bill, however, contained $106 million for the basic program. We have reached a compromise figure of $86 million for the program, which is roughly halfway between the House and Senate figure.

The House bill, however, also reauthorized the coastal energy impact program in the Office of Coastal Zone Management for 8 years at an additional $130 million annually. The House has agreed to reduce this to a 5-year reauthorization period, which immediately deletes $390 million from outyear budget projections. In addition, we have reached agreement to reduce the overall authorization level by $60 million annually, which is an additional savings of $300 million over the life of the program. Thus the House has, in effect, agreed to the deletion of $690 million from the original House version.

This is a good compromise, and I commend the House on it.

AUTHORIZATION PERIOD

The Senate bill contained a 5-year authorization period, while the House bill authorized the legislation for 8 years. The bill before us today contains the Senate authorization period. This helps to resolve one of our concerns as well as the administration's on outyear budget projections.

I believe this is a good bill and a good compromise. It should carry the coastal zone management program well through the next 5 years. I urge my colleagues to support this legislation.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Hollings I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARITIME APPROPRIATIONS—1981

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6554.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 6554) entitled "An Act to authorize appropriations for the fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes," with the following amendment:

In lieu of the matter inserted by the said amendment, insert:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1981."

Sec. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce for fiscal year 1981 as follows:

(1) for acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $135,000,000; except that no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a sealift readiness program approved by the Secretary of Defense;

(2) for payment of obligations incurred for operating-differential subsidy, not to exceed $347,697,000; except that no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a sealift readiness program approved by the Secretary of Defense;

(3) for expenses necessary for research and development activities, not to exceed "$17,070,000";

(4) for maritime education and training expenses, not to exceed $32,543,000, including not to exceed $18,201,000 for maritime training at the Merchant Marine Academy at Kings Point, New York; $12,460,000 for financial assistance to State marine schools, of which amount $2,100,000 shall be for fuel oil for State marine school training vessels; and $1,882,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) for operating expenses, not to exceed $38,864,000, including not to exceed $7,208,000 for reserve fleet expenses, and not to exceed $31,656,000 for other operating expenses.

Sec. 3. There are authorized to be appropriated for the fiscal year 1981, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Sec. 4. Paragraph (2) of section 2 of the Maritime Appropriation Authorization Act for fiscal year 1980 (Public Law 96–112) is amended by striking "$256,208,000" and substituting "$300,515,000".

Sec. 5. Notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 as amended, the Secretary of the Department in which the Coast Guard is operating, shall cause the vessel *Fundy Pride*, built in Cape Saint Mary's, Nova Scotia, and now owned by the State of Maine, as represented by the Department of Educational and Cultural Services to be documented as a vessel of the United States, upon compliance of the usual requirements, to engage in the coastwise trade and the fisheries, so long as such vessel is owned by the State of Maine.

Resolved, That the House agree to the amendment of the Senate to the title of the aforesaid bill.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. MELCHER. Mr. President, can we have a little more explanation of what that is all about?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I will have Mr. Cannon explain for the Senator.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NASA'S WALLOPS FLIGHT CENTER IN VIRGINIA

Mr. WARNER. Mr. President, the National Aeronautics and Space Administration's Wallops Flight Center celebrated its 35th anniversary recently. Accordingly, it is appropriate to pause for a moment and congratulate the space agency, and the people of the Commonwealth of Virginia, for the highly innovative and productive work that is being performed there.

One of the oldest and busiest launch sites in the world, Wallops Flight Center on Wallops Island, Va., has been conducting rocketborne experiments for 35 years. Its first research rocket, a 17-foot Tiamat, was launched before the end of World War II, on July 4, 1945.

Wallops is a space facility with a name that dates back 300 years. Local Indians on the Eastern Shore of Virginia had called the sandy island Keeckotank, or Occocomoson. Then, in the 17th century, one John Wallop was appointed deputy surveyor of the colony and was granted a patent in 1672. Fortunately from a standpoint of paperwork, the Wallop name prevailed.

Since its origin as a rocket range, Wallops has launched approximately 12,000 research vehicles consisting of from one to seven rocket stages, in the quest for aeronautical research information on the flight characteristics of airplanes and for knowledge of the upper atmosphere and the near space environment. Vehicles have flown as high as 19,000 miles above the Atlantic Ocean and at speeds in excess of 38,000 miles an hour. Nineteen satellites have orbited from the island.

In the early years, research at Wallops was concentrated on obtaining aerodynamic data at transonic and low-supersonic speeds, as part of the effort to penetrate the sound barrier of flight. Today rocket vehicles launched from Wallops carry scientific experiments to gather information about the atmosphere and space, about aeronautics and the characteristics of aerospace flight, and to develop concepts and instrumentation that are candidates for future space flight.

In 1945, NASA's predecessor agency, the National Advisory Committee for Aeronautics (NACA), established a launch site on Wallops Island under the direction of the Langley Research Center. This site was designated the pilotless aircraft research station (PARS) and assigned the mission of conducting aeronautical research to supplement wind tunnel and laboratory investigations. When Congress established the National Aeronautics and Space Administration (NASA) in 1958 and absorbed Langley and other NACA field centers and research facilities, the PARS became a separate facility—Wallops Station—operating directly under NASA Headquarters in Washington, D.C. It was renamed Wallops Flight Center in 1974.

It was from Wallops that two monkeys rode into space to test the Mercury spacecraft. These two space pioneers paved the way for America's first manned space flight by checking out the recovery and life support system used by Alan Shepard when he became the first American to ride a rocket into space as a part of Project Mercury. The Echo balloon communication satellite, which was viewed by more people than any other man-made object in the skies, had its first launch test performed here. The sodium and barium vapor cloud experiments, which measure the Earth's magnetic fields and winds aloft and have created spectacular "space shows" for east coast residents, were also launched from this little island in the Commonwealth of Virginia.

Aeronautical research at Wallops covers a wide range: Helicopter and aircraft noise abatement projects; slow-speed landing techniques for jet aircraft; antiskid tests on grooved runways; V/STOL terminal area research; collision avoidance program; laser and radar tracking of aircraft spin characteristics, crosswind landings, pilot performance, and procedures and aids at uncontrolled airports and airspace.

Today a substantial part of the Center's manpower is still devoted to the support and management of the national sounding rocket program. Sounding rockets are used to fill the gap between the maximum altitude for balloons and the minimum altitude for satellites.

This once remote part of historic Virginia also has strong international connections, as it has served and continues to serve as a training center for foreign personnel in advising them concerning launching techniques and range safety operations. Some of the countries that have taken advantage of this unique service provided by Wallops are Italy, Argentina, and Japan.

Naturally, Wallops, with its traditional role as a pioneer in the area of space flight and space exploration, is heavily involved in the Nation's commitment to developing a reusable launch vehicle. Wallops support of the Space Shuttle project is in the vital areas of tracking and command.

About half of the 400 people employed at Wallops Island are engineers and technicians. They form a foundation for the larger work force that is totally committed to advancing the cause of maintaining the United States as the leader of the free world in aeronautics and space exploration.

Mr. President, the Commonwealth of Virginia is proud of Wallops Flight Center, and I salute this unique facility on the occasion of its 35th anniversary.

RESOLUTION RELATING TO THE MUSEUM OF IMMIGRATION

Mr. STEVENS. Mr. President, last spring some of my colleagues may have read about a terrorist group's bombing that occurred at the base of the Statue of Liberty. That bomb virtually destroyed the Museum of Immigration that the General Federation of Women's Clubs had built in 1962.

This museum which is operated now by the National Park Service, tells the story of immigration in America. The General Federation of Women's Club helped build this museum with dime contributions from their 11 million club members from all over the United States, to record the story of immigration to our great country.

Since its closure this spring, the General Federation of Women's Clubs has not given up on restoring the museum they founded some 18 years ago. At their national convention in June, the federation passed an emergency resolution expressing their concern for the museum and urged that it be repaired. The State directors at the convention were requested to get dime contributions once again from their members toward the repair of the museum.

I am pleased to report that in July, these generous women donated $1,000 to the National Park Service for repair of the Museum of Immigration. Through this group's efforts, future generations will be able to understand the history of immigration to our country.

I ask that the resolution passed by the General Federation of Women's Clubs on June 2 be printed in the RECORD.

The resolution follows:

GENERAL FEDERATION
OF WOMEN'S CLUBS,
Washington, D.C., June 9, 1980.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: I wish to inform you of an Emergency Resolution passed by the General Federation of Women's Clubs at its national convention in St. Louis, June 2–6, 1980. The resolution reads as follows:

"Whereas, The General Federation of Women's Clubs is seriously concerned about the recent destruction at the base of the Statue of Liberty; and

"Whereas, The General Federation of Women's Clubs was responsible for the 'Museum of Immigration' which was a project during the 1962–1964 administration, built with dime contributions from members; and

"Whereas, The General Federation of Women's Clubs wishes to show its concern for the high quality maintenance of the Museum and urges the repair of the damage done to this Museum; therefore

"*Resolved*, That State Presidents and State Directors of Junior Clubs, be directed, upon their return to home states from this Post-Convention General Federation of Women's Clubs Board of Directors Meeting, to urge their membership to send voluntary contributions to General Federation of Women's Clubs Headquarters during the month of July to assist in the repair of the Museum."

I wanted you to be aware of the Federation's concern regarding this situation.

Sincerely,

MRS. DON L. SHIDE,
International President.

SENATOR TOM EAGLETON

Mr. ROBERT C. BYRD. Mr. President, due to the voluntary retirement of the distinguished senior Senator from Connecticut, Mr. RIBICOFF, at the end of this Congress, Mr. EAGLETON of Missouri will become the chairman of the Governmental Affairs Committee in the next Congress. TOM EAGLETON has been an outstanding Senator. The Senate will surely benefit from his service in the most senior ranks.

Tom Eagleton returned to his native Missouri after Amherst and Harvard, and the U.S. Navy. His political career began at age 27 when he was elected circuit attorney of the city of St. Louis—the youngest man to hold that position. He then became Attorney General and Lieutenant Governor of Missouri.

In 1968, at the young age of 39, Tom came to Washington as a Senator. He is and always has been thoroughly Missouri. The national stature he has earned through his two terms in the Senate is a credit to his home State and to those voters who had faith in a talented young man starting a career in politics. Senator Eagleton has compiled an outstanding record. You always know where he stands, and you respect him as a tough and effective advocate.

Since 1971 Tom has served as chairman of the Subcommittee on Aging of the Labor and Human Resources Committee. He is recognized as the Senate's leader in providing social services to elderly citizens. He has guided the programs under the Older Americans Act, which his subcommittee rewrote in 1978, into an effective package of help for those unable to pay for life's basic necessities. To a large extent, Tom Eagleton is responsible for many of the nutrition, transportation, housing, health care, and other community service programs for older Americans.

Senator Eagleton is chairman of the Agriculture Subcommittee of the Appropriations Committee. As people in Missouri know, he has become one of the most influential farm Senators. Tom has an advisory committee of more than 400 Missouri citizens to keep him apprised of problems facing the American farm. His subcommittee has jurisdiction over all spending by the Agriculture Department, the Food and Drug Administration, and the Commodity Futures Trading Commission. He has used this position constructively. Thanks to Tom Eagleton, disaster loans have more attractive terms for small farmers, agricultural research funding remains healthy, and Rural Electric Cooperatives have an ardent defender.

Tom is a man of principle. It is fitting to his professional record that he served on the Special Committee on Official Conduct which wrote the Senate Ethics Code. Recently Tom has called for a number of improvements in Ethics Committee procedures, including appointment of a retired Federal judge as an impartial fact finder to gather and present evidence.

One of the strongest themes of Tom Eagleton's Senate service has been his commitment to education. He supported the basic educational opportunity grant program in 1972 and its revision in 1978. He wrote the National Reading Improvement Act, which gave statutory authority to the "Right to Read" program. He has focused legislative attention on the basic skills of reading, mathematics, and effective communication. This is a Senator who believes in investing in America's youth.

Tom is as skeptical as he is positive. No Senator has been more effective in examining the finances of oil companies to insure that the profits of decontrol go back into energy development. He fought for a tough windfall profit tax. He advocates development of alternative energy sources and significant conservation.

Senator Eagleton has been an effective contributor to our Nation's foreign and defense policies. He is recognized as an authority on congressional diplomatic war powers, and has published a book on Congress role in the formulation of foreign policy. He fought to end the war in Vietnam, he warned of impending instability in Iran back in 1977, and today he works to strengthen our bargaining position with OPEC.

The people of Missouri have sent a solid and articulate legislator to Washington. He is a national figure whose work reflects the traditional "show-me" slogan. Once shown, Tom leads. He is there to defend the St. Louis commercial airport at Lambert or to fight for railroad service for Missouri. He is there to invest in education for young Americans and to help the older Americans from being battered by inflation. Tom is an effective leader. When the good people of Missouri send him back for a third term, Tom will be the senior Democrat on the Governmental Affairs Committee, and the Senate will be strengthened by his work.

I look forward to welcoming my friend from Missouri back here in November.

AMBASSADOR WILLIAM H. SULLIVAN'S ACCOUNT OF THE COLLAPSE OF THE PAHLAVI GOVERNMENT IN IRAN AND THE AFTERMATH

Mr. THURMOND. Mr. President, it has been almost 2 years now since the collapse of the Pahlavi government in Iran, and many of us in this body still wonder how such a sudden and violent change of governments—with such far-reaching consequences for the United States and the world—could have occurred.

What was the U.S. role in the period immediately preceding the overthrow of the Shah? What steps—if any—did we take immediately afterward to help the newly installed Bakhtiar government restore order and avoid further bloodshed? Did President Carter, his advisers in the White House, the Department of State and our diplomats in Tehran, comprehend fully what was happening? Did they have any idea of the consequences of events as they unfolded? Or, were events completely out of control and beyond the ability of the United States to influence?

Mr. President, we have been given a partial explanation by President Carter. However, his recounting of events hardly lays to rest these questions and these doubts.

On Sunday, September 7, 1980, the Washington Star reprinted an article by our former Ambassador to Iran, William H. Sullivan, recounting the fall of the Pahlavi government and the details of our actions preceding and following that event. Although it has been dismissed by President Carter as inaccurate, I find this account intriguing. It raises a number of questions and provides additional details worthy of further examination.

Mr. President, I commend Ambassador Sullivan's article to my colleagues, bearing in mind that Ambassador Sullivan was on the scene during the period in question and, therefore, should have been in the best position to weigh our actions at that time. So that my colleagues can have the benefit of his account, I ask unanimous consent that this article by Ambassador Sullivan, as reprinted in the Washington Star, be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Sept. 7, 1980]

ENVOY'S VERSION OF THE COLLAPSE: BRZEZINSKI BLAMED FOR IMPEDING TANSITION EFFORT

(By William H. Sullivan)

Iran, at the head of the Persian Gulf and stretching along its northern and eastern shores, has always served as a barrier against Russian ambitions toward the Indian Ocean and the Arabian Peninsula. The integrity and independence of Iran have strengthened the effect of that barrier and, in recent years, tempered whatever plans the Soviets may have had to move into or manipulate the area.

In recent years, the United States has come to depend upon the Persian Gulf for 30 percent of its oil imports. Western Europe's dependency is over 60 percent and Japan's is over 70 percent. Therefore, the integrity and independence of Iran have become of significant importance to the United States and to its allies. Conversely, in strategic terms the disintegration of Iran or its economic dependence upon the Soviet bloc would represent a major gain for the Soviet Union.

Consequently, the policy of the United States in an Iranian crisis should have been guided primarily by concern for the pres- nation and its independence from Soviet ervation of the territorial integrity of that control or manipulation. Other concerns, such as the well-being and the political as well as human rights of the Iranian people, should also have been of importance in view of America's longstanding association with Iran.

The crisis that came in 1978 developed rapidly, but not so suddenly as to have precluded a careful assessment of U.S. options and the formulation of a policy to enhance American interests. But to decide among those options required a mature understanding of the nature of the revolution that was sweeping Iran in 1978 and the factors that contributed to its rapid success. It was far more complex than the simplistic Islamic revolution label accorded it by the press.

Rather, the 1978 crisis was an uprising that was joined by all the enemies of the Pahlavis. These included the old aristocrats from the Qajar regime; the feudal landholders who had lost their villages in the land reform programs; the social democrats who had been suppressed with Prime Minister Mohammed Mossadeq in 1953; the bazaaris—the traditional merchant class—who felt left out of the shah's industrialization program; the young, rootless industrial workers who had never been able to adjust to their vagrant life in the cities; the various radical Islamic groups such as the Mujahadeen and the Fedayeen; the separatists in Kurdistan, Azerbaijan, and elsewhere; the old tribal chieftains who flocked back from exile; the pro-Soviet communists of the Tudeh party; and the other communist groups who eschewed Moscow's direction.

All of these opponents of the Pahlavi dynasty, for their own individual reasons, were willing to band together for the negative purpose of overthrowing the shah. All were under the ostensible leadership of Ayatollah Ruhollah Khomeini, who, fired by his own personal animosity toward the Pahlavis, was able to give the movement the coloration of a religious crusade.

The American embassy in Tehran attempted in its reporting to convey the complex and negative nature of this revolution and to express the view that the direction Iran would take in a post-shah period was far from preordained. I believe the State Department, in general, understood and accepted those reports. There were, however, those at State who were so strongly opposed to the shah because of the human rights abuses of his regime that they wished to see him collapse no matter what the consequences for the United States or its allies.

Therefore, when the State Department advanced the view that the shah's regime would not survive, there were many others in the Washington bureaucracy, particularly on the National Security Council (where the revolt was simplistically believed to be an Islamic revolution), who attributed State's perception, and by indirection that of the embassy, to an expression of wishful thinking on the part of those whose vision was blurred by their zeal for human rights.

This division in perceptions within the Washington bureaucracy also extended to the nature of instructions that were sent to the embassy or, more often, to the absence of any instructions whatsoever because the bureaucracy could not agree upon their terms. Most significant in these divisions was the difference in perception about the shah's willingness to use force to suppress the revolution.

DIVISIONS IN WASHINGTON

Time and again the shah told me that he would not use force because a "king cannot murder his own people." With what I regarded as more convincing logic, he told me that if he used force, he could suppress the spreading revolution only as long as he himself lived. Since he reckoned his mortality in a short time frame, he felt the suppressed forces would blow up in the face of his son, and the dynasty would, in any event, be blasted away.

In Washington, these embassy reports were apparently received with divided conclusions. The State Department—and eventually the Central Intelligence Agency—accepted them objectively and believed the shah would follow a policy of concession rather than force. Other elements of the bureaucracy, led by National Security Adviser Zbigniew Brzezinski, apparently thought that I had abandoned 32 years of professional objectivity and was subjectively tailoring my telegrams to fit what they conceived to be the mood of the State Department.

BRZEZINSKI TURNS TO ZAHEDI

In this pernicious atmosphere, U.S. policy formulation broke down. By November 1978 Brzezinski began to make his own policy and established his own embassy" in Iran. That embassy materialized in the person of Ardeshir Zahedi, the shah's ambassador in Washington, who returned to Tehran at Brzezinski's behest with the explicit mission of pulling the shah's resolve together so that he could suppress the revolution. Zahedi arrived on the scene full of zeal and confidence. He saw the Shah frequently and reported daily (on the open international telephone monitored by the Soviets) to Brzezinski. He also made reports to me.

Zahedi is an engaging fellow. He is a romantic in a very Persian way and has an ebullient belief in his own actions. His father had been chief of the armed forces that restored the shah to power in 1953, and Ardeshir himself played a part in that counter-coup. In his home, I found a rather tatterdemalion remnant of the figures who had participated in that successful 1953 action. But in assaying them, I found them would-be leaders without troops. Those they had led in 1953 were, in 1978, on the other side of the barricades.

The shah seemed to feel the same way, for he continually told me to warn Washington not to pay attention to Zahedi because he did not understand the current situation. Naturally, my reports of this warning served only to deepen the divisions and heighten the suspicions that beset Washington at that time.

URGING THE SHAH TO FIGHT

The confusion also contaminated the Iranians. Brzezinski reportedly encouraged Zahedi to urge the shah to use force. These messages were doubtless embroidered in being relayed to their high destination. When the shah turned to me for confirmation of these appeals, I could point only to platitudinous cables that leaned toward condecension.

Matters came to a head in mid-November. A military government, headed by General Gholam Azhari, had been installed on November 5, 1978 after rioting and arson had left Tehran in a shambles. On November 9 I sent a message to Washington saying that this was the last chance for the shah to control the revolutionary process. If this government failed, I stated that we should anticipate the collapse of the shah and look for alternate means to protect and preserve our interests. I defined those interests in terms of the territorial integrity and independence of Iran and said that, given the nature of the revolution, the only instrument that could advance those objectives was the armed forces.

We should act, therefore, to preclude the armed forces from being chewed up in the revolution. Because of our special relationship, we should determine whether we could broker an arrangement that would permit the armed forces to remain intact. They would have to be under the direction of a government that would enjoy the support of the groups that would prevail after the success of the revolution and that would have the blessing of Khomeini. I anticipated (correctly, as it turned out) that the first goverment to emerge from the shock of the revolution would be headed by Medhi Barzagan, a benevolent social democrat.

KEY MESSAGE IGNORED

I never received a reply to this fundamental message. Instead, it soon became apparent that my views were no longer welcome at the White House. Emissaries of various types began to arrive from Washington to assess the situation de novo and to encourage the shah to use force. One of these not trapped into unreality was Senate Majority Leader Robert Byrd. I believe he left Tehran understanding the true situation.

On December 20 the leader of the military government suffered a heart attack, and the situation that I had anticipated on November 9 came to pass. As if to underline this fact, Azhari summoned me to his sickbed to tell me that the regime was lost "due to the indecision of the king." I duly reported this to Washington and then went on to say that I intended to move along the lines I had recommended in my cable of November 9. There were no instructions to the contrary, and so I began to steer the embassy through a series of actions that sought to establish the ground rules under which the Iranian armed forces, purged of some of their more controversial leaders, would be accepted by a Barzagan government.

At the same time, we sought to determine on what terms the armed forces would accept such an arrangement. Because many of those who engaged for patriotic reasons in those conversations are still in Iran, and because their patriotic motives may be suspect in the highly charged atmosphere there, I shall not go into detail about these various discussions.

MILITARY TRANSITION SET

Suffice it to say that detailed understandings were reached between the armed forces and revolutionary leaders in Tehran: A number of senior officers would have been allowed to leave the country with the shah, and a transfer of allegiance of the remaining armed forces would have been made in a way that would have preserved their integrity.

At about this time, the internecine squabbling in Washington began to impinge upon my communications. I began to discover that any sensitive message I sent, no matter how highly classified, that digressed from the views of the National Security Council staff would appear, almost verbatim, in the New York Times. I therefore had to use the secure telephone exclusively to communicate with the Department of State.

When plans for the peaceful transfer of military authority had sufficiently matured and when the shah had decided to leave the country and hand over a fig-leaf of authority to a government headed by a man he despised—Shahpour Bakhtiar—I felt it was important that the nature of the proposed transition be discussed with and understood by Khomeini, who was in Paris. This was especially important because Bakhtiar jauntily took the postion that he, rather than Khomeini and the victorious revolution, would exercise governmental power despite the fact that he had no constituency and no popular support.

Accordingly, I proposed that an authoritative emissary be sent from Washington to consult with Khomeini. We already knew from contacts with his entourage that he was concerned about bloodshed between the revolutionaries and the armed forces when he returned to Tehran after the planned departure of the shah. We also assumed that he had given general sanction to the arrangements we had made with the revolutionary leaders in Tehran, but felt it was important that we have his first-hand acceptance of these understandings.

MISSION TO KHOMEINI

I discussed this suggestion on the secure telephone directly with Secretary of State Cyrus Vance. He approved the general idea and then sent me, by a system called secure telecon, a talking paper for use by our emissary. When I had agreed to its terms, he then instructed me to discuss the entire enterprise with the shah, whose departure was less than two weeks away. After I received the shah's acquiescence, Vance informed me that he had selected as our emissary Ambassador Theodore Eliot, the inspector general of the Foreign Service, former ambassador to Afghanistan, former economic counselor in Tehran, and a fluent Farsi linguist. I applauded the choice. Here was a man who understood Khomeini * * *. At this point I decided, like Haig, to resign. However, I still was responsible for protecting about 15,000 remaining Americans in the face of enveloping chaos. I therefore quenched my Irish temper, sent my wife out of the country, prepared for the worst, and delayed my resignation until after the anticipated holocaust.

As the confrontation between Bakhtiar and Khomeini quickened, Huyser received continuing instructions to prepare the armed forces for conflict in defense of the Bakhtiar regime. On the basis of his observations, he offered to Washington his opinion that in such a confrontation the armed forces would prevail. But he always tempered this observation by stating that I disagreed and that I believed the army would disintegrate when ordered to fire on revolutionaries, some of whom were relatives of the soldiers. As a result, their arms would be dispersed throughout the whole tangled and conflicting fabric of the revolutionary forces, making it impossible for the Bazargan government to assume quick and effective control when it inevitably took power.

The armed forces understood this also. When General Abbas Gharabaghi, their commander in chief, decided to resign, Bakhtiar, who had been assured by Washington that I was under instructions to support him, called me into the actual meeting during which Gharabaghi attempted to submit his resignation. Like two characters in a Greek tragedy in which both knew the futility of their actions, I remained true to my ambassadorial oath by urging the general to withdraw his resignation, and he agreed to do so. It was a sickening performance for both of us.

DISINTEGRATION BEGINS

Within a matter of days, the confrontation we had feared took place. It began when the junior air force officers and enlisted men at the Doshen Toppeh Air Base mutinied and overwhelmed an imperial guard armored unit. The captured tanks were turned on the headquarters building of the armed forces, where many U.S. military officers, including the general in charge of the Military Assistance Advisory Group, were stationed.

Well into that night, I worked with our contacts among the revolutionaries to arrange for the extradition of these Americans from the bunker in which they were trapped. Just as I was at the point of achieving their rescue, I received a telephone call in the clear over the international circuit from Washington relaying a message from Brzezinski who asked whether I thought I could arrange a military coup against the revolution. I regret that the reply I made is unprintable.

Thus, chaos descended on Iran. The armed forces distintegrated, their weapons fell into the hands of all those disparate elements in the revolution who in turn fell to fighting among themselves once the shah had gone. Bazargan and his government had no means to enforce order; and Khomeini, in his desire to remain the nominal leader of the revolution, would issue no directions that would be substantially disobeyed. This situation meant that the extremists would be able to set the pace, and in most matters, that has been the pattern ever since. The disintegration of the nation is well advanced and a growing economic dependence on the Soviet Union has begun.

THE ROAD NOT TAKEN

I have no way of stating categorically that the road not taken would have averted what has happened in Iran. But perhaps I can end this article by quoting Bazargan from an interview that he gave to Oriana Fallaci:

"Then think of the deplorable state in which the army, police and security forces find themselves, all of them indispensable bodies for estabilshing law and order . . . The revolutionary committees and the revolutionary guards cannot perform their duties because they're not trained, they quarrel among themselves and they refuse to take orders from us . . . I say that these are things that would paralyze any government."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals, which were referred to the appropriate committees.

(The nominations and withdrawals received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States announced that on September 26, 1980 he had approved and signed the following act:

S. 1125. An act to improve and expand the Federal crop insurance program, and for other purposes.

MESSAGES FROM THE HOUSE

At 11:07 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks announced that the House has passed the joint resolution (S.J. Res. 82) to designate the week commencing with the third Monday in February of each year as "National Patriotism Week," with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 130. A concurrent resolution authorizing corrections to be made in the enrollment of the bill H.R. 5288.

The message further announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. MCKAY, Mr. BEVILL, Mr. ALEXANDER, Mr. DUNCAN of Oregon, Mr. BENJAMIN, Mr. DIXON, Mr. CONTE, Mr. MICHEL, Mr. MCDADE, Mr. ANDREWS of North Dakota, Mr. EDWARDS of Alabama, and Mr. YOUNG of Florida are appointed as managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 2728) to amend the Indian Health Care Improvement Act and the Public Health Service Act with respect to Indian health care, disagreed to by the Senate; agrees to the conference asked by the Senate on the disagreeing votes of the two House thereon, and that Mr. UDALL, Mr. MILLER of California, Mr. GUDGER, Mr. KOGOVSEK, Mr. YOUNG of Alaska, and Mr. MARRIOTT are appointed as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5612) to amend section 8(a) of the Small Business Act; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SMITH of Iowa, Mr. ST GERMAIN, Mr. LAFALCE, Mr. CORMAN, Mr. ADDABBO, Mr. MITCHELL of Maryland, Mr. IRELAND, Mr. SKELTON, Mr. MCDADE, Mr. BEREUTER, Mr. ERDAHL, Mr. PORTER; and as additional conferees solely for the consideration of title III of the Senate amendment: Mr. ZABLOCKI, Mr. BINGHAM, and Mr. LAGOMARSINO were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6777. An act to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes; and

H.R. 7085. An act to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 441. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 6331.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1464. An act to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes;

S. 2730. An act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes;

H.R. 4792. An act to name a certain Federal building in Houston, Texas, the Bob Casey Federal Building—U.S. Courthouse;

H.R. 5192. An act to amend and extend the Higher Education Act of 1965, and for other purposes;

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes;

H.R. 5410. An act to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employees spouse to notify (or take all reasonable steps to notify) the spouse of that election;

H.R. 5732. An act to designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building";

H.R. 6308. An act to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century to be carried out by the Department of Energy;

H.R. 6531. An act to name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building;

H.R. 6538. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955;

H.R. 7414. An act to designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building";

H.R. 7450. An act to designate the United States Courthouse and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building";

H.R. 7478. An act to facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding;

H.R. 7670. An act to amend title II of the

Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund;

H.R. 7770. An act to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center";

H.R. 7782. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule;

H.R. 7919. An act to provide for the settlement of land claims of Indians, Indian nations, and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes;

H.R. 8018. An act to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam";

H.R. 8024. An act to change the name of Aubrey Lake, Texas, to Ray Roberts Lake; and

H.R. 8081. An act to establish the United States Holocaust Memorial Council.

The enrolled bills, except the bills H.R. 5192 and H.R. 7919, were subsequently signed by the Acting President pro tempore (Mr. HEFLIN).

The bill H.R. 5192 was subsequently signed by the President pro tempore (Mr. MAGNUSON).

Under the authority of the order of today, the bill H.R. 7919 was subsequently signed by the Acting President pro tempore (Mr. MITCHELL).

ENROLLED BILLS SIGNED

At 3:20 p.m., a message from the House delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 7218. An act to establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes; and

H.J. Res. 560. Joint resolution to proclaim March 19, 1981, as "National Agricultural Day".

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 3:50 p.m., a message from the House delivered by Mr. Berry announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1796. An act to authorize the Assiniboine Tribe to file in the Court of Claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

The message also announced that the House has agreed to the amendment of the Senate to the text of the bill (H.R. 6554) to authorize appropriations for the fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the amendment of the Senate to the amendments of the House to the bill (S. 2511) to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1981.

The message also announced that the House has agreed to the amendment of the Senate to the following bills:

H.R. 4417. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes;

H.R. 7130. An act to designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building"; and

H.R. 7544. An act to designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Building".

The message further announced that the House has agreed to the amendments of the Senate to the following bill:

H.R. 7309. An act to designate the Federal building in Portland, Oregon the "Edith Green Federal Building".

The message further announced that the House has passed the following bills, each without amendment:

S. 341. An act to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes;

S. 1795. An act to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes;

S. 1895. An act to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake";

S. 2126. An act relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation;

S. 2185. An act to authorize the acceptance and use of bequests and gifts for disaster relief;

S. 2398. An act to extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forests, and for other purposes;

S. 3044. An act to designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building"; and

S. 3148. An act to name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building."

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2545. An act to provide that the lake referred to as the Ririe Lake in Willow Creek, in Bonneville County, Idaho, shall hereafter be known as Oscar Johnson Lake;

H.R. 4131. An act to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter county, Alabama, to the "S. W. Taylor Memorial Park";

H.R. 4645. An Act to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma to Sardis Lake;

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown," respectively;

H.R. 6243. An act to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafter be known and designated as the "R. Shaefer Heard Park";

H.R. 6309. An act to provide for the conveyance of any right, title, or interest which the United States may have in certain real property in the State of Utah to the owners of the adjacent properies;

H.R. 8146. An act to provide a program of Federal supplemental unemployment compensation.

At 4:10 p.m., a message from the House, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "improving automotive efficiency", to exempt very low-volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the act, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 85. An act to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other urposes;

H.R. 6806. An act to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 with respect to the treatment of public utility property;

H.R. 7020. An act to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes.

H.R. 8228. An act to provide that a certain portion of Lake Erie shall be declared nonnavigable.

At 8:05 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes.

The message also announced that the House has passed the bill (S. 1910) to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir.

The message further announced that the House has agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to the following bills:

S. 1177. An act to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes; and

S. 2597. An act to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 18, 29, 53, 62, 69, 70, 71, 72, 73, and 74 to the bill, and concurs therein; and that it recedes from its disagreement to the amendments of the Senate numbered 12, 24, 28, 30, 49, 54, 61, 63, and 75 to the bill, and concurs therein, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5487) to designate certain National Forest System lands in the States of Colorado and South Dakota for inclusion in the National Wilderness Preservation System; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Udall, Mr. Phillip Burton, Mr. Seiberling, Mr. Kostmayer, Mr. Vento, Mr. Kogovsek, Mr. Clausen, Mr. Young of Alaska, and Mr. Johnson of Colorado were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4273. An act to amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"; and

H.R. 8178. An act to amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes.

The message also announced that the House has agreed to the amendment of the House to the bill (S. 1640) to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.

The message further announced that the House has passed the following bill and joint resolution, each without amendment:

S. 2801. An act to designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility"; and

S.J. Res. 201. Joint resolution to provide for the designation of a week as "National Lupus Week".

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 128. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1177.

At 10:47 p.m., a message from the House delivered by Mr. Gregory, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2622. An act to improve coastal zone management in the United States, and for other purposes.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 209. Joint resolution providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities.

The message further announced that the House has agreed to the following concurrent resolutions, each without amendment:

S. Con. Res. 131. Concurrent resolution authorizing a change to be made in the enrollment of S. 2719; and

S. Con. Res. 132. Concurrent resolution authorizing conforming changes in the enrollment of S. 2719.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes; recedes from its disagreement to the amendments of the Senate numbered 2 and 4, and concurs therein; and recedes from its disagreement to the amendments of the Senate numbered 3, 5, 8, 11, 13, 21, 22, 29, 32, and 33 to the bill, and concurs therein, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

At 12:22 a.m., a message from the House delivered by Mr. Gregory announced that the House agrees to the amendments of the Senate numbered 1 through 14 inclusive to the bill (H.R. 6665) to implement the Protocol of 1978 relating the international convention for the prevention of pollution from ships, 1973; and agrees to the amendment of the Senate numbered 15 to the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7729. An act to amend the Trading With the Enemy Act in order to authorize the use of assets vested under that Act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets.

At 12:45 a.m., a message from the House delivered by Mr. Gregory announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2412. An act to amend the Solid Waste Disposal Act to further encourage the use of recycled oil.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

H.R. 5048. An act to amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b).

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6440. An act to establish priorities in the payment of claims against the People's Republic of China.

At 1:38 a.m., a message from the House delivered by Mr. Berry announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981; recedes from its disagreement to the amendment of the Senate numbered 26 to the joint resolution, and concurs therein; and recedes from its disagreement to the amendments of the Senate numbered 4, 13, 24, 25, 28, 30, 35, 36, and 42 to the joint resolution, and concurs therein, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 6331. An act to amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes and

H.R. 7939. An act to amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Heflin).

HOUSE BILLS REFERRED

The following bills were read twice by their title, and referred as indicated:

H.R. 85. An act to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes; to the Committee on Environment and Public Works.

H.R. 2545. An act to provide that the lake referred to as the Ririe Lake in Willow Creek, in Bonneville County, Idaho, shall hereafter be known as Oscar Johnson Lake; to the Committee on Environment and Public Works.

H.R. 4131. An act to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the "S.W. Taylor Memorial Park"; to the Committee on Environment and Public Works.

H.R. 4645. An act to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Okla., to Sardis Lake; to the Committee on Environment and Public Works.

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Tex., as the "North San Gabriel Dam" and "Lake Georgetown," respectively; to the Committee on Environment and Public Works.

H.R. 6243. An act to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Ga., shall hereafter be known and designated as the "R. Shaefer Heard Park"; to the Committee on Environment and Public Works.

H.R. 6309. An act to provide for the conveyance of any right, title, or interest which the United States may have in certain real property in the State of Utah to the owners of the adjacent properties; to the Committee on Energy and Natural Resources.

H.R. 6440. An act to establish priorities in the payment of claims against the People's Republic of China; to the Committee on Foreign Relations.

H.R. 6806. An act to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 with respect to the treatment of public utility property; to the Committee on Finance.

H.R. 7729. An act to amend the Trading With the Enemy Act in order to authorize the use of assets vested under that act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets; to the Committee on the Judiciary.

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases; to the Committee on Labor and Human Resources.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 7020. An act to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes.

HOUSE BILL HELD AT THE DESK

The following bill was read twice by its title and ordered held at the desk by unanimous consent:

H.R. 8146. An act to provide a program of Federal supplemental unemployment compensation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4695. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, notice that a study has been conducted with respect to converting the refuse collection and disposal activity at Fort Campbell, Kentucky, and a decision that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-4696. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, notice that a study has been conducted with respect to converting the laundry and dry cleaning activity at Fort Campbell, Kentucky, and that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-4697. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report concerning the Department of the Air Force's proposed letter of offer to Australia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4698. A communication from the Secretary of Defense, transmitting, pursuant to law, the real and personal property report of the Department of Defense as of September 30, 1979; to the Committee on Armed Services.

EC-4699. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Evaluation of Alternatives for Financing Low and Moderate Income Rental Housing"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4700. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for continued occupancy under a succeeding lease of space located at 6525 Belrest Road, Hyattsville, Maryland; to the Committee on Environment and Public Works.

EC-4701. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a revised prospectus for the Old Post Office, Washington, D.C.; to the Committee on Environment and Public Works.

EC-4702. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, a study and evaluation of the American federal fiscal system; to the Committee on Finance.

EC-4703. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the background papers of the Conference on the Future of American Federalism; to the Committee on Finance.

EC-4704. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, certain chapters of the report entitled "State and Local Government Structure and Assignment of Functions"; to the Committee on Finance.

EC-4705. A communication from the President and Secretary of the Trilateral Commission (North America), transmitting, pursuant to law, the annual report of the Commission for fiscal year 1980; to the Committee on Foreign Relations.

EC-4706. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 26, 1980; to the Committee on Foreign Relations.

EC-4707. A communication from the Treasurer of the Jewish War Veterans U.S.A. National Memorial, transmitting, pursuant to law, the audit report of the Jewish War Veterans U.S.A. National Memorial for the fiscal year ended March 31, 1980; to the Committee on the Judiciary.

EC-4708. A communication from the Librarian of Congress, transmitting, pursuant to law, the report of the activities of the Library of Congress, including the Copyright Office, for fiscal year 1979; to the Committee on Rules and Administration.

PETITIONS

The Presiding Officer laid before the Senate the following petitions; which were referred as indicated:

PM-878. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE CONCURRENT RESOLUTION No. 32

"Whereas, agriculture is part of the very fabric from which this country was made and is an essential industry to the well-being of this state and the country; and

"Whereas, many Louisiana and other southern farmers will suffer yield losses of more than 50% of normal yields; and

"Whereas, with already high debt loads, farmers will suffer severe economic distress and possible loss of their farms; and

"Whereas, the severe economic distress farmers are experiencing will have a major impact on agribusiness, rural communities, and the rural economy.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the President of the United States, the Congress of the United States, the Secretary of Agriculture, and the Administrator of the Small Business Administration are hereby urged and requested to exercise their authority or make such changes in and additions to the laws of the United States to provide adequate relief to farmers severely affected by drought.

"Be it further resolved that the Secretary of Agriculture is hereby urged and requested to exercise his authority under the Consolidated Farm and Rural Development Act of 1978 to explore all options including deferral of principal and interest payments to assist impacted farmers; to use the authority to reimburse eligible livestock farmers 50% of cost of feed purchased and to not reduce the payment should the eligible farmer establish a winter pasture during the period of emergency, and to give consideration to making additional funds available under a cost share program to fund eligible farmers to establish winter pastures; and to use the authority to allow grazing on cover crop acreage without any reduction in cost share payments.

"Be it further resolved that the Administrator of the Small Business Administration is hereby urged and requested to explore modification of the terms of outstanding S.B.A. loans to farmers adversely affected by the drought.

"Be it further resolved that other private lending institutions, including the Production Credit Associations, Federal Land Bank Associations and rural banks are hereby urged and requested to work with their farm customers to cushion the adverse impact of this year's drought.

"Be it further resolved that the Secretary of Agriculture and the Congress are hereby urged and requested to explore a means of providing farmers low interest or no interest loans in an amount equal to the difference in value between their average proven yields and their actual yields and not limit these loans to farmers who cannot find credit elsewhere.

'Be it further resolved that Congress is hereby memorialized to review the adequacy of the crop insurance program, the A.S.C.S. disaster payments program and disaster loan programs to prevent massive economic dislocation and foreclosures in circumstances like those of this year.

"Be it further resolved that a copy of this Resolution be transmitted to the President of the United States, the Secretary of Agriculture, the Speaker of the House of Representatives of the United States Congress, the President of the Senate of the United States Congress, all members of the Louisiana congressional delegation, and the Administrator of the Small Business Administration "

POM-879. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"Assembly Concurrent Resolution No. 134

"Whereas, Agriculture is the number one industry in the number one agriculture-producing state in the nation; and,

"Whereas, California agriculture requires a considerable amount of diesel fuel to grow the high quality food and fiber for this country and the world; and

"Whereas, Self-imposed diesel fuel allocation practices by crude oil refiners have resulted in undue hardship on the agricultural industry; and,

"Whereas, The state should not unnecessarily interfere with the existing market mechanisms for allocating diesel fuel; now, therefore, be it

"*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the members urge the refiners and distributors of diesel fuel to provide the total current needs of diesel fuel to persons engaged in agricultural production and transportation activities, unless undue hardship would be placed upon persons with equal or higher priority needs; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Energy, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

ENROLLED BILLS PRESENTED

The Secretary reported that on today, September 30, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1464. An act to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians:

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; and

S. 2730. An act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 2261. A bill to quiet title of property in Albert and Eulia Rodriguez (Rept. No. 96-1005).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1762. An act to convey all interests of the United States in certain real property in Sandoval County, New Mexico, to Walter Hernandez.

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 6889. An act entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980" (Rept. No. 96-1006).

By Mr. LONG, from the Committee on Finance, with an amendment (in the nature of a substitute) and an amendment to the title:

H.R. 6975. An act to eliminate the duties on wood veneers (Rept. No. 96-1007).

By Mr. FORD, from the Committee on Energy and Natural Resources, without amendment:

H.R. 7698. An act for the relief of two mining claimants (Rept. No. 96-1008).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 117. A concurrent resolution expressing the sense of the Congress that the President should convey to the Soviet Government the deep concern of the Congress and the American people for the fate of Raoul Wallenberg and that the United States delegation to the Madrid Conference on Security and Cooperation in Europe should urge consideration of the case of Raoul Wallenberg at that meeting by the signatories to the Helsinki Final Act.

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

H. Con. Res. 389. A concurrent resolution condemning the harassment and persecution by the Soviet Government of Vladimir Kislik and other Soviet human rights activists.

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 526. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2385.

By Mr. LONG, from the Committee on Finance, with an amendment (in the nature of a substitute):

S. 2574. A bill to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes (Rept. No. 96-1009).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 186. Joint resolution designating October 19, 1981, as a Day of National Celebration of the Two Hundreth Anniversary of the American Victory at Yorktown, Virginia;

S.J. Res. 202. Joint resolution to authorize and request the President to issue a proclamation designating October 12 through 19, 1980, as "Italian-American Heritage Week";

H.J. Res. 472. Joint resolution designating October 19, 1981, as a Day of National Observance of the Two Hundreth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia; and

H.J. Res. 568. Joint resolution to authorize and request the President to issue a proclamation designating October 12 through 19, 1980, as "Italian-American Heritage Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Arthur H. Woodruff, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Central African Republic.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Arthur H. Woodruff.

Post: American Embassy, Bangui, Central African Republic.

Contributions, amount, date, and donee:

1. Self, Arthur H. Woodruff.

2. Spouse, Jean P. Woodruff.

3. Children and Spouses Names, William, Lauren, Alexandra, Wells.

4. Parents Names, Arthur S. and Hazel Woodruff.

Neither I nor any member of my immediate family have made any political contributions.

5. Grandparents Names, None.

6. Brothers and Spouses Names, None.

7. Sisters and Spouses Names, Pearl and Fred Brown.

Harry E. T. Thayer, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Singapore.

Statement of Political Contributions

Nominee: Harry E. T. Thayer.

Post: Ambassador, Republic of Singapore.

Contributions, amount, date, and donee:

1. Self, Harry E. T. Thayer, $180, December 3, 1977, August 15, 1979, March 16, 1980, Rufus Phillips for Senate; $50, June 1, 1980, John Culver for Senate; $150, December 23, 1979, April 11, 1980, June 23, 1980, George Bush for President; $50, March 16, 1980, John Anderson for President.

2. Spouse, Edith G. Thayer, $50, January 21, 1976, James Symington for Senate; $50, March 10, 1980, John Anderson for President.

3. Children and spouses (none of children are married), Robert, Marian, Nathaniel, and Margaret Thayer (children), None; Olin, Luis, and Jeremy Browne (step children), None.

4. Parents, Mrs. Eliza T. Thayer (widow), $250, January 1980, March 1980, June 1980, John Anderson for President.

5. Grandparents, Deceased.

6. Brothers and spouses, Mrs. Barbara Thayer (widow), Mrs. Leigh Thayer (widow), Mr. Nelson S. T. and Mrs. Mai Leung Thayer, all None.

7. Sisters and spouses, Mrs. Marian and Mr. Robert Toland, $20, July 1978, Richard Shulze for Congress; $70, March 12, 1980, June 22, 1980, John Anderson for President; $75, April 21, 1980, George Bush for President.

David E. Simcox, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States to the People's Republic of Mozambique.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: David E. Simcox.

Post: Ambassador to Mozambique.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Christopher M., Jane M., none.

4. Parents names, John W. Simcox, Jane Simcox (deceased), none.

5. Grandparents names, all deceased.

6. Brothers and spouses names, Jack Simcox, Jr., Ben M. Simcox, none.

7. Sisters and spouses names, Virginia Simcox Scott, none.

Francis J. Meehan, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to Poland.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Francis J. Meehan.

Post: Ambassador to Poland.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, Margaret K. Meehan, None.

3. Children and spouses, names, Anne Werthmann (Robert), Catherine Doehner (Sven), Frances Meehan, James Meehan, None.

4. Parents names, Deceased, None.

5. Grandparents names, Deceased, None.

6. Brothers and spouses names, None.

7. Sisters and spouses names, None.

Harry W. Shlaudeman, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to Argentina.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Harry W. Shlaudeman.

Post: Buenos Aires.

Contributions, amount, date, and donee:

1. Self, $200, 1978, Rufus Phillips campaign.

2. Spouse, Carol D. Shlaudeman, none.

3. Children and spouses names, Karl, Katherine, Harry R., none.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

Edwin Gharst Corr, of Oklahoma, to be Ambassador Extraordinary and Plenipotentiary of the United States to Peru.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edwin Gharst Corr.

Post: Ambassador to Peru.

Contributions, amount, date, and donee: Self, see attached.

CONTRIBUTIONS

Persons, amount, date, and donee:

1. Self and spouse, $100, November 1979–August 1980, President's Club of the Democratic National Committee.

2. Children and spouses, Michelle Ruth (single), None; Jennifer Jean (single), None; Phoebe Rowena (single), None.

3. Parents, E. L. (Bert) and Rowena Corr, $12, 1976–80, Washington County Women's Democratic Club, Oklahoma (annual dues of $3); $15 July 29, 1980, Washington County Democrats; $37, 1979, Washington County Democrats; $20, 1978, Washington County Democrats.

4. Grandparents (deceased).

5. Brothers and spouses, E. L. (Bert) Corr, Jr., and wife Jeri, $50, 1980, Jim Hamilton, Democratic candidate for U.S. Senate; $50, 1978, Mike Sullivan, Democratic candidate for Oklahoma State Senate; $80, 1976–80, Political Action Group for Educators, Oklahoma (annual dues); William R. Corr (single), none.

6. Sister and spouse, Ted and Jean Cochrane, $250, March 18, 1976, Jimmy Carter for President; $150, September 13, 1976, Bryce Baggett for Oklahoma State Senator; $200, October 11, 1976, Tom Dunlop for Congress Committee; $15, November 3, 1976, Common Cause; $20, August 1, 1978, Common Cause; $25, November 6, 1978, Democratic National Committee; $20, November 6, 1978, American Civil Liberties Union; $50, November 15, 1978, Oklahoma County Democratic Party; $20, May 2, 1980, American Civil Liberties Union.

John A. Burroughs, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Malawi.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John A. Burroughs, Jr.

Post: Malawi.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, no children.

4. Parents names, Yeasavale and John A. Burroughs, Sr., none.

5. Grandparents names, deceased.

6. Brothers and spouses names, no brothers.

7. Sisters and spouses names, no sisters.

Mr. Thomas D. Boyatt, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States to Columbia.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Thomas D. Boyatt.

Post: Ambassador to Colombia.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, Maxine, None.

3. Children and spouses names, Thomas B. Christopher, Jessica, None.

4. Parents names, Deceased, None.

5. Grandparents names, Deceased, None.

6. Brothers and spouses names, Michael L. Boyatt, Lou Boyatt, None.

7. Sisters and spouses names, None.

Henry Precht, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Islamic Republic of Mauritania.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the date of the nomination.

Nominee: Henry Precht.

Post: American Ambassador to the Islamic Republic of Mauritania.

Contributions, amount, date, and donee:

1. Self, Henry Precht, None.

2. Spouse, Marian Precht, None.

3. Children and spouses names, Katherine Precht, Paul Precht, None.

4. Parents names, Deceased, None.

5. Grandparents names, deceased, None.

6. Brothers and spouses names, David Precht, Sandra Precht, None.

7. Sisters and spouses names, NA, None.

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation:

James M. Friedman, of Ohio; and Edward L. Marcus, of Connecticut.

John William Shirley, of Illinois, to be an Associate Director of the International Communication Agency.

(The above nominations reported from the Committee on Foreign Relations with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests they appear and testify before any duly constituted committee of the Senate.)

By Mr. LEVIN, from the Committee on Governmental Affairs:

The folowing-named persons to be associated judges of the Superior Court of the District of Columbia:

Dorothy Sellers, of the District of Columbia; and Ricardo M. Urbina, of the District of Columbia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RANDOLPH (for himself and Mr. Baker):

S. 3167. A bill to amend the Internal Revenue Code of 1954 to impose a manufacturers excise tax on the sale of light gauge steel drums; to the Committee on Finance.

By Mr. HEFLIN:

S. 3168. A bill for the relief of James E Swanson; to the Committee on the Judiciary.

By Mr. STEVENSON (for himself, Mr. Cannon, Mr. Magnuson, Mr. Hollings, Mr. Long, Mr. Inouye, Mr. Ford, Mr. Riegle, Mr. Exon, and Mr. Heflin):

S. 3169. A bill to establish an Earth Data and Information Service, in the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself and Mr. Domenici):

S. 3170. A bill to demonstrate an alternative system to expedite the selection and construction of water resources projects, to authorize the Army Corps of Engineers to undertake various projects for the prevention of flooding, for improvements in navigation, and for augmenting supplies of water, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL (for himself, Mr. Harry F. Byrd, Jr., Mr. Mathias, Mr. Nunn, and Mr. Roth):

S. 3171. A bill to establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution; to the Committee on Governmental Affairs.

By Mr. CRANSTON (by request):

S. 3172. A bill to extend authorizations of appropriations for programs under the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and for other purposes; to the Committee on Labor and Public Welfare.

By Mr. EXON:

S. 3173. A bill for the relief of Sen Poon (Peter Chang); to the Committee of the Judiciary.

By Mr. LONG (for himself and Mr. Roth):

S. 3174. A bill to amend the Internal Revenue Code of 1954 to reduce the capital gains tax on the sale of certain stocks and bonds of qualified small corporations; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3175. A bill to amend the Internal Revenue Code to increase the amount that an artist may deduct when he contributes an artistic composition to charity; to the Committee on Finance.

S. 3176. A bill to amend a provision of the Internal Revenue Code dealing with involuntary conversions of broadcast property; to the Committee on Finance.

By Mr. PELL (for himself and Mr. Hatfield):

S. 3177. A bill to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate; considered and passed.

By Mr. TALMADGE (for himself and Mr. Nunn):

S. 3178. A bill to establish the Franklin Delano Roosevelt-Warm Springs National Historic Site in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TOWER:

S. 3179. A bill to amend Title 10, United States Code, to make certain information available to the Armed Forces for military recruiting and related national security purposes; to the Committee on Armed Services.

By Mr. WILLIAMS (for himself, Mr. Chiles, and Mr. Stone):

S. 3180. A bill to repeal a provision of the Refugee Education Assistance Act of 1980; considered and passed.

By Mr. HELMS (for himself, Mr. Goldwater, and Mr. McClure):

S. 3181. A bill to provide for the reinstatement of the dollar as a gold reserve currency, to stabilize the value of the dollar, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH (for himself and Mr. Ribicoff):

S. 3182. A bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MAGNUSON:

S. 3183. A bill to amend Chapter 32 of Title 15, U.S.C. and to provide other inducements against the movement of professional sports franchises; to the Committee on Commerce, Science, and Transportation.

By Mr. EAGLETON:

S. 3184. A bill to establish a revolving fund to finance short term export credit sales of agricultural commodities produced in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATSUNAGA:

S. 3185. A bill to provide for an accelerated program of research, development, and demonstration to achieve the early technology applications for advanced batteries technologies for energy storage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DeCONCINI (for himself, Mr. Domenici, and Mr. Nelson):

S. 3186. A bill to provide for the payment by the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States; considered and agreed to.

By Mr. DOMENICI:

S.J. Res. 208. Joint resolution to designate the week of December 8, 1980, as "Respiratory Therapy Week"; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S.J. Res. 209. Joint resolution providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities; considered and passed.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENSON (for himself, Mr. Cannon, Mr. Magnuson, Mr. Hollings, Mr. Long, Mr. Inouye, Mr. Ford, Mr. Riegle, Mr. Exon, and Mr. Heflin):

S. 3169. A bill to establish an Earth Data and Information Service, in the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EARTH DATA AND INFORMATION SERVICE ACT OF 1980

● Mr. STEVENSON. Mr. President, today I introduce for myself and Senators Cannon, Magnuson, Hollings, Long, Inouye, Ford, Riegle, Exon, and Heflin, a bill that provides the legislative foundation to establish a national operational remote sensing system. It is cited as the "Earth Data and Information Service Act of 1980."

The purpose of this bill is to establish an operational remote sensing system that will acquire and make available to users on a timely and continuing basis reliable data and basic information products on the Earth's resources and environment.

Mr. President, this legislation builds on an earlier bill, S. 663, which I and other Senators sponsored earlier in this session. Since the introduction of that bill, the committee has held 5 days of hearings on operational remote sensing.

Last November the President assigned management responsibility for civil operational satellite remote sensing activities to the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce. He also established the policy that initially the operational land remote sensing satellite system would be based on the experimental Landsat technology, and he established the goal that our national civil remote sensing activities eventually be operated by the private sector. The President directed the Department of Commerce to develop a time phased transition plan covering various issues related to an operational land remote sensing system. This plan has been prepared and submitted to the President. The President also directed the Department of Commerce to submit to the Office of Management and Budget a preliminary implementation plan by December 15, 1979, covering any required fiscal year 1981 budget adjustment. Unfortunately, that directive was not carried out. Later efforts by NOAA and the Department of Commerce to obtain adequate fiscal year 1981 funding have been thwarted by the Office of Management and Budget. Consequently, it will be difficult, if not impossible, for any substantial progress to be made in the implementation of an operational remote sensing satellite system during fiscal year 1981. Indeed, it appears, the President's direction notwithstanding, that moving toward a meaningful operational system for land remote sensing satellites has become a fiscal year 1982 budget issue.

This, Mr. President, is a distressing state of affairs since almost everyone agrees that an operational land remote sensing system is needed. Establishment of such a system has been an issue that has received the attention of the Senate since 1972. There is universal agreement that remote sensing data and the basic information products derived from such data are needed on a timely and continuing basis if the Earth's resources and environment are to be properly managed. Yet here it is almost a year after the President's directive, and the bureaucracy still refuses to move.

Mr. President, it is late in the 96th Congress. I do not suggest that the bill being introduced today will be passed this session, but passage of legislation authorizing an operational remote sensing system is an issue which must receive early attention in the next Congress. It is an issue that will require legislation. Thus, the bill I introduce today is our last best effort; hopefully the next Congress will find it useful and something it can build on.

Today the United States is the world's leader in remote sensing technology. This knowledge should be used to build an operational remote sensing system that benefits not only the United States but others in managing the Earth's resources and environment. If we do not act, other countries in Europe and Asia will take the lead in offering such services.

The experimental land remote sensing satellites have demonstrated the usefulness of remote sensing data to crop monitoring, location of mineral and fuel deposits, land and forest management, pollution control, flood and drought control, urban land use management, and other such activities. There is no reason to postpone longer the placing of these systems on an operational basis and to establish the appropriate management institutions to meet the remote sensing data needs of both the governmental and private users—national and international.

Mr. President, even if the Congress were to act today, most likely there will be a gap in acquiring the needed satellite remote sensing data. As of this date there are only two experimental Landsats in space—Landsat 2 and Landsat 3. Both have outlived their designed lifetimes, and Landsat 2 was already retired once from service because of technical difficulties. Only the genius of our engineers has enabled it to be placed back in service. Landsat 3 has a number of technical difficulties. While it is hoped that Landsat 2 and 3 will continue to provide data until the launch of the second generation satellite, Landsat D in late 1982, most likely there will be a gap in the acquisition of satellite remote sensing data.

It is expected that Landsat D and its successor satellites, D' and D'', will provide the initial operational land remote sensing system capability. But, unless there is legislation to authorize NOAA to proceed, as directed by the President, these satellites are going to remain in an experimental status and the planning for the successor operational system will not take place.

The National Aeronautics and Space Administration has devoted a considerable amount of its resources to developing the technology for the remote sensing of the Earth—its land surfaces, its oceans and its atmosphere. These research and development efforts have been carried out in collaboration with other departments and agencies of the Federal Government; with State, regional and local governments; with private sector companies; and on an international basis with foreign countries. Indeed, a substantial number of foreign countries now have Earth stations that can access directly NASA's remote sensing satellites, that is, the experimental Landsats. The usefulness of satellite remote sensing data is well documented. There is a commitment by the President to move beyond the NASA experimental system. The bill being introduced today supports the President's initiative and, if passed, would provide the foundation for the United States to move rapidly to an operational remote sensing system.●

By Mr. MOYNIHAN (for himself and Mr. Domenici):

S. 3170. A bill to demonstrate an alternative system to expedite the selection and construction of water resources projects, to authorize the Army Corps of Engineers to undertake various projects for the prevention of flooding, for improvements in navigation, and for augmenting supplies of water, and for other purposes; to the Committee on Environment and Public Works.

WATER RESOURCES DEVELOPMENT ACT OF 1980

● Mr. MOYNIHAN. Mr. President, the Water Resources Subcommittee of which I am chairman held markup sessions on water resources legislation on September 4, 5, and 16. Our markup document was in the form of a committee amendment to the National Small Hydroelectric Power Development Act, S. 1641, reported by the Environment and Public Works Committee on May 15, 1980. Title II of S. 1641 is the National Water Resources Policy and Development Demonstration Act, also known as the Domenici-Moynihan block allocation proposal. On September 16, 1980, the subcommittee reported the committee amendment to S. 1641—which was, in fact, the equivalent of an omnibus water resources bill.

The amendment authorizes the expenditure of approximately $3 billion for 138 projects. The committee amendment reported by the subcommittee contained a landmark title on water supply, placing the rehabilitation of urban water systems and the development of new water sources among the legitimate demands on the Federal water program. A number of important generic issues were discussed in subcommittee such as deauthorization procedures, fish and wildlife mitigation authority, and stricter guidelines on project cost escalation.

It was, of course, the subcommittee's intention to see this amendment through the full Environment and Public Works Committee. Unfortunately, time ran out. We have therefore decided to introduce the amendment as a separate bill, to make known the point to which the subcommittee brought the legislation in this Congress, and to provide a starting point for early consideration in the 97th Congress. Changes of omission, addition, and revision will undoubtedly be made between now and the next Congress, but on the whole we believe the legislation is a provocative and innovative departure from the status quo.

My partner in this enterprise, the ranking minority member of the subcommittee (Mr. Domenici), joins me in the commitment to press for rapid enactment of a water bill—one that will initiate the many worthy projects throughout the country, one that will initiate a new procedure for authorizing and appropriating funds for water resources development and one that will reflect the water needs of all regions of the Nation. We look forward to working with all of our colleagues to accomplish these goals. We invite your comments, suggestions, and criticisms of the bill we introduce today.

Mr. DOMENICI. Mr. President, I am pleased to join with the distinguished Senator from New York (Mr. Moynihan) in sponsoring this comprehensive water resources bill. As the subcommittee chairman has noted, this bill embodies components of legislation now on the Senate Calendar, S. 1641—in particular the Domenici-Moynihan, 5-year water resources demonstration program—together with all of the water resources projects and provisions that have been reported by the Subcommittee on Water Resources to the full Committee on Environment and Public Works, with some clarifying language.

We must assume, regretfully, that it is very unlikely that a major water resources bill will become law this year. That failure is the responsibility of many, including the administration, which appears to have lost interest in developing any effective legislation to rejuvinate this necessary program to improve our water resources management.

Introduction of this comprehensive bill now will enable the many interested parties, including the Army Corps of Engineers, the States, water users, environmentalists, and others, to weigh it carefully, and to prepare their views for hearings that I hope will occur early in the 97th Congress, should action not be possible in the lameduck session.

I would hope that the Subcommittee on Water Resources will conduct such hearings as early as possible in January of 1981, then move on to markup by early February. I would hope we could have a bill to the Senate floor before March 1, 1981.

At hearings next year, we will obviously discuss the merits and demerits of various proposals in this bill. We will study the need for major changes in the whole process of evaluating water projects—seeking to bring the States more effectively into the process and creating a system for priorities.

And there are other items, not necessarily covered by this bill, which need careful review:

Just what is the logical role for consulting engineers in the design of corps projects, in competition with in-house engineering?

What should the national policy be on the use, by long-term permit, of Federal water projects by private persons, such as houseboat owners?

What is the most rational way to clean out the deadwood of old unstarted projects and studies?

How should we reshape the Water Resources Council?

What is the role for the inland waterways trust fund, which comes into existence tomorrow, in the financing of new inland waterway projects?

Should cost-sharing on water projects be updated and simplified?

We should also examine where to impose a logical cutoff in the corps' review process, allowing project authorization. In general, we have included in this bill only projects that had cleared review by the Board of Engineers for Rivers and Harbors. That may be an insufficient level of review. Maybe only projects with a report by the Chief of Engineers should be authorized.

My sponsorship of this legislation, of course, does not mean that I endorse, or necessarily support, each of the more than 100 projects, proposals, and new programs contained in this bill. There are projects in this legislation that should be dropped, or will require major changes. Other sections, such as section 517, probably require rewriting and updating. Other projects or initiatives may need to be included in any final bill.

Nevertheless, this subcommittee version represents a sound starting point for action in the 97th Congress. I urge that it be studied with care.●

By Mr. PELL (for himself, Mr. Harry F. Byrd, Jr., Mr. Mathias, Mr. Nunn, and Mr. Roth):

S. 3171. A bill to establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentenial of the Constitution; to the Committee on Governmental Affairs.

ESTABLISHMENT OF A COMMISSION ON THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION

● Mr. PELL. Mr. President, I am today introducing legislation to establish a Commission to plan and coordinate appropriate observances of the Bicentennial of the U.S. Constitution. Joining me in submitting this legislation are Senator Byrd of Virginia, Senator Mathias, Senator Nunn, and Senator Roth.

Four years ago our Nation celebrated with considerable enthusiasm the 200th anniversary of the Declaration of Independence.

As historic as that event was, however, it was but the first step in the historic process of forming our Nation. The 15 years following the issuance of the Declaration of Independence was a critically important period in our history. During that time, the Colonies won the war that made the Declaration of Independence effective and then set about the difficult task of determining how they would govern themselves.

Next year, for example, will be the 200th anniversary of the surrender of General Cornwallis at Yorktown, which marked the end of British efforts to retain sovereignty over the colonies. Next year will aso mark the Bicentenial of the Articles of Confederation, followed in 1982 by the Bicentennial of the signing of the Articles of Peace in Paris.

Observances of these events are being planned by private organizations and State and local governments without significant participation by the Federal Government.

These events will be followed by a series of bicentennial occasions which are of fundamental significance in the history of our Nation. They include the Bicentennial of the Constitutional Convention in 1987, of the ratification of the Constitution in 1989, and of the first meeting of the Congress of the United States in the same year, and the ratification of the bill of rights in 1991.

I believe the Federal Government should participate in the observance of these historic developments.

The bill I am introducing today would establish a Presidential Commission to prepare an overall plan for commemorating the Bicentennial of our Constitution. The Commission, to include Members from the Senate and the House of Representatives, public members, and exofficio members from the executive and judicial branches, would also be charged with encouraging and coordinating observances planned by other organizations and groups.

The Commission would report annually to the President and to Congress on its activities, including its recommendations for legislation it considers necessary for an appropriate Bicentennial observance.

Mr. President, this legislation is endorsed by the Bicentennial Council of the 13 Original States and was prepared in consultation with a large number of patriotic and professional organizations. I would note also that similar legislation (H.R. 8039) has been introduced in the House of Representatives by my colleague from Rhode Island, Representative FERNAND J. ST GERMAIN.

Mr. President, I believe Federal Government participation in the observance of the historic events of the coming Bicentennial of the forming of our Nation is essential. The proposed Bicentennial Commission provides an appropriate means of providing for that participation, and I hope it will be given early consideration. I ask that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as this Nation approaches the bicentennial of the adoption of its Constitution and the historic events preceding and associated with its preparation and ratification (events having a profound influence throughout the world and a major significance in the development of our national heritage of individual liberty, representative government, and equal and inalienable rights) it is appropriate and desirable to provide for the observation and commemoration of this anniversary and these events through local, State, National, and international activities encouraged, planned, developed, and coordinated by a national commission.

SEC. 2. There is established a commission to be known as the Commission for the Commemoration of the Bicentennial of the United States Constitution (hereafter in this Act referred to as the "Commission") to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution.

SEC. 3. (a) (1) The Commission shall prepare an overall program for commemorating the bicentennial of the Constitution and shall encourage, plan, develop, and coordinate observances and activities commemorating the historic events that preceded and are associated with the Constitution.

(2) In preparing its plans and programs, the Commission shall consider any related plans and programs developed by State, local, and private groups and may designate special committees of such groups to plan, develop, and coordinate specific activities.

(b) In carrying out this Act, the Commission shall emphasize the constitutional values, ideals, and principles which have been important in the development of American democracy, in influencing ideas throughout the world, and in advancing mankind's quest for freedom.

SEC. 4 (a) The Commission shall consist of—

(1) four members appointed by the President from among Members of the Senate recommended to the President by the President of the Senate;

(2) four members appointed by the President from among Members of the House of Representatives recommended to the President by the Speaker of the House of Representatives;

(3) nineteen members appointed by the President (A) after consulting the American Historical Association; the American Political Science Association; the Institute of Early American History and Culture; the American Association for State and Local History; the Society of American Archivists; the American Library Association; the American Association of Museums; the National Education Association; the National Council for the Social Studies; the Bicentennial Council of the Thirteen Original States Fund, Incorporated; the Daughters of the American Revolution; the National Conference of Mayors; the National Conference of State Legislatures; the National Governor's Association; and the American Bar Association; and (B) after considering the contributions by the Nation's youth, women, elderly, racial and ethnic minorities, artists, craftsmen, and learned professionals to the writing and adoption of the Constitution; and

(4) as ex officio members, the Chief Justice of the United States, the Secretary of State, the Attorney General, the Secretary of the Interior, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, the Chairman of the Federal Council on the Arts and Humanities, the Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities.

(b) The Chairman of the Commission shall be designated by the President from among the members appointed pursuant to paragraph (3) of subsection (a).

(c) Members of the Commission shall be appointed for the life of the Commission. An individual appointed as a member pursuant to paragraph (1), (2), or (4), shall retain membership on the Commission only while the individual maintains the status which is the basis of such membership.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. A member may retain membership on the Commission until his successor has been appointed.

SEC. 5. (a) Members of the Commission shall receive no pay on account of their service on the Commission.

(b) Subject to the availability of appropriations, while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 6. (a) The Commission shall appoint a Director who shall be paid not to exceed the rate of basic pay in effect for level V of the Executive Schedule.

(b) (1) In addition, the Commission may appoint a staff consisting of—

(A) not more than five staff members before October 1, 1981;

(B) not more than ten staff members before October 1, 1982; and

(C) not more than fifteen staff members after September 30, 1982.

(2) Personnel appointed under paragraph (1) of this subsection shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed $100 per diem.

SEC. 7. (a) (1) In fulfilling its responsibilities, the Commission shall consult with, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, State and local public bodies, learned societies, and historical, patriotic, philanthropic, civic, and professional organizations. All Federal departments and agencies shall cooperate with the Commission in encouraging, planning, developing, and coordinating appropriate commemorative activities.

(2) The Chairman of the Federal Council on the Arts and the Humanities, the Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities shall cooperate with the Commission in the encouragement and the coordination of scholarly works and presentations focusing on the history, culture, and political thought of the constitutional and early national periods.

(3) The Librarian of Congress, the Secretary of the Smithsonian Institution, and the Archivist of the United States shall cooperate with the Commission in the development and the display of exhibits and collections and in the development of bibliographies, catalogs, and other materials relevant to the development, ratification, and implementation of the Constitution.

(b) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(c) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8. (a) The Commission may accept, use, and dispose of donations of money, property, or personal services.

(b) The Commission may for purposes of preservation (in consultation with the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, and the Administrator of General Services) deposit in any National, State, or local library or museum any book, manuscript, miscellaneous printed matter, memorabilia, relic, or other material, which relates to the constitutional period and which was donated to the Commission.

SEC. 9. (a) The Commission shall submit to the President and the Congress not later than May 1 of each year through calendar year 1990 an annual report on the Commission's progress in encouraging, planning, developing, and coordinating the commemoration of the bicentennial of the Constitution, including any recommendations by the Commission for legislation needed to encourage, plan, develop, and coordinate the commemoration.

(b) (1) The Commission shall submit to the President not later than May 1, 1991, a final report including the Commission's recommendations and the plans of Federal, State, and local governments and private groups for the commemoration of the bicentennial of the Constitution.

(2) The report submitted pursuant to this subsection may recommend—

(A) the preparation, production, publication, and distribution of books, pamphlets, films, video tapes, and other educational materials focusing on the history, culture, and political thought of the period of the American Revolution and the beginning of the Nation;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other programs; and

(D) programs for commemorating the anniversaries of the Philadelphia Convention, of the publication of the Constitution, of the ratification of the Constitution, and of the meeting of the First Congress.

(3) The President shall transmit the report submitted pursuant to this subsection to the Congress together with the President's comments and a report on administrative actions to be taken by the executive branch to commemorate the bicentennial of the Constitution.

Sec. 10. (a) The Commission shall cease to exist on December 31, 1991.

(b) Any property which the Commission owns on December 31, 1989, may be used by the Secretary of the Interior for purposes of the National Park Service or may be disposed of as excess or surplus property.

Sec. 11. There are authorized to be appropriated to carry out this Act $350,000 for the fiscal year ending on September 30, 1981, and such additional amounts as may be necessary for subsequent fiscal years.●

● Mr. MATHIAS. Mr. President, the Bicentennial era of the founding of our Constitution is quickly approaching. Indeed, just 7 years from now, in 1987, our Nation will commemorate the Bicentennial of the drafting of our Constitution. The time has come for Congress to examine what the Federal role should be in the observance of the Bicentennial, and I am therefore pleased to cosponsor the bill that my colleague from Rhode Island, Senator Pell, introduced today.

The Bicentennial observance is an occasion to reacquaint all Americans with the unparalleled achievements of our Founding Fathers in developing a document which established the foundations for our enduring form of Government. I hope, however, that we will be able to transcend the mere commemoration of historic events, and stimulate public thought and discussion on the constitutional issues of concern today. The Bicentennial also offers us the opportunity to look forward to the future of our country and our constitutional system, and to examine the impact of the technological age on American freedom and democracy.

My interest in an intelligent and thoughtful commemoration of the Bicentennial era is longstanding. During the 94th Congress, I sponsored legislation to extend the authority of the American Revolution Bicentennial Commission through 1989, and another proposal which would have empowered a 15-member board to support projects designed to improve our understanding of our constitutional heritage. Neither of these approaches proved successful.

Given the chance to reflect on the upcoming Bicentennial era, I have concluded that the most successful approach would be one which provided for the greatest possible involvement of interested individuals and professional, civic, historical, religious and social organizations of all sorts. In celebrating the birth and evolution of our Constitution, after all, we celebrate the triumph of a philosophical order that not only accommodates but nurtures diversity. I think it proper and right that our celebrations reflect this rich diversity. The Federal Government can coordinate such an observance by providing a clear purpose and guidelines for the occasion, and a small appropriation to assist interested participants in carrying out appropriate programs. The bill which Senator Pell has introduced today does just that.

I would like to call my colleagues' attention to the Philadelphia Inquirer's account of the 3 days of centennial activities which took place in that city in 1887, which proclaimed that "never before have a people presented to the world so grand, imposing and inspiring a spectacle as the American people presented last week when they met together in this historic city, the cradle of their independence, the rock on which their Constitution was builded (sic)" and testified "to their appreciation of the liberties they enjoy, to glorify and magnify the strength and beauty of the one Government on the face of the Earth which lives by the act and will of the governed."

Mr. President, at a time when the image of our Nation is suffering abroad, and when the morale of our citizens is flagging at home, I can think of no better way to reaffirm our confidence in Government "of the people, by the people and for the people" than by commemorating the Bicentennial of our Constitution and the historic events of that period in our Nation's history in a thoughtful manner.

In closing, I would like to share with my colleagues Alexis de Tocqueville's reflections on our Constitution:

> If America ever approached (for however brief a time) that lofty pinnacle of glory to which the proud imagination of its inhabitants is wont to point, it was at this solemn moment, when the national power abdicated, as it were, its authority. All ages have furnished the spectacle of a people struggling with energy to win its independence; and the efforts of the Americans in throwing off the English yoke have been considerably exaggerated . . . But it is new in the history of society to see a great people turn a calm and scrutinizing eye upon itself, when apprised by the legislature that the wheels of its government are stopped, to see it carefully examine the extent of the evil, and patiently wait two whole years until a remedy is discovered, to which it voluntarily submitted without its costing a tear or a drop of blood from mankind.●

By Mr. CRANSTON (by request):

S. 3172. A bill to extend authorizations of appropriations for programs under the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and for other purposes; to the Committee on Labor and Public Works.

CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM AMENDMENTS OF 1980

● Mr. CRANSTON. Mr. President, I am today introducing, at the request of the Secretary of Health and Human Services, the proposed "Child Abuse Prevention and Treatment and Adoption Reform Amendments of 1980."

DESCRIPTION

Mr. President, the purpose of this bill is to extend for five years, through fiscal year 1986, the child abuse authorities established by Public Law 93-247 and the adoption reform authorities established by Public Law 95-266. The child abuse provisions of Public Law 95-266, which I authored last Congress as chairman of the Subcommittee on Child and Human Development, extended and strengthened the provisions of Public Law 93-247, which was enacted in 1974 and which provided for the first time an essential, coordinated Federal effort to assist in combating the complex and tragic problem of child abuse and neglect. The proposal I am introducing today on behalf of the administration provides for the continuation of this Federal effort to deal with this problem affecting all segments of our society and continues the adoption reform activities initiated under Public Law 95-266.

INSTITUTIONAL ABUSE

Mr. President, I would like to draw attention to the provision in the administration's proposal relating to the institutional abuse and neglect of children.

Last year, I chaired a series of subcommittee hearings in California and Washington, D.C., to gather specific information about the abuse and neglect of children living in Government-sponsored and private institutions. The subcommittee heard heartbreaking testimony about the tragic plight of many of the more than 400,000 children in residential institutions—often supported by Federal funds through title IV-A of the Social Security Act and other Federal programs.

The bill I am introducing by request includes a provision that would be a small but significant step in assuring children in institutional care of statutory protection from abuse and neglect in the same way as we have provided for children in their own families under Public Law 93-247 and Public Law 95-266. It would require that States assure immunity against adverse job actions for employees who report known or suspected incidents of child abuse or neglect occurring in public or private residential institutions. The practice of firing employees for "whistleblowing" was specifically discussed at our subcommittee hearings last year as a serious obstacle to efforts to address the problem of the maltreatment of children in residential care. This provision is important to our efforts to identify and correct such institutional child abuse.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, along with the transmittal letter regarding this proposal.

There being no objection, the bill and the letter were ordered to be printed in the Record, as follows:

S. 3172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Amendments of 1980".

EXTENSION OF CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM PROGRAMS

Sec. 2. The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is amended—

(a) in the first sentence of section 104(1), (1) by striking out "and" immediately after "1979", and (2) by inserting immediately before the period ", and such sums as may be necessary for each of the five succeeding fiscal years";

(b) in the second sentence of section 104 (1), by striking out "for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively." and inserting instead "for the fiscal year ending September 30, 1980, and each of the six succeeding fiscal years.";

(c) in section 104(2), (1) by striking out "such" immediately after "1979", and (2) by inserting and such sums as may be necessary for each of the five succeeding fiscal years," immediately after respectively,"; and

(d) in section 205, by striking out "three" and inserting instead "eight".

PROTECTION FOR REPORTERS OF CHILD ABUSE AGAINST ADVERSE JOB ACTIONS

SEC. 3. The Child Abuse Prevention and Treatment Act is amended in section 4(b)(2)(A) by inserting immediately before the semicolon "; and shall include provisions for immunity for persons reporting instances of child abuse and neglect occuring in public or private residential institutions from any adverse action with respect to employment by or in such an institution, arising out of such reporting".

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, D.C., September 4, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill "To extend authorizations of appropriations for programs under the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and for other purposes."

The draft bill would extend for five years, through fiscal year 1986, the programs under these Acts, including activities aimed at preventing, identifying, and treating child abuse and neglect, and activities to facilitate the adoption of children with special needs.

The draft bill would also require States, as a condition of receiving grants under the Child Abuse Prevention and Treatment Act, to assure immunity against adverse job actions to employees who reported known or suspected incidents of child abuse or neglect occurring in public or private residential institutions.

We take this opportunity to inform the Congress of the Department's increased efforts to address the problem of abuse and neglect of children in residential institutions. There is growing public concern that the 360,000 children who live in residential child-care institutions may be at greater risk of abuse from care-givers than children in the community. More than 420 million Federal dollars annually help support children in these institutions.

The National Center on Child Abuse and Neglect is funding research and demonstrations aimed at investigation and correction of institutional abuse, including projects on training workers, improving reporting systems and organizing citizen involvement. We plan to disseminate information on and to replicate successful demonstration programs. We will also be exploring ways to improve licensing and monitoring of institutions, and the qualifying of child care workers.

We urge that the Congress give the draft bill its prompt and favorable consideration.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely yours,

PATRICIA ROBERTS HARRIS.●

By Mr. LONG (for himself and Mr. ROTH):

S. 3174. A bill to amend the Internal Revenue Code of 1954 to reduce the capital gains tax on the sale of certain stocks and bonds of qualified small corporations; to the Committee on Finance.

American Innovation and Employee Stock Ownership Act of 1980

Mr. LONG. Mr. President, it gives me great pleasure today to join my distinguished colleague from Delaware in introducing a proposal to change our tax laws—a change that will, we believe, encourage increased investment, innovation, and productivity. What we are proposing is that the current capital gains tax for individuals and corporations be reduced by 50 percent in the case of investments in small businesses that are partly owned by their employees.

The basic long-term capital gains tax deduction recognizes the importance of encouraging investment. The increase of the deduction to 60 percent in the Revenue Act of 1978 has proven successful in increasing the availability of investment capital. But the current deduction has not, we believe, proven sufficient to encourage the amount of investment that we believe necessary to promote new, innovative companies. Under our proposal, the deduction for individuals would be increased to 80 percent, leaving 20 percent to be taxed as ordinary income. For corporations, the alternative tax would be reduced from 28 percent to 14 percent. To qualify for this special capital gains treatment, the investment would be required to be in a small company that has shared a portion of its stock ownership with its employees.

Certainly it would be to everyone's best advantage for our tax laws to encourage investment in small and independent businesses. These companies have been shown to be the most innovative and job-creating sector of the economy. For example, a recent National Science Foundation study found that small firms are 24 times more innovative than large firms. In addition, a 1979 study conducted by the Massachusetts Institute of Technology found that firms with under 500 employees generated 86.7 percent of all new jobs in the United States. Similarly, the Commerce Department reports that innovation accounted for 45 percent of economic growth in the United States from 1929 to 1969. However, patents granted to Americans since 1971 are down 25 percent while those granted for foreigners are up 14 percent. Certainly it would be to the Nation's advantage for our tax laws to encourage investment in small, innovative companies.

We feel that our proposal would help accomplish several important objectives. It would make it easier for individuals who have innovative ideas to obtain venture capital. It would, in general, increase the availablity of venture capital for new enterprises. It would also increase interest in employee stock ownership; this should help stimulate employee productivity at a key point in a new firm's existence while also providing employees with an opportunity to acquire stock at the outset of their employer's existence.

To be considered "small," a company must have at least two of the following characteristics: Total gross revenues of not more than $30 million; net worth of not more than $15 million; no more than 1,000 employees.

To qualify under the employee ownership criterion, 25 percent or more of the nonmanagement employees of the business must own an amount of shares equal to at least 15 percent of the total outstanding shares of the company. Nonmanagement personnel are all employees other than officers and members of the board of directors of the company. This provision is intended to insure that lower-level managerial and support staff as well as hourly employees will share in ownership of the company.

Under our proposal, employee ownership can be achieved in any of a number of ways. An employee ownership plan (ESOP) is one obvious method; but stock could also be distributed by giving shares as bonuses, selling stock to employees at discounted prices, or granting stock through employee stock options.

Mr. President, this bill has three important characteristics that we would like to briefly explain. First, because of the sequence of the revenue flow of a new company, the bill will result in a net positive flow of funds to the Treasury. When an investor or a group of investors first invest in a company, they generally do so with the expectation that they will not be able to sell a portion of their shares in the company for several years. During this period, of course, the company has hired personnel, invested in plant and equipment and research and development, and undertaken other activities that generate tax revenues.

This economic activity must, of course, take place before any of the original investors can sell their shares at a profit, realize capital gain, and take advantage of this special tax treatment. In the interim, a chain of economic activity has occurred which will contribute to the generation of additional tax revenues. Thus, this bill should result in a net revenue gain to the Treasury.

Second, the provision we are proposing addresses the problems of productivity and employee stock ownership in a new way. For a new company, its most critical phase is its first several years. It is during this crucial time that a company needs all the skills, creativity, ingenuity, and energy that its employees and management can muster. Productivity and innovation are the result of a team effort, with employees and management working together to make the company successful. Employee stock ownership can be a crucial key to creating such dedication and motivation at this early stage in a company's existence.

So this bill should help fill a void. It creates a strong, new incentive for management to share ownership among employees at a point when employee motivation is most critical to the company's success. And by enabling employees to acquire stock at the outset of the company's existence, employees will be better able to realize the most appreciation in the value of the stock after the company has become successful.

Third, the bill approaches the goal of employee stock ownership in a new way. Previous efforts to encourage employee stock ownership have focused primarily on ESOP's. ESOP's are a technique of corporate finance intended to encourage companies to finance their growth (or transfers in ownership) so as to share ownership with the employee group. Our proposal, however, provides an incentive for investors and management to share stock ownership in any number of ways.

By creating favorable capital gains treatment for the sale of stock in companies in which ownership has been shared with the employees, investors have a strong incentive to dilute their ownership by setting aside a block of shares for nonmanagement employees. Thus, the investors, in effect, "finance" the employee ownership of shares, the Government does not.

It may be useful to give an example of the effect of our proposal in practice. In the typical situation, an innovator with no record of business experience cannot obtain conventional loans and, thus, must go to a group of investors and ask them to invest. They do so, generally, in exchange for 75 to 80 percent of the shares in the company. Typically, this investor group will permit the innovator to retain 15-percent ownership. The favorable tax treatment provided by this bill will encourage the investor group to further dilute its ownership by setting aside another 15 percent for employees. When the company has hired employees, these shares will be offered to the employees (for example, through incentive stock options or as a bonus).

Having now obtained investment capital, the innovator proceeds to hire employees, invest in plant machinery, and market the product or service. By the third or fourth year of business, the innovator generally has begun to make a profit and begun to pay Federal income and payroll taxes. At this point, several of the investors will typically choose to sell some of their shares (in order to reinvest in other start-up ventures). It is anticipated that these investors may sell these shares (or a portion thereof) to the employees (through an ESOP).

Under our proposal, at that time they would be eligible for an 80-percent capital gains deduction. Thus, they would be taxed on only 20 percent of their capital gains. To be eligible for this treatment, they need only show that at the time of their investment, the company was a qualified small business, and that it has distributed its pool of employee shares so that at least 25 percent of the employees owned at least 15 percent of the shares.

Should employees who own shares wish to sell them, they would not get the benefit of this special capital gains treatment. That is because the employees have already benefitted by having obtained the shares in the first place—at the expense of the dilution of the investors' ownership of the company. Thus, the special capital gains treatment is reserved for the investors who not only took the risk that the new venture would succeed in the marketplace, but who also were willing to subsidize employees acquiring stock in the venture.

Mr. President, this is a bill to stimulate American innovation, small business, and employee stock ownership. It says to those creative men and women with new ideas that our Government wants them to try out their ideas in the marketplace. In addition, our proposal says to this crucially important innovative group that the Federal Government will provide you with more favorable tax treatment if you will share your success with those who help you succeed (your employees).

Mr. President, a central problem for American productivity is the stimulation of innovative new business. And the central problem for truly innovative new business is finding adequate investment capital. Availability of such risk capital is at the very heart of the problem of the innovativeness, productivity, and competitiveness of the American economy.

This bill goes to the root of these problems, Mr. President, and we commend it to the attention and cosponsorship of our colleagues.

● Mr. ROTH. Mr. President, I am pleased to join my distinguished colleague from Louisiana in introducing this legislation to stimulate small business investment and ownership.

Specifically, this legislation will reduce capital gains taxes for investments in small businesses which are owned in part by their employees.

The purpose of this legislation is twofold. First, the bill is designed to increase the supply of venture capital for investments in new, innovative companies. Second, the bill is designed to increase employee ownership by requiring employee stock ownership as a condition for obtaining the favorable capital gains treatment.

Under this bill, the capital gains tax rate for individuals and corporations would be reduced in half for investments in small businesses which are at least partly owned by their employees.

Under present law, 60 percent of a long-term capital gain is exempt from taxation, and the maximum capital gains tax is 28 percent. Under this bill, the exemption for capital gains will be increased to 80 percent, reducing the maximum capital gains tax rate to 14 percent.

In order to qualify for this special capital gains treatment, the investment must be made in a small business which meets at least two of the following requirements: Total gross revenues of not more than $30 million; net worth of not more than $15 million; and no more than 1,000 employees.

In addition, in order to qualify under the employee stock ownership requirement, 25 percent or more of a company's employees must own at least 15 percent of the outstanding shares of the company.

Mr. President, the problems facing our economy today are well-known. Our investment and productivity rates, which were once the envy of every other country, are now at dismally low levels. As a result, our economic growth has stagnated and real wages are lagging.

I believe the high tax burden imposed on working, saving, and investment is one of the major causes of our economic problems. And unless we reduce these high tax rates on savings and investments, I believe we face a bleak future of slow growth, high inflation, high unemployment, and a declining standard of living.

I agree with those who say we must take steps to reindustrialize America. But reindustrialization will not occur through an increased Government role in the economy.

I believe we can and must reindustrialize American industry by reducing the tax and regulatory burden on our troubled basic industries and by offering special tax incentives to encourage increased investments in innovative and more productive industries.

The legislation I am sponsoring today with the distinguished chairman of the Senate Finance Committee will encourage the investments needed to stimulate the innovation and productivity this country needs to revitalize America.

As Mr. Nolan Bushnell, chairman of the Alliance for American Innovation said in his recent testimony before the House Ways and Means Committee:

> The central problem for a truly innovative new business is funding adequate investment capital. The availability of such risk capital is at the very heart of the problem of the innovativeness, productivity, and competitiveness of the American economy.

Mr. President, this legislation will both encourage investment and give more working men and women an ownership stake in America. I urge my colleagues to join us in this legislation.●

By Mr. MOYNIHAN:

S. 3175. A bill to amend the Internal Revenue Code to increase the amount that an artist may deduct when he contributes an artistic composition to charity; to the Commitee on Finance

CULTURAL HERITAGE PRESERVATION AND ACCESS ACT

● Mr. MOYNIHAN. Mr. President, I am today introducing a bill to reverse a trend that is leading to the accumulation of much of the Nation's emerging cultural heritage in private hands. Our great public cultural institutions, such as libraries, galleries, and museums, long the principal repositories of original works of art, musical scores, manuscripts, prints, photos and letters are rapidly losing out to private collectors. Dr. Daniel Boorstin, the distinguished Librarian of Congress, recently documented an aspect of this problem when he testified that, in the last 10 years, the Library of Congress has received fewer than 50 original manuscripts, compared with 1,200 in the previous decade. A similar diminution has occurred in donations by composers and artists.

In the hands of private collectors, no matter how well-meaning or careful, these works of art incur a significant risk of loss or damage from fire, theft, light, heat, water, and handling. Once damaged or destroyed, these works are lost forever.

A more immediate problem is the loss to the public which cannot obtain the benefits of these works for research, study, general knowledge or pure enjoyment and appreciation of part of our Nation's history.

My bill, the Cultural Heritage Preservation and Access Act, would create incentives for artists and authors to contribute their works to public and nonprofit institutions. It would not create any new tax loopholes or shelters. Rather, it would simply allow the donor to deduct the approximate market value of his or her work less the income tax that would be paid if it were sold. Thus, the contributing artist or author would be as well off—but no better off—under my bill as if his work were sold and the income from that sale, after taxes, were contributed to charity.

This is an equitable approach to a problem that does not readily lend itself to quantification or cost-benefit analysis. For it is impossible to measure the historical and cultural value of having parts of the Nation's emerging cultural heritage made available to the public rather than to a few individuals. One cannot measure in dollar terms the loss, if the collections of the National Gallery of Art or the New York Public Library were accessible only to a few.

Mr. President, I believe this measure addresses a serious problem in an effective, equitable manner, and I urge the support of my colleagues.

I request unanimous consent that the full text of my bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Cultural Heritage Preservation and Access Act of 1980".

SEC. 2. DEDUCTIONS FOR CONTRIBUTING CERTAIN LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.

Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gains property) is amended by adding at the end thereof the following new paragraph—

"(4) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL OR ARTISTIC COMPOSITIONS.—

"(A) QUALIFIED CONTRIBUTIONS.—For an individual who contributes a literary, musical, or artistic composition created by his own efforts to an organization described in section 501(c)(3) (that is exempt from tax under section 501(a)) or to a governmental unit described in section 170(c)(1), the amount of charitable contribution taken into account under this section shall be a percentage of the fair market value of such composition determined according to the applicable table.

"(B) APPLICABLE TABLES.—For purposes of subparagraph (A), the applicable table for—

"(i) married individuals and surviving spouses described in section 1(a) is table 1,

"(ii) heads of households described in section 1(b) is table 2,

"(iii) unmarried individuals described in section 1(c) is table 3, and

"(iv) married individuals described in section 1(d) is table 4.

"TABLE 1

"If the adjusted gross income is over the amount in the left-hand column, but not over the amount in the right-hand column:

	The percentage is:
$0—$10,000	93
10,000—20,000	86
20,000—30,000	81
30,000—50,000	72
50,000—100,000	59
100,000—200,000	47
200,000—500,000	37
500,000—1,000,000	33
1,000,000—	30

"TABLE 2

"If the adjusted gross income is over the amount in the left-hand column, but not over the amount in the right-hand column:

	The percentage is:
$0—$10,000	89
10,000—20,000	82
20,000—30,000	77
30,000—50,000	63
50,000—100,000	48
100,000—200,000	43
200,000—500,000	35
500,000—1,000,000	33
1,000,000—	30

"TABLE 3

"If the adjusted gross income is over the amount in the left-hand column, but not over the amount in the right-hand column:

	The percentage is:
$0—$10,000	88
10,000—20,000	81
30,000—50,000	65
20,000—30,000	75
50,000—100,000	51
100,000—200,000	40
200,000—500,000	34
500,000—1,000,000	32
1,000,000—	30

"TABLE 4

"If the adjusted gross income is over the amount in the left-hand column, but not over the amount in the right-hand column:

	The percentage is:
$0—$10,000	86
10,000—20,000	77
20,000—30,000	69
30,000—50,000	59
50,000—100,000	47
100,000—200,000	39
200,000—500,000	33
500,000—1,000,000	32
1,000,000—	30

"(C) CERTIFICATION REQUIRED.—This paragraph shall not apply unless the individual receives from the donee a written statement that the donated composition represents material of artistic, musical, or literary significance and that the use of such composition by the donee will be related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in section 170(c)(2)(B)).

"(D) CERTAIN LETTERS, MEMORANDUMS, OR SIMILAR PROPERTY PREPARED BY GOVERNMENT OFFICIALS.—This paragraph shall not apply to a contribution by an individual of a letter, memorandum, or similar property that was written, prepared, or produced by or for the individual while he held an office under the Government of the United States or of any State or political subdivision thereof if the writing, preparation, or production of such property was related to the performance of the duties of such office."●

By Mr. MOYNIHAN:

S. 3176. A bill to amend a provision of the Internal Revenue Code dealing with involuntary conversions of broadcast property: to the Committee on Finance.

CONVERSIONS OF BROADCAST PROPERTY

● Mr. MOYNIHAN. Mr. President, the bill I am introducing today is in the nature of a technical amendment to the Internal Revenue Code. I have discussed it with Donald C. Lubick, the Assistant Treasury Secretary for Tax Policy, and Mr. Lubick has no objection to it.

Briefly stated, the bill would permit any taxpayer who has been forced by the FCC to sell a broadcast station or newspaper to use the sales proceeds to buy a newspaper, without being taxed on the transaction.

In the technical language of the Code, the transaction I have just described would be treated as an "involuntary conversion." No capital gains would be "realized" or taxed. Present law treats as an "involuntary conversion" the sale or exchange of a broadcast station or newspaper for a broadcast station, but not for a newspaper. This is section 1071 of the Tax Code.

There are two reasons for the bill. First, section 1071 simply needs updating. It was enacted in 1943 to help the FCC implement a policy of discouraging individuals from owning more than one radio station per city. The thought was that an individual who has been forced by the Government to trade one radio station, or "property," for another should not be taxed on the transaction. Hence, the section says that a taxpayer who has been ordered by the FCC to sell a "property" may defer tax on his capital gains if he acquires a "radio broadcasting station."

In 1956, the IRS did some updating on its own, by announcing that, in future, it would read the term "radio broadcasting station" to include "telecasting." FCC policy had changed. The spirit of the statute required that a transaction involving a television station should be treated as an involuntary conversion, too.

FCC policy has changed once again. The agency has ordered the family that owns the daily newspaper and television station in Watertown, N.Y. to sell one or the other of these properties. The family has decided to part with the TV station, but it wants to invest the proceeds from the sale in another newspaper. The spirit of section 1071 requires that it be allowed to do so, without being taxed immediately on its capital gains. But the 1940's language of the statute cannot be stretched that far. Congress did not foresee during World War II that the FCC would take an active interest in media ownership on such a broad scale.

Second, unless the Tax Code is amended, the results it produces will sometimes seem perverse and unfair. In 1978, the IRS was presented with the mirror image of the Watertown case. A taxpayer proposed to exchange a newspaper for a television station. Revenue ruling 78-269 said the transaction would be an "involuntary conversion."

I submit that the tax treatment in such cases should not turn on the order in which assets are exchanged. The test, rather, should be whether the taxpayer has been forced by the FCC to sell and whether the assets he proposes to swap are sufficiently similar in kind.

If a television station and a newspaper are to be considered similar in some cases, they should be considered similar in other cases, as well. I am merely proposing that we be consistent.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.—Subsection (a) of section 1071 of the Internal Revenue Code (relating to gains from sale or exchange to effectuate policies of the FCC) is amended by striking the term "radio broadcasting stations" in the first sentence of such subsection and inserting in lieu thereof "radio or television broadcasting stations".

Such subsection also is amended by striking the term "radio broadcasting station" in the second sentence and inserting in lieu thereof "radio or television broadcasting station, or newspaper."

SEC. 2.—The amendments made by this Act shall take effect on the date of enactment.●

By Mr. TOWER:

S. 3179. A bill to amend Title 10, United States Code, to make certain information available to the Armed Forces for military recruiting and related national security purposes; to the Committee on Armed Services.

MILITARY RECRUITING INFORMATION ACT OF 1980

● Mr. TOWER. Mr. President, I wish to introduce legislation today that will assist our military recruiters in their efforts to obtain those volunteers who are best qualified to serve in our Nation's Armed Forces.

This bill, entitled the Military Recruiting Information Act of 1980, is intended to remedy one of the problems which has historically frustrated the efforts of military recruiters.

This bill will authorize the Secretary of Defense to collect high school directory information for confidential use by military recruiters. Our recruiters consider these directories to be their single best source of potential enlistees. In the past, confusion over the interpretation of such laws as the Federal Educational Rights and Privacy Act has hampered recruiters in their efforts to acquire directory information.

While FERPA proscribes only the public dissemination of directory information (without parental approval), it does not prohibit the confidential distribution of that information. This bill will make clear that use of directory information by recruiters will be confidential and that such cooperation between educational officials and recruiters is strongly encouraged by the Federal Government.

Much has been said recently about the quality of personnel our military has been able to recruit. The inability to attract a sufficient number of high school graduates has forced our services to accept large numbers of recruits from the lower mental categories. Such a compromise reduces the effectiveness of our Armed Forces and jeopardize our national security.

The measure I am proposing today is designed to strengthen our Armed Forces. If it is the will of the Nation that we be defended by a force of volunteers, then it is the duty of the legislators to provide our military the means to reach and attract those volunteers. I urge my colleagues to support this important measure.●

By Mr. HELMS (for himself, Mr. GOLDWATER, and Mr. MCCLURE):

S. 3181. A bill to provide for the reinstatement of the dollar as a gold reserve currency, to stabilize the value of the dollar, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOLD RESERVE ACT OF 1980

Mr. HELMS. Mr. President, today, I offer a bill which would dramatically reform our Nation's monetary system.

My bill would provide for restoration of the dollar as the premier world currency.

The bill would provide for the removal of politics and manipulation from the monetary system.

The bill would provide for relative price stability—an end to inflation.

The bill would make the dollar as good as gold.

Mr. President, the Gold Reserve Act of 1980 provides for a new gold standard designed to meet the needs of our complex economy and designed to take our Nation into the next century with growth and stable prices.

The Gold Reserve Act of 1980 is the monetary equivalent of supply-side, classical economics—the economics of growth, jobs, and stable prices.

We must put an end to inflation. The American working man cannot survive more of the same old Keynesian medicine that made America's economy sick in the first place. The American economy cannot survive; the Nation itself is threatened.

The United States is the only nation that can provide a reserve currency—one that holds its value. The U.S. dollar is now sadly, a second-class currency. U.S. inflation helps feed international inflation and leads to the disruption of every economy in the West. We undermine the values of civilization by not stopping this insanity.

We undermine the very foundations of the family, the church, schools, communities, and social institutions.

Why a gold standard? The answer to that is simple: It works. The hysteria of the inflationists, when they berate gold, reveals that they either do not understand the gold standard concept or inflation is a part of their game plan.

The Gold Reserve Act of 1980 provides that the Federal Reserve System administer monetary policy so as to provide for stable prices. This is accomplished by strictly limiting the authority of the central bank to manipulate the monetary base.

My proposal specifies that the marketplace will determine the "prices" of gold—the number of dollars per ounce. This will be done through a transition period of 6 months following enactment of the bill. During that period, the Federal Reserve would take no action to affect the money supply. The Treasury would announce that, after 6 months, it would stand ready to buy and sell gold at the average free market price of the last 5 business days at the end of that period.

From then on, the price of gold would be fixed. The Federal Reserve would then be required to keep the quantity of gold within a specific range as a percentage of the monetary base—the outstanding currency, and central bank member reserves. The target level of gold would be present gold stocks of 265 million ounces. The present monetary base is approximately $165 billion. The target gold reserve level would depend on the value of the U.S. gold stocks as a percentage of the monetary base.

It is my intention to ask a broad spectrum of economists, bankers, businessmen and others for their views on this bill. I will be prepared to make what modifications seem proper and I will reintroduce the bill on the first day of the next Congress.

I am indebted to Prof. Arthur Laffer, author of the paper, "The Reinstatement of the Dollar: The Blueprint," for his work in outlining the way that the new gold standard would be effectively and beneficially adopted by our Nation. The paper incorporates many concepts contained in the U.S. proposals offered at the Nairobi meeting of the International Monetary Fund and printed in the Economic Report of the President submitted in 1972.

Mr. President, the present, patchwork monetary system is staggering along without any clear hope of survival. Indeed, the most likely case is more inflation—more destruction of the monetary system.

That is what inflation is. It is the destruction of the money—the crumbling of the value of the dollar.

Inflation destroys the ability of the U.S. dollar to serve as money. It removes two of the three functions of money. Inflation means that the dollar no longer serves as a store of value. Inflation also means that the dollar no longer serves as a standard of value. Today, the dollar only serves as a medium of exchange, a unit of account that is good for today's transaction only at today's value. Tomorrow, the dollar will be worth less.

We can no longer use the dollar as a standard of value because of its changing value. As a result, there is no way that judgments can be made about relative prices over time. In other words, how can we judge the relative value between a 1980 model Chevrolet and a 1960 model Chevrolet? We cannot use their original purchase prices. Well, of course, we could have an economist calculate the depreciation of the value of the dollar in the past 20 years, and we would come up with a figure which would say that the $10,000 Chevrolet is really only a fraction of that amount when measured in 1960 dollars. Then we can compare the relative merits based on 1960 dollars. This price in 1960 dollars versus that price in 1960 dollars.

The great cost, difficulty, awkwardness of this process means that it is simply not done in almost all transactions. It means that the sovereign individual in the marketplace has lost one of the most important tools of making rational economic judgments—historical prices. It means that the inability of the individual to make rational judgments distorts the market. It delivers the wrong signals to producers. It means that there will be less goods and services available.

Today, the faltering present monetary system is being blamed on everything except the monetary authority. The present Federal Reserve System policies seem based on the principle that the monetary policy must accomplish things more than maintaining the value of the currency. The present Fed seems to think that its most important duty is to finance Federal deficits.

The present Federal Reserve System seems under the impression that it must hold down the Treasury Funds rate before elections: I point to the fact that in recent weeks, money supply has increased by an unconscionable rate of over 17 percent per year.

In other words, the Federal Reserve System today is taking actions as if it were being run by either fools or knaves. If, as one Fed Governor said, they cannot do anything about the money supply, then they should resign for incompetence. If, on the other hand, they are administering policy in view of the election events, then they are guilty of violating a trust and should not hold office.

But the Governors on the Board of the Federal Reserve System are politically appointed, and confirmed by the Senate. It is not surprising that they act in such a way as to accommodate their political sponsors. They are all too clearly, mortal men.

What should be clear is that men should not be given such vast powers over the money system. Certainly, the power to corrupt the dollar is a corrupting influence itself.

What should be clear is that the Federal Reserve Act must be replaced with legislation which would make the political appointees subject to an iron rule to maintain the value of the currency. That is the intent of my bill—its basic purpose.

Mr. President, on August 18, I asked that portions of Prof. Arthur Laffer's paper be printed in the RECORD. Because of its length, I will not ask that it be incorporated into my remarks today. Those interested in reviewing this important document should refer to page S. 11043 of the RECORD of August 18, which contains portions of the Bulletin of the Institute on Money and Inflation—the public policy research organization which has done so much to put forth classical economics, and the merits of gold in the monetary system.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD along with the text of the Gold Reserve Act of 1980.

There being no objection, the bill and the summary were ordered to be printed in the RECORD, as follows:

S. 3181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Gold Reserve Act of 1980".

FINDINGS

SEC. 2. The Congress finds that—

(1) maintenance of the value of the dollar is necessary for the economic independence and security of the individual and the family;

(2) monetary policy should provide for price stability, thus assuring maintenance of the value of the dollar;

(3) monetary policy is not a proper or effective tool for reaching economic or social goals, other than assuring price stability;

(4) the destruction of the value of the dollar through chronic inflation is caused by monetary policy;

(5) the failure to contain inflation demonstrates that discretionary monetary policy must be tempered by a monetary standard;

(6) failure to maintain the value of the dollar has led to international economic disorder;

(7) experience in other countries as well as in the United States, over long stretches of time, has shown that a gold monetary standard has superior ability to maintain the value of currency; and

(8) a gold standard can provide a monetary system that maintains price stability in a growing economy.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "standard price of gold" means the average price of gold bullion at New York for immediate delivery prevailing during the five business days ending on the 180th day after the date of enactment of this Act, as determined and proclaimed by the Secretary of the Treasury, except that if a gold holiday is proclaimed under the provisions of section 7 of this Act, the standard price of gold then in effect shall cease to apply, and the "standard price of gold" shall mean the average price of gold bullion at New York for immediate delivery prevailing during the five business days ending on the 90th day after the proclamation of such gold holiday as determined and proclaimed by the Secretary of the Treasury;

(2) the term "gold reserves" means the value, at the standard price of gold, of the aggregate amount of gold held by the Federal Reserve banks or held by the Treasury in custody for such banks;

(3) the term "monetary base" means the aggregate of liabilities (excluding capital accounts) of the Federal Reserve banks;

(4) the terms "upper reserve limit" and "lower reserve limit" means 175 per centum and 25 per centum, respectively, of the target reserve quantity;

(5) the term "gold holiday" means the 90 days following proclamation of such holiday by the Board of Governors of the Federal Reserve System pursuant to section 7 of this Act; and

(6) the term "target reserve quantity" means that total value of gold, at the standard price of gold, which bears the same proportion to the monetary base as gold reserves bore to the monetary base on the 181st day after approval of this Act or, if a gold holiday shall have been proclaimed, on the 92d day after proclamation of such holiday.

TRANSFER OF GOLD RESERVES

SEC. 4. Upon the enactment of this Act, the gold certificates issued and outstanding under the provisions of section 2(a) of the Gold Reserve Act of 1934 (31 U.S.C. 441) shall be cancelled and every right, title, interest, and claim of the United States to the gold represented by such certificates shall pass to and are hereby vested in the several Federal Reserve banks holding such certificates. All gold so transferred, not in the possession of the Federal Reserve banks, shall be held in custody for the banks and delivered upon the order of the Board of Governors of the Federal Reserve System. The Secretary of the Treasury shall take such action as may be necessary to assure that such gold shall be so held and so delivered.

REVALUATION OF GOLD RESERVES

SEC. 5. Any increase or decrease in gold reserves due to a change in the standard price of gold shall be credited or debited to a special capital account to be established on the books of account of the Federal Reserve banks, but no credit balance shall be distributed to any stockholder or to the United States.

GOLD PURCHASES AND SALES

SEC. 6. (a) Each Federal Reserve bank shall sell gold on demand at a price equal to 100 7/10 per centum of the standard price of gold, and shall accept in payment therefor only Federal Reserve notes, whether issued by itself or another Federal Reserve bank, or drafts on reserve accounts or other deposits held by it.

(b) Each Federal Reserve bank shall buy gold when offered to it at a price equal to 99 3/10 per centum of the standard price of gold, and shall issue in payment therefor only Federal Reserve notes or deposit credits in that bank.

(c) Nothing in this section shall be deemed to require any Federal Reserve bank to buy or sell gold in any quantity less than that quantity having a value of $10,000 at the standard price of gold, except as provided in section 10 of this Act.

(d) The provisions of this section shall become effective on the 182d day after the approval of this Act.

RESTRICTIONS ON CHANGES IN THE MONETARY BASE

SEC. 7. Notwithstanding subsections (b) and (c) of section 12A of the Federal Reserve Act (12 U.S.C. 263 (b) and (c)) or any other provision of law, the monetary base—

(1) shall not be permitted to increase during any period in which gold reserves are less than 75 per centum of the target reserve quantity;

(2) shall be decreased by 1 per centum per month during any period in which gold reserves are less than 50 per centum of the target reserve quantity;

(3) shall be increased by 1 per centum per month during any period in which gold reserves are more than 125 per centum of the target reserve quantity; and

(4) shall be increased by 2 per centum per month during any period in which gold reserves are more than 150 per centum of the target reserve quantity.

GOLD HOLIDAY; PROCLAMATION; PROHIBITED ACTIONS

SEC. 8. (a) If gold reserves become less than 25 per centum, or more than 175 per centum, of the target reserve quantity, the Board of Governors of the Federal Reserve System shall proclaim a gold holiday.

(b) Upon proclamation of a gold holiday under subsection (a), the standard price of gold then in effect shall cease to apply, and a new standard price shall be determined in accordance with section 3(a) of this Act.

(c) Notwithstanding any other provision of law, during the period of any gold holiday proclaimed under subsection (a)—

(1) no Federal Reserve bank shall purchase gold for, or sell gold from, its gold reserves; and

(2) the monetary base shall not be permitted to increase or decrease by more than 1 per centum from its value at the time the gold holiday is proclaimed.

RULES AND REGULATIONS

SEC. 9. The Board of Governors of the Federal Reserve System shall prescribe rules and regulations to carry out the provisions of this Act other than section 9.

COINAGE

SEC. 10. The Secretary of the Treasury shall mint and issue gold coins of .900 fineness in such denominations and of such sizes and weights, but not less than one-fourth of an ounce, as he determines to be appropriate to meet public demand. Coins minted under this section shall be subject to the requirements of section 3517 of the Revised Statutes (31 U.S.C. 324), and shall bear such other patriotic designs, symbols, or inscriptions as the Secretary determines to be appropriate.

REPEAL OF EXISTING LAWS

SEC. 11. (a) Sections 5, 6, and 7, and the last sentence of section 15 of the Gold Reserve Act of 1934 (31 U.S.C. 315b, 408a, 408b, 444) are repealed.

(b) Section 11(n) of the Federal Reserve Act (12 U.S.C. 248(n)) is repealed.

SECTION-BY-SECTION SUMMARY OF THE GOLD RESERVE ACT OF 1980

Section 1. Short Title. "Gold Reserve Act of 1980".

Section 2. Findings. Maintenance of the value of the dollar is the sole proper goal of monetary policy. A gold standard is necessary to success in such policy.

Section 3. Definitions.

"Standard price of gold"; "gold reserves"; "monetary base"; "upper reserve limit" and "lower reserve limit"; "gold holiday"; "target reserve quantity".

Section 4. Transfer of gold reserves. All gold certificates evidencing gold held by Treasury as reserve for Federal Reserve System are cancelled, and the ownership of all the gold so evidenced reverts to the Federal Reserve, upon enactment. This exactly reverses the action taken by the Gold Reserve Act of 1934.

Section 5. Revaluation of gold reserves. When U.S. gold reserves are transferred to the Federal Reserve and valued at market (instead of, as at present, being valued at the artificial price of $42.22/fine troy ounce), there will be a substantial increase in Federal Reserve assets. To balance this on the other side of the books, a capital account is established which cannot be distributed to member banks holding Federal Reserve stock.

Section 6. Gold purchases and sales.

(a) and (b). Provide for sale and purchase, respectively, of gold by the Federal Reserve banks, on demand, payments to be made only in Federal Reserve notes or drafts on Federal Reserve liabilities (such as reserve accounts). Prices of transactions are set at 7/10 of one percent on each side of the standard price of gold, which is essentially the market price of gold for immediate delivery in New York in the week before resumption of gold transactions under this Act.

(c) Federal Reserve banks shall not be required to deal in quantities of gold of value less than $10,000, except for gold coins.

(d) Resumption of gold transactions will occur on the 182nd day after enactment of this Act.

Section 7. Restrictions on changes in the monetary base. The Federal Reserve System will be required to expand or contract the aggregate of its liabilities (thereby, through bank reserves, expanding or contracting the money supply) whenever the value of the gold reserves deviates substantially from the target reserve quantity. This target is set to maintain the same percentage of gold backing for Federal Reserve liabilities (including Federal Reserve notes and reserve accounts) as obtained on the day before resumption of gold transactions under this Act. Full discretion is allowed if gold reserves are between 75% and 125% of the target; the base may not be increased if reserves fall below 75% and must be decreased by 1% per month if they fall below 50% of the target. If reserves are above 125% of target, the monetary base must be increased 1% per month, and they must be increased by 2% per month if reserves are above 150% of the target.

Section 8. Gold holiday; Proclamation; Prohibited actions.

(a) If gold reserves deviate beyond 25% or 175% of the target, the Board of Governors of the Federal Reserve System is required to proclaim a gold holiday.

(b) During a gold holiday, for a period of 90 days, there will be no transactions in gold, and then a new standard price of gold will be established and gold transactions resumed on the 92nd day. The purpose of this provision is to prevent the entire economy from having to adjust, through inflation or deflation, to some extraordinary occurrence affecting the underlying supply or demand for gold For example, discovery of the cyanide process for recovery of gold meant that the "natural" price of gold should decline. There is no economic purpose to having the entire monetary base and the economy adjust to this, so this provision would permit establishment of a new price standard.

(c) During the period of a gold holiday, there would be no gold transactions and the monetary base would not be permitted to vary by more than 1% from its value at the beginning of the period. Thus, the gold price will be established by the market and not be affected by government monetary actions.

Section 9. Rules and regulations. The Board of Governors of the Federal Reserve System is granted the usual authority to precribe rules and regulations to carry out the Act.

Section 10. Coinage. Provides for gold coinage in sizes and weights to meet public demand, such coins to be determined by the Secretary of the Treasury, but not in size less than ¼ ounce.

Section 11. Repeal of existing laws. Repeals various parts of the Gold Reserve Act of 1934 that are inconsistent with the present Act, and section 11(n) of the Federal Reserve Act (pertaining to authority of the Secretary of the Treasury to seize gold).

By Mr. ROTH (for himself and Mr. Ribicoff):

S. 3182. A bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes; to the Committee on Governmental Affairs.

INTERNATIONAL TRADE AND INVESTMENT REORGANIZATION ACT

● Mr. ROTH. Mr. President, today I join my colleague, Senator Ribicoff, in introducing a bill to establish a Department of International Trade and Investment. This bill is a bipartisan effort to place us firmly on record supporting the creation of a single executive branch agency with primary responsibility for international trade and investment matters.

I have strongly advanced the establishment of a trade department for many years. Today's bill is a modified version of S. 377, which we introduced earlier this year, and reflects the structural changes that have taken place within the executive branch as a result of the President's Reorganization Plan No. 3 of 1979.

Mr. President, the bill that Senator Ribicoff and I are introducing reflects our view that, despite the best efforts of able leaders in the executive branch, the reorganization of trade functions is not working. Bits and pieces of the foreign trade apparatus are still scattered around the Federal Government. As in the past, with this administration and with those that preceded it, each bureaucracy still formulates its own foreign trade policies in the vacuum of a narrow set of bureaucratic interests. As in the past, all too often a unified, Government-wide position, in the best interests of the United States as a whole, never emerges.

The executive branch restructuring appears to have been little more than a shell game, where vital functions have been moved from agency to agency, but where no clear mandate has surfaced to make aggressive international trade and investment a national goal. Instead of consolidating trade responsibilities in one single agency whose leader has the President's ear, the reorganization has created a two-headed monster. We have got rivals, instead of a well-coordinated engine for new economic growth. For example, the U.S. Trade Representative negotiates trade policy, while the Commerce Department implements that policy.

Import relief functions are still scattered throughout our agencies, in Commerce, in the U.S. International Trade Commission and in the Trade Representative's office. Statistical functions related to trade are still split among Commerce, the USITC and elsewhere. Some issues continue to fall between the cracks, and others, like international investment, get short shrift.

The United States continues to be the only major economic power without a Government department or ministry with primary responsibility for foreign trade. Our successful trading partners have shown us that, if we are going to compete—and compete effectively—in today's rapidly changing and increasingly interdependent world, we must become properly organized.

Mr. President, we are seeing the effects of our refusal to organize for trade. Right now, the United States is confronting one of the greatest challenges in our economic history.

To put it bluntly, the United States is no longer No. 1 in manufacturing trade. We are losing our competitive capability and world leadership role.

We can see our economic decline in persistent negative trade balances. It is a sad fact that we make most of the report that July's trade deficit had slowed to $1.85 billion, one of the lowest monthly deficits in years.

Yet, July's deficit represented the 15th consecutive month the United States bought more from foreign countries than we sold to them. We may see a $35 to $40 billion merchandise trade gap for this year alone, bringing our total deficit in the trade of goods for the past 3 years to $100 billion.

We can all imagine what $100 billion deficit is doing to the value of the dollar and to our economic prestige and bargaining strength abroad.

A Department of International Trade and Investment, in and of itself, will not correct the balance of trade deficit. It will, however, establish a better framework for dealing with that and other problems. The Department of Trade we envision would comprise a trade policymaking apparatus that is cohesive instead of fragmented, dynamic and aggressive instead of sluggish and reactive, and coordinated instead of chaotic.

The Roth-Ribicoff International Trade and Investment Act would streamline the trade and investment policymaking process by consolidating agencies already existing and in place. It would incorporate the Office of the U.S. Trade Representative and the international trade and investment functions of the Department of Commerce into one Department. Treasury's U.S. Customs Service and smaller elements of the International Trade Commission would also be included, while the Export-Import Bank and the Overseas Private Investment Corporation would be semiautonomous units within the Department.

As in our earlier bill, this legislation would not create a new bureaucracy; nor would it increase the size of the President's Cabinet. One Cabinet level office, the U.S. Trade Representative, would be subsumed into the Department. The legislation would authorize no new regulatory power. Rather, it would create a one-stop shop for trade inquiries, a central focus for international negotiation, administration, regulation and overall policymaking.

If we are going to have a first-rate trade policy, we need a first-rate governmental apparatus standing behind it.

Mr. President, Senator RIBICOFF and I agree that this bill should focus attention on the need for a coordinated governmental structure that promotes trade. In addition, it should serve as a vehicle for discussion over the months to come, a period when we should think long and hard about organizing to compete in an increasingly complex and challenging world trading environment.

Mr. RIBICOFF. Mr. President, I join today with the Senator from Delaware (Mr. ROTH) in introducing the International Trade and Investment Reorganization Act. This legislation consolidates the major trade and investment functions of the Federal Government in a single Cabinet level department.

Since we were thirteen colonies, international trade has been important to the people of the United States. Yankee traders on Yankee Clippers carried American manufactured and agricultural products to every continent. Many chapters of American history describe American diplomatic and military efforts to secure the freedom of the seas for our ships. Our earliest representatives abroad were often commercial representatives.

During the last three decades many new chapters have been added to the economic history of the United States. We now live in a world where the politics of international trade and investment are as important as the politics of international boundaries and military strategies. It means that ecopolitics and petropolitics rival geopolitics to govern the affairs of men and nations.

The present organization of the international economic responsibilities of the Federal Government handicaps the United States from effectively responding to the many challenges of the new international economic order. While the Federal Government today includes a number of departments and new agencies to deal with contemporary problems, many of the trade and investment functions have remained untouched for more than 150 years.

A Cabinet level Department of International Trade and Investment is vital to insure the economic well-being of the United States. The persistent deficit in our balance of payments is one indication that this country is not realizing its full export potential. The primary reason for this legislation is that an effective trade department means increased exports and economic security for people.

More than at any other time in our history, exports and developing world markets is the basis of the employment of tens of thousands of workers. We now export about one-sixth of everything grown or manufactured. The product of 1 out of 3 acres under cultivation makes a positive contribution to our trade balance. Both exports and imports, and international investment, total on an annual basis more than one-third of a trillion dollars.

Although U.S. exports have never been higher, imports are also breaking all previous totals. The persistence of massive trade deficits is a threat to our own economic security and the stability of the international trading system. The fragmentation of trade functions among at least 10 agencies seriously undermines our efforts to increase exports and reduce the trade deficit.

This legislation would establish a new executive Department for International Trade and Investment. The Secretary of the Department would have the responsibility to develop and coordinate official policy to promote international trade. These responsibilities would include export promotion, the negotiation of international trade and investment agreements and treaties, the negotiation of commodity and sector agreements, and the participation in interagency consultations to develop economic policies and recommendations affecting the vitality and productivity of the domestic economy. A trade department would include the Office of the U.S. Trade Representative, now in the Executive Office of the President; the international trade, investment, and export promotion functions of the Department of Commerce; the international trade responsibilities of the Department of State; the U.S. Customs Service; the Export-Import Bank; certain functions of the International Trade Commission; and the Overseas Private Investment Corporation.

Last July, in conjunction with implementation of the Multilateral Trade Negotiations, Congress approved a modest trade reorganization. In effect for just 1 year, the results of this reorganization cannot be fully assessed. It divided nonagricultural trade responsibilities between the Department of Commerce (renamed the Department of Trade and Commerce) and the U.S. Trade Representative. The renamed Commerce Department was given operational authority over the countervailing duty and antidumping statutes. In matters of establishing trade policy, the USTR was given the prerogative to make policy recommendations directly to the President as Chairman of the Interagency Trade Policy Committee.

The list of critical issues in international trade before the executive branch and Congress is rapidly expanding. They directly affect our trade relations with the European Community; Japan; China; the newly industrialized countries such as South Korea, Taiwan, Hong Kong; and the developing world. Because the management of U.S. trade policy is still decentralized, U.S. businesses are required to consult with upward of a half dozen U.S. agencies and departments.

For example, a company with products for international markets must secure statistical data for the Census Bureau, possible financing from the Export-Import Bank, export licenses from both the Commerce and State Departments, and if trade with nonmarket economies is involved, additional information from the Departments of Commerce and State on East-West Trade. While it is official policy to develop the export potential of thousands of U.S. companies which do not sell abroad, the array of Federal trade offices, departments, forms, and existing laws are in themselves a barrier to U.S. exports. For small and medium size businesses, this disorganization of U.S. trade functions imposes additional costs and time delays which hamper our competitive position. Both the Federal Government and American business must be able to respond to new developments and market opportunities in international trade.

The interagency mechanism is an inadequate framework in which to develop U.S. trade policies. Bureaucratic jurisdictional rivalries often overshadow the substantive trade issues. We must work to develop a coordinated policy affecting import laws and regulations as well as for export promotion. Without proper coordination at home, U.S. trade negotiations will be unable to project a credible American negotiating position in Geneva, Brussels, and at international conferences.

The countries of the industrialized West and Japan within the coming months will seek to fully implement the agreements negotiated under the MTN. The multilateral and bilateral agreements which form the basis of the Trade Agreements Act of 1979 are complex. If the United States is to benefit from these agreements, we must vigorously work to protect our rights under these agreements. Without the experienced personnel to represent our interests, we will be unable to effectively utilize the trade offices of the General Agreement on Tariffs and Trade to monitor implementation of the MTN Codes internationally and the settlement of disputes arising from these agreements.

But the United States will not be able to derive the full benefits of the MTN unless the trade functions of the Federal Government are better organized.

A new department is not a quick fix to eliminate the trade deficit. It will not signal a new era of American competitiveness. But it will, for the first time, enable trade specialists to identify and correct a number of deficiencies in U.S. trade policies.

First, one Cabinet Secretary will have the responsibility of reporting to the President the Nation's trade posture. He will have the responsibility to insure that the resources of the Federal Government are directed to best manage trade issues.

Second, a trade department could better integrate statistical and analytical functions to identify import trends and export opportunities. There would be a stronger basis upon which to develop comprehensive international trade strategies.

Third, a department will guarantee that the trade and investment factor in foreign policy decisions is given full consideration.

Fourth, a department would provide a central source for information on export opportunities, financing, and banking and customs laws and procedures for American businessmen.

Fifth, a trade department would make a significant contribution to the long-term objective of revitalizing American industry. We cannot be competitive internationally unless we are innovative and productive at home. Working to stimulate exports and manage international investment, a trade department would highlight those sectors of the American economy which have a competitive advantage and technologies which strengthen our export performance.

This legislation is intended to serve as the basis for a congressional review of our present trade organization. Hearings were held on this proposal during the 95th and 96th Congress. It is my view that the restructuring outlined in this bill represents the surest path to effectively utilizing the resources now scattered throughout the Federal Government.

During hearings on the proposals before the Committee on Governmental Affairs, there was a broad consensus that the existing structure was defective. Some progress was made during the concluding phase of the MTN to centralize trade responsibilities in the USTR and the Department of Commerce. This modest reorganization mandated in section 1109 of the Trade Agreements Act of 1979 and submitted to Congress as an Executive order, was only a first step.

Trade reorganization is a bipartisan issue. Leaders of both parties, in both the House and Senate, have introduced trade reorganization bills. There is a deep concern that Congress must take further action. International trade is no longer a matter of interest restricted to a few Senators. Trade is big business and important to every State. The United States must have the trade organization to meet the challenges and complexities of a world economic system defined by interdependence and tough competition.

Mr. ROTH. Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Trade and Investment Reorganization Act".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress declares that the general welfare requires an effective and efficient coordination, development, and implementation of policies of the United States relating to the international trade and investment interests of the people of the United States.

(b) The Congress finds that such coordination is lacking and that to achieve such coordination it is desirable to establish a Department of International Trade and Investment to coordinate and promote the international trade and investment interests of the United States.

ESTABLISHMENT OF DEPARTMENT

SEC. 3. (a) There is established at the seat of government an executive department to be known as the Department of International Trade and Investment (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of International Trade and Investment (hereinafter referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department a Deputy Secretary and an Under Secretary, each of whom shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary (or during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of Deputy Secretary, the Under Secretary, an Assistant Secretary, or the General Counsel, according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Deputy Secretary and the Under Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time. There shall be in the Department five Assistant Secretaries and a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate and who shall perform such functions, powers, and duties as the Secretary shall prescribe.

FUNCTIONS

SEC. 4. The Secretary shall—

(1) exercise leadership under the direction of the President in international trade and investment matters;

(2) develop and coordinate the policies of the United States for the promotion of beneficial international trade relationships in industrial, agricultural, and service products, and raw materials;

(3) negotiate agreements relating to the international trade of the United States and assert and protect the rights of the United States under such agreements;

(4) seek fair and equitable international trade relationships which do not discriminate against the commerce of the United States;

(5) protect American industry, agriculture, and labor from unfair or injurious foreign competition;

(6) develop, in cooperation with other appropriate executive agencies, trade monitoring systems that encourage and permit timely reaction and adjustment to increased volumes of imports;

(7) seek and promote new trade and commercial opportunities for American industrial, agricultural, and service products in foreign countries;

(8) assist small businesses in developing export markets;

(9) assist in financing international trade between the United States and foreign countries;

(10) develop long-range programs to promote American international economic policy interests abroad in cooperation with other relevant executive agencies;

(11) secure reliable access at competitive prices to supplies of raw materials which are produced in foreign countries;

(12) develop and implement policies of the United States toward foreign investment;

(13) administer the United States Customs Service and maintain the tariff schedules of the United States;

(14) mobilize and facilitate the participation of American private capital and skills in the development of the economic and social progress of friendly developing countries and areas;

(15) administer export controls as provided by the Congress; and

(16) perform such other functions with respect to trade and investment matters as the President or the Congress may designate.

TRANSFERS

SEC. 5. (a) There are transferred to the Secretary—

(1) all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President;

(2) all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of such Department relating to—

(A) commercial affairs and busines activities, including export promotion;

(B) international investment policy;

(C) negotiation and implementation of bilateral and multilateral commercial agreements and trade agreements with foreign countries, including commodity agreements;

(D) export promotion;

(E) foreign investment;

(F) export administration;

(G) international commerce, including East-West trade and the administration of quotas or special tariff treatment;

(H) foreign trade zone; and

(I) the administration of all laws designed to protect the United States against unfair competition in international trade and investment;

(3) all functions of the Secretary of the Treasury relating to—

(A) international trade and investment; and

(B) the United States Customs Service; and

(4) all functions of the International Trade Commission relating to—

(A) tariff nomenclature and statistical reporting under the Tariff Schedules of the United States; and

(B) the administration of section 337 of the Tariff Act of 1930, as amended.

(b) The United States Customs Service is transferred to the Department, and all functions of the Commissioner of Customs are transferred to the Secretary.

(c) The Export-Import Bank of the United States is transferred to the Department, and there are transferred to the Secretary all functions of the Chairman of the Board of such Bank.

(d) The Overseas Private Investment Corporation is transferred to the Department.

GENERAL PROVISIONS

SEC. 6. (a) In carrying out the purposes of this Act, the Secretary shall—

(1) promote and undertake the development, collection, and dissemination of technical, statistical, economic, and other information relative to domestic and international trade and investment;

(2) consult and cooperate with other executive agencies in gathering information regarding the status of international trade and investment in which the United States or other countries may be participants; and

(3) consult and cooperate with State and local governments and other interested parties, including, when appropriate, holding informal public hearings.

(b) In carrying out his functions, the Secretary shall consult, exchange information, and carry on joint planning, research, and other activities with the Secretary of the Treasury, the Secretary of State, the Secretary of Agriculture, and the heads of such other executive agencies as the Secretary finds appropriate.

(c) The Secretary shall jointly study, with the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, and the heads of such other executive agencies as the Secretary deems appropriate, how Federal policies and programs can ensure that international trade and investment systems most effectively serve both national and international economic needs. The Secretary shall include in the annual report required by section 9 of this Act an account of the studies and activities conducted under this subsection, including any legislative recommendations which the Secretary determines desirable.

(d)(1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision thereof, to make special statistical studies relating to international trade and investment, and special studies relating to other matters falling within the functions of the Department, to prepare from the records of the Department special statistical compilations, and to furnish transcripts of the studies, tables, and other records of the Department upon the payment of the actual cost of such work by the person or body requesting it.

(2) All moneys received by the Department in payment of any cost or work under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. Such moneys may be used, in the discretion of the Secretary, for the ordinary expenses incidental to the work or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States, to such extent or in such amounts as are provided in advance in appropriation Acts.

TRANSFER MATTERS

SEC. 7. (a) the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Export-Import Bank, the Overseas Private Investment Corporation, the United States Customs Service, and the Office of the United States Trade Representative, and of the officers and offices thereof, are transferred to the Secretary.

(b) So much of the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions transferred by section 5 of this Act as the Director of the Office of Mangement and Budget shall determine shall be transferred to the Secretary.

(c) The transfer of personnel pursuant to subsections (a) and (b) of this section shall be without reduction in classification or compensation for one year after such transfer.

(d) In any case where all of the functions, powers, and duties of any office or agency are transferred pursuant to this Act, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

(e) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the department, agency, or authority exercising such functions, powers, and duties immediately preceding their transfer, and the actions of the Secretary in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department, agency, or authority.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) In addition to the authority contained in any other Act establishing functions which are transferred to the Secretary, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this Act and to prescribe the authority and duties of such officers and employees.

(b) The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed $100 per day for individuals unless otherwise specified in an appropriation Act.

(c) The Secretary is authorized to provide for participation of military personnel in carrying out the functions of the Department. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate Secretary, pursuant to cooperative agreements with the Secretary.

(d) (1) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under the authority of subsection (c) shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, nor shall any member so appointed, detailed, or assigned be charged against any statutory limitation on grades or strengths applicable to the Armed Forces. A person so appointed, detailed, or assigned shall not be subject to direction by or control by his armed force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(2) The Secretary shall report annually in writing to the appropriate committees of the Congress on personnel appointed and agreements entered into under subsection (c) of this section, including the number, rank, and positions of members of the armed services detailed pursuant thereto.

(e) The Secretary may, in addition to the authority to delegate and redelegate contained in any other Act concerning the exercise of the functions transferred to the Secretary in this Act, delegate any of his residual functions to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions as he may find appropriate, and may make such rules and regulations as may be necessary to carry out his functions.

(f) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary to the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund.

(g) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) (1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(i) The Secretary is authorized to appoint, without regard to the classification and civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(j) (1) The Secretary is authorized to enter into contracts, to such extent or in such amounts as are provided in appropriation Acts, with educational institutions, public, or private agencies or organizations, or persons for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that any institution, agency, organization, or person with which he expects to enter into any contract pursuant to this subsection have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the functions of the Department, participate in coordinating all research initiated under this subsection, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the Department, and other Federal agencies.

(3) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he finds pertinent on the research carried out pursuant to this section.

(4) Nothing in this subsection amends, modifies, or repeals any provision of law administered by the Department which authorizes the making of contracts for research.

ANNUAL REPORT

SEC. 9. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 10. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective—

(A) under any provision of law amended by this Act; or

(B) in the exercise of duties, powers, or functions which are transferred under this Act;

by (i) any department or agency, any functions of which are transferred by this Act, or (ii) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary (in the exercise of any function transferred by this Act), by any court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect before any department or agency or any component thereof, the functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary (in the exercise of any function transferred to him by this Act), by a court of competent jurisdiction, or by operation of law.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect actions commenced prior to the date this Act takes effect, and

(2) in all such actions proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(d) No action, or other proceeding commenced by or against any officer in his official capacity as an officer for any department or agency, the functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency of which functions are transferred by this Act, or by or against the United States or such official capacity shall abate by reason of the enactment of this Act. Causes of action and actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) If before the date on which this Act takes effect, any department or agency, or any officer thereof in his official capacity, is a party to an action, and under this Act—

(1) such agency is transferred to the Department; or

(2) any function of such department, agency, or officer is transferred to the Secretary,

such action shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of the functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency or other authority exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this Act shall apply to the exercise of such functions by the Secretary.

(g) With respect to any function, power, or duty transferred by this Act and exericsed after the effective date of this Act, reference in any other Federal law to any executive agency, officer, or office so transferred or the functions of which are so transferred shall be deemed to mean the Department or the Secretary, respectively.

AMENDMENTS

SEC. 11. (a) Section 19(d)(1) of title 3, United States Code, is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of International Trade and Investment".

(b) Section 101 of title 5, United States Code, is amended by inserting at the end thereof the following:

"The Department of International Trade and Investment.".

(c)(1) Section 5312 of title 5, United States Code, is amended by striking out the item relating to the Special Representative for Trade Negotiations and by adding at the end thereof the following new item:

"Secretary of International Trade and Investment.".

(2) Section 5313 of such title is amended by adding at the end thereof:

"Deputy Secretary of the Department of International Trade and Investment.".

(3) Section 5314 of such title is amended by adding at the end thereof:

"Under Secretary of the Department of International Trade and Investment.".

(4) Section 5316 of such title is amended by adding at the end thereof the following:

"Assistant Secretaries, Department of International Trade and Investment (6).

"General Counsel of the Department of International Trade and Investment.".

(d)(1) The first sentence of section 231 of the Foreign Assistance Act of 1961 is amended by striking out "State" and inserting in lieu thereof "International Trade and Investment".

(2)(A) The second sentence of section 233(b) of such Act is amended to read as follows: "The Secretary of International Trade and Investment shall be Chairman of the Board.".

(B) Such section is further amended by adding at the end thereof the following:

"The Director of the United States International Development Cooperation Agency shall be an ex officio member of the Board.".

(3) Section 233(c) of such Act is amended by adding at the end thereof the following new sentence: "The President of the Corporation shall report to the Secretary of International Trade and Investment.".

(e)(1) Section 3(b) of the Export-Import Bank Act of 1945 is amended by inserting after the first sentence the following new sentence: "The President of the Bank shall report to the Secretary of International Trade and Investment.".

(2) the first sentence of section 3(c) of such Act is amended to read as follows: "There shall be a Board of Directors of the Bank consisting of the Secretary of International Trade and Investment, who shall serve as Chairman, the President of the Export-Import Bank of the United States, who shall serve as Vice-Chairman, the Vice-President of the Bank, and three additional persons appointed by the President of the United States by and with the advice and consent of the Senate.".

(3) The second sentence of such section is amended by striking out "five" and inserting in lieu thereof "six".

SEPARABILITY

SEC. 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 13. (a) This Act shall take effect ninety days after the date on which the Secretary first takes office, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in this Act may be appointed in the manner provided for in this Act at any time after the date of enactment of this Act. Any such officer shall be compensated from the date he first takes office at the rates provided for in this Act. Such compensation and related expenses of any such officer shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.●

By Mr. MAGNUSON:

S. 3183. A bill to amend chapter 32 of title 15, U.S.C. and to provide other inducements against the movement of professional sports franchises; to the Committee on Commerce, Science, and Transportation.

INDUCEMENTS AGAINST THE MOVEMENT OF SPORTS FRANCHISES

● Mr. MAGNUSON. Mr. President, the act I am introducing today would provide certain disincentives to relocation of a professional sports team engaged in organized football, baseball, basketball, or hockey. It expresses a national policy of discouraging any such relocation that would be detrimental to the public interest and dedicated fans in the geographic area where a team presently plays.

Professional sports teams are the source of deep pride to the cities and regions in which they are located. They act as emissaries of their locale, representing the spirit of their fans in their efforts nationally. They provide a form of entertainment and a pastime for dedicated fans, engaged not only in watching the contests but in celebrating victories, commiserating over losses, and incorrigibly defending their favorites against every imaginable derision.

Moreover, the presence of a sports team stimulates economic activity. Jobs, for construction, maintenance, and operation of the stadium, as well as for the team and concessions, are created. Substantial money is invested into businesses near the stadium. In Seattle, for example, the Kingdome and the teams that play there have been a cornerstone of a major urban renovation. For these and for other reasons those cities presently boasting pro sports teams have gone to great lengths to induce their teams to come and to stay where their people can enjoy them.

So-called sweetheart deals are often worked out with a municipality to provide costly facilities and favorable rental terms. Generally, a city wishing to attract a pro team will seek public approval of capital construction bonds to build a stadium as part of the agreement with a team planning to locate in that city. When the stadium is built and in the hands of a city or county agency or municipal corporation, the team occupies its new home at a rent that generally covers only operating expenses and thus returns no compensation to the public for construction.

This large indirect subsidy, without which a team would probably not have come to the city, frees the team of a huge debt it would otherwise have to incur in building a home. A pro sports team thus faces far greater responsibilities to its community than the normal private corporation. The team is in fact vested with a public interest.

Yet these teams, lured by rosy financial prospects elsewhere, often contemplate the potential profits of relocating to other cities than those that they have long looked to for support. This is the problem addressed in the bill I am introducing today. A departing team leaves behind a city of disappointed fans. But it also leaves much more behind. It debilitates supporting trade. Local businesses are left hanging. Constructive city planning can be disrupted. And it can often leave an empty stadium—a stadium usually built at taxpayer expense and often for the very team that is abandoning it.

Unfortunately, the leagues may not be as circumspect about these impacts as the abandoned fans have a right to expect them to be. Professional sports leagues, generally speaking, are partnerships of the member team owners, and they are primarily self-regulating. Among the customary agreements entered into by these leagues is one stipulating for each team a geographic area in which that team has exclusive rights. These territorial agreements can be modified, allowing a team to relocate, only upon the approval of two-thirds or three-fourths of the member-partners of the league.

Despite this requirement, cities anxious to support teams have found themselves robbed by other cities offering sweeter deals, only to have to look elsewhere to replace them—for recent examples, Milwaukee and Seattle in baseball. We find our Nation's Capital, the traditional home of a once legendary baseball team, with none at all today. Pending proceedings will determine whether the Oakland Raiders, a team that has enjoyed 11 consecutive sellout years in Oakland, may move to Los Angeles, in spite of the support Oakland continues anxiously to give. Indeed, this week we read in the newspapers, that a Vancouver, British Columbia, businessman is ready to consummate a purchase of the Seattle Mariners of the American League, and residents of Puget Sound legitimately wonder whether another transfer is imminent.

This act attempts to discourage relocation of pro sports teams while protecting investors from being compelled to continue a franchise in a community where it has been proven economically unfeasible.

First of all, it ties the present exemption of professional sports leagues' broadcasting agreements from the antitrust laws to a new proviso that all revenue derived from broadcasting of contests and exhibitions be divided equally among the teams in the league. In these days of ballooning mass media, the prospect of radio and television revenues may dwarf the gate receipts provided by a loyal home crowd. This provision would neutralize the attraction of a city that might provide greater TV revenues than the city where a team presently plays. This would effectively remove a major incentive for relocation. The act also recognizes the likelihood that cable and pay TV rights promise huge revenues to pro sports teams in the future by including them within the scope of the revenue sharing proviso.

Second, the act prohibits relocation of a professional sports team except upon a showing of one of several specified conditions. If the league disapproved a relocation that would be determinative. If it approved relocation, but the community being abandoned objected, arbitration proceedings would be triggered to specifically determine whether any of the requisite conditions are present. The arbitrator's findings would be subject to review in court. This puts the burden on the team's owners to demonstrate legitimate and sound reasons for moving that outweigh the public interest at stake in the community being vacated. It also leaves to the leagues the initial responsibility of self-regulation. At the same time, this procedure preserves the right of the owners to engage in a profitable enterprise with genuine support from the stadium authority they contract with and from their fans.

Mr. President, I realize that it is too late in the year to realistically expect this bill to pass during this session of Congress. However, it is not too late for the professional sports community—the fans, the owners and the leagues to focus on this issue. While the concepts in this bill are in draft stages, I am asking for comments from the various affected parties on this matter and on this draft bill. I will welcome their comments.

Mr. President, I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3183

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Findings, Policy, and Purpose.

(a) Findings.—The Congress finds that:

(1) Professional sports teams achieve a strong local identity with the people of the city and region in which they are located, providing a source of pride to their supporters.

(2) Professional sports teams provide a valuable form of entertainment where they are presently located.

(3) The public, through a municipal stadium authority—city or county agency, or municipal corporation—generally authorizes capital construction bonds to build the stadium, while the team's lease or use agreement generally sets rent to cover only operating costs of the stadium, without reimbursing the public for construction costs.

(4) Professional sports teams are invested with a strong public interest.

(5) Professional sports leagues are permitted to engage in what is tantamount to a monopoly by exemption from the anti-trust laws, as defined in section 12 of title 15 or in the Federal Trade Commission Act.

(6) Movement of a team beyond its present territory, as agreed to by all the owners of member teams in their league, is generally permitted by the league with the approval of a certain percentage of member owners.

(7) Despite the close association with and support from the people in the territories in which they presently play, teams, from time to time, may be lured to move to new territories without considering any but purely financial reasons.

(b) Policy.—The Congress therefore finds and declares that it is the national policy to discourage relocation of professional sports teams that are supported by their communities.

(c) Purposes.—It is the purpose of this Act—

(1) to provide certain disincentives to relocation of a professional sports team; and

(2) to prohibit changes in a league's territorial agreement except on certain prescribed grounds.

TITLE I—ADJUSTMENT OF BROADCASTING REVENUES

Sec. 101. Section 1 of the Act of September 30, 1961 (75 Stat. 732), as amended (15 U.S.C. § 1291), is amended by:

(a) striking the period at the end of the first sentence and inserting in lieu thereof the following: "Provided that all revenues earned under such a joint agreement be shared equally among the member clubs party to the agreement.";

(b) substituting the word "broadcasting" for the word "telecasting"; and

(c) adding at the end thereof the following new sentence: "For the purposes of this section, the term 'broadcasting' shall include all broadcasting over the air waves—by radio, television, cable television, any form of pay or toll television, or otherwise—of any contests or exhibition of any team which is a member of a league operating under a territorial agreement."

TITLE II—PROFESSIONAL SPORTS TEAMS MOBILITY

Sec. 201. Definitions.

As used in this Act—

(a) The term "person" means any individual, partnership, corporation, or any unincorporated association, or any combination or association thereof.

(b) The term "league" means an association composed of two or more teams engaged in a professional team sport which by agreement have adopted, accepted, or placed in effect rules promulgated by that association for the conduct of such teams and the regulation of contests and exhibitions in which those teams regularly engage.

(c) The term "territorial agreement" means an agreement, contract, rule, course of conduct, or other activity by, between, or among persons conducting, engaging, or participating in any one of the organized professional team sports of baseball, football, basketball, or hockey relating to the right of a team to operate within a specific geographic area.

(d) The term "stadium" means the physical facilities within which the professional sports team regularly plays.

Sec. 202. Mobility Limitation.

No person or league may change the territory assigned to any professional sports team organized to play football, baseball, basketball, or hockey, by any territorial agreement unless at least one of the following conditions is present:

(a) one or more of the parties to the stadium lease agreement fails to comply with a provision of material significance to the agreement, and such noncompliance cannot be remedied within a reasonable period of time;

(b) the stadium, in which the team wishing to move presently plays, is inadequate for the purposes of properly and competitively operating the team, and the stadium authority demonstrates no intent to remedy such inadequacies; or

(c) the team has incurred a continuous loss of income for at least three years preceding notice of intent to move.

SEC. 203. NOTICE AND RELOCATION REQUIREMENT.

(a) Any person wishing to relocate a professional sports team outside the territory to which it is assigned shall furnish notification of intent to relocate to the league, and to the appropriate municipality, at least one year before any such relocation may be approved.

(b) Notification under this section—

(1) shall be in writing;

(2) shall be posted by certified mail or personally delivered to the league and to the appropriate municipality; and

(3) shall contain—

(A) a statement of intention to relocate, the new location, and the reason therefor;

(B) full documentation supporting one or more of the grounds for relocation specified in section 202; and

(C) the date on which the relocation is intended to occur.

(c) At the time of notification and until the petition for relocation is either withdrawn or rejected, the person petitioning for relocation, upon request of the league or the appropriate municipality, shall open for public inspection all financial records necessary to support or to refute the grounds upon which relocation is predicated.

(d) No relocation for which notification has been filed under this section may take place unless—

(1) within one year the appropriate municipality has made no formal objection to the team's proposed relocation; or

(2) the league has approved the team's proposed relocation, and, within one year thereafter, an arbitrator appointed under section 204 of this Act has found in writing that—

(A) the conditions specified in either subsection (a) or (b) of section 202 exists; or

(B) the condition specified in subsection (c) of section 202 exists, and no willing and able purchaser of the team comes forth in a timely manner pursuant to subsection (e) of this section.

(e) In any case where a person petitioning for relocation of a professional sports team under this Act predicates the petition on the grounds specified in section 202 (c), such person must, for a reasonable period of time, offer the team for sale at fair market value to other persons who would keep the team within its present geographic area as designated in the controlling territorial agreement before any such petition for relocation may be approved.

(f) No decision by a league to either approve or disapprove a proposed relocation for which notification has been filed under this section shall be construed to violate the antitrust laws, as defined in section 12 of title 15 or in the Federal Trade Commission Act, as amended.

SEC. 204. ARBITRATION PROCEDURES.

(a) Upon the application of any person petitioning to relocate a professional sports team under this Act, or any affected league, or any municipality presently acting as stadium authority of the petitioner's stadium, any United States district court which, save for this section, would have jurisdiction in a civil action under title 28 arising out of the controversy over the plans to relocate, shall designate and appoint an arbitrator who shall be empowered to make appropriate findings as provided in section 203(d) of this Act.

(b) If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under this Act, the court in which such suit is pending shall stay the trial of the action until such arbitration has been completed in accordance with this Act.

(c) The arbitrator selected, as prescribed in this section, may summon in writing any person to attend before him as a witness and in a proper case to bring with him or them any book, record, document, or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before masters of the United States courts. Said summons shall issue in the name of the arbitrator and shall be signed by the arbitrator, and shall be directed to the said person and shall be served in the same manner as subpoenas to appear and testify before the court; if any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon petition the United States district court for the district in which such arbitrator is sitting may compel the attendance of such person or persons before said arbitration, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the United States.

(d) Pursuant to the arbitrator's findings, any party may petition the district court that appointed the arbitrator for an order confirming the findings, and thereupon the court must grant such an order unless the award is vacated, or modified as prescribed by subsections (e) or (f) of this section. Notice of the petition must be served upon the adverse party.

(e) In any of the following cases the United States court in and for the district wherein the arbitrator's decision was made may make an order vacating the findings upon the application of any party to the arbitration—

(1) where the findings were reached by corruption, fraud, or undue means;

(2) where there was evident partiality or corruption in the arbitrator;

(3) where the arbitrator was guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or

(4) where the arbitrator exceeded his powers, or so imperfectly executed them that definite findings upon the subject matter submitted were not made; or

(5) where the findings are vacated and the time within which the agreement required the findings to be made has not expired the court may, in its discretion, direct a rehearing by the arbitrator.

(f) In any of the following cases the United States court in and for the district wherein the decision was made may make an order modifying or correcting the decision upon the application of any party to the arbitration—

(1) where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the decision;

(2) where the arbitrator has decided upon a matter not submitted to him, unless it is a matter not affecting the merits of the decision upon the matter submitted; or

(3) where the decision is imperfect in matter of form not affecting the merits of the controversy.

(g) Notice of a motion to vacate, modify, or correct a decision must be served upon the adverse party or his attorney within three months after the decision is filed or delivered. If the adverse party is a resident of the district within which the decision was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court. For the purposes of the motion any judge who might make an order to stay the proceedings in an action brought in the same court may make an order, to be served with the notice of motion, staying the proceedings of the adverse party to enforce the decision.●

By Mr. EAGLETON:

S. 3184. A bill to establish a revolving fund to finance short term export credit sales of agricultural commodities produced in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

REVOLVING FUND FOR FINANCING EXPORT OF AGRICULTURAL COMMODITIES

Mr. EAGLETON. Mr. President, it is an accepted fact that the productive capability of the farmers of our Nation far outstrips the demand for agricultural products here at home. And yet, farmers are driven by economic pressures to push their equipment and land to their productive limits. Fixed costs must be spread over more and more acres in order to make ends meet. And with increased acreage in production, it seems the chance of commodity prices attaining a cost of production level declines. It is a vicious circle which entraps farmers and which has made them more dependent today than probably ever before on the continued strength and growth of export markets.

One crucial element in the development and retention of those markets is the availability of adequate amounts of credit for the purchase of U.S. agricultural commodities. Many countries throughout the world, for a whole host of reasons, find it to their advantage to deal directly with the U.S. Government in arranging export financing. If we do not offer that service to them, they will find some other exporter who will.

Over the past few years the availability of direct export credit from the Federal Government has been subjected to the whim of budgeteers who have viewed it as an easy target for reducing Federal outlays. Those who keep the Federal balance sheets have traditionally counted each loan as a direct outlay, thus ignoring the fact that with only minor exceptions every loan is repaid with interest.

What I am proposing today will remove this budgetary cloud from over the head of our direct export credit program. The legislation I am introducing authorizes the creation of a revolving fund to finance short term export credit sales of agricultural commodities. The fund would be capitalized through the appropriations process, thus incurring an initial outlay of Federal dollars. Once capitalized, it would require no additional influx of dollars from the Federal Treasury. As proceeds flow back into the fund, with interest, they would be loaned out again and not count as new outlays. In all likelihood, after the first few years of operation, the amount in the fund would start to grow due to interest payments. These receipts could then be used to increase the direct export credit sales program without incurring any additional Federal expenditure.

I realize that it is too late in this Congress for any action to be taken on this legislation, but I introduce it now so that it can be scrutinized and improved in time for consideration as a part of the 1981 farm bill.

I believe strongly that the time is right for an export credit fund. It can be one more tool to be used to help our farmers continue to expand their exports and in so doing survive the economic battle they are waging.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a(a)) is amended to read as follows:

"(a) (1) (A) There is established in the Treasury a revolving fund to be known as the Agricultural Export Credit Sales Revolving Fund (hereinafter in this subsection referred to as the 'Fund') which shall be available without fiscal year limitation to the Secretary of Agriculture to finance commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years.

"(B) Notwithstanding any other provision of law, the export credit sales program of the Commodity Credit Corporation shall be carried out by the Secretary of Agriculture under the same terms and conditions except as othewise provided in this subsection. The Secretary of Agriculture shall use the Fund to finance export credit sales under the export credit sales program. The facilities of the Commodity Credit Corporation may be used by the Secretary of Agriculture in carrying out the export credit sales program.

"(2) The Fund shall be credited with such amounts as may be provided in appropriation Act, and interest or other receipts on investments of the Fund.

"(3) Export credit sales obligations made out of the Fund in any fiscal year may not exceed the amount of money available in the Fund in such fiscal year for such purpose less a reasonable contingency reserve.

"(4) The Secretary of Agriculture shall submit a report to Congress each year regarding the operation of the Fund. The Secretary shall submit the report at the same time that the Secretary submits the annual budget justification for the Department of Agriculture.".

By Mr. MATSUNAGA:

S. 3185. A bill to provide for an accelerated program of research, development, and demonstration to achieve the early technology applications for advanced batteries technologies for energy storage, and for other purposes; to the Committee On Energy and Natural Resources.

ADVANCED BATTERY RESEARCH DEVELOPMENT, AND DEMONSTRATION ACT OF 1980

Mr. MATSUNAGA. Mr. President, I am today introducing legislation to accelerate the national effort in research, development, and demonstration activities related to advanced battery energy storage systems.

The Advanced Battery Research, Development, and Demonstration Act of 1980 establishes a national goal of demonstrating, by 1984, the capability to supply 100,000 advanced batteries per year to support a larger, self-sustaining electric vehicle market. The bill provides for the introduction of the next generation of batteries currently in the research stage of development, such as the aluminum-air battery, not later than 1985, to permit a further significant growth in electric vehicle acceptance.

In addition to transportation applications, the bill establishes as a national goal, by 1987, the capability to provide 10,000 battery storage systems per year to support rapid penetration of solar power systems into the Nation's electric generation networks. Windpower systems are currently expected to supply only from 15 to 20 percent of the total electricity in a given grid system, while solar-powered systems are generally limited by the availability of sunshine. These renewable technologies should have the potential or supplying all the required energy in a given locality, and this bill is intended to improve this prospect.

This act, furthermore, will foster cooperation in advanced battery research and development among Government, universities, industry and the national laboratories, and would lead to an exportable technology for the United States.

Mr. President, nearly half of the total petroleum we presently consume is used for transportation. Electric vehicles offer a significant opportunity for conserving petroleum by using indigenous energy resources to produce the electricity for charging and recharging their batteries. The lack of advanced battery technology has been the key obstacle to the widespread utilization of electric vehicles, because the available power packages did not have sufficient acceleration, speed and range. The future generations of batteries have the promise to match the performance standards currently offered by the internal combustion engine.

However, Mr. President, I am concerned that we are not providing the necessary support to develop these advanced batteries in a timely manner. A year ago I visited one of our national laboratories and fortuitously was introduced to the aluminum-air battery. This battery, it was explained to me, could propel a five-passenger vehicle for a range of 250 miles on each charge, with driving characteristics, including power and speed, very similar to the conventional internal combustion automobile. Every 2,000 miles, the aluminum plates would need to be replaced, but another attractive feature of the aluminum-air battery is that the benign and purified aluminum compound powder that is formed can be recycled and reformed into aluminum plates. And to top it off, renewable energy, such as photovoltaic cells or wind energy conversion systems, can be used in the recycling process.

Thus, while 10 gallons of gasoline or 200 pounds of synthesized coal, both airpolluting, would be required to power the latest energy efficient American automobile 250 miles, similar performance could be obtained by using only 37 pounds of nonpolluting, recyclable aluminum and 6½ gallons of tap water.

In response to my inquiry as to when we could expect a commercial vehicle prototype of the aluminum-air battery, the program scientists estimated that the current funding level of $2½ million dollars annually, the target year would be 1988. If the funding were doubled, however, they felt that the length of time could be cut in half, thus paving the way for early commercialization of this advanced battery in this decade.

The aluminum-air battery, although a personal favorite of mine, is only one of a number of attractive prosepects. Dr. Edward Frieman, Director of the Office of Energy Research, has indicated to me that he thought that the lithium batteries showed the greatest promise. In any case, there is every reason to believe that energy storage, and battery development in particular, can receive a much needed boost in advancement by the provisions of my bill.

This year we Americans will be spending something on the order of $150 billion for transportation fuel. It is contemplated that the program to be established by my bill will require the expenditure of one-tenth of a billion dollars by the Federal Government during each of the next 5 fiscal years.

Mr. President, the Iraq-Iran conflict is only an early-warning that severe dislocations could occur to the world supply of petroleum. It is imperative that we proceed with an aggressive program of battery development so that we can reduce our dependence on imported oil in the earliest possible time frame. Hopefully, the Energy and Natural Resources Committee will schedule hearings this year during the lameduck session to facilitate swift passage of this very first energy storage bill ever introduced in the Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Advanced Battery Research, Development, and Demonstration Act of 1980".

FINDINGS

SEC. 2(a) The Congress hereby finds that—

(1) the continued importation of large amounts of foreign petroleum is a threat to the national security of the United States;

(2) over half of the petroleum consumed in the United States is used in transportation;

(3) substantial amounts of petroleum and natural gas are used by electric utilities for meeting peak demand;

(4) electric vehicles offer a significant opportunity for conserving petroleum by using solar, coal and other domestic energy resources to produce the electricity for charging their batteries;

(5) the lack of advanced battery technology is the key obstacle to electric vehicles with sufficient acceleration, speed, and range;

(6) energy conservation can be increased through load-leveling in electricity demand by use of advanced batteries for energy storage;

(7) a significant limitation on the use of direct sunlight as an energy source for electricity is the unavailability of advanced batteries;

(8) it is in the national interest to accelerate efforts to develop and commercialize advanced batteries;

(9) it is an appropriate role for the Federal Government to accelerate research, development, and demonstration activities in advanced battery technologies in order to hasten their introduction into general commercial use.

PURPOSE

SEC. 3(a). It is therefore declared to be the policy of the United States and the purpose of this Act to accelerate the national effort in research, development, and demonstration activities related to advanced battery energy storage systems. Further, it is declared to be the policy of the United States and the purpose of this Act that the objectives of such program shall be—

(1) to promote an aggressive research and development program to perfect an advanced battery system suitable for each identifiable energy storage need;

(2) to establish a national goal of demonstrating, by 1984, the industrial capability to supply 100,000 advanced batteries per year to support a larger, self-sustaining electric vehicle market;

(3) to achieve at the earliest practicable time, but not later than the year 1985, the demonstration of commercial capability of other advanced batteries, such as the aluminum-air battery, to permit a further significant growth in electric vehicle acceptance;

(4) to establish as a national goal the operation, by 1985, of the first advanced battery system into commercial load-leveling and demand-reducing applications;

(5) to establish as a national goal by 1987 the industrial capability to provide 10,000 battery storage systems per year to support rapid penetration of solar power systems into the Nation's electric generation networks;

(6) to foster cooperation in advanced battery research and development among government, universities, industry, and national laboratories;

(7) to promote the broad participation of domestic industry in the advanced battery program;

(8) to foster the technological expertise in the United States which will promote export markets for advanced batteries and for products incorporating advanced batteries such as electric vehicles;

(9) to promote greater public interest and acceptance of electric vehicles and solar energy through the introduction of reliable, cost-competitive advanced batteries; and

(10) to complement the intent and goals of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act, P.L. 94-413 as amended.

(b) It is contemplated that the research, development, and demonstration program established by this Act will require the expenditure of a total of $500,000,000 by the Federal Government during the next five fiscal years.

DEFINITIONS

SEC. 4. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "cell" means an electrochemical device, consisting of two electrodes and an electrolyte, which converts chemical energy directly to electrical energy;

(3) The term "battery" means (1) a group of cells which can be restored to original fully charged state by the passage of an electrical current from an outside source or by the application of heat or light, or (2) an electrochemical device for the conversion of energy from renewable sources to electricity;

(4) The term "advanced battery" means a battery which offers major increases in energy density, power density, range, cost, or recharging cycles for a given unit weight compared to conventional, commercially available lead-acid batteries.

RESEARCH AND DEVELOPMENT ACTIVITIES

SEC. 5(a). The Secretary shall assure that the current supporting research program is expanded to include at a minimum—

(1) scientific investigations of electrochemical phenomena and reactions;

(2) examination of new electrolyte systems and ion conducting materials;

(3) examination of new candidate electroactive materials; and

(4) development of diagnostic techniques for elucidating reaction kinetics and mechanisms.

(b) The Secretary shall assure that the current program of exploratory investigations is expanded to include at a minimum—

(1) performance of half-cell and full-cell evaluations of new candidate battery systems;

(2) determination of life limiting mechanisms;

(3) definition of performance potential;

(4) evaluation of cell design variations; and

(5) development of high energy density, primary batteries, such as the aluminum-air battery.

(c) The Secretary shall accelerate development and engineering activities—

(1) to refine cell designs for mass production;

(2) to select and evaluate lowest cost materials of construction;

(3) to optimize cell reliability and performance capability;

(4) to construct multi-cell batteries;

(5) to develop necessary battery control systems;

(6) to determine and correct battery failure modes; and

(7) to estimate ultimate battery cost.

DEMONSTRATIONS AND TECHNOLOGY APPLICATIONS

SEC. 6. (a)(1) The Secretary shall, at the earliest practical time, conduct field tests and demonstrations of each advanced battery, and in preparation therefor, he shall—

(A) define specific field test missions;

(B) construct prototype battery systems;

(C) evaluate performance in mission environments;

(D) define limitations and pursue corrective actions; and

(E) establish final product design.

(2) Pursuant to paragraph (1), the Secretary shall conduct demonstrations of each advanced battery suitable for use in electric utility load-leveling applications at the Battery Energy Storage Test Facility and other electric utility sites.

(b) The Secretary shall ensure that activities in the advanced batteries program are fully coordinated with the activities under the Electric and Hybrid Vehicle Research, Development and Demonstration Act, Public Law 94-413 as amended, and in conducting his responsibilities, the Secretary shall give special emphasis to opportunities to utilize the Secretary's authorities under Sections 7 and 10 of such Law to foster demonstration and production of advanced batteries which result from successful research and development activities.

(c)(1) In conjunction with the activities under this section the Secretary shall establish technology applications programs to foster manufacturing process development, cost reduction programs, and pilot line operations.

(2) Pursuant to paragraph (1) the Secretary shall develop a technology applications program for each advanced battery which is proven to be suitable for use in conjunction with dispersed applications of renewable energy sources, such as wind energy and photovoltaic systems.

(3) In developing these programs the Secretary shall ascertain the most effective forms of Federal assistance for achieving the purposes of this Act and report to the Congress his findings no later than January 1, 1983.

CRITERIA FOR PROGRAM ACTIVITIES

SEC. 7. The Secretary shall assure that his activities under Sections 5 and 6 are consistent with the following criteria:

(1) the fabrication, operation, and maintenance costs of advanced battery energy storage systems shall be minimized;

(2) programs established under this Act shall be conducted with the express intent of bringing advanced battery costs down to a level so that systems using such batteries are cost competitive with alternatives available to users;

(3) priority shall be given in the conduct of programs established under this Act to those projects in which cost-sharing funds are provided by private, industrial, agricultural, or government entities or utilities; and

(4) to the extent that the Secretary is limited by the availability of funds to carry out the objectives of this Act, priority, but not exclusive emphasis, should be given in the early years of the programs to activities under section 5 and in the later years of the programs to activities under section 6.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 8. (a) The Secretary shall prepare a comprehensive program management plan for the conduct of the research, development, and demonstration activities under this Act. Such plan shall include at a minimum—

(1) a presentation of the program strategy which will be used to achieve the purposes of this Act;

(2) a five-year program implementation schedule, including identification of detailed milestone goals, with associated budget and program resources requirements;

(3) cost-benefit analyses of the activities and programs authorized under this Act;

(4) further basic research needed to solve problems which may inhibit or limit development of advanced battery energy storage systems; and

(5) an analysis of institutional, environmental, and economic considerations which are limiting the utilization of advanced battery technologies.

TECHNICAL PANEL ON ADVANCED BATTERIES

SEC. 9. (a) A technical panel on advanced batteries of the Energy Research Advisory Board shall be established to advise the Secretary on the conduct of the advanced battery energy storage program.

(b)(1) The technical panel shall be comprised of such representatives from domestic industry, universities, government laboratories, and other scientific and technical organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical qualifications of each such representative.

(2) Members of the technical panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The technical panel shall review and may make recommendations on the following items, among others:

(1) the preparation of the five-year program plan prepared pursuant to section 8;

(2) the type of future demonstrating activities needed to meet the objectives of this Act along with their projected completion dates;

(3) the adequacy of participation by universities and industry in the program;

(4) institutional, environmental, and economic factors limiting, or prospectively limiting, efforts to achieve commercial application of advanced battery energy storage systems.

(e) The technical board shall submit to the Energy Research Advisory Board on at least a triennial basis a written report of its findings and recommendations with regard to the advanced battery program.

(f) After consideration of the technical panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary.

REPORTS

SEC. 10. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95-91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(a) modifications to the comprehensive program management plan for implementing this Act;

(b) an evaluation of the state of the advanced battery energy storage program in the United States;

(c) a summary of the findings and recommendations of any report of the Energy Research Advisory Board on advanced batteries;

(d) an analysis of the progress made in commercializing advanced battery technologies; and

(e) suggestions for improvements in the advanced battery program, including recommendations for legislation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There is hereby authorized to be appropriated to the Secretary $70 million for the fiscal year ending September 30, 1982; $85 million for the fiscal year ending September 30, 1983; and $100 million for the fiscal year ending September 30, 1984.

By Mr. DOMENICI:

S.J. Res. 208. Joint resolution to designate the week of December 8, 1980, as "Respiratory Therapy Week"; to the Committee on the Judiciary.

RESPIRATORY THERAPY WEEK

● Mr. DOMENICI. Mr. President, I am sending to the desk a joint resolution which would, if enacted, proclaim the week of December 8, 1980, as "Respiratory Therapy Week."

I believe, Mr. President, that we have been slow in this country to recognize the full significance of occupational hazards which affect a person's ability to breathe. A few years ago, Congress wrestled with the issue of black lung and enacted a major program to meet the needs of its victims. We are now hearing increasing talk about other industrial problems such as brown lung. Last year, I held a hearing in Grants, N. Mex., where we focused on the respiratory diseases which frequently afflict uranium miners. In addition, there are many congenital respiratory diseases which afflict children and seem unrelated to environmental factors.

I believe that this particular health problem has reached the proportions in this country that warrant focusing more attention on it at the national level. I believe that designating the week of December 8 as "Respiratory Therapy Week" will help to publicize this problem and, in doing so, contribute to the ongoing effort to combat these various disorders.

Mr. President, I would urge our distinguished colleagues on the Senate Judiciary Committee to give prompt and favorable consideration to this joint resolution.●

ADDITIONAL COSPONSORS

S. 1480

At the request of Mr. CULVER, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

S. 1608

At the request of Mr. RIEGLE, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1608, a bill to require business concerns which undertake changes of operations to give notice to the Secretary of Labor, and to affected labor organizations, employees, and local governments; to require business concerns to provide assistance, to employees who suffer an employment loss caused by changes of operations; to authorize the Secretary of Labor to provide assistance to such business concerns, and to such affected employees and local governments; and for other purposes.

S. 1964

At the request of Mr. HEINZ, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1964, a bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment through a tax-free rollover account.

S. 2407

At the request of Mr. BELLMON, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2407, a bill to authorize the Secretary of the Army to acquire, by condemnation proceedings or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for the Verdigris River and tributaries project, Oklahoma and Kansas, and the project for the Shidler Reservoir, Salt Creek, Okla.

S. 2809

At the request of Mr. BRADLEY, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2809, a bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled.

S. 2961

At the request of Mr. GOLDWATER, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 2961, a bill for the relief of Viktor Ivanovich Belenko.

S. 3051

At the request of Mr. COHEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 3051, a bill to reform Government management and practices relating to Government contracts.

S. 3145

At the request of Mr. WILLIAMS, the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 3145, a bill to provide homeownership assistance.

S. 3165

At the request of Mr. CHAFEE, the Senator from Rhode Island (Mr. PELL), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 3165, a bill to amend the Trade Act of 1974 to improve the operation of the generalized system of preferences.

S. 3166

At the request of Mr. CHAFEE, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 3166, a bill to postpone the designation of certain recently subdivided articles under the Tariff Schedules of the United States as eligible articles under the generalized system of preferences established by the Trade Act of 1974 until the International Trade Commission has conducted a study of potential market disruption.

SENATE JOINT RESOLUTION 186

At the request of Mr. WARNER, the Senator from Maine (Mr. COHEN), the Senator from California (Mr. CRANSTON), the Senator from Minnesota (Mr. DURENBERGER), the Senator from California (Mr. HAYAKAWA), the Senator from Alabama (Mr. HEFLIN), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Delaware (Mr. ROTH), the Senator from Maryland (Mr. SARBANES), the Senator from New Mexico (Mr. SCHMITT), the Senator from Rhode Island (Mr. PELL), the Senator from Florida (Mr. STONE), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of Senate Joint Resolution 186, a joint resolution designating October 19, 1981 as a day of national celebration of the 200th anniversary of the American victory at Yorktown, Va.

SENATE JOINT RESOLUTION 189

At the request of Mr. STEVENSON, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Joint Resolution 189, a joint resolution to establish a Commission on Presidential nominations.

SENATE JOINT RESOLUTION 193

At the request of Mr. RIEGLE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 193, a joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States.

SENATE JOINT RESOLUTION 196

At the request of Mr. PROXMIRE, the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Joint Resolution 196, a joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day."

SENATE JOINT RESOLUTION 202

At the request of Mr. DOMENICI, the Senator from Massachusetts (Mr. KENnedy) was added as a cosponsor of Senate Joint Resolution 202, a joint resolution to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week."

AMENDMENT NO. 1960

At the request of Mr. Huddleston, the Senator from Kentucky (Mr. Ford), the Senator from Nevada (Mr. Cannon), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of amendment No. 1960 intended to be proposed to S. 1763, a bill to amend the Immigration and Nationality Act to improve the efficiency of the Immigration and Naturalization Service, and to establish a different numerical limitation for immigrants born in foreign contiguous territories, and for other purposes.

SENATE CONCURRENT RESOLUTION 133—CONCURRENT RESOLUTION RELATING TO DEATH SENTENCE IMPOSED ON CERTAIN KOREANS

Mr. TSONGAS (for himself, Mr. Levin, Mr. Hatfield, Mr. Kennedy, and Mr. Cranston) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 133

Whereas the United States has consistently supported the Republic of Korea, not only with our national treasury but also with the lives of American soldiers, in order to establish and protect a nation in which democracy and freedom could flourish;

Whereas today the United States contributes to the defense and social welfare of the Republic of Korea;

Whereas the present leaders of that country have shown a disregard for democratic processes and for the civil rights of its citizens;

Whereas judicial proceedings in the Republic of Korea in the case of Kim Dae Jung and 34 other intellectual, political, and religious leaders, have led to a sentence of death for Mr. Kim and harsh prison sentences for the others;

Whereas Kim Dae Jung and the others were tried in a manner which has been characterized by the international legal community as lacking recognized standards of fairness;

Whereas if the sentence of execution of Kim Dae Jung and harsh sentences of other co-defendants are carried out, it will contribute to the alienation of the Government from the people of the Republic of Korea and will make it increasingly difficult to justify to the American people the continuation of a close relationship between the United States and the Republic of Korea: Now therefore, be it *Resolved by the Senate (the House of Representatives concurring)*,

(a) That it is the sense of the Congress that the President should urge the Government of the Republic of Korea—

(1) to fulfill its stated commitments to the democratization of the political life of South Korea; and

(2) to reconsider the process by which Kim Dae Jung and other critics of the Government have been tried and convicted.

(b) The Congress hereby expresses its intention, if the Government of the Republic of Korea carries out these harsh sentences, to review the present terms of the relationship between the United States and the Republic of Korea.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President, with the request that he further transmit a copy to the Government of the Republic of Korea.

Mr. TSONGAS. Mr. President, for myself and for my distinguished colleagues, Mr. Levin, Mr. Kennedy, Mr. Cranston, and Mr. Hatfield, I am introducing a sense of the Congress resolution urging the Government of the Republic of Korea to fulfill its commitment to the democratization of the Republic of Korea and to ask that the death sentence imposed upon Kim Dae Jung and the harsh prison sentences imposed upon his 23 codefendants be reversed.

As I am sure my colleagues know, Kim Dae Jung, the leading member of the South Korean political opposition, was sentenced to death on September 16 by a military tribunal. He was charged with violating the sedition and national security laws—charges which the State Department characterized as being "pretty far-fetched." Before the trial, the man who was almost elected President of South Korea was kept in an underground cell, often stripped of his clothing, interrogated 15 hours a day for 60 days. He was not allowed until the trial to see a lawyer of his own choosing or the members of his family. At the trial itself, Amnesty International and the International Commission of Justice were denied observer status.

The sentencing of Kim Dae Jung has brought home to me the need to question publicly the future direction of our special relationship with South Korea. And it has awakened in many Americans new and serious doubts about the extent of our military and economic commitment to that country. We learned only a short time ago in another part of Asia that stability and security must rest on more than military authoritarianism. They depend as well on the support of the people.

It is my belief that Kim's trial and sentencing symbolizes a broader tragedy in South Korea. After President Park's assassination last October, there was much promise of a gradual institution of a democratic process. Even after Chun Doo Hwan assumed control of the army in a coup de main in December, the transition government of that country seemed to be taking important if faltering steps toward a greater level of citizen participation. In the long run, political vitality could have provided greater long-range security against the north. Then the contrast between the political systems on either side of the 38th parallel could not have been clearer to the Korean people and to the world.

But then came the martial law decree of May 17 and the virtual takeover of the government by General Chun. Since that time, Chun has closed down the popularly elected National Assembly, purged thousands of civil servants, ousted over 1,800 executives of state-run banks and corporations. Leading politicians of all political parties have been arrested. All political dissent has been stifled. The news media has been placed under tight military censorship. Official American statements of disapproval of Chun's actions have been deliberately distorted and twisted into apparent endorsements, thereby contributing to rising anti-American feeling.

I am not yet prepared to suggest the particular course we should adopt in dealing with the new South Korean Government. But we must make it clear that if the South Korean Government carries out these harsh sentences, we are prepared to reassess the present terms of our relationship with South Korea. The future of democracy in South Korea depends on it.

Mr. President, I urge my colleagues to support this resolution.

It is interesting, having grown up, at least, into some political awareness, during the Korean war, when the United States went into Korea, and the argument was we were saving democracy, well, if you look at the Korean state at that time and the people we were associated with, that argument had validity.

As time has gone on, the difference between freedom in North Korea and South Korea has continued to diminish. It is my concern that eventually from an objective, outside observer point of view, the human rights enjoyed in one country will not be significantly different from human rights enjoyed or not enjoyed in the other.

I hope that the Government in South Korea will understand how seriously we feel about this. We do not need another Somoza, we do not need another Shah, we do not need another Batista.

It is my hope, finally, that we will have learned some lessons in this particular case, and the South Korean Government will understand that this is not the United States of the 1950's, and that they will be far more sensitive to the issues raised here today.

Mr. President, I ask unanimous consent that a statement by Senator Levin be printed in the Record.

The PRESIDING OFFICER (Mr. Pryor). Without objection, it is so ordered.

Statement by Senator Levin

Mr. Levin. Mr. President, we are introducing this sense of the Congress resolution today in order to put the United States on record with regard to events that are transpiring in South Korea.

Two weeks ago, Kim Dae Jung, the former leader of the opposition party, was sentenced to death by a military court. Twenty-three other critics of the Chun regime were sentenced with harsh prison terms. These sentences culminated a judicial process which was devoid of internationally accepted standards of fairness. These tragic occurences point to a growing lawlessness of the regime in South Korea. Dissent is called sedition and freedom of expression termed destabilizing.

It would be disturbing enough if these unfortunate trends were taking shape in *any* country of the world today. But it is far more disturbing to us, as Americans, that they are taking place in South Korea, a nation where thousands of Americans have died over the past thirty years so that freedom and democracy could thrive. This resolution urges the Government of South Korea to fulfill its commitment to democratic rule and to reassess the process by which it tries and sentences dissenters, for the sake of its own people and to vindicate the sacrifices which our country has made on its behalf.

Continued repression by the regime in Seoul can only destabilize it and endanger American support and cooperation. It is not with any bitterness that I say that or that we include a similar phrase in this resolution; it is simply a fact of life which need be recognized if close relations between us are to continue. Democratic rule though, in South Korea is more than desirable, even more than an expression of American concern over human rights. It is essential to the peace and welfare of Korea, Asia, and the world.

SENATE RESOLUTION 532—RESOLUTION RELATING TO AN ASSISTANT SECRETARY FOR EMERGENCY PREPAREDNESS

Mr. JAVITS (for himself and Mr. Percy) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. Res. 532

Resolved, That whereas the United States faces a continuing threat of oil supply interruptions in the Persian Gulf of which the war between Iraq and Iran is but one example,

And the United States is as yet unprepared to manage a major supply disruption in such a way as to ensure continuing production by U.S. manufacturers, transportation of food and other basic commodities, transportation for the American worker, and heating fuel for homes and offices,

And the President of the United States is by law charged with allocation and regulation of energy supplies during an energy emergency,

And the Department of Energy has not established an office with the authority to coordinate the management and implementation of the President's emergency authorities but, rather, has numerous officials in numerous divisions charged with such responsibilities,

And investigations by Committees of the House and Senate of the U.S. have found that no adequate emergency response plans exist in the federal government or in the States.

Resolved, That it is the sense of the Senate that the Secretary of Energy should immediately establish an Office of the Assistant Secretary for Emergency Energy Preparedness responsible for planning, coordination and implementation of the emergency energy response programs of the Department of Energy.

U.S. ENERGY CRISIS MANAGEMENT

Mr. JAVITS. Mr. President, on behalf of the Senator from Illinois (Mr. Percy) and myself, I submit a resolution expressing the sense of the Senate that the administration show a new seriousness of purpose regarding the preparation for energy crises by asking us to establish a high-level office to coordinate energy emergency response.

The escalating war between Iraq and Iran could engulf the West's oil supply routes and is destroying some of the world's key oil facilities. But this event should come as no surprise, for every expert in or out of government to come before the Foreign Relations or Energy Committees of the Congress has told us that a supply interruption in this unstable area is not just possible but indeed, likely. However, the United States is as unprepared for a disruption in energy supply as we were in the 1973 oil embargo or in 1979 when Iranian oil was cut off.

Mr. President, we must prepare for a major disruption in our oil supply, and the way to do it is to organize for it, and that is the purpose of this resolution. I hope very much that the leadership will allow us to call it up and have it acted on, so urgent do I consider this situation to be and so dangerous the situation in the Persian Gulf today.

In hearings the day before yesterday, September 22, before the Permanent Subcommittee on Investigations of the Senate Governmental Affairs Committee on which I serve, Deputy Secretary of Energy John Sawhill outlined the dismal facts. There is no response plan in place for any level of supply interruption. There is no decision as to when to use the standby rationing plan or when to implement alternative mandatory energy savings plans, none of which have been designed yet. There is no mechanism in place to protect the American consumer from skyrocketing energy prices in response to curtailed world markets. As we all know, there is less than 15 days' supply of oil imports retrievable from our strategic petroleum reserve which has nonetheless, until this very week, received no oil for over a year. Further, a report released yesterday by the House Committee on Government Operations found a lack of Federal support for State energy emergency planning.

But, Mr. President, the most dismaying fact presented to our subcommittee is that there is no one high-level official in charge of organizing and, if necessary, directing the Government's energy response programs. The most stark evidence of the administration's lack of direction or seriousness of purpose is that the Department of Energy has more than 1 dozen offices reporting to more than 1 dozen middle-grade officials all working on aspects of response planning. Yet the only mechanism proposed to pull all these together is a Cabinet-level committee convened after an emergency starts and chaired by the Secretary of Energy. Such a body could hardly fill the need for decisive, effective and fast emergency response when the critical moment comes.

Mr. President, the staff of the Governmental Affairs Committee has assembled a list of Department of Energy offices which are not responsible to the newly created Contingency Planning Office but which have important functions in an emergency. We found exactly 12 such offices scattered throughout the Department, but Deputy Secretary Sawhill informed the committee that we had probably missed a few and that he would let us know for our records what the Department believes the number to be once it has completed its own inventory.

Mr. President, the Nation can no longer wait around hoping nothing happens to our oil. Something has happened before and it will happen again. Not only must we get our reserve full so we cannot be threatened by oil blackmail, but also, we must also put someone with some authority in charge of insuring that we are ready to counter the threat when it becomes reality again. Furthermore, we must redesign all our plans for response because the policies used in the last shortage proved to exacerbate rather than elleviate our gasoline lines.

The resolution I am introducing simply tells the Secretary of Energy to stop wasting time and to entrust an Assistant Secretary directly responsible to him with the task of safeguarding our vital national interest in being ready for the worst. This will not automatically give us a workable emergency energy plan, nor an oil reserve, but without such leadership we will surely not have these essential tools.

Mr. President, the distinguished Senator from Illinois is not only cosponsor of this legislation but has chaired hearings as part of the Governmental Affairs Committee Permanent Subcommittee on Investigations inquiry into the Nation's preparedness for energy emergency. Today, his thoughtful essay on the subject appeared in the editorial pages of the New York Times. I ask unanimous consent that it be printed in the Record for the serious consideration of the Senate and the public.

There being no objection, the essay was ordered to be printed in the Record, as follows:

To Meet an Oil Crisis

(By Charles Percy)

Washington.—Since the 1973 Arab-Israeli war, experts on energy and the Middle East have been warning that a major disruption of the international oil supply is a near-certainty sometimes in the 1980's. When it comes, I hope we're ready for it. If not, we may watch the price of oil double or triple again, and I don't think the world economy can afford $100-a-barrel crude.

The war between Iraq and Iran, which has led both sides to curtail oil production, is yet another reminder of Western vulnerability. Together, they account for more than 10 percent of world oil exports. If we lost all this production for any length of time, oil-consuming nations would face a shortage comparable in size to the disruption caused by the Iranian revolution. Because of today's oil glut, President Carter and Energy Department officials say we are not likely to see a repetition of last year's gas lines and skyrocketing prices. They may be right, but don't count on it.

The war could spread. Even if it does not, America could feel the effects of any shortage. We import no oil from Iran and little from Iraq, but many of the countries that do (among them France, Brazil, several Communist-bloc nations) are not parties to international emergency-sharing agreements. The world oil market has enough slack to absorb only about half of the lost oil, so these nations may bid hard for supplies that normally would come to us.

Although oil-industry inventories are at record levels, they offer the nation no significant defense against an oil cutoff unless we can be sure they would be drawn down in an emergency. One lesson of the 1970's is that inventories tend to increase during shortages as businesses hedge against an uncertain future. Unless the Energy Department wants to order industry reductions, which I don't think it does. all we can count on are the 92 million barrels in the strategic reserve. The President may not want to empty that reserve very quickly, given its small size.

In energy policy, as in the military, the best way to keep crisis from our door is to look ready, and be ready, to respond. The truth is that we are not well prepared for a major disruption of supply. It is time to change this.

First, we must adopt a strategy to restrain world crude-oil prices. The best way is to fill the strategic reserve at the fastest rate that market conditions permit. Until the reserve is much larger than it is now, our best hope for keeping order in the spot market is to join with other oil-consuming nations in a coordinated oil-purchase and inventory-drawdown plan. America should be prepared to act independently if necessary. The Energy Department should work with industry to ensure that private stocks would be reduced voluntarily during a shortage. It may be necessary for the Government to set an example by preparing to release strategic-reserve oil early in an emergency.

Second, we need realistic measures to cut gasoline demand quickly. The emphasis must be on speed of implementation, not fine-tuning. Let's recognize that gas rationing cannot be carried out fast enough to matter; by the time the Energy Department distributed coupons, the unabated shortage might push oil prices high enough to make the coupons worthless. Likewise, we should acknowledge that procedural snarls may keep Federal and state emergency conservation programs from coping quickly with the shortage. By contrast, if Congress approved a standby gas tax (with all revenues rebated to the public), the President could put this plan into effect soon after a shortage hit. In the meantime, if necessary the Energy Department could cut consumption significantly through its license-plate plan limiting each motorist to one gas purchase a week.

Third, we must lay plans to work our way out of a shortage that may last much longer and be far more severe than any in the 1970's. If we did a little homework, we could surprise ourselves—and OPEC—with the speed with which we could take advantage of our domestic energy resources. From weatherizing homes to making fuels from biomass to "cracking" more gasoline and home heating oil from each barrel of crude, industry and government could cooperate to get the job done. An emergency might even lead to the breakthroughs many technologies need. What we need is a "can-do" attitude throughout the nation and a Government willing to set priorities and stick with them.

Whether or not Iraq and Iran pose any immediate threat to our oil supplies, we should seize upon this crisis and finally do something about energy security. If a shortage does come, let's make it the last one.

Mr. JAVITS. Mr. President, I hope the dangers of the war in the Persian Gulf will so heighten awareness of our unpreparedness that this Resolution may be passed in these next few days.

SENATE RESOLUTION 534—RESOLUTION TO PROMOTE ALTERNATIVE NONANIMAL TEST PROCEDURES

Mr. DURENBERGER submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. Res. 534

Whereas, Federal regulations require the Draize Rabbit Eye Irritancy Test for predicting human ophthalmic response in pesticides and household products; and

Whereas, since development of this painful test over thirty-five years ago there has been enormous scientific innovation while the Draize Test remains basically unchanged; and

Whereas, the reliability of the Draize Test has been called into question;

Now therefore be it resolved, it is the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure.

Mr. DURENBERGER. Mr. President, for decades the Federal Government has supported animal research which benefits the health and welfare of the human race. This research is necessary and helpful. Most researchers and institutions strive to give the animals the most comfortable existence possible and understand the difference between legitimate animal research and animal cruelty. However, there is one test performed on albino rabbits which raises legitimate questions. That test is the Draize eye irritancy test, and its impact as well as its effectiveness have been increasingly questioned.

Under the auspices of the EPA and/or Consumer Product Safety Commission most of our household products, cosmetics and pesticides receive research on their safety when coming in contact with our skin and/or eyes. When one reads that a product may irritate the eyes, one can assume the Draize eye irritancy test has been performed. Presently, rabbits are placed in a cage and then harnessed so they cannot move. Drops of chemicals such as detergents, oven sprays, bleaches, cosmetics, are placed on the rabbit's eye. Records of the amount and severity of the damage to the rabbit's eye are documented. If the chemical is harsh, the animal can go blind or suffer severe ulcerations of the eye. These tests cause great pain to the animals, which are not anesthetized. The results of the test are also questionable.

Within the last few years both Government and industry have expressed concern over the use of this test. I want to encourage such concern. The other evening I was watching the television show 20/20, which featured a segment on animal breeding, tending and testing. One of the issues raised was the continued justification for the Draize test. I was embarrassed at the way Federal officials responded to questions posed by the reporter. For example, the reporter asked why the Federal Government utilizes such a painful test, and why the animal was not given pain medication. The official responded that "No one thought of it." He said that there was no "outside pressure." Private industry has moved toward humanizing its testing procedures without such "outside pressure", and I see no reason why Government cannot do the same. But if outside pressure is required, it should certainly be provided.

On April 30, 1980, Senator Moynihan entered further information on the gruesome impact of this test in the Record. Because of this congressional interest, the initiatives taken by the cosmetic industry and the interest of the general public, I am today introducing a resolution which will send a clear message to the Federal agencies involved to "commit research time and funding to study, develop and validate alternative nonanimal testing procedures." The resources are available. Thirty-five years ago the Draize test was probably necessary and innovative. Today it is inhumane.

There are alternatives to the Draize test, and there is every reason to believe those alternatives could replace the test over a period of time. In view of the questions being raised over the accuracy of the test, there is no commercial or humanitarian reason to delay that "fazing out" process.

I ask that my colleagues join in cosponsoring this resolution.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1981

AMENDMENT NO. 2610

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD (for himself, Mr. Danforth, Mr. Jackson, Mr. Boschwitz, Mr. Metzenbaum, Mr. Cranston, Mr. Pell, Mr. Levin, and Mr. Javits) submitted an amendment intended to be proposed by them to the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

Mr. HATFIELD. Mr. President, I offer this amendment on behalf of myself and Senators Danforth, Jackson, Boschwitz, Metzenbaum, Cranston, Pell, Levin, and Javits.

We offer this as a way to keep the Holocaust Council alive and have it move on its objective and its goal for which it had been assigned by law. It relates, of course, Mr. President, to this Holocaust Council.

I understand it has the support also of OMB and Chairman Yates of the House Interior Appropriations Subcommittee.

The purpose of the amendment is to appropriate $722,000 for fiscal year 1981 for the U.S. Holocaust Memorial Council. This is the funding level authorized in H.R. 8081, which has now passed the House and Senate by unanimous consent and is expected to be signed by the President shortly. This measure had 40 Senate cosponsors.

The Holocaust Council has come about at the recommendation of the President's Commission on the Holocaust Memorial. The Senate representatives ably serving on the Commission include Senators Danforth, Jackson, Pell, Stone, and Boschwitz.

Mr. President, there is no way to undo the tragedies of modern history's darkest days nor can we bring back the nearly 11 million human beings who were murdered under the Nazi reign of terror. To the families and friends of all the victims, and especially to the world's Jewish community, who were the largest single target of annihilation and ethnic extermination. Few words of comfort can be offered to ease the overwhelming sense of loss felt even 40 years later.

Our responsibility now lies in keeping alive the memory of those who suffered and perished and to learn the lessons of the past so they will never again be repeated.

The Holocaust Commission recommended to the President and the Congress the need for a living museum/memorial in our Nation's Capital.

The Council, therefore, will be established to plan and oversee the design and construction of a permanent museum to the victims of the holocaust. It is altogether fitting for this memorial to be in the Capital of the country where so many of the survivors fled and established new lives. The United States, too, should be recognized for the significant role it played in the final liberation of the death camps.

The second mandated purpose of the Council is to assist in the development of an annual observance of the days of remembrance of the victims of the holocaust. A number of synagogues, churches and community groups have initiated their own meaningful observances and the holocaust memorial will be charged with the ongoing responsibility of developing and encouraging ways to commemorate these days of remembrance. This mandate is an extremely important part of the memorial.

Another significant aspect of the Council is its task to generate significant private sector support for the memorial in a public-private partnership with the Government. The Commission noted in its report that it believes extensive support from the American people will be forthcoming.

Mr. President, this small funding measure will begin a long overdue effort on the part of the United States to honor the memories of the victims of this genocide. It is important to point out that we are the only nation in the civilized world without an official holocaust memorial.

As the philosopher, George Santayana, so appropriately noted in 1905, "Those that cannot remember the past are condemned to repeat it." Let us proceed, Mr. President, with the mission of the council and the education of future generations of American citizens in the tragedy of the holocaust.

At this point in the Record, I ask unanimous consent to include with my remarks, an excerpt from the report to the President of the President's Commission on the holocaust, outlining the guiding principles of the Holocaust Commission mandate.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report to the President: President's Commission on the Holocaust

GUIDING PRINCIPLES

The Commission's efforts have been undertaken in the service of memory, with the conviction that in remembrance lie the seeds of transformation and renewal. Throughout the Commission's work, two guiding principles have provided the philosophical rationale. They are: (1) the uniqueness of the Holocaust; and (2) the moral obligation to remember.

The uniqueness of the Holocaust

The Holocaust was the systematic, bureaucratic extermination of six million Jews by the Nazis and their collaborators as a central act of state during the Second World War; as night descended, millions of other peoples were swept into this net of death. It was a crime unique in the annals of human history, different not only in the quantity of violence—the sheer numbers killed—but in its manner and purpose as a mass criminal enterprise organized by the state against defenseless civilian populations. The decision was to kill every Jew everywhere in Europe; the definition of Jew as target for death transcended all boundaries. There is evidence indicating that the Nazis intended ultimately to wipe out the Slavs and other peoples; had the war continued or had the Nazis triumphed, Jews might not have remained the final victims of Nazi genocide, but they were certainly its first.

The concept of the annihilation of an entire people, as distinguished from their subjugation, was unprecedented; never before in human history had genocide been an all-pervasive government policy unaffected by territorial or economic advantage and unchecked by moral or religious constraints. Ordinarily, acts of violence directed by a government against a populace are related to perceived needs of national security or geographic expansion, with hostilities diminishing after the enemy surrenders. In the case of the Nazis, however, violence was intensified after subjugation, especially in Poland and other parts of Eastern Europe, against all the subjugated populations. Jews were particular targets despite the fact that they possessed no army and were not an integral part of the military struggle. Indeed, the destruction frequently conflicted with and took priority over the war effort. Trains that could have been used to carry munitions to the front or to retrieve injured soldiers were diverted for the transport of victims to the death camps. Even after the Nazi defeat on the Russian front, when it became evident that the Germans had lost the war, the killings were intensified in a last desperate attempt at complete annihilation. Clearly, genocide was an end in itself independent of the requisites of war.

In the Nazi program of genocide, Jews were the primary victims exterminated not for what they were but for the fact that they were Jews. (In the Nuremberg Decree of 1935, a Jew was defined by his grandparents' affiliation. Even conversion to Christianity did not affect the Nazi definition.) While Gypsies were killed throughout Europe, Nazi plans for their extermination were never completed nor fully implemented. However, Nazi plans for the annihilation of European Jews were not only completed but thoroughly implemented. Many Polish children whose parents were killed were subjected to forced Germanization—that is, adoption by German families and assimilation into German culture—yet Jewish children were offered no such alternative to death.

The Holocaust was not a throwback to medieval torture or archaic barbarism but a thoroughly modern expression of bureaucratic organization, industrial management, scientific achievement, and technological sophistication. The entire apparatus of the German bureaucracy was marshalled in the service of the extermination process. The churches and health ministries supplied birth records to define and isolate Jews; the post office delivered statements of definition, expropriation, denaturalization, and deportation; the economic ministry confiscated Jewish wealth and property; the universities denied Jewish students admission and degrees while dismissing Jewish faculty; German industry fired Jewish workers, officers, board members and disenfranchised Jewish stockholders; government travel bureaus coordinated schedules and billing procedures for the railroads which carried the victims to their deaths.

The process of extermination itself was bureaucratically systematic. Following the mob destruction of *Kristallnacht*, a program in November 1938 in which at least 36 Jews were killed, 20,000 arrested, thousands of Jewish businesses looted and burned, and hundreds of synagogues vandalized, random acts of violence were replaced by organized, passionless operations. Similarly, the angry, riotous actions of the S.A. gave way to the disciplined, professional procedures of the S.S., which by 1943 had substituted massive, impersonal factories of extermination for the earlier mobile killing units. The location and operation of the camps were based on calculations of accessibility and cost-effectiveness, the trademarks of modern business practice. German corporations actually profited from the industry of death. Pharmaceutical firms, unrestricted by fear of side effects, tested drugs on camp inmates, and companies competed for contracts to build ovens or supply gas for extermination. (Indeed, they were even concerned with protecting the patents for their products.) Germany engineers working for Topf and Sons supplied one camp alone with 46 ovens capable of burning 500 bodies an hour.

Adjacent to the extermination camp at Auschwitz was a privately owned, corporately sponsored concentration camp called I. G. Auschwitz, a division I. G. Farben. This multi-dimensional, petro-chemical complex brought human slavery to its ultimate perfection by reducing human beings to consumable raw materials, from which all mineral life was systematically drained before the bodies were recycled in the Nazi war economy; gold teeth for the treasury, hair for mattresses, ashes for fertilizer. In their relentless search for the least expensive and most efficient means of extermination, German scientists experimented with a variety of gasses until they discovered the insecticide, Zyklon B, which could kill 2,000 persons in less than 30 minutes at a cost of one-half-cent per body. Near the end of the war, in order to cut expenses and save gas, "cost-accountant considerations" led to an order to place living children directly into the ovens or throw them into open burning pits. The same type of ingenuity and control that facilitates modern industrial development was rationally applied to the process of destruction.

During previous centuries, excess populations were alleviated through emigration to less populated regions, but by 1920 the frontiers had receded and the New World no longer absorbed the overflow from the Old. When Germany could not ship out a population she wished to eliminate (no country was willing to accept Jews), she took the next fatal step and sent them up in smoke. In a world of increasing over-population, the inclination to duplicate the Nazi option and once again exterminate millions of people remains a hideous threat. The curse of the Holocaust is a dire warning.

The Holocaust could not have occurred without the collapse of certain religious norms; increasing secularity fueled a devaluation of the image of the human being created in the likeness of God. Ironically, although religious perspectives contributed to the growth of anti-Semitism and the choice of Jews as victims, only in a modern secular age did anti-Semitism lead to annihilation. Other aspects of modern dehumanization contributed to the Holocaust, notably the splitting of the human personality whereby men could murder children by day and be loving husbands and fathers at night. The division of labor that separated complete operations into fractions of the whole permitted thousands to participate in a massive bureaucracy of death without feeling responsible. For example, Adolf Eichmann, who supervised the roundup of Jews for deportation, could claim he never personally killed a single person; employees could insist they did not know what they were doing; executioners could explain they were only following orders.

Whether the product of technology or a reaction against it, the horror of the Holocaust is inextricably linked to the conditions of our time. By studying the Holocaust, we hope to help immunize modern man against the diseases particular to the twentieth century which led to this monstrous aberration.

The moral obligation to remember

The American philosopher George Santayana has warned that those who forget history are condemned to repeat it. The Holocaust reveals a potential pathology at the heart of Western civilization together with the frightening consequences of the total exercise of power. Remembering can instill caution, fortify restraint, and protect against future evil or indifference. The sense of outrage in the face of the Holocaust expressed in the declaration "Never Again"—neither to the Jewish people nor to any other people—must be informed by an understanding of what happened and how.

Although we have no guarantees that those who remember will not repeat history, the failure to remember the past makes repetition more likely. Nothing more clearly illustrates this claim than Hitler's alleged response to those in his government who feared international opposition to genocide. "Who remembers the Armenians?," he asked. Indifference to that earlier twentieth-century attempt at genocide may well have fortified those who later questioned the impact of extermination if not its wisdom or necessity. Conversely, memory can avert future errors. Perhaps it is no accident that the government official most responsible for a fundamental shift in American policy toward the plight of the Jews, former Secretary of the Treasury Henry Morgenthau, Jr., was the son of the Ambassador to Turkey during the Armenian massacre in World War I. It was at the behest of Secretary Morgenthau that a report was prepared for the President on the murder of the Jews.

To remember the Holocaust is to sensitize ourselves to its critical political lessons. Nazism was facilitated by the breakdown of democracy, the collapse of social and economic cohesion, the decline of human solidarity, and an erosion of faith in the political leadership and in the ability of democratic governments to function. Recalling these danger signals intensifies our concern for the health of the body politic and the processes of democracy, the forms of government, and the importance of human and social values.

By remembering the excesses that marked the Nazi era, we can learn again the importance of limits, of checks and balances. We can also learn that a democratic governernment must function and perform basic services and that human rights must be protected within the law. We can renew our appreciation for moral and philosophical guidelines, for the need to consider the human cost of scientific experimentation. We can strengthen our belief in inalienable individual rights. We can also come to understand that a universalistic ethic unbalanced by respect for particular variation is ultimately tyrannical. Tolerance for ethnic diversity and pluralism can be enhanced.

But remembering is not easy for either individual or group. Confronting the Holocaust threatens to sear our souls and challenge our perceptions, our complaceny. It introduces a tone of somberness and tragedy into human discourse and heightens our awareness of the precariousness and vulnerability of life. Not only has the moral landscape of human reality been altered by the Holocaust, but the acceleration of technology and nuclear power now threaten human existence itself. By focusing on the dangers inherent in the ends and means of a technological, bureacratic society, study of the Holocaust and its implications can encourage a renewal of commitment to sanity and humanity.

Americans have a distinct responsibility to remember the Holocaust. Millions of our citizens had direct family ties with its victims, our armies liberated many concentration camps and helped rehabilitate their inmates, and many thousands of survivors have since made their homes in this country. On the negative side, although the United States assumed a leadership role in rehabilitation after the war, our failure to provide adequate refuge or rescue until 1944 proved disastrous to millions of Jews.

In a 1944 memo presented to the President, senior officers of the Department of the Treasury accused State Department officials of neglect and acquiescence:

> [State Department officials] have not only failed to use the Government machinery at their disposal to rescue Jews from Hitler, but have even gone so far as to use this Governmental machinery to prevent the rescue of these Jews.
>
> They have not only failed to cooperate with private organizations in the efforts of these organizations to work out individual programs of their own, but have taken steps designed to prevent these programs from being put into effect.
>
> They not only have failed to facilitate the obtaining of information concerning Hitler's plan to exterminate the Jews of Europe but in their official capacity have gone so far as to surreptitiously attempt to stop the obtaining of information concerning the murder of the Jewish population of Europe.
>
> They have tried to cover up their guilt by:
>
> (a) concealment and misrepresentation;
>
> (b) the giving of false and misleading explanations for their failures to act and their attempts to prevent action; and
>
> (c) the issuance of false and misleading statements concerning the "action" which they have taken to date.[*]

The preceding memo was written at the height of the war, when the industries of death were working 24 hours a day to eliminate European Jewry, yet there was still time to save Hungarian Jews. The document marked a turning-point in American policies toward the Holocaust for it moved the President to appoint the War Refugee Board. Prior to entering the war, the United States had reacted to Nazi atrocities with guarded outrage and quiet diplomacy. Many isolationists had considered the Nazi treatment of Jews a German domestic matter. When emigration was still part of the Nazi approach to the Jewish question, American officials erected paper walls by rigidly enforcing both quota regulations and obscure requirements of the immigration laws so as to minimize the number of persons admitted to our shores. Jewish children were summarily denied admission or any form of preferential treatment. American consular officers demanded that immigration applicants produce certificates of good character from their government at the very time that the Nazis considered Jewishness itself criminal. The American principle of separation of church and state, which blinds our laws to the religious affiliation of individuals, found ironic misapplication. Instead of being recognized as refugees, German Jews were considered citizens of a hostile nation and were thus excluded.

Government conferences on world conditions issued public utterances of displeasure toward the Nazis, but such pronouncements only diffused public pressure, giving the appearance of action rather than substantively altering the situation. The international conference held in 1938 at Evian demonstrated the unwillingness of the nations involved to receive Jews. The United States refused to relax its immigration laws or to borrow on future quotas; Great Britain failed to open the doors of Palestine to immigrants; Canada, Argentina, France, Australia, New Zealand, and Panama were also among 32 nations unwilling to come to the rescue of the victimized Europeans. Ships of refugees seeking haven were turned away from port after port while the Nazis viewed the world's response as tacit compliance if not silent assent to their policies.

Failures of communication included the State Department's closing of secured embassy lines to private organizations, thus blocking the transmission of vital information confirming the existence of extermination camps and the plans to exterminate all the Jews. The State and War Departments displayed no recognition of the fact that the Holocaust was distinct from the general German war effort. Eyewitness accounts, reports from informed sources, and oft-repeated Nazi pledges to exterminate the Jews were not integrated, analyzed and internalized to form a basis of action.

During the work of this Commission, the controversy as to why Auschwitz was not bombed by the Allies was raised once again. Considering the documents that have been made available recently, a more thorough analysis of American policy can now be undertaken. If we are to be responsive to crises in the future, an examination of the errors, the value judgments and reasoning processes that led to decisions may be useful.

America did play a major role in bringing Nazi criminals to justice. Herbert Pell, the United States representative to the War Crimes Commission, was the driving force behind the American assent to charge war criminals with crimes against humanity. The Nuremberg trials represent a new international moral standard for they reflect the conviction that each individual is responsible for his actions even in times of war.

Americans recognized early the need to confront and remember the Holocaust. General Dwight D. Eisenhower insisted that the concentration camps be fully documented and photographed, and General George S. Patton demanded that Germans in surrounding towns be forced to visit the scenes of the Nazis murders. For more than 6 years following the war, American soldiers managed the displaced persons camps, aiding in the survivors' recovery. These and similar efforts were the most honorable in our nation's chronicles. Our armed forces witnessed not only the depths of despair and depravity but the resurgence of the human spirit, the yearning to live in freedom.

In reflecting on the Holocaust, we confront not only a collapse in human civilization but also the causes, processes, and consequences of that collapse. As we analyze the American record, we can study our triumphs as well as our failures so as to defeat radical evil and strengthen our democracy.

Mr. PROXMIRE. Mr. President, may I say I greatly appreciate what the senior Senator from Oregon has done. This is another very adequate argument for ratifying the Genocide Convention as soon as possible.

LIABILITY AND COMPENSATION FOR CLEANUP OF HAZARDOUS WASTE

AMENDMENT NO. 2611

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR. Submitted an amendment intended to be proposed by him to the bill (S. 1480) to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

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[*] January 13, 1944, "Report to the Secretary on the Acquiescence of This Government to the Murder of the Jews," *Henry Morgenthau Diaries*, Book 693, pp. 212–229, located in the Franklin Delano Roosevelt Library. This report was later edited and retitled by Secretary Morgenthau, "Personal Report to the President." *Henry Morgenthau Diaries*, Book 694, pp. 194–202.

Mr. HARRY F. BYRD, JR. Mr. President, it has been over 5 years since Americans first became aware of the Kepone contamination of the James River in Virginia. Since that time, other hazardous chemical waste incidents have been discovered throughout the Nation, most notably Love Canal in New York and the "Valley of the Drums" in Kentucky.

Indeed, the hazardous substance and toxic chemical waste problem has mushroomed as an issue of national concern, and it is an issue which has had significant impact on the health and economic livelihood of many Americans throughout our Nation, including many Virginians.

Many studies have already been released which identify health and related environmental problems associated with the effects of haphazard disposal of chemical wastes.

After reviewing testimony at recent hearings of the Senate Committee on Finance, I have become increasingly concerned about the economic impact which the Kepone problem has had on small businesses in my own State of Virginia.

I am today submitting an amendment to S. 1480, the hazardous wastes bill, which would provide assistance to individuals in small businesses affected by the chemical contamination and pollution of the James River by Kepone in 1975. This amendment will not add to the cost of the bill.

The existing provisions of S. 1480 provide a mechanism for cleanup costs associated with the Kepone problem. However, Virginians who have sustained severe economic losses due to the closing of the James River to commercial fishing and some types of recreation during the last 5 years are not presently eligible for further compensation.

It has been brought to my attention that most damage settlements have been made out-of-court because small businesses have not been able to pay the expensive court costs involved, or are not able to continue litigation for an extended period of time without suffering undue hardship, economic losses, or even bankruptcy.

My amendment would specifically provide payment from the fund of all legitimate claims for capital loss or loss of income suffered by the sport and commercial fishing industries, and by businesses dependent on recreational use of the James River, as a result of Kepone pollution.

This amendment simply would make Virginians along the James River eligible for the same kind of economic compensation already authorized in the bill for fishing interests damaged since 1978. As I pointed out earlier, no additional funding will be required.

I ask unanimous consent that the text of my amendment to S. 1480 be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 66, after line 17, insert the following new subparagraph and redesignate succeeding subparagraphs accordingly:

"(P) payment of any claim for any capital loss or loss of income by a harvester or processor of fish or shellfish or by any business directly dependent on sport or commercial fishing or other recreational use of the James River due to destruction or loss of value of any fishery stock, and harvested fish or shellfish, or any fish or shellfish product; or restriction on use of any such fishery stock, fish, shellfish or product or waters, resulting from contamination of the James River and associated waters by the chemical substance know as kepone;".

TO ESTABLISH A COURT OF APPEALS FOR THE FEDERAL CIRCUIT

AMENDMENT NO. 2612

(Ordered to be printed.)

Mr. BUMPERS proposed an amendment to the bill (H.R. 3806) to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes.

TREASURY, POST OFFICE APPROPRIATIONS, 1981

AMENDMENT NO. 2613

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill (H.R. 7583) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1981, and for other purposes.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1981

AMENDMENT NO. 2614

(Ordered to be printed and to lie on the table.)

Mr. HEINZ (for himself, Mr. SCHWEIKER, and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill, H.R. 7724, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

● Mr. HEINZ. Mr. President, the amendment I am today offering to H.R. 7724, the Interior Appropriations measure, along with my senior Senator from Pennsylvania, Senator SCHWEIKER, and my distinguished colleague from Delaware, Senator BIDEN, would provide $4 million for land acquisition for the Valley Forge National Historical Park in Pennsylvania. Although I realize that there are some $2 billion worth of park acquisition projects awaiting funding, there are compelling reasons for providing appropriations for Valley Forge this fiscal year. Unless Congress appropriates this $4 million—allowing the National Park Service to make only highest priority acquisitions—additional and irreversible development will crowd in on this priceless shrine of the American Revolution.

By way of background let me remind my colleagues that earlier this year Congress passed, and the President signed into law, legislation to expand the park by 682.4 acres, 482 acres of which would represent fee acquisition. Despite fiscal constraints, passage of this legislation was deemed of particular urgency because the heroic winter encampment of Washington's Army is now under siege itself—by an encircling army of highways, highrise developments, motels, shopping centers, and housing developments.

Unless Congress acts to appropriate funds for Valley Forge expansion this year, the opportunity may well be lost for acquisition of the following tracts:

First, the 57-acre Boulware tract;
Second, the 43-acre Fuller tract;
Third, the 43-acre Schwoebel tract;
Fourth, the 68-acre Liggett tract.

Also lost would be the opportunity to purchase scenic easements on three tracts totalling 39.9 acres. Let me briefly explain the significance of each of these tracts and the imminent development threats.

BOULWARE TRACT

This 57-acre tract represents a hardship for its current owners, an elderly couple on social security, and is currently on the market. One of the potential developers plans a complex of highrise rest homes on the site.

Located on the north side of the Schuylkill River—across from the main encampment—this tract is significant in terms of its scenic, historic, and recreational values. The tract is highly visible from the main encampment and its development would significantly degrade the integrity of the historical park. In addition, the tract contains an historic building used by the commissary general. As a footnote, local historians tell me that the commissary had to be located across the river from the main encampment to protect the commissary general from the hungry troops.

Besides having been the site where the army was fed, the tract is also essential to recreational uses—which Congress has mandated be segregated from the encampment site across the river. Failure to accommodate these recreational uses on the north side of the Schuylkill threatens to inundate the more historic sections with recreational uses.

FULLER TRACT

Continued ownership of this 43-acre tract also represents a hardship for its owner, a widow. Not only is the tract zoned for both industrial development and a mobile home park, the owner of the adjacent tract—which is the site of a mobile home manufacturing facility and a mobile home park—has been pressuring her to sell so that he can proceed with plans for expansion of his facilities. Although the trust for public land has purchased an option on this property, the option expires November 1.

Preservation of this tract is critical not only to the visual integrity of the park but also because drainage through it affects a critical waterfowl nesting area.

SCHWOEBEL TRACT

This 43-acre tract next to the Fuller tract is zoned for light industrial use and is highly visible from the most historic section of the existing park. The land already owned by the Park Service adjacent to this tract comprises a narrow strip along the Schuylkill River and is now subject to severe use.

LIGGETT TRACT

Located on the south side of the park in Chester County, this 68-acre site is just 100 feet from the prime historic area. It is also the site of the quarters for Lord Sterling, a general in the Continental Army. Also contained on this site is a spring that served as Lord Sterling's water supply and two additional historic structures. Preservation of this important tract is threatened, however, by plans for a subdivision of single-family homes that has already been platted.

Besides funding fee acquisition of these tracts, the amendment I am offering would allow the Park Service to purchase easements on three tracts. One is a 32-acre tract owned by Lobe Associates, zoned for industrial and mobile home development and already the site of a mobile home park. The existing development does not intrude upon the scenic integrity of the park; the easement would prevent any further development that might have such an effect. Also purchased would be easements on two adjacent tracts, one 5.4 acres and one 2.5 acres, both of which are zoned industrial and both of which are the site of private residences.

In closing, Mr. President, I hope that my distinguished colleagues will see fit to include this small but critical appropriation in the pending measure.●

HEARING NOTICES

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for October 13, 1980, beginning at 9 a.m., at the Chateau in Incline Village, Nev. Testimony will be received regarding H.R. 7306, a bill to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin.

For further information regarding the hearing, you may wish to contact Deborah Merrick at 224-7150.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business Rights will hold an oversight hearing on competitive issues related to solar energy on Friday, October 17, 1980. The hearing will begin at 9:30 a.m. in room 2228 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to vote on pending executive nominations.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL GOVERNMENT SPEEDS ALONG WITH 55-MPH MISTAKE

● **Mr. TOWER.** Mr. President, it baffles me that the Federal Government finds it so difficult to admit it has made a mistake. And worse yet, a Federal bureaucracy always displays a dogged propensity for persisting in that mistake, promulgating the error into eternity if it can.

A case in point: The national maximum speed limit of 55 miles per hour.

After 6½ years since the nationwide limit was adopted, the Federal Department of Transportation stubbornly refuses to admit that energy savings from the policy are, at best, marginal. Blindly, the Federal Government continues to attempt forcing all States into adhering to that questionable mandate.

No one denies energy conservation is important. Acts such as turning off a light when leaving a room or reducing home thermostats in winter can save energy and money. We do these things in recognition of the importance of energy conservation. But, we do these things voluntarily, and that's an important point.

The Republican Party has recognized that driving conditions throughout the United States vary from State to State. This is a recognition that DOT somehow manages to ignore. Regardless of local driving conditions, DOT decrees that all States abide by the national maximum speed limit.

I could understand this blanket approach if one were discussing a topic on which all experts agree. However, considerable uncertainty exists over the effectiveness of a 55-mile-per-hour speed limit in conserving energy and reducing traffic accidents. The claims of DOT do not withstand the light of facts. Their claims of fuel savings are as suspect as their claims of reduced traffic accidents.

In view of questions concerning validity of DOT claims, it is no wonder the administration is having so much difficulty twisting the arms of various States to enforce a standard which bears such dubious fruits.

To doubt the effectiveness of a Federal mandate setting speed limits, is not to advocate turning highways into racetracks. But DOT's insistence on a questionable program cannot be condoned.

These points are excellently taken in two articles—one from the Wall Street Journal and one from Road and Track magazine—that I request be made a part of the RECORD.

The articles follow:

THE 55-MPH MYTH: SIX YEARS OF SPEED PROHIBITION

(By John Tomerlin)

On January 2, 1974, less than two months after Saudi Arabia's King Faisal announced a halt in shipments of Middle Eastern oil to the United States, the Emergency Highway Energy Conservation Act was signed into law establishing 55 mph as the nation's maximum legal highway speed. One year later the Federal-Aid Highway Amendments provided for an indefinite extension of the National maximum speed limit (Nmsl) on the grounds that it had contributed significantly to fuel conservation and was responsible for a major reduction in traffic accidents and deaths.

Under the provisions of the legislation, states that fail either to establish a 55-mph speed limit or to certify certain levels of enforcement will be penalized by the loss of a portion of their gasoline-tax funds. Administration of the law is in the hands of two agencies of the Department of Transportation (DOT)—the National Highway Traffic Safety Administration (NHTSA), which oversees enforcement by the states, and the Federal Highway Administration (FHwA), which collects and analyzes speed-control and speed-monitoring data.

These and other branches of the DOT collaborate on public information programs to promote the advantages of the 55-mph limit. According to these sources, the Nmsl is the "most significant action taken on behalf of traffic safety in half a century,"[1] one that has saved the nation at least 1.5 billion gallons of gasoline per year and prevented upward of 6000 fatalities annually. Both figures could be doubled, it is claimed, by greater efforts at enforcement.

Greater efforts are a certainty. The Highway Safety Act of 1978 authorizes up to $50 million per year to help the states enforce the Nmsl. This money is in addition to whatever share of state gasoline-tax funds the Secretary of Transportation sees fit to mandate for enforcement. In 1979, 40 million in 402 funds[4] were earmarked for this purpose, while for fiscal 1980 Congress has budgeted $20 million. This kind of multiple-source funding makes a precise analysis of long-range costs difficult, but NHTSA officials now estimate that direct federal aid to speed enforcement will cost taxpayers $646 million over the next decade. In all likelihood this is an underestimate.

Given the magnitude of commitment to the 55-mph speed limit, it might be expected that a substantial amount of evidence exists proving that it performs as claimed. In fact, such evidence is lacking. Claims for savings of "over 4 million gallons of gas a day"[2] are challenged by every professional survey of fuel consumption to date; and analyses of the alleged safety benefits of the Nmsl are so inconclusive that former Transportation Secretary Brock Adams admitted during appropriations hearings in 1977 that, "We have found that no accurate estimate can be made on the overall safety impact of the 55-mph speed limit . . ."[3]

Adams went on to assure the Congress that it should have "high confidence" that the federal limit had contributed to safety, but he failed to emphasize the importance of other changes that took place with the Nmsl. There were significant reductions in vehicle mileage in the wake of the Arab oil embargo, resulting in lessened exposure to accident; there was an increase in driver awareness, especially during periods of uncertain fuel supplies; and there was a continuation of the historical trend to greater safety resulting from improved highways, vehicles and driver licensing procedures.

Although the safety benefits of the Nmsl have proved elusive, its negative effects are all too concrete. It has severely restricted application of the best-known technique for setting highway speeds for maximum safety, replacing it with an arbitrary speed that ignores local needs and conditions. It has created a nation of scofflaws and resulted in a significant diversion of police services from other vital functions. It has caused dissension between the federal and state govern-

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Footnotes at end of article.

ments, between legislators and their constituents, and between the public and their law enforcement and judiciary officials—to the disadvantage of all concerned.

Based on six years of practical experience, it is not too much to say that the experiment with Speed Prohibition is a failure, and that the greatest obstacle to further gains in highway safety has become the 55-mph speed limit itself.

55 MPH AND FUEL

The idea for saving energy by reducing highway speeds was not developed overnight. As early as May 1973 the Secretary of Transportation began urging the states to reduce their limits; and that summer similar requests were made by the Senate and the President. In support of these appeals were the results of tests performed by the FHWA in October 1973, comparing fuel consumption rates at various speeds in 13 American-made cars.

"The Effect of Speed on Automobile Gasoline Consumption Rates"[4] documented economy losses in all cars tested, at all speeds higher than 50 mph. On average, mileage dropped off 10 percent when speed was increased from 50 mph to 60 mph; at 70 mph, mileage fell an average of 25 percent. No tests were performed at 55 mph, perhaps because that speed had not at that time been selected for the national speed limit.[B]

In view of the fact that Americans consume a virtual sea of gasoline each year—110 billion gallons of it in 1973, and considerably more today—the prospects for achieving success almost at once. "In the first six seemed good."

So good, the Administration began claiming success almost at once. "In the first six months of 1974, about 135,000 barrels of gasoline were saved each day that would have been consumed under previous speed liimts," the Federal Energy Administration announced.[5] NHTSA agreed with this estimate, adding that more than 98,000 barrels per day continued to be saved thereafter.[6]

As it turned out, both estimates were premature and inaccurate. When professional studies were commissioned to determine the impacts of the speed limit on conservation, the findings were quite different. The Mitre Corp, in a report to the National Science Foundation, discovered that while 255,000 fewer barrels of fuel per day were consumed in 1974 than in 1973, most of this was the result of shortages and reduced travel. Only about 71,000 barrels per day could "possibly" be attributed to the "combined effects of the 55-mph speed limit and more fuel-efficient cars."[7]

A second study, performed by Braddock, Dunn and McDonald in September 1974, also for the National Science Foundation, agreed with the theoretical possibility of saving 200,000 barrels of gas per day by reducing highway speeds—but, after examining consumption trends and traffic volumes for the winter of 1973 and the spring of 1974, the researchers concluded: "There was no actual improvement" in consumption.[8]

Somewhere, between theory and application, the expected conservation benefits of the National maximum speed limit had vanished.

LESS THAN HALF OF ONE PERCENT

There's no mystery about the Nmsl's failure to live up to expectations. To begin with, reliance on the results of the FHwA's tests gave rise to false hopes. Whereas the Highway Administration performed straight-line runs at constant speeds on uncrowded roadways—conditions "not likely to occur in normal operation," as the researchers themselves conceded, most motorists spend little if any time in such circumstances. The rest is spent braking, shifting, accelerating, changing lanes and so on. Much of it is spent on roads where 55 mph or better is either inadvisable or impossible.

As those who have made the experiment know, a consistent 10-percent improvement in mileage is difficult to achieve through speed control alone; and even that requires some techniques not necessarily recommended from a safety standpoint.

A second miscalculation was the failure to analyze the potential for making a significant impact on energy problems. Only about one-third of the total vehicle mileage traveled in this country is on roads where 55 mph or more is possible; and only about half of that mileage actually is driven at or above the limit. This means only one-sixth of all vehicle miles are subject to any fuel savings from the Nmsl.

The precise amount of savings will average around 12 percent, depending on car weight, engine efficiency and the exact speed above 55 mph; which means that the formula for the maximum savings available from the Nmsl, assuming absolute compliance, would be: $33\frac{1}{3}$ percent x 50 percent x 12 percent. Or, a little less than 2 percent of consumption.

Inasmuch as the petroleum for highway transportation represents about one-quarter of the nation's energy needs, the greatest possible savings amount to less than one-half of one percent of total energy requirements.

From a moral viewpoint there is something to be said for saving even this minuscule amount; but from an economic point of view[C] the value of that half of a percent must be discounted for enforcement and other costs. These happen to be substantial. In addition to the federal contribution of around $65 million per year, an estimated $2.5 billion is spent by local police and traffic services. Ever-increasing portions of this money are being directed at monitoring and enforcing the 55-mph speed limit. Currently NHTSA requires annual reports from all of the states on every type of road: interstate highways, urban and rural; multi-lane divided and undivided roads, urban and rural; federally aided primary roads, urban and rural; plus summaries of average speeds on these roads, median speeds, 85th-percentile speeds, and the ratios of traffic exceeding 55, 60 and 65 mph.

And now the DOT is demanding that such reports be made quarterly, hence four times the expense.

The FHwA, which heretofore required only "representative" speed data, now wants measurements for all traffic—a task so monumental that government spokesmen admit, "technology for this calculation is not presently available." When and if the technology becomes available, certain states with lower traffic densities (no freeway rush hours, for example) are virtually certain to fail the federal guidelines on compliance, for which the penalty is the loss of a portion of 402 funds. This will have the ironic effect of curtailing safety improvements on the affected state's highways.

California's Department of Transportation estimates that federal enforcement guidelines will increase its administrative costs from $20,000 at present, to more than $200,000.

Another cost attributable to the Nmsl is its impact on truckers. Although trucks, like cars, get better mileage at lower speeds (assuming proper final-drive ratios), the savings in fixed, per-mile costs at higher speeds outweigh the added expense of fuel. A recent report from an office of the Department of Agriculture revealed that while a 33-percent improvement in fuel consumption reduced a trucker's per-mile expense about 3.5 cents triple that saving resulted from an increase in speed of 10 mph.[9]

All of this suggests that, even if total compliance with the Nmsl were achievable, the maximum benefits would be less than the costs involved.

Total compliance appears highly unlikely. In spite of large infusions of manpower and money during the past six years, noncompliance is widespread and rising. According to official estimates, more than half of all traffic on roads with the Nmsl now exceeds 55 mph. An estimated 70-80 percent of all drivers do so at least some of the time. The average speed of traffic, which fell 7-10 mph during the initial gasoline crisis—and again during shortages last year—has risen steadily at all other times. Eighty-fifth percentile speeds, which have special value as indicators of traffic behavior in general, are consistently above 60 mph—as high as 68 mph in some places.

Meanwhile, arrests nationally for speeds in excess of the Nmsl have risen from 5.7 million in 1973, to more than 8 million this past year, to no apparent effect.

Lowering the average weight of the passenger car fleet 1000 lb per car will save several times as much gasoline as the 55-mph speed limit purports to save; slightly higher tire pressures and more frequent tuneups would be more effective (there is, of course, some cost involved with tuneups); and, considering that radial tires improve mileage 3-5 percent, it would be cheaper and more effective to give a set to every driver who doesn't presently use them than to persist with the current unpopular and impractical program.

55 MPH AND SAFETY

One of the most significant consequences of the Arab oil embargo was a dramatic decline in traffic accidents and deaths. During 1974 there were some 230,000 fewer accidents than the previous year, a reduction of nearly 4 percent[D]. Highway fatalities dropped 16 percent as compared to 1973—from 54,600 to 46,000—and the death rate per 100 million vehicle miles fell from 4.3 to 3.6. Supporters of the Nmsl were quick to credit lower speeds for such changes.

"At least 66 percent of the fatality reduction is directly attributable to the 55-mph speed limit," the DOT announced, adding that on the basis of its studies, "4500 to 6000 lives have been saved each year as a result . . ."[10]

Other members of the safety establishment, while assigning a smaller percentage of the improvement to the new speed limit, agreed generally with this assessment. The few dissenters were criticized as much for their motives as for their findings; average speeds had decreased at the same time accidents had decreased, a cause-effect relationship was presumed.

There were other causes, however. Fewer vehicle miles because of gasoline shortages and higher prices[E] meant less overall exposure, hence fewer accidents. Increased driver awareness played a role, though no one could say how much of one. And some technological improvements, such as added miles of interstate highway; increased use of radial tires; the advent of better safety belts and the belt-ignition interlock, etc, also contributed. What wasn't understood at the time was how great the cumulative effect of these changes would be.

It is clear that they account for virtually the entire gain in highway safety during and after the gasoline crisis of 1973-1974. Although no exact statistics exist, and estimates vary all the way from 4 percent (California) to 12 percent (North Carolina), most authorities concur in a 5 percent overall mileage reduction. While this isn't much, it had greater significance because of the kinds of driving most affected. Night driving decreased more than daytime; rural driving more than city driving; and weekend and holiday traffic was hardest hit of all. A typical case was Iowa, where mileage dropped

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Footnotes at end of article.

only 6–8 percent on rural roads during weekdays, but fell 25–30 percent on weekends.[11]

Inasmuch as the kinds of driving most affected by the gasoline crisis also are associated with the highest accident rates (alcohol abuse, driver fatigue and anti-social driving all are at their peaks), reduced mileage accounted for about 30 percent of the reduction in facilities during first-half 1974.[F] This calculation takes into account lighter traffic density (a factor missed by several authorities) which is a well established corollary of accident rates. In fact, top officials at the California Department of Transportation are worried by evidence that, "Density remains the most reliable indicator of accident incidence."

A second major change in conditions during late 1973 and early 1974 was the alteration in driver attitudes. Although difficult to quantify, the effects of this heightened awareness were manifested in two ways. Average speeds began to drop before the Nmsl was passed—reaching their lowest level in January before major enforcement began; and during this period speeds decreased on all roads, not just those posted for the lower limit.

Statistics show that voluntary actions produced the greatest gains in safety.

[Chart mentioned in text not reproduced in the RECORD.]

The death rate, having reached its lowest level in history between October 1973 and January 1974, began rising simultaneously with the enforcement of the Nmsl. It increased still further as normal gasoline supplies were restored and the Arab embargo ended.

Although reduced nonessential driving and heightened driver awareness were responsible for most of the safety improvement through first-half 1974, a third influence was at work. This was the evolutionary trend to greater traffic safety, a tendency that has continued, and American highways have become consistently safer for the past half century.

Between 1925 and 1975 the death rate declined from 19.0 to 3.4—an improvement of roughly 3.5 percent per year—while highway speeds rose with equal consistency. This agreement between greater speed and greater safety was achieved through consistent, rational improvements in the highway environment: everything from better median dividers, energy-absorbing barriers on bridge abutments and breakaway light standards, to the refinement of 3-point safety belt systems.[G]

Fifty years of traffic history suggests that the death rate would have declined by some amount with or without a fuel crisis, and with or without a 55-mph speed limit. Washington, D.C.-based safety advocate Roger Johnson has noted, "Following a sharp decline in fatality rates from 1973 to 1974, actual rates gradually approached predicted rates until, in 1978, they exceeded predicted rates."[15]

It is apparent from Table 3 that, while voluntary speed reductions were associated with minor improvements in safety at the beginning of the fuel crisis, the National speed limit per se had little or no impact. This finding is consistent with all that is known about proper speed zoning, the underlying principle of which was set forth in a pamphlet by the Southern California Automobile Club: "Generally speaking, traffic laws that reflect the behavior of the majority of motorists are found to be successful [while] laws that arbitrarily restrict the majority of drivers encourage wholesale violations, lack the public's support, and usually fail to bring about desirable changes in driving behavior. This is especially true of speed zoning."[16]

THE 85TH PERCENTILE

Speed limits that "reflect the behavior of the majority" are determined by the 85th percentile method. Traffic is monitored and speeds recorded for a section of road where prima facie speed limits are desired; the speed that 15 out of every 100 cars exceed, and that the other 85 travel at or below, is the 85th-percentile speed. Speed limits normally are set 5 mph below this figure.

This technique is founded on an observation made some 25 years ago by Matthew C. Sielski, a traffic engineer for the Chicago Motor Club. On the basis of extensive studies of accidents along selected midwestern highways, Sielski determined that, "Most motorists drive at a reasonable and proper speed, and are capable of recognizing conditions that warrant lower speeds."[17]

Practical experience has borne out this conclusion. Where observations are made along unposted roads with no concealed hazards, cars traveling at the 85th-percentile speed have been found to have the fewest accidents; statistically, a car traveling this speed is 5–6 times less likely to crash than one driving 5–10 mph below the posted limit.

The effect of posting speed limits at or near the 85th percentile is to reduce the number of accidents occuring on that road; it reduces them whether the previous limit was above or below the 85th percentile speed.[H] But this invaluable implement of highway safety cannot be applied on freeways, parkways, interstate highways and other limited-access roads where the consequences of crashes are most severe, until the federal formula is withdrawn and decision-making powers are returned to local jurisdictions.

In the meantime, the ability of local agencies to provide effective traffic management is being hampered by federal requirements. Officers have many responsibilities in addition to enforcing speed limits: assisting at the scene of accidents, fires and public disturbances; arresting drunk and aggressive drivers; aiding stranded motorists; identifying hazards and patroling high-risk areas, and much more. Yet, in order to meet the DOT schedule for increased compliance with the Nmsl, police have been forced to pull out of high-risk areas on weekends and holidays, in order to patrol freeways and interstate highways where the risk of an accident is lowest.[17]

In Oregon, for instance, state police now devote one-third of their time to patroling freeways, where only 6 percent of that state's traffic fatalities occur. Better than 53 percent of the arrests made are for exceeding the Nmsl, even though that act is considered a minor cause of accidents. Oregon authorities have calculated that the "direct increase in enforcement cost in terms of officer patrol on freeways . . . amounts to $1,382,971 annually because of the 55-mph basic rule."[18]

An analysis by the California Highway Patrol has shown that speed-caused accidents resulted in 30 percent of all fatalities in that state; "Thus, 70 percent of all fatalities resulted from causes other than speed, an indication that enforcement concentration on speed violations alone would not be consistent with the demonstrated accident problem."[19]

In North Carolina, the Highway Safety Research Center (HSRC) ran a statistical comparison of the leading causes of traffic accidents, versus the number of traffic tickets issued for each of those actions, attempting to determine the appropriateness of enforcement. Here is a partial listing of the results:

"There is an enormous mismatch between enforcement practice and . . . crash involvement." the HRSC researchers concluded.

R&T RECOMMENDS

This mismatch is likely to continue popular misconceptions about the relationship between speed and accidents are corrected. For example, traffic engineers now know that speed is the primary causal factor in only 4–6 percent of all accidents—speed in this case meaning "too fast for conditions," not merely "exceeding posted limits." Yet crackdowns on speeding—patricularly on open, lightly traveled highways with the lowest accident rates—continue to be a favorite tactic of many officials and politicians.

There is no question that speed intensifies the likelihood and severity of injuries when accidents do occur; but an equally well established tenet of 20th century transportation is man's decision to travel faster than he can afford to crash. Under such circumstances there is more to gain from eliminating the causes of accidents than from the effort to impose Speed Prohibition.

The 85th percentile is not only the best known method for setting realistic speed limits, it has the added advantage of increasing the overall proportion of traffic traveling within the pace (the 10 mph range in which the highest percentage of traffic moves). It is an established fact that fewer accidents occur when the greatest number of cars are traveling within the pace. Another important factor is that vehicle fuel economy would benefit from a smoother flow of traffic.

Accordingly, R&T recommends the following:

1. Immediate repeal of the 55-mph National maximum speed limit. State legislators must be urged to take action in the true interests of highway safety;
2. Reallocation of funding from the Highway Safety Act of 1978 to increase the use of the 85th percentile in setting prima facie limits on all roads, and for identifying and eliminating concealed road hazards;
3. Federal aid to expand and implement the concept of Traffic Management By Objectives, in which the primary objective is the reduction of accidents and the saving of lives;
4. Considering the profound effect they have had on society and the market place, continued implementation of the federally mandated Corporate Average Fuel Economy (CAFE) standards as the most productive approach to fuel economy savings.

FOOTNOTES

[A] Title 23, section 402 of the U.S. Government Code. Such terms as "402 money," "federal highway funds," etc. refer to what amounts to revenue sharing as applied to gasoline taxes.

[B] The President initially called for a 50-mph limit, possibly suggested by an oil company ad campaign in May which featured the slogan, "50 is thrifty." Congress raised the final figure to 55.

[C] See "Where Has All the Gasoline Gone?" R&T, July 1979.

[D] Traffic statistics, which vary according to source, are rounded for purposes of this discussion.

[E] The cost of a gallon of regular gasoline rose from 35–40c in December 1973, to above 60c in April 1974.

[F] In North Carolina, where accidents and deaths were down 10 percent and 22 percent, respectively, it was determined that both reductions were due "primarily to decreases in rural, weekend accidents."[12]

[G] The major contributor to highway deaths, which is sometimes obscured by the government's emphasis on 55-mph enforcement, has been and continues to be the drunk driver.

[H] It may be that the only identifiable benefit of the 55-mph speed limit was on roads with hidden hazards, where posting had been set dangerously high.

[I] The death rate on rural interstate highways in 1979 was about 1.6, as opposed to 3.3 for all roads.

[1] "55 SAVES—Explaining the National Maximum Speed Limit," NHTSA, 1978.

[2] Ibid 1.

[3] Testimony to the hearings cited in the Comptroller General's Report.

[4] "The Effect of Speed on Automobile Gasoline. Consumption Rates," FHwA, October 1973.

[5] "55 MPH Fact Book," NHTSA, September 1977.

[6] Ibid 5.

[7] "Policy Assessment of the 55 MPH Speed Limit," The Mitre Corporation and BDM Corporation, May 1975.

[8] "Impact Considerations of the National 55 MPH Speed Limit," Braddock, Dunn and McDonald, Inc. September 27, 1974.

[9] Address by Paul Mills. U.S. Department of Agriculture, to the Independent Truckers Association, July 29, 1978.

[10] Ibid 5.

[11] "The Effect of Reduction in Speed and Mileage Exposure on Iowa Traffic Fatalities," Iowa Department of Public Safety, 1974.

[12] "An Examination of the Effects of the Lowered Maximum Speed Limit and Fuel Shortages in North Carolina." Seila, Entsminger & Silva. HSRC. University of North Carolina. June 1977.

[13] Roger Johnson, National Drivers Association.

[14] National Safety Council data: chart by American Association of State Highway Traffic Officials.

[15] "Life Beyond the Limit," Roger Johnson. 1979.

[16] "Realistic Speed Zoning, Why & How." Automobile Club of Southern California. 1976.

[17] "What Should the Maximum Speed Limit Be?" Matthew C. Sielski. Traffic Engineering. September 1956.

[18] "A Critical Analysis of the 55 MPH National Maximum Speed Limit." Rep. Chick Edwards. House District 33, Salem, Oregon. April 10, 1979.

[19] "Statement Regarding January–June 1974 Accident Experience in California." Walter Pudinski, Commissioner, California Highway Patrol. July 23, 1974.

[20] "Identification of Unsafe Driving Actions and Related Countermeasures." Leggett, Stewart & Campbell, HSRC. University of North Carolina. December 1976.

[From the Wall Street Journal, Aug. 11, 1980]

DRIVE TO MODIFY 55 M.P.H. SPEED LIMIT PITS WESTERN MOTORISTS AGAINST BUREAUCRATS

(By Lawrence Rout)

Leno Menghini, superintendent of the Wyoming Highway Department, thinks the 55 m.p.h. speed limit "is probably all right" in principle. It's just that "we Western states are different and shouldn't be required to comply as rigidly as other states."

A lot of Westerners agree. And now that the Republican Party has sought to make the limit a campaign issue, a lot of officials from Western states have some suggestions about how to focus the debate.

Democrats describe the Republican platform's call for repeal as a step backward that would cost lives and fuel. But the officials in Western states say the important question is whether, and where, drivers obey the limit and whether Washington should be playing enforcer by cutting federal highway funds to states that don't measure up.

SAFE AT 80

"Some of your Eastern states are so congested it's difficult to drive faster than 55," says Richard Shafer, chief of the Arizona Highway Patrol. "But here the roads were designed to be safe at 80, and people who travel the roads know it."

Even in the East, officials doubt that most drivers are going to stop speeding, especially with gasoline so plentiful. "People obey the law only if they think they're going to be arrested," says Thomas Smith, superintendent of the Maryland state police. The problem, he adds, is that the perceptions vary widely around the country.

Federal figures confirm regional variations in compliance. In Maryland, 28.9 percent of the state's drivers exceeded the 55 m.p.h. limit in the nine months ended June 30. In Georgia the figure was 38 percent and in Virginia 41.7 percent. But head west and the story changes. Nevada had 60.3 percent exceeding the limit, while Utah had 65.3 percent. Arizona 65.5 percent and California 67.3 percent.

LOSING HIGHWAY FUNDS

Money is at stake. For the fiscal year ending in October, states must have a 40 percent compliance record or they will lose 5 percent of their federal highway funds. State officials monitor the speeds with federal overseers checking them. Last year, with a 30 percent requirement, all states passed. But this year—and next, when the requirement rises to 50 percent—a lot of states may lose out.

The Transportation Department says that states could improve their compliance with better enforcement. It cites figures indicating growing support for the limit nationally, with 49 percent of interstate drivers speeding in this year's first half, down from 54.2 percent a year ago.

But the Westerners think that's unfair. "We're trying to crack down on speeders, and we think we're doing a good enforcement job," says Mr. Menghini of Wyoming. "But with 100 miles between towns, we just don't have the manpower." Already, he says, police have had to ignore other traffic problems to concentrate on catching speeders. "But we just can't catch everybody," he says, "and the speeders know that."

CANCELS THE SAVINGS

So the federal sanctions rankle. "There are an awful lot of people in the state who resent the feds holding this over our heads," says Clifford McCorkle, a Republican state senator from Nevada. "It's blackmail." Other state officials argue that cutting highway funds is counterproductive because it means more dangerous roads, canceling out the savings in lives that the lower speed limit brings.

"It's another in a long line of examples of Washington rules being applied equally to different states, and it's silly," says a Midwestern state senator who seeks repeal of the law or the sanctions. "Our people will speed more, and our police will catch fewer of them. That's just common sense. But not to Washington." ●

NEW COAL EXPORT FACILITY

● Mr. HUDDLESTON. Mr. President, one of the encouraging developments in the continuing energy crisis has been the growing substitution of coal for oil by overseas nations. The European countries and Japan are apparently moving more quickly than we are to shift their industries and electric utilities from oil to coal.

This year there has been a sharp and sudden increase in the exportation of U.S. steam coal. In 1980 the export of steam coal will jump to 12 million tons, from 2 million tons in 1979. While the market for our traditional export, metallurgical coal, is projected to remain flat, the experts are predicting a steady growth in the export market for steam coal.

This welcome, but unexpected, surge in the export of steam coal has put a serious strain on our transportation facilities, particularly at the ports. We have all read newspaper accounts of long lines of ships waiting to load coal at Hampton Roads and Baltimore. Existing port facilities must be expanded and new facilities opened up if the United states is to respond to the growing worldwide demand for coal.

Therefore, I was pleased to learn that the Family Lines Rail System, which includes the Seaboard Coast Line and the Louisville & Nashville Railroads, has announced a joint venture with two major coal producers to build a coal export terminal in Savannah, Ga. The terminal, to be operated by the Harbert Construction Corp., and Elk River Resources, Inc., will have the capacity for handling 12 to 15 million tons annually.

The source of the coal for this facility will be the low sulfur coal mines of Kentucky served by the L&N Railroad. New unit train rates and single line service on the Family Lines Rail System will open up new overseas markets for Kentucky coal producers. It will help to create jobs and contribute to our balance of payments. This is a welcome response to the energy crunch by the private sector and the Seaboard Coast Line and the Louisville & Nashville are to be commended for taking the initiative in increasing our capacity to export coal and in enabling Kentucky coal producers to compete in the growing world market.●

TRIBUTE TO HARRIET L. ROBNETT

● Mr. MATHIAS. Mr. President, it is always a special pleasure to see a person connected with the U.S. Senate receive an award for excellence. It adds an extra fillip of delight when you know that person and can attest from your own experience that the award is richly deserved.

I find myself in that happy position regarding the naming of Harriet L. Robnett as recipient of the University of Missouri-Columbia Alumni Association 1980 Faculty/Alumni Award for outstanding achievement.

At present, Harriet Robnett is the special deputy of the Secretary of the Senate, an ex-officio member of the Federal Elections Commission. But, as many of my colleagues will remember, she was a legislative and legal assistant to our former colleague, Senator Stuart Symington of Missouri, for 10 years.

In making this award, the Alumni Association of the University of Missouri-Columbia, pointed out that Ms. Robnett has pursued two careers—journalism and the law and public service—both with great distinction. It gives me particular pleasure to submit for the RECORD a brief biography of Ms. Robnett and the text of the citation.

I applaud the University of Missouri Alumni for their discernment in selecting Ms. Robnett as the recipient of this award and I congratulate Ms. Robnett in behalf of the Senate on her achievement.

The material follows:

HARRIET L. ROBNETT—FEDERAL ELECTION COMMISSION

Harriet L. Robnett, BJ '42, began a journalism career in Columbus, Ohio, as a reporter covering state government for the International News Service. An editorial position with the Associated Press in Kansas City was interrupted by World War II when she served as a staff assistant overseas for the American Red Cross. In 1948, Robnett joined radio station KSD in St. Louis as a writer. Eight years later she became a producer/director of documentary and public affairs programs for KSD-TV. In 1957 she began studying law. Six months after admission to the Missouri Bar in 1961, Robnett became a law clerk to newly appointed United States District Judge James H. Meredith. For 10 years she was a legislative and legal assistant to United States Sen. Stuart Symington of Missouri. Since 1975, Robnett has served as the special deputy of the Secretary of the Senate, an ex-officio member of the Federal Election Commission. The Commission interprets, administers and enforces disclosure of the financing of campaigns of federal candidates and for the public financing of presidential campaigns and conventions.

Harriet L. Robnett

Harriet L. Robnett, BJ 1942. Later while at St. Louis, she completed her studies at Washington University Law School and received a JD degree in 1961. She is an outstanding achiever. The real world first rewarded her exceptional intellectual qualities at the age of six when she was selected to skip first grade because of her outstanding ability. (Incidentally, some of the toughest academic competition in the world can be found in first grade where almost all scholars love school, love their teachers and want to do well.) Our awardee has distinguished herself in two careers. As both a print and radio-TV journalist, she was recognized for both her quality and her dedication. As a lawyer and public servant she has served with high distinction in a series of highly important and sensitive positions. Intellectual excellence is not her only claim to fame. At Hickman High School, she was thrice a queen. At MU she was a cheerleader and Homecoming Queen. The Alumni Association proudly presents a 1980 Faculty/Alumni Award to Harriet L. Bobnett.●

PANAMA: WHERE U.S. DIPLOMACY IS WORKING

Mr. CHURCH. Mr. President, one issue which continues to trouble many Americans is the new relationship which the United States has established with Panama for operating the Panama Canal. The question which is raised in many forms wherever I travel throughout Idaho is "Why was it necessary for the United States to negotiate and ratify the Panama Canal Treaties?" Although the answer can be complex, the bottom line continues to be because the treaties protect U.S. interests in the canal in perpetuity.

Evidence that the treaties are working is given in this week's edition of the U.S. News & World Report, a publication not known for its rosy outlook on world events. The article concludes that—

America has had few success stories abroad recently. But joint operation of the Panama Canal now looks as if it may be a solid winner.

Mr. President, I ask that the complete article entitled "Panama: Where U.S. Diplomacy Is Working," published in the September 29, 1980, edition of U.S. News & World Report, be printed in the Record.

The article follows:

Panama: Where U.S. Diplomacy Is Working

(By Carl J. Migdail)

Panama City.—When the United States turned over control of the Panama Canal Zone to the Republic of Panama last October 1, there were forecasts of deep trouble ahead for the historic waterway.

But today, 12 months after the controversial Panama Canal treaties went into effect, such fears are fading fast. The first year of joint operation of the canal and by the U.S. and Panama has turned out to be a success, which the administration of President Carter can claim as a major foreign-policy victory.

The canal still is moving ships efficiently between the Atlantic and Pacific oceans at the rate of 38 a day, just as it did when the waterway was under total control of the U.S.

NO MORE ANGER

Panamanian animosity toward Americans, which once erupted in bloody rioting, has virtually disappeared here in the capital.

Moreover, the influence of Communist Cuba's Fidel Castro is on the wane, and U.S. influence is rising here. "We no longer see the United States as a belligerent superpower trying to dominate a small nation," says a Panamanian worker. Former Foreign Minister Fernando Eleta puts it this way: "The U.S. acted before the ship sank. It acted in time."

Even a lawyer who opposed the treaties because they permit Americans to remain in Panama for another 20 years concedes that "the U.S. no longer is an issue in Panama."

There still are potential dangers ahead as the U.S. phases out its operation of the canal, which it built between 1903 and 1914 and to which it claimed outright ownership for more than half a century. Yet American and Panamanian officials are confident all future difficulties can be resolved.

Under treaties signed by Carter and Panama's strong man, Brig. Gen. Omar Torrijos Herrera, in September, 1977, and approved by the U.S. Senate in 1978—with only one vote to spare—the U.S. will retain control of the canal until the end of 1999, sharing its operation with Panama. Panama will become the waterway's owner and sole operator in 2000, with the U.S. retaining joint responsibility for its defense.

It is the American responsibility, meanwhile, to train Panamanians to take over the job of running the canal.

Aware that the world is watching this test of cooperation between a superpower and a tiny nation, Panama has given top priority to fulfilling its treaty obligations. Fernando Manfredo, Panamanian deputy administrator of the new Panama Canal Commission, has been ordered to maintain the efficiency of the waterway and the security of the former Canal Zone at all costs.

Panamanians and Americans, including former opponents of the treaties, agree that so far the transition has been handled better than was expected. Much credit is given to the skill and tact of Manfredo and of the American administrator, retired Gen. Dennis P. McAuliffe, in dealing with matters of national pride and sensitivity.

The former Canal Zone—now called the Canal Area—has been transformed over the last year. U.S. military forces and their families, a community of more than 20,000 people, have moved into fewer bases. The commission has given up all facilities not needed to run the canal. Hospitals and schools in the Canal Area have been taken over by the U.S. Department of Defense.

ON GUARD

Panamanian National Guardsmen—some of whom trained at Fort Bragg, N.C.—help American police patrol the area.

"It was a dramatic change," Manfredo recalls. "The Zone was almost a self-sufficient city. Then overnight it became a ward of Panama that relies on the Defense Department for services. It was a complex adjustment, but the canal remained effective."

Before the transition, the canal employed 14,220 workers, of whom 3,850 were Americans with about 6,000 dependents. Employees of the commission now number 8,000, including 1,943 Americans and 6,057 Panamanians.

A problem is the dual-pay system written into the treaties. Pay of old Zone employees cannot be lowered. But employes hired after the turnover may be paid a different wage for doing the same job. Example: A pre-October machinist earns $8.80 an hour. One hired since then is paid only $4.40. The disparity will increase this October when old employes get the U.S. federal pay boost of 9.1 percent, while new employes receive only 2 percent. The result is constant friction, and there have been short strikes in the port docks and the railroad now operated by Panama.

To head off any possible loss of efficiency, the canal commission is reviewing pay scales. Preference now is given to hiring Panamanians for jobs on the waterway. "But we don't want to sacrifice quality," Manfredo stresses. Even Panamanians concede that it still is the Americans who maintain efficiency.

Although Americans here believe that Panamanians eventually can run the canal, they have some concerns. One is that politics and favoritism may play a role in awarding key jobs to Panamanians and that efficiency of canal operations will suffer as a result.

Yet the transition has been a success politically as well as operationally.

Before the Panamanian flag was raised over Ancon Hill overlooking the canal, Panama's schools were hotbeds of anti-U.S. agitation and demonstrations. Students still demonstrate, but no longer against America. Now they demand better educational facilities.

And for the first time in almost 80 years, Panamanians are focusing on their own problems. "The country is in a transitional period between military dictatorship and a viable democracy," says one leading politician.

In 1968, the National Guard under Torrijos seized power after months of squabbling between political groups had almost paralyzed the government and economy. Torrijos has run the country ever since—first as active head of government during canal talks with the U.S. and since 1978 as the power behind the scenes as commander of the Guard, which now numbers 9.000 men. The general handpicked the present President, Aristides Royo.

LEEWAY, BUT—

Panamanians agree that Royo and his civilian administration run the nation's day-to-day affairs. But Torrijos remains the final authoritiy. Says an official close to both men: "Royo can do anything he wants up to the point where Torrijos says, 'No.' "

Panama will have a presidential election in 1984. Despite criticism by some Panamanians that the same leaders have been in power too long, the belief is that the government-organized party, Torrijos's Democratic Revolutionary Party, will win again. Panamanians now see their country as emulating the Mexican model of a "guided democracy" dominated by a government party.

During the decade when Torrijos pressured the U.S. for a new canal treaty and launched his revolutionary program to help the one third of his people who live in poverty, Panama adopted policies of a leftist nation. It moved nearer to Cuba and used the threat of Communism as a lever against the U.S. in canal bargaining.

Now that the treaty issue is settled, the Panamanian government is described as shifting back to "traditional Panamanian positions." It has become anti-Communist. Leftist officials have been moved out of the government or sent abroad. The government is shifting closer to the private sector to restore business confidence and to stimulate investment in the economy.

"Panama is basically a middle-class country, closely linked to the U.S.," says a Panamanian official.

Cuban influence is said to be "nil." Panama's own small group of Communists, who supported Torrijos in his treaty fight against Washington, have not yet started to attack the government for its new shift in policy. They are, instead, trying to rally popular support against U.S. policies in Central America that they charge are leading to "genocide" in El Salvador.

Even though observers regard Panama as "highly stable" politically, there is concern over economic problems.

Panama is a small tropical country of only 1.9 million people. Unemployment is estimated at 17 percent. Add the underemployed, and 23 percent of the population lacks adequate jobs. The inflation rate is about 14 percent. Almost one third of the population is in school, at massive government cost.

Panama's public debt, which was about 400 million dollars in 1970, has grown to 2.8 billion—about the size of the country's entire production in a year. It costs Panama more than 500 million dollars a year just to service the debt. The government was forced to borrow heavily from international agencies for its development program.

Since 1946, Panama has received 388 million dollars in aid from the U.S., about 275 million of that in loans. U.S. aid now totals about 11 million a year. Under the new treaties, Panama receives about 70 million dollars yearly from canal tolls but must spend part of that for maintenance of the area occupied by Americans.

After a period of stagnation in 1973 and 1974, the economy once again is beginning to grow at a rate of about 5 percent a year. Private capital also is starting to flow in once more.

WAITING FOR GAINS

Life still is difficult for an average Panamanian family struggling to cope with inflation and unemployment. Great expectations over immediate gains from the treaties have not been realized. "All the treaties have done is give us a Panamanian flag flying over the canal," one worker complains.

One problem facing Panama and the U.S. is the need to chart the canal's future. Vessels of more than 65,000 deadweight tons cannot use the waterway. And because of rising fuel prices, shippers are turning to more-efficient, larger ships. Canal officials are convinced the facilities must be enlarged quickly.

Plans under consideration range from widening canal entrances and installing new lights for nighttime operations to building another set of locks. Also being considered is the building of a new, sea-level canal not far from the present site, a move Torrijos favors.

Although Japan is interested in the venture, many Americans and Panamanians question whether a new canal—estimated to cost about 18 billion dollars—would be a good investment. Even improvements in the present canal would cost hundreds of millions. So, despite its auspicious beginning, the new canal partnership between the U.S. and Panama still has a long way to go. But with many difficulties already overcome, officials here are confident that they can successfully work together for the rest of the century.●

VEHICLE THEFT: A GROWTH INDUSTRY

● Mr. PERCY. Mr. President, regrettably, motor vehicle theft continues to be one of the Nation's few growth industries. During 1979 close to 1.1 million vehicles were stolen, with the theft rate increasing an alarming 10.6 percent over 1978, according to the Federal Bureau of Investigation. Vehicle theft has now become the Nation's fastest growing property crime. It is a $4 billion a year problem with motorists paying a hefty "theft tax" yearly as part of their insurance premiums.

The days when the teenage joyrider dominated vehicle theft are ancient history. High profits and low risks have attracted hardened professionals and organized criminal groups to the crime.

Clandestine garages or "chop shops" where stolen vehicles are dismantled for their lucrative sheet metal crash replacement parts are flourishing.

In 1979, for instance, police were only able to recover 58.4 percent of the value of stolen vehicles—an alltime low.

And, for the first time, juveniles no longer dominate vehicle theft. A majority of all vehicle thieves are now 18 years of age or older—a further indication of the professionalization of vehicle theft.

Mr. President, motor vehicle theft is not just an urban crime, but also affects rural areas. In suburban communities, it was the second fastest growing crime in 1979, increasing 13.6 percent in 1979 as compared to 1978. Every region of the country has experienced a growth in vehicle theft during the past year. In the Northeast, it increased 8.6 percent; in the North Central area, it was up 9 6 percent; in the South, it increased 15.8 percent; and in the West, it was up 9.1 percent.

In order to counter this disturbing trend, Senator BIDEN and I introduced the Motor Vehicle Theft Prevention Act of 1979 (S. 1214/H.R. 4178). The bill is intended to assist law enforcement in several ways.

It requires the placement of additional vehicle identification numbers (VIN's) on major sheetmetal parts now being fenced in the illicit market. These parts would probably include doors, the hood, trunk lid, and several other major motor vehicle components.

The permanent Subcommittee on Investigations, of which I am ranking minority member, explored the necessity for additional VIN marking. Former thieves testified before the subcommittee that they routinely disposed of numbered parts such as motors and transmissions because they left an audit trail for police. Thus, if additional VIN marking can now be mandated, law enforcement will be better prepared to arrest and successfully prosecute those who traffic in stolen sheetmetal parts.

Ford and General Motors have told me that six additional numbers could be placed on a vehicle for no more than $5 in manufacturing costs.

A revised version of the House companion bill to S. 1214 reported out of the House Interstate and Foreign Commerce Committee has added other additional safeguards, which I find acceptable. This includes:

A $7.50 limit on the manufacturer's component identification costs indexed to the rate of inflation. The bill already requires that component identification be a cost-effective practice. VIN marking could also be eliminated after 5 years if the Secretary of Transportation and Attorney General cannot demonstrate its effectiveness in reducing theft and increasing theft recoveries.

Joint veto authority by the Senate and the House to eliminate the VIN marking standard.

A provision which limits the maximum number of parts that can be marked at 14.

The bill is further strengthened by adding a provision providing for Federal criminal penalties of up to 10 years imprisonment and/or a $25,000 fine for knowingly selling a vehicle or vehicle part with an altered identification number.

Representative S. WILLIAM GREEN of New York City, the principal House sponsor of the bill, should be applauded for laboring behind the scenes to insure a high level of bipartisan support for this important measure.

Mr. President, Representative JAMES H. SCHEUER of New York City, chairman of the Subcommittee on Consumer Protection and Finance should also be commended for shaping the necessary compromises required to obtain a 22-to-1 vote to report the bill out of the Interstate and Foreign Commerce Committee on September 25, 1980.

The level of support for this bill is impressive. It includes the International Association of Chiefs of Police, the International Association of Auto Theft Investigators, State Farm Mutual Automobile Insurance Company, Nationwide Insurance Companies, Government Employees Insurance Company, the American Insurance Association, the National Association of Independent Insurers, the Automotive Dismantlers and Recyclers of America, Automotive Service Councils, Commercial Union Assurance Company, the Greater Cleveland Crime Prevention Committee, the New York/New Jersey Anti-Car Theft Committee, and the Washington Metropolitan Auto Body Association. These groups have joined together to form the Coalition to Halt Automotive Theft, headed by Theodore W. Johnson, which has spread the message that vehicle theft is a serious crime that must be brought under control.

Mr. President, I submit for the RECORD an excellent article on vehicle theft and the Senate hearings that appeared recently in Crossroads magazine.

The article follows:

A TALE OF THREE CAR THIEVES

(By Michael J. Connelly)

Tales of stolen car operations are unfolding, even as this is written, which indicate that the American motoring public is being taken for a long and expensive ride. The characters are many and varied—the good guys, the bad guys (really bad), plus any number of in betweens.

There are others, too—individuals who aid and abet the stolen vehicle rackets, which are said to cost the nation upwards of four billion dollars a year. These people, assuredly not racketeers, use stolen parts to rebuild and repair partially wrecked vehicles, because customers want their cars back in service as quickly and as inexpensively as possible. Auto manufacturers tend to support the stolen car rackets, too. Generally, they cannot or will not make spare parts available as quickly as the criminals can and do.

Last fall, in Washington, three notorious car thieves unveiled a sordid tale that reads like a Mickey Spillane thriller—only without the make believe. One thief, living under a new identity, described car theft rings and related gangland warfare in Chicago. A second, testifying under an alias, told how cars and trucks were commandeered in California and the Southwest. And a third exposed a significant car theft racket in southwestern Ohio.

CHICAGO, 1970 HUB OF CHOP SHOP RACKETS

Alex Jaroszewski, 29, married, father of three, is working as a bakery truck driver; annual income, $10,000. He and his brother-in-law, Eugene Spencer, ride motorcycles, and so does Steve Ostrowsky, co-owner of a salvage yard called South Chicago Auto Parts. The three get acquainted at Calumet Park, a gathering place for cyclists, and eventually Alex and Gene express interest in Ostrowsky's lucrative busines. At a coffee shop in the Roseland District. Ostrowsky explains that his customers include legitimate salvage yards and body repair shops in the Chicago area and as far away as Pennsylvania, Missouri, and Tennessee. When the parts his customers need are not in his inventory, Ostrowsky contacts a professional thief who delivers, on order, an entire car for $100, or better yet, only the needed parts for $500.

Within days, Ostrowsky and the neophyte thieves are on the street, equipped with $50 worth of materials acquired from a department store: a dent puller, a nail puller, a set of screw drivers, and a needle-nose pliers. Their first target: a 1969 Buick Riviera, parked on the South Side. Ostrowsky pulls up, gets out, and jerks out the passenger's side doorlock with the nail-puller, replacing it with a dummy. Then the three drive a few blocks away to read the numbers on the Riviera's lock tumbler. In a matter of minutes, Ostrowsky shows Jaroszewski and Spencer how to cut a key that fits the lock and they drive back and easily gain entry to the Riviera. Starting the engine, for this professional, is no problem either, so he drives the car to a prearranged drop point. The stolen Riviera is picked up the following morning, and in less than a day, the needed parts are on their way to Ostrowsky's customer.

Jaroszewski and Spencer quickly move on to the next step: setting up a garage in a remote area where they can cut up stolen cars. They locate in Markham, a suburb, not far from South Chicago Auto Parts.

Enter Richie Zink, an Ostrowsky cohort who helps them order the equipment needed to dismantle stolen cars: acetylene torches, oxygen tanks, cutting tools, drills, hoses, and sets of floor jacks. Ostrowsky lends them money needed to pay for the tools.

After the pair steal another Buick Riviera, Zink shows them how to dismantle it. First, they obliterate all of the Vehicle Identification Numbers, known as VINs, on the car, and destroy personal belongings which police could trace to its owner.

Zink unbolts the front end (known as the dog house). In short order, the windshield and doors are cut, unbolted, and removed from the frame. After the seats are pulled, Zink cuts the posts connecting the car roof to the dash. Then he cuts through the car floor from side to side and removes the cowl clip—the car's firewall, dashboard, instrument panel (including the built-in radio), and the steering wheel. All that remains are the roof and back end, frame, engine, and transmission. (Sometime later Art Petaque, crime reporter for the Chicago Sun-Times, nick-names this type of operation a chop shop.—Ed.) Within hours, an unmarked truck delivers the needed parts to South Chicago Auto Parts. Instead of waiting four to six weeks and paying $200 or more for replacement parts from the manufacturer, Ostrowsky's customer pays something like $50 for an assembled door and $100 to $300 for a front end delivered in a matter of days.

By stealing and chopping one car a night, five nights a week, Jaroszewski and Spencer expect to make as much as $2,500 a week or $125,000 a year. (In testimony last year, Jaroszewski estimated he cut up 200 cars in a single year, missing their goal by 60 cars.)

Steel mills dominate the skyline of southeast Chicago. Immigrants and sons of immigrants who man the mills, the railroad yards, the grain elevators, the big Port of Chicago docks at Lake Calumet, live here. They're well off, in the main, but not so well-heeled that they drive late-model Lincolns, Cadillacs, or Chryslers. No, they drive Chevys and Fords and Plymouths and an occasional motorcycle, and, for the recreation, a pick-up truck or a Jeep. About the only place where thieves are likely to find high-priced late-model luxury cars is Flossmoor, an affluent suburb. But people who live in Flossmoor lock their cars in personal garages.

So instead the thieves head to Chicago's North Side. This is where some of the residents own steel mills. Rentals in sparkling skyscrapers (in 1970) start at $500 a month and run as high as $1,500 and $2,000. Nineteenth-century brownstones on Astor Street are worth well over $100,000. The Cardinal Archbishop lives in the area and so (in 1970) does Playboy publisher Hugh Hefner. No one pays much attention to their chauffeured limousines, though—they are just another part of the Gold Coast affluence.

Police, of course, are more active here. Two-man patrols in blue and white sedans cruise through the area constantly, especially after dark. But the ingenious Ostrowsky and his partner, Harry Holzer, duplicate a police detective's unmarked car and by dressing in suits and ties, find it ridiculously easy to pretend that they are detectives who have a car thief under surveillance. Any patrolling police and private garage guards who happen by, thinking that they recognize a surveillance, give the thieves every opportunity to steal any model they choose.

In the early '70s, about the time Jaroszewski and Spencer join Ostrowsky, forces of law and order notice a significant decline in the number of stolen car recoveries. Typically, teen-age joyriders steal cars to strip off the hub caps and radio and antenna and take any personal belongings that may be of value; the car itself is abandoned intact with recovery relatively routine.

Now, though, more and more cars are disappearing completely, the victims of professional thieves. And police informants, claiming that organized crime has become involved, attribute the 1969 bombing death of salvage yard operator Harry D. Carlson to the fact that he had been recruited to work with the mob, but refused to get involved.

By June, 1971, Ostrowsky discloses to his cohorts that he and one Billy Dauber work as enforcers for Jimmy (The Bomber) Catuara, the leader of all organized crime activity on the South Side of Chicago. Jaroszewski's first gang-related assignment is to dispose of a car that had belonged to Robert Pronger, Jr., a gangland murder victim who had started to cooperate with the FBI. Jaroszewski and Spencer chop up Pronger's car, burn its blood-stained carpet, and dispose of the parts.

(Jaroszewski testified: "I had no problem accepting my first step into organized crime. I felt it was a step to safer grounds. As long as I worked for the Outfit—the name for Chicago organized crime—I had protection. If I were arrested, I had the weight of Jimmy Catuara in my corner. If someone attempted to extort money from me, all I had to do was notify Ostrowsky and the problem disappeared.")

In August of 1971, Cook County Sheriff's deputies raid the Markham garage where Jaroszewski and Spencer are cutting up a stolen Cadillac. The thieves escape through the back, however, and flee to a motel. In a matter of weeks, though, they are arrested. Released on bail, Spencer takes his cue and leaves Chicago to open a new business in Indiana. Jaroszewski, however, with Ostrowsky's help, sets up a new chop shop at Scott and Goethe, in the high-rent district just north of the Chicago Loop.

Now he and Ostrowsky figure out how to triple their income by selling all usable parts of a stolen car to a single rebuilder who has acquired a wrecked car at an insurance auction. Here, in Jaroszewski's words, is how the so-called body switch worked: "He (Ostrowsky) would approach legitimate auto rebuilders at the auctions and tell them they could net a larger return on their money if they bought his stolen parts. If they were interested . . . we would steal the identical make and model car that the rebuilder had purchased wrecked at the insurance auction. For example, if our client purchased a totaled 1971 Cadillac, I would steal and chop a 1971 Cadillac and, with the exception of the numbered parts (engine, transmission, and frame), I would deliver the car to our client. After replacing the damaged parts with the stolen parts, the rebuilder would apply for a clear title. . . . We received between $2,000 and $3,000 for each car we chopped and delivered."

CAR THEFT SOUTHERN-CALIFORNIA STYLE

("John Smith," is the alias of a convicted car thief sentenced to five years in federal prison for a Dyer Act violation.) Having moved his family to southern California in 1964. Smith works as a legitimate auto-mechanic, and, in his spare time, learns to rebuild cars. In 1966 as he is leaving a salvage yard, two men offer him parts to a Corvette at substantially under the prevailing price ("I was offered a set of bucket seats for $150 when the going rate at a salvage yard was $350"). This is just the beginning. Smith soon acquires an entire line of stolen parts for his rebuilding operation, and within a couple of months, he has stolen a car on his own, thus eliminating the middle-man. By late 1967, he quits his regular job and devotes full time to stealing and retagging cars. (Retagging, the same as salvage title switching, occurs when the thieves combine the identification numbers from a total wreck with parts of a newly stolen car.) After serving time twice on theft convictions, Smith remains undaunted and creates an underworld dealership of sorts, providing legitimate vehicle identification numbers for retagging and related stolen car operations in nine states and parts of Mexico. Smith's network of some fifty thieves accounts for the stealing of 1,500 to 2,000 motor vehicles. ("I personally retagged about 60 pickup trucks, about a third of which were sold in Mexico," Smith testified describing his operation.)

Like Steve Ostrowsky in Chicago, Smith becomes expert in making keys from key codes. Sometimes he takes down the name of an auto dealer from the license plate holder on an expensive, late model car. He determines the owner's name and address from a California Department of Motor Vehicles teletype readout of the license number, available on request. Pretending he is a locksmith on an emergency call, he calls the dealer and says he is "Joe from Joe's Locksmith, and I have a customer of his down here at the shopping mall and she has lost her keys while shopping, and would he be kind enough to give me the key codes off of her service record so I don't have to detain her and charge her $35 to tear the steering column down on her Cadillac." Instead, he says, he will charge only a few of dollars for cutting her a new key. Smith writes down the key codes, cuts a key for the car, and then steals the automobile out of the owner's driveway.

OHIO, 1973 AUTO THIEVES TRANSFER I.D. NUMBERS

Wilfred C. Bunnell, Jr., an expert auto rebuilder, sets up a body repair shop by day, chop shop by night in Reading, Ohio. Customers who bring their wrecked cars to Auto Rebuilders in Reading unknowingly drive around with stolen parts on their cars after Bunnell repairs them. His partner, Larry Joe Carnine, retains three thieves to steal cars on order for the shop.

Bunnell testified . . . "we were a business that operated with practically no overhead;

all the merchandise we sold was stolen. Consequently, the operation made a fortune."

When all the costs of employing auto thieves and body men are factored in, it probably costs Carnine, the boss, about $400 to $700 to steel and chop a car. Yet, when he installs just one front end, he charges a customer anywhere from $2,000 to $3,000.

One time, the thieves take advantage of a Cincinnati doctor who brings his handmade $27,000 Jensen Interceptor in for routine repairs. Thomas Majors, according to Bunnell, duplicates the doctor's car keys and subsequently steals the car.

Even higher income is made in retagging, using wrecked cars from a salvage yard in northern Kentucky. There, the thieves tow an otherwise worthless car to Reading where its vehicle identification numbers are transferred to a stolen car of the same make and model. Then the car is taken to a new car dealership, inspected for a fee, and approved. By presenting the inspection slip and an out-of-state title, Bunnell easily obtains a legitimate Ohio title for the car and sells it for $7,000 to $8,000. The Ohio operators retag as many as ten cars a month. Eventually, they close garages in Remington and Reading and open one in High Point, Ohio, Bunnell chops anywhere from sixteen to twenty-five cars a week and earns anywhere from $400 to $1,000 per car. He claims his weekly take-home income is as high as $7,000, while Carnine, the ringleader, hauls in three times that much.

Although married and a father of four, over seven years Bunnell enjoys expensive living and keeps, at various times, sixteen different women. Therefore in 1977, when he buys a Pontiac Firebird from James Spangler, one of the thieves. Bunnell falls short of cash and has to borrow money from a suburban bank to finance it. Although Spangler and Carnine assure Bunnell the car is "clean," the title is actually false and Bunnell is arrested. He soon implicates the entire ring of thieves and chop shop operators that has operated in three southwestern Ohio counties for nearly a decade. Bunnell's partners in crime—Carnine, Majors, and Spangler—are among nine individuals indicted on more than seventy-five counts of receiving stolen property, theft, and engaging in organized criminal activities.

EPILOGUE

Chop shop operations, although highly lucrative, involve certain risks, some of them lethal. Alex Jaroszewski felt a certain sense of security when he learned that Steve Ostrowsky worked for mob chief Jimmy Catuara. Through payoffs to police and, perhaps, to an occasional judge, Catuara operated his organization for years with virtual impunity. But the system apparently began to break down when some chop shop operators turned informer rather than be drawn deeper into lives of crime and violence. Another element in the disintegration of the chop shop system was inter-gang warfare for control of forced payoffs—called tribute—from independent salvage yard operators.

Over the past decade, Chicago has witnessed a veritable blood bath of the underworld. Since August of 1969, when salvage yard operator Harry Carlson was dynamited in his car, at least fifteen gangland murders linked to auto theft racketeers have occurred.

Jaroszewski, himself, came dangerously close to becoming a victim. His first direct connection with a gangland murder cover-up involved the late-model car which had belonged to Robert Pronger, a suburban Chicago race car driver who had been talking to federal authorities. Pronger had phoned Harry Holzer, Ostrowsky's partner, inquiring about the Markham garage operated by Jaroszewski and Spencer. Shortly thereafter, in June, 1971, Pronger disappeared and Jaroszewki helped dispose of his car.

Later, Ostrowsky, in Billy Dauber's absence, asked Jaroszewski to drive a car in the planned murder of Guido Fidanzi, a principal witness in a federal mail fraul trial. Catuara apparently cancelled the Fidanzi hit because Fidanzi was under around-the-clock surveillance. In August, 1978, after the surveillance had been lifted, Fidanzi was slain just the same, but Jaroszewski denied any involvement.

In the late summer of 1971, Billy Dauber told Ostrowsky and Jaroszewski that he and Joseph Marek had killed Roger Croach because Dauber felt Croach "couldn't handle the heat, the legal heat, that was coming down." The Croach car, a 1972 Cadillac Coupe de Ville, was cut up in Jaroszewski's Scott Street chop shop, Croach's partner, Michael Regan, was also killed.

Meanwhile, through a telephone mixup, Ostrowsky inadvertently learned that Jaroszewski had turned FBI informer.

"My girlfriend at that time took the call," Jaroszewski testified. "The FBI agent at that time indicated that he wanted to talk to me, and the business that they wanted to talk to me about was more information on the Pronger vehicle, which I had given them earlier.

"She in turn, called Steve Ostrowsky at the salvage yard and told him that the FBI was looking for me. . . . Ostrowsky, in turn, called the FBI, posing as Alex Jaroszewski, and asked the agent what he wanted, and the agent told him what he wanted, not knowing that it wasn't me, and indicated to him that you know, . . . that I was an informer."

Believing that he would be murdered, Jaroszewski turned himself over to protective custody of the FBI and assumed a new identity. His testimony helped send Dauber and others to the penitentiary for three years on conviction of mail fraud charges.

By 1975, known underworld associates of Catuara began to drop off. Harry Holzer, former partner of Ostrowsky, was murdered in Michigan, and Ostrowsky, himself, was gunned down in October 1976, in front of his South Chicago Auto Parts. Other Catuara henchmen, including Earl Abercrombie, James Palaggio, Richard Ferraro, and Sam Annerino, were also slain. Catuara, himself, was shot to death at 8 a.m. on July 28, 1978. He was seated in a red Cadillac on Chicago's West Side. He was 72.

Since Crossroads began preparing this article, one Marvin Reed, warden of the state penitentiary at Joliet, Illinois, was indicted on charges of auto theft, felony theft, conspiracy to commit auto theft, and perjury. He has resigned his post.

Even more recently—on Wednesday, July 2, 1980—Billy Dauber and his wife, Charlotte, were ambushed. Dauber had been arrested last September in his suburban home and charged with illegal possession of cocaine and firearms.

By July the gangland assassin who had been linked with as many as thirty murders began to fear for his own life. He equipped his late-model van with bullet-proof glass and armor plate and created a secret, well-armed hideaway in his home. One report indicated that he slept under a bullet-proof blanket.

On the fated Wednesday Dauber drove to the Will County Courthouse in Joliet, in his Olds Regency. As an ex-convict, he was forced to remain unarmed for the court appearance, or risk being rearrested on a weapon-possession charge.

During the routine appearance, Dauber's attorney asked federal authorities to turn over the sealed affidavit and search warrant they had used last September in the arrest. Arguments would continue the following Wednesday, the judge ruled, and the hearing was adjourned.

The couple was driving along secondary roads south and east of Joliet when Billy Dauber's last high-speed chase began. This time, though, the long-time hit man was, himself, the object of a contract. Four miles east of Manhattan, the familar burst of shotgun and rifle fire forced the speeding Oldsmoblie off the road into a farmyard where it smashed into an apple tree. The Daubers died in what police described as an unusually vicious "commando-like" slaying.

The Olds? Three of its windows were gone and its front end was totaled. A good chop shop operator, they say, could have it back on the road in less than a week.

GOVERNMENT MOVES ON CAR THEFT LAWS

Car manufacturers have been installing a few antitheft devices on their products since the early 1970s when federal law required the steering column to lock when the ignition key was removed. Interior hood releases and occasional inside locking devices for trunks also are designed to deter theft.

Now, a proposed federal law, *The Motor Vehicle Theft Prevention Act of 1979*, would require even stronger ignition locking systems and greater use of vehicle identification numbers. Manufacturers currently identify a car by a numbered metal strip visible under the driver's side of the windshield and by numbers embossed on the engine and transmission. The proposed law could require numbering on such parts as the front fenders and deck lid and floor of the trunk.

Athough they support other sections of the proposed law, Ford and General Motors oppose federal standards for ignition locking devices. GM says such devices should be optional and available in big cities where the chances of a new, expensive car being stolen are greatest. Besides, they say, if there is one federal standard, professional thieves would quickly learn details of the system and readily circumvent it. Said GM spokesman David E. Martin: ". . . publication of government standards, and the public information exchange that is bound to occur during rulemaking, may actually be counter-productive. Access to such information could forewarn professional thieves by providing advanced details of new countermeasures even before they can be produced."

Both Ford and GM are experimenting with plans to expand numbered components. The 1980 and '81 Lincoln Continental and Continental Mark VI carry numbers on the fenders, right front door, hood, deck lid, and rear body. By April of this year, the theft rate for these models had fallen ten percent below the 1979 rate. GM is extending its numbering system on 1981 Eldorados and Sevilles to six major body parts in a test of numbering label durability, transfer-resistance, and cost-effectiveness.

". . . we are not opposed to the marking of auto parts," Martin said, "so long as there is a reasonable basis to conclude it will pay off for the consumer. Regrettably, to date (June, 1980) there is no basis for such a conclusion."

Theodore W. Johnson, executive director of the Washington-based Coalition to Halt Automotive Theft, believes the federal law, if enacted as is, would crack down "on the major auto theft operations, especially those with links to organized crime.

"Wisely," Johnson commented, "the bill does this in two related ways: First, it provides the tools laws enforcement authorities need to identify, arrest, and successfully prosecute and punish the criminal. Second, and just as important, it strikes at the crime itself by diminishing its profitability to the criminal and, therefore, the incentive to commit the crime in the first place."

In Johnson's view, the greater use of identification numbers and stronger penalties for altering or removing them would work to "put the car thief and chop shop operator out of business (and will) dry up the market for stolen parts, just as the current numbering of engines and transmissions has already made those parts worthless to the thief."

The proposed law would make the alteration or removal of a vehicle identification number a federal crime subject to a $5,000 fine, imprisonment up to five years, or both. It would also place prosecution of interstate auto thieves under the tough federal Racketeering Influenced and Corrupt Organizations Statute, with chop shop operators and their allies facing fines of up to $25,000 and terms, on conviction, of up to ten years in a federal prison, or both.

Finally, in an effort to reduce the huge stolen vehicle traffic to Mexico, the new law would give U.S. customs agents on-the-spot authority to arrest persons suspected of importing or exporting a stolen car, truck, or other self-propelled vehicle, even an airplane.

Senator Charles Percy, an Illinois Republican and one of the proposed law's strongest advocates, says the insurance industry collects at least two billion dollars yearly in customer premiums to offset stolen car losses.

"The sophisticated operations of vehicle thieves and the ready, highly profitable market for stolen vehicles and their parts, affect every motorist in the form of rising insurance premiums," the senator said. "This costly problem has been ignored too long by Congress and the federal law enforcement community. Legislative action is needed now."

He said that on the floor of the Senate last January 29. Now, the bill's fate rests with the Congress.—M.J.C.

FIFTEENTH BIRTHDAY OF THE NATIONAL ENDOWMENTS FOR THE ARTS AND HUMANITIES

● Mr. PELL. Mr. President, it is with a great sense of pride and satisfaction that I call my colleagues attention to an important anniversary being observed today. It is the 15th birthday of the National Endowments for the Arts and Humanities, our twin cultural agencies which were established in 1965. That year marked a significant turning point in our Government's recognition of the importance of these fundamental values in our national life. Since their modest beginning with a combined budget of $5 million, the Endowments have matured and expended into influential catalysts that have a profound impact on the cultural life of the Nation. The 1980 budget for the Arts Endowment was an impressive $154.4 million while the Humanities Endowment was set at $150.1 million.

One provision of the law that created the Endowments was designed to limit Government dominance in the arts and humanities. It stipulates that the Endowments shall not provide more than half of the cost of any project. Thus, other than fellowships to individuals and a few special projects, each Endowment grant must be matched with $1 or more from non-Federal sources. This procedure has encouraged a staggering increase in the amount of contributions to the arts and humanities from the private sector. This is certainly one of the most positive and meaningful effects of the enabling legislation for the Endowments.

I wish the Endowments well on this happy occasion and extend my congratulations to their Chairmen, Livingston Biddle, and Joseph Duffey, for the fine leadership they are providing as well as to their staffs for their superb support.

Mr. Biddle, who has been involved with the Endowments since their very inception, has written a personal reflection on his own experiences with the National Endowment for the Arts. I ask that it be printed in the RECORD.

The statement follows:

REFLECTIONS ON THE FIFTEENTH ANNIVERSARY

(By Livingston L. Biddle, Jr.)

"The Arts have a central, fundamental importance to our daily lives."

When those phrases were presented to the Congress in 1963—the year I came to Washington to work for Senator Claiborne Pell and began preparing legislation to establish a federal arts program—they were far more rhetorical than expressive of a national feeling of reality.

They were expressive of a vision of an unprecedented but uniquely American experiment in developing cultural growth and progress. As in visions, dreams, ideas which are possible of fulfillment, there was a core of truth. But it was distantly perceived. Words like farfetched, impractical, eccentric were applied—and even, at critical moments, ridicule.

But the vision persisted. The dreams, the ideas became part of a fledgling program enacted into law 15 years ago. And today the vision is perceived; closer at hand. The arts in the United States are gaining a national significance, a new sense of priority. They are recognized for the gift of enrichment which, in such a special manner, they provide.

So on this 15th Anniversary, I express my own particular admiration for those early Congressional leaders, of both parties, who "chose the road less travelled by," who pioneered and blazed a trail which is becoming more and more a broad avenue toward the future.

As a nation we are mobilizing funding resources—at federal, state and local governmental levels, among corporations, foundations, and private philanthropists—on behalf of the arts, and the abiding talents they represent. We are moving toward goals which once seemed impossibly beyond reach.

The enriching qualities of the arts can profoundly affect the uplifting of the human spirit. That has been true in leading civilizations throughout history. It is becoming true in our own country—at all economic levels of society. I see growing numbers of examples. It is not a Renaissance of the arts. It is birth; it is new beginnings. We have never witnessed its like before.

In the 15 years since 1965, the arts have begun to flourish all across our country. In all of this the National Endowment serves as a vital catalyst, with States and communities. The role, increasing in meaning year by year, is wholly in keeping with the original legislation's design, and the ideals of my two predecessors as Endowment chairmen, Roger Stevens and Nancy Hanks.

Special safeguards to ensure that government would not dominate or threaten the free development of the arts were carefully written into our basic law. Unlike most federal agencies, our staff members do not make the crucial decisions about which projects and which artists receive support. My job really is to bring together the experts in each field, to discuss the merits of our 25,000 applicants and determine those best qualified. Competition is enormous. Only one in four on average, with funding now available, is successful.

The panel system of peer review is at the core of the Arts Endowment. Extending the concept are the 26 private citizens, appointed by the President with the advice and consent of the Senate, who serve as members of the National Council on the Arts, guide the agency's overall policies and review panel recommendations for final action.

The law also includes a firm injunction against interfering in the policies of our grantees, a provision basic to freedom of expression.

The Endowment had some controversial moments; and yet controversy is the yeast that makes the creative loaf rise. If we tried to be forever safe in our grant-making, we would not be fostering the free expression of ideas on which the arts thrive. In fact, if you compare the Endowment's grants over the years to arts support in the private sector, you will find that the Endowment is more likely to fund the new, the sometimes experimental, the less immediately visible work—the lone composer or poet, the small press which gives opportunity to talent in literature, the off-off Broadway theater at the cutting edge of the theater arts.

In the agency's budget for the current year, we emphasize access—that is, making the best in the professional arts available to the widest number—with emphasis on television and touring. Our support for such series as "Dance In America" and "Live From Lincoln Center," demonstrates how television reaches beyond the large cities and presents major arts events to all parts of our country. It also has the special potential for educating Americans in the immense diversity of the arts.

During the last two years, for example, 34 million people have seen Metropolitan Opera performances on "Live From The Met." In terms of our assistance, that works out to a cost of less than two cents a viewer. We are planning now to emphasize other art forms which have not yet appeared frequently on television—jazz, the visual arts, and the design arts such as architecture—and to support important new efforts in theater and opera.

We have discovered that television, far from undermining live performances, whets the viewers appetite for more. After appearing on "Dance in America," the Joffrey Ballet learned that 59 percent of those attending for the first time during the companys next New York season were there because they has seen the Joffrey on television. Arts audiences are not satisfied to be mere passive observers. Inevitably, new dance companies spring up in communities which have seen a great performance, whether it be on television or through touring by an excellent company.

A second important model for the long-term future of the arts is a city like Savannah, Georgia or San Antonio, Texas or Winston-Salem, North Carolina, where the arts are serving as the focal points, the driving force in revitalizing the city. Winston-Salem for example, had been losing population to its suburbs. Several years ago the arts Endowment gave a small planning grant to the local arts council, the first in the nation by the way, to move into a deteriorating section of the center city.

From that beginning has come a coalition of cultural, political, and business leaders who are now rebuilding the downtown a special arts enclave, including a theater, a center for the arts, a park, and artists' studios. The combined efforts, including historic restoration and pride in the past, have stimulated $3 million in grants from other federal agencies and over $100 million in private investment.

More important in my view is that in another ten years time, Winston-Salem could emulate an Athens of old, a city where the arts are indeed exemplified as of central, fundamental importance to daily life. And the same emphasis could develop across the country.

As in the story of Winston-Salem, I believe it is legitimate to discuss the economic impact of the arts, their often proven value in attracting tourism and in rebuilding cities. We can discuss their social benefits, their values to the handicapped, the aging, or to those in prisons. Art, in a special way, does furnish such benefits; and businesses, large and small, have a relevance to the arts—all the way from a photographic flashbulb to the bricks and mortar of a cultural center.

But let us stress the intangible values of the arts above all—their gifts to the eye and ear and mind, to the imagination, to the questing spirit, to the revelation of new horizons. An Appalachian folk singer of indigenous American music, a Metropolitan Opera star, a painter, poet, choreographer . . . all the myriad art forms, those from ethnic backgrounds, those from the deepest traditions of our Native Americans . . . each adds to the multifaceted riches of the arts.

The large arts organization—the small one—survival remains the single most descriptive word . . . But survey the road travelled in 15 years . . . Then look toward mountains yet to scale . . . Remember the individual artist as the surest guide.

And remember, too, that when a society emphasizes the arts, it emphasizes the value of the individual, of individuality. Where the arts flourish, so does that consumate political system centered on the individual—democracy.●

COLUMBUS DAY 1980

● Mr. MATHIAS. Mr. President, because the Congress will not be in session on October 12 when we observe Columbus Day, I would like to include in the Record today a few thoughts to mark this holiday which is so important to all Americans.

Marylanders are proud that our State was the first in the East and second in the Nation—after Colorado—to make Columbus Day a holiday. It did so in 1908. In 1920, the city of Baltimore followed suit. That year the late Gov. Albert C. Ritchie unveiled a handsome portrait of Columbus at the State House in Annapolis.

On that occasion the late Placido Milio delivered an address, expressing appreciation to the State and the Governor for this tribute to Columbus, in behalf of all the citizens of Maryland, particularly those of Italian origin. Placido Milio was the obvious choice for featured speaker that day for he was the founder and the first grand venerable of the grand lodge of Maryland, Order Sons of Italy in America.

Placido Milio, the guiding spirit of the Sons of Italy, was an outstanding American. The story of his life is inspiring and it seems to me that retelling it at the beginning of this new decade is an appropriate way to mark Columbus Day. As his son, Louis R. Milio, has pointed out:

> Behind every such story there are the trials, struggles and tribulations which men must face and endure when undertaking something new as Columbus did himself.

Because such stories are best told by those who know them best, I asked Louis R. Milio if he would put down on paper some of his recollections about his father so that I might share the story of this extraordinary American son of Italy with my colleagues in anticipation of Columbus Day 1980.

Mr. Milio's beautiful tribute to his father is a window on a world from which contemporary society could derive much benefit and inspiration. I very much appreciate his making the effort to record for us and for posterity the facts of his father's lustrous life and I ask unanimous consent that his statement on his father, Placido Milio, be printed at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

My Father

(By Louis R. Milio)

Born, bred and highly educated in Italy, Placido Milio first migrated to the United States at the turn of the 19th Century, after reading enticing letters from a cousin who had preceded him about the City of Boston, Massachusetts, where he rose to the rank of police captain, as head of the then Italian Division. The relative painted a glowing picture of "streets paved with gold" in the New Land. However, when Dad arrived as a young man, it was a different story. Although he had studied English and had read about Benjamin Franklin and other American patriots, he had to acquire a speaking knowledge of the new language. Having done so he was requested by the then Royal Italian Government, with the approval and accreditation of the Board of Education, to become a School Master in an emerging bilingual school in Natick, Rhode Island, where both the English and Itailan languages would be taught. Among his first group of students was his own youngest brother, Tino J. Milio, then a little fellow, who later became an Attorney-at-Law as a member of the Maryland and the Pennsylvania Bars. He successfully performed the educational assignment until he noticed a newspaper advertisement for a pharmacist-assistant in Baltimore, Maryland. Dad made his way to the Monumental City around 1905 to work under a Dr. Giampietro whose "Dispensario Medico Chirurgicodel" was at 844 East Pratt Street, now the site of the National Shrine—The Star Spangled Banner "Flag House", so shown in its 1910 photograph.

When the good doctor found new opportunity in Florida, Dad took possession of the historical building, eventually bringing his family to live there until 1918, when the City of Baltimore took it over for its civic and patriotic purposes. His family consisted of his parents, five brothers—Santo, Salvatore, Tino, Anthone (Tony) and Joseph; and one sister—Conceltina—who late became mother of Mrs. Thomas D'Alexandro, Jr., who in turn became the wife and mother of two living former Baltimore Mayors.

Dad matriculated in 1909 to the University of Maryland Medical School. While a medical student, his father Luigi Milio, in his mid-40's, suffered a fatal heart attack. As an oldest son, Placido Milio immediately assumed the leadership of the large, saddened and struggling family. In the meantime, the Italian Government authorities asked him to become the official correspondent of the Bank of Naples (Banco di Napoli), the oldest commercial bank in the world. Indeed, Father's lengthy signs in front and along the sides of the "Flag House" wall proved him to be a man of affairs: Banker, Agent for the Adams Express Company and operator of a United States Post Office Branch. His brother, Tino, joined him with his law office as well. Together with his other employees they helped serving the many Italian immigrants coming to the New World through the active Baltimore Port. With the various foreign ships arriving here, he was also named bonded agent for the Cunard White Steamship Lines, as well as for 24 additional passenger lines as a member of the Trans-Atlantic Passenger Conference, with headquarters in New York.

In addition, Dad soon found himself involved and immersed in such activities, for example, from being a Republican Judge to serving as a member of the Selective Service Board during World War I.

When Vincenzo Pirozzi, an organizer for a National Fraternal organization dedicated to the betterment and fairer treatment of then maligned and mistreated Italian immigrants, came to Baltimore from New York, he convinced Dad of the need for the newly emerging group. This organization, based upon the French concept of "Liberty, Equality and Fraternity" became and still exists as the Order Sons of Italy in America (OSIA). The first organizational meeting took place in Father's "Flag House" bank-office. The first lodge of between 30 and 40 members was enthusiastically started with the question of what to name the new group. With young Marconi's wireless invention being proven practical in the tragic sinking of the SS TITANIC after hitting an iceberg in 1912, Dad suggested the name of the 28-year-old Italian-Irish scientist, who had electrified the world with his miraculous invention. Thus Guglielmo Marconi Lodge No. 183 was born and Dad was elected the first head and served as its Venerable from August 31, 1913 to February 6, 1926.

Father's greatest thrill and satisfaction was when he received a Marconigram from the "Master of Space and Father of Radio" acknowledging the singular honor bestowed upon him of having a lodge named in his honor. Later, Father met the immortal Marconi at a Washington reception with a Baltimore delegation headed by the late Vincent L. Palmisano, the first Congressman of Italian heritage elected in the United States.

The next step of the Order Sons of Italy in America in the "Free State" was the actual initiation of the Grand Lodge of Maryland on July 18, 1920, when it had increased to the required 500 membership. By unanimity, he was elected its Frist Grand Venerable. He served three two-year terms—a requirement to retire from office by the By-Laws. Dad was then accorded a sumptuous banquet in then the elegant Southern Hotel. When he left the high fraternal post, the local Order's membership had risen to 3,000 loyal, devotes and grateful fellow-brothers and sisters.

Highlights of his administration were many and varied. In addition to his organizational leadership in starting and directing the very destiny of the Order with all its problems, difficulties, set-backs and even disappointments, he brought often heated and divergent views together. Geographical sectional biases have existed in Italy just as they have and still do in our country. Therefore, professionals had to be convinced to associate and work together with the members of the laboring class in the spirit of fraternal bond with one heart, one mind and one objective: to advance and enhance the Order. Medical attention and death benefits had to be planned and provided for members and their spouses.

The beginning of a building drive was launched with the erection later of the then most impressive and imposing temple and social dance hall in the City, known at that time as the Italian Garden, at 804 Saint Paul Street. The beautiful edifice was dedicated in 1936 with a huge celebration attended by many members, guests and dignitaries.

In 1908, Maryland became the second State in the Union (Colorado being the first) to recognize and establish October 12th—Columbus Day—as an official holiday in honor of the discovery of America in 1492. In 1920 thanks to Dad's efforts with others, especially the late Mayor William F. Broening and State Legislator Tony De Marco, the day was declared an official Municipal Holiday in Baltimore City with appropriate observances and celebrations. Since then, Columbus Day has always been a gala occasion marked with public speeches, band music and parades attended by all Baltimoreans, irrespective of national origin. As the late Mayor Broening said: "Christopher Columbus belongs to all the people not only the Italians, but naturally they are justly the proudest". Since 1920, successive Mayors of Baltimore and the City's citizens have honored Christopher Columbus with ever increasing enthusiasm. As the great poet Ralph Waldo Emerson wrote: "Every ship that sails the Atlantic gets its charter from Christopher Columbus".

In closing, I would be remiss if I did not mention that Dad was a loving father to his two sons, myself and my younger brother, Dr. Frank R. Milio, Registered Pharmacist and Professor of Bio-Chemistry at Towson State University, and a devoted husband to Mother, Rose Pirrotti Milio, a former New York designer and descendant of a 17th Century Saint, Pompilio Maria Pirrotti (1756–1802), Patron Saint of Elementary School children.

A man of heart, love and dedication, Father in a quiet, subtle and gentle way truly made his mark in life. He enjoyed the honor and fortune of meeting many famous and outstanding world leaders in his time. Received by three Presidents—Wilson, Hoover and Truman—he was a recipient of a number of honors including being named Cavalier of the Crown of the former small Kingdom of Montenegro for World War I relief effort. Both of our parents received the Papal blessings from the late Pope Pius XI during whose reign the family saint was cannonized at Rome in 1934.

Dad's virtues and character had been remembered in many ways. The remaining years of his eventful life saw him again unanimously being called to the helm of his beloved Order as Grand Venerable (1949–1953). Mother and his sons accompanied him to his last Supreme Convention in Tampa, Florida (November 21–25, 1953) where he was once again publicly acclaimed and singled out for his fraternalism and life-long efforts to foster and promote lasting friendly relationship between Italy—the land of his birth—and America—the land of his adoption which he learned to love and serve with patriotism and civic pride. Years earlier he had been named Honorary Grand Venerable for Life, and therefore, was in such official capacity a member of the Supreme Council of Order which is the governing national body.

There is so much more I could say about him, but I feel that Father would neither appreciate nor be comfortable with my being so laudatory about him. Indeed, it warms my heart when those of my generation make mention of his name as being desirous to know more about him.

One incident may best sum up what Placido Milio stood for in his community. On January 26, 1957, Dad passed this life. News of his death spread quickly throughout the neighborhood. The next morning a black neighbor quietly walked past the East Baltimore corner row-house where we lived tipping his hat as he gazed at the drawn-curtained house.

That gesture symbolizes the way we all felt about Placido Milio. He affected the lives of those within his influence and guidance for the common good.●

SENATOR NELSON'S ACTIONS ON BEHALF OF OLDER AMERICANS

● Mr. CHURCH. Mr. President, the Finance Committee recently approved H.R. 5295. This bill is designed to correct unintended problems caused by a 1977 change in the social security law which placed the earnings limitation on an annual basis except for the first year of retirement.

Senator STONE, Senator CHILES, and I attempted to offer a similar proposal to a House-passed bill during the final days of the 95th Congress. However, a legislative logjam prevented us from achieving our objective.

I am especially pleased that H.R. 5295 would permit social security beneficiaries to apply the monthly measure of retirement in at least 1 year after 1977.

In addition, H.R. 5295 would first, permit the monthly measure of retirement to apply in any year that benefits end for persons receiving social security as a child, mother or father; second, authorize separate applications for social security and Medicare; and third, provide that self-employment income would not be counted under the earnings test unless based on services performed after entitlement to social security begins.

Senator NELSON, the chairman of the Social Security Subcommittee, deserves special praise for his leadership in obtaining Finance Committee approval of this legislation.

Over the years, he has been in the forefront on issues affecting older Americans. He authorized, for example, legislation creating the mainstream older worker employment program. This highly successful pilot project helped to pave the way for enactment of the Older American Community Service Employment Act in 1973. Today, approximately 52,250 persons 55 or older are employed in a wide range of useful and fulfilling capacities in their communities.

In 1978, Senator NELSON, Senator PACKWOOD, and I were successful in enacting a $100,000 capital gains exclusion for homeowners 55 years or older. This provision is one of the most significant tax relief measures ever enacted for older Americans.

Recently, the Senate adopted Senator NELSON's proposal to reaffirm that social security benefits should remain exempt from Federal income tax. This measure was in response to a 1979 Social Security Advisory Council recommendation to make one-half of an individual's social security benefit subject to Federal taxation.

An article in the September edition of the AARP News Bulletin describes this measure in greater detail.

Mr. President, I ask that this news account be printed in the RECORD.

The news account follows:

CONGRESS STALLS PROPOSAL TO TAX SOCIAL SECURITY

The Senate passed a resolution last month assuring retirees that they would not have to pay taxes on any portion of their Social Security cash benefits this year.

Sen. Gaylord Nelson (D-Wisc). introduced the resolution opposing any taxation of Social Security benefits. The House previously approved a similar resolution.

Last December, the Social Security Advisory Council in a report to the President and Congress recommended that half of Social Security benefits be subject to federal taxation. Sen. Nelson, supported by the Association and other organizations working in behalf of the elderly, criticized the recommendation, arguing it would not improve the financial status of Social Security trust funds.●

ANNA BALAKIAN ON A CURRENT CRISIS IN HIGHER EDUCATION

● Mr. JAVITS. Mr. President, Dr. Anna Balakian, chairman of the Department of Comparative Literature at New York University and former president of the American Comparative Literature Association, is one of the truly distinguished educators in America. She is also known around the world as a leading authority on surrealism and on the works of Andre Breton. Her books, monographs, and contributions to periodicals all over the world are eagerly awaited by students and scholars in the field of comparative literature, and she has spent a lifetime breaking down the barriers that often exist among people in different cultures. She has done this through the medium of literature, and through her courageous interpretation of a variety of significant texts in literature.

As a member of a distinguished Armenian-American family currently living both in New York City and Old Westbury, Long Island, she has brought particular distinction to New York University where she is also know as a dynamic, exciting teacher. Her views on what she describes as "Education's Young Martyrs" are worth sharing with my colleagues. She makes a series of very pertinent observations on both the plight of the young postgraduate student with a Ph. D. and on the difficulties facing the older professor in the humanities. As a member of the Education Subcommittee who has wrestled with these issues for years, I would like to share Dr. Balakian's views which appeared earlier this year in the Christian Science Monitor. I believe the Balakian position is worth pondering both inside and outside of academe. I ask that Dr. Balakian's article appear in the RECORD.

The article follows:

EDUCATION'S YOUNG MARTYRS

(By Anna Balakian)

Our universities are yielding more and more to the dangerous practice of part-time employment of young faculty equipped to assume full responsibilities. Denial of their proper place on the academic echelon is not necessarily due to a fall in registration but to the mounting fear of fiscal bankruptcy in higher education. Filling classrooms with adjuncts results in large savings in salaries and fringe benefits. The students may actually be getting very good teachers; what they lose, however, is the collegiality involved in long-range contact with young faculty beyond the time limit of an individual course. The transient teacher scholar will be packing his bags and moving on to the next assignment and morsel.

For a time young and dedicated academics may put up with this scandalous situation. But, considering the fact that many Ph.D.s have departed from graduate school carrying not only a diploma but a hefty tuition loan, their economic martyrdom becomes hard to sustain.

These days a college teacher with a decade of poverty behind him or her starts life at about $15,000 a year if fortunate enough to get a full-time appointment, and even then lives with the threat of being dumped in three years to make room for someone who can be started in his turn from the threshold salary. Whereas an MBA (master of business administration) with two years of training will start in the business world at around $25,000.

But many young academics are so dedicated to their goals in teaching and research that the minimal character of their beginning salary would in itself be temporarily tolerable if they could feel that their efforts would be rewarded in a graduated scale of advancement.

While the younger generation is suffering from insecurity and poverty, what is happening to the older scholar teachers? Their increments and their prestige depend more and more on their power to solicit and procure financial grants from the public and private sectors. The professor is becoming a professional beggar; his rating hangs in the balance. One is reminded of what a long-forgotten French critic, Emile Faguet, said at the turn of the century in an essay called "The Cult of Incompetence"; to know how is more appreciated than to know.

Who is the villain in this drama? The fact is that the economic structure of higher education, whether public or private, has ceased to be viable. The rapidly mounting tuition rates do not come near balancing the university budgets even with the sacrifice of an entire generation of beautifully trained and remarkably dedicated teacher scholars and in spite of the efforts of senior scholars to pay their way as untrained fund raisers.

The situation is particularly grave in the fields of literature and related humanities studies which, to quote the late Charles Frankel, "bring us joy in achievement, joy in expressiveness, joy in the well-made sentence and the finely reasoned result." When you observe our society's stolid five o'clock faces waiting for their public transportation, you realize how urgently that joy is needed, and how needed are the young scholars waiting their return in the wings of the education scene to communicate that joy.

The current jeopardy to effective education does not relate only to the welfare of the academic community but to the development of creative minds at every age. We are facing a crisis in education that demands drastic rethinking about its philosophy as well as its economics. The education needs of our society can no longer be projected according to population trends. The concept of continuous entry and reentry of our population into the university domain will sharply modify those estimates.

We happen to have, as never before, a pool of highly trained personnel to implement an enlarged definition of university sorely needed today. We must act before that intellectual manpower is dissipated into more pragmatic sectors. We should consider as part of our "defense" spending the fiscal reinforcement of our universities. The direction should not be one of retrenchment but of expansion and extension of the educational opportunities.●

RETIREMENT OF ROBERT C. HECKMAN

● Mr. PELL. Mr. President, at the end of October, Robert C. Heckman, a very competent, loyal, and dedicated member of the staff of the Senate Committee on Rules and Administration will retire. Bob will have then spent 7½ years as Auditor of the Senate Rules Committee, 24 years as a Senate employee, and counting military and service in the executive, judicial, and legislative branches of Government, over 35 years as a Federal public servant.

Both with the Rules Committee and as a staff member of the Senate Disbursing Office Bob has been a wise and reliable friend and advisor to all the Members of the Senate. It is safe to say that without Bob's guidance and counsel, based on a tremendous wealth of experience and knowledge, compliance with the complex rules and regulations of the Senate would have been far more difficult, and perhaps often impossible, for the offices of Members and committees.

He will be sorely missed, but in anticipation of his departure, with typical foresight and thoughtfulness, he has spent several months in training his successor. Accordingly, his excellent service to the Senate will continue long after his departure.

I know my colleagues join me in wishing Bob and his wife Beverly many years of good health and happiness.●

EMPLOYMENT OF HANDICAPPED INDIVIDUALS

● Mr. RANDOLPH. Mr. President, the experience of seeing legislation fulfill its promise is satisfying and rewarding. This is especially true when the beneficiaries of the legislation are handicapped individuals. I introduced the section of the 1973 Rehabilitation Act that established the Office for Handicapped Individuals in the Department of Health, Education, and Welfare. That Office has fulfilled its mission over the years: Planning, coordinating, and providing information about handicapped programs.

One specific requirement placed on the Office has been carried forward with zeal, enthusiasm, and a sense of caring, that is, the requirement that special emphasis be given to the inclusion of handicapped individuals on the staff. Since its creation in 1973 a total of 17 handicapped persons have served as professional and clerical staff members, interns, students, and trainees. The disabled persons on the staff have included the deaf, deaf-blind, blind, mentally retarded, speech-impaired, and wheel chair bound. That group also includes the first deaf management intern ever selected by the HEW training program.

The Office for Handicapped Individuals demonstrates that handicapped persons can serve essential functions in Federal offices that have challenging and demanding missions. I commend the Office for Handicapped Individuals for the contribution made to the employment of the handicapped in the Federal sector.●

SCENARIO FOR SOLAR SUCCESS

● Mr. HART. Mr. President, the Solar Energy Industries Association (SEIA) recently held its annual meeting in Washington, D.C. This organization has been a very effective advocate of many proposals which Congress has acted on to promote the use of solar energy. As recipient of SEIA's 1980 Solar Salute, I was honored to speak at that meeting and express my confidence in the use of solar through an increasing number of technologies.

William S. Bergman, executive vice president of SEIA, gave an impressive address at the meeting, in which he reviewed the progress of solar energy in our country and the efforts that the Federal Government and industry, together, are putting forth to accelerate its use.

In his remarks, Mr. Bergman discussed an important element in the scenario for solar success: The proper centralization of responsibility for solar at the Department of Energy. He calls for the creation of an assistant secretary for solar and explains why SEIA feels this is a vital step.

Because I believe many will find this address interesting and thought-provoking, I ask that it be printed in the RECORD at this point.

The address is as follows:

REMARKS OF WILLIAM S. BERGMAN

Over the past few months, scores of national trade associations have been holding their first annual meetings of the new decade. On these occasions, the members of the Association expect, with good reason, to hear their leadership talk about the state of their industry and their association in 1980 and compare it with 1970.

For most of the energy-related groups around town, looking back at the 1970's is a painful exercise. For the oil companies, the gas companies and the electric utilities, the early 1970's were truly the good old days. There was enough energy to go around for everybody, and there were few complaints to be heard. But in the present and the future, those groups are faced with problems that they could have never imagined a decade ago.

It's an entirely different story, though, for those of us involved in the solar energy industry and in the Solar Energy Industries Association. We welcome the opportunity to compare where we are now with where we were then.

For us, the 1970's was a decade of tremendous progress, an exciting decade filled with accomplishments that no one had dared to predict. That decade saw the birth of a promising new industry, along with an aggressive new association to represent those companies daring to pioneer new ground in the solar energy field.

As the new decade begins, our industry and our Association stand ready to face the challenges that an exciting solar future promises.

Let's move right into the comparison I was talking about. First, we'll look at the solar industry as a whole.

Now, let's look at the latest figures we have on the growth of the flat-plate collector business—the area, of course, where solar commercialization development is most advanced.

The total production of flat-plate collectors in 1979 was more than fourteen million square feet. A year earlier, that figure was less than eleven million square feet. Back in 1976, the total production figure was under six million feet, and in 1974, the figure was only a million square feet.

Right now, we do, in fact, have in place a commercial market for residential solar water heaters, pool heating, and to some extent residential space heaters. In other words, active solar is the present—not the future.

We're also seeking all kinds of action in the biomass area, where a variety of processes have attained commercial acceptance.

The situation is looking better for other solar technologies, too. In passive solar, home builders are becoming more and more interested, and we're getting a good idea of the tremendous potential of well planned building design. The Administration and Congress finally seem ready to act favorably on tax credits for passive buildings.

In Photovoltaics, the federal government, obviously, is still the biggest customer, but a viable commercial industry doesn't seem too far away.

Solar industrial process heat, thermal power, and OTEC demonstrations have been carried out successfully, the 5 megawatts solar thermal test facility is operational in New Mexico, and the Barstow Plant is now going ahead in California. Favorable reports on repowering using solar thermal systems have appeared, and the future for solar looks more promising in the power and industrial sectors.

Clearly, the solar industry has come a long way in a very short time. Even as recently as five years ago, very few Americans even knew what solar energy was. And even fewer cared.

Then came the Arab oil embargo and a quantum leap in the price of all conventional sources of energy.

Now, we find solar equipment in use in homes and businesses all across the country. we find hundreds of companies in the solar business. We find government at all levels supporting the growth of solar energy, although that support isn't as great as we'd like. And we find people all over America excited about the prospects of a solar future.

The astonishing growth of the solar industry in America in the past five years has very few precedents in world history. Things just do not occur at such a fast pace, even in an industrialized Nation.

We must recognize, though, that such a rapid pace of development brings with it problems as well as progress. Clearly, the solar industry has had to pay certain dues along the way. For example, too many entrepreneurs have regarded solar heating technology as simple, and countless enterprises have been launched only to sink. This has placed an inordinate burden on the more solid firms which have weathered the market storm. These companies must overcome consumer and government skepticism about their own viability, let alone that of their products.

In the Photovoltaics field, the tremendous number of technological options and real potential for breakthrough make the industry a difficult one, fraught with indecision and caution.

And how can the companies in the solar power field plan their development adequately, when such projects as Barstow appear to be on and off like the Cheshire Cat in Alice's Wonderland?

Let me mention in more detail one particular problem area.

Within the past few months, the active solar part of our industry has taken some hard knocks. I'm talking mainly about the fact that some government officials are questioning the validity of the technology, basing their judgements on the failure of some systems in the field. The speed with which the government carried out the demonstration program was unavoidably responsible for those failures, which incidentally have been primarily related to larger space heating systems. Many of the problems are directly attributable to poor installation, and in some cases we can document that government officials have violated their own installation guidelines.

We must, however, pay attention to what is being said, and make sure the industry as a whole is not discredited. By facing these problems head on, we can point out where criticism is unjust. We can also make sure people at DOE and HUD are aware that we are listening and are willing to work on the real problems.

Clearly the solar frontier is vast, yet treacherous. You, the industry, are taking the risk to lay a foundation for this country's energy future. The structure is shaky now, but those who survive will have convinced an unbelieving world that their foresight and fortitude represented the right path.

Now, for a quick look at SEIA. First, for 1970, there was no industry, thus no association, and no membership. Today SEIA truly represents the total solar industry. (See table)

TABLE C—*SEIA corporate only membership*

1976 corporate	114
1980 corporate	603

1980 corporate technology affiliations

Active heating and cooling	168
Low temperature	35
Passive	28
Photovoltaics	105
Process heat	47
Solar thermal	73
Other solar technologies	32
Contractor/dealer/installer	63
Utilities	47
Total	603

We are proud of the important role that has been played and is being played by the Solar Energy Industries Association.

SEIA—only six years old—is one of the youngest trade associations in the country—in or out of the energy field.

All of you know how difficult it is to start a new industry from scratch. Well, building a group to represent a diverse industry is no picnic either.

SEIA has had its share of problems, the most serious being a budgeting error in expecting DOE to sign-off on certain contracts. The mistake of anticipating Uncle Sam will not be made again, I assure you. We've taken steps to correct this budgeting problem and soon the Association will be in the black again.

Even with our financial problems, however, we have kept the flow of business for the Association going, thanks to the dedicated service of the officers, membership and staff. We have kept responding to information requests with no interruption. Service assistance to the Divisions and Committees has continued, although we would have liked to expand these services beyond their present scope. Maybe this can be done in the future. Also, our work in governmental relations has continued without interruption. In fact, we have intensified our efforts on the DOE Budget battles to assure that we did more than our share to keep DOE solar programs from slipping backward. Our legislative efforts for the improved tax credits, including the new passive solar tax credit for builders, and the Solar Conservation Bank, has continued. Our work with the Congress for new programs in solar repowering, photovoltaics and international marketing has continued.

We continue to make progress in the field of standards and SEIA's voice has been heard at the appropriate places and times as decisions are made on these important issues.

The Job Corps training program and other governmental contracts have continued with their needs being adequately served. In short, the wheels of SEIA have continued to move forward despite our critical funding restrictions.

I believe many of our troubles were predictable, and they stemmed from the very nature of the solar industry itself.

We have a chicken-and-egg situation. The industry was just beginning. The prospects were uncertain. The profits were—and are—small if they exist at all. And Government policy has been unpredictable, to say the least.

A strong trade association was desperately needed to help the industry through this difficult period. But the catch was that the member companies couldn't afford to contribute sufficient monies to support the activities they needed from the Association. Thus, with rose colored glasses, we turned to the government to help underwrite some of the activities and needed industry programs, as well as expand existing activities.

Without that support, the Association couldn't do all it needed to do to help lay the groundwork for improving the industry's financial condition. And the Government, specifically DOE, while speaking as though they had good intentions, let the association and the industry, down. Through continued rhetoric and finally broken promises, they let us down badly.

Right now, SEIA is getting by on a budget of less than $300,000 a year. That's not very much when it is stacked up against the millions of dollars being spent by other trade associations in the energy area.

But I don't want to dwell on the negative. SEIA has made a lot of progress, and it is on the road to recovery; with work, determination and continued support of the membership, SEIA will continue to gain in strength and effectiveness. Furthermore, I know we are a stronger and wiser association, having survived this period of adversity.

I would like to say here, that whatever troubles have befallen SEIA in the past, they would have been a lot worse if it had not been for the outstanding leadership of Sheldon Butt, and the other officers and members who comprise the Executive Committee and Board of Directors.

So far, I've talked about the past and the present for both the solar industry and for SEIA. Now, I want to talk about the future. I want to talk about what should be done and what must be done by the industry and by the federal government if solar energy is to reach its full potential.

First, the industry. There is no question that the idea of solar energy has been blessed with widespread popular support—the kind of support that no other energy source enjoys.

There is a tremendous reservoir of good will out there, and we must make sure that the solar industry gets full credit for its critical role in advancing the concepts and developing the technologies needed to make solar happen.

We must dedicate ourselves to providing the widest array of solar equipment possible, and to do it well. We have a great responsibility to fulfill—the responsibility to deliver quality systems, properly installed, with real concern for the consumer.

We will have to face the fact, however, that some companies and technologies will make it in the solar business and others may not. That's the old reality of the free enterprise system. It has happened that way in other industries, and it'll be that way here, too.

Clearly, our industry and our trade association face great challenges in the years ahead—challenges that must be met if the tremendous potential of solar energy is to be realized. The rapid growth of our industry over the past five years has been a heady experience for many of us. Now, we must move forward. It will take a lot of thought, planning and risk-taking, but I know we can do it.

I want to spend the remainder of my time talking about the federal government's policy on solar energy—or, more accurately, what passes for a policy.

Over the past few years, we in the solar industry have heard a lot of rhetoric about a national commitment to speed up solar commercialization. What we see, though, are broken promises, abandoned goals and reduced funding.

The Administration has never had a coherent solar policy—not even when President Carter proclaimed the goal of producing 20 percent of the nation's energy through solar power by the turn of the century.

The Administration's solar policy, at this moment, is fragmented and ineffective. Somehow, the favorable opinion regarding solar in the White House gets short circuited when it gets to the upper echelons in DOE. This has the circular effect, and many of our friends who work in DOE's solar program are becoming disgruntled with the lack of Administration movement. We may see large numbers of people fleeing DOE in the near future.

The Administration needs to come clean with the solar industry and with the American people. The Administration must make up its mind whether it is committed to solar development or not and tell us. It is just not acceptable anymore to have the Administration raise hopes that a major federal commitment is forthcoming, and then do nothing or outright retreat from its position.

This flip-flopping by the Administration is disheartening to those of us in the solar industry. It is exasperating for the Congress. And it is downright confusing for the American people.

Let's look at what's happened just recently.

There was, of course, the long delay in issuing regulations for tax credits on solar equipment. There were disappointments in two heralded programs—one dealing with federal buildings and the other with military construction. And then there was the government's solar paid advertising campaign that has been sidetracked.

On top of all that, we see ominous signs that funding for solar R. & D. is on the way down, just at the time when more major federal initiatives are needed to support commercialization activities and accelerate development of the more promising technologies. Instead, solar is losing ground to other technologies within DOE. Solar is losing ground even to conservation programs.

Judging from what we've seen over the past four years, the Administration just does not seem to know where it's heading in energy policy.

CHART D—DOE BUDGETS

[In millions of dollars, fiscal years]

	1980	1981
Solar:		
Technology	447	466
Applications	155	186
Total	602	652
Conservation	815	1,067

CHART E—DOE SOLAR PROGRAM BUDGET, FISCAL YEARS 1980 AND 1981

[Dollar amounts in millions, fiscal years]

	1980	1981	Percent change
Active solar program	$65.5	$48.0	−27
PV building solar program	160.6	159.4	−1
Passive solar program	33.9	35.55	+5
Solar thermal	143.4	155.5	+8
Biomass	47.4	58.4	+23
Wind	63.4	87.0	+37
Ocean systems	40.0	36.0	−10
International		15.0	------

One year they're all revved up for solar. The year after that, it's alcohol fuels, and then this year, it's synthetic fuels from coal and shale.

If the Administration is more concerned about politics than energy sufficiency, then perhaps it should establish something called the technology of the year. And T-O-Ying with American industry and the American Public is what they seem to be doing. Maybe next year the emphasis will be on nuclear powered transit buses.

Seriously, I doubt that the Federal Government can pull together a coherent, aggressive solar program within DOE's current organizational structure—a structure that places solar and conservation programs under one assistant secretary.

I just don't think any Administration commitment on solar will be taken seriously unless the Administration takes the basic step of establishing an Assistant Secretary for solar.

We must have a Solar Assistant Secretary, and the SEIA Board of Directors have approved a resolution focusing the resources of SEIA on efforts to gain that Assistant Secretary slot.

There is simply no reason for lumping solar and conservation into one DOE Division. Why not conservation and nuclear? Solar is a form of energy production, just as are fossil fuels and nuclear energy. Conservation is, well, conservation.

Right now, DOE has assistant secretaries for nuclear and for fossil. Why are we treated differently? So long as solar is lumped with conservation, it will be difficult to get across the message that solar means production and not conservation.

We all know America did not conserve itself to greatness, and it produced itself to greatness. And, for the future, solar can be an important part of the production mix.

Lest I be misunderstood, SEIA supports both a strong solar program and a strong conservation program. But it seems to reduce the emphasis on solar to expect one assistant secretary to equally champion both causes.

The current Assistant Secretary for Conservation and Solar, Tom Stelson, and the good people working on solar at DOE are doing the best they can do under the current circumstances. But Mr. Stelson is faced with the difficult task of making trade-offs between conservation and solar when budget time comes. If one is looking at short term results, conservation may appear to pay off quicker than solar. But, if our government is acting truly in the national interest, it must consider the long term as well.

In Fiscal Year 1980, which ends in two weeks, DOE will have spent $815 million on conservation programs, but only $602 million on solar. That seems patently ridiculous to me.

But, wait there's more, for fiscal year 1981, DOE proposed another major increase in conservation funding, raising the budget to $1-point-1 billion. For solar, DOE recommended an apparent increase, to $652-million.

That increase in solar spending amounted to 8 percent—far below the rate of inflation. That means real spending on solar is going down. And this is coming from an Administration which is allegedly a friend of solar. I'd hate to think what they'd be doing if they didn't like us.

I daresay that solar wouldn't be treated this way if there was an Assistant Secretary to go to bat for us. In addition, a separate assistant secretariat would give solar an even higher profile in Congress and allow the Congress to exercise more careful oversight with one person accountable.

The big question, I guess, is: How do we get an Assistant Secretary for solar? Well, such a slot can be created in either of two ways: First, by administrative fiat; and, second, by legislative directive.

Under the law that set up DOE, the Department is entitled to eight Assistant Secretaries, and the Administration has wide latitude in deciding how to divide up responsibilities among those Assistant Secretaries.

For instance, when Secretary Schlesinger was at DOE, nuclear, fossil and solar technology were all under one Assistant Secretary for energy technology. But when Secretary Duncan took over last year, he abolished the energy technology division, created Assistant Secretaries for nuclear and fossil and put solar technology together with Solar Applications and Conservation.

Breaking up the Conservation and Solar division into two divisions by administrative fiat obviously would be the quickest way to get the job done. But following such a path presents problems for the Administration because an Assistant Secretaryship elsewhere in DOE would have to be eliminated to make room for the new solar slot. And people just don't like to give up Assistant Secretaries once they've got them.

The other method—through legislation—will take longer but is more likely to succeed. After all, most of what DOE has accomplished thus far in solar has resulted not from initiatives within the Administration but instead from demands by the Congress. It appears that once again Congress will have to carry the ball.

What would be required is amending the DOE organization act to allow for nine Assistant Secretary slots instead of eight. That way Solar and Conservation could each have an Assistant Secretary and no other division would need to give up anything. In that way, everybody would be happy.

As I said before, I think it is essential for the solar industry and SEIA to fight hard for the remainder of this year and next to make a Solar Assistant Secretary a reality. This is now our top priority.

Without an Assistant Secretary, solar is and will continue to be lost in the budget shuffle. Without an Assistant Secretary, there is no focal point for federal solar policy. Without an Assistant Secretary, any commitment to solar is more diffcult to accomplish.

Personally, I think that the half-a-loaf approach that the government is following now is more harmful than helpful. We have just enough of a program to keep us alive, but never enough to make us well. Moreover, the raising of false hopes by an indecisive administration makes our job more difficult than it should be.

Frankly, we need a real commitment to solar energy, and creating an Assistant Secretary for Solar would be a sign of that commitment. It is no joke when industry representatives say, "If the level and effectiveness of the job the government is doing continues, then don't help us any more."

If the commitment is not there, let the Federal Government's role be confined to providing tax credits and other economic incentives to stimulate solar commercialization. I recognize that the industry might grow slower than it otherwise would; in fact, I'm sure it would shrink in the short run. But we would have greater control in developing our markets and the industry and public would not be subjected to the false appearance of a solar government policy.

I realize that what I'm proposing is a dramatic step, but I think the time for such a step is near at hand. We cannot go on as we are now. The situation is intolerable.

Let me conclude by emphasizing our willingness to face the challenge of the 1980's.

There is a lot at stake here, and we, as Americans, and as partners in the solar industry, bear a great responsibility.

What we're doing in solar has captured the imagination of the world. Leaders in countries around the globe—in both the public and private sectors—are excited about the great possibilities of a solar future, and they are looking to us for leadership. We must keep in mind that for a large part of the world, solar energy may spell the difference between hope and despair in the not to distant future.

We must be successful. And we will be if the entire industry will focus on this one objective, regardless of our individual technology interests. Each of your specialized areas, whether it is wind, process heat, bio mass, photovoltaics, or high or median temperature, will gain significantly. And of equal importance, so will the country.●

THE PRESIDENTIAL NONDEBATES

● Mr. STEVENSON. Mr. President, the Presidential debates are not debates. They afford candidates and media alike an excuse for debating debates and everything else, except the complex choices before the Nation. They expose the candidates to pressure and temptation at some risk of damaging the Nation's interests abroad—when they do take place. As Henry Fairlie points out in an article in the Washington Post on September 21, they elevate self-appointed organizations like the League of Women voters and their annointed journalists to a solemn position in the political process. His comments are worthy of consideration, and so I ask that this column be printed in the Record.

The column follows:

The Debate: Political Debasement

(By Henry Fairlie)

It is appropriate that the first program in which presidential candidates may appear in prime time on television is to be broadcast tonight. It is also the night when the networks are supposed to launch their full schedules for the new season. As they watch the two candidates tonight, many will conclude that this is just a new nostalgic sitcom, "The Little White House in the Swamp."

There have been some desultory complaints in the newspapers that these candidates' appearances are not debates. But the newspapers go on calling them debates. It is as if print journalism has lost the heart to question and to resist television. It connives in one more weakening of our vocabulary. It does much the same when it reports the televised news conferences of presidents as if they bore some relation to press conferences of the past. In both the "debates" and the "news conferences," reporters play the valet to power.

Let us stay with the question of language for a moment. For the preposterous situation in which America has placed itself over the trivial appearances of the presidential candidates in a televised encounter is the result of many influences.

What are not debates are described as debates; what are not press conferences are said to be press conferences. But that is not all. We speak of talk shows when they have nothing in them which resembles talk. We describe the paid performers who conduct them as hosts when they have none of the functions or qualities of hosts. Those who perform for them are just as falsely said to be guests.

Words such as "host" and "guest" are infinitely precious. They carry a great weight of treasured meaning. To break bread with someone has always in the past had something of the sacredness of an oath. Not the least of Macbeth's crimes was that he murdered Duncan while the king was a guest in his house. To be a guest used to mean that one came unarmed to the table of one's host, and then slept unarmed and at ease under his roof. All our past literature, from the Old Testament and the Iliad on, is explicit about this relationship.

I do not see how it can be denied that much of its meaning has vanished from our lives. What obligation is there if one is invited to luncheon, and the bill is paid by the credit card of an employer? One is not a guest, one is an expense. The very casualness with which children come to their parents' table is an apprenticeship in incivility.

It is in fact not stretching the point too far to say that Iran's defiance of the obligations of a host country in its treatment of the members of a diplomatic mission is part of a much more general breakdown of manners, and this is perhaps all the more disturbing when one recalls how detailed and elaborate the Islamic culture has always been in laying down the rituals of host and guest in their mutual behavior.

When words weaken, our habits, our attitudes, our thinking, weaken with them. No one would worry about the silly appearances of the presidential candidates on television if they were not called debates. If we said that Ronald Reagan and John Anderson will perform tonight, dance tonight, sing tonight, we would give them the same due weight as we give "The Gong Show."

That is how they should be rated. If only Jimmy Carter was refusing to appear with them for the right reasons, what a blow for sense that would be. It was a surprise and a delight to hear Sen. John Tower say that no incumbent president should take part in these follies. But he was merely worried about the unfortunate slips which any president may make. That is only a fraction of the point. No president should appear because no politician should appear. The journalists might belatedly set a standard by refusing to appear themselves.

An extraordinary mythology about the importance of the appearances has been erected on the flimsiest evidence. They have taken place only twice before—in 1960 and 1976—and there is no solid proof that they mattered. The notion that they did matter rests on the dubious tracings of the opinion polls. But in as complex an area as the motives of the electors, the polls in fact create their own answers by forming the questions.

If they did not ask about the television appearances, they might hear very little about them from the voters, and nothing which made them seem in any way decisive. It has taken the head of a national association of the pollsters to say that, in their activity in an election campaign, the polls may not do more than supply jobs for a lot of people. They have become, he said with apparent distaste, a form of journalism.

But not only do we allow the polls to create the fiction that the television appearances are of consequence; they have this year supplied the criterion for determining who should take part in them. Here one reaches the level of the ridiculous. One gazes in almost mute stupefaction at the elevation of the League of Women Voters to a solemn role in the political process. Within four years it has been given an almost constiutional function, and scarcely a whimper has been raised against this travesty.

What possible justification is there for making it almost mandatory for a candidate to appear at their spinsterish invitation? It would make just as much and as little sense to give the task to the Lions Clubs. But the precedent is being set with no challenge other than by the President. It would be no more bizarre and outrageous if, as a result of the interview which Jimmy Carter gave to Playboy in 1976, all candidates were now required to give such an interview. Why not build Playboy into the political process?

The League of Women Voters has no more qualification for deciding who are serious candidates than the Salvation Army. One could just as well entrust the decision to People magazine. Let it poll its readers in order to decide which candidates are serious. By judging the seriousness of a candidate by his ratings in the polls, the League of Women Voters in fact acknowledges that it has not valid criteria of its own.

I now and then have a nightmare that all political decision in this country will in a matter of years be placed in the hands of Common Cause. The solemnity with which the pretensions of the League of Women Voters are now being taken is no less alarming. It represents an attitude which is creeping like a wasting disease into the body politic. It is a sick belief that there are organizations of worthy citizens who are more disinterested and wiser than the rest of us and certainly than the actual politicians.

Common Cause and the League of Women Voters are in fact no more disinterested than any other semipolitical organizations. They represent the interests and attitudes of a small and influential section of the middle class. By and large, the professional middle class. One would not much mislead a visitor from Mars if one told him that the League of Women Voters represents the attitudes and interests of the wives of foreign service officers. I do not deny that they are worthy people; I simply question their political sense and acumen.

For even if they were as disinterested as is imagined, that would by itself disqualify them for the new role. Politics is far too serious to be left to the disinterested. It is a heads-down clash of interests. One knows that politics is being seriously practiced when politicians collide with each other like battering rams. Once they get prissy, like old maids, we should be alarmed.

In refusing to appear on tonight's political Gong Show, Jimmy Carter is making a straightforward political calculation. I happen to believe that he is probably right from his own point of view. I am certain that his challenge is right for the health of the political process. There is no reason why a politician should demean himself by responding to the invitation of a bunch of amateurs. Politics ought not to be amateur theater ads.

If his calculation is correct, he will have his reward. The effect of John Anderson appearing alone with Ronald Reagan may well be to make him seem an alternative to Republicans who are unhappy with Reagan. If it counts for anything, it is all in the dice. But this does not alter the fact that in pursuit of his calculated self-interest one major candidate has seriously brought into question one of the most fatuous developments in the recent history of American politics.●

THE MADRID CONFERENCE AND SOVIET EMIGRATION

● Mr. JACKSON. Mr. President, Andrei Sakharov has sent to the West a statement on the importance of the Helsinki Accords and the Helsinki Review Conference which is scheduled to begin November 11 in Madrid. With his customary insight he has gone to the heart of the matter:

> The historic significance of the 1975 Helsinki Accords . . . lies in its affirmation of a crucial principle: International security and confidence are linked to respect for human rights.

From his exile in the closed city of Gorky, the Nobelist wrote that the Helsinki Final Act acknowledged the right of the participating states to monitor each other's record of compliance.

> Such monitoring is regarded not as intervention in internal affairs but rather as a contribution to international security and confidence. The Final Act marked a new state in the formulation of an international ideology of human rights . . . The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems.

In that spirit, I have personally urged that the Helsinki Conference give special attention to the fate of the Soviet and East European members of the groups formed to monitor compliance with the Helsinki Accords. The members of these watch groups are suffering special persecution—today, more than 40 of these heroic individuals are imprisoned or exiled.

I also have called for a rallying of public attention at the Helsinki Conference to the rights of Jews and others to emigrate freely. As Dr. Sakharov points out, the Helsinki Accords affirm the right "to choose one's country of residence (and not just within the context of family reunification)." Yet recently there has been a serious drop in Jewish emigration, deliberately managed by Soviet bureaucratic maneuver.

For long we have known that thousands of would-be emigrants are unable to apply, that Soviet officials simply will not talk to them. Those who are able to apply are often refused on grounds of security because they have worked with, or done military service which allegedly gave them access to, state secrets. This pretense is used even when the access was so long in the past as to render the supposed secrets of no significance.

Now we learn of individuals in Kharkov who, once refused, are told that they may not reapply. Kharkov seems to be the city where new restrictions may be first introduced and from which they spread to other cities. It was in Kharkov and Odessa that officials first severely tightened family relationships as grounds for family reunification abroad. Now, only parents, children, siblings and spouses are considered closely enough related to qualify to apply for emigration for family reunification.

Even before such new restrictions, Jews and others were condemned to exile or prison or the dread "strict regime" camps for persistence in claiming the right to emigrate. I am thinking of Anatoly Shcharansky, Ida Nudel, Josef Mandelevich, Alexsei Murzhenko, Yuri Feodorov, Vladimir Slepak—and all too many others.

There are many reasons why the Soviets are pursuing these policies, and one reason may be that they think the United States and the West do not really care any more. At one time, the fate of Soviet Jewry and the cause of freer emigration were a primary subject of public attention. Of late, public attention has focused on Iran, Afghanistan, Camp David negotiations, Poland and the Iran-Iraqi war.

Mr. President, it is high time to make abundantly clear that we do care about those denied their fundamental right to emigrate. In this respect, the Helsinki Conference is an especially welcome opportunity. Let the public in this country now call upon our Government and the other Western governments to champion at Helsinki the emigration right of Jews, Christians, and others who can no longer tolerate or be tolerated by a repressive government.

The Soviets will argue that all this is interference in their internal affairs. What a distortion! It is not interference in internal affairs to demand respect for human rights, which have been affirmed in international law. Indeed, the Soviet Union itself freely and formally accepted these international obligations to respect human rights. The Madrid Conference should bring home to the Soviets that we are speaking to them in terms of their own solemn commitments.

Dr. Sakharov closes his statement with mention of a personal matter—a moving plea for help in obtaining exit permission for his son's fiancee Elizaveta Alexeyeva to leave the Soviet Union. Mr. President, I am glad to call special attention to this plea in hope that this visa will soon be issued so that the young couple may end their long separation.

I want to recommend to my colleagues in the Congress that they read in full this distinguished exile's statement on the necessary policy of the West at the Madrid Conference, and I ask that the full text of Dr. Sakharov's statement translated by the U.S. Helsinki Watch Committee and published in the Los Angeles Times of September 9, 1980 be printed in the RECORD.

The statement follows:

WORLD SECURITY, HUMAN RIGHTS LINKED—SAKHAROV

(By Andrei Sakharov)

The historic significance of the 1975 Helsinki Accords, the subject of a conference opening in Madrid today, lies in its affirmation of a crucial principle. International security and confidence are linked to respect for human rights.

The most complete statement of this idea is contained in Principle VII, Section 1(a) of the accords' Final Act, committing participating states to fulfill all the provisions of the International Covenants on Human Rights and of the Universal Declaration of Human Rights. These provisions include guarantees for freedom of opinion and information, freedom to choose one's country of residence (and not just within the context of family reunification), freedom to choose one's domicile within each country, freedom of religion and freedom of association.

The Helsinki Accords also acknowledged the right of the participating states to monitor each other's record of compliance. Such monitoring is regarded not as intervention in internal affairs but rather as a contribution to international security and confidence. The Final Act marked a new stage in the formulation of an international ideology of human rights. Unfortunately, its principles have not been put into practice in a satisfactory fashion. I suppose that human-rights violations have occurred in many countries, including Western countries, but I shall speak about what I know best—the situation in the Soviet Union and in Eastern Europe.

The observance of fundamental civil and political rights in these countries has not just failed to improve over the past five years; the situation has in fact grown worse. Repressions against groups organized to promote observance of the Final Act, including the Helsinki Watch groups in the Soviet Union and Charter 77 in Czechoslovakia, constitute the most brazen and challenging example of violations which demand from the participating states an unequivocal, uncompromising response—effective actions not limited to verbal protests.

More than 40 members of the Helsinki Watch groups are imprisoned. Many others also have been arrested—individuals who, although not formally members of the Watch groups, worked to promote the exchange of information and the defense of human rights as contributors to *samizdat* news magazines or journals of opinion, as participants in the movement for freedom of religion and freedom of emigration, or in other ways. The governments, nongovernmental organizations and concerned citizens of the participating states are under an obligation to defend all such victims of repression.

Peace in the world is indivisible. The consequences of any deviation from this principle only confirm its truth. Therefore, I cannot agree with those who consider the Soviet invasion of Afghanistan an event that is unrelated to security in Europe. I also cannot agree with those who suggest a boycott of the Madrid conference as a response to Soviet actions in Afghanistan or to the increased repression of dissenters. I believe that the participating states should use the opportunity offered by the Madrid conference to further a political settlement in Afghanistan, which must provide for the withdrawal of Soviet troops and international guarantees of peace, neutrality and free elections. The participating states should also promote the release of prisoners of conscience in the Soviet Union and in Eastern Europe, and in Western countries as well if persons are imprisoned there who have not used or advocated violence.

The critical international situation requires that the Western participating states coordinate their tactics and pursue their goals with more determination and consistency than at Belgrade. The Helsinki Accords, like detente as a whole, have meaning only if they are observed fully and by all parties. No country should evade a discussion of its own domestic problems, whether the problems of Northern Ireland, the Crimean Tatars or Sakharov's exile (here I am speaking objectively). Nor should a country ignore violations in other participating states. The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems.

I wish to mention a personal matter, although I foresee that some newspapers will drop this paragraph, as if they know better what is important for me. My illegal exile to Gorky last January attracted the attention of worldwide public opinion and government officials. I appeal to all who expressed concern at that time: Help our son's fiancee, Elizaveta Alexeyeva, receive permission to leave the Soviet Union. I appeal in particular to both government and private persons who may meet with Soviet leaders. Liza's fate, the lengthy separation of two people who love one another, has become a means of pressure on me. This is a strictly personal matter, with no connection whatsoever, to interests of state. I do not know what the authorities have in mind for the future, but the affair has already become tragic. I am hoping for assistance in this very concrete problem which is so important to me.●

HEALTH PROFESSIONS EDUCATION AND DISTRIBUTION ACT OF 1980 IMPORTANT TO HEALTH CARE

● Mr. RANDOLPH. Mr. President, S. 2375, passed by the Senate on September 19, is very creative legislation and I commend the subcommittee for its work.

I express my appreciation for provisions of S. 2375 which recognize the importance of health care for the chronically ill and disabled. This is a population whose health care needs have often been overlooked. This is landmark legislation because it establishes the improvement in the quality of life for the chronically ill and disabled as a major health care goal. We seek to assist this group on a par with acute medicine.

The measure recognizes the need for health professionals in the field of rehabilitation as well as primary care and mental health. Of great importance are the provisions regarding incentive grants to medical and nursing schools to encourage their development of undergraduate programs in rehabilitation as well as the health care needs of the handicapped. The White House Conference on the Handicapped recommended such educational programs.

There is a well recognized shortage of physicians in the medical rehabilitation field. Estimates by HEW, GAO, and others are that between 4,000 and 6,000 physicians are needed in this field. Only approximately 2,000 exist. In addition, too few physicians in the primary care field such as family practitioners, specialists in internal medicine, and pediatricians are exposed to the physical, psychological, and social problems of the disabled and the value of rehabilitative care in dealing with such problems.

Again, I commend the subcommittee members and staff for their efforts, and I believe the action of the Senate is well reasoned.●

RAIL DEREGULATIONS

● Mr. BAUCUS. Mr. President, I want to advise my colleagues that I oppose the conference report on H.R. 7235, the railroad deregulation legislation pending before this Congress. I do so reluctantly, and with great concern for the future of our Nation's transportation system.

In studying the conference report and in reviewing deregulation legislation, two concerns have been foremost in my mind. One is that "captive" shippers not be discriminated against any more than they already are. The other is our need to revitalize our railroad industry.

While we can be reasonably sure that the bill before us will provide railroads new financial opportunities by relieving them of unnecessary government regulation, we cannot be certain about its effects on captive rail shippers. It is this vast realm of uncertainty, aggravated by the nearly simultaneous deregulation of the air and trucking industries and the mad rush among the largest and strongest railroads to merge that compels me to oppose this Conference Report.

The process of deregulating the railroads began in March of 1979 when President Carter submitted his proposals to deregulate the industry. He stated then that while the Nation's railroads are the backbone of our industrial and agricultural production, the private freight railroad industry confronts a crisis that could have grave consequences for our Nation's economy.

I could not agree more with the President's gloomy but realistic assessment of the state of our railroads. If we are to revitalize our industrial capacity, if we are to increase our industrial productivity, we must first rebuild our increasingly fragile transportation system. A large and important part of our transportation system is the railroad industry, which has lost, since World War II, an increasingly larger share of freight traffic to competing modes in part because of outdated and unrealistic government regulation.

As an industry, our railroads are in poor financial and physical condition. In 1978, for example, their rate of return on investment was .74 percent. Rate of return was negative for the Illinois Central Gulf, 1.6 percent for the Burlington Northern, 2.6 percent for the C. & O., 4 percent for the Norfolk and Western, 7.9 percent for the Southern, and 8.1 percent for the Union Pacific. Even the best of these rates of return are far below what Government securities yield today. Moreover, all of them are substantially below the 10.2 percent rate the Interstate Commerce Commission concluded is needed to attract and retain needed capital. Studies have identified a capital shortfall of between $16-$20 billion in the railroad industry by 1985.

The railroad deregulation legislation we are considering today may help improve the financial condition of our railroads. But it does not afford adequate protection to captive rail shippers of grain and other products. Instead, many of its provisions are a confusing morass of concessions and counterconcessions, of joint rates allowed and disallowed, of surcharges and cancellations, the end result of which only begins to approach the objective of removing regulatory restrictions while affording protections to those confronted by monopolistic forces.

Mr. President, shippers deserve protection against undue discriminations, preference and prejudice and against any remaining areas where carriers can exercise undue market power. Although this rail deregulation compromise, so tirelessly and diligently worked out by the conferees, does provide some protection, I fear that it does not go far enough.

We all know there are captive rail shippers. There are commodities and locations where market forces simply do not protect shippers from monopolistic pricing. Without regulation, carriers are able to extract monopoly profits from these captive shippers.

In my State of Montana, railroads have exploited this lack of competition by imposing the nation's highest grain freight rates. Roughly one-third of the value of Montana grain is consumed in transportation costs. The traditional way of looking at transportation as just another business governed by some theoretical market forces simply does not work in rural areas.

Last spring, I voted with a majority of my colleagues in the Senate in favor of S. 1946. I did so because S. 1946 contained an amendment cosponsored by Senator Long and myself to provide additional protection for captive shippers.

That amendment did not prevent railroads from earning adequate revenues. On the contrary, it established a threshold that would have covered all railroad costs, and provided reasonable returns on investment—returns substantially higher than railroads on average earn now. However, the amendment did aim to eliminate the unfair and unjustified cross subsidization of railroad rates that now exists in many areas of the Nation. Captive shippers should not be required to subsidize the vast amount of railroad traffic carried at noncompensatory rates.

Although H.R. 7235 and the conference report provide some protection for captive shippers, I believe it is inadequate. In addition, the compromise contains other provisions objectionable to captive grain shippers. It seeks to encourage contract rates and demand sensitive rates on grain traffic and downgrades the common carrier obligation with respect to the long and short haul clause which portends discrimination against the small shipper; it does not provide an adequate ceiling on rates for captive traffic; and it attempts to remove some original jurisdiction over intrastate rates from the States to the Interstate Commerce Commission.

I cannot let pass the fact that the ICC has granted railroads significant rate increases in the past year. A 6-percent increase last spring was followed by a 6-percent increase on July 12 and a 6-percent increase on September 1. Now, I understand that the railroads will seek another 5-percent increase from the ICC that would take effect January 1. Even without deregulation, captive shippers are facing massive new freight rate burdens.

Mr. President, I appreciate the long hours and diligent work my colleagues and their staffs have devoted to this legislation. In regard to the legitimate and justifiable concerns of captive shippers, the Conference Committee language is a vast improvement over the original language in H.R. 7235. I attribute this, in part, to the insightful arguments presented to Congress by WIFE, the National Wheat Growers Association, and other groups representing captive grain shippers.

I recognize that in all likelihood this conference report will be approved. I want my colleagues and constituents to know that I support responsible measures to eliminate regulatory burdens and promote free enterprise. But the effects of this measure on captive shippers, including Montana grain producers, are at best uncertain and I feel compelled to oppose it. I hope that the responsible Federal agencies will monitor the effects of this legislation closely and will administer it in compliance with the Congressional intent that captive shippers not shoulder an unfair proportion of the financial burden of rebuilding our railroad system.●

LEGAL COUNSEL FOR THE ELDERLY

● Mr. KENNEDY. Mr. President, nearly 25 million Americans are 65 years or older. The evidence is clear and convincing that the legal needs of the elderly are oftentimes overlooked or ignored.

In far too many cases, they are forced to fend for themselves when a legal problem arises—whether it involves litigation, understanding the "technicalities" of Federal programs, or simply planning their personal affairs.

The net impact is that large numbers of older Americans accept erroneous decisions by Government officials—and in some cases injustice—simply because they do not know what recourse is available.

Leading authorities have cited several reasons for the elderly's underrepresentation in our legal system:

Many older Americans are priced out of the legal services market—especially the moderate-income elderly—because they cannot pay a private attorney $40 to $100 an hour or whatever the prevailing rate is.

Numerous senior citizens are simply unaware of the legal assistance program.

Older Americans quite often have a tendency to be shy about seeking legal representation because "they do not want to be a burden on their families or society." Consequently, there may be a tendency for the organized bar or legal services program to overlook or ignore their needs.

The elderly's legal problems are likely to generate lower fees for private attorneys, considering the expenditure of time and the complexity of issues.

The private bar and the legal services program ordinarily have less expertise concerning the aged's legal problems than other areas of the law. In part, this is because many law schools have little or no curriculum on legal issues affecting older Americans.

However, the Congress has taken important actions to assure greater responsiveness to the legal needs of the elderly. Legal services is now one of three priority areas for funding under title III of the Older Americans Act. The act also authorizes special demonstration programs to expand or improve the delivery of legal services to the elderly.

These provisions have yielded important dividends for elderly clients. One noteworthy example is Legal Counsel for the Elderly, a National Retired Teachers Association, and American Association of Retired Persons project in our Nation's Capital funded jointly by the Administration on Aging, the Legal Services Corporation, and the D.C. Bar Foundation. Project attorneys and paralegals provide a wide range of services, including:

Helping the District of Columbia elderly obtain benefits to which they are entitled;

Drafting wills;

Providing representation on consumer issues; and

Advising clients on age discrimination.

Legal Counsel for the Elderly has effectively involved the private bar. About 270 attorneys and 44 law firms provide pro bono services for District of Columbia aged clients. In addition, the project is staffed by 30 to 40 volunteer paralegals.

A recent article in the District Lawyer provides an excellent account about Legal Counsel for the Elderly and one of its paralegals, Del Rayson.

Mr. President, I ask that this article be printed at this point in the Record.

The article follows:

LEGAL COUNSEL FOR THE ELDERLY

Del Rayson, 61, brings twenty-six years' experience as a Presbyterian minister to his work as a paralegal for Legal Counsel for the Elderly, a Legal Services Corporation model project.

Often cited as one of the best managed public interest programs in the country, Legal Counsel for the Elderly is unusual in that it counts more paralegals than attorneys on its staff in both managerial and support functions. In addition to its volunteer pro bono panels of lawyers and paralegals, LCE is staffed by thirty to forty volunteer paralegals who work one five-hour day per week for a four-month period. Rayson's job is to recruit, assign, and help train volunteers and maintain morale.

Rayson and the other paralegals handle cases covering a broad range of legal problems, including consumer issues, age discrimination, insurance, family law, bankruptcy, tax, public benefits problems, wills, probate, pensions, a few conservatorships, and protective services. Like other public sector paralegals, he researches, investigates, negotiates, and represents clients mainly in the public benefits area. Increasingly, paralegals are taking on full responsibility for food stamps and medical cases.

As assistant coordinator for the Volunteer Lawyers Project, Rayson works on the preparation and referral of cases to lawyers on the pro bono panel, who typically have had no experience in handling legal problems of the elderly—many are new, inexperienced lawyers. He monitors these cases for "quality control," provides back-up support when needed and assists attorneys with problems or difficulties in representation. In addition he recruits pro bono attorneys, student interns, and paralegals. Volunteer Lawyers Project administrator Elizabeth Snyder remarks that "it is hard to turn down Del; it's like turning your back on God." Not surprisingly, Rayson finds the volunteer panels "very responsive. People want to do good. Of course, some are more generous than others."

Rayson derives great satisfaction in working "within the system. If I can help squeeze the last drop of benefits out of the government and get an eligible person $100 in lost benefits, it's worth it."●

RATTLESNAKE NATIONAL RECREATION AREA AND WILDERNESS

● Mr. BAUCUS. Mr. President, I rise with pleasure to lend support to a bill which is of most immediate concern to the people of my home town, Missoula, Mont. The bill is S. 3072, establishing the Rattlesnake National Recreation Area and Wilderness.

The "Rattlesnake," as western Montanans refer to this area, is composed of some 60,000 acres of glaciated valleys, tumbling creeks, and alpine lakes. In fact, the name Rattlesnake comes from the twisting creek which drains this scenic watershed.

Rattlesnake Creek has insured the relative tranquility of this area until this point in time. For the past century, the city of Missoula, the largest in western Montana, has drawn its water supply from the creek. As a result, the Rattlesnake drainage has remained largely undisturbed even though it lies within walking distance of a bustling community of 60,000 people.

The increasing pressures of population growth have meant that in recent years the Rattlesnake has taken on new importance for its recreation and wildlife values. Mountains, which rise 3,000 to 4,000 feet over the valley floor, are home for a variety of wildlife, including elk, bald eagles, cut throat trout, and the endangered grizzly bear.

Having hiked the trails of the Rattlesnake, Mr. President, I can also assure the Senate that this is an area of prime outdoor recreation. Hunting, fishing, camping, and cross country skiing are naturals with more than 40 mountain lakes providing delightful destinations.

The support for special management of this area is widespread in Montana. The Governor of the State, the Missoula City Council, the Missoula County Commissioners and a host of local citizen groups have all made formal expressions of support for this legislation.

Nonetheless, we have not arrived at consideration of this bill without some difficulty. At present, the Rattlesnake drainage is held in typical "checkerboard" ownership by the Forest Service and two major private landholders: Burlington Northern, Inc., and the Montana Power Co. Obviously, such an ownership situation is inconsistent with designation of this area for wilderness and national recreation area status.

Credit for resolution of this problem goes primarily to my colleague, Senator MELCHER, who has devised an innovative "land for coal" proposal as described in section 4 of the bill. Under this provision, bidding credits for federally owned coal in eastern Montana will be exchanged for much of the 26,000 acres of private land within the Rattlesnake. The remainder of these lands will be exchanged for property of equal value in the Lolo National Forest.

On September 24, 1980, the House accepted by voice vote the companion to the bill which we are considering. Thus, easy passage of this legislation by the 96th Congress appears to be the order of the day. However, one important conflict remains to be resolved. This is the boundary point between the wilderness area of the Rattlesnake and those lands designated as a national recreation area. Primarily, the issue is access by motorized vehicles.

In testimony presented to the Subcommittee on Parks, Recreation and Renewable Resources, I stated my belief that the critical boundary should be at a point known as the Franklin Bridge. This is in contrast to the boundary specified by S. 3072 which is more than 5 miles higher into the drainage.

As I stated to the subcommittee, the reasons for my decision to recommend the Franklin Bridge boundary are threefold. First, I believe that our national forest resources should be the subject of balanced use. The Lolo National Forest, of which the Rattlesnake is only a very small part, contains more than 2.1 million acres. Within this area, more than 90 percent of the roads and trails are open to use by motorized vehicles. This is certainly a proper management policy. I have no quarrels with the users of trail bikes and snow machines. Nonetheless, I believe that hikers, skiers, snowshoers, and horse riders deserve an area which is available for their undisturbed use.

My second reason for support of this boundary point is the maintenance of the quality of the visitors experience in the Rattlesnake. By this, I refer to the search for solitude which takes most of the users of the Rattlesnake high into its upper lakes and mountains. I am struck by the words of Bob Marshall, one of the pioneers of American forestry. He remarked that "enjoyment of solitude, complete independence, and the beauty of undefiled panoramas is absolutely essential to happiness."

Whether reasonable or not, the fact of the matter is that people traveling in the high country in search of this kind of wilderness experience do not react well to the presence of motorized vehicles. The noise and appearance of such vehicles is simply not well received by those who walk forest trails in search of a temperal retreat from the hub-bub of day-to-day life.

My final reason for supporting the Franklin Bridge boundary is my concern for the protection of important wildlife habitat. Testimony presented to the subcommittee by area wildlife biologists questions the advisability of allowing motorized traffic beyond the Franklin Bridge. In particular, disturbance of the endangered grizzly bears of the region and adverse impacts on an attempt to reintroduce mountain goats to the Rattlesnake were feared.

Mr. President, I do not intend to slow the movement of this legislation by offering an amendment to S. 3072 at this time. However, upon acceptance of this bill by the Senate, I do strongly urge the conferees to look seriously at the boundaries which are proposed by the House version of this bill. Restriction of motorized travel to the lower reaches of the drainage has received broad public support in recent weeks. Furthermore, I believe it presents the most reasonable management plan for this area.

In closing, I urge my colleagues to lend their support to this bill. The concept is sound, support in Montana for the creation of a Rattlesnake National Recreation Area and Wilderness is virtually unanimous, and the area is deserving on the merits for this type of special management.

I thank the Chair.●

WALL STREET JOURNAL'S ARTICLES ON STEEL PLANT CLOSINGS

● Mr. HEINZ. Mr. President, I bring to my colleagues' attention a series of articles on the problem of readjustment in the steel industry published by the Wall Street Journal. These articles compared the response in Great Britain and the United States to recent shutdowns of steel plants in Youngstown, Ohio and in Corby, England. It is useful to consider the difference in governmental response in handling these layoffs.

The problems of dealing with plant closings is most evident in the steel industry because of the size of the facilities and the number of closings. The 1973–75 recession in the United States and the following slow recovery prompted a general retrenchment in the industry in 1977; more than 15,000 steel workers lost their jobs. U.S. Steel's decision last year to shed outmoded plants put another 10,000 people out of work.

Mr. President, the magnitude of this problem is clear. It is important for us to improve the competitive standing of the domestic steel industry, a subject I have discussed on other occasions, but it is also important for us to improve on adjustment procedures. We would do well to consider the effects of Great Britain in this regard, although they too are not without shortcomings.

I also note the presence of H.R. 1543 on the Senate calendar, a bill which will go far in the direction of improving our current adjustment assistance program. The Senate should enact this bill promptly. Mr. President, I ask that the two articles be printed at this point in the RECORD.

The articles follow:

CLOSING OF A STEEL MILL HITS WORKERS IN U.S. WITH LITTLE WARNING

(By Douglas R. Sease)

YOUNGSTOWN, OHIO.—Last Nov. 27, Frank Georges, a 38-year-old steelworker, arranged for a loan to buy a $56,000 house that was roomier and closer to his job at U.S. Steel Corp.'s Ohio Works here.

But on the way home from the bank that day, Mr. Georges got the news over his car radio: U.S. Steel was closing the Ohio Works, the related McDonald Works five miles away, and many other facilities. Some 13,000 steelworkers around the country would lose their jobs.

"The world fell in," Mr. George recalls. "I was so stunned I didn't try to go back and get the bank to cancel the loan."

That Mr. Georges would feel confident enough about keeping his job to buy a house on the very day that his job was put on the skids to oblivion says something about how plant closings are handled in the U.S. To avoid worker and customer defections, companies often give little warning.

Once a plant is closed, moreover, the company's liability for its workers' welfare is limited to labor-contract provisions, and there isn't any legal obligation to try to ease the often-devastating effect on the community, either. Labor unions themselves generally seem more interested in protecting the incomes of laid-off workers than in retraining them for other jobs. And government efforts in retraining and in creating new jobs are poorly coordinated and underfinanced.

CONTRAST WITH EUROPE

This haphazard approach to plant closings in the U.S. contrasts sharply with the extensive governmental aid that most West European countries offer laid-off workers. As a subsequent article on a steel-mill closing in Britain will illustrate, European workers enjoy a greater measure of job security and can take advantage of more-extensive retraining programs. However, the Europeans can find it harder than the Americans to move to a new area in search of work.

Even within the U.S., the problems posed by plant closings vary from place to place and from one time to another. The Youngstown area, for example, absorbed a wave of job losses several years ago more readily than it can now. And in the recent spate of job losses in Youngstown, special emotional factors came into play—as they frequently do.

Because of foreign competition and the U.S. recession, plant closings have been numerous across the country this year. What's worse, more are likely; closedowns, with all the problems they bring individuals and communities, are the dark underside of any effort to improve industrial productivity. "Anytime you give firms an incentive to expand or renovate or innovate, you're giving them an incentive to close older plants," says Richard McKenzie, an economics professor at Clemson University.

A WORKER'S PROBLEMS

And the people most directly affected are workers such as Frank Georges—even though so far Mr. Georges, his wife and 10-year-old daughter have got along fairly well. They are living in their new home and have made the $503 monthly payments out of the $185 a week that Mr. Georges gets in state unemployment compensation plus some money in U.S. Steel supplemental unemployment benefits. The family also is managing by shopping more carefully, being "a little late on some bills" and dipping into savings.

But Mr. Georges has put the house up for sale, at $65,000—and so far hasn't had any takers in the slow housing market. Moreover, he says, "The screws are going to get a little tighter." Because U.S. Steel's SUB fund is running low, the company has reduced the $115 a week that it had been paying Mr. Georges in SUB money to only $34.50 a week, and recently these payments have been deferred. Next month, Mr. Georges probably won't get any SUB money at all.

Mr. Georges would like to move to another industrial city and find work paying something like the $25,000 a year that he earned at U.S. Steel. There aren't many such jobs in Youngstown anymore. "You go out to look for work, and all you come up with is a few jobs offering $5 or $6 an hour," Mr. Georges complains. "When you're used to making $10 or $11 an hour, that's hard to swallow."

The workers find the pill particularly bitter because of the way in which U.S. Steel closed the two local mills and wiped out nearly 5,000 jobs.

BASIC ECONOMIC ILLS

To executives at rival steel companies and to securities analysts, it has long been clear that U.S. Steel would have to close the Youngstown facilities if the company wished to remain competitive in the steel business; they cite the small blast furnaces and aging finishing equipment, plus the landlocked location. Furthermore, the company was going to have to spend millions of dollars on pollution-control gear.

But the workers didn't see things that way. Two years ago, William Kirwan, the two plants' popular general manager, had told them that if the Youngstown facilities were profitable, they would stay open. To make them profitable, the workers agreed to abandon some restrictive work rules and to reduce crew sizes. They even offered to donate some of their labor to the company. Although the company refused the free labor, it didn't do much to discourage the notion that if the workers sacrificed enough, the plants would stay open.

Now the facilities are closed, and the workers feel betrayed. Their union is in federal court to try to force the company to sell them the plants—a purchase that they intend to finance through federal loans or grants. Although U.S. Steel won't discuss the matter because of the pending litigation, the company has taken the stance that it won't sell to anyone who will use federal funds to compete against U.S. Steel.

"The company wouldn't even let any of our members walk through the plants with our engineers and bankers," says Michael Kaufman, an assistant to the president of United Steelworkers of America Local 1330.

In comparison with these issues, the workers aren't especially interested in questions about the overall morality of plant closings. Even the Rev. Ed Stanton, a Catholic priest in Youngstown closely associated with the local union members, says he doesn't question the need for corporations to close outmoded and inefficient plants.

However, several industrial-state Congressmen have introduced legislation that would make closings almost prohibitively expensive. The Carter administration, fearing such a law's effect on efforts to improve the economy's productivity, prefers a watered-down version. And companies oppose what they consider unwarranted government intrusion into a matter best left to the marketplace and collective bargaining.

"If the government wants to coordinate efforts to minimize the impact of a closing, that's proper," says John Kirkwood, vice president of industrial relations at Jones & Laughlin Steel Corp., a unit of LTV Corp. "But if the thrust is to prevent companies from following the dictates of the economy, that isn't proper."

The problems of dealing with plant closings are most evident in the steel industry because of the size of the facilities and the number of closings. The 1973–75 recession and the subsequent sluggish recovery prompted a general retrenchment in the industry in 1977; more than 15,000 steelworkers lost their jobs. U.S. Steel's decision last year to shed outmoded plants put another 10,000 people out of work.

TOUGH ON YOUNGSTOWN

Youngstown, especially, has been hurt. The 1977 retrenchment closed the big Campbell and Struthers plants of the Youngstown Sheet & Tube subsidiary of Lykes Corp. Early this year, U.S. Steel closed the Ohio and McDonald works. And LTV Corp., which merged with Lykes in 1978, decided last December to close the old Youngstown Sheet & Tube's remaining steelmaking facility, the Brier Hill Works.

The Campbell Works closing in 1977 didn't produce the widely anticipated disaster. Many of the 4,100 idled steelworkers were absorbed into the local economy. The General Motors Corp. plant at nearby Lordstown, Ohio, for instance, added a second work turn and hired hundreds of steelworkers. About 50 steelworkers accepted Sheet & Tube's offer of jobs at its Indiana Harbor Works near Chicago.

And many older workers took early retirement, an idea that the Steelworkers union has pioneered for employes idled in plant closedowns. One form of early retirement, based on a formula combining age and years of service, provides a full pension for a 55-year-old steelworker with 15 years of service. Another arrangement offers a partial pension to a 45-year-old worker with 20 years of service.

As a result of all these factors, unemployment in Youngstown actually declined from 8.1 percent just before the 1977 closings to 7.5 percent a year later.

However, the latest round of closings won't be absorbed so easily. Like much of the industrial North, Youngstown has been hit hard by the recession. Unemployment, at 6.7 percent last December, had jumped to 15 percent by July, the latest period for which figures are available. Many companies that hired unemployed steelworkers in 1977 have laid off workers this year. The GM plant has 1,300 employes on indefinite layoff, and they will get first crack at any jobs that open up, GM says.

But the full effect on the Youngstown economy won't be felt for a year or more because of income-maintenance programs for idled workers. State governments provide an average of six months of unemployment benefits, and the federal government chips in as much as $227 a week for up to a year if a worker loses his job because of imports. Because J&L applied to the government for import-related aid for its Brier Hill workers at a time when steel imports were rising, they get the extra federal money; however, U.S. Steel's employes, who lost their jobs when imports were declining, don't. Steelworkers also get company-financed SUB payments, which go as high as $200 a week after state unemployment compensation runs out. Thus, an idled senior steelworkers can draw more than $400 a week in benefits for up to a year.

However, the SUB funds are running dry because of the heavy layoffs in the steel industry. Bethlehem Steel Corp.'s SUB fund was exhausted in August. At U.S. Steel, workers with fewer than 20 years on the job were to get only 30 percent of the normal benefits this month, and even those payments were recently delayed by the company, which will have to make them up later. And in October, payments from the U.S. Steel fund will stop for less-senior workers, with no hope of retroactive compensation, a USW official says. However, workers with 20 years or more on the job get full SUB payments for two years regardless of the amount of money in the fund.

GOVERNMENT ROLE

Furthermore, many problems created by plant closings aren't addressed in labor contracts. One is retraining workers ineligible for pensions. That's left up to the government, and the programs aren't very effective. The government programs traditionally have been aimed at poor people with few skills, not at $20,000-a-year steelworkers. Under the Trade Readjustment Act, some $14 million in federal funds was available this year for retraining workers who lost their jobs because of imports. But the heavy demand for the retraining money from laid-off auto workers and steelworkers exhausted the funds, and Congress hasn't authorized any supplemental appropriations. And because Ohio Works employees were denied eligibility for trade-related assistance, none could be trained under that program anyway.

Even if training were available though, the lack of jobs in a town such as Youngstown raises the question of what jobs a worker should be trained to take. "I've had three truck drivers trained this year that I still haven't placed," says a welfare administrator in Youngstown. "Retraining is great for a town with 6 percent unemployment, but it doesn't help much here."

Job-creation projects haven't worked well, either. When the Campbell Works closed here in 1977, it sparked a flurry of proposals—most of which called for government grants or loan guarantees—for locating new job-creating enterprises in the abandoned plants. Now, three years later, the only result is a fledgling concern called Youngstown Steel Corp. Born of federal loan guarantees, the company employs 29 people hammering out railroad spikes on an 1890-vintage machine tucked away in the corner of an abandoned mill building.

The U.S. Steel closings haven't been made any easier by the abrupt manner in which they occurred. When the company made its announcement, the workers fought back. They took over the company's office building in Youngstown and staged a march on U.S. Steel's Pittsburgh headquarters, where they briefly occupied the lobby.

But in retrospect, Mr. Kaufman thinks that the workers were too quiescent. When filing the lawsuit, "we thought we had a sympathetic court, and we didn't want to antagonize the judge," the union man says. The court already has rejected the union's argument that the company has a legal obligation to keep the plants open, although the question of whether the company must sell the plants to the workers still is pending.

However, Republic Steel Corp. has expressed interest in purchasing the sinter plant at one of two mills, and last week a private local firm, Toro Enterprises, signed a five-year lease with a purchase option for one of the plants' main finishing mills. Although leaders of the workers' takeover effort are seeking an injunction against the Toro lease, some steelworkers wonder whether the local shouldn't give up the court battle in the hope of getting back a few hundred jobs at those two facilities.

The USW's international leaders in Pittsburgh haven't taken much interest in the local union's plight. USW President Lloyd McBride contends that closing plants is a management prerogative that the union shouldn't usurp. The international did negotiate, in its new contract, 90-day warnings before any future plant closings, but that was only half the time it said it would seek. And the international recently dealt the Youngstown workers the final blow. It dissolved their local on the ground that the membership had fallen too low, and it divided the members among three other surrounding districts. Some Youngstown members contend that Mr. McBride simply wanted a dissident district eliminated.

"The unions are as firm a bastion of capitalism as the companies are," gripes Mr. Kaufman, who says he is rapidly tiring of fighting U.S. Steel. "I can keep this up only another month or so before I've got to give up, too."

WHEN THE BRITISH CLOSE MILLS, THE GOVERNMENT GIVES AN ARRAY OF HELP

(By Eric Morgenthaler)

CORBY, ENGLAND.—The British Steel Corp plant here is strangely quiet. Its three blast furnaces are still, the coke ovens are cold, the air is clean for a change. British Steel, the biggest employer in this commuity of 55,000 people, is ending its production of iron and steel here and is leaving only a tube-making plant. More than 5,500 jobs are being eliminated.

That's why the rent on John Mullen's modern, three-bedroom brick house recently was slashed almost 60 percent.

Mr. Mullen, who is 39 years old, was cut from the mill's payroll on May 31, after nine years as a steelmaker. As soon as he became jobless, the weekly rent on his house—which is publicly owned and subsidized, like almost 80 percent of the housing in Corby—was reduced to the equivalent of $11.35 from $27.40. The rent won't be raised until Mr. Mullen gets another job, when a new rent will be tailored to his new wage.

Even with the lower rent, of course, Mr. Mullen faces very hard times. Jobs are scarce in Corby, a town about 80 miles north of London, and his unemployment pay is less than half what he earned at the mill. But his housing benefit, a product of the British welfare state, is one example of how things work—and of the larger role of government—on this side of the Atlantic when a community loses a major employer.

COMMON PROBLEM

The misery attending a major plant closing—the individual suffering, the burden on the local economy and social structure—is affecting many communities throughout the Western world. But the ways in which individual countries prepare for and deal with such troubles often differ markedly. Here in the United Kingdom, for instance, the government offers Mr. Mullen much more than just cheaper housing:

If he takes a lower-paying job than he had at the works, he will get an earnings supplement, from a special Common Market fund, to increase his pay to 90 percent of his former wage for the first 78 weeks after his dismissal from British Steel.

If he enrolls in a retraining course approved by the U.K.'s Department of Industry, his fees and expenses will be paid, as well as his full previous salary for 52 weeks. Financing comes from British Steel, the government and the Common Market.

To help attract new jobs here, the Thatcher Conservative Party government declared Corby a "development area." That means, among other things, that the government will pay 15 percent of the cost of any new plants built here. Manufacturers employing laid-off steelworkers also can get low-interest loans through the Common Market.

BRITISH STEEL HELPS OUT

Also, British Steel has its own unit, BSC (Industry) Ltd., recruiting new businesses for the Corby area. Terry McGrane, the unit's representative here, says he has received 120 inquiries from companies over the past two months." I think we will solve Corby's problem—the problem we have created through British Steel—in about five years," he says.

As such benefits might suggest, the social-welfare systems of European countries are generally more developed than those in the U.S.—and they provide an extra measure of security for people put out of work. What's more, society here takes a broader view of the social responsibilities of a corporation—whether privately held or government-owned—than is usual in America.

Sometimes, a company's social role is even defined in law. In West Germany, any major plant closing—or major layoffs, for that matter—must be coordinated with labor, which has an equal voice with management on the supervisory board of big companies. Government also must be consulted, and an employer must make very high severance payments (but despite such restrictions, Thyssen AG, Germany's biggest steel company, is one of the world's most efficient steel producers).

PUZZLED WORKERS

However handled, the closing of a major installation is seldom a happy affair. Even the best of benefits can't hide the fact that people have been put out of work—for reasons they often don't understand or accept. In Europe, where socialism is much more of a force than in the U.S., many think that things simply shouldn't work that way.

"People just couldn't believe it was true," Jimmy Wright, a 46-year-old steelworker and mayor of Corby, says about last November's news that the mill would be closed down in March. "They had always been led to believe that if you wanted to work and put in your time, then society would look after you." He pauses, then adds, "It doesn't make sense in a well-constructed society that what is happening here could happen to anybody."

And yet, of course, it is happening. Although the same story could be told of towns that depend on auto plants or shipbuilding, steel is a particularly vivid example because it is a particularly troubled industry. In the Common Market, for instance, steel-industry employment has fallen 16.5 percent—or 100,000 jobs—since 1975, and further deep cuts are planned in several member nations.

Like American producers, mills in Europe suffer from too little demand and too much capacity, and from growing competition from low-cost producers in the Third World. Many of Europe's mills are old and inefficient. Also, in many countries, steel is either nationalized or heavily subsidized by government, and its role as an employer has been more important than its role as an efficient manufacturer.

Since the onset of the steel "crisis," as Europeans call it, the Common Market has developed a multinational restructuring plan for steel. The program includes assistance for jobless steelworkers and subsidies for communities that are victims of restructuring. Corby—set in the gentle "spires and squires" county of Northamptonshire, a rather unusual place for a grimy steel mill—is one such community.

"This is a terrific place," says Jim MacDonald, a steelworker who speaks with a Scottish burr and helped lead an unsuccessful fight to keep the mill open. "People have got everything they want here. They've got pubs, they've got clubs, they've got parks, they've got swimming pools. It's really heartbreaking to see what's happening to it."

Although people have lived in a village here for ages (Corby has a 12th Century church), today's Corby is a modern creation founded on steel. A mill was first built here in the 1930s by a firm called Stewarts & Lloyds. Then in 1950, as part of Britain's postwar rebuilding, Corby was declared a "new town" by the Labor government. As such, it got a wealth of assistance and subsidized housing to spur the rapidly expanding steel works.

IN PROSPEROUS TIMES

As recently as a decade ago, national planners were discouraging other manufacturers from moving here because the steel mill needed all available workers. Even now, the only stoplight in town is at the main gate of the steel works because that's the only spot ever busy enough to need a stoplight.

"Corby was the child of a marriage between steel and government," says William Homewood, a steelworker now representing Corby in Parliament. "And quite frankly, it turned out to be a bastard."

By last year, British steel (which took over the Corby Works in 1967, when the steel industry was nationalized) was losing the equivalent of more than $2 million a day from its operations nationwide. The company was under intense government pressure to streamline, and Corby got caught in the crunch. Among other factors, operating costs at Corby were higher than at some of British Steel's newer and larger facilities.

MUCH ADVANCE WARNING

Legally, British Steel was required to give only 90 days' notice of its closure plans. Nonetheless, it followed its usual practice of giving a very early warning. In February 1979, it told Corby's union that it intended to halt steelmaking in about a year, and it offered to begin negotiating terms of the closing. Local officials also began preparing for the closedown. (But late last year, in a desperate financial position, British Steel cut out such civilities; it announced a rash of major closing elsewhere without even telling the unions beforehand—an action reminiscent of the abrupt American technique.)

As often happens, the early warning at Corby didn't make much difference. The talks soon became acrimonious—with steelworker groups organizing protest marches, hiring their own economic consultants and even flying to Brussels to argue their case before Common Market leaders. Thus, little headway had been made by early November, when British Steel officially set the end of March as the closing date for the mill.

The closing was delayed by the 13-week strike against British Steel that started this past Jan. 1. Layoffs began at the end of April, and now most iron and steel production has been ended: The few operations still going will be halted by Sept. 30. Despite the closing of iron and steel mills, British Steel is investing $109 million in improving Corby's tube works, which will use steel produced elsewhere.

DIFFICULT TIMES

The closing of the blast furnaces "was terrible, terrible," says Jimmy Kane, a wiry 55-year-old steelworker, union activist and political leader who began working there in 1946. "I have known men to cry. That work was all they had known, what they had been doing for 30 or 40 years. It was very, very sad."

To make matters worse, the whole effort got off on the wrong foot. British Steel was so disorganized at the time of the first layoffs (it blames the strike) that it didn't have workers' severance-pay checks ready on the day the employes were terminated. Instead, each worker was given $2,420—and told to come back later for the balance. "How on earth can you justify giving a man 12 weeks' notice after 35 years' work and then telling him his money isn't ready?" one banker here snaps. "The whole thing stinks."

There have been problems in even some of the best-intentioned programs. The subsidized housing, for instance, makes workers reluctant to move to other cities for jobs because they aren't guaranteed similar housing elsewhere. Likewise, the wage supplement for workers taking low-paying jobs has made some employers wary of hiring former steelworkers; employers fear the workers may leave as soon as the supplementary wage benefits expire.

OTHER JOBS LOST

And then there's the poor economic climate, here and throughout Britain. The few hundred jobs that recruiters figure they have already brought here are more than offset by jobs lost elsewhere in Corby, both in nonsteel companies suffering from the business slump and in steel-related outfits hurt by the British Steel closure.

Some officials also worry that the subsidies and other benefits that new employers can obtain may be more than offset by increased taxes here. Local property taxes recently were raised 66 percent, with close to half the increase being used to offset the loss of tax revenues from British Steel.

Still, there's some cheer in Corby. Workers are starting to get their full severance payments. Under an agreeement between British Steel and the Corby unions, workers who had been employed for more than six months typically get 61 weeks' earnings; settlements of $17,000 aren't uncommon, and some run to more than double that. As a result, Corby mechants are enjoying a boom despite the slump in retailing in most of the country.

BIG RETRAINING PROGRAM

Also, steelworkers are beginning to look to the future. Some 400 of them are expected to be enrolled in retraining programs by year-end. (One man, hoping to work for one of the big estates nearby, got approval for a course on gamekeeping. "I think he had been reading too much D. H. Lawrence," a supervisor quips.) A few already have set up very small businesses.

What's more, intense efforts are afoot to attract some 4,000 new jobs to Corby by 1984. Such efforts haven't been especially successful in other depressed areas of the U.K., but Corby officials contend, with some reason, that the town's central location gives it an advantage over other more remote areas.

There's a rather deep-seated feeling of optimism among many people here. They say they expect a few very bad years, but they are confident that somehow things will work out—and they intend to stay here until then. As Richard Wallace, a former steelworker who has just opened a telex office with his severance money, puts it: "I am not going to move, my family is not going to move, my friends are not going to move, and this town is not going to die."●

FULL ECONOMY AMENDMENTS

● Mr. RIEGLE. Mr. President, late last Friday the Senate agreed to the conference report on S. 2475, Fuel Economy Amendments to Title V of the Motor Vehicle Information and Cost Savings Act.

I believe that this legislation will enhance our efforts to complete the conversion of our domestic auto industry to the production of more fuel efficient vehicles. I was a Senate conferee on this legislation which I would like to briefly describe.

First, the conferees agreed to a 3-year carry-forward/carry-back of credits earned by a manufacturer if his fleet is more fuel efficient than the corporate average fuel economy standard (CAFE). Current law provides for a 1-year carry-forward/carry-back. Increasing the period in which credits may be earned for use against a possible penalty will enable manufacturers to benefit from earlier conservation efforts and to better balance future planning. Accordingly, this provision, which I initially introduced, would entitle a manufacturer to use credits earned in years prior to the enactment of this legislation, even though such credits otherwise might have elapsed.

Second, the conference report on S. 2475 encourages foreign auto manufacturers to assemble more cars in the United States and provide more jobs for American auto workers.

Existing law requires separate compliance with EPA fuel economy standards for cars that are domestically manufactured and imported cars which are defined as cars with less than 75 percent of the car's value added in the United States or Canada. Domestically manufactured and imported fleets must separately meet annual CAFE standards.

To avoid this separate accounting any foreign automobile manufacturer/importer which established a U.S. manufacturing subsidiary for production of any portion of its U.S. sales volume can combine that portion with its continuing imports provided the so-called "value added" in the U.S. assembled automobiles is held to less than 75 percent of their total production cost. By so doing, these automobiles are not considered domestically produced and are merged with a manufacturer's imports to meet each year's CAFE standard. Therefore in some instances under existing law there is an incentive to keep domestically manufactured cars at under 75-percent local content.

One of the purposes of S. 2475 is to encourage manufacturers such as Volkswagen of America, Inc. to increase the value added content of their U.S. assembled automobiles above 75 percent, and thereby to increase domestic employment.

Third, the conferees agreed to exclude manufacturers of less than 10,000 passenger automobiles—worldwide—per year from the requirements of the fuel economy standard. This will relieve the Government of burdensome engineering and administrative costs incurred to establish, monitor, and enforce separate standards for many small manufacturers generally of specialty cars. U.S. sales volumes of such cars—with the exception of Checker Motors—are in the range of a few hundred automobiles of each manufacturer per year which have no measurable effect on fuel consumption of the Nation's fleet of approximately 120 million automobiles.

Fourth, American Motors Corps. foresees difficulty meeting 1982–84 CAFE standards unless it is permitted to include up to 150,000 imported fuel efficient Renault automobiles annually in its corporate fleet for purposes of meeting CAFE standards. Its recently completed affiliation with Renault anticipates ultimate production of those vehicles in the United States by about 1985–86, after which they would in any case be merged with other AMC automobiles in a single corporate fleet. The conference report allows AMC, or any other U.S. automaker, to include as part of its domestic fleet as many as 150,000 "captive imports," so long as at least 75 percent of their value is domestically produced.

These are a few of the major provisions of the conference report adopted by the Senate late last Friday.

In sum the bill deserves the support that it has received because it encourages foreign auto manufacturers to provide more jobs in the United States and because it allows automakers practical flexibility in meeting fuel economy standards in coming years.●

URANIUM FUEL SALE TO INDIA

● Mr. LEVIN. Mr. President, at the time of the debate over the uranium fuel sale to India, I placed in the RECORD a letter from Dixon Hoyle to Nuclear Regulatory Commissioner, Victor Gilinsky, dated May 15, 1980. At the request of Mr. Gilinsky I am herein submitting for the RECORD his response dated May 29, 1980. While I am making reference to the Indian nuclear fuel shipment, I am also submitting for the RECORD at this time a letter dated September 16, 1980 from Ralph Earle II, Director of U.S. Arms Control and Disarmament Agency, strongly supporting the sale to India from an arms control perspective.

The letters follow:

WESTINGHOUSE ELECTRIC CORP.,
Washington, D.C., May 15, 1980.

Commissioner VICTOR GILINSKY,
Nuclear Regulatory Commission,
H Street, N.W.,
Washington, D.C.

DEAR VICTOR: I have recently read with interest your speech of February 5, 1980, before the India Council of Washington, D.C. on U.S.-Indian Nuclear Relations. Although Westinghouse is in no way involved in this question, I have continued to follow the Tarapur situation closely, among other things, because of my long association with the fuel supply contract, which I helped to negotiate and subsequently administered in the AEC.

I was particularly interested, therefore, in the rational which you make in the third paragraph of page 3 for the right of the U.S. to impose the full-scope safeguard condition on India. A key to this rationale is the provision of the fuel contract which requires that India procure all necessary permits or licenses and comply with all applicable laws, regulations and ordinances of the United States. I thought you might like to know how the amendment to the original contract—which did not contain this provision—came about.

My memory may fail me in small details and I no longer have access to the relevant files (if, indeed, they still exist), but the substance of the amendment was as follows. At the time the contract was signed, AEC could legally sell only enriched uranium (not enrichment services) and the sale (passage of title) was consummated at the port of export. At that time, as I recall, the export was still on a government-to-government basis and did not require an export license. When fuel was fabricated in the U.S., as GE was doing for Tarapur, the AEC-licensed fabricator leased the enriched uranium from the AEC; at the time the sale was made at the port the licensee's lease account was credited with the equivalent value of the enriched uranium sold.

With the advent of uranium enrichment in the United States in 1958, the AEC acted to terminate its domestic leasing arrangements in favor of private ownership. (India was offered an enrichment services contract for Tarapur as a replacement for the enriched uranium sale contract, but declined). This created a dilemma. The enriched uranium sale contract called for title to pass to India at the port of export and GE could no longer lease the material during the U.S. fabrication period. We went to the Indians and explained this, asking them to take title at the AEC enrichment plant, to which they ultimately but reluctantly agreed (among other things, it meant earlier payment to AEC). We then had to clarify in the sale contract which party was responsible for meeting domestic U.S. regulations, health and safety requirements, etc. since India would now "own" the material in the United States. The amendment was the result and represents "boiler-plate" contract language developed by AEC's lawyers to cover this issue for all foreign and domestic contracts. (Incidentally, it is one of the fuel supply contract provisions which historically has most often been contested by foreign customers).

My real point is that at no time during our negotiation of the amendment did either party have any intention or understanding that the provision could be used as a rationale for the United States to deny the export of low enriched uranium as a result of a law which the latter subsequently might pass. It was intended solely to clarify a relatively minor legal point and this is how it was "sold" to India, who was under no obligation to accept it. Although my long exposure to lawyers does not qualify me to make legal judgments, I have a strong suspicion that the negotiating history of a contract amendment of this nature would be very relevant if it were to become an issue in the courts. Of course, this is highly unlikely to occur, but I feel there is a certain injustice in rationalizing a U.S. position on such a questionable interpretation.

If you are interested in looking into this further, I would suggest that you ask the DOE (International Affairs) to search its Tarapur fuel supply contract files for the period 1969–70 to substantiate this background. You might also wish to consider making this background information available to the other Commissioners.

Sincerely,

DIXON B. HOYLE,
Director, International
Nuclear Energy Affairs.

NUCLEAR REGULATORY COMMISSION,
Washington, D.C., May 29, 1980.

Mr. DIXON B. HOYLE,
Director, International Nuclear Energy Affairs, Westinghouse Electric Corporation,
Washington, D.C.

DEAR DIXON, I read with interest your account of the origins of the Indian fuel contract provision dealing with the applicability of U.S. law. You suggest that the Indians did not expect that, by agreeing to this provision, they would be bound by requirements such as those of the Nuclear Non-Proliferation Act. I don't think that their expectations would be material to determining who breached the Agreement for Cooperation if the President and Congress were to decide not to allow fuel shipments to take place prior to the expiration of the Agreement for Cooperation.

When all is said and done, it is an ancient principle of contract law that a written contract means what it says unless its terms are so ambiguous that one must resort to information outside the written contract in order to make sense of the contract. In the present case, India has clearly agreed to obtain the requisite licenses and to comply with applicable U.S. law. If India fails to do so, it fails to satisfy the preconditions which would trigger the United States' obligation to perform under the contract.

Sincerely,

VICTOR GILINSKY,
Commissioner.

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, D.C., September 16, 1980.

Hon. CARL LEVIN,
U.S. Senate.

DEAR SENATOR LEVIN: I am writing to give you a brief report of the results of the Second Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and, relatedly, to urge your support for the President's decision to authorize two shipments of uranium fuel to India.

I have just returned from the Review Conference, at which I led the US delegation. In Geneva, while the NPT itself was not criticized, we were told in no uncertain terms by representatives of a large number of non-nuclear-weapon states that the NPT rests on a balance of obligations, in which the self-denial of the non-nuclear-weapon states was to be matched by concrete progress in curbing the nuclear arms race. In this context, there was a call for early ratification of the SALT II Treaty and strong criticism of the fact that a comprehensive test ban treaty had not been achieved. If this progress is not forthcoming, it was asserted, the future viability of the NPT regime would be severely jeopardized.

Secondly, officials from many non-nuclear-weapon states stressed the very great importance of the fullest possible cooperation among parties to the NPT in the peaceful uses of nuclear energy. One of the chief complaints was against unilateral measures undertaken by supplier nations that retroactively affect existing nuclear supply commitments. This is the very question involved in the Tarapur case. Accordingly, in my view, it is imperative that the Indian fuel exports authorized by the President in his Executive Order in June be carried out. The restraints set forth in the letter Secretary Muskie recently sent to Chairman Church would adequately ensure that the second shipment of fuel will not be exported prematurely or in the event the Indian Government were to reinstitute a program to develop nuclear explosives.

Under the Non-Proliferation Act, a grace period was provided before the requirement of full-scope safeguards was to take effect with respect to US nuclear exports, and the applications for the exports to India now before the Senate were submitted in a timely fashion before the grace period ended.

Moreover, if these Tarapur fuel shipments are not carried out, the Indian Government may well assert that the US-India agreement for cooperation has been breached in a material fashion and, consequently, that India is released from its obligations thereunder. The results of this action would be serious, as such a decision could lead to the reprocessing of US fuel in India without US consent, with no US control over the plutonium separated as a result of such activity. In addition, it could have the effect of ending the Indian safeguards agreement now in effect with the International Atomic Energy Agency. This would mean an end to safeguards on US nuclear material in India. All of this would create an ominous precedent, and would be the first time that safeguards in place have been removed.

I believe that the United States should go ahead with these shipments. This action will support the non-proliferation regime at a time when it is urgently needed. If you desire, I will be available to discuss these matters with you in greater detail.

Sincerely,

RALPH EARLE II.

ENERGY FINDER

● Mr. BELLMON. Mr. President, Members who come from non-oil-producing States have a difficult time understanding the complex makeup of the oil industry. Unfortunately, the news accounts about oil developments usually focus on "Big Oil" and it is rare when a national publication carries an account about a small operator.

It is for this reason that I was pleased a recent issue of the Wall Street Journal carried a story about my constituent, Mr. Harlan Krumme of Bristow, Okla. The article describes in some depth the operation of this small independent who makes his living by nursing the last drop of oil from stripper wells.

Small independents like Mr. Krumme are making a great contribution toward meeting this Nation's energy needs. Regrettably, the windfall profit tax which the Congress recently approved will, unless repealed, force the plugging of these small stripper wells prematurely and permanently. I am pleased that the Senate recently approved my amendment which would exempt the smallest of the stripper wells and keep them in production longer.

In the hope that reading Mr. Krumme's story will help other Members understand this phase of the energy business, I ask that a copy of this article be printed in the RECORD.

The article follows:

BOUYED BY HIGH PRICES, VEXED BY GOVERNMENT, OILMAN KEEPS DRILLING

(By Roger Thurow)

BRISTOW, Oklahoma.—Harlan Krumme's lonely oil well in the middle of a dusty cow pasture here is a well that only an independent oilman could love.

The well's black, T-shaped pumping unit bobs up and down ever so slowly, like an overweight man laboring to touch his toes. Despite its strenuous effort, the pumper is able to pull only five barrels of oil a day from beneath the parched Oklahoma soil. The oil trickles into a nearby collecting tank like water dripping out of a leaky faucet.

By the yardstick of any major oil company, Mr. Krumme's well is a dud. But by the much humbler standards set by independent oilmen like Mr. Krumme (pronounced CREW-me), it is a gusher. With a payoff of $36 a barrel, the well puts $180 in Mr. Krumme's pockets every day, while costing him only about that amount a month. Over a year, it will earn enough for Mr. Krumme, whose company already operates more than 150 producing oil and gas wells, to drill still another. "And who knows," he muses, that next well may be the big strike he has been looking for for the past 35 years.

"It may not look like much, and five barrels a day may not seem like much, but that kind of well is what keeps a guy like me going," says the 61-year-old wildcatter, who along with younger brother George operates Krumme Oil Co. here. "And don't forget, that's also five barrels a day we don't have to import from OPEC."

No major oil company would waste its time on a well that produces only five barrels of oil a day. But thanks to higher oil and gas prices, thousands of independents across the country are nursing such wells for every last drop, and making a handsome profit doing it. As the money rolls in, the independent oilman, always hoping that the next well he drills will make him a millionaire if he isn't one already, is drilling it right back into the ground, resulting in the most feverish drilling pace this country has seen since 1956.

"Everyone and his cousin wants to look for oil and gas today, and who can blame them?" Mr. Krumme says, a big cigar punctuating his weathered face. "Ain't no one going to drill a well if he can't make a dad-gum profit at it. And with the prices the way they are, if you can find it you can make a profit on it."

INDEPENDENTS AND MAJORS

The independents are finding it. Last year they drilled 91% of the domestic wildcat wells (those not associated with known oil and gas reserves) and 86% of all wells drilled in the United States, discovering much of the new oil and gas reserves in this country. They are returning to wells once abandoned as money-losers and are exploring for shallow and hard-to-get-at reserves that the majors are reluctant to tap because of their relatively meager productivity.

The majors are out for bigger game. Blessed with more capital, people and patience, they have found most of the largest oil fields in recent decades—Prudhoe Bay, for example. Independents, in fact, often drill under arrangement with the majors. This isn't true of the Krummes, however.

In their zeal, independents as a group are spending more than they are making; between 1973 and 1977, they spent 105% of their gross wellhead revenues on exploration and production. (An independent is generally defined as one who sells his product at the wellhead, leaving the processing and marketing to others.)

"Our domestic energy program would be in critical condition without the independents," says Rep. Mike Synar, an Oklahoma Democrat who gets an earful from the Krummes every time Congress considers any measure affecting the independents. "If we're going to have any kind of a domestic oil and gas business in the next 20 years, the independents will have to do it."

DOMESTIC PRICE DECONTROL

The independents are confident they can do it if the government leaves them alone. Government controls on the prices of domestic crude oil, which were imposed in 1971, are being phased out and will end in October 1981. As a result of the phase-out, domestic crude-oil prices are tracking world oil prices.

Mr. Kaufman says that the federal "windfall profits" tax, designed to recover part of the additional income that oil companies will get as controls are gradually eliminated, will take enough money out of his pockets to keep him from drilling an additional six wells a year.

The ebb and flow of domestic oil productivity during the past three decades has paralleled the rise and fall and rise again of the independent oilman. Back in the mid-1950s, when more than 20,000 independents were churning through the earth, domestic drilling activity gushed to an all-time high of 58,160 new wells in 1956.

At the close of that decade and throughout the 1960s, crude-oil prices in the United States leveled off under the pressure of huge imports of cheaper foreign oil. Penniless independents, hurt also by a federal policy of keeping natural-gas prices low, abandoned their rigs in droves. By 1971 their ranks had shrunk to 9,500, and domestic drilling bottomed out at a 15-year low of 27,300 wells.

"Those were bleak days. The industry was going to pot," Mr. Krumme says. Between 1967 and 1971, Krumme Oil Co. plugged and abandoned 118 wells that had become uneconomical to operate. At the same time, the company's normal drilling pace of about 15 wells a year tailed off to four in 1973.

"We called in some of our employees and cut their salaries, and we told them we couldn't blame them if they quit," Mr. Krumme recalls. "In fact, my brother and I were ready to quit. We were sitting around discussing what we were going to do for the rest of our lives to make a living."

The Arab oil embargo in the fall of 1973 silenced that discussion. While millions of Americans sat in gasoline lines, the independents, including the Krummes, hit the accelerator. Spurred by the promise of higher prices touched off by the Organization of Petroleum Exporting Countries, the number of independents rose to more than 12,000 by the end of the 1970s, and 1979 drilling activity picked up to 51,464 wells.

"Thank God for OPEC," mumbles oilman Everett Morton between bites of the liver-and-onions special at Doodles restaurant, known by the locals as the Bristow Petroleum Club. (Bristow is a town of 5,000 people about 30 miles southwest of Tulsa.) It used to be that oilmen from miles around would flock to Doodles every noon for its daily specials, but these days they come primarily for a plateful of oil-field gossip.

And what they get is a heaping serving of backslapping and flag-waving. "Us independents stand for motherhood, the flag and apple pie. We're the independent out there, fighting on our own. That's what America's all about, isn't it?" says George Krumme. Brother Harlan adds: "If we go under, the state of Oklahoma and the country aren't going to go under. But every barrel of oil and every cubic foot of gas we produce helps both the state and the country."

The independents at Doodles picture themselves as America's last true pioneers, conquering this country's final frontier. They liken themselves to the risky riverboat gamblers and the old California gold miners, driven by adventure and a love of money. Their heroes are people like H. L. Hunt and J. Paul Getty, the late multimillionaires who rose from the crowded ranks of struggling independents to become the world's richest men.

After 35 years of prospecting for oil and gas, Harlan Krumme figures he has risen about as high as he is going to go. He and his wife own a comfortable home in nearby Tulsa and a lakefront trailer. Krumme Oil Co. is successful enough to sponsor a Little League baseball team and, as he says, "I'm making a nice profit, and I'll make no apologies for it."

For the fiscal year ended June 30, 1979, Krumme Oil Co. earned about $430,000, and George Krumme says that that may almost double this year: High prices have raised the company's gross oil and gas sales to about $200,000 a month from last year's monthly sales of a little over $100,000. All this comes from a daily harvest of about 350 barrels of oil and 2.5 million cubic feet of gas from Krumme Oil's 155 wells.

These production figures pale in comparison to even a single small discovery by one of the big oil companies, but Harlan puffs out his chest when talking about his wells. "To the majors, an 80-barrel-a-day discovery is just ho-hum," he says, "but man, we're ecstatic when we get one of them."

Unfortunately for the Krummes, very few of their oil wells are even that big; theirs average three barrels a day. Because of the higher prices, Krumme Oil is able to keep some wells flowing even though they yield only three-fourths of a barrel a day, and the company has recently stepped up its natural-gas exploration. In fact, it hadn't drilled any gas wells at all until five years ago, when natural-gas prices rose sharply because of a domestic shortage.

Harlan Krumme has been looking for instant riches ever since he got out of the Army in 1945, but the closest he has come to easy street was a 450-barrel-a-day gusher back in 1970. It flowed long enough for him to pay off more than $500,000 in debts, but by 1972 it was producing nothing but water.

"I guess maybe I should have retired back then, but I figure that sitting around and doing nothing is a damn sure way to die," says Mr. Kumme, who hasn't let open-heart surgery in 1971 keep him off the rigs. "As it is, I'll probably die out on an oil field somewhere. Gambling in Las Vegas or playing poker or shooting craps couldn't interest me less, but gambling on the oil field, seeing if you're right, is something I love. And I suspect I'll be doing it forever."

But mention the "windfall profits" tax and the paper work accompanying it and Mr. Krumme does an abrupt about-face. It all just makes you want to throw up your hands and say, "Let's just sell out to a major oil company and walk away from it all," he grumbles. "Why should we bust a gut anymore?" He says the tax is erasing about $36,000 from his monthly revenues.

Hardly a day goes by at Doodles restaurant without one of the Krummes (George is a Democratic national committeeman) leading a chorus of boos for the tax and the Congressmen and President who supported it. "It's illegal to go to Washington and shoot everyone in Congress," Harlan jokes. "What you have to do is take out the good ones first and then shoot all the rest."

Despite the talk, Mr. Krumme usually goes about doing things in a more democratic manner than that. In the last couple of years he has hit the road as a member of the speakers' bureau of the Independent Petroleum Association of America, to spread the independents' gospel. Sporting a white hard hat that says "Your Independent Oilman: A Good Guy," Mr. Krumme mounts the soapbox. He says he tells his audiences that "us independents are different cats than the majors. We need them to understand that we're neither Exxon nor the guys who run the corner gas stations. We're not the one ripping them off at the pump."

Living in the giant shadows of the major oil companies causes some headaches for the independents. The two factions compete for the same rigs, the same leases and the best employees, and the majors usually win because "they spend money like it's going out of style," Harlan says. Brother George says: "It's like going to bed with an elephant. If he rolls over, you'd better move."

Sometimes the independents don't move fast enough. "It seems like every time the government takes a swipe at the majors, they duck and us independents take the punch," Harlan says.

However, those high oil and gas prices go a long way toward soothing any soreness. "No matter what the government or the majors do," Harlan says, there's one thing they can't mess up: If I've got money in my pocket, I can drill a hole if I want to. And thank goodness for that."●

REAGAN-ROTH-KEMP

● Mr. ROTH. Mr. President, during the past few months, there has been a great deal of inaccurate and misleading information on the impact of the so-called Reagan-Roth-Kemp. In fact, a great deal of the misinformation is caused because many people simply do not understand how the bill is designed to work.

Dr. Paul Craig Roberts, the senior fellow in political economy in the Center for Strategic and International Studies at Georgetown University, recently testified before House Ways and Means and explained in detail the benefits derived from reductions in the marginal rate of taxation on personal income. In addition, he has also compared President Carter's tax proposal with the Republican approach and the Senate Finance Committee tax bill in a recent article in the Wall Street Journal.

Dr. Roberts has done much of the early, important work on the need to reduce tax rates, and I urge all of my colleagues to read these two papers carefully.

Mr. President, I submit the two papers for the Record.

The papers follow:

[From the Wall Street Journal,
Sept. 25, 1980]

Carter's Tax Package

(By Paul Craig Roberts)

Only a few weeks ago President Carter told a national TV audience that the $35 billion Republican tax cut proposal would cause "fierce inflation." Now candidate Carter has proposed a $28 billion tax cut of his own which he says is "anti-inflationary." By proposing a tax cut himself the President has undercut his attack on the main plank of Republican economic policy. No one will believe that the few billion dollars difference between the two plans is enough to bridge the wide gap between"fierce inflation" and "anti-inflation" or to justify delaying tax cuts for yet another year.

The similarity between the two plans ends with their size as measured by static first-year budget costs. Unlike the Republican plan or the Senate Finance Committee's bill, the President's package purchases small amounts of tax reduction at the expense of large increases in government power. It contrasts strikingly with the inclination of the Finance Committee and Reagan-Kemp-Roth to lower the tax rates and leave the market to allocate resources.

Much has been made of the President's "sharp departure from traditional Democratic cures" in moving toward supply-side tax cuts. But a closer look shows that the President's proposals establish precedents for using the tax system for aims quite different from supply-side economics.

Take, for example, the proposal of a refundable investment tax credit. Economically speaking, the credit might as well be refundable as not. Firms without tax liability against which to apply a non-refundable credit include not only unprofitable firms, but also new and rapidly growing firms making heavy investments in plant and equipment.

The problem with the refundable credit is the precedent it establishes. The Kennedy "liberals," for example, want to make the child care credit refundable. Paralleling the argument for a refundable investment tax credit, they claim that the child care credit is unfair to people with no tax liability against which to apply the credit. Once auto and steel makers have refundable credits, the poor cannot be denied theirs. The child care credit is sizable—up to $800 per eligible return—and making it refundable would be a big step forward for the federal welfare system.

A refundable investment tax credit would expand the federal welfare concept in other ways as well. The principle of extending the dole to business would be established, since firms that lose money would benefit from the credit. A result would be to institutionalize bailouts in place of the present case-by-case consideration by Congress. As a general principle, subsidizing money-losing businesses is not the way to "make careful investments in American productivity"—Carter's way of differentiating his tax cut from Reagan's.

The President proposes to expand the investment tax credit in yet another way that is likely to contribute to the growth of government. His package contains a provision for an additional 10% refundable credit targeted to revitalize declining areas. To qualify, firms must obtain "certificates of necessity" from the Commerce Department. Neither eligible areas nor criteria for deciding eligible projects are defined.

The operation of the bonus credit would be highly politicized. Since the allocation of the tax benefit is dependent upon the action of the certifying authority, government acquires the ability to extend substantial tax privileges to its friends and to withhold favors from the politically uncooperative. Even if the system could be operated free of political corruption, the allocation of resources by government authority, rather than by impersonal market tests, means reduced efficiency in the economy's operation.

The President can't even propose accelerated depreciation without hooking it to an increase in the discretionary power of government. In conjunction with faster write-offs, the Treasury Secretary would be given the authority to adjust the rates periodically.

On the individual side, the President proposes an income tax credit to offset the scheduled rise in the Social Security tax for 1981 and 1982. The effect of the proposal is to redistribute income. The more a taxpayer's income exceeds the amount subject to the Social Security tax, the less is the percentage reduction in his total tax liability.

More importantly, the President's proposal amounts to an assault on the contributory principle of the Social Security system. If the President wants to provide tax relief to individuals, he has many alternatives. The only reason for letting the increases in the Social Security tax go into effect and then offsetting them with an income tax credit is to mix together Social Security and general revenues.

Some policymakers favor funding Social Security out of general revenues. That would alter people's perception of the system. In place of a contributory pension system they would see a welfare system. A means test would likely follow, denying the benefits to people with above-average incomes, and a retirement system would be turned into an income redistribution system.

The President's tax package embodies the welfare rather than the incentive approach to tax policy. Although it is the smallest in terms of the Treasury's misleading static revenue losses, the President's package is the most expensive net of feedbacks. In fact, it is a good way to lose revenues and run up the deficit in order to prevent the kind of incentive tax cuts the economy needs if it is ever to grow out from under Washington's thumb.

TESTIMONY BY PAUL CRAIG ROBERTS

Mr. Chairman, distinguished members of the Committee, policymakers are caught on the horn of a dilemma. They are wondering how we can cut taxes in the face of a large budget deficit. At the same time they don't see how we can sit and do nothing in the face of rising rates of unemployment. I have come here today to offer you a solution.

In 1980 the U.S. will have a GNP of about $2.5 trillion, producing federal tax revenues of around $525 billion. In spite of this the government is still $60 billion in the red with no reserves with which to strengthen our defences or to put the Social Security system on a sounder footing. This is because the federal government has been relying on the growth of its budget to provide employment rather than on the growth of the private economy.

Since 1950 the growth of the economy has averaged about 3.5% a year in real terms. Other major industrial countries have grown at higher rates over this period, with France averaging 4.9% and Japan 8.3%.

If the U.S. had grown an average 1.5% faster each year, that is, if the economy had grown at an average rate of 5.0% instead of 3.5% since 1950, today the GNP would be about $4.0 trillion instead of $2.5 trillion. The growth of the economy would have provided privately for many of the people that you are trying to feed and house through the federal budget. Not only would your need for tax revenues be less, you could take a smaller percent of GNP in taxes and still have more revenues. For example, it takes 21% of a $2.5 trillion economy to produce $525 billion in tax revenues, but only 15% of a $4.0 trillion economy produces $600 billion in tax revenues. That would have balanced the 1980 budget and left you with a surplus with which to begin paying down the national debt, thus reducing the interest drain on your revenues.

The economy would have grown at a higher rate if fiscal policy had focused on increasing aggregate supply instead of increasing aggregate demand. Fiscal policy has assumed that the way to maintain full employment is to increase demand or spending to take up the slack in existing productive capacity. Therefore over the years demand has been raised relative to productive capacity, contributing to an ever higher level of prices. Policymakers have noticed that the "Phillips curve" trade-offs between inflation and unemployment get worse and worse. Yet still they are pre-occupied with the impact of fiscal policy on aggregate demand. (Some economists, convinced that the economy doesn't work the same way anymore, want more spending to increase demand, supplemented with controls to hold down wages and prices. That policy would only result in suppressed inflation, which means shortages, rationing and waiting in lines to buy goods and services. The more people wait in lines, the less they produce; so the situation has a way of automatically getting worse.)

I am convinced that a tax cut at this time or next year that is primarily designed to increase spending or the level of demand in the economy will have disastrous effects on the inflation rate, interest rates, capital investment, and the exchange value of the dollar. The rapid rise in the price of gold would reflect the world's lack of confidence in such a policy.

However, if you were to legislate a tax cut designed to raise the level of aggregate supply in the economy, you could expect lower inflation and interest rates, higher capital investment, better productivity, and a stronger dollar.

The key to a succesful tax cut—one that will provide more savings and a higher growth rate—is a uniform reduction in the marginal rate of taxation on personal income and reform of the depreciation rules so that businesses can recover in depreciation sums that are closer to the replacement cost of their assets. If in addition you took other measures to increase personal savings, you would have a good package. An idea package would be the Kemp-Roth bill, "10-5-3," and Rep. Bud Brown's savings bill.

Now you will want to know about the revenue loss, the deficit and all of that.

When you reduce the marginal rate of taxation on personal income, you change two important relative prices. You change the price of leisure in terms of the amount of income you give up by not working, and you change the price of current consumption in terms of the future income you give up by not saving and investing. When taxes go up, both leisure and consumption become cheaper in terms of foregone income. (In Sweden high tax rates have produced such a preference for leisure that the policymakers are discussing how to discourage leisure by taxing it. What they should be doing is reducing the rate of tax on income, and the leisure problem would cure itself.)

When you lower marginal tax rates you make leisure and current consumption more expensive in terms of the income people have to give up in order to engage in these activities. Therefore, you have changed the incentives that they face. They now have incentives to work a little more and to save and invest a little more. As people respond to these incentives the aggregate supply in the economy increases.

It is important to understand that you cannot change these relative prices, increase these incentives or raise aggregate supply through tax cuts that simply lower the average rate of tax. The purpose of the tax cut is not to give people more money to spend, but to let them keep more of any additional income that they earn. Tax rebates, earned income credits, and a larger personal exemption and zero rate bracket have little or no effect on the marginal rate of tax on additional income earned, so they have no general incentive effects to speak of and do not produce a greater level of supply.

A reduction in the marginal rate of tax, which does raise the level of supply, is self-financing (at least in part) in two ways: The larger supply means a greater tax base, and this feeds back some of the revenues lost by lowering the rates. Second, the larger personal savings that result means an automatically larger pool of private funds with which to buy the bonds that the government must sell in order to finance any deficit from a revenue loss.

Keep in mind that increased depreciation deductions flow directly into business savings, so if you have taken measures to increase both corporate and personal savings, you have significantly increased the pool of savings with which to finance any deficit that might result from the tax cut. Therefore, the deficit does not produce the inflationary pressures that a Keynesian budget deficit would.

The economic growth rate was higher in the 1960s than it was in the 1950s. The Kennedy tax cuts reduced the marginal rates of taxation and increased the level of aggregate supply. In the 1970s the growth rate fell off. The reason, I believe, is that the guns and butter policy of the Johnson Administration set off an inflation that pushed people higher in the tax brackets, thus offsetting the effects of the Kennedy cuts. In addition, the Great Society programs reduced work incentives.

Some people claim that it is not possible to cut taxes without adding to demand and inflationary pressures. The argument is made that the Kemp-Roth bill, for example, by reducing the marginal rates of taxation on income also reduces the average tax rate or the amount of taxes people pay on existing earnings, thereby leaving them with more money to spend. (It is possible to reduce the marginal rates of tax without lowering the average rate by simultaneously eliminating or reducing the personal exemption and/or some of the deductions and credits.)

It does not necessarily follow that people have more money to spend. That depends upon what the government and the monetary authorities do. If the tax rates are reduced and the government keeps on spending the same amounts as before and the Federal Reserve does not print money to cover the deficit, people in the aggregate do not have more money to spend. The extra money in the private sector paychecks (from the lower average tax rate) is used up in the private sector's purchase of the bonds that the government must sell to finance its deficit. Therefore, there are no demand effects to cause inflationary pressures.

This makes it clear that inflation depends upon the behavior of government spending and the monetary authority. It is possible to have a supply-side tax reduction without adding to inflationary pressures. Of course, it would be unfortunate if the increase in private savings, which a supply-side tax reduction makes possible, were to be fully preempted by an increase in government spending and borrowing. If the Congress were to cut tax rates and simultaneously reduce the growth in government spending, the increased supply of goods resulting from the higher investment would reduce the pressure on the price level. In economic terms, the aggregate supply schedule would shift relative to the aggregate demand schedule, allowing (in the absence of money creation) a lower price level.

If the Congress is worried about rising rates of unemployment and intends to stimulate the economy by increasing aggregate demand, you should keep in mind that the way to get an increase in real (as opposed to nominal) aggregate demand is to increase real income through the production of a larger supply of goods and services. Remember that investment is a component of aggregate demand, and we are talking about raising aggregate demand by raising that component.

If you do not soon take action to significantly raise the after-tax rewards to production, you may find yourselves unable to do so. The economy is faced with an enormous burden of transfer payments and entitlements that are rapidly mounting in the future. Under the present tax code the very presence of these future claims reduce the incentives to work and to invest. Unless you intend to pay off these claims by promoting divisive class warfare of wealth confiscation and income redistribution, you must immediately begin efforts to increase the rate of economic growth. Only through a higher rate of growth—producing a larger tax base—can you meet these future claims. That requires that you enlist the incentive effects of fiscal policy that have been too long ignored.

There would be one other great advantage of a proper supply—side tax reduction. A properly designed tax cut, properly explained to the people at home and the world abroad would send a signal that we do, after all, believe in our system and intend to restore it to its former leadership position. A clear signal that we intend to increase economic growth by rewarding producers would lower inflation expectations, attract savings and investment from all over the world and restore some of the lost value to the dollar.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in the covering letters are available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 29, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-122, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Australia for defense articles and services estimated to cost $110 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-122]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Australia.

(ii) Total estimated value: Major defense equipment*, $60 million; Other, $50 million; Total, $110 million.

(iii) Description of articles or services offered: Four F-111A aircraft, modified to Royal Australian Air Force standard F-111C configuration, including government furnished aeronautical equipment, operational spare parts, and support equipment.

(iv) Military department: Air Force (SEA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 29 September 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-120, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $9 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C (b) of that statute.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-120]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Turkey.

(ii) Total Estimated Value: Major defense equipment*, $8 million; Other, $1 million; Total, $9 million.

(iii) Description of articles or services offered: Twelve RGM-84A HARPOON missiles.

(iv) Military department: Navy (ACT).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1980.

(viii) Date report delivered to Congress: 24 September 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-117, concerning the Department of the Air Force's proposed Letter of Offer to Oman for defense articles and services estimated to cost $24.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-117]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Oman.

(ii) Total Estimated Value: Major defense equipment*, $13.6 million; Other, $11.2 million; Total, $24.8 million.

(iii) Description of articles or services offered: One C-130H aircraft with ground support equipment and spares for two years, instructor pilot and instructor engineer operational training, and optional aircrew training for three pilots, three flight engineers, and one loadmaster.

(iv) Military department: Air Force (SAA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 24 Sept. 1980.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–116, concerning the Department of the Army's proposed Letter of Offer to Kuwait for defense articles and services estimated to cost $24 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No 80–116]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Kuwait.

(ii) Total estimated value: Major defense equipment*, $22 million; Other, $2 million; Total, $24 million.

(iii) Description of articles or services offered: Fifty-two M113A2 armored personnel carriers (APCs), 29 APCs (ambulance), six APCs with TOW mounts, 14 M577A2 command post carriers, two M125A2 mortar carriers, communications equipment, consolidated spare parts, and support equipment.

(iv) Military department: Army (UFU).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 24 Sept. 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–114, concerning the Department of the Army's proposed Letter of Offer to Sweden for defense articles and services estimated to cost $16 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–114]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Sweden.

(ii) Total estimated value: Major defense equipment*, $15 million; Other, $1 million; Total, $16 million.

(iii) Description of articles or services offered: Two thousand TOW missiles, 100 TOW practice missiles, 35 TOW missile simulation rounds, 5,000 blast simulators, and technical assistance.

(iv) Military department: Army (UNH).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 June 1980.

(viii) Date report delivered to Congress: 24 September 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–113, concerning the Department of the Navy's proposed Letter of Offer to Thailand for defense articles and services estimated to cost $58 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–113]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Thailand.

(ii) Total estimated value: Major Defense Equipment: $52 million; Other, 6 million; Total, $58 million.

(iii) Description of articles or services offered: Eight OV-10 aircraft, with associated spare parts, and support items.

(iv) Military department: Navy (SBE).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 24 September 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–112, concerning the Department of the Navy's proposed Letter to Offer to the Philippines for defense articles and services estimated to cost $113 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–112]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Philippines.

(ii) Total estimated value: Major defense equipment,* $104 million; other, $9 million; total, $113 million.

(iii) Description of articles of services offered: Eighteen OV-10 aircraft with spare parts and support.

(iv) Military department: Navy (SAS).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 20 June 1980.

(viii) Date report delivered to Congress: 24 Sept. 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–111, concerning the Department of the Air Force's proposed Letter of Offer to Kenya for defense articles and services estimated to cost $14 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–111]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Kenya.

(ii) Total estimated value: Major defense equipment,* $13 million; other, $1 million; total, $14 million.

(iii) Description of articles of services offered: Two F-5F aircraft.

(iv) Military department: Air Force (SDA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: 24 September, 1980.●

PANAMA CANAL

● Mr. BELLMON. Mr. President, considerable criticism of the Panama Canal Treaty was generated by those who felt that management of the canal by the United States-Panamanian Commission would not work. Also, charges were made that the ratification of the treaties would result in a anti-United States take-over of the Canal Zone with resulting difficulties for U.S. citizens.

While it is far too early to place final judgment on the ultimate outcome of the Panama Canal Treaty, a report published in the September 29 issue of U.S. News & World Report is highly reassuring. This report, entitled "Panama: Where U.S. Diplomacy Is Working," gives a run-down of the steps that have been taken thus far to implement the treaty and reports in some depth on the improved United States-Panamanian relations which have followed treaty ratification. I believe Members of the Senate will be both enlightened and encouraged by reading this article and I ask that it be printed in the RECORD.

The article follows:

PANAMA: WHERE U.S. DIPLOMACY IS WORKING

PANAMA CITY.—When the United States turned over control of the Panama Canal Zone to the Republic of Panama last October 1, there were forecasts of deep trouble ahead for the historic waterway.

But today, 12 months after the controversial Panama Canal treaties went into effect, such fears are fading fast. The first year of joint operation of the canal by the U.S. and Panama has turned out to be a success, which the administration of President Carter can claim as a major foreign-policy victory.

The canal still is moving ships efficiently between the Atlantic and Pacific oceans at the rate of 38 a day, just as it did when the waterway was under total control of the U.S.

NO MORE ANGER

Panamanian animosity toward Americans, which once erupted in bloody rioting, has virtually disappeared here in the capital.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Moreover, the influence of Communist Cuba's Fidel Castro is on the wane, and U.S. influence is rising here. "We no longer see the United States as a belligerent superpower trying to dominate a small nation," says a Panamanian worker. Former Foreign Minister Fernando Eleta puts it this way: "The U.S. acted before the ship sank. It acted in time."

Even a lawyer who opposed the treaties because they permit Americans to remain in Panama for another 20 years concedes that "the U.S. no longer is an issue in Panama."

There still are potential dangers ahead as the U.S. phases out its operation of the canal, which it built between 1903 and 1914 and to which it claimed outright ownership for more than half a century. Yet American and Panamanian officials are confident all future difficulties can be resolved.

Under treaties signed by Carter and Panama's strong man, Brig Gen. Omar Torrijos Herrera, in September, 1977, and approved by the U.S. Senate in 1978—with only one vote to spare—the U.S. will retain control of the canal until the end of 1999, sharing its operation with Panama. Panama will become the waterway's owner and sole operator in 2000, with the U.S. retaining joint responsibility for its defense.

It is the American responsibility, meanwhile, to train Panamanians to take over the job of running the canal.

Aware that the world is watching this test of cooperation between a superpower and a tiny nation, Panama has given top priority to fulfilling its treaty obligations. Fernando Manfredo, Panamanian deputy administrator of the new Panama Canal Commission, and their families, a community of more than 20,000 people, have moved into fewer bases. The commission has given up all facilities not needed to run the canal. Hospitals and schools in the Canal Area have been taken over by the U.S. Department of Defense.

ON GUARD

Panamanian National Guardsmen—some of whom trained at Fort Bragg, N.C.—help American police patrol the area.

"It was a dramatic change," Manfredo recalls. "The Zone was almost a self-sufficient city. Then overnight it became a ward of Panama that relies on the Defense Department for services. It was a complex adjustment, but the canal remained effective."

Before the transition, the canal employed 14,220 workers, of whom 3,850 were Americans with about 6,000 dependents. Employes of the commission now number 8,000, including 1,943 Americans and 6,057 Panamanians.

A problem is the dual-pay system written into the treaties. Pay of old Zone employes cannot be lowered. But employes hired after the turnover may be paid a different wage for doing the same job. Example: A pre-October machinist earns $8.80 an hour. One hired since then is paid only $4.40. The disparity will increase this October when old employes get the U.S. federal pay boost of 9.1 percent, while new employes receive only 2 percent. The result is constant friction, and there have been short strikes in the port docks and the railroad now operated by Panama.

To head off any possible loss of efficiency, the canal commission is reviewing pay scales. Preference now is given to hiring Panamanians for jobs on the waterway. "But we don't want to sacrifice quality," Manfredo stresses. Even Panamanians concede that it still is the Americans who maintain efficiency.

Although Americans here believe that Panamanians eventually can run the canal, they have some concerns. One is that politics and favoritism may play a role in awarding key jobs to Panamanians and that efficiency of canal operations will suffer as a result.

Yet the transition has been a success politically as well as operationally.

Before the Panamanian flag was raised over Ancon Hill overlooking the canal, Panama's schools were hotbeds of anti-U.S. agitation and demonstrations. Students still demonstrate, but no longer against America. Now they demand better educational facilities.

And for the first time in almost 80 years, Panamanians are focusing on their own problems. "The country is in a transitional period between military dictatorship and a viable democracy," says one leading politician.

In 1968, the National Guard under Torrijos seized power after months of squabbling between political groups had almost paralyzed the government and economy. Torrijos has run the country ever since—first as active head of government during canal talks with the U.S. and since 1978 as the power behind the scenes as commander of the Guard, which now numbers 9,000 men. The general handpicked the present President, Aristides Royo.

LEEWAY, BUT—

Panamanians agree that Royo and his civilian administration run the nation's day-to-day affairs. But Torrijos remains the final authority. Says an official close to both men: "Royo can do anything he wants up to the point where Torrijos says, 'No.' "

Panama will have a presidential election in 1984. Despite criticism by some Panamanians that the same leaders have been in power too long, the belief is that the government-organized party, Torrijos's Democratic Revolutionary Party, will win again. Panamanians now see their country as emulating the Mexican model of a "guided democracy" dominated by a government party.

During the decade when Torrijos pressured the U.S. for a new canal treaty and launched his revolutionary program to help the one-third of his people who live in poverty, Panama adopted policies of a leftist nation. It moved nearer to Cuba and used the threat of Communism as a lever against the U.S. in canal bargaining.

Now that the treaty issue is settled, the Panamanian government is described as shifting back to "traditional Panamanian positions." It has become anti-Communist. Leftist officials have been moved out of the government or sent abroad. The government is shifting closer to the private sector to restore business confidence and to stimulate investment in the economy.

"Panama is basically a middle-class country, closely linked to the U.S.," says a Panamanian official.

Cuban influence is said to be "nil." Panama's own small group of Communists, who supported Torrijos in his treaty fight against Washington, have not yet started to attack the government for its new shift in policy. They are, instead, trying to rally popular support against U.S. policies in Central America that they charge are leading to "genocide" is El Salvador.

Even though observers regard Panama as "highly stable" politically, there is concern over economic problems.

Panama is a small tropical country of only 1.9 million people. Unemployment is estimated at 17 percent. Add the underemployed, and 23 percent of the population lacks adequate jobs. The inflation rate is about 14 percent. Almost one-third of the population is in school, at massive government cost.

Panama's public debt, which was about 400 million dollars in 1970, has grown to 2.8 billion—about the size of the country's entire production in a year. It costs Panama more than 500 million dollars a year just to service the debt. The government was forced to borrow heavily from international agencies for its development program.

Since 1946, Panama has received 388 million dollars in aid from the U.S., about 275 million of that in loans. U.S. aid now totals about 11 million a year. Under the new treaties, Panama receives about 70 million dollars yearly from canal tolls but must spend part of that for maintenance of the area occupied by Americans.

After a period of stagnation in 1973 and 1974, the economy once again is beginning to grow at a rate of about 5 percent a year. Private capital also is starting to flow in once more.

WAITING FOR GAINS

Life still is difficult for an average Panamanian family struggling to cope with inflation and unemployment. Great expectations over immediate gains from the treaties have not been realized. "All the treaties have done is give us a Panamanian flag flying over the canal," one worker complains.

One problem facing Panama and the U.S. is the need to chart the canal's future. Vessels of more than 65,000 deadweight tons cannot use the waterway. And because of rising fuel prices, shippers are turning to more-efficient, larger ships. Canal officials are convinced the facilities must be enlarged quickly.

Plans under consideration range from widening canal entrances and installing new lights for nighttime operations to building another set of locks. Also being considered is the building of a new, sea-level canal not far from the present site, a move Torrijos favors.

Although Japan is interested in the venture, many Americans and Panamanians question whether a new canal—estimated to cost about 18 billion dollars—would be a good investment. Even improvements in the present canal would cost hundreds of millions. So, despite its auspicious beginning, the new canal partnership between the U.S. and Panama still has a long way to go. But with many difficulties already overcome, officials here are confident that they can successfully work together for the rest of the century.

FOR AMERICANS NEAR THE CANAL, LIFE GOES ON AS BEFORE

For the 1,943 Americans still working at the Panama Canal, life over the past year has not changed as much as they once had feared.

These expatriates had maintained an American way of life for years in a colonial enclave called the Canal Zone. It was administered by the U.S.-owned Panama Canal Company, independent of Panama.

But since last October, when most of the Canal Zone was turned over to the Republic of Panama, the Americans have lived in a part of the former Zone called the Canal Area that is administered by the new Panama Canal Commission, a joint American-Panamanian body.

Worries that their American way of life would disappear in the transition have not materialized—at least not yet. "One has the feeling there has been very little real change in living and working conditions," says John McTaggart, a canal employee since 1963.

"The main difference my children notice is that the Panamanian flag now flies over Ancon Hill," says a housewife. Most American women here are said to feel the same way.

FEARS ABATE

While the treaties were being negotiated, a major concern of Zone residents was that they would become the targets for acts of violence or brutality by Panama's tough National Guard for having lived in the much-hated Zone.

But 250 Guardsmen now help 160 American police patrol the Canal Area—with surprising results.

"The National Guard has done an excellent job," says James Shobe, who was born in the Zone and has worked here 30 years.

"The members of the Guard are courteous," agrees Richard Gayer, a computer-systems analyst with 22 years of service here. "If you have a flat tire, they'll help you. I can't think of anything that made me feel uptight last year."

Under the canal treaties, however, U.S. police will be phased out by March 31, 1982, and many Americans are uneasy about that. "I love my home here, and it would take a lot to make me leave," says a housewife. "But see me after the American police leave and I'll tell you whether it's safe to stay.

The main source of present American discontent is the U.S. Department of Defense, which has taken over the job of providing such services as post exchanges, commissaries, hospitals and schools.

The Americans say these services are inferior to those formerly provided by the Panama Canal Company. They complain about large classes for their schoolchildren, school buses that do not come as close to their homes as before, long lines at the post exchange and the lack of food items previously available.

"Under our old system I could order oysters from New Orleans, but that can't be done now," says one housewife.

Defense Department officials say they are going out of their way to please the former Zonians but that they must conform to the military's worldwide standards of operation.

Americans agree that the Panamanian government has kept its promise to maintain their area in the park-like condition of previous years.

In parts of the former Zone, now returned to Panama, the grass is higher, the roads have potholes, and refuse is gathering. But in contrast with crowded, untidy Panama City, just across the street, the American area appears almost totally unchanged from years past.

"Morale at the canal slumped right after the treaties went into effect," says Joseph J. Wood, director of the commission's Office of Executive Administration. "But the Americans are now making the most of what they have, and morale is up again."

WORK FORCE SHIFTS

The threatened mass walkout of American employees has not occurred. Most losses came between Jan. 1. and Oct. 1, 1979, when 1,280 Americans retired. From last October to June 30, only 168 Americans took advantage of early retirement provisions included in the treaties.

Nevertheless, because the intent of the treaties is to phase Panamanians into key positions, career opportunities for Americans are dwindling.

To insure efficient operation of the waterway, officials want to retain as many of the Americans as possible—and for as long as possible. But Americans see the writing on the wall. Police Sgt. Henry Twohy, whose grandfather helped to build the canal, speaks for many of his compatriots when he says: "We are training people to put us out of a job."

MORE ON AGENT ORANGE

● Mr. CRANSTON. Mr. President, since September 4, when the Senate agreed to two agent orange-related amendments—No. 1549 and 1550—to S. 1188, there has been much congressional and executive branch activity on agent orange. The Senate Committee on Veterans' Affairs, which I chair, held hearings on September 10; the House Committee on Veterans' Affairs Subcommittee on Medical Facilities and Benefits, chaired by Congressman SATTERFIELD, held hearings on September 16; the President's work group to study the possible long-term health effects of phenoxy herbicides and contaminants—the so-called IAG—held a public meeting—the first of its kind—on September 22; and the House Committee on Interstate and Foreign Commerce Subcommittee on Oversight and Investigation, chaired by Congressman ECKHARDT, held hearings on September 25.

These hearings have reinforced my view that if we are to find answers to the questions about the current health of veterans who served in Vietnam, studies must focus on the veterans themselves to determine if various health problems they are experiencing today might be linked to their exposure to agent orange or other environmental hazards there.

In adopting amendment No. 1549 to S. 1188 on September 4, the Senate agreed to a provision that would authorize the VA to study the health effects of other substances and environmental hazards to which our troops may have been exposed in South Vietnam that could possibly be related to certain symptoms evidenced now in Vietnam veterans. As I pointed out last Friday, September 26, during Senate consideration of H.R. 5288, neither that provision nor amendment No. 1550—which also was adopted by the Senate on September 4 in S. 1188 and would require the VA to promulgate guidelines for the adjudication of claims based on exposure to agent orange and other environmental hazards in South Vietnam—was viewed by the House Committee on Veterans' Affairs to be germane to H.R. 5288, the proposed "Veterans' Rehabilitation and Education Amendments of 1980," because they involved health-care issues. Neither of these amendments was thus considered by the House for inclusion in the compromise agreement on H.R. 5288.

However, on September 26, on my motion, those two provisions, and two others not related to agent orange but also viewed as nongermane health-care provisions and thus rejected by the House in the context of H.R. 5288, were agreed to as an amendment in the nature of a substitute to H.R. 4015, an unrelated veterans' health-care measure, and H.R. 4015 was returned to the House as so amended. I very much hope that the House committee will act on this very important legislation before the end of the 96th Congress.

Mr. President, I also would like to take this opportunity to share with all Senators three articles about the agent orange issue that appeared on September 15 and 16 in the Baltimore Sun newspaper. These articles, which were written by Jon Franklin and Alan Doelp, are, in my view, objective and well-written summaries of recent developments related to this issue.

Mr. Franklin is a science writer who won a Pulitzer Prize in 1979 for feature writing and, in 1975, won the American Chemical Society's James T. Grady medal for science writing. Mr. Doelp is an investigative reporter.

I ask that the three articles be printed in full at this point in the RECORD.

The articles are as follows:

VIETNAM VETERANS WAIT AND WORRY AS SCIENTISTS STUDY

(By Jon Franklin and Alan Doelp)

(In late February. The Evening Sun published a series of articles examining the controversy surrounding Agent Orange, a chemical that killed foliage from jungle plants and trees during the Vietnam War. The following article is the first of two taking another look at the controversy.)

Three years after a government caseworker first charged that Vietnam veterans and their children were dying of Agent Orange poisoning, more than 2 million ex-servicemen still don't know whether they should worry or not.

The scientific case against Agent Orange remains extremely weak, but clear evidence that could reassure the veterans is lacking. Health experts say the veterans can expect to wait years for the answers they want.

Legal remedies, if merited, are equally distant. Although attorneys for veterans have filed one of the largest, and most complex, personal damage suits in history, the litigation is proceeding even more slowly than the science.

To date the only tangible result of the controversy is a growing cohesiveness among Vietnam veterans who, 10 years after the war, have begun to demand—and receive—recognition of their special problems.

"The Veterans Administration is still playing its game," complains Vince Lombardi, president of Baltimore's 700-member Vietnam Veterans' group. "Nobody's getting their disabilities or anything."

On the other hand, he said, the issue has brought local veterans together to lobby for benefits and present a united front to the federal government. That united front has gained them, among other things, a way to get treatment for a variety of ailments that veterans think are due to Agent Orange.

The VA has consistently refused to treat alleged Agent Orange symptoms, because no military service connection has been proved.

If a veteran writes "Agent Orange" or "herbicide" on his treatment application, his case is deferred, Mr. Lombardi said. But when veterans list their symptoms without writing "Agent Orange" on the forms, they often get the treatment they ask for.

Mr. Lombardi and many other veterans are bitter about the nation's inability to address their concerns about Agent Orange in a timely fashion.

"We want to know now," Mr. Lombardi says, "not 10 years from now. I don't care about my problems so much, but I want the VA to do something about my kids."

But the government is constrained by a law that says the veterans can't be compensated unless there is a connection between their health problems and their prior military service. Allegations are plentiful but the facts to back them up have been difficult to obtain.

Time after time, short-term studies that the veterans hoped would aid their cause have failed to do so.

Their most recent disappointment involved a study designed to test the charge that Agent Orange ultimately rendered some ex-soldiers sterile and others impotent, and triggered birth defects in the children of those who remained sexually competent.

To test that theory in mice, scientists with the National Institute for Environmental Health Sciences fed large doses of Agent Orange to male mice. Contrary to what might have been expected by the veterans, the mice suffered no long-term or delayed effects. They remained sexually active throughout the trials and their offspring remained no more likely to suffer birth defects than the offspring of mice never exposed to Agent Orange.

Veterans had also hoped for positive results from a human study focusing on a group of Monsanto employees who were heavily exposed to Agent Orange components during an explosion in Nitro, W. Va., 30 years ago. But the only study completed so far demonstrates that the death rates among those workers remained normal.

That work was financed by Monsanto, but it was based on publicly available health documents and statistics.

Evidence could still emerge soon, however, that would back the veterans' claims. The Monsanto study is continuing, now focusing on the health of the workers who are still alive after the 30 years, and it could still produce new evidence.

There is also a competing study commissioned by the steelworkers' union, which represents the Monsanto workers.

Both studies, conducted by nationally-known scientists, were due for release earlier this summer. Neither has been completed and the scientists involved have consistently refused to divulge any preliminary findings.

Whatever the outcomes of limited, short-term research projects, final conclusions about the Agent Orange controversy will have to emerge from larger studies that focus on Vietnam veterans, not mice, rats, guinea pigs or industrial workers.

There are two such projects in the works.

The most critical is a massive epidemiological investigation of the health of Vietnam War veterans. This one aims at the heart of the issue: Are the veterans any less healthy, on the average, than the rest of the population? Or are the victims of brain tumors, birth defects and similar conditions simply using Agent Orange and the unpopular war as a scapegoat?

The study will also compare the health of Vietnam veterans thought to have been exposed to the herbicide with the health of ex-servicemen from other wars.

This study is the largest Agent Orange investigation contemplated by the government and is expected to provide conclusive answers to the veterans' charges. But to be thorough it must be meticulous and that takes time. Government officials estimate that the report will not be ready for at least three years and probably longer.

The other study, being undertaken by the Air Force, will determine the health of the 1,200 servicemen assigned to Operation Ranch Hand. Those were the men who actually handled and sprayed the herbicide, and are believed to have received more exposure to it than any other group. Some of the Ranch Hand "Cowboys" even drank small amounts of Agent Orange.

The Ranch Hand Association, consisting of 900 former Cowboys, claims its members do not suffer from any alleged Agent Orange symptoms. The Air Force intends to find out.

These large-scale studies could yield surprise answers. There are several circumstances in which both the veterans and the manufacturers of Agent Orange could be correct.

If the ex-servicemen do have excessive health problems, but those problems prove to be unrelated to Agent Orange, other substances and circumstances may be studied.

For instance, if Ranch Hand members prove to be in good health, but ground combat veterans do not, the focus of the investigation may shift away from Agent Orange. Tropical service left earlier generations of soldiers with lingering ailments and, in the case of Vietnam, ground troops were required to swallow an experimental malaria drug, Dapsone, that has been clinically linked to many of the ailments the veterans now complain of.

Most ground troops in Vietnam regularly took Dapsone or another malaria pill, Chlorodoquine-Primaquine. Pilots, including those who flew the Ranch Hand missions, did not take either drug.

But any health claims, or the correlation of those claims with anything else, are still speculative and will remain so until more of the studies are complete.

In the meantime, the largest personal damage lawsuit in history lumbers along in a New York federal court. More than 4,000 veterans are suing the five chemical companies that manufactured Agent Orange, claiming it ruined their health or that of their children.

The suit is against the Dow, Monsanto, Diamond Shamrock, Thompson-Hayward, and Hercules chemical companies, all of which manufactured Agent Orange. The damages being asked reached $40 billion, after which the veterans' attorneys quit even specifying the figure.

"All the defendant companies together are only worth about $10 billion," said Victor Yannacone, the plaintiffs' lead lawyer. "Obviously it's not realistic to talk about straightforward damages."

Instead, the plaintiffs want a trust fund created out of the companies' earnings to compensate veterans who can prove their health problems are related to Agent Orange.

Many veterans, including more than 100 in Maryland, have refused to join Mr. Yannacone's suit and have filed their own suits. "We want our cases tried in Maryland, by our neighbors," Mr. Lombardi said.

The chemical companies, saying they are convinced that the health problems are unrelated to Agent Orange, say they will fight the claims every step of the way. Lawyers involved in the case say they expect it to drag on for years.

HERBICIDE EXPERIMENTS ON MICE FAIL TO SUPPORT VETERANS' CLAIMS

(By Jon Franklin and Alan Doelp)

Heavy doses of Agent Orange failed to produce either birth defects or delay health problems in a series of mouse experiments recently completed by the National Toxicology Program.

The experiments were designed to help investigate charges that some Vietnam War veterans and their children are suffering ailments that stem from the soldiers' exposure to the controversial defoliant.

The scientists fed high does of Agent Orange to several hundred male mice, which they then bred with unexposed females. The chemicals made the mice sick, but when the poison was withdrawn they recovered completely and their offspring were no different from the offspring of normal mice used as controls.

The controversial chemical, called Agent Orange because it was shipped to Vietnam in orange-striped barrels, was sprayed over large tracts of the tropical jungle in an effort to deprive communist soldiers of cover.

The chemical was a mixture of two herbicides—2,4-D and 2,4,5-T—both considered harmless to animal life. But it was also contaminated with a manufacturing byproduct known as dioxin, one of the deadliest poisons ever synthesized.

Veterans' groups claim that soldiers exposed to Agent Orange, and therefore to dioxin, now suffer from a variety of serious ailments and have fathered abnormal numbers of defective children.

While animal studies do not necessarily apply to humans, a finding that Agent Orange caused birth defects in mice would have dramatically bolstered the veterans' claims. The toxicology study, however, did the opposite.

Three groups of mice that were fed varying levels of the dioxin-laced herbicides mated normally and produced offspring with no more birth defects than did a fourth group of mice kept under identical conditions but not exposed to Agent Orange.

Many veterans who complain of sterility and impotence blame those problems on Agent Orange. The three scientists who performed the mouse study said the poisoned mice remained sexually competent.

Many earlier studies did nothing to resolve the Agent Orange controversy because they were poorly designed and, as a result, produced ambiguous results that fueled the arguments of both sides.

One EPA-sponsored study of birth defects in Alsea, Ore., for instance, reported a correlation between the application of 2,4,5-T and spontaneous abortions by women living near the sprayed areas.

The study immediately led to an emergency EPA ban on most uses of 2,4,5-T, but many scientists, including a group at the University of Oregon that has examined the study in detail, claim the Alsea report is riddled with errors and inaccuracies.

According to one scathing analysis, the EPA investigators gathered their data incorrectly, then compounded that error by misinterpreting the faulty data to produce unwarranted conclusions.

The case against the Alsea work is bolstered by a subsequent EPA-funded study that found no traces of dioxin or 2,4,5-T in milk samples taken from nursing mothers in several areas where 2,4,5-T was regularly used.

If the criticism prevails, the Alsea study, and with it the ban, may have to be junked. The EPA is presently conducting hearings in Washington to determine whether the ban should be lifted.

As a result, scientists investigating the controversial questions concerning Agent Orange are under pressure to design studies that will yield definitive answers.

The most important of those studies will be a large-scale epidemiological assessment of the health of Vietnam War veterans. The long-term project will ultimately settle the issue of whether the Vietnam veteran is, on the average, any sicker than the general population.

Because so much rests on the results, the project has proceeded at a glacial pace. Congress considered the study for weeks before mandating it last fall. Since then, the Veterans Administration has been busy selecting a contractor to do the creative work of designing the study.

A VA spokesman said the design contract may be awarded as early as this month. Designing the study is expected to take about a year. Once the design is completed, it will take at least two more years for the study to begin producing answers.

In the meantime, the National Toxicology Program proceeded with its mouse study in an attempt to at least partially answer the questions involving birth defects and long-term effects.

The toxicology study is a model of careful experimentation. The 200 mice were divided into four experimental groups of 50 each. One group of mice was treated like the rest, except that they were not fed any Agent Orange. They serve as the comparison point, or control, necessary to a definitive animal experiment.

The other three groups received three different mixtures of Agent Orange herbicides and dioxin, so that the relative toxicity of the chemicals involved, as well as any possible cumulative effects, could be measured.

The high doses of Agent Orange did, as predicted, have an effect on the mice. They lost weight, their livers swelled, their thymuses (a small immune-system organ) shrank. But those problems did not interfere with the animal's sexual abilities.

When the chemicals were withdrawn, the livers shrank back to normal size, the thymuses grew and the animals quickly regained their lost weight.

The complete recovery of the mice conflicts with veterans' claims that they are suffering ill effects a decade and more after their exposure to relatively minuscule amounts of Agent Orange.

The scientists, when examining the offspring of the poisoned mice, found a small percentage of defects. But when that tally of deformities was compared to birth defects in the offspring of the unpoisoned control group of mice, they were statistically identical.

A specific "background level" of birth defects occurs normally in all mammals, including humans. While some children of Vietnam veterans are born defective, scientists question whether the numbers of such problems are any higher than those in population groups never exposed to Agent Orange.

STUDY "MEANINGLESS" TO AGENT ORANGE CONTROVERSY

(By Jon Franklin and Alan Doelp)

A study that found trace levels of dioxin in the fatty tissue of Vietnam veterans is scientifically vaild but virtually meaningless in resolving the Agent Orange controversy, the study's chief scientist says.

The findings, which were first revealed several months ago, showed that fat samples from 11 Vietnam War veterans contained parts-per-trillion levels of dioxin, the poisonous byproduct that contaminated the military's Agent Orange herbicide.

The veterans' dioxin levels were a thousand times less than the smallest amounts shown to cause health problems in the most sensitive laboratory animals. Nevertheless, the study fueled the fears of veterans, who have blamed everything from impotence to cancer on their wartime exposure to the herbicide.

Of particular concern was the fact that 11 of 20 allegedly exposed Vietnam War veterans showed positive traces of dioxin while such traces were found in only four of 10 in a control group of veterans who were in Vietnam but who said they were not exposed to Agent Orange.

Those numbers were widely interpreted as implying that many infantrymen who served in Vietnam still carry potentially harmful traces of Agent Orange in their bodies. But Dr. Michael L. Gross, the scientist who conducted the study, says no such interpretation is warranted.

According to recent testimony at an Environmental Protection Agency hearing in Washington, the meaning of the results may be open to question because the dioxin levels are so minuscule and the techniques required to measure such vanishingly small quantities are so highly experimental.

Dr. Gross is a professor of chemistry at the University of Nebraska and director of the Midwest Center for Mass Spectrometry, one of six such centers in the country. He is recognized as one of the nation's foremost analytical chemists and has done extensive chemical studies for the Environmental Protection Agency, including several studies focused directly on dioxin.

He said the number of fat samples analyzed was far too small to show whether or not Vietnam veterans are any more likely to have dioxin in their fat than are average American citizens. Another test, conducted in an identical manner, could show average Americans with higher dioxin levels than ex-soldiers, he said.

The levels of dioxin discovered in most of the Vietnam veterans were on a par with levels found among members of the general population, Dr. Gross said.

"If a guy was in the infantry, he's probably not carrying high levels of dioxin," Dr. Gross said. He said he didn't know whether parts-per-billion dioxin levels pose a danger, but if they do, the veterans aren't anymore at risk than other Americans exposed to dioxin from domestic herbicide applications, the use of chemicals like hexachlorophene, or air pollution.

"Maybe we're all in trouble," said Dr. Gross. "But if we are, we're together in it, at least."

The one meaningful part of the test, he maintained, involved three veterans who said they received extremely high exposures to Agent Orange during the Vietnam War. Fat taken from one of the three showed no dioxin traces, but the two others showed higher concentrations than anyone else in the experiment.

All three were directly involved in the handling and application of Agent Orange. The highest dioxin reading attained by Dr. Gross, for instance, came from an Air Force mechanic who spent a year in charge of a herbicide unit.

That veteran told the government that he'd handled and pumped herbicides into aircraft tanks, that he had continuously breathed herbicide fumes and that he "swam in it." Three separate tests on his fat sample yielded results of dioxin levels of 63, 96 and 100 parts per trillion.

Other veterans who tested positive had levels in the neighborhood of 3 to 14 parts per trillion, comparable to the amount of dioxin found in the fat of American civilians and very close to the limit of detection.

But, Dr. Gross said, the fact that two of the three veterans rated most heavily exposed by the Veterans Administration were shown to have relatively high dioxin levels does indicate that heavily exposed persons may indeed carry Vietnam War era dioxin in their fat.

Whether or not that poses a danger, nobody knows.

For that matter, it isn't even clear that the two-out-of-three ratio is correct. In cross-examination, an attorney for Dow Chemical Co., one of the manufacturers of Agent Orange, challenged the rationality of the Veterans Administration "heavily exposed" classification.

The lawyer pointed out that, according to government documents, several other veterans who said they were heavily exposed were not so classified. Their dioxin levels came out either nil or relatively low.

For instance, one man told VA doctors he received "severe, direct repeated exposure" when flying through herbicide sprays on scouting missions. He was not listed among the most heavily exposed.

If the classifications are modified to include all such veterans in the "heavily exposed" class, even those findings lose some of their sinister character. Depending on who decides the meaning of "heavily exposed," up to half of such Vietnam veterans have low or nil levels of dioxin in their fat.

Three Air Force officers who do herbicide research and who classified themselves as extremely heavily exposed were excluded from the totals. Two of them had dioxin levels on a par with that found in the nonmilitary population and the third tested negative.

In an interview, Dr. Gross called for a larger, statistically significant study designed to provide concrete answers to the questions raised by the first one.●

NICARAGUAN REFUGEES SHOULD HAVE THEIR VISAS EXTENDED

● **Mr. HELMS.** Mr. President, after the triumph of the Sandinista government on July 19, 1979, some 15,000 Nicaraguans fled from the fear of persecution and Marxist retribution to the United States. The U.S. Embassy in Managua adopted a generous policy of granting tourist visas, with no questions asked. Those exiles who came to the United States thus faced an uncertain future, as more and more evidence accumulated of Sandinista murders, tortures, and imprisonments of any Nicaraguans who were "denounced" by their fellow citizens.

In the midst of social upheaval and tragic actions, many opportunities for hatred, revenge, and personal advancement present themselves accompanied by passion and social disintegration. This combined with the Marxist dominance of the revolutionaries has led many of the exiles to believe that to return home would be an act of folly, if not suicide.

Six months ago, the visas of these exiles were extended, expiring on September 28—that is last Sunday. That date was the last deadline for voluntary departure. After that, the exiles face deportation back to Nicaragua to face the Sandinista's Marxist revenge.

Despite the obvious danger these exiles face, the Carter Administration has refused to extend their visas again. The State Department holds that each one of the 15,000 must apply for political asylum as an individual case, supplying supporting documents. This is a lengthy process, one that could take months or even years, leaving these exiles in a state of suspended animation and with no settled means of livelihood. It is to be noted that these exiles do not enjoy the benefit of financial assistance or relocation support or counseling.

The only concession which the administration has made is to extend work permits for 2 months—an ambiguous response in the light of the indefinite tenure of asylum hearings.

This hard-nosed response contrasts with the treatment which has been accorded to the Cuban and Haitian exiles. Under the Refugee Act of 1980, the President has designated a special category of Cuban-Haitian refugees to enter as a class, and as we know, almost 150,000 have done so.

Yet the administration has not done the same for the Nicaraguan exiles—exiles who are clearly political exiles in the midst of revolutionary upheaval. I call upon the administration to do so now.

The Nicaraguan group is a group clearly defined by entry dates, and consists of highly motivated citzens who, for the most part, were leading productive lives in a capitalistic economy. It is a relatively small group which could be integrated into U.S. society without the social problems created by Castro's manipulation of the Cuban exodus.

Moreover, in the light of the events of the past few weeks, such an action would be a humanitarian deed. These events have heightened anxiety and tension in the exile group as the Nicaraguan Government more and more has dropped its mask. Consider the following:

First. On September 5, two Cubans in a Lear jet were seized by the FBI for presenting false Nicaraguan identity papers. The Miami Herald noted that the Cubans were believed to be on an intelligence operation.

Although the Nicaraguan counsul vouched for them, they were deported immediately. Subsequently, members of the Nicaraguan Government boasted privately that the Cubans had come to Miami to kidnap the son of Anastasio Somoza, and return him to Managua for a show trial.

Second. On September 17, the former President, Anastasio Somoza, was assassinated in Paraguay. The chief suspect who was killed in the manhunt was an international terrorist who had fought with the Sandinistas in Nicaragua, and had been made commandante of one of the Nicaraguan provinces by the Sandinista government. The result is that many believe circumstantial evidence points to the complicity of the Nicaraguan Government in international terrorism.

Third. On September 19, the Minister of Justice of Nicaragua, Tito Castillo, and the Vice Minister of Justice, Carlos Arguello, arrived in Miami to seek the extradition of members of the Somoza family, and "other Nicaraguans who have committed criminal acts in Nicaragua." Since antirevolutionary behavior is a crime which has been punished by death in Managua, this announcement has sent a chilling response into the hearts of the Nicaraguan exiles.

Fourth. The same team announced that Nicaragua has instructed its attorneys in the United States to intervene in the asylum hearings of Nicaraguans in the United States. For those who have fled from terror, this announcement has had the effect of importing that same terror to the United States, particularly for those who are not sure how impartially the U.S. juridical process operates.

Fifth. The Nicaraguan Human Rights Commission—the same one that documented abuses of human rights under the Somoza government—has recently completed several hundred pages of documentation of over 500 Nicaraguans who have "disappeared" within the Sandinista prison system. It may be assumed that many, or even most, of these have been murdered without trial. Eyewitnesses who have escaped from Sandinista prisons cite frequent incidents of wholesale nighttime executions, beatings, and other tortures.

For these and other reasons, the case of the Nicaraguan exiles becomes a compelling one. The administration should move quickly to extend to them the protection of the Refugee Act of 1980. At the very least, their visas should be extended another 6 months to allow time for orderly decisionmaking.

Mr. President, I ask that the Sandinista press release calling for the extradition of Nicaraguans in the United States, as well as a chronolgy of events which show the Marxist tendencies of the Sandinista regime be printed in the RECORD.

The material follows:

REPUBLIC OF NICARAGUA SEEKS THE EXTRADITION OF SOMOZA'S SON AND OTHERS WHO HAVE COMMITTED CRIMINAL ACTS IN NICARAGUA

On Friday, September 19, 1980, the Minister of Justice of the Republic of Nicaragua, Tito Castillo and the Vice-Minister of Justice, Carlos Arguello, arrived in Miami, Florida to begin the process of extradition of Chiguin Somoza Portocarrero and other Nicaraguans who have committed criminal acts in Nicaragua.

The Ministers have brought to the United States all the necessary documents to begin the extradition of this first group of Nicaraguan criminals led by Chiguin Somoza Portocarrero, and the Ministry has instructed their attorneys in the United States to seek extradition of these criminals.

Mr. Castillo and Mr. Arguello have also brought with them the Last Will and Testament of Anastasio Somoza which identifies certain property in the United States. On behalf of the Republic of Nicaragua they will begin the process of recovering these properties for the people of Nicaragua, the rightful owners of the property.

The Republic of Nicaragua has also instructed their attorneys in the United States, pursuant to the Refugee Act of 1980, to present evidence and where necessary to intervene in the asylum hearings of Nicaraguans in the United States who have persecuted other persons in Nicaragua or who have committed major criminal acts in Nicaragua to prevent these persons from obtaining asylum in this country. The Nicaraguan government intends to use every legal means possible to prevent criminals or Nicaraguans who have tortured or persecuted other persons from obtaining political asylum in the United States.

The Republic of Nicaragua, however, wishes to clearly state that those people who have not committed any criminal acts or acts of persecution against other Nicaraguan citizens or the Nicaraguan government can freely return to Nicaragua, without harm, even if they have sought political asylum in the United States.

NICARAGUAN FACT SHEET

Date, event, and source:

Aug. 1, 1979. Cuba announces it is sending a brigade of doctors and teachers numbering approximately 350 to Nicaragua to aid in the recovery of the country. Deutsche Press (DPA), Aug. 1, 1979.

Aug. 1, 1979, Evans & Novak report that Julian Lopez, ranking official of the Cuban secret police was present in the FSLN command bunker during the height of the fighting in Nicaragua and played a key role in masterminding the FSLN takeover. Washington Post, Aug. 1, 1979.

Aug. 1, 1979, Evans & Novak report that leaflets appeared in Honduras shortly after the FSLN takeover in Nicaragua where Tomas Borge promised to join forces "with the revolutionary organizations of Latin America." Washington Post, Aug. 1, 1979.

Aug. 7, 1979, Tomas Borge said the Nicaraguan junta "probably would not" stop volunteer Nicaraguans from fighting with guerrilla groups active in Guatemala and El Salvador. Washington Post, Aug. 7, 1979.

Aug. 23, 1979, North Korea and Nicaragua have agreed to establish diplomatic relations, the North Korean Central News Agency reported. Washington Post, Aug. 24, 1979.

Sept. 6, 1979, Daniel Ortega speech before the sixth nonaligned summit in Havana: "we demand the . . . return of the Guantanamo base to Cuba . . . we support the struggle of the Puerto Rican people for their self-determination and independence . . . we support the reunification of Korea and demand the withdrawal of North American troops from South Korea . . . we recognize the PLO as their (Palestinian people) legitimate representative . . . we condemn the Camp David accords." FBIS Report, Havana Television Service, Sept. 6, 1979.

Sept. 11, 1979, Nicaragua government announced that 600 Nicaraguan youths have been sent to Cuba for schooling and are planning to send 39 more in October. Washington Star, Sept. 12, 1979.

Sept. 14, 1979, Prime Minister Pham Van Dong of Vietnam arrived in Managua for a three day official visit. Diario Las Americas, Sept. 15, 1980.

Sept. 1979, Interview by FSLN representative Jorge Mandi with Kuwaiti news service, Al-Watan: "There is a long-standing blood unity between us (FSLN) and the Palestinians. Many of the units belonging to the Sandinista movement were at Palestinian revolution bases in Jordan. In the early 1970's Nicaraguan and Palestinian blood was spilled together in Amman and in other places during the Black September battles. Congressional Record Insert Oct. 22, 1979, 29078.

Sept. 1979, Comandante "Marco" of FSLN defects to El Salvador. Real name Franklin Adolfo Molina. Claimed that operation 3838–73 is under preparation which calls for the invasion of El Salvador and Guatemala in late 1979 or early 1980. Television Interview, San Salvador, El Salvador.

Dec. 12, 1979, Sandinista officials confirm that over 2400 Cuban teachers and medical personnel have been sent to Nicaragua in the last three months. Diario Las Americas. Dec. 13, 1979.

Dec. 29, 1979, George Marchais, Secretary General of the French Communist Party made a short visit to Managua expressing his party's solidarity with the Sandinista revolution. Diario Las Americas. Dec. 30, 1979.

Jan. 4, 1980, The first group of Russian embassy staff members arrived in Managua. This group numbered eleven. Another twenty are expected soon. A total of 100 Russians are expected to man their embassy in Managua. FBIS Report, Jan. 7, 1980, ACAN–EFE, Jan. 5, 1980.

Jan. 14, 1980, Nicaragua abstains on the United Nations vote to condemn the Russian invasion of Afghanistan. 104 voted to condemn Russia, 18 voted against and 18 abstained. Dept. of State, Bureau of Public Affairs, January 1980.

Jan. 30, 1980. La Prensa Libre of San Jose, Costa Rica charged that Salvadorean guerrillas are receiving military training from the FSLN in northern Costa Rica. FBIS Report, Jan. 31, 1980, Agence France Presse (AFP), Jan. 30, 1980.

Feb. 4, 1980. A Nicaraguan captured during a skirmish between leftists and the Salvadorean Army has admitted being a member of the FSLN. The man, Juan Jose Molina Peres, said the Sandinistas arrived from Nicaragua in groups of four. Washington Post, Feb. 5, 1980.

Feb. 5, 1980, Nicaraguan government unilaterally abrogated a 50-year old treaty and claimed as Nicaraguan a group of Caribbean islands belonging to Colombia. Radio Sandino reported that the treaty was invalid because it was a surrender of Nicaragua's resources perpetrated by: "malformed creatures spawned by the White House." Congressional Record Insert, Feb. 21, 1980, 3534.

Feb. 11, 1980, Spanish newspaper El Siglo reports presence of Cuban mercenaries on San Andres and Providencia, two of the islands Nicaragua claims as its own in its dispute with Colombia. Congressional Record, Feb. 21, 1980, 3534.

Feb. 25, 1980, Maurice Bishop ends two-day visit to Nicaragua. The new leader of Grenada and the Nicaraguan government sign a declaration proclaiming independence for Puerto Rico & Belize, and urging the necessity of structural change in the world economic order. Diario Las Americas, Feb. 28, 1980.

Mar. 17–22, 1980, Visit of Nicaraguan delegation to U.S.S.R. and release of a joint communique which states in part, "the Soviet Union and Nicaragua resolutely condemn the campaign of mounting international tension in connection with the events in Afghanistan, which has been launched by the imperialist and reactionary forces and is aimed at subverting the inalienable right of the people of the Democratic Republic of Afghanistan and of other peoples of the world to follow a path of progressive transformations. The Soviet and Nicaraguan representatives discussed questions of friendly ties between the CPSU & the FSLN. They expressed a mutual desire to develop those ties . . . A plan of ties between the CPSU and the FSLN for the 1980-81 was signed." FBIS Report, May 27, 1980, Pravda, May 23, 1980.

Mar. 10, 1980, Interview with La Prensa newsman Marcio Vargas upon his return from Cuba. "There are 530 students who attend the Carlos Fonseca Amador School. There is another school called the Cuban-Nicaraguan Friendship School which already has the teachers and facilities and is only waiting for another contingent of 600 Nicaraguan students. The Cubans are beginning to build a third school for 600 more Nicaraguan students." FBIS Report, Mar. 12, 1980, Managua Radio Mundial, Mar. 10, 1980.

March 1980, interview with Sandinistas in Moscow. Humberto Ortega: "The successes of the struggle waged by the Soviet Union and other socialist countries for democracy, peace, detente, and for stopping the arms race are of tremendous importance for our small developing country where we have only just now taken the power in our hands." Moises Hassan: "The efforts to boycott the Olympics in Moscow seem to us a rude attempt to exploit sport for political ends. As soon as the talk began about boycotting the Olympics, we, speaking on behalf of the Nicaraguan Olympic Committee . . . stated with full clarity that we are against the boycott." Moscow News Weekly, No. 13, 1980.

March 31, 1980, "A Sandinista victory over these forces of capitalist counterrevolution would mark the birth of the second workers state in the Americas. Prospects for the Nicaraguan revolution are also brightened by the rapid rise of other revolutionary struggles in Central America and the Caribbean. The Sandinistas have recognized this, making solidarity with El Salvador a major theme of recent demonstrations and statements by top FSLN leaders." Intercontinental Press, March 31, 1980.

Mar. 27–Apr. 2, 1980, Official delegation of Nicaraguan government visits East Germany. Communique is signed criticizing imperialism, reaffirming fraternal affinity with Cuba, Vietnam, Laos, and Kampuchea. FBIS Report, Apr. 7, 1980, E. Berlin, Neues Deutschland, Apr. 3, 1980.

April 1980, Nicaraguan delegation finishes tour of Soviet Bloc, including Czechoslovakia, Bulgaria, Algeria, and Libya. Agreements were signed strengthening ties with these countries, as well as trade, economic aid and cultural exchanges. Washington Post, Apr. 13, 1980.

Apr. 14, 1980, Russians have transferred to the Sandinistas a "fishing trawler" that is in fact a sophisticated listening post. In Sandinista hands it can be used to eavesdrop on U.S. communications . . . The Sandinista radicals have moved further afield, as well. There are reports that 1,500 guerrillas armed and trained by Sandinistas are operating in El Salvador . . . There are also reports of Sandinista-trainees in Guatemala . . . Business Week, Apr. 14, 1980.

Apr. 15, 1980, Last week, leaders of the Sandinista junta journeyed to Havana to meet with Cuban dictator Fidel Castro and Angolan President Jose Eduardo dos Santos to check on the progress of more than 500 Nicaraguan troops now fighting alongside their Cuban comrades in Angola. Institute of American Relations, Apr. 15, 1980.

Apr. 16, 1980, Tomas Borge on El Salvador: We want to repeat what we said throughout the world. If Yankee imperialism intervenes in El Salvador, our people will consider it as an invasion against their own land. Then, the police, the army, the Sandinist popular militia members and all the people will take up arms in order to respond to the aggression of the imperialists. FBIS Report, Apr. 16, 1980, Radio Sandino, Apr. 16, 1980.

Apr. 21, 1980, With Soviet backing, Cuba is setting its sights to influence such Central American and Caribbean targets of opportunity as Guyana, Jamaica, Grenada, Nicaragua, and El Salvador, the State Department predicted . . . Cuban affairs Director Myles Frechette testified before the House Inter-American Affairs Subcommittee last week and said, "Cuba has shown it can move quickly to take advantage of targets of opportunity . . . with massive Soviet economic and military support, the Cubans are becoming more active in the region . . ." UPI, Apr. 21, 1980.

Apr. 22, 1980, Sources have said that dozens of Nicaraguans are deserting the leftist Sandinist Army each day to join the Salvadoran guerrillas trying to topple the Salvadoran junta. N.Y. Times, Apr. 23, 1980.

Apr. 30, 1980, The Nicaraguan government demands that the U.S. suspend its military maneuvers planned for the Caribbean Sea, saying that they would increase international tension in the area. DPA, Apr. 30, 1980.

May 1, 1980, Daniel Ortega, in a Havana speech, gives the full support of Nicaragua to Cuba in its confrontation with the U.S. Diario Las Americas, May 3, 1980.

May 1, 1980, May Day rally held in Managua with junta and FSLN Directorate in attendance. Pictures of Marx and Lenin are visible. "Nicaragua won, El Salvador will win" is chanted. Diario Las Amercas, May 3, 1980.

May 5, 1980, Speech by Sergio Ramirez to inaugural session of Nicaraguan Council of State: We fully identify with the international order of relations based on justice and with the establishment of a new international economic order. Our foreign policy in an anti-imperialist and nationalist policy. FBIS Report, May 8, 1980, Managua Domestic Service, May 5, 1980.

May 7, 1980, During the second half of April, the Sandinists of Nicaragua sent 500 enlisted men to Angola at the request of Cuban President Fidel Castro. AFP, May 7, 1980, FBIS Report, May 8, 1980.

May 10, 1980, The revolution's center towards Cuban-style socialism turned into a gallop last month as workers started occupying land illegally and taking over factories. Many of the takeovers have been approved by the Sandinistas under a new law which allows them to confiscate firms after 30 days of public investigation to see if they have been taking capital out of the country or engaging in "economic sabotage." The Economist, May 10, 1980.

May 11, 1980, Jose Francisco Cardenal, named vice president of the Council of State goes into exile "to give not just an alert but a ring of urgency about the sad situation of Nicaragua, not yet recovered from the bloody insurrection and now moving at high speed toward a totalitarian dictatorship of the extreme left." Miami Herald, May 15, 1980.

May 22, 1980, it has been announced by Foreign Ministry sources that soon the Palestine Liberation Organization will have a diplomatic representative in Nicaragua. The Government of National Reconstruction and the FSLN have maintained relations with the PLO since September of last year when an official PLO delegation visited our country. Radio Sandino, May 22, 1980.

May 27, 1980, the presence in El Salvador of some 1500 Nicaraguans who might be reinforcing the local leftist groups was denounced today by Col. Jaime Abdul Gutierrez, member of the Salvadoran Junta. Gutierrez assured that the Government has proof of the presence of Nicaraguan diplomats from the Embassy in San Salvador who have attended meetings of the Coordinadora Revolucionaria de Masas, held at the national university. Gutierrez also said that the Salvadoran Foreign Minister has already talked to his counterpart in Nicaragua about an alleged training camp of mercenaries at El Tamarindo, Chinandega, Nicaragua. AFP, May 27, 1980.

May 30, 1980, Nicaraguan Foreign Ministry reports that in order to strengthen friendly relations and cooperation, the Laos People's Democratic Republic and the Sandinist government have decided to establish diplomatic relations at the embassy level. Radio Sandino, May 31, 1980.

May 30, 1980, Daniel Ortega: When we attack imperialism we are attacking an attitude which represents invasion, and not only invasion but also an attempt to steal from those people, to attack those people. This is what the U.S. has done to our country. There are people who see the USSR as an enemy . . . We very often forget that the enemy is on the other side . . . Radio Sandino, May 30, 1980, FBIS June 2, 1980.

June 1, 1980, Archdiocese of Mexico City issues a document claiming the Nicaraguan revolution is yielding a regime that is definitely Communist with strong Cuban inspiration. Diario Las Amer., June 1, 1980.

June 6, 1980, Bulgarian Telegraph Society interview with Henry Ruiz, member of FSLN Directorate in Bulgaria: We got rid of a dictatorship and want to establish relations of friendship and cooperation with all peoples. Exploitation of man by man must be eradicated forever. That is why we stand with the forces of peace and progress, which are the socialist countries. Our strategical goal is clear, our principles are clear, too. FBIS June 10, 1980, BTA, June 6, 1980.

June 6, 1980, some 20 Nicaraguan children left for Russia as part of an exchange program. Diario Las Amer., June 7, 1980.

June 7, 1980, Colombian President Julio Cesay Turbay Ayala today expressed concern that the Nicaraguan government might lean even further toward a totally Marxist-Leninist ideology that will remove it from the natural sphere of the Central American democracies and that will create inadvisable and disturbing extremism for it and American continent. FBIS June 10, 1980, Panama Television Nacional, June 7, 1980.

June 10, 1980, Tomas Borge member of Nicaraguan delegation visiting N. Korea says, "the U.S. imperialists must not think they can rule S. Korea permanently. The Nicaraguan revolutionaries will not be content until the imperialists have been overthrown in all parts of the world, as taught by Comrade Kil Il-Song." UPI June 10, 1980, FBIS June 12, KCNA June 10.

June 23, 1980, Julian Otero, member of Salvadoran guerrilla group, Popular Forces of Liberation is captured by the National Guard of El Salvador. Otero gives a press conference saying: On several opportunities we went to the border with Honduras to receive arms coming from Nicaragua. On other occasions we received arms coming directly from the Soviet Socialist Republic of Cuba. . . . I must mention that among the collaboration that the subversion receives here in the country, is the active collaboration of the Government of Nicaragua. Not long ago landing exercises were carried out in the Corinto area and they have training camps in Nicaragua. Diario Las Amer. June 27, 1980, Recorded Statement of Otero.

June 24, 1980, Regular Aeroflot flights between Moscow and Nicaragua are established. Pravda, June 25.

June 30, 1980, Weapons shipped from Venezuela to Costa Rica to be used by FSLN in their uprising against Somoza but were not used are now being shipped to El Salvador for use by leftist guerrillas. Washington Post, June 30.

July 1, 1980, Alberto Lorenzo, former security adviser in Costa Rica accuses former Public Security Minister Juan Jose Echeverria of permitting the movement of subversive individuals and supplies first to the FSLN and later to El Salvador. ACAN, July 1, 1980.

July 2, 1980, Guatemalan President General Romeo Lucas declares that foreign merceneries, Cuban and Panamanian guerrillas are in the mountains of northern Guatemala undertaking a campaign to overthrow the constitutional government of Guatemala. EFE, July 2.

July 9, 1980, Archbishop Miguel Obando Y Bravo of Managua, and staunch foe of the Somoza government states at the Episcopal Conference of Latin America, "I believe that the direction of the Sandinista Front is a Marxist one." EFE, July 9.

July 16, 1980, Alberto Lorenzo admits that Costa Rica was involved in arms trafficking during the Nicaraguan Civil War. Lorenzo said arms from Cuba and Venezuela were sent to the FSLN via Costa Rica. San Jose Radio, Reloj, July 16.

July 17, 1980, Celebrations commemorating the anniversary of the FSLN revolution begin. An "Uncle Sam" is burned in effigy. A member of the Committee for the Defense of the Revolution said, "the U.S. Marines occupied Nicaragua for 20 years, they put the first Somoza in power in 1933, how can we love the US? They are imperialists." Washington Star, July 19.

July 18, 1980, Among the delegations arriving for the anniversary celebrations are Fidel Castro, Prime Minister Bishop of Grenada, and a high-level Soviet delegation. Havana Television Service, July 18.

July 19, 1980, Speech by Maurice Bishop: To you, the children of Sandino, we of free Grenada say to you, continue to go forward . . . continue to battle imperialism, continue to struggle against local counterrevolution. Managua Domestic Service, July 19.

July 19, 1980, Speech by Daniel Ortega: To intervene in El Salvador would be tantamount to attacking our peoples . . . we condemn the crimes against the Guatemalan people committed every day by ultrarightist groups that also threaten our peoples with international adventures. Managua Domestic Service, July 19.

July 22, 1980. Among the delegations attending the Sandinista celebrations are exiled leaders and members of the most active and radical leftist organizations in El Salvador. Diario Las Amer., July 22.

July 22, 1980, Yasser Arafat travels to Nicaragua to open the first PLO mission in Central America, Foreign Minister Fr. Miguel D'Escoto, "inspired by a clear concept of solidarity toward the emancipation of oppressed peoples, we establish diplomatic relations at the embassy level." Washington Star, July 23.

July 22, 1980, Yasser Arafat: Anyone who threatens Nicaragua will have to face Palestinian combatants, San Jose Radio, Reloj, July 22.

July 23, 1980, Yasser Arafat: Relations between us are not new . . . your comrades did not only train in our land but they fought alongside us. Diario Las Amer., July 24.

July 29, 1980, Russian engineers are building an air base in Nicaragua. London Daily Telegraph, July 29, AFP.

Aug. 1, 1980, Two convoys of ships carrying Soviet arms from Cuba have been secretly unloaded in Nicaragua to help build a weapons supply for use in El Salvador by leftist guerrillas

Arms already delivered to Nicaragua include Soviet tanks and long-range artillery pieces Washington Post, Aug. 1.

Aug. 9, 1980, Foreign Minister of El Salvador, Fidel Chavez Mena accused foreign interests of intervening in his country's political affairs. EFE Aug. 9.

Aug. 16, 1980, Tomas Borge accuses US imperialism as trying to influence events in El Salvador EFE, Aug. 16.

Aug. 19, 1980, Ricardo Wheelock, Nicaraguan Ambassador to the USSR stated that development of Soviet-Nicaraguan relations responds to his country's national interests and at the same time is mutually advantageous. Wheelock claimed that the US press has slanted the nature of the cooperation between the USSR and Nicaragua using it as a pretext to prepare an armed intervention against the fraternal Salvadoran people. Havana Domestic Service, July 19.

Aug. 19, 1980, The Salvadoran Army has announced it is searching the country for mercenaries from Cuba, Nicaragua, Panama, and other Central American countries. La Prensa Grafica, Aug. 19.

Aug. 21. 1980, Paraguayan government expelled two Nicaraguan diplomats, Alberto Nunez Rodriguez and Nidia Escobar because they had been trained in Cuba for subversive activities. Asuncion ABC, Aug. 22.

Aug. 25, 1980, FSLN leader Humberto Ortega announces that there will be no elections in Nicaragua until 1985, after the revolution has been consolidated. UPI, Aug. 25.

Aug. 27, 1980, Salvadoran Christian Democratic Party leader, Luis Hidalgo accuses Nicaragua, Cuba, Mexico, Costa Rica, and Carlos Andres Perez of trying to subvert the political situation in El Salvador. UPI, Aug. 27.

Aug. 28, 1980, Nicaraguan government announced restrictive press guidelines in relation to shortages of food and killings or attempts to kill public officials. AFP, Aug. 28.

Aug. 30, 1980, The Interamerican Press Association expressed concern about new laws in Nicaragua that are against freedom of the press. Diario Las Amer., Aug. 30.

Sept. 3, 1980, Tomas Borge refutes allegations by the Human Rights Commission in Nicaragua that there are human rights violations in Nicaragua. AFP, Sept. 3.

Sept. 3, 1980, Ex Vice Minister of Panama who fought with FSLN in 1979 defends the government of Nicaragua and attacks the junta in El Salvador. AFP, Sept. 3.

Sept. 5, 1980, Three Cuban nationals are arrested in Miami, suspected of spying for the Castro government. They were carrying Nicaraguan passports at the time of arrest. Miami Herald, Sept. 6.

Sept. 6, 1980, Nicaragua established diplomatic relations with the Saharan Democratic Republic after a visit from the Politburo of the Polisario Front to Nicaragua. ACAN–EFE, Sept. 6.

Sept. 6, 1980, Sandinistas accuse CIA of making a map of Nicaragua to be used by subversives and counterrevolutionaries. They obtained a copy of the map, "thanks to the information service of a friendly country like the GDR." (German Democratic Republic) Radio Sandino, Sept. 6.

Sept. 9, 1980, 800 more Cuban teachers will be added to the 1200 already present in Nicaragua. AFP, Sept. 9.

Sept. 10, 1980, Salvadoran Revolutionary Democratic Front has appointed a representative in Nicaragua to meet the need for better communication between the Nicaraguan and Salvadoran people. Radio Sandino, Sept. 10.

Sept. 12, 1980, Nicaraguan newspaper La Prensa denounces the use of Cuban immigration cards instead of Nicaraguan cards at the Managua Airport. Diario Las Amer., Sept. 12.

Sept. 19, 1980, Nicaraguan government has proposed a law that will incorporate as part of the state any property of people that request political asylum abroad. AFP, Sept. 19.

Sept. 15, 1980, Rep. J. Kenneth Robinson: In our own hemisphere, the Kremlin's methodical minion, Fidel Castro, counsels and assists the Sandinista regime in Nicaragua toward complete conversion to a Marxist state . . . Congressional Record, Sept. 15.

Sept. 17, 1980, Statement by Rep. John Murphy: On Aug. 21, 1979 . . . the (Nicaraguan) junta issued the following statement . . . according to CIA intercepts, the Nicaraguan revolutionary government reacted today to the arrival of Gen. Anastasio Somoza in Paraguay by saying it will pursue him to any part of the world. We are going to pursue Somoza all over the earth. The many crimes committed by him and his clique against the interests of the Nicaraguan people cannot go unpunished. . . . The Sandinista Minister of Agrarian Reform and Cuban trained terrorist said in New York: "we are going to use the capitalist money of the American imperialists to finance Communist revolution." Congressional Record, Sept. 17.

Aug. 1979, The Rising Tide reports that Argentinian Montonero leader Mario Firmenich traveled to Nicaragua hours after the Sandinista junta took power to express his solidarity with the Sandinistas.

Sept. 16, 1980, Left-wing guerrillas attack the American embassy in El Salvador using Chinese rocket launchers similar to the ones found in the hands of the FSLN during the struggle against the Somoza government. UPI, San Salvador.

Sept. 16, 1980, AP, San Salvador writes that leftist guerrillas in El Salvador have been photographed recently armed with the same type of Soviet and Chinese made anti-tank rockets used by the Viet Cong against the U.S. during the Vietnam war.

Sept. 18, 1980, Radio Primero de Marzo, Asuncion, Paraguay reports that among the weapons found in the car abandoned by those who assassinated Gen. Anastasio Somoza was one rocket launcher of probable Chinese origin.

Sept. 19, 1980, Former Minister of Foreign Relations in Costa Rica, Gonzalo Facio, accused the Argentinian terrorist group, the Montoneros, and their head, Mario Firmenich, of the asassination of ex-Nicaraguan President Anastasio Somoza. UPI reported.

Sept. 19, 1980, UPI reports that the chief of investigations of the Paraguayan Police Pastor Coronel, declared that Hugo Irurzun, the terrorist who was killed last night and who participated in the assassination of Anastasio Somoza, "came from Nicaragua, brought the weapons from Nicaragua and was fighting with the guerrillas in Nicaragua."

Sept. 24, 1980, The Nicaraguan delegation to the Latin American Congress of Industry, headed by the President of Chamber of Commerce in Nicaragua, Ismael Garcia, claimed that Cubans control part of the state apparatus in Nicaragua. UPI

Sept. 25, 1980, Agence France Presse reports that Paraguay is considering breaking diplomatic relations with Nicaragua to protest the Somoza assassination, accusing the Sandinistas of guiding the attack against Somoza from Managua; that the Argentinians who murdered Somoza were acting as mercenaries for the Sandinista regime.●

UNITED STATES-NIGERIAN RELATIONS

● Mr. KENNEDY. Mr. President, tomorrow is a day of achievement for Nigeria, a country of growing importance to the United States. This date commemorates the 20th anniversary of Nigeria's independence from colonial rule. It is also the first anniversary of Nigeria's return to civilian, democratic government.

I wish to congratulate Nigeria's President, Alhaji Shehu Shagari, and the Nigerian people on this important anniversary. I also wish to take this opportunity to reaffirm my commitment to strong and mutually beneficial relations between the United States and Nigeria.

I welcome President Shagari's forthcoming state visit to the United States and his address to the U.N. General Assembly. President Shagari recognizes the importance of positive United States-Nigerian relations. His trip will further strengthen our ties and provide an opportunity for the American people to learn more about Nigeria.

Nigeria is Africa's most populous country, with some 90 to 100 million people. It is the world's sixth largest oil producer, and for the past 8 years it has been the second largest supplier of oil to the United States. This situation has made Nigeria the nation with which we have our largest balance of payments deficit, likely to reach $11 billion by the end of the year. Nigeria has been—and promises to continue to be—a reliable oil supplier. It did not join the Arab oil boycott in 1973, and its lines of supply to the United States are the most direct and potentially untroubled.

These facts demonstrate Nigeria's immediate and growing importance to the energy security of the United States. But we must also remember that Nigeria is important because it is a democracy—the fourth largest in the world. It is the only nation that has chosen, without historical ties to this country, to follow the American form of democratic government. In contrast to the British parliamentary system of their colonial heritage, Nigeria's democracy looks much like our own: A federation with an executive presidency, separation of powers, independent judiciary, and checks and balances.

Nigeria today is a nation of remarkable achievement. In 20 short years it has passed through crises familiar in our own history, including the tragedy of civil war. If we do not understand Nigeria's past, we are in danger of failing to understand its present and future. After the complexity of its civil war, Nigeria entered a period of unparalleled reconciliation and reconstruction.

After the extraordinary and carefully planned transition from military to civilian rule last year, the Nigerian people chose Mr. Shagari as their president. Elected with national, not sectional support, President Shagari has committed his government to using Nigeria's oil wealth for genuine development throughout his country. Unquestionably, President Shagari desires increased American capital and technology for Nigeria. Such investment would be an important opportunity to strengthen the economic relationship between our two countries.

During Vice President Mondale's trip to Nigeria in July, positive steps were taken to increase cooperation in agriculture, energy, trade, investment, education, and science and technology.

In education, for example, United States-Nigerian ties are long standing. Over 20,000 Nigerians are now students in the United States, comprising the second largest number of foreign students in our country.

In the past 4 years, in addition to these areas of bilateral cooperation, we have seen Nigeria work closely with the United States, Britain, and the frontline states in the search for a peaceful transition to majority rule in Zimbabwe. Currently, Nigeria is cooperating with the Western "contact group" and the frontline states for the achievement of Namibian independence—freely, democratically and peacefully attained.

Africa is not merely another forum for East-West competition, but a continent comprised of nations seeking economic development, respect for national sovereignty and the attainment of political and racial justice. We must not retreat to policies which view African issues only as extensions of the "Cold War." This is particularly important because Nigeria—and other African States—have clearly stated their deep concern over the direct involvement of the superpowers or their surrogates in African affairs.

In the decade ahead, the manner in which the United States deals with the South African issue will be of critical importance in terms of United States-South Africa relations and United States-Africa relations. President Shagari has repeatedly and unequivocally stated that his government, like his predecessor's, will not accept with equanimity any measures taken by any country to strengthen the power of the present South African Government. As we formulate our South African policy, we must take into full account the concerns of other African nations, like Nigeria, with which good relations are in our national interest. To do otherwise would be to undermine the gains we have achieved in Africa and to undercut our future relations throughout the continent.

The United States must use the current opportunity to develop closer relations with Nigeria and with Africa. We have much in common with Nigeria today, and we can have much more in common in the years ahead. Nigeria is determined to maintain an independent course in policy. They will cooperate with us on issues in which their self-interest coincides with ours, and they will listen to our point of view on other issues. Together, the United States and Nigeria can develop a strong and close relationship founded on mutual respect. I remain deeply committed to the achievement of this goal in the years to come in Africa and the world.●

THE PROMISE

● Mr. SCHMITT. Mr. President, in the last article I inserted on the subject of Mexican migration written by Richard Louv of the San Diego Union, I discussed the "push" factor that stimulates migration from Mexico. In this article entitled "The Promise," Mr. Louv discusses the "pull" factor which draws the migrants to the United States. When, after expenses, a migrant can earn in 3 months in the United States a year's wages compared to Mexico, it is obvious that the migrants will be "pulled" to the United States. According to Dr. Wayne Cornelius of the University of California at San Diego, three-fourths of these undocumented workers earn minimum wage.

The article recounts a brief history of how Mexican labor has always been needed by American industry and is no less true today. At a time when we need Mexican workers so that many small business will not fail and at a time when Mexico needs to export temporarily some of her surplus labor, a temporary worker program appears to be the only logical way to legalize what is unenforceably illegal today.

S. 1427, the United States-Mexico Good Neighbor Act, which I have introduced, would create such a program, and I trust will be among the recommendations of the Select Commission on Immigration and Refugee Policy when they make their report next year.

Mr. President, I ask that the article be printed in the Record.

The article follows:

THE PROMISE

In the 1920s and 1930s, cowboy star Tom Mix, like a lot of other Hollywood figures, would drive down old Highway 101 to relax at the sleepy resorts of Tijuana. While Clara Bow and Jean Harlow sunned themselves in secluded patios, Tom Mix would walk the dusty streets. He would fill his ten-gallon hat with quarters and half-dollars and toss them to the hordes of ragged children who followed him everywhere.

Like Tom Mix and his stetson filled with silver, the United States holds out a promise to Mexicans trapped at the bottom of that nation's economic ladder.

Indeed, Mexico is the only Third World nation that borders such an affluent, highly technological country. In America, a land that consumes 40 percent of the world's resources, the average annual family income is $16,000; the typical Mexican family earns $1,000 a year. And if the family lives on a farm, the figure is more likely to be $400 a year.

UCSD's migration expert, Dr. Wayne Cornelius, found in a 1976 study that the average landless peasant earned about $36 a month; but when that same peasant traveled to the United States, he earned an average of $480 a month—13 times his monthly income in Mexico.

"Even when travel costs, 'coyote' fees, and other expenses are subtracted," Cornelius points out, "the average illegal migrant from central Mexico can usually net more income from three months or less of work in the United States than he could from an entire year of labor in his home community."

Cities such as Mexico City, Tijuana, Mexicali and Juarez offer the highest minimum wages in Mexico, but even these wages are far below what can be earned in farm labor in the United States.

Moreover, once across the border, nearly three-fourths of migrants earn the U.S. minimum wage, according to Cornelius.

"While the migrants suffer hardships and exploitation in the United States, they do not feel exploited," he says. "Considering where they're coming from, the price is worth it to them."

Neither the governments of Mexico nor the United States have done much to ease the disparity between the two nations. Instead, Mexico has viewed the migration as an escape valve, releasing economic and political tensions. And the United States has taken advantage of the disparity, by drawing Mexican workers north when they were needed and deporting them when they were not.

"Regardless what laws are on the books, the United States actively recruits Mexican labor," says Dr. Ellwyn Stoddard, a major borderlands scholar at the University of Texas, El Paso. "The numbers that come across the border wouldn't be as high if the

U.S. government—as well as state and local governments—didn't subtly condone the use of illegal labor.

"Here in Texas, it's not unusual to find employees of the Immigration and Naturalization Service (INS), judges, politicians, doctors, lawyers and clergymen at various levels of income and administrative responsibility sharing one fact of life—they have an illegal maid!"

Indeed, the seeds of the present migration have been planted again and again by the federal government itself, through what Cornelius calls "a series of legislative and administrative actions—or deliberate inactions."

Whenever cheap labor was needed, usually during wartime, border officials in the Southwest were encouraged by the federal government to circumvent or bend the law in order to allow Mexican labor to enter the country. Mexicans were exempted from entry taxes, racial exclusion clauses, literacy tests and laws that prohibited the entry of immigrants likely to become "public charges."

But during periods of recession or depression, these same laws were enforced, resulting in mass roundups and deportations of Mexican workers. Over the years it became clear that our immigration laws, when applied to Mexicans, were more a matter of expediency than fairness.

Until the 1940's, recruitment of Mexican labor was arranged informally between U.S. employers and the migrants. But with the launching of the bracero program in 1942, the U.S. and Mexican governments became the official labor recruiters.

The bracero program, which enabled U.S. employers to recruit Mexican contract laborers for short-term (45 days to six months) farm work in the United States, brought more than four million Mexican workers north. Nearly 20 percent of all the landless agricultural laborers in Mexico were working in the United States in the mid-1950's.

The bracero program changed everything. Huge regions of Mexico that previously had not sent laborers to the United States were opened up. Hiring centers in Mexico City, Guadalajara and Monterrey beamed the news of work in the United States into the smallest villages, unreachable by road.

Families, entire villages came to depend on their young men to find temporary work in the north. As Mexico's rural population grew, migratory work in the United States became a means for survival. Children grew up assuming that one day they too would go north; doing so became a rite of passage.

When the bracero program ended, in December, 1964, virtually nothing changed—except the legality of the migrants.

Most undocumented workers today are either former braceros or the sons of braceros. In fact, Cornelius found that 71 percent of California undocumented workers had grandfathers who had worked north of the border.

Just as importantly, the bracero program accustomed thousands of employers in the United States to the ready availability of cheap labor. In discontinuing the program, the federal government took itself out of the direct-recruiting business. There was a catch, though. Mexicans coming north for work were now illegal, but hiring them was not. Consequently, many employers sent the word south, by telephone calls or word-of-mouth, that work was still available—not just in agriculture, either.

"Today, literally hundreds of thousands of employers, mainly small businesses in the service industry, depend on Mexican labor," says Cornelius. "Frequently, the employer will call a former employee in Mexico and ask if the man has any relatives who can come north for a few months. It wouldn't surprise me if major restaurant chains were recruiting that way."

Why doesn't Congress adopt laws to punish employers who hire undocumented workers?

"Because the laws wouldn't be enforceable," contends Cornelius. "Today there are far more employers using Mexican labor than during the bracero program. Punishing employers would mean setting up a massive law enforcement bureaucracy that would be viewed as a huge intrusion of the federal government into the private sector. The government is having enough trouble defending the regulatory agencies already in place."

Especially in agriculture, the recruitment and concealment of undocumented workers has become a complex, widely accepted institution—almost a game.

"Newly arrived, inexperienced migrants whose dress, mannerisms and lack of English might reveal their illegal status, are often put on night irrigation work while they become socialized through contact with more experienced men," according to Allwyn Stoddard, whose work has concentrated on the employment matrix.

Ranchers allow their foremen to help fill out the forms required to obtain social security cards, and cosign notes of credit, he says. They also pay coyotes on delivery for workers brought from Mexico.

"In California, Utah, Washington—all over the United States—agricultural employers sometimes use the Border Patrol to return undocumented workers to Mexico when a season ends. In a calculated ploy, the employer assigns the worker to work in a field close to a well-patrolled road, where he is discovered by the Border Patrol and shipped home at taxpayer expense," he says. The undocumented workers themselves have been known to arrange their own arrests when it comes time to return to Mexico.

Stoddard also contends that, at least in some areas of Texas, if the Border Patrol becomes too effective, intense political pressure is brought to bear on elected representatives of agribusiness and other border interests—and the Border Patrol backs off. The INS denies this, however.

The decades of labor recruitment in Mexico have also stimulated permanent immigration to the United States. Particularly during the height of the bracero program in the 1950's, many employers arranged for the legal immigation of their workers. Soon these immigrants brought their families to the United States, as permanent residents. In a study of legal Mexican immigrants living in California and Illinois, Cornelius found close to 90 percent had first come to the United States as braceros.

"The members of the many families have become separated in this process," says Dr. Ricardo Romo, a UCSD historian with close ties to the Hispanic community.

"The family concept is much stronger in Mexico than it is in this country. Family doesn't just mean your next-of-kin, but your cousins as well. When part of a family immigrates to the United States—legally or illegally—the first thought is how to bring the rest across."

Romo tells of one family that lived in a garage in Encinitas:

"First, the mother came, to clean house. Gradually she brought nine more family members north, which meant 10 people living in a garage with four beds. They rented the garage for $150 a month from a Chicano family, who allowed them to use the bathroom in the house only at certain times of day.

"Now the mother has brought over a total of 16, and they've moved on to a bigger house. The sacrifices these people go through to keep their families intact is incredible; they'll scrimp and save and work, and bring over their nephews and nieces, and share everything with them."

When Romo lived in Los Angeles, his next door neighbor was a legal Mexican immigrant who had managed to buy a $30,000 house, where he, his wife and their four children lived.

"When my friend was injured at work, he lost his job. His mortgage contained a balloon clause that meant he would have to pay $3,000 over the next three years, above and beyond his house payments. Instead of going on welfare, though, he determined to make it on his own. His wife bought two used sewing machines and set up a textile shop in the garage. Even though it must have been humiliating to him, he and his wife became seamstresses, turning out shirts and coats at 25 cents to $2 per finished product, sold to a local merchandiser.

"It made you cry to see such exploitation, but he made it. He survived. He and his wife met the mortgage payments. And despite their hardships, they still took in nephews and cousins from Mexico—who were undocumented—and shared everything with them.

"In the meantime, he found out that his house had tripled in value! He couldn't understand why it was worth almost $100,000. And something had happened to his original dream of saving enough money to return to Jalisco and buy a little ranch. His kids, growing up in America, didn't know what they'd do on a ranch. So he had all the money he needed to buy his dream, but like a lot of migrants, he found out it wasn't a simple thing to go home again."

Most experts credit family ties as being the most important reason Mexicans immigrate to the United States. Decades of labor recruitment have meant an ever-widening number of families, living here as naturalized citizens or legal residents, who still have close relatives in Mexico.

Even though one of Congress's stated immigration principles is the reunification of families, changes in U.S. immigration law have all but eliminated legal immigration of poor Mexicans.

In 1976, Congress dropped Mexico's immigration quota from 70,000 to 20,000 per year.

Partially as a result of this change, a log jam of Mexican immigration applications have piled up. The present backlog is approximately 270,000. A legal resident alien living in the United States has to wait seven or eight years to bring his spouse or children across the border. A U.S. citizen with family in Mexico has to wait six months.

"Immigration law is making people illegal," asserts Ernie Azhocar, director of IMPACT, a federally-funded immigration counseling service in Barrio Logan. "The laws haven't done anything to slow down the flow of undocumented Mexicans into the United States; in fact, the laws may be increasing the number."

An industry of private "immigration counselors" has sprung up in cities with high concentrations of undocumented aliens. In San Diego, several store-front offices charge $150 to $500 to help undocumented aliens fill out INS paperwork—without telling the aliens that years may pass before the INS gets around to approving the forms. One woman recently arrested in San Diego had, in one year, charged $60,000 to undocumented clients.

IMPACT was set up as an alternative to the unscrupulous counselors. Each weekday morning at 8 a.m., Mexican immigrants line up outside IMPACT's scruffy, store-front office. Half of the more than 1,000 persons who seek help there each month are undocumented.

"A lot of our clients have been legal resident aliens for 10 or 15 years. They've never had any intention of becoming naturalized citizens. But it's much easier to bring a relative over if you're a citizen, so many of the legal residents are going through the naturalization process, then bringing over their relatives who continue the process.

"Ironically, the naturalization process alerts them to their legal and political rights—which means the immigration law, which was designed to keep people out, is actually bringing them in, and increasing the number of Hispanic voters."

Immigration laws are also wasting taxpayer money, according to Tim Barker, a lawyer with the National Center for Immigrants' Rights, in Los Angeles:

We see many cases where spouses of American citizens, because they're undocumented, are arrested by the INS and deported—even though the couple has already filled out immigration papers and is waiting for the INS to complete the paperwork. The system is not only inhumane, it's ridiculous."

While INS officials, local or national, are reticent to comment on policy, former INS Commissioner Leonel Castillo favors returning to the 70,000 ceiling.

Dr. Vernon Briggs, a labor economist at Cornell University, is one of the strongest supporters for harsher restrictions on illegal immigration. But even Briggs supports a change in the immigration laws:

"By making it so hard for Mexicans to immigrate legally, we've exacerbated the number of illegal aliens. So, even though I argue for a restrictive border policy, Mexico ought to be able to send at least 50,000 legal immigrants a year."

Doing so, according to Briggs, would be a positive step toward recognizing the historical, cultural and family ties between the two nations.

Cornelius agrees:

"We can't turn the clock back and simply act as though the bracero program never happened. We have to face the fact that the migration has been institutionalized; it's too late to try to cut it off totally by arbitrary law enforcement. Our government initiated the migration and encouraged it until 1964—and then the private sector took over. It's too late to ask how to stop it; we need to ask how to regulate it and humanize it."

Increasingly, social scientists are pointing to a new "pull factor" that is likely to ensure the continuation of the migration. In the late 1970s, the Department of Labor conducted a series of studies of the projected U.S. labor supply of the 1980s and the 1990s. Scientists who conducted the study noted three growing trends:

A declining birth rate; a saturation of women moving into the unskilled labor market; and a movement of minorities up and out of the unskilled market.

And they predicted a shortage of unskilled labor in the next two decades.

At each time in history when America needed unskilled labor, it turned to Mexico.

It is turning now.●

COMBAT READINESS

● Mr. GARN. Mr. President, the recent disclosure that less than half of our aircraft carriers are combat ready, that only 94 of the 155 Navy aircraft squardons are combat ready and that 6 or 7 combat divisions in the continental United States are not combat ready is the ultimate commentary on the Carter administration. We literally have a situation where surface ships deployed at sea are not combat ready.

I note that the Carter administration is still trying to argue that it has improved the conditions of our Armed Forces. There have been some improvements to the U.S. Navy in this period. However, every single ship that has entered the U.S. fleet since Mr. Carter has become President was bought and paid for under the Nixon and Ford administrations. The catastrophic decline in our combat readiness, however, is a unique achievement of Mr. Carter.

I ask that the following article by Mr. Richard Halloran of the New York Times be printed in its entirety in the RECORD.

The material follows:

NAVY REPORTS 6 OUT OF 13 OF CARRIERS COMBAT-READY

(By Richard Halloran)

WASHINGTON, September 28.—Only six of the Navy's 13 aircraft carriers, the world's mightiest warships, were rated ready for combat this month, according to a confidential fleet readiness report dated Sept. 15.

Moreover, only 94 of the Navy's 155 air squadrons were rated combat-ready at the same time, according to the report. Twenty-one of the 82 tactical fighter, attack and electronic warfare squadrons were reported unfit for combat.

Other reports showed that 12 of the Air Force's 123 squadrons in the Tactical Air Command were not combat-ready. A squadron is usually made up of 18 to 24 planes, such as F–4 Phantoms or the newer F–15 Eagles.

Readiness ratings are measures of personnel, including experience, weapons and equipment, the state of training and the state of supply and maintenance. Combat-ready ratings run from C–1, fully ready for combat, to C–3, ready with major deficiencies. C–4 means not combat-ready. In addition, some ships and units are rated C–5, not ready for combat because they are being overhauled or are in training.

CONDITIONS WORSE THAN INDICATED

The readiness report apparently shows that the situation in the Navy was worse than was indicated in separate satements last week by Senator John G. Tower of Texas, the senior Republican on the Armed Services Committee, and Assistant Secretary of Defense Thomas B. Ross, the Pentagon's chief spokesman.

According to officials familiar with the periodic reports, the September figures represented a continuing trend of steadily lower readiness ratings over the last year.

Senator Tower's data, made public at a news conference, came from previously published reports. Mr. Ross's information, from official sources, included ships being overhauled. He asserted that they should not be counted in assessments of readiness because such maintenance was normal.

The readiness report further showed that three surface ships that are deployed at sea were rated not ready for combat, while another three about to be deployed were given the same rating. But the Navy's submarine force, including both attack submarines and those carrying ballistic missiles, was reported ready for combat.

The primary cause of the low readiness ratings, according to naval officers, was a shortage of experienced technicians aboard the ships. The Chief of Naval Operations, Adm. Thomas B. Hayward, has testified before Congress that the Navy has been suffering a "hemorrhage of talent" as skilled sailors have left the Navy for better-paying civilian jobs.

The naval readiness ratings and those for the Air Force follow confirmed reports that six of 10 Army divisions in the continental United States were recently rated not ready for combat.

In the widening national debate over military readiness, Senator Tower and other critics of the Carter Administration have contended that readiness has slipped in the course of President Carter's term.

But Mr. Ross, along with other Administration officials, argued that the overall condition of the nation's armed forces today was better than it was five years ago, with the exception of personnel. He said that all sides agree that the services have lost too many skilled people.

Aircraft carriers are considered the primary manifestation of American power beyond the weapons and troops deployed as a commitment to the North Atlantic Treaty Organization. Two carriers are currently sailing in the Indian Ocean, and one each is in the Western Pacific and the Mediterranean.

LAST-MINUTE UPGRADING

The specific readiness ratings for individual carriers were not disclosed. Naval officers said, however, that the John F. Kennedy, previously reported not ready for combat, had been upgraded by the last-minute transfer of 50 key technicians. The carrier, which has been harassed by Libyan planes in the Mediterranean recently, is rated as combat-ready with major deficiencies.

The readiness report showed six carriers rated C–1 to C–3, three rated C–4 and four rated C–5. It also showed that 56 air squadrons were rated C–4 and five were rated in the C–5 category.

Admiral Hayward reported the problems of readiness to Harold Brown, the Secretary of Defense, in a memorandum last June. Admiral Hayward said then that three ships in the Atlantic had been deployed even though they were not combat ready and that three more were about to be deployed in the Pacific.

"I am not comfortable with deploying ships with the marginal experience level that these figures represent," the admiral wrote, "but the alternatives are even less attractive in their impacts on our continuing struggle to turn around our unsatisfactory retention situation." Retention is the Pentagon term for retaining skilled people, especially non-commissioned officers and petty officers, in the military services.

Admiral Hayward said the Navy had given ships with low readiness ratings a priority in receiving sailors coming from shore duty and had shifted other sailors, as in the case of the Kennedy, from ships scheduled to sail later.

Quite obviously, these actions rob Peter to pay Paul and become counter-productive beyond certain limits," he wrote.

The admiral said that the Navy could strengthen its manning at sea by shortening shore tours. But such an action in anything short of a national emergency would destroy our best retention efforts," he said.●

SALT

● Mr. GARN. Mr. President, I endorse today Senator BAKER's call "for full and open hearings" on the issue of Soviet violation of the SALT and nuclear test ban treaties. According to the Washington Post, at the recent session of the Standing Consultative Commission in Geneva—

> There was no discussion of alleged Soviet violations of the SALT agreement because the administration apparently does not consider press and congressional reports of violations to have been, in fact, violations.

I believe we are at a crucial point in the history of our enforcement of arms control violations. If the reports are correct, the United States is allowing the Soviet Union to violate the SALT I treaty, the SALT II treaty, the 1963 Limited Test Ban Treaty, and the 1974 Threshold Test Ban Treaty with impunity.

I believe that these reports are true and that the violations in question are strategically of great significance.

Senator McClure has recently observed that—

> It is clear that there is today only unilateral American compliance with the SALT I, SALT II, 1963 Test Ban Treaty and the 1974 Test Ban Treaty. This cannot be allowed to continue. We are paying an enormous price for this.

Senator McClure goes on to detail the problems this is causing us both in preventing the development of improved nuclear weapons and in proof testing the bombs that we now have.

The New York Times reports that the yield of the September 14 Soviet nuclear test was between 160 and 650 kilotons. Congressman Robin Beard says it was between 160 and 620 kilotons. The Washington Post puts it at 500 kilotons. Aviation Week says that—

> The yield of the device was as high as 640 kilotons, with the lowest possible yield 150 kilotons. U.S. officials are 95 percent certain that the yield of the device was between 300 and 400 kilotons, making it a clear violation of the existing test ban treaty.

Defense Daily says the yield was "in the 320 to 620 kiloton range."

The American people have a right to know whether the Soviet Union has violated the Threshold Test Ban Treaty and what their Government is doing about it.

I have asked Senators Bayh and Goldwater, chairman and vice chairman of the Senate Intelligence Committee, to release to the public the committee's report on the September 14 test or a sanitized version thereof. The information contained in this report is not sensitive in nature and almost all of it has appeared in the press at one time or another.

With the Carter administration call for early action on the SALT II treaty ratification it is vital for the American people to be allowed to consider intelligently the vital issue of Soviet arms control compliance. They cannot do this if we continue to maintain a policy of official secrecy on this issue.●

A MESSAGE TO THE PRESIDENT

● Mr. MATHIAS. Mr. President, last Saturday it was my privilege to attend the Annual Bull Roast of the Maryland-District of Columbia State AFL–CIO in Baltimore. It was a particularly important occasion in which the pleasure of seeing old friends was diminished by the serious talk about the problems confronting the working men and women of America.

One expression of the economic pressure that is felt by so many was a message to the President composed by Veronica Lloyd of Pasadena, Md. In her own words and her own way she has described the plight of so many hard-working people in this country who pay their bills and their taxes and end up with nothing left over. It is a genuine and personal plea to the President, but it should also be heard by Senators and Representatives. I ask that Veronica Lloyd's message to the Senate be printed in the Record.

The message follows:

Dear President of the U.S.A.:

There's something that
I really must say
Not meaning disrespect
In any way
It's time to wake up
And open your eyes
Listen to us all
Our pleas and cries
We're in the middle
The working class
But somehow we're always
The ones put last
You're killing us slowly
With new tax programs
We can't turn to welfare
When we're in a jam
We make too much money
We don't qualify
But we can't make ends meet
As hard as we try
We aren't rich
Don't have a loophole
Is this the fair system
Like we've all been told
We work for the rich
And give to the poor
If this keeps up
We will be no more.

Yours Truly,

Veronica Lloyd
(middle class).●

OUR OVERALL MILITARY BALANCE VIS-A-VIS THE SOVIET UNION

● Mr. GARN. Mr. President, on September 15, 1977, Secretary of Defense Harold Brown outlined a new strategy of the Carter administration, PRIM–10. He announced that "our main defense objective, in conjunction with our allies, will be the maintenance of an overall military balance with the Soviet Union at least as favorable as that which now exists." By that very simple test, the Carter administration has failed.

The decline in our military potential has gone so far that it has even been recognized by the New York Times, hardly as bastion of Ronald Reagan Republicanism. In the first of a series of articles on our military posture, the Times reported that it "found a deeply troubled defense establishment." It found that:

> In the military today, pilots, skilled technicians and weapons specialists are in short supply in virtually all the services. Planes are grounded for lack of maintenance and shortages of spare parts. Ships, ranging from destroyers and frigates to aircraft carriers, are often deemed unprepared for a crisis because of lack of skilled technicians. A shortage of .45-caliber ammunition in the Army means that trainees no longer get to familiarize themselves with submachine guns.
>
> A military emergency, at this moment would find American combat units rapidly running out of replacement troops and equipment, with less than 40 percent of the doctors required after 90 days of combat, with aging and inefficient industrial plants unable to produce streams of tanks and spare parts as they did in World II, with transport ships and cargo planes unable to deliver quickly, and sustain, a large deployment of troops and hardware.
>
> Beyond this, the nation is faced for the first time with the vulnerability of America's missile and bomber force. . . .

In the second of this series of articles, the Times reported, "American missile and bomber forces are becoming increasingly vulnerable," that "components of the Nation's nuclear arsenal are wearing out," that "the Government's facilities for manufacturing nuclear weapons are said to be in bad repair," and "malfunctions are plaguing the strategic early warning and communications systems." It reports that:

> In the national intelligence estimate prepared by the Central Intelligence Agency early this year, it was estimated that Moscow could surpass the United States in nearly every measure of nuclear capability by 1985.

By the administration's own test it has clearly failed to meet the minimum requirements it has established.

Secretary Brown pledged in September of 1977 that:

> We now have, and will retain, our options. We will build and improve our forces as necessary. We will not be outgunned. We will not be bullied. We will not be coerced.

In less than 4 years the Carter administration has weakened this country to a point where our Embassies are burned, our diplomats seized and held hostage and our country humiliated. We are being coerced. We must ask ourselves why—lack of power, lack of national will or a combination of both?

I would call my colleagues' attention to the New York Times series on our military preparedness. I ask that they be printed in their entirety in the Record.

The material follows:

Nation's Military Anxiety Grows as Russians Gain

Washington, September 20.—A debate over the nation's military readiness, fueled by the Presidential campaign, has raised major questions about the ability of the armed forces to deter a nuclear or conventional challenge by the Soviet Union.

The debate over military capabilities goes back to the beginning of the nuclear age and was nurtured by the Cuban missile crisis and the Vietnam War. But the issue has abruptly sharpened since the Soviet intervention in Afghansitan and the failure of the American effort to rescue the hostages held in Iran.

A growing number of officials in Congress and the Pentagon are expressing anxiety about the nation's ability to defend itself and honor defense commitments abroad with a problem-ridden volunteer force of two million people. And they are increasingly distressed by Soviet-backed moves in the Middle East and Africa and by the Russian military machine, which now outspends the United States year after year to build installations and to buy guns, planes, tanks, ships and nuclear missiles.

Some Congressmen and military specialists contend that the Pentagon is overstating its case and that the United States military remains superior to the Soviet Union.

And to some Pentagon planners, the question of military superiority is outdated and misleading, obscuring the question of what kind of military forces the United States needs to protect its global interests at a time when shifting relationships in Asia, Eastern Europe and the Middle East make it likely that neither side will have a clear-cut advantage.

An investigation of the nation's military by The New York Times has found a deeply troubled defense establishment. In a series of articles dealing with key aspects of the military, The Times will examine the problems, their causes and steps being taken to solve them.

In the military today, pilots, skilled technicians and weapons specialists are in short supply in virtually all the services. Planes are grounded for lack of maintenance and shortages of spare parts. Ships, ranging from destroyers and frigates to aircraft carriers, are often deemed unprepared for a crisis because of the lack of skilled technicians. A shortage of 45-caliber ammunition in the Army means that trainees no longer get to familiarize themselves with submachine guns.

REPLACEMENT SHORTAGES

A military emergency, at the moment, would find American combat units rapidly running out of replacement troops and equipment, with less than 40 percent of the doctors required after 90 days of combat, with aging and inefficient industrial plants unable to produce streams of tanks and spare parts as they did in World War II, with transport ships and cargo planes unable to deliver quickly, and sustain a large deployment of troops and hardware.

Beyond this, the nation is faced for the first time with the vulnerability of America's missile and bomber force. Defense Secretary Harold Brown, who is seeking a controversial $31 billion mobile missile force, said recently that if present trends in the nuclear balance continued, the United States could find itself vulnerable to Soviet nuclear blackmail by the mid-1980's.

Mr. Brown and ranking military officials speak with nervous optimism about the nation's defenses. "It is very important that we not underrate our strategic capability, either in our own planning or in what we say," Mr. Brown has said. "If we keep saying we're much weaker than the Russians strategically, they may begin to believe it. And since I am convinced that it is not so, I think that's the worst thing that can happen."

Mr. Brown, in a recent interview, said that American forces "are not as capable as I want them to be, but they are formidable, in terms of strategic forces, even to deter a nuclear attack on the United States or its allies or its vital interests." He added: "They would deter anybody who is not crazy."

ASSESSMENT BY BROWN

On the strategic "triad" of bombers, and based missiles and missile submarines, Mr. Brown said: "It is clear that the United States has to do more, has to do new things, has to modernize its forces to make sure that the triad as a whole retains its invulnerability."

He said that in nonnuclear air power "we remain ahead" and at sea "our fleet still is, clearly, the world's best." On the ground, Mr. Brown said that all of the North Atlantic Treaty Organization's forces were nearly equal to those of the Soviet-bloc Warsaw Pact and said: "There is no way that we are going to fight a war in Europe alone against the Soviet Union, no way that we are going to fight in East Asia alone against the Soviet Union."

In technology, Mr. Brown asserted, America's lead "rests on a scientific ability and technological ability and an industrial base that is spread across the U.S. economy." The Russians, he said, are often able to match the United States on a given item, but "they still don't have the broad capability in their industries that are provided to us by our computer and data processing capabilities."

RETIRED ADMIRAL SKEPTICAL

Rear Adm. Gene R. LaRocque, a retired naval officer, has an overall view that differs from Mr. Brown's. The admiral is currently director of the Center for Defense Information, a group that opposes excessive expenditures for the Armed forces.

He has asserted that "the United States and its allies are superior to the Soviet Union in all elements of national power, including most important military factors." He said in an interview: "We are facing a period of general decline of the use of military force in international affairs. Military forces simply don't make it easy to get your way in the world anymore."

In nuclear forces, Admiral LaRocque contended, the United States outguns the Soviet Union with 10,000 nuclear warheads to 6,000 in Moscow's arsenal. "On a day-to-day basis," he said, "we keep off the Soviet coast some 3,000 nuclear weapons constantly targeted against the Soviet Union, whereas the Soviets keep off our coast 200 nuclear weapons targeted on New York, San Francisco and other parts of our country."

The retired officer appeared to agree in large part with Secretary Brown that the United States is ahead of the Soviet Union in tactical air and naval forces and offsets the Soviet Union's larger numbers on the ground with allies plus the Chinese threat to the long Soviet border.

Gen. David Jones, chairman of the Joint Chiefs of Staff, recently compared the United States and the Soviet Union to two ships in a "strategic bathtub." Both had floated atop the tub, in positions of "roughly parity," since 1977. "In the next couple of years we'll hit the bottom of the bathtub," he predicted.

Perhaps the representative Pentagon view was expressed recently by Gen. Lew Allen Jr., a scientist who is the Air Force Chief of Staff. "The Soviets have a momentum in every area from strategic nuclear, to projection forces, to naval forces, which is very troubling and requires our utmost efforts if we are to maintain a reasonable total equivalence with them," the four-star general told a Congressional panel.

With the buildup in Soviet missiles over the past 15 years, it is generally acknowledged that the United States has lost the clear superiority it once possessed in strategic strength. Whether the Soviet Union is acquiring a threatening superiority is a matter of debate, but it seems likely, say military analysts, that both sides are moving into a new strategic relationship in which neither will have a definite edge.

In conventional forces, the numerical comparisons become even more difficult since the military plans and needs of the two sides are different. For example, the United States counts on allies, particularly in Europe, to offset the numerical superiority of the Soviet Union in ground forces. The Soviet Union, in turn, must depend upon potentially unreliable allies in Eastern Europe and contend with large Chinese forces on its eastern flank as well.

FOCUS ON CONVENTIONAL FORCE

At this point, three questions are at the core of the debate over the nation's readiness: Does the United States have the armed strength to meet the Soviet challenge, especially in the Persian Gulf oil region? Is the nation capable of honoring its defense commitments to more than 40 nations, especially at a time when Moscow has sent proxy forces of Cubans to fight in support of Marxist regimes in Angola, Ethiopia and South Yemen? And, perhaps most significant, could the United States successfully deter a Soviet nuclear strike against increasingly vulnerable Minuteman missiles?

The Carter Administration, which came into office vowing to cut the military budget $5 billion to $7 billion and instead increased military outlays from $108 billion in 1977 to $141.5 billion last year, has taken a series of steps to bolster the nation's nuclear and conventional forces. Its current $157.5 billion military budget includes a total of $12 billion for major programs to modernize the nation's long-range nuclear weapons. Nuclear-armed cruise missiles, which fly at treetop altitudes to avoid detection, are scheduled for deployment on B–52 bombers in about two years.

In addition, the budget provides for long-range transport planes for the new 200,000-troop Rapid Deployment Force. The potential need for such a force has been illustrated by Soviet moves in Afghanistan and the Iranian takeover of the American Embassy in Teheran. There are also plans to buy seven more special ships in which military equipment for the amphibious force can be stored in various parts of the world, to supplement the seven ships already on station.

These plans by the Carter Administration to buoy military spending—Ronald Reagan, the Republican Presidential nominee, terms them, essentially, too little and too late—are shadowed by the rapid growth of Soviet military outlays. It is this dramatic Soviet buildup, in which Moscow's military spending from 1970 to 1979 far exceeded the United States total, that intensifies the readiness problems facing the American military.

Less than 20 years ago the United States had a 4-to-1 lead over the Soviet Union in intercontinental ballistic missiles, more than 10 times as many submarine-launched ballistic missiles and about seven times as many long-range bombers.

MISSILE STOCK COMPARED

Today, the Soviet Union is ahead, 1,398 to 1,054 in intercontinental ballistic missile launchers and 950 to 656 in submarine-launched ballistic missiles. The United States lead in long-range bombers has been narrowed to 348 to 156.

Soviet conventional strength is awesome as well, at least numerically. With 3.6 million troops, the Soviet military is nearly twice the size of the United States military. The Russian tank force has grown 35 percent and artillery forces 40 percent in the last decade. Twenty new warships are delivered to the Soviet Navy every year, while last year 12 were delivered in the United States.

"A decade ago we would have relied on the shadow cast by our strategic nuclear superiority to deter adventure that could lead to direct confrontation," said Senator Henry M. Jackson, Democrat of Washington, a longtime critic of accommodation with the Soviet Union. "Today that strategic advantage is gone, and soon it will lie with the Soviets.

"We are in a dangerous position of military disadvantage across almost the entire spectrum of military power," he added. "And our wounds are largely self-inflicted, the product of a decade of wishful thinking and inadequate action.

"For fear of crying wolf, we have behaved like sheep."

DEBATE IN POLITICAL ARENA

Not since the "missile gap" of 1960 has military policy been as much of a campaign issue in a peacetime election as this year. It is an issue in which arms policy serves as a metaphor for leadership.

Mr. Reagan terms Mr. Carter weak and vacillating in dealing with Soviet advances and seeks a "margin of safety" against the Soviet Union. Mr. Reagan defines this as "whatever it takes to be strong enough that no other nation will dare violate the peace." The Republican challenger, who says that the United States must regain its dominance and renew "our resolve to preserve world peace and freedom," has urged more spending on the military but has so far avoided specific proposals.

Mr. Carter has charged that Mr. Reagan's approach is based on a "make-believe world" and will lead to confrontation and an "uncontrollable, unaffordable and unwinnable arms race." Mr. Carter has boasted of having "reversed the Republican decline in defense," although as a Presidential candidate in 1976 he promised cuts in the military budget.

The major independent candidate, John B. Anderson, has sought to strike a balance between his opponents. "We cannot enter the international arena of the 1980's either poorly armed or fearful to do whatever is necessary to meet our commitments," the Anderson platform says. However, it adds: "We must never forget that arms by themselves are not sufficient to guarantee our security."

The intensity of the military issue in the current election was underlined by Mr. Brown's confirmation of news reports about a new aircraft called Stealth, which is said to be virtually invisible to enemy radar. Mr. Reagan and other Republicans said that word of the secret aircraft was deliberately planted by the Administration to answer campaign criticisms of Mr. Carter's military policies, including cancellation of the B–1 bomber. Mr. Brown denied the charge.

WORRIES BY THE PUBLIC

Perhaps more significant, it is evident that the Soviet buildup, coupled with the nation's readiness problems, now worries a majority of Americans. A recent New York Times/CBS News Poll found that 63 percent of those interviewed believed that the United States had lost ground against the Soviet Union in terms of military strength, while 24 percent believed that United States military capabilities had remained about the same compared to the Soviet Union.

"The fact that the Soviets have built up their strategic forces to this degree has come through as a shock wave," said Senator Daniel Patrick Moynihan, Democrat of New York.

He recalled that during the Senate hearings in June on the strategic arms limitation treaty with the Soviet Union, his colleagues were "stunned" at the Soviet advances. "People sat down to find out why this is a good treaty, and they found that the Soviets had been building missiles and warheads far beyond ours," said Senator Moynihan, a supporter of the treaty. "People were almost uncomprehending. There was a traumatized reaction. It was as if there was this great time warp in which people denied the evidence.

"The danger is, of course, that you go from underreacting to overreacting," he said.

At one level, Congressional and military officials express their deepest concerns about the loss of the United States' nuclear edge over the Soviet Union, and the vigorous Soviet bid to achieve superiority in the 1980's. The Russians are currently building a force of powerful long-range nuclear missiles that could potentially knock out more than 90 percent of America's Minuteman missiles in a nuclear attack within the next year.

EQUIPMENT WEARING OUT

Moreover, military scientists have told Congress that Moscow, over the next 10 years, could find, with the help of satellites, ways to detect and destroy the Navy's 41 missile-carrying submarines. These have traditionally been deemed invulnerable to Soviet attack.

Intertwined with this Soviet nuclear threat, key parts of the American strategic arsenal are wearing out. The B–52, for example, the mainstay of the Air Force's nuclear bomber forces is about 20 years old and afflicted with aging equipment such as frequently faulty bombing and navigation computers.

Like other major weapons systems that are aging, the B–52 is also afflicted with a spare parts problem. Because of the age of the plane, the stockpile of mass-produced spare parts has been depleted.

At another level, however, military officials and commanders in the field are plainly perplexed and worried about the problems confronting the volunteer military, problems of too few men, too little equipment and too many skilled people dropping out, especially in the Navy and Air Force, leaving serious gaps in critical jobs.

The problems confronting the Army are underscored in a confidential report showing that six of the service's 10 combat divisions in the United States were rated "not combat-ready" last December. The report was evidence of what the Army Chief of Staff, Gen. Edward C. Meyer, termed the nation's "hollow army," with shortages in personnel, training and weapons.

DROP IN SCHOOL EXPERIENCE

The share of enlisted soldiers with college experience has dropped sharply, from 13.9 percent in 1964 to 3.2 percent last year. A total of 68 percent of the enlistees in the first half of 1979 had high school diplomas, while the figure is only 58 percent this year.

Recruiters persistently complain about the poor literacy and low-grade skills of enlistees, although some field officers say today's enlistees, over all, can be trained just as effectively as the draftees of years past.

But what concerns military officials more than attracting high-quality enlistees is the difficulty of keeping them in the military.

At this point servicemen and women, many with 8 to 12 years of service who would ordinarily have stayed in until becoming eligible for 20-year pensions, are leaving in significant numbers. Low pay and inflation, coupled with a proliferation of working wives who refuse to move every few years, have drained the military of some of its most skilled mid-level personnel.

The Navy is perhaps hardest hit by the shortage. The ranks of nuclear-qualified petty officers with 10 to 13 years in the military have been sharply depleted.

The problem was highlighted last March when the skipper of the U.S.S. Canisteo, a supply ship based at Norfolk, Va., informed his superiors that he did not have enough qualified men in his engine rooms to start a scheduled voyage. Similar problems exist in the Army, which is suffering major shortages of technicians and weapons specialists.

"Alarming numbers" of pilots and navigators and skilled enlisted technicians are leaving the Air Force, according to General Allen. Currently, the Air Force is keeping only 25 percent of its fully trained pilots, and the service now lacks 2,100 pilots and 400 navigators. Most of the pilots go to work for commercial airlines at salaries that could eventually reach more than $100,000 a year. Air Force pilots earn $25,000 to $28,000.

These manpower problems are overshadowed, however, by what President Carter acknowledges to be the limitation on the nation's ability to project its combat power in the Persian Gulf region.

Although military officials agree that the United States is probably in a reasonable position to thwart Soviet moves in regions where the danger does not seem serious at the moment, in Europe and Korea, the nation's armed forces face serious potential difficulties in the regions of current tension, specifically the Persian Gulf.

With no bases in the immediate area and few facilities to airlift combat troops, and with relatively few weapons stockpiled, as they are in Europe, the Pentagon has instead shaped plans to increase the Navy's sealift capability.

For example, it is buying 12 specialized "roll-on, roll-off" vessels, to be loaded with food, weapons and supplies, that would be deployed near troubled areas. Beyond these and other new ships, the military is also planning to buy 120 to 180 new cargo planes, of a type called the C-X, that would be able to carry tanks and, most important to its supporters, could land on short runways in the Persion Gulf area. The C–X program, expected to cost $6 billion to $9 billion, has already met Congressional opposition.

In the meantime, to meet a potential threat in the Persian Gulf, the Pentagon has formed the Rapid Deployment Force, drawn from all the services and designed to mobilize quickly in response to Soviet moves, especially in the third world. At the moment, the force has come under some criticism because it cannot move rapidly, nor in some cases are its divisions fully combat-ready. There are not enough aircraft and ships to get troops to a crisis quickly. By the middle or late 1980's, however, the United States military is expected to overcome its transport deficiencies with new equipment and bases.

At present, President Carter concedes that the nation does not have 'enough military strength and enough military presence" in the Persian Gulf "to defend the region unilaterally."

But some of his commanders say that the results of a test of strength in the Persian Gulf would be uncertain, despite the numerous shortcomings facing the American military. "Neither side can be confident of the outcome," said General Jones of Joint Chiefs.

Nuclear Gains by Russians Prompt a Reaction by U.S.

(By Richard Burt)

Washington, September 21.—The United States military, long used to having a clear edge over the Soviet Union in nuclear might, is being forced to adjust to a new era in which the American strategic arsenal is becoming outdated and ever more vulnerable.

In recent statements, President Carter, Secretary of Defense Harold Brown and other senior officials have asserted that, in the area of nuclear weaponry, the United States is still "second to none." At the same time, however, Mr. Brown and his top aids have started to contend that if present trends in the nuclear balance continue, the United States, by the mid-1980's, could find itself vulnerable to nuclear blackmail by Moscow.

Mr. Brown, for example, told a group last month at the United States Naval War College in Newport, R.I., that, without improvements to the ballistic missiles and heavy bombers that make up the county's deterrent force, Washington could face "at best a perception of inferiority, at worst a real possibility of nuclear coercion."

Throughout the 1950's and 60's, the United States led the Soviet Union in nearly every measure of strategic power, including numbers of missiles and bombers, warhead totals and overall weapons performance. But Moscow, spending as much as three times more than Washington on nuclear forces during the 1970's, is generally seen as having attained what analysts call "rough parity" in strategic power.

In a national intelligence estimate prepared by the Central Intelligence Agency early this year, it was estimated that Moscow could surpass the United States in nearly every measure of nuclear capability by 1985.

Administration officials maintain that, under Mr. Carter, Washington has begun to counter Moscow's growing missile power. Nevertheless, military specialists acknowledge that several serious problems in the nuclear arsenal need to be rectified in the next few years, including these:

American missile and bomber forces are becoming increasingly vulnerable. For the first time, Mr. Brown said last month, the Soviet Union might now be able to destroy all 1,053 of the Air Force's land-based missiles in their underground silos in a surprise nuclear "first strike." A few weeks earlier, William J. Perry, Under Secretary of Defense for research and engineering, told a House Armed Services subcommittee that Soviet bomber defenses were rapidly improving and that over the next 10 years Moscow could find a means of detecting and destroying the Navy's 41 missile-carrying submarines.

Components of the nation's nuclear arsenal are wearing out. The mainstay of the Air Force's nuclear bomber forces, the B-52, is about 20 years old, and officials report that the planes suffer from an increase in expensive maintenance problems. The service's 53 Titan 2 missiles, meanwhile, have also been in place for two decades and have recently been plagued by a series of well-publicized accidents. The problems besetting the Titan 2 were vividly demonstrated in Damascus, Ark., last week when a fuel tank of one of the missiles, punctured by a falling socket wrench, exploded and sent a cloud of toxic chemicals into the air.

The Government's facilities for manufacturing nuclear weapons are said to be in bad repair. A confidential report prepared recently for the Department of Energy, the agency assigned the task of producing nuclear warheads, concluded that "serious deterioration of equipment and utilities has occurred over the past several years which could seriously impair our ability to meet the nuclear weapons [requirements] forecast for the 1980's." At the Pentagon, aides said that over the last 15 years, several Government plants producing critical materials and components for nuclear warheads had been shut, producing significant delays in weapons programs. One official, for example, said the deployment of a new version of the Army's Lance tactical missile had slowed by 18 months because of a shortage of plutonium for the system's warhead.

Malfunctions are plaguing the strategic early warning and communication system. In two instances over the last year, computers at the headquarters of the North American Air Defense Command in Cheyenne Mountain, Colo., have malfunctioned, triggering false alarms in which missiles and bombers were made ready for take-off. Congressional auditors, meanwhile, reported earlier this year that a new generation of computers for the military's worldwide command and control system would not be able to handle the demands created by a major military crisis. The existing system, moreover, is considered vulnerable and inadequate.

CAPACITY TO RETALIATE

Pentagon aides stressed that, while these problems were real, none of them meant the United States was in danger of losing its capacity to retaliate after a Soviet nuclear attack. They said, moreover, that intelligence reports indicated that American nuclear forces, as a whole, were still superior to the Soviet arsenal in terms of readiness and reliability, although Soviet forces were considered more powerful.

In addition, they said that Mr. Carter had approved numerous programs over the last three years meant to remedy the emerging nuclear deficiencies. Although in 1977 the President canceled the B-1 bomber, which was proposed as a replacement for the B-52 force, officials said that Mr. Carter's decision to equip the older bombers with air-launched cruise missiles in the next few years would guarantee the Air Force's ability to penetrate Soviet air defenses through the 1980's.

The 1,000-mile range missiles, which fly at treetop altitudes, would permit B-52's to "stand off" from Soviet air defenses, a less demanding role that officials believe will save wear and tear on the aging bombers.

Farther in the future, Secretary Brown and other senior Pentagon aides are excited about the prospects for deploying a Stealth bomber, which would be nearly invisible to Soviet radar.

SUBMARINE REALIGNMENT

At sea, the Navy this year deployed the first of a new class of Trident missile submarines that will gradually replace the 10 Polaris vessels built in the 1960's. Each of the new submarines will carry 24 Trident 1 missiles, a 4,600-mile-range missile that is also to be deployed aboard the Navy's 31 Poseidon submarines.

With considerably greater range than current naval rockets, the Trident 1 missile, according to Defense Department aides, offers an effective counter to Soviet antisubmarine warfare because it expands the area of ocean within which American submarines can hide.

Problems with strategic early-warning and communications systems are also said to be receiving high-level attention. A top Pentagon aide said that after the most recent nuclear false alarm last July, Secretary Brown asked teams of Government and private computer specialists to study the warning system and make recommendations for improvements.

At the same time, White House national security aides said that Mr. Carter had approved in the last year two directives calling for improved procedures for protecting senior political and military leaders in the event of nuclear war and improved communications facilities that could survive a large-scale Soviet attack.

WEAPONS PRODUCTION STUDIED

The aides also said that an interagency committee was studying the future of the plutonium production and weapons assembly facilities and that Mr. Carter was likely to be presented soon with a plan for modernizing the Energy Department's facilities, including increasing the output of plutonium.

Although Pentagon aides are optimistic about correcting most of the nuclear deficiencies, they express greater concern about the new vulnerability of land-based missiles to a Soviet "first strike." Under a concept first elaborated by Secretary of Defense Robert S. McNamara in the early 1960's the Air Force's land-based missiles form part of a "triad" of nuclear forces also consisting of submarine-launched rockets and long-range bombers.

Under the "triad" concept, the United States needed to deploy three different types of retaliatory systems, so that if Moscow were able to threaten one or even two "legs" of the "triad," Washington would still be able to respond to a Soviet attack. The American strategic submarine force and, to a lesser extent, the bombers, are still considered to be invulnerable. But most military experts, in and out of the Government, consider the impending vulnerability of the Air Force's Titan 2 and Minuteman missiles the most pressing nuclear problem confronting Washington.

In part, this is because analysts fear that in a severe military crisis, Moscow might be tempted to launch a pre-emptive strike against American land-based missiles, for fear that Washington might launch its rockets first. Planners at the Pentagon also assert that land-based missiles are more responsive and accurate than the other two elements of the "triad," which, they added, makes them the best systems for carrying out the Administration's new strategy of emphasizing pinpoint, retaliatory attacks against Soviet military and political targets instead of major population centers.

CONTROVERSY OVER MX

The Administration's proposed solution to the vulnerability of land-based missiles is the $34 billion MX mobile missile, a system that the Congressional Budget Office has estimated could end up costing almost $60 billion. Under the present Air Force plan, 200 of the giant missiles would be carried by trucks along a huge road network to be built in arid and underpopulated parts of Utah and Nevada. Interspersed along the roads would be 4,600 concrete shelters from which the MX missiles could be lofted.

By moving the missiles in and out of empty shelters, military aides believe that it would be possible to deceive Soviet surveillance satellites about the location of each of the rockets, thereby frustrating any nuclear "first strike."

But the MX plan has run into stiff local opposition in Utah and Nevada and is also drawing fire from liberal and conservative military experts in Washington. Arms control proponents, for example, called the MX a Rube Goldberg design that would prove too costly and could rule out the effective monitoring of future accords limiting American and Soviet strategic arms.

MX opponents, such as Paul N. Warnke, Mr. Carter's former disarmament director, also criticized the Pentagon's plans for fitting each MX with 10 highly accurate war heads, because it would give Washington 2,000 missiles and thus its own "first strike" capability against the 1,400 Soviet land-based rockets. A further argument against the system was supplied by Herbert Scoville, a former high-ranking Central Intelligence Agency aide, who contended that, by the end of the decade, the Soviet Union would possess enough accurate warheads to threaten all 4,600 missile shelters, making the MX as vulnerable as existing rockets.

A SUBMARINE ALTERNATIVE

These arguments have led some analysts to push for deploying the MX at sea. The idea, worked out by two physicists, Sidney Drell at Stanford University and Richard Garwin of I.B.M., calls for putting the missiles on a fleet of small, diesel-driven submarines that would cruise off the American coast. In recent presentations to Congress, Mr. Drell and Mr. Garwin argued that their proposal would cost roughly half as much as the Air Force's plan and added that if only 100 MX missiles were deployed in all, the system would not pose a "first strike" risk to Moscow's land-based rockets.

Administration aides contested these assertions, saying that the submarine option for the MX would cost at least as much as putting the missiles on land. Mr. Perry and other military scientists also said that deploying the MX at sea would make the United States much too dependent on submarines for deterrence.

"The idea of putting missiles on a fleet of small, coastal submarines is worth exploring, but not as a substitute for land-based systems," said a senior White House national security aide. "The 'triad' concept is still valid."

At the Pentagon, officials acknowledged that, by the time the MX is fully deploy in 1989, Moscow might have enough warheads to threaten every shelter. But they said the MX was being designed so that another 4,600 shelters could be quickly added to the system. Another alternative, they added, would be to equip each of the 200 MX missiles with its own antiballistic missile defense system, a step that would further complicate any Soviet "first strike" attempt.

There is vigorous support in conservative circles for revitalizing development of antiballistic missiles, but there is disenchantment with the Administration's MX proposal. Paul H. Nitze, a former Deputy Secretary of Defense and now a member of the promilitary Committee for the Present Danger, said that the problem of land-based missile vulnerability needed to be solved more quickly. Both he and William R. Van Cleave, Ronald Reagan's top military advisor, called for construction of thousands of new underground silos around existing missile sites in the Middle West that the Air Force could use to hide its current force of 1,000 Minuteman rockets. According to Mr. Van Cleave, this "quick fix" mobile basing system for land-based missiles would be available some five years sooner than the MX.

CRITICISM FROM THE RIGHT

Conservative critics also suggested that Mr. Carter was dragging his feet on modernizing the bomber force. Although Secretary Brown recently told reporters that a new bomber embodying Stealth technology could be built by 1987, Senator John Tower, the ranking Republican on the Armed Services Committee, contended that radar-defeating aircraft were unlikely to be deployed before the 1990's. Mr. Tower, as well as several high-ranking Air Force officers, said that if funds were spent on developing an advanced version of the B–1, it could be ready before 1985.

In response, Pentagon aides said that crash programs for a new B–1 or a mobile Minuteman force would soak up money that would be better spent on more distant but more capable weapons, such as the MX. At the same time, they said that, over the last three years, a consensus had emerged within the Administration over the need to refurbish the nuclear arsenal.

"But the difference between us and the Republicans is one of time frame," said a senior Pentagon aide. "They seem to think that the balance has already tipped and the threat of war is right around the corner. We see a potentially dangerous situation emerging further in the future, toward the end of the decade. Let's just hope we never have to find out who was right."●

BILINGUAL EDUCATION—ELEMENTARY AND SECONDARY EDUCATION

● Mr. JEPSEN. Mr. President, on August 25, 1980, I addressed a letter to Iowa school superintendents regarding a proposed rule by the Department of Education. Attached to the letter was a summary of the Department's rule which was published in the Federal Register on June 17, 1980. Its purpose is to prevent national origin discrimination in elementary and secondary education.

The Department has expressed concern that American schools are failing to meet the needs of limited-English-proficient students. Therefore, the Department is seeking information and responses from educators about the type of procedures that will be necessary to implement its proposed rules pertaining to such students.

Mr. President, without exception every Iowa school superintendent who responded to my letter strongly objected to the Department of Education's proposed rules. They equally opposed any attempt of the Department to mandate the participation of their schools without first providing the necessary funding to implement the rules.

Mr. President, I urge my colleagues to take note of the responses from Iowa educators. The State of Iowa, with the possible exception of California, Texas and Florida, has settled large communities and individual numbers of refugees and immigrants, in particular, Indo-Chinese immigrants. Because of the extensive participation by Iowa in the refugee resettlement and the relocation of immigrants every year in the State, Iowa educators face a unique situation not shared by educators throughout the United States, and therefore they speak from a position of experience and knowledge.

Mr. President, I would like to summarize the various arguments by Iowa school superintendents regarding the Department's proposed rules. Their objections are as follows:

First. There is a general appreciation for the Department's concern that schools are failing to meet the needs of limited-English-proficient students. But there is strong disagreement with Department's approach regarding how these needs should be met.

Second. The problem of limited-English-proficient students varies from small to large groups of students throughout the United States. Therefore, a national program mandating the compliance of elementary and secondary schools is unnecessary and overinclusive.

Third. Many schools would have to hire a person highly proficient in the second language. In many districts, particularly where there are Indo-Chinese students, no teacher is available at any price. There is also the question whether an individual who may be proficient in the second language, would be qualified as a teacher. Teacher certification would be a major problem.

Fourth. Educators are concerned that the Department of Education in proposing this rule, would require them to follow a specific method of teaching. In the past, education policy has dictated that mandating a specific methodology of teaching is not an appropriate function for an administrative agency to pursue.

Fifth. The Federal Government and the States should provide the funds necessary for the additional cost of bilingual education programs. Many school districts are the victims of declining involvement, revised funding formulas, and reduced assistance from State legislators. To impose the responsibility for bilingual education on local communities, without adequate funding, will diminish the educational opportunities equally available for all students.

Sixth. School superintendents are generally opposed to the Department's rule. If there must be a program, then local control of bilingual programs must be an essential ingredient of any mandatory Department rule or procedure.

Seventh. Local educators say they are doing their best to teach limited-English-proficient students as rapidly as possible. They are concerned that a national dual-language program would slow their progress toward proficiency in the English langauge.

Mr. President, these comments reflect the observations and opinions of many school superintendents on the issue of providing a dual-language system for limited-English-proficient students. I thank the Iowa educators who took the time to provide me with a clear, concise representation of their thoughts.

Mr. President, it is very clear that there is a great deal of opposition to the Department's proposed rule. These objections are strong and deeply rooted. The major cause of this centers on the efforts of the Government, specifically the Department of Education, to expand their authority and dominance over the manner and direction that America teaches its children and controls local schools.

This is the Education Department's first attempt to influence education policy and direction. I hope those of you who supported the creation of a new Department of Education now realize what I and others who opposed its creation were trying to warn you about. This is just a beginning of many battles in which the Department will try to insert itself beyond education policy. The Department is clearly trying to control and direct education in America.

I strongly object to the proposed rules. The Department's efforts are deliberate. They know exactly what they are doing. Do not be misled into believing that the national interest is uppermost in the Department's agenda. On the contrary, the only interest that concerns them is dictating and managing education in America.

In closing, I would like to add that every ethnic group which has blessed this Nation's shores has taken pride and devoted themselves in adopting the American way of life. More importantly, every ethnic group, whether foreign or domestic, has endeavored to capture the essence of the English language, which is the cornerstone of our democracy that binds us all together in the American adventure.

I do not believe that anyone desires to neglect or ignore the problems which limited-English-proficient students face. We do have a national interest in responding to their needs. What we are faced with is not whether we should recognize this problem or necessarily respond to it, but whether the proposed rules overstate and overreach their intended purposes. I strongly urge my colleagues to become familiar with this issue, because it is not going to fade away. Mr. President, in order that my colleagues can review the remarks of Iowa school superintendents, I send to the desk samples of the correspondence of Iowa educators along with my original letter and summary of the Department's proposed rule. I ask that they be printed in the RECORD.

The correspondence follows:

U.S. SENATE,
Washington, D.C., August 25, 1980.

DEAR FRIEND: This letter is to inform you of a proposed rule by the Department of Education to prevent national origin discrimination in elementary and secondary education. The Department is concerned that schools are failing to meet the needs of limited-English-proficient students.

The rule requires schools to teach basic education courses in other languages. Educational institutions may request a waiver to exempt them from this requirement if they provide some other method for aiding children who do not speak English sufficiently enough to function in an English-speaking school.

Because the proposed rule may directly affect the educational process of your school I would appreciate hearing your views on this issue. In addition, comments can be forwarded to the Department of Education at the following address:

Mr. Antonio J. Califa, Office for Civil Rights, Department of Education, P.O. Box 8240, Washington, D.C. 20024.

Comments must be received by October 6, 1980.

For your information, I have enclosed a summary of the proposed requirements. If you need further information, please contact Ronald Langston of my Washington staff at 202-224-0048.

Sincerely,

Roger W. Jepsen,
United States Senator.

Marcus Community School District,
Marcus, Iowa, September 3, 1980.

Senator Roger W. Jepsen,
U.S. Senate, Dirksen Senate Office Bulding, Washington, D.C.

Dear Senator Jepsen: Thank you for your letter of August 25 in regards to the Department of Education's proposed rule on teaching limited-English-proficient students. My first concern is where are we headed with this approach. Are we going to be a great English speaking nation or are we going to be a nation divided by nationalities speaking different languages? I feel that if these people want to become a part of the United States that they learn to speak the English language. If they want to hang on to their own language that is well and good, but it should be their second language.

My second concern is funding if this rule is dumped upon all the schools of the nation. As you undoubtedly know the public schools in Iowa have had a strict financial law for the past seven years. Because of this—many of us are having troubles keeping up with maintenance costs and teachers are losing the battle with inflation. If we have some Southeast Asian students (which we do) this rule would require us to teach basic education courses in their language. Where do we get a teacher to teach these courses? Where do we get the money to pay such a teacher?

We have a strong nation with basically good schools. Let's not have some bureaucrats in the Department of Education weaken the system with an expensive rule like this. I do appreciate your listening to my comments on this matter.

Sincerely yours,

Jon W. Mitts,
Superintendent.

Anamosa Community
School District,
Anamosa, Iowa, September 2, 1980.

Re Bilingual Instruction

Senator Roger W. Jepsen,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Jepsen: At this point we have no students whose primary language is other than English. However, I do oppose the regulation.

1. It would require hiring a person highly proficient in the second language, not necessarily a qualified teacher as I understand the proposal.

2. For the first time the federal government would be requiring a specific methodology which is not an appropriate function for that level of government.

3. I believe bilingual instruction would delay a student's development of English proficiency, and I presume English proficiency is the goal.

4. Preservation of foreign cultures should be the task of families, not the public schools. Our goal should be assimilation into our society; and public schools, over many decades, have been highly successful in assisting immigrants build successful, satisfying lives in our society by concentrating on instruction in English.

5. In our foreign language instruction we immerse our students in a foreign language environment. This methodology works.

Sincerely,

James R. Poulter,
Superintendent.

Sioux City Community,
School District,
September 3, 1980.

Hon. Roger W. Jepsen,
Dirksen Senate Office Building,
Washington, D.C

Dear Senator Jepsen: Thank you for your letter of August 25 informing us of the proposed rule by the Department of Education to prevent national origin discrimination in elementary and secondary education. I understand the department's concern that schools are failing to meet the needs of limited-English-proficient students. I am not sure I can agree with this concern, at least not in total.

I would hasten to add, however, that this has been a situation in the United States from its very inception. Hopefully, I will not be misunderstood in the comments I make at this time, but I feel they need to be addressed. Perhaps it is time to raise a rude question: Why is it apparently more difficult for Spanish-speaking arrivals, Latin or Mexican arrivals in the United States to learn to speak English than it was for millions of immigrants from Europe and Asia a few years ago? I would like to quote from an editorial in our local newspaper by Jenkin L. Jones on the subject, On Learning English.

"Schools having as many as 25 foreign language-speaking children within two grades would have to educate them in their "strongest language" for a period of five years or until they can "participate effectively" in English, whichever comes first. Schools must offer English as a "second language" to all pupils for whom it is not a primary language.

"If the school district with substantial numbers of foreign-speaking students were to set up intensive English-learning classes for a limited number of months, to the exclusion of any other instruction, this would make sense. Concentrated language teaching is effective.

"But, if students are to be instructed in their "strongest language" this would mean instruction all across the board-mathematics, history, literature, science, etc.—all in a foreign language. It will be tough enough for school administrators to find Spanish-speaking teachers in all subjects, let alone teachers who can instruct in Vietnamese. Most important, is this kind of expensive coddling going to speed or delay the day when the students can join the English-speaking society?"

Mr. Jones went on to state that he has some knowledge in this matter. He indicated that four years ago he acquired a Brazilian stepson. The boy was full of enthusiasm and optimism, but empty in the English language. He and his mother spoke Portuguese, and he and Mr. Jones nodded politely to each other.

Mr. and Mrs. Jones popped him into a junior high school. It was sink or swim. For some weeks he was barely awash. Then he began to paddle. By Christmas he was volubly talking a horrible brand of English. By the following June, he was correcting the pronunciation of his mother.

"Who really thinks this would have happened if he had been put into classes taught in his "strongest language"?" added Mr. Jones. "Would five years have been enough to bring him to the English proficiency he acquired in nine months?"

I do have many questions pertaining to the proposed rule that the Department of Education is recommending for educational systems. We have had an influx in Sioux City of Asian students and have had to pick up the extra cost of hiring an ESL teacher and aides to help. I requested financial aid from the federal government through different senators from the State of Iowa last year, as well as help from the Department of Public Instruction here in Iowa. We received a total of $3,000 for our program last year. The cost of the program was in excess of $10,000 and the school district and local taxpayers had to pick up the additional cost.

The concern I have at this time is the additional burden that we place on our budget due to loss of enrollment and financial aid from the Department of Public Instruction, and an additional reduction that Governor Ray has placed on the State of Iowa governmental agencies by reducing our present budget by 3.6% for the remainder of the current school year. This means to our school district a reduction of $600,000 state support and comes after contracts have been signed for all employees. The only place that the school district has at this time to reduce spending by $600,000 is through reduction in our purchases of materials and equipment. It could not have arrived at a more inopportune time.

I would only say that it is important that whatever regulations are placed on school districts to implement this type of program that they be dealt with in an understandable fashion for local school districts in the many different states. It is almost impossible to develop a procedural set of regulations that would be fair to all school districts and at the same time require that such a program be instituted is equally unrealistic. Whenever money becomes available at the federal level, it is channeled through the state departments of public instruction and many of the smaller school districts or intermediate size school districts suffer because of lack of numbers in implementing programs. They are the districts that need the most help. It is almost impossible to hire staff members to teach in different languages to the limited-English-proficient students. Any help you can give in making these regulations acceptable to the school districts in Iowa would truly be appreciated.

Your concern in this matter is greatly appreciated and I do appreciate having an opportunity to respond.

Sincerely,

Mel D. Grell,
Superintendent of Schools.

Decorah Community Schools,
Decorah, Iowa, September 2, 1980.

Senator Roger W. Jepsen,
U.S. Senate,
Washington, D.C.

Dear Senator Jepsen: Received your letter in regard to pending legislation affecting "limited-English-proficient" students.

Our Administrative team has discussed this at great length, and we are unanimously opposed to legislation forcing schools to teach in languages other than English.

We feel this mandatory dual language concept would be extremely bad for at least the following three reasons:

(1) It wouldn't be fair to the new students as it would retard their assimilation into the main stream of our school.

(2) It will fragment and isolate these pupils for an indefinite time and will slow their acceptance by the rest of the school and community.

(3) It's extremely impractical to attempt to provide teachers who are proficient in all of the different languages. We have 48 South-

east Asians, and they speak at least four different languages.

We are doing our best to teach them English as rapidly as possible and feel a dual language program would simply slow progress towards proficiency in the English language.

We are very much opposed to teaching basic education courses in other languages.

Sincerely,

Wayne W. Burns,
Superintendent.

Southeast Polk
Community School District,
Runnells, Iowa, September 2, 1980.

Hon. Roger W. Jepsen,
U.S. Senator,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Jepsen: Thank you for the information on the proposed rule to prevent national origin discrimination in elementary and secondary education. I'm sure this will provide considerable employment nationally at the enforcement level alone, not to mention locally where few, if any, are really prepared to provide this type of instruction.

I have no quarrel with providing quality, meaningful education for those whose education is handicapped because of language. The philosophy of mandating at the federal level that the schools will do this according to specific criteria at great expense both locally and nationally gives me some problems. Granted, funding will undoubtedly be provided, but at great inefficiency. Merely sending money to Washington and returning it costs, and this at a time of high taxes, high unemployment and reduced budgets for schools. Further, any money "given" the school is understandably accompanied by control of the "giver".

Note in the proposed rule under "terminating services", instruction must be provided for at least two (2) years. This makes no allowance for the borderline case who may be able to overcome any deficiency in far shorter time. It does not provide for the individual differences which supposedly put the program into effect.

We have countless students in our schools who do not qualify for special funding through special education, talented and gifted, free or reduced price lunch, vocational agriculture or what have you. Are they being discriminated against?

How about the taxpayer who does not qualify for any government program? Is that person being discriminated against?

A recent mailing from the U.S. Senate including the following:

1. Iowa is a national leader in the Indochinese refugee resettlement. This action, however, has meant increased costs and curricular demands for local school districts.

2. To help meet these special service needs, budget proposals before the Congress includes $67 million in refugee education funds for the 1980–82 school years. The Congress has also authorized $200 million annually for social and educational refugee services, including English language programs.

Admittedly, I have more questions than answers, but ever increasing taxes are a problem and forever is being used as a solution.

Sincerely,

Kenneth W. Sand,
Superintendent.

Waterloo Community Schools,
Waterloo, Iowa, September 4, 1980.

Senator Roger Jepsen,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Jepsen: This letter is in response to your memo of August 25, 1980, regarding the Department of Education proposed rules for limited English proficient students. These comments may be late in view of the recent action by the House regarding opposition to the Department of Education proposed rules. In any event, I shall briefly respond regarding my concerns with the proposed rules.

Of major concern is the dictating of rules from the Department of Education regarding how local school districts will provide services to limited English speaking students. The rules do not give a district the flexibility to determine whether an ESL Program or bilingual program would be most effective for meeting the needs of students with limited English proficiency. The Waterloo School District has only 70 identified students representing approximately ten language groups, and as such this district would not be forced by these guidelines to provide a bilingual program. However, I think it should be the local district's decision as to whether basic skills should be taught in the student's initial language or in the English language.

My concern with the emphasis on bilingual education has been one of neglecting strong emphasis on English language instruction. Since all these students must eventually compete in main-stream America, it is essential that the primary emphasis be placed upon English language instruction. For districts with large concentrations of single language background, it may be feasible to offer bilingual instruction. However, for many districts this could place a great burden educationally and financially upon the district. It seems to me that the Department of Education in proposing these rules has in no way attempted to support the costs that are likely to result for local school districts to implement these rules.

For your information, the State of Iowa appears to be mandating similar type rules regarding limited English speaking students. Again, I think the local district should have the option of determining how best to meet the needs of the limited English speaking students.

In addition, the State and Federal Government should provide supplementary resources to get this job done. However, how it is to be accomplished should be determined by the local district. I hope this expresses our major concern about these proposed rules. If I can be of any further help, please let me know.

Sincerely yours,

Dr. Steven T. Holbrook,
Director.

Albert City-Truesdale
Community Schools,
Albert City, Iowa, September 16, 1980.

Hon. Roger W. Jepsen,
U.S. Senator from Iowa,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Jepsen: We are a small school district in northwest Iowa with an enrollment of 390 students, Kindergarten through 12th Grade.

One of our local churches is sponsoring a Laotian family of six, three school age children and one pre-school. The father is working at the school as a CETA employee. The three school children and the father speak just a little English, but the mother does not.

The school district has hired a former teacher of bilingual children to spend one hour each day teaching oral and written language to the three school age children. The rest of the school day is spent in their regular classes. We feel that their rate of learning our language is very high and we attribute this rate to their need to communicate, along with the efforts of our teachers and also the efforts of the sponsoring agency.

We believe that if we are required to hire a teacher proficient enough to teach basic education courses in Laotian because we have one displaced family in our community would negate our efforts as well as the efforts of our little Laotians to learn English in the shortest time possible. It would also be another mandated education program without the additional funds to pay for it that would further deplete our finances. We have cut staff the past three years and the next cut back will affect programs and we certainly want to keep from cutting the educational program.

Sincerely,

Fred C. McKenzie,
Superintendent.

Davenport Community
School District,
Davenport, Iowa, September 5, 1980.

Senator Roger W. Jepsen,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Jepsen: I appreciated the opportunity to provide some input on the bilingual regulations. I am opposed to these kinds of regulations from a federal government level since they tend to usurp the Constitutional rights of the States and local governments (Tenth Amendment) and centralize the process of Education. A national curriculum and school system is not in the interest of the students or the nation. We have many examples of this in history and what has happened to those countries.

Some of my major educational objections are:

(1) Lack of purpose of additional regulations.

(2) Lack of educational research to support the regulations as a means of improving the proficiency of the English language or other languages.

(3) The expense involved in carrying out such directives when there may be more efficient ways of accomplishing whatever the Federal government is trying to accomplish.

(4) Added bureaucracy where such already exist at the Federal, State, and local levels.

(5) The regulations are in conflict with present Federal and State guidelines and laws concerning special education, IEP's, civil rights, et cetera.

These are a few of my objections as a Superintendent of Schools. There are other objections related to educational fragmentation of a student's program which I will not get into at this time.

Thank you again for the opportunity to provide input.

Sincerely,

Ted W. Gray, Ed.D.,
Superintendent.

September 14, 1980.

Dear Senator Jepsen: I applaud the intent of the Department of Education to prevent "national origin discrimination" by teaching basic education courses in other languages. However, I am not in favor of the method the Department is proposing. I have been studying foreign languages since I was a junior in high school. Today, I have a Master's Degree in Spanish and have been teaching it for 13 years. I have also studied Hebrew, Portuguese and French, and I have traveled extensively in Mexico and Europe. I know my goal is the same as the Office of Bilingual Education's: we want all foreign born children to speak English well, to succeed in this country and to become productive people in our society. Our schools cannot accomplish these goals by coddling these youngsters and giving them up to 5 years to learn English. We want what is best for them, and they can only achieve the best, in this country, by learning English as quickly as possible. These youngsters should be put in regular classes with English speaking children, with intensive programs in English on the side.

I do not believe we are discriminating against them or diminishing their distinct cultural pride and identity by wanting them to learn English quickly so that they can cope with the demands of and adjust to this country. Our country has millions of immigrants who had to learn English to survive, and they did it by being surrounded by English, by having to hear it and use it everyday from the very beginning. Children learn languages most rapidly by being totally immersed in it.

I spent my junior year abroad in Israel, and since I knew my university classes were to be in Hebrew, I knew I had to master that language to succeed. I had an intensive 3 month summer course in Hebrew, taught *in* Hebrew by a teacher who spoke *no* English. And I learned. By October, I could get by; by January, 6 months later, I was speaking Hebrew. If my preparatory classes had been in English, I would never have learned Hebrew.

I spent a summer in Mexico City, at the Universidad Iberoamericana and I lived with a family who spoke no English. My Spanish improved 100% that summer because I was totally immersed in it. My husband and I also spent a summer in Spain, living with a Spanish family in Soria, and again, the family spoke no English. I knew Spanish well by that time, but my husband could not speak it before our trip. He came home speaking and understanding Spanish.

I have a Vietnamese student taking Spanish this year and I asked him how he felt about this ruling. He studied English for a few months and then was put in the 4th grade with other American children. That was the year, he said, he learned English. He told me he probably wouldn't have learned as quickly if he had taken his classes in Vietnamese, with other children like him.

Total immersion is imperative if the goal is to learn another language well. I would like to suggest that the money for this ruling be appropriated to provide intensive English classes before and after school, on week-ends and during the summers. During the school year, these children should be included in the regular curriculum with American children. My personal experience has taught me that this is the only way to learn a foreign language well.

Americans should also learn a foreign language. Programs should be set up with some of this money to provide classes for Americans to learn such languages as Spanish, Vietnamese and Cambodian. Last November, in his President's Report on Foreign Languages and International Studies, President Carter called the Americans' ability to speak a foreign language deplorable and scandalous. We can better adjust to our new immigrants if we meet them half way by learning their language, too.

I would like to hear your opinion on this.

Sincerely,

KATHE GOLDSTEIN,
Chairperson of Foreign Languages.●

SOVIET NUCLEAR TRAINING

● Mr. GARN. Mr. President, last week, the Carter administration admitted that the Soviet Union had tested a nuclear weapon at a yield as high as 650 kilotons, in clear violation of the 150-kiloton limit of the Threshold Test Ban Treaty of 1974, that the Soviet Union on July 10, 1979 and November 2, 1979, had tested the radar of the SA-10 in an ABM mode, in violation of the 1972 SALT I treaty, and that the Soviets had conducted a rapid-reload exercise for the SS-18 force, involving up to 40 launchers for most destructive missile in the world.

This week, Aviation Week has further developed the story. It reports, "Testing in the past few weeks of the SA-10 surface-to-air missile acquisition and tracking radars against Russian reentry vehicles in an antiballistic missile mode." It also reports that there was "testing in a ballistic missile defense scenario against reentry vehicles of the SA-5 Gammon air defense radar on at least one occasion," and reminds us that "the United States brought up the tests to the Standing Consultative Commission as a possible violation." This is one of the issues former Secretary of Defense Cyrus Vance assured us had been successfully resolved.

Aviation Week also indicates that the Soviets have encrypted 80 percent of their telemetry in recent tests of the new Typhoon SLBM. Other press reports report 70 percent encryption. The Carter administration admits that the Soviets have encrypted telemetry for the first time, but refuses to release the percentage encrypted.

Aviation Week also says that the Soviets are continuing the testing of long-range cruise missiles from their Backfire bomber. This without special "FRODs" to the aircraft, would be a violation of SALT II.

Aviation Week confirms the Washington Post story that the Soviet Union had begun the construction of a very advanced new ABM battle management radar near Moscow and that this gives the Soviets enormous potential to upgrade their ABM system into a nationwide deployment on short notice. According to Aviation Week, the Soviet Union can break out of the ABM treaty and deploy a high quality ballistic missile defense system within a year from the time we could detect such deployment.

In this regard, there were press reports concerning the new high-capacity phase array radars now being built on the periphery of the U.S.S.R., suspected of having battle management capabilities, for 3 years before these reports were finally confirmed by the Carter administration earlier this year.

We have a clear pattern of Soviet violations emerging with essentially no effort on the part of the U.S. Government to enforce these arms control treaties.

There are apparently those in the Carter administration who believe that the Soviet test was somehow our fault, that the Soviets are upset with us and that this was a deliberate signal to that effect. I find such logic incredible.

Aviation Week reports that a high-level administration official when asked why the United States did not consider Soviet refire missile capability when calculating the strategic balance noted that "The United States already looks so bad in these calculations, why make it look worse?" With such logic it is no wonder that we are allowing the military balance to degrade as rapidly as it is.

In this regard, the New York Times states that "In a national intelligence estimate prepared by the Central Intelligence Agency early this year, it was estimated that Moscow could surpass the United States in nearly every measure of nuclear capability by 1985." ●

AN OFFICE OF STRATEGIC TRADE

● Mr. GARN. Mr. President, for a long time now, I have been concerned with the many problems that exist in our Nation's export policy and the administration of that policy. This past week, hearings were held on legislation I recently introduced—S. 2606—that would create an independent Office of Strategic Trade. As part of those hearings I had hoped for the testimony of Dr. Anatoly Fedoseyev, formerly a top Soviet scientist who defected to the West. Unfortunately, the committee was not able to benefit from his vast knowledge and understanding of how the Soviet Union has legally acquired and used American technology to aid their military.

So that my colleagues may be made more aware of the seriousness of the problem that exists with regard to technology transfer to the Soviet Union, I wish to place in the RECORD a statement by Dr. Fedoseyev along with a short biography outlining his experience and qualifications.

In his statement Dr. Fedoseyev asserts:

> It is absolutely impossible to struggle with such a system of technology transfer by means of the decentralized system of responsibility and lines of decision-making existing in the United States. A central organization in the United States would be required.

Mr. President, my legislation, if adopted, would do just that. S. 2606 would remove the heart of the problem in our national security export control system—that being the fact that responsibility for regulating strategic trade is dispersed throughout the executive branch.

Although the Commerce Department's Office of Export Administration has primary authority, other agencies, among them the Departments of Defense, State, and Energy, have overlapping and sometimes conflicting responsibilities

I believe the legislation I have introduced will bring order out of the chaos that now characterizes the efforts of the executive branch to protect U.S. interests in matters of strategic trade.

Mr. President, I submit Dr. Fedoseyev's statement and biography to be printed in the RECORD, and urge all of my colleagues to study them carefully and consider the compelling message they offer.

As a final note, let me point out that two important television shows, highlighting the dangers involved with our current export control policy, will be aired on Friday night. October 3, 1980. First, at 6:30 p.m. WETA will present Ben Wattenberg's "The Wealth Weapon," to be followed by a segment on NBC's "Magazine with David Brinkley," at 10 p.m.

The material referred to is as follows:

DR. ANATOLY P. FEDOSEYEV

Dr. Fedoseyev was born on June 14, 1910 in St. Petersburg (Leningrad), Russia.

Having spent his youth in manual labor, in December, 1931, Dr. Fedoseyev entered the Electrotechnical Institute in Leningrad. After graduation in 1936, he became an engineer at the secret division of the "Svetlana" Plant in Leningrad and was involved in secret military work since that time.

In 1936, Dr. Fedoseyev was married (he has a son and daughter). In 1937, he was promoted to deputy supervisor of the "Svetlana" Plant Laboratories (about 500 workers).

From 1938 until 1940, Dr. Fedoseyev, as supervisor of a group of Soviet engineers, was sent to the United States to study vacuum electronics at the RCA plant in Harrison, New Jersey. A series of technical engineering reports were written and sent back to the Soviet Union.

On his return to "Svetlana", Dr. Fedoseyev was assigned to a secret project involving the powerful transmitting tube for the television transmitter for the future Palace of Soviets in Moscow.

In October, 1941, separated from his family, Dr. Fedoseyev was evacuated to Novosibirsk in Siberia. There he was appointed chief of the transmitting tubes manufacturing department.

In 1943, Dr. Fedoseyev was sent to Fryazino (25 miles from Moscow) to the prewar tube factory, and assigned the task of creating the Research Institute #160 (which is now a huge organization of 15,000 workers). Dr. Fedoseyev was engaged in the research and development of power magnetrons and modulating tubes for radars as an inventor and as the project's chief. Many of his tubes are still working in radars in land, sea, air and are used in particles' accelerators and even in some thermonuclear projects. His tubes are also working in the antiballistic missile ring around Moscow.

Dr. Fedoseyev was the author of many most secret engineering reports and was awarded a very high salary by a special decision of the Council of Ministers of the USSR. In addition, Dr. Fedoseyev was awarded the medals of Lenin's Order and the Order of Labor of Red Banner.

In 1949, Dr. Fedoseyev received a degree of "candidate of sciences" (pre-doctoral), and in 1952, was elevated to the title of "senior scientific worker." He received his "doctorate of sciences" in 1959.

In 1960, Dr. Fedoseyev was awarded the Lenin's Prize and the Gold Medal for his inventions. He has 16 certificates of invention.

Dr. Fedoseyev became a member of Scientific Councils in several Research and Teaching Institutes, including his own and a member of an Experts Committee at the VAC (Supreme Attestation Commission). In 1970 he was awarded a title of Honorary Worker on Science and Technology. In April 1971, he was awarded the Gold Medal of Hero of Socialist Labor and a second Medal of Lenin's Order.

In May 1971, Dr. Fedoseyev attended the Aviation Exhibition at Le Bourget, Paris and decided to remain in the West. Dr. Fedoseyev now resides in England.

Since 1971, Dr. Fedoseyev has published more than 50 articles criticizing socialism and suggesting alternatives. In 1976, his book, "The Trap" (of socialism) was published in Russian. His new book, "On New Russian, An Alternative" has just been released in 1980.

STATEMENT OF DR. ANATOLY P. FEDOSEYEV

The experience of my life in the U.S.S.R. and my participation in the affairs and development of military technologies gradually led me to the conclusion that the Soviet Union jointly with other Socialist countries present a great danger to humanity—a much more grave danger than any experienced by mankind in its history, starting from the pre-historic times.

I had only two choices; either to be executed or to defect from my country. The second choice was much more acceptable both for me and for my family.

In fact, I can not blame in any way the Soviet State, in as much as my career was very succesful. Just two months before my defection, I received the highest decoration in the U.S.S.R.—the title of "Hero of the Socialist Labor," Gold Star and my second Order of Lenin.

I will start now with the explanation of the ways used by the U.S.S.R. to obtain information and samples of military technology from the United States. I was observing this process during the 36 years of my career in the Soviet Union. The collection of information starts with the analysis of rumors and implications appearing in the press, radio and television in the United States, and generally in the West.

If the analysis of these rumors, for instance, proves to be of substance and leads to something important and useful for the Soviet Union, then the exploration of the entire research and technological base for the new weapon or military equipment—the source of this rumor—is launched.

It is determined which firms are contractors and subcontractors, and which firm is the main one. Further, it is defined what technological equipment is necessary for the manufacture of this new kind of weaponry and where it is produced.

During this phase of the operation, the Soviet agencies of the diplomatic and foreign trade services are fully used by means of visits, trade and technical exchange programs with the U.S. firms involved, and the appropriation of catalogues, descriptions, specifications and technical reports. All these efforts permit the acquisition of a rather accurate picture of the subject under consideration without contacting the "main" firm.

A final decision concerning the significance of the subject under study is made in the U.S.S.R. in the specialized research institutes existing for that purpose.

Next, strictly "technical" (intelligence) methods are used: such as, stealing, illegal purchase of samples, etc.

In the final outcome, this new subject of military interest is fully researched and, if necessary, reproduced as a copy or modified to comply with production methods in the U.S.S.R.

I dealt very often with American blueprints, and technical reports, marked "confidential" or "secret" or even "top secret". Just as often I participated in research and analysis of samples of the U.S. technology, either purchased or stolen.

Already in 1938–1940, as Deputy Chairman of the Commission of the Main Administration of the Low Current Electrical Industry of the U.S.S.R., I was participating in a program of technical assistance to the U.S.S.R. from RCA. The agreement of assistance with this firm was used by the Soviet Union for the penetration of many other U.S. firms in order to obtain detailed data about the composition, operations, equipment, and technology of the electronic industry in the United States in general. This penetration was accomplished further by the purchasing of samples and small orders of equipment and parts, and, in some cases, of the entire plants from RCA and other firms.

Our detailed knowledge of the U.S. electronic industry very often surpassed that of the American engineers and administrators. This activity was extended into the U.S.S.R. by reprinting all useful technical publications of the U.S.A. and the West, and by the highly professional technical information service in our industrial and academic institutes. Without question, our knowledge of the entire technical field in the United States was far exceeding such knowledge of the same field in the U.S.S.R. itself.

This has been always a good security measure, since the Soviet scientific visitors abroad could not disclose to a meaningful degree any secrets about the new Soviet military technology.

The highly organized and greatly centralized military-technical machinery of the U.S.S.R. is outstandingly effective in obtaining new U.S. and Western technology and in preventing the reverse process. Many times, advanced technology was requested for research, and it was provided.

It is absolutely impossible to struggle with such a system of technology transfer by means of the decentralized system of responsibility and lines of decision-making existing in the United States. A central organization in the United States would be required. Even so, a complete prevention of these transfers from the United States and the West into the military establishment of the U.S.S.R. is practically impossible.

The realistic consideration could only be to substantially reduce the volume of these voluntary and involuntary transfers of technology.

In a short statement such as this, it is impossible to describe all sides of this complex issue.

It should also be considered, that there is practically no strictly and purely "civilian" industry in the U.S.S.R. The entire country in one manner or another, serves the military establishment and purpose. In consequence, very often, innocent-looking research institutes—as for example, the Institute of Agricultural Machinery—are in reality military institutes, and the representatives and visitors in the United States from such institutes are nothing but representatives of the Soviet military establishment.●

RECESS UNTIL 1:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand recessed until 1:30 a.m.

There being no objection, the Senate, at 1:11 a.m., recessed until 1:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

ORDER FOR RECESS TODAY UNTIL 1 P.M. ON WEDNESDAY, OCTOBER 1, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 1 p.m. on Wednesday.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object, Mr. President.

Mr. MELCHER. Mr. President, I object.

Mr. ROBERT C. BYRD. Did the Senator object?

Mr. MELCHER. Yes, Mr. President, I object.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator wants a certain bill called up, may I say that I have always proceeded under the belief that one can achieve more in this body by cooperation than by obstruction. I hope that the Senator will not object. I know what he wants. I am sympathetic with him and I intend to work with him, but I do not think he is proceeding in a way to get his bill called up during this session. So I say most respectfully to him that I hope he will discontinue objecting to the efforts of the majority leader to move the Senate along in an orderly fashion.

I love him, I respect him, but I should like a little courtesy in return. I want to cooperate with the Senator, want to help him when I can, but I suggest that the best way to achieve his goal is not to attempt to obstruct the leadership when it attempts to move the Senate along in orderly fashion.

Mr. MELCHER. May I ask of the leader if he is talking about S. 3072?

Mr. ROBERT C. BYRD. I am talking about the bill that is on the calendar, Mr. President, that the Senator is interested in.

Mr. MELCHER. Calendar No. 1112?

Mr. ROBERT C. BYRD. I am talking about the wilderness bill, the rattlesnake bill. The Senator knows, I hope, that I can move to adjourn to any hour on tomorrow.

Mr. MELCHER. I should like that.

Mr. ROBERT C. BYRD. The Senator would like that?

Mr. MELCHER. I sure would, Mr. President.

Mr. ROBERT C. BYRD. The Senator would like his bill called up, also, at some point, but I must say most respectfully that he is not edging any closer to it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 1 o'clock p.m. on today, Wednesday.

Mr. BAKER. Mr. President, reserving the right to object, I assume by that request that "today" in the first reference means the session we are currently in and "today" in the Wednesday sense means 1 o'clock on this day in the afternoon.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, the House has completed action on the conference report on the continuing resolution. It is expected to be brought into the Chamber momentarily. It is my intention that the Senate proceed to the consideration of that conference report immediately.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING APPROPRIATIONS, 1981—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on House Joint Resolution 610 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report. All those in favor signify by saying "aye."

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. First, I should like to speak a little about the conference report.

Mr. President, we do have a problem in connection with this matter, and it is my feeling that we should proceed to approve the conference report. The conference report is not in dispute. It is the amendments that are in dispute.

Mr. MAGNUSON. There is only one amendment in dispute.

Mr. STEVENS. That is right.

Mr. MAGNUSON. We had 28 amendments, and we have been working all day yesterday and all day today, and we got down to one, last amendment. I do not know why we always have to be plagued with this abortion amendment.

But, Mr. President, I move the Senate concur in the amendments of the House to the amendments of the Senate numbered 4, 13, 24, 25, 28, 30, 35, 36, and 42.

Mr. STEVENS. Mr. President, if the distinguished chairman will permit me, could we approve the conference report first?

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the hour is late. It has been a long day, but it has been a productive one. The Senate cleared nearly 60 measures, and I want to thank my colleagues on both sides of the aisle for their cooperation on these matters. But the most important measure is before us now—the continuing resolution, House Joint Resolution 610, which makes continuing appropriations for fiscal year 1981.

The new fiscal year began a few hours ago. To date, one appropriations bill has been enacted—Energy-Water. We are all familiar with the Attorney General's recent ruling under the Antideficiency Act which prohibits employees of any Federal department or agency from conducting any activities if the relevant department or agency is without an appropriation which has been signed into law. As of midnight, this prohibition went into effect, and virtually all of the Federal Government is affected. Important Federal programs affecting millions of Americans must be terminated as of today if this measure is not approved and signed into law.

I commend the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, for the long hours and hard work he put into the conference meeting. Since 9:30 a.m. Tuesday morning, and with few breaks, he has kept the conferees hard at work on this measure.

I also want to thank Senator YOUNG, the distinguished senior Senator from North Dakota and ranking minority member on the Appropriations Committee. His contributions to the committee's deliberations helped to move the conference along. The rest of the conferees are to be commended as well for the considerable time and attention they gave to this measure throughout the day. Their attention to this important matter was vital to the committee's expeditious action.

The conference committee started its meeting with 48 amendments in disagreement. In the spirit of compromise, with both sides giving and taking, the committee reached a fair and reasonable agreement. There were many difficult issues which had to be decided. In some instances, compromise was not easy.

But a compromise was reached, and it is imperative that the Senate approve this measure and send it to the President for signature. There are numerous important programs contained in this measure. Millions of affected Americans are waiting and watching to see if the Senate acts quickly and responsibly.

This conference agreement provides that the rate of operation for most of the program covered in this resolution will continue to operate at the rate provided for in the House-passed bill or the current rate, whichever is lower. There are several exceptions. The most important is Defense. The Department of Defense will be funded at a rate of $157 billion, which is $20 billion more than the current rate. It is critical that we continue to improve our defense capabilities and strengthen our Armed Forces. I am pleased that the recommendation of the conferees recognizes this need.

There are other important programs included in this measure. The low income energy assistance program is one. The conferees spent a great deal of time on this section of the resolution, working on a compromise which would address the fuel needs of eligible households in both the North and South. The compromise is an equitable one, and will insure that needy citizens hard hit by increasing energy costs will be able to pay their monthly fuel bills.

Other necessary programs include the food stamp program, child nutrition programs, disaster loan programs, the Strategic Petroleum Reserve (SPRO), and many others.

Again, I want to thank the conferees for reaching compromise on the numerous items in disagreement in a timely fashion. With the patience of Job, they conducted their deliberations. With the wisdom of Solomon, they reached a compromise which is reasonable and responsible.

• Mr. BELLMON. Mr. President, this continuing resolution is a very important piece of legislation. It sets Federal spending limits for the first 2½ months of fiscal year 1981. But the effects of this bill will not end abruptly on December 15. The decisions Congress is making on this bill will affect spending during the rest of fiscal year 1981 and indeed even into fiscal year 1982 and later years.

This continuing resolution in reality is an acid test of whether Congress will stay on the spending restraint path to which it has repeatedly committed itself this year. I am pleased to say, Mr. President, that on the whole the conference agreement does preserve for Congress the opportunity to hold fiscal year 1981 spending in appropriation bills that have not yet moved through both Houses reasonably close to our budget targets.

During debates on the regular appropriation bills I have expressed my concern, Mr. President, about the extent to which the appropriation bills on which the Senate has acted have provided for spending exceeding the budget allocations once we take account of probable future requirements. If the eight bills that have either been passed by the Senate or reported by the Appropriations Committee were to become law as they now stand, aggregate spending under these bills, together with foreseeable later funding requirements, would exceed the congressional budget by $2.4 billion in budget authority and $6 billion in outlays.

Unfortunately, the picture does not improve significantly if the appropriation bills are measured against the proposed second budget resolution. Using that yardstick, the eight appropriation bills which have been passed or reported exceed the budget assumptions by $3.8 billion in budget authority and $4.3 billion in outlays when later requirements are taken into account. So, Mr. President, we have not only been exceeding the present congressional budget as we have acted on appropriation bills; we have been assuring that the fiscal year 1981 deficit under the second budget resolution will be even larger than the $17.9 billion deficit under that budget resolution as it now stands. The only ways to avoid this result will be for Congress to reduce the remaining five appropriation bills significantly below their expected levels or, alternatively, for Congress to go through a painful reconciliation process to rescind money previously appropriated.

Mr. President, I ask unanimous consent that a table comparing spending under appropriation bills, as passed or reported, with the approved Congressional budget targets and the ceilings recommended in the pending second budget resolution be inserted in the Record at this point.

Mr. President, I want now to compare the fiscal year 1981 spending rates that will be permitted by the continuing resolution with the allocations under the budget targets Congress set last spring. I ask unanimous consent that a table be inserted in the Record at this point showing preliminary estimates of the spending that would occur if the continuing resolution were to remain in effect throughout fiscal year 1981. I want to caution that the estimates shown in this table are based on the Congressional Budget Office's analysis of the House and Senate versions of the continuing resolution. CBO has not had an opportunity to prepare detailed estimates on the final conference agreement on the continuing resolution. This table also compares the estimated continuing resolution spending levels with the allocations made by the Appropriations Committee under the first budget resolution.

Mr. President, on the surface, it would appear we are being very restrained in the spending this continuing resolution will permit. If the continuing resolution were to remain in effect all year, it would produce fiscal year 1981 spending $22.5 billion in budget authority and $4.8 billion in outlays below the targets set in the congressional budget. But, Mr. President, as is usually the case, a superficial examination of the spending estimates for this resolution is very misleading.

Let me mention a few things that will cause fiscal year 1981 spending to be far higher than the amounts estimated for this continuing resolution:

First, the resolution provides funding for national defense at a much lower level than that to which the Senate is committed. Congressional action on defense appropriations will undoubtedly add at least $5 billion, and more likely about $8 billion, in both budget authority and outlays.

Second, the estimates of spending under this continuing resolution do not include substantial additional amounts that would very likely need to be appropriated later in the year, even if Congress were to decide that the Government should operate under the continuing resolution for the remainder of the year. These nondefense later requirements could amount to about $13 billion in budget authority and $6 billion in outlays.

Finally, the CBO estimates do not take account of increases in spending that may result from economic conditions or faster spend-out rates under various programs.

In short, Mr. President, we ought not to kid ourselves that we are striking a great blow for fiscal restraint when we approve this continuing resolution. It will result in fiscal year 1981 spending considerably above the levels to which Congress committed itself in the first budget resolution. By approving this continuing resolution we are postponing some agonizing decisions we are going to face in November when Congress comes back to work on the final congressional budget resolution for fiscal year 1981.

I do want to commend the Senate conferees on this continuing resolution for not putting us into a deeper hole by giving way to higher House numbers in several parts of the continuing resolution. I understand that the aggregate annual spending levels of the House version of the continuing resolution were higher than the Senate numbers by about $8 billion in budget authority and $5 billion in outlays. The Senate conferees have brought back a conference agreement which is very close to the lower Senate numbers.

Mr. President, I have a separate statement on the low-income energy assistance program which was one of the major issues in the conference on the continuing resolution. I ask that my statement on the program be printed in the Record.

The material follows:

COMPARISON OF SENATE APPROPRIATION BILLS WITH BUDGET TARGETS

Subcommittee	1st budget resolution (without reestimates)[1]								2d budget resolution (with reestimates)[2]			
	Senate bill		Later requirements		Possible total		Over/under budget[3]		Possible total		Over/under budget[4]	
	BA	0	BA	0	BA	0	BA	0	BA	0	BA	0
District of Columbia	0.5	0.5			0.5	0.5			0.5	0.5		+0.1
Energy and Water	12.1	12.0	.2	.1	12.3	12.1	+0.2	+0.1	12.3	12.1	+0.4	+.4
HUD-Independent	73.9	50.4	1.7	1.5	75.5	51.9	−.1	+1.7	75.7	52.8	−.5	+.5
Interior	10.6	[5] 10.5	.2	.2	10.8	[5] 10.7	−.7	[5]+1.0	10.8	[5] 11.0	−.2	+.2
Military Construction	5.2	3.9			5.2	3.9		−.1	5.2	4.5		
State/Justice/Commerce	9.1	[6] 10.6	[7] 2.1	[7] 1.5	11.2	12.1	+1.7	+1.8	11.2	12.2	+1.9	+2.0
Transportation	11.9	18.8	.5	.6	12.5	19.5	+.4	+.7	12.5	19.6	+2.0	+.9
Treasury/Postal	9.1	8.9	.7	.7	9.8	9.6	+.3	+.2	9.8	9.6	+.2	+.2
Reduction required to reflect overallocation to subcommittees[8]							+.6	+.6				
Total	132.4	115.6	5.4	4.6	137.8	120.3	+2.4	+6.0	138.0	122.3	+3.8	+4.3

[1] Bills are priced based on economic assumptions of 1st budget resolution for fiscal year 1981 and Congressional Budget Office (CBO) cost estimates prepared in March 1980.

[2] Bills are priced based on economic assumptions of proposed 2d budget resolution and CBO cost estimates prepared in July 1980.

[3] Based on allocations to subcommittees by the full Appropriations Committee under 1st budget resolution.

[4] Estimated allocations to subcommittees under 2d budget resolution.

[5] Includes $1,000,000 in increased outlays for strategic petroleum reserve from mandate in Energy Security Act.

[6] Includes higher than expected outlays from prior year budget authority for disaster assistance, a significant part which were originally expected to occur in fiscal year 1980.

[7] Includes $1,800,000 in budget authority and $1,600,000 in outlays for additional SBA disaster loans related to the summer drought.

[8] Overallocations result because the Appropriations Committee did not reduce subcommittee allocations to reflect anticipated reconciliation savings.

COMPARISON OF SPENDING UNDER CONTINUING RESOLUTION (H.J. RES. 610) WITH 1ST BUDGET RESOLUTION ALLOCATION

Subcommittee	(1) 1st budget resolution[1]		(2) Continuing resolution		(3) Later requirements		(4) Total possible[2]		(5) Over/under budget[3]	
	BA	0	BA	0	BA	0	BA	0	BA	0
Agriculture	24.3	19.5	23.1	19.5	1.2		24.3	19.5		
Defense	161.9	146.8	157.3	142.4	4.6	4.4	161.9	146.8		
District of Columbia	.5	.5	.5	.5			.5	.5		
Energy and Water	12.1	12.0	12.1	12.0	.2	0.1	12.3	12.1	+.2	+0.1
Foreign Assistance	13.5	7.8	9.0	7.9	4.5		13.5	7.9		+.1
HUD-Independent	75.6	50.2	68.6	49.9		1.0	75.6	51.9		+1.7
Interior	11.5	9.7	10.7	9.4	.8	1.3	11.5	10.7		+1.0
Labor/HHS	85.5	87.8	83.7	88.6	1.8	.4	85.8	89.0		+1.2
Legislative Branch	1.2	1.2	1.2	1.2			1.2	1.2		
Mil-Con	5.2	4.0	4.5	3.9	.7	.1	5.2	4.0		
State/Justice/Commerce	9.5	10.3	8.6	10.3	2.6	1.8	11.2	12.1	+1.7	+1.8
Transportation	12.1	18.8	11.7	18.8	.4		12.1	18.8		
Treasury/Postal	9.5	9.4	8.9	8.8	.9	.8	9.8	9.6	+.3	+.2
Total	422.4	378.0	399.9	373.2	+17.7	+9.9	424.6	384.1	+2.2	+6.1
Deduct reconciliation	−2.3	−2.5	−2.3	−2.5			−2.3	−2.5		
Total	420.1	375.5	397.6	370.7			422.3	381.6		

[1] Allocations by Senate Appropriations Committee under sec. 302(b) of the Budget Act.

[2] Col. (2) plus col. (3).

[3] Col. (1) minus col. (4).

FUNDING FOR THE LOW-INCOME ENERGY ASSISTANCE PROGRAM

● **Mr. BELLMON.** Mr. President, having finished the conference with the House on the continuing appropriations for fiscal year 1981, I would like to comment on one of the programs discussed at considerable length during the conference—the low-income energy assistance program.

The conference agreement provides for a spending rate $1.85 billion for fiscal year 1981 for the low-income energy assistance program, an increase of about 16 percent over fiscal year 1980. The conference agreement provides for an amount of $180 million less for this program, however, than the Senate bill proposed.

Between now and the time the regular Labor/Health and Human Services appropriation bill is considered, I hope there will be a serious examination of where we are headed with the low-income energy assistance program. I am concerned that the seeds have been planted for this program to become a multibillion dollar expansion of welfare spending. This program provides benefits to millions who have never been eligible for cash assistance before. It was sold originally as a temporary program to help people with limited resources absorb the shock of rapidly rising heating and utility costs. It seems well on the way to becoming a large, permanent program on which millions of people will become dependent.

I agree with the original objectives of the low-income energy assistance program. I think it is important that government help those who are least able to meet their home energy costs get through the period of adjustment to higher costs. I am also pleased that the States will have increased flexibility this year to tailor their energy assistance plans to best meet the needs of the residents of their States. I believe this will make the program more effective and efficient than last year's.

I do believe, however, we should begin working now to phase this program out in the foreseeable future. If we need an emergency response program for isolated hardships, we can provide for it at a much lower cost. If we need to change other income support programs to more adequately meet needs, we can do that too. But we should not allow the low-income energy assistance program to grow like topsy into a major permanent expansion of our welfare system.

In both fiscal year 1978 and fiscal year 1979, outlays for low-income energy assistance were $200 million. In fiscal year 1980, the costs were $1.6 billion. This resolution provides for a $1.85 billion spending rate in fiscal year 1981. Many are advocating a considerably higher level. The upward spiral in costs has begun.

Under the terms of this resolution every State will receive at least as much money for energy assistance as it received in fiscal year 1980. Many States will receive substantial increases. So even if we add no money later in the year, no State can claim to be hurt by this resolution. Moreover, since there is no matching requirement for these Federal funds, States are free to use their own resources to augment the Federal funds.

The General Accounting Office is currently evaluating the low-income energy assistance program and will be finished with its report sometime in the spring. This GAO study is the first indepth examination of the program since it started. We do not yet know how efficiently and effectively it is working, or what the appropriate funding level should be. I believe it would be most appropriate to see the results of the GAO study before committing ourselves to further increases.

We have had reports from Oklahoma that people who received aid under last year's program are calling State and local agencies and asking if they can get some money again this year. It is clear that we have already created a set of rising expectations with this program. With eligibility having been expanded through new legislation under the windfall profits tax, new demands and pressures are brought to bear to raise the funding level each year.

The "more money" psychology is already at work on this program, and I think we need to step back and question the wisdom of providing more and more assistance to an expanding recipient population. For if the spending increases of 15.6 percent provided in this resolution continue, it will only take a few years before the low-income energy assistance program becomes as large as the AFDC or food stamp programs. This program, like most others, is based on good intentions, high goals, and altruistic motivations, but it also carries the risk of ever-increasing outlays.●

Mr. MATSUNAGA. Will the Senator yield for a question?

Mr. MAGNUSON. I yield.

Mr. MATSUNAGA. It is my understanding that under the authority of this continuing resolution, the Department of Education may continue to fund the U.S. Commission on Proposals for the National Academy of Peace and Conflict resolution. Is that correct?

Mr. MAGNUSON. That is correct. The Peace Academy Commission is one of the programs of the Department of Education which will be continued by this resolution.

Mr. BAKER. Mr. President, I announce to the majority leader that I have no request on this side that I am aware of for a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask for the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ", except section 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office; and the provisions of section 306 of H.R. 7593 shall apply to any appropriation, fund or authority made available for the period October 1, 1980, through December 15, 1980, by this or any other Act".

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 4.

UP AMENDMENT NO. 1711

Mr. STEVENS. Mr. President, I ask that that amendment be modified and that the Senate concur in amendment No. 4 with an amendment, and I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1711:

At the end of the amendment add the following:

Notwithstanding any other provision of this joint resolution except section 102, and notwithstanding section 110 of this joint resolution, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly within forty-eight hours after the pregnancy has been confirmed to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregancy: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Mr. STEVENS. Mr. President, I point out this is the Hyde language plus the Bauman language. It is, in effect, the amendment that was offered by the distinguished Senator from Nebraska and others and adds to that after deleting the word "promptly" the words "within 48 hours after the pregnancy has been confirmed."

The House insisted on changing that language so that it provided for the report of rape or incest within 48 hours.

Under existing law, the word "promptly" has been defined by regulation to mean 60 days.

In the colloquy that took place here in the Senate at the time that passed we said it could mean 60 to 90 days, and those who drafted the regulations took 60 days.

The impact of this will be to cut that time in half and make it 30 days, so it is a considerable concession to the House of Representatives in an attempt to work this matter out.

We have, as the distinguished chairman knows, in the past 11 years voted some 90-odd times on this issue and each time we try to work something out with the other body it comes back changed again.

The last time we worked on it we thought we had an absolute agreement on what the language would be and the matter was changed at that time.

Now we are dealing with deletions from the Hyde language as that language was upheld by the Supreme Court.

I for one think that it is time for us to make certain that we get final language and stay with it. No one has fought harder than the distinguished chairman to try and eliminate all of this matter from the appropriations bills and particularly continuing resolutions, but I am hopeful that this amendment will be agreed to by the Senate and that this will go back to the House of Representatives.

They are still in session awaiting the action of the Senate. They knew we would do something to this amendment, and this would be, as I said, a substantial concession beyond the concession that was made by the Senate in agreeing to the amendment offered by the Senator from Nebraska.

So I am hopeful it will be supported.

Mr. MAGNUSON. Mr. President, I have no objection to the amendment.

We have spent days downstairs ironing out all of the difficulties and the confrontations involved in the continuing resolution.

This is an amendment to the Exon amendment. All these amendments do not belong on the continuing resolution at all, but they are there.

I was hopeful that we would agree to the continuing resolution because it is now 10 minutes after 2 and the Government stopped working at midnight technically.

I am willing to give it another try because I favor the essence of the amendment, but I hope that the House of Representatives will act promptly and we will get a continuing resolution back either yes or no and get this matter settled sooner or later.

Mr. WEICKER. Mr. President, I rise to support the amendment.

First of all, I say to the distinguished chairman of the committee, Senator MAGNUSON, that he did everything conceivable to arrive at an accommodation of views during the course of the conference. But I think what should be pointed out is that the essence of the accommodation took place here in the Senate Chamber when we passed the bill out of the Senate, in essence taking the amendment of the distinguished Senator from Nebraska.

Mr. MAGNUSON. We walked the last mile on this thing.

Mr. WEICKER. We did.

Mr. MAGNUSON. And we went overboard to try to accommodate the House of Representatives, but they were steadfast and we just could not move them, and in order to get a continuing resolution passed I reluctantly agreed to the conference report as is now written.

(Mr. NUNN assumed the chair.)

Mr. MAGNUSON. This is not the only thing that is involved in this. It is a question of the involvement of the Pentagon, it is a question of, well, as pointed out in the debate, ships in the Persian Gulf and every place else.

We just did everything we could, and we finally got an agreement except on this abortion.

I point out again we have voted on this thing. I said in the course of the debate on the Exon amendment, 91 times, I think. This is the 92d time we are voting on it.

It does not belong on this continuing resolution at all. It does not belong in the regular bill, this legislation. I do not know why the legislative committees do not as a matter of policy decide this abortion thing once and for all, but they do not want to act, and everything piles up on the Appropriations Committees.

We broke the ice. We put a lot of legislation on this continuing resolution, so I think this is as legitimate an excuse as any to put this in the appropriations legislation.

Mr. WEICKER. Let me just, if I can, recount briefly in a matter of 2 minutes exactly what happened. The bill came over here to the Senate. It excluded rape and incest. I proposed language which was to continue the present law, which was the Hyde language, which I have found consistently to be abhorrent, but I supported it and offered that as a substitute, and also eliminating the Bauman amendment and the Ashbrook amendment.

If you will recall, in an effort to table my language that lost, whereupon the distinguished Senator from Nebraska, in conjunction with the distinguished Senator from North Carolina, offered language which, in effect, put the Bauman language back in, but left rape and incest, left the present law as a part of the language.

What we tried to do, in other words, was to accommodate the situation here on the Senate floor, taking the Hyde language in toto and adding the new Bauman language from the House.

When we walked into the conference downstairs our friends from the House said, "We still have got to have something more to go back with, even though you have given us the Bauman language."

So, in essence, what they tried to do was to take the section on rape and incest and make it meaningless.

Gentlemen and lady, I propose that certainly here we are right at the 1-foot line on some rather basic concepts and some basic rights. In 48 hours somebody is supposed to report rape or incest. With the trauma and the shock associated with that in 48 hours, that must be done or you give up your right. So really you have at issue two situations here: First, the substance of the matter. I cannot believe that anyone of my colleagues feels that a woman should bear a child to term which has been conceived under circumstances of rape or incest. I cannot conceive of that by anybody's logic or philosophy.

Second, just as important, is the process. Where indeed there was an accommodation on the floor, I do not assume, when I am talking to JESSE HELMS, the Senator from North Carolina, or the Senator from Nebraska that I am talking in a vacuum. I assume there is some meeting of the minds on the other side of this issue of those who have been involved in the issue, be it in the House or be it in the Senate. But the accommodation process has to stop somewhere along the line.

I hope in this instance the Senate will recognize how far it has gone in order that this will not stop the wheels of Government, in order that all points of view can be accommodated, albeit in a manner that most of us would disagree with, as being legislation on this continuing resolution.

So then I also say I hope it will go back to the other body as a matter of procedure, because what we are not going to have is a compromise on top of a compromise. There is no Senate language. It is all House language. It is the Hyde language plus Bauman, and now we have to have additional House language.

So as to the integrity of this body and the Appropriations Committee, as a matter of procedure I hope that this body will send the matter back to the House in the terms of what has been spoken for here which, at least under the rape and incest 48 hours confirmation of pregnancy, halves the period established as defining "prompt" of 60 days to some 30, 31, 32 days.

Mr. STEVENS. Mr. President, I hope the amendment will be agreed to. There are other items in this agreement, and we could agree to those very quickly if this matter is agreed to.

Let me point out to the Senate that, unfortunately, because of the problem of getting this matter approved—it did not come back to us until after midnight—notwithstanding the provisions of the bill which attempted to deny the pay raise to members of the judiciary once again, the judiciary—I am sure our colleague who was a former member of that other branch might concur with this—unfortunately the members of the judiciary will get the full pay raise while the rest of the Government will not because of the delay past midnight tonight.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HELMS. Mr. President. I wonder if I might ask the distinguished Senator from Connecticut or the distinguished Senator from Washington a question. Was this proposed amendment rejected by the conference?

Mr. WEICKER. The answer to the Senator from North Carolina is "Yes." it was rejected on the Senate side by a vote of 6 to 5. Many were not there, plus at that time the chairman was trying to accommodate and. as I have indicated, he would have liked to try once more the substance of this amendment procedurally. It was never presented to the House, and at this time I would say the feeling of the chairman is to go ahead and try it under circumstances where there will be a full vote both in this body and in the House.

Mr. HELMS. The second question: Does either Senator have the faintest idea that this will be acceptable to the House?

Mr. WEICKER. No; the answer is I do not have the faintest idea as to whether it will be acceptable.

Mr. HELMS. I did not say as to whether but that it will be acceptable.

Mr. WEICKER. I cannot say the House will accept it. Neither can I say the House will reject it.

Mr. HELMS. So what we are doing is prolonging the agony here at 2:19 in the morning.

Mr. President, this amendment just reverses the field. There are a multitude of questions that could be raised. For example, when we talk about within 48 hours after the pregnancy has been confirmed, by whom?

I hear no response, Mr. President. I do not propose to consume the Senate's time. I think we ought to get this measure over and done with so that we will not, as the distinguished chairman of the committee has often said, stop the wheels of Government when all the Senators——

Mr. STEVENS. Mr. President, will the Senator yield. I would be pleased to add to that language the language that used to be in the bill before "by two physicians."

Mr. WEICKER. It is already here. We have changed that "promptly reported" to "a law enforcement agency or public health service." The word "promptly" was eliminated.

Mr. HELMS. Perhaps I was given a defective copy of the amendment, but it does not read that way at all.

Mr. STEVENS. I said we would be pleased to put that language back in. I have before me some 33 versions of this abortion type language on appropriation bills, many of which did contain the reference to two physicians, and it was taken out by the Members of the House previously. If you want to put it back in, I would be most happy to do that.

Mr. HELMS. No; I want to close this bill out and go home.

This is just a delaying tactic. There is not a Senator on this floor who has the foggiest notion that the House of Representatives is going to accept this amendment.

Mr. STEVENS. They accepted it 33 times before in a version that was much less restrictive than that.

Mr. HELMS. Mr. President, will the Senator tell me what the vote was in the House of Representatives earlier this evening?

Mr. STEVENS. There was a voice vote on that amendment in disagreement.

Mr. HELMS. That is right. The House is sticking by its language.

Mr. STEVENS. The whole amendment in the bill is the House language, as the Senator from Connecticut pointed out.

Mr. HELMS. That is correct. It is 292 to 100.

Mr. STEVENS. That is the whole conference report.

Mr. HELMS. I understand. Mr. President, I think all Senators want to go home and we can close this shop down. But I do not want to cut off any Senator.

As soon as Senators are finished, I am going to move to table this amendment, because it is nothing but a delaying tactic and nothing more can be said about it.

Mr. WEICKER. Mr. President, I am satisfied to have a vote immediately on this. I do not want to delay anybody now.

But let me point out, when the Senator says that this is a delaying tactic, the Senator from North Carolina knows that every advance in the cause of the philosophy on this matter that he espouses has been achieved under the sword of either everybody getting out of here or, two, bringing the Government to a grinding halt.

I admire the Senator from North Carolina and his cohorts on this matter for being willing to withstand the inconveniences of personal and political comfort and, therefore, bluffing out the rest of the body. But what some of us are saying here today is that, no, we are going to stay around. My calendar is clear and the calendar of others is clear.

So if the issue is going to be decided, let it be decided on the merits of the issue and not the convenience of the Members or the fact that, yes, there is going to be some discomfort in the sense of what happens to the Government if the appropriations bill or the continuing resolution is not passed on time.

This is not a delaying tactic in any sense of the word. If the Senator wants to delay, we could have been out here filibustering—a tactic with which the distinguished Senator from North Carolina is not unfamiliar—the conference report, which we are not going to do. We want this to be decided on the merits.

I think that we should let the whole body go ahead and have its say on that matter. So I am perfectly satisfied, if the Senator has a motion to be made, for him to go ahead and make it.

Mr. SCHWEIKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I will be very brief. I know the hour is late. I just want to make sure we do understand what did happen in our conference.

In essence, the vote here is whether or not to accept the conference report which comes up through this amendment. But we did agree to the conference report without this amendment in it. The vote was, on the Senate side, 6 to 5. The Senate conferees signed the conference report without the language of the Senator from Connecticut in it. The House Members signed the conference report. The House then took the conference report back.

Abortion was the only basic issue in the conference report. The House voted 292 to 100 on this very issue. So I think we should not delude ourselves as to what happened when we send it back. The House has told us in the conference that they could not accept this language that my distinguished friend has offered. They showed that again with a 292 to 100 vote.

In essence, you are voting down the conference report after we signed it and we agreed to it.

I certainly respect the rights of the Senators who have spoken earlier. But they were on the other side of the vote. We in good faith, the Senate conferees and the House conferees, signed the conference report. This vote here that the Senator from Connecticut has proposed is to reverse the conference report and to, in essence, vote it down.

I think one of the more stirring pleas at the conference was made by Congressman YATES of Illinois, who happens to be on their side of the issue. Congressman YATES said, in essence, that he has voted with them right down the line on the freedom of choice side, but he felt that that was as far as the House was going to go and he got them to come in with this language which was accepted in the conference report. Congressman YATES made a personal plea that, even though he was on the freedom of choice side, this was the only possible way out of the impasse. He implored the Senate conferees to accept this position which we are now at the point of rejecting. This comes not from someone who comes from the prolife side, but someone who has voted consistently from the freedom of choice side. He felt very strongly in conference that this was the only way out of the present impasse.

I just think at this hour we should all be aware of this. The Senate conferees did vote 6 to 5 for the compromise abortion language in the conference report. We signed the conference report as the Senate conferees. The House signed the conference report as the House conferees. Congressman YATES made a personal appeal, even though he was a freedom of choice supporter, as the only way out of the impasse.

So I do not think we should blindly vote the conference report down, as this motion of the Senator from Connecticut would do, and think everything is going to end up hunky-dory and we are going to have a very easy time resolving it. It will be quite difficult. We will have a very serious impasse and Government is going to come to some kind of a halt while somebody sees who blinks first. So just be aware of what we are doing.

SEVERAL SENATORS. Vote!

Mr. HELMS. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announced that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE) and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 28, nays 38, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—28

Armstrong
Boren
Boschwitz
Church
Danforth
Domenici
Eagleton
Exon
Ford
Garn
Hatfield
Heflin
Helms
Huddleston
Humphrey
Jepsen
Long
McClure
Melcher
Proxmire
Randolph
Roth
Sasser
Schweiker
Simpson
Thurmond
Wallop
Zorinsky

NAYS—38

Baker
Baucus
Bellmon
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Glenn
Hart
Hayakawa
Heinz
Inouye
Jackson
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Pell
Pryor
Riegle
Sarbanes
Schmitt
Stevens
Tower
Tsongas
Warner
Weicker
Williams

NOT VOTING—34

Bayh
Bentsen
Biden
Byrd,
  Harry F., Jr.
Cochran
Culver
DeConcini
Dole
Durenberger
Durkin
Goldwater
Gravel
Hatch
Hollings
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Lugar
McGovern
Moynihan
Nelson
Percy
Pressler
Ribicoff
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Young

So the motion to lay on the table Mr. STEVENS' amendment (UP No. 1711) was rejected.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I wonder if the distinguished Senator from Washington, the distinguished Senator from Alaska, and the distinguished Senator from Connecticut would be interested in modifying their amendment, beginning on line 13, I believe it is—it is difficult to tell. The line beginning "For the victims of rape or incest, when such rape," striking the words "or incest," continuing "has been reported within 72 hours" and striking the words "after the pregnancy has been confirmed."

That makes it read "for the victims of rape or incest, when such rape has been reported within 72 hours to a law enforcement agency or public health service," and so on.

Mr. STEVENS. Mr. President, to clarify the matter, that would mean that in the event of incest, the matter would not have to be reported to a law enforcement agency; but with regard to rape, the matter would have to be reported within 72 hours of the event, the rape?

Mr. HELMS. That is correct.

Mr. STEVENS. I ask my friends from Washington and Connecticut, I am prepared to modify the amendment in that fashion, if they agree.

Mr. WEICKER. Mr. President, I support the modification because, for the first time, it sets matters in another direction, in the sense that it removes incest from the reporting requirement. I am not satisfied—I still have the same arguments against 72 hours, but at least, it shows a willingness, I think, for this House to assert itself in the terms of forming the substance of legislation around here, without having it rammed down our throats by the House.

In that sense, I think it is worthy of our support.

Mr. STEVENS. If the Senator from Washington will allow me, I shall modify that amendment accordingly, if he agrees.

Mr. MAGNUSON. All right, yes, Mr. President.

Mr. STEVENS. Mr. President, I so modify it.

The amendment was modified.

The amendment, as modified, is as follows:

At the end of the amendment add the following:

Notwithstanding any other provision of this joint resolution except section 102, and notwithstanding section 110 of this joint resolution, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: Provided, however, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Mr. STEVENS. Mr. President, I think we are prepared to have a voice vote on the amendment.

Mr. MAGNUSON. All right.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska, as modified.

The amendment (UP No. 1711), as modified, was agreed to.

Mr. MAGNUSON. Mr. President, I now move that the Senate concur in the amendments of the House to the amendments of the Senate—No. 4 we have just disposed of—numbered 13, 24, 25, 28, 30, 35, 36, and 42.

The PRESIDING OFFICER. Is there objection to dealing with these en bloc, except for amendment No. 4, which has already been agreed to?

Without objection, it is so ordered.

Without objection, the motion is agreed to.

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered thirteen to the aforesaid resolution, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000; and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered twenty-four to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert:

SEC. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported within forty-eight hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implanation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided*, however, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 111. Such amounts as may be necessary for projects or activities provided for in the Military Construction Appropriation Act, 1981 (H.R. 7592), at a rate of operations and to the extent and in the manner provided for in the conference report (H. Rept. No. 96–1433) filed in the House of Representatives on September 29, 1980, notwithstanding section 102(c) of this joint resolution.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 113. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 114. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment becomes effective, rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 75 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 96–74; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 118. Nothwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within 6 months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. If the President decides to conduct a special census, it may be conducted solely at Federal expense.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 119. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which shall be coordinated with the General Services Administration and the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 121. Notwithstanding any other provision of this joint resolution, for the purposes of Public Law 96–304 and Public Law 96–126 relating only to cooperative agreements and feasibility studies, the term "alternative fuels" as defined in Public Law 96–126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production: *Provided,* That obligations for energy feasibility studies and cooperative agreements for direct combustion, except for direct combustion of urban waste, shall not exceed $30,000,000, to be derived from the $300,000,000 appropriated for energy feasibility studies and cooperative agreements in Public Law 96–304: *Provided further,* That funding made available in the Energy Security Reserve account in Public Law 96–304 shall not exceed $17,522,000,000 when used for the purposes authorized under Title I of the Energy Security Act (Public Law 96–294) and shall not exceed $1,270,000,000 when used for the purposes authorized under Title II of such Act: *Provided further,* That funds obligated for biomass energy feasibility studies and cooperative agreements under the Alternative Fuels Production account in Public Law 96–304 shall apply to the Title II limitation, and all other funds obligated for such studies and agreements shall apply to the Title I limitation: *Provided further,* that of the $1,500,000,000 made available for "alternative fuels production" in Public Law 96–126 for purchase commitments and price guarantees, up to $500,000,000 shall be available instead to supplement the default reserve for loan guarantees established by such law: *Provided further,* That the indebtedness guaranteed or committed to be guaranteed under the supplemented reserve shall not exceed the aggregate of up to $3,000,000,000.

Mr. MAGNUSON. That wraps this up.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I personally thank the Senator from Washington, our distinguished chairman, the majority leader, the minority leader, Senator MAGNUSON and Senator HELMS, for their patience.

I hope the House will recognize that this is a legitimate attempt once again to resolve the issue.

I do not think, Mr. President, we have lost any time. We are into this day anyway, and the bill would have to be enrolled and sent to the President. It will still get to the President today. There has been no loss of time.

I am grateful to the Senator.

Mr. MAGNUSON. Mr. President, the House has gone out, everybody should know that. What time they will meet tomorrow morning, I do not know. I have not heard.

But the bill goes back now to the House.

What is the pleasure of the majority and minority leaders as to when we meet again?

Mr. ROBERT C. BYRD. Mr. President, in response to the distinguished Senator, it is now 7 minutes until 3 o'clock in the morning, Wednesday. The Senate will come in at 1 o'clock in the afternoon on Wednesday, today. There will be rollcall votes, I would anticipate, this afternoon.

RECESS TO 1 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order, that the Senate stand in recess until 1 p.m. today.

The motion was agreed to; and at 2:52 a.m., the Senate recessed until today, Wednesday, October 1, 1980, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 1980:

NATIONAL RAILROAD PASSENGER CORPORATION

Charles Luna, of Texas, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term expiring July 18, 1984 (reappointment).

MISSISSIPPI RIVER COMMISSION

Brig. Gen. Hugh Granville Robinson, [redacted] U.S. Army, to be a Member of the Mississippi River Commission, under the provisions of section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642).

IN THE NAVY

James D. Cotelingam, U.S. Naval Reserve officer, to be appointed a permanent lieutenant commander in the Medical Corps of the U.S. Navy, subject to qualification therefor as provided by law.

Lt. Commander William D. Kahl, U.S. Navy, retired, to be reappointed a temporary lieutenant commander, limited duty, from the Temporary Disability Retired list, subject to qualification therefor as provided by law.

The following-named ex-U.S. Navy officers to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Matthew J. Cerny, Jr.
William R. Rundles.

Douglas E. Cameron, ex-U.S. Naval Reserve officer, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named civilian college graduates to be appointed permanent commander the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Lewis E. Curlee.
LaMoyne W. Hickman.

The following-named civilian college graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Donald S. Chambers
Don L. Gardner
Hope J. Parta
William Weathers, Jr.

The following-named U.S. Navy officers to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Forrest O. Beaty.
Russell C. Packard.
Gerald R. Fabry.

Luis G. Estrera, Jr., civilian college graduate, to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

ENVIRONMENTAL PROTECTION AGENCY

Jeffrey G. Miller, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency, vice Marvin B. Durning, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

Gardner Patterson, of the District of Columbia, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring June 16, 1981, vice Italo H. Ablondi, resigned.

IN THE NAVY

Rear Adm. Richard A. Miller, U.S. Navy, to be Director of Budget and Reports in the Department of the Navy for a term of 3 years pursuant to title 10, United States Code, section 5064.

NATIONAL TRANSPORTATION SAFETY BOARD

Elwood Thomas Driver, of Virginia, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1985 (reappointment).

WITHDRAWALS

Executive nominations withdrawn from the Senate September 30, 1980:

Robert E. Baldwin, of Wisconsin, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring June 16, 1981, vice Italo H. Ablondi, resigned, which was sent to the Senate on November 30, 1979.

Frank T. Cary, of Connecticut, to be a Member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 6 years, which was sent to the Senate on September 19, 1980.

HOUSE OF REPRESENTATIVES—*Tuesday, September 30, 1980*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, creator of the world and sustainer of life and hope, You have entrusted to humankind the rich and bountiful wealth of our world. Give us wisdom, O God, to use the resources that are in our hand for the nurture and well-being of all. Teach us also to use the potential power of destruction available to us in ways that give the people lasting security and confidence and bring healing among the nations. May we be wise stewards of Your great gifts and worthy of the vocation to which we have been called. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1790) "An act entitled the 'Privacy Protection Act of 1980'."

The message also announced that the Senate agree to the amendment of the House to a bill of the Senate of the following title:

S. 91. An act to amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes.

The message also announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 7666. An act to amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes; and

H.J. Res. 560. Joint resolution to proclaim March 19, 1981, as "National Agriculture Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5048. An act to amend the act entitled "An act to preserve within Manassas National Battlefield Park, Va., the most important historic properties relating to the battle of Manassas, and for other purposes," approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b).

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 924. An act to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho;

S. 2267. An act to amend the Civil Service Reform Act of 1978;

S. 2326. An act to amend section 113 of title 28, United States Code, to place the Federal correctional institution at Butner, N.C., entirely within the eastern district of North Carolina;

S. 2327. An act to authorize the establishment of a Drug Enforcement Administration Senior Executive Service, and for other purposes;

S. 2958. An act to insure the development and implementation of policies and procedures to encourage the Veterans' Administration, the Department of Defense, and other Federal health care providers to cooperate in the efficient and effective use of Federal medical resources, and for other purposes;

S.J. Res. 196. Joint resolution authorizing the President to proclaim March 16, 1981, as "Freedom of Information Day";

S.J. Res. 199. Joint resolution designating the week of September 28–October 4, 1980, as "National High School Activities Week";

S.J. Res. 201. Joint resolution to provide for the designation of a week as "National Lupus Week";

S.J. Res. 207. Joint resolution to authorize and request the President to proclaim November 28, 1980, as "Salvation Day"; and

S. Con. Res. 73. Concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons (1981).

THE TITAN MISSILE EXPLOSION IN ARKANSAS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, this morning I met with the Secretary of Defense, Harold Brown, on the Damascus incident—the Titan missile explosion last week in Arkansas.

The Secretary has agreed to immediately review the presence of nuclear weapons policy. He further agreed that any changes that might be made in that policy could occur in the very near future, within the next several days.

I invited the Secretary of Defense to Arkansas for the purpose of announcing any changes in the presence of nuclear weapons policy.

I recommended that a vigorous public information program be instituted immediately by the Department of Defense to overcome the ill effects of the Damascus incident.

Mr. Speaker, the future of the MX and the ICBM leg of the Triad is dependent upon public acceptance. The action being taken by the Secretary of Defense could remove the cloud that hovers over the Pentagon and negate further public ridicule of the Air Force at a time when a debate looms over the Nation's need to produce and deploy the MX in order to modernize the ICBM force. Indeed, the Damascus incident has focused the spotlight of world attention on the question of American acceptance of the presence of nuclear weapons in the United States.

I will include a copy of the memorandum that I submitted to Dr. Brown during the meeting under special order today.

CONFERENCE REPORT ON H.R. 5612, SMALL BUSINESS ASSISTANCE AND REIMBURSEMENT FOR CERTAIN FEES

Mr. SMITH of Iowa submitted the following conference report and statement on the bill (H.R. 5612) to amend section 8(a) of the Small Business Act:

Conference Report (H. Rept. No. 96–1434)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5612) to amend section 8(a) of the Small Business Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"Part A. Small Business Administration Minority Business Development Program Amendments

Sec. 101. Section 8(a) of the Small Business Act is amended by striking "September 30, 1980" wherever it appears and by substituting in lieu thereof "September 30, 1981".

Sec. 102. Section 202(b) of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958" approved October 24, 1978 (15 U.S.C. 631) is amended by—

(a) redesignating subsection (b) as subsection (b)(1);

(b) striking "June 30, 1980" and inserting in lieu thereof "January 31, 1981"; and

(c) adding at the end thereof a new paragraph as follows:

"(2) The Small Business Administration and the agency designated pursuant to section 8(a)(1)(B) of the Small Business Act shall submit separate quarterly reports to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives. Such reports shall contain a review and evaluation of all activities conducted pursuant to section 8(a)(1)(B) of the Small Business Act during the previous three-month period including—

"(A) the number, dollar value, and description of all contracts awarded or being reserved for award pursuant to such section;

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

"(B) the status of all contracts awarded, including percent of completion and a description of problems incurred in the performance of such contracts;

"(C) the impact, if any, on small business concerns resulting from selection of any contract for award under such section; and

"(D) efforts made by the Administration to identify, match, and negotiate procurement requirements pursuant to such section.

The first such report shall be submitted commencing on January 2, 1981, for the preceding three-month period, and shall continue quarterly through, and include, the quarter ending September 30, 1981. The reports shall not be reviewed by any other agency or office prior to their submission.".

Sec. 103. Section 4(b) of the Small Business Act is amended by striking all after the phrase "Capital Ownership Development" through the period and inserting in lieu thereof "and shall be responsible to the Administrator for the formulation and execution of the policies and programs under sections 7(j) and 8(a) of this Act which provide assistance to minority small business concerns.".

Sec. 104. The second sentence of section 7(j)(10) of the Small Business Act is amended to read as follows:

"The Program, and all other services and activities authorized under sections 7(j) and 8(a) of this Act, shall be managed by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.".

Sec. 105. Section 8(a)(8) of the Small Business Act is amended to read as follows:

"(8) All determinations made pursuant to paragraph (5) with respect to whether a group has been subjected to prejudice or bias shall be made by the Administrator after consultation with the Associate Administrator for Minority Small Business and Capital Ownership Development. All other determinations made pursuant to paragraphs (4), (5), (6), and (7) shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.".

Sec. 106. (a) Section 7(j)(10)(A)(i) of the Small Business Act is amended by striking the semicolon at the end thereof and inserting in lieu thereof "for correcting the impairment of such concern's ability to compete, as determined for such concern pursuant to section 8(a)(6) of this Act, within a fixed period of time as mutually agreed upon by the applicant and the Administrator prior to acceptance in such Program: *Provided*, That not less than one year prior to the expiration of such period, and upon the request of such concern, the Administration shall review such period and may extend such period as necessary and appropriate: *Provided further*, That no determination made under this paragraph shall be considered a denial of total participation for the purposes of section 8(a)(9) of this Act;";

(b) Notwithstanding the provisions of subsection (a) of this section, for concerns eligible to receive contracts pursuant to section 8(a) of the Small Business Act on the effective date of the amendment made by this section, each such concern shall submit to the Small Business Administration within two months after the promulgation of final regulations issued within 120 days after the enactment of this Act the business plan required under section 7(j)(10)(A)(i) of the Small Business Act, as amended by subsection (a) of this section: *Provided however*, That the period of time required under section 7(j)(10)(A)(i) of the Small Business Act, as amended by subsection (a) of this section, shall be fixed as mutually agreed upon by the program participant and the Small Business Administration prior to the awarding or extending of contracts to such concern pursuant to section 8(a) of the Small Business Act after June 1, 1981, but the period shall be fixed in no case later than eighteen months after the effective date of this Act: *Provided further*, That no determination made under this paragraph shall be considered a denial of total participation for the purposes of section 8(a)(9) of the Small Business Act.

Sec. 107. Section 7(j)(10)(C) of the Small Business Act is amended to read as follows:

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless—

"(i) the business plan required pursuant to section 7(j)(10)(A)(i) is approved by the Administration; and

"(ii) the program is able to provide such concern with, but not limited to, such management, technical and financial services as may be necessary to achieve the targets, objectives and goals of such business.".

Sec. 108. The second sentence of section 3(a) of the Small Business Act is amended by striking "business." and inserting in lieu thereof "business: *Provided*, That the Administration shall not promulgate, amend, or rescind any rule regulation with respect to size standards prior to March 31, 1981.".

Part B—Small Business Export Financing

Sec. 110. This part may be cited as the "Small Business Export Expansion Act of 1980".

Sec. 111. (a) The Congress finds and declares that—

(1) a strong export policy is essential to the health and well-being of the United States economy;

(2) exports of goods and services account for one out of every six jobs in the manufacturing sector and 10 per centum of the gross national product;

(3) every billion dollars in new exports is estimated to provide forty thousand jobs;

(4) there is increased and fierce competition in international markets to United States goods and services;

(5) small businesses account for no more than 10 per centum of all United States export sales;

(6) Federal Government programs are not sufficiently responsive to the needs of small business for export education and development of overseas marketing opportunities necessary to insure that small businesses realize their potential; and

(7) it is in the national interest to systematically and consistently promote and encourage small business participation in international markets.

(b) It is therefore the purpose of this part to encourage and promote small business exporting by—

(1) providing educational and marketing assistance to small businesses;

(2) insuring better access to export information and assistance for small businesses by upgrading and expanding the export development programs and services of the Department of Commerce and the Small Business Administration; and

(3) promoting the competitive viability of such firms in export trade and encouraging increased tourism in the United States by creating a program to provide limited financial, technical, and management assistance as may be necessary.

Sec. 112. Section 7(a) of the Small Business Act is amended by inserting before the phrase "The foregoing powers shall be subject, however," the following new sentences: "The Administration is further empowered, only to such extent and in such amounts as are provided in appropriation Acts, to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however*, That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.".

Sec. 113. The Small Business Act is amended by adding after section 21 the following new section:

"Sec. 22. (a) There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section.

"(b) The office shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

"(1) provide small businesses with access to current and complete export information by—

"(A) making available, at the Administration's regional offices through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

"(B) maintaining a current list of financial institutions that finance export operations;

"(C) maintaining a current directory of all Federal, regional, State and private sector programs that provide export information and assistance to small businesses; and

"(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business exporting firms so as to insure that the maximum information is made available to small businesses in a readily usable form;

"(2) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and

"(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each Administration regional office and assigning primary responsibility for export development to one person in each district office. Such specialists shall—

"(A) assist small businesses in obtaining export information and assistance from other Federal departments and agencies;

"(B) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

"(C) encourage financial institutions to develop and expand programs for export financing;

"(D) provide advice to Administration personnel involved in granting loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small businesses engaged in exports; and

"(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine small businesses' needs for export information and assistance.".

(b) The amendment made by subsection

(a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

TITLE II—EQUAL ACCESS TO JUSTICE ACT

SEC. 201. This title may be cited as the "Equal Access to Justice Act".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the United States the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this title—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

SEC. 203. (a) (1) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) (1) An agency that conducts an adversary adjudication shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency as a party to the proceeding was substantially justified or that special circumstances make an award unjust.

"(2) A party seeking an award of fees and other expenses shall, within thirty days of a final disposition in the adversary adjudication, submit to the agency an application which shows that the party is a prevailing party and is eligible to receive an award under this section, and the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the agency was not substantially justified.

"(3) The adjudicative officer of the agency may reduce the amount to be awarded, or deny an award, to the extent that the party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the adjudicative officer of the agency under this section shall be made a part of the record containing the final decision of the agency and shall include written findings and conclusions and the reason or basis therefor.

"(b) (1) For the purposes of this section—

"'(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees (The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the agency involved, and (ii) attorney or agent fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee;

"(B) 'party' means a party, as defined in section 551(3) of this title, which is an individual, partnership, corporation, association, or public or private organization other than an agency, but excludes (i) any individual whose net worth exceeded $1,000,000 at the time the adversary adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adversary adjudication was initiated, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of the Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, and (ii) any sole owner of an unincorporated business, or any partnership, corporation, association, or organization, having more than 500 employees at the time the adversary adjudication was initiated;

"(C) 'adversary adjudication' means an adjudication under section 554 of this title in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

"(D) 'adjudicative officer' means the deciding official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c) (1) After consultation with the Chairman of the Administrative Conference of the United States, each agency shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28, United States Code.

"(2) A party dissatisfied with the fee determination made under subsection (a) may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) (1) Fees and other expenses awarded under this section may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made pursuant to section 2414 of title 28, United States Code.

"(2) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984, such sums as may be necessary to pay fees and other expenses awarded under this section in such fiscal years.

"(e) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties."

(b) Section 202 of the Act entitled "An Act to amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes" approved June 4, 1976 (15 U.S.C. 634b), is amended—

(1) by striking out "and" after the semicolon in paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) advise, cooperate with, and consult with, the Chairman of the Administrative Conference of the United States with respect to section 504(e) of title 5 of the United States Code.".

(c) Effective October 1, 1984, section 504, and the item relating to section 504 in the table of sections, of title 5, United States Code, as added by subsection (a) of this section, are repealed, except that the provisions of such section shall continue to apply through final disposition of any adversary adjudication as defined in subsection (b)(1)(C) of such section, initiated before the date of repeal.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 204. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including the fees and expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency and any official of the United States acting in his or her official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the United States shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by such party in the litigation.

"(b) Unless expressly prohibited by statute, a court may award reasonable fees and expenses of attorneys, in addition to the costs which may be awarded pursuant to subsection (a), to the prevailing party in any civil action brought by or against the United States or any agency and any official of the United States acting in his or her official capacity in any court having jurisdiction of such action. The United States shall be liable for such fees and expenses to the same extent that any other party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c)(1) Any judgment against the United States or any agency and any official of the United States acting in his or her official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to any relief provided in the judgment.

"(2) Any judgment against the United States or any agency and any official of the United States acting in his or her official capacity for fees and expenses of attorneys pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title, except that if the basis for the award is a finding that the United States acted in bad faith, then the award shall be paid by any agency found to have acted in bad faith and shall be in addition to any relief provided in the judgment.

"(d)(1)(A) Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

"(B) A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this subsection, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the United States was not substantially justified.

"(C) The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees (The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.);

"(B) 'party' means (i) an individual whose net worth did not exceed $1,000,000 at the time the civil action was filed, (ii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed $5,000,000 at the time the civil action was filed, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of the Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, or (iii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization, having not more than 500 employees at the time the civil action was filed; and

"(C) 'United States' includes any agency and any official of the United States acting in his or her official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, United States Code, or an adversary adjudication subject to the Contract Disputes Act of 1978, the court shall include in that award fees and other expenses to the same extent authorized in subsection (a) of such section, unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4)(A) Fees and other expenses awarded under this subsection may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made in accordance with sections 2414 and 2517 of this title.

"(B) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984 such sums as may be necessary to pay fees and other expenses awarded pursuant to this subsection in such fiscal years.

"(5) The Director of the Administrative Office of the United States Courts shall include in the annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective October 1, 1984, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 205. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

EFFECT ON OTHER LAWS

SEC. 206. Nothing in section 2412(d) of title 28, United States Code, as added by section 204(a) of this title, alters, modifies, repeals, invalidates, or supersedes any other provision of Federal law which authorizes an award of such fees and other expenses to any party other than the United States that prevails in any civil action brought by or against the United States.

EFFECTIVE DATE AND APPLICATION

SEC. 207. This title and the amendments made by this title shall take effect on October 1, 1981, and shall apply to any adversary adjudication, as defined in section 504(b)(1)(C) of title 5, United States Code, and any civil action or adversary adjudication described in section 2412 of title 28, United States Code, which is pending on, or commenced on or after, such date.

TITLE III—SMALL BUSINESS EXPORT EXPANSION ASSISTANCE

SEC. 301. (a) The Secretary of Commerce, after consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish an export promotion center in each of two district offices of the International Trade Administration of the Department of Commerce which are located in metropolitan areas where district offices of the Small Business Administration and the Internal Revenue Service exist.

(b) The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce, and the Small Business Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each export promotion center shall serve as a one-stop information center on Federal Government export assistance, financing programs available to small business, and other provisions of law governing exporting for small business.

(c) Not later than six months after the enactment of this title, the Secretary of Commerce shall report to the Select Committee on Small Business and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Small Business and the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing the provisions of this section.

(d) Within two years after the date of enactment of this title, the Secretary of Commerce shall evaluate these export promotion centers, including, but not limited to, an analysis of the effectiveness of the centers in developing and expanding small business exports, and a comparison of the effectiveness of the centers in relation to district offices of the Department of Commerce which do not have an export promotion center. Such evaluation shall be submitted to the committees of the Senate and the House of Representatives referred to in subsection (c).

(e) This section shall take effect on October 1, 1980, or on the date of the enactment of this section whichever occurs later and shall expire on October 1, 1983.

SEC. 302. (a) The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to make grants (including contracts and cooperative agreements) to a qualified applicant to encourage the development and implementation of a small business international marketing program (hereinafter referred to as "the program"). Each qualified applicant under this title may receive a Federal grant not to exceed $150,000 annually for each of three years: *Provided,* That not more than one-third of these Federal funds may be used for the purpose of hiring personnel. Nothing in this section shall be construed as authorizing the Secretary to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriation Acts.

(b) (1) To be eligible for a grant under this section, an applicant proposing to carry out a small business international marketing program must submit to the Secretary an application demonstrating, at a minimum:

(A) the geographical area to be served;

(B) the number of firms to be assisted;

(C) the staff required to administer the program;

(D) the means to counsel small businesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(E) the ability to provide market analysis of the export potential of small business concerns; and

(F) the capability for developing contacts with potential foreign customers and distributors for small business and their products, including arrangements and sponsorship of foreign trade missions for small business concerns to meet with identified potential customers, distributors, sales representatives, and organizations interested in licensing or joint ventures: *Provided, however,* That no portion of any Federal funds may be used to directly underwrite any small business participation in foreign trade missions abroad.

(2) Program services shall be provided to small business concerns through outreach services at the most local level practicable.

(3) Each small business international marketing program shall have a full-time staff director to manage program activities, and access to export specialists to counsel and to assist small business clients in international marketing.

(c) (1) Each small business international marketing program shall establish an advisory board of nine members to be appointed by the staff director of the program, not less than five members of whom shall be small business persons or representatives of small business associations.

(2) Each advisory board shall elect a chairman and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

(d) The Secretary shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that a sum equal to the amount of such grant be provided from sources other than the Federal Government: *Provided,* That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall indirect costs or in-kind contributions exceed 50 per centum of the non-Federal additional amount.

(e) The Secretary shall develop a plan to evaluate programs approved under this section which shall only—

(1) determine the impact of small business international marketing programs on those small businesses assisted;

(2) determine the amount of export sales generated by small businesses assisted through such programs; and

(3) make recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure. Such evaluation shall be submitted to the Congress by October 1, 1982.

(f) For the purpose of the evaluation under subsection (e), the Secretary is authorized to require any small business international marketing program, or party receiving assistance under this section, to furnish such information as is deemed appropriate to complete the required evaluation.

(g) As used in this section, the term "applicant" means any State government or agency or instrumentality thereof, any Small Business Administration—designated small business development center, any for profit small business, any nonprofit corporation, any regional commission, or any combination of such entities, which will carry out a small business international marketing program.

(h) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriation Acts.

SEC. 303. At least one small business international program shall be established within each region of the Department of Commerce. There are authorized to be appropriated to the Secretary $1,500,000 for each fiscal year 1981, 1982, and 1983, to carry out the program established in section 302.

SEC. 304. The Secretary, through the International Trade Administration, shall, only to such extent and in such amounts as are provided in appropriation Acts on and after October 1, 1980, maintain a central clearinghouse to provide for the collection, dissemination, and exchange of information between programs established pursuant to sections 301 and 302 of this title, the Office of International Trade of the Small Business Administration, and other interested concerns.".

Amend the title so as to read: "An Act to amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes.".

And the Senate agree to the same.

NEAL SMITH,
FERNAND J. ST GERMAIN,
JOHN J. LAFALCE,
JAMES C. CORMAN,
JOSEPH P. ADDABBO,
PARREN J. MITCHELL,
ANDY IRELAND,
IKE SKELTON,
JOSEPH M. MCDADE,
DOUGLAS BEREUTER,
ARLEN ERDAHL,
JOHN PORTER,

As additional conferees solely for consideration of title III of the Senate amendment:

CLEMENT J. ZABLOCKI,
JONATHAN BINGHAM,
ROBERT J. LAGOMARSINO,
Managers on the Part of the House.

GAYLORD NELSON,
ROBERT MORGAN,
CARL LEVIN,
LOWELL P. WEICKER, Jr.,
ORRIN G. HATCH,

As additional conferees solely for the consideration of title II of the Senate amendment:

DENNIS DECONCINI,
ROBERT DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 5612) to amend section 8(a) of the Small Business Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The principal differences among the House bill, the Senate amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

PART A—SBA MINORITY BUSINESS

1. 8(*a*) PILOT PROGRAM

The pilot program authorizing SBA to select Federal contracts from one agency (the President selected the Department of the Army) for inclusion in the 8(a) program expires September 30, 1980.

The House bill extends this program for two years.

The Senate bill extends it for one year.

The conference substitute extends it for one year.

While the conferees believe it desirable and necessary that SBA have increased authority to select contracts for award through the 8(a) program, as provided for in the pilot program, we firmly believe that this authority should not be used in a manner detrimental to the general small business community.

Taking contracts from the small business community when such contracts represent a traditionally significant part of the Federal purchase dollar to small business is not the intent of the 8(a) program. Instead, we firmly believe that a conscious and deliberate effort by the Government to decrease the share of the Federal procurement budget spent with large business concerns, is the fundamental prerequisite for both increasing awards to small business and for securing an increase in the number and quality of contracts selected for 8(a) program. It is the conferees' further belief that SBA should attempt to obtain, insofar as practical, a selection of contract requirements which will result in a broad geographic dispersal of work so that the program will have a more representative base for proper evaluation.

The SBA is strongly urged to conduct its programs guided by these principles and not to engage in practices which merely result in shifting contracts between the small and small minority business community, while large business continues to maintain its disproportionate share of the Federal procurement dollar.

2. GRADUATION FROM 8 (a) PROGRAM

SBA has the authority to graduate or terminate firms participating in the 8(a) program and to fix in advance the anticipated date for such graduation.

The Senate bill requires that SBA determine an anticipated graduation date and that the date be included in the business plan of the 8(a) contractor. One year prior to reaching such date, and upon the request of the 8(a) contractor, SBA shall review and extend the date as necessary and appropriate. The Senate bill further provides that no small business concern could receive an 8(a) contract unless the business plan, including a fixed graduation date, was approved by SBA.

Under the Senate bill, neither the establishment of a graduation date, SBA's extension of such a date, or a firm's completion of the participation period, shall be considered a denial of total participation requiring an administrative hearing under section 8(a) (9) of the Small Business Act.

The House bill contains no comparable provision.

The conference substitute requires that the anticipated graduation date be included in the business plan of the 8(a) contractor. It also provides that one year prior to reaching such date, and upon the request of the 8(a) contractor, SBA shall review and may extend the date if necessary and appropriate.

The conference substitute further provides that the graduation date shall be fixed by the SBA after negotiation with the program participant or applicant and subject to mutual agreement of the parties.

It also provides that small business concerns now participating in the program, and new applicants, must submit a business plan with specific business targets, objectives, and goals aimed at correcting the economic impairment which, in part, qualified the firm for the 8(a) program, and containing a graduation date from the program. This graduation date is to be the same time that SBA determines that the financial, management, technical and contract support provided to the 8(a) concern will overcome the economic disadvantage determined to exist pursuant to section 8(a)(6). Small business concerns now participating in the program must submit the revised business plan within two months after promulgation of final regulations implementing the new requirements.

The implementing regulations should take into account the following factors among others: the amount of SBA assistance needed to correct the impairment of 8(a) concerns, the individual characteristics of the 8(a) concern, the locale in which the firm conducts its business, the nature of the industry and the availability of private sector capital and procurement to assist the firm in achieving maturity in the American economic system.

New applicants must have an approved business plan containing a fixed graduation date before they can be awarded any contract. Existing program participants must have a fixed graduation date prior to the receipt of any new contract or an extension of an existing one after June 1, 1981; however, the graduation date for existing 8(a) concerns shall be fixed in no case later than eighteen months after the effective date of this act.

Under the conference substitute neither the establishment of a graduation date, SBA's extension of such a date, or a firm's completion of the participation period, shall be considered a denial of total participation requiring an administrative hearing under section 8(a)(9) of the Small Business Act.

3. PILOT PROGRAM FOR SURETY BOND WAIVERS FOR 8(a) CONTRACTORS

A pilot program authorizing SBA to waive surety bonds on certain 8(a) contractors expires September 30, 1980.

The House bill extends this pilot program for two additional years.

The Senate bill contains no comparable provision.

The conference substitute extends the program for one year.

The conferees direct the SBA to publish final regulations implementing this program within ninety days after the effective date of this Act.

4. AUTHORITY OF ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT REGARDING 8(a) PROGRAM ELIGIBILITY

The Small Business Act specifically confers upon the Associate Administrator for Minority Small Business and Capital Ownership Development authority for all determinations of eligibility for the 8(a) program.

The Senate bill provides that all determinations of eligibility be made by the Associate Administrator for Minority Small Business and Capital Ownership Development with the concurrence of the Administrator.

The House bill contains no comparable provision.

The conference substitute provides that all determinations made pursuant to paragraph (5) of section 8(a) with respect to whether a group has been subjected to prejudice or bias shall be made by the Administrator after consultation with the Associate Administrator for Minority Small Business and Capital Ownership Development. All other determinations made pursuant to paragraphs (4), (5), (6), and (7) shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.

Finally the conference substitute specifically provides that the Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible to the Administrator for the formulation and execution of the policies and programs under sections 7(j) and 8(a) of the Act which provide assistance to minority small business concerns.

5. AUTHORITY OF ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT REGARDING 7(j) PROGRAM

The Small Business Act specifically confers upon the Associate Administrator for Minority Small Business and Capital Ownership Development authority over the 7(j) management assistance program.

The Senate bill confers this authority on the Administrator rather than the Associate Administrator (other provisions of law authorize the Administrator to delegate the authority to the Associate Administrator).

The House bill contains no comparable provision.

The conference substitute provides that the 7(j) program shall be managed by the Associate Administrator under the supervision of, and responsible to, the Administrator.

The conferees seek to clarify the SBA internal line of authority, and responsibility, through the amendments to the Small Business Act made by sections 103, 104 and 105.

Section 103, amending the general agency management section, clarifies that the Associate Administrator for Minority Small Business and Capital Ownership Development, who is appointed by the Administrator, is also responsible to the Administrator for his actions taken in formulating and executing both the policies and programs established in law.

Section 104, relating to the Capital Ownership Development Program authority, restates the authority relationship set forth in section 103, but clearly provides that the conferees expect that day-to-day management of the minority small business programs shall to be carried out by the Associate Administrator for Minority Small Business. Nevertheless, the Administrator retains a broad supervisory role over, and ultimate responsibility for, the actions taken to carry out the statutory mandates established in section 7(j) and 8(a).

Section 105, relating to the determinations of eligibility for admission into the 8(a) program, clarifies that current final authority for "group designations" as provided for in section 8(a)(5) of the Small Business Act is in the Administrator. Furthermore, to insure consistent application of the minority business development programs, conferees provide that the determinations of "group" eligibility under the agency's regulatory authority be made after consultation with the Associate Administrator. While all determinations of eligibility are important, all other eligibility determinations are based on the individual characteristics of particular concerns. To minimize the additional layers of review while insuring both consistency and control, conferees have provided that all decisions other than those relating to "group eligibility" shall be made by the Associate Administrator under the supervision of, and responsible to, the Administrator.

6. REPORTS

Existing law requires the General Accounting Office to evaluate both the 8(a) pilot program and the surety bond waiver pilot program and report to Congress by June 30, 1980.

The House bill delays the report to January 1, 1981 and also requires quarterly reports from both SBA and the Department of Army (or the agency designated by the President to participate in the 8(a) pilot program) during the time when the pilot program is being conducted.

The Senate bill contains no comparable provision.

The conference substitute delays the GAO report until January 31, 1981 and requires quarterly reports from both SBA and the Department of the Army (or the agency designated by the President to participate in the 8(a) pilot program) during the time when the pilot program is being conducted.

The conferees are aware that the General Accounting Office provided its report on the surety bond waiver program on August 20, 1980, and has indicated its intention to provide the report on the "Army pilot" program in December 1980. The change in the reporting date established in law is to insure that timely information is made available to GAO to complete their report. Should circumstances warrant, the conferees would expect GAO to update, if appropriate, the surety bond report.

The quarterly reports added to this section are to insure that SBA and the pilot agency are independently able to provide the oversight committees with full, and frank, information on the continued implementation and success of the extension of contract authority to the Small Business Administration.

7. SMALL BUSINESS SIZE STANDARDS

The Senate bill prohibits the SBA from promulgating, amending or rescinding any rule or regulation with respect to size standards prior to March 31, 1981.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

It is clearly the intent of the Conferees to allow the SBA to initiate formal rule-making procedures during this interim period. However, such provision would not allow SBA to promulgate any final rule with respect to size standards until March 31, 1981. Such a provision will insure the opportunity for careful congressional scrutiny of any change in the definition of a small business by the Agency.

PART B—SMALL BUSINESS EXPORTS

8. SMALL BUSINESS EXPORT EXPANSION ACT

The Senate bill includes provisions cited as the "Small Business Export Expansion Act of 1980".

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

9. CONGRESSIONAL FINDINGS AND DECLARATIONS REGARDING SMALL BUSINESS EXPORTS

The Senate bill makes findings and declarations concerning the importance of exports to the national economy, the lack of Federal assistance to small business to further small business exports and the low amount of exports by small business. The Senate bill also provides that it is the purpose of these provisions of the Senate bill to encourage and promote small business exporting by certain enumerated Federal actions.

The House bill contains no comparable provisions.

The conference substitute adopts the Senate provisions.

10. 7(a) LOANS TO FINANCE EXPORT ASSISTANCE

The Senate bill specifically authorizes the use of 7(a) regular business loans to small business to finance export assistance. The Senate bill also specifically authorizes SBA to provide extensions and revolving lines of credit for export purposes to small business concerns to develop foreign markets and for pre-export financing. The maximum term would be eighteen months and guarantees could be in an amount not to exceed $750,000.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision but deletes the increased guarantee authority from $500,000 to $750,000.

The conferees suggest that SBA, in administering the new guarantee of revolving lines of credit program, take affirmative steps to moderate the agency's default rate. Such steps might include (1) phasing out agency participation gradually at the end of the eighteen months guarantee period either by amortizing the guarantee itself; providing for the conversion of the line of credit into an amortized term loan guarantee by SBA; or refinancing the line of credit with an amortized term loan guaranteed by SBA; and (2) requiring a servicing plan from participating lenders that conforms to industry norms for revolving lines of credit and ensures that the line will actually revolve.

11. OFFICE OF INTERNATIONAL TRADE

The Senate bill establishes within SBA an Office of International Trade to promote sales opportunities for small business goods and services abroad. The Office would be required to:

(1) provide small businesses with access to current and complete export information;

(2) encourage, through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other export development activities of the Department of Commerce; and

(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each SBA regional office.

The House bill contains no comparable provisions.

The conference substitute adopts the Senate provision but also requires SBA to assign primary responsibility for export development to one person in each district office.

Conferees expect that in major SBA offices and export cities, at least one person would be heavily engaged in export promotion, assisted by such additional staff as useful and appropriate. Conferees recognize that in smaller district offices or those located in cities not extensively involved in exporting, that those responsibilities will be in addition to other staff functons.

12. EQUAL ACCESS TO JUSTICE ACT

The Senate bill includes provisions cited as the "Equal Access to Justice Act".

The House bill contains no comparable provision, but the Senate provision is virtually identical to S. 265, as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

13. CONGRESSIONAL FINDINGS AND PURPOSE

The Senate bill makes findings that certain named entities may be deterred from seeking review of or defending against unreasonable governmental action because of the expense involved and that because of the greater resources and expertise of the United States the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant in certain situations. The purpose of the Act is to diminish this deterrent effect by providing in specified situations for an award of attorney fees and other costs and to insure the applicability in actions involving the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

The House bill contains no comparable provision, but the Senate provision is identical to a similar provision in S. 265, as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

14. AGENCY ACTIONS—AWARD OF FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

The Senate bill requires a Federal agency or department that conducts an adversary adjudication to award to a prevailing party other than the United States fees and other expenses incurred by that party unless that adjudicative officer finds that the agency's position was substantially justified or that special circumstances make an award unjust.

The Senate bill also requires a party seeking an award of fees and other expenses to submit an application for them within thirty days of final disposition of the adjudication, including a showing of eligibility and an itemized statement of the amount claimed.

The Senate bill further provides that the amount of any award may be reduced, or eliminated, to the extent that the prevailing party unduly and unreasonably protracted final resolution of the matter in controversy.

The House bill contains no comparable provision, but the Senate provision is virtually identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

The conferees direct the United States to pay attorney fees and other expenses to a prevailing party other than the United States in an agency adversarial adjudication unless the position of the government is found to be not substantially justified or where special circumstances make the award unjust. An adversarial adjudication is one in which the agency position is represented by counsel or otherwise. The phrase "prevailing party" is not to be limited to a victor only after entry of a final judgment following a full trial on the merits; its interpretation is to be consistent with the law that has developed under existing statutes.

A party may be deemed prevailing if the party obtains a favorable settlement of his case, *Foster* v. *Boorstin*, 561 F. 2d 340 (D.C. Cir. 1977); if the plaintiff has sought a voluntary dismissal of a groundless complaint, *Corcoran* v. *Columbia Broadcasting System, Inc.*, 121 F.2d 575 (9th Cir. 1941); or even if the party does not ultimately prevail on all issues, *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 696 (1974).

In cases that are litigated to conclusion, a party may be deemed "prevailing" for purposes of a fee award in a civil action prior to the losing party having exhausted its final appeal. An award may thus be appropriate where the party has prevailed on an interim order which was central to the case, *Parker* v. *Matthews*, 411 F. Supp. 1059, 1064 (D.D.C. 1976), or where an interlocutory appeal is "sufficiently significant and discrete to be treated as a separate unit", *Van Hoomissen* v. *Xerox Corp.*, 503 F. 2d 1131, 1133 (9th Cir. 1974).

After a prevailing party has submitted an application for an award, the burden of proving that a fee award should not be made rests with the Government. The test of whether the Government position is substantially justified is essentially one of reasonableness in law and fact.

Certain types of case dispositions may indicate that the Government action was not substantially justified. A court should look closely at cases, for example, where there has been a judgment on the pleadings or where there is a directed verdict, where a prior suit on the same claim had been dismissed or where there is a substantial difference between the amount or content of the Government's original pleadings and the settlement agreed to. Such cases clearly raise the possibility that the Government was not substantially justified in pursuing the litigation. The amount of this award may be reduced or denied by the adjudicative officer if the party unduly and unreasonably delayed the proceeding.

15. AGENCY ACTIONS—ELIGIBLE FEES AND OTHER EXPENSES

The Senate bill includes as expenses which are to be awarded fees and other expenses for expert witnesses, reasonable costs of any study, analysis, engineering report, test, or project found necessary for the preparation of the party's case and reasonable attorney or agent fees, generally less than $75 per hour.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

16. AGENCY ACTIONS—THOSE ELIGIBLE TO CLAIM

The Senate bill defines prevailing parties eligible for such awards as including individuals and certain entities, except: in the case of individuals, those whose net worth at the initiation of the adversarial proceeding exceeded $1 million; and, in the case of entities, those whose net worth at the initiation of the adversarial proceeding exceeded $5 million or who had more than 500 employees. Charitable tax exempt organizations so designated under 501(c)(3) of the Internal Revenue Code and Agricultural coops defined in the Agricultural Marketing Act are exempt from the monetary ceiling.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

17. AGENCY ACTIONS—ADVERSARY ADJUDICATION

The Senate bill defines adversary adjudication as one where the agency takes a position through representation by counsel or otherwise excluding agency activity such as establishing or fixing a rate or granting or renewing a license.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

The conference substitute defines adversary adjudication as an agency adjudication defined under the Administrative Procedures Act where the agency takes a position through representation by counsel or otherwise. It is intended that this definition precludes an award in a situation where an agency, e.g., the Social Security Administration, does not take a position in the adjudication. If, however, the agency does take a position at some point in the adjudication, the adjudication would then become adversarial.

18. AGENCY ACTIONS—ADJUDICATIVE OFFICER

The Senate bill defines an adjudicative officer as the deciding official, whether designated as an administrative law judge, a hearing officer, examiner or otherwise, who presided at the adjudication.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

19. AGENCY ACTIONS—UNIFORM REGULATIONS

The Senate bill directs that uniform implementing regulations with respect to application by prevailing parties for an award shall be published by each agency after consultation with the Chairman of the Administrative Conference.

The Senate provision further provides that if a court reviews the merits of an adjudication, the award is postponed for consideration by such court; such an award is to be in addition to any award made by the court relating to the court action.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

20. AGENCY ACTIONS—APPEAL OF A DENIAL OF THE AWARD

A party dissatisfied with a fee award or a denial of an award may petition the Federal Court for leave to appeal. If the petition is granted the court may modify the award only if the failure to make the award, or the calculation of the amount of the award, was an abuse of discretion.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

21. AGENCY ACTIONS—SOURCE OF FUNDS FOR AWARDS

The Senate bill authorizes the payment of any fee award from any funds appropriated to any agency and if not paid by the agency then in the same manner as judgments under § 2414 of title 28, U.S.C.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

The conference substitute directs that funds for an award and fees and other expenses to come first from any funds appropriated to any agency; if not paid by the agency the award shall be paid in the same manner as judgments under § 2414 of title 28, U.S.C. except that no awards shall be paid from Social Security Trust Funds as created under Section 201 of the Social Security Act.

22. AGENCY ACTIONS—AUTHORIZATION

The Senate bill authorizes the appropriations of such sums as may be necessary for fiscal years 1982, 1983 and 1984.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

23. AGENCY ACTIONS—REPORTS

The Senate bill directs that reports be made annually by the Chairman of the Administrative Conference, after consultation with the Chief Counsel for Advocacy of the Small Business Administration.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

24. AGENCY ACTIONS—SUNSET

The Senate bill repeals the provisions for award of these fees and other expenses three years after the Act becomes effective except for any action pending at that time.

The House bill contains no comparable provision, but the Senate provision is similar to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

25. AGENCY ACTIONS—CHIEF COUNSEL FOR ADVOCACY

The Senate bill requires the Chief Counsel for Advocacy of the SBA to advise, cooperate with and consult with the Chairman of the Administrative Conference of the United States with respect to the report the Chairman is required to submit annually to the Congress.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

26a. JUDICIAL PROCEEDINGS—COSTS AND EXPENSES OF ATTORNEYS

The Senate bill removes the statutory prohibition against the availability (to private litigants) of the common law exceptions to the "American Rule" in civil actions with the United States.

The House bill contains no comparable provision, but the Senate provision is virtually identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

The conference substitute restates the current law that provides that certain specific costs (e.g. court reporter), but not attorney fees, may be awarded against the United States unless otherwise specifically provided.

Further, the substitute provision specifically allows for the payment of attorney fees, (in addition to costs as previously listed) to the prevailing party in any civil action with the United States. Current law allows for the payment of such attorney fees pursuant to limited statutory exceptions such as the Freedom of Information Act, the Privacy Act or Civil Rights Acts that expressly make the United States liable. Such statutory exceptions are exceptions to the "American Rule", which makes each party responsible for the payment of his or her own attorney fees. In addition, under current law, the few nonstatutory exceptions to the American Rule available for private litigants are, however, not available to private litigants in cases brought by or against the United States. The substitute provision simply removes this statutory prohibition against the few nonstatutory exceptions (i.e., the common law) to the "American Rule". Thus, the United States would be liable for attorney fees under the "bad faith" or "common fund" exceptions. Conference substitute provision reflects the belief that, at a minimum, the United States should be held to the same standards in litigating as private parties. As such, it is consistent with the history of § 2412 which reflects a strong movement by Congress toward placing the Federal government and civil litigants on a completely equal footing. (See generally, *Natural Resources Defense Council or E.P.A.*, 484 F. 2d 1331 1st Cir. 1973).

26b. JUDICIAL PROCEEDINGS—FEES AND OTHER EXPENSES

The Senate bill requires a Federal Court to award to a prevailing party other than the United States in a civil action involving the United States (except tort actions) fees and other expenses incurred by that party unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

The Senate bill also requires a party seeking an award of fees and other expenses to submit an application for them within thirty days of final judgment, including a showing of eligibility and an itemized statement of the amount claimed.

The Senate bill further provides that the amount of any award may be reduced, or eliminated, to the extent that the prevailing party unduly and unreasonably protracted final resolution of the matter in controversy.

The House bill contains no comparable provision, but the Senate provision is similar to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

27. JUDICIAL PROCEEDINGS—ELIGIBLE FEES AND OTHER EXPENSES

The Senate bill makes eligible for award to prevailing parties the fees and other expenses of expert witnesses, reasonable costs of any study, analysis, engineering report, test or project found necessary for the preparation of the party's case and reasonable attorney or agent fees, generally less than $75 per hour.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

28. JUDICIAL PROCEEDINGS—THOSE ELIGIBLE TO CLAIM

The Senate bill defines prevailing parties eligible for an award to include individuals and certain entities, except: in the case of individuals, those whose net worth at the initiation of the adversarial proceeding exceeded $1 million; and, in the case of entities, those whose net worth at the initiation of the adversarial proceeding exceeded $5 million or who had more than 500 employees. Charitable tax exempt organizations so designated under 501(c)(3) of the Internal Revenue Code and Agricultural co-ops defined in the Agricultural Marketing Act are exempt from the monetary ceiling.

The House bill contains no comparable provision, but the Senate provision is virtually identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

29. JUDICIAL PROCEEDINGS—AWARDS OF COSTS AND FEES OTHERWISE PROHIBITED

The Senate bill allows, upon review of the merits of an adversary adjudication in the court, an award of fees and other expenses to an otherwise eligible prevailing party. Specifically, this section authorizes an award from the court to prevailing parties who are otherwise entitled to fees and other expenses pursuant to § 504(a) but who are precluded from actual receipt pursuant to § 504(c)(1) until completion of a court review of the merits. Additionally, the award of fees and other expenses as previously described is authorized to an otherwise eligible prevailing party that appeals to the court under the Contracts Disputes Act of 1978 in which case the fees and other expenses eligible shall be those incurred during both the adversary adjudication and court proceeding.

The House bill contains no comparable provision, but the Senate provision is virtually identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

30. JUDICIAL PROCEEDINGS—SOURCE OF FUNDS FOR AWARDS

The Senate bill authorizes the payment of any fee and other expenses award from any funds appropriated to any agency and if not paid by the agency then in the same manner as judgments under § 2414 and 2517 of title 28, U.S.C.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

The conference substitute directs that funds for an award of fees and other expenses to come first from any funds appropriated to any agency; if not paid by the agency the award shall be paid in the same manner as judgments under § 2414 and 2517 of title 28, U.S.C. except that no awards shall be paid from Social Security Trust Funds as created under section 201 of the Social Security Act.

31. JUDICIAL PROCEEDINGS—AUTHORIZATION

The Senate bill authorizes the appropriation of such sums as may be necessary for fiscal years 1982, 1983 and 1984.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

32. JUDICIAL PROCEEDINGS—REPORTS

The Senate bill requires the Director of the Administrative Office of the United States Courts to report annually the number, nature and amount of fee awards, and other relevant information.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

33. JUDICIAL PROCEEDINGS—SUNSET

The Senate bill repeals the provisions for the award of these fees and expenses three years after the bill becomes effective except for actions commenced before the date of repeal.

The House bill contains no comparable provision, but the Senate provision is identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

34. EFFECTIVE DATE

The Senate bill makes this Act effective October 1, 1981 and applicable to adversary adjudications or civil actions pending on or commenced after that date.

The House bill contains no comparable provision, but the Senate provision is virtually identical to a provision in S. 265 as reported by the House Judiciary Committee.

The conference substitute adopts the Senate provision.

35. PILOT EXPORT PROMOTION CENTERS

The Senate bill requires the Secretary of Commerce to establish an export promotion center in each of the two district offices in the International Trade Administration of the Department of Commerce. Each of these centers would serve as a one-stop information center on Federal export assistance, financing programs available to small business, and other provisions of law governing exporting for small business. The Export-Import Bank, the International Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce, and SBA each would provide one full-time employee to staff the center.

The Senate bill also requires the Secretary of Commerce to report to Congress in six months on the implementation of the above provisions and to evaluate and report to Congress in two years on these centers.

These provisions are sunset on October 1, 1983.

The House bill contains no comparable provisions.

The conference substitute adopts the Senate provision.

36. GRANTS FOR AN INTERNATIONAL MARKETING PROGRAM

The Senate bill authorizes the Secretary of Commerce to make grants to encourage the development and implementation of small business International Marketing Programs. Applicants could receive a maximum Federal grant of $150,000 annually for up to three years and would be required to provide matching funds. Grant applicants would be required to have an advisory board of nine members appointed by the director of the program, of which at least five members would be small business persons or representatives of small business associations.

The Secretary of Commerce would be required to establish at least one such program in each region of the Department of Commerce and $1.5 million would be authorized for each of fiscal years 1981 through 1983 to carry out the program.

The Secretary of Commerce would evaluate these programs and report to Congress by October 1, 1982.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

37. ITA CLEARINGHOUSE

The Senate bill requires the Secretary of Commerce, through the International Trade Administration, to maintain a central clearinghouse to provide for the collection, dissemination, and exchange of information between the export promotion centers, the small business International Marketing Programs and the Office of International Trade in the Small Business Administration, and other interested concerns.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

38. EFFECTIVE DATE OF ACT

The House bill is effective October 1, 1980.

The Senate bill is effective upon enactment except that various provisions are specifically made effective on October 1, 1980.

The conference substitute adopts the Senate provisions.

NEAL SMITH,
FERNAND J. ST GERMAIN,
JOHN J. LAFALCE,
JAMES C. CORMAN,
JOSEPH P. ADDABBO,
PARREN J. MITCHELL,
ANDY IRELAND,
IKE SKELTON,
JOSEPH M. MCDADE,
DOUGLAS BEREUTER,
ARLEN ERDAHL,
JOHN PORTER,

As additional conferees solely for consideration of title III of the Senate amendment:

CLEMENT J. ZABLOCKI,
JONATHAN BINGHAM,
ROBERT J. LAGOMARSINO,

Managers on the Part of the House.

GAYLORD NELSON,
ROBERT MORGAN,
CARL LEVIN,
LOWELL P. WEICKER, Jr.,
ORRIN G. HATCH,

As additional conferees solely for the consideration of title II of the Senate amendment:

DENNIS DECONCINI,
ROBERT DOLE,

Managers on the Part of the Senate.

MAKING IN ORDER ON TOMORROW, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 5612, SMALL BUSINESS ASSISTANCE AND REIMBURSEMENT FOR CERTAIN FEES

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that it be in order tomorrow, October 1, 1980, or any day thereafter, to consider the conference report on the bill (H.R. 5612) to amend section 8(a) of the Small Business Act.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

REAGAN: PROMISE AND PERFORMANCE—STATE BUREAUCRACY

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, Ronald Reagan is running on his record as Governor of California. He points to one "accomplishment"—controlling the State bureaucracy—with special pride. "We stopped the bureaucracy cold," he boasts.

Well, I am afraid "cold" is going to have to refer to the temperature of the water I have to throw on that notion. Like so many of Reagan's campaign statements, this one just does not hold up.

After compaigning to cut Government, Reagan actually increased the State budget by 10 percent his first year in office. He increased the size of the State work force, and his proposal—proposition 1—to limit the growth of State spending by placing a ceiling on tax collections was rejected by the voters 54 to 46 percent in 1973.

Reagan has attacked President Carter for his Government reorganization and particularly for his creation of the Departments of Education and Energy. What he fails to mention is that during his term as Governor, he created over 30 new State offices, boards, commissions or councils. The list ranges from the California Ecology Corps to the exotic disease eradication program. Is this the same Reagan who says that more than anything in his life, he wants to get the Government out of the way, that he wants to make it smaller and get it back to the people. It sure does not sound like the same guy.

The tune Reagan sings in 1980 is the same tune he sang during his gubenatorial campaigns. But the residents of California know how off-key it really is. Reagan's promise to eliminate the Federal Department of Energy if he is elected hits a particularly sour note. Californians know that under his leadership, the State had for the first time its own energy commission—and it was considered a regulatory nightmare. Even the senator who sponsored the enabling legislation has said it should be abolished. Yet Reagan supported and signed the bill setting it up.

Reagan has said time and again that the best thing that Government can do is nothing. He hardly took his own advice as Governor. And if history is any guide, we have no reason to believe he would act any differently as President. On this, as on so many issues, Reagan's promises and his performance are miles apart.

ACTION URGED ON S. 265, EQUAL ACCESS OF JUSTICE ACT

(Mr. KASTENMEIER asked and was given permission to address the House for

1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, as we move toward the end of this legislative session, I want to call the attention of this body to a bill which I hope the Congress can complete action on before we leave this week.

That bill, S. 265, the Equal Access to Justice Act, was scheduled for consideration today under suspension and I hope that we will, in fact, take up the bill.

Mr. Speaker, my Judiciary Subcommittee on Courts, Civil Liberties and the Administratiion of Justice, has given this bill careful and thorough consideration. We spent several days marking up the bill, attempting to reconcile the divergent interests. It is a good bill which was overwhelmingly approved by the Judiciary Committee.

The bill passed the Senate last year by an impressive vote of 94 to 3. The House Small Business Committee under the distinguished chairman, the gentleman from Iowa (Mr. SMITH) considered the issue during several days of hearings and produced a similar bill. The issue of attorneys fees for small businesses was one of the key recommendations of the White House Conference on Small Business.

Mr. Speaker, my subcommittee and the full Judiciary Committee have produced a good bill. I do not believe that our efforts should go for naught. I sincerely believe that the House should be permitted to work its will on this bill and clearly the best way to do so at this time is under suspension.

TRANSPARENT DOUBLE STANDARD

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, later this week the Investigations Subcommittee of the Armed Services Committee will hold an investigation of my distinguished colleague, ROBIN BEARD, for the alleged disclosure of classified information on Soviet violations of SALT. I think this is worthy of more than a little comment.

Just what did that news release say? It said that the Soviet Union had recently conducted an exercise over a 5-day period in which it simulated the reloading of 25 to 40 SS–18 ICBM silos, in which the hardware in question was actually moved from place to place. This is a clear violation of SALT II, which prohibits the "rapid reloading" of ICBM's. Not only does this say something about Soviet intent, but it also makes a farce of SALT II—which controls only the number of silos which can be deployed, but not the number of missiles which might be launched from them.

The White House has billed the November election as a referendum on its arms control policies. It has also described the disclosure of this information as having "possible grave consequences for national security." This is patent nonsense. If the election is truly to be a referendum on the administration's arms control policies, then this is exactly the kind of information which needs to be discussed, not covered up. What we are talking about here is an issue which goes to the very heart of the arms control process—and which it will not do to keep conveniently under wraps until after November. It is far more prejudicial to U.S. national security that the administration has seen fit to publicly reveal and discuss a major new breakthrough in U.S. weapons technology—Stealth—thereby giving the Soviets the lead time to develop countermeasures to that system, than it is to discuss Soviet SALT violations—violations which in fact could be extremely prejudicial to our Nation's safety. This is a double standard which is both transparent and unacceptable.

□ 1110

CARTER HAS BROKEN FAITH

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, President Carter's campaign for reelection has broken faith with the last large group of voters who were solidly in his corner. These are the people who have said for months that he may not be doing a very good job, but at least he is a good man trying his best.

The Carter reelection effort has destroyed that viewpoint. It has stretched the limits of decency and creditability. It has not only revealed a mean streak in the President, himself, but has demeaned the high office he holds.

The American people know all too well the dangers of men in power who begin to believe that their fortunes and the national good are intertwined. That was the sad and disturbing lesson learned during Watergate. Now the same kind of personal, rather than national politics seems to characterize the Carter campaign.

Mr. Speaker, the kind of political mean machine being run by President Carter would not be acceptable in my reelection campaign. Nor do I believe it would be acceptable in many of the districts represented in this body. The American people demand high standards of their national policymakers, particularly their President. President Carter has consciously sought to lower that standard and in so doing has broken faith.

DAY 15 FOR THE HOSTAGE BUDGET

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, this is day 15 of the budget hostage.

I fear that what is happening with this delay in acting on the second concurrent budget resolution is that the budget process itself is sliding into oblivion, and I really regret that because I felt the Budget and Impoundment Act that was passed a few years ago would help this House to get itself in order. I felt that there would be some accounting then of where the taxpayers' money is going, but that is not happening.

I understand we cannot control the Senate and force that body to vote on its appropriations bills, but there is no excuse for the House of Representatives ducking action on the second concurrent budget resolution.

Mr. Speaker, I urge again that the 1981 budget resolution be passed, as the law requires, before we recess and go home to our constituents and ask for reelection.

"MISERY INDEX" NOW AT 19.1 PERCENT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, last week a rather dubious milestone in American political history passed all too quietly. You see, it was exactly 4 years ago on September 25, that then candidate Jimmy Carter came up with what he called "a good reason to beat Jerry Ford." This was something called a "misery index," which was a combination of the inflation and unemployment figures.

Candidate Jimmy Carter made constant reference to this new term during his 1976 campaign, using it as a means of emphasizing the misery caused by the economic situation and a need for a change in the White House.

You may have noted that unlike candidate Jimmy Carter, President Jimmy Carter has not once mentioned the misery index during the 1980 campaign. A look at the figures then and now will probably make it abundantly clear why. When candidate Jimmy Carter took office, the misery index was only 12.2 percent. Four years later, under President Jimmy Carter, it is at 19.1 percent. If a 12-percent misery index was a good reason to beat Jerry Ford, then a 19-percent misery index is an even better reason to reject the bankrupting economic policies of Jimmy Carter. This is our only hope of escaping from this economic misery in which we find ourselves. Four more years of the same would indeed be misery; unnecessary misery.

A TRIBUTE TO THE LATE HONORABLE CHARLES HENRY ELLSTON OF OHIO

(Mr. GRADISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRADISON. Mr. Speaker, with sadness I advise the House that Charles Henry Elston, one of my predecessors as Representative from the First District of Ohio, passed away on September 25 at the age of 89. He served in the House from 1939 to 1953 as a member of the Armed Forces Committee during World War II and the Joint Committee on Atomic Energy.

Mr. Elston was born in Marietta, Ohio, on August 1, 1891. After graduation from law school in 1914, he was admitted to the bar and began practicing in Cincinnati, Ohio. Soon after, he became assistant prosecuting attorney of Hamilton County (1915–22) and assistant dean of the YMCA Law School, the forerunner of the present-day Salmon P. Chase Law School of Northern Kentucky University (1916–36). After retiring from Congress in 1953, Mr. Elston briefly resumed the practice of law in Cincinnati until he retired to Fort Lauderdale, Fla., in 1955. A member of the American, Ohio, and Cincinnati Bar Associations, Mr. Elston was also a 32d Degree Mason.

I am sure my colleagues will join me in extending sympathy to his wife, Zelda Wright Elston, and children on their loss and in honoring his years of public service to the people of Hamilton County and the Nation.

CONGRESS SPENDING CAUSES INFLATION

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, with people talking about 15 percent inflation in America, the folks at home want Congress to stop it. The average person does not understand that it is Congress that has caused all this inflation.

This past weekend I asked two bankers in Dallas and one banker in New York the question of why had the Nation's money supply expanded so rapidly in the past few months. Why cannot the Federal Reserve and banking regulators keep it under control? They all said the same thing. The situation is out of hand and control procedures will not work. You see, when Congress spending is increasing the national debt by $100 billion this year, it mandates that these debt overdrafts be paid. As the overdrafts are paid, more money is printed and more credit is extended.

Congressmen feel that they are doing something for people when they vote them another Government benefit. Big spending is simply giving America more inflation.

Remember how in 1976 President Carter complained about the country having 6 percent inflation? Now President Carter and a liberal Congress are giving the country 15 percent inflation. And if the liberals continue their same big spending, inflation will be 25 percent a year by 1984.

Congress was operating on a $360 billion budget when President Carter came into office. In his short term, we are now facing a $630 billion budget. Congress should stop trying to spend the Nation into fiscal disaster.

America has more Government than it needs, it has more regulations than it wants, and it has more taxes than it can afford to pay.

□ 1120

INCREASED DAIRY PRICE SUPPORTS ARE HARMFUL

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, beginning tomorrow, as the increased dairy price support takes effect, the American people as consumers will pay even higher prices for milk and dairy products, and as taxpayers they will pay still more as their Government buys and stores more surplus dairy products.

These higher prices and higher costs are unnecessary, wasteful, and actually harmful to the long-term interests of dairy farmers.

A year ago I warned of this calamity and offered an amendment to the dairy program to prevent it. My amendment was shouted down. And now the Government must abide by a foolish law which makes overproduction of milk still more attractive by raising the support price still higher. In the past year, milk prices have gone up twice as fast as other food prices, and during the next 15 months consumers will have to pay an extra $2.7 billion in retail milk and dairy prices as a result of the inflexibility of the dairy program.

This fiscal year, the Government has poured out an estimated $1.28 billion to acquire a mountainous 8.2 billion pounds of dairy products on a milk equivalent basis. That is more than seven times the amount acquired last year by the Government in its price support operations. And the Agriculture Department projects that with the new increase in dairy supports the dairy program in the coming year will cost the Government another $1.25 billion and consumers even more in price increases.

Congress should not recess or adjourn until it has repaired the damage, until it has voted enough flexibility to the Agriculture Secretary to keep the billion-dollar mountain of dairy surpluses from getting higher.

But you and I know that Congress is not about to act sensibly on this issue. We will adjourn tomorrow night leaving this and a lot of other challenges unmet. We should be ashamed.

AUTHORIZING APPROPRIATIONS FOR U.S. COMMISSION ON CIVIL RIGHTS, FISCAL YEAR 1981

Mr. EDWARDS of California. Mr. Speaker, I move to take from the Speaker's desk the Senate bill (S. 2511) to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1981, with a Senate amendment to the House amendments, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Page 1, lines 5 and 6, of the House engrossed amendments, strike out "by striking out '1980' and inserting '1981' in lieu thereof," and insert:

(1) by striking out "$14,000,000" and inserting in lieu thereof "$12,600,000"; and (2) by striking out "1980" and inserting in lieu thereof "1981".

The SPEAKER. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, we have agreed to approve the Senate amendment, the Senate figure of $12,600,000, rather than the $14 million figure that the House originally authorized on June 3, 1980.

Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman from California for yielding.

Mr. Speaker, I would note that this is actually a reduction in authorization from the amount that was authorized by the House when this bill was passed. The minority accepts the Senate amendment and accepts the motion of the gentleman from California.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO RECOGNIZE FOR MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, OCTOBER 1, 1980

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the Speaker be authorized on Wednesday, October 1, 1980, to recognize for motions to suspend the rules.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, do I understand correctly that the reason for this is so that we can accommodate the program planned for today, and then possibly adjourn about 6:30 or so this evening, and then continue suspensions tomorrow that have been listed?

Mr. MURTHA. If the gentleman will yield, that is an accurate statement.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CHESAPEAKE BAY RESEARCH COORDINATION ACT OF 1980

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4417) to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Research Coordination Act of 1980".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) The Congress finds that—

(1) the Chesapeake Bay area is one of the greatest national resources in the United States of America, serving as an abundant source of seafood, recreation, beauty, and enjoyment, as well as providing habitat for a

wide variety of fish, waterfowl, flora, and fauna;

(2) the Chesapeake Bay area serves as one of the world's major waterways, each year carrying millions of tons of waterborne shipping to and from all parts of the globe;

(3) the productivity and beauty of the Chesapeake Bay area in recent years has been diminished and threatened by water pollution, shoreline erosion, excessive sedimentation, and other injuries;

(4) numerous Federal agencies have initiated and supported research to study, manage, enhance, protect, preserve, or restore the resources of the Chesapeake Bay area; and

(5) the various research relating to the Chesapeake Bay area could be more effectively coordinated in order to obtain maximum benefits.

(b) The purposes of this Act are—

(1) to provide for the rational and effective coordination of federally conducted and supported research aimed at increasing fundamental knowledge in support of wise management of the Chesapeake Bay area;

(2) to identify key management information needs and specify a coherent program of research that will respond to those needs;

(3) to identify the needs and priorities for such additional research as are required for the improvement of fundamental knowledge about the Chesapeake Bay area;

(4) to assure a comprehensive and balanced approach to federally conducted and supported research on the Chesapeake Bay area;

(5) to encourage the utilization of the results and findings of research, and of other relevant information, in the management decisionmaking processes which have an impact on the Chesapeake Bay area; and

(6) to foster public understanding of the role of the Chesapeake Bay area as a unique national resource, the greatest natural ecological entity of its kind in the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The terms "Chesapeake Bay area" means the waters of the Chesapeake Bay (including the tributaries to the extent of Chesapeake Bay tidal action), the lands within and under such waters, and the wetlands adjacent to such waters.

(2) The term "research" means the endeavor to discover, develop, and verify knowledge and a careful and critical inquiry or examination in seeking facts or principles.

(3) The term "research project" means any research related to the Chesapeake Bay area for the purpose of promoting the understanding, the improved management, and the protection of the marine or coastal related resources (including those relating to water quality, coastal zone management, navigation, shoreline erosion, wetlands, fisheries, shellfish, and wildlife) which is funded in whole or in part by any department, agency, or independent establishment of the Federal Government.

(4) The term "research program" means any aggregate of related individual research projects.

(5) The term "Secretary" means the Secretary of Commerce.

SEC. 4. OFFICE FOR CHESAPEAKE BAY RESEARCH COORDINATION.

(a) (1) The Secretary shall establish in the Departement of Commerce a separate office known as the Office for Chesapeake Bay Research Coordination (hereafter referred to in this Act as the "Office"). The Office shall serve as the staff of the Chesapeake Bay Research Board established under section 5 of this Act.

(2) (A) The Office shall be headed by a Director who by reason of his knowledge and experience in research efforts on the Chesapeake Bay area, is qualified to serve as an adviser with respect to research, and who shall be appointed by the Secretary in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution.

(B) Before making any appointment under subparagraph (A), the Secretary shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as the Director.

(3) The Director may appoint such personnel for the Office as he deems desirable, and as is provided for under this Act.

(b) The Office, when directed to do so by the Chesapeake Bay Research Board, shall—

(1) identify Federal and State research programs relating to the Chesapeake Bay area and annually update that inventory;

(2) establish a Chesapeake Bay Research Exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning all research projects which are ongoing, completed, or for which funds have been requested, and which are conducted in or affect the Chesapeake Bay area;

(3) make recommendations to the Chesapeake Bay Research Board on the relationship of Federal programs to the Chesapeake Bay Research Plan; and

(4) make recommendations to the Chesapeake Bay Research Board on possible revisions to such Research Plan.

(c) The Office shall work with the Chesapeake Bay Research Board to—

(1) identify the need for, and the priority of, research programs which could benefit the management of the resources of the Chesapeake Bay area;

(2) promote optimum utilization of available funds and resources to benefit the Chesapeake Bay area;

(3) remain cognizant of ongoing research programs and assist in the dissemination of the results and findings of research programs;

(4) conduct periodic meetings with representatives of the departments, agencies, and independent establishments of the Federal Government having responsibility for the administration of research programs in the Chesapeake Bay area, representatives of appropriate State, regional, and local agencies, and representatives of the scientific community, in order to obtain and exchange information relating to such programs;

(5) review proposed Federal legislation which may affect the Chesapeake Bay area and comment to the appropriate entities on the relation of the proposed legislation to the Chesapeake Bay Research Plan;

(6) determine existing Federal and State programs relating to the Chesapeake Bay area and annually update this inventory;

(7) plan and conduct a conference on Chesapeake Bay area affairs at least once every two years;

(8) prepare for the Board an annual report on research programs, current and planned, pertaining to the Chesapeake Bay area; and

(9) perform such other activities as are consistent with the purposes of this Act.

(d) (1) The Secretary shall make available to the Office such administrative services and temporary staff as may be reasonably required by the Office to enable it to carry out its functions under this Act.

(2) The Office may request from any department, agency, or independent establishment of the Federal Government (A) information concerning grants made by such department, agency, or establishment for research in the Chesapeake Bay area, and (B) other assistance or information which the Office deems necessary to enable it to carry out its functions under this Act. Each such department, agency, or independent establishment shall furnish, with or without reimbursement, to the Office such assistance or information so requested consistent with other Federal law.

SEC. 5. CHESAPEAKE BAY RESEARCH BOARD.

(a) There is established a Chesapeake Bay Research Board (hereafter referred to in this section as the "Board").

(b) (1) The Board shall consist of—

(A) four members selected by the Governor of Virginia;

(B) four members selected by the Governor of Maryland; and

(C) seven members selected by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution.

(2) The Secretary, the Governor of Maryland, and the Governor of Virginia shall ensure that the Board is comprised of individuals who are qualified to perform the functions of the Board and who represent the interests of Federal, State, and local government, industry, the public, and the scientific and environmental communities.

(c) The Chairman of the Board shall be elected annually by the membership of such Board.

(d) The Board shall—

(1) develop a Chesapeake Bay Research Plan consistent with the missions and interests of appropriate agencies and States, and update this plan biennially to reflect changing priorities in Federal and State management needs as well as the need for fundamental research;

(2) review and evaluate, on a periodic basis, Federal research programs pertaining to the Chesapeake Bay area, and ascertain the extent to which the research programs are consistent with the Chesapeake Bay Research Plan; and

(3) submit an annual report to the Congress and the Governors of Maryland and Virginia on research programs, current and planned, pertaining to the Chesapeake Bay area and their relationship to the Chesapeake Bay Research Plan, together with any recommendations for improving the coordination of such research.

(e) Members of the Board (other than those who are employees of the Federal or State governments) may, while engaged in business for the Board, receive compensation for travel expenses and per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Office to carry out the purposes of this Act the sum of $500,000 for each of the three fiscal years ending on September 30, 1982, September 30, 1983, and September 30, 1984.

SEC. 7. RELATIONSHIP OF ACT TO EXISTING FEDERAL, STATE, AND LOCAL POWERS.

(a) Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any existing department, agency, or officer of the Federal Government or of any State or local government.

(b) For purposes of administering this Act (including the preparation of an annual report pursuant to section 4(c)(8)) the Board shall solicit from the appropriate Federal departments and agencies and the Governors, recommendations that may be appropriate with respect to any existing law which may affect or be involved in research programs.

SEC. 8. TERMINATION.

This Act and the authority conferred by this Act shall terminate on September 30, 1984. At such time the General Accounting Office shall submit to the Congress an evaluation of the effectiveness of the Board, Office, and of this Act. In the preparation of such report, comments shall be solicited from Federal agencies, the Governors of Maryland and Virginia, and the research institutions, industries, and environmental and citizen's groups concerned with the Chesapeake Bay area.

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to express my appreciation to the gentleman from Massachusetts.

Mr. Speaker, I reserve the right to object only to express my thanks to the gentleman from Massachusetts (Mr. STUDDS) and the other members of the committee for their work and support of my bill, H.R. 4417, which is now before us.

This bill, which passed the House on May 19, has only slightly been changed by the other body and after our action it will go to the President for his signature.

This action culminates 5 years and more of work on my part, by my staff, especially my legislative aide, Josh Bill, as well as a number of officials of the State of Maryland and the Commonwealth of Virginia. Secretary of natural resources, Jim Coulter, has been one Maryland official who has supported this concept from the beginning and he has made available members of his staff on numerous occasions.

I also want to thank the senior Senator from Maryland, Mr. MATHIAS, for his cosponsorship and support, as well as my cosponsors in the House, Ms. MIKULSKI and Mrs. HOLT.

Now, for the first time, this legislation has the potential of bringing all Federal research efforts together in a united effort to solve the problems of the bay. The office and research board the bill creates will serve as a rallying point for, I hope, thoughtful consideration of future policies regarding research as well as giving the States of Maryland and Virginia a much needed voice in Federal decisionmaking.

Mr. Speaker, again my sincere thanks for all those who have worked so hard to make this possible. I believe this bill to be a major step forward in preserving and protecting the Chesapeake Bay.

Mr. STUDDS. Mr. Speaker, on May 19, 1980, the House passed H.R. 4417 by a voice vote.

Last week, the Senate passed an amended version of H.R. 4417. The only major difference between the two versions is that in the House bill two complementary bodies are established: The Office for Chesapeake Bay Research Coordination (the Office) and the Chesapeake Bay Research Board (the Board), whereas in the Senate version the Office is to act as the staff of the Board. The Board, which consists of both State and Federal representatives, will develop the policies and plan for coordinating Chesapeake Bay research.

In addition, the Senate has conferred authority on the General Accounting Office to evaluate the effectiveness of the Office after 3 years, instead of granting the authority to the Department of Commerce, as is the case in the House version. This change was made so that an outside group—instead of the Department in which the Office is located—would evaluate the Office.

Finally, the Senate has changed the effective date of authorization for this legislation from fiscal year 1981 to fiscal year 1982.

All of the other Senate amendments to the language of the House bill are technical in nature.

We have no difficulties with the Senate amendments to the bill.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

ROBERT N. GIAIMO FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speakers table the bill (H.R. 7544) to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out line 1, and insert:

SEC. 2. This act shall be effective on January 4, 1981.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

EDITH GREEN FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7309) to designate the Federal building in Portland, Oreg., the "Edith Green Federal Building," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, after "Green" insert "-Wendell Wyatt".

Page 2, strike out lines 1 to 4, inclusive, and insert:

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Edith Green-Wendell Wyatt Federal Building".

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

JAMES M. HANLEY FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7130) to designate the building known as U.S. Court House and Federal Building in Syracuse, N.Y., as the "James M. Hanley Federal Building," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 2, insert:

SEC. 2. This Act shall be effective on January 4, 1981.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

FRANK CARLSON FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3148) to name the Federal Building located at 444 Southeast Quincy, Topeka, Kans., the "Frank Carlson Federal Building."

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, shall hereafter be known and designated as the "Frank Carlson Federal Building". Any reference in any law, map, regulation, document, record or other paper of the United States to that building shall be held and considered to be a reference to the "Frank Carlson Federal Building".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ABRAHAM A. RIBICOFF FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3044) designating the U.S. Federal building in Hartford, Conn., as the "Abraham A. Ribicoff Federal Building."

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 450 Main Street, Hartford, Connecticut (commonly known as the Federal Building), shall hereinafter be known, called, and designated as the "Abraham A. Ribicoff Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Abraham A. Ribicoff Federal Building.

SEC. 2. The authorization contained in section 1 of this Act shall become effective on January 15, 1981.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING ACCEPTANCE AND USE OF BEQUESTS AND GIFTS FOR DISASTER RELIEF

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2185) to authorize the acceptance and use of bequests and gifts for disaster relief.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. HARSHA. Mr. Speaker, reserving the right to object, I shall not object, but will the gentleman from Georgia explain the purpose of the bill?

Mr. LEVITAS. Mr. Speaker, if the gentleman will yield, the purpose of S. 2185 is to amend the Disaster Relief Act of 1974 to authorize the President or his delegate to accept and use bequests, gifts, or donations for disaster relief and to establish a separate fund in the U.S. Treasury into which such bequests, gifts, or donations may be deposited.

GENERAL STATEMENT

S. 2185 was introduced to enable the Federal Emergency Management Agency to accept a specific bequest by Cora Brown, of Kansas City, Mo., who died on August 20, 1977. Mrs. Brown's will stipulated that approximately $500,000 of her estate be left to the Federal Government for the creation of a fund to be used for the relief of human suffering caused by natural disasters or other disasters not caused by or attributable to war, both within and without this country. Since specific legislative authority is necessary to permit the Federal Government to receive gifts for specific uses, this legislation was essential to allow Mrs. Brown's final wishes to be carried out. The Department of Justice, the Department of the Treasury, and the Federal Emergency Management Agency all supported the legislation, but with an amendment which would include general authority for the Federal Emergency Management Agency to accept such gifts and would establish a permanent fund in the Treasury into which to deposit them. The bill, as passed by the Senate, incorporated this amendment.

It is the intent of the Committee on Public Works and Transportation that the fund and the proceeds from the fund established by S. 2185 shall be available for direct assistance to alleviate the human suffering and property damages associated with emergencies and major disasters within the purview of the Disaster Relief Act of 1974. Therefore, the committee expects that the fund will be used for such purposes as the distribution of medicine, food, and other consumable supplies, and the granting of aid to meet disaster-related necessary expenses and serious needs of individuals and families adversely affected by emergencies or disasters, as opposed to using it for the ordinary administrative expenses of any Federal, State, or local agency.

With respect to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the committee has received a report prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. The report is as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 17, 1980.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2185, a bill to authorize the acceptance and use of bequests and gifts for disaster relief, as ordered reported by the House Committee on Public Works and Transportation, September 16, 1980.

The bill authorizes the President or his delegate to accept and use bequests and gifts that are made to the government under the condition that they be used to augment federal disaster relief efforts. It is expected that no additional cost to the government would be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN,
Director.

With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

With reference to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the enactment of this bill into law should have no inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires a statement of the estimated cost to the United States which would be incurred in carrying out S. 2185, as reported, in fiscal year 1980 and in each of the 5 succeeding fiscal years. The committee estimates that the implementation of S. 2185 will result in no increased costs to the United States.

COMMITTEE ACTION AND VOTE

The committee, in compliance with clause 2(l)(2)(A) of rule XI of the Rules of the House of Representatives, reports favorably the bill, S. 2185. The committee ordered the bill reported by voice vote.

AGENCY COMMENTS

FEDERAL EMERGENCY
MANAGEMENT AGENCY,
Washington, D.C., August 19, 1980.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On July 21, 1980, the Senate passed S. 2185, as amended, a bill "to authorize the acceptance and use of bequests and gifts for disaster relief." The bill was forwarded to your Committee for consideration.

The Federal Emergency Management supports enactment of this measure as do the Department of Justice and the Treasury Department.

The purpose of the bequest is well met by the provisions of the Disaster Relief Act. The bequest provides a fund for the "relief of human suffering caused by natural disasters." The purpose of the Disaster Relief Act is to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from disasters. (Section 101(b) of the Act.) In an emergency, the Federal Emergency Management Agency provides assistance to save lives and protect the public health and safety (section 305). Under section 306 it works with the private relief organization, such as the American National Red Cross, the Salvation Army, and Mennonite Disaster Services to provide medicine, food, and other emergency assistance. Under section 408 of the Act it funds 75 percent of State grants to individuals and families adversely affected by a major disaster where the individuals and families are unable to meet disaster-related expenses.

No other Federal legislation provides a better means of achieving the purposes of the bequest. Hence, we believe an amendment to the Act as set forth in S. 2185 is in order.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this letter for the consideration of the Committee.

Sincerely yours,

JOHN W. MACY, Jr.,
Director.

Mr. HARSHA. Further reserving the right to object, Mr. Speaker, this is one of those peculiar instances where the Federal Government is unable to accept a gift from one of its citizens without special legislation and, as the gentleman has explained, this legislation authorizes the Federal Government to accept this generous gift from Mrs. Brown as well as other like gifts. The minority supports the legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601 of the Disaster Relief Act of 1974 (42 U.S.C. 5201) is amended—

(1) by inserting "AND ACCEPT GIFTS" after "RULES" in the heading;

(2) by inserting "(a)" before "The President"; and

(3) by adding at the end thereof the following new subsection:

"(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real personal or mixed tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess moneys in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.".

● Mr. JOHNSON of California. Mr. Speaker, I rise in strong support of S. 2185, a bill which will allow FEMA, the Federal Emergency Management Agency, to accept and use bequests, gifts or donations for disaster relief and to establish a fund in the Treasury to accept such contributions. While this legislation began as a bill to permit FEMA to accept the generous bequest of Cora Brown, who died on August 20, 1977, it has been broadened to grant FEMA standing authority to accept such bequests and other types of gifts without the necessity of returning to Congress for authority to do so.

I also wish to point out that it was the intent of the Committee on Public Works and Transportation, which reported this bill, that the money in the fund established by this legislation would be used to provide direct assistance to the victims of emergencies and major disasters rather than being used to cover the administrative expenses of any Federal, State or local agency.

Mr. Speaker, this is an important and appropriate addition to the Disaster Relief Act of 1974, and I urge its passage.●

● Mr. ROBERTS. Mr. Speaker, S. 2185 is a bill which will authorize FEMA, the Federal Emergency Management Agency, to accept gifts, bequests and donations and use them to provide direct assistance to those whose lives are disrupted by emergencies and major disasters. Because Federal agencies without specific legislative authority may not accept private donations for particular purposes, this legislation is necessary to enable FEMA to accept the bequest of the late Cora Brown, who left approximately $500,000 to the Federal Government for the creation of a fund to be used for the relief of human suffering caused by disasters. This bill enables Mrs. Brown's wishes to be carried out, but it also goes further by providing standing authority for FEMA to accept such donations in the future without requiring special legislation.

S. 2185 also establishes in the U.S. Treasury a fund into which donations may be deposited until they are needed for such purposes as the distribution of medicine, food, and other consumable supplies, the granting of aid to families and individuals to meet disaster-related necessary expenses, and the provision of other direct emergency or disaster-related aid authorized by the Disaster Relief Act of 1974.

Mr. Speaker, this bill is a sensible and efficient approach to what is bound to be a recurring problem, and I strongly urge its immediate passage.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1981

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6554) to authorize appropriations for the fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes, with Senate amendments thereto, and concur in the Senate amendment to the title and concur in the Senate amendment to the text with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1981".

Sec. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce for fiscal year 1981 as follows:

(1) for acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $135,000,000; except that no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a sealift readiness program approved by the Secretary of Defense;

(2) for payment of obligations incurred for operating-differential subsidy, not to exceed $347,697,000; except that no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a sealift readiness program approved by the Secretary of Defense;

(3) for expenses necessary for research and development activities, not to exceed $18,750,000;

(4) for maritime education and training expenses, not to exceed $30,863,000, including not to exceed $18,201,000 for maritime training at the Merchant Marine Academy at Kings Point, New York; $10,780,000 for financial assistance to State marine schools, of which amount, $5,480,000 shall be for maintenance, repair, and renovation of State marine school training vessels and $2,100,000 shall be for fuel oil for State marine school training vessels; and $1,882,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) for operating expenses, not to exceed $38,864,000, including not to exceed $7,208,000 for reserve fleet expenses, and not to exceed $31,656,000 for other operating expenses.

Sec. 3. There are authorized to be appropriated for the fiscal year 1981, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Sec. 4. Paragraph (2) of section (2) of the Maritime Appropriation Authorization Act for fiscal year 1980 (Public Law 96–112) is amended by striking "$256,208,000" and substituting "$300,515,000".

Sec. 5. (a) Notwithstanding the provisions of section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) applications for compensation under such Act, filed within 90 days after the date of enactment of this subsection shall be deemed to be timely filed.

(b) Section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) is amended by striking "sixty" and substituting "90".

Sec. 6. Notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 and the provisions of section 4132 of the Revised Statutes as amended, the Secretary of the Department in which the Coast Guard is operating, shall cause the vessel Fundy Pride, built in Cape Saint Mary's, Nova Scotia, and now owned by the State of Maine, as represented by the Department of Educational and Cultural Services to be documented as a vessel of the United States, upon compliance of the usual requirements, to engage in the coastwise trade and the fisheries, so long as such vessel is owned by the State of Maine, or a citizen of the United States.

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1981 and a supplemental appropriation for fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.".

The Clerk read the House amendment to the Senate amendment to the text, as follows:

In lieu of the matter proposed to be inserted by the Senate after the enacting clause, insert the following:

That this may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1981".

Sec. 2. Funds are authorized to be appropriated without fiscal year limitations as the appropriation Act may provide for the use of the Department of Commerce for fiscal year 1981 as follows:

(1) for acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, re-

construction, or reconditioning of ships, not to exceed $135,000,000; except that no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a sealift readiness program approved by the Secretary of Defense;

(2) for payment of obligations incurred for operating-differential subsidy, not to exceed $347,697,000; except that no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a sealift readiness program approved by the Secretary of Defense;

(3) for expenses necessary for research and development activities, not to exceed $17,070,000;

(4) for maritime education and training expenses, not to exceed $32,543,000, including not to exceed $18,201,000 for maritime training at the Merchant Marine Academy at Kings Point, New York; $12,460,000 for financial assistance to State marine schools, of which amount, $2,100,000 shall be for fuel oil for State marine school training vessels; and $1,882,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) for operating expenses, not to exceed $38,864,000, including not to exceed $7,208,000 for reserve fleet expenses, and not to exceed $31,656,000 for other operating expenses.

Sec. 3. There are authorized to be appropriated for the fiscal year 1981, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Sec. 4. Paragraph (2) of Section 2 of the Maritime Appropriation Authorization Act for fiscal year 1980 (Public Law 96–112) is amended by striking $256,208,000" and substituting "$300,515,000".

Sec. 5. Notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 as amended, the Secretary of the Department in which the Coast Guard is operating, shall cause the vessel Fundy Pride, built in Cape Saint Mary's, Nova Scotia, and now owned by the State of Maine, as represented by the Department of Educational and Cultural Services to be documented as a vessel of the United States, upon compliance of the usual requirements, to engage in the coastwise trade and the fisheries, so long as such vessel is owned by the State of Maine.

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHLEY. Mr. Speaker, the fiscal year 1981 authorization for the Department of Commerce's maritime activities was reported out by the Merchant Marine and Fisheries Committee on March 21, 1980, and passed by the House 320 to 50 on April 15, 1980. Thereafter, the Senate on June 3, 1980, passed an amended version which—

First, left the authorization for operating differential subsidy, construction differential subsidy, research and operating expense as they were passed by the House;

Second, reversed the shift of funds for training, so that the House-passed version which had transferred $1.68 million from the academy at Kings Point to the State maritime schools was nullified;

Third, inserted a supplemental $44,307,000 to the fiscal year 1980 budget for ODS payments which were in excess of the amounts authorized in that fiscal year;

Fourth, extended the time for filing claims under the Fisherman's Protective Act of 1967 from 60 to 90 days; and

Fifth, allowed a vessel owned by the State of Maine to operate in the domestic commerce although it is foreign built.

The substitute which is offered by the Committee on Merchant Marine and Fisheries accepts the Senate amendments, but restores provisions of the House-passed version in respect to the authorization for training by authorizing the full amount to the Kings Point Academy as provided by the other body while retaining the amounts authorized by the House for the State schools. This is accomplished without an increase in the total authorization by reducing the research and development authorization by the amount ($1.68 million) of increase to training and education. This reduction is consistent with the President's budget request and is reflective of the amounts ($16,300,000) appropriated by the House in H.R. 7584.

The version we are considering today includes the supplemental for fiscal year 1980 which was considered by the Committee on Merchant Marine and Fisheries in a hearing on H.R. 7395 held on June 11, 1980.

The Senate's inclusion of the amendment to the Fisherman's Protective Act are stricken in our amendment, with the approval of the Senate sponsors.

The current version retains the Senate's inclusion of the authority of the State of Maine owned foreign built vessel to operate in the domestic commerce with the further restriction imposed by the committee that such entitlement is granted only so long as the State of Maine is the owner.

All changes made by the Committee on Merchant Marine and Fisheries to the Senate amendments to H.R. 6554 as passed by this body on April 15, 1980, are with the express consent of the Senate sponsors of this legislation.

The SPEAKER. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

□ 1130

PROVIDING FOR CONSIDERATION OF H.R. 8146, FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACT OF 1980

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 798, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 798

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8146) to provide a program of Federal supplemental unemployment compensation, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a closed rule. No amendments except amendments from the Committee on Ways and Means are in order. At the request of the not-so-silent minority, we gave the committee 2 hours to deal with this instead of 1 hour of general debate. I gather that there is going to be some controversy over the rule, not only in connection with matters that might otherwise be germane to the bill—including some amendments from minority members of the Committee on Ways and Means—but also that the attempt may be made to vote down the previous question so that the rather worn-out issue of tax relief may be brought up.

Obviously, I am going to oppose any shift, any change in the rule, and will support the previous question.

I think this is an important matter that stands on its own feet, and I think it should be dealt with alone and swiftly.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just came back from Mississippi yesterday, and from what I have heard down there, proposals to cut the burden of ever-increasing taxes on the American people is not a very worn-out proposal. In fact, the people down there feel very frustrated about the ever-increasing tax burden that they are being saddled with.

So I think this is something that the House of Representatives should be very careful in deciding it is a worn-out proposal and just casting it aside.

Mr. Speaker, this is a closed rule providing 2 hours of general debate for the consideration of H.R. 8146, the Federal Supplemental Unemployment Compensation Act of 1980. No amendments will be allowed except Ways and Means Committee amendments which will not be subject to amendment.

In the Rules Committee there was an effort to make in order votes on several amendments, one of which was a substantial tax cut proposal. However, the majority was not willing to support this approach.

Because the committee report was not filed until yesterday, the rule requiring that committee reports be available for 3 days prior to consideration on the House floor is waived.

Mr. Speaker, the purpose of the bill made in order by this rule is to provide a program of Federal supplemental unemployment compensation for the period from October 1, 1980, to March 31, 1981, to be financed from Federal general revenues.

A number of industries and several regions of the country have been hit so hard by the administration's economic policies that lengthened unemployment benefits are clearly merited.

However, there are a few problems noted in the dissenting views which should be mentioned. This bill has been moved very quickly through the committee process. In fact, because of this speed the bill fails to include a targeting mechanism to focus benefits on individual areas where the need is greatest.

Instead, in the closing days before the election the Nation will be blanketed with extra weeks of unemployment benefits regardless of whether a State is suffering 9 percent insured unemployment or enjoying a prosperous 2 percent. It is noteworthy that some closely contested States with large numbers of electoral votes might not qualify under a targeted approach, but will be covered by this blanket approach.

This 6-month program of federally financed benefits is scheduled to begin October 1, one month before the election. A Republican proposal to delay this effective date until after the election was rejected.

Finally, Mr. Speaker, there are even reports that the President is planning to send personal letters to each recipient of these new benefits.

It seems to me, Mr. Speaker, that this is pretty blatant politicking with the taxpayers money.

Mr. Speaker, at this time, I would like to yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the bill before us is one that has moved with what is in my judgment unreasonable and unseemly speed through this House. At no point has it had what we might call the usual House consideration.

According to the chronology which I have, the administration bill arrived with much fanfare at the House of Representatives at 6 p.m. on September 16, and it was introduced as H.R. 8118.

On the next day at 10 a.m., there was a subcommittee hearing. My, that was expeditious treatment for such a bill. None of my bills ever get that kind of treatment around here.

Testimony was heard, and at 5 p.m. on the very same day, a markup occurred. Again, a very unusual kind of speedy situation.

At 6:15 p.m., 24 hours and 15 minutes after that bill came with ink dripping from the administration, it was passed by the subcommittee.

The full committee took it up at its next meeting, 2 legislative days after that. It was a meeting of the full committee, which not all members could be present because the committee also had business on the floor at the same time.

For that reason, I was not able to take part in the debate and did not have a chance to offer amendments which I though might be helpful to the bill.

In addition, the bill was delayed coming from the administration for reasons that I do not understand. But, it has been alleged in some quarters that it was sent up late because the administration wanted it to get here late. Perhaps the administration did not want to submit this bill to searching questions and the scrutiny of committee members and House Members. I do not know if that is true or not, but it certainly looks as though it might be.

The result is that we now have the bill before use on the rule, or rather, we have the rule before us, waiving the normal 3-day layover out of the Committee on Rules. Again we see untoward speed in trying to move a bill in such a way that Members cannot debate it nor amend it adequately.

I would also state, Mr. Speaker, that in addition to the waiver of the normal time requirement, there probably would have to have been a waiver of the budget. However, since this House has refused to pass a budget or even to consider one under the Budget Act, and is in violation of the law, there is no budget that must be waived in this situation.

☐ 1140

The whole picture before us, I think, becomes very clearly one of extreme haste, of nervousness to pass a bill which will spread benefits around broadly, without any particular targeting or desire to get at the worst of the unemployment problems, in order to present a wonderful picture for reelection for this current administration. In my judgment, passing this bill would be a terrible mistake for this body to make.

I think we ought to preserve some semblance of a reputation for careful analysis of legislative proposals, rather than to simply tear through on a closed rule.

Mr. Speaker, the rule that we have is closed. There is no reason to close it. The Internal Revenue Code is not open. There is no problem of amendments being offered which may not relate to unemployment. The House has severe rules of germaneness which would be enforced, in any case.

Therefore, Mr. Speaker, we can only assume that the administration has demanded of this body that it serve up a gag rule so that Members are not able to either amend nor to debate responsibly this kind of a bill.

I think that every Member of this House would want to participate in that kind of debate and that kind of amendment process. The reason, of course, is that every Member of this House has a stake in how it is to be financed. This $1.3 billion of extra spending was not a part of the first budget resolution. As I indicated previously, there is no second budget resolution, so it cannot be a part of the second budget resolution, because there is none.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. LOTT. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding additional time.

The $1.3 billion is money that is going to come out of the General Treasury. I think some Members are aware that our country's basic unemployment compensation law, which pays in most cases for the first half year of unemployment benefits, is paid by employers, and I believe in two States by contributions from employees as well. That money goes into a trust fund and is paid in unemployment benefits to those who are out of work through no fault of their own and are actively seeking work. After 26 weeks of unemployment, there is a possibility to collect under our Federal extended benefit program another 13 weeks of unemployment compensation. This is funded one-half in the normal way through the employer contribution and one-half by the general taxpayers of the United States.

Now, we have before us if this closed rule is accepted, a program for a third unemployment compensation benefit which will be paid 100 percent by the taxpayers of the United States.

Now, that is not so bad if the unemployment benefits were aimed at particular areas of stress or hurt, but they are not necessarily aimed that way under the bill. The bill is subject to a national trigger and spreads these unemployment benefits around willy-nilly through the 50 States.

For that reason, Mr. Speaker, this is a bill that needs work. It needs amendment and it needs debate. The closed rule should be defeated. I will ask for defeat of the previous question. I shall ask that an open rule be presented, and if the gentleman from Missouri is worried about some sort of nongermane amendment, I think the rules of the House will defend him adequately. But I do not ask for tax amendments. I do not ask for budget amendments. I simply ask for amendments that would be in order under the normal difficult House rules of germaneness.

I would ask that the previous question be defeated and the House debate this bill in the normal way under a regular open rule.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to this closed rule. If we adopt this rule, this House will really not have adequate time to understand or consider what we are doing in this legislation.

The administration did not propose

this particular program of Federal supplemental benefits in July, nor in August, but suddenly early in September the administration asked for hearings on their proposal before the subcommittee on which I serve. But even at the time when they asked for hearings, they had not even proposed a bill. It was not even written yet.

Our colleague, the gentleman from California (Mr. CORMAN), the chairman of the subcommittee, was not even given the courtesy of knowing what the proposals were until the day before the hearings were actually conducted and our committee convened. He had asked the week before to have hearings. We had to cancel those, and the bill was not available in any way until 1 day before we had hearings on September 17.

Now, the administration bill did not, in fact, arrive until 6 p.m. the evening before the hearing. We did not have the ability to deal with this legislation in a proper way. Particularly disadvantaged were many interested individuals who were unable to prepare testimony on a proposal unavailable to the public before the hearing. Few State unemployment administrators were present at the hearing and few representatives of business had the opportunity to study the proposal and express a position although they will be substantially affected by the FSB program.

Now, we are not claiming that this is a brandnew concept, but it will cost the Federal Treasury anywhere from $1.3 billion to $1.4 billion. That money has to come from someplace. We are supposedly, in these closing days, concerned about add-ons to the deficit. Well, anybody who votes for this bill is adding $1.3 billion to the deficit—$1.3 billion add-on and no proof that the benefits will go to those who truly need additional assistance.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my colleague, a member of the committee.

Mr. FRENZEL. I thank the gentleman for yielding.

Could the gentleman tell the House again who appeared at this suddenly called testimony meeting? There were no taxpayers whose interests were slightly involved to the tune of about $1.4 billion that applied, there were no employers?

Mr. ROUSSELOT. Well, the gentleman from California (Mr. CORMAN) did the best he could under very trying circumstances.

Mr. FRENZEL. What did he get, the Department of Labor?

Mr. ROUSSELOT. Well, we clearly heard from the Department of Labor.

Mr. FRENZEL. That was a bonanza.

Mr. ROUSSELOT. And they had to admit that the final version of this legislation probably was not put together, oh. maybe 2 or 3 weeks ago at the earliest and they had all kinds of revisions up to the last moment.

Then we did hear from an organization that represents several State unemployment compensation administrators. They did come to testify.

Mr. FRENZEL. I understand they were critical of the bill.

Mr. ROUSSELOT. Well, they were substantially critical of certain aspects of this bill. They do not like the blanketing effect of this particular bill. They would rather have it targeted to those States that really need it.

Our colleague, the gentleman from Indiana (Mr. HILLIS) has a proposal to target it by areas; but, of course, that was ruled out of order by the Rules Committee, as has already been explained.

□ 1150

Mr. FRENZEL. If I may, if the gentleman will yield again, does the gentleman mean we had half a dozen witnesses?

Mr. ROUSSELOT. Something like that.

Mr. FRENZEL. For a $1.4 billion bill?

Mr. ROUSSELOT. It was six or seven, I have forgotten.

Mr. FRENZEL. The meeting took an hour or two, did it?

Mr. ROUSSELOT. No. I think we met for 3 hours. It was sporadic because there were quorum calls and votes over here on the floor. The gentleman from California (Mr. CORMAN) did the best he could with a very bad situation.

The SPEAKER. The time of the gentleman from California has expired.

Mr. LOTT. I am happy to yield 3 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I really have a great deal of sympathy for my colleague, the gentleman from California (Mr. CORMAN) for trying to carry his burden with inadequate preparation on the part of the administration.

Now on September 23, as I have already stated, the full committee ordered the bill reported without change and with the intention of bringing it to the floor the next day. They wanted to rush it right to the floor, I suppose, so the President could sign checks and send personal letters with the checks if we got it out before October 1. It is a political year, so we understand that desire. It is not the first time that has been done. If we pass this legislation, rumor has it that the President may sign a letter to go with the checks for these people who have been unemployed for substantial periods of time. What a great idea.

But we all understand the politics of that. We understand the rush to get the bill out.

Only because many of us on the committee were hopeful that a committee report could be given to the Rules Committee, did we insist on the 3-day rule. However, even today all we have are mimeographed copies of parts of the bill and no committee report. I believe this is an inadequate way for Members to consider legislation. I sincerely believe we should eliminate the coverage of this program to every State. There are clearly targeted areas where such a program should be considered. Several amendments were offered in subcommittee to try to achieve this. I know my colleague from Indiana (Mr. HILLIS) has another proposal but that is not allowed under this rule.

Here again we are rushing to a bad legislative decision. We do not know what the final impact of this program will be. Its passage will be a mistake.

I urge my colleagues to vote down the previous question, give us a chance to offer appropriate amendments such as my colleague from Indiana (Mr. HILLIS) would offer, or my colleague from Florida (Mr. BAFALIS), a member of the subcommittee, or my colleague from Minnesota (Mr. FRENZEL) would offer relating to trigger mechanisms for States that genuinely need this additional coverage.

So I hope my colleagues will vote down the previous question. I do not believe, as a member of the subcommittee, that our chairman was given adequate time to prepare for consideration of this proposal. There is tremendous pressure, I know, for this bill's passage. Especially from Mr. BRODHEAD, our colleague from Michigan. We can understand that and I would assure Mr. BRODHEAD that any FSB program would apply there under any trigger mechanism.

This is inappropriate legislation and it has been brought to us in an inappropriate manner. I urge my colleagues to vote down the previous question and allow full consideration of other alternatives for a Federal supplemental benefits program.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, want to rise to oppose this rule for the reason that I think the issue at hand is important enough that we should, as a body, have the right to consider various alternatives instead of having something stuck right down our throats.

Back in June the gentleman from California (Mr. CORMAN) held hearings in his subcommittee on this matter. I had introduced in March what I entitled the Emergency Unemployment Act which provides for targeting of unemployment benefits in labor areas, determined by the Department of Labor, areas of 10-percent or higher unemployment for a 4-week period, for a period of an additional 26 weeks in those areas that exceeded that 10-percent unemployment.

In the June hearings held by our colleague from California (Mr. CORMAN) I brought in three mayors of cities in my district that had 10-percent unemployment or higher and they explained to the subcommittee the perilous situation in which they found themselves with this terribly high rate of unemployment. Now the current economic situation in the country has not been one of uniformity and those communities with heavy manufacturing such as the automobile industry, with that as an economic base, have found themselves with high unemployment rates. Those with the housing industry have found themselves with high unemployment rates. But the situation has not been uniform throughout the country.

The legislation that I proposed would

target in on those areas that need help the most and it should be done in that way.

Under the present bill we are going to pay out $1.2 billion, $1.3 billion, $1.4 billion, whatever it is, for those 10 weeks across the country. What are we going to do when those 10 weeks are over is the question that I would like to submit to the majority here.

Under the targeted bill, which could be done for less than 25 percent of that cost, we could have 26 weeks in the areas where it is needed. That is, as those mayors, each one of them just starting his first term in office, explained the economic plight of the community with 10 percent unemployment or higher, that is where the help is needed and is going to be needed for longer than 10 weeks. That is why I think we are making a critical mistake here if we adopt this closed rule.

This issue is so important that it needs resolution for a longer period, not just something to get us through the election which falls within the 10-week period, but something that is going to help see us through a longer time in the communities that are suffering an economic catastrophe. We need legislation which will see those committees out of the catastrophe, and that is what the 26-week bill would do targeted. That is why I oppose this bill so vigorously.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I think the gentleman makes a very good point. It is one that our departed colleague, Bill Steiger, from Wisconsin, made very vigorously, and I think very persuasively, as well. If we target benefits on those people who really need them and in those areas that really need them then we are able to build up benefits, to extend them even further.

When this bill was in our subcommittee, it had to lop 3 weeks off of it to make it conform to the dollar total in the administration bill. This lop-off was necessary because the subcommittee removed the weeks of attachment test. If we were to go to something like the gentleman has suggested, there would be more moneys available for retraining, for extending benefits in areas where there are no jobs available, and for relocation.

But this bill does not deal with that. It merely spreads a lot of money out before the election so that all of the Members of Congress and the administration can look like big Santa Clauses.

In the gentleman's provision we at least have a change to target, a chance to make these benefits do more good in our economy. Therefore, I want to congratulate the gentleman.

Mr. HILLIS. I thank my colleague for his contribution and say my colleague is exactly right. It is a much wiser use of our assets to extend them in this manner.

I yield back the balance of my time.

Mr. LOTT. Mr. Speaker. I have no further requests for time at this time, and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, if the gentleman will yield back his time, I am the only remaining speaker and I will close.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume and would just conclude by urging my colleagues to vote no on the previous question so that we can consider an open rule. I would be happy, having said that, to yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume.

I will not take much time. I am in some sympathy for some of the things that have been said by our colleagues. I am responsible for the closed rule and I think it is the right kind of rule to have at this time.

I do think that there should be a time when we undertake a careful review of a variety of programs. One of them is unemployment compensation. I am not satisfied with it as a program in the long term. But I cannot conceive of a worse time than right now to deal with anything in a thoughtful nonpartisan way. It seems to me that everybody does, it does not make any difference whether they are in the majority or in the minority, but everybody does have other things on their mind.

I think that this is one of those times when we had better deal with the main event, and the main event is trying to get some help to some unemployed who very badly need that help. I would be sympathetic at another time to this kind of an approach. I do not pretend to want to exhaust this matter. I am sure that the gentleman from California and I could have a considerable colloquy on this. I do not propose to yield to him unless he feels urgently about the matter. If he does, I will be glad to yield to the gentleman from California.

☐ 1200

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I will be glad to yield to the gentleman.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. I do not know how urgent it is. I just want to say to my colleague that we tried in subcommittee to offer targeting provisions for these extended benefits because this is a terribly expensive proposal being presented at the last minute to really help those who generally had gone beyond the time frame allowed for unemployment compensation. But these extended benefits should not be blanket in where they are not needed. Under this rule we are not able to offer those amendments. so all we were asking is a chance to introduce some of those amendments which were very thoroughly discussed in committee, but we were unable to discuss here on the floor, because of this bad rule.

Mr. BOLLING. I would be delighted to comment on what the gentleman has said. Targeting is one of the things that the Congress, and particularly the House, does least well. This particular bill, in my judgment, meets the urgent situation that exists and does it about as well as can be done under the circumstances. I do not pretend to be an expert on unemployment compensation, but I know what is going on, and I do not really believe in encouraging the notion that this is the right time to deal either with taxes or with the fundamental aspects of unemployment compensation.

Therefore, Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 148, answered "present" 1, not voting 46, as follows:

[Roll No. 598]

YEAS—237

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Cavanaugh
Clay
Conte
Conyers
Corman
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Dicks
Dingell
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
English
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fowler
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Howard
Hubbard
Hughes
Hutchinson
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Seiberling
Sharp
Shelby
Simon
Skelton

Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—148

Abdnor
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bowen
Broomfield
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Forsythe
Fountain
Frenzel
Glickman
Goodling
Gradison
Gramm
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Horton
Huckaby
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
O'Brien
Pashayan
Paul
Porter
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Schroeder
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Walker
Wampler
Whittaker
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

McDade

NOT VOTING—46

Ambro
Anderson, Ill.
Bethune
Biaggi
Boggs
Brown, Ohio
Burton, John
Chisholm
Coelho
Collins, Ill.
Cotter
Coughlin
Dellums
Dixon
Dodd
Dougherty
Edgar
Ford, Mich.
Fuqua
Gaydos
Gingrich
Goldwater
Grassley
Gray
Holtzman
Hutto
Ichord
Jenrette
Kelly
Leach, La.
Lederer
McCloskey
Moffett
Murphy, N.Y.
Myers, Pa.
Nolan
Pepper
Roberts
Schulze
Shannon
Solomon
Steed
Thompson
Vander Jagt
Whitehurst
Wilson, C. H.

□ 1210

The Clerk announced the following pairs:

Mr. Ambro with Mr. Bethune.
Mr. Fuqua with Mr. Gingrich.
Mr. Murphy of New York with Mr. Schulze.
Mr. Thompson with Mr. Brown of Ohio.
Mrs. Boggs with Mr. Coughlin.
Mr. Biaggi with Mr. Kelly.
Mr. Cotter with Mr. McCloskey.
Mr. Dodd with Mr. Whitehurst.
Mr. Roberts with Mr. Solomon.
Mr. Pepper with Mr. Grassley.
Mr. Jenrette with Mr. Dougherty.
Mr. Dellums with Mr. Goldwater.
Mr. John L. Burton with Mr. Leach of Louisiana.
Mr. Ford of Michigan with Mr. Vander Jagt.
Mr. Gaydos with Mr. Steed.
Mr. Lederer with Mr. Myers of Pennsylvania.
Mr. Moffett with Mr. Edgar.
Mrs. Chisholm with Mr. Ichord.
Mr. Coelho with Ms. Holtzman.
Mrs. Collins of Illinois with Mr. Charles H. Wilson of California.
Mr. Gray with Mr. Shannon.
Mr. Dixon with Mr. Nolan.
Mr. Hutto with Mr. Anderson of Illinois.

Mr. GLICKMAN changed his vote from "yea" to "nay."

Mrs. HECKLER and Messrs. BUCHANAN, LLOYD, and WILLIAMS of Ohio changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. RAHALL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 258, nays 127, answered "present" 1, not voting 46, as follows:

[Roll No. 599]

YEAS—258

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Conte
Conyers
Corman
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Dicks
Dingell
Donnelly
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fowler
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gore
Green
Guarini
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Hopkins
Howard
Hubbard
Hutchinson
Ireland
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leath, Tex.
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKay
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Sawyer
Schroeder
Seiberling
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—127

Abdnor
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Bennett
Bereuter
Bethune
Bowen
Broyhill
Burgener
Butler
Campbell
Carney
Chappell
Cheney
Cleveland
Clinger
Coleman
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dornan
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Ga.
Fenwick
Fish
Forsythe
Fountain
Frenzel
Goldwater
Goodling
Gradison
Gramm
Grisham
Gudger
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Horton
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
McKinney
Madigan
Marlenee
Marriott
Martin
Michel
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Pashayan
Paul
Porter
Quayle
Robinson
Roth
Rousselot
Royer
Rudd
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Spence
Stangeland
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Walker
Whittaker
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—46

Ambro
Anderson, Ill.
Brown, Ohio
Burton, John
Coelho
Collins, Ill.
Collins, Tex.
Cotter
Coughlin
Dellums
Dixon
Dodd
Dougherty
Duncan, Oreg.
Edgar
Ford, Mich.
Fuqua
Gaydos
Gingrich
Grassley
Gray
Holtzman
Hutto
Ichord
Jenrette
Kelly
Leach, La.
Lederer
McCloskey
Myers, Pa.
Nolan
Pepper
Railsback
Roberts
Satterfield
Scheuer
Schulze
Shannon
Solomon
Stark
Steed
Thompson
Vander Jagt
Whitehurst
Wilson, Bob
Wilson, C. H.

□ 1230

The Clerk announced the following pairs:

Mr. Cotter with Mr. Brown of Ohio.
Mr. Thompson with Mr. Kelly.
Mr. Satterfield with Mr. Schulze.
Mr. Dixon with Mr. Railsback.
Mr. Ford of Michigan with Mr. Vander Jagt.
Mr. John L. Burton with Mr. Dougherty.
Mr. Ambro with Mr. Coughlin.
Mr. Fuqua with Mr. Collins of Texas.
Mr. Gray with Mr. Gingrich.
Mr. Jenrette with Mr. Grassley.
Mr. Lederer with Mr. Leach of Louisiana.
Mr. Nolan with Mr. McCloskey.
Mr. Pepper with Mr. Bob Wilson.
Mr. Roberts with Mr. Solomon.
Mr. Shannon with Mr. Whitehurst.
Mr. Stark with Mr. Myers of Pennsylvania.
Mr. Steed with Mr. Charles H. Wilson of California.
Mr. Scheuer with Mr. Gaydos.
Mr. Coelho with Mr. Anderson of Illinois.
Mrs. Collins of Illinois with Mr. Edgar.
Mr. Dodd with Ms. Holtzman.
Mr. Ichord with Mr. Hutto.
Mr. Dellums with Mr. Duncan of Oregon.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE EQUAL ACCESS TO JUSTICE ACT

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, at the beginning of this week I was glad to find out that S. 265, the Equal Access to Justice Act was scheduled for floor consideration under suspension of the rules. When I arrived in my office this morning, I was informed that the leadership decided that this bill was not going to be considered. This recent move by the leadership greatly concerns me. I have worked closely with the delegates of the White House Conference on Small Business and this bill is one of the highest priority pieces of legislation by the conference.

This legislation will finally give the small businessman an equal hand in agency proceedings. By awarding reasonable attorney's fees and expenses should the small businessman prevail in agency proceedings, this bill will give the small business community the necessary relief in their war against Government overregulation, bureaucratic harassment, and other regulatory actions which cost the small businessman billions of dollars each year. This money can be better used by small business in creating jobs by improving production, sales, and distribution of goods and services.

I have heard of many occasions where the small businessmen have been harassed by many of the agencies of the Federal Government. Large corporations have the money and legal manpower to fight agency actions. They have large legal departments that can fight the Federal Government at all the stages of the legal battle from the agency hearing to the U.S. Supreme Court. On the other hand, the small businessman does not have the manpower or the resources to fight the Federal bureaucracy in its oftentimes endless efforts to create an undue financial burden on this important sector of the Nation's economy.

As the businessman is legally responsible for his action, so should the Federal Government be financially responsible for many of its frivolous and unnecessary actions taken under the cloak of regulation of the small business community. The small businessman should be reimbursed for his attorney's fees and expenses if he proves that the Federal Government was wrong in its accusations or charges.

I am advised that S. 265 has been incorporated in the conference report of H.R. 5612. I only hope that this is not another tactic to delay this needed legislation. The 96th Congress must not turn its back on the small businessman.

CONFERENCE REPORT ON S. 1482, CLASSIFIED INFORMATION PROCEDURES ACT

Mr. BOLAND submitted the following conference report and statement on the Senate bill (S. 1482) to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information:

CONFERENCE REPORT (H. REPT. NO. 96-1436)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1482) to provide certain pretrial, trial and appellate procedures for criminal cases involving classified information, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill insert the following:

DEFINITIONS

SECTION 1. (a) "Classified information", as used in this Act, means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(b) "National security", as used in this Act, means the national defense and foreign relations of the United States.

PRETRIAL CONFERENCE

SEC. 2. At any time after the filing of the indictment or information, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Following such motion, or on its own motion, the court shall promptly hold a pretrial conference to establish the timing of requests for discovery, the provision of notice required by section 5 of this Act, and the initiation of the procedure established by section 6 of this Act. In addition, at the pretrial conference the court may consider any matters which relate to classified information or which may promote a fair and expeditious trial. No admission made by the defendant or by any attorney for the defendant at such a conference may be used against the defendant unless the admission is in writing and is signed by the defendant and by the attorney for the defendant.

PROTECTIVE ORDERS

SEC. 3. Upon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information disclosed by the United States to any defendant in any criminal case in a district court of the United States.

DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS

SEC. 4. The court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be made available to the defendant through discovery under the Federal Rules of Criminal Procedure, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The court may permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION

SEC. 5. (a) NOTICE BY DEFENDANT.—If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or, where no time is specified, within thirty days prior to trial, notify the attorney for the United States and the court in writing. Such notice shall include a brief description of the classified information. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the United States and the court in writing as soon as possible thereafter and shall include a brief description of the classified information. No defendant shall disclose any information known or believed to be classified in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the United States to appeal such determination under section 7 has expired or any appeal under section 7 by the United States is decided.

(b) FAILURE TO COMPLY.—If the defendant fails to comply with the requirements of subsection (a) the court may preclude disclosure of any classified information not made the subject of notification and may prohibit the examination by the defendant of any witness with respect to any such information.

PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION

SEC. 6. (a) MOTION FOR HEARING.—Within the time specified by the court for the filing of a motion under this section, the United States may request the court to conduct a hearing to make all determinations concerning the use, relevance, or admissibility of classified information that would otherwise be made during the trial or pretrial proceeding. Upon such a request, the court shall conduct such a hearing. Any hearing held pursuant to this subsection (or any portion of such hearing specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information. As to each item of classified information, the court shall set forth in writing the basis for its determination. Where the United States' motion under this subsection is filed prior to the trial or pretrial proceeding, the court shall rule prior to the commencement of the relevant proceeding.

(b) Notice.—(1) Before any hearing is conducted pursuant to a request by the United States under subsection (a), the United States shall provide the defendant with notice of the classified information that is at issue. Such notice shall identify the specific classified information at issue whenever that information previously has been made available to the defendant by the United States. When the United States has not previously made the information available to the defendant in connection with the case, the information may be described by generic category, in such form as the court may approve, rather than by identification of the specific information of concern to the United States.

(2) Whenever the United States requests a hearing under subsection (a), the court, upon request of the defendant, may order the United States to provide the defendant, prior to trial, such details as to the portion of the indictment or information at issue in the hearing as are needed to give the defendant fair notice to prepare for the hearing.

(c) Alternative Procedure for Disclosure of Classified Information.—(1) Upon any determination by the court authorizing the disclosure of specific classified information under the procedures established by this section, the United States may move that, in lieu of the disclosure of such specific classified information, the court order—

(A) the substitution for such classified information of a statement admitting relevant facts that the specific classified information would tend to prove; or

(B) the substitution for such classified information of a summary of the specific classified information.

The court shall grant such a motion of the United States if it finds that the statement or summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information. The court shall hold a hearing on any motion under this section. Any such hearing shall be held in camera at the request of the Attorney General.

(2) The United States may, in connection with a motion under paragraph (1), submit to the court an affidavit of the Attorney General certifying that disclosure of classified information would cause identifiable damage to the national security of the United States and explaining the basis for the classification of such information. If so requested by the United States, the court shall examine such affidavit in camera and ex parte.

(d) Sealing of Records of In Camera Hearings.—If at the close of an in camera hearing under this Act (or any portion of a hearing under this Act that is held in camera) the court determines that the classified information at issue may not be disclosed or elicited at the trial or pretrial proceeding, the record of such in camera hearing shall be sealed and preserved by the court for use in the event of an appeal. The defendant may seek reconsideration of the court's determination prior to or during trial.

(e) Prohibition on Disclosure of Classified Information by Defendant, Relief for Defendant When United States Opposes Disclosure.—(1) Whenever the court denies a motion by the United States that it issue an order under subsection (c) and the United States files with the court an affidavit of the Attorney General objecting to disclosure of the classified information at issue, the court shall order that the defendant not disclose or cause the disclosure of such information.

(2) Whenever a defendant is prevented by an order under paragraph (1) from disclosing or causing the disclosure of classified information, the court shall dismiss the indictment or information; except that, when the court determines that the interests of justice would not be served by dismissal of the indictment or information, the court shall order such other action, in lieu of dismissing the indictment or information, as the court determines is appropriate. Such action may include, but need not be limited to—

(A) dismissing specified counts of the indictment or information;

(B) finding against the United States on any issue as to which the excluded classified information relates; or

(C) striking or precluding all or part of the testimony of a witness.

An order under this paragraph shall not take effect until the court has afforded the United States an opportunity to appeal such order under section 7, and thereafter to withdraw its objection to the disclosure of the classified information at issue.

(f) Reciprocity.—Whenever the court determines pursuant to subsection (a) that classified information may be disclosed in connection with a trial or pretrial proceeding, the court shall, unless the interests of fairness do not so require, order the United States to provide the defendant with the information it expects to use to rebut the classified information. The court may place the United States under a continuing duty to disclose such rebuttal information. If the United States fails to comply with its obligation under this subsection, the court may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the United States of any witness with respect to such information.

INTERLOCUTORY APPEAL

Sec. 7. (a) An interlocutory appeal by the United States taken before or after the defendant has been placed in jeopardy shall lie to a court of appeals from a decision or order of a district court in a criminal case authorizing the disclosure of classified information, imposing sanctions for nondisclosure of classified information, or refusing a protective order sought by the United States to prevent the disclosure of classified information.

(b) An appeal taken pursuant to this section either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken within ten days after the decision or order appealed from and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved and the court of appeals (1) shall hear argument on such appeals within four days of the adjournment of the trial, (2) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (3) shall render its decision within four days of argument on appeal, and (4) may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

INTRODUCTION OF CLASSIFIED INFORMATION

Sec. 8. (a) Classification Status.—Writings, recordings, and photographs containing classified information may be admitted into evidence without change in their classification status.

(b) Precautions by Court.—The court, in order to prevent unnecessary disclosure of classified information involved in any criminal proceeding, may order admission into evidence of only part of a writing, recording, or photograph, or may order admission into evidence of the whole writing, recording, or photograph with excision of some or all of the classified information contained therein, unless the whole ought in fairness be considered.

(c) Taking of Testimony.—During the examination of a witness in any criminal proceeding, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring the United States to provide the court with a proffer of the witness' response to the question or line of inquiry and requiring the defendant to provide the court with a proffer of the nature of the information he seeks to elicit.

SECURITY PROCEDURES

Sec. 9. (a) Within one hundred and twenty days of the date of the enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, shall prescribe rules establishing procedures for the protection against unauthorized disclosure of any classified information in the custody of the United States district courts, courts of appeal, or Supreme Court. Such rules, and any changes in such rules, shall be submitted to the appropriate committees of Congress and shall become effective forty-five days after such submission.

(b) Until such time as rules under subsection (a) first become effective, the Federal courts shall in each case involving classified information adopt procedures to protect against the unauthorized disclosure of such information.

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

Sec. 10. In any prosecution in which the United States must establish that material relates to the national defense or constitutes classified information, the United States shall notify the defendant, within the time before trial specified by the court, of the portions of the material that it reasonably expects to rely upon to establish the national defense or classified information element of the offense.

AMENDMENT TO THE ACT

Sec. 11. Sections 1 through 10 of this Act may be amended as provided in section 2076, title 28, United States Code.

ATTORNEY GENERAL GUIDELINES

Sec. 12. (a) Within one hundred and eighty days of enactment of this Act, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed. Such guidelines shall be transmitted to the appropriate committees of Congress.

(b) When the Department of Justice decides not to prosecute a violation of Federal law pursuant to subsection (a), an appropriate official of the Department of Justice shall prepare written findings detailing the reasons for the decision not to prosecute. The findings shall include—

(1) the intelligence information which the Department of Justice officials believe might be disclosed,

(2) the purpose for which the information might be disclosed,

(3) the probability that the information would be disclosed, and

(4) the possible consequences such disclosure would have on the national security.

REPORTS TO CONGRESS

SEC. 13. (a) Consistent with applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the Attorney General shall report orally or in writing semiannually to the Permanent Select Committee on Intelligence of the United States House of Representatives, the Select Committee on Intelligence of the United States Senate, and the chairmen and ranking minority members of the Committees on the Judiciary of the Senate and House of Representatives on all cases where a decision not to prosecute a violation of Federal law pursuant to Section 12(a) has been made.

(b) The Attorney General shall deliver to the appropriate committees of Congress a report concerning the operation and effectiveness of this Act and including suggested amendments to this Act. For the first three years this Act is in effect, there shall be a report each year. After three years, such reports shall be delivered as necessary.

FUNCTIONS OF ATTORNEY GENERAL MAY BE EXERCISED BY DEPUTY ATTORNEY GENERAL OR A DESIGNATED ASSISTANT ATTORNEY GENERAL

SEC. 14. The functions and duties of the Attorney General under this Act may be exercised by the Deputy Attorney General or by an Assistant Attorney General designated by the Attorney General for such purpose and may not be delegated to any other official.

EFFECTIVE DATE

SEC. 15. The provisions of this Act shall become effective upon the date of the enactment of this Act, but shall not apply to any prosecution in which an indictment or information was filed before such date.

SHORT TITLE

SEC. 16. That this Act may be cited as the "Classified Information Procedures Act."

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

EDWARD P. BOLAND,
R. L. MAZZOLI,
DON EDWARDS,
ROBERT F. DRINAN,
ROBERT MCCLORY,
HENRY J. HYDE,
Managers on the Part of the House.

EDWARD M. KENNEDY,
BIRCH BAYH,
JOSEPH R. BIDEN, Jr.,
PATRICK J. LEAHY,
STROM THURMOND,
BOB DOLE,
THAD COCHRAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1482) to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended by the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS (SEC. 1)

The Senate bill (Sec. 1(a)) defined "classified information" to mean "any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in section 2014(y) of title 42, United States Code." The House bill (Sec. 113) defined classified information as "information or material that is designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive Order), as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security or any Restricted Data, as defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))".

The conferees agreed to the Senate provision.

The Senate bill (Sec. 1(b)) defined "national security" to mean the "national defense and foreign relations of the United States". The House bill contained no comparable provision.

The conferees agreed to the Senate provision.

PRETRIAL CONFERENCE (SEC. 2)

The Senate bill contained a provision (Sec. 2) which required the court, upon motion of any party, to hold a pretrial conference to make determinations concerning the timing of certain procedures concerning classified information as well as any other matters which might promote a fair and expeditious trial. The House bill contained a similar provision (Sec. 101) with additional language stating that submissions made by the defendant or his attorney in the course of such proceedings could not be used against him unless they were in writing and signed by the defendant and his attorney.

The conferees agreed to the Senate provision with the additional House language.

PROTECTIVE ORDERS (SEC. 3)

The Senate bill contained a provision (Sec. 3) which authorized the court to issue a protective order "to guard against the compromise in connection with a prosecution by the United States of any classified material." The House bill had a similar provision (Sec. 109(a)) which, however, made clear that the court could issue such an order only "to protect against the disclosure of any classified information disclosed by the United States to any defendant."

The conferees agreed to the House provision.

DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS (SEC. 4)

The Senate bill contained a provision (Sec. 4) which permitted the court to authorize the deletion from, summarization of, or stipulation concerning, any classified information from documents made available by the government to the defendant, and stated that a motion requesting such authority could be heard in camera and ex parte. The House bill contained a similar provision (Sec. 109(b)) which related only to materials which the defendant sought from the government through discovery, and took effect only after all determinations made by the court pursuant to Rule 16 of the Federal Rules of Criminal Procedure had been made.

The House bill also required the court to find that the actions requested by the government would "provide the defendant with substantially the same ability to prepare for trial or make his defense as would disclosure of the specific classified information." Finally, the House provision required that if the court granted an order pursuant to an ex parte motion for deletion, summarization or stipulation, the entire text of the government's ex parte statement to the court should be sealed and preserved for the appellate court in the event of an appeal.

The conferees agreed to the Senate provision but limited its effect only to materials provided through the discovery process and added the provision of the House bill requiring the record of any ex parte statement to be sealed and preserved for the appellate court in the event of an appeal.

NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION (SEC. 5)

The Senate bill contained a provision (Sec. 5) requiring a criminal defendant to notify the government and the court, in advance, of any classified information that the defendant reasonably expected to disclose at trial or pretrial proceedings. The defendant could not disclose the information until the government had had an opportunity to seek a hearing on the matter or appeal a determination made at such a hearing. Further, the provision stipulated that where the defendant did not comply with the notice requirement, the court could preclude the defendant from disclosing the classified information.

The House bill contained similar, more detailed procedures for notice (Sec. 102(a) and (b)) and a penalty provision (Sec. 106) which required the court, before it prohibited the defendant from disclosing the classified information at issue, to find that the defendant reasonably could have anticipated the need to disclose the classified information.

The conferees agreed to the Senate provision with minor technical changes.

PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION (SEC. 6)

The Senate bill contained a provision (Sec. 6) establishing procedures by which the government could request a hearing on issues involving classified information brought to the attention of the government by the defendant pursuant to the provisions of Sec. 5 or about which the government had otherwise learned. The procedures provided that the government could submit an ex parte statement to the court explaining the sensitivity of the classified information at the time a hearing was requested and that the government could request that the hearing, or a portion thereof, be in camera.

The Senate bill further provided that before any hearing was held pursuant to Sec. 6, notice was to be given to the defendant of the information at issue and that such notice might be by "generic category" if the information at issue had not been made available previously to the defendant through discovery or otherwise.

After the hearing, the court was required to determine whether and in what manner classified information could be disclosed by the defendant. The court could, if it found that the defendant's right to a fair trial would not be prejudiced, order that a stipulation of facts or a summarization of information be disclosed in lieu of the specific classified information. If such forms of alternative disclosure were not possible and the government objected to the disclosure of the classified information at issue, the court was to decide whether to declare a mistrial, dismiss the case or specific counts thereof, preclude the testimony of a witness, find against the government on an issue or anything else required by the interest of justice.

Further, if new information later came to light that would have affected the court's determination that certain classified information could not be diclosed, the defendant then could move that the court reconsider its ruling. If the court granted this motion, a second hearing could be held under the procedures of the bill.

Finally, Sec. 6 contained a requirement

that the government provide the defendant with the information it would use to rebut the specific classified information which the court had ruled could be disclosed in connection with the trial, unless the court found that the interest of justice would not so require.

The House bill contained provisions (Sec. 102 (c), (d) and (e); Sec. 103, 104, 105) basicaly anslogous to the Senate provisions, but with the following differences:

In addition to responding to the notice by the defendant of classified information that might be disclosed in connection with the trial, the government, on the petition of the Attorney General, could also request a hearing in any other situation where the government wished to resolve issues concerning clasified information before trial, regardless of whether the government had any knowledge of possible disclosure (Sec. 102 (c)).

The determination to be made by the court before trial as to the matters involving classified information would be those rulings on the use, relevance, or admissibility of the information as otherwise would be made at trial (Sec. 102 (a), (b) and (c)).

The court would hear all arguments, and make its decision, concerning questions of use, relevance or admissibility before receiving any affadavit from the government about the sensitivity of the classified information at issue.

There would be a separate hearing on the question of alternative disclosure after rulings on use, relevance or admissibility. A stipulation of facts or summary would be permitted if the alternative form of disclosure would provide the defendant with substantially the same ability to make his defense as would use of the specific classified information.

The possible rulings against the government where the government still objected (after appeal) to disclosure of specific classified information did not include mistrial, since otherwise the defendant could have been placed in double jeopardy.

The government was required specifically, among the information to be provided reciprocally to the defendant, to furnish the names of witnesses, taking into consideration possible harm or intimidation to the witness or harm to the national security; and to furnish a bill of particulars as to the parts of the indictment or information to which the specific classified information that the government wished to make the subject of a hearing pertained. All the foregoing requirements, however, were not to apply when the classified information at issue had been provided by the government to the defendant, unless the interests of fairness so required.

The conferees agreed to the Senate provision with language changes and additions which incorporate the additional House provisions.

The conferees note that although the rulings which the judge will make as to use, relevance or admissibility under the conference substitute will be made before any explanation of the basis for classification, the conferees agree that nothing in the conference substitute would prevent the court from examining the specific classified information at issue in considering all questions of use, relevance or admissibility. At the same time, the conferees agree that, as noted in the reports to accompany S. 1482 and H.R. 4736, nothing in the conference substitute is intended to change the existing standards for determining relevance and admissibility.

The conferees also agree that although the standard in the conference substitute for alternative disclosure, "substantially the same ability to make his defense," is intended to convey a standard of substantially equivalent disclosure, precise, concrete equivalence is not intended. The fact that insignificant tactical advantages could accrue to the defendant by the use of the specific classified information should not preclude the court from ordering alternative disclosure.

The conferees further note that, although the language of the conference substitute does not specifically require reciprocal provision by the government of the names of government witnesses, witnesses names may, in appropriate circumstances, be required to be provided, if, taking into consideration all that the defendant has revealed to the government, the interest of fairness would suggest such provision. The conferees agree that the reciprocal provision of information by the government to the defendant may not be in the "interests of fairness" in cases where the defendant has received the classified information in question from the government by discovery.

INTERLOCUTORY APPEAL

The Senate bill contained a provision (Sec. 7) providing for an expedited interlocutory appeal of all decisions by the court under the provisions of the bill authorizing disclosure of classified information, imposing sanctions for nondisclosure of classified information or refusing a protective order sought by the government.

The House bill contained a similar provision (Sec. 108) which permitted appeals not undertaken for purposes of delay.

The conferees agreed to the Senate provision.

PRECAUTIONS BY COURT (SEC. 8(b))

The Senate bill contained a provision (Sec. 8(b)) which authorized the court, where classified information was involved, to "order admission into evidence of only part of a writing, recording, or photograph, or . . . order admission into evidence of the whole . . . with excision of some of the classified information contained therein."

The House bill contained a provision (Secs. 109 (d) and (e)) which restated the Rule of Completeness, but required the court to conduct a hearing whenever the Rule was invoked.

The conferees agreed to the Senate language but added the phrase "unless the whole ought in fairness be considered," to make it clear that it was a determination under the Rule of Completeness that was to be made by the court.

SECURITY PROCEDURES (SEC. 9)

The Senate bill contained a provision (Sec. 9) which directed the Chief Justice, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, to issue security procedures to protect classified information submitted to the Federal courts.

The House bill contained a provision (Sec. 110) which required the Chief Justice, in consultation with the Attorney General and the Director of Central Intelligence, to prescribe such procedures and to submit them to the appropriate committees of Congress. The procedures would take effect 45 calendar days after such submission.

The Conferees agreed to the House provision, but added the Senate requirement that the Chief Justice consult with the Secretary of Defense.

AMENDMENTS TO THE ACT (SEC. 11)

The Senate bill contained a provision (Sec. 11) which stated that Sections 1–10 could be amended in the same manner, described in 28 U.S.C. 2076, as are the Rules of Evidence.

The House bill contained no similar provision.

The conferees agreed to the Senate provision. (The House conferees note that in the House of Representatives, both the Permanent Select Committee on Intelligence and the Committee on the Judiciary share jurisdiction over the subject matter of the Act. It is expected that such joint jurisdiction will continue to be reflected in any referrals to committees of changes to the Act submitted by the Supreme Court to the Congress.)

ATTORNEY GENERAL GUIDELINES (SEC. 12)

The Senate bill contained a provision which required promulgation of Attorney General guidelines for dealing with the factors to be considered in a prosecution where there is a possibility that classified information would be revealed during trial. It also required written findings on any decision not to prosecute. The House bill contained no comparable provisions. The conferees agreed to the Senate's provisions.

The conferees agree that, while the written findings must cover the factors listed in Section 12(b) that influence decisions not to prosecute, they need not necessarily involve or discuss the very sensitive classified information which leads to the decision not to prosecute. Thus, information which reveals specific intelligence arrangements with foreign governments, intelligence sources or methods, or the essence of the sensitive information at issue in the case can be described in a manner that protects the details that make the information so sensitive. The important point is that the description convey the importance or sensitivity of the information involved. In cases where it is necessary to use classified information to describe the classified information at issue or the consequences that would result from its disclosure, special precautions should be taken to insure that the information is handled in an appropriate manner. In these cases, the findings should be safeguarded in accordance with procedures agreed upon by the Attorney General, Secretary of Defense, and the Director of Central Intelligence.

REPORTS TO CONGRESS (SEC. 13)

The Senate bill contained provisions (Sec. 12(c) and 13) which dealt with reports by the Attorney General to the Congress. Under section 12(c) the report, either written or oral, was to be made on a semiannual basis to the two Intelligence Committees, and was to include all cases where a decision not to prosecute was made for reason of national security. Section 13 required annual reports to the appropriate committees of Congress on the operation and effectiveness of the Act.

The House bill (Sec. 202) required the Attorney General to report annually to the two Intelligence Committees and to the Chairmen and Ranking Minority Members of the House and Senate Judiciary Committees on the operation and effectiveness of the Act. Such report was to include summaries of those cases in which a decision not to prosecute was made for reason of national security.

The conferees adopted the Senate language, but included the House provision requiring reporting to the Chairmen and Ranking Minority Members of the Judiciary Committees.

FUNCTIONS OF ATTORNEY GENERAL (SEC. 14)

The House bill contained a provision (Sec. 112) authorizing the Deputy Attorney General or a designated Assistant Attorney General to exercise the functions and duties of the Attorney General under the Act.

The Senate bill contained no similar provision.

The conferees agreed to the House provision.

EFFECTIVE DATE (SEC. 15)

The House bill contained a provision (Sec. 301) which provided that the bill was to become effective on the date of its enactment but was not to apply to any prosecution formally initiated prior to such date.

The Senate bill contained no similar provision.

The conferees agreed to the House language.

TITLE OF THE BILL

The conferees agreed to the title of the Senate bill which reads: An Act to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information.

Edward P. Boland,
R. L. Mazzoli,
Don Edwards,
Robert F. Drinan,
Robert McClory,
Henry J. Hyde,
Managers on the Part of the House.
Edward M. Kennedy,
Birch Bayh,
Joseph R. Biden, Jr.,
Patrick J. Leahy,
Strom Thurmond,
Bob Dole,
Thad Cochran,
Managers on the Part of the Senate.

MAKING IN ORDER CONSIDERATION OF S. 1482, CLASSIFIED INFORMATION PROCEDURES ACT

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that it may be in order at any time to consider the conference report on the Senate bill (S. 1482) to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information.

The SPEAKER pro tempore (Mr. Rahall). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACT OF 1980

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8146) to provide a program of Federal supplemental unemployment compensation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Corman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 8146, with Mr. Ratchford in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. Corman) will be recognized for 1 hour, and the gentleman from New York (Mr. Conable) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. Corman).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, included in the President's antirecession package was a request for the reestablishment of the Federal supplemental benefits program for unemployed workers who have exhausted unemployment compensation benefits provided under permanent State and Federal programs. That is a mechanism for maintaining the spending ability of people who are unemployed for a protracted period of time because of the economic problems this country is presently suffering.

Unemployment compensation has two purposes. First of all, it provides income assistance that will allow the unemployed to meet basic needs. Second, it stimulates the economy both locally and nationally by maintaining a level of spending that otherwise would not be there because of lost wages.

The program of additional weeks of unemployment benefits, Ways and Means has reported is limited in scope. It was designed with the primary objectives of staying within the gross dollars requested by the administration and being as simple and easy to implement as possible. Because it is a temporary program, only in effect for 6 months, it would be a serious mistake to attempt to require States to change the way they administer their permanent programs.

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It is true that the Ways and Means Committee has the capacity to respond relatively quickly when there is a serious need. Those unemployed workers whose unemployment compensation will run out within the next few weeks believe that there is some reason to move expeditiously.

It is true that we held hearings and marked up this bill relatively quickly after receiving the administration's proposal in statutory language. We heard every witness who had asked to be heard. We believe we improved slightly on the administration's package because we eliminated the requirement that workers must have 32 weeks of work during the past year to qualify for these additional benefits. The reason we eliminated this requirement is because the necessary information to implement it is not presently available in many States. We did not want States to have to go back and obtain new information that is not already available or used in the administration of regular programs.

It is urgent that this bill be passed by the House and, hopefully, signed into law before this Congress recesses. Should we fail to accomplish this, upwards of one-half a million American families will exhaust unemployment benefits and, possibly, reduced to seeking public assistance.

Under current law, States provide State financed unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law.

In all States, in order to receive State benefits, an individual must have earned a specified amount of wages and/or worked for a certain period of time prior to filing for unemployment compensation. There is, however, substantial variation among the States in the amount of previous earnings or employment necessary to qualify for benefits. In addition, all States require that, to qualify for benefits, the claimant must have been "involuntarily" unemployed; must be able to work, available for work, and seeking work; and must not refuse an offer of suitable employment.

Most States provide up to a maximum of 26 weeks of State unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law. Many claimants qualify for less than the maximum 26 weeks, and in nine States claimants may receive more than 26 weeks of State benefits. The number of weeks a claimant may draw benefits—except in the 11 "uniform duration" States—and the amount of his or her weekly unemployment payment varies with the level of wages or length of employment prior to the filing for benefits.

Under the permanent Federal-State extended unemployment compensation benefits program, additional weeks of unemployment compensation are payable to individuals who exhaust their State benefits during periods of high unemployment. Extended benefits are financed 50 percent from State trust funds and 50 percent from the Federal unemployment insurance trust fund.

Under the extended benefits program, an individual may receive additional weeks of benefits equal to one-half of the number of weeks of State benefits to which he or she was entitled. No one, however, may receive more than 13 weeks of extended benefits, or a combined total of more than 39 weeks of State plus extended benefits.

Extended benefits are payable in a State when in the most recent 13-week period, the State insured unemployment rate (IUR—the percentage of workers covered by the State unemployment compensation program who are claiming State and extended benefits averages at least 4 percent and, in addition, is at least 20 percent higher than the State IUR during the comparable period in the 2 prior years. When the "20 percent" factor is not met, a State, at its option, may provide extended benefits when the State IUR reaches 5 percent. Thirty-nine States have incorporated the optional 5 percent "trigger" into their State law.

Extended benefits are payable in all States when the national IUR equals or exceeds 4.5 percent.

There are no additional eligibility requirements for receipt of extended benefits. Extended benefits, in terms of the weekly payment, duration of benefits and eligibility requirements, are basically an extension of the claimant's State benefits. A person who exhausts his or her State benefits during a period when extended benefits are payable, and who continues to meet all State law requirements for receipt of States benefits, is eligible for the additional weeks of benefits provided under the extended benefits program.

Under H.R. 8146, for the period from October 1, 1980, to March 31, 1981, individuals who exhaust their State and Federal-State extended unemployment compensation benefits would be provided additional weeks of benefits (Federal supplemental benefits—FSB) equal to one-half of the duration of each claimant's State benefit entitlement. No one, however, could receive more than 10 weeks of FSB or a combined total of more than 49 weeks of State benefits plus extended benefits plus the FSB provided by this bill. FSB provided under this bill would be financed out of Federal general revenues.

There would be no additional eligibility requirements for receipt of FSB. An individual who exhausts his or her State and extended benefits during the period when FSB is payable, and who continues to meet all State law requirements for receipt of State benefits, would be eligible to receive FSB. However, in those States where the State law does not conform to the Federal law pertaining to the offset of pensions, the Federal pension offset requirement would have to be applied to FSB claimants.

FSB would be payable under the same State and National triggers used in the extended benefits program. In other words, FSB would be payable whenever and wherever extended benefits are payable.

As under the extended benefits program, FSB would be payable in a State when the State insured unemployment rate (IUR—the percentage of workers covered by the State unemployment compensation program who are claiming State or extended benefits) is at least 4 percent and, in addition, is at least 20 percent higher than the State IUR during the comparable period in the 2 prior years. When the "20 percent" factor is not met, a State, at its option, may provide extended benefits when the State IUR reaches 5 percent.

Thirty-nine States have incorporated the optional 5 percent trigger into their State law for purposes of "triggering on" extended benefits. FSB would also be payable in these 39 States when the State IUR reaches 5 percent. FSB would be payable in all States, as are extended benefits, when the national IUR equals or exceeds 4.5 percent.

Current economic conditions make it necessary to provide additional weeks of unemployment compensation. In each of the 4 months since May, the total unemployment rate has been 7.6 percent or higher. Although the overall rate of unemployment has remained in the 7.6- to 7.8-percent range during the past 4 months, the jobless rates for automobile and construction workers in August were 21 percent and 18.3 percent respectively. Regardless of the yardstick used, the duration of unemployment has increased substantially over the past year. Between August 1979 and August 1980, the average duration of unemployment increased from 10.2 to 12 weeks. Over the same period, the median, not seasonally adjusted, increased from 4.9 to 7.6 weeks. For workers hardest hit by unemployment—those unemployed for 27 weeks or longer—there was an increase from 517,000 in August 1979 to 912.000 in August 1980. The median duration, seasonally adjusted, has increased in each of the past 4 months from 5.7 weeks in May to 7.5 weeks in August.

In recent months there has been a moderate growth in the regular unemployment compensation exhaustion rate from 27.6 percent in March to 30.3 percent in July. Of far greater importance, extended benefit exhaustees in 18 States are now over 60,000 per month, with additional increases expected as a result of the national extended benefit period. It is currently projected that up to 385,000 extended benefit exhaustees will become eligible for the additional benefits provided under this bill during the first 3 months it is in effect.

The FSB program in this bill will provide a means for maintaining purchasing power for the long-term unemployed. In order to make the program as responsive as possible to our current economic conditions, the bill provides for a plan that can be implemented immediately upon enactment without the usual delays inherent in enacting an entirely new program. This is possible because the new FSB program established by this bill is modeled after the permanent extended benefits program and the FSB program that was in effect during the recessionary years of 1975-77. It is the committee's intent that regulations modeled after the regulations for the previous FSB program would be issued by the Secretary of Labor immediately following enactment of this bill.

The FSB program in this bill differs from current State programs and the extended benefits program with regard to financing. Under present law, State benefits are financed out of State unemployment trust fund revenues, and benefits provided under the extended benefits program are financed 50 percent from State trust funds and 50 percent from Federal unemployment trust funds. The third tier of benefits provided in this bill would be financed solely from Federal general revenues. This decision is in keeping with the financing method chosen by the Congress for FSB benefits paid under the previous program after April 1, 1977. Administrative costs, as under the extended benefits program, would be paid out of the Federal unemployment insurance trust fund.

As stated, the additional weeks of benefits provided by this bill would be payable under the same triggering provisions contained in the extended benefits program. Because the National trigger in the extended benefits program is currently in effect, these additional benefits would be payable in all States upon enactment. On the basis of current economic assumptions, the Department of Labor expects the national trigger to remain in effect throughout the duration of the program.

I urge the Members to support this important legislation.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not insensitive to the legitimate needs for an additional program of jobless benefits in some areas of the Nation, particularly in areas hardest hit by the current recession. I would support a bill which targeted relief on these areas. But this bill was not really designed to make a selective, targeted response. Its goals are of a different nature entirely.

The administration took a long time preparing its unemployment bill because of the combination of political, technical, economic and human considerations it was trying to mesh together in one measure. Here is a list of things this bill had to do:

First. It had to be implemented by October 1 so that the first checks could go out before election day.

Second. It had to blanket the Nation with benefits because any geographic targeting device that made sense would leave out several important large electoral vote States.

Third. The program could not cost too much.

Only when you know the constraints that governed the development of this bill, can you begin to comprehend its outlines.

The urgency in getting benefits out promptly meant that nothing new could be tried. Therefore, the administration's bill was scrapped and the old FSB program was dusted off and taken down from the shelf. This also explains the Mach-2 speed propelling this bill through the legislative process. When a bill is introduced only 2 weeks before its anticipated implementation, there is precious little time for careful attention to detail, much less reflection on the basic rationale.

The necessity for a nationwide blanket program led the administration to propose that benefits be targeted on individuals with substantial labor force attachment instead of on geographic areas where unemployment was worst. This would have been an acceptable compromise from my point of view, but the AFL-CIO ruled it out as arbitrary and unfair. So, the committee decided just to let the States give out the benefits using their normal, and often generous, criteria.

This lack of targeting meant quite an increase in the program's expense. Therefore, to contain the cost, the maximum benefits were cut back from 13 to 10 weeks. In the committee's haste to zip this bill along to the floor, evidently no one thought to count up and see when the 10 weeks would expire—the week before Christmas.

Or perhaps they did count it up and simply figured that the election would be over by then.

The upshot of these constraints—immediate implementation, blanket eligibility, and restrained cost—is a bill that fails to address the real problems and probably one which does not carry as much political wallop as a more honest approach.

I must admit to my colleagues on the other side of the aisle that I can understand their willingness to push aside the normal procedures and pass this bill quickly even if it means that many details are sloughed over or compromised. I understand, because I have some of the same feelings about a tax cut of substantial proportions. I believe a tax cut is so urgently needed by individuals and by the economy, that I find myself willing to consider even such otherwise rash expedients as simply agreeing to the Senate bill and foregoing the opportunity to craft a measure more to my own design.

Perhaps the way this FSB bill is being expedited indicates that there does remain enough time to enact a tax cut bill also before we adjourn. If the administration and the congressional leadership were as committed to a tax cut as they are to this unemployment bill, we could have it on the President's desk in just a few days.

But I am a realist and I do not expect to convert the administration or the congressional leadership to the wisdom of a tax cut.

At the close of this debate, a motion to recommit will be in order. Such a motion will be offered, with instructions that the bill be amended by providing the 10-week benefit program only to States where insured unemployment exceeds the trigger level. This level is usually 4 percent.

I would like to point out, for the benefit of researchers who are inclined to interpret this vote as a measure of Members' concern for the unemployed, that this is most emphatically not a motion to kill the bill or to bottle it up in committee. This is a motion to amend the bill so that benefits will go to the States with 4, 5, 6, and even 10 and 11 percent insured unemployment—and not to States where unemployment is steady at a comfortable 1½ or 2 percent.

This amendment would have several hundred million dollars, money that could be redirected, if Congress chose, to retraining of workers in declining industries or to making still longer benefits available where they are merited.

The amendment would not affect the trigger mechanisms in the existing program of extended benefits. It would apply only to this new layer of 10 weeks' benefits which is being added to the existing programs.

Some have argued against doing away with the national trigger because unless all States got in on the benefits through a national trigger, the extended benefits program might not survive. I think this argument may be entirely backward. The national trigger is in extreme jeopardy right now. The Senate has voted by large margins several times this year to eliminate the national trigger for the extended benefits program. Tying another layer of jobless benefits to the same national trigger may turn out to be the straw that breaks the camel's back.

The recommittal amendment is an opportunity to provide a staged approach to jobless benefits, with a base of 39 weeks benefits nationwide when unemployment is severe, plus another 10 weeks in areas of particular hardship. This staged approach makes sense in terms of the program we are presently considering, and makes even better sense should we have to return next year and enact still additional benefits. I do not foresee this at present, but it has happened in the past.

Therefore, I urge you to consider seriously the idea of State triggers as a way to strengthen the concept of supplemental benefits. We are trying to target this program, not to undermine it.

The CHAIRMAN. The gentleman from New York (Mr. CONABLE) has consumed 7 minutes.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

□ 1250

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to H.R. 8146, the Jimmy Carter Reelection Act of 1980, also know as the Federal Supplemental Unemployment Compensation Act of 1980. This bill provides 10 additional weeks of unemployment compensation benefits for individuals who have exhausted the 26 weeks of regular benefits and the 13 weeks of extended benefits. The cost of the program will be absorbed totally by the Federal Treasury—at least $1.3 billion for the 6-month program scheduled to begin on October 1. One month before election day.

Few legislative proposals have moved through this body with the speed of H.R. 8146. Introduced barely 2 weeks ago, the ink was hardly dry on the administration plan when the Subcommittee on Public Assistance and Unemployment Compensation held a brief hearing and then immediately marked up the bill. The full committee rushed the legislation through and the Rules Committee was equally accomodating. The President's lobbyists are already greasing the legislative wheels of the Senate. If you sneeze, you will miss the bill signing.

The chairman of our subcommittee, Mr. CORMAN, wrote a fine article on unemployment insurance which appears in the most recent issue of the Journal of the Institute for Socioeconomic Studies. Although I do not agree with every point he makes in this excellent piece, I found particularly interesting, and pertinent to today's discussion, his comments regarding the recent action by the Senate Finance Committee to eliminate the national trigger for extended benefits. They did this, you recall, as part of the budget reconciliation process.

The subcommittee chairman wrote:

> The changes in the extended benefits program proposed by the Senate Finance Committee require a more careful and thorough analysis than is possible under the procedures and time frame established for the passage of the budget-reducing legislation.

The key words here are "careful and thorough analysis." How much careful and thorough analysis was given downtown to the proposal before us today? When were the final outlines of the program decided upon, and when were the details finally worked out? Why was more time not allowed so that all the interested parties could have had the opportunity to study the proposal and present reasoned arguments for and against? How long was this proposal in the hands of the OMB and did they sign off? How accurate is the cost estimate? Those of us on the subcommittee remember the administration representatives hurriedly making calculations on their pocket calculators. It is difficult to have confidence in figures arrived at in such an atmosphere.

It is alarming that the administration would urge Congress to close its eyes and ears, take out the rubberstamp, and pass a $1.3 billion program into law after so little debate and deliberation. It is incredible that the administration would come to this Congress and ask for the commitment of $1.3 billion when we have yet to act on the fiscal year 1981 budget and when the appropriations process has stalled. Where does this expenditure fit in the 1981 budget? Will cuts be made to accommodate this new expenditure? How firm is the estimate of $1.3 billion? Maybe, considering past examples of administration underestimating, the cost will be even greater.

Had the subcommittee, and the full committee, had more time to devote to this legislation, perhaps we could have developed a program of supplemental benefits which would target those areas and individuals most in need of assistance, rather than approving a program to "blanket" the country with Federal dollars. No one argues that the State of Michigan has a serious unemployment problem. Supplemental benefits for that region may be more than justified. But the State of Texas has an unemployment rate of around 3 percent. Can we justify providing 49 weeks of unemployment benefits for that area? By refusing to drop the national trigger for this FSB program, we are granting exceptional Federal support for individuals where jobs are available.

The bill before us today does not require real job search nor does it include a suitable work test. The subcommittee eliminated the 32-week attachment to the work force requirement—a decision which will increase the cost of the program and allow benefits to go to those who may have had little connection with the work force in the past year.

Mr. Chairman, we can reject this half-baked proposal, go back to the Ways and Means Committee and develop a program of extended benefits for areas and individuals truly in need of additional assistance. Over one-half of the States have an insured unemployment rate below the national trigger called for in H.R. 8146. There can be no acceptable rationale for extending benefits nationally when there are still areas of the country where the employment situation is quite healthy. Allowing individuals in such an area to receive unemployment benefits for 49 weeks is a serious work disincentive with effects which persist long after the program has ended.

Mr. Chairman, several amendments were offered and considered by members of the Ways and Means Committee which would have reduced the cost of the program and made it more effective. These amendments were, of course, rejected by the majority who had received their orders from the White House and AFL–CIO lobbyists present at the markup. One amendment which would have at least partially financed the FSB program was ruled nongermane. I proposed lowering the income thresholds at which unemployment benefits become subject to taxation. This is a proposal which deserves serious attention.

In fiscal year 1981, the current exclusion of UI benefits from taxation when adjusted gross income falls below $20,000 for a single person and $25,000 for a couple reduces revenues by some billion dollars. Lowering these thresholds would not seriously jeopardize an unemployed individual's standard of living while it would save the taxpayers a considerable sum. Some support from the other side of the aisle was evident and this is a reform measure which should be attached to any tax bill which comes along.

Members of the minority on the Ways and Means Committee have been told repeatedly that legislating in sensitive areas is a terrible idea in the "overheated preelection atmosphere." This is an argument which the majority can trot out and use when it suits their purposes—in the case of tax cuts, especially. However, that argument fades from memory when the administration presses for a program that is blatantly political in inspiration and execution. There is a persistent rumor that President Carter plans to insert a personal greeting to each recipient of an FSB check. I hope this is only a rumor.

Mr. Chairman, the Associated Builders & Contractors, Inc. circulated an excellent fact sheet on H.R. 8146. I believe that the problems with the FSB proposal which this group articulates are worthy of my colleagues' attention today:

THE ECONOMIC SITUATION DOES NOT WARRANT FSB

IUR decreased for the fourth consecutive week, down to 4.3 percent for the week ending September 6, 1980.

Unemployment decreased to 7.6 percent in August from 7.8 percent in July.

Lower unemployment was reported by 48 States for the week ending September 6, 1980.

Employment rose in August in nearly three-fifths of the industries that comprise the BLS diffusion index of private nonagricultural employment.

The industrial production index rose 0.5 percent in August with major segments showing gains.

FSB IS HIGHLY INFLATIONARY

Increases Government spending by $1 billion in fiscal year 1981.

Increases purchasing power and thus demand for scarce products.

Subsidizes the nonworker thus decreasing productivity.

WEAKENS THE REGULAR UC SYSTEM

Inhibits State agencies from providing supplemental services, including job search and training.

Increases Federal interference in a successful State program.

Encourages bureaucratic flaws and abuses similar to welfare.

CREATES DISINCENTIVES FOR EMPLOYMENT

Contains no mandatory job search or training requirements.

Contains no labor force attachment requirement.

Contains no "suitable work" requirement.

Provides long-term benefits in States where jobs may be plentiful.

Studies show that the longer benefits are available, the longer claimants collect such benefits.

Mr. Chairman, we must defeat H.R. 8146. Force the Ways and Means Committee, and the administration, to take the time to consider what it means, both for fiscal policy and for social policy, to allow an individual to collect unemployment benefits for nearly 1 year, and in the case of some workers over a year, at the expense of the American taxpayer. There are better ways to help the unemployed worker.

I urge my colleagues to vote for the motion to recommit.

Mr. CORMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, as I did before the gentleman's distinguished subcommittee, I thought I might relate some of the findings of the National Commission on Unemployment Compensation which this Congress mandated several years ago and on which I served as the only Member of Congress.

Now, this Commission was a broadly based commission made up of members of the labor community, the business community, and other objective members such as myself. And we found that a significant number of unemployment rates were unusually high, particularly in the northern industrial States such as Michigan, Pennsylvania, and my own State of Ohio.

We found that there were pockets of unemployment in various other States across the country that were unfortunately high, as a result, the National Commission reported back to Congress just last month after 2 years of study on this issue. This was the first time that the unemployment compensation issue had ever been studied in the 40 years of its history.

□ 1300

So it is a very, very definite comprehensive report, which was chaired by the distinguished former HEW Director, Wilbur Cohen.

We found that, indeed, during the problematic periods of high unemployment the program should be extended for not only 13 weeks, but 26 weeks. We also found that if necessary we should additionally extend benefits to the maximum of 52 weeks and 65 weeks during periods of high unemployment.

Now, this bill is a very modest proposal compared to our recommendations. A 10-week extension when you consider the high unemployment, in reference to the comments of my good friend and colleague, the gentleman from California, about why cannot we study it more and so on, we cannot wait. In some areas of our country the unemployment problem is absolutely catastrophic.

Just to give you a few figures, in July there were 18 States already on extended benefits. In the same 18 States, those claimants exhausting their extended benefits are now averaging 60,000 individuals per month.

Under the current economic conditions as of July, up to 385,000 extended benefit exhaustees would become eligible for Federal supplemental benefits in the first quarter of this program and approximately 200,000 more exhaustees in previous quarters this year would qualify between now and the end of December 1980.

It is true that three-quarters of these exhaustees come comprehensively from eight States, including my State of Ohio, whose unemployment rate has extended beyond 10 percent. Our State of Ohio, which has always had a very stable trust fund, is now seeing that this trust fund is nearly depleted and it may have to borrow from the Federal Government.

So I truly believe that this bill not only addresses those eight States, but addresses all those areas in our country which have pockets of unemployment.

Just the other day we had some people from my area of northeast Ohio come up and say, "You know, besides being unemployed and looking for a job and at times not being able to find a job after our benefits are exhausted, we lose all kinds of other benefits." They gave a figure of less than 15 percent of the individuals who were unemployed who had a health program no longer had health insurance, mainly because they cannot afford it; so we are really dealing with more issues than just the fact that people are unemployed and do not have a job. They are losing other benefits, like health benefits for their families, and I do not see our Congress responding.

So I certainly want to encourage my colleagues to pass this very conservative bill, particularly when you compare it with the comprehensive study done by the National Commission on Unemployment Compensation, which recommends 13 weeks and 26 weeks extension of unemployment compensation.

Mr. CORMAN. Mr. Chairman, would the gentlewoman yield?

Ms. OAKAR. I will be happy to yield.

Mr. CORMAN. I want to commend the gentlewoman for the tremendous job she did on the National Study Commission. I hope the Commission's report becomes the foundation for some major reforms in the unemployment compensation system; and I sincerely hope that this reform will be a bipartisan effort. It distresses me to see how difficult it is these days to do anything in the social security system on a bipartisan basis. We legislate best when we have bipartisan interest and support.

I hope that the leadership on both sides will study the Commission's report very carefully, because it recommends a number of reforms that will substantially improve a system that is essential to the working men and women of this country.

Ms. OAKAR. I thank the gentleman very much. As the gentleman knows, it definitely was a nonpartisan Commission. We tried to do our best in studying the problems and addressing them comprehensively.

Mr. ROUSSELOT. Mr. Chairman, would the gentlewoman yield?

Ms. OAKAR. I would be happy to yield.

Mr. ROUSSELOT. I appreciate my colleague yielding.

I do appreciate the fact that our colleague served on the Commission and realize that the gentlewoman is aware of the many problems that do exist in the unemployment compensation program.

To answer the questions of the gentlewoman that we have raised about the speedy consideration of this bill, our chairman of the subcommittee had tried in June and July to get the administration to act. Our concern is that the effort is not being made to target those areas where unemployment is extremely high. Instead this is just being blanketed across the whole Nation without allowing the kind of additional care and amendments to be offered that many of us tried to do in committee.

So I think the complaint is that even our chairman did not get the version that we are now looking at until late one night and that it was suggested that we just race it through that way without adding some helpful amendments. This is the serious complaint that many of us have.

Ms. OAKAR. If I could just respond, one of the things the committee did do that I thought was just outstanding is that the committee did not recommend that there be that 32-week qualifying requirement, because as I understand the bill, it was left to the States, and that was a real improvement; so obviously the gentleman's committee did work on changing the administration's proposal, and they worked out a compromise, as I understand it; but as the gentleman knows, the point is that we cannot wait.

Mr. ROUSSELOT. Nobody is suggesting that we have to wait. Our concern is that the nature of the rule is that we are not able to add what may need to be added. Anything that the administration did not want, we were precluded from considering here.

Ms. OAKAR. If the gentleman would yield back to me, the bill was changed.

Mr. BRADEMAS. Mr. Chairman, would the gentlewoman yield?

Ms. OAKAR. I would be glad to yield.

Mr. BRADEMAS. I thank the gentlewoman for yielding.

I want to comment the gentlewoman, Mr. Chairman, for an outstanding statement on this piece of legislation, which is extremely important to the congressional district and the State of Indiana which I represent.

I want to rise in strong support of the measure and also to express my gratitude for the outstanding leadership given by the distinguished chairman of the subcommittee, the gentleman from California (Mr. CORMAN).

Those of us who live in Midwestern States, which have been hard hit by unemployment, are greatly in his debt. Mr. Speaker, H.R. 8146 is a bill to provide an additional 10 weeks of unemployment benefits for thousands of workers who have exhausted or are about to exhaust the 39 weeks of benefit coverage they are entitled to receive under present law.

My area of the country faces a critical situation over the next few months. Because the impact of the recession has been concentrated in States and localities heavily dependent on automobile and related industries, many States, including Indiana, had to extend unemployment benefit coverage from 26 to the maximum of 39 weeks early in the year.

The unemployment rate in Indiana is now over 11 percent. The rate is over 10 percent in all three counties in my district and in one, Elkhart County, approximately 15 percent. Thousands of Hooser workers have already exhausted their benefits and many thousands more will do so during the next few months.

Indiana began providing extended benefits in April. Over 23,000 working men and women have exhausted their benefits since that time and the Labor Department estimates that another 50,000 will do so between now and next March when this program we are voting on today expires. Nationwide over a million workers face a similar problem unless this legislation is enacted.

Earlier this year I sponsored legislation to provide an extension of benefits and a few weeks ago, I strongly urged President Carter to include an extension of unemployment benefits in his economic recovery package. I was very gratified when he decided to do so.

Mr. Chairman, I am hopeful that President Carter's economic recovery package will go a long way toward restoring the industrial vitality of the wilderness. But my immediate concern is to avoid unnecessary suffering by those who have already borne the brunt of the present recession. Emergency extension of unemployment benefits to those who are out of work through no fault of their own is an important step in that direction.

I want to congratulate the Committee on Ways and Means—and especially Congress CORMAN—for acting so expeditiously to get this legislation before us.

Mr. Chairman, I hope that we can pass H.R. 8146 overwhelmingly and I urge all my colleagues to support it.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Florida (Mr. BAFALIS), a member of both the subcommittee and the full committee.

Mr. BAFALIS. Mr. Chairman, I rise in opposition to this bill in its present form.

Mr. Chairman, on June 26 of this year, Bert Lewis, Administrator of the Unemployment Insurance Service of the U.S. Department of Labor, appeared before our Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means and made the following statement:

> Adoption of a plan to provide benefits beyond the 39th week has serious budget implications and would be a major economic stimulus decision. We believe a decision of this magnitude should be considered along with other possible stimulus alternatives if economic conditions indicate they may be needed.

Mr. Chairman, it is clear from this statement that the administration, at least in June, recognized the budget impact and thus the inflationary impact of this legislation. What has changed since June 26?

Is this administration no longer concerned with balancing the Federal budget or at least reducing Government spending? If they will consider an FSB program only in conjunction with other economic stimuli, does the Republican tax cut qualify? What about the Senate Finance Committee's proposed tax cut? Has this administration given up the fight against inflation?

This program provides up to 10 additional weeks of unemployment benefits, lasts just 6 months at a cost of $1.3 billion, to be financed totally from general revenues. The program will follow State and national trigger levels already written into the unemployment laws for implementation. However, since the national trigger for extended benefits became effective late in August, these 10 weeks of benefits will become available to every State in the country starting October 1, just 1 month before the election.

While it is true that there are areas of the country experiencing extremely high unemployment, it is also true that a number of States have insured unemployment rates of 2 and 3 percent. Is it cost-efficient to provide up to 49 weeks of unemployment benefits to individuals living in States with healthy economies?

Efforts were made during subcommittee consideration of the bill, during full committee consideration and before the Rules Committee to allow an amendment to remove the national trigger, leaving only State triggers for the FSB program. All our efforts failed because it was felt that only a national trigger could insure speedy passage of this bill.

Mr. Chairman, this bill will drain $1.3 billion from the budget in fiscal year 1981. This Congress is already so embarrassed by the rate of Government spending that the leadership will not allow action on the second budget resolution to be completed until after the election.

A few moments ago, I asked what had changed since June 26? I will tell you what has changed. The unemployment situation has improved; the industrial production index has improved; and many economists, including those speaking for the administration, say we are in a period of economic recovery.

But what has really changed, Mr. Chairman, is that the election which was 4 months away on June 26 is now only 1 month away. And the "misery index," which President Carter made so famous 4 years ago, is higher than it has ever been.

Mr. Chairman, the recession appears to be over but the specter of inflation is with us once more. H.R. 8146 provides an economic stimulus but only at the risk of greatly increased inflationary pressure. I urge my colleagues to oppose this highly inflationary bill.

□ 1310

Mr. CORMAN. Mr. Chairman, I have no more requests for time, and I reserve the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, I am not going to get partisan here today. I think we have heard that from both sides.

Last Friday I met with about 80 or 90 unemployed employees, men and women who have worked most of their lives in terms of productivity as suppliers to the auto industry, a company named Norris Industries in Ypsilanti, Mich. It could almost bring tears to your eyes to hear those people in desperation whom many have been laid off almost over a year.

So, irrespective of the forthcoming election, I think it is critical that both parties offer some constructive long-range solutions and not some crisis solutions to some of our economic problems. Until those long-range solutions come forth constructively to this House floor from both parties or from one party or the other, I think this measure (H.R. 8146) is essential and it is important we support this particular resolution today.

I realize it costs money, but I realize those people out there are not asking for a handout. Those people will automatically go on welfare and that will cost both Federal and State dollars and taxpayers' money. The committee had to act. In the long term, however, I would hope that both the Republican Party and the Democratic Party on a bipartisan basis develop some major reforms that I think both sides are suggesting to get to the supply side of economic policy, to have an attempt to have incentives to industry for growth and new jobs, particularly in the Northeast area.

These people are not interested in sitting home. They are not interested in wasting their time. They want to produce. They want to work. But I think the constraints today in the situation such as Michigan is facing over 14-percent unemployment in our State—maybe that is not true in Houston with 2 percent, or in Florida, or some other States—but our people are out of work and they want to work and be productive.

So I would suggest that in spite of the time constraints here, it is important that we take some early action today to support this policy decision legislatively in the House and act expeditiously to help our people have some support. Those families have children in school and I would rather have them qualify through this program than have them on welfare.

I yield back the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Minnesota (Mr. FRENZEL), a member of the committee.

Mr. FRENZEL. Mr. Chairman, I wonder if the chairman of the subcommittee would answer a question. How does this bill before us with its additional 10 weeks fit into the whole program of trade adjustment assistance? Is there an overlap here?

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman.

Mr. CORMAN. This would be offset against the trade adjustment assistance. The individual receiving trade adjustment assistance will get the same total number of weeks of benefits, but more weeks will be regular unemployment and a smaller portion will be trade adjustment assistance.

Mr. FRENZEL. I thank the gentleman for that information.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Michigan.

Mr. PURSELL. I might also suggest the fact that suppliers do not qualify for trade adjustment assistance and, therefore, the thousands that are unemployed receive no Trade Assistance Act funding at this time.

Mr. FRENZEL. I thank the gentleman for his contribution.

Mr. Chairman, I want to bring the body good news. Not 5 minutes ago we were given the committee report on this bill and I hold one in my hand. I know the Members will be delighted, after having voted for a closed rule on this bill, to know that they now have some information about it. I know I was thrilled to get it, even at this late date.

Mr. Chairman, the House has an opportunity today to reject a proposal that I think is costly and inefficient and irresponsible.

□ 1320

I would hope, however, that even if the House does intend to go ahead and pass some kind of Federal supplemental benefits, that it would vote for my motion to recommit. My motion to recommit would insure that the benefits would at least be targeted to those States that are in the area of greatest need.

I am going to discuss that motion to recommit and the difference between a national trigger and State triggers at some greater length a little later on in the day. But I do want to invite the attention of the Members of this body to the fact that there is a way to target most of the moneys available under this program and at least insure to your taxpayers who are footing 100 percent of the bill that we have made some effort to target these benefits to those people who need them the most.

I have discussed in the debate on the rule the problems of a closed rule. I further discussed the procedural difficulties of waiving the normal 3-day rule out of the Committee on Rules and the problems of the budget. This bill would conflict with the Budget Act if we had bothered to pass a budget.

Since the September 15 time limit required by law on which the budget must be passed has come and gone without a budget, and since this body and the other body have no intention of passing a budget, obviously this bill cannot violate a budget which does not exist.

However, Mr. Chairman, I think it is a good thing to recall that this bill costs something over $1.3 billion. It was not in our first budget resolution. The midyear reassessment provided by the Office of Management and Budget in July indicates that this year, the fiscal year which begins tomorrow, will produce a deficit of $30 billion. With this bill, which I suspect we are going to pass today despite my suggestions to the contrary, we will have successfully raised that deficit to $31.3 billion and done our little bit to exacerbate inflation in the coming fiscal year.

I explained earlier that this is the third unemployment program. The first, provided by the States, extends for 26 weeks normally. That program is paid largely by employers.

The second program is an extended benefits program which adds 13 more weeks of unemployment compensation, and the cost of that program is taken up about half by employers and the other half from the general taxpayers through general revenue.

The FSB program that we are looking at today is supported 10 percent by the taxpayers and will come out of general revenues. In subcommittee and in committee when the question was asked, where is the money coming from, the answer was, general revenue.

You will recall general revenues will be $60 billion in deficit this year that ends tonight, and after we pass this bill, some $31 billion plus in deficit for the coming fiscal year. Nobody here or in the discussion in committee or subcommittee has suggested what we must do without if we want to add this $1.3 billion program. I can only assume that we are simply going to add it to the deficit, since no substitute has been suggested to me.

Is my colleague, the gentleman from Michigan (Mr. PURSELL), seeking recognition?

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Michigan.

Mr. PURSELL. I thank the gentleman for yielding. I would like to know what is the definition of "targeting"? If people are unemployed anywhere in the country, they are unemployed. Their families are in trouble. The benefits do not go to the community in terms of economic growth for the particular area if there is a higher unemployment rate. The SMSA rate does not seem that relevant to me. I would think, it sounds like, that in targeting Michigan would be a gainer more than maybe Florida, because we have higher unemployment. When we qualify the unemployed family, does targeting do something different to the individual family than otherwise in this particular proposal?

Mr. FRENZEL. I thank the gentleman for his suggestion. I would agree with him that Michigan will come out the same under any program of targeting or nontargeting. Michigan now, or at least on September 6, had the distinction of having an unemployment rate of 11.45, and that is nearly twice as much as the next most serious State. But the problem of targeting and nontargeting is that if you put an extended program of almost a year into a State where there is very little unemployment, all you do is serve up an incentive to people not to go to work when there are obviously jobs available.

Wyoming has 1.16 insured unemployment. Do you think they need a whole year to find jobs there? My State is 2.82. I do not think there is a commercial window in my district that does not say, "Help wanted," in it, and yet there are people on extended benefits in my State often because the benefits are there.

I think we have got to take care of those areas where people are unemployed and cannot find work. But also, I do think if you offer an extended benefit program for everybody in the United States, you are going to find many people who take advantage of the program. Some will not bother to go back to work because they are doing pretty well with unemployment compensation.

When I was in the Minnesota State Legislature, the war cry used to be, "Why should I go to work for 20 bucks," because the standard unemployment compensation program used to deliver about 20 bucks less than the take-home pay that you could find for the kinds of jobs which were readily available at the time.

If there were some kind of standard in this Federal program which would require an active search for work, would require some kind of solid attachment to the labor market, which would require an involuntary parting from the previous employment, if we had a number of those things, then it probably would make sense to have an untargeted, widespread unemployment compensation plan. But it makes no sense without those conditions, because you will find in some States a person can work only a few weeks and collect unemployment for a year.

I do not think that most taxpayers, most producing Americans, want to see their general tax revenues go to buy unemployment compensation for that person who has worked only a few weeks during the year. I doubt your constituents would want to see that happen either.

Mr. PURSELL. Will the gentleman yield?

Mr. FRENZEL. Yes, I yield again.

Mr. PURSELL. I thank the gentleman for yielding. In talking to these unemployed employees, both men and women, Friday—almost 100—I asked them, how many are there who would ever go back to work in the supply industry or the auto industry? I had one person raise his hand. Ninety-nine percent said that they thought they would never go back to work. So in terms of looking at long-range constructive solutions we are talking about retraining type programs, vocational training through the school systems. That should be the responsibility of business, labor, and, I think, Government itself in a partnership to help some retraining programs to get under way.

I find some people have very little concern for retraining efforts. I know it is not germane to this bill, but I think it ought to be suggested that we consider those efforts for new employment opportunities so they do not have to sit at home, particularly those who will never go back to work in their previous workplace.

Mr. FRENZEL. I thank the gentleman again for a most valuable contribution. Had the gentleman been in here during the debate on the rule, he would have heard me suggest that if my targeting amendment could have been accepted, the $200-plus million that it would save would be devoted, if the committee or the body desired, to relocation or retraining programs.

The gentleman is dead right. There are some people in some industries in some localities who are never going to be recalled, and those people have to be retrained and sometime maybe have to be relocated to find themselves useful employment. That ought to be one of the highest priorities that we have. I do not think it should be a high priority to keep stringing out unemployment and really delude a claimant that someday he or she is going to return to the same job, if that job is not going to be there.

I think we ought to be working on those areas where there are not jobs, to fit people for whatever jobs are available, or to provide for relocation. I think the gentleman has made an excellent statement. I wish we would get into that.

Instead, the House seems to have some sort of compulsion about CETA, where we create jobs for the county commissioners' sons-in-laws and build public service jobs that do not add any productivity into our system.

□ 1330

I think no one would object to retraining people who are out of work through no fault of their own and who are anxious to get back to work.

Mr. Chairman, I have indicated there are a number of States well below the trigger limits. In those States I do not think it is an unwarranted assumption that jobs are available since unemployment is very low. I am sure that that is the case within my own district.

The bill as it stands before us, Mr. Chairman, has no test for attachment to the labor market. The President when he submitted his bill had an attachment figure or test which would require 32 weeks of actual work to qualify for FSB. The committee decided that was unreasonable and removed totally the attachment test.

In my judgment, the committee erred. I am not sure the 32 weeks is just right. Maybe it is too much. I am certain that in the State of Michigan it is too much because the unemployment started too long ago and that the FSB would not have been a useful program in Michigan with that number of weeks of attachment.

However, Mr. Chairman, that only makes my point that the States have different problems. Each State and each location needs a system tailored to its own use. Simply because Michigan is suffering I see no reason that we should pay these extended benefits at Federal taxpayer expense in every other State of the Union.

Mr. Chairman, it is my hope that this body will accept the motion to recommit and that we will be able to target the Federal supplemental benefits to the area of greatest need.

Mr. Chairman, I would like to talk a little bit about the economic situation. The President brought this bill in about the middle of September after much fanfare, but in the figures that we have for the first week of September which are the last unemployment figures I have, it showed that unemployment was beginning to ease. Monthly figures, of course, showed a decline in unemployment from July to August. In the week ended September 6—again, the last figures I have—lower unemployment was reported by 48 of the reporting jurisdictions, 48 States.

I also find that, today, we had another announcement that the index of leading indicators is up again. The industrial production index rose by 5 percent in August. The President in his reelection speeches has informed us that the country is well on its way to recovery but in his unemployment program he is telling us that we are in big trouble and we have to spread this program not to targeted areas of unemployment but to the whole United States.

Well, Mr. Chairman, that is a pretty inflationary program. Another part of it that bothers me a little bit is the fact that we are going to a 100-percent general taxpayer financing system which in my judgment weakens the unemployment compensation system, causes the States to become reliant on the Federal Government, causes them not to do the kinds of things that are necessary in their own laws to provide protection for their own employees.

It inhibits State agencies from providing supplemental services including job search and training because they know they just tell their applicants, "Well, stand by, the Federal Government has another 10 weeks coming for you."

That to me is a disincentive for employment and a disincentive to these agencies in the way they work. I have already suggested we should have a mandatory job search and training requirement, a suitable work requirement. As long as the Federal taxpayers are paying for the total ride, Federal taxpayers ought to be able to demand some conditions that go along with these benefits.

Again, I say, Mr. Chairman, some people need it and some people do not. Some States need it, some localities need it.

I would hope that my motion to recommit will be accepted. Briefly, instead of using a national trigger which puts everybody into extended benefits, those with 2 percent, those with 1 percent as well as those with 11 percent, like the State of Michigan, my amendment, would say that only those States who have reached the State trigger provided in the EB program would be eligible for these kinds of benefits.

I would have preferred that we had even a finer tuning mechanism. That is, I wish we could target benefits to SMSA districts. Our distinguished colleague from Indiana (Mr. HILLIS) has made such a suggestion.

I do, however, see no way we can put that into the law now technically and administratively. So I have taken what I think is the next best solution. That is to provide State triggers because those figures are available.

I would hope with the money that could be saved, were my amendment adopted, that we could look for other ways to relieve the distress in areas of high unemployment like Michigan and in some of the central cities of our eastern United States.

I am not anxious to spend a lot of money for unemployment compensation to extend people's compensation. I am far more anxious to spend the same amount of dollars, or maybe even more, in retraining and relocation problems that could provide real jobs for people rather than to use them for some kind of vain hope against a time when a job may be available.

Mr. Chairman, I yield back my time.

Mr. CORMAN. Mr. Chairman, I yield myself 1 minute to respond briefly to the gentleman. I detect in the gentleman's 19-minute statement that he is less than totally happy with the product of the subcommittee and the full committee. I note the gentleman asked for 3 days to prepare his additional views and as I read the report, they turned out to be 6 lines. I wonder if the gentleman wrote 2 lines a day, or if he did as I used to do in college, leave everything until the last minute, and dash off the whole 6 lines on the final day.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding. If the gentleman would refer to the committee report which we just received and upon which the ink continues to drip, at the bottom of page 10 under VII there begins dissenting views. They go over to the middle of page 13. Perhaps contained therein is not the most beautiful prose ever written but I think it represents a good critique of the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CORMAN. Mr. Chairman, I yield myself 1 additional minute and yield to the gentleman from Minnesota to continue his response.

Mr. FRENZEL. I thank the gentleman. I have not counted the number of lines on that page.

I did share with the gentleman from California (Mr. ROUSSELOT) additional dissenting views which do fill 6 lines.

Mr. CORMAN. Mr. Chairman, I assumed that the longer, principal dissenting views were those of the first signer, the gentleman from New York (Mr. CONABLE). He did not ask for additional time. Perhaps it took the 3 days after all.

Mr. FRENZEL. Had the gentleman forced us to do it in one day we could have written something much longer.

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, this is a vitally needed piece of legislation. Hundreds of thousands of American workers are going to exhaust their unemployment compensation benefits this year. Without this legislation these people will of necessity be thrust upon the welfare system.

This piece of legislation is a humane and responsible bill for which there is ample precedent and which seeks to address the problem of people who have lost their benefits.

The question has been raised, why should we give it to the whole country?

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I have just read in the papers coming from the gentleman's own State that some of the automobile factories are now gearing up again. Does the gentleman assume none of those people on unemployment compensation are going to go back to work?

Mr. BRODHEAD. Mr. Chairman, I fail to see the relevancy of the gentleman's remark.

Mr. ROUSSELOT. The gentleman makes the point these individuals on unemployment compensation will go on welfare if we do not pass this bill. I have been reading the figures in Michigan. Some of these individuals are being asked to come back to work. All of the people who are seeking these extended benefits are not automatically going to stay on extended benefits. Some of them are being asked to go back to work in the automobile plants.

□ 1340

Mr. BRODHEAD. Some will go back to work, and others will exhaust their benefits and further swell the rolls, and the result probably will be a net increase. We expect the number of people exhausting their benefits in Michigan to continue to increase rather than decrease; at least, that is the prediction of our Michigan Employment Security Commission, which is the agency which is responsible for it.

I want to speak to the point of the national trigger versus the State trigger, which is apparently to be the basis of the motion to recommit. The fact of the matter is that under the motion to recommit, if it is adopted, workers in 29 of our 50 States would be excluded from this program. It seems to me that at a time when our Nation is in recession—serious recession—and when there are pockets of recession all across the country, this is not the time to exclude so many millions of American workers from coverage under this program. I think the amendment fails to take cognizance of the fact that there are States in which the overall number of unemployed people may be relatively low, but there are pockets, for example, in some of the major cities; for example, in the State of California there are huge pockets of unemployment in the Los Angeles area and other places around the State, and yet those workers would be excluded because of the fact that there is not a recession going on in other parts of the State.

The same is true all across the country. I recall particularly the testimony from the State of Indiana, where we had the mayor of Anderson, Indiana, the mayor of Kokomo, Ind., gentlemen from the district represented by my friend and colleague from Illinois (Mr. HILLIS). They were talking about unemployment rates in these communities in the State of Indiana of 20 percent, 18 percent, 22 percent—very poignant testimony. The fact of the matter is that it is conceivable that Indiana could be excluded from this program under a national trigger.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. Yes.

Mr. FRENZEL. On September 6, Indiana had an unemployment rate of 5.9 percent. It would be very hard to exclude them, I think, under any criteria.

Mr. BRODHEAD. The program uses a 13-week floating average, according to my understanding. I do not know when this bill is going to be signed into law.

Mr. FRENZEL. That is a 13-week average for the week ended September 6, which would be very hard to lower or raise very abruptly in the absence of unusual conditions.

Mr. BRODHEAD. We hope that this bill will be signed into law this week, but it is not realistic to assume that. It is going to be several weeks down the road. We do not know what is going to happen in Indiana or anyplace else.

The point I am trying to make, and the reason I chose Indiana as an example, is that there could be a State which has, as the gentleman points out, 5.9 percent overall rate in the State, and yet you can have a rate two or three times that much in a particular community. That is true in Michigan. There are communities in Michigan, for example, which have not been affected by the recession, which are doing well, which have low unemployment rates. The converse is true in many other States.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I will be happy to yield.

Mr. HILLIS. Mr. Chairman, I thank my colleague and good friend for yielding. I am sure the gentleman will recall, though, under the legislation which I proposed—and we had a hearing before the committee which he has referred to where the mayors testified—this was targeted at specific States.

Mr. BRODHEAD. I want to get to that point because I am in agreement with the gentleman. I wish we had the tools to target it to the individual communities, as the gentleman has proposed in a piece of legislation which I think is sound, which would allow the targeting of extended benefits and supplemental benefits to communities to SMSA's in which there are high rates of unemployment. Unfortunately, as we found out when we had the hearings on the gentleman's bill, the statistical tools do not yet exist for us to do that, but when we have those tools, if and when the Department of Labor and the various State commissions will compare the data on a community-by-community basis, we will have the ability to do this targeting and zero in on these hard-hit communities in States where the overall rate is not very high. Short of that, since that is not possible at this point, this bill is a far better tool. This bill does the job of targeting even though it does bring the whole country in, because by bringing the whole country in, it enables us to target these pockets, these cities, counties, isolated areas where there are high rates of unemployment. Other than that, we cannot reach them, so you are taking 29 States and you are saying to the people in those States, "If you have a community where there is 21 percent unemployment in that community, none of the workers are going to be eligible for these benefits because the State overall does not have that kind of rate of unemployment."

It seems to me that is unfair. All taxpayers should be treated equally in this regard if they are in an area of high unemployment and have exhausted their benefits.

This bill leaves the States free to enact the kind of legislation to protect the program against abuses, to require various looking for jobs, suitable work requirements, these kinds of things. The States are free to do these things at any time, and so the States have the ability to protect themselves. We use the State standards in this piece of legislation, so if the State feels that the program is being abused, the State has the ability to tighten up on it.

The answer to the fact that the States are unable or unwilling to tighten up the program is not to say, "Cut out communities, cut out hundreds of thousands or millions of American workers, from benefits under the program."

The answer is, two things can be done. One, the States can act and ought to act if they feel it is being abused. Second—and I am in agreement with my colleague from Minnesota—I think we ought to have a comprehensive piece of legislation before the House of Representatives in the very near future dealing with the whole range of problems with this program. If we could do that, I think we could address the questions he raises.

But, I think it is foolish to say that we can address it at this point, in this emergency situation, in the closing days of the Congress, in the depths of recession, that we can bring out a program making comprehensive changes in the whole UI system. That is unrealistic. What I think we need to do is address the immediate problem. We ought to address the problem of these unemployed workers and not overlook them merely because there are so many employed workers in other parts of the State.

Mr. HILLIS. Mr. Chairman, will the gentleman yield further?

Mr. BRODHEAD. I yield.

Mr. HILLIS. Mr. Chairman, I thank the gentleman for yielding. I might point out at this point, however, the bill I introduced was originally introduced in March, and hearings were held in June; then, the matter seemed to be held in abeyance from June until just a matter of a few days ago.

Mr. BRODHEAD. I would say to my colleague that I share his frustration. I introduced my bill back in February, and I share his frustrations.

Mr. HILLIS. Hearings were held on the gentleman's bill the same day, at the same time.

Mr. BRODHEAD. The same day as the gentleman's.

Mr. HILLIS. At the same time and the same hearing room as on mine, that is right.

The concept that I propose was adopted by the House in 1977, I think, and was lost in conference between the House and Senate. What I would say to the gentleman is, we are in an emergency, and I do intend to vote aye on this legislation on final passage because we are in an emergency, but I think we should continue to study this targeting concept so that in the future we would be able to implement it.

Mr. BRODHEAD. I am in agreement. I think we ought to target, and I think the best targeting is done by adopting the bill that has been reported by the committee. If the motion to recommit is adopted, we have really antitargeting, because we are doing the opposite of what the gentleman wants to do in his bill because we are excluding whole communities from this piece of legislation. We are making targeting impossible. The bill itself targets the availability for benefits to those people who have exhausted their benefits, and requires those individuals to observe all the requirements of State law with respect to looking for jobs; with respect to how they became separated from the work force, in order to become eligible for the program, so we have targeting.

If we adopt the motion to recommit, we are not targeting. We are saying, "You cannot target those local communities; you have to look at States."

Why should we look at States? The unemployment exists when factories close down, with layoffs occurring in local communities, not whole States. To say that a person would have to move from one end of the State to the other because jobs exist 300 or 400 miles away, I think is totally unrealistic in light of the current emergency situation we have right now.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I will be happy to yield.

Mr. ROUSSELOT. I appreciate my colleague yielding. I really do not know how the gentleman can say that we have targeting in this legislation. We are doing exactly the opposite. We make it available to all States whether it is needed or not.

Mr. BRODHEAD. I would say it is targeted because we make it available to all localities who need it. That is what I call targeting, putting it where it is needed. If we adopt the motion to recommit and exclude a community, let us say which has 20-percent unemployment rate, because the overall rate in that State is not that low, and 300 or 400 miles away there is another community that is very prosperous, I say we have done just the opposite of targeting.

□ 1350

We have said, "We are not going to give it to you people but to somebody somewhere else who has got a successful economy." So that is the very antithesis of targeting. That is the opposite of targeting.

Mr. Chairman, if we want to target the benefits, let us adopt the bill that has been recommended by the committee.

Mr. Chairman, I yield back the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to review briefly some of the targeting concepts that we have tried to introduce in committee. I want to state to my colleagues that this legislation is not a targeting bill. It is blanketed out across the entire Nation to all States, whether they need it or not, regardless of the degree of unemployment that exists.

It is important to note that approximately 20 percent of the unemployment figure represents those who are unemployed beyond 15 to 16 weeks, according to figures that are gathered for us. But in this legislation we refuse to target the program where it is needed—instead we blanket the country with Federal dollars.

It is very costly to do that, and as my colleague, the gentleman from Minnesota (Mr. FRENZEL), has said, it encourages those who pay no taxes on this unemployment compensation to try to make a decision, in asking for these extended benefits, whether to go back to work, pay taxes and have other work-related expenses or whether to continue with unemployment compensation.

Now, I think this proposal goes in the wrong direction because we have in fact not targeted as we tried to do by the amendment process in the committee.

I would like to review for my colleagues several of the targeting mechanisms that were recommended but have been prohibited by the rule that we have adopted.

First of all, there was the attempt to eliminate what is known as the national trigger. My colleague, the gentleman from Minnesota (Mr. FRENZEL), in his motion to recommit, will try to offer something similar to what I am now going to describe.

The FSB program would, then, trigger on only when the individual States reached a 4-percent insured unemployment rate. This would permit, at this time, 30 or more States, depending on the economic assumptions, to have an FSB program. There are 19 States with 13-week average insured unemployment of less than 3 percent, including four States with less than 2 percent. In those States jobs are not usually hard to find, and there is no reason why the Federal Government should subsidize jobless benefits through the entire 49 weeks, because in many of those cases it is far less than 10 percent or 5 percent who are unemployed, even when they are unemployed, for more than the 15 weeks I have just mentioned.

In States with low overall unemployment but with pockets of high unemployment as a result of foreign imports affecting local industries, the trade adjustment assistance program provides for up to a full year of benefits equal to 70 percent of former pay. There is no need to lay on nationwide benefits when severe problems exist only in certain areas such as my colleague, the gentleman from Michigan (Mr. BRODHEAD), has mentioned as certainly existing in his State.

Mr. Chairman, a second suggestion has been proposed requiring substantial labor force attachment, which would be another method of triggering. Eligibility for unemployment benefits is left to the States, and some require only minimal earnings or weeks of work during the 1-year base period in order to qualify for unemployment benefits. The administration proposal suggested that an individual be required to have at least 32 weeks of work or comparable wages during the 1-year base period in order to be eligible for the full 49 weeks of jobless benefits. This was rejected, of course, in committee, and it was rejected, to quote the AFL–CIO, "because it was arbitrary and unfair."

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes, I would be glad to yield to the gentleman from Michigan.

Mr. BRODHEAD. Mr. Chairman, on that point with respect to the 32 weeks, let me point out that we had quite a discussion of that.

Mr. ROUSSELOT. Yes, we had a very extensive discussion in subcommittee.

Mr. BRODHEAD. Yes. The gentleman will recall the testimony that we heard was that in the State of Michigan, for example, as many as 55 percent of the workers would be excluded because of the fact their unemployment occurred so early in the base period that they would not have enough time. The fact is they may well have been employed and in most cases probably would have been employed long enough to qualify, but the records no longer exist. The gentleman will recall that discussion.

Mr. ROUSSELOT. Mr. Chairman, I recall it very well. We had a very extensive discussion.

I am merely reviewing for my colleagues some of the alternatives.

Mr. BRODHEAD. Mr. Chairman, I thank the gentleman for yielding.

Mr. ROUSSELOT. Mr. Chairman, another alternative is available and would be offered if we did not have a closed rule. That would be limiting total unemployment benefits to former takehome pay. The full committee rejected an amendment to limit the total amount of benefits during the 49-week period to no more than 70 percent of earnings during the 1-year base period.

The 70-percent figure represents the impact of taxes and work expenses on the average worker and exceeds the two-thirds wage replacement recommended by the AFL–CIO. The result of this provision would be to make sure that an unemployed worker got no more from being unemployed than he or she earned when working, because as my colleagues will recall, there is no tax on that unemployment benefit, whereas a person employed would have taxes and work expenses, et cetera, connected with his income.

Mr. Chairman, another possibility for better targeting would be to establish a realistic computation of insured unemployment rates. Earlier this year the Labor Department took the commendable action of no longer including persons receiving extended benefits or FSB in the computation of the insured unemployment rate which triggers the two additional benefit programs. This change was estimated to save some $400 million annually. Although it has no impact whatever on triggering on the added benefit programs, it would affect the duration of these programs and trigger them off more effectively after economic recovery has begun.

The Federal court reversed the Labor Department action, and the administration has chosen not to appeal this decision so soon before the election, which we can all understand because they are very election-conscious over there.

Although such a change could be enacted legislatively, it is opposed by the majority on the committee. They just do not want to save the money. So again I am sorry that we are not able to offer this amendment because of the closed rule.

Mr. Chairman, my colleague, the gentleman from Minnesota (Mr. FRENZEL), may have further comments, and I will ask him if he wants to respond to any of the statements that have been made.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I certainly will yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the distinguished ranking minority member of the subcommittee, my colleague, the gentleman from California (Mr. ROUSSELOT), has gone through a number of the points that were in the minority views, the dissenting views on this bill.

Mr. ROUSSELOT. Those are found, I believe, on pages 11 and 12, are they not?

Mr. FRENZEL. Yes, I believe they are included on pages 11 and 12 of the report.

Mr. ROUSSELOT. We just got these reports.

Mr. FRENZEL. Yes, we just got them. It is still wet.

Mr. Chairman, since the chairman of the subcommittee was apparently unaware that the views were in the report, I thought that I might read some of the material starting on page 10 of the report and going on to page 11.

□ 1400

Mr. ROUSSELOT. I am sure he is anxious to hear about it.

Mr. FRENZEL. Well, let me go ahead, then:

> A number of industries and several regions of the country have been so hard hit by Carter's economic policies that lengthened unemployment benefits are clearly merited. No one who looks at the impact of these recessionary policies on the ability of many experienced workers to find jobs quarrels with the need for a well thought out, targeted program of assistance. That, unfortunately, does not describe this legislation.
>
> We are dismayed, although not particularly surprised, at the speed with which this bill has been muscled through the Committee. Having been informed that the legislative process could not possibly accommodate tax cut legislation this late in the session, we were then asked to please stand back so the unemployment bill could come hurtling through with the speed and finesse of a—runaway—freight train.
>
> Timing is obviously the key here, and the political chronology is instructive. Last June, the Administration testified that it was premature to consider a program of added benefits because the economic assumptions governing their actions and policies during the Presidential primaries showed a fairly rosy picture. Three weeks later, the Administration's updated economic assumptions were released, confirming at last what everybody in the country had long since figured out—namely, that we were in a recession and that it was affecting unemployment.
>
> However, the administration did not propose a program of Federal supplemental benefits (FSB) in July—

When unemployment reached its peak—

> nor in August—

When unemployment began to trail back—

> In early September, the Administration asked for hearings on their proposal, but the day before the scheduled hearing, begged off because the proposal was still not agreed upon, much less drafted. Hearings were rescheduled for September 17, even though no proposal had been sent to Congress. The administration's bill did not arrive, in fact, until 6 p.m. the evening before the hearing. This precluded witnesses and organizations not in on the drafting from having a chance to examine the proposal or prepare a response.

Well, we have been through that problem, Mr. Chairman, and I am not going to dwell on the procedure any longer. But there are several other matters on which the chairman of the subcommittee might have some interest, but I understand the gentleman from California has another speaker, and would the gentleman prefer to yield?

Mr. ROUSSELOT. Yes. I would like to yield 4 minutes to my colleague, the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I would like to say what may be surprising to both sides of the aisle.

I approve of extended benefits for those who are truly unemployed. There is no everyday tragedy comparable to losing a job—workers being laid off when they have honestly worked and given their time and the company fails or lays them off. I lost 150 jobs in my district when a plant closed down, 1,500 were laid off in one company and 1,200 in another. We have too many of these. And I am in favor of extended benefits for those honorable workmen. But I do warn this House and the committee, to which I have appealed in vain, that we must have some rational examination of the system. We cannot allow States to have laws which are contrary to commonsense in the administration of unemployment compensation.

Now, we have had some changes in my particular State, I will say. Regulations were so obviously unreasonable that we had some changes. But how long are the Federal Government and the taxpayers of this country going to put up with unreasonable provisions? Furnishing money to help those who are indeed in need and deserve it—I think all would support that. But can we continue without change when we know there are perfectly ridiculous situations beyond any commonsense or reason, provisions which, even, in one State provide that a felon who has stolen from the company and for that reason has been dismissed and convicted of that felony, receives unemployment compensation.

Now, how long is this going to go on, before we get the committee, which is charged in this Congress with watching over the interests of this Nation and our terrible deficit to do something about it? How long?

I would like to ask the chairman of the subcommittee, if I may: When are we going to consider these things, Mr. Chairman? You know, you and I have discussed them so often.

Mr. CORMAN. If the gentlewoman will yield; yes, we discussed this matter. I suggest to the gentlewoman that when a consensus of this House decides that unemployment compensation should become a Federal program, with Federal standards, we will then address the problems she raises. Until that time, the States will continue to make those decisions.

Mrs. FENWICK. But, surely, Mr. Chairman, we have many programs to which the Federal Government contributes and yet we insist on standards. Right now every program does not have to be a wholly Federal program. We have Federal money poured into programs to which the State contributes, and we insist on standards.

Mr. CORMAN. All I can tell the gentlewoman is that when I first took over this subcommittee we worked very carefully and diligently on some needed Federal standards. These standards were vigorously and successfully opposed by, among others, the gentleman from Minnesota, who is a specialist in his own right in this field.

It is my own view that a mistake was made in the first place. From the beginning there should have been a Federal unemployment compensation system, as there is a Federal social security system for retirement and disability benefits.

However, we must deal with what we have, and there is little support in this House at the moment to take away from the States the jurisdiction which they have in the unemployment compensation system.

Mrs. FENWICK. But, Mr. Chairman, surely if we are pouring out Federal dollars, we ought to insist on some kind of standards that make sense. It is just exactly like giving social security payments for disability to the people in our prisons.

Now, we have put our foot down on that. And I think rightly so. We were depleting the disability fund of the social security system by making payments to prisoners.

• Mr. RAHALL. Mr. Chairman, we have a very important piece of legislation before us, in H.R. 8146, and I would like to commend the distinguished chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. ULLMAN), for his swift action to bring this measure up for consideration.

H.R. 8146 will provide a maximum 10-week extension of unemployment compensation to insured unemployed persons in high-unemployment areas who have exhausted their regular benefits.

At the present time, my home State of West Virginia is faced with an unemployment rate of 7.9 percent. This means 58,900 men and women were unemployed during the month of August. The bulk of that figure is made up of out-of-work coal miners.

This extension of benefits will help these individuals and their families get back on their feet during this very unfortunate time.

In West Virginia, the lingering recession and the slump in the coal market, has made life extremely difficult for many, and although this can be considered only a temporary help, it must be done, now.

Once we weather this economic storm, we can begin the task of making unemployed Americans, working Americans again.

I urge my colleagues to support H.R. 8146.•

EXTENDING UNEMPLOYMENT BENEFITS

• Mr. CONYERS. Mr. Chairman, the proposal to extend unemployment benefits an additional 13 weeks, beyond the existing 39-week program is urgently needed. The measure is a sensible one. It addresses a clear-cut economic emergency and a similar program was enacted in the last deep recession, during 1975, 1976, and 1977.

We need a supplemental unemployment benefits program for at least three reasons: First, the existing unemployment benefits program is inadequate in dealing with the increasingly long-term unemployment, especially among industrial workers in the heavy industrial centers of the Nation; second, unemployed workers need sturdier income supports during periods of double-digit inflation; and third, communities, just like individuals, need sources of income to survive, particularly the industrial cities of the Nation that have been devastated by the long-term decline of leading industries such as the automotive, steel, and rubber, upon which so many other jobs in the Nation depend.

In terms of the last point, we have to be concerned about the ripple effect in depressed industrial communities that occurs when the lack of income in one sector depresses every other sector; namely, when the depressed state of the auto industry and its workers spreads to the retail and service sectors and reaches the point when whole communities are laid to waste.

Despite recent speculation in the media that the current recession may have bottomed and that it may turn out to be the shortest in recent memory, there should be no mistaking the seriousness of the current situation.

National unemployment figures mask the true dimensions of a recession as they are experienced at the local, community level. For example, whereas the national average rate in August was 7.6 percent, it was 12.5 percent in the State of Michigan and exceeded 18 percent in the city of Detroit. That 18-percent rate in Detroit also masked the fact that nearly 30 percent of the black labor force in the city was unemployed. Many other major industrial centers also are registering far higher jobless rates than the national average. A month ago in Ohio, for example, the jobless rate was nearly 10 percent. My State and city, unfortunately, hold the distinction of being the areas hardest hit by the current recession of any in the Nation.

A few facts will illustrate the economic calamity that has fallen the State of Michigan: 347,000 citizens, presently, are drawing both regular and extended unemployment benefits; a quarter of a million persons, it is estimated, will have exhausted their extended benefits during the calendar year 1980, unless the bill under consideration is passed; the State of Michigan this year will have borrowed in excess of $800 million from the Federal unemployment insurance fund, a greater amount than during the peak 1975 recession year; 11.4 percent of Michigan's population (over 1 million individuals) were receiving various forms of public assistance in July, which represents an all-time high; and by these and other measures, the economic situation in Michigan is worse today than it was during the 1975 recession.

The problem is that as time goes on, the toll of recessions becomes more deep-rooted, persistent, and less susceptible to short-range solutions. The Nation's economic ills are less and less the result of recurrent business cycles, of the ups and downs in one industry or another, and more profoundly the result of long-term trends of decline in the Nation's industrial base.

Congress, eventually, will have to consider long-term plans and policies for rebuilding the industrial economy and returning to full employment. It also will have to undertake reforms in the present unemployment insurance system, as have been recommended by my colleagues, BILL BRODHEAD and BOB CARR, to strengthen the financing of unemployment insurance through creating a program of Federal grants to States to reimburse them for excessive unemployment benefit costs.

The immediate problem, however, is to mitigate the injury done to working men and women, who through no fault of their own, have been thrown out of work as a result of the current recession and the industrial decline. The most reasonable thing to do now is to protect them and the communities in which they live from the worst effects of the present recession.

There is one feature in the administration proposal for extending unemployment benefits that should be modified by the subcommittee. I am advised that the administration has recommended tighter eligibility criteria than are warranted by the situation we face. The administration is proposing that to qualify for benefits under the new program, an unemployed worker, who has exhausted his or her extended benefits, would need to have 32 credit weeks to be eligible under the new program. Without getting into the technical issues involved, this means, for example, that in the State of Michigan more than half of the prospective exhaustees of the existing extended benefits program would not qualify under the new program.

For reasons unknown to me, the administration is recommending then that Congress change the rules governing eligibility under the existing extended benefits program. Up to now the States were able to determine the credit week period for eligibility. Michigan requires now 14 credit weeks. By more than doubling this period, the administration, in effect, would severely restrict the number of persons who would benefit.

This is no time to change eligibility rules, especially when such a change would undermine the intent of the legislation to assist individuals who have been hardest hit by the present recession.

● Mr. ALBOSTA. Mr. Chairman, I rise in support of H.R. 8146, to provide extended unemployment benefits for our laid-off work force.

Due to the depressed automobile industry, Michigan has the highest unemployment rate of any State in the Nation, currently pegged at 24 percent. That is nearly one out of every four working persons. Some 478,000 persons in Michigan are currently collecting unemployment benefits. This astronomical figure comprises 14.1 percent of the State's work force.

My constituents from the 10th Congressional District have been hit by layoffs especially hard. Shiawassee County for example reports unemployment levels exceeding 30 percent. A majority of these people are automobile workers. However, because this industry is so interdependent, it is affecting many other sectors of the work force as well.

Of the 478,000 Michigan residents receiving unemployment benefits, 20,000 per month use up their eligibility. Benefits average only $101 a week, barely enough to pay for necessities. Still, it is certainly better than having no source of income at all.

I realize the extension of unemployment benefits is a temporary measure to alleviate the burden put on our laid-off work force. But swift approval of this legislation is necessary until the automobile industry, and our national economy as a whole, has a chance to rebound.

I do not condone people turning to the Government at the first sign of trouble, but our case in Michigan is different. We are talking about fully one-fourth of our capable workers out of work. In this type of situation, I believe the Federal Government can play an important role by providing temporary benefits for the duration of our current economic depression. By assisting these citizens and the industries they represent, we can leave in place a work force which is well trained and experienced and which can again contribute constructively to our economy once the tide of unemployment is turned.●

● Mr. ULLMAN. Mr. Chairman, today we take up an important bill, H.R. 8146, a bill to extend unemployment compensation benefits for 10 additional weeks. For a typical unemployed individual, this would imply 26 weeks of benefits financed entirely by State trust fund moneys, 13 weeks of extended benefits financed 50 percent from State trust funds and 50 precent from the Federal unemployment insurance trust fund, and 10 weeks (a total of 49 weeks) financed from Federal general revenues. In this way, we would not repeat the mistakes we made in 1975 and 1976 when unemployment benefits were extended during that recessionary period but were paid for out of State and Federal moneys resulting in depleted balances for many States. Essentially, anyone who has exhausted his regular and extended benefits would be eligible for the additional 10 weeks of benefits provided by this bill. He would not be allowed any more weeks than his extended benefits under the State program. The program under H.R. 8146 would be in effect from October 1, 1980, to March 31, 1981.

This program is especially needed in States like my own. Since April the unemployment rolls have doubled because of the decline in the timber industry due to the low number of new housing starts. Many of these workers are just beginning to exhaust their 39th week of benefits. As they approach winter there is no hope that they can find employment. While I would have hoped that we could have extended the number of weeks to 13, this simply was not feasible in the short time that the committee had to work with this bill.

Therefore I urge that we pass this bill immediately, for it will improve the lot of many hardworking individuals who have been out of work due to economic factors beyond their control.●

● Mr. RATCHFORD. Mr. Chairman, I would like to take a moment today to voice my strong support for H.R. 8146, which extends Federal unemployment compensation benefits for a maximum of 10 additional weeks in response to deteriorating conditions in the labor market.

I do not need to remind my colleagues in the House of the very disturbing employment problems which have developed over the past 6 months. While the overall national unemployment rate has edged slowly upward during the course of 1980, dramatic increases in joblessness have emerged in individual industrial sectors and geographic regions. The problems in the automobile industry are among the most highly visible indications of trouble, but they reflect a much broader dilemma facing our major cities and industrial regions.

In my own district of Connecticut, unemployment has taken a sharp turn upward over the past few months. With layoffs continuing at several local factories, the unemployment rate skyrocketed to 11 percent in Derby in June, followed by increases to 10.3 percent in Ansonia, 8.2 percent in Seymour, and 7.4 percent in Oxford. The major cities in my district have fared no better, with Waterbury suffering an unemployment rate of 9.1 percent and Meriden a rate of 8.2 percent. These pockets of unemployment—well above the national unemployment rate of 7.6 percent for August—reflect one of the most serious domestic challenges still before the Congress in 1980.

Mr. Chairman, we are all aware that an extension of Federal unemployment compensation benefits is not a permanent solution to our employment problems. Ultimately, in the midst of our other pressing challenges at home and abroad, we must return our attention to a greater Federal commitment to jobs for Americans, and to the Federal responsibility for moving the Nation toward full employment. Yet in the interim, we must respond compassionately to the needs of the jobless who face no real prospects for employment in the weeks ahead.

H.R. 8146 is a modest and temporary response to the disturbing unemployment problem. It will extend the maximum eligibility for unemployment compensation from 39 to 49 weeks, providing Federal supplemental benefits on the same basis that we now provide combined Federal-State extended benefits. The 10-week extension will be in effect only for 6 months, until March 31, 1981, after which the Congress must commit itself to a more lasting solution to structural unemployment in industrialized regions of the Nation.

Each week, more than 60,000 unemployed Americans exhaust benefits and are left without means of financial support or realistic opportunities for new employment. I strongly urge my colleagues in the House to support H.R. 8146, so that we can return in January to address the more important and permanent issues of employment policy in the 1980's.●

● Mr. WEISS. Mr. Chairman, I support H.R. 8146, the Federal Supplemental Unemployment Compensation Act.

In the last year, the number of people who have lost their jobs across this country has skyrocketed. The unemployment rate in 1979 was 5.8 percent. Today, the unemployment rate stands at 7.6 percent, and some experts project an end-of-year level of 9 percent. In some industries, and scattered areas of the country, the rate is over 10 percent.

The unemployment insurance program began in 1935. Since that time, unemployed workers have been eligible to recover a part of their lost wages through this program.

Under the current unemployment insurance program most States provide unemployment benefits for a maximum of 26 weeks. In periods of high unemployment, extended benefits of an additional 13 weeks' duration are triggered. This legislation we consider today would extend the payment period an additional 10 weeks, from 39 to 49 weeks.

Funds are made available to workers to replace lost income and enable them to have some financial resources until they return to work, or find another job. But today, during this recession, for too many there will be no immediate recall to work, nor will there be any new job.

This legislation is specifically designed to help workers through the next 6 months of this recession. Under H.R. 8146, an additional 10 weeks of Federal supplemental benefits will be available for a 6-month period from October 1, 1980, until March 31, 1981. These 10 additional weeks of unemployment insurance benefits will be provided to an estimated 385,000 people in the first 3 months of the program alone.

The cut-off date in this bill is predicated on what I believe, unfortunately, to be an overly optimistic assumption that by the end of March the recession will be over, and that more job opportunities will be available.

During consideration of this legislation, there was discussion of instituting a 13-week, permanent supplemental extension. I support this concept, and believe the legislation before us today does not meet the real need of the thousands of unemployed. I do however, support this bill, and urge my colleagues to vote favorably on this legislation.●

● Mr. MOORE. Mr. Chairman, I oppose H.R. 8146 as its consideration today is timed to attempt to lift the political fortunes of President Carter and its substance rests on worn out and costly promises of Government support instead of a return to a paycheck from a job in the private sector. I will fight the misfortunes of unemployment as strong as any of my colleagues, but I do not think it is proper to try to wish unemployment away at the cost of nearly $2 billion as is the case with H.R. 8146. This bill is throwing tax dollars at a problem while doing absolutely nothing to try to solve it. It is a hollow promise and prolongs the agony of unemployment. These funds should be used to create work for our jobless.

Of special interest to me is evidence provided me today by the Louisiana Department of Labor showing H.R. 8146 will do little to benefit Baton Rouge and surrounding areas that comprise Louisiana's Sixth District. The predominant SMSA for my district finds employment in July of this year was up 5,500 over 1 year ago and unemployment down 1,750 over 1 year ago. In August, the trend continued as 1,875 jobless 1 year ago now have work. Unemployment 1 year ago was 7.2 percent in my district. This July, it was 6.5 percent. In August, it was 5.7 percent and this figure for succeeding months is expected to be at least another percentage point lower. The average duration of unemployment is now 16.4 weeks and fewer than 500 jobless now go beyond the initial 26-week period into the extra 13-week period funded jointly by State and Federal sources. Even fewer would benefit when the 13-week period ends. For these reasons, I oppose it.●

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. CORMAN. Mr. Chairman, I urge adoption of the bill, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments are in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment.

The text of the bill reads as follows:

H.R. 8146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Supplemental Unemployment Compensation Act of 1980".

FEDERAL-STATE AGREEMENTS

SEC. 2. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this Act referred to as the "Secretary") under this Act. Any State which is a party to an agreement under this Act may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A)(i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in—

(A) an extended benefit period; and

(B) the individual's period of eligibility,

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c)(1) For purposes of subsection (b)(1)(A)(i), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2) For purposes of subsection (b)(1)(A)(ii), an individual shall be deemed to have exhausted his rights to extended compensation under a State law when no payments of extended compensation under a State law can be made under such law because such individual has received all the extended compensation available to him from his extended compensation account (as established under State law in accordance with section 202(b)(1) of the Federal-State Extended Unemployment Compensation Act of 1970).

(d) For purposes of any agreement under this Act—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law; and

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except—

(A) where inconsistent with the provisions of this Act or with the regulations of the Secretary promulgated to carry out this Act; and

(B) to the extent that the State law is inconsistent with the requirements of section 3304(a)(15) of the Internal Revenue Code of 1954, the requirements of such section shall apply under regulations prescribed by the Secretary.

(e)(1) Any agreement under this Act with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2) The amount established in such account for any individual shall be equal to the lesser of—

(A) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(B) 10 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(f)(1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning before whichever of the following is the latest:

(A) the week following the week in which such agreement is entered into;

(B) the first week which begins after the date of the enactment of this Act; or

(C) the first week which begins on or after October 1, 1980.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning after March 31, 1981.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 3. (a) There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this Act.

(c) Sums payable to any State by reason of such State's having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 4. (a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the funds appropriated pursuant to subsection (b) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out the purposes of this Act.

DEFINITIONS

SEC. 5. For purposes of this Act—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(2) the term "period of eligibility" means, in the case of any individual, the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after October 1, 1980; or

(B) such individual was entitled to extended compensation for a week which begins on or after October 1, 1980; and

(3) the term "extended benefit period" shall have the meaning assigned to such term under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

FRAUD AND OVERPAYMENTS

SEC. 6. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this Act to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this Act to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

The CHAIRMAN. If there are no amendments, the Committee rises.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRENZEL. Mr. Chairman, are not pro forma amendments in order under the rule?

The CHAIRMAN. The Chair will advise the gentleman that, under the rule adopted by the House, pro forma amendments are not in order.

Mr. FRENZEL. That is a very extraordinary rule, Mr. Chairman.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. RATCHFORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8146) to provide a program of Federal supplemental unemployment compensation, pursuant to House Resolution 798, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FRENZEL. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FRENZEL moves to recommit the bill H.R. 8146 to the Committee on Ways and Means with instructions to report back the same forthwith with the following amendment:

Page 2, line 23, strike out "an extended" and insert in lieu thereof "a supplemental".

Page 3, after line 24, insert the following:

(3)(A) For purposes of subsection (b)(2)(A), in the case of any State, a supplemental benefit period—

(i) shall begin with the third week after a week for which there is a State "on" indicator (as determined under subsection (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970), and

(ii) shall end with the third week after the first week for which there is a State "off" indicator (as determined under subsection (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970).

(B) When a determination has been made that a supplemental benefit period is beginning or ending with respect to any State, the Secretary shall cause notice of such determination to be published in the Federal Register.

The SPEAKER. The gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

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Mr. FRENZEL. Mr. Speaker, during the foreshortened debate on this bill and during the discussion on the closed rule which provided for no amendments and for no pro forma amendments so that we could discuss it thoroughly, I did describe my motion to recommit.

Briefly, it would eliminate the national trigger and provide instead for State triggers. What that would do would be to not allow 29 jurisdictions which have not reached the trigger limits to qualify for the Federal supplemental benefits provided in this bill. At such time as those States or jurisdictions exceeded the insured rate required for qualification, they would be eligible for supplemental benefits.

Mr. Speaker, the States provide the basic 26 weeks of unemployment compensation.

The Federal Government and the States—provide the second 13 weeks of unemployment compensation.

This particular program, before us now, is wholly paid by the Federal taxpayers. It will cost something over $1.3 billion.

If my amendment, which is intended to target the benefits into the areas of greatest need is accepted, there will be about $230 million saved.

That $230 million can either be not spent and thus not added to the deficit, and not be inflationary, or, if the body chooses, it could be added to relocation or retraining benefits to help in those areas where we would all admit extra benefits and extra services for our unemployed are needed.

But the bill before us today equates Michigan, with over 11-percent unemployment, to Wyoming, with well under 2-percent unemployment. And in those States where unemployment is low, those 29 States, the extended benefit program which is provided in this bill, is not absolutely necessary, particularly it is not absolutely necessary when we are showing a $30 billion deficit for the fiscal year that will begin tomorrow.

So I think the Members have a clear choice here. They can vote against the motion to recommit and for the bill if they simply intended to spray additional unemployment compensation benefits around the country whether they are needed or not. But if they would like to target those benefits into the areas of greatest need, the States who have high unemployment, then they should vote for the motion to reommit and then vote for the bill.

Now, the chairman of the subcommittee will tell us that there are scattered pockets of unemployment within the States. I will grant that. But the chairman has never tried to find a sharper pinpointing targeting mechanism as has been suggested by the gentleman from Indiana (Mr. HILLIS). Actually I would like to focus on those areas of high unemployment even more closely than States lines. But, we have not been able to do that administratively or technically. I have taken the next best approach that I can and that is to use the State jurisdictional lines. Those figures are available to us. The lines are clear.

In my judgment, a State trigger system gives us the best practical opportunity at this time, given the figures available and our current state of administration of unemployment information.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

So the gentleman's motion to recommit, which is necessitated by the fact that we have this slam door, closed rule. We could offer no amendments of any kind because of this terrible rule, and because of that fact, the gentleman is trying to target for those areas that are in the greatest need State by State?

Mr. FRENZEL. The gentleman has described my intention perfectly. I appreciate that.

Mr. ROUSSELOT. And it will save substantial amounts of money for the taxpayers.

Mr. FRENZEL. About a quarter of a billion dollars.

Mr. ROUSSELOT. So the money will be targeted then for those who genuinely need it in the States like Michigan, and so forth.

Mr. FRENZEL. That is the intention of the gentleman from Minnesota who proposes the amendment.

Mr. ROUSSELOT. That is so reasonable, I cannot believe the overwhelming majority will not support the gentleman's motion to recommit.

Mr. FRENZEL. I suppose the reason the Committee on Rules would not allow me to offer it in the usual manner is that it was too reasonable.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Could the gentleman explain for those many Members who are not on the floor here what precisely is the percentage unemployment level that the gentleman considers the threshold in the gentleman's motion to recommit?

Mr. FRENZEL. The trigger is 4 percent State-insured unemployment, if the unemployment exceeds 120 percent of unemployment 1 year ago. Otherwise the rate is 5 percent.

Mr. RITTER. I thank the gentleman.

Mr. CORMAN. Mr. Speaker, I rise in opposition to the motion to recommit.

I want to inform the gentleman who just asked a question that he was not answered accurately. If a State is to trigger in at 4 percent, as the gentleman was told, the insured unemployment rate must also be at least 20 percent higher than it was during the 2 preceding years.

Mr. Speaker, this is a mischievous amendment. It could eliminate as many as 29 States from this program, and within those States there are vast numbers of unemployed people who live in areas of very high unemployment.

As the gentleman from Michigan said a few minutes ago, it is not areas that are unemployed. It is not States that are unemployed. It is people who are unemployed.

Let us look at some of the areas with high unemployment that would be denied the additional weeks of benefits under the motion to recommit.

They include Modesto, Calif., which has a 13-percent unemployment rate; Duluth, Minn., with 9-percent unemployment; El Paso, Tex., with 10 percent; New York City, which is substantially larger than a great many States, has a 10-percent unemployment rate.

The unemployed workers living in these and many other areas would be denied these additional benefits if the motion to recommit passes.

I trust it will not.

I urge rejection of the motion to recommit.

Does the gentleman from Pennsylvania want further enlightenment on the question he asked concerning the triggers under the motion to recommit?

The State insured unemployment rate would have to be 5 percent, unless it reaches 4 percent, and is 20-percent higher than it was during the identical 13 weeks in the 2 preceding years.

I will let the gentleman who made the motion provide any further explanation the gentleman might want.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROOKS). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 138, nays 268, not voting 26, as follows:

[Roll No. 600]

YEAS—138

Abdnor
Ashbrook
Bafalis
Barnard
Beard, Tenn.
Bereuter
Bethune
Brinkley
Brown, Ohio
Broyhill
Butler
Campbell
Carter
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fenwick
Findley
Forsythe
Fountain
Frenzel
Gaydos
Giaimo
Gibbons
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Hopkins
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnson, Colo.
Kindness
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Levitas
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDonald
McEwen
McKinney
Madigan
Marriott
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Pashayan
Paul
Porter
Pritchard
Railsback
Regula
Rhodes
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Walker
Whittaker
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NAYS—268

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gephardt
Gilman
Ginn
Gonzalez
Gore
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hutchinson
Jacobs
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Lederer
Lehman
Leland
Lent
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.

Murtha
Musto
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—26

Anderson, Ill.
Archer
Badham
Coughlin
Dixon
Dodd
Fish
Fuqua
Grassley
Holtzman
Ichord
Jenrette
Leach, La.
Martin
Mitchell, Md.
Myers, Pa.
Nolan
Pepper
Roberts
Schulze
Shannon
Solomon
Steed
Vander Jagt
Whitehurst
Wright

☐ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Archer for, with Mr. Mitchell of Maryland against.

Mr. Badham for, with Mr. Fish against.

Until further notice:

Mr. Pepper with Mr. Martin.

Mr. Roberts with Mr. Schulze.

Mr. Wright with Mr. Solomon.

Mr. Jenrette with Mr. Vander Jagt.

Mr. Fuqua with Mr. Grassley.

Mr. Dodd with Mr. Coughlin.

Mr. Dixon with Mr. Anderson of Illinois.

Mr. Nolan with Ms. Holtzman.

Mr. Leach of Louisiana with Mr. Whitehurst.

Mr. Ichord with Mr. Steed.

Mr. Myers of Pennsylvania with Mr. Shannon.

Messrs. FLORIO, CHARLES WILSON of Texas, BROOMFIELD, GUYER, KAZEN, D'AMOURS, BUCHANAN, and APPLEGATE, Mrs. HOLT, Mr. LENT, and Mr. MARLENEE changed their votes from "yea" to "nay."

Messrs. BARNARD, BEREUTER, RUSSO, and GIAIMO changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair will announce that this will be a 5-minute vote.

The vote was taken by electronic device and there were—yeas 336, nays 71, not voting 25 as follows:

[Roll No. 601]

YEAS—336

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Guyer
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—71

Andrews, N.C.
Ashbrook
Bafalis
Bennett
Butler
Chappell
Cheney
Cleveland
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Edwards, Okla.
Erlenborn
Frenzel
Goldwater
Gramm
Grisham
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Hinson
Huckaby
Hutto
Jeffries
Johnson, Colo.
Jones, N.C.
Kelly
Kramer
Lagomarsino
Leath, Tex.
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Martin
Mica
Michel
Montgomery
Moore
Nelson
Paul
Robinson
Rousselot
Rudd
Satterfield
Sebelius
Shuster
Smith, Nebr.
Spence
Stenholm
Stump
Symms
Taylor
Trible
Whitley
Wyatt
Wydler
Young, Fla.

NOT VOTING—25

Anderson, Ill.
Archer
Badham
Bonker
Coughlin
Dixon
Dodd
Fish
Fuqua
Grassley
Holtzman
Ichord
Jenrette
Leach, La.
Lehman
Markey
Myers, Pa.
Nolan
Pepper
Roberts
Shannon
Solomon
Steed
Vander Jagt
Whitehurst

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Vander Jagt for, with Mr. Archer against.

Until further notice:

Mr. Pepper with Mr. Badham.

Mr. Shannon with Mr. Leach of Louisiana.

Mr. Dodd with Mr. Solomon.

Mr. Fuqua with Mr. Whitehurst.

Mr. Dixon with Mr. Fish.

Mr. Jenrette with Mr. Coughlin.

Mr. Roberts with Ms. Holtzman.

Mr. Lehman with Mr. Grassley.

Mr. Markey with Mr. Steed.

Mr. Myers of Pennsylvania with Mr. Ichord.

Mr. Bonker with Mr. Nolan.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 8146.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. BADHAM. Mr. Speaker, I ask unanimous consent that I be able to have printed in the Record following the last vote on the bill, H.R. 8146, the fact I was unavoidably detained and was unable to be on the floor for the last two rollcalls. I was in a meeting with officers of the Air Force liaison on armed service business. Had I been here, I would have voted in favor of the motion to recommit and would have voted in opposition to the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING THAT A CERTAIN PORTION OF LAKE ERIE BE DECLARED NONNAVIGABLE

Mr. NOWAK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8228) to provide that a certain portion of Lake Erie shall be declared nonnavigable.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. CLAUSEN. Reserving the right to object, Mr. Speaker, I do so to get a clarification from the gentleman from New York. The pending legislation we are considering refers to that portion of Lake Erie that would be declared nonnavigable in the Buffalo Harbor area to clear up the title problem of the city of Buffalo and other local public agencies the gentleman discussed with me and other members of the minority; is that correct?

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from New York.

Mr. NOWAK. I thank the gentleman for yielding. The gentleman is correct.

Mr. Speaker, this bill is a declaration of nonnavigability for that portion of Lake Erie known as the Erie Basin in the Buffalo, N.Y., Harbor. The description of the specific area is contained in the bill.

The area is public property, title of which is held by the City of Buffalo Urban Renewal Agency, with portions held by the Erie County Industrial Development Agency.

This area is the site of a $125 million urban renewal project which is generally considered to be the key to redevelopment of the Buffalo waterfront and the downtown Buffalo area. Standard dredge and fill permit requirements were complied with.

The purpose of this bill is to remove this land from Federal "navigable waters" jurisdiction, in order that these local public agencies can claim clear title. There is no cost to the Federal Government associated with this bill.

Since title to these lands is presently with public bodies, Members should be adivsed that any financial benefits brought about by the clearing of the title will accrue to such public bodies. This is consistent with congressional policy of approving declarations of nonnavigability only where a public purpose will be served.

This legislation is urgently needed so that an entire construction season will not be lost and so this vital job-creating project will not be jeopardized.

Mr. CLAUSEN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That portion of the Erie Basin in the Buffalo Harbor lying within the following described area is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States.

All that Piece or Parcel of Land, situate, lying and being in the City of Buffalo, County of Erie, State of New York, being part of Outer Lots 2, 4, 6, 8, 10, 12, & 14, 3, 5, 7, 9, 11, & 15, Buffalo Village, Township 11, Range 8 of the Holland Land Company's Survey and also being Part of the New York State Mile Strip Reservation, Lots 4, 5, 14 & 15, and the abandoned Right of ways of Georgia Street (66 feet wide), Erie Street (99 feet wide) and River Street, (60 feet wide), and Genesee Street (99 feet wide),

Beginning at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case No. 5472; Thence South 60° 59' 41'' West along said Northerly Right of way of Erie Street, 200.19 feet to a Point; Thence continuing along said Northerly Right of way, the following Courses and distances, South 14° 39' 13'' West, 6.89 feet to a Point; Thence South 61° 00' 11'' West 35.15 feet to a Point of Curvature; Thence along a Curve to the Left of 195.0 feet Radius an arc distance of 154.86 feet to a Point of Tangency; Thence South 15° 30' 00'' West 333.34 feet to a Point of Curvature; Thence along a Curve to the Right of 273.0 feet Radius, an Arc distance of 367.28 feet to a Point of Tangency, said Point being in the Northerly Right of way of the Marina Access Road; Thence continuing along said Right of way line, the following Courses and Distances North 87° 25' 00'' West, 241.90 feet to a Point of Curvature; Thence along a Curve to the Right of 1493.00 feet Radius an arc distance of 141.14 feet to a Point of Reverse Curvature; Thence along a Curve to the left of 487.26 feet Radius an arc distance of 139.90 feet to a Point of Tangency; Thence South 81° 32' 59'' West 59.44 feet to a Point; Thence North 08° 43' 10'' West along a line 266.54 feet to a Point on the Waters edge of the Erie Basin as now existing; Thence along the following Courses and distances along said Erie Basin.

North 69°52'33'' East along a line 139.85 feet to a Point; Thence

North 61°05'54'' East along a line 255.80 feet to a Point; Thence

North 15°47'39'' West along a line 74.47 feet to a Point; Thence

North 88°38'07'' West along a line 120.08 feet to a Point; Thence

North 48°37'57'' West along a line 78.12 feet to a Point; Thence

North 18°38'10'' West along a line 113.53 feet to a Point; Thence

North 41°22'02'' East along a line 77.56 feet to a Point; Thence

North 61°21'56'' East along a line 277.91 feet to a Point; Thence

North 28°37'56'' West along a line 65.59 feet to a Point; Thence

South 69°22'05'' West along a line 205.24 feet to a Point; Thence

North 53°38'06'' West along a line 120.28 feet to a Point; Thence

North 13°35'39'' West along a line 348.76 feet to a Point; Thence

North 14°50'41'' East along a line 39.52 feet to a Point; Thence

North 36°39'44'' East along a line 69.55 feet to a Point; Thence

North 61°47'02'' East along a line 20.14 feet to a Point; Thence

South 38°59'02'' East along a line 5.68 feet to a Point; Thence

North 60°15'46'' East along a line 116.70 feet to a Point; Thence

North 28°41'22'' West along a line 71.77 feet to a Point; Thence

South 61°01'06'' West along a line 116.16 feet to a Point; Thence

South 4°01'24'' West along a line 3.54 feet to a Point; Thence

South 61°38'00'' West along a line 26.80 feet to a Point; Thence

South 78°35'17'' West along a line 62.24 feet to a Point; Thence

North 57°34'24'' West along a line 155.64 feet to a Point; Thence

South 41°52'34'' West along a line 210.98 feet to a Point; Thence

South 72°42'05'' West along a line 58.68 feet to a Point; Thence

North 48° 06' 56'' West along a line 92.12 feet to a Point; Thence

North 11° 03' 41'' East along a line 60.10 feet to a Point; Thence

North 41° 51' 30'' East along a line 277.79 feet to a Point; Thence

North 48° 31' 25'' West along a line 246.32 feet to a Point; Thence

South 41° 58' 24'' West along a line 340.29 feet to a Point; Thence

South 73° 49' 18'' West along a line 57.42 feet to a Point; Thence

North 48° 06' 07'' West along a line 92.12 feet to a Point; Thence

North 11° 06' 02'' East along a line 60.09 feet to a Point; Thence

North 41° 52' 59'' East along a line 229.52 feet to a Point; Thence

North 39° 01' 22'' West along a line 1060.30 feet to a Point in the Northerly boundary of abandoned Georgia Street (66 feet wide); Thence North 55° 22' 10'' East along said boundary 895.12 feet to a Point in the Westerly Blue line of the former Erie Canal; Thence South 36° 07' 00'' East along said Blue line 66.02 feet to a Point; Thence South 55° 22' 10'' West 6.0 feet to a Point; Thence South 36° 07' 00'' East 377.01 feet to a Point; Thence North 55° 22' 10'' East 6.0 feet to a Point in the said Blue line; Thence on the following Courses and distances along said Blue line South 36° 07' 00'' East, 1144.41 feet to a Point; Thence South 53° 53' 03'' West 2.65 feet to a Point; Thence South 36° 07' 10'' East 192.43 feet to a Point; Thence South 36° 24' 34'' East, 100.03 feet to a Point; Thence South 36° 26' 22'' East, 310.03 feet to a Point; Thence South 40° 25' 16'' East 227.11 feet to a Point in the North line of the former Peacock Slip No. 1; Thence South 27° 10' 49'' East 99.66 feet to a Point in the South line of the former Peacock Slip No. 1; Thence North 62° 49' 43'' East along said South line 40.14 feet to a Point in the said Blue line; Thence South 50° 58' 05'' East along said Blue line 49.31 feet; Thence South 36° 28' 10'' East 382.36 feet to a Point; Thence South 38° 33' 02'' East along said Blue Line 63.20 feet to the Point or Place of Beginning, containing 64.48 Acres More or less.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5(b) of rule I, the Chair announces that he will postpone further proceedings today on each question of agreeing to three conference reports on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

All such rollcall votes, if postponed, will be taken after all votes on the transportation appropriations conference report and amendments in disagreement.

☐ 1450

CONFERENCE REPORT ON S. 1177, MENTAL HEALTH SYSTEMS ACT

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the Senate bill, S. 1177, to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 22, 1980.)

The SPEAKER. The gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am asking the House to consider today the conference report on S. 1177, the Mental Health Systems Act, legislation which would amend the Community Mental Health Centers Act to revise and improve the Federal programs of assistance for the provision of mental health services. I want to thank the members of the Interstate and Foreign Commerce Committee, and especially Chairman STAGGERS and Mr. CARTER for their help in bringing this legislation before us.

The mental health program which we are proposing to extend and amend, was established by Public Law 88-164 in 1963 and has been revised several times since.

At the time of the enactment of the original legislation it was hoped that the Federal Government could establish a network of outpatient clinics to serve as alternatives to the large and expensive State mental hospitals, and that voluntary organizations and local and State governments would begin to assume responsibility for their citizens who were mentally ill.

Part of this goal has been achieved. With Federal aid under the CMHC Act, more than 750 local centers have been established and, in 1979, more than 2.4 million persons received services from them. More than 20 percent of these local centers are now fully independent of Federal support. During this same time the number of institutionalized patients has dropped from over one-half million to 148,000.

But there are problems also. Since they were given little authority over the local programs, States have been understandably reluctant to lend their full support to CMHC's. A large number of areas are still without comprehensive services, and many patients leaving institutions have been lost in the cracks in the system and now live in nursing homes and boarding homes without access to the care they need to return them to a productive life.

The House considered these issues last month and passed the Mental Health Systems Act by a vote of 277 to 15. The Senate passed a similar bill by 93 to 3. Both measures provided extension of some community mental health authorities, as well as some distinct improvements in specialized programs for the elderly and other priority populations, for children, and for the chronically mentally ill.

I bring before you today the conference report on the two bills, representing in large part the substance of the House bill. The major categorical programs are the same with a portion of grants for priority populations earmarked for services to the elderly. This set-aside was made because of the special and overarching needs of older Americans: Estimates indicate that up to 70 percent of elderly nursing home residents develop severe symptoms of mental illness. Other studies indicate that many—if not most—of those elderly individuals who are called "senile" are, in fact, suffering from curable mental illness. The special provisions for the elderly are made in hopes of returning this group to full and functional daily lives.

The report also includes the House provisions for an expanded State role in planning, providing, and evaluating mental health services. States have been reluctant in the past to commit extensive funds to those Federal and local programs over which they have had little control. The House bill provided—and the report retains—new authority for State administration of programs and, thus will result, we hope, in increased State funds for these programs. The conference report also includes a Senate provision which expands upon a House demonstration program to allow any State mental health authority which is making an effort to improve care for the chronically mentally ill to act as the exclusive State agent for Federal funding under the act.

The Senate bill provided for a model bill of rights and required that each State have a system to protect and advocate the rights of mentally ill persons. Any State which did not have such a system was to be ineligible for Federal mental health funds. The conference report does not contain this restriction. In accordance with the House's position on increasing State authority, the report provides a completely voluntary program of advocacy and, in the first year of the act, only States are eligible to apply for such programs. In succeeding years other entities would be eligible for the program, but only after a hearing and consultation with the Governor of the State. With such a program, we hope to aid States in evaluating and improving the treatment of their own citizens who are mentally ill.

Finally, the House bill contained no provision for local groups to appeal a decision from the State regarding grant awards. The Senate bill did provide for a very, broad standard of review, by the Secretary, of States' decisions, a review so broad that the House conferees felt it to be an exception that swallowed the rule. I am pleased to report that the conference substitute contains a very limited appeals process and gives the States much new authority and encourages State funding and participation.

The conference report identifies the successes and the gaps in the present CMHC program. The bill does much to fill the gaps and to build a comprehensive system from the disparate authorities and agencies which provide care to the mentally ill.

Mr. Speaker, this conference report deals with one of the most fragile, vulnerable groups in our country. We believe it an important and compassionate piece of legislation.

Mr. Speaker, I have the privilege and honor of yielding at this time to the distinguished chairman of the full Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I am pleased to be able to support this legislation which does a great deal toward helping some of those people who are least able to take care of themselves.

The changes and the new programs provided in this legislation originally came to the Subcommittee on Health and the Environment from the President's Commission on Mental Health. That group, under the personal leadership of the First Lady, developed a series of recommendations for providing better mental health care to children, to the elderly, and to the chronically mentally ill of the country. After much work by both the House and the Senate, the legislation now provides for continued support of the local community programs, for new programs to provide specialized help, and for an increased role for State governments in planning and evaluating these services.

Mr. Speaker, I note with special enthusiasm that grant program devised by the subcommittee to aid children who are severely disturbed. We all know of the special tragedy of a young life which is disrupted by mental illness and emotional problems. What few of us recognize is the inadequacy of the mental health system in treating those children. They are moved from hospital to hospital, from home to institution, with little specialized help. Families are without support to care for their young loved ones.

Under this legislation, the Federal Government will provide grants to develop programs and treatment for these children and their families. I am pleased to endorse this provision to return these children to normal lives as they grow up.

I am also glad to note the provisions in the report relating to the increased role of States in planning and evaluating community and statewide mental health programs. For too long, States have had little incentive to participate in outpatient mental health and I am sure that these changes will do much to encourage them to plan in cooperation with the Secretary and to help pay for these programs.

I urge my colleagues to support this provision and the entirety of the report.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I wish to draw the attention of the Members to this conference committee report. When we looked at the figures in this bill when it went out of this House (H.R. 7299) over the next 4 years, it authorized spending in this program from $78 million in fiscal year 1981 to $200 million in fiscal year 1984. The total over a 4-year span of some $607.5 million. This was an increase of 166 percent over what we propose to spend in fiscal year 1981.

Now, when we examine what the conferees did with this noteworthy piece of legislation, they have added on to the figures that I have described, 31 percent more. In other words, if we approve this conference report, we are going on record as authorizing spending for these new programs over the next 4 years, not $607.5 million, but to a total of $796 million. What in the world are we doing?

This institution right now is in violation of the law because on September 15 we were required to have a budget resolution which set forth income and outgo and the deficit, if any, for the American people to discover, to their sadness. The reason we did not adopt this resolution as required by law on September 15 is obvious. The Democratic Party which controls this House with a majority of 63 percent, does not want to tell the American people the truth that we are going to have a deficit in the next year of close to $40 or $50 billion when in the spring of this year they talked about a balanced budget. That is why we are not doing it.

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Now, what justification is there for us to go down the road of authorizing increased spending for these new programs at a time when this country is experiencing a 12-percent inflation level. Four years ago it was about 4.5 percent, the deficit this year is some $60 billion to $70 billion, and we are sitting here talking about new programs to help the mentally ill?

Now, who can be against improving mental health? But, when the American people look at the collective wisdom of this institution, they may have serious questions as to who is mentally ill. Does anybody in this room think there is a bottomless pit of money someplace where we are going to find the financing for these programs? Will the day ever come when this institution is able to exercise the discipline to match the outgo with the income? That is the gut issue.

It is about time that we in this institution have respect for the beleaguered taxpayers of this Nation who are really getting it in the pocketbook. Taxpayers are not mentally ill; they are emotionally ill, and that emotional illness is caused by the irresponsibility of this institution which is so impressed with this legislation that we cannot even, among ourselves, exercise enough interest to listen to somebody talk about this program in the well of the House, trying to draw the attention of the Members to the fact that we are expanding these programs willy-nilly.

I do not know what it takes. Perhaps one could say, from reading the temper of the Members of the House right now, that we collectively do not care about increasing the authorizations willy-nilly another 31 percent beyond what the House passed some month ago. I do not know what it takes, but I hope sometime, somewhere along the line, the people of this country wake up.

If we want to stop our Presidents from spending, you must deal with the agency which authorizes it. That is the Congress of the United States. That is this House. Deficits start here; the buck stops here. Presidents can only spend what the Congress appropriates, and the responsible thing for us to do is to turn down this conference report.

The SPEAKER pro tempore (Mr. SIMON). The time of the gentleman from California has expired.

Mr. CARTER. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. DANNEMEYER. When this bill went out of our House, this Member offered an amendment that would have authorized increases in these programs limited to a growth of 10 percent per year over the next 4 years. It was rejected 75 to 223. I believe that is a responsible way to deal with this serious program. But, for us now to authorize an increase, as we did earlier, of a 166-percent increase over 4 years, and now tack another 31 percent on top of that, we have just lost all sense of responsibility if we approve this conference report.

The most responsible thing we can do is just reject it and relieve some of the tension that is causing the emotional instability of the taxpayers of this country.

Mr. CARTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, speaking for myself and the chairman of the Select Committee on Aging, Mr. PEPPER, we wish to commend Mr. WAXMAN, chairman of the Subcommittee on Health an the Environment, and Dr. CARTER, who serves as ranking minority member for the excellent decisions reached in conference on the Mental Health Systems Act. We are pleased to see that the elderly's special needs for outreach, assessment, and treatment are addressed in section 204 of the act, entitled "Elderly and Other Priority Populations."

Mr. WAXMAN. Mr. Speaker, I have had the opportunity to review the statement by the gentleman from Arkansas and believe that it clearly expresses the objectives of the aging provisions in section 204. I wish to thank him and Mr. PEPPER for all of their assistance.

Mr. HAMMERSCHMIDT. Mr. Speaker, speaking for myself and the chairman of the Select Committee on Aging, Mr. PEPPER, we wish to commend Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, and Dr. CARTER, who serves as the ranking minority member, for the excellent decisions reached in conference on the Mental Health Systems Act.

Since the National Conference on Mental Health and the Elderly, which Mr. PEPPER and I had the privilege of cochairing in April 1979, we have been working on a variety of legislative proposals that would provide better mental health services to the elderly. During the Conference we learned that many health professionals have a fatalistic attitude about working with the elderly; this is demonstrated by the fact that although 20 to 25 percent of the elderly have significant mental health problems, less than 2 percent per year are seen by private practitioners and less than 4 percent per year are seen at community mental health centers. However, mental health providers who also have training in gerontology affirm that much of this impairment can be to some degree emeliorated and that even disorders that are directly related to organic brain disease often have significant components that respond positively to treatment.

We are pleased, therefore, to see that the elderly's special needs for outreach, assessment, and treatment are addressed in section 204 of the Mental Health Systems Act, entitled "elderly and other priority populations." Because of our close association with both the House and Senate committees in developing this section of the bill, we wish to take this opportunity to clarify what entities receiving grants under this section should be doing. We thank Chairman WAXMAN for this privilege.

The bill states that any public or nonprofit entity which receives the grant must locate the elderly in the mental health service area who are in need of mental health services. It is our intent that aggressive outreach activities be undertaken to locate and assist those elderly with the most severe mental health symptoms. One such group is the elderly who have been, and continue to be, released from State mental hospitals because it is felt that they can function in the community with proper medication and outpatient care. As we all know by now, many of these elderly people remain in the community but are not receiving their medications, are suffering from malnutrition, are not receiving income benefits for which they are eligible, are in poor health, and are living in dilapidated housing. Other elderly individuals we would consider in serious need of intervention are those exhibiting delusional thinking, severe symptoms of delerium, confusion and severe depression. These elderly people who are most "at risk" and more often poor, single and living alone. In many cities they are concentrated in areas that have come to be labeled "psychiatric ghettos." Many are single room occupants in inexpensive hotels, or reside in unlicensed boarding homes. It is our intent that outreach efforts be directed toward these indivduals.

Before any psychological intervention, a grantee must provide or arrange for the provision of a medical differential diagnosis to determine if the symptoms have an organic basis. The aged brain is particularly vulnerable to disorders occurring anywhere in the body. Almost any disorder—cardiac, pulmonary, anemia, infection, nutritional deficiency—may produce dementia and delirium symptomatic to mental illness but nevertheless rooted in a physical condition which is treatable. The medical differential diagnosis is an effective screen to prevent mistreatment of an underlying physical problem and to identify physical disorders which could prove fatal. On the advice of experts in the field of geriatric psychiatry, we expect that at a minimum a medical differential diagnosis shall consist of a general physical and neurological examination, an adequate blood chemistry workup, and an inventory of both prescribed and over-the-counter medications.

A grantee under this section of the bill has two options—providing mental health services to the elderly in the community or providing mental health services to the elderly in nursing homes and intermediate care facilities. We expect that those entities applying for grants under this section will themselves be providing the mental health services being proposed. The kinds of mental health services that we believe should be available are inpatient services—for short-term treatment—residential treatment, individual therapy, group therapy, family therapy, day hospital care, supervision of medications, milieu therapy, and case management. If some of these treatment facilities are available in the community and are appropriate (such as day hospital care, inpatient care or residential treatment), they should be utilized and not duplicated. Because of the strong interrelationship between mental disorders, disease, and social and environmental factors in the elderly population, we expect that the grantee will link the client with the appropriate social service agencies for supportive services—such as nutrition, housing, income, and transportation—and we also expect a linkage with health providers to treat any existing physical disorders. We do not want the limited mental health funds to be used to duplicate social or health services that are available in the community.

The Aging Committee is especially grateful that a grantee can receive funds to provide mental health services in a nursing home or intermediate care facility. Most people do not realize that it is the nursing home and not the public mental hospital that houses the largest number of mentally impaired patients. The National Institute of Mental Health (1978) statistics reveal 146,000 patients in public mental hospitals but more than twice that amount, over 300,000, residing in nursing homes. And, although the nursing home is the major setting for the mentally ill, it provides egregiously inadequate mental health services to its patients. Studies have shown that over 70 percent of nursing home residents have serious mental disturbances. Our current social policies, mental health delivery system, and the nursing home industry have failed to build into the structure any mental health component. As a rule, community mental health centers have not developed treatment nor consulting ties with nursing homes.

Besides providing direct services, the grantee must also provide training to the staff of such facilities. This is extremely important because a grant program itself has a limited life span. We believe that the development of groups of trained staff, who can eventually train others, is the beginning of the force that will be required to treat this growing elderly population. We believe that every member of the staff can be a part of the therapeutic environment and expect that all will be included in the training sessions. It is well known that nursing homes have a very high staff turnover rate, especially in the nonprofessional positions which tend to have a high degree of repetition and boredom. It is also clear that the nonprofessional staff, such as aides, have the highest frequency of patient contact. The insights gained from these recurring interactions can be invaluable to improving patient care. And, adding a treatment dimension to their jobs has a variety of benefits. It increases the employee's level of optimism and job satisfaction and provides the patient with far more hours of stimulation, rehabilitation, and treatment.

When we use the term "treatment" we do not limit it to something that happens only in individual or group therapy. Any interaction between a staff member and a patient can provide an opportunity to enhance independence, promote rehabilitation, maximize self-esteem, or reorient the patient to his whereabouts. Staff at all levels can be taught to recognize changes in behavior and to record them. Training programs for staff should include such modalities as reality orientation, resocialization therapy, remotivation therapy, sensory stimulation, reminiscent therapy, and life review.

I wish to thank Mr. WAXMAN again for this chance to discuss the aging section of the Mental Health Systems Act and to elaborate more on the specific objectives that we hope will be accomplished. The very knowledgeable people that we have consulted with over the past year and a half made it clear to us that the course of geriatric mental illness is not inevitably downhill and irreversible. We feel that this section of the bill provides us with the opportunity to implement programs which will make their beliefs come to pass.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany S. 1177, the Mental Health Systems Act.

As ranking minority member of the Health and Environment Subcommittee and as a conferee on this legislation, I am pleased to report this measure to the House and recommend its adoption.

In my view, this conference report represents a constructive melding of the House and Senate bills. In most cases where there were differences, we were able to adopt provisions from both versions, resulting in a final bill which improves upon the efforts of both Houses.

Although the authorization total for this conference report is higher than the House-passed measure, the total is considerably lower than the Senate bill. In large part this is due to the fact that we limited the Systems Act to 3 years of authorizations rather than 4 years as proposed in the Senate bill, thus eliminating over $550 million in authorizations.

Mr. Speaker, I would now like to review the main features of the conference report version of the Mental Health Systems Act which has as its primary objecttive the provision of mental health services to those in greatest need.

However, before the Systems Act becomes effective in 1982, the conference report provides a 1-year extension of the existing law's community mental health center program. As you know, that legislation was established in 1963 and has been revised and extended many times, and I have continued to support this legislation.

Although notable progress has been made under the CMHC program with respect to the delivery of community-based mental health services, various studies as well as extensive testimony before our health subcommittee have shown that unserved and underserved populations remain throughout the country. In particular, certain groups in the population such as the chronically mentally ill, children, poor persons, minorities, and individuals in rural areas, continue to lack access to adequate public and private mental health services. To address these shortcomings of the existing CMHC program, the Systems Act is designed to target assistance on such groups whose mental health needs have not yet been met.

For example, the conference report provides grant authority, as did the House bill, to fund programs and projects to assist each of these identified priority groups. However, to avoid the possibility of fragmentation with such categorical grants, the final version of the legislation includes a number of provisions to assure coordination of services and to encourage access to a comprehensive range of services, whenever possible. In addition, the conference report includes authority to support projects designed to promote mental health and prevent mental illness, as well as authority to improve coordination between the general health and mental health sectors. Finally, the conference report contains authority to assist community mental health centers with certain important—though nonrevenue producing activities—such as consultation and education services, followup services, and case management responsibilities which are essential components of an effective community-based center. Both House and Senate bills recognized the need to include this authority, and the conference report combines the language of both bills.

Another key feature of the conference report which was contained in the House and Senate versions is the increased responsibility given to the States. By involving States more directly than ever before in the planning, development, operation, and monitoring of mental health programs, this legislation will greatly improve coordination of mental health services and strengthen overall program accountability. Moreover, the enhanced State role under this legislation is a critical factor in assuring that direct Federal support remains time limited, a policy that is consistent with the congressional intent of the original CMHC legislation.

Now Mr. Speaker, having described briefly the main features of the conference report, I would like to highlight the major differences in this proposal from the House-passed bill.

First, the conference report includes a voluntary grant program to support the operation of advocacy programs for the mentally ill. In view of the fact that the Senate bill contained a mandatory program while the House bill contained no comparable provision, I believe the voluntary approach adopted by the conferees was a reasonable compromise. Also included as part of this compromise was a nonbinding model bill of rights for mental patients.

Second the conference report includes funding for a mental health formula grant program to improve the administration of the State's programs, which is essentially an extension of existing law. Consistent with the objective of developing a comprehensive mental health system, the conferees believed it was appropriate to include this authority in the conference report, along with service delivery programs, rather than wait until next year to renew it.

Third, the conference report contains a provision establishing a prevention unit within the National Institute of Mental Health to develop national goals with respect to the promotion of mental health and the prevention of mental illness. Since both bills contained authority to assist in supporting prevention projects, establishment of this prevention unit was consistent with the House policy.

Fourth, combining provisions of the House and Senate bills regarding the role of the States, the conference report does include some new procedures not contained in the House bill. The most important is the appeal authority. Under the final version of this legislation, entities applying for Federal assistance will have an opportunity, under certain limited conditions, to appeal to the Secretary of Health and Human Services regarding the State's ranking or modification of their applications. The House bill had no such appeal process. However—I feel this is a reasonable compromise which should insure that truly worthy projects will have an opportunity to receive the consideration they deserve.

The fifth major feature of the conference report not contained in the House bill is the requirement that States develop mechanized claims processing information retrieval systems for their medicaid programs. Based on experience with similar systems which have already been established in 29 States savings of 4 to 5 percent of medicaid dollars can be expected from effective medicaid management information systems.

In conclusion, Mr. Speaker, I would like to point out that consideration of this conference report today marks the culmination of a long and thorough deliberative process which began over 2 years ago.

This conference report reflects the strong commitment of the Congress and the administration to improve the provision of mental health services in this Nation. And that commitment is shared by the many dedicated mental health groups and concerned individuals whose advice and support throughout this process have been invaluable.

Mr. Speaker, I urge my colleagues to join me in adopting this conference report on the Mental Health Systems Act.

S. 1177—MENTAL HEALTH SYSTEMS ACT—CONFERENCE REPORT SUMMARY

1. Provides a simple one-year extension of existing law's Community Mental Health Center program (authorizing $85 million for fiscal '81) and then establishes a revised system of support for provision of mental health services, the Mental Health Systems Act, and provides three years of authorizations as follows:

[In millions]

FY 1982	$169
FY 1983	195.5
FY 1984	228

2. Provides specific authorizations under the Systems Act for grant programs to assist the following:

Community mental health centers (initial operations).

Chronically mentally ill.

Priority populations (including elderly with 40 percent set aside for grants to assist elderly).

Non-revenue producing activities.

Prevention projects.

Mental health services in health care centers.

Innovative projects.

3. Establishes a voluntary grant program for projects to protect the rights of the mentally ill. State-run or state-recommended programs given priority in first year. Authorizes: $10, $12.5, $15 million.

4. Phases down rape research authority in current law and establishes new program for projects providing rape services.

5. Revises and extends current law's mental health formula grant program.

6. Establishes a Prevention Unit in N.I.M.H. and an Associate Director for Minority Concerns.

7. Provides a model "bill of rights" that is not binding on states.

8. Provides pay comparability for Physicians and Dentists in Public Health Service.

9. Requires states to have Medicaid Management Information Systems.

S. 1177—MENTAL HEALTH SYSTEMS ACT CONFERENCE REPORT AUTHORIZATIONS

SUMMARY

House bill: 4 yrs. authorization total $607.5 million.

Senate bill: 5 yrs. authorization total: $2.078 billion.

Conference report: 4 yrs. authorization total: $796 million.

[Dollar amounts in millions, fiscal years]

	1981	1982	1983	1984
I. Existing Law Reauthorizations				
CMHC Act:				
Planning	$1			
CMHC's—new	37			
Consultation/education	15			
Financial distress	20			
Rape research	6	$1.5	$1.5	
Subtotal	79	1.5	1.5	
II. Mental Health Systems Act Authorizations				
Mental health services:				
CMHC's:				
New		30.0	35.0	$40
Continuing		Such sums as necessary		
Chronically mentally ill		45.0	50.0	60
Severely disturbed children and adolescents		10.0	12.0	15
Elderly and other priority populations [1]		30.0	35.0	40
		12/18	14/21	16/24
Nonrevenue producing activities		30.0	35.0	40
Prevention		6.0	7.0	8
Linkage		15.0	17.5	20
Exclusive contract grants		3.0	4.0	5
Subtotal [2]		169.0	195.5	228
Advocacy		10.0	12.5	15
State formula grant program		15.0	15.0	15
Rape services	6	9.0	12.0	12
Total ($796)	85	204.5	233.5	270

[1] Breakdown reflects 40 percent set aside for elderly projects.

[2] 5 percent set aside of appropriations under secs 201–206 shall be for innovative projects, sec 207.

Mr. Speaker, I reserve the balance of my time.

● Mr. CORRADA. Mr. Speaker, I rise in support of the conference report on the Mental Health Systems Acts which will improve the delivery and quality of mental health services throughout the United States.

This bill is the result of a major effort from the administration in the revision of the current mental health programs. It gives a fresh outlook to the existing mental health programs and provides new initiatives. Traditionally many areas throughout the Nation lack comprehensive mental services. There is usually a gap between the services provided to a patient in an institution and the services that the patient is ultimately to receive once he tries reincorporation in society. Emphasis is given to the adult population, and preventive services are few.

The Mental Health Systems Act provides for the establishment of a State mental health administrative agency with the responsibility of preparing a detailed mental health operations program. As a result of the substantial revisions of the program the States will be involved in the planning and provision of community mental health services.

Title II makes available for local private nonprofit entities, local public agencies or State agencies Federal funds to provide mental health services in a variety of areas.

Title III establishes a bill of rights for mentally handicapped persons and creates a mental health advocacy program. This is a commendable step in order to preserve the dignity of the mental patient.

Title IV requires the Director of the National Institute of Mental Health to designate an associate director for minority concerns whose major task will be to develop and coordinate prevention, treatment, research, and administrative policies and programs to insure increased attention on minority populations. This is important since the socioeconomic factors surrounding minority communities are different than the rest of the Nation. That patterns of stress, anxiety, depression and other mental distorders are quite different from any other sector of the population. Unfortunately, not all persons in need of mental services are receiving it nowadays. Unfortunately, only about half of the people in the United States have access to mental health centers. Especially exempt from those benefits are the elderly, the poor, and the youth of this country. In order to facilitate a more comprehensive and far-reaching mental health system, we need to expand and improve existing programs. This is precisely what the Mental Health Systems Act proposes to do.

The Mental Health Systems Act is extremely important for Puerto Rico. Right now, mental health services in Puerto Rico are under the State Department of Health. The resources are very limited. There are only 12 community mental health centers and two State hospitals. The community mental health centers provide only ambulatory services and the two State hospitals are insufficient to provide mental health services to a population of more than 69,000 patients a year. We should mention however, that our target population is approximately 600,000. There is not a single facility either public or private with acute inpatient psychiatric facilities. There are no facilities for treatment of children and adolescents. Only ambulatory care is provided in the island for this group.

The Mental Health Systems Act will provide an alternative for my district in providing a viable mechanism for the treatment and prevention of mental illnesses. I urge my colleagues to vote for this important piece of legislation.●

● Ms. MIKULSKI. Mr. Speaker, I am pleased to support the Mental Health Systems Act (S. 1177) because it extends the programs authorized under the Community Mental Health Centers Act, increases access to services for populations who should be, but are not, being served, and increases local and State control over the programs.

This bill recognizes our need to help several underserved populations. In specific, it helps—

End dumping of the mentally ill from hospitals into the community;

Serve severely disturbed children and adolescents;

Serve local "priority" groups—the young, old, minorities who have been excluded from the service system; and

Serve rape victims.

The services to the priority groups is an important part of this bill. It acknowledges that certain groups within every community have not been given a fair shake—equal access to mental health services. It also recognizes that the people in their community, through their HSA, are best equipped to identify who needs to be served under this program and how they should be served.

Providing services to the rape victim and her loved ones, represents a major step forward. We have spent enough time researching the rape victim; it is time to make sure she gets served when she needs it. This bill does not create a new entitlement program; what it does is provide additional support to rape crisis centers so they can become self-sufficient. It is very difficult to have your few volunteers simultaneously provide the rape victim and her family with support and be raising funds to pay for the telephone she called on. With these funds, the rape crisis centers will be on sure footing in the future.

For the first time, this bill gives the States a major role in determining how the mental health services are to be delivered. The goal of the Community Mental Health Centers Act has been for the Federal Government to help initiate mental health services in areas where no services exist, and then enable the States, localities, and private agencies to take over the programs. But we have excluded the States from any decisionmaking role concerning which programs get funded, and how to administer these programs. This bill changes that. Now, localities and States will have a voice in determining grantees.

The bill should also help us control the cost to the Federal Government of administering these community mental health programs. We are going to give some States the opportunity to show us how they can simultaneously administer both their programs and the programs funded under this bill. Also, it allows for funding innovative programs to improve the service delivery system.

I strongly urge my colleagues to support this conference report because it represents a dual step toward meeting the health needs of all Americans, especially those who are not now being served, and increasing local control over programs they will eventually operate.●

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

CONFERENCE REPORT ON S. 2475, AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Mr. DINGELL. Mr. Speaker, I call up the conference report on the Senate bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improving Automotive Efficiency," to exempt very low volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the act, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 25, 1980.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

□ 1510

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report on S. 2475, the Automobile Fuel Efficiency Act of 1980. The Senate has already passed the conference report by voice vote on Friday and I urge its adoption in the House today.

This legislation passed the House earlier this year on a voice vote. It has achieved broad support and is noncontroversial. It represents some important revisions in our fuel efficiency laws aimed at improving their effectiveness and achieving fuel economy quickly.

I want to emphasize that the provisions of this legislation do not alter the fuel economy standards which we established in 1975. Those standards remain unchanged. The legislation before us is designed to correct a few provisions of the act with the primary purposes of increasing flexibility in achieving fuel economy and encouraging employment in the automobile industry by encouraging foreign manufacturers to produce and assemble autos in the United States.

I need not remind my colleagues of the current problems facing the U.S. auto industry and the need to put our autoworkers back to work. Several provisions of this bill are specifically designed to promote production of efficient automobiles in the United States. These include automobiles which might otherwise have been built abroad.

Most of the bill's provisions were recommended by the Department of Transportation based upon its experience in administering the fuel economy program. One of those, the "3-year carry forward/carry back" provision, will provide incentives to manufacturers to exceed fuel economy standards by permitting manufacturers to earn credits which can be used for a 3-year period before or after the year they are earned. Present law provides for only a 1-year period. The provision will provide flexibility to manufacturers to adopt appropriate production plans to achieve standards without sacrificing fuel economy. I would like to commend my colleague on the Subcommittee on Energy and Power, Mr. SHARP, for his work in achieving this important provision. I want to commend Mr. BROYHILL who has taken the leadership of this matter on the other side of the aisle with Mr. BROWN of Ohio. I also want to commend the other members of our subcommittee for their support of this bill and insistance that the bill not reduce our efforts to achieve fuel economy. These include Congressmen BROWN of Ohio, MOFFETT, STOCKMAN, OTTINGER, MAGUIRE, and Chairman STAGGERS.

The bill also makes amendments which will reduce unnecessary paperwork for small manufacturers.

The automobile industry is facing some severe challenges in the 1980's. None of us suggests that this challenge will be eased by changing fuel economy standards. To the contrary, manufacturers must continue to improve fuel economy to compete in the market and that is their announced intention. The legislation, therefore, does not amend fuel economy standards. Instead, it makes some important improvements in the fuel economy program to increase flexibility of manufacturers to meet standards and to promote employment in the U.S. automobile industry.

Mr. Speaker, I believe it important that we provide a detailed analysis of the bill which is patterned very closely on the House version of S. 2475, as reported by the Committee on Interstate and Foreign Commerce. (See H. Rept. 96–1026 of May 16, 1980.) The analysis discusses the principal differences between the House version and the conference report.

SECTION 2

The conference report deletes the House findings, but retains the purposes with one minor change.

SECTION 3

The conference report retains the House approach concerning small manufacturers. The changes include a technical change in section 502(c) of the Motor Vehicle Information and Cost Savings Act making it clear that the DOT may grant an exemption and set an alternative standard or standards for all model years covered by a manufacturer's application.

In addition, a new paragraph is added to S. 2475 to permit a small manufacturer to file a single application for an exemption and alternate standards for any period during model years 1981 through 1985. The conference agreement would also permit any application already submitted and accepted by DOT for model year 1981 to be amended and extended through model year 1985 with Secretarial discretion to require additional economic or technical data from the applicant.

In addition, the conferees agreed to adopt the House provision requiring the Secretary to review the exemption and standards-setting procedure to further reduce administrative burdens and to notify the Congress of his findings.

Finally, the conferees agreed with the House provision that small manufacturers would be exempt from certain reporting requirements.

The conferees emphasized that in establishing alternate fuel economy standards, the Secretary of Transportation may establish a single standard for the duration of the exemption. This solution is sound. It insures that no manufacturer will be exempt from the fuel economy requirements of the act.

The conference report modifies section 4(a) of the House version of S. 2475 to provide that unless the Secretary of Transportation finds that a proposed exemption would result in reduced employment in the United States related to motor vehicle manufacturing, exemption shall be granted. The House bill had required that a manufacturer demonstrate that the proposed exemption would promote employment in the United States and that it would reduce the volume of parts and supplies imported in the United States and used in automobiles manufactured by the manufacturer.

The conference report also provides that the exemption granted shall be effective for a period of 5 model years or at the request of the manufacturer for such longer period as the Secretary may provide. The House version had left it up to the Secretary to determine what the period would be. Instead of adopting the House version which defines the term "new domestic manufacturer" as one which had begun automobile assembly or production in the United States after December 22, 1975, and before May 1, 1980 or any manufacturer which began such production or assembly on or after May 1, 1980, and engaged in such production or assembly in the United States for at least 1 model year ending on or before December 31, 1985, provided a different approach. This approach is that in order to grant an exemption, the Secretary must determine that the manufacturer began production or assembly in the United States after December 22, 1975, and before 1980, or began automobile production or assembly in the United States on or after May 1, 1980, and engaged in such production or assembly in the United States for at least 1 model year ending on or before December 31, 1985.

It should be stressed that the conference report continues the requirement that the second category, that the manufacturer must have actually engaged in and completed production for at least 1 full model year before December 31, 1985. The conference report requires that the Secretary make his decision 90 days after the petition for an exemption is filed with him. The Secretary may extend this period for decision an additional period of time not to exceed 60 days. Thus, the maximum time the Secretary has to make a decision is 60 days. If he extends the period of time, he must explain in the Federal Register the reasons for that extension. It is important to point out that the conference report provides that the Secretary cannot make his decision or support his findings until he has given notice or reasonable opportunity for written or oral comment.

The conference report states that the Secretary must provide a period not to exceed 60 days for written or oral comment after the filing of the petition but that period can be extended by the Secretary for an additional 60 days. Thus the total comment period is 90 days that must be completed within the total 150 days for decision.

The conference report then states that if the Secretary fails to make a decision within the 150-day period, the petition shall be deemed to have been granted.

Mr. Speaker, this provision was included in the bill in order to insure some certainty and predictability relative to the petition for an exemption. We obviously did not want the Secretary to sit on it for an indefinite period of time. At the same time, however, the conferees expect the Secretary to act. We do not expect the Secretary to be dilatory and for political or other reasons to sit on the petition in order to make a difficult decision. Indeed, if the Secretary failed to have an adequate comment period as required by the conference report, it is clear that that could be cited as evidence of the Secretary being arbitrary or capricious. Any subsequent challenge to the Secretary's decision or his nondecision would result in granting of the exemption.

To further buttress this view, the conference report provides that the Secretary within 30 days after the 150-day decision period must submit a written statement to the Committee on Commerce, Science and Transporation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives setting forth the reasons why he failed to decide the matter within this decision period. In short, Mr. Speaker, we have provided the Secretary ample opportunity to have an oral or written comment period and to make a decision. Except in a dire emergency or some really significant and unusual circumstance, I see no reason for the Secretary to ever fail to act within this period of time to make a firm decision of denying or granting a decision.

The conference report also provides for judicial review of any decision of the Secretary denying or granting an exemption. That review would also apply to any petition which has been deemed to have been granted by reason of the fact that the Secretary fails to act within the 150-day period. Notice of a petition to file for judicial review must be made within 30 days after the decision or after the 150-day period for such decision and that petition must be filed in the U.S. Court of Appeals for the District of Columbia. The conferees agreed to the District of Columbia Court of Appeals in order to avoid forum shopping. This court will have exclusive jurisdiction to review the decision in accordance with the section 706(2)(A) through (D) of title 5 of the United States Code. The Court may affirm, remand, or set aside the decision. Here again we have tried to urge the Court to act expeditiously. Indeed, we admonish the court to act 60 days after the filing of the petition unless the court determines that a longer period of time is necessary to satisfy constitutional requirements. The judgment, of course, is subject to review by the Supreme Court. The other provisions of the House version concerning carry back and carry forward and the annual review by the Secretary of Transportation and the

Secretary of Labor are continued in the Conference agreement.

SECTION 4(b)

The provisions of section 4(b) are identical to those in the House passed bill.

SECTION 5

Provisions of the House bill were adopted by the conferees. The only exception as indicated in the conference agreement is that it be limited to application of four-wheel drive light duty trucks.

SECTION 6

Again the conferees adopted the House version of the carry forward/carry back provisions with some modifications relative to the approval of the plan. Indeed, the paragraph was added that required that the Secretary shall approve the plan unless he finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits requiring the manufacturers to meet the standard for the model year involved. Quite clearly, the intent of this provision is to insure that the Secretary will act on the plan expeditiously and that he will improve it unless there was really serious evidence that the plan will not achieve what is proposed by the manufacturer. In this regard, we also point out that in any proceedings that the Secretary may hold concerning approval of the plan, the conferees expect the DOT not to make public proprietary data or trade secrets or other data which are exempted from disclosure under the Freedom of Information Act.

SECTION 7

In section 7 the conferees agreed to the language in the House concerning emergency vehicles.

SECTIONS 8 AND 9

In sections 8 and 9 the conferees agreed to the House versions to these two sections.

Mr. Speaker, I believe that this legislation is needed and I urge its early adoption.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to my good friend, the gentleman from Indiana (Mr. SHARP), who has so much to do with this legislation and has provided such valuable leadership on this and other matters before the Committee on Interstate and Foreign Commerce.

Mr. SHARP. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I want to thank the gentleman from Michigan (Mr. DINGELL) for his efforts on this legislation, and I appreciate the willingness of our committee of the Congress to make improvements in this ongoing program.

I think it is important that improvements be made. I think it is important that this program and other programs be responsive to changes in industry and changes in the economy. This is a positive step forward.

Mr. DINGELL. Mr. Speaker, if the gentleman would permit me to add a comment, the leadership and the remarkable balance and insight he always brings to matters of this kind plays a distinct part in bringing legislation such as this about.

Mr. Speaker, I reserve the balance of my time.

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. The gentleman from Michigan (Mr. DINGELL), the chairman of the subcommittee, has already fully explained and fairly explained the content of this conference report.

The Members will recall, of course, that a bill containing much of what is contained in this conference report was voted on by the full House a while back. The purpose of this bill is to provide flexibility to the administration in the automobile fuel efficiency program. It does in my judgment carry out that purpose, and for that reason I urge my colleagues to support this conference report.

● Mr. BROWN of Ohio. Mr. Speaker, I rise in support of the conference report on S. 2475, the Automobile Fuel Efficiency Act of 1980.

This act is a series of necessary technical amendments to the fuel economy program of the Department of Transportation. These amendments are necessary to enable manufacturers, by streamlining Federal regulations, to build fuel efficient vehicles and to encourage their manufacture in the United States.

Mr. Speaker, the bill is short and sweet. First, following a DOT request, it simplifies procedures for the smaller manufacturers of vehicles—those producing less than 10,000 a year. Second, it removes a technical regulatory obstacle to increased U.S. employment in the auto industry. Under current law new domestic manufacturers must either hold their U.S. content to under 75 percent or be able to satisfy the CAFE standards for both their imported and domestically made fleets. This has resulted in lost opportunities for auto makers and workers. With the change incorporated in this bill, new jobs will become available. A new factory will be opened in Marysville, Ohio, by the American Honda Motor Co.—which will make Hondas in the United States for the first time. Third, the bill enables DOT to adjust the calculation of CAFE standards for manufacturers of 4-wheel drive light duty trucks if the consequences are serious economic setbacks for the company and its employees.

Lastly, the bill exempts emergency vehicles from CAFE standards so that effective police cars and ambulances can continue to be produced.

Mr. Speaker, this is a truly bipartisan bill which I worked for and support with enthusiasm. I urge that the House accept the conference report.●

Mr. BROYHILL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 2475, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

IN THE MATTER OF HON. MICHAEL J. MYERS

(Mr. BENNETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BENNETT. Mr. Speaker, in order to assist the Members in understanding the matter concerning Representative MYERS, and to prepare themselves for the proceedings on Thursday, I am making the following statement which is what I expect to say during those proceedings.

Mr. Speaker, I rise in support of House Resolution 794, which calls for the expulsion from this House of Representative MICHAEL J. MYERS.

I find this an extremely difficult statement to make; indeed, calling on this body to expel one of our colleagues is one of the most unpleasant tasks I have faced in my many years in Congress. Nevertheless, I submit, Mr. Speaker, based upon the evidence presented at Mr. MYERS' criminal trial—at the conclusion of which a jury found him guilty of bribery, conspiracy, and violation of the Travel Act—as well as the evidence presented before our Committee on Standards of Official Conduct, this House can appropriately consider no other sanction but expulsion.

The committee, as well as the Federal court jury which convicted Mr. MYERS, had available to it and reviewed at length videotapes and auditotapes of Mr. MYERS' own statements and acts for which he was charged. Moreover, Mr. MYERS appeared and testified before our committee and essentially admitted his involvement in what we were forced to conclude were blatant breaches of the rules, and indeed the fundamental integrity, of the House of Representatives.

We have set out at length in the two-volume report of the Committee on Standards of Official Conduct all of the evidence and proceedings upon which we relied in making our recommendation to this House. I would like today to simply summarize briefly the key facts and conclusions that we reached.

As is by now all too familiar, in 1978 the FBI began an undercover operation, known as Abscam, in which FBI agents and an informer posed as representatives of Middle Eastern businessmen who were interested in investing in the United States. On July 26, 1979, Anthony Amoroso, an undercover FBI agent using the name "Tony DeVito," held a meeting in Florida with Angelo Errichetti, the mayor of Camden, N.J.; Howard Criden, a Philadelphia attorney; and Louis Johnson, Criden's law partner and a Philadelphia city councilman, to discuss a proposed casino to be built in Atlantic City by unidentified shieks.

Also present was Melvin Weinberg, a convicted "con man," who was working for the FBI as a paid informant and was assisting in the Abscam operation. At that meeting, DeVito mentioned the sheiks' concern that instability in their country might force them to flee to the United States. There were rumors at the time that General Somoza, who had sought asylum in the United States, might be forced to leave, and the sheiks wanted to insure that if they came to the United States, they would not suffer the same fate. Errichetti replied that he could locate Government officials who would be willing to assist the sheiks with this potential immigration problem.

Errichetti later explained to Criden that on a prior occasion he had been paid a substantial fee to introduce the sheiks to a Congressman, and he inquired if Criden or Johanson knew any Congressmen who would be willing to meet with the sheiks in exchange for a portion of the fee. Johanson contacted Congressman MYERS, and MYERS agreed to the arrangement. Errichetti then informed DeVito and Weinberg that MYERS was prepared to "do anything" for the sheiks, and a meeting with MYERS was arranged.

On August 22, 1979, MYERS and Errichetti met with DeVito and Weinberg at the TraveLodge Hotel at Kennedy Airport, New York. DeVito described to MYERS in general terms the sheiks' desire to insure that if they fled their country, they would be able to enter and remain in the United States, and he asked how MYERS could be of assistance. "Where I could be of assistance in this type of a matter," MYERS replied, "first of all, is private bills that can be introduced." MYERS explained that as soon as the sheiks had entered the United States, "I'd have to put a bill in at that point." Elaborating on the process, he indicated that once the bill had been introduced, he would be able to use the hearing process to delay any action for a year or 18 months, after which time it would be much easier to arrange for the sheiks to stay in this country. In addition to the introduction of a private bill, MYERS and DeVito also discussed MYERS' possible influence with the State Department. MYERS indicated that he knew people there and volunteered to meet with them when he returned to Washington.

MYERS then inquired about the sheiks' business ventures and suggested that the sheiks invest in MYERS' own district. According to MYERS, this would provide a plausible explanation for his support of the sheiks and would make it easier for him to insure the backing of the rest of the Philadelphia delegation. "[T]hat gives me the out that I need to go full guns," he explained.

Throughout the meeting, the Congressman repeatedly promised to assist the unidentified sheiks. "I'll be in the man's corner a 100 percent and I'll deliver a lot of other people in his corner," he assured DeVito. "Feel free to call me, and, you know, matter of fact, you can come down, we'll meet down in Washington if you want." He also commended DeVito for going about things the right way. "Money talks in this business and bull—— walks. And it works the same way down in Washington," he explained.

As the meeting drew to a close, MYERS again gave his guarantee that he would assist the sheiks. DeVito then handed MYERS an envelope containing $50,000 in cash. "Spend it well," DeVito said as MYERS accepted the envelope. MYERS replied: "Pleasure."

Five months later, on January 24, 1980, two other undercover agents, Michael Wald, using the name "Michael Cohen" and Ernest Haridopolos, using the name "Ernie Poulos," met with MYERS and Criden at the Barclay Hotel in Philadelphia. Early in the meeting, Cohen raised the subject of the sheiks' immigration problem, indicating that the situation had gotten worse in the sheiks' country and suggesting that, because of the sheiks' confidence in MYERS, they were planning to come to the United States. MYERS responded by reiterating a point he had made at the earlier meeting—that it was important for the sheiks to invest in the Philadelphia area so that he could justify his support of the sheiks. "Give me a reason to be vocal," he said. He indicated to Cohen, however, that if provided an adequate explanation, he was prepared to do "whatever has to be done in Congress."

Cohen explained that the sheiks were considering building a $34.6 million hotel/motel complex in MYERS' district, but were concerned about the Mafia and about securing the necessary zoning variances and approval of the city council.

MYERS agreed to deal with the Mafia on behalf of the sheiks. He also promised to "use his office" to help with zoning variances and the city council, expressing confidence that he could convince the council members from his district to vote in favor of any necessary provisions. He said he would use "my influence, my office, and my personal friendship" with council members, and he assured Cohen that the city council would be no problem: "[C]ity council we can handle. Forget city council. Those that we can't handle, we can buy."

Another issue discussed at this meeting was the amount of money MYERS had received at the August meeting. MYERS expressed some dissatisfaction that after Errichetti, Criden and Johanson had taken their share of the money, MYERS himself had received only $15,000. MYERS said he had been led to believe he would receive more. "The note was supposed to be a 100 [$100,000]. I was supposed to walk away with 50 [$50,000]," he explained. Cohen agreed to pay an additional $35,000 in exchange for MYERS' previously promised assistance with the sheiks' immigration problem. He then inquired how much additional money MYERS wanted for influencing the Philadelphia City Government and for dealing with the Mafia. "Give me 50 [$50,000] in addition," MYERS replied. Cohen agreed to pay MYERS an additional $50,000 and as the meeting concluded, MYERS again reaffirmed his commitment to the sheiks: "If you have, if you even envision a problem * * *, you call me in on it."

Representative MYERS testified in his own defense at the criminal trial, and at our committee proceedings. He did not deny having received an envelope containing $50,000 (which he thought was $100,000) for his personal use. He attempted, however, to explain the circumstances surrounding the receipt of these moneys. In essence, Mr. MYERS claimed that in advance of the crucial meetings he was told he was about to engage in play acting and a charade, and that he would never have to do anything affirmative in return for the money except to make promises.

The Committee on Standards of Official Conduct found, as the jury apparently did, that Mr. MYERS' story is inherently unbelievable and is contradicted by events revealed in the tapes.

Moreover, even if we were to accept Mr. MYERS' testimony at face value, we still would conclude that his conduct was in violation of the most fundamental standards for congressional conduct. Mr. MYERS has not explained why wealthy foreigners would pay substantial sums of money in return for a wholly fictitious charade if they knew it was a charade, or, if they did not know it was a charade, why Mr. MYERS was entitled to take these sums upon promising to use his influence in the performance of his official duties.

The committee can only conclude—as the tapes conclusively show—that Mr. MYERS was sincere in his belief that he was dealing with persons willing to pay for his influence as a Representative, that he took money in return for promising to use that influence on their behalf, and that he thereby acted corruptly, in violation of law, and in total disregard of his duties and obligations as spelled out in clauses 1 through 3 of House rule XLIII.

Mr. Speaker, I would like to respond at this point to two concerns currently circulating among some Members of the House regarding the committee's recommendation that Representative MYERS be expelled. Both concerns are based upon enormous premises and can be readily answered:

First. The first concern is that Representative MYERS has not been "convicted" under rule 14 of the committee's rules because he still has a "due process" motion pending before the district court in Brooklyn, and if that court were ultimately to grant his motion, the committee would have expelled a Member on the basis of a nonexistent conviction.

However, the motion before the district court is not based upon some alleged error at trial, such as the improper admission of evidence.[1] Rather, it attacks the indictment, alleging governmental misconduct in the carrying out of the Abscam operation—a matter for consideration by the Judiciary Committee. The district court due process decision will not change what the committee has seen and heard on numerous tapes, or suggest that such evidence is somehow untrustworthy or inadmissible.[2]

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[1] It is instructive in this regard that Representative Myers did not plead entrapment as a defense at his trial (*see* H.R. Rep. No. 96-1387, 96th Cong., 2d Sess., hereinafter referred to as "Myers Rep.," p. 39). Moreover, in his due process motion he did not even claim a lack of criminal predisposition (Defendant Louis C. Johanson's Motion for Dismissal Due to Governmental Overreaching, E.D.N.Y., Crim. No. 80-00253, pp. 1-2, adopted by Representative Myers in Crim. No. 80-00249).

Moreover, the committee did not base its recommendation solely upon the trial evidence. Of equal if not overriding importance was the testimony given to the committee on two occasions by Representative MYERS himself. He admitted in that testimony that he received $50,000 in cash, thinking it was $100,000, that he believed this money was coming from a real sheik, that he thought the sheik was being "ripped off" by those with whom the Representative was dealing, that in return for the money he received, Representative MYERS promised to introduce legislation to benefit the sheik, and that he thereafter brought another Congressman to the sheik's representatives, recommending that this Congressman be given a $10,000 campaign contribution.

His principal defenses were that he was play-acting, and that he never actually introduced the promised legislation. As to his play-acting, it is simply belied by the tapes. In any event, he has never explained how he could properly have taken substantial sums of money from someone who did not know it was all an "act." As for his never having introduced legislation, that is not a necessary element of any of the crimes of which he was convicted—bribery, conspiracy, and violations of the Travel Act.

Any contention that Representative MYERS has not been "convicted" within the meaning of rule 14 is simply an error. The committee has voted without dissent to interpret a "conviction" in rule 14 to mean "a plea of guilty or a finding of guilt by a jury."[3] Viewing the basic intent of rule 14, the Committee determined that it must promptly initiate a preliminary inquiry once a jury has found a Member guilty of a serious criminal offense. For a Member to continue to serve in the House for months and perhaps even years after his conviction—no matter how serious his offense—while courts decided various motions or appeals tangential to the basic issues at trial would frustrate the whole purpose of rule 14.

Second. The other concern being circulated by some Members is that the committee is treating Representative MYERS differently, and more severely, than it did former Representative Charles C. Diggs, Jr. This is not true. Even though the Diggs case is distinguishable from the Myers case in several important respects,[4] the fact remains that Representative Diggs' counsel twice attempted to have the committee defer action pending the completion of his judicial proceedings, and on both occasions the committee denied his application.[5]

Representative MYERS and his counsel have been accorded every opportunity by the committee to appear and present evidence. Representative MYERS testified twice. Not once was any of his proffered evidence rejected. The relevant portions of the trial record were stipulated. Even Special Counsel's Report, received by the Committee in Executive Session, was sent to Representative MYERS out of a sense of fairness. The Representative's counsel made no objection to Special Counsel's summary of the evidence at trial. Representative MYERS' case, by every reasonable standard, has been fairly and comprehensively adjudicated by the committee.

Mr. Speaker, the Constitution of the United States places upon this House the duty to judge the qualifications of its own Members and to discipline its Members for serious offenses of the type committed by Representative MYERS. No mater how unwelcome, how unpleasant, how distasteful we find it, we must perform that duty honorably and forthrightly.

In determining what is the proper sanction in this case, and in considering whether there are any mitigating factors which should lessen the severity of our action, it is simply impossible to find excuses for a man who broke so many laws and rules; who broke them not as an individual who happened to be a public servant, but as a public servant trading upon that very elected office; who used his influence in the U.S. Congress as bait and barter to wring huge sums of money from those he thought needed that influence; who for purely personal gain promised everything, anything, his vote, his contacts, his connections; and who made a mockery of the seat in which his constituents placed him.

There can be no other choice of sanctions for such actions; Representative MYERS must be expelled.●

CONFERENCE REPORT ON S. 2597, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1981

Mr. BOLAND. Mr. Speaker, I call up the conference report on the Senate bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 19, 1980.)

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. ROBINSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report which the House conferees bring back on the intelligence authorization bill resolves the differences between the two Houses on all those budgetary authorization issues concerning the intelligence and intelligence-related activities within the jurisdiction of the two committees. Agreement on these figures was reached some weeks ago and has been fully incorporated into the recently signed Defense Authorization Act for fiscal year 1981. The House conferees from both the Intelligence and Armed Services Committees, worked closely to insure complete congruence between the two bills.

The balance of the conference report is the bill as passed by the House with the following exceptions: First, administrative provisions contained in both the House and Senate bills, but limited in the House bill to the fiscal year, have been made permanent statutory provisions. These provisions would enable the Secretary of Defense to pay for the expenses of arrangements with foreign countries for cryptologic support; give the Director of the National Security Agency (NSA) authority to provide for housing, administrative and police support for NSA employees and their activities; and give both the Director of Central Intelligence and the Director of the National Security Agency authority to pay death gratuities to the survivors of employees dying overseas as a result of hostile or terrorist activities or in connection with an intelligence activity having a substantial element of risk.

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[2] Parenthetically, the Committee has been informed that a decision on the due process question will not be rendered until at least late January or early February, 1981.

[3] Even the courts have treated a guilty verdict prior to sentencing or prior to a formal judgment of conviction as having sufficient finality so that a witness may be impeached by the "conviction." *E.g.*, United States v. Vanderbosch, 610 F.2d 95, 96 (2d Cir. 1979); United States v. Klein, 560 F.2d 1236, 1240 (5th Cir. 1977); United States v. Rose, 526 F.2d 745, 747 (8th Cir. 1975).

[4] Representative Digg's offenses as serious as they were, were internal to his staff and did not involve the sale of his vote as a Representative (*see* H.R. Rep. No. 96-351, Vol. I, 96th Cong., 1st Sess.—hereinafter cited as "Diggs Rep."). Moreover, some importance was attached by the Committee to the fact that Representative Diggs had been reelected following his conviction (Diggs Rep. p. 5). Finally, Representative Diggs agreed with the Committee to admit his guilt and unjust enrichment, to make restitution, to apologize the House, and to accept censure (Diggs Rep. p. 17).

[5] Representative Diggs first made his deferral request in a letter to the Chairman of the Committee two days after the Committee had voted to initiate an inquiry into possible violations of the House Rules. By a vote of 9 to 3, the Committee denied the request (Diggs Rep. pp. 25-26, 121): Representative Diggs' counsel later filed a formal "Motion to Defer Committee Action Pending Completion of Judicial Proceedings," supported by a legal memorandum. In that memorandum, his counsel argued—much as Representative Myers' counsel has done in the instant matter—that if the Representative's conviction were reversed by the courts, the Committee would be in the untenable position of having punished a Member for an act that had not legally occurred (Diggs Rep. pp. 122, 124). The Committee's Special Counsel responded that the Committee was conducting an independent inquiry into the matter and was not bound by judicial determinations (Diggs Rep. pp. 140-141). Representative Diggs' motion to defer was again denied, by a vote of 8 to 3 (Diggs Rep. p. 2).

Second, the conference report contains additional administrative provisions included in the Senate bill but not in the House bill, to wit: Provisions empowering the Director of Central Intelligence to accept gifts for the recreational or artistic benefit of CIA employees and, during fiscal year 1981, to make some recompense for unjustified personnel actions taken against certain employees or former employees of CIA on the basis of claims of disloyality; and a provision empowering the Defense Intelligence School to grant a master of science degree in strategic intelligence.

Third, the Senate bill was amended on the Senate floor to incorporate the text of S. 2284, the Senate passed intelligence oversight provision. As Members are aware, a different version had been approved by the Permanent Select Committee on Intelligence. Further, an amendment to the foreign aid authorization bill sought to affect one aspect of the congressional oversight of intelligence activities by changing the so-called Hughes-Ryan amendment, which deals with overseas CIA operations other than those solely intended to collect intelligence.

The conferees, in effort to resolve the differences between the two House committees and the Senate on this matter, had protracted discussions among themselves and with administration officials. Agreement was eventually reached on an amendment to the Senate provision which makes clear that the preambulatory language of the Senate provisions will not be used to withhold information from the Intelligence Committees in an arbitrary manner but rather—as indicated in the statement of managers—that where extraordinarily sensitive information is involved, agreed upon procedures and a spirit of comity will govern decisions on providing information to the Intelligence Committees. This same spirit will govern the provision of prior notice of covert operations abroad conducted by the CIA, which will now be given only to the two Intelligence Committees, although the conference report also provides for limited prior notice to the House and Senate leadership and the chairmen and ranking minority members of the Intelligence Committee where there exist extraordinary circumstances affecting the vital interests of the United States.

Mr. Speaker, the conference report which the committee brings back to the House is a balanced bill, one which meets the interest—jointly shared—of both branches to protect intelligence sources and methods while providing full access to the Intelligence Committees of information on intelligence activities. It is the belief of your conferees that, given the assurances and understanding reached by all the conferees and the administration in connection with the House amendment to the Senate provision and the statement of managers language explaining the entire provision, that the oversight provisions are important and can be helpful in the conduct of effective oversight of intelligence activities by the Intelligence Committees.

Mr. Speaker, I urge adoption of the conference report.

□ 1520

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON. Mr. Speaker, I want to thank Chairman BOLAND for his considerable effort and support throughout the development of this bill. I also extend thanks to CLEM ZABLOCKI, NORM MINETA, KEN ROBINSON, and BILL WHITEHURST of our subcommittee and to our colleagues on the Armed Services and Foreign Affairs Committees who participated in conference on certain issues.

Mr. Speaker, in title I of the act regarding intelligence activities, there were 50 matters at difference with the Senate. Careful review of the differences coupled with an attitude of cooperation resulted in sensible compromises. On matters of fiscal authority, the differences divided rather evenly between House and Senate. This is not to say, however, that the conferees split the difference on each issue simply to achieve agreement. All parties recognize that many programs are not logically subject to division. Our compromises result in a sensible and consistent program.

Title II provides for the intelligence community staff which supports the Director of Central Intelligence in the conduct of his coordinating and budgetary role in the national foreign intelligence program. The House bill had reduced funding authorization for external contracts by $700,000. The Senate agreed to this position.

There were no differences between the two Houses regarding title III, the CIA retirement and disability system. Both Houses authorized the full request.

Title IV contains a number of administrative authorities for the National Security Agency and the Central Intelligence Agency. These include authority for NSA to pay foreign countries for cryptologic support, to lease facilities and housing overseas, and to provide living allowances for some personnel assigned overseas. In addition, the Administrator of GSA is authorized to provide protective services for certain facilities in the United States which are leased by NSA.

The Department of Defense and the CIA are authorized to pay a death gratuity to certain intelligence personnel who die overseas as a result of risky assignment or by terrorist or hostile action.

All of these provisions were contained in the authorization bill as passed by the House. They were revised in conference by agreeing to make them permanent provisions as recommended by the Senate.

The conferees agreed to several provisions which had not been contained in the House bill. These include a provision to permit the CIA to accept gifts offered for purposes of employee benefit. In addition, authority is provided to the Defense Intelligence School to grant a masters degree in strategic intelligence.

The major legislative provision to which the conferees agreed is section 407, Congressional Oversight of Intelligence Activities. As Chairman BOLAND has described, this section was the result of much negotiation among the conferees including several members of the Committee on Foreign Affairs. The executive branch was also extensively involved, including the President and senior officials. The compromise provision which resulted reduces reporting of covert actions required under the Hughes-Ryan amendment to the two Intelligence Committees, but strengthens the requirement that reporting occur in advance of the covert activity. Section 407 also establishes congressional oversight of intelligence activities in statute for the first time. It provides for full disclosure of intelligence activities to the Congress and requires that this be done affirmatively, that is, the administration will be expected to come forth and discuss intelligence activities. It is not sufficient to simply respond to inquiries. A balance of the rights and responsibilities of the parties has not been easy to achieve and the result is an important one.

Mr. Speaker, I endorse the House to adopt this conference report.

Mr. BOLAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HAMILTON), a distinguished member of the Committee on Foreign Affairs.

Mr. HAMILTON. I thank the gentleman for yielding, and I asked for this time just to pose a few questions so that I understand the conference report better. It is my intention to support the conference report because I think the gentleman and his colleagues have done an excellent job.

If I understand the bill correctly, the Director of Central Intelligence must keep the select committees informed of intelligence activities. Then, there are two exceptions to that. The first exception is where extraordinary circumstances exist affecting our national interest, and in that situation, as I understand it, there is a limited notification, that is to say, notification just to the chairman and ranking minority members of the select committee, the Speaker, the minority leader of the House of Representatives and the majority and minority leaders.

The first question I would like to ask is: What are extraordinary circumstances? What kind of guidance are we giving to the President to define "extraordinary circumstances?"

Mr. BOLAND. Let me respond to the gentleman by just putting this in as clear a perspective as I possibly can, because it is an important question and it is one that I think must be clearly understood by the administration and also by those of us in the legislative branch of the Government.

The conference report establishes clear policy that prior notice of covert operations be given to the Intelligence Committees. It permits an alternative procedure whereby, in "extraordinary circumstances affecting the vital interests of the United States," prior notice may be given only to the chairmen and ranking minority members of the two Intelligence Committees, the Speaker and minority leader of the House and the majority and minority leaders of the Senate. This exception responds to the concern of the executive branch that certain covert operations will be of such urgency that time will be of the essence and prior notice can be limited to only a smaller group.

The President has made clear his belief that under some circumstances, he may have the constitutional authority to withhold prior notice. Of course, the Congress has certain constitutional authorities as well as its own opinion on such constitutional theories. The conference report neither asserts nor denies a constitutional right to withhold prior notice. Rather, it recognizes that there exist authorities and duties for both executive and legislative branches of the Government and, most importantly, it leaves the Constitution as it finds it.

The conference report makes clear, as did the Senate report to accompany S. 2284, that certain aspects of intelligence operations, such as the names of agents, need not be provided ordinarily to the Intelligence Committees. It makes very clear, however, that such reservations will occur in areas where, by agreement between the executive branch and the committees, they are not ordinarily required. Should, however, a need arise for such information such as when the committees are investigating allegations of illegality, then the committees can insist on the information. In the final analysis, the executive branch agrees that it cannot resist a subpena issued by the committees on other than constitutional grounds.

When prior notice is not given to the committees or to the smaller group of eight, the conference report makes clear that the full Intelligence Committees must receive reports on the covert action operation "in a timely fashion." In no case, would the committees be denied a report under this provision.

Mr. HAMILTON. I thank the chairman for his extended and helpful comments.

Now, a second question relates to subsection (b) of the bill.

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As I understand that subsection, it allows the President to withhold prior notice entirely; that is, he does not inform anyone in that circumstance. He only has to report in timely fashion.

Is that a correct view of subsection (b)?

Mr. BOLAND. In response to the gentleman, let me say that the President must always give at least timely notice. As 501 section (b) indicates, the President shall fully inform the Intelligence Committees in a timely fashion of intelligence operations in foreign countries other than activities intended solely for obtaining necessary intelligence.

Mr. HAMILTON. If I may ask a further question, what are the circumstances in which no prior notice is required, and how do they differ from the case of extraordinary circumstances? In other words, apparently, there is a range of cases where the President need give no prior notice at all. There is another range of cases in which he gives limited notice to meet extraordinary circumstances.

The question is: Under what circumstances is no prior notice required?

Mr. BOLAND. I think the answer to that is that if the President believed that he had constitutional authority to withhold information and not supply prior notice, then that would be a circumstance under which it might be done.

Mr. HAMILTON. In any event, the gentleman's view would be that those would be an extremely limited number of cases, when no prior notice would be given?

Mr. BOLAND. The gentleman is correct.

Mr. HAMILTON. Are there any guidelines in the bill for the President in making that decision that no prior notice is necessary?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I think the gentleman is exactly correct that there are no guidelines in the bill. There are no guidelines in the conference report. I think that was specifically done because it has been the experience of our committee—I am sure our chairman shares it—that there has been little, if any, disagreement on the committee in those instances in which we have consulted with the executive branch and in one specific instance the situation was very clearcut. There was an understanding and an awareness of the nature of these matters.

It struck the committee that there was no need to put them down in rigid, inflexible language, because this is a kind of growing and a sort of dynamic situation.

The gentleman from Indiana is correct, a limited, very, very limited situation in which the President suggests that he has power to give no notice whatsoever.

As the gentleman knows from reading the conference report, we do not really agree in any specific way with that constitutional right, but there is certainly timely notice which has been given to the full committee and only in rare instances can even the notice be limited to the eight people whom the gentleman has already named.

Mr. HAMILTON. I appreciate the difficulties of legislating in this area. I know the questions I have asked are not easy to respond to and that the gentleman and other members of the committee have given very careful consideration to them. I do think our exchange has been useful in clarifying some of the difficult points in the conference report.

Mr. BOLAND. I thank the gentleman.

This was not an easy matter to resolve. There was considerable discussion between the intelligence committees on both sides of the Capitol and also among the various elements of the administration itself.

What we sought to avoid—and I think we have by the statement on the part of the managers—what we sought to avoid was really embedding in the statute the right of the administration to withhold information unilaterally under certain circumstances. We think we have got around that because of the comity that has now been established between the administration and the two committees of the House and the other body.

Mr. ROBINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2597. The bill has been thoroughly explained and developed with regard to its authorizing and its statutory provisions by the gentleman from Massachusetts (Mr. BOLAND), the gentleman from Missouri (Mr. BURLISON) and the colloquy that has just taken place.

I would like to say to my colleagues, however, that the details of the actions contained in the authorizing part of the bill are available in their entirety in the classified annex that has been available to all Members since the 19th of September and that the authorizing level, as was suggested by the gentleman from Missouri, for those classified funded activities fell about halfway between the levels originally authorized by the House and the other body.

The addition of the four provisions that were included only in the Senate bill have been discussed by the gentleman from Massachusetts with regard to their statutory implications and further developed by the colloquy with the gentleman from Indiana.

I believe that the conference committee's recommendation provides the needed legislative authority and statutory basis for intelligence oversight for the fiscal year 1981, and I recommend it to the House for adoption.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, the most significant issue resolved in this conference report pertains to the question of prior reporting of covert action operations to Congress. As we all know, this is not a new issue. In fact, this House previously addressed it just months ago when by an overwhelming vote of 325 to 50 it voted to sustain section 112 of the foreign aid authorization bill, H.R. 6942. Absolutely nothing has happened in the interim to justify changing our minds. If anything, given the current state of world affairs and the concomitant need for good intelligence an even stronger case can be made today for what we approved last June.

With that in mind, I and my fellow conferees have agreed to accept sections 408 and 409 of this bill which provide for comprehensive congressional oversight of U.S. intelligence activities. In this regard, I know there is considerable interest in how this measure modifies the Hughes-Ryan amendment requirement regarding executive branch reporting to Congress about CIA covert action activities. I, therefore, would like to take a moment to analyze what we have agreed upon.

Henceforth, in extraordinary circumstances affecting vital national interests—the President will be allowed to defer reporting to Congress on CIA covert action operations abroad. The key word here is defer. The President is not excused forever from letting us know about such activities. This is not an abdication of our oversight responsibility. We are just allowing him to postpone his reporting in those rare instances where, for example, prior disclosure would jeopardize the lives of the personnel or the methods employed in a particular covert action activity. As the conference report notes—

> If prior notice of a covert operation is not given, the President must fully inform the select committees in a timely fashion and provide a statement of the reasons for not giving prior notice.

Is that unreasonable? It seems to me commonsense dictates that we allow the President this flexibility so that he can effectively discharge his constitutional responsibility to conduct foreign policy. In this connection, let us not forget that covert action is an important and sometimes vital aspect of foreign policy and has been utilized by Presidents all the way back to George Washington.

A number of my colleagues have expressed concern about how often a President might invoke the deferred reporting option provided by this measure. A look at the record to date is illuminating in this regard. Since the passage of the Hughes-Ryan amendment in 1974, there has been only one known covert action that was not reported to Congress prior to its initiation. Our committee was subsequently briefed on that action and learned that the reason for the deferred reporting was because the President felt such prior notification could jeopardize the lives of the personnel involved in that action. Moreover, participants in this successful operation—which we all applauded when we became aware of it—agreed to participate in the action only after being assured that there would be no prior disclosure to Congress.

Mr. Speaker, I believe we have arrived at a responsible answer to a potential national security dilemma. The constitutional authorities and duties of the executive and legislative branches have been carefully balanced in a critically important area of national security. In short, S. 2597 is necessary legislation of vital importance. I urge, therefore, that it be acted upon swiftly and favorably.

Mr. BOLAND. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. Zablocki), who serves with such distinction on this subcommittee and who was so helpful in resolving a very difficult matter, not only between the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, but also between the legislative branch and the administrative branch of our Government.

Mr. ZABLOCKI. Mr. Speaker, I rise in strong support of S. 2597, the intelligence authorization conference report. The agreements in this report are the product of a long and dedicated effort on many difficult and complex issues. The fruitful work undertaken in this regard by the gentleman from Massachusetts, chairman of the Permanent Select Committee on Intelligence, Mr. Boland, and the gentleman from Virginia, ranking minority member of the Permanent Select Committee on Intelligence, Mr. Robinson, and the gentleman from Missouri, Mr. Burlison, are to be commended. In addition, Senators Bayh, Huddleston, and Goldwater, to name only a few, played a constructive role in moving this compromise through the Senate.

Surely one of the most challenging issues confronted by the conferees was the so-called Hughes-Ryan reporting requirement on covert operations. The fact that agreement has been reached on this subject is especially gratifying.

As many are well aware, I became seriously interested in this issue of prior reporting of covert operations because of my responsibility as chairman of the Committee on Foreign Affairs. The committee's oversight activities in the field of intelligence and its crucial importance to U.S. foreign policy led to extensive hearings and a committee amendment to the present Hughes-Ryan procedure.

Mr. Speaker, the amendment proposed by the Committee on Foreign Affairs made two important and essential changes. First, it reduced from eight to two the number of congressional committees required to receive reports on covert operations prior to their initiation. Second, the committee mandated that covert activities should be reported to Congress prior to the execution of the operations with a few limited and constrained exceptions.

The essentials of this Foreign Affairs Committee amendment to Hughes-Ryan are contained in the conference report before us. The legislation and accompanying report recognize that as a matter of practice covert operations should be reported prior to their initiation. At the same time, respect for the constitutional authorities of both the executive and legislative branches is recognized and the role both have to play in crafting an effective intelligence community is acknowledged.

This respect is reflected in the conference report language concerning reporting of intelligence activities, including covert operations. The report states clearly that the Select Committees on Intelligence are to be provided full and advance information on significant anticipated intelligence activities including covert operations.

In addition, the legislation makes the fundamental recognition that in extraordinary circumstances advance information on covert operations might be withheld from the Select Committees on Intelligence, provided the President informs the committees in a timely fashion and provides a statement of the reasons for not giving prior notice.

Mr. Speaker, this recognition of the need for limited exceptions to prior reporting of covert operations is fully consistent with the Committee on Foreign Affairs amendment to Hughes-Ryan. I therefore welcome its inclusion in the conference report. Such exceptions are absolutely essential to a strong intelligence community and important for U.S. security.

Such exceptions will also help the American intelligence community to maintain the extraordinary secrecy necessary in intelligence activities and promote cooperation from the intelligence communities of friendly countries.

Because this exception provision is included in this legislation, Foreign Affairs Committee conferees in the foreign aid authorization conference committee have already agreed to remove a similar provision. This will insure that the legislation before us will be the vehicle for amending Hughes-Ryan.

In dropping the Foreign Affairs Committee amendment, I wish to assure Members of the House that my endorsement of the conference report in no way constitutes a relinquishment of the jurisdiction of the Committee on Foreign Affairs over intelligence activities relating to foreign policy. The committee fully intends to carry out its oversight responsibilities in this area.

The Committee on Foreign Affairs believes that strong congressional oversight over intelligence activities is a vital legislative responsibility. As chairman of the committee, I recognize that strong oversight over intelligence activities derives in part from its awareness that its responsibilities for overseeing U.S. foreign policy covers the totality of U.S. relationships abroad—which must include intelligence along with political, military, economic, and other activities.

I believe the Committee on Foreign Affairs can exercise its oversight responsibilities under the Rules of the House without receiving prior reports on covert activities. The committee will continue to receive the results of all information gathered on covert activities.

In addition, the committee will receive periodic briefings from the intelligence community on issues of concern, and expects full, complete, and accurate information. Furthermore, because of the committee's interest in intelligence activities as they affect foreign policy, I intend to seek a change in the Rules of the House to provide for increased representation for committee members on the Permanent Select Committee on Intelligence. I would hope the number of committee members could be increased from one to at least three.

Mr. Speaker, in the course of debate on this issue in both Houses of Congress this year, interpretations were established between the executive branch and the Senate covering exceptions to prior reporting of covert operations. These understandings were contained in a recent exchange of correspondence between Attorney General Benjamin R. Civiletti and Senator Walter D. Huddleston, chairman of the Subcommittee on Charters and Guidelines of the Senate Select Committee on Intelligence.

These understanding are fully consistent with the Foreign Affairs Committee amendment concerning extraordinary exceptions to prior reporting. They outline the intent of the Senate concerning this issue when it overwhelmingly passed S. 2284, the Intelligence Oversight Act of 1980. The entire text of S. 2284 is contained in the conference report before us. Further, I fully endorse the understandings laid out in the correspondence from the Attorney General Benjamin Civiletti and Senator Walter Huddleston and ask that they be included in the Record at this point.

The letter follows:

September 15, 1980.

Hon. Benjamin R. Civiletti,
The Attorney General,
Washington, D.C.

Dear Mr. Attorney General: It has come to my attention that concern has been expressed by some in the Executive branch regarding one statement in the legislative history of S. 2284, the Intelligence Oversight Act of 1980, as passed by the Senate on June 3 of this year. In floor debate on that bill, I engaged in a series of colloquies with Senator Javits which, to the extent that they might be inconsistent with the language of the report, would supersede such language. In response to questions relating to section 501(b), I noted that a "claim of constitutional authority is the sole ground that may be asserted for withholding prior notice of a covert operation."

This colloquy was not intended to be, and I do not regard it as being, inconsistent with the language of the star print of the Committee report in the second sentence of paragraph 6 on page 6 which states:

". . . it is recognized that in extremely rare circumstances a need to preserve essential secrecy may result in a decision not to impart certain sensitive aspects of operations or collection programs to the oversight committees in order to protect extremely sensitive intelligence sources and methods."

This explanation of the intent of the second preambular clause in section 501(a) was not superseded by the colloquy which, as Senator Javits stated, was related to section 501(b). The construction of the second preambular clause was not intended to be affected by the statement made with regard to section 501(b).

In a recent court decision [*United States* v. *American Telephone & Telegraph Co.*, 567 F.2d 121 (D.C. Cir. 1977)] the court articulated an approach that the committee believes is a sound way to deal with any differences that might arise regarding the implementation of these provisions. This case raised many issues similar to those encountered in providing for the authorities of both branches for the governance of the intelligence activities of the United States. Two passages from the opinion in that case are of particular pertinence:

"The framers, rather than attempting to define and allocate all governmental power in minute detail, relied, we believe, on the expectation that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to result in efficient functioning of our Governmental system. Under this view, the coordinate branches do not exist in an exclusively adversary relationship to one another when a conflict in authority arises. Rather, each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. This aspect of our constitutional scheme avoids the mischief of polarization of disputes.

* * * * *

"The course of negotiations reflects something of greater moment than the mere degree to which ordinary parties are willing to compromise. Given our perception that it was a deliberate feature of the constitutional scheme to leave the allocation of powers unclear in certain situations, the resolution of conflict between the coordinate branches in these situations must be regarded as an opportunity for a constructive modus vivendi, which positively promotes the functioning of our system. The Constitution contemplates such accommodation. Negotiation between the two branches should thus be viewed as a dynamic process affirmatively furthering the constitutional scheme."

I hope this explanation of the legislative history of S. 2284 will help resolve the concerns expressed to you by some in the Executive branch. Should it appear necessary, I am confident that there would be no difficulty in making this clarification of the intent of the Senate a formal part of the legislative history.

Sincerely,

Walter D. Huddleston,
Chairman, Subcommittee on
Charters and Guidelines.

—

Dear Senator Huddleston: Your letter regarding the legislative history of S. 2284, the Intelligence Oversight Act of 1980, explains that the construction of the second preambular clause of section 501(a) was not intended to be affected by the statement made in your colloquy with Senator Javits relating to section 501(b). Thus, the second preambular clause may be interpreted without regard to the statement regarding section 501(b).

The Executive branch agrees with this explanation of the legislative history, and any differences that might arise should be resolved as you suggest. Therefore, it would seem appropriate to make this clarification a formal part of the legislative history.

Sincerely,

——— · ———.

This legislative history and passage of S. 2597 should make clear the intent of Congress on the issue of prior reporting of covert operations and the parameters of exceptions to such reporting in extraordinary circumstances.

Mr. Speaker, the issue of prior reporting of covert operations has been a most difficult one to settle for all parties concerned. As such, I am gratified by the agreed position we have been able to reach on this issue. It is my hope that S. 2597 will lay the legal groundwork for effective and vigorous oversight of the intelligence community. The responsible use of intelligence must be a critical foreign policy asset in coming years.

I urge adoption of the conference report.

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Mr. BOLAND. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Wisconsin (Mr. Aspin), a very valuable member of the House Permanent Select Committee on Intelligence.

Mr. ASPIN. To understand the bill, Mr. Speaker, it seems to me that this bill improves the oversight process in some ways and weakens it in others. On balance, I come to the conclusion that it does improve the oversight process, even though it is not perfect, nor is it exactly what I would have wanted had I had the choice of writing the language myself. If I could make sure, correct me, any of the members of the committee, if I am not interpreting what is here correctly; but as I understand it, the advantages that this bill provides are, first of all, that where before we used to cover just covert actions, at this point the language in the bill now covers at least some sensitive collection activities.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I would be happy to yield.

Mr. MAZZOLI. The gentleman is exactly correct. It is an addition that was made to the bill and it does go beyond current law.

Mr. ASPIN. I think that is a definite plus in terms of oversight.

The second fact that is a plus to oversight is that it now applies to everyone, whereas before the Hughes-Ryan language applied only to the CIA. It is my understanding that our language now applies to any other agency which might be called upon to do covert activity.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I would be happy to yield.

Mr. MAZZOLI. The gentleman is exactly correct.

Mr. ASPIN. The third point and the other point is that what we now have is specific language that prior notice of covert activities, as well as the sensitive collection activities, that prior notice is the norm. Under Hughes-Ryan, it was vague, as indeed we saw recently that Hughes-Ryan could be interpreted by the administration as meaning postactivity, the notification would come after the activity in question; but what we are saying specifically in this language here is that we expect prior notification.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield on that point.

Mr. MAZZOLI. The gentleman is exactly correct. The gentleman used the term "norm" and it is, indeed, the norm to have prior notice and only in the exceptional situation would there be anything other than prior notice; but certainly that is the norm and the expected pattern which should emerge in the years ahead.

Mr. ASPIN. I thank the gentleman.

I think those are clearly on the plus side of why I think that whatever this language is, those are things that are an improvement in terms of oversight. There are a couple things that are a subtraction, but those I think are things that are improvements.

Mr. JOHN L. BURTON. Mr. Speaker, would the gentleman yield?

Mr. ASPIN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. As the author of the amendment to the Hughes-Ryan amendment, were I to insert that unless and until Congress was notified, there could not be covert action, Hughes-Ryan said that unless Congress was notified in a timely fashion, and I put "until" so that I could make sure that we had prior notice that they were going to go assassinate Fidel Castro and could not come in 5 minutes later and tell Congress "We assassinated Fidel Castro."

So clearly the initial language that was adopted in the foreign relations bill when Doc Morgan was chairman made sure that prior notice had to be given to Congress before any covert activity was taken.

Mr. ASPIN. If I can reclaim my time, I agree with the gentleman.

Mr. JOHN L. BURTON. That is true. It was my amendment. I know very well it is true.

Mr. ASPIN. Well, I agree with the gentleman's interpretation. I think there was a congressional research report which also agreed with the gentleman that what the language did was to require prior notification; however, I point out that it was interpreted differently by other people and, indeed, the administration in a recent case that occurred within the past year did interpret it differently.

So even though the gentleman may think that it meant prior notice, I thought it meant prior notice, the person who wrote the congressional research report thought it meant prior notice; but I will point out to the gentleman that others have contested that and successfully in a case in which there was not prior notice.

Mr. JOHN L. BURTON. Well, if the gentleman will yield further for just 1 second, Presidents can always do whatever they want to do, but the English language is fairly clear and it says unless and until we were noticed, and it clearly called for prior notice and we are in agreement.

Mr. ASPIN. I agree, but the administration did not agree.

Mr. JOHN L. BURTON. But the administration would just as soon tell Congress nothing about what they are doing.

Mr. ASPIN. Perhaps.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. WEISS. Mr Speaker, I appreciate the gentleman yielding.

As one who comes out on the other side of the balance that the gentleman strikes, would the gentleman advise us why the gentleman thinks it is worse than it was before?

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. ROBINSON. Mr. Speaker, I yield 2 additional minutes to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, would the gentleman explain to us those elements which he finds to be a reduction in oversight?

Mr. ASPIN. Well, I think the reduction in oversight part comes in several areas. Whereas we say that prior notification is the norm, there are at least two ways in which prior notification does not come. One is where they limit prior notification to the "gang of eight," which is the ranking Republican and the chairmen of the two Intelligence Committees and the Speaker and the majority leader of the Senate and in the House. There are eight people who get notified. That would be the only prior notification that occurs.

There is then left vague as to whether the full committee ever does get notification of that, unless the members, unless the chairman or somebody else does require that after the operation takes place, that there be some briefing to the full committee; so that is loophole No. 1 that I feel a little uncomfortable with.

There is, second of course, the possibility, and I guess the statutory possibility that the administration can, in effect, just waive the whole thing. I think it is vague under whether the administration does have the constitutional authority or under sources and methods to, in fact, not inform the committee.

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We had a chance in our bill here to make this very specific and to clear up once and for all that matter. We could not clear it up because there was a irrevocable difference as to what the Constitution allowed the President to do, how much freedom in this area does the Constitution give the President. We could not, in effect, come to any agreement on that, so what we have done in this language is, in a sense, still left it vague. I think that is unfortunate.

Mr. WEISS. Will the gentleman yield further?

Mr. ASPIN. Of course.

The SPEAKER pro tempore. The time of the gentleman has expired. The gentleman from Massachusetts has 1 minute remaining.

Mr. MAZZOLI. Mr. Speaker, I yield the gentleman from Wisconsin (Mr. Aspin) 1 minute.

Mr. ASPIN. Mr. Speaker, I yield to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Of course, if this legislation were not adopted we would still continue to operate under the original Hughes-Ryan Act, and then those loopholes which have been added by this legislation would not exist. Is that not correct?

Mr. ASPIN. And we would be without those loopholes, but without any sensitive collection, we would be without the language applying to everybody, and we would be without the language saying prior notification is the norm, and those are some good additions.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield to me?

Mr. ASPIN. I yield to the gentleman.

Mr. MAZZOLI. The gentleman is also aware of the fact that there is language in the conference report that indicates that the President cannot deny information to the two committees upon their request by subpena for this information, which is another matter which the committees will be able to utilize in the years ahead. In the event there is a rumor of something taking place, they can execute a subpena and that information must be yielded.

Mr. BOLAND. Mr. Speaker, I yield the gentleman another 2 minutes.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. Boland) has expired.

Mr. ROBINSON. Mr. Speaker, I yield the chairman 2 minutes.

Mr. BOLAND. The gentleman understands as well as I do, and all of the members of this Committee on Intelligence, that this was not an easy matter for us to handle with the administration and with the other body. As a matter of fact, I think the gentleman would agree, would he not, that we have come out with a better bill as a result of our position with respect to prior notice, and also the reporting requirements, than we would have had had we given in to the administration.

Mr. ASPIN. Will the gentleman yield?

Mr. BOLAND. I yield to the gentleman.

Mr. ASPIN. The gentleman is absolutely correct. I have nothing but high praise for the way the gentleman from Massachusetts (Mr. Boland), chairman of the committee, conducted himself during these negotiations. I think he, in fact, stuck by the position we had for a good long time and, in fact, got something that I think we can be proud of.

As I say, this is not perfect. It is not how I would write it if I were writing it myself. But I think it is probably the best thing that we could have gotten and it is certainly better. I come to the conclusion that it is better than the bill that we originally had from the White House.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman not only for his inquiries but for his contributions to the bill.

Mr. ROBINSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding this time to me. I also want to express my appreciation to the chairman of the subcommittee for helping to get me this time to speak to this conference report. I appreciate the very difficult task that he and the committees in both this body and the other have had on this matter.

Yet, as I listened to the debate today and the last time this measure was before us, and listening especially to the gentleman from Wisconsin (Mr. Aspin) and the gentleman from California (Mr. John L. Burton) who enlightened us as to his role in offering the "unless and until" language to the Hughes-Ryan legislation when it was first adopted, I cannot help but think what we are doing in the guise of tightening control and monitoring over the CIA and other intelligence agencies' activities is really opening up more and more loopholes and making it even more difficult to get accountability from them.

When I first came to the House, and this is the completion of my second term now, I remember that this body and the other body also was awash with efforts to try to get our intelligence agencies under control, to make them more accountable. That has been totally reversed. All of this year and last, what we have been hearing is that we cannot fetter the intelligence agencies. We have totally forgotten the terrible abuses that took place during the Nixon administration. It seems to me that the better part of wisdom is for us to remember that recent history and not be so eager to remove some of the limited controls and safeguards which we enacted a couple of years ago.

For myself, I would be happier keeping the present legislation intact and on the books rather than creating these loopholes. I am going to ask that Members vote against this conference report and hope that by defeating it we can have a better chance of getting more accountability from our intelligence agencies.

Mr. MAZZOLI. Mr. Speaker, I yield back the balance of my time.

● Mr. DERWINSKI. Mr. Speaker, I rise in support of the conference report on S. 2597, the Intelligence Authorization Act for fiscal year 1981. This is a reasonable, balanced, and necessary piece of legislation. Its importance cannot be emphasized too highly. It permits the President to conduct foreign policy as the Constitution provides, yet enables the Congress to exercise its oversight responsibilities, as well.

What we are dealing with here is an important element in the management of foreign affairs. This legislation addresses, among other things, reporting to the Congress by the executive branch on covert action operations. It is a compromise; many of us wanted something more but agreed to this wording because it satisfied the basic needs of both the President and the Congress.

When the question was addressed by the House 3 months ago, in section 112 of the foreign aid authorization bill, H.R. 6942, it carried by more than 6 to 1—the vote at that time was 325 to 50. This proposal is essentially the same. Like the other bill this one requires reporting to the appropriate committees by the President on covert action abroad while, at the same time, he may delay prior notice of an operation if such notice would endanger lives or the methods employed.

The lives of our dedicated personnel who engage in these activities must be protected as must our methods of operations. This legislation would do so yet require the Presidential reporting that satisfies our oversight needs as soon as it would be practicable. I urge support for this conference report.●

Mr. ROBINSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEISS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this question will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON H.R. 7831, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APROPRIATIONS, FISCAL YEAR 1981

Mr. DUNCAN of Oregon. Mr. Speaker, I call up the conference report on the bill (H.R. 7831), making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 25, 1980.)

The SPEAKER pro tempore. The gentleman from Oregon (Mr. DUNCAN) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement on the conference report on the bill, H.R. 7831, and that I may include tabular and statistical material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DUNCAN of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees on the fiscal year 1981 transportation appropriations bill had three basic objectives:

First, to provide sufficient Federal assistance to meet our current year transportation program objectives as well as to provide the foundation for a transportation system which will meet the challenges of this decade;

Second, to produce a bill which is below the President's budget; and

Third, to produce a bill which is within the budget authority and outlay ceilings established by section 302 of the Budget Act.

Mr. Speaker, the conferees have achieved all three objectives. The conference agreement would provide $11,991,261,764 in new budget authority, including a $166 million advance appropriation for fiscal year 1982 for Amtrak capital grants. The fiscal year 1981 funding represents a significant increase over the current program levels, particularly in the area of urban public transportation. The conferees have also provided more than $300 million in R. & D. funding to assist in developing a safer and more efficient transportation system for the years ahead. In addition, the conference agreement establishes an $8.75 billion obligation ceiling for the Federal-aid highways program. This is $950 million over the level established for fiscal year 1980.

The conference agreement, however, is $979,873,301—nearly $1 billion—below the President's request. It is also within the $12.1 billion budget authority and $18.8 billion outlay ceilings established pursuant to section 302 of the Budget Act.

Those of you who voted for the amendment offered by the gentleman from Ohio (Mr. MILLER) will be pleased to know that the conference agreement is $41.5 million less than the House-passed bill. This reduction was made possible, in part, because of the fine work done by the Senator from Indiana, Mr. BAYH, and the cooperation of all the members of our subcommittee. In this regard, I especially want to thank the gentleman from Massachusetts (Mr. CONTE) for his cooperation and support throughout the year.

HIGHLIGHTS OF THE CONFERENCE REPORT

For the Coast Guard, the conferees have provided a total of $1.86 billion. This includes about $334 million, an increase of $9.6 million over the budget, for the procurement of new equipment and the improvement of existing facilities and equipment. In nearly every other area the conferees have approved the full budget requests for the Coast Guard.

For the Federal Aviation Administration, the conference agreement would provide more than $2.7 billion in new budget authority, a $700 million obligation limitation for airport grants and a $400 million ceiling on new aircraft loan guarantees. Neither the House report nor the conference report addresses the issue of FAA's aircraft certification process. The Senate report did and an issue arose as to what the Senate report meant. The conferees believe that this is an important matter. I have read and reread the Senate report. I see nothing in the report that limits or purports to limit the FAA to simulator tests in determining the size of cockpit crews. Such testing should certainly include simulators, among other things, and should begin as soon as possible and proceed as rapidly as possible.

As I mentioned previously, the conference agreement includes an $8.75 billion obligation ceiling for the Federal-aid highways program. This is the same as the House-passed bill. A total of $15 million is also included for a consolidated transportation system management effort to give added support for those projects which have particularly high energy conservation and air quality payoffs. These funds are to be derived from appropriations to the National Highway Traffic Safety Administration and the Urban Mass Transportation Administration. In the area of highway safety, the conference agreement represents basically an even split between the House and Senate bills. The so-called Traxler airbag amendment was dropped because of the resolution of this issue by the conferees on the authorizing legislation.

In the rail area, the conference agreement includes $25 million of the $100 million recommended by the other body for railroad restructuring assistance. The House conferees did agree to the Senate amendment increasing the limitation on railroad rehabilitation loan guarantees to $770 million. For Amtrak, a total of $1.047 billion would be provided. We hope this amount will be sufficient, but it may not be, and we may have to deal with this issue in next year's supplemental. With regard to the so-called 13 emerging corridors, the House position prevailed and the conference agreement is the same as the House-passed bill.

For urban public transportation a total of $4,615,200,000 is included in the conference agreement. Although this is $69.82 million less than the House bill, it is $105 million over the Senate bill. It also represents an increase of more than $600 million over the fiscal year 1980 program level. The $4.6 billion of transit funding includes $2.19 billion for urban discretionary grants (section 3) and $1.455 billion for urban formula grants (section 5). While these amounts are slightly below the House-passed bill, they both reflect a better than even split for the House conferees. The section 3 funding is $30 million under the House bill but $50 million over the Senate bill, and the section 5 funding is $45 million under the House bill but $55 million over the Senate bill.

The conferees have also agreed to an amendment numbered 43 which more clearly defines the so called "Buy America" requirements under which the Urban Mass Transportation Administration must operate. While I personally do not believe such strong provisions are essential to maintaining a strong and viable U.S. economy, I recognize that this amendment is the least destructive we can come up with in view of the protectionist attitude which exists in this country today. I would add that this amendment is intended to be fully consistent with the domestic preference provisions of section 401 of Public Law 95-599.

Mr. Speaker, there are two general provisions in which the Members may have some interest. The first of these involves Washington National Airport. As the Members will recall, the House passed bill contained no language regarding the Secretary's Washington National Airport policy. Language was, however, inserted by a rather substantial floor vote in the other body. The conference report includes the following language:

> None of the funds in this act shall be used to mandate any reduction under the Washington National Airport policy of the number of certificated air carrier slots per hour at Washington National Airport below the number authorized on September 12, 1980, until April 26, 1981.

In delaying the reduction of hourly slots, it was not our intention to disapprove or negate the overall Washington National Airport policy or to delay the balance of the plan. We believe the airlines should be given additional time to attempt to work out the allocation of the number of slots among themselves before it is mandated by the Federal bureaucracy. It is not the intent of the conferees to interfere with whatever ultimate responsibility and authority the FAA may have for the orderly management of traffic at Washington National Airport in the event the airlines cannot agree, regardless of the number of available hourly slots.

The final item relates to transportation for the handicapped. This is not part of the conference report on which the House will be voting shortly. The conferees have reported this amendment in technical disagreement and it will be the subject of a separate vote after the conference report has been adopted. At that time, if any of the Members so desire, I will discuss this amendment in more detail.

Mr. Speaker, this conference report is fiscally responsible as well as responsive to the transportation program needs of our Nation. I urge the adoption of the conference report. I insert at this point in the RECORD a table giving the conference figures in detail.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	1981 House	1981 Senate	1981 conference	1980 enacted	1981 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	$36,088,000	$36,300,000	$35,680,000	$35,740,000	$35,680,000	−$408,000	−$620,000		−$60,000
Transportation planning, research, and development	9,425,000	12,000,000	11,100,000	10,788,699	10,788,699	+1,363,699	−1,211,301	−$311,301	
Limitation on working capital fund	(65,033,000)		(60,253,000)	(56,843,000)	(56,843,000)	(−8,190,000)	(+56,843,000)	(−3,410,000)	
Total, Office of the Secretary	45,513,000	48,300,000	46,780,000	46,528,699	46,468,699	+955,699	−1,831,301	−311,301	−60,000
Coast Guard									
Operating expenses	1,117,585,000	1,193,112,000	1,206,967,000	1,193,112,000	1,193,112,000	+75,527,000		−13,855,000	
Appropriation for debt reduction	−224,218	−233,935	−233,935	−233,935	−233,935	−9,717			
Total, operating expenses	1,117,360,782	1,192,878,065	1,206,733,065	1,192,878,065	1,192,878,065	+75,517,283		−13,855,000	
Acquisition, construction, and improvements	286,011,000	324,392,000	339,585,000	324,392,000	333,985,000	+47,974,000	+9,593,000	−5,600,000	+9,593,000
Alteration of bridges	7,650,000	16,200,000	15,850,000	15,850,000	15,850,000	+8,200,000	−350,000		
Retired pay	206,000,000	232,000,000	232,000,000	232,000,000	232,000,000	+26,000,000			
By transfer	(1,500,000)					(−1,500,000)			
Reserve training	42,855,000	45,007,000	45,007,000	45,007,000	45,007,000	+2,152,000			
Research, development, test, and evaluation	22,000,000	25,000,000	25,100,000	25,000,000	25,000,000	+3,000,000		−100,000	
Offshore oil pollution compensation fund:									
Appropriation	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Authority to borrow	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Pollution fund	30,500,000					−30,500,000			
Coast Guard supply fund		1,500,000	1,500,000	1,500,000	1,500,000	+1,500,000			
Total, Coast Guard	1,726,376,782	1,850,977,065	1,879,775,065	1,850,627,065	1,860,220,065	+133,843,283	+9,243,000	−19,555,000	+9,593,000
Federal Aviation Administration									
Operations	2,173,520,000	2,243,666,000	2,233,520,000	2,233,520,000	2,233,520,000	+60,000,000	−10,146,000		
(By transfer)	(5,000,000)					(−5,000,000)			
Facilities, engineering, and development	20,500,000	24,500,000	22,310,000	20,000,000	21,155,000	+655,000	−3,345,000	−1,155,000	+1,155,000
Facilities and equipment (airport port and airway trust fund)	250,000,000	350,000,000	359,000,000	350,000,000	350,000,000	+100,000,000		−9,000,000	
Reappropriation	43,000,000					−43,000,000			
Research, engineering and development (airport and airway trust fund)	75,000,000	85,000,000	85,000,000	75,000,000	85,000,000	+10,000,000			+10,000,000
Grants-in-aid for airports (airport and airway trust fund):									
Planning grants	10,000,000					−10,000,000			
Development grants (appropriation to liquidate contract authorization)	(610,000,000)	(595,000,000)	(595,000,000)	(595,000,000)	(595,000,000)	(−15,000,000)			
Operation and maintenance, Metropolitan Washington airports	27,327,000	28,585,000	28,585,000	28,585,000	28,585,000	+1,258,000			
Construction, Metropolitan Wash-Washington airports	6,785,000	18.350,000	16,200,000	5,350,000	16,200,000	+9,415,000	−2,150,000		+10,850,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	1981 House	1981 Senate	1981 conference	1980 enacted	1981 estimate	House bill	Senate bill
Aircraft purchase loan guarantee program:									
Limitation on new loan guarantees	($650,000,000)	($400,000,000)	($400,000,000)	($400,000,000)	($400,000,000)	(−$250,000,000)			
Total, Federal Aviation Administration	2,606,132,000	2,750,101,000	2,744,615,000	2,712,455,000	2,734,460,000	+128,328,000	−$15,641,000	−$10,155,000	+$22,005,000
Federal Highway Administration									
Limitation on general operating expenses	(193,300,000)	(194,002,000)	(190,705,000)	(191,882,000)	(191,282,000)	(−2,018,000)	(−2,720,000)	(+577,000)	(−600,000)
Motor carrier safety	41,100,000	15,100,000	14,350,000	14,350,000	14,350,000	+250,000	−750,000		
Highway safety research and development	9,500,000	9,000,000	9,000,000	9,000,000	9,000,000	−500,000			
Highway beautification:									
Appropriation	8,500,000	7,200,000	6,100,000	7,200,000	6,600,000	−1,900,000	−600,000	+500,000	−600,000
Appropriation to liquidate contract authorization	(25,283,000)					(−25,283,000)			
Highway-related safety grants (trust fund—appropriation to liquidate contract authorization)	(26,500,000)	(17,500,000)	(17,500,000)	(17,500,000)	(17,500,000)	(−9,000,000)			
Railroad-highway crossings demonstration projects	20,000,000					−20,000,000			
Territorial highways:									
Appropriation	6,600,000	6,600,000	6,600,000	6,600,000	6,600,000				
Appropriation to liquidate contract authorization	(4,168,000)					(−4,168,000)			
Off-system roads (appropriation to liquidate contract authorization)	(10,000,000)					(−10,000,000)			
Safer off-system roads	55,000,000					−55,000,000			
National Scenic and Recreational Highway:									
Appropriation to liquidate contract authorization	(25,800,000)	(16,500,000)	(14,000,000)	(14,000,000)	(14,000,000)	(−11,800,000)	(−2,500,000)		
Access highways to public recreation areas on certain lakes	9,650,000		1,875,000	6,525,000	6,525,000	−3,125,000	+6,525,000	+4,650,000	
Federal-aid highways (trust fund—appropriation to liquidate contract authorization)	(8,200,000,000)	(7,500,000,000)	(7,600,000,000)	(7,500,000,000)	(7,500,000,000)	(−700,000,000)		(−100,000,000)	
Emergency relief	250,000,000					−250,000,000			
Highways crossing Federal projects	14,000,000					−14,000,000			
Carpool and vanpool projects	7,000,000	1,000,000	1,000,000	1,000,000	1,000,000	−6,000,000			
Bicycle program	4,000,000					−4,000,000			
Alaska Highway	2,500,000					−2,500,000			
Baltimore-Washington Parkway		1,000,000					−1,000,000		
Auto-use management		250,000,000					−250,000,000		
Total, Federal Highway Administration	400,850,000	289,900,000	38,925,000	44,675,000	44,075,000	−356,775,000	−245,825,000	+5,150,000	−600,000
National Highway Traffic Safety Administration									
Operations and research	83,728,000	93,353,000	82,253,000	99,500,000	85,876,000	+2,148,000	−7,477,000	+3,623,000	−13,624,000
State and community highway safety:									
Appropriation	22,297,000	61,593,000	23,593,000	43,593,000	38,593,000	+16,296,000	−23,000,000	+15,000,000	−5,000,000
Appropriation to liquidate contract authorization	(171,000,000)	(163,800,000)	(163,800,000)	(163,800,000)	(163,800,000)	(−7,200,000)			
Total, National Highway Traffic Safety Administration	106,025,000	154,946,000	105,846,000	143,093,000	124,469,000	+18,444,000	−30,477,000	+18,632,000	−18,624,000
Federal Railroad Administration									
Office of the Administrator	7,973,000	8,000,000	7,970,000	7,970,000	7,970,000	−3,000	−30,000		
Railroad safety	28,000,000	27,500,000	27,250,000	27,250,000	27,250,000	−750,000	−250,000		
Railroad research and development	54,750,000	52,500,000	52,000,000	50,000,000	50,000,000	−4,750,000	−2,500,000	−2,000,000	
Rail service assistance	97,198,000	103,840,000	96,023,000	100,000,000	99,423,000	+2,225,000	−4,417,000	+3,400,000	−577,000
Railroad restructuring		250,000,000		100,000,000	25,000,000	+25,000,000	−225,000,000	+25,000,000	−75,000,000
Limitation on new loan guarantees under Emergency Rail Services Act		(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(+20,000,000)			
Limitation on direct loans for Minority Business Resource Center		(3,000,000)					(−3,000,000)		
Northeast Corridor improvement program	381,000,000	400,000,000	350,000,000	350,000,000	350,000,000	−31,000,000	−50,000,000		
Grants to National Railroad Passenger Corporation	873,400,000	925,000,000	886,900,000	900,000,000	881,000,000	+7,600,000	−44,000,000	−5,900,000	−19,000,000
Advance appropriation for 1982		198,100,000	166,000,000	166,000,000	166,000,000	+166,000,000	−32,100,000		
Limitation on new loan guarantees		(7,300,000)					(−7,300,000)		
Payments to the Alaska railroad revolving fund	6,500,000	10,640,000	8,600,000	10,640,000	10,640,000	+4,140,000		+2,040,000	
Railroad rehabilitation and improvement financing funds	100,000,000					−100,000,000			
Rescission	−60,000,000					+60,000,000			
Limitation on total loan guarantee program	(600,000,000)	(770,000,000)	(600,000,000)	(770,000,000)	(770,000,000)	(+170,000,000)		(+170,000,000)	
Limitation on new loan guarantees		(270,000,000)					(−270,000,000)		
Rail labor assistance	6,500,000	9,000,000	7,500,000	9,000,000	9,000,000	+2,500,000		+1,500,000	
Advance appropriation for 1981	61,600,000					−61,600,000			
Total, Federal Railroad Administration	1,556,921,000	1,984,580,000	1,602,243,000	1,720,860,000	1,626,283,000	+69,362,000	−358,297,000	+24,040,000	−94,577,000
Advance appropriation for 1981	(61,600,000)					(−61,600,000)			
Advance appropriation for 1982		(198,100,000)	(166,000,000)	(166,000,000)	(166,000,000)	(+166,000,000)	(−32,100,000)		

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	1981 House	1981 Senate	1981 conference	1980 enacted	1981 estimate	House bill	Senate bil
Urban Mass Transportation Administration									
Administrative expenses	$20, 000, 000	$22, 600, 000	$22, 200, 000	$22, 200, 000	$22, 200, 000	$+2, 200, 000	−$400, 000		
Research, development, and demonstrations and university research and training	69, 300, 000	58, 275, 000	57, 820, 000	68, 000, 000	65, 500, 000	−3, 800, 000	+7, 225, 000	+$7, 680, 000	−$2, 500, 000
Urban discretionary grants	1, 700, 075, 000	2, 402, 000, 000	2, 220, 000, 000	2, 140, 000, 000	2, 190, 000, 000	+489, 925, 000	−212, 000, 000	−30, 000, 000	+50, 000, 000
By transfer	(9, 925, 000)					(−9, 925, 000)			
Nonurban formula grants	85, 000, 000	91, 000, 000	65, 000, 000	80, 000, 000	72, 500, 000	−12, 500, 000	−18, 500, 000	+7, 500, 000	−7, 500, 000
Urban formula grants	630, 000, 000	1, 570, 000, 000	1, 500, 000, 000	1, 400, 000, 000	1, 455, 000, 000	+825, 000, 000	−115, 000, 000	−45, 000, 000	+55, 000, 000
Appropriation to liquidate contract authorization	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)				
Waterborne transportation demonstration projects	10, 000, 000		20, 000, 000		10, 000, 000		+10, 000, 000	−10, 000, 000	+10, 000, 000
Interstate transfer grants	700, 000, 000	800, 000, 000	800, 000, 000	800, 000, 000	800, 000, 000	+100, 000, 000			
Rescission of contract authority	−713, 100, 000					+713, 100, 000			
Total, Urban Mass Transportation Administration	2, 501, 275, 000	4, 943, 875, 000	4, 685, 020, 000	4, 510, 200, 000	4, 615, 200, 000	+2, 113, 925, 000	−328, 675, 000	−69, 820, 000	+105, 000, 000
St. Lawrence Seaway Development Corporation									
Limitation on administrative expenses	(1, 402, 000)	(1, 473, 000)	(1, 460, 000)	(1, 460, 000)	(1, 460, 000)	(+58, 000)	(−13, 000)		
Research and Special Programs Administration									
Research and special programs	23, 046, 000	31, 558, 000	29, 820, 000	32, 558, 000	31, 420, 000	+5, 374, 000	−138, 000	+1, 600, 000	−1, 138, 000
Cooperative Automotive Research		12, 000, 000		12, 000, 000	12, 000, 000	+12, 000, 000		+12, 000, 000	
Subtotal	26, 046, 000	43, 558, 000	29, 820, 000	44, 558, 000	43, 420, 000	+17, 374, 000	−138, 000	+13, 600, 000	−1, 138, 000
Office of Inspector General									
Salaries and expenses	1, 300, 000	13, 657, 000	13, 657, 000	13, 657, 000	13, 657, 000	+12, 357, 000			
By transfer	(18, 753, 000)	(8, 085, 000)	(8, 085, 000)	(8, 085, 000)	(8, 085, 000)	(−10, 668, 000)			
Total, title I, Department of Transportation:									
New budget (obligational) authority	8, 970, 438, 782	12, 079, 894, 065	11, 146, 681, 065	11, 086, 653, 764	11, 108, 252, 764	+2, 137, 813, 982	−971, 641, 301	−38, 428, 301	+21, 599, 000
Advance appropriation for 1981	(61, 600, 000)					(−61, 600, 000)			
Advance appropriation for 1982		(198, 100, 000)	(166, 000, 000)	(166, 000, 000)	(166, 000, 000)	(+166, 000, 000)	(−32, 100, 000)		
Reappropriations, by transfer	(43, 000, 000)					(−43, 000, 000)			
By transfer	(33, 678, 000)	(8, 085, 000)	(8, 085, 000)	(8, 085, 000)	(8, 085, 000)	(−25, 593, 000)			
Limitations	(194, 702, 000)	(195, 475, 000)	(192, 165, 000)	(193, 342, 000)	(192, 742, 000)	(−1, 960, 000)	(−2, 733, 000)	(+577, 000)	(−600, 000)
Limitations on direct loans		(3, 000, 000)					(−3, 000, 000)		
Limitations on loan guarantees	(+600, 000, 000)	(770, 000, 000)	(600, 000, 000)	(770, 000, 000)	(770, 000, 000)	(+170, 000, 000)		(+170, 000, 000)	
Limitations on new loan guarantees	(650, 000, 000)	(697, 300, 000)	(420, 000, 000)	(420, 000, 000)	(420, 000, 000)	(−230, 000, 000)	(−277, 300, 000)		
Limitation on working capital fund	(65, 033, 000)		(60, 253, 000)	(56, 853, 000)	(56, 843, 000)	(−8, 190, 000)	(+56, 843, 000)	(−3, 410, 000)	
Appropriations to liquidate contract authorizations	(10, 572, 751, 000)	(9, 792, 800, 000)	(9, 890, 300, 000)	(9, 790, 300, 000)	(9, 790, 300, 000)	(−782, 451, 000)	(−2, 500, 000)	(−100, 000, 000)	
Appropriations for debt reduction	(224, 218)	(233, 935)	(233, 935)	(233, 935)	(233, 935)	(+9, 717)			
TITLE II—RELATED AGENCIES									
National Transportation Safety Board									
Salaries and expenses	17, 322, 500	17, 979, 000	17, 900, 000	18, 500, 000	18, 200, 000	+877, 500	+221, 000	+30, 000	−300, 000
Civil Aeronautics Board									
Salaries and expenses	29, 554, 000	28, 419, 000	28, 419, 000	28, 419, 000	28, 419, 000	−1, 135, 000			
Payments to air carriers	95, 769, 000	86, 300, 000	86, 300, 000	86, 300, 000	86, 300, 000	−9, 469, 000			
Total, Civil Aeronautics Board	125, 323, 000	114, 719, 000	114, 719, 000	114, 719, 000	114, 719, 000	−10, 640, 000			
Interstate Commerce Commission									
Salaries and expenses	79, 399, 000	83, 900, 000	82, 400, 000	82, 400, 000	82, 400, 000	+3, 001, 000	−1, 500, 000		
Payments for directed rail service	76, 000, 000					−76, 000, 000			
(Limitation on obligations)	(80, 000, 000)		(10, 000, 000)	(10, 000, 000)	(10, 000, 000)	(−70, 000, 000)	(+10, 000, 000)		
Total, Interstate Commerce Commission	155, 399, 000	83, 900, 000	82, 400, 000	82, 400, 000	82, 400, 000	−72, 999, 000	−1, 500, 000		
Panama Canal Commission									
Operating expenses	427, 262, 000	371, 453, 000	370, 324, 000	370, 324, 000	370, 324, 000	−56, 938, 000	−1, 129, 000		
Capital outlay	36, 625, 000	23, 000, 000	21, 350, 000	21, 350, 000	21, 350, 000	−15, 275, 000	−1, 650, 000		
Reimbursement of General Fund				(−350, 000, 000)	(−350, 000, 000)	(−350, 000, 000)	(−350, 000, 000)	(−350, 000, 000)	
Total, Panama Canal Commission	463, 887, 000	394, 453, 000	391, 674, 000	391, 674, 000	391, 674, 000	−72, 213, 000	−2, 779, 000		
Department of the Treasury									
Office of the Secretary:									
Investment in fund anticipation notes	(100, 000, 000)			(100, 000, 000)	(25, 000, 000)	(−75, 000, 000)	(+25, 000, 000)	(+25, 000, 000)	(−75, 000, 000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	1981 House	1981 Senate	1981 conference	1980 enacted	1981 estimate	House bill	Senate bill
U.S. Railway Association									
Administrative expenses	$28,000,000	$29,280,000	$28,500,000	$29,280,000	$29,000,000	+$1,000,000	−$280,000	+$500,000	−$280,000
Payments for purchase of Conrail securitues	550,000,000	185,000,000	185,000,000	185,000,000	185,000,000	−365,000,000			
Total, U.S. Railway Association	578,000,000	214,280,000	213,500,000	214,280,000	214,000,000	−364,000,000	−280,000	+500,000	−280,000
Washington Metropolitan Area Transit Authority									
nterest payments	65,774,000	65,910,000	65,910,000	65,910,000	65,910,000	+136,000			
National Alcohol Fuels Commission									
Salaries and expenses	1,500,000					−1,500,000			
National Transportation Policy Study Commission									
Salaries and expenses	66,157					−66,157			
Total, title II, related agencies:									
New budget (obligational) authority	1,407,271,657	891,241,000	886,103,000	887,483,000	886,903,000	−520,368,657	−4,338,000	+800,000	−580,000
Limitations on obligations	(80,000,000)		(10,000,000)	(10,000,000)	(10,000,000)	(−70,000,000)	(+10,000,000)		
TITLE III—GENERAL PROVISIONS									
Coast Guard:									
Offshore oil pollution compensation fund (limitation on obligations)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)				
Federal Aviation Administration:									
Grants-in-aid for airport development (limitation on obligations)	(640,000,000)	(650,000,000)	(725,000,000)	(700,000,000)	(700,000,000)	(+60,000,000)	(+50,000,000)	(−25,000,000)	
Federal Highway Administration:									
Highway related safety grants (limitation on obligations)	(28,000,000)	(28,000,000)	(28,000,000)	(28,000,000)	(28,000,000)				
Federal-aid highways	2,000,000					−2,000,000			
Federal-aid highways (limitation on obligations)	(7,800,000,000)	(8,400,000,000)	(8,750,000,000)	(8,400,000,000)	(8,750,000,000)	(+950,000,000)	(+350,000,000)		(+350,000,000)
Great River Road (limitation on obligations)	(39,500,000)	(37,500,000)	(37,500,000)	(37,500,000)	(37,500,000)	(−2,000,000)			
National Highway Traffic Safety Administration:									
State and community highway safety (limitation on obligations)	(175,000,000)	(150,405,000)	(150,405,000)	(150,405,000)	(150,405,000)	(−24,595,000)			
Consultant services				−3,894,000	−3,894,000	−3,894,000	−3,894,000	−3,894,000	
Total, title III, general provisions	(8,742,500,000)	(9,325,905,000)	(9,750,905,000)	(9,375,905,000)	(9,725,905,000)	(+983,405,000)	(+400,000,000)	(−25,000,000)	(+350,000,000)
New budget (obligational) authority	2,000,000			−3,894,000	−3,894,000	−5,894,000	−3,894,000	−3,894,000	
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	10,379,710,439	12,971,135,065	12,032,784,065	11,970,242,764	11,991,261,764	+1,611,551,325	−979,873,301	−41,522,301	+21,019,000
Appropriations for 1981	(10,318,110,439)	(12,773,035,065)	(11,866,784,065)	(11,804,242,764)	(11,825,261,764)	(+1,507,151,325)	(−947,773,301)	(−41,522,301)	(+21,019,000)
Advance appropriation for 1981	(61,600,000)					(−61,600,000)			
Advance appropriation for 1982		(198,100,000)	(166,000,000)	(166,000,000)	(166,000,000)	(+166,000,000)	(−32,100,000)		
Reappropriations, by transfer	(43,000,000)					(−43,000,000)			
By transfer	(33,678,000)	(8,085,000)	(8,085,000)	(8,085,000)	(8,085,000)	(−25,593,000)			
Limitations	(194,702,000)	(195,475,000)	(192,165,000)	(193,342,000)	(192,742,000)	(−1,960,000)	(−2,733,000)	(+577,000)	(−600,000)
Limitations on obilgations	(8,822,500,000)	(9,325,905,000)	(9,760,905,000)	(9,385,905,000)	(9,735,905,000)	(+913,405,000)	(+410,000,000)	(−25,000,000)	(+350,000,000)
Limitations on direct loans		(3,000,000)					(−3,000,000)		
Limitations on loan guarantees	(600,000,000)	(770,000,000)	(600,000,000)	(770,000,000)	(770,000,000)	(+170,000,000)		(+170,000,000)	
Limitations on new loan guarantees	(650,000,000)	(697,300,000)	(420,000,000)	(420,000,000)	(420,000,000)	(−230,000,000)	(−277,300,000)		
Limitation on working capital fund	(65,033,000)		(60,253,000)	(56,843,000)	(56,843,000)	(−8,190,000)	(+56,843,000)	(−3,410,000)	
Memoranda:									
Appropriations to liquidate contract authorizations	(10,572,751,000)	(9,792,800,000)	(9,890,300,000)	(9,790,300,000)	(9,790,300,000)	(−782,451,000)	(−2,500,000)	(−100,000,000)	
Appropriations for debt reduction	(224,218)	(233,935)	(233,935)	(233,935)	(233,935)	(+9,717)			
Total, appropriations including appropriations to liquidate contract authorization and appropriation for debt reductions	(20,952,685,657)	(22,764,169,000)	(21,923,318,000)	(21,760,776,699)	(21,781,795,699)	(+829,110,042)	(−982,373,301)	(−141,522,301)	(+21,019,000)

□ 1600

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding. I commend him for his work and will truly miss him as a friend and as the chairman of this committee.

I have a question to make legislative history. In the Senate committee report on appropriations for the Urban Mass Transit Administration, they state that UMTA section 3 discretionary funds are available to mitigate shoreline damage due to wave action caused by the Larkspur Ferry system in the area known as Greenbrae Broadwalk. The Senate committee noted that failure to act on this project could result in the cessation of an important commuter transit service run by the Golden Gate Bridge, Highway and Transportation District that carries about 2,500 passengers daily from Marin County to San Francisco. I noticed that the conference report on transportation appropriations was silent on this matter. It is my understanding that the Department of Transportation has not objections to this subject, thus it would that the committee report reflects the fact that the House agreed with the Senate committee report. Am I correct in assuming that the House agrees with the Senate report language?

Mr. DUNCAN of Oregon. The House conferees did not disagree with the Senate language and, therefore, the Senate language stands as a direction to the Secretary to take the action required by the Senate report.

Mr. JOHN L. BURTON. And the chairman agrees with that?

Mr. DUNCAN of Oregon. Yes.

Mr. JOHN L. BURTON. I will miss the gentleman tremendously.

Mr. DUNCAN of Oregon. I might say that while the gentleman may miss my being chairman, I hope he will not miss being friends. I think we will remain friends.

Mr. JOHN L. BURTON. I hope so, too.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this conference report. I wish to commend the chairman, the gentleman from Oregon (Mr. DUNCAN), and the ranking Republican member, the gentleman from Massachusetts (Mr. CONTE) for bring this legislation before us. However, Mr. Speaker, I do note that the conference report accompanying the fiscal year 1981 DOT Appropriations Act provides for priority treatment of two highway projects and five bridge replacement projects.

More specifically, the conference report provides for priority treatment of the following highway projects: A 15-mile section of the Elephant Butte project in Idaho on U.S. Highway 95; and U.S. 131 in Mecosta County, Mich.

In addition, the conference report provides for priority treatment of the following discretionary bridge projects: U.S. 41 bridge over the Wabash River between Attica and Williamsport, Ind.; the Missouri River Bridge between Bismarck and Mandan, N. Dak.; the Vandeventer Overpass near St. Louis, Mo.; the Bonners Ferry Bridge over the Kootenai River in Idaho; and the James Island Bridge in Charleston, S.C.

As you know, Mr. Speaker, the Federal-aid highway program is a contract authority program funded from the highway trust fund. It does not need to receive an appropriation prior to the full authorization becoming available for obligation.

Thus, the conference report on an appropriations act does not normally contain, nor should it contain, language directing the Secretary of Transportation to give priority treatment to certain Federal-aid highway and bridge projects. And it would normally be our position that the Secretary should not follow this type of directive unless concurred in by the Committee on Public Works and Transportation.

And that is the case we have before us today. We have reviewed these projects, and we concur with the language included in the conference report accompanying the fiscal year 1981 appropriations act.

We take this action reluctantly. These projects should be properly dealt with in Federal-aid highway legislation. However, since we will not have highway legislation until next year, we have concurred in the inclusion of these important projects in the conference report before us today.

□ 1610

Mr. Speaker, I would ask the gentleman from Oregon if he might yield to the distinguished gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member on the Surface Transportation Subcommittee, to see if the gentleman agrees with my position.

Mr. DUNCAN of Oregon. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding. I am in complete agreement with the distinguished gentleman from New Jersey. I have reviewed these projects. They are certainly worthwhile. Under the circumstances, I concur with their being included in the conference report. I, therefore, want to associate myself with the remarks of the distinguished chairman of the Surface Transportation Subcommittee.

Mr. HOWARD. Mr. Speaker, I thank the gentleman.

I thank the gentleman from Oregon for the time and congratulate him on this legislation.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Washington.

Mr. DICKS. I thank the chairman for yielding. I am sure the chairman has seen press reports, as I have, which indicate that a new airline, New York Air, is planning to begin frequent daily service between Washington National Airport and New York on December 14 of this year, and thereafter plans to start service to other Northeast Corridor cities, including Newark and Boston. New York Air will offer fares some 20- to 50-percent below current fares. Given the substantial volume of travel in Northeast Corridor markets by Federal employees, I would expect that this new service could be utilized as one means of reducing Federal travel expenditures. Of course, unless this new entrant is able to secure adequate operating slots at Washington National, this promising service proposal and potential savings to the taxpayer will go unrealized. I would like to ask the chairman whether this interpretation is accurate.

I also want to congratulate the gentleman from Oregon who has done an outstanding job as subcommittee chairman. He is truly one of the great Members of this House and I am delighted to be here today in support of this bill.

The gentleman in his speech mentioned the situation at National Airport. As I understand it, the conference report before us today includes an amendment offered on the Senate floor dealing with the FAA's new National Airport policy. Nothing in the text of that amendment, the explanatory provisions of the conference report or the legislative history surrounding that amendment as I see it can be interpreted as any kind of barrier to new entry by new carriers at National Airport. It does not grandfather existing air carrier slots.

I would like to ask the gentleman whether this interpretation is accurate.

Mr. DUNCAN of Oregon. I know of nothing we have done in this committee report that would affect the question of new entries or grandfathering present users of Washington National Airport. The procedure that is used in allocating those slots is generally that the airlines themselves have a committee under an antitrust exemption that permits them to make those allocations amongst themselves. What we have done is say that there will be no mandatory allocation by the FAA. This will give the airlines an opportunity to settle the allocation among themselves whether it be at 40 or 36 slots. There is no mandatory reduction in the number of certificated air carrier slots per hour possible until April 26 of 1981.

We have likewise not intended to deny the FAA the authority and the responsibility for the ordinary management of traffic at Washington National Airport. I think it is important that at some point if the airlines cannot agree there is some residual authority somewhere in the FAA, whatever it might be. We have not intended to affect that one way or the other nor have we intended to get into the question of grandfathering existing carriers or new applicants. The only thing we have tried to do is to let the whole plan go into effect except for this one issue on which there seemed to be very substantial opposition particularly in the Senate. This will give the authorizing committees, I hope, an opportunity to act on this issue before we get into the daylight saving time change next spring.

Mr. DICKS. Mr. Speaker, I thank the gentleman for yielding and if he will yield further, I am delighted to understand this would not serve in any way to bar any new entrants into the field.

Mr. DUNCAN of Oregon. I do not think anything we did here would have any effect either way on that.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report on H.R. 7831.

Mr. Speaker, I certainly do not want to trespass on the patience of the House. I have expressed myself in regards to the retirement of the gentleman from Oregon (Mr. Duncan) and the gentleman from Illinois (Mr. Stewart) and the gentleman from Oklahoma (Mr. Steed) on this floor on several occasions in the past several months when we took up our bill, before the House here, and also on special orders. I spoke on behalf of the gentleman from Oregon (Mr. Duncan), and I spoke just recently for the gentleman from Oklahoma (Mr. Steed) when the Oklahoma Society honored him.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I wonder if the gentleman might not be willing to acknowledge, however, that the principal reason the gentleman surrendered the other night on the baseball field before the game was over was because the next batter up was the chairman of the Subcommitte on Transportation.

Mr. CONTE. That is absolutely true. After seeing the gentleman walk out of the dugout and knowing that he is going to retire, I just felt sorry for him, and I said, "My God, I do not want to put him through that." He was hobbling up there with his old bad hip. I did not want him to go back to the locker and take out a bottle of DSMO.

As I said recently here on the floor, it was very, very difficult for me to say anything nice about the chairman of my subcommittee, after what he said about my dog Primo. My dog Primo has been in almost a state of shock ever since the gentleman from Oregon (Mr. Duncan) took this floor and started chastizing his prowess in the field. I happen to own one of the best brittany dogs in the world. He is smart. He reads the Congressional Record every morning. He is barking down on the gentleman from Oregon (Mr. Duncan).

We will miss these three gentlemen. They have made a great contribution to this House. They will leave a great void.

As I said, the gentleman from Illinois (Mr. Stewart) is one of the finest gentlemen I think I have ever met in the 22 years I have been in the House. It has been an enjoyment working with him on the Subcommittee on Transportation. I certainly cannot understand the people from Chicago not returning him, because he brought back to Chicago a great deal out of that committee, especially in the transportation field. He is conscientious and hard working. He was there at all of the meetings. He asked some very piercing questions of the witnesses. He is a good legislator and a good man. We are going to miss him greatly.

I will miss my friend, the gentleman from Oregon (Mr. Duncan), too. He and I have worked together closely. It has not been a partisan relationship. It has been a bipartisan relationship. I felt I was part of the committee, part of the leadership with him. He was always above board. He always told me what he was going to do, what he had planned. We worked together as a team. He is a beautiful guy also and a great legislator and a great human being.

Bob, we are going to miss you greatly.

Mr. Speaker, this is a good bill. We worked hard with the Senate. We did not get everything we wanted, but I think we have got a good, balanced bill here for the transportation of our Nation, and I hope everyone will vote for it.

Mr. Speaker, I speak to the House today in support of the conference report for the fiscal year 1981 transportation appropriations bill. I would like to thank the members of the subcommittee for their hard work and diligent efforts toward our goal of reaching a reasonable agreement with the Senate. I would also like to especially recognize the outstanding performance of the subcommittee chairman, Mr. Duncan of Oregon; without his leadership, our task of bringing forth a workable bill would have been far more difficult.

This conference agreement, Mr. Speaker, provides total new budget authority of $11,991,261,764 for fiscal year 1981. The total amount is $41,522,301 under the House version of the bill, and $21,019,000 over the Senate version.

We all know that at the present time, it is difficult to formulate transportation policy, primarily because of the fiscal constraints within which we must work. On the other hand, we must recognize the needs of our country with respect to modernizing and expanding our nationwide transportation network.

I think the Congress, in the last several years, recognized that government at all levels—Federal, State and local—has a multitude of roles to play in the transportation arena. We must see to it that our needs for an efficient and accessible national transportation system are realized, and that the safety of the people working with and using the system is of utmost concern. We must also keep in mind our environmental and energy goals, and balance these with our transportation needs.

Energy policy, I think, will play an increasingly important role in the formulation of our transportation policies. As was demonstrated in the 1979 spring and summer gasoline shortages, there is a close relationship between transportation and energy; without adequate supplies of energy at economically efficient prices, our transportation system is hamstrung, and those industries which service the transportation system are going to suffer. Witness the effect of the 1979 gasoline price increases on the consumer demand for large automobiles, and the problems of the automobile industry which followed in the wake of those increases.

Other major examples demonstrating the relationship between energy and transportation were the rises in the price of jet fuel, which added millions and millions of dollars to the costs associated with the airline business, and the logistics problems in obtaining fuel supplies which plagued the trucking and railroad industries.

The point of this emphasis on fuel is that the future supplies and the accessibility of those supplies are uncertain at best. Therefore, we need to continue to refine our transportation system, not only as regards modernizing it, but also in seeking more efficient uses for our existing modes of passenger and cargo transportation.

Our transportation system for cargo, for example, will play an increasingly vital role in distributing energy supplies around the country. This increasing role will mean heavy demands on the financial posture of our railroad industry, for instance, as it carries more coal. Yet at the same time, such use of the railroads can mean great opportunities, and the demand for their services can provide a catalyst for strengthening these great lifelines.

In another section of this wide-ranging measure, the conferees have attempted to strike a balance between the need to modernize the nation's enroute air traffic control computer system, and the need to be sure we have a properly charted course before we start spending tax dollars on what will be an expensive proposition over a long period of time. The conferees, in restoring the Senate reduction of $10 million in the FAA research and development category, have recognized the need for further development in the air traffic control sector. We have also recognized the importance of satisfying certain concerns raised by the Senate in its committee report, and thus, the conferees have directed that none of the funds in this account be obligated for new contracts for replacement of the enroute air traffic control computer system until those Senate concerns are addressed. The conference report spells out a timetable for addressing these concerns.

All in all Mr. Speaker, I think we have a good agreement which has fairly balanced the transportation needs of our Nation with the funds available for fiscal year 1981. Understandably, we could not fund every category at its requested level, and there will certainly be disagreements as to the order of priorities. However, we have provided $1,611,551,325 over last year's obligational authority level. Although I would personally like to have seen higher levels of funding for a couple of categories within the urban mass transportation administration, I do feel that this is a good agreement, and I urge my colleagues on both sides of the aisle to support it.

Mr. PURSELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Speaker, I, too, would like to support the bill and associate my remarks with the ranking minority Republican and congratulate the majority leadership on an excellent bill. We did not get everything we wanted in terms of transportation, but as a member of the Committee on Appropriations laboring under fiscal restraints in this country, I congratulate the committee for an outstanding job. We need a balanced transportation system. Twenty-six percent of the people of southeast Michigan cannot drive an automobile. They are senior citizens, handicapped, and many of our youth. Therefore we must encourage a rationale system. I again thank the leadership for a good conference report.

Mr. DUNCAN of Oregon. I yield such time as he may consume to the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Mr. Speaker, I thank the gentleman for yielding. I would like to thank the gentlemen for their comments on section 328.

I would like to make the point that I appreciate the activity of the subcommittee and the conference committee in this area and point out it seems to me in an era of airline deregulation that, even though it seems redundant at this point, we want to make it very clear that in this era of deregulation we do not want to set any policies which would discourage competitiveness in the airline field or would discourage competitive entry into air travel markets.

Once again I would like to thank the gentleman for making clear there is nothing in this bill which would bar or in any way hinder the entrance of a new carrier into National Airport and nothing that would grandfather the old carriers.

Mr. DUNCAN of Oregon. I think the gentleman's statement is correct. I would, of course, have to point out that there are physical limitations and legal limitations on the unlimited use of Washington National. That is the reason why something has to be done, whether it is this plan or another plan.

Within the scope of the available slots, tempered by time by judicial decisions and so on, we do intend to encourage and foster competition rather than to restrict it.

Mr. FISHER. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, I thank my colleague. I, too, wish to direct the attention of my colleagues to the provision in the appropriations conference report relating to National Airport. I recognize that the chairman of the subcommittee has long had the interests of this airport and its proper and safe use very much at heart.

I have to express keen regret there will be a delay in the reduction of carrier slots at National. In my view, the proposed FAA policy has been long in the making, subjected to hearings within the region and discussed at length by the relevant committees in the Congress. It ought to be put into affect just as soon as possible, all parts of it.

The FAA policy statement embodies the long-range principle of putting some kind of limit on growth at National, because of the congestion, noise, danger, and other factors present there. Both National Airport and Dulles Airport are within the congressional district which I represent. Dulles Airport is an efficient, safe facility with ground transportation serving it being improved steadily as the months and years go by. Future increases in air traffic should be at Dulles, not National.

I, therefore, hope the delay will be a short one and that the various elements of the FAA policy, the slot reduction, the capping of passenger growth at 17 million passengers per year, the tightening of the curfew and so forth, can continue to be thought of as an interrelated set of provisions, finally to put some limits at National so the growth can be channeled to Dulles, which can accommodate it very easily.

Mr. DUNCAN of Oregon. Mr. Speaker, I thank the gentleman for his comments. The gentleman has been a leader in attempting to solve a very difficult problem at Washington National Airport. There are many conflicting interests. The gentleman will recall that the House did not attempt to address this problem in its appropriation bill. I might say to the House that we had very little difficulty with that portion of this bill that dealt with appropriations. It was the 18 pages of legislative material that had been appended to this bill during the course of its passage through the Congress that has given us the most difficulty. Although some of my friends on the authorizing committees may not think I mean it, I would far prefer not having to deal with these problems which I think are properly within the scope of authority of the authorizing committee. I hope the gentleman recognizes that this problem in this bill arose in the Senate and your conferees addressed it in what we thought was the most helpful and constructive fashion possible. If you will also notice, we have additional funding in the conference report for the Dulles access road. We have tried to continue that project. We will continue to try to work with the gentleman to improve ground transportation to Dulles as well as to develop a solution to the traffic problem at Washington National.

I thank the gentleman for his contribution.

□ 1620

Mr. STEWART. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I will yield with great pleasure to my friend from Chicago, who I expect will be missed more than I will be on this committee.

Mr. STEWART. I thank the gentleman.

Mr. Speaker, I rise in full support of the conference committee report to accompany H.R. 7831. I think this conference report is a balanced response to the transportation needs of our country.

However, Mr. Speaker, I would like to address a few question to my distinguished chairman, the gentleman from Oregon, who led the House conferees, concerning the interstate transfer grants.

Mr. Speaker, the committee report to accompany H.R. 7831, House Report 96-1193, states that—

> The Committee has approved the full budget request of $800,000,000 for transit and highway projects which have been substituted for interstate highway projects.

The committee report continues:

> The amount recommended includes $275,000,000 for the construction of the fixed rail transit system in Washington, D.C., $100,000,000 for substitute transit and highway projects in Northeastern Illinois, $275,000,000 for four areas.

Specified in the report.

The Senate committee report, Senate Report 96-932, states that—

> The Committee intends that the first priority for funding should be given to the projects in Northeast Illinois (Chicago); District of Columbia (Metro) and New Jersey, making every effort to complete those projects.

The conference report before us today reiterates the Senate Committee Report language in this instance.

Mr. Speaker, I want to propound a question.

Is it your understanding that the conferees, in this instance, in adopting the Senate committee language concerning "first priority for funding" intended that no less than the amount specified in the House report be allocated to the areas cited in the Senate report?

Mr. DUNCAN of Oregon. I would like to comment that my distinguished colleague from Illinois was one of the most faithful of the members of this committee. I think his questioning of the witnesses was more searching and even disconcerting to them than that of any other member of the committee. He has been diligent in the support of his local community. He has been in every sense of the word a fine Member of Congress and a fine Representative from the city of Chicago. I want the record to show that I am delighted to have been associated with him. I know our friendship will continue for many years.

What we did in our committee report that accompanied the bill that came to the floor of the House was to itemize certain amounts of money that we believed could be properly used in the advancement of these projects in Chicago or the northern Illinois section, in Washington, D.C., and in New Jersey.

While I cannot speak for all the conferees, it is my understanding that it is a concensus among the conferees that those areas mentioned in the Senate committee and conference reports would not receive less than the amount specified in the House committee report. It was our intention that the $100 million that was listed for northeastern Illinois would be regarded as a minimum figure for that area, at least to the extent that that much money is required and can be effectively utilized on projects in that area during the upcoming fiscal year.

Mr. STEWART. That was the thing I was hoping to be able to establish, that as the administration attempts to interpret the conference language of this report, that it would be their understanding, and we would hope that it would be their judgment, that the minimum amount of money which would be going to northeastern Illinois, would be $100 million.

Mr. DUNCAN of Oregon. I would say that the only restriction on that would be the ability of northeastern Illinois to use that money effectively on interstate substitution projects. I think the gentleman has established that beyond a shadow of a doubt.

Mr. STEWART. Mr. Speaker, may I say that the 2 years which I have served in the House and on the Subcommittee on Transportation under the leadership of the gentleman from Oregon has been an experience which I shall never forget. I do know that this House and the people of this Nation will miss the service of this fine gentleman; and as the two of us go about the politics of doing our thing now, I am sure we will look back at this day and say, "Would to God that we had an opportunity to continue to serve, but as we have done our best, then we leave with no regrets."

Mr. DUNCAN of Oregon. Mr. Speaker, I associate myself fully with the gentleman's remarks.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank my friend for yielding. I observe that there was an item of $10 million for the purchase of airbags for insertion in Government-procured automobiles. I understand, through the able leadership of my distinguished friend here, that the $10 million has been stricken in conference, and that the earmarking of funds for airbag purchases was eliminated on the Senate floor. Am I correct in that appreciation? I understood that Senator FORD removed it.

Mr. DUNCAN of Oregon. They took some langauge out of the Senate report.

Mr. DINGELL. Which left $10 million unearmarked.

Mr. DUNCAN of Oregon. We have deleted funding for the program to equip certain publicly owned vehicles with airbags. That was the $10 million item.

Mr. DINGELL. That is correct.

Mr. DUNCAN of Oregon We have eliminated that.

Mr. DINGELL. So there is no money now in this, earmarked or otherwise, for the purchase of airbags by the GSA or the Department of Transportation.

Mr. DUNCAN of Oregon. That is correct.

Mr. DINGELL. I certainly salute and commend the gentleman. The market should be allowed to decide these things, and the gentleman from Oregon has been wise enough to see to that, and I commend the gentleman for that.

Mr. DUNCAN of Oregon. Whether it is leadership, stubborness or bullheadedness, I guess depends on one's point of view.

Mr. DINGELL. It is outstanding leadership.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the gentleman from Oregon (Mr. DUNCAN) for the work that he has done in bringing this bill back almost a billion dollars under the budget. It is fitting that with so many appropriations bills not completing their course prior to October 1, that the gentleman from Oregon is able to bring his back in his last year here. We shall truly miss him, and so I am delighted to see this bill on the floor.

All of us on this side have enjoyed working with the gentleman from Oregon, and we wish him well as he goes in other directions.

On behalf of the minority, I also would like to pay our respects to the gentleman from Illinois (Mr. STEWART) and the gentleman from Oklahoma (Mr. STEED), who have been loyal members of this committee and who will not be back next year.

Mr. Speaker, this is a good conference report. It is like any other bill that we have ever brought here; I guess I could always find things that I disagree with, but on balance it is well thought out, it is a good conference report, and I urge Members to support it.

I would like to comment just briefly on the National Airport part of this conference report.

□ 1630

I felt very strongly, and so argued in the conference, that we should stick with the House position, that is, to say nothing and allow the FAA regulations to go into effect, because I thought they were well thought out and appropriate. I am very distressed that we find ourselves coming back here with some delay concerning portions of that FAA work.

Mr. Speaker, I would point out to the Members that we recommend strongly to the FAA in the conference report that those portions of the regulations that have not been delayed should go forward as soon as possible, and I hope that the FAA will take that into consideration.

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield briefly to the gentleman from New Jersey.

Mr. PATTEN. Mr. Speaker, we consider BOB DUNCAN as one of the most intelligent, one of the most industrious, and one of the most able Members who has ever been in the House of Representatives. BOB, I say that sincerely. We are going to miss you, and it is a great loss to the country that you will not be back here next year.

Mr. EDWARDS of Alabama. Mr. Speaker, we all share in that feeling.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to engage the gentleman from Oregon (Mr. DUNCAN) in a colloquy concerning the interpretation of a provision in the Appropriations Act.

Section 310 provides that there shall be no obligational constraints upon ongoing emergency projects funded under the discretionary bridge replacement fund or the emergency relief fund. This also appears as amendment No. 62 of the conference report.

Now, under the acceleration of bridge projects program, an emergency project, the U.S. Grant Bridge in the vicinity of Portsmouth, Ohio, is being funded with discretionary bridge replacement funds. This ongoing emergency project was provided for in the Surface Transportation Act due to the fact that the existing U.S. Grant Bridge was closed on account of problems with its suspension cables.

My question to the gentleman from Oregon (Mr. DUNCAN) is this: Is my understanding correct that the U.S. Grant Bridge project, since it is an ongoing emergency project being funded with discretionary bridge replacement funds, will not be subject to any obligational constraints?

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Yes; the gentleman is correct.

Mr. Speaker, on page 21 of the conference report, under amendment 62, we so provide, and if the U.S. Grant Bridge is one of those ongoing emergency projects, as the gentleman says it is and of which I have no knowledge, then there would be no obligation constraints on the continued funding of that project.

Mr. HARSHA. Mr. Speaker, I thank the gentleman from Oregon (Mr. DUNCAN), and I would like to ask the distinguished gentleman from Alabama (Mr. EDWARDS) if I am correct in that understanding.

Mr. EDWARDS of Alabama. Mr. Speaker, in my opinion, the gentleman is correct, and the chairman of the subcommittee has correctly stated the case.

Mr. HARSHA. Mr. Speaker, I thank the gentleman from Alabama (Mr. EDWARDS), and I yield back the balance of my time.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, as a member of the subcommittee, I want to join in complimenting the distinguished chairman of this subcommittee. There is no finer gentleman, there is no finer chairman, and there is no person who is more knowledgeable in the field of transportation than the chairman of the subcommittee. His loss to the Congress is a real loss. It is a loss to the Congress, it is a loss to the United States, and it is a loss, I might say, to me personally.

The gentleman from Oregon was always willing to work with us. The subcommittee chairman was always willing to work with us, and even when he could not go along with everything we wanted, we never knew whether we were just getting a little more or being had for a little bit more. He always worked well with each and every one of us.

Mr. Speaker, this is a good conference report. In one area, I do regret in particular that we were not able to provide funding, and that is the area of the urban formula grant funding that assists our very hard-pressed transit authorities.

Lots of people think that when we talk about this kind of assistance to urban transit authorities, we are talking about subsidizing the cost of the conductor or the cost of the fare or what have you. But one of the ridiculous things that we do here is that we increase discretionary grant funds for capital equipment and then do not provide the money to maintain the equipment when we have it. So the equipment gets run down, the equipment gets destroyed, and the equipment is out of operation. Then the investment that we make in the discretionary grant funds is lost because we do not carry through and do not continue to maintain the equipment.

Most of the transit authorities in the Nation had already set their budgets for this year. Most of them, including my own, had fare increases, and the local communities had increased their participation, but then we refused to make any increase in the Federal Government's share above the level of last year. This was at a time when fuel costs were escalating, at a time when other costs were escalating, and at a time when the costs of maintaining the very equipment that we provided and that we paid for were also going up.

I regret, therefore, that although we did increase the discretionary funds for capital equipment, we did not provide the funds to go with them to provide for the maintenance of this equipment. This was done at a time when budgets were already set, and it has imposed on States and local communities, and the riders, additional burdens. These burdens will result in decreased service and decreased mass transportation at the very time when we should be trying to increase mass transportation service. We are decreasing mass transportation service at a time when we are faced with an energy shortage, and this is not the way to combat that energy shortage.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Speaker, I appreciate very much the gentleman's yielding me this time.

I, too, want to thank the gentleman from Oregon (Mr. Duncan) for his hard work in our Transportation Subcommittee. The gentleman has been in charge of that subcommittee—believe me, I truly mean that—and he has been able to guide the subcommittee in such a way as to solve many of the knotty problems we have had.

With Bob Duncan at the helm, there has been absolutely no doubt about the efficiency of the subcommitte. I did not agree with all of the subcommittee's actions but overall I felt our areas of agreement were remarkably high.

I appreciate very much the work done by the gentleman from Illinois (Mr. Stewart), who will not be with us next year. Also the gentleman from Oklahoma (Mr. Steed), will be retiring this year. Both of these gentlemen will indeed be missed.

Mr. Speaker, I would like to ask the subcommittee chairman about one particular amendment in this conference report, and that is amendment No. 80. There we insert the language proposed by the Senate prohibiting funds to mandate any reduction in the number of certificated air carrier slots per hour at Washington National Airport. Now, when we speak of those slots not being reduced, it means we will have as many planes coming in as before. And believe me, there is one right on the tail of another today. We have the responsibility for air safety and looking after those passengers who are coming into that airport.

☐ 1640

The conferees also expect that those aspects of the policy other than the number of hourly air carrier slots will be implemented as scheduled. As I recall, one aspect was that we extend the limit out of 1,000 miles for nonstop flights into Washington National. But the one that concerns me is the introduction of wide-bodied flights. Here we have 400 people in the plane, perhaps 450, compared to about 150 in other aircraft fully loaded. Not only will there be more people and problems on the ground, but my deep concern is that because it takes a little longer for the wide bodies to lift off the runway we could create an air safety problem.

I think the record should be clarified to show that we would not expect the air slots to be filled as they were before if the wide bodies are going to move in fast. I know there is a part of the amendment language that indicates there may be a problem but it indicates there may be a problem on the ground after the passengers are unloaded.

I am concerned that the takeoff and landing, of too many slots of wide bodies would create serious air traffic safety problems.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, I would like to say that what the gentleman is saying here demonstrates, I think, how interrelated this whole Washington National Airport Policy is. I would rather have instituted it in toto. I recognized what I thought were the political realities in the other body and tried to accommodate the changes that were required in the best possible manner. I think the gentleman is pointing out some additional problems other than those we recognized in the conference report, and I commend him for the legislative history he is making. I also commend his remarks to the FAA.

Mr. MILLER of Ohio. I thank the gentleman from Oregon for his remarks.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for yielding, and I join my many colleagues here who have been showing their appreciation and their thanks to the chairman, Bob Duncan, as well as to other members of the subcommittee who will not be back next year, the gentleman from Illinois (Mr. Stewart), as well as the gentleman from Oklahoma (Mr. Steed). Their absence from this Congress next year not only will be missed by their districts, but also by the country. Bob Duncan has been a most thoughtful and very effective member of the full Appropriations Committee, as well as an outstanding chairman of this subcommittee. I am sorry that his district did not see fit to bring him back. I am sure they will regret the day they did not send him back.

I rise to commend the subcommittee for keeping section 317 in this bill, an amendment that was offered in the full committee by this member and accepted. The necessity of this is the fact that the State of Illinois, and maybe some other States, are ignoring the reciprocity for drivers of vehicles registered in another State in requiring pickup trucks, as an example, to purchase a safety sticker before they can legally be operated on the highways or on the streets of the State of Illinois. Even though those vehicles, the pickup trucks or any other truck, are not used for hire but only used as a passenger vehicle, they are requiring the purchase of a safety sticker. This is in clear violation of the reciprocity and it just cannot be permitted.

This is the spirit and intention of section 317, that we do send a message to that State or any other State that might want to require licenses of vehicles registered in other States to operate on their streets or highways.

So I do thank very much the subcommittee for insisting upon including it in this conference report and keeping it in the bill, in addition to a slight addition by the other body. I thank the conferees.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, I rise to state my objections to a feature in the conference report on H.R. 7831, a bill appropriating funds for the Department of Transportation and related agencies.

My objection, and one of the reasons I voted against the bill when it passed the House, is the Benjamin language which submits Federal funding of mass transit to the protectionist pressures of State domestic preference laws. This expansion of the "Buy American" concept to the State level further erodes this country's free trade policy and fuels inflation by rewarding companies for their location rather than their competitiveness in the marketplace.

The Benjamin language states that UMTA financial assistance cannot be withheld because of the imposition of a State domestic preference law. Although the exceptions of the current Federal "buy America" statute for public interest, unavailability of the product or unreasonable cost would allow UMTA to waive State buy America provisions, the intent clearly is to further limit the bidding on Federal highway and transit projects.

The Benjamin language also directs UMTA to explore additional regulatory approaches to enhance the participation of domestic firms, to work with other agencies to reduce unfair trade practices in transit procurement and to monitor State domestic preference provisions to see if it would be in the national interest to apply them at the Federal level. This last directive is contrary to all the past efforts by this Congress and the administration to reduce the need for protectionism in our own country, to exert as much Federal influence as possible to see that States do not establish their own trade barriers, and to persuade foreign governments to remove protectionist trade barriers that hurt U.S. exports.

Government procurement is an extremely sensitive issue in the world trading arena today. The United States is in the forefront in trying to encourage open competitive bidding in foreign markets as well as our own. Our efforts to persuade Japan to open its telecommunications industry to United States and other foreign bidding are by now well known and if successful will provide substantial economic opportunities for American business. Although "buy local" provisions with respect to transportation procurement still exist in many countries, including our own, to allow it to spread especially to the State level is to endorse a counterproductive policy about international competition that can only disadvantage us in the long run.

Mr. Speaker, we cannot ourselves be protectionist in the creation of trade barriers here and, at the same time, demand that trade barriers to U.S. exports be removed. I want to note that the administration, while it does support the bill, is extremely disappointed that this language remains in the bill after efforts to persuade my colleagues on the Appropriations Committee that U.S. trade interests will be jeopardized.

I suggest my colleagues consider this bad language when casting their votes on the conference report on H.R. 7831.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I would like to compliment the gentleman from Minnesota for his statement on the so-called Benjamin language and rise to associate myself with his remarks. He has made an extremely important statement and I only wish that there were more Members here to have heard his remarks because when the record is written of the global economy, the worst depressions were always caused by policies of protectionism and trying to beggar thy neighbor. "Buy American" clauses can only end in policies which deny American goods and products foreign markets. This Nation should be working to expand markets, not limit them and not only will the world be better off but so will America.

Mr. FRENZEL. I thank the gentleman for his remarks.

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I want to thank the distinguished gentleman from Massachusetts for yielding to me.

Some months ago, a columnist for one of the papers in Baltimore, I believe it was, said that the gentleman from Maryland is one of the few people under 50 in the United States who cared about the Panama Canal. And it is true that I have a continuing interest in the Panama Canal because I serve as the ranking Republican on the Panama Canal Subcommittee.

This bill contains the appropriation for the 1981 operations of the Panama Canal Commission. It will be a year tomorrow, the date on which the infamous Carter-Torrijos treaty took effect. It is also a year since Congress passed on September 27, 1979, Public Law 96-70, not with my support, but that was the implementing legislation of the Panama Canal treaties.

I find in the report of the Department of Transportation appropriation a reference on page 20 to the funds for the Panama Canal's operation in this bill. There the report says, and I quote:

> The conferees believe that the Panama Canal Act of 1979 and the funds included in the conference agreement provide adequate authority for the continued operation of the Commission.

While I would not disagree or say by any means that this Commission should not continue to operate—obviously, we need the canal, and it must be operated—I would like to call attention of the House to Public Law 96-70, particularly section 1302(c)(1) in which it says that:

> No funds may be appropriated to or for the use of the Commission, nor may any funds be obligated or expended by the Commission for any fiscal year unless such appropriation, obligation or expenditure has been specifically authorized by law.

A similar provision appears in section 1303(a) dealing with the emergency fund for the canal.

The gentleman from Maryland has had occasion in the hearings of our subcommittee to address this question about the expenditure and authorization of funds for the canal on a number of times in the last year, most recently during oversight hearings held before our subcommittee about 6 weeks ago. And I would point out that the statement in the pending conference report might be somewhat misleading.

What has happened by dint of scheduling in this House is that the authorizing legislation for both 1980 and 1981, which was approved by our subcommittee and the full Committee on Merchant Marine and Fisheries, was never brought to the floor for action. However, the gentleman from Oregon was good enough to accept an amendment to this appropriation bill which in effect categorized all of the spending in the appropriation, just as we would have in the authorizing bill. For that I am most grateful.

□ 1650

It is my hope that in future years the House will act on authorizing legislation because this is an integral part of the oversight that not only the treaty, but the implementing legislation foresaw. The failure to act in these 2 fiscal years on the bills reported from the authorizing committee, to me, is regrettable; but I still believe the law does require such annual authorization before spending can occur.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I do not disagree, but of course we in the Appropriations Committee cannot control the authorization committee, much as we would like to do so from time to time.

What we have done is insert what we hope will be a legislative history that would justify and not imperil the continued operation of the canal. We do not seek to derogate from the authority of the authorizing committees. Indeed, we encourage the Members to bring their authorization bills to the floor.

Mr. BAUMAN. I thank the gentleman for his comments in response to my concern.

I would say to him we have made every effort to have these matters scheduled and have been unable to do so.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

Mr. BAUMAN. I wonder if the gentleman would yield me 1 additional minute in honor of Omar Torrijos.

Mr. CONTE. I yield 1 additional minute to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman.

I would say also at this point that as a result of our oversight of our subcommittee, the hearings that we have held, we have discovered and identified a number of instances in which the Panama Canal Commission, which is composed of five U.S. citizens and four Panamanians, is openly flouting the law this Congress passed a year ago. Our subcommittee report has been unanimously adopted in our subcommittee.

For whatever reason, I personally believe because of State Department intervention, our full committee canceled a markup session in which I think the report would have been approved. The gentleman from Maryland regrets that this report has not been made available to the public as it would have otherwise been available. But the report shows that the treaty and the implementing legislation, in many respects, are being operated in an illegal way that we predicted, including many additional costs that will have to be borne by the taxpayers, despite the fact we were told by President Carter that no such cost would exist.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. DUNCAN of Oregon. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I rise in support of the conference report on H.R. 7831, the 1981 Transportation appropriations bill. Since our chairman has already explained what it contains, I will just note that I believe the conference with the Senate was fair, and that, despite individual members' disagreements with specific provisions of the final bill, the overall result is very much worthy of the support of the House.

I would also like to take a few moments to say what a privilege it has been for me to serve with two subcommittee colleagues who will not be returning next year—TOM STEED and BENNETT STEWART—and particularly with our departing chairman, BOB DUNCAN. This House and the Congress will be diminished without these men.

As my chairman on the Appropriations Subcommittee on Transportation, BOB DUNCAN has shown himself to be about the most tough-minded, fair, intelligent, and decent person I have worked with. He personifies the independent leadership we need so badly in our political institutions. He has worked like hell, yet in the midst of drudgery he has never lost his sense of the absurd. His great natural laugh often lightened the burden of those with whom he worked on the subcommittee, in hearings, markups, and conferences like this last one.

BOB mixes tough-mindedness with compassion, a rare achievement. I have never seen or heard him do or say a malicious thing. I like to watch his mind at work; he will listen to his thoughts, then express himself simply yet with real depth of insight and feeling.

If BOB has a fault, it is that he does not suffer fools gladly; this made BOB a much better Congressman than a campaigner. And he sure could keep people who needed something put in the bill off balance; he would begin by saying "no," then, if he could not talk you out of it, he would grant the request and join you in fighting for it.

If I were President, Mr. Speaker, my first appointment would be to make BOB DUNCAN Attorney General, and then I would support him for the first vacancy on the Supreme Court. This country's judicial branch would be in the best of hands.

Mr. Speaker, BOB DUNCAN is a valuable national resource, which our Nation must still find ways to use and, yes, enjoy.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, I would like to associate myself with the gentleman's remarks and express my appreciation for having worked with the gentleman from Illinois (Mr. STEWART) and the gentleman from Oklahoma (Mr. STEED), who are leaving and a special word of thanks to a person I think has just done an outstanding job, our chairman, the gentleman from Oregon (Mr. DUNCAN). I consider it a real honor to have served with him these past 2 years and I want to say a heartfelt thanks.

Mr. DUNCAN of Oregon. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALGREN).

Mr. WALGREN. Mr. Speaker, while I have been supportive of the excellent work of the chairman and his committee in the transportation field. I want to express my disappointment in a provision adopted by the conferees which was not part of the original appropriations bill passed by the House.

Section 316 offered by the Senate and adopted in this conference report would, in effect, block efforts of several States, including my own, to insure that out-of-State trucks are in reasonably safe condition when they use their highways.

In response to the increasing number of truck accidents, including one earlier this year where four pedestrians were killed on a Pittsburgh sidewalk when a runaway out-of-State truck ran into a lunch hour crowd, Pennsylvania enacted legislation which requires that any truck traveling through our State display a currently valid certificate of inspection.

Those provisions would deal a severe setback to Pennsylvania's efforts to improve highway safety in the Commonwealth.

Section 316 of H.R. 7831, as reported, states:

> None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.

This language would contravene the intent of recently enacted Pennsylvania law providing that—

> No motor carrier vehicle shall be operated on a (State) highway unless it displays a currently valid certificate of inspection issued under this chapter or by another State.

The Pennsylvania statute simply requires that commercial motor vehicles in excess of 17,000 pounds display a valid inspection certificate from Pennsylvania, their State of registration, or any other State. The law does not impose Pennsylvania safety standards on motor vehicles, since a trucker displaying a valid inspection certificate from any State is in compliance with Pennsylvania law.

All Pennsylvania has asked is that all trucks (over 17,000 pounds in weight) be inspected by someone.

I am deeply troubled that, as I understand it, the conferees look to Federal safety standards applicable to trucks to assure us that all trucks will be required to meet reasonable standards. The problem is, there are no Federal inspections for all practical purposes. The Federal Government has put only 176 inspectors in the field nationwide—a work force stretched so thin that some are required to do their own clerical work. There is no way the Federal inspectors can make more than the merest gesture toward inspection. They are a weak reed on which to lean in the face of the onslaught of unsafe trucks where random spot checks in the Pittsburgh area have found 6 out of every 10 trucks should be stopped dead in their tracks for violation of Federal safety standards that threaten the lives of others.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WALGREN. I would be glad to yield.

Mr. DUNCAN of Oregon. As the gentleman can understand, there is an opportunity here for States to interfere with the legitimate course of interstate commerce. We tried to draft this so that a State would retain the primary responsibility for safety on its highways, except and to the extent that trucks in interstate commerce had qualified under the Federal motor carrier safety regulations, which we were advised were stricter than those imposed by most States.

I think we would be glad to look into the matter further at the request of the gentleman. I suggest the gentleman take it to the authorizing committee.

Mr. WALGREN. I thank the gentleman.

• Mr. HARRIS. Mr. Speaker, the conference report on the fiscal year 1981 Transportation appropriations bill contains a number of provisions I wish to call to the attention of my colleagues.

The most important provision as far as northern Virginia is concerned directs the Secretary of Transportation to conduct a study of the extension of the Metrorail system to Burke and to Dulles Airport, as well as possible extensions in Maryland.

I am pleased that these funds were included in the conference report, particularly in light of the House passage last week of my legislation authorizing those studies. By a vote of 251 to 140, this House once again affirmed its commitment to rapid-rail transit in the metropolitan Washington area and took the first step in extending Metro to new communities in Virginia and Maryland, and to Dulles International Airport.

Metrorail has already proven its worth both as an energy saving transportation system, and as a boon to regional economic growth, and passage of appropriations for the Metro extension study will take us another great step forward in meeting the needs of northern Virginia's commuters.

I am also pleased to note that the conferees included restrictions on year-end spending by the Department of Transportation and other agencies funded by this bill. Year-end spending sprees must be stopped if we are serious about eliminating wasteful Government spending. By including language similar to my amendment to the appropriations bill, which was passed by this House, the conferees have answered the call of the taxpayer for an end to year-end spending abuses.

The conferees have also addressed the proliferation of expensive consultant contracts within the Department of Transportation and other Federal agencies by calling for a 15-percent reduction in agency spending on consultants.

Consultants perform valuable and needed work for Federal agencies, but in too many instances, they are also used as vehicles for the unnecessary expenditure of funds that could have better have been returned to the taxpayer. This cut in moneys available for consultant contracts represents important progress in our efforts to restrain spending Government-wide.

There is one section of the legislation, however, which I oppose. That is the language that will delay implementation of certain portions of the new National Airport policy recently announced by the Federal Aviation Administration.

Under the conference report the scheduled cutback in hourly jet operations and the tighter curfew on night operations at National will be delayed for 4 months, until April 26.

Other portions of the policy, however, such as the use of widebodies at National and the expanded perimeter for nonstop flights, can go into effect on January 5.

This policy was carefully crafted to provide noise relief and force safety improvements at National. The action by the conferees, however, sets aside the only noise reduction aspects of the policy and permits expansion at National without the compensating portions of the policy.

I have today called upon Secretary Goldschmidt to withhold permission for widebody operations and the expanded perimeter rule until the cutbacks in hourly operations and in night flights take effect on April 26. Until the slot reduction mechanism for controlling growth and limiting noise at National is in place, the entire policy should be put on hold.

With the important exception of the provisions dealing with National Airport, the Transportation appropriations conference report contains a number of programs which I support wholeheartedly. The study of Metro extensions, the limitations on year-end spending, and the cutback on the use of outside consultants were all legislative priorities of mine this year, and I am pleased to see each of them included in this conference report.●

● Mr. AMBRO. Mr. Speaker, I rise in support of H.R. 7831 and the conference report on fiscal year 1981 transportation appropriations. During the conference committee's deliberations on this bill the matter of slot allocations at Washington National Airport were addressed. An amendment was agreed to that would prohibit any reduction under the Washington National Airport policy of the number of certificated air carrier slots per hour at Washington National Airport. I hope that the language of this amendment will not be interpreted as an attempt to grandfather preexisting slot allocations at National Airport. With the passage of the Airline Deregulation Act in 1978, it was envisioned that there would be an increase in airline competition and price reductions on many routes. This has happened in some markets, but there has been very little price and service competition in the Northeast. Therefore the adoption of this amendment should not preclude the entry of other airlines into Washington National that have not previously served that airport. I am not advocating an increase in slots, but I feel that the slots that are available should be open to all fit, willing and able carriers as certificated by the Civil Aeronautics Board.●

Mr. DUNCAN of Oregon. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 54, answered "present" 1, not voting 22, as follows:

[Roll No. 602]

YEAS—355

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—54

Archer
Ashbrook
AuCoin
Badham
Bauman
Broyhill
Butler
Cheney
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Devine
Dornan
Evans, Ind.
Fenwick
Fountain
Frenzel
Gramm
Grisham
Hance
Hansen
Ichord
Jacobs
Jeffries
Kelly
Kindness
Lagomarsino
Leath, Tex.
Lee
Lungren
McDonald
Martin
Mottl
Pashayan
Paul
Porter
Robinson
Rousselot
Satterfield
Schroeder
Sensenbrenner
Shumway
Solomon
Stenholm
Stockman
Stump
Symms
Trible
Weaver
Whitehurst
Wirth
Wydler

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—22

Anderson, Ill.
Breaux
Conable
Davis, S.C.
Dingell
Dixon
Dodd
Duncan, Tenn.
Fuqua
Giaimo
Grassley
Heckler
Holtzman
Jenrette
Leach, La.
Michel
Myers, Pa.
Roberts
Shannon
Steed
Vander Jagt
Wilson, C. H.

☐ 1710

The Clerk announced the following pairs:

Mr. Breaux with Mr. Conable.

Mr. Jenrette with Mrs. Heckler.

Mr. Roberts with Mr. Vander Jagt.

Mr. Fuqua with Mr. Michel.

Mr. Davis of South Carolina with Mr. Anderson of Illinois.

Mr. Dodd with Mr. Duncan of Tennessee.

Mr. Giaimo with Mr. Grassley.

Mr. Dixon with Mr. Leach of Louisiana.

Mr. Dingell with Mr. Steed.

Ms. Holtzman with Mr. Shannon.

Mr. Myers of Pennsylvania with Mr. Charles H. Wilson of California.

Mr. EDWARDS of Oklahoma changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENT IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment is as follows:

Senate amendment No. 12: Page 10, line 19, after "communities" insert: ": *Provided*, That the funds in this Act shall be available for the guarantee of loans even if such aircraft are financed and delivered in fiscal year 1981 for reasons beyond the control of the purchasing carrier so long as the applicant has submitted a loan guarantee application before October 1, 1980; the Federal Aviation Administration has indicated that the applicant was conditionally eligible for a guarantee; and the aggregate of all such guarantees when combined with guarantees issued during fiscal year 1980 does not exceed $650,000,000 in principal amount.

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That this limitation shall not apply to any guarantee of an aircraft purchase loan where (1) the guarantee applicant has submitted a loan guarantee application before October 1, 1980; (2) the Federal Aviation Administration has indicated prior to October 1, 1980, that the applicant was conditionally eligible for a guarantee; (3) the aircraft are financed and delivered in fiscal year 1981 for reasons beyond the purchaser's control; and (4) the aggregate of all guarantees which meet the preceding three conditions when combined with guarantees issued during fiscal year 1980 shall not exceed $650,000,000 in principal amount.".

Mr. DUNCAN of Oregon (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The motion was agreed to.

□ 1720

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 18: Page 12, line 23, after "$1,875,000," insert "together with unobligated balances appropriated under "access highways to public recreation areas on certain lakes" contained in Public Law 95-85,".

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. CONTE. Mr. Speaker, I ask unanimous consent to consider en bloc the several motions wherein the House recedes and concurs in the amendments of the Senate numbered 29, 53, 62, 69, 70, 71, 72, 73, and 74, and that they be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The amendments are as follows:

Senate amendment No. 29: Page 15, line 24, after "pupose" insert ": *Provided further*, That all public at grade-level crossings remaining along the Northeast corridor upon completion of the project shall be equipped with protective devices including gates and lights".

Senate amendment No. 53: Page 28, after lines 19, insert:

REIMBURSEMENT OF GENERAL FUND

For reimbursement of the General Fund of the Treasury from the Panama Canal Commission Fund, the total outlays in fiscal year 1980 from accounts 9501201 Panama Canal Commission Operating Expenses and 95X1201 Panama Canal Commission Capital Outlay, but in no case less than $350,000,000. The reimbursement shall be made within 30 days after submission by the General Accounting Office of the report on audit of the Panama Canal Commission accounts as required by section 1313 of the Panama Canal Act of 1979.

Senate amendment No. 62: Page 33, line 11, after "1980" insert ": *Provided further*, That there shall be no obligation constraints placed upon ongoing emergency projects funded under the Discretionary Bridge Replacement Fund or the Emergency Relief Fund".

Senate amendment No. 69: Page 35, strike out all after line 21 over to and including line 3 on page 36 and insert:

SEC. 318. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Senate amendment No. 70: Page 36, strike out lines 4 to 10, inclusive and insert:

SEC. 319. No part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et sq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

Senate amendment No. 71: Page 36, strike out lines 11 to 24, inclusive, and insert:

SEC. 320. (a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department, agency, or establishment (as defined in 31 U.S.C. chapter 1, subchapter I, section 2) or any major administrative subdivision thereof during the fiscal year ending September 30, 1981, to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

(b) Not later than 45 days after the close of each quarter of the fiscal year, the head of each department, agency, or establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(c) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted, and shall promptly report in writing any situation in which the obligations of any department, agency, or establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the Director shall submit a report to the Committees on Appropriations on the results and impact of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

Senate amendment No. 72: Page 36, after line 24, insert:

SEC. 321. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within 6 months of completing the initial audit report.

Senate amendment No. 73: Page 36, after line 24, insert:

SEC. 322. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Senate amendment No. 74: Page 36, after line 24, insert:

SEC. 323. (a) Notwithstanding any other provision of this Act, the amounts otherwise available to agencies under the Act for procurement of consultant services shall be reduced by the following amounts: Department of Transportation, $3,894,000.

(b) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

(c) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN of Oregon moves that the House recede from its disagreement to the amendments of the Senate numbered 29, 53, 62, 69, 70, 71, 72, 73, and 74, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 24: Page 14, line 5, strike out "$23,593,000" and insert "$43,593,000".

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$38,593,000, of which $10,000,000 shall be available for transportation systems management, and".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 28: Page 15, line 8, after "94–210," insert "and $100,000,000 for railroad restructuring assistance authorized by title V of Public Law 94–210 as amended,".

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$25,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 30: Page 16, line 5, strike out "$886,900,000" and insert "$900,000,000".

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$881,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 49: Page 23, after line 24, insert:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of a cooperative automotive research program for conducting basic automotive research, $12,000,000: *Provided*, That no additional funds shall be expended thereafter, unless authorized by Congress: *Provided further*, That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000: *Provided further*, That the Department of Transportation, in cooperation with the Department of Commerce, Department of Defense, National Science Foundation, National Aeronautics and Space Administration, Environmental Protection Agency, and Department of Energy, report to the Congress within 6 months of enactment of this Act its assessment of current Federal automotive and other surface transportation research and development and its analysis of options for the Federal management structure, areas of research, detailed objectives and funding requirements for a cooperative automotive research program: *Provided further*, That it is also the intention of the Senate that an authorization bill with positive or negative recommendations be reported out by the appropriate committees of the Senate within said period.

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of a cooperative automotive research program for conducting basic automotive research, $12,000,000, to remain available until expended: *Provided*, That no additional funds shall be expended thereafter, unless authorized by Congress: *Provided further*, That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000: *Provided further*, That the Department of Transportation, in cooperation with the Department of Commerce, Department of Defense, National Science Foundation, National Aeronautics and Space Administration, Environmental Protection Agency, and Department of Energy, report to the Congress within 6 months of enactment of this Act its assessment of current Federal automotive and other surface transportation research and development and its analysis of options for the Federal management structure, areas of research, including applied research, detailed objectives and funding requirements for a cooperative automotive research program: *Provided further*, That it is also the intention of the Congress that an authorization bill with positive or negative recommendations be reported out by the appropriate committees within said period.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 54: Page 28, after line 19, insert:

DEPARTMENT OF TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95–620, of fund anticipation notes, $100,000,000.

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$25,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 61: Page 33, line 11, after "1980" insert ": *Provided further*, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than 60 days after date of enactment of this Act, designate under 23 U.S.C. 103(e)(1) as a route on the National System of Interstate and Defense Highways 3.03 miles in the State of Missouri extending I–170 southward from I–70 to tie into U.S. 40".

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than 60 days after date of enactment of this Act, designate under 23 U.S.C. 103(e)(1) as a route on the National System of Interstate and Defense Highways 3.03 miles in the State of Missouri extending I–170 southward from I–70 to tie into U.S. 40 and 6.25 miles in the State of Alabama connecting I–10 and I–65 in the vicinity of Mobile-Prichard".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 63: Page 33, after line 11, insert:

SEC. 311. (a) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by section 310 by allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year: *Provided*, That the collective obligations of all the States may not exceed one-fourth of the obligation ceiling imposed by section 310 in each of the first two calendar quarters of fiscal year 1981; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(b) Notwithstanding subsection (a), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (a) if a State will not obligate the

amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses.

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

(a) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by the above allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(b) Notwithstanding subsection (a), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code:

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (a) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 75: Page 36, after line 24, insert:

SEC. 324. None of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1973, except—

(1) to the extent which would be required under the amendment contained in section 118 of S. 2720 (96th Congress, Federal Public Transportation Act of 1980), as passed by the Senate on June 25, 1980, or

(2) where such authorities have elected to purchase such lifts.

MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 324. None of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1973, except—

(1) to the extent which would be required under the amendment contained in section 118 of S. 2720 (96th Congress, Federal Public Transportation Act of 1980), as passed by the Senate on June 25, 1980, or

(2) where such authorities have elected to purchase such lifts.

This section shall be effective only until modified by subsequent legislation.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on agreeing to each conference report on which further proceedings were postponed in the order in which that conference report was considered.

Votes will be taken in the following order:

The conference report on S. 1177 de novo, and the conference report on S. 2595.

The Chair will reduce to 5 minutes the time for the electronic vote after the first such vote.

MENTAL HEALTH SYSTEMS ACT

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the conference report on the Senate bill, S. 1177.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 25, not voting 27, as follows:

[Roll No. 603]

YEAS—380

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shelby
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Synder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley

Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—25

Badham
Cheney
Cleveland
Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Fenwick
Hansen
Ichord
Jeffries
Kelly
Leath, Tex.
Lewis
Lungren
McDonald
Miller, Ohio
Paul
Rousselot
Sensenbrenner
Shumway
Shuster
Stenholm
Stump
Symms

NOT VOTING—27

Alexander
Anderson, Ill.
Breaux
Chisholm
Clausen
Conable
Dixon
Dodd
Fuqua
Grassley
Hagedorn
Heckler
Holtzman
Jenrette
Leach, La.
Lujan
Michel
Moffett
Myers, Pa.
Roberts
Shannon
Simon
Steed
Stockman
Vander Jagt
Volkmer
Wilson, C. H.

□ 1740

The Clerk announced the following pairs:

Mr. Breaux with Mr. Hagedorn.
Mr. Dodd with Mr. Lujan.
Mr. Fuqua with Mr. Conable.
Mr. Jenrette with Mr. Michel.
Mr. Roberts with Mrs. Heckler.
Mr. Steed with Mr. Grassley.
Ms. Holtzman with Mr. Stockman.
Mrs. Chisholm with Mr. Vander Jagt.
Mr. Alexander with Mr. Volkmer.
Mr. Moffett with Mr. Shannon.
Mr. Simon with Mr. Charles H. Wilson of California.
Mr. Dixon with Mr. Leach of Louisiana.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 1177

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 128) directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1177.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 128

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 101(c)(3) of the bill (A) strike out "Paragraph (1) does" and insert in lieu thereof "Paragraphs (1) and (2) do", and (B) strike out "migrant center which" and insert in lieu thereof "migrant center and which".

(2) In section 107(a)(8) of the bill strike out "patients rights" and insert in lieu thereof "patients' rights".

(3) Strike out the period at the end of section 201(b) of the bill and insert in lieu thereof a comma and the following: "except that if at the end of such period a center has not obligated all the funds received by it under a grant, the center may use the unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center is eligible to receive a grant under subsection (a) for such succeeding year."

(4) In section 201(c)(2)(B) of the bill strike out "or entity".

(5) In section 201 (c)(2)(ii) of the bill strike out "eligible to receive services from such a center".

(6) In section 201(c) of the bill, redesignate paragraph (2) as paragraph (3) and insert after paragarph (1) the following new paragraph:

"(2) The amount of a grant prescribed by paragraph (1) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in the year for which the grant is to be made."

(7) Amend paragraph (3) of section 201 (d) of the bill to read as follows:

"(3) Of the total amount appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary may not obligate more than 5 percent for grants under subsection (a) to community mental health centers which are operated by hospitals and which have advisory committees as prescribed by section 101(c)(2).".

(8) In section 202(b)(2) of the bill strike out "Social Security Act," and insert in lieu thereof "Social Security Act and under".

(9) In section 202(c)(2)(ii) of the bill strike out "eligible to receive services from such an entity".

(10) In section 203(b) of the bill strike out "Social Security Act," and insert in lieu thereof "Social Security Act and under".

(11) In section 203(c)(3)(ii) of the bill strike out "eligible to receive services from such a entity".

(12) In section 204(a)(2) of the bill (A) strike out the comma after "provision of" in subparagraph (A), and (B) strike out "Social Security Act," in subparagraph (B) and insert in lieu thereof "Social Security Act and under".

(13) In section 204(a)(3)(C)(II) of the bill strike out "eligible to receive services from such an entity".

(14) In section 204(b)(3)(D)(II) of the bill strike out "eligible to receive services from such an entity".

(15) In section 206(c)(3)(B) of the bill strike out "or entity" and insert in lieu thereof "or other entity".

(16) In section 206(c)(3)(ii) of the bill strike out "eligible to receive services from such a center or entity".

(17) In section 207(b)(2) of the bill strike out "any grant" and insert in lieu thereof "anv grant or contract".

(18) Insert after section 208 of the bill the following:

"TITLE III—GENERAL PROVISIONS RESPECTING GRANT PROGRAMS".

(19) In section 301 of the bill strike out "receive a grant" and insert in lieu thereof "receive a grant or contract".

(20) In section 302(2)(K) of the bill strike out "Social Security Act," and insert in lieu thereof "Social Security Act and under".

(21) In section 326 of the bill insert a comma after "short-term training".

(22) Strike out section 329 of the bill.

(23) In section 401(b) of the bill, strike out "1981" and insert in lieu thereof "1980".

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. CARTER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I would ask the chairman of the subcommittee, the gentleman from California (Mr. WAXMAN) if he would explain the effect of the Senate concurrent resolution for the benefit of the Members.

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield, Senate Concurrent Resolution 128 makes technical, grammatical, and typographical corrections in the conference report. There are no substantive changes.

Mr. CARTER. Mr. Speaker, with that understanding, I withdraw my reservation of objection and I urge adoption of the Senate concurrent resolution to accompany S. 1177.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5(b)(3) of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional conference report.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1981

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the Senate bill, S. 2597.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEISS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 18, not voting 29, as follows:

[Roll No. 604]

YEAS—385

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell

Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy ,Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—18

Burton, John
Burton, Phillip
Cavanaugh
Conyers
Dellums
Johnson, Colo.
Kastenmeier
Leland
Maguire
Miller, Calif.
Mitchell, Md.
Nolan
Paul
Richmond
Seiberling
Stark
Weaver
Weiss

NOT VOTING—29

Alexander
Anderson, Ill.
Breaux
Chisholm
Conable
Dixon
Dodd
Fuqua
Grassley
Hagedorn
Heckler
Holtzman
Jenrette
Kogovsek
Leach, La.
Lujan
Michel
Myers, Pa.
Roberts
Roybal
Shannon
Simon
Spellman
Steed
Stockman
Vander Jagt
Volkmer
Wilson, C. H.
Wydler

□ 1750

The Clerk announced the following pairs:

Mr. Alexander with Mr. Conable.

Mr. Breaux with Mr. Leach of Louisiana.

Mrs. Chisholm with Mr. Michel.

Mr. Dodd with Mr. Wydler.

Mr. Roberts with Mr. Stockman.

Mr. Roybal with Mrs. Heckler.

Mr. Jenrette with Mr. Grassley.

Ms. Holtzman with Mr. Hagedorn.

Mr. Simon with Mr. Myers of Pennsylvania.

Mr. Fuqua with Mr. Lujan.

Mr. Dixon with Mr. Volkmer.

Mr. Charles H. Wilson of California with Mr. Steed.

Mr. Shannon with Mr. Vander Jagt.

Mr. CAVANAUGH changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KOGOVSEK. Mr. Speaker, I was unavoidably off the House floor during the 5-minute vote (rollcall No. 604) on the adoption of the conference report to accompany S. 2597 intelligence authorization. Had I been able to reach the floor I would have voted "yes."

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5612) entitled "An act to amend section 8(a) of the Small Business Act."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6790) entitled "An act to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes."

The message also announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7301) entitled "An act to authorize certain construction at military installations for fiscal year 1981, and for other purposes."

The message also announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1482) entitled "An act to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information."

The message also announced that the Senate agrees to the amendments of the House to a bill and joint resolution of the Senate of the following titles:

S. 1798. An act to reduce regulation of and increase competition in the household goods moving industry, and for other purposes; and

S.J. Res. 82. Joint resolution to designate the week commencing with the third Monday in February of each year as "National Patriotism Week."

The message also announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 7085. An act to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes;

H.R. 7588. An act to redesignate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Federal Building";

H.R. 8161. An act to designate the U.S. Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Federal Building"; and

H. Con. Res. 441. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 6331.

The message also announced that the Senate agree to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1873. An act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

The message also announced that the Senate agree to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 2320. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6777. An act to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 6777) entitled "An act to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes," request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoint Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. STEVENSON, Mr. GARN, Mr. HEINZ, and Mr. ARMSTRONG to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendment of the House of Representatives to the bill (S. 1615) entitled "An act for the relief of James R. Thornwell," request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoint Mr. KENNEDY, Mr. HEFLIN, Mr. METZENBAUM, Mr. COCHRAN, and Mr. SIMPSON to be the conferees on the part of the Senate.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the exact dimensions of the chaos that we seem to be in at this particular time.

Mr. WRIGHT. Mr. Speaker, if the distinguished minority leader will yield, I will do my best to describe the minor confusion by which we hope to transform this chaotic condition.

There are several unanimous-consent requests that will be entertained, some of them to be made by the gentleman from California (Mr. PHILLIP BURTON). Then we hope to take up conference reports as follows:

The rule on the rail deregulation conference report, followed by the conference report on rail deregulation itself.

Then we would expect to take up the conference report on the military construction appropriation. Then we would hope to take up the housing conference report.

After those conference reports have come before us, we would begin debate on those bills listed for consideration under suspension of the rules. It is not the intention of the leadership to hold votes on any of those tonight but, rather, to postpone votes until tomorrow. But we would continue debate while Members attend various dinners and fulfill commitments to which they are obliged.

Thereafter we would return and consider the conference report on the continuing resolution, which has to be done tonight, this being the 30th of September and the concluding day of fiscal 1980.

So the Members would be well advised to come and expect to stay rather late. I think, at the most optimistic forecast, we could not expect to have that conference report ready for our consideration before about 10 or 10:30. Quite possibly it will be later than that. We hope that we will be able to conclude it with some reasonable dispatch, proceeding with deliberate speed.

There will be, to the extent that we are able to provide it, notice through our telephone system. But Members should expect that after these conference reports that I enumerated have been voted on and we begin debate on the numerous bills that are available for our consideration under suspension, they may leave if they are not involved in that debate, expecting to return tonight to conclude action on the continuing resolution.

Mr. RHODES. Mr. Speaker, the majority leader, I am sure, would agree with me that there would be chances for quorum calls and also for procedural votes during the time the bills on suspension are being considered?

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Mr. WRIGHT. As the distinguished minority leader is so well aware, there is no way to protect completely nor to insulate the Members against that possibility.

Let me simply remind Members, however, that tonight we must pass the continuing resolution and we must stay until the other body also has acted on the conference report and it has become law.

Mr. CONTE. Mr. Speaker, will the gentleman from Arizona yield?

Mr. RHODES. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I would just like to inform my colleagues that we have been working on that conference report on the continuing resolution since 9:30 this morning, and we are going back at 6 p.m. We have completed everything except that last item, which is the abortion issue. We plead—and I speak for all of the Members—unless it is absolutely necessary, not to call a rollcall, because we are way over on the Senate side and we have to come over for rollcalls. And it is just going to delay it longer and longer and longer before we can resolve that very difficult issue.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I would like to ask the distinguished gentleman from Texas whether the fact that we have three conference reports coming up, a rule and then some conference reports coming right up, we should expect rollcalls perhaps on those conference reports before we go to the suspensions, so it could be another couple of hours here with votes before we actually start the general debate on the suspensions; is that correct?

Mr. WRIGHT. If the gentleman from Arizona will yield further, that is an entirely probable scenario.

Mr. GLICKMAN. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, looking ahead with some optimism, could the majority leader tell us, if we do pass the continuing resolution tonight before the bewitching hour at which the Government expires, would we then not have a program tomorrow and Thursday? I understand the other body has already dwindled to a questionable quorum. Is there some, perhaps, speeded-up adjournment time?

Mr. WRIGHT. We would plan to give the Members some rest and not bring them in until noon tomorrow. Then we expect to be in session on Thursday.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS TO CITY OF AMERICAN FALLS IN IDAHO

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1910) to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas in land to the United States:

(a) The area identified as the Campbell Stebbins Park, containing approximately 41.5 acres, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, containing approximately 8.8 acres, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls; containing approximately 3.3 acres,

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the northwest corner of the southwest quarter of section 21, township 7 south, range 31 east, Boise meridian;

thence south 45 degrees 16 minutes east, a distance of 1,870.3 feet, more or less, to the southeast corner of said southwest quarter;

thence north 58 degrees 28 minutes west, a distance of 96.3 feet;

thence north 68 degrees 17 minutes west, a distance of 1,339.2 feet, more or less, to a point on the west section line of said section 21, said point being 548.2 feet north of the southwest corner of said section;

thence north along the west section line a distance of 770.5 feet, more or less, to the northwest corner of the southwest quarter of said section 21, the point of beginning.

(a) A tract of land containing 8.79 acres more or less in the south half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of said section 28;

thence north 44 degrees and 38 minutes

east, 1,868.6 feet to the 16/17 corner of said section;

thence east along the north boundary of the southeast quarter southwest quarter of said section 28, 367.2 feet to a point;

thence south 324.9 feet to a point;

thence north 89 degrees and 59 minutes west, 92.8 feet to a point;

thence south 49 degrees and 23 minutes west, 361.9 feet to a point;

thence south 78 degrees and 34 minutes west, 708 feet to a point;

thence south 26 degrees and 55 minutes west, 333.7 feet to a point;

thence south 61 degrees and 51 minutes west, 271.6 feet to a point;

thence south 43 degrees and 29 minutes west, 280.3 feet to a point on the south boundary of said section 28;

thence south 89 degrees and 59 minutes west along the south boundary of said section 28, 34.9 feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the west half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of section 28;

thence north 44 degrees 38 minutes east, a distance of 1,886.6 feet to the northeast corner of the southwest quarter southwest quarter, of section 28;

thence north a distance of 1,320 feet to the northeast corner of the northwest quarter southwest quarter of section 28;

thence west, a distance of 30 feet to a point on the east edge of Hillcrest Avenue;

thence southwesterly along a curve on the side of Hillcrest Avenue a distance of 2,955 feet to a point on line between sections 28 and 29;

thence south 65.0 feet to the southwest corner of section 28, the place of beginning. Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Phillip Burton: Page 5, following line 13, insert as follows:

TITLE II—ROGERS C. B. MORTON RECOGNITION

Sec. 201. The Secretary is authorized to commemorate, at Assateague Island National Seashore, Maryland, the contributions of Rogers C. B. Morton, as a Member of Congress, and later as Secretary of the Interior, toward the development of the Seashore and to conservation in general. Such commemoration shall be in the form of an appropriate plaque or monument, suitably located, or may subsequently take the form of dedication of a suitable structure. Within one year of the effective date of this section, the Secretary shall inform, in writing, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, as to actions he has taken to implement the provisions of this section.

TITLE III—CRATER LAKE NATIONAL PARK

Sec. 301. First section of the Act entitled, "An Act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth," approved May 22, 1902 (32 Stat. 202), is amended to read as follows:

"That in order to preserve for the benefit, education, and inspiration of the people of the United States certain unique and ancient volcanic features, including Crater Lake, together with significant forest and fish and wildlife resources, there is hereby established the Crater Lake National Park in the State of Oregon. The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, "Crater Lake National Park, Oregon," numbered 106–80,001, and dated February, 1980, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Lands, waters, and interests therein within the boundary of the park which were within the boundary of any national forest are excluded from such national forest and the boundary of such national forest is revised accordingly."

Sec. 302. An Act entitled "An Act to add certain land to the Crater Lake National Park in the State of Oregon, and for other purposes", approved May 14, 1932 (47 Stat. 155), is repealed.

TITLE IV—LYNDON B. JOHNSON NATIONAL HISTORICAL PARK

Sec. 401. The Act entitled "An Act to establish the Lyndon B. Johnson National Historic Site," approved December 2, 1969 (83 Stat. 274) is amended—

(1) in the first section, by changing "by donation or by purchase with donated funds" to "by donation or by purchase with donated or appropriated funds" and by changing "drawing entitled 'Lyndon B. Johnson National Historic Site Boundary Map,' numbered NHS-LBJ-20,000 and dated September 1969" to "drawings entitled 'Boundary Map, Lyndon B. Johnson National Historical Park,' numbered 447-40,008B and 447-40,000A, and dated January 1980";

(2) in section 3, by changing "not more than $680,000 to provide for the development of" to "such sums as may be necessary to carry out the provisions of this Act, but not more than $4,100,000 for the development and not more than $1,400,000 for the acquisition of lands and interests therein for"; and

(3) by changing "National Historic Site" wherever it appears to "National Historical Park".

TITLE V—CHACO CULTURE NATIONAL HISTORICAL PARK

FINDINGS AND STATEMENT OF PURPOSE

Sec. 501. (a) The Congress finds that—

(1) archeological research in the San Juan Basin conducted over the past several years has greatly increased public knowledge of the scope of the prehistoric culture referred to as Chacoan Anasazi;

(2) the discoveries and the increased general interest in the Chaco phenomenon have come at a time when the San Juan Basin is experiencing extensive exploration and development for a wide variety of energy-related resources, including coal, uranium, oil, and natural gas;

(3) development of the San Juan Basin's important natural resources and the valid existing rights of private property owners will not be adversely affected by the preservation of the archeological integrity of the area;

(4) in light of the national significance of the Chacoan sites and the urgent need to protect them, continued cooperation between Federal agencies and private corporations is necessary to provide for development in the San Juan Basin in a manner compatible with preservation and archeological research.

(b) It is the purpose of this Title to recognize the unique archeological resources associated with the prehistoric Chacoan culture in the San Juan Basin, to provide for the preservation and interpretation of these resources, and to facilitate research activities associated with these resources.

Sec. 502. (a) There is hereby established in the State of New Mexico, the Chaco Culture National Historical Park comprising approximately thirty three thousand nine hundred and eighty-nine acres as generally depicted on the map entitled "Chaco Culture National Historical Park", numbered 310/80, 032-A and dated August 1980, are hereby designated as "Chaco Culture Archeological Protection Sites". The thirty-three Archeological Protection Sites totaling approximately eight thousand seven hundred and seventy-one acres are idenitfied as follows:

Name	Acres
Allentown	42
Andrews Ranch	640
Bee Burrow	40
Bisa'ani	131
Casa del Rio	40
Coolidge	15
Dalton Pass	10
Great Bend	19
Greenlee Ruin	60
Grey Hill Spring	23
Halfway House	40
Haystack	115
Hogback	371
Indian Creek	100
Jacques	40
Kin Nizhoni	726
Lake Valley	30
Las Ventanas	31
Morris 41	85
Muddy Water	1,210
Newcomb	44
Peach Springs	985
Pierre's Site	440
Raton Well	23
San Mateo	14
Sanostee	1,565
Section 8	40
Skunk Springs/Crumbled House	588
Standing Rock	321
Twin Angels	40
Toh-la-kai	10
Upper Kin Klizhin	60
Squaw Springs	870

Sec. 503. The Secretary of the Interior shall continue to search for additional evidences of Chacoan sites and submit to Congress within two years of date of enactment of this Act and thereafter as needed, his recommendations for additions to, or deletions from, the list of archeological protection sites in section 502(b) of this title. Additions to or deletions from such list shall be made only by an Act of Congress.

Sec. 504. (a) The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Chaco Culture National Historical Park (hereinafter referred to in this title as the "park") and acheological protection sites as identified in section 502 of this title by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of New Mexico or any political subdivision thereof, may be acquired by exchange or donation only. Property held in trust for the benefit of any Indian tribe or for the benefit of any individual member thereof may be acquired only with the consent of such owner or beneficial owner as the case may be.

(b) The respective tribal authorities are authorized to convey to the Secretary by exchange, purchase, or donation the beneficial interest in any lands designated by section 502 of this title, and held in trust by the United States for the respective tribes, subject to such terms and conditions as the tribal authority deems necessary and which the Secretary deems are consistent with the purposes of this title.

(c) (1) The Secretary shall attempt to acquire private lands or interests therein by exchange prior to acquiring lands by any other method authorized pursuant to this section.

(2) The Secretary shall attempt to enter into cooperative agreements pursuant to section 505 of this title with owners of private property for those archeological protection sites described in section 502(b) of this title. The Secretary shall acquire fee title to any such private property only if it is necessary to prevent direct and material damage to, or destruction of, Chaco cultural resources and no cooperative agreement with the owner of the private property interest can be effected.

(d) (1) For purposes of completing an exchange pursuant to subsection (a) and (b), the Secretary shall designate a pool of at least three times the private acreage described in subsections (a) and (b), comprised of Federal property interests of a similar resource character to property to be exchanged. Federal property shall, whenever possible, be designated in blocks of at least one section in size, but in no event shall the blocks designated be less than one quarter of a section in size.

(2) The Secretary may include within the pool any Federal property under his jurisdiction, (except units of the National Park System, National Forest System, or the National Wildlife Refuge System) that are nominated by the owner of the private property to be exchanged. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal values.

(e) All Federal lands, waters, and interests therein excluded from the boundaries of Chaco Culture National Historical Park by this Title may be exchanged for non-Federal property to be acquired pursuant to this Title. Any lands so excluded shall be managed by the Secretary under the provisions of the Federal Land Policy and Management Act of 1976. Transfer of administration of such lands to the Bureau of Land Management shall not be considered a withdrawal as that term is defined in Sec. 103(j) of the Federal Land Policy and Management Act of 1976.

SEC. 505. The Secretary shall seek to enter into cooperative agreements with the owners, including the beneficial owners, of the properties located in whole or in part within the park or the archeological protection sites. The purposes of such agreements shall be to protect, preserve, maintain, and administer the archeological resources and associated site regardless of whether title to the property or site is vested in the United States. Any such agreement shall contain provisions to assure that (1) the Secretary, or his representative, shall have a right of access at all reasonable times to appropriate portions of the property for the purpose of cultural resource protection and conducting research; and (2) no changes or alterations shall be permitted with respect to the cultural resources without the written consent of the Secretary. Nothing in this Title shall be deemed to prevent the continuation of traditional Native American religous uses of properties which are the subject of cooperative agreements.

SEC. 506. (a) The Secretary shall administer the park in accordance with the provisions of this Title and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

(b) The Secretary shall protect, preserve, maintain, and administer the Chaco Culture Archeological Protection Sites, in a manner that will preserve the Chaco cultural resource and provide for its interpretation and research. Such sites shall be managed by the Secretary in accordance with the provisions of this Title and the provisions of law generally applicable to public lands as defined in Sec. 103(e) of the Federal land Policy and Management Act of 1976: *Provided, however*, That lands held in trust by the Secretary for an Indian tribe or any individual member thereof, or held in restricted fee status shall continue to be so managed or held by the Secretary.

(c) No activities shall be permitted upon the upper surface of the archeological protection sites which shall endanger their cultural values. For the purposes of this Title, upper surface shall be considered to extend to a depth of twenty meters below ground level. Nothing in this Act shall be deemed to prevent exploration and development of subsurface oil and gas, mineral, and coal resources from archeological protection of the sites which does not infringe upon the upper surface of the sites.

(d) Nothing in this Title shall be deemed to prevent the continuation of livestock grazing on properties which are the subject of cooperative agreements.

(e) Within three complete fiscal years from the date of enactment of this Act, the Secretary shall transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the identification, research, and protection of the park, pursuant to the provision of Subsection (12)(b) of the Act of August 18, 1970, to be developed by the Director, National Park Service, in consultation with the Directors, Bureau of Land Management and Bureau of Indian Affairs and the Governor of the State of New Mexico, and a joint management plan, for the identification, research, and protection of the archeological protection sites, to be developed by the Director, National Park Service, in consultation and concurrence with the Directors, Bureau of Land Management and Bureau of Indian Affairs, and the Governor, State of New Mexico.

SEC. 507. (a) Consistent with and in furtherance of the purposes of the Division of Cultural Research of the Southwest Cultural Resources Center, operated by the National Park Service, the Secretary shall continue such research and data gathering activities as may be appropriate to further the purposes of this Title and knowledge of the Chaco culture. The Secretary shall submit in writing within six months of the effective date of this section to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for the continued operational program of said Division. The Secretary is authorized and encouraged to establish a committee composed of professional archeologists and others with related professional expertise including the designee of the Governor of the State of New Mexico to advise the Secretary in matters related to the surveying, excavation, curation, interpretation, protection, and management of the cultural resources of the historical park and archeological protection sites.

(b) The Secretary shall, through the Division of Cultural Research of the Southwest Cultural Resources Center of the National Park Service, be responsible for the development of a computer-generated data base of the San Juan Basin, and make such information available to Federal and privte groups when to do so will assist such groups in the preservation, management, and development of the resources of the basin.

(c) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or Federally assisted undertaking with respect to the lands and waters in the archeological protection sites, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall prior to the approval of the expenditure of any Federal funds on such undertaking, or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment in writing with regard to such undertaking and its effect upon such sites, and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which such sites are established.

SEC. 508. Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Title, but not to exceed $11,000,000 for acquisition and $500,000 for development.

TITLE VI—INDIANA DUNES NATIONAL LAKESHORE

SEC. 601. The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

(1) A new section is added at the end thereof to read as follows:

"SEC. 20. (a) The Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment, and edification of present and future generations.

"(b) To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the west unit of the lakeshore as the 'Paul H. Douglas Ecological and Recreational Unit' and shall, subject to appropriations being granted, design and construct a suitable structure or designate an existing structure within the lakeshore to be known as the 'Paul H. Douglas Center for Environmental Education' which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of the lakeshore and its association with the natural history of the Great Lakes region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

"(c) To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate.".

(2) Section 1 of the Act is amended by changing "September 1976 and bearing the number '626–91007'" to "September 1980, and bearing the number 626–91013.

(3) Section 2(a) of the Act is amended by adding the following new sentence at the end theorf: "The Secretary is expressly authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests therein which are owned for school or educational purposes by a State or a political subdivision thereof.".

(4) Section 2(b) of the Act is amended by changing the phrase "section 10" to "section 9".

(5) In the first sentence of section 4 of the Act, preceding the word "February" insert: "October 1, 1980, or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626–91007', before".

(6) The first sentence of section 5(a) of the Act is amended to read as follows: "Except for owners of improved property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners of record of improved property as of October 1, 1980, who have attained the age of majority as of that date, may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (1) ending on his or her death or the death of his or her spouse, whichever occurs last, or (2) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary.". *Provided*, That notwithstanding the authorities contained elsewhere in this Act, the Secretary may not acquire any improved residential property except with the consent of the owner until October 1, 1990: *Provided further*, That the retention of a retained right under clause numbered (1) shall only be available to those owners who make a bona fide written offer not later than October 1, 1985 to sell to the Secretary.

(7) Section 5 of the Act is amended by adding a new subsection (c) as follows:

"(c) with respect to improved properties acquired prior to the enactment of this subsection and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than nine years upon receipt of payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dune National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subsection.".

(8) Section 7(a) of the Act is amended by changing "ten years after the date of establishment of the national lakeshore pursuant to this Act" to "on September 30, 1985".

(9) Section 7(b) of the Act is amended as follows:

(a) by striking out "eleven members" and inserting in lieu thereof "thirteen members";

(b) by striking out "one member who is a year-round resident" in clause (4) and inserting in lieu thereof "two members who are year-round residents"; and

(c) by striking out "one member who is a year-round resident" in clause (7) and inserting in lieu thereof "two members who are year-round residents".

(10) Section 9 of the Act is amended as follows:

(a) in the first sentence, change "$9,440,000 for development" to "$11,000,000 for development: *Provided*, That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 20 of this Act."; and

(b) at the end thereof, add a new paragraph as follows:

"In addition to any sums heretofore authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act, there are further authorized to be appropriated an additional $34,700,000.".

(11) A new section 21 is added to the Act as follows:

"Sec. 21. (a) The Secretary in consultation with the Secretary of Transportation, shall conduct a study or various modes of public access into and within the lakeshore which are consistent with the preservation of the lakeshore and conservation of energy by encouraging the use of transportation modes other than personal motor vehicles.

"(b) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Corporation Act of 1968 as implemented by Office of Management and Budget Circular A–95, and which have comprehnsive planning responsibilities in the regions where the lakeshore is located, as well as any other agencies or organizations which the Secretary may designate. The Secretary shall make provision for timely and substantive consultations with the appropriate agencies of the States of Indiana and Illinois, local elected officials, and the general public in the formulation and implemntation of the study.

"(c) The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence on automobile transportation. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore.

"(d) The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

"(e) The study shall examine proposals for the renovation and preservation of a portion of the existing South Shore Railroad passenger car fleet. The study shall consider the historic value of the existing rolling stock and its role in transporting visitors into and within the lakeshore.

"(f) The study shall present alternative plans to improve, construct, and extend access roads, public transportation, and bicycle and pedestrian trails. It shall include cost estimates of all plans considered in this study, and shall discuss existing and proposed sources of funding for the implementation of the recommended plan alternatives.

"(g) The study shall be completed and presented to the Congress within two complete fiscal years from the effective date of this provision.

"(h) Effective October 1, 1981, there is hereby authorized to be appropriated not to exceed $200,000 for this study.".

(12) A new section 22 is added to the Act as follows:

"Sec. 22. In exercising his authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property, if such individual notifies the Secretary in writing that the continued ownership of such property is causing, or would result in, undue hardship.".

(13) A new section 23 is added to the Act as follows:

"Sec. 23. (a) The Secretary may acquire only such interest in that portion of area VII–A which is described in subsection (b) as the Secretary determines is necessary to assure public access over said portion of area VII–A.

"(b) The portion of area VII–A, as designated on the map referred to in section 1, to which subsection (a) applies is a parcel of land bounded—

"(1) on the east by a line three hundred feet east of the electrical transmission line crossing area VII–A on January 1, 1979;

"(2) on the west by a line fifty feet west of such electrical transmission line; and

"(3) on the north and south by the northern and southern boundaries, respectively, of area VII–A.

"(c) Area VII–A includes the bed of the railroad tracks forming the northern and northwestern boundaries of this area and extends to the northern edge of the bed of the railroad tracks forming the southern boundaries of this area.

"(d) Area 1–D includes the bed of the railroad tracks along the northern boundary of this area.

"(e) The area designated as area VII–C on the map referred to in section 1 does not include approximately 1.3 acres of land on which the Linde Air Products plan is situated, nor does it include approximately 1 acre of land on which the Old Union Station building and the adjacent REA building are situated. Except as provided in the foregoing sentence, Area VII–C extends to, but does not include, the beds of the railroad tracks forming the northern and southern boundaries of this area."

TITLE VII—KEITH SEBELIUS LAKE

Sec. 701. The water impounded by the Norton Dam, a component of the Almena Unit of the Pick-Sloan Missouri River Basin project, in the State of Kansas, constructed under the general authority of the Act of July 24, 1946 (60 Stat. 641 et seq.) is hereby designated and hereafter shall be known as the "Keith Sebelius Lake". Any law, regulation, record, map, or other document of the United States referring to the waters impounded by the Norton Dam unit of this project shall be held to refer to the "Keith Sebelius Lake", and any future regulations, records, maps, or other documents of the United States, in reference to these waters, shall bear the name "Keith Sebelius Lake".

TITLE VIII—GOLDEN GATE NATIONAL RECREATION AREA

Sec. 807. The Act of October 27, 1972 (86 Stat. 1299; 16 U.S.C. 460bb) is amended as follows:

(1) in subsection 2(a), at the end thereof, add the following: "The recreation area shall also include the lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.";

(2) strike out "map" in section 2(b) and substitute "maps";

(3) by adding "Point Montara," after "Point Diablo," in section 3(g);

(4) add the following at the end of section 3(h): "That property known as the Pillar Point Military Reservation, under the jurisdiction of the Secretary of Defense, shall be transferred to the administrative jurisdiction of the Secretary at such time as the property, or any portion thereof, becomes excess to the needs of the Department of Defense.";

(5) add at the end of section 3 the following:

"(p) With reference to those lands known as the San Francisco water department property shown on map numbered NRA GG–80,000–A, the Secretary shall administer such land in accordance with the provisions of the documents entitled 'Grant of Scenic Easement', and 'Grant of Scenic and Recreation Easement', both executed on January 15, 1969, between the city and county of San Francisco and the United States, including such amendments to the subject document as may be agreed to by the affected parties subsequent to the date of enactment of this subsection. The Secretary is authorized to seek appropriate agreements needed to establish a trail within this property and connecting with a suitable beach unit under the jurisdiction of the Secretary.";

(6) in subsection 5(b), change "seventeen" to "eighteen"; and

(7) insert a comma and the phrase "San Mateo," after "Marin" in section 5(e).

TITLE IX—ORANGE COAST NATIONAL URBAN PARK

SEC. 901. In order to provide for public outdoor recreation use and enjoyment of the Irvine Coast-Laguna area of California, and to protect the area's unique ecology and topography, its watershed, vegetation, and other natural and cultural resources, there is hereby established the Orange Coast National Urban Park (hereinafter in this Title referred to as the "park").

(b) The park shall consist of the lands and interests in lands within the boundary generally depicted on the map entitled "Boundary Map, Irvine Coast National Urban Park," numbered 20,064B, and dated May 1980, and the accompanying inset map, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and an additional area of approximately 25 acres shown on said map as the two most northerly exclusions from "Area C" adjacent to Laguna Canyon Road.

SEC. 902. Except as otherwise provided in this Title, it is the intention of the Congress that all the property within the park be acquired by December 31, 1985, and accordingly, any lands, or interests therein not acquired by that date shall no longer be deemed included in the park. Any land or interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation or exchange. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized, with respect to the property acquired pursuant to this Title, (1) to convey the property to the State of California or any political subdivision thereof, subject to such terms, conditions, and reversionary provisions as will assure preservation of the property for public park or open-space purposes, and (2) to enter into an agreement with the State or a political subdivision thereof pursuant to which the State or such political subdivision shall administer, protect, and manage the property for public park or open-space purposes.

The Secretary shall not acquire any lands or interests therein for the purposes of this Title until he has received written commitments satisfactory to him from the State of California or a political subdivision thereof, which commitments shall provide for either a conveyance or agreement as described in this section, and which will specify that all property to be acquired by the Secretary will be managed and developed at no direct Federal expense.

SEC. 903. Except as otherwise provided in this Title, the Secretary is authorized to acquire lands and interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange, or otherwise, which authority is expressly conditioned upon the following events occurring within the time periods indicated:

(a) On or before June 30, 1981, the California Coastal Commission shall have approved and certified, and the county of Orange shall have accepted, a local coastal program (as defined in the California Coastal Act of 1976), for the entire area identified as the "Irvine Coastal Area" on the map referred to in section 902 of this Title, which local coastal program shall provide, among other things, for a watershed management program for the area identified on such map as "Los Trancos Canyon".

(b) On or before June 30, 1981, the county of Orange and the owner of record of the area identified as "Area C" on such map shall have entered into an agreement, and the California Coastal Commission shall have approved such agreement, containing among other things an irrevocable offer to donate the entirety of Area C to the Secretary, the State of California or to a political subdivision thereof, which donation may be in phases and conditioned upon performance by the county of Orange of its obligations under such agreement: *Provided, however*, That the Secretary may, at his sole discretion, waive the foregoing condition.

(c) On or before December 31, 1980, the owner of record of the area identified on such map as "Moro Ridge" shall have conveyed said area to the State of California or to a political subdivision thereof: *Provided, however*, That the Secretary may, at his sole discretion, waive the foregoing condition.

(d) On or before December 31, 1981, the State of California shall have exercised its right to acquire the area identified as "State Expansion Area" on such map: *Provided, however*, That the Secretary may, at his sole discretion, waive the foregoing condition.

(e) The Secretary shall use all due diligence to acquire from the owner of record of the areas identified on such map as "Muddy Canyon", "Laurel Canyon", and the "Frontal Slopes of Wishbone Hill" a right to acquire said lands by purchase under the threat of condemnation, in a form acceptable to the Secretary. This right shall remain in effect until December 31, 1985. In the event said right is exercised on or before October 1, 1982, the total purchase price shall be $32,000,000, or the fair market value, whichever is less. In the event said right is exercised after October 1, 1982, said total purchase price shall be increased monthly in pro rata increments at the simple rate of 10 per centum per annum. Such right to acquire shall be in favor of the United States of America or such other public entity as the Secretary may designate and shall be assignable at any time by the Secretary, for consideration he deems in his discretion to be adequate, to the State of California or any political subdivision thereof or such other nonprofit, tax-exempt organization as the Secretary shall, in his discretion, deem appropriate: *Provided, however*, That any such assignment shall only be for park and/or open-space purposes.

In the event the total purchase price, as adjusted in accordance with the preceding formula, exceeds the total sum of $37,000,000, the Secretary, in his sole discretion, may either—

(1) delete from the areas to be purchased under the option the entire area shown on such map as the "Frontal Slopes of Wishbone Hill", in which case the total purchase price shall be recomputed on the basis of an original purchase price of $16,000,000 or the fair market value, whichever is less, instead of $32,000,000, subject to the adjustment provided above; and/or

(2) assign all his rights, which shall be severable for this purpose only, to the State of California, or to a political subdivision thereof, to purchase the "Frontal Slopes of Wishbone Hill" for a total purchase price recomputed on the basis of an original purchase price of $16,000,000, or the fair market value, whichever is less, subject to the adjustment provided above.

SEC. 904. (a) In carrying out his authorities under this Title the Secretary shall expeditiously take such actions as may be necessary to convey and transfer for purposes of the proposed San Joaquin Hills transportation corridor (as designated on the general plan of the county of Orange, California), and the proposed Sand Canyon Road as agreed upon by the county of Orange and the California Coastal Commission, such rights-of-way through the park as may be necessary for the establishment of such corridor and/or road. Such actions may also include the establishment by the Secretary of such conditions for the protection and utilization of the park as will facilitate the construction of such corridor and such road, the issuance of any certification required under the Act of August 27, 1958 (23 U.S.C. 317), for the transfer of lands within the park to the State highway department, or its nominee, and any combination of the foregoing actions and other action which the Secretary is required to take as a condition to the construction of such portions of the proposed corridor, and road.

(b) In exercising his authorities under regulations and applicable provisions of law (including, but not limited to, section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f); and section 15(a) of the Act of September 13, 1966 (23 U.S.C. 138); and section 2(a)(1) of the Act of September 8, 1966 (49 U.S.C. 1610)), the Secretary of Transportation shall expeditiously take the actions required under such regulations and applicable provisions of law in such manner as will facilitate, to the maximum extent practicable, the construction of so much of the transportation corridor and road referred to in subsection (a) of this section as is within the boundaries of the park or as otherwise affects the park.

SEC. 905. There are hereby authorized to be appropriated $38,000,000 and such additional sums as may be required to fulfill the provisions of section 3(e) for acquisition of lands and interests therein pursuant to this Title.

TITLE X—MONOCACY NATIONAL BATTLEFIELD

SEC. 1001. (a) The Act entitled "An Act to establish a National Military Park at the battlefield of Monocacy, Maryland" approved June 21, 1934 (48 Stat. 1198) is amended by revising the first section thereof to read as follows: "That in order to commemorate the Battle of Monocacy, Maryland, and to preserve for historical purposes the breastworks, earthworks, walls, or other defenses or shelters used by the armies therein, the battlefield at Monocacy in the State of Maryland is hereby established as the Monocacy National Battlefield. The battlefield shall comprise the area within the boundary generally depicted on the map entitled 'Monocacy National Battlefield,' numbered 894/40,001A, and dated April 1980, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior."

(b) In addition to other funds available for purposes of the park referred to in subsection (a), there is authorized to be appropriated up to an additional $725,000 for acquisition of lands and interests in lands and $1,250,000 for development.

TITLE XI—ROGER WILLIAMS NATIONAL MEMORIAL

SEC. 1104. Section 4 of the Act of October 22, 1965 (79 Stat. 1069) entitled "An Act to provide for the establishment of the Roger Williams National Memorial in the city of Providence, Rhode Island, and for other purposes" is amended to read as follows:

"SEC. 4. There are hereby authorized to be appropriated not more than $146,000 for the acquisition of lands and interests in land and not more than $1,862,000 for the development of the Roger Williams National Memorial, as provided in this Act.".

SEC. 1201. Notwithstanding any other provision of law, and subject to the availability of funds appropriated expressly for this purpose, the Secretary of the Interior shall reimburse the Okefenoke Rural Electric Membership Corporation for a portion of the cost incurred by such corporation in installing transmission lines, transformers, and electric meters on Cumberland Island in the State of Georgia before the date of establishment of the Cumberland Island National Seashore. Such reimbursement shall provide for payment of only the costs of so much of such facilities as the Secretary determines are used for purposes of supplying electric energy to that area which is directly owned and operated by the federal government within the

Cumberland Island National Seashore at the time such payment is made.

TITLE XIII—LIMITATION ON AUTHORIZATIONS

Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.

TITLE XIV—BIG SUR COAST AREA ACT

SEC. 1401. This title may be cited as the "Big Sur Coast Area Act".

FINDINGS AND DECLARATIONS

SEC. 1402. The Congress finds and declares that—

(1) the Big Sur coast is a unique region of national significance as the largest and most scenic stretch of undeveloped coastline in the coterminous United States;

(2) the unique beauty of the Big Sur coast is enhanced by its proximity to the Los Padres National Forest, including the Ventana Wilderness, and by the independent and self-reliant character of the people of the area;

(3) the existing character of the Big Sur coast and the existing rural communities which have contributed to the maintenance of the natural environment should be protected and preserved;

(4) the California State Highway Route Numbered 1 along the Big Sur coast from Malpaso Creek in Monterey County to San Carpoforo Creek (San Carpojo Creek) in San Luis Obispo County provides one of the most beautiful drives in the United States, and shall remain a rural, scenic two-lane highway;

(5) there is growing development, tourist visitation, and associated vehicular traffic, particularly during peak use periods, which is adversely affecting the unique beauty and character of the Big Sur coast;

(6) the local planning efforts being conducted by Monterey and San Luis Obispo Counties, the citizens of the Big Sur coast, and the State of California pursuant to the California Coastal Act of 1976 and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1464), and planning by the United States Forest Service for the Los Padres National Forest provide a unique foundation for coordinating Federal, State, and local planning and management processes;

(7) the local and State coastal planning and regulatory authorities lack sufficient resources to provide for adequate and comprehensive natural resource protection and equitable compensation to landowners, and to effectively manage appropriate public use and enjoyment of the area;

(8) effective protection of the existing character of the Big Sur coast and of the nationally significant natural and scenic resources, and enjoyment of these resources can be accomplished by State and local land-use control efforts coupled with appropriate Federal assistance where necessary to supplement these efforts, including the acquisition of selected lands and interests in lands and the provision of limited Federal management to implement coordinated policies for the Big Sur coast.

PURPOSES

SEC. 1403. The purposes of this title are—

(1) to protect, preserve, and enhance the unique and significant natural resources and scenic qualities of the Big Sur coast, including, but not limited to, sensitive habitats and habitat for rare and endangered species, redwood canyons, beaches, fresh and marine waters, and the view from California State Highway Route Numbered 1, the Old Coast Road, and other significant public vista points;

(2) to protect and perpetuate the rural character and historic agricultural activities of the existing communities along the Big Sur coast and the historic and cultural values of the Big Sur coast in a manner consistent with natural and scenic resource protection;

(3) to provide for and manage public use and enjoyment of the area in a manner consistent with natural resource protection and maintenance of the existing rural landscape;

(4) to protect and support private landowners' conservation efforts consistent with the purposes stated in paragraphs (1), (2), and (3);

(5) to utilize the land-use planning, regulatory powers and implementation authorities of Monterey County, San Luis Obispo County, and the State of California to the fullest extent possible consistent with the other purposes of this title;

(6) to provide Federal assistance in the development and implementation of a comprehensive management plan (hereinafter in this title referred to as the "plan"), and prior to the adoption of such plan, to protect those critical values of significance only when they are in danger of being adversely affected or destroyed; and

(7) to define the Federal role in the implementation and enforcement of the plan and other land-use plans for the Big Sur coast in a manner which maximizes coordination with the State and local units of government and private landowners, utilizes existing levels of jurisdiction and establishes appropriate governmental coordination and authority where necessary to accomplish the purposes of this title, and to provide appropriate financing and enforcement where necessary to preserve and protect the natural and scenic resources of the Big Sur coast.

BIG SUR COAST AREA

SEC. 1404. (a) In order to carry out the purposes of this title, there is hereby established the Big Sur Coast Area (hereinafter in this title referred to as the "area"). All references to the area in this title shall be limited to the area as described in this section.

(b) The boundary of the area shall generally extend from the southern bank of Malpaso Creek in Monterey County in the north to the northern bank of San Carpoforo Creek (San Carpojo Creek) in San Luis Obispo County in the south; its western boundary shall be the line three geographical miles seaward from the coastline of the State; its eastern boundary shall be the same as the inland boundary of the California Coastal Zone as established by the California Coastal Act of 1976 as in effect as of the date of enactment of this Act, except that in San Luis Obispo County the boundary shall be along the county line westerly from the intersection with the California Coastal Commission's boundary to the intersection with the described southern boundary at a point approximately in the center of the northern line of section 1, township 25 south, range 6 east, Mount Diablo meridian; all as depicted on the map entitled "Boundary Map, Big Sur Coast Area", dated May 1, 1980, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, in the field offices of the Forest Service in Monterey and San Luis Obispo Counties, and in the appropriate planning offices of the State and county governments involved.

BIG SUR COAST AREA COUNCIL

SEC. 1405. (a) There is hereby established the Big Sur Coast Area Council (hereinafter in this title referred to as the "Council"), the members of which shall be appointed within ninety days after the date of enactment of this Act. Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall convene the Council. The Council shall, in accordance with subsection (e), develop and recommend the plan, facilitate communication and coordination among the governmental agencies that have jurisdiction within the area and the residents and landowners of the area, and advise the Secretary on the appropriate Federal role in the management and administration of the area. The plan developed by the Council shall be prepared so as to carry out the purposes of this title. The Council shall, notwithstanding any other provision of law, be terminated only by an Act of Congress.

(b) The Council shall consist of the following representatives who shall be appointed by the Secretary from persons nominated as follows:

(1) one representative from the United States Forest Service to be nominated by the Secretary;

(2) one representative from the California Resources Agency to be nominated by the Governor of California;

(3) one representative from the California Coastal Commission to be nominated by the Governor of California;

(4) three representatives to be nominated by the Monterey County Board of Supervisors in such manner as may be determined by such Board of Supervisors—

(A) one who resides in the area from Malpaso Creek to Bixby Creek;

(B) one who resides in the area from Bixby Creek to Anderson Landing; and

(C) one who resides in the area from Anderson Landing to the Monterey and San Luis Obispo County line;

(5) one representative who resides in the area from the Monterey and San Luis Obispo County line to the southern boundary of the area to be nominated by the San Luis Obispo County Board of Supervisors in such manner as may be determined by such Board of Supervisors;

(6) one representative who resides in the area to be nominated by the Secretary; and

(7) one representative at large from the State of California to be nominated by the Secretary.

(c)(1) The terms of the representatives serving on the Council shall be for three years, except that the initial terms for the representatives shall be established by the nominating authority in accordance with the following:

(A) One of the representatives nominated by the Monterey County Board of Supervisors shall serve for a term of two years, and two of such representatives shall serve for terms of three years.

(B) The representative nominated by the San Luis Obispo County Board of Supervisors shall serve for a term of three years;

(C) One representative nominated by the Governor of the State of California shall serve for a term of two years and one shall serve for a term of three years;

(D) Two representatives nominated by the Secretary shall serve for a term of two years and one shall serve for a term of three years.

(2) All reappointments and renominations of representatives on the Council shall be made in the manner set forth in this section, except that any person appointed to fill the unexpired term of any representative on the Council shall be appointed only for the remainder of such term.

(3) If, for any reason, there is a failure to nominate any representative as provided in subsection (b), notwithstanding such failure, the Secretary shall convene the Council and the Council may conduct business.

(4) The representative of the United States Forest Service nominated under subsection

(b)(1) shall serve as Chairman of the Council.

(5) To the maximum extent practicable, all meetings of the Council shall take place within the area.

(6)(A) Members of the Council who are full-time officers or employees of the United States, or of a State or local government, shall receive no additional pay on account of their service on the Council.

(B) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service under section 5703 of title 5, United States Code.

(d) The Secretary shall provide the Council with such staff and technical assistance as the Secretary, after consultation with the Council, considers appropriate to enable the Council to carry out its duties.

(e) The Council shall be responsible for the following:

(1) Developing and recommending to the Secretary the plan.

(2) Reviewing and monitoring the implementation by Federal, State, and local agencies having jurisdiction within the area of all programs set forth in the plan to ensure consistency and compliance with the plan, and making appropriate recommendations for revision and enforcement of the plan.

(3) Reviewing all Federal development projects and plans for consistency with the plan for the purpose of submitting recommendations thereon to the Coastal Commission in accordance with section 1407(d) of this title.

(4) Recommending to the Secretary appropriate agreements with public agencies and private nonprofit organizations to further the purposes of this title, and to implement the plan.

(5) making such other recommendations to the Secretary and State and local units of government as it may deem necessary to carry out the purposes of this title.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 1406. (a) On or before the expiration of the twenty-four month period following the date of the enactment of this Act, the Council shall recommend to the Secretary the plan for the protection and management of the area.

(b) During the development of the plan the Council shall—

(1) consult with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the area;

(2) consult with interested professional, business, conservation, and citizen organizations; and

(3) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to testify with respect to matters to be addressed by the plan.

(c) The plan shall include the following components:

(1) The land-use plan component of the local coastal programs developed by Monterey and San Luis Obispo Counties and certified by the California Coastal Commission pursuant to the California Coastal Act of 1976: *Provided*, That nothing contained in this title shall be construed to authorize the Secretary or the Council to amend any portion of the certified local coastal programs under the California Coastal Act of 1976.

(2) A component including, but not limited to, consideration of available land and water protection and management techniques, including zoning and regulation derived from State and local police powers, development and use standards and permit requirements, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or leaseback, acquisition of public recreation sites and ecologically sensitive areas, and any other method of land and water protection and management which will help meet the goals and carry out the provisions of the plan.

(3) An inventory of lands and waters or interests therein, which should be considered for acquisition by the Secretary or, with Federal assistance, by private nonprofit organizations or public entities, for the following critical purposes: preservation of scenic views from California State Highway Route Numbered 1 and other important vista points; protection of environmentally sensitive habitat areas; public access to the beaches and coastal uplands; protection of the watershed, public health and safety; interpretation of the natural and cultural heritage of the area; development of minimal visitor-serving facilities; and implementation of the local coastal programs.

(4) A coordination component including, but not limited to, provisions for the maximum feasible participation of State and local governments and the public in the implementation of the plan in a manner that will ensure the continued, uniform, and consistent protection of the area in accordance with the purposes of this title.

(5) A community resource protection component including, but not limited to, identification of rural residential enclaves and an assessment of them to consider whether more development is appropriate, consistent with the purpose of this title. Lands in areas determined to be suitable for development shall not be designated for purchase by the Secretary. The Secretary may enter into agreements with State or local agencies and may enter into contracts with private nonprofit organizations to assist in the implementation of this component in these areas.

(6) A highway transportation component implementing the intent of the California State Legislature regarding State Highway Route Numbered 1 expressed in the California Coastal Act of 1976. Such component shall include, but not be limited to, the specific manner to (A) preserve the rural, scenic, two-lane highway within the area, (B) ensure residents continued access to their homes, and (C) minimize highway congestion that seriously impairs the enjoyment of the natural and scenic resources of the area.

(7) A public use component which includes a plan for managing visitation to the area. This shall include, but need not be limited to, a plan for providing information about the scenic features, recreation opportunities, and visitor facilities in the area; a plan for the interpretation of the resource and natural values in the area for the enjoyment and appreciation of visitors; and a plan for managing public access and use to the extent necessary to protect the natural and scenic values in the area.

(8) A comprehensive resources protection and management component including, but not limited to, all natural, historic, and cultural resources in the area, and protection and management of unique or sensitive plant or animal habitat, or both.

(9) An agricultural component including procedures for protection of the historic agricultural uses of existing agricultural lands.

(d) The Council shall treat the components of the plan as set forth in subsection (c) as the basis for the plan only insofar as there are no conflicts with the purposes of this title.

(e) If the local coastal programs for the area mandated by the California Coastal Act of 1976 are not certified by the California Coastal Commission by the statutory deadline of July 1, 1981, the Council shall proceed to recommend for adoption by the Secretary a land-use plan and implementation program for the area that shall be in effect until certification of the local coastal programs. The interim land-use plan and implementation program shall be based on the policies of the California Coastal Act of 1976, and shall use to the maximum extent possible the planning for the area accomplished to date by the counties of Monterey and San Luis Obispo.

(f)(1) The Secretary shall, within one hundred and twenty days after the date the plan is submitted to him by the Council, review the plan to determine its consistency with the purposes of this title and shall, on the basis of this review, approve or amend the plan. Should the Secretary fail to act on the proposed plan within such period, the plan shall be treated as approved. If the Secretary amends the plan, the Secretary shall, within one hundred and twenty days after the date the plan is submitted to him by the Council, submit in writing to the Council any amendments made by the Secretary to the plan, together with an explanation of the reasons for such amendments.

(2) When the Secretary submits an amended plan to the Council, the Council shall respond to the amendments made by the Secretary by submitting to the Secretary, within ninety days after its receipt of the amended plan, any recommendations of the Council for changes in the plan (as amended by the Secretary) or, if the amended plan is acceptable to the Council, a statement that no revisions in the amended plan are proposed. If the Council fails to act within such ninety days, the Secretary's amended plan shall be deemed to be adopted.

(3) Within 30 days after receiving the response of the Council, the Secretary shall consider such recommendations and shall adopt a Plan which responds to the Council's recommendations in a manner which is consistent with the policies and purposes of this title.

(4) The plan may be revised from time to time in accordance with the procedure set forth in this section. The Council shall review the plan periodically, but not less frequently than once every five years.

ADMINISTRATIVE RESPONSIBILITIES WITHIN THE AREA

SEC. 1407. (a)(1) Within the area, State and local governmental authorities of the State of California having jurisdiction shall exercise their authorities in a manner which is not inconsistent with the plan.

(2) Within one hundred and twenty days after the adoption of the plan, the counties of Monterey and San Luis Obispo and each State agency having jurisdiction in the area shall submit to the Council a program which describes the manner within their respective jurisdiction in which such county or agency shall provide for the implementation of the plan. The Council shall review the programs submitted under the preceding sentence and shall submit comments to each entity submitting such a program. The Council shall also consult with such entities and provide guidance to assist them in exercising their authorities in a manner consistent with the plan.

(b)(1) The Secretary shall administer the national forest system lands within the area in accordance with the provisions of this title and the laws applicable to the National Forest System in such manner as will best implement the plan adopted under section 1406 of this title. Prior to the adoption of the plan, those portions of the area consisting of National Forest System lands shall be administered in accordance with the laws applicable to the National Forest System in a manner that will best achieve the purposes of this title. For the purposes of administration and management of lands or interests in lands acquired by the Secretary under the provisions of this title, the boundary of the Los Padres National Forest shall include such lands acquired within the boundaries of the area.

(2) The provisions of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4—460l-11) shall be applied within the area without regard to the acreage limitations set forth in such provisions, and in applying such provisions, the purposes of this title shall be treated as outdoor recreation purposes.

(3) Subject to valid existing rights, all federally owned lands within the area are withdrawn from the operation of the mining and mineral leasing laws of the United States. No timber harvest or other cutting of timber shall be permitted on so much of the Los Padres National Forest as is within the area except to the extent necessary to control fire, disease, or insect activity.

(c) The Secretary, with the advice of the Council, shall provide for the administration of the plan and shall insure, within his existing powers, that the plan is carried out by all Federal, State, and local agencies having jurisdiction within the area as required under subsection (a). The Secretary may enter into contracts and agreements with State or local agencies, landowners, or private nonprofit organizations in order to provide for the management of the area in accordance with the provisions of the plan. Authority to enter into contracts and agreements and to make payments under this title shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. The Secretary shall be responsible for implementing section 1406(c)(7) of this title, and for coordinating the efforts of Monterey and San Luis Obispo Counties and the State of California to manage visitation on lands within the boundaries of the area managed by the counties and the State.

(d) Any consistency certification, consistency determination, or negative determination submitted to the California Coastal Commission pursuant to section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1464) for any development project or plan within or adjacent to the area shall include a recommendation made by the Council for concurrence or objection by the coastal commission, based on the Council's review of the project or plan for its consistency with the plan. If the Council fails to make its recommendation within sixty days after the submission of a consistency review by the Federal agency or the applicant to the coastal commission, the Council shall be considered to have made a recommendation for concurrence. Each Federal agency conducting or supporting activities directly affecting the area shall, after consultation with the Council, conduct or support such activities in a manner which is, to the maximum extent practicable, consistent with the plan. Any Federal agency proposing to undertake any development project in the area shall, after consultation with the Council, insure that the project is, to the maximum extent practicable, consistent with the plan.

LAND ACQUISITION AUTHORITIES AND RESTRICTIONS

SEC. 1408. (a) From the date of enactment of this Act until adoption of the plan, the Secretary may acquire (1) lands, waters, or interests therein within the area by donation, purchase with donated or appropriated funds, or by exchange, where such lands, waters, or interests therein have been recommended for such acquisition by the Council, or (2) any other lands, waters, or interests therein determined by the Secretary, in accordance with the purposes of this title, to have critical ecological or scenic values which are in immediate danger of being adversely affected or destroyed.

(b) After the plan has been adopted, the Secretary shall have the following authorities in such areas as set forth in the plan:

(1)(A) The Secretary may acquire by donation purchase with donated or appropriated funds, or by exchange in accordance with subparagraph (B), any lands, waters, or interests therein (including scenic easements) within the area. Lands, waters, or any interests therein within the area may be acquired without the consent of the owner thereof only to the extent provided under subsection (c) of this section. Lands, waters, or any interests therein within the area owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange. In exercising the authority provided under this subparagraph, the Secretary shall, to the extent feasible, acquire less than fee simple title to lands and waters.

(B) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or any interest therein, located within the area, and in exchange for such property or interest, may convey to the grantor any federally owned property under the jurisdiction of the Secretary within the State of California which the Secretary classifies as suitable for exchange or disposal. The values of the properties so exchanged shall be equal, or, if not equal, shall be equalized by the payment of cash to the grantor or to the United States, as the circumstances require. In the exercise of the authority to exhange property, the Secretary may utilize authorities and procedures generally available to him in connection with the exchange of lands.

(2) The Secretary may make grants under this title to the State, local governments, or private nonprofit organizations or public entities for the acquisition of lands and waters or interests therein within the area to carry out the purposes of this title. The grants authorized by this section shall—

(A) be made in accordance with regulations promulgated by the Secretary, consistent with other applicable law, to carry out the purposes of this title;

(B) not exceed 50 per centum of the total cost of each parcel acquired by the State, by any local government, or by private nonprofit organizations or other public entities under this paragraph;

(C) be supplemental to any other Federal financial assistance for any other program; and

(D) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(3) In accordance with the provisions of the plan, the Secretary may convey title of property acquired pursuant to this title to State and local governmental entities where management efficiencies would thereby result and where such lands would be managed and protected in accordance with the purposes of this title. If the Secretary publishes his written opinion that the property has ceased to be used and protected pursuant to the provisions stipulated at the time of such conveyance, the title to the property shall promptly revert to the United States, and the property shall be managed by the Secretary in accordance with the purposes of this title. Ninety days prior to his conveyance of property pursuant to this provision, the Secretary shall publish notice of the proposed conveyance in the Federal Register and shall also inform, in writing, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and the reasons therefor. Upon such conveyance, the Secretary shall publish notice to that effect in the Federal Register.

(4) The Secretary may sell or lease back lands purchased within the area, as provided under paragraph (1), subject to restrictions in the deed or lease as the Secretary deems appropriate to ensure that such lands are used in a manner consistent with the purposes of this title: *Provided*, That the last previous owner or successor in interest shall be given right of first refusal of any such action proposed by the Secretary. The Secretary shall use the authority of this paragraph to provide for efficient management of the area and to preserve existing uses of the land in carrying out the purposes of this title.

(c)(1) The Secretary shall have no authority under subsection (b)(1) to acquire, or make grants to acquire, lands, waters, or interests therein within the area without the consent of the owner thereof unless such acquisition is required—

(A) to provide for public access and recreation use as specified by the plan; or

(B)(i) to prevent new uses which would be substantially incompatible with the plan where the Secretary determines that there is no feasible alternative available to prevent such uses, (ii) to reclaim lands on which such new uses have been initiated, or (iii) prior to adoption of the plan, to prevent new uses which are substantially incompatible with the purposes of this title.

(2) In no event shall the Secretary acquire without the consent of the owner thereof any structure on which construction was initiated prior to July 1, 1980, including such lands on which the structure is located as are determined to be reasonably necessary to the use and enjoyment of the structure: *Provided*, That the structure was approved pursuant to State and local law.

(d) Whenever the Secretary of Defense determines any lands under his jurisdiction within the area are excess to the needs of the Department of Defense, such lands shall be transferred to the Secretary and shall be administered by the Secretary pursuant to the management plan. The exclusive jurisdiction exercised by the United States on the Federal lands transferred to the Department of Agriculture by the Department of Defense on June 4, 1957 (pursuant to 70 Stat. 736) is hereby changed to propriety jurisdiction.

SAVINGS PROVISION

SEC. 1409. Nothing in this title shall be construed to affect or in any way diminish the authority of the California Department of Fish and Game or the California Fish and Game Commission to regulate or otherwise manage and preserve the fish and wildlife resources of the State in the area.

DEFINITIONS

SEC. 1410. For purposes of this title, the term—

(1) "private nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code and which was exempt from taxation under such section 501(a) on the date of the enactment of this title.

(2) "contract" includes a contract or cooperative agreement which may involve the expenditure of appropriated funds.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1411. There is hereby authorized to be appropriated for the purposes of this title, effective October 1, 1981—

(1) an amount not to exceed $5,000,000 from the General Fund of the Treasury for administration, making grants, and management and planning, as authorized by this title; and

(2) an amount not to exceed $25,000,000 from the Land and Water Conservation Fund in the Treasury for acquisition,

such sums to remain available until expended.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PHILLIP BURTON. Mr. Speaker, the amendments to S. 1910 are a series of titles, most of which have already been passed by this body earlier this Congress.

The recognition of the late Rogers C. B. Morton contained in title II is also a tribute to the thoughtful and effective work of Representative Bob Bauman.

Title III, the expansion of Crater Lake National Park in Oregon is due to the leadership of Senator Mark Hatfield and Representative Al Ullman.

The expansion of the Lyndon Baines Johnson National Historic Site in Texas in title IV is a result of the work of Representative Tom Loeffler.

Title V expands the Chaco Canyon National Monument in New Mexico and redesignates the unit as a national historical park. The text included here is a refinement of an earlier version passed by the House, and is due to the good efforts of Senator Pete Domenici and Representatives Manuel Lujan and Harold Runnels in this matter.

Title VI, the expansion of Indiana Dunes National Lakeshore, represents countless hours of work by Representatives Floyd Fithian and Phil Sharp, and by Senators Birch Bayh and Richard Lugar.

Title VII speaks for itself. Representative Keith Sebelius is retiring after years of dedicated service, and this recognition is but a small indication of the high esteem in which he is held by the entire Congress.

Title VIII, including the area generally known as Sweeney Ridge in the Golden Gate National Recreation Area, was an initiative I was privileged to introduce as H.R. 3 on the opening day of the 96th Congress. Our colleague from California, Rrepresentative Royer has lent his support to this effort as well.

Title IX, establishing the Orange Coast National Urban Park in California, demonstrates the effective, bipartisan efforts of Representatives Jerry Patterson and Bob Badham.

Title X, expanding the Monocacy National Battlefield in Maryland, is a tribute to the continuing work of Representative Beverly Byron, whose leadership in this case follows in the tradition of her late husband and predecessor, Representative Goodloe Byron.

Title XI, authorizing additional funds for the Roger Williams National Memorial in Rhode Island, has been advocated effectively by Representative Ed Beard and Fernand St Germain.

Title XII, directing the Secretary of the Interior to reimburse a rural electric cooperative for certain expenses at Cumberland Island National Seashore, is due to the tireless efforts of Representative Bo Ginn.

Title XIV, advancing the protection of the magnificent Big Sur Coast of California is a tribute to the efforts of both Representative Leon Panetta and Senator Alan Cranston.

Mr. Speaker, a brief description of S. 1910 is as follows:

Title II authorizes the Secretary of the Interior to commemorate the contributions of Rogers C. B. Morton at Assateague Island National Seashore, Md.

Title III amends the boundaries of Carter Lake National Park, Oreg.

Title IV amends the Act establishing the Lyndon B. Johnson National Historic Site to establish the site as the "Lyndon B. Johnson National Historic Park"; to modify the boundaries and increase authorizations.

Title V establishes the Chaco Culture National Historical Park, N. Mex.

Title VI, expanding the Indiana Dunes National Lakeshore, is a revised version of H.R. 2742, which passed the House in October of 1979. The current language is a redraft of the House-passed measure, following discussions with the Senators from Indiana. While including less acreage than the bill as passed by the House, the compromise version still represents a most worthwhile addition to the lakeshore. The units to be added are exactly those areas included in the Senate bill, plus the unit as passed by the House which would be used by the National Park Service to develop as a campground.

Title VIII names the waters impounded by the Norton Dam unit of the Missouri River Basin project the "Keith Sebelius Lake."

Title VIII amends the boundaries of the Golden Gate National Recreation Area to include lands in San Mateo County, Calif.

Title IX establishes the Orange Coast National Urban Park, Calif. This conforms to the House-passed bill, H.R. 4975, with conforming date changes reflecting the passage of time since our original action, the addition of some 25 acres of land, and the inclusion of language to insure that there would be a commitment by the State of California or one of its political subdivisions to assume management responsibility for the area.

Title X amends the act establishing the Monocacy National Military Park, Md., to retitle the area as the "Monocacy National Battlefield" and amends the boundaries and authorization thereof.

Title XI amends the authorization for the Roger Williams National Memorial, R.I.

Title X authorizes the Secretary of the Interior to reimburse the Okefenoke Rural Electric Corp. for the cost of transmission lines at Cumberland Island National Seashore.

Title XI establishes limitations on authorizations.

Title XII establishes the Big Sur Area, Calif.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL 5 P.M., FRIDAY, OCTOBER 10, 1980, TO FILE REPORTS ON H.R. 5496 AND H.R. 5584

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until 5 p.m., Friday, October 10, 1980, to file reports on H.R. 5496, amending the National Historic Preservation Act, and H.R. 5584, relating to the Moapa Band of Paiute Indians.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5487, COLORADO WILDERNESS ACT OF 1979

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5487) to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none and, without objection, appoints the following conferees: Messrs. Udall, Phillip Burton, Seiberling, Kostmayer, Vento, Kogovsek, Clausen, Young of Alaska, and Johnson of Colorado.

There was no objection.

WATER RESOURCES RESEARCH AND DEVELOPMENT AND SALINE WATER CONVERSION RESEARCH AND DEVELOPMENT PROGRAMS, FISCAL YEARS 1981–82 AUTHORIZATION

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1640) to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes, with a Senate amendment to the House amendment, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That section 401(a) of the Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is amended as follows:

"(a) In paragraph (1) following 'September 30, 1980', delete the period, insert a comma, and add 'an amount sufficient to provide $150,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1981, and an amount sufficient to provide $160,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1982.';

"(b) In paragraph (2) following 'September 30, 1980,' insert 'the sum of $1,000,000 for the fiscal year ending September 30, 1981, and the sum of $1,000,000 for the fiscal year ending September 30, 1982,' ".

SEC. 2. (a) Section 401 of the Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is further amended as follows:

(1) in subsection (b) following "$8,500,000," insert "the sum $8,000,000 for the fiscal year ending September 30, 1981, and the sum of $9,000,000 for the fiscal year ending September 30, 1982,";

(2) in subsection (c) following "$8,000,000" insert a comma and add "the sum of $5,200,000 for the fiscal year ending September 30, 1981, and the sum of $8,000,000 for the fiscal year ending September 30, 1982,"; and

(3) in subsection (d) following "$1,000,000" insert a comma and add "for the fiscal year ending September 30, 1981, and thereafter, the sum of $1,000,000,".

(b) The Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is further amended as follows:

(1) in section 402, following "$14,000,000," insert "the sum of $14,000,000 for the fiscal year ending September 30, 1981, and the sum of $17,400,000 for the fiscal year ending September 30, 1982,";

(2) in section 403, following "September 30, 1980," insert "the sum of $6,500,000 for the fiscal year ending September 30, 1981, and the sum of $8,500,000 for the fiscal year ending September 30, 1982,"; and

(3) in section 411, following the word "rules" strike from the word "regulations" through the word "prescribed" and substitute "and regulations promulgated".

SEC. 3. (a) Subsection 2(a) of the Act of August 2, 1977 (Public Law 95–84; 91 Stat. 400), as amended, is amended to read as follows:

"(a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands): *Provided*, That at least two such plants shall demonstrate desalting of brackish ground water: *And provided further*, That the plants constructed pursuant to this section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be sufficient to demonstrate the specific application of the technology, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this section. The Secretary is further authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504 et seq. (the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95–224)) with duly authorized non-Federal public entities. Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity.".

(b) Subsection 2(b) of the Act of August 2, 1977 (Public Law 95–84; 91 Stat. 400), as amended, is amended by inserting after "but is not limited to," the phrase, "how the plant being proposed differs from others, if any, already constructed under this section," and further, by deleting all after "ancillary facilities" and inserting the following: "Such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 per centum and not more than 35 per centum of the total cost of the demonstration; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of four years following final acceptance of the construction of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be in kind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The period of participation by the Secretary in the operation and maintenance of any such demonstration shall be four years. The Secretary is authorized to include in the proposed contract a provision for conveying, as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal Government in the demonstration project to the non-Federal public entity.".

(c) Subsection 2(c) of the Act of August 2, 1977 (Public Law 95–84, 91 Stat. 400), is amended to read as follows:

"(c) There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plants authorized by this section; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs.".

(d) At the end of section 2 of the Act of August 2, 1977 (Public Law 95–84, 91 Stat. 400), as amended, add the following new subsection:

"(d) When appropriations have been made for the commencement or continuation of design, construction, or operation and maintenance of any demonstration plant authorized under this Act, the Secretary may, in connection with such design, construction, or operation and maintenance, enter into contracts and cooperative agreements for miscellaneous services, for materials and supplies, as well, as for construction, which may cover such periods of time as the Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.".

SEC. 4. Section 205(c) of the Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is hereby repealed.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the chairman of the committee if he will explain his request.

Mr. UDALL. If the gentleman will yield, S. 1640 authorizes appropriations for water resources research and development programs in the Department of the Interior for fiscal years 1981 and 1982.

H.R. 5340 passed the House on September 23 and the text of the bill was substituted for that of S. 1640. The Senate accepted most of the House amendments, except that the dollar figures in the Senate amendment to the House amendment are, in total, about half way between the original Senate passed bill and the lower House figures.

In addition, the Senate amendment provides a new subsection, suggested by the administration, which is necessary to insure that funds appropriated toward the desalting demonstration plants authorized by Public Law 95–84 can be expended toward construction of a project without the necessity of having the full project cost appropriated prior to construction.

Mr. SEBELIUS. I thank the gentleman for that explantion, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona that the Senate amendment to the House amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL LUPUS WEEK

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate joint resolution (S.J. Res. 201) to provide for the designation of a week as "National Lupus Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. ANDERSON of California. Mr. Speaker, reserving the right to object, though I shall not, I would like to thank the gentleman from Arizona (Mr. UDALL) for his work in getting this resolution considered today in the House.

I have been involved in National Lupus Week in the past and with the American Lupus Society. I am aware of the usefulness of designating a National Lupus Week and I completely support the passage of Senate Joint Resolution 201.

Although 500,000 Americans have lupus, there is little awareness of the disease among the public and even among the medical community. National Lupus Week will provide an opportunity for the lupus organizations to conduct a number of activities to let people be better informed about the disease. Some of these activities will be in hospitals and with groups of doctors where there needs to be more alertness for diagnosing lupus. Some of these activities will be for the general public, so that they might also be more alert to recognizing lupus and to understanding the social and job-related problems which affect lupus victims.

Lupus is both subtle and sinister. A tendency or vulnerability for lupus seems to be inherited. The disease can be triggered by a number of environmental factors. Initially, the disease gives only deceptively common and mild symptoms, making early diagnosis difficult. Ultimately, lupus misdirects the body's immune system and can begin to destroy almost any of the body's organs. It is fatal to 5,000 people in this country each year.

In addition to my friend from Arizona, I would also like to thank our able majority leader for his efforts in getting National Lupus Week before us today. And finally, in our long parallel careers, this is one more reason for my gratitude to Senator ALAN CRANSTON—for introducing Senate Joint Resolution 201.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 201

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of October 19 through 25, 1980, as "National Lupus Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1810

CARL ALBERT INDIAN HEALTH FACILITY

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2801) an act to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Health Facility located at 1001 North Country Club Road, Ada, Oklahoma, shall hereafter be known and designated as the "Carl Albert Indian Health Facility".

SEC. 2. Any reference in law, map, regulation, document, record, or other paper of the United States to such facility shall be held to be reference to the "Carl Albert Indian Health Facility".

Mr. UDALL. Mr. Speaker, S. 2801 would designate the Indian health facility in Ada, Okla., in honor of the former Speaker of the House, the Honorable Carl Albert. It involves no cost, but recognizes the contributions of our Speaker to the health needs of the Indian people of Oklahoma.

Mr. CLAUSEN. Mr. Speaker, we have no objection and support the request.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL DISTRICT COURT ORGANIZATION ACT OF 1980

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8178) to amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I rise only to ask a question, if this is the bill affecting the fifth circuit?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. No; it does not, but it does affect certain district lines in east Texas.

Mr. GONZALEZ. East Texas.

Mr. KASTENMEIER. But it does not affect the so-called split of the fifth circuit. That will come up later tonight or tomorrow.

Mr. GONZALEZ. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1980".

PLACE OF HOLDING COURT

SEC. 2. Section 84(c) of title 28, United States Code, is amended by inserting "and Santa Ana" after "at Los Angeles".

DIVISIONS OF SOUTHERN DISTRICT OF IOWA

SEC. 3. (a) Section 95(b) of title 28, United States Code, is amended—

(1) in paragraph (3) by inserting "Fremont," after "Cass," and by inserting "Page," after "Montgomery,", and

(2) in paragraph (4) by striking out "Fremont," and "Page,".

(b) The amendments made by subsection (a) shall not apply to any action commenced before the effective date of such amendments and pending in the United States District Court for the Southern District of Iowa on such date.

DIVISIONS OF EASTERN DISTRICT OF MISSOURI

SEC. 4. (a) Section 105(a) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "Audrain," and "Montgomery," and

(2) in paragraph (2) by inserting "Audrain," after "Adair," and by inserting "Montgomery," after "Monroe,".

(b) The amendments made by subsection (a) shall not apply to any action commenced before the effective date of such amendments and pending in the United States District Court for the Eastern District of Missouri on such date.

DISTRICTS OF NORTH CAROLINA

SEC. 5 (a) The first sentence of section 113 (a) of title 28, United States Code, is amended by adding before the period at the end thereof the following "and that portion of Durham County encompassing the Federal Correctional Institution, Butner, North Carolina".

(b) Section 113(b) of title 28, United States Code, is amended—

(1) by striking out "Alleghany, Ashe,",

(2) by inserting "(excluding that portion of Durham County encompassing the Federal Correctional Institution, Butner, North Carolina)" after "Durham",

(3) by striking out "Watauga, Wilkes,", and

(4) by striking out "Rockingham, Salisbury, Wilkesboro,".

(c) Section 113(c) of title 28, United States Code, is amended—

(1) by inserting "Alleghany," after "Alexander,",

(2) by inserting "Ashe," after "Anson,", and

(3) by inserting "Watauga, Wilkes," after "Union,".

(d) The amendments made by this section shall not apply to any action commenced before the effective date of such amendments and pending in any judicial district of North Carolina on such date.

DIVISIONS OF EASTERN DISTRICT OF TEXAS

SEC. 6. (a) Section 124(b)(2) of title 28, United States Code, is amended by striking out "Polk," and "Trinity,".

(b) Section 124(c) of title 28, United States Code, is amended—

(1) by striking out "six" and inserting in lieu thereof "seven",

(2) in paragraph (1)—

(A) by striking out "Angelina,",

(B) by striking out "Houston, Nacogdoches,", and

(C) by striking out "Shelby,",

(3) in paragraph (2) by striking out "Orange, Sabine, San Augustine, and Tyler." and inserting in lieu thereof "and Orange.", and

(4) by adding at the end thereof the following new paragraphs:

"(7) The Lufkin Division comprises the counties of Angelina, Houston, Nacogdoches, Polk, Sabine, San Augustine, Shelby, Trinity, and Tyler.

"Court for the Lufkin Division shall be held at Lufkin.".

EFFECTIVE DATE

SEC. 7. (a) This Act and the amendments made by this Act shall take effect on October 1, 1981.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

Mr. KASTENMEIER. Mr. Speaker, the bill which the Judiciary Committee brings to the floor today is a noncontroversial, heavily supported measure that is designed to keep the Federal judicial system up to date with demographic, economic and societal changes in several of its districts.

In brief the proposed legislation creates a place of holding court in Santa

Ana, Calif. It also transfers two counties from the southern division of the southern district of Iowa to the western division of that district. Moreover, the legislation transfers two counties from the eastern division of the eastern district of Missouri to the northern division of that district.

Further, the bill makes two changes in the States of North Carolina. It places the Butner Federal Correctional Facility entirely within the eastern district of North Carolina. It also transfers four counties from the middle district of North Carolina to the western district.

Finally, the proposed legislation creates a new Lufkin Division in the eastern district of Texas with a statutory place of holding court in Lufkin, Tex. It accomplishes the creation of a new division by taking seven counties from elsewhere in the eastern district and two counties from the southern district.

All of the changes in this small package result in closer access to justice for litigants and lawyers in the areas involved.

H.R. 8178 is an omnibus package, with only five substantial parts. It is the view of my subcommittee that the processing of district court legislation is more efficiently, fairly and expeditiously dealt with in an omnibus fashion. In this regard, I can attest to the Members present that H.R. 8178 is a noncontroversial proposal, with no opposition, and minimal costs. It is enthusiastically supported by the Administrative Office of the U.S. Courts, the U.S. Department of Justice.

According to the cost estimate of the Congressional Budget Office (reprinted at pages 7–8 of the committee report), only the two sections of the bill relating to Santa Ana, Calif., and Lufkin, Tex., will cause increased budget expenditures. Due to the requirement of additional staff and space in Lufkin, Tex., and access to facilities in Santa Ana, Calif., the bill will cost $319,000 in fiscal year 1982, $197,000 in fiscal year 1983, $213,000 in fiscal year 1984, $231,000 in fiscal year 1985, and $246,000 in fiscal year 1986.

In conclusion, considering that the bill will drastically improve access to the Federal courthouse doors in southern California and west Texas, I feel that the costs are minimal and a good investment of the tax dollar. I might add in closing that this legislation is only an authorization, and does not actually appropriate any funds. That will have to be done separately.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 8178, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TRADEMARK TRIAL AND APPEAL BOARD AMENDMENTS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4273) to amend section 17 of the act of July 5, 1946, as amended, entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Act of July 5, 1946, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" (60 Stat. 434), as amended August 8, 1958 (72 Stat. 540), and January 2, 1975 (88 Stat. 1949), 15 U.S.C. 1067, is amended by deleting the second sentence and substituting therefor: "The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner, the Assistant Commissioners, and other persons competent in trademark law who shall be appointed as members.".

SEC. 2. This amendment shall become effective on the date of its enactment. Members of the Trademark Trial and Appeal Board on the date of enactemnt shall continue to be members under and in accordance with the provisions of section 17 of the Act of July 5, 1946, as amended, in effect immediately preceding the date of enactment.

With the following committee amendments:

On page 2, line 9, delete "The" at the end thereof and lines 10 through the period on line 13, and substitute the following:

The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner, the Assistant Commissioners, and members appointed by the Commissioner. Employees of the Patent and Trademark Office and other persons, all of whom shall be competent in trademark law, shall be eligible for appointment as members.

The committee amendment was agreed to.

Mr. KASTENMEIER. Mr. Speaker, this bill could not be simpler or more uncontroversial. It simply makes two technical changes in the law governing the Trademark Office.

At the present time vacancies on the Trademark Trial and Appeal Board within the Patent and Trademark Office may be filled only by persons who are currently employed by the Office at the time they are promoted to the Board. This bill simply permits the hiring of persons from outside the Office to fill any vacancy which may occur. This will permit the hiring of the most qualified people to fill these jobs. At the present time no other civil service positions within the Patent and Trademark Office have this restriction on hiring from the outside.

The second change is the elimination of the requirements that the Civil Service Commission approve the qualifications of persons hired for these positions. This is also technical as it eliminates an anomaly in the law. At the present time no positions of GS–15 or lower—such as members of the Trademark Trial and Appeal Board—require such individual Civil Service Commission approval. This is normally a procedure only for supergrade level officials. This Office of Personnel Management has no objection to this change.

There is also a committee amendment. The purpose of this amendment is to make it clear that the bill does not preclude existing employees from being hired but merely permits outside persons to be hired as well.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4273, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON S. 1946, RAILROAD TRANSPORTATION POLICY ACT OF 1980

Mr. BOLLING, from the Committee on Rules, reported the following privileged resolution (H. Res. 799, Rept. No. 96–1439), which was referred to the House Calendar and ordered to be printed:

H. RES. 799

Resolved, That upon the adoption of this resolution it shall be in order to consider, clause 2 of Rule XXVIII to the contrary notwithstanding, the conference report on the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, said conference report shall be considered as having been read when called up for consideration, and all points of order against said conference report for failure to comply with the provisions of clause 3 of Rule XXVIII are hereby waived.

Mr. BOLLING. Mr. Speaker, I call up House Resolution 799 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Does this request on the part of the distinguished chairman of the Committee on Rules require a vote by this House.

The SPEAKER pro tempore. This requires a vote by two-thirds of the House to consider the resolution.

Mr. FRENZEL. A further parliamentary inquiry, Mr. Speaker. The Chair will put that question?

The SPEAKER pro tempore. Yes. That will be the proper order.

Mr. FRENZEL. I thank the Chair.

The SPEAKER pro tempore. The question is, Will the House consider House Resolution 799?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 12, answered "present" 1, not voting 47, as follows:

[Roll No. 605]

YEAS—372

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin

Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer

Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kildee
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan

Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri

Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain

Stack
Staggers
Stanton
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—12

Anderson, Calif.
Andrews, N.Dak.
Butler

Erdahl
Frenzel
Gonzalez
Kazen
Kindness

Schroeder
Stangeland
Vento
Williams, Mont.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—47

Alexander
Anderson, Ill.
Barnard
Breaux
Brown, Calif.
Cavanaugh
Chisholm
Conable
Crane, Philip
Davis, S.C.
Dixon
Dodd
Edgar
Evans, Ga.
Ford, Mich.
Forsythe

Fuqua
Hagedorn
Hanley
Harsha
Heckler
Holtzman
Huckaby
Ichord
Jenkins
Jenrette
Kogovsek
Leach, La.
McKinney
Mathis
Michel
Moorhead, Pa.

Myers, Pa.
Nedzi
Quayle
Roberts
Satterfield
Shannon
Simon
Stark
Steed
Stockman
Udall
Vander Jagt
Volkmer
Wilson, Bob
Wilson, C. H.

☐ 1830

The Clerk announced the following pairs:

Mr. Hanley with Mr. Conable.

Mr. Roberts with Mr. Philip M. Crane.

Mr. Jenrette with Mr. Forsythe.

Mr. Breaux with Mr. Hagedorn.

Mr. Ford of Michigan with Mr. Harsha.

Mr. Moorhead of Pennsylvania with Mr. Quayle.

Mr. Fuqua with Mr. Stockman.

Mr. Nedzi with Mrs. Heckler.

Mr. Stark with Mr. Jenkins.

Mr. Udall with Mr. McKinney.

Mr. Simon with Mr. Vander Jagt.

Mr. Mathis with Mr. Bob Wilson.

Mrs. Chisholm with Mr. Michel.

Mr. Barnard with Mr. Huckaby.

Mr. Alexander with Mr. Ichord.

Mr. Davis of South Carolina with Mr. Shannon.

Mr. Dixon with Mr. Steed.

Mr. Dodd with Mr. Volkmer.

Mr. Evans of Georgia with Mr. Charles H. Wilson of California.

Mr. Brown of California with Mr. Edgar.

Mr. Cavanaugh with Mr. Leach of Louisiana.

Ms. Holtzman with Mr. Satterfield.

Mr. HARRIS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 799.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself 1 minute.

Mr. BOLLING. Mr. Speaker, I do not believe there will be much controversy on the basis of the vote we just had so I am not going to talk about the rule more than a minute.

The rule provides for waivers of scope and the 3-day rule. It is on the Railroad Deregulation Act which has been around for quite a long time and has been exhaustively debated.

This rule will make the conference report in order to be brought up. As I indicated, I have one request for time.

At this time, Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I intend to support the rule and support the bill. I must say that the provisions for the ICC entering into rate regulation matters are, in my opinion, a little too restrictive, and it would have been better to have accepted the original amendment that I offered. Yet the provisions have gone a long way toward a compromise, and the immediate effect is to create a threshold for ICC jurisdiction at 160 percent of variable costs which was the same as that contained in the Eckhardt amendment.

It is true, however, that over a period of time these figures rise to 180 percent and, finally, reach the formula within brackets of 180 percent at the top or 170 percent at the bottom.

In addition, I think several other important provisions of this bill should be pointed out. These provisions involve changes in existing law that I believe I can say came about as a result of the seven hearings that we held in the Subcommittee on Oversight and Investigations examining the processes of the ICC. The bill incorporates provisions responsive to several major concerns raised in these hearings.

These provisions relate to the following matters: Availability of information by railroads in ratemaking proceedings; accounting standards which are much better than those presently adopted by railroads; phased elimination of general rate increases that are carrying rates to enormously high levels frequently in a situation in which the specific rate had been looked at as a particular case, and then a general rate increase catapulted that even higher, beyond any reasonable level.

Next, the elimination of the capital incentive rate provision, the standards of which were so loosely applied in cases such as the Houston case as to make it virtually a steal, I think, by the railroads against the shippers.

□ 1840

Next, a recognition of the particular importance in rail ratemaking of reasonable rates for coal transportation in accordance with our national energy objectives of energy independence and conservation.

Next, inclusion of provisions relating to entry and reciprocal switching which provide increased rail-to-rail competition.

For the reasons I have stated, I believe the bill must be watched very closely in the oversight of ICC. I intend to vote for the compromise bill as drafted.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. ANDERSON of California. I thank the gentleman for yielding. I have not had a chance to read the compromise, but I was just called by one of the people representing the ports in my area, and I was told that the surcharge provision is weakened; the abandonment provision is weakened; and that in title I the provision that I put in stating the constitutional direction was also stricken out. Is the gentleman aware of any of those weakening provisions? I want to follow the gentleman's lead, because I know that he has gone into this very extensively, and if he says he is going to vote for it, it will have a lot of influence on me, but I would want to be sure that the surcharge and the abandonment provisions were not weakened too much.

Mr. ECKHARDT. The gentleman is correct on all the scores he points out. It is true that those provisions were weakened. They were weakened below what I think was an ultimate decision in the Eckhardt amendment; yet they are somewhat better than the provisions in the bill that came out of the subcommittee.

Mr. ANDERSON of California. Why was the constitutional provision that subjected the bill to those common law common carrier obligations imposed by the Constitution stricken out? Do we not want to follow the directions of the Constitution in this legislation?

Mr. ECKHARDT. Frankly, I do not know because the constitutional provision had been put in in the House. There was no similar provision in the Senate, and it would have seemed to me that there was no reason for the staff, which ultimately worked up the compromise, to have eliminated House language not objected to by the Senate. I do not know why the conference deleted the constitutional language. Either the common law common carrier obligations imposed by the Constitution survive the enactment of this legislation, as a freestanding body of law, independent of Federal statutory law; or, if the bill is intended to preempt this common law, the legislation, as applied by the ICC, could, in certain particulars, violate the Constitution.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I am for the rule; I am for the bill; let us get down to its consideration.

I yield 1 minute to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, I do not like the rule. I do not like the consideration of an important bill in this way.

I do not like the idea that most of us have not seen what is in this conference report until very recently. But, I am inclined to agree with the gentleman from Missouri that there is no point in having a vote on the rule. Apparently the rest of the House shares neither my outrage with this procedure nor my objection to this bad bill. I do, however, object to the rule and will vote against the bill.

I yield back the last 5 seconds.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, but I reserve the remainder of my time.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Speaker, I rise because I am quite surprised that all of the exponents of reform and proper procedure have kind of caved in. Just last week I was reading the Record where the very distinguished colleague from Texas (Mr. Eckhardt), has the very revealing statement in which he says that the conferees had met for 19 minutes on this conference report and he was deprived of the chance to be there, and he could not even get a copy of the bill. All of this is spread in the pages of the Record, last week's Record. So I figured that if conferees took 19 minutes on the most comprehensive, substantial, substantive changes in legislation that was first passed by the Congress 120 years ago with tremendously far-reaching impact on everybody, I should at least remind the Members that if they can think of a better phrase than I used when I described what was happening here as a "sellout," I will welcome revising those words, if somebody can give me a better description of what it is.

On top of that, I would like to ask the distinguished chairman of the Committee on Rules if it is not a fact that this rule was obtained under emergency circumstances this afternoon. Is that correct?

Mr. BOLLING. If the gentleman will yield, the Committee on Rules has a process whereby the chairman, under certain circumstances, may call an emergency meeting, and that is the basis under which this rule was considered.

Mr. GONZALEZ. I would like to ask the gentleman what is the emergency of a bill that started out as the Conrail Relief Act and was extended to the total relief of all railroads, plus a few other largesse? What is the emergency nature of this?

Mr. BOLLING. There are a variety of different matters involved in the emergency, but one of them, I think, was indicated by the vote on consideration. A great many of the Members of the Congress would like us to act on this as promptly as possible.

Mr. GONZALEZ. I am speaking as only one Member, and I cannot tell you, as a Member trying to be informed, as to what is contained in this conference report and of any way credibly and reliably that it would be available to me, because this was not printed until yesterday's Record.

Mr. BOLLING. That is correct. There would have had to be a rather fast reading, but it was available.

Mr. GONZALEZ. Not only fast, but it is predicated on a conference that lasted 19 minutes, with none of the members, as I understand it, having any copy of what they were agreeing on.

Mr. BOLLING. I wish the gentleman would not engage this gentleman with regard to how long the conference lasted. As far as I could make out, it was under consideration for quite a long time.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOLLING. I yield 1 more minute to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman. As I understand it, the gentleman's committee also waived the second clause of rule XXVIII that has to do with the scope of the conference bill. Is this not an admission that whatever we have here exceeds the norms or the limits or the parameters of what either the House had or the Senate has? In effect, nobody here knows exactly what is contained in this conference bill.

Mr. BOLLING. The clause to which the gentleman refers has to do with the 3-day layover which was also waived, and scope was waived, but that is not a confession or an admission; it is a statement.

Mr. GONZALEZ. I thank the distinguished chairman.

Mr. Speaker, I am opposed to this rule and it only adds one more irregularity to a whole parade of actions that violate any conception of sound, reasonable, or even fundamentally fair procedure.

This conference report, according to a statement in the Record entered by the gentleman from Texas (Mr. Eckhardt), was agreed to in a meeting that lasted somewhere between 15 and 20 minutes. According to Mr. Eckhardt, who was a conferee, he had not been allowed to see any of the proposed agreement, and in fact was told by the committee counsel that no copies were available. His efforts to be an informed conferee were frustrated at every turn.

I cannot imagine how anyone in this room could pretend that a full, free conference on a bill that is as long and complex as the Rail Act could have taken place in 15 or 20 minutes. The fact is that the conferees agreed in advance to give staff a blank check to write the bill and report, and this is a process that continued long after the conferees had supposedly acted.

Not only did the conferees, if Mr. Eckhardt is an example, not know what was going on, they had no way of providing any meaningful input.

We have not had time to read, much less digest this report. There is no way for an interested Member to have the time to find out if this bill conforms with the actions of the House, or even with the supposed wishes of the conferees, without adequate time as provided in House rules.

I see no reason for this haste, particularly in light of the fact that this is the most important piece of regulatory legislation since the enactment of the Interstate Commerce Act itself, a hundred years ago. When we are making this kind of change in the law, a change that is so far-reaching and fundamental, we ought at least to take the time to have some chance of knowing what it says. This is doubly true in a case like this one, in which we know that the House reversed itself at least one time, and when we are on notice that the conference was conducted in a most unseemly and unfair manner, a manner which guarantees that only one or two, if at all, of the conferees know much of what the bill contains.

We are on notice that big business wants this bill, and on notice that the administration wants this bill. But we have a constitutional duty to perform. To waive our rights, to waive the right to even know what we are doing, to waive the rules of the House, is in this situation unconscionable. It may seem harmless to waive the rules of the House—but whenever we do waive those rules, we are saying that we are also waiving our own rights, reducing ourselves to second-class status. Most important of all, we are waiving the rights of the people who elected us.

The people who elected us have a right to be assured that we know what we are doing, and this is especially true when the House takes up a bill with the enormous, far-reaching consequences of this one.

There is no need for this haste. There is time to allow Members to digest this report before acting on it; within the regular order of the House. I urge the committee to reject any special treatment for this conference report. If the issue were not controversial, if it were minor, a special rule might be warranted.

The fact is, however, the Congress has a bill of this magnitude only a few times in a decade—even a century—and it is most controversial. The House, bearing in mind the importance of this bill, bearing in mind the cavalier manner in which the conference acted, bearing in mind the controversial aspects of the bill—and most of all bearing in mind the right of the people of this country to have legislation considered in a reasonable way by reasonable people—should deny this rule and be surpremely chary of waiving any other rule of the House on this matter.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I call up the conference report on the Senate bill, S. 1946, to reform the economic regulation of railroads, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 29, 1980.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Florio) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Madigan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Speaker, this conference report has been explained very well by the gentleman from Texas. As the Members recall, the Railroad Deregulation Act was passed on September 9 by a vote of 337 to 20. I can convey to this body that this conference committee in essence accepted the heart of our bill. As a matter of fact, the key controversial point that we spent so much time debating, the threshold jurisdictional test in the House bill, is in the conference report.

The jurisdictional threshold is identical to that in the House bill—it starts at 160 percent of revenue to variable cost, and rises to 175 percent in the fourth year. After that it is the "cost recovery percentage," but no higher than 180 percent or lower than 170 percent.

That language is identical to the bill that was passed by this House. I am convinced that this is a good compromise. We have worked very hard to put together a piece of legislation that we can all be proud of. It is something that is important to have enacted into law in this session of Congress. Therefore, I would ask for the support of the body for the conference report.

Mr. Speaker I will be happy to yield 5 minutes to the gentleman from Texas (Mr. Eckhardt).

□ 1850

Mr. FLORIO. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Speaker, as I previously stated I signed the conference report and I intend to support the bill.

I do want to clarify one point in the matter. On September 25 on pages 27472 and 27473, I had raised some concerns about some of the language in the conference report. I may say to the gentleman from Texas (Mr. Gonzalez) that he is correct, the report had been generally available only in the Record of Monday. However, the staff of the subcommittee made available to me this particular language at an earlier time and some work was done on it to attempt to correct some language that I felt went outside of the House provisions.

One of those had to do with the section that provided for the 6-percent zone of flexibility. As I read the altered language—altered from that which was passed in the House—it seemed to me that the zone of flexibility plus the triggering rate—that is the threshold rate—constituted a figure that was uncontestable.

I understand, though, that has been corrected. In reading the conference report explanatory language, it is stated:

> The language of (b) [section 203(b)] makes it clear that rate increases which do not exceed the adjusted rate base may not be found by the Commission to exceed a maximum reasonable level.

Now, that, of course, as I understand, Mr. Speaker, is the threshold rate which starts at 160 percent of variable cost, then goes to 165, 170, and 175.

The statement of Managers further states that:

"The reference to rate increases under (c) and (d) of this section"—and I understand (c) is the 6-percent zone of reasonableness and (d) is the 4-percent zone of reasonableness after 5 years—"is not intended to suggest that increases under those subsections are presumed to be reasonable."

In other words, I understand those increases can be contested by the shipper as unreasonable but the shipper must bear the burden of proof with respect to the unreasonableness unless they exceed the zone of flexibility or ultimately exceed the 190 percent provided for the shifting of the burden back to the rail carrier. Am I correct on that?

Mr. FLORIO. The gentleman is correct, those flexibility rate zones can be challenged upon complaint.

Mr. ECKHARDT. They are challengeable and they are not presumed to be reasonable within that range, is that correct?

Mr. FLORIO. Nor are they presumed to be unreasonable.

Mr. ECKHARDT. That is correct. No presumption in either direction in connection with those rates?

Mr. FLORIO. The gentleman is correct.

Mr. ECKHARDT. That was one of the items, as the gentleman knows, I was very concerned about and put in the Record of Thursday a week ago. With those corrections though, as I said before, I think we shall have to watch the ICC treatment of this matter very closely and we also must watch, I think, the rate with which rail rates may go up.

Mr. Speaker, I intend to support the bill. The gentleman has done a very good job in fashioning a very complex piece of legislation. Over a period of time we shall have to see how well it works.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of acceptance of the conference report on S. 1946. Mr. Speaker, the rate provisions are essentially as described by the gentleman from New Jersey in his opening remarks and in his colloquy with the gentleman from Texas (Mr. ECKHARDT).

There are three major differences between the bill passed by the House and the conference substitute. Those differences involve rate regulation, loan guarantee procedures involving coal from the Powder River basin, and financial assistance. Let me take a minute to discuss each of those areas of difference.

The House passed bill contained rate provisions from the Staggers-Rahall-Lee-Loeffler amendment. In general terms that provision phased out the regulation of railroad rates over a 4-year period by using a revenue to variable cost percentage. In the first year that percentage was 160; the second 165; the third 170; and the fourth the lesser of the cost recovery percentage or 175. Thereafter the jurisdictional threshold for rate regulation was a cost recovery percentage with a 170 floor and a 180 ceiling. In addition, there would be no rate regulation where there was effective competition in as much as the existing standard of market dominance was retained.

There was a zone above the jurisdictional threshold of 20 percentage points in which carriers could obtain a 6-percent increase plus inflation in each year with a cumulative total of 18 percent over the 4-year period with no investigation or suspension, but shippers could file a complaint. Above a level 20 points over the jurisdictional threshold the Commission could investigate or suspend the rate increase if the Commission felt such an increase was unreasonable.

The conference substitute adopts these provisions with the modification that there is a ceiling on the 20-point zone of 190 percent of revenue to variable costs. In addition, the Commission is to give consideration to the adequacy of revenue carriers in considering the complaint on the prescribed increases within the zone.

After the 4-year period the conference substitute also provides that any unused increases within the 18-percent cap can be carried over in years 5 and 6, but in no event can increases in those years exceed 10 percent. Finally, the 4-percent increase is permitted in addition to inflation is limited on single line rates to carriers with inadequate revenues. This is the same as in the House-passed bill. The conference substitute, however, directs the Commission to begin a rulemaking proceeding to determine how best to deal with the situation where there is a joint rate involving a carrier with adequate revenues and a carrier with inadequate revenues.

In addition to the rate freedom contained in the bill, a number of new options are provided for railroads and shippers. The first of these new options is the right to enter into contracts. The conference substitute contains the contract provision from the House bill with incorporation of Senate provisions which assure agricultural shippers, and shippers of forest products—including paper—an equal opportunity to enter into contracts in similar situations.

In addition, the language makes clear that ports continue to have the right to bring action under the discrimination provisions of the act, even with respect to contracts. The conference substitute continues to contain a strong contract provision. We are all convinced that both shippers and railroads can benefit from an expanded use of contracts for rail transportation.

It is of course, very important that the Interstate Commerce Commission understand the needs of the railroad industry for earning adequate revenue in the 1980's and the years to follow. The substitute provides that the Commission shall within 180 days after the effective date and thereafter as necessary establish standards and procedures for establishing adequate revenue levels under section 10704(a)(2) and determine which carriers are earning adequate revenues. The importance of those procedures in achieving the goals of the act cannot be understated. Congress has found that existing rates have not permitted carriers to earn adequate revenues. This act is intended to assist carriers in achieving that result. The standards and procedures adopted under this section must be consistent with the goals of the act in achieving that result.

Revenue levels standards previously established by the ICC under section 10704(a)(2) of title 49 have been inadequate. For example, the Commission's decision of January 30, 1980 in Ex Parte 353 states that—

> An adequate revenue level for the national composite is one that provide a return on net investment of between 7 and 10.6 percent.

Rather than defining a specific earnings level needed to attract capital the Commission has adopted a range that includes earnings that are inadequate to attract new capital.

A rate of return adequate to attract capital is the only economically rational revenue adequacy standard. This return is one equal to the cost of capital. The Commission has heretofor taken the position that the maximum return allowable is a rate of return equivalent to the railroads' cost of capital, the minimum amount needed to attract capital, and that there is some minimum level based on financial ratios and a flow of funds projection which is also "adequate."

This minimum level, however, was actually a 1-year survival rate which does not provide reasonable returns to shareholders. Since railroads compete openly for funds in capital markets, capital costs are determined only by the investors' opportunity costs. The investors cannot be coerced. They will choose the most attractive opportunity.

If railroads do not earn a rate equivalent to other industries and firms, considering investment risk—the cost of capital—the industry will not attract the funds needed to operate an efficient and market-sensitive business, and in the long run, will become financially insolvent. In essence, where investors receive less than their current opportunity cost, capital becomes scarce and funds are shifted to alternative investments.

This fact has been clear to State public utility regulators for decades and it is the intent of the conferees that, in making the "continuing effort" required by section 10704(a)(2) to assist the carriers in attaining adequate revenue levels, the Commission recognizes that fundamental fact. The method by which the cost of capital is arrived at is secondary, of course, to the result and the conferees do not intend to preclude the use of any sound economic tools which will assist the Commission to make their determination.

The conferees, however, do not intend that the Commission attempt to second guess the market's decision as to what return is needed to attract capital or to second guess the market's determination of the railroads' capital needs. Since this bill, through its surcharge provisions, assure carriers that they will not have to carry on their books capital that is not covering costs, that is, not useful for rail service, there is no basis for any conclusion except that railroads should earn a return equal to the cost of capital on all of their capital.

Until the Commission makes its determinations as provided in this section the issue of whether a carrier is earning adequate revenues to attract capital to meet its needs should be determined in the specific proceedings in which the issue arises and the commission's prior guidelines which ignore the cost of capital should not be controlling.

In addition to the rate freedom contained in the bill a number of new options are provided for railroads and shippers. The first of these new options is the right to enter into contracts.

The conference substitute contains the contract provisions from the House bill with incorporation of Senate provisions which assure agricultural shippers and shippers of forest products including paper, an equal opportunity to enter into contracts in similar situations.

One of the controversial provisions of the House-passed bill was a provision which requires the Secretary of Transportation to consider a pending application for loan money to build the second line into the Powder River basin. The provision which passed the House permitted the Secretary of Transportation to waive all of the findings under section 511 of the 4–R Act, the existing loan program.

The conference substitute strikes the Secretary's authority to waive such findings because of opposition voiced by competitive carriers. The conference substitute continues to require that the matter be resolved within a time certain.

However, time limits are established for the Secretary to act and time limits are established for the reviewing courts to act should the Secretary's action be challenged in the courts.

The standard of review provided by the statute is essentially the same as the normal review under the Administrative Procedure Act.

The conferees in approving the conference substitute in this matter were cognizant of the fact that fairness should be provided to the Burlington Northern Railroad which is now the sole carrier of coal from the Powder River basin. We believe that fairness is achieved by the provisions contained in the conference substitute.

Mr. Speaker, I might add that the bill which passed the House contained $1.4 billion for the creation of a new railroad restructuring program. The Senate conferees were unwilling at this time to begin a new program of funds for the railroad industry. Therefore, the conference substitute deletes that provision of the House bill, but adds additional money to the existing 505 redeemable preference share program.

The redeemable preference share program is extended for 2 years, as in the House bill, and $700 million is added to that program, $200 million of which is earmarked for transfer by the Secretary to the USRA for use by Conrail in a program to reduce the size of Conrail's work force.

The conferees have accepted the Senate provision which authorizes an additional $329 million for Conrail. This money will enable Conrail to continue its operations until the end of next year. The conference substitute contains a number of studies designed to provide Congress with the information it needs in order to make additional changes in Conrail so as to stop the continuation of Government subsidies.

I understand that both the Canadian Government and the Canadian railroads have raised some questions about the extraterritorial impact of section 219. That section establishes a policy of competitive pricing of rail services and phases out collective ratemaking, thus putting U.S. policy on these issues somewhat at variance with internal Canadian antitrust policy in this area. Because of this, the conferees believe it not only appropriate but important that the ICC, in administering section 219, ask for views on and take into account international comity and foreign policy considerations. I note that the CAB, under section 412 of the Federal Aviation Act, as amended by the International Air Transportation Competition Act of 1979, is required to respond to these concerns in approving agreements affecting interstate or overseas air transportation.

Mr. Speaker, I should also point out that the conferees accepted the exemption provisions of the House bill which permit the Commission to exempt from law or regulation any of the regulated activities of railroads which it deems to be warranted in the future. For example, at the present time we felt it was inappropriate to abolish joint rates. Therefore, the bill establishes the surcharge provisions to mitigate the present inequities of joint rates. As the railroad industry adjusts to the new pricing policies of this act the need for joint rates will diminish. The conferees fully expect the Commission to use the exemption authority to abolish joint rates, if such an action appears desirable, notwithstanding the fact that this bill establishes a system of surcharges.

Mr. Speaker, the conference substitute is an important piece of legislation. Enactment of this legislation will permit the railroad industry to remain in the private sector and to become financially sound. A financially sound railroad industry will benefit shippers and the public alike.

Mr. Speaker, I should at this moment take just a brief moment to acknowledge the assistance we have received on this bill and on the conference report from people not on our subcommittee or on our committee.

The gentleman from Illinois (Mr. O'BRIEN), the gentleman from Illinois (Mr. RAILSBACK), these gentlemen have maintained a continuing active interest in this bill and have been very helpful to us in our deliberations.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I will be happy to yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

On behalf of the employees of the Rock Island Railroad, Mr. Speaker, I wish to extend to the gentleman from Illinois (Mr. MADIGAN) and the gentleman from New Jersey (Mr. FLORIO) the good will and appreciation for those employees, for their tenacity in holding out for matching rights for the Rock Island that were previously granted the Milwaukee employees.

We hold these gentlemen in high regard and all of the conferees as well.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for his kind remarks and I thank the gentleman for all the assistance he has given.

Mr. Speaker, I should also acknowledge that the gentleman from Illinois (Mr. RUSSO) has been extremely helpful throughout this entire process even though he is no longer a member of our committee.

Mr. LOEFFLER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I will be happy to yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Speaker, as a member of the conference, I rise in support of the conference report on the Harley O. Staggers Rail Act of 1980.

This conference report achieves a fair and thoughtful balance, addressing the needs of industry and consumers alike.

Special recognition is given to the unique injustice suffered by the people of San Antonio, Tex., at the hands of the Burlington Northern Railroad and a strong dose of justice is administered.

For the first time, San Antonio consumers will have a law on the books to protect them from a railroad that has shown reckless disregard for them through exorbitant and unjustifiable rates. This protection will mean a savings of tens of millions of dollars to San Antonio.

I am pleased and proud to bring the people of San Antonio this measure of equity so well deserved and so long overdue.

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Mr. Speaker, as I conclude my remarks, I too would like to join in my thanks and appreciation to the gentleman from Illinois, the distinguished ranking minority member (Mr. MADIGAN); the distinguished subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO); the distinguished ranking minority member of the committee, the gentleman from North Carolina (Mr. BROYHILL); and last but certainly not least, to the gentleman who is chairman of our committee, the gentleman from West Virginia (Mr. STAGGERS), who has been so kind to me. I have enjoyed working with him. I only wish he would be with us again in the next Congress.

To the chairman, I say thank you, and I wish you well in your retirement.

Mr. MADIGAN. I want to thank the gentleman for his remarks, and also for his continuing interest in this bill throughout the legislative history of this particular piece of legislation. I do not think any freshman member of the Commerce Committee, other than Mr. LEE, has been more active in this regard than has Mr. LOEFFLER; and on the majority side, Ms. MIKULSKI and others who have worked very hard as well.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding. I have a high regard for all those Members the gentleman discussed. Unfortunately, I do not have high regard for the work product that they have delivered to us.

The gentleman from Illinois dwelt in his earlier remarks on section 702, regarding the duplicate service and the speeded-up determination of service to the Powder River basin. The gentleman talked about the judicial review. Does that review include a review of the factual determination by the Secretary of Transportation?

Mr. MADIGAN. It would certainly be the intention of this Member, and I think of the chairman of the subcommittee as well, that that should be the intent. I would be happy to yield to the chairman of the subcommittee to confirm that.

Mr. FLORIO. If the gentleman from

Minnesota would rephrase his question, I will be happy to try to respond to it.

Mr. FRENZEL. My question was, Does judicial review in section 702 include review of the factual determination by the Secretary of Transportation?

Mr. FLORIO. If the gentleman would yield, I would think it would be in the scope of the definition of "arbitrary and capricious," so as to be able to provide that as a grounds for review, that should the Secretary's decision be arbitrary and capricious, that would certainly be appropriate grounds for review.

Mr. FRENZEL. I thank the gentleman for yielding. I thank the distinguished chairman and the distinguished ranking minority member for providing this information.

I would ask the gentleman from Illinois further the question: Section 702 calls only for an early determination. It does not dictate what that determination should be. Is my understanding correct of that section?

Mr. MADIGAN. That is correct. There is not any intention on the part of the Congress to dictate to the Secretary that he make a determination of one kind or another. As I know the gentleman from Minnesota knows, the question of whether or not there should be a second railroad serving the Powder River basin has a history now some 5 years long, going back to the Interstate Commerce Commission making a determination 5 years ago that there should be a second railroad; and as I know the gentleman knows, there has been an application pending now for almost 3 years before the Department of Transportation from a railroad which wants to be that second provider of service. But, there is not any intent here on the part of Congress to say to the DOT that, "You must make a decision and it must be made favorable for this applicant railroad." All we are hoping to do is to bring to a close this whole procedure and have a decision made one way or another. We are not trying to say what that decision must be.

Mr. FRENZEL. If the gentleman will yield further, I thank him for his statement and suggest that I never objected to the 3-year-old request for a loan. I only object to the new one for a very healthy railroad.

Mr. MADIGAN. Mr. Speaker, I would just say in conclusion that I certainly want to urge the support of all the Members of the House for this very important piece of railroad legislation. I think it is undoubtedly the most important piece of railroad legislation to be brought before this Congress in this century. For that reason, I think it is appropriately named the Staggers Rail Act of 1980, because I do not believe there has been anyone who has ever served in the Congress of the United States who cared more about the viability of the American railroad system than did the gentleman from West Virginia.

I am very proud, along with the gentleman from New Jersey, to have been a cosponsor of a bill named after the gentleman from West Virginia, and I will always remember the many courtesies the gentleman has extended to me as a member of his committee.

Mr. Speaker, I reserve the balance of my time.

Mr. FLORIO. Mr. Speaker, I would yield such time as he may consume to the distinguished chairman of the full Commerce Committee, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I thank the subcommittee chairman for yielding. I do thank the gentlemen on both sides of the aisle for the kind words they have said. I could not say that I deserved them, but I do say that I deeply appreciate them very much, and shall always remember them.

Mr. Speaker, this is a bill that has broad support. All of the Commerce Committee on both sides, the Senate and the House, signed the report. We need the bill immediately, as Mr. O'BRIEN said, for help for the Rock Island employees, and that is one of the reasons for our hurry in trying to get something done, so that they will be helped and taken care of.

It will help the railroads also to earn adequate revenues. It has broad support. I just might mention a few of the ones who are supporting it which are of major national importance:

AFL–CIO;

Association of American Railroads;

UMWA;

National Coal Association;

American Short Line Association;

Chemical Manufacturers Association;

Committee of Rail Shippers;

Railroad Brotherhoods; and

American Farm Bureau.

Those are only just a few of the many, many who have endorsed the bill. So, I think it is a bill that has been long overdue; that the railroads can be turned loose and see what they can do on their own to make an honest living and to get their railroads in shape and make their association better railroads in this land because in nearly every civilized nation on Earth that has a railroad system, there is a better system than we have.

But, ours have always been harnessed down and kept down in certain ways. I do not mean that we should turn them completely loose because we need to know what is going on and we need to protect the American public. I think this bill does that adequately. It has been well thought out, and certainly is something that has been needed for many, many long years.

I congratulate the two architects of the bill, and I especially congratulate the staff, who have worked so hard to try to work out a compromise. They have done it with the acquiescence and the knowledge of the two main members of the committee, the gentleman from Illinois (Mr. MADIGAN), and the gentleman from New Jersey (Mr. FLORIO), the chairman of the subcommittee.

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So, Mr. Speaker, with that I will just say that I think this is a good bill, and I hope all the Members will support the conference report.

I know that the gentleman from Minnesota had some problems with it, but I think they have been worked out as well as they can be worked out. I think the fears that the gentleman has are really unwarranted, because I am sure he knows the intent of those who helped to form the bill.

As far as the gentleman from Texas is concerned, I know that he is very sincere. He always is in everything he does, and I would say to him that I think the bill will be fair to his section of the country and to all sections of the country. I think it will help make the railroads healthy and make them viable. I think this will do something that we have needed for a long time and make the railroads a greater asset to our country and help us to build a greater and better Nation.

I would like to touch upon several provisions in the legislation.

The bill that has been reported back to the House provides for a totally new approach to the railroad industry by the Congress and hence derivatively, the Interstate Commerce Commission. Henceforth, competitive factors shall be of paramount and exclusive importance to the ICC. The presence of competition, in any form, forecloses the need for regulation and the burden is on those who seek regulatory relief to establish clearly the absence of competition. This legislation is intended to send a message to both the ICC and the courts that this law, and the law which it amends in large part, subtitle IV of title 49 (the Interstate Commerce Act) is to be construed as the first step toward treating the American railroad industry as any other business, which is best "regulated" by the marketplace.

The exemption authority has been carefully drafted to limit regulation to the bare essentials necessary to protect against abuses of market power. It is the intent of the conference committee that this standard would permit the exemption of any provision in the act, except as specified in the exemption section. Clearly, the authority to cancel routes under the new section 10705a should not be construed to inhibit or prohibit the Commission from cancellations under existing law. Indeed, the Commission will now have the authority to exempt carriers from joint rates and the conditions under existing law which limit a rail carrier's ability to cancel joint rates. The exemption authority was drafted to permit such a use. Throughout the debate on this legislation, the point has been made that the requirement for joint rates has many negative ramifications. It requires antitrust immunity to set rates; it results in carriers not recovering their costs and a reasonable division of the revenues from movements and it results in those carriers not earning adequate revenues being lumped together with those carriers that are earning adequate revenues.

With the new and permanent reliance on competition, the conference committee believes carriers could be relieved of the requirement to establish joint rates and, of course, the concomitant need for antitrust immunity under 10706, thus permitting carriers to earn at least up to the threshold level without regulatory challenge on particular movements. This is consistent with recent Commission decisions, restricting the use of antitrust immunity and should be the policy of the ICC hereafter.

One of the most important aspects of the conference substitute is that it provides a remedy to shippers who complain that they are cross-subsidizing other shippers. Shippers now may petition the Commission to raise rates they believe are too low to a level that contributes to going concern value. Above that level, Congress recognizes that a carrier must assess the market and cannot raise some rates if it wants to keep traffic that is making a contribution to going concern value. This is not cross-subsidy, but good business that insures that other shippers will pay less to keep rail service than if the traffic is driven away. Thus, we do not intend that the Commission hold high rates down in comparison to lower rates unless the shipper paying the higher rate can show that the lower rate can be raised without reducing the going concern value of the carrier charging the rate.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the gentleman from West Virginia (Mr. Staggers) knows better than anybody else that since my coming to this House, I have respected and loved no Member more than I have Chairman Staggers. This has been a matter of concern to me because I know that the gentleman has always been guided by the soundest of instincts in protecting and putting forward the general public interest, the greatest interest for the greatest number.

But when I see some of the things that have happened here, even now I must be compelled to rise and perhaps take this opportunity to ask questions, because it looks as if certain things are not going to happen. I am wondering if it would not be proper to have some inquiry, in view of the fact that we suspended and waived rule 28, which means that we admit that what we have here in this bill, no matter what our intentions are, exceeds whatever it was the House version had in it or the Senate version has in it. So I feel that we ought to at least have some kind of detailed explanation as to where these pertinent differences are.

What is this difference here now? I would like to have an answer because it is obvious that what we have here exceeds either what the House entertained or what the Senate entertained. For example, Chairman Long in the Senate contends that what has come out here far exceeds the base rate that either the House or the Senate had provided for.

It looks to me as if the chairman of the subcommittee is not going to speak on precisely what are the detailed differences here that we are going to be voting on, if and when we vote on the conference report. That is the only thing I question.

If at any time I entertain doubts about my doubts, it is when such a distinguished and noble gentleman as Chairman Staggers tells me what he did a while ago about his feelings concerning this conference report. That is when I doubt my own position. But I have always found that as a personal rule, when I have questions unanswered and unrebutted, I persist in raising them and maintaining them.

It just seems to me that if we do have these substantial departures from what either the House or the Senate considered in their bills now esconced in this conference report, perhaps we should have an explanation. That is the only thing I want.

But, Mr. Speaker, I really do want to thank the committee chairman and tell him that if there is any doubt as to my questions, it is only when the gentleman gives me the assurance that he does.

Mr. STAGGERS. Mr. Speaker, the only thing I can assure the gentleman is that the gentleman from Louisiana raised the question, and he signed the report as one who believed in what he did over there. Every one of the Members who were there signed the report. So I think they all had faith in what they did.

I would say also that we took the House figures on the rates that were set. That is something we passed here and debated very fully when we passed the bill.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. I do thank the gentleman from Texas (Mr. Gonzalez) for his contribution.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Speaker, I commend the conferees for producing a rail deregulation bill, despite its many shortcomings, that is a substantially improved version of what was originally introduced. I am especially pleased that my colleague from New Jersey (Mr. Florio) and the other House-Senate conferees included my amendment preserving the existing contract-based rights of electric utility rate payers in southeastern Michigan.

New section 10713 provides for the entry and enforcement of rate contracts between shippers and railroads. Subsection (j) thereof includes my suggested language preserving rights arising out of existing contracts. Indeed, the second sentence of subsection (j) provides that existing contracts shall have the same force and effect as if they had been entered into in accordance with other provisions of section 10713. This insures not only that the legislation leaves existing contracts untouched, but also that such contracts will enjoy the same newly created enforcement rights established for contracts entered into after its passage.

My concern in this matter stems from the fact that the Detroit Edison Co., which serves millions of energy consumers in southeastern Michigan, has a contract with the Burlington Northern Railroad covering over 150 million tons of coal still to be delivered over a time period extending to the year 2001. Earlier this year, the ICC held Burlington Northern to the rate basis it quoted to induce Detroit Edison to commit itself to western coal from a BN-served mine. But the Commission lacks the contract-enforcing powers of a court of law, and its decision therefore rested on its power to prescribe lawful maximum reasonable rates. Since that power is now to be limited, the result would have opened the door for the BN to drive home a rate increase which would have cost the rate payers of southeastern Michigan a half a billion dollars over the next two decades.

To insure that my amendment extends no further than necessary to preserve the rights of shippers arising out of existing contracts, subsection (j) includes, in its final sentence, a provision allowing railroads to challenge the existence of a lawful contract. Since it was not my intent to preserve more than shippers had prior to the new act, I offered no objection to language consistent with preserving the status quo. My amendment intends no worsening of any railroads' existing position under contracts outstanding when the new act becomes effective. Railroads, particularly including those small and marginal lines whose very ability to serve could be impaired by inflexible contract enforcement, will have the benefit of the same safeguards against confiscatory rates as are provided both under existing law, and elsewhere under this new bill.

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have received two questions, one from the gentleman from Texas (Mr. Hance) and one from the gentleman from Tennessee (Mr. Boner).

Mr. Speaker, the gentleman from Tennessee (Mr. Boner) has asked that I respond to a question concerning section 402 of the conference report which involves abandonments.

In response to the question of the gentleman from Tennessee, I would like to assure him that it is not the intention of section 402 to alter the ground rules presently applicable to pending abandonment applications. As the gentleman will note, section 710 of the bill provides that it shall take effect on October 1, 1980. The provisions of section 402 of the bill, to which you have alluded, would apply only to abandonment applications filed on or after that date.

I would also like to point out that the amendment offered by the gentleman from Texas (Mr. HANCE) has been retained. Although the exact language of the gentleman's amendment has been altered, the long-haul short-haul clause of the Interstate Commerce Act, 49 U.S.C. 10726(a), has been retained, not only for grain and cotton as the gentleman's amendment provided, but for all commodities. I am pleased that we were able to retain and expand Mr. HANCE's amendment.

Mr. Speaker, I would also like to address another issue involving rate regulation. In determining the reasonableness of rate increases within the 6-percent zone of freedom, the Commission is to give regard to whether a carrier is earning "excessive profits" under the rate being challenged. The only rational economic test of excessive profits is whether the shipper is paying more for the service in question than it would have to pay if the railroad were providing no other service. Otherwise, the shipper is paying less than it would have to pay to operate the service itself, and the railroad is warranted in charging that shipper as much as demand warrants, until the railroad is earning adequate revenues. This is the concept of differential pricing incorporated in this bill.

A carrier should attempt to receive from each shipper the maximum possible contribution to fixed costs. When it prices in this manner it insures that each shipper is paying consistent with its need for the service, and each shipper is paying the least amount necessary to cover the overall costs of all the railroad's services. Any other pricing scheme is bound to lead to underutilization of the rail system and result in arbitrary regulatory allocation of railroad costs instead of efficient allocation on the basis of demand. Hence, it makes no sense to discuss "excessive profits" except in the context of the cost of the service if the shipper alone were paying all variable and fixed costs of that service.

Similarly, it makes no sense to discuss a rate of return on a particular service as opposed to all of a carrier's services. A narrow service-oriented rate of return valuation ignores the fact of differences in demand and the need to maintain the overall return of the carrier through differing contributions from shippers on the basis of differing demand for the service. No attention should be paid to the relative earnings from individual services unless it can be shown that other services can be charged higher prices without loss of traffic and the carrier needs no additional revenues to earn adequate revenues.

Mr. Speaker, I would like to make two other brief points.

Section 503(a) was intended to amend title V of the Conrail employee protection to permit Amtrak to transfer its employees who are protected under title V in the same manner as Conrail is authorized to transfer such employees, but restricted the transfer of such employees to the same seniority district. Other railroads with title V employees are provided the same rights as Conrail to transfer these employees. Because the number of such employees on other railroads is small, it was not the intention that such employees be subject to transfer except in extraordinary circumstances. If this provision causes hardship, the committee will act quickly to alter it.

Section 211 requires the Attorney General and the Commission to investigate and make recommendations to the Congress about the liability of railroads under 49 U.S.C. 11707. We fully expect that public hearings will be held, and interested parties will be given the opportunity to be heard.

Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I support this bill, but I am very concerned that the safe railroad reinvestment provisions which were adopted in the House were completely deleted, and there is no mention in the statement of the managers as to why they were deleted.

Those provisions in the House bill, as strengthened by the amendment I offered, would have at least indirectly tied rate increases under deregulation to rail safety. It would have at least encouraged the railroads to act because Congress had said, "You had better plow your money back into better track because the ICC is going to continue to look at the rate increases."

One of the purposes of the bill, I thought, was to encourage better railroad operation and to encourage the railroads to rebuild their roadbeds and improve their maintenance. But without these provisions in the bill, there is no direct relationship to rail safety. It makes me wonder if rail safety is taking a back seat in this situation. Have the railroads vigorously opposed this rail safety measure?

I am just very concerned about this situation.

I support the bill because I think on the whole it makes good sense. It has other good provisions in it, but I fear that a series of rail accidents may occur without these provisions. I fear there may be incidents relating to toxic materials and grain. I fear there may be a deterioration of maintenance and problems with bad trackage with railroads. I do not want the railroads to take this as a signal that we have deleted this rail safety provision in rail deregulation, because I thought the two issues were tied together.

So, Mr. Speaker, I will ask my friend, the gentleman from New Jersey (Mr. FLORIO), who has been so helpful to me on this bill, this question: The fact that those safe railroad reinvestment provisions were taken out is not meant, I hope, to be intended as a signal to the railroads or to anybody else that we do not expect them to plow these increased revenues back into their tracks and into their safety program.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield, the obvious answer is, of course, that is not the intention of the committee.

I call to the gentleman's attention the fact that since this bill was passed, the House last week, on suspension, passed the Federal Railroad Safety Authorization Act of 1980. The Senate has already accepted that measure. That bill is soon going to be signed into law.

I would also call to the gentleman's attention that tonight or perhaps tomorrow we will consider on the Suspension Calendar, the Hazardous Materials Transportation and Independent Safety Board Amendments of 1980. We believe we have addressed the question of safety.

Mr. Speaker, the conference report is a sound piece of legislation to the degree that railroads will be able to generate revenues and will be able to take those revenues and reinvest in their physical plant for the benefit of those who seek better service, as well as safer service. The goals of safety are adequately addressed in this conference report.

Mr. GLICKMAN. Mr. Speaker, that is why I am supporting the bill. But what concerns me is that I feel the railroads have vigorously fought this provision which the gentleman from New Jersey was responsible for and which I strengthened on this floor by offering my amendment which was adopted. That is what worries me.

Why have the railroads vigorously opposed the Safe Railroad Reinvestment provisions? The gentleman remembers, of course, that the railroads were required to have an inspection of their tracks at least once a year. I understand that the marketplace will begin to give the railroads more revenues, but I hope they will not take this as a signal that we will let up on our vigilant watch over rail safety, because otherwise there will be disastrous results for the constituents we represent.

Mr. FLORIO. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I rise in support of the conference report now pending.

Mr. Speaker, first let me commend Chairman FLORIO, Chairman STAGGERS and Mr. MADIGAN for their efforts to bring this conference report before the House.

Mr. Speaker, my involvement in the rail legislation now before the House was to assure that a balance was struck, a balance which would allow carriers to achieve adequate revenues while providing protection for captive shippers against unjustifiably high rail rates. I believe this balance has been struck and urge support for the conference report.

As my colleagues are aware, I was a coauthor of both the original Eckhardt-Rahall amendment and the Staggers-Rahall-Lee-Loeffler amendment. While the original committee bill lacked protection for captive shippers and the Eckhardt-Rahall amendment some thought deprived carriers of much needed revenue, I believe the compromise which the House adopted and the refinements which the conferees have agreed upon meet the needs of both concerns.

As in the Staggers-Rahall-Lee-Loeffler compromise, the conference report establishes a rate threshold level at which the ICC will review a rate. This threshold will specify points at which the ICC will have jurisdiction over maximum reasonableness of rail rates. The threshold will start at 160 percent of variable costs and will grow in 5 years to an ICC-calculated "cost recovery percentage" which will be set annually and will be between 170 and 180 percent.

Moreover, the conferees have modified the "trigger" point at which ICC must decide whether to investigate a rate so that the "trigger" would be 20 percentage points higher than the rate threshold but not exceed 190 percent. This will furnish clear protection of captive railroad shippers against encountering excessive rates and still will allow rail carriers to achieve adequate revenues to upgrade railroad transportation across the United States. This is essential with respect to many commodities, especially coal, which represents a vital source of domestic energy production.

In addition, this legislation for the first time, establishes in the law that contracting for railroad transportation is not in violation of a common carrier obligation and in fact is encouraged in order to tie critical railroad transportation to the movement of basic commodities.

Mr. Speaker, the purpose of this legislation is to grant sufficient rate-making freedom to the railroads thereby enabling rail carriers to revitalize deteriorating railroad trackage and equipment. I believe this will be accomplished while protecting "captive shippers."

Therefore, I urge my colleagues to support the conference report.

☐ 1920

Before I conclude, Mr. Speaker, I want to commend the distinguished subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO), the distinguished gentleman from Illinois (Mr. MADIGAN), the ranking Republican member, for their long hours of hard work on this legislation. I have found it very rewarding to work with not only these gentleman but also the distinguished gentleman from Texas (Mr. ECKHARDT).

And, most importantly, Mr. Speaker, I would like to commend very highly the distinguished chairman of the full committee, my senior colleague, the gentleman from West Virginia (Mr. STAGGERS), for whom this railroad bill is named, the Harley O. Staggers Rail Act of 1980. This reflects his concern for not only the rail industry, but for the working men and women of our country and the many, many other interests that are affected across our country by this important legislation. We will miss the distinguished chairman of the Commerce Committee; we in West Virginia will miss his leadership, but we shall always have his friendship.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume, and I would just like to add to what has been said by the last speaker, the gentleman from West Virginia, that on behalf of myself and the gentleman from New York (Mr. LEE), the gentleman from Texas (Mr. LOEFFLER), and the other minority members of the Commerce Committee who have worked on this bill, we, too, have the greatest admiration and respect for the gentleman from New Jersey, the chairman of the Transportation and Commerce Subcommittee.

Mr. FLORIO. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise to express serious concerns regarding a provision of the legislation currently before us, the Rail Deregulation Act. I am referring to section 702 of the conference report which directs the Secretary of Transportation to reach a final determination on the petition currently before him to provide loan guarantees to the Chicago and Northwestern and Union Pacific Railroads for the construction of a new line to serve the Powder River Basin in Wyoming.

I believe that this section is an unnecessary intrusion of Congress in the Executive branch decisionmaking process. Through its enactment we will be short circuiting normal procedures and deny interested parties the right to have full participation in the final decision. In addition this bill will also severely limit those parties from seeking judicial review. This matter has been the subject of careful, timely review and this bobtailed method of forcing the decision does an injustice to the procedures set forth.

Mr. Speaker, I recognize the importance of the Rail Deregulation Act. The use of this essential legislation as a vehicle for the benefit of two railroads, however, is unwarranted and establishes a dangerous precedent. I voted to remove this provision when the Rail Act was before the House, however, that effort failed. The modification adopted by the conferees is an improvement because it does not mandate waiving of the findings. The time schedule established, however, does violence to due process.

It is my hope that the Secretary will withstand this heavyhanded effort by Congress and make the proper determination based upon the facts. Hopefully this assures for objectivity voiced today on the floor and the judicial review will be reflected in the actions.

I am pleased to support the remedial measures for the Rock Island and the attempt to reinforce the financial health of the Milwaukee railroad.

A revitalized Milwaukee is essential throughout the midwest to maintain an adequate rail transportation system vital to many key economic sectors in our region.

Certainly it is my hope that the substantive changes that this major rail deregulation act of 1980 embraces, is the first positive step to revitalizing railroads as a major component of our transportation system.

I would commend the chairman of the committee Mr. HARLEY STAGGERS of West Virginia, who has spearheaded the enactment of this measure.

Mr. STAGGERS has been a champion of the rail transportation system and workers during a most difficult period in our history. He must be commended for his able, effective leadership. This measure I trust will be the foundation for a solid future for this vital industry.

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say, in concluding the debate, I express my appreciation to all of those who have been helpful in achieving this legislative goal, which I truly believe will be historic in consequence.

The gentleman from Illinois (Mr. MADIGAN) has been extremely helpful and cooperative in fashioning this legislation. All the subcommittee members have been very active and have been extremely helpful as well. The majority staff and the minority staff have put in long hours, and I think the results have certainly paid off in a piece of legislation that we can be very proud of.

And, last, but certainly not least, the Chairman of the full committee (Mr. STAGGERS) has been an inspiration to all of us. He is going to be missed. We have looked to him for guidance in the past and will continue to feel free to call upon him when the need arises.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 1946, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2719) entitled "An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes."

The message also announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 3956. An act granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras;

H.R. 5451. An act to amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the U.S. Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes;

H.R. 5546. An act to amend the U.S. Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes;

H.R. 7411. An act authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Mass., and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes;

H.R. 8202. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period;

H.J. Res. 568. Joint resolution to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week"; and

H.J. Res. 472. Joint resolution designating October 19, 1981, as a "Day of National Observance of the 200th Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Va."

The message also announced that the Senate agree to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1141. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1980.

The message also announced that the Senate agree to the amendments of the House with an amendments to a bill of the Senate of the following title:

S. 1148. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

The message also announced that the Senate agree to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1393. An act to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes.

The message also announced that the Senate agree to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 1656. An act to provide for a national program of fisheries research and development, and for other purposes.

The message also announced that the Senate had passed bills, joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 3180. An act to repeal a provision of the Refugee Education Assistance Act of 1980;

S.J. Res. 209. Joint Resolution providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities;

S. Con. Res. 131. Concurrent resolution authorizing a change to be made in the enrollment of S. 2719; and

S. Con. Res. 132. Concurrent resolution authorizing conforming corrections in the enrollment of S. 2719.

MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, DEPARTMENT OF DEFENSE, FISCAL YEAR 1981

Mr. McKAY. Mr. Speaker, pursuant to the order of the House on Monday, I call up the conference report on the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, and I ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1980.)

Mr McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

GENERAL LEAVE

Mr. McKAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the conference report and the amendments in disagreement to H.R. 7592 presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The SPEAKER pro tempore. The gentleman from Utah (Mr. McKAY) will be recognized for 30 minutes, and the gentleman from New York (Mr. McEWEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, I yield myself such time as I may consume.

We are presenting today the conference report on H.R. 7592, providing for military construction for the fiscal year 1981. The conference agreement provides $5.1 billion, which is $288 million below the President's request and $62 million below the amount recommended by the Senate.

Although there have been a series of changes to the House bill made in the conference agreement, we are able to bring back the conference report below the President's budget request and keep intact the majority of the initiatives of the House. I will highlight some of the major proposals included in the conference agreement:

The conference agreement continues the committee's initiative to obtain increased host nation support for U.S. Armed Forces stationed abroad. By identifying specific facilities and catogories of facilities for host nation support funding, the conferees again put the Defense Department on notice that every request for overseas construction will be scrutinized in light of this host notion initiative. Additionally, the conference report prohibits the payment of taxes overseas, an item which the House has supported for a number of years. This should also clearly signal the intention of the Congress concerning host nation support.

In the space shuttle program, the conference agreement provides $13.9 million for facilities at Vandenberg Air Force Base but leaves out the administrative facility. This facility is overscoped and too expensive. Additionally, the conference agreement limits the availability of the fiscal year 1981 funds to after the time of the rollout of the first orbiter in preparation for the first manned flight.

The conference agreement restores $22 million for installation of solar systems on military facilities. Those to be installed must meet the criteria identified in the Energy Security Act of 1980.

The conference agreement includes an additional $20 million for Guard and Reserve facilities, distributed among the Reserve components where the need is greatest.

There is included in the bill $105 million in a Persian Gulf contingency fund which permits the Secretary of Defense the flexibility that may be necessary to properly allocate facilities in the Indian Ocean/Persian Gulf area.

Nearly $350 million is provided for NATO construction for U.S. troops and an additional $250 million is allotted for the U.S. share of the NATO infrastructure program.

While the conference agreement is below the section 302 allocation for this function, the agreement provides for the highest priority military construction projects in a well-balanced program reflecting the requirements of the Department of Defense and the priorities and initiatives of the Congress.

Mr. Speaker, there are a number of typographical errors in the conference report. On page 4, the amount appropriated for the Army should be $857,834,000. On page 5, funds appropriated for minor construction should read $1,900,000. On page 8, under amendment No. 8, funds earmarked for planning and design should read $6,000,000. In amendment No. 13 on page 10, the amount appropriated for Reserve components generally should read $3,742,000.

In the RECORD on page 27915, under exigent minor construction, the amount should read $1,900,000 and on the same page the amount agreed to for the Fort Carson, Colo. hospital should read $10,000,000.

Mr. Speaker, I would like to include in the RECORD at this point a comparative tabulation of the conference agreement.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	1981 House	1981 Senate	1981 conference	1980 enacted	1981 estimates	House bill	Senate bill
Military construction:									
Army	$725,649,000	$911,061,000	$828,308,000	$870,020,000	$857,834,000	+$132,185,000	−$53,227,000	+$29,526,000	−$12,186,000
Navy	567,000,000	763,600,000	732,873,000	684,673,000	775,273,000	+208,273,000	+11,673,000	+42,400,000	+90,600,000
Air Force	565,456,000	918,800,000	783,797,000	816,130,000	861,125,000	+295,669,000	−57,675,000	+77,328,000	+44,995,000
Defense agencies	192,350,000	235,700,000	136,100,000	637,400,000	245,600,000	+53,250,000	+9,900,000	+109,500,000	−391,800,000
Transfer not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)				
Transfer from Military construction Air Force	(39,200,000)					(−39,200,000)			
Army National Guard	23,700,000	34,000,000	34,364,000	34,000,000	42,269,000	+18,569,000	+8,269,000	+7,905,000	+8,269,000
Air National Guard	36,000,000	83,200,000	83,200,000	83,200,000	83,200,000	+47,200,000			
Army Reserve	30,000,000	43,200,000	43,200,000	43,200,000	43,200,000	+13,200,000			
Naval Reserve	18,300,000	24,700,000	33,000,000	24,700,000	33,000,000	+14,700,000	+8,300,000		+8,300,000
Air Force Reserve	12,000,000	21,600,000	21,600,000	21,600,000	21,600,000	+9,600,000			
Reserve components generally				20,000,000	3,742,000	+3,742,000	+3,742,000	+3,742,000	−16,258,000
Foreign currency fluctuation construction defense	100,000,000					−100,000,000			
Reappropriation by transfer	25,000,000					−25,000,000			
North Atlantic Treaty Organization Infrastructure		300,000,000	250,000,000		250,000,000	+250,000,000	−50,000,000		+250,000,000
Total military construction	2,295,455,000	3,335,861,000	2,946,442,000	3,234,923,000	3,216,843,000	+921,388,000	−119,018,000	+270,401,000	−18,080,000
Family housing Defense	1,622,122,000	2,177,331 000	1,981,593,000	2,051,793,000	2,007,893,000	+385,771,000	−169,438,000	+26,300,000	−43,900,000
By transfer		(18,651,000)	(18,651,000)	(18,651,000)	(18,651,000)	(+18,651,000)			
Portion applied to debt reduction	−123,425,000	−126,056,000	−126,056,000	−126,056,000	−126,056,000	−2,631,000			
Total family housing	1,498,697,000	2,051,275,000	1,855,537,000	1,925,737,000	1,881,837,000	+383,140,000	−169,438,000	+26,300,000	−43,900,000
Homeowners assistance fund Defense	1,000,000					−1,000,000			
Grand total new budget (obligational) authority	3,795,152,000	5,387,136,000	4,801,979,000	5,160,660,000	5,098,680,000	+1,303,528,000	−288,456,000	+296,701,000	−61,980,000

☐ 1930

Mr. MILLER of Ohio. Mr. Speaker, we on the minority side agree with what the chairman has stated, and I yield 5 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, if my good colleague would enter into a colloquy with me, since we have a little time on our hands, I would like to congratulate my colleague for the good work he has done on this bill and bring up a couple of points that I think he has an interest in and that is the weteye bomb situation over in Colorado.

I understand the authorization is not coming up tonight.

Mr. McKAY. Mr. Speaker, will the gentleman yield?

Mr. MARRIOTT. I yield to the gentleman from Utah.

Mr. McKAY. That is correct.

Mr. MARRIOTT. With the Hart amendment in it. Maybe we could at least discuss it for a minute.

The gentleman has in this bill an amendment I think he put in committee that none of the funds in this act could be used to transfer or move chemicals or gas weapons into MX-impacted areas.

Is it the gentleman's opinion that that would stop the Army from sending those Colorado nerve gas bombs into Utah? Would the gentleman also tell me what he considers to be an MX-impacted area, and how this might affect Tooele Army Depot and its mission, if the gentleman could just comment on that.

Mr. McKAY. We would hope that it would delay until further study or action might be taken in the future.

Beyond that, as far as the definition of "MX-impacted area" is concerned it is our intent that it refer to Utah and Nevada as affected States. It could also apply if the MX is placed in some other area or States.

Mr. MARRIOTT. We have an interesting situation in Utah in that we have Camdus in Tooele County which is probably the best place in the world to detoxify these bombs.

Would this amendment in any way affect the mission of Tooele Army Depot in the gentleman's opinion?

Mr. McKAY. No.

Mr. MARRIOTT. Would it actually eliminate the weteye bombs in Colorado from being detoxified at Camdus?

Mr. McKAY. No, not necessarily.

Mr. MARRIOTT. So it only applies then to the funds actually in this bill.

Mr. McKAY. That is right.

Mr. MARRIOTT. The gentleman is looking at that as possibly a delaying move, but certainly they could find other funds——

Mr. McKAY. The objective of the conferees was to avoid a concentration of all types of weapons systems in one given area.

Mr. MARRIOTT. In other words, the Army could find other funds available to use to implement the language of the Hart amendment regardless of the language we have in this bill?

Mr. McKAY. That potential exists; yes.

Mr. MARRIOTT. If I may just ask another question. The Hart amendment says that within 1 year the chemicals will be removed from Colorado to somewhere.

Mr. McKAY. Or detoxified.

Mr. MARRIOTT. By removed, I assume it means detoxified or moved?

Mr. McKAY. Yes.

Mr. MARRIOTT. The Army told me that they probably could not detoxify in less time than 18 months.

Now, if they are in fact going to make the move according to this language, there is only one legitimate place or one logical place they would make the move and that would probably be over in Tooele.

No mention is made in here about safety factors. The reason they have not been moved up to now is because—at least the Army said, "It was unsafe," to make the move.

I want to ask the gentleman what his opinion is of this language and why we do not have something in here in terms of dealing with the safety aspects and whether the gentleman thinks that this language means automatically those nerve gas bombs will be moved to Utah to comply with the 1-year limit in the amendment without any concern for safety?

Mr. McKAY. There is no requirement that they go to Utah in the Hart language. There are a couple of other places where these nerve gas bombs could be stored while awaiting detoxification at a later time. Utah is not the only place to which they could be moved.

The intent here is to delay this move until there could be more thorough study of alternatives.

As far as the matter of safety is concerned, this committee has been very concerned over the years about the question of the safe storage and protection of both chemical and nuclear bombs. I have added money in my committee to beef up the security of these weapons to see to it that those factors were taken care of.

I have directed that the Army not move any of these types of weapons until they are sure of all safety factors involved.

Mr. MARRIOTT. I appreciate the gentleman giving us that assurance. I would hope that the gentleman from Utah who has been a good worker in this area, and the gentleman from New York, would assure us that notwithstanding any language in these bills, no nerve gas bombs will be moved to Utah unless the safety factors have been considered.

If I can be assured of that, I have no objection.

Mr. McKAY. The gentleman can be assured that the pressure of this committee is on the administration to see that that is complied with.

Mr. MARRIOTT. I thank the gentleman for his colloquy.

Mr. McEWEN. Mr. Speaker, I concur in the remarks of the chairman, the gentleman from Utah, on this conference report. I think that the House Members will find it satisfactory. It is a somewhat larger military construction appropriation than we have had in recent years, but the needs and requirements for military construction are larger.

There is just one section of this that I would make mention of, Mr. Speaker, as I shall not be around here in the 97th Congress and it is one section that I hope that my colleagues will give close attention to.

There is a provision in here for $105 million in what is referred to as the Persian Gulf contingency fund.

This is to give the military some flexibility, as the chairman of the subcommittee pointed out, in locating facilities in the Indian Ocean-Persian Gulf area.

□ 1940

This, Mr. Speaker, in my mind is a new area for American military concern and an area that poses great threats not only to this country, but to Western Europe and Japan.

I hope that my colleagues who have served on this committee and on the Armed Services Committee will give attention to this area and watch this. Under the provisions of this appropriation the military have to come back to these committees with whatever plans they have.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Regula).

Mr. REGULA. Mr. Speaker, first of all, I want to commend the gentleman from New York. This will be the last conference the gentleman will be handling on the military construction. I have served with the gentleman on this subcommittee for 4 years. I just want to say to the Members that he has been extremely diligent in his work on this committee. He has been at the committee hearings. He has been knowledgeable on this subject and I think all the people in the Nation owe a great debt of gratitude to Bob McEwen for dedicated service to something that is not very glamorous, but is extremely important. You can have all the hardware in the world, but if you do not have bases that are properly maintained and well located, the hardware is meaningless. The importance of the Military Construction Committee in making decisions on priorities in the management of the real estate end of our military effort is vitally important.

I do not believe most people realize how widespread the basing system of the U.S. defense is. We have some 325 major bases outside the United States. Some are very significant in their size and importance. It is the responsibility of this committee to manage the bases worldwide. Bob McEwen has given this responsibility dedicated service in his years on the Military Construction Subcommittee. We all owe him a great debt of thanks and we will miss him in future sessions as we wrestle with these tough problems.

One thing I might mention here in the section dealing with the Persian Gulf is that there is a protection that gives American contractors the first crack at building these facilities. We have heard a lot about "Buy America." We have heard a lot about the impact of foreign imports and foreign activities on the balance-of payments problem. In this report we tried to be reasonable in providing some measure of protection for the American contractors that bid on these facilities and yet to get them completed in a cost-effective way.

Mr. McEWEN. Mr. Speaker, had I known what my colleague from Ohio wanted to devote so much of his time to, I would have been happy to yield him additional time.

I thank the gentleman for his generous remarks about my work.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield for a question?

Mr. McKAY. I would be happy to yield to the gentleman from Ohio.

Mr. SEIBERLING. Is there any money in here for construction of a binary weapons production facility?

Mr. McKAY. Yes, there is. We have $3.150 million, which would go toward the construction of the item authorized in the military construction bill for Pine Bluff, Ark.

Mr. SEIBERLING. I voted for the military construction bill when it went through the House, but I noted in the Record that I did not intend by doing so to indicate support for that particular item. I was hoping that the Senate might have prevailed upon the House to delete it. However, I do not know whether it was finally in the Senate bill or not. I would just like to ask the chairman a question.

The United States is a party to an international convention that says we will not use chemical weapons, poison gas, to be specific. It would be a violation of international law to do so.

The best defense against chemical warfare is not to have the weapons, but to have the gas masks, the protective clothing and other protective devices and defensive training.

I wonder if the gentleman can tell me what the rationale is for authorizing and proceeding with this production facility.

Mr. McKAY. The item was not a point of conference disagreement. Both the House and the Senate bill had the project in it, so it was not a matter of conference disagreement.

The argument in favor of the facility was the basic feeling that we need to counterbalance Soviet capabilties in this area. That is the basic reason for it and that is why it was put in. It was not in the debate in the authorizing committee, but we agreed with those that came before our committee to fund this project which was authorized. If it had not been authorized, we would not have funded it.

Mr. SEIBERLING. Well, if the gentleman would yield further, I would simply like to say that I agree wholeheartedly with the statement made by the gentleman from Ohio (Mr. Regula) as to the importance of the military construction appropriation and authorization. If you do not have the bases, you are a long way from having an effective military defense. Yet it poses a real dilemma to vote for a bill that contains in it the authorization for a program that would be a violation of international law if we ever used the weapons.

Therefore, I find it very difficult to vote for this conference report.

I just wanted to get that in the record.

Mr. McKAY. I appreciate the gentleman's comments. Of course, as we know, there are a number who have concerns about this project. Others feel that the binary would be a safer operation than the present things we have. If we are going to have gas weapons, it seems that these are a better alternative.

Mr. SEIBERLING. But if we ever used it, it would be a violation of international law.

Mr. McKAY. That may be, and we would hope that we would never use it.

Mr. MARRIOTT. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I would be glad to yield to the gentleman.

Mr. MARRIOTT. I would just like to make a point, that I think it is quite clear that the Soviets are already using it in some parts of the world. Their nerve gas arsenal is unbelievable compared to ours.

My district is the Nation's storage depot for nerve gas. It seems to me that the situation is just the opposite from what the gentleman is discussing. With the new binary system, we are actually able to safeguard the nerve gas scenario, rather than making it worse. I cannot understand why the gentleman would not be for the bill because of the binary system, rather than against it.

Mr. SEIBERLING. Well, would the gentleman yield further, because I think this is an important dialog.

Mr. McKAY. I yield.

Mr. SEIBERLING. Unquestionably, the binary system is safer from the standpoint of storage and handling than the kind that has been produced in the past; but I submit that two wrongs do not make a right.

I also submit that the best defense against poison gas is to have the protective clothing and other equipment and not to have the ability to dump poison gas on the other guy. Usually it is the civilian population that suffers when chemical warfare is used, because the military have the protective capability, assuming they have prepared in advance.

It strikes me that the way to solve the mentioned problem with respect to the Soviet Union is to make an issue of it in international forums and put international pressure on them and try to bring out if they have, indeed, been using poison gas and other chemical weapons in violation of international law. We do not solve the problem by saying, "Well, if you're going to do it, we're going to do the same thing." That merely compounds the problem without adding to our defenses.

Mr. McKAY. I agree with the gentleman that we ought to have international pressure on those who are using it, especially the Russians. We ought to in some way in an international forum see that these things are outlawed and set aside. They are a detriment to mankind. They are a waste of money as far as the needs of mankind are concerned. But I must also say that there is a significant deterrent effect to having a chemical responsive capability, and that is why we are including these funds.

I might say to the gentleman that there are also in the defense bill funds to provide for these gas masks, clothing, and various other elements. That is also in the defense budget. It is not in this bill.

Mr. SEIBERLING. Well, if the gentleman will yield further, I am very gratified to hear that. I hope it is being funded in sufficient amounts to be able to counter any Soviet use of such weapons against our military personnel.

Mr. McKAY. We hope that is true.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I yield.

Mr. McEWEN. I just say to the gentleman from Ohio, we have heard his argument and I respect the gentleman's right to make it, but I cannot agree with it. I think if we followed that rationale, I would say to the gentleman from Ohio, that if the enemy has bombs, rather than our building bombs, we should have bomb shelters, that we would simply have something to crawl into to protect ourselves against whatever the threat is; not with gas.

□ 1950

I think to all of us it is a horrible spectre. I think the fact that we have not seen gas employed, unless it is now being, as some reports indicate, employed in Afghanistan against a nonsophisticated society that does not have such weaponry, it has not been used because of the threat of it being used by the other side, the retaliation. So I agree with the gentleman from Ohio (Mr. SEIBERLING) on the protective clothing and the things that can be used to protect against gas. But I think the greatest protection against it being employed is the certainty that the other side will also employ it.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further?

Mr. McKAY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I happen to have spent 4 years in the U.S. Army and before that 4 years in military school, where we studied, among other things, chemical warfare as part of our ROTC training. One of the fundamental postulates in military tactics is that chemical warfare is one of the least efficient forms of warfare when used against troops who are prepared with defensive equipment, clothing, and so forth. About all one can achieve when chemical agents are used against military personnel is to force them to put on the gas masks and the other cumbersome clothing and to go through decontamination measures. It hampers them and slows them up, but it is also unpredictable, because with shifts in the wind and changes in the meteorological conditions it can actually backfire on those who use it. This happened in World War I when chemical weapons were used. It is almost as risky to the side using it as to the other side if the other side is prepared with defensive measures.

So I do not accept the idea that the best defense, the best deterrence against the use of chemical weapons is to have them on your side. I do not think that is true, and I think most tacticians in the Army would agree that that is not the case.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I yield to the gentleman.

Mr. BURGENER. I rise for two purposes. I appreciate my colleague yielding.

I first rise to commend the chairman of the subcommittee, the gentleman from Utah (Mr. McKAY) for another outstanding job on this bill. I also rise to commend retiring minority member, the gentleman from New York (Mr. McEWEN) the ranking member, for truly outstanding service. I remember many a hearing when this committee was meeting after the House had ajourned and the Members stayed long, long hours to listen to witnesses, particularly from my area. I deeply appreciate it. Mr. McEWEN will be sorely missed.

The second purpose is to direct an inquiry to the chairman concerning the naval hospital or proposed rebuilding or remodeling of the naval hospital in San Diego. I am familiar with the language in the report contained in the bill when it left the House and I am asking the chairman if there is any substantive change to that language that occurred in the conference.

Mr. McKAY. There is not. The House position was retained in the identical form it left the House.

Mr. BURGENER. I appreciate that very much and, again, I thank the chairman for his outstanding work.

Mr. McKAY. I appreciate that and want to join in the gentleman's remarks about the ranking minority member, the gentleman from New York (Mr. EWEN). He has been a great stalwart about defense matters and in caring for our national interests. The people of his district and the entire country should be grateful for the gentleman's support for the defense of this Nation. The gentleman has been of great assistance and we will sorely miss him. We wish him well in his future endeavor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 29, not voting 61, as follows:

[Roll No. 606]

YEAS—342

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frenzel
Frost
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Pease
Penner
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster

Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Stangeland
Stanton
Stenholm
Stewart
Stokes
Stratton
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—29

AuCoin
Bedell
Beilenson
Burton, John
Burton, Phillip
Carr
Conyers
Dellums
Downey
Fenwick
Forsythe
Gray
Harkin
Kastenmeier
Maguire
Mitchell, Md.
Obey
Ottinger
Paul
Pursell
Rangel
Richmond
Russo
Sabo
Seiberling
Studds
Vento
Weaver
Weiss

NOT VOTING—61

Alexander
Anderson, Ill.
Annunzio
Aspin
Atkinson
Bailey
Boggs
Bonior
Breaux
Brooks
Butler
Conable
Crane, Philip
Dixon
Dodd
Drinan
Edgar
Edwards, Calif.
Ford, Mich.
Ford, Tenn.
Fuqua
Gaydos
Giaimo
Grisham
Hanley
Hawkins
Heckler
Holtzman
Horton
Ichord
Jenrette
Johnson, Colo.
Jones, N.C.
Leach, La.
Luken
Lundine
Lungren
McCormack
Martin
Mathis
Michel
Moorhead, Pa.
Myers, Pa.
Nedzi
Nolan
Pritchard
Quayle
Rinaldo
Roberts
Shannon
Spellman
Staggers
Stark
Steed
Stockman
Vander Jagt
Volkmer
Waxman
Wilson, Bob
Wilson, C. H.
Wydler

□ 2000

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Butler.

Mr. Hanley with Mr. Conable.

Mrs. Spellman with Mr. Philip M. Crane.

Mr. Moorhead of Pennsylvania with Mrs. Heckler.

Mr. Jones of North Carolina with Mr. Pritchard.

Mr. Breaux with Mr. Quayle.

Mr. Dodd with Mr. Rinaldo.

Mr. Edwards of California with Mr. Stockman.

Mr. Ford of Michigan with Mr. Leach of Louisiana.

Mr. Fuqua with Mr. Johnson of Colorado.

Mr. Hawkins with Mr. Horton.

Mr. Roberts with Mr. Wydler.

Mr. Nedzi with Mr. Bob Wilson.

Mr. Giaimo with Mr. Vander Jagt.

Mr. Alexander with Mr. Steed.

Mr. Atkinson with Mr. Ford of Tennessee.

Mr. Bailey with Mr. Edgar.

Mrs. Boggs with Mr. Dixon.

Mr. Brooks with Mr. Gaydos.

Mr. Jenrette with Mr. Grisham.

Mr. Staggers with Mr. Luken.

Mr. Stark with Mr. Lungren.

Mr. Lundine with Mr. Martin.

Mr. Drinan with Mr. Shannon.

Mr. Bonior of Michigan with Mr. Myers of Pennsylvania.

Mr. Aspin with Mr. Mathis.

Ms. Holtzman with Mr. Michel.

Mr. Ichord with Mr. Volkmer.

Mr. McCormack with Mr. Waxman.

Mr. Nolan with Mr. Charles H. Wilson of California.

Mr. RUSSO changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2010

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 2: Page 2, line 15, after "therefor" insert ": *And provided further*, That $4,700,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 2, line 24, strike out "$732,873,000" and insert "$684,673,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$775,273,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 3, line 10, after "Georgia" insert ": *And provided further*, That $8,100,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 3, line 17, strike out "$783,797,000" and insert "$816,130,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$861,125,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 4, line 3, after "areas" insert ": *And provided further*, That $6,000,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That no part of the funds in this Act may be used to transfer or move chemical or gas weapons into MX impacted areas: and *Provided further*, That $6,000,000 of the funds available for planning and design shall be available only for planning and design for activities related to the conversion of facilities to alternative fuels".

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 5, line 21, strike out "$34,364,000" and insert "$34,000,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$42,269,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 6, line 25, insert:

MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Armed Forces, $20,000,000, to be allocated by the Secretary of Defense for the use of the reserve components of the Armed Forces.

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

"For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Armed Forces, $3,742,000, to be allocated by the Secretary of Defense for the Army Reserve."

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 12, strike out lines 11 to 17, inclusive.

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 116. During the current fiscal year none of the funds available to the Department of Defense for military construction or family housing shall be available to furnish or install solar energy systems in new facilities (including family housing) unless such systems can be shown to be cost effective using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary of Defense and at a discount rate of 7 per centum per year."

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 12, strike out lines 18 to 22, inclusive.

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 117. No part of the funds appropriated in this Act for construction of space transportation system facilities at Vandenburg Air Force Base, California, may be obligated until the first rollout of the Space Shuttle has been accomplished."

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 29: Page 14, after line 9, insert:

SEC. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law."

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 14, after line 9, insert:

SEC. 122. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 125. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible."

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 14, after line 9, insert:

SEC. 123. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

(b) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 126. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

"(b) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements."

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

PERSONAL EXPLANATION

Mr. BRADEMAS. Mr. Speaker, on Monday, September 29, I missed two rollcall votes. The votes are as follows:

Rollcall No. 595, on a motion that the House resolve itself into the Committee of the Whole for consideration of S. 885, Pacific Northwest Electric Power Planning and Conservation Act. The motion was agreed to by vote of 321 to 3. Had I been present, I would have voted "yea."

Rollcall No. 597, on a motion that the House meet at 11 a.m. on Tuesday, September 30. The motion was agreed to by vote of 356 to 9. Had I been present, I would have voted "yea."

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CONFERENCE REPORT ON S. 2719, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. REUSS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LEVITAS. Mr. Speaker, I reserve the right to object to make an inquiry of the distinguished chairman of the committee, the gentleman from Wisconsin. It is my understanding that when this legislation was passed by the House, it contained a provision which would permit the Congress to exercise a legislative veto over the rules and regulations issued by the Department of Housing and Urban Development, which the gentleman from Georgia offered. I am inquiring of the gentleman from Wisconsin, whether or not, under his unanimous-consent request, this provision is contained in the conference report.

I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Speaker, I am delighted to respond to the request of the distinguished gentleman from Georgia. While the pure legislative veto was not retained in the conference report, there is a provision greatly strengthening the review procedure. Specifically, continuity of session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days in the continuous session of Congress.

Furthermore, the gentleman will be glad to know that on another matter the conference succeeded in imposing a sunset provision. I refer here to the Home Mortgage Disclosure Act, where no sunset existed in the Senate version, and instead the law was made permanent. So I think the philosophy which the gentleman has so ably espoused in this Chamber for quite a long time now has been carefully respected.

Mr. LEVITAS. Mr. Speaker, further reserving the right to object, I do so to inquire whether the provision which the gentleman from Wisconsin just referred to, which terminates the home mortgage disclosure provision, will be subject to any separate vote during the course of consideration of the conference report.

Mr. REUSS. No, but I would say that it has been generally agreed on both sides, by Mr. ASHLEY and myself, and by Mr. STANTON and Mr. WYLIE, and I will be glad to yield to my colleague from Ohio (Mr. WYLIE) on this point, because he was instrumental in this.

Mr. LEVITAS. I will be happy to yield. Further reserving the right to object, I will be happy to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding. As you know, when the House passed the housing bill there was no provision in it pertaining to the Home Mortgage Disclosure Act. The Senate added a permanent home mortgage disclosure provision. We were able to negotiate—I think that is a fair statement—a 5-year sunset provision so that, at the end of 5 years, the home mortgage disclosure provision in this conference report will sunset.

I might say that the gentleman will, in effect, have an opportunity for a separate vote on this issue because immediately following the vote on the housing conference report there will be a vote on Senate Concurrent Resolution 131, which amends the conference report so that it provides that the authority granted by this title pertaining to the Home Mortgage Disclosure Act shall expire on October 1, 1985.

Mr. LEVITAS. Further reserving the right to object, and I do this to inquire whether or not we can have assurances that the Senate concurrent resolution to which the gentleman has just referred is supported both by the minority and the majority.

Mr. WYLIE. Well, if the gentleman will yield, I would say that it is supported by this member of the minority. I might also say that I was prepared to raise a point of order on this question because this subject is not germane, and I have reason to believe that the point of order would have been sustained. But, I do feel that we need a transition in the way of mortgage disclosure. At the present time I do not think we can just jerk the rug out from under financial institutions, borrowers and those who have use for this information. But, I also think it is desirable to hold the feet of some of the regulatory agencies to the fire because it was developed during our subcommittee hearings that there is some common information required under the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Fair Housing Act, and the Loan Application Register, which is now required by the Federal Home Loan Bank Board.

We were told by the regulatory agencies involved that they could come up with a consolidated form or simplified form which could be the source of any necessary information to carry out the purposes of all the forms.

I think, therefore, it is desirable under the circumstances not to have a permanent extension of the Home Mortgage Disclosure Act, but to let everybody concerned know that there will be a sunset, and during the sunsetting period that perhaps we can all get together and come up with a single model form. In the process we can cut down on paperwork and save money.

Mr. LEVITAS. Further reserving the right to object, Mr. Speaker, let me say that I commend the conferees for obtaining this concession from the Senate. As the gentleman from Wisconsin knows, I have been very interested in the concept of sunsetting of various programs and approaches, and I think this is a step in the right direction. While, in all candor, I am not altogether pleased with the decision of the conferees to not accept the total legislative veto provision, I know that the gentleman from Ohio (Mr. ASHLEY) and the gentleman from Wisconsin (Mr. REUSS) and the minority members have been very vigorous in their surveillance authority of the Department of Housing and Urban Development, and I anticipate that this will continue.

Under those circumstances and with those assurances from the committee, I think that essentially the purposes of the gentleman from Georgia have been accomplished in the method accepted by the conferees and, Mr. Speaker, I withdraw my reservation of objection.

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1980.)

Mr. REUSS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. REUSS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report to accompany S. 2719, the Housing and Community Development Act of 1980 and the companion Senate Concurrent Resolution 131 which directs the Senate enrolling clerk to make the necessary changes in the home mortgage disclosure provisions of the conference report to extend these provisions 5 years instead of the permanent extension as contained in the conference report. The conference on this bill was completed last Wednesday and the report was filed Friday, but the strong House opposition to the permanent extension on the Home Mortgage Disclosure Act forced us to renegotiate this extension issue with the Senate. I am urging the House to adopt this conference report with the concurrent resolution, as the Senate has done an hour or two ago.

I would like to take this opportunity to congratulate all of the House conferees; particularly the distinguished Ranking Minority Member BILL STANTON, with whom I have worked very closely in achieving the compromise which will permit us to act on the housing bill; and also the distinguished chairman of the Housing Subcommittee, my colleague from Ohio LUD ASHLEY, the driving force behind most of the provisions contained in this legislation. I would also commend my distinguished Senator from Wisconsin BILL PROXMIRE who was persuaded in the end to compromise his strongly held positions on the Home Mortgage Disclosure Act that will enable us to pass this legislation.

Finally, I would like to commend the excellent staff work that was done on the House side; particularly the staff of the Housing Subcommittee on the majority side; Gerry McMurray, Roger Faxon, Diane Dorius, Frank De Stefano, Cynthia Simon, Emily Hightower, Jean Raupach, and June Lawrence; and on the minority side, Tony Valanzano, Bob Ruddy, and Bill Warfield. I also commend the cooperative attitude of the Senate Staff, Ken McKlean and Steve Rohde of the full Banking Committee staff, and Al Eisenberg, Frank Schafroth, and Dave Yudin of the Subcommittee on Housing and Urban Affairs, and the minority staff Danny Wall, Phil Sampson, and Jesselie Barlow.

The agreement reached this evening on S. 2719, the Housing and Community Development Act of 1980, reauthorizes for another 3 years the community development block grant program and the urban development action grant program. It also makes a number of positive changes in the administration of these successful programs. This bill also reauthorizes for fiscal year 1981 the housing assistance programs, and while the proposed rental housing initiative authored by Mr. ASHLEY was not adopted, the reauthorization of the assisted housing programs along the lines of the House-passed bill represents a considerable victory for the House. This bill also contains a new program that addresses in a comprehensive fashion the need to improve the fiscal condition, energy conservation, and managment of existing public housing. The bill amends our assisted housing programs to provide better housing and services for Indian and Alaskan Natives.

S. 2719 extends for an additional fiscal year all of the Federal Housing Authority insuring authorities, providing for increased mortgage limits under the FHA insuring programs for single-family homes in high-cost areas. The bill would also establish a demonstration program for negotiated interest rates under FHA. We have also revised the time period for the promulgation of rules for the building energy performance standards that will be promulgated under this bill not later than April 1, 1983.

Our agreement contained in this bill would revise and simplify the section 701 comprehensive planning assistance proprogram, and would amend and extend various Farmers Home Administration programs for an additional 1 year.

Mr. Speaker, this difficult issue concerning the extension of the Home Mortgage Disclosure Act was compromised on both sides by extending HMDA for 5 years rather than a permanent extension, as contained in the Senate-passed bill.

An important part of the bill has to do with the conversion to condominiums or cooperatives of rental housing, an increasingly worrisome problem in hundreds of cities.

The incentives to go condo are great. A condominium owner, as opposed to a tenant of an apartment, may deduct from his income tax his mortgage interest and local real estate taxes. Furthermore, if the condo owner decides to rent to another, he obtains for himself a tax shelter by means of the annual depreciation write-off available to him.

With the Federal tax laws thus jiggered against the renter, it is not surprising that condo conversions threaten to eat up the Nation's dwindling supply of rental housing, particularly for low- and moderate-income tenants.

This not only produces great social hardship. It is going to prove a great burden to the taxpayer, because Congress will be more and more inclined to embark upon new and extremely expensive programs of subsidized rental housing to replace the units that have just gone condo.

A recent HUD study confirms the impression that most condo conversions do not result in any significant upgrading of the premises, but at most include a little cosmetic improvement.

The main protection of tenants against indiscriminate condo conversions must come at the State and local level. Many jurisdictions have legislatively addressed the problem already, and the conference report encourages others to do so, particularly with respect to adequate notice for tenants of a conversion.

The conference report, in addition to encouraging State and local governments to take protective action for threatened tenants, contains several new provisions of Federal law.

The Government National Mortgage Association is enjoined, under section 337, from the secondary market purchase of mortgage paper originating in a condominium conversion.

Second, tenants' organizations, which are forming a cooperative of their own in order to forestall wholesale eviction, are given, under section 607, a fast track with HUD to assist in their formation.

Most important is the sense of Congress section, section 603. This would discourage lending by federally insured financial institutions for the conversion of rental housing to condominiums or cooperatives where low and moderate income, elderly, and handicapped tenants would be disadvantaged by the conversion.

It should be noted that this applies solely to loans by federally insured agencies. A condo converter who self-finances, therefore, is not reached.

Likewise, conversions of a building where low and moderate income, elderly, and handicapped tenants are not adversely affected is not reached. Thus conversion of an untenanted building, such as a loft or empty apartment, should be encouraged. Even where the conversion is of the type where at first blush low and moderate income, elderly, and handicapped tenants might be disadvantaged, there is nothing wrong with a conversion which operates on a rolling basis in a given apartment building, and allows existing tenants to stay until they move out for other reasons.

But where the conversion is one which would simply result in the eviction of low and moderate income, elderly, and handicapped tenants, the conference report properly discourages the use of credit for such arrangements. The nation's scarce pool of credit for new capital investments, small business, farmers, and particularly new housing, is sufficiently strained so that it make no sense to encourage its use for the purpose of evicting unwilling tenants, further lowering the Nation's short supply of rental housing, and raising housing costs in the building involved and throughout the area.

It should be emphasized that the language contains no legal enforcement powers or criminal penalties. Instead, it is envisaged that the enforcing power would be public opinion. Civic-minded banks and savings and loans will welcome an opportunity to tell a condo converter who wishes to displace low and moderate income, elderly, and handicapped tenants that he should look elsewhere for his money, in that Congress has given its view. Local religious, civic and neighborhood organizations in dealing with lending institutions, can also point to the sense of Congress. Thus the condo resolution here enacted would be analogous to the procedures under the Community Reinvestment Act and the Home Mortgage Disclosure Act.

Finally, the Federal regulatory agencies, including the Federal Reserve System, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration, aware of the congressional expression, should present that point of view on the same basis that they all discourage and encourage various undesirable and desirable loans in many other areas today. Thus the Fed has recently "discouraged" loans for corporate takeovers and commodity speculation, and has "encouraged" loans for home building and similar productive purposes.

Properly applied by the private and public sector, the sense of Congress condo resolution can help stem the tide of socially undesirable conversions.

I urge the adoption of the conference report.

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Mr. Speaker, I yield such time as he may require to the distinguished chairman of the Subcommittee on Housing and Community Development, the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, this conference report before us this evening with the exception of the provisions dealing with the Home Mortgage Disclosure Act represents all of the agreements we reached in the conference on S. 2719. The conference was an arduous one. It was an experience which left many of us with mixed emotions. We did lose several important provisions that were contained in the House bill but these were more than offset by important victories that the House conferees were able to win in this most difficult conference. The Senate at the last minute has now understood the difficulty which we faced in bringing back this bill with a permanent extension of the Home Mortgage Disclosure Act. With the Senate's willingness to sunset HMDA after 5 years I now feel confident in asking for the support of this Chamber for the bill before us this evening.

However, I am still disappointed at the loss of the multifamily housing initiative program. This disappointment is shared by most House conferees. We were realistic in acknowledging that the Senate could not, and would not, accept this badly needed program this year. I must say, however, that the problems which caused the House to include this program in its bill will not go away. In fact, it is my strong belief that these problems will only intensify. Unless the Congress acts soon, the crisis in rental housing will lead to far more drastic solutions that will be many times more costly. The Congress must act to increase the rental housing stock of this Nation. Not to do so is to condemn low- and moderate-income families to untenable housing conditions and to place inordinate housing cost burdens on all renting families.

As the distinguished gentleman from Delaware (Mr. TOM EVANS) so eloquently put it—unless we act, the elderly and the handicapped and those who are unable to purchase a new home will be left with even fewer housing opportunities than now available. I, for one, pledge myself to look once again at ways that the Congress can approach this rental housing crisis. And let there be no mistake about it, we will deal with it.

Another area on which we were unable to prevail with the Senate was the so-called Duncan amendment. Although, as many Members know, I am not particularly fond of this provision, Members of this body should understand that we fought long and hard to encourage the Senate to adopt this provision, but in the end, it was clear that we would not prevail. Through the intervention of the distinguished gentleperson from Ohio (Ms. OAKAR), we did include a detailed and wide-ranging study of the questions raised by this provision. It is our hope that this report, which is due early next year, will prove useful in our further consideration with the Senate on this matter. It is my view that the settlement with the Senate was a responsible one and one which gave great credence to the gentleman who offered this amendment and those of this body who have supported him so fervently.

For myself, I must say I was disappointed that the Senate agreed to one of our own House provisions. This provision permits owners of certain farmers home multifamily assisted housing projects to prepay their mortgages. As I said on this floor a month ago, this provision will come back to haunt us. It will cause massive displacement of lower income families, a loss of billions of dollars of Federal investment and produce an unconscionable windfall to the project owners. So I say I am disappointed that the Senate agreed to allow these things to happen.

With our disappointments, however, I think that this body should be proud of its conferees. They have done a remarkable job. I particularly wish to take note of the extraordinary efforts of our chairman, the gentleman from Wisconsin (Mr. REUSS). And I would also like to draw to the attention of the Members of the House the fine contribution that the ranking minority member of the Banking Committee, Mr. STANTON, made to this conference. Without his help and cooperation, I would not be standing here today with a conference report for the consideration of this body. By singling out these Members, I do not wish to diminish in any way my high regard for all of the House conferees who put in long hours of difficult and tedious negotiations with the Senate. Each of them have contributed greatly to what in balance must be considered a highly successful conference.

I would just like to briefly outline what I believe are the most important victories that the House was able to exact in this conference.

First of all, the Senate again this year included in their bill provisions which went to the very heart of our community development block grant program and I am proud to say that we were able to once again preserve that program's integrity. By rejecting the Senate provision, we have assured that the local flexibility in program decisionmaking was retained in the program.

Similarly, the Senate included a provision which would have done significant damage to the section 8 housing assistance program by reducing the income eligibility from 80 percent to 65 percent area median. As you will recall, a similar amendment was proposed on the House floor and was soundly defeated. I am pleased to say that the conference report does not include the Senate provision.

One of the provisions which I think the House should be most proud of is the new program for comprehensive improvement to public housing projects. This program which was developed by the House was almost in toto adopted by the conference.

With regard to the inevitable dispute over mortgage limits for the FHA insurance programs, the House conferees were not prepared to agree to the Senate proposal to index these limits. The Senate proposal raised some important questions about what role the FHA mortgage insurance programs should play in the marketplace. It is my hope that over the next year, these questions will be addressed both by the department and by the Congress. However, we could not in all good conscience agree to the provisions of the Senate bill at this time. The conference report does contain a provision allowing for a high-cost exception when it is clear that low- and moderate-income families are not being adequately served by the market due to high prevailing home prices.

In the new section 235 stimulus program and the Brooke-Cranston program, the Senate proposal was in essence to leave unchecked the mortgage and income limits. The House could not agree to such a formulation, and I am pleased to say that both of these programs have been tightly targeted. With the agreement with the Senate, I feel confident that the section 235 stimulus program will indeed act as a stimulus and draw into the housing market moderate income families.

In this conference, the House also sought to assure that Indian and Alaskan natives would be accorded a greater amount of attention in our community development and housing programs. For the first time, we made Indians eligible for the highly successful UDAG program; we have assured that the Indians are fully eligible for the FHA housing assistance programs; and we have made needed reforms to the HUD Indian housing programs.

Another area in which the House should be proud of its conferees is the provisions dealing with the building energy performance standards. In virtually every instance, the House provisions prevailed. It is my view that the changes to the BEPS contained in the House bill will assure that over the long term, residential and commercial buildings in this country will be designed to maximize the conservation of energy. I might also add that it was the strong feeling of the House conferees that the development of the implementation strategies should be retained in the Department of Housing and Urban Development and as a result of this conference they shall remain there.

I take some personal pride in the new comprehensive planning program contained in this bill. This planning title is a total reworking of the existing section 701 comprehensive planning program. As resolved with the Senate, this new program continues to emphasize the importance of comprehensive planning as the source from which strategies for community improvements can be drawn and specific action programs can be established. Though the 701 program has declined in funding over the years, I continue to believe that it is a crucial element to the overall improvement of our cities.

While the Senate bill contained provisions imposing a substantial number of Federal requirements on the condominium conversion industry, we have returned with a conference report which deleted most of those provisions. We clearly left to States and local governments the responsibility for assuring tenants and purchasers needed protections. The conference report narrowly addresses only the most egregious problems. It provides a process for condominium and cooperative unit owners to terminate self-dealing contracts with developers who, after the date of enactment, converted multifamily rental buildings into condominium or cooperative projects. It directs the Secretary of HUD to expedite applications for FHA insurance made by a tenants' organization in connection with the purchase of a multifamily rental project or the conversion of the project to a cooperative or condominium project.

We have also devised a remedy to address a very troublesome problem—the use of unconscionable long-term leases for recreational property in connection with condominium and cooperative projects. Most of the alleged abuses took place in Florida prior to June 4, 1975, when comprehensive Florida legislation was enacted. Unfortunately, the Federal and Florida State constitutions prohibited the State from providing relief to condominium owners who entered into such leases prior to that date. The conference report addresses this problem by providing a Federal right of action for a determination that a long-term lease subject to an automatic rent increase clause entered into prior to June 4, 1975, was unconscionable.

These lease arrangements are very complex and the conferees agreed that only a court, after reviewing all the relevant facts, could make a determination of unconscionability and devise an equitable remedy. By establishing criteria for a rebuttable presumption, the conferees did not assume that only the leases meeting the requirements of the presumption may be found to be unconscionable. Such leases may present a higher likelihood of unconscionability than other leases but a thorough inquiry may reveal even those leases were not unconscionable. Similarly, even though a lease does not meet the requirements for the presumption, a court may, after examining all relevant facts, determine that the lease was unconscionable.

The conferees agreed to defer the effective date of this amendment for a year. The expectation is that the parties to these disputes will use the year to negotiate equitable settlements which will protect tenants from arbitrary rent increases and will assure developers fair returns on their investments. While the House did not agree to the Senate provision which would render unenforceable any future automatic rent increases, a voluntary decision by the developer not to exercise such increases during the interim year and during the negotiation process would evidence good faith and could be the first step toward reaching an equitable resolution.

So, Mr. Speaker, there were disappointments in this conference, but as the litany of successes demonstrates, the House has won a series of important concessions from the Senate and it is my strongly held view that this is a fine and important piece of legislation. I urge my colleagues to join me in its passage.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2719, not because I am enamored with its provisions, but because there is such a great need for housing assistance in the country.

Unfortunately this need has been aggravated by the inflation and recession our economy has suffered over the last 4 years.

In support of that statement I would simply point out to my colleagues that the monthly payments to amortize a mortgage on the average-priced new home has risen from $367 a month in January to $830 a month today—an increase of 126 percent.

It is little wonder that the maximum mortgage limit under the basic FHA insurance program is raised from $67,500 to $90,000 in this bill; or that under the new subsidized 235 program the maximum single family home's sales price is $73,800.

Those figures do not reflect the desire of House conferees, but do reflect the horrifying realities of what inflation has done to housing costs and the American dream.

Now, Mr. Speaker, I would like to discuss some items with the chairman of the subcommittee, my good friend and colleague, Mr. ASHLEY, whose leadership and tireless efforts as well as forceful persuasion were necessary to enable us to complete the conference on the bill.

My first point, Mr. Speaker, deals with the provision striking the appraisal concept of "economic life" from the National Housing Act. While we agreed to this provision from the other body, we stressed that this change is not intended to have any bearing on the appraisal of fair market value. For the record, would the subcommittee chairman not agree that our reason for accepting this provision was that the FHA does not, in fact, utilize the economic life test and that it was not our intent to signal congressional opposition to the concept?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, the gentleman from Ohio (Mr. STANTON) is entirely right. As we both know, the FHA does not utilize economic life tests.

It was certainly not our intention to signal congressional opposition to this concept. I think it is important that we make that clear, and I am glad that the gentleman raised that point.

Mr. STANTON. Mr. Speaker, I thank the gentleman from Ohio (Mr. ASHLEY).

On another matter, Mr. Speaker, dealing with FNMA, the House receded on its provision allowing FNMA to implement home improvement loan and mobile home programs without requiring HUD approval. Under the provision in the conference report, HUD would have approval power subject to reporting to Congress if approval has not been granted within 75 days. Am I not correct, Mr. Speaker, that it is our intent that HUD limit itself to questions of policy relating to FNMA's statutory purposes, and not get involved in how the day to day operations of the programs will be handled, unless they have a direct relationship to the policy questions.

Mr. ASHLEY. Mr. Speaker, if the gentleman will yield further, again I respond to my colleague, the gentleman from Ohio (Mr. STANTON), in the affirmative, and again I say that this is a point that is worth making legislative history on.

As the gentleman knows, we have been involved in trying to intermediate the sometime dispute between the Department and FNMA, so this subject area that we addressed in the conference was one that we approached with some degree of sensitivity.

I think that the gentleman from Ohio (Mr. STANTON) has stated the proposition very well indeed, and it is our intent that HUD limit itself to questions of policy relating to FNMA's statutory purposes and not get involved, as the gentleman said, in day-to-day operations of the program.

Mr. STANTON. Mr. Speaker, I thank the gentleman from Ohio (Mr. ASHLEY) for his response.

Mr. Speaker, I have one further question, regarding the study HUD is to undertake for the 235 program.

I believe we should make it clear that when HUD analyzes the effects of the 40-percent subdivision limitation, that it include in its evaluation the benefits which such a provision provides with respect to quality control, social, and economic mix and need to distribute the subsidy widely.

This later point is particularly true in the stimulus program.

In other words, our intent was that HUD not merely study the effect of this provision in limiting a builders desire to enter the program or to sell more units easily. Does the chairman agree with that statement as to the intent of the study?

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Mr. ASHLEY. I agree 100 percent, and I will say that I do not see how it would be possible for HUD to analyze the effect of the 40-percent subdivision limitation without directing attention to the benefits which this provision provides with respect to quality control, social, and economic mix, and the need to distribute the subsidy widely. These are precisely what we intend inter alia for the HUD analysis to direct itself to.

Mr. STANTON. I appreciate the gentleman's remarks.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. Taylor).

Mr. TAYLOR. As my colleague from Ohio (Mr. Stanton), the ranking minority member pointed out, housing costs have gone through the roof and the mortgage limits or sales price limits in this bill reflect that.

During the Democratic National Convention, Vice President Mondale stated, "We doubled housing aid."

This was a claim of achievement—but a dubious success at best, and one that Americans would be better off without.

In fact, it reminds me of a quote by Mark Twain which went:

> All you need in this life is ignorance and confidence, and then success is sure.

What this bill shows, is that in less than 4 years under the Carter administration, the Federal Government is obligated about twice as much money for about a third less units.

Specifically, the fiscal year 1977 budget called for $16.6 billion in budget authority to support 406,000 assisted housing units. This bill calls for $31.2 billion with an estimated 282,000 units to be assisted.

If the figures reflected by this bill can result in administration boasting that they have doubled housing aid, then pity the poor taxpayer if this trend is allowed to continue.

Mr. STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Wylie), a very distinguished colleague who has indeed made a great imprint on this conference report and to whom we are all very thankful for his contribution.

Mr. WYLIE. Mr. Speaker, I acknowledge with appreciation the compliment of the gentleman from Ohio (Mr. Stanton) and I return the favor.

Mr. Speaker. the home mortgage disclosure provision has been referred to a little earlier, and I will not go into it further here except to say that I hope that legislative history will record that we sincerely wish that the regulatory agencies will come up with a consolidated form which will provide for the consolidation of information so that we can cut down on paperwork, the cost to borrowers, and administrative detail. With the permanent extension on the subject, I do not think there would ever have been any opportunity to do that. I doubt if the subject would ever have been revisited. So the solution probably lies in this sunset provision.

The provision, of course, applies to the commercial banks, the savings and loans, the mutual savings banks and credit unions.

I am also pleased to note that the conferees agreed on the FHA negotiated rate amendment which I offered and which was overwhelmingly adopted by this House.

The Senate also accepted an amendment which I offered to provide for the orderly review of the preservation of historic structures in UDAG projects.

The rent control amendment which this House adopted overwhelmingly went out when the multifamily rental housing initiative program was deleted. We probably need more time on this concept.

This conference report provides an excellent opportunity for Congress to look at what has happened to housing over the last few years.

As the gentleman from Ohio (Mr. Stanton) and others have shown, the housing costs associated with the average new home have more than doubled in the last 3½ years and the Federal costs have about doubled for 30 percent fewer units.

The Federal Government as of September 30, 1981, is obligated to make subsidy payments for housing which exceed $250 billion—almost $50 billion more than September 30, 1979.

It was Patrick Henry who stated in 1775:

> I know of no way of judging the future, but by the past.

If that be true, then:

We cannot afford policies resulting in an increase in the sales prices of the average new home of 52 percent in less than 4 years; and

We cannot afford policies resulting in a doubling of budget authority for fewer units in the last 4 years.

So I would say that, all in all, Mr. Speaker, given the situation in which we found ourselves, this represents a bill that ought to be passed. We need a housing program, and the House position has been extremely well represented by the distinguished and most able chairman of the full committee, the gentleman from Wisconsin (Mr. Reuss), the distinguished and competent chairman of the Housing Subcommittee, the gentleman from Ohio (Mr. Ashley), and by my good friend, the intelligent and hard-working ranking minority member from Ohio, Bill Stanton, and, I would say, that all members of the conference from the House made significant contributions to a conference report we can all support.

Mr. ST GERMAIN. Mr. Speaker, frankly I would much prefer that the House make HMDA a permanent law.

HMDA has gone through a 5-year test. It does not need a second test period. It has worked. Our 800-page hearing record in the Financial Institutions Subcommittee proves this beyond question.

Sunset has its place, but national policy against discrimination and redlining should not be subject to cancellation at the end of some arbitrary period of time. We did not provide sunsets on Equal Credit Opportunity, Community Reinvestment, or Fair Housing Acts. No reason to single HMDA out.

Once HMDA—policy against redlining—becomes understood as a permanent part of our urban efforts, the sooner tensions between financial institutions and community groups will be lessened. Sunset leaves the thought that Congress sometime in the future might abandon its antiredlining stance. It is better that the financial community accept the policy and devote its time, energy and credit resources to solving community development problems rather than in futile efforts to rejoin the fight every few years in the Congress.

During discussions, some financial institutions have complained about the few pennies it costs to disclose HMDA data, but the proponents of sunset have not shed a tear for the individuals and neighborhood groups who must spend their limited dollars to come back to Washington every few years to ask for a renewal of this basic antiredlining policy. This is a costly and difficult—and highly unnecessary—burden to place on these small organizations which do not have the permanent Washington lobbying organizations maintained by the financial community. The financial community has had two big shots at HMDA; neither the Congress nor the community groups should be forced to constantly rehash the same issues and relive the battles.

If HMDA has worked these 5 years—and the sunsetters, in their willingness to renew seem to be saying so—then it ought to be permanent policy. This does not mean that we will not conduct full and regular oversight and that we will not consider amendments as conditions change. But, the basic national policy against redlining has been settled; and the House ought to so recognize.

Mr. STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Coughlin).

Mr. COUGHLIN. Mr. Speaker, I take this time to inquire about an amendment that was introduced into the housing authorization bill by my colleague, the gentleman from Pennsylvania (Mr. Gray), and myself, that concerned the question of denying housing to so-called impacted areas at the same time that HUD required assisted housing to be constructed in impacted areas.

The amendment which was included in the housing bill and which, as I understand, is included in the final bill, indicates that the Secretary shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. And, as I understand it, that retains the House position on this question as proposed by my colleague, the gentleman from Pennsylvania (Mr. Gray).

Am I correct, Mr. Speaker?

Mr. ASHLEY. If the gentleman will yield, the gentleman is entirely right.

As the conference report points out on page 112, the House amendment included a provision not included in the Senate bill which provided that the Secretary shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. And it goes on to point out what programs this is applicable to.

It follows on by saying:

> The purpose of this provision is to protect against the arbitrary denial of assistance to a project solely because it is to be located in an area which contains a high concentration of minority residents.

I think it is important, just to put in proper context, I will say to my friend, the gentleman from Pennsylvania, the following sentence:

> The provision in no way diminishes HUD's duty to promote equal opportunity and enforce the statutory and constitutional prohibitions against racial discrimination.

It goes on then to treat the other responsibility that HUD has, which the gentleman is perfectly aware of and I know he is supportive of.

Mr. COUGHLIN. If I may follow on with the distinguished chairman, the report further states that current HUD regulations are not inconsistent with this provision. However, current HUD policy, as it has been implemented, would be inconsistent with this provision. And, as I understand it, the provision would not require an arbitrary percentage of housing to be built in nonimpacted areas versus impacted areas.

Am I correct?

Mr. ASHLEY. Well, the gentleman is correct. We do not mean to acknowledge at all that the claims, the assertions that have been made, are accurate or factual. That is not what we are doing. What we are saying is that, so far as congressional policy is concerned, we are the ones that establish policy.

Mr. COUGHLIN. As far as congressional policy is concerned, an impacted area should not be denied housing assistance solely on the basis of being an impacted area?

Mr. ASHLEY. The gentleman is correct.

Mr. COUGHLIN. So any formula which says 50 percent of assisted housing has to be built in impacted areas and 50 percent has to be built in nonimpacted areas would not be valid formula?

Mr. ASHLEY. The gentleman states the proposition quite accurately.

Mr. COUGHLIN. I thank the chairman very much.

Mr. ASHLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I have followed this colloquy with a great deal of interest. My question to the gentleman is: Is there anything in the conference report which will diminish the power of HUD to attempt to achieve integrated housing both along racial lines and socioeconomic lines?

Mr. ASHLEY. I appreciate the gentleman's question and his perfectly understandable concern.

Let me just read again, for particular emphasis, the other side of the balancing that we are seeking to do here.

On page 113, the following sentence is found:

> The provision in no way diminishes HUD's duty to promote equal opportunity and enforce the statutory and constitutional prohibitions against racial discrimination. To the contrary, the conferees expect that this provision will be administered in a manner that is consistent with HUD's obligation under section 808(e)(5) of the Civil Rights Act of 1968 to implement its programs "in a manner affirmatively to further the policies" of title VIII of that Act.

Mr. MITCHELL of Maryland. If the gentleman will yield for another question, in following the colloquy which the gentleman had with the gentleman from Pennsylvania, I thought I heard him say that HUD could not attempt to establish any statistical formula for the involvement of, let us say, housing for low-income families in any given area.

Mr. ASHLEY. No; I do not believe that that was what was said.

Mr. MITCHELL of Maryland. I thought that is what I heard the gentleman to say.

Mr. ASHLEY. I think what the gentleman was saying was that HUD henceforth will not have the authority by virtue of the amendment to deny housing in a given neighborhood or community solely on the basis of racial concentration.

Does the gentleman from Pennsylvania agree with that?

Mr. COUGHLIN. If I understand what the chairman has said, if the chairman will yield, that HUD cannot deny housing to a racially impacted area solely because of some formula that says so much housing must be located in an impacted area and so much housing in a nonimpacted area, that the housing to go into an impacted area would go into the merits. If the area needed the housing and wanted the housing, it could get the housing.

Mr. ASHLEY. If it is necessary to carry out the purposes of the Civil Rights Act of 1968, which it is not in most communities, or to carry out the law as handed down through court decisions, then I suspect that it would be appropriate for, in those instances, the Department to specify the amount of assisted housing that can go in a racially impacted area.

□ 2050

What we have been confronted with, as the gentleman well knows, is a numerical approach on the part of HUD which says that regardless of the extent to which a community is in compliance with the Civil Rights Act, that because there remain impacted areas in a community, that only a certain percentage of assisted housing, if any, can go within that impacted area, that on the contrary the federally assisted housing has got to be located outside of that or those impacted area.

What this would mean, of course, is that in Washington or in parts of Baltimore and parts of most of our cities, the ability to plan for the initiation of housing in impacted areas is very severely reduced. This is what we are trying to give it a grip on.

Mr. MITCHELL of Maryland. If the gentleman will yield further, I have known the distinguished chairman of the Subcommittee on Housing and Community Development for more than 10 years, and I have a great deal of respect for him. I am going to accept his word and his interpretation that HUD's power to help to implement existing law is not vitiated in any way. I must confess that I have a very uneasy feeling about the language in this section, but rather than prolong the discussion at this point——

Mr. ASHLEY. Let met just interrupt the gentleman and say I do not think he is prolonging it unnecessarily at all. I think this is a very significant discussion that is taking place. I think it may be extremely important as far as setting the record straight is concerned and expressing congressional intent.

I would think the gentleman from Pennsylvania would be keenly involved in this. It was his amendment. I have sought to advance his amendment in conference, because I thought it was our understanding that my explanation was his understanding of the situation we were trying to address, that there would be no vitiation whatsoever of the civil rights provisions as they relate to housing, nor did we mean to derogate from the ability of the Department of Housing and Urban Development from being faithful to those statutes.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. The amendment was really a joint amendment on the part of myself and the gentleman from Pennsylvania (Mr. GRAY); and the intent of the amendment was to try to provide the maximum amount of aid that we can to the areas that need it and want it in the country that are impacted areas and not just arbitrarily deploy it to those areas because of some formula.

Mr. MITCHELL of Maryland. If the gentleman will yield, again, one last comment, I was aware that the gentleman from Pennsylvania (Mr. GRAY) coauthored the amendment. I heard the discussion on the floor. The coauthorship has not diminished my concern. Suffice it to say that we will simply have to monitor this section of the law very, very carefully.

I can see recalcitrant jurisdictions attempting really to subvert existing law. I would hope that we will monitor it very carefully.

Mr. ASHLEY. Let me say we do have a legislative review process, as the gentleman is well aware.

Mr. MITCHELL of Maryland. I am well aware of that.

Mr. ASHLEY. I would invite the gentleman to, with us, make use of that legislative review procedure.

Mr. MITCHELL of Maryland. I accept the chairman's invitation. I can assure him that I will.

Mr. ASHLEY. I can assure the gentleman that we will be assiduous in our review of the regulations that flow from this amendment.

Mr. MITCHELL of Maryland. Thank you.

Mr. STANTON. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I would like to comment briefly on the decision of the conferees to again recede on my amendment to this housing and community development bill providing that social security cost-of-living increases cannot be considered as income when determining public housing eligibility and benefits. This action is regrettable, and it means that our elderly and disabled social security recipients in public housing will again be faced with unfair rent hikes. These deserving people should be allowed to keep the entire increase. Instead, we are further subsidizing public housing authorities with social security funds that often constitute the sole source of income for many of these people.

I note that the conferees have instructed the Department of Housing and Urban Development to study the potential effects of this amendment and report to the Congress by March 31, 1981. Considering the administration's opposition to this amendment as stated in Secretary Landrieu's letter of September 15, I have a good idea as to what the report will say. But regardless of that, another Government study is not needed and will not answer the basic question being asked by our social security recipients. They simply want to know where they will find the money to put food on the table and pay the medical bills common among the elderly. My amendment which has been rejected provides the answer to this question by providing the necessary funds. Instead of studying the situation, we should act to correct it. I again express my disappointment, which is shared by many of my colleagues who have voted for this amendment over the years, that the House did not stand fast on this necessary provision.

I would like to ask the chairman a question. In reference to the report that is to be submitted by the Department by March 31 in connection with social security benefits being counted as income. If the report is submitted, do I understand that perhaps the gentleman will give serious consideration to holding hearings on the bill, if appropriate legislation is introduced?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Ohio.

Mr. ASHLEY. To respond to the gentleman from Tennessee, by saying that throughout the conference the gentleman from Tennessee was a constant source of discussion, as was his amendment. On three separate occasions, for lengthy periods of time, his amendment was discussed and debated.

Now, the gentleman from Tennessee knows by this time that I am no great favorite.

Mr. DUNCAN of Tennessee. I am not complaining about what the conference did. My question was, the conference report calls for a report by the Department by March 31. I am just asking if the gentleman would give serious consideration to holding hearings after the report is filed?

Mr. ASHLEY. Well, it would depend on the report, I suspect, I would say to my colleague. If it would be the judgment, if I am back next year and the gentleman from Ohio (Mr. STANTON) is back next year, if it would be our judgment that the report was of a nature that suggested strongly or otherwise that hearings would be a good idea, we will hold them. If the report is essentially negative, I do not suppose that there will be.

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. DUNCAN) has expired.

Mr. STANTON. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. DUNCAN).

Mr. Speaker, I wish to assure the gentleman, as the gentleman from Ohio said, none of us knows what is going to be in the report, but presumably there will be a thorough study, and that is what we have asked for.

We want to share the information with the gentleman from Tennessee and work with him in the future and see how this problem can be resolved. It has been back a third or fourth time now. We are moving now in one specific direction, asking for this report. I appreciate the gentleman's cooperation.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. REUSS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. AuCOIN).

Mr. AuCOIN. Mr. Speaker, I want to commend the chairman of the committee, the chairman of the subcommittee and the ranking minority member for working together faithfully to keep a strong House position in the conference. The result of their work and the result of the work of the other conferees is a good conference report that commends itself to the acceptance of the House this night.

There are a number of provisions of the conference report I could speak about but I will not because of time. There is, however, one matter that I must address myself to, and that is the provision in the conference report dealing with persons who will be displaced from the Farmers Home Administration 515 rental housing program because of an unwise decision by the House to strike a prohibition on prepayments by developers in the 515 program, prepayments on low-interest loans, which will result in the conversion of rental units for low-income persons into condominiums or market-rental housing and low-income people being deprived of safe and sanitary and decent shelter which the 515 program of course is designed to produce.

□ 2100

One of the victories that was gained in the conference was that notice would be served to tenants of projects of this kind when a developer requests of the Department of Agriculture a prepayment.

It also should be noted that a second notice is required when a prepayment is approved by the agency.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I would be pleased to yield to the gentleman from Ohio.

Mr. ASHLEY. Well, the tenants in sections 514 and 515 because of this marvelous congressional action taken——

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

Mr. REUSS. Mr. Speaker, I yield 1 additional minute to the gentleman from Oregon.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield further?

Mr. AuCOIN. I yield.

Mr. ASHLEY. I was saying that what was agreed upon, the tenants in sections 514 and 515 housing, where the sponsor decides he is going to make money rather than serve the tenants he has agreed to serve; in other words, when he decides to prepay and kick the tenants out, what we have done for him is to say that the tenants are going to get notice of this act; is that right?

Mr. AuCOIN. That is exactly what I mean.

The gentleman knows that I do not approve of it.

Mr. ASHLEY. I understand.

Mr. AuCOIN. But at the very least, the tenant gets a few crumbs; that is, when the locomotive is running down the track and is about ready to squash him, at least the tenant knows that the conductor has to blow the whistle a couple times to let him know that the locomotive is on its way.

Mr. ASHLEY. It is too bad that the House did not give us a little stronger position to take to conference, I would say.

Mr. AuCOIN. I agree completely. It is also unfortunate that some members of the housing committee who have told us they are concerned about rural housing could not have supported us in the House vote on that amendment so that the section 515 prepayment provision could have been kept.

I would like, if I may, to ask one additional question of the subcommittee chairman. The conferees won a concession from the Senate that there would be a report due within 6 months.

The SPEAKER pro tempore. The time of the gentleman from Oregon has again expired.

Mr. REUSS. Mr. Speaker, I yield 1 additional minute to the gentleman from Oregon.

Mr. AuCOIN. There would be a report due in 6 months requiring the Secretary to indicate the extent of damage that would be caused to the housing stock under the action eliminating the prepayment prohibition.

I understand that that study is prospective in nature. That is what I want to clear up for the purpose of the record. I ask the subcommittee chairman if it is his intention that the Department look not at what happens under the 514 and 515 programs for the next 6 months, but rather to use the next 6 months to try to project as accurately as possible what may happen to the housing stock, the value of which I understand is about $3.5 billion in the next few years when the prepayments will really begin to occur?

Mr. ASHLEY. Well, I think the gentleman is right. That should be the scope of the study. I think that the study should be ongoing and I intend that it shall be.

I think this House should be reminded of what it did and the consequences of what it did when it voted that prepayment authority.

Mr. AuCOIN. Mr. Speaker, I thank the chairman.

Mr. REUSS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I obviously do not have time to go through all the provisions of this bill; needless to say that housing problems this year have precipitated some very unique actions in the Senate/House conference and earlier in our standing committees.

I certainly commend my colleagues, and all staff that served us on the conference for their diligent work as conferees. We did an extraordinary amount of compromising; but have produced a good product. Clearly, we cannot buy back the type of changes that have been invoked by our economy due to energy, to high interest rates and to our trade deficit. We cannot buy back the economic dislocation and the impact on our Federal housing programs. We have done our best to deal with a tight budget during difficult economic conditions.

I just point out briefly some important parts: The change in mix of section 8. Fifty percent goes to rehab and 50 percent to new construction, the extraordinary amounts of money which are being put into section 312 to save existing housing stock, the 235 commitments, the Brooke-Cranston authorization or the public housing by new maintenance funding, the UDAG program, a very unique program, a very successful program is again reauthorized, as well as that all-important CD money that has been utilized so successfully in many of our communities and the change in loan limits for FHA necessary to respond to today's marketplace.

I do want to take special note of the provision dealing with excluding nonimmigrant student aliens from assisted housing programs.

Section 214 would prohibit HUD from making available housing assistance for the benefit of nonimmigrant student-aliens. This amendment is designed to reserve scarce housing assistance resources for the most needy individuals. Nonimmigrant student-aliens have no present intention of becoming U.S. citizens, and sign an affidavit with the Immigration and Naturalization Service that they will be self-supporting while here. Since the number of persons eligible for HUD's housing assistance programs far exceeds the number of assisted units, it is appropriate to exclude from participation in these programs those who spend only a limited time in this country and who have agreed to support themselves without Government assistance as a condition of being granted nonimmigrant status.

It is anticipated that the Department of Housing and Urban Development will receive information from individuals that residents of assisted housing units are nonimmigrant student aliens. Upon receipt of such information the Department shall immediately investigate the accuracy of the information. If confirmed, the Department shall contact the nonimmigrant student alien and advise the student to obtain alternative housing as soon as possible.

It is also the intent of this section to require the Immigration and Naturalization Service to inform all nonimmigrant student aliens that receiving Federal housing assistance is a prohibited activity and could lead to the loss of their visa. Further the INS shall, upon request, provide the Department of Housing and Urban Development the names and addresses of nonimmigrant student aliens living in assisted housing.

Because this was not a specifically prohibited activity prior to passage of this act, it is not the intention of the bill to cause the immediate eviction of these students. These students should be given adequate notice of the change in the law which may allow them to find alternative housing. However, it should be clear to the Department of HUD that they are required to aggressively identify those students living in assisted housing and take all reasonable steps to quickly remove them. This approach should provide for an orderly transition which will satisfy the intent of the proposal of freeing assisted units for use by those with the greatest need, while dealing fairly and humanely with the nonimmigrant student-aliens now occupying assisted units.

Mr. STANTON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I asked for this time to engage the distinguished chairman of the full committee in a colloquy to establish legislative history in clarification of language which the distinguished chairman offered as an amendment, which is found on page 64, section 603 of the report. It says:

> It is the sense of the Congress that lending by federally insured lending institutions for the conversion of rental housing to condominiums and cooperative housing should be discouraged where there are adverse impacts on housing opportunities of the low- and moderate-income and elderly and handicapped tenants involved.

I would ask the distinguished chairman by whom should such lending be discouraged?

Mr. REUSS. The language mentioned by the gentleman from Ohio runs to three different situations. First of all, to the lending institution itself, the bank, the savings and loan, mutual savings bank, the credit union or whatever it is. Those institutions are in the main operated by patriotic and civically conscious people and they, I believe, will pay heed to this sense of the Congress that where a conversion results in the rather heartless thrusting out into the street of elderly, handicapped or low to moderate income people, where it substantially impairs the rental housing available to them, or grossly raises rentals as the result of undue conversions, the lending institution will instead concentrate its portfolio on things like building new housing and rehabilitating old.

Second, the thrust runs to neighborhood, civic, and religious groups which are constantly involved in neighborhood activities. I would expect that they would utilize this sense of Congress resolution to point out that the legislature has spoken.

Third, there are the regulatory agencies, the Federal Reserve, the FDIC, the FHLBB, the Controller of the Currency and the National Credit Union Administration.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. STANTON. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. REUSS. Mr. Speaker, will the gentleman be kind enough to yield further to allow me to complete my explanation?

Mr. WYLIE. Yes, I would be glad to yield.

Mr. REUSS. The Federal Reserve, the FDIC, the FHLBB, the Controller of the Currency and the National Credit Union Administration, they, I would anticipate, would use this sense of Congress resolution just as they use other general principles of lending. For example, the Federal Reserve recently, and to its credit, has urged banks not to make loans for purely commodity speculation, and not to make loans for economically unjustified corporate takeovers. I would anticipate, therefore, that they would discourage the rental housing conversions in question. That does not mean that a bank or a savings and loan that disregards its regulators' views thereby goes to jail; but the fact is that banks and thrift institutions do pay heed to what their regulators suggest.

I would envision that kind of informative and constructive approach here.

The SPEAKER pro tempore. The time of the gentleman from Ohio has again expired.

Mr. STANTON. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. WYLIE. Nothing compulsory is envisioned in this language which was adopted in the bill and it is not contemplated that this provision is to be the basis for expanding the enforcement sanctions under the Community Reinvestment Act then.

□ 2110

Mr. REUSS. No, the Community Reinvestment Act applies solely to the question of where the loan is made in the community, and is not applicable to this question of condo conversions.

Mr. WYLIE. I thank the chairman for the explanation.

Mr. REUSS. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I rise in support of this piece of legislation and I do so out of respect for our subcommittee chairman, the gentleman from Ohio (Mr. ASHLEY) and also the chairman, the gentleman from Wisconsin (Mr. REUSS), and the conferees, whom I know worked very hard. But I feel like it would be wrong if I did state to my colleagues that I feel like we are not addressing the problems of the people in this country, the forgotten people, that live in rural America.

I would like to point out in this particular piece of legislation, when my colleagues go home, if they are representing small communities or small cities in rural communities or rural areas, the people there are going to have far fewer funds for 502 financing. They are going to be calling on you in 3 months because they are out of money. There are going to be a lot fewer dollars in units of 515 housing out in rural America, in small communities and cities, and there will be less dollars for the guaranteed program that we put in a year ago, which has been cut back.

What I am trying to say is in rural America there is in many cases only one loan office available, and that is the Farmers Home Office. Nearly in every section of this housing bill the farmers home housing program has been decreased.

The program that I worked on was a national demonstration that would allow the Farmers Home Offices to administer the insured mortgages such as the 203(i) and 203(b) under FHA/HUD. I would like to state that this was knocked out in conference and I deeply regret this for the people of rural America. It was knocked out because HUD did not want it and Farmers Home did not want it. They did not want to do it even though Mr. Cavanaugh from Farmers Home said they have had a 325,000 backlog of housing applications. HUD says, "We do not serve the rural area. The rural area is not our responsibility."

I would like to point out one thing and I hope the House will listen. I asked HUD: "Who is responsible for housing in rural America?" They said, "We are not."

I asked Farmers Home: "Who is responsible for housing in rural America?" They said, "It is not our responsibility."

I asked my colleagues in this House: "Who is responsible for housing in rural America?" The answer, "No agency accepts the responsibility." I would tell my colleagues that two-thirds of the dilapidated housing in America happens to be in rural America, yet we do not have an agency that will accept the responsibility. They turn our back on it.

I have asked for a program that would not cost a dollar and HUD says, "We do not want it," and Farmers Home says, "No, we do not want it."

I plead with this House, I plead with this administration not to turn our back on one-third of the people who live in America, many of them who do not have adequate shelter. We have UDAG in this bill. The rural areas I am talking about only get 25 percent of the UDAG money. Under the community development bloc grant money, only 17 percent goes to the one-third of the population who live in rural America.

Is that fair? Let me tell you: In the small community of Guthrie, in a dilapidated housing area, we carved out a little bit of the community bloc grant for 11 elderly, black families who for the first time got running water. Yet we turned our back, and out here in rural America where we have dilapidated housing, and where the Aunt Minnies and the Uncle Johns are desperately in need of shelter, we say no.

I plead with this body that we do not turn our back again on these people out in rural America.

I have asked that insured mortgages, that do not cost this country one dime, be available to rural America. The HUD delivery system is not there for the rural people. Yes, available in Oklahoma City or in Tulsa in my State, but we have to go 200 miles away to participate in FHA/HUD programs. We have an inadequate mortgage program in the rural areas and in many areas the HUD delivery system just does not exist.

I ask this Congress and this administration to give more than rhetoric.

I commend our committee for standing up and fighting for some of the programs, but we have a long way to go before we provide the equity, before we provide the fairness to the people who have been forgotten in rural America. I am asking that we not forget the people out there in the small hamlets and communities, but we try to write a program the next time that will allow them to have the housing that is available to citizens in the urban areas of our great country.

I ask this for those people who are scattered, whose voices are faint, and they are asking for a little shelter. They are dependent on us. I ask my colleagues to support this bill but let us try to write a better program the next time.

Mr. REUSS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I call the committee's attention to a matter that is not in conference, but I would point out that I will proceed almost in the same vein as the gentleman from Oklahoma (Mr. WATKINS), although on a different subject. I think I can best make my point by two examples.

I have a group in my city of Austin, primarily the deaf or near deaf, who had applied for a type of halfway house facility. They were turned down. They applied again. They bought a piece of property, were turned down. They applied again and were approved. HUD actually set aside funds for the project.

We went along trying to meet all of the regulations. But after 2 years time, even though HUD had earmarked some funds, they said, "You cannot comply because you do not meet all of the rules and regulations in the handbook published down the street," notwithstanding the fact that the State Deaf Association, the National Association, said that the deaf are entirely different and they ought to be able to qualify, and you ought to go forward with the project, but your "book" said it could not comply. HUD was more interested in complying with their handbook than in accepting the experts opinion in this field.

Next. Within the last 2 weeks my University of Texas in Austin applied for some college housing funds. They had access to the regulations very late because they were not published until August and when we the University of Texas finally put in an application, trying to interpret the regulations or guidelines, as best we could, they said, "You cannot qualify because you came in over the amount. We give you only so much per adult in a unit." They make no consideration, insofar as I know, that children are part of a college family.

I would say to my colleagues, Mr. Speaker, that young college people do get married, and do have children. It is a fact of life. Yet HUD said, "You cannot meet the regulations."

The university might be able to go ahead in the private field, but the college student is going to have to pay a lot more if they go to the private market. That is not what was intended by the committee. We the Congress pass our laws and yet, down the street, there is still a tendency to say, "This is the rule and the regulation. The handbook is the Bible."

Now, my case is no different from most of the people in this House and I recognize that. I have no right to ask for special consideration. The people I have talked to in HUD housing try to be reasonable, and yet they are unable to get around the rules.

So I say to the chairman, I hope that your committee, if you do not have an oversight committee, you ought to set up a special committee for the practical implementation of rules and regulations so that we would have more commonsense and more flexibility on the laws that your committee passes, and where, we, the Congress intend for the help to be given. Yet invariably constituents of Members across this room and in this Chamber, day after day are being denied just because they did not comply strictly with a book or regulation.

I think we have reached the point where special consideration should be given to integration of rules and I hope that your committee can address this problem at some time in the near future.

Mr. REUSS. Mr. Speaker, I will yield 1 minute to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. I thank the gentleman from Texas (Mr. PICKLE) for his comment which clearly points out with his illustration, the need for reform in our regulation process so that we can have flexibility as to the size of the governmental units affected, as to different areas of the country, so that we have some congressional oversight over the rulemaking process.

I am happy to tell the gentleman that the Committee on the Judiciary has reported out a bill which is now awaiting a rule which would provide exactly what the gentleman from Texas has asked for. God and others willing, we can take this up before we adjourn.

Mr. PICKLE. I thank the gentleman and would hope the chairman could respond in some way.

Mr. REUSS. I am very grateful to the gentleman for calling this problem to our attention and, in consultation with Chairman Ashley and the ranking minority member (Mr. Stanton) I would have in mind to direct an inquiry into the college housing problem the gentleman has addressed himself to.

□ 2120

Mr. STANTON. Mr. Speaker, I yield myself what I think, hopefully, will be the last minute on our side of the aisle.

Mr. Speaker, as we conclude this conference report, I certainly would urge all on our side of the aisle to support it. Having said that, Mr. Speaker, I would not want to leave the House with the idea that this has not been, along the pathway, a very controversial issue. My friend, the gentleman from Ohio (Mr. (Ashley) will agree with me that in many ways this has been the toughest conference that I have ever had to attend. One night last week, my friend, the gentleman from Ohio, and I almost walked out of the conference.

Mr. Speaker, we have a conference report tonight solely due to the expertise of the gentleman from Wisconsin (Mr. Reuss). It was his parliamentary interest, ability, and effective leadership that brought us back into the conference and made this conference report that he brings before this body tonight. I want to publicly compliment him, Mr. Speaker, not only on this legislation but as we go home to campaign and we look back on the Depository Institution and Deregulation Act of this spring, and we think that just a year ago members were leaving the Federal Reserve System by leaps and bounds, and our central bank was disintegrating, it was the gentleman from Wisconsin that brought us all together with a bill that solved this problem. I could go on and on, Mr. Speaker, and name other legislation.

Mr. Speaker, I wish to publicly compliment him on his leadership.

I yield back the remainder of my time.

Mr. REUSS. I deeply thank my friend, the gentleman from Ohio (Mr. Stanton).

● Mr. MILLER of Ohio. Mr. Speaker, I rise in opposition to the pending conference report on S. 2719—the Housing and Community Development Act of 1980. Prior to House passage of this bill on August 21, my amendment to limit the Secretary's authority to increase section 8 rent subsidies was approved by a 204 to 183 margin. That cost-saving amendment would translate into a reduction from a possible $1,379 monthly rent subsidy for one New York Section 8 apartment to a cap of $1,238 a month.

I said then—and I will repeat here this evening—that I favor eliminating the Secretary's discretionary authority to fatten section 8 rents altogether. It is an obscene waste of the taxpayer's money. It does not even guarantee priority assistance to the truly needy.

The Miller amendment which was accepted by the House would have cut the Secretary's statutory authority to increase section 8 rent levels from 20 to 10 percent. The measure did not even touch the regulatory license HUD has utilized to attach an additional 15-percent increase onto section 8 rent limits.

Despite election year rhetoric surrounding budget deficits and the need to save dollars, conferees restored the 10-percent, section 8 rent increase authority to the Secretary in exchange for agreeing to limit the application of the statutory increase to only 20 percent of the annual obligation for new section 8 housing in a given geographic area.

I am not satisfied with the tradeoff. In fact, I will not be satisfied until the costly issues surrounding this program are resolved once and for all. Section 8 has to be brought under control, and if the alleged compromise of my amendment is a step in that direction, then I will accept it under present circumstances. In the process, however, I want HUD to know that those who share my deep concern about this program will not simply fade away. The Department has moved away from the important comparability and reasonableness tests of determining fair market rents. They appear to be based, in large part, on subjective judgements. Increases in section 8 rent levels are concentrated in certain regions and on certain markets and are without sound analytic foundation.

Most frightening, however, is the cost of section 8. If all HUD-assisted housing payments were terminated 1 year from today, the taxpayer's of this country would still be contracturally obligated to almost $250 billion for existing rent subsidy commitments. Surely a Congress committed to the restoration of a sound budget and the trimming of wasteful programs can find it appropriate and proper to start its cost-cutting campaign with section 8 and its lavish rent increases.●

Mr. REUSS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF SENATE TO MAKE CHANGE IN ENROLLMENT OF S. 2719, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. REUSS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 131), authorizing Secretary of Senate to make change in enrollment of S. 2719, Housing and Community Development Act of 1980.

The Clerk read the Senate concurrent resolution as follows:

S. Con. Res. 131

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, shall make the following change:

At the end of the proposed section 311 of the Home Mortgage Disclosure Act of 1975 (which is contained in section 340(c) of the bill), strike out the close quotation marks and the period, and add the following:

"TERMINATION OF AUTHORITY

"Sec. 312. The authority granted by this title shall expire on October 1, 1985."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. WYLIE. Mr. Speaker, reserving the right to object, and I do not intend to object, I merely reserve the right to object to ask the chairman to explain the purpose of this procedure and why we are proceeding in this manner.

Mr. REUSS. Yes; if the gentleman will yield, normally this would have been part of the conference report, but for parliamentary reasons it is outside the technical parameters of the report; hence, it comes in by a concurrent resolution.

In substance, it is the precise problem discussed with the distinguished gentleman from Georgia (Mr. Levitas). This provision sunsets the Home Mortgage Disclosure Act, which the other body had sought to make permanent.

There is a genuine difference of opinion among Members as to the efficacy of that law, but certainly, as far as I am concerned, the sunsetting of it will enable us to address ourselves to it. I would hope, and I know the gentleman from Ohio (Mr. Wylie) fervently hopes, that it will be possible to consolidate some of the reporting that thrift and banking institutions have to make. If we can make one report out of five, the world will think well of us, and that is precisely why sunsetting it, far from bothering me, seems like a good hair shirt for us to wear. And I think it embodies the philosophy which the gentleman from Georgia (Mr. Levitas) and others, and the gentleman from Ohio have been forwarding on the floor here for some time.

I have now practically made the remarks which I shall make in a minute when we consider the concurrent resolution, because this is all in the world there is to it.

Mr. WYLIE. I thank the gentleman for that explanation. I might add that the other body has already passed this Senate concurrent resolution. I want to compliment and express appreciation to you, Mr. Chairman and to Bill Stanton for standing tough on this issue in our negotiations with Members from the other body, and especially with the senior Senator from Wisconsin, on several occasions so we could work this out. I thank the gentleman very much.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. Reuss)?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION AUTHORITIES AND FOR RURAL HOUSING AUTHORITIES

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 209) providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STANTON. Reserving the right to object, Mr. Speaker, this is a technicality, but will the gentleman from Ohio explain it?

Mr. ASHLEY. Yes; if the gentleman will yield, like I say to my friend, this joint resolution is necessary to keep the HUD–FHA authorities available until the conference report on the Housing and Community Development Act has been completed and the enrolled copy of the bill is prepared and made available for the President's approval. Since this Housing and Community Development Act is so large and comprehensive, it will take some time to be enrolled. Senate Joint Resolution 209 gives us the opportunity to keep the HUD–FHA and Farmers Home Administration authorities alive until the Housing and Community Development Act of 1980 is made available for the President's approval.

Mr. STANTON. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 209

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1980" in the first sentence and inserting in lieu thereof "October 16, 1980".

(b) Section 217 of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1980" in the fifth sentence and inserting in lieu thereof "October 15, 1980".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(f) Section 244(d) of such Act is amended by—

(1) striking out "September 30, 1980" in the first sentence and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "October 1, 1980" in the second sentence and inserting in lieu thereof "October 16, 1980".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1980" where it appears and inserting in lieu thereof "October 15, 1980".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1930" in the second sentence and inserting in lieu thereof "October 15, 1980".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980".

EXTENSION OF PERIOD DURING WHICH AMOUNTS IN THE RENTAL HOUSING ASSISTANCE FUND MAY BE APPROVED FOR USE IN THE TROUBLED PROJECTS PROGRAM

SEC. 2. Section 236(f)(3)(B) of the National Housing Act is amended by striking out "September 30, 1980" in the third sentence and inserting in lieu thereof "October 15, 1980".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 3. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 4. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

REHABILITATION LOANS

SEC. 5. Section 312(h) of the Housing Act of 1964 is amended by—

(1) striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 6. (a) Section 513 of the Housing Act of 1949 is amended by—

(1) striking out "September 30, 1980" wherever it appears in subsection (a) and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "September 30, 1980" wherever it appears in subsection (b) and inserting in lieu thereof "October 15, 1980".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

(d) Section 521(a)(1)(C) of such Act is amended by—

(1) striking out "with respect to fiscal year 1980" in the penultimate sentence and inserting in lieu thereof "through October 15, 1980"; and

(2) striking out "with respect to any fiscal year after fiscal year 1980" and inserting in lieu thereof "after October 15, 1980".

(e) Section 523(f) of such Act is amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "October 15, 1980".

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REUSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the three measures just passed; namely, the conference report on the Senate bill, S. 2719, Senate Concurrent Resolution 131, and Senate Joint Resolution 209.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AUTHORIZING SECRETARY OF SENATE TO MAKE CORRECTIONS IN ENROLLING OF S. 2719, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 132), authorizing Secretary of Senate to make corrections in enrollment of S. 2719, Housing and Community Development Act of 1980, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 132

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in enrolling the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, shall make the following corrections:

(1) In section 301 of the bill—

(A) strike out "October 1, 1980" each place it appears and insert in lieu thereof "October 16, 1980";

(B) strike out "September 30, 1980" each place it appears and insert in lieu thereof "October 15, 1980".

(2) In section 204(b)(1) of the bill, strike out "September 30, 1980" and insert in lieu thereof "October 15, 1980".

(3) In section 302(a) of the bill, strike out "October 1, 1980" and insert in lieu thereof "October 16, 1980".

(4) In section 337(a) of the bill, strike out "October 1, 1980" and insert in lieu thereof "October 16, 1980".

(5) In section 114 of the bill, strike out subsection (d) and insert in lieu thereof the following:

(d) Section 312(h) of such Act is amended—

(1) by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "October 16, 1980" and inserting in lieu thereof "October 1, 1982".

(6) In section 501(a) of the bill, strike out "September 30, 1980" each place it appears and insert in lieu thereof "October 15, 1980".

(7) In section 501, strike out subsections (b), (c) and (d)(1) and insert in lieu thereof the following:

(b) Section 515(b)(5) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 517(a)(1) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

(d) Section 523 of such Act is amended—

(1) by striking out "October 15, 1980" wherever it appears in subsection (f) and inserting in lieu thereof "September 30, 1981"; and

(8) In section 501(f) strike out paragraph (2) and insert in lieu thereof the following:

(2) by striking out "after October 15, 1980" in the third sentence and inserting in lieu thereof "with respect to any fiscal year beginning on or after October 1, 1981".

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate concurrent resolution may be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio for immediate consideration of the Senate concurrent resolution?

Mr. STANTON. Reserving the right to object, could the gentleman explain it? This is also a technical amendment.

Mr. ASHLEY. If the gentleman will yield, Senate Concurrent Resolution 132 makes technical and conforming changes to the conference report to accompany S. 2719. These technical and conforming changes are necessary to conform the conference report to the Senate Joint Resolution 209 that the House has just passed which provides for a temporary extension of HUD authorities through October 15, 1980.

Mr. STANTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House of Representatives to the bill (S. 985) entitled "An act to amend the Consolidated Farm and Rural Development Act."

The message also announced that the Senate agree to the amendment of the House to a bill of the Senate of the following title:

S. 1796. An act to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1010. An act to establish a Commission on the International Application of Antitrust Laws;

S. 2075. An act to amend chapter 207 of title 18, United States Code, relating to pretrial services; and

S. 3074. An act to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1981, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesdy, October 1.

□ 2130

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Speaker, a parliamentary inquiry.

I have inferred from the Chair's announcement just made that during the remainder of this evening we will be taking up what we call suspensions, items which were listed on the program as suspensions of the rules, and no other business. Is that correct?

The SPEAKER pro tempore. The Chair would advise the gentleman from California we have some very important other business that may come before the body this evening and that is the continuing resolution.

Mr. DANIELSON. Except for the continuing resolution, are we to take up matters other than the suspensions?

The SPEAKER pro tempore. The Chair knows of no other matters but would again remind the gentleman from California as well as all other Members that the continuing resolution is a matter of no small importance.

Mr. DANIELSON. I assume I am to infer that although the Chair knows of nothing else, new knowledge springs eternally. Is that correct?

The SPEAKER pro tempore. The gentleman from California has great wisdom and the Chair concurs with the gentleman, as always.

COASTAL ZONE MANAGEMENT IMPROVEMENT ACT OF 1980

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 6979, to improve coastal management in the United States, and for other purposes, as amended.

H.R. 6979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Improvement Act of 1980".

SEC. 2. AMENDMENT TO CONGRESSIONAL FINDINGS.

Section 302 of the Coastal Zone Manageent Act of 1972 (16 U.S.C. 1451) is amended—

"(1) by inserting immediately after subsection (e) the following:

"(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;"; and

"(2) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively."

SEC. 3. AMENDMENT TO DECLARATON OF POLICY.

Section 303 of the Canal Zone Management Act of 1972 (16 U.S.C. 1452) is amended to read as follows:

"CONGRESSIONAL DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy—

"(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

"(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, which programs should at least provide for—

"(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

"(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

"(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

"(D) public access to the coasts for recreation purposes,

"(E) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and aesthetic coastal features,

"(F) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

"(G) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies, and

"(H) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

"(I) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State fish and wildlife agencies; and

"(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, and improved predictability in governmental decisionmaking; and

"(4) to encourage the participation and cooperation of the public, State and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.".

SEC. 4. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (3) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) the term 'coastal resource of national significance' means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value."; and

(3) by striking out "Guam," in paragraph (4) (as redesignated by paragraph (1) of this section) and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands,"; and

(4) by inserting immediately after paragraph (16) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(17) The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone."; and

(5) by redesignating paragraph (17) (as redesignated by paragraph (1) of this section) as paragraph (18).".

SEC. 5. ADMINISTRATIVE GRANTS.

(a) Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—

"(1) finds that such program meets the requirements of section 305(b);

"(2) approves such program in accordance with subsections (c), (d), and (e); and

"(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend an increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2)(A) through (I).

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c)(2)) that are necessary or appropriate to the implementation of the management program.";

(2) by striking out the first proviso to subsection (b) and by striking out "further" in the second proviso to such subsection; and

(3) by adding at the end thereof the following new subsection:

"(i) The coastal states are encouraged to provide in their management programs for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

If the Secretary determines that a coastal state has failed to make satisfactory progress in the activities described in this subsection by September 30, 1984, the Secretary shall not make any grants to such state provided under section 306A after such date.".

(b) The amendments made by subsection (a)(1) and (2) of this section apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1)).

SEC. 6. COASTAL RESOURCE IMPROVEMENT PROGRAM.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 306 the following new section:

"RESOURCE MANAGEMENT IMPROVEMENT GRANTS

"SEC. 306A. (a) For purposes of this section—

"(1) The term 'eligible coastal state' means a coastal state that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (I).

"(2) The term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

"(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

"(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306(c)(9) because of their conservation, recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance.

"(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b)(3) in the state's management program as areas of particular concern.

"(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b)(7).

"(c)(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) Grants made under this section may be used for—

"(A) the acquisition of fee simple and other interests in land;

"(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;"

"(C) in the case of grants made for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

"(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

"(d)(1) No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.

"(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

"(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

"(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

"(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section."

SEC. 7. COASTAL ENERGY IMPACT PROGRAM.

Section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a) is amended—

(1) by adding after subsection (c)(2), the following new paragraph:

"(a)(A) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from the transportation, transfer, or storage of coal or from alternative ocean energy activities.

"(B) Such grants shall be allocated to any such state based on rules and regulations promulgated by the Secretary which shall take into account the number of coal or alternative ocean energy facilities, the nature of their impacts, and such other relevant factors deemed appropriate by the Secretary.", and

(2) by striking out subsection (d)(4).

SEC. 8. INTERSTATE COASTAL ZONE MANAGEMENT COORDINATION.

Section 309 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b) is amended to read as follows:

"INTERSTATE GRANTS

"SEC. 309. (a) The coastal States are encouraged to give high priority—

"(1) to cordinating State coastal zone

planning, policies, and programs with respect to contiguous areas of such States;

"(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas; and

"(3) to establishing an effective mechanism, and adopting a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The coastal zone activities described in paragraphs (1), (2), and (3) of this subsection may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 percent of the cost of such activities, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with section 305 and 306.

"(b) The consent of the Congress is hereby given to two or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.

"(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to give high priority to the coastal zone activities described in subsection (a). The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Energy, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

"(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal States to create and maintain a temporary planning and coordinating entity to carry out such activities. The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity for a Federal-State consultation.

"(e) A coastal State is eligible to receive financial assistance under this section if such State meets the criteria established under section 308(g)(1).".

Sec. 9. Review of Performance.

(a) Section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

"REVIEW OF PERFORMANCE

"Sec. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through (I), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

"(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I).

"(d) The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

"(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary".

"(f) The Secretary shall carry out research on, and offer technical assistance of the coastal States with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management."

(b) Within two hundred and seventy days after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section).

Sec. 10. Annual Report.

Section 316 of the Coastal Zone Management Act (16 U.S.C. 1462) is amended—

(1) by amending the section heading to read as follows: "COASTAL ZONE MANAGEMENT REPORT";

(2) by amending subsection (a)—

(A) by amending the matter appearing before clause (1) to read as follows: "(a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to",

(B) by striking out "or with respect to which grants have been terminated under this title" in clause (4),

(C) by redesignating clauses (5) through (12) as clauses (6) through (13), respectively; and

(D) by inserting immediately after clause (4) the following new clause: "(5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of this section;"; and

(3) by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.

"(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.".

Sec. 11. Estuarine Sanctuaries.

Section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) is amended—

(1) by striking out "BEACH ACCESS" in the section heading and inserting in lieu thereof "ISLAND PRESERVATION";

(2) by amending paragraph (2) to read as follows:

"(2) acquiring lands to provide for the preservation of islands, or portions thereof."; and

(3) in the last sentence by deleting "$2,000,000." and substituting in lieu thereof "$3,000,000."; and

(4) by adding the following new sentence at the end of the section:

"No grant for acquisition of land may be made under this section without the approval of the Governor of the State in which is located the land proposed to be acquired."

Sec. 12. Congressional Disapproval Procedure.

(a)(1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science and Transporation of the Senate and to the Committee on Merchant Marine and Fisheries of the House, respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of sixty calendar days of continuous session, after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise in the rulemaking power of the House of Representatives and as such they are deemed a part of the rules of the House of Representatives but applicable only with respect to the procedure to be followed in the House of Representatives in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(3)(A) When a committee has reported a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged in the House of Representatives, and shall not be debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate in the House of Representatives on the concurrent resolution shall be limited to not more than ten hours which shall be divided equally between those favoring and those opposing such concurrent resolution and a motion further to limit debate shall not be debatable. In the House of Representatives, an amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Secretary is disapproved by the Congress under subsection (a)(2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than twenty days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(f)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which the House of Representatives is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2); then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(g) For purposes of this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of ———, ———.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Secretary pursuant to the Coastal Zone Management Act (16 U.S.C. 1450 et seq.).

(h) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1985.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary—

"(1) such sums, not to exceed $48,000,000 for each of the fiscal years occurring during the period begining October 1, 1980, and ending September 30, 1985; as may be necessary for grants under section 306, to remain available until expended;

"(2) such sums, not to exceed $20,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 306A, to remain available until expended;

"(3) such sums, not to exceed $75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(b);

"(4) such sums, not to exceed $3,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 309, to remain available until expended;

"(5) such sums, not to exceed $9,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 315 to remain available until expended;

"(6) such sums, not to exceed $6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for administrative expenses incident to the administration of this title.";

(2) by amending subsection (b) by striking after the phrase "provisions of section 308," all that follows and substituting in lieu thereof "other than subsection (b), of which not to exceed $150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section."; and

(3) by amending subsection (c) by striking out "section 305, 306, 309, or 310." and inserting in lieu thereof "section 306 or 309.".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. STUDDS) will be recognized for 20 minutes and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I want to take just a moment to pay particular tribute to the chairman of the subcommittee who has worked diligently on this legislation. This legislation is a great tribute to the gentleman's legislative craftsmanship. It is legislation that is more and more being recognized as being fundamental to the national interest.

H.R. 6979 was reported by the full Committee on Merchant Marine and Fisheries on May 7, 1980. It is the product of a year long effort by the committee and particularly our Subcommittee on Oceanography. The subcommittee held 11 hearings in a number of coastal States and heard testimony from over 200 witnesses.

The basic coastal zone management program was passed in 1972 and major amendments were added in 1976 which established the coastal energy impact program (CEIP). These amendments also made other statutory changes which extended the basic elements of the program until the end of this fiscal year. Consequently, if Coastal Zone Management (CZM) is to continue, we must pass reauthorization legislation at this time so that fiscal year 1981 appropriations can be made. This is vital legislation to assist States in developing programs which will balance the many competing pressures on resources contained in the coastal zone.

As a result of the hearings and extensive study by the committee, H.R. 6979 was introduced on March 31 of this year and it contains a number of substantial improvements to the existing law.

The bill provides greater incentives to States to participate and remain in the

Federal program by establishing the coastal resources improvement grants section and by reauthorizing the administration grants provision (section 306) at the present level for 8 years. It clarifies the national objective for Coastal Zone Management and requires that States use an increasing proportion of their Federal funds, up to a ceiling of 30 percent, to address these objectives.

It encourages States to protect coastal resources of national significance and it provides much needed funding for the implementation and low-cost construction needs for the designation of areas of preservation and restoration, the redevelopment of deteriorating and underutilized urban waterfronts and port areas, and public access to the coast.

The legislation also clarifies the objectives and procedures to be used in evaluating State implementation of approved coastal management programs and provides a mechanism for the Federal Government to bring its programs in line with the policies of the act.

While making these and other improvements, it maintains the present voluntary nature of the program and the strong Federal-State cooperative effort to maintain the important work of coastal zone management. Consequently, I urge the support of the Members for this legislation and, given the present time constraints under which we are operating, it is imperative that we move as expeditiously as possible. The Senate has already passed a coastal zone management reauthorization bill and we must act quickly to approve this legislation and then resolve the few differences which remain between the House and the Senate.

At this time, Mr. Speaker, I would yield to the distinguished chairman of our Subcommittee on Oceanography, the gentleman from Massachusetts (Mr. STUDDS.)

Mr. STUDDS. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I rise in strong support of H.R. 6979, a bill which improves coastal management in the United States by amending and reauthorizing the Coastal Zone Management Act of 1972.

Nineteen hundred and eighty has been designated the "Year of the Coast" by numerous environmental groups and endorsed as such by the President of the United States—a designation which seeks to shed new light on the value of our coastal resources and on actions that can be taken today to preserve and protect them for future generations. The population growth trends in the coastal areas of the United States over the past few decades clearly indicate the intense pressure being applied to these regions of our Nation. Unplanned and uncoordinated development of our coastal areas in the past four decades has resulted in tremendous pressure on fragile and complex systems of estuaries, lagoons, beaches, bays, harbors, islands, and wetlands that are habitats for thousands of varieties of birds, fish, shellfish, reptiles, and mammals. During the middle of this century, the number of people living in coastal areas grew at a rate three times that of the national average. As we enter the 1980's, nearly 4 out of 5 Americans live within 100 miles of the ocean or the Great Lakes. By the end of this decade, it is predicted that 75 percent of the American people will reside within 50 miles of these shores.

The tremendous economic incentives to develop the coastal regions of our country have, in many instances, led us to build unwisely in areas far too fragile to accept such development. In our haste to settle in coastal areas, we have damaged or destroyed over 40 percent of our wetlands, and we continue to do so at a rate of 300,000 acres per year. As a nation we have physically altered over two-thirds of our barrier islands—islands which serve as natural protective barriers against storms. The east coast, particularly, has seen the elimination of public access to thousands of beautiful beaches. Recently the Boston Globe carried a series of articles which submitted that by design, accident, and ignorance, Americans have done more damage to the coastline in the last 30 years than nature in all her fury through violent storms and winds and waves over hundreds of millions of years.

We are only now beginning to recognize the consequences of these actions and what we are learning is not pleasant. It has only been in the last 10 years, for example, that we have come to understand the tremendous importance of wetlands in protecting and nurturing the thousands of species that form a complex, interrelated food web. We now know, for instance, that most of the top value fish in the Atlantic and gulf coast waters are directly dependent on wetlands during some stage of their life cycles. It is particularly sobering to recognize that man himself is part of this chain of life.

At the same time, there is the concomitant recognition that a carefully selected portion of our coast must be devoted to commerce and industry. The lifeline of our foreign trade, and a substantial portion of our interstate trade, is the system of ports, docking facilities, and navigational channels located in the coastal zone. Indeed, most of our major urban areas were developed on, or in close proximity to, a water mode of transportation. Unfortunately, the deterioration of many of our cities includes the underutilization of urban waterfront and port areas, thus leading to the slow destruction of one of the key characteristics and cultural features of urban living. Such deterioration also adds additional pressure to nonurban coastal areas, as our population moves from the central city outward to suburban and rural development.

Additionally, as our national energy needs and the performance of the international petroleum market continue to diverge, it is clear that the frontier areas of the U.S. Outer Continental Shelf will be increasingly explored and developed for more domestic oil and gas production. The acceleration of OCS activity will have a profound impact on the coastal zone and will require, to a degree yet undetermined, further utilization of our Nation's coast for a variety of activities related to offshore development. In the not-too-distant future, technological developments in ocean thermal energy conversion and deep seabed mining may create a number of "coastal-dependent" activities which, although determined to be in the national interest, will require careful and rational site specific decisions. The impact of known technologies such as liquefied natural gas terminals and deepwater ports will be immediate, coastal-specific, and potentially devastating if not managed properly.

It is the rational balancing of these competing pressures on finite coastal resources which was intended by the 1972 act, and it is the growing awareness that such balancing will be increasingly difficult in the years ahead that argues strenuously for the reauthorization of, and the improvements made to, the CZMA contained in H.R. 6979.

The changes proposed in the bill are intended to advance the purposes of the act, without making major revisions in the requirements imposed on States. The bill recognizes the progress achieved to date by coastal States participating in the Federal coastal zone management program by reauthorizing the act for 5 years to insure that recently developed coastal zone management efforts in the States and localities become fully established and accepted functions of their government. H.R. 6979 is a progressive initiative. It seeks to institutionalize federally approved State programs that have been developed, and foster management improvements during the program implementation stage which are tied to new and specific national policy objectives. This bill seeks to insure that coastal States will receive the minimum amount of funds necessary to institutionalize their present programs, while devoting substantial portions of these funds to activities leading to significant improvements related to the national policy objectives.

Specifically, H.R. 6979 calls for a clarification of our national coastal policy contained in section 303 of the CZMA. The proposed changes are intended to assist the States in the implementation and improvement of their management programs. The States are directed to at least provide, in the development and implementation of their management programs, for the following: Protection of natural resources; management of coastal development to minimize loss of life and property caused by improper development; priority consideration to coastal dependent uses in the coastal zone; public access to the coasts for recreational purposes; coordinated and simplified procedures to insure expedited governmental decisionmaking for the management of coastal resources; continuing consultation and coordination with affected Federal agencies; timely and effective notification of and opportunities for public and local government participation in coastal management decisionmaking; and assistance to support comprehensive planning, conservation, and management for living marine resources.

H.R. 6979 makes two important changes to section 306, the provisions of the act which provide administrative grants to coastal States. The first change would allow the Secretary to require a coastal State to expend up to 30 percent of its CZM grant on activities that will result in significant improvements in achieving the national coastal objectives. Currently States are spending 20 percent of their grants on improvements and this amendment has been incorporated to insure that improvements in coastal management result from the investment of Federal funds. When viewed in its entirety, the amendments to section 303 (policy) and section 312 (evaluation) of the act identify clearly the goals and expectations for the future of coastal management.

The second change to section 306 adds a new subsection 306(i) which encourages the States to inventory and designate coastal resources of national significance and establish specific and enforceable standards to protect them. H.R. 6979 recognizes the need to protect the national interest in these coastal resources of national significance by encouraging States to designate and protect them through the implementation of their management programs and through their authorities.

Although H.R. 6979 does not prescribe standards for these areas, it is believed that States will provide criteria which will prevent piecemeal or inadvertent damage to the resource. NOAA will provide guidance to the States on appropriate resource areas which should be designated as having national significance and standards which may be appropriate to protect them. Activities conducted under section 306(i) are not expected to undermine the efforts of States to implement and enforce their management programs, but rather, to enhance their overall effectiveness by providing protection to valuable coastal resources and predictability about their uses.

H.R. 6979 consolidates portions of existing law into a new section and expands slightly the uses of these funds to enhance the implementation of State management programs. New section 306(A), entitled "Resource Management Improvement Grants," allows the Secretary of Commerce to make grants to States for the preservation or restoration of natural coastal resource areas, for urban waterfront and port redevelopment, and for public access to coastal areas. Because two of these initiatives are already contained in the current act, but in different sections, the consolidation and slight expansion of these grant provisions with a reorientation toward improvements of specific coastal resources, is expected to assist the States in the implementation of the processes contained in their management programs. Section 306A grants would provide to the States low-cost construction, public access, and pier and bulkhead restoration funds which would help refurbish our ports and urban waterfront areas, protect our fragile coastal resources, and provide public access to beach areas. The availability of these limited funds, which do not increase the existing authorization levels, will be an incentive to nonparticipating States to join in the CZM program, as well as an incentive for States with management programs to use them more effectively. Use of these funds is a State prerogative and is intended to assist them to the maximum extent possible in acquiring substantive results from the implementation of their management programs. In view of the proposed changes to the administrative grant provisions which require States to make significant improvements in coastal management, section 306A grants are particularly vital as they allow the States to address specific State identified needs.

Changes have also been made to the coastal energy impact program, section 308, by the addition of coal transportation and alternative ocean energy activity impact grants. Oil shortages, changes in national energy policy, and the increased use of low-sulfur coal have together been responsible for tremendous increases in the movement and use of coal in this country. We are quickly moving forward in developing alternative ocean energy resources and making their use a reality. H.R. 6979 responds to the Fedreal responsibility in this national commitment by amending the coastal energy impact program (CEIP) to provide funds to States to assist them in ameliorating the environmental and recreational impacts associated with increased coal transshipment and alternative ocean energy activities. It is worth noting that these impact grants will not have an effect on the amounts or allotments of OCS formula grants provided for in the CEIP.

H.R. 6979 also calls for substantial improvements in the review and evaluation of State progress in the implementation of their management programs. These improvements will provide for an evaluation process that gives a clear accounting of the accomplishments and shortcomings that emerge from management program operations. Specifically, State performance reviews conducted pursuant to section 312 will include an assessment of State progress in addressing the significant coastal issues set forth in the revised national coastal policy. States will not only be reviewed to determine adherence to the provisions of their management programs, but also will be held accountable for initiating improvements in their programs. Moreover, up to 30 percent of a State's administrative grant may now be linked to such improvements to insure that Federal moneys supporting coastal management programs are being targeted adequately to addressing critical national problems as well as important State and local concerns.

Other changes to section 312 emphasize the need for and indeed require public participation during the evaluation process. Requirements for actively soliciting the participation of the general public and for public meetings during evaluations will, to a great extent, guarantee an open and fair process which will promote effective and constructive evaluations.

In his August 1979 Environmental message, President Carter called for a systematic review of Federal programs that affect coastal resources and identification of conflicts or problems between the objectives and administration of those programs and the purposes and policies of the CZM act. The Coastal Zone Management Improvement Act endorses the President's call for a Federal programs review by requiring that this review also be transmitted to the Congress.

There are numerous Federal programs which affect the coastal resources of our Nation and because these programs are not well coordinated, we find them working at cross-purposes and wasting incredible amounts of precious taxpayer dollars. The Federal programs review is a crucial link in a national effort to bring about a coherent and consistent national coastal policy for all Federal programs.

Mr. Speaker, the bill which we are now considering, H.R. 6979 as amended, contains several noncontroversial modifications to the bill reported out of the Merchant Marine and Fisheries Committee. These modifications would have been considered yesterday under the rule, but as you know, we did not have that opportunity. Moreover, these refinements are more in general conformity with provisions in the Senate bill, S. 2622—which has already been cleared by the Senate—and will enhance the expeditious resolution of differences between the two versions.

It should be noted that the bill as reported by the committee extended authorizations for all basic elements of the CZM program to 1988. In conformity with the Senate bill, and in recognition of the fact that CZM should be reviewed by the Congress in 5 years for an assessment of its progress (or lack thereof), the amended bill changes the date of all authorizations to 1985. It reduces other provisions of the CZM program but not to the point where the program would be seriously damaged. For example, section 306 grants to the States to enable them to implement their coastal zone management programs are reduced from the existing level in the bill of $50 million to $48 million per year. Additionally, the estuarine sanctuaries provision, authorized at $10 million in the committee's bill, is reduced to $9 million.

In conjunction with other changes, the authorization section reduces the CEIP program from $130 million per year for OCS formula grants to $75 million per year. Again, this will not damage the program because appropriations are considerably under the $75 million level and it is doubtful that they will ever approach such a level in the foreseeable future.

In total, the basic CZM program would be authorized at $86 million per year. The OCS formula grants would be authorized at $75 million which would bring the total authorization for the entire program to $161 million per year. This compares with the existing authorization level of $236 million per year. In other words, the amended bill reduces existing authorizations by $75 million per year. This represents a conscientious effort on the part of the committee to recognize the budgetary concerns of the administration while, at the same time, protecting the vital elements of the CZM program so important to our States.

I concur with the consensus of the committee that the changes recommended in this bill will serve as an incentive to bring all of the coastal States into this voluntary program. Currently several nonparticipating States with large coastal zones are watching the Congress for an indication of its commitment to a program which is directed at serving the national interests in the Nation's coastal regions. It is hoped that a 5-year reauthorization will represent a strong signal from the Congress—to all the coastal and Great Lake States—of our commitment to enhancing the wise use and management of the Nation's coastal resources.

I would also like to point out that this bill represents a prodigious effort by the committee to fully and fairly evaluate the CZM program. This process started a year and a half ago, included 11 hearings on the subject and involved over 200 witnesses. I believe H.R. 6979 as amended reflects the concerns which were expressed before the committee.

Mr. Speaker, I am extremely concerned, as you are, about the plight of our coastline and about the irreparable harm that could be done to the coastal zone management program if it were to expire on October 1, 1980. Currently there are 25 States and territories which have approved coastal management programs. Together these 25 management programs affect over 78 percent of our coastline. If the CZM Act is not reauthorized, the future of these programs, particularly those about to be approved, will be seriously jeopardized. In this the "Year of the Coast," it is incumbent upon us all to act with a strong, unified voice and swiftly pass the Coastal Zone Management Improvement Act of 1980. I urge my colleagues to support the bill.

Mr. Speaker, may I take a moment to inform my colleagues of the procedure we are following. I have moved to suspend the rules and pass a bill which contains several amendments to the bill as it came out of committee. When we realized it would be necessary under the circumstances to call this bill up under suspension, we went to every Member who indicated any desire of any kind to offer an amendment and without exception, to the knowledge of the subcommittee chairman, and I believe to the ranking minority member, all Members who sought any change in the bill as reported from the committee have worked with our staff. Amendments and changes have been worked out to the satisfaction of Members both on the minority and the majority side and to the managers of this bill. The substitute at the desk which we are now considering contains modifications to meet, so far as I am aware, all of the suggestions for change that would have been made had this bill been brought up under an open rule as was originally intended.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield to me?

Mr. STUDDS. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Speaker, I confirm from the minority standpoint that the statements just made by the gentleman from Massachusetts are correct.

Mr. STUDDS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, these changes are generally in conformity with the provisions in the Senate-passed bill, S. 2622, which it will be my intention to call up and to strike all after the enacting clause thereof and insert the House-passed bill.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I will be pleased to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I just want to commend the chairman of the subcommittee on which I am privileged to serve for doing an outstanding job. I rise in strong support of H.R. 6979, as amended.

Mr. STUDDS. I thank the gentleman.

Mr. Speaker, I yield back the time remaining.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6979 reaffirms to both participating and nonparticipating States that Congress will continue for at least 5 more years, to provide assistance for the wise management of valuable resources in our coastal areas.

Recognizing that coastal management programs have reached a critical stage during which improved implementation of State programs must occur, H.R. 6979 adds a new grant program entitled resource management improvement grants. These grants can be used for the preservation or restoration of specific areas because of their conservation, recreational, ecological, or aesthetic values; the redevelopment of deteriorating and underutilized urban waterfronts and ports; and the improvement of public access to beaches and to other public coastal areas.

Use of these funds is a State prerogative and is intended to assist the States in acquiring tangible results from the implementation of State management programs. The availability of these funds, which do not increase total existing authorization levels, should furnish an incentive to nonparticipating States to join in the CZM program, as well as an incentive for States with existing management programs to use them more effectively.

H.R. 6979 also makes the Great Lakes States eligible for coastal energy impact program funds to ameliorate the problems caused by new levels of coal transshipment. In view of our commitment to become energy self-sufficient, federally mandated coal conversion programs and the U.S. Environmental Protection Agency's clean air standards requiring use of low-sulfur western coal will substantially increase coal shipments from and adjacent to our coasts. There would therefor seem to be a national responsibility to assist at least temporarily, affected coastal States in meeting the problems caused by this new national policy.

As more States enter the coastal zone management program, it is important that an effective evaluation system is established to provide a clear accounting of the accomplishments and shortcomings of State programs. H.R. 6979 provides such a procedure, granting to the Secretary the discretion to reduce financial assistance if a State fails to make significant improvements toward achieving coastal management objectives.

In conclusion, Mr. Speaker, I would like to express the hope that this 5-year authorization may be the last we will need to assure adequate protection of the Nation's coastlines. By 1985, if this law is properly administered. The States will hopefully have taken the actions and assumed the responsibilities the 1972 act and today's amendments were drafted to stimulate. We in the Congress will hopefully then exercise the oversight to make sure we can end this annual authorized $200 million expenditure in 1985, and at the same time abolish this part of a bureaucracy which will then no longer be necessary.

It seems that the hardest thing for Congress to ever do is to abolish agencies once created. In this case, we should note now, in 1980, that it is our intent in passing this extension of authority that it be forever ended by 1985. On that basis and on that basis alone I urge the acceptance of this bill.

Mr. Speaker, I wonder if the distinguished chairman of the subcommittee, the gentleman from Massachusetts (Mr. STUDDS), could respond to questions I have been requested to ask by the gentleman from Washington (Mr. PRITCHARD).

Do any portions of the Coastal Zone Management Improvement Act or the report language change the provisions of section 307 of the Coastal Zone Management Act on coordination and cooperation, the so-called Federal consistency provision?

Mr. STUDDS. I would like to assure my colleague that nothing in H.R. 6979 nor its accompanying report changes the intent of the Federal consistency provision. In testimony before the Subcommittee on Oceanography, we heard from many witnesses that this section is critical for the effective implementation of State management programs. Since the consistency provisions are important to the act and appear to be working, no changes were made to section 307 of the act.

Mr. McCLOSKEY. I assume that this means also that there are no changes in the bill or the report language which further modify the term "directly affecting" which occurs in section 307(c)(1) of the original statute.

Mr. STUDDS. The gentleman from Washington is correct. The term "directly affecting is essentially one of fact" as the Justice Department has previously concluded.

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Mr. McCLOSKEY. I thank the gentleman. Mr. Speaker, at this time I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in support of H.R. 6979, the Coastal Zone Management Improvement Act of 1980. This bill is important because it maintains the important work undertaken in coastal zone management by continuing to assist States in developing programs which will balance the many competing uses of coastal resources. The bill maintains the present voluntary nature of the program and the strong Federal-State cooperation and coordination. This framework has been a very satisfactory process to manage the development of our coastal areas.

In particular, this bill improves coastal management by providing greater incentives to States to participate and remain in the Federal program by establishing resource management improvement grants. These grants can be used for the preservation and restoration of natural resource areas, urban waterfront and port development, improved public access to coastal areas, and low-cost construction projects in coastal areas.

H.R. 6979 will also improve coastal zone management by the clarification of national coastal policy. Witnesses before the Committee on Merchant Marine and Fisheries testified that the policy section needed to be clarified in order to give guidance to States on the coastal needs and problems which warrant full consideration during the implementation of coastal management programs. H.R. 6979 designates eight general areas where further improvements need to be made in the field of coastal zone management, including such areas as the coordination and simplification of Government activities in coastal areas, priority consideration of coastal dependent uses, protection of coastal resources, public participation in coastal management decisionmaking, public access to coastal areas, and recognition of the importance of aquaculture activities in coastal areas.

Mr. Speaker, I strongly support passage of this legislation.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, I too would like to take this time to commend the full chairman of the committee, the chairman of the subcommittee, Mr. STUDDS, and also the ranking minority members: Mr. FORSYTHE, Mr. PRITCHARD, and Mr. McCLOSKEY.

I was one who had traveled with the committee across this country in taking testimony in various parts of the country and our coastal areas, and I have rarely seen a piece of legislation greeted with so much enthusiasm and support as I have this one.

I want particularly to thank the ranking majority member, the chairman of the subcommittee (Mr. STUDDS) for his cooperation in alternative sources of energy and coal displacement as it relates to the Great Lakes. I think we have a good bill here, one we can be proud of, one we can take to the American people and hope that they will accept enthusiastically.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. WYATT).

● Mr. WYATT. Mr. Speaker, I rise in support of H.R. 6979 and wish to thank the chariman of the full committee, Mr. ASHLEY, the subcommittee chairman, Mr. STUDDS, and the ranking minority member of the subcommittee, Mr. PRITCHARD, for their efforts in trying to improve the coastal zone management program.

Although coastal zone management does not enjoy universal approval in my State, this bill makes several changes which I feel strengthen the program and makes it more responsive to the wishes of Congress. I address specifically provisions providing for a two-House veto of rules and regulations.

In addition, there were a number of changes from the committee report that I had planned to offer as amendments which sponsors of the bill have accepted. Those changes are:

First, a provision stating that regarding the location of coastal dependent facilities, to the extent practicable, new commercial and industrial developments be in "or adjacent to" areas where such development already exists;

Second, a provision allowing shoreline stabilization measures to include as a purpose "public safety";

Third, a provision allowing the replacement as well as removal of pilings where such action will provide increased recreational use of waterfront areas;

Fourth, a provision reinstating the Coastal Zone Management Advisory Committee and a section regarding technical assistance to the States; and

Fifth, a provision requiring that the Governor of the State approve any proposed land acquisition under the estuarine sanctuaries program.

These changes were very important factors in my support of the legislation and I support the substitute to the committee report on H.R. 6979.●

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Speaker, I rise in support of the legislation now being considered by the House. I commend the chairman of the Oceanography Subcommittee, the gentleman from Massachusetts (Mr. STUDDS) for his leadership in strengthening the Coastal Zone Management Act of 1972 and working to reauthorize its funding provisions.

I would like particularly to stress the importance of two sections in the bill before us today.

Section 309 provides for interstate regional and multi-State coastal resource coordination. This is an effective means for developing cooperative multijurisdictional programs for conducting research, planning, and policy development. Capabilities for regional approaches to coastal zone planning and related research must be established to parallel the regional efforts of the Fishery Conservation and Management Act. Regional council authority does not extend to the coastal zone; fish and their habitat do.

A prime example of an interstate study is that developed by CREST, the Columbia River Estuary study task force, in Astoria, Oreg. CREST is an organization of Oregon and Washington local governments and it has completed a regional management plan for the 95,000 acre Columbia River Estuary. It contains goals, regional policies, a management system, and development standards for use in local ordinances, detailed plans for use of estuary, and shoreland areas, a dredged material disposal plan, a restoration-mitigation plan, and implementation measures. CREST was restructured to provide "coastal implementation" but needs funding such as provided for in this bill if it is to continue. Failure to pass this bill may mean discontinuing CREST and other organizations like it.

Section 315, estuarine sanctuaries, is another important section in H.R. 6979. This program provides 50-percent matching grants to coastal States to acquire, develop, and operate estuarine areas. These sanctuaries are set aside as natural field laboratories to study what goes on within an estuary. The program is a tool whereby States can improve their coastal zone management programs. This bill reauthorizes this section at $9 million for 5 years and maintains provisions for estuarine sanctuaries and preservation of islands.

The necessity of this section is seen in the first estuarine sanctuary program in the Nation funded out of coastal zone management funds, the South Slough Estuarine Sanctuary in Coos Bay, Oreg. This 4,200-acre sanctuary is part of the Coos Bay Estuary and has received over $1.6 million for acquisition and management. Currently, the sanctuary has acquired 83 percent of the land it needs. If this bill does not pass, the South Slough Estuarine Sanctuary will probably not be able to acquire the remaining lands. Acquisition of the final 17 percent is essential for the sanctuary to be able to achieve its intended purposes. Not to complete the sanctuary would be unsound and wasteful.

H.R. 6979 is vital to the continuation of our Nation's coastal zone management policy, and I urge my colleagues to support it.

Mr. STUDDS. Mr. Speaker, I yield myself 2 minutes.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, for the record could the gentleman tell me if the amendments that we are considering make any change in the way States become a part of the program?

Mr. STUDDS. No; no change whatsoever.

Mr. PORTER. It is not changed from present law, is that correct?

Mr. STUDDS. That is correct. No additional requirements are imposed on States for participation in the program.

Mr. PORTER. I thank the gentleman.

Mr. STUDDS. Mr. Speaker, I too want to commend both the members of the minority who worked on this; the gentleman from Washington (Mr. PRITCHARD), the gentleman from California (Mr. McCloskey), the gentleman from New Jersey (Mr. Forsythe), and others; the cooperations of the members on the majority side, and the very hard-working staff on both sides—especially Teffrey Pike.

I would like finally to express perhaps an unusual hope at this hour. We have reason to believe that the other body will accept the bill as it now stands before us, and consequently, insofar as record votes will be deferred until tomorrow, and because, so far as any of us are aware, the bill is now without controversy, I would plead with Members to allow this to proceed with dispatch.

● Mr. PRITCHARD. Mr. Speaker, I rise in support of H.R. 6979, the Coastal Zone Management Improvement Act of 1980. This bill has been carefully fashioned not only to reauthorize this important coastal management program, but also to reauthorize it in a way which requires certain improvements in the administration of the program.

When this legislation was originally passed in 1972, our Nation was only beginning to realize the importance of improving the management of coastal and ocean resources. We were aware at the time that there was increasing pressure being brought to bear on coastal areas as more and more people were migrating toward coastal areas and intensifying their uses of such areas. Back in 1972, the Congress was also considering national land-use legislation. That legislation became very controversial, but many continued to feel the need to develop a sound management framework for certain critical resource areas, specifically the coastal zone. However, it was unacceptable then as it is now for the Federal Government to simply step in and manage coastal areas. The primary emphasis of the Coastal Zone Management Act of 1972 was to give the States primary authority in developing a coastal zone management program which would then be approved by the Federal Government, with the day-to-day management activities being carried out by the State.

Mr. Speaker, our amendments to the original statute contained in H.R. 6979 do not do violence to this basic concept, which was established in 1972. The States continue to have primary authority over the management of their coastal resources, however, they must live up to certain standards which they themselves have agreed to within their coastal zone management program, approved by the Secretary of Commerce.

Mr. Speaker, in an attempt to expedite matters, given the lateness of the hour, we have attempted to develop some committee amendments to H.R. 6979, which would, hopefully, make it easier for the other body to accept the House bill. In summary, we are amending H.R. 6979 to authorize the Coastal Zone Management Act for 5 years rather than 8 years. We are reducing the total authorization level from $101 million per year to $86 million per year, which is closer to the administration's position on this legislation. There are other amendments to the committee bill, which was reported in May of this year, which are aimed at rectifying some of the concerns expressed by OMB.

H.R. 6979, as amended, would make both activities related to coal transport and alternative ocean energy activities eligible for coastal energy impact funding under section 308 of the act. In addition, I would like to thank my colleague, Mr. Wyatt, for reconsidering whether to offer some of the amendments which he had previously printed in the Record.

Mr. Speaker, I would also like to highlight the strong linkage in H.R. 6979 between sections 303, 306, and 312. This linkage is based on the idea that we have established some new and increasingly important objectives for coastal management in 303. Section 312 establishes a clarified program review mechanism, and we would hope that the Office of Coastal Zone Management would soon promulgate regulations for how this program evaluation is to be carried out. And, finally, section 306 funding is required to be modified based upon the specific results on a State-by-State basis of the program review conducted in section 312. I feel that this linkage between funding and program evaluation will increase the accountability of the Federal coastal zone management program.

Finally, Mr. Speaker, I feel that this is important legislation. It has been carefully developed, and I think that we have made significant improvements. I strongly urge its passage.●

● Mr. MURPHY of New York. Mr. Speaker, I rise in support of H.R. 6979, the Coastal Zone Management Improvement Act of 1980. The coastal zone management (CZM) program is one with which I have been personally involved for a number of years. I have seen it grow from the genesis of a small but ambitious idea to one in which 19 coastal States have received approval from the Secretary of Commerce for their management programs.

As my colleagues preceding me have indicated, it is essential that we pass this legislation to reauthorize the program and make a number of substantial improvements to the basic statute.

For the last two decades, our coastal area has become the focal point for many diverse interests and pressures. Within 50 miles of the coastal zone, 53 percent of our Nation's population resides and our seven largest cities are located. The shoreline and wetlands are two of the most vital links in the marine food chain. Over 40 percent of all manufacturing plants in the United States are located within coastal counties and, more recently, powerplants are being increasingly located in coastal areas.

Since the original CZM legislation was enacted some 8 years ago, we as a nation have gained tremendous knowledge concerning the fragile nature of our valuable coastal region and the need to balance the pressures between economic development and environmental conservation. Although the CZM program is working well, new concerns have arisen that must take precedence if we are to preserve and manage our fragile and finite water resources for the benefit of the present and future generations.

The chairman of the subcommittee has described in some detail the various provisions in this proposed legislation. I would like to take this opportunity, however, to discuss a section of the bill with which I have been closely associated and which affects major urban waterfront and port areas throughout the Nation.

Section 306a of the legislation provides new grant funds for the restoration and revitalization of urban waterfront and port areas and public access to the coast.

These grants, based on existing levels of authorizations, would allow up to 80-percent Federal funding for coastal States that have approved management programs and are working toward meeting the new national objective provisions stated in the legislation.

Our Nation's urban waterfront and port areas were the historical centers from which urban growth spread. Access to waterborne methods of transportation were the key to the development of our major metropolitan areas. Yet, as we all know, many of our urban waterfront areas are in a state of major deterioration. The purpose of this modification to the CZM Act would provide a Federal commitment and a moderate amount of funding for States to revitalize and redevelop urban waterfront and port areas.

The grants may be used for the acquisition of land, low-cost construction projects involving paths, walkways, roads, fences, bridges, parks, and the rehabilitation of historic buildings and structures. It would provide planning and engineering specification funds and would assist in the attraction of private investment capital to our older but historically important urban areas.

The grants also would provide funding for those costs associated with the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activities. The funds could also be used for the installation or rehabilitation of bulkheads for the purpose of increasing public access and use and the removal of pilings where such action will provide increased recreational use of urban waterfront areas.

The urban waterfront grant section calls for the Secretary of Commerce to assist eligible States and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance for urban waterfront revitalization. No other existing Federal programs are affected by this provision but the Secretary is called upon to pull together existing programs for purposes of identification for State and local officials. "Packaging" urban waterfront assistance under the Department of the Interior, Corps of Engineers, HUD and other programs is essential to the success of this program.

For purposes of greater explication of the details of this provision in H.R. 6979, I am attaching to my statement a copy of a discussion paper on the urban waterfront and port amendment.

Since the initial funding for coastal zone management was provided in 1974, our coastal States have been engaged in a planning and process oriented program with Federal financial assistance to manage the resources of our coastal zone. The program has reached that stage of maturation in which the next logical step in its evolution is now evident. Funding for implementation of the processes developed is critical for complete coastal management efforts and the new section 306a, including the urban waterfronts and ports provision, is a critically important sophistication in the program's development.

I urge the support of my colleagues in reauthorizing the Coastal Zone Management Act of 1972 and in providing essential improvements to that statute.

Discussion Paper—The Urban Waterfront and Port Revitalization Provision in H.R. 6979, the Coastal Zone Management Improvement Act of 1980

The urban waterfront and port provision is contained in a new section 306a of H.R. 6979. It is one of three new grant programs for low-cost construction and acquisition of land costs for: The designation of areas of preservation and restoration (APR), urban waterfront and port revitalization, and public access to the coast. The grants may be used for the acquisition of land, low-cost construction projects involving paths, walkways, roads, fences, bridges, parks, and the rehabilitation of historic buildings and structures (except that in this low-cost construction category, no more than 50 percent of any grant may be used for such construction projects).

The urban waterfront funds involve 80-percent Federal grants to States, with approved management programs, for the redevelopment of deteriorating and underutilized urban waterfronts and fronts that are designated as an area of particular concern pursuant to section 305(b)(3) of the CZMA.

Specifically designated are costs associated with the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activities; the installation or rehabilitation of bulkheads for the purpose of increasing public access and use; and the removal of pilings where such action will provide increased recreational use of urban waterfront areas. These grants do not have the 50-percent limitation as in the other low-cost construction grants. Also, the urban waterfront and port grants can be used for engineering designs, specifications, and other appropriate reports; appropriate transportation systems; and management costs and other related costs as the secretary determines to be consistent with the purposes of the section.

Grants under this section may be used to pay a state's share of costs under any other Federal program as long as that program is consistent with the purposes of this section.

No individual state may receive more than 10 percent of the amount appropriated for the section. The total amount authorized for the new grants is $35 million per year. This figure was determined by deleting certain other authorization sections in the act and moving the beach access provision ($25 million) to this new grant program. Consequently, this new provision does not increase authorizations. Also, the new grants section calls for the Secretary to assist eligible States and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance as long as they are consistent with this section.

For example, there are programs in the Department of the Interior, including the Heritage conservation and recreation service (HCRS) and the land and water conservation fund (LWCF) and in the Department of Commerce's Economic Development Administration (EDA). These agencies have provided funding for materials and construction of large, long-range projects that sometimes touch coastal areas. Also, programs in the Corps of Engineers and the Department of Housing and Urban Development (HUD) are also potentially important. One aspect of the urban waterfront provision is that it will encourage the Secretary of Commerce to pull these programs together for purposes of assisting States in identifying and obtaining grants. It does not damage the existing programs but it may help local governments integrate such programs. For example, the planning, equipment and materials for the restoration and preservation of historic and cultural sites, buildings, structures and objects can be funded through an historic preservation grant-in-aid from HCRS. In FY–78, an estimated $43.5 million was used for these purposes, although there were very few locations in waterfront areas.

The pier and bulkheading provision in the new section is also very important. At present, OCZMA allows for the redesign of bulkheads, borings, and soundings for pier planning and design during a preliminary engineering and design phase. However, the actual rehabilitation or acquisition of piers and the installation or rehabilitation of bulkheads can only be accomplished with the new amendment. This would also fund the removal of pilings.

Other Federal agency participation can also be important in this regard. Port and pier rehabilitation can be assisted by the corps and by the Department of Transportation's Urban Mass Transit Administration. The corps has also helped with harbor cleanup programs to eliminate harbor debris which endangers the safety of small boats.

The urban waterfront amendment would also allow for appropriate transportation systems on, around, and to the waterfront providing increased public access and more effective use of the facilities. The Urban Mass Transit Administration and HUD's community development block grant funds can also assist with this effort. However, in FY–77, 216 grants were committed for $1.25 billion with only five of these grants being used for other than rail or bus transportation.

Although preliminary engineering and design expenses are funded now by OCZM, under certain conditions, the new urban waterfront provision would extend the authorization to final engineering design, specifications and other appropriate reports. EDA, through a 75/25 matching grant program in their planning assistance section provide for data acquisition and comprehensive planning. Other sources of planning, engineering designs, and specifications are: National Endowment of the Arts—grants up to $20,000 for organizations and $10,000 to individuals; urban park and recreation recovery program of HCRS with planning grants at 50/50 matching in rehabilitation and innovation grants at 70/30 matching; HCRS' historic grant-in-aid for site specific planning at 50/50 matching; HUD's community development block grants can also be used for data acquisition and comprehensive planning with formula grants and no matching.

Finally, it should be noted that the urban waterfront and port provision in CZMA will also assist in small neighborhood projects which, in general, do not find Federal funding easily accessible. For example, a three-quarters acre abandoned waterfront lot in Brooklyn was turned into a park in a densely populated neighborhood. It was developed by volunteer labor and assisted by nonprofit organizations and private funding. This one-year project is an example of what could be assisted or accomplished by Federal funding under this new amendment. This kind of Federal assistance will not discourage cooperative volunteer efforts but will allow for and expedite more low-cost construction assistance and the identification of other Federal programs in locations where there is a need and no volunteer effort.●

● Mr. CARNEY. Mr. Speaker, I rise in support of the Coastal Zone Management Improvement Act of 1980. In addition to reauthorizing the 1972 act for an additional 8 years, this legislation comes to grips with an element of our national energy policy which will impact severely on coastal States. As a member of both the Science and Technology and Merchant Marine and Fisheries Committees, I have seen my colleagues working assiduously to improve environmental quality in coastal areas, and to achieve energy independence.

Section 308 of this bill makes grants available to any coastal State affected by the transport, transfer, or storage of coal, in order to plan, prevent, and ameliorate environmental effects of coastal energy activity. As we attempt to convert some of our Nation's oil-burning plants to facilities capable of generating impact on our coastal communities is bound to be severe.

On Long Island, we have a number of oil-fired generating units that are targeted for coal conversion under various Federal laws. It is certain that coastal coal generating facilities will eventually play a major role in Long Island's future.

Virtually all of the oil-generating plants on Long Island were targeted for coal conversion in the administration's recent oil blackout legislation. The list was substantially pared during the legislative process, and, in the version approved by the U.S. Senate and currently pending before the House of Representatives, two units at Port Jefferson and two in Island Park are targeted for conversion.

When converted, the two units at Port Jefferson would burn approximately 2,500 tons of coal per day, coal that would be brought to the plant by barge. The two units at Island Park would also burn 2,500 tons of coal per day, which would either be delivered by barge or rail.

In addition to those plants, four units at Northport on Long Island Sound are the subject of a preliminary prohibition order, under the Fuel Use Act—although these units have been stricken from the list of plants in the administration's proposed conversion legislation for economic and environmental reasons. If the Department of Energy were to proceed with that order, a $2.5 billion conversion would take place and 10,000 tons of coal would be burned at this facility each day. The coal would be delivered by barge, and environmental consideration would require either the dredging of a new harbor on Long Island Sound or construction of an off-shore unloading facility.

Finally, the Long Island Lighting Co. was recently licensed to construct an 800 MW coal plant at Jamesport, also located on Long Island Sound. Once completed, the Jamesport facility will burn approximately 5,500 tons of coal per day, coal that would also be delivered by barge.

In addition to the delivery of coal, water transportation will also have to be utilized to remove ash and scrubber sludge from the sites of all of these plants.

It is by no means certain that the Northport plant will be constructed. The other facilities will cause Long Island to import along its coast up to 10,500 tons of coal per day, and, in the unlikely event Northport is converted, 20,500 tons of coal per day. If scrubbers were required on all of these facilities, another 5,000 tons of ash and sludge could possibly be shipped out of these facilities each day.

I firmly believe in the need for a broad and effective coastal zone management program. This provision will strengthen that program and also defray the expenses that will accrue to the States as we move forward to solve our energy problems.●

● Mr. AKAKA. Mr. Speaker, I rise in support of the Coastal Zone Management Improvement Act and in particular the amendment to the coastal energy impact program (CEIP).

Our commitment to energy demands that we do everything possible to expedite the development of energy sources. But that commitment does not stand alone. We must also maintain our commitment to responsible protection of our Nation's coasts. When we created CEIP, our commitment to both energy development and protection of the coasts was clear.

In this year, designated as the year of the coast, we must recognize that the pressures for development on our coasts have not lessened. They have in fact increased.

The acceleration of energy development could and has in many cases already affected coastal areas. We can minimize the possibility of destructive impacts by clarifying the eligibility requirements for CEIP.

The Great Lakes States are now experiencing a tremendous increase in coal shipments. In view of our determination to increase the use of coal, heavy shipments of coal will continue and probably increase. The negative consequences of these activities are already evident. We need not wait for more damage to occur. To protect the coastal areas affected by coal shipments, CEIP should include coal transshipment activities.

So too, should CEIP include ocean alternative energy activities. While negative environmental effects are not expected, in all fairness, CEIP should include energy activities associated with ocean alternative energy development.

I urge my colleagues to support coastal zone management reauthorization, H.R. 6979.

Mr. Speaker, I would like inserted here into the Record more detailed information on the bill:

The term ocean alternative energy includes ocean thermal and wind conversion, solar energy and biomass conversion. The amendment clarifying eligibility for CEIP would only apply when the energy activities set out in section 308(c)(3) are conducted within and impact the coastal zone of a coastal State.●

● Mr. RATCHFORD. Mr. Speaker, I rise today in support of H.R. 6979, the coastal zone management authorization, a bill which would amend and reauthorize the coastal zone management program.

H.R. 6979 reflects a balanced and necessary approach to coastal management and recognizes the conflicting demands made on coastal resources. The voluntary program provides badly needed incentives for States to develop protective mechanisms for valuable, threatened coastal areas.

In my own State of Connecticut, we have begun a coastal management program. The Connecticut State Legislature has developed comprehensive coastal management legislation for the State's shoreline.

Connecticut's coastal management program and its legislation were adopted in direct response to the incentives of the CZM Act, to insure both protection of coastal resources and appropriate coastal development. Connecticut is proud of its coastal program, which is in the early stages of implementation.

Currently, there are 19 States and territories which have approved programs, with 6 more to be approved by the end of this year. If the Coastal Zone Management Act is not reauthorized, the future of these programs, particularly those like Connecticut's in the earliest stages, will be seriously jeopardized.

H.R. 6979 makes major contributions toward protecting natural resources, providing public access for recreational purposes, implementing plans for enhancement of urban waterfronts and port revitalizations, and providing funding and technical assistance as well as cohesion of Federal programs for States who wish to participate in coastal zone management.

With projections showing that 75 percent of all Americans will live in coastal zones by 1990, it is vital to continue Federal participation in this area. The coastal zone management program is essential to insure the careful development and permanent preservation of our Nation's scarce coastal resources, especially in this—the "Year of the Coast."●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of H.R. 6979, the Coastal Zone Management Improvement Act of 1980, and I commend my colleague from Massachusetts, Mr. Studds, in bringing this legislation to the floor.

I have had a longstanding interest in the development and implementation of coastal management programs at the State level.

The beaches, wetlands, estuaries, and marine waters of our coastal zone are scarce and exceedingly valuable resources. Demand for space for recreation, second homes, ports, energy facilities, and other uses is constantly increasing. At the same time, our awareness is growing that coastal wetlands, for example, are of extraordinary value as nursery areas for commercially important fish species. We are also recognizing that it is often very costly to locate some kinds of development in unstable, storm-prone coastal areas. I think most of us would agree that it is in the public interest to plan for use of our scarce coastal resources, but I also firmly believe that such efforts are best conducted at the State and local level.

The reauthorization of the Coastal Management Act which we are considering today preserves what I consider to be a fundamental tenet of the program, that is Federal support for voluntary planning and protection efforts by the individual States. This legislation puts forth eight national objectives which we hope can be achieved through any State coastal management program, but it also limits the extent to which participating States must spend their funds to achieve Federal objectives. That limit is 30 percent of the Federal grant, unless a State chooses to spend a higher percentage in pursuing these goals. In delineating these national objectives, I believe the Merchant Marine and Fisheries Committee has come up with a very practical list which recognizes the natural and recreational values of the coast as well as the fact that many types of development such as ports simply must be located on the coast. Coastal-dependent uses of any type are to be given priority consideration in planning for the various uses of the coastal zone.

As a member of the Merchant Marine and Fisheries Committee, I traveled to a field hearing in New Jersey in 1980 to hear the views of State governments and local citizens in the mid-Atlantic region. I found that support for the continuation of the program was virtually unanimous. It was abundantly clear that while some States would continue a coastal management program in the absence of Federal support, they would only do so at a greatly reduced level. Many States have spent years developing coastal plans and have only recently moved into the implementation phase of this program. I believe it is essential that we assure Federal support at current levels for several more years if there is to be a serious attempt at implementation of the various State plans.

There are many aspects of this legislation which deserve special mention. For example, the committee extends the estuarine sanctuary program for another 8 years, and allows for the first time the preservation of barrier islands as well. Both types of areas serve very important functions. It has been estimated that some two-thirds of the commercial and sport fish landed in the United States are dependent on an estuary during some portion of their life cycle, and off-shore islands are the barriers which create estuarine conditions as well as serve as natural barriers against destructive storms. The Office of Coastal Zone Management, in cooperation with participating States has established a modest estuarine sanctuary program, and I fully support its continuation.

The committee bill authorizes $5 million under section 309 of the act for interstate planning grants. This is a program which has never been funded, but that is because the focus to date has been on drafting and completing plans in the individual States. There is no question, though, that some problems are regional in nature and that States such as Delaware, New Jersey, and Pennsylvania which share the common waters of the Delaware River and bay, need to cooperate if these problems are to be effectively addressed. The authorization and appropriation of funds for section 309 will help to achieve that end.

I am also pleased that the committee has included a coastal resource improvement program which is available to those States which are making satisfactory progress toward achieving the national objectives delineated by the act. This resource improvement program will enable States such as Delaware to redevelop deteriorating and underutilized urban waterfronts as well as to protect key areas of environmental concern and access to public beaches. This provision, especially the redevelopment of urban waterfronts, makes eminent sense. As competition increases for use of scarce coastal land, it only makes sense that when and where possible we encourage development to proceed in those areas which are already developed but have fallen into disuse. Revitalization of these deteriorated areas will have a great benefit to our coastal State economies without impinging on presently undeveloped areas with high natural values.

Mr. Speaker, since 1972 the Federal Coastal Management Act has played a major role in creating an awareness of the tremendous value of our Nation's coastal resources. Some 25 States now have approved programs under the Federal act, and approval of H.R. 6979 will make available the support these States need to implement their coastal management plans. This year, 1980, is the year of the coast, but I think the decade of the 1980's will be the time which we see great progress toward the wise use of our scarce and precious coastal resources.●

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the Coastal Zone Management Act of 1980.

This legislation is the product of many hours of hearings and numerous pages of testimony. The coastal zone area of the United States is fragile and it is imperative that proper management techniques be employed. The measure before us today effectively addresses the need to have workable coastal zone management plans.

In my own State of Alaska, important achievements in coastal management have occurred as a result of the implementation of the coastal zone management program. For example, the State of Alaska has initiated coastal land use planning in remote areas which have limited planning capabilities and resources. In addition, efforts are being made to develop district programs especially in unincorporated areas which presently do not have organized mechanisms with which to study coastal resource areas. Further, problems such as wetland areas need to be resolved through a coordinated, sensible plan. I can assure you that in Alaska, wetlands need to be defined and identified to the greatest degree possible.

An effective coastal zone management plan is needed so that Alaska can continue to develop its fisheries resource, make rational decisions concerning development on the Outer Continental Shelf, and provide for maximum local and State input into policy decisions affecting coastal areas. Adopting the proposal before us would allow my State and other coastal States to take the necessary steps toward implementing workable coastal zone management plans.

I urge my colleagues to review the merits of the coastal zone management reauthorization and vote for passage of this legislation.●

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill, H.R. 6979, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title was amended so as to read: "A bill to improve coastal zone management in the United States, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a similar Senate bill (S. 2622) to improve coastal zone management in the United States, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Act Amendments of 1980".

FINDINGS

SEC. 2. Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

(1) by inserting immediately after subsection (e) the following:

"(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, and Outer Continental shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;"; and

(2) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively.

DECLARATION OF POLICY

SEC. 3. Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452) is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy—

"(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

"(2) to encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and aesthetic values as well as to needs for economic development, which programs should at least provide for—

"(A) the protection of significant natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, which may include the inventory and designation of areas containing such resources and the establishment of enforceable standards for such protection;

"(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands;

"(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent feasible, of new commercial and industrial developments in areas where such development already exists;

"(D) public access to the coasts for recreation purposes;

"(E) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural and aesthetic coastal features;

"(F) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources;

"(G) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies;

"(H) the giving of timely and effective notification of, and opportunities for public participation in coastal management decisionmaking; and

"(I) assistance to support comprehensive planning, conservation, and management for living marine resources within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State fish and wildlife agencies;

"(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, and improved predictability in governmental decisionmaking; and

"(4) to encourage the participation and cooperation of the public, State and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.".

DEFINITIONS

SEC. 4. Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended by redesignating paragraph (16) as paragraph (17), and inserting immediately after paragraph (15) the following new paragraph:

"(16) The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation, in specific geographic areas within the coastal zone.".

ADMINISTRATIVE GRANTS

SEC. 5 (a) Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary may make grants to any coastal State for not more than 80 percent of the costs of administering such State's management program if the Secretary—

"(1) finds that such program meets the requirements of section 305(b);

"(2) approves such program in accordance with subsections (c), (d), and (e); and

"(3) finds, if such program has been administered with financial assistance under this section for at least 1 year, that the coastal State will expend an increasing proportion of each grant received under this section (but not more than 30 percent of the grant unless the State chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2) (A) through (I).

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c)(2)) that are necessary or appropriate to the implementation of the management program."; and

(2) by striking out the first proviso to subsection (b) and by striking out "*And provided further*" in the second proviso to such subsection and substituting "*Provided*".

(b) The amendments made by subsection (a) (1) and (2) of this section apply with respect to annual grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 and, within 1 year after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by subsection (a) (1)) of this section.

COASTAL RESOURCE IMPROVEMENT PROGRAM

SEC. 6. The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 306 the following new section:

"RESOURCE MANAGEMENT IMPROVEMENT GRANTS

"SEC. 306A. (a) For purposes of this section—

"(1) The term 'eligible coastal State' means a coastal State that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Secretary is making satisfactory progress which will result in significant improvements pursuant to section 306(a)(3).

"(2) The term 'urban waterfront' means any developed area that—

"(A) fronts or abuts on coastal waters, and

"(B) is located in a municipality or township which is, in whole or part, within the coastal zone.

"(b) The Secretary may make grants annually to any eligible coastal State to assist that State in meeting one or more of the following objectives:

"(1) The preservation or restoration of specific areas of the State that (A) are designated under the management program procedures required by section 306(c)(9) because of their conservation, recreational, ecological, or aesthetic values.

"(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305 (b)(3) in the State's management program as areas of particular concern.

"(3) The provision of access to public beaches and other public coastal areas and to coastal waters.

"(c)(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) Grants made under this section may be used for—

"(A) the acquisition of fee simple and other interests in land;

"(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including, but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 percent of any grant made under this section may be used for such construction projects;

"(C) in the case of grants made for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

"(ii) the installation or rehabilitation of bulkheads for the purpose of increasing public access and use, and

"(iii) the removal of pilings where such action will provide increased recreational use of urban waterfront areas;

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

"(d)(1) No grant made under this section may exceed an amount equal to 80 percent of the cost of carrying out the purpose or project for which it was awarded.

"(2) Grants provided under this section may be used to pay a coastal State's share of costs required under any other Federal program that is consistent with the purposes of this section.

"(3) The total amount of grants made under this section to any eligible coastal State for any fiscal year may not exceed an amount equal to 10 percent of the total amount appropriated to carry out this section for such fiscal year.

"(e) With the approval of the Secretary, an eligible coastal State may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that State of the responsibility for ensuring that any funds so allocated are applied in furtherance of the State's approved management program.

"(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal States and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding objectives of this section.".

INTERSTATE COASTAL ZONE MANAGEMENT COORDINATION

SEC. 7. Section 309 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b) is amended to read as follows:

"INTERSTATE GRANTS

"SEC. 309. (a) The coastal States are encouraged to give high priority—

"(1) to coordinating State coastal zone planning, policies, and programs with respect to contiguous areas of such States;

"(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas; and

"(3) to establishing an effective mechanism, and adopting a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The coastal zone activities described in paragraphs (1), (2), and (3) of this subsection may be conducted pursuant to interstate agreement or compacts. The Secretary may make grants annually, in amounts not to exceed 90 percent of the cost of such activities, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

"(b) The consent of the Congress is hereby given to two or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.

"(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to give high priority to the coastal zone activities described in subsection (a). The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Energy, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

"(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal States to create and maintain a temporary planning and coordinating entity to carry out such activities. The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity for a Federal-State consultation.

"(e) A coastal State is eligible to receive financial assistance under this section if such State meets the criteria established under section 308(g)(1).".

REVIEW OF PERFORMANCE

SEC. 8. (a) Section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

"REVIEW OF PERFORMANCE

"SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal management. Each review shall include a written evaluation with an assessment and findings concerning the extent to which the State has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through (I), and adhered to the terms of any grant or cooperative agreement funded under this title.

"(b) For the purpose of making the evaluation of a coastal State's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

"(c) The Secretary may reduce any financial assistance extended to any coastal State under section 306, and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal State is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I). Such reduction may be up to but not exceed 30 percent of the amount that would otherwise be available to the coastal State under section 306 in any given year.

"(d) The Secretary shall withdraw approval of the management program of any coastal State, and shall withdraw any financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal State is failing to adhere to or is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

"(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal State notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under subsection (d), the Secretary shall provide the coastal State with written specifications of the actions that should be taken, or not engaged in, by the State in order that such withdrawal may be canceled by the Secretary.

"(f) The Secretary shall conduct a periodic review and evaluation of the implementation of the coastal energy impact program carried out under section 308, and of the coastal resource improvement program carried out under section 306A.".

(b) Within 1 year after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section).

ANNUAL REPORT

Sec. 9. Section 316 of the Coastal Zone Management Act (16 U.S.C. 1462) is amended—

(1) by amending the section heading to read as follows: "COASTAL ZONE MANAGEMENT REPORT";

(b) by amending subsection (a)—

(A) by amending the matter appearing before clause (1) to read as follows: "(a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of 2 consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to",

(B) by striking out "or with respect to which grants have been terminated under this title," in clause (4),

(C) by redesignating clauses (5) through (12) as clauses (6) through (13), respectively; and

(D) by inserting immediately after clause (4) the following new clause: "(5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of that section;"; and

(3) by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.

"(2) The Secretary shall promptly submit a report to the Congress and to the Council on Environmental Quality consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for legislative and administrative changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.".

ESTUARINE SANCTUARIES

Sec. 10. Section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) is amended—

(1) by striking out "BEACH ACCESS" in the section heading and inserting in lieu thereof "ISLAND PRESERVATION"; and

(2) by striking the language in paragraph (2) and inserting in lieu thereof the following:

"(2) acquiring lands to provide for the preservation of islands, or portions thereof. The amount of any such grant shall not exceed 50 percent of the cost of the project involved; except that in the case of acquisition for an estuarine sanctuary, the Federal share of the cost shall not exceed $3,000,000.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 11. Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1467) is amended—

(1) by striking paragraph (a)(1);

(2) by renumbering paragraph (a)(2) as paragraph (a)(1) and amending it to read as follows:

"(1) such sums, not to exceed $45,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 306, to remain available until expended;";

(3) by inserting immediately after paragraph (a)(1) the following:

"(2) such sums, not to exceed $5,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 306A, to remain available until expended;";

(4) by amending paragraph (a)(5) to read as follows:

"(5) such sums, not to exceed $5,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 309, to remain available until expended;";

(5) by deleting paragraph (a)(6);

(6) by renumbering paragraph (a)(7) as paragraph (a)(6) and amending it to read as follows:

"(6) such sums, not to exceed $6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 315(1), to remain available until expended;";

(7) by renumbering paragraph (a)(8) as paragraph (a)(7) and amending it to read as follows:

"(7) such sums, not to exceed $4,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 315(2), to remain available until expended; and";

(8) by renumbering paragraph (a)(9) as paragraph (a)(8) and amending it to read as follows:

"(8) such sums, not to exceed $6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for administrative expenses incident to the administration of this title."; and

(9) by amending subsection (c) by striking out "section 305, 306, 309, or 310." and inserting in lieu thereof "section 306 or 309.".

MOTION OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Studds moves to strike out all after the enacting clause of the Senate bill, S. 2622, and to insert in lieu thereof the provisions of H.R. 6979, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6979) was laid on the table.

House Resolution 701 was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, AND CROSS-REFERENCES, TO MAKE SUCH OTHER TECHNICAL AND CONFORMING CHANGES AS MAY BE NECESSARY IN ENGROSSMENT OF H.R. 6979

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that, in the engrossment of H.R. 6979, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the House bill, H.R. 6979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 6979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 2150

ACT TO PREVENT POLLUTION FROM SHIPS

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6665) to implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes, with Senate amendments thereto, concur in Senate amendments numbered 1 through 14, and concur in Senate amendment numbered 15 with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 4, lines 18 and 19, strike out "subsection, applicable to ships excluded from this Act by subsection (b)," and insert "subsection".

Page 5, line 1, strike out "administering and enforcing" and insert "the administration and enforcement of".

Page 6, lines 17 and 18, strike out "the condition of its equipment" and insert "whose equipment's condition".

Page 10, line 14, strike out "subpoenas" and insert "subpenas".

Page 10, line 16, strike out "subpoena" and insert "subpena".

Page 12, line 8, strike out "five" and insert "5".

Page 12, line 15, strike out "$10,000" and insert "$25,000".

Page 12, line 21, strike out "$1,000" and insert "$5,000".

Page 15, line 9, strike out "thirty" and insert "30".

Page 16, line 8, strike out "sixty" and insert "60".

Page 18, lines 15 and 16, strike out "subsection" and insert "section".

Page 18, line 16, strike out "use" and insert "case".

Page 19, line 5, strike out "subsections" and insert "sections".

Page 19, line 7, strike out "Subsection" and insert "Section".

Page 19, after line 14, insert:

SEC. 15. Nothing in this Act shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978 (Public Law 95–474).

Mr. BIAGGI (during the reading). Mr. Speaker, since the Senate amendments are purely technical in nature, with the exception of Senate amendment No. 15, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendment to Senate amendment No. 15.

The Clerk read the House amendment to Senate amendment No. 15, as follows:

At the end of the matter proposed to be inserted by Senate amendment No. 15 to H.R. 6665 insert the following:

SEC. 16. (a) Subsection (c) of section 4 of such Act of 1956 (16 U.S.C. 742c(c)) is amended—

(1) by striking out "September 30, 1980," each place it appears therein and inserting in lieu thereof "September 30, 1982,"; and

(2) by striking out the third, fourth, and fifth sentences thereof.

(b) The amendments made by subsection (a) shall take effect on September 1, 1980.

Mr. BIAGGI (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to Senate amendment No. 15 be considered as read and printed in the RECORD.

The SPEAKER pro temoore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I will not object, but I take this time just to conduct a colloquy with the chairman of the Subcommittee on Coast Guard and Navigation in order to point out that this amendment will preserve a $6 million loan fund that is lying there and which expires at midnight tonight.

If we can help preserve some fishermen who are in trouble, we want to do that. This is not bringing in any new money. It does not provide for any new funds going into this loan fund, but there are fishermen, particularly down in the gulf area, who are in desperate straits.

Mr. Speaker, this will help protect some of our own loans in default so we can help keep the fishermen alive, and we hope to move somewhat further with this legislation.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield for a question?

Mr. FORSYTHE. I yield to the gentleman from California to ask a question.

Mr. McCLOSKEY. The question is only this, Mr. Speaker:

This money, the $6 million in this fund, was impounded, as I understand it, by President Nixon at least 6 years ago. It has remained there ever since, and if it is to be used, what further action would have to be taken?

Would it be by the President's release of the fund, would the OMB have to release it, or would it take an act of Congress?

Mr. BIAGGI. Mr. Speaker, if the gentleman will yield, it would seem to me that the administration would be required to release the funds. They should have been utilized before. The fact of the matter is that the House, in the fishermen's development bill, within the last week or so passed that bill which contained this particular item as a single provision. But when the bill got into the other body, it was amended almost beyond recognition, and we do not know that it will return in time. So we are taking this course to preserve that fund before it expires this evening or by tonight.

Mr. McCLOSKEY. Mr. Speaker, if the gentleman will yield further, in effect we are preserving the status quo with this amendment? That is all it does?

Mr. FORSYTHE. Mr. Speaker, that is exactly the case.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the distinguished subcommittee chairman indicated that the Fishermen's Development Act is stalled in conference and we are not likely to see it. I am not really thrilled about the bill before us, but if somebody would assure me that you are not going to come back to the House with the capital construction fund feature, then I certainly will not object.

Can the gentleman give me that assurance?

Mr. FORSYTHE. Mr. Speaker, I can give the gentleman that assurance. I will say that if the fishermen's development bill contains the construction fund, I myself will object to it. I think I can safely say that we will not see that bill.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman from New Jersey (Mr. FORSYTHE), and in that case I will stifle my objection to this request.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York (Mr. BIAGGI)?

There was no objection.

A motion to reconsider was laid on the table.

REFUGEE EDUCATION ASSISTANCE ACT OF 1980

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 7859) to provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, and to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

The Clerk read the Senate amendments, as follows:

Page 14, line 13, after "less," insert "notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.".

Page 15, after line 10, insert:

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to Cuban and Haitian refugee children who meet the requirements of section 101(1).

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) To facilitate the transfer of the functions described in paragraph (1) from the Federal Emergency Management Agency to other Federal agencies pursuant to this subsection, the purposes for which the funds appropriated to the President in the first paragraph under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" in chapter VII of title I of the Supplemental Appropriations and Rescission Act, 1980, are available may be construed to include use in carrying out this subsection to the extent that those funds are allocated for use for any of the purposes described in paragraph (1) of this subsection.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrant" means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. Perkins) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. Goodling) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on August 18 this body passed H.R. 7859, the Refugee Education Act of 1980 without controversy and with support from both sides of the aisle. This bill offers Federal financial support to local school districts to educate the recent influx of Cuban, Haitian, and Indochinese refugees. Last Thursday, September 25, the Senate passed H.R. 7859 by unanimous consent. The Senate version is identical to the House bill except for two provisions added in the Senate Education Subcommittee.

I urge this body to accept the Senate version of the bill and pass it under suspension of the rules, in order to avoid the delay of having to go to conference. The school districts responsible for educating these children need some assurance as soon as possible that the Federal Government will accept its responsibility to share in the financial burden.

The two Senate amendments have my support and I know of no serious objections to them.

The first Senate amendment is a very minor one. This amendment makes clear that school districts which qualify for special refugee aid under the strict provisions of the last sentence of section 3(b) and section 3(c)(2)(B) of Public 81–874, the impact aid law, will be eligible to receive the special impact assistance authorized by title III of H.R. 7859. The Department of Education has assured us that only a few small school districts meet the strenuous requirement in the impact aid law and are affected by this amendment.

The second Senate amendment adds a new title V to H.R. 7859 which mandates the reimbursement of expenses to State and local governments for social services incurred in the resettlement of Cuban-Haitian entrants, pursuant to the same authorities as provided under the Refugee Act of 1980.

This so-called Stone-Fascell amendment provides authorizing language for an appropriation of $100 million that has already been made in the Supplemental Appropriations Act of fiscal year 1980. I want to make clear that the House has already approved similar authorizing language in H.R. 6942, the fiscal year 1981 foreign assistance authorization legislation. However, that bill is still in conference pending resolution of other issues not related to this amendment.

Because of the urgent need for funds to handle the Cuban-Haitian entrant problem, title V was added to this bill.

Title V would therefore authorize the expenditure of that $100 million and the future appropriation of funds for the same purpose. Title V also provides, at the request of the President, the necessary authority to run the existing Cuban-Haitian task force.

By accepting title V we would merely be reaffirming our support for authorizing language we have already accepted and an appropriation that has already been made.

The remainder of H.R. 7859 as passed by the Senate is identical to the House version. It authorizes $450 per child for 3 fiscal years to assist local education agencies in providing basic education to Cuban and Haitian refugee children.

It also authorizes additional assistance for supplementary educational services for Cuban, Haitian, and recently arrived Indochinese refugee children. This special assistance will go only to the most heavily impacted school districts. The authorizations for this program are $750 per child in the first year, $500 per child in the second year and $350 per child in the third year.

Finally, the bill authorizes $300 per adult for grants to State educational agencies for educating Cuban and Haitian refugee adults.

All of these authorizations can be ratably reduced according to how much is actually appropriated for these programs.

The administration is now in support of this legislation.

I urge the Members to suspend the rules and adopt H.R. 7859 as passed by the Senate.

Mr. Speaker, I yield such time as he may need to the gentleman from Florida (Mr. Stack).

Mr. STACK. Mr. Speaker, I thank the gentleman for yielding to me at this time.

Mr. Speaker, I would like to associate myself with the statement of the gentleman from Kentucky (Mr. Perkins) in support of the legislation. The bill before us is substantially the same bill which passed this House on August 18, 1980.

As the committee chairman has pointed out, the Senate has added one major amendment. This amendment will compensate State and local government agencies for some portion of their cost of providing social services to newly arrived Cubans and Haitians. The funds to cover the cost of this amendment have already been authorized.

The gentleman from Florida (Mr. Fascell) will discuss the amendment, which I believe adds a new dimension to satisfy the rationale of the basic legislation, and that is that since the costs associated with the influx of new refugees resulted from the Federal imigration policy, it is equitable that the costs be met by all Federal taxpayers and not entirely by local taxpayers in the impacted areas.

This legislation is a bipartisan effort. I especially commend my distinguished colleague, the gentleman from Pennsylvania (Mr. Goodling), and other members of the committee on the minority side whose cooperation brought our effort to this point.

Mr. Speaker, I urge the adoption of these amendments.

☐ 2200

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. STACK. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to commend the gentleman from Florida and the gentleman from Kentucky for their work and their efforts on this bill. I will support the bill, but I have some concern about secondary migration of refugees and the impact aid formula in this amended measure.

The way that it works is that if you have an existing large population, as an example, of Cubans or Indochinese, that you are then precluded from impact aid assistance, where it might very much be needed because you do not have a significant school population increase, such a circumstance I believe will occur in my district, and I hope that the committee will look further at that particular problem as it impacts some of the areas that we represent.

Secondary migration of Indochinese refugees represents a unique problem for which school districts should receive assistance and certainly not be denied aid on this basis.

The date for consideration of aid status is really too late to help many school districts with large refugee populations.

The obvious denial of adult education assistance and the basic grant assistance of $450 should be extended to the Indochinese in this measure as it is to the Cubans and Haitians.

Nevertheless even with these glaring inequities I will vote for this measure because the denial to all would not solve the problems that I have outlined. I would expect that the Education and Labor Committee and the administration would be receptive to future changes addressing these serious deficiencies.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would be derelict in my duties if I failed to point out that the reason we need this legislation is because there has been a failure of leadership on the part of President Carter. Many of our local areas are facing problems associated with the recent influx of refugees—problems which are the result of the present administration's policies. However, this administration has been willing, for the most part, to turn its back on these problems. Currently, the administration is refusing to use the Refugee Act of 1980 to shoulder some of the basic responsibilities which the Federal Government ought to assume—in this specific case, the burden placed on the education system of certain local communities.

As a result, Congress has responded. But, in Congress, power is dispersed among the various committees and subcommittees in both the House and Senate. The consequence, in the absence of any Presidential leadership, is a hodgepodge of legislation aiming at a solution to the same problems.

For example, on education of refugees we have at least four legislative alternatives currently available—impact aid; Indochina Refugee Children Assistance Act; Discretionary Grants under ESEA, title III; and the Refugee Act of 1980. However, not one of these programs gets at the precise needs of the problem we're considering today. That is why I am supporting this bill, H.R. 7859. If we had leadership from a President who could articulate a coherent policy, we might not be in the bind we find ourselves today.

Before I speak to the merits of this bill I would like to mention that, as a result of cooperation between the majority and minority on the Education and Labor Committee, we were able to cut the cost of this authorization in half and most importantly we were to ensure that there would be no "double dipping" by school districts which might qualify for aid for these students under more than one Federal program.

Specifically, an amendment I offered and which was adopted in committee insures that any Federal funds received by a State or local school district on a statutory formula basis—such as impact aid—under any other Federal program for the purpose of refugee educational assistance would reduce, dollar for dollar, the amount entitled under any title in this bill. However, money received under discretionary grant programs for these same purposes would not be considered in the allocation formula.

Mr. Speaker, just let me very quickly mention what is being done by this particular piece of legislation.

It is a new 3-year program.

Title II. Grants to state education agencies to schools providing basic education to Cuban and Haitian children. The schools could receive $450 per refugee child—if program is fully funded.

Title III. Grants to State agencies for districts with substantial increases in the number of Cuban and Haitian children who entered on or after November 1, 1979 and Indochinese children since January 1, 1979. This aid would be for supplemental educational services for school districts in which these children comprise 500 students or 5 percent of school population. Amounts range from $350 to $750 per child, depending on when the child was enrolled.

Title IV. Aid, amounting to $300 per enrolled adult, to States for adult education programs for Cubans and Haitians aged 16 or older.

Costs. Total cost over the 3 years are estimated at between $90 million and $127 million depending on whether you use the State Department task force figures (low) or CBO figures (high).

Goodling amendment, adopted in committee, insures that any Federal funds received by a State or local school district on a statutory formula basis—such as impact aid—under any other Federal program for the purpose of refugee educational assistance would reduce, dollar for dollar, the amount entitled under any title in this bill. However, money received under discretionary grant programs for these same purposes would not be considered in the allocation formula.

If the Federal Government does not accept its responsibility to pick up part of the cost of educating these children, the financial burden of refugee education will rest with State and local governments. Since these children are entitled to an education under our laws, the costs to the American taxpayers will be the same, regardless of which level of government is providing the funds.

If these people are not educated, the likelihood of them becoming dependent on government aid programs becomes much greater—and much more expensive—to the Nation than the aid provided in this bill.

The problem was created by national policy and consequently the burden of this Federal decision ought not to be forced upon a few selected local areas.

Mr. Speaker, for the purpose of establishing legislative history, I would like to ask two questions of the distinguished chairman of the Education and Labor Committee (Mr. PERKINS).

First, in section 301(b)(3) of the bill, the wording "because of the significant concentration of Cuban and Haitian refugee children or Indochinese refugee children." is included. Do I understand that the intent here of referring to a "significant concentration" is to exempt from reductions in funding under this provision, payments under programs such as title XIII of Public Law 95-561, an amendment to the Indochina Refugee Children Assistance Act of 1976, in which no concentration of refugee children is required to qualify for funds?

Mr. PERKINS. The understanding of the gentleman from Pennsylvania is correct. The reductions required under section 301(b)(3) would be activated only as a result of funding for education, or education-related, services or activities under other Federal laws which require significant concentrations of refugee children to be applicable. Programs such as the Indochina Refugee Children Assistance Act of 1976, as amended by Public Law 95-561, which do not require significant concentrations of children in order to be eligible for funds, would not be affected by this provision.

Mr. GOODLING. During consideration of this bill by the Education and Labor Committee, I offered an amendment which was adopted to insure that, with respect to titles II, III, and IV of the bill, funds received under a statutory formula through other Federal programs which seek to meet the same objectives of these titles would reduce the entitlement under this bill by the amount received under the other programs.

While the committee and the House of Representatives were considering H.R. 7859, conferees on H.R. 5192, Education Amendments of 1980, were debating whether to retain an amendment offered by Senator WILLIAMS to the Senate higher education reauthorization bill which would provide Federal assistance through the impact aid law to those local educational agencies who were impacted by a recent influx of refugees. Under the assumption that the bill before us today will pass and the President will sign H.R. 7859, is it your understanding and intent that the Appropriations Committees should give priority to funding those programs authorized in this bill instead of the Williams impact aid amendment? Is it your intent that, should funds be provided for programs in this bill, the Appropriations Committees should not fund the Williams impact aid provision?

Mr. PERKINS. You are correct that it was the intent of the House conferees to H.R. 5192, Education Amendments of 1980, to establish a priority for programs authorized by H.R. 7859 and not by the Williams amendment to H.R. 5192. Conferees retained the Williams provision only because it was unclear whether H.R. 7859 would be passed and signed into law soon enough to affect fiscal year 1981 programs.

Mr. GOODLING. I thank the gentleman.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

□ 2210

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to H.R. 7859, Refugee Education Assistance Act of 1980, on the grounds that it further complicates the Federal policy toward refugees and other emigrees to the United States and tries to find solutions to problems created by such immigration by throwing money at the problem instead of dealing with the hard issues.

The use of the word "refugee" in the title of this bill is indicative of the confusion that exists in our immigration policy. This bill does not provide assistance to States and local educational agencies for educating refugees as defined under the Refugee Act of 1980. The children for which assistance is provided in this bill are primarily entrants whose status is pending with the Immigration and Naturalization Service or are applicants for asylum or have been granted asylum in the United States.

Cuban and Haitian emigrees have not technically been extended "refugee" status under the Refugee Act of 1980. My colleagues may think that I am making a very technical distinction which is unimportant in deciding whether to support this legislation or not. I believe just the opposite; we must somehow prevent the continuous piecemeal approach to establishing immigration policy in this country.

Early this spring, the President signed into law the Refugee Act of 1980 (Public Law 96–212), a bill which amended the Immigration and Nationality Act to revise the procedure for the admission of refugees and to provide general authority for Federal assistance for refugee resettlement in the United States.

This comprehensive piece of legislation was hailed as the best omnibus approach to deal with immigration policy on a national basis. The ink from the signature of President Carter to the public law had not had time to dry before provisions of the Refugee Act of 1980 where being ignored in order to contend with the influx of Cuban and Haitian entrants to the United States. Even those colleagues who are most friendly to the Carter administration must admit that the President's refugee policy since April of this year has been one of confusion and bending of the law.

Most of the decisions made by President Carter regarding the new influx of Cuban and Haitians were politically motivated. As recently as yesterday, the newspapers were reporting decisions by the President regarding the location of refugee resettlement camps in the United States in order to maximize the possibility of gaining electoral votes in Florida.

Unfortunately, the Congress has not been much more discerning in its grasp of the refugee problem and the approaches it has taken to address that problem. The last 5 months have been characterized by a potpourri of legislative solutions to satisfy the needs of State and local governments who are impacted by the Cuban, Haitian and Indochinese influx.

Approximately $23 million was earmarked for the educational programs for all refugees under title III of the 1980 Refugee Act in the supplemental appropriations bill (H.R. 7542) for fiscal year 1980. The administration has requested $44 million for education activities under title III for fiscal year 1981. On June 5, 1980, the House passed H.R. 6942, the Department of State Authorization Act, with an amendment introduced by Representative FASCELL to include $100 million for migration and refugee assistance for fiscal year 1981. The purpose of the amendment is to provide necessary authorization to "deal with the recent explosion in boat refugees. . . ."

The funds earmarked by the amendment are to be used for "resettlement of foreign nationals to whom such assistance is not otherwise authorized." In the supplemental appropriations bill for 1980, $100 million was included to be used for the resettlement of foreign nationals "for whom such assistance is not otherwise available." An amendment to the bill we are considering today would authorize the expenditure of these moneys.

Legislative assistance for the refugee education problem was complicated by an amendment adopted by the Senate to S. 1839, the Education Amendments of 1980. This amendment would provide educational assistance through the impact aid program under Public Law 874 (81st Congress) for refugee children, including those paroled into the United States, who are applicants for asylum or have been granted asylum since November 1, 1979. The provision was retained by conferees to the Education Amendments of 1980 because it had not yet been determined whether H.R. 7859 would be eventually passed by the Senate and signed into law.

While Congress was legislating changes to existing law or creating new procedures to deal with the refugee education problem, the Department of Education had requested approximately $8 million in fiscal year 1980 supplemental appropriations under the discretionary programs of section 303 of the Elementary and Secondary Education Act. The administration has stated, during testimony before the committee on H.R. 7859, its intention to seek funding for continuation of the section 303 program in fiscal year 1981.

Surely, the action taken by Congress to date would confuse even the most diligent student of the legislative process.

In the hearings on H.R. 7859, witnesses continually cited the need for Federal assistance because of the additional costs for educating alien children. These costs are primarily due to Federal mandates in bilingual education. Paul Bell, assistant superintendent for administration in the Dade County School System, said that it costs $1,000 per alien child above the costs of educating a regular student each year, "because of the civil rights mandate for bilingual education." As so often occurs on the floor of this House, we tend to throw money at problems instead of trying to prevent the problems before they occur.

If Superintendent Bell thought that he had problems when he presented his testimony, I wonder what his reaction now would be if the rules for bilingual education proposed by the Department of Education would become final regulations. The new mandates in those proposed rules would tighten the grip of Federal control on bilingual programs and would make inflexible the programs Dade County could use to meet its bilingual education needs.

I have noted several times in my remarks the confusion with which Congress and the Carter administration deals with the refugee problem. I predict that the confusion will become even greater during the early part of the 97th Congress. During consideration of the Refugee Education Act by the House under suspension earlier this summer, a Member of the House requested that the Committee on Education and Labor give consideration to providing similar assistance to those local education agencies who were impacted by illegal aliens entering the United States. Soon after this colloquy on the floor, a bill, H.R. 8053, was introduced which would provide general assistance and special impact aid to local educational agencies for the provision of educational services to undocumented alien children.

With the bill we are considering today, we have opened the gate to those children who are not even classified as refugees. We now have legislation that is before the Education and Labor Committee which would go even further and provide Federal educational assistance to illegal aliens.

I wonder when this nonsensical way of legislating Federal policy will stop. We have a history of legislating by piecemeal—the Indochina Migration and Refugee Assistance Act of 1975; the Indochina Refugee Children Assistance Act of 1976; provisions in the Adult Education Act; section 303 of the Elementary and Secondary Education Act; the Education Amendments of 1980; the Refugee Act of 1980. This bill, as reported by the Subcommittee on Elementary, Secondary, and Vocational Education, provided assistance only for Cuban and Haitian refugee children. An amendment adopted in full committee extended aid under one of the titles to Indochinese refugee children. The result is another layer to the complex matrix of Federal education refugee programs.

It is no wonder that when a staffer from the Education and Labor Committee called the office in the Department of Health and Human Services responsible for refugee resettlement to question them about their position on H.R. 7859 and the Williams amendment to the Education Amendments of 1980, the response was "Oh no, Congress is not considering new ways to deal with refugee education, are they?" Yes, unfortunately we are, and it is my hope that the Congress will wake up and defeat the bill before us today.

Mr. GOODLING. Mr. Speaker, I reserve the balance of my time.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker. I rise in support of H.R. 7859, as amended.

At the outset, I want to commend the distinguished chairman of the Committee on Education and Labor, (Mr. PERKINS) and the distinguished gentleman from Florida (Mr. STACK), who is the sponsor of H.R. 7859, for their efforts in expediting final action on this crucial legislation.

I would like to take this opportunity to explain the legislative history of title V of the bill. In the wake of the sudden and dramatic increase of the flow of entrants from Cuba and Haiti into the United States earlier this year, the House agreed to an amendment offered by this Member to H.R. 6942, the International Security and Development Cooperation Act of 1980, which was designed to provide Federal assistance to State and local governments to defray the costs incurred in the resettlement of such entrants. A similar amendment to the Senate version of H.R. 6942 offered by Senator STONE was also adopted. Subsequently, the Congress passed and the President signed into law the Supplemental Appropriation Act for fiscal year 1980 which provided $100 million for this purpose contingent on the passage of the necessary authorizing legislation.

Although conferees on H.R. 6942 agreed to a compromise version of the Fascell/Stone amendments, it has become clear that, due to the number and complexity of the other issues in that legislation, the conference report on H.R. 6942 cannot be completed until after the election recess. Because of the urgent need for funds to handle the Cuban and Haitian entrant problem, language identical to the Fascell/Stone compromise was added to H.R. 7859 by the Senate Committee on Labor and Human Resources as title V and approved by the full Senate. That action brings us to this point today.

Mr. Speaker, the principal purposes of title V of H.R. 7859 are:

First, to authorize the expenditure of the $100 million already made available in the fiscal year 1980 Supplemental Appropriations Act to assist in the resettlement of Cuban and Haitian entrants in accordance with authorities identical to those provided in the Refugee Act of 1980 and to authorize the appropriation of such additional sums as may be necessary in future fiscal years for this purpose;

Second, to authorize the President to provide other benefits to the Cuban and Haitian entrants which are granted to refugees outside the authority of the Refugee Act of 1980;

Third, to provide the President the authority to run the Cuban-Haitian task force in the absence of the emergency authorities originally used for this purpose by the Federal Emergency Management Agency (FEMA) which were not intended to handle situations of this nature; and

Fourth, to define, for the purpose of title V, the term "Cuban-Haitian entrant."

SECTION-BY-SECTION ANALYSIS OF TITLE V

Section 501(a)(1) of Title V mandates the federal reimbursement of expenses to State and Local governments for services provided in the resettlement of Cuban-Haitian entrants in accordance with authorities identical to those under the Refugee Act of 1980. The Supplemental Appropriations Act for Fiscal Year 1980 has already made $100 million available for this purpose. Section 501(a)(1) would authorize the expenditure of those funds and the appropriation of such additional sums as may be necessary for this purpose. While Section 501(a)(1) of this Act provides authorities to the President which are identical to those exercised under Chapter 2 of Title IV of the Immigration and Nationality Act, (enacted as part of the Refugee Act of 1980) it is the intent of the Congress that services provided pursuant to this section shall be provided to Cuban and Haitian entrants by the same agencies, under the same conditions, and to the same extent, that assistance is provided to persons determined to be refugees in accordance with the terms of the Refugee Act of 1980.

Section 501(a)(2) simply references the appropriations alluded to in my discussion of Section 501(a)(1) to the authorizing language contained in that section.

Section 501(b) gives the President discretionary authority to provide any other benefits which are granted to refugees under existing law in the same manner and to the same extent to Cuban-Haitian entrants, other than benefits provided under the Refugee Act of 1980. In exercising this authority and in making determinations as to the nature and scope of such benefits, the President is requested to consult closely with the appropriate committees of Congress.

Section 501(c)(1) through (c)(5) provides the President the necessary operational authority to run the Cuban-Haitian Task Force in the absence of the emergency authority originally used by the Federal Emergency Management Agency (FEMA) which was not intended to handle situations of this nature. The language contained in Section 501(c) is essentially the same as that officially requested by the Executive branch. Section 501 (c)(1)(B) stipulates that funds available to carry out the administration of the Cuban-Haitian Task Force be used to reimburse State and local governments for any expenses that were incurred in connection with or as a result of the Task Force's programs. An example of such expenses would be overtime costs incurred by local public safety agencies.

Section 501(c) is designed to provide assistance in operating Cuban-Haitian Task Force facilities and in aiding the overall system of entrant processing, care, transportation and initial reception and placement, security and resettlement. Assistance provided by federal agencies pursuant to these authorities may be given directly, by contract or otherwise. The authorities of the section will also enable the Executive branch to meet administrative, personnel and legal requirements in a manner consonant with the emergency nature of these Cuban and Haitian operations.

Section 501(d) stipulates that the services provided under Title V apply with respect to Cuban-Haitian entrants at anytime after their arrival in the United States including periods prior to the enactment of this provision. In addition to providing for reimbursement of State and local governments, Section 501(d) authorized the Executive branch to meet certain expenses incurred by private, non-profit voluntary agencies that related to initial transportation and reception and placement of the entrants, both in fiscal year 1980 and fiscal year 1981. On the understanding that they would be reimbursed after appropriations were enacted, the voluntary agencies proceeded to incur expenses in fiscal year 1980 in resettling thousands of entrants. Funds for this purpose are now included as an amendment to H.J. Res. 610—Continuing Appropriations for fiscal year 1981. Upon enactment of this authorization, and the continuing resolution, the Executive branch will be able to meet the urgent expenses of the voluntary agencies, state and local governments, and other organizations, related to the Cuban and Haitian program.

Section 501(e) defines "Cuban and Haitian entrants" as a person granted parole status as a Cuban-Haitian entrant (status pending) or granted any other comparable special status; the term "Cuban and Haitian entrant" is further defined as any other Cuban or Haitian national who either (1) was paroled in the United States and has not been granted any other status under the Immigration and Nationality Act; (2) is the subject of an exclusion or deportation proceeding; or (3) has an asylum application pending; so long as a final deporation order has not been entered.

Mr. Speaker, the Department of Health and Human Services for many years successfully managed a program to aid Cuban refugees. The Congress expects the Department to provide these Cuban and Haitian entrants the same type of services as are provided pursuant to the Refugee Act of 1980. The Congress further expects that the Department will adopt the State plans submitted by the various agencies pursuant to that act as a means of implementing this program. By doing so, funds will promptly flow to the State and local governments to relieve the financial burdens incurred as a results of the recent influx of Cuban and Haitian entrants.

Mr. Speaker, some 125,000 Cubans have fled their homeland for the United States since April of this year. In addition to that dramatic influx, over 1,000 Haitians per month have fled their homeland this year.

This legislation is designed to alleviate the tremendous burden on those State and local governments and voluntary agencies as a result of this dramatic influx of Cuban-Haitian entrants.

As I said earlier, the Congress has already approved the appropriation of $100 million fiscal year 1980 funds for this purpose. Both Houses have already adopted authorizing language with the same intent as that contained in title V of this bill. I urge the adoption of H.R. 7859.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I rise in strong support of H.R. 7859. This bill has passed the House before, the education titles in August, and the provisions for other assistance in June, as part of the International Security and Development Assistance Act. I urge my colleagues to support this bill today, so that our earlier actions can at last be carried out, and so that badly needed funds can begin getting to those communities which have been most heavily impacted by the recent flow of Cuban and Haitian refugees.

Mr. Speaker, since the "Freedom Flotilla" began in April, tens of thousands of new residents have descended on south Florida, an area already facing various tensions, including shortages of housing and jobs. The change in our community has been very distressing. I have recently written to President Carter to express my dismay at the effects of Federal policy and to suggest some longer term solutions such as finding ways to return those

Cubans who want to go home to Cuba, and developing programs to resettle those refugees without family in south Florida outside of our State.

In the meantime, the situation in south Florida, and in other communities is critical. Congress in the so-called Lehman amendment appropriated $100 million in the 1980 supplemental appropriations bill for reimbursements to State and local governmental agencies which provide necessary services to the refugees. Local governments, and local taxpayers, are still bearing the full cost of services alone, for lack of an authorization. This bill provides the needed authorization and must be enacted as soon as possible. Passage here today will make that possible.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, first, I associate myself with the remarks of the gentlemen who have supported the bill. They are entirely correct. I thank them for their efforts.

I want also to agree with my colleague from Ohio (Mr. ASHBROOK) that we have a serious misnomer here. The people for whom we are providing funds are not truly refugees within the meaning of the law. They are at most asylum seekers, illegal aliens, or whatever you want to call them. Their status has not been fixed as a matter of law.

I also point out that, while I consider this to be a very good bill, and I am supporting it, I do not consider it to be an excellent bill, because it does not meet the problem which presently exists. It relates principally to the aliens who come in from Cuba and Haiti.

Florida has received the greater portion of them, and Florida does need help.

I speak from experience, because I come from southern California where we now have more illegal aliens than all the rest of the United States put together.

Florida needs help. And to a lesser degree, but the same type of need, you will find that Pennsylvania, Arkansas, and some other States have been blessed by the recent immigration.

Now, there are some genuine refugees in the State of California, some who came in 1975 when we evacuated our forces in Vietnam, but many have come since then, commonly known as boat people. California now has 130,000 of the Indochinese emigrants, many of them having come to California on secondary migration from other States. They originally came from Laos, Cambodia, Vietnam, and other places in the East Indies.

I find that this bill provides adult education for those who come in from Cuba and Haiti. We would like to have funds for adult education in California for those Asians who come in from Laos, Cambodia, Vietnam, and the East Indies.

Finding a bilingual teacher to teach English to a Cuban is one thing, but finding a bilingual teacher to teach English to a Laotian or Cambodian or East Indian is another thing. The experience of some of these people has been limited to driving a water buffalo through a rice paddy or weaving baskets, and it is clear that they need some education and training in order to adjust to our economy.

I say it is a good bill. I support it. It is a humanitarian act, humanitarian to the alien, but even more humanitarian to the taxpayers of Florida and elsewhere, where these costs are going to have to be paid.

Most importantly, I agree with the gentleman from Florida (Mr. STACK) that these people are the guests of the United States and therefore the United States should pay for the cost of assimilating them and not the local taxpayers in a given community where they may choose to locate.

This is a humanitarian act. It is an act of mercy.

As the poet said:

The quality of mercy is not strain'd,
It droppeth as the gentle rain from heaven.

And it ought to fall in California as well as in Florida and Pennsylvania and Arkansas.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Speaker, on August 18, 1980, I voiced my strong support for the passage of H.R. 7859, which provides general assistance and special impact aid to local educational agencies for the education of Cuban and Haitian refugee children and to provide assistance to State education agencies for the education of Cuban and Haitian refugee adults. Today, the House is being asked to vote on H.R. 7859 with a new provision which will authorize the President to grant the same benefits to Cubans and Haitian entrants to which other refugees are entitled.

I am particularly concerned about who will actually be covered by this legislation. The bill language presently defines an entrant as any individual who has been paroled as a Cuban-Haitian entrant or given some other special immigration status, subsequently established under the immigration laws, for nationals of Cuba and Haiti or any Cuban or Haitian national who is known to the Immigration and Naturalization Service. Two groups are not included in the Cuban-Haitian entrant program and therefore raise some serious concerns about a continuing fiscal burden on States and localities. While the post-June 19 arrivals are covered, by Fascell-Stone for the purpose of benefits, they are not part of the Cuban-Haitian entrant program. Haitians, who have been in Florida for a number of years but are unknown to INS, are not covered by either the Cuban-Haitian entrant program or the Fascell-Stone language.

Regarding the latter group, the administration has stated its intention to include these Haitians within the scope of the Cuban-Haitian entrant program. I would remind the administration that it is imperative that they seek a method to identify these individuals and parole them as Cuban-Haitian entrants (status pending). As of yet, there has been no policy announcement regarding the post-June 19, 1980, arrivals. I see no reason for the administration not to include the post-June 19th arrivals, who are in the United States as of the passage of H.R. 7859, as Cuban-Haitian entrants. This policy would include the maximum number of individuals and relieve the localities from the burden of providing the needed services for these refugees. Without coverage for these two groups, States and localities will continue to bear the brunt of the fiscal costs for supporting these Cuban and Haitian nationals. The status issue would only be further complicated for these two groups if they were not made part of the Cuban-Haitian entrant program.

I would urge the administration to strongly consider including these groups, as they have promised with the Haitians, who were unknown to INS prior to the policy statement on June 20, 1980, in the Cuban-Haitian entrant program.

I further urge my colleagues to support this legislation. The temporary relief that this bill provides to impacted States and localities is critical. I am hopeful that the Congress will grant refugee status to these entrants, by passage of my bill H.R. 8047 and similar legislation introduced by Senator KENNEDY of Massachusetts, as the most expeditious and honest response to this crisis situation.

□ 2220

Mr. PERKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

First, I wish to commend my distinguished colleague, the gentleman from Florida (Mr. STACK), whose presence we are going to miss so significantly in this House after the first of the year, upon being the author of this measure in the House, generally and ably supported by his distinguished chairman, the gentleman from Kentucky and his colleague on the Education Committee.

The funds previously available for assisting our boards of education in providing education to the children of the refugees were grossly inadequate. This bill was designed for the purpose of providing more adequately the funds necessary to meet the educational costs of these children. These children presumably are going to be with us the rest of their lives. They are a part of America. If they are ignorant, America will be poorer. If they are wise, America will be better off. If they can contribute something positive to our Nation, their coming here will have been a blessing instead of a disadvantage to our country.

Moreover, this bill, carrying such excellent meaning from this House, is the means by which is made possible the enjoyment of the appropriation of $100 million previously provided for by this House, but dependent by the language of the appropriation bill itself, upon authorization, and since the other bill authorizing such appropriation has not cleared the Congress and become law, this is the hope and this is the means by which that appropriation made by the Congress can become available to reimburse the States and the local governmental units and the civic and charitable organizations for their contributions in processing and providing for the Cuban and Haitian refugees who have come into our country in the last few months.

So I am glad to support this measure and commend all those who have a part in it.

Mr. GOODLING. Mr. Speaker, first of all, I would want to compliment the gentlewoman from New York (Mrs. Chisholm). I think the gentlewoman was saying to some degree what I was saying; leadership has been missing in this whole thing and we need it.

I would also like to tell the gentlemen from California (Mr. Danielson) if he is still here that we are not talking about illegal aliens at all in this bill. We are taking about applicants for asylum entrance, status pending, a legal status with the Immigration and Naturalization Service.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. Briefly, yes.

Mr. DANIELSON. I happen to be on the committee, on the subcommittee, as a matter of fact. We have had testimony from Ambassador Palmieri and others who are charged with these programs and and it is generally agreed that there is no known recognized status. Sometimes we call them asylum seekers and sometimes we call them just plain illegal aliens.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it seems to me that this legislation reflects on the very poor manner in which this administration has handled the whole subject of the boat flotilla of Cubans that entered our country illegally. It was just this past week during a consultation with the representatives of the Carter administration with regard to the proposed entry of refugees for the next fiscal year that, for the first time, the President's U.S. Refugee Coordinator, Ambassador Palmieri, in his testimony acknowledged that the more than 120,000 Cubans who entered this country since April, entered our country in contravention of our refugee and immigration laws.

I note in yesterday's Washington Post an editorial reporting that the "freedom flotilla" had ended wherein attention was called to the fact that among the Cuban Nationals who came to our shores, we received 1,800 known hardened criminals, 1,000 mental cases and thousands of homosexuals.

Now, it seems to me that this administration should answer for the illegal manner in which it handled the entire subject of these entrants from Cuba.

Certainly if Castro can instigate such an outflow and can then halt the exodus of nationals from his country, we certainly should have the resources within our Immigration and Naturalization Service, our very capable Coast Guard and the other elements, to control this unlawful and disorderly influx of Cuban nationals into our country.

Mr. Speaker, the measure which we are considering (H.R. 7859) is open-ended. It contains no lid or limitation on the funds which will be disbursed under the bill's authority. In addition, the amounts to be disbursed because "entitlements" to which the various school districts and State education departments will become entitled in derogation of our congressional budget authority. Mr. Speaker, this measure is too far-reaching to be considered under a suspension of the rules—which bars the Members from offering any and all amendments. The bill deserves more deliberative consideration.

Mr. GOODLING. Mr. Speaker, I would again like to repeat that the people we are dealing with in this legislation are registered with INS. They are not seeking to avoid detection. I think we cannot say that they are in the same boat with the illegal aliens.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, under this bill a Senate amendment to H.R. 7859 will have the affect of "freeing up" already appropriated funds for Cuban/Haitian entrants. While I support the Senate amendments—as I supported the $100 million appropriation for these two groups of aliens, I wish to express several concerns regarding the amendment.

First of all, it should be made clear that the Senate amendment has no effect on the immigration status of Cubans and Haitians who have entered the United States in violation of our immigration laws. Legislation (H.R. 7978) addressing the legal status of these individuals has been introduced by the distinguished chairman of the Judiciary Committee, the Honorable Peter W. Rodino, Jr. at the request of the administration.

Likewise, I am concerned that the amendment not be construed to allow funds appropriated for the domestic resettlement of refugees to be used for Cuban/Haitian entrants. In this regard, the Judiciary Committee last week consulted on the administration's refugee admissions program for fiscal year 1981 and that program calls for the admission of 217,000 qualified refugees. Yesterday, the chairman of the committee, the Honorable Peter W. Rodino, Jr., the chairwoman of the Subcommittee on Immigration, Refugees, and International Law, Elizabeth Holtzman, and I addressed a letter to the President expressing our hope that adequate funding be made available to support the 217,000 admissions level.

I would like to insert at this point in the Record pertinent excerpts from our letter to the President.

> We are troubled by the fact that the legislative history accompanying H.R. 7998, "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1981" could be interpreted to allow certain refugee funds to be used for Cuban/Haitian entrants. We believe that funds appropriated under H.R. 7998 for the domestic resettlement of refugees should be expended solely for persons classified as "refugees." In short, we are concerned that a reallocation of the $690 million to Cuban/Haitian entrants could affect the integrity of the refugee admissions program which has been the subject of our consultation. Since the legislative history surrounding H.R. 7998 grants the Administration "the maximum amount of flexibility in allocating these resources," we trust that the aforementioned views will be given careful consideration and that we will be consulted concerning the expenditure of such funds.

In short, Mr. Speaker, it is my firm hope and expectation that this amendment will not allow domestic refugee funds to be diverted to Cuban/Haitian entrants.

In the event additional funds are required over and above those already appropriated, it is my strong belief that the administration should seek separate funding for Cuban/Haitian entrants so that our refugee admissions program is not adversely affected.

Mr. GOODLING. Mr. Speaker, in closing, since I know what the people who represent the border areas are trying to do this evening and the kind of history they are trying to make, whether it is southern California or whether it is Texas, I want to make sure that everyone clearly understands that we are not talking about anyone other than those who are registered with INS, not people who are trying to avoid detection. It is a tremendous distinction and we have to remember that and we have to keep that in mind as we approach this situation in years to come.

As I said, I know exactly what they are trying to do and what kind of history they are trying to make this evening; but they are wrong, totally wrong, in their interpretation.

□ 2230

I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, first of all I want to congratulate the gentleman from Florida, Mr. Ed Stack, who has been such a distinguished Member of our Congress, a kind and able statesman who has taken such leadership in this legislation. I congratulate the others from all of the delegations in this Congress who have had something to do with putting this measure together.

Second, I would like to say I feel this legislation is humane in its treatment of refugees and, therefore, this is a thing that should touch our hearts and inspire us. Third, this legislation goes in the direction of fairness to our local communities and States that have to take this financial burden upon themselves, which it is really primarily a Federal responsibility.

Lastly, I think it is consistent with making better American citizens of those who have come to our shores. I congratulate those of the committee who have brought this forward for our vote.

Mr. PERKINS. Mr. Speaker, I yield back the balance of my time.

● Mr. BIAGGI. Mr. Speaker, I rise in strong support of the measure before us now, H.R. 7859, the Refugee Education Assistance Act which provides funds to aid those local educational agencies who have increased numbers of Cuban, Haitian, and Vietnamese children.

As New York's senior member of the Education and Labor Committee which considered this measure, I can state without a doubt that countless numbers of children will be forced to suffer educational opportunities if we do not approve this measure before us today. Our colleague from Florida, Ed Stack, introduced this bill as a result of the overwhelming problems which his State faced during the recent influx of refugees from Cuba. When a school system is forced to absorb additional children as a result of Federal initiatives, the Government should also be willing to bear the responsibility to help with the cost of educating these refugee children. This is exactly what this bill seeks to address.

This measure, authorized through fiscal year 1983, would provide both basic and supplemental educational aid to eligible school districts. Basic aid is set at $450 per eligible child and supplemental aid provides $750 per child in the first year through $300 per child in the final year of the bill. Eligible students include refugee children from Cuba, Haiti, and Vietnam. Cost estimates presented before the Education and Labor Committee set the cost of education at $3,000 per child. This bill would provide some small relief for those communities, such as the New York City school system, to allow them to more easily absorb these children into their school system and the local community. The best way to insure that these newest arrivals to our shores remain viable members of our society is to provide them with the educational tools that will allow them to contribute substantially to the quality of life in the United States.

I fully support this most worthwhile legislation and urge my colleagues to do the same.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. Perkins) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 7859.

The question was taken.

Mr. McCLORY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to the bill, H.R. 7859, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REQUEST FOR CONSIDERATION OF S. 3180, REFUGEE EDUCATION ASSISTANCE ACT OF 1980

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3180) to repeal a provision of the Refugee Education Assistance Act of 1980, as amended.

The Clerk read as follows:

S. 3180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective on the day after the date of enactment of the Refugee Education Assistance Act of 1980, section 501(c) of the Refugee Education Assistance Act of 1980 is repealed.

The SPEAKER pro tempore. Does the gentleman from Kentucky wish to await the passage of the earlier motion?

Mr. PERKINS. Will the Chair recognize us later for that purpose?

The SPEAKER pro tempore. The Chair simply would suggest that apparenty the gentleman should wait until the original motion is finally agreed to.

PARLIAMENTARY INQUIRY

Mr. McCLORY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. McCLORY. The parliamentary inquiry is this: Is it not the ruling of the Chair that my objection to the vote on the ground that a quorum was not present postponed further consideration of this legislation until a later time, presumably tomorrow?

The SPEAKER pro tempore. The first motion was postponed until tomorrow.

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3180), to repeal a provision of the Refugee Education Assistance Act of 1980 and vote on it after we vote on the bill that the gentleman from Illinois (Mr. McClory) has made a point of order about and then delay both votes.

The SPEAKER pro tempore. The Clerk will report the title of the bill.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, on that I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, I object to the second. I object to the second and demand tellers. I object to the second and demand tellers.

Mr. PERKINS. Mr. Speaker, I withdraw the motion.

The SPEAKER pro tempore. The motion is withdrawn.

AMENDMENTS TO TRADING WITH THE ENEMY ACT

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7729), to amend the Trading With the Enemy Act in order to authorize the use of assets vested under that act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets.

The Clerk read as follows:

H.R. 7729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Trading With the Enemy Act is amended by striking out subsections (b) through (e) of section 39 (50 U.S.C. App. 39) and by inserting the following new section immediately after such section:

"Sec. 39A. The Attorney General shall cover into the Treasury, to the credit of miscellaneous receipts, all sums from property vested in or transferred to him under this Act—

"(1) which he receives after the date of enactment of this section, or

"(2) which he received prior to that date and which, as of that date, he had not covered into the Treasury for deposit in the War Claims Fund, other than—

"(A) any such sums which the Attorney General determines in his discretion are the subject matter of any judicial action or proceeding, and

"(B) $20,000 which the Attorney General shall use to make an ex gratia payment to the Government of Switzerland in accordance with the terms of the agreement entered into by that Government and the United States Government on March 12, 1980.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. Bingham) will be recognized for 20 minutes, and the gentleman from California (Mr. Lagomarsino) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a routine housekeeping bill and should only take a couple of minutes of the House's time.

H.R. 7729 would do two things. First, it would complete the administration of enemy property vested during World War II, and would terminate the Office of Alien Property in the Department of Justice. Second, it would authorize the use of the vested assets for an ex gratia payment of $20,000 to the Government of Switzerland in settlement of a longstanding claims dispute with that Government.

I introduced H.R. 7729 by request on July 2. The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, held a hearing on the bill on July 31, with witnesses from the Departments of Justice and State. The subcommittee was satisfied at that time that the bill deals with a routine administrative matter. On September 24, the Committee on Foreign Affairs reported the bill favorably by unanimous voice vote.

Mr. Speaker, I ask unanimous consent to include at the end of my remarks explanatory material from the Department of Justice on the bill. Let me just state very briefly, that all World War II claims have been adjudicated, all litigation pertaining to those claims has been completed, and all the vested assets have been liquidated and the proceeds turned over to the war claims fund in the Treasury for distribution to the claimants.

The Office of Alien Property is currently left with a balance of $300,000 on its books, and expects to receive no more than $150,000 in collections from the liquidation of assets in the future. Balanced against this is the $100,000 per year cost of maintaining the Office, which is paid out of the proceeds from the liquidation of the assets; $225 million in World War II claims have been paid; $80 million in claims, all from very large claimants, remain unsatisfied; there is not and will not be any money to pay them. The small fraction of 1 percent of these claims that could be paid out of the remaining balance and the minimal future collections does not justify the administrative costs of keeping the program going. Therefore, the bill provides that the remaining balance and future collection will just go into the general receipts account in the Treasury.

The $20,000 ex gratia payment to the Swiss Government will settle a longstanding $40,000 claims dispute between our two governments. A settlement is desirable in order to remove this minor irritant in our relations and avoid the disproportionate expenses involved in maintaining the dispute. The Swiss have agreed to the $20,000 settlement.

Mr. Speaker, I am aware of no opposition to the bill, and I urge the House to approve it.

U.S. DEPARTMENT OF JUSTICE, ASSISTANT ATTORNEY GENERAL,
LEGISLATIVE AFFAIRS,
Washington, D.C. June 13, 1980.

The SPEAKER,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is submitted herewith for the consideration of Congress, the attached draft bill to amend the Trading with the Enemy Act, to complete the administration of property vested during World War II, and to terminate the Office of Alien Property by the end of fiscal 1980. The bill further seeks Congressional approval for the payment, from funds still in the custody of the Office of Alien Property, of an amount of $20,000 to the Swiss Government in final settlement of a long-standing dispute involving vested property. The Department of Justice recommends favorable action on this proposal.

Also attached is a statement of purpose and justification for the proposed bill, as well as an exchange of notes between the Department of State and the Swiss Embassy on March 12, 1980, setting forth the terms of the agreement between the Governments of the United States and Switzerland.

The Office of Alien Property is responsible for the administration, liquidation, distribution and disposition of the interests in alien property which vested in the United States under the Trading with the Enemy Act in World War II. While approximately $900 million of enemy property was handled by the Office since its beginning, all litigation and claims adjudication arising out of the Trading with the Enemy Act has been terminated as of April 1980.

Three accounts remain "open" with small collections, not to exceed $150,000, expected in the future. Present law requires that the books of the Office of Alien Property be audited annually by independent auditors. Also, a separate account for funds received must be maintained by the Department of the Treasury. For FY 1980, Congress authorized $105,000 for the administrative expenses of the Office of Alien Property to be taken from the funds collected under the Act. Thus, the administrative expenses incurred by the Departments of Justice and the Treasury in collecting, transferring, and distributing future collections are quite likely to exceed the amounts collected and distributed. The purpose of the proposed bill is to simplify and consolidate the administration of these funds and reduce the costs of such administration.

The proposal for a lump sum payment to the Government of Switzerland is included, at the request of the Department of State, to settle some long-standing claims through an *ex gratia* payment, without prejudice to the legal position of either Government. The administrative expenses of continuing the dispute with the Swiss Government and the removal of an irritant in our relations with that nation make the payment of this small amount a prudent course for resolution.

The Office of Management and Budget has advised that there is no objection to the enactment of this legislative proposal from the standpoint of the Administrations' program.

A similar letter is being sent to the President of the Senate.

Sincerely,

ALAN A. PARKER,
Assistant Attorney General.

STATEMENT OF PURPOSE AND JUSTIFICATION

Re Draft Bill to amend section 39 of the Trading with the Enemy Act.

1. In 1946, the Attorney General became the successor to the World War II Alien Property Custodian; the former Office of Alien Property ("O.A.P.")—until then an independent administrative agency—became a division in the Department of Justice, headed by an Assistant Attorney General who was designated as the "Director, Office of Alien Property."

The O.A.P. Division was abolished in 1960, and the remaining staff was transferred to a newly-created Section in the Civil Division; since that time, the Assistant Attorney General in charge of the Civil Division has performed the functions of the Director, O.A.P. The O.A.P. Section in the Civil Division ceased to exist in 1978 when the last full-time staff attorney retired. Since that time the remaining suits, administrative claims, and general administrative and accounting work has been carried out by the Office of Foreign Litigation of the Civil Division, with the assistance of part-time contract employees (retired former O.A.P. staff members). For fiscal 1980, Congress authorized $105,000 for the general administrative expense of alien property activities, including rent of office space.[1]

2. The O.A.P. is responsible for administering, liquidating, and disposing of the interests in property of the United States which was vested under the Trading with the Enemy Act in World War II. Assets administered and disposed of by the Office have included business concerns, real estate, personal property, mortgages, estates, trusts, patents, copyrights, trademarks, stock, bonds, and objects of art.

To the extent possible, vested property was reduced to cash by sale or liquidation at the earliest practicable date. Congress mandated the disposition of the proceeds from the sale of vested property through the enactment of various amendments to the Trading with the Enemy Act. Thus, Section 32 permitted the return to certain non-hostile persons; Section 34 provided for the payment of debt claims to American creditors of enemy nationals; Sections 41, 42 and 43 divested the Attorney General's interest (1) in all remainders that had not vested in possession by the end of 1961, (2) in unaccrued installments of income from estates, trusts, annuities and similar properties, and (3) in all copyrights and trademarks not previously returned or disposed of.

Section 39 directed the transfer of the net proceeds of German and Japanese vested property to the War Claims Fund, created by Congress in 1962, to compensate American citizens for losses suffered at the hands of the Axis Powers in World War II.

As of September 30, 1979, the O.A.P. vested and disposed of approximately $900-mil. worth of enemy property. $495-mil. of that amount were transferred into the War Claims Fund; the balance was either returned to non-hostile persons or used to pay debt claims, administrative expenses, and to make other authorized payments.

The Civil Division made a concentrated effort last year to liquidate all remaining vested properties; to cover into the War Claims Fund all unobligated balances; and to retire all non-essential records and files of the Office. As a result of these efforts, $9.3-mil. was paid into the War Claims Fund, leaving a balance of about $300,000 in the Alien Property Fund.

All litigation and claims adjudication arising out of the administration of the Trading with the Enemy Act has been terminated as of April 1980. At the present time there are three "open accounts" left in the O.A.P.—i.e., accounts where some collections are expected in the future. These collections will not exceed $150,000. By statutory directive, the books of the O.A.P. must be audited annually by outside auditors. The maintenance and audit of the book results in an administrative burden and expense wholly disproportionate to the results achieved. The books of the O.A.P. should now be closed. Similarly, the War Claims Fund in the Treasury, into which the proceeds from the vested property were covered, should now be closed out.

Absent express Congressional authorization, the Civil Division will continue to keep the O.A.P. books open, and continue to transfer the future de minimis collections piecemeal into the War Claims Fund. In turn, the Treasury will continue to make the disbursements on a *pro rata* basis to those award holders whose awards have not been satisfied in full. The administrative expenses incurred by the Department of Justice and by the Treasury in collecting, transferring and distributing future collections from vested property are likely to exceed the amounts collected and distributed. In consequence, the stage has now been reached where the World War II alien property program should be terminated with final effect.

3. The Administration's legislative proposal designed to accomplish that result is set forth in the enclosed draft bill:

a. Under new Sec. 39A (1) and (2) of the proposed bill, no further transfers would be made to the War Claims Fund after the effective date of the law. Future collections on the open accounts would be covered into the general receipts account of the Treasury (a fraction of the amount collected, as may be authorized by Congress annually, would be retained by the Department of Justice for administrative expenses of future handling of alien property matters—primarily correspondence, Congressional inquiries and records administration).

Internally, the three open accounts would be transferred to the Office of the Controller, Justice Management Division, who would maintain the accounts, collect future payment, and cover the collections into the Treasury. It is wasteful to continue these collections in the Office of Alien Property. This then would complete the administration of World War II vested property. (See S. Rep. No. 1051, 89th Cong., 2d Sess. (1966).)

b. New Sec. 39A(2)(B) of the draft bill, providing for payment of $20,000 to Switzerland, has been inserted in the proposal at the behest of the State Department.

The Swiss Government has been pursuing with the United States Government since 1963 three categories of claims involving assets vested by the Alien Property Custodian as German enemy property during World War II or shortly thereafter. These categories and the principal amounts involved are: Category I—Swiss citizens resident in Germany ($40,000); Category II—Swiss women who married Germans and became German nationals ($600,000); Category III—Swiss shareholders in U.S. corporations who cannot prove their predecessors in interest were non-enemy ($60,000).

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[1] Pub. L. 96-68, Sep. 24, 1979. 93 Stat. 416. 419. That amount is a charge against the "Alien Property Fund, World War II," into which all proceeds from liquidations of vested property are covered.

The Departments of Justice and State have taken a negative view as to these claims over the years, and the Swiss Government appeared recently to be pressing only the claims in Category I involving Swiss citizens resident in Germany during the war whose assets in the United States were vested by the Alien Property Custodian.

The United States continues to dispute the validity of the claims in this last category of vested assets. However, the Departments of State and Justice are motivated to reach a settlement on the basis, inter alia, of the following factors: the absence of exact international law precedents; the smallness of the amounts involved; the disproportionate expenses involved in continuing the dispute on this matter; and the desirability of removing a long-standing irritant in our relations with the Swiss Government.

In light of the above factors, the Departments of State and Justice explored informally with the Swiss Embassy a final settlement and compromise of all outstanding claims arising out of the administration of the Trading with the Enemy Act during World War II on the basis of an ex gratia payment of $20,000 without prejudice to the legal position of either Government. Further, the Swiss Embassy was informed that any settlement was subject to the enactment of legislation making the needed funds available. The Swiss Government was agreeable to such a settlement. Accordingly, after informal and favorable consultations with the staffs of the House Foreign Affairs Committee and the Senate Judiciary Committee concerning the enactment of the needed legislation authorizing the payment of the $20,000, the Department of State exchanged notes with the Swiss Embassy on March 12, 1980 agreeing on the proposed settlement. It will be noted that in the exchange of notes payment is subject to Congressional enactment of legislation making available the needed funds.

DEPARTMENT OF STATE,
Washington.

Hon. FRANZ E. MUHEIM,
Charge d'Affaires ad interim of Switzerland

SIR: I have the honor to refer to discussions between representatives of the Department of State and representatives of the Embassy of Switzerland relating to claims put forward by the Government of Switzerland with respect to assets in the United States vested by the United States under the Trading With the Enemy Act.

On behalf of the Government of the United States, I wish to make the following proposal to settlement:

1. The Government of the United States of America shall make and the Government of Switzerland shall accept payment of a sum of $20,000 in full and final settlement of any and all claims of the Government of Switzerland and its nationals concerning assets in the United States vested by the United States. This payment is made ex gratia without prejudice to the views of either Government as to the validity of the claims involved.

2. This payment is subject to the enactment of legislation by the United States Congress making available the necessary funds.

If the foregoing proposal is acceptable to the Government of Switzerland, your reply to that effect and this note shall constitute an agreement effective as of the date hereof.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:
MARK B. FELDMAN.

MARCH 12, 1980.

EMBASSY OF SWITZERLAND,
Washington, D.C., March 12, 1980.

Hon. CYRUS R. VANCE,
The Secretary of State,
Washington, D.C.

EXCELLENCY: I have the honor to acknowledge receipt of your note of today's date relating to claims of the Government of Switzerland involving assets in the United States vested by the United States, which note contains a proposal of settlement as follows:

1. The Government of the United States of America shall make and the Government of Switzerland shall accept payment of a sum of $20,000 in full and final settlement of any and all claims of the Government of Switzerland and its nationals concerning assets in the United States vested by the United States. This payment is made *ex gratia* without prejudice to the views of either Government as to the validity of the claims involved.

2. This payment is subject to the enactment of legislation by the United States Congress making available the necessary funds.

The proposal made in your note is acceptable to the Government of Switzerland, and I confirm that your note and this reply shall constitute an agreement effective as of the date hereof.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANZ E. MUHEIM,
The Chargé d'Affaires of Switzerland, a.i.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7729, to amend the Trading With the Enemy Act and, in effect, terminate the Office of Alien Property.

Established to administer, liquidate and dispose of the interests in U.S. property which was vested under the Trading With the Enemy Act in World War II, the Office of Alien Property has now completed liquidation of all remaining vested assets and vested business enterprises with the exception of one. That one vested business enterprise provides an annuity for one individual and once that obligation is terminated, the company will be liquidated.

Even though all litigation and claims adjudication arising out of the administration of the Trading With the Enemy Act is now completed, some small collections of further sums may be expected. But, the administrative costs are likely to be equal, if not greater, to the amounts collected, and therefore, it is more practical to close the books on this operation.

A second part of this bill provides for a payment of $20,000 to Switzerland as a final settlement of all outstanding claims between our two countries resulting from the administration of the Trading With the Enemy Act. The United States has disputed the validity of the Swiss claims but believes the payment of the $20,000, which is made without prejudice to the legal position of either government, is desirable in order to settle a long-standing irritant in our relations.

H.R. 7729 is essentially a housekeeping bill, and I am not aware of any opposition to it.

I urge my colleagues to vote in favor of H.R. 7729 and I yield back the balance of my time.

● Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 7729, to amend the Trading With the Enemy Act in order to authorize the use of assets vested under that act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets. H.R. 7729 is a simple housekeeping measure which would terminate the Office of Alien Property in the Department of Justice. There are no remaining claims that have not been adjudicated, and the continued existence of the Office incurs an unnecessary expense for the Government.

The bill also would transfer $20,000 from the books of the Office of Alien Property to settle a $40,000 claim from the Government of Switzerland, and the balance of funds would be deposited in the Treasury.

H.R. 7729 is a cost-saving measure, and I urge the Members to support it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the bill, H.R. 7729.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2240

RELATING TO THE SITUATION IN POLAND

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 435) relating to the situation in Poland, as amended.

The Clerk read as follows:

H. CON. RES. 435

Whereas various international human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe provide that sovereign states are to settle their differences peacefully and to respect human rights and fundamental freedoms, including economic rights;

Whereas Poland is morally bound by the Universal Declaration of Human Rights, has ratified the International Covenant on Civil and Political Rights, and has signed the Final Act of the Conference on Security and Cooperation in Europe;

Whereas many thousands of Polish workers have peacefully organized themselves to negotiate in good faith with the Government of Poland on issues concerning the condition of life and work in Poland; and

Whereas the workers and government officials of Poland have settled their differences peacefully and reached agreements that are expected to improve the condition of life and work in Poland: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, the Congress—

(1) considers the peaceful resolution of the Polish workers' demands a contribution to international peace and security;

(2) expresses the hope that the agreements reached between the Polish workers and the Government of Poland will improve the condition of life and work in Poland;

(3) encourages effective implementation of these agreements by the Polish Government and the Polish workers without any use or threatened use of force and without any forceful intervention; and

(4) supports the implementation of these agreements because such implementation would be in accordance with the Final Act of the Conference on Security and Cooperation in Europe.

SEC. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the President and the Secretary of State.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 435, relating to the situation in Poland, with amendments which I have sent to the desk.

Mr. Speaker, the social and political unrest in Poland and the widespread strikes in factories throughout Poland this past August made all of us quite apprehensive about the implications these events would have for the people of Poland and for international relations.

Late last August, I introduced House Concurrent Resolution 423, relating to the situation in Poland. That resolution was cosponsored by 58 Members of the House and it urged the Polish workers and government officials to settle their differences peacefully in accord with the principles of relevant international human rights instruments.

Prior to the House concurrent resolution that I introduced, Mr. Speaker, the gentleman from Pennsylvania (Mr. RITTER) had also introduced a resolution which, of course by the time that we had considered it, was outdated by events.

Meanwhile, events in Poland overtook the sense of House Concurrent Resolution 423. Polish workers organized peacefully to negotiate their demands with the Polish Government and they reached agreements which among other things, provide for free and independent trade unions and free elections of trade union officials. These agreements, if implemented, could have the effect of improving the conditions of life and work in Poland.

Thus, I have introduced House Concurrent Resolution 435, a resolution relating to Poland, which takes into account these new developments. More specifically, House Concurrent Resolution 435 says that the House of Representatives considers the peaceful resolution of the Polish workers' demands to be a contribution to international peace and security; expresses the hope that the agreements will improve the condition of life and work in Poland and encourages the effective implementation of these agreements.

Yesterday, the Committee on Foreign Affairs took up House Concurrent Resolution 435, made two amendments to the resolution as introduced, and ordered it favorably reported. The amendments are in the nature of clarifying amendments, and in my view are noncontroversial.

The first deletes the phrase "without outside interference" and inserts in lieu thereof the phrase "without the use or threatened use of force by any outside power." This amendment clarifies the sense of the phrase in paragraph 3 "without outside interference."

The second amendment would add a new operative paragraph 4 whereby the House of Representatives would support the implementation of the worker-government agreements as in accord with the implementation of the Final Act of the Conference on Security and Cooperation in Europe.

Mr. Speaker, the committee adopted these two amendments yesterday and ordered the resolution favorably reported, as amended.

I urge the House to approve House Concurrent Resolution 435, as amended.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to compliment the gentleman from Wisconsin, my good friend, Mr. ZABLOCKI, for his sponsorship of this resolution and his observations regarding its passage.

Mr. Speaker, I support House Concurrent Resolution 435. In urging support for House Concurrent Resolution 435, we, the cosponsors of this resolution, do not mean to signal that the situation in Poland is settled. It is still very much in flux. Although the Government of Poland has recognized many of the Polish workers' demands, it has yet to translate recognition into effective action. The reforms in worker representation do not yet equal the government pledges of free, independent trade unions for the workers.

Beyond that, a succession of ominous statements from Moscow has warned against attempts at "subversion" in Poland. Articles in Pravda, thought by Western diplomats to have been cleared at the highest official levels, have opposed independent unions. According to Pravda, the calls for independent unions in Poland are "bourgeois provocations" and "slavish repetition of the slogans of the past," while unions under Communist Party leadership are adequate to protect workers' interests.

The threat of Soviet intervention in Poland is not past; it is ever-present. With global attention now focused on the Iran-Iraqi conflict, the Soviet Union might well think it could strike at Poland with impunity, undoing the strides the courageous Polish people have made toward increased human and economic rights.

House Concurrent Resolution 435 is, therefore, important and timely. It demonstrates our ongoing concern for the valiant workers of Poland. And it expresses our hope that they and the Polish Government will be able to work toward improving the condition of life in Poland without outside interference and with respect for the rights and dignity of all citizens.

There may be many new crises in the world, but we have not forgotten this one. We remember, we are watching, and we regard its just resolution, to be of the utmost importance to the United States.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I, too, want to commend our distinguished chairman, the gentleman from Wisconsin (Mr. ZABLOCKI) for bringing forth this resolution, and our ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD) for his support.

Mr. Speaker, I rise in support of House Concurrent Resolution 435, a sense-of-the-Congress resolution in support of the Polish workers.

The recent settlement of the Polish workers strike represents an historic agreement between the people of Poland and its Communist government. At this point, it is too early to tell the full consequences of their action. Even today, the newly formed independent labor unions of Poland are threatening to resume the strike if the government does not live up to its agreements.

It is clear, however, that the peaceful resolution of the workers' demands does promote stability and lessen the threat to international peace and security. As pointed out in the resolution, it is our hope that it will also improve life and work in Poland. Furthermore, effective implementation of all agreements is encouraged in a peaceful manner without forceful intervention.

Poland has signed the Final Act of the Commission on Security and Cooperation in Europe. It is also morally bound by the Universal Declaration of Human Rights and has ratified the International Covenant on Civil and Political Rights. All of these international pledges provide that states settle differences peacefully, with respect for human rights, and preserve fundamental freedoms, including economic rights.

By adopting this resolution, the Congress is recognizing the importance of not only what has already taken place, but also our determination to monitor the fruits of those victories by the Polish workers. As we demonstrate our ongoing concern, we need to record our full support for all constructive efforts to improve life for the Polish people without outside interference and with full respect for their rights.

As a cosponsor of House Concurrent Resolution 435, I urge my colleagues to join with me in full support of its passage.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, our beloved majority leader (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, unlike some of our colleagues, I do not have the privilege of representing any great number of Polish-Americans in my constituency. I wish I did, because I have an abiding admiration for the indomitable spirit of the people of Poland. I think one of the quiet stories of real heroism is the story of how the Poles following World War II refused utterly to accept as fait accompli the brutal destruction by the Nazis of their city of Warsaw. They went back and painfully, stone by stone, with their bare hands and the benefit of architectural drawings preserved at the university, rebuilt the demolished city physically in exactly the image that had existed prior to the brutal destruction by the Nazis.

I see in this present uprising something indomitable in the human spirit. I see a resurgent determination on the part of the Polish people to be free, to be dealt with and reckoned with. While that nation has been destroyed from time to time, the spirit of those people has never been destroyed.

☐ 2250

Their will has never been destroyed. Their culture has never been destroyed.

Four hundred years ago, Poland was the greatest power in Eastern Europe. That nation reached from the Baltic to the Black Sea.

Three hundred years ago, Polish cavalry smashed into the Turkish army besieging Vienna and ended the Muslim advance on Europe.

But Poland is a nation without natural borders surrounded by aggressive nationalities, and 200 years ago—in 1793—Russia and Prussia signed a treaty dismembering the Polish nation. It was an act the West should have studied prior to the dark days leading to World War II.

The Polish people, led by Thaddeus Kosciuszko, rose valiantly but futilely against that act. It was the same Kosciuszko who had come to America as a 30-year-old military officer at the outbreak of our Revolution, was cited for bravery at Saratoga, served as a brigadier under George Washington and was made governor of the fort at West Point.

The Polish people rose again in 1830 and again were brutally put down. In 1860, they rose again and fought for 4 years before being crushed into submission. Poland was dead—but not the Polish people, not the Polish spirit, not the language, nor the culture.

And in January 1918, President Woodrow Wilson and Lloyd George of Great Britain announced that there would be a free and independent Poland once again. There followed a little-known war in 1919 and 1920 between the new nation of Poland and the equally new Soviet Union.

The treaties which ended that conflict left Poland with no secure boundary and a host of enemies eager to bite off Polish territory, but at least for a handful of years there was a Poland.

In 1939, the military might of Russia and Germany again combined to extinguish the Polish nation.

But again, following World War II, Poland rose from the ashes as a nation, albeit not a free one.

One of the most stirring examples of the indomitability of the human spirit, as I suggested earlier, was the quiet but thrilling way in which the people of Poland, following World War II, insisted on rebuilding Warsaw, literally stone by stone, so that the brutal and almost total destruction wrought by the Nazis would not be allowed to go uncorrected.

In 1956 and in the 1980 worker strikes we have seen the unbroken spirit of the Polish people reignite. Often those actions have been futile, unsuccessful and costly, yet that spirit remains unquenchable.

That spirit of a people is the only reason that a Polish nation exists today and it is the reason we here today will pass this resolution.

Poland needs the opportunity to work out its own solutions to its own problems. It must never again suffer from armed attack by outside armies seeking to take territory or impose unwanted conditions.

The Polish workers have risen in legitimate and peaceful dissent and with legitimate demands. The Polish Government has negotiated in apparent good faith. Now that Government and those workers must have the fullest unimpeded opportunity to work out those agreements.

The heroic actions of the Polish workers in the summer of 1980 stand as another proof of the courage and daring so common to the Pole and to Polish history.

It is essential that all nations recognize that courage and respect the integrity of the Polish nation.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BRADEMAS), our highly respected majority whip.

Mr. BRADEMAS. Mr. Speaker, I thank the distinguished chairman of the Committee on Foreign Affairs for yielding.

Mr. Speaker, as a cosponsor of this resolution encouraging the Government of Poland peacefully to implement the agreements reached with the workers of Poland, I urge its unanimous adoption.

By approving this resolution, we will be expressing our support—and the support of the American people—for the courageous workers who in 18 days so radically altered the structure of their nation.

Since the strike ended 25 days ago, Mr. Speaker, there has been substantial progress toward carrying out the agreement reached between the workers and the government.

We all realize, however, that there is a long way yet to go—that full implementation of the rights won by the workers will neither come quickly nor easily.

That is another reason I believe this resolution is necessary and should be adopted.

For not only does it show our support for the workers but it reminds the Polish Government that it is bound by a number of international agreements to respect human rights and fundamental freedoms, including economic rights.

The resolution also asserts that there should be no outside interference in the affairs of the Polish people.

Mr. Speaker, in addition to my admiration for the Polish workers and the heroism they displayed in their peaceful strike for a better life, I have several personal reasons for supporting this resolution so ably presented by the distinguished chairman of the House Foreign Affairs Committee, the Honorable CLEMENT J. ZABLOCKI of Wisconsin.

Many Americans of Polish descent reside in the district in Indiana which I have the honor to represent. And my wife Mary Ellen is herself of Polish descent.

In addition, Mr. Speaker, it has been my privilege to have visited Poland on several occasions, most recently in August 1979 when I led a delegation of Members of the House of Representatives for meetings with officials of the Polish Government and with leaders of the Roman Catholic Church.

Mr. Speaker, we cannot assume the struggle in Poland is over. Promises have been made to the workers of Poland by the Communist Party. Those promises must be kept. There must be no outside interference in the internal affairs of Poland. The Polish people must be allowed to work out their own destiny.

This resolution offers us a way in which to express the sentiments of the American people in support of the people of Poland and their aspirations to human rights.

HOUSE ADOPTS BRADEMAS RESOLUTION ENCOURAGING IMPLEMENTATION OF THE AGREEMENTS ENDING POLISH STRIKE

WASHINGTON, September 30.—The House today unanimously adopted a resolution cosponsored by Third District Congressman John Brademas encouraging the Polish government to peacefully implement the agreements reached with the striking workers of Poland.

Brademas, in a statement to the House urging the approval of the resolution, said it expresses "our support and the support of the American people for the courageous workers who in 18 days so radically altered the structure of their nation."

Brademas, noting that many Americans of Polish descent live in his district and that his wife Mary Ellen is of Polish descent, said that although in the 25 days since the strike ended there had been substantial progress toward carrying out the agreements between the workers and the government, "there is a long way yet to go."

"We cannot assume the struggle in Poland is over," he said. "Promises have been made to the workers of Poland by the Polish government and the Communist Party. Those promises must be kept. There must be no outside interference in the internal affairs of Poland. The Polish people must be allowed to work out their destiny."

In addition to encouraging the peaceful implementation of the agreements between the workers and the government of Poland, the resolution also notes that the government is bound by a number of international agreements to respect human rights and fundamental freedoms, including economic rights.

The resolution also asserts that there should be no outside interference in the affairs of the Polish people.

Brademas, who is the House Majority Whip, has visited Poland several times, most recently in August 1979 when he led a delegation of House members in meetings with government officials and Roman Catholic leaders, including Stefan Cardinal Wyszynski, Primate of the Roman Catholic

Church of Poland, and Franciszek Cardinal Macharski, successor to Pope John Paul II as Archbishop of Krakow. Brademas also visited Czestochowa, the shrine of Polish Roman Catholics.

[From the CONGRESSIONAL RECORD, Sept. 5, 1980]

A TRIBUTE TO THE WORKERS OF POLAND

Mr. BRADEMAS. Mr. Speaker, the coal miners of Silesia, the last of the workers of Poland still striking, returned to work today after having won the agreement of the government of Poland to their insistence on greater freedom. The heroic and historic strike of the Polish workers is now over and all of us as Americans should join in saluting the Polish workers for their extraordinary bravery and their dedication to freedom.

For, Mr. Speaker, the workers of Poland, and the Polish people who stood with them, have provided the world an example of courage that will be forever remembered.

The Polish workers have demonstrated that the flame of freedom, which in the long and tortured history of Poland has often been dimmed, can never be quenched.

It was just 41 years ago this month, I would remind you, Mr. Speaker, that the armies of Nazi Germany and the Soviet Union swept into Poland and destroyed a democratic society. While defending their homeland during the years of terror under the Nazis, more than 6 million Poles were killed.

Today, Mr. Speaker, 4 decades later, a new generation of Poles has accomplished what only weeks ago would have been thought impossible.

In just 18 days, the workers of Poland have radically altered the conditions under which they work and live. By their heroic actions, the Polish workers have won economic and political rights unmatched in any other nation controlled by a Communist Party.

Alone and unarmed, the Polish workers have won the right to strike and the right to establish their own trade unions, independent of control by the government, as well as a series of economic and political reforms that we in the United States take for granted but which have been denied the people of either Eastern Europe or the Soviet Union.

One of the most striking aspects of this victory, to me, Mr. Speaker, is the way it happened. What began as a protest by one small group of workers at a shipyard in Gdansk spread within less than 3 weeks to 600,000 workers in more than 20 cities.

Never once did these brave people flinch, and never once did they resort to violence. They stood their ground as their forebears stood so courageously over 4 decades ago and as Poles have for generations resisted forces arrayed against them.

Mr. Speaker, there are several reasons that I take this time to pay tribute to the Polish workers.

In the congressional district in Indiana which I have the honor to represent, there are many Americans of Polish origin.

I have on several occasions had the opportunity to visit Poland, most recently in August of 1979 when I led a delegation of Members of the House of Representatives for meetings with officials of the Polish Government and with leaders of the Roman Catholic Church. While in Poland, we had the privilege of meeting with Stefan Cardinal Wyszynski, Primate of the Roman Catholic Church of Poland, and Franciszek Cardinal Macharski, successor to Pope John Paul II as Archbishop of Krakow. We also visited Czestochowa, the shrine of Polish Roman Catholics.

Beyond all these reasons for my interest in Poland, Mr. Speaker, my wife, Mary Ellen, is of Polish origin.

But I am sure, Mr. Speaker, that Americans of all backgrounds because of our belief in human freedom and human rights will join in admiration for what the workers of Poland have accomplished.

I should, however, note, Mr. Speaker, that it would be foolhardy for us to ssume that the struggle in Poland is over. Obviously it is not. Promises have been made to the workers by the Government of Poland and the Communist Party of Poland and those promises must be kept. There must be no outside interference in the internal affairs of Poland. The Polish people must be allowed to work out the details of their destiny.

Indeed, Mr. Speaker, many of us in the House of Representatives, together with the distinguished chairman of the Committee on Foreign Affairs, the Honorable CLEMENT J. ZABLOCKI of Wisconsin, joined late last month in introducing a resolution which called on the Government of Poland to observe the political and civil rights of the striking workers.

That resolution, Mr. Speaker, noted various international agreements which the Polish Government had accepted guaranteeing civil and political rights, including the right to form and join trade unions.

The resolution urged the Polish Government "to resolve the issues raised by the workers through peaceful means" and requested the government "immediately to release persons unjustly imprisoned * * * for their efforts to exercise their rights."

The resolution also called on all signatories of the Helsinki Accords to observe its principles "relating to sovereign equality, inviolability of frontiers, and nonintervention in internal affairs."

Mr. Speaker, I believe that the Government of our country has been wise in demonstrating moral support for the position of the Polish workers while avoiding any action that could have been seized upon by the Soviet Union to justify intervention, military or otherwise, in Poland.

I am pleased also that President Carter has taken the initiative in suggesting to the nations of the West that they favorably consider requests for assistance from Poland in this time of difficulty.

Mr. Speaker, the 12 million Americans of Polish origin have been among our most valued citizens. Today Polish Americans—and all Americans—have the right to feel a sense of pride and joy at the success of our friends and relatives in Poland in achieving progress in human rights to a degree that exists nowhere else in the countries of Eastern Europe.

H. CON. RES. 435

Whereas various international human rights instruments such as the Universal Declaration of Human Rights, the Internation Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe provide that sovereign states are to settle their differences peacefully and to respect human rights and fundamental freedoms, including economic rights;

Whereas Poland is morally bound by the Universal Declaration of Human Rights, has ratified the International Covenant on Civil and Political Rights, and has signed the Final Act of the Conference on Security and Cooperation in Europe;

Whereas many thousands of Polish workers have peacefully organized themselves to negotiate in good faith with the Government of Poland on issues concerning the condition of life and work in Poland; and

Whereas the workers and government officials of Poland have settled their differences peacefully and reached agreements that are expected to improve the condition of life and work in Poland: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, the Congress—

(1) considers the peaceful resolution of the Polish workers' demands a contribution to international peace and security;

(2) expresses the hope that the agreements reached between the Polish workers and the Government of Poland will improve the condition of life and work in Poland; and

(3) encourages effective implementation of these agreements by the Polish Government and the Polish workers without outside interference.

SEC. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the President and the Secretary of State.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Speaker, I join my colleagues in support of this resolution. The people of Poland have given an awful lot over the last 40 years. As was mentioned by our distinguished majority leader, they suffered much under the Nazi regime. More recently, Poland gave one of their greatest sons, Pope John Paul II.

As a labor person, as a person involved with labor, I join the millions of Polish people in America in their tremendous enthusiasm over what has taken place among the workers in Poland under tremendous hardship.

The Polish people have given an awful lot. Millions have come to the shores of America. Thousands live in my own State. They are an industrial people, a religious people. They are deep in their faith. They have honored this world with great distinction. I feel this resolution is right on target and very appropriate at this time.

I, therefore, join the gentleman from Wisconsin (Mr. ZABLOCKI) and others who support this resolution.

I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, because of the lateness of the hour I am not going to repeat the remarks that have been made by those who have spoken before me except to say how much I concur and am glad to join in honoring the Polish people. In my own constituency I have a very large Polish segment of the population, particularly in Yonkers, N.Y. The reason I mention this is, they have expressed many times during the recent uprising their concern for their native homeland and the people there and they were very active in praying for the success of the movement. I know they would join with me in praise of the courageous Polish people and their great victory.

I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I, too, would like to join in speaking on this resolution. I think we have all seen again the incredible courage of a most remarkable people.

In the 18th century, three times they rose up against their oppressors, hopelessly and courageously, and again we see the same courage exhibited in these people. How they find the heart to do it we will never know.

There was a dinner of people of Polish descent in my district 2 weeks ago, and as one of them said then, "What we must remember is that no empire lasts forever." They look for full freedom in the future and people with such courage will not be denied forever.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, one must keep in mind when discussing resolutions such as this that the Committee on Foreign Affairs never produces any document unless it has the imprimatur of Dr. Jack Brady, our distinguished staff director.

Mr. Speaker, I think it is very important that we recognize that this resolution which will be adopted by the House and presumably by the other body, has no real effect as adopted—even after the fact, of course.

The real crisis in Poland was 2, 3, 4 weeks ago. Where were we 2, 3, 4 weeks ago? We were silent, were we not? Why were we silent? Because there was nothing that this Government, or more specifically, this administration, could have done to help.

Mr. Speaker, that is the real tragedy of this entire situation facing us, that the United States has been reduced to the point of international inoperativeness.

Mr. Speaker in the case of the situation in Poland, what were we told by our press—or, more specifically, by the Department of State? That if we said something slightly provocative, the Soviets might be upset. Imagine that. The Soviets might be upset.

Now, Mr. Speaker, what could the Soviets have done? Very little, really. Look at the situation around the Soviet Union. They have a certain number of divisions anchored next to China because of a paranoid fear of the Red Chinese. They have their troops bogged down in Afghanistan with a certain amount of logistical backup necessary as they rotate them. They have other units poised above Iran in case the breakup there is complete. Then they have 20 divisions in East Germany in case the East Germans suddenly realize they are more German than Communist.

Mr. Speaker, in the meantime, all we were told was, "Please, please, do not say anything because you may provoke the Soviets."

What a sad commentary on the lack of leadership, the lack of strength of the United States in this period of time.

Mr. Speaker, as much as I support this resolution, as a cosponsor of it, I would just like to point out to the Members that the real issue before us was that we could not have punched our way out of a paper bag even if the forces of righteousness called for it.

It was the prudence, the practicality, the overall strength of character of the Polish people, the leadership they followed and the fact that the entire country was behind them, and not their government, and the fact that they were not calling for outside support, that enabled them to do the right thing under difficult conditions.

□ 2300

My only message to all of you ladies and gentlemen of this House is, please do not go home after you pass this resolution saying that you have struck a blow for freedom, the point is that they, the Polish workers, did it, and what we are doing now is a proper, respectable, laudatory afterthought.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. Now I yield to one of the many statesmen from New York.

Mr. PEYSER. Mr. Speaker, I thank my good friend for yielding. I have always held, and still do, the attitudes and opinions on foreign affairs that the gentleman has always expressed, but I must say that I am very surprised to hear what he is saying now. I do not know what he would have suggested as an alternative, whether we tell the striking leaders in Poland at that time that, "Keep with it, you can count on us. We will bring troops in if we have to protect you."

I think the answer is what the administration did, and the bravery and courage of the Polish people worked out exactly correctly. I would hate to think that the gentleman is advocating that we make a commitment to send troops there.

Mr. DERWINSKI. With all due respect to the gentleman from New York, I too champion this administration on the occasions when they are right. But may I point out that if I were conducting foreign policy I would have jumped behind Lane Kirkland and the AFL–CIO, and I would have gone ahead and supported the legitimacy of the free-labor union movement that developed spontaneously in Poland. That is the thing we should have done much more dramatically than we did, and I think history will show that was the key point.

Mr. ZABLOCKI. Mr. Speaker, I yield myself 1 minute.

I did not intend to speak further on this resolution because I think it has the full support of the membership. I do believe, however, that the gentleman from Illinois, my good friend, one for whom I have great confidence and for whom I have high esteem, was probably being facetious in urging that we should have done more prior to considering this resolution tonight.

As a member of the committee, he could have offered a resolution earlier. Further, he must know that our Government has taken the proper stance in regard to the problems that have occurred in Poland and the strike of the workers. He must know that the one organization within Poland that is most concerned about the welfare of the people, one that desired to avoid bloodshed in Poland was the Catholic Church in Poland. And the Catholic Church followed the same cautious line and policy that our administration has followed.

As a result the victory of the workers in Poland is so much the greater because they did it on their own.

● Ms. OAKAR. Mr. Speaker, I am happy to be a cosponsor of House Concurrent Resolution 435, which recognizes the great achievement of the workers of Poland in reaching agreements with the Communist leaders of that country to improve the living and working conditions of the working people of Poland. I join with Chairman ZABLOCKI and the other sponsors of House Concurrent Resolution 435 in voicing the belief that the peaceful implementation of these agreements are crucial to international peace and stability.

As many of my colleagues know, on August 25, 1980, I introduced House Concurrent Resolution 416, which eventually gained 14 cosponsors. This resolution aimed at putting the U.S. Congress on record as supporting the just demands of the Polish workers as well as condemning any possible interference by an outside power. We are all very grateful that the strikers were able to achieve most of their demands, and to do so in a peaceful manner.

Hopefully the Government of Poland will continue to stand by their agreements. It is important that the Secretary of State and the President monitor these agreements so that any faltering by the Polish Government can be noted and steps taken to see that the human and economic rights of the workers are protected. It is very important that the Polish people be allowed to get through this unique period of their history, without any interference from their neighbors.●

● Mrs. CHISHOLM. Mr. Speaker, I am happy to have the opportunity to speak for and support this resolution. The successful nonviolent struggle by hundreds of thousands of Polish workers demonstrated to the entire world community the positive potential of a people united and committed to improving their lives.

Without revolution, without bloodshed; without liberators, invaders or coup; an insensitive and repressive Government in Poland was humbled. The ruling elite was overturned, and the government was convinced of the rightness of the workers' demands.

As a vivid inspiration to oppressed people everywhere, the events in Poland deserve our study, applause and support. I urge unanimous approval of this resolution, and hope we have cause to continue celebrating these kinds of victories of right over might.●

● Mr. RITTER. Mr. Speaker, I rise in support of House Concurrent Resolution 435, which expresses congressional support of the peaceful resolution of the workers' strikes in Poland. I am an original cosponsor of this legislation, which expresses the hope that the agreements will be implemented without outside intervention or the use or threatened use of force; and that the agreements will improve Polish living and working conditions. The resolution provides that copies of House Concurrent Resolution 435 be submitted to the President and the Secretary of State.

Strong support for this resolution exists already.

Six days after the workers' strikes in Poland began, I introduced a resolution in the House of Representatives which supported the right of the Polish people to settle their own affairs free of external interference; 228 Members joined me in cosponsoring that resolution to voice our strong support of the rights of Polish workers to express grievances about the conditions under which they work without fear of coercion from the Soviet Union.

A majority of the House of Representatives has recognized that the Congress should reaffirm a public commitment to the Helsinki Accords and assert that fundamental human rights are essential to the preservation of cooperation and security in Europe.

I would urge cosponsors of my legislation and other Members of the House to cosponsor House Concurrent Resolution 435.●

● Mr. ANNUNZIO. Mr. Speaker, I was privileged to join with my good friend and colleague, Hon. Clement J. Zablocki, distinguished chairman of the House Foreign Affairs Committee, in cosponsoring House Concurrent Resolution 435, resolving that Congress considers the peaceful resolution of the demands of the workers of Poland as a contribution to international peace, and encouraging effective implementation of the agreements between the Polish Government and the Polish workers without outside interference.

During the years 1795 to 1918, the Polish nation was a colonial territory of Russia, Prussia, and Austria, and for only one generation in modern times, from 1918 to 1939, have the people of Poland had the opportunity to make their own decisions as a country in self-determination and freedom from neighboring and hostile nations. After the Second World War, during which about one-fourth of Poland's population was destroyed, the Communists forced their way into power and since that time, Poland's people have been the victims of this tyranny imposed by the Soviet Union.

For the last 35 years, Polish religious, cultural, and artistic expression has been controlled, the economic sector of the country has been restricted along Communist Party lines, and Poland's policies toward other nations have been directed from Moscow. However, the courageous Polish people have never lost their fervent desire for freedom, and over the generations they have fought heroically to gain their independence. As late as 1956 and 1970, they struggled openly for their human rights, and it was only through the bloodshed of these years and faith in their religious heritage that they have been able to win concessions from the Communist tyrant.

It is for all of these reasons that the Polish strikes of 1980 are such a memorable and inspiring event to freedom-loving people in Poland, in the entire Communist empire, and all over the world. The Communist governments in Poland and in the Soviet Union have both signed the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe. Their governments, which have broken so many treaties and promises in the past, are now being put to the test again by the fearless, hardworking, and courageous Polish workers whose lives have for too long been full of tragedy, misery, and suffering.

Under these circumstances, it is most appropriate that the Congress of our free Nation approve this resolution encouraging the effective implementation of the agreements by the Polish Government and the Polish workers, making it absolutely clear the Congress considers the peaceful resolution of the Polish workers' demands, without the interference of foreign nations, a contribution to international peace and security.●

● Mr. FARY. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Wisconsin (Mr. Zablocki). Throughout this time of trouble in Poland, Chairman Zablocki has done a wonderful job of keeping Members informed of new developments and, following his lead, the House of Representatives has made known to the world its concern for justice in Poland.

Mr. Speaker, distinguished colleagues, I am privileged to represent a large number of Chicago's Polish Americans. Many of these people, my constituents and friends, either have relatives who have left Poland or have themselves left Poland to escape the oppression of communism in the shadow of the Soviet Union. We are all deeply concerned about these recent developments and hope that they are a sign that the Polish Government is becoming more sensitive to the needs of the Polish people rather than to the fear of Soviet intervention.

I rise in support of House Concurrent Resolution 435, relating to the situation in Poland. I am thankful that the labor troubles have been peacefully worked out, and I am thankful that the Soviet Union saw that it was in its best interests not to intervene. Beyond the hopes expressed in House Concurrent Resolution 435, I would point out to my colleagues in the Congress that there is in the Congress adoption of the resolution, an unstated pledge to continue watching the situation in Poland to guarantee that the human rights of the Polish people are not violated.

I do not need to point out to my colleagues that the Soviet Union has time and again, in Poland, Hungary, Czechoslovakia, and Afghanistan, proven that it is a dangerous and unpredictable neighbor. I would warn all Americans concerned with human rights to not be distracted by events in other parts of the world. Do not let your attention wander from Poland, because when it does, the Soviet Union will move.

At a reception, organized by the gentleman from New Jersey (Mr. Guarini), I had the pleasure of meeting and conversing with Stanislaw Walesa, the father of Lech Walesa, who led the strike in Poland. When I spoke to him in Polish, he spoke with great fear about the Soviet Union and said that he was very much afraid for his son, Lech. Mr. Walesa said that, during the crisis in Poland, two strangers came to his home in New Jersey and showed him a map of the Katyn Forest in Poland. The map showed a graveyard outside of the forest and a small plot in a secluded part of the graveyard. This, the strangers said, was reserved for Lech Walesa.

I share Mr. Walesa's concern for his son's safety, and I say to my colleagues that we should all resolve with the same conviction to continue to watch developments in Poland to guarantee the well-being of the strike leaders and the Polish people.●

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. Zablocki) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 435), as amended.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING PRIORITIES IN PAYMENT OF CLAIMS AGAINST PEOPLE'S REPUBLIC OF CHINA

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6440) to establish priorities in the payment of claims against the People's Republic of China, as amended.

The Clerk read as follows:

H.R. 6440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the International Claims Settlement Act of 1949 is amended—

(1) in subsection (e), by striking out "The" after "(e)" and inserting in lieu thereof "Except as provided in subsection (f), the"; and

(2) by adding at the end thereof the following:

"(f)(1) Out of sums covered after May 11, 1979, into the special fund created pursuant to this section to receive funds paid by the People's Republic of China, the Secretary of the Treasury is authorized and directed to make payments on account of awards certified by the Commission pursuant to title V with respect to claims included within the terms of the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Settlement of Claims, signed on May 11, 1979, in the following order of priority:

"(A) Payment in the amount of $1,000 or the principal amount of the award, whichever is less.

"(B) Thereafter, except as provided in paragraph (2), to the extent there remain unpaid principal balances on awards, payments from time to time on account of the unpaid principal balance of each remaining award which bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards.

"(C) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which bear to such unpaid balance of interest the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.

"(2) (A) For the purpose of computing the payments to be made under paragraph (1) to any claimant which was an incorporated business enterprise on the date of nationalization or other taking of property, the award certified by the Commission under title V shall be reduced by the amount of Federal tax benefits derived by such claimant on account of the losses upon which such claim was based, but in no case shall such payments be reduced below the amount paid to such claimant on account of such claim before the date of the enactment of this subsection. For purposes of this subparagraph, such Federal tax benefits shall be the amount by which the claimant's taxes in any prior taxable year or years under chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code of 1939, or subtitle A of the Internal Revenue Code of 1954, were decreased with respect to the loss or losses upon which the claim was based. The sum of the amounts which would otherwise be payable but for this paragraph which are not paid to any such claimant shall be aggregated, and the Secretary of the Treasury is authorized and directed to make payments out of such aggregated sums in accordance with subparagraph (B).

"(B) To the extent that there remain unpaid principal balances on awards to claimants which were, on the date of nationalization or other taking of property, nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes (after payments made to such nonprofit organizations pursuant to subparagraphs (A) and (B) of paragraph (1) are taken into account), the Secretary of the Treasury is authorized and directed to make payments from time to time on account of the unpaid principal balance of each remaining award to such nonprofit organizations which bear to such unpaid principal balance the same proportion as the total sums aggregated pursuant to subparagraph (A) at the times such payments are made bear to the aggregate unpaid principal balance of of all such awards to nonprofit organizations.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BINGHAM) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6440 would alter the allocation of payments under the China Claims Settlement Agreement so as to reduce the awards of corporations by an amount equal to the tax benefits they took pursuant to the expropriation of their properties in China and reallocate such sums to nonprofit organizations with certified claims against China.

On May 11, 1979, the United States and the People's Republic of China signed an agreement settling claims between the two countries. On October 1, 1979, the PRC made the first of six annual payments to the U.S. Treasury. The first payment was for $30 million, and each of the following five payments will be for $10 million, for a total of $80 million. The agreement envisions payment to each claimant of approximately 40 cents on the dollar.

H.R. 6440 would not affect payments which have already been made. It would adjust the method of distributing the remaining claims in such a way that nonprofit and religious organizations are compensated for the fact that they were not able to get tax benefits in 1950. At that time, several of the large corporate claimants were able to write off their losses against other taxable income. Nonprofit organizations, of course, do not pay taxes.

In reporting out H.R. 6440, the committee recognized that we have a very unusual situation with China claims. Unlike other situations, a large percent of the claimants are nonprofit organizations that have not had the benefit of the use for 30 years of their expropriated assets. The amendments offered during the committee's consideration of H.R. 6440 guarantee them some compensation in addition to their pro rata claim at the least expense to other claimants, and to the taxpayers. A rather complicated formula for allocating the remaining claims was adopted which I will not go into at this time. The total amount which will be made available by H.R. 6440 is estimated to be in the vicinity of $4 million.

The bill is supported by a number of nonprofit and religious organizations. It is opposed by the administration on policy grounds, primarily because they are worried that the integrity of the foreign claims settlement process be preserved. The committee made some perfecting amendments to accommodate these concerns, and made clear that H.R. 6440 should not be considered a precedent for other settlements.

I would like to make several points clear for the record concerning the interpretation of H.R. 6440 as amended and reported by the Foreign Affairs Committee. First, the committee fully intends that the Internal Revenue Service cooperate with those in the Treasury who will have to determine the tax benefits accorded certain corporate claimants for purposes of carrying out this legislation.

Second, I would like to make clear the committee's intent that section (2) (a) of the bill apply to awards certified by the Commission to the Treasury with respect to pre-1966 claims and post-1966 claims. In referring in section (2) (a) to awards certified under title V of the International Claims Settlement Act, the committee did not intend to exclude any awards certified to the Treasury under any other title of the same act.

Mr. Speaker, I yield such time as he may consume to the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 6440 would alter the allocation of payments under the China Claims settlement so as to reduce the claims of corporations by an amount equal to the tax benefits they took pursuant to the expropriation of their properties in China and reallocate such sum to nonprofit organizations with certified claims against China.

Because business corporations are able to take tax deductions from losses due to expropriation, whereas such tax deductions are not available to nonprofit organizations, without this bill business organizations would receive a higher compensation per dollar lost than nonprofit entities.

Mr. Speaker, this bill provides for an equitable allocation of payments under the China claims settlement, and I urge the Members to support it.

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Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the sponsor of the legislation, the gentleman from Ohio (Mr. GUYER).

Mr. GUYER. Mr. Speaker, I rise to speak on behalf of H.R. 6440, the measure which is before us. I would like to commend the chairman of the full committee, Mr. ZABLOCKI, and the chairmen of the subcommittees on Asian and Pacific Affairs, Mr. WOLFF, and International Trade and Economic Policy, Mr. BINGHAM, for their expeditious handling of the bill and for their efforts to bring it to the floor today. As the principal sponsor of H.R. 6440, I want to make just a few remarks on its behalf.

The purpose of the bill is to redress an imbalance which exists in the way in which funds obtained under the United States-China claims settlement agreement will be distributed. As the law stands presently, it will allocate funds paid by the PRC pro rata across the board—first providing each claimant aaginst the PRC a thousand dollars of its entire claim, whichever is smaller, and then dividing the remaining funds among the various claimants. At least two factors govern the distribution. One is the size of the claim, and the other is the amount of funds available under the agreement. As it happens, the Chinese are repaying the claims at about 41 cents on the dollar.

This across-the-board treatment is not entirely equitable. Profitmaking organizations have an advantage not available to the nonprofit and charitable organizations, in that the corporations and business were able to take losses on their income taxes, and thereby be compensated at least in part for their losses already. Most of the benefits allowed under the tax laws accrued in the early 1950's, when the dollar was worth a good deal more than it is now. What the measure will do is to reduce the amounts paid claimants who claimed and were allowed benefits under the tax laws in years past. The funds not paid under this provision will be aggregated and distributed among the nonprofit and charitable claimants.

There are some 50 organizations which would benefit from the measure before us, with members and chapters throughout the United States. As the claims agreement stands, these 50 nonprofit organizations would receive some $24 million. With the benefits of this law, that amount will increase appreciably. Since we amended the measure in committee to vary the payments to profit-making organizations based on tax benefits granted, rather than tax losses claimed, it is more difficult to compute the actual amounts involved. In many instances they would amount to only a few thousand dollars, which will not make much difference to a corporate claimant, but to many charitable organizations, which depend on individual contributions, this will make a substantial benefit.

The other body passed this measure from the Foreign Relations Committee as section 401 of S. 2727, which passed the floor of that body on May 15, 1980. While this version now before us is not identical with the Senate version, I am sure we can resolve any differences.

I should also point out that legislative precedent does exist for this measure. The War Claims Act of 1948 was amended in 1970 to allow modification of distribution of claims in the same way that H.R. 6440 provides for.

There is in my estimation no reason why we should not provide for redress of the imbalance which the present law displays, since the funds will not come out of the Treasury, and the funds will be going to a series of organizations whose support comes directly from the people of the United States.

I should point out too, Mr. Speaker, that it is the intention of at least some of the benefiting organizations to apply the additional funds received toward renewed efforts to assist cultural and religious exchange with the PRC, as appropriate and agreed to by that government. In this respect there is a historical precedent which goes back to the very sad incident of the Boxer Rebellion. When the United States received its share of the Boxer indemnity, it applied those funds for education of Chinese youth. There are times when we mean well toward our friends and neighbors, and I believe this is one of those times. I urge my colleagues to join in supporting this bill.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. GRADISON), a cosponsor of this legislation.

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as a cosponsor of H.R. 6440 with Representative GUYER, I am extremely pleased that this legislation has received such prompt attention by the House. As you know, H.R. 6440 would establish a system of priorities in the payment of claims against the People's Republic of China.

I am most familiar with the need for this legislation because of the situation of the Sisters of Charity of Cincinnati. In 1949, a girls' school and hospital operated by the Sisters was seized by the PRC. In 1970, the Foreign Claims Settlement Commission determined that the Sisters had sustained a loss of $585,876 on these confiscated properties as of October 1, 1949, with interest of 6 percent per annum from that date. Under the existing International Claims Settlement Act, all claimants are to be compensated equally on a pro rata basis after an initial distribution of $1,000 or less to de minimus claimants. Unfortunately, the law does not recognize the tax and commercial benefits which were available to corporations whose properties were seized and not available to nonprofit and charity groups. These tax benefits typically were received by corporations between 1949 and 1958, whereas nonprofit and charity groups have had to wait till the start of payments for any reimbursement.

This legislation would adopt a commonsense approach to the resolution of this inequity. It would provide that distributions from the China fund to corporate for-profit claimants are to be reduced by the amount of Federal income tax benefits which accrued to the corporation as a result of their China losses, but not below the amount already received by them. The sum of money created by these reductions would be distributed among nonprofit organizations on a pro rata basis, in addition to the 41 percent distribution already provided for them under current law.

There exists ample precedent in support of this action. The War Claims Act of 1948 (50 App. U.S.C. 2001–2017) provided that all awards to claimants were to be reduced by the Federal tax benefits which claimants received on account of the loss. Moreover, this act was amended in 1970 to provide first priority status for nonprofit organizations "determined by the Commission to have been, on the date of loss, damage, or destruction, a nonprofit organization operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes." Clearly, this legislation is needed to extend equal protection to claimants affected by the change of government in China in 1949.

Since the Senate has already acted on this proposal, as an amendment to S. 2727, which cleared that body on June 16, 1980, I urge favorable consideration of H.R. 6440 today in the House.

Mr. BROOMFIELD. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would merely like to close by saying that I hope we can vote on this bill now, and I urge passage of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the bill, H.R. 6440, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

USED OIL RECYCLING ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2412) to amend the Solid Waste Disposal Act to further encourage the use of recycled oil, as amended.

The Clerk read as follows:

S. 2412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Used Oil Recycling Act of 1980".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) used oil is a valuable source of increasingly scarce energy and materials;

(2) technology exists to re-refine, reprocess, reclaim, and otherwise recycle used oil;

(3) used oil constitutes a threat to public health and the environment when reused or disposed of improperly; and

that, therefore, it is in the national interest to recycle used oil in a manner which does not constitute a threat to public health and the environment and which conserves energy and materials.

DEFINITIONS

SEC. 3. Section 1004 of the Solid Waste Disposal Act is amended by adding the following new paragraphs at the end thereof:

"(36) The term 'used oil' means any oil which has been—

"(A) refined from crude oil,

"(B) used, and

"(C) as a result of such use, contaminated by physical or chemical impurities.

"(37) The term 'recycled oil' means any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes oil which is re-fined, reclaimed, burned, or reprocessed.

"(38) The term 'lubricating oil' means the fraction of crude oil which is old for purposes of reducing friction in any industrial or mechanical device. Such term includes re-refined oil.

"(39) The term 're-refined oil' means used oil from which the physical and chemical contaminants acquired through previous use have been removed through a refining process.".

LABELING REQUIREMENTS

SEC. 4. (a) Subtitle B of title II of the Solid Waste Disposal Act is amended by inserting the followng new sectoin immediately after section 2004 and by redesignating sections 2005 and 2006 as 2006 and 2007, respectively:

"LABELING OF CERTAIN OIL

"SEC. 2005. For purposes of any provision of law which requires the labeling of commodities, lubricating oil shall be treated as lawfully labeled only if it bears the following statement, prominently displayed:

" 'DON'T POLLUTE—CONSERVE RESOURCES RETURN USED OIL TO COLLECTION CENTERS'.".

(b) The table of contents for such subtitle B of title II of the Solid Waste Disposal Act is amended by inserting the following new item immediately after the item relating to section 2004 and by redesignating the items relating to sections 2005 and 2006 as 2006 and 2007, respectively:

"Sec. 2005. Labeling of certain oil.".

(c) Before the effective date of the labeling standards required to be prescribed under section 383(d)(1)(A) of the Energy Policy and Conservation Act, no requirement of any rule or order of the Federal Trade Commission may apply, or remain applicable, to any container of recycled oil (as defined in section 383(d) of such Act) if such requirement provides that the container must bear any label referring to the fact that it has been derived from previously used oil. Nothing in this subsection shall be construed to affect any labeling requirement applicable to recycled oil under any authority of law to the extent such requirement relates to fitness for intended use or any other performance characteristic of such oil or to any characteristic of such oil other than that referred to in the preceding sentence.

ASSISTANCE TO STATES

SEC. 5. (a) Section 4003 of the Solid Waste Disposal Act is amended by striking out "Minimum" in the heading thereof.

(b) Such section 4003 is further amended by inserting "(a) MINIMUM REQUIREMENTS.—" after "4003" and by adding the following new subsection at the end thereof:

"(b) DISCRETIONARY PLAN PROVISIONS RELATING TO RECYCLED OIL.—Any State plan submitted under this subtitle may include, at the option of the State, provisions to carry out each of the following:

"(1) Encouragement, to the maximum extent feasible and consistent with the protection of the public health and the environment, of the use of recycled oil in all appropriate areas of State and local government.

"(2) Encouragement of persons contracting with the State to use recycled oil to the maximum extent feasible, consistent with protection of the public health and the environment.

"(3) Informing the public of the uses of recycled oil.

"(4) Establishment and implementation of a program (including any necessary licensing of persons and including the use, where appropriate, of manifests) to assure that used oil is collected, transported, treated, stored, reused, and disposed of, in a manner which does not present a hazard to the public health or the environment.

Any plan submitted under this title before the date of the enactment of the Used Oil Recycling Act of 1980 may be amended, at the option of the State, at any time after such date to include any provision referred to in this subsection.".

(b) Section 4008 of such Act is amended by adding at the end the following new subsection:

"(f) ASSISTANCE TO STATES FOR DISCRETIONARY PROGRAM FOR RECYCLED OIL.—(1) The Administrator may make grants to States, which have a State plan approved under section 4007, or which have submitted a State plan for approval under such section, if such plan includes the discretionary provisions described in section 4003(b). Grants under this subsection shall be for purposes of assisting the State in carrying out such discretionary provisions. No grant under this subsection may be used for construction or for the acquisition of land or equipment.

(2) Grants under this subsection shall be allotted among the States in the same manner as provided in the first sentence of subsection (b).

"(3) No grant may be made under this subsection unless an application therefor is submitted to, and approved by, the Administrator. The application shall be in such form, be submitted in such manner, and contain such information as the Administrator may require.

"(4) For purposes of making grants under this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1982 and $5,000,000 for fiscal year 1983.".

TECHNICAL ASSISTANCE

SEC. 6. Section 4008(d) of the Solid Waste Disposal Act is amended by inserting "(1)" after ASSISTANCE.—" and by adding the following new paragraph at the end thereof:

"(2) In carrying out this subsection, the Administrator may, upon request, provide technical assistance to States to assist in the removal or modification of legal, institutional, economic, and other impediments to the recycling of used oil. Such impediments may include laws, regulations, and policies, including State procurement policies, which are not favorable to the recycling of used oil.".

RESTRICTIONS ON RECYCLED OIL

SEC. 7. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"RESTRICTIONS ON RECYCLED OIL

"SEC. 3012. Not later than one year after the date of the enactment of this section, the Administrator shall promulgate regulations establishing such performance standards and other requirements as may be necessary to protect the public health and the environment from hazards associated with recycled oil. In developing such regulations, the Administrator shall conduct an analysis of the economic impact of the regulations on the oil recycling industry. The Administrator shall ensure that such regulations do not discourage the recovery or recycling of used oil.".

(b) The table of contents for such subtitle is amended by inserting the following new item immediately after the item relating to section 3011:

"Sec. 3012. Restrictions on recycled oil.".

USED OIL AS A HAZARDOUS WASTE

"SEC. 8. Not later than ninety days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall—

(1) make a determination as to the applicability to used oil of the criteria and regulations promulgated under subsections (a) and (b) of section 3001 of the Solid Waste Disposal Act relating to characteristics of hazardous wastes, and

(2) report to the Congress the determination together with a detailed statement of the data and other information upon which the determination is based.

In making a determination under paragraph (1), the Administrator shall ensure that the recovery and reuse of used oil are not discouraged.

STUDY

SEC. 9. The Administrator of the Environmental Protection Agency, in cooperation with the Secretary of Energy, the Federal Trade Commission, and the Secretary of Commerce, shall conduct a study—

(1) assessing the environmental problems associated with the improper disposal or reuse of used oil;

(2) addressing the collection cycle of used oil prior to recycling;

(3) analyzing supply and demand in the used oil industry, including (A) estimates of the future supply and quality of used oil feedstocks for purpose of refining and (B) estimates of the future supply of virgin crude oil available for refining for purposes of producing lubricating oil;

(4) comparing the energy savings associated with re-refining used oil and the energy savings associated with other uses of used oil; and

(5) recommending Federal, State, and local policies to encourage methods for environmentally sound and economically feasible recycling of used oil.

Where appropriate, for purposes of the study under this section, the Administrator may utilize and update information and data previously collected by the Administrator and by other agencies, departments, and instrumentalities of the United States. The Administrator shall submit to Congress a report containing the results of the study under this section not later than one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, used oil is a valuable resource that has been grossly underutilized. Over 1 billion gallons of used oil is produced annually, with almost 50 percent disposed of improperly, which serves as potential threat to our drinking water supplies.

However, the recycling of used oil could yield a net energy savings of almost 42,000 barrels of oil per day. Industry, agency, and environmental groups agree that the recovery of used oil has both energy and environmental benefits.

The bill, S. 2412 as amended by the Commerce Committee:

Direct the Federal Trade Commission not to apply biased labeling requirements indicating that re-refined oil is derived from "previously used" oil. Only labeling that pertains to performance characteristics would be permitted.

Incorporate a discretionary oil recycling program into the existing State solid waste planning process under subtitle D. of RCRA. No more than $5 million in fiscal years 1982 and 1983 may be appropriated for making State grants.

Authorizes the administration to provide technical assistance to States upon request for addressing economic or institutional impediments to used oil recycling.

Requires EPA to develop economically feasible and environmentally sound reuse standards for the recycling of used oil and to determine whether used oil is subject to the hazardous waste requirements under RCRA.

Finally, the EPA, in cooperation with the Federal Trade Commission, the Department of Energy, and the Department of Commerce, will study environmental concerns, the collection cycle, the supply and demand for lubricating oil, energy savings associated with recycling used oil, and make recommendations regarding methods for Federal, State, and local governments to encourage recycling of used oil.

This amendment reflects the efforts of the majority and minority of the Commerce Committee Subcommittees on Energy and Power and Transportation and Commerce. Further, it reflects the important initiative begun by Senator DOMENICI of the Senate Environment and Public Works Committee.

I look forward to the favorable consideration of this bill as amended.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Used Oil Recycling Act of 1980.

There is over 1 billion gallons of used oil ,disposed of annually in the United States. This bill will help remove certain impediments to increased recovery and reuse of such oil.

When Congress passed the Resource Conservation and Recovery Act of 1976, we hoped to encourage the conservation and recycling of our natural resources as well as to place controls on waste streams which if not properly handled or recycled could seriously damage our environment.

Passage of this legislation will help us stop improper disposal of used lubricants into our water systems and sewage treatment plants. In addition, this bill will deter uncontrolled burning of used lubricants which often produces air quality problems.

This legislation will help the expansion of the re-refining industry by helping to insure a supply of product. At the same time, expanded collection efforts of used oil and the development of new uses of recycled oil will produce positive environmental effects as well as lessen our need for foreign crude oil supplies.

During the hearings regarding this proposed legislation, members of both the Transportation and Commerce Subcommittee and the Energy Subcommittee emphasized that any programs undertaken by Federal, State, or local governments as a result of this legislation must stress economic feasibility. All too often EPA and federally mandated environmental programs fail to take into consideration any economic factors. If programs do not make economic sense, they are doomed to failure before they even begin. Hopefully, this legislation will help avoid those mistakes.

Mr. Speaker, this is sound legislation. It has been considered favorably by our colleagues in the Senate, and I would urge the House to support this legislation.

□ 2320

Mr. FLORIO. Mr. Speaker, I yield 5 minutes to the chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I rise in support of the bill (S. 2412). I have consistently supported legislation to encourage the recycling of petroleum products. Not only will recycling reduce our oil imports, but more importantly, recycling will reduce the environmental hazards associated with improper disposal and burning of used oil.

I commend the gentleman from New Jersey (Mr. FLORIO) for his dilligent work on this bill, and I endorse his efforts.

One important provision of this legislation will end a labeling rule of the Federal Trade Commission which has discouraged the use of recycled oil. The rule, known as the "used oil rule" requires recycled oil to indicate on its label that it is derived from used oil, or that it has been recycled. Although there is no evidence that rerefined oil cannot perform as well as virgin oil, this labeling requirement has implied that rerefined oil is inferior and discourages its use.

In 1975, we passed a provision in the Energy Policy and Conservation Act (EPCA) to end this labeling rule, and to require that any labeling rules be based upon performances, as determined by tests established by the National Bureau of Standards (NBS). Unfortunately, the provision becomes effective only after NBS establishes the tests, which it has been unable to complete. The bill before us carries out the intent of EPCA by overruling the FTC's "used oil rule" pending completion of the NBS work on test procedures. The bill makes clear that the FTC may still regulate labeling with respect to claims about performance and other characteristics of importance to consumers. Consumers will not be misled as a result of the provision. To the contrary, any work of the FTC will be focused on issues of importance to the consumer—namely, the performance of the oil—be it recycled or virgin—rather than the origin of the oil.

I urge that the House pass this important legislation.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FLORIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the Senate bill, S. 2412, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 2412, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RAILROAD RETIREMENT ACT AMENDMENTS

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 8195, to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases and to place financial interchange on current basis, as amended.

The Clerk read as follows:

H.R. 8195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 3(b)(2) of the Railroad Retirement Act of 1974 is amended by striking out "1981" and inserting in lieu thereof "1982".

(b) Section 3(d)(4) of such Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1982"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1981".

(c) Section 3(g) of such Act is amended—

(1) by striking out "and" where it appears immediately preceding clause (D) in the first sentence thereof;

(2) by inserting immediately before the period at the end of the first sentence thereof the following: ", and (E) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1981, with such index for the calendar quarter ending March 31, 1980";

(3) by striking out "and (D)" in the last sentence and inserting in lieu thereof "(D), and (E)"; and

(4) by striking out "and June 1, 1980," in the last sentence and inserting in lieu thereof "June 1, 1980, and June 1, 1981".

SEC. 2. No later than March 1, 1981, representatives of employees and representatives of carriers, acting through a group designated by them, shall submit to the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Interstate and Foreign Commerce a report containing their joint recommendations for further restructuring of the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system.

SEC. 3. The provisions of this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, I object to the ordering of the second, and I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. MADIGAN and Mr. BAUMAN.

The House divided, and the tellers reported that there were—yeas 39, nays 4.

□ 2330

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 2, not voting 77, as follows:

[Roll No. 607]

YEAS—353

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett

Bereuter
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman

Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Jacobs
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.

Natcher
Neal
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Trible
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth

Wolff
Wolpe
Wright
Wyatt

Wylie
Yates
Yatron
Young, Fla.

Young, Mo.
Zablocki
Zeferetti

NAYS—2

Jeffords

Mitchell, Md.

NOT VOTING—77

Anderson, Ill.
Andrews, N.C.
Ashley
Aspin
Bethune
Bingham
Bonior
Breaux
Brown, Calif.
Conable
Corcoran
Crane, Philip
D'Amours
Davis, S.C.
Deckard
Dickinson
Dodd
Drinan
Duncan, Oreg.
Edgar
Evans, Ga.
Ford, Mich.
Fuqua
Giaimo
Goldwater
Grassley

Hall, Ohio
Hammerschmidt
Heckler
Holtzman
Horton
Huckaby
Ichord
Ireland
Jenkins
Jenrette
Johnson, Colo.
Kindness
Latta
Leach, La.
Livingston
Long, La.
Long, Md.
Lott
Lujan
McHugh
Mathis
Mazzoli
Michel
Mikulski
Murphy, N.Y.

Myers, Pa.
Nedzi
Nelson
Pritchard
Quayle
Railsback
Roberts
Santini
Satterfield
Schroeder
Seiberling
Shannon
Staggers
Stark
Steed
Stewart
Stockman
Traxler
Udall
Ullman
Vander Jagt
Volkmer
Wilson, C. H.
Winn
Wydler
Young, Alaska

☐ 2340

So a second was ordered.

The result of the vote was announced as above recorded.

☐ 2350

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

The gentleman from New Jersey now has the floor. Will he yield to the gentleman from California (Mr. PHILLIP BURTON)?

Mr. FLORIO. I will yield for a unanimous-consent request.

MANASSAS NATIONAL BATTLEFIELD PARK, VA.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5048), to amend the act entitled "An act to preserve within Manassas National Battlefield Park, Va., the most important historic properties relating to the Battle of Manassas, and for other purposes," with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 1, line 4, strike out "1979" and insert "1980".

Page 2, lines 5 and 6, strike out "four thousand seven hundred and fifteen" and insert "three thousand eight hundred and eighty-two".

Page 2, lines 8 and 9, strike out "August 1979, and numbered 379/80,001," and insert "September 1980, and numbered 379/80,008,".

Page 3, line 8, strike out "their present use." and insert "a use which is the same as that in effect on September 1, 1980.".

Page 6, line 2, strike out "August 1, 1979." and insert.: "September 1, 1980.".

Page 6, line 8, strike out "$20,018,000" and insert "$8,210,000".

Page 6, line 15, strike out "1979." and insert "1980.".

Page 6, line 19, strike out "1980." and insert "1981.".

Page 7, after line 2, insert:

SEC. 3. (a) The Secretary of the Interior shall conduct a study to determine appropriate measures for the protection, interpretation, and public use of the natural wetlands and undeveloped uplands of that portion of the Hackensack Meadowlands District identified as the DeKorte State Park on the official zoning maps of that District. The Secretary shall, in the course of the study, consult with and seek the advice of, representatives of interested local, State, and other Federal agencies. As a part of the study, the Secretary shall determine the suitability and feasibility of establishing the area as a unit of the national park system, including its administration as a unit of Gateway National Recreational Area, together with alternative measures that may be undertaken to protect and interpret the resources of the area for the public. Not later than two complete fiscal years from the effective date of this Act, the Secretary shall transmit a report of the study, including the estimated development, operation, and maintenance costs of alternatives identified therein, to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives, together with his recommendations for such further legislation as may be appropriate.

(b) There is authorized to be appropriated from amounts previously authorized to study lands for possible inclusion in the national park system not to exceed $150,000 to carry out the provisions of this Act.

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendments.

The Clerk read as follows:

In Senate amendment number (2) change the phrase "three thousand eight hundred and eighty-two" to "four thousand five hundred and twenty five".

In Senate amendment number (3) change the phrase "September, 1980 and numbered 379/80,008" to "October, 1980 and numbered 379/80,009"; and

In Senate amendment number (6) change "$8,210,000" to "$8,700,000".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CLAUSEN. Reserving the right to object, has this been cleared with the ranking minority member, the gentleman from Kansas (Mr. SEBELIUS)?

Mr. PHILLIP BURTON. If the gentleman will yield. I still have my unanimous consent request before the House.

Mr. Speaker, H.R. 5048 would provide for the expansion of the Manassas National Battlefield Park in Virginia. This measure, as it passed the House of Representatives earlier this Congress, would have expanded the park by some 1,681 acres at a cost of $20,018,000. As amended by the Senate, the measure would have authorized some $8,210,000 for an expansion of about 850 acres. Without our further amendments today, we would propose a compromise expansion, that, at $8,700,000 would cost far less than the original measure as agreed to by this body, but would protect a total of some 1,440 acres in a combination of easement and fee acquisition.

Our revisions would take the additions as passed by the Senate, plus about 640 acres in easements, most of which are located along the banks of Bull Run. With these final adjustments, we will have approved a package that, while it does not offer the level of protection encompassed by our original measure, will still provide a manageable boundary which will assist the National Park Service in protecting this magnificent historic resource.

The dedication that Representative HARRIS has shown over the years in his efforts to see this matter through to its successful conclusion is worthy of special recognition. Perhaps this "third battle of Manassas" will now finally be resolved as a victory for all Americans who care about our heritage.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

Mr. PHILLIP BURTON. I thank the gentleman from California for withdrawing his reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, may I ask how much time I have left, having yielded for a unanimous consent request to the gentleman from California (Mr. PHILLIP BURTON)?

The SPEAKER pro tempore. The gentleman has 17 minutes remaining.

Mr. FLORIO. I thank the Speaker.

Mr. Speaker, H.R. 8195, is an important railroad retirement bill. This bill is designed to be an interim measure while difficult labor/management negotiations proceed.

As you all know, projections are that the railroad retirement system could run out of money—as early as April 1982. We cannot allow that to happen. Labor and management are currently negotiating a proposed solution that we hope will be acceptable to all concerned. These negotiations involve many difficult technical issues, which take time to work out.

The bill before us would extend the cost-of-living increase for the tier 2 component of benefits for 1 more year. The 1974 Railroad Retirement Act provided for four specific cost-of-living increases for the tier 2 component of a retiree's benefit. The last one provided for took place in June. It is important that we provide the authority for an interim cost-of-living increase for 1981 while the negotiations proceed.

The bill also directs labor and management to submit a joint proposal to Congress by March 1, 1981. This proposal should represent a long-term solution to the problems of the railroad retirement system.

This bill would insure a continuation of the cost of living adjustment while a long-range solution is developed. I urge your support.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8195.

This legislation provides a 1-year cost-of-living increase for tier II benefits to persons covered under the Railroad Retirement Act. Railroad retirees have been receiving cost-of-living increases to the tier II benefits since the passage of the Railroad Retirement Act of 1974. If this legislation is not enacted, benefits which have inured since 1974 to persons covered under the Railroad Retirement Act will lapse.

This legislation also provides that management and labor must submit their proposal to put the railroad retirement fund on a financially sound basis by March 1, 1981. Management and labor are currently negotiating a settlement. Furthermore, the Transportation and Commerce Subcommittee has held a hearing on the problems associated with the railroad retirement fund. By enacting this legislation Congress will be in an excellent position to enact railroad retirement legislation early next year.

Mr. Speaker, I believe that existing railroad retirement law needs an overhaul. However, early next year is the most appropriate time to accomplish that objective. This legislation will facilitate the early consideration of railroad retirement legislation in the 97th Congress while providing people covered under the Railroad Retirement Act interim relief.

I urge the adoption of this legislation.

Mr. FLORIO. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, the bill that originally would have been presented to the House earlier today would have invaded jurisdiction of the Committee on Ways and Means, particularly in the social security trust fund. The bill would have changed and caused the transfer of funds under the financial interchange system.

What that meant was that the bill would convert the system of making these payments from an annual to a monthly basis. That would have meant that during fiscal year 1982 transfers for both fiscal year 1981 and 1982 would have been made. If we had changed this from an annual to a monthly basis, the actuaries estimated it would have cost the social security trust fund some $1.9 billion. We objected to the bill as it came out of the committee, and through the cooperation of the genial chairmen, the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from New Jersey (Mr. FLORIO) that aspect of the bill has been removed.

Our committee, therefore, has no objection to the bill that is before the House at this time. I would point out, though, Mr. Speaker, that both management and labor with respect to the railroad retirement fund have not negotiated their agreement. This bill allows the cost-of-living increase which rightly should go to the employees, but it still leaves unresolved the question of funds and benefits for this cost-of-living increase.

It would seem to me that evidently those two groups, management and labor, have got to come up with some help, because we cannot allow the funds in the social security trust fund to continue to be depleted. We are being besieged by various committees now to get money from our trust fund. We have had to reallocate money this year from the disability fund to the OSI fund to be certain sufficient funds are in the OAST trust fund for 1981.

We cannot keep on reallocating or transferring funds. I would say to the gentleman from New Jersey that he ought to urge hasty negotiation by leaders of labor and managements. The social security trust fund by law, will help by the interchange fund. But too much reliance is made on the assumption social security will bail out any and all programs.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

□ 2400

Mr. BAUMAN. Mr. Speaker, I want to take this occasion to wish the Speaker and the Members of the House a Happy New Year. If you will look at the clock, this moment begins the new 1981 fiscal year and with two-thirds of the House and a majority of the other body, the majority party has just allowed the U.S. Government to go bankrupt.

As of midnight the Government no longer has any authority to operate or pay any bills. I would suggest that a motion to adjourn might be in order, Mr. Speaker, at this time, in view of the fact that none of us will be paid, the staff will not be paid, I presume the airport controllers will stop working, all as the Attorney General has ordered. The night watchman at the Pentagon will probably walk off the job and all because of the glorious management of the affairs of the Nation by this Congress. The Federal Government is now out of money so Happy New Year, America. We are broke.

Mr. MADIGAN. If the gentleman would stay on his feet for just a minute, I would yield to the gentleman to answer a question. Because it is after midnight, I understand the Federal judges now get a 9.1-percent pay increase.

Mr. BAUMAN. That is the most glorious part of all. They get a 9-percent raise which under the Constitution cannot be rolled back because their compensation cannot be diminished during their term of office.

Mr. MADIGAN. If the Government is broke, how will they be paid?

Mr. BAUMAN. The courts will have to work that out. Probably it will be by a court order.

Mr. MADIGAN. Mr. Speaker, I yield back the balance of my time.

Mr. FLORIO. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, the United States has always prided itself on the work-ethic that has made it strong. Working men and women have always been the backbone of this great land, and as a nation, we have tried to see to it that when their working days are over, their retirement is a good one.

Franklin D. Roosevelt made such a belief the foundation for the social security system, and although the system has had its ups and downs in recent years, the concept is still a sound one. Such is also the case with the railroad retirement program.

Today, we have a bill up for consideration, H.R. 8195. Through the leadership of the distinguished chairman of the Interstate and Foreign Commerce Committee, my good friend and fellow West Virginian, HARLEY O. STAGGERS, we have an opportunity to solidify the retirement of individuals who for years, literally made this country move.

Inflation, as we all know, has a major impact on all Americans, but in particular on those living on fixed incomes. H.R. 8195 is important, and we must support it.

This measure will provide for a monthly financial interchange between social security and railroad retirement, instead of on a yearly basis as in the past. The bill will also direct the Railroad Retirement Board to study alternatives that could put the railroad retirement fund on a financially sound basis.

This is a good proposal, and its importance is magnified by the present economic conditions. I urge my colleagues to join in passing H.R. 8195.

Mr. FLORIO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill, H.R. 8195, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases.".

A motion to reconsider was laid on the table.

HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7103) to amend the Hazardous Materials Transportation Act and the Independent Safety Board Act of 1974 to authorize additional appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Materials Transportation and Independent Safety Board Amendments of 1980".

HAZARDOUS MATERIALS AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking out "and" after "1978."; and

(2) by inserting immediately before the period at the end thereof the following: ", not to exceed $9,100,000 for the fiscal year ending September 30, 1981, not to exceed $9,800,000 for the fiscal year ending September 30, 1982, and not to exceed $10,500,000 for the fiscal year ending September 30, 1983".

REPORTING SYSTEM AND DATA CENTER

SEC. 3. Section 109(d) of the Hazardous Materials Transportation Act (49 U.S.C. 1808(d)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.".

INDEPENDENT SAFETY BOARD AUTHORIZATION OF APPROPRIATIONS

SEC. 4. Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. 1907) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated for the purpose of this Act not to exceed $18,900,000 for the fiscal year ending September 30, 1981, $20,800,000 for the fiscal year ending September 30, 1982, and $23,100,000 for the fiscal year ending September 30, 1983, such sums to remain available until expended.".

PRIORITY OF BOARD INVESTIGATIONS

SEC. 5. Section 304(a)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(1)) is amended by inserting before "The Board may request" the following new sentences: "Any investigation of an accident conducted by the Board under this paragraph (other than subparagraph (E)) shall have priority over all other investigations of such accident conducted by other Federal agencies. The Board shall provide for the appropriate participation by other Federal agencies in its investigation, except that such agencies may not participate in the Board's determination of the cause or probable cause of the accident. Nothing in this section shall impair the authority of other Federal agencies to conduct investigations of an accident under applicable provisions of law, obtaining information directly from parties involved in, and witnesses to, the transportation accident. The Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner.".

REPORTING OF AVIATION INCIDENTS

SEC. 6. Section 304(a)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(6)) is amended by inserting "and aviation incidents" immediately after "accidents".

EXAMINATION AND TESTING OF PHYSICAL EVIDENCE

SEC. 7. Section 304(b)(2) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(b)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence the following: ", including examining or testing any vehicle, rolling stock, track, or pipeline component (or any part thereof) which is determined to be required for purposes of such investigation, except that any such examination or testing (A) shall be conducted in such a manner so as not to interfere with or obstruct, unnecessarily, the continued flow of goods or services in interstate commerce by the owner or operator of such vehicle, rolling stock, track, or pipeline component, and (B) shall be conducted in such a manner so as to preserve, to the maximum extent feasible, any evidence relating to the transportation accident, consistent with the needs of the investigation, and with the cooperation of such owner or operator"; and

(2) in the last sentence, by inserting ", examination, or test" immediately after "inspection" each place it appears.

PROHIBITION ON IMPLEMENTATION OF CERTAIN REGULATIONS

SEC. 8. The Secretary of Transportation shall not promulgate or implement, before August 1, 1981, the proposed regulations appearing in the Federal Register, volume 45, number 22, page 7140 et seq., dated January 31, 1980, relating to highway routing of radioactive materials, or any other regulation containing substantially the same subject matter as such proposed regulations.

The SPEAKER pro tempore. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

POINT OF ORDER

Mr. BROYHILL. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman from North Carolina will state his point of order.

Mr. BROYHILL. I request that the Speaker ask if the gentleman is opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from Kentucky opposed to the motion?

Mr. SNYDER. Mr. Speaker, I am not opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from North Carolina opposed to the motion?

Mr. BROYHILL. Mr. Speaker, I am opposed to the bill and I demand a second.

The SPEAKER pro tempore. The gentleman qualifies.

Without objection, a second is ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 20 minutes and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7103 deals with authorizations and related matters for two important transportation safety agencies, the National Transportation Safety Board and the Materials Transportation Bureau of the Department of Transportation.

For the NTSB, H.R. 7103 authorizes funding of $18.9 million for fiscal 1981, $20.8 million for fiscal 1982, and $23.1 million for fiscal 1983. These funding levels will permit the Board to improve its capabilities to carry out its important work of investigating transportation accidents. First, and of great importance, the funding will also enable the Board to add to its staff, experts in data processing, aviation technical areas—such as air traffic control—hazardous materials, evaluation of other Government agencies, and human factors. With these added capabilities, the Board will be able to do an even better job of protecting the safety of all modes of transportation.

The bill also includes provisions clarifying the Board's jurisdiction in several areas.

First, the bill makes it clear that the Board has authority to require the filing of reports for aviation incidents, as well as for aviation accidents in which there is personal injury or damage of property.

A second provision clarifies that Board investigations, other than in the marine area, have priority over the investigations of other Federal agencies. This section further indicates that there is no intent to impair the authority of other agencies to conduct investigations under applicable provisions of law. The purpose of this provision is to prevent duplicate investigations and unnecessary disputes over jurisdiction, while preserving the role of other agencies which have responsibilities to investigate transportation accidents.

A final provision on NTSB clarifies the Board's power to conduct examinations and testing of vehicles, rolling stock, trucks or pipeline components, as required to investigate an accident. The examination or testing must be conducted in a manner which does not interfere unnecessarily with the continued flow of goods and services in interstate commerce and which preserves, to the maximum extent feasible, the components used in the testing.

With respect to the hazardous materials program, H.R. 7103 authorizes $9.1 million for fiscal 1981, $9.8 million for fiscal 1982, and $10.5 million for fiscal 1983. These funding levels will enable DOT to undertake promising new initiatives in regulating the transportation of hazardous materials.

The added funding will facilitate improved training programs and an emergency program, including demonstration projects in which local governments will be helped to develop the physical and institutional framework to respond to hazardous materials' emergencies.

H.R. 7103 also includes a provision allowing DOT to continue to rely on the Chemical Transportation Emergency Center, a project of the Chemical Manufacturers Association, which has a large inventory of data on techniques for handling chemical emergencies. CHEMTREC is a vital part of DOT's present emergency response system. There is no reason to require DOT to duplicate CHEMTREC's capabilities.

H.R. 7103 also includes a provision prohibiting implementation before August 1, 1981, of DOT regulations affecting the highway routing of radioactive materials. Hearings on these regulations were held this summer by the Public Works Committee's Subcommittee on Surface Transportation. The hearings disclosed that DOT was proposing to overturn local government regulations on the transportation of radioactive materials, without having undertaken sufficient consultation with local officials who are experts in the unique conditions affecting transportation safety in their areas. While we agree with DOT's basic objective of uniform national standards, we believe this regulation should not be permitted to take effect until Congress has had a further opportunity to consider the problem. This can be accomplished in the early months of the next Congress.

Mr. Speaker, I urge the adoption of this bill which will make an important contribution to transportation safety.

Ms. FERRARO. Will the chairman yield?

Mr. ANDERSON of California. Yes, I will yield to the gentlewoman.

Ms. FERRARO. It is my understanding that this legislation will allow the NTSB to hire additional staff experts in technical aviation areas such as air traffic control. Is that understanding correct?

Mr. ANDERSON of California. It is.

Ms. FERRARO. I am pleased to hear that. As my chairman knows, I have been very concerned about recent problems with the air traffic control system in the New York area that have caused a rash of near midair collisions over New York's airports. That concern led me to seek the chairman's permission to hold a hearing of the Aviation Subcommittee to gain firsthand knowledge of the problem. After that hearing, the chairman joined me in writing to Chairman James King of the NTSB to ask that agency to conduct an investigation of the New York situation to determine the exact nature of the problem and what needed to be done to correct it. Chairman King has been very gracious in trying to find some way to satisfy this request but has said his agency does not have sufficient staff to handle the assignment by itself.

My question is, Is it the expectation of the committee that the Board should use the additional staff people being provided under this legislation to assist the kind of investigation of potentially hazardous situations such as the one that exists in New York?

Mr. ANDERSON of California. I thank the gentlewoman for her question. I am hopeful that the Board will be able to obtain appropriations to fund these new positions, and that with the added staffing the Board will have the capability of investigating traffic control incidents as well as accidents.

Ms. FERRARO. I thank the chairman for his cooperation.

□ 0010

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in opposition to this bill, and I rise in opposition to it not because of what is in these committee reports that have been issued by the Interstate and Foreign Commerce Committee and by the Public Works Committee, but because of an amendment that has been added to the bill which is at the desk, which is not contained in any of the information which has been submitted to the Members.

Mr. Speaker, the Interstate and Foreign Commerce Committee and the Public Works Committee, under joint referral of this bill, have reported a bill that would extend the Hazardous Materials Transportation Act by 3 years. What the bill does, as reported from the committee, would be to continue to charge the Materials Transportation Bureau with the authority to do several things. Among those are to promulgate regulations pertaining to the manufacture of the containers, and the packaging of hazardous materials.

Of course, one of the important functions of this bureau is to collect up-to-date information with respect to incidents involving the release of hazardous materials into the environment. There are a number of authorities in this act which are continued under this bill.

Mr. Speaker, I am informed that an amendment has been added to the bill for which there is no explanation whatsoever in either one of the reports which I hold in my hand. There is no explanation of the reason for it, or why these amendments have been adopted.

It is my understanding—and I have been told on good authority—that these amendments, if brought up under the regular procedure, would be subject to a point of order. And so, I am asking, Mr. Speaker, that this bill be brought up under the regular procedure so that Members would have the opportunity to provide their input into the reasons why these amendments may be offered, and let these amendments be offered in the regular procedure and not through this circuitous procedure here, where an amendment has been added onto the bottom of the bill here at this 12th hour.

It is my understanding that what this amendment would do would be to curtail the regulatory powers of this Materials Transportation Bureau with respect to their powers to write regulations and to enforce regulations with respect to the transporting and the routing of hazardous materials. It is my understanding, of course, that the rationale for postponing this is to provide Congress with additional time to hold hearings. I would point out that the authority was given to this agency two Congresses ago to write regulations, and these committees as well as the National Transportation Safety Board have been critical of the agency for not coming up with or promulgating regulations. Here now, at a time when the regulations are about to become enforceable, someone wants to say, "Well, we are not going to permit them to do this."

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I am very interested in the gentleman's comments, since the gentleman is the ranking minority member on the Committee on Interstate and Foreign Commerce. When the amendment to which the gentleman is referring was offered by the gentlewoman from New York, I raised several questions about it and got no support at all on the Committee on Public Works and Transportation. Since it was a joint referral, it was approved by the Committee on Public Works subject to the approval of the Committee on Interstate and Foreign Commerce.

I gather the impression from the gentleman's remarks that the Interstate and Foreign Commerce Committee then has not approved it.

Mr. BROYHILL. This morning was the first time I had heard about it.

Mr. SNYDER. The action in our committee was noted on the amendment by the Clerk. I objected but agreed to go along with it subject to the approval of the Interstate and Foreign Commerce Committee. It was approved by the Committee on Public Works and Transportation subject to that approval.

If that approval has not been given, then in fact it is not properly submitted and I will send for the transcript. I was advised by our people on the committee that that approval had been obtained from the gentleman's committee, and that is why I asked the gentleman if, in fact, it has not.

Mr. MATSUI. Mr. Speaker, will the gentleman from North Carolina yield?

Mr. BROYHILL. I will be glad to yield to the gentleman from California.

Mr. MATSUI. Mr. Speaker, it is my understanding that indeed both the Public Works Committee and the Interstate and Foreign Commerce Committee had concurred in the amendment offered by the gentlewoman from New York, and I do not really understand the objection of the gentleman from North Carolina.

The amendments—there are three, and they are pretty well stated out—one would just delay the implementation of regulations that the Department of Transportation wants until August 1, 1981, in order to allow us during the next term to oversight the matter and take a look at it and also to allow local government perhaps to come up with some alternatives. I think it is very reasonable, and I do not know why at this hour we are making an objection to that.

Mr. BROYHILL. Mr. Speaker, I reclaim my time. I thought the gentleman was going to shed some light on whether or not the Interstate and Foreign Commerce Committee had approved this amendment. I was present at the meetings last week, and I know of no record where the Interstate and Foreign Commerce Committee either considered or approved this amendment. If the gentleman has any evidence to the contrary, I wish he would state it.

Mr. MATSUI. I would point out to the gentleman, Mr. FLORIO, who is chairman of the subcommittee, I certainly concur to it. I understand he concurs to it.

Mr. BROYHILL. That is not the committee. It has to be brought up before the committee under formal vote and approved after due consideration and debate.

Now, I maintain that these amendments are not good public policy, and that the public policy has been set in prior Congress that would give to the Materials Transportation Bureau the authority to write regulations with respect to the transportation and the routing of hazardous materials, and that this amendment would undercut that authority to write and implement regulations which are badly needed at this time.

□ 0020

Mr. Speaker, I would hope that this body would support me in voting down this bill under suspension of the rules so it can be brought up in the regular order.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, the safety of our transportation systems is growing in importance as more and more passengers and cargo are being transported through the Nation. H.R. 7103 with amendments, the Hazardous Materials Transportation and Independent Safety Board Amendment of 1980, is designed to strengthen existing Federal efforts to promote transportation safety.

The bill we will consider is a carefully crafted compromise between the Committee on Public Works and Transportation and the Committee on Interstate and Foreign Commerce. I want to express my appreciation to the chairmen of these committees, Mr. JOHNSON and Mr. STAGGERS, for their interest and support of this important legislation to improve transportation safety.

H.R. 7103 extends the authorization of appropriations for 3 years to carry out the provisions of the Hazardous Materials Transportation Act. The authorization levels would be increased over current levels, which have been unchanged since 1977. Much of additional funds will be used by local communities to improve their emergency responsiveness to accidents involving the transportation of hazardous materials.

H.R. 7103 also extends the authorization of appropriations for 3 years for the National Transportation Safety Board. The NTSB, established in 1975 as an independent agency, has been a key element of Federal efforts to promote transportation safety. I have observed first-hand its expert and independent operation to provide recommendations on safety problems. This legislation will provide much needed additional funding for its work.

H.R. 7103 gives the NTSB primacy over other Federal agencies in accident investigations, and custody over evidence where a transportation accident has occurred.

I urge the adoption of the bill.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the full House is to vote today on H.R. 7103, the Hazardous Materials Transportation Act amendments. One amendment, offered by Congresswoman GERALDINE FERRARO, is of special concern to me. The amendment instructs the Secretary of Transportation to postpone the implementation of the Department of Transportation (DOT) proposed regulations on the transportation of radioactive materials until August 1, 1981. I fully support this amendment.

The safety of nuclear powerplants and the various components of the fuel cycle have long been a concern of mine. There are serious health and safety problems associated with nuclear powerplant operation, from uranium mining to the storage and permanent disposal of nuclear wastes. We face an ever-increasing number of radioactive material shipments. Since July 1979, approximately 65–70 spent fuel shipments have traveled our highways. It is projected that by 1985, if away-from-reactor storage facilities are in use, thousands of these highly radioactive shipments will be made annually.

Throughout the United States, cities and towns have begun to restrict the transportation of radioactive materials. Some communities have gone so far as to ban shipments of spent fuel. It is important to note, however, that local restrictions have not interfered with the transport of radiopharmaceuticals which make up about one-third of the 3 million radioactive shipments yearly. Instead, local restrictions are directed toward the several hundred thousand shipments of low-level radioactive materials and the relatively few spent fuel shipments which occur. Localities have taken the transportation safety issue into their own hands. DOT has now been charged with the responsibility of providing Federal guidelines for the transportation of nuclear material shipments. The proposed Federal rule does not guide however—it preempts. State's rights will be taken away with respect to prenotification of shipments and they will be largely preempted in terms of the timing and routing of shipments. Unfortunately, the rule provides little in the way of increased safety, with the exception of new driver training requirements.

DOT has a serious problem when attempting to increase and enforce safety measures. It is my understanding that DOT has only 9 hazardous material specialists and 180 inspectors nationwide to oversee the safety of all hazardous materials shipments—not just radioactive shipments.

While there are many facets of the proposed rule which greatly concern me, I fear most that this rule will set a precedent in the transportation of other hazardous materials. DOT has already preempted Rhode Island's restrictions over the transport of LPG and LNG.

Federal regulations are usually promulgated because State laws and local ordinances are not tough enough. However, in this case, the proposed Federal guidelines are less restrictive, with respect to timing and routing requirements than local ordinances and State laws. Instead of minimizing State participation in these decisions, DOT should encourage even more. Who, after all, is more aware of road conditions and of traffic cycles, the State or Federal Government? Who has more at stake in attempting to avoid an accident? And who will respond first in the event of that accident? Clearly, the State has ample reason to assure the safe passage of radioactive cargo within its boundaries.

DOT is very concerned with crew exposure time. The rule states, therefore, that a primary objective is to get the shipments to their destination in the shortest time possible. The way that this will be achieved will be to route large-package nuclear shipments and highly radioactive shipments over our interstate highway system, using beltways where possible. I see two problems with this.

My first concern is that many parts of our interstate roadway system go through densely populated areas. It would make sense to use these highways if one were to assume that no accidents will occur. Clearly, this is an assumption that cannot be made. We cannot solve one problem, that is, reducing crew exposure time, and at the same time cause another, namely, increasing public exposure in the event of an accident involving nuclear material. It is vital, then, that DOT find a solution that properly addresses this problem. DOT should require carriers to take the necessary precautions to protect the crew from overexposure if a longer route is taken. This may include better shielding for the casks and shorter driving periods per drive. This is essential, to insure that shipments can avoid highly populated areas and avoid mass public exposure in the unfortunate event of a nuclear transportation accident.

Second, problems associated with beltways must be addressed. The Boston area, for example, has two beltways, Route 128 and Interstate 495. The two routes provide circumferential routes for Boston, but there the similarity ends. Route 128 is one of the Nation's oldest freeways, opened in the early 1950's. Thirty years have passed and Route 128 now passes through densely populated suburbs. It is hardly a route one would choose to divert a nuclear shipment around a city, especially when a better route is available. Route 495, opened within the past 10 years, has better design features and passes through less populated areas than Route 128. These are the kinds of considerations which DOT must address on the State level before any blanket Federal ruling is imposed.

A major change in the proposed rule involves the use of tunnels for the transportation of nuclear materials. While most hazardous material is banned from traveling through tunnels, DOT proposes to allow such practice for radioactive cargoes. If DOT has evidence that a tunnel accident involving a radioactive shipment would be less dangerous than one involving chlorine gas, it should state so in the rule. The proposed rule now leaves me with an impression that DOT may be setting a precedent for the passage of other hazardous materials through tunnels. If DOT does not change its proposal, the ruling should at least give the State the authority to ban tunnel transport in preference of an alternate route, if that route is believed to be more safe.

It should also be noted that the proposed rule does not cover military radioactive shipments. Similarly, there is an inconsistency in the DOT rule in terms of Department of Energy spent-fuel shipments. Even nonmilitary DOE shipments are not required to be placarded. They do not have to abide by the new DOT routes, and DOT has no strict oversight over DOE shipments. DOT has no authority to resolve this inconsistency, but it is an unfortunate matter and one of which the public should be made aware.

Another major concern I have is with the timing of radioactive shipments. Data compiled from Massachusetts Department of Public Works statistics which shows the day-by-day percentages of all reported accidents on two major roads in Massachusetts in 1978 and 1979, clearly shows that weekend travel is dangerous—double the risk of midweek travel. The fact that DOT has not prohibited weekend shipments, cutting the chance of a radioactive accident in half, casts doubt on the claim that DOT is doing all it can to protect public safety. The final rule must consider factors other than cost in arriving at a resolution of the timing of radioactive transportation.

Why has not DOT done more of a comparative analysis on the economic feasibility and safety of modes of transport other than by road? It is well documented that ocean barge is the safest means of transporting radioactive cargo. This could be of special benefit to New England where there is easy accessibility to water routes. Port facilities outside of urban areas should be made available and used where possible. Once railbed reconstruction is underway, railways should also be considered because a railcar can hold about 10 times as much cargo as a truck, substantially reducing the number of radioactive shipments made annually.

In conclusion, I think that it is important to note that when article 1, section 8 of the Constitution was written, giving the Federal Government authority over interstate commerce, the authors obviously did not have radioactive transportation in mind. Congressional legislation conferring rights to States to regulate such traffic within their boundaries may prove to be necessary. This is precisely my reason for supporting the Ferraro amendment. This amendment will allow Congress the opportunity to look more closely at the Federal proposal. It will give us a final opportunity to confront this States' rights issue and insist that DOT allow individual States the right to be more actively involved with the safety aspects of radioactive transportation.

Mr. ANDERSON of California. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I rise in support of this bill. My particular concern is the provision in this legislation that will require the Department of Transportation to postpone implementation of their proposed rules regarding highway routing of radioactive materials until Congress has had time to hold full hearings on this controversial subject and determine exactly what Federal policy should be in this area.

The proposed rules I refer to appeared in the Federal Register on January 31, 1980. The Department is currently reviewing the extensive public comments that have been received. The probable date of promulgation is January 7, 1981. On the basis of the contents of the proposed rulemaking, plus testimony DOT presented at a Surface Transportation Subcommittee hearing on this subject held in New York City on May 27, I believe the Department's proposals will not result in the safest and most efficient system of transporting radioactive materials. For that reason, I offered this amendment, which would prohibit implementation of these rules until July 31, 1981, and give the next Congress time to carefully consider the problem and direct a solution.

At the May 27 hearing, a witness from DOT testified that the proposed rules would overturn New York City's existing ban on shipments of radioactive materials by requiring carriers to use the Interstate Highway System, and requiring that the motor vehicle be operated to reduce time in transit.

In response to questioning, the witness stated that highway routing of hazardous or radioactive materials should have two overriding objectives: The selection of highways with good safety records, and the selection of highways that avoid heavily populated areas. The witness further stated that the primary disadvantage of routing controls is the difficulty of applying such controls on a national level.

What is obvious from these statements is that for Federal regulations on radioactive materials transportation to make sense, they have to be made local area specific, and local area specific regs can only be drawn with the close cooperation of local officials. By overturning the New York City ban, and other bans like it around the country, the Department's current proposals run counter to this logic by substituting the Department's judgment for that of local officials.

The opposition to the provision delaying implementation of these regulations has centered on the argument that the existing system of regulation by local and State governing bodies is a confusing patchwork that causes many problems for industry. In order to end the confusion, we need to adopt these proposed regs as soon as possible.

I am a strong supporter of one uniform, national system of regulation of hazardous materials transportation. But it is clear on the record that these regs must—and can—be made local area specific.

Industry has survived, and prospered, under the current conditions up until now. I agree that we need to straighten out the situation, and that a national system of regulations is the answer. But it makes sense to wait an extra 6 months, hold hearings, and make sure that the proposals we finally adopt meet the needs of our cities and the people who live in them as well as the nuclear industry.

There are many Members of Congress who oppose these proposed rules for many different reasons. I originally intended to offer an amendment to H.R. 7103 to direct the Secretary to redraft the rules along specific guidelines. Due to the pressures of time as this session of Congress winds down, that has proved impossible. But it is important that DOT not go forward with its proposed rules until Congress can do something that makes sense. That is all my amendment will do.

Mr. MARTIN. Mr. Speaker, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, in the discussion which the gentlewoman has just presented she has indicated and made clear something that previously had not been brought out in the discussion between the gentleman from California (Mr. ANDERSON) and the gentleman from North Carolina (Mr. BROYHILL), and that is that apparently the purpose of this amendment is to halt the development of rules and regulations so that radioactive waste material which has been taken out of the core of an atomic energy reactor cannot be transferred to the disposal site where it is supposed to be lawfully disposed of.

It would further seem to me that this would also make it very difficult for rules to be set up by this board for fissionable material, uranium, et cetera, to be transported to an atomic energy facility so that electric energy could be generated in that facility.

Mr. Speaker, is it the purpose of the gentlewoman to halt any further development of atomic reactors?

Ms. FERRARO. Absolutely not.

Mr. MARTIN. Or is it the gentlewoman's purpose to delay dealing with the transportation of radioactive waste from now until next July?

Ms. FERRARO. No. As a matter of fact, the transportation of materials would continue as it is now. There is currently in existence an ordinance in New York City and ordinances in various other cities throughout the Nation that prohibit the transportation of nuclear waste through those various cities.

What this will do is merely delay the implementation of the proposed regulations which would totally override any local ordinances.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Ms. FERRARO) has expired.

Mr. BROYHILL. Mr. Speaker, I yield myself 5 minutes, and I yield to the gentlewoman from New York (Ms. FERRARO) so she may continue responding to the gentleman from North Carolina (Mr. MARTIN).

Ms. FERRARO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, what this would do is merely allow an additional approximately 6 months for the Congress to have hearings to determine exactly what regulations should be put into place that would be area specific.

What we are saying is, yes, there should be national regulations, but we cannot totally ignore the needs of local areas. What we are asking the Federal Government to do and what we are asking DOT to do, is to do a little bit of work and issue regulations that a shipper can go to. And we want to have those regulations very specific so they can take into account the safety of various people.

Mr. BROYHILL. Mr. Speaker, I believe the gentlewoman from New York (Ms. FERRARO) has conceded that this amendment of hers—which has been added, as I pointed out here, at now almost the 13th hour and which has not been approved by the Committee on Interstate and Foreign Commerce—has not even been discussed in the Committee on Interstate and Foreign Commerce, and that the intent of this amendment is to eliminate the transportation of radioactive materials through those communities that have issued bans on the transportation of such materials.

Now, the purpose of the regulations, as has been ably pointed out by the gentleman from North Carolina (Mr. MARTIN), is to make sure that there is increased safety in the transportation of these materials. I think it would not be in the public interest to delay the implementation of these regulations which, of course, do have the purpose of increasing the safety in transporting these hazardous waste materials.

I would also make just one other point in response to the gentlewoman (Ms. FERRARO) and point out that the regulations themselves provide that the State agencies can designate preferred highways after consultation with local jurisdictions.

Mr. Speaker, I think the point that the gentlewoman was trying to make was that there would not be local input. I maintain that in the regulations themselves there is provided the local as well as State input.

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do want to observe that it would seem to me that if the Congress wants to take upon itself the responsibility, which it could very well do, for writing law to supersede regulations that it had previously charged an agency with developing in this area, rather than for us now to obstruct and to hinder the vital and critical development of our electrical generating capacity from nuclear energy during this time while we wait on the formulation of the appropriate measures, we should instead allow this transportation board to proceed with these regulations and do the best job it can.

This is the job we have charged them with doing. Then in the intervening time we can begin to develop the legislation that might be suitable for the communities represented by the gentlewoman from New York.

Mr. BROYHILL. Mr. Speaker, I appreciate the remarks of the gentleman from North Carolina (Mr. MARTIN).

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Pennsylvania (Mr. COUGHLIN), who has been seeking recognition for some time.

Mr. COUGHLIN. Mr. Speaker, as a member of the Subcommittee on Transportation and Commerce, let me say that this is a heck of a way to legislate.

We are here talking about a department that has gone through a long period of trying to develop regulations, and suddenly here, at 12:30 at night, we are going to try, in an amendment that was not approved by the committee, to undo the whole process. That really does not make very good sense.

We are sort of in the last hours of this Congress, I guess, before we go home for elections, and this is not the time to take this kind of action. I hope that we will not do that.

☐ 0030

Mr. BROYHILL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I would just like to clear the record. When I was asked by the Speaker as I first demanded a second, did I support the bill, I said I did. For that reason, I do not get the second, and properly so.

But I want the record to show that when the Ferraro amendment was offered that I raised the question of Interstate and Foreign Commerce approval and that was approved by the Committee on Public Works subject to the approval of the Committee on Interstate and Foreign Commerce.

The transcript of proceedings of the pertinent part of that committee meeting reads as follows:

The CHAIRMAN. The gentleman from Kentucky, Mr. Snyder.

Mr. SNYDER. I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. SNYDER. Mr. Chairman, I have got some concerns with this amendment at this point in time, but I am not asking to be recognized to oppose it.

I understand the gentlelady's problem, I believe, and that is that the utility companies on Long Island have to transport their radioactive waste through the gentlelady's District to the burial grounds, and that your local jurisdiction has imposed a ban on that, and that DOT has currently some rulemaking in the Register which they are expecting comments on at the present time.

I question really seriously whether we have had adequate hearings on the matter, or if we have an adequate record to substantiate delaying DOT's rulemaking. Quite frankly, we do not even know what the rules are going to be at this point in time, because they are open for comment. The only hearing, so far as I know, was the one-day hearing in the gentlelady's District, which she has referred to.

I also am concerned that it may be a controversial proposal with the people who are concerned with disposing of their material raising their objections, and as a consequence, could threaten our ability to bring up the hazardous material authorization on suspension and our ability to get the two-thirds necessary to pass it at that time.

My additional concern is that, so far as the staff has been able to advise me here, the Interstate and Foreign Commerce Committee has not signed off on this amendment, as they have on the amendments that Mr. Howard brought up——

Ms. FERRARO. Will the gentleman yield?

Mr. SNYDER. Just one minute, and I will. In discussing it with the gentlelady, however, I understand that she has assurances that they will sign off on it. So, Mr. Chairman, what I would like to suggest, and which I believe the gentlelady is in agreement with, is that if we adopt this amendment today that it be subject to the approval of the Interstate Committee prior to it being offered as a Committee amendment. If they sign off on it, it will be received as a Committee amendment; if they do not, then it will not be received as a Committee amendment.

I yield to the gentlelady.

Ms. FERRARO. I thank the gentleman for yielding.

We have not had hearings on this, and I had requested on July 2d that this Committee hold hearings so that we would not be in this posture at this time.

With reference to your second comment concerning Interstate and Foreign Commerce, I just had a talk with Chairman Florio; I have sent a copy of the amendment over to him and he is currently looking at it, and hopefully, this morning, we will have the approval of that Committee.

Mr. SNYDER. Quite frankly, as a layman, they have had this problem for some time, and I cannot see where holding the radioactive waste until August 1 is going to be that serious a problem to them. On the other hand, I do not know that much about it. And if in fact the gentlelady is agreeable and the Committee is agreeable, that it will be offered as a Committee amendment only on the approval of the other Committee which has jurisdiction over the matter, then I would not be inclined to oppose it.

Ms. FERRARO. I thank the gentleman.

The CHAIRMAN. Would the gentleman yield?

Mr. SNYDER. Surely.

The CHAIRMAN. It is my understanding that the gentleman wishes to make certain that we have the concurrence of the other Committees prior to taking the amendment to the floor. Is that agreeable to the lady from New York?

Ms. FERRARO. Yes, I indicated that it was, Mr. Chairman.

The CHAIRMAN. Very fine.

The SPEAKER pro tempore. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

Mr. BROYHILL. Mr. Speaker, I yield myself 1 additional minute, and I yield to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. I thank the gentleman for yielding.

It is pretty plain to me at this point in time, Mr. Speaker, that that commitment was not kept and that the Committee on Interstate and Foreign Commerce has not approved this amendment. If that appears true at the conclusion of this debate, Mr. Speaker, then I would withdraw my support.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 7103. The bill authorizes appropriations for fiscal years 1981 through 1983 for the National Transportation Safety Board and for the implementation of the Hazardous Materials Transportation Act by the Department of Transportation. In addition, H.R. 7103 amends the substantive authority of both the Department and the Board.

Funding levels for the Board are authorized at $18.9 million for fiscal year 1981; $20.8 million for fiscal year 1982; and $23.1 million for fiscal year 1983. Funding levels to continue to implement the Hazardous Materials Transportation Act are $9.1 million for fiscal year 1981, $9.8 million for fiscal year 1982, and $10.5 million for fiscal year 1983.

Generally, the substantive amendments: First, clarify certain contractual authority vested in the Secretary under section 109 of the Hazardous Materials Transportation Act; second, clarify and specify certain investigative and reporting powers of the National Transportation Board; and third, delay promulgation and implementation of proposed regulations dealing with the routing of radioactive materials until August 1, 1981.

I urge the House to favorably act on H.R. 7103.

Mr. Speaker, I would like to clear the record as far as the Committee on Public Work is concerned. There was ordered a hearing on this matter in New York, where the subcommittee traveled to New York and held a hearing. The other day when the question was raised in the Committee on Public Works, we passed the amendment as offered by the gentlewoman from New York (Ms. FERRARO). In that she was to get clearance, and as I understand it, the subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO), and the gentleman from Illinois (Mr. MADIGAN) the ranking minority member, and the gentlewoman from New York (Ms. FERRARO) discussed this matter. That is why the matter is here now. That was an action taken by the Committee on Public Works, and they were to carry this out.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Kentucky.

Mr. SNYDER. Was not the amendment approved subject to the approval of the Committee on Interstate and Foreign Commerce?

Mr. JOHNSON of California. And as stated, the gentleman from New Jersey (Mr. FLORIO), the chairman of the subcommittee and the ranking minority member——

Mr. SNYDER. Was not it subject to the approval of the Committee on Interstate and Foreign Commerce as far as the record is concerned? I do not know what deal the gentleman made.

Mr. JOHNSON of California. We have nothing in writing from the Committee on Interstate and Foreign Commerce.

Mr. SNYDER. In other words, it was approved by about 2 out of 30 members. That is hardly a committee—2 out of 42. That is hardlv the committee.

Mr. JOHNSON of California. Generally this is carried out, as the gentleman knows, serving on committees, and many, many things transpire between the Committee on Public Works and the Committee on Interstate and Foreign Commerce. We have many joint referrals, and we generally exchange letters on many of the actions that are taken.

At this stage here, it was up to the chairman of the subcommittee, the gentleman from New Jersey (Mr. FLORIO) and the gentleman from Illinois (Mr. MADIGAN) and the gentlewoman from New York (Ms. FERRARO).

Mr. SNYDER. If the gentleman will yield further, did not the gentleman's chief counsel ask him about a letter from the gentleman from New Jersey (Mr. FLORIO) and the gentleman said, "I want one from Mr. STAGGERS," after the meeting was over?

Mr. JOHNSON of California. They can speak for themselves.

Mr. SNYDER. I am talking about the gentleman from California.

Mr. JOHNSON of California. I did not follow up on it, but that was the order when the amendment was adopted and the committee adjourned.

● Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 7103. Hearings were held on this legislation by the Subcommittee on Aviation and the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

As reported, the bill contains authorizations for the Secretary of Transportation to carry out the purposes of the Hazardous Materials Transportation Act and authorizations for the National Transportation Safety Board. The authorizations are for fiscal years 1981 through 1983, and they should enable the Secretary and the Board to maintain and to improve their respective safety programs.

Other provisions of the bill simply clarify certain powers vested in the Secretary and the Board. Finally, section 8 of the bill, which would delay promulgation and implementation of certain regulations dealing with routing of radioactive materials by the Secretary of Transportation, was added by the committee so as to give the committee time to review this important matter before the Secretary acts.●

● Mr. WEISS. Mr. Speaker, I rise in strong support of H.R. 7103, the Hazardous Materials Transportation Act, and specifically the amendment offered in committee by the gentlewoman from New York (Ms. FERRARO) requiring a delay in implementation of Department of Transportation regulations relating to highway routing of radioactve materials.

Those regulations open the frightening prospect that potentially lethal amounts of radioactive materials will travel throughly densely populated urban areas. Local laws banning such shipments, such as a 1976 New York City ordinance would be overridden by these regulations, and a serious danger could be posed unnecessarily to the health and safety of hundreds of thousands, possibly millions of urban dwellers. Delayed implementation of DOT regulations, even for the reasonably short period as provided for by the Ferraro amendment will allow consideration by Congress of alternative proposals which would provide safeguards for those affected individuals and communities.

Local laws regulating transport of radioactive materials enjoy strong popular support, reflecting the seriousness with which this issue is viewed by local elected officials and area residents. In New York City, a recent New York Daily News poll showed 81 percent of those polled opposed to transport of radioactive materials and other hazardous substances through city streets. Local officials approach the possibility of a serious transport accident with direct knowledge of safety issues likely to affect the impact of an accident on the community. Any Federal proposal which ignores the clear wishes of citizens and local government on this vitally important issue undermines the basis for the cooperation between units of government that is essential to federalism.

There is no need for this dangerous intrusion into the health and lives of urban residents. The Department of Transportation's reasoning that a direct trip through a dense urban area is safer than an indirect route around major population centers is recklessly unrealistic. It has an "Alice in Wonderland" quality to it, and ignores the huge risks involved every time you bring potentially lethal materials in close proximity to a large number of people.

A serious accident might involve release of unquestionably lethal, high-level radiation. Despite official claims of container strength, experience shows a great likelihood of serious consequences from an accident involving transport of radioactive materials. When a tractor-trailer carrying 42,000 pounds of radioactive uranium yellowcake crashed in southeastern Colorado in 1977, 43 of the 50 containers carrying the dangerous material broke open. And highway accidents are all too frequent: Between 1971 and 1979, the DOT received reports of 463 accidents involving radioactive materials. Good fortune has spared us, so far, from a devastating release of dangerous levels of radiation. But an accident in an urban area involving release of large amounts of radioactive materials can be expected to have calamitous effects, if we allow it to happen.

Transportation of radioactive materials by truck is the most accident prone of all commonly used carriers in the Nation, including air transport and trains. Highway accidents accounted for 87 percent of all accidents involving transport of radioactive substances, according to Sandia Laboratories. Partial or full spillage of the radioactive contents occurred in 36 percent of all train, air and highway accidents reported to the DOT between 1974 and 1978. The potential dangers posed to urban dwellers, as these figures show, are too great. We must take every reasonable step to avoid risking the welfare of American citizens. Rerouting radioactive transports around cities would result in a reasonably small additional cost which could be comfortably obsorbed by the companies involved.

As a Member of Congress representing a district through which nuclear materials would be shipped, I have long been concerned about this problem, and have offered legislation limiting such transport to areas with a population density of less than 12,000 people per square mile. I strongly urge that H.R. 7103, as amended, be adopted. The DOT rules in question are reckless, and would jeopardize more American lives than simple, relatively low-cost alternatives to shipping nuclear materials through densely populated areas. Sufficient concern must be shown for the health and safety of citizens before we bow to the convenience of the nuclear industry.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill, H.R. 7103, as amended.

The question was taken.

Mr. ANDERSON of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 610, CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–1443)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That the Senate recede from its amendments numbered 5, 27, 29, 34, 37, 39, 40, 41, and 48.

That the House recede from its disagreements to the amendments of the Senate numbered 1, 3, 6, 7, 8, 9, 10, 11, 14, 15, 18, and 22, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert:

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979, and except for title III of the Agriculture, Rural Development, and Related Agencies Appropriations Act, the programs in which shall continue at the rate of operations as provided for in the House-passed appropriation bill for fiscal year 1981.

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "title VIII"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "(a) and (b)"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$1,850,000,000 shall be available"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980 in volume 45, No. 106, Federal Register, pages 36810–36838, such payments to be the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any non-formula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.".

And the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

(i) Such amounts as may be necessary for projects and activities provided for in the Energy and Water Development Appropriation Act, 1981 (H.R. 7590), at a rate of operations, and to the extent and in the manner provided for in such Act as adopted by the House of Representatives and the Senate on September 24, 1980, notwithstanding section 102(c) of this joint resolution: *Provided*, That appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

(i) Funds available under the provisions of this section for child nutrition programs of the Department of Agriculture may be used to pay valid claims submitted in fiscal year 1981 for meals served in September 1980.

And the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

(1) Such amounts as provided in H.R. 8105, entitled the Department of Defense Appropriation Act, 1981, as passed the House of Representatives, September 16, 1980, and under the authority and conditions provided in the Department of Defense Appropriations Act, 1980.

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for victims of rape or incest, when such rape or incest has been reported within forty-eight hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pragnancy: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

And the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 115. Notwithstanding the provisions of section 101, activities of the Department of Energy to initiate preimplementation of standby gasoline rationing plans, as authorized by the Emergency Energy Conservation Act of 1979, shall be funded at not to exceed an annual rate for obligations of $42,677,000.

And the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of section number named in said amendment insert "116"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 117. Notwithstanding any other provision of this joint resolution, the amount available for the Postal Service shall not exceed $1,250,000,000.

And the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 120. Should it be necessary, such amounts as may be required for Expenses, Presidential Transition, notwithstanding any other provision of this joint resolution, but at a rate of operations not in excess of the amount contained in H.R. 7583 as passed by the House of Representatives.

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 122. Notwithstanding any other provision of this resolution: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $1,229,000,000 of new obligations shall be available.

And the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of section number 130 named in said amendment insert "123'; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of section number 131 named in said amendment insert "124"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of section number named in said amendment insert "125"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of section number named in said amendment insert "126"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 13, 25, 26, 28, 30, 35, 36, and 42.

Jamie L. Whitten
(except as to amendment No. 24),
Edward P. Boland,
William H. Natcher
(except as to amendment No. 24),
Neal Smith,
J. P. Addabbo,
Clarence D. Long,
Sidney R. Yates,
Gunn McKay
(except as to amendment No. 24),
Tom Bevill,
Bill Alexander,
Robert Duncan,
Adam Benjamin, Jr.
(except as to amendment No. 24),
Julian C. Dixon,
Silvio O. Conte,
Joseph M. McDade
(except as to amendment No. 24),
Mark Andrews,
Jack Edwards,
Managers on the Part of the House.

Warren G. Magnuson,
Robert C. Byrd,
William Proxmire,
Dan Inouye,
Tom Eagleton,
Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
Pat J. Leahy,
Jim Sasser,
Mark Hatfield,
Richard S. Schweiker,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 610), making continuing appropriations for the fiscal year 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

DEPARTMENT OF DEFENSE

Amendment No. 1: Deletes "Department of Defense Appropriation Act, 1981" from list of Departments and agencies contained at the current rate of operations. Defense funding is established at the rate of the House-passed bill as discussed under Amendment No. 23.

NEW YORK CITY

The Committee of Conference agrees that, for the purposes of this resolution, in interpreting the language contained in section 101(a)(3) concerning restrictive authority included in only one version of an Act as passed by the House and Senate, the restrictive authority as it applies to the proviso concerning the New York City Loan Guarantee Program contained in the 1981 HUD-Independent Agencies Appropriation Act must have been carried in the applicable appropriation Act for fiscal year 1980 before it is operative in fiscal year 1981.

Amendment No. 2: For activities in bills which have passed only the House as of October 1, 1980, the conferees agree that, except for these programs and activities specifically excluded, the rate of operation will be the rate provided for in the House passed bill or the current rate whichever is lower.

The language in the House passed resolution provided that the rate of operations would be the rate provided for in the House passed appropriations bills. The agreement includes the language provided by both the House and the Senate that the authority and conditions provided in applicable appropriation Acts for fiscal 1980 shall prevail.

Provides that section 201 of title II of the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriations Act for 1980 as adopted by the House of Representatives on August 2, 1979 shall not apply to this joint resolution.

The conferees also agree to provide that the programs in title III of the Agriculture, Rural Development and Related Agencies Appropriations Act of 1980 shall continue at the rate of operations as provided for in the House-passed appropriations bill for fiscal year 1981. These programs include food stamps, school lunch, WIC and others.

FOOD STAMP PROGRAM

Under the provisions of the resolution, the annual rate of operations for the food stamp program cannot exceed the rate provided for in the 1981 appropriations bill as passed by the House on July 30, 1980. During the effective period of the resolution, the Department will be expected to continue program operations at the current level of benefits. The Conferees agree that, in order to preserve the flexibility and prerogatives of the Congress to act on pending authorization and appropriation matters, the Department should exercise caution in expending funds at the current benefit level rate, utilizing all regulatory and administrative methods available to curtail fraud, waste and abuse. In this regard, due consideration should be given to the prospects for timely enactment of legislation necessary for the continuation of current program benefit levels after the effective period of this resolution.

Amendment No. 3: Adopts the Senate position which provides funding levels for programs contained in the Foreign Assistance Appropriations Act at the rate of the FY 1980 conference report agreement for Foreign Assistance (House Report 96–787) and additional funds for Operating Expenses of the Agency for International Development instead of the House position which provides for either the current or budget level, whichever is lower.

The managers agree that, under Section 101(b) of this Resolution, subscriptions to the callable capital stock of each of the several multilateral development banks shall be made on the basis of a program limitation in an amount not in excess of the amount which would have been provided under the conference (House Report 96–787), together with associated agreements stated in the Joint Explanatory Statement of the Committee of Conference, accompanying H.R. 4473, and that amounts which would have been provided under such Conference Agreement for United States contributions to each of the several multilateral development banks are reduced by an amount equal to the amount of the callable capital subscription.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: ", except that section 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office; and the provisions of section 306 of H.R. 7593 shall apply to any appropriation, fund or authority made available for the period October 1, 1980, through December 15, 1980, by this or any other Act".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The action of the conferees will yield an annual appropriation rate of $210,000,000 for the General Accounting Office and will provide a funding level sufficient to preclude the necessity of a reduction-in-force. The conferees agree that if recently estimated increases in project travel and per diem costs cause undue impact on the GAO workload, consideration will be given in the regular bill or the spring supplemental. The amendment also contains language that clarifies the intent of Section 101(c) to make Section 306 of H.R. 7593, as passed the House of Representatives on July 21, 1980, a Government-wide authority.

COUNCIL ON WAGE AND PRICE STABILITY

With respect to the Council on Wage and Price Stability (CWPS), it is the intention of Congress that all the powers and authorities available to CWPS during fiscal year 1980 be extended through the period covered by this resolution, notwithstanding Section 7 of the Council on Wage and Price Stability Act, as amended. The Congress intends by this action to preserve the existing authorities of CWPS during the term of this resolution, until the House and Senate resolve the differences in their bills extending the CWPS authorization.

DEPARTMENT OF JUSTICE

Amendment No. 5: Deletes language proposed by the Senate under Sec. 101(d) of the joint resolution, which would provide for continuing activities of the Marshals Service pertaining to the processing and detention of Cubans and Haitians and the service of private process at a rate of operations not in excess of the current rate. The conferees are agreed that service of private process will continue at the current rate pursuant to the agreement on amendment number 2.

Amendment No. 6: Inserts language proposed by the Senate under Sec. 101(d) of the joint resolution, which would permit activities of the Attorney General in connection with assistance for Joint State and Local Law Enforcement Agencies to be continued at a rate of operations not in excess of the current rate.

DEPARTMENT OF COMMERCE

Amendment No. 7: Inserts language proposed by the Senate under Sec. 101(d) of the joint resolution, which would permit activities of the United States Travel Service including the Assistant Secretary for Tourism to be continued at a rate of operations not in excess of the current rate.

Amendment No. 8: Deletes language proposed by the House to continue at the current rate activities for which provision is made in the Energy and Water Development Appropriation Act, 1981. The conference agreement on Senate Amendment No. 20 provides substitute language reflecting subseqent congressional action on this Act.

Amendment No. 9: Deletes language proposed by the House to continue activities of the Water Resources Council. This language is no longer required.

Amendment No. 10: Deletes language proposed by the House which would have funded the National Health Service Corps at a rate for operations not in excess of the current rate.

Amendment No. 11: Deletes the word "and" as proposed by the Senate.

Amendment No. 12: Inserts citation for title VIII of the Comprehensive Employment and Training Act as proposed by the Senate, but deletes citation for title III of the Comprehensive Employment and Training Act as proposed by the Senate.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows: "Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000; and".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 14: Inserts language proposed by the Senate to fund State Medicaid fraud control units at a rate for operations not in excess of the current rate and to continue Federal matching of these units at 90 percent.

Amendment No. 15: Deletes language proposed by the House which is no longer required for the purposes of this section.

Amendment No. 16: Inserts language as proposed by the Senate, amended to delete reference to section 127 which is no longer required.

Amendment No. 17: Provides that $1,850,000,000 shall be available for the low income energy assistance program in fiscal year 1981 of $1,800,000,000 as proposed by the House and $2,030,000,000 as proposed by the Senate.

Amendment No. 18: Deletes House language referencing the "terms and conditions" under which low income energy funds would be available, as proposed by the Senate.

Amendment No. 19: The conferees have agreed to revisions in the low income energy assistance program which provide that of the $1,850,000,000 available, $4,000,000 shall be for federal administrative expenses, $87,500,000 shall be for the Community Services Administration Crisis Intervention program, $2,500,000 shall be for grants to the territories, $1,706,000,000 shall be for energy assistance grants to the States to be distributed under the formula contained in House Report 96–1244 (Page 76) and $50,000,000 shall be available for grants to States to ensure that no State's low income energy grant will be less than 75% of the amount it would have been if the allocations to the States had been made under the formula contained in Public Law 96-223, the Crude Oil—Windfall Profits Tax Act. The conferees have further agreed that the program should be operated under the regulations promulgated by the Secretary of Health and Human Services on May 30, 1980 with two exceptions: the first provides that potential eligibility for the program should be expanded to include single person households with incomes below 125% of the CSA poverty level. These individuals were eligible in fiscal year 1980 and the conferees agreed that they should not be excluded in 1981. In addition the conferees have limited assistance to a maximum of $750 per household. The conferees believe that this amount is sufficient, but they have given the Secretary authority to waive this limit upon application of the Governor if it is determined to be in the best interest of the energy assistance program.

The Conferees are aware that a difference of interpretations has arisen regarding the application of the maintenance-of-effort provision of the low income energy assistance regulations. This provision prohibits States from reducing other public assistance programs in anticipation of an energy grant and was included to ensure that energy funds would be in addition to other funds already available rather than simply as a substitute of Federal dollars for State funds. While the conferees continue to support this concept, it is important that States not lose their energy grants because of an interpretation of the law which goes beyond its original intent. Some States appear to have made reductions in cash assistance programs for reasons totally unrelated to the availability of energy funds. The conferees believe that the Secretary should review the circumstances in each State on a case by case basis before excluding any State from the 1980–81 program because of a violation of the maintenance-of-effort clause. States should not be automatically excluded because of reductions if they were made for reasons not related to the availability of energy funds. The conferees are in agreement that the Secretary has the authority under the law to grant waivers of the maintenance-of-effort provision if it is determined that the granting of a waiver would be in the best interest of the energy assistance program. Nothing in this procedure shall increase the total eligibility of any State under the formula provided in this Act.

Amendment No. 20: Inserts language as proposed by the Senate to provide such amounts as are necessary for projects and activities provided for in the Energy and Water Development Appropriation Act, 1981 (H.R. 7590) which was passed by the House and Senate on September 24, 1980, but was not signed by the President at the time of the conference, amended to delete reference to section 127 which is no longer required.

CHILD NUTRITION PROGRAMS

Amendment No. 21: Modifies language proposed by the Senate which provided that USDA can pay valid claims for reimbursement for meals served in the child nutrition program regardless of the period in which the meals were served.

The 1980 Supplemental directed USDA to pay claims for meals served during September 1980 out of fiscal year 1981 funds. Under the House-passed resolution, these claims cannot be paid. The Senate amendment intended to make it legal to pay reimbursements for September meals. The conferees agree to a modification of the Senate language to clarify that the object of the amendment is meals served during September 1980, and not any other prior period.

Amendment No. 22: Inserts language proposed by the Senate to fund the National Health Service Corps at a rate not to exceed the fiscal year 1981 budget estimate.

Amendment No. 23: Provides that funding for the Department of Defense shall be continued at the various levels established in H.R. 8105, the Department of Defense Appropriation Act, 1981, as passed by the House of Representatives on September 16, 1980.

Amendment No. 24: Deletes language provision proposed by the House relating to payment for abortions and substitutes the following language:

Sec. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported within 48 hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 111. Such amounts as may be necessary for projects or activities provided for in the Military Construction Appropriation Act, 1981 (H.R. 7592), at a rate of operations and to the extent and in the manner provided for in the conference report (H. Rept. No. 96–1433) filed in the House of Representatives on September 29, 1980, notwithstanding section 102(c) of this joint resolution.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This language uses the rate of projects and activities provided for in the military construction appropriation conference agreement instead of the rate of expenditure allowed in the House-passed version of the fiscal year 1981 bill.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate.

This amendment reappropriates $15,000,000 of funds appropriated to the Department of Agriculture, Forest Service for "Forest Management, Protection and Utilization" in Public Law 96–304 for emergency activities caused by the eruption of Mount St. Helens in Washington State as proposed by the Senate.

PACIFIC NORTHWEST REGIONAL COMMISSION

The Conferees agree that, from within available funds, the Pacific Northwest Regional Commission may consider providing to the Port of Astoria, Oregon, such sums as may be necessary to relieve shoaling within the harbor caused by deposition of volcanic ash from Mt. St. Helens.

Amendment No. 27: Deletes language proposed by the Senate concerning the rate of operations for certain hazardous waste activities of the Environmental Protection Agency.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, amended to read as follows:

SEC. 113. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Any reference in the conference agreement to the "Lau Remedies" should not be interpreted as either ratifying or prohibiting the current Lau Remedies. The conference committee strongly maintains that the "Lau Remedies" are only suggestions from the Department of Education to school districts for methods of complying with the equal opportunity requirements under title VI of the Civil Rights Act of 1964.

SMALL BUSINESS ADMINISTRATION

Amendment No. 29: Deletes language proposed by the Senate which provided that notwithstanding Sec. 101(a) of this joint resolution, the Administrator of the Small Business Administration, pursuant to Section 4(c)(5)(a) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $174,000,000 for the purpose of providing disaster loans.

The conferees are agreed that the funds provided under Sec. 101(a) of this joint resolution for continuation of the disaster loan program of the Small Business Administration should be available immediately in their entirety for the period of this joint resolution.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 114. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amendment which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment become effective, the rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 75 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 86-74; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

This amendment provides for pay increases for prevailing rate employees.

Amendment No. 31: Provides for funding for preimplementation of standby gasoline rationing plans, as authorized by the Emergency Energy Conservation Act of 1979, of not to exceed an annual rate of $42,677,000 instead of $46,000,000 as proposed by the Senate, and renumbers the section. The House had no similar provision.

Amendment No. 32: Appropriates $1,383,000,000, to remain available until expended, for strategic petroleum reserve petroleum acquisition as proposed by the Senate, and renumbers the section.

Amendment No. 33: Inserts new section number and provides $1,250,000,000 for the Postal Service in lieu of the amount as reported in the bill H.R. 7583 by the Senate Committe on Appropriations ($1,063,217,000) and the amount contained in the bill H.R. 7583 as passed by the House of Representatives ($1,593,217,000).

The Conferees direct the Postal Service to continue six-day delivery of mail as at present, including Saturday delivery of mail in business and residential areas and on rural delivery routes.

Amendment No. 34: Deletes language proposed by the Senate which would have established specific funding levels for certain programs.

DEPARTMENT OF COMMERCE

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 118. (a) Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regualr decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. If the President decides to conduct a special census, it may be conducted solely at Federal expense.

(b) Notwithstanding any other provision of law, the number of Representatives in Congress to which each State would be entitled under the twentieth decennial census shall be determined only on the basis of the number of persons in each State who are citizens of the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENT OF JUSTICE

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 119. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which shall be coordinated with the General Services Administration and the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 37: Deletes language proposed by the Senate which would have appropriated specific amounts for aging social services and centers, aging research, training, and special projects, and the White House Conference on Aging. It is the understanding of the Conferees that the resolution provides an annual rate of $3,000,000 in new obligational authority for the White House Conference on Aging.

Amendment No. 38: Inserts new section number and makes available funds as proposed by the House and as provided for in H.R. 7583 as passed by the House on August 20, 1980, instead of making funds available as proposed by the Senate and as provided for in H.R. 7583 reported by the Senate Appropriations Committee and as proposed by the Senate. The conferees are agreed that $3,000,000 is to be available for Expenses, Presidential Transition.

Amendment No. 39: Deletes language proposed by the Senate which provided that the funds or authority of the joint resolution could not be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 1980.

Amendment No. 40: Deletes language proposed by the Senate which defined "current rate".

SMALL BUSINESS ADMINISTRATION

Amendment No. 41: Deletes language proposed by the Senate which prohibited any of the funds provided by this joint resolution for the Small Business Administration from being used to administer any disaster loan program in which participants may receive loans for that portion of those losses which are eligible for compensation through other direct Federal payment programs.

The conferees agree that this restriction concerning the disaster loan program of the Small Business Administration is contained in the Small Business Act, as amended, and therefore, inclusion of this provision in the joint resolution is unnecessary. It is noted, however, that the disaster loan application form used by SBA does not specifically require full disclosure, and reduction from the loan amounts, of all anticipated direct Federal payments. The conferees, therefore, direct SBA to review this form and accompanying instructions immediately and make such revisions as are necessary to comply fully with the disaster loan provisions of the Small Business Act, as amended.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 121. Notwithstanding any other provision of this joint resolution, for the purposes of Public Law 96-304 and Public Law 96-126 relating only to cooperative agreements and feasibility studies, the term "alternative fuels" as defined in Public Law 96-126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production: *Provided*, That obligations for energy feasibility studies and cooperative agreements for direct combustion, except for direct combustion of urban waste, shall not exceed $30,000,000, to be derived from the $300,000,000 appropriated for energy feasibility studies and cooperative agreements in Public Law 96–304: *Provided further*, That funding made available in the Energy Security Reserve account in Public Law 96–304 shall not exceed $17,522,000,000 when used for the purposes authorized under Title I of the Energy Security Act (Public Law 96–294) and shall not exceed $1,270,000,000 when used for the purposes authorized under Title II of such Act: *Provided further*, That funds obligated for biomass energy feasibility studies and cooperative agreements under the Alternative Fuels Production account in Public Law 96–304 shall apply to the Title II limitation, and all other funds obligated for such studies and agreements shall apply to the Title I limitation: *Provided further*, that of the $1,500,000,000 made available for "alternative fuels production" in Public Law 96–126 for purchase commitments and price quarantees, up to $500,000,000 shall be available instead to supplement the default reserve for loan guarantees established by such law: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under the supplemented reserve shall not exceed the aggregate of up to $3,000,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to expand the definition of alternative fuels for cooperative agreements and feasibility studies relating to Public Law 96–126 and Public Law 96–304 to include heavy oil and the direct combustion of minerals and organic materials other than petroleum and natural gas, as proposed by the Senate.

In addition, the managers agree to set aside $30,000,000 for a separate 60 day solicitation for feasibility studies and cooperative agreements for direct combustion technologies, excluding urban waste, out of the $300,000,000 made available under Public Law 96–304. By doing this, the managers intend that the current solicitation for feasibility studies and cooperative agreements now active will not be delayed, and that award of contracts under the solicitation, including those that may be approved for direct combustion of urban waste and production and refining of heavy oil, can proceed on schedule with the $270,000,000 remaining for that purpose.

Some confusion apparently still exists within the Department over the allocation of Energy Security Reserve funding spelled out in the supplemental appropriations bill for fiscal year 1980 (Public Law 96-304). To clarify congressional intent on the allocation of total funding, the managers have included more specific language in the accompanying bill. It limits total funding for biomass and urban waste energy to $1,270,000,000 while synthetic fuels as authorized by title I of the Energy Security Act are held to $17,522,000,000. Any awards under the interim Alternative Fuels program must count against those limitations.

Finally, the managers agree that up to $500,000,000 of funds provided in Public Law 96–126 for purchase commitments and price guarantees shall be available for a default reserve for loan guarantees established by said law and that the amount of outstanding guarantees may not exceed $3,000,000,000, including those allowed in Public Law 96–126. This provision allows a broad range of loan guarantees under the alternative fuels program.

Amendment No. 43: Inserts new section 122 which limits new obligations under title VI of the Comprehensive Employment and Training Act to not more than $1,229,000,000, instead of $743,000,000 as proposed by the Senate, but deletes language proposed by the Senate which would have established an obligation rate of $920,000,000 for subpart (3) of part A of title IV of the Comprehensive Employment and Training Act.

Amendment No. 44: Inserts new section number and inserts language as proposed by the Senate which prohibits the Internal Revenue Service from implementing or enforcing certain regulations or rulings with respect to Section 280A of the Internal Revenue Code.

Amendment No. 45: Inserts new section proposed by the Senate which prohibits the use of funds for implementing new day care regulations which are scheduled to go into effect on October 1, 1980.

Amendment No. 46: Inserts new section proposed by the Senate which provides that funding for emergency energy conservation services under the Community Services Administration shall be continued at a level not lower than that provided in fiscal year 1980.

Amendment No. 47: Inserts language proposed by the Senate providing that activities of the Solar Energy and Energy Conservation Bank shall be funded at an annual rate not in excess of $125,000,000, and amends the section number.

Amendment No. 48: Deletes language proposed by the Senate which would have prohibited the use of funds to carry out the Denver income maintenance program, authorized under section 1110 of the Social Security Act, after November 15, 1980.

JAMIS L. WHITTEN
(except as to amendment No. 24),
EDWARD P. BOLAND,
WILLIAM H. NATCHER
(except as to amendment No. 24),
NEAL SMITH,
J. P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
GUNN MCKAY
(except as to amendment No. 24),
TOM BEVILL,
BILL ALEXANDER,
ROBERT DUNCAN,
ADAM BENJAMIN, Jr.
(except as to amendment No. 24),
JULIAN C. DIXON,
SILVIO O. CONTE,
JOSEPH M. MCDADE
(except as to amendment No. 24),
MARK ANDREWS,
JACK EDWARDS,
Managers on the Part of the House.

WARREN G. MAGNUSON,
ROBERT C. BYRD,
WILLIAM PROXMIRE,
DAN INOUYE,
TOM EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PAT J. LEAHY,
JIM SASSER,
MARK HATFIELD,
RICHARD S. SCHWEIKER,
Managers on the Part of the Senate.

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of yesterday, I call up the conference report on the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unaniomus consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) is recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on House Joint Resolution 610, making continuing appropriations for fiscal year 1981, and that I may include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, after much work, we bring to the floor the concluding continuing resolution that will carry us until December 15. You will recall, Mr. Speaker, that we reported many of the appropriations bills out of committee to the House and passed them through the House rather earlier in the year. Some of them were delayed.

When this continuing resolution was introduced and considered by the House about 12 days ago included funding authority for the 12 bills which the House had passed in their entirety and included funding authority for other programs. We put them in the continuing resolution and sent them to our colleagues on the other side of the Capitol.

At the time we reported the continuing resolution, as I recall, they had completed one bill and had another bill under consideration. I thought it was a good way to make it easy for them to continue the Government's funding so that we could have adjourned. The Senate has now acted on several bills; and we now have about four bills that have been passed by both Houses, and several conferences have been adopted.

The continuing resolution therefore, will apply only to those bills where there has been no conference report adopted by the House and Senate and signed by the President.

☐ 0040

In bringing this bill to you, we are in agreement between the House and the Senate. There are one or two items where there is some difference in viewpoint with regard to some amendments. There is some diversity of feeling about it; but with the adoption of this continuing resolution we will allow the Government to continue to operate until December 15, until the regular bills are enacted.

I am very glad that we were able to

get together. It took quite a struggle and we accepted some things that are not quite as we would like them; but as you do know, under the situation which we face here if we did not make funds available on this the last day of the fiscal year, the departments of Government could not operate.

So it is absolutely a must that this conference report be adopted.

I want to say as we come to the conclusion of this particular session that it has been a pleasure through the years to work with my friend, the gentleman from Massachusetts (Mr. CONTE). He is my counterpart on the minority side. SILVIO and I have worked together very closely through the years, and if it were not for his cooperation we would not be here tonight with this agreement. We would not be in a position to bring you this resolution which will carry us through until December 15.

Mr. Speaker, I yield to my colleague, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding.

I want to commend each and every one of the conferees on this very difficult resolution and particularly on the health and human services part. I think they are no less than heroic. I know what they underwent and I sympathize and commend them and salute them and stand in awe of them.

I urge everyone to support this resolution. I think it is an excellent job under very difficult conditions. I personally am going to support it.

The language on the abortion issue, of course, is not perfect, in my judgment, but it is as close to perfection as human beings can make it, given the circumstances, from my perspective, and I intend to support it.

Once more, I commend and salute the conferees for their heroic work.

Mr. CONTE. I want to thank the gentleman from Illinois.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. ROUSSELOT. Can either one of our colleagues tell us, what is the status of the McDade provision that is in the bill?

Mr. CONTE. McKay?

Mr. ROUSSELOT. McDade.

Mr. CONTE. Oh, on the census?

Mr. ROUSSELOT. Yes.

Mr. CONTE. It is in here.

Mr. ROUSSELOT. Yes, we understand. I appreciate that outstanding definition. I just wonder, before we vote, if we might know what it says.

Mr. CONTE. Well, I would be glad to read it to the gentleman.

It says:

> Notwithstanding any provision of law, the number of representatives in Congress to which each state would be entitled under the 20th dicentennial census shall be determined only on the basis of the number of persons in each state who are citizens of the United States.

Mr. ROUSSELOT. So it is actually stronger than when it left here?

Mr. CONTE. It is very strong, very strong.

Mr. Speaker, I yield to my friend, the gentleman from Pennsylvania (Mr. MCDADE.

Mr. MCDADE. Mr. Speaker, I just want to make it clear to the House, and one of our colleagues is probably going to raise a point of order, this was raised in the conference. The point of order may lie. We will see what the Parliamentarian says. We have checked. It looks like it might.

But you all ought to know what is going on. There were only three negative votes against this in the conference committee. All it does is attempt to say that you only count citizens when you take the reapportionment for the House of Representatives. We are going to live with it for 10 years. Some of our colleagues are going to seek to knock it out on a parliamentary device.

Now, I think you ought to know about it, because it is an issue that we overwhelmingly passed by 51 votes in this House not long ago. What we are trying to do, really, is frame a statute that the courts can look at and decide. That is all.

It is in their interest. It is in your interest. It is in the interest of the House of Representatives as an institution to have that issue litigated. If we carry it in this bill as we do now, and the point of order was not offered, it could go downtown and be litigated in front of a three-judge court and it could be done by December. If you knock it out, as is the intention on the point of order, then we will be back to confusion again and I do not have to tell you about all the confusion that is occurring with the census.

We could at least decide that your citizens that you represent, citizens that I represent, are entitled to have equal one-man, one-vote representation in this House. Unfortunately, if the point of order is offered and if it is sustained, as it probably will be, then this House will be denied that opportunity.

Mr. CONTE. Well, I thank the gentleman from Pennsylvania.

Mr. Speaker, I rise in support of this conference report. I think it is a good one. The House and the Senate conferees worked since 9:30 this morning to try to reach this agreement. Certainly I do not agree with every item in this conference report, but I think it is the best agreement that could be reached under the circumstances. I urge the Members to vote for it.

Mr. Speaker, last spring the Attorney General ruled that when appropriations have lapsed that no obligations may be incurred except for the orderly termination of Federal programs and activities and, most of the day to day operations of the Federal agencies are financed from current appropriations that lapsed at midnight tonight; so we had a gun to us.

It is unfortunate, Mr. Speaker, that we have to operate under these circumstances, but those were the facts of life.

I only want to mention one thing and then I will revise and extend my remarks.

I know a lot of the Members were interested in the low income energy assistance program. The original House position provided for a program at a level of $1.8 billion, while the Senate sought a figure of $2 billion 30 million.

Now, the Senate level was understandably unacceptable to the House conferees because we were guided by the budget resolution that was passed by the House here, which provided only for $1 billion 800 million.

I offered a compromise in the conference. I want to thank the chairman of the subcommittee on HEW, the gentleman from Kentucky (BILL NATCHER) who supported me 100 percent, and my good friend, the gentleman from Massachusetts (EDDIE BOLAND) from Springfield and all the conferees for hanging fast against the Senate on this particular measure.

The conference agreement includes the following items:

A level of $1 billion 850 million was provided in this conference for low-income energy assistance for the fiscal year 1981.

Preservation of the House formula for distribution of the $1.8 billion was retained. A reserve amount of $50 million to insure that no State—no State, and I say to the gentleman from California (Mr. ROYBAL), the gentleman will be happy to hear this, that no State receives less than 75 percent of what it would have received if the $1.8 billion had been distributed under the windfall profit formula.

Now, this element of the compromise was designed to give a boost to a number of States, Southern States and California, that otherwise would not have done as well under the House formula.

The Community Service Administration will receive 5 percent of the $1.8 billion for the crisis intervention program, with $2.5 million of that amount going to the territories.

The House conferees accepted the Senate amendment expanding the eligibility to include single persons who live alone below the 125 percent of the poverty level. This will take care of about 300,000 elderly people who live alone in households.

In addition, a very important issue, the conferees have limited assistance to a maximum of $750 per household. As you recall, we passed a $500 cap here and the Senate included no cap at all. We raised that to $750, with a provision that if there are extreme circumstances in any State, that $750 cap can be waived.

In other words, while the conferees believe this amount to be sufficient, they have given the Secretary authority to waive this limit of $750.

I think it was a good compromise and I hope the House will adopt it.

Every year, it seems, that we go through these cliffhangers just before the start of the fiscal year. However, in past years, we were able to act on continuing resolutions several days and even a week after the start of the fiscal year, with language that validated obligations incurred during that period in anticipation of the passage of the continuing resolution.

However, last spring the Attorney

General ruled that when appropriations have lapsed, no obligations may be incurred except for the orderly termination of those programs and activities. Most of the day-to-day operations of Federal agencies are financed from current appropriations that lapse at midnight tonight.

We no longer can afford extended disagreements over continuing resolutions past the beginning of the fiscal year.

This resolution provides funds for billions of dollars in Federal grants and benefits, from veterans' benefits to the administrative expenses of the Social Security system—from child nutrition to food stamps—from the entire Department of Defense to the salaries and operating expenses for nearly all Federal agencies, including the legislative branch.

I urge my colleagues to view this continuing resolution in this light, and to disregard any differences they may have with individual agreements reached by the conferees.

For the benefit of the House, I would like to review some of the general agreements reached by the conferees.

The joint resolution provides continuing appropriations and authority for projects and activities until December 15, 1980. If during that period an appropriation is enacted for the project or activity, or the applicable appropriation bill is enacted without an appropriation for the project or activity, the continuing appropriation and authority are terminated.

The conferees agreed that where a bill has passed only the House as of October 1, the rate under the continuing resolution shall be the House rate or the current rate, whichever is lower, and under the authority and conditions in effect during fiscal 1980.

As the joint resolution left the House, it provided that where a bill has passed both the House and the Senate as of October 1, projects and activities shall be continued under the lower rate and under the more restrictive authority.

Where an item is included in only one version of an act that has passed both the House and the Senate, the item shall be continued at the current rate or the rate provided by the one House, whichever is lower, and under the conditions in effect in fiscal 1980.

Given the status of appropriation bills as of today, the rates for the various bills will be as follows:

Six bills have passed only the House, and under section 101(a), would be continued under the House rate or the current rate, whichever is lower, and under the terms and conditions in effect in fiscal 1980: Agriculture, District of Columbia, Interior, Labor-HHS. State-Justice-Commerce-Judiciary, Treasury-Postal Service.

Two bills covered by section 101(a) have passed the House and the Senate, and will be continued at the House or Senate, and will be continued at the House or Senate rate, whichever is lower, and under the more restrictive authority: HUD-independent agencies, Transportation.

Special provision is made for five bills: Defense activities are continued at the House rate, and under the 1980 terms and conditions.

Energy and water activities are continued as provided in the conference report on the 1981 bill as passed by the House and the Senate.

Foreign assistance activities are continued at the rate provided in the conference report on the 1980 bill.

Military construction activities are continued at the rate and in the manner provided in the conference report on the 1918 bill as filed in the House.

Legislative branch activities are continued at the rate, and under the conditions, of the House-passed bill.

Of course, if a bill is signed into law, that bill becomes the appropriation, and the provisions of the continuing resolution cease to operate, unless there is a provision which by its terms constitutes permanent law, by virtue of "notwithstanding any other provision of law", or "notwithstanding any other provision of this joint resolution."

The conference report on the energy and water bill has passed the House and the Senate. The conference report on the transportation bill passed the House today. These bills may become law and supersede the provisions of the continuing resolution.

For the benefit of my colleagues, I would like to review some of the specific agreements reached by the conferees.

In the Labor, Health and Human Services and Education section of the continuing resolution it is worth noting a number of key issues resolved by the conferees.

In the area of aging programs the Senate receded to the House position. Essentially this means that "social services and centers" will be continued at the 1980 level of $247 million while "aging research, training and special projects" will be funded at $45.5 million.

Under CETA the Senate accepted the House position and withdrew its attempt to increase CETA title III by more than $200 mililon.

At the same time, under CETA title VI the House conferees convinced the Senate conferees that it would be unwise to cut title VI, temporary employment assistance by the $550 million that the Senate proposed. In the end a compromise was reached which averted the elimination of more than 88,000 public service jobs. The compromise reached provided at $64 million reduction in title VI below the House level, rather than the $550 million reduction the Senate was seeking.

The House accepted a Senate compromise to add $64 million to CETA title VIII, the Young Adult Conservation Corps, bringing it to a level of $200 million. That level is $64 million above the House bill level, but $50 million below the 1980 program level.

The House accepted the Senate position on the funding of the National Health Service Corps which called for a level of $87.2 million, $8 million above the House bill level and equal to the budget request for fiscal 1981.

The House also accepted the Senate position on support of State medicaid fraud control units at the extended matching rate of 90 percent. That matching rate was set to expire tonight and revert to a 50-percent matching rate. We all know the need to fight fraud and abuse in the medicaid system and that is why we felt it would be appropriate to go along with the Senate amendment.

The Senate had included in their version of the continuing resolution an amendment which precluded any funds from being used to "promulgate or enforce any final regulations" relative to bilingual education. Conferees also reached a compromise on this item as all concerned felt it was important to give the Secretary of Education the opportunity to begin developing regulations. Hence, the compromise reached struck the word "promulgate" and inserted "adopt" so that while no final regulations may be adopted or enforced, the Department can develop regulations by holding any necessary hearings and seeking opinions.

Perhaps the toughest compromise reached today after several hours of serious debate was the one agreed to by the conferees on low income energy assistance.

The original House position provided for the program at a level of $1.8 billion while the Senate was seeking $2,030 million. The Senate level was understandably unacceptable to the House conferees because the additional $230 million would have put us over the House's first budget resolution and over the President's budget level for Labor, Health and Human Services, and Education appropriations for fiscal 1981. That the House could not accept.

Mr. Speaker, I proposed and struck a good compromise with the support of Chairman NATCHER and our House conferees. That compromise includes the following elements:

A level of $1,850 million for low-income energy assistance for fiscal 1981.

Preservation of the House formula for distribution of $1.8 billion.

A reserved amount of $50 million to insure that no State receives less than 75 percent of what it would have received if $1.8 billion had been distributed under the windfall profits formula. This element of the compromise was designed to give a bit of a boost to a number of States that otherwise would not have done as well as they might have hoped under the House formula.

The Community Services Administration will receive 5 percent of the $1.8 billion for the crisis intervention program with $2.5 million of that amount going to the territories.

The House conferees accepted the Senate amendment expanding eligibility to include single person households below 125 percent of the poverty level. This provision makes eligible about 300,000 elderly, single persons who were eligible under last year's program.

In addition, the conferees have limited assistance to a maximum of $750 per household. While the conferees believe this amount to be sufficient, they have given the Secretary authority to waive this limit upon application of the Governor if it is determined to be in the best interest of the energy assistance program.

Let me assure my colleagues that this

is a sound compromise that goes beyond serving parochial interests to meeting the needs of all sections of the country. Under the compromise every State receives at least the amount agreed upon by the full House in the 1981 Labor, Health and Human Services and Education bill. Nine States including California, Mississippi, Alabama, Arizona, Florida, Georgia, Hawaii, Louisiana, and Texas are covered by additional funds from the $50 million set aside. The elderly single persons are taken care of and the cap is at a reasonable level to allow every State to operate a successful program.

This is a fine compromise and one I urge all my colleagues to support.

Mr. Speaker, none of the bills that come out of the Appropriations Committee gives this House more difficulties and more headaches than the foreign aid bill. Here we are on the last night of fiscal year 1980, and we have not even passed the fiscal 1980 foreign aid appropriations bill—that is last year's bill. The fiscal 1981 foreign aid bill is the only regular appropriations bill which has not been acted on by either House.

The conferees on this continuing resolution have reached what I consider to be a reasonable compromise between those who favor higher foreign aid funding and those who do not. By agreeing to insert into this resolution the conference report on the fiscal 1980 foreign aid appropriations bill, foreign aid programs will be 1 year behind in the normal funding cycle, rather than 2 years behind.

Also, by taking the fiscal 1980 conference report levels, the Export-Import Bank will receive an additional $999 million—nearly a billion dollars—for direct lending operations than the Bank would otherwise have available. Exports mean jobs, and export promotion makes a lot more sense and will help your unemployed workers far better than make-work projects or unemployment compensation.

On matters relating to the HUD and Independent Agencies appropriations, the conferees have agreed to provide $125 million for the Solar Energy and Energy Conservation Bank as proposed by the Senate rather than $90 million as proposed by the House. The conference agreement does not include the $16 million proposed by the Senate for toxic substances work by EPA nor does it contain the language of the so-called Proxmire amendment relating to the New York City loan guarantee program.

With respect to the Department of Interior and Related Agencies, the conferees considered four amendments. First, the House receded to the Senate on the question of reappropriating $15 million of the $25 million originally contained in Public Law 96–304 the supplemental appropriations bill, for Forest Service activities relating to the Mount St. Helens eruption. Second, the House receded to the Senate with an amendment to provide $42.6 million for pre-implementation activities relating to the standby gas rationing program. Third, the House agreed with the Senate to provide $1.3 billion in new appropriations for the purchase of petroleum for the strategic petroleum reserve. The House had originally proposed $775 million in new appropriations and $300 million in reappropriated funds. The agreement providing for $1.3 billion in new appropriations anticipates an accelerated purchase program. Fourth, the conference report includes a further definition of "alternative fuels" for cooperative agreements and feasibility studies authorized under Public Law 96–304 and Public Law 96–126 to include heavy oil and innovative systems for direct burning of materials other than petroleum and natural gas, which may include peat, urban water, and biomass.

Further, $30 million of the $300 million made available for feasibility studies and cooperative agreements shall be available for these direct combustion activities other than urban waste and any of the funds from the $30 million used for biomass projects shall be counted against the $1.050 billion provided for title II biomass activities in the Energy Security Act.

Further from the $1.5 billion appropriated in Public Law 96–126 for purchase agreements and price guarantees, an additional $500 million is set aside for loan guarantee reserves. This is in addition to the $500 million already made available in reserves to support loan guarantees up to $1.5 billion.

STATE-JUSTICE

Programs and agencies funded in the State, Justice, Commerce, and Judiciary appropriations bill would be set at House-passed or current levels, whichever is lower, and under the provisions in the fiscal 1980 appropriations act.

The conferees have agreed to make available immediately funds allowed by the resolution for the Small Business Administration disaster loan program. Adequate funds will be available for the needs of this program through mid-December. The conferees direct SBA to review its procedures to insure that the law is being followed to avoid duplication in Federal disaster assistance programs.

Language is included to allow the Census Bureau to revise 1980 census figures if the President determines that a State, county or locality is significantly affected by a major population change due to a large number of legal immigrants within 6 months of a regular decennial census date. Further language stipulates that only citizens of the United States will be counted for purposes of determining the number of Representatives in Congress each State would be entitled to.

The conference agreement provides $1.250 billion for the Postal Service, and the conferees direct the Postal Service to continue 6-day delivery of mail, including Saturday delivery of mail in business and residential areas, and on rural delivery routes.

The conferees agreed on a pay raise and a pay cap for blue-collar workers. The amount and the timing of blue-collar wage increases are determined by wage surveys taken in different regions at different times during the year. While the amount of the wage increase calculated for 1980 varied from region to region, all increases were capped at 7 percent. The difference between the amount calculated for 1981, and 7 percent, carries over as "due" in 1981. The conference agreement provides that in 1981 blue-collar workers shall receive 75 percent of the amount "due" from 1980, plus the amount calculated for 1981, up to a total of 9.1 percent.

Since the conference agreement continues the provisions of the Legislative Branch Appropriations Act for 1981 as passed the House, Members who vote for this conference agreement will also be voting for a pay freeze for Members of Congress and high-level officials of the legislative, judicial, and executive branches of the Federal Government and of the District of Columbia.

The Legislative Branch Appropriations Act also contained, and this conference agreement provides, a 1981 limitation that performance payments may not be made to more than 25 percent senior Executive service personnel in any agency.

☐ 0050

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. ROUSSELOT. I hate to bring this up, but I will anyway. Does this cost any more than when it left the House?

Mr. CONTE. Does the gentleman mean the entire bill?

Mr. ROUSSELOT. No, the cost of the bill. I hate to bring that up.

Mr. CONTE. The entire cost of the continuing resolution?

Mr. ROUSSELOT. Yes.

Mr. CONTE. It is less.

Mr. ROUSSELOT. How much is it?

Mr. CONTE. It is less because we took, under amendment 2, I believe, of the bill, we took either the current rate or the House bill, whichever was lower, so I would say less.

Mr. ROUSSELOT. What is the cost of this bill, do we know? Do we have a price tag?

Mr. CONTE. Not exactly, it is very difficult to say.

Mr. ROUSSELOT. Very difficult to figure out?

Mr. CONTE. Yes, because we either take the current rate or the House item, whichever is less, so you would have to sit down with a computer here until about 5 o'clock in the morning to work that out.

Mr. ROUSSELOT. So we really do not know what the amount is?

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, included in this conference report is the fiscal year 1980 conference report on the Foreign Assistance Appropriation Act. In effect, this was the Senate position and it represents an increase of $352,799,891 over the House position, plus an additional $999,000,000 in direct loan authority for the Export-Import Bank.

In order to insure that the funding levels for each of the various programs are clearly understood, I am inserting in the RECORD at this point a table which lists each account. The House and Senate conferees are in agreement to these amounts.

FOREIGN ASSISTANCE AND RELATED PROGRAMS CONTINUING RESOLUTION APPROPRIATIONS, FISCAL YEAR 1981

Item	Continuing resolution, fiscal year 1981
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE	
Funds Appropriated to the President	
International Financial Institutions	
Contribution to the Inter-American Development Bank:	
Inter-regional paid-in capital	$51, 547, 047
Callable capital limitation	(560, 754, 950)
Fund for special operations	200, 000, 000
Total, contribution to the Inter-American Development Bank	251, 547, 047
Contribution to the International Bank for Reconstruction and Development:	
Paid-in capital	32, 800, 000
Callable capital limitation	(295, 200, 000)
Total, contribution to the International Bank for Reconstruction and Development	32, 800, 000
Contribution to the International Finance Corp	33, 447, 900
Contribution to the International Development Association	1, 072, 000, 000
Total, World Bank Group	1, 138, 247, 900
Contribution to the Asian Development Bank:	
Paid-in capital	24, 827, 301
Callable capital limitation	(223, 387, 386)
Development fund	114, 785, 313
Total, contribution to the Asian Development Bank	139, 612, 614
Contribution to the African Development Fund	41, 666, 667
Subtotal, International Financial Institutions	1, 571, 074, 228
Total, International financial institutions:	
Paid-in and special funds	1, 571, 074, 228
Callable capital limitation	(1, 079, 342, 336)
Department of State	
International organizations and programs	256, 280, 000
Total, title I, new budget (obligational) authority, economic assistance—multilateral	1, 827, 354, 228
TITLE II—BILATERAL ECONOMIC ASSISTANCE	
Funds Appropriated to the President	
Agency for International Development	
Agriculture, rural development, and nutrition development assistance	635, 000, 000
Population planning, development assistance	190, 000, 000
Health, development assistance	135, 000, 000
Education and human resources development development assistance	101, 000, 000
Technical assistance, energy, research, reconstruction and selected development problems, development assistance	111, 888, 500
Total, development assistance	1, 172, 888, 500
Loans	(387, 000, 000)
Grants	(785, 888, 500)
American schools and hospitals abroad	20, 000, 000
International disaster assistance	73, 000, 000
African refugee assistance	14, 250, 000
Sahel development program	92, 500, 000
Payment to the Foreign Service Retirement and Disability Fund	25, 676, 000
Overseas training (foreign currency program)	(20, 700, 000)
Economic support fund	1, 984, 500, 000
Peacekeeping operations	21, 100, 000
Programs of Scientific and Technological Cooperation	12, 000, 000
AID operating expenses [1]	280, 000, 000
Total, Agency for International Development	3, 695, 914, 500
Department of State	
International narcotics control	48, 758, 000
Inter-American Foundation	
Appropriations	15, 964, 000
Limitation on obligations	(1, 036, 000)
Total, Funds Appropriated to the President	3, 760, 636, 500
Peace Corps	105, 000, 000
Department of State	
Migration and refugee assistance	456, 241, 000
United States Emergency Refugee and Migration Assistance Fund	35, 000, 000
Cuban and Haitian Entrants Program [2]	65, 000, 000
Total, Department of State	556, 241, 000
Total, title II, (Economic assistance—bilateral: New budget (obligational) authority	4, 421, 877, 500
TITLE III—MILITARY ASSISTANCE	
Funds Appropriated to the President	
Military assistance	110, 200, 000
International military education and training	28, 400, 000
Foreign military credit sales	659, 250, 000
Total, title III, Military assistance: New budget (obligational) authority	797, 850, 000
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES	
(Limitation on program activity) [3]	(6, 458, 241, 000)
(Limitation on direct loans) [4]	(5, 364, 000, 000)
(Limitation on guarantee commitments) [4]	(6, 815, 000, 000)
(Limitation on administrative expenses)	(14, 129, 000)
Total, title IV, Export-Import Bank of the United States, (limitations on use of corporate funds) [4]	(12, 193, 129, 000)
Grand total, all titles:	
New budget (obligational) authority	7, 047, 081, 728*
(Foreign currencies)	(20, 700, 000)
(Limitation on obligations)	(1, 036. 000)

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[1] Includes $2,950,000 for I.D.C.A. operating expenses.

[2] This item was provided in a separate item of the continuing resolution.

[3] Format as shown in 1980.

[4] New presentation format for 1981

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 292, nays 100, not voting 40, as follows:

[Roll No. 608]

YEAS—292

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Coelho
Coleman
Conte
Convers
Corcoran
Corman
Cotter
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Tenn.
Fowler
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kogovsek
Kostmayer
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Neal
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino

Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Seiberling
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
St Germain
Stack
Stanton
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—100

Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Cheney
Clay
Cleveland
Clinger
Collins, Ill.
Collins, Tex.
Coughlin
Crane, Daniel
Dannemeyer
Dellums
Derwinski
Devine
Edwards, Calif.
Erdahl
Evans, Ind.
Fenwick
Fithian
Forsythe
Fountain
Frenzel
Gingrich
Glickman
Goldwater
Goodling
Gramm
Grisham
Hagedorn
Hamilton
Hammerschmidt
Hansen
Jacobs
Jeffords
Jeffries
Jenkins
Kelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Lee
Lewis
Livingston
Loeffler
Lungren
McDonald
Madigan
Marlenee
Martin
Mathis
Mattox
Miller, Calif.
Miller, Ohio
Moffett
Moore
Moorhead, Calif.
Mottl
Natcher
Oakar
Panetta
Paul
Petri
Pickle
Porter
Regula
Rousselot
Royer
Rudd
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Snyder
Spence
Stangeland
Stark
Stenholm
Stump
Symms
Taylor
Thomas
Walker
Weaver
Whittaker
Young, Fla.

NOT VOTING—40

Anderson, Ill.
Andrews, N.C.
Bethune
Breaux
Conable
Crane, Philip
Dickinson
Dodd
Drinan
Edgar
Ford, Mich.
Fuqua
Giaimo
Grassley
Heckler
Holtzman
Horton
Ichord
Jenrette
Leach, La.
Long, La.
Michel
Moorhead, Pa.
Myers, Pa.
Nedzi
Nelson
Quayle
Railsback
Roberts
Schroeder
Shannon
Staggers
Steed
Stockman
Vander Jagt
Volkmer
Wilson, C. H.
Winn
Wydler
Young, Alaska

The Clerk announced the following pairs

Mr. Nedzi with Mr. Young of Alaska.

Mr. Staggers with Mr. Vander Jagt.

Mr. Moorhead of Pennsylvania with Mr. Grassley.

Mr. Breaux with Mr. Bethune.

Mr. Fuqua with Mr. Conable.

Mr. Giaimo with Mr. Quayle.

Mr. Long of Louisiana with Mr. Railsback.

Mr. Jenrette with Mr. Winn.

Mr. Andrews of North Carolina with Mr. Michel.

Mr. Dodd with Mrs. Heckler.

Mr. Ford of Michigan with Mr. Philip M. Crane.

Ms. Holtzman with Mr. Dickinson.

Mr. Nelson with Mr. Steed.

Mr. Myers of Pennsylvania with Mr. Wydler.

Mr. Roberts with Mrs. Schroeder.

Mr. Nelson with Mr. Steed.

Mr. Shannon with Mr. Volkmer.

Mr. Edgar with Mr. Charles H. Wilson of California.

Mr. Drinan with Mr. Anderson of Illinois.

Mrs. COLLINS of Illinois and Mr. GLICKMAN changed their votes from "yea" to "nay."

Mr. ABDNOR changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 4, line 22, after "1980" insert ", except that the amount provided therein for salaries and expenses of the General Accounting Office shall be $216,000,000 for the purposes of this joint resolution and that section 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office; and the provisions of section 306 of H.R. 7593 shall apply to any appropriation, fund or authority made available for the period October 1, 1980, through December 15, 1980, by this or any other Act".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", except section 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office; and the provisions of section 306 of H.R. 7593 shall apply to any appropriation, fund or authority made available for the period October 1, 1980, through December 15, 1980, by this or any other Act".

The motion was agreed to.

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The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 6, line 22, strike out "Act." and insert "Act; and".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000; and".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 12, after line 4, insert:

Sec. 111. Notwithstanding any other provision of this joint resolution, appropriations made by section 101(a)(1) to carry out military construction projects may be used for the purpose of entering into contracts for the construction of new projects to the extent that such new projects have been included in identical form in the Military Construction Appropriation Act, 1981, as passed by the House and the Senate.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"Sec. 111. Such amounts as may be necessary for projects or actiivites provided for in the Military Construction Appropriation Act, 1981 (H.R. 7592), at a rate of operations and to the extent and in the manner provided for in the conference report (H. Rept. No. 96–1433) filed in the House of Representatives on September 29, 1980, notwithstanding section 102(c) of this joint resolution."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

Senate amendment No. 26: Page 12, after line 4, insert:

The Clerk read as follows:

Sec. 112. Of the additional amount appropriated under Public Law 96–304, to the Department of Agriculture, Forest Service for "Forest Management, Protection and Utilization", $15,000,000 for emergency activities caused by the eruption of Mount St. Helens in Washington State shall remain available for obligation until expended.

MOTION OFFERED BY MR. WHITTEN

The Clerk read as follows:

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 12, after line 4, insert:

Sec. 114. Notwithstanding any other provision of law no funds available to the Secretary of Education shall be used to promulgate or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"Sec. 113. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 12, after line 4, insert:

Sec. 116. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment becomes effective, rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 50 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 96-74; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shll be treated as the rate of salary or basic pay.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 114. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment becomes effective, rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 75 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 96-74; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 12, after line 4, insert:

SEC. 121. Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. Any such special census of revised estimate shall be conducted solely at Federal expense. Such special census or revised estimate shall be conducted no later than twelve months after the regular census date and shall be designated the official census statistics and may be used in the manner provided by applicable law.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 118. (a) Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. If the President decides to conduct a special census, it may be conducted solely at Federal expense.

(b) Notwithstanding any other provision of law, the number of Representatives in Congress to which each State would be entitled under the twentieth decennial census shall be determined only on the basis of the number of persons in each State who are citizens of the United States.

POINT OF ORDER

Mr. GARCIA. Mr. Speaker, I raise a point of order against the motion to recede and concur in the Senate amendment with an amendment.

Mr. Speaker, the motion to recede and concur is not in order because it does not meet the germaneness test under clause 7 of rule 16 of the rules of the House which provide that, "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

Under the precedents of the House germaneness is determined by the text of the amendment and the burden of proof must be carried by the proponent of the amendment.

The Senate amendment is limited to situations such as the unprecedented influx of Cuban refugees who were lawfully admitted into the country after the census got underway. Senator CHILES' amendment is limited in scope and addresses a unique problem not heretofore encountered in the census.

The amendment is limited to a specific period of time and to a specific category of people who enter the country lawfully around the time the census is taken.

Specifically, the Senate amendment authorizes the Secretary of Commerce to conduct a special census, within 6 months of the decennial census, in order where there has been an unprecedented influx of legal aliens. The number of legal aliens counted in this special census would then be added to the official census figures and used for all legal purposes. The House amendment on the other hand would fundamentally alter and enlarge the purpose of the Senate amendment, and accordingly, the entire motion to recede and concur with an amendment is not in order.

The House amendment directly impacts on the reapportionment of the House following the decennial census. Specifically, the amendment to the Senate amendment would base the apportionment of seats in the House on the number of citizens counted in the census. It would exclude legal as well as illegal aliens counted in the census and incorporated into the apportionment base. Unlike the Senate amendment which is limited to a specific situation, the amendment to the Senate amendment encompasses legal as well as illegal aliens counted in the census. Moreover, it is not restricted to any time frame so that any alien who enters the country regardless of the circumstances and legality of their entry are subject to exclusion from the census.

Thus, the amendment is not germane because it vitiates the applicability of the Senate amendment for all legal purposes. Mr. Speaker, for the foregoing reasons, I must insist on my point of order.

The SPEAKER. Does the gentleman from Mississippi desire to be heard on the point of order?

Mr. WHITTEN. Mr. Speaker, this amendment was offered by the gentleman from Pennsylvania (Mr. MCDADE).

The SPEAKER. Does the gentleman from Pennsylvania desire to be heard?

Mr. McDADE. I do, Mr. Speaker.

Mr. Speaker, this amendment was adopted with only 3 negative votes in the conference.

Mr. Speaker, I rise in opposition to the point of order. Under the precedents, when a motion is made to recede and concur in an amendment of the Senate with a further amendment, the only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement.

This amendment is germane to the Senate amendment. Both the Senate amendment, and the amendment in the motion, constitute permanent law, since they both contain the phrase "Notwithstanding any other provision of law."

Both of the amendments deal with the same subject, that is, the census. Both deal with the question of who shall be included in the census.

The amendment is germane, and the point of order should be overruled.

□ 0120

Mr. ROSENTHAL. Mr. Speaker——

The SPEAKER. The Chair is ready to rule. Does the gentleman still wish to be heard?

Mr. ROSENTHAL. Under those circumstances, no.

The SPEAKER. The gentleman from New York makes the point of order that the amendment contained in the motion offered by the gentleman from Mississippi (Mr. Whitten) is not germane to the Senate amendment No. 35. Under the precedents as cited in Deschlers' Procedure, chapter 28, section 21, when a Senate amendment reported in disagreement by conferees is under consideration, a proposal to amend must be germane to the Senate amendment.

Senate amendment No. 35 provides that the President may order a special census to be taken if he determines that a State or local unit of government is significantly impacted by a major population change due to a large number of legal aliens within 6 months of a regular decennial census, and that such census in those areas when conducted would be designated as the official census under all applicable law.

The proposed amendment to the Senate amendment, in addition to a slight modification of the Senate language, contains, the addition requirement that representation in Congress to which each State would be entitled under the 20th Decennial Census shall be determined only on the basis of the number of persons in each State who are U.S. citizens. In the opinion of the Chair, the proposed amendment represents a significant broadening of the issue presented by the Senate amendment No. 35, as it addresses not only those areas impacted by legal immigrants within 6 months of a general census, but attempts to legislate on the issue of whether legal and illegal aliens in all areas of the United States should be counted for reapportionment of the House of Representatives. The Chair sustains the point of order.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a substitute motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 118. Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. If the President decides to conduct a special census, it may be conducted solely at Federal expense.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: Page 12, after line 4, insert:

Sec. 122. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which must be approved by the General Services Administration in coordination with the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment: and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 119. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which shall be coordinated with the General Services Administration and the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the motion, and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 12, after line 4, insert:

Sec. 128. For the purposes of Public Law 96-304 and Public Law 96-126 relating only to cooperative agreements and feasibility studies, the term "alternative fuels" as defined in Public Law 96-126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment, and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Sec. 121. Notwithstanding any other provision of this joint resolution, for the purposes of Public Law 96-304 and Public Law 96-126 relating only to cooperative agreements and feasibility studies, the term "alternative fuels" as defined in Public Law 96-126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production: *Provided*, That obligations for energy feasibility studies and cooperative agreements for direct combustion, except for direct combustion of urban waste, shall not exceed $30,000,000, to be derived from the $300,000,000 appropriated for energy feasibility studies and cooperative agreements in Public Law 96-304: *Provided further*, That funding made available in the Energy Security Reserve account in Public Law 96-304 shall not exceed $17,522,000,000 when used for the purposes authorized under Title I of the Energy Security Act (Public Law 96-294) and shall not exceed $1,270,000,000 when used for the purposes authorized under Title II of such Act: *Provided further*, That funds obligated for biomass energy feasibility studies and cooperative agreements under the Alternative Fuels Production account in Public Law 96-304 shall apply to the Title II limitation, and all other funds obligated for such studies and agreements shall apply to the Title I limitation: *Provided further*, That of the $1,500,000,000 made available for "alternative fuels production" in Public Law 96–126 for purchase commitments and price guarantees, up to $500,000,000 shall be available instead to supplement the default reserve for loan guarantees established by such law: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under the supplemented reserve shall not exceed the aggregate of up to $3,000,000,000.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions were laid on the table.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS, NOTWITHSTANDING ADJOURNMENT OF THE HOUSE UNTIL WEDNESDAY, OCTOBER 1, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Wednesday, October 1, 1980, the clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the majority leader could tell us, if this authority is granted, what the program will be for the remainder of this evening, which is October 1.

Mr. WRIGHT. I expect the hope would be that the other body would act favorably upon those things that we have auhorized and approved here in the House, and that we might wait for a brief time to see if that is taking place, during which time we could proceed with a few more of the suspensions.

If it should reach the point where it is apparent to us that we have arrived at loggerheads, then we would repair to our residences for the evening and reassemble tomorrow.

Mr. BAUMAN. Does the gentleman have any definition of a decent time? At this hour, almost all time may be considered indecent.

Mr. WRIGHT. Two o'clock or thereabouts. I am not going to establish a specific time at this moment because I think there needs to be a certain amount of flexibility to permit the exercise of human judgment, but I am not at all sure that we are opearting at the moment at a decent hour, even.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us when we might expect the adjournment resolution? Will it be Wednesday or Thursday?

Mr. WRIGHT. I believe Thursday.

The SPEAKER. The Chair will answer that. It is agreed that when the Senate has completed its business on the continuing resolution, at that time they would take it up and it would come to us. But, we plan a Thursday session.

Mr. ROUSSELOT. I thank the Speaker, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Reserving the right to object, Mr. Speaker, could I have clarification on the statement the Chair just made as to when the House would take up the recess resolution? The Senate has already acted on the resolution, I am told.

The SPEAKER. When the Senate completes its business we understand it is going to be sent to us. At that time we will take the matter up.

Mr. RHODES. Will that be tonight?

The SPEAKER. No, not tonight.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPEAL OF LEA ACT

Mr. MOTTL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4892) to repeal section 506 of the Communications Act of 1934, as amended.

The Clerk read as follows:

H.R. 4892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by striking out section 506, and by redesignating section 507 through section 509 as section 506 through section 508, respectively.

Sec. 2. (a) Section 317(b) of the Communications Act of 1934 (47 U.S.C. 317(b)) is amended by striking out "section 508" and inserting in lieu thereof "section 507".

(b) Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(1) by striking out "509(a)" and inserting in lieu thereof "508(a)"; and

(2) by striking out "section 507" and inserting in lieu thereof "section 506".

(c) Section 504(b) of the Communications Act of 1934 (47 U.S.C. 504(b)) is amended by striking out "507" and inserting in lieu thereof "506".

The SPEAKER. Under the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. Mottl) will be recognized for 20 minutes, and the gentleman from Texas (Mr. Collins) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Mottl).

Mr. MOTTL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4892 would repeal section 50 of the Communications Act, commonly known as the Lea Act, and also as the Anti-Petrillo Act.

The Lea Act was intended to strip musicians of the right to bargain on employment matters with the broadcasting industry. It achieves this end by making it criminal for musicians to engage in activities that even include, according to one court ruling, nonviolent picketing of broadcasters.

Passed by Congress in 1946, the Lea Act was directed primarily at the activities of James C. Petrillo, then president of the American Federation of Musicians. At that time, there was considerable tension between musicians and the broadcasting industry, because of the industry's increasing reliance on recorded music rather than live studio bands.

Whatever the need may have been for this punitive piece of legislation that criminalizes free expression by one labor group, there is certainly no need for the Lea Act today. I would note that the Justice Department has undertaken no prosecutions for Lea Act violations in recent times.

Since enactment of the Lea Act, the Congress has adopted legislation providing for comprehensive regulation of labor practices under the Taft-Hartley Act. Extortion is now prohibited by the Hobbs Act and other antiracketeering statutes.

So today we find that a labor practice such as picketing that would be completely legal and proper under the Taft-Hartley Act could be subject to criminal prosecution under the Lea Act if the activity happens to be directed at a licensed broadcaster.

Mr. Speaker, in reporting out this bill to repeal the Lea Act, the Committee on Interstate and Foreign Commerce agreed that the Communications Act of 1934 is no place for this antiquated piece of legislation that makes musicians second-class labor in this country.

In no sense would repeal of the Lea Act turn back the clock and force broadcasters to hire studio bands.

What repeal would do is finally assure musicians in this country that they enjoy the same freedom as other workers—the freedom to raise musician employment with broadcasters for discussion, negotiation and public expression without facing threats of Federal criminal prosecution.

The committee has determined that the Lea Act is inconsistent with national labor policy, and also appears to have anticompetitive effects in the broadcasting industry.

Supporting repeal, the AFL–CIO has called the Lea Act an unfair denial of the right to bargain collectively.

Mr. Speaker, the legislation before us was introduced by our late friend and colleague, the honorable John Slack of West Virginia. John saw an injustice here, and tried to correct it. It would honor his memory today for the House to finish the work on this issue that John started.

Lending his considerable prestige and support to the Lea Act repeal has been our distinguished chairman, Harley Staggers. The next Congress will be diminished by the loss of Chairman Staggers, who has led the Committee on Interstate and Foreign Commerce with vision and fairness. It would be a fitting tribute to the chairman as well as to John Slack for the House to suspend the rules and pass H.R. 4892, repealing this piece of outdated, antilabor legislation.

□ 0130

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. Matsui).

Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Ohio (Mr. Mottl) for bringing this matter before the Subcommittee on Communications and the full Committee on Interstate and Foreign Commerce. I would also like to commend the chairman of the full committee, the gentleman from West Virginia (Mr. Staggers), for his outstanding job in this effort.

Mr. Speaker, I rise in support of H.R. 4892, legislation repealing the Lea Act.

The Lea Act, or section 506 of the Communications Act, represents nothing more than an outdated aberration of Federal labor policy. It places unjust restrictions on the legitimate, and otherwise lawful, labor practices of this country's musicians and actors. It deserves to be repealed.

The Lea Act was originally passed in 1946 to protect broadcasters from coercive employment demands. The act provides that it is unlawful by the use of force, violence, intimidation, or duress, or by the use of other means to coerce, compel or constrain an FCC licensee: To employ or agree to employ any person in excess of the number of employees needed to perform actual services; to pay for preparing or using recordings in broadcasts, or to accede to any restriction in the use of recordings or programs in the production of broadcasts. I want to emphasize the ambiguity in the language "the use of any other means." For it is this overly broad and unclear standard which defines criminal conduct.

The Lea Act has been construed by the courts to make activity that is lawful under the Taft-Hartley Act, if the employer is not an FCC licensee, criminal if the employer is an FCC licensee. This discriminatory standard has impaired the right of musicians and actors to engage in labor negotiations to obtain the legal goals of job security, fair wages, and recognition. This cannot be tolerated in 1980. Moreover the statute has had a significant chilling effect on musicians' and actors' freedom of expression. The courts have held that the picketing of an FCC licensee's place of business by a musicians' union violates the Lea Act and is thereby illegal.

The Lea Act is unnecessary for the protection of broadcasters. Any labor activity seeking to create featherbedding is unlawful under the Taft-Hartley Act. Extortion is prohibited by the Hobbs Act. Antiracketeering statutes protect against coercion. In fact, since the passage of the act the FCC has no record of action taken pursuant to the section. In the last 5 years, the Justice Department has conducted only four criminal investigations under the statute, with prosecution being denied in each instance.

The Lea Act is a labor law and a discriminatory labor law at that. It has no place in Federal communication legislation. It is time to strike this antiquated anomaly from the codes.

H.R. 4892 is a testament to the unfailing commitment of two dedicated West Virginians, the Honorable Harley O. Staggers and the late Congressman John M. Slack, to restore fundamental equality in labor negotiation for this Nation's musicians and actors. Today, we have the opportunity to join these gentlemen in this most worthwhile campaign. Today, we have the opportunity to grant to musicians and actors the right to be regulated, like all other laborers, by the Taft-Hartley Law. I ask for your support in this effort. I ask for your support of H.R. 4892.

Mr. MOTTL. Mr. Speaker, I certainly appreciate the contribution of the gentleman from California (Mr. Matsui).

Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. Akaka).

Mr. AKAKA. Mr. Speaker, I rise in strong support of this bill. Passage of this bill will guarantee repeal of the Lea Act, which, although never used, should have been repealed years ago. The Lea Act effectively prohibits musicians from peaceful picketing or withholding their services in order to obtain job security, fair wages, or union recognition.

As a musician, I understand full well the oppressive aspects of this law. As well as taking away rights from musicians which members of other unions enjoy, this bill also sets criminals penalties for violation of its provisions. Thus, not only is the Lea Act discriminatory, but it is also punitively discriminatory.

In short, the Lea Act prohibits a whole class of workers in one industry the right to engage in acts which are legal for workers in other industries.

Thus, for the musicians trade, methods of securing the legitimate goals of any worker are illegal and further subject to penalties. I strongly oppose the Lea Act, and therefore heartily support this bill. The time has come to repeal the Lea Act.

Mr. MOTTL. Mr. Speaker, I certainly thank the gentleman from Hawaii (Mr. Akaka) for his contribution.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nevada (Mr. Santini).

Mr. SANTINI. Mr. Speaker, I wish to commend my good friend and fellow committee member, the gentleman from Ohio (Mr. Mottl), for taking a leadership role in this important rectification of a long-standing inequity in law. This legislative proposal passed our Committee on Interstate and Foreign Commerce unanimously. I hope it passes this body with the same fervor and enthusiasm.

Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. MOTTL. Mr. Speaker, I thank the gentleman from Nevada (Mr. Santini).

Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. Rahall).

Mr. RAHALL. Mr. Speaker, I thank the distinguished gentleman from Ohio (Mr. Mottl) for yielding this time to me.

Mr. Speaker, we have a unique opportunity today, to pass a bill that repeals a long outdated law, and at the same time, pay tribute to a colleague of ours who throughout his career was a strong advocate for working men and women. The bill is H.R. 4892, that repeals the Lea Act, a law that is truly inconsistent with our national labor policy; and the man is John Slack, who introduced H.R. 4892, before his death.

I am proud to have joined Congressman Slack as a cosponsor of this legislation, and would like to commend the gentleman from Ohio (Mr. Mottl) for his support of this measure, as well as the dean of the West Virginia delegation in this body and the distinguished chairman of the Interstate and Foreign Commerce Committee, Harley Staggers for tireless efforts on behalf of this measure.

Last week, a provision to repeal the Lea Act was contained in the bill, H.R. 6228, the Communications Crossownership Act. Due to some controversy surrounding the licensing of a VHF television station for New Jersey, Delware, and the District of Columbia, the bill was rejected under suspension. Today, however, we have the opportunity to deal with these two issues separately, and I urge my colleagues to support H.R. 4892.

I would again like to stress, Mr. Speaker, that as an individual whose family has long been involved in the broadcasting industry, and as a broadcaster myself, my support of this bill is based on the principal that musicians have the right, as workers, to exercise their rights in negotiations with broadcast stations. No longer can we allow the Lea Act to deprive musicians, as union members, as citizens, as individuals, and as Americans the right of job security, fair wages, and dignity.

I commend the American Federation of Musicians for their constant attempts to see this repeal approved, and in particular like to thank Mr. Ned Guthrie, president of the Charleston, W. Va., Musicians Union for his tireless efforts.

Musicians in the State of West Virginia and throughout the Nation have long suffered from this injustice, and the time is now to rectify over 40 years of unfairness.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the gentleman from West Virginia.

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the gentleman well knows, my predecessor and our former colleague, John Slack of West Virginia, was the original sponsor of this bill. Along with the gentleman from West Virginia (Mr. Rahall), I wish to add my support of the bill, and a congratulate the gentleman from Ohio (Mr. Mottl) for bringing it to us.

Mr. RAHALL. Mr. Speaker, I thank the gentleman for his remarks.

Mr. MOTTL. Mr. Speaker, I reserve the balance of my time.

Mr. COLLINS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the gentleman from Ohio (Mr. Mottl) in advocating the passage of this bill.

History shows that the FCC has found no record of any actions taken by it pursuant to this section. This section

506 was passed in 1946, and they have had no action taken under it.

The Justice Department in turn reported that it has had four criminal investigations, but prosecutions have been denied in each instance. So the bill takes care of removing an archaic and antiquated section that serves no need in our present legislative structure.

It must also be emphasized that the Taft-Hartley law completely covers any provisions in this area that need to be covered, and, therefore, we would do well to knock out what is called the Lea Act.

Mr. Speaker, I commend the gentleman from Ohio (Mr. Mottl) for the action he has taken.

● Mr. WAXMAN. Mr. Speaker, I cannot endorse strongly enough the passage of H.R. 4892, which would repeal the Lea Act, section 506 of the 1934 Communications Act. This law is obsolete and antilabor, an anachronism that strikes at the heart of labor's fundamental right to collectively bargain and picket over basic employment issues.

The Lea Act prohibits organized labor from using any means, including strikes or peaceful protests, to secure employment protections from broadcasters. This law was primarily directed against studio musicians. No other labor law contains such sweeping restrictions. Indeed, the Lea Act sticks out like a sore thumb from the comprehensive treatment afforded all labor-management issues by the Taft-Hartley Act.

In recent years, not one legal proceeding has been brought under section 506. Its continuation on the books, however, is a reminder to organized labor of potential Federal sanctions against its legitimate activities.

I want to commend Representative Ron Mottl, and the distinguished chairman of the Commerce Committee, Representative Harley Staggers, for their leadership in seeking repeal of this law. I urge adoption of the bill.●

Mr. MOTTL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. Murtha). The question is on the motion offered by the gentleman from Ohio (Mr. Mottl) that the House suspend the rules and pass the bill, H.R. 4892, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. MOTTL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4892, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATIONS CROSS-OWNERSHIP ACT OF 1980

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6228) to amend the Communications Act of 1934 to provide that the Federal Communications Commission, in considering applications for the renewal of broadcasting station licenses, shall not take into account any ownership interests of the applicant in other broadcasting stations or in other communications media, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Cross-Ownership Act of 1980".

Sec. 2. Section 309(a) of the Communications Act of 1934 is amended by inserting "(1)" after "Sec. 309. (a)" and by adding at the end thereof the following new paragraphs:

"(2) (A) The Commission shall not grant any initial application for, or any initial acquisition of, a commercial broadcasting station license to any applicant if—

"(i) such applicant, at the time application is made to the Commission, owns, controls, or operates any daily newspaper; and

"(ii) the station signal of the commercial broadcasting station for which such license is sought will encompass the entire community in which such daily newspaper is published.

"(B) (i) If any person who owns, controls, or operates a commercial broadcasting station which is licensed by the Commission subsequently owns, controls, or operates a daily newspaper, and the station signal of such commercial broadcasting station encompasses the entire community in which such daily newspaper is published, then such person shall transfer, assign, or otherwise dispose of such license in accordance with section 310(d), or shall transfer, assign, or otherwise dispose of any interest in such daily newspaper, not later than—

"(I) the date on which such license is due to expire; or

"(II) the end of the 1-year period following the date such person purchases, or obtains any interest in, such daily newspaper, if the end of such 1-year period occurs after the date of the expiration of such license and if the Commission defers action on any renewal application for such license in accordance with clause (ii).

"(ii) If the end of such 1-year period occurs after the date of the expiration of such license, then the Commission may defer action on any renewal application with respect to such license until the end of such 1-year period, if the Commission considers such deferral to be necessary for purposes of permitting the person who owns, controls, or operates the commercial broadcasting station involved to carry out the transfer, assignment, or other disposal of such license, or of any interest in the daily newspaper involved, in accordance with this subparagraph.

"(C) (i) Except as provided in clause (ii), the Commission shall not renew any commercial broadcasting station license for a term which is due to end after June 1, 1980, if the licensee involved—

"(I) owns, controls, or operates the only commercial aural broadcasting station or stations which encompass the entire community required to be served under the license with a city-grade signal during daytime hours, or the only commercial television broadcasting station or stations which encompass the entire community required to be served under the license with a city-grade signal; and

"(II) owns, controls, or operates the only daily newspaper which is published in such community.

"(ii) The provisions of clause (i) shall not apply to a commercial aural broadcasting station licensee if—

"(I) a commercial television broadcasting station is licensed to serve the community which is served by the commercial aural broadcasting station involved; and

"(II) such commercial television broadcasting station is not owned, controlled, or operated by such commercial aural broadcasting station licensee.

"(D) (i) Any licensee (other than a person subject to subparagraph (C) (i) who, on the effective date of this paragraph—

"(I) owns, controls, or operates a daily newspaper; and

"(II) is the licensee of a commercial broadcasting station which has a station signal which encompasses the entire community in which such newspaper is published;

shall be eligible to apply for renewal of such license and shall not be required to relinquish ownership or control of such broadcasting station or such newspaper.

"(ii) Except as provided in clause (iii), no licensee specified in clause (i) may transfer, assign, or otherwise dispose of—

"(I) the commercial broadcasting station license held by such licensee; and

"(II) ownership of, or any interest in, the daily newspaper specified in clause (i) (I); to the same person.

"(iii) The requirements of clause (ii) shall not apply to any transfer, assignment, or disposal of a commercial broadcasting station license—

"(I) if such transfer, assignment, or disposal is made in connection with the disposition of the estate of any individual, and would not result in any new encompassment of communities prohibited in subparagraph (A) or subparagraph (B) as to commonly owned, operated, or controlled broadcasting stations and daily newspapers; or

"(II) if such transfer, assignment, or disposal constitutes a technical change in ownership or control resulting from any corporate reorganization affecting the licensee, the bankruptcy of the licensee, or any other transaction which does not affect signficantly the ownership or control of such commercial broadcasting station.

"(E) The Commission shall have authority to waive (either temporarily or permanently) any requirement established in this paragraph if an applicant for a commercial broadcasting station license demonstrates to the Commission that such waiver is necessary to serve the public interest, convenience, or necessity.

"(3) In any case in which the Commission is considering an application for the renewal of a commercial broadcasting station license, the Commission shall not have any authority to consider or otherwise take into account—

"(A) any ownership interest which is held by the renewal applicant involved in any other broadcasting station or in any nonbroadcasting communications medium, except that the Commission may take into account any violation of this Act or any violation of any rule prescribed by the Commission under this Act; or

"(B) the extent to which any owner of the station involved participates in the day-to-day administration and operation of the commercial broadcasting station involved, except that the Commission may take into account any violation of this Act or of any rule of the Commission which occurs in connection with the administration or operation of such commercial broadcasting station.

"(4) The provisions of this subsection shall not be construed to affect in any manner the applicability or enforcement of the Federal antitrust laws.

"(5) For purposes of this subsection:

"(A) The term 'city-grade signal' means—

"(i) with respect to an amplitude modulation commercial broadcasting station, the 5 millivolt per meter contour, as specified in section 73.24(j) of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph);

"(ii) with respect to a frequency modulation commercial broadcasting station, the 3.16 millivolt per meter contour, as specified in section 73.315(a) of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph); and

"(iii) with respect to a commercial television broadcasting station, the minimum field intensity in decibels above 1 microvolt per meter which is required to be provided, over the entire principal community served, in accordance with section 73.685(a) of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph).

"(B) The term 'daily newspaper' means any newspaper which is published 4 or more days per week, which is published in the English language, and which is circulated generally in the community of publication. Such term shall not include any college newspaper.

"(C) The term 'Federal antitrust laws' means—

"(i) the Sherman Act (15 U.S.C. 1 et seq.), section 73 through section 77 of the Wilson Tariff Act (15 U.S.C. 8 et seq.), the Act entitled 'An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes"', approved February 12 1913, the Clayton Act (15 U.S.C. 12 et seq.), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

"(ii) any law enacted after the effective date of this paragraph in the Congress which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any restraint upon, or monopolization of, interstate or foreign trade or commerce.

"(D) The term 'Grade A contour' means the Grade A contour of a commercial television broadcasting station, as defined by the Commission in accordance with section 73.683 of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph). The location of each such Grade A contour shall be determined in accordance with procedures established in section 72.684 of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph).

"(E) The term 'station signal' means—

"(i) with respect to an amplitude modulation commercial broadcasting station, that signal which is computed by the Commission in accordance with section 73.35(a), and section 73.183 or section 73.186, of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph);

"(ii) with respect to a frequency modulation commercial broadcasting station, that signal which is computed by the Commission in accordance with section 73.240(a)(1) and section 73.313 of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph); and

"(iii) with respect to a commercial television broadcasting station, the Grade A contour of such station.".

SEC. 3. (a) The amendments made in section 2 of this Act shall not affect the resolution of—

(1) any issue involving integration of ownership in broadcasting station management; or

(2) any issue involving concentration of media ownership;

which is part of any proceeding pending before the Federal Communications Commission on September 10, 1980 and which was part of such proceeding before such date. Orders shall be issued in such proceeding and appeals shall be taken from such proceeding as if such amendments had not been enacted.

(b) The amendments made in section 2 of this Act shall not affect the resolution of—

(1) any issue involving integration of ownership in broadcasting station management; or

(2) any issue involving concentration of media ownership;

which is part of any suit commenced before September 10, 1980 and which was part of such proceeding before such date. In all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if such amendments had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington (Mr. SWIFT) will be recognized for 20 minutes, and the gentleman from Texas (Mr. COLLINS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

As you may recall, Mr. Speaker, H.R. 6228 was before the House on the suspensions calendar last Tuesday, September 23, 1980. At that time, the bill contained several controversial amendments and, as a result, it did not receive the two-thirds vote necessary for passage. Accordingly, the bill was recommitted to the Interstate and Foreign Commerce Committee where it was immediately reported out without these amendments.

Specifically, H.R. 6228 no longer addresses repeal of the Lea Act, or reassignments of VHF-television frequencies for New Jersey and Delaware. These issues are now incorporated into separate bills.

The bill before us today, prohibits prospectively any person or company from owning a daily newspaper and broadcast station in the same community, requires divestiture only in those cases where a person owns the only daily newspaper and the only broadcast station licensed to that community, and prohibits grandfathered combinations from being sold to the same person.

The Supreme Court has upheld these rules in their entirety. The rules constitute a fair balance in their response to the needs of the industry and the public. Codification of the rules provides industry stability by resolving the uncertainty about whether the rules would be changed to make grandfathered combinations divest.

At the same time, the rules serve the public by encouraging competition among newspapers and broadcast stations as well as greater diversification of information sources and viewpoints.

☐ 0140

To that I would only add, Mr. Speaker, that the Congress has been very ineffective in establishing at the congressional level policy in communications. We have tended to nitpick any proposal that came along and as a result, the policy in this country of communications is in fact being established by the Federal Communications Commission and in the Congress.

This is a small attempt to begin the process of establishing congressional responsibility for developing communications policy in this country, something it really has not done with any significance since 1934.

What we have here is an attempt to say that we are not going to have cross ownership between daily newspapers and broadcast facilities in the same market in the future. That raises the question of what do you do with those that exist? And we are able and fortunate in being able to rely on a study that has been made by the FCC and judgments made by them as to the efficacy of those market-by-market studies which assure us that adequate competition exists where these grandfathered situations will exist.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LUKEN), a member of the committee.

Mr. LUKEN. I congratulate the gentleman from Washington on furthering this bill which I think does take a large step forward in stabilizing the broadcasting industry in these matters.

Mr. Speaker, I have an inquiry regarding the intent of the bill. Section 2 provides that in any proceeding involving the renewal of a commercial broadcast license "the Commission shall not have any authority to consider or take into account" any ownership interest held by the renewal applicant in any other stations or nonbroadcasting communications medium, or the extent to which the owner of the station participates in day-to-day administration and operation. These criteria are frequently referred to as the issues of multiple ownership, cross-media ownership and integration of management. Section 5(b) of the bill states that the amendments made in section 2 "shall not affect the resolution of" these issues to the extent they are part of any suit commenced prior to September 10, 1980. My understanding of these two provisions is that while it is clear the FCC may not take these issues into consideration with respect to renewal proceedings commenced after September 10, 1980, with respect to any such proceedings commenced prior to September 10, 1980, the Commission would retain its existing authority, including its authority to change and/or adopt new rules affecting such pending cases.

Mr. SWIFT. If the gentleman will yield, the understanding of the gentleman from Ohio is correct.

Mr. LUKEN. I thank the gentleman.

Mr. SWIFT. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, the bill before us today, H.R. 6228, attempts to deal with the growing problem of media concentration. The bill's provisions, however, do nothing to diminish this concentration. I, therefore, oppose the bill on two counts.

First of all, the bill unnecessarily "grandfathers" 17 newspaper-broadcast crossownerships existing within the same city. I believe these particular crossownerships should be examined on a case-by-case basis, and should not be enshrined in statute with one broad, legislative stroke.

Second, and most important, I strongly oppose the provisions in the bill that strip the FCC's authority to consider the other communications interests of an applicant at license renewal time. The bill also prohibits the FCC from examining the media owner's day-to-day participation in the operation of the station. I just do not think it is wise for us to bar the FCC from considering diversity of ownership as a renewal criteria. It has always been the goal of Congress and the FCC to foster and promote a variety of voices in broadcasting, the most sensitive area of mass communications.

I am not alone in my opposition to this legislation. The U.S. Department of Justice, the Federal Trade Commission, and the National Telecommunications Information Administration testified against its passage. A wide range of public interest organizations including the National Education Association, Congress Watch, Consumers Union, United Auto Workers to name only a few, also oppose H.R. 6228. In fact, the Justice Department says the following:

> H.R. 6228 would severely limit the commission's ability to modify its crossownership rules to reflect economic and technological changes in the telecommunications industry. Such a limitation would, in our view, be a serious mistake. Similarly, prohibiting the commission from considering at renewal, any other communications interest of the applicant, as H.R. 6228 proposes, would not diminish mass media concentration and would reverse the commission policy favoring diversification of mass media ownership.

The public interest is best served when it receives crucial news and information from as many diverse sources as possible. This bill does nothing to increase diversity in communications, and actually more firmly establishes the status quo. If we are really serious about promoting the public interest and enhancing diversity of news sources, we will reject H.R. 6228 as unnecessary and flawed legislation.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

I would just like to suggest to the gentleman from Massachusetts when he listed those agencies that in fact did testify against this bill at the hearings that were held, they raised many very excellent points about the bill, and the bill that was reported out of subcommittee took all of those points. That is not accurate. They took the vast majority of those points into consideration where the points were not in direct contravention to the purpose of the bill and reported out of the subcommittee a much-improved bill that does not contain many of the things that the agency the gentleman referred to, in fact, initially objected to.

I was wondering if the gentleman was aware of that.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

I do appreciate the fact that the gentleman tried to make modifications that have made the bill somewhat more palatable, but at the same time I think the fundamental objection that all those agencies we were talking about, which is grandfathering in situations that may with changes in economic and technological developments need remedy that an administrative agency given some flexibility might deem appropriate in the future that we are foreclosing those possibilities with one broad legislative stroke.

I still believe that the fundamental objection that all of those agencies had still is present in this legislation, although the gentleman from Washington has made noble attempts to improve it. It is still a piece of legislation not deserving the passage of this body.

Mr. SWIFT. If I could reclaim my time, I would without false humility suggest I not only attempted, but was successful in improving those areas, and furthermore point out a reading of the hearing record would indicate that it was not true that all those agencies objected to the specific point the gentleman is suggesting.

In fact, some of them supported that aspect of the bill and, in fact, had minor suggestions for improvements that were taken into account.

Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. FORD).

☐ 0150

Mr. FORD of Tennessee. Mr. Speaker, I thank my colleague, the gentleman from Washington, for yielding

Mr. Speaker, I rise in strong opposition to the bill today and to say, Mr. Speaker, that today's world demands that an individual be able to choose between highly complex sets of circumstances. Whether those choices are as a consumer in the economic system or as a voter in the political spectrum, we are dependent on the marketplace of ideas and information to help us choose.

It has always been the most fundamental of our basic beliefs that we consider the opportunity for expression and the resulting multiplicity of voices to the public good. Today this Congress is presented with legislation which seeks to codify deficiencies in our system of information.

My district is the victim of the deficiencies which this piece of legislation seeks to solidify and to make permanent. Memphis, Tenn., is not unlike any other major city in our country, where our people are becoming more and more dependent on smaller and smaller numbers of companies to provide them with news information. In Memphis, a city of almost 1 million, there is only one locally owned broadcast concern.

But one major company, Scripps-Howard, owns both daily newspapers, the largest television station, the largest FM station, and one of the major AM band stations. They also are the owners of one of the wire services, UPI, and have contractual relations guaranteeing unrestricted access to the other one. Clearly, this situation does not permit the expression of a variety of viewpoints.

This issue, brought up by this bill, is not simply one of ownership. It is an issue which involves freedom of speech, freedom of ideas. Statistics continually show that Americans are media dependent. We cannot allow ourselves to be influenced by a single editorial policy. The diversity of ideas upon which our Nation was founded must be allowed to continue.

I join with my colleague, the gentleman from Massachusetts, in also stating not only that the Department of Justice testified before the committee, but the gentleman also mentioned the Federal Trade Commission, the Bureau of Competition. They also stated:

> H.R. 6228 would eliminate the benefits of competition in diversity, in particular media markets.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. SWIFT. Mr. Speaker, I yield an additional one-half minute to the gentleman from Tennessee.

Mr. FORD of Tennessee. Also, I would like to state that the National Telecommunications and Information Administration said:

> We recommend against enactment of H.R. 6228 in its present form.

They mentioned two reasons. I will only mention one. "We do not believe that it is desirable for Congress to lock in the FCC's media rules."

With that, Mr. Speaker, I close by saying that we voted on this legislation 7 days ago and hopefully when we vote again that we will vote against this legislation and send it back to the committee where it will not be enacted.

Mr. COLLINS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Communications Crossownership Act of 1980, H.R. 6228. I cosponsored this legislation because of my belief that Congress needs to carefully examine the license renewal procedure and, in particular, the controversy surrounding renewal of a broadcast licensee who happens to be affiliated with the print media.

For the benefit of my colleagues, I would like to note that the hearings in the Communications Subcommittee brought out that most publishers with broadcast interests have been in the field for decades. In fact, some of the oldest broadcasting stations are affiliated with newspapers. Historically, the FCC encouraged publishers to apply for television licenses. This policy was carried out for many years by the Commission. The legislation before the House today, H.R. 6228, is designed to insure that these broadcast pioneers will be able to continue broadcasting service only so long as they comply with FCC regulations and continue to provide quality programing in the public interest.

These broadcasters, however, now find themselves in a very tenuous situation—simply because they are affiliated with a newspaper. The difficulty with the present situation is that in the state of confusion that has been introduced by the conflicting decisions of the Court of Appeals and the FCC, the license renewal procedure has become virtually a lottery in which a licensee has little expectation of what the considerations may be.

H.R. 6228 will minimize this lottery element by providing that the FCC shall not take into account factors which are essentially unrelated to the license renewal proceeding, but rather consider the licensee's past program service. It should be emphasized that this limitation applies only to the renweal of licenses which have already been found by the FCC to serve the public interest, convenience and necessity.

The principle embodied in H.R. 6228 is one that provides simple justice to broadcasters who have served the public for many years. But more importantly this legislation is in the public interest because it provides an indispensable incentive to performance in the public service. Unless a license renewal applicant is to be judged on his performance, there will be little incentive to make the investments necessary to provide adequate facilities and quality programing.

The legislation before us today, H.R. 6228, will help to assure broadcasters that, so long as they comply with relevant FCC rules and regulations and they indeed serve the public interest, they can have some reasonable assurance that their license will be renewed. The legislation provides no guarantee. It only provides that a broadcaster will not be penalized at renewal time simply because he is affiliated with a newspaper.

Accordingly, I urge my colleagues to support this much needed bill.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from North Carolina, the ranking member of our committee.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the Communications Crossownership Act of 1980, H.R. 6228. As a sponsor of this legislation, I strongly believe that the issue of newspaper-broadcast crossownership should be decided, as a matter of public policy, by the Congress.

Both the industry and the Federal Communications Commission need specific, statutory guidance. This is an issue which, over the past 11 years, since the 1969 WHDH case in Boston, has been tossed around by the courts and the FCC like a "hot potato."

The status quo is unacceptable. Broadcast licensees are uncertain as to whether their licenses will be renewed. This confused state of affairs exists because a broadcast licensee, regardless of his compliance with every FCC rule and regulation, and regardless of the extent of his service to the public, may suffer the loss of his license simply because he is affiliated with a newspaper. Consequently, the viewing and listening public (that is—the public interest) have much to lose.

I would like to point out for the benefit of my colleagues that when the FCC examined this issue as part of the Commission's crossownership docket, 18110, it found that existing co-located newspaper television combinations showed "an undramatic but nonetheless statistically significant superiority" over other television stations in terms of percentage of time devoted to local programing.

I would also like to note that both the House and Senate have recognized the need for congressional guidance when, in 1974, both Chambers approved more comprehensive legislation which included a provision similar to subsection 3 of H.R. 6228. That provision simply provided that the FCC could not consider other media interests or ownership participation in management as factors in a renewal proceeding. Unfortunately, that legislation, H.R. 12993, was not finally approved due to other unrelated issues.

The point is that the House, the Senate and, indeed, the Supreme Court when it upheld the crossownership rules in 1978, recognize the importance of this issue. The committee has a very real opportunity to assert its authority and jurisdiction in an area that has, for much too long, been left to the whims of the Commission and the courts.

I believe that the present language represents a consensus piece of legislation. Indeed, we have attempted to address all the concerns from all parties interested in the crossownership issue. Accordingly, I urge my colleagues to support passage of H.R. 6228.

Mr. COLLINS of Texas. Mr. Speaker, we reserve the balance of our time.

Mr. SWIFT. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want to make just two points here. It has been said here that this bill inhibits the ability of the FCC to deal with media concentration. That is not correct. It does so only in a very narrow area and there adopts the FCC's current regulations.

Second, I would point out that, in fact, this bill is more liberal because of an amendment we put on it when last reported out of the Commerce Committee than the current FCC rules and regulations; namely, the FCC has made it very clear that it does not intend ever to move back into a grandfathered area, a community that is currently grandfathered. Their policy is that they will not move back in there even if the egregious circumstances as defined by the FCC again obtain.

This bill says that the FCC, in fact, has the authority to move back in should a community devolve back into the status defined as an egregious case. This law would, in fact, provide more of the protection that both gentlemen who have spoken earlier want than the FCC currently has.

Finally, one last point. It has been suggested that this bill would prevent the FCC from being able to look into issues of concentration or of integration under any circumstances in a renewal. That is quite inaccurate. As the bill says on page 7:

> Except that the Commission may take into account any violation of this Act or of any rule of the Commission which occurs in connection with the administration or operation of such commercial broadcasting station.

In other words, if they should make a rule, they can move back into that area; so the basic concerns of the gentleman, I think, are based on a misunderstanding of the legislation.

Again, I would suggest to my colleagues, Mr. Speaker, that what we have here is a bill that is trying to assert congressional authority in the area of development of a communications policy. It is a small step, but while the FCC under this would not have the authority except in egregious cases to move back into those grandfathered areas, it also under this would not have the authority to permit continued grandfathering in the future, an authority it has today absent this legislation.

I think we have to take a look at it this way. Is the glass half empty or is it half full?

What we are trying to do here is say that from now on out the policy of this Nation is that you will not have a daily newspaper that also owns the only other television station or any other broadcasting facility in that community by law. I think that is a good policy.

In order to get that policy, we are not going to be able as a purely pragmatic matter to require divestiture of all the others. It is a price, and I think it is a very small price that we have to pay in order to establish a very sound policy.

The SPEAKER pro tempore. The time of the gentleman from Washington has expired.

Mr. SWIFT. Mr. Speaker, I yield myself 1 additional minute.

Mr. FORD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. Mr. Speaker, I just have one question for the gentleman, if he does not mind.

In 1975, I think the regulations, the rule that was issued by the FCC grandfathered these stations in; is that correct?

Mr. SWIFT. By their policy.

Mr. FORD of Tennessee. By their policy. If this legislation is enacted, we are saying that it will be statute that the FCC cannot go back. We will have to come back and pass legislation if, in fact, they would like to reconsider that rule at a later date.

Mr. SWIFT. Except, if the gentleman would yield back, except in the case where it devolves back into an egregious case where FCC policy now says they will not touch it and this law says they would have to examine it and could go back and require divestiture in that instance, something that does not exist now in policy.

Mr. FORD of Tennessee. Well, what is the rush? Why do we not just wait and let the FCC continue their present policy?

The SPEAKER pro tempore. The time of the gentleman from Washington has expired.

Mr. SWIFT. I yield myself an additional 30 seconds.

The answer to that is, very simply, do you really suspect the FCC, that is probably the most activist in history, has probably reached its high water mark and is going to move in that direction, or is it much more likely in years to come to move in the opposite direction and permit cross ownership again in markets where it is now prohibited? That is the question. It assumes what you are counting on to come.

☐ 0200

Mr. SWIFT. Mr. Speaker, I reserve the balance of my time.

Mr. COLLINS of Texas. Mr. Speaker, on this bill the gentleman from California (Mr. VAN DEERLIN) held extensive hearings. They were just extensive hearings held on this bill. We had witnesses come in and bring in point after point. The bill has been modified and there have been adjustments, and it now as represented is a consensus view and is a very sound approach. I would strongly recommend that we accept the bill and pass it.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. SWIFT) that the House suspend the rules and pass the bill, H.R. 6228, as amended.

The question was taken.

Mr. SWIFT. Mr. Speaker, I notice the absence of a quorum and on this I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry

Mr. FRENZEL. I did not hear the gentleman make a point of order. He has merely asked for the yeas and nays.

The SPEAKER pro tempore. The gentleman asked for the yeas and nays. The gentleman made his point of order first.

Mr. FRENZEL. Mr. Speaker, if I may be permitted to address the House for 1 minute, the gentleman noticed the absence of a quorum, but he did not make a point of order He asked for the yeas and nays.

The SPEAKER pro tempore. Does the gentleman make a point of order that a quorum is not present?

Mr. SWIFT. Mr. Syeaker, I am still on my feet and I do request, I do ask for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR EXCHANGE OF CERTAIN FEDERAL COAL LEASES IN STATE OF NEW MEXICO

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6816), an act to provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause, and insert:

That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized and directed to issue leases for coal on other Federal lands in the State of New Mexico to the owner or owners of Federal coal leases, serial numbered NM0186612 and NM0186613, upon surrender and relinquishment of such leases or portions thereof. Such exchange shall be completed within 30 months of the date of enactment of this Act: *Provided, however,* That failure of the Secretary to complete such exchange shall not prejudice the rights of the owner or owners of the designated coal leases, and the exchange shall be completed as expeditiously as possible after the expiration of such time period upon request of such owner or owners.

(b) Leases to be issued by the Secretary pursuant to the authority granted by subsection (a) of this Act shall be from within the Federal lands described as follows:

TOWNSHIP 23 NORTH, RANGE 12 WEST

Section 5: South half,
Section 6: South half,
Section 7: All,
Section 8: All,
Section 9: West half,
Section 17: East half, east half west half, northwest quarter northwest quarter,
Section 18: North half north half,
Section 20: Northeast quarter, northeast quarter northwest quarter,
Section 21: West half northwest quarter.

TOWNSHIP 23 NORTH, RANGE 13 WEST

Section 1: Northwest quarter, northwest quarter southwest quarter, north half northeast quarter, southeast quarter northeast quarter, northeast quarter southeast quarter. The selection of lands pursuant to this subsection shall be consistent with existing land use planning policy and leasing procedures established by the Secretary.

(c) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof to be exchanged therefor shall be of equal value. If such leases or portions thereof are unavoidably not of equal value, the Secretary is authorized to receive, or pay out of funds available for that purpose, cash in an amount up to 25 per centum of the value of the lease or leases to be issued by the Secretary in order to equalize the value of the lease to be exchanged.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered on the date the exchange takes place.

(e) This subsection does not require or obligate the Secretary to take any action or to make any commitment to a lessee or lease applicant with respect to issuance, administration, or development of any lease.

(f) Except as otherwise herein provided, any lease issued pursuant to this Act shall be consistent with the Mineral Leasing Act of 1920 as amended (30 U.S.C. 184 et seq.).

The Clerk read the House amendments to the Senate amendment, as follows:

Amend the second sentence of subsection (c) of section 1 to read as follows:

"If such leases or portion thereof are unavoidably not of equal value, the Secretary is authorized to receive, from the lessee, or effective October 1, 1981, to pay to the lessee out of funds appropriated in advance for that purpose, cash in an amount up to 25 per centum of the value of the lease or leases to be issued by the Secretary in order to equalize the value of the leases to be exchanged."

Strike all of subsection (e) of section 1 and redesignate subsection (f) as subsection (e).

Mr. SANTINI (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Nevada?

There was no objection.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON WEDNESDAY, OCTOBER 1, 1980

Mr. SANTINI. Mr. Speaker, I ask unanimous consent that when the House adjourns, it adjourn to meet at 12 noon today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 7554, SMALL BUSINESS INCENTIVE ACT OF 1980

Mr. SCHEUER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 7554) to amend the Federal securities laws to provide incentives for small business investment, and for other purposes.

The Clerk read the Senate amendments, as follows:

Page 43, after line 8, insert:

TITLE IV—AUTHORIZATION

SEC. 401. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence thereof, by striking out "and" immediately after "1979,";

(2) by inserting immediately before the period at the end of the first sentence thereof the following: ", $85,500,000 for the fiscal year ending September 30, 1981, $96,640,000 for the fiscal year ending September 30, 1982, and $106,610,000 for the fiscal year ending September 30, 1983"; and

(3) in the last sentence thereof, by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1983".

Page 43, after line 8, insert:

TITLE V—CAPITAL FORMATION

SHORT TITLE AND TABLE OF CONTENTS

SEC. 501. This title may be cited as the "Omnibus Small Business Capital Formation Act of 1980".

TABLE OF CONTENTS

Sec. 501. Short title and table of contents.
Sec. 502. Liaison between Securities and Exchange Commission and Small Business Administration.
Sec. 503. Annual government-business forum on capital formation.
Sec. 504. Additional funds authorized for the Securities and Exchange Commission.
Sec. 505. Federal-State cooperation in securities matters for the benefit of small business.
Sec. 506. Reduction of costs of small securities issues.
Sec. 507. Effective date.

LIAISON BETWEEN SECURITIES AND EXCHANGE COMMISSION AND SMALL BUSINESS ADMINISTRATION

SEC. 502. (9) The Securities and Exchange Commission shall gather, analyze, and make available to the public, information with respect to the capital formation needs, and the problems and costs involved with new, small, medium-sized, and independent businesses.

(b) The Commission shall make the results of such studies available to the Small Business Administration and otherwise have regular communication and liaison with such Administration in these matters.

ANNUAL GOVERNMENT-BUSINESS FORUM ON CAPITAL FORMATION

SEC. 503. (a) Pursuant to the consultation called for in section 502, the Securities and Exchange Commission shall conduct an annual Government-business forum to review the current status of problems and programs relating to small business capital formation.

(b) The Commission shall invite other Federal agencies, such as the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Small Business Administration, organizations representing State securities commissioners, and leading small business and professional organizations concerned with capital formation, to participate in the planning for such forums.

(c) The Commission may request any of the Federal departments, agencies, or organizations such as those specified in subsection (b), or other groups or individuals, to prepare statements and reports to be delivered at such forums. Such departments and agencies shall cooperate in this effort.

(d) A summary of the proceedings of such forums and any findings or recommendations thereof shall be prepared and transmitted to the participants, appropriate committees of the Congress, and others who may be interested in the subject matter.

ADDITIONAL FUNDS AUTHORIZED FOR THE SECURITIES AND EXCHANGE COMMISSION

SEC. 504. For fiscal year 1982, and for each of the three succeeding fiscal years, there are hereby authorized to be appropriated such amounts as may be necessary and appropriate to carry out the provisions and purposes of this title. Any sums so appropriated shall remain available until expended.

FEDERAL-STATE COOPERATION IN SECURITIES MATTERS FOR THE BENEFIT OF SMALL BUSINESS

SEC. 505. Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end thereof the following:

"(c)(1) The Commission is authorized to cooperate with any association composed of duly constituted representatives of State governments whose primary assignment is the regulation of the securities business within those States, and which, in the judgment of the Commission, could assist in effectuating greater uniformity in Federal-State securities matters. The Commission shall, at its discretion, cooperate, coordinate, and share information with such an association for the purposes of carrying out the policies and projects set forth in paragraphs (2) and (3).

"(2) It is the declared policy of this subsection that there should be greater Federal and State cooperation in securities matters, including—

"(A) maximum effectiveness of regulation,

"(B) maximum uniformity in Federal and State regulatory standards,

"(C) minimum interference with the business of capital formation, and

"(D) a substantial reduction in costs and paperwork to diminish the burdens of raising investment capital (particularly by small business) and to diminish the costs of the administration of the Government programs involved.

"(3) The purpose of this subsection is to engender cooperation between the Commission any such association of State securities officials, and other duly constituted securities associations in the following areas:

"(A) the sharing of information regarding the registration or exemption of securities issues applied for in the various States;

"(B) the development and maintenance of uniform securities forms and procedures; and

"(C) the development of a uniform exemption from registration for small issuers which can be agreed upon among several States or between the States and the Federal Government. The Commission shall have the authority to adopt such an exemption as agreed upon for Federal purposes. Nothing in this Act shall be construed as authorizing preemption of State law.

"(4) In order to carry out these policies and purposes, the Commission shall conduct an annual conference as well as such other meetings as are deemed necessary, to which representatives from such securities associations, securities self-regulatory organizations, agencies and private organizations involved in capital formation shall be invited to participate.

"(5) For fiscal year 1982, and for each of the three succeeding fiscal years, there are authorized to be appropriated such amounts as may be necessary and appropriate to carry out the policies, provisions, and purposes of this subsection. Any sums so appropriated shall remain available until expended.".

REDUCTION OF COSTS OF SMALL SECURITIES ISSUES

SEC. 506. (a) The Securities and Exchange Commission shall use its best efforts to identify and reduce the costs of raising capital in connection with the issuance of securities by firms whose aggregate outstanding securities and other indebtedness have a market value of $25,000,000 or less, through such means as studies, giving appropriate publicity to improved technology developments in fields such as printing, communications, and filing, and giving special attention to the effect of existing and proposed regulatory changes upon the small companies wishing to raise capital and independent broker-dealers which are in a key position with respect to the costs of underwriting and making markets in the securities of smaller companies.

(b) The Commission shall report on these efforts at the annual Government-business forum required by section 503.

EFFECTIVE DATE

SEC. 507. Except as otherwise specified, the amendments made by this title shall become effective January 1 of the year following the date of enactment of this Act.

TITLE VI—SMALL BUSINESS ISSUERS' SIMPLIFICATION

SHORT TITLE

SEC. 601. This title may be cited as the "Small Business Issuers' Simplification Act of 1980".

TRANSACTIONS INVOLVING ACCREDITED INVESTORS

SEC. 602. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(6) transactions involving offers or sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer files such notice with the Commission as the Commission shall prescribe.".

DEFINITIONS

SEC. 603. Section 2 of the Securities Act (15 U.S.C. 77b) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'accredited investor' shall mean—

"(i) a bank as defined in section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Act; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investemnt Company licensed by the Small Business Administration; or an employee benefit plan, including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser; or

"(ii) any person who, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial matters, or amount of assets under management qualifies as an accredited investor rules and regulations which the Commission shall prescribe.".

Page 43, after line 8, insert:

TITLE VII—EMPLOYEE BENEFIT PLAN EXEMPTIONS

SEC. 701. Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking out "or any interest or participation in a single" and all that follows through "section 401(c)(1) of such Code." and inserting in lieu thereof the following: "or any interest or participation in a single trust fund, or in a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with (A) a stock bonus pension, or profit-sharing plan which meet the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contributions under section 404 (a)(2) of such Code, or (C) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) the contributions under which are held in a single trust fund or in a separate account maintained by an insurance company for a single employer and under which an amount in excess of the employer's contribution is allocated to the purchase of securities (other than interests or participations in the trust or separate account itself) issued by the employer or any company directly or indirectly controlling, controlled by, or under common control with the employer, (ii) which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code, or (iii) which is a plan funded by an annuity contract described in section 403(b) of such Code.".

SEC. 702. Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended by striking out "any interest or participation in any collective trust fund" and all that follows through "section 401(c)(1) of such Code," and inserting in lieu thereof the following: "any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (C) a governmental plan as defined in section 414(d) of such code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) which covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (ii) which is a plan funded by an annuity contract described in section 403(b) of such Code;".

SEC. 703. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended to read as follows:

"(11) Any employee's stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954 or which holds only assets of governmental plans described in section 3(a)(2)(C) of the Securities Act of 1933; or any collective trust fund maintained by a bank consisting solely of assets of such trusts; or any separate account the assets of which are derived solely from (A) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1954 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SCHEUER) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

Mr. ASHBROOK. Mr. Speaker, I object to the demand for a second and request tellers.

The SPEAKER pro tempore. Does the gentleman withdraw his request?

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent to withdraw my motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CLOSING GOTEBORG, SWEDEN, CONSULATE—A FOOLISH BUDGET-CUTTING STEP

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I believe my voting record will show that I oppose waste where it occurs, in domestic programs or defense and foreign programs. I voted against the MX missile because I believe it to be an enormously inefficient use of taxpayer dollars that will ultimately cost us much more than the current Defense Department estimates. Today I want to speak on a so-called cost-cutting measure that, unfortunately, eliminated an efficient, justifiable expenditure.

Last year, the Members of this House accepted my amendment to the State Department authorization bill to direct the administration to retain seven consulates scheduled to be closed. Senator PELL authored a similar amendment in the other body and Public Law 96-60 includes our amendment. The President, nonetheless, ignored our amendment and closed seven consulates—five in western Europe and one each in Burma and Australia.

I am particularly interested in the consulate at Goteborg, Sweden. It was America's first consulate—established in 1797. It was my Minnesota colleague, the late Senator Hubert Humphrey, who succeeded in reopening the consulate in 1975, after President Nixon had closed the consulate because of his pique over Swedish opposition to the Vietnam war.

The Carter administration has closed the consulate, along with six other consulates, claiming to save a total of less than $2 million annually.

I would like to report to my colleagues on the cost saving resulting from the closing of the consulate at Goteborg.

The lowest paid consulate staffers, both Swedes, the chauffeur, and a secretary, have been fired.

The consulate car has been shipped to Stockholm.

One consulate officer has been reassigned to the Embassy in Stockholm. Another officer is home in the United States, pending reassignment.

Two other consulate employees have been transferred to the Embassy in Stockholm.

One of the local residents employed by the USIA will remain in Goteborg working for the USIA. Another USIA employee has been reassigned.

The United States will save $70,000 on the rental of the consulate building and $20,000 on the salaries for the discharged Swedish employees.

Total saving is about $200,000.

At the same time as we are withdrawing from Goteborg, the U.S.S.R. is building a $6 million consulate building to house 60 employees.

That consulate will serve as an intelligence gathering station for the Soviets to monitor the Swedish Navy, among other activities.

It will be a highly visible symbol of Soviet interest and presence in Sweden.

The American presence in this most heavily pro-American city in Sweden is essential. The closing of the consulate represents a foolish budget-cutting step which has serious adverse foreign policy consequences.

On June 20, the House rejected my amendment to the State Department appropriation which would have provided the funds to maintain the consulate at Goteborg, as well as consulates in Turin, Brisbane, Nice, Mandolay, Salzburg, and Bremen. Although the House rejected my amendment, I am happy to report that the Senate has accepted it.

Those consulates are important symbols of our willingness to match the Soviet Union in Western Europe. I hope that the administration will act promptly and reopen them. Specifically, I hope the House conferees will accept the Senate appropriation for the continued operation of those consulates, so the administration will have no further excuse for closing those offices and eliminating an important and useful American presence overseas.

EXPORT PROGRAM THREATENED BY OMB ORDER TO EXIMBANK

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, other Members of Congress and I have been pushing for some years to promote increased exports especially by small- and medium-sized businesses. We in Congress have supported a number of measures, including most recently, the Small Business Export Promotion Act. And we should have before us today, or very soon, the Export Trading Companies Act. As we have worked on these measures, and also on legislation to increase funding for the Export-Import Bank, the administration has told us such action is urgently needed to improve America's export trading position.

I accepted the Carter administration's position as a genuine interest in promoting exports.

Yet today I read in the Washington Post that the White House has ordered the Eximbank to put a lid on its budget for the next 4 years.

What kind of policy is that to promote U.S. exports?

The article follows:

Carter Tells Ex-Im Bank To Put Lid on Its Budget

(By John F. Berry)

The White House has told the Export-Import Bank to put a lid on its budget over the next four years, despite repeated statements by the Carter Administration that it planned to spur exports by liberal financing.

According to the current issue of Eximbank Report, a weekly newsletter, the policy was stated in a pointedly worded letter to Ex-Im Bank Chairman John Moore from President Carter's budget director, James McIntyre.

"The bank has been ordered by OMB (Office of Management and Budget) to hold its budget for the next four years at levels which may result in an actual decrease after adjustment for inflation," Eximbank Report said.

Sources close to the bank say that the administration's correspondence was quietly passed along to exporters, who are calling administration officials to complain about the new policy.

The disclosure comes at an embarrassing moment for the administration.

In Paris this week, U.S. negotiators are meeting with European government representatives to seek agreement on export interest rates.

The Americans have long complained that some European governments, particularly the French, have been subsidizing exports, especially aircraft, by cutting interest rates on loans to foreign buyers.

The Ex-Im Bank, which supports U.S. exports by lending money to foreign buyers of American products on favorable terms, has lowered interest rates on those loans to well below 10 percent to match the French and others.

At the Paris meetings, the Americans hoped to get the Europeans to agree to a more sensible interest rate policy, especially with rates rising worldwide. But the fear is that, with word out that Ex-Im Bank's budget has been curtailed, the Americans will be negotiating with a weak hand.

The exchange between McIntyre and Ex-Im Bank's Moore began when the budget chief set the limits for directing lending by the bank through fiscal 1985. The limits ranged from $5.2 billion in 1982 up to $6.9 billion in 1985.

According to Eximbank Report, the bank immediately appealed the decision. On Aug. 11, McIntyre wrote again to Moore saying he had taken his case to President Carter.

"We outlined to the President the budgetary problems faced by Ex-Im Bank in 1980-1981, including your estimate that, under current policies, demand for direct loans and guarantees will be as much as $1.5 billion above the approved budget availabilities for the two-year period."

THE ADMINISTRATION'S HALLMARK: INEPTNESS AND LACK OF LEADERSHIP

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, ineptness and lack of leadership seem to be the hallmark of this administration and indeed this Congress. Here we are on September 30, and at midnight tonight lots of things expire. We are going to have to go the continuing resolution route or people will have payless paydays.

Then, Mr. Speaker, let us look at the lack of leadership in the administration. Take a look at the census. We have been taking the census in this country since 1790, but here in 1980 the census is so fouled up that nobody knows how many bodies there are. We see the big cities going to the White House politically to build up their numbers in their districts so they can get their hands in the Federal till. Just read today Wall Street Journal article, which I am including in my remarks. (Quote attached.)

Mr. Speaker, October 6, next Monday, is the last day to register to vote, and to have an opportunity to change all of this on November 4. We need new leadership in the White House, and in the Congress!

The Numbers Game—Census Bureau, Cities Skirmish Over Count; Money, Power at Stake

(By David J. Blum and Daniel Hertzberg)

New York.—The buildings lining Cypress Avenue in this city's vast South Bronx ghetto are ravaged. On both sides of the street, shards of glass from broken windows are scattered on the sidewalk. Here and there, doorways are boarded up.

It is a scene that is duplicated on street after street throughout the area and in other blighted sections of the nation's largest city. In many ways, it resembles a battleground—and, indeed, it is a battleground these days in the city's war with the U.S. Census Bureau.

New York contends that the 1980 census missed at least 800,000 of its citizens, many of whom, the city says, dwell in dilapidation such as that of Cypress Avenue. (Preliminary census figures for the South Bronx show a precipitous drop in population of about 284,000 since 1970.) The city's position was buttressed last week when a federal judge in Detroit, ruling in a lawsuit filed by that city against the Census Bureau, upheld Detroit's contention that its residents had been undercounted and ordered the bureau to come up with an estimate of people it might have missed—not only in Detroit but elsewhere throughout the U.S.

"A STODGY BUREAUCRACY"

The ruling strikes at the heart of the Census Bureau's methods, which have been under attack since the first census was undertaken in 1790. In recent years, big cities have asserted that the bureau has missed huge numbers of blacks and Hispanics because its approach to counting citizens is antiquated. "The Census Bureau refuses to come into the 20th Century," says New York's mayor, Edward Koch. "It's a stodgy bureaucracy with old ideas, and it won't change."

But it may have to change. Although the Detroit ruling is subject to appeal, the bureau also faces lawsuits filed by other cities including New York, Philadelphia, Chicago, and Newark, N.J. These suits are all aimed at upward adjustments of 1980 figures, but their ramifications could be even wider-ranging. In the long run, the cities hope the suits will permanently alter the way the Census Bureau counts in urban areas, perhaps replacing a head count with a random sampling of the population.

A look at the situation here in New York shows the problems faced by both the city and the Census Bureau in what has become a battle with the highest possible stakes: money and power. In the end, of course, the aim of both city and census officials is the same; both assert they want a complete, accurate count of residents. How that aim is to be accomplished is the source of dispute.

EFFECT ON NEW YORK

It is a dispute that is particularly acrimonious here in New York, where preliminary figures show a population drop for the city of about one million from the 7.8 million counted in 1970. According to Mayor Koch, that drop, if allowed to stand, could result in the potential loss of $1 billion in federal and state aid over the next 10 years—enough, he says, to cause "significant" reductions in many city services.

Like federal aid, congressional representation is based on census figures. States design congressional districts every 10 years according to census data. As a result of this year's head count, New York State could lose five seats; and in New York City, the South Bronx's own Rep. Robert Garcia—who is chairman of the House Subcommittee on Census and Population—sits high on the list of those whose districts could be eliminated.

It all hinges on the size of the undercount, which in the 1970 census was subsequently determined to have been 2.5% nationwide. In the Detroit ruling, the judge ordered the Census Bureau to come up with an estimate of people that it might have missed throughout the country. The New York lawsuit seeks to force the bureau to adjust population figures for undercounts of blacks and Hispanics, to keep census offices open past the original August deadlines and to make further follow-up counts.

THE PROBLEMS OF COUNTING

The Census Bureau has never denied that there is an undercount. However, census takers contend the cities don't understand their problems. "It's very difficult to count people who don't want to be counted," says Eli Serrano, the field-operations supervisor in the bureau's Southwest Bronx office. Such people include illegal aliens, welfare cheats, tax evaders and others who feel the census invades their privacy.

Nevertheless, in New York City's suit, filed last month and still awaiting trial, affidavits gathered by the city's lawyers have already brought to the surface widespread accusations of mismanagement and abuse by census officials and workers at every level. For example, the city says—and bureau officials confirm—that drug addicts on methadone maintenance were hired to work as census takers in such ghetto areas as the South Bronx and Harlem. And the mayor's census adviser, David Jones, sees the bureau's use of addicts as an example of a racist attitude among some census officials. "That chauvinist attitude is that 'the fuzzy-wuzzies like their own,'" says Mr. Jones who is black, "so you give them drug addicts." He adds: "If it had been Mormons who had been undercounted in Utah, you wouldn't have the same problem."

William Hill, New York's regional census director, replies that all census employes, including drug addicts, must fulfill the same requirements before they're hired. "We have a good group of people who know how to do the job," he says.

The job got under way last spring. On March 28, census forms went out in the mail to almost every household in America. Four out of five got the short form, with 19 questions; and the rest received the long form, which asked another 46 questions designed to provide sample data to government agencies and the private sector. The cost of the entire proceedings was put at $1 billion, which includes the wages of nearly 300,000 census takers hired to follow up the mailed forms (about 85 percent of which were returned) and to contact residents of out-of-the-way places.

The mail return rate for census forms in New York City was only 68 percent, compared with rates approaching 90 percent in stable middle-class neighborhoods throughout the country. But the city maintains that the bureau applied the same counting procedures to problem areas like the South Bronx as it did in, say, Kansas.

"That whole argument is a lot of crap," responds the bureau's Mr. Hill. "We've done everything we can to conform to New York's specific needs."

According to census workers at district offices around the city, the commercial mailing lists of addresses used to mail census forms in New York were filled with errors. (The U.S. Postal Service says that 13 percent of the census forms mailed in Manhattan went undelivered because of bureau errors.) Workers also say that training manuals for census takers were inadequate and in short supply.

NEW YORK'S ALLEGATIONS

But the city isn't buying any excuses. Affidavits in New York's suit charge that census workers deliberately changed answers on census forms to expedite their work. Workers were paid by a variety of schemes, including hourly and piecework bases, and the city notes that it was sometimes more profitable for a worker to miss people than to find them. For example, a worker could earn $2.50 per apartment by getting basic housing information from the landlord in a matter of seconds; the worker was paid about $4 a unit if he conducted census interviews, but such interviews were also time-consuming.

"The good money was in apartments that weren't there," says Frank DePesa, who was fired in May from the Southwest Bronx census office after five months in a middle-management job. "It was better to count apartments than people." (Mr. DePesa says he was fired for "insubordination." His boss, Angel Lambrone, says he was fired because his work "wasn't up to what we wanted" and because he lacked a car.)

Mr. Hill of the Census Bureau rejects the notion that census takers would opt for a shortcut to more pay. "There's a lot of dedication among these workers to do a good job," he says.

THE "SHOOTING GALLERIES"

Affidavits of census workers in the New York suit, and interviews with those and other census workers throughout the city, provide a vivid glimpse into the problems of conducting a head count in New York—problems for which neither city government nor the bureau is responsible. The affidavits describe incidents of attempted rape of census takers and of a few being attacked with bricks. They tell of the fear census takers feel when told to count residents of the "shooting galleries" where drug dealers live and protect themselves with weapons.

"People just don't like to take that risk for $4.25 an hour," says Steven Glusman, who filed an affidavit in the New York suit after two months as a census crew leader in a run-down section of Morningside Heights in Manhattan. In the affidavit, Mr. Glusman tells of one enumerator being told at the entrance to a building that if he tried to count the residents, "they'll cut your face," so the building was classified vacant. And even district managers and the regional director, Mr. Hill, admit that attacks on census workers have taken place—sometimes in the best neighborhoods.

To deal with the myriad problems of counting the populations of New York and other urban areas, the Census Bureau devised a complex series of follow-ups, including double-checks of buildings marked as vacant. And in early April, the bureau conducted what it called "M Night," a sweep by census takers of missions and fleabag hotels, and "T Night," a similar sweep of transient hotels. But Robert Rygor, who supervised M and T nights in lower Manhattan, says, "I think we only got the tip of the iceberg."

The city has focused its complaints on those missed ghetto areas like the South Bronx. But people of all incomes and races didn't get census forms in the mail. One of those missed in the March mailing was Monsignor Anthony Bevilacqua, a member of New York City's Complete Count Committee, a city-sponsored census-promotion group.

"I called the Census Bureau three times to get a form, and they never responded," says Monsignor Bevilacqua, director of migration and refugees for the Diocese of Brooklyn. "Finally they sent me forms to distribute to aliens, so I took one for myself. Quite a few priests told me they never received their questionnaires either."

City officials now think such misses may add up to an inaccurate count in middle-class neighborhoods. For example, they were alarmed when the early figures showed a major decline of 75,000 people in affluent Brooklyn Heights, where renovation of century-old town houses has attracted many new, well-to-do residents. ("Just because more money lives in Brooklyn Heights doesn't mean more people live there," says the bureau's Mr. Hill, adding that the city's and bureau's definitions don't necessarily agree.)

In enumerating its complaints against the bureau, New York has its allies among survey-research experts. "Maybe (the Census Bureau) can count noses," says Norman Bradburn, director of the University of Chicago's National Opinion Research Center. "But the more people they have to count, the less chance there is that they'll do it right."

But the bureau also has its allies. Some urban experts feel that such city officials as Mayor Koch are deluding themselves in blaming their population losses on the Census Bureau. "The 1980 census was probably done at least as well as and probably better than the 1970 census," says George Sternlieb, director of Rutgers University's Center for Urban Policy Research. Evidence of major population declines in big cities "can't be faulted," he says, adding that there is "a flight from reality called 'find the villain,' and the villain is the Census Bureau."

USDA AWARD HAS IT ALL BACKWARD

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I would like to address a very disturbing development regarding an award given to a high ranking official at the Department of Agriculture.

All American workers would like to think that they would be rewarded for a job well done. The White House and the administration thought so, too, when they established the Presidential Rank Awards a few years ago. This program is designed to honor top level bureaucrats for distinguished and meritorious service.

But, last week the Department of Agriculture honored 14 USDA senior executives and I could not believe what I saw.

There among the honorees—who received a $20,000 cash bonus, by the way—was the Department's director of economics, policy analysis and budget. He was honored because, "he has successfully made the shift in USDA policy from producer-oriented to consumer-oriented in policy and budgetary matters."

What that means is that he was honored for turning the policies of USDA away from the American farmer and to the consumer.

Certainly the consumers of America deserves a voice in government and they have it in numerous Federal agencies. The farmer, on the other hand, has only one department, the USDA. It was founded to help farmers through extension and research, disaster payments and other programs designed to increase productivity and improve their lives.

With this award given last week the administration is saying that it is proud of its policies which turn their back on USDA's primary constituency.

As a member of the House Agriculture Committee, I have traveled through north Missouri talking about the need to reestablish the USDA as the primary advocate of farmers.

In a speech to the Missouri Farmer's Association earlier this year, I talked of the need to expand exports, improve conservation efforts and commit additional resources to improve conditions in rural America.

I then said, "In the final analysis, these and other goals, cannot be fully realized until we reestablish the USDA's traditional role as the advocate of the American farmer. In recent years it has been politicized to the point that it is little more than a collector of statistics and an arm of the social welfare system."

This year alone, farmers have been hit by the President's embargo of grain shipments to the Soviet Union; skyrocketing inflation which has increased costs of production by 84 percent over the last decade; exorbitant interest rates; and, a heat wave and drought.

Now to top it all off, the Administration hands over $20,000 to a USDA bureaucrat who has worked to turn the Department 180 degrees around from an ally of the farmer to a companion of the consumer. This was never intended to be the function of the Department of Agriculture and I deplore this attempt to circumvent the true commitment of the USDA.

Mr. Speaker, I do not think this is going to be lost on the American farmer come November 4.

THE HELLENIC CHRONICLE—30 YEARS OF OUTSTANDING JOURNALISTIC ACHIEVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 10 minutes.

Mrs. HECKLER. Mr. Speaker, the Hellenic Chronicle, based in Boston, Mass., commemorates its 30th anniversary this year. The largest newspaper of its kind in America, it provides outstanding coverage of local, national, and international issues of interest to the Greek American community.

The Hellenic Chronicle's high standard of journalistic excellence reflects the values of the community it serves. The contributions of Greek Americans are rich and varied. The roots of our democratic tradition grow out of the highest ideals of just government found in Greek philosophic thought. Many other fine social, cultural, and governmental traditions—in which Americans find pride—have been part of the Greek heritage for centuries.

Since the Hellenic Chronicle began, it has been run by the distinguished Agris family, and Peter Agris, the current publisher, has guided the paper's policies for the past 25 years. Peter Agris' father started the newspaper and his son is actively involved with the paper's production. Over the years, Peter Agris has won the support and acclaim of Greek American leaders throughout the country. The Hellenic Chronicle has been the leading voice of the Greek American community for years. He keeps close check of the pulse of activities in both Greece and America and reports and analyzes with insight and accuracy.

America's friendship with the people of Greece is linked to our mutual love of liberty and our respect for honor and justice. Peter Agris embodies those ideals; the Hellenic Chronicle fosters their growth both nationally and internationally.

I am reminded of the saying that it is not the truth that makes men and women great, but the people themselves who make truth great.

I commend the dedication and commitment of the Agris family, and I applaud their contributions to the Greek American community and the Nation.●

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, even at this early morning hour I rise in order to render an accounting. I have been asked by some of my colleagues, as well as quite a number of citizens from within and without my district, within and without my State, about the status of my concern and the course of events involving the case of the murder or assassination of Federal District Judge John W. Wood and the attempted murder of assistant Federal prosecutor in the western judicial district of James W. Kerr, a matter which I have from time to time addressed the House for more than 1 year and 5 months.

☐ 0210

In fact, actually going to the very beginning, and that is the assault on James Kerr, it will be almost 2 years in 2 months. The reason is very simple. I believe that no matter how involved a Member of the House or any public official becomes in the course of the discharge of his functions and oath of office, there are legitimate limits beyond which he becomes, as I have said before, like the coyote out in the brush howling for the moon and really making no difference at all.

In this case, however, we are talking about one of the most serious crimes directed against the institutions of our Nation, the very foundations of our democratic and free system of government. Always the fundamental struggle has been throughout mankind's history between two basic thoughts that have prevailed in the minds of men with respect to governing and governments of men, and that is those who have the faith that in the long run the people themselves are the best judges as to what is best for them, or that the people are a source of sovereignty of power, of power emanating from the people to the government as is proclaimed in a revolutionary way in the first three words of the Preamble of our Constitution, "We, the people of the United States." It does not say, "I, the President," or, "We, the Congress," or, "We, the judges." It says, "We, the people of the United States, in order to form a more perfect union," et cetera. This was revolutionary at the time it was written, and it is revolutionary in today's world.

Only in the United States, in a world where the lights of democracy have gradually been lighted up as they were before World War II and now after, do we find the degree of personal liberty, the direct expression of the popular will, and the actual still remaining vestiges of control over the Government by the people themselves, but it is self-perpetuating. The murder of Judge Wood is not only the most dastardly crime of the century, rivaling if not surpassing the very assassination of President Kennedy, but unlike in that case, as time has proven, the murder of Judge Wood is a direct challenge to the third branch of our Government which is now in a state of siege in my part of the country.

The members of the judiciary, the members of the law-enforcement branches, such as the prosecutorial officers of the district attorneys of the western district, are to this day under marshal surveillance. That is, millions of dollars have been expended in order to provide protective custody for the members of our judiciary in that part of the Federa system.

At the same time that they are under U.S. Marshal custody or surveillance or protective custody, the criminal walks and roams the streets with his head high and with no qualms of conscience or fear of apprehension, much less accountability for this crime.

The last time I spoke on this, which was about 2 months ago, I then got up for the same purpose I am tonight to explain why there has been a lapse of another month and a half that I have not spoken out, for I had spoken on an almost weekly basis since the assassination of Judge Wood on May 28, 1979, and had spoken intermittently before since the assault on James Kerr in November of 1978. I felt, as I explained then, that I had done all one man could do and more, and that I had at that point, that is, the last time I spoke 2 months ago, thought I had reached the limit of what properly and with decorum, self-respect, and dignity could be done without becoming a bore or fanatic, or, as we say in Spanish, "Every man has his pet theme." It sounds better in Spanish, but roughly translated it says, "Every man has his own peculiar theme," or there is another saying in Spanish that says, "Every monkey to his swing, cada chango a su mecate." So I do not ever like to get into that posture.

I have had the opportunities and privilege of serving 5 years in the State senate in the State of Texas, 3 years on the city council of the city of San Antonio, and now on November 4, 19 years the privilege of representing the 20th Congressional District in this House, so I think that I have a good idea of accountability and a good idea of when it is proper to importune a body such as this.

I have been aroused as I have never been in my life because of this crime, the murder of a Federal judge, unprecedented in the annals of the U.S. judiciary. This simply has not happened before. We had one murder of a judge about 100 years ago, but not under these circumstances where the implication and the direct threat is to the judiciary itself, because the attempt on James Kerr and the murder of Judge Wood were not only premediated but they were acts of defiance. They were brazen acts on the part of organized crime and their minions, organized crime which to this day, as I have said repeatedly, transcends the ability of the law enforcement agencies of either the national, the State, or the local governments to control them.

As a matter of fact, as I have said time and time again, on occasions they have penetrated the highest forms of our government. They have had a check-by-jowl association with business on the highest levels. They have become integral partners in the business life of our country, all based on moneys and proceeds from illegal and criminal activities. I despair that we cannot in time disentangle this unholy aliance.

This I have said is the real threat to our democracy.

This I have said worries me more about the germ seed or the destruction of our form of government and society and standard of living, more than any such things as a Communist threat or an exterior threat. I simply cannot get exercised as much about that as what I feel we are doing to ourselves and have done.

The murder of Judge Wood remains as unsolved and as undetermined tonight as of the morning of May 28 when he was killed. The last time I spoke, I said this will probably be a wrap-up. I see no point in going further. I have done everything I can.

I importuned the executive branch of Government after the attempt on James Kerr. I compelled, you can say, by just plain nuisance pressures the domestic adviser to the President, Mr. Eizenstat, to come over tomorrow to meet with me in early 1979 in January when we had convened for the first time after being out for the elections in 1978. I went through that. I have reported on it. There is no use repeating it.

Then came the murder of Judge Wood, which I must sadly say I had halfway predicted and was the reason why I was so concerned about the method and the nature of attack on James Kerr.

☐ 0220

Since the murder of Judge Wood I have said that unless and until it is solved completely, ruling out not only those who physically shot the judge but those sinister forces behind them to the very source, until that is done and unless it is done, we have suffered a grievous damage to the stability of the judiciary. The judiciary remains intimidated.

There have been some headlines in the local press mostly—I do not think they have ever penetrated the national press curtain, and which have not shown any interest in this particular case—it makes no difference—I am satisfied even if these headlines have to do with some sensational witness who has been summoned by this special grand jury.

Mr. Speaker, I will say this, had we not spoken up, had we not repeatedly attempted to keep the pressure on, at least a spotlight of publicity such as we could muster, partial as it was, fragmentary as it has turned out to be, had we not done that we would not have compelled the formation of a special grand jury to begin with. However, that is no satisfaction to me because that is knee jerk reaction. That should not be.

It is not the working of a professional and a successful and a competent law enforcement agency. Because the tendency there then is to find a scrapegoat, catch somebody so you can show something is being done. So from time to time we had headlines where some member of the motorcycle gang known as Los Bandidos or Bandidos have been brought forth, summoned before the grand jury, questioned, rumors spilling over about this man knows who did it or thinks they do and then the headlines say nothing is heard of again. Nobody has been indicted yet.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Ms. Holtzman (at the request of Mr. Wright), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Porter), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Collins of Texas, for 30 minutes, on October 1.

Mrs. Heckler, for 10 minutes, today.

(The following Members (at the request of Mr. Kildee) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Alexander, for 10 minutes, today.

Mr. Reuss, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

Mr. Gibbons, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brown of Ohio, to revise and extend his remarks on consideration of the conference report on S. 2475, Automobile Fuel Efficiency Act of 1980, immediately following remarks of the gentleman from Michigan (Mr Dingell).

Mr. Conte, immediately following Mr. Duncan of Oregon on the conference report on H.R. 7831.

Mr. St Germain, immediately succeeding Mr. Wylie.

Mr. Sndyer, during his remarks on H.R. 7103 to insert a portion of the transcript of proceedings held before the Committee on Public Works and Transportation during markup of that legislation.

Mr. Weiss, to revise and extend his remarks in support of H.R. 7103 following the debate on same.

(The following Members (at the request of Mr. Porter) and to include extraneous matter:)

Mr. Kemp in three instances.
Mr. Collins of Texas in two instances.
Mr. Dannemeyer.
Mr. Paul.
Mr. Derwinski in two instances.
Mr. Quayle.
Mr. Findley.
Mr. Schulze.
Mr. Shumway.
Mr. Dougherty.
Mr. Ashbrook in two instances.
Mr. Moorhead of California.
Mr. Dornan.
Mr. Rudd.
Mr. Moore.
Mr. Gilman in 10 instances.
Mr. Hyde.
Mr. Rousselot.

(The following Members (at the request of Mr. Kildee) and to include extraneous matter:)

Mr. Bonker.
Mr. Stark.
Mr. John L. Burton in two instances.
Mr. Bailey.
Ms. Oakar.
Mr. Rodino.
Mr. Nedzi.
Mr. Harris in two instances.
Mr. Hamilton.
Mr. Montgomery.
Mr. Baldus.
Mr. Harkin.
Mr. Duncan of Oregon.
Mr. Murtha in two instances.
Mr. Udall.
Mr. Zablocki in two instances.
Mr. Hall of Ohio.
Mr. Roberts.
Mr. Coelho.
Mr. Mineta.
Mr. Edwards of California.
Mr. Solarz in two instances.
Mr. Conyers in two instances.
Mr. Reuss in three instances.
Mr. Wolff in two instances.
Mr. Minish.
Mr. Pease.
Mr. Donnelly.
Mr. Bonior of Michigan.
Mr. Dellums.
Mr. Fazio in two instances.
Mr. Moorhead of Pennsylvania.
Mr. Swift.
Mr. Shelby.
Mr. Jones of Oklahoma.
Mr. Maguire.
Mr. Dingell.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 924. An act to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho; to the Committee on Interior and Insular Affairs;

S. 1010. An act to establish a Commission on the International Application of Antitrust Laws; to the Committee on the Judiciary and the Committee on Foreign Affairs;

S. 2267. An act to amend the Civil Service Reform Act of 1978; to the Committee on Post Office and Civil Service;

S. 2326. An act to amend section 113 of title 28, United States Code, to place the Federal correctional institution at Butner, N.C., entirely within the Eastern District of North Carolina; to the Committee on the Judiciary;

S. 2327. An act to authorize the establishment of a Drug Enforcement Administration Senior Executive Service, and for other purposes; to the Committee on Post Office and Civil Service;

S. 2958. An act to insure the development and implementation of policies and procedures to encourage the Veterans' Administration, the Department of Defense, and other Federal health care providers to cooperate in the efficient and effective use of Federal medical resources, and for other purposes; to the Committee on Armed Services and the Committee on Veterans' Affairs;

S.J. Res. 196. Joint resolution authorizing the President to proclaim March 16, 1981, as "Freedom of Information Day"; to the Committee on Post Office and Civil Service;

S.J. Res. 199. Joint resolution designating the week of September 28–October 4, 1980, as "National High School Activities Week"; to the Committee on Post Office and Civil Service;

S.J. Res. 207. Joint resolution to authorize and request the President to proclaim November 28, 1980, as "Salvation Day"; to the Committee on Post Office and Civil Service; and

S. Con. Res. 73. Concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons (1981); to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6331. An act to amend the act of July 31, 1946, as amended, relating to the U.S. Capitol Grounds and for other purposes;

H.R. 7218. An act to establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes;

H.R. 7939. An act to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission; and

H.J. Res. 560. Joint resolution to proclaim March 19, 1981, as "National Agriculture Day."

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 23 minutes a.m.), under its previous order, the House adjourned until Wednesday, October 1, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive comunications were taken from the Speaker's table and referred as follows:

5406. A letter from the Secretary of the Treasury, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

5407. A letter from the Secretary of Defense, transmitting a report on real and personal property of the Department of Defense as of September 30, 1979, pursuant to 10 U.S.C. 2701; to the Committee on Armed Services.

5408. A letter from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the transient alert aircraft maintenance function at Scott Air Force Base, Ill., pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

5409. A letter from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the commissary shelf-stocking and custodial services function at Dover Air Force Base, Del., pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

5410. A letter from the Director, National Institute of Education, transmitting an interim report on the study of vocational education and related programs, pursuant to section 523(b)(2) of Public Law 94-482; to the Committee on Education and Labor.

5411. A letter from the Comptroller General of the United States, transmitting a report on the impact of Public Law 94-519 on transfers of excess and surplus Federal personal property, pursuant to section 10 of the act (LCD-80-101, September 30, 1980); to the Committee on Government Operations.

5412. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting a report on State and local Government structure and assignment of functions, pursuant to section 145 (c) of the State and Local Fiscal Assistance Act of 1972, as amended (90 Stat. 2356); to the Committee on Government Operations.

5413. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting, a report on the reliability of EPA passenger car fuel economy estimates, pursuant to section 404 of Public Law 95-619; to the Committee on Interstate and Foreign Commerce.

5414. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting a quarterly report for the period April through June 1980, on reports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974; to the Committee on Interstate and Foreign Commerce.

5415. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

5416. A letter from the Director, Administrative Office of the United States Courts, transmitting the sixth report on implementation of title I of the Speedy Trial Act of 1974, pursuant to 18 U.S.C. 3167(a); to the Committee on the Judiciary.

5417. A letter from the Comptroller General of the United States, transmitting a report on alternatives for financing low and moderate income rental housing (PAD-80-13, September 30, 1980); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN:

H.R. 8238. A bill to amend the Veterans Health Programs Extension and Improvement Act of 1979 to require the Veterans' Administration and the National Academy of Sciences to enter into an agreement under which the Academy will conduct an epidemiological study of veterans exposed to Agent Orange; to the Committee on Veterans Affairs.

By Mr. MURPHY of New York:

H.R. 8239. A bill to amend title XVI of the Social Security Act to increase the amount of the personal expense allowance which is presently provided for eligible individuals and eligible spouses who are in medical institutions, with subsequent annual increases in the amount of such allowance to reflect changes in the cost of living; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee of conference. Conference report on H.R. 5612 (Rept. No 96-1434). Ordered to be printed.

Mr. SMITH of Iowa: Committee on Small Business. Report on Federal Monetary Policy and Its Effect on Small Business (Rept. No. 96-1435). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of conference. Conference report on S. 1482 (Rept. No. 96-1436). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 8195. A bill to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases and to place financial interchange on current basis (Rept. 96-1437). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7311. A bill to amend the Communications Act of 1934 to provide that not less than one very-high-frequency commercial television broadcasting station be located in each State; with amendment (Rept. No. 96-1438). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 799. Resolution waiving certain points of order against the conference report on S. 1946. A bill to reform the economic regulation of railroads, and for other purposes. (Rept. No. 96-1439). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on Ground Water Contamination: Environmental Protection Agency Oversight (Rept. No. 96-1440). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on the Demise of the Greater Los Angeles Community Action Agency (Rept. No. 96-1441). Referred to the Committee of the Whole House on the State of the Union.

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Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 610 (Rept. 96-1443).

Ordered to be printed.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on the Judiciary consideration of the bill (H.R. 6121) to amend the Communications Act of 1934 to make certain revisions in the provisions of such act relating to the regulation of telecommunications activities, extended for an additional period ending not later than October 8, 1980.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARNES: Committee on the Judiciary. H.R. 5788. A bill for the relief of Jun Ae Hee; with amendment (Rept. No. 96-1442). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NOWAK:

H.R. 8228. A bill to provide that a certain portion of Lake Erie shall be declared non-navigable; considered and passed.

By Mr. DERRICK:

H.R. 8229. A bill to amend title II of the Social Security Act to provide that an individual's benefits shall not be reduced (under the earnings test) on account of earnings from self-employment unless such earnings are based on services performed after he or she became entitled to such benefits; to the Committee on Ways and Means.

By Mr. FASCELL:

H.R. 8230. A bill to reform the Powerplant and Industrial Fuel Use Act of 1978 to encourage a reduction of air pollution and oil consumption by existing electric powerplants; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER:

H.R. 8231. A bill to provide for grants to be made by the United States to local governments for property exempt from property taxation which is located within the jurisdiction of the local government and owned by the United States, a foreign government, or international organization; to the Committee on Government Operations.

By Mr. FORSYTHE (for himself, Mr. LOTT, Mr. LIVINGSTON, and Mr. BREAUX):

H.R. 8232. A bill to amend the Outer Continental Shelf Lands Act, titles III and IV of the Outer Continental Shelf Lands Act Amendments of 1978 providing for the offshore oil spill pollution fund and the fishermen's contingency fund, the Coastal Zone Management Act of 1972, and the Federal Water Pollution Control Act; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, Public Works and Transportation, and Rules.

By Mr. GILMAN (for himself, Mr. Beard of Tennessee, Mr. Biaggi, Mrs. Collins of Illinois, Mr. Coughlin, Mr. Dornan, Mr. English, Mr. Evans of Georgia, Mr. Guyer, Mr. Neal, Mr. Railsback, Mr. Rangel, Mr. Scheuer, Mr. Wolff, and Mr. Zeferetti):

H.R. 8233: A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to permit moneys acquired through forfeiture to the United States for violations of that act to be used by the Attorney General in connection with investigations of violations of that act; to the Committee on Interstate and Foreign Commerce.

By Mr. JEFFRIES:

H.R. 8234. A bill to name the Federal building located at 444 Southeast Quincy, Topeka, Kans., the "Frank Carlson Federal Building"; to the Committee on Public Works and Transportation.

By Mr. SANTINI (for himself, Mr. Johnson of California, Mr. Shumway, Mr. Phillip Burton, Mr. Clausen, and Mr. Fazio):

H.R. 8235. A bill to grant the consent of the Congress to the Tahos regional planning compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created; to the Committee on the Judiciary.

By Mr. SCHULZE:

H.R. 8236. A bill to amend the Internal Revenue Code of 1954 to repeal the requirement that operating capacity must increase for purposes of the energy credit allowed for intercity buses, and for other purposes; to the Committee on Ways and Means.

Mr. SHELBY:

H.R. 8237. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption for a taxpayer or the spouse or any dependent of the taxpayer, who is disabled, and to allow a credit to certain disabled individuals for amounts paid for household services; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 8240. A bill to provide for the formation of regulatory negotiation commissions; jointly, to the Committees on the Judiciary, and Government Operations.

By Mr. WHITTEN:

H.J. Res. 617. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes; to the Committee on Appropriations.

By Mr. DERRICK:

H.J. Res. 618. Joint resolution to provide for the designation of the third week of November of each year as "National Wild Turkey Week" and to provide for the designation of each Thanksgiving Day as "National Wild Turkey Day"; to the Committee on Post Office and Civil Service.

By Mr. HORTON:

H.J. Res. 619. Joint resolution designating the month of October 1980 as "American White House Replica Month"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BUTLER:

H.R. 8241. A bill for the relief of Evangel Kiddie Kollege; to the Committee on the Judiciary.

By Mr. PORTER:

H.R. 8242. A bill for the relief of Mary Jane Shaw, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 640: Mr. Davis of Michigan.

H.R. 641: Mr. Davis of Michigan.

H.R. 646: Mr. Davis of Michigan.

H.R. 1600: Mr. Addabbo, Mr. Stanton, Mr. Stump, Mr. Hubbard, and Mr. Wylie.

H.R. 2248: Mr. Bereuter.

H.R. 2561: Mr. Davis of Michigan.

H.R. 5225: Mr. Johnson of California.

H.R. 6194: Mr. Patterson.

H.R. 6300: Mr. Coleman, Mr. Shelby, Mr. Huckaby, Mr. Nowak, and Mr. Wolpe.

H.R. 6380: Mr. Marriott and Mr. Seiberling.

H.R. 6799: Mr. Shumway.

H.R. 6977: Mr. Mavroules.

H.R. 7089: Mr. Maguire, Mr. Rangel, Mr. Gilman, Mr. Simon, Mr. Stark, Mr. Patterson, and Mr. Ottinger.

H.R. 7245: Mr. Archer and Mr. Cleveland.

H.R. 7287: Mr. Oberstar.

H.R. 7290: Mr. Cheney.

H.R. 7436: Ms. Oakar.

H.R. 7447: Mr. Van Deerlin, Mr. Gingrich, and Mr. Simon.

H.R. 7505: Mr. Bedell.

H.R. 7773: Mr. Nelson.

H.R. 7846: Mr. Wolpe.

H.R. 7866: Mr. Bedell, Mr. Bonior of Michigan, Mr. Corman, Mr. Conte, Mr. D'Amours, Mr. Edwards of California, Mr. Edgar, Mr. Fazio, Mr. Guyer, Mr. Hinson, Mr. Ottinger, Mr. Scheuer, Mr. Seiberling, Mrs. Spellman, and Mr. Charles Wilson of Texas.

H.R. 7916: Mr. Duncan of Tennessee, Mr. Forsythe, Mr. Derwinski, Mr. Whitehurst, Mr. Jeffries, Mr. Lott, and Mr. Cleveland.

H.R. 7966: Mr. Forsythe, Mr. Lee, Mr. Kindness, Mr. Mattox, Mr. Lott, Mr. Courter, Mr. Coleman, Mr. Burgener, Mr. Frenzel, Mr. Whitehurst, Mr. Simon, and Mrs. Spellman.

H.R. 8006: Mr. Campbell, Mr. Murphy of Pennsylvania, Mr. Railsback, and Mrs. Snowe.

H.R. 8111: Mr. Emery, Mr. Pepper, Mr. Cleveland, and Mr. Carter.

H.R. 8148. Mr. Martin.

H.R. 8169: Mr. Patterson, Mr. Ottinger, Mr. Derwinski, Mr. Williams of Ohio, Mr. Mottl, Mr. Roe, Mr. Lagomarsino, and Ms. Oakar.

H.R. 8177: Mr. Bedell.

H.J. Res. 69: Mr. Hamilton, Mr. Donnelly, Mr. LaFalce, and Mr. Petri.

H.J. Res. 497: Mr. Hinson, Mr. Guyer, Mr. Lagomarsino, Mr. Murphy of Pennsylvania, Mrs. Chisholm, Mr. Jones of Tennessee, Mr. Waxman, Mr. Preyer, Mrs. Collins of Illinois, and Mr. Luken.

H. Con. Res. 56: Mr. Benjamin, Mr. Marks, and Mr. Oberstar.

H. Con. Res. 134: Ms. Oakar.

H. Con. Res. 306: Mr. Rhodes.

H. Con. Res. 363: Mr. Fithian.

H. Con. Res. 402: Mr. Collins of Texas, Mr. Lagomarsino, Mr. Addabbo, Mr. Kemp, Mr. Benjamin, Mr. Downey, Mr. Frenzel, Mr. McDonald, Mr. Archer, Mr. Blanchard, Mr. Edgar, Mr. Edwards of California, Mr. Wirth, Mr. Roe, Mr. Frost, Mr. Nowak, Mr. McHugh, Mr. Lungren, Mr. Thompson, Mr. Lent, Mrs. Schroeder, Mr. Conyers, Mr. Waxman, Mr. Oberstar, Mr. Carter, Mr. Maguire, Mr. Scheuer, Mr. Wolpe, Mr. Gradison, Mr. Duncan of Tennessee, Mr. Mavroules, Mr. Porter, Mr. Hubbard, Mr. Dougherty, Mr. Ottinger, Mr. Hughes, Mr. Green, Mr. Hyde, Mr. Simon, and Mrs. Fenwick.

H. Con. Res. 405: Mr. Lott, Mr. Courter, Mr. McKinney, and Mr. Brown of Ohio.

H. Con Res. 430: Mr. O'Brien, Mr. Moorhead of California, Ms. Ferraro, Mr. Sawyer, Mr. Hyde, Mr. Whitehurst, Mr. Benjamin, Mr. Watkins, Mr. Forsythe, Mr. McDonald, Mr. Murphy of Illinois, Mr. Stark, Mr. Hubbard, Mr. Roth, Mr. Roe, Mr. Derwinski, Mr. Shelby, Mr. Frost, Mr. Brodhead, Mr. Mineta, Mr. Rinaldo, Mr. Yatron, Mr. Marks, Mr. Russo, Mr. Dougherty, and Mr. Young of Florida.

H. Con. Res. 434: Mr. Rangel, Mr. Anderson of California, Mr. Jacobs, Mr. Gramm, Mr. Solarz, Mr. Mazzoli, Mr. Marks, Mr. Evans of Delaware, Mr. Evans of the Virgin Islands, Mr. Thompson, and Mr. Addabbo.

H. Con. Res. 436: Mr. Petri, Mr. Murphy of Illinois, Mr. Lungren, Mr. Hughes, Mr. Nolan, Mr. Horton, Mr. Pashayan, Mr. Wolpe, Mr. Coelho, Mrs. Chisholm, Mr. Carter, Mrs. Bouquard, Mr. Duncan of Tennessee, Mrs. Fenwick, Mr. Andrews of North Carolina, Mr. Lagomarsino, Mr. Simon, Mrs. Schroeder, Mr. Kramer, and Mr. Pickle.

H. Res. 755: Mr. Walgren, Mr. Addabbo, Mrs. Chisholm, Mr. Blanchard, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Forsythe, Mr. Boland, Mr. Mazzoli, Mr. Lederer, Mrs. Holt, Mr. Scheuer, Mr. Vento, Mr. Loeffler, Mr. Lundine, Mr. Downey, Mr. Wolpe, Mr. Frenzel, Mr. Lee, Mr. Edgar, Mr. Porter, Mr. Bolling, Mr. Burgener, Mr. Duncan of Oregon, Mr. Daschle, Mr. Fary, Mr. Fazio, Mr. Coelho, Mr. Leath of Texas, Mr. Green, Mr. Lloyd, Mr. Lagomarsino, Mr. Corrada, Mr. Gray, Mr. Guyer, Mr. Findley, Mr. Livingston, Mr. Hefner, Mr. Hutto, Mr. Jenrette, Mr. Kemp, Mr. Bingham, Mr. Jones of Tennessee, Mr. Evans of the Virgin Islands, Mr. Ginn, Mr. Grassley, Mr. Benjamin, Mr. Harsha, Mr. Waxman, Mr. Bethune, Mr. Pursell, Mr. Richmond, Mr. Symms, Mr. Young of Missouri, Mr. Horton, Mr. Winn, Mr. Williams of Ohio, Mr. Whittaker, Mr. Weiss, Mr. Van Deerlin, Mr. Oberstar, Mr. Rinaldo, Mr. Preyer, Mr. Royer, Mr. Rahall, Mrs. Collins of Illinois, Mr. Barnes, Mr. Pepper, Mr. Nowak, Mr. Hyde, Mr. Albosta, Mr. D'Amours, Mr. Conyers, Mr. Breaux, Mr. Cleveland, Mr. Rose, Mr. Simon, Mr. Kostmayer, Mr. Stenholm, Mr. Shumway, Mr. Santini, Mr. Sebelius, Mr. Yatron, Mr. Stack, Mr. Stark, Mr. Stewart, Mr. Stump, Mr. Thompson, Mr. Weaver, Mr. Charles H. Wilson of California, and Mr. Staggers.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

438. By the SPEAKER: Petition of the city council, Philadelphia, Pa., relative to public housing; to the Committee on Banking, Finance and Urban Affairs.

439. Also, petition of the 122d Convention of the International Typographical Union, Kansas City, Mo., relative to the National Labor Relations Board; to the Committee on Education and Labor.

440. Also, petition of the Kansas Independent Oil and Gas Association, Wichita, Kans., relative to EPA regulations governing underground injection; to the Committee on Interstate and Foreign Commerce.

441. Also, petition of the 1980 convention of the National Student Nurses' Association, Salt Lake City, Utah, relative to adolescent pregnancy; to the Committee on Interstate and Foreign Commerce.

442. Also, petition of the 122d Convention of the International Typographical Union, Kansas City, Mo., relative to the manufacturing clause of the copyright law; to the Committee on the Judiciary.

443. Also petition of the Kansas Independent Oil & Gas Association, Wichita, Kans., relative to the crude oil windfall profits tax; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4370

By Mr. MARLENEE:

(Amendment to the amendment in the nature of a substitute.)

—To title I, section 101, on page 5, after line 25, add the following new subsection:

"(e) No right-of-way may be acquired through exercise of the power of eminent domain under this act if such right-of-way is over, under, upon or through—

"(1) land under one ownership consisting of 1,500 contiguous acres or less."

—To title I, section 101, on page 37, after line 16, add the following new subsection C:

"(c) No right-of-way may be acquired through the exercise of the power of eminent domain under this act if such right-of-way is over, under, upon or through—

"(1) land under one ownership consisting of 1,500 contiguous acres of land."

and, redesignate the remaining subsections accordingly

—To title I, section 102(b), on page 7, line 15 strike the "." and insert "; and" and add the following new subsection:

"(6) the United States Geological Survey has conducted a comprehensive study which demonstrates that the use of underground water (whether groundwater or other subsurface waters) for the purpose of transporting coal over th life of the coal pipeline, and considering the cumulative effect of any other coal pipelines using the same underground aquifer as a source of water, will not cause a significant adverse impact on the quality and quantity of the water table in surrounding areas or adjoining states."

—To title I, section 102(b), on page 40, line 16 strike the "." and insert "; and" and add the following new subsection:

(6) the United States Geological Survey has conducted a comprehensive study which demonstrates that the use of underground water (whether groundwater or other subsurface waters) for the purpose of transporting coal over the life of the coal pipeline, and considering the cumulative effect of any other coal pipelines using the same underground aquifer as a source of water, will not cause a significant adverse impact on the quality and quantity of the water table in surrounding areas or adjoining states, and

"(A) regardless of the findings of the United States Geological Survey's study, the applicant has obtained any and all permits or authorizations for the use of any surface or underground water required by the state or states having jurisdiction over the surface waters to be used, or having a valid legal interest in the underground waters to be used and beneath whose lands the underground aquifer lies constituting the source of the underground water to be used."

By Mr. STAGGERS:

(Substitute for Mr. UDALL's amendment.)

—In lieu of the matter proposed to be inserted after the enacting clause, insert the following:

SHORT TITLE

—SECTION 1. This Act may be cited as the "Coal Pipeline Act of 1980".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the increased use of domestic coal to create electrical and other forms of energy promotes the national interest by conserving oil and natural gas resources;

(2) use of domestic coal resources may be facilitated by the construction of pipelines to transport coal from the mine to the consumer;

(3) the national interest may, in some situations, be facilitated by authorizing pipeline carriers of coal to obtain rights-of-way across private lands;

(4) regulation of coal transportation by pipeline must be coordinated with existing transportation regulations and be in accordance with national transportation policy; and

(5) the provisions of this Act and the amendments made by this Act should not affect the regulation of water rights by the States.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "coal pipeline" means any pipeline system for the transportation of coal (or its solid-derived products) from a point outside a State to a point within such State or between two points in a State through another State. A coal pipeline system includes the line pipe, valves, support structures, and pumping, storage, and terminal units, and similar facilities used or useful in the transportation of coal.

(2) The term "Federal lands" means lands owned by the United States, other than lands which are held in trust for an Indian or Indian tribe. Such term does not include any lands owned by an Indian or Indian tribe subject to a restraint against alienation imposed by the United States.

(3) The term "right-of-way" means an interest in land (including an easement, lease, permit, or license to occupy, use or traverse lands), that is necessary for the construction, operation, maintenance or extension of a coal pipeline.

TITLE I—RIGHTS-OF-WAY

AUTHORITY OF THE SECRETARY OF THE INTERIOR

SEC. 101. (a) Except as provided in sections 103 and 104 of this Act the Secretary of the Interior, after consultation with the head of any Federal agency administering any Federal lands, may grant or renew rights-of-way over, under, upon, or through such Federal lands for the construction, operation, maintenance or extension of coal pipelines. The Secretary of the Interior shall enter into interagency agreements with the heads of all other Federal agencies administering Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of applications for rights-of-way under this section, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any application for a right-of-way under this section. Each agency head shall administer and enforce the provisions of this title, appropriate regulations, and the terms and conditions of rights-of-way insofar as they involve Federal lands under the agency head's jurisdiction.

(b) Notwithstanding any other provision of law relating to any Federal lands, rights-of-way over, under, upon, or through Federal lands for the construction, operation, maintenance, or extension of coal pipelines may be granted or renewed after the date of enactment of this Act only in accordance with this title.

APPLICABLE REQUIREMENTS CONCERNING FEDERAL LANDS

SEC. 102. (a) A right-of-way granted or renewed by the Secretary of the Interior under section 101 of this Act shall be granted or renewed in accordance with the conditions, requirements, and other provisions set forth in the Federal Land Policy and Management Act of 1976 (Public Law 94–579), except that in applying such conditions, requirements, or provisions to a right-of-way granted or renewed under such section, any reference to the term "public lands" shall be deemed to be a reference to the term "Federal lands" as defined in section 3 of this Act.

(b) Each right-of-way granted or renewed by the Secretary of the Interior under section 101 of this Act shall contain such other terms and conditions as the Secretary of the Interior considers necessary to carry out the purposes of this Act and the rules and regulations issued under this Act and to protect the public interest in the lands traversed by the right-of-way and the lands adjacent to the right-of-way.

EXISTING RIGHTS-OF-WAY AND PENDING PROCEEDINGS

SEC. 103. (a) Nothing in this title shall affect any right-of-way for a coal pipeline over, under, upon, or through Federal lands if such right-of-way was granted before the date of enactment of this Act, except that such right-of-way may be renewed only in accordance with this title.

(b)(1) The granting and administration of any right-of-way over, under, upon, or through Federal lands pursuant to an application or other request which—

(A) was made under title V of the Federal Land Policy and Management Act of 1976 (Public Law 94–579) or under any other authority of law; and

(B) was not finally disposed of before the date of enactment of this Act,

shall be governed by such title V or other authority of law, as the case may be. The provisions of this title shall not affect any proceedings with respect to any such application or other request.

(2) The provisions of this title shall not affect only civil action commenced prior to the date of enactment of this Act.

ENVIRONMENTALLY AND HISTORICALLY SIGNIFICANT AREAS

SEC. 104. No right-of-way may be granted under section 101 of this Act if such right-of-way is over, under, upon, or through any Federal land which is part of a public park, recreation area, wilderness area, or wildlife and waterfowl refuge or any Federal land which is part of a historic site of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, unless (1) there is no feasible and prudent alternative to the grant of such right-of-way, and (2) all possible planning is made to minimize harm to such park, recreational area, wilderness area, wildlife and waterfowl refuge, or historic site resulting from the grant of such right-of-way.

ACQUIRING RIGHTS-OF WAY OVER NONFEDERAL LANDS

SEC. 105. (a) Subchapter I of chapter 111 of title 49, United States Code, is amended by inserting after section 11108 the following new section:

"§ 11109. Authority for pipeline carriers of coal to cross rail carrier property

"(a) In this section, the term 'right-of-way' means an interest in land (including an easement, lease, permit, or license to occupy, use, or traverse lands) that is necessary for the construction, operation, maintenance, or extension of a coal pipeline.

"(b)(1) Except as otherwise provided in this section, any pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title may apply to the Commission for approval of the acquisition by such carrier of a right-of-way for the construction and operation of a pipeline over, under, upon, or through any property or facility owned by a rail carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title.

"(2) The Commission shall approve an application of a pipeline carrier of coal under paragraph (1) of this subsection if the Commission determines that—

"(A) the construction and operation of the coal pipeline does not unreasonably interfere with operation of the rail carrier whose property would be crossed;

"(B) the pipeline carrier of coal agrees to pay the rail carrier for the right-of-way provided;

"(C) the proposed acquisition is in the public interest; and

"(D) the terms of the construction and operation (including the amount of payment) are just and reasonable.

"(3) If the carriers are unable to agree on the terms of construction and operation (including the amount of payment), the Commission shall establish just and reasonable terms. In addition, if the Commission finds that the terms agreed upon by the carriers are not just and reasonable, it may condition its approval of the application upon such modification of such terms as it considers necessary and appropriate.

"(c) No person may acquire under this section any right-of-way over, under, upon, or through any land—

"(1) owned by the United States or by any State or any political subdivision thereof;

"(2) held in trust by the United States for an Indian or Indian tribe; or

"(3) owned by a regional or village corporation established under the Alaska Native Claims Settlement Act if such land was transferred to such corporation pursuant to such Act.

"(d) Nothing in this section shall be construed to permit any person (including the Interstate Commerce Commission, any other officer or employee of the United States, or any pipeline carrier of coal) to acquire any right to use or develop water through the acquisition of a right-of-way under this section.

"(e) No right-of-way may be acquired under this section if such right-of-way is over, under, upon, or through any land which is part of a historic site of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, unless (1) there is no feasible and prudent alternative to the acquisition of such right-of-way, and (2) all possible planning is made to minimize harm to such historic site resulting from the acquisition of such right-of-way.".

(b) The table of sections for subchapter I of chapter 111 of title 49, United States Code, is amended by inserting immediately after the item relating to section 11108 the following new item:

"11109. Authority for pipeline carriers of coal to cross rail carrier property.".

TITLE II—CERTIFICATION AND REGULATION

ENTRY AND ABANDONMENT

SEC. 201. (a) Chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—COAL PIPELINE CARRIERS

"§ 10941. Authorizing construction and operation of coal pipelines

"(a)(1) Except as provided in this subchapter, a person may acquire, operate, or construct a coal pipeline or an extension of a coal pipeline, or exercise authority under section 11109 of this title to acquire a right-of-way for construction, operation, maintenance, or extension of a coal pipeline, only if—

"(A) an environmental impact statement is prepared with respect to such action under section 10944(h) of this title;

"(B) the person agrees to comply with this subtitle and the regulations of the Commission with respect to pipeline carriers;

"(C) the Commission makes the determinations required under paragraph (2) of this subsection;

"(D) the Office of Rail Public Counsel makes the determinations required under paragraph (3) of this subsection; and

"(E) the issuance of the certificate is approved by the Congress under subsection (d)(2) of this section.

"(2) No certificate to transport coal may be issued under this section to a pipeline carrier unless the Commission determines in writing that—

"(A) the pipeline carrier has the technical and financial capability—

"(i) to construct, operate, and maintain the coal pipeline or extension thereof; and

"(ii) to comply with this subtitle and the regulations of the Commission;

"(B) the coal pipeline or extension thereof is or will be required by the present or future public convenience and necessity;

"(C) the coal pipeline or extension thereof will provide the capacity necessary to fulfill the requirement of a common carrier of coal, taking into account—

"(i) the capacity needed to meet the requirements of coal producers and coal users that intend to use the proposed coal pipeline; and

"(ii) the additional capacity needed to meet the requirements of coal producers and coal users that might reasonably be anticipated to use the proposed coal pipeline;

"(D) the rates to be charged by the pipeline carrier for the transportation of coal will be lower than those which would otherwise be charged by other carriers for the transportation of such coal;

"(E) the coal pipeline will not impair (i) the financial ability of any other carrier to provide transportation, or (ii) the level or type of transportation any such carrier would be able to provide;

"(F) the coal pipeline or extension thereof will assist in meeting coal transportation needs for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner;

"(G) existing carriers do not have the ability to meet the transportation needs for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner;

"(H) the coal pipeline or extension thereof will not have a substantially detrimental effect on the environment;

"(I) the construction and operation of the coal pipeline or extension thereof will take into account the need for a balance between the energy needs of the area to be benefited by the coal pipeline or extension thereof and the water needs and other impacts on the area from which the coal is to be transported;

"(J) the coal pipeline or extension thereof will not have a substantially detrimental effect on surface or ground water at the point of origin from which the coal is to be transported, at the point of destination to which the coal is to be transported, and at the point of disposal of water utilized in the transportation of the coal;

"(K) the coal pipeline or extension thereof will not disrupt the coal industry in regions of the United States other than the region in which such pipeline will originate; and

"(L) the construction of the coal pipeline or extension thereof will be impeded or delayed unless the authority to acquire rights-of-way is granted to the applicant under section 11109 of this title.

"(3) No certificate to transport coal may be issued under this section to a pipeline carrier unless the Office of Rail Public Counsel, within 45 days after the publication of notice under section 10942(a) of this title, makes an affirmative determination in writing with respect to the matters described in subparagraphs (D), (E), (F), and (G) of this paragraph.

"(b) A person must file an application with the Commission for a certificate to provide transportation of coal as a pipeline carrier under this section. The application must—

"(1) be under oath;

"(2) contain information required by Commission regulations; and

"(3) be served on persons designated by the Commission.

"(c) No certificate may be issued to an applicant under this section for the transportation of coal by coal pipeline until—

"(1) the applicant submits or discloses to the Commission any plan, contract, agreement, or other information which the Commission shall determine is reasonably related to the use, or intended use, of the coal pipeline or extension thereof, including its effect on competition, and which the Commission considers necessary to make a determination with respect to whether such certificate should be issued and the terms and conditions which should be included in the certificate;

"(2) the applicant submits to the Commission a plan for—

"(A) the acquisition of the rights-of-way for the coal pipeline or extension thereof; and

"(B) the construction, operation, and maintenance of the coal pipeline or extension thereof; and

"(C) the rehabilitation of such rights-of-way, which shall be in such form and contain such information as the Commission may, by regulation, require; and

"(3) in any case in which the applicant is a partnership, corporation, association, or other business entity, the applicant discloses to the Commission the identity of the participants in the entity and such other information as the Commission considers necessary to make a determination with respect to whether such certificate should be issued and the terms and conditions which should be included in such certificate.

"(d)(1)(A) If the Commission makes the determinations required under subsection (a)(2) of this section and the Office of Rail Public Counsel makes the determinations required under subsection (a)(3) of this section, the Commission shall—

"(i) approve the application as filed; or

"(ii) approve the application with modifications and require compliance with terms and conditions the Commission finds necessary in the public interest.

"(B) If either the Commission or the Office of Rail Public Counsel fails to make any one of its required determinations, the Commission shall deny the application.

"(2)(A) Upon approval of an application by the Commission under paragraph (1)(A) of this subsection, the Commission shall transmit such application to the Congress. Such application shall be deemed approved at the end of the first period of 30 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor such application.

"(B) For purposes of this paragraph—

"(i) continuity of session of Congress is broken only by an adjournment sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

"(3) Upon approval of an application under paragraph (2) of this subsection, the Commission shall issue to the applicant a certificate describing—

"(A) any rights-of-way the acquisition of which is approved in whole or part by the Commission under section 11109 of this title; and

"(B) the construction or acquisition (or both) and operation approved by the Commission.

"(e) Neither the issuance of a certificate under this section by the Commission nor the designation of a person as a pipeline carrier of coal shall be construed to constitute a finding or evidence that the coal pipeline for which such carrier is issued such certificate is being constructed, operated, maintained, or extended in the public interest under State law or that such carrier is entitled to exercise the power of eminent domain under State law.

"§ 10942. Procedure for authorizing construction and operation of coal pipelines

"(a) Within 30 days after receipt of an application for a certificate to provide transportation of coal by coal pipeline under this subchapter, the Commission shall determine whether the application appears to contain all of the information required for its consideration. If the Commission determines that such information appears to be in the application, the Commission shall, no later than 7 days after making such a determination, publish notice of the application in the Federal Register. The Commission shall further notify the Governor of each State in which the coal pipeline will be located. Each notification shall identify the lands over which the coal pipeline is to be constructed or operated and the water source to be used. If the Commission determines that all of the required information is not in the application, the Commission shall immediately notify the application of all the deficiencies in the application and may take no further action with respect to the application until such deficiencies have been remedied.

"(b)(1) Within 10 days after the publication of notice pursuant to subsection (a) of this section, the Commission shall request—

"(A) the Secretary of Transportation to submit findings with respect to matters described in subparagraphs (D), (E), and (F) of section 10941(a)(2) of this title;

"(B) the Secretary of Energy to submit findings with respect to matters described in subparagraphs (F) and (I) of such section; and

"(C) the Secretary of the Interior to submit findings with respect to matters described in subparagraphs (J) and (K) of such section.

"(c) Each applicant for a certificate under this subchapter shall reimburse the Commission for administrative and other costs incurred by the Commission in processing the application in such manner as the Commission shall, by rule, prescribe.

"(d)(1) A certificate to provide transportation of coal by coal pipeline may be issued under this subchapter only after public notice and a public hearing in accordance with this subsection.

"(2) Upon publication of the notice in the Federal Register pursuant to subsection (a) of this section, the Commission shall—

"(A) require the applicant to publish for three consecutive weeks an accurate and understandable summary of the application in a newspaper of general circulation in each county in which the coal pipeline or extension thereof will be located;

"(B) take other reasonable and effective steps to publicize the application; and

"(C) take the necessary steps to notify coal producers and coal users that might want to transport coal in the coal pipeline. The notice shall, among other things, specify the rights-of-way which will be acquired under section 11109 of this title if such certificate is issued in accordance with such application. The notice shall also indicate that each interested person is entitled to submit comments to the Commissioner with respect to such application.

"(3) The Commission shall promptly hold at least one public hearing with respect to each application submitted under section 10941 of this title in each State in which the coal pipeline or extension thereof proposed in such application will be located. Such hearings shall be at a reasonably convenient site adjacent to the pipeline route. Any interested person may present relevant material at such hearing.

"(4)(A) The Commission shall hold at least one public, formal adjudicatory hearing with respect to each application submitted under section 10941 of this title. Any such hearing shall be conducted in accordance with the provisions of section 554 of title 5. At least one of such adjudicatory hearings shall be held in the District of Columbia.

"(B) The Secretary of Energy, the Secretary of Transportation, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency shall participate in each hearing held under this paragraph and shall submit proposed findings and conclusions, exceptions to the decision or recommended decision, and supporting reasons for the exceptions or proposed findings or conclusions. The head of any other Federal agency may participate in any such hearing and may make the submissions described in the preceding sentence.

"(C) State and local agencies and other interested persons may, upon reasonable application, participate in any hearing held under this paragraph.

"§ 10943. Terms and conditions

"(a) Each certificate issued to a pipeline carrier to provide transportation of coal by coal pipeline under this subchapter shall contain terms and conditions which will—

"(1) minimize damage to scenic and aesthetic values and fish and wildlife habitat and otherwise protect the environment;

"(2) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law;

"(3) require compliance with regulations issued by the Secretary of Transportation under section 303 of the Coal Pipeline Act of 1980;

"(4) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of coal pipelines if such standards are consistent with or more stringent than applicable Federal standards;

"(5) require compliance with such regulations as the Commission shall prescribe to ensure that such carrier, in acquiring land or rights-of-way for construction, operation, maintenance, or extension of the coal pipeline, provides the notice and compensation to persons whose land or rights-of-way are to be so acquired in the same manner and to the same extent as a Federal agency provides notice and compensation to a displaced person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(6) require the revegetation, restoration, and curtailment of erosion of the surface of any right-of-way acquired for the coal pipeline; and

"(7) carry out the purposes of this subchapter and the rules and regulations issued under this subchapter.

"(b) Each certificate issued to a pipeline carrier to provide transportation of coal by coal pipeline under this subchapter shall contain such terms and conditions as the Commission considers necessary to—

"(1) protect the public health and safety;

"(2) protect property;

"(3) protect the interests of individuals who live in the general area traversed by the coal pipeline and rely on the resources of such area;

"(4) require location of the right-of-way along a route that will cause the least damage to the environment, taking into consideration feasibility and other relevant factors; and

"(5) otherwise protect the public interest.

"(c) The Commission shall require as a condition of issuance of a certificate under this subchapter that—

"(1) any coal pipeline for which such certificate is issued be constructed, operated, maintained, and extended as a common carrier, in fact, fully subject to rate and charge regulation by the Commission under this title; and

"(2) for purposes of such rate and charge regulation, the cost of constructing such pipeline and auxiliary facilities not exceed the maximum allowable construction cost established by the Commission for such pipeline and facilities, exclusive of any cost increase that results from (A) subsequent inflation, or (B) an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character.

"(d)(1) If the Commission determines, in the course of the proceedings for issuance of a certificate under this subchapter, that the right-of-way over, under, upon, or through which the coal pipeline is to be constructed, operated, maintained, or extended may be utilized for additional uses compatible with operations of the coal pipeline, the Commission may require as a condition to the grant of such certificate that the right-of-way for the coal pipeline be subject to such compatible uses.

"(2) The Commission shall require the additional use described in paragraph (1) of this subsection only if the Commission, by rule—

"(A) finds—

"(i) the additional use is a compatible use; and

"(ii) conditioning the issuance of the certificate upon the availability of the right-of-way for the additional use is in the public interest; and

"(B) establishes reasonable provisions for the payment of compensation for the additional use to the person otherwise entitled to the exclusive use.

"(e) The Commission shall issue regulations specifying the extent to which a holder of a certificate to provide transportation of coal by coal pipeline under this subchapter shall be liable to any person whose land is acquired for construction, operation, maintenance, or extension of the coal pipeline for damage or injury incurred by such person caused by the use and occupancy of such land. The regulations shall also specify the extent to which such holder shall indemnify or hold harmless such person for liabilities, damages, or claims caused by the use and occupancy of such land.

"(f) The Commission shall require as a condition of issuance of a certificate to provide transportation of coal by coal pipeline under this subchapter that the pipeline carrier, upon application of any party tendering coal for transportation, shall construct, maintain, and operate upon reasonable terms a feeder or distribution line to connect the source of such tendered coal with the coal pipeline in any case in which such connection is reasonably practicable and can be constructed with safety and will furnish sufficient business to justify its construction, operation, and maintenance. Such feeder or distribution line, at the option of the party applying therefor, shall include any facilities necessary for the delivery of coal to such party in a form and condition suitable for use as fuel without further processing or treatment. If any pipeline carrier of coal holding a certificate issued under section 10941 of this subchapter fails to install and operate any feeder or distribution line upon application in writing by any party, such party may submit a complaint to the Commission. The Commission—

"(i) shall hear and investigate such complaint;

"(ii) shall make a determination with respect to the safety and practicability of such feeder or distribution line and the justification and reasonable compensation for such line; and

"(iii) may issue an order, in accordance with this substitute, directing such pipeline carrier to comply with the provisions of this section in accordance with such order.

Such order shall be enforced as provided for the enforcement of all other orders by the Commission, other than orders for the payment of money.

"§ 10944. Limitations on issuance of a certificate

"(a) In this section—

"(1) 'antitrust laws' means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), the Wilson Tariff Act (15 U.S.C. 8 et seq.), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(2) 'control' means the power to exercise control by whatever means, and any person who (A) is a director of a carrier or of any other person, or (B) owns in excess of 5 per centum of the voting stock (or any like evidence of participation) of a carrier or of any other person shall be deemed to have the power to exercise control of such carrier or other person, as the case may be.

"(b)(1) The Commission shall not issue any certificate under section 10941 of this subchapter unless it has notified the Attorney General of the United States of the application for such certificate and has received the advice of the Attorney General that such action would not create or maintain a situation inconsistent with the antitrust laws. The Commission shall provide such information as the Attorney General may require to conduct an antitrust review to determine the likely effects upon competition of issuance of such certificate. Any advice under this subsection shall be rendered within a reasonable period of time, but in no event later than 180 days after the date on which the Attorney General receives notification from the Commission. Such advice may include specific findings and recommendations for the inclusion in such certificate of reasonable terms and conditions considered necessary to protect and promote competition.

"(2)(A) The issuance of a certificate under section 10941 of this subchapter shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws, nor shall it in any way modify or abridge any private right of action under the antitrust laws.

"(B) Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the operation of a coal pipeline.

"(C) Nothing contained in this section shall impair, amend, broaden, or modify the antitrust laws.

"(c)(1) A pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title may not control, be controlled by, or be under common control with any person that uses or will use coal transported by such pipeline carrier or that supplies coal to the pipeline. No pipeline carrier granted the authority to acquire rights-of-way under section 11109 of this title may control, be controlled by, or be under common control with any such person.

"(2) A pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title may not transport any coal owned, mined, or supplied by such carrier or by a person that controls, is controlled by, or is under common control with such carrier.

"(3)(A) The transportation of coal which a pipeline carrier owns only during shipment or during storage immediately before shipment, for the sole purpose of achieving transportation and storage economies through blending and commingling of coal acquired from several coal producers or for several coal users, may be exempted by the Commission, in accordance with this paragraph, from the prohibitions set forth in paragraphs (1) and (2) of this subsection.

"(B) The Commission may grant an exemption to a pipeline carrier of coal under this subsection for the transportation of coal owned by such carrier only if the Commission determines that the ownership of coal—

"(i) facilitates the achievement of the transportation and storage economies referred to in subparagraph (A) of this paragraph; and

"(ii) will not result in unfair competitive advantages for the pipeline carrier by reason of any differences in the rates charged for the transportation of coal owned by such carrier and coal owned by any other person.

"(C) Any transportation and storage charges which may result from the blending and commingling authorized under this paragraph shall be included in the tariffs filed with the Commission.

"(D) The Commission shall have the same authority with respect to rate regulation under this title for the transportation of coal pursuant to the exemption contained in this paragraph as the Commission has with respect to the transportation of coal which is not exempted under this paragraph.

"(4) No certificate may be issued under section 10941 of this title to any person that the Commission determines will not comply with the provisions and limitations set forth in this subsection.

"(d)(1) Any person proposing to apply for a certificate under section 10941 of this title may, prior to submitting an application for such certificate, petition the Commission for a determination that such person will not violate the prohibitions set forth in subsection (b) of this section. Such petition shall provide such information concerning ownership, management, and control of the person proposing to apply for such certificate, and such information concerning the ownership, management, and control of persons who will supply and use the coal to be transported by the proposed coal pipeline as the Commission considers necessary or pertinent.

"(2) Within 7 days of receipt of a petition pursuant to paragraph (1) of this subsection, the Commission shall publish notice of the petition in the Federal Register and shall notify the Attorney General of its consideration of such petition.

"(3) Within 120 days of receipt of a petition pursuant to paragraph (1) of this subsection, the Commission, in consultation with the Attorney General, shall make a preliminary determination with respect to whether the petitioner would be in compliance with the prohibitions set forth in subsection (b) of this section.

"(4) Any interested person or the petitioner may submit written comments within 60 days of the publication of the petition in the Federal Register.

"(5) In determining whether a person will violate the prohibitions set forth in subsection (b) of this section, the Commission shall not make a determination inconsistent with the preliminary determination made pursuant to paragraph (3) of this subsection unless the Commission finds, based on the record as a whole, substantial evidence to rebut such preliminary determination.

"(e) The Commission shall not approve an application for a certificate to provide transportation of coal by coal pipeline under section 10941 of this title which proposes to use ground water for the purpose of transporting coal unless—

"(1) the United States Geological Survey has, upon the request of any interested State, conducted a comprehensive study of the use of such ground-water source over the life of the coal pipeline considering whether such pipeline or the cumulative effect of such coal pipeline and other uses of the same ground-water aquifer will cause adverse impacts upon the quality and quantity of such water in surrounding areas or adjoining States;

(2) any interested State has had an opportunity to make its views known to the United States Geological Survey in connection with any study conducted under paragraph (1) of this subsection, and such views have been given full consideration by the Survey;

"(3) the findings of any study by the United States Geological Survey under paragraph (1) of this subsection have been made available to all interested States; and

"(4) any State which the Commission, in consultation with the Secretary of the Interior and after consideration of the findings of any study conducted by the United States Geological Survey under paragraph (1) of this subsection, determines to have a valid legal interest in the ground water to be used and beneath whose lands any part of the ground-water aquifer constituting any part of the source of ground water to be used lies has certified to the Commission such State's approval of the use of such ground water for the purpose of transporting coal.

"(f) The Commission shall not approve an application for a certificate to provide transportation of coal by coal pipeline under section 10941 which proposes to use surface waters for the purpose of transporting coal unless the applicant has obtained any necessary permit for the use of such waters from the State having jurisdiction over such waters.

"(g)(1) No certificate to provide transportation of coal by coal pipeline may be issued under section 10941 of this subchapter unless the applicant files with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent construction, operation, or maintenance of the coal pipeline or for loss or damage to property, or both.

"(2) The Commission may determine the type and amount of security filed with it under this section.

"(h) No certificate to provide transportation of coal by coal pipeline may be issued under section 10941 of this title unless an environmental impact statement which meets the requirements for statements prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is prepared and published in the Federal Register.

"§ 10945. Authorizing abandonment and discontinuance of coal pipelines

"(a) A pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title may—

"(1) abandon any part of its coal pipeline; or

"(2) discontinue the operation of all coal pipeline transportation over any part of its coal pipeline,

only if the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance or that water used for transporting the coal has been reduced by circumstances beyond the control of the carrier to a level which is below the level sufficient to continue the transportation of coal.

"(b)(1) A proceeding to grant authority under subsection (a) of this section begins on application filed with the Commission. If the Commission—

"(A) finds public convenience and necessity, it shall—

"(i) approve the application as filed; or

"(ii) approve the application with modifications and require compliance with conditions that the Commission finds are required by public convenience and necessity; or

"(B) fails to find public convenience and necessity, it shall deny the application.

"(2) On approval, the Commission shall issue to the coal pipeline carrier a certificate describing the abandonment or discontinuance approved by the Commission.

"(c) The abandonment or discontinuance may take effect on the 60th day after the issuance of the certificate.

"§ 10946. Filing and procedure for applications to abandon or discontinue

"(a)(1) An application for a certificate of abandonment or discontinuance under section 10945 of this title, and a notice of intent to abandon or discontinue, must be filed with the Interstate Commerce Commission at least 60 days before the day on which the abandonment or discontinuance is to become effective.

"(2) When a pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title files an application and notice of intent, the notice shall include—

"(A) an accurate and understandable summary of the carrier's application and the reasons for the proposed abandonment or discontinuance; and

"(B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

"(3) The pipeline carrier shall—

"(A) send by certified mail a copy of the notice of intent to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

"(B) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which any part of the coal pipeline is located.

"(C) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Commission) of the coal pipeline during the 12 months preceding the filing of the application; and

"(D) attach to the notice filed with the Commission an affidavit certifying the manner in which subparagraphs (A), (B), and (C) of this paragraph have been satisfied.

"(b) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(c)(1) During the period between the date the application is filed through the day immediately before the date proposed in the application that the abandonment or discontinuance become effective, the Commission shall, on petition, and may, on its own initiative, begin an investigation to assist it in determining what disposition to make of the application. The order to conduct the investigation must be served on any affected pipeline carrier of coal not later than the 5th day before the proposed effective date of the abandonment or discontinuance. An investigation may include public hearings at any location reasonably adjacent to the coal pipeline involved in the abandonment or discontinuance. The hearing may be held on the request of an interested party or on the initiative of the Commission.

"(2) If an investigation is not conducted, the Commission shall act under section 10945(b) of this title by the last day of the period referred to in paragraph (1) of this subsection. If an investigation is to be conducted, the Commission shall postpone the proposed effective date of any part of the abandonment or discontinuance. The postponement shall be for a reasonable period of time necessary to complete the investigation.

"§ 10947. Coal pipeline transfer, merger, and acquisition transactions

"(a) Any pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title shall, prior to—

"(1) transferring any coal pipeline or other property to any person;

"(2) consolidating or merging its properties with the properties of any other such pipeline carrier;

"(3) purchasing, leasing, or contracting to operate any properties of any other such pipeline carrier; or

"(4) acquiring control of any other such pipeline carrier through ownership of its stock or otherwise,

submit an application to the Commission requesting the approval and authorization of the Commission, pursuant to subsection (b) of this section, to carry out such transaction. No such pipeline carrier shall enter into any transaction described in the preceding sentence in the absence of such approval and authorization.

"(b) Upon receipt of an application setting forth a proposed transaction pursuant to subsection (a) of this section, the Commission shall determine, after an opportunity for an agency hearing on the record, whether such transaction is consistent with the public interest. If the Commission determines that, subject to such terms and conditions and such modifications as it finds just and reasonable, such transaction is consistent with the public interest, the Commission shall enter an order approving and authorizing such transaction, upon such terms and conditions and with such modifications.

"(c) In making its determination with respect to a proposed transaction under subsection (b) of this section, the Commission shall give weight to the following considerations, among others:

"(1) The effect of the proposed transaction upon adequate transportation service to the public.

"(2) The effect upon the public interest of the inclusion, or failure to include, other coal pipelines located in the area involved in the proposed transaction.

"(3) The total fixed charges resulting from the proposed transaction.

"(4) The interests of the pipeline carrier employees affected.

"§ 10948. Employee protective arrangements in coal pipeline carrier abandonments and mergers

"When a pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title is involved in a transaction for which approval is sought under section 10945 or 10947 of this title, the Interstate Commerce Commission shall require the carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 11347 of this title before February 5, 1976, and the terms established under section 565 of title 45. Notwithstanding this subtitle, the arrangement may be made by the pipeline carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected pipeline carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Commission (or if an employee was employed for a lesser period of time by the carrier before the action became effective, for that lesser period).

"§ 10949. Coal pipeline carrier use of American materials

"(a) Except as provided in subsection (b) of this section, any pipeline carrier providing transportation of coal under a certificate issued under section 10941 of this title shall purchase only—

"(1) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

"(2) manufactured articles, materials, and supplies which have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

"(b) The Interstate Commerce Commission may, upon application of a pipeline carrier, exempt such carrier from the requirements of subsection (a) of this section with respect to the purchase of particular articles, materials, or supplies, if the Commission determines that—

"(1) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

"(2) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

"(3) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.".

(b) The table of sections for chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following:

"Subchapter III—Coal Pipeline Carriers

"10941. Authorizing construction and operation of coal pipelines.

"10942. Procedures for authorizing construction and operation of coal pipelines.

"10943. Terms and conditions.

"10944. Limitation on issuance of a certificate.

"10945. Authorizing abandonment and discontinuance of coal pipelines.
"10946. Filing and procedure for applications to abandon or discontinue.
"10947. Coal pipeline transfer, merger, and acquisition transactions.
"10948. Employee protective arrangements in coal pipeline abandonments and mergers.
"10949. Coal pipeline carrier use of American materials.".

DEFINITION

SEC. 202. Section 10102 of title 49, United States Code, is amended by redesignating paragraphs (4) through (28) (and all references thereto) as paragraphs (5) through (29), respectively, and inserting after paragraph (3) the following new paragraph:

"(4) 'coal pipeline' means any pipeline system for the transportation of coal (or its solid-derived products) from a point outside a State to a point within such State or between two points in a State through another State. A coal pipeline system includes the line pipe, valves, support structures, and pumping, storage, and terminal units, and similar facilities used or useful in the transportation of coal.".

EXPEDITED PROCEDURE

SEC. 203. Section 10322 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) In a matter before the Commission involving a person applying for or holding a certificate to provide transportation of coal by coal pipeline under section 10941 of this title, the Commission, or a division designated by the Commission, shall expedite hearings and proceedings concerning such matter and may void the requirement of an initial decision under subsection (a) of this section and may require the matter to be considered by the Commission or such division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that is required for the timely execution of its functions.".

FEDERAL ENERGY REGULATORY COMMISSION REVIEW OF PRICES OF PIPELINE-TRANSPORTED COAL

SEC. 204. (a) Title VI of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617; 92 Stat. 3164) is amended by adding at the end thereof the following new section:

"SEC. 609. COMMISSION REVIEW OF CERTAIN COAL PRICES.

"(a) Whenever any State regulated electric utility and a coal producer enter into any contract for the sale of coal, and such coal is to be transported by a pipeline carrier providing transportation of coal under a certificate issued under section 10941 of title 49, United States Code, such electric utility shall file a copy of such contract with the Commission.

"(b)(1) Within 60 days after the date a contract is filed with the Commission under subsection (a) of this section, the Commission shall determine, after notice and an opportunity for a hearing, whether the coal producer that is a party to such contract is a captive coal operation.

"(2) If the Commission determines under paragraph (1) of this subsection that a coal producer is a captive coal operation, the Commission shall then determine, after notice and a hearing, whether the price charged for the sale of coal pursuant to the contract filed with the Commission is reasonable. If the Commission determines that the price charged is not reasonable, it shall establish the price to be applicable to the sale of such coal.

"(c) If the Commission establishes the price for the sale of coal to a State regulated electric utility in accordance with this section, the Commission may petition the appropriate State regulatory authority for the initiation of a ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design.

"(d) As used in this section—

"(1) The term 'captive coal operation' means—

"(A) a coal producer that is owned or controlled by the State regulated electric utility to which it sells coal pursuant to a contract; or

"(B) a coal producer that, pursuant to an agreement with such a State regulated electric utility, mines coal which is owned or controlled by such electric utility.

"(2) The term 'control' has the meaning given such term in section 10944(a)(2) of title 49, United States Code.".

(b) The table of contents of the Public Utility Regulatory Policies Act of 1978 is amended by adding after the item relating to section 608 the following new item:

"Sec. 609. Commission review of certain coal prices.".

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

STATE WATER LAW

SEC. 301. (a)(1) The United States, its agents, permittees, or licensees shall not appropriate, use, divert, dedicate, or claim water within any State for use in a coal pipeline for which a certificate is issued under section 10941 of title 49, United States Code, or for which a right-of-way is granted under section 101 of this Act unless such appropriation, use, diversion, dedication, or claim takes place pursuant to State law, regulation, or rule of law (whether substantive or procedural) including the establishment, exercise, or enforcement of terms or conditions governing appropriation, use, diversion, or dedication of water.

(2) The United States, its agents, permittees, or licensees shall not hereafter appropriate, divert, use, dedicate, or claim water within any State for use in a coal pipeline for which a certificate is issued under section 10941 of title 49, United States Code, or for which a right-of-way is granted under section 101 of this Act under the reserved rights doctrine, except to the extent that the Congress has expressly provided or does so expressly provide in the future, and except that this prohibition shall not apply to any rights claimed as a result of the creation of an Indian reservation or under the Alaska Native Claims Settlement Act of 1970.

(D) Nothing in this Act, including the acquisition of rights-of-way pursuant to section 11109 of title 49, United States Code, or in any amendments made by this Act, shall be construed as granting a right to the use of water to any coal pipeline for which a certificate is issued under section 10941 of title 49, United States Code, or for which a right-of-way is granted under section 101 of this Act or as excusing any person from obtaining and maintaining a water permit or authorization pursuant to State law, regulation, or rule of law (procedural or substantive) governing appropration, use, or diversion of water.

(c)(1) In granting a State water permit or authorization for a coal pipeline for which a certificate is issued under section 10941 of title 49, United States Code, or a right-of-way is granted under section 101 of this Act, any State, to effectuate a legitimate State public interest, may place terms or conditions pursuant to State law, regulation, or rule of law on the appropriation, use, or diversion of water for such coal pipeline.

(2) The establishment of terms or conditions to effectuate a legitimate State public interest pursuant to State law existing at the time of the issuance of a permit or authorization; or the exercise or enforcement of such terms or conditions; or the termination pursuant to such terms and conditions of permits or authorization for the appropriation, use, diversion, or dedication of water; or the State law or laws enacted so as to effectuate a legitimate State public interest (A) upon which such terms and conditions are based, or (B) which apply specifically or generally to coal pipelines shall not be deemed to prevent, unreasonably burden, discriminate against, or directly negate interstate commerce even though in the absence of this Act, such State law or laws or the establishment, exercise, or enforcement of such terms and conditions may be deemed violative of the commerce clause of the United States Constitution.

(3) Once a water permit or authorization is granted by the State and accepted by the grantee, no term or condition placed thereon can be challenged later with respect to whether any such term or condition effectuates a legitimate State public interest.

(d) Nothing in this Act or in the amendments made by this Act, shall be construed—

(1) as affecting in any way any law, regulation, or rule of law governing of appropriation, use, or diversion of water, or as affecting any Federal, State, Indian, or private right to water, except as provided in subsection (a), (b), or (c) of this section;

(2) as granting a right to the use of water to any pipeline carrier of coal holding a certificate issued under section 10941 of title 49, United States Code;

(3) as superseding or modifying any State law, regulation, or rule of law governing the acquisition and administration of water rights so as to excuse any person from compliance with such law, regulation, or rule of law in acquiring or maintaining water rights, except as provided in subsection (a), (b), or (c) of this section;

(4) as expanding or diminishing Federal or State jurisdiction, responsibility, or interest in water resources development or control, except as provided in subsection (a), (b), or (c) of this section;

(5) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States and the Federal Government; or

(6) as diminishing in any manner the authority of a State to—

(A) grant or deny water use, or

(B) establish, or place terms or conditions regulating (or limiting), such use in any water permit or authorization.

(e) Any action brought in a Federal court with respect to the application or interpretation of this section shall be filed in a United States district court in the State in which the coal pipeline originates.

UNDERGROUND CONSTRUCTION

SEC. 302. All coal pipelines for which a certificate is issued under section 10941 of title 49, United States Code, or for which a right-of-way is granted under section 101 of this Act, and extensions thereof shall, to the maximum extent practicable, consistent with environmental protection, safety, and good engineering and technological practices, be located underground, and the person holding such certificate or granted such right-of-way shall replace sufficient topsoil on disturbed areas, so that a vegetative cover can be reestablished at least equal in extent of cover as that which sustained the natural vegetation in the area.

COAL PIPELINE SAFETY

Sec. 303. (a) Within one year after date of enactment of this Act, the Secretary of Transportation shall issue regulations or orders establishing Federal minimum standards for the safe construction, operation, and maintenance of coal pipelines.

(b) At the request of the Secretary of Transportation, the Attorney General of the United States may institute a civil action in the appropriate United States district court for a restraining order or injunction or other appropriate remedy to enforce any regulation or order issued under this section.

(c) If any person shall fail to comply with any regulation or order issued under this section, after notice of such failure and expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $5,000 for each day of the continuance of such failure. The Secretary of Transportation may assess and collect any such penalty.

(d) Any person who knowingly and willfully violates any regulation or order issued under this section, or makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by any such regulation or order shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(e) Whenever a person violates any regulation or order issued under this section, any director, officer, or agent of such person who knowingly or willfully authorized, ordered, or carried out such violation shall be subject to the same fines or imprisonment as set forth under subsection (d) of this section.

INTERSTATE COMMERCE COMMISSION REGULATIONS

Sec. 304. (a) The Interstate Commerce Commission may promulgate such regulations as it considers necessary to implement the provisions of this Act and the amendments made by this Act.

(b) The Interstate Commerce Commission shall transmit to the Congress any regulation promulgated under subsection (a) of this section. Any such regulation shall be deemed approved at the end of the first period of thirty calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor such regulation.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

H.R. 5615

By Mr. STARK:

—Page 8, line 15, immediately after "who" insert the following: ", pursuant to the direction of an intelligence agency,".

—Page 3, line 16, insert "classified" after "any".

—Page 3, line 20, after the comma insert the following: "and such disclosure results in injury to such agent".

—Page 3, line 13, strike out "foreign intelligence activities of the United States" and insert in lieu thereof "effectiveness of such agents as agents of the United States."

—Page 3, line 13, immediately after "United States," insert the following: "as directly authorized by the President,".

—Page 3, lines 12 and 13, strike out "impair or impede the foreign intelligence activities of the United States" and insert in lieu thereof the following: "injure such agents".

—Page 3, lines 14 and 15, strike out "impair or impede the foreign intelligence activities of the United States" and insert in lieu thereof the following: "injure such agents".

—Page 5, line 14, insert "only" before "such".

Page 5, line 14, strike out "may be determined by the President" and insert in lieu thereof "the President may specifically determine".

—Page 5, after line 20, insert the following:

"(c) The head of any agency or department designated by the President for the purpose of this section shall inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of any order to provide assistance under this section which the head of such agency or department considers unauthorized by law or by the regulations of such agency or department."

—Page 7, line 15, strike out the semicolon and all that follows through page 8, line 8, and insert a period in lieu thereof.

—Page 7, lines 14 and 15, strike out "or" through "United States".

H.R. 6704

By Mr. COLEMAN:

—Page 23, line 12, insert before the semicolon the first place it appears therein the following: ", except that the Administrator shall promulgate regulations which (A) recognize the special needs of areas characterized by low population density with respect to the detention of juveniles; and (B) shall permit the temporary detention in such adult facilities of juveniles accused of serious crimes against persons, subject to the provisions of paragraph (13), where no existing acceptable alternative placement is available".

Page 28, after line 9, insert the following new section (and redesignate the subsequent sections accordingly):

REPORT REGARDING CONFINEMENT OF JUVENILES IN JAILS FOR ADULTS

Sec. 15. (a) The Administrator of the Office of Juvenile Justice and Delinquency Prevention, not later than 18 months after the date of the enactment of this Act, shall submit a report to the Congress relating to the cost and implications of any requirement added to the Juvenile Justice and Delinquency Prevention Act of 1974 which would mandate the removal of juveniles from adults in all jails and lockups.

(b) The report required in subsection (a) shall include—

(1) an estimate of the costs likely to be incurred by the States in implementing the requirement specified in subsection (a);

(2) an analysis of the experience of States which currently require the removal of juveniles from adults in all jails and lockups;

(3) an analysis of possible adverse ramifications which may result from such requirement of removal, including an analysis of whether such requirement would lead to an expansion of the residential capacity of secure detention facilities and secure correctional facilities for juveniles, thus resulting in a net increase in the total number of juveniles detained or confined in such facilities; and

(4) recommendations for such legislative or administrative action as the Administrator considers appropriate.

—Page 26, strike out line 18 through line 20, and insert in lieu thereof the following:

amended—

(1) by striking out subsection (a) and subsection (b) thereof, and by striking out the section designation preceding subsection (a);

(2) by redesignating subsection (c) through subsection (g) as subsection (a) through subsection (e), respectively; and

(3) by inserting "SEC. 228." before subsection (a), as so redesignated in paragraph (2).

Page 26, line 21, strike out "Section 228 (f)" and insert in lieu thereof "Section 228 (e)".

Page 37, line 9, strike out "Section 228(f)" and insert in lieu thereof "Section 228(e)".

H.R. 6933

By Mr. DINGELL:

—On page 11, line 4, strike "Sec. 6" and all that follows through the period on line 8 on page 43, and renumber.

—On page 21, after line 21, insert the following:

"§ 391. Application to Health, Safety, Energy, and the Environment

"The provisions of this title shall not apply to any contractor who holds a contract for the performance of research or development subject to this title which relates to any energy, health, safety, or environmental function or responsibility of the Secretary of Energy, the Secretary of the Interior, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, or the Nuclear Regulatory Commission."

—On page 37, line 13, strike "Sec. 7" and all that follows through the period on page 43, line 8 and renumber.

H.R. 7112

By Mr. HORTON:

—Page 13, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) Transition Provision.—Section 121 (b)(2) of the Act (as redesignated by subsection (a)(1)(C) of this section) is amended by adding at the end thereof the following new sentence: "For the entitlement period beginning on October 1, 1980, and ending September 30, 1981, the provisions of paragraph (1) may be waived, in whole or in part, in accordance with regulations prescribed by the Secretary, for a unit of local government which has, prior to the date of enactment of the State and Local Fiscal Assistance Act Amendments of 1980, conducted hearings required under subsection (a) on proposed uses of funds based on a reasonable projection of the amount of funds to be made available to such unit under such Amendments.".

—Page 13, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) Transition Provision.—Section 121 (b)(2) of the Act (as redesignated by subsection (a)(1)(C) of this section) is amended by adding at the end thereof the following new sentence: "For the entitlement period beginning on October 1, 1980, and ending September 30, 1981, a State government or unit of local government shall not be deemed to be in violation of the requirements of subsection (a) or paragraph (1) of this subsection if such government or unit has, prior to the date of enactment of the State and Local Fiscal Assistance Act Amendments of 1980, conducted hearings required under subsection (a) on proposed uses of funds on the basis of a reasonable projection of the amount of funds to be made available to such unit under such Amendments.".

By Mr. TRAXLER:

—Page 14, line 14, insert immediately after "in part," the following: "including any requirements concerning the extent or scope of accounts to be audited,".

EXTENSIONS OF REMARKS

CPR SAVES LIVES—ALEXANDRIAN RESCUES HEART ATTACK VICTIM

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HARRIS. Mr. Speaker, cardiopulmonary resuscitation (CPR) is a simple practice that takes only a few minutes to learn. But those few minutes can mean a lifetime for heart attack victims waiting for the rescue squad to arrive.

On November 10, 1979, a resident of Alexandria, Va., which I represent, proved the value of CPR training when he saved his father's life.

Peter Gerow was in another room when he heard his father fall to the ground. Mr. Gerow found his father unconscious, and without pulse or respiration. Trained in CPR, Mr. Gerow immediately went to work and continued CPR until the arrival of the rescue squad.

According to the Red Cross, which provides free CPR training in Alexandria and across the country, "Without doubt, the use of CPR by Mr. Gerow saved the victim's life."

I congratulate Mr. Gerow for his life saving action. And I thank the Red Cross for making CPR training available. You can never know when a heart attack will strike, and by preparing people like Peter Gerow, the Red Cross is helping to save lives.●

TRIBUTE TO HONORABLE ROBERT DUNCAN OF OREGON

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. ZABLOCKI. Mr. Speaker, it is a privilege to join with my colleagues in paying tribute to a distinguished legislator and valued friend, the gentleman from Oregon, Mr. DUNCAN.

As the very distinguished chairman of the Ways and Means Committee has already pointed out, BOB DUNCAN, is a man of many talents: a gold miner, a sailor—and I might add naval aviator during World War II—a hybrid corn salesman, and a legislator of considerable renown. Not only was he elected Speaker of the Oregon House of Representatives, but has served this House with great distinction as a member of the Appropriations Committee and as chairman of the Transportation Subcommittee. In fact, his only mistake, in a long and honorable public career, seems to have been his regrettable decision a few years ago to run for a seat in the other body—a move which temporarily deprived this House of his able leadership.

We will miss the gentleman from Oregon in the years ahead—and above all, the independent judgment which he has brought to all issues which have confronted him over the past two decades. He has been described as the Northwest's "favorite Scotsman," and I have no doubt that that is both an appropriate and accurate description, which speaks for itself. In terms of stubborn perseverance and rugged individualism, in fact, I like to think that the Scottish heritage has much in common with the Polish heritage—the only exception being that Poles do not wear kilts.

In all seriousness, Mr. Speaker, I welcome this opportunity to pay my respects and express my high regard to the gentleman from Oregon for the outstanding contributions he has made as a Member of this body, and I wish him and his family a rewarding, successful, and well-deserved retirement from the rigors and demands of public life. While we will be diminished by his absence—he clearly deserves that reward, together with our sincere esteem and affection.●

FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACT OF 1980

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HALL of Ohio. Mr. Speaker, earlier this month I had an opportunity to testify before the House Ways and Means Subcommittee on Public Assistance and Unemployment Compensation on the administration's emergency unemployment compensation proposal. At that time, I applauded the keen note of concern reflected by the expedited review of the proposal. Today, I reaffirm my applause for the sequence of action so promptly bringing H.R. 8146, the Federal Supplemental Unemployment Compensation Act of 1980, before us today.

In January our country stumbled into its seventh recession. At this time, we knew that we would best prepare for a period of belt-tightening. We knew that all facets of our economy were going to be affected. Exemplary of recession, we also knew that we were going to see high unemployment for quite awhile. The only uncertainty we faced was the length of the recession and its severity.

Just for a moment, I would like to talk about some similarities found in our present economic situation and that occurring just a few years ago. In 1975 our country reached the highest level of national unemployment experienced since the Great Depression. In May of that year unemployment peaked at 9 percent. Although we have not reached that point this year, it almost seemed that we were racing to break that record. In 6 months, from January through June of this year, our national rate of unemployment jumped from 6.2 percent to 7.7 percent. During the previous recession, apart from unemployment compensation and food stamps, income assistance programs offered very little help for the laid off worker. Because this former worker was not blind, elderly, disabled, or poor, he or she could not qualify for benefits from our other aid programs. Today, the eligibility criteria for receiving aid is basically unchanged. Consequently, we are faced again with failing to make adequate response to the needs of the unemployed population.

Finally, with the 1974 enactment of the Emergency Unemployment Compensation Act, we found an answer for those forces who found themselves involuntarily out of work for extended periods. Today we have a plan before us that will allow us, once again, to meet those very same needs.

I represent the Third Congressional District of Ohio, an area which thrives on its manufacturing sector. The manufacturing sector has traditionally accounted for a large percentage of our total national unemployment and is an industry especially vulnerable to recession. For instance, in May 1979, unemployed workers from the manufacturing sector amounted to 21.4 percent of the total unemployed population. A year later, in May 1980, this figure had increased to 28.9 percent.

This impact is felt, I am sure, by other districts throughout our industrial region. I am concerned though, that my particular area has received a double blow. The suffering caused by a reduction in demand is compounded by the dislocation of our manufacturing plants. To cite a few examples, within 1-year's time plant closings and personnel layoffs affected 620 positions at the Defense Electronics Supply Center (DESC); 6,000 jobs at Frigidaire; 4,482 jobs at other General Motors (GM) divisions; 1,800 jobs at Dayton Tire & Rubber; and 2,000 positions at Dayton Press. This comes to a total of 14,912 people in my district involuntarily out of work.

I meet with these people and I answer their letters. Their particular circumstances may vary, but they have a common question. They are all joining in unison to ask: "What is going to be done?"

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Not too long ago I received a letter from a constituent of mine relating his experiences under the current job loss mania. This individual found work with Frigidaire for 2 years. Subsequently, like countless others, he lost his job when the plant was sold. He accepted a job with Inland, one of the GM divisions I mentioned earlier, only to be laid off 9 months later because of poor auto sales. Still seeking active employment, he joined the work force of the Defense Electronics Supply Center. Employment there lasted for 6 months because of the facility's relocation.

This is a prime example of what is happening. I cite this case because it truly demonstrates the severity of our situation. This person, like everyone feeling the pains of the recessionary plunge deserves a reply to the question: "What is going to be done?"

On February 17, the unemployment rate in the State of Ohio triggered on a program of extended benefits. In June, the total rate of unemployment jumped to 9.7 percent, and in July the State's total level reached 10.2 percent. For these same periods, Montgomery County—which includes the Third Congressional District—had total unemployment levels of 9.5 percent and 9.6 percent. The county's total work force for June was 275,293. Of this figure, 26,062 persons were without jobs. The total work force for July was 276,443 with 26,482 unemployed workers. Granted, this is just an example of what is happening in my State and in my district, but this problem is not unique.

In 18 States, including Ohio, more than 60,000 individuals are now exhausting the existing 13-week extension of unemployment benefits. Further, according to projections made by the House Ways and Means Committee, up to 385,000 persons will become eligible for benefits proposed by H.R. 8146 during the first 3 months of the bill's enactment. I believe that with a little more time, as proposed with a 10-week extension in benefits, that we can be a little further down the road to recovery. This proposal is a positive step toward assuring our unemployed people that we are going to do something about the problem. We made a response to needs emerging during the 1973-75 recession by enacting an emergency program of extended unemployment benefits. I support H.R. 8146 as I believe it provides a viable means for making a response to the same needs emerging today. ●

HON. CLAUDE PEPPER

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, I would like to take this opportunity to pay a special tribute to a very special gentleman who has been a true inspiration to all of us. For more than 50 years, CLAUDE PEPPER has served the people of Florida and this Nation with a seemingly endless bounty of energy. His list of accomplishments in this legislative body is impressive—particularly in the gains he has made in insuring that our elderly may live in comfort and dignity. But perhaps his greatest contribution is the example he has set that the quality of life does not have to decline with advancing years. The fact that Senator PEPPER has served almost half of his congressional career past the age of 65 never ceases to amaze me. What a loss this country would have suffered if Senator PEPPER had chosen the conventional route of retirement at age 65. It has been my privilege to work closely with Senator PEPPER, and I often have trouble in just keeping up with him. His energy and enthusiasm are like a breath of fresh air.

CLAUDE returned to the Congress and I entered the Congress with the 88th class. We have both continued our interest in that great group of Congressmen. Even though it grows smaller each year, its quality and character continue to improve. I shall never forget and will always treasure the memory and friendship of CLAUDE and his great helpmate, Mildred. I am especially grateful for his advice to a young Congressman, and I leave the Congress confident that the Nation will have CLAUDE's services for many years to come.●

CAESAR'S PRAYER

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HARKIN. Mr. Speaker, the name Curt Sytsma is well known to most Iowans and well it should be. For the past few years, Mr. Sytsma has been putting to verse his observations on a variety of topics. His stature as a poet and writer of verse has grown immensely. As a good poet, he is able to poignantly define and reveal the foibles and follies of humankind and to strip away the illusions that so often hide reality. When Mr. Sytsma takes after those who would hide behind a facade of righteousness in order to impose their will upon others, his pen becomes rapier sharp in stripping away that facade. Such is the case with his most recent verse which I think my colleagues will find enlightening.

The prayer follows:

CAESAR'S PRAYER

(By Curt L. Sytsma)

"Today I believe that I am acting in accordance with the will of the Almighty Creator. . . . I am fighting for the work of the Lord."—A politician

As politicians prance and preen
And great intrigues unwind,
A country church I have not seen
For years dwells in my mind.
There, born again had sacred berth,
And there a child was taught
The worth of faith, the hallowed worth
Of what the soul has sought.
That country church inspires my muse
Because, in recent days,
My father's faith has made the news
In strange, unseemly ways.

If things are seldom what they seem,
It must, in truth, be stated
That skim milk masquerades as cream
As Gilbert once orated.

This year, a self-appointed band
Of right-wing Caesars pray
In pulpits all across the land,
And as they do, I say
That there's a danger to the faith
If wed to Caesar's rod:
When preacher-politicians pray,
They pray for votes, not God;
And nothing so defiles a faith
As when its show will yield
A crop of earthy blessings from
A fertile public field.

"No man can serve two masters," states
An ancient verse of note.
It means that God is seldom served
By those who crave the vote.

I cannot speak for God, nor can
I claim divine credential.
I can, however, speak of man.
I've witnessed his potential.

I know that if our pols should learn
That cries of "Lord" can save
The public purse for which they yearn,
Each callous crook and knave
Will stand upon each pulpit that
Will give his voice a note
And use the power of public prayer
To cultivate the vote.

How easy to pretend to faith!
How easy to deceive,
To use and then abuse the souls
Who truly do believe.

To document my warning and
To dramatize the curse,
Some words a politician wrote
Are set above this verse.
The words were used—indeed, abused
To woo the Christian vote,
But not by Helms or Grassley or
A New Right man of note.
The passage may seem pious, but
It's pretense all the same:
They are the words that Hitler used
To build his house of shame.

The godly meek will surely seek
Their Lord in private hours,
But Caesar prays in public ways
To magnify his powers.

By each ill wind that ever blew,
By all that once was rotten,
The New Right methods aren't so new.
It's just that we've forgotten
That it is easy to pretend
To faith in God and creed
Whenever it's conducive to
Ambition's driving need;
And thus I'd place this warning on
The Christian Voice petitions:
"When Caesar prays, it's God who pays
The price of politicians."

As politicians prance and preen
And great intrigues unwind,
A country church I have not seen
For years dwells in my mind.●

SUNSET LAW WORKS IN MISSISSIPPI

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MONTGOMERY. Mr. Speaker, I would like to share with my colleagues the following editorial by the Clarion-Ledger in Jackson, Miss., regarding the effectiveness of a newly enacted sunset law in my home State. As an advocate of sunset legislation on the Federal level, I commend the editorial to my colleagues and urge them to seriously consider the need for the Federal Government to follow the lead of the State of Mississippi. The editorial is as follows:

SUNSET LAW WORKS

Mississippi's sunset law is uncovering some interesting developments, or non-developments, in state government.

The Legislature, scheduled to decide the fate of 16 state agencies in 1981, now finds that only one has survived for sunset review. This unexpected set of circumstances, outlined in a recent article by Clarion-Ledger staff writer David W. Kubissa, stems from a series of mergers, executive orders and discoveries of inactive agencies.

Indeed, one of the 16, the Mississippi Industrial Relations Council, is nowhere to be found. Existence of the council, which had been created by former Gov. Cliff Finch, could not be established by the Legislature's Performance Evaluation and Expenditure Review Committee.

Another agency, also created by Finch—the Office of Protection and Advocacy for Developmentally Disabled Individuals—ceased to exist in 1977 when it became the Advocacy Office Inc., a private non-profit corporation designed to assist mentally and physically handicapped persons.

Three other agencies were found by PEER Committee investigations to have expired because of inactivity—the Ports Management Council, which has no staff and whose members all have resigned; the Council on Tourism, Parks and Recreation; and the State Office of Petroleum Allocation.

Meanwhile, Gov. William Winter has issued nine executive orders abolishing various agencies, four of which were created by Finch, Waller or former Gov. John Bell Williams to handle federal funds coming into the state.

Under a 1980 state law, the coordinator of federal-state programs was given power to include those agencies as divisions of the Governor's Office of Federal-State Local Programs, a move that excuses them from sunset review. The agencies include highway safety, human resources, housing and planning.

Two agencies—the Office of Natural Disaster Preparedness Plans and Programs Council and the Governor's Office of Natural Resources and Technology—have become part of the new state Department of Energy and Transportation created by the 1980 Legislature.

The consolidations appear to be organizationally sound, but the Legislature must consider whether the sunset law should be extended to the agencies which absorbed the once independent units on the sunset list.

The pre-review findings suggest at the very least that little need existed for some of these agencies. Three died and one disappeared, and no one seemed the wiser until the recent disclosures.

Mississippians might also draw the conclusion that the state's sunset law should be broadened. Who knows how many other agencies are unaccounted for?

Ex-Gov. Finch vetoed the sunset bill as a piddling measure of no substantial consequence. While the law, enacted in early 1979 in a legislative override of a post-session veto, has worked reasonably well—Finch's point about the limits of the act have been well made.

The first two years of sunset review have revealed that only 19 of the 36 agencies scheduled for reconsideration are still functioning. A cursory examination shows that a few of the remaining 34 set for review the next two years also have dissolved. This indicates the law was oriented toward peripheral areas of state government rather than the heart of it.

Legislative bloodhounds should stay on the scent next year and the next and search out any additional inactive—or for that matter, ineffective—state agencies and take appropriate action. The best way to do this is to reexamine the sunset law. The act, to accomplish the objectives set out for it, should at least be expanded to cover additional agencies now escaping such re-evaluation. The 1981 session is not too early to undertake the task.●

NATIONAL WILD TURKEY WEEK AND DAY

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DERRICK. Mr. Speaker, I am today introducing legislation, which would establish the American wild turkey, our only native big game bird, as an integral part of our country's heritage. By joint resolution, Mr. Speaker, I am requesting the President to proclaim the third week of November of each year as National Wild Turkey Week with the National Wild Turkey Day to fall on Thanksgiving Day.

Mr. Speaker, in colonial times, the wild turkey was an abundant source of food and saved many struggling settlers from starvation. It is traditionally thought that turkey was served at the first Thanksgiving. Benjamin Franklin believed the wild turkey was so important to the economy that he asked the Continental Congress to make it our national game bird. Though it was rejected in favor of the bald eagle, the wild turkey continued to be a valuable natural wildlife resource.

Most people take our wildlife for granted. However, the wild turkey and other wildlife can only be preserved through the cooperation of conservationists, sportsmen, wildlife managers, environmentalists, and every American citizen using our outdoor resources.

Originally the wild turkey existed in untold millions in the eastern two-thirds of the United States. Little thought was given to the perpetuation of the wild turkey, as our natural resources were thought to be limitless. As a result, wild turkey populations have declined rapidly. The turkey disappeared from Connecticut in 1813, Massachusetts by 1851, Indiana by 1900 and by 1920, it no longer existed in 18 of the 36 States in which it was native.

During the 1920-45 period, most observers were pessimistic about the bird's future. Meanwhile, forests that had been rendered unsuitable for the wild turkey by widespread logging and wildfire began to mature into suitable habitat, setting the stage for the wild turkey's recovery.

Highly trained biologists entered wildlife management in the 1940's and 1950's. Sophisticated techniques in live-trapping and transplanting of wild native stock rapidly evolved. Over 20,000 live-trapped native turkeys have been transplanted in the last three decades.

The annual wild turkey harvest increased nearly threefold in the United States during the 1952-58 period. Today, wild turkeys have been reintroduced into eight States in the East and two States west of the Mississippi from which they were extirpated.

Despite recent successes, the turkey's future is not necessarily bright. Economic progress in the form of industrial and housing developments, construction of highways and dams, increasing human populations and unfavorable forestry practices such as large-scale clear cutting, and conversion to monocultural systems, is destroying habitat on a tremendous scale.

I am pleased to note, Mr. Speaker, that there is an organization dedicated to restoring and managing rather than exploiting, the wild turkey and other valuable wildlife resources. The National Wild Turkey Federation, founded in 1973, is dedicated to the wise conservation and management of the American wild turkey and to strengthen the spirit of cooperation between landowners and users. And I am also pleased to note, Mr. Speaker, that presently under construction in my district and home county is the Wild Turkey Research Center.

Mr. Speaker, I am confident that the efforts alluded to above will be greatly facilitated by the passage of this measure, and I solicit my colleague's cosponsorship and support for this legislation.●

A TRIBUTE TO DOUGLAS GOWER

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. NEAL. Mr. Speaker, on October 9, 1980, the U.S. Government will pay tribute to its handicapped employees when it presents outstanding handicapped Federal employee of the year awards to 10 such employees chosen from across the Nation for their meritorious service.

I am pleased that 1 of these 10 distinguished employees, Mr. Douglas Gower, resides in my district in North Carolina. Mr. Gower, who lost both hands and his left leg in Vietnam, serves with special distinction as a veterans benefits counselor in the Veterans' Administration regional office in Winston-Salem, N.C. He represents the Veterans' Administration in the Government-wide awards program, and has been especially commended by the VA Administrator.

Mr. Speaker, I applaud the practice of extending special recognition to these 10 outstanding employees, not only because of their individual achievements, but also because they are representative of a substantial segment of our society which, through sheer courage and commitment, succeeds on a daily basis against seemingly insurmountable odds.

I believe that we, and indeed the entire Nation, can draw inspiration from the achievements of Mr. Gower and others like him. I believe their stories should be told, and for that reason I would commend to my colleagues the story of Douglas Gower, as it appears in VAnguard, a publication of the Veterans Administration.

The article follows:

VA's NOMINEE: DOUGLAS GOWER

Douglas Gower, veterans benefits counselor at Winston-Salem VARO, was one of the 10 governmentwide winners in the Outstanding Handicapped Federal Employees of the Year awards program.

A VA finalist in 1979, he was selected this year as the agency nominee from among 61 candidates. Gower lost his left leg and both hands following an accident while serving as a field wireman with the 4th Infantry Division in Vietnam. As he helped remove supporting braces from a radio antenna, it fell across high tension wires. The impact of 50,000 volts caused bone-deep burns. His leg was bent backwards from the fall. His heart stopped momentarily. Only immediate aid from a medic saved his life.

When he was hospitalized, he courageously held a pen in his mouth to "X" the authorization allowing doctors to remove his right hand and left leg. Later his left hand had to be amputated. He was transferred to Cleveland VA medical center from Fort Sam Houston, fitted with temporary prostheses and given occupational therapy before he was medically retired from the service in November 1970.

Gower had left school in the 11th grade to work as a log roller with a lumber company in Missouri. He enlisted in the Army in 1967, training in Kentucky, Arizona and Georgia before duty in Germany as a mechanic. While there he volunteered for Vietnam.

Returning home and encouraged by his wife Ginger and his parents, Gower began to rebuild his life.

He started to further his education in Vietnam and advanced to the rank E-5. Back in the states, he threw himself into an intensive physical rehabilitation exercise program. He also decided to return to school. He earned his high school diploma and then the associate in arts degree from Gaston College, Dallas, N.C. While Gower was a student, he and his wife also became parents. Their daughter, Kimberly, was born in 1974.

Meanwhile, he found time to help others. As a volunteer for the American Cancer Society, he received two awards of appreciation from the national organization and two from Gaston County Cancer Society. His wide-ranging duties included answering telephone inquires, ordering supplies, even painting office furniture.

He enrolled at the University of North Carolina, Charlotte, then decided to interrupt college studies in favor of work helping people. He entered on duty as a non-paid trainee at Winston-Salem VARO. Supervisors had to remind him to take a break, go to lunch and even to go home. His enthusiasm for serving those who visited and called the office seemed boundless and extraordinary. After nine months his performance was so outstanding that the regional office request for his non-competitive appointment to a permanent position was approved by the Office of Personnel Management, and he became a Veterans Benefits Counselor.

Gower, his station reports, always goes the extra mile and never avoids the more onerous tasks his unit must perform. He generously offers not only time but use of his specially equipped van to transfer other seriously disabled persons. With the help of the hydraulic lift, he loads senior citizens and others from hospitals and nursing homes into his vehicle and drives them to see doctors, families or friends.

Such actions have brought other awards to Gower. In addition to agency recognition he holds an Appreciation Award and a Commendation Medal from the Army and Forsyth County's Handicapped Employee of the Year Award. He was named North Carolina's Outstanding Handicapped Citizen for 1978 by the Governor's Council on Employment of the Handicapped and Outstanding Disabled Veteran for 1978-1979 by North Carolina's Disabled American Veterans.●

NARCOTICS TRAFFICKING

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. RODINO. Mr. Speaker, for many years I have studied the patterns and tides of international narcotics trafficking. I remain acutely concerned about the devastating effects of the flow of narcotics on the lives of so many Americans.

The United States will never be free of this plague, I am convinced, unless complete international cooperation is achieved and the supplies of narcotics are cut off at the source countries. As I have repeatedly urged throughout the past decade, we must develop a comprehensive international plan and we must intensify international enforcement efforts.

Despite the great attempts and the billions of dollars expended by the Federal and State Governments to control the flow of narcotics, we have never succeeded in stopping more than 10 percent of the narcotics coming into the United States from reaching the users in our country. It is reliably estimated that the total annual cost of all illegal drugs reaching America now exceeds $50 billion.

Cooperation between nations can counter that enormous flow. Our successful bilateral program with Mexico has resulted in increased price and lowered purity of Mexican heroin. The positive consequence is that in the past 1½ years Mexico has ceased to be the major source of heroin coming into the United States.

But we are now faced with an awesome threat represented by the opium and morphine base commonly known as "Southwest Asian," which originates in Pakistan, Afghanistan, and Iran. The opium and morphine base produced in those countries is refined into extremely pure and relatively low priced heroin in Iran, in other countries in the Middle East, and in Europe.

In the past 6 months, the Italian Government—acting partly on information provided by our Drug Enforcement Administration—has raided six heroin laboratories, one of them recently near Palermo, Sicily, where 24 kilos were being produced each day. There is also evidence indicating a revitalization of the "French Connection." Heroin laboratories have been seized in Marseilles, Toulon, and Lyon—the first such seizures in 5 years.

"Southwest Asian" is not transported directly to the United States. Most of it is carried by Turkish and other Middle East workers traveling to West Germany, France, and Holland. It is sold there to wholesalers who recruit the couriers who bring it to the United States. There is also a route through the Far East and the Fiji Islands to Hawaii.

This new source of heroin, growing within the unrest in the Middle East and the irresponsibility of some unsettled governments in that area, represents a clear and present danger of a new heroin epidemic in the United States comparable to the one we experienced in the early and mid-1970's.

The concerned nations of the world need to focus constantly and cooperatively on the threat of opium production. There should be no wavering in this effort, not here and not in the producing countries where opium and heroin addiction is endemic. It is estimated that Iran has more than 400,000 addicts, and that Afghanistan and Pakistan each have more than 100,000 addicts. I hope that these countries, out of self-interest if for no other reason, would join in an international strategy of continual enforcement, improved treatment, and a determined effort at the prevention of use.

The gravity of the new threats of narcotics trafficking from Southwest and Southeast Asia is underscored by the recent White House decision to form decisive task forces in American cities where heroin has become increasingly available, including Baltimore, Washington, and Newark.

Others are responding to the threat. The Select Committee on Narcotics

Abuse and Control in the House has continued its efforts to alert the Nation to the ominous revival of the "heroin trail" and remains vigilant in examining all aspects of drug trafficking and drug abuse. The select committee's legislative recommendations are worthy of careful consideration by the standing committees with jurisdiction.

Vigilance and action are imperative for the protection of the Nation's health. The pervasiveness of drug trafficking and abuse in American society today is reflected in some appalling statistics. There are 40,000,000 users of marihuana. About 450,000 persons—a large number of them minority youths—are heroin addicts. An estimated 15 million Americans have used cocaine, 8 million have used PCP, 13 million have experimented with inhalants, and 15 million with hallucinogens.

Along with those staggering statistics are the overproduction, the overprescription, and the overuse—especially by women and the elderly—of medicinal drugs. More than 45 percent of drug-related deaths reported to DEA in 1979 were attributed to depressants legally produced and prescribed.

What would a historian of the future conclude from study of this grim situation? No doubt he or she would label the American society of the 1970's and 1980's as one of the most drug-ridden societies of modern history. This tragic pattern cannot be slowed, halted, or reversed unless the United States exercises constant enforcement vigilance and presses other countries of the world to do the same.●

WE NEED THE CHEMICAL WASTE BILL SUPERFUND THIS YEAR

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. BROWN of California. Mr. Speaker, now that the House has clearly and overwhelmingly expressed its support for a comprehensive chemical cleanup bill, it is time for the Senate to complete its action on this essential legislation.

An editorial from yesterday's Los Angeles Times made a simple but important point—next year may be too late to act on this legislation.

Mr. Speaker, I urge all my colleagues in the Congress to do what they can to facilitate the expeditious passage of this legislation. I commend the following editorial to my colleagues:

[From the Los Angeles Times, Sept. 29, 1980]

NEXT YEAR MAY BE TOO LATE

Chemical dumps like Love Canal in Niagara Falls, NY., are no longer faraway phenomena that Californians only read about in the newspaper. They are here, too, in Fullerton and elsewhere in the state. Cleaning up abandoned toxic dumps is one of President Carter's top legislative priorities, and is a major piece of unfinished congressional business.

Last Tuesday the House passed its version of the so-called "superfund" legislation. That bill would spend $1.2 billion over the next four years, 75 percent of it contributed by industry, to clean up any abandoned dumps. The Senate Environment and Public Works Committee has drawn up a much stronger measure, which would provide almost $3 billion more over six years, and also compensate victims who live near dumps and encounter health problems. So far, senators have heard largely from the chemical and oil industries that oppose that bill and little from homeowners, farmers and fishermen who stand to gain from it.

The Senate Finance Committee, chaired by a legislator from a petrochemical-producing state, Sen. Russell B. Long (D-La.) has been slow to act on the measure. With only a week or so left in the congressional session, that delay probably means the superfund is dead for this year. Any bill passed would have to go through what would likely be a tough conference committee because of the differences in the House and Senate approaches; then it would have to be re-passed by each chamber.

It's not as if Congress just heard of this issue. Nor is there much question that some well-funded, systematic, coordinated method of cleaning up the dumps is needed. The Environmental Protection Agency has already identified 397 sites across the country that require action to protect public health and the environment.

Once again Congress is saying wait until next year. For families with chemical waste burbling in their backyards or potential health hazards lying in nearby vacant lots, next year may be too late.●

THE MAD VERSUS COUNTERFORCE DEBATE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DANNEMEYER. Mr. Speaker, ever since the Glassboro Conference during the Johnson administration, Americans have been hearing about the theory of "Mutually Assured Destruction"—MAD. According to this theory, the United States and the Soviet Union have enough nuclear weapons to wipe out each other several times over and, since they do, neither will dare attack the other for fear of triggering their own destruction. Taking the MAD theory one step further, proponents have not only argued that nuclear additional weapons are not necessary but have also suggested that attempts to target Soviet missiles or protect our own would upset the so-called "balance of terror." And to make the theory complete, it was also assumed that the Soviets would see things in the same way and would respond in a like manner.

The only trouble is, things have not worked out as the MAD proponents had predicted. Instead of settling for the guaranteed quantitative advantage the SALT I agreement gave them, the Soviets steadily chipped away at our unguaranteed qualitative advantage. Nor did the Soviets follow suit when the United States closed out its only ABM site. And, rather than settling for the status quo in the missile department, as MAD theory would suggest, the Soviets have been steadily beefing up their strategic nuclear forces. As a result, the U.S. strategic position is no better than roughly equivalent to that of the Soviet Union and many say it is worse than that.

As Columnist R. James Woolsey pointed out in a perceptive article that appeared in the August 21 issue of the Washington Post, the relative decline in the U.S. military position has not ended the debate over MAD theory, and its opposite, counterforce doctrine. If anything, this debate will take on added importance in the months and years ahead. For a perspective on where the debaters are coming from and where they might be headed, I commend Mr. Woolsey's article to the attention of my colleagues and ask unanimous consent that it be inserted in the CONGRESSIONAL RECORD at this time:

THE COUNTERFORCE IS WITH US

(By R. James Woolsey)

All right, now, the last time you looked in on this strategic nuclear stuff a few years ago there were two crowds who didn't get along—right?

There were the "assured destruction" people, who talked a lot about blowing up Russian cities. And it was a little hard to remember that they were the doves, but they said that they were because they only wanted to deter war. They argued that it could cause instability in a crisis, and an arms race, if we targeted Soviet nuclear forces with our nuclear weapons. The same was true, they said, if we deployed anything that was designed to make the Soviet deterrent ineffective—such as big accurate ICBMs to shoot at it before it was launched, or city-defending ABMs to shoot it down when it got here, or even a civil defense program to make it less devastating if it landed.

A far-out wing, the minimum assured destroyers, seemed to be saying that even if we just had a reasonable chance of detonating a few nuclear weapons over some Russian cities that was enough—that it didn't matter how badly we were outclassed. Some of them also seemed to have great confidence that they could teach the Soviets to think like them—to make assured destruction theory "mutual."

Then there was the other group. They didn't have a good name for themselves, but since they tended to think our nuclear weapons ought to be primarily designed to destroy Russian military forces, including nuclear weapons, "counterforce advocates" is as good a name as any. They said that it wasn't effective to have a deterrent that was designed just to murder civilians and that nobody thought you'd ever really use, even in extremis. All they were trying to do, they argued, was have a more believable deterrent. This group had an extreme wing, too—mainly a few people mesmerized by the idea of having a nationwide city-defending ABM system.

It struck you that these two gangs seemed to love to fuss with one another, and that each side seemed only to want to argue with the extreme wing of the other side. This made it both more confusing and less interesting than baseball and that was when you switched them all off and turned on the game, remember?

Now here they all are again, clamoring for attention and interfering with your figuring out when the Orioles will catch the Yankees. There's a new presidential directive, PD59, that orders increased targeting of Soviet military forces by our nuclear weapons. Some of the assured destroyers are in full cry that Carter has been led into tragic Strangelovian paths by Brown and Brzezinski. The counterforce advocates are walking a fine line—crowing about a major victory over the assured destroyers, but trying not to give Carter any credit (most of the counterforce advocates like Reagan better).

Do you need to turn off the ball game and notice them? No, not yet. You can give it a few more innings.

Just to get you caught up, though, the main thing that's happened since you last noticed this stategic gingham dog and calico cat fight is that the Soviets have been building lots of missiles, among other things. They didn't stop the way many of the assured destroyers said they would. The Soviets have also started writing and talking about actually being able to win a nuclear war. This has confused and confounded particularly the extreme wing of the assured destroyers. The latter have, in effect, been told by the Soviets, "As far as mutual assured destruction goes, you take care of the mutuality—we'll take care of the destruction."

Now here come the tricky part. This Soviet behavior has persuaded a number of the less extreme assured destroyers to become, to some degree, counterforce advocates. In effect, these partial converts are now saying that deterrence is still the main thing, but the Soviets are getting pushy; so we probably have to threaten their military forces more in order to deter them better.

In 1974, then-secretary of defense James Schlesinger made an important initial effort to try to attract some of the assured destroyers over into the counterforce advocate camp. He tried not only to expand the relatively limited options then available to the president for retargeting nuclear weapons in a crisis and withholding strikes on major Soviet cities but also to explain why this was important.

Explanation turned out to be a bad idea. He was attacked savagely by some of the assured destroyers, who either didn't know that some such options already existed and that Soviet military forces have always been a major target for our own nuclear weapons, or who didn't care and thought baiting Schlesinger was good politics. Nonetheless, he got started. Further improvements in data processing and communications turned out to be needed, and Brown has been sensibly and vigorously pursuing these. PD59 is the result. In short, the counterforce advocates have been winning the targeting debate, such as it was, for some time. PD59 is just some new evidence of that.

A second set of perennial arguments has concerned whether to add new weapon systems that would add to our ability to attack Soviet nuclear forces. The assured destroyers and the counterforce advocates used to squabble all the time about this, but the counterforce advocates have now largely won this argument, too, greatly assisted by the Soviets' behavior. Have you noticed that most of the arguments against the MX missile are about the environment, or the cost or whether mobile missiles can be effectively counted and hence limited under arms control agreements? The assured destroyers have said much less about not threatening the Soviet deterrent than you would have heard a decade ago. Victory No. 2 for counterforce.

But the big strategic theory bout is still coming. It's going to be about our old friend ABM. The ABM flails of 1969 and 1970 were fundamental—if highly confused—strategic debates in a way that the current targeting flap and debates over offensive systems are not. This was because the extreme counterforce advocates' ideal system, a city-defending ABM, if it should work, holds a promise of canceling the effect of all the other side's ballistic missiles—not just threatening a portion of them. The original Sentinel ABM, Safeguard's daddy, seemed headed this way.

But an ABM system to defend our strategic missiles—as Safeguard tried to become during the two-year debate—doesn't raise that problem, if it can really be limited to ICBM defense. The "really" in that last sentence presents the key issue. In 1969-70 this question—is ICBM defense just a first step toward city defense?—gave rise to a terribly angry debate. We will probably have one again between now and 1982, when the ABM treaty comes up for review. Many who are increasingly worried about the Soviet threat to our deterrent will be friendlier toward ABM defense of our ICBMs than they were in 1969-70. This may include some of the less extreme assured destroyers, who will now be sufficiently concerned that they will be less sensitive about ABMs that defend missiles being a first step toward ABMs that defend cities than they were 10 years ago. Many assured destroyers have come around on targeting and on the MX; why not on ABMs? They may and they may not. It will be a multi-sided fight for their, and your, allegiance.●

WHAT AMERICA THINKS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. COLLINS of Texas. Mr. Speaker, in Congress we are concerned with the views and attitudes of our people back home. I just read an interesting questionnaire summary which is in the current issue of Better Homes and Gardens. This survey was based on the response of 46,817 Better Homes and Gardens readers and was an indepth study.

Here are some of the questions:

(1) What do you think is the general effect of government policies on middle-class families like yours?

Harmful—92 percent.

Helpful—4 percent.

No impact—4 percent.

(2) Would you like to see government concern itself more with American families through its policies?

No, I want government out of my life as much as possible—73 percent.

Yes, government can and should do more through new programs or expansion of existing programs—16 percent.

No, present policies are adequate—4 percent.

(3) Do you think busing programs intended to achieve a racial balance in the schools affect neighborhood ties and family life?

Yes, for the worse—78 percent.

Have had no real effect—10 percent.

Yes, for the worse but worth it for other reasons—8 percent.

Yes, for the better—4 percent.

(4) Are you satisfied with the way government is dealing with crime in this Country?

Too lenient—78 percent.

Too inconsistent—54 percent.

Performing satisfactorily—2 percent.

Too harsh—1 percent.●

RED SMITH SAYS GOODBYE TO A DEAR FRIEND AND A GREAT AMERICAN SPORTS JOURNALIST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. KEMP. Mr. Speaker, like a faithful soldier which he was, when he served with the Marine Corps during World War II, Jack Murphy last week died at his post as the sports editor and columnist at the San Diego Union.

That is where I first came to know, respect, and love him, when I was playing for the San Diego Chargers. In fact, there might have never been a San Diego Chargers without the efforts of Jack Murphy.

San Diego has lost a great man. America has lost a giant.

Jack lived as most men aspire, with a love of life, family, and sports unsurpassed. Until the end which came last Wednesday, he battled cancer with the same degree of courage that marked his life.

Red Smith, the esteemed sports editor of the New York Times, knew Jack as well as anybody in the vast realm of sports. As Red so often does, he speaks for all of us, Ron Mix, Lance Alworth, John Hadl, Sid Gillman, Barron Hilton, Gene Klein, Billy Shoemaker, Ernie Ladd, Paul Lowe, Paul Maguire, Billy Casper, Gene Littler, and many, oh so many more, including those in a family named Kemp who will never forget the Murphy humor, guidance, intelligence, and vision.

At this point, Mr. Speaker, I should like to add Red Smith's column, published last Friday, to my own memorial to Jack Murphy.

TO A DEAR FRIEND

What Jack Murphy disliked most about life in the United States Marine Corps was the way Japanese kept shooting at him. At Jack's suggestion, the sports editor he had worked with wrote a column about the irreparable loss American journalism had suffered when Murphy went to war. Jack took the clipping to his commanding officer.

"You probably didn't know," he said, "what exceptional talent was being wasted in combat."

That's how Murphy became a combat correspondent operating a typewriter out of Japanese range. After V-J Day he was in China, still practicing spelling, listening to inducements to re-enlist. He was living well and some of the arguments were persuasive but then he got to thinking about grits and sausage and American girls and quail on the wing. To the enduring profit of sports journalism, he came home.

For something like 30 years, Jack was sports editor and columnist for The San Diego Union, but that ended the other day. With shocking but perhaps merciful suddenness, Jack died Wednesday morning, quietly, peacefully at the end, and many years too soon. He was 57. Since June he had been battling cancer of the lower spine, and right up to this week he seemed to be winning, or at least earning a draw. He felt good enough to think he could write a column for this weekend. Then everything turned over and he was gone.

He was one of my dearest friends, and I write of him with something close to physical pain. For I don't know how many years, we traveled the national sports beat together, covering the same assignments, sharing our meals and hours of leisure with never a cross word. When we worked as a team on a story, Jack usually contributed 70 percent of the results; he was a superb reporter.

He was also a gifted writer, warm and witty, with a nice eye for detail and a light touch that was always under control. Not surprisingly, he was at his best when he wrote of things he loved—hunting, fishing, the wide open country from the High Sierras to Baja California, his black Labrador Abe of Spoon River, and Abe's successors. His column was required reading in the Union's circulation area. Abe attained such celebrity that an anthology of Jack's columns about him sold throughout southern California.

Jack himself was a figure of prominence in his community, though he never thought that. It was the inevitable result of this activity in pushing for construction of a major league stadium and helping to bring to San Diego major league baseball, football and basketball.

I never think of him as a celebrity, though, and only collaterally as a newspaper man. I think of him as a companion and I remember the fun we had in so many places—Stalking bonefish on the coral flats off Andros Island in the Bahamas (where Jack got his feet so sunburned he could't walk); angling for steelhead at the foot of Mount St. Helen's; trying to hook young tarpon in the Everglades at Flamingo, Fla.

When Marco Island was still half-wild without a single high-rise condominium, John Wilhelm, the fishing undertaker of St. Petersburg, took three of us down there to fish the backwaters for baby tarpon. Skipper Lofting, Jack and I shared a large bedroom in a ramshackle hotel that creaked and groaned as a storm raged outside. Skipper and I were smokers then. Next morning Jack reported that whenever he neared the edge of sleep, a match would flare in the room, followed a few moments later by a fit of coughing that contributed with the winds and thunder outside.

Next day we were plug-casting, with no great success, from two canoes, Skipper and Jack in one, Wilhelm and I in the other. Jack, in the bow, sank a backcast into Skipper's scalp. Skipper jumped just once and subsided. "To tell the truth," he admitted later, "I'm not very game."

We paddled over and Wilhelm studied the situation. "This is going to hurt, Skipper," he said, and with a quick, deft jerk he plucked the barbed hooks free.

With his punctured sconce, Skipper was an object of pity but never in my life did I feel so sorry for anyone as I did for Jack, sitting slumped in the bow, unable to look at the friend he had skewered. He recovered, though, when it came time to write a column. Skipper has complained bitterly ever since that the two of us raced to our typwriters to record the incident with appropriate witticisms.

Jack Murphy was an Okie whose speech and manners never lost touch with his origins. He worked in Tulsa and Oklahoma City, Dallas and perhaps Houston. He was in Texas when the San Diego Union came after him. As a Marine, he had known San Diego for what it was then, a honkytonk shore-leave town with a tattoo parlor in every other block. He resisted stoutly before moving out there. He grew to love the country and the people and the people loved him.

When he left Tulsa for Oklahoma City, he went around the office making his farewells. "You'll be back," the old sports editor told him. "Nobody can leave Tulsa."

Possibly because of his Southwestern background, many of Jack's special friends around San Diego are cowboys. He learned much from them, like the lyrics of "Is Anybody Goin' to San Antone?" Sometimes he went out with the cowboys on a ride of several days or a week where hazing lent zest to life. After one of these he dumped his gear at home and went on into the office, where he received a phone call.

It was from his wife Pat. "Guess what I found in your bed roll," she said. "Pantyhose."

Mr. Speaker, I should also like to add my remarks which will be presented tomorrow in San Diego at a memorial service for Jack Murphy.

I wish I could be in San Diego today to share in the memorial service for a great friend, Jack Murphy.

I think Red Smith said it for all of us when he wrote last week in the New York Times that writing of Jack Murphy causes "something close to physical pain."

How true, but then I think of the twinkle in Jack's eye, his sardonic sense of humor and his love of family and friends and I can't help smiling.

Most people don't know it, but Jack was involved in two major cover-ups.

When Coach Sid Gillman traded me to the Buffalo Bills in 1962 for three, first round draft choices and one million dollars, it was Jack Murphy who helped keep the huge transaction a secret.

And when I retired from the Bills to run for Congress in 1970, Jack never told the public the truth that I had really quit playing in 1966.

Seriously, I really think the transcendent qualities of Jack's life were not just his great contributions to San Diego's civic progress, bringing pro football to San Diego or even his "world class" journalism, but rather his wit and wisdom, his courage and compassion, his humor and humility.

Jack Murphy touched my life in a very special way. For that, I will always be grateful. His friendship was a blessing not just to me but to my whole family, even to our youngest "Little League" quarterback whom he never met but who has read Jack Murphy's sports columns.

What a friend, what a man, what a legacy he leaves.

Oh, that the rest of us could do as much for the people we love.●

MR. PHILIP D. LEWIS—AN EXEMPLARY POLITICAN

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MICA. Mr. Speaker, it gives me a great deal of pride to bring before my colleagues here in the House of Representatives the name and record of accomplishments of one of the most distinguished members of the State of Florida's Legislature—Mr. Philip D. Lewis, senate president.

Although he is retiring from public life, after serving the State for more than a decade, his achievements and performance record serving the people of Florida will long be remembered.

From his position as chairman of State committees on agriculture, appropriations, education, and natural resources, Senator Lewis' frequent financial audits have yielded positive results for the State of Florida. In 1979, he was a prime force behind the Local Government Financial Monitoring Act. Such actions are characteristic of the energetic and aggressive man dedicated to making government more responsive to its citizens. He is a fine example of a public servant and the people of Florida will miss him greatly in the State legislature.

A resident of Florida since 1931, Lewis represented the sprawling district 27 which includes his home county of Palm Beach, along with the counties of Hendry, Indian River, Lee, Martin, and St. Lucie.

Earning the respect of his senate colleagues, Lewis was chosen 63d president of the State senate for 1979-80. Among his lengthy list of accomplishments as a lawmaker are: reorganization of the department of natural resources; creation of the department of environmental regulation; and formation of water management districts. Senator Lewis has also formed a property rights study commission to examine property rights relative to environmental and land-use regulations and established taxing authority to implement the Water Resources Act. Under his guidance, the condominium office has been added to the department of land sales to help enforce the condominium law.

Senator Lewis is in the general real estate investment business with a Riviera Beach based operation. He is president of several of his own corporations and a member of the Society of Industrial Realtors, as well as past director of the National Association of Home Builders. A founding member and past director of the Palm Beach County Home Builders Association, he is also associated with the Northern Palm Beach County Board of Realtors.

Receiving the Allen Morris Award for the most effective member of the senate in 1978, Lewis also was named the most valuable member of the senate in 1977 by the St. Petersburg Times.

Other awards presented to Senator Lewis include: The Hispanic Pageant Appreciation Award for outstanding efforts on behalf of migrants, 1976; the Florida Agriculture Council Award, 1976; and the Florida Green Belt Award from the Florida Forest Festival, 1975.

In addition to these many civic and legislative accomplishments, one of the finest things that can be said about Phil Lewis is that he is a good father. He and his wife, Maryellen are the proud parents of nine children. The entire Lewis family has served as an outstanding example in our community with their active and energenic leadership not only in local government, church, but on an individual basis serving the best interests of the State of Florida.●

MR. JOHNSON IJAMES RETIRES

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HEFNER. Mr. Speaker, I would like to share with my colleagues in the House of Representatives a news story about Mr. Johnson Ijames, who at the age of 90 has recently retired as custodian of the Cooleemee Elementary School in Cooleemee, N.C. He had served in that position for the past 42 years. When he retired, he was the oldest member of the Davie County school system.

The news story was written by Marlene Benson, and it appeared in the September 25, 1980, edition of the Davie County Enterprise-Record of Mocksville, N.C. Following is the news story:

"ALL IN A DAY'S WORK" FOR THIS NONAGENARIAN

At the age of 90, Johnson Ijames decided it was time to retire.

As custodian of the Cooleemee Elementary School for the past 42 years, Johnson had become part of the institution. He hasn't missed more than a total week's work in more than 15 years.

Every day, Johnson made his rounds through the school. Winter and Summer, he always checked the building inside and out. He didn't go on Sundays—he never wanted to miss church. However, there was a time years ago when he did go to the school on Sunday afternoon to build a fire in the boiler so the buildings would be warm enough when the students arrived on Monday morning. This was eliminated when the old boiler was replaced by a more efficient heating system.

No one knew just what time Johnson came to work. For years, former principal V. G. Prim was usually there at 7 a.m. and he would comment that Johnson had been there long before he arrived.

Johnson celebrated his birthday last Tuesday (September 16). The children in the different suites at Cooleemee School sang "Happy Birthday" to him as he made his rounds, emptying trash in the rooms. Others stopped him in the halls or outside the building congratulating him on the day of his 90th birthday. Claytie Caton, an employee in the school cafeteria, made him a birthday cake.

Everyone in the school—students and staff—presented him with a gold watch the following day—the day of his retirement. All had contributed towards the fund and the money that was not spent on the watch—$250—was given him as a check. The words "Johnson Ijames Cooleemee School, 1938-1980" were engraved on the gold pocket watch.

Following retirement, many people feel their life is over. Not Johnson. He plans to stay busy around the house and spend some time with his two great-grandchildren, ages 2 and 5. Even if he just lives to be his sister's age, he's got a long way to go. His sister will be 103 in a couple of weeks. His father lived to be 94, and his mother was 92 when she died.

Johnson was the youngest of 13 children, but says his being "number 13" didn't bother him in the least.

As a child of around 8 or 9 years old, Johnson remembered his brothers and sisters saying they "wanted to die before my mama". "They asked me what I thought about it and I said I wanted to live, and see all the beautiful things."

With the exception of one sister, they did die before his parents, and he took care of his mother and father until they died.

Johnson says the reason his health is so good is "I took care of myself and didn't run all over the country . . . And I never been arrested in my life," he said proudly.

Johnson's first job was at a very young age with a sawmill—the "Charlie Seaford Sawmill" in Davie County. He went to work in the mill in Cooleemee in 1917 and worked 48 years before retiring.

He began working at the school in 1938, under Principal Smith, during the winter months while he was still employed with Erwin Mills.

He was always a faithful and dependable employee. Regardless of the weather, Johnson always walked the approximate half-mile from his home to school.

He was the oldest employee in the Davie School System and has probably spent more time in the school than anyone else. And yet, he says he never had a chance to go to school. "I had to work. I had to help my father." His father was a farmer and grew cotton, corn, wheat, "stuff like that."

"No, I never had a chance. I come up rough. I can't do much reading and writing. I used to could write my name, but I got out of that."

Johnson has been retired one week now, but he still drops by the school most every day.

"Of course he is always welcome," says Principal Vernon Thompson, "I guess old habits are hard to break."●

FOURTEENTH CENTENNIAL OF ISLAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HAMILTON. Mr. Speaker, while the Congress is in recess for the national elections, the Muslims of this world will be observing an important event. November 9, 1980, will mark the commencement of a global celebration to honor 1,400 years of Islamic civilization.

It is a time of greeting to Muslims in this country and around the world and an appropriate moment to recognize the common heritage of the great monotheistic faiths: Christianity, Judaism, and Islam.

In many countries in the Muslim and non-Muslim world, there are difficult times. The revolution in Iran, the Soviet invasion of Afghanistan, war between Iran and Iraq, the slow progress toward peace in the Middle East are all events of great import. These events can impact on critical interests of the Western World. At this time it is useful to reflect on the common ethical traditions of all peoples, the universal values of respect and peace.

Americans have always been curious to learn about other people and we need, especially at this juncture in history, rational, objective information about the people, and cultures of the Muslim world.

This country's participation in the celebration of the 14th Centennial of Islam is intended to serve these goals.

The focal point of U.S. participation in the celebration has been the National Committee To Honor the Fourteenth Centennial of Islam. It is a privately funded organization composed of many distinguished Americans from all professions and faiths who believe it is important to create an atmosphere of better understanding of Islamic culture in this country. A program of cultural and educational activities including a major traveling exhibition of treasures of Islamic art is planned. The focus of celebration here is on intercultural relations, not politics or theology. Our celebration will be by Americans for Americans in America.

One question we should concentrate on in this celebration is how western societies can best foster constructive, purposeful, and expanding relationships with Islamic peoples for our mutual benefit and for the benefit of mankind.

The many programs of the national committee have already attracted favorable attention in the press of many Muslim countries and act as a demonstration to others that our minds are open and that tolerance for others and mutual respect is indeed a part of the American tradition.

I attach for the interest of my colleagues a copy of House Concurrent Resolution 194 which is similar to Senate Concurrent Resolution 43 which passed the Senate. These resolutions deal with the important centennial. I am also attaching copies of President Carter's letters of 1980 and 1979 honoring the centennial and the work of the National Committee To Honor the Fourteenth Centennial of Islam. These letters were written to Dr. Muhammed Abdul-Rauf, director of the Islamic Center in Washington and to Ambassador Lucius D. Battle, chairman of the National Committee to Honor the Fourteenth Centennial of Islam.

I urge my colleagues to join the President and the national committee in saluting this important milestone which will be honored by approximately 800 million Muslims around the world.

The resolution and letters follows:

H. CON. RES. 194

Concurrent Resolution Honoring the Fourteenth Centennial of Islam

Whereas November 21, 1979, marks the fourteen hundredth anniversary of the founding of Islam, an event which will be commemorated throughout the world, including in the Holy Cities of Islam; and

Whereas Islam is one of mankind's great religions in history and today, followed by approximately eight hundred million people encompassing every major region of the world; and

Whereas the word "Islam" derives from Abraham's willingness to accept all God's commands, an example profoundly meaningful to all monotheistic religions; and

Whereas the "House of Islam" extended gracious hospitality to philosophy and science in both the East and West when these scholarly disciplines were threatened by narrowness and prejudice, thus preserving this precious heritage for subsequent generations; and

Whereas Islam strives for a worldwide community which, in the words of one Islamic poet-philosopher, "does not recognize the superficial differences of race, or history or nationality"; and

Whereas the United States and countries of the Isalmic world hold in common many benefits and values, including the concept of world community, which inspired the Founding Fathers of our own country; and

Whereas international understanding and peace are strengthened by free and open communications among nations representing various historical and religious traditions: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Islam is hereby recognized for the rich religious, scientific, cultural, and artistic contribution it has made to mankind since its founding.

SEC. 2. The Congress takes note of the contribution of Islam and wishes success to the fourteenth centennial commemoration.

SEC. 3. On the occasion of this anniversary, the Congress pledges its efforts to achieve better understanding, reduction of tensions, and the pursuit of improved relations with all nations of the world.

SEC. 4. The Congress requests that the President forward a copy of this resolution to the Chief of State of each country where Islam has a significant following and where celebrations will mark this important international event.

THE WHITE HOUSE,
Washington, D.C., June 12, 1980.

Hon. LUCIUS D. BATTLE,
Chairman, National Committee To Honor the Fourteenth Centennial of Islam, 1516 P Street, N.W., Washington, D.C.:

Thank you for your letter of May 23. Observance of the Fourteenth Centennial of Islam is an important undertaking, and the progress being made by the National Committee is impressive.

Promoting better understanding between Muslim cultures and our own is a noble objective, made all the more crucial by the recent international developments you refer to in your letter. You, the other members of the Committee, and all those who are contributing to this effort can take pride in your continuing achievements.

During the past year I have had occasion to emphasize my own commitment, and that of my Administration, to the cause of mutual respect and understanding between the United States and the nations of the Muslim world. As I stated in my 1980 State of the Union Address to the 96th Congress: We believe that there are no irreconcilable differences between us and any Islamic nation. We respect the faith of Islam, and we are ready to cooperate with all Muslim countries.

One of the foundations on which the greatness of our Nation rests is our almost unique ability to accept and to cherish diversity in culture and faith. Our increasingly interdependent world demands that tolerance, understanding and respect guide the attitudes and actions of all nations and peoples if we are to achieve peace, security, and well-being for mankind.

It is important that your Committee's programs enjoy the support and participation of as many Americans as possible. I congratulate you on the caliber of the many dedicated individuals of all faiths who have already joined your undertaking, and I want you to know that I will encourage involvement by appropriate governmental agencies as well as by individual citizens.

The National Committee's activities will increase the American people's knowledge of Islam and demonstrate to Muslims all over the world that we want to learn more about their religion, culture and aspirations. You have my continued interest and support as, together, we honor the Fourteenth Centennial of Islam.

Sincerely,

JIMMY CARTER.

THE WHITE HOUSE,
Washington, D.C., May 7, 1979.

DR. MUHAMMAD ABDUL-RAUF,
Director, The Islamic Center, 2551 Massachusetts Avenue, N.W., Washington, D.C.:

I am pleased to learn that preparations are going forward for an American ecumenical commemoration of the advent of the Fourteenth Century of Islam. In honoring an important world faith and culture we do honor to our own traditions of tolerance and compassion.

Please be assured of my support for the work of the Preparatory Committee, and of the National Committee to Honor the Fourteenth Centennial of Islam which is now being formed. I would hope to be advised of your progress toward a fitting, nationwide commemoration, in which I will encourage the participation and attention of all Americans both within and outside of the Federal Government.

I wish you and the committees every success in this valuable enterprise.

Sincerely,

JIMMY CARTER.●

PONTIFICAL VISIT OFKAREKIN II

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MOORHEAD of California. Mr. Speaker, October 30 will be a great day for the more than 700,000 Armenian people who live in the United States, and particularly for the 100,000 Armenians who live in southern California. On that day His Holiness, Karekin II, Co-Adjutor Catholicos of the Great House of Cilicia, Lebanon, will arrive for a pontifical visit to his people in this county.

His Holiness, Co-Adjutor Catholicos Karekin II, baptismal name N'shan, was born in Kessab on August 27, 1932. After attending the United Armenian Elementary School in Kassab, young N'shan was admitted to the Antilias Seminary in October 1946. He was consecrated as senior deacon on May 29, 1949, by the Late Bishop Terenig Poladian, chief administrator of the seminary. His Holiness graduated from the seminary with full honors in June 1952.

He was consecrated as a celibate priest on September 28, 1952, on the festive day of Varaka Khatch, by Bishop Terenik Poladian, and was renamed Karekin in memory of the late Catholicos Karekin I. He was ordained a vartabed on June 5, 1955, for his thesis on "The Theology of the Armenian Church According to Hymns."

After ordination, Father Karekin assumed the duties of supervisor and member of the faculty of Antilias Seminary and has signed numerous articles and studies on religion, Armenology and catechism in Hask monthly, the official organ of the Holy See of Antilias. He is very fluent in several foreign languages and has always shown keen interest in interchurch relations.

He was among the very few members of the brotherhood of Antilias who shouldered responsible administrative and monastical duties during the stormy days that characterized the election of the late Catholicos Zareh I. He was a close associate of the late Zareh Catholicos and in 1956 he was appointed as dean of the seminary in Bikfaya.

From 1957-59 Father Karekin studied theology at Oxford University. After successfully completing the 2-year course, he received his B. Litt. (Oxon) for his comprehensive scientific thesis on "The Council of Calcedon and the Armenian Church." This thesis was published in London in 1965 and reprinted in New York in 1976.

On his return from Oxford in 1960, he resumed his administrative duties at the seminary. Under his wise leadership and guidance and inspired by his impeccable and exemplary character, new generations of celibate priests augmented the depleted ranks of the Cilician brotherhood.

During these years, Father Karekin attended numerous interchurch congresses and conferences as the representative of the Great House of Cilicia. Following the election of Catholicos Khoren I on May 5, 1963, he organized historical Pontifical visits to Athens, Vatican, Lisbon, London (Canterbury), Genoa, Venice and Vienna.

As one of the founders of the ecumenical movement within the Armenian Apostolic Church, he has regularly attended interchurch conferences since 1955 and through his efforts the Holy See of Cilicia became a member of the World Council of Churches in August 1962. He has attended the World Council of Churches Congress in New Delhi, India, in 1961, the Upsala, Sweden, Congress in 1968, and the Nairobi, Kenya, Congress, in 1975. As an observer, he has also attended the Congress of Addis Ababa, Ethiopia, in 1965; the Second Ecumenical Council of Vatican in 1966, and the Congress of Lambeth in 1968. In Upsala, he was elected member of the Central and Executive Council of the World Council of Churches and, following the Nairobi Congress, he was elected vice-chairman of the council.

In recognition and appreciation of his prolific activities, he was consecrated Supreme Vartabed on June 16, 1963, and as bishop on January 19, 1964, by Catholicos Khoren I. He was elevated to the rank of archbishop on April 26, 1973.

He has lectured on Armenian bibliography and history of the Armenian Church at the Palanjian Academy in Beirut and on Armenian history and culture at the American University of Beirut. He has also delivered a series of lectures in Rumania at the invitation of His Holiness, Patriarch Justinian of Rumania.

On February 24, 1971, Bishop Karekin was appointed Pontifical Legate to the Irano-Indian Diocese and later became primate of the Diocese.

On June 21, 1973, Bishop Karekin was appointed Pontifical Legate of the Eastern Prelacy of the Armenian Apostolic Church of North America and later was elected primate of the Eastern Prelacy. He played a decisive role in organizing the Lebanon fund-raising drive during the troubled years of 1976-77.

His Holiness, Co-Adjutor Catholicos Karekin II has made three pilgrimages to the Mother See of Holy Echmiadzin and has witnessed the great accomplishments and developments of Holy Echmiadzin and the Fatherland.

He has authored numerous works, including:

"The Witness of the Armenian Church," published in Antilias in 1955 and reprinted in Eastern Dialect in Nor Chugha in 1973.

"Bishop Terenig, His Life and Works," published in Beirut in 1955.

"The Right Arm of St. Illuminator and its Return," published in Antilias in 1957.

"A Brief Introduction to Armenian Christian Literature," published in London in 1960 and reprinted in New York in 1975; Also published in French in Paris in 1964.

"The Council of Calcedon and the Armenian Church," published in London in 1965 and reprinted in New York in 1976.

"The Armenian Church in Contemporary Times," published in New York in 1970.

"The Witness of the Oriental Orthodox Churches," published in Antilias in 1968 and reprinted in 1969.

"Iran and the Armenians," published in Teheran, Iran, in 1971 and also published in Iranian.

"Armenian Christian Traditions in Iran," published in Nor Chugha in 1973.

"Heroic Posterity" published in New York in 1975, and

"Know Thyself," published in Antelias in 1977.

Archbishop Karekin Sarkisian was elected Co-Adjutor Catholicos of the Great House of Cilicia on May 22, 1977.

It will be my privilege, Mr. Speaker, to join with the Armenian people of southern California in welcoming Co-Adjutor Catholicos Karekin to the United States at a dinner in his honor at the Beverly Wilshire Hotel in Los Angeles on November 1. I am looking forward to it.●

A TRIBUTE TO ST. PAUL'S LUTHERAN CHURCH

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. YATRON. Mr. Speaker, October 25, 1980, marks the 140th anniversary of the organization of St. Paul's Lutheran Church of Port Carbon, Pa. and the 50th anniversary of the dedication of the present church. The devotion to God displayed by the clergy and congregation of this church serves as an inspiration to their community and to our great Nation as a whole.

I know that my colleagues will join me in commending St. Paul's Lutheran Church on their anniversaries and in extending every good wish for continued service to its congregation and community.

The United States is justifiably proud of our freedoms which have flourished under our many denominations of spiritual belief. As citizens under God, we seek a higher vision to continually perfect ourselves and our country. The clergy and congregation of St. Paul's Lutheran Church exemplify our commitment to God, our country, the betterment of mankind and to peace. May they continue to enjoy many more years of devotion to God and America.

Mr. Speaker, I know this body will join me in expressing our thanks to the congregation and clergy of St. Paul's Lutheran Church for their continued commitment to improving the quality of life for mankind.●

A CONSTITUTION FOR THE COMMONWEALTH OF MASSACHUSETTS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DONNELLY. Mr. Speaker, more than 200 years ago John Adams, a young lawyer of old Braintree, wrote a constitution for the Commonwealth of Massachusetts. During the year 1980, the citizens of Massachusetts have been celebrating the bicentennial of the ratification of the oldest written constitution in the world, which served as the model for our National Constitution. It is a living monument to the concern for human dignity and the devotion to personal liberty manifested in the creative genius of the second President of the United States.

Each year 30,000 visitors tour John Adams' home—the Old House of the Adams National Historical Site in Quincy, presented to the Nation by his descendants as a gift in 1946. It is maintained by the National Park Service of the Department of the Interior. Because of the expert administration of its superintendent, Wilhelmina S. Harris, American citizens of the 20th century experience the public and private lifestyles of four generations of a distinguished family who has promoted the interests of our Nation through the services of two Presidents, three Ambassadors, writers of international fame, and historians.

The presentation of this exemplary site has been the result of 30 years of devoted effort by Mrs. Harris. As private secretary to Mr. and Mrs. Brooks Adams during the 1920's, she acquired an intimate knowledge of the traditions represented by the environment of the old house that influenced the intellectual and moral development of individuals in the Adams family. The reflections of her years with the Adams were featured in the autumn edition the the Yale Review in 1969. The piece entitled "The Brooks Adams I Knew," is an informative and entertaining story which will provide pleasure for years to come.

Since her appointment as superintendent on November 27, 1950, she has structured an interpretive program based on a meticulous conversation that prompted former Secretary of the Interior Walter Hickel to note in 1970 that she has set "a standard of excellence that is unsurpassed by that of any historical site on exhibition in the National Park Service." Because of her prudent foresight the education of John Quincy Adams can still be shared with students and scholars through a world-renowned collection in the first American Presidential library. Because of her ability our citizens gain an appreciation of the love of the land as they walk through the gardens, lawns, meadows, and orchards of a national botanical treasure bequeathed to future generations by the Adams family. Her attention to detail has been guided with such complete intellectual integrity and skill that furnishings and artifacts of the old house are arranged in a manner that family members and visitors recognize as a home.

Wilhelmina Harris has enriched the cultural life of her community, State, and Nation as a private citizen and a public servant. In 1933 she initiated a 15-year pioneer effort, the Quincy Junior Concerts, to enable young people of Quincy and the Greater Boston area to train with members of the Boston Symphony Orchestra and to establish a model for youth symphony orchestras. Three concerts per year were given. After becoming associated with the Adams National Historic Site in 1948, she turned from music to history establishing a lecture series at the old house which has been inspiring to the public for the past 17 years. This annual series of lectures at the Adams National Historic Site has provided an opportunity for historians to research and illuminate the American past as represented by the Adams family. She has preserved a part of our national heritage so that future generations will have a tangible reference to the men and women who have called them to the promise and responsibility of American ideals.

During the bicentennial year of the Massachusetts Constitution, Mrs. Harris is celebrating the 30th anniversary of her appointment as superintendent of the old house at the Adams National Historic Site. I feel this to be an opportune time to give honor and express gratitude to a woman who has contributed much to her society and country. As a highly respected citizen of Quincy, Mass., she continues to involve herself in the ongoing activities of her community. She is truly a model to which all Americans should aspire.

I speak sincerely, not only on my own behalf, but also for those who benefit from her dedication to the Adams' estate. At this time, I offer humble thanks and gratitude for everything she has so diligently pursued in order that we today, and those in the future, will continue to enjoy and benefit from the Adams' legacy.●

AWACS AND SAUDI ARABIA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. WOLFF. Mr. Speaker, I rise to speak today about a very recent development concerning the current military conflict in the Middle East. American policy with regard to this crisis has thus far been one of studied neutrality, with restraint being exercized both politically and militarily. I endorse this policy. Yet, today we hear of an ominous new turn in this policy which would involve the introduction of both American military force and a new highly advanced technology into this volatile area that is of such vital interest to the United States. I refer to the President's consideration of sending an AWACS detachment to Saudi Arabia. I hesitate to involve myself in such an involved question as this, for it encompasses such a broad range of interrelated factors that congressional participation could be ill advised. However, I feel obligated to point out that any future effort by the Saudis to utilize this proposed temporary deployment of AWACS for justification of their need for this weapon system will be unacceptable. The quick fix approach to countering strategic threats by the introduction of highly advanced weapons systems into a region is not only ineffective, but extremely dangerous as well. Unstable regimes must not be supplied with such advanced weapons systems as the AWACS system, as a sudden change in their government could place our most advanced defense technology in the hands of our potential enemies.●

REGULATORY NEGOTIATION BILL

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. PEASE. Mr. Speaker, hardly a day goes by that I do not hear from a constituent complaining about Federal regulations or the procedures to be followed in adhering to them. And I venture the same is true for many of you.

This has underscored to me the need for the Congress to view from a broader perspective the daily struggle to keep up with the activities of the various Federal agencies. More importantly, it is especially important that we reexamine Federal regulatory decisionmaking in relation to its effects on American business, industry and labor. If American strength is to be reasserted in international commerce and productivity is to be improved at home, regulatory reform will be essential.

Today I am introducing a bill, the Regulatory Negotiation Act of 1980, which is a different and promising approach to regulatory policymaking. It authorizes $1.4 million for payment of administrative costs for up to five regulatory negotiations to be established on a pilot project basis in each of the next 2 years.

You might be wondering—what is regulatory negotiation? Briefly, it is a process in which representatives of competing positions in a major issue area negotiate a detailed, consensus agreement on what the regulatory policy in that area should be. This approach could be used at one of two points in the regulatory policymaking process: After passage of new laws, but before promulgation of resulting regulations, or when laws or regulations need reevaluation or reauthorization. Currently the bill provides that the regulatory negotiation commissions focus on health, safety, and environmental issues. Commission recommendations would be made available on an advisory basis to the Congress and to the appropriate Federal agencies.

Under my bill a neutral Government body—The Administrative Conference of the United States—would propose issues for consideration by the regulatory negotiation commissions and would accept applications for funding. In this way, the conference would be certain to review proposals for commissions in accordance with such key criteria as balance among participants and outlook for reaching meaningful, significant agreements.

The regulatory negotiation process has been used very successfully at the local level. Disputed issues concerning facility siting, local environmental regulations, and waste management have been resolved through such negotiations rather than through prolonged, costly litigation. Nationally, this approach has been successfully used by the national coal policy project and by the Conservation Foundation in relation to toxic substance policy. Specifically, the national coal policy project brought together over 90 industrialists and environmentalists for negotiations. After 2 years, the project produced a major document entitled, "Where We Agree" with many constructive administrative and legislative recommendations which have been adopted as policy or are being actively considered.

Despite the potential of this approach to regulatory policymaking, its use has been limited. I am convinced that the real explanation for this lies in the fact that the approach is new and largely unknown. A small experimental program encouraged by the Federal Government should give this approach a boost as well as provide a laboratory for its refinement. Moreover, in the next few years, several major regulatory policies must be shaped in such public policy areas as automobile emissions, the impact of water and air quality regulations on the steel industry, and the more effective management and containment of chemical wastes. The 10 pilot commissions authorized by this bill could have a substantial impact. The lawsuits they will eliminate the need for will alone more than justify their cost. Is it not about time we try an approach that could prevent regulatory logjams rather than attempt to make sense of them afterward?

In closing, I want to mention that spokesmen for the Carter administration, representatives of environmental and industry groups, and participants in actual regulatory negotiation commissions have all enthusiastically endorsed the approach provided in this bill. Senator CARL LEVIN has introduced a companion bill in the Senate. He and I are hopeful that these bills will receive prompt and favorable consideration.●

TRIBUTE TO WILLIAM S. MOORHEAD

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. DELLUMS. Mr. Speaker, I would like to take a moment to pay tribute to a colleague of ours who has brought a special brand of decency to the House of Representatives. I speak of course of WILLIAM S. MOORHEAD.

We have all benefited from the presence of such a kind and considerate gentleman, and the Nation has truly benefited from the presence of such an able legislator.

Among his many other accomplishments over the past 22 years, I am especially grateful for his role as a major spokesman for the cities of our Nation.

Bill Moorhead's efforts on behalf of our cities is an example to us all. Here is a man of great intellect, a man with ideas whose time has come, and a man who has the energy to fight all of the battles to make these ideas become meaningful legislation and law.

I have had an opportunity to become deeply involved in many issues that are critical to our cities, and I can say with authority that as Congress says goodby to Bill Moorhead, the cities also lose one of their best friends in Congress.

When we think of freedom of information, and the incredible and heart-wrenching battle to extricate this country from the obscenity of the war in Vietnam, we can think of Bill Moorhead's extraordinary caliber of leadership.

The qualities of a sensitive and forward-thinking politician tempered by sincere kindness is all too rare. Upon his retirement, we will miss Bill Moorhead.●

THE IMPORTANCE OF REVENUE SHARING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. CONYERS. Mr. Speaker, the general revenue sharing reauthorization bill, that is now under consideration, is a top priority measure from the point of view of the States and local governments in the older, urban-industrial centers of the Nation.

State and local governments are the main providers of direct services to the public. In 1976, for example, the last time the value of government purchases was calculated for all three levels of government, it was found that the purchase of goods and services accounted for 96 percent of local expenditures, 56 percent of State, and only 34 percent of Federal spending.

State and local governments provide highly labor-intensive goods and services. Their energy bills are considerable. The inflation levels of the past decade and more have severely weakened the capacity of State and local governments to furnish the goods and services their citizens require. Coupled with the weakening of their revenue-raising ability—itself a result of the past two recessions, the massive shifts in population among the regions, and other factors—local governments, particularly in the Northeast and Midwest, have experienced a severe fiscal problem in recent years.

Nowhere is this more obvious than in the State of Michigan and the city of Detroit, which I represent, which probably are the hardest hit areas of the country. A few facts will illustrate the economic and fiscal crisis that confronts Michigan:

Some 350,000 citizens presently are drawing both regular and extended unemployment benefits.

A quarter-of-a-million persons in Michigan will have exhausted their extended benefits during the calendar year 1980.

Michigan had 11.4 percent of its population—over 1 million persons—receive various forms of public assistance as of July, a greater number than during the 1975 recession year.

The State's jobless rate has hovered between 12 and 15 percent during the past several months.

The situation in the city of Detroit is equally bleak:

Detroit's unemployment rate currently is 18 percent, and 30 percent for the city's black labor force.

Eighteen percent of Wayne County's population is receiving public assistance, and one-quarter of Detroit's population does.

Detroit's budget deficit, it is estimated, will be between $100 to $120 million during the current fiscal year.

While these measures of fiscal distress are extreme in Michigan and Detroit's case, a great many other States and localities are experiencing similar trouble.

The general revenue sharing bill before us is needed in Michigan and other States. Unfortunately, the House bill does not go far enough. It eliminates States from the revenue sharing program. This is not the time to deny States revenue sharing funds. In addition, the Treasury Department estimates that nearly 60 percent of existing States shares are passed through to local governments. I urge adoption of the Rodino-Mitchell amendment for resumption of the State share in 1982 and 1983.

The level of funding for local revenue sharing in the bill is not adequate in the light of the inflation. The purchasing power of the revenue-sharing dollar has declined, in fact, by about 50 percent since the program began in 1972. For this reason, I urge adoption of the Gephardt amendment to increase the local share by $460 million in 1982 and 1983. I also strongly support the Rosenthal amendment to eliminate the quarterly cap on the countercyclical fiscal assistance program, so that localities will be able to receive the level of funding without arbitrary limitation that their economic conditions require.

Finally, the unamended bill skirts the very serious issue of how revenue-sharing funds are distributed. The current formula depends in part on local tax efforts. Oil-producing States benefit from the severance taxes on their oil and gas exports, which, in effect, citizens of other States pay toward. Yet the tax effort of oil-producing States increases artificially as does their share of revenue sharing. On the other hand, States like Michigan may be forced into a reduced tax effort situation because of taxpayer revolts or as in the case of California have already experienced tax reduction in favor of user fees. In either case, these States will lose revenue-sharing funds as a result.

I support the Maguire amendment to exclude exported State severances taxes on energy products from the tax effort measure of the revenue-sharing formula since these severance taxes artificially inflate the tax effort of the oil-producing States at the expense of the equitable distribution of revenue sharing throughout the Nation. I would also recommend that a major study be undertaken of the tax effort measure in the existing law, so that Congress would have recommendations on how to maintain equity in the distribution of funds under the program for future years.●

PANAMA 1 YEAR LATER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. BONIOR of Michigan. Mr. Speaker, I would like to bring to the attention of my colleagues an informative analysis of the situation in Panama 1 year after the ratification of the Panama Canal treaties. As the author of the article clearly states, the transition has been smooth and efficient and I feel this evaluation of our foreign policy in this country merits the attention of all Members:

[From U.S. News & World Report]

PANAMA: WHERE U.S. DIPLOMACY IS WORKING

AMERICA HAS HAD FEW SUCCESS STORIES ABROAD RECENTLY—BUT JOINT OPERATION OF THE PANAMA CANAL NOW LOOKS AS IF IT MAY BE A SOLID WINNER

(By Carl J. Migdail)

Panama City.—When the United States turned over control of the Panama Canal Zone to the Republic of Panama last October 1, there were forecasts of deep trouble ahead for the historic waterway.

But today, 12 months after the controversial Panama Canal treaties went into effect, such fears are fading fast. The first year of joint operation of the canal by the U.S. and Panama has turned out to be a success, which the administration of President Carter can claim as a major foreign-policy victory.

The canal still is moving ships efficiently between the Atlantic and Pacific oceans at the rate of 38 a day, just as it did when the waterway was under total control of the U.S.

NO MORE ANGER

Panamanian animosity toward Americans, which once erupted in bloody rioting, has virtually disappeared here in the capital.

Moreover, the influence of Communist Cuba's Fidel Castro is on the wane, and U.S. influence is rising here. "We no longer see the United States as a belligerent superpower trying to dominate a small nation," says a Panamanian worker. Former Foreign Minister Fernando Eleta puts it this way: "The U.S. acted before the ship sank. It acted in time."

Even a lawyer who opposed the treaties because they permit Americans to remain in Panama for another 20 years concedes that "the U.S. no longer is an issue in Panama."

There still are potential dangers ahead as the U.S. phases out its operation of the canal, which it built between 1903 and 1914 and to which it claimed outright ownership for more than half a century. Yet American and Panamanian officials are confident all future difficulties can be resolved.

Under treaties signed by Carter and Panama's strong man, Brig. Gen Omar Torrijos Herrera, in September, 1977, and approved by the U.S. Senate in 1978—with only one vote to spare—the U.S. will retain control of the canal until the end of 1999, sharing its operation with Panama. Panama will become the waterway's owner and sole operator in 2000, with the U.S. retaining joint responsibility for its defense.

It is the American responsibility, meanwhile, to train Panamanians to take over the job of running the canal.

Aware that the world is watching this test of cooperation between a superpower and a tiny nation, Panama has given top priority to fulfilling its treaty obligations. Fernando Manfredo, Panamanian deputy administrator of the new Panama Canal Commission, has been ordered to maintain the efficiency of the waterway and the security of the former Canal Zone at all costs.

Panamanians and Americans, including former opponents of the treaties, agree that so far the transition has been handled better than was expected. Much credit is given to the skill and tact of Manfredo and of the American administrator, retired Gen. Dennis P. McAuliffe, in dealing with matters of national pride and sensitivity.

The former Canal Zone—now called the Canal Area—has been transformed over the last year. U.S. military forces and their families, a community of more than 20,000 people, have moved into fewer bases. The Commission has given up all facilities not needed to run the canal. Hospitals and schools in the Canal Area have been taken over by the U.S. Department of Defense.

ON GUARD

Panamanian National Guardsmen—some of whom trained at Fort Bragg, N.C.—help American police patrol the area.

"It was a dramatic change," Manfredo recalls. "The Zone was almost a self-sufficient city. Then overnight it became a ward of Panama that relies on the Defense Department for services. It was a complex adjustment, but the canal remained effective."

Before the transition, the canal employed 14,220 workers, of whom 3,850 were Americans with about 6,000 dependents. Employes of the commission now number 8,000 including 1,943 Americans and 6,057 Panamanians.

A problem is the dual-pay system written into the treaties. Pay of old Zone employes cannot be lowered. But employes hired after the turnover may be paid a different wage for doing the same job. Example: A pre-October machinist earns $8.80 an hour. One hired since then is paid only $4.40. The disparity will increase this October when old employes get the U.S. federal pay boost of 9.1 percent, while new employes receive only 2 percent. The result is constant friction, and there have been short strikes in the port docks and the railroad now operated by Panama.

To head off any possible loss of efficiency, the canal commission is reviewing pay scales. Preference now is given to hiring Panamanians for jobs on the waterway. "But we don't want to sacrifice quality," Manfredo stresses. Even Panamanians concede that it still is the Americans who maintain efficiency.

Although Americans here believe that Panamanians eventually can run the canal, they have some concerns. One is that politics and favoritism may play a role in awarding key jobs to Panamanians and that efficiency of canal operations will suffer as a result.

Yet the transition has been a success politically as well as operationally.

Before the Panamanian flag was raised over Ancon Hill overlooking the canal, Panama's schools were hotbeds of anti-U.S. agitation and demonstrations. Students still demonstrate, but no longer against America. Now they demand better educational facilities.

And for the first time in almost 80 years, Panamanians are focusing on their own problems. "The country is in a transitional period between military dictatorship and a viable democracy," says one leading politician.

In 1968, the National Guard under Torrijos seized power after months of squabbling between political groups had almost paralyzed the government and economy. Torrijos has run the country ever since—first as active head of government during canal talks with the U.S. and since 1978 as the power behind the scenes as commander of the Guard, which now numbers 9,000 men. The general handpicked the present President, Aristides Royo.

LEEWAY, BUT—

Panamanians agree that Royo and his civilian administration run the nation's day-to-day affairs. But Torrijos remains the final authority. Says an official close to both men: "Royo can do anything he wants up to the point where Torrijos says, 'No.'"

Panama will have a presidential election in 1984. Despite criticism by some Panamanians that the same leaders have been in power too long, the belief is that the government-organized party, Torrijos's Democratic Revolutionary Party, will win again. Panamanians now see their country as emulating the Mexican model of a "guided democracy" dominated by government party.

During the decade when Torrijos pressured the U.S. for a new canal treaty and launched his revolutionary program to help the one third of his people who live in poverty, Panama adopted policies of a leftist nation. It moved nearer to Cuba and used the threat of Communism as a lever against the U.S. in canal bargaining.

Now that the treaty issue is settled, the Panamanian government is described as shifting back to "traditional Panamanian positions." It has become anti-Communist. Leftist officials have been moved out of the government or sent abroad. The government is shifting closer to the private sector to restore business confidence and to stimulate investment in the economy.

"Panama is basically a middle-class country, closely linked to the U.S.," says a Panamanian official.

Cuban influence is said to be "nil." Panama's own small group of Communists, who supported Torrijos in his treaty fight against Washington, have not yet started to attack the government for its new shift in policy. They are, instead, trying to rally popular support against U.S. policies in Central America that they charge are leading to "genocide" in El Salvador.

Even though observers regard Panama as "highly stable" politically, there is concern over economic problems.

Panama is a small tropical country of only 1.9 million people. Unemployment is estimated at 17 percent. Add the underemployed, and 23 percent of the population lacks adequate jobs. The inflation rate is about 14 percent. Almost one third of the population is in school, at massive government cost.

Panama's public debt, which was about 400 million dollars in 1970, has grown to 2.8 billion—about the size of the country's entire production in a year. It costs Panama more than 500 million dollars a year just to service the debt. The government was forced to borrow heavily from international agencies for its development program.

Since 1946, Panama has received 388 million dollars in aid from the U.S., about 275 million of that in loans. U.S. aid now totals about 11 million a year. Under the new treaties, Panama receives about 70 million dollars yearly from canal tolls but must spend part of that for maintenance of the area occupied by Americans.

After a period of stagnation in 1973 and 1974, the economy once again is beginning to grow at a rate of about 5 percent a year. Private capital also is starting to flow in once more.

WAITING FOR GAINS

Life still is difficult for an average Panamanian family struggling to cope with inflation and unemployment. Great expectations over immediate gains from the treaties have not been realized. "All the treaties have done is give us a Panamanian flag flying over the canal," one worker complains.

One problem facing Panama and the U.S. is the need to chart the canal's future. Vessels of more than 65,000 deadweight tons cannot use the waterway. And because of rising fuel prices, shippers are turning to more-efficient, larger ships. Canal officials are convinced the facilities must be enlarged quickly.

Plans under consideration range from widening canal entrances and installing new lights for nighttime operations to building another set of locks. Also being considered is the building of a new, sea-level canal not far from the present site, a move Torrijos favors.

Although Japan is interested in the venture, many Americans and Panamanians question whether a new canal—estimated to cost about 18 billion dollars—would be a good investment. Even improvements in the present canal would cost hundreds of millions. So, despite its auspicious beginning, the new canal partnership between the U.S. and Panama still has a long way to go. But with many difficulties already overcome, officials here are confident that they can successfully work together for the rest of the century.

FOR AMERICANS NEAR THE CANAL, LIFE GOES ON AS BEFORE

For the 1,943 Americans still working at the Panama Canal, life over the past year has not changed as much as they once had feared.

These expatriates had maintained an American way of life for years in a colonial enclave called the Canal Zone. It was administered by the U.S.-owned Panama Canal Company, independent of Panama.

But since last October, when most of the Canal Zone was turned over to the Republic of Panama, the Americans have lived in a part of the former Zone called the Canal Area that is administered by the new Panama Canal Commission, a joint American-Panamanian body.

Worries that their American way of life would disappear in the transition have not materialized—at least not yet. "One has the feeling there has been very little change in living and working conditions," says John McTaggart, a canal employe since 1963.

"The main difference my children notice is that the Panamanian flag now flies over Ancon Hill," says a housewife. Most American women here are said to feel the same way.

FEARS ABATE

While the treaties were being negotiated, a major concern of Zone residents was they they would become the targets for acts of violence or brutality by Panama's tough National Guard for having lived in the much-hated Zone.

But 250 Guardsmen now help 160 American police patrol the Canal Area—with surprising results.

"The National Guard has done an excellent job," says James Shobe, who was born in the Zone and has worked here for 30 years.

"The members of the Guard are courteous," agrees Richard Gayer, a computer-systems analyst with 22 years of service here. "If you have a flat tire, they'll help you. I can't think of anything that made me feel uptight last year."

Under the canal treaties, however, U.S. police will be phased out by March 31, 1982, and many Americans are uneasy about that. "I love my home here, and it would take a lot to make me leave," says a housewife. "But see me after the American police leave and I'll tell you whether it is safe to stay."

The main source of present American discontent is the U.S. Department of Defense, which has taken over the job of providing such services as post exchanges, commissaries, hospitals and schools.

The Americans say these services are inferior to those formerly provided by the Panama Canal Company. They complain about large classes for their schoolchildren, school buses that do not come as close to their homes as before, long lines at the post exchange and the lack of food items previously available.

"Under our old system I could order oysters from New Orleans, but that can't be done now," says one housewife.

Defense Department officials say they are going out of their way to please the former Zonians but that they must conform to the military's worldwide standards of operation.

Americans agree that the Panamanian government has kept its promise to maintain their area in the park-like condition of previous years.

In parts of the former Zone, now returned to Panama, the grass is higher, the roads have potholes, and refuse is gathering. But in contrast with crowded, untidy Panama City, just across the street, the American area appears almost totally unchanged from years past.

"Morale at the canal slumped right after the treaties went into effect," says Joseph J. Wood, director of the commission's Office of Executive Administration. "But the Americans are now making the most of what they have, and morale is up again."

WORK-FORCE SHIFTS

The threatened mass walkout of American employees has not occurred. Most losses came between Jan. 1 and Oct. 1, 1979, when 1,280 Americans retired. From last October to June 30, only 168 Americans took advantage of early-retirement provisions included in the treaties.

Nevertheless, because the intent of the treaties is to phase Panamanians into key positions, career opportunities for Americans are dwindling.

To insure efficient operation of the waterway, officials want to retain as many of the Americans as possible—and for as long as possible. But Americans see the writing on the wall. Police Sgt. Henry Twohy, whose grandfather helped to build the canal, speaks for many of his compatriots when he says: "We are training people to put us out of a job."●

TRIBUTE TO BOB DUNCAN

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am honored to join my colleagues in a tribute to one of Oregon's finest. BOB DUNCAN has had a tremendous career in the House of Representatives over the years since 1962. Proudly and fortunately I have been able to serve with him all of his five terms in Congress. It cannot go unnoticed that BOB'S remarkable career as a two-time speaker of the Oregon Legislature and and an able Representative from two districts in his State has enabled him to be the skilled legislator and accomplished leader he has become. Of the many distinctions that BOB holds, his warm friendship and outstanding dedication to his work will be sorely missed. BOB DUNCAN is one who all of Oregon, this House of Representatives, and our great Nation can be proud. To you, your lovely wife Marijane, and your family, I wish you luck in the years ahead.●

ENERGY INVESTMENT CREDIT FOR INTERCITY BUSES

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. SCHULZE. Mr. Speaker, today, I am introducing legislation to amend the Crude Oil Windfall Profit Tax Act for the purpose of providing an additional 10-percent energy investment tax credit for certain intercity replacement buses.

As my colleagues are well aware, the intercity bus is the most energy efficient mode of transportation available today. It requires less than one-third of the fuel required to transport an equivalent number of people otherwise carried by either the train or car, and it provides service to over 15,000 locations in America.

These characteristics combine to make the intercity bus industry a unique and highly valuable asset in our ongoing efforts to conserve our Nation's dwindling supplies of petroleum; while maintaining the high degree of personal mobility that is an important quality of American life.

Regrettably, however, the steady erosion of both patronage and profits of the intercity bus industry over the past decade have diminished the value of that asset at a time when our Nation requires stronger public transportation alternatives to the private automobile. In fact, between 1970 and 1978 the number of passengers transported on intercity buses declined approximately 16.5 percent, while net operating revenues fell from $89 million to $55 million. During the same period, the average price of a new intercity motor coach roughly doubled, increasing from approximately $55,000 to $105,000.

In order for the industry to provide convenient and cost effective service to more Americans, the industry must be able to improve the quality and quantity of its equipment. While current law provides an incentive for expansion of seating capacity, the limitation of the credit to only additional capacity hampers the ability of the industry to replace older and smaller buses with even larger and more energy efficient ones.

I believe that the additional energy investment credit for intercity buses should be expanded to include replacement buses and leasing arrangements. The principal beneficiary of this expansion will be the small bus operator who, like many other small businessmen, does not have the capital flow or the capital revenues to invest in new equipment.

Mr. Speaker, I urge the adoption of this legislation which will not only encourage bus operators to modernize their fleets but at the same time will offer the American people increased service on the safest and most energy efficient means of transportation available today.●

TRIBUTE TO DICK CLARK

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DORNAN. Mr. Speaker, it gives me great pleasure to commend to the attention of my colleagues the enormous contribution made to the Los Angeles community by a man who is about as active, interested, and concerned as they come. Someone whose daily schedule rivals the most grueling election year schedule of anyone in this House. Yet, someone who graciously and enthusiastically devotes considerable time and energy to important community matters. He is known to most of us as the man who turned America on and taught her to shake, rattle, and roll, twist, pony, jerk, bump, hustle, boogie, rock, disco, and new wave, punk. I speak of noted producer, entertainer and 25-year host of American Bandstand, Dick Clark.

When the Secretary of the Interior announced that Santa Monica Bay, that beautiful part of the Pacific Ocean which lies between Point Dume in Malibu and Point Vicente in Palos Verdes, would be exempted from Federal oil-drilling lease sales, it was a much-savored victory. This magnificent body of water, visited by over 56 million people each year, is simply too valuable a resource to endanger by constructing oil-drilling platforms only 3 miles from the curvaceous, palm laden palisades, and beaches of Los Angeles. The Secretary's decision marked the culmination of yeomanly efforts on the part of a great many people who get this message across. Dick Clark was at the forefront of this effort.

Concerned that the public had no direct voice in the early Interior Department decisionmaking process, I was able to form the bipartisan Save Our Bay Committee. It included the mayors of the Santa Monica coastal cities and many State and county elected officials as well. We had decided that a public demonstration of support for the preservation of Santa Monica Bay was required and I asked Dick Clark if he would help arrange celebrity backing for our petition signing rally. His response was immediate and enthusiastic.

Soon thereafter, telegrammed messages of support arrived from such noted personalities as: Johnny Carson, Ed McMahon, Olivia Newton John, Carroll O'Connor, Barbra Streisand, Steve Lawrence and Edie Gorme, Jan and Dean, Ryan O'Neill, Larry Hagman, Stewart Whitman, Carol Burnett, Jack Lemmon, Herb Alpert, Peter Yarrow, Suzanne Somers, Alan Hamel, and Steve and Cindy Garvey.

On the day of the rally, held alongside the world famous Santa Monica Pier, over 1,000 people parked their blankets on the beach to listen to their elected officials, rock performers, KHJ's Rick Dees, and other famous celebrities including: Dinah Shore, Brian Wilson and Mike Love of the Beach Boys, Dick Martin, and Rich Little join the chorus of opposition to oil drilling.

Regretably, Dick Clark had a year-long out-of-town commitment that day and could not attend. However, his hard work was clearly in evidence on Save Our Day. The rally received nationwide attention. The next week, the Secretary of the Interior announced in Los Angeles that Santa Monica Bay would be exempted from Lease Sale No. 68.

I could not let this opportunity pass without also thanking Dick's very lovely and charming wife, Kari. She, too, was a tremendous help and rightfully shares in the success we enjoyed. By the way, Mrs. Clark is no stranger to these hallowed halls. Having worked for a former House colleague and also for the esteemed junior Senator from North Dakota, Quentin N. Burdick, Kari is wise to the ways of Washington.

Though Dick Clark and American Bandstand have become institutions on the American music scene, he is a man of other considerable accomplishments. I insert Mr. Clark's biography into the Record so that my colleagues may peruse the many fine achievements he has brought to the entertainment industry.

Again, Mr. Speaker, let me restate to the Clarks my personal thanks and gratitude. Their fine work has helped to insure that Santa Monica Bay will remain as it is, a unique national resource for the people to enjoy. Speaking for myself and for the people of the 27th District, we are glad to have Dick and Kari Clark as caring and concerned friends and neighbors.

Mr. Clark's biography follows:

Dick Clark

Dick Clark is among the most active of all on-camera, as well as behind-the-scenes, TV and motion picture personalities. He additionally is the man behind many projects in other facets of the entertainment industry.

He is the host and guides the destiny of ABC's "American Bandstand", which in 1977 celebrated its 25th anniversary, and is one of the longest-lived continuous programs in broadcast history.

Clark has modestly summed up his role with that series by saying, "I play the music, the kids dance, and America watches."

The explanation is actually far less simple, and would have to take into account the blood-sweat-and-tears Clark has expended over the years in maintaining the program's quality and promotion.

"American Bandstand" is the foundation upon which Clark has built numerous other enterprises.

Over the years he and his organization have emerged among the top producers of "live" music concerts throughout the world, producers of considerable daytime and prime time television programming, producers of theatrical and television motion pictures, producers of radio programming, producers of Dick Clark's "Good Ol' Rock 'N' Roll" revue, (which Clark also hosts) which has been a major attraction in Las Vegas and in other locations, and operators of Dick Clark's Westchester Theater in Tarrytown, New York.

In addition, Clark hosts his 3-hour weekly nationally syndicated radio program which is heard on more than 100 stations across the country.

In 1979 his companies produced three major made-for-television movies—"Elvis!", "The Birth of The Beatles", and "The Man In The Santa Clause Suit", the latter starring Fred Astaire.

Clark's motion picture "Elvis The Movie" starring Kurt Russell as Elvis Presley, has been drawing large movie audiences throughout the world.

A native of Mt. Vernon, New York, where he was born on November 30, 1929, Dick Clark became fascinated with radio while attending high school. His imagination was particularly fired up by Martin Block's "Make Believe Ballroom" and by Art Ford's "Milkman's Matinee," two New York programs which featured recordings introduced by personable hosts, and by such "talkers" as Arthur Godfrey, Garry Moore, Steve Allen and Dave Garroway. At 13, Clark attended a broadcast of the Jimmy Durante-Garry Moore Show, and knew then that broadcasting would be his career.

During 1947, Clark's family moved to Utica, New York, where his father had taken a job with a new radio station, WRUN.

That summer, while waiting to enter Syracuse University, Clark got his first job in radio, at WRUN, in the mimeograph and mail rooms. Before summer's end, not yet 18, he was announcing weather forecasts, station breaks and news.

During his senior year at Syracuse University, Clark got a full-time announcing job at WOLF, Syracuse, where he disc-jockeyed country and popular music.

After graduation Clark returned to Utica where he became the television news anchorman at WKTV. Later that year he auditioned and won a radio and TV announcing position at Philadelphia's WFIL. At WFIL Clark was soon given his own afternoon disc jockey show.

In the fall of 1955 Clark was given his first chance to be a substitute host on the local TV "Bandstand" show, and in 1956 he was made full time host of "Bandstand."

As Clark recalls in his book, ". . . it didn't take me long to get into doing the show. The more I heard the music, the more I enjoyed it; the more I enjoyed it, the more I understood the kids . . . I listened to the kids and let them tell me what they liked."

In May 1957 Clark learned that the ABC Network was contemplating dropping an afternoon program of old English movies. An appointment was arranged with Ted Fetter, the Network's director of programs. Then, while on vacation in June of that year, Clark phoned his office and learned that a letter had arrived from Fetter, which politely concluded. "If you are ever in New York, why don't you drop in and say hello." Clark flew to New York, rushed into Fetter's office, and pleaded to have "Bandstand" given a few weeks trial on the network.

In July the program was visited in Philadelphia by Ted Fetter, acompanied by Jim Aubrey, Army Grant and Daniel Melnick, the decision-making executives at the network.

On August 5, 1957 the program made its debut on the network, with the new title, "American Bandstand," and has remained on the network continuously since then.

Over the years "American Bandstand" has provided the first national TV exposure for more than 8500 musical guest performances. It has helped launch thousands of recordings to the best seller charts, and has introduced the American public to dozens of teen-age dances that became international crazes.

By the winter of 1957 "American Bandstand" had proven to be so popular in daytime that the network decided to also air a "Dick Clark Saturday Night Show," on which stars performed their hit records. The program was an immediate hit, attracting adults as well as young viewers.

Since 1964 the base of Clark's operation has been Hollywood, California.

His company annually produces "The American Music Awards," ABC; "New Year's Rockin' Eve," ABC; "The Academy of Country Music Awards," NBC; and a pre-Oscar special on NBC, as well as many other network daytime and nighttime specials.

In addition to producing motion pictures, Clark has starred in three movies, "The Young Doctors," "Because They Are Young," and "Killers Three," and has appeared in serious acting roles on TV dramatic shows.

Christmas of 1979, Dick Clark Cinema Productions produced "The Man in The Santa Claus Suit," an NBC movie starring Fred Astaire.

DCCP owns the screenrights to several novels which include: "Murder In The White House" written by Margaret Truman (this novel was selected by Book-of-the-Month Club); "The Last American President" for a 1981 Spring release; the paperback "Ghostboat" which has sold approximately a million and a half copies in the United States alone; and, the rights to the 39 books of the "Destroyer Series," in association with Spiegel-Bergman Productions. This series, published over the last 10 years, has sold approximately 25 million copies worldwide.

Comedy screenplays under option are "Rollin' Stoned," a comedy set against the tour of a famous rock singer, and "Up The

Garden Path," involving the relationship between two couples.

Other optioned screenplays are "Transmogrified" written by Malcolm Marmorstein and "Bandstand, The Movie," with Richard Christian Danus set to script; and, an animated feature "Captain Fantastic and the Brown Dirt Cowboy", based on Elton John's music.

DCCP will produce eight hours of projects with NBC this year . . . a four-hour mini-series, "Murder in Texas," a television movie "Eva Peron," and other film titled "A Question of Life."

Over the years, Clark has also authored a nationally syndicated newspaper column, as well as a number of books, including his most recent, "Rock, Roll & Remember," published in hardback by T. Y. Crowell Co., and in paperback by Popular Library. Has two new books, "How To Survive and Succeed In Your Business and Personal Life," and "Dick Clark's Silver Anniversary of Rock 'N' Roll," will be published in the Fall of 1980.

In his non-business hours Clark likes to watch movies, read, travel and swim, and likes to listen to his enormous collection of records.

Clark, married to the former Kari Wigton, is the father of two sons and a daughter by previous marriage.

He is 5 feet 9 inches tall, has brown hair and brown eyes, and weighs 155 lbs. He lives in Malibu, California.●

IN FAVOR OF HISTORICAL RECOGNITION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. WOLFF. Mr. Speaker, I am pleased and proud to announce the Interior Department's recognition of one of America's great historical and architectural landmarks: The Onderdonk House in North Strathmore, Long Island. The Onderdonk House has been placed on the National Register of Historical Places, and rightfully so. This magnificent home is a splendid example of an architectural style prevalent in the great economic expansion period of the nineteenth century. The simple elegance of this period is exemplified by the Greek revival style of this structure, with its majestic columns and utilitarian interior design. It is important to the future generations of Americans that we insure they have the opportunity to discover for themselves the richness and pride that exists in our past.

The recognition of Onderdonk House could not have been achieved without the actions of a number of concerned and responsible citizens who realize the importance of a sense of the past for a vision of the future. Instrumental in gaining recognition for this monument to the creativity of the Americans of the 19th century were the president of the North Strathmore Association, Mr. Vincent DeOrchis, the president of the North Strathmore Women's club, Ms. Norma Plett, and the members of the Tricentennial Open House Committee: Chairperson Barbara Cordovi, Teddy Bowlend, Fanny Gardner, Dorothy Guillocheau, Dorothy Hassett, Shirley Hoelzer, Helen Loesing, and Joyce Ray. In addition to these dedicated individuals, the members of the Colonial Fair Committee were both diligent and essential to the recognition of Onderdonk House by the Federal Government: Chairperson Mary Martocci, Harold Michels, Corine Michels, Eileen Goloff, Mrs. A. Payne, Theresa Valerio, Loretta Scheuermann, Richard Rogers, Jim Hetherington, Marilyn Maas, Charlie Maas, Paul Scheuermann, Kathy Rosso, and Nancy Cole. I commend all these true American citizens for their persistent efforts to gain the recognition for the Onderdonk House that it deserves. Their efforts have succeeded in preserving an important piece of our American heritage for our children and our children's children. The history of this great Nation is important for both the United States and the world. I am pleased to have played some small role so that another piece of the great American collage has been saved from neglect.●

TRIBUTE TO ST. JOSEPH'S SCHOOL, READING, PA.

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. YATRON. Mr. Speaker, I rise today to pay special tribute to St. Joseph's School in Reading, Pa., on the celebration of their 75th anniversary during the week of October 6th through 12th, 1980.

St. Joseph School, located at 1022 North Eighth Street in Reading was founded by Father James M. Flanagan. The cornerstone of this school was laid in October 1905. It opened on September 10, 1906, with 8 classrooms and 161 students.

The Sister Servants of the Immaculate Heart of Mary from West Chester, Pa., have taught at St. Joseph's since its beginning. Today, the staff includes four Sisters of the Immaculate Heart of Mary, one Sister of the Precious Blood and five lay teachers. The 196 students who attend the school come from five Roman Catholic parishes, one Byzantine Catholic parish, and several Protestant congregations. The present pastor of the school, Father Thomas L. Edwards, has recently added a kindergarten class to the eight grade program and completed an extensive remodeling project.

Mr. Speaker, it is indeed fitting that we honor this fine school, its teachers, and its students for their unwavering dedication to education as well as preserving their special religious heritage. The road over the last 75 years has not always been free of difficulties, but unity of purpose ultimately prevailed. This country has always endorsed the importance of our private religious schools. The outstanding example of St. Joseph School underscores the reasons why we have always fought for the finest eduction for our children. I know my colleagues will join me in wishing this excellent school many more years of continued prosperity and success.●

TRIBUTE TO LOUIS E. PETERS

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. SHUMWAY. Mr. Speaker, at this time I would like to ask that my colleagues join with me in paying tribute to the selfless and courageous efforts of my friend and constituent, Louis E. "Lou" Peters, of Lodi, Calif. Many of those present in this Chamber may have read the vivid newspaper accounts of Mr. Peters' committed work to secure the conviction of onetime Mafia "boss of bosses," Joseph Bonanno. Mr. Peters' commendable work was not performed without great personal sacrifice, and he is indeed worthy of appropriate recognition.

Lou Peters is perhaps the only man to successfully infiltrate Bonanno's organization to protect the law abiding. In 1977, Mr. Peters was approached by a middleman who made him a supposedly tempting offer: An unidentified buyer wished to purchase Peters' automobile dealership for almost twice its value. Curious and suspicious, Peters discovered that the would-be buyer was Joseph Bonanno, and that the auto agency would be used to "launder" mob money. Instead of accepting the offer, Peters went to the FBI. Thus began his dangerous career as an undercover agent. After almost 2 years of meetings with Bonanno, his sons, and his nephew, Bonanno possessed the key evidence which led to the conviction of Bonanno on charges of conspiracy to obstruct justice in a San Jose, Calif., Federal court earlier this month.

During the course of his undercover activities, Peters was forced to separate from his wife and family to insure their safety. He has been threatened with physical harm and, perhaps most tragic and ironic of all, it was recently discovered that he is suffering from a malignant brain tumor. He has been given less than a year to live. However, Lou Peters' positive attitude prevails. He was recently reunited with his wife and family, and has been honored in Washington by the FBI. That seems small enough reward for a man who risked all to secure the conviction of an underground figure who had been deemed unstoppable.

I know that my colleagues will share in my pride and respect for this remarkable individual. America needs many more who are committed to integrity, and those who demostrate such personal courage deserve every possible recognition.●

TRIBUTE TO HELEN STILL HANSEN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to honor an outstanding humanitarian, Mrs. Helen Still Hansen, the executive director of the Catholic Social Service of Santa Clara County. This year marks her 25th anniversary with the organization, and on October 6, her many friends will pay tribute to her at a special dinner in her honor.

Helen Hansen is a woman who cares about her community and works to improve the quality of its life.

She has been involved in the social work field since the early 1930's. She has demonstrated a commitment to her fellow human beings by giving of herself and by teaching others the joy of giving and helping. In 1979, Helen was awarded the prestigious Koshland Award, a yearly award given to an outstanding administrator in a social agency in the State of California.

In addition to her professional work, Helen has found time over the years to be involved in many community activities. From 1975 to 1978 she was a member of the Board of Directors of the Santa Clara County Needs Assessment Project, and also worked with radio station KAZA to put on a half-hour weekly program which addressed family problems in the Mexican American community. From 1970 to 1977 she served on the Governor's Advisory Board to Porterville State Hospital. Currently, she is an active member of the California Conference of Catholic Charities, past chair and member of the executive committee of the Association of United Way Agencies, member of the Family and Children's Advisory Board for the Santa Clara County Department of Social Services, and a board member and executive committee member of the National Conference of Catholic Charities. All of these activities have qualified her for listing in "Who's Who of American Women."

Mr. Speaker, I ask you and my colleagues in the House of Representatives to join me in congratulating Helen Hansen on her 25th anniversary with the Catholic Social Services of Santa Clara County.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 114 residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join me in extending to them our best wishes for a happy and prosperous life in their new homeland:

Rene Emmanuel Azard, Dermot Harvey, Merle Jean Porter, Leonid Iwanovich Kolewatych, Cesario Rafanan, Margaret Brown Kirkwood, Jayaniben Karavadra, Antonio Cavezza, Annamma Philipose, Raquel Sides, Paul Granston Richards, Gislaine Jean-Francois, Michael Joseph Dolan, Ruth Stole, Therese Dolores O'Dowd, Marie Jeanne Alectine.

Beila Ester Einhorn, Emily Reyes Mangohig, Leonide Vilsaint Michel, Manfred Dieter Wegner, Juergen Karl Heinz Hartmann, Sun Cha Chu, Rafael Antonio Henriquez, Daniel Canonizado Mangohig, Aneyamma Joseph, Aristide John Sedriks, Dorothy Julie Sullivan, Darunee Fasano, Kathleen Assumta Forde, Alfred Kozman Abadir, Marie Jocelyne Joseph, Sandra Khourouzian, Sona Osanna Khourouzian.

Sarkis Khourouzian, Naftali Baruch Hopstein, Max Tassy, Marc Robert Henriquez, Jacob Naftaly, Judith Aner, Giuseppe Antonio Hernandez, Luba Glauber, Dave Glauber, Norma Elvira Gil Candelario, Ming Lin Lee, Francis Gannon, Emilio Rafael Martinez, Joseph Bozzuti, Irina Brodetski, Igor Brodetski, Marcella Mary Fogarty, Jean Brown Hekl, Rachel Sais, Fahri Troni, Mary Anne Flynn, Felix Hao-Tung Chang.

Jacob Schwarz, Othmar Joseph Erker, Susan Gara, Victor Ceferino Lopez, Antoinette Delinois, Basillia Lagrata Bautista, Clarita Luna Zamora, Benjamin Maalat Zamora, Carmen Iris Sophie Large, Beryl Felicity Nomvuyo Matshiqi, Jue-Whei Chow, Elisabeth Gorochovetz, Dawn Elizabeth Hendricks, Caridad Bueno Castillo, Nanna Theodora Carolin, Nathaniel McLaren, Kathleen Anne Fahmi, Maria Lederer, Gabor Lederer, Susan Kukla, Manju Batra.

Bernard Supreme, Uriel Jaquelina Russell Fiedler, Pierre Emmanuel Leroy, Eugenia Clerveaux Nicolas, Kum Ok Kim, Soo Gab Kim, Marie Adrienne Joseph, Irene Roper, Alexander Stepantschenko, Louise Rosela Marcelin, Janine Isabel Wright, Oscar Romero Farnacio, Huei-Jen Tsung, Sosamma Paulose, Dolly Tassy, Jean Albert Joseph, Vincent Michael Quattrocchi, Myrielle Zamor Mehu, George Edwin Tilston, Elizabeth Ellen Churchill Tilston, Konstantinos Ziotis, Eunice Kim Lee, Marie Andre Ninstant.

Melbourne Bennett Sibblies, Bracha Shoer, Ngurthanghnem Sanate Paasonen, Arun Kumar Bhattacharyya, Marina Flor Kaplan, Hildegard Stepantschenko, Yuan-Hui Li, Shirley Valdez De los Santos, Josephine Loretta Hewitt, Joan Lillian White, George Jiri Kukla, Shalom Danan, Sankaran Kutty Ambady, Trishit Jumar Mukherjee re Tanmoy Mukherjee.●

BILLY SIMS AND THE DETROIT LIONS: A SOURCE OF PRIDE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. CONYERS. Mr. Speaker, the city of Detroit feels rejuvenated every time its Detroit Lions football team plays, and for good reason. The Lions are a fighting and winning team, the best team in the Nation today. The citizens of Detroit are especially proud of its star running back, Billy Sims, who has become an authentic hero of ours.

Dave Kindred of the Washington Post has written an excellent article on Billy Sims and the Detroit Lions, which I want to share with my colleagues. The spirit that Sims and the Lions show on the playing field is the same renaissance spirit Detroit has shown in its public, business, and cultural life. It is a great source of pride to us all:

THE SIMSMOBILE

(By Dave Kindred)

DETROIT, September 22.—Any time Billy Sims runs near the end zone, which is about once every 36 seconds, he goes into this number where he leans way over and puts a hand about six inches off the ground. Then he necessarily turns left or right, depending, and finishes off what he calls "my balance move."

What the move is, as small children and lap dogs know, is a piece of hot-doggery. The good thing is that Billy Sims is such a nice guy the act doesn't make anyone mad. Football being show business, the Billy Sims balance move is a signature mannerism that is pleasing in the fashion of, say, Loni Anderson taking a deep breath. Writers of purple prose might say the Sims move puts them in mind of a hunting hawk wheeling on a wing tip. It sure does.

Billy Sims and the Detroit Lions are good stories right now. Pitiable winners of two games last year, the Lions are undefeated in three games this time. Sims, a rookie from Oklahoma, has started with a splash and is averaging so many yards rushing per game—127—that if he keeps it up for the whole 16 games he will break O. J. Simpson's cherished record of 2,003 yards (Sims would have 29 more).

And Detroit is going crazy. Forget crime in the streets. Forget unemployment. In the discos, they're doing "the Billy Sims End Zone Dance," in which you act like a hawk wheeling on a wing tip about to score a touchdown. Billy Sims T-shirts, with his number 20, sell for $3. Sunday's home opener against St. Louis drew 80,027 customers the largest opening day crowd in five years and 26,000 larger than last year's.

Practically everyone had a towel called the "big Blue Duster." That's because the Lions wear blue suits, and their adopted theme song (locker rooms are big on theme music these days) is the sentimental ditty by Queen, "Another One Bites the Dust." Queen, as even presidential candidates know, is a rock group that wears 9 million pounds of makeup. This big song is about cops being shot down in the street. It has a nice beat, the Lions say, and they can dance to it while waving their little feather dusters to the fans.

Yes, feather dusters in the NFL. Be glad Lombardi left early. The Lion coach, Monte Clark, once believed that smiling caused lung cancer. But now he had gone over the edge with the rest of Detroit. After his team's shocking 41-20 victory over the Rams in the season opener, Clark got in the spirit of Queen. Instead of presenting game balls, the big lug of an old lineman presented feather dusters, Honest.

"Billy Sims is the best thing to happen for this town since Mark Fidrych was a rookie," said Detroit News columnist Joe Falls. "The Lions are the only team in town winning. Look. The Lions won an NFL championship in 1957. The Red Wings won in '55, the Tigers have won once in 35 years (1968) and the Pistons never. So in the last 22 years, in four different major league sports, Detroit has had exactly one title."

So here comes Billy Sims into this trough of despair. Detroit, erstwhile "murder capital" of the country. Detroit, where every fifth person is out of work. "Run, Billy, run," says teammate Jimmy Allen, a defensive back who compares Sims to Superman, Mr. Universe, O. J. Simpson and Zorro. The way Detroit is going crazy, you'd think Billy Sims had invented a car that sells for $47.50 and gets 117 miles per gallon on bath water. Yea, verily, the Simsmobile will roll off the line soon, its hood ornament the Heisman Trophy, its cruise-control set at 617 mph.

A dream is what Billy Sims is. What's happening in the real world of Detroit isn't nearly so much fun. Uncle Sam is trying to pull Chrysler out of a ditch, even if all it gets him is a billion-dollar hernia. About the shiploads of Datsuns sailing to America, the Ford family sincerely wishes for them to sink. General Motors says we wouldn't have this 20 percent unemployment in Detroit if Anjin-san had become shogun instead of that Oriental cowboy Toranaga.

"The K-Car Is Coming," someone's T-shirt promised in the Silverdome on Sunday.

Until then, and maybe even after then (sorry, Mr. Iacocca), the best thing Detroit has going is the Simsmobile. Billy Sims in overdrive.

The guy is great fun to watch run. He'll tell you Earl Campbell is "a bucky, bruiser runner and I'm a low, slashy runner." What's fun is seeing him go low and slashy right by linebackers, who dive where he was, not where he is. It's as if Sims is sprinting down a motel corridor and men are falling out of doors too late as he goes by.

By five yards Sunday he missed being the first runner ever to start his NFL career with three straight 100-yard games. It didn't matter. He did one of his hallway runs for a touchdown, leaving a linebacker despondently prostrate. Coming up, a safetyman flew at Sims' knees only to be hammered face down into the floor by a Sims' straight-arm. The run was a 13-yarder to remember.

"I've had 100-yard games before," Sims said with a straight face. At Oklahoma, he once had seven straight 200-yard games. No, he didn't mind missing the three-straight record. "I'll have some more 100-yard games. The bottom line is we won."

As flamboyant as Sims is afoot, he is pedestrian with quotes. It is as if by defining his gift he will lose it. All right, The "balance move" is a statement of his art. He doesn't need to elaborate. Fact is, he's not much for even watching football, let alone talk about it.

Question: Who was your football idol in high school, Billy?

"Myself." Nice smile. "I never did watch football on TV. I wanted to be a professional basketball player, so I watched that." Another soft smile. "But I was too short."

Question: Billy, it's a big deal in Detroit that the Monday Night Football people haven't shown any highlights of you yet. Does it bother you?

"No, not at all. I don't watch anyway. My wife and I are moving into a new house here and I mostly just work on it and answer fan mail. I see all my highlights on the game films."

The return of quarterback Gary Danielson after missing 1979 with an injured knee has helped the Lions. Last year's 2-14 fire of adversity tempered a young defense. The schedule is a powder puff, too (as a reward for being so bad, the NFL's equalization schedule gave Detroit the easiest schedule in the weakest division in the poorest conference—six games with teams no better than 5-11 last year and only four with any team that won as many as 10 games).

Even with all this, it is still Billy Sims who causes the words "Super Bowl" to be heard in the Detroit locker room.

"Billy is like O.J. with the cuts he makes, and he has the quick feet of Mike Pruitt," said Fred Scott, the Lions' wide receiver from Amherst. "Walter Payton and Earl Campbell are different, because they're so big and powerful. Billy can reverse field like nobody I've ever seen. He's in a league of his own at that."

If asked, Billy Sims could leap tall buildings in a single bound, the way Superman does. Sims is stronger than Mr. Universe, only not as tall (the washed-out basketball player is 5-foot-11, 210 pounds). Sims strikes faster than Zorro's sword. Jimmy Allen, a seven-year veteran says he fell for the good guy Sims when he said that line at training camp this summer.

It was a good line, but risky for a rookie. The old hands make the rookies stand up and introduce themselves, the better to hoot and holler at the kids. "Hello, I'm Billy Sims from the University of Oklahoma," Sims said, "and I'm the reason most of you guys aren't getting a raise this year."

Sims gets $1.74 million for four years. But the old guys loved it. "It showed me Billy was a very loose guy." Allen said. "A million dollars on your shoulders can get very heavy and you can be negative about carrying it. He showed me that here's a guy out to have a good time."

Which reminded Allen of how much fun these feather-dusting Lions are having. "At the moment, we're on the way to the Super Bowl, and the only way we're not going to get there is to lay down and give it away."

If, that is, the Simsmobile doesn't get a flat.●

NEEDED TAX RELIEF FOR DESERVING DISABLED PEOPLE

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. SHELBY. Mr. Speaker, I am introducing legislation today that was inspired by my constituent, Ms. Dorothy Thrash, of Selma, Ala. Her plight, which my bill is designed to remedy in some measure, is most eloquently explained in a letter she wrote to Dr. Leslie Adams of the Rehabilitation Services Administration in 1975 suggesting such legislation:

> DEAR SIR: I am a sixty-two year old handicapped American citizen, trying desperately to make my own way in this world, having had polio since the age of twenty-two months. I am paralyzed in both legs, and left arm. My greatest challenge thus far in life has been centered around adjusting to the inequities of our society today.
>
> I have been a productive worker all of my life and am trying very hard to continue working as long as I can. I have always had to use crutches to get around, and I need a wheel chair sometimes. My body is out of proportion in some places and I have to have all of my clothes especially fitted for me. As I am the sole survivor of my family I have to take care of all of my personal needs, alone. I have never been married; therefore, I have no children.
>
> Up until a few years ago I had full time help and attribute that to my being able to carry on as long as I have, but for some time I have been trying to get by with much less help and find that I am not going to be able to. I am in very much need of a maid or housekeeper to help me, but quite frankly I cannot afford one. I hardly make enough at my job to earn a living for myself and provide the necessities of life. I ask not for handouts or special favors. I want to remain independent; however, I would like to ask your help in a big favor for me and others like myself. The Internal Revenue Service makes no special exceptions for a person like myself who needs to have more money just to meet personal needs. It would seem only fair that I could count a housekeeper or maid's help as a tax deduction. Also, I know that a blind person may count two dependents for himself since he is blind, and that working mothers with small children get a tax deduction to help them. I, as well as many other Americans, am handicapped in a way which makes me more handicapped when it comes to doing house work and preparing meals. Yes, I can do a desk job, and I have for the past thirty-five years worked at the same job, but I have no feet to stand on and no back to really hold me for any length of time without support and rest.
>
> Could not there be a law passed where a person like myself and other severely handicapped people, might be able to claim more deductions on their income tax? I do not wish to be a burden on society—I want to work as long as I can, I like my work. I want to pay my own way but I need help, and I desperately need some of the money that comes from my pay check—just to help me to survive. I do not want welfare or food stamps, I just want what I can do for myself.
>
> Please Dr. Adams help me and thousands of other people today who need help in this way. Please help by introducing and supporting legislation that will give special tax breaks to the severely handicapped. Let's encourage everyone to work who can, and let's help them to keep working. The give away programs in America cost a lot of money and some of it could be earned by work, if people would try.
>
> Thank you and may God bless you for the service you render to our great country.

Mr. Speaker, 5-years later, at age 66, Ms. Thrash is still working part time. She is a truly amazing person. Her situation draws our attention to a group of taxpayers in our country who incur greater costs than most of us in maintaining major life activities and who are in serious need of some form of tax relief. These people are severely handicapped—some suffering from the crippling effects of polio, and other physical impairments, and some from mental retardation. I am sure you know people in your home districts who are fighting against these and similar disabilities in an effort to stay independent and self-supporting.

Many are working in positions which require little mobility or low IQ's and pay minimal salaries. Although employed at desk or assembly line jobs, they may be physically incapable of performing regular household duties, such as cooking or taking care of personal needs, such as bathing. Outside help is often hired to assist them with these basic life functions putting a large dent in an already meager paycheck from which taxes are deducted monthly.

At present there are no provisions in the tax statutes which enable self-supporting disabled persons to take any form of special deduction other than for medical expenses. I feel it is far better to encourage the handicapped to work and maintain themselves than to force them to resort to public assistance and institutional care. I am, therefore, introducing legislation today which is aimed at helping to relieve the tax burden placed on such individuals.

There is precedent for the special treatment of disabled individuals in the Internal Revenue Code. Section 151(d) allows blind taxpayers an extra personal deduction and withholding exemption due to blindness. Clearly there are others who suffer inhibiting disabilities and they should not be overlooked.

The purpose of my bill is to increase the personal income available to disabled people and the provisions are twofold.

SECTION 1

Section 1 would amend the personal deduction and withholding exemption sections of the code in that these two sections work together. The proposal allows a disabled individual, as defined in section 1, additional personal deductions and also allows for complementary withholding exemptions for a taxpayer, spouse, and dependent if so qualified.

The definition of "disabled" used in this proposal is taken from section 504 of the Rehabilitation Act with some slight revisions. It is intended to cover handicapped individuals within the definition of disability. It is not intended that the regulations promulgated by the Secretary as mentioned in subclause 4(C) include the disability determination criteria utilized under the Social Security Act. The disability determinations under social security usually go to whether or not an individual is employable. Under social security disability criteria, he or she is generally not employable and thereby receives disability benefits. The purpose of this particular amendment is to allow relief for individuals who are still working, or who are employable, but experience great financial difficulties in maintaining self-sufficiency and in remaining employed. Alternate forms of proof of disability would include medical certification from a licensed physician or certification from an accredited rehabilitation facility.

SECTION 2

Section 2 would amend section 44A of the Internal Revenue Code. Section 44A allows tax credit to taxpayers for the expenses they pay for household and dependent care services for a qualifying individual so that the taxpayer may remain employed or actively seek employment. A qualifying individual is a child under 15 or a dependent or spouse who is physically or mentally incapable of caring for himself.

The types of expenses allowed are employment-related expenses performed in the home to allow the taxpayer to work and include the services of a housekeeper, maid or cook if performed partly for the benefit of the qualifying person. They do not include services of a chauffeur or gardener or the cost of food, clothing, education, or transportation for the qualifying person. They do include the cost of food and lodging for a housekeeper. There are two limits on the amount of credit. The credit is 20 percent of the employment-related expenses—up to certain dollar amounts. The employment-related expenses cannot exceed the taxpayer's earned income for the year.

This bill would amend section 44A to define a disabled taxpayer as a qualifying individual, if he or she meets the definition of a disabled individual set forth in section 1 of the bill and if the disabled taxpayer is not being treated as a qualifying individual by another taxpayer for that taxable year or any portion of that year. A taxpayer and qualifying individual would be the same person, as opposed to present law where they are two different people. The taxpayer would then be able to deduct allowable employment-related expenses.

The present definition of employment-related expenses as set forth in IRS publications does not include transportation to or from work or minimal yard work. Many disabled people do not have transportation readily accessible to them and have to make alternative, expensive arrangements. Also, many are physically incapable of minimum yard work. I would propose that the scope of employment-related expenses, as defined in the regulations and publications issued by the IRS be amended to include extraordinary transportation expenses for disabled taxpayers due to an inability to operate a motor vehicle and for lack of accessibility of available transportation—but not including public transportation except taxi fares to and from work—and minimal but necessary yard work such as lawn mowing and hedge trimming.

Mr. Speaker, I urge you and my distinguished colleagues in the House to support enactment of this legislation which will grant much needed tax relief to the millions of deserving disabled people in our Nation.●

A TRIBUTE TO DR. CLARENCE SALSBURY—MISSIONARY, DOCTOR, HUMANITARIAN

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. RUDD. Mr. Speaker, it is with great sadness that I note the passing of Dr. Clarence Salsbury, a truly great American whose medical career and humanitarian efforts spanned more than 50 years in China and among the Navajo Indian people in Arizona. He was 94 years of age.

Dr. Salsbury came to the United States from Ontario, Canada, to attend Boston College of Physicians. Following his graduation in 1913, he served as a medical missionary for the Presbyterian National Board in Hainan, China, for 13 years. He spent the next 23 years as the head of a small Presbyterian hospital at the Ganado Mission on the Navajo Indian Reservation, which later became the site of the Sage Memorial Hospital.

Dr. Salsbury established the first school of nursing for American Indians at the Ganado Hospital in 1930. The school's first graduate was the daughter of a Navajo medicine man.

Dr. Salsbury overcame the understandable suspicion and hostility of tribal Indians when he went to the reservation, and was later given the friendly name, Dr. Big. Even the medicine men came to him for treatment until his retirement from the reservation in 1950. Dr. Salsbury's medical practice among the Indians is chronicled in two books, "Sagebrush Surgeon" and an autobiography which he coauthored, "The Salsbury Story."

In addition to serving as an elder and missionary for the Presbyterian Church, Dr. Salsbury was a charter member of the Arizona Hospital Association and served as its president five times. He also served as Arizona State Health Commissioner.

Clarence Salsbury was a true giant, who contributed a lifetime of selfless service to his fellow humans. Mere words are inadequate to give testimony to the greatness of such a man. His legacy of humanitarian good works, and the many thousands of lives benefited and touched by his loving compassion, are a fitting tribute to Dr. Big.

Dr. Salsbury is survived by his wife, Elma, a talented artist and the first Navajo woman to graduate from the University of Arizona, and by a son from his previous marriage, four sisters, a brother, two grandchildren, and one great grandchild.●

COMMITTEE FOR ECONOMIC DEVELOPMENT PROVIDES A FURTHER ENDORSEMENT FOR CAPITAL COST RECOVERY ACT

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, one of the key determinants of the Nation's economic growth is the amount of resources it devotes to investment in plant and equipment. While the rate of growth depends on many factors, it is commonly recognized that an increase in the share of GNP devoted to investment will lead to an increase in the rate of productivity growth, with an accompanying ameliorating effect on the economy as a whole.

The Committee for Economic Development had this idea in mind when it set out to study the role technological progress and innovation play in stimulating the economy.

Mr. Speaker, I would like to quote from the CED's recent report on this topic, "Stimulating Technological Progress":

> This committee believes that the most effective way for policy makers to stimulate technological progress is to give top priority consideration to (1) the introduction of a more rapid capital recovery allowance to stimulate investment in new plant and equipment and encourage research and development, and (2) the introduction of flexible depreciation for R. & D. structures and equipment to assure up-to-date facilities in industry.

The CED also concluded that a more rapid capital recovery allowance is the first priority action among all the alternative tax measures studied by the group. And yet, the current high and uncertain rate of inflation remains a critical barrier to investment by business in longer term ventures.

As you may know, the CED is an independent research and education organization whose 200 trustees are prominent business leaders and university presidents. A subcommittee chaired by Thomas A. Vanderslice, president of General Telephone & Electronics, Inc., and representing a broad cross section of CED's membership, participated in the year-long study which analyzes a variety of public policies that actually discourage new capital investment and cause business to shift its research and development efforts to more defensive, short-term strategies.

I am pleased to be the sponsor of legislation designed to accomplish this important goal of restructuring the outmoded method of capital recovery in our tax system. The Capital Cost Recovery Act, which is cosponsored by 310 of my distinguished colleagues, would bring capital writeoff more in line with replacement cost, and would fulfill the need to redress past policies which have gone too far in pushing consumption at the expense of investment.

Mr. Speaker, I would like at this time to include in the RECORD the summary of the CED recommendations dealing with the necessity of changes in our tax system. I commend this study to you and believe these perceptive policy recommendations will provide great insight to my colleagues as we move toward legislative solutions to the Nation's economic woes.

STIMULATING TECHNOLOGICAL PROGRESS

On the basis of this Committee's analyses of the issues, we recommend a series of changes in current public policies.

There is strong evidence that since 1973, a low rate of capital formation has contributed substantially to lower productivity growth. Part of the problem is attributable to the combination of existing general tax policies and inflation. Federal tax revenue as a percentage of GNP was 18.5 percent in 1976; it will be about 20 percent in 1979 and is expected to be about 21 percent in 1981. The rising effective tax rate on business has inhibited capital investment.

Innovation through new capital investment is strongly influenced by the level of retained business earnings and the expected real rate of return on investment. Unfortunately, since the early 1970s, high rates of inflation have reduced the incentive to invest in new plant and equipment because allowable depreciation of existing plant and equipment is based on historical cost, which in a period of rapid inflation is much lower than the replacement cost. In addition, the book values of inventories reflect a capital gain that is not an actual economic gain. As a result, taxable profits are higher than true economic profits. An important implication of this adverse effect of inflation is that the effective corporate tax rate in an inflationary period is considerably higher than the reported average corporate tax rate.

High inflation rates during the period from 1973 to 1975 caused a significant rise in the effective tax rate and had a detrimental impact on investment in new plant and equipment. Since 1977, the effective tax rate has again started to rise. If inflation continues into the 1980s, especially if it is accompanied by a recession, the recent increase in capital investment will surely fade once again; and consequently, the rate of technological innovation and productivity improvement will be adversely affected.

The rate of return on investment for U.S. nonfinancial corporations is equally discouraging for future technological innovation. The real economic rate of return is the return on total capital investment (equity and long-term debt) when investment is measured on the basis of the replacement cost of capital. Since 1960, the real rate of return based on replacement cost has been lower than that based on the historical cost of capital. Between 1960 and 1965, the difference in these rates was about 6 percentage points with the real rate of return being about 10 percent in 1965. However, since 1970, the difference between the real economic rate of return and the return measured by historical cost of capital has widened substantially. The difference has been about 11 percentage points, and the economic rate of return on total investment has declined to about 5 percent.

The willingness of business to invest in innovation depends on the expectation of a reasonable real return on the investment. Consequently, the recent trend and the low level of the return are not encouraging for future technological progress. We believe it is essential that the government quickly adopt tax policies which increase the return on investment and stimulate future economic progress.

This Committee believes that correcting disincentives in the tax system should be a major component of a comprehensive strategy for stimulating technological change. We conclude that there is an urgent need for more rapid capital recovery allowance as the number-one priority measure to stimulate investment in new plant and equipment. We support the intent of current legislative proposals to shorten the capital recovery period for tax purposes, rather than to hold to the traditional concept that requires depreciation to be spread over the entire useful life of an asset. In order to overcome some of the investment disincentives caused by inflation, investors should be permitted capital write-offs that approximate the rising costs of replacing their plant and equipment.

Certain special tax measures are also needed to make investment in research and development more attractive. At present, tax provisions allow a deduction for depreciation of buildings, equipment, and other depreciable property used in R & D facilities that is equal to the deduction permitted on nonbusiness assets. These depreciation provisions could be amended to allow flexible depreciation of all such R & D assets in order to take into account the inherent uncertainty of the usefulness of R & D assets. Under such a system, the taxpayer would have the option of depreciating these assets fully in the first year of their life or adopting any other method desired while retaining the benefits of the allowable investment tax credit.

Other changes in the structure and level of tax rates may also be desirable, but such changes will have to take into account the effect on other policies concerned with inflation and overall spending.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DERWINSKI. Mr. Speaker, the free world continues to be threatened by Communist military activities, subversion, espionage, and diplomatic maneuvering. But we must not lose sight of the fact that the "Achilles' heel" of the Soviet empire is the intense nationalism of those nations held in submission by Communist rule. Given the opportunity, the peoples of the captive nations will reject the Communist dogma in order to regain their inherent right of self-determination.

Therefore, it is of continued importance for us to speak out on behalf of those who cannot speak for themselves. An editorial, appearing in the September 18 edition of America, the Ukrainian Catholic Daily, published in Philadelphia, Pa., comments on the Soviet reaction to our annual observance of Captive Nations Week. I wish to insert it for the interest of the Members:

MUSCOVITE SERVANTS IN KYIV AGAIN ASSAIL CAPTIVE NATIONS WEEK

Barely a week passes since the observance of the 1980 "Captive Nations Week" in the

United States that the Communist puppets in Kyiv, true to their old anti-Ukrainian stance, do not assail "Captive Nations Week" as an instrument of anti-Communism, a movement which they describe as being "financed" by "dollar-people," presumably the U.S. government, or "America imperialist circles."

There is nothing new in the recent Soviet assault on "Captive Nations Week," except that its language is cruder and cruder and its anti-American and anti-Ukrainian barbs are still lower and lower.

Deriding American democracy, the Communist scribe, Yaroslav Korolevych, writes how a D. Evans from Pennsylvania placed an ad in the press to sell off his kidney's for profit! Writing in the July 24, 1980 issue of Visti z Ukrainy (News from Ukraine), an adjunct of the KGB in Kyiv, the writer further "explains" the principles of American democracy: if you have money, you can kill freely a Negro or Puerto Rican, expel a worker from the factory, or shoot at will a war veteran who defends constitutional rights in America.

The lowly piece of journalism is entitled, a "Week of Provocations Against Nations," and is wholly directed against these "cursed Ukrainian nationalists" and, above all, the Ukrainian Congress Committee of America, which is accused of sponsoring these annual observances of "Captive Nations Week." Prof. Lev E. Dobriansky, President of the UCCA, is singled out as the author of the "Captive Nations Week Resolution," who also is described as a "colonel in the U.S. military intelligence reserve" and, therefore, he is "being ordered" to stage annual observances of the Week.

The Soviet scribe is extremely irritated that during the Week the UCCA organized all sorts of activities—liturgies in churches, dissemination of anti-Soviet literature, "threats" against the USSR and other "Socialist" countries, and open appeals for a "military crusade" against the USSR.

Further on, the article cites such Ukrainian newspapers as Svoboda, America and Vilna Dumka (Australia) to the effect that such observances of "Captive Nations Week" cost "hundreds of thousands" of dollars every year, and serve as occasions for anti-Soviet manifestations and "drinking debaucheries" of Ukrainian nationalists!

Dr. Dobriansky is taken to task for advising U.S. senators and congressmen to press for "such type of freedom as is in the United States to be introduced in the Soviet Union."

The Communist writer claims that the USSR does not need "such human rights" as are in the United States, because the USSR has "all freedoms," including "religious freedom."

One wonders for whom such trite propaganda is destined: for home consumption in Ukraine, or for the Ukrainian emigration?

Certainly, Ukrainians abroad know well what they are doing during "Captive Nations Week" observances. And Visti z Ukrainy (News from Ukraine) is above all designed for Ukrainians abroad, so all Soviet propaganda efforts are useless from the viewpoint of the KGB and its lackeys in Ukraine.

But, this systematic campaign against "Captive Nations Week" by the Soviet propaganda machine only demonstrates again the sensitivity of the Russian enslavers of Ukraine over the loyalty of the Ukrainian people toward the abhorrent Soviet regime.

Hence, it is one more reason why Ukrainians abroad should continue to observe "Captive Nations Week" with as much effort as possible, because this riles Moscow to no end.●

U.S. POLICY TOWARD ISRAEL IN THE UNITED NATIONS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DOUGHERTY. Mr. Speaker, the commitment of the United States to the security of Israel is a commitment that goes beyond geographical borders and is a commitment to democracy in the world. Our public support for Israel as our most important ally in the Middle East is more important than ever in view of the present confused international situation.

And yet the United States public position toward Israel continues to be confusing and inconsistent. In July I wrote to the President expressing my grave concern over our Government's policy toward Israel in the United Nations. In September I received a reply to my questions concerning U.S. abstentions on United Nations Security Council votes on resolutions pertaining to Israel. The two letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 31, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to express my grave concern over the United States confusing public position toward Israel in the United Nations. During a number of recent significant United Nations Resolutions relating to Israel, the United States abstained on five occasions. Although we supported Israel in the latest effort against them, this only exemplifies the inconsistency with which we approach this critical issue. In light of the United States commitment to Israel, I believe this situation is a cause for alarm.

My own distress is shared by a large number of my Jewish constituents. In this time of instability in the world political arena we must not let our support for the security and survival of our allies, especially Israel, falter. We must remain a country that abides by our commitments under every circumstance as well as one worthy of the respect and trust other nations place in our high ideals.

Mr. President, I strongly urge you to be a guiding force in the continued commitment to Israel and the peace process emerging out of Camp David. The United States cannot expect other countries to abide by their commitments if we cannot be relied on to do the same. We, as the leaders of this nation, must present a strong and unwavering attitude of support in this matter of utmost importance.

With best regards.

Sincerely,

CHARLES F. DOUGHERTY.

DEPARTMENT OF STATE,
Washington D.C., September 5, 1980.

DEAR MR. DOUGHERTY: Thank you for your letter to President Carter of July 31 concerning U.S. abstentions on U.N. Security Council votes on resolutions dealing with Israel and related Middle East issues. I sincerely regret the delay in this reply.

As you know, these sensitive issues have been the subject of a series of Security Council debates. For the most part, these debates and votes have not developed practical or balanced solutions to the problems facing that area.

We examine and vote on each resolution on its individual merits and the degree to which it accords with our policy. While on April 30 we vetoed a Security Council Resolution which called for the creation of an independent Palestinian state, we have abstained in other cases.

We decided to abstain in these instances only after the most careful consideration. In the cases of Resolutions 476 and 478, which dealt with Jerusalem and the territories occupied by Israel after the 1967 war, vetoes would have been inappropriate. In many respects these resolutions reflected the consistent U.S. policy toward Jerusalem since 1967. U.S. policy is that the final status of the city should be determined in the context of negotiations for a comprehensive peace, and that Jerusalem should remain an undivided city, with free access to the holy places. We oppose unilateral actions which seek to change the character of Jerusalem and which tend to prejudge future negotiations on the city's final status.

However, in other respects these resolutions were not in accord with our policy. For example, we felt that the resolutions were flawed because they failed to reaffirm Resolution 242 as the basis for a comprehensive peace or Israel's right to exist in peace with secure and recognized boundaries.

Because these resolutions partly reflected and partly conflicted with our policies, abstentions best expressed our position.

These U.S. votes in the Security Council do not alter our strong support for Israel and for peaceful settlement in which Israel's security and well-being are assured. We will persevere in the effort to bring about a just and lasting peace in the Middle East regardless of all distractions, diversions and difficulties. We remain committed to the success of the Camp David framework and the implementation of the accords.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary
for Congressional Relations.

Mr. Speaker, this belated reply is not a satisfactory explanation for our weak position toward Israel in the United Nations. It is an attempt to justify a policy that is weak and vacillating. Meaningless words cannot explain away our seeming lack of commitment to Israel, our closest ally in the very volatile area of the Middle East.●

TRIBUTE TO RAY TODD—VA EMPLOYEE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. ROBERTS. Mr. Speaker, on September 1, 1980, Mr. Ray Todd, Assistant Director of the Veterans' Administration regional office in Waco, Tex., retired after 34 years in Federal service. I would like to take this opportunity to congratulate him on a long and productive career, and also commend him, not only for the faithful service he has provided his government at the Federal, State, and local level, but also for the assistance he has given, over these many years, to thousands of Texas veterans their families and survivors.

Born in Slayton, Tex., November 30, 1917, Ray Todd attended public school in his hometown and went on to receive a B.B.A. degree from Texas Tech in 1939. After graduation he took a position with the county tax collectors office in Lubbock, Tex.

On December 21, 1941, only 2 weeks after the Japanese forces attacked Pearl Harbor, Ray Todd joined the U.S. Army Air Corps. He received training as a fighter pilot and served as an air traffic controller in Hawaii and as an operations officer and a squadron commander in the Western Pacific theater of operations. After serving the full duration of the war he was discharged honorably, April 28, 1946, with the rank of major.

In October 1946, only 6 months a civilian, after having served his country with distinction in time of war, Ray Todd joined the ranks of the Veterans' Administration to serve his country and those who had fought alongside him, in a time of peace. He was appointed to what was then called the Vocational Rehabilitation and Education Division as a registration officer and contract specialist. He participated in implementing the new GI bill of rights and scores of other veterans readjustment programs which benefited thousands of Texas veterans and trained an entire generation of American fighting men and women who served during World War II.

During his career with the VA in Lubbock, Ray Todd became a management analyst in 1955 and was promoted chief of the management division in 1959 and assistant manager in 1963. He was acting manager of that office at the time of the merger of the Lubbock and Waco VA offices in 1965, and he became assistant director of the Waco regional office, where he served until his recent retirement.

Mr. Speaker, too often we tend to forget, or fail to recognize the service of millions of Americans who have spent entire lifetimes in dedicated service to our Government and our country. These are the men and women who oil the wheels of government providing the services that many, quite easily, take for granted. I believe it is important to stop every once in a while and single out an individual such as Ray Todd, listing his accomplishments and career for special commendation. In serving our Government, in serving the Veterans' Administration, and in serving the American veteran for all these years, he has, indeed, served us all. We should be profoundly grateful.●

THE EEOC AND SPEAKING ENGLISH ONLY RULES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. ASHBROOK. Mr. Speaker, I believe that there is no quarrel with either the letter or the intent of title VII of the Civil Rights Act of 1964, as amended. It holds that all persons are entitled to protection against employment discrimination on the basis of their race, color, religion, sex, or national origin. What disturbs me, however, is the incredible way in which the social meddlers at the Equal Employment Opportunity Commission (EEOC) has chosen to guarantee a national workplace free from employment discrimination based on an individual's national origin. Mr. Speaker, I am referring to the EEOC's proposed revision in its "Guidelines on Discrimination Because of National Origin" that appeared in the Federal Register on Friday, September 19, 1980, and I urge my colleagues to read it carefully.

In its so-called guidelines, the Commission has identified several job selection factors or criteria which it claims tend to exclude persons on the basis of national origin and will, therefore, be subject to close EEOC scrutiny. These include: Height or weight requirements, training or education requirements which deny employment opportunities because of their foreign training or education, and fluency in English requirements. The proposed guidelines then inform us, not surprisingly, that an individual's primary language is often an essential national origin characteristic. Relying heavily on 1976 Census Bureau data, the Commission estimates that some 21 million persons in the United States above 18 years of age come from non-English language backgrounds; that is, persons whose primary language is not English, who normally use languages other than English, or who live in households where languages other than English are spoken. The EEOC then establishes the presumption that totally prohibiting employees from speaking their primary language, in and of itself, must and will be viewed as a violation of title VII of the Civil Rights Act. Since a person's primary language and national origin go hand in hand, any employer-imposed limitation on the use of that primary language creates a discriminatory workplace environment that adversely affects an individual's employment opportunities.

It is sheer nonsense to assume or presume that, in all cases, an individual's employment opportunities are diminished or denied because of on-the-job language communications requirements. What the EEOC has done is to falsely conclude that workers from non-English speaking backgrounds are, by definition, of limited English-speaking ability. Nothing could be more patently absurd. What is ignored or overlooked is the fact that millions of working Americans from myriad non-English speaking backgrounds have achieved—and will continue to achieve—proficiency in English. For these workers, many of whom communicate as, if not more, effectively than many of their native English-speaking coworkers, speaking English only does not create an atmosphere of inferiority, isolation, and intimidation based on national origin.

The Commission, in a rare show of wisdom, does recognize that English may be required at certain times and places in the workplace. In and of itself, such a requirement will also be considered a violation of title VII, unless the employer first justifies such a requirement as a business necessity and advises employees as to the exact circumstances and times when speaking only in English is required and of the consequences of violating this rule. What baloney.

Once again, an excessive burden of proof of nondiscrimination is placed exclusively on the employer. Nowhere in its guidelines does the Commission give employers any guidance as to what factors should be considered in substantiating a business necessity or what procedures will satisfy the requirements of reasonable and adequate notification to affected employees.

Mr. Speaker, one does not have to be endowed with an unusually fertile or creative imagination to conjure up endless scenarios in which the EEOC and beleaguered employers will be engaged in protracted negotiations regarding allowable English-speaking-only rules. Just one possible example comes to mind. May we anticipate situations in which hospital administrators must, to the satisfaction of the EEOC, justify the precise circumstances and times when its nursing staff must speak English only while present in operating room settings in which surgeons are performing lifesaving procedures?

Finally, the Equal Employment Opportunity Commission restates its position that harassment on the basis of national origin is a violation of title VII. Again, the Commission places sole responsibility for policing every aspect of workplace activities squarely on the employer's shoulders. Surely, we should not tolerate on-the-job acts of harassment which are authorized or condoned by an employer. But the EEOC guidelines go beyond holding the employer ultimately responsible for such acts regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. Similarly, the EEOC maintains that the employer has an affirmative duty to provide and maintain a working environment free of acts of national origin harassment with respect to the conduct between fellow employees as well as certain acts of nonemployees, and where the employer or its agents or supervisory employees, knows or should have known of the conduct, unless the employer can show that it took immediate and appropriate corrective action. Think of requiring the employer to be responsible for acts of nonemployees.

The Equal Employment Opportunity Commission has succeeded in confronting employers with the onerous, if not impossible, task of anticipating and taking appropriate and immediate corrective action to avoid any and all actions that might be viewed or interpreted as forms of national origin harassment. Whether or not affected employers will succeed in satisfying these standards will be left to the after-the-fact, "Monday morning quarterback" intelligence and judgment of legions of EEOC bureaucrats and the courts.

In an unsuccessful attempt to clarify and specifically advise the general public and public and private sector employers of what constitute unlawful employment practices, the EEOC has raised more questions than it has answered. And, based on dubious premises and assumptions, it has mandated that employers meet requirements that appear to defy "in good faith compliance" while offering little if any guidance. In short, the Equal Employment Opportunity Commission has succeeded only in compounding further the confusion that exists presently among all interested and affected parties in the workplace.

I hope that we have not reached that point in our Nation's history when we must apologize for or justify the use of the English language. The actions of the EEOC cast a long shadow over policies which this Nation has felt necessary to promote our national welfare. For instance, Mr. Speaker, are we to abandon the requirement that persons seeking to become naturalized citizens must demonstrate "an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language"? (8 U.S.C. § 1423)

The EEOC is a hopeless haven for control-minded, socialistic antibusiness types. This latest outrage is but one example of Carter bureaucracy gone wild. The time has come to cut their authority, their appropriations, their ability to add more fuel to the fire that is destroying American business through these crazy, unproductive and unnecessary regulations.●

S. 885

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. SWIFT. Mr. Speaker, during consideration of S. 885 on Monday, September 29, the gentleman from Michigan (Mr. CARR) asked whether any Federal power marketing agency had previously offered requirements contracts to investor-owned utilities. In addition to the points offered in reply by Mr. DUNCAN and myself, it should be noted that the Bonneville Power Administration throughout most of its history has contracted to meet the requirements of investor-owned utilities, and that this practice is already authorized by the Bonneville Project Act of 1937. The conditions that apply to this authority—conditions designed to protect the preference rights of public bodies and cooperatives—are both incorporated, and expressly restated, in S. 885.

1. WHAT IS A REQUIREMENTS CONTRACT?

A power requirements contract is one under which BPA agrees, subject to conditions mentioned below, to meet the net power requirements of a utility; that is, the difference between the utility's total power needs and the capability of the utility's own power resources. Many publicly owned utilities in the Northwest have no power resources of their own, so that for these utilities a requirements contract means that BPA will meet their full power needs. But the investor-owned utilities in the Northwest have substantial power generating resources, sufficient in most cases—or nearly so—to meet their existing loads. For the investor-owned utilities, therefore, a requirements contract would basically cover only load growth.

2. WHO HAS THE RESPONSIBILITY TO MEETING LOAD GROWTH NEEDS?

Under S. 885, each utility—public and private—has the fundamental responsibility of assuring that sufficient power resources are developed to meet its own load that remains after conservation is taken into account. If a utility does not supply enough power to BPA for this purpose, BPA by definition will have insufficient power to meet the load growth needs of all utilities. This means BPA will have to issue notices of insufficiency under section 5(b)(5) of the bill. During insufficiency, as section 5(e) makes clear, BPA will sell to investor-owned utilities only the amount of power these utilities have sold to BPA. The utility responsibility of meeting loads remains with the utilities, not with BPA.

3. ARE THE INVESTOR-OWNED UTILITIES GUARANTEED THAT THEIR REQUIREMENTS WILL BE MET BY BPA?

Absolutely not. As explained above, the investor-owned utilities will continue to have their requirements met only so long as they themselves develop enough power for this purpose. If they fail to do so, BPA must restrict its obligations under section 5(b); that is, BPA will give notice that it cannot and will not continue to meet the investor-owned utility requirements.

4. WHO BENEFITS FROM REQUIREMENTS CONTRACTS?

The customers of investor-owned utilities reap the benefits of these contracts, not the companies. Section 5(c)(3) requires all of the cost benefits of power exchanges with BPA to be passed directly through to customers. Section 9(h)(3) requires the lowest financing costs for new resources. Since public utility regulatory laws require power rates to be based on cost, a dollar saved in resource costs is a dollar saved in consumer rates. Requirements contracts do not increase private profits; they simply allow the customers of investor-owned utilities to be a part of the regional power system.

5. ARE THERE ADDITIONAL PROVISIONS THAT LIMIT BPA'S OBLIGATIONS TO THE INVESTOR-OWNED UTILITIES?

Yes; section 5(a) of the bill states that all power sales under S. 885 will be subject at all times to the public power preference provisions of the original Bonneville Project Act of 1937, particularly sections 4 and 5 thereof. Section 5 of the Bonneville Project Act requires BPA, in contracts with investor-owned utilities, to include provisions permitting BPA to pull back all power sold to these utilities on 5 years' notice if and to the extent that the power is needed to serve public bodies and cooperatives. The same provision is also expressly restated in S. 885 as section 5(b)(2). These protections have not been a focus of discussion precisely because, in this bill, they are arguably redundant: basically, there are no net BPA power sales to investor-owned utilities under S. 885; the power these utilities receive is the power they supply to BPA themselves.

6. WHAT HAPPENED TO BPA'S REQUIREMENTS CONTRACTS WITH INVESTOR-OWNED UTILITIES IN THE PAST?

These contracts were authorized by the Bonneville Project Act of 1937. When they expired, in 1973, they were not renewed because BPA had insufficient power to renew them, as BPA explained in its 5 year notice to these utilities issued in 1968. In other words, the same provisions that are included in S. 885 operated to insure that BPA, when faced with an insufficiency of power, would issue notices and limit its obligations to the investor-owned utilities in order to protect the preference utilities—public bodies and cooperatives.

7. WILL THINGS BE ANY DIFFERENT UNDER S. 885?

Only to this extent: Under S. 885, the investor-owned utilities can help prevent the occurrence of a BPA insufficiency by selling to BPA on their own sufficient power to meet their own net requirements. If they fail to do so, the bill requires BPA to stop meeting the requirements of these utilities and to sell to them only as much power as BPA has purchased from them.

8. WHY THEN DOES THE BILL PROVIDE FOR REQUIREMENTS CONTRACTS WITH THESE UTILITIES AT ALL?

Because this is necessary in order for the bill to achieve wholesale rate parity for residential customers in the region while simultaneously protecting the preference rights of public bodies and cooperatives. BPA cannot buy power to meet investor-owned utility load growth needs unless it is required to sell power for this purpose; BPA is authorized to acquire only enough power to meet it obligations. If

BPA cannot buy this power, the cost of this power will be higher, both because the benefits of the regional financing mechanism will be lost and because the Securities and Exchange Commission is not authorized—under section 9(h)—to approve a 100-percent-debt-financed-generating subsidiary—which can produce power at lower cost than a company relying heavily on equity—stock—unless the subsidiary is formed for the purpose of selling power to BPA. The higher cost of this power needed to meet investor-owned utility load growth will raise the average system cost of these utilities, thus increasing the costs to BPA of carrying out the section 5(c) exchange for the benefit of residential and small farm customers. This in turn will almost certainly trigger the rate test provided in section 7(b) for public bodies and operatives, which means that rate surcharges will have to be added to the cost of power that BPA sells to benefit the residential and small farm customers. The result is to destroy the wholesale—not retail—rate parity that the bill seeks.

9. COULD WHOLESALE RATE PARITY FOR RESIDENTIAL AND SMALL FARM CUSTOMERS NOT HAVE BEEN ACHIEVED WITHOUT THE NEED FOR REQUIREMENTS CONTRACTS FOR THE INVESTOR-OWNED UTILITIES?

Yes, technically, but the alternatives are each highly undesirable, perhaps especially to those who criticize S. 885 as written. One alternative would have been to repeal the preference clause, so that BPA would not be required to protect the rates of public bodies and cooperatives. Another alternative would be to permit BPA to buy whatever amount of power it wanted, without limiting BPA's authority—as the bill does—to the amount of power needed to meet its contract obligations. A third alternative would have been to give the investor-owned utilities a general exemption from the Public Utility Holding Company Act, so that they could form 100-percent-debt-financed-generating subsidiaries for purposes of their own, instead of exclusively for the purpose of selling power to BPA.

The sponsors of the bill would be pleased to hear from any of our colleagues who believe that these alternatives are better than continuing, as the bill does, the provisions of existing law that permit BPA to execute requirements contracts with investor-owned utilities.●

TRIBUTE TO ROBERT R. SMITH

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. FLORIO. Mr. Speaker, I welcome this opportunity to recognize and honor Mr. Robert R. Smith for his years of unrelentless service to the Boy Scouts of America.

Credited for bringing landmark progress to the local Scout movement, Mr. Smith will celebrate five decades of membersip to the Camden County Council Boy Scouts of America in October.

His devotion to the ideals of the Boy Scout movement has provided thousands of young men in the county with a sense of direction, while his example reflects a dedication to the American heritage. It was through his efforts and enthusiasm that led to the establishment of a day camp for Cub Scouts at the Pine Hill Reservation 8 years ago.

Mr. Smith's meritorious service is exemplified by his election to a series of leadership posts in the county council. His broad range of contributions include serving as Scoutmaster, Senior Scout leader, Sea Scout skipper, field commissioner, district commissioner, institutional representative, Cub Scout committee chairman and Round Table commissioner.

I am pleased to express my gratitude to Mr. Smith, a resident of the borough of Bellmawr, for his monumental contributions to the Boy Scouts as well as his community. At this time, I would like to join the Camden County Board of Chosen Freeholders in extending warm congratulations to Mr. Robert R. Smith on the occasion of his 50th anniversary of association with the Boy Scouts of America.●

THE POLITICS OF ABORTION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HYDE. Mr. Speaker, in the recent Presidential debate in Baltimore one of the most dramatic points in this exchange came over the issue of abortion. We here in Congress know full well the emotion this issue engenders, and therefore I insert the recent William F. Buckley, Jr. column "Reagan, Anderson, and the Politics of Abortion," Washington Star, September 26, 1980, to be reprinted in the RECORD, for it best captures this emotion and what really was at the heart of the debate over the question of religion in politics:

REAGAN, ANDERSON AND THE POLITICS OF ABORTION

The Reagan-Anderson exchange was quintessentially an evening of Hamlet without the prince, and on the whole Carter got away with it with little loss of blood. It is reported that Mr. Reagan yielded to the advice of those of his counselors who urged him to be good natured about Carter's absence, and perhaps they were right. It is difficult to box with an opponent who isn't there, when there is a third presence in the room who is jabbing away. An awful distraction, which is the best way of describing John Anderson.

Only one question brought answers sufficiently interesting to survive the evening, and that was the one about the role of religion in politics. Ten days earlier, Cardinal Medeiros of Boston had issued a letter to his parishioners advising them that their obligation to oppose abortion was more than merely platonic in nature. If you oppose abortion, which you should said the cardinal, then you must support candidates who join you in opposing abortion. The contumacious voters of Boston proceeded, with rather unusual vigor, to vote for the two candidates who were the most conspicuous though unnamed, targets of the cardinal's letter.

GOVERNOR REAGAN'S REPLY

Ronald Reagan's answer began by reminding the questioner of the obvious, namely that you can't go around telling ministers, priests or rabbis that they have to keep their mouths shut when their own conscience tells them to speak. He then went on to say that he didn't believe in one-issue politics, but that if a minister believes that a single question is of such over-arching moral importance as to qualify one candidate or disqualify another, then the minister has the same right to propose—as his parishioners retain to dispose.

Then Reagan closed in on the abortion issue, acknowledging that this question was certainly not trivial. I.e., if one is genuinely convinced that abortion involves the killing of a human being, then obviously it is a question of crucial moral significance. He then brought forth the only memorable line of the evening, namely that abortion is advocated only by persons who have themselves been born.

John Anderson's response was a most awful gallimaufry of cliches and invention, wherein he promulgated a brand new human right, one not even listed in the Universal Declaration of Human Rights, which is very nearly encyclopedic in the matter. This is the right of the "unborn child to be wanted." One had to close one's eyes to reflect on this. Does that mean that a born child doesn't have the right to be wanted? Or does this mean that if a child isn't wanted, it is wrong not to abort that child?

A LACK OF AMBIGUITY

Suppose that the mother wants a little boy, but ascertains a month or two before the scheduled birth that she is is carrying in her womb a little girl. Does she ratify the right of that little girl by killing her? Politics is a breeding ground for mutational utterances, but it will be many seasons before one learns something more sensational than that in aborting a child one is engaged in discharging that child's right.

Mr. Anderson has a positive way of putting things, and evidently lost somewhere in childhood any capacity to entertain ambiguity. If he had himself been Hamlet, he'd have committed suicide in the first act, never mind all that tormented thought. For the first 184 years of the republic, the people, the Congress, and the courts believed that it was the responsibility of the states to govern the question of abortion. "For the state to tell a woman that she must carry that pregnancy to term regardless of her personal beliefs, that I think violates freedom of conscience as much as anything I can think of." This is a commentary on how many things Mr. Anderson can think of. It is extraordinary, if such an "interference" is so egregious an act, that Mr. Anderson didn't spend every waking moment before the Supreme Court reversal of 1973 disputing the anti-abortion laws.

But he was silent in the matter, suggesting that his own conscience is formed by whatever is yesterday's crotchet of the Supreme Court, so maybe we should vote for the Supreme Court for president and economize on the middle man?

Poor Mr. Anderson, how he does get carried away. He thinks that Cardinal Medeiros shouldn't address his parishioners on how to vote because that is to violate the principle of separation of church and state. But not long ago Cardinal Medeiros was telling his parishioners that they should comply with court orders backing integrated schools. Was he violating church and state on that occasion? Interference by church with states is most handily defined as when a churchman tells his parishioners something that affronts the liberal orthodoxy. Right? Right.●

A TRIBUTE TO ALBERT EINSTEIN COLLEGE OF MEDICINE—25 YEARS OF PROFESSIONAL AND SCHOLASTIC EXCELLENCE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. BIAGGI. Mr. Speaker, it gives me great pride to advise my colleagues in the House of an important milestone which will take place in my home city of New York on October 26. On that date the Albert Einstein College of Medicine located in the borough of the Bronx will observe and celebrate its 25th anniversary. The occasion offers an opportunity to pay tribute to one of the Nation's most distinguished centers for physician education, biomedical research, and patient care.

Named for Albert Einstein, the great man of science, the school from the outset dedicated itself to the pursuit of the highest standards of educational and scientific excellence as well as humanitarian values. The medical school was born in 1955 as the first institution for physician education established in New York City during the 20th century. It was the only institution of its kind to which Einstein agreed to give his name. Its visionary parents were Yeshiva University and supporters in the Jewish, scientific, and business communities.

In its 25 year history, the Albert Einstein College of Medicine has produced a remarkable 2,750 physicians and medical researchers. Its outstanding full-time faculty of more than 1,000 teachers, trains and conducts research in all health specialities. Their reputations, based on continuing achievement, have brought to Einstein more will spent funds for research and training programs than all but a few other medical schools in the United States.

The medical school made substantial contributions to the major advances made in the past 25 years in the understanding and treatment of cancer, heart disease, stroke, diabetes, liver, and kidney disease, as well as mental retardation and other aspects of human development.

While continuing and expanding these efforts, it also has moved into the forefront of efforts to meet special health care needs of the future. It is conducting pioneering programs in genetics, with scrupulous regard for ethical and humanistic concerns. It has established an institute of neurotoxicology, the first academic-related center of its kind to focus on the effects of industrial and environmental chemicals on the human nervous system. And, of particular interest to me as a member of the Select Committee on Aging, it has formed a center for gerontology to meet the challenge of serving the unique and growing health care and related social needs of our Nation's surging population of elderly citizens. Medical scientists at Einstein have been internationally recognized for identifying the nature of different forms of senility, particularly Alzheimer's disease.

The institution's contributions to the Nation and world have been made within a context of special concern for the urban communities it serves in the Bronx. The college has clinical and educational affiliations with Bronx Municipal Hospital Center, comprised of Jacobi and Van Etten Hospitals; Montefiore Hospital and Medical Center, one of the Nation's outstanding voluntary hospitals which also operates the Hospital of the Albert Einstein College of Medicine; Bronx-Lebanon Hospital Center; Bronx Psychiatric Center; Bronx Children's Psychiatric Center and the Bronx Developmental Center.

In an editorial on the occasion of the medical school's opening, the New York Times predicted that in the future:

> To have been trained by the Albert Einstein College of Medicine will be regarded as a mark of distinction by its fortunate graduates.

That prophecy has been demonstrated beyond measure.

During the ceremony launching the college in 1955, the first class of students presented a scroll that carried a pledge which has become a standard for all components of the medical school: To carry on in the spirit of warm humanity and scientific integrity exemplified by Albert Einstein.

The Albert Einstein College of Medicine has fulfilled the pledge of its initial class and continues moving forward in behalf of all people in the Bronx in the city of New York, in the Nation and throughout the world. Its achievements and its promise earn the highest regard of all citizens as we join in celebrating its first extraordinary 25 years of service and offer our best wishes and support for the equally significant contributions it will make for all people in the coming decades and, indeed, in the century to come.

I had the distinct pleasure this past Sunday to be the keynote speaker at a White House Conference on Aging Mini-Conference on Health Care and the Elderly. The Conference was held at Albert Einstein and it served as an opportunity to salute the brilliant work being conducted by its long-term care gerontology center.

Albert Einsein has been integral part of the Bronx community for a quarter century and the entire community joins me in congratulating them on their first 25 years and wishing them continued success.●

NEVADA-CALIFORNIA BI-STATE COMPACT

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. SANTINI. Mr. Speaker. It is with a great deal of satisfaction that I bring before the U.S. House of Representatives a bill to ratify the 1980 Tahoe regional planning compact. This newly revised bi-State compact is the product of literally a decade of labor by concerned individuals and public officials in the States of Nevada and California. It is the one piece of legislation which addresses the long-range, critical problems which exist at Lake Tahoe today. The 1980 TRPA compact requires State and local representatives to the regional agency to develop environmental threshold capacities for the Tahoe Basin, establish transportation goals and set a limited moratorium on growth.

My bill is the vehicle which will give congressional approval to these arduous efforts to preserve the environment in this most unique area.

I want to pay tribute to those State legislators from Nevada and California who negotiated many months and years to produce the document before us today. In addition, I believe Governor List of Nevada and Governor Brown deserve special praise for supporting this legislation and seeing it move quickly through their respective State Houses. It is my sincere desire and personal commitment to press forward with this ratification in an expeditious manner. It has the strong approval of both Nevada and California State Legislatures and executive branches, as well as the congressional delegations representing the Lake Tahoe Basin.

The ratification bill which I am sponsoring is not another piece of legislation designed to provide a quick fix for squabbles between environmentalists, developers, businessmen, and residents. It is the single most important legislative creation which the Lake Tahoe Basin will see in the decade of the 1980's. The Tahoe regional planning compact represents a true partnership of State, local, and Federal governments working together toward a common goal.

It is extremely gratifying to know that Nevadans and Californians can put aside our regional and even philosophical differences for the betterment of the national treasure. My good friends and colleagues, HAROLD "BIZZ" JOHNSON, NORM SHUMWAY, PHIL BURTON, DON CLAUSEN, and VIC

Fazio are cosponsors with me on the Tahoe ratification bill, and I understand that Nevada Senators Howard Cannon and Paul Laxalt are working with California Senators Alan Cranston and S. I. Hayakawa for introduction after Congress reconvenes after November 12.

To all of us, and to all who live or visit Lake Tahoe, it is a very special place. It would be downright shameful if steps are not taken now to allow future generations to enjoy this national treasure.●

THE PURCHASE OF EVIDENCE AND OTHER INFORMATION FOR DRUG INVESTIGATIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. GILMAN. Mr. Speaker, today I am introducing an amendment to section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1980—Public Law 91-513, 21 U.S.C. 811(e)—that would permit our Federal drug law enforcement officials to use the proceeds from the sale of forfeited property to purchase evidence and other information in connection with their drug trafficking investigations.

Section 511(e) of that act currently requires the Attorney General to turn over to the U.S. Treasurer the proceeds of forfeited property, which, after certain expenses have been paid, are deposited in the general fund of the Federal Treasury. Rather than turning these proceeds over to the general fund, my proposal would permit the Drug Enforcement Administration (DEA) to use these proceeds to help meet the increased costs of conducting its drug trafficking investigations, of which the purchase of evidence and other information is a vital ingredient.

Federal, State, and local law enforcement agencies are faced with shrinking budgets and a shortage of dollars eroded by inflation. These shortages come at a time when narcotics trafficking and drug abuse have reached epidemic proportions, when heroin from the record opium harvests in Iran, Afghanistan, and Pakistan has already adversely impacted upon the Northeast corridor running from Boston to our Nation's Capital, when hospital emergency rooms and treatment centers are reporting increased numbers of drug injuries and drug deaths, when budgetary restraints have forced the closing of certain DEA overseas operations and the curtailment of a successful DEA task force, when it costs approximately $10,000 to purchase an ounce of heroin to conduct a drug trafficking investigation, and when the President's budgeters have proposed a $40 million cutback in drug treatment programs, while hospitals and clinics of the Veterans' Administration and the U.S. Public Health Service and community mental health centers have been urged to absorb the overflow of drug treatment patients.

My measure is intended to help shore up this critical dollar shortage. It is intended to supplement, not to replace or to reduce, authorized appropriations for DEA's drug trafficking investigations by utilizing the proceeds from forfeited property rather than turning the moneys over to a general fund that might not find its way back into DEA's budget. Unless our law enforcement officials are permitted to tap these proceeds, then we are not making effective use of available resource to help interdict the epidemic drug trafficking that exists in this Nation and throughout the world.

Mr. Speaker, there is an urgent need for additional dollars to gather evidence necessary for prosecutors to put the drug traffickers where they belong . . . in jail. DEA has approximately $10 million to underwrite the purchase of evidence and other information. According to an official source, this is insufficient to underwrite all of its operations, including the Federal, State, and local drug task forces and all of its international operations. Sterling Johnson, a front-line special narcotics prosecutor for New York City, recently informed me that without sufficient funding to purchase evidence and other information Government efforts to prosecute drug traffickers is severely restricted. "How ironic it would be," he told me, "for drug traffickers to share the burden of our taxpayers by being sent to prison from the proceeds of their illicit transactions."

Mr. Speaker, although this Congress is fast drawing to a close, I urge my colleagues to take a close look at this proposal. I would welcome their suggestions and support. The following Members have cosponsored this measure: Mr. Beard of Tennessee, Mr. Biaggi, Mrs. Collins of Illinois, Mr. Coughlin, Mr. Dornan, Mr. English, Mr. Evans of Georgia, Mr. Guyer, Mr. Neal, Mr. Railsback, Mr. Rangel, Mr. Scheuer, Mr. Wolff, and Mr. Zeferetti. Accordingly, I am inserting at this point in the Record the complete text of my bill, together with a news account and an editorial from the New York Times, respectively dated September 23 and September 24, 1980, that discuss in greater detail the heroin crisis confronting our Nation.

H.R. 8233

A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to permit moneys acquired through forfeiture to the United States for violations of that Act to be used by the Attorney General in connection with investigations of violations of that Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(e)) is amended by deleting the third sentence and inserting in lieu thereof the following new sentences: "The Attorney General shall use any amounts of such moneys and proceeds remaining after payment of such expenses to purchase evidence and other information in connection with investigations of violations of this title or title III. Such amounts shall be in addition to any appropriations provided to the Department of Justice.".

A "Massive Crisis" on Heroin In East Seen by Morgenthau

(By Lee A. Daniels)

Citing statistics showing sharp increases in heroin arrests and heroin-caused deaths in New York City, the Manhattan District Attorney, Robert M. Morgenthau, said yesterday that cities on the Eastern Seaboard were "in the early stages of a massive crisis" of heroin addiction.

He said the situation was similar to the nationwide epidemic of heroin abuse in the early 1970's. Mr. Morgenthau made the statements in a speech before the National Association of Citizens Crime Commissions.

Mr. Morgenthau and state and Federal officials who were interviewed later cited earlier reports that heroin had been smuggled into New York and several other Eastern cities in increasing amounts over the last two years from Southwest Asian countries, primarily Iran, Pakistan, Afghanistan and Turkey. They are all countries beset by political turbulence.

PROMPT ACTION URGED

It is being transported over the same routes—and, in some instances, by the same people—who were involved in the notorious "French Connection" drug-smuggling route of the 1960's and 1970's, Mr. Morgenthau said. Figures in organized crime, both in the United States and Europe are also involved, he said, but he added that there were "new actors" in the drug-trafficking as well. These are blacks and Hispanic people on the East and West Coasts and in certain Midwestern cities like Chicago who gained international experience and connections smuggling drugs into the country from Southeast Asia, Mexico, and South America.

"It is important to attack this problem now," Mr. Morgenthau asserted. "The longer you wait, that many more cities will be involved, that many more addicts will get hooked, that many more drug-related crimes will be committed, and the more expensive it will be to ameliorate."

Meanwhile, Governor Carey took note of the problem when he called on Representative Elizabeth Holtzman, the Democratic candidate for the United States Senate, to make an issue of the "terrible drug epidemic."

The Governor made the statement in a news conference at his New York City office in which he announced his endorsement of Miss Holtzman.

"We cannot as a state cope with the conditions," said Mr. Carey, who has repeatedly raised the issue in recent weeks, beginning with a letter to President Carter in which he called for a comprehensive Federal program of increased Federal financing of heroin-addiction programs and increased Federal law enforcement and antismuggling efforts.

"It's killing our youngsters," the Governor said.

Mr. Morgenthau, citing New York City as an example of the new heroin influx, made the following assertions in his address:

Heroin arrests for 1980 have increased by 85 percent over those for a comparable period for 1978, and nearly 40 percent over those for 1979.

About 600 people will die this year from an overdose of heroin, up from the 472 deaths of last year, which, in turn, was a sharp increase over the 246 deaths in 1978.

The number of heroin-related emergency room episodes in hospitals in the metropolitan area this year is 684. The total number for 1979 was 702. The total number for 1978 was 480.

In addition, Mr. Morgenthau cited statistics indicating that the purity and price of heroin had increased dramatically in the last three years, and that in the first half of 1980 cases of serum hepatitis B—which results when impure needles are used to inject the heroin—have risen by 37 percent.

The District Attorney also said that urinalyses from methadone treatment programs indicated that a significant number of former addicts, tempted by the purity of the new heroin, were once again taking the drug.

A rise in heroin addiction will bring a corresponding increase in crime, especially burglaries and robberies, he said, "because people have to support their $100-a-day habit."

Mr. Morgenthau also said that the problem of heroin was not confined to slum areas. He described a videotape that police officials had made last Friday of drug transactions on streets in the Wall Street area, in Union Square Park and at Eighth Avenue and 117th Street.

"The drug marketplace tends to be located in the ghettos, but the people who buy come from all over—from New Jersey, from Westchester County, from nice middle-class neighborhoods," the District Attorney said.

David Hoover, a spokesman for the Federal Drug Enforcement Administration, supported Mr. Morgenthau's statements in a telephone interview. Mr. Hoover said that, according to the agency's estimates, in 1978 only 10.6 kilograms of heroin were smuggled out of all Southwest Asia and in 1979 the total rose to 47.4 kilograms. For the first half of this year, the total is 53.3 kilograms, he said.

Mr. Morgenthau and Sterling Johnson Jr., special assistant district attorney on narcotics, said state and Federal officials were not financing their antidrug efforts to the level needed. Both men said their narcotics enforcement programs were currently getting less state and Federal funds then they were in the mid-1970's.

State officials could not be reached for comment. However, Mr. Hoover said that the Drug Enforcement Administration had established a special office to fight the heroin influx from Southwest Asia and to break the six largest international drug rings involved in it.

Mr. Hoover also said that the agency had decided to make special antidrug efforts in New York City, Boston, Philadelphia, Washington, Baltimore and Newark.

HEROIN IS COMING, HELP IS NOT

There is now undeniable evidence of a rising new heroin tide. Manhattan District Attorney Robert Morgenthau reports that in the New York Metropolitan area, heroin arrests are up 38 percent over last year, 85 percent over 1978. Heroin-related medical emergencies from January through June almost equaled those for all of 1979. At that rate, heroin deaths will climb from 472 to perhaps 600.

New York and other afflicted cities have little choice but to look to Washington for help. Drug traffic control is a national and international problem, its prime source now being the fat opium harvests in Afghanistan, Iran and elsewhere in Southwest Asia. Yet the Federal Government has, over the past two years, failed to commit the money and manpower required to coordinate the task.

The latest White House assault on heroin includes a request that Veterans Administration hospitals and public health clinics take in drug patients for whom other programs have no room. What a hollow gesture that is: almost every V.A. and public health drug program is already overcrowded—and there is no provision for the needed funds and trained personnel.

The Administration also wants international efforts to control heroin intensified. Excellent, but how? A drug processing lab in Italy was raided recently with the cooperation of American and Italian agents. Federal officials say that destroying that kind of basic operation is comparable to arresting 100 top-level domestic drug dealers. But of the $1 billion the Government is spending this year on drug enforcement, less than $100 million is allocated to efforts abroad, like controlling opium crops and helping other governments police drug traffic. Although the Drug Enforcement Administration has moved a few more agents overseas, it recently decided to cut costs by closing its Paris office. Yet foreign operations plainly pay off.

Admittedly, budget restraints have forced cuts in many Government programs. Still, the White House could almost certainly help curb the crisis by reallocating much of the drug enforcement money it already has. Cuts in treatment programs over the last two years need to be restored. And the best time to stem the heroin tide is before it surges from foreign shores.●

TRIBUTE TO MRS. CHARLOTTE HJORTH

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. FLORIO. Mr. Speaker, I would like to take this opportunity to pay special tribute to Mrs. Charlotte Hjorth for her continuous efforts in promoting the field of recycling in the State of New Jersey.

A member of the State's association of environmental commissions for 3 years, Mrs. Hjorth was recently honored for her contributions. Just last week, the Garden State's Department of Energy and Environmental Protection presented her with an award for outstanding achievement in recycling.

Mrs. Hjorth has been a member of the Camden County Solid Waste Advisory Council since 1976, and currently serves as chairman of that body's recycling committee.

She previously served as chairman of the League of Women Voters Environmental Quality Committee and was instrumental in forming an environmental commission in her home town of Cherry Hill.

As chairman of the Cherry Hill Commission from 1972 to 1976, she founded that town's recycling center—the longest and most comprehensive program of its type in the county.

Through her efforts as a commission member, Mr. Hjorth was also instrumental in encouraging the township to operate a leaf composting and wood chipping program.

Prior to serving on the commission, Mrs. Hjorth was a member of the Cherry Hill Planning Board.

Mrs. Hjorth will be retiring from the county's advisory council this fall to work full time for her church.

We here in my county will surely miss Mrs. Hjorth's dedication and devotion to community service and extend our warmest wishes for continued success.●

GUN CONTROL: WHERE IS IT ON OUR AGENDA?

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MAGUIRE. Mr. Speaker, the American people are still voting, in an overwhelming way, in every public opinion poll which I read, in favor of a tough gun control law. As this sentiment continues to be expressed, the carnage from handgun murder also continues unabated. Nevertheless, the gun lobbying groups are still pushing legislation which would overturn the 1968 statute as incomplete as it is.

I would like to share with my colleagues three articles which appeared recently that lay to rest any questions they may have about the bills which would literally shoot holes in the laws we have. Only genuine gun control legislation should be on our agenda and we should act to strengthen and improve our gun control laws at the earliest possible date.

The three articles follow:

[From the Christian Science Monitor, May 20, 1980]

SHOOTING HOLES IN GUN CONTROLS

It is bad enough that neither Congress nor the Carter administration has had the political courage to stand up to the gun lobby's opposition to urgently needed, stricter handgun controls. Now a large number of congressmen, ignoring national polls that consistently show the great majority of Americans want toughter gun controls, have lent their support to a misguided and potentially dangerous piece of legislation originally called the Gun Decontrol Act but now referred to as the Federal Firearms Law Reform Act. Backed by the National Rifle Association (NRA), the bill's so-called reforms would further weaken the existing loophole-filled federal controls enacted in 1968, which have proved woefully ineffective in curbing gun violence.

So far, 104 representatives and 44 senators have allowed their names to be attached as cosponsors to this ill-conceived bill which the gun lobby is trying to foist on the public and Congress to curb alleged harassment of gunowners by the US Bureau of Alcohol, Tobacco, and Firearms. What the bill would do is reduce controls on the transfer of firearms, thereby making it easier for felons and others convicted of violent crimes to purchase guns. Not only would the bill loosen federal rules on interstate commerce in firearms; it would preempt state laws regulating the sale and transfer of guns within a state. It would remove the Treasury Department's authority to license manufacturers and dealers. This, in turn, would make it more difficult for law enforcement agencies to track down guns used in committing crimes. The overall impact of the bill would be to render the federal government largely incapable of maintaining even minimum oversight of handgun traffic.

There can be little doubt that the politically powerful NRA hopes to use the measure to detract attention from the pending Kennedy-Rodino handgun control bills. They would, among other things, ban the manufacture and sale of cheap concealable pistols, provide for a 21-day waiting or "cooling off" period between purchase and delivery, and make it harder for a person with a criminal record or a history of mental illness or drug addiction to acquire guns.

Even without the impetus Americans had been led to expect from President Carter on gun controls, the proposed curbs on gun trafficking introduced by Senator Kennedy and Representative Rodino of New Jersey have been steadily gaining support in Congress. They are expected to come up for public hearings in late June.

No hearings are scheduled on the gun lobby's bill to weaken controls, but attempts will be made to attach it to the pending criminal code reforms legislation. Congress would do well to study carefully the combined impact of its provisions. Taken together, they would subject Americans to the threat of even greater gun violence than they already face. It is not too late for the Carter administration to provide the needed leadership on gun controls. At the very least, the White House should announce its support of the Kennedy-Rodino bills. While not as strong as some gun control advocates would like—they stop short of requiring federal licensing of handgun owners, for instance—they nevertheless are the only real "reform" measures before Congress.

[From the New York Times, Aug. 4, 1980]

GREEN LIGHT FOR GUN TRAFFIC

We noted during New York's recent debate over state handgun controls that Federal controls would be the most effective answer to the national tragedy of threats and death from concealable weapons. Federal controls to date have been sadly inadequate. And now Congress is considering a bill to weaken them further.

Senator James McClure, Republican of Idaho, and Representative Harold Volkmer, Democrat of Missouri, last fall proposed a law that would seriously undercut the 1968 Federal Gun Control Act. The measure—which has now gathered 53 sponsors in the Senate and 157 in the House—would make it easier to merchandise firearms across state lines, and harder to convict those accused of Federal gun violations. The law should be moving exactly the other way.

The McClure-Volkmer bill would let persons other than Federally licensed manufacturers, importers or dealers make interstate gun transfers so long as they did not violate any state or local law at the guns' destination. It would also require prosecutors to prove that an accused violator had knowingly broken the law, thus eliminating the traditional presumption that gun dealers know what's illegal. The measure would limit the use of trial evidence by the Bureau of Alcohol, Tobacco, and Firearms to lift or suspend dealers' licenses. And, people convicted of nonviolent Federal felonies could, as they cannot now, legally own guns.

Some members of Congress who generally favor stricter gun controls have been drawn to this legislation. Why? Because the gun lobby's capacity to finance the campaigns of friendly Congressmen, and to punish those who favor controls, is undiminished. Beyond that, the lobby has apparently persuaded some legislators that the Bureau of Alcohol, Tobacco and Firearms has been abusing citizens' civil rights. Proponents of the new bill are attracting support by publicizing a 1976 case in which the bureau had David Moorhead, a Vietnam veteran and gunsmith, prosecuted for owning a machine gun. The "machine gun" was actually an M-14 rifle that Mr. Moorhead kept as a collector's item and which was merely capable of being converted into a fully automatic weapon. The case was thrown out of court.

The bureau erred in the Moorhead case. And there have been other mistakes. But lately G. R. Dickerson, who became director of the bureau last year, has been improving supervision of overzealous agents. He recently assured Congress that the agency had redirected its energies from individual violations toward major interstate trafficking in illegal guns.

The Times not long ago reported how one New York City "businessman" makes $100,000 a year selling illegal guns. He reported how he easily purchased weapons in other states to sell in New York. For Congress to contemplate weakening the Federal laws about such traffic would be perverse.

[From The Washington Post, Sept. 3, 1980]

GUNRUNNERS' SNEAK ATTACK

It's been a busy summer for the master gun-worshippers of the National Rifle Association—whose troops have been all over Capitol Hill; methodically whipping up an ugly legislative surprise for all who believe in reasonable controls on handgun traffic. The NRA threat this year is double-barreled: if unchecked, it would mean (1) the end of almost all existing federal regulations of guns and (2) a go-ahead for handgun purchases by certain convicted felons and for free-wheeling interstate traffic in all sorts of pistols, machine guns and other firearms that can hardly be considered as sporting equipment.

Besides the old pistol-packers' game of loading key politicians' pockets with campaign contributions, this round of gun-lobby efforts includes sneak attacks to undo votes just taken in Congress that have gone against the NRA. Thanks to cooler heads in the House and Senate committees that traditionally consider gun-control legislation, the gun lobby's initial efforts were voted down. But now the NRA, having disguised its free-for-all gun proposal as a "Federal Firearms Reform Bill," seeks to slip its proposals into law in the form of an amendment to the Criminal Code Bill. In the House, where a committee voted 22 to 5 against the effort to repeal gun controls, a variation may be tried.

Whatever the camouflage, people shouldn't be fooled by this destructive legislative attempt to repeal the reasonable, minimum gun controls that do exist. The 1968 Gun Control Act, which the NRA would repeal, was enacted after the assassinations of Robert F. Kennedy and the Rev. Dr. Martin Luther King Jr. to put some basic safety rules on the books: licensing of gun dealers, bans against certain types of weapons such as machine guns, prohibitions against sales to out-of-state residents and against gun trafficking by convicted felons.

None of this has, or would, disarm the sportsman. National polls have shown time and again that a solid majority of Americans support federal handgun controls to place some responsibility on handgun ownership and handgun commerce. If thoughtful legislators respect this desire, and if they stop listening to a narrow special-interest lobby, the scant controls now on the books can be preserved.●

H.R. 8229

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DERRICK. Mr. Speaker, today I have introduced a bill H.R. 8229, to amend title II of the Social Security Act. My bill addresses the matter of self-employment income being considered for earnings test purposes. Under current law, income derived from investments, dividends, interests, and rents is not regarded as self-employment income because no substantial services has been performed. Before enactment of the 1977 amendments there was the monthly earnings test—an individual would not lose their retirement benefit in any month that his income from self-employment did not exceed one-twelfth of the annual exempt amount. However, when the earnings test was applied on an annual basis numerous individuals began to lose their retirement benefit for the entire year because of self-employment income even though their work patterns since retirement had not changed.

The House, on December 19, 1979, passed legislation, H.R. 5295, that would exclude income based on services performed prior to a worker becoming entitled to old-age survivor benefits for earnings test purposes. Therefore, a surviving spouse receiving income from self-employment may lose their entire old-age survivor benefit even though they performed no substantial services for that income. I am introducing this bill to provide that an individual's benefit shall not be reduced on account of earnings from self-employment unless such earnings are based on services performed after he or she became entitled to such benefit. It is my feeling that this provision should have been brought before the House when deliberations were being made on H.R. 5295. The Senate Finance Committee, also aware of this problem, has attached a provision similar to the one I am introducing to H.R. 5295.●

WHAT IS IN IT FOR US?

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. ZABLOCKI. Mr. Speaker, the perennial question raised in conjunction with foreign assistance is "What is in it for us?" Father Theodore Hesburgh, chairman of the board of the Overseas Development Council and president of Notre Dame University responds succinctly to this question with the response that "the growth and progress of the poor are essential to our own economic well-being." In his introduction to the annual World Development Agenda, 1980 which was recently released by the Overseas Development Council, Father Hesburgh offers an excellent overview of economic relations between the United States and developing countries which emphasized our mutual interest in alleviating poverty and rejuvenating the international economic system.

Introduction by Theodore M. Hesburgh to The United States and World Development: Agenda, 1980

Many of the development problems that greeted the 1970s are still with us as the decade of the 1980s opens. Poverty and hunger are still widespread, despite economic strides by a small number of developing countries. The arms race continues to escalate, and the Middle East is still a tinderbox. There is poverty, death, and anger in Iran—poverty, death, and despair in Cambodia and Somalia. For those of us who are committed to the development of the poor countries and to the elimination of poverty and hunger, it is a frustrating time. In the United States and other rich countries, policymakers and the public are preoccupied with domestic problems—inflation, unemployment, uncertainty about energy supplies and prices, and the threat of international confrontation—which are often cited as reasons for not dealing with the increasingly urgent needs of the developing world.

Yet if there is one theme that is becoming more and more obvious through the work of the Overseas Development Council—and is now being picked up by others as well—it is that the growth and progress of the poor countries are essential to our own economic well-being. Unless the developing countries have the capacity to sell their products to the developed countries, they will not have the financial resources, in turn, to purchase our exports. Moreover, the developed countries need many of the resources that are available primarily from the developing countries. Although we in the United States are not as dependent as some others on imports of vital raw materials, we, too (and certainly the developed countries as a group), have become markedly more aware of the extent of our dependence on the rest of the world. Non-military threats to human life and well-being also have increased. Poverty, hunger, illiteracy, disease, and early death now affect more people than ever (even if the proportion of the ever-larger world population that is affected has declined). If attention is not paid to these problems, it is inevitable that tension between rich people and poor people and between rich countries and poor countries will accelerate.

Despite the argument (and it is persuasive, as much of the rest of this volume shows) that it is in our self-interest to work cooperatively with the developing countries, the first and foremost reason for giving attention to development is without doubt the moral one. Three quarters of the world's people live in the developing world, where even such basic needs as food, shelter, health, education and jobs are not met. A false dichotomy has been drawn in recent years between those who say that meeting these "basic needs" is the most important objective and those who say that reform of the international economic system must take place before any other development progress is possible. The question is not which of these strategies to pursue, but rather how to pursue them both. The deteriorating human condition—characterized by absolute poverty, hunger and malnutrition, illiteracy, poor health, unemployment and underemployment, and high population growth rates—requires both immediate remedial action and long-term institutional change. To advocate new institutional structures at the expense of attention to the needs of those who suffer now is cruel; to advocate relief at the expense of broad-based reforms is hypocrisy. While this latter course may provide some temporary alleviation of suffering, it does not help the poor to become active, healthy, productive members of our global society.

For all these reasons, a commitment to human well-being throughout the world is imperative. Yet acting on that commitment will not be easy and will, in fact, require some difficult adjustments for the rich countries. For this generation of Americans, the psychological adjustment to these changing international conditions may be particularly hard. After World War II, the United States was perceived as an unchallenged military power, an extraordinarily prosperous and expanding economic power, the preeminent democratic political power, and the unrivalled technological leader. We are used to thinking of ourselves in this way and have not fully accepted the fact that the United States can no longer unilaterally impose its will.

In addition, unlike the Europeans, Japanese, or Australians, Americans are not yet comfortable with economic "interdependence"—partly because we are less aware of how it benefits rather than hurts our daily lives, and partly because we still experience it less than others. We pay $1.30 for a gallon of gasoline whereas others pay $2.50, $3.00, or more. We export food, whereas other developed countries must import food in considerable amounts. Since we are suppliers of so many raw materials, we not only import fewer kinds of raw materials, but the proportion of what we consume that must be imported is only a fraction of what it is for other developed countries. Nevertheless, our understanding of our interdependence with the rest of the world is growing (although it is not yet viewed in its most positive light). We have seen that the actions of developing countries can hurt us (the OPEC oil price hikes of 1973-74 were a major blow to the American psyche), but do not fully appreciate that the low-priced raincoats, calculators, and shoes we buy are almost invariably made in Brazil, Taiwan, or Korea. Until we begin to appreciate the positive aspects of interdependence, it will be difficult for us to make badly needed adjustments to the many changes taking place in the international economy.

Yet adjustments clearly are needed. Increased imports from the developing countries inevitably will result in the displacement of some U.S. jobs and the closing of some U.S. firms because certain products can no longer be produced as efficiently in this country as elsewhere. We must be careful not to forgo the benefits of trade or to let the burden of this competition fall solely on those affected. At the same time, we also cannot respond to the development needs of the poor countries at the expense of the millions of poor and hungry in the United States. Our commitment to eliminating poverty at home must be as high as our commitment to eliminating poverty abroad, and the debate must never be falsely cast as a choice between welfare expenditures in the United States and development assistance to poor countries.

The policy choices at the start of the 1980s are difficult both domestically and internationally. The world is changing rapidly all around us and it is unlikely—and probably not desirable—that the United States will ever again be the dominant power it once was. Yet the United States can and should play a vital leadership role in mobilizing a constructive, forthcoming developed-country response to the needs and demands of the Third World. For all its current difficulties, the United States remains an economic giant and a powerful influence; a creative U.S. role could do much to resolve the deadlock that has dominated so many recent international discussions.

In the past, we have tended to look to the government for leadership on all international and on many domestic issues, and decisions by the private sector have been made in light of directives set out by government. Now, however, the interests and influence of private organizations are becoming more important in determining official positions and reactions. Moreover, such organizations are themselves making decisions that determine relationships among countries. Private voluntary and other non-governmental organizations, multinational companies, and banks all make decisions—about implementation of projects, types of investment, and the conditions attached to loans—that affect the nature and amounts of resources available.

Many of the recommendations in this book have been made in previous volumes of the Agenda. Many were, in fact, made in the same or in similar form in two high-level reports issued this year: the report of the U.S. Presidential Commission on World Hunger and the report of the Indpendent Commission on International Development Issues (called the Brandt Commission after its Chairman, former Chancellor Willy Brandt). Each of these studies—and certainly this Agenda—stresses the need for urgent action on two fronts: (1) reviving stalled efforts to reform the international economic system in ways that serve both rich and poor countries effectively, and (2) launching an international effort to meet the basic needs of people everywhere.

The similarity of these messages, arrived at through very different processes by politically diverse groups of people, underscores both the gravity of the problem and the need for immediate action. The specifics of the reports vary and these differences must, of course, be understood and weighed by analysis and specialists. For the rest of us—those of us who head churches and other voluntary organizations, who make decisions about loans and investment projects, as well as those who write to elected officials and make contributions to relief organizations—the message is less complex: a major international commission composed of highly respected, independently thinking public officials from both the North and the South; a U.S. commission consisting of former public officials, private citizens, and current members of Congress; and an independent research organization committed to increasing American understanding of development issues all have concluded that we know enough to begin to take action toward improving the prospects of poor countries and of poor people everywhere. There is, in other words, no excuse for further delay.

At a time when our official dominance in the world is diminishing and involvement by private U.S. actors is increasing, it is important that we in the United States take a serious look both at how our actions have affected developing countries in the past and at how they can help or impede development in the future. This Agenda examines the historical context and the current status of the many issues confronting the developed and the developing countries. It looks at the specific role the United States can play in alleviating poverty, rejuvenating and restructing the economic system, reducing disparities, and eliminating injustice. We at the Overseas Development Council call on the United States to recognize how its official and its private actions affect the lives of billions of people, to commit itself to growth and development in the poor countries (and thereby to its own economic revival), and to exercise moral and political leadership in addressing the most urgent problem of our time.

At the same time, we also urge developing-country policymakers to begin to make some difficult domestic and international development decisions. No matter how responsive the rich countries are to poor-country concerns, significant development progress also requires agrarian reform, income redistribution, and decisions about resource allocations that cannot be imposed or carried out from abroad. Similarly, progress in international negotiations requires that the developing countries decide among the many competing items on the international agenda and that they be prepared to compromise in the interest of progress.

For both rich and poor countries, crucial decisions can no longer be put off. Because of population growth, increasing pressure on resources, rapid changes in technology, and a host of other factors, the world in the year 2000 is likely to be very different from the world of today—whether we take the opportunity to create a future that provides a better life for all people to continue to respond in an ad hoc manner to short-term crises. The year 2000 is not far off. For most of us, it is our own future, not even that of the next generation, that will be shaped by the decisions we make or do not make today. We have a chance to create a world that is not simply different but better. It would be foolish not to seize it.●

PATENT BILL—H.R. 6933—REVERSES POLICY OF MANY YEARS OF VESTING TITLE TO INVENTIONS FUNDED BY TAXPAYERS IN UNITED STATES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. DINGELL. Mr. Speaker, I rise to warn the House of grave defects in H.R. 6933, the patent legislation. I strongly oppose this controversial bill being included on the Suspension Calendar and urge that it be defeated. I urge that an open rule be granted for full floor consideration, so that it may be fully considered and properly amended.

The bill affects the jurisdictions of several committees. It does more than just merely establish a new Patent Office and it makes technical changes in this Nation's patent and trademark laws.

Buried back in the bill are two new sections: 6 and 7, which amend title 35 of the United States Code and provide what is known as the Government Patent Office Policy Act of 1980. This policy applies to every Federal agency in town, including the Defense Department, the Department of Energy, the Nuclear Regulatory Commission the Environmental Protection Agency, the Department of Transportation, and NASA. It reverses the current patent policy of the Department of Energy and these other agencies 180 degrees.

It specifies that a contractor who has a Federal contract with the Department of Energy for research and development that is a small business or nonprofit organization will acquire title to any invention arising out of that federally financed contract. The term "small business" is the same definition that is used in the Small Business Act. That act provides that if the company is independently owned and operated and is not dominant in the field, it is a small business. Under that criteria alone, American Motors has been deemed a small business. Under the definition a company can be independently owned and operated, not dominate in a field of operation, have 20,000 employees, and still be considered a small business. A nonprofit institution would be such a large organization as the Battelle Memorial Institute. Currently, no such small business would get title to an invention arising under a Federal contract. Title would vest in the United States.

Additionally, under this bill, a corporation, like Exxon or du Pont that is not a small business organization or is not a nonprofit organization can get a temporary title to a contract invention automatically, acquire by operation of law the right to receive an exclusive license.

In addition, this provision makes changes relative to the new Synfuels Corporation that was established only a few weeks ago by Congress. The patent provisions in that law make it very clear that the Federal Non-Nuclear Act which is repealed by this bill would be applicable to the Corporation.

Possibly, it is appropriate to have such a policy apply to defense operations and those in the space area, but I find it very difficult to imagine that, in the areas of health, environment, energy, and safety, this kind of policy is appropriate.

Mr. Speaker, I want the opportunity to offer amendments to this bill that would make it more acceptable. I seek an open rule for this purpose. I think it is wrong for this highly controversial and very significant bill to be put on the Suspension Calendar in our closing days. Clearly, the bill can be considered after the recess. It has been under consideration for many months and need not be pushed through in panic. I strongly urge my colleagues to vote not to suspend the rules on this bill, but rather support an open rule.●

KIM DAE JUNG AND WORLD REACTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. BONKER. Mr. Speaker, on September 17 a South Korean military court imposed the death sentence on Kim Dae Jung, who has dedicated his life to the task of restoring freedom and demoracy in Korea. Since then the hue and cry on the national and international level, against that unjust decision, has been phenomenal and profound.

For example, in Germany on September 18, the influential Tagesspiegel pointed out;

> Allies such as these, smear the democratic goals which the Western Alliance is committed to defend against totalitarianism * * * Can it be true that the United States is incapable of stopping the destruction of democracy in South Korea?

Also on September 18, the respected Frankfurter Rundschau wrote:

> Kim Dae Jung has only one chance and that is if the U.S. and Japan as well as the governments of Western Europe make it absolutely clear to the military rulers that military aid and economic support and cooperation will not be forthcoming should they continue to follow their own brutal rule of trampling on democracy.

In Japan Foreign Minister Masayosi told American reporters that Japan might cut off economic aid to South Korea if Kim Dae Jung is executed and Prime Minister Zenko Suzuki repeated that threat on Japanese television.

Finally, I would like to commend to the attention of my colleagues an excellent editorial from the New York Times of September 18, 1980, and two excellent editorials from the Chicago Tribune of September 20, 1980, which summarize this tragedy.

The editorials follow:

[From the New York Times, Sept. 18, 1980]

SAMURAI JUSTICE IN KOREA

Millions of people watching television this week need no further instruction in samurai justice. The loser's penalty in early 17th-century Japan was predictable and brutal—a quick thwack of the sword, a suddenly headless neck. In "Shogun," the NBC mini-series based on James Clavell's novel, the feudal savagery is rooted in Asian history which viewers may assume is mercifully past. It isn't. Samurai swords are still flashing in ostensibly civilized South Korea.

Last November, the old shogun, President Park Chung Hee, was assassinated by a trusted lieutenant. Now there is a new military overlord, Gen. Chun Doo Hwan. He may bear the more modern title of President. But he seems intent on governing in the feudal manner.

He had scores to settle, especially after a humiliating student uprising in Kwangju. That uprising was blamed on the seditious intrigues of South Korea's foremost democratic leader, Kim Dae Jung. But the evidence was tenuous; Mr. Kim and his co-defendants were already in jail when the Kwangju riots occurred. So Government prosecutors duly came up with another charge, that Mr. Kim was plotting subversion during a trip to Japan in 1973. But the evidence was tainted, since Mr. Kim had been kidnapped from Tokyo by Korean agents. The abduction outraged the Japanese, who obtained a promise that no evidence developed in Japan would be used against him. The promise was broken.

Yesterday, as expected, Mr. Kim was found guilty of sedition by a military tribunal after a semi-secret trial marred by charges of fraud and crude Government pressure. And, as feared, the sentence is death by hanging. Under President Chun's samurai code, there is seemingly no mercy for losers.

The comparison with feudal Japan may be offensive to Koreans; they are a proud people with bitter memories of their past as an imperial colony of the Japanese. Defenders of General Chun insist that Korea's judiciary is independent, and that appeals or executive clemency are still possible. They assert that a new constitution is being shaped that will give Koreans a more or less democratic system.

American policy-makers have been indulgent to a fault in accepting these assurances. While the Chun shogunate was assuming power, President Carter saw fit to remark that "the Koreans are not ready for democracy . . . according to their own judgment." Washington's tolerance has now been repaid with the Kim death sentence. Official pragmatism notwithstanding, that verdict is an affront to civilized opinion everywhere. A human rights policy that winks at samurai justice can hardly "ready" South Korea for democracy.

[From the Chicago Tribune, Sept. 20, 1980]

South Korea: An Injustice . . .

The death sentence imposed on South Korean dissident Kim Dae Jung is confirmation, if any were needed, the Chun Doo Hwan's military dictatorship has sunk far below the minimum standards of human rights and political responsibility that the United States has a right to expect from a close ally.

The death sentence, and prison sentences for 23 other defendants in the drumhead military trial, are the latest in a series of outrages by officialdom that have included kidnaping, intimidation of defense attorneys, and abuse of defendants. There is an appeals process, but that has also been tampered with—the regime forced the resignations of five Supreme Court justices who might have been inclined to overturn the verdict or reduce the sentence.

Even by the military tribunal's definition, Mr. Kim's crimes would hardly seem to merit a death sentence. In the words of a court officer, he was guilty of "sympathizing with North Korea's puppet line, instigating students, and creating national and social confusion." In American terms it is as if Ramsey Clark were sentenced to the gas chamber for his trip to Iran, or Sen. George McGovern were condemned for running for President. Yet even the tribunal's accusations remain unproved. Mr. Kim denies the charges, and the evidence against him was wholly unconvincing. His conduct throughout his career [except for a brief flirtation with leftist politics in 1946, when he was 20 years old] has been that of a man committed to establishing an open, democratic system in South Korea by peaceful, evolutionary means.

The trial made it clear that the United States has little or no moderating influence over the Chun regime, which imposed the sentence in defiance of impassioned U.S. appeals on Mr. Kim's behalf. President Carter himself sent a personal message urging restraint; but instead of having the desired effect, the message was reported in the censored South Korean press in such a way that it appeared to support the regime in its excesses.

Obviously, the U.S. must take stronger action. But whatever measures are taken, they must not be ones that will increase the danger that North Korea will attack the South. That rules out any withdrawal of the 40,000-member American force deployed along the Demilitarized Zone. It also rules out economic sanctions, which would damage an already-troubled economy, increase political instability, and perhaps turn the mass of Korean people against the U.S.

There is other action that can be taken, if the administration handles it carefully. As Tribune Correspondent Ronald Yates suggested on this page recently, it may be time to "play the North Korean card"—that is, open contacts between Washington and Pyongyang as a means of showing President Chun that U.S. support for eventual reunification of the two Koreas is not a policy set in concrete. It could change, just as U.S. China policy changed, and it certainly will change if the Chun regime pursues its tyrannical course. U.S. public opinion has a powerful effect on U.S. foreign policy. When Americans can no longer discern a difference between the tyranny of the north and the tyranny of the south, there will no longer be a compelling reason to continue ignoring North Korea.

The chief danger is that ordinary South Koreans may be more shocked and outraged at U.S. overtures to the north than President Chun himself. If there is one thing that South Koreans fear more than repression by President Chun, it is repression by Comrade Kim Il Sung.

But as Mr. Yates pointed out, contacts on a relatively low level—such as the recent visit to North Korea by U.S. Rep. Stephen J. Solarz [D., N.Y.]—could have a sobering effect on the regime without reversing U.S. policy.

In any event, to continue the policy of quietly urging restraint on President Chun can do no good so long as he refuses to listen. But it could do a great deal of harm if, through timidity and inaction, the United States were to become identified in the minds of South Koreans as a partner in oppression with the military dictatorship. That was our mistake in Iran, and it must not be repeated.

. . . And a Puerile Purification

As the South Korean military regime explains it, the recent banning of 172 publications is part of a "purification" drive intended mainly to rid the country of pornography. When the banning of the publications was announced, we found it difficult to believe that there were 172 pornographic publications in a country as conservative in sexual matters as South Korea. Now we have obtained a list of the banned journals, supplied by the North American Coalition for Human Rights in Korea, and our doubts are confirmed.

Of the 172 publications, fewer than a dozen have names that suggest titillating contents, such as a monthly called "Love" and a handful of screen magazines. A few others, such as "Photo Chun-hae" and "Chun'il Graphic" could, conceivably, contain something other than landscape photography.

But the vast majority of the remaining journals on the list have titles that suggest they are concerned with industry, economics, education, or family matters. It is difficult to imagine what sort of obscenity lurked in the pages of the monthly "Mining World," or what voluptuousness was to be found in the weekly "Audio-Visual Education News," or what prurience turned up in "Korean Grandmothers' Companion."

Was the weekly magazine "Children and Youth Report" only a clever cover for pederasty? Was "Girl Scout," a monthly, concerned with merit badges, or kiddie-porn? We'll give the benefit of the doubt to the ban on "Livestock Breeding at Home and abroad" [who knows?], and the monthly "Leather World" [sounds kinky]. But what of "Industrial Safety," the "Korean Calligraphers Annual," or "Yin-Yang and Chinese Herb Medicine"?

It's a puzzle. Maybe South Koreans have odd sexual tastes. Mayble a shapely productivity curve in "Korea Industrial Economics" turns them on more than a shapely thigh in "Playboy."

Or perhaps it's just that the brass hats in Seoul have trouble telling the difference between a picture of a molar in "Dental World" and a close-up of a pouting starlet in "Screen Magazine." If they don't know any more about pornography than they do about running a country, it's entirely possible.●

THE INDEPENDENT AGENT ORANGE STUDY ACT OF 1980

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. GILMAN. Mr. Speaker, today I am introducing the Independent Agent Orange Act of 1980. The issue of the effects of agent orange and other herbicides on human health is a difficult and controversial one.

There are many complex questions concerning this issue that must be resolved before considering the important matter of compensation for those who have been exposed and who feel they have suffered serious harm. Primarily, we must resolve the question of whether or not agent orange causes long-term harm to humans. Tragically, it is a fact that countless Americans, Vietnam veterans and nonveterans alike, will suffer, at some point in their lives, from cancer or other diseases that are alleged to be linked to agent orange but which also have many other suspected or confirmed causes.

While there are a number of ongoing research programs investigating the effects of agent orange, most of those directed by the executive branch bear the burden of being suspect by some portions of the public who perceive them to be self-serving; the agencies conducting the studies are seen as having bureaucratic interests to protect.

I believe that we should remove any suspicion of self-serving behavior in the conduct of the most important study we have authorized, the epidemiological study and literature review to be conducted under Public Law 96-151. For that reason, the bill I am introducing today transfers the agent orange study from the Administrator of Veterans' Affairs to the National Academy of Sciences. My bill requires the Administrator to enter into an agreement with the Academy of Sciences to the effect that the Academy will take control of the study, and that the Administrator will reimburse the Academy for all expenses incident to the study. The bill also provides for the adjustment of the deadlines in existing law necessitated by the transfer.

The National Academy of Sciences (NAS) is a private, nonprofit membership organization of eminent scientists chartered by Congress in 1863 to perform research, upon request by the Federal Government, in any area of science or technology.

The NAS is the sort of organization that has both the credibility and the capacity for answering, to the extent humanly possible, our questions about agent orange, chief among them being: what, if any, are its long-term adverse health effects on humans?

Mr. Speaker, I urge my colleagues to support this measure, and I solicit their cosponsorship. I insert a copy of the Independent Agent Orange Study Act of 1980 in the RECORD at this point:

H.R. 8238

A bill to amend the Veterans Health Programs Extension and Improvement Act of 1979 to require the Veterans' Administration and the National Academy of Sciences to enter into an agreement under which the Academy will conduct an epidemiological study of veterans exposed to Agent Orange.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Independent Agent Orange Study Act of 1980".

SEC. 2. (a) Section 307(a)(1) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1097) is amended—

(1) in the first sentence thereof, by striking out "design a protocol for and conduct" and inserting in lieu thereof "arrange, pursuant to subparagraph (B), for the designing of a protocol for and the conducting of";

(2) in the last sentence thereof, by striking out "conduct" and inserting in lieu thereof "arrange, pursuant to subparagraph (B), for the conducting of"; and

(3) by inserting "(A)" after "Sec. 307. (a)(1)", and by adding at the end thereof the following new subparagraph:

"(B) Not later than ninety days after the date of the enactment of the Independent Agent Orange Study Act of 1980, the Administrator and the National Academy of Sciences shall enter into an agreement under which the Academy shall design a protocol for and conduct the study required by subparagraph (A). Such agreement shall provide that any expenses incurred by the Academy shall be paid or reimbursed by the Administrator. The Academy shall give appropriate consideration to, but shall not be bound by, any action taken by the Administrator pursuant to this section before the date of the enactment of the Agent Orange Study Act of 1980.".

(b) Section 307(a)(2)(B)(ii) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1097) is amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "the date of the enactment of the Agent Orange Study Act of 1980".

(c) Section 307(b)(1) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1098) is amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "the date of the enactment of the Independent Agent Orange Study Act of 1980".●

CALIFORNIA-NEVADA COMPACT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. FAZIO. Mr. Speaker, I welcome the introduction today by my colleague, Mr. SANTINI from Nevada, of a bill to ratify the compact recently approved by the States of California and Nevada to establish a land-use program for the preservation of Lake Tahoe. The lake is a precious national asset. It is incumbent on this generation of political leaders to pass it on as pure as possible to future generations.

Mr. Speaker, this congressional ratification of the bistate compact is one of several key steps necessary to preserve the lake. A second is the Executive order recently announced by the President to establish a Lake Tahoe Federal Coordinating Council to bring Federal actions in the basin into line with its national significance. A third, is a bill this House recently passed to provide for the sale of Federal land in Las Vegas and for the purchase of critical and endangered lands in the Tahoe Basin. That bill, H.R. 7306, was also authored by Mr. SANTINI along with our distinguished colleague from California, PHIL BURTON.

If we are to have a chance of saving Lake Tahoe, we are dependent on the full use of the authorities these three measures seek to bring to bear on its problems. No one or two of them will suffice, and none of them should be weakened. The difficulties at the lake are so multifaceted and have proven so intractable to past and lesser efforts to control them, that we cannot wait any longer to employ the full powers that these three efforts would conjunctively apply.

Because the solution at Tahoe will require a tripartite approach, Mr. Speaker, I think there will be need as this compact ratification bill proceeds to add some provisions assuring better communication between the States and the Tahoe Federal Coordinating Council. I anticipate that the Congress will be able to do this in committee during this November. I do not think such additions would compromise the substance of the compact California and Nevada legislators have worked so hard to develop. I do think, however, that they would provide some direction to both the States and the Federal agencies that this Congress intends them to work together for the benefit of the lake.

Lastly, Mr. Speaker, as one who has advocated a different—and stronger—approach to Lake Tahoe, I would simply like to say that I very much hope this compact, the Santini-Burton bill, and the Executive order work to reverse deterioration of this great national asset. As time goes by we will have a chance to see to what extent our hopes are realized. It may become necessary to take additional action if weaknesses appear. For the present, however, I feel that there is a basis for hope. In that spirit I congratulate Mr. SANTINI for the extensive effort he has undertaken to solve Lake Tahoe's problems this session, and am glad to be a cosponsor of his bill.●

FEDERAL AND STATE EMERGENCY FUEL PLANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. GILMAN. Mr. Speaker, I take this opportunity to address a matter which will have a considerable impact upon the course of our Nation's energy future. I am referring to the mandatory conservation targets which each State has been advised to submit and utilize in the event of an energy shortage.

On April 5, 1979, President Carter noted in his energy address that:

> In addition to producing more energy, we must conserve more energy. Conservation is our cheapest and cleanest energy source . . . every barrel of oil we save is a barrel of oil we don't have to import.

Consider what has transpired since then. By the end of this year the United States is expected to have spent some $100 billion on imported oil, an average of $400 for every man, woman, and child. That foreign oil bill drains the economy of income, jobs, and productivity. It accelerates inflation, and it weakens the U.S. dollar. And that dependence on foreign oil, of nearly 50 percent of our energy needs, means that our vital interests are tied, by a 12,000-mile supply line, to dangerous and highly uncertain regions of the world.

In fact, the situation can go from precarious to chaotic in an unbelievably short period of time. Within hours of the full-scale warfare between Iraq and Iran, those two countries were out of the oil-exporting business, and the world lost 7 percent of its total petroleum supply.

Oddly enough, many people in this country still do not believe, or want to believe, that the energy crisis is a stark reality. They view our energy shortage as something temporary or contrived and find solace in the momentary abundance of world oil supplies. Although one may find some validity in the argument that the major oil companies are screaming wolf for the sake of profit, as well as the fact that there is indeed a present glut on the market, it is folly to argue that the situation will remain this way, much less improve.

The energy crisis is here to stay, and our present situation is bound to become worse as a result of the Iraq/Iran war and the rising tension in the Middle East. The lack of adequate response on the part of our administration is yet another cause.

On September 23, 1980, the House Committee on Government Operations issued a report entitled "Emergency Energy Conservation Programs: Department of Energy Oversight." Briefly stated, that report notes the inadequate response the Department of Energy (DOE) and State officials to the Emergency Energy Conservation Act (EECA) 1979. The purpose of the EECA was twofold: First, to expedite development of a standby gas rationing plan and, second, to have the States develop energy conservation programs to alleviate the impact of significant energy supply interruptions. Although EECA was enacted in November 1979, only two States—Colorado and Utah—have completed plans designed to meet those requirements. The report underscores the Department of Energy's failure to effectively prepare our Nation for an emergency that could occur at any time. Although present oil supplies are conducive to laxity in emergency planning, concern for our national security should prompt DOE to undertake stronger initiatives—whatever the situation.

Unfortunately, DOE's lack of leadership is once again all too evident. The Department of Energy has been assuring all of the State energy offices that planning grants would be made available for fiscal year 1980. With only a few days remaining in fiscal year 1980, those planning grants have not been awarded. The funds needed to implement that program is $5.7 million. Had the DOE made such funds available, the implementation of the EECA could have proceeded in an expeditious manner.

The present crisis in the Middle East and more specifically the Persian Gulf, is reaching new heights of tension which should motivate the Department of Energy in giving priority attention to assisting the States in preparing their conservation plans—plans which they could finalize with not only more precision, but with much less redtape. Among the resources available to the DOE is its computer facility and data base. Yet, it has not provided that kind of technical assistance to the States to help them in the preparation and submission of their plans.

Mr. Speaker, I urge my colleagues to review the Government Operations Committee's oversight report of the emergency energy conservation program and to note that the Department of Energy has, once again, allowed some stumbling blocks to block the path of effective emergency energy planning.

With the very real potential of another energy emergency emerging out of the Middle East troubles, I believe that Congress should mandate, rather than just encourage, the submission of State plans and the establishment of technical assistance programs for each State to allow them to bypass the waiting line for assistance from the Department of Energy. Finally, the Congress should reemphasize to the Department of Energy that since the Emergency Energy Conservation Act was intended to be in place prior to any emergency, its implementation must promptly be given a much higher priority.●

RETIREMENT OF ROBERT FLEETWOOD

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HEFNER. Mr. Speaker, I would like to share with my colleagues my sincere congratulations to Mr. Robert W. Fleetwood, who has retired after more than 40 years of service with the Farmers Home Administration of the U.S. Department of Agriculture. He is one of the most dedicated and best informed public servants I have ever had the pleasure of working with. He always has displayed a quick knowledge of the agency's programs and their application to the day-to-day needs of the public. Bob Fleetwood was an asset to the Agriculture Department and to the Federal service. More importantly, he was an asset to the people of our country and to North Carolina whom he so devoutly served for so many years. He will be long remembered and greatly missed. He was a true public servant.

Following is a brief description of Mr. Fleetwood's outstanding record of service to the U.S. Department of Agriculture:

Robert W. Fleetwood, Farmers Home Administration District Director for District IV, Charlotte, N.C., retired on August 29, 1980, after 40 years and two months of federal service.

Mr. Fleetwood graduated from N.C. State University in 1940 with a B.S. degree in agriculture. He was appointed Assistant County Supervisor with the Farm Security Administration in Newland, N.C. on June 20, 1940, and later served as Assistant County Supervisor with the Farm Security Administration at West Jefferson and Sparta, N.C. He was promoted to County Supervisor at Sparta on December 1, 1941.

After service in the U.S. Army Air Force from July 3, 1943, to December 6, 1945, Mr. Fleetwood was assigned to the Concord office as County Supervisor until 1947 when he was transferred to the Winston-Salem office as County Supervisor. In 1949 he was promoted to Farm Ownership Appraiser/Engineer headquartered in Winston-Salem and transferred to the State Office of the Farmers Home Administration in this capacity on March 29, 1954. On July 31, 1955, he was reassigned to the Monroe office as an Area Supervisor.

With the restructuring of Farmers Home Administration offices in North Carolina, he was transferred to the Charlotte District Office as District Director on December 30, 1979, with the responsibility of administering Farmers Home Administration loan and grant programs in Gaston, Mecklenburg, Lincoln, Union, Stanly, Cabarrus, Rowan and Iredell Counties.

Mr. Fleetwood has received several awards including a Superior Performance Award from the U.S. Department of Agriculture in 1965 and another in 1974. The first two community facility type loans processed in North Carolina were in his district. These were loans to the Fallston Water System, Inc. and the Pfeiffer-North Stanly Water System, Inc. Both of these organizations were formed to provide public water supplies in rural areas. Mr. Fleetwood's leadership has been especially effective in its outreach and promotion of Farmers Home Administration Community Facility loan and grant programs for rural areas in his district.●

THE CIA VERSUS THE CONSTITUTION—PART 4

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. EDWARDS of California. Mr. Speaker, the following commentary appeared recently in the Washington Post. It expresses many of my concerns about the Intelligence Identities' Protection Act which we will be considering on Wednesday, October 1. I ask each of my colleagues to consider carefully the views expressed by the author while deciding how to vote on this important legislation.

TRYING TO SPOOK THE PRESS

(By John Shattuck)

It is February 1973. Reporters for the Washington Post covering the Watergate story are tracking down evidence that the burglars have CIA connections. The day before a front-page article is scheduled to appear identifying one of the burglars as a CIA agent. The Post's managing editor receives a call from the White House urging him to kill the story because it would impair "an intelligence source of operational assistance." The editor and the reporters consider the request, but decide that the information is too important to withhold. Two days after the story is published they are charged with violating a new law that makes it a crime to publish the identity of an intelligence source or agent, and they face the possibility of 10 years in prison and a $50,000 fine.

Farfetched? Not if you have read drafts of the Intelligence Identities Protection Act of 1980. This bill flies in the face of the First Amendment, which broadly states that "Congress shall make no law . . . abridging freedom of speech or of the press." Today this prohibition is in danger of being disregarded by a Congress obsessed with national security secrecy. Six years after a president was forced to resign or face impeachment because of abuses of power under the cover of national security, and four years after a Senate select committee reached the "fundamental conclusion that intelligence activities have undermined the constitutional rights of citizens," Congress in the name of national security and intelligence protection is on the verge of enacting the most severe abridgment of freedom of the press since the Allen and Sedition Laws of the late 18th century.

The Intelligence Identities Protection Act would make it a crime to publish "any information that identifies an individual as a covert agent" of the CIA or the FBI. Part of the bill would prohibit CIA or FBI employees from disclosing classified information about secret agents, but another section sweeps far more broadly. In the candid words of Rep. Edward Boland (D-Mass.), chief sponsor of the bill in the House of Representatives, this provision "could subject a private citizen to criminal prosecution for disclosing unclassifed information obtained from unclassified sources."

It is aimed at the editors of Covert Action Information Bulletin, a journal that opposes CIA clandestine interference in the affairs of other countries and that has been widely condemned for using public information to identify CIA agents. Another sponsor of the legislation has stated that he wants "to put away" the Bulletin editors. That would also mean putting away the New York Times reporter who writes a series of articles about CIA agents who secretly work to "destabilize" the democratically elected government of Chile, or any other journalist or editor who makes a difficult decision to publish lawfully obtained information about intelligence agencies.

Three of the four congressional committees that have approved the agent identities bill have failed to limit the scope of the new crime. The House version reported by the Judiciary and Intelligence committees requires an "intent to impair or impede the intelligence activities of the United States." This standard would authorize inquiries into the political purposes of CIA critics and would do little to protect those whose writing expresses sharp opposition to particular CIA activities. The House committee report blandly asserts that "critics of U.S. intelligence would stand beyond the reach of the law if they made their disclosures for purposes other than impairment of U.S. intelligence activities."

A bill approved by the Senate Intelligence Committee offers even less assurance to investigative reporters covering the CIA by providing that they need not "intend" to impair foreign intelligence activities, but only have "reason to believe" that a "pattern of activities intended to identify agents" will do so. A series of articles or a week of investigation would presumably be enough to establish a "pattern of activities." A pre-publication warning to a journalist by the CIA—or even general knowledge of the CIA's sensitivity about the subject of an article—would constitute "reason to believe." Only the Senate Judiciary Committee has attempted to narrow the scope of the proposed crime by adopting an amendment sponsored by Sen. Edward Kennedy, but strong efforts are expected to be made on the Senate floor to remove the Kennedy amendment and restore the original bill.

In the face of these sweeping provisions, it is not surprising that many First Amendment scholars have reached the conclusion that the Intelligence Identities Protection Act is unconstitutional. For the first time in our history it would penalize the publication of information that is already public and thus strike a blow at the heart of a free press.

More surprising is the fact that congressional authors of the broadest bill apparently do not disagree with this assessment but are determined to plow ahead because, according to Sen. Richard Lugar (R-Ind.), "we are [not] going to be able to have both an ongoing intelligence capability and a totality of civil rights protection." Nearly two centuries ago, James Madison, one of the authors of the Bill of Rights, warned against this kind of assertion when he observed that "it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad." It is not too late for Congress to heed Madison's warning. If it does not, the courts will have to do so.●

THE DRAMA OF THE POLISH WORKERS

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. NEDZI. Mr. Speaker, the tremendous drama of the workers' strikes in Poland has already given way in TV and newspaper headlines to the conflict between Iraq and Iran.

Nevertheless, the events in Poland have major short-term and long-term implications for East and West.

Accordingly, I think it appropriate to consider the probing and thoughtful reflections on this subject by Joe H. Stroud, editor of the Detroit Free Press. Under leave to extend my remarks, Mr. Stroud's September 14, 1980 column is set forth below:

THE TRUE WORLD DRAMA OF THE POLISH STRIKERS

(By Joe H. Stroud)

The Workers of Poland.

I can't quit thinking about the workers of Poland.

I keep thinking about the risks they and their country have incurred, and the odds against their succeeding at changing the communist system under which they must operate.

I think, too, of the tragic history of Poland, so often trampled underfoot by the armies of Europe, so nationalistic, so rich in music and culture, so deeply Catholic, so fervent in its yearing for independence.

I remember how my heart leapt up, earlier, as I thought of the patriots in Hungary and Czechoslovakia, and of the bedraggled warriors of Afghanistan, and I know that I dare not let myself hope too much for the people of Poland. They risk much, and they gain small victories, and always there is the long shadow of the Soviet Union.

The Church in Poland has come under criticism, both within Poland and without, for its failure to support more forthrightly the workers and their push for independence. Yet it seems to me that Poland is a place where the Church, over an extended period of time, has played a remarkable and important role in keeping alive both the concept and the partial reality of independence. It has long played a careful game there, always living on the edge.

Yet who can doubt that Poland is in fact different from much of the rest of the Warsaw block, that it has more perfectly nurtured its religious traditions and its nationalistic yearnings, that its spirit is more resistant to the oppressive presence of the Soviet behemoth to the East? The Polish story is complex and subtle, and there is certainly much about it that I don't understand, but that much, at least, can surely be said.

Poland is interesting and important to me in another way. Its worker strikes are dramatic evidence that those who believe there is an inexorable Red tide in the world, that the Soviet Union is inevitably on the move and the United States on the decline, are not necessarily right. When I look at the world, I do not see the inevitable decline of the West, and I do not see a newly ascendant Soviet Union.

I see a mixed pattern. I see the U.S. using former Soviet bases in Somalia, I see the profundity of the Chinese-Soviet split, I see the chance at least in Zimbabwe and much of the rest of southern Africa of heading off a race war that would make of that area a Cold War cockpit. I see a strategic balance that is more favorable to the United States than current political debate might suggest. I see signs of failure and weakness and uncertainty in the Soviet Union. I even see signs that the world reaction to the Soviet invasion of Afghanistan, while ineffectual at stopping the invasion, has given the Soviet Union a bit more reticence about heavy-handed intrusion into Eastern Europe.

The contrary picture—the weakening of the Western alliance, the trouble we have had in maintaining the efficiency of the all-volunteer army, the instability of the Middle East, the Soviet Union's success in fishing in the troubled waters of northern Africa, the questions about the vulnerability of our missile systems—is real too. And there is always the possibility that a weak or unstable or vulnerable Soviet Union might be more dangerous than a strong, confident Soviet Union. Paranoia and vulnerability may be more dangerous to us than strength.

The point is, though, that the world is always more complicated than the stereotyped Cold War view. The struggle for freedom takes many forms, occurs almost without regard to ideology. Yesterday Poland, today Turkey, tomorrow Peru. It is odd how we absentmindedly accept the Marxist view of the world, that what is really going on is a war between systems, that the real threat to the West is a system, a conspiracy, a bloc.

In the real world, it seems to me, the struggle, whether within the soviet bloc or in Western societies or in the Third World, is over how we find the balance between the individual and the state, how we preserve latitude for the worker and the individual while maintaining efficiency and order and productivity in the larger society. Marx is mocked when the workers mount the barricades in a supposedly classless state, a worker's paradise. We are mocked when we lose sight to the central role of the individual in the American ideal.

It is hard not to get caught up in a thoroughly romantic view of the Polish workers' strike, to forget the harsh economic and energy realities that have been forcing hard choices on both communist and non-communist societies. I do surrender to that temptation at times, though I know that I and my country can do little overt to help the Poles when, in their extremity, they take to the streets.

The struggle is real. The issues are real and earnest. The risks are ever-present. The courage is magnificent. We wish we could do more to make a difference. The question is whether we can know the difference between drama and melodrama. Drama is more complex, more subtle.

In the end, though, it is more moving, more satisfying, more important. It may be more tragic, too. But that is what makes the drama, ultimately, more heroic and significant. And that is what makes the story of what has been happening these last few weeks in Poland matter so much.●

MR. AND MRS. BERNARD LUKETICH NAMED MAN AND WOMAN OF THE YEAR

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. BAILEY. Mr. Speaker, the belief that man is in truth his brother's keeper and that each of us has a responsibility toward his fellow man is the cornerstone of many, many ethnic fraternal organizations in this country. the Croatian Fraternal Union is no exception and I would like to call your attention to a very outstanding member of that union, Bernard Luketich. This fine man and his wife, Martha, are being honored as Man and Woman of the Year by the United CFU Lodges of four southwestern Pennsylvania counties, including Westmoreland, Fayette, Greene, and Washington. As a primary organizer and innovator of the four county organization, Mr. Luketich and his wife certainly are most deserving of this very prestigious award.

Each year the Four County Lodge pays special tribute to a member who has displayed outstanding service to the organization. Over the last 20 years, Mr. Luketich has given countless hours of his time and effort toward building and bettering the CFU. His honest and sincere concern to advance human rights is certainly at the foundation of his unquestionable success in relating to others the meaning of fraternalism.

Mr. Luketich's remarkable leadership abilities were realized quite early when he became president of his local lodge 354 while in his teens. He also represented his lodge as the youngest delegate to the CFU convention in 1954. Eager to accept responsibility, he then became an initial organizer for the Four County Lodges. And in 1959, at age 29, Mr. Luketich's fine character and talents were recognized by the national organization when he was elected to the board of trustees at the 10th CFU convention. Later, in 1964, he was elected national treasurer and in 1977 became national first vice president. Currently, he is serving his third year as national president, a challenging and demanding office.

His personal enthusiasm and professional expertise are truly admirable. He has been and remains a motivating force behind the success of the local affairs of the Four County Lodge as well as accomplishments at the national level. His strident efforts to preserve the Croatian cultural heritage are evidenced by the prosperity of the St. Georges Junior Tamburitzans of Cokeburg and the CFU Junior Cultural Federation.

It is with great pride that I congratulate Mr. Luketich on his impressive achievements. He and his wife deserve the respect and admiration of the many families touched by their unselfish attitudes and exemplary efforts.●

LOOKING AT THE ECONOMY OF THE EIGHTIES

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MURTHA. Mr. Speaker, there have been no more turbulent economic times during peace than the last 6 years that have faced our Nation. Given the severity of the problems we have faced, I think we can look with some pride at how well we have actually come through those years.

In retrospect the instability of the later half of the 1970's placed substantial burdens on our economic system—the energy price hikes; the interest rate jumps; the demands on Federal, State, and local spending; the revolution in the auto and steel industries. The list continues with events that we can be satisfied to have weathered.

Certainly, no one can say our economy is perfect today—unemployment is too high, inflation is too high, interest rates are too high, productivity and growth are too low. Still, recovering from the shock waves of the last few years we know we have a solid foundation on which to build.

The question now is how to arrange the Government's role in the 1980's to take advantage of that foundation, how to use the mechanisms available to the Government to reintroduce stability into the economic system. I want to look at a few key areas of Government activity and outline some of the steps I believe we should take.

BUDGET

We came closer this year to balancing the Federal budget than at any time since the 1960's. In the spring we enacted a balanced budget resolution. In fact, we did not so much abandon it, as it simply became overrun by outside economic developments. Between March and the fall we saw these changes:

Defense spending went up $7 billion primarily due to military pay, higher procurement costs, faster spendout, and soaring fuel costs.

Unemployment compensation and other recession-related costs are up $9 billion.

Natural disasters such as Mount St. Helens will cost $500 million.

The heavy influx of refugees cost the Government $300 million.

Farm price supports went up about $800 million.

Unemployment and the economic downturn will result in a $10 to $12 billion less revenue than anticipated.

I think the balanced budget can be reached over the next few years. In fact, this year the Congress will reduce the President's budget request for the 35th time in the last 36 years. With these types of prudent cuts and a revived economy, I think the balanced budget goal can be reached, and I think we must continue to make progress toward it. The balanced budget will not cure inflation by itself—some economists say its impact is less than 1 percent on inflation—but it will be a very important signal to the economy of our determination to stabilize the economy.

TAX CUT

Everybody seems to have some plan for a tax cut. I think the keys are these: One, it should take affect in 1981 when we can better know its economic impact; two, it should be modest in size to fit into the budget; three, it should be stimulative to the economy; and four, it should be targeted at specific problems in the economy.

Toward that end, I have endorsed a three-part, tax-cut plan:

First, an offset on the social security increase planned for 1981; by offsetting it we can keep the social security system sound but not damage the individual's tax-home check further.

Second, I have endorsed the Jones-Conable, 10-5-3, depreciation change, the impact of which will be to provide business with more money to invest and expand to stimulate jobs and the economy.

Third, I have endorsed a special $1,500 tax rebate on the purchase of a new American made car when a pre-1976 car is traded in; this serves the dual purposes of restimulating the American auto industry and increasing overall gas mileage by getting newer cars on the road.

If we go too far with a tax cut it will simply be inflationary and add so much to the budget deficit that we will lose sight of a balanced budget, but I think this kind of moderate, stimulative, targeted approach is on the right track.

WAGE AND PRICE CONTROLS

Barring another major jump in inflation, I do not see Congress giving the President the authority to envoke wage and price controls. Philosophically, I think the bureaucracy and Washington controls are often more harmful in the long-run than the short-range benefit of such controls.

We cannot allow that, however, to obscure the question of whether more direction on wages and prices is needed from Washington. Again, in targeted areas I think it is helpful. As an example, Congress has held up action on hospital cost-containment legislation while giving the industry a chance to police itself. The results have been generally favorable with inflation in this sector rising at a slower rate than in other areas. I think that kind of model is needed more widely, more "jawboning," if you will, from Washington to encourage moderation by sectors of the economy.

ENERGY

For me, the key element in our inflation of the late 1970's has been energy, and the exhorbitant imported oil costs. I think the points of our energy policy are clear:

First, continue the progress we have made on controlling oil imports; the temporary easy availability of oil in the United States cannot slow our efforts to conserve more—we are still entirely vulnerable to a complete economic disaster from a cutoff of foreign oil;

Second, use more coal—it's the most abundant domestic fuel we have, and it can stimulate our own economy, more use of coal is a must;

Third, nuclear power—we cannot afford to take the existing plants off line because it would only lead to more imported oil; we must make existing plants as safe as possible, however, and we must promote the national nuclear debate so we get a resolution of whether to expand nuclear power, or whether we will rely on other sources; and

Fourth, natural gas—the continued use of natural gas as a supplement to oil, and continued incentives to get at the deep gas through Appalachia.

Those are the elements we have to deal with, and that we must use to insure our energy future.

REGULATION

Everybody rails against the Government bureaucracy and regulations, but, let us face it, some regulation is necessary to fill in the gaps in laws—no law can be specific enough to cover every case.

But this Congress has been systematically removing regulations wherever possible.

We deregulated the airline industry saving passengers an approximate $2.5 billion this year, as the new law opened competition in fares and routes, cut away most regulation, and provided protection for service to small cities. The Civil Aeronautics Board will go out of business in 1985.

Deregulated much of the trucking industry for the first time in 40 years at a projected savings to consumers of $5 billion. The new law gives trucking companies more freedom to raise and lower prices without Government intervention, removes restriction on items that can be carried, and opens truck routes to entry by new firms.

In its final stages is legislation to deregulate much of the railroad industry by allowing more freedom to set rates while protecting shippers without alternative transportation.

We can continue those kinds of steps in specific industries. Overall, I simply think we need to make certain Congress keeps a tighter oversight role on agencies to make certain they do not make rules that go totally beyond congressional intent. That combination of oversight and regulatory reform in key areas can have a significant market impact.

UNEMPLOYMENT

The unemployment question well shows the need I stress to target solutions. Broad-based, public works programs or Government hiring efforts may help a bit, but the key answer lies in providing jobs in the private sector, and particularly in key areas of the private sector.

Since 1976, 9.4 million jobs were created and a record 97.8 million Americans are at work. Still, we know that over 8 million Americans are unemployed this is unacceptable.

I think we have to attack those pockets of unemployment specifically, pockets such as steel, automaking, rubber, and coal. As an example, in steel we need to control imports, provide tax incentives, and reasonable pollution requirements—in this way we can boost the industry so it can expand and put the steelworkers back to work. Besides the tax break I mentioned on autos, we can do much administratively to make regulations reasonable. These are the kinds of steps we can and should take, targeted at specific areas, to get Americans back to work.

That is a quick overview of the economic outlook I think we need as we approach the 1980's. We must induce stability back into the system, and I think this program outlines the way we can do it. I believe this outline falls into what I call incentive economics, solving problems through stimulus and the individual role rather than overregulation and overdecisionmaking from Washington.

America's need is to get from our present state—battered by the instability and unpredictability of recent years—to a progressive reliable economic policy of the eighties. That is an economic gap as important as the missile gap of two decades ago, and as we mobilized America to solve the defense problem, today we can mobilize to solve our economic problems.●

CONGRATULATIONS, REBECCA PFETTSCHER

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. QUAYLE. Mr. Speaker, Rebecca Pfettscher, age 11, of Evansville, Ind., recently participated in the Freedom Festival essay contest. She submitted a winner.

Rebecca has put in a very few words her love for America. She is an inspiration to all of us and offers America great hope for the future.

I include Rebecca's winning essay:

I Like America Because—

I like America because of the people and land. In a crisis, people pull together in a bond of friendship to solve the problem at hand.

I like the freedom of the press, speech, and mind. You can speak out if you like something, and if you don't.

People can start out at the bottom and work their way to the top.

Land is beautiful—rolling hills covered with wheat, corn, and cotton, pastures for animals to graze on.

Crops are raised step by step, in the hope that no one will be hungry.

That is why I like America.●

EQUAL JUSTICE ACT, S. 265

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. UDALL. Mr. Speaker, I want to express my strong support for S. 265, the Equal Justice Act. I first stated my support for the concept embodied in S. 265 back in September 1979. At that time I notified Representative Ertel, who is chief sponsor of the House version of the Equal Justice Act, H.R. 2846, that I wanted to become a cosponsor of his bill. It is a good idea, and a good bill, and I want to commend the House sponsors and the chief Senate sponsor, my good friend from my home State of Arizona (Senator DeConcini) for their efforts in this area.

We all recognize that the United States has grown from a simple agrarian culture into an incredibly complex post-industrial Nation. Accompanying that growth has been an increase in the size of Government and in the number of Government rules and regulations. As the regulatory maze increases in complexity the costs of dealing with it and with the Government have increased as well. I am concerned about this problem.

Small firms are the backbone of this country's business community, yet they are least able to deal with sometimes burdensome Government requirements and in fact must deal with the same regulations as billion dollar multinational corporations.

The Equal Access to Justice Act insures that when regulation is onerous, perhaps unjust or unnecessary, small firms will be able to go to court for an objective, unbiased hearing.

Simple justice requires that in any dispute the facts of the case should be placed before an impartial judge. Yet because of the high and increasing costs of legal actions, businessmen may decide not to fight what may be a just battle. It is easy to see that if the cost of fighting a Government decision in administrative or legal courts exceeds the amount of any possible fine, most businessmen will pay the fine. Even if they believe themselves to be in the right, commonsense dictates acquiescense. And this is true not only for businessmen, but for private organizations and groups of all kinds, and for private citizens.

This is not justice. The outcomes of disputes should be determined by the facts, on the carefully considered merits of each party's case, not according to his financial status. And when one of the parties is the U.S. Government, it is fairly clear that one side has a tremendous advantage over the other. This is why we wish to alter the normal American rule, which requires each party to bear the cost of his own suit.

Since S. 265 would amend what has been a standard rule in American administrative procedures, I am pleased that the bill would authorize payment of court costs for only 3 years, fiscal year 1982 through fiscal year 1984. This will allow us to follow the results of S. 265 carefully, to review and reevaluate the program, and to decide whether to continue it beyond this 3-year period.●

PASSAGE OF CONTINUING RESOLUTION IS CRITICAL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. HARRIS. Mr. Speaker, with less than 13 hours left before the start of fiscal year 1981, Congress has not yet passed the necessary funding measures to keep our Government functioning. To date not a single appropriations bill for fiscal year 1981 has been signed by the President and the continuing resolution is still pending before the Senate.

The impact this delay in appropriations would have upon the operation of our Government could be far more devastating than in past years. If Congress fails to complete action before midnight, Tuesday, September 30, agencies will be forced to close their doors.

I strongly urge prompt action on the conference report to the continuing resolution as soon as it becomes available. I would like to take this opportunity to insert a copy of the letter I sent last Friday, along with three of my colleagues, to Speaker O'NEILL:

House of Representatives,
Washington, D.C., September 26, 1980.

Hon. Thomas O'Neill,
Speaker of the House,
U.S. Capitol, Washington, D.C.

Dear Mr. Speaker: We urge you to schedule the conference report on H. J. Res. 610, the Continuing Resolution as soon as possible. As you know, the House passed the Continuing Resolution on September 18 and the Senate plans to complete action today. This bill would provide funding for most federal agencies and departments from the beginning of the fiscal year on October 1 through December 15, 1980. Unless the conference report is approved by both the House and Senate, the spending authority of most federal agencies will expire at midnight on Tuesday, September 30.

The impact a lapse in appropriations will have upon the operation of Federal agencies and the millions of uniformed service personnel and Federal government employees could be far more devastating this year than at any time in the past.

In fact on April 25, 1980, the Attorney General advised the President that during periods of lapsed appropriations "no funds may be expended except as necessary to bring about the orderly termination of an agency's functions". Quite simply, unless final action on the Continuing Resolution occurs before midnight on Tuesday, September 30, federal agencies will not be allowed to open their doors on Wednesday morning, October 1.

We are deeply concerned that the very operation of our government is threatened by Congress' inability to work within the parameters of the appropriations process and urge you to schedule immediate consideration of the conference report on the Continuing Resolution.

Sincerely,

Herbert E. Harris.
Mike Barnes.
Joseph L. Fisher.
Walter E. Fauntroy. ●

NATIONAL PAYMENTS IN LIEU OF TAXES ACT OF 1980

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. FISHER. Mr. Speaker, the Federal Government is the single largest landlord in the United States. For 1978, the value of its holdings has been estimated at approximately $279 billion. Over half of this value is in buildings, 24 percent is other structures and facilities and 23 percent is in land.

These estimates come from an extensive, 2-year study just completed by the U.S. Advisory Commission on Intergovernmental Relations on payment in lieu of taxes (PILOT) for nonopen space real property owned by the Federal Government. I regard this study as a long overdue landmark effort, and it is for this reason that I have devoted considerable effort in preparing detailed legislation to carry out its findings.

The Advisory Commission's study has developed the most definitive research on the impact of tax exempt Federal property that I believe is currently possible, short of Congress setting up the mechanism to actually make payments to local governments in lieu of taxes. Although the timing of the completion of the Commission's work does not mesh with immediate, full congressional consideration, it would be unfortunate, indeed, if a year from now it is maintained that Congress cannot act until there is still another study because the figures are too old. The cycle of perpetual study of the impact of tax-exempt Federal property must be ended.

The issue is basic equity: Equitable treatment of leased versus federally owned office buildings, equitable treatment of all taxpayers in supporting Federal activities, and equitable treatment of localities which currently receive payments under 57 ad hoc programs and those who do not.

Currently, if Federal employees or any federally related commission, board, or agency is located in a leased building, the locality receives a full real estate tax payment. If the workplace is federally owned, the local government receives nothing. The direct local services to the building—police, fire, roads, transportation, sanitation, and so forth—are the same. The fact that one locality receives payment while another does not is pure happenstance, with no basis in logic or equity.

In passing the Public Building Act of 1980—S. 2080 and H.R. 6075—which is currently in conference committee, this Congress is about to adopt a policy of significantly reducing the amount of office space leased by the Federal Government. Revitalization of core cities through construction of new federally owned office space is a companion thrust. Both of these policies will create even greater inequities, if we do not adopt a payment in lieu of taxes for federally owned properties buildings.

The economic benefits to a city or county of a federally owned workplace are likely to be exceeded by its costs. Local governments are heavily dependent on real estate taxes for revenues. Most residents do not pay enough in taxes on their home to pay for their service needs. Any program which merely attracts residents will be a net loss to the locality, if the locality is not also able to capture the taxes associated with their place of employment.

Even in areas where a Federal presence offers employment to residents who would otherwise be unemployed, there is relatively little direct benefit to the local government. The major costs of unemployment accrue to Federal and State budgets for welfare programs and to employers for unemployment insurance payments. The bulk of costs borne by local governments for schools, libraries, sanitation, public safety, court services, and so forth, once established remain essentially the same, regardless of employment levels.

Regardless of the accompanying employment opportunities, tax exempt Federal properties represent a tax drain on the locality in which they are located. The Advisory Commission on Intergovernmental Relations estimated a local tax loss nationally of $3.7 billion from federally owned nonopen space land. In my district in northern Virginia, the tax loss resulting from the exemption of Federal property from taxation is over $20 million. Comparable places of employment in my district would, in addition, be paying as much in local special business taxes. Over 43 percent of the real estate value in Portsmouth, Va., is Federal tax exempt property used in support of our national defense. It is patently inequitable for the taxpayers of individual localities to shoulder the total burden of providing support services for Federal activities which are undertaken for the benefit of all citizens.

The inequitable burden of tax exempt Federal property has already been recognized by Congress. There are at least 57 ad hoc programs of payment in lieu of taxes currently on the books. However, this crazy quilt approach adds still another layer of inequity. Certain State and local governments receive payments, some even in excess of any tax loss, while other localities receive no payment at all.

Programs subject to regular appropriation are questioned repeatedly as to the logic of making payment only to a select population or area. I have fought in the annual battle for impact aid, which takes place while local government financial planning throughout the Nation is kept in limbo. Year after year we have demonstrated the substantial fiscal burden of the Federal presence, and impact aid has been continued. The question remains, however, whether appropriations to the locality where children of Federal workers go to school is an appropriate basis for making payments. As I have stated in testimony urging the continuance of impact aid, a payment based on the actual local tax loss would indeed be more equitable, but it was not until the Advisory Commission's study that adequate data was available to substantiate a payment in lieu of taxes program. Although we must assure that no existing programs, including impact aid, are eliminated until a national payment in lieu of taxes program is in effect, by adopting a payment in lieu of taxes to replace the patchwork of ad hoc programs, Congress will be applying a consistent and dependable approach to each local government whose budget must absorb the impact of the Federal Government's presence.

The bill I am introducing is a comprehensive approach to correct the serious inequities I have just discussed. I urge your careful consideration of each of its provisions. Before it is reintroduced in the 97th Congress, I hope it will carry the names of many cosponsors in a broad bipartisan effort to treat the Federal presence in a locality in a sound, equitable, businesslike manner.

I believe the provisions of the National Payments in Lieu of Taxes Act of 1980 will produce a workable system of distributing funds to reflect equitably the true local tax burden of Federal property now exempt from local taxation. This bill will cover all Government buildings and the land on which they are built, which are not included in the Open-Space Payment in Lieu of Taxes Act of 1976. Foreign embassies will be covered, as well as military bases.

This program will be administered by the General Services Administration (GSA), because of the agency's experience in leasing and managing Federal office space. The Department of the Interior will continue to administer the open-space payment in lieu of taxes because of its experience in this field and its broad management responsibility for much of the Federal land. Provisions of the bill are designed to minimize the addition of Federal employees to administer the program by making the local governments responsible for appraising value of the tax exempt property. However, the Federal administrator may overrule any local appraisal or tax category which the locality applies to the Federal property after stipulating the data GSA used in appraisal. The GSA Administrator's determination is final and is not subject to protracted negotiation. Canada has used this type of binding Federal override for 30 years in making full payments in lieu of taxes. The Canadian program is administered by 29 Federal employees and only 4 percent of the local appraisals are subject to dispute. It is my intent in this proposed legislation to retain local responsibility for the appraisals and to help improve the appraisal process where necessary.

This bill will replace 10 payment programs which cost over $960 million in fiscal year 1978. A no-loss provision protects localities currently receiving such payments at fiscal year 1980 levels as a gradual shift to the more equitable measure of actual tax loss is accomplished. Programs which will be replaced include, in addition to impact aid, public housing payments, payments made by the Tennessee Valley Authority, California and Oregon railroad grants, the St. Lawrence Seaway Act, and certain other waterway payments. The remainder to the 57 programs which will not be replaced by my bill, for the most part, are in lieu payments for open lands dealt with by the 1976 open-space PILOT legislation.

The National Payments in Lieu of Taxes Act of 1980 will not be a raid on the U.S. Treasury. Although full payment in lieu of taxes would have a net cost of over $2.5 billion—plus no loss to localities whose current payments exceed actual tax loss—this bill contains a carefully crafted formula which will equitably divide whatever amount Congress appropriates to this program among the localities. In addition, the ability of GSA in specific situations to overrule any local appraisal assures that within the bill's formula no individual locality will take unfair advantage of this program. It is because I share the general reluctance of my congressional colleagues to authorize any more entitlement programs that I have made this comprehensive PILOT program subject to the appropriations process.

The study by the U.S. Advisory Commission on Intergovernmental Relations has put the local burden of tax exempt Federal property in clear perspective. The bill I am introducing today has been drafted to develop a workable and equitable means of allocating in lieu payments among localities. I hope that, with the broadest possible cosponsorship, the 97th Congress can begin immediately to conduct hearings, and will at long last take this important step in achieving equity in local/Federal relations.●

JOHN L. BURTON RECOMMENDS REPORT ON OLDER WORKING WOMEN

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, Working Women, a national organization of approximately 10,000 officeworkers, recently published a report, "Vanished Dreams: Age Discrimination and the Older Woman Worker." The statistics presented in this report highlight one of our clearest injustices: The majority of American women are condemned to financial hardship in old age. Subject to both age and sex discrimination when employed and inadequate pension benefits when retired, women 65 and over now make up 70 percent of the elderly below the national poverty line.

I reconfirmed my own dedication to eliminating the all too frequent discrimination against older women workers by attending a hearing convened in August 1980, in San Francisco by Working Women and its San Francisco affiliate, Women Organized for Employment. There I listened to women who had been affected by the double-barreled discrimination of age and sex. I brought back to Washington over 80 letters given to me at the hearing. Each letter documents the personal experience of a woman who has suffered employment discrimination.

As chairman of the Subcommittee on Retirement Income and Employment, as well as the congressional Representative of many of these women who have described their experiences, I am printing this summary of the report by Working Women. As legislators, we must rearrange our priorities and correct the inequities described in the report. My strong hope is that my colleagues will join me in my efforts for the cause of all women workers.

The report follows:

SUMMARY OF "VANISHED DREAMS: AGE DISCRIMINATION AND THE OLDER WOMAN WORKER"—A REPORT BY WORKING WOMEN, NATIONAL ASSOCIATION OF OFFICE WORKERS

INTRODUCTION

The participation rate of older women in the workforce has risen dramatically over the past two decades. Fourteen million women over 45 are employed today. One out of three women in the workforce is 45 years or older. Older women play an increasingly important role in the American economy.

Economic necessity is the overriding reason that older women are working. Many older women are the sole support of their families. And married couples find that increasingly, two incomes are necessary to raise a family above the poverty level.

Older women face great barriers in finding jobs, are segregated into dead-end jobs, and are not adequately compensated for their years of service. They face a life of poverty in their retirement years.

Existing laws and enforcement are inadequate to meet older women workers' needs. Employers discriminate against older women workers, despite their skills and reliability.

The Congress, the Equal Employment Opportunity Commission, and employers must act to promote fair treatment of older women workers before and after retirement.

Working Women's report on older women workers is the result of a nationwide survey of older women workers, interviews of EEOC area directors, statistical research, and consultation with a wide range of experts in the field of aging.

THE PROBLEM: AN OVERVIEW

Today, for the first time in history, a majority of American women work outside the home. Fourteen million women over 45 are in the workforce. One-third of these are clerical workers.

Over the past several decades, the rate of older women workers' participation in the workforce has increased dramatically. In comparison, the labor force participation for men in their forties and fifties has declined in the last two decades.

Fifty-seven percent of women age 45 to 54 are employed; 41 percent of women age 55 to 64 are employed. The participation rate for minority women is even slightly higher—60 percent of minority women age 45 to 54 and 44 percent age 55 to 64 are in the workforce.

Predictions indicate this trend will continue.

The length of women's careers is also growing. Today women average 34 years in the workforce—up from 25 years in 1973. By the turn of the century, women are expected to average 40 years in the workforce.

Why? Economic necessity makes women work. Nearly 42% of all women who work are single, widowed, or divorced. In addition, 58% of married couples have both the husband and wife working. Most wives who work do so to bring their family income up above $10,000.

JOB SEGREGATION

Older women are concentrated in dead-end, low-paying jobs. The following chart shows the occupational distribution of women over 35:

[In percent]

Manager	6.9
Professional	15.2
Clerical	31.0
Service	22.4
Sales	7.0
Operatives	13.2
Other	4.3

The occupational distribution of older women is very similar to that of younger women. Older minority women, however, are more likely to be in domestic or service jobs than in clerical work.

Most companies do not use job posting as the means of filling job openings. Thus many older women never have the opportunity to apply for promotions.

Only 13 percent of women over 35 hold managerial or administrative jobs. Most are in clerical or service jobs, and there they will stay until retirement.

LOW PAY

Older women are not rewarded for their years of experience in the workforce. Women over 40 who work full time earn less than women age 25 to 40.

When young men and women enter the workforce, their wages are relatively close. The wage gap widens with every passing year. Young women, age 20 to 24, earn 76 percent of young men's salaries. But women age 45 to 54 earn only 54 percent of their male counterparts' pay.

Women re-entering the workforce after childbearing earn less than they did when they first joined the workforce fresh out of school.

Seniority is not worth money in the average women's job.

Many employers raise entry-level salaries frequently to attract new employees. And clerical positions often have low salary ceilings, so that after several years in a job the employee is no longer entitled to a raise. Thus, older women workers see people half their age right behind them, and gaining quickly.

MYTHS AND REALITIES

A common stereotype has it that younger people make better employees than older women. Studies prove this to be a false notion.

Turnover: The turnover rate for women in their early 50's is one-sixth the rate for women in their 20's.

Absenteeism: Absentee rates are virtually the same for women and men—slightly less than 5 days/year for men, slightly more than 5 days/year for women. Absenteeism rates are lower for older women than for younger women, as found in a 1975 study by Juanita Kreps and R. Clark.

Performance: Mental and intellectual performance and willingness to learn are just as high for older workers as for younger.

Education: Women workers age 45 to 54 have an average of 12.4 years of schooling. Women age 54 to 64 have an average of 12.3 years of schooling—more than the 12.1 years for men of the same age.

RETIREMENT

Older women are 70 percent of all poor people over 65. They have the lowest median income of any age or sex group, and they are the fastest growing segment of the nation's poor.

Working Women's survey found women who did not wish to retire being forced to do so by family responsibilities or employer pressure, long before the mandatory retirement age of 70. Further, employers take advantage of older women workers' lack of options as they approach retirement. Working Women heard of several offices where employees were told they would not receive merit increases during the last few years before retirement, not only limiting their pre-retirement income but also driving down the figure on which their retirement income will be based.

The average woman outlives her husband by 11 years, and one-third of all women over 55 depend on their own income alone.

Social security, pension benefits, and personal savings are the three major sources of retirement income for working people. The average single woman retires with less than $1,000 in the bank. Social security accounts for 85 percent of the income of the majority of women, and social security payments averaged $233 per month for a single woman in 1979.

PENSIONS

Nearly 75 percent of women workers in private industry are not covered by pension plans. But—covered or not—90 percent of women in private industry never receive a penny of pension benefits.

Vesting requirements penalize workers in low-paying, high-turnover jobs. Women are especially penalized when they leave the workforce temporarily to have children. When they come back, they may find they have to begin accruing benefits again from scratch.

Women average a mere $80/month in pension payments in return for a lifetime of work.

The "integrated" pension plan is especially hard on women who hold jobs paying below $10,000—i.e., most working women.

Most of the pension plans studied by Working Women were extremely complicated. It is almost impossible for the average employee to figure out what she is likely to earn after retirement. Few companies provide adequate retirement counseling, and fewer still provide such counseling early enough to influence the many career decisions that go into ensuring a secure retirement.

The discriminatory practices of the working years are faithfully reflected in pension benefits. Women who collect pension benefits average $157 per month; men, $227 per month.

AGE DISCRIMINATION IN EMPLOYMENT ACT

The Age Discrimination in Employment Act of 1967, enforced by the Equal Employment Opportunity Commission, outlaws discrimination against most employees on the basis of age.

The EEOC reports that the majority of complainants are white male professionals, and that complaints overwhelmingly involve hiring and firing.

The EEOC provides little education for either employers or employees concerning the provisions of the act. Nor does the EEOC seek out cases in the relatively untested areas of the law—such as the denial of training, promotions, and raises to older women workers.

Working Women found that the EEOC's staff is not sufficiently sensitive to issues of dual discrimination—involving the combined effect of sex and age discrimination, or sex, race, and age discrimination. Rather, EEOC treats different kinds of discrimination separately and does not adequately use statistical methodology designed to reveal patterns of combined discrimination. EEOC has not adequately targeted age discrimination for pattern and practice cases.

In addition, the Age Discrimination in Employment Act allows employers to deny pension benefits to workers age 65 to 70, and to deny admission to apprenticeship programs on the basis of age.

The law and its enforcement are not adequate to protect the millions of older women in the workforce.

RECOMMENDATIONS

Employers, the EEOC, and Congress must all act to improve the treatment of older women workers before and after retirement.

TO EMPLOYERS

Employers should:

Assess their employment systems and take measures to eliminate age discrimination in hiring, promotion, training, and firing.

Create career ladders enabling older women to move up.

Institute job posting.

Provide promotions and training for older women at a rate at least commensurate with their participation in the company workforce.

Remove artificial educational requirements wherever on-the-job experience is a satisfactory indication of job qualification.

Restructure clerical wage scales to reward experience; eliminate low salary ceilings.

Institute regular merit and cost-of-living increases.

Provide written materials and counseling on the company pension benefits, in plain language.

Institute pension coverage for all employees, with immediate vesting.

Improve the quality of pension benefits by eliminating the integrated pension plan.

TO CONGRESS

Congress should seriously commit itself to the urgent need for reform of social security and pension laws so that they no longer have a disproportionate negative impact on women.

Among the pension reforms that are urgently needed are to:

Preserve pension benefits during breaks in service.

Abolish integrated plans.

Provide universal pension coverage.

Require an employee's spouse to consent to the waiving of survivors' benefits.

Pro-rate pension coverage for part-time workers.

Institute immediate vesting.

Provide for cost-of-living raises for pension plans.

As for social security, Congress must address the inadequacy of social security benefits for most people as well as the inequities that adversely penalize some sectors of the population.

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The EEOC should:

Include age issues in sex and race settlements.

Require companies to file statistics on employee age distribution as well as race and sex.

Make women a priority under the age act.

Target large companies for age discrimination cases.

Develop efficient methods of investigating and pursuing complaints which involve dual discrimination on the basis of sex and age, and race and age.

Copies of the full report can be obtained from Working Women, National Association of Office Workers, 1224 Huron Road, Cleveland, Ohio 44115.●

MILK, MONEY, AND VOTES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. FINDLEY. Mr. Speaker, there is a bitter irony involved in the current situation wherein the Congress and the Carter administration publicly decry the ravages of inflation on the one hand and on the other hand continue a rigid dairy price support program that contributes to that inflation through the several billion dollars that will be spent by consumers in higher milk and dairy product prices and by taxpayers in supporting unlimited production of even more surplus milk.

I commend to your reading the following editorial from the September 30 issue of the Washington Post:

MILK, MONEY AND VOTES

As a candid and simple way to buy political support, this week's increase in the support price for milk deserves your attention. There's nothing new or startling about this performance. The Carter administration isn't doing anything that its predecessors haven't done. It's a tradition—a seedy and unworthy tradition, but one fortified by much history.

Before the end of the day several milk lobbyists will undoubtedly have delivered indignant letters to the editor of this newspaper, arguing that the Agriculture Department has only carried out a routine adjustment required by law. How true. Earlier in the year the Carter administration was in favor of changing the law. The secretary of agriculture, Bob Bergland, strongly advocated it at the beginning of the summer. Then Vice President Mondale, who comes from Minnesota and has a thorough grasp of the dairy situation, had a talk with Mr. Bergland and it appeared that the administration no longer saw any need for change.

Under this law the support price for milk will rise, five weeks before the election, from $12.07 per hundredweight to about $12.73. That's a mere 66 cents. It hardly seems worth much of a fuss, does it? For consumers, that's $1.6 billion a year in higher prices at the checkout counter for milk and milk products.

The lobbyists' letters will suggest that this $1.6 billion is only a modest price to pay for an ensured supply of healthy, wholesome milk, butter and cheese. Never mind that there are large surpluses of all those things, and that consumption of both milk and butter—because of people's anxieties about cholesterol and the rest—has been falling. Cheese consumption at least is up. (You wouldn't want Americans to be reduced to eating foreign cheese that has been stored in caves and is covered with blue mold, would you?) Beyond the issues of health and sanitation, there is also the purely arithmetical point that Minnesota has 10 electoral votes and Wisconsin has 11.

The debate over the causes of inflation sometimes gets very abstract and remote. It's useful to remember that a lot of inflation is injected directly into the economy by public policies that deliberately increase prices. As long as everyone insists on being compensated fully for past inflation, by tradition and by law, the result will inevitably be further inflation.●

RETIRING JUDGE LEONARD DIEDEN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. STARK. Mr. Speaker, on October 8, 1980 Alameda County will honor Judge Leonard Dieden as he retires as coordinating judge for Alameda County.

Judge Dieden was admitted to practice law in the bay area in 1940. Since that time he has had a successful career as an attorney in private practice, faculty member at Hastings College, guest lecturer, author and judge.

In addition to his professional career, he has made a career out of public service in charitable and civic affairs. Among other things, he was task force chairman for the California Council on Criminal Justice. He served as a member on the board of trustees of the East Bay Zoological Society, and has served as chairman or consultant for over a half dozen fund-raising campaigns for charitable foundations.

As a dedicated Democrat, Judge Dieden has served as a member of the Alameda County Democratic Central Association, the State central committee, and served as a delegate to the 1956 and 1960 Democratic National Conventions.

I join the city of Oakland and Alameda County in wishing Judge Dieden a happy, healthy retirement and I would like to express my gratitude for his hard work and dedication in every area of his community.●

STEEL STATEMENT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. MURTHA. Mr. Speaker, today's announcement by President Carter on steel policy is the most welcome steel announcement of the last 3 years, and points toward a brighter, healthier steel industry in the coming years.

As someone who worked with the administration and steel company and union officials on this latest agreement, I am extremely pleased by it. I think that for the western Pennsylvania steelworking families it means a more secure industry, one where we cannot only preserve the jobs we have but reexpand to put steelworkers back in the mills.

The President's announcement recognizes a key fact: We need to encourage a productive, modern, competitive steel industry. Only in this way can we insure we have enough capacity to produce the steel we need in the United States, and only in this way can we create jobs in Johnstown, McKeesport, and the other steel towns of our great Nation.

These goals can only be reached with the Government, industry, and labor working together and this announcement helps that. I heartily endorse the key parts of the plan, including:

Reimposition of the trigger-pricing mechanism—this helped lower imports over the past few years, and in its strengthened form will hopefully work to reduce imports further and protect our industry jobs;

Help offered to steel communities through targeted investment tax credits which can increase industry modernization and improvement, a tremendous help to the older plants in cities like Johnstown, Gary, and Youngstown;

Faster depreciation represents a key step in solving the industry's problems with capital formation, and only once this is solved can the industry move ahead strongly.

There is more I think is necessary. For instance, I have introduced legislation to reimpose the import limits on specialty steel which I believe is essential to protect plants such as the Allegheny-Ludlum facility at Leechburg. Also, I think we need more stability on the pollution front, so industry can better plan for future environmental controls.

But, still, those additional factors should not detract from the significance of this statement. It represents a major, positive advance, and gives renewed hope to our steel towns and our steelworkers.

As a member of the executive committee of the Steel Caucus, I am encouraged greatly by this announcement. I recognize we still have a great deal to do, but this announcement gives us the foundation on which to build.●

IN SUPPORT OF H.R. 7245

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1980

● Mr. PAUL. Mr. Speaker, recently the village of Oyster Creek, Tex., passed a resolution endorsing the Flood Control Improvement Act, H.R. 7245. I would like to call the attention to my colleagues to their resolution and to the bill it endorses:

VILLAGE OF OYSTER CREEK,
Oyster Creek, Tex., September 5, 1980.

Hon. RON PAUL,
Congressman,
Longworth Building, Washington, D.C.

DEAR CONGRESSMAN PAUL: Enclosed please find a copy of Resolution No. 86, of the Village of Oyster Creek, Texas, supporting the adoption of H.R. 7245 and S.R. 2970. We feel this bill will benefit the inhabitants of our City by facilitating local flood control projects within and adjacent to our City limits.

We would like to thank you for introducing this bill in the U.S. House of Representatives, and would like to respectfully urge the members of the House to adopt it.

Thank you for your time and consideration in this matter.

Sincerely,

PEGGY SIMS,
City Secretary.

RESOLUTION SUPPORTING ADOPTION OF H.R. 7245 AND S.R. 2970

Whereas, Congressman Ron Paul of Lake Jackson, Brazoria County, Texas, has introduced in the U.S. House of Representatives as H.R. 7245 a Flood Control Improvement Act, being an amendment to the Federal Water Pollution Control Act; and,

Whereas if H.R. 7245 is adopted, it will remove federal jurisdiction over non-navigable waters by deleting from federal law any prohibition against the discharge of dredged or fill materials into waters other than navigable waters; and,

Whereas the adoption of H.R. 7245 would facilitate the construction of local flood control projects; and,

Whereas, the Village of Oyster Creek, in Brazoria County, Texas, has been and will continue to be subjected to periodic flooding unless adequate protective measures are taken; and,

Whereas, Senator John Tower of Texas has introduced such bill in the U.S. Senate where it is known as S.R. 2970; and,

Whereas, the City Council of the Village of Oyster Creek, Texas, is of the opinion that the adoption of H.R. 7245 and S.R. 2970 would benefit the inhabitants of said Village by facilitating local flood control projects within and adjacent to its corporate limits: Now, therefore, be it

Resolved by the City Council of the Village of Oyster Creek, Texas:

First, that the City Council of the Village of Oyster Creek, endorse Congressman Ron Paul's Flood Control Improvement Act, presently pending in the U.S. House of Representatives as H.R. 7245 and in the U.S. Senate as S.R. 2970, and hereby respectfully urge the members of such bodies to adopt the same.

Second, the City Secretary of the Village is hereby authorized and directed to transmit true and correct copies of this resolution to Congressman Ron Paul and Senator John Tower.

Third, the original of this resolution, after execution and attestation, shall be maintained by the City Secretary in the permanent records of the Village.

Read, Passed and Approved this 28th day of August, A.D. 1980.●

ROBERT WINTHROP KEAN

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. RINALDO. Mr. Speaker, it was with a great feeling of sadness and personal loss that I learned of the death at the age of 86 of Robert Winthrop Kean who very ably represented the 12th District of New Jersey in the House of Representatives for 20 years.

Mr. Kean was born in Elberon, N.J., on September 28, 1893. His family has played an active role in our country's affairs since Revolutionary times. His father, Hamilton Fish Kean, had been a U.S. Senator from New Jersey; his great-great-grandfather, John Kean was a member of the Continental Congress. Another ancestor, William Livingston, was the first Governor of New Jersey.

He graduated from Harvard College in 1915. After a period as a bank clerk in Carteret, N.J., and in New York City, he entered the Armed Forces. In 1916, he served on the Mexican border with the New York National Guard. During the First World War, he served in France as a first lieutenant with the Second Division, and he was awarded the Distinguished Service Cross and the Silver Star.

Following the war, he went into private business and became a partner in the Wall Street investment firm of Kean, Taylor & Co. In 1927, he organized the Livingston National Bank and served as its president for 25 years.

Mr. Kean was elected to the 76th Congress in 1938 from New Jersey's 12th District and served until 1958 when he gave up his seat to run for the U.S. Senate. He initially served on the House Banking and Currency Committee and was later appointed to the Ways and Means Committee. He subsequently became the ranking Republican member of that key legislative body.

Among his legislative work was sponsorship of seminal social security legislation. This effort earned him the sobriquet in the House of "Mr. Social Security." He was appointed by President Truman to head an investigation into the operations of the Internal Revenue Service. Mr. Kean carried out this office with distinction; his efforts resulted in a major reorganization of the IRS.

Following his retirement from public life, Mr. Kean was extremely active until his death in a variety of business and civic activities. In 1960, he was appointed by President Eisenhower to chair the National Advisory Committee of the White House Conference on Aging. He was chairman of the board and a director of St. Barnabas Medical Center, the Livingston National Bank and the National Utilities and Industries Corp., and the Elizabethtown Water Co. Mr. Kean made a lasting and meaningful imprint in all these endeavors.

We review, Mr. Speaker, the long and distinguished career of Robert Winthrop Kean with immense admiration and respect. It was replete with services and contributions to his community, his State and his country. He will long be remembered as a statesman who set an example in public affairs for all of us to follow.●